



**AGENDA**  
**MANDAN CITY COMMISSION**  
**MAY 21, 2019**  
**ED "BOSH" FROEHLICH MEETING ROOM,**  
**MANDAN CITY HALL**  
**5:30 P.M.**  
**[www.cityofmandan.com](http://www.cityofmandan.com)**

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- A. ROLL CALL:
1. Roll call of all City Commissioners.
- B. APPROVAL OF AGENDA:
- C. MINUTES:
1. Consider approval of the Board of City Commission meeting minutes.
    - i. May 7, 2019 - Regular Meeting
    - ii. May 10, 2019 – Special Meeting
- D. PUBLIC HEARING:
1. Consider Approval of Preliminary Plat for Evergreen Heights 3rd Addition and First Consideration of Ordinance 1313 for related Zoning Map Amendment
  2. First consideration of Ordinance 1300 related to wireless telecommunications in the right-of-way.
- E. BIDS:
1. Consider award of the low bid for the 19<sup>th</sup> Street Trail project to Weisz & Sons, Inc. (Award by Resolution)
- F. CONSENT AGENDA:
1. Consider approval of the following proclamations:
    - i. Proclaiming May 19-25 as National Public Works Week in the City of Mandan.
    - ii. Proclaiming June 15, 2019 Lemonade Day in the City of Mandan.
  2. Consider closing administrative office July 5, 2019
  3. Consider approval of monthly bills
  4. Consider approval of annual site authorizations for Prairie Public Broadcasting at The Strawberry.
  5. Consider approval of minor plat of Lot 1, Block 1 of Rippel's 5<sup>th</sup> Addition.
  6. Consider approval of the Amendment to the North Dakota Department of Transportation (NDDOT) Traffic Safety Contract between the NDDOT and the City of Mandan Police Department

*Agenda  
Mandan City Commission  
May 21, 2019  
Page 2 of 3*

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7. Consider holding a public hearing for the vacation of a segment of 8<sup>th</sup> Ave. NE between 16<sup>th</sup> St. NE and I-94
  8. Consider an amendment to our Engineering Service Agreement with Moore Engineering to include Construction Engineering Services for the Southside Reconstruction project.
  9. Consider approval of annual site authorizations for Fort Abraham Lincoln Foundation at:
    - i. Lonesome Dove
    - ii. Midway Lanes
    - iii. Seven Seas
    - iv. Station West Bar & Grill
  10. Consider approval of the Special Event Permit Application for the Mandan Progress Organization for Buggies-n-Blues, June 8<sup>th</sup> and 9<sup>th</sup>, 2019.
  11. Consider approval of the Special Event Permit Application for the Silver Dollar Bar Beer Gardens for June 8th, 2019 (Buggies-n-Blues) and July 3rd, 2019.
  12. Consider approval of the Memorandum of Understanding Internet Crimes Against Children (ICAC) Task Force Agreement.
  13. Consider amending the 2019 Cemetery Budget.
  14. Consider approval of Addendum #2 to the Engineering Service Agreement with Stantec to include Construction Engineering for the 19th Street Trail, Phase I project
- G. OLD BUSINESS:
- H. NEW BUSINESS:
1. Police Department presentation of the tip411 program.
  2. Consider approval of new liquor license for Old Ten Bar & Grill, LLC at 417 E. Main Street.
  3. Consideration of the appeal of the denial of the building permit for the property located at 2711 6th Ave N.
  4. Consider approval of City funding requests from the Mandan Progress Organization.
- I. RESOLUTIONS AND ORDINANCES:
1. First consideration of Ordinance 1311 related to vegetation on the boulevard as well as first consideration of Ordinance 1312 related to Dutch Elm Disease, Emerald Ash Borer and other invasive diseases.
- J. OTHER BUSINESS:
- K. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:
1. June 4, 2019
  2. June 18, 2019
  3. July 2, 2019

L. ADJOURN

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The Mandan City Commission met in regular session at 5:30 p.m. on May 7, 2019 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Mayor Helbling called the meeting to order.

A. ROLL CALL:

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

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the (i) April 16, 2019 Board of City Commission regular meeting, (ii) April 16, 2019 Board of Equalization meeting, (iii) April 23, 2019 Special Meeting, (iv) April 30, 2019 Special Meeting Budget Working Session.* Commissioner Larson moved to approve the minutes as presented. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes. Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

D. PUBLIC HEARING:

Mayor Helbling announced there was another public hearing scheduled for this meeting but it was cancelled due to Cloverdale Foods requesting additional time to work on the application. This matter will be rescheduled at a later time.

1. *Conduct a public hearing to consider testimony from the owner of the property at 210 5th St. NW.* Building Official Ouradnik stated that this is the time and place set for the public hearing pursuant to Mandan Municipal Code Section 111-9-5(1) for the property at 210 5<sup>th</sup> Street NW Mandan, ND with the legal description of First Northern Pacific Addition, Block: 76 LOT 7&8 – 4361 for the owner, Kristi Sample, to show cause why the building should not be demolished.

A report was given to the City Commission on April 16, 2019, about the conditions of the property located at 210 5<sup>th</sup> Street NW, Mandan, North Dakota. The report included the contact Kristi Sample, Ellis Larson (Kristi Sample’s father), and Mike Markwed from Markwed Excavating Inc., had with City staff and Custer Health District staff. After concerns from Mandan Police Officers were raised on the sanitary and structural conditions of this residence inspections were conducted by Custer Heath District who deemed the house uninhabitable and a notice was posted on January 8, 2019. Mandan Code Enforcement, Mandan Building Inspections and Custer District Health conducted further inspections on January 15, 2019. The inspections displayed cause for the house to be deemed a Dangerous Building as per Section 111-9-1 of Mandan Municipal Code. Notice was sent to Ms. Sample informing her that the home had been declared a dangerous building according to Mandan Municipal Code Chapter 9 section

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111-9-1 on January 18, 2019. Attempts were made by Mr. Larson to obtain an extension of the deadline for the demolition of the house was rejected due to the fact that a signed contract with a contractor could not be produced. On February 5, 2019 an estimate from Markwed Excavating Inc. was received for the demolition of the property but a signed contract was not produced. Notice of a public hearing was posted on the house. A timeline of the process was reviewed beginning January 8, 2019 through February 28, 2019.

Based on the above, Building Official Ouradnik recommended the City Commission uphold the findings of Custer Health, Code Enforcement, and the Building Inspections Department and declare the property at 210 5<sup>th</sup> Street NW, Mandan ND to be a dangerous building and that the house be demolished.

Mayor Helbling announced this is a public hearing to consider testimony from the owner of the property at 210 5<sup>th</sup> Street Northwest, Mandan, ND. He invited anyone to come forward to speak for or against this matter.

Kristi Sample came forward and requested that she be allowed additional time in order for her to employ her own structural engineer to look at the house before it is torn down.

Mayor Helbling announced again that this is a public hearing and invited anyone to come forward to speak for or against this matter.

Kristi Sample approached Mayor Helbling and handed him a document that was given to Administrator Neubauer.

Mayor Helbling announced a third time that this is a public hearing and invited anyone to come forward to speak for or against this matter. Hearing none, this portion of the public hearing was closed.

Commissioner Davis inquired that if a third party comes in to do an assessment of what has been done already on the property, what purpose would that serve?

Building Official Ouradnik stated that if the owner wants to have a third party to come in to see if there is any way to repair the home that would be acceptable with his office. He commented that any engineer that comes in will have substantial work to complete. For example, there is a portion of the foundation that is crumbling away and it is currently be held up by blocks and jacks. Custer Health has declared the house is unsafe for anyone to live in. If the owner can show that they can rehab the home, that would be fine but a timeline would have to be established. The home would have to be cleared out and it would have to be done within a reasonable amount of time.

Attorney Brown interjected and stated that under the Ordinance, that if the Commission were to determine the house is a dangerous building, the City will be required to give the owner notice and they will have thirty (30) days before the city can contract for house to be demolished. He stated that based on his review of the photographs and documentation provided in the agenda packet, the house appears to be in bad shape. In the thirty (30) days, the owner could have an

engineer look at it and give them an estimate about reconstruction. That gives the owner a thirty (30) day window. Mayor Helbling inquired what liability the City would have if it is delayed. Attorney Brown stated that the City has no liability, rather the City Commission is following the Ordinance Code procedures.

Commissioner Braun commented that if the City Commission follows the recommendation of the City Building Official, the owner will have thirty (30) days to get an engineer in to do an assessment, the owner will be allowed to present the information at the next City Commission meeting. Mayor Helbling stated that if that happens, the City Commission would require an Engineer's Assessment report and a Plan of Action before the thirty (30) expire and that Engineer's Assessment would be at the expense of the owner Kristi Sample, not the City. Commissioner Davis commented he would agree to the plan outlined by Mayor Helbling as it would buy some time for the homeowner if there is a chance to repair the home.

Commissioner Rohr agreed that the home is in bad shape and that it will take substantial repairs to make it suitable to live in.

Commissioner Rohr moved to declare the property at t 210 5<sup>th</sup> Street Northwest, Mandan, North Dakota, with the legal description of First Northern Pacific Addition Block 76 Lot 7 & 8 – 4361 a Dangerous Building in accordance with Article 9 Section 111-9-1 of Mandan Municipal code and order the home to be demolished at the cost of the home owner.

Commissioner Larson seconded the motion.

Commissioner Braun inquired if the motion should contain a contingency that if the homeowner comes back within the thirty (30) days with an acceptable Action Plan, will the City Commission make a new motion at that time?

Attorney Brown replied that he would not recommend a contingency because if an acceptable Action Plan is presented, it can be reviewed by the City Commission at that time and appropriate action can be taken.

Mayor Helbling clarified that the City Commission will move forward with the motion and the homeowner will have thirty (30) days to hire an engineer or structural engineer to come up with a corrective action plan that would include a satisfactory timeline to complete any work to be done and a letter from a financial resource would also be required. If that information is submitted within the thirty (30) day timeframe, the Commission would have the option to review the request – if this motion does pass.

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

E. BIDS:

F. CONSENT AGENDA

1. Consider approval of a charity raffle permit for Djw Life Project at Christ the King Church on 5/17/2019.
2. Consider approval of annual site authorization for Bismarck Cancer Center Foundation at Prairie West Golf Course July 1, 2019 to June 30, 2020.
3. Consider approval of annual site authorizations for Mandan Baseball Club for July 1, 2019 to June 30, 2020: (i) Powerhouse/501; (ii) Broken Oar; (iii) The Drink (Lakewood Bar & Grill); (iv) Last Call Bar; (v) Silver Dollar.
4. Consider approval of Minor Plat for Canyon of the Willows Addition.
5. Consider approval of agreement for long-term temporary highway closure with NDDOT.
6. Consider approval of Annual Maintenance Certification with NDDOT.
7. Consider subordination agreement related to the financing of Library Square I.
8. Consider approval of Soccer club road closure request.
9. Consider approval of the Mercer County Sheriff's Office Jail Agreement.
11. Consider Assessing Department budget transfer.
12. Consider approval of annual site authorization for Matpac Wrestling Club at The Scapegoat Bar for July 1, 2019 to June 30, 2020.
13. Consider approval of site authorization for New Salem Civic Club at Rock Point for the remainder of the year ending June 30, 2019.
14. Consider approval of annual site authorization for New Salem Civic Club for July 1, 2019 to June 30, 2020: (i) Mandan Bennigan's; (ii) Rock Point.
15. Consider amending the 2019 Street Department budget.

Commissioner Larson requested that items 16 and 17 be pulled for discussion. Commissioner Davis requested item 10 be pulled for discussion.

Commissioner Rohr moved to approve the Consent Agenda items 1 through 9 and items 11 through 15 as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

10. Consider approval of Memorandum of Understanding Operational Plan and Grant Agreement with ND Game & Fish Dept. Police Chief Ziegler reported that this is an agreement for summer river patrol. It is between the City of Mandan, Morton County, Burleigh County and the City of Bismarck. There is reimbursement through the Fish and Game through a state grant. It is used for enforcement of violations on the river such as speeding boats on the river. It applies to both river and shorelines.

Commissioner Davis moved to approve the Consent Agenda item 10 as presented. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

16. Consider approval of offer for 109 14<sup>th</sup> Ave. NW.

Commissioner Larson inquired that the property value was listed at \$20,000 and the offer that is coming in for the lot is \$6,500. They are asking the City to absorb the specials balance of over \$1,000 so the City would be paid \$5,500 which is substantially under the asking price. She

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requested an explanation of the difference of the offer being accepted versus what the property was originally listed for.

Principal Planner Van Dyke explained that back in the 1980's-1990's, many of these homes in this area had structural issues such as the rear of the property began to erode away and fall into the Heart. The lots were posted as unstable soil and unstable ground. When the lots were valued by a real estate agent, Planner Van Dyke stated that he believes that piece of information was not taken into consideration; rather it was based on the assessed value and the overall acreage to create the listing price. As research was done more details as explained above, were discovered about the property. Also, he noted that all buyers will be paying the title fees for these lots so the City will not have those costs which are normally assessed to sellers. Commissioner Rohr stated that several years ago there was a house on one of those lots and it had to be torn down because of erosion and the City did know about the problems with the banks of those properties. Commissioner Larson said that it will be important to make sure the builder is aware that this will be only a single family lot and that the structural issues will need to be addressed accordingly before a single family home would be built on it.

Commissioner Larson moved to approve the Consent Agenda item 16 as presented. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

17. *Consider approval of the Special Event Permit for the Touch A Truck event.*

Commissioner Larson said that she wanted to address this event that is scheduled for May 18<sup>th</sup> from 11 a.m. to 3 p.m. The event is free to the public and food trucks will be available with food for purchase. She encouraged families to bring a non-perishable food items to be donated to Aid Incorporated.

Commissioner Larson moved to approve the Consent Agenda item 17 as presented. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

G. OLD BUSINESS:

H. NEW BUSINESS

1. *Consider approval of new class Beer Wine Only (BWO) for G.D. Hooker LLC at the location of 200 W. Main Street, Suite 102 dba Black Lions.* City Administrator Neubauer stated that all new Class Beer Wine Only (BWO) liquor licenses must be approved by the Board of City Commissioners at time of application. An application has been received from G.D. Hooker LLC, and background checks have been completed with no issues found at this time. The fees will be collected once approved and are set at \$3,000 for the issuance fee and \$95.83 liquor license for one month, June 1, 2019 through June 30, 2019. The applicant is expected to apply for the renewal license which begins July 1, 2019 through June 30, 2020.

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Administrator Neubauer recommended approval of the request contingent upon the establishment meeting all Fire Code, Health & Safety and Building Inspections Codes and all property taxes will be paid in full. Garrett Hooker d/b/a Black Lions anticipates to be open for business by June 1, 2019.

Commissioner Rohr moved to approve a new Class BWO license for Black Lions at 200 West Main Street, Suite 102 for June 1, 2019 through June 30, 2019 contingent upon the establishment meeting all Fire Codes, Health & Safety Code, Building Inspection Codes and all property taxes and fees are paid. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

2. *Consider Renaissance Zone Committee recommendation for a lease application by G.D. Hooker LLC (dba Black Lions) for 200 W Main St, Suite 102.* Business Development Director Huber Commissioner explained Garrett Hooker plans to lease space in a building at 200 W Main St, Suite 102. She provided a visual of the space located in a mixed use building on the corner of Main and First Avenue NW. She stated the mixed used building was constructed in 2010 and was the first of the infill projects on properties that had been acquired for accommodating remediation equipment for clean-up of the underground fuel spill. The space has never been occupied.

Black Lions will be a start-up business for the applicant operating as a beer pub offering local beers and other favorites as well as sports television and highlighting veterans, first responders and service men and women who help the community. The applicant plans to serve pizza and offer options from local restaurants and food trucks. Huber stated Hooker plans to create 3-4 jobs, including his role as manager. Hooker hopes to have the start of the buildout in process by the end of May and be open for business by June's end. The applicant's beer and wine only license was approved by City Commission during the meeting as new business item No. 1.

This project will be Mandan's 79<sup>th</sup> Renaissance Zone project. Huber explained there are two primary ways to qualify for a Renaissance Zone benefits: the first is by constructing or rehabbing a building within the Renaissance Zone with a minimum investment requirement and the second is to lease space within one of those buildings. In this case, the benefit for the tenant is a five-year state income tax exemption. That's an exemption on state tax liability on income derived from business activity within the building. The applicant estimated the state income tax exemption will be \$300 annually for a five-year total of \$1,500.

Huber said the applicant will need an automatic door opener installed for the main entrance on the space to be eligible for the Renaissance Zone program and is awaiting his certificate of good standing from the North Dakota Tax Department. He has applied for the certificate, but hasn't received it yet.

The Renaissance Zone committee did recommend approval of the application for lease of 200 W Main Street, Suite 102 by GD Hooker (dba Black Lions) as a Renaissance Zone project to include the 100%, five-year state income tax exemption. Huber explained the applicant was in attendance.

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Commissioner Larson asked if there was a capital improvement requirement or investment requirement for this application to qualify as a Renaissance Zone project. Huber explained that for a lease application there is no investment requirement because the building itself is already the qualified project and the investment in the building triggered the eligibility for tenants. However, the applicant did provide a list of his investment in furniture, fixtures, equipment and more and it was about \$79,000. Huber stated in terms of a lease application, the project needs to meet the plans for development in the Renaissance Zone and provide public benefit in terms of compatible use, providing a product or service in the community, and/or creating jobs. Huber explained a leasehold improvement project would require an investment, and this would be where a building owner isn't willing to improve an entire building, but a prospective tenant is willing to put improvements into a particular space within the building to receive property and state income tax exemption.

Commissioner Larson commented that she would like for Mandan to start looking at what we want to do locally as far as criteria for the Renaissance Zone. She wondered if it makes sense anymore to put those kind of exemptions for businesses downtown with how far we've come downtown versus Memorial Highway where we have buildings that could use incentives for rehab. She stated her perspective is that it would be nice to revisit the criteria locally around the Renaissance Zone program. Mayor Helbling stated some preliminary discussion has been had regarding changing the size of the Renaissance Zone, moving it around, or changing the requirements. Huber added Mandan's Renaissance Zone program was established in 2005 and some changes to the criteria have happened over the course of the program, but changes do require a formal process with the combination of local and state approval. She stated we are coming up on the expiration date of the 15-year period for the zone, which is set to expire in the fall of 2020. The Renaissance Zone Committee is going to start going through the whole development plan and criteria starting later in 2019. The process will require public hearings, letters of support from the county and school district, and information exchange with property owners. Mandan does have the opportunity to add up to 11 blocks to its Renaissance Zone, but the first question is if the community even wants to extend the program for five more years. Huber added there can be a three-block area that is non-contiguous to the current Renaissance Zone.

Commissioner Davis moved to approve the application for lease of 200 West Main Street by G.D. Hooker, LLC (dba Black Lions) as a Renaissance Zone project to include the 100% five-year state income tax exemption. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

## I. RESOLUTIONS AND ORDINANCES

1. *Second and final consideration of Ordinance 1309 related to revisions to the sign ordinance.* Building Official Ouradnik presented the first consideration at a previous meeting. And this is the final request to revise the City of Mandan Municipal code Sec. 105-1-15. - Signs. To allow the Building Inspections Department to process any standard sign application. This revision also establishes the Code Enforcement Officers as first point of contact for sign complaints. This action would establish maximum sizing requirements for pylon and pole signs. He said there have been no comments or opposition received since the first consideration.

Commissioner Rohr moved to approve the Second and final consideration of Ordinance 1309 related to revisions to the Sign ordinance. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

J. OTHER BUSINESS:

*Announcements and Upcoming Events*

1. Mayor Helbling extended a thank you to residents for the Annual Cleanup Day that was held over 230 volunteers participated. He extended a thank you to the MPO, the Mandan Beautification Committee and all the sponsors that support this event and many other events that happen in Mandan.

K. ADJOURNMENT:

There being no further actions to come before the Board of City Commissioners, Commissioner Davis moved to adjourn the meeting at 6:08 p.m. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

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James Neubauer  
City Administrator

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Tim Helbling  
President, Board of City Commissioners

The Mandan City Commission met in a special session at session on May 10, 2019 at 12 Noon in the Tom Baker Meeting Room, City/County Office Building, 221 North 5<sup>th</sup> Street, Bismarck, North Dakota. Combined meeting of the City of Bismarck, City of Mandan, and Burleigh County Commissions. City Commissioners present were Mayor Helbling and Commissioners Rohr and Larson. Via telephone Davis and Braun.

A. NEW BUSINESS:

1. *Consider the request for approval from CenCom of the lease agreement with DCN, LL*  
City of Bismarck President Bakken announced the sole purpose of this meeting was to consider the request for approval from CenCom for the approval of the lease agreement with DCN, LLC.

Bismarck Commissioner Zenker informed the commission that the company that he works for submitted a bid for part of the project. He wanted to be transparent and ask the commission if they would like him to abstain from the discussion. The commission agreed that they did not have an issue with him taking part in the meeting.

Communications Director Mike Dannenfelzer provided a brief history of the department and an overview of the proposed new facility. He also presented changes made to the lease agreement which were an edit change on page 6, section 3A, and a change to section 15 regarding insurance. The proposed cost of the building is \$36.50 per square foot.

Mandan City Mayor Tim Helbling mentioned that Morton County would like to know the cost to them if they were to join the project. Dannenfelzer stated that he has not received any data from them in terms of call volume but that if they were to join, it would not change the lease agreement.

Commissioner Rohr moved to approve the lease agreement between the City of Mandan and DCN presented, with changes as proposed by CenCom Director Mike Dannenfelzer. Commissioner Larson seconded the motion. Upon a roll call vote, all voted aye.

B. ADJOURNMENT:

There being no further actions to come before the Board of City Commissioners, Mayor Helbling declared the meeting adjourned at 12:18 p.m.

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James Neubauer  
City Administrator

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Tim Helbling  
President, Board of City Commissioners



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21, 2019  
**PREPARATION DATE:** May 13, 2019  
**SUBMITTING DEPARTMENT:** Engineering and Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** John Van Dyke, AICP, CFM,  
**SUBJECT:** Consider Approval of Preliminary Plat for  
Evergreen Heights 3<sup>rd</sup> Addition and First  
Consideration of Ordinance 1313 for related  
Zoning Map Amendment

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**STATEMENT/PURPOSE:** Consider approval of the preliminary plat for Evergreen Heights 3<sup>rd</sup> Addition and first consideration of ordinance 1313 for the related zoning map amendment.

**BACKGROUND/ALTERNATIVES:**

Val Renner and Janet Dykshoorn are seeking to plat their property near 19<sup>th</sup> St. SE and S. 1806 for the purposes of commercial and residential development. The property in question totals 9.81 acres.

Mr. Renner would like to erect a shop condos for his landscaping and similar contractor businesses on Lot 3, Block 1 of the proposed plat (See Exhibit 2 and 3). No residential uses are desired on that lot. Ms. Dykshoorn would like to maintain her single-family dwelling on Lot 2, Block 1.

Lots 1 through 3, Block 1 and Lot 1, Block 2 are seeking CA – Neighborhood Commercial zoning and Lot 1, Block 3 is seeking RM – Multi-family Residential with a restriction to four units per acre (8 dwelling units max based on acreage of Lot 1, Block 3).

Numerous meetings were held with Mr. Renner or his surveyors/engineers to understand their intention for the property as far as precise use and timing of the proposed development. At this time, Mr. Renner has no plans to further develop the properties other than Lot 3, Block 1. Lots 1 in Blocks 1, 2, and 3 would likely be listed for sale and developed at a future time.

Board of City Commissioners

Agenda Documentation

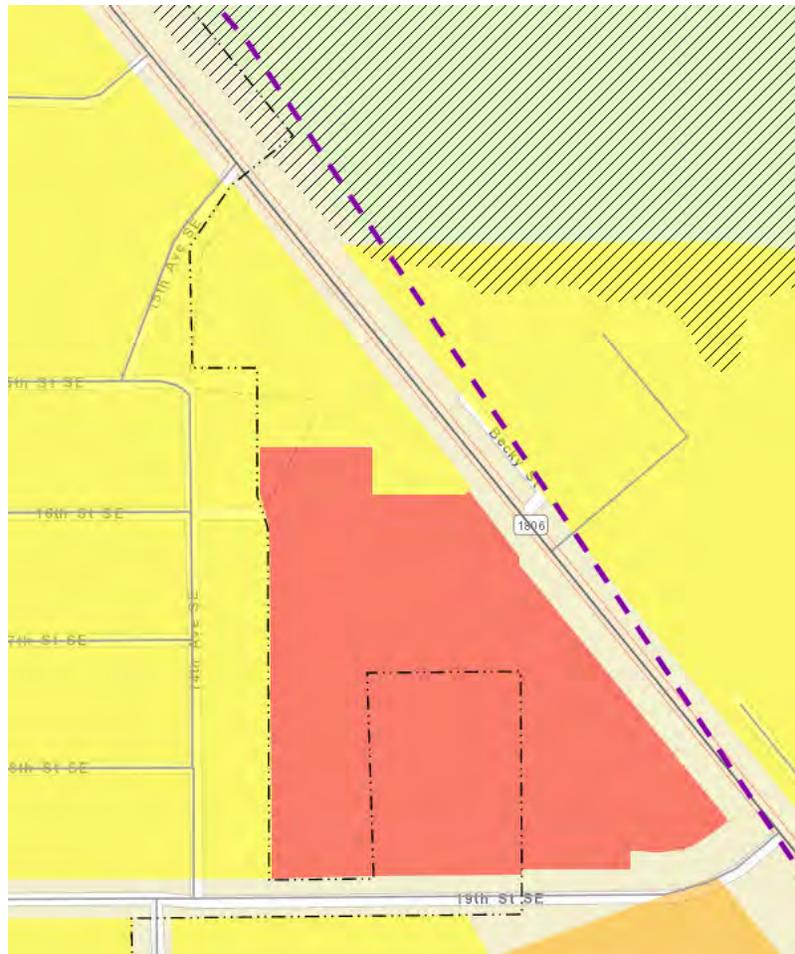
Meeting Date: May 21, 2019

Subject: Consider Approval of Preliminary Plat for Evergreen Heights 3<sup>rd</sup> Addition and First Consideration of Ordinance 1313 for related Zoning Map Amendment

Page 2 of 3

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



The development proposed aligns with the plan for the city. While the areas designated commercial on the proposed development do not overlay precisely with the future land use it should be understood that the plan designations are appropriate in very close proximity and some adjustment is warranted.

However, adjacent property uses must be considered to ensure that harmonious development occurs and that any commercial development is not too intrusive to the preexisting residential subdivisions in the vicinity. CA – Neighborhood Commercial District is very permissive and without additional restrictions could result in neighbors being negatively impacted by certain commercial uses.

Board of City Commissioners

Agenda Documentation

Meeting Date: May 21, 2019

Subject: Consider Approval of Preliminary Plat for Evergreen Heights 3<sup>rd</sup> Addition and First Consideration of Ordinance 1313 for related Zoning Map Amendment

Page 3 of 3

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For this reason, staff recommended restrictions to be applied to any zoning amendment, if approved. The Planning and Zoning Commission recommended approval through a 5-4 split decision. The recommendation included the commercial restrictions presented by staff and applying R3.2 Residential zoning rather than RM-Multi-family to Lot 1, Block 3 Exhibit 6 reflects the recommended zoning amendment.

Finally, since not all of the infrastructure is necessary to serve the immediate desire to construct shop condos, a development agreement outlining the future timing of infrastructure improvements is recommended by both staff and the Planning and Zoning Commission. A summary of the recommendations is included in Exhibit 7.

ATTACHMENTS:

Exhibit 1 – Application

Exhibit 2 – Applicant Letter of Intent

Exhibit 3 – Evergreen 3rd Preliminary Plat Maps

Exhibit 4 – Neighboring property owner letters

Exhibit 5 – Internal Department/External Agency Review Comments

Exhibit 6 – List of Zoning Restrictions and Development Agreement Requirements, if Approved

Exhibit 7 – Proposed Development Agreement Provisions

FISCAL IMPACT: Positive – Upon annexation, which will be contingent on this approval, the City may begin collecting property tax on the subject property.

STAFF IMPACT: None

LEGAL REVIEW: The ordinance has been reviewed and approved by Attorney Brown.

RECOMMENDATION: The Engineering and Planning Department and Planning and Zoning Commission recommend approval of the preliminary plat for Evergreen Heights Third Addition and Ordinance 1313 as presented in Exhibit 6 subject to entering a development agreement including the provisions outlined in Exhibit 7. The final plat should also include a 10' utility easement along S. 1806.

SUGGESTED MOTION: I move to approve the preliminary plat for Evergreen Heights Third Addition and Ordinance 1313 as presented in Exhibit 6 subject to entering a development agreement including the provisions outlined in Exhibit 7. The final plat should also include a 10' utility easement along S. 1806.

# EXHIBIT 1

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

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

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

<b>Print Name</b> Valan C. Renner	<b>Signature</b> <i>Valan C. Renner</i>	<b>Date</b> 3-20-2019
<i>Janet Dykshoorn</i>	<i>Janet Dykshoorn</i>	3-27-2019
<b>Office Use Only</b>		
Date Received: 3/22/2019	Initials: YMM	Fees Paid: \$ 1400
Notice in paper	Mailed to neighbors	Date 3/22/2019
<input type="checkbox"/> Approved	Approved with conditions:	
<input type="checkbox"/> Denied		

Updated 1/1/2019

N:\PLANNING & ZONING\Development Application - January 2019.docx

## EXHIBIT 2

April 8, 2019

City of Mandan  
Attn: John Van Dyke  
205 2<sup>nd</sup> Avenue NW  
Mandan, ND 58554

RE: Evergreen Heights 3<sup>rd</sup> Addition Plat

Dear Mr. Van Dyke:

This letter is to provide some additional information on the intended uses of the property within the plat.

The initial purpose of the plat was to be able to construct a building for shop condos on Lot 3 Block 1. This building would consist of 5-30'x50' shops and one 20'x20' office. The office and one of the shop condos will be occupied by my own business, Renner's Lawn Sprinkling. The other four shop condos would be rented out to small businesses such as plumbers, electricians, landscapers, tapers, roofers, carpenters, heating and cooling, etc. Each shop condo will have a private restroom. There will be no living quarters or man caves. In the future I may add an additional building on this lot for 2 or 3 shops if there is adequate square footage after meeting setback requirements.

Currently, I have no intentions of developing Lot 1 Block 1, Lot 1 Block 2 or Lot 1 Block 3. I am aware there are several homeowners adjacent to Lot 1 Block 3 that are concerned as to what might happen to this property. Due to the dimensions of Lot 1 Block 3 it only makes sense to eventually build single family homes or twin homes with a density of approximately 4 homes per acre.

Please let me know should you have any questions.

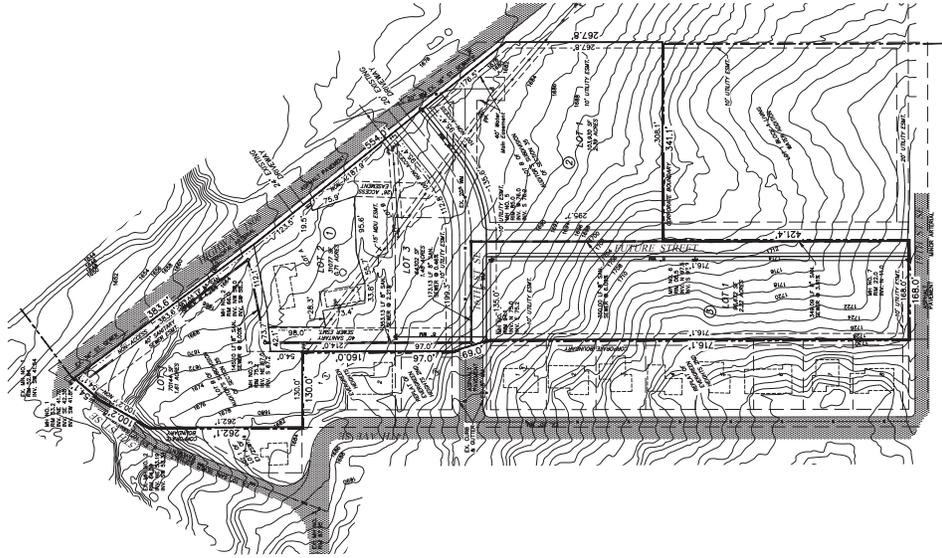
Sincerely,

A handwritten signature in black ink, appearing to read "Val Renner". The signature is written in a cursive style with a large initial "V" and "R".

Val Renner

# EVERGREEN HEIGHTS THIRD ADDITION

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



LOCATION MAP

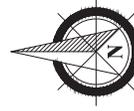


**OWNER:**  
ADDRESS: JANET DYKSHOORN  
1601 HWY 1806 S  
MANDAN, ND 58554

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

**ZONED:**  
ACRES: AGRICULTURE - MORTON COUNTY  
9.87 ACRES

**PROPOSED ZONING:** CA - NEIGHBORHOOD COMMERCIAL



100' 0 100' 200'  
SCALE - 1"=100'  
MARCH 21, 2019



PRELIMINARY-NOT FOR CONSTRUCTION,  
RECORDING PURPOSES OR IMPLEMENTATION.





4-17-19

**EXHIBIT 4**

Tom Fenderer  
1908 14<sup>th</sup> Ave SE

I would like to see the  
Area next to our lots  
in Evergreen Height remain  
single family dwellings.  
It would help our homes  
retain their values and  
keep the neighborhood  
fairly quiet.

Thanks

TO WHOM IT MAY CONCERN!

I AM JOAN STUMPF AND

I OWN A HOME IN

EVERGREEN HEIGHTS IN MADON.

I HEARD MANY THINGS THAT

WILL BE BUILT HERE.

I FEEL THIS SHOULD STAY

RESIDENTIAL HOMES - THAT IS

WHAT WE BUILT A HOME

HERE - WHY SHOULD IT BE

ZONED FOR OTHER USES!

THAT IS NOT RIGHT!

HOPEFULLY IT WILL STAY

RESIDENTIAL PROPERTY.

THANK YOU -

MRS. STUMPF

Eunadelle Nardillo  
1912 14<sup>th</sup> Ave. S E  
Mandan, N D 58554

April 17, 2019

Engineering + Planning Dept.  
City Hall  
205 2<sup>nd</sup> Ave. N W  
Mandan, N D 58554  
att: John Van Dyke

Dear John,

I am a concerned resident of Evergreen Hgts.

3<sup>rd</sup> addition in Mandan, N D. I am requesting  
to keep the zoning in that area as R ~~2~~ 7,  
single family homes. My concerns are  
heavy traffic, noise + safety issues. I hope  
you can understand my concerns.

Sincerely,

Eunadelle (Dee) Nardillo

P.S. I am also very concerned that multi-family  
homes would decrease the value of my home.

Thomas and Margaret Stadick  
1814 14<sup>th</sup> Ave. SE  
Evergreen Heights 2<sup>nd</sup> Addition

Re: Rezoning Evergreen Heights 3<sup>rd</sup> Addition

To: City of Mandan Planning & Zoning Commission

Thank you for the opportunity to voice our ideas and concerns regarding the proposed rezoning of Evergreen Heights 3<sup>rd</sup> addition. These zone changes would impact the lives of the families in this neighborhood as well as the value of our homes. Also, thank you to the Planning & Zoning department and to Mr. Renner their your informative letters; and to Mr. Van Dyke for his time and involvement.

We have no opposition to Mr. Renner's and Mrs. Dykshoorn's proposed plans for Block 1 lots 1-3. However, we are opposed to Lot 1 block 2 being zoned commercial and would prefer Lot 2 Block 3 be zoned R7 residential – single family homes on single lots.

The drive, or walk, along this area of Highway 1806 is beautiful and serene and is a nature setting. This afternoon we watched seven wild turkeys in the lot proposed commercial (Lot 1 block 2). This land is located adjacent to the walking path and is quite sheltered from the wind. It is a beautiful location for an arboretum: a meandering trail through a planted woodland with identification to a multitude of trees, shrubs, plants, and perhaps birding information. It could also showcase symbols depicting the City of Mandan's past, present and future. It may include a picnic area and lead to an alternate walking path along 15<sup>th</sup> Avenue (proposed) to the 19<sup>th</sup> Street walking path. The park board has done a great job providing parks throughout Mandan; however, the character and location of this lot would be perfect for a multi-use park (possibly with tennis courts). It would provide a beautiful, accessible area for the entire community to play and enjoy the outdoors.

If this lot is zoned commercial in a residential area, any business should be neighborhood friendly and safe; therefore, restricted noise pollution and limited hours of operation (daytime only). In order to maintain the neighborhood's awesome panoramic view (day and night), it is important to adhere to the CA zone height limit: "No building shall exceed two stories, nor shall it exceed 25 feet in height", and mitigate light pollution.

Regarding Lot 2 block 3 being zoned residential, we strongly believe this subdivision should be consistent with Evergreen Heights 1<sup>st</sup> and 2<sup>nd</sup> additions. This lot should be restricted to single family dwellings on single lots; no twin homes, two-family, multifamily, or group dwellings allowed. Another major concern is the view shed easement. We would like the height limit revised to 2 stories and not to exceed 25 feet from the original elevation of the front (east) side of the lot.

Thank you again for considering our concerns and ideas. We appreciate the city's diligence to develop the "future Mandan" while maintaining the integrity of the neighborhoods. If you have any questions please feel free to contact us at 701-891-8659 or [mlstadick@gmail.com](mailto:mlstadick@gmail.com).

Sincerely,  
Thomas and Margaret Stadick

cc: Val Renner

Tim and Carla Tausend  
1712 14<sup>th</sup> Ave SE, Mandan, ND 58554  
701-426-3472, ttaussend@gmail.com

Dear Members of the Mandan Planning and Zoning Commission:

My family has lived at 1712 14<sup>th</sup> Ave SE since July of 2001. I understand Mr. Val Renner has petitioned for the parcel of land generally due northeast of my residence to be zoned commercial and has no immediate plan for the area immediately to the east of my residence.

I oppose this entire parcel of land to be zoned anything but single family dwelling. Mr. Renner's parcel of land is essentially surrounded by properties that are currently zoned R7 Residential Single Family. The land even across the Highway 1806 which is due east of Mr. Renner's property is zoned R7.

I am not certain when the originating thought came that this parcel of land should be zoned commercial, but I believe there currently is only one parcel of commercial property in this development which is a storage facility just north of this existing site. That site commercializes an area that should also have been zoned residential, but that is water under the bridge. I don't want to see the proposed area that Mr. Renner has identified to leave the same look of a commercial zone.

If any development is to occur, it should be zoned a single family residential area just as the rest of our neighborhood is currently zoned. I do not support multi-family housing for this area, including twin homes. It increases traffic flow and does not fit the existing developed area in my immediate neighborhood.

