



## AGENDA

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Webinar ID: 818 7200 4374

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

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#### A. ROLL CALL:

1. Roll call of all City Commissioners.
2. Presentation of retirement watch to City Attorney Malcolm Brown.
3. Presentation of plaque to Boulevard Tree Planting Program donor

#### B. APPROVAL OF AGENDA:

#### C. MINUTES:

1. Consider approval of the minutes from the
  - i. September 15, 2020 Board of City Commission regular meeting.
  - ii. September 23, 2020 Board of City Commission special meeting.

#### D. PUBLIC HEARING:

*Agenda*  
*Mandan City Commission*  
*October 6, 2020*  
*Page 2 of 3*

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E. BIDS:

1. Accept bids relating to contingent heavy equipment rates.

F. CONSENT AGENDA:

1. Abatement Applications
  - i. Jallo Abatement Application
  - ii. Bauer Abatement Application
  - iii. Maas Abatement Application
  - iv. JDS Holdings LLP Abatement Application
  - v. Mitzel Builders, Inc. Abatement Applications
2. Consider proclaiming October 18-24, 2020 as National Friends of Libraries week in Mandan, ND.
3. Consider approval of a special use permit for multi-use shops for Lot 2, Block 1, Replat of Big Sky Estates 3<sup>rd</sup> Addition.
4. Consider an amendment to the Cost Participation and Maintenance Agreement for the Main Street project.
5. Consider for approval the annual site authorization for Fort Abraham Lincoln Foundation at Station West from October 6, 2020 – June 30, 2021.
6. Consider approval of the raffle permit application for the ND Gold Prospectors Association at the Eagles on February 6, 2021.
7. Consider Municipal Advisor Agreement with Colliers Securities LLC for Refunding Improvement Bonds of 2020.
8. Consider closing Administrative offices day after Thanksgiving
9. Consider approval of notice to leave North Dakota Public Employee Retirement System (NDPERS) Health Insurance Plan.
10. Consider approval of a Catering Permit for The Harvest Catering & Events for The Depot on October 10, 2020.
11. Consider amending the 2021 Police Department budget to fund the Youth Services Specialist position.
12. Consider ND Communities LLC agreement to resell water.

G. OLD BUSINESS:

H. NEW BUSINESS:

1. Consider Renaissance Zone Committee recommendation for lease of office space at 222 E Main St. by ICON Architectural Group
2. Consider Growth Fund Committee recommendations regarding “Mandan Strong” business mini-match applications
3. ~~Consider entering into a development agreement related to Andy’s Addition~~
4. Consider approval of Milestone #1 time extension request for the Mid-Town East reconstruction project.
5. Consider termination of the sublease between Fort Abraham Lincoln Foundation (FALF) and Harvest Catering & Events and sublease between FALF and Signature Events.

I. RESOLUTIONS AND ORDINANCES:

1. Consider Resolution establishing rates and charges for water meters for new construction from the Utility Maintenance department.
2. Consider Introduction and First Consideration of Ordinance 1354 to amend and re-enact Sec. 4-2-17 of the Mandan Code of Ordinances, Special catering permit;fee;penalty

J. OTHER BUSINESS:

K. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. October 20, 2020
2. November 3, 2020
3. November 17, 2020

L. ADJOURN



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** Oct. 6, 2020  
**PREPARATION DATE:** Sept. 22, 2020  
**SUBMITTING DEPARTMENT:** Administration  
**DEPARTMENT DIRECTOR:** Jim Neubauer  
**PRESENTER:** Mitch Bitz, Public Works Director  
**SUBJECT:** Presentation of a plaque to Victoria Vayda for donating \$500 to the boulevard tree-planting program.

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**STATEMENT/PURPOSE:** To present a plaque to Victoria Vayda for donating \$500 to the community boulevard tree-planting program.

**BACKGROUND/ALTERNATIVES:** Unlike previous years, the Forestry Department did not solicit donations for the community boulevard tree-planting program due to businesses being shut down because of the COVID-19 pandemic. However, the City did receive a \$500 donation from Victoria Vayda for the program. Businesses or individuals donating \$500 or more will be presented with a plaque. The City will match these donations up to \$2,500. Over 100 trees have been planted along city boulevards through this program since 2017! These donations help the City of Mandan maintain its Tree City USA status, which we have now held for 44 years.

**ATTACHMENTS:** N/A

**FISCAL IMPACT:** N/A

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** N/A

**RECOMMENDATION:** This is a presentation of plaques to Victoria Vayda for donating \$500 to the community boulevard tree-planting program.

**SUGGESTED MOTION:** N/A

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The Mandan City Commission met in regular session at 5:30 p.m. on September 15, 2020 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Vice-Chairman Larson called the meeting to order in the absence of Mayor Helbling.

A. ROLL CALL:

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

B. APPROVAL OF AGENDA:

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

C. MINUTES:

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

D. PUBLIC HEARING:

1. *Public budget hearing scheduled at 6:00 p.m. to review and discuss the final 2021 Budget (See Resolutions and Ordinances #1.)* Vice Chair Larson stated that this is the time and place set for the public budget hearing to review and discuss the final 2021 Budget and to consider the second and final consideration of Ordinance No. 1346 adopting the 2021 Budget. Finance Director Welch reported that the only objection he received in writing or verbally or email correspondence, came from City Judge DeNae Kautzmann regarding her salary request for 2021. The Commission’s options are to either consider that matter at this meeting or to consider it with the salary plan sessions that will come before this Commission at a later date this year.

Vice Chair Larson announced this is a Public Hearing and invited anyone to come forward to comment or speak for or against the final 2021 Budget. A second announcement was made to come forward to comment or speak for or against the final 2021 Budget. A third and final announcement was made to come forward to comment or speak for or against the final 2021 Budget. Hearing none, this portion of the public hearing was closed.

Commissioner Camisa recommended that if Judge Kautzmann’s salary issue is not addressed at this time and the budget is approved, that the issue be addressed as soon as possible.

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

2. *Consider approval of the preliminary plat for Foundation Addition.* City Planner Van Dyke presented a request to consider approval of the preliminary plat for Foundation Addition. The applicant seeks to combine four (4) lots into one (1) and rezone the property for the purposes of commercial automotive sales Exhibits 1 and 2 show the preliminary and final plats being considered for approval. The property is located on the east side of 8<sup>th</sup> Ave. NW and north of I-94 southeast of Walmart. The development abuts 8<sup>th</sup> Ave. NW and Old Red Trail NW. The future land use for the property is commercial and the CB Commercial zoning sought conforms to the land use plan for the area. The lot is too large to be accommodated by a minor plat and therefore requires a preliminary and final plat. Since this is a lot consolidation for commercial development and city staff does not have concerns with the request. The application meets the lot size standards for the zoning district that is being requested and the design standards set forth in Chapter 109 Subdivisions of the Mandan Code of Ordinances. The adjacent property zoning is MC Industrial and CC Commercial. Planning and Zoning Commission unanimously recommended approval of the preliminary plat as presented in Exhibit 1.

Commissioner Rohr inquired if there will be any water coming off that going into the northern areas? Planner Van Dyke stated that he understood it is a different storm water area than the area subject to previous discussion that caused issues (Landeis property). Director Froseth clarified that most of this area sheds to the southwest and a detention pond has been approved and it heads from there to the south interstate ditch but the flows are not from pre-existing however, a very small amount of the corner on the northeast side does kind of head to the north and east.

Vice Chair Larson announced this is a Public Hearing and invited anyone to come forward to comment or speak for or against the request for consideration for approval of the preliminary plat for Foundation Addition. A second announcement was made to come forward to comment or speak for or against the request for approval of the preliminary plat for Foundation Addition. A third and final announcement was made to come forward to comment or speak for or against the request for approval of the preliminary plat for Foundation Addition. Hearing none, this portion of the public hearing was closed.

Commissioner Camisa commented that on the plat they should probably change it from City Council to City Commission of the City of Mandan. That was carried over to the final plat.

Commissioner Camisa moved to approve the preliminary plat for Foundation Addition as presented in Exhibit 1. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

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3. *Consider approval of the first consideration of Ordinance 1351 related to a zoning map amendment from R7 Residential to CB Commercial (Wetch Property – Sunny Rd.).* City Planner Van Dyke presented a request for approval of the first consideration of Ordinance 1351 related to a zoning map amendment (rezone) from R7 Residential to CB Commercial. Mr. Wetsch desires to rezone his property from R7 Residential to CB Commercial. The property is located west on Main Street past the Lower Heart River crossing. The property's future land use designation is Commercial (Exhibit 2). He reported that Terrence Wetch is in the process of discussions with the neighboring property owner Victor Fleck who owns the property to the west which is zoned CB Commercial to purchase the subject property. Mr. Fleck's property was rezoned to CB Commercial in 2011. Victor Fleck would like the same zoning designation as his current land for expansion of his business operations through the construction of a commercial structure to house and work on his vehicles. The property to the northeast and owned by Rodney Aman is zoned MA Industrial. The property has historically been used as a commercial auto repair shop. This property was rezoned in 1987 and the other property to the east is zoned R7 and is zoned rural residential. Since the adjacent commercial zoning and uses align with the future land use designation and direct road access, staff is recommending approval. He said that at the Planning and Zoning meeting there was a different outcome from staff wherein P & Z gave a split decision of 7 opposed and 4 in favor of the rezone therefore the recommendation from P & Z was to deny the rezone. The denial was due to the shift to commercial rather than the issue of commercial itself. It is felt that the shift in rural residential to commercial in nature was premature. The Planning and Zoning Commission recommended denial of the application through a split decision.

Planner Van Dyke stated that due to the split decision to deny the rezone by the Planning and Zoning Commission and conflict with staff recommendation, staff is providing alternative suggested motions, such as, if approved, it would be to recommend approval the first consideration of Ordinance 1351 as presented in Exhibit 3 based on the findings in Exhibit 4; or, if denied, it would be to recommend denying the first consideration of Ordinance 1351 as presented in Exhibit 3 due to the premature shift in character from rural residential to commercial in nature; or, it could be referred back to Planning and Zoning Commission to reconsider the item at their October 26, 2020 meeting. Planner Van Dyke said that those are some options for consideration and given the split nature of Planning and Zoning and the conflict with staff recommendation, it was not clear on how the City Commission would pursue this matter.

City Planner Van Dyke reported that there was a letter of opposition from neighbors and that a letter of opposition was included with the documentation. He reported that Victor Fleck is in favor. There was no opposition from the industrial zoned property adjacent to the property location. The Ordinance states that 20% of the neighboring property owners located within 150 ft., if 20% more are opposed and submit a letter of protest then it needs to be passed by 4 out of 5 Commissioners. In this case, with the absence of Mayor Helbling, it would need unanimous approval of the commissioners present, to be passed.

Commissioner Rohr inquired if there are residences on both sides of the road in the area of this particular piece of property. City Planner pointed out that there are residences on both sides.

Commissioner Braun commented that the history of this area was for people to have residential homes and their businesses located within the area and that's how it was developed since inception. Planner Van Dyke said that was mentioned at the P & Z meeting by a contractor that had some experience in the area, however, he said he did not research the history of this area for this purpose. It has been used for large trucking operations, including veterinary services for large animals and things of that nature where trucks would be involved to transport the animals. Commissioner Braun commented that as it has been developed over the years there have not been complaints for what is currently there in terms of the neighbors as they seem to have accepted it as it was. Planner Van Dyke commented that the City's long term plan for zoning in this area, given it has commercial on the subject property; to the west is high density residential and far to the west, closer to Dixon Brothers Trucking, would be industrial in nature. The future land use does not provide much guidance for cleanup. He reported that there have been some complaints received that were a result of zoning violations when commercial and industrial were above thresholds.

Commissioner Rohr commented that the county recently had a split decision and it was sent back to the commission for reconsideration and review in that situation, which is one of the options.

Commissioner Camisa stated he was one of the four that voted in favor of the zone change being that it had complied with the long term plan that had been set forth in 2015. There has been a recent change, the ETA numbers in the community in that area would have some input by public meetings for that comprehensive plan when this would have been discussed. He agreed with Commissioner Rohr that it would be best to send it back and see what further decisions can be made after further discussion occurs and then bring it back.

Vice Chair Larson interjected at this time and stated that a Public Hearing will be the next step, if there are no more questions at this time from Planner Van Dyke.

Vice Chair Larson announced this is a Public Hearing and invited anyone to come forward to comment or speak for or against the approval of the first consideration of Ordinance 1351 related to a zoning map amendment from R7 Residential to CBCommercial (Wetch Property – Sunny Rd.).

Kimberly Karch, came forward to speak and stated she lives to the east of this property, and stated that she is not in favor of the loud, noisy trucks next door. She has lived at this location since 2012. She stated she was not aware that a change occurred in 2015 in the form of a public meeting.

A second announcement was made to come forward to comment or speak for or against the approval of the first consideration of Ordinance 1351 related to a zoning map amendment from R7 Residential to CBCommercial (Wetch Property – Sunny Rd.).

Lola Clement came forward and stated that she and her husband own 10 acres of land adjoining the property and there are four other neighbors, including Kimberly Karch, that have land

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between there and the dead Heart, and they are all in opposition. They consider it a very rural agricultural and residential area. She said that she previously submitted a letter to the City Commission and reaffirmed the statements in that letter. Vice Chair Larson confirmed that her letter was in the packets that each commissioner was given.

Terry Wetch, via tele-conference, stated that when all this transpired on August 3, 1987, it was Ordinance 727, and that is reflected in his abstract from over 20 years ago showing it as MA Industrial. Eventually through the efforts of the Planning Office, John Van Dyke, Nancy and Mayor Helbling, he found out that it is FR7 although the original ordinance was only Nick Ressler’s property but his property had the exact same land description. Terry always thought his property was MA Industrial. That is the purpose of requesting the rezoning from FR7 to MA CB Commercial. He extended a thank you to city staff for their assistance.

A third and final announcement was made to come forward to comment or speak for or against the approval of the first consideration of Ordinance 1351 related to a zoning map amendment from R7 Residential to CB Commercial (Wetsch Property – Sunny Rd.). Hearing none, this portion of the public hearing was closed.

Commissioner Camisa moved to direct the Planning and Zoning Commission to reconsider this item at their October 26, 2020 meeting. Commissioner Braun seconded the motion.

Vice Chair Larson commented that she has lived in the fringed areas and she understands how some times the development is different than what the land use plans are and what the future use plans are, so it is understandable that the residents brought the concern forward. She agreed that it would be appropriate for the Commission and P & Z to be involved in this matter.

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

E. BIDS:

F. CONSENT AGENDA

1. *Consider approval of monthly bills.*

MANDAN MUNICIPAL COURT	800.00
ABUSED ADULT RESOURCE CE	12,965.56
ADVANCED BUSINESS METHOD	385.31
ADVANCED MECHANICAL INC	17,887.50
AMERICAN WELDING & GAS,	3,848.77
ARMSTRONG SANIT & ROLL O	56,012.76
BEK COMMUNICATION COOPER	2,885.94
BRADY, MARTZ & ASSOCIATE	10,400.00
CENTURYLINK	348.08
COMPANION LIFE	10.00
CORE & MAIN	20,100.00

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CROWLEY FLECK PLLP	6,000.00
CUSTER DISTRICT HEALTH U	1,139.00
DAKOTA CHILDREN'S ADVOCA	2,322.46
ELECTRO WATCHMAN, INC	168.76
FETZER ELECTRIC, LLC	4,004.22
HARVEST LLC	924.75
HUB INTERNATIONAL OF ND	688.00
INFORMATION TECHNOLOGY D	904.50
KRONOS SAASHR, INC	2,119.60
MANDAN PARK BOARD	1,000.00
MISSOURI RIVER CONTRACTI	87,617.92
MISSOURI WEST WATER SYST	51.18
DEPT. OF ENVIRON QUALITY	18.54
ND YOUTH CORRECTIONAL CE	163.82
NISC	11,255.12
NORTHERN IMPROVEMENT CO	20,093.07
SANFORD BISMARCK	3,820.00
THE CREDIT CARD GUY	265.65
THE PADDLE TRAP	2,250.00
WALLWORK TRUCK CENTER	1,016.33
MONTANA-DAKOTA UTILITIES	23,954.18
AYRES ASSOCIATES	504.00
CENEX- FUOC BISMARCK-MAN	7,227.61
CO2 SYSTEMS, INC	2,950.00
ELECTRO WATCHMAN, INC	136.00
GORRONDONA & ASSOCIATES	97.50
GRAYMONT (WI) LLC	12,581.10
HDR ENGINEERING, INC	10,614.47
KADRMAS, LEE & JACKSON,	1,949.05
MOORE ENGINEERING, INC	105,498.93
MORTON COUNTY RECORDER	20.00
ND DEPT OF TRANSPORTATIO	15,772.72
ND HEALTH DEPT MICRO DIV	400.00
STRATA CORPORATION	1,346,687.71
TERRACON CONSULTANTS, IN	13,169.00
AMERICAN WELDING & GAS,	3,679.87
ARMSTRONG SANIT & ROLL O	41,758.20
AVI SYSTEMS, INC	482.12
BANK OF NORTH DAKOTA	227,589.17
BIS-MAN CONVTN & VISITOR	3,657.94
CORE & MAIN	292.32

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CROWLEY FLECK	1,795.00
DEPT. OF ENVIRON QUALITY	325.00
FETZER ELECTRIC, LLC	13,148.31
HARVEST LLC	229.26
MANDAN PROGRESS ORGANIZA	2,737.62
MOORE ENGINEERING, INC	2,855.35
NORTHERN IMPROVEMENT CO	2,310.39
OXENTENKO INC	22,650.00
SURE SHRED	36.50
T & R CONTRACTING, INC	3,860.00
MONTANA-DAKOTA UTILITIES	24,107.47
ADVANCED BUSINESS METHOD	396.96
ADVANCED ENGINEERING SVC	33,335.43
ADVANCED WEIGHING SYSTEM	1,640.00
ARMSTRONG SANIT & ROLL O	59,206.04
BALABAN LAW OFFICE	1,750.00
BANK OF NORTH DAKOTA TRU	12,472.42
BISMARCK POLICE DEPARTME	1,460.03
BURLEIGH COUNTY SHERIFF	735.67
CORE & MAIN	9,650.00
DAKOTA MEDIA ACCESS	11,730.00
DEARBORN LIFE INSURANCE	2,378.04
FOUR SQUARE CONCRETE LLC	5,442.45
FRANCIERE/SUSAN	5.00
GLASS/THOMAS J.	1,750.00
GUSTAFSON/RONDA	27.82
INFORMATION TECHNOLOGY D	999.32
JOHN'S UPHOLSTERY	25.00
K & L INVESTMENTS INC	80,996.44
KELSCH KELSCH RUFF & KRA	5,000.00
MANDAN PARK BOARD	7,000.00
MORRELL'S WELDING INC	382.50
MY GOV, LLC	960.00
ONE CALL CONCEPT INC	352.45
RAILROAD MANAGEMENT CO I	1,689.24
RENNER'S LAWN SPRINKLING	350.00
SCHLOSSER EXCAVATING INC	600.00
SOUTHWEST AG, INC	100.00
THE CREATIVE TREATMENT L	2,211.00
TITAN DATA SERVICES	2,925.00
ZACHER/JOANNA	50.00

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AMERICAN WELDING & GAS,	3,454.18
BEK COMMUNICATION COOPER	2,978.09
BIS-MDN TRANSIT BOARD	1,390.24
BURLEIGH-MORTON DETENTIO	574.54
CAPITAL CITY CONSTRUCTIO	30,109.00
CENTRAL DAKOTA FORENSIC	105.00
COMPANION LIFE	10.00
CROWLEY FLECK	6,000.00
CUSTER DISTRICT HEALTH U	1,139.00
FIRESIDE OFFICE PRODUCTS	708.00
FOUR SQUARE CONCRETE LLC	118.25
HOLTER/DEBORAH	70.00
INFORMATION TECHNOLOGY D	1,021.60
LEXIPOL	744.00
MANDAN AIRPORT AUTHORITY	2,780.08
MANDAN MUNICIPAL COURT	5,142.15
MANDAN PARK BOARD	4,000.00
MISSOURI RIVER CONTRACTI	34,673.51
MORTON MANDAN PUBLIC LIB	22,068.41
ND HEALTH DEPT MICRO DIV	400.00
ND POST BOARD	135.00
NISC	10,556.67
PETERS/DEB	65.00
SHALLOW CREEK KENNELS, I	7,300.00
STORMS CONSTRUCTION INC	5,800.00
WANNER/SHERWIN	70.00
WINKS/KEITH	70.00
WELLS FARGO COMMERCIAL C	162,407.35
NDPERS	1,663.87
CUNA Retirement	12,620.97
PERS Retire	11,621.90
CUNA Retirement	12,694.99

2. *Consider providing a Flex PACE letter of support for SpaSalon at 1710 E. Main St.*
3. *Consider payment of bills for Morton Mandan Public Library /Downtown Parks Project.*
4. *Consider approval of the final plat for Lakewood Ninth Addition Replat of Lot 1 Block 4.*
5. *Consider approval of the final plat for Foundation Addition.*
6. *Consider approval of a minor plat for Dire Addition.*
7. *Consider approval of Cost Participation and Maintenance Agreement for Highway 1806 North Reconstruction project.*
8. *Consider approval of the Catering Permit for The Drink for the Mule Deer Foundation Gun-A-Palooza at Prairie Patriot Firearms on September 17, 2020 from 6-8pm.*

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9. *Consider approval of Cost Participation and Maintenance Agreement for Highway 810 Median project, from Memorial Highway to McKenzie Drive.*
  10. *Consider approval of the Catering Permit for Main Street Bar for the MPO Oktoberfest at the Harvest Catering & Events on September 26, 2020 from 3-8 pm.*
  11. *Consider approval of a Catering Permit for The Harvest Catering & Events for The Depot on September 26, 2020 from 10:00 am to 1:00 pm.*
  12. *Consider approval of annual liquor license for September 15, 2020 to June 30, 2021.*

Commissioner Braun moved to approve Consent Agenda items 1 through 12 as presented. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

#### G. OLD BUSINESS

#### H. NEW BUSINESS

1. *Introduce Brenda Johnson.* City Assessor Markley introduced Brenda Johnson, the new Real Property Appraiser III who has been hired in the Assessing Department. Brenda is from Bismarck and has over 30 years of experience working in the assessment field. On behalf of the City of Mandan, Vice Chair Larson welcomed Brenda to the City of Mandan Assessing Department.

