



June 9, 2016

Board of City Commissioners  
Bismarck, ND

Dear Commissioners:

The Board of City Commissioners is scheduled to meet in regular session on Tuesday, June 14, 2016 at 5:15 p.m. in the Tom Baker Meeting Room, City/County Office Building, 221 North 5<sup>th</sup> Street, Bismarck, North Dakota.

Invocation will be presented by a Chaplain from the Bismarck Police Department.

Future City Commission meetings are scheduled as follows:

June 28, 2016

July 14 & 28, 2016

August 9 & 23, 2016

#### MEETING OF THE BOARD OF CITY COMMISSIONERS

1. Consider approval of the minutes of the meeting on May 24, 2016.

2. CONSENT AGENDA

- A. Consider approval of expenditures.
- B. Consider personnel actions.

Documents:

[HR Personnel Actions June 14 Meeting\\_2016061415452391155.pdf](#)

C. Consider approval to renew the following site authorizations from July 1, 2016 to June 30, 2017:

*(No attachments - Information on file with Bismarck City Administration Office)*

- Bismarck Cancer Center
- Bismarck Hockey Boosters
- Bismarck-Mandan Convention & Visitors Bureau
- Cystic Fibrosis Association of North Dakota
- Gilbert N Nelson Post 1326 VFW Dept of North Dakota
- ND State FFA Alumni
- North Dakota Association for the Disabled Inc.
- Prairie Public Broadcasting Inc.
- St. Alexius Medical Center (dba CHI St. Alexius Health)

D. Consider the following requests from the Bismarck Airport:

- Amendment 2 to the July 31, 2015 agreement with Twin City Tire Co. Inc. (dba Avis Rent-A-Car).
- Approval of Airport Sponsor Assurances and Airport Sponsor Certifications.
- Approval of a Federal Aviation Administration (FAA) land lease extension.

Documents:

[Airport Consent Agenda Items\\_2016061415452433336.pdf](#)

E. Consider the following requests from the Community Development Department:

- Reappointment of Doug Lee to the Bismarck Planning and Zoning Commission.
- Introduction of and call for public hearing on Ordinance 6215, relating to the zoning change for Lots 1-4, Block 1, Gary Nelson Addition. Bismarck Planning and Zoning Commission recommends approval.
- Introduction of and call for public hearing on Ordinance 6216, relating to the zoning change for various lots and tracts in south Bismarck and the city's extraterritorial area (Phase 6 of 6), initiated by the city of Bismarck. Bismarck Planning and Zoning Commission recommends approval.

Documents:

[Ord 6215 Gary Nelson Addition Zoning Change\\_2016061415452513027.pdf](#)  
[Ord 6216 Phase 6 of 6 Zoning Changes\\_2016061415452539580.pdf](#)  
[Reappointment of Doug Lee to Planning and Zoning Commission\\_2016061415452486492.pdf](#)

F. Consider the following requests from the Engineering Department:

- Acceptance of award of the 2017 Sertoma Park West Shared Use Path contingent upon concurrence by the Bismarck Parks and Recreation District Board at their June 19, 2016 meeting.
- Approval of Dakota Carrier Network Encroachment and Waiver Agreement for 117 West Front Avenue.
- Approval of Dakota Carrier Network Encroachment and Waiver Agreement for 310 North Ninth Street.
- Approval of the second year of a three-year contract with Terracon for geotechnical services.
- Approval of 100 West Main Limited Partnership Encroachment Easement and Waiver for 100 West Main Avenue.
- Approval of Storm Sewer Easement with Burleigh County for the local storm sewer system in Midwest Business Park.
- Approval of Watermain Easement with Skyline Properties, LLC to extend the water main through Meadowlark Commercial 7th Addition.
- Approval of request by city staff to close Street Improvement District 15-503.

Documents:

[100 West Main Limited Partnership Encroachment Easement and Waiver.pdf](#)  
[Concurrence with 2017 Sertoma Park West Shared Use Path for project proceeding\\_2016061415452580203.pdf](#)  
[Contract with Terracon for geotechnical services.pdf](#)  
[DCN Encroachment and Waiver Agreement 117 W Front Ave.pdf](#)  
[DCN Encroachment and Waiver Agreement 310 N 9th Street.pdf](#)  
[Request to close Street Improvement District 15-503.pdf](#)  
[Storm Sewer Easement with Burleigh County.pdf](#)  
[Watermain Easement with Skyline Properties LLC.pdf](#)

G. Consider request from the Finance Department for approval of the service contract with Vanguard Appraisals, Inc.

Documents:

[Approval of Service Contract with Vanguard Appraisals Inc.pdf](#)

H. Consider request from the Human Resources Department to fill the Grade 21 Senior Planner position, vacated by Jason Tomanek, in the Community Development Department with a Grade 19 Planner.

Documents:

[Request from Community Development to replace Senior Planner position with Planner position.pdf](#)

I. Consider request from the Police Department for permission to conduct the annual deer and turkey archery hunting program on city properties.

Documents:

[Request to conduct Annual Deer and Turkey Archery Hunting Program on city](#)

[properties\\_2016061415452859915.pdf](#)

J. Consider the following requests from the Public Works Service Operations Department:

- Approval to accept contract from Architectural Concepts Inc for the city of Bismarck Library re-roofing, exterior insulation and finish system and window replacement project.
- Request from Burleigh County Water Resource District to provide a source for clay borrow to assist with their construction of permanent flood protection for the Missouri River Correctional Center and nearby residents from future Missouri River flood events.
- Approval to accept contract from J2 Studio for the city of Bismarck Police Station storage building design, contract documents, bidding, contract and construction administration.
- Permission to provide 96 gallon garbage containers to be used during the Out of the Darkness Suicide walk at the Capitol grounds on Friday, September 16, 2016.

Documents:

[Provide 96 gallon garbage containers for Out of Darkness Suicide Walk.pdf](#)  
[Approval to accept contract with J2 Studio for Police Station Storage Building.pdf](#)  
[Burleigh County Water Resource District Request Source for Clay Borrow.pdf](#)  
[Approval to accept contract from Architectural Concepts for Library project.pdf](#)

K. Consider request from Public Works Utility Operations Department for approval of an Engineering Services Agreement for design and construction support for storm water system repair and correction projects.

Documents:

[Approval of Engineering Service Agreement for Storm Water Repair and Correction Projects\\_2016061415453014580.pdf](#)

L. Consider the following change orders from the Public Works Utility Operations Department relating to the Bismarck Wastewater Treatment Plant Trickle Filters Project:

- Contract change order G-3 for \$15,933.00 with PKG Contracting Inc for design related changes relating to general construction.
- Contract change order G-4 with PKG Contracting Inc for design related changes relating to general construction.
- Contract change order G-5 for \$43,342.00 with PKG Contracting Inc for design related changes relating to general construction.
- Contract change order FM-01 with GEA Heat Exchangers - EXEXIO for design related changes for media equipment procurement.

Documents:

[Contract Change Order FM01 with GEA Heat Exchangers EXEXIO.pdf](#)  
[Contract Change Order G5 with PKG Contracting.pdf](#)  
[Contract Change Order G4 with PKG Contracting.pdf](#)  
[Contract Change Order G3 with PKG Contracting.pdf](#)

M. Consider the following requests for resolutions relating to Park Improvement District 16-001 (construction of neighborhood park amenities including playground equipment, a shelter and trails):

- Receiving Bids and Ordering Preparation of Engineer's Statement
- Awarding Contract
- Approving Contract and Contractor's Bond.

Documents:

[Park Improvement District 16-001 Items.pdf](#)

N. Consider the following requests for resolutions relating to Park Improvement District 16-002 (construction of neighborhood park amenities including playground equipment, a picnic shelter, and parking lot):

- Declaring Petition for Improvements has been Received.
- Creating District and Ordering Preparation of the Preliminary Report.
- Approving Preliminary Report and Directing Preparation of Plans and Specifications.
- Approving Plans and Specifications.
- Authorization to Advertise and Receive Bids.

Documents:

[Park Improvement District 16-002 Items.pdf](#)

- O. Addendum Item - Consider request from Engineering Department for approval of change order with Edling Electric for Street Improvement District 15-493 to extend the project timeline to June 30, 2016.

Documents:

[Engineering Change Order with Edling Electric for Street Improvement District 15-493.pdf](#)

- P. Addendum Item - Consider request from the Human Resources Department for the appointment of Master Police Officer to complete Condrey classification.

Documents:

[Human Resources Appointment of Master Police Officer to complete Condrey Classification.pdf](#)

- Q. Addendum Item - Consider request from Public Works Service Operations Department for approval of the amendment to the scope of work for the Bismarck Solid Waste Service Task Order #1 - Site Soil Balance.

Documents:

[Public Works Amendment to Scope of Work Bismarck Solid Waste Service Task Order.pdf](#)

### 3. REGULAR AGENDA

- A. Consider request for Roy Rickert, Bis-Man Transit Director, to appear and present proposed changes to the Bis-Man Transit's Fixed Route and Paratransit bus services, including a new component for an extended hours service.

Documents:

[MPO\\_BisMan Transit Request for Route and Paratransit Changes.pdf](#)

- B. PUBLIC HEARING on Ordinances 6211 to 6214 relating to water and sewer trunk line fees, rural road charges, and storm water charges to be assessed to benefiting property that was outside the city limits at the time of construction.

Documents:

[Requests from Finance Dept for Ordinances 6211-6214.pdf](#)

- C. Consider request from the Fire Department to receive and consider disposition of bids for training building footings and foundations.

Documents:

[Fire Dept Bids for Training Building Footings and Foundations.pdf](#)

- D. Consider the following requests relating to Sewer Improvement District 16-569:

- Resolution Receiving Bids
- Resolution Awarding Contract

Documents:

[Bids and Award Contract for Sewer Improvement District 16-569.pdf](#)

- E. Consider the following requests relating to Street Improvement District 15-494:

- Resolution Receiving Bids
- Resolution Awarding Contract

Documents:

[Bids and Award Contract for Street Improvement District 15-494.pdf](#)

F. Consider the following requests relating to Street Improvement District 15-499:

- Resolution Receiving Bids
- Resolution Awarding Contract

Documents:

[Bids and Award Contract for Street Improvement District 15-499.pdf](#)

G. Consider the following requests relating to Water Improvement District 16-329:

- Resolution Receiving Bids
- Resolution Awarding Contract

Documents:

[Bids and Award Contract for Water Improvement District 16-329.pdf](#)

H. Consider request to receive and consider disposition of bids for Water Utility Project 15-114.

Documents:

[Bids and Award Contract for Water Utility Project 15-114.pdf](#)

I. Consider request from the Public Works Service Operations Department to receive and consider disposition of bids for Furnishing Paving Materials - Salt, Sand and Aggregates (F-G).

Documents:

[Bids for Furnishing Paving Materials.pdf](#)

J. Consider the following requests from the Bismarck Airport:

- Receive and consider disposition of bids and approval of project budget for Maverick Avenue Reconstruction/Terminal Boulevard Rehabilitation.
- Receive Request for Proposals (RFP) recommendation for airport radio system.
- Lease agreement with the State Historical Society of North Dakota for a storage building.

Documents:

[Airport Regular Agenda Items.pdf](#)





## PERSONNEL ACTIONS FOR THE MEETING ON June 14, 2016

### Full-Time and Part-Time Appointments

Flynn, Cody Engineering Technician I	Engineering	Probationary appointment @ \$18.20/hr. 6/01/2016
Bresnan, Kyle Doorguard/Usher	Event Center	Part time appointment @ \$12.00/hr. 5/20/2016
Friesz, Richard Doorguard/Usher	Event Center	Part time appointment @ \$12.00/hr. 5/20/2016
Van Neste, Joseph Police Officer	Police	Probationary appointment @ \$23.23/hr. 6/13/2016
Mason, Joseph Mosquito Control Technician	Public Health	Part time appointment @ \$12.00/hr. 5/31/2016
Bohrer, Ashley Maintenance Worker	Public Works	Part time appointment @ \$12.50/hr. 6/7/2016
Rath, Braydin Maintenance Worker	Public Works	Part time appointment @ \$12.50/hr. 6/7/2016
Rosenkrance, Jared Forestry Tech	Public Works	Part time appointment @ \$12.00/hr. 5/23/2016

### Separations

Kiesz, Robley Operations Agent	Airport	Retired. 6/25/2016
Hemilright, Jennifer Communication Specialist	Communications	Resigned. 5/17/2016
Arpan, Weston Doorguard/Usher	Event Center	Resigned. 5/26/2016
Brown, Taj Event Safety Officer I	Event Center	Resigned. 5/20/2016
Duchsherer, Haile Concessions	Event Center	Resigned. 5/27/2016
Sprecher, Kimberly Concessions	Event Center	Resigned. 5/31/2016

Stargile, Crystal Concessions	Event Center	Resigned. 5/18/2016
Struecker, Tonya Drawing Technician	Finance/Assessing	Resigned. 6/1/2016
Doerr, Erica Police Officer	Police	Resigned. 5/18/2016
Simpson, Marcie Police Officer	Police	Resigned. 4/26/2016
Douglas, Jessica Environmental Health Specialist	Public Health	Resigned. 8/4/2016
Eikamp, William Mechanic	Public Works	Retired. 7/15/2016

**Others**

Johns, Jason Communication Specialist	Communications	Leave w/out pay 6/3/2016 pay period
Heilman, Jeremy Building Inspector	Com. Development	Leave w/out pay 6/3/2016 pay period
Olsen, Whitney Acting Accounting Technician	Finance	Salary adj. – temporary position @ \$18.20/hr. 4/11/2016
Henes, James Firefighter	Fire	Assigned to light duty 40 hr./work/week 5/22/2016
Leben, Kurt Battalion Chief	Fire	Resume shift assignment 53 hr./work/week 5/23/2016
Lorenz, Angie Health Services Nurse	Public Health	Promotion – PT -> FT @ \$25.75/hr. 6/20/2016
Bauer, Dan Waste Service Worker	Public Works	Leave w/out pay 6/3/2016 pay period



## MEMORANDUM

DATE: June 7, 2016

TO: Mayor Mike Seminary  
Commissioner Parrell Grossman  
Commissioner Josh Askvig  
Commissioner Nancy Guy  
Commissioner Steve Marquardt

FROM: Greg Haug, Airport Director 

RE: Consent Agenda Items for June 14, 2016 City Commission Meeting.

The Airport has placed three items on your consent agenda; Consider Amendment 2 to the July 31, 2015 agreement with Twin City Tire Co. Inc., d/b/a Avis Rent-A-Car, approval of Airport Sponsor Certifications and approval of a Federal Aviation Administration (FAA) land lease extension.

The first consent agenda item is to consider Amendment 2 to the July 31, 2015 agreement with Twin City Tire Co. Inc., d/b/a Avis Rent-A-Car (enclosure 1). The amendment corrects errors in the agreement, so that the agreement accurately reflects the bid proposal submitted.

The second consent agenda item is approval of Airport Sponsor Certifications. Periodically, Airport Staff sends the Board Airport Sponsor Certifications for approval prior to issuance of Federal Aviation Administration (FAA) grants. The certifications are updated by FAA from time to time and need to be re-signed so that grant offers can be reviewed and accepted as appropriate by the City without processing delays. The Board last approved Terms and Conditions and Airport Sponsor Certifications June 9, 2015.

FAA will require this set of Sponsor Certifications be signed as an integral part of the next Airport Improvement Program grant documents issued. The Board last approved Terms and Conditions and Airport Sponsor Certifications June 9, 2015. City Attorney Charlie Whitman has reviewed the new certification documents. Staff asks that the Airport Sponsor Certifications at enclosure 2 be approved.

The third item is approval of a FAA land lease extension. The City entered into a lease with the FAA for a parcel effective October 1, 2012. The lease was for five years and two separate five year extension periods. The first five year term will end September 30, 2017. FAA has asked for the first five year extension (October 1, 2017 to September 30, 2022). Staff recommends approval of the extension request and the Supplemental Agreement SLA-1 at enclosure 3.

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As always, I am available to answer any questions you may have at 701-355-1808.

Enclosures:

1. Amendment 2 to the July 31, 2015 Agreement with Twin City Tire Co. Inc., d/b/a Avis Rent-A-Car
2. Sponsor Certifications dated 1/16
3. FAA lease Supplemental Agreement SLA-1

ON JUNE 14, 2016  
AGE-09

## CONTRACT REVIEW FORM

### DEPARTMENT

Contract between the City of Bismarck and TWIN CITY TRUCK COMPANY, dba AVIS Rent a car

Purpose of Contract: Amendment 2 TO THE 073115 AGREEMENT (CAR RENTAL CONCESSION)

Contract Amount: NO CHANGE

Contract Period: NO CHANGE

Funding Source: INCOME TO AIRPORT ENTERPRISE FUND

Project Number: (If needed, send copy to Fiscal)

Comments: CORRECTS ERRORS IN AGREEMENT

After Mayor's Signature, route to: AIRPORT

Date:

Department Head Signature:

Date:

### CITY ATTORNEY

Comments:

City Attorney Signature:

Date:

### FINANCE

Comments:

Director of Finance Signature:

Date:

### ADMINISTRATION

City Administrator Signature:

Date:

Please send copy of completed contracts to Administration.

**AMENDMENT 2 TO CONCESSION AGREEMENT BETWEEN THE CITY OF  
BISMARCK AND TWIN CITY TIRE COMPANY, d/b/a AVIS RENT-A-CAR**

This Amendment 2 to Concession Agreement Between the City of Bismarck and Twin City Tire Company, is to correct an error in the original Concession Agreement Between the City of Bismarck and Twin City Tire Company, (the “Concession Agreement”) where the parties were misidentified in the first paragraph on page 1 of the Concession Agreement and to correct an inaccurate date in the third declaration on page 1 of the Concession Agreement.

1. The first paragraph of the Concession Agreement is deleted and replaced with the following language:

RENTAL CAR CONCESSION AGREEMENT

Concession Agreement, made and entered into by and between the City of Bismarck, a municipal corporation, acting through its Board of City Commissioners, hereinafter, the “City”, and, Twin City Tire Company, d/b/a Avis Rent-A-Car, a North Dakota corporation authorized to do business in the State of North Dakota, having its principal offices at 1801 E. Main Avenue, Bismarck, North Dakota, 58501, hereinafter, “Concessionaire”. Concessionaire’s Federal Identification Number is 45-0262206. This Agreement is binding upon execution by both parties, at which time this Agreement shall be effective and the concession agreement between the City and the Concessionaire immediately preceding this Agreement (“Preceding Concession Agreement”) shall cease to be effective, except with respect to Concessionaire’s Minimum Annual Guarantee under the Preceding Concession Agreement, which shall continue for the Pre-Term Period described in Section 1.A, below.

2. The third declaration paragraph on page 1 of the Concession Agreement is deleted and replaced with the following language:

WHEREAS, the Concessionaire submitted a timely Proposal to the City dated June 19, 2015, hereinafter, the “Proposal”, in response to the RFP; and

All of the other terms, conditions and provisions of the Concession Agreement dated July 31, 2015, between the City of Bismarck and Twin City Tire Company, d/b/a Avis Rent-A-Car, and Amendment 1 to Concession Agreement Between the City of Bismarck and Twin City Tire Company, d/b/a Avis Rent-a-A Car not specifically amended by this Amendment 2 shall remain in full force and effect.

Dated this \_\_\_\_ day of June, 2016.

CITY OF BISMARCK, NORTH DAKOTA

Attest:

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

Keith J. Hunke  
City Administrator

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

Michael C. Seminary  
President, Board of City Commissioners

Dated this \_\_\_\_ day of June, 2016.

TWIN CITY TIRE COMPANY  
d/b/a AVIS RENT-A-CAR

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

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

Arlys E. Haus  
President

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## Construction Project Final Acceptance Airport Improvement Program Sponsor Certification

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Sponsor:

Airport:

Project Number:

Description of Work:

### Application

49 USC § 47105(d), authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program. General standards for final acceptance and close out of federally funded construction projects are in 2 CFR § 200.343 – Closeout and supplemented by FAA Order 5100.38. The sponsor must determine that project costs are accurate and proper in accordance with specific requirements of the grant agreement and contract documents.