I also believe multi-family housing would devalue my property. I believe the existing Dykshoorn Greenhouse parcel is currently zoned agricultural. My concern is that if commercial zoning is allowed with Mr. Renner's parcel that it would then have a foothold and expand even further to the north.

If any annexation does occur, I believe the old Dykshoorn Greenhouse parcel should also be reviewed for the purpose of zoning. This parcel has a single family home on it and the business which at one time was viable is no longer in operation. It appears to look like a R7 zone to me.

I thank you for the opportunity to share my thoughts and concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Tausend', written over a horizontal line.

Tim and Carla Tausend

## **April 4, 2019 Pre-planning Notes**

Attendance: Brad Glass, Brian Dirk, Steve Nardello, Becky Naslund, Matt Westick, John Van Dyke

### **Evergreen Heights 3<sup>rd</sup> preliminary plat, zone change and annexation**

**John** – The intent is to divide into different lots for a combination of residential and commercial development. Lot 3 would have shop condos. There is a current resident on Lot 2 who will stay there. Lot 1, Block 2 was the subject of the crematorium discussion. Lot 1, Block 3 would be zoned R3.2. They want to delay connecting 16<sup>th</sup> Street. That is still in discussion.

**Fire Department - Steve** – Road has to be part of the plat. Wants to see it go in.

**Engineering and Planning - John** – The adjacent property owners were opposed to any commercial when a previous proposal came in. They are more than likely still opposed. He will talk to Malcolm about a development agreement to get the road in.

**Public Works - Utilities - Brad** – Wants to know if they will extend water lines so the church can finally have access to water. Will they tie into the church? Wants to see the water line loop down Future Street.

**Fire Department - Steve** – Needs an accessible fire hydrant. Is the line going to come from the north?

**Becky, MDU** – They want a 10' utility easement on the east property lines along 1806. It would also be nice to have an easement on the west property line of Lot 1, block 2 along Future Street.

**Engineering and Planning - John** – NDDOT may want additional right of way along 1806. Thinking of adding no-access lines to the north and south property lines of Lot 1, Block 3. Access should be forced by way of Future Street. Would like them to do the whole road (16<sup>th</sup>). He will send a drafted developer's agreement to everyone for review.

***John will make a recommendation to approve at Planning & Zoning contingent on landscaping requirements and MARC conditions. Maybe table at MARC until after Planning & Zoning.***

# Exhibit 6

## ORDINANCE NO. 1313

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

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

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

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

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

**Residential uses:**

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

**Office-bank group uses:**

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

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

**Office-bank group uses:**

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

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

**Office-bank group uses:**

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

**Retail group A uses:**

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

**Service group A uses:**

- Barber or beauty shop;
- In shop repair of carry in items;
- Dressmaker, milliner or tailor;
- Dry cleaning, laundry or laundromat;
- Furniture repair or upholstering;
- Pet hospital or clinic;
- Pet grooming and dog daycare;
- Shoe and other leather goods repair;
- Private club, lodge hall, union headquarters; and
- Undertaking establishment, mortuary or funeral home.

4. Lots 1, Block 3 shall be included in the R3.2 Residential District.

**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:

April 22, 2019  
May 21, 2019  
June 4, 2019  
\_\_\_\_\_

# EXHIBIT 7

## Proposed Development Agreement Provisions

- Existing approach serving Lot 2, Block 1 directly onto 1806 shall be vacated upon transfer of ownership and construction of 16th St. SE.
- Lot 3, Block 1 shall utilize the existing approach onto S 1806 until 16th St. SE is constructed.
- No certificate of occupancy shall be granted for Lots 1, Block 2 or Lot 1, Block 3 until “Future Street” is constructed.
- Both Lot 1, Block 2 and Lot 1, Block 2 shall take access onto “Future Street”; not 16th St. SE or 19th St. SE.
- Waterline will loop through “Future Street” and be installed at the time of “Future Street” construction.
- **16th St. SE shall be constructed upon the sale of Lot 1, Block 2. (Changed at Planning and Zoning – See below for original\*)**

\*Original Recommendation by Staff and Changed at Planning and Zoning - Existing approach serving Lot 2, Block 1 directly onto 1806 shall be vacated upon transfer of ownership and construction of 16th St. SE.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21, 2019  
**PREPARATION DATE:** May 13, 2019  
**SUBMITTING DEPARTMENT:** Engineering and Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** John Van Dyke, AICP, CFM,  
**SUBJECT:** First Consideration of Ordinance 1300 Related to  
Wireless Telecommunications Facilities

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**STATEMENT/PURPOSE:** Consider approval of first consideration of Ordinance 1300 related to wireless telecommunications facilities.

**BACKGROUND/ALTERNATIVES:** The telecommunications ordinance surrounds small cell (5G) attachments to city-owned infrastructure within the right-of-way. It also adds a special use permit requirement to traditional towers exceeding 120' in height.

Due to the length of the ordinance, a **green highlighted** summary is provided outlining the basic elements that each section addresses (See the proposed ordinance in Exhibit 1).

#### **5G Telecommunication facilities:**

The City of Mandan was approached several months ago with regard to placement of infrastructure necessary to provide customers with 5G wireless service. The infrastructure is known as “small cell” technology, which is much smaller than a traditional cellular tower. They are small enough to be attached to other infrastructure that is typically located within the public right-of-way, such as street or traffic light poles, larger street signs, etc. They service a much smaller geography and therefore require a higher concentration than a standard tower.

This ordinance outlines the requirements that must be met in order for a small cell to be placed within the public right-of-way, as well as within each zoning district. The ordinance provides standards for small cells attached to existing poles within the right-of-way, city-owned buildings, and privately owned buildings. Fees and process are established by reference to the Wireless Facilities Guidelines (See Exhibit 2). The fees are based on what is deemed reasonable by the Federal Communications Commission (FCC). The Planning and Zoning Commission deferred the determination of the specific fees to the City Commission.

Board of City Commissioners

Agenda Documentation

Meeting Date: May 21, 2019

Subject: First Consideration of Ordinance 1300 related to wireless telecommunications facilities

Page 2 of 2

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Staff, including Principal Planner John Van Dyke, Engineering and Planning Director Justin Froseth, Public Works Director Mitch Bitz, City Administrator Jim Neubauer, and City Attorney Brown met to discuss the creation of the ordinance and associated guidelines. The ordinance largely mirrors that from City of Bismarck, ND, with modifications to address specific concerns by P&Z Commissioners and to seamlessly embed and function within the Mandan Code of Ordinances.

**Other telecommunication:**

While working through the ordinance changes related to telecommunications, limitations to the height of telecommunication transmissions towers has also been added. Presently, telecommunications transmission towers are exempt from height limitations and in some districts do not require a conditional use permit. This opens the door to the erection of these structures adjacent to residential development with limitless height. The proposed changes would require towers exceeding one-hundred-twenty (120) feet to obtain a conditional use permit. The height of one-hundred-twenty feet was determined based on several in Mandan today and ordinances in other communities.

ATTACHMENTS:

Exhibit 1 – Ordinance 1301 – Telecommunication Facilities

Exhibit 2 – Wireless Facilities Guidelines

Exhibit 3 – Pictures of Small Cells Wireless Infrastructure

FISCAL IMPACT: Estimated to be positive - fees, both from applications and those recurring annually, will be collected. It is uncertain how this will correlate with additional time from public works staff to identify underground infrastructure prior to excavation.

STAFF IMPACT: Engineering and Planning Director Froseth will be required to evaluate applications of this nature.

LEGAL REVIEW: The ordinance has been reviewed and approved by Attorney Brown.

RECOMMENDATION: The Engineering and Planning Department and Planning and Zoning Commission recommend approval of Ordinance 1300 as presented in Exhibit 1.

SUGGESTED MOTION: I move to approve Ordinance 1300 as presented in Exhibit 1.

# EXHIBIT 1

## ORDINANCE NO. 1300

An Ordinance to Amend and Re-enact portions of Subpart B – Land Development and Public Services of the Mandan Municipal Code related to communications facilities within the right-of-way and telecommunication transmission tower height limitations without first securing a conditional use permit

WHEREAS, The City of Mandan is committed to facilitating the provision for residents' wireless service needs

WHEREAS, Infrastructure necessary to provide for future services may require placement within publicly owned right-of-way

WHEREAS, Care must be taken in order to preserve the integrity of the variety of services supplied through the public right-of-way

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

**Section 1 renames the chapter to reflect the right-of-way, as the street is one possible piece of infrastructure contained in a right-of-way.**

**Section 1. Chapter 115 is hereby renamed as follows:**

Chapter 115 – STREETSRIGHT-OF-WAY

**Section 2 establishes the reasoning behind the ordinance**

**Section 2. Enacted. Section 115-10-1 relating to Purpose is hereby enacted to read as follows:**

### **115-10-1 Purpose**

To ensure that residents, businesses and public safety operations in the city have reliable access to wireless telecommunications network technology and state of the art mobile broadband communications services, the city desires to accommodate the deployment of wireless

communications facilities and services within the public right-of-way. The city also desires to minimize potential negative impacts of wireless facility placement within the public right-of-way. This article applies only to installation in the public right-of-way. All other installations are governed by Chapter 105 of this ordinance, and all other applicable laws and regulations. The impact of wireless facilities can be reduced by maintaining standards and objectives for location, visual impact, structural integrity, compatibility, colocation, and the like, which do not unreasonably discriminate among similar users.

Nothing in this chapter affects the city's right to regulate users of the public right-of-way in a neutral and nondiscriminatory manner. The city intends to exercise its authority with respect to the regulation, placement, construction and modification of wireless facilities in the public right-of-way to the fullest extent permitted by applicable law.

### **Section 3 provides the definitions to refer to throughout the ordinance.**

**Section 3. Enacted. Section 115-10-2 relating to Definitions is hereby enacted to read as follows:**

#### **115-10-2 Definitions**

For purposes of this article, the following definitions apply. References to "sections" are, unless otherwise specified, references to sections in this article.

Antenna means a device used to transmit and/or receive radio or electromagnetic waves for the provision of communication services including, but not limited to, cellular, paging, personal communications services and microwave communications. Such devices include, but are not limited to small wireless facility antennas, small cell antennas, remote radio heads, directional antennae, such as panel antennas, microwave dishes, and satellite dishes; omnidirectional antennae; and wireless access points (Wi-Fi), including strand-mounted wireless access points.

Applicant means any person who applies for a permit under this article.

Attachment includes any wireless communication facility affixed to, contained in, or placed on or in a structure within the city's public right-of-way.

City means the City of Mandan.

City Engineer means the Mandan City Engineer or his or her designee.

City-Owned Structure means an existing structure owned by the city that is located in the city's public right-of-way. It does not mean State, County or other government entity owned infrastructure within the public right-of-way. It does not mean infrastructure owned by a public utility. It does not mean infrastructure located outside of the public right-of-way or on right-of-way which the city does not control.

Colocation means the mounting or installation of new wireless communication facilities on or within an existing wireless support structure.

Construction Plan means a written plan, and a collection of documents, for construction that:

- (i) demonstrates to the satisfaction of the city engineer that the aesthetic impact and physical structure of the wireless communication facility is comparable to prevailing standards of similar structures in the immediate area;
- (ii) includes the identity and qualifications of each person directly responsible for the design and construction;
- (iii) includes signed and sealed documentation to proportional scale from a professional engineer licensed in North Dakota describing the proposed wireless communication facilities in detail, including
  - a. the proposed location of the wireless support structure and all easements, property boundaries, and existing structures within on the same side of the roadway and within fifty (50) feet of such wireless facility or wireless support structure unless a different distance is specified by the city engineer;
  - b. a structural, loading, and wind-speed analysis for existing, proposed, and reserved loading, and
  - c. a schematic describing the communications properties of the facility, including EMF and RF propagation and off-site data connections; and
- (iv) includes such other information as the city engineer may require.

EMF means electromagnetic frequency.

Equipment means accessory equipment serving or being used in conjunction with an antenna or wireless communication facility. Equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables and conduit, equipment buildings, cabinets, storage sheds, shelters, and vaults.

Existing Height means the height of a structure, including wireless communications facilities, as originally approved or as of the most recent approved modification. Height shall be measured from natural grade to the top of all appurtenances.

Existing structure means a structure located in the public right-of-way and capable of supporting wireless communication facilities, erected prior to the application for colocation or substantial modification under this article. An existing structure includes a replacement of an existing structure that is proposed to accommodate the colocation of a wireless communication facility, as

long as the replacement structure is substantially similar in appearance to the existing structure and is no taller than the existing height of the structure to be replaced.

Ground-Mounted Equipment means any equipment that is affixed to the ground and extends above the natural grade.

Guidelines or Wireless Facility Guidelines means any procedure or description from the city engineer, which may be modified and amended from time to time, concerning wireless facility application process and siting requirements. Any such Wireless Facilities Guidelines shall be consistent with this article.

Interference means any material and harmful impairment, physically or electronically of the operation, views, signals or functions of city property or third party property.

Laws means any and all applicable federal and state laws and applicable local ordinances, resolutions, regulations, administrative orders or other legal requirements.

Land Development Code means the Subpart B – Land Development and Public Services of the Code of Ordinances of the City of Mandan, North Dakota.

MAA means a master attachment agreement between the city and a lessee that defines the general terms and conditions which govern their relationship with respect to particular sites at which the city agrees to permit lessee to install, maintain, and operate communications equipment on existing or new city owned infrastructure.

Installation Permit Holder means any person that has obtained permission through the issuance of an installation permit from the city under this article to locate, install or place wireless facilities in the public right-of-way.

Person means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

Public Right-of-Way means the area on, below, or above a public roadway, highway, street, cart way, bicycle lane and public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

RF means radio frequency.

Site or Premises means the area occupied by the wireless support structure, the wireless communications facility, accessory equipment, ground-mounted equipment, and the path of the wire or conduit connecting to an off-site network.

Wireless Communication Facility means any fixed tangible asset usable for the purpose of providing wireless transmission of voice, data, images or other signals or information including, but not limited to, telecommunications, cellular telephone service, personal communications service and paging service. A wireless communications facility includes antennas and accessory equipment. A wireless communications facility does not include an underlying wireless support structure.

Wireless Support Structure means any fixed, above-grade structure in the public right-of-way used to house or support wireless communications facilities and equipment.

**Section 4 notes that existing poles and structures will be the priority and that an MAA and permit is required.**

**Section 4. Enacted. Section 115-10-3 relating to Locating Wireless Communication Facilities is hereby enacted to read as follows:**

#### **115-10-3 Locating Wireless Communication Facilities**

The location of any new wireless communication facility in the public right-of-way shall be prioritized to locate on existing structures, such as utility poles through agreement with the pole owner, or street lights, or the replacement of an existing structure as provided herein. Installation of wireless support structures for the purpose of supporting a wireless communication facility within the public right-of-way will be permitted only as deemed appropriate by the city engineer and the applicant must have a franchise agreement with the city for the use of the public right-of-way, MAA, or an encroachment agreement for that specific location and an installation permit.

**Section 5 provides four different means by which a wireless facility may be placed in the right-of-way. This section also outlines the necessary additional submittals that must be included with an application for placement of these facilities. This includes an application fee as outlined in the Wireless Facility Guidelines and allows for engineering to subcontract the evaluation similar to what is currently done for stormwater reviews for plats in some instances. This section also encourages colocation and requires the facilities to be installed within 12 months of permit issuance.**

**Section 5. Enacted. Section 115-10-4 relating to Installation Permit Required is hereby enacted to read as follows:**

#### **115-10-4 Installation Permit Required**

a. No person may construct, install or modify a wireless communication facility within the public right-of-way without having first done one of the following:

1. Having entered into an MAA with the city, if the wireless communication facility will be installed on city owned existing or new infrastructure.

2. Having obtained a franchise from the city allowing use of the public right-of-way.
3. Having obtained an encroachment agreement allowing the specific occupation of the public right-of-way.
4. Having entered into an agreement to co-locate with an entity with infrastructure in the right-of-way pursuant to a current franchise. In each case, the person must also obtain an installation permit from the city engineer as set forth in this chapter.

b. Installation Permit Issuance. Before a Site License, if applicable, is agreed upon and an installation permit is issued, a written application for each site must be filed with the city engineer containing such information as may be required by the city engineer. The application shall include the following:

1. Information required to be provided by a registrant for public right-of-way use and occupancy under this chapter.
2. The name and address of any retail communications service provider for which the facilities are intended to be used, if this is different than the applicant.
3. Evidence that the applicant has obtained all state permits and other licenses, as well as insurance, performance and payment bonds as may be required by the city engineer.
4. A detailed map, including a digital shapefile, of the location of all proposed facilities for which the permit is sought.
5. A construction plan and profile, if requested.
6. Other information required by this article.

c. Fees. The city may require payment of a nonrefundable installation permit application fee at the time an installation permit application is submitted, as approved by the Board of City Commission and adopted in the Wireless Facilities Guidelines. Such fees shall be set to recoup some or all of the cost of permit review, processing and issuance, and will be in addition to any other applicable fee or any separate payments that may be required in the event an installation permit is granted for use of the public right-of-way or the use of city-owned structures. The city reserves the right to charge applicants for installation permits and a fee for their use of the public right-of-way to the extent that such charges are allowed under state law. All such fees shall be described in the Wireless Facility Guidelines and may be in addition to any fee charged for or cost associated with attachment to city-owned structures.

d. Where the city determines that it requires expert assistance in evaluating an application, the city may procure technical and other specialized consulting services that may be necessary to

promptly and thoroughly review the application. Reasonable fees charged by the consultant, in an amount not to exceed \$500 for up to five sites and \$100 for each additional site thereafter, shall be reimbursed to the city by the applicant regardless of whether the application is, or is not, ultimately approved and a permit issued. The city shall be authorized to require the applicant to deposit a sum equal to the reasonable estimated amount of consultant fees to be paid.

e. Time for Review. The city engineer shall comply with applicable federal, state and local law concerning the time period for review following receipt of a completed application to install or modify a wireless communications facility or wireless support structure in the public right-of-way. Specific timeframes shall be described in Wireless Facility Guidelines.

f. Nondiscrimination. The city shall evaluate, issue, and deny permit applications under this article on a neutral basis, with no unreasonable discrimination among similarly situated applicants and installations.

g. The city engineer may impose additional reasonable conditions on any installation permit issued under this article relating to time, place and manner.

h. The city shall not impose environmental testing, sampling, or monitoring requirements or other compliance measures for RF emissions on wireless communication facilities that are categorically excluded under the FCC's rules for radiofrequency remissions pursuant to 4 CFR 1.1307(b)(1).

i. Scope and Duration.

1. Any installation permit granted pursuant to such application shall be limited in scope to the description submitted in a completed application, as modified by any further agreed-upon conditions or subsequently approved modification.
2. The installation permit shall be voided by the city unless in the city's determination the work is commenced within one hundred eighty (180) days from the date of issuance of the permit, unless extended by the city engineer. If the facility is not used for its intended use within twelve (12) months from the date of permit issuance, the city shall revoke the permit unless extended by the city engineer.
3. Within sixty (60) days following completion of facility installation as described in the permit application, the permit holder shall submit as-built diagrams in digital format and digital photographs of the Site to the city engineer. A digital shapefile shall also be provided to include such information as deemed necessary by the city engineer.
4. MAAs issued under this article are valid for a period of ten (10) years. To extend the MAA for an additional period of ten (10) years, the permit holder shall provide proof that it continues to have the legal authority to occupy and use the public right-of-way for the purpose set forth in its permit; shall affirm that its site as it exists at the time of the renewal is in full compliance with the applicable city permit or permits issued for the site, and is in compliance with FCC regulations; and shall pay any permit processing fee

required for renewal. Failure to submit such proof of legal authority or affirmation of compliance shall be grounds for non-renewal of the permit. The burden is on the permit holder to demonstrate that the site complies with the requirements herein.

j. Conditional Upon Related Agreements. The city engineer may cause a permit under this article to be made temporary or conditional upon the execution of a finalized permit application or attachment agreement further addressing the proposed installation.

k. Proximity to Other Facilities. The city reserves the right to deny, but is not obligated to deny, any siting permit application under this article that proposes to install a new wireless support structure within three hundred (300) feet of any other existing wireless support structure. It is the intent of this provision to encourage the colocation of wireless communication facilities on the same wireless support structure or on existing buildings or other structures, and to sensibly limit the overall visual impact of wireless communications in the public right-of-way.

l. Denial of Permit. Any denial of permit shall be made in writing, supported by substantial evidence that the proposed installation would be inconsistent with one or more of the provisions of the Code of Ordinances of the City of Mandan, North Dakota or with the health, safety and welfare of the city.

**Section 6 provides design guidelines to ensure each facility minimizes its impact to adjacent property owners and does not interfere with necessary maintenance in the right-of-way. Requirements include antennae's can't be higher than 50ft above ground level or block a neighboring window/doorway.**

**Section 6. Enacted. Section 115-10-5 relating to General Conditions is hereby enacted to read as follows:**

**115-10-5 General Conditions**

The city engineer may approve a permit for the installation of a wireless communication facility in the public right-of-way, provided the applicant certifies compliance with the following general conditions, and subject to other use-specific conditions and other requirements set forth in this article and in any Wireless Application Guidelines.

a. General Design Standards.

1. The installation shall be designed with the smallest footprint possible, be harmonious with its surroundings, and streamlined in appearance. The city engineer may require camouflage or concealment efforts. All designs of wireless communication facilities must comply with zoning requirements, including conditional/special use permitting where required, and be approved by the Mandan Architectural Review Committee.

2. The height of any wireless communication facility shall be comparable to nearby structures of similar type and not more than 50 feet above normal grade unless otherwise approved by the city engineer in the installation permit.
3. Antennas shall be as compact as possible. To address the physical and aesthetic impact on the public right-of-way, the city engineer may limit the physical size of the antenna.
4. All riser cabling and wiring must be contained in conduit, affixed directly to the face of the structure, or enclosed within the hollow interior of the pole, for as long as it is technically feasible. No exposed slack or extra cable will be allowed.
5. No signage or advertising will be permitted, except as required by law or as specifically permitted or required by the city engineer.
6. Wireless communication facilities in historic areas shall comply with any special requirements applicable to such areas, and may be subject to additional city review.

b. Minimizing Impacts on Adjacent Property Owners.

1. A permit holder must design and install a wireless communication facility so as to minimize any impact on the adjacent property owners, and must actively mitigate any unreasonably adverse impact relating to visibility from the adjacent property; access to and from the adjacent property; intrusion of light, sound, or smell; in addition to any other cognizable unreasonable and substantial impact made known by an adjacent property owner. This shall not apply to new developments that were not present at the time of installation; however, this does not mean that specific sites will be included in any renewal agreement between the wireless communication facility permit holder and the city.
2. No Antenna shall be within five (5) feet of a door, balcony or window nor placed in front of any window within 20 feet and located at a similar height to the antenna unit on the adjacent public right-of-way, unless otherwise restricted by the right-of-way width.
3. An installation shall not interfere with city operations, or the operations of preexisting third-party installations in the public right-of-way. The city will reasonably cooperate with the applicant and/or permit holder to permit activities and modifications that may effectively avoid or correct the interference.

**Section 7 limits the increase in height to a pole and ensures that there is no interference of the original service provided by the pole (such as light). Power is the responsibility of the permit holder.**

**Section 7. Enacted. Section 115-10-6 relating to Wireless Communications Facilities Upon Existing Structures is hereby enacted to read as follows:**

**115-10-6 Wireless Communications Facilities Upon Existing Structures**

In addition to the general conditions described in section 115-10-5 and any specification contained in the Wireless Facility Guidelines, any wireless communication facility for which an installation permit is requested under this chapter shall meet the following requirements:

- a. The wireless communication facility shall not increase total existing height, including the wireless support structure, by more than 10% over other public utility poles in the area unless, in the city engineer's discretion, an alternative height is accepted depending on the type and structure of the existing facility and the proposed location.
- b. The wireless communication facility shall not impair nighttime visibility in the area that result from light emanating from a utility structure and shall not otherwise interfere with the original purpose of an existing structure.
- c. Electrical power. Unless otherwise provided in the applicable Site License, franchise, or encroachment agreement the acquisition of electrical power shall be the sole responsibility of the applicant.

**Section 8 specifies the requirement for an MAA, which will outline the management of the facilities. Outlines fees collected in the Wireless Facility Guidelines. Specifies financial responsibility of the permit holder for the cost of repairs and holds harmless the City from damages to third parties.**

**Section 8. Enacted. Section 115-10-7 relating to Attachments to City-Owned Structures is hereby enacted to read as follows:**

**115-10-7 Attachments to City-Owned Structures**

In addition to the requirements set forth in this article and the Wireless Facility Guidelines, the following conditions will apply to a wireless communication facility attached to a city-owned structure:

- a. The city engineer shall require an applicant for a wireless communication facility attachment to a city-owned structure to execute a separate MAA with the city addressing such attachment.
- b. The management of attachments to city-owned structures is governed by the MAA between the city and the applicant. The MAA does not waive any zoning, building code or other public right-of-way management requirements that may also apply.
- c. The city may require payment of rental fee, permit fee, application fee or other compensation, as set forth in the Wireless Facility Guidelines.

d. In the event a city-owned wireless support structure is compromised or knocked down, the city and an affected wireless communication facility permit holder will cooperate to reinstall or replace the pole and restore the wireless communication facility. The wireless communication facility permit holder shall be responsible for costs incurred by the repair or reinstallation of the wireless support structure. The MAA shall contain indemnifying language holding the city harmless for damages stemming from third-parties.

e. Training. At the request of the city, the permit holder shall host on-site training for city maintenance staff. The training will be offered semiannually or as otherwise agreed between the parties. The training shall include occupational safety, personal protection, proximity limits, emergency procedures and contact information. This information shall also be provided in writing and submitted electronically to the city.

**Section 9 notes that if the facility is located on existing infrastructure that it will continue to provide the service (such as lighting) that it was originally intended to do. If a new pole is required then it will provide additional public benefits (such as lighting) and not be solely used as a wireless facility.**

**It also notes that the poles are the owned by the City, power to supply the facility is the responsibility of the permit holder, and that the permit holder will provide a supply of identical poles to be held by the city.**

**An agreement will outline the replacement process.**

**Section 9. Enacted. Section 115-10-8 relating to Replacement of City-Owned Structures or Addition of City-Owned Structures is hereby enacted to read as follows:**

**115-10-8 Replacement of City-Owned Structures or Addition of City-Owned Structures**

In addition to the general conditions described in this chapter and the Wireless Facility Guidelines, the proposed replacement of an existing city-owned structure or placement of a new city owned structure shall be subject to the following requirements.

a. The replacement of a city-owned structure or the addition of a new city owned structure shall be entirely at the reasonable discretion of the city engineer and at a minimum, must be able to co-locate at least one additional similar facility.

b. Before installing a new structure in the right-of-way or replacing an existing structure, the applicant must demonstrate the following, to the satisfaction of the city engineer:

1. That the facility is not able to be placed on existing infrastructure. The applicant shall provide a map of existing infrastructure in the service area and describe why each such site is not feasible.

2. That city functions for which the original structure was used will be preserved, improved or enhanced, as part of any replacement structure, at the applicant's expense. Replacement of lighting, electrical power, network connectivity, and any other functional purpose of, on or within the original structure shall be done to the satisfaction of the city engineer.

3. In order to place a new city owned facility, the applicant must establish to the satisfaction of the city engineer that there are no existing or replacement structures that would provide the necessary capabilities, that the new facility serves a public purpose other than wireless communication, and that placement of the facility outside of the right-of-way on private property would be unduly burdensome.

c. Ownership. A replacement structure or a new structure under this section shall be dedicated to and owned by the city upon completion, to the satisfaction of the city. Unless otherwise provided in the applicable MAA, Site License, franchise, or encroachment agreement, the permit holder shall provide the city a Bill of Sale, free and clear of all liens and encumbrances.

d. Unless otherwise provided in the applicable Site License, franchise, or encroachment agreement, acquisition and use of electrical power to serve a wireless communication facility on a replacement wireless support structure or facility shall be the sole responsibility of the permit holder.

e. Stocked Poles. To enable prompt replacement in the event of a knockdown or structural compromise, a permit holder shall provide the city with an inventory of poles to be kept by the city. The inventory shall consist of, for each type/style of pole, one pole substantially identical to the initial city owned replacement pole. For each set of five additional replacement poles of any particular type/style, an additional pole of that type/style.

f. Facilities placed in the right-of-way shall be maintained in accordance with the terms of this article and as provided for in the MAA.

g. An applicant may be required to enter into such license and other agreements with the city or third parties as the city may require to effect the replacement, consistent with this section.

**Section 10 outlines how equipment will be mounted if above or on the ground and instances when it may be required to be located underground. In discussions with Verizon, they've indicated that all equipment will be located underground for those facilities requiring pole replacement.**

**Section 10. Enacted. Section 115-10-9 relating to Equipment is hereby enacted to read as follows:**

**115-10-9 Equipment**

a. Equipment other than ground-mounted equipment shall be mounted in one of the manners described below, or as prescribed by the city engineer.

1. Equipment shall be mounted in a base shroud of approved design. The base shroud should be coated or painted an approved color to match the pole.
2. Equipment shall be mounted directly to the pole a minimum of twelve (12) feet above the existing grade and be coated or painted with an approved color to match the pole.
3. Equipment shall be mounted to the pole in an equipment box a minimum of twelve (12) feet above the existing grade. The equipment box shall be coated or painted an approved color to match the pole.
4. Equipment shall be attached to the wireless support structure in a manner as approved by the city engineer.

b. Ground-Mounted Equipment.

1. A permit for a wireless communication facility that involves ground-mounted equipment will be issued if the city engineer finds the following:
  - a. The ground mounted equipment will not disrupt traffic or pedestrian circulation;
  - b. Space exists in the public right-of-way to accommodate the ground mounted equipment;
  - c. The ground mounted equipment will not create a safety hazard;
  - d. The location of the ground mounted equipment minimizes impacts on adjacent property;
  - e. In any historical area, that the ground mounted equipment does not detrimentally affect the historical nature of the area, to the satisfaction of the city engineer;
  - f. That no reasonable alternative exists that is more favorable to adjacent property owners and to effective use and management of the public right-of-way; and
  - g. The ground mounted equipment will not adversely impact the health, safety or welfare of the community.

2. Underground equipment. The city engineer may require, at his or her discretion, that utilities be placed underground, and may prohibit the installation of ground mounted equipment unless technically infeasible or otherwise cost prohibitive.

c. Any excavation required for installation of ground-mounted or underground equipment shall be performed in accordance with all applicable local, state, and federal laws and regulations.

**Section 11 outlines how a wireless communications facility may be attached to a city owned building such as city hall or public works building for example. In the event the city sells this structure, the city will credit the fees back and assist with identifying an alternative site. The city is not responsible for the costs resulting from the sale of city-owned property.**

**Section 11. Enacted. Section 115-10-10 relating to Attachment to City-Owned Buildings is hereby enacted to read as follows:**

**115-10-10 Attachment to City-Owned Buildings**

The city may permit the attachment of a facility to a city-owned building upon the recommendation of the city engineer and the approval of a lease by the city commission. An installation permit shall be required for such installations. If a city-owned building is sold the permit for the relevant attachment shall be revoked. The city shall work with the permit holder to identify a suitable alternative site for the replacement of the wireless communication facility and credit the permit holder for the fees already incurred toward the application of a new site. The city shall be held harmless for the permit revocation effectuated by the sale of the city-owned building.

**Section 12 adds Wireless communications facility to the list of examples of uses within the utility use group.**

**Section 12. Amended. Section 105-1-4 (q) (2) relating to the Utility service group examples is hereby amended to include the following example of a utility service group use:**

k. Wireless Communications Facility

**Section 13 adds definitions for wireless communications facility where none presently exists.**

**Section 13. Amended and Re-enacted. Section 101-1-3 adding a new definition following Wholesale group to read as follows:**

Wireless communications facility means any fixed tangible asset usable for the purpose of providing wireless transmission of voice, data, images or other signals or information including, but not limited to, telecommunications, cellular telephone service, personal communications service and paging service. A wireless communications facility includes antennas and accessory equipment. A wireless communications facility does not include an underlying wireless support structure.

**Section 14 Adds definitions for telecommunication transmission tower and telecommunications transmission tower antennae height. There is currently no definition for these in the ordinance.**

**Section 14. Amended and Re-enacted. Section 101-1-3 adding a new definition following Telecommunication facility to read as follows:**

Telecommunication transmission tower means any pole, spire, structure or combination hereof, including supporting lines, cables, wires, braces and mast, designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guyed towers or monopole towers. A telecommunication tower may include, but not be limited to, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and personal communication service towers.

Telecommunication transmission tower and antenna height means the height of a freestanding telecommunication transmission tower and antenna shall be measured as the distance from ground level to the highest point on the tower, including the antenna. The height of a rooftop communication antenna shall be measured as the distance from the point where the base of the tower and antenna is attached to the roof, to the highest point on the supporting structure, including the antenna.

**Changes terminology to one defined by Section 14 above. There is currently no definition of broadcast or communication towers.**

**Section 15. Amended and Re-enacted. Section 105-1-2 (1) to read as follows:**

- (1) *Structures excluded from height limits.* A building height limit set forth in this chapter shall not apply to belfries, chimneys, domes, flagpoles, flues, monuments, cupolas, ~~broadcast and communication telecommunication transmission~~ towers, spires, tanks, water towers or similar structures, or to bulkheads, elevators, water tanks or similar roof structures and mechanical appurtenances. No such structure located on a roof shall have a total area greater than 25 percent of the roof area of the building; nor shall such structure be used for any residential purpose or any commercial or industrial purpose other than a

use incidental to the main use of the building. No such structure shall be located closer to the lot line than a distance greater than 110 percent of the height of the structure above ground level.

**Adding subsection (l) in order to require a conditional use permit for towers greater than 120 feet in height.**

**Section 16. Enacted. Section 105-1-5 (i) relating to a requirement for telecommunication transmission tower and antennae height in excess of 120' to obtain a conditional use permit to read as follows:**

(i) Telecommunication transmission tower and antenna height exceeding one-hundred-twenty (120) feet.

**Section 17 thru 22 establishes that utility service group uses require a conditional use permit in residential zoning districts and a permitted use in commercial and industrial zones.**

**Section 17. Amended and Re-enacted. Section 105-3-4 (d) is amended as follows:**

- (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. ~~A PUD district will be created to document any conditional use approval.~~
- (1) Accessory dwelling unit.
  - (2) Education group.
  - (3) Public recreation group.
  - (4) Utility service group.
  - (5) Religion group.
  - (6) Bed and breakfast.
    - a. One additional parking space per bedroom.
    - b. One sign no larger than four square feet.
    - c. Must maintain state facility license in good standing.

**Section 18. Amended and Re-enacted. Section 105-3-5 (d) is amended as follows:**

- (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. ~~A PUD district will be created to document any conditional use approval.~~
- (1) Public recreation group.
  - (2) Education group.
  - (3) Utility service group.
  - (4) Religion group.
  - (5) Accessory dwelling unit.
  - (6) Bed and breakfast
    - a. One additional parking space per bedroom.
    - b. One sign no larger than four square feet.
    - c. Must maintain state facility license in good standing.

**Section 19. Amended and Re-enacted. Section 105-3-6 (d) is amended as follows:**

- (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. ~~A PUD district will be created to document any conditional use approval.~~
- (1) Public recreation group.
  - (2) Education group.
  - (3) Utility service group.
  - (4) Religion group.

**Section 20. Amended and Re-enacted. Section 105-3-8 (d) is amended as follows:**

- (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. ~~A PUD district will be created to document any conditional use approval.~~
- (1) Education group.
  - (2) Religion group.
  - (3) Utility service group.
  - (4) Public recreation group.

- (5) Site built or modular dwelling unit.

**Section 21. Amended and Re-enacted. Section 105-3-9 is amended as follows:**

Sec. 105-3-9. - RM Residential District.

In any RM Residential District, the following regulations shall apply:

- (1) *General description.* The RM Residential District is established as a district in which the principal use of land is for residences, including multifamily dwellings and similar high-density residential development. For the RM Residential District, in promoting the general purposes of this chapter, the specific intent of this section is:
  - a. To encourage the construction of, and continued use of, the land for residential purposes.
  - b. To prohibit commercial and industrial use of the land and to prohibit any other use that would substantially interfere with the development and continuation of residential structures in the district.
  - c. To encourage the discontinuance of existing uses that would not be permitted as new uses in the district.
  - d. To discourage any use which, because of its character or size, would generate traffic or require municipal services substantially in excess of traffic and services that would exist if the district was developed solely for multifamily dwellings and similar residential uses.
- (2) *Uses permitted.* The following uses are permitted:
  - a. Single-family dwelling.
  - b. Two-family dwelling.
  - c. Multifamily dwelling.
  - d. Group dwelling.
  - e. Educational group.
  - f. Church.
  - g. Health-medical group.
  - ~~h. Utility service group.~~
  - hi. Public recreation group.
  - ij. Railroad line trackage.
  - jk. Funeral establishments, provided that the following requirements are met:
    1. Each such establishment shall provide an off-street parking area on the premises equal to 35 percent of the lot area and in no case less than 4,900 square feet exclusive

of the area needed to park vehicles owned or operated by such establishment. For the purpose of determining such parking area, neither the required side yards nor the area in front of the building setback line shall be included as a part of such parking area.

2. Each parcel upon which a funeral establishment is to be maintained shall have two side yards, one on each side of the building. The sum of the widths of the two side yards shall not be less than 20 percent of the average width of the lot, but in no event shall any side yard be less than ten feet.
3. No parking shall be permitted within ten feet of the side lot lines or in the area ahead of the building setback line.

4k. Office-bank group.

4m. Bed and breakfast facility located in a single-family dwelling, provided that the owner of the dwelling is the holder of a current bed and breakfast facility license for not to exceed four lodging units issued pursuant to the provisions of N.D.C.C. ch. 23-09.1 and that the owner provides one off-street vehicle parking space for each such unit and one off-street parking space for the owner/operator of such facility, and provided, further, that only one sign, not exceeding four square feet in size, advising such facility, may be placed on the premises.

4n. Manufactured home.

(3) 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.

a. Utility service group

(43) Density. The maximum allowable density is 30.0 families per net acre.

(54) Lot area.

