



TO: Mayor Shaun Sipma
Members of the City Council

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

DATE: May 11, 2021

SUBJECT: **CONCUR ON PURCHASE PRICE FOR FLOOD BUYOUT AT 1212 28TH STREET SW AT \$138,000**

I. RECOMMENDED ACTION

City Council concur with negotiated purchase price of \$138,000 for Flood buyout acquisition at 1212 28th Street SW owned by Patricia Bender and Michael Wilson

II. DEPARTMENT CONTACT PERSONS

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

III. DESCRIPTION

A. Background

The City of Minot Policy and Procedures for Involuntary Acquisition includes a provision that any negotiated purchase price for flood buyouts under these guidelines where the purchase price exceeds 15 per cent and \$15,000 from the initial purchase price offer made by the City shall go to the Council before a closing can take place. This procedure is not a requirement under the HUD rules or the provisions of the federal Uniform Relocation Act but, rather, was instituted as a city policy five years ago. In terms of negotiated purchase price, one federal requirement is that to meet the standards of necessary and reasonable a negotiated purchase price above the original offer cannot exceed the typical average cost if an acquisition had to go through an Eminent Domain proceeding. Through the City's outside counsel handling eminent domain cases, we have established the average litigation cost which provides a cap meeting the federal requirement for necessary and reasonable.

B. Proposed Project

The independent appraised value originally set for this property was \$148,000 which per federal requirements was the initial offer made to the property owner. The foremost goal in all these flood buyout negotiations is to reach an amicable purchase price to avoid eminent domain court decision. To date, there have only been five instances where the City has been compelled to secure eminent domain court decisions and in all cases it was the result of the property owners of record being either totally unresponsive to numerous communications and court filings, or refusing to negotiate an agreed upon purchase price. As a result of successful negotiations with the property owner in this matter, we have reach agreement on a purchase price of \$138,000 which is below the cap to meet HUD's requirement of a necessary and reasonable cost. However, the purchase price is 22 per cent above the initial offer and exceeds \$15,000 from the original offer. HUD also requires in such situations that an "Administrative Settlement" memorandum become part of the acquisition file which is signed by me.

IV. IMPACT:

- A. Strategic Impact:
Reaching mutual agreement on purchase price avoids usually experienced protected court proceedings through the eminent domain process.
- B. Service/Delivery Impact:
Acquisition of the property is necessary to support flood control and mitigation projects.
- C. Fiscal Impact:
State Water Commission match funds will be used for the purchase.

V. ALTERNATIVES

N/A

VI. TIME CONSTRAINTS

NA

VII. LIST OF ATTACHMENT