TO: Mayor Shaun Sipma  
Members of the City Council

FROM: Harold Stewart, City Manager

DATE: January 12, 2022

SUBJECT: Business Incentive Agreement regarding Intermodal Port

I. RECOMMENDED ACTION
It is recommended the City Council approve a Business Incentive Agreement (BIA) with LPND1, LLC (MACEDC) which establishes the purchase of the land from the City, as outlined in the current lease, and implements a forgivable loan in exchange for created jobs and full-time operation of the Intermodal Port.

II. DEPARTMENT CONTACT PERSONS
Harold Stewart  857-4750
Kelly Hendershot  857-4175
Dave Lakefield  857-4774

III. DESCRIPTION

Background

Much of the background is outlined in the attached email sent to the Council on December 22, 2021.

Having an operational Intermodal Port that allows rail access for the loading of local goods such as crops, minerals, and manufactured products gives the Minot region, and the State of North Dakota a significant economic development competitive advantage. Rail access is in high demand but difficult to create due to railroad company requirements/policies and costs. The current efforts of MACEDC to secure an operator of the Port for the foreseeable future are important to the economic makeup of Minot.

In essence this BIA provides a forgivable loan to LPND1, LLC, which is a legal corporation under the umbrella of MACEDC, to exercise the purchasing option in the current lease with First Western Bank. MACEDC is also simultaneously in negotiation with First Western Bank to obtain the legal rights of the lease, and this BIA is contingent upon their success of doing so.

The BIA outlines that annual loan payments to the City can be forgiven pending maintaining fulltime operation of the Port, and creating/maintaining job thresholds outlined in the agreement. The agreement also requires a deed restriction maintaining public access to the Port now and into the future, ensuring no one entity can gain control of the infrastructure/rail access and use it exclusively.

While it has been a long a difficult process to get the Port to its current status, Staff believes the current proposal is a sustainable and workable solution that will enhance operation of the Port in a very positive and meaningful way. Due diligence has been completed through cost/benefit analysis that meets current best practices.
Staff has negotiated the BIA with representatives of MACEDC over the last several months and has amicably agreed to the terms outlined in the current draft of the agreement. Only one condition of the agreement remains that Staff and MACEDC have not been able to agree on, and that is whether the agreement should be for a 5 year or 10 year term. MACEDC has held the agreement should be for a 5 year period as it is the minimum State law requires and is what they believe to be the typical timeframe used by communities throughout Minot. Staff believes the agreement should have a 10 year period to ensure the most return on investment of public funds, create more local jobs, and to secure a longer commitment of the operation of the Port which is a significant component of the future economic makeup of Minot. In addition, this would be consistent with the recent BIA’s required by the City for 10 years of compliance as part of the Downtown Façade Improvement grant program for up to $100,000 in public funds. Ultimately the Council will have to decide which of these alternatives is most appropriate for the community.

IV. IMPACT:

A. Strategic Impact:
This proposed action accomplishes the following Magic City Aspirations recently created by the Council.

Dynamic and Prosperous- The continued operation of the Port will be a significant component of the economic dynamics and prosperity of the region. Rail access is in high demand and very low supply across the country. It is also challenging and expensive to create.

Resilient and Prepared- Ensuring the continued operation of the Port enhances the resiliency of Minot and the State of North Dakota. The ability for the local agricultural industry and manufacturers to have access to loading product on the railway provides an economical competitive advantage.

Excellent and Connected- Approving this BIA builds upon and fortifies the City’s relationship with MACEDC specifically, as well as the State and local farmers and manufacturers.

B. Service/Delivery Impact:
There is no significant service/delivery impact on behalf of the City, however, this action would revert City owned property back into the private sector.

C. Fiscal Impact:
While this is a forgivable loan the funds would be transferred to pay the option and then paid immediately back to the City. This action would be forgiving the repayment of expenses the City has already previously incurred upon which the purchase option price is based. No new investment of the City is being required as part of this consideration. Also, the City would receive $500,000 in cash payment from LPND1, LLC (MACEDC).

V. ALTERNATIVES
1. Council could decide not to approve the BIA. This could mean a renegotiation of a new agreement or simply maintaining ownership of the land.
2. Council could approve Staff’s recommendation of a 10 year term for the agreement.
   Recommended motion, “Move to approve the Business Incentive Agreement with LPND1, LLC as recommended by Staff with a term of 10 years.”
3. Council could approve MACEDC’s recommendation of a 5 year term for the agreement.
   Recommended motion, “Move to approve the Business Incentive Agreement with LPND1, LLC as recommended by MACEDC with a term of 5 years.
4. Council could recommend approval of the BIA with any proposed changes it deems appropriate.

VI. TIME CONSTRAINTS
MACEDC would like to get the BIA approved as soon as reasonable as there are other elements with other entities as part of the overall plan to solidify the Intermodal Port’s future. However, there are no specific deadlines for approval by Council.

VII. LIST OF ATTACHMENTS
   A. Staff PowerPoint Presentation regarding Business Incentive Agreements
   B. Staff recommended draft of the BIA for a 10 year term with redline changes representing MACEDC’s recommendation of a 5 Year Term
   C. All Exhibits and Attachments as part of the Agreement, including the current lease agreement
   D. Background information email sent by the City Manager to the Council on December 20, 2021
   E. Copies of the 5 and 10 Year Cost/Benefit Analysis provided by MACEDC in conjunction with the State Department of Commerce, and City Staff
   F. Letter from MACEDC