- a. Each building containing dwelling units hereafter erected shall be located on a lot having an area not less than that shown in the following schedule:

Lot Area in Square Feet	Maximum Number of Dwelling Units
4,000 but less than 5,000	1
5,000 but less than 6,000	2
6,000 but less than 7,000	3
7,000 or more	4

- b. For each 1,000 square feet, or fraction thereof, in excess of 7,000 square feet contained in a lot, the principal building may contain one dwelling unit in addition to the four dwelling units permitted in a principal building located on a lot having an area of 7,000 square feet. Any other permitted building or structure, together with accessory buildings, shall be located on a lot having an area of not less than 7,000 square feet; provided, however, that if a building designed for efficiency apartment units having not more than one-bedroom units, intended to house not more than two persons per dwelling unit, not exceeding the floor area ratio provided in subsection (6) of this section and meeting all other provisions of this section and the provisions of this Code relating to the minimum standards governing the condition and maintenance of dwelling units, a building containing not more than six such efficiency dwelling units may be erected on a lot having not less than 7,000 square feet in area.
- (65) *Lot width.* Each lot shall have a width of not less than 50 feet measured along the front building line; provided, however, that on a record lot having a width of less than 50 feet at the front building line and corresponding to a record lot shown on a plat or deed recorded prior to the adoption of the ordinance from which this section is derived, the minimum lot width measured along the front building line may be reduced to not less than 40 feet.
- (76) *Floor area ratio.* The floor area ratio of the principal building and all accessory buildings shall not exceed 0.40 for single-story buildings, nor shall it exceed 1.20 for buildings of more than one story. The ground area occupied by the principal and accessory buildings shall not exceed 40 percent of the total area of the lot. In computing floor area ratio and ground coverage, 200 square feet shall be added to the actual area of the building for each car space required by this chapter, if such space is not furnished within a building.
- (87) *Front yard.* Each lot shall have a front yard not less than 15 feet in depth.
- (98) *Side yards.* Each lot shall have two side yards, one on each side of the principal building. The sum of the widths of the two side yards shall be not less than 20 percent of the average width of the lot. On any lot having an average width of 50 feet or less, each side yard shall be not less than ten percent of the width of the lot, and in no case shall a side yard be less than four feet in width. On any lot having an average width greater than 50 feet, neither side yard shall be less than five feet in width. In no event shall any side yard be less than the requirements set forth in this subsection, provided that in computing the side yard width on any lot, the first one foot of any overhang for eaves shall not be counted.
- (109) *Rear yard.* Each lot shall have a rear yard not less than ten feet in depth.
- (110) *Height limits.* Single-family dwellings and two-family dwellings shall not exceed 2.5 stories, nor shall they exceed 35 feet in height. No principal building for any other permitted use shall exceed six stories, nor shall it exceed 60 feet in height. For each one foot or fraction thereof that a building exceeds 35 feet in height, there shall be added two feet to the minimum width of each side yard, two feet to the minimum depth of the front yard and one foot to the minimum depth of the rear yard required by this section. No accessory building shall exceed two stories, nor shall it exceed 25 feet in height.

(121) *Exception.* Notwithstanding the limitations imposed by any other provision of this chapter, upon due application by the owner and the recommendation thereof by the planning and zoning commission, the board may permit the subdivision of an existing lot and approve the replat thereof to show the lot lines along the centerline of a common wall, and the renumbering of the lot upon which multifamily townhouses or row dwelling units are being or have been constructed so as to permit separate ownership of a lot without side yards and having an area and width smaller than that required for a single-family dwelling, subject to the following:

- a. Each of the lots created by the subdivision shall contain an average of not less than 2,400 square feet of area.
- b. Each lot shall front on a dedicated street, or access shall be provided by platting a common driveway area and utility easements.
- c. Except for setbacks along the common property lines, all other setbacks and yard requirements shall be met.
- d. Each lot shall have separate water and sewer service lines into such lot or an appropriate written agreement between the adjoining property owners establishing the manner in which the cost of maintenance and repair of such lines will be shared.
- e. The subdivision of the lot shall be accomplished by the platting thereof in accordance with subdivision regulations of the city ordinances, including required public hearings for the plat approval.

(Ord. No. 1242, § 5, 12-20-2016)

**Section 22. Amended and Re-enacted. Section 105-3-10 is amended as follows:**

Sec. 105-3-10. - RH Residential District.

In any RH Residential District, the following regulations shall apply:

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

*Mobile home* means a mobile structure manufactured upon a chassis or an undercarriage which is an integral part of the structure and which:

- a. Is transported to the site on wheels;
- b. Comes fully equipped with flush toilet, tub or shower and kitchen facilities;
- c. Is ready for immediate occupancy upon its arrival to the site and its connection with utilities; and
- d. Is designed for long-term use as a single-family residence without permanent foundation.

*Mobile home park* means a plot or parcel of land, under single ownership, which has been improved for purposes of locating mobile homes as dwellings.

*Mobile home site* means a parcel of land, within a mobile home park, designed and improved for the accommodation of not more than one mobile home as a single-family residence.

*Mobile home stand* means that part of a mobile home site which has been reserved and improved for the placement of a mobile home, appurtenant structures or additions to a mobile home.

*Self-propelled mobile home* means a self-propelled vehicle containing living facilities, including the terms "house car" and "motor home," which was designed for temporary dwelling, generally for travel and recreational use, and licensed by a state as a motor vehicle.

*Travel trailer* means a vehicular portable structure having no foundation other than wheels or jacks, designed to be used as a temporary dwelling for travel and recreational activities, which is not more than eight feet in body width.

*Travel trailer park* means a plat or parcel of land, under single ownership, which has been improved for the purposes of locating travel trailers.

*Travel trailer site* means a parcel of land within a travel trailer park designed and improved for the accommodation of not more than one travel trailer.

*Unit, dependent,* means a mobile home, travel trailer or self-propelled mobile home without bath or shower and toilet facilities.

*Unit, nondependent,* means a mobile home, travel trailer or self-propelled mobile home with bath, shower and toilet facilities.

- (2) *General description.* The RH Residential District is established as a district in which the principal use of land is for residences, including mobile homes and travel trailers, located within mobile home parks and travel trailer parks.

(3) Permitted Uses:

a. Mobile homes and travel trailers, located within mobile home parks and travel trailer parks.

- (4) 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:

a. Utility service group

- ~~(53)~~ *Location.* All mobile home and travel trailer parks shall be located in approved subdivisions according to the city's subdivision regulations.

- ~~(64)~~ *Mobile home and travel trailer park locations.*

a. *Mobile homes.* All mobile homes in the city shall be located in an approved mobile home park or mobile home subdivision before being occupied. Also, no business shall be conducted out of a mobile home, except administrative duties of the court owner or manager of home occupation uses according to the city's zoning ordinances.

- b. *Mobile home parks.* Mobile home parks shall be located in an RH zoning district according to future provisions. Mobile home parks should be considered medium-density residential.
  - c. *Travel trailers.* Travel trailers shall be located in an approved travel or mobile home park.
  - d. *Travel trailer parks.* Travel trailer parks shall be located in an RH zoning district according to future provisions.
  - e. *Self-propelled mobile homes.* Self-propelled mobile homes shall be located in an approved travel trailer or mobile home park.
- (75) *Licenses and/or permit requirements.*
- a. It is unlawful for any person to maintain, operate, alter or expand any mobile home or travel trailer park within the city's jurisdiction (one mile) without first obtaining a valid license and building permit from the designated officials of the city. Alteration or expansion of an existing mobile home or travel trailer park shall include any addition or reduction of a park site or rearrangement of other service buildings within the park.
  - b. All mobile home and park license fees shall be set by resolution of the board.
  - c. Application for a mobile home or travel trailer park license shall be filed with and issued by the state department of health and the city. The application shall be reviewed by the state health officer and city departments as deemed necessary by the building inspector. The site plans, specifications and zoning shall be reviewed by the city planning and zoning department. Application for subdivision or site plan approval and zoning changes for a mobile home or travel trailer park shall include payment of a planning review fee. These fees shall parallel the fee schedule of the city for subdivision and zone changes. The purpose of these fees is to offset the cost of publication and review by the planning department. An application for mobile home or trailer court approval shall be submitted to the city planner, along with said fee, and shall include the following:
    - 1. Name and address of the applicant and engineer or surveyor.
    - 2. Location map and legal description of the proposed or existing trailer or mobile home park.
    - 3. A complete site plan and specification of the proposed travel trailer or mobile home park or of the alteration or expansion of an existing park indicating:
      - (i) Total acreage and all dimensions of the tract of land.
      - (ii) Date of plan.
      - (iii) Lot and block acreage.
      - (iv) Scale and north arrow.
      - (v) Locations and dimensions of all existing and proposed streets, alleys and walkways, and location and size of all sidewalks.
      - (vi) Locations and dimensions of all proposed mobile home sites.

- (vii) Locations, plans and specifications of all proposed service buildings.
  - (viii) Contours of the land at one-foot intervals for ground slopes between zero and two percent, two-foot contours between two and five percent, and four-foot contours for over five percent.
  - (ix) Finished grade plan for all streets and developed areas as required by the city engineer.
  - (x) Locations and dimensions of all utility easements.
  - (xi) Locations and sizes of water, sewer and storm sewers or open drainage lines.
  - (xii) Locations of fire hydrants.
  - (xiii) Locations of all recreational areas.
  - (xiv) Locations of lighting stands.
  - (xv) All setback dimensions.
  - (xvi) Location and dimensions of mobile home park buffer.
  - (xvii) Such further information as may be required by the health officer to determine if the proposed mobile home park is in compliance with the applicable health regulations.
4. If the applicant desires to alter or expand an existing mobile home park, an additional site plan shall be submitted indicating the locations and dimensions of existing mobile home sites, streets, walkways and service buildings.
  5. A reproducible Mylar and six blue line prints, 24 inches by 36 inches, shall be submitted to the planning and zoning office upon final approval by the board. Said site plan shall have the signatures of the owner, city engineer, planning and zoning commission chairperson and board president.
  6. Within two weeks of moving into a mobile home, the owner will be required to have a certificate of occupancy. Before issuing the certificate of occupancy, the building inspector or designate shall inspect all utility connections, stabilizing devices, anchoring equipment and determine that the address has been properly installed. A fee for the certificate of occupancy, as set by the board, shall be required of the mobile home owner.
  7. All mobile home and travel trailer parks shall be located in an approved subdivision according to the city's subdivision regulations.
- (86) *Design requirements for mobile home parks.*
- a. *Minimum size.* Each parcel of land to be used for a mobile home park shall be a minimum of ten acres, and any addition to said park must contain a minimum of four acres and be contiguous to the park with a boundary of at least 100 feet. The ratio of average depth to average width shall not be in excess of 4:1. There shall be a minimum width of 150 feet along any abutting public right-of-way.
  - b. *Streets and parking; access to park.* Direct vehicular access to the mobile home park shall be only from an abutting approved public street. Access shall be so located as

to provide minimum congestion on the external streets and to provide for good circulation within the park. Private access right-of-way shall intersect public right-of-way no closer than 150 feet from the intersection of two public streets.

- c. *Width of streets.* Streets in a mobile home park shall be private, but shall be constructed and paved in accordance with city street specifications and approved by the city engineer, except as to the paved width, which shall be as follows:
    - 1. Two-way streets with parking on both sides shall be 40 feet in width.
    - 2. Two-way streets with parking on one side shall be 32 feet in width.
    - 3. Two-way streets with no parking on either side shall be 24 feet in width.
    - 4. No streets shall be less than 24 feet in width.
  - d. *Entrance roads; easements and intersections.* All entrance roads into a mobile home park shall have a minimum unobstructed width of 60 feet and a minimum paving width of 36 feet at the point of entry. All streets into the mobile home park shall be designed for two-way traffic. Easements shall be provided on all streets within the mobile home park for the provision of city services, such as police, fire, and refuse collection. Street intersections should be at right angles on all major streets and minor streets, if possible.
  - e. *Curb and gutter and street grades.* Curb and gutter or alternatives shall be laid on all streets according to the city engineer. Street grades shall be sufficient to ensure surface drainage.
  - f. *Parking.* At least two off-street paved parking spaces per mobile home site shall be provided in the mobile home park. Clustered parking to meet the off-street requirements is allowed, but shall not be on the street right-of-way. Off-street parking for guests should be on the basis of one parking space for each four mobile home lots. Off-street parking shall be provided on the basis of one parking space for each 300 square feet of gross floor space in recreational, service and community buildings.
  - g. *Buffer strip.* Mobile homes shall be set back from any public right-of-way 25 feet and not less than 15 feet from any other boundary. Said buffer strip may be platted as part of the mobile home site. The buffer strip may not be designed for streets and utility sites, but may be utilized for drainage structures. No other structures shall be placed within any of the buffer strips.
  - h. *Recreation areas.* Mobile home park owners are encouraged to design parks with recreational areas sufficient for park residents.
- (97) *Design requirements for mobile home site.*
- a. *Minimum size.* Each mobile home site shall have a minimum of 5,000 square feet of area with a minimum average width of 50 feet and minimum average depth of 100 feet. Mobile home sites located on a cul-de-sac may reduce frontage at the street line to 35 feet, but lot area must contain 5,000 square feet.
  - b. *Land coverage.* Total structural coverage of a mobile home site shall not exceed 50 percent of the site area. In computing the ground coverage, 400 square feet shall be added to the area of the mobile home site for the two required off-street parking

spaces and all accessory buildings. All nonattached storage sheds must be located in the backyard and not within five feet of the side or rear site line.

- c. *Access.* Each mobile home site shall abut on a street within the mobile home park, and access directly to the site shall only be from such an internal street.
- d. *Setback requirements.* No part of the mobile home or other structure upon a mobile home site shall be closer than five feet to a mobile home site boundary line. Mobile homes shall be set back from each other and accessory buildings by at least 15 feet on adjacent lots. There shall be a minimum of ten feet between an individual mobile home and any abutting pavement of a park street.

(108) *Provisions of services in mobile home park.*

- a. *Service buildings.* Service buildings may include management offices, laundry facilities, repair shops and storage areas, sanitary facilities and indoor recreation facilities and incidental commercial uses.
- b. *Service building requirements.* All service buildings shall comply with the city ordinances and state laws and regulations concerning buildings, electrical installations, plumbing and sanitation systems. They shall, at all times, be operated and maintained in a clean, sightly condition by the park management.
- c. *Building height requirements.* No structure erected in a mobile home park shall exceed 25 feet in height.
- d. *Water supply.* Each mobile home park shall be connected with the city's water supply system and designed, constructed and maintained in accordance with the city's ordinances and state laws and regulations. Each mobile home park shall be provided with at least one above-ground water service connection which shall be capped when a mobile home does not occupy the site.
- e. *Sewage disposal.* All mobile home parks shall be connected to the city central sewer system, and sewer lines shall be designed, constructed and maintained in accordance with the city's ordinances and state laws and regulations and shall be capped when not in use.
- f. *Street lighting.* All entrances, exits and streets in mobile home parks shall be well-lighted. Street lighting may be either overhead or low level, but must be reflected onto the street.
- g. *Electricity and grounding.* Each mobile home and mobile home site shall be provided with electricity and proper grounding in accordance with the city's ordinances. Each mobile home site shall be individually metered by the supplying electrical utility company.
- h. *All service utility lines.* All service utility lines for electrical, telephone, gas and television communication shall be placed underground and designed and constructed in accordance with the city's ordinances.
- i. *Refuse handling.* The storage, collection and disposal of refuse in the mobile home park shall be provided for in accordance with the applicable city ordinances and state laws and regulations.

- j. *Fire protection.* All mobile home parks shall be subject to the regulations stated in the fire protection codes adopted by the city and state. Mobile home parks shall be kept free of litter, rubbish and other flammable materials. Portable fire extinguishers, rated for class B and C, shall be kept in service buildings, readily accessible for use by all occupants and maintained in good operating condition.
- k. *Street signs and mobile home site address and design.* The owner of a mobile home park shall provide street name signs. The individual mobile home owner shall be responsible for displaying on the front of the mobile home the address in letters no smaller than two inches in height before occupancy. All street names shall conform to the city's street plan. All existing and new mobile home parks shall construct street signs, and all sign material shall conform to the city's street sign specifications.
- l. *Register of occupants.*
  - 1. A register of all mobile home occupants and owners of mobile homes in the park shall be maintained with the following information:
    - (i) The name and address of each mobile home occupant.
    - (ii) The name and address of the owner of each mobile home, if different from the occupant.
    - (iii) The dates of arrival and departure of each mobile home.
  - 2. An updated register of occupancy shall be provided to the city every three months with the data in subsection (8)l.1 of this section, as required by the county tax equalization department.
- ~~(119)~~ *Temporary parking of travel trailers, camper trailers, cargo trailers and boat trailers.*
  - a. *Forty-eight-hour parking limit.* No owner of property within the corporate limits of the city shall permit the parking, maintaining or keeping upon his property, and no person shall park, maintain or keep any travel trailer, camper trailer, cargo trailer or boat trailer for more than 48 hours, unless such trailer is located in a garage. Trailer sales of new and used unoccupied trailers, house cars or camp cars by an individual, firm, or corporation, properly licensed and zoned for trailer sales use shall be located in commercial zoning districts.
  - b. *Parking sites in mobile home parks.* A separate travel trailer park site for travel trailers or camper trailers shall be permitted in any mobile home park, provided that:
    - 1. Said camp area comprises less than ten percent of the total area of said mobile home park;
    - 2. A 25-foot buffer strip exists between said camp site and any mobile home site; and
    - 3. Toilet, water and garbage disposal facilities are available and easily accessible to users of said camp site.
  - c. *Parking of trailers in residential districts.*

1. Travel trailers, camper trailers and boat trailers not in excess of eight feet in width shall be permitted to park on private property in any residential district, provided that they are:
    - (i) Located behind the front building line and not on the public boulevard;
    - (ii) Located in a storage shed or garage; or
    - (iii) Located in a driveway area permitted for the parking of passenger cars.
  2. Collapsible camping trailers, when stored on a residential lot, shall be stored in a collapsed state.
    - d. *Parking of self-propelled mobile homes.* Self-propelled mobile homes, not exceeding state department of transportation limits in length, shall be permitted to park as a passenger vehicle, but shall not be permitted to be used as a living unit on any public right-of-way.
    - e. *Parking on public property prohibited.* No trailer or mobile home shall be parked upon any public right-of-way, park or other public property within the corporate limits of the city more than 48 hours, and shall not be used for sleeping, housekeeping or living quarters while so parked, unless located in an area publicly designated for such use.
    - f. *Parking of construction trailers.* Trailers used for construction offices on a construction site in a subdivision shall be permitted during the period of construction only after a building permit for the construction job has been issued. Such trailers must be removed from the site or subdivision before a certificate of occupancy is issued for the new construction. Such permitted trailers shall not be used for sales, habitation or promotional purposes and shall be permitted only after receiving a permit from the building inspector for each such trailer.
- (120) *Design requirements for travel trailer park.*
- a. *Site plans.* Site plans and specifications for travel trailer parks are required as stated in subsection (10)e of this section.
  - b. *Minimum size.* Each parcel of land to be used for a travel trailer park shall be a minimum of 2.5 acres, and the ratio of average depth to average width shall not be in excess of 4:1. If included as part of a mobile home park, a travel trailer park cannot occupy more than ten percent of the area.
  - c. *Streets and parking.*
    1. *Access to park.* Direct vehicular access to the travel trailer park shall be only from an abutting, approved public street. Access shall be located so as to provide minimum congestion on the external streets and to provide for good circulation within the park.
    2. *Width of streets.* Streets in a travel trailer park shall be private and shall be of the following width:
      - (i) Two-way streets with no parking on either side shall be at least 24 feet in width.

- (ii) Two-way streets with parking on one side shall be at least 32 feet in width.
  - (iii) No roads will be permitted with parking on both sides of the street.
  - (iv) One-way streets are permitted with a minimum width of 24 feet.
3. *Street surfacing.* All streets shall be paved according to specifications set forth by city ordinances.
  4. *Parking.* At least one off-street parking space per travel trailer site in each travel trailer park is required.
  5. *Travel trailer site.* Each travel trailer site shall be well drained and contain a stabilized vehicular parking pad composed of paving or other suitable material as determined by the city engineer. The remainder of the site shall be grassed and landscaped.
    - d. *Buffer strip.* There shall be a well-landscaped buffer strip not less than 25 feet in depth between travel trailer sites and all public streets abutting the travel trailer park and a landscaped buffer strip of not less than 15 feet in depth between travel trailer sites and all other boundaries of the park. Nothing contained in this subsection is to be construed to require a 25-foot buffer strip or 15-foot buffer strip between individual travel trailer sites. The landscaped buffer shall be separate from travel trailer sites, recreation areas, streets, and the utility sites, but may be utilized for drainage structures and utilities distribution and collection. No other structures shall be placed within any of the buffer strips.
    - e. *Recreation areas.* A minimum of ten percent of the total land area of a travel trailer park shall be devoted to one or more common use areas for recreation activity. These recreation areas shall be storage areas, utility sites, and all nonrecreational service buildings. They shall be easily accessible to all park users and shall be owned and maintained by the park management. Although the required space for recreation usage can be met through more than one recreation area in a travel trailer park, minimum size of any area shall be 5,000 square feet.
    - f. *Tent camping.* Tent camping shall be permitted in a travel trailer park on individual travel trailer sites or as accessory uses to travel trailers, if occupied by members of the same party.
- (131) *Design requirements for travel trailer sites.*
- a. *Minimum size.* Each parking site shall have a minimum of 1,500 square feet of area with a minimum average width of 25 feet and a minimum average depth of 60 feet. There shall be a maximum of 15 travel trailer sites per acre of land within the travel trailer park.
  - b. *Access.* Each travel trailer site shall abut on at least one street within the travel trailer park, and access directly to the site shall be only from such an internal street.
  - c. *Setback requirements.* No part of a travel trailer placed on a travel trailer site shall be closer than five feet to a site line.

- d. *Appurtenances.* No permanent external appurtenances, such as cabanas or awnings, may be attached to a travel trailer, and the removal of wheels or the placement of the unit on a permanent foundation is prohibited.
- (142) *Provisions of services in travel trailer parks.*
- a. *Service buildings.*
    1. Service buildings may include management offices, laundry facilities, storage areas and any other such buildings necessary to the proper operation of a travel trailer park.
    2. All service buildings shall comply with the city ordinances and state law and regulations concerning buildings, electrical installations, plumbing and sanitation systems. They shall, at all times, be operated and maintained in a clean, sightly condition by the park management.
  - b. *Water supply.*
    1. An adequate supply of water shall be provided in accordance with the state sanitary codes and city ordinances. Travel trailer parks shall be connected to the city's central water system and with water lines designed, constructed and maintained in accordance with the city's ordinances.
    2. A minimum of one water supply outlet shall be provided for every two travel trailer sites.
  - c. *Sewage disposal.*
    1. All sewage disposal facilities shall be designed, constructed and maintained in accordance with the state sanitary codes and city ordinances. All travel trailer parks shall be connected to the central sewer system of the city.
    2. At least one sanitary dumping station shall be provided for every travel trailer park with at least one connection for every 50 travel trailer sites or fractional part.
    3. A complete restroom facility shall be located within a travel trailer site in accordance with the following schedule for 30 travel trailer sites or fractional part:
      - (i) Toilets: Two men, four women.
      - (ii) Urinal: Two men.
      - (iii) Washstand: Three men, three women.
      - (iv) Showers: Two men, two women.
  - d. *Lighting.* All entrances, exits, streets and service buildings shall be well-lighted during the hours of darkness. Street lighting may be either overhead or low-level, but must be reflected into the street.
  - e. *Electricity and grounding.* Each travel trailer site shall contain at least one approved electrical receptacle having a minimum of 100/115 volt alternating current.
  - f. *Service utility lines.* All service utility lines within a travel trailer park shall be placed underground and designed and constructed in accordance with city ordinances.

- g. *Refuse handling.* Each travel trailer site shall be provided with either a metal can with a tight-fitting metal covering, of a capacity not less than four gallons and not to exceed 30 gallons, or dumpster containers, one to four cubic yards, for 14 travel trailer sites that can be maintained by the city.
  - h. *Fire protection.* All travel trailer parks shall be subject to the regulations stated in the Fire Protection Code adopted by the city. Travel trailer parks shall be kept free of litter, rubbish and other flammable materials.
  - i. *Animal control.* No owner or person in charge of an animal shall permit said animal to run at large or to commit any nuisance within the limits of any travel trailer park.
  - j. *Street names.* The owner of the travel trailer park shall provide for street name signs. All street names shall conform to the city's street plan. All existing and new travel trailer parks shall construct street signs, and all sign material shall conform to the city's street sign specifications.
- (153) *Operation of travel trailer park.*
- a. *Permitted uses.* A travel trailer park may include travel trailers and any such service buildings or accessory uses necessary for the proper, safe, sanitary operation of the travel trailer park. One mobile home may be located in any travel trailer park for the exclusive use of the owner or park manager as an office or residence.
  - b. *Responsibilities of park management.* The owner of a travel trailer park or the park management shall, at all times, keep the park and its facilities in a clean, orderly and sanitary condition. The park management shall inform all park occupants of the provisions of this article and other related ordinances and state laws and of the responsibilities under this section.
  - c. *Register of occupants.* A register of all travel trailer occupants in the park shall be maintained with the following information:
    1. The name and address of each travel trailer owner or operator making use of the travel trailer park.
    2. The make, model, year and vehicle license number of each travel trailer and motor vehicle.
    3. The state, territory and county in which all vehicles are registered.
    4. The dates of arrival and departure of each travel trailer.
- (164) *Penalty.* Every person violating this section shall, upon conviction thereof, be punished by a fine of not more than \$500.00, by imprisonment for not more than 30 days or by both such fine and imprisonment in the discretion of the court. The court has the power to suspend the sentence or any part and to revoke the suspension thereof.

(Ord. No. 1242, § 5, 12-20-2016)

**Section 22. Amended and Re-enacted. Section 105-3-11 (2) is amended as follows:**

(2) *Uses permitted.* The following uses are permitted:

- a. Single-family dwelling.
- b. Two-family dwelling.
- c. Multifamily dwelling.
- d. Group dwelling.
- e. Retail group A.
- f. Service group A.
- g. Filling station.
- h. Office-bank group.
- i. Health-medical group.

j. Utility service group

- jk. Bed and breakfast facility located in a single-family dwelling, provided that the owner of the dwelling is the holder of a current bed and breakfast facility license for not to exceed four lodging units issued pursuant to the provisions of N.D.C.C. ch. 23-09.1 and that the owner provides one off-street vehicle parking space for each such unit and one off-street parking space for the owner/operator of such facility, and provided, further, that only one sign, not exceeding four square feet in size, advertising such facility, may be placed on the premises.

**Section 23. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.**

**Section 24. Effective Date. This ordinance shall take effect following final passage, adoption and publication.**

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Timothy A. Helbling, President  
Board of City Commissioners

Attest:

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James Neubauer,  
City Administrator

Planning and Zoning Commission:

First Consideration:

Second Consideration and Final Passage:

April 22, 2019

May 21, 2019

June 4, 2019

# Exhibit 2 - City of Mandan North Dakota Wireless Facility Guidelines

## Wireless Facility Guidelines City of Mandan North Dakota Draft 1/11/2019

The following guidelines are in addition to the requirements of Section 115-10 Wireless Telecommunication Facilities in the Public Right-Of-Way

### Wireless Communication Facility (WCF):

- All-in-One Principle
  - Equipment submitted shall be of a nature which encompasses multiple technologies, frequency bands, protocols, coverage objectives, and capacity goals. Attached equipment shall be compact and scaled to the public utility structure. Equipment that is customary for normal cell site or tower application may not be approved for installation or operation on a City owned structure.
- Infrastructure Providers
  - Infrastructure providers are Permit Holders that do not have FCC licenses to directly operate a WCF, but lease Equipment (or space) to those companies that have FCC license. Infrastructure providers shall design using “all-in-one” principles as described above. Infrastructure providers shall design facilities to accommodate more than one wireless provider, and combine “all-in-one” principles across technologies, frequency band, protocols, coverage objectives, and capacity goals. Infrastructure providers shall disclose, in construction documents, which equipment is for a specific wireless provider and which equipment is for multiple wireless provider at each WCF.

### Permit and Fees:

- Permit and Fees required in accordance with Section 115-10.
- Application:
  - Phase I (\$250 for up to five sites; +\$50 per additional site) (30 days for colocation; 45 days for new pole) (set meeting date and time)
  - Required Information:
    - Map on City Coordinates with locations
    - Max number of sites in application (15)
    - Photo of City owned structure that you wish to attach to
    - Applicant Names, Address and Contact info
    - Provider Names, Address and Contact info
    - Synopsis of Project
    - Meeting if requested by staff, prior to moving to Phase II
    - If new locations are proposed, 30 day calendar review is reset for new locations

Move to Phase II or deny full or partial permit. Incomplete applications will be notified within 30 days

- Phase II (\$250 for up to five sites; +\$50 per additional site) (30 days for colocation; 45 days for new pole)
- Detailed plan set
  - City Coordinate System
  - Include survey of all utilities private and public
  - Location and size of ground equipment

- Stamped by a ND professional Engineer
- Replacement structure or attachment only
- Master Attachment Agreement – No Fee
  - Renewal at 15 years - \$1000
- City Owned Structure in the Right-of-Way Attachment Agreement - \$270 per year per structure
- A complete as-built, in AutoCAD must be submitted to the City at the completion of the project. Failure to do so may result in the forfeiture of the permit.

The City reserves the right to deny any permit due to health, safety or welfare of the community.

DRAFT



Pics of Small Cells at Bismarck State College





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21, 2019  
**PREPARATION DATE:** May 16, 2019  
**SUBMITTING DEPARTMENT:** Engineering & Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** Justin Froseth, Planning & Engineering Director  
**SUBJECT:** Bid Award for 19<sup>th</sup> Street Trail, Phase I

---

**STATEMENT/PURPOSE:** To consider bids for the 19<sup>th</sup> Street Trail, Phase I project.

**BACKGROUND/ALTERNATIVES:** Bids were received through the NDDOT bid opening system on May 10, 2019. There were three prime contractors that bid the project. The low bid came from Weisz and Sons, Inc. for the total amount of \$155,280.25. This is about 10% over the engineer's estimate. Because of some change in scope of the crossing signal now to be a Rapid Rectangular Flashing Beacon (RRFB) instead of the application indicated HAWK signal along with other nuances, this bid amount results in a local share that is a little less than what was expected last summer.

The engineering office received a letter during the week of May 6<sup>th</sup> to notify us that the Transportation Alternatives (TA) grant request for the maximum amount allowed through the program of \$290K has been awarded for Phase II. This is for information today, not action at this time. Our office is waiting for an indicated letter to follow with next steps they would require from the city to official accept or deny the award.

**The below is from a prior meeting for more background:**

All three entities; Parks, School and City have heard concerns from many nearby residents about the absence of a trail and safe crossing from neighborhoods along 19<sup>th</sup> Street to the west of Ft. Lincoln School. That concern is backed by the Safe School Safety Crossing Study completed last year. Within that study, it was recommended that a multi-use path be extended from the school's west termination of sidewalk to Macedonia Avenue SE.

Board of City Commissioners  
Agenda Documentation  
Meeting Date: May 21, 2019  
Subject: Bid Award for 19<sup>th</sup> Street Trail, Phase I  
Page 2 of 10

ATTACHMENTS:

1. Phase I Project Limits
2. Picture of a typical RRFB
3. Copy of bid letter and results
4. Resolution to Award project
5. Revised Cost Estimate Breakdown

FISCAL IMPACT: We have an agreement with both the Park and Rec. district as well as the School district to split the cost evenly among us for Phase I. After bid, the estimate is near \$39K for each entity's local share. This is a little lower than the approximately \$41K for each entity agreed to last summer. The city's portion would come from the sales tax fund and has already been budgeted.

STAFF IMPACT: Minimal

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

RECOMMENDATION: Approve the low bid and award to Weisz and Sons, Inc.

SUGGESTED MOTION: Move to approve the resolution of award the 19<sup>th</sup> Street Trail, Phase I project to Weisz and Sons, Inc.



Below in an example RRFB. The actual unit may vary slightly.





May 13, 2019

Mr. Justin Froseth  
City Engineer  
205 2<sup>nd</sup> Ave. NW  
Mandan, ND 58554

PROJECT: TAU-1-988(043), PCN 22265 – MANDAN 19<sup>TH</sup> ST SE TRAIL

Bids for the construction on the above noted project were taken at our bid opening of May 10, 2019. A copy of the Contract Detail Estimate and Abstract of Bids are enclosed.

The low bid for HMA Trail, ADA Curb Ramps, and RRFB was submitted by Weisz & Sons, Inc. of Bismarck, ND in the amount of \$155,280.25. According to the agreement with the City of Mandan, the City's share is estimated to be \$53,081.64. Federal Funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost up to a maximum of \$148,431.00. The balance of the project cost is the obligation of the City.

The Department will review the low bidder's proposal to assure that the Disadvantaged Business Enterprise Program requirements have been met. Upon review of the contractor's Disadvantaged Business Enterprise Program, the Department will advise you via email whether this project may be awarded. The City must award the contract before the Department will concur in the award, therefore, the City must notify the Department in writing as soon as possible after the award is made. Contracts cannot be executed prior to the date of the Department's concurrence.

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

A handwritten signature in black ink, appearing to read "Phillip Murdoff", is written over a horizontal line.

PHILLIP MURDOFF, P.E. - CONSTRUCTION SERVICES ENGINEER

80/pm/lp  
Enclosure

Board of City Commissioners  
Agenda Documentation  
Meeting Date: May 21, 2019  
Subject: Bid Award for 19<sup>th</sup> Street Trail, Phase I  
Page 5 of 10

5/10/2019

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

Page 1 of 3

North Dakota **FEDERAL AID**

Bid Opening Date: **5/10/2019**

Project Number: **TAU-1-988(043)**

PCN: **22265**

Job Number: **6**

English/Metric: **ENGLISH**

Contract with **WEISZ & SONS INC BISMARCK, ND**

Signed Date:

County(s): **MORTON**

Location: **MANDAN - 19TH ST SE TRAIL, MACEDONIA AVE E TO FT LINCOLN ELEM PARKING LOT W ENTRANCE**

Board of City Commissioners  
 Agenda Documentation  
 Meeting Date: May 21, 2019  
 Subject: Bid Award for 19<sup>th</sup> Street Trail, Phase I  
 Page 6 of 10

5/10/2019

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

Page 2 of 3

North Dakota FEDERAL AID

Project Number: TAU-1-988(043)

PCN: 22265

Bid Opening Date: 5/10/2019

Job Number: 6

English/Metric: ENGLISH

Roadway: URBAN

MACEDONIA AVE TO FT LINCOLN ELEM PARKING LOT

Type: HMA TRAIL, ADA CURB RAMPS, AND RRFB

Participating: Y

Spec Code	Item Description	Quantity	Unit	Unit Price	Amount
103 0100	CONTRACT BOND	1.000	L SUM	\$1,600.00	\$1,600.00
201 0370	REMOVAL OF TREES 10IN	2.000	EA	\$380.00	\$760.00
202 0114	REMOVAL OF CONCRETE PAVEMENT	3.000	SY	\$15.00	\$45.00
202 0130	REMOVAL OF CURB & GUTTER	24.000	LF	\$18.00	\$432.00
202 0131	REMOVAL OF CURB-TYPE 1	11.000	LF	\$18.00	\$198.00
202 0132	REMOVAL OF BITUMINOUS SURFACING	9.000	SY	\$15.00	\$135.00
202 0169	REMOVAL OF END SECTION-ALL TYPES & SIZES	2.000	EA	\$35.00	\$70.00
202 0170	REMOVAL OF CULVERTS-ALL TYPES & SIZES	48.000	LF	\$18.00	\$864.00
203 0101	COMMON EXCAVATION-TYPE A	73.000	CY	\$26.00	\$1,898.00
203 0109	TOPSOIL	319.000	CY	\$10.00	\$3,190.00
203 0140	BORROW-EXCAVATION	55.000	CY	\$46.00	\$2,530.00
216 0100	WATER	6.000	M GAL	\$50.00	\$300.00
251 0100	SEEDING CLASS I	0.500	ACRE	\$1,800.00	\$900.00
251 2000	TEMPORARY COVER CROP	0.500	ACRE	\$100.00	\$50.00
253 0101	STRAW MULCH	1.000	ACRE	\$350.00	\$350.00
255 0101	ECB TYPE 1	892.000	SY	\$2.50	\$2,230.00
255 0151	REMOVE ECB TYPE 1	446.000	SY	\$1.25	\$557.50
256 0701	REMOVE AND REPLACE RIPRAP	21.000	CY	\$290.00	\$6,090.00
261 0112	FIBER ROLLS 12IN	64.000	LF	\$3.50	\$224.00
261 0113	REMOVE FIBER ROLLS 12IN	32.000	LF	\$2.00	\$64.00
302 0120	AGGREGATE BASE COURSE CL 5	231.000	TON	\$47.00	\$10,857.00
430 0500	COMMERCIAL GRADE HOT MIX ASPHALT	237.000	TON	\$121.00	\$28,677.00
702 0100	MOBILIZATION	1.000	L SUM	\$12,000.00	\$12,000.00
704 0100	FLAGGING	40.000	MHR	\$43.00	\$1,720.00
704 1000	TRAFFIC CONTROL SIGNS	550.000	UNIT	\$1.90	\$1,045.00
704 1065	TRAFFIC CONES	24.000	EA	\$9.75	\$234.00
748 0140	CURB & GUTTER-TYPE I	24.000	LF	\$45.00	\$1,080.00
748 0520	CURB-TYPE I	11.000	LF	\$45.00	\$495.00
750 0115	SIDEWALK CONCRETE 4IN	69.000	SY	\$128.00	\$8,832.00
750 2115	DETECTABLE WARNING PANELS	60.000	SF	\$41.00	\$2,460.00
754 0117	FLAT SHEET FOR SIGNS-TYPE 3A REFL SHEETING	56.900	SF	\$17.50	\$995.75
754 0206	STEEL GALV POSTS-TELESCOPING PERFORATED TUBE	108.000	LF	\$17.00	\$1,836.00
754 1104	REMOVE SIGN FOUNDATION	1.000	EA	\$485.00	\$485.00
762 0136	EPOXY PVMT MK MESSAGE-GROOVED	432.000	SF	\$18.00	\$7,776.00
772 2110	FLASHING BEACON-POST MOUNTED	1.000	EA	\$9,800.00	\$9,800.00
772 2120	FLASHING BEACON-POST MOUNTED-SCHOOL	1.000	EA	\$15,500.00	\$15,500.00

Subtotal

\$126,280.25

Board of City Commissioners  
 Agenda Documentation  
 Meeting Date: May 21, 2019  
 Subject: Bid Award for 19<sup>th</sup> Street Trail, Phase I  
 Page 7 of 10

5/10/2019

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

Page 3 of 3

North Dakota FEDERAL AID

Project Number: TAU-1-988(043)

PCN: 22265

Job Number: 6

Bid Opening Date: 5/10/2019

English/Metric: ENGLISH

Eng and Contg \$0.00

Total \$126,280.25

Length 0.3220 Miles

Estimated Cost		<u>Construction</u>
		\$126,280.25
TAU FEDERAL FUNDS	80.93%	\$102,198.61
TAU MANDAN CITY FUNDS	19.07%	\$24,081.64