### Certification Statements

Except for certification statements below marked not applicable (N/A), this list includes major requirements of the construction project. Selecting “yes” represents sponsor acknowledgement and confirmation of the certification statement. The term “will” means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. The personnel engaged in project administration, engineering supervision, project inspection and acceptance testing were or will be determined to be qualified and competent to perform the work (Grant Assurance).  
 Yes    No    N/A
  
2. Construction records, including daily logs, were or will be kept by the resident engineer/construction inspector that fully document contractor’s performance in complying with:
  - a. Technical standards (Advisory Circular (AC) 150/5370-12);
  - b. Contract requirements (2 CFR part 200 and FAA Order 5100.38); and
  - c. Construction safety and phasing plan measures (AC 150/5370-2). Yes    No    N/A
  
3. All acceptance tests specified in the project specifications were or will be performed and documented. (AC 150/5370-12).  
 Yes    No    N/A

ENCL 2

4. Sponsor has taken or will take appropriate corrective action for any test result outside of allowable tolerances (AC 150/5370-12).
- Yes  No  N/A
5. Pay reduction factors required by the specifications were applied or will be applied in computing final payments with a summary made available to the FAA (AC 150/5370-10).
- Yes  No  N/A
6. Sponsor has notified, or will promptly notify the Federal Aviation Administration (FAA) of the following occurrences:
- a. Violations of any federal requirements set forth or included by reference in the contract documents (2 CFR part 200);
  - b. Disputes or complaints concerning federal labor standards (29 CFR part 5); and
  - c. Violations of or complaints addressing conformance with Equal Employment Opportunity or Disadvantaged Business Enterprise requirements (41 CFR Chapter 60 and 49 CFR part 26).
- Yes  No  N/A
7. Weekly payroll records and statements of compliance were or will be submitted by the prime contractor and reviewed by the sponsor for conformance with federal labor and civil rights requirements as required by FAA and U.S. Department of Labor (29 CFR Part 5).
- Yes  No  N/A
8. Payments to the contractor were or will be made in conformance with federal requirements and contract provisions using sponsor internal controls that include:
- a. Retaining source documentation of payments and verifying contractor billing statements against actual performance (2 CFR § 200.302 and FAA Order 5100.38);
  - b. Prompt payment of subcontractors for satisfactory performance of work (49 CFR § 26.29);
  - c. Release of applicable retainage upon satisfactory performance of work (49 CFR § 26.29); and
  - d. Verification that payments to DBEs represent work the DBE performed by carrying out a commercially useful function (49 CFR §26.55).
- Yes  No  N/A
9. A final project inspection was or will be conducted with representatives of the sponsor and the contractor present that ensure:
- a. Physical completion of project work in conformance with approved plans and specifications (Order 5100.38);
  - b. Necessary actions to correct punch list items identified during final inspection are complete (Order 5100.38); and
  - c. Preparation of a record of final inspection and distribution to parties to the contract (Order 5100.38);
- Yes  No  N/A

10. The project was or will be accomplished without material deviations, changes, or modifications from approved plans and specifications, except as approved by the FAA (Order 5100.38).

Yes  No  N/A

11. The construction of all buildings have complied or will comply with the seismic construction requirements of 49 CFR § 41.120.

Yes  No  N/A

12. For development projects, sponsor has taken or will take the following close-out actions:

- a) Submit to the FAA a final test and quality assurance report summarizing acceptance test results, as applicable (Grant Condition);
- b) Complete all environmental requirements as established within the project environmental determination (Order 5100.38); and
- c) Prepare and retain as-built plans (Order 5100.38).

Yes  No  N/A

13. Sponsor has revised or will revise their airport layout plan (ALP) that reflects improvements made and has submitted or will submit an updated ALP to the FAA no later than 90 days from the period of performance end date. (49 USC § 47107 and Order 5100.38).

Yes  No  N/A

Attach documentation clarifying any above item marked with "no" response.

**Sponsor's Certification**

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Name of Sponsor:

Name of Sponsor's Authorized Official:

Title of Sponsor's Authorized Official:

**Signature** of Sponsor's Authorized Official: \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

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## Drug-Free Workplace Airport Improvement Program Sponsor Certification

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Sponsor:

Airport:

Project Number:

Description of Work:

### Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements on the drug-free workplace within federal grant programs are described in 2 CFR part 182. Sponsors are required to certify they will be, or will continue to provide, a drug-free workplace in accordance with the regulation. The AIP project grant agreement contains specific assurances on the Drug-Free Workplace Act of 1988.

### Certification Statements

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. A statement has been or will be published prior to commencement of project notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the sponsor's workplace, and specifying the actions to be taken against employees for violation of such prohibition (2 CFR § 182.205).

Yes  No  N/A

2. An ongoing drug-free awareness program (2 CFR § 182.215) has been or will be established prior to commencement of project to inform employees about:

- a. The dangers of drug abuse in the workplace;
- b. The sponsor's policy of maintaining a drug-free workplace;
- c. Any available drug counseling, rehabilitation, and employee assistance programs; and
- d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

Yes  No  N/A

3. Each employee to be engaged in the performance of the work has been or will be given a copy of the statement required within item 1 above prior to commencement of project (2 CFR § 182.210).

Yes  No  N/A

4. Employees have been or will be notified in the statement required by item 1 above that, as a condition employment under the grant (2 CFR § 182.205(c)), the employee will:

- a. Abide by the terms of the statement; and
- b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

Yes  No  N/A

5. The Federal Aviation Administration (FAA) will be notified in writing within 10 calendar days after receiving notice under item 4b above from an employee or otherwise receiving actual notice of such conviction (2 CFR § 182.225). Employers of convicted employees must provide notice, including position title of the employee, to the FAA (2 CFR § 182.300).

Yes  No  N/A

6. One of the following actions (2 CFR § 182.225(b)) will be taken within 30 calendar days of receiving a notice under item 4b above with respect to any employee who is so convicted:

- a. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; and
- b. Require such employee to participate satisfactorily in drug abuse assistance or rehabilitation programs approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

Yes  No  N/A

7. A good faith effort will be made, on a continuous basis, to maintain a drug-free workplace through implementation of items 1 through 6 above (2 CFR § 182.200).

Yes  No  N/A

Site(s) of performance of work (2 CFR § 182.230):

**Location 1**

Name of Location:

Address:

**Location 2 (if applicable)**

Name of Location:

Address:

**Location 3 (if applicable)**

Name of Location:

Address:

Attach documentation clarifying any above item marked with "no" response.

**Sponsor's Certification**

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Name of Sponsor:

Name of Sponsor's Authorized Official:

Title of Sponsor's Authorized Official:

**Signature** of Sponsor's Authorized Official: \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

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## Project Plans and Specifications

### Airport Improvement Program Sponsor Certification

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Sponsor:

Airport:

Project Number:

Description of Work:

#### **Application**

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). Labor and civil rights standards applicable to AIP are established by the Department of Labor ([www.dol.gov/](http://www.dol.gov/)). AIP Grant Assurance C.1—General Federal Requirements identifies applicable federal laws, regulations, executive orders, policies, guidelines and requirements for assistance under AIP. A list of current advisory circulars with specific standards for procurement, design or construction of airports, and installation of equipment and facilities is referenced in standard airport sponsor Grant Assurance 34 contained in the grant agreement.

#### **Certification Statements**

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting “yes” represents sponsor acknowledgement and confirmation of the certification statement. The term “will” means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. The plans and specifications were or will be prepared in accordance with applicable federal standards and requirements, so that no deviation or modification to standards set forth in the advisory circulars, or FAA-accepted state standard, is necessary other than those explicitly approved by the Federal Aviation Administration (FAA) (14 USC § 47105).  
 Yes    No    N/A
  
2. Specifications incorporate or will incorporate a clear and accurate description of the technical requirement for the material or product that does not contain limiting or proprietary features that unduly restrict competition (2 CFR §200.319).  
 Yes    No    N/A
  
3. The development that is included or will be included in the plans is depicted on the current airport layout plan as approved by the FAA (14 USC § 47107).  
 Yes    No    N/A

4. Development and features that are ineligible or unallowable for AIP funding have been or will be omitted from the plans and specifications (FAA Order 5100.38, par. 3-43).
- Yes  No  N/A
5. The specification does not use or will not use "brand name" or equal to convey requirements unless sponsor requests and receives approval from the FAA to use brand name (FAA Order 5100.38, Table U-5).
- Yes  No  N/A
6. The specification does not impose or will not impose geographical preference in their procurement requirements (2 CFR §200.319(b) and FAA Order 5100.38, Table U-5).
- Yes  No  N/A
7. The use of prequalified lists of individuals, firms or products include or will include sufficient qualified sources that ensure open and free competition and that does not preclude potential entities from qualifying during the solicitation period (2 CFR §319(d)).
- Yes  No  N/A
8. Solicitations with bid alternates include or will include explicit information that establish a basis for award of contract that is free of arbitrary decisions by the sponsor (2 CFR § 200.319(a)(7)).
- Yes  No  N/A
9. Concurrence was or will be obtained from the FAA if Sponsor incorporates a value engineering clause into the contract (FAA Order 5100.38, par. 3-57).
- Yes  No  N/A
10. The plans and specifications incorporate or will incorporate applicable requirements and recommendations set forth in the federally approved environmental finding (49 USC §47106(c)).
- Yes  No  N/A
11. The design of all buildings comply or will comply with the seismic design requirements of 49 CFR § 41.120. (FAA Order 5100.38d, par. 3-92)
- Yes  No  N/A
12. The project specification include or will include process control and acceptance tests required for the project by as per the applicable standard:
- a. Construction and installation as contained in Advisory Circular (AC) 150/5370-10.  
 Yes  No  N/A
  - b. Snow Removal Equipment as contained in AC 150/5220-20.  
 Yes  No  N/A
  - c. Aircraft Rescue and Fire Fighting (ARFF) vehicles as contained in AC 150/5220-10.  
 Yes  No  N/A

13. For construction activities within or near aircraft operational areas(AOA):

- a. The Sponsor has or will prepare a construction safety and phasing plan (CSPP) conforming to Advisory Circular 150/5370-2.
- b. Compliance with CSPP safety provisions has been or will be incorporated into the plans and specifications as a contractor requirement.
- c. Sponsor will not initiate work until receiving FAA's concurrence with the CSPP (FAA Order 5100.38, Par. 5-29).

Yes  No  N/A

14. The project was or will be physically completed without federal participation in costs due to errors and omissions in the plans and specifications that were foreseeable at the time of project design (49 USC §47110(b)(1) and FAA Order 5100.38d, par. 3-100).

Yes  No  N/A

Attach documentation clarifying any above item marked with "no" response.

**Sponsor's Certification**

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Name of Sponsor:

Name of Sponsor's Authorized Official:

Title of Sponsor's Authorized Official:

**Signature** of Sponsor's Authorized Official: \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

---

## Real Property Acquisition Airport Improvement Program Sponsor Certification

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Sponsor:

Airport:

Project Number:

Description of Work:

### Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements on real property acquisition and relocation assistance are in 49 CFR part 24. The AIP project grant agreement contains specific requirements and assurances on the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), as amended.

### Certification Statements

Except for certification statements below marked not applicable (N/A), this list includes major requirements of the real property acquisition project. Selecting "yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards.

1. The sponsor's attorney or other official has or will have good and sufficient title as well as title evidence on property in the project.  
 Yes    No    N/A
  
2. If defects and/or encumbrances exist in the title that adversely impact the sponsor's intended use of property in the project, they have been or will be extinguished, modified, or subordinated.  
 Yes    No    N/A
  
3. If property for airport development is or will be leased, the following conditions have been met:
  - a. The term is for 20 years or the useful life of the project;
  - b. The lessor is a public agency; and
  - c. The lease contains no provisions that prevent full compliance with the grant agreement. Yes    No    N/A

4. Property in the project is or will be in conformance with the current Exhibit A property map, which is based on deeds, title opinions, land surveys, the approved airport layout plan, and project documentation.
- Yes  No  N/A
5. For any acquisition of property interest in noise sensitive approach zones and related areas, property interest was or will be obtained to ensure land is used for purposes compatible with noise levels associated with operation of the airport.
- Yes  No  N/A
6. For any acquisition of property interest in runway protection zones and areas related to 14 CFR 77 surfaces or to clear other airport surfaces, property interest was or will be obtained for the following:
- a. The right of flight;
  - b. The right of ingress and egress to remove obstructions; and
  - c. The right to restrict the establishment of future obstructions.
- Yes  No  N/A
7. Appraisals prepared by qualified real estate appraisers hired by the sponsor include or will include the following:
- a. Valuation data to estimate the current market value for the property interest acquired on each parcel; and
  - b. Verification that an opportunity has been provided to the property owner or representative to accompany appraisers during inspections.
- Yes  No  N/A
8. Each appraisal has been or will be reviewed by a qualified review appraiser to recommend an amount for the offer of just compensation, and the written appraisals as well as review appraisal are available to Federal Aviation Administration (FAA) for review.
- Yes  No  N/A
9. A written offer to acquire each parcel was or will be presented to the property owner for not less than the approved amount of just compensation.
- Yes  No  N/A
10. Effort was or will be made to acquire each property through the following negotiation procedures:
- a. No coercive action to induce agreement; and
  - b. Supporting documents for settlements included in the project files.
- Yes  No  N/A

11. If a negotiated settlement is not reached, the following procedures were or will be used:

- a. Condemnation initiated and a court deposit not less than the just compensation made prior to possession of the property; and
- b. Supporting documents for awards included in the project files.

Yes  No  N/A

12. If displacement of persons, businesses, farm operations, or non-profit organizations is involved, a relocation assistance program was or will be established, with displaced parties receiving general information on the program in writing, including relocation eligibility, and a 90-day notice to vacate.

Yes  No  N/A

13. Relocation assistance services, comparable replacement housing, and payment of necessary relocation expenses were or will be provided within a reasonable time period for each displaced occupant in accordance with the Uniform Act.

Yes  No  N/A

Attach documentation clarifying any above item marked with "no" response.

**Sponsor's Certification**

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Name of Sponsor:

Name of Sponsor's Authorized Official:

Title of Sponsor's Authorized Official:

**Signature** of Sponsor's Designated Official Representative: \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

---

## Selection of Consultants

### Airport Improvement Program Sponsor Certification

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Sponsor:

Airport:

Project Number:

Description of Work:

#### **Application**

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements for selection of consultant services within federal grant programs are described in 2 CFR §§ 200.317-200.326. Sponsors may use other qualifications-based procedures provided they are equivalent to standards of Title 40 chapter 11 and FAA Advisory Circular 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects.

#### **Certification Statements**

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. Sponsor acknowledges their responsibility for the settlement of all contractual and administrative issues arising out of their procurement actions (2 CFR § 200.318(k)).  
 Yes    No    N/A
2. Sponsor procurement actions ensure or will ensure full and open competition that does not unduly limit competition (2 CFR § 200.319).  
 Yes    No    N/A
3. Sponsor has excluded or will exclude any entity that develops or drafts specifications, requirements, or statements of work associated with the development of a request-for-qualifications (RFQ) from competing for the advertised services (2 CFR § 200.319).  
 Yes    No    N/A
4. The advertisement describes or will describe specific project statements-of-work that provide clear detail of required services without unduly restricting competition (2 CFR § 200.319).  
 Yes    No    N/A

5. Sponsor has publicized or will publicize a RFQ that:
- a. Solicits an adequate number of qualified sources (2 CFR § 200.320(d)); and
  - b. Identifies all evaluation criteria and relative importance (2 CFR § 200.320(d)).
- Yes  No  N/A
6. Sponsor has based or will base selection on qualifications, experience, and disadvantaged business enterprise participation with price not being a selection factor (2 CFR § 200.320(d)).
- Yes  No  N/A
7. Sponsor has verified or will verify that agreements exceeding \$25,000 are not awarded to individuals or firms suspended, debarred or otherwise excluded from participating in federally assisted projects (2 CFR §180.300).
- Yes  No  N/A
8. A/E services covering multiple projects: Sponsor has agreed to or will agree to:
- a. Refrain from initiating work covered by this procurement beyond five years from the date of selection (AC 150/5100-14); and
  - b. Retain the right to conduct new procurement actions for projects identified or not identified in the RFQ (AC 150/5100-14).
- Yes  No  N/A
9. Sponsor has negotiated or will negotiate a fair and reasonable fee with the firm they select as most qualified for the services identified in the RFQ (2 CFR § 200.323).
- Yes  No  N/A
10. The Sponsor's contract identifies or will identify costs associated with ineligible work separately from costs associated with eligible work (2 CFR § 200.302).
- Yes  No  N/A
11. Sponsor has prepared or will prepare a record of negotiations detailing the history of the procurement action, rationale for contract type and basis for contract fees (2 CFR §200.318(i)).
- Yes  No  N/A
12. Sponsor has incorporated or will incorporate mandatory contract provisions in the consultant contract for AIP-assisted work (49 U.S.C. Chapter 471 and 2 CFR part 200 Appendix II)
- Yes  No  N/A
13. For contracts that apply a time-and-material payment provision (also known as hourly rates, specific rates of compensation, and labor rates), the Sponsor has established or will establish:
- a. Justification that there is no other suitable contract method for the services (2 CFR §200.318(j));
  - b. A ceiling price that the consultant exceeds at their risk (2 CFR §200.318(j)); and
  - c. A high degree of oversight that assures consultant is performing work in an efficient manner with effective cost controls in place 2 CFR §200.318(j)).
- Yes  No  N/A

14. Sponsor is not using or will not use the prohibited cost-plus-percentage-of-cost (CPPC) contract method. (2 CFR § 200.323(d)).

Yes  No  N/A

Attach documentation clarifying any above item marked with "no" response.

**Sponsor's Certification**

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Name of Sponsor:

Name of Sponsor's Authorized Official:

Title of Sponsor's Authorized Official:

**Signature** of Sponsor's Authorized Official: \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

---

## Certification and Disclosure Regarding Potential Conflicts of Interest Airport Improvement Program Sponsor Certification

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Sponsor:

Airport:

Project Number:

Description of Work:

### **Application**

Title 2 CFR § 200.112 and § 1201.112 address Federal Aviation Administration (FAA) requirements for conflict of interest. As a condition of eligibility under the Airport Improvement Program (AIP), sponsors must comply with FAA policy on conflict of interest. Such a conflict would arise when any of the following have a financial or other interest in the firm selected for award:

- a) The employee, officer or agent,
- b) Any member of his immediate family,
- c) His or her partner, or
- d) An organization which employs, or is about to employ, any of the above.

Selecting "yes" represents sponsor or sub-recipient acknowledgement and confirmation of the certification statement. Selecting "No" represents sponsor or sub-recipient disclosure that it cannot fully comply with the certification statement. If "No" is selected, provide support information explaining the negative response as an attachment to this form. This includes whether the sponsor has established standards for financial interest that are not substantial or unsolicited gifts are of nominal value (2 CFR § 200.318(c)). The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance.

### **Certification Statements**

1. The sponsor or sub-recipient maintains a written standards of conduct governing conflict of interest and the performance of their employees engaged in the award and administration of contracts (2 CFR § 200.318(c)). To the extent permitted by state or local law or regulations, such standards of conduct provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the sponsor's and sub-recipient's officers, employees, or agents, or by contractors or their agents.

Yes  No

2. The sponsor's or sub-recipient's officers, employees or agents have not and will not solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements (2 CFR § 200.318(c)).

Yes  No

3. The sponsor or sub-recipient certifies that is has disclosed and will disclose to the FAA any known potential conflict of interest (2 CFR § 1200.112).

Yes  No

Attach documentation clarifying any above item marked with "no" response.

**Sponsor's Certification**

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and have the explanation for any item marked "no" is correct and complete.

Executed on this        day of \_\_\_\_\_, \_\_\_\_\_.