2. *Consider entering into a Development Agreement with Dr. Eric Belanger related to Rockwood First Addition and consider approval of the final plat for Rockwood First Addition.* City Planner Van Dyke presented a request to table discussion on the final plat and development agreement for consideration at a future date. The applicant desires additional time and due to the end of the construction season is reevaluating their path forward. The final plat and development agreement will be presented to the Board in the future when the developer is ready to move forward. Any substantial change will go back to Planning and Zoning.

Commissioner Braun moved to table the final plat for Rockwood First Addition until the developer is ready to move forward with their application. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

3. *Consider entering into a purchase agreement for the sale of Lot 6, Block 76, First Northern Pacific Addition.* City Planner Van Dyke presented a request to approve the purchase agreement for the sale of Lot 6, Block 76, First Northern Pacific Addition. The buyer's intent is to expand their property boundary, submit a minor plat, and construct a home on the lot that was recently demolished in the area due to being declared an unsafe structure (see Exhibit 2 for a map of the subject property). Jack and Marie Freidt have presented an offer of \$300 for the purchase of Lot 6, Block 76, First Northern Pacific Addition. The list price is \$10,000. City staff is recommending countering with a purchase price of \$3,000 pursuant to a discussion with Darren Schmidt, Realtor regarding a fair price for the property. This was determined based on the time on market (over a year listed for sale) and the topographical limitations of the property (slope). The property does not have a specials balance. The size of the lot is .15 acres,

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approximately noting that topography is the main concern and drawback. Darren Schmidt will reassess the listing price for each property that is currently listed in the coming months. A revised list price for each property will be presented to the Board in the coming months. The Engineering and Planning Department recommended countering the offer as shown in Exhibit 1 with a purchase price of \$3,000.

Commissioner Braun moved to approve countering the offer as shown in Exhibit 1 with a purchase price of \$3,000. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

4. *Consider approval of entering into negotiations with SRF consultant engineers to plan and design the 19th Street Trail, Phase II project.* Planning and Engineering Director Froseth presented a request to confirm the Selection Committee’s qualifications-based selection of SRF for consulting engineering related to the 19<sup>th</sup> Street Trail, Phase II project and enter into contract negotiations with them. The DOT’s Transportation Alternatives (TA) program has dedicated \$290,000 of grant funds towards the project. That is the maximum amount available for any single project under this program. Planning and design, followed by construction of this project is going to be a significant undertaking that is always much more rigorous when receiving federal funds as is the case with the TA program. Therefore, the Engineering Department needs a consultant engineer to partner with to properly execute. The City advertised for RFPs in July and received proposals on August 14, 2020. Two proposals came in by the deadline from SRF and Sauber Engineering. Interviews were conducted with these two firms on September 8, 2020. After the interviews were conducted, the selection team chose to move forward with negotiations with SRF. Pending Commission approval of that decision, staff will negotiate a contract with SRF and bring that back to a subsequent meeting for approval. Since this project is to receive federal funds and therefore has administrative requirements attached to that the focus will be on planning and design during 2022 construction.

Vice Chair Larson requested clarification of Phase I of this project that had to do with the funding sources coming from the School and Park Districts and the City wherein Phase II will be special assessed to the benefiting property owners. Director Froseth stated that is correct. Phase II will require special assessments and that is the plan for the local share. There is no direct fiscal impact for this item. The conceptual estimate provided during application for this project is about \$590K. We have \$290K commitment from the TA program. The city intends to special assess the remaining amount to benefitting properties through a special assessment district. The rough draft of this district that was presented before Phase I started and is available upon request.

Commissioner Rohr moved to confirm the selection of SRF, and authorize Engineering staff to negotiate for the 19<sup>th</sup> Street Trail, Phase II engineering services contract with them. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

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5. *Consider proclaiming September 21st – 26th 2020 Free Fall Landfill Week in Mandan, ND.* Public Works Director Bitz explained that this is the 2<sup>nd</sup> Annual Free Fall Landfill week at the Mandan landfill. The landfill will be open and free to all residents to bring their items to the landfill. This is not a curbside collection however all items that are normally picked up during the spring curb side collection will be accepted free of charge. The only exception is that tires will have a nominal fee. Please see the City of Mandan website for all the information posted regarding this event.

Commissioner Braun moved to approve September 21– 26, 2020 as Free Fall Landfill Week in the City of Mandan. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

I. RESOLUTIONS AND ORDINANCES:

1. *Consider the second and final consideration of Ordinance No. 1346 making the annual appropriations for expenditures or expenses of the City of Mandan, North Dakota, for the fiscal year commencing January 1, 2021, and ending December 31, 2021, and making the annual tax levy for the year 2020.* (See: Public Hearing No. 1.)

2. *Consider Resolution establishing Rates and Charges for Services from the Water and Sewer Utility Fund.* Finance Director Welch presented the resolution establishing rate increase and charges for services from the Water and Sewer Utility Fund for the 2021 Budget = \$2.15 - \$.20 = \$1.95 per month for residential services. This is a base rate and has no impact on volume or usage.

Commissioner Braun moved to approve establishing Rates and Charges for Services from the Water and Sewer Utility Fund. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

3. *Consider Resolution establishing Rates and Charges for Services from the Solid Waste Utility Fund.* Finance Director Welch stated this is a co-effort with the Public Works Director and involves the resolution establishing rates and charges for services from the Solid Waste Utility Fund. From the Finance Department side, the impact will be as follows:

- \$0.05 increase per month for garbage services
- \$1.00 increase per month for the single-sort recycle services

Public Works Director Bitz said that the Public Works fee increase will be related to the landfill services, wherein fees to have the tires removed will be increased. He explained that rather than burying the tires as has been done in the past, the City will start contracting them out to be shredded and taken off site. That will increase costs to the disposal fees on tires.

Commissioner Braun moved to approve Resolution establishing Rates and Charges for Services from the Solid Waste Utility Fund. Commissioner Camisa seconded the motion. Roll call vote:

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Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes;  
Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

4. *Consider Resolution establishing Rates and Charges for Services from the Cemetery Fund.* Director of Public Works Bitz presented a Resolution establishing rates and charges for services from the Cemetery Fund. He stated that the most significant fee increase is related to a clerical error, wherein the city will maintain a spread of \$150 from resident to non-resident cemetery services. This was missed previously. There was a decreased rate for patrons to purchase a Niche that included the first Niche opening and closing in the cost of the Niche. We did this in attempt to generate interest in the newly installed Columbarium Lastly, the afterhours and Saturday service charge was consolidated to a flat fee of \$200.

Commissioner Rohr moved to approve establishing Rates and Charges for Services from the Cemetery Fund. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

5. *Consider Resolution establishing Rates and Charges the Public Works Department.* Director of Public Works Bitz presented a Resolution establishing rates and charges for services provided by Public Works. The rates and charges were prepared in accordance with the Mandan Code of Ordinances. Fees were raised to reflect general market for equipment rates.

Commissioner Braun moved to approve establishing Rates and Charges the Public Works Department. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

6. *Consider approval of the second and final consideration of Ordinance 1350 related to a zoning map amendment from RM Residential and MC Industrial to CB Commercial (See Public Hearing #2 and Consent Agenda #5.)* City Planner Van Dyke presented the second and final consideration of Ordinance 1350 as presented in Exhibit 3. This is the consolidation of the four lots as referenced earlier in the meeting. He reported there have been no comments or opposition received since the first consideration.

Commissioner Braun moved to approve the second and final consideration of Ordinance 1350 related to a zoning map amendment from RM Residential and MC Industrial to CB Commercial (See Public Hearing #2 and Consent Agenda #5.). Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

7. *Consider Financing Resolution for Street Improvement District No. 213 Definitive Improvement Warrant, Series 2020 (Southside Street Project).* Finance Director Welch presented a request for the approval of the Financing Resolution for Street Improvement District No. 213 Definitive Improvement Warrant, Series 2020 (Southside Street Project), Background: On August 7, 2019, the Bank of North Dakota (BND) approved the City of Mandan's

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Infrastructure Revolving Loan Fund Application for the Project. On August 20, 2019, the Board of City Commissioners approved the Loan from the BND for the Project. The purpose of this resolution is to provide financing for the project. The loan agreement from the BND according to the terms and conditions set forth and a loan commitment letter from the BND. According to the Resolution the City financing for the project will amount to \$4,525,969. This financing amount will also agree with the City's proposed special assessments for the project. The interest rate on the Loan is 2.00% for a term of 20 years; The City will repay the loan through the collection of special assessments from the Street Improvement District. The assessment period for this Project will be 20 years. The interest rate on the special assessments will be 3.50%, no assessment interest for the first year. On October 1, 2020, the City will close on the loan from the BND for the Project.

Commissioner Rohr moved to approve the Financing Resolution for Street Improvement District No. 213 Definitive Improvement Warrant, Series 2020 (Southside Street Project). Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Absent. The motion passed.

J. OTHER BUSINESS:

Commissioner Braun stated that he lives on Old Red Trail and recently he has received a lot of complaints concerning speeding. It is not just on Old Red Trail rather, many of the streets throughout the City of Mandan. He requested all citizens to use caution when driving the streets in particular where children are involved.

K. ADJOURNMENT:

There being no other business to come before the Board, Commissioner Braun motioned to adjourn the meeting at 6:32 pm. Commissioner Camisa seconded the motion. The motion received unanimous approval of the members present.

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James Neubauer  
City Administrator

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Amber Larson, Vice Chair  
Board of City Commissioners

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The Mandan City Commission met in a special meeting 12:30 p.m. on September 23, 2020, Mayor Helbling called the meeting to order.

A. ROLL CALL:

1. *Roll Call of City Commissioners. In attendance, via zoom, Mayor Helbling, Commissioner Larson, in person, Commissioner Rohr and Camisa and via telephone, Commissioner Braun. Others in attendance, City Administrator Neubauer and City Attorney Oster.*

B. NEW BUSINESS:

1. *Consider approval of a Catering Permit for The Harvest Catering & Events for The Depot on October 2, 2020.*
2. *Consider approval of a Catering Permit for The Harvest Catering & Events for The Depot on October 3, 2020. Question was asked about the need for Signature Events to have insurance when the lease for the Depot is between the Ft. Lincoln Foundation and the Harvest. Neubauer explained that it appears Signature Events is putting on the event, the caterer will be Harvest Catering, and Events as Signature Events does not have a liquor license. Discussion was also had regarding the need for proper insurance, as the event will be held at city owned property.*

Commissioner Larson moved to approve the catering permits for Oct. 2 and Oct 3 at The Depot, contingent upon legal review. Commissioner Rohr seconded the motion. Upon roll call vote, motion passed unanimously.

C. ADJOURN

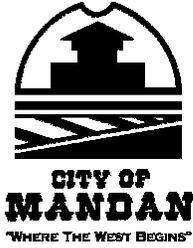
There being no other business to come before the Board a motion was made to adjourn and seconded. The motion received unanimous approval of the members present.

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James Neubauer  
City Administrator

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Tim Helbling, Mayor  
Board of City Commissioners



## Board of City Commissioners

# Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 30, 2020  
**SUBMITTING DEPARTMENT:** Public Works  
**DEPARTMENT DIRECTOR:** Mitch Bitz  
**PRESENTER:** Mitch Bitz, Director of Public Works  
**SUBJECT:** Contingent Heavy Equipment Rates

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STATEMENT/PURPOSE: To accept bids relating to contingent heavy equipment rates

BACKGROUND/ALTERNATIVES: Public works advertised for bids on two separate occasions this year for our Contingent Heavy Equipment Rates, and subsequently received one submittal from George Stroh Trucking of Mandan. Bids were opened and publically read aloud on Wednesday September 30, 2020 at the Mandan Public Works Facility. Again as a reminder, the main purpose for the solicitation was to establish rates for the contractors who may be called upon to assist city crews in hauling snow from our streets within our normal winter street maintenance operations.

ATTACHMENTS: Bid summary sheet and bid tabulation

FISCAL IMPACT: Will vary depending on weather conditions and department needs; however, in a typical winter season the City of Mandan expends approximately \$15-20K for snow hauling services by private contractors. The 2021 budget amount is established as \$15,450

STAFF IMPACT: Minimal

LEGAL REVIEW: Attorney Oster's office has reviewed attached bid documents

RECOMMENDATION: To accept the bid from George Stroh Trucking, as well as authorize public works staff to utilize the private contractor as needed.

SUGGESTED MOTION: I make a motion to accept the bid from George Stroh Trucking, as well as authorize public works staff to utilize the private contractor as needed.

**2020-2021 Contingent Heavy Equipment Bid Tabulation Summary Sheet**  
(Detail bid sheets attached below)

\*George Stroh Trucking, Mandan Trucks \$100.00/Hr. Met all bid requirements

Board of City Commissioners  
 Agenda Documentation  
 Meeting Date: October 6, 2020  
 Subject: Contingent Heavy Equipment Rates  
 Page 3 of 3

2020-2021 CONTINGENT HEAVY EQUIPMENT RATES  
 BID TAB

COMPANY/POINT OF CONTACT	BID AMOUNT	UNITS AVAILABLE	SUMMER RATE- WINTER RATE-	
			Unit Price/HR	Unit Price/HR
<b>BID #1</b> George Stroh Trucking INC Name- George Stroh Trucking INC 2570 Co Rd 82, Mandan, ND 58554  Phone 701-391-9573 Email <a href="mailto:gstrohtrucking@hotmail.com">gstrohtrucking@hotmail.com</a>  Comments: Bid Contained ND State Contractors Lic. <input checked="" type="radio"/> YES OR NO  Also included insurance documentation. CF	TANDEM TRUCK WITH MINIMUM OF 20 YARD BOX	3	\$ 100.00	\$ 100.00
	2.5 YARD(min.) LOADER TO INCLUDE OPERATOR		\$ 100.00	\$ 100.00
	LOADER W/12' PLOW TO INCLUDE OPERATOR(12'minimum)			
	LOADER W/BLOWER ATTACHMENT CAPABLE OF LOADING TRUCKS(rated 2,000 tons/hr-min)			
	MOTOR GRADER W/12' BLADE TO INCLUDE OPERATOR(front wheel assist,12' blade min.)			
	SKID-STEER TO INCLUDE OPERATOR(Provide Description)			
	Description-			
	Description-			
	SKID-STEER W/SNOW BLOWER TO INCLUDE OPERATOR(Provide Description)			
	Description-			
Description-				
SKID-STEER W/BROOM TO INCLUDE OPERATOR(Provide Description)				
Description-				
Description-				
Description-				

Accepted by  DATE 9-30-2020

Witness  DATE 9-30-2020



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 25, 2020  
**SUBMITTING DEPARTMENT:** Assessing Department  
**DEPARTMENT DIRECTOR:** Kimberly Markley  
**PRESENTER:** Kimberly Markley, City Assessor  
**SUBJECT:** Abatement application from Connor Jallo

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STATEMENT/PURPOSE: To consider Application for Abatement for a 2020 Market Value reduction for the property located at 2519 9<sup>th</sup> Ave SE.

BACKGROUND/ALTERNATIVES: This parcel is also known as parcel #65-4215550 with a legal description of Lot 6 Block 1 Plainview Heights 4<sup>th</sup>.

Reason for abatement: Owner requested a review of the property. The property was reviewed and the grade of the property was changed to reflect the grades of similar properties.

ATTACHMENTS: Application for Abatement

ESTIMATED FISCAL IMPACT:  
2020 All taxing entities = \$465.93, City share = \$111.51

STAFF IMPACT: N/A

LEGAL REVIEW: Reviewed by City Attorney

RECOMMENDATION: I recommend a motion to approve the abatement for Connor Jallo at 2519 9<sup>th</sup> Ave SE.

SUGGESTED MOTION: I move to approve the abatement as presented for Connor Jallo at 2519 9<sup>th</sup> Ave SE.

# Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District City of Mandan  
 County of Morton Property I.D. No. 65-4215550  
 Name Connor Jallo Telephone No. \_\_\_\_\_  
 Address 2519 9th Ave SE Mandan ND 58554

Legal description of the property involved in this application:  
Lot 6 Block 1 Plainview Heights 4th



Total true and full value of the property described above for the year 2020 is:

Land	\$	<u>35,000</u>
Improvements	\$	<u>222,800</u>
Total	\$	<u>257,800</u>

(1)

Total true and full value of the property described above for the year 2020 should be:

Land	\$	<u>35,000</u>
Improvements	\$	<u>183,800</u>
Total	\$	<u>218,800</u>

(2)

The difference of \$ 39,000 true and full value between (1) and (2) above is due to the following reason(s):

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

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

1. Purchase price of property: \$ 239,400 - 3% CC Date of purchase: 06/26/2020  
 Terms: Cash  Contract \_\_\_\_\_ Trade \_\_\_\_\_ Other (explain) (Bank loan)  
 Was there personal property involved in the purchase price? NO Estimated value: \$ \_\_\_\_\_  
yes/no

2. Has the property been offered for sale on the open market? yes If yes, how long? 3 months  
yes/no  
 Asking price: \$ 239,400 Terms of sale: 239,400 - 3% cc net value 232,703

3. The property was independently appraised: yes Purpose of appraisal: Bank loan  
yes/no  
 Market value estimate: \$ 239,400  
 Appraisal was made by whom? Austad Appraisals

4. The applicant's estimate of market value of the property involved in this application is \$ 232,703

5. The estimated agricultural productive value of this property is excessive because of the following condition(s): \_\_\_\_\_

Applicant asks that Value for 2020 be reduced to \$218,800.