Roadway: URBAN

475 FT EAST OF MACEDONIA AVE

Type: DYNAMIC SPEED DISPLAY SIGN

Participating: N

Spec Code Item Description

754 8010 DYNAMIC SPEED DISPLAY SIGN

Quantity	Unit	Unit Price	Amount
2.000	EA	\$14,500.00	\$29,000.00
Subtotal			\$29,000.00

Eng and Contg \$0.00

Total \$29,000.00

Length 0.3220 Miles

Estimated Cost		<u>Construction</u>
		\$29,000.00
TAU MANDAN CITY FUNDS	100.00%	\$29,000.00

Summary for Project

Length 0.3220 Miles MORTON 0.3220 Miles

Estimated Total Construction Cost: \$155,280.25

Estimated Total Eng and Contg: \$0.00

Estimated Cost		<u>Construction</u>	<u>Total</u>
		\$155,280.25	\$155,280.25
TAU FEDERAL FUNDS		\$102,198.61	\$102,198.61
TAU MANDAN CITY FUNDS		\$53,081.64	\$53,081.64

DOT TO MAKE CONTRACTOR PAYMENTS  
 TA FUNDS LIMITED TO \$148,431 NO CONSTRUCTION ENGINEERING REQUESTED

ND DEPARTMENT OF TRANSPORTATION		SHEET NO. 1 OF 2		ABSTRACT OF BIDS RECEIVED	
PROJECT NO. TAU-1-988(045)		DATE MAY 10, 2019 09:30AM		BIDDER STRATA CORPORATION	
LOCATION & DATE MORTON (059) 0.322 MANDAN - 19TH ST SE		ENGINEERS ESTIMATE		BIDDER WEISZ & SONS INC	
COMPLETION TIME 08/16/19 HMA TRAIL, ADA CURB RAMPS, AND RFB		C.C. CHECK		BIDDER BISHARCK, ND	
SPEC. ITEM DESCRIPTION		QUANTITY	BID PRICE	RANK 01	RANK 02
			AMOUNT	AMOUNT	AMOUNT
10	CONTRACT BOND	1000	140000	160000	130000
20	REMOVAL OF TREES 10IN EA	2000	1200000	1400000	1000000
20	REMOVAL OF CONCRETE PAVEMENT	3000	250000	580000	1000000
20	REMOVAL OF CURB & GUTTER	24000	6000	15000	4500
20	REMOVAL OF CURB-TYPE I	1000	300	16000	25000
20	REMOVAL OF END SECTIONS-ALL TYPES & SIZES	2000	300000	35000	13000
20	REMOVAL OF CULVERTS-ALL TYPES & SIZES	4800	20000	160000	17000
20	TOPSOIL	31900	46250	26000	86400
20	BORROW-EXCAVATION	5000	20000	16000	35000
20	STEELING CLASS I	500	900000	50000	20000
20	TEMPORARY COVER CROP	1000	4100000	1000000	2500000
20	STRAM MULCH	89200	362000	352000	5000
20	TYPE I	42000	175000	7500	255000
20	REMOVE AND REPLACE RIPRAP	2000	120000	290000	19000
20	FIBER ROLLS 12IN	6000	30000	35000	9500
20	REMOVE FIBER ROLLS 12IN	5200	10000	2000	640
20	AGGREGATE BASE COURSE CL 5	25100	215000	47000	109570
20	COMMERCIAL GRADE HOT MIX ASPHALT	25700	1300000	1200000	379200
20	PAVING	13000	1300000	1200000	266500
70	TRAFFIC CONTROL SIGNS	4000	35000	140000	192000
70	TRAFFIC CONES	55000	25000	19000	82500
70	CURB & GUTTER-TYPE I	24000	6000	4750	19200
70	CONCRETE 4IN	2000	5000	4500	19200
70	REFLECTABLE WARNING PANELS	6000	65000	128000	88000
70	LAT SHEET FOR SIGNS-TYPE SA REFL SHEETING	6000	45000	83200	793500
70	STEEL GALV POSTS-TELESCOPING PERFORATED TUBE	56900	20000	246000	115000
70	REMOVE SIGN FOUNDATION	10800	25000	99575	82505
70	REMOVE SIGN FOUNDATION SIGN	2000	60000	17000	12000
70	REMOVE SIGN FOUNDATION SIGN	2000	1200000	290000	2970000
70	FLASHING BEACON-POST MOUNTED	43200	10000	1450000	1480000
70	FLASHING BEACON-POST MOUNTED-SCHOOL	1000	2500000	980000	3000000
TOTAL			140993475	15528022	16853279

AWARD TO: WEISZ & SONS INC  
 DATE OF BIDS: 6  
 DEPUTY DIRECTOR FOR ENGINEERING  
 WHEN PRELIMINARY ARRANGEMENTS ARE COMPLETED.  
 RESUMPT OF TRANSPORTATION BIDDING SYSTEM BY ENGINEERING

ND DEPARTMENT OF TRANSPORTATION		SHEET NO. 2 OF 2		ABSTRACT OF BIDS RECEIVED	
PROJECT NO.	NO.	BIDDER	BIDDER	AMOUNT	AMOUNT
TAU-1-988(043)		NORTHERN IMPROVEMENT COMPANY	FARGO, ND	RANK 05	C.C.
OWNER & DATE	CONSTRUCTION TIME	C.C. BOND	RANK 05	AMOUNT	C.C.
MORTON (059)	MAY 10, 2019 09:30AM				
0-322					
MANDAN - 19TH ST SE					
08/16/19 HMA TRAIL, ADA CURB RAMPS, AND RREB					
10 CONTRACT BOND	EA	1000	415000	415000	
20 REMOVAL OF TREES 10IN	EA	2000	85140	85140	
20 REMOVAL OF CONCRETE PAVEMENT	SY	2000	425700	425700	
20 REMOVAL OF CURB & GUTTER	LF	17500	446400	446400	
20 REMOVAL OF CURB & GUTTER	LF	1000	17500	17500	
20 REMOVAL OF CURB & GUTTER	LF	1000	17500	17500	
20 REMOVAL OF END SECTIONS-ALL TYPES & SIZES	EA	2000	71500	71500	
20 REMOVAL OF END SECTIONS-ALL TYPES & SIZES	EA	4800	119000	119000	
20 COMMON EXCAVATION-TYPE A	CY	73000	1219000	1219000	
20 TOPSOIL	CY	319000	357700	357700	
20 WATER	CU	52000	162000	162000	
20 WATER	CU	9000	2750300	2750300	
25 SEEDING CLASS I	ACRE	500	695000	695000	
25 TEMPORARY COVER CROP	ACRE	1000	2789000	2789000	
25 STRAW MULCH	CU	82000	1100	1100	
25 CURB TYPE I	CY	43000	7100	7100	
25 REMOVE AND REPLACE RIPRAP	CY	64000	75200	75200	
26 FIBER ROLLS 12IN	LF	32000	2100	2100	
26 REMOVE FIBER ROLLS 12IN	LF	23000	3500	3500	
30 AGGREGATE BASE COURSE CL 5	TON	230000	52800	52800	
70 CONCRETE PAVEMENT	CU	2150000	2150000	2150000	
70 FLAGGING	MHR	40000	174000	174000	
70 TRAFFIC CONTROL SIGNS	UNIT	550000	11700	11700	
70 TRAFFIC CONES	EA	24000	8800	8800	
74 CURB & GUTTER-TYPE I	LF	74000	25800	25800	
75 SIDEWALK	SY	49000	55000	55000	
75 DETECTABLE WARNING PANELS	SY	60000	55000	55000	
75 FLAT SHEET FOR SIGNS-TYPE 3A REFL SHEETING	SF	56900	16000	16000	
75 STEEL GALV POSTS-TELESCOPING PERFORATED TUBE	EA	108000	117400	117400	
76 CONCRETE CURB FOUND SIGN	EA	2000	26000	26000	
76 DEPOXY PVT MK MESSAGE-GROOVED	EA	432000	12347500	12347500	
77 FLASHING BEACON-POST MOUNTED	EA	1000	9003500	9003500	
77 FLASHING BEACON-POST MOUNTED-SCHOOL	EA	1000	13447500	13447500	
TOTAL			NO LIMIT	16682060	

ACTION TAKEN BY DEPARTMENT OF TRANSPORTATION  
 Deputy Director For Engineering: 7  
 AMARD TO: WEISZ & SONS, INC  
 DATE OF AWARD: \_\_\_\_\_  
 WHEN PRELIMINARY ARRANGEMENTS ARE COMPLETED  
 OCCURRENCE OF TRANSPORTATION BANKRUPTCY, COLLAPSE, ETC. IS NOT GUARANTEED

**19th Street Trail Cost Estimate Breakdown**

<b>Item</b>	<b>Phase 1</b>
Construction Bid	\$ 155,280.25
Preliminary Engineering	\$ 1,794.00
Design Engineering	\$ 39,500.00
Construction Engineering	\$ 23,292.04
Total Project	\$ 219,866.29
TA Grant Awarded	\$ 102,198.61
(80.93% of Participating Items)	
Total Local Cost	\$ 117,667.68
1/3 of Total Local Cost	\$ 39,222.56

<b>Item</b>	<b>Phase 2</b>
TA Grant application	\$ 2,000.00
Construction	\$ 436,043.27
Preliminary Engineering	\$ 8,206.00
Design Engineering	\$ 65,406.49
Construction Engineering	\$ 65,406.49
Total Project	\$ 577,062.25
Phase II TA Grant	\$ 290,000.00
Total Local Cost	\$ 287,062.25

Board of City Commissioners  
Agenda Documentation  
Meeting Date: May 21, 2019  
Subject: Bid Award for 19<sup>th</sup> Street Trail, Phase I  
Page 10 of 10

RESOLUTION TO AWARD PROJECT TAU-1-988(043), PCN 22265 –  
MANDAN 19<sup>TH</sup> STREET SE TRAIL PHASE I TO THE LOW BIDDER

BE IT RESOLVED By the Board of City Commissioners of the City of Mandan, North Dakota, that the governing body of the City of Mandan, will award the contract for the 19<sup>th</sup> Street Trail Phase I project to the low bidder, Weisz and Sons, Inc.

This resolution shall become effective upon the date of its adoption.

Dated and adopted this 21<sup>st</sup> day of May, 2019.

---

Tim Helbling, President of the Board of City Commissioners

Attest: \_\_\_\_\_  
Jim Neubauer, City Administrator



"WHERE THE WEST BEGINS"

# CITY OF MANDAN

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

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

Consent No. 1i

ADMINISTRATION	667-3215
ASSESSING	667-3232
BUILDING INSPECTION	667-3230
BUSINESS DEVELOPMENT	667-3485
CEMETERY	667-6044
ENGINEER/PLANNING & ZONING	667-3225
FINANCE	667-3213
FIRE	667-3288
HUMAN RESOURCES	667-3217
LANDFILL	667-0184
MUNICIPAL COURT	667-3270
POLICE	667-3455
PUBLIC WORKS	667-3240
WASTEWATER TREATMENT	667-3278
SPECIAL ASSESSMENTS	667-3271
UTILITY BILLING	667-3219
WATER TREATMENT	667-3275



## National Public Works Week Proclamation

May 19 – 25, 2019

"It Starts Here"

WHEREAS, public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people; and,

WHEREAS, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers and employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protecting our nation's transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and,

WHEREAS, it is in the public interest for the citizens, civic leaders and children to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities; and,

WHEREAS, the year 2019 marks the 59<sup>th</sup> annual National Public Works Week sponsored by the American Public Works Association/Canadian Public Works Association be it now,

RESOLVED, I, Tim Helbling, Mayor of Mandan, do hereby designate the week May 19 – 25, 2019 as National Public Works Week; I urge all citizens to join with representatives of the American Public Works Association/Canadian Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our public works professionals, engineers, managers and employees and to recognize the substantial contributions they make to protecting our national health, safety, and quality of life.

Signed this 21<sup>st</sup> day of May, the year 2019

\_\_\_\_\_  
Timothy A. Helbling, President

Board of City Commissioners

Attest:

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



# CITY OF MANDAN

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

701-667-3215 • FAX: 701-667-3221 • www.cityofmandan.com

CITY DEPARTMENTS

ADMINISTRATION	667-3215
ASSESSING	667-3212
BUILDING INSPECTION	667-3210
BUSINESS DEVELOPMENT	667-3485
CEMETERY	667-6043
ENGINEER/PLANNING & ZONING	667-3225
FINANCE	667-3213
FIRE	667-3288
HUMAN RESOURCES	667-3217
LANDFILL	667-0184
MUNICIPAL COURT	667-3270
POLICE	667-3455
PUBLIC WORKS	667-3240
WASTEWATER TREATMENT	667-3278
SPECIAL ASSESSMENTS	667-3271
UTILITY BILLING	667-3219
WATER TREATMENT	667-3275

## PROCLAMATION LEMONADE DAY June 15, 2019

**WHEREAS:** Lemonade Day is a free, community-wide educational event providing children with the opportunity to learn and apply entrepreneurial thinking and create a foundation for success in the global economy; and

**WHEREAS:** Lemonade Day exists to infuse today’s youth with the spirit of enterprise, teaching the basic business and entrepreneurial skills necessary to become successful, contributing members of the communities; and

**WHEREAS:** Lemonade Day has a core philosophy of SPEND, SAVE, and SHARE that is implemented by teaching children how to start, own, and operate a business, learn goal-setting, develop a business plan, establish a budget, seek investors, provide customer service and give back to the community; and

**WHEREAS:** Lemonade Day offers opportunities for families, businesses, schools, youth organizations, faith-based communities, neighborhoods, institutes of higher learning, and government agencies to unite for a common purpose – to train the next generation of entrepreneurs; and

**WHEREAS:** Lemonade Day is a day of learning and celebrating Mandan’s future. On June 15<sup>th</sup>, every citizen has a job – either buying or helping children sell lemonade; and

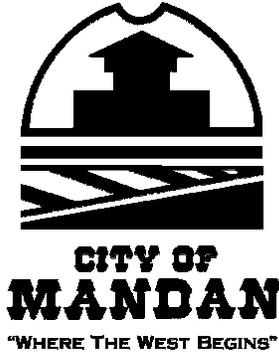
**NOW THEREFORE,** I, Timothy A. Helbling, Mayor of the City of Mandan, do hereby proclaim June 15, 2019 to be **LEMONADE DAY** in the City of Mandan, North Dakota and encourage every citizen to purchase a cup of lemonade from one of the youth participating in the program to demonstrate how our community cares for the future of youth.

By \_\_\_\_\_

Timothy Helbling, President

Attest:

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



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21, 2019  
**PREPARATION DATE:** May 16, 2019  
**SUBMITTING DEPARTMENT:** Administrator  
**DEPARTMENT DIRECTOR:** Jim Neubauer, City Administrator  
**PRESENTER:** Jim Neubauer, City Administrator  
**SUBJECT:** July 5, 2019

---

STATEMENT/PURPOSE – To consider closing City administrative offices on Friday, July 5, 2019.

BACKGROUND/ALTERNATIVES – It has been the practice to close City Offices when the July 5<sup>th</sup> falls on the day prior to the weekend (last time was 2013). Employees are required to take a day of vacation or comp time day for this time.

- ✓ Stay open with limited staffing.
- ✓ Close and require the use vacation or comp time

ATTACHMENTS - None

FISCAL IMPACT – N/A

STAFF IMPACT – N/A

LEGAL REVIEW – None required

RECOMMENDATION – I recommend we close City offices on July 5<sup>th</sup> and require employees to take a vacation day or comp time.

SUGGESTED MOTION - I move to close City offices on July 5<sup>th</sup> and require employees to take a vacation day or comp time.



**GAMING SITE AUTHORIZATION**  
OFFICE OF ATTORNEY GENERAL  
SFN 17996 (02/2018)

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

Full, Legal Name of Gaming Organization **Prairie Public Broadcasting, Inc**

The above organization is hereby authorized to conduct games of chance under the license granted by the Attorney General of the State of North Dakota at the following location

Name of Location <b>The Strawberry LLC</b>			
Street <b>210 W Main St</b>	City <b>Mandan</b>	ZIP Code <b>58554</b>	County <b>Morton</b>
Beginning Date(s) Authorized <b>7/1/19</b>	Ending Date(s) Authorized <b>6/30/20</b>	Number of twenty-one tables if zero, enter "0": <b>0</b>	
Specific location where games of chance will be conducted and played at the site (required) <b>entire facility, excluding the rest rooms</b>			
If conducting Raffle or Poker activity provide date(s) or month(s) of event(s) if known			

**RESTRICTIONS (City/County Use Only)**

Days of week of gaming operations (if restricted)	Hours of gaming (if restricted)
---	---------------------------------

**ACTIVITY TO BE CONDUCTED** Please check all applicable games to be conducted at site (required)

<input type="checkbox"/> Bingo	<input type="checkbox"/> Club Special	<input type="checkbox"/> Sports Pools
<input type="checkbox"/> <b>ELECTRONIC</b> Quick Shot Bingo	<input type="checkbox"/> Tip Board	<input type="checkbox"/> Twenty-One
<input checked="" type="checkbox"/> Raffles	<input type="checkbox"/> Seal Board	<input checked="" type="checkbox"/> Poker
<input type="checkbox"/> <b>ELECTRONIC</b> 50/50 Raffle	<input type="checkbox"/> Punchboard	<input type="checkbox"/> Calcuttas
<input checked="" type="checkbox"/> Pull Tab Jar	<input checked="" type="checkbox"/> Prize Board	<input type="checkbox"/> Paddlewheels with Tickets
<input checked="" type="checkbox"/> Pull Tab Dispensing Device	<input type="checkbox"/> Prize Board Dispensing Device	<input type="checkbox"/> Paddlewheel Table
<input checked="" type="checkbox"/> <b>ELECTRONIC</b> Pull Tab Device		

**APPROVALS**

Attorney General	Date
Signature of City/County Official	Date
<b>PRINT</b> Name and official position of person signing on behalf of city/county above	

**INSTRUCTIONS:**

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

**RETURN ALL DOCUMENTS TO:**

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



**RENTAL AGREEMENT**  
 OFFICE OF ATTORNEY GENERAL  
 LICENSING SECTION  
 SFN 9413 (Rev. 05-2018)

License Number (Office Use Only)

Site Owner (Lessor) The Strawberry L L C		Site Name Strawberry Bar & Grill		Site Phone Number (701) 751-7348
Site Address 210 W Main St	City Mandan	State ND	Zip Code 58554	County Morton
Organization (Lessee) Prairie Public Broadcasting, Inc		Rental Period 7/1/2019 to 6/30/2020		Monthly Rent Amount
1. Is Bingo going to be conducted at this site? 1a. If "Yes" to number 1 above, is Bingo the primary game conducted? If "Yes," enter the monthly rent amount to be paid. Then answer questions 2 - 7 but do not enter any rent amounts.		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
2. Is Twenty-One conducted at this site? Number of Tables with wagers up to \$5 _____ X Rent per Table \$ _____ Number of Tables with wagers over \$5 _____ X Rent per Table \$ _____		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
3. Is Paddlewheels conducted at this site? Number of Tables _____ X Rent per Table \$ _____		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
4. Is Pull Tabs involving either a jar bar, standard, or electronic dispensing device conducted at this site? Please check: <input checked="" type="checkbox"/> Jar Bar <input checked="" type="checkbox"/> Standard Dispensing Device <input checked="" type="checkbox"/> Electronic Dispensing Device Number of Electronic Devices <u>5</u>		<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		\$ 150.00
No additional rent is allowed for electronic pull tabs. Rent must be based on dispensing device requirements per NDCC 53-06.1-11 (5)(a)(b)				
Total Monthly Rent				\$ 150.00
5. If the only gaming activity to be conducted at this site is a raffle drawing, please check here.		<input type="checkbox"/>		

**TERMS OF RENTAL AGREEMENT:**

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

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

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

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

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

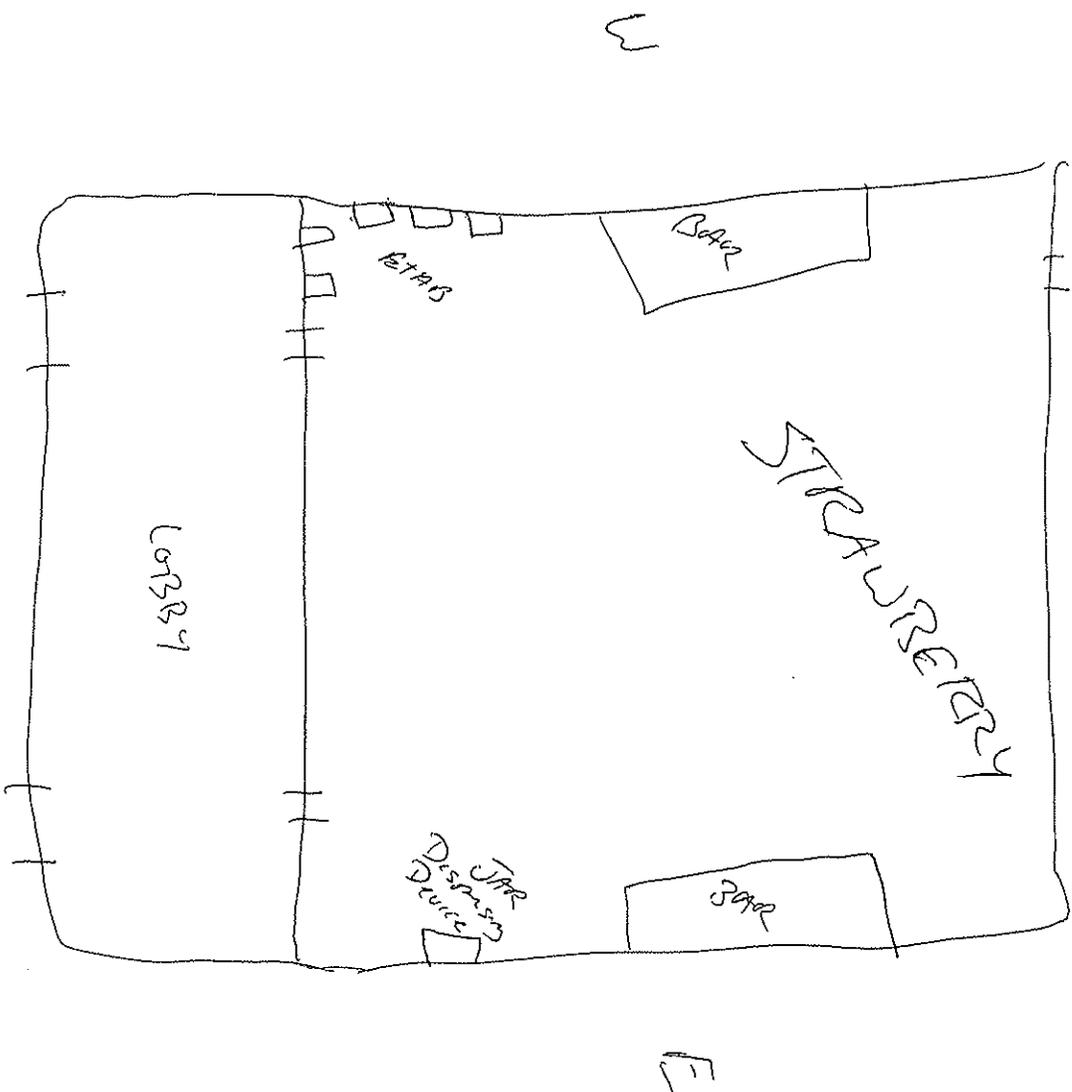
The LESSOR agrees not to interfere with or attempt to influence the lessee's selection of games, determination of prizes, including a bingo jackpot prize, or disbursement of net proceeds.

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

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

Signature of Lessor 	Title OWNER	Date 5-1-2019
Signature of Lessee 	Title President & CEO	Date 4/18/19

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## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21, 2019  
**PREPARATION DATE:** May 15, 2019  
**SUBMITTING DEPARTMENT:** Engineering & Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, Engineering and Planning Director  
**PRESENTER:** John Van Dyke, AICP, CFM  
**SUBJECT:** Consider Approval of Minor Plat for Replat of Lot 1, Block 1, Rippel's 5<sup>th</sup> Addition

---

STATEMENT/PURPOSE:

Consider Approval of minor plat for Replat of Lot 1, Block 1, Rippel's 5<sup>th</sup> Addition.

BACKGROUND/ALTERNATIVES:

This property is located north of 14<sup>th</sup> St. SE and west of S. 1806.

The applicant is proposing to divide Lot 1, Block 1 into two lots. There is currently a dwelling on the property. If approved, the additional lot will support residential use.

ATTACHMENTS:

1. Aerial
2. Proposed Minor Plat of Replat of Lot 1, Block 1, Rippel's 5<sup>th</sup> Addition

FISCAL/STAFF IMPACT: minimal

LEGAL REVIEW: All information has been reviewed and approved by Attorney Brown.

RECOMMENDATION: Recommend approval of minor plat for Replat of Lot 1, Block 1, Rippel's 5<sup>th</sup> Addition.

SUGGESTED ACTION: I move to approve the minor plat for Replat of Lot 1, Block 1, Rippel's 5<sup>th</sup> Addition.

# EXHIBIT 1



# REPLAT OF LOT 1, BLOCK 1, RIPPEL'S 5TH ADDITION

TO THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA

ALL OF LOT 1, BLOCK 1, RIPPEL'S 5TH ADDITION OF THE SW1/4, SECTION 35, T139N-R81W OF THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA



5-7-2019  
0 20' 40'

HORIZ. DATUM: NAD83  
VERT. DATUM: NAVD83

LEGEND	
○	FOUND REBAR MONUMENT
●	SET REBAR MONUMENT

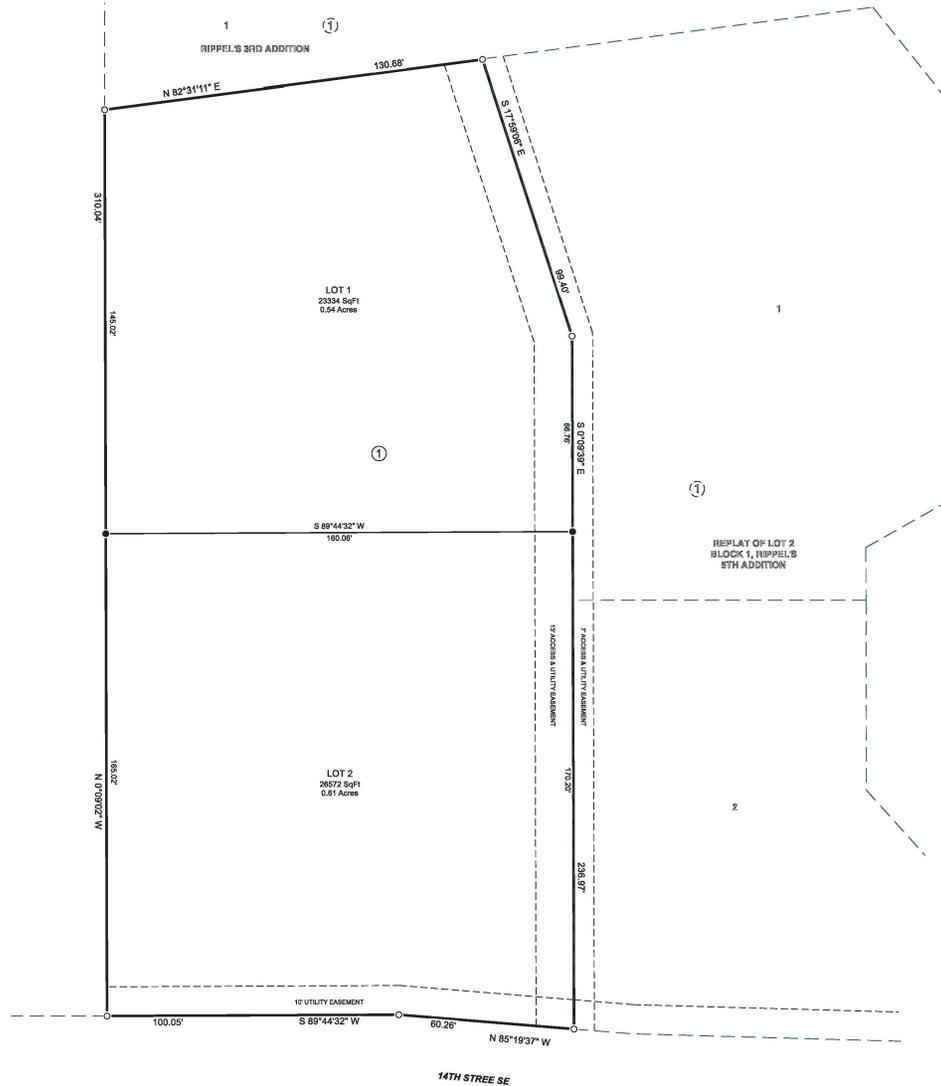
14

NICOLA'S 3RD

OWNER:  
C/F PROPERTIES LLC  
2020 3RD ST SE #2  
MANDAN, ND 58544

BASIS OF BEARING:  
WEST BOUNDARY LINE LOT 5  
NORTH 00° 02' 04" WEST

NOTES:  
1. BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENT.



## DESCRIPTION OF PROPERTY

ALL OF LOT 1 BLOCK 1 RIPPEL'S 5TH ADDITION OF THE SW1/4 OF SECTION 35, T139N-R81W OF THE 5TH PRINCIPAL MERIDIAN OF THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA, SAID TRACT OF LAND CONTAINING 1.15 ACRES, MORE OR LESS.

## 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

STATE OF NORTH DAKOTA )  
  ) SS

COUNTY OF MORTON

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, THERE APPEARED BEFORE ME ANDREA L. MARQUARDT, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE ABOVE CERTIFICATE AND DID ACKNOWLEDGE TO ME THAT SHE EXECUTED THE SAME AS HER OWN FREE ACT AND DEED.

HARVEY SCHNEIDER  
NOTARY PUBLIC, NORTH DAKOTA

## 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, WATER LINES, SIDEWALKS AND OTHER IMPROVEMENTS ON 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 OF SERVICES UNDER, ON OR OVER THESE CERTAIN STRIPS OF LAND DESIGNATED AS "UTILITY EASEMENTS".

COODY L. FLECK, MANAGER  
C/F PROPERTIES LLC

SUBSCRIBED AND SWORN BEFORE ME, A NOTARY PUBLIC, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
NOTARY PUBLIC  
\_\_\_\_\_  
COUNTY, \_\_\_\_\_  
MY COMMISSION EXPIRES: \_\_\_\_\_

## 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 \_\_\_\_\_, 2019.

JIM NEUBAUER - CITY ADMINISTRATOR

TM HELBLING - PRESIDENT OF THE BOARD OF CITY COMMISSIONERS

I, JUSTIN FROSETH, CITY ENGINEER FOR THE CITY OF MANDAN, NORTH DAKOTA HEREBY APPROVES "REPLAT OF LOT 1, BLOCK 1, RIPPEL'S 5TH ADDITION," OF THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

JUSTIN FROSETH, PE

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

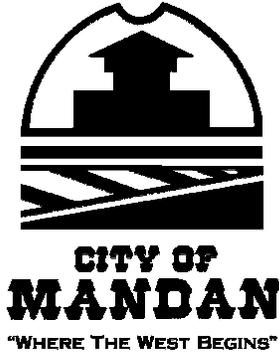
APPROVED BY COUNTY AUDITOR'S OFFICE  
DAWN R. RHONE, AUDITOR

BY \_\_\_\_\_, DEPUTY

DATE: \_\_\_\_\_



**TOMAN ENGINEERING  
COMPANY**  
501 1st Street NW, Mandan, ND 58554  
Phone: 701-683-6453 \* Fax: 701-683-0923



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21<sup>st</sup>, 2019  
**PREPARATION DATE:** May 13<sup>th</sup>, 2019  
**SUBMITTING DEPARTMENT:** Police  
**DEPARTMENT DIRECTOR:** Jason Ziegler, Police Chief  
**PRESENTER:** Jason Ziegler, Police Chief  
**SUBJECT:** Amendment to ND Dept. of Transportation Traffic Safety Contract No. 12181405

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STATEMENT/PURPOSE: Consider approval of the Amendment to the North Dakota Department of Transportation (NDDOT) Traffic Safety Contract No. 12181405 between the NDDOT and the City of Mandan Police Department (MPD).

BACKGROUND/ALTERNATIVES: Each year the MPD applies for a grant through NDDOT to provide funding to the MPD to participate in statewide traffic safety enforcement programs. The original Traffic Safety Contract No. 12181405 was approved by this board in October of 2018 and has been attached for reference. Before you today is an amendment made to Traffic Safety Contract No. 12181405 which would provide the MPD with additional grant funding for the purchase of two pieces of radar equipment and one in-car video camera. The radar portion of the grant provides for a 75% state and 25% city matching grant for a maximum disbursement amount of \$1,500 for each radar. The maximum dollar amount given for the radar equipment would be \$3,000. The video camera portion of the grant allows for a 100% funding for the video equipment up to a maximum of \$4,000.

ATTACHMENTS: (1) Amendment to NDDOT Traffic Safety Contract No.12181405.  
(2) Copy of the original NDDOT Traffic Safety Contract No. 12181405.

FISCAL IMPACT: The 25% city match of the radar grant will be taken from the 2019 Police Department budget fund 121.121.62115 for the purchase of two radars. The video camera equipment will be purchased with the same fund and then reimbursed by the grant funds.

STAFF IMPACT: None

Board of City Commissioners

Agenda Documentation

Meeting Date: May 21, 2019

Subject: Amendment to NDOT Traffic Safety Contract No. 12181405

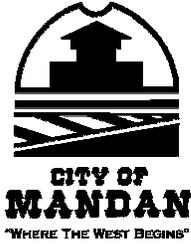
Page 2 of 2

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LEGAL REVIEW: These documents have been reviewed by City Attorney Brown with no issues.

RECOMMENDATION: I recommend approval of the Amendment to Traffic Safety Contract No. 12181405 between the NDDOT and the MPD.

SUGGESTED MOTION: I move to approve the Amendment to Traffic Safety Contract number 12181405 between the NDDOT and the MPD.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21, 2019  
**PREPARATION DATE:** May 15, 2019  
**SUBMITTING DEPARTMENT:** Engineering & Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, Engineering and Planning Director  
**PRESENTER:** John Van Dyke, AICP, CFM  
**SUBJECT:** Consider Holding a Public Hearing for the  
Vacation of a Segment of 8th Ave. NE between  
16th St. NE and I-94

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STATEMENT/PURPOSE:

Tee and Ski LLC and the Mandan Park District, in compliance with the requirements of NDCC 40-39-05, has submitted to the City of Mandan a request to vacate a segment of 8th Ave. NE between 16th St. NE and I-94.

BACKGROUND/ALTERNATIVES:

Tee and Ski LLC and the Mandan Parks District are seeking to vacate a segment of 8<sup>th</sup> Ave. NE between 16<sup>th</sup> St. NE and I-94. The subject property is west of Mandan Ave. NE and south of Old Red Trail NE at the southern end of what would be 8<sup>th</sup> Avenue NE. The subject property is not paved. The City of Mandan has no plans to extend 8<sup>th</sup> Ave. NE across I-94 at this location and deems this portion of 8<sup>th</sup> Ave. NE unnecessary.

The Mandan Parks District owns the adjacent property to the west. Both Tee and Ski LLC and Mandan Park District have entered an agreement to allow Tee and Ski LLC to acquire the entirety of the vacated right-of-way.

If approved, a public hearing will be scheduled following four consecutive weeks of noticing as required by state law.

ATTACHMENTS:

Exhibit 1 - Vacation Agreement from Parks District and Plat

FISCAL/STAFF IMPACT: minimal

LEGAL REVIEW: All information has been reviewed and approved by Attorney Brown.

RECOMMENDATION: Staff recommends proceeding with consideration of this proposed vacation.

Board of City Commissioners Agenda Documentation

Meeting Date: May 21, 2019

Subject: Consider Holding a Public Hearing for the Vacation of a Segment of 8th Ave.  
NE between 16th St. NE and I-94

Page 2 of 2

SUGGESTED ACTION: I move to approve holding a public hearing following four consecutive weeks of noticing to consider the vacation of a segment of 8<sup>th</sup> Ave. NE between 16<sup>th</sup> St. NE and I-94.

# EXHIBIT 1

## VACATION OF RIGHT OF WAY AGREEMENT

This Agreement is made this 15<sup>th</sup> day of May 2019 by and between **Tee and Ski LLC** of 231 Sheehan Road, Bismarck ND 58504 and **Mandan Park District** of 2600 46<sup>th</sup> Avenue SE, Mandan ND 58554.

Whereas Tee and Ski LLC owns Lot 10, Block 4, Denison,s Industrial Park Replat of Block 2, Mandan ND.

Whereas Mandan Park District owns Lot 2, Block 1, Old Red Trail Commercial, Mandan ND.

Whereas Tee and Ski LLC and Mandan Park District agree to join in the and execute the necessary documents to vacate the **8<sup>th</sup> Avenue NE, Mandan ND** Right of Way between the above-mentioned properties from 16<sup>th</sup> Street South to I94 at the sole cost and expense of Tee and Ski LLC.

Whereas the Mandan Park District shall maintain all access and easements for it's existing park district trail system that crosses said property.

Whereas Tee and Ski and Mandan Park District agree that all land vacated shall be the property of Tee and Ski LLC.

In Witness Whereof, the parties have caused this Agreement to be executed the day and year first above written.

Tee and Ski LLC

Mandan Park District

By: 

By: 

Date: 5/15/19

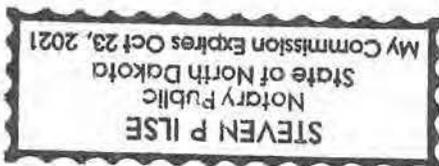
Date: 5-15-19

STATE OF NORTH DAKOTA )

)ss.

COUNTY OF Burleigh )

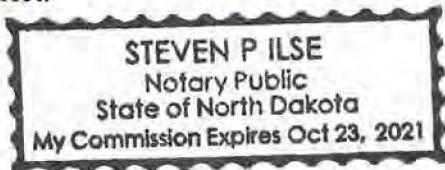
The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of May, 2009 by Matthew Reichert on behalf of Tee and Ski LLC, a Limited Liability Corporation of the State of North Dakota.





