



TO: Mayor Shaun Sipma
Members of the City Council

FROM: John R. Zakian, DR Grant Program Manager & Chief Resilience Officer

DATE: August 19, 2020

SUBJECT: APPROVE SALVAGE AGREEMENT WITH TED MERTZ FOR OIL TANK

I. RECOMMENDED ACTION

Approve salvage agreement with Ted Mertz for oil tank and oil in tank on property acquired by the City under the flood buyout program located at 215 14th Street NE, Minot, ND

II. DEPARTMENT CONTACT PERSONS

John R. Zakian, DR Program Manager & Chief Resilience Officer, 420-4528

III. DESCRIPTION

A. Background

As part of the flood buyout Involuntary Acquisition Program, the city acquired 205 14th Street NE which had housed Behm Oil. As part of the purchase agreement, the seller had been given the opportunity to relocate an approximately 250,000 gallon oil tank on the site as well as several other moveable pieces of equipment. There was also the understanding with the permission of the city that useable oil in the tank would be removed prior to acquisition by the owner. The seller missed the deadline set in the purchase agreement to remove the salvageable items and, as a result, the seller forfeited the right to these items. On inspection by city representatives, it was discovered that the oil in the tank as well as the tank, itself had not been removed. This situation posed both logistical and unexpected expense considerations for the City since it was now faced with the challenge of removing the oil from the tank and disposing of it to be able to demolish the oil tank. Once the oil was removed there would be requirements to undertake an environmental assessment to assure demolition of the tank would not create any environmental issues. Finally, demolition of a 250,000 oil tank, itself would be a logistical and expensive challenge. Subsequently, the City was approached by Mr. Mertz who was interested in both the oil and the tank. The City had not contemplated going to auction on the tank or the oil in the tank because of the complicated nature and highly unlikely interest in the oil and the oil tank. Mr. Mertz made an unsolicited offer to purchase and remove both the oil and the tank at his expense.

B. Proposed Project

Mr. Mertz has reached agreement for the purchase of the oil in the tank and the tank, itself, for \$1,000 and has further agreed to have both the oil and the tank removed by May 1, 2021. If the oil and the tank are not removed by May 1, 2021, he has agreed to pay another \$5,000 which the City will apply against the cost of demolition of the tank and removal of the oil if it still remains. The policies regarding auction of salvage and real property has not been guided or informed by federal rules which do not require such measures but, rather policies reflecting auction procedures have been informed by the North Dakota Century Code, and local ordinance. The HUD requirement is to demonstrate any transaction meets necessary and reasonable cost standards which the offer by Mr. Mertz meets, especially in saving the City extraordinary unexpected expenses connected with the City removing the oil and tank.

The threshold in the current City policy reflecting these laws requiring auction is real property with a value of \$5,000 or more. An oil tank is not considered real property. The City also has an auction policy which does not have a threshold but rather sets a procedure determining that equipment and related items which are moveable and marketable can go to auction. Because of the unique nature of this salvage and lack of records on its provenance (age, condition, etc.) it is impractical to establish a value, and because of the potential cost facing the City if it has to remove the oil and oil tank, it is prudent and appropriate to accept this offer rather than proceed to try and auction the oil tank with the oil. Also, the oil and oil tank does not meet the standards in the salvage auction policy to be moveable and marketable because of its unique and extraordinary nature.

IV. IMPACT:

A. Strategic Impact:

Salvage sale adds both revenue and reduces cost with purchase price being Program Income for use in NDR related flood buyout acquisitions and eliminates potentially costly need to remove oil and demolish tank which preserves available ND funds for other demolition activity.

B. Service/Delivery Impact:

Continues efforts to address all structure removal on a timely basis in line with flood project construction schedules.

C. Fiscal Impact:

Added Program Income for CDBG-NDR activities.

V. ALTERNATIVES

N/A

VI. TIME CONSTRAINTS

VII. LIST OF ATTACHMENTS

- A. Salvage agreement
- B. Salvage sale policy