Name of Sponsor:

Name of Sponsor's Authorized Official:

Title of Sponsor's Authorized Official:

**Signature** of Sponsor's Authorized Official: \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

ON JUNE 14, 2016  
ABEND

# CONTRACT REVIEW FORM

## DEPARTMENT

Contract between the City of Bismarck and FAA

Purpose of Contract: LAND LEASE EXTENSION (SLA-1) TO JULY 26, 2012 LEASE (#DTFAGL-07-L-00057)

Contract Amount: NO CHANGE

Contract Period: EXTENDS 5 YR PERIOD (OCT 1, 2017 - SEPT 30, 2022)

Funding Source: INCOME TO AIRPORT ENTERPRISE FUND

Project Number: (If needed, send copy to Fiscal) NA

Comments:

After Mayor's Signature, route to: AIRPORT

Date:

Department Head Signature:

Date:

## CITY ATTORNEY

Comments:

City Attorney Signature:

Date:

## FINANCE

Comments:

Director of Finance Signature:

Date:

## ADMINISTRATION

City Administrator Signature:

Date:

Please send copy of completed contracts to Administration.

ENCL 3



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Central Logistics Service Area  
Real Estate & Utilities Group, ALO-720

10101 Hillwood Parkway  
Fort Worth, Texas 76177

JUN 02 2016

Timothy J. Thorsen  
Assistant Airport Director  
Bismarck Airport  
PO Box 991  
Bismarck, ND 58502

Dear Mr. Thorsen:

Subject: Lease No. DTFAGL-07-L-00057  
Supplemental Lease Agreement No. 1  
(BIS) Ground Lease  
Bismarck, North Dakota

The Federal Aviation Administration's (FAA) Lease No. DTFAGL-07-L-00057 providing the necessary land space for a FAA owned building at 2301 University Drive, Bismarck Regional Airport, Bismarck, North Dakota which will expire by its terms on September 30, 2017.

In accordance with Article 1.B of DTFAGL-07-L-00057, the FAA hereby exercises the renewal option to extend the lease for an additional 5-year term at the same rental rate. The option term will begin October 1, 2017 and end on September 30, 2022.

Enclosed are two copies of the Supplemental Lease Agreement No. 1 to DTFAGL-07-L-00057, please have all copies signed, dated and complete the Public Authorization Certificate. Return all copies in the enclosed postage paid envelope and when received, a fully executed copy will be returned to you for your records.

If you require additional information, please contact me at 817-222-4608 or via email at [Demetra.johnson@faa.gov](mailto:Demetra.johnson@faa.gov).

Sincerely,

Demetra S. Johnson  
Real Estate Contracting Officer

Enclosure (2)



**SUPPLEMENTAL LEASE AGREEMENT**

U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

	Building Address	
<b>Ground Lease Agreement</b>	<b>2301 University Drive</b>	
City	State	Zip Code
<b>Bismarck</b>	<b>North Dakota</b>	<b>58504</b>

**The Lessor hereby leases to the Government the following described premises, including parking.**

Approximately .686 acres of land space, on a parcel in the northwest quadrant of the Bismarck Regional Airport, Bismarck, North Dakota, Lot 4 Block 5, located in the County of Burleigh, State of North Dakota, hereinafter referred to as the premises:

Part of the East half (E1/2) of Section Fifteen (15). Township One Hundred Thirty-Eight (138) North, Range Eighty (80), West of the 5th principal meridian, Burleigh County, North Dakota, more fully described as follows:

Commencing at a found 3/8 inch I.D. iron pipe set at the South one quarter corner of said Section 15; thence North 0° 28' 06", East a distance of 2517.26 feet; thence South 89° 31' 04", East a distance of 601.30 feet; thence North 0° 28' 56", East a distance of 90.00 feet to the point of beginning; thence continuing North 0° 28' 56", East a distance of 130.00 feet; thence North 89° 31' 04", West a distance of 230.00 feet to the point of beginning; said parcel containing 29,900 square feet of land.

The basis of bearings is the south line of said section 15 bearing North 0° 00' 00", West.

THIS AGREEMENT, made and entered into and between, CITY OF BISMARCK, NORTH DAKOTA, a municipal corporation, whose interest in the property hereinafter called the Lessor, hereby referred to as LESSOR, and the UNITED STATES OF AMERICA, herein after called the Government or FAA:

WHEREAS, on November 28, 2012, the City of Bismarck and the Government entered into Lease No. DTFAGL-07-L-00057 for the consideration and purpose more particularly stated in said lease; and

WHEREAS, said lease expires **September 30, 2017** and the **Government** has a continuing need for the **leased premises**; and

WHEREAS, Article 1.B. of said lease provides for two **separate five-year** extensions that may be **granted** with **mutual consent** of the City and the **Government**, and

WHEREAS, the parties **hereto** agree to exercise one **five-year extension**.

Now **therefore**, these **parties** covenant and agree to **extend** the term of the lease from October 1, 2017 through **September 30, 2022** inclusive, at the same **rental rate**.

All other terms and conditions of the lease shall **remain in force and effect**.

**Important:** Lessor  is,  is not required to sign this document and return 2 copies to the issuing office.

IN WITNESS WHEREOF, the parties subscribed their names as of the above date.

**CITY OF BISMARCK, NORTH DAKOTA**



BY \_\_\_\_\_  
Signature Title Date

**UNITED STATES OF AMERICA**

BY \_\_\_\_\_  
Demetra S. Johnson Real Estate Contracting Officer  
Title Date

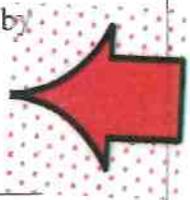
**PUBLIC AUTHORIZATION CERTIFICATE**

If **agreement** is made with a State, County, Municipality, or other public authority, the following certificate shall be executed by an **authorized** official:

I \_\_\_\_\_ **certify** that I am the \_\_\_\_\_ **of the** \_\_\_\_\_  
(Name) (Title) (State, County, Municipality or other Public Authority)  
**named** in the foregoing **agreement**; and that \_\_\_\_\_ **who signed** said **agreement** on  
(Name)  
**behalf** of the \_\_\_\_\_ **was then** \_\_\_\_\_ **of said** \_\_\_\_\_ ;  
(State, County, Municipality or other Public Authority) (Title) (State, County, Municipality or other Public Authority)

that said **agreement** was duly **signed** for and on **behalf** of \_\_\_\_\_ **by** \_\_\_\_\_  
(State, County, Municipality or other Public Authority)  
**authority** of its governing body, and is within the **scope** of its powers.

Signed \_\_\_\_\_ Seal of Authority





## REQUEST FOR CITY COMMISSION ACTION

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**Item Description:** Lots 1-4, Block 1, Gary Nelson Addition – Zoning Change (R5 to R10)

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### REQUEST

Karen Nelson is requesting a zoning change from the R5 – Residential zoning district to the R10 – Residential zoning district to allow the development of two-family dwellings as well as single-family dwellings on these four lots.

The property to the north of these lots is zoned RT – Residential, the properties to the northwest and southeast are zoned R10 – Residential and the property to the east is zoned RM15 – Residential. The zoning change to R10 – Residential will allow these larger lots to be developed as two-family residential, which will be a more appropriate land use given the zoning of adjacent parcels.

### PLANNING & ZONING COMMISSION

The Planning & Zoning Commission held a public hearing on the zoning change on May 25, 2016.

No members of the public spoke at the public hearing, although an area resident called and spoke to staff prior to the hearing. He was concerned that the owner was asking for a two-family zoning designation when it appeared to him that the lots had not been previously advertised as single-family lots. He also spoke directly to the property owner prior to the meeting.

At the conclusion of the public hearing, and based on the findings contained in the staff report, the Planning & Zoning Commission unanimously recommended approval of the zoning change from the R5 – Residential zoning district to the R10 – Residential zoning district for Lots 1-4, Block 1, Gary Nelson Addition.

The staff report from the May 25<sup>th</sup> meeting of the Planning & Zoning Commission is attached.

### RECOMMENDED CITY COMMISSION ACTION

June 14<sup>th</sup> Meeting of the Board of City Commissioners – consider the request for the zoning change as outlined in Ordinance 6215, and call for a public hearing on the item for the June 28<sup>th</sup> meeting of the Board of City Commissioners.

June 28<sup>th</sup> Meeting of the Board of City Commissioners – hold a public hearing on the request for the zoning change as outlined in Ordinance 6215, and take final action on the request.

**ORDINANCE NO. 6215**

<i>Introduced by</i>	_____
<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

**AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.**

**BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:**

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the R5-Residential zoning district and included in the R10-Residential zoning district:

Lots 1-4, Block 1, Gary Nelson Addition.

Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

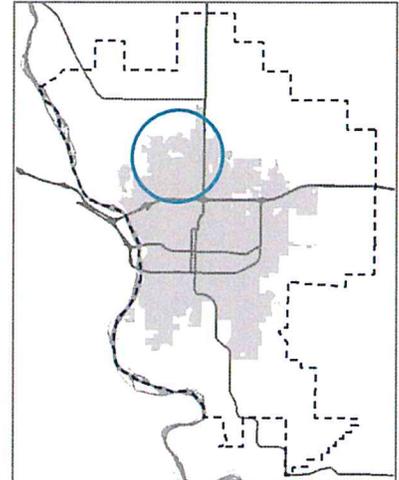
May 25, 2016

## Application for: Zoning Change

TRAKiT Project ID: ZC2016-005

### Project Summary

<b>Title:</b>	Lots 1-4, Block 1, Gary Nelson Addition
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Karen Nelson
<b>Project Contact:</b>	Jack Kavaney
<b>Location:</b>	In northwest Bismarck, along the northwest side of Nelson Drive between Normandy Street and Coleman Street, and south of 43 <sup>rd</sup> Avenue NE.
<b>Project Size:</b>	1.35 acres
<b>Request:</b>	Rezone property from R5 – Residential to R10 – Residential to allow the development of two-family dwellings as well as single-family dwellings.



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	4 lots in 1 block	<b>Number of Lots:</b>	4 lots in 1 block
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	One and two-family residential
<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan	<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan
<b>Zoning:</b>	R5 – Residential	<b>Zoning:</b>	R10 – Residential
<b>Uses Allowed:</b>	R5 – Single-family residential	<b>Uses Allowed:</b>	R10 – Single and two-family residential
<b>Max Density Allowed:</b>	R5 – 5 units / acre	<b>Max Density Allowed:</b>	R10 – 10 units / acre

### Property History

<b>Zoned:</b>	11/2013	<b>Platted:</b>	11/2013	<b>Annexed:</b>	06/2005
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### Staff Analysis

The applicant is requesting a zoning change to allow the development of two-family dwellings on these four lots. The property to the north of these lots is zoned RT

– Residential, the properties to the northwest and southeast are zoned R10 – Residential and the property to the east is zoned RM15 – Residential. The zoning change to R10 – Residential will allow these

(continued)

larger lots to be developed as two-family residential, which will be a more appropriate land use given the zoning of adjacent parcels.

**Required Findings of Fact**

1. The proposed zoning change is outside of the area included in the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;

6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the zoning change from the R5 – Residential zoning district to the R10 – Residential zoning district for Lots 1-4, Block 1, Gary Nelson Addition.

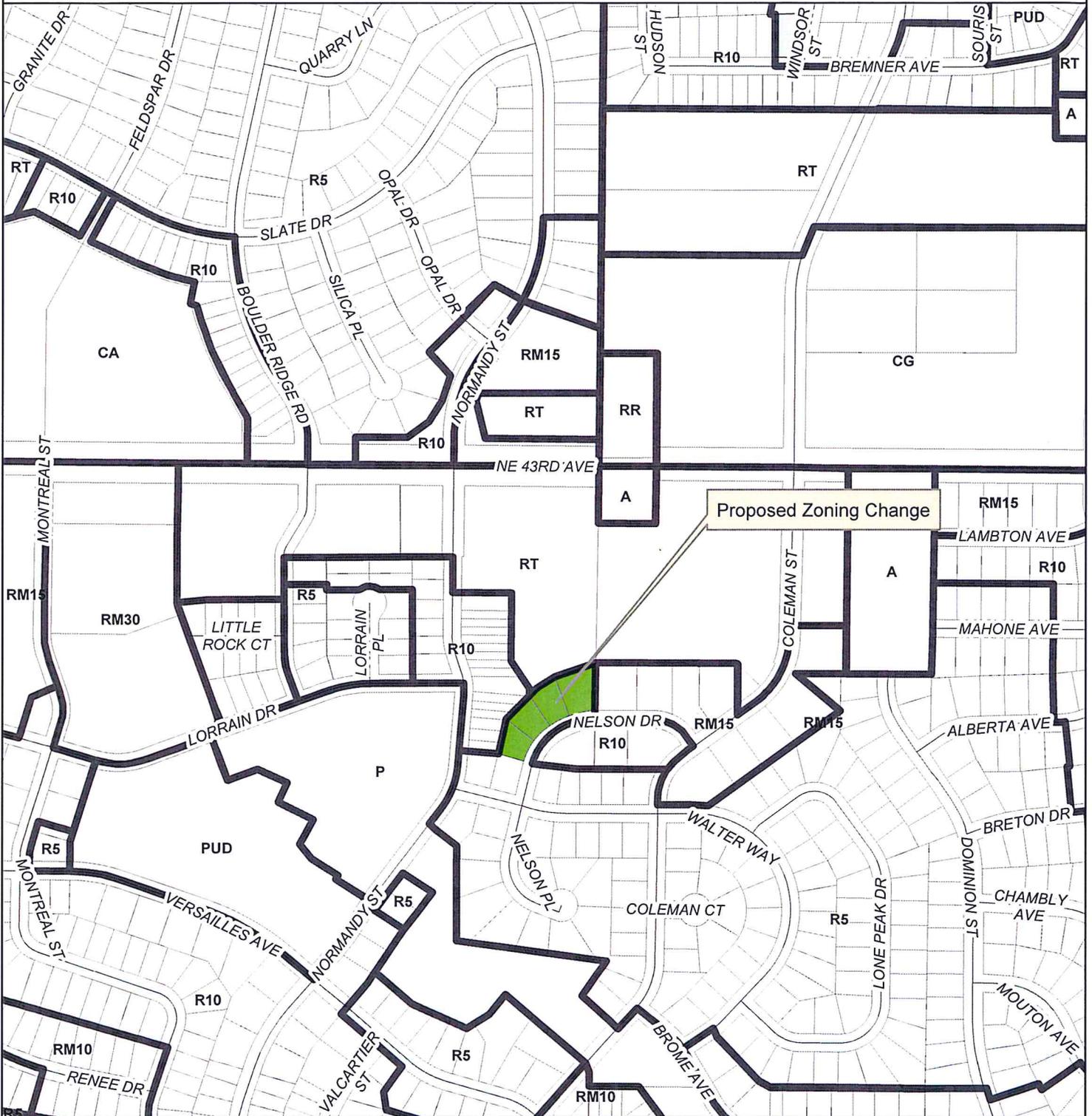
**Attachments**

1. Location Map
2. Zoning Map

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Staff report prepared by: Kim L. Lee, AICP, Planning Manager  
701-355-1846 | [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)

# Proposed Zoning Change (R5 to R10) Lots 1-4, Block 1, Gary Nelson Addition

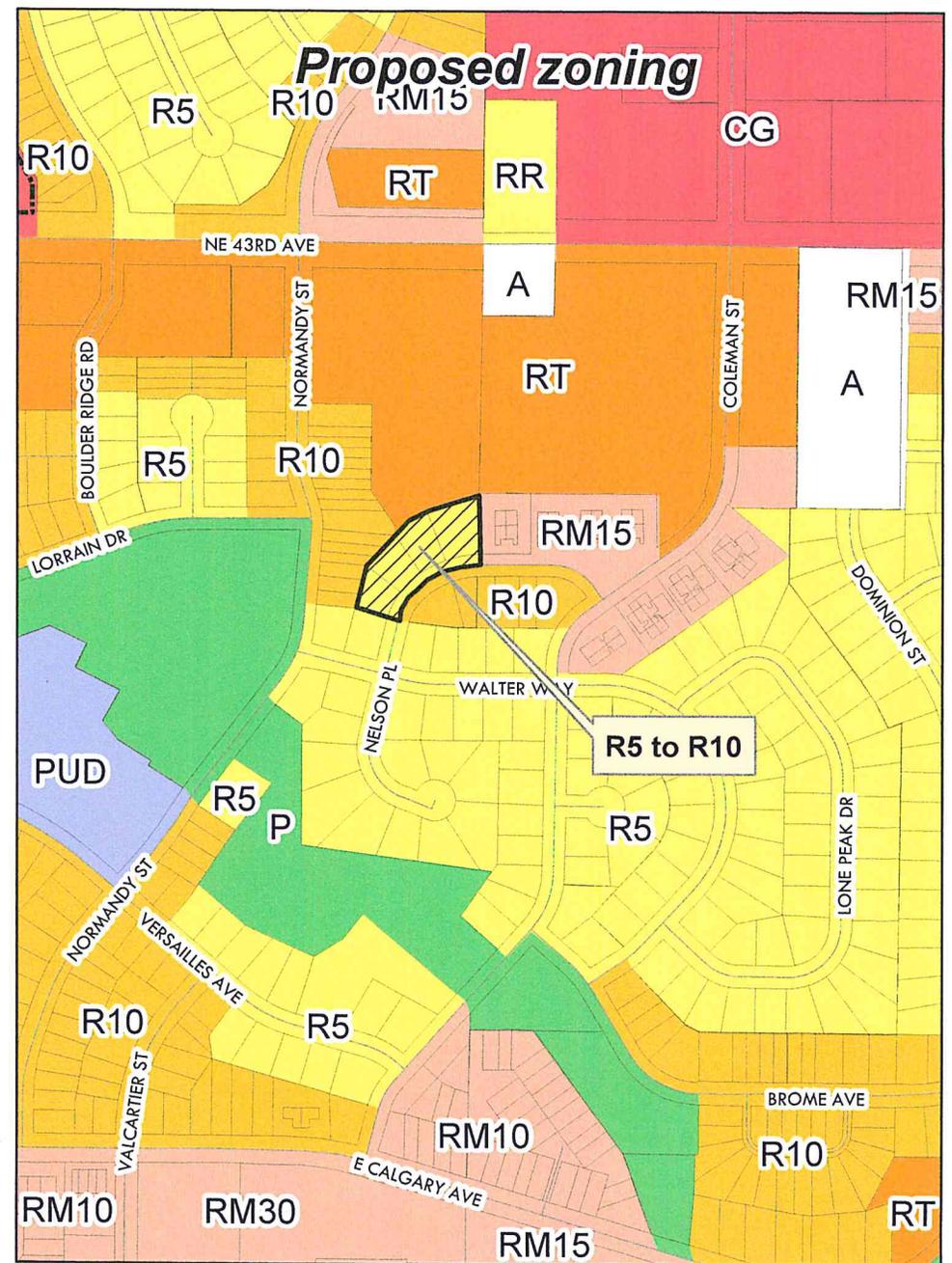
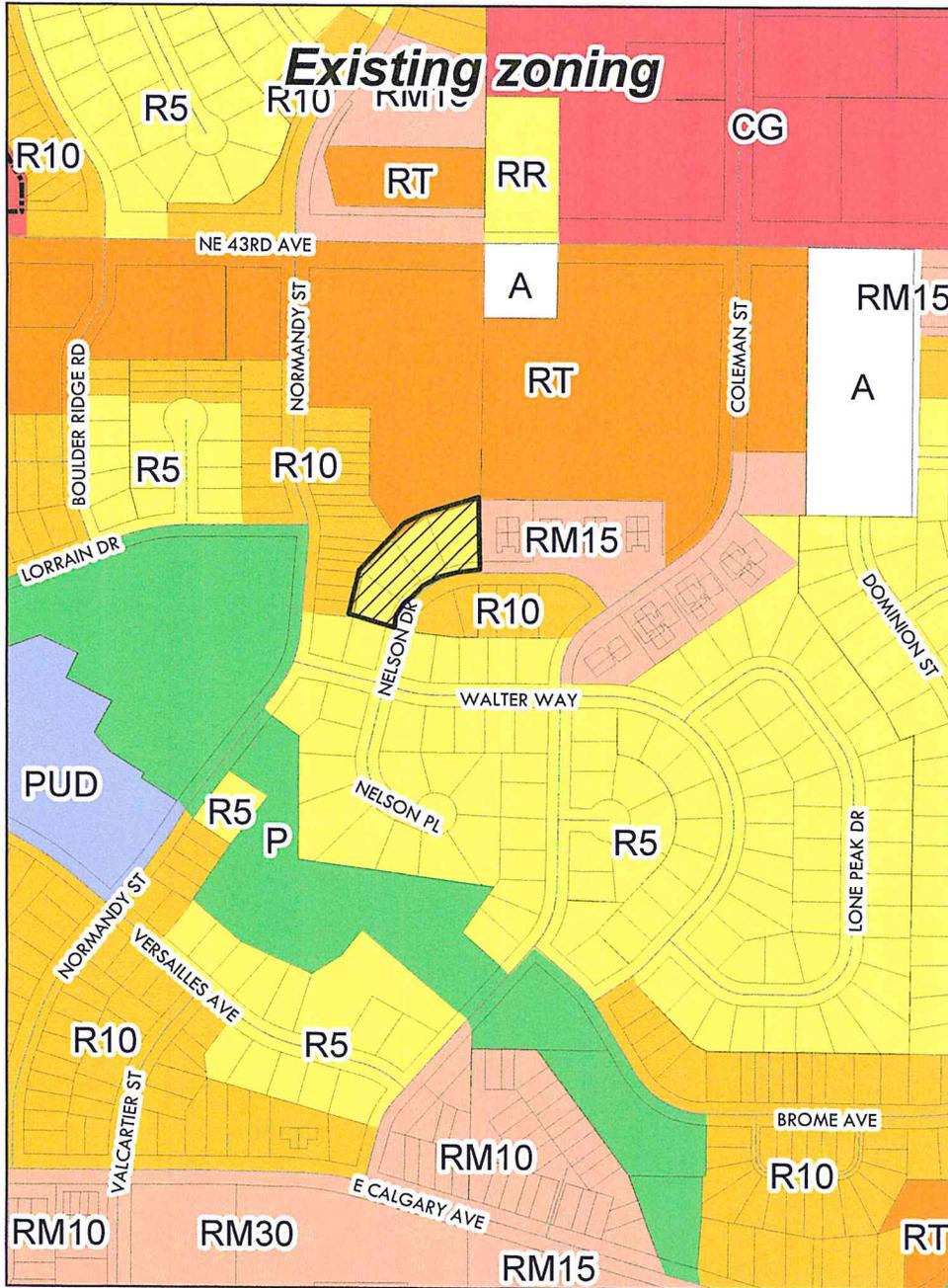


June 15, 2015 (h1b)

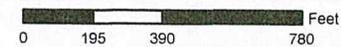
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



Lots 1-4, Block 1, Gary Nelson Addition - Zoning Change



This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



April, 2016



## REQUEST FOR CITY COMMISSION ACTION

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**Item Description:** Various Publicly-owned Lots and Tracts in South Bismarck and ETA (Phase 6 of 6) – Zoning Change (A, MA, RR & R5 to P)

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### REQUEST

The City of Bismarck's Community Development Department – Planning Division has initiated this zoning change for publicly owned land from various zoning districts to the P – Public zoning district.