STATE OF NORTH DAKOTA )  
 )ss.  
COUNTY OF Burleigh )

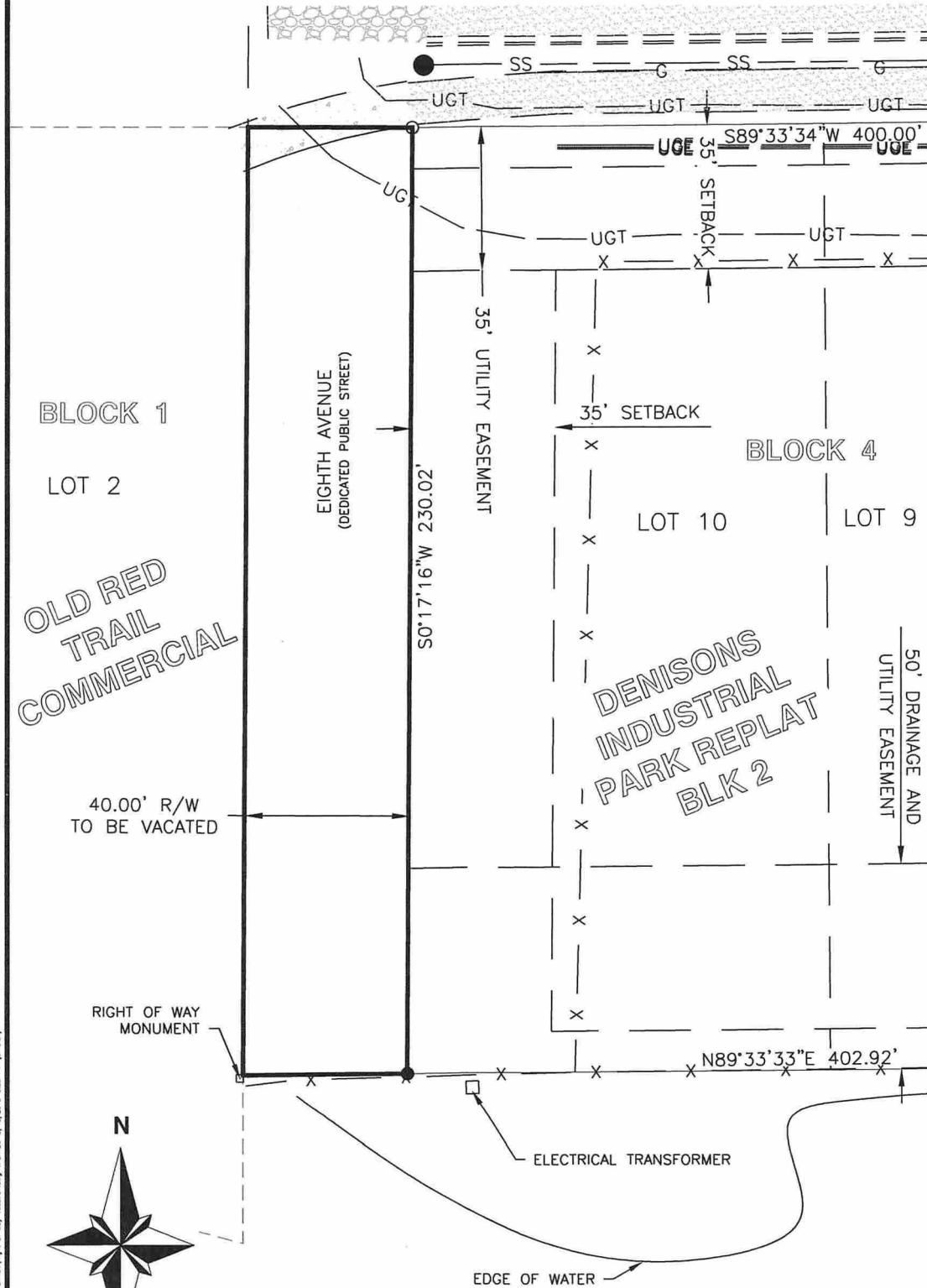
The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of May, 2009 by Cole Higgin on behalf of Mandan Park District.



A handwritten signature in blue ink, appearing to read "Steven P. Ilse", written over a horizontal line.

The following Agreement has been furnished by the office of the Aspen Group LLP to the property owners at their request. Aspen Group LLP and their agents are not liable for any legal problems that may arise in the future from the use of these documents. To protect your interests, the property owners are strongly recommended to seek professional advice.

# VACATION OF RIGHT OF WAY EXHIBIT



K:\DATA\10104\10104\_0003\000\Vacated Right of Way Exhibit.dwg - VACATED-5/13/2019 3:53 PM - (mcd)



Scale: 1" = 30'

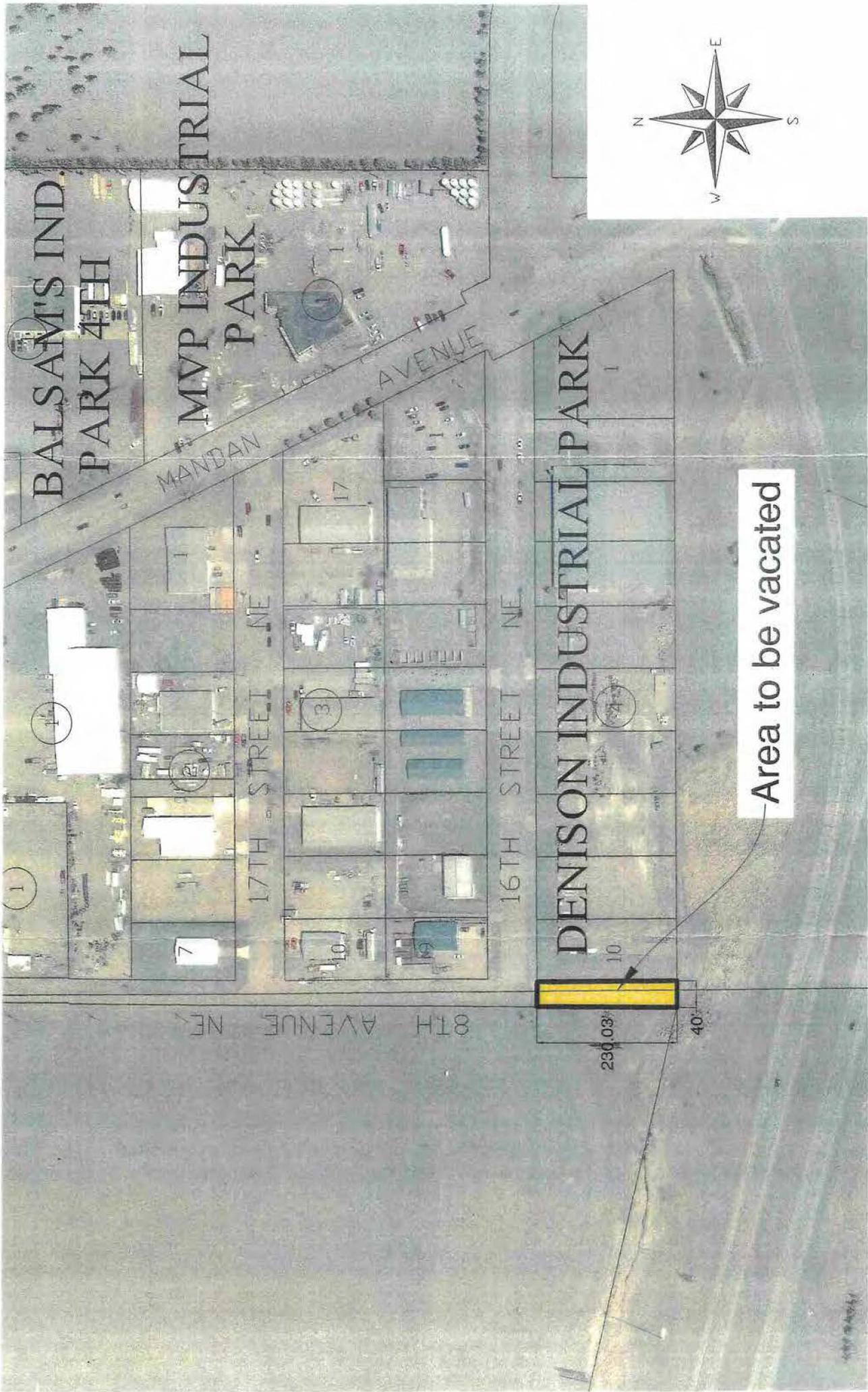
### LEGEND

- IRON MONUMENT FOUND ●
- IRON MONUMENT SET ○

**HOUSTON**  
ENGINEERING INC.

Bismarck  
P: 701.323.0200  
F: 701.323.0300

Prepared for: <b>MATHEW REICHERT</b> MANDAN, NORTH DAKOTA		
Drawn by:	EM	Project No. 10104-0003
Checked by:	TM	Date 5-13-19
Scale: AS SHOWN		Sheet 1 of 1



BALSAM'S IND.  
PARK 4TH

MVP INDUSTRIAL  
PARK

MANDAN AVENUE

17TH STREET NE

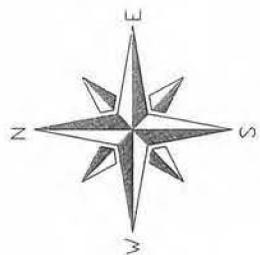
16TH STREET NE

DENISON INDUSTRIAL PARK

8TH AVENUE NE

Area to be vacated

230.03'  
40'





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21, 2019  
**PREPARATION DATE:** May 16, 2019  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** Justin Froseth, Planning and Engineering Director  
**SUBJECT:** Engineering Service Agreement Amendment for Street Improvement District No. 213, Project No. 2018-07 (Southside)

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**STATEMENT/PURPOSE:** To consider amending our agreement with Moore Engineering to add Construction Engineering Services.

**BACKGROUND/ALTERNATIVES:** Now that the Southside Reconstruction project has been awarded, our department recommends amending our agreement with Moore engineering to make sure that all project management, project inspection, construction staking and related construction phase administrative items are properly handled.

A preconstruction meeting was held on May 9<sup>th</sup>. The contractor indicated their plan to mobilize equipment in around May 25<sup>th</sup> to start work.

**ATTACHMENTS:**

- 1) Amendment with Scope and Fee
- 2) District Map

**FISCAL IMPACT:** The amendment amount for Construction Engineering is based on hours actually worked with an estimated not to exceed without prior approval amount of about \$364K, which is about 6.7% of the contractor's bid amount. The total amount of all services previously provided in addition to these services provided through project close-out would then be about \$801K which is about 14.8% of the contractor's bid amount. Our office feels these costs are reasonable given the scope and size of project this is especially considering the amount of alternates designed and bid.

The Engineering costs will be divided appropriately among the tasks they go to. The park district will be assessed for the part going to their parking lots, the utility fund will pick up the appropriate amount for the watermain replacement and the majority of the engineering will be paid for by special assessments as part of the total project cost.

Board of City Commissioners

Agenda Documentation

Meeting Date: May 21, 2019

Subject: Engineering Service Agreement Amendment for Street Improvement District  
No. 213, Project No. 2018-07 (Southside)

Page 2 of 8

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**STAFF IMPACT:** Significant time and effort is anticipated by city staff in addition to answer questions from the public and to resolve issues during construction.

**LEGAL REVIEW:** Attorney Brown was sent the amendment and replied with no issues.

**RECOMMENDATION:** Approve the Engineering Service Agreement Amendment with Moore Engineering.

**SUGGESTED MOTION:** Move to amend the Engineering Service Agreement with Moore Engineering for the Southside Street Reconstruction project to include Construction Engineering Services

Board of City Commissioners

Agenda Documentation

Meeting Date: May 21, 2019

Subject: Engineering Service Agreement Amendment for Street Improvement District

No. 213, Project No. 2018-07 (Southside)

Page 3 of 8

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2911 North 14<sup>th</sup> Street  
Suite 301  
Bismarck, ND 58503

P: 701.751.8360  
F: 701.751.2954



May 1, 2019

Justin Froseth, PE  
Planning and Engineering Director  
City of Mandan  
205 2nd Ave NW  
Mandan, ND 58554

RE: Letter Agreement – Amendment for Construction Engineering Services  
Southside Street Improvement Project  
Mandan, ND  
Moore Project No. 20301

Dear Mr. Froseth,

In accordance with the direction received by City Engineering Department on April 26, 2019, Moore Engineering, Inc. (MOORE) is pleased to submit our amendment to provide construction engineering services for your reconstruction project.

#### Scope of Work

To meet the project objectives above, MOORE proposes to provide the following services:

1. **Construction Staking Services – Estimated 25 total trips requested by contractor**
  - Create stakeout points as requested by contractor, set benchmarks for contractor's GPS equipment
  - Stake Removals for Streets/Alleys – Estimate 3 trips
  - Stake Water Main, Hydrants, Gate Valves – Estimate 2 trips
  - Stake Storm Sewer Pipe, MH's, Inlets, and F.E.S.'s – Estimate 4 trips
  - Stake Curb & Gutter – Estimate 3 trips
  - Stake Sidewalk, ADA, Inlet Castings – Estimate 3 trips
  - Stake Subgrade for streets and alleys – Estimate 4 trips
  - Stake Aggregate Base Blue Tops immediately in conjunction with CSB – Estimate 3 trips
  - Stake Ditch grading, toe of slopes, earthwork – Estimate 1 trip
  - Post Construction as-built survey – Estimate 2 trips
2. **Resident Project Representative**
  - Stationed onsite to observe progress and quality of work
  - Prepare as-built project records and daily logs
  - Document material testing
  - Provide clarifications and interpretations of plans
  - Communicate with engineer
  - Coordinate construction staking requests
  - Measure and record quantities – 125 different bid items.

Page 2  
City of Mandan  
May 1, 2019

- Sign weekly quantity sheets. Review applications for payment.
  - Communicate with residents
  - Inform the engineer of any work that RPR believes is defective
  - Generate project punch list at contractor requested substantial completion request
3. **Project Management & Construction Contract Administration**
- Manage engineering staff and resources
  - Review contracts, NTP, Pre-construction meeting
  - Shop drawing and submittal review – Assume 5
  - Process Contractor Application for Payments & track project budget – Assume 7
  - Prepare and distribute monthly progress reports
  - Weekly construction meetings: coordinate, attend and follow up.
  - Site visits as necessary
  - Coordination with contractor, owner, utility companies
  - Coordinate with field RPR and survey crew
  - Post-Construction televising
  - Substantial completion walk-through with officials
  - Bank of North Dakota reimbursement requests
  - Support for city requested change orders
  - Evaluate and recommendations for contractor requested change orders or claims
4. **Post Construction**
- Close out documents, final paperwork, O&M manual review, collect contractor's reports and records
  - Digital conversion to files and distribution to owner
  - Record drawings
  - One-year project walk-through and warranty administration
5. **Miscellaneous Services Phase**
- Special Assessment District Support Services as requested.
  - Street Lighting Design Services
  - Alternative Storm Water Handling design calculations, cost estimating, revised storm water report and memo.

#### Basis of Proposal

The following items form the basis of this Proposal:

- It is estimated that 25 survey trips will be needed. Hours are based on a two person crew for an 8 hour day onsite. Actual time will be billed per contractor's requests.
- Hold weekly meetings (Estimate 26 Total). The intension is for the Engineer to lead the majority of meetings, but may have to attend via conference call at times.
- City of Mandan will contract for Material Testing services.
- Design was based on the information obtained from the soil borings. Unknown soil conditions may be encountered during construction, thus a contingency fund will need to be established to address those areas if encountered.
- Tasks and estimated hours are included as an attachment that provide further information to the basis of our proposal.
- Addressing unknown utility conflicts with construction engineering staff is expected. Any re-design to accommodate unknown conditions will be considered additional services.
- Engineer will attend no more than 7 council meetings and 2 special assessment committee

Page 3  
City of Mandan  
May 1, 2019

- meetings
- The budget for RPR services is estimated as follows:
    - o One full time RPR will be on site for no more than 26 weeks at an average of 50 Hr./Week
    - o A second RPR will be needed for 200 hours during critical times such as during paving operations.
    - o Moore's senior construction engineer will spend up to 52 hours (average 2 hours per week) on site to deal with specific issues.
    - o RPR will require mileage, no per diem, no hotel rooms.
  - Owner understands that contractor controls construction schedule. If the contract is extended or the completion date is not met by the contractor, additional engineer's / RPR time may be needed (with approval by the City Council).
  - The Special Assessment Commission is responsible to determine the method of how to specially assess each property within the Improvement District. The Engineer will assist by providing maps and calculations based on the methods chosen by the Special Assessments Commission.
  - City will provide copies of project expenses for engineer to track overall project budget (updated monthly).
  - Engineer will provide digital copies of all final construction documents, contractor's application for payments, change orders, RPR Logs, testing results, as-built drawings.
  - Engineer will utilize as-built drawings and post construction survey to prepare record drawings in CADD / GIS format.
  - Post construction services will include a single project walkthrough.

#### Schedule

MOORE will perform the Scope of Work listed above in accordance the following schedule:

- Notice to Proceed – Assumed May 7, 2019
- Construction Services assumed from May 20, 2019 – October 31, 2019 and 2 full weeks in the spring of 2020.

#### Fee

MOORE will perform the tasks specified in the Scope of Work above for the following:

- Construction Staking – Estimated to be \$48,066
- Resident Project Representative – Estimated to be \$177,845.00
- Project Management & Construction Contract Admin – Estimated to be \$103,955.00
- Post Construction Phase Services – Estimated to be \$15,725.00
- Miscellaneous Services (As Directed) – Estimated to be \$18,120

Total fees for this agreement is estimated to be \$363,711. The total contract compensation is a not-to-exceed amount unless approved in writing by the Owner.

Attachment D includes a full listing of all identified tasks and budgeted hours for each task and is an integral part of this agreement. If a difference arises between the list above and the full list, the information in attachment D will govern.

MOORE will perform the tasks specified in the Scope of Work above on a Category Billing Rate basis using the actual hours worked times the appropriate Category Billing Rate plus the actual direct

Page 4  
City of Mandan  
May 1, 2019

expenses incurred. Category Billing Rates are provided in ATTACHMENT 1 to this proposal. Category Billing Rates and expense costs are as listed in the original agreement and are valid through the end of the current year. On January 1 in each subsequent year, Category Billing Rates and reimbursable expenses may be adjusted to meet market conditions. If billed to Owner, invoices will be submitted monthly based on the hours of work completed for the Hourly tasks.

#### Standard Terms and Conditions

Our services will be provided in accordance with the "Standard Terms and Conditions for Professional Services," which were included in the original agreement.

#### Closing

Should you find this Proposal acceptable, please have an authorized representative of the City of Mandan sign the Acceptance portion of this letter below and return one (1) fully executed copy of this Proposal to me. Receipt of a fully executed copy of this Proposal will serve as our Agreement and our Notice to Proceed.

We appreciate the opportunity to submit this Proposal to the City of Mandan and we look forward to working with you on this Project. Should you have any questions or need additional information, please contact me by phone at 701.751.8360 or by email at [jjackson@mooreengineeringinc.com](mailto:jjackson@mooreengineeringinc.com).

Sincerely,



Jim Jackson, PE  
Senior Project Manager



Lee T. Beauvais, PE  
Vice President & C.O.O.

Enclosures: As noted

#### Acceptance for the City of Mandan

I hereby authorize Moore Engineering, Inc. to proceed with the work described above.

Signature: \_\_\_\_\_  
Name: Justin Froseth, PE  
Title: Planning and Engineering Director  
Date: \_\_\_\_\_  
Address for Giving Notices: 205 2<sup>nd</sup> Ave NW  
Mandan, ND 58554





STREET  
IMPROVEMENT  
DISTRICT 213  
BOUNDARY

**Legend**  
 Assessment Boundary  
 Parcels  
 City Limit

SOUTH MANDAN STREET RECONSTRUCTION  
 MORTON COUNTY, NORTH DAKOTA  
 0 100 200 400 800 Feet  
 1 in = 200 ft





**GAMING SITE AUTHORIZATION**  
 OFFICE OF ATTORNEY GENERAL  
 SFN 17996 (02/2018)

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

Full, Legal Name of Gaming Organization Fort Abraham Lincoln Foundation

The above organization is hereby authorized to conduct games of chance under the license granted by the Attorney General of the State of North Dakota at the following location

Name of Location Lonesome Dove			
Street 3929 Memorial Highway	City Mandan	ZIP Code 58554	County Morton
Beginning Date(s) Authorized 7/1/19	Ending Date(s) Authorized 6/30/20	Number of twenty-one tables if zero, enter "0": 3	
Specific location where games of chance will be conducted and played at the site (required) the Whole bar except the bathrooms			
If conducting Raffle or Poker activity provide date(s) or month(s) of event(s) if known			

<b>RESTRICTIONS (City/County Use Only)</b>	
Days of week of gaming operations (if restricted)	Hours of gaming (if restricted)

**ACTIVITY TO BE CONDUCTED** Please check all applicable games to be conducted at site (required)

<input checked="" type="checkbox"/> Bingo	<input type="checkbox"/> Club Special	<input type="checkbox"/> Sports Pools
<input type="checkbox"/> <b>ELECTRONIC</b> Quick Shot Bingo	<input type="checkbox"/> Tip Board	<input checked="" type="checkbox"/> Twenty-One
<input type="checkbox"/> Raffles	<input type="checkbox"/> Seal Board	<input type="checkbox"/> Poker
<input type="checkbox"/> <b>ELECTRONIC</b> 50/50 Raffle	<input type="checkbox"/> Punchboard	<input type="checkbox"/> Calcuttas
<input checked="" type="checkbox"/> Pull Tab Jar	<input type="checkbox"/> Prize Board	<input type="checkbox"/> Paddlewheels with Tickets
<input type="checkbox"/> Pull Tab Dispensing Device	<input type="checkbox"/> Prize Board Dispensing Device	<input type="checkbox"/> Paddlewheel Table
<input checked="" type="checkbox"/> <b>ELECTRONIC</b> Pull Tab Device		

<b>APPROVALS</b>	
Attorney General	Date
Signature of City/County Official	Date
PRINT Name and official position of person signing on behalf of city/county above	

**INSTRUCTIONS:**

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

**RETURN ALL DOCUMENTS TO:**

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



**RENTAL AGREEMENT**  
 OFFICE OF ATTORNEY GENERAL  
 LICENSING SECTION  
 SFN 9413 (Rev. 05-2018)

License Number (Office Use Only)

Site Owner (Lessor) Lonesome Dove Inc.		Site Name Lonesome Dove		Site Phone Number (701) 663-2793	
Site Address 3929 Memorial Highway		City Mandan		State ND	Zip Code 58554
County Morton		Rental Period 7/1/2019 to 6/30/2020		Monthly Rent Amount	
Organization (Lessee) Fort Abraham Lincoln Foundation					
1. Is Bingo going to be conducted at this site? 1a. If "Yes" to number 1 above, is Bingo the <b>primary</b> game conducted? If "Yes," enter the monthly rent amount to be paid. Then answer questions 2 - 7 but do not enter any rent amounts.				<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes
				<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes
2. Is Twenty-One conducted at this site?		X Rent per Table \$ _____		<input type="checkbox"/> No	<input type="checkbox"/> Yes
Number of Tables with wagers up to \$5 _____					
Number of Tables with wagers over \$5 <u>3</u>		X Rent per Table \$ <u>300.00</u>			
3. Is Paddlewheels conducted at this site?		X Rent per Table \$ _____		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes
Number of Tables _____					
4. Is Pull Tabs involving either a jar bar, standard, or electronic dispensing device conducted at this site?				<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes
Please check: <input checked="" type="checkbox"/> Jar Bar		<input checked="" type="checkbox"/> Standard Dispensing Device			
<input type="checkbox"/> Electronic Dispensing Device		Number of Electronic Devices _____			
No additional rent is allowed for electronic pull tabs. Rent must be based on dispensing device requirements per NDCC 53-06.1-11 (5)(a)(b)					
Total Monthly Rent				\$ 1,225.00	

5. If the only gaming activity to be conducted at this site is a raffle drawing, please check here.

**TERMS OF RENTAL AGREEMENT:**

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

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

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

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

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

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

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

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

Signature of Lessor <i>[Signature]</i>	Title <i>[Signature]</i>	Date 4-30-19
Signature of Lessee <i>[Signature]</i>	Title Executive Director	Date 4/29/2019



**GAMING SITE AUTHORIZATION**  
 OFFICE OF ATTORNEY GENERAL  
 SFN 17996 (02/2018)

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

Full, Legal Name of Gaming Organization Fort Abraham Lincoln Foundation

The above organization is hereby authorized to conduct games of chance under the license granted by the Attorney General of the State of North Dakota at the following location

Name of Location Midway Lanes			
Street 3327 Memorial Highway	City Mandan	ZIP Code 58554	County Morton
Beginning Date(s) Authorized 7/1/19	Ending Date(s) Authorized 6/30/20	Number of twenty-one tables if zero, enter "0": 1	
Specific location where games of chance will be conducted and played at the site (required) the Whole bar except the bathrooms			
If conducting Raffle or Poker activity provide date(s) or month(s) of event(s) if known			

**RESTRICTIONS (City/County Use Only)**

Days of week of gaming operations (if restricted)	Hours of gaming (if restricted)
---	---------------------------------

**ACTIVITY TO BE CONDUCTED** Please check all applicable games to be conducted at site (required)

<input type="checkbox"/> Bingo	<input type="checkbox"/> Club Special	<input type="checkbox"/> Sports Pools
<input type="checkbox"/> <b>ELECTRONIC</b> Quick Shot Bingo	<input type="checkbox"/> Tip Board	<input checked="" type="checkbox"/> Twenty-One
<input type="checkbox"/> Raffles	<input type="checkbox"/> Seal Board	<input type="checkbox"/> Poker
<input type="checkbox"/> <b>ELECTRONIC</b> 50/50 Raffle	<input type="checkbox"/> Punchboard	<input type="checkbox"/> Calcuttas
<input checked="" type="checkbox"/> Pull Tab Jar	<input type="checkbox"/> Prize Board	<input type="checkbox"/> Paddlewheels with Tickets
<input type="checkbox"/> Pull Tab Dispensing Device	<input type="checkbox"/> Prize Board Dispensing Device	<input type="checkbox"/> Paddlewheel Table
<input checked="" type="checkbox"/> <b>ELECTRONIC</b> Pull Tab Device		

**APPROVALS**

Attorney General	Date
Signature of City/County Official	Date
PRINT Name and official position of person signing on behalf of city/county above	

**INSTRUCTIONS:**

1. City/County-Retain a **copy** of the Site Authorization for your files.
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 Bismarck, ND 58505-0040  
 Telephone: 701-328-2329 OR 800-326-9240



**RENTAL AGREEMENT**  
 OFFICE OF ATTORNEY GENERAL  
 LICENSING SECTION  
 SFN 9413 (Rev. 05-2018)

License Number (Office Use Only)

Site Owner (Lessor) Midway Lanes		Site Name Kingpin		Site Phone Number (701) 663-0277
Site Address 3327 Memorial Highway		City Mandan	State ND	Zip Code 58554
County Morton		Rental Period 7/1/2019 to 6/30/2020		Monthly Rent Amount
Organization (Lessee) Fort Abraham Lincoln Foundation				
1. Is Bingo going to be conducted at this site? 1a. If "Yes" to number 1 above, is Bingo the <b>primary</b> game conducted? If "Yes," enter the monthly rent amount to be paid. Then answer questions 2 - 7 but do not enter any rent amounts.		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
2. Is Twenty-One conducted at this site? Number of Tables with wagers up to \$5 _____ X Rent per Table \$ _____		<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		\$
Number of Tables with wagers over \$5 <u>1</u> X Rent per Table \$ <u>300.00</u>				\$ 300.00
3. Is Paddlewheels conducted at this site? Number of Tables _____ X Rent per Table \$ _____		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
4. Is Pull Tabs involving either a jar bar, standard, or electronic dispensing device conducted at this site? Please check: <input checked="" type="checkbox"/> Jar Bar <input checked="" type="checkbox"/> Standard Dispensing Device <input checked="" type="checkbox"/> Electronic Dispensing Device Number of Electronic Devices <u>3</u>		<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		\$ 325.00
No additional rent is allowed for electronic pull tabs. Rent must be based on dispensing device requirements per NDCC 53-06.1-11 (5)(a)(b)				
<b>Total Monthly Rent</b>				\$ 625.00
5. If the only gaming activity to be conducted at this site is a raffle drawing, please check here.		<input type="checkbox"/>		

**TERMS OF RENTAL AGREEMENT:**

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

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

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

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

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

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

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

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

Signature of Lessor <i>Sheila Dreite</i>	Title <i>Gen. Mgr.</i>	Date <i>4/30/19</i>
Signature of Lessee <i>Aaron L Barth</i>	Title <i>Executive Director</i>	Date <i>4/29/2019</i>



**GAMING SITE AUTHORIZATION**  
 OFFICE OF ATTORNEY GENERAL  
 SFN 17996 (02/2018)

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

Full, Legal Name of Gaming Organization **Fort Abraham Lincoln Foundation**

**The above organization is hereby authorized to conduct games of chance under the license granted by the Attorney General of the State of North Dakota at the following location**

Name of Location <b>Seven Seas</b>			
Street <b>2611 Old Red Trail</b>	City <b>Mandan</b>	ZIP Code <b>58554</b>	County <b>Morton</b>
Beginning Date(s) Authorized <b>7/1/19</b>	Ending Date(s) Authorized <b>6/30/20</b>	Number of twenty-one tables if zero, enter "0": <b>2</b>	
Specific location where games of chance will be conducted and played at the site (required) <b>the Whole bar except the bathrooms</b>			
If conducting Raffle or Poker activity provide date(s) or month(s) of event(s) if known			

**RESTRICTIONS (City/County Use Only)**

Days of week of gaming operations (if restricted)	Hours of gaming (if restricted)
---	---------------------------------

**ACTIVITY TO BE CONDUCTED** Please check all applicable games to be conducted at site (required)

<input checked="" type="checkbox"/> Bingo	<input type="checkbox"/> Club Special	<input type="checkbox"/> Sports Pools
<input type="checkbox"/> <b>ELECTRONIC</b> Quick Shot Bingo	<input type="checkbox"/> Tip Board	<input checked="" type="checkbox"/> Twenty-One
<input type="checkbox"/> Raffles	<input type="checkbox"/> Seal Board	<input type="checkbox"/> Poker
<input type="checkbox"/> <b>ELECTRONIC</b> 50/50 Raffle	<input type="checkbox"/> Punchboard	<input type="checkbox"/> Calcuttas
<input checked="" type="checkbox"/> Pull Tab Jar	<input type="checkbox"/> Prize Board	<input type="checkbox"/> Paddlewheels with Tickets
<input type="checkbox"/> Pull Tab Dispensing Device	<input type="checkbox"/> Prize Board Dispensing Device	<input type="checkbox"/> Paddlewheel Table
<input checked="" type="checkbox"/> <b>ELECTRONIC</b> Pull Tab Device		

**APPROVALS**

Attorney General	Date
Signature of City/County Official	Date
PRINT Name and official position of person signing on behalf of city/county above	

**INSTRUCTIONS:**

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**RETURN ALL DOCUMENTS TO:**

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



**RENTAL AGREEMENT**  
 OFFICE OF ATTORNEY GENERAL  
 LICENSING SECTION  
 SFN 9413 (Rev. 05-2018)

License Number (Office Use Only)

Site Owner (Lessor) Baymont Inn And Suites		Site Name Seven Seas Bar & Grill		Site Phone Number (701) 663-7401
Site Address 2611 Old Red Trail		City Mandan	State ND	Zip Code 58554
County Morton		Rental Period 7/1/2019 to 6/30/2020		Monthly Rent Amount
Organization (Lessee) Fort Abraham Lincoln Foundation				
1. Is Bingo going to be conducted at this site? 1a. If "Yes" to number 1 above, is Bingo the <b>primary</b> game conducted? If "Yes," enter the <b>monthly</b> rent amount to be paid. Then answer questions 2 - 7 but do not enter any rent amounts.		<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
2. Is Twenty-One conducted at this site? Number of Tables with wagers up to \$5 _____ X Rent per Table \$ _____ Number of Tables with wagers over \$5 <u>2</u> X Rent per Table \$ <u>150.00</u>		<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		\$ \$ 300.00
3. Is Paddlewheels conducted at this site? Number of Tables _____ X Rent per Table \$ _____		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
4. Is Pull Tabs involving either a jar bar, standard, or electronic dispensing device conducted at this site? Please check: <input checked="" type="checkbox"/> Jar Bar <input type="checkbox"/> Standard Dispensing Device <input type="checkbox"/> Electronic Dispensing Device Number of Electronic Devices <u>3</u>		<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		\$ 175.00
No additional rent is allowed for electronic pull tabs. Rent must be based on dispensing device requirements per NDCC 53-06.1-11 (5)(a)(b)				
Total Monthly Rent				\$ 475.00
5. If the only gaming activity to be conducted at this site is a raffle drawing, please check here. <input type="checkbox"/>				

**TERMS OF RENTAL AGREEMENT:**

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

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

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

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

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

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

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

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

Signature of Lessor 	Title Assistant General Manager	Date 4/30/19
Signature of Lessee 	Title Executive Director	Date 4/27/2019



**GAMING SITE AUTHORIZATION**  
OFFICE OF ATTORNEY GENERAL  
SFN 17996 (02/2018)

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

Full, Legal Name of Gaming Organization **Fort Abraham Lincoln Foundation**

**The above organization is hereby authorized to conduct games of chance under the license granted by the Attorney General of the State of North Dakota at the following location**

Name of Location <b>Station West Bar and Grill</b>			
Street <b>412 West Main Street</b>	City <b>Mandan</b>	ZIP Code <b>58554</b>	County <b>Morton</b>
Beginning Date(s) Authorized <b>7/1/19</b>	Ending Date(s) Authorized <b>6/30/20</b>	Number of twenty-one tables if zero, enter "0": <b>0</b>	
Specific location where games of chance will be conducted and played at the site (required) <b>the Whole bar except the bathrooms</b>			
If conducting Raffle or Poker activity provide date(s) or month(s) of event(s) if known			

**RESTRICTIONS (City/County Use Only)**

Days of week of gaming operations (if restricted)	Hours of gaming (if restricted)
---	---------------------------------

**ACTIVITY TO BE CONDUCTED** Please check all applicable games to be conducted at site (required)

<input type="checkbox"/> Bingo	<input type="checkbox"/> Club Special	<input type="checkbox"/> Sports Pools
<input type="checkbox"/> <b>ELECTRONIC</b> Quick Shot Bingo	<input type="checkbox"/> Tip Board	<input type="checkbox"/> Twenty-One
<input type="checkbox"/> Raffles	<input type="checkbox"/> Seal Board	<input type="checkbox"/> Poker
<input type="checkbox"/> <b>ELECTRONIC</b> 50/50 Raffle	<input type="checkbox"/> Punchboard	<input type="checkbox"/> Calcuttas
<input type="checkbox"/> Pull Tab Jar	<input type="checkbox"/> Prize Board	<input type="checkbox"/> Paddlewheels with Tickets
<input checked="" type="checkbox"/> Pull Tab Dispensing Device	<input type="checkbox"/> Prize Board Dispensing Device	<input type="checkbox"/> Paddlewheel Table
<input type="checkbox"/> <b>ELECTRONIC</b> Pull Tab Device		

**APPROVALS**

Attorney General	Date
Signature of City/County Official	Date
<b>PRINT</b> Name and official position of person signing on behalf of city/county above	

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



**RENTAL AGREEMENT**  
 OFFICE OF ATTORNEY GENERAL  
 LICENSING SECTION  
 SFN 9413 (Rev. 05-2018)

License Number (Office Use Only)

Site Owner (Lessor) Round Up Llc		Site Name Station West Bar&grill		Site Phone Number (701) 751-6010
Site Address 412 West Main Street	City Mandan	State ND	Zip Code 58554	County Morton
Organization (Lessee) Fort Abraham Lincoln Foundation		Rental Period 7/1/2019 to 6/30/2020		Monthly Rent Amount
1. Is Bingo going to be conducted at this site? 1a. If "Yes" to number 1 above, is Bingo the <b>primary</b> game conducted? If "Yes," enter the monthly rent amount to be paid. Then answer questions 2 - 7 but do not enter any rent amounts.		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes		\$
2. Is Twenty-One conducted at this site? Number of Tables with wagers up to \$5 _____ X Rent per Table \$ _____ Number of Tables with wagers over \$5 _____ X Rent per Table \$ _____		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
3. Is Paddlewheels conducted at this site? Number of Tables _____ X Rent per Table \$ _____		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$
4. Is Pull Tabs involving either a jar bar, standard, or electronic dispensing device conducted at this site? Please check: <input type="checkbox"/> Jar Bar <input checked="" type="checkbox"/> Standard Dispensing Device <input type="checkbox"/> Electronic Dispensing Device Number of Electronic Devices _____ No additional rent is allowed for electronic pull tabs. Rent must be based on dispensing device requirements per NDCC 53-06.1-11 (5)(a)(b)		<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		\$ 0.00
Total Monthly Rent				\$ 0.00
5. If the only gaming activity to be conducted at this site is a raffle drawing, please check here. <input type="checkbox"/>				

**TERMS OF RENTAL AGREEMENT:**

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

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

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

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

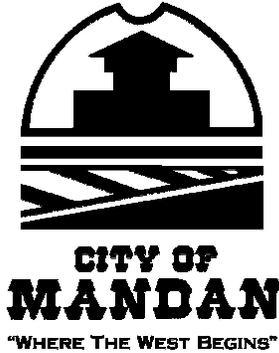
If the LESSEE provides the Lessor with a temporary loan of funds for redeeming pull tabs or prize boards, or both, involving a dispensing device, the Lessor agrees to repay the entire loan immediately when the lessee discontinues using the device at the site.

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

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

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

Signature of Lessor <i>[Signature]</i>	Title OWNER	Date 5/15/19
Signature of Lessee <i>[Signature]</i>	Title Executive Director	Date 5/15/2019



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21, 2019  
**PREPARATION DATE:** May 16, 2019  
**SUBMITTING DEPARTMENT:** Police Department  
**DEPARTMENT DIRECTOR:** Chief of Police J. Ziegler  
**PRESENTER:** Deputy Chief of Police L. Flaten  
**SUBJECT:** Special Event Permit Application Buggies-n-Blues

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STATEMENT/PURPOSE: Consider approval of the Special Event Permit Application for the Mandan Progress Organization for Buggies-n-Blues, June 8<sup>th</sup> and 9<sup>th</sup>, 2019

BACKGROUND/ALTERNATIVES: The Mandan Progress Organization will be holding their annual Buggies-n-Blues car show and beer garden. The MPO has completed the Special Events application and it has been approved by department heads. All necessary permits have been obtained by the MPO.

ATTACHMENTS: Special Events Permit application w/attachments.

FISCAL IMPACT: None

STAFF IMPACT: Police staff to work normal enforcement activities

LEGAL REVIEW: N/A

RECOMMENDATION: To approve the Mandan Progress Organization Buggies-n-Blues Special Events Application.

SUGGESTED MOTION: Move to approve the Mandan Progress Organization Buggies-n-Blues Special Events Application.