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

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

Signature of Preparer (if other than applicant) \_\_\_\_\_ Date \_\_\_\_\_ Signature of Applicant Connor Jallo Date 9/21/2020



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 25, 2020  
**SUBMITTING DEPARTMENT:** Assessing Department  
**DEPARTMENT DIRECTOR:** Kimberly Markley  
**PRESENTER:** Kimberly Markley, City Assessor  
**SUBJECT:** Abatement application from Donavon & Barbara Bauer

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**STATEMENT/PURPOSE:** To consider Application for Abatement for a 2020 Market Value reduction for the property located at 504 9<sup>th</sup> Ave NW.

**BACKGROUND/ALTERNATIVES:** This parcel is also known as parcel #65-1793000 with a legal description of Lot 7 Block 1 Kautzman 1st.

Reason for abatement: Owner requested a review of the property. The property was reviewed and adjustments were made to the basement finish square footage and quality.

**ATTACHMENTS:** Application for Abatement

**ESTIMATED FISCAL IMPACT:**  
2020 All taxing entities = \$166.06, City share = \$39.74

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** Reviewed by City Attorney

**RECOMMENDATION:** I recommend a motion to approve the abatement Donavon & Barbara Bauer at 504 9<sup>th</sup> Ave NW.

**SUGGESTED MOTION:** I move to approve the abatement as presented for Donavon & Barbara Bauer at 504 9<sup>th</sup> Ave NW.

# Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District City of Mandan  
County of Morton Property I.D. No. 65-1793000  
Name Donavon and Barbara Bauer Telephone No. \_\_\_\_\_  
Address 504 9th Ave NW Mandan, ND 58554

Legal description of the property involved in this application:

Lot 7 Block 1 Kautzman 1st

Total true and full value of the property described above for the year 2020 is:

Land \$ 20,000  
Improvements \$ 395,600  
Total \$ 415,600  
(1)

Total true and full value of the property described above for the year 2020 should be:

Land \$ 20,000  
Improvements \$ 381,700  
Total \$ 401,700  
(2)

The difference of \$ 13,900.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

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

Applicant asks that 2020 market value be reduced to \$401,700.

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

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

Signature of Preparer (if other than applicant)

Date

Signature of Applicant

Date

Donavon Bauer

9-21-20



Consent No 1iii

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 25, 2020  
**SUBMITTING DEPARTMENT:** Assessing Department  
**DEPARTMENT DIRECTOR:** Kimberly Markley  
**PRESENTER:** Kimberly Markley, City Assessor  
**SUBJECT:** Abatement application from Rhonda Maas

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**STATEMENT/PURPOSE:** To consider reduction to the 2020 value for the property located at 311 3<sup>rd</sup> Ave NE.

**BACKGROUND/ALTERNATIVES:** This parcel is also known as parcel #65-2629000 with a legal description of Lot 1 Block 33, Mandan Proper OT.

Reason for abatement: Owner requested a review of the property. The property was reviewed and corrections were made to the grade and the finished basement area.

**ATTACHMENTS:** Application for Abatement

**ESTIMATED FISCAL IMPACT:**  
2020 All taxing entities = \$150.53, City share = \$36.03

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** Reviewed by City Attorney

**RECOMMENDATION:** I recommend a motion to approve the abatement for Rhonda Maas at 311 3<sup>rd</sup> Ave NE.

**SUGGESTED MOTION:** I move to approve the abatement as presented for Rhonda Maas at 311 3<sup>rd</sup> Ave NE.



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 29, 2020  
**SUBMITTING DEPARTMENT:** Assessing Department  
**DEPARTMENT DIRECTOR:** Kimberly Markley  
**PRESENTER:** Kimberly Markley, City Assessor  
**SUBJECT:** Abatement application from JDS Holdings LLP

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STATEMENT/PURPOSE: To consider Abatement Application for property located at 1619 31<sup>st</sup> St NW.

BACKGROUND/ALTERNATIVES: This parcel is also known as parcel #65-6119750 with a legal description of Lot 6 Block 1 Missouri Valley Replat.

Reason for abatement: This property suffered fire damage to the apartment building on August 10, 2020. The garages are suffering a high vacancy rate.

North Dakota Century Code 57-23-04 g. "When any building, mobile home, structure, or other improvement has been destroyed or damaged by fire, flood, tornado, or other natural disaster, the abatement or refund must be granted only for that part of the year remaining after the property was damaged or destroyed."

ATTACHMENTS: Application for Abatement

ESTIMATED FISCAL IMPACT:

All taxing entities = \$17,181.19, City share = \$4,111.99

STAFF IMPACT: N/A

LEGAL REVIEW: Reviewed by City Attorney

RECOMMENDATION: I recommend abating the 2020 value for the portion of the year that the building was damaged, I recommend a motion to approve the abatement and adjust the 2020 value to \$2,241,700 for JDS Holdings LLP at 1619 31<sup>st</sup> St NW.

SUGGESTED MOTION: I move to approve the abatement as presented and adjust the 2020 value to \$2,241,700 for JDS Holdings LLP at 1619 31<sup>st</sup> St NW.



Consent No 1v

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 30, 2020  
**SUBMITTING DEPARTMENT:** Assessing Department  
**DEPARTMENT DIRECTOR:** Kimberly Markley  
**PRESENTER:** Kimberly Markley, City Assessor  
**SUBJECT:** Abatement applications from Mitzel Builders, Inc.

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STATEMENT/PURPOSE: To consider reduction to the 2018, 2019 & 2020 values for the property located at 405 13<sup>th</sup> Avenue NE

BACKGROUND/ALTERNATIVES: This parcel is also known as parcel #65-1515000 with a legal description of S 10' Lot 3 & All Lots 4-6 & W ½ Vac 13<sup>th</sup> Ave NE & N ½ Vac Alley Block 26 Helmsworth Mclean 1st.

Reason for abatement: House was assessed on a vacant lot.

ATTACHMENTS: Applications for Abatement

ESTIMATED FISCAL IMPACT:

2018 All taxing entities = \$2422.03, City share = \$571.51

2019 All taxing entities = \$2364.85, City share = \$565.98

2020 All taxing entities = \$2361.27, City share = \$565.12

STAFF IMPACT: N/A

LEGAL REVIEW: Reviewed by City Attorney

RECOMMENDATION: I recommend a motion to approve the abatements for Mitzel Builders, Inc. at 405 13<sup>th</sup> Avenue NE.

SUGGESTED MOTION: I move to approve the abatements as presented for Mitzel Builders, Inc. at 405 13<sup>th</sup> Avenue NE.



**NATIONAL FRIENDS OF  
LIBRARIES WEEK  
PROCLAMATION**  
October 18 – October 24, 2020

WHEREAS, Friends of the Morton Mandan Public Library raise money that enables our library to move from good to great -- providing the resources for additional programming, much needed equipment, support for children’s summer reading, and special events throughout the year; and

WHEREAS, the work of the Friends highlights on an on-going basis the fact that our library is the cornerstone of the community providing opportunities for all to engage in the joy of life-long learning and connect with the thoughts and ideas of others from ages past to the present; and

WHEREAS, the Friends understand the critical importance of well funded libraries and advocate to ensure that our library gets the resources it needs to provide a wide variety of services to all ages including access to print and electronic materials, along with expert assistance in research, readers’ advisory, and children’s services; and

WHEREAS, the Friends’ gift of their time and commitment to the library sets an example for all in how volunteerism leads to positive civic engagement and the betterment of our community;

NOW THEREFORE, I, TIMOTHY A. HELBLING, President of the Board of City Commissioners of the City of Mandan, do hereby proclaims October 18-24, 2020, as Friends of Libraries week in Mandan, North Dakota and urges everyone to join the Friends of the Library and thank them for all they do to make our library and community so much better.

Signed this 6<sup>th</sup> day of October, the year 2020

\_\_\_\_\_  
Timothy A. Helbling, President,  
Board of City Commissioners

Attest:

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



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 21, 2020  
**SUBMITTING DEPARTMENT:** Engineering and Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** Justin Froseth, PE  
**SUBJECT:** Consider Ratification of a Special Use Permit for a Multi-use Shop to be Located on Lot 2, Block 1, Replat of Big Sky Estates 3rd Addition

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**STATEMENT/PURPOSE:** Consider ratification of a special use permit for a multi-use shop to be located on Lot 3, Block 1, Evergreen Heights Third Addition.

**BACKGROUND/ALTERNATIVES:**

Victor Goncharov seeks to construct a two-unit multi-use shop for commercial purposes on Lot 2, Block 1, Big Sky Estates. A location map and site plan/elevation rendering are provided in Exhibits 1 and 2 respectively. The property is zoned CB Commercial with restrictions. The allowable commercial uses are provided in Exhibit 3.

The applicant received approval from the Mandan Architectural Review Commission for landscaping, layout, and façade elements of the project.

Per 105-1-13 (d) (6), in order to provide a favorable recommendation, the Planning and Zoning Commission or a final decision by the Board of City Commissioners should consider eight (8) items provided for in Exhibit 5 for reference. In evaluating these criteria, staff finds the following:

- The proposed use is in harmony with the purpose and intent of this chapter subject to the restrictions included in Ordinance 1190.
- The proposed use is in conflict with the future land use map of the City originally adopted in the summer of 2015; however, the present zoning district was adopted in the fall of 2014. The east side of Jude Ln. and several lots along the southwest were zoned CB Commercial with restrictions to act as a buffer between the heavier intensity CB Commercial district without restrictions to the east along Sunset Ave. NW and along Old Red Trail NW.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** October 2, 2020  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** Justin Froseth, Planning and Engineering Director  
**SUBJECT:** Main Street Project Cost Participation and Maintenance Agreement Amendment

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**STATEMENT/PURPOSE:** To approve of our Cost Participation and Maintenance (CPM) agreement amendment for the Main Street project.

**BACKGROUND/ALTERNATIVES:** The project saw very high bids in April. So much so that we had to reject the bids and explore alternative methods of funding in order to fill the funding gap. We did so by going through the Metropolitan Planning Organization (MPO) to ask that they endorse some Urban Road Program (URP) funding to go to this project. We were approved for those funds at a maximum amount of \$864,533.

This item amends our CPM agreement allowing us to officially accept these funds to go towards the project. The project bid opening is November 13<sup>th</sup> en route to a 2021 construction project.

**As a reminder of the project history and scope, the below is a summary from a prior meeting.**

Since 2016, a project has been in planning to replace traffic signals along Mandan from 6<sup>th</sup> Avenue East to the West. NDDOT traffic operations studies have determined that the signal on 1<sup>st</sup> Avenue West and the Signal on 10<sup>th</sup> Avenue West are not warranted and therefore must be removed without replacement. The other four signals in that segment; 6<sup>th</sup> Avenue East, Collins Avenue, 3<sup>rd</sup> Avenue West and 6<sup>th</sup> Avenue West will be removed and replaced.

Late in 2017, the NDDOT released a new grant program opportunity called the Urban Grant Program (UGP). This program focused on improving core downtown corridors and has its roots in the Governor's Main Street Initiative. Our UGP project calls for the reallocation of Main Street from a four to three lane corridor in the core downtown area (west of Collins) to include parking on the south side and items such as curb bulb outs, new street lighting, etc. to make the corridor more pedestrian accessible and aesthetically

pleasing. This application came from the highest ranked alternative through the Downtown Subarea Study completed in early 2018.

Also in the DOT's Transportation Improvement Program (TIP) is the Concrete Pavement Repair (CPR) project. Originally that was slated for 2022, but the intent now is to bump it up into this project in order to construct all at once and minimize disturbance.

These three project scopes, all related to Main Street, are what comprises this one Main Street Project.

ATTACHMENTS:

- 1) NDDOT Amendment to the Cost Participation and Maintenance Agreement.

FISCAL IMPACT: Approving this amendment and accepting these funds makes this project viable to fund if bids are at or less than the estimate which is based on our April bid opening.

STAFF IMPACT: Significant time to help develop project.

LEGAL REVIEW: Our agenda information has been forwarded as part of the full packet to the City Attorney for review.

RECOMMENDATION: Approve the Amendment to the CPM Agreement.

SUGGESTED MOTION: Move to approve the amendment to the CPM agreement for the Main Street Project.

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NDDOT Contract No. 38181449A

**North Dakota Department of Transportation**  
**AMENDMENT TO CONTRACT NO. 38181449**  
**Project No. UGP-SU-NHU-1-094(202)915**

THIS AMENDMENT to the above-referenced contract is entered into by and between the State of North Dakota, acting through its Director of Transportation, hereinafter known as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and City of Mandan, hereinafter known as the Contractor, whose address is 205 2<sup>nd</sup> Ave NW, Mandan, ND 58554.

WHEREAS, the parties entered into a contract on 12/6/2018; and

WHEREAS, The City has requested the addition of \$864,533 of federal Urban Road Funds to be added to the UGP project; and

WHEREAS, The NDDOT and Bismarck-Mandan MPO approved the use of Urban Road Funds on this project; and

NOW THEREFORE, the Contractor and NDDOT agree that funding splits for Urban Road funds will be 80.93% federal and 19.07% city. Any costs over the project cap amount will be city responsibility.



DocuSign Envelope ID: 9A8D9596-B2B7-4864-BE51-2BEC0F94048E

All other terms and conditions of the above-referenced contract are incorporated herein by reference and remain in full force and effect.

EXECUTED the date last below signed.

WITNESS:

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

\_\_\_\_\_  
SIGNATURE

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

CONTRACTOR:

\_\_\_\_\_  
COMPANY NAME

\_\_\_\_\_  
OFFICER'S NAME (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

WITNESS:

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

\_\_\_\_\_  
SIGNATURE

NORTH DAKOTA DEPARTMENT  
OF TRANSPORTATION

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

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

APPROVED as to substance by:

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

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

CLA 52494 (Div. 06)  
L.D. Approved 5-19-00; 5-03





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

Consent No. 5

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</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>10/1/20</b>	Ending Date(s) Authorized <b>6/30/21</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>Whole bar area 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)
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**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 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.
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. 08-2019)

License Number (Office Use Only)

Site Owner (Lessor) <b>Verhaeghe Enterprise, Llc</b>		Site Name <b>Station West</b>		Site Phone Number <b>701-751-6010</b>
Site Address <b>412 W. Main Street</b>		City <b>Mandan</b>	State <b>ND</b>	Zip Code <b>58554</b>
Organization (Lessee) <b>Fort Abraham Lincoln Foundation</b>		Rental Period <b>10/1/2020 to 6/30/2021</b>		County <b>Morton</b>
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.				Monthly Rent Amount
<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 \$ _____		\$
3. Is Paddlewheels conducted at this site?		Number of Tables _____ X Rent per Table \$ _____		\$
4. Is Pull Tabs involving either a jar bar, standard, or electronic dispensing device conducted at this site?		<input type="checkbox"/> No <input type="checkbox"/> Yes		\$ 175.00
Please check: <input type="checkbox"/> Jar Bar <input checked="" type="checkbox"/> Standard Dispensing Device				
<input checked="" type="checkbox"/> Electronic Dispensing Device		Number of Electronic Devices <u>2</u>		\$ 200.00
<b>Total Monthly Rent</b>				\$ <b>375.00</b>
5. If the only gaming activity to be conducted at this site is a raffle drawing, please check here. <input type="checkbox"/>				
<b>TERMS OF RENTAL AGREEMENT:</b>				
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.				
The LESSOR agrees any advertising by the lessor that includes charitable gaming must include the charitable gaming organization's name.				
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 <b>OWNER</b>		Date <b>9-8-20</b>
Signature of Lessee <i>[Signature]</i>		Title <b>Executive Director</b>		Date <b>10/7/2020</b>

(over)

Dept Chief Flaten 667-3250

Consent No. 6

2020-34

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**APPLICATION FOR A LOCAL PERMIT OR CHARITY LOCAL PERMIT**  
OFFICE OF ATTORNEY GENERAL  
SFN 9338 (9-2009)

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

Name of Non-profit Organization <i>North Dakota Gold Prospectors Association</i>		Date(s) of Activity <i>February 6 2021 to</i>	
Person Responsible for the Gaming Operation and the Disbursement of Net Income <i>Dawn MacLin Dawn MacLin</i>		Title <i>Sec. Treasurer</i>	Business Phone Number <i>701-392-1120</i>
Business Address <i>414 Cambridge Dr</i>	City <i>Bismarck</i>	State <i>ND</i>	Zip Code <i>58504</i>
Mailing Address (if different)	City <i>58554</i>	State	Zip Code
Name of Site Where Game(s) will be Conducted <i>Eagles - Mandan</i>		Site Address <i>1400 COLLINS AVE</i>	
City <i>Mandan</i>	State <i>N.D.</i>	Zip Code <i>58554</i>	County <i>Morton</i>
Check the Game(s) to be Conducted: *Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit.			
<input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker * <input type="checkbox"/> Twenty-one * <input type="checkbox"/> Paddlewheels *			

**DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED**

Game Type	Description of Prize	Retail Value of Prize	Game Type	Description of Prize	Retail Value of Prize
Raffle	Henry 30-30 Rifle Caliber	\$ 850.00			
Raffle	Henry Rifle 22 Caliber	\$ 500.00			
Raffle	Henry Rifle 22 Caliber	500.-			
Total:					\$(Limit \$12,000 per year)

Intended uses of gaming proceeds: Club Purchases & Donations

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

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

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

Signature of Organization's Top Executive Officer <i>[Signature]</i>	Date <i>8-20-20</i>	Title <i>NDGPA PRESIDENT</i>	Business Phone Number <i>701-9891413</i>
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*LAUNIE MACLIN*

*Edward J. Walker* *8-20-20* *RAFFLE Chairman* *701-400-2305*



## Board of City Commissioners

### Agenda Documentation

<b>MEETING DATE:</b>	October 6, 2020
<b>PREPARATION DATE:</b>	October 2, 2020
<b>SUBMITTING DEPARTMENT:</b>	Finance
<b>DEPARTMENT DIRECTOR:</b>	Greg Welch
<b>PRESENTER:</b>	Greg Welch, Finance Director
<b>SUBJECT:</b>	Municipal Advisor Agreement

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#### PURPOSE

To consider the Municipal Advisor Agreement from Colliers Securities LLC (formerly Dougherty & Company LLC) as the Municipal Advisor to the City of Mandan for the Refunding Improvement Bonds of 2020.

#### BACKGROUND

Colliers Securities LLC has indicated the City of Mandan has three special assessment bond issues that are callable on December 15, 2020 and eligible to be refinanced to a lower interest rate for the remaining term of the debt service.

If the City considers to issue \$8.3M in new bonds to refinance the callable bonds, the net savings from the refinancing would be passed on to the balances owed by the special assessment districts financed in the bond issue through lower interest rates effective December 15, 2020. According to Colliers Securities LLC, the total Net Present Value Benefit (NPV) savings is estimated to be \$386,657 or 4.530%. This savings is net of the issuance costs. A common method to determine if the refunding is appropriate is that the savings, net of all issuance costs, should be at least 3% to 5% as a NPV percentage of the refunded bonds. The City will require a minimum NPV from the refinancing of no less than 4% or the proposed bond sale will be cancelled.

State and local governments engage municipal advisors to assist in the structuring and issuance of bonds whether through a competitive or a negotiated sale process. A municipal advisor represents the issuer in the sale of bonds, and unlike other professionals involved in a bond sale, has an explicit fiduciary duty to the issuer. Additionally, municipal advisors must register with the Securities and Exchange Commission (SEC) and Municipal Securities Rulemaking Board (MSRB) and meet professional and testing standards.

As a registered Municipal Advisor, Colliers Securities LLC specializes in assisting public entities in the issuance of bonds. Therefore, due to the long standing working relationship between the City and Colliers Securities LLC (formerly Dougherty & Company LLC), the City should consider waiving the competitive bidding requirement.

ATTACHMENT

Municipal Advisor Agreement from Colliers Securities LLC

FISCAL IMPACT

The compensation for this Agreement = \$18,500

The fee shall be paid from the proceeds of the bond sale at closing.

STAFF IMPACT

None

LEGAL REVIEW

Reviewed by Amy Oster, City Attorney.