All of the parcels are located in south Bismarck or south of the corporate limits in the City's extraterritorial area, except for one stormwater detention area with the North Plains Commerce Centre. Two parcels that are part of Cottonwood Park are proposed for rezoning. Other sites proposed for rezoning are part of the grounds of the Missouri River Correctional Center, Prairie Rose School, and the portion of Sibley Island within the City's jurisdiction.

Representatives from the Parks and Recreation District, state agencies, and Bismarck Public Schools were consulted to assure that all of the properties listed will continue in their current use into the future.

### PLANNING & ZONING COMMISSION

The Planning & Zoning Commission held a public hearing on the zoning change on May 25, 2016.

No members of the public spoke at the public hearing.

At the conclusion of the public hearing, and based on the findings contained in the staff report, the Planning & Zoning Commission unanimously recommended approval of the zoning change from the A – Agricultural, RR – Residential, MA – Industrial and R5 – Residential zoning districts to the P – Public zoning district for various publicly-owned lots and tracts in south Bismarck and the ETA.

The staff report from the May 25th meeting of the Planning & Zoning Commission is attached.

### RECOMMENDED CITY COMMISSION ACTION

June 14<sup>th</sup> Meeting of the Board of City Commissioners – consider the request for the zoning change as outlined in Ordinance 6216, and call for a public hearing on the item for the June 28<sup>th</sup> meeting of the Board of City Commissioners.

June 28<sup>th</sup> Meeting of the Board of City Commissioners – hold a public hearing on the request for the zoning change as outlined in Ordinance 6216, and take final action on the request.

**ORDINANCE NO. 6216**

<i>Introduced by</i>	_____
<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

**AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.**

**BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:**

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the R5-Residential zoning district and included in the P-Public zoning district:

Auditor's Lot G of the SW ¼ of NE ¼, the NW ¼ of the SE ¼, the NE ¼ of the SW ¼, and the SE ¼ of the NW ¼ of Section 16, T138N-R80W/Lincoln Township.

The following described properties shall be excluded from the RR-Residential zoning district and included in the P-Public zoning district:

Lot 5, Block 3, Ridgeview Acres 2nd Subdivision

Lot A of Lot 22, Block 2, Falconer Estates

Lot A of Lot 23, Block 2, Falconer Estates

All unplatted portions of the SW ¼ of Section 34, T138N-R80W/Lincoln Township, known as a portion of Sibley Island.

The following described property shall be excluded from the MA-Industrial zoning district and included in the P-Public zoning district:

Auditor's Lot A of Lot 1, Block 2, Northern Plains Commerce Centre Addition.

The following described property shall be excluded from the A-Agricultural zoning district and included in the P-Public zoning district:

Auditor's Lot H of the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  and the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 16, T138N-R80W/Lincoln Township.

Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

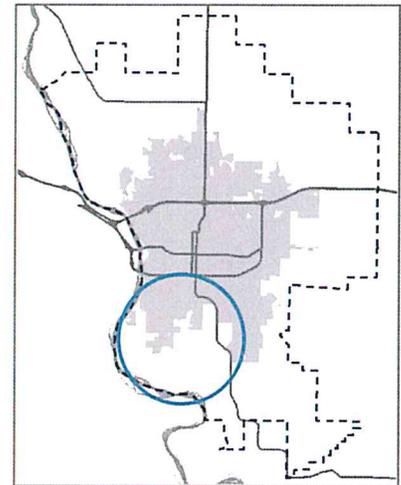
May 25, 2016

**Application for: Zoning Change**

TRAKiT Project ID: ZC2016-004

## Project Summary

Title:	Various P-Public District Zoning Changes (R5, RR, MA, and A to P) – Phase 6 of 6
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Bismarck Parks and Recreation District Bismarck Public Schools State of North Dakota United States Army Corp of Engineers
Project Contact:	Daniel Nairn, AICP, Planner, City of Bismarck
Location:	Various tracts of land in south Bismarck.
Project Size:	108.73 Acres
Request:	City-initiated action to rezone properties in public ownership to the P-Public zoning district to enhance consistency of the zoning map.



## Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	8 tracts	<i>Number of Lots:</i>	8 tracts
<i>Land Use:</i>	Parks, schools, stormwater facility, open space	<i>Land Use:</i>	Parks, schools, stormwater facility, open space
<i>Designated GMP Future Land Use:</i>	Civic Low Density Residential Conventional Rural Residential	<i>Designated GMP Future Land Use:</i>	Civic Low Density Residential Conventional Rural Residential
<i>Zoning:</i>	R5 – Residential RR – Residential MA – Industrial A – Agriculture	<i>Zoning:</i>	P – Public Use
<i>Uses Allowed:</i>	Various, depending on zone	<i>Uses Allowed:</i>	P – Parks, schools, open space, stormwater facilities, and other public uses.
<i>Max Density Allowed:</i>	Various, depending on zone	<i>Max Density Allowed:</i>	P – N/A

(continued)

### Staff Analysis

In Section 14-04-16 of the Bismarck Code of Ordinances, the P – Public zoning district is “established as a district in which the predominant use of land is for public uses,” specifically for public recreation, education and other government services. Over time, several parcels throughout the city have been acquired by a government agency and put to public use, while remaining in their original zoning district. The Community Development Department proposes to rezone these properties to the P – Public zoning district, in order to meet the intent of the ordinance and improve the consistency of the zoning map.

This project is the last of six rezoning phases planned. All of the parcels are south of the city limits in the City’s Extraterritorial Area, except for one stormwater detention area with the North Plains Commerce Center.

Two parcels that are part of Cottonwood Park are proposed for rezoning. Other sites proposed for rezoning are part of the grounds of the Missouri River Correctional Center, Prairie Rose School, and the portion of Sibley Island within the City’s jurisdiction.

Representatives from the Parks and Recreation District, state agencies, and Bismarck Public Schools were consulted to assure that all of the properties listed will continue in their current use into the future.

### Required Findings of Fact

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification, as the properties are already annexed and served;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established;

5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

### Staff Recommendation

Based on the above findings, staff recommends approval of the zoning change from the R5 – Residential zoning district to the P – Public zoning district for the properties described as:

- Auditor’s Lot G of the SW ¼ of NE ¼, the NW ¼ of the SE ¼, the NE ¼ of the SW ¼, and the SE ¼ of the NW ¼ of Section 16 T138N-R80W/Lincoln Township.

And of the zoning change from the RR – Residential zoning district to the P – Public zoning district for the properties described as:

- Lot 5, Block 3, Ridgeview Acres 2<sup>nd</sup> Subdivision
- Lot A of Lot 22, Block 2, Falconer Estates
- Lot A of Lot 23, Block 2, Falconer Estates
- All unplatted portions of the SW ¼ of Section 34, T138N-R80W/Lincoln Township, known as a portion of Sibley Island.

And of the zoning change from the MA – Industrial zoning district to the P – Public zoning district for the properties described as:

- Auditor’s Lot A of Lot 1, Block 2, Northern Plains Commerce Centre Addition.

And of the zoning change from the A –Agricultural zoning district to the P – Public zoning district for the properties described as:

- Auditor's Lot H of the SE ¼ of the SW ¼ and the SW ¼ of the SE ¼ of Section 16, T138N-R80W/Lincoln Township.

- Government lot 5 of the SE ¼ of Section 19, T138N-R80W/Lincoln Township.

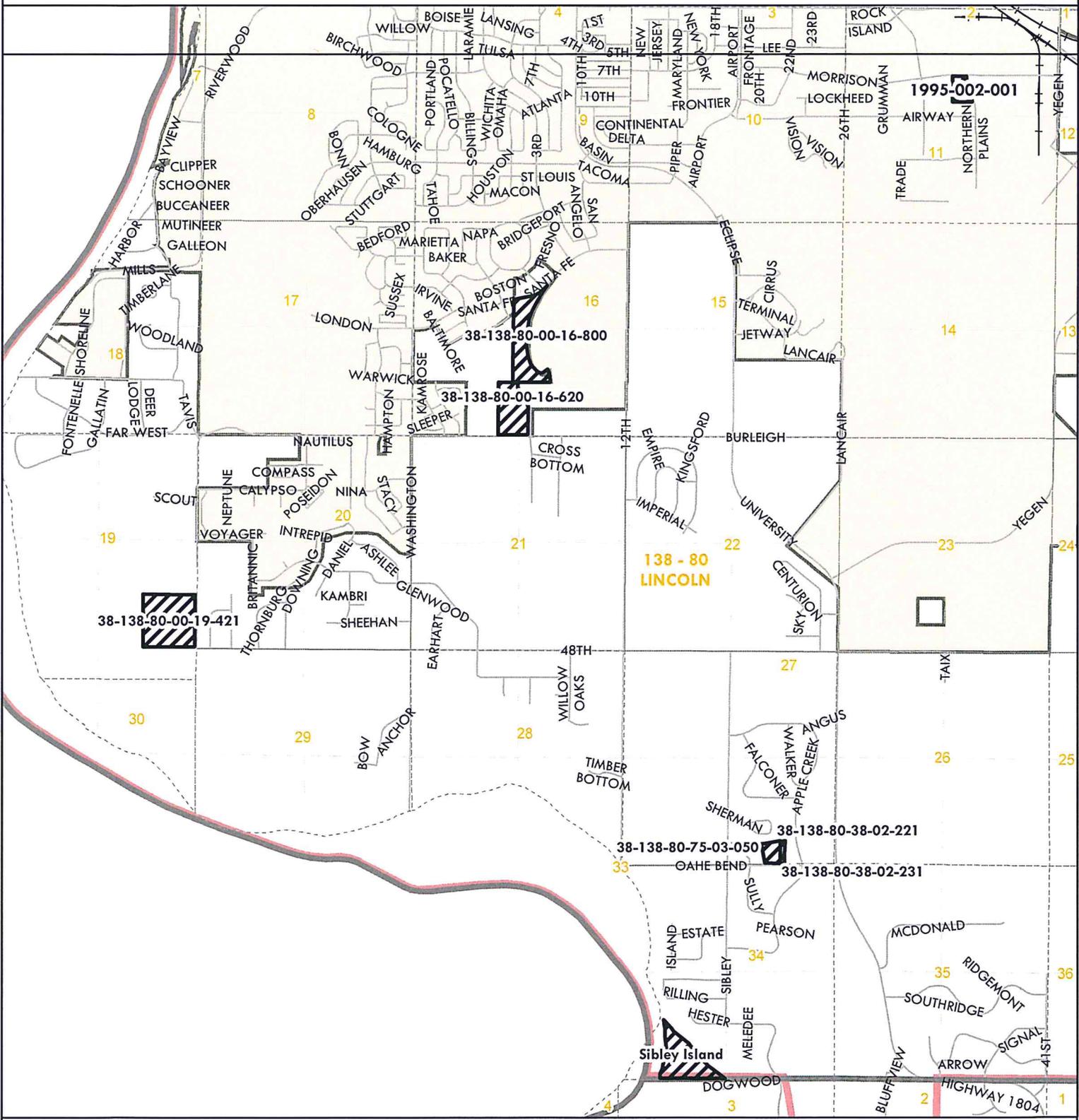
And of the zoning change from the A –Agricultural zoning district and the P – Public zoning district to the P – Public zoning district for the properties described as:

**Attachments**

- Location Map
  - Zoning Map
- 

Staff report prepared by: Daniel Nairn, AICP, Planner  
701-355-1854 | [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)

# Phase VI: Various P-Public Zoning Changes (RR, R5, MA and A to P) in South Bismarck and Bismarck ETA

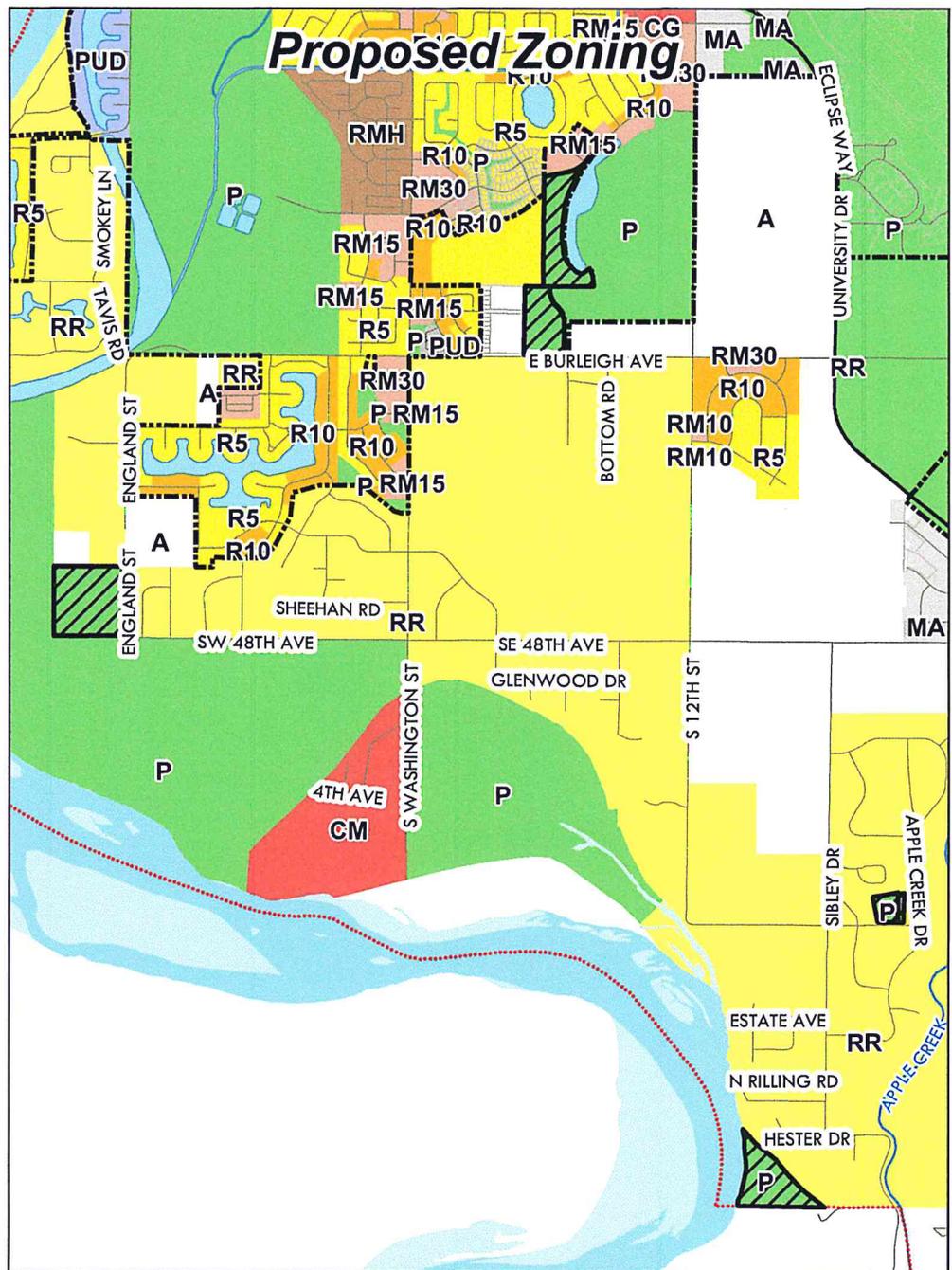
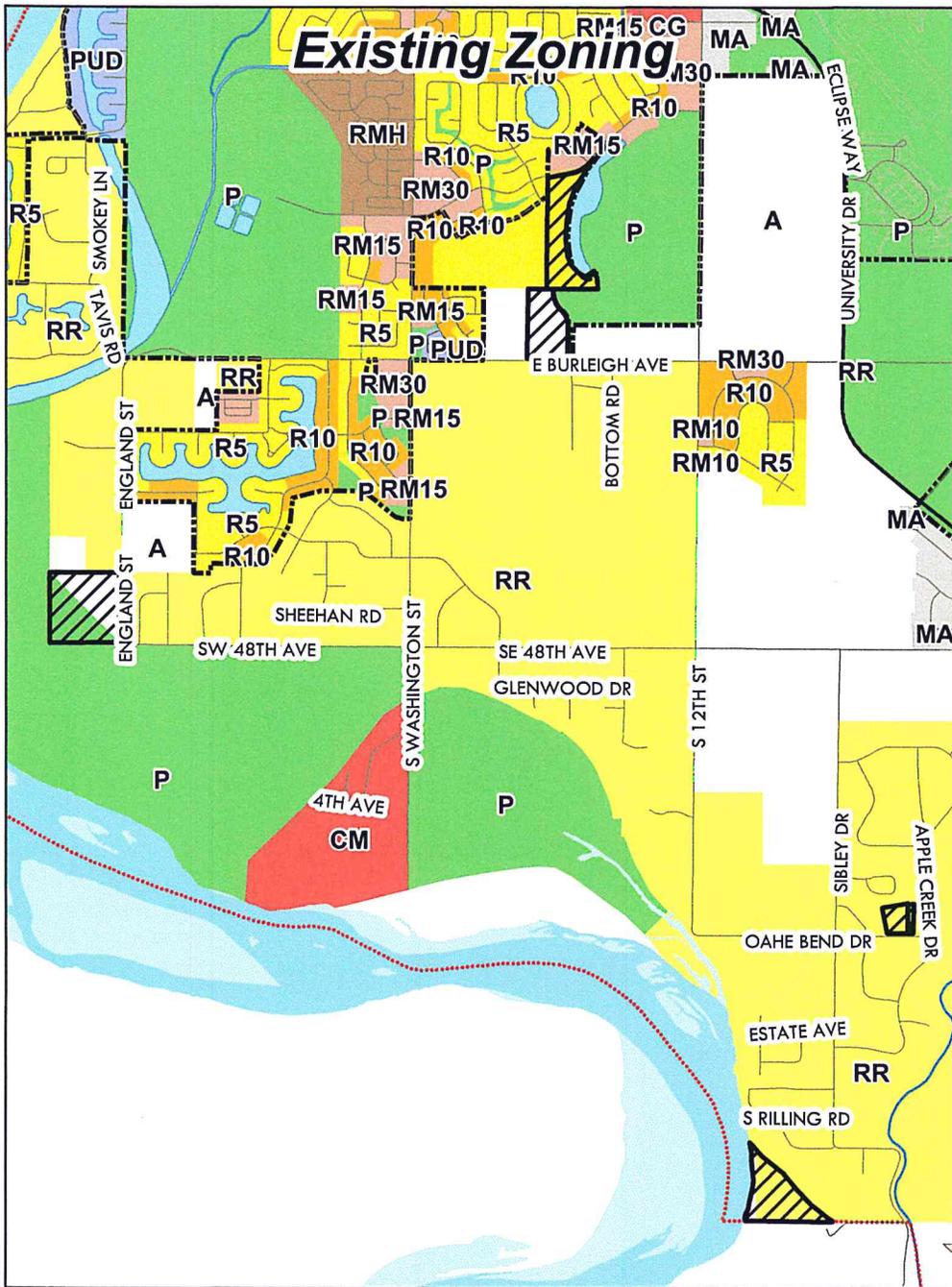