Permit Application #: 19-02 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: 05-10-19

**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 Site 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: Del Wetsch  
Driver's License Number: \_\_\_\_\_ State \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ Phone Number: \_\_\_\_\_ Email: dwetsch@mandanprogress.org  
Address: 411 West Main City: Mandan State: ND 58554 Zip: \_\_\_\_\_  
Have you ever been convicted of a crime?  YES  NO  
If yes please list charge(s) and year of conviction(s):  
\_\_\_\_\_  
\_\_\_\_\_

*(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 West Main 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: numerous Date: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

E-mail Contact: \_\_\_\_\_

**Section 2 – Event Information**

Event Name: Buggies-n-Blues Anticipated Daily Attendance: \_\_\_\_\_

Event Date(s): June 8 & 9, 2019 Set-up Date: June 9th, 2019 Hours: 0630

Hours of event each day: 8th 1500-0100, 9th 1100-1700

(begin and end times)

Take Down Date(s): June 9th, 2019 Hours: 1700-1800

E-Mail address for public information: \_\_\_\_\_

WEB address for public information: \_\_\_\_\_

Location of Event/physical address: West Main

Sponsors of the Event: \_\_\_\_\_

Brief Description of Event:

car and vendor show with music, food and alcohol in Dykshoorn Park

Has this event been held in another location?  YES  NO

If yes, please provide the following:

Last event/s Location: \_\_\_\_\_

Date: \_\_\_\_\_ Contact Name and Phone: \_\_\_\_\_

**Section 3 – Event Features**

Will there be an admission charge?  Yes  No

If yes, Printed ticket count: Saturday Tickets for presale count: \_\_\_\_\_

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: \_\_\_\_\_

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: 10

*(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: Mandan Progress Organization

Contact phone: 701-751-2983

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

Number of required portable toilets: 20 toilets, 2hdcp, 3 sinks

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

**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: \_\_\_\_\_

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

**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: Mandan Inflatables \_\_\_\_\_

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: \_\_\_\_\_ 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 F. Scott Date Approved: 5-16-19 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: Baymont Inn

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:***

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

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

If yes, who provided the training: Baymont

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

Request Mandan Police Server Training:  Yes  No

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

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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: <sup>3</sup> \_\_\_\_\_

**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: Spartan Security Bismarck,ND

**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?

Armstrong Sanitation

(Attach a detailed Cleanup Plan)

Outside refuse company Company's Name: Armstrong Sanitation

Contact Name: Peggy Phone: \_\_\_\_\_

*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.*

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

### **Section 10 – ADA Accessibility Requirements**

#### **Parking plan requirements**

Attach a copy of your parking plan and include in the plan the necessary handicap parking areas and any code required handicap accessibility requirements. Also include medical access points and safe medical response routes for the event.

### **Section 11– Insurance and Bond Requirements**

The City of Mandan has established insurance requirements for those facility users, vendors and contractors entering into agreements with the City for the purpose of special events and activities. Before commencing use or services under an agreement with the City of Mandan, a certificate of insurance or a copy of the required bond that complies with the requirements referenced below must be attached.

**All special event applicants shall name the City of Mandan as an “Additional Insured”,** per item one below, on all policy(ies), except workers compensation and shall reflect this on a Certificate of Insurance. Applicant agrees that any insurance available to the applicant shall be primary and non-contributory to the city’s self-insured retention.

Applicant shall obtain certificates of insurance from all vendors participating in this event unless covered under applicant’s insurance policy. Vendors must comply with all requirements listed in this section. Complete and accurate certificates must be received by the Special Events Office a minimum of five (5) working days prior to the event. Separate certificates of insurance shall be provided by all carnival and amusement companies and firework production companies with the limits shown in this section and shall name the City of Mandan as “Additional Insured” as per item one below. Additional coverage may be required depending upon the nature and scope of the event. For more information or questions regarding insurance requirements, please contact our City Administrator’s Office at 701-667-3214. The City Administrator reserves the right to evaluate the liability of each event and assess the required insurance limits. Event permits will not be issued until all insurance requirements are satisfactorily met.

#### **The certificate must show:**

1. The City of Mandan, its agents, officers, employees and volunteers are named as “Additional Insured.” All Certificate of Insurance policies must reflect this with the exception of workers compensation.
2. The City of Mandan shall be notified at least 30 days prior to cancellation or alteration of any insurance coverage. A 10-day notice of cancellation for non-payment of premium is required..
3. Workers Compensation Policies shall contain a Waiver of Subrogation clause in favor of the City of Mandan.
4. General Liability Including: Bodily Injury Contractual Independent Contractors  
Comprehensive Form Product/Completed Operations Hazard  
Premises Operation Personal injury Broad Form Property Damage

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

**In addition, specific date(s) and locations(s) of the event, to include set up and take down, must be stated clearly on the certificate. Certificates shall be received no less than thirty (30) working days prior to the event.**

***City Services***

Police..... \$45 per hour, per officer, 4 hour minimum

Fire/EMS..... \$35 per hour, per staff 4 hour minimum

Barricades.....Amount charged by contracted barricade provider

Trash Container drop-off/pick-up..... \$ \_\_\_ prices vary

Custodial..... \$ \_\_\_ per hour, per staff person

**Miscellaneous fees**

Tent/Canopy Permit.....\$ \_\_\_ per tent or canopy (Check with the Fire Department to ascertain if a permit is necessary)

Fireworks Permit..... \$ \_\_\_ per location

The Park District may require separate fees or permit if on Park District property. It is required that the event host checks with the Park District when planning an event on Park District property to avoid delays with the permitting process.

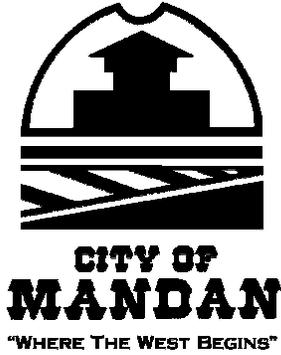


2019 Buggies-n-Blues

Del Wetsch has met with Police Department and Public Works regarding the event.

Traffic control/street closure plan and signing plans have been developed with Public Works.

Event is same as last year.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21, 2019  
**PREPARATION DATE:** May 16, 2019  
**SUBMITTING DEPARTMENT:** Police Department  
**DEPARTMENT DIRECTOR:** Chief of Police J. Ziegler  
**PRESENTER:** Deputy Chief of Police L. Flaten  
**SUBJECT:** Special Event Permit Application for Silver Dollar Beer Gardens

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STATEMENT/PURPOSE: Consider approval of the Special Event Permit Application for the Silver Dollar Bar Beer Gardens for June 8<sup>th</sup>, 2019 (Buggies-n-Blues) and July 3<sup>rd</sup>, 2019.

BACKGROUND/ALTERNATIVES: The Silver Dollar Bar traditionally holds two beer gardens each year. One is during the Buggies-n-Blues event and one during the Fourth of July week. The application has been approved by each department head and all necessary permits have been obtained by the Silver Dollar Bar.

ATTACHMENTS: Special Events Permit application w/attachments.

FISCAL IMPACT: None

STAFF IMPACT: Police staff to work normal enforcement activities

LEGAL REVIEW: N/A

RECOMMENDATION: To approve the Silver Dollar Bar Beer Gardens Special Events Application.

SUGGESTED MOTION: Move to approve Silver Dollar Bar Beer Gardens Special Events Application.



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

Business Address: 200 E. Main City: Mandan State: ND Zip: 58554  
Corporation/Organization: Silver Dollar Bar LLC State of Incorporation: ND  
Tax ID #: 3459200 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: \_\_\_\_\_ Date: \_\_\_\_\_  
Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
E-mail Contact: \_\_\_\_\_

**Section 2 – Event Information**

Event Name: Party on the Pavement/July 4th Street Dance Anticipated Daily Attendance: 450  
Event Date(s): June 8, 2019 / July 3, 2019 Set-up Date: June 8, 2019 / July 3, 2019 Hours: Both 7:30AM - 10AM  
Hours of event each day: 8PM -1AM (5 Hours) Both Events  
(begin and end times)  
Take Down Date(s): June 9,2019 / July 4, 2019 Hours: 1AM - 4AM  
E-Mail address for public information: \_\_\_\_\_  
WEB address for public information: www.thesilverdollarbar.com  
Location of Event/physical address: west side of the building, 200 E Main St. Mandan, ND  
Sponsors of the Event: Silver Dollar Bar  
Brief Description of Event:  
Annual Street Dance events held each year:  
Party on the Pavement the Saturday before Buggies & Blues  
July 4th Street Dance held on July 3rd.

Has this event been held in another location?  YES  NO

**If yes, please provide the following:**

Last event/s Location: \_\_\_\_\_  
Date: \_\_\_\_\_ Contact Name and Phone: \_\_\_\_\_

**Section 3 – Event Features**

Will there be an admission charge?  Yes  No  
If yes, Printed ticket count: \_\_\_\_\_ Tickets for presale count: \_\_\_\_\_

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? MoJo 107.5 and Hot 97.5 \_\_\_\_\_

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

Fliers/Posters:  Yes  No How many? approx. 15-20 various locations \_\_\_\_\_

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: \_\_\_\_\_

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: None (supply our own temporary fencing) \_\_\_\_\_

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

Restroom Accommodations: 4 inside the Silver Dollar \_\_\_\_\_

Number of required portable toilets: 5 and a wash station \_\_\_\_\_

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

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

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: 1 \_\_\_\_\_ attach list of locations.)

City Sidewalks  Yes  No (Number of locations 1 \_\_\_\_\_ 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 Farris Date Approved: 5-16-19 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? Porta Potties and outside wash station will be removed by vendor

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?

No minors will be allowed

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

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 #: \_\_\_\_\_ 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: 4 \_\_\_\_\_

**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: BisMan Security 701-223-2328

**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?

All street cleaning and trash removal will be done the same night as the event.

Garbage disposal will be in the existing Silver Dollar dumpsters \_\_\_\_\_

Street will be open by 4AM \_\_\_\_\_

(Attach a detailed Cleanup Plan)

Outside refuse company Company's Name: none

Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

*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.*

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

(For office use only)

### **Section 10 – ADA Accessibility Requirements**

#### **Parking plan requirements**

Attach a copy of your parking plan and include in the plan the necessary handicap parking areas and any code required handicap accessibility requirements. Also include medical access points and safe medical response routes for the event.

### **Section 11– Insurance and Bond Requirements**

The City of Mandan has established insurance requirements for those facility users, vendors and contractors entering into agreements with the City for the purpose of special events and activities. Before commencing use or services under an agreement with the City of Mandan, a certificate of insurance or a copy of the required bond that complies with the requirements referenced below must be attached.

**All special event applicants shall name the City of Mandan as an “Additional Insured”,** per item one below, on all policy(ies), except workers compensation and shall reflect this on a Certificate of Insurance. Applicant agrees that any insurance available to the applicant shall be primary and non-contributory to the city’s self-insured retention.

Applicant shall obtain certificates of insurance from all vendors participating in this event unless covered under applicant’s insurance policy. Vendors must comply with all requirements listed in this section. Complete and accurate certificates must be received by the Special Events Office a minimum of five (5) working days prior to the event. Separate certificates of insurance shall be provided by all carnival and amusement companies and firework production companies with the limits shown in this section and shall name the City of Mandan as “Additional Insured” as per item one below. Additional coverage may be required depending upon the nature and scope of the event. For more information or questions regarding insurance requirements, please contact our City Administrator’s Office at 701-667-3214. The City Administrator reserves the right to evaluate the liability of each event and assess the required insurance limits. Event permits will not be issued until all insurance requirements are satisfactorily met.

#### **The certificate must show:**

1. The City of Mandan, its agents, officers, employees and volunteers are named as “Additional Insured.” All Certificate of Insurance policies must reflect this with the exception of workers compensation.
2. The City of Mandan shall be notified at least 30 days prior to cancellation or alteration of any insurance coverage. A 10-day notice of cancellation for non-payment of premium is required..
3. Workers Compensation Policies shall contain a Waiver of Subrogation clause in favor of the City of Mandan.
4. General Liability Including: Bodily Injury Contractual Independent Contractors  
Comprehensive Form Product/Completed Operations Hazard  
Premises Operation Personal injury Broad Form Property Damage

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

(For office use only)

**In addition, specific date(s) and locations(s) of the event, to include set up and take down, must be stated clearly on the certificate. Certificates shall be received no less than thirty (30) working days prior to the event.**

***City Services***

Police..... \$45 per hour, per officer, 4 hour minimum

Fire/EMS..... \$35 per hour, per staff 4 hour minimum

Barricades.....Amount charged by contracted barricade provider

Trash Container drop-off/pick-up..... \$ \_\_\_ prices vary

Custodial..... \$ \_\_\_ per hour, per staff person

**Miscellaneous fees**

Tent/Canopy Permit.....\$ \_\_\_ per tent or canopy (Check with the Fire Department to ascertain if a permit is necessary)

Fireworks Permit..... \$ \_\_\_ per location

The Park District may require separate fees or permit if on Park District property. It is required that the event host checks with the Park District when planning an event on Park District property to avoid delays with the permitting process.

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

**Fee Cost Worksheet**

**Police Services:**

No. of Officers \_\_\_\_\_ x No. of Hours \_\_\_\_\_ = \_\_\_\_\_ x \$45 = \$ \_\_\_\_\_

**Fire/EMT Services**

No. of EMT's \_\_\_\_\_ x No. of Hours \_\_\_\_\_ = \_\_\_\_\_ x \$35 = \$ \_\_\_\_\_

**Finance application processing Fee** ..... \$ \_\_\_\_\_

**Trash Container Fee**..... \$ \_\_\_\_\_

**Custodial Fee**..... \$ \_\_\_\_\_

**Tent/Canopy Inspection and Permit**..... \$ \_\_\_\_\_

**Fireworks/Pyrotechnics Permit and Inspection Fee**..... \$ \_\_\_\_\_

**\$25 Application Fee**..... \$ **25.00**

**\$50 Late application Processing Fee (if Applicable)**..... \$ \_\_\_\_\_

**Event Application Fee (See Attached Fee Schedule)**..... \$ **60.00**

**TOTAL:** \$ \_\_\_\_\_

*Fees assessed by the Park District are not included.*

**Date Fees Paid:** \_\_\_\_\_ **Initials:** \_\_\_\_\_

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

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

 / 5-16-19

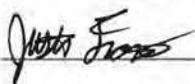
Fire Department Date

 / 05-16-19

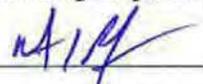
Police Department Date

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

Finance Department Date

 / 5-16-19

Engineering Department Date

 / 5-16-19

Public Works Date

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

City Administrator Date

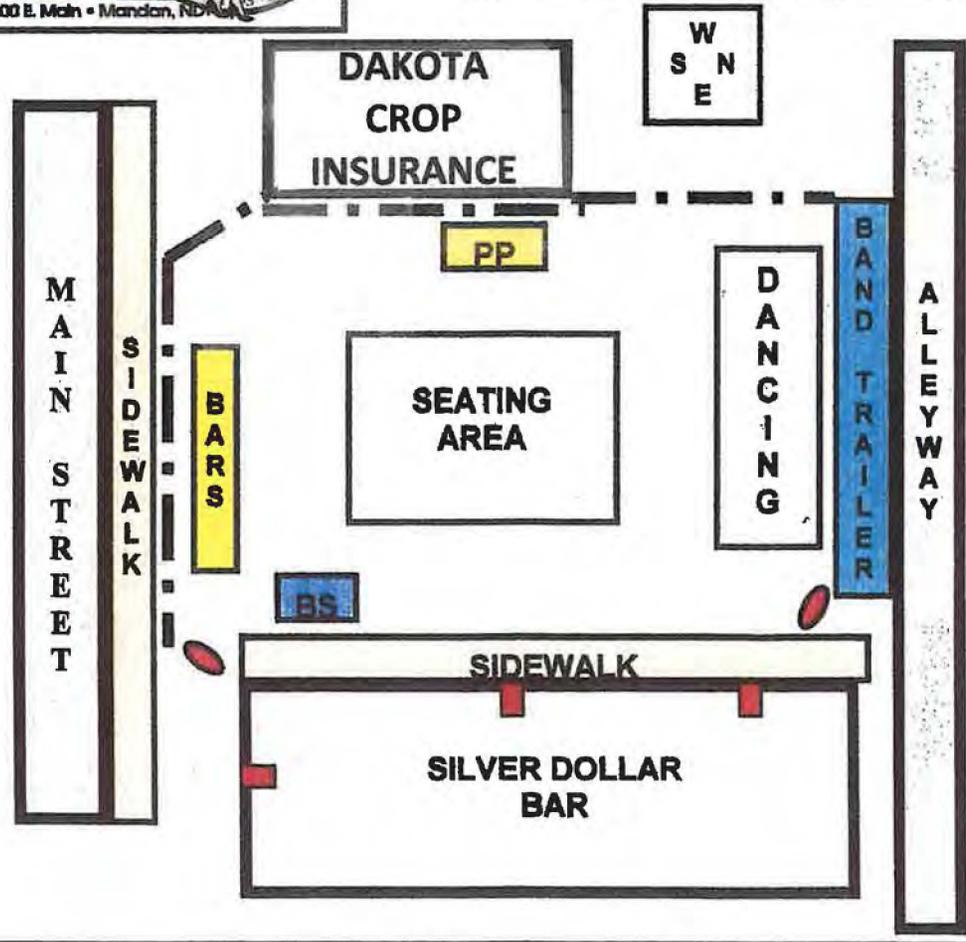
\_\_\_\_\_ / \_\_\_\_\_

Park District Designee Date

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



# Silver Dollar Bar Street Dance Site Plan



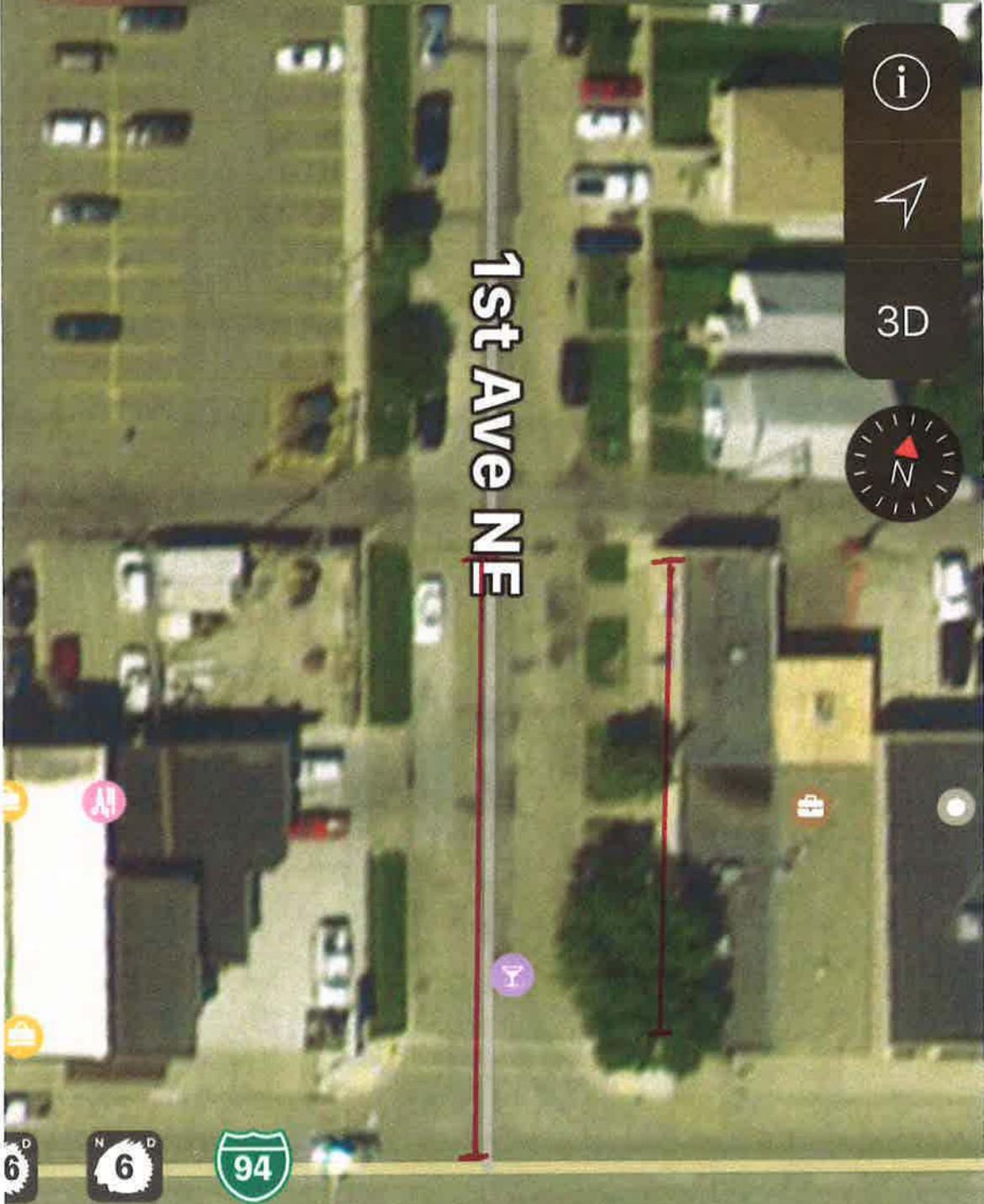
## LEGEND

- ENTRY/EGRESS
- PP: RESTROOMS
- BS: BEER STORAGE
- FENCING

\*Note: Emergency exit in fencing directly behind bars

## **STREET AND SIDEWALK CLOSURE DETAIL:**

- **1ST AVE NE from Main Street north to the alleyway. \* alley will not be effected**
- **Sidewalk on the west side of the Silver Dollar Bar \*as shown on site plan**



\* Closure Area Marked in Red

☁️ 53°  
AQI 25

🔍 Search for a place or address



Serving: Grant • Mercer • Morton • Oliver • Sioux Counties  
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

May 8, 2019

Doug Fritz  
Silver Dollar Bar  
Mandan, ND 58554

To Whom It May Concern:

Custer Health was asked to make recommendations regarding portable sewage handling for The Silver Dollar Bars Street dances held June 8<sup>h</sup> and July 3<sup>rd</sup>, 2019. Mr. Fritz told me that maximum capacity is 450 people. I sized the event at 450 attendees with alcohol being served requiring 9 toilet units. This will include the use of the interior restrooms; there are 4 inside the establishment which requires 5 portable toilets outside.

It is also recommended to have at least 1 hand washing unit and 1 handicap accessible restroom.

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

Sincerely,

Lana Schmidt  
Environmental Health Practitioner



*State of North Dakota*  
**Sales and Use Tax Permit**

Issued under the provisions of North Dakota Sales and Use Tax Acts,  
345922 00

**SILVER DOLLAR BAR  
SILVER DOLLAR BAR LLC  
200 E MAIN ST  
MANDAN ND 58554-3329**

is hereby licensed to engage in business as a retailer in the State of North Dakota.  
This permit is not transferable. Post conspicuously in licensed place of business.

A person who does a temporary business at one place or who is a transient business (other than on a regular or permanent route) must exhibit this permit to a prospective customer before soliciting a sale.

**Ryan Rauschenberger**  
*State Tax Commissioner*

# ALCOHOLIC BEVERAGE LICENSE

On & Off Sale (Liquor & Beer) (Non Transferable)

No. 9 A

Fee Received \$ 150.00

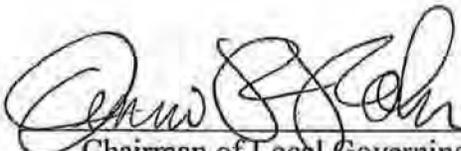
**Gregorio C. Didonna dba Silver Dollar Bar** of Mandan, North Dakota, is hereby licensed to sell alcoholic beverages as allowed under the provisions of Title V of the North Dakota Century Code, and acts supplemental and amendatory thereto for retail purposes at the following location: ***200 East Main on the main floor on lot 15, Block 5, Mandan Proper***

For consumption off of (and on) said premises, for the period ending ***June 30, 2019***.

Licensee hereinbefore named, in consideration of the issuance of this license, hereby agrees to abide by all State laws relating to sale of alcoholic beverages and in addition agrees to abide by all local regulations, ordinances, or resolutions regulating or restricting the operation and sale of alcoholic beverages by licensees and by any future amendments thereto **Chapter 4**.

**This License Is Not Transferable Without Specific Authority From The Local issuing Governing Body And Only As Provided By The Laws Of The State Of North Dakota.**

Dated This ***5th*** day of March A.D. ***2019***

  
Chairman of Local Governing Body

Mandan City Commission  
(State Exact Title of Local Governing Body)

(S E A L)

ATTEST:



- **This License Must Be Posted Conspicuously In Place of Business On Premises Licensed.**

No. AA-02930  
Not Transferable

**2019**

**\*\* NEW \*\***

is hereby authorized to sell BEER and LIQUOR at retail  
at the premises located at the address above.

**OFFICE OF ATTORNEY GENERAL**

600 E. Boulevard Ave. • Licensing Section • Bismarck, ND 58505-0040

**RETAIL ALCOHOLIC BEVERAGE LICENSE**

DIDONNA GREGORIO  
SILVER DOLLAR BAR  
200 E MAIN ST  
MANDAN, ND 58554-3329

Dated 04/16/2019

Post Conspicuously in Your Place of Business

Fee: \$166.66  
Expires Dec. 31, 2019

**2019**



*Wayne Stenehjem*  
ATTORNEY GENERAL



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21<sup>th</sup>, 2019  
**PREPARATION DATE:** May 16<sup>st</sup>, 2019  
**SUBMITTING DEPARTMENT:** Police Department  
**DEPARTMENT DIRECTOR:** Chief Jason Ziegler  
**PRESENTER:** Chief Jason Ziegler  
**SUBJECT:** Memorandum of Understanding Internet Crimes Against Children Task Force Agreement

---

**STATEMENT/PURPOSE:** Consider approval of the Memorandum of Understanding Internet Crimes Against Children (ICAC) Task Force Agreement.

**BACKGROUND/ALTERNATIVES:** The Mandan Police Department has been a part of the Internet Crimes Against Children Task Force for many years. This MOU is between the North Dakota Bureau of Criminal Investigation and the Mandan Police Department. As part of the Task Force, officers of the Mandan Police Department work their normal assignments, but have access to resources and funds for ICAC related investigations. This is an ongoing agreement and is being updated to reflect the change in the new director of the ND Bureau of Criminal Investigation.

**ATTACHMENTS:** Memorandum of Understanding Internet Crimes Against Children Task Force Agreement and Operational and Investigative Standards.

**FISCAL IMPACT:** none

**STAFF IMPACT:** Officers investigate ICAC related crimes as part of their regular duties.

**LEGAL REVIEW:** Attorney Malcolm Brown reviewed the documents.

**RECOMMENDATION:** To approve the Memorandum of Understanding Internet Crimes Against Children Task Force Agreement

**SUGGESTED MOTION:** Move to approve the Memorandum of Understanding Internet Crimes Against Children Task Force Agreement.



## Multi-Agency Law Enforcement Agreement

This Multi-Agency Law Enforcement Agreement, and amendments and supplements thereto, (hereinafter "Agreement") is between the North Dakota Bureau of Criminal Investigation (NDBCI) (Grantee) and Mandan Police Department, Mandan, North Dakota, (hereinafter "Undersigned Law Enforcement Agency") both which are authorized to enter into this Agreement.

**Whereas**, the above subscribed parties have joined together in a multi-agency task force intended to investigate and prosecute crimes committed against children and the criminal exploitation of children that is committed and/or facilitated by or through the use of computers, and to disrupt and dismantle organizations and/or individual(s) engaging in such activity; and

**Whereas**, the undersigned agencies agree to utilize applicable state and federal laws to prosecute criminal, civil, and forfeiture actions against identified violators, as appropriate, and

**Whereas**, the OJJDP Internet Crimes Against Children ("ICAC") a Board of Directors has been established representing each of the existing ICAC Task Forces to oversee the operation of the grant and sub-grant recipients.

**Now Therefore**, the parties agree as follows:

1. The Undersigned Law Enforcement Agency approves, authorizes, and enters into this Memorandum of Understanding with the purpose of implementing a

three-pronged approach to combat Internet Crimes Against Children:  
**prevention, education, and enforcement;** and

2. The Undersigned Law Enforcement Agency shall adhere to the OJJDP ICAC Task Force Program Standards, in addition to state and federal laws, when conducting undercover operations relative to ICAC; and
3. All officers contributed by the Undersigned Law Enforcement Agency to the NDBCI ICAC Task Force shall be law enforcement officers or peace officers as defined in N.D.C.C. § 12.1-01-04(17) who are currently licensed by the applicable North Dakota licensing board or authorized to perform law enforcement officer duties under applicable North Dakota or federal law; and
4. NDBCI and the Law Enforcement Agency each 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; and
5. All members of the Undersigned Law Enforcement Agency shall continue to be employed by the same Law Enforcement Agency employer which they were employed before joining the NDBCI ICAC Task Force and all services, duties, acts or omissions performed by the member will be within the course and duty of that employment with the Law Enforcement Agency, and therefore, are covered by the Workers Compensation programs of that employer, will be paid by that employer and entitled to that employer's fringe benefits; and
6. The Undersigned Law Enforcement Agency shall notify the NDBCI ICAC Task Force Coordinator of any initiated or ongoing undercover operations for presentation to the OJJDP ICAC Coordinating Committee; and
7. The Undersigned Law Enforcement Agency shall first submit a written request for funds and receive approval for the funds from the Grantee to receive any funds from the Grantee; and
8. The Undersigned Law Enforcement Agency shall supply original receipts in order to be reimbursed on pre-approved requests; and
9. The Undersigned Law Enforcement Agency shall maintain accurate records pertaining to prevention, education, and enforcement activities, to be collected and forwarded monthly to the NDBCI ICAC Task Force for statistical reporting purposes; and
10. The Undersigned Law Enforcement Agency shall participate fully in any audits required by the OJJDP; and

11. The Undersigned Law Enforcement Agency shall make a reasonable good faith attempt to be represented at any scheduled regional meetings in order to share information and resources amongst the multiple entities; and
12. The Undersigned Law Enforcement Agency shall be solely responsible for forwarding information relative to investigative targets to the Child Pornography Pointer System (CPPS) pursuant to the OJJDP guidelines.

**Term of this agreement:**

This agreement shall be effective upon signatures of both parties. Nothing in this agreement shall otherwise limit jurisdiction, powers, and responsibilities normally possessed by an employee as a member of the Law Enforcement Agency. Law Enforcement Agencies may withdraw from this Agreement with a 30-day written notice to NDBC.

---

Lonnie Grabowska  
Director, Bureau of Criminal Investigation

---

Date

---

Jason J Ziegler  
Chief, Mandan Police Department

---

Date

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# Internet Crimes Against Children Task Force Program

## **OPERATIONAL AND INVESTIGATIVE STANDARDS**

*ICAC Task Force Program Operational and Investigative Standards*  
**FOR ICAC PURPOSES ONLY**  
Revised: October 1, 2018

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**Table of Contents**

Definitions of Terms .....	2
1. Purpose of the ICAC Standards .....	4
2. ICAC National Program .....	5
3. Oversight of the ICAC Program.....	6
4. Selection and Retention of Task Force Members .....	7
5. Training .....	8
6. Case Management .....	9
7. Task Force Reporting Requirements to OJJDP .....	10
8. Investigations .....	11
9. Work Environment and Equipment.....	14
10. Victim Identification .....	15
11. Public Awareness and Community Outreach.....	16
12. Media Relations and Media Releases .....	17

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**Definitions of Terms**

**Applicability of Terms**

Although some of the definitions below may be generally applicable to law enforcement, they are intended for use in the interpretation of these *Standards*. As such, where any term defined below is capitalized in these *Standards*, the *Standards* are referring to that term as defined below. By contrast, where any term defined below is not capitalized in these *Standards*, the *Standards* are referring to that term as it is used generally in the field of law enforcement. Additionally, the capitalized terms have been italicized to ease their recognition.

“**Affiliate**” or **Affiliate Agency**” is an agency that is working with a *Lead Agency* as part of a regional or state ICAC *Task Force*. An *Affiliate* has agreed in writing to adhere to these *Standards*.

“**Authorized Personnel**” are *Members* who themselves lack powers of arrest but have been authorized by their respective agency to participate in *Investigations* and are being supervised by *Sworn Personnel*.

“**Commander**” is the *Member* of a *Lead Agency* who has been designated by that *Lead Agency* and recognized by *OJJDP* as the leader of the corresponding *Task Force*.

“**CEOS**” is the Child Exploitation and Obscenity Section of the Criminal Division of the Department of Justice.

“**Contraband Image**” is a visual depiction in any form (including printed/digital or video) of child sexual exploitation as defined by federal and/or state statute.

“**Crime**” is any offense (or group thereof) that involves (or involve) the exploitation/victimization of children facilitated by technology.

“**CVIP**” is the Child Victim Identification Project operated by NCMEC.

“**CyberTipline**” is a reporting mechanism operated by NCMEC that allows for the reporting of suspected *Crimes*.

“**Deconfliction**” is a process whereby *Members* are able to submit *Investigative* information to each other and/or to ICAC-related databases in order to determine whether other *Members* or other law enforcement agencies have information concerning the same targets or *Crimes*.

“**DOJ**” is the United States Department of Justice.

“**Employee**” is a sworn or compensated individual, or any individual working under the direction and control of a law enforcement agency.

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“**Equipment**” is any article, device or resource, including but not limited to computers, phones, online accounts and internet services which are purchased or obtained for use in ICAC-related matters.

“**ICAC Program**” is the Internet Crimes Against Children Task Force Program, a national program composed of state and regional *Task Forces* administered by *OJJDP*.

“**Investigation**” is an investigation into a *Crime*. Likewise, “*Investigate*” “*Investigating*” and “*Investigative*” are used within the same context.

“**Investigative Persona**” – any identity established or created by an *Employee* to aid an *Investigation*.

“**Investigator**” is a *Member* who is a part of the *Sworn Personnel* of a *Task Force*.

“**Lead**” or “**Lead Agency**” is the law enforcement agency that receives the ICAC grant and is designated by *OJJDP* to act as the *Lead Agency* for the corresponding *Task Force*.

“**Member**” is a *Lead* or *Affiliate Agency’s Employee* who is either *Sworn Personnel* or *Authorized Personnel* and who has been designated to work on ICAC-related matters for his/her respective agency and *Task Force*.

“**National Initiative**” is any proposal that relies on the cooperation and resources of a significant number of *Task Forces* and, accordingly, has been approved by *OJJDP*.

“**NCMEC**” is the National Center for Missing and Exploited Children.

“**OJJDP**” is the Office of Juvenile Justice and Delinquency Prevention within the *DOJ*.

“**Supervisor**” is a *Member* who has been designated by his/her respective agency to supervise *Investigations* and other ICAC-related matters.

“**Standards**” are all of the provisions of these, the ICAC Operational and Investigative Standards.

“**Sworn Personnel**” are *Members* with powers of arrest.

“**Task Force**” is the *Lead Agency* and their *Affiliate(s)* (combined) as designated by *OJJDP* for a particular state or region.

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**1. Purpose of the ICAC Standards**

These *Standards* are established by *OJJDP* to guide the administration and operation of the *ICAC Program* and its *Members* when working on ICAC-related *Investigations* and matters.

*Members* should make every reasonable effort to comply with these *Standards*. However, since many aspects of *Investigations* are dynamic and because laws vary widely between jurisdictions, it is difficult to anticipate every circumstance that might present itself. Thus, reasonable deviations from these *Standards* may occur depending upon various factors (e.g., emergency situations; timing constraints; accessibility constraints; resource constraints; technology constraints; perceived conflicts between the *Standards* and statutes, decisional law, and court orders; etcetera).

*Commanders* may supplement, but not contradict, these *Standards* in the written agreements they establish with their *Affiliates* to promote the effective operation of their *Task Forces*. Should questions regarding the interpretation of these *Standards* arise or conflicts occur between these *Standards* and agency policies or law, the *Commander* faced with the issue shall seek the guidance of an *OJJDP Program Manager*. However, nothing in these *Standards* is meant to interfere with a *Commander's* or *Supervisor's* lawful tactical decision-making.

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**2. ICAC National Program**

2.1 Mission of the ICAC Program

The Internet Crimes Against Children (ICAC) Task Force Program helps state and local law enforcement agencies develop an effective response to technology-facilitated child sexual exploitation and internet crimes against children. This support encompasses forensic and *Investigative* components, training and technical assistance, victim services, prevention and community education.

2.2 ICAC Background

The Internet Crimes Against Children (ICAC) Task Force Program was developed in 1998 in response to the increasing number of children and teenagers using the internet and other technology, the proliferation of child sexual abuse images available electronically, and the heightened online activity by predators seeking unsupervised contact with potential underage victims.

The *ICAC Program* is a national network of 61 coordinated task forces representing more than 4,500 federal, state, and local law enforcement and prosecutorial agencies. These agencies are engaged in both proactive and reactive investigations, forensic examinations, and criminal prosecutions. By helping state and local agencies develop effective, sustainable responses to online child victimization – including responses to child sexual abuse images (*Contraband Images*), the *ICAC Program* has increased law enforcement’s capacity to combat technology-facilitated crimes against children at every level.

Because arrests alone cannot resolve the problem of technology-facilitated child sexual exploitation, the *ICAC Program* is also dedicated to training law enforcement personnel, prosecutors and other professionals working in the ICAC field, as well as educating parents, youth, and the community about the potential dangers of online activity including online child victimization.

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**3. Oversight of the ICAC Program**

3.1 The oversight of the *ICAC Program* and the administration of ICAC grants are the responsibility of *OJJDP*. The oversight of each *Task Force* falls to its *Commander*. The oversight of each agency, both *Lead* and *Affiliate*, falls to its designated *Supervisor*.

3.2 *Commanders* shall ensure there are supervisory systems and protocols in place that provide for observation, documentation, and review of ICAC activity. Said systems shall comply with the principles of quality case management and shall ensure that ICAC activities comply with agency policies and these *Standards*.

3.3 *Commanders* shall ensure that each *Member* in his/her *Lead Agency* and each *Supervisor* of an *Affiliate Agency* receives a copy of the *Standards*.

3.3.1 *Supervisors* shall have the discretion to provide *Members* with only the sections of the *Standards* applicable to their job functions.

3.4 *Commanders* shall submit all proposed *National Initiatives* to *OJJDP* prior to the start of the project.

3.4.1 *OJJDP* may suggest amendments to the original proposal following consultation with the presenting *Commander* and, as appropriate, other federal, state, and local entities.

3.5 *Supervisors* shall inform their *Members* about departmental employee assistance programs and *Task Force* resources available to them.

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**4. Selection and Retention of Task Force Members**

4.1 When practicable during the selection process of *Members*, *Commanders* and *Supervisors* shall evaluate prospective candidates for work histories that indicate prior *Investigative* experience, courtroom testimony skills, technical knowledge and ability, an ability to prudently handle sensitive information, a genuine interest in the protection of children, and an understanding of the effects that *Members* may experience when exposed to *Contraband Images*.