RECOMMENDATION

To waive the competitive bidding requirement and approve the Municipal Advisor Agreement from Colliers Securities LLC as the Municipal Advisor to the City of Mandan for the Refunding Improvement Bonds of 2020.

SUGGESTED MOTION

Move to waive the competitive bidding requirement and approve the Municipal Advisor Agreement from Colliers Securities LLC as the Municipal Advisor to the City of Mandan for the Refunding Improvement Bonds of 2020.



Securities

**Mandan, North Dakota  
Refunding Improvement Bonds of 2020**

**Municipal Advisor Agreement**

THIS AGREEMENT made and entered into by and between the City Mandan ("Issuer") and Colliers Securities LLC ("Municipal Advisor"), consists of the following:

WHEREAS, Issuer is considering the issuance of \$8,300,000 (the "Issue"); and

WHEREAS, Municipal Advisor is a specialist in assisting public entities in the issuance of such obligations;

NOW, THEREFORE, IT IS AGREED THAT MUNICIPAL ADVISOR WILL: Serve as Issuer's municipal advisor specifically for the referenced Issue. This agreement confirms the terms under which Municipal Advisor will act as a municipal advisor to Issuer (the "Issuer") with respect to the issuance of the above captioned obligations.

A. SCOPE OF SERVICES. Municipal Advisor will provide the following services:

1. Study existing and potential future financial commitments of Issuer, its economic resources and other pertinent social and economic data;
2. Assist in determining the amount of financing required;
3. Study available financing options for Issuer's projects;
4. Recommend the type or types of obligations to be utilized;
5. Recommend financing or refinancing programs designed to fit the resources and requirements of Issuer;
6. *Inform Issuer of (a) The material risks, potential benefits and other characteristics of each recommendation; (b) the basis upon which Municipal Advisor believes each recommendation is suitable for Issuer; and (c) whether Municipal Advisor has investigated or considered other reasonably feasible alternatives to the recommendation that might also or alternatively serve the Issuer's objectives;*
7. Coordinate financing activities with Issuer, its engineers, accountants, attorneys and other specialists engaged by Issuer;
8. Attend meetings and public hearings to properly explain the financing and assist in the preparation of public information materials, including news releases, relative to the financing;

9. Recommend nationally recognized bond counsel and consult with counsel of Issuer's choice relative to minutes, resolutions and proceedings necessary to authorize the obligations supporting the Issue;
10. Prepare tentative time tables outlining various actions required to successfully complete the financing including recommending a date or dates for an election, if required, to authorize obligations and/or other questions that require voter approval;
11. Assist with the preparation and distribution of a Request for Proposals for Financing and review and evaluate responses to the Request for Proposals for Financing and assist with the selection of Lender or Underwriter(s);
12. Recommend a date or dates for the sale of the type or types of sale for the Issue and terms on which bids will be received;
13. Research and recommend various covenants, maturity schedules and other details to be included in the proceedings authorizing the obligations supporting the Issue;
14. If necessary, or desired by Issuer, accumulate and prepare financial and general information necessary to secure a rating (or ratings) from nationally recognized rating service(s). Forward the same to the appropriate agencies and communicate with key personnel to assure a timely rating assignment;
15. Assist in the preparation and distribution to interested bond underwriters (banks, bond dealers, investment bankers, etc.) the required Disclosure Document(s) containing appropriate and required information and material relating to Issuer and the Issue, and an Official Notice of Sale (if so required) for the sale of the Issue;
16. Advertise the sale of the Issue (if so required) in a manner that will result in more competitive bidding for the Issue;
17. Attend the sale of the Issue, compute bids and advise as to their acceptability in light of market conditions;
18. Assist in the closing process of the financial transactions and delivery of the proceeds; and
19. Provide a record book and all necessary data for the use of Issuer and its Administrators throughout the maturity of the obligations.

**B. ISSUER WILL:**

1. Cooperation. Cooperate with Municipal Advisor and the financing team in providing all information necessary to prepare the required Disclosure Document(s) and to prepare said Document(s) in such a way as to assure interested parties of their accuracy and completeness.
2. Disclosures. (i) Provide Municipal Advisor with details of projects under consideration that may affect the issuance of Issuer's obligations; (ii) Provide Municipal Advisor with information sufficient to allow Municipal Advisor through reasonable diligence to believe its recommendation(s) are suitable for Issuer.
3. Compensation. Upon closing, pay a fee to Municipal Advisor. The fee shall be paid from proceeds of the sale of the Issue or from funds on hand of the Issuer. The fee shall be \$18,500.00 at bond closing.

4. Contingent Payment of Fee. If for reasons beyond Issuer's control the Issue is not successfully sold, no municipal advisor fee will be charged provided that any out-of-pocket expenses incurred on Issuer's behalf shall be reimbursed to Municipal Advisor.

C. DISCLOSURES BY MUNICIPAL ADVISOR

1. Registered Municipal Advisor. Colliers Securities LLC is registered as a Municipal Advisor with the U.S. Securities and Exchange Commission (SEC) and Municipal Securities Rulemaking Board (MSRB). In accordance with MSRB Rules, please be informed that Municipal Advisor is acting as municipal advisor, not underwriter, for the Issue.

2. Conflicts Disclosures. As a registered Municipal Advisor, Colliers Securities LLC has a fiduciary duty to Issuer. Upon undertaking an engagement, a municipal advisor must disclose potential or actual material conflicts of interest and how those conflicts will be managed and mitigated.

(a) Specific Potential/Actual Conflicts. Municipal Advisor has not identified any specific potential or actual material conflicts that require disclosure. We describe in Sections 2(b) - (f) potential conflicts of interest that are generally applicable to our performance of Municipal Advisory Services.

(b) Compensation Conflicts of Interest. Potential conflicts of interest that may apply to this engagement with Issuer involve compensation. Municipal Advisor discloses those potential conflicts as follows:

(i) Fixed Fees or "Lump Sum." This form of compensation represents a potential conflict of interest because if the transaction requires more work than originally contemplated, Municipal Advisor may suffer a loss. Thus, Municipal Advisor may recommend less time-consuming alternatives or fail to do a full analysis of alternatives.

(ii) Contingent Fee. This form of compensation presents a potential conflict of interest because Municipal Advisor may have an incentive to recommend unnecessary financings or financings that are disadvantageous to Issuer. When facts or circumstances arise that could cause the financing to be delayed or fail to close, Municipal Advisor may have an incentive to discourage a full consideration of such facts and circumstances.

(c) Other Municipal Advisor or Underwriting Relationships. Municipal Advisor serves a wide variety of other clients that may from time to time have interests that could have a direct or indirect impact on the interests of Issuer. For example, Municipal Advisor serves as municipal advisor to other municipal advisory clients and in such cases, owes a regulatory duty to such other clients just as it does to Issuer under this Agreement. These other clients may, from time to time and depending on the specific circumstances, have competing interests such as accessing the new issue market with the most advantageous timing and with limited competition at the time of the offering. In acting in the interests of its various clients, Municipal Advisor could potentially face a conflict of interest arising from these competing client interests. In other cases as a broker-dealer that engages in underwritings of new issuances of municipal securities by other municipal entities, the interests of Municipal Advisor to achieve a successful and profitable underwriting for its municipal entity underwriting clients could potentially constitute a conflict of interest if, as in the example above, the municipal entities that Municipal Advisor serves as underwriter or municipal advisor have competing interests in seeking to access the new issue market with the most advantageous timing and with

limited competition at the time of the offering. None of these other engagements or relationships would impair Municipal Advisor's ability to fulfill its regulatory duties to Issuer.

- (d) Broker-Dealer and Investment Advisory Business. Municipal Advisor is a broker-dealer and investment advisory firm that engages in a broad range of securities-related activities to serve its clients, in addition to serving as a municipal advisor or underwriter. Such securities-related activities, which may include but are not limited to the buying and selling of new issue and outstanding securities and investment advice in connection with such securities, including securities of Issuer, may be undertaken on behalf of, or as counterparty to, Issuer, personnel of Issuer, and current or potential investors in the securities of Issuer. These other clients may, from time to time and depending on the specific circumstances, have interests in conflict with those of Issuer, such as when their buying or selling of Issuer's securities may have an adverse effect on the market for Issuer's securities, and the interests of such other clients could create the incentive for Municipal Advisor to make recommendations to Issuer that could result in more advantageous pricing for the other clients. Furthermore, any potential conflict arising from Municipal Advisor effecting or otherwise assisting such other clients in connection with such transactions is mitigated by means of such activities being engaged in on customary terms through units of the Municipal Advisor that operate independently from Municipal Advisor's municipal advisory business, thereby reducing the likelihood that the interests of such other clients would have an impact on the services provided by Municipal Advisor to Issuer under this Agreement.
- (e) Secondary Market Transactions in Issuer's Securities. Municipal Advisor in connection with its sales and trading activities, may take a principal position in securities, including securities of Issuer, and therefore Municipal Advisor could have interests in conflict with those of client with respect to the value of Issuer's securities while held in inventory and the levels of mark-up or mark-down that may be available in connection with purchases and sales thereof. In particular, Municipal Advisor or its affiliates may submit orders for and acquire Issuer's securities issued in an Issue under the Agreement from members of the underwriting syndicate, either for its own account or for the accounts of its customers. This activity may result in a conflict of interest with Issuer in that it could create the incentive for Municipal Advisor to make recommendations to Issuer that could result in more advantageous pricing of Issuer's bond in the marketplace. Any such conflict is mitigated by means of such activities being engaged in on customary terms through units of the Municipal Advisor that operate independently from Municipal Advisor's municipal advisory business, thereby reducing the likelihood that such investment activities would an impact on the services provided by Municipal Advisor to Issuer under this Agreement.
- (f) General Mitigations. As general mitigations of Municipal Advisor's conflicts with respect to all of the conflicts disclosed above Municipal Advisor mitigates such conflicts through its adherence to its fiduciary duty to Issuer, which includes a duty of loyalty to Issuer in performing all municipal advisory activities for Issuer. This duty of loyalty obligates Municipal Advisor to deal honestly and with the utmost good faith with Issuer and to act in Issuer's best interests without regard to Municipal Advisor's financial or other interests. In addition because Municipal Advisor is a broker-dealer with significant capital due to the nature of its overall business, the success and profitability of Municipal Advisor is not dependent on maximizing short-term revenue generated from individualized recommendations to its clients, but instead is dependent on long-term profitably built on a foundation of integrity, quality of service and strict adherence to its fiduciary duty. Furthermore, Municipal Advisor's municipal advisory supervisory structure, leveraging our long-standing and comprehensive broker-dealer supervisory processes and practices, provides strong safeguards against individual representatives of Municipal Advisor potentially departing from their regulatory duties due to

personal interests. The disclosures below describe, as applicable, any additional mitigations that may be relevant with respect to any specific conflict disclosed above.

3. Legal/Disciplinary Matters. MSRB Rules require Municipal Advisor to provide Issuer with certain disclosures of legal or disciplinary events that are material to its evaluation of the integrity of Municipal Advisor's management and advisory personnel. Municipal Advisor here provides a website link to those required disclosures and related information.

<http://www2.colliers.com/en/-/media/Files/UnitedStates/ProductGroups-and-ServiceLines/Colliers-Securities/MunicipalAdvisorLegal-DisciplinaryDisclosureVersion-06-2020.pdf>

Municipal Advisor shall make available its legal and compliance staff members to respond to any inquiries or concerns it may have concerning those disclosures.

D. TERM OF ENGAGEMENT. Upon closing and delivery at closing, Municipal Advisor's responsibilities will be concluded with respect to this financing and Municipal Advisor does not undertake (unless separately engaged) to provide continuing advice to Issuer or any other party.

E. BOND MARKET AND REGULATORY CHANGES. Bond market interest rates can be volatile, fast changing and subject to factors beyond the knowledge or control of Municipal Advisor. Similarly, laws and regulations applicable to the municipal finance business are often amended. Municipal Advisor shall endeavor to inform Issuer of all factors related to the issuance of obligations, as far as such factors are known and determinable. Municipal Advisor shall not be liable however for changes in interest rates, laws and regulations, or costs which are beyond Municipal Advisor's knowledge or control.

F. ISSUER CLIENT EDUCATION, PROTECTION AND POTENTIAL COMPLAINTS.

- Municipal Advisor is registered with the U.S. Securities and Exchange Commission (SEC) and the Municipal Securities Rulemaking Board (MSRB).
- The MSRB posts a Municipal Advisory client brochure on its website: [www.MSRB.org](http://www.MSRB.org). That brochure describes the protections that may be provided by MSRB rules and how to file a complaint with an appropriate regulatory authority.

G. AMENDMENTS. This Agreement may be amended in writing by mutual consent and may be terminated by either party upon written notice.

IN WITNESS WHEREOF, Issuer and Municipal Advisor have executed this Agreement. By signature of their representative below, each affirms that is has taken all necessary action to authorize said representative to execute this Agreement and has asked any questions or sought any clarification about disclosures with no further questions about said disclosures.

**Issuer**

\_\_\_\_\_ (Issuer Name)

\_\_\_\_\_ (Print Name of Authorized Signer)

\_\_\_\_\_ (Signature)

Executed this 29 day of Sept. , 2020

**Municipal Advisor**  
Colliers Securities LLC

Mike Manston (Print Name)

Mike Manston (Signature)

Executed this 29 day of 9, 2020



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 30, 2020  
**SUBMITTING DEPARTMENT:** Human Resources  
**DEPARTMENT DIRECTOR:** Brittany Cullen, HR Director  
**PRESENTER:** Brittany Cullen, HR Director  
**SUBJECT:** Day after Thanksgiving

---

STATEMENT/PURPOSE: Allow the Administrative offices to close the day after Thanksgiving.

BACKGROUND/ALTERNATIVES: Long standing tradition has been to have Administrative offices closed to the public the day after thanksgiving. Employees take vacation or comp time if they wish to do so, otherwise, they must receive permission to work from their respective department head.

ATTACHMENTS: N/A

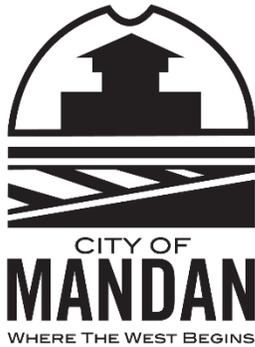
FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: I recommend the Administrative offices to be closed the day after Thanksgiving.

SUGGESTED MOTION: I recommend the Administrative offices to be closed the day after Thanksgiving.



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 30, 2020  
**SUBMITTING DEPARTMENT:** Human Resources  
**DEPARTMENT DIRECTOR:** Brittany Cullen, HR Director  
**PRESENTER:** Brittany Cullen, HR Director  
**SUBJECT:** Notice to Leave NDPERS Health Plan

---

**STATEMENT/PURPOSE:** Consider approval of the advance notice to leave the ND Public Employee Retirement System (NDPERS) Health Insurance Plan as part of the process in our transition to ND Public Health Insurance Trust NDPHIT.

**BACKGROUND/ALTERNATIVES:** On September 4, 2020, the City Commission approved joining the NDPHIT plan for health insurance. As part of this transition, NDPERS requires a sixty day advance notice of our intent to leave. With our new coverage taking effect on 1/1/2021, our notice is due to NDPERS no later than November 1, 2020.

**ATTACHMENTS:** Letter to be sent to NDPERS as our Notice to Leave the Health Insurance Plan.

**FISCAL IMPACT:** N/A

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** Reviewed by Attorney Oster.

**RECOMMENDATION:** I recommend approval of the notice to leave the North Dakota Public Employee Retirement System Health Insurance Plan.

**SUGGESTED MOTION:** I move to approve the notice to leave the North Dakota Public Employee Retirement System Health Insurance Plan.



## *Human Resources*

---

ND Public Employees Retirement System  
Attention: Rebecca Fricke  
400 East Broadway Avenue Suite 505  
PO Box 1657  
Bismarck, ND 58502

9/30/2020

Re: Leaving NDPERS Health Insurance Effective 1/1/2021

Ms. Fricke,

This is our official notice that the City of Mandan will be leaving the Health Insurance plan through NDPERS. Our Commission has approved our new health insurance coverage to take effect on January 1, 2021.

Please note that this notice is for the health insurance plan only. We will continue our participation in the Public Safety Retirement plan.

If you have any questions or need anything further, please let me know.

Thank you,

Brittany Cullen  
HR Director



### DESCRIPTION OF PREMISES

1. County in which premises are located: Morton

2. Are premises within the limits of an incorporated City?

Yes

No

3. Give address of premises:

401 West Main St. Mandan ND 58554  
(Street address) (City) (Zip code)

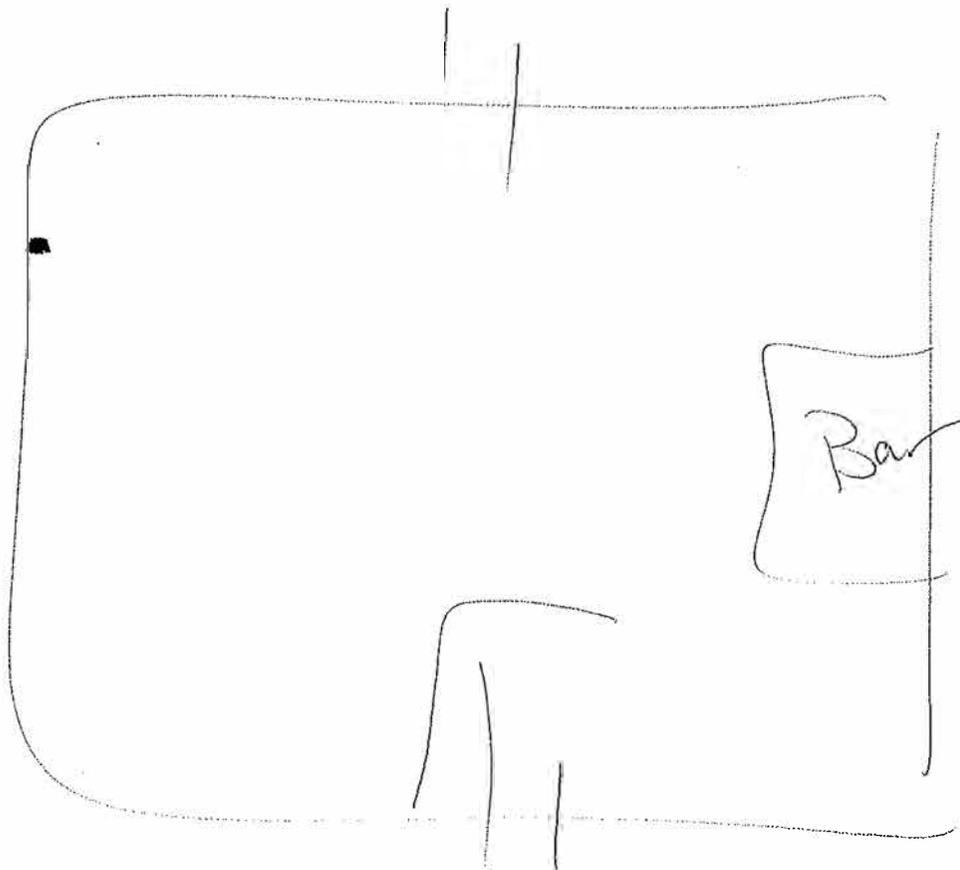
4. Name of building where event will be held: Mandan Depot

5. Do premises meet local and state requirements regarding sanitation and safety?

Yes

No

6. Draw a clear and understandable floor plan of the premises. Show all exits, bars, dining area (if any), beverage coolers and beverage storage areas. Indicate which are solid walls, half walls dividers, and moveable partitions. If any area is enclosed by fences or the like, explain type and height.





# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 30, 2020  
**SUBMITTING DEPARTMENT:** Police  
**DEPARTMENT DIRECTOR:** Chief Jason Ziegler  
**PRESENTER:** Chief Jason Ziegler  
**SUBJECT:** Police Department 2021 Budget Amendment

---

STATEMENT/PURPOSE: To consider a budget amendment to the 2021 Police Department budget.