May 9, 2016 (DAN)



*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.*

# Various P-Public District Zoning Changes (Phase 6) - Zoning Change



 Areas to be Changed
  City Limits
  Extraterritorial Area

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

0 1,650 3,300 6,600 Feet

April, 2016





## Community Development Department

### MEMORANDUM

TO: Jason Tomanek  
Assistant City Administrator

FROM: Carl D. Hokenstad, AICP *cmh*  
Director of Community Development

DATE: June 8, 2016

SUBJECT: Bismarck Planning and Zoning Commission Appointment

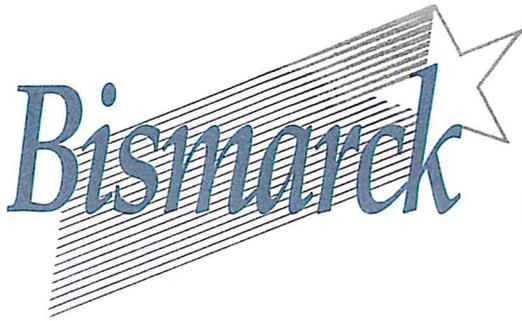
Please place the following recommendation as a consent item on the June 14, 2016 agenda of the Board of City Commissioners:

- Appointment to the Bismarck Planning and Zoning Commission. On behalf of Mayor Seminary, I would recommend that Mr. Doug Lee be re-appointed to another term on the Bismarck Planning and Zoning Commission.

If confirmed by the Board of City Commissioners, the term for this position would expire in April 2021.

Thanks for your help.





**Engineering Department**

June 8, 2016

**MEMORANDUM**

**To:** Jason Tomanek  
Assistant City Administrator

**From:** Gabe J. Schell, PE   
City Engineer

**Re: AGENDA ITEM**  
**100 West Main Limited Partnership Encroachment Easement and Waiver**  
**100 West Main Avenue**

**Please schedule the following for consideration by the Board of City Commissioners at its meeting to be held on Tuesday, June 14, 2016, at 5:15 p.m. in the Tom Baker Room.**

100 West Main Limited Partnership has requested permission to install, maintain, repair, and replace one (1) fixed entrance sunshade device and six (6) balconies within the public right-of-way adjacent to and along 100 West Main Avenue.

The attached Encroachment Easement and Waiver has been prepared to permit the installation, maintenance, repair, and replacement of said fixed entrance sunshade device and balconies within the right-of-way of 100 West Main Avenue.

We recommend approval of the attached Encroachment Easement and Waiver for the encroachment on the right-of-way.

MJB/ps  
Enc.

**Gabriel J. Schell, PE, City Engineer**

Phone: 701-355-1505 • TDD: 711 • Fax: 701-222-6593 • 221 N. Fifth St. • PO Box 5503 • Bismarck, ND 58506-5503  
Email: bisengd@bismarcknd.gov • www.bismarcknd.gov

### **Encroachment Easement and Waiver**

The City of Bismarck in the State of North Dakota hereby grants 100 West Main Limited Partnership (Grantee), and its successors and assigns, the right to install, maintain, repair and replace (i) one fixed entrance sunshade device projecting into the public right-of-way, with 9 feet clearance below, 6 feet in depth, extending 26 feet in length along North First Street and 30 feet in length along West Main Avenue; and (ii) six (6) balconies, located on second through fourth stories, projecting into the public right-of-way along North First Street, each 1'6" in depth and 7'4" in length, together with the right of ingress and egress over and across the right of way at times and locations approved by the City of construct, install, maintain, repair and replace such encroachments (the "Encroachment Easement"), all affixed to the Grantee's building located on Block 56, Original Plat to the City of Bismarck (the "Property"), subject to the following conditions:

1. The Grantee shall comply with the applicable building codes and other reasonable requirements of the City regarding construction of the encroachments.
2. The term of this Encroachment Easement and the rights granted herein shall remain in full force and effect for the life of the proposed building and related improvements to be constructed on the Property (the "Building"); provided, however, that in the event that the Building located on the Property is destroyed by any means whatsoever then this Encroachment Easement and the rights granted hereunder shall remain in full force and effect if such reconstruction is commenced within one (1) year of the date of such destruction and diligently pursued to completion, and if such reconstruction is not commenced within one (1) year of the date of such destruction, the City may terminate this Encroachment Easement.
3. Upon any cancellation by the City pursuant to paragraph 2, Grantee shall, at its own expense, remove the encroachments and restore the public right-of-way to its original condition. The parties may agree to enter into a new agreement for another fixed term if at the end of the initial term the City has no foreseeable need to clear the right-of-way for utility purposes.
4. The Grantee shall not look to the City to pay for any expense or damage to the encroachments by the City. The Grantee agrees to release the City from and waive any and all claims relating to said installation and maintenance including, but not limited to, damages to the encroachments by the City.
5. The Grantee agrees that it is using the public right-of-way at its own risk. The Grantee agrees that it will hold harmless and indemnify the City from any and all claims arising from the placement of the encroachments.
6. In the event the City is required to perform street maintenance or construction on the right-of-way at the location of the encroachments, the Grantee shall cooperate with the City in temporarily protecting the encroachments and accommodating the City's project, at the Grantee's expense.



STATE OF NORTH DAKOTA     )  
  ) ss.  
COUNTY OF BURLEIGH     )

On this \_\_\_\_ day of \_\_\_\_\_, 2016, before me personally appeared Gabe Schell known to me to be the City Engineer of the City of Bismarck described in and that executed the within instrument, and acknowledged to me that such entity executed the same.

\_\_\_\_\_  
Notary Public  
My commission expires:

STATE OF NORTH DAKOTA     )  
  ) ss.  
COUNTY OF BURLEIGH     )

On this \_\_\_\_ day of \_\_\_\_\_, 2016, before me personally appeared Keith Hunke known to me to be the City Administrator of the City of Bismarck described in and that executed the within instrument, and acknowledged to me that such entity executed the same.

\_\_\_\_\_  
Notary Public  
My commission expires:

STATE OF NORTH DAKOTA     )  
  ) ss.  
COUNTY OF BURLEIGH     )

On this \_\_\_\_ day of \_\_\_\_\_, 2016, before me personally appeared Mike Seminary known to me to be the Mayor of the City of Bismarck described in and that executed the within instrument, and acknowledged to me that such entity executed the same.

\_\_\_\_\_  
Notary Public  
My commission expires:

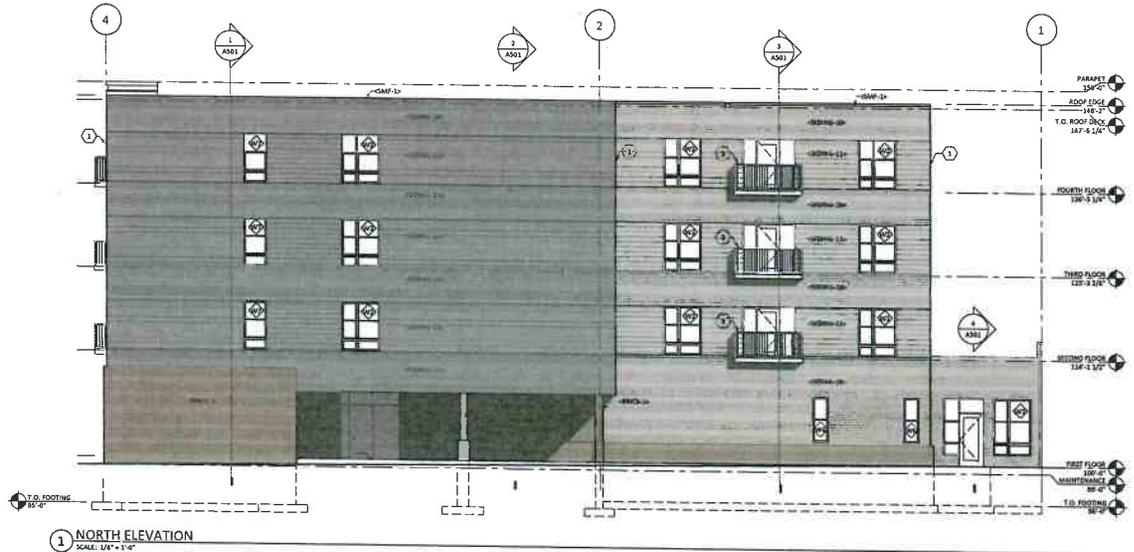
**LEGAL DESCRIPTION:**

Lots 12, 13, 14, 15, 16, 17 and 18, Block 56, Original Plat to the City of Bismarck, Burleigh County, North Dakota

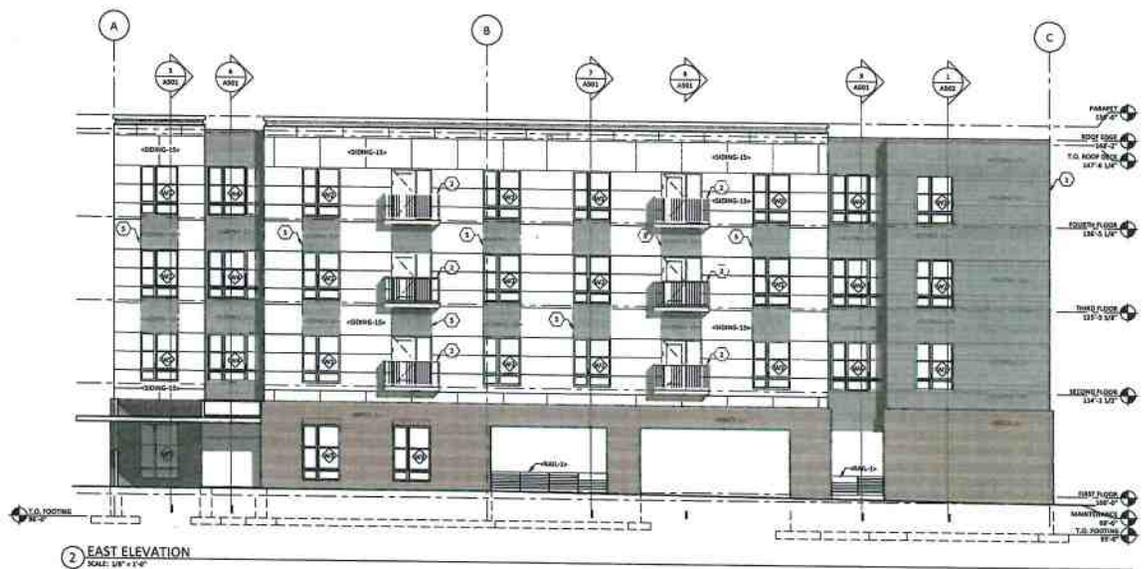
**PREPARED BY:**

Robin Wade Forward  
Stinson Leonard Street LLP  
811 E. Interstate Avenue  
Bismarck, ND 58503  
701-221-8600





1 NORTH ELEVATION  
SCALE: 1/4" = 1'-0"

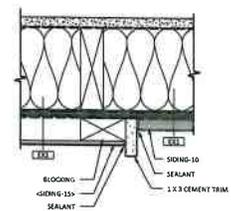


2 EAST ELEVATION  
SCALE: 1/4" = 1'-0"

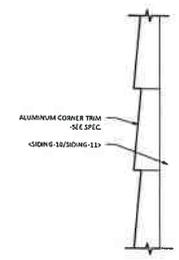
SHEET MATERIAL ID LIST	
MATERIAL ID	SPEC SECTION & DESCRIPTION
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BMF-1	05 2300 - RAILING
SDMS-00	07 4548 - FIBER CEMENT LAP SIDING 4" EXPOSURE
SDMS-11	07 4548 - FIBER CEMENT LAP SIDING 8" EXPOSURE
SDMS-02	07 4548 - FIBER CEMENT VERTICAL SIDING
BMF-5	07 6200 - PREFINISHED GALVANIZED STEEL FLASHING

**JLC**  
Grand Forks  
124 North Third Street  
Grand Forks, ND 58203  
Phone 701.746.1727  
Fax 701.746.1733  
www.jlconline.com  
copyright © 2016

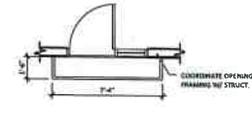
EXTERIOR ELEVATION KEYNOTES	
1	CORNER TRIM - SEE DETAIL 5A/5B
2	BALCONY TYPE 'A'
3	BALCONY TYPE 'B'
4	BALCONY TYPE 'C'
5	1 1/2" X 3" FIBER CEMENT TRIM, ALL SIDES - SEE DETAIL 6A/6B



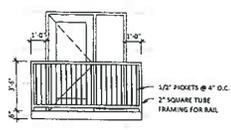
6 SPANDREL DETAIL  
SCALE: 3" = 1'-0"



5 CORNER DETAIL  
SCALE: 3" = 1'-0"



4 BALCONY 'A' PLAN  
SCALE: 1/4" = 1'-0"



3 BALCONY 'A' FRONT  
SCALE: 1/4" = 1'-0"

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF NORTH DAKOTA.  
NORTH DAKOTA REG. NO. 202616 DATE 3/24/16

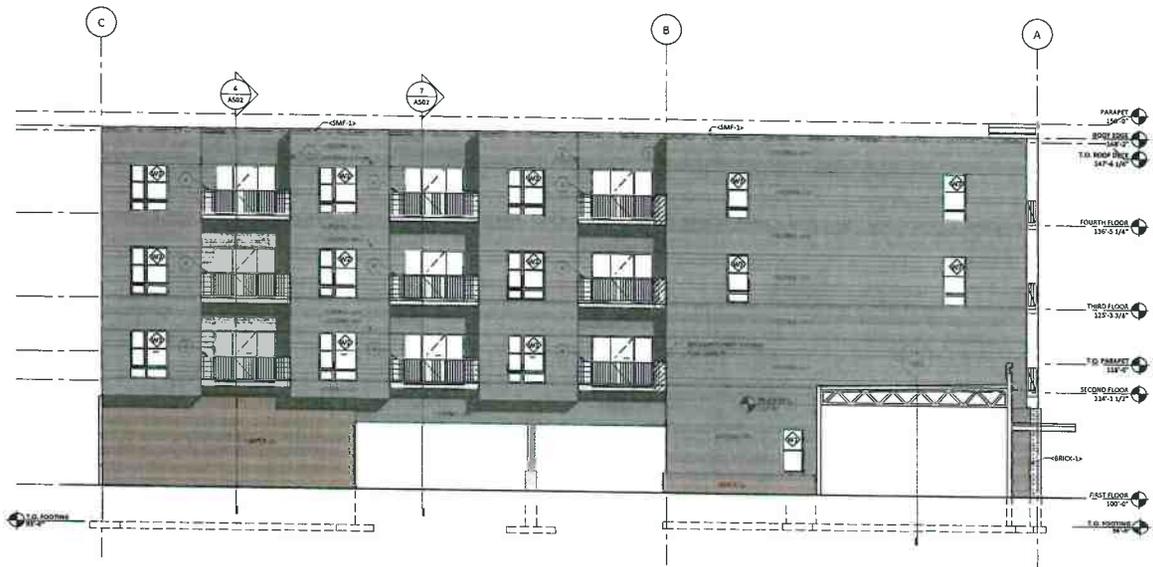
No.	Description	Date

100 West Main Limited Partnership  
**100 WEST MAIN**  
Bismarck, North Dakota

DATE 3/24/16  
PROJECT CONSTRUCTION DOCUMENTS  
PROJECT JLG 15069  
DATE  
**A301**  
EXTERIOR ELEVATIONS



1 SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"



2 WEST ELEVATION  
SCALE: 1/8" = 1'-0"

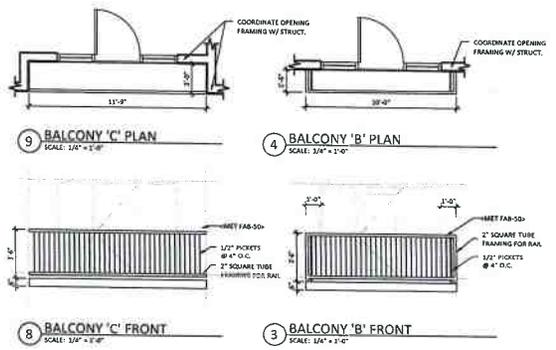
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MATERIAL ID	SPEC SECTION & DESCRIPTION
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MET FAB-10	05 5023 - METAL BALCONIES
SING-10	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE
SING-11	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE
SING-12	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE
SING-13	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE
SING-14	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE
SING-15	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE
SING-16	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE
SING-17	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE
SING-18	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE
SING-19	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE
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SING-48	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE
SING-49	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE
SING-50	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE
SING-51	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE
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SING-100	07 4646 - FREE CEMENT LAP SINGING # EXPOSURE

EXTERIOR ELEVATION KEYNOTES	
1	CORNER TRIM - SEE DETAIL S1001
2	BALCONY TRIM 'A'
3	BALCONY TRIM 'B'
4	BALCONY TRIM 'C'
5	FREE CEMENT TRIM, ALL SIDES - SEE DETAIL S1001

**JLG**  
Grand Forks  
134 North Third Street  
Grand Forks, ND 58003  
Phone 701.744.1727  
Fax 701.744.1722  
www.jlgarchitect.com  
Copyright © 2016

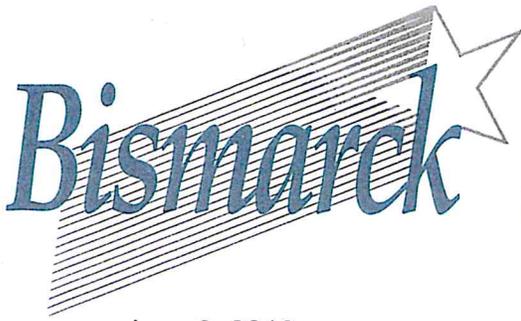
I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF NORTH DAKOTA.