4.2 *Commanders* and *Supervisors* shall acknowledge the potential effects of *Investigations* of and exposure to *Contraband Images* and recognize that the viewing of *Contraband Images* should be restricted. When practicable, the following techniques may help mitigate some of the potential negative effects of this work may aid with the retention of *Members*:

- **Work flexibility** - *Commanders* and *Supervisors* are encouraged to allow flexibility for *Investigators* and others who are exposed to *Contraband Images* (e.g., frequent breaks, having an open-door policy, etc.).
- **Exposure to *Contraband Images*** - *Commanders* and *Supervisors* are encouraged to implement best practices which minimize the exposure to *Contraband Images* by *Members*.
- **Mental Health Providers (MHP)** - In compliance with their agency guidelines, *Commanders* and *Supervisors* are encouraged to work with MHP to make recommendations for care of *Members* and to provide education and training designed to minimize the impact of exposure to *Contraband Images*.
- **Impact of *Contraband Images*** - *Commanders* and *Supervisors* are encouraged to share or pursue best practices for minimization of the impact of *Contraband Images* and to promote attendance at trainings regarding methods used to minimize said impact.

4.3 *Commanders* and *Supervisors* shall recognize that ICAC *Investigations* typically focus on child sex offenders who have committed serious state or federal crimes and due to this life-changing event, the impact on these offenders can result in a violent response to authorities.<sup>1</sup>

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<sup>1</sup> FBI's Investigation Behavioral Analysis Unit's *Operational Safety Considerations While Investigating Child Sex Offenders, A Handbook for Law Enforcement*, Volume 1, March 2012.

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**5. Training**

Ensuring that personnel are well-trained in conducting effective *Investigations* in a manner consistent with applicable laws is integral to the *ICAC Program*.

5.1 All national training curricula supported by *ICAC Program* resources shall be conducted consistent with the *Standards* and shall be approved by *OJJDP*.

5.2 Commanders shall ensure that nominees to attend any *ICAC Program*-sponsored national in-person training event are current *Members*.

5.3 Individual *Task Forces* may develop and deliver *Task Force* specific training. This training shall comply with the *Standards* and shall be approved by the *Commander*. All costs to develop and deliver the training shall be the responsibility of the *Task Force* or *Affiliate* providing the training.

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**6. Case Management**

6.1 *Commanders* and *Supervisors* are responsible for determining *Investigative* priorities and selecting cases for *Investigation* in their respective agencies. Those determinations shall include an assessment of victim risk, jurisdiction, known offender behavioral characteristics, and the likelihood of securing the information necessary to pursue each *Investigation*.

6.2 Conventional boundaries often are meaningless in today's digital world where the usual constraints of time, place, and distance lose their relevance. These factors increase the possibility of *Lead* and/or *Affiliate Agencies* targeting other law enforcement personnel, *Investigating* the same target, or inadvertently disrupting an ongoing *Investigation*. To foster effective case coordination, collaboration, and communication, each *Member* shall make every effort to *Deconflict* all active *Investigations*.

6.3 *Lead* and *Affiliate Agencies* shall be subject to their respective agency's incident reporting procedures and case supervision systems. At a minimum, a unique identifier shall be assigned to each case.

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**7. Task Force Reporting Requirements to OJJDP**

7.1 The reports described below do not replace the semi-annual progress report required by the Office of Justice Programs' Financial Guide.

7.2 *Commanders* shall compile and submit a Task Force Monthly Performance Measures Report to the *OJJDP*-designated location before the end of the following calendar month.

7.2.1 *Affiliates* shall report their activity to their respective *Commander* by the 10th of each month using the ICAC Monthly Performance Measures Report.

7.3 *Commanders* shall compile and submit an annual report which details each of their *Affiliates*. This annual report shall be submitted within 30 days of the end of the calendar year. The report shall be submitted in a method determined by *OJJDP* and shall include the following information:

7.3.1 The name of each *Affiliate Agency*.

7.3.2 The staffing level of each *Affiliate Agency* including the number of *Investigators*, prosecutors, education specialists, and forensic specialists dedicated to *Investigating* and prosecuting *Crime*.

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**8. Investigations**

8.1 *Investigations* shall be conducted in a manner consistent with applicable laws and the ICAC *Standards*.

8.2 Only *Sworn Personnel* shall conduct *Investigations*.

8.2.1 *Authorized Personnel* acting under the direction and supervision of *Sworn Personnel* may participate in *Investigations*.

8.2.2 *Members* shall not approve, condone, encourage, or promote cyber-vigilantism by private citizens. As such, *Members* shall not use unauthorized private citizens to proactively seek out *Investigative* targets.

8.2.3 The above section (8.2.2) shall not preclude the use of information related to a *Crime* provided by victims or public citizens who discover evidence (e.g., CyberTip reports, mandated reports from professionals, computer repair shop complaints, parental complaints, et cetera). Nor does it preclude the use of authorized over-hears or other similar *Investigative* methods designed to further an *Investigation*.

8.3 *Investigations* shall be documented. Any departures from this provision due to unusual or exigent circumstances shall be documented in the relevant case file and reviewed by the *Supervisor*.

8.3.1 The access, retention, storage, security, and disposal of *Investigative* or case information shall be consistent with the subject agency's policies and federal and state law regarding same.

8.4 *Members* shall not electronically upload, transmit, or forward any *Contraband Images*.

8.4.1 **Exception to Section 8.4.** Section 8.4 shall not prohibit the transfer of evidence between *Investigators* as provided for by sections 8.9 and 8.10 of these *Standards* nor does it prohibit the submission of *Contraband Images* to CVIP as provided for by section 10.1 of these *Standards*.

8.5 *Members* shall not use any visual depiction of any type (including a manipulated or electronically generated visual depiction) of any person, purported person, or body part of a person or purported person, with the sole exception that a *Member* may use a visual depiction as a representation of an *Investigative Person*/person/purported person when the following **four** requirements are met:

- (1) The visual depiction is of an actual person;
- (2) That person is an *Employee*;

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(3) The *Employee* has given his or her written consent for the visual depiction to be used; and

(4) The *Employee* was at least 18 years old at the time when the *Employee* gave consent for such use. The visual depiction may be of the *Employee* that was produced when the *Employee* was under the age of 18. The visual depiction may also be modified to suit *Investigative* needs (*i.e.*, it may be an altered or age-regressed visual depiction of the *Employee*).

8.5.1 **Exception to Section 8.5.** Section 8.5 does not prohibit a federal or federally-approved *Member* (*e.g.*, an FBI/HSI agent, or an FBI/HSI Task Force Officer) from using a visual depiction that does not meet the four requirements of Section 8.5, so long as the visual depiction is one that has been authorized for use by the FBI or HSI in accordance with that respective federal agency's guidelines and the visual depiction is being used pursuant to those guidelines.

8.6 Absent prosecutorial input to the contrary, during online dialogue, *Investigators* shall allow the *Investigative* target to set the tone, pace, and subject matter of the online conversation.

8.6.1 Section (8.6) shall not be construed to prohibit *Investigators* from performing any of the following activities when initiating or conducting an *Investigation*: (a) posting information including visual depictions (image or video/printed or digital) to establish an online presence, (b) placing or posting advertisements, or (c) sending messages.

8.6.2 *Members* shall familiarize themselves with relevant state and federal law, including but not limited to those regarding the defense of entrapment, and shall confer with prosecutors, as needed.

8.6.3 Prior to conducting any large-scale (multi-target) operations, *Members* shall notify the *Commander* and shall consult relevant prosecutors about the operation.

8.7 The examination of digital storage devices shall be performed consistent with the subject agency's protocol.

8.8 *Contraband Images* shall be maintained pursuant to the subject agency's policy.

8.8.1 Absent a court order specifically ordering otherwise, evidence containing *Contraband Images* shall not be released to any defendant or representative thereof.

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8.9 Absent exigent circumstances, all *Members'* case referrals between *Task Forces* shall include:

- Notification to and acceptance by the *Commander(s)* of both *Task Forces* that are involved in the referral;
- A secure (i.e., digitally-protected) copy of the case file;
- An official *Investigative* report or affidavit containing case details; and,
- Documentation, preferably the original, of all legal process conducted and all compliance with same, especially those documents related to the issue of jurisdiction and identification of suspect(s).

8.10 Law enforcement transfers of evidence containing *Contraband Images* shall be done in a secure manner.

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**9. Work Environment and Equipment**

- 9.1 *Investigations* shall be conducted in an approved work environment, using approved *Equipment*, as designated by a *Commander* or *Supervisor*.
- 9.2 *Commanders* and *Supervisors* are encouraged to provide a work environment that provides for discreet and sensitive *Investigations* while simultaneously minimizing chances of inadvertent or unnecessary exposure to *Contraband Images*.
- 9.3 ICAC *Equipment* shall be reserved for the exclusive use of its *Members*, and shall be used in accordance with these *Standards* and with their respective agency's policies.
- 9.4 When practicable, *Equipment* which may be used in undercover aspects of an *Investigation* shall be purchased covertly.
- 9.5 No personally-owned equipment, accounts or networks shall be used in *Investigations*.
- 9.6 Software shall be properly acquired and licensed.

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**10. Victim Identification**

10.1 Identifying child victims of *Crime* is a critical element of the *ICAC Program*. *DOJ* and *OJJDP* require the *Lead* and *Affiliate Agencies* to submit *Contraband Images* to CVIP as a means to improve child victim identification. Absent exigent circumstances, *Contraband Images* shall be sent to CVIP pursuant to NCMEC's standards regarding same. In addition, *Lead* and *Affiliate Agencies* are encouraged to collaborate with NCMEC in their effort to identify children depicted in *Contraband Images*.

10.2 Absent exigent circumstances, victim-identifying information shall be protected from public disclosure pursuant to the protections set forth in federal and state law.

10.3 *Lead* and *Affiliate Agencies* shall adhere to local, state, and federal laws, as well as their agency's policies regarding mandated reporting, victim notification, and victim assistance.

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**11. Public Awareness and Community Outreach**

11.1 Public awareness activities and community outreach are a critical component of the *ICAC Program*. *Lead* and *Affiliate Agencies* shall foster awareness and shall provide practical relevant guidance to children, parents, educators, and others concerned with child safety.

11.1.1 Social media can be used to promote educational awareness as long as it is consistent with all agency policy and these *Standards*.

11.2 Presentations to school personnel, parents, and community groups are excellent ways to promote awareness. These presentations shall not include any visual depiction of a victim unless the victim has consented to its use and the victim is currently at least 18 years of age. No *Contraband Image* shall be used in these presentations nor shall a presenter discuss confidential *Investigative* tools and techniques.

11.3 No individual affiliated with *ICAC Program* may speak on behalf of the national *ICAC Program* without the express written consent of *OJJDP*. While making public presentations, *Members* may indicate a preference for a product or service, but, when done, shall avoid an implicit endorsement and shall include alternatives in the presentation.

11.4 Materials and presentations shall be consistent with the *ICAC Program's* mission and background, as enumerated in Section 2 of these *Standards*.

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**12. Media Relations and Media Releases**

12.1 Media releases relating to prosecutions, *Crime* alerts, or other matters concerning ICAC operations shall not include information regarding confidential *Investigative* techniques, and shall be coordinated, when applicable, with the law enforcement agencies involved with the subject *Investigations*, in a manner consistent with sound information management and sound media relations practices.

12.2 *Commanders* and *Supervisors* may speak to members of the media about their own agency's ICAC-related activities per the terms of their agency's policy on such media relations. No individual affiliated with *ICAC Program* may speak on behalf of the national *ICAC Program* without the express written consent of *OJJDP*.

12.3 *Commanders* shall inform their *OJJDP* Program Manager if approached by national media outlets about the national *ICAC Program* (as opposed to media seeking information from a particular *Task Force* about its local activities) so that a coordinated national response can be prepared by *OJJDP*.

12.4 Information provided by *Task Forces* to the media shall be consistent with *ICAC Program's* mission and background, as described in Section 2 of these *Standards*.

**End of ICAC Standards**



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21, 2019  
**PREPARATION DATE:** May 17, 2019  
**SUBMITTING DEPARTMENT:** Public Works – Cemetery  
**DEPARTMENT DIRECTOR:** Mitch Bitz  
**PRESENTER:** Mitch Bitz – Director of Public Works  
**SUBJECT:** Consider amending the 2019 Cemetery Budget

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STATEMENT/PURPOSE: To consider amending the 2019 Cemetery budget by transferring funds from the cash reserve account to the 2019 Cemetery budget

BACKGROUND/ALTERNATIVES: Currently the Cemetery Building does not have closed circuit surveillance cameras in place. Staff is requesting a budget amendment to allow for the purchase and installation of cameras in the building. The building is often times left unsecured and unattended during the day to allow patrons to utilize the restroom facilities while visiting the cemetery. Staff is usually on site at the Cemetery, however not immediately available to supervise the facility. We are requesting a budget amendment by transferring funds from the Cemetery cash reserve account to the 2019 Cemetery Operations and Maintenance Budget

ATTACHMENTS: N/A

FISCAL IMPACT: \$5,000 transferred from 208.208.11012 to 208.208.59215

STAFF IMPACT: Staff will coordinate with camera vendor

LEGAL REVIEW: Attorney Brown has reviewed these documents

RECOMMENDATION: To transfer \$5,000 from the Cemetery reserve account to the 2019 Cemetery operating budget

SUGGESTED MOTION: I make a motion to transfer \$5,000 from the Cemetery reserve account to the 2019 Cemetery operating budget



New Business No. 1

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21<sup>th</sup>, 2019  
**PREPARATION DATE:** May 16<sup>st</sup>, 2019  
**SUBMITTING DEPARTMENT:** Police Department  
**DEPARTMENT DIRECTOR:** Chief Jason Ziegler  
**PRESENTER:** Chief Jason Ziegler  
**SUBJECT:** Presentation of tip411

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STATEMENT/PURPOSE: To inform the Mandan City Commission of the new tip411 program the Police Department will be implementing.

BACKGROUND/ALTERNATIVES: The Mandan Police Department will soon begin using a program called tip411 which allows the public to text tips and also can be used by the Police Department to alert the public of important information via texts. The program utilizes a downloadable application which is free to the public.

ATTACHMENTS: Brochure and flyer

FISCAL IMPACT: \$4800.00 for 2 year contract

STAFF IMPACT: Police Department personnel will use the program to assist in daily operations.

LEGAL REVIEW: N/A

RECOMMENDATION: N/A

SUGGESTED MOTION: N/A



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21, 2019  
**PREPARATION DATE:** May 21, 2019  
**SUBMITTING DEPARTMENT:** Engineering & Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** Justin Froseth, Planning & Engineering Director  
**SUBJECT:** 19<sup>th</sup> Street Trail Engineering Service Agreement Addendum #2

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**STATEMENT/PURPOSE:** To consider Addendum #2 to our Engineering Service Agreement with Stantec for Construction Engineering related to the 19<sup>th</sup> Street Trail, Phase I project.

**BACKGROUND/ALTERNATIVES:** Following the award of the project, previously on this agenda, the Engineering Department recommends that we agree to an Addendum to our contract with Stantec for Construction Engineering (aka, inspection) services for this project.

**The below is from a prior meeting for more background:**

All three entities; Parks, School and City have heard concerns from many nearby residents about the absence of a trail and safe crossing from neighborhoods along 19<sup>th</sup> Street to the west of Ft. Lincoln School. That concern is backed by the Safe School Safety Crossing Study completed last year. Within that study, it was recommended that a multi-use path be extended from the school's west termination of sidewalk to Macedonia Avenue SE.

**ATTACHMENTS:**

1. Phase I Project Limits
2. Picture of a typical RRFB
3. Engineering Service Agreement Addendum #2 with Scope and Fee
4. Revised Cost Estimate Breakdown

**FISCAL IMPACT:** We have an agreement with both the Park and Rec. district as well as the School district to split the cost evenly among us for Phase I. After bid, the estimate is near \$39K for each entity's local share. This is a little lower than the approximately \$41K for each entity agreed to last summer. The city's portion would come from the sales

Board of City Commissioners

Agenda Documentation

Meeting Date: May 21, 2019

Subject: 19<sup>th</sup> Street Trail Engineering Service Agreement Addendum #2

Page 2 of 11

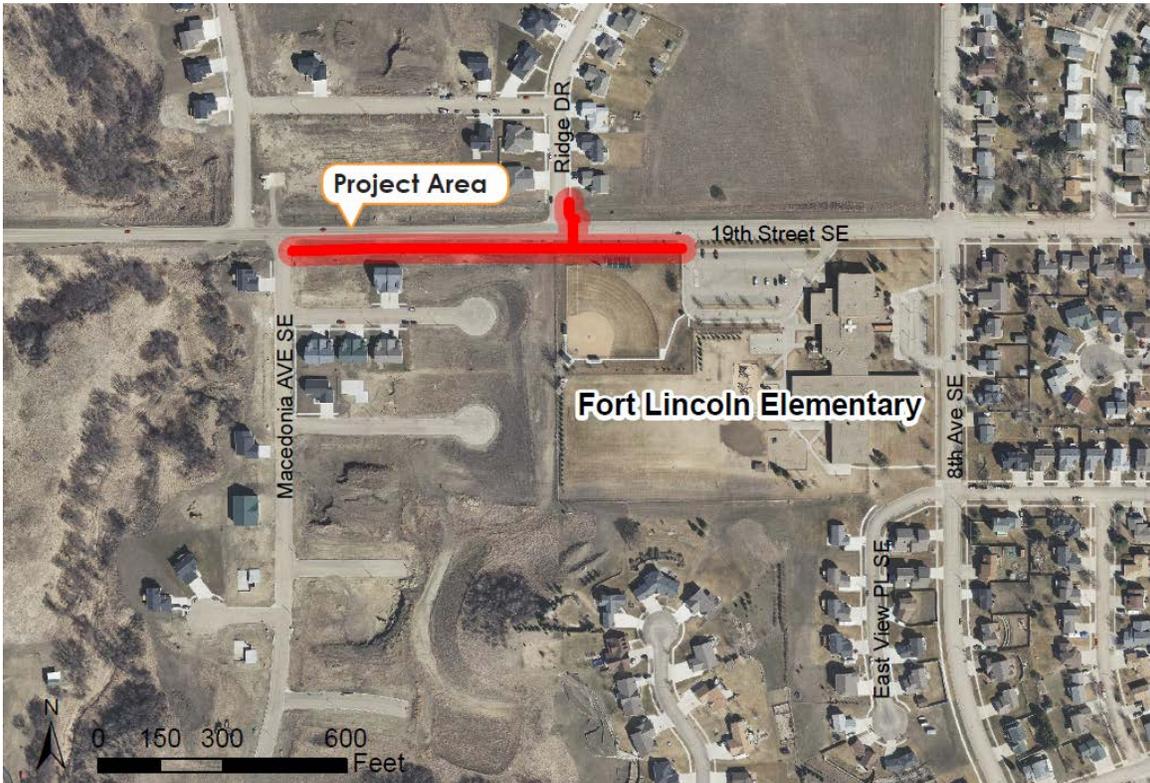
tax fund and has already been budgeted. This addendum amount is for a total of \$23,250 and is within the amount expected for these services.

STAFF IMPACT: Minimal

LEGAL REVIEW: The City Attorney reviewed and replied with no issues.

RECOMMENDATION: Approve the Engineering Service Agreement Addendum with Stantec.

SUGGESTED MOTION: Move to approve Addendum #2 to the Engineering Service Agreement with Stantec to include Construction Engineering Services for the 19<sup>th</sup> Street Trail, Phase I project.



Below in an example RRFB. The actual unit may vary slightly.





May 20, 2019

File: 193804149

Justin Froseth, PE  
Planning and Engineering Director  
City of Mandan  
205 2<sup>nd</sup> Avenue NW  
Mandan, ND 58554

**Reference: Contract Addendum No. 2 - 19<sup>th</sup> Street SE Trail Connection in Mandan, ND – Construction Observation – TAU-1-988(430)**

Dear Mr. Froseth

#### **BACKGROUND INFORMATION**

The City of Mandan in partnership with the Mandan School District and the Mandan Park District acquired Stantec Consulting Services Inc. (Stantec) services to complete the following work:

- Develop and submit a Transportation Alternatives (TA) Grant Application to connect a trail from Macedonia Avenue to the existing shared use path on the Ft. Lincoln Elementary School site along with a HAWK Beacon at the intersection of 19<sup>th</sup> Street SE and Ridge Drive SE. The grant application was developed based on the recommendation of the School Safety Crossing Study that Stantec completed as part of a project for the Bismarck-Mandan MPO. The City of Mandan was notified in June 2018 that the project was awarded TA grant funds.
- Develop preliminary engineering concepts to extend the trail along the south side of 19<sup>th</sup> Street SE west of Macedonia Avenue to County Road 6. This work included developing a minimum of two concepts and assisting with a public input meeting to share the information and gain feedback from the public. This work allowed the City to identify a preferred trail alignment/typical section based on preliminary impacts identified and the functionality of the rural drainage ditch along the south side of 19<sup>th</sup> Street SE.
- Complete design survey for the TA grant project that will meet NDDOT survey manual standards as the project will be designed per NDDOT design guidelines. The limits of the survey will be inclusive of designing and constructing the improvements proposed as part of the TA grant application.
- Obtain the necessary environmental clearances, including the preparation of an Environmental Document and corresponding public input meetings.
- Complete project design plans and specification per NDDOT guidelines as outlined in the 2016 NDDOT Local Government Manual, NDDOT Design Manual and MUTCD.

This work is now complete, and the City of Mandan has requested a quote from Stantec to amend the existing contract to complete project development through final construction of the project that received Transportation Alternative Grant funding for 2019. This project includes a new 10-foot wide shared use path trail connection along the south side of 19<sup>th</sup> Street SE connecting the existing shared use path on the Ft. Lincoln Elementary School Site to the intersection of Macedonia Avenue



SE. The length of this trail connection is 970-feet. The project also includes the installation of a signed and marked crosswalk and a two-headed Rectangular Rapid Flashing Beacon (RRFB) at the intersection of Ridge Drive SE and 19<sup>th</sup> Street SE. The combination of the trail connection and the RRFB will allow new neighborhoods (north and south of 19<sup>th</sup> Street SE and west of 8<sup>th</sup> Avenue SE) a protected crossing and shared use path connection to Ft. Lincoln Elementary

#### SCOPE OF WORK

Construction engineering services will be provided to verify that the contractor's work is performed in general conformance with the governing specifications, plans, and special provisions. The following documents will be used in the administration of the project:

- Contract Documents for Project No. TAU-1-988(043)
- North Dakota Department of Transportation Standard Specifications for Road and Bridge Construction, 2014 Edition, and current Supplementary Specifications.

Stantec will conduct one preconstruction conference, participate in weekly project progress meetings and provide weekly updates to the client regarding progress, and upcoming work as described herein. Stantec will perform the necessary construction engineering work including on-site observation in accordance with the contractor's schedule, quantity measurements, preparation of interim and final contract payments, and computation of final pay quantities. Construction observation shall include observation of the contractor's progress, verify that the contractor is in general conformance with the contract, the project plans, and specifications. Contract administration including shop drawing review, project documentation and record keeping will be provided by Stantec.

Stantec will complete the following scope of work tasks as outlined below for project development through final design for the project that received TA grant funds for 2019:

#### Task 1: Construction Administration

##### **Project Management & Coordination**

Stantec will manage the project and provide overall coordination of the work completed by the construction engineering team. This work shall consist of managing work assignments, internal team meetings, client coordination, project budget and schedule.

##### **Project initiation & Shop Drawing Review**

Includes time for the construction staff to review plans, setup the record keeping system and create a work plan. Also includes shop drawing review, equipment reviews and the equipment review meeting.

##### **Pre-Construction Conference**

Prepare for, conduct and prepare minutes for one pre-construction conference.

##### **Weekly Records**

Maintain a daily diary of construction activities throughout the duration of the project. Take photographs of the project throughout the duration of the project and maintain a file of photographs taken.



#### **Construction Automated Records System (CARS) Entry**

Stantec will keep appropriate project records in the NDDOT CARS system. These will include the project diary, pay quantities, pay estimates, progress reports, change orders, construction status, contract adjustment and final checklist.

#### **Final Records and Record Drawings**

Contract administration and project documentation will be according to established NDDOT construction procedures, as outlined in the Construction Records Manual. Major tasks will include weekly progress reports, progressive payment for work complete, pay reports, general change orders and final records assembly and submittal. Final records will include verifying all quantities for accuracy, completing all necessary final documents forms as listed on the NDDOT Final Checklist, completing record drawings, packaging and delivering final documents to the District office.

#### **Final Inspection**

Prepare for, conduct and prepare minutes of the final inspection

#### **Task 2: Construction Observation**

Stantec will provide construction engineers and technicians to verify that the contractor is in conformance with the contract documents as the contractor's work proceeds. The major items for each construction operation are summarized below.

#### **Removals and Excavation**

- Mark removal limits for bituminous surfacing, curb and gutter, concrete pavement, trees, riprap,

#### **Observe Installation of Temporary Traffic Control and Erosion Control**

- Confirm proper placement of temporary traffic control and erosion control devices. Verify contractors temporary traffic control operations meet the requirements of the MUTCD and monitor erosion control during the duration of the project to ensure compliance with State stormwater permit conditions.
- Document and confirm subgrade and base compaction requirements are met.
- Document and confirm gradation requirements are met for Aggregate Base Course CL 5
- Document and confirm bituminous material testing are complete and meets specifications.
- Document and confirm concrete testing are complete and meets specifications.
- Confirm backfill grade for suitable drainage and that topsoil and cover crop are installed in relation to the project specifications.



- Confirm locations of permanent signs, dynamic speed display sign, and flashing beacon.
- Confirm ADA curb ramps are graded appropriately and sized to project dimensions.
- Bartlett and West will perform all construction staking services including stationing, cut and fills, sign placement and final grade checks. Staking for the trail will be completed at 50-foot intervals.
- Braun Intertec will perform all owner/agency QA testing for all materials per NDDOT requirements.

#### SCHEDULE

The contractor's completion date is August 16<sup>th</sup>, 2019. This addendum will extend Stantec's contract date to October 1, 2019. Upon completion, Stantec will provide the City of Mandan with one electronic file of all the final project documents.

#### COMPENSATION

We propose to be compensated on an hourly basis for the actual time expended, plus Reimbursable Expenses (mileage, printing, etc.) Based on the scope of services provided within this proposal letter, the total cost for our service on this project is estimated at \$23,250. Any cost in excess of the \$23,250 will need to be requested with justification and approved by the City prior to billing. It is understood that if the scope or the extent of work is adjusted at any time, the project cost will be adjusted accordingly, upon City approval.

Supplemental Services – Defined as services authorized by the Client and performed by Stantec which are not included in Basic Services – shall be completed for compensation to be agreed upon in advance by the parties.

If you wish to proceed, please review the attached terms and conditions, and return a signed copy of this document to activate the project contract. Thank you again for the opportunity to work with you. If you have any questions, please contact me at (701)566-6020 or by e-mail at [Peggy.Harter@stantec.com](mailto:Peggy.Harter@stantec.com).

Sincerely,

**STANTEC CONSULTING SERVICES INC.**

A handwritten signature in black ink that reads "Peggy Harter".

Peggy Harter, PE  
Senior Associate  
2632 47th Street S, #103  
Fargo, ND 58104  
Phone: (701) 566-6020  
Cell: (701) 371-4167  
[Peggy.Harter@stantec.com](mailto:Peggy.Harter@stantec.com)

Attachment: Terms and Conditions



.....

STANTEC

ACCEPTED BY CLIENT:

By:   
\_\_\_\_\_  
Peggy Harter, Senior Associate

Print Name & Title: \_\_\_\_\_

Sign Name: \_\_\_\_\_

Date: May 16th, 2019

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

Board of City Commissioners  
Agenda Documentation  
Meeting Date: May 21, 2019  
Subject: 19<sup>th</sup> Street Trail Engineering Service Agreement Addendum #2  
Page 9 of 11



**PROFESSIONAL SERVICES TERMS AND CONDITIONS**

Page 1 of 2

The following Terms and Conditions are attached to and form part of a proposal for services to be performed by Consultant and together, when the CLIENT authorizes Consultant to proceed with the services, constitute the AGREEMENT. Consultant means the Stantec entity issuing the Proposal.

**DESCRIPTION OF WORK:** Consultant shall render the services described in the Proposal (hereinafter called the "SERVICES") to the CLIENT.

**DESCRIPTION OF CLIENT:** The CLIENT confirms and agrees that the CLIENT has authority to enter into this AGREEMENT on its own behalf and on behalf of all parties related to the CLIENT who may have an interest in the PROJECT.

**TERMS AND CONDITIONS:** No terms, conditions, understandings, or agreements purporting to modify or vary these Terms and Conditions shall be binding unless hereafter made in writing and signed by the CLIENT and Consultant. In the event of any conflict between the Proposal and these Terms and Conditions, these Terms and Conditions shall take precedence. This AGREEMENT supercedes all previous agreements, arrangements or understandings between the parties whether written or oral in connection with or incidental to the PROJECT.

**COMPENSATION:** Payment is due to Consultant upon receipt of invoice. Failure to make any payment when due is a material breach of this AGREEMENT and will entitle Consultant, at its option, to suspend or terminate this AGREEMENT and the provision of the SERVICES. Interest will accrue on accounts overdue by 30 days at the lesser of 1.5 percent per month (18 percent per annum) or the maximum legal rate of interest. Unless otherwise noted, the fees in this agreement do not include any value added, sales, or other taxes that may be applied by Government on fees for services. Such taxes will be added to all invoices as required.

**NOTICES:** Each party shall designate a representative who is authorized to act on behalf of that party. All notices, consents, and approvals required to be given hereunder shall be in writing and shall be given to the representatives of each party.

**TERMINATION:** Either party may terminate the AGREEMENT without cause upon thirty (30) days notice in writing. If either party breaches the AGREEMENT and fails to remedy such breach within seven (7) days of notice to do so by the non-defaulting party, the non-defaulting party may immediately terminate the Agreement. Non-payment by the CLIENT of Consultant's invoices within 30 days of Consultant rendering same is agreed to constitute a material breach and, upon written notice as prescribed above, the duties, obligations and responsibilities of Consultant are terminated. On termination by either party, the CLIENT shall forthwith pay Consultant all fees and charges for the SERVICES provided to the effective date of termination.

**ENVIRONMENTAL:** Except as specifically described in this AGREEMENT, Consultant's field investigation, laboratory testing and engineering recommendations will not address or evaluate pollution of soil or pollution of groundwater.

**PROFESSIONAL RESPONSIBILITY:** In performing the SERVICES, Consultant will provide and exercise the standard of care, skill and diligence required by customarily accepted professional practices normally provided in the performance of the SERVICES at the time and the location in which the SERVICES were performed.

**LIMITATION OF LIABILITY:** The CLIENT releases Consultant from any liability and agrees to defend, indemnify and hold Consultant harmless from any and all claims, damages, losses, and/or expenses, direct and indirect, or consequential damages, including but not limited to attorney's fees and charges and court and arbitration costs, arising out of, or claimed to arise out of, the performance of the SERVICES, excepting liability arising from the sole negligence of Consultant. It is further agreed that the total amount of all claims the CLIENT may have against Consultant under this AGREEMENT, including but not limited to claims for negligence, negligent misrepresentation and/or breach of contract, shall be strictly limited to the lesser of professional fees paid to Consultant for the SERVICES or \$50,000.00. No claim may be brought against Consultant more than two (2) years after the cause of action arose. As the CLIENT's sole and exclusive remedy under this AGREEMENT any claim, demand or suit shall be directed and/or asserted only against Consultant and not against any of Consultant's employees, officers or directors.

Consultant's liability with respect to any claims arising out of this AGREEMENT shall be absolutely limited to direct damages arising out of the SERVICES and Consultant shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the CLIENT, including but not limited to claims for loss of use, loss of profits and/or loss of markets.

**INDEMNITY FOR MOLD CLAIMS:** It is understood by the parties that existing or constructed buildings may contain mold substances that can present health hazards and result in bodily injury, property damage and/or necessary remedial measures. If, during performance of the SERVICES, Consultant knowingly encounters any such substances, Consultant shall notify the CLIENT and, without liability for consequential or any other damages, suspend performance of services until the CLIENT retains a qualified specialist to abate and/or remove the mold substances. The CLIENT agrees to release and waive all claims, including consequential damages, against Consultant, its subconsultants and their officers, directors and employees arising from or in any way connected with the existence of mold on or about the project site whether during or after completion of the SERVICES. The CLIENT further agrees to indemnify and hold Consultant harmless from and against all claims, costs, liabilities and damages, including reasonable attorneys' fees and costs, arising in any way from the existence of mold on the project site whether during or after completion of the SERVICES, except for those claims, liabilities, costs or damages caused by the sole gross negligence and/or knowing or willful misconduct of Consultant. Consultant and the CLIENT waive all rights against each other for mold damages to the extent that such damages sustained by either party are covered by insurance.

Board of City Commissioners  
Agenda Documentation  
Meeting Date: May 21, 2019  
Subject: 19<sup>th</sup> Street Trail Engineering Service Agreement Addendum #2  
Page 10 of 11



**DOCUMENTS:** All of the documents prepared by or on behalf of Consultant in connection with the PROJECT are instruments of service for the execution of the PROJECT. Consultant retains the property and copyright in these documents, whether the PROJECT is executed or not. These documents may not be used for any other purpose without the prior written consent of Consultant. In the event Consultant's documents are subsequently reused or modified in any material respect without the prior consent of Consultant, the CLIENT agrees to defend, hold harmless and indemnify Consultant from any claims advanced on account of said reuse or modification.

Any document produced by Consultant in relation to the Services is intended for the sole use of Client. The documents may not be relied upon by any other party without the express written consent of Consultant, which may be withheld at Consultant's discretion. Any such consent will provide no greater rights to the third party than those held by the Client under the contract, and will only be authorized pursuant to the conditions of Consultant's standard form reliance letter.

Consultant cannot guarantee the authenticity, integrity or completeness of data files supplied in electronic format ("Electronic Files"). CLIENT shall release, indemnify and hold Consultant, its officers, employees, Consultant's and agents harmless from any claims or damages arising from the use of Electronic Files. Electronic files will not contain stamps or seals, remain the property of Consultant, are not to be used for any purpose other than that for which they were transmitted, and are not to be retransmitted to a third party without Consultant's written consent.

**FIELD SERVICES:** Consultant shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with work on the PROJECT, and shall not be responsible for any contractor's failure to carry out the work in accordance with the contract documents. Consultant shall not be responsible for the acts or omissions of any contractor, subcontractor, any of their agents or employees, or any other persons performing any of the work in connection with the PROJECT. Consultant shall not be the prime contractor or similar under any occupational health and safety legislation.

**GOVERNING LAW/COMPLIANCE WITH LAWS:** The AGREEMENT shall be governed, construed and enforced in accordance with the laws of the jurisdiction in which the majority of the SERVICES are performed. Consultant shall observe and comply with all applicable laws, continue to provide equal employment opportunity to all qualified persons, and to recruit, hire, train, promote and compensate persons in all jobs without regard to race, color, religion, sex, age, disability or national origin or any other basis prohibited by applicable laws.

**DISPUTE RESOLUTION:** If requested in writing by either the CLIENT or Consultant, the CLIENT and Consultant shall attempt to resolve any dispute between them arising out of or in connection with this AGREEMENT by entering into structured non-binding negotiations with the assistance of a mediator on a without prejudice basis. The mediator shall be appointed by agreement of the parties. If a dispute cannot be settled within a period of thirty (30) calendar days with the mediator, if mutually agreed, the dispute shall be referred to arbitration pursuant to laws of the jurisdiction in which the majority of the SERVICES are performed or elsewhere by mutual agreement.

**ASSIGNMENT:** The CLIENT and Consultant shall not, without the prior written consent of the other party, assign the benefit or in any way transfer the obligations under these Terms and Conditions or any part hereof.

**SEVERABILITY:** If any term, condition or covenant of the AGREEMENT is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of the AGREEMENT shall be binding on the CLIENT and Consultant.

**19th Street Trail Cost Estimate Breakdown**

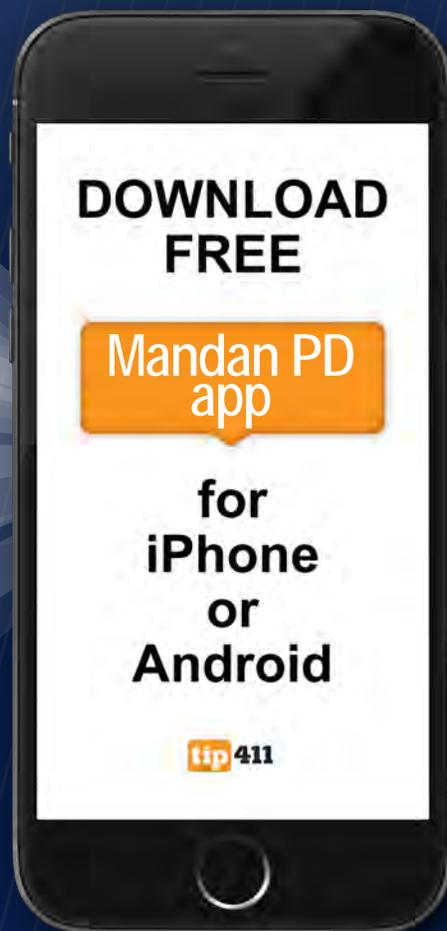
<b>Item</b>	<b>Phase 1</b>
Construction Bid	\$ 155,280.25
Preliminary Engineering	\$ 1,794.00
Design Engineering	\$ 39,500.00
Construction Engineering	\$ 23,292.04
Total Project	\$ 219,866.29
TA Grant Awarded	\$ 102,198.61
(80.93% of Participating Items)	
Total Local Cost	\$ 117,667.68
1/3 of Total Local Cost	\$ 39,222.56

<b>Item</b>	<b>Phase 2</b>
TA Grant application	\$ 2,000.00
Construction	\$ 436,043.27
Preliminary Engineering	\$ 8,206.00
Design Engineering	\$ 65,406.49
Construction Engineering	\$ 65,406.49
Total Project	\$ 577,062.25
Phase II TA Grant	\$ 290,000.00
Total Local Cost	\$ 287,062.25

**tip 411**

# HELP FIGHT CRIME.

Send an anonymous tip to Mandan Police. Text keyword **MANDANPD** to 847411, add a space, type in your tip information, and hit send.



A service of  
***Mandan Police Department***





**FIGHTING CRIME IS A PARTNERSHIP**

The public is our greatest crime fighting resource, and we hope that residents will use tip411 to share important information about suspicious activity, drugs, domestic violence, and other crimes to help make a safer place for all who live, work, and visit in our community.