BACKGROUND/ALTERNATIVES: The City of Mandan and Morton County for years, had an agreement to share the cost (benefits and salary) of the Youth Services Specialist. The Specialist is a City employee within the Police Department. The Youth Services Specialist provided services to juveniles living in the City and County. Morton County notified the City that as of the end of 2020, they no longer wish to continue with this agreement.

The Youth Services Specialist provides essential services including proactively working with at risk juveniles to prevent them from entering the Juvenile Justice system, case management for juveniles who have been cited by law enforcement and working with juveniles who are struggling with behaviors in school, at home and in the community.

The Youth Services Specialist is an important position not only for the Police Department, but also for the citizens of Mandan. Therefore, this request is for the City of Mandan to fund the full amount of the salary and benefits for the Youth Services Specialist.

ATTACHMENTS: n/a

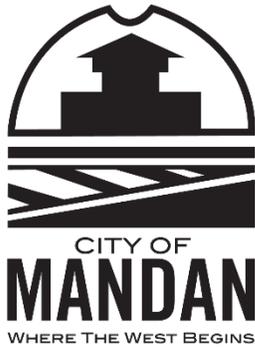
FISCAL IMPACT: \$40, 272.00 which is the additional 50% cost share for the position. Finance Director Welch advised the funding source would be from budget savings from the 2020 budget transferred to the 2021 budget.

STAFF IMPACT: Retention of the Youth Services Specialist position.

LEGAL REVIEW: n/a

RECOMMENDATION: I recommend amending the 2021 Police Department budget to fully fund the Youth Services Specialist position.

SUGGESTED MOTION: Move to amend the 2021 Police Department budget to fully fund the Youth Services Specialist position.



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** October 2, 2020  
**SUBMITTING DEPARTMENT:** Administration  
**DEPARTMENT DIRECTOR:** Jim Neubauer, City Administrator  
**PRESENTER:** Jim Neubauer, City Administrator  
**SUBJECT:** Request from ND Communities LLC regarding Water

---

**STATEMENT/PURPOSE:** To consider permission for ND Communities, LL to resell water to individual residents within Countryside and Parktown Mobile Home Communities.

**BACKGROUND/ALTERNATIVES:** ND Communities LLC is the owner of Countryside Mobile Home Community and Parktown Mobile Home Community. Mandan Code of Ordinances Section 117-7-5 states “it is unlawful for any person to resell any utility service obtained from the city to others except by special arrangement authorized by the board of city commissioners.”

The City of Mandan reads the master meter for Countryside and the owner would like permission to bill members of their community at the same rate the city is charging for their own water usage.

ND Communities LLC has also asked if it would be possible to somehow connect to the City’s reading system. Our system is connected directly with NISC which prepares the bills etc and thus this would not be feasible.

In discussion this item with our Utility Billing, Finance, and Public Works, and Legal departments, we have no issues with ND Communities LLC billing their members as long as they resell water as outlined in the letter dated Sept. 29, 2020 from the Nyhus Law Firm and understanding there will be no upcharge from the rate charged by the City of water.

**ATTACHMENTS:** September 29, 2020 letter from Nyhus Law Firm

FISCAL IMPACT: n/a

STAFF IMPACT: n/a

LEGAL REVIEW: City Attorney Oster has reviewed this request

RECOMMENDATION: I recommend ND Communities LLC be allowed to bill their members as long as they resell water as outlined in the letter dated Sept. 29, 2020 from the Nyhus Law Firm and understanding there will be no upcharge from the rate charged by the City of water.

SUGGESTED MOTION: I move ND Communities LLC be allowed to bill their members as long as they resell water as outlined in the letter dated Sept. 29, 2020 from the Nyhus Law Firm and understanding there will be no upcharge from the rate charged by the City of water.



**Christopher J. Nyhus**  
Attorney at Law  
chris@nyhuslaw.com

**Nathan P. Stittleburg**  
Attorney at Law  
nathan@nyhuslaw.com

September 29, 2020

Mr. Jim Neubauer  
City Administrator  
411 6<sup>th</sup> Ave., SW,  
Mandan, ND 58554

Sent via email to [jneubauer@cityofmandan.com](mailto:jneubauer@cityofmandan.com)

Re: ND Communities – Request to Re-Sell Water

Dear Jim:

I am directing this letter to your attention at the request of Ms. Amy Oster, the City Attorney. She is copied on this letter, as well as Mr. Mitch Bitz, as the director of public works.

I represent ND Communities, LLC, which is owner of the Countryside Mobile Home Community and Parktown Mobile Home Community, both located within Mandan city limits. Mandan Municipal Ordinance Section 117-7-5 states that it "is unlawful for any person to resell any utility service obtained from the city to others except by special arrangement authorized by the board of city commissioners." ND Communities, LLC would like the board of city commissioners to approve a special arrangement for ND Communities, LLC to re-sell water to individual residents within each community.

As of last fall, ND Communities, LLC began receiving bills directly from the City of Mandan for all the water used within each community. Previously the water within Countryside was billed directly to each lot tenant. The cost of water is currently included as a part of each individual's lot rent, regardless of the amount of their individual water usage. ND Communities, LLC would like permission to re-sell water directly to each individual resident based on their individual water usage. ND Communities, LLC will re-sell the water at the same rate that the city is charging for the water. It is ND Communities, LLC's belief that if individuals are directly responsible for the costs of their own water usage, each resident will have an incentive to practice better water conservation.

This proposal should not add any additional administrative costs to the City of Mandan. The City will still charge ND Communities, LLC for the full cost of the community's water use, as is the current practice. The costs of doing the individual billing and collection will remain with ND Communities, LLC. ND Communities, LLC will remain liable to the City for the full amount of water billed for the entire community's usage, regardless if it is re-sold to residents and will be responsible for collecting the payment from the residents within the community.

**Bismarck Office**  
PO Box 2295  
515 1/2 E. Broadway Ave., Ste. 103  
Bismarck, North Dakota 58502  
P: 701.751.2262 • F: 701.425.0228

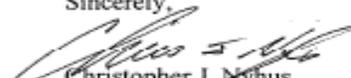
**Harvey Office**  
P.O. Box 217  
708 Lincoln Ave.  
Harvey, North Dakota 58341  
*By appointment only*  
P: 701.324.4800 • F: 701.425.0228

Although there are individual meters installed within Countryside, my client is unable to read them remotely. It is my understanding that the City was previously able to read them by some remote means. We are working on a system to read them remotely as well, and request cooperation from the City in doing so. If needed, would the City be willing to provide a meter reading for these lots, or share its software so that my client can determine the monthly usage?

Parktown is not yet individually metered. My client is working to hire a contractor to have individual meters installed. In the interim my client intends to average the usage between the residents on a flat-rate basis based on the historical water usage until individual meters can be installed. It is my opinion that doing so would not be a violation of Ordinance No. 117-7-5 because it is not technically re-selling it, but it is rather apportioning its own utility bill. I bring this to the City's attention so that it is not later thought to be a work-around or other violation of that ordinance. I ask that the City concur with this practice, and that once individual meters are installed, the re-selling of water can be covered under this same arrangement.

If you have any questions or want more information prior to the Commission taking up this request, please feel free to reach out to me. If not, I look forward to getting this matter on the agenda for the October City Commission meeting.

Sincerely,



Christopher J. Nyhus  
Attorney at Law

Cc: Mitch Bitz – Public Works (mbitz@cityofmandan.com)  
Amy Oster – City Attorney (aoster@crowleyfleck.com)



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 22, 2020  
**SUBMITTING DEPARTMENT:** Business Development & Communications  
**DEPARTMENT DIRECTOR:** Ellen Huber, Business Development & Communications Director  
**PRESENTER:** Ellen Huber, Business Development & Communications Director  
**SUBJECT:** Consider a Renaissance Zone lease application for 222 E Main St

---

**STATEMENT/PURPOSE:** To consider a Renaissance Zone Committee recommendation for approval of an application for lease of space by ICON Architectural Group at 222 E Main St, a building being newly constructed as a Renaissance Zone project.

**BACKGROUND/ALTERNATIVES:** The Renaissance Zone Committee met Sept. 17, 2020 to consider an application for lease by ICON Architectural Group. Mandan's Renaissance Zone program requires that there be a business expansion if an existing business is moving from one location within the Renaissance Zone to another. This is the case for ICON Architectural Group.

The Grand Forks-based business currently has a Mandan location with 943 square feet of leased office space at 100 Collins Avenue Suite 101. Starting with three employees at the Mandan location, ICON has since added two more full-time employees, making the current space tight, particularly when staff from the Grand Forks office are in town. The new lease space is 3,368 square feet in a building their team designed and that is being constructed as a Renaissance Zone project by RNR, LLC. Not only does the application represent an expansion in square footage, but also in employment. ICON plans to add at least five more employees in Mandan: an engineer, a CAD operator, and three architects.

The state income tax exemption expired in July 2020 for ICON's lease of the existing location as a Renaissance Zone project. The applicant expects to occupy its space in the new building in the fall or winter of 2021, so this would be the likely start of the new five-year window for the exemption.

**ATTACHMENTS:** Application available upon request.

**FISCAL IMPACT:** The estimated state income tax exemption is \$14,700 annually for a five-year total of \$73,500. The exemption is limited to the state tax on income derived from business activity at the Mandan location.

**STAFF IMPACT:** Minimal for application processing and finalization.

**LEGAL REVIEW:** Attorney Oster has reviewed the information. An automatic door will be required to comply with a local ordinance. The N.D. Commerce Department also requires a business incentive agreement for each application. A certificate of good standing with N.D. Tax Department is also on file.

**RECOMMENDATION:** The Mandan Renaissance Zone Committee voted 5-0 (two absent) to recommend Renaissance Zone project approval of lease of space by ICON Architectural Group at 222 E Main St as a Renaissance Zone project to include a 100% five-year state income tax exemption.

**SUGGESTED MOTION:** I move to approve lease of space by ICON Architectural Group at 222 E Main St as a Renaissance Zone project to include a 100% five-year state income tax exemption.



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 30, 2020  
**SUBMITTING DEPARTMENT:** Business Development & Communications  
**DEPARTMENT DIRECTOR:** Ellen Huber, Business Development & Communications Director  
**PRESENTER:** Ellen Huber, Business Development & Communications Director  
**SUBJECT:** MGF Recommendations on “Mandan Strong” Rnd 2 Mini Match Applications & Offering of a 3rd Round

---

**STATEMENT/PURPOSE:** To consider Mandan Growth Fund (MGF) Committee recommendations regarding round two applications for the “Mandan Strong” Business Mini Match and the offering of a third application opportunity.

**BACKGROUND/ALTERNATIVES:** The City Commission at its July 7, 2020, meeting approved the mini match program to help small, locally-owned businesses challenged by reduced revenues due to COVID-19. Matching funds of up to \$3,000 per business are available for implementation of strategies related to innovation, adaptability and diversification to become more resilient in the face of crisis. Eligibility requirements and program details are outlined in the attachment or at [www.cityfomandan.com/minimatch](http://www.cityfomandan.com/minimatch).

Six applications were received by the second application deadline of Sept. 14. The MGF met Sept. 29 to review applications. Because of the lateness in the season, the committee also recommends that any project involving outdoor seating, including the Copper Dog Cafe project approved in round 1, be given up to July 1, 2021 for completion rather than the 90 days stipulated in the program overview.

The table on the following page summarizes the committee’s recommendations for each application.

Applicant	Purpose of Request	Proposed Project Cost	Amount Requested	MGF Rec	Applicant Match (1:2 minimum)	Notes
The Studio: Wellness Community of Mandan	Expansion/leasehold improvements (\$6,057.66), online classes (\$2,758.43), sanitizer wipes (\$156.60)	\$2,758 to \$8,277.26	\$3,000.00	\$1,838.95	\$919.48	3 months online platform & related equipment
Cappucino on Collins	Create outdoor seating area in nook adjacent to alley	\$3,150.00	\$2,100.00	\$2,100.00	\$1,050.00	Requires property owner & MARC approval
Classic Rock Coffee	Privacy patio to enhance existing outdoor seating area	\$4,800.00	\$3,000.00	\$3,000.00	\$1,800.00	Requires MARC approval
Dakota Promotions & Printing	Create web-based "stores"	\$3,825.46	\$2,550.31	\$2,550.31	\$1,275.16	
Riverwood RV	Update dealer management system for reduced customer interaction & credit card handling w/ remote access.	\$13,957.00	\$3,000.00	\$3,000.00	\$10,957.00	
Scapegoat Bar & Grill	Fence & outdoor seating area	\$6,284.85	\$3,000.00	\$3,000.00	\$3,284.85	Requires MARC approval & liquor license update
<b>Total</b>			<b>\$16,650</b>	<b>\$15,489</b>	<b>\$19,286</b>	

The MGF Committee also discussed the status of the N.D. Commerce Department review of N.D. Economic Resiliency Grant applications. It is taking much longer than anticipated, thus some businesses may learn of denial of their proposed projects in the next 4-6 weeks. Some of these projects may fit the criteria for the Mandan Strong program. Because the pandemic continues and funding remains allotted, the MGF also recommends offering a third application

ATTACHMENTS: 1) Applications available upon request. 2) Mini-match program criteria posted at [www.cityofmandan.com/minimatch](http://www.cityofmandan.com/minimatch).

FISCAL IMPACT: An amount of \$75,000 was reserved in the MGF for this program with a sunset no later than the end of 2020. Following round one of applications, the uncommitted balance was \$66,793. The application amounts recommended for round two approval by the MGF total \$15,489. If this amount is approved, the remaining balance will be \$51,304.

STAFF IMPACT: Staff time is needed to obtain a signed promissory note and completed W-9 form from each approved applicant, provide the initial disbursement, and verify project completion and actual expenditures for final payment.

LEGAL REVIEW: Attorney Oster has reviewed the applications and is updating the forgivable loan promissory note to prevent the possibility of any double dipping with the N.D. Economic Resiliency Grant.

RECOMMENDATIONS:

1. The MGF Committee recommends approval in a 6-0 vote (with three members absent) of \$15,489 for Mandan Strong Business Mini Match applications as indicated for six applicants: The Studio: Wellness Community of Mandan, Cappuccino on Collins, Class Rock Coffee, Dakota Promotions and Printing, Riverwood RV, and Scapegoat Bar and Grill.
2. The MGF committee recommends an extension in the completion date for projects involving outdoor seating to July 1, 2021.
3. The MGF committee recommends offering a third application round for the Mandan Strong business mini match program with a Nov. 30, 2021 application deadline.

SUGGESTED MOTIONS:

1. I move to approve \$15,489 for Mandan Strong Business Mini Match applications as recommended by the Mandan Growth Fund Committee.
2. I move to approve an extension in the completion date for projects involving outdoor seating to July 1, 2021.
3. I move to approve offering a third application round for the Mandan Strong business mini match program with a Nov. 30, 2021 application deadline.



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 21, 2020  
**SUBMITTING DEPARTMENT:** Engineering and Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** Justin Froseth, PE  
**SUBJECT:** Development Agreement related to Andy's Addition

---

STATEMENT/PURPOSE: Consider entering into a development agreement with Andy Lee and Kallie Swenson, property owners of proposed Andy's Addition.

BACKGROUND/ALTERNATIVES:

A minor plat for Andy's Addition was approved by the Board on July 7, 2020 subject to a development agreement addressing matters of health and safety due to the primary access occurring via the alleyway between 8<sup>th</sup> Ave NE and 6<sup>th</sup> Ave. NE. A site map is provided in Exhibit 1 and the development agreement is provided in Exhibit 2.

Legal has reviewed the document and all changes have been incorporated. Staff is recommending the Board enter into the development agreement in Exhibit 2.

ATTACHMENTS:

- Exhibit 1 – Location Map
- Exhibit 2 – Development Agreement

FISCAL IMPACT: N/a

STAFF IMPACT: N/a

LEGAL REVIEW: Attorney Oster has reviewed and approved the development agreement provided in Exhibit 2.

RECOMMENDATION: Engineering and Planning Department is recommending approval of the development agreement provided in Exhibit 2.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 6, 2020

Subject: Development Agreement related to Andy's Addition

Page 2 of 2

---

SUGGESTED MOTION: I move to approve the development agreement provided in Exhibit 2.



**EXHIBIT 1**

**2nd ST NE**

**5th AVENUE**

**1st ST NE**

**6th AVENUE**

**MAIN ST E**



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

# EXHIBIT 2

## Development Agreement

### Andy's Addition

This Agreement is made and entered into on the [DAY] of [MONTH], 2020, (hereinafter the "effective date") by and between the City of Mandan (hereinafter referred to as the "City") and Andy Lee and Kalli Swenson (hereinafter collectively referred to as the "Developer"). The address for the City of Mandan is 205 2<sup>nd</sup> Avenue NW, Mandan, North Dakota 58554. The address of Developer is 109 8<sup>th</sup> Ave. NE. This Agreement is a covenant running with the Property and binding upon any and all future owners of the Property.

WHEREAS, the Developer is the owner of property whose legal description is All of lots 3 & 4, Block 1, Helmsworth and McLean's Addition of the SW ¼, Section 26, T139N-R81W of the City of Mandan, Morton County, North Dakota (hereinafter referred to as "the Property"); and

WHEREAS, the Developer wishes to adjust the property boundaries of the Property via plat named "Andy's Addition" containing two (2) lots (hereinafter referred to as the "Development"); and

WHEREAS, the existing dwelling addressed as 109 8th Ave. NE will reside on the proposed Lot 2, Block 1, Andy's Addition and have street frontage along 8th Ave. NE, and the future dwelling to be located on Lot 1, Block 1, Andy's Addition will have vehicular access from the alleyway.

WHEREAS, the Development, without this Agreement, would pose risks to the health and safety of the property owners and disorder regarding the provision of water, sewer, utility, and other services to the Property; and

WHEREAS, nothing in this Agreement prohibits the City from amending the Mandan Code of Ordinances to require additional health and safety or other measures at a future point in time that would be necessary to permit the Developer rebuilding in the event of substantial loss (greater than 50% of the value); and

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

WHEREAS, nothing in this Agreement alleviates the Developer from obtaining the necessary building or other permits as required by the City.

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

1. Address numbers of the dwelling for Lot 1, Block 1, Andy's Addition shall be visible and discernable from both the street (8<sup>th</sup> Ave. NE) and alley (alley between 8<sup>th</sup> Ave. NE and 6<sup>th</sup> Ave. NE) rights-of-way.
2. Address numbers for the residence to be constructed on Lot 1, Block 1, Andy's Addition shall be illuminated and affixed to the residence. Illumination shall be downward (located above the affixed address numbers and directed toward the ground) and inward (toward said residence) facing.
3. A garage, if constructed on Lot 1, Block 1, Andy's Addition, that faces the alley shall be set back a minimum of twenty-two (22) feet from the property boundary.
4. The Developer shall enter into and record a shared water/sewer use that is binding upon any and all future owners of the Property.

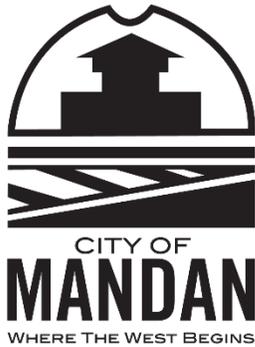
\_\_\_\_\_  
Mayor Tim Helbling  
City of Mandan

\_\_\_\_\_  
Andy Lee, Owner

Attest:

\_\_\_\_\_  
Jim Neubauer, City Manager

\_\_\_\_\_  
Kalli Swenson, Owner



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** October 1, 2020  
**SUBMITTING DEPARTMENT:** Planning and Engineering  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** Justin Froseth, Planning and Engineering Director  
**SUBJECT:** Mid-Town East Milestone #1 Time Extension

---

**STATEMENT/PURPOSE:** To consider a time extension request for the completion of milestone #1 requirements of the Mid-Town East Street Improvement District.

**BACKGROUND/ALTERNATIVES:** The Mid-Town East street reconstruction project was bid this spring. It the largest construction project we have taken on this year involving many thousands of feet of pipe replacement and the reconstruction of most of the roadways between Collins Avenue to 5<sup>th</sup> Avenue NE, and Main Street through 5<sup>th</sup> Street NE. This area has been very active with construction all summer and it is evident by this request that this has been a challenging project for our contractors.