Richard W. Johnson, AIA, LEED AP  
No. Description Date  
3/24/16  
REG. NO. 15069  
DATE



100 West Main Limited Partnership  
**100 WEST MAIN**  
Bismarck, North Dakota

DATE: 3/24/16  
PROJECT: CONSTRUCTION DOCUMENTS  
PROJECT: JLG 15069  
SHEET: **A302**  
EXTERIOR ELEVATIONS



## Engineering Department

June 8, 2016

### MEMORANDUM

**To:** Jason Tomanek  
Assistant City Administrator

**From:** Gabe J. Schell, PE   
City Engineer

**Re:** **AGENDA ITEM**  
**2017 Sertoma Park West Shared Use Path**  
**Request for Board Concurrence on Project Proceeding**

**Please schedule this item for consideration by the Board of City Commissioners at its meeting to be held on Tuesday, June 14, 2016, at 5:15 p.m. in the Tom Baker Room.**

Per the attached letter of May 17, 2016 from Governor Jack Dalrymple and the attached May 18, 2016 letter from Pam Wenger with the North Dakota Department of Transportation (NDDOT), the City of Bismarck has been notified of the award of Transportation Alternatives Program (TAP) funding for the referenced project for 2017 construction to a maximum of \$138,750. The Board may recall endorsing the TAP application submitted by the Bismarck Parks and Recreation District at their November 24, 2015 meeting. The NDDOT has asked the City of Bismarck to notify it by June 22, 2016 if it intends to proceed with the development of this project. Mr. Randy Bina, Executive Director of the Bismarck Parks and Recreation District, has notified me that the Bismarck Park and Recreation District Board has will consider the financing of the local match and continued planning of this project at their June 16, 2016 Board meeting.

Should the Board of City Commissioners agree to this award, the TAP funding would be channeled through the city of Bismarck and a standard NDDOT Cost Participation and Maintenance Agreement (CPM) would be developed for the Board's review and approval at a later date prior to bidding the project. In addition, a Companion Agreement would be developed between the city of Bismarck and the Bismarck Parks and Recreation District which in essence would obligate the Bismarck Parks and Recreation District to fulfill the responsibilities of the City under the terms of the NDDOT CPM, including the provision of the funding required for the local match and for all costs beyond the stated funding cap.

Action requested of the Board at this time would be acceptance of the award contingent upon concurrence by the Bismarck Park and Recreation District Board at their June 19, 2016 meeting

**Gabriel J. Schell, PE, City Engineer**

Phone: 701-355-1505 • TDD: 711 • Fax: 701-222-6593 • 221 N. Fifth St. • PO Box 5503 • Bismarck, ND 58506-5503  
Email: bisengd@bismarcknd.gov • www.bismarcknd.gov

for continuing with the project development and providing the required local funding. If affirmed by the Board, I will notify the NDDOT representative, Pam Wenger, of the Board's action prior to the June 22, 2016 deadline.

GJS

Attachments: May 17, 2016 letter from the Honorable Governor Jack Dalrymple  
May 18, 2016 letter from Pam Wenger, NDDOT TAP Program Coordinator

cc: Randy Bina, Executive Director, Bismarck Parks and Recreation District  
Steve Saunders, Executive Director, Bismarck-Mandan MPO  
Pam Wenger, TA Manager, Local Government Division, NDDOT



# North Dakota Department of Transportation

Grant Levi, P.E.  
Director



Jack Dalrymple  
Governor

May 18, 2016

The Honorable Mike Seminary  
Mayor of Bismarck  
221 North 5th St.  
Bismarck, ND 58501

## BISMARCK SERTOMA PARK – WEST SHARED USE PATH REHABILITATION PROJECT

Congratulations on the recent award of Transportation Alternatives (TA) funds for your Sertoma Park West Shared Use Path Project.

The federal aid project will be funded with 80.93% federal TA funds up to a maximum of \$138,750. These funds are for construction costs only.

Because of the high demand for TA funded projects, please notify us by **June 22, 2016**, that the local finances needed to plan and design this project are available.

It is presently planned that this project be developed, bids taken, and constructed by the end of the 2017 construction season. To meet this date, we encourage you to start project development and work towards a plan completion date between **December 1, 2016**, and **March 15, 2017**. The TA funds are for federal FY 2017 and these funds must be authorized by FHWA before the end of the fiscal year. The latest date that a completed set of plans can be submitted to the NDDOT is **August 15, 2017**. If you do not meet this date, your award of funds will be rescinded.

The process for the development of DOT projects shall be used and I will be able to assist you in the development of your project.

Once again, please notify us by **June 22, 2016**, what the wishes of the city of Bismarck are in regards to this project. You can contact me at 701-328-4787 if you have any questions.

*Pam Wenger*

PAM WENGER, TA MANAGER, LOCAL GOVERNMENT DIVISION

38/sbh

C: Randy Bina, Executive Director of BPRD  
Steve Saunders, Executive Director, Bismarck – Mandan MPO



— State of —  
**North Dakota**  
*Office of the Governor*

**Jack Dalrymple**  
*Governor*



May 17, 2016

The Honorable Mike Seminary  
Mayor of Bismarck  
221 North 5<sup>th</sup> St.  
Bismarck, ND 58501

Dear Mr. Seminary:

Subject: 2017 Transportation Alternatives Program (TAP) Projects

It is my pleasure to inform you that the Bismarck Sertoma Park Project was selected for TAP funding. Your project will be funded to a maximum of \$138,750 for construction in 2017. Pam Wenger, of the North Dakota Department of Transportation, will soon be contacting you about project details.

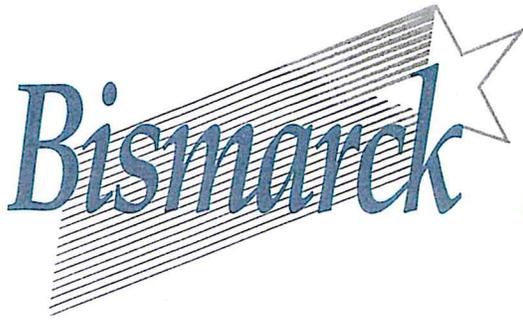
It is encouraging to see the commitment that city of Bismarck has made toward providing a Shared Use Path for the community. It will provide for enhanced movements of bicyclists and pedestrians in your busy and active community.

Sincerely,

  
Jack Dalrymple  
Governor

37:81:77

C: Grant Levi, NDDOT Director



**Engineering Department**

June 8, 2016

**MEMORANDUM**

**To:** Jason Tomanek  
Assistant City Administrator

**From:** Gabe J. Schell, PE   
City Engineer

**Re:** **AGENDA ITEM**  
**Geotechnical Services**

**Please schedule the following for consideration by the Board of City Commissioners at its meeting to be held on Tuesday, June 14, 2016, at 5:15 p.m. in the Tom Baker Room.**

In 2015 Terracon was selected by a selection committee to provide geotechnical services for various roadway projects to assist with subgrade and pavement design. The original contract was for a period of three years. The initial contract indicated that each year a scope of work and fee schedule would be brought to the Board of City Commissioners for approval.

For initial services in 2016, we have negotiated a scope of work and fee for \$38,380.63 with the option to negotiate for additional services. These services are to be funded through sales tax and special assessments not to exceed \$50,000.00. Final reports for the initial work will be delivered by September 1, 2016. See attached scope of services.

As this is the second year of a three year contract, a scope of work and fee schedule will again be determined and brought to the Board of City Commissioners for approval for geotechnical services in 2017.

GJS/ps  
Enc.

**Gabriel J. Schell, PE, City Engineer**

Phone: 701-355-1505 • TDD: 711 • Fax: 701-222-6593 • 221 N. Fifth St. • PO Box 5503 • Bismarck, ND 58506-5503  
Email: bisengd@bismarcknd.gov • www.bismarcknd.gov

# CONTRACT REVIEW

## ENGINEERING DEPARTMENT

Contract between the City of Bismarck and Terracon

Purpose of Contract: Geotechnical Services

Contract Amount: \$50,000.00\*

Contract Period: Complete work by December 31, 2016

Funding Source: Sales Tax and Special Assessments

Federal Project Number (if applicable): N/A

City Project Number: \_\_\_\_\_

Comments: \* \$38,380.63 for initial services with negotiation for additional services not to exceed \$50,000.00 in the fiscal year of 2016.

After Mayor's signature, route to: Tom Kary, Assistant Administrator *TK*

Department Signature *Art Hill* 6/2/16  
Date

## CITY ATTORNEY

Comments: OK

City Attorney Signature: *Clawson* 6-2-16  
Date

## FISCAL

Comments: OK w/ Commission Approval / 2nd gr  
18 3gr  
Already approved

Director of Finance Signature: *Mark Medina* 6-2-16  
Date

## APPROVAL

City Administrator Signature: *Greg Hinkle* 6-2-16  
Date



May 23, 2016

Engineering Dept/City of Bismarck  
221 North 5<sup>th</sup> Street  
PO Box 5503  
Bismarck, ND 58506-5503

Attn: Mel Bullinger, P.E., City Engineer  
P: (701) 222 6580  
E: mbullinger@bismarcknd.gov

Re: Proposed Geotechnical Engineering Services  
Subgrade & Pavement Evaluation – Scattered Locations - 2016  
Bismarck, North Dakota  
Terracon Proposal No. PM2165061

Dear Mr. Bullinger:

We appreciate the opportunity to provide geotechnical engineering services for the above referenced project. This document provides our understanding of the project, anticipated planned work scope, our fee schedule, and terms and conditions associated with the performance of this work.

## 1.0 PROJECT INFORMATION

The City of Bismarck Engineering Department awarded Terracon a three year contract for geotechnical services to assist with subgrade and pavement design with an option to extend the contract for an additional two years. A scope of work will be developed on a year by year basis with fees negotiated on an annual basis.

This proposal specifically addresses projects under consideration at various locations throughout the city for the 2016 calendar year. Specific project locations have been defined (see attached). We understand four areas are currently under consideration for 2016. Additional geotechnical services may be identified at a later date.

## 2.0 SCOPE OF SERVICES

The projects will consist of field exploration and laboratory testing to characterize the subsurface and pavement conditions and develop geotechnical design and construction recommendations concerning subgrade and pavement design. The following sections provide an overview of the work scope for each of these aspects of the project.

### 2.1 Field Exploration

Our field exploration work includes the drilling and sampling of exploratory soil borings at a depth of 5 feet. Additionally, asphalt cores will be obtained as directed. Site specific scopes are defined on the attached drawings provided by your office.

Terracon Consultants, Inc 1805 Hancock Dr, PO Box 2084 Bismarck, ND 58502-2084  
P [701] 258 2833 F [701] 258 2857 terracon.com

Environmental



Facilities



Geotechnical



Materials

Terracon has several employees who have completed the North Dakota flagger training offered through the North Dakota Safety Council and will be utilized in conjunction with traffic control during the field portion of the work where needed.

### **2.1.1 Procedures**

The City of Bismarck has provided boring and core locations. We will also locate the soil borings and cores by field measurements with the assistance of a hand-held GPS device which is capable of locating the exploration points with an accuracy of about 20 feet. The elevations of the borings will be measured in the field using a surveyor's level and grade rod.

The five foot deep borings will be sampled using split spoon sampling devices consistent with ASTM D1586 and thinwall sampling devices consistent with ASTM D1587. Sample intervals will be as necessary to collect the required data for design, but in no case greater than 2.5 feet on center. Bulk samples will be collected on the major soil types encountered within each project boundary.

The field exploration will also include observations for groundwater. This will occur during the exploration program while the borehole is being advanced. No provisions have been made to collect water level data other than the observations made during the advancement of the borings. All borings will be backfilled immediately after their completion with auger cuttings and the surface completed with like material.

### **2.1.2 Safety**

We are committed to the conduct of our work safely. Our field exploration work on this project will be conducted under the guidance of site-specific safety plans that take into account the information that we know about each site as it relates to safety and potential safety hazards.

Terracon will contact North Dakota One Call for location of utilities. However, such utility location services only delineate subsurface utilities in public easements, and the potential to encounter other, unknown underground hazards remains. All private lines should be marked by others prior to commencement of drilling. Also, we are not aware of environmental concerns at this project site that would create health or safety hazards associated with our exploration program. Our scope considers that standard Type D Personal Protection Equipment (PPE) is appropriate.

In order to more completely address the potential for underground utilities or environmental hazards, and, in order to more completely understand other potential safety hazards associated with our field exploration program, we may interview you or a representative that you suggest to obtain information about these concerns. The results of our interview will be included in the site-specific safety plans. We are not responsible for damage to private utilities that are not made aware to us.

## **2.2 Laboratory Testing**

Representative soil samples will be tested in our laboratory to determine pertinent engineering characteristics. Testing will include visual classification, moisture content, dry density determination, Atterberg limits, mechanical analysis, hydrometer analysis, moisture-density relationship, resistance value (R-value) and California Bearing Ratio (CBR), as appropriate. Our laboratory procedures will follow ASTM or AASHTO standards.

### **2.3 Geotechnical Engineering Analysis and Report**

The results of our field and laboratory programs will be evaluated by a professional geotechnical engineer. The engineer will develop an analysis of subsurface conditions, perform the engineering calculations necessary to develop appropriate geotechnical engineering design criteria for the project. At the completion of our engineering analyses, we will prepare a geotechnical engineering report that provides the following:

- Soil boring logs with field and laboratory data, soil stratification based on visual soil classification
- Groundwater levels observed during and after completion of drilling
- Site and boring/core location plans
- Subsurface exploration procedures
- Description of subsurface conditions
- Pictures of asphalt cores
- Subgrade preparation/earthwork recommendations (as required)
- Recommended pavement options and design parameters (as required)

### **3.0 SCHEDULE**

We anticipate submitting all reports by September 1, 2016. The field exploration, laboratory testing and geotechnical engineering services will depend on the scope of each project (see attached individual cost estimates).

### **4.0 COMPENSATION**

For the 2016 calendar year, we will provide the geotechnical services work scopes as shown for a combined fee of \$38,380.63.

We understand that additional services may be identified within this calendar year. Additional services will also be provided in accordance with the attached fee schedule rates. Items not shown on the attached fee schedule will be performed at the rate listed in our 2015 Soil Investigation Fee Schedule (also attached).

### **5.0 AUTHORIZATION**

Work will be performed under the provisions of the attached Agreement for Services. Your authorization for Terracon to proceed in accordance with this proposal can be issued by signing the attached Agreement for Services along with this proposal and returning an original copy of these documents to our Bismarck, North Dakota office.

**Proposed Geotechnical Engineering Services**  
Subgrade & Pavement Evaluation – Scattered Locations - 2016  
Bismarck, North Dakota  
May 23, 2016 ■ Terracon Proposal No. PM2165061



A fax or email of the signed Agreement for Services can also be submitted to expedite the commencement of services, but we request that a signed original follow.

We appreciate the opportunity to provide this proposal and look forward to the opportunity of working with you.

Sincerely,  
**Terracon Consultants, Inc**

  
Steven S. Smith, P.E.  
Department Manager

  
Kate D. Kelly, E.I.  
Staff Geotechnical Engineer

SSS/cb

Attachments:    Cost Estimates (4 pages)  
                      Fee Schedule (3 pages)  
                      Site Locations & Description (3 pages)  
                      Agreement for Services (2 pages)

**Estimated Cost Schedule**

<b>Fieldwork</b>	<b>Qty.</b>	<b>Unit</b>	<b>Rate</b>		<b>Subtotal</b>
Mobilization	14	miles @	\$7.00	/mi.	\$98.00
Daily Travel (pickup & 2 man crew)	2	hours @	\$225.00	/hr.	\$450.00
Two Flaggers	10.5	hours @	\$162.00	/hr.	\$1,701.00
Drilling and sampling (4 @ 5 ft)	20	feet@	\$14.75	/ft.	\$295.00
Well Materials (10 ft deep well)	0	each @	\$185.00	/ea.	\$0.00
Well Installations	0	hours @	\$225.00	/hr.	\$0.00
Well Abandonments	0	hours @	\$225.00	/hr.	\$0.00
Coring (one man & equipment) (20 locations)	7	hours @	\$165.00	/hr.	\$1,155.00
Bit Wear	140	inches@	\$2.76	/in.	\$386.40
Boring layout, cleanup, and downtime	3	hours @	\$225.00	/hr.	\$675.00
<b>Fieldwork Subtotal:</b>					<b>\$4,760.40</b>
<b>Laboratory Testing</b>	<b>Qty.</b>	<b>Unit</b>	<b>Rate</b>		<b>Subtotal</b>
Moisture content	8	each @	\$12.00	/ea.	\$96.00
Moisture density relationship - AASHTO T99	0	each @	\$168.00	/ea.	\$0.00
Moisture density relationship - AASHTO T180	0	each @	\$194.00	/ea.	\$0.00
Atterberg limits	4	each @	\$104.00	/ea.	\$416.00
Sieve analysis	0	each @	\$98.00	/ea.	\$0.00
Hydrometer analysis	2	each @	\$192.00	/ea.	\$384.00
California Bearing Ratio (CBR)	0	each @	\$365.00	/ea.	\$0.00
Resistance Value (R-Value)	0	each @	\$525.00	/ea.	\$0.00
Cement stabilized subgrade mix design	0	each @	\$2,200.00	/ea.	\$0.00
<b>Laboratory Testing Subtotal:</b>					<b>\$896.00</b>
<b>Project Management, Analysis and Reporting</b>	<b>Qty.</b>	<b>Unit</b>	<b>Rate</b>		<b>Subtotal</b>
<i>Summary Reports</i>					
Senior Engineer	3	hours @	\$184.00	/hr.	\$552.00
Staff Engineer/Geologist	12	hours @	\$147.00	/hr.	\$1,764.00
Engineering Technician	2	hours @	\$104.00	/hr.	\$208.00
<i>Full Geotechnical Reports</i>					
Senior Engineer	0	hours @	\$184.00	/hr.	\$0.00
Staff Engineer/ Geologist	0	hours @	\$147.00	/hr.	\$0.00
Engineering Technician	0	hours @	\$104.00	/hr.	\$0.00
<b>Project Management, Analysis, and Reporting Subtotal:</b>					<b>\$2,524.00</b>
<b>Estimated Total:</b>					<b>\$8,180.40</b>

**Estimated Cost Schedule**

<b>Fieldwork</b>	<b>Qty.</b>	<b>Unit</b>	<b>Rate</b>		<b>Subtotal</b>
Mobilization	8	miles @	\$7.00	/mi.	\$56.00
Daily Travel (pickup & 2 man crew)	2	hours @	\$225.00	/hr.	\$450.00
Two Flaggers	10.5	hours @	\$162.00	/hr.	\$1,701.00
Drilling and sampling (4 @ 5 ft)	20	feet@	\$14.75	/ft.	\$295.00
Well Materials (10 ft deep well)	0	each @	\$185.00	/ea.	\$0.00
Well Installations	0	hours @	\$225.00	/hr.	\$0.00
Well Abandonments	0	hours @	\$225.00	/hr.	\$0.00
Coring (one man & equipment) (19 locations)	7	hours @	\$165.00	/hr.	\$1,155.00
Bit Wear	133	inches@	\$2.76	/in.	\$367.08
Boring layout, cleanup, and downtime	3	hours @	\$225.00	/hr.	\$675.00
<b>Fieldwork Subtotal:</b>					<b>\$4,699.08</b>
<b>Laboratory Testing</b>	<b>Qty.</b>	<b>Unit</b>	<b>Rate</b>		<b>Subtotal</b>
Moisture content	8	each @	\$12.00	/ea.	\$96.00
Moisture density relationship - AASHTO T99	0	each @	\$168.00	/ea.	\$0.00
Moisture density relationship - AASHTO T180	0	each @	\$194.00	/ea.	\$0.00
Atterberg limits	4	each @	\$104.00	/ea.	\$416.00
Sieve analysis	0	each @	\$98.00	/ea.	\$0.00
Hydrometer analysis	2	each @	\$192.00	/ea.	\$384.00
California Bearing Ratio (CBR)	0	each @	\$365.00	/ea.	\$0.00
Resistance Value (R-Value)	0	each @	\$525.00	/ea.	\$0.00
Cement stabilized subgrade mix design	0	each @	\$2,200.00	/ea.	\$0.00
<b>Laboratory Testing Subtotal:</b>					<b>\$896.00</b>
<b>Project Management, Analysis and Reporting</b>	<b>Qty.</b>	<b>Unit</b>	<b>Rate</b>		<b>Subtotal</b>
<i>Summary Reports</i>					
Senior Engineer	3	hours @	\$184.00	/hr.	\$552.00
Staff Engineer/Geologist	12	hours @	\$147.00	/hr.	\$1,764.00
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<i>Full Geotechnical Reports</i>					
Senior Engineer	0	hours @	\$184.00	/hr.	\$0.00
Staff Engineer/ Geologist	0	hours @	\$147.00	/hr.	\$0.00
Engineering Technician	0	hours @	\$104.00	/hr.	\$0.00
<b>Project Management, Analysis, and Reporting Subtotal:</b>					<b>\$2,524.00</b>
<b>Estimated Total:</b>					<b>\$8,119.08</b>