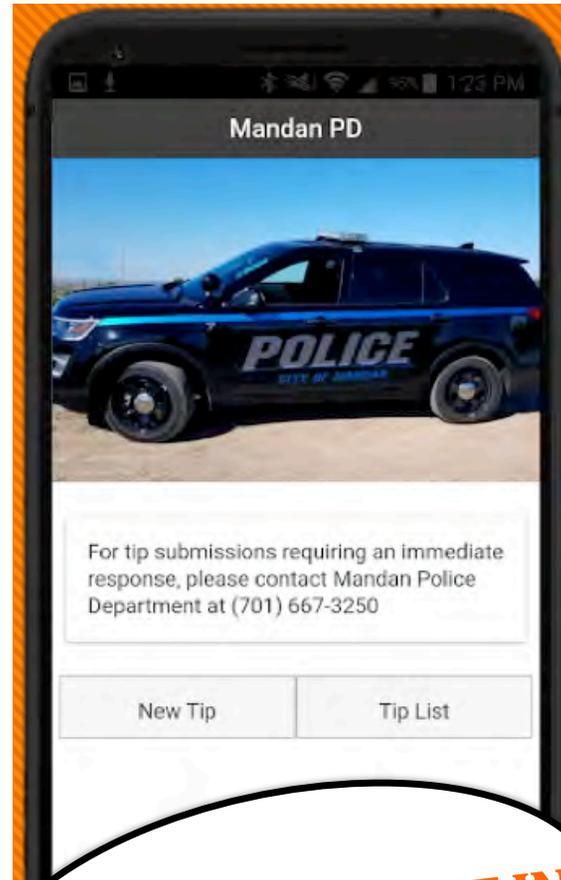
## **ALWAYS Call 9-1-1 in an Emergency**

Please remember that tip411 is not meant for emergencies, or even in the urgent need of police assistance. Always call 9-1-1 for all emergency situations.

tip411 is for providing information after a crime has occurred or to let us know about on-going issues in your neighborhood.



205 1st Ave NW  
Mandan, ND 58554-3162  
Non-Emergency Phone: 701-667-3250



**HELP FIGHT CRIME IN  
YOUR COMMUNITY**

**Mandan Police  
Department  
tip411 Anonymous  
Tip Program**

# 100% Anonymous

Send anonymous tips to police about crime, drugs, bullying, suspicious activity, and more via text message or a free smartphone app.



## What Is tip411?

The Mandan Police Department utilizes tip411, a popular crime-fighting tool that has been used successfully to reduce crime and drug use in over 1,500 communities across the U.S.

We know that people may sometimes be afraid to call police with information, but when using tip411, the system removes all your identifying information and officers don't receive anything about you – not your name, not your phone number, not your address, *nothing*.

## How Do I Use It?

### 1. Send Anonymous Text Tips

Send a text message to **847411**, then type the keyword **MANDANPD**, add a space, type your tip info, and hit send.

### 2. Submit Anonymous Tips Using FREE Smartphone App

Download free **Mandan PD** app for iPhone and Android to submit anonymous tips from a smartphone.

### 3. Use Anonymous Web Tip Form on Your Computer

Visit our website at [www.MandanPD.com](http://www.MandanPD.com)



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 14, 2019  
**PREPARATION DATE:** May 21, 2019  
**SUBMITTING DEPARTMENT:** Administration  
**DEPARTMENT DIRECTOR:** Jim Neubauer, City Administrator  
**PRESENTER:** Jim Neubauer, City Administrator  
**SUBJECT:** New Class E Corporation Liquor License

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STATEMENT/PURPOSE: All new Class E liquor licenses must be approved by the Board of City Commissioners at time of application.

BACKGROUND/ALTERNATIVES: The application has been received and background checks have been run with no issues at this time. Also fees will be collected once approved.

ATTACHMENTS: Application is attached with further information in finance department.

FISCAL IMPACT: \$208.33 is the fee for the Class E liquor license for June 1, 2019 to June 30, 2019.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Approval contingent upon the establishment meeting all Fire Code, Health & Safety Code, and Building Inspections Codes and all property taxes paid. Cody Stern and Curtis Miller plan to open the door for Old Ten Bar & Grill, LLC sometime in June.

SUGGESTED MOTION: I would ask that the board approve a new Class E liquor license for Old Ten Bar & Grill, LLC at 417 E. Main Street. Contingent upon the establishment meeting all Fire Codes, Health & Safety Code, Building Inspection Codes and all property taxes and fees are paid.



6. List names, current addresses, dates of birth, ages and citizenship of all the officers, directors, managers, agents, and all persons holding 1% or more of the capital stock in the corporation (may attach). **Note: A separate notarized list of each individual's name, social security number and addresses for the last five years is required, the privacy of which will be maintained by the City, but is required for background checks:**

AHAU MILLER 3677 PALOMINO DR. MANDAN - ) - US Citizen  
 CODY STERN 1509 CANYON RD SW - MANDAN - ) - US Citizen  
 CURTIS MILLER 6873 23<sup>rd</sup> STS FARGO, ND - ) - US Citizen  
 NATHAN WOLF 3130 <sup>Link</sup> ~~Link~~ DR. BISMARCK ND (34)  
 Virginia Miller 703 Canyon Rd SW Mandan ND (75) US citizen

7. List names, current addresses, dates of birth, ages & citizenship of all persons who will have charge, management or control of the establishment for which the license is requested (may attach). **Note: A separate notarized list of each individual's name, social security number and addresses for the last five years is required, the privacy of which will be maintained by the City, but is required for background checks:**

See Attached

8. Name of the individual who is to be in charge of the day-to-day operations and management of the licensed premises and will be responsible for complying with the municipal ordinances and state laws covering the operation of the premises:

Name: NATHAN WOLF Address: 3130 <sup>Link</sup> ~~Link~~ DR. BISMARCK, ND 58503  
 City: BISMARCK State: ND Age:      DOB:      Citizenship:     

If naturalized, give date and place of naturalization:     

List all other places of residence within the last five years: 1509 14<sup>th</sup> ST S. FARGO,  
ND 58103

9. List the occupations and employers of each of the individuals listed in answer to questions 6, 7 and 8 during the last five years. **Use a separate page to answer this question.**

10. Ownership/Lease: If the licensed premises is owned by the applicant, provide date of purchase.

See Attached

If licensed premises is leased, attach copy of executed and dated Lease.

11. Does Applicant certify that all property taxes have been paid to date on the licenses premises?

Yes  No

12. Have any of the individuals identified in answer to Questions 6, 7, and 8 ever engaged in the sale or distribution of alcoholic beverages (as an owner, manager, or employee) at a location other than in the City of Mandan at any time prior to this application. Yes:  No:  **If yes, explain in detail on a separate page location, type of business and dates of license or employment.**

*see attached*

13. Have any of the individuals identified in answer to Questions 6, 7 and 8 ever had a license of any kind (including alcoholic beverage license, other business licenses or motor vehicle license) suspended, revoked or non-renewed by any political subdivision, state or federal agency. Yes:  No:  **If yes, explain in detail on a separate page.**

*CM*

14. Have any of the individuals identified in answer to Questions 6, 7 and 8 ever been convicted of a violation of any law of the United States, or of any state or political subdivision other than minor traffic violations, (but including reckless driving or driving under the influence). Yes  No  **If yes, explain the violation in detail on a separate page.**

15. Do any of the individuals named in answer to Questions 5, 6 or 7 have any interest whatsoever in any other liquor establishment, either at wholesale or retail, within or without the state of North Dakota. (The interest which must disclose also includes a right of inheritance by law or by will). Yes  No  **If, yes please explain in detail on a separate page.**

16. Does anyone other than the Corporation applying for this alcoholic beverage license or the business owing the premises have any right, estate, or interest in the lease hold building or furniture, fixtures or equipment, in the premises for which the license is requested. Yes  No  **If yes, explain in detail on a separate page.**

17. Does the Corporation applying for this alcoholic beverage license have any agreement, contract, understanding or intention to have any agreement, contract or understanding, with any person, partnership, or corporation to obtain for any other person, partnership or corporation, or to transfer to any other person, partnership or corporation the license for which this applications is made or to obtain for any other person partnership or corporation, for any other purpose other than for the specified use of the applicant. Yes  No  **If yes, explain in detail on a separate page.**

18. Does the Corporation applying for this license or the person, partnership or corporation owing the premises named herein, engage in any business other than that for which the license is sought or intending to engage in any business other than for the sale of alcoholic beverages under the license for which this application is made. Yes:  No:  **If yes, explain, in detail on a separate page giving the type of business and identification of any and all owners.**

19. List the names and addresses of all officers, directors and stockholders of the Corporation who are engaged or employed in a capacity in the conduct or operation of the business at which the alcoholic beverage license is to be used.

*See attached*

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20. The corporation must have a valid Certificate of authority issued by the North Dakota Secretary of state and a valid Alcoholic Beverage License issued by the ND Attorney General's Office. **A copy of the Certificate of Authority and ND Alcoholic Beverage License must be attached hereto.**

21. List the names, addresses of at least 3 business references. \_\_\_\_\_

McQuade Distributing 1150 Industrial Dr Bismarck (Justin  
Barnhardt)  
Pro Build 1513 39th Ave SE Mandan (Preston Schneider)  
Allied Building 3300 Rock Island Place Bismarck (Justin Steel)

22. Does the building or structure in which the business is to be conducted meet all applicable state and local building, health and zoning regulations and requirements? Yes  No \_\_\_ Applicant must attach certifications of compliance from each state and/or local agency or department responsible for building, health and zoning regulations.

23. List all the names of individuals who are authorized to make purchases for the business at which the license is to be used and located.

Curtis Miller, Cody Stern, Allan Miller, Nathan Wolf,  
Virginia Miller

**Note: These individuals must submit their names, current address and social security numbers on the forms which will protect their rights of privacy, but allow the appropriate police department background checks to be done. If not attached, the application will be deemed incomplete.**

24. List the names of all individuals who are authorized to sign checks used to pay the payroll and expense bills of the business at which the license is to be used.

Curtis Miller, Cody Stern, Allan Miller, Nathan Wolf,  
Virginia Miller

STATE OF NORTH DAKOTA )  
 ) ss. Affidavit of Application Completeness and Accuracy,  
 ) Sworn Statement of Conditions of Licensure,  
COUNTY OF MORTON ) and Agreement to Right of Entry of City Personnel

I, Curtis Miller, having been sworn and under oath, state that I am a duly authorized officer or director, namely Vice President, of the above named corporation which hereby applies for the above referenced alcoholic beverage license in the City of Mandan, and I do hereby certify that the above information is true and correct to the best of my knowledge and beliefs.

I do further certify that said corporation and its officers, directors and employees will abide by the provisions of Chapter 4 of the Mandan Code of Ordinances and any amendments thereto, as well as all applicable laws of the State of North Dakota, and the United States Government and that said Corporation, its officers, directors and employees will not permit the violation of any law, rule or regulation on the premises at which the license is authorized. I further certify that the corporation, its officers and directors acknowledge that this license will only authorize the retail sale of liquor, including beer, wine and other spirits as defined by the North Dakota Century Code, at the premises designated in this application and depicted on the attached diagram.

I do further certify and affirm on behalf of the corporation, its officers, directors and employees that the corporation will not sell or permit the sale of alcoholic beverages to a minor, incompetent person, or anyone who is under the influence or an habitual drunkard and that I will accept any penalty including, suspension or revocation of license for any violation of said prohibited sales.

I do further certify and affirm that the applicant corporation, its officers and directors understand and acknowledge that any license granted under this application confers no property right to the applicant or licensee, and that said license will not be transferable except by specific authority of the Mandan Board of City Commissioners.

I do further certify and affirm that the applicant corporation, its officers, directors and employees do hereby consent to the entry of any city official (including administrative, building, zoning health and fire officials) and its police officers upon the premises described herein at any hour of the day or night and that they shall have free access to the described premises and every part thereof for the purpose of inspecting the premises and the records of this applicant relating to the operation of the premises, and purchase and sale of alcoholic beverages. I further certify and affirm that the corporation, its officers, directors and employees do hereby waive any and all rights that they may have under the Constitution of the United States and the State of North Dakota, relative to searches and seizures without issuance of a search warrant, and the applicant does hereby agree that such immunities shall never be claimed by them, and that such entry, inspection, search and seizure may be made at any time without a search warrant, which waiver of rights is acknowledged to be a condition of licensure.

Dated at Mandan, North Dakota, on this 9<sup>th</sup> day of May, 2011

By: \_\_\_\_\_  
Its:

Attest:

By: \_\_\_\_\_  
Its:



# *State of North Dakota*

## SECRETARY OF STATE



### CERTIFICATE OF ORGANIZATION OF

OLD TEN BAR & GRILL LLC  
Secretary of State ID#: 45,889,800

The undersigned, as Secretary of State of the State of North Dakota, hereby certifies that Articles of Organization for

OLD TEN BAR & GRILL LLC  
duly signed and executed pursuant to the provisions governing a North Dakota LIMITED LIABILITY COMPANY, have been received in this office and are found to conform to law.

**ACCORDINGLY** the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues this Certificate of Organization to

OLD TEN BAR & GRILL LLC

Effective date of organization: September 25, 2018

Issued: September 25, 2018

A handwritten signature in cursive script that reads "Alvin A. Jaeger".

Alvin A. Jaeger  
Secretary of State

Question 19

Cody Stern – President

Curtis Miller – Vice President

Allan Miller – Vice President

Nathan Wolf – Vice President

Virginia Miller – Treasurer

## Question 12

Nathan Wolf worked at JL Beers from from 2009-2019 as a general manager and then a area manager. JL Beers is a craft beer and burger restaurant.

Curtis Miller worked at JL Beers from 2012-2019 as a general manager and then as an area manager. JL Beers is a craft beer and burger restaurant. Previous to that he was the General Manager of Joe Blacks Bar & Grill in Grand Forks. He was employed there from 2006-2012.

Name	Occupation	Employer
Nathan Wolf	Area Manager	JL Beers
Curtis Miller	Area Manager	JL Beers
Allan Miller	Owner	Anyleaks
Cody Stern	Owner	Anyleaks
Virginia Miller	Accounting	Anyleaks

Question 16

West River Properties is the owner of the building and is leasing to Old 10. West River is owned by Cody Stern and Allan Miller.

Cody - 426-6313

Cent 202-0460



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21<sup>st</sup>, 2109  
**PREPARATION DATE:** May 14<sup>th</sup>, 2019  
**SUBMITTING DEPARTMENT:** Building Inspections  
**DEPARTMENT DIRECTOR:** Shawn Ouradnik, Building Official  
**PRESENTER:** Shawn Ouradnik  
**SUBJECT:** Consideration of the appeal for the denial of the building permit for the property located at 2711 6<sup>th</sup>.

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STATEMENT/PURPOSE: To appeal the decision of the Building Official to deny the permit to construct a single family residence at 2711 6th Ave N Mandan, ND Legal Description Canyon of the Willows Addition Block 1 Lot 1. The denial was based on Mandan municipal code Section. 111-2-10. - Building construction rules.

(2) A building permit will not be issued until street curb and gutter and a street surface approved by the city engineering and planning department is in place.

(6) No certificate of occupancy will be issued until completion of at least the first lift of asphalt pavement or concrete street and concrete driveway apron.

BACKGROUND/ALTERNATIVES: Mr. Goebel combine lot 8 and lot 3 Block 3 of Zachmeier's Subdivision with the intention of building a single family home. Zachmeier's Subdivision was annexed into the city in 2013 with no roads or city services in place at that time. As of now the roads and city services are still not in place but are understood to be in place at some time in the future. The road currently in place, 6<sup>th</sup> Ave North, is a gravel road and the only road through the subdivision, this property will gain access from this road. Custer Health has been in contact with Mr. Goebel and will allow a septic system to be placed on the property. The Building Official for the city of Mandan denied the building permit in writing on May 13<sup>th</sup> 2019 citing Section. 111-2-10. - Building construction rules.

(2) A building permit will not be issued until street curb and gutter and a street surface approved by the city engineering and planning department is in place.

(6) No certificate of occupancy will be issued until completion of at least the first lift of asphalt pavement or concrete street and concrete driveway apron.

of the Mandan municipal code. Mr. Goebel exercised his right to appeal on May 13<sup>th</sup> 2019 with a written letter submitted to the building inspections department. When speaking to the city Engineer and city Planner we saw no reason to not allow the construction of this single family home to be allowed. The area will be improved in the future through other projects the city will be doing. This property will be the only

Board of City Commissioners

Agenda Documentation

Meeting Date: May 21<sup>st</sup>

Subject: Appeal of the denial of the building permit for the property located at 2711 6th Ave N.

Page 2 of 2

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property gaining access off of the gravel road, 6<sup>th</sup> Ave North, at this time all the other developed properties in this subdivision gain access off of 27<sup>th</sup> to the South or 1806 to the East.

ATTACHMENTS: Denial Letter from Building Official, Appeal letter from Mr. Goebel

FISCAL IMPACT: None

STAFF IMPACT: None

LEGAL REVIEW: All materials sent to city attorney

RECOMMENDATION: To allow Mr. Goebel to construct a 1680 square foot single family home with a 1200 square foot attached garage and a 224 square foot covered entry on the property located at 2711 6th Ave N Mandan, ND with the Legal Description of Canyon of the Willows Addition Block 1 Lot 1.

SUGGESTED MOTION: I move to waive the restrictions of Mandan municipal code Section. 111-2-10. - Building construction rules. Number 2 and number 6 due to the fact that this subdivision was unimproved when annexed in 2013 and will be improved during future city projects.



"WHERE THE WEST BEGINS"

# CITY OF MANDAN

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

701-667-3215 • FAX: 701-667-3223 • [www.cityofmandan.com](http://www.cityofmandan.com)

## CITY DEPARTMENTS

ADMINISTRATION	667-3215
ASSESSING	667-3232
BUILDING INSPECTION	667-3230
BUSINESS DEVELOPMENT	667-3485
CEMETERY	667-6014
ENGINEER/PLANNING & ZONING	667-3225
FINANCE	667-3213
FIRE	667-3288
HUMAN RESOURCES	667-3217
LANDFILL	667-0184
MUNICIPAL COURT	667-3270
POLICE	667-3455
PUBLIC WORKS	667-3240
WASTEWATER TREATMENT	667-3278
SPECIAL ASSESSMENTS	667-3271
UTILITY BILLING	667-3219
WATER TREATMENT	667-3275

May 13, 2019

To:

Cam Goebel  
2590 Abbott Ln N  
Manda, ND 58554

RE: Building permit 2711 6<sup>th</sup> Ave N Mandan ND

Mr. Goebel,

We regret to inform you that your application for the building permit at 2711 6th Ave N in Mandan ND has been denied. The reason for denial is as follows:

Sec. 111-2-10. - Building construction rules.

(2) A building permit will not be issued until street curb and gutter and a street surface approved by the city engineering and planning department is in place.

(6) No certificate of occupancy will be issued until completion of at least the first lift of asphalt pavement or concrete street and concrete driveway apron.

Because 6th Ave N is an undeveloped road way we cannot issue permits for this structure at this time. If you would like to appeal the decision of this department you may do so within 30 days from the date of this written decision.

Shawn Ouradnik

City Building Official

May 13, 2019

To :

Shawn Quradnik  
City Building Official  
City of Mandan

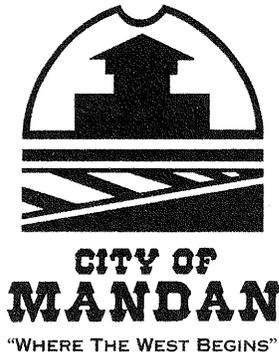
MR. Quradnik

I respectfully choose to appeal  
your findings respectful to Sec III-2-10  
Building Construction rules.

Because of ~~certain~~ circumstances  
associated with this lot and  
the steps taken to comply in  
terms of Platt preparation, septic  
and the establishment of a new  
home.

Please reconsider your decision  
in offering a building permit for  
permanent single family dwelling  
Lot 1 Block 1 Canyon of the Willows  
addition. Mandan,

Cam Larin



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** May 21, 2019  
**PREPARATION DATE:** May 16,, 2019  
**SUBMITTING DEPARTMENT:** Mandan Progress Organization (MPO)  
**DEPARTMENT DIRECTOR:** Del Wetsch  
**PRESENTER:** Del Wetsch, MPO Director  
**SUBJECT:** City Funding Requests

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**STATEMENT/PURPOSE:** To consider approval of funding from City of Mandan Grant applications. Applications reviewed by MPO subcommittee for recommendation to city commission for approval.

**BACKGROUND/ALTERNATIVES:** Organizations submitting funding request need to provide criteria of how monies are spent and the impact each event has on the community. Funding needs to add to the economic and well-being of the community and increase the quality of life for the citizens.

**ATTACHMENTS:** MPO letter from the Board of Directors submitted for the approval of the funding applications. Applications are available upon request.

**FISCAL IMPACT:** Provides organizations the ability to bring new events to the community and assists in keeping established events continued growth which allows for the benefit of betterment to the citizens of our community and its visitors. Provides a basis for economic impact on the business community and for citizens and visitors a better quality of life. Grant monies awarded are divided between 50% in Mandan Bucks and 50% check which is spent in the City of Mandan. City of Mandan budgets \$20,000 from the 1% City Sales Tax Fund.

**STAFF IMPACT:** 5 hours of prep work and meeting to review applications.

**LEGAL REVIEW:** A Funding Committee consisting of members from the MPO Board of Directors makes recommendations to the MPO Board for approval before going before the Mandan City Commission for final approval.

**RECOMMENDATION:** Accept the following applications submitted by the MPO Funding Committee and approved by the MPO Board of Directors on May 15, 2019.

**SUGGESTED MOTION:** Approve the following organizations the amounts suggested by the MPO Funding committee and approved by the MPO Board of Directors on May 15, 2019.

411 West Main Street  
Mandan, North Dakota 58554

For More Information  
701-751-2983  
[www.mandanprogress.org](http://www.mandanprogress.org)



May 15, 2019

To: Greg Welch and Board of City Commissioners

Fr: Del Wetsch MPO Executive Director

Re: City Funding Request Grants

The Mandan Progress Organization Funding Committee met on April 16th, 2019 and reviewed 15 applications submitted for assistance in funding provided by the city of Mandan's advertising budget to organizations which work toward the betterment and enhance the quality of life in the community.

The funding recommendations are based upon information supplied from the grant application provided by the MPO. Criteria are based on the following 1. Number of times applying, 2. value of the event to the community, 3. quality of the event, 4. Number of spectators event draws, 5. If event is new to the community. A point system is used to grade the event.

Each year the city sets aside \$20,000 from the city's advertising budget to promote events in the city. The sum is awarded 50% cash check and 50% in Mandan Bucks.

The MPO Board of Directors approved the applications and amount of funding on May 15<sup>th</sup> and are recommending the distribution of funding to the organizations after approval of the city commission.

See attached sheet for organizations and the amount funded for each group.

Del Wetsch

Executive Director Mandan Progress Organization

MAKING A DIFFERENCE!



## 2019 Grant Funding

	Total Points	Placement	Amount
Horse and Saddle Club	86	11	\$ 1,000
Ft. Lincoln (Custer 30th Anniversary)	103	6	\$ 1,000
Railroad Museum	79	13	\$ 500
Musician's Association	86	10	\$ 1,700
4th of July Road Race	89	9	\$ 1,000
Parade	105	4	\$ 1,000
Dacotah Speedway	100	7	\$ 2,500
OktoberFest	86	12	\$ 1,000
Main Event	127	1	\$ 2,000
Art in the Park	104	5	\$ 1,500
Mandan Rodeo	98	8	\$ 2,000
Friends of Ft. Lincoln	66	15	\$ 300
Heritage Plaza	78	14	\$ 500
Touch a Truck	112	3	\$ 1,500
Mandan Softball	117	2	\$ 2,500
			\$ 20,000



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** May 21st 2019  
**PREPARATION DATE:** May 13th 2019  
**SUBMITTING DEPARTMENT:** Public Works Department  
**DEPARTMENT DIRECTOR:** Mitch Bitz, Public Works Director  
**PRESENTER:** Mitch Bitz  
**SUBJECT:** First consideration for ordinance 1311 & 1312 for revisions to Article 4 of Chapter 16- Dutch Elm Disease, Emerald Ash Borer and other Invasive Species as well as Article 4 Chapter 115- Vegetation on Boulevards of the Mandan Municipal code.

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**STATEMENT/PURPOSE:** Ordinance numbers 1311 & 1312 is a revision to the city of Mandan Municipal code Article 4 Chapter 16- Dutch Elm Disease, Emerald Ash Borer and other Invasive Species and Chapter 115- Vegetation on Boulevards to create definitions and to amend and re-enact Sections 16-4-1(a); 16-4-4(a); 16-4-6; 16-4-8(5), (6), and (7); and to delete 16-4-8(8) and to create definitions and amend and re-enact Sections 115-4-1; 115-4-2; 115-4-4(a)(4); 115-4-4(b)(1) and (2); 115-4-5(3); 115-4-7 (a),(b),(c), and (d); and 115-4-8. These changes are to help the public understand what the responsibilities are of the property owners and the city pertaining to trees on boulevards, public right of ways and private property.

**BACKGROUND/ALTERNATIVES:** The Forestry Department deals with many phone calls about trees not only on public property, but also privately owned trees.

**Key Items:**

- Definitions needed be established at that beginning of Article 4 Section 16 and 115 to help citizens understand the terms and language that is used to help them know what they are responsible for when it comes to care and maintenance of trees within city limits.
- Adding “other invasive species” to the beginning of Section 16 gives the city the ability to declare other insects/diseases as nuisances, not just Dutch Elm Disease and Emerald Ash Borer.

- There are different methods to control different invasive species and outlining the different control methods gives the city arborist and citizens more than one method to control such nuisances. Tree removal may not be necessary to abate an invasive species and by adding these other control methods this helps keep Mandan's urban canopy.
- Trees of the genus *populous* produce "cotton filled" seed capsules, making them a nuisance within city limits due to the number of seeds they produce causing issues with HVAC systems and gutters on public and private buildings and may trigger seasonal allergies. Therefore no trees that produce cotton shall be allowed to be planted within city limits.
- Dutch elm disease has negatively affected Mandan's urban canopy especially in the areas between 14<sup>th</sup> Ave. NW to Mandan Ave and Main St. to Division St. Therefore, no trees that are not resistant to DED shall be allowed in order to help slow down/stop the spread of this disease.
- No ash trees in the genus *fraxus* shall be allowed to be planted in the anticipation of Emerald Ash Borer as there are no varieties available that are resistant to EAB.
- Section 115 needs to state that bushes and shrubs are not allowed to be planted on the boulevard due to the interference of line of sight for safe vehicular travel.
- Boulevard spacing of trees depends on the mature size of trees being planted. Adequate space needs to be allotted so trees can thrive and not compete for space and resources from neighboring trees. Proposed locations of trees need to take into consideration utilities, signs and public safety.
- Research shows that wound dressing and pruning sealer does more harm to trees that have been trimmed than good, therefore it should not be used.
- Trees on public or private property shall be trimmed 14 feet vertically from the street and 10 feet vertically from the sidewalk so as not to impede or interfere with traffic or travel.
- Trees that stand on more than one property shall be the fiscal responsibility of all properties on which the tree stands to lessen the confusion of who is responsible for care, maintenance and possible removal of tree if the tree is deemed a public safety hazard or public nuisance.
- Trees or portions of trees on private property that are deemed unsafe to life or property both public and private or constitute a public nuisance shall be abated.

This needs to be addressed because dead/hazardous trees lower the property value and increase insurance rates for the properties affected by these trees.

- Due to budgetary restraints sending all property owners certified first class letters isn't always practical. Putting a notice to be published in the official newspaper for trimming/abatement when there are a large number of violations is a better use of resources. Once written notice or publication has been given we are increasing the time that the property owner/address has to abate from ten to twenty days. This will hopefully lessen the number of abatements that the city arborist has to do.
- Abuse or mutilation of trees on the boulevard or public right of way shall not be allowed due to the harm/hazard this creates on public property and reduces harm to those when trees have to be cared for or removed.

ATTACHMENTS: Article 4 of Chapter 16- Dutch Elm Disease, Emerald Ash Borer and other Invasive Species and Chapter 115- Vegetation on Boulevards

FISCAL IMPACT: None

STAFF IMPACT: None

LEGAL REVIEW: The ordinances have been drafted by City Attorney Brown along with the Forestry Department Staff.

RECOMMENDATION: I recommend the passing Ordinance 1311 & 1312 with the revisions to Article 4 Chapter 16- Dutch Elm Disease, Emerald Ash Borer and other Invasive Species and Chapter 115- Vegetation on Boulevards to create definitions and to amend and re-enact Sections 16-4-1(a); 16-4-4(a); 16-4-6; 16-4-8(5), (6), and (7); and to delete 16-4-8(8) and to create definitions and amend and re-enact Sections 115-4-1; 115-4-2; 115-4-4(a)(4); 115-4-4(b)(1) and (2); 115-4-5(3); 115-4-7 (a),(b),(c), and (d); and 115-4-8.

SUGGESTED MOTION: I move to pass Ordinance 1311 & 1312 with the revisions to Article 4 Chapter 16- Dutch Elm Disease, Emerald Ash Borer and other Invasive Species and Chapter 115- Vegetation on Boulevards to create definitions and to amend and re-enact Sections 16-4-1(a); 16-4-4(a); 16-4-6; 16-4-8(5), (6), and (7); and to delete 16-4-8(8) and to create definitions and amend and re-enact Sections 115-4-1; 115-4-2; 115-4-4(a)(4); 115-4-4(b)(1) and (2); 115-4-5(3); 115-4-7 (a),(b),(c), and (d); and 115-4-8.

# ORDINANCE NO. 1311

An Ordinance to Amend and Re-enact  
Article 4 of Chapter 115 of the Mandan Code of Ordinances  
to create Definitions and Amend and Re-enact  
Sections 115-4-1; 115-4-2; 115-4-4(a)(4); 115-4-4 (b)(1) and (2);  
115-4-5 (3); 115-4-7 (a), (b) , (c) and (d); and 115-4-8.

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

## ARTICLE 4. – VEGETATION ON BOULEVARDS

### Definitions

1. “Abate” to remove any tree or plant that is in violation of this section.
2. “Abutting” next to/adjoining to private property.
3. “Boulevard” a set measurement of the city right-of-way from the center line of the street. Different streets within the city may have different “right-of-way” measurements. The boulevard or right-of-way may extend well beyond the sidewalk toward the house or building. This is especially true if the sidewalk is directly adjacent to the street.
4. “Commercial tree trimming” the spraying, fertilization, trimming, removal, cutting above the ground, treating or otherwise preserving of trees or shrubs for another person for hire or other valuable consideration.
5. “Control” to prevent the spread of any invasive species.
6. “Forestry department” is the designated department of the City of Mandan under whose jurisdiction the trees on street boulevards and/or rights-of-way and other public places fall.
7. “Invasive Species” non-native to the ecosystem and whose introduction causes environmental harm.
8. “Property owner” shall mean the person owning such property pursuant to state law, and is shown by the Morton County, North Dakota Recorder.
9. “Public Nuisance” any invasive species that threatens the health to trees/shrubs within the city.

**Sec. 115-4-1. – Planting in boulevards.**

No person shall plant any vegetable or other plant intended to provide food for human or animal consumption in any boulevard within the city. ~~No person shall plant any bush, shrub or trees in any boulevard without first having obtained a permit from the city forester or other city official authorized to issue such permit.~~ Planting of bushes and shrubs is not permitted in any boulevard or right-of-way within the city.

**Sec. 115-4-2. – List of approved plants for use in boulevards.**

The city forester shall create and maintain a list of ~~plants~~ trees that are approved for use in boulevards within the city. Accompanying the list shall be placement requirements including the mixing of species within a boulevard area, spacing between plants and locations within a boulevard where plantings are not permitted.

**Section 115-4-3. – Application for permit.**

Application for the permit required by this article shall be submitted to the city ~~engineer forestry department~~ who shall forward the application to the city ~~forester~~ engineer for review and approval. The city ~~engineer~~ shall then issue the permit after determining that there are no issues related to public water and sewer service.

**Sec. 115-4-4. – Conditions for issuance of permit.**

(a)

(4) The trees to be planted are not less than 18-20 feet apart for boulevards, 4-5.5 feet in width, 25 feet for boulevards, 5.5-7 feet in width and 30 feet for boulevards 7.5 feet or greater in width.

(b)

(1) ~~The locations of proposed trees will be no closer than 10 feet to a water line or water service line; and (2) The locations of proposed trees or bushes will be no closer than 35 feet to a property corner at a street intersection and no closer than 20 feet to an alley.~~ than 10 feet from hydrants, curb stops, street lights, street signs and driveways; 20 feet to an alley; 25 feet to gas lines; and 40 feet to intersections.

**Section 115-4-5. Tree trimming regulations.**

(3) ~~All old or new wounds over one inch in diameter shall be treated with a good quality of tree wound dressing.~~

**Sec. 115-4-7. – Cause for removal of trees and shrubs; notice; action by city.**

(a) Any tree or shrub located in the boulevard, city right of way, or private property which overhangs any sidewalk, street or other public place in the city in such a way as to impede or interfere with traffic or travel, or within 14 feet of a street or ten feet of a sidewalk level,

measured vertically, shall be trimmed by the owner of the premises abutting or of the premises on which such tree or shrub grows so that the obstruction shall cease. Any tree or limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands. Any tree that stands on the property line of 2 or more properties is the fiscal responsibility of all properties on which such tree stands.

(b) If any part or the whole of any tree on private premises is found after proper investigation to be dangerous or unsafe to life or property, or otherwise constitute a public nuisance, the city forester/arborist shall declare the tree or portion thereof a nuisance and cause the nuisance to be abated. If the property owner of which tree stands neglects to abate the hazard, the property owner will be responsible to any damage done to any life or property, private and public.

(c) Whenever any knowledge or notice is given by the police or any employee of the city to the city forester that any tree or shrub or hedge is kept or maintained in violation of the provisions of this section, the city forester shall cause written notice in the form of certified mail to be given to the owner or occupant of the property upon which said tree, shrub or hedge is so located, or cause a notice to be published in the official newspaper containing the addresses or properties deemed to be in violation of this provision to cut and trim the same in accordance with the provisions of this section, ~~and within ten days after the serving of such notice, a summons shall be served on the owner or occupant in the manner provided for by law for the service of summons in civil action in the state courts.~~

(d) If, after written notice or the publication ~~the serving~~ of the notice provided for by this section, the owner or occupant fails or neglects to cut or trim said tree, shrubbery or hedge within ~~ten~~ 20 days after the written notice or publication ~~service~~ of such notice, the same shall be trimmed in conformity with the provisions of this section by the city forester/arborist or under his/her direction, the cost thereof to be assessed against the abutting property.

**Sec. 115-4-8. ~~Wires near trees regulated.~~ Abuse or mutilation of trees.**

It is unlawful for any person to attach any wire, rope, nails, advertising posters or other contrivance to any tree or shrub in any public street, park way or other public place without the permission of the city engineer. Any person or company maintaining poles and wires in the streets, alleys or other public places, shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible, and keep all such trees and shrubs near such wires and poles properly and uniformly trimmed, subject to the supervision of the city engineer, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact. The location of such poles and wires shall be approved by the city engineer prior to installation of the same. No gaseous liquid or solid substance which is harmful to trees may come into contact with them, or set fire or permit any fire to burn when the fire or the heat thereof will injure any portion of any tree above and below ground.

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

Attest:

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

First Consideration: \_\_\_\_\_

Second Consideration and Final Passage: \_\_\_\_\_

## ORDINANCE NO. 1312

An Ordinance to Amend and Re-enact  
Article 4 of Chapter 16 of the Mandan Code of Ordinances  
to create Definitions and to Amend and Re-enact  
Sections 16-4-1(a); 16-4-4(a); 16-4-6; 16-4-8(5), (6)  
and (7); and to delete 16-4-8(8).

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

### ARTICLE 4. – DUTCH ELM DISEASE, EMERALD ASH BORER, AND OTHER INVASIVE SPECIES.

#### Definitions

1. “Abate” to remove any tree or plant that is in violation of this section.
2. “Abutting” next to/adjoining to private property.
3. “Control” to prevent the spread of any invasive species.
4. “Eradicate” meant to destroy a plant that is no longer viable.
5. “Invasive Species” non-native to the ecosystem and whose introduction causes environmental harm.
6. “Public Nuisance” any invasive species that threatens the health to trees/shrubs within the city.
7. “Vectors” an organism that transmits a disease from one plant to another.

#### **Sec. 16-4-1. – Declaration of public nuisance.**

(a) The board of city commissioners has determined that any and all invasive species pertaining to trees, shrubs, and bushes on public or private property to be a public nuisance. Biological, chemical, cultural, manual, mechanical and/or prevention control shall be used to abate the nuisance.

#### **Sec. 16-5-5-. – Authority of city arborist.**

(a) The city arborist shall order, direct, supervise and control the abatement of public nuisances by using one or more of the control methods mentioned in Sec. 16-4-1(a).

**Sec. 16-4-6. – Nuisance on private property; notice to owner.**

When the city arborist shall determine with reasonable certainty that a public nuisance exists upon private premises or upon the strip between the lot line and the curb, he shall immediately serve or cause to be served personally or by certified mail upon the owner of such property or the abutting property, if the property owner can be found, and upon the occupant thereof, a written notice of the existence of such nuisance. Such nuisance shall describe the nuisance and recommended procedures for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall request a hearing within fourteen days of receipt of the notice to show that such nuisance does not exist, or does not endanger the health of the trees in the city, the city arborist shall cause the abatement thereof at the expense of the property served or abutting property. If the owner cannot be found, such notice shall be given by publication in the official newspaper of the city.

**Sec. 16-4-8. - Prohibited acts and penalties.**

(5) Plants and/or sells any of those selections and species of the Genus *populous* producing the pistillate flowers and bearing the “cotton” filled seed capsules, with the exception of aspen (*Populus trmuloides*) cultivars and varieties on public or private property within the city.

~~(6) Plants an American Elm or Siberian Elm on public or private property Sells an American Elm or Siberian Elm for planting within the city.~~ Plants and/or sells any *Ulmus* varieties that are cultivars not resistant to dutch elm disease on public or private property within the city.

(7) Plants and/or sells ash (*fraxus*) cultivars that are susceptible to the Emerald Ash Borer on public or private property within the city.

~~Plants ash cultivars that are susceptible to the Emerald Ash Borer on public or private property.~~

~~(8) Sells ash cultivars that are susceptible to the Emerald Ash Borer for planting within the city.~~

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

Attest:

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James Neubauer, City Administrator

First Consideration: \_\_\_\_\_

Second Consideration and Final Passage: \_\_\_\_\_