As a result of work being behind schedule, the contractor has asked for a Milestone #1 completion date extension. The original Milestone #1 completion date was set at October 16<sup>th</sup>. As a result of previous change order approvals, the current Milestone #1 completion date stands at October 29<sup>th</sup>. Milestone #1 calls for the completions of..." All Work with the exception to crack sealing and seal coat to be completed on or before October 16, 2020." as stated in the original contract.

On the attached request letter, the contractor brings up things such as unknown utilities that did not match locates or were not known. Generally there is merit to these challenges, not all that could have been anticipated. The contractor also brings up the conditions that they are working in. Things such as narrow streets and deep storm sewer are among those conditions brought up. The Engineering office would contend that those conditions were known at the time of bid opening.

In conversations about the possibility of recommending any time extension to be approved, the engineering office has emphasized two very important conditions to us.

- 1) The underground work this fall be buttoned up in time to pave over that work so that we go into winter with fully paved roads. The contractor understands this

condition and has outlined a plan to button up underground work by October 16<sup>th</sup> so that there is time to pave over at the end of October and into November as long as temperatures allow asphalt paving.

- 2) The substantial work is complete comfortably ahead of our special assessment verification process. It is most appropriate for final costs to come in to us by the beginning of July so that we can feed all numbers through our special assessment allocation formulas throughout the neighborhood and let that information be known a comfortable distance ahead of our mandated deadlines in order to allow some time for conversation or correction if necessary.

Given the above considerations and conditions, the Engineering Department believes it is appropriate to extend Milestone #1 to June 18<sup>th</sup> of 2021. However, we do not believe it is appropriate to move it any more than that based on when load restrictions are lifted in 2021. The contractor asks for the June 18<sup>th</sup> date based on a May 10<sup>th</sup> lifting of load restrictions. Essentially, they are asking for six working weeks in the spring before liquidated damages start. In some springs, load restrictions could be lifted in late May or even June at times. If that happened in 2021, it could put the milestone activities into July which substantially impacts our special assessments process. Therefore, our department would simply recommend the June 18<sup>th</sup> date and not tie it to when load restrictions are lifted. City staff has been in communication with Moore Engineering on this item and this recommendation has their endorsement.

If not approved, the contractor may be less likely to work with us on condition #1, to hard surface the streets that are disturbed over winter months. They are not contractually obligated to do this and it may slow them down to an extent, so they may elect to leave as aggregate roads over the winter and maintain as aggregate which would result in tough conditions to maintain. Also a consideration is the cost of future projects. We want to be able to demonstrate to our contractor community that we are reasonable with such requests. Taking a hard stance could be reflected in the cost of future bid opportunities. Our contracting community is limited and we have many more projects in mind in order to correct our aging infrastructure challenges.

#### ATTACHMENTS:

- 1) Milestone #1 Time Extension Request Letter
- 2) City Change Order Form
- 3) Map of 2020 completed work as projected through the 2020 construction season.
- 4) Map of work requested to complete in 2021.

FISCAL IMPACT: The contractor is not asking for additional compensation as part of this time extension request. If denied or if construction activities go past the revised milestone completion, liquidated damages accrue at a rate of \$2,500 per calendar day. Liquidated damages would not accrue during a period when the project is in an

authorized state of suspension. That would basically be the winter months during which construction activities are not considered feasible by the City Engineer.

STAFF IMPACT: Continued coordination with the contractor and Moore Engineering.

LEGAL REVIEW: All items have been forwarded to the City Attorney for her review.

RECOMMENDATION: Approve the Milestone #1 time extension to June 18, 2021. Do not include any consideration for when load restrictions are lifted in 2021. A condition of allowing is that they focus on hard-surfacing the disturbed roads so that we have all hard-surfaces over the winter months.

SUGGESTED MOTION: I move to approve of the Milestone #1 time extension to June 18, 2021 without consideration for when load restrictions are lifted in 2021 and under the condition that they hard-surface the disturbed areas so that we have all hard-surfaces over the winter months.



PO Box 13500  
Grand Forks, ND 58208-3500  
701.748.7491

Original: 8/19/20

Revised: 9/22/20

Moore Engineering

RE: City of Mandan SID 215.

Strata Corporation formally requests that the Milestone 1 Completion Date be adjusted from October 16<sup>th</sup>, 2020 to June 18<sup>th</sup>, 2021, which would give us approximately 6 weeks to finish the underground and street replacement in the early Spring of 2021. We are not technically asking for a time extension, as we will have no problem meeting the 2021 Substantial and Final Completion Dates.

Our Primary reason is that the underground work is taking longer than expected. We ask this mainly due to the growing number of unknown utilities we are encountering, such as lines in areas that do not match locates and abandoned/live lines that are not on the utility map. Making these unknowns even worse is the nature of the area we are working. The streets are very narrow, and the Storm Sewer being installed is very deep leaving little to no room to work around an unknown utility that is encountered. Cofell's has had two crews working almost exclusively on this project since June 8<sup>th</sup> leaving with one crew (roughly 8-10 days) due to prior commitments. Cofell's has been working 65-hour weeks mostly Monday-Friday, it is their opinion that working additional hours would bring diminishing returns as it would wear employees out working more hours a week. We currently have 2 underground crews, 1 to 2 concrete crews, 1 Dirt/CSB crew, landscaping crew, a retaining wall beginning shortly and a paving crew working on site depending on the day.

In early-August, we had a joint discussion with the City on the possibility of bringing in a 3<sup>rd</sup> underground crew and opening up additional blocks in order to get underground work done faster. Because of the very condensed project area roughly 4.5 by 5 blocks with narrow streets, with narrow streets, we jointly decided against it as it would have made it almost impossible for local traffic to move around. At the time, you told us to keep working diligently and you would consider approval if we continued to press hard.

We are trying to do the right thing for the neighborhood. Rather than continue to complete underground work into early November and leave streets unpaved, our plan would be to continue digging for 4 more weeks and the shut them off around October 16<sup>th</sup>, 2020, so we can tidy up the neighborhood and install Cement Stabilized Base, Complete Concrete Work, and Place Asphalt for the completed areas by the second week of November.

Again we are not asking for additional compensation, nor are we asking to extend the overall project completion date, simply for your understanding that several blocks won't be able to be completed this fall and that the milestone to have the street replacement completed gets slid to mid-June 2021 (based on load restrictions lifting May 10<sup>th</sup>). We will commit to mobilizing to this Mandan Project before beginning work elsewhere. Thank you for your consideration of this request and feel free to contact me with any questions.

Nick Mariner

Project Estimator

Strata Corporation



Comments: \_\_\_\_\_

**TO ALL DEPARTMENTS:** Please attach a copy of the change order.

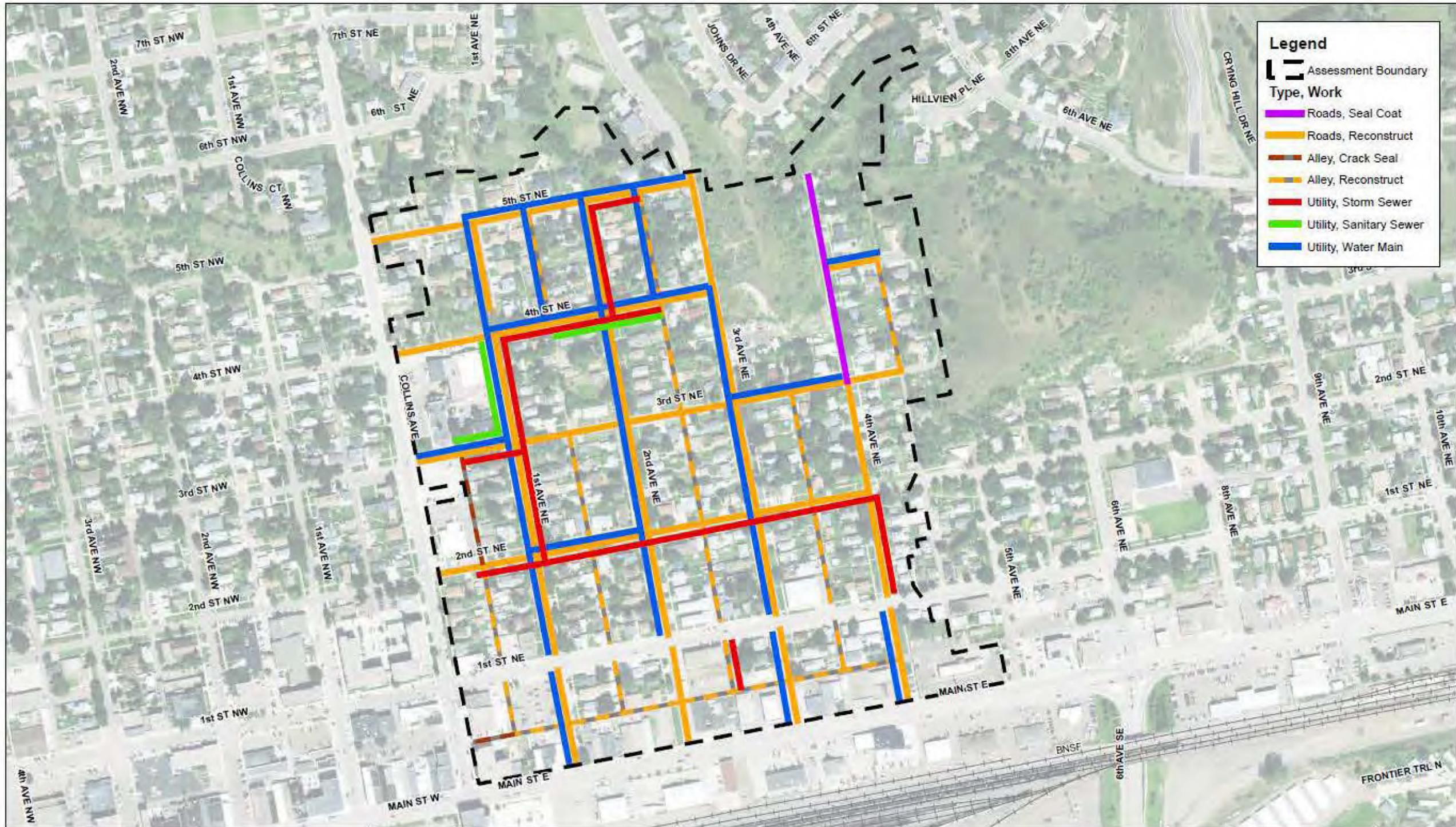
**CONTRACTOR APPROVAL**

PROJECT MANAGER SIGNATURE:

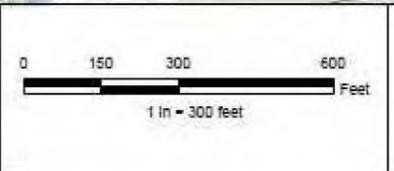
DATE:

**CHANGE ORDER DISCRIPTION:**

This change order would be a no-cost change order. It would be a change order to extend the date of completing Milestone #1 items from October 29, 2020 to June 18, 2021. Somewhat dependent on when work has to stop this fall and when load restrictions are lifted in the spring, but approximately a 5-7 week extension if those dates are near average.

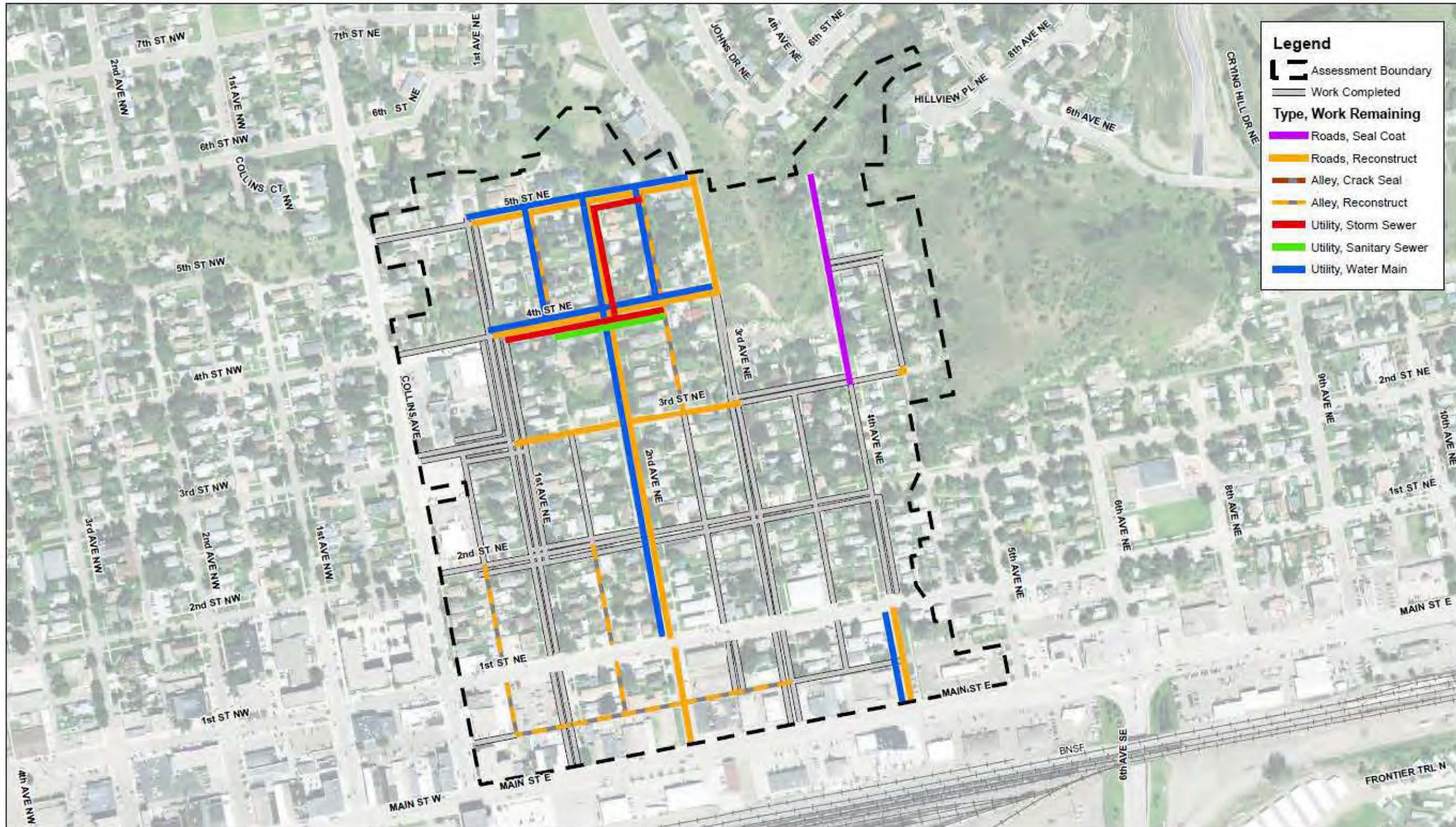


**Total Work For Project**  
**Mid-Town East Street Imp. Dist. 215, Project 2019-05**  
**Mandan, North Dakota**



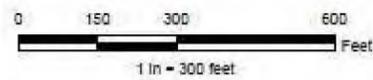
Created By: TJB Date Created: 10/01/19 Date Revised: 10/02/20 Date Expired: 10/02/20  
 Plotted By: kyle.volk Parcel Data: NA Aerial Image: 2019 County RAP 5100 Elevation Data: NA  
 Horizontal Datum: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet Int Vertical Datum: NAVD1988  
 T:\Projects\0200702054\02054\_Total\_Work\_For\_Project\_Map\_2020\_10\_02.mxd





**2021 Work Remaining  
Mid-Town East Street Imp. Dist. 215, Project 2019-05  
Mandan, North Dakota**

Created By: TJB Date Created: 10/01/19 Date Revised: 10/02/20 Date Expired: 10/02/20  
 Plotted By: Kyle Volk Parcel Date: N/A Aerial Image: 2019 County: NAD: 5410 Elevation Data: N/A  
 Horizontal Datum: NAD 1983 Data Plane: North Dakota South FIPS 5002 Feet: 0 Vertical Datum: NAVD1988  
 \\Projects\00800\0054\0054\_2021\_Work\_Remaining\_Project\_Map\_2020\_10\_02.mxd





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** October 5, 2020  
**SUBMITTING DEPARTMENT:** Administration  
**DEPARTMENT DIRECTOR:** Jim Neubauer, City Administrator  
**PRESENTER:** Jim Neubauer, City Administrator  
**SUBJECT:** Mandan Depot Sublease

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STATEMENT/PURPOSE: To consider the termination of the sublease between Harvest LLC, and the Fort Abraham Lincoln Foundation (FALF) and the subsequent lease between the Signature Events and the FALF.

BACKGROUND/ALTERNATIVES: The City of Mandan has a lease with the FALF for the Mandan Depot, in turn FALF subleases a portion of the building to Harvest Catering and Events LLC (HCE). HCE wishes to terminate their lease with FALF as of Oct. 15, 2020. Signature Events LLC wishes to enter a sublease with FALF as of Oct. 16, 2020.

Any sublease that FALF enters into for sublease of the Mandan Depot is subject to consideration by the Board of City Commissioners.

The terms of the two leases are as follow, FALF Lease with the City of Mandan (terminates May 31, 2021 with option to renew for another five years) and the sublease to HCE (expires September 30, 2022). At this time it is uncertain if FALF will exercise the option to renew the lease after May 31, 2021, and therefore, the recommendation is to allow the sublease between FALF and HCE to terminate as of October 15, 2020 and approve the sublease between FALF and Signature events from October 16, 2020 through May 31, 2021. As event planning and facility bookings occur months and at times years in advance, it is also recommended that discussions with FALF and Signature events occur soon regarding future use of the Mandan Depot.

ATTACHMENTS:

- 1) Sept. 27, 2020 Letter from FALF
- 2) Sept. 24, 2020 Letter from HCE
- 3) Sept. 27, 2020 Letter from Signature Events
- 4) City of Mandan & FALF Lease
- 5) FALF & HCE Lease

FISCAL IMPACT: n/a as FALF lease term and rent remains the same.

STAFF IMPACT: n/a

LEGAL REVIEW: Attorney Oster has been consulted in the matter in concurs with the recommendation.

RECOMMENDATION: I recommend that the sublease between FALF and HCE be terminated as of Oct. 15, 2020 and the sublease between FALF and Signature events be approved through May 31, 2021.

SUGGESTED MOTION: I move that the sublease between FALF and HCE be terminated as of Oct. 15, 2020 and the sublease between FALF and Signature events be approved through May 31, 2021.

Aaron L. Barth  
Missouri Valley Heritage Alliance  
Fort Abraham Lincoln Foundation  
401 W. Main Street  
Mandan, North Dakota 58554

September 27, 2020

Mandan City Hall  
Attn: Mayor Helbling & City of Mandan Commissioners  
205 Second Ave NW  
Mandan, ND 58554

Dear Mayor Helbling & City of Mandan Commissioners,

**SUBJECT: Fort Abraham Lincoln Foundation Subleasing Mandan Depot to Signature Events, LLC**

I am writing this letter to document and formally and respectfully request the Mandan City Commission to consider allowing the Fort Abraham Lincoln Foundation (FALF) to sublease the west half 2/3s of the Mandan Depot (401 West Main Street, Mandan, ND) to Signature Events, LLC. Signature Events, LLC, has a business model that will allow for the Mandan Depot to be utilized on a more regular basis.

As a helpful refresher, in 2016 and 2017, the Mandan City Commission approved FALF's partnership with Harvest Catering & Events, LLC (HCE). Below are the action items for consideration by the City of Mandan:

- HCE wishes to terminate their sublease with FALF as of October 15, 2020;
- Signature Events, LLC wishes to enter into a sublease with FALF as of October 16, 2020;

In the early 1990s, the Fort Abraham Lincoln Foundation worked with the City of Mandan to help revive the occupancy of the Mandan Depot, as the building had sat idle for some time. The Fort Abraham Lincoln Foundation, a 501(c)3 non-profit dedicated to heritage education and heritage tourism along the Missouri River in central North Dakota, remains committed to the benefit of our wonderful communities, and wishes the best for all parties involved.