**Estimated Cost Schedule**

<b>Fieldwork</b>	<b>Qty.</b>	<b>Unit</b>	<b>Rate</b>		<b>Subtotal</b>
Mobilization	8	miles @	\$7.00	/mi.	\$56.00
Daily Travel (pickup & 2 man crew)	2	hours @	\$225.00	/hr.	\$450.00
Two Flaggers	10.5	hours @	\$162.00	/hr.	\$1,701.00
Drilling and sampling (4 @ 5 ft)	20	feet@	\$14.75	/ft.	\$295.00
Well Materials (10 ft deep well)	0	each @	\$185.00	/ea.	\$0.00
Well Installations	0	hours @	\$225.00	/hr.	\$0.00
Well Abandonments	0	hours @	\$225.00	/hr.	\$0.00
Coring (one man & equipment) (20 locations)	7	hours @	\$165.00	/hr.	\$1,155.00
Bit Wear	140	inches@	\$2.76	/in.	\$386.40
Boring layout, cleanup, and downtime	3	hours @	\$225.00	/hr.	\$675.00
<b>Fieldwork Subtotal:</b>					<b>\$4,718.40</b>
<b>Laboratory Testing</b>	<b>Qty.</b>	<b>Unit</b>	<b>Rate</b>		<b>Subtotal</b>
Moisture content	8	each @	\$12.00	/ea.	\$96.00
Moisture density relationship - AASHTO T99	0	each @	\$168.00	/ea.	\$0.00
Moisture density relationship - AASHTO T180	0	each @	\$194.00	/ea.	\$0.00
Atterberg limits	4	each @	\$104.00	/ea.	\$416.00
Sieve analysis	0	each @	\$98.00	/ea.	\$0.00
Hydrometer analysis	2	each @	\$192.00	/ea.	\$384.00
California Bearing Ratio (CBR)	0	each @	\$365.00	/ea.	\$0.00
Resistance Value (R-Value)	0	each @	\$525.00	/ea.	\$0.00
Cement stabilized subgrade mix design	0	each @	\$2,200.00	/ea.	\$0.00
<b>Laboratory Testing Subtotal:</b>					<b>\$896.00</b>
<b>Project Management, Analysis and Reporting</b>	<b>Qty.</b>	<b>Unit</b>	<b>Rate</b>		<b>Subtotal</b>
<i>Summary Reports</i>					
Senior Engineer	3	hours @	\$184.00	/hr.	\$552.00
Staff Engineer/Geologist	13	hours @	\$147.00	/hr.	\$1,911.00
Engineering Technician	2	hours @	\$104.00	/hr.	\$208.00
<i>Full Geotechnical Reports</i>					
Senior Engineer	0	hours @	\$184.00	/hr.	\$0.00
Staff Engineer/ Geologist	0	hours @	\$147.00	/hr.	\$0.00
Engineering Technician	0	hours @	\$104.00	/hr.	\$0.00
<b>Project Management, Analysis, and Reporting Subtotal:</b>					<b>\$2,671.00</b>
<b>Estimated Total:</b>					<b>\$8,285.40</b>

**Estimated Cost Schedule**

<b>Fieldwork</b>	<b>Qty.</b>	<b>Unit</b>	<b>Rate</b>		<b>Subtotal</b>
Mobilization	14	miles @	\$7.00	/mi.	\$98.00
Daily Travel (pickup & 2 man crew)	4	hours @	\$225.00	/hr.	\$900.00
Two Flaggers	8	hours @	\$162.00	/hr.	\$1,296.00
Drilling and sampling (4 @ 5 ft)	65	feet@	\$14.75	/ft.	\$958.75
Well Materials (10 ft deep well)	0	each @	\$185.00	/ea.	\$0.00
Well Installations	0	hours @	\$225.00	/hr.	\$0.00
Well Abandonments	0	hours @	\$225.00	/hr.	\$0.00
Bit Wear	0	inches@	\$2.76	/in.	\$0.00
Boring layout, cleanup, and downtime	5	hours @	\$225.00	/hr.	\$1,125.00
<b>Fieldwork Subtotal:</b>					<b>\$4,377.75</b>
<b>Laboratory Testing</b>	<b>Qty.</b>	<b>Unit</b>	<b>Rate</b>		<b>Subtotal</b>
Moisture content	26	each @	\$12.00	/ea.	\$312.00
Moisture density relationship - AASHTO T99	0	each @	\$168.00	/ea.	\$0.00
Moisture density relationship - AASHTO T180	2	each @	\$194.00	/ea.	\$388.00
Atterberg limits	9	each @	\$104.00	/ea.	\$936.00
Sieve analysis	0	each @	\$98.00	/ea.	\$0.00
Hydrometer analysis	6	each @	\$192.00	/ea.	\$1,152.00
California Bearing Ratio (CBR)	0	each @	\$365.00	/ea.	\$0.00
Resistance Value (R-Value)	0	each @	\$525.00	/ea.	\$0.00
Cement stabilized subgrade mix design	2	each @	\$2,200.00	/ea.	\$4,400.00
<b>Laboratory Testing Subtotal:</b>					<b>\$7,188.00</b>
<b>Project Management, Analysis and Reporting</b>	<b>Qty.</b>	<b>Unit</b>	<b>Rate</b>		<b>Subtotal</b>
<i>Summary Reports</i>					
Senior Engineer	3	hours @	\$184.00	/hr.	\$552.00
Staff Engineer/Geologist	10	hours @	\$147.00	/hr.	\$1,470.00
Engineering Technician	2	hours @	\$104.00	/hr.	\$208.00
<i>Full Geotechnical Reports</i>					
Senior Engineer	0	hours @	\$184.00	/hr.	\$0.00
Staff Engineer/ Geologist	0	hours @	\$147.00	/hr.	\$0.00
Engineering Technician	0	hours @	\$104.00	/hr.	\$0.00
<b>Project Management, Analysis, and Reporting Subtotal:</b>					<b>\$2,230.00</b>
<b>Estimated Total:</b>					<b>\$13,795.75</b>

**TERRACON CONSULTANTS, INC.**  
**2015 SOIL INVESTIGATION FEE SCHEDULE**  
**ENGINEERING DEPARTMENT - CITY OF BISMARCK, NORTH DAKOTA**  
**(MAY 1, 2016 THROUGH DECEMBER 31, 2016)**

**I. FIELD WORK**

A.	1.	Standard two-man field crew and truck-mounted rotary drill capable of performing standard penetration borings, with boring advancement by flight or hollow stem auger, or by rotary mud drilling methods.	Per Hour	\$295.00
	2.	Same as A.1., but with all-terrain vehicle.	Per Hour	\$365.00
	3.	Standard two-man field crew for boring layout, utility locations, elevations, site clean-up, and standby time due to site access or other site problems.	Per Hour	\$225.00
	4.	Same as A.3., but with ATV-mounted drill rig.	Per Hour	\$245.00
	5.	Additional crew man when use will reduce overall cost of work.	Per Hour	\$105.00
	6.	Overtime		
	a.	Saturday		Rate x \$1.25
	b.	Sunday or Holiday		Rate x \$1.40
B.	1.	Mobilization to and from sites outside the immediate vicinity of the laboratory. Truck-mounted drill rig, support vehicle and standard two-man crew.	Per Mile	\$7.00
	2.	Mobilization to and from all job sites. ATV-mounted drill rig and tractor-trailer, support vehicle and two-man crew.	\$205.00	+\$7.50/mi
C.		Job Site Mileage	Per Mile	\$1.05
D.		Job Site Services or Consultation (Portal to Portal)		
	1.	Principal Engineer	Per Hour	\$240.00
	2.	Senior Engineer	Per Hour	\$184.00
	3.	Project Engineer	Per Hour	\$173.00
	4.	Certified Senior Engineering Technician	Per Hour	\$152.00
	5.	Staff Engineer/Geologist	Per Hour	\$147.00
	6.	Certified Engineering Technician	Per Hour	\$120.00
	7.	Engineering Technician	Per Hour	\$104.00
	8.	Technician	Per Hour	\$81.00
	9.	Mileage	Per Mile	\$0.89
E.		Living expenses when personnel are required to remain away from home overnight.		Actual +20%
F.		Miscellaneous job expenses such as snow removal, communication charges, freight charges and rental of special equipment.		Actual +20%
G.		Materials.		Actual +20%
H.		Required Permits.		Actual
I.		Decontamination of equipment with hot water pressure:		
	1.	Drill rig and tools before job	Per Job	\$415.00
	2.	Rental of hot water pressure washer--on site	Per Day	\$190.00
J.		Abandoned sampling equipment, casing or auger, when it is considered more economical to abandon than to recover.		Actual Value
K.		Case of soil sample jars (24).		\$44.00
		Thin Walls (3")		\$22.00

**II. LABORATORY TESTS**

A.		Unconfined Compressive Strength ASTM:D2166		
	1.	Reporting maximum stress at failure		\$72.00
	2.	Reporting complete stress strain curve		\$99.00
	3.	Sample preparation - recompacted		\$109.00

B.	Moisture Content and Density		
	1. Hg immersion or direct measurement method		\$67.00
	2. In-tube measurement		\$78.00
	3. Moisture only		\$12.00
C.	Atterberg Limits		
	1. Liquid and Plastic Limit		\$104.00
	2. Liquid Limit or Plastic Limit only		\$83.00
	3. Shrinkage Limit ASTM:D427		\$93.00
D.	Specific Gravity ASTM:D854		\$105.00
E.	Mechanical Analysis (Jar Samples)		
	1. Through #200 sieve ASTM:D422		\$98.00
	2. Percent Passing #200 ASTM:D1140		\$68.00
	3. Through .001 mm size, hydrometer analysis ASTM:D422		\$192.00
	4. Determine .005 or 0.02 mm (clay content)		\$168.00
F.	Determination of Organic Soil		
	1. ASTM:D2487		\$135.00
	2. Organic Content (combustion method) ASTM:D2974		\$98.00
G.	Coefficient of Permeability		
	1. Falling Head Method		\$340.00
	2. Falling Head Method (ASTM:D5856) - Recompacted		\$425.00
	3. Constant Head Method (Granular Soils) ASTM:D2434		\$415.00
	4. Flexible Wall (ASTM:D5084)		\$520.00
	a. Sample preparation - recompactd		\$93.00
H.	Moisture-Density Relations of Soils		
	1. ASTM:D698 or AASHTO:T99	Each	\$168.00
	a. Method "A"-#4 basis		
	b. Method "B"-3/8" basis		
	c. Method "C"-3/4" basis		
	2. ASTM:D1557 or AASHTO:T180	Each	\$194.00
	a. Method "A"-#4 basis		
	b. Method "B"-3/8" basis		
	c. Method "C"-3/4" basis		
	3. Preparation of Fat Clay Soils	Each	\$63.00
I.	Tests of Expansive Soils ASTM:D4546		
	1. Percent Swell		\$180.00
	2. Swell pressure		\$365.00
J.	Hand Penetrometer		\$6.75
K.	Consolidation Tests ASTM:D2435		
	1. Reporting log p-e curve		\$610.00
	2. Reporting log p-e curve with time settlement curves		\$795.00
	3. Cyclic loadings	Per Load	\$49.00
L.	California Bearing Ratio (CBR) ASTM:D1883		
	1. Granular material	First Point	\$320.00
	a. Additional points	Per Point	\$192.00
	2. Cohesive material	First Point	\$405.00
	a. Additional points	Per Point	\$239.00
M.	Field CBRs (in accordance with Chapter 8 of the Asphalt Institute for Design of Asphalt Pavement Structures, MS-10).		Hourly Rate Per Section I
N.	Plate Load Tests (Client to provide reaction)		
	1. Engineer, portal to portal	Per Hour	\$145.00
	2. Technician to aid when necessary	Per Hour	\$80.00
	3. Mileage	Per Mile	\$0.89

O.	Pile Load Tests (Client to provide reaction)		
	1. Engineer, portal to portal	Per Hour	\$145.00
	2. Technician to aid when necessary	Per Hour	\$80.00
	3. Pile Driving Analyzer		Q.O.R.
	4. Mileage	Per Mile	\$0.89
P.	Field Resistivity Tests		
	1. Engineering Technician & Equipment, portal to portal	Per Hour	\$135.00
	2. Mileage	Per Mile	\$0.89
Q.	Direct Shear Tests (per normal pressure)		
	1. Unconsolidated-undrained		\$175.00
	2. Consolidated-undrained		
	a. Granular soil		\$225.00
	b. Cohesive soil		\$315.00
	3. Consolidated-drained ASTM:D3080		
	a. Granular soil		\$260.00
	b. Cohesive soil		\$400.00
	4. Sample preparation - recompactd		\$93.00
	5. Sample preparation - fragile specimens	Per Hour	\$119.00
R.	Triaxial Compression Test (per confining pressure)		
	1. Unconsolidated-undrained ASTM:D2850		\$285.00
	2. Consolidated-undrained ASTM:D4767 (inc. pore-pressure readings)		\$390.00
	3. Consolidated-drained (inc. pore-pressure readings)		Q.O.R.
	4. Back pressure saturation		\$240.00
	5. Staged confining pressure		50% of above
	6. Sample preparation-recompactd		\$93.00
S.	Chemical Tests of Soil		
	1. Redox		\$100.00
	2. Sulfate content		\$70.00
	3. Chloride content		\$70.00
	4. Electrical conductivity		\$70.00
	5. pH		\$27.00
T.	Miller Box Resistivity	Per Point	\$205.00
U.	Pinhole Test ASTM D4647		\$370.00

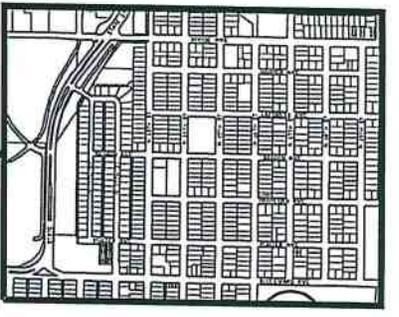
### III. OFFICE AND LABORATORY

A.	Analysis, Consultation and Reporting		
	1. Principal Engineer	Per Hour	\$240.00
	2. Senior Engineer	Per Hour	\$184.00
	3. Project Engineer	Per Hour	\$173.00
	4. Certified Senior Engineering Technician	Per Hour	\$152.00
	5. Staff Engineer/Geologist	Per Hour	\$147.00
	6. Certified Engineering Technician	Per Hour	\$120.00
	7. Engineering Technician	Per Hour	\$104.00
	8. Technician	Per Hour	\$81.00
	9. Clerical	Per Hour	\$72.50
B.	Reproduction of reports		
	1. Additional copies beyond first 3 copies	Per Page	\$0.57
	2. Additional reports at a later date		
	a. Copied		\$41.00 +\$0.57/page
	b. Faxed		\$41.00 +\$1.15/page
	c. Emailed		\$41.00

SITE 1



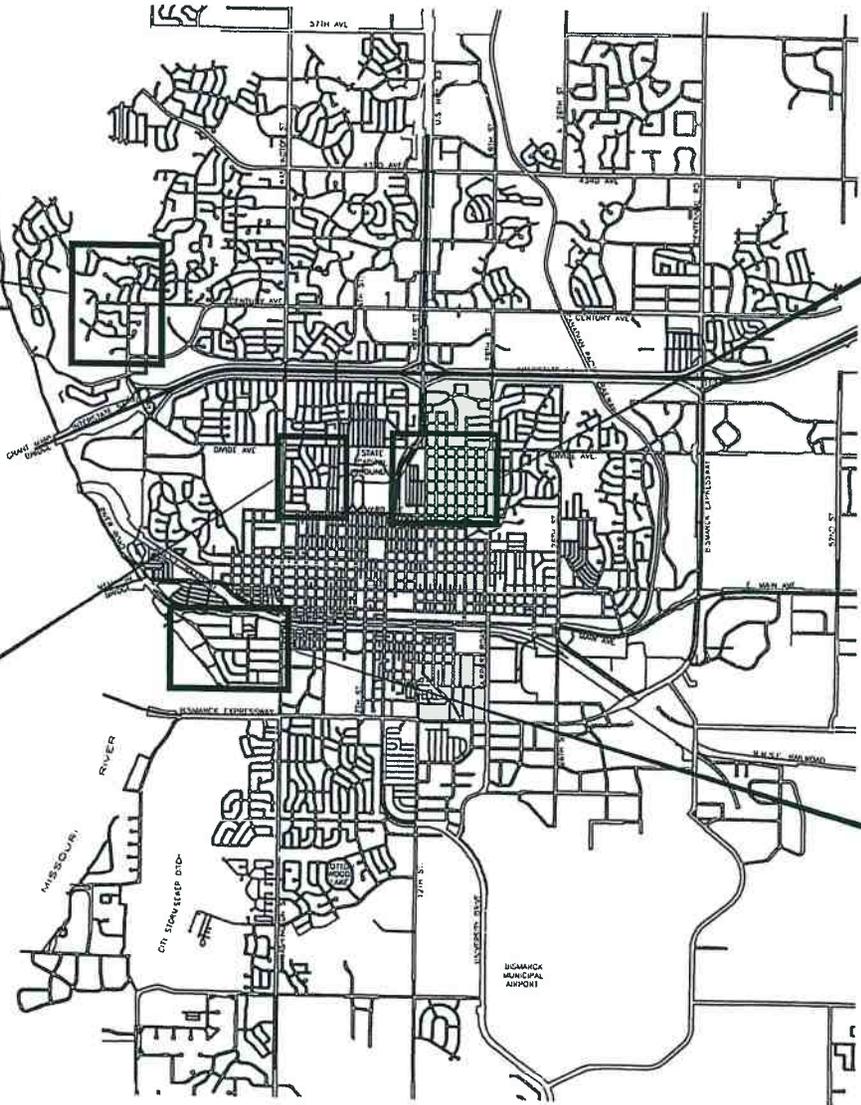
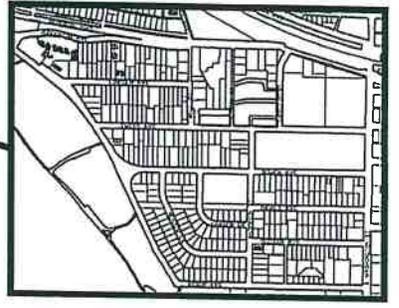
SITE 2



SITE 3



SITE 4



**SITE 1**  
 20 - PVMT THICKNESS  
 4 - 5' BORINGS



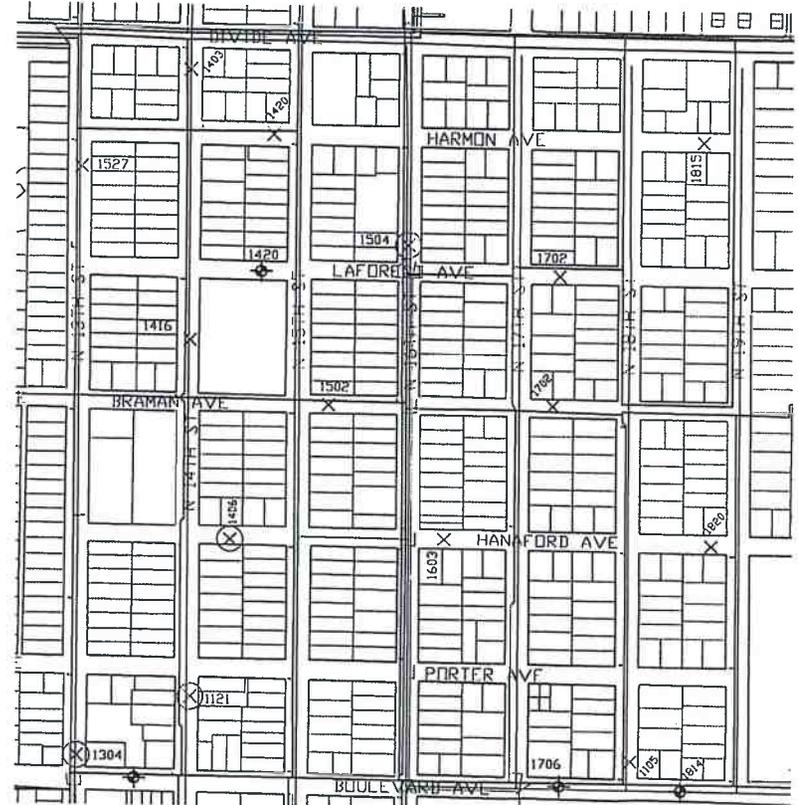
**APPROXIMATE QUANTITIES**

- 8 - 5' BORINGS
- 39 - PVMT THICKNESS
- 2 - SUMMARY GEOTECHNICAL REPORTS

**CONSTRUCTION NOTES**

- WATER UTILITIES
- SANITARY SEWER UTILITIES
- STORM SEWER UTILITIES
- PVMT THICKNESS - 2 CORES
- PVMT THICKNESS
- 5' BORINGS

**SITE 2**  
 19 - PVMT THICKNESS  
 4 - 5' BORINGS



**\*CAUTION\***  
 UTILITY LOCATIONS ARE APPROXIMATE.  
 CONTRACTOR IS RESPONSIBLE FOR  
 VERIFYING LOCATION PRIOR TO  
 BORING.

