TO: Mayor
Members of the City Council

FROM: Kelly Hendershot, City Attorney

DATE: February 2, 2022

SUBJECT: LPND1, LLC BUSINESS INCENTIVE AGREEMENT

I. RECOMMENDED ACTION

A. Approve the attached Business Incentive Agreement, with exhibits, between the City of Minot and LPND1, LLC.

II. DEPARTMENT CONTACT PERSONS

Harold Stewart, 857-4750
Kelly Hendershot, 857-4755
David Lakefield, 857-4774

III. DESCRIPTION

At the January 18, 2022 regular City Council meeting, the City Council unanimously approved a five-year business incentive agreement between the City of Minot and LPND1, LLC, which established that the City of Minot would provide a $1,565,000 forgivable loan to LPND1, LLC, to be used to exercise its option to purchase real property, under the terms of a 2009 lease agreement, for an intermodal facility. In exchange, LPND1, LLC would guarantee full time, continuous operation of the intermodal facility for the five-year term and would create full-time jobs during the five-year term as described in the agreement.

After the January 18, 2022 meeting, City staff was finalizing the documents to remove the alternative term language, which was also considered at the January 18, 2022 meeting, and identified a clerical error relating to the loan repayment dates. City staff has corrected the clerical errors and the corrected versions are attached for the City Council’s consideration. City staff has communicated this necessary correction with LPND1, LLC.

It should be noted that at the January 18, 2022 meeting, the City Council also approved an amendment to the 2009 lease agreement, contingent on assignment of the lease to LPND1, LLC. That document had no revisions and did not require any additional approval by the City Council.

IV. IMPACT:

The impact of this decision remains the same as outlined in the City Manager’s January 12, 2022 memo relating to this matter.

V. CITY COUNCIL ASPIRATIONS

The assessment of the City Council aspirations remains the same as outlined in the City Manager’s January 12, 2022 memo relating to this matter.
VI. ALTERNATIVES

The City Council could not approve the attached versions, however, then the approved documents would include clerical errors and create confusion going forward.

VII. TIME CONSTRAINTS

The assessment of time constraints remains the same as outlined in the City Manager’s January 12, 2022 memo relating to this matter.

VIII. LIST OF ATTACHMENTS

A. Proposed Business Incentive Agreement – City of Minot and LPND1, LLC;
B. Exhibit A: Lease Agreement;
C. Exhibit B: Second Subordination Agreement;
D. Exhibit C: Promissory Note;
E. Exhibit D: LPND1, LLC Mortgage;
F. Exhibit E: Warranty Deed;
G. Exhibit F: 5 Year Economic Impacts;
H. City Manager Memo, January 12, 2022