If there are any comments, suggestions, concerns, questions, impressions or inspirations, please by all means I stand ready to be of help in answering them.

Thank you once again.

Sincerely,



Aaron L Barth  
Missouri Valley Heritage Alliance  
Fort Abraham Lincoln Foundation

September 24, 2020

To: Missouri Valley Heritage Alliance/Fort Abraham Lincoln Foundation

From: Edgar Oliveira, Harvest LLC

The intent of this letter is to document the termination of the lease agreement between Harvest Catering & Events LLC and the Fort Abraham Lincoln Foundation (Missouri Valley Heritage Alliance), effective 10/15/2020.

This termination allows the MVHA to enter into lease agreements with other tenants and further releases HCE LLC from rent and/or other obligations contingent upon the lease agreement.

Edgar Oliveira



Renee Murrish, Owner  
Mandan, ND  
701-226-1640  
Renee@SignatureEventsMandan.com  
www.SignatureEventsMandan.com

September 27, 2020

Mandan City Hall  
Attn: Mayor Helbling & City of Mandan Commissioners  
205 Second Ave NW  
Mandan, ND 58554

Dear Mayor Helbling & City of Mandan Commissioners,

**SUBJECT: Subleasing Mandan Depot from the Fort Abraham Lincoln Foundation**

I am writing for approval for Signature Events to sublease, from the Fort Abraham Lincoln Foundation, the west half of the Mandan Depot located at 401 West Main Street in Mandan ND; with having the first right of refusal option for taking over the entire building when/if the Fort Abraham Lincoln Foundation chooses to not extend their lease in 2022 or earlier lease termination.

Signature Events is excited to add another planning element and store front that will be open to the public throughout the week as well as continuing to keep the historic Mandan Depot as a great venue; along with public events to attract guests from surrounding communities. This Fall we will be adding the Event Gallery as Signature Events continues to be a liaison for all North Dakota Companies. The Event Gallery is a place where North Dakota Companies have the opportunity to create a vision board to promote their company, show case their talents and services. Potential clients from the Mandan and surrounding communities, who are in need of planning an event, will come to the Event Gallery and have the "one stop shop" visual experience of many great North Dakota companies, and leave with their event elements planned. Signature Events will be on site to answer any questions and continue to help plan signature events.

Upon subleasing approval, Signature Events will be seeking a Beer and Wine alcohol licenses from the city of Mandan. November 1, 2020 will be the target opening date for Signature Events at the Mandan Depot.

Thank you for your consideration.

Renee Murrish, Owner  
Signature Events, LLC

Lease Agreement

City of Mandan

&

FORT ABRAHAM LINCOLN FOUNDATION

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LEASE AGREEMENT  
FORT ABRAHAM LINCOLN FOUNDATION

THIS LEASE AGREEMENT, entered into as of this 6<sup>th</sup> day of June, 2017, between the **City of Mandan**, a municipal corporation, whose post office address is Mandan City Hall, 205 Second Avenue NW, Mandan, ND 58554, herein referred to as "**City**" and **Fort Abraham Lincoln Foundation**, whose post office address is 401 West Main Street, Mandan, ND 58554, hereinafter referred to as "**Tenant**".

**1. Recitals**

1.1. City is the owner of the following described land located at 401 West Main Street, Mandan, ND 58554:

Lot 5, Block 1, BNSF Commercial Park 3<sup>rd</sup> Addition to the City of Mandan, Morton County, North Dakota.

1.2. Tenant desires to lease said land and building consisting of 4,400 sq. ft. owned by City for the purpose of operating a business in the former "Depot" building.

1.3. This Lease and any assignments, subleases, amendments or addendums thereto is contingent upon the approval of the Board of City Commissioners.

In consideration of the mutual covenants contained in this Lease Agreement, the Parties agree to the following:

## **2. Description of Premises**

### **2.1. City leases to the Tenant the following described land:**

Lot 5, Block 1, BNSF Commercial Park 3<sup>rd</sup> Addition to the City of Mandan, Morton County, North Dakota.

hereinafter be referred to as "Leased Premises".

## **3. Purpose of Lease and Tenant's Use of Premises and Improvements**

3.1. The Leased Premises is to be used by Tenant for the purpose of an office, restaurant and tourism related business in the former "Depot" building, or upon approval of the governing board of the City, for other legitimate uses permitted within the CB Restricted Zoning District of the City of Mandan. The use of the premises is subject to the conditions contained in this Lease Agreement.

3.1.1. Tenant may make improvements to the Leased Premises with the consent of the City. In the event the improvements add to the usability, appearance and utilization of the Leased Premises, the parties may agree to an adjustment in the rent to account for the value of said improvements. Upon the execution of this lease, Tenant anticipates making improvements to the Leased Premises in an amount up to \$50,000.

## **4. Term of Lease**

4.1. The term of this lease is for a period of five (5) years commencing as of June 1, 2017, and terminating on May 31, 2021. The Board of City Commissioners of the City of Mandan in approving a term of five (5) years has by resolution determined that due to the nature of the property or its use and its appurtenant fixtures or equipment and necessary improvements, a longer term lease is required to assure the success of the enterprise or use, and has further determined that because this was a commercial enterprise existing at the time of the City's acquisition of said land that the Board would not require a competitive bidding process for the lease of the premises.

## **5. Option to Renew**

5.1. Thereafter the Tenant shall have the option to renew this Lease Agreement, for another five (5) year term. The annual rental amount will increase 3% for the renewal term, unless the Board of City Commissioners determines that economic or market conditions require a lesser or greater annual percentage of increase.

5.2. To exercise an option to renew, Tenant must give City written notice of its intention to do so at least ninety (90) days prior to the date this Lease Agreement shall terminate or prior to the expiration date of any extension thereof.

**6. Rent and Late Fees**

6.1. Tenant shall pay rent during the lease term as follows:

The sum of \$600.00 per month for the months of June, July, August, September and October, 2017. Commencing November 1, 2017, or sooner upon the completion of planned improvements, rent shall be the sum of \$2,567.00 per month, and every month thereafter. Upon Tenant furnishing proof of actual investment in qualifying or approved improvements to the Leased Premises, the monthly rent will be reduced by an equal amount (or an amount not to exceed \$50,000) amortized over the remaining term of the lease to permit Tenant to recover the cost of the improvements.

6.2. Tenant will pay rent to the City in monthly installments payable on the first day of each month. Payments made later than ten (10) days after the due date will be assessed a \$20.00 late fee. Rent payments shall be made payable to the City of Mandan and sent to the City of Mandan, 205 2nd Avenue NW, Mandan, ND 58554.

**7. Utilities, Taxes and Services**

7.1. Tenant shall pay for all utilities, including water and sewer service, gas, electricity, and garbage disposal.

7.2. Tenant will pay or reimburse City for the annual real estate taxes and special assessments, if any, attributable to Tenant's use of the leased premises.

**8. Snow Removal**

8.1. Tenant is responsible for snow removal on sidewalks and parking area.

**9. Liability and Property Insurance**

9.1. Tenant shall purchase and at all times maintain comprehensive general liability insurance containing standard coverage against any and all injury to person or property in an amount of at least \$1 million Dollars (\$1,000,000.00), and including what is commonly known as supplemental contract or extended coverage, which includes the City as a named insured.

9.2. Tenant shall purchase and at all times maintain during the terms of this lease agreement, at its own cost and expense, insurance coverage for blanket contractual liability which covers the Tenant's obligations and responsibilities under this Lease Agreement. In lieu of blanket contractual insurance, the Tenant may elect to provide to City a performance bond in the amount of Three Hundred Thousand (\$300,000.00) Dollars.

**10. Waiver of Rights of Subrogation**

10.1. The Tenant shall waive any and all rights of recovery, claim, action, or cause of action against the City and its officers, employees, and agents for any loss or damage that may occur to any person or property by reason of any cause which is insured against under the terms of the general liability, fire, personal property, or blanket contractual liability policies, regardless of cause or origin, including the negligence of the City, its officers, employees, or agents and to include in any standard liability policy a clause or endorsement to the effect that any such waiver shall not adversely affect or impair said policies or prejudice the right of the party granting such waiver to recover thereunder. The provisions of this paragraph are in addition to and not meant to limit the applicability of any other provision of this Lease Agreement.

**11. Indemnification of City**

11.1. Tenant agrees to defend, indemnify, protect and save the City against any and all claims, demands, suits, damages, liabilities, judgments, losses, and fines, penalties, costs or expenses of whatever kind or nature, including attorney's fees, directly or indirectly, arising out of the Tenant's operation and use of the land, including but not limited to those relating to:

11.1.1. Injury to person and property;

11.1.2. Tenant's operating policies; rules and regulations;

11.1.3. Tenant's employment, contract and rental disputes;

11.1.4. Failure by Tenant to perform any of the terms or conditions of this Lease Agreement;

11.1.5. Failure by Tenant to comply with any law or regulation of any governmental authority, and

11.1.6. Any construction lien or security interest filed against the Leased Premises or equipment, materials, or alterations of the Leased Premises or improvements thereon which shall result from the action of Tenant, whether occurring from negligence, contract or any other source, and regardless of fault on the part of the Tenant, shall be an event of default.

11.2. The foregoing obligation is in addition to and not limited by any requirement on the part of the Tenant to purchase and maintain specified insurance coverages.

**12. Liens**

12.1. Tenant shall keep the Leased Premises free and clear of all liens arising out of any work performed, materials furnished, or obligation incurred by Tenant.

**13. Compliance with Lease and Laws**

13.1. Tenant shall not cause or allow any undue waste on the Leased Premises and shall comply with all applicable laws and ordinances respecting the use and occupancy of the Leased Premises relating to matters not covered elsewhere in this Lease Agreement.

**14. Parking**

14.1. The parties agree that a portion of the Leased Premises shall be for handicapped and public parking of customers of the Tenant and shall be subject to such parking regulations as the City may impose.

**15. Assignments, Sales and Subleases of Leased Premises**

15.1. Tenant shall not assign, sell or sublet the Leased Premises or any part thereof or interest therein, without the prior written consent of City. Any attempt to assign, sell or sublet without the consent of City shall be deemed a default by Tenant, entitling City to re-enter and occupy the Leased Premises pursuant to Section 16 of this Lease Agreement.

**16. Default of Tenant**

16.1. If any rents are reserved, or any part thereof, or any charges due City shall remain unpaid when they shall become due, or if Tenant violates or defaults in any of the provisions of this Lease Agreement, then City may cancel this Lease Agreement by giving notice as required under this Lease Agreement, and City may re-enter and take possession of the Leased Premises.

16.2. If Tenant becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee, or other liquidating officer is appointed for the business of the Tenant, the City may terminate this Lease Agreement at the option of the City by giving notice as required under this Lease Agreement, and City may re-enter and take possession of the Leased Premises.

**17. Remedies of City and Tenant**

17.1. City may terminate this Lease Agreement and take possession of the Leased Premises without further notice following either of these events:

17.1.1. Tenant fails to pay the rent due under this Lease Agreement within ten (10) days following written notice of default,

17.1.2. Tenant fails to commence corrections required by law or regulation of any governmental body,

17.1.3. Tenant fails to commence corrections of any other violation of its covenants and responsibilities under this Lease Agreement within ten (10) days following written notice, or

17.1.4. Having commenced corrections, Tenant fails to proceed to conclusion with due diligence.

17.2. Any breach by City of any obligation herein shall be a default of its obligation to Tenant and shall entitle Tenant to declare the default, at which time Tenant shall bear no further responsibility to fulfill its obligations hereunder and in such event Tenant shall be obligated to remove itself from the Leased Premises.

## **18. Termination and Surrender**

18.1. Tenant shall surrender the Leased Premises to the City:

18.1.1. Within thirty (30) days of receipt of the default and termination notice by certified mail, or if undeliverable,

18.1.2. Within thirty (30) days of posting of the notice of default on the front door of the Leased Premises, or

18.1.3. On the last day of the term of this Lease Agreement.

18.2. Upon surrender, the Leased Premises shall be in as good a condition as when the Tenant took possession, except for ordinary wear and tear, loss by fire or other unavoidable casualty, or loss by any cause beyond the Tenant's control.

## **19. Notices**

19.1. Except where otherwise required by state statute, all notices given pursuant to the provisions of the Lease Agreement may be sent by certified mail, postage prepaid, return receipt requested, to the last known mailing address of the party for whom the notice is intended. If delivery cannot be made to Tenant by certified mail, the City may cause notice to be made by posting of the notice on the front door of the Leased Premises. Notices

to City shall be addressed to City Administrator, City Hall, 205 2<sup>nd</sup> Avenue NW, Mandan, ND 58554. Notices to Tenant shall be addressed to Fort Abraham Lincoln Foundation, 401 West Main Street, Mandan, ND 58554.

**20. Waivers**

20.1. The failure of City to insist on strict performance of any of the terms or conditions hereof shall not be deemed a waiver of the rights or remedies that the Parties may have regarding that specific instance only, and shall not be deemed a waiver of any subsequent breach or default in any terms or conditions hereof.

**21. Succession**

21.1. This Lease Agreement shall benefit and be binding upon the City and the Tenant and their respective heirs, legal representatives, successors and assigns.

**22. Applicable Law**

22.1. This Lease Agreement shall be governed and construed in accordance with the laws of the State of North Dakota.

**23. Amendments or Modifications of Lease Agreement**

23.1. This Lease Agreement may be modified or amended at any time by the written agreement of the Parties.

IN WITNESS WHEREOF, The Parties to this Lease Agreement have signed the day and date first above written.

CITY:

TENANT:

THE CITY OF MANDAN

FORT ABRAHAM LINCOLN  
FOUNDATION

By:   
Tim Helbing, President of the  
Board of City Commissioners

By:   
Title: Executive Director

ATTEST:

  
James Neubauer, City Administrator

## The Mandan Depot

May 31, 2017

The partnership between the City of Mandan, the 501(c)3 Fort Abraham Lincoln Foundation (FALF), Five Nations Arts, and a restaurant sub-lessee/Edgar Oliveira of the Harvest Grill/Station West/James River Café responds to the City of Mandan's desire to create unique restaurants.

The restaurant sub-lessee will install a German-style "Beer Hall" within The Depot in historic downtown Mandan, North Dakota. The German-style restaurant will include a selection of regional and national beers with a casual and price friendly menu. The Depot will have a private conference room and will be available for event rentals.

FALF offices and Five Nations Arts will remain in The Depot, with rebranding and structural updates to Five Nations Arts. This partnership will allow for the increased use of The Depot by residents and visitors to the City of Mandan.

The partnership benefits include:

- Increased rent revenue to the City of Mandan;
- Increased tax revenue to the City of Mandan;
- Continued downtown development;
- Heritage themed restaurant which speaks to city desire for unique eateries;
- Beautification of The Depot's indoor and outdoor space;
- Electrical, plumbing, structural and cosmetic updates to city-owned building;
- Increased foot traffic to historic downtown Mandan;
- Constructive public-private partnership;
- Improvements of tourism infrastructure;
- Enhancing FALF's ability to fulfill its non-profit heritage tourism and education mission<sup>1</sup> for the City of Mandan and State of North Dakota

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<sup>1</sup> As stated in FALF's By-Laws, the purpose of FALF is to preserve, promote and develop heritage tourism sites and educational activities of significance to North Dakota, particularly in the Bismarck-Mandan region, and to maximize the educational and economic benefits resulting from those sites and activities.

## SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT ["Sublease"] is made and entered into by and between Fort Abraham Lincoln Foundation, with its principal office being located at 401 West Main St., Mandan, ND 58554 [hereinafter referred to as "Sublandlord"] and Harvest Catering and Events, LLC, of 308 W Main St, Mandan, ND 58554 [hereinafter referred to as "Subtenant"]. The Sublandlord is a tenant in a separate Lease Agreement ("Commercial Lease") entered into with the City of Mandan, a municipal corporation, with its post office address being located at Mandan City Hall, 205 Second Avenue NW, Mandan, ND 58554, covering the demised premises described below together with other areas which are not included in the demised premises covered by this Sublease, which Commercial Lease is dated November 1, 2017.

1. **PREMISES:** In consideration of the obligation of Subtenant to pay rent as hereinafter provided and in consideration of the other terms, provisions, and covenants hereof, Sublandlord hereby demises and leases to Subtenant, and Subtenant hereby takes from Sublandlord the premises outlined in orange and brown for Subtenants exclusive use, and as further depicted in Exhibit 1 which is attached to and made a part hereof, consisting of 2,176 square feet, more or less, of the building owned and operated by Landlord under the Commercial Lease.

The real property and portion of the commercial building which are the subject of this Sublease, are referred to herein as the demised premises or leased premises, together with all rights, privileges, easements, and appurtenances belonging to, or in any way pertaining to the demised premises.

2. **TERM:** The term of this Sublease shall commence effective as of August 1, 2017, and shall continue for a period of five (5) years thereafter terminating on September 30, 2022.

3. **RENT:** Subtenant agrees to pay to Sublandlord a fixed gross rent amount payable in advance in successive equal monthly installments on the 1<sup>st</sup> day of each and every calendar month during the term of this Sublease in the amount of \$600 per month for the months of August, September and October, 2017. Commencing November 1, 2017, or sooner upon completion of planned Subtenant improvements, rent shall be the sum of \$2,567.00 per month, and every month thereafter. Upon subtenant furnishing proof of actual investments to Sublandlord in qualifying or approved improvements to the leased premises, the monthly rent will be reduced by an equal amount (or an amount not to exceed \$50,000) amortized over the remaining term of the lease to permit Subtenant to recover the cost of the improvements.

4. Subtenant will pay rent to Sublandlord in monthly installments payable on the first of each month. Payments made later than ten (10) days after the due date will be assessed a Twenty Dollar (\$20) late fee.

5. **UTILITIES:** Subtenant shall be solely responsible to pay for sewer and garbage services. Sublandlord will provide itself with its own garbage services. Sublandlord shall pay \$365 per month to Subtenant's gas and electricity bill. Sublandlord shall pay \$25 per month for water. In the event the Sublandlord's Landlord fails to provide the utility service requirements to the

demises premises, such failure shall not be construed as an eviction or disturbance of possession or as an election by the landlord to terminate the above-described Commercial Lease. Neither the Sublandlord nor the Landlord under the provisions of the Commercial Lease shall be liable in damages or otherwise if any supplier of a utility service or other service to the demised premises shall be interrupted or impaired by fire, accident, riot, strike, act of God, the making of necessary repairs or improvements, or by causes beyond the Sublandlord's and Landlord's control.

6. SNOW REMOVAL. Subtenant shall pay one-half (1/2) of the cost of snow removal

7. COMMON AREAS: The "Common Area" shall mean the parking lot areas, driveways, walks, curbs, corridors, together with public facilities such as restrooms, drinking fountains, and those facilities appurtenant to each. Subject to reasonable rules and regulations promulgated by the Sublandlord, the Common Areas are hereby made available to Subtenant together with its employees, agents, customers, and invitees for the reasonable use in common with the other tenants, including the Sublandlord, and their employees, customers, invitees, for purposes for which the premises have been constructed. There shall be no additional rent charges for the Subtenant's use of the common areas. The other tenants, including the Sublandlord, and their employees, customers, invitees, shall have full access to the restrooms located on the demised premises, including the right to ingress and egress over the demised premises.

8. LIENS: Subtenant shall not permit the Premises or the Property to be subjected to any mechanic's or other liens; and if any lien attaches, Subtenant shall promptly discharge the same by payment, bond or otherwise; and Subtenant shall, at its expense, defend any proceeding for the enforcement of any lien, discharge any judgment thereon and shall indemnify and save Sublandlord and Landlord harmless from all costs and expenses resulting there from, including reasonable attorney fees and other expenses incurred by Sublandlord or Landlord, if Sublandlord or Landlord elect to defend or participate in the defense of such proceedings. Nothing herein shall prevent Subtenant from granting liens to its lenders for Subtenant-owned equipment or furnishings.

9. PARKING: It is agreed that Subtenant and Sublandlord share the handicapped and public parking spaces and shall be equally subject to the parking regulations that the City of Mandan may impose

10. JANITORIAL: In addition to the rent paid above, Subtenant shall be solely responsible for its own costs of janitorial expenses for the demised premises.

11. NON-LIABILITY OF SUBLANDLORD FOR DAMAGES: Sublandlord shall not be liable for damage claims for injury to persons or property from any cause relating to the occupancy of the demises premises by Subtenant, including those arising out of damages or losses occurring on the sidewalks, corridors, parking lot areas, or other common areas adjacent to the demised premises during the term of this Sublease or any extension hereof, except to the extent such injury is caused by the negligent, reckless, or willful act of Sublandlord. Further, Subtenant shall indemnify Sublandlord from all liability, loss, or other damage claims or obligations resulting from any injuries or losses of this nature. Subtenant shall carefully and prudently inspect, maintain, and supervise the demised premises.

12. MAINTENANCE: Except as otherwise specifically provided for in the Commercial Lease described above, and as provided for in this Sublease, the demised premises shall at all times be kept in good order, condition, and repair as Subtenant at its own cost and expense, and in accordance with all laws, directions, rules, and regulations of the regulatory bodies, or officials having jurisdiction at regard, and specifically subject to the terms and conditions of the Commercial Lease described above. In the event Subtenant should refuse or neglect to commence any necessary repairs within ten (10) days after written demand from the Sublandlord, or adequately complete such repairs in a reasonable period of time thereafter, Sublandlord may make the repairs without liability to Subtenant, and if Sublandlord makes such repair, Subtenant shall pay to Sublandlord, on demand, as additional rent, the costs thereof with interest at the rate of seven percent (7%) per annum from the date of commencement of such repairs. The demised premises shall be returned to the Sublandlord at the termination of this Sublease in good condition, ordinary wear and tear excepted.

13. SUBLANDLORD'S OBLIGATION FOR REPAIRS: Sublandlord shall not be obligated to make any repairs of any kind upon the demised premises or upon any equipment, facilities or fixtures therein contained, the same at all times to be kept in good order, condition, and repair by Subtenant, and in a clean, sanitary and safe condition and in accordance with all applicable laws, ordinances, and regulations of any governmental authority having jurisdiction.

14. ALTERATIONS AND IMPROVEMENTS: Subtenant shall not make any alterations, additions, or improvements to the demised premises without the prior consent of the Sublandlord. Subtenant may, without the consent of Sublandlord, at Subtenant's own cost and expense and in a good and workmanlike manner, make such minor alterations as it deems advisable without altering the basic character of the building or improvements, and in each case complying with the requirements of the Commercial Lease described more fully above and with all applicable governmental laws, ordinances, regulations, and other requirements. At the termination of this Sublease, Subtenant shall, if the Sublandlord so elects, remove any and all alterations or partitions erected by Subtenant and restore the demised premises to its original condition, otherwise such improvements shall be delivered up to the Sublandlord with the demised premises. All furniture and trade fixtures installed by Subtenant may be removed by Subtenant at the termination of this Sublease if Subtenant so elects and shall be accomplished in a good and workmanlike manner so as not to damage the demised premises, only normal wear and tear excepted.

15. SIGNS: Any and all signs to be installed by Subtenant shall be required to be approved in accordance with the provisions of the Commercial Lease which is described more fully above.

16. USE OF PREMISES: Subtenant agrees to use the demised premises only for the purpose of operating a restaurant. Subtenant will not permit the demised premises to be used for any purpose which would render the insurance thereon void or the insurance risk more hazardous; it being understood and agreed that the use of the demised premises in the proper and ordinary conduct of Subtenant's business shall not in any way be considered a violation of this provision.

17. RIGHT OF ENTRY: The Landlord under the provision of the Commercial Lease

and the Sublandlord herein reserves the right to enter upon the demised premises at reasonable hours, with advanced notice, to inspect the same, or to make any repairs, additions, or alterations to the demised premises, or to exhibit the premises to prospective tenants, to enter at any time in the event of an emergency, and to display during the last ninety (90) days of the term of this Sublease without hindrance by Subtenant. Sublandlord and the Landlord under the above-described Commercial Lease will use commercially reasonable efforts to contact a representative of Subtenant prior to any such access (except in the case of an emergency) so that a representative of Subtenant, if one is available, can be present during any such access.

18. ASSIGNMENT OF SUBLEASE: The Subtenant shall not assign or sublet any part of this Sublease or the demised premises without the express written consent of Subtenant. Sublandlord reserves the right to assign this Sublease at any time.

19. COMPLIANCE WITH COMMERCIAL LEASE: Subtenant shall perform and observe the terms and conditions to be performed on the part of the Sublandlord identified above under the provisions of the Commercial Lease made and entered into between Sublandlord and the City of Mandan, excepting the covenant for payment of rent and items of additional rent and Sublandlord's obligation for additional expenses payable to the Landlord. A copy of the Commercial Lease is attached hereto as Exhibit 2 and is incorporated herein by reference.

20. INDEMNITY OF SUBLANDLORD: Sublandlord shall not be liable to Subtenant or to Subtenant's employees, agents, or invitees, or to any other person whomsoever, for any injury to a person or damage to property on or about the demised premises caused by the negligence or misconduct of Subtenant, its agents, servants, employees, or any other person entering upon the demised premises under express or implied invitation of the Subtenant, and Subtenant agrees to carry property damage and liability insurance as hereinafter set forth for purposes of holding the Sublandlord harmless to the extent of such coverage.

21. LIABILITY INSURANCE: Subtenant shall procure and maintain in force at its expense during the term of this Sublease, public liability insurance with insurers through brokers approved by Sublandlord. Such coverage shall be adequate to protect against liability for damage claims through public use of or arising out of accidents occurring in or around the demised premises, including the parking lot areas and common areas in a minimum amount of \$1,000,000 per person injured for any one accident, and \$50,000 for property damage. Insurance policies shall provide coverage for continued liability of the City of Mandan as the Landlord under the provisions of the Commercial Lease described above and for Sublandlord on any claims or losses. A certificate of insurance shall be delivered to the Landlord and the Sublandlord evidencing the minimum insurance requirements imposed by this paragraph. Subtenant shall purchase and at all times maintain during the terms of this lease agreement, at its own cost and expense, insurance coverage for blanket contractual liability which covers the Subtenant's obligations and responsibilities under the Commercial Lease. In lieu of blanket contractual insurance, the Subtenant may elect to provide to the Sublandlord a performance bond in the amount of Three Hundred Thousand (\$300,000) Dollars.

22. EMINENT DOMAIN: If the demised premises or any part of the demised premises are appropriated or taken for a public use by virtue of eminent domain or condemnation

proceedings, Subtenant shall the right to terminate this Sublease upon written notice to the Sublandlord, and rental shall be paid only to the time when Subtenant surrenders possession of the demised premises.

23. EVENTS OF DEFAULT BY SUBTENANT: Subtenant shall have breached this lease and shall be considered in default hereunder if (1) Subtenant filed a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or makes an assignment for the benefit of creditors; (2) involuntary proceedings are instituted against Subtenant under any bankruptcy act; (3) Subtenant fails to pay any rent when due and does not make the delinquent payment within five (5) days after receipt of notice thereof from Sublandlord; or (4) Subtenant fails to perform or comply with any of the covenants or conditions of this lease and such failure continues for a period of ten (10) days after receipt of notice thereof from Sublandlord.

24. RE-ENTRY COVENANT: Upon the occurrence of any of such event of default contained in paragraph 22, the City of Mandan and Sublandlord shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

- a. Terminate this Sublease Agreement, in which event Subtenant shall immediately surrender the premises to Sublandlord and, if Subtenant fails to do so, Sublandlord may, without prejudice to any other remedy which it may have for possession or arrearage in rent, enter upon and take possession of the leased premises and expel or remove Subtenant and any other person who may be occupying said premises or any part thereof, by force if necessary, without being liable for prosecution or any claim of damages therefor. Subtenant agrees to pay to Sublandlord the amount of all loss and damage which Sublandlord may suffer by reason of such termination pursuant to North Dakota law.
- b. Enter upon and take possession of the leased premises and expel or remove Subtenant and any other person who may be occupying said premises or any part thereof, by force if necessary, without being liable for prosecution or any claim to damages therefore and relet the premises and receive the rent thereof. Subtenant agrees to pay the Sublandlord any damages that may arise by reasons of such reletting pursuant to North Dakota law.
- c. Enter upon the Leased premises by force if necessary and do whatever Subtenant is obligated to do under the terms of this Sublease Agreement and Subtenant agrees to reimburse Sublandlord on demand for any expenses which Sublandlord may incur in the Sublandlord performing Subtenant's obligations under this Sublease Agreement. Subtenant further agrees that Sublandlord shall not be liable for any damages resulting to the Subtenant from such action.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law or equity, nor shall pursuit of any remedy herein constitute a forfeiture or waiver of any rent due to Sublandlord hereunder or any damage occurring to Sublandlord by reason of the violation by Subtenant of any of the terms, provisions and covenants herein contained. The waiver by Sublandlord of any violation or breach

of any of the terms, provisions and covenants herein contained shall not be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained which may occur subsequent thereto. Forbearance by Sublandlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed to constitute a waiver of such default.

25. SUBORDINATION: Subtenant accepts this Sublease Agreement subject and subordinate to any mortgage or mortgages now a lien upon the demised premises. This Sublease Agreement shall also be subject and subordinate to the lien of any other mortgage which may at any time hereafter be or become a lien on the demised premises, provided the mortgagee under such mortgage agrees to notify Subtenant of any and all defaults on the part of Sublandlord under such mortgage and to allow Subtenant a reasonable time to correct any such default before foreclosure. Subtenant shall at all times hereafter, in accordance with the terms contained herein and on demand, execute any instruments encumbering the premises or other documents that may be required by any mortgages for the purpose of subjecting and subordinating this Sublease Agreement to the lien of any such mortgage.

26. SUCCESSORS: The covenants, conditions and agreements made and entered into by the Sublandlord and Subtenant shall be binding on their heirs, personal representative, administrators, executors, successors and assigns.

27. SURRENDER OF POSSESSION: On the last day of the term of this Sublease Agreement, or on the sooner termination hereof, Subtenant shall peaceably surrender the leased premises in the same condition as the commencement of this Sublease Agreement in good order, condition and repair, broom-clean and reasonable wear and tear only excepted. Any property not removed upon termination hereof by Subtenant shall be deemed to be abandoned and Subtenant agrees to indemnify Sublandlord for the costs of removing any such trade fixtures, improvements, alterations, or additions installed by Subtenant. Any damage caused by Subtenant in the removal of such items shall be repaired by and at Subtenant's sole cost and expense. If the leased premises are not surrendered at the end of the term or the sooner termination hereof, Subtenant shall indemnify Sublandlord against all loss or liability resulting from the delay by Subtenant in so surrendering the premises, including without limitation, claims made by a succeeding tenant founded on such delay. Subtenant shall promptly surrender all keys for the leased premises to Sublandlord at the place then fixed for payment of rent and shall inform the Sublandlord of combinations on any locks on the leased premises.

28. GOVERNING LAW: The provisions of this Sublease Agreement shall be construed interpreted in accordance with North Dakota State law.

29. CORPORATE AUTHORITY: Subtenant, in executing this Sublease Agreement any and all related documents, has the corporate power to carry out the terms and conditions hereof, and has taken all necessary corporate action to authorize the execution, delivery, and full performance of this Sublease Agreement.

30. INTEGRATION: This Sublease Agreement supersedes any prior negotiations or agreements of the parties.

31. PROVISIONS CONSTITUTING SUBLEASE: This Sublease Agreement is subject to all of the terms and conditions of the original Commercial Lease Agreement made and executed by and between the City of Mandan and Sublandlord, except as specifically set forth and altered in this Sublease Agreement. Subtenant shall assume and perform all of the non-monetary obligations of Sublandlord as Subtenant in the original Commercial Lease Agreement described more fully above, to the extent that the terms and conditions are applicable to the demised premises.

32. ACCESS TO PREMISES: Sublandlord reserves the right to enter upon the demised premises at reasonable hours, with advance notice, to inspect the same, or to make repairs, additions or alterations to the demised premises or other property, or to exhibit the premises to prospective tenants, or others, to enter at any time in the event of an emergency. Sublandlord agrees to use commercially reasonable efforts to contact a representative of Subtenant prior to such access (except in the case of an emergency) so that the Subtenant's representative, if one is available, can be present during any such access.

33. HOLDING OVER: In the event Subtenant remains in possession of the leased premises after the expiration of this Sublease Agreement and without the execution of a new sublease agreement, it shall be deemed to be an occupying of the premises by Subtenant from month-to-month, subject to all conditions, provisions and obligations of this Sublease Agreement in so far as the same are applicable to a month-to-month tenancy.

IN WITNESS WHEREOF, the parties hereto have executed this contract the day and year above written.

SUBLANDLORD:

FORT ABRAHAM LINCOLN FOUNDATION

By:

Aaron L. Barth  
Its: Executive Director

SUBTENANT:

HARVEST CATERING AND EVENTS, LLC

By:

[Signature]  
Its: owner

The City of Mandan does hereby consent to subletting of the above-described premises as set forth in this sublease agreement.





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 28, 2020  
**SUBMITTING DEPARTMENT:** Utility Maintenance & Finance  
**DEPARTMENT DIRECTOR:** Mitch Bitz & Greg Welch  
**PRESENTER:** Mitch Bitz, Director of Public Works  
Greg Welch, Finance Director  
**SUBJECT:** Resolution establishing rates and charges for water meters

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#### PURPOSE

To consider the Resolution establishing rates and charges for water meters from the Utility Maintenance department

#### BACKGROUND

Annually, staff evaluates the cost to purchase the meters and coordinates with the finance department to establish the price charged to citizens when they purchase a meter for new construction

#### ATTACHMENT

Resolution establishing rates and charges for water meters from the Utility Maintenance department

#### FISCAL IMPACT

Minimal fiscal impact is expected

#### STAFF IMPACT

None

#### LEGAL REVIEW

The rates and charges were prepared in accordance with the Mandan Code of Ordinances.

#### RECOMMENDATION

To approve the Resolution establishing rates and charges for water meters for new construction from the Utility Maintenance department.

Board of City Commissioners  
Agenda Documentation  
Meeting Date: September 15, 2020  
Subject: Resolution establishing rates and charges for water meters

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SUGGESTED MOTION

Move to approve the Resolution establishing rates and charges for water meters for new construction from the Utility Maintenance department.

**RESOLUTION ESTABLISHING WATER METER PRICES FROM THE  
UTILITY MAINTENANCE DEPARTMENT**

BE IT RESOLVED by the Board of City Commissioners of the City of Mandan, North Dakota, pursuant to Section 117 of the Mandan Code of Ordinances, that the water meter prices, including sales tax and labor, from the Utility Maintenance department shall be as follows:

PRICE SCHEDULE

<u>Water Meter</u>	<u>Price</u>	
5/8"	\$447	
3/4"	\$482	
<u>3/4" (1" line)</u>	<u>\$930</u>	
1"	\$681	
1 1/2"	<del>\$1,786</del> <u>\$1,932</u>	(verify current price)
2"	<del>\$2,047</del> <u>\$2,186</u>	(verify current price)
3"	<del>\$2,631</del> <u>\$2,887</u>	(verify current price)
4"	<del>\$4,341</del> <u>\$4,686</u>	(verify current price)
6"	<del>\$6,756</del> <u>\$6,966</u>	(verify current price)

BE IT FURTHER RESOLVED that the water meter prices, including sales tax and labor, from the Utility Maintenance department shall be effective as of January 1, 2021.

Dated this 6th day of October, 2020.

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

Attest:

\_\_\_\_\_  
City Administrator



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 6, 2020  
**PREPARATION DATE:** September 30, 2020  
**SUBMITTING DEPARTMENT:** Police Department  
**DEPARTMENT DIRECTOR:** Chief Jason Ziegler  
**PRESENTER:** Chief Jason Ziegler  
**SUBJECT:** Introduction and First Consideration of Special Catering Permit Ordinance No. 1354

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**STATEMENT/PURPOSE:** Consider Introduction and First Consideration of Ordinance 1354 to amend and re-enact Sec. 4-2-17 of the Mandan Code of Ordinances, Special catering permit;fee;penalty.

**BACKGROUND/ALTERNATIVES:** This ordinance relates to catering permits for alcoholic beverage licensees. Current ordinance requires an applicant to submit their application at least 15 days prior to the event. This has caused issues with businesses who have requests for “last minute” events. The proposed change would be to change the requirement from 15 days to 7 days. Also, if a licensee filed an application for an event less than less than 7 days from the date of the event, it could still be considered, but the fee for the permit would double. Current ordinance requires all permit applications to be put on the agenda for Commission approval. The proposed change is to allow approval for the permit to be through the Police Department and Finance Department. This change would also allow for the “last-minute” events which now could require a special meeting of the Commission for approval.

**ATTACHMENTS:** Ordinance 1354 to amend and re-enact Sec. 4-2-17 of the Mandan Code of Ordinances, Special catering permit;fee;penalty.

**FISCAL IMPACT:** n/a

**STAFF IMPACT:** n/a

**LEGAL REVIEW:** Reviewed by City Attorney

**RECOMMENDATION:** I recommend approval of the Introduction and First Consideration of Ordinance 1354.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 6, 2020

Subject: Introduction and First Consideration of Special Catering Permit Ordinance No. 1354

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**SUGGESTED MOTION:** Move to approve the Introduction and First Consideration of Ordinance 1354 to amend and re-enact Sec. 4-2-17 of the Mandan Code of Ordinances, Special catering permit;fee;penalty.

## **ORDINANCE NO. 1354**

An Ordinance to Amend and Re-enact Section 4-2-17  
Special Catering Permit; Fee; Penalty.  
of the Mandan Code of Ordinances

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

### **Sec. 4-2-17. - Special catering permit; fee; penalty.**

Any qualified alcoholic beverage licensee, except the special class B licensees, may obtain a special catering permit to engage in the sale of alcoholic beverages permitted to be sold under the restrictions of the regular license at an event or public dance, which is located off and away from the licensed premises and on premises designated by the permit. For the purposes of this section, the term "qualified alcoholic beverage licensee" means a licensee who has paid the city lodging and restaurant tax imposed by the city and who continues to pay such tax thereafter. The fee for the permit shall be as established by resolution. The permit shall not be valid for a period of greater than 14 days, and may include Sundays, provided that the licensee meets the qualifications of section 4-2-20. An application for a special catering permit must be filed by the licensee with the city administrator at least 7 ~~15~~ days prior to the first day of the event ~~and shall be placed on the agenda for consideration of the board.~~ Applications must be approved by the Police Department and the Finance Department. Any application filed less than 7 days prior to the first day of the event must pay a fee of double the established fee. The application shall contain the name of the licensee, the type of event for which the permit is desired, the specific location at which the event will take place, including a diagram of the area to be licensed, and the date and times for which the permit is desired. The board may establish rules to regulate and restrict the operation of the special catering permit. The licensee granted a catering permit shall be responsible for compliance with all the provisions of this chapter and with any restrictions and special conditions placed on the catering permit by the board. Any violation of the licensing code provisions, restrictions or special conditions may subject the licensee to immediate revocation of the catering permit and suspension or revocation of the alcoholic beverage license. Any person who dispenses, sells or permits the consumption of alcoholic beverages in violation of this section or the conditions of a special permit is guilty of a Class B misdemeanor.

(Code 1979, § 10-03-13; Code 1994, § 12-02-14; Ord. No. 752, § 6, 1989; Ord. No. 784, § 2, 1991; Ord. No. 809, § 2, 1993)

**State Law reference**— Local license fees, N.D.C.C. § 5-02-03.

By: \_\_\_\_\_

Tim Helbling, President  
Board of City Commissioners

Attest:

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

First Consideration: October 6, 2020

Second Consideration and Final Passage: October 20, 2020

Publication: November 13, 2020