**Bismarck** Engineering Department

**RESURFACE**  
**SITE 1**  
**SITE 2**

BISMARCK, N.D. DATE: 5/5/2016

**SITE 3**  
 20 - PVMT THICKNESS  
 5 - 5' BORINGS



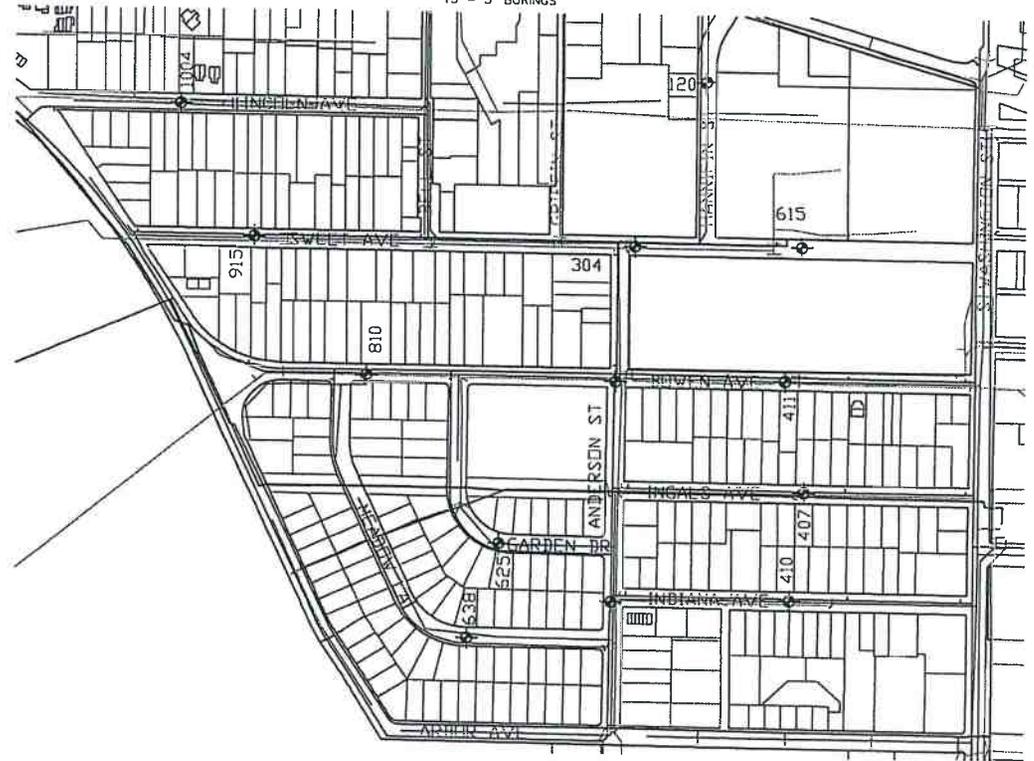
**APPROXIMATE QUANTITIES**

- 18 - 5' BORINGS
- 20 - PAVEMENT THICKNESS
- 2 - SUMMARY GEOTECHNICAL REPORTS

**CONSTRUCTION NOTES**

- ☐ WATER UTILITIES
- ☐ SANITARY SEWER UTILITIES
- ☐ STORM SEWER UTILITIES
- ⊗ PVMT THICKNESS - 2 CORES
- ⊗ PVMT THICKNESS
- ⊗ 5' BORINGS

**SITE 4**  
 13 - 5' BORINGS



**\*CAUTION\***  
 UTILITY LOCATIONS ARE APPROXIMATE.  
 CONTRACTOR IS RESPONSIBLE FOR  
 VERIFYING LOCATION PRIOR TO  
 BORING.

**Bismarck** Engineering Department

**SITE 3 -- RESURFACE**  
**SITE 4 -- HARDSURFACE**

BISMARCK, N.D. DATE: 5/5/2016

## AGREEMENT FOR SERVICES

This **AGREEMENT** is between Engineering Dept/City of Bismarck ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the Subgrade & Pavement Evaluation - Scattered Locations - 2016, Bismarck, North Dakota project ("Project"), as described in the Project Information section of Consultant's Proposal dated 05/23/2016 ("Proposal") unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

- 1. Scope of Services.** The scope of Consultant's services is described in the Scope of Services section of the Proposal ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
- 2. Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the project.
- 3. Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
- 4. Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Compensation section of the Proposal unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
- 5. Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties. For a limited time period not to exceed three months from the date of the report, Consultant will issue additional reports to others agreed upon with Client, however Client understands that such reliance will not be granted until those parties sign and return Consultant's reliance agreement and Consultant receives the agreed-upon reliance fee.
- 6. LIMITATION OF LIABILITY. CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$50,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S) OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.**
- 7. Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of services on the project.
- 8. Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. **EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
- 9. Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii) commercial general liability insurance (\$1,000,000 occ / \$2,000,000 agg); (iii) automobile liability insurance (\$1,000,000 B.I. and P.D. combined single

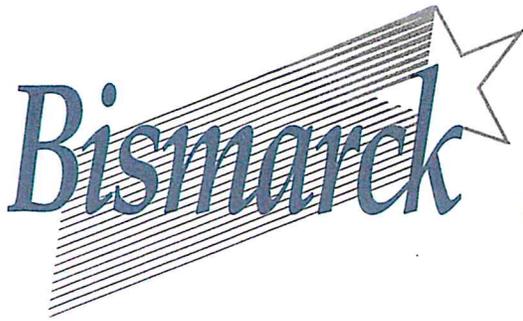
limit); and (iv) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage.

- 10. CONSEQUENTIAL DAMAGES.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.
- 11. Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to Kansas law.
- 12. Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
- 13. Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client agrees to the level or amount of testing performed and the associated risk. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by services not performed due to a failure to request or schedule Consultant's services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods.
- 14. Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of tests (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Material unless specifically provided in the Services, and that Client is responsible for directing such disposition. In the event that test samples obtained during the performance of Services (i) contain substances hazardous to health, safety, or the environment, or (ii) equipment used during the Services cannot reasonably be decontaminated, Client shall sign documentation (if necessary) required to ensure the equipment and/or samples are transported and disposed of properly, and agrees to pay Consultant the fair market value of this equipment and reasonable disposal costs. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site. Accordingly, Client waives any claim against Consultant and agrees to indemnify and save Consultant, its agents, employees, and related companies harmless from any claim, liability or defense cost, including attorney and expert fees, for injury or loss sustained by any party from such exposures allegedly arising out of Consultant's non-negligent performance of services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
- 15. Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
- 16. Utilities.** Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
- 17. Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any other parties, including Client, Client's contractors, subcontractors, or other parties present at the site.

Consultant: Terracon Consultants, Inc.  
By: *Steven S. Smith* Date: 5/23/2016  
Name/Title: Steven S Smith / Senior Associate  
Address: 1805 Hancock Dr PO Box 2084  
Bismarck, ND 58501  
Phone: (701) 258-2833 Fax: (701) 258-2857  
Email: Steve.Smith@terracon.com

Client: Engineering Dept/City of Bismarck  
By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name/Title: /  
Address: PO Box 5503  
Bismarck, ND 58506-5503  
Phone: (701) 222-6580 Fax: \_\_\_\_\_  
Email: mbullinger@bismarcknd.gov

Reference Number: PM2165061



**Engineering Department**

June 8, 2016

**MEMORANDUM**

**To:** Jason Tomanek  
Assistant City Administrator

**From:** Gabe J. Schell, PE   
City Engineer

**Re: AGENDA ITEM**  
**Dakota Carrier Network Encroachment and Waiver Agreement**  
**117 West Front Avenue**

**Please schedule the following for consideration by the Board of City Commissioners at its meeting to be held on Tuesday, June 14, 2016, at 5:15 p.m. in the Tom Baker Room.**

Dakota Carrier Network has requested permission to install and maintain privately owned fiber optic cable within the public right-of-way as shown on the attached map, per the enclosed Agreement and Waiver. We recommend approval of the attached Agreement and Waiver for the fiber optic cable's encroachment on the right-of-way.

GJS/ps  
Enc.

**Gabriel J. Schell, PE, City Engineer**

Phone: 701-355-1505 • TDD: 711 • Fax: 701-222-6593 • 221 N. Fifth St. • PO Box 5503 • Bismarck, ND 58506-5503  
Email: bisengd@bismarcknd.gov • www.bismarcknd.gov



May 27, 2016

Tom Kary  
City of Bismarck, Engineering Department  
221 North 5<sup>th</sup> Street  
Bismarck, ND 58506-5503

**Re: 1816164 - Dakota Carrier Network  
Right-of-Way Request Odney 117 W Front Ave**

Dear Mr. Kary:

Enclosed, find an executed Agreement and Waiver application and route exhibit for the proposed construction of fiber optic facility being requested by Dakota Carrier Network (DCN).

The proposed project is scheduled to begin June 27, 2016, with a completion scheduled for June 30, 2016.

Thank you, for considering DCN's application for right-of-way use. If you have any questions or comments regarding this matter, please feel free to contact me at your convenience at 701-355-8422.

Respectfully,

**KLJ**

A handwritten signature in blue ink, appearing to read "Eric Wald".

Eric Wald  
Project Manager

Enc. (1 each) Exhibit A  
(1) Agreement and Waiver Application

## AGREEMENT AND WAIVER

The City of Bismarck hereby grants DCN, LLC (Grantee) the right to install and maintain a cable under the public right-of-way as shown on the attached Exhibit A, subject to the following conditions:

1. The Grantee shall comply with all rules regarding non-franchised utility installations in the public right-of-way as set by the City Engineer.
2. The term of this grant shall be for fifteen (15) years and shall continue thereafter from year to year. The City may cancel this grant at any time after the initial 15-year term upon six month's written notice to the Grantee.
3. Upon the end of the term or prior abandonment by the Grantee, the Grantee shall, at its own expense, remove the cable and restore the public right-of-way to its original condition, if so required by the City.
4. In exchange for the City's permission to run a cable under City right-of-way or under a City street, Grantee agrees to release the City, its assigns or other franchised utilities from and waive any and all claims relating to said cable including but not limited to damages arising from damage resulting from damage to the cable by the City, its assigns or other franchised utilities. Grantee agrees that it is using the public right-of-way at its own risk and understands that the City, its assigns, or other franchised utilities have no reliable method of indexing or locating the cable. Grantee shall file complete facility location information with the City. Grantee shall not look to the City, its assigns, or other franchised utilities to pay for expense or damage to the cable by the City, its assigns, or other franchised utilities. Grantee agrees that it will hold harmless and indemnify the City, its assigns, or other franchised utilities from any and all claims in any way resulting from the placement of the cable under the public right-of-way. Grantee agrees to place facilities no deeper than 48", if depths greater than 48" are necessary, the actual depths will be identified on the as built drawings when the Grantee files complete facility location information with the City. Grantee agrees that after its installation, it will restore the City right-of-way or street to its original condition. In the event it shall become necessary for the City to perform street maintenance or construction at the location of the cable, Grantee shall temporarily relocate the cable at its sole expense upon notice from the City to relocate.
5. As a condition of the City's permission for the Grantee to locate its cable in the public right-of-way, Grantee agrees that it will not provide any services to local customers without first obtaining a franchise. If the Grantee should at any time obtain a franchise to provide services locally, it shall then be treated like other franchised utilities and be released from any obligation imposed by this agreement to indemnify or hold harmless other franchised utilities with respect to its cable installations.

DATED this 27<sup>TH</sup> day of May, 2016

DCN, LLC

By:   
Signature

3901 Great Plains Drive South  
Fargo, ND 58104  
Address

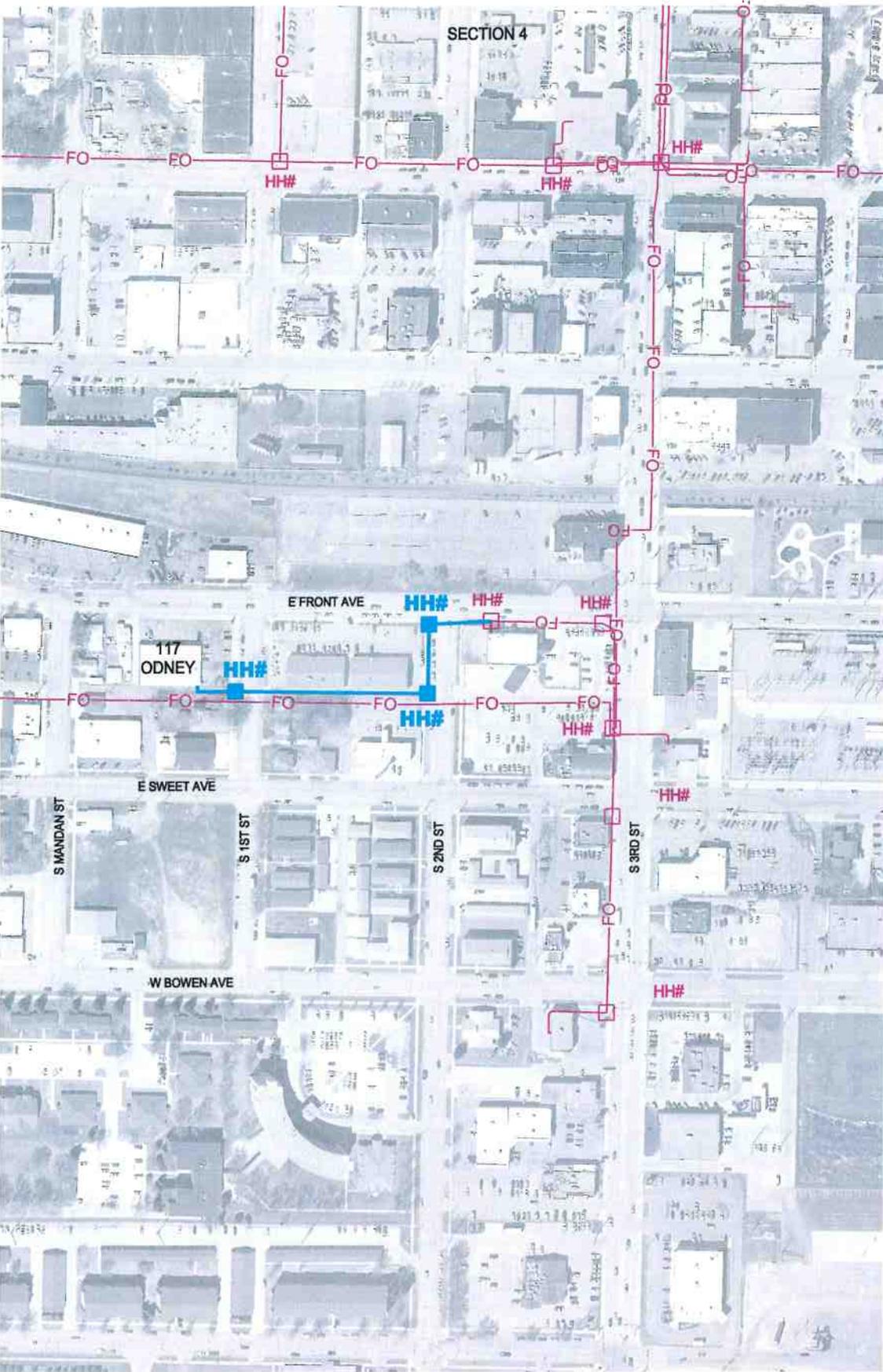
DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2016

CITY OF BISMARCK

By: \_\_\_\_\_  
Mike Seminary  
Mayor

R80W

SECTION 4



T138N

3901 Great Plains Drive South  
 Fargo, ND 58104  
 Office 800.814.3333  
 Fax 701.280.1166  
 www.dakotacARRIER.com

Project No.	1816164
File Name	EXH_A
Drafted By	DS
Drafted Date	05/26/16
Record Drawing By	
Record Drawing Date	
Revised By	
Revision Date	
Scale	1"=300'

**BISMARCK  
 EXHIBIT "A"**



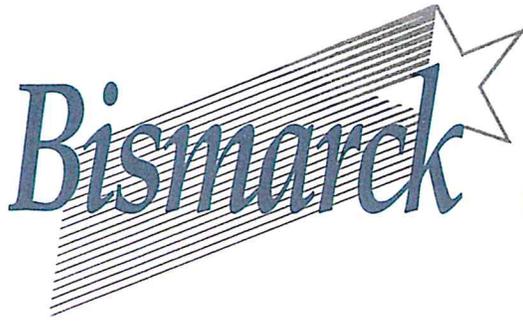
4585 Coleman Street  
 Bismarck, ND 58503  
 Office 701 355 8400  
 Fax 701 355 8781  
 www.kljeng.com



NEW HANDHOLE ■ HH#  
 EXISTING HANDHOLE □ HH#  
 NEW CONSTRUCTION CORRIDOR —  
 EXISTING CONSTRUCTION CORRIDOR —

Sheet Number

1 OF 1



**Engineering Department**

June 8, 2016

**MEMORANDUM**

**To:** Jason Tomanek  
Assistant City Administrator

**From:** Gabe J. Schell, PE   
City Engineer

**Re: AGENDA ITEM**  
**Dakota Carrier Network Encroachment and Waiver Agreement**  
**310 North Ninth Street**

**Please schedule the following for consideration by the Board of City Commissioners at its meeting to be held on Tuesday, June 14, 2016, at 5:15 p.m. in the Tom Baker Room.**

Dakota Carrier Network has requested permission to install and maintain privately owned fiber optic cable within the public right-of-way as shown on the attached map, per the enclosed Agreement and Waiver. We recommend approval of the attached Agreement and Waiver for the fiber optic cable's encroachment on the right-of-way.

GJS/ps  
Enc.

**Gabriel J. Schell, PE, City Engineer**

Phone: 701-355-1505 • TDD: 711 • Fax: 701-222-6593 • 221 N. Fifth St. • PO Box 5503 • Bismarck, ND 58506-5503  
Email: bisengd@bismarcknd.gov • www.bismarcknd.gov

4585 Coleman Street  
PO Box 1157  
Bismarck, ND 58502-1157  
701 355 8400  
kljeng.com



May 27, 2016

Tom Kary  
City of Bismarck, Engineering Department  
221 North 5<sup>th</sup> Street  
Bismarck, ND 58506-5503

**Re: 1816166 - Dakota Carrier Network  
Right-of-Way Request Bone and Joint 310 N 9<sup>th</sup> ST**

Dear Mr. Kary:

Enclosed, find an executed Agreement and Waiver application and route exhibit for the proposed construction of fiber optic facility being requested by Dakota Carrier Network (DCN).

The proposed project is scheduled to begin June 27, 2016, with a completion scheduled for June 30, 2016.

Thank you, for considering DCN's application for right-of-way use. If you have any questions or comments regarding this matter, please feel free to contact me at your convenience at 701-355-8422.

Respectfully,

**KLJ**

A handwritten signature in blue ink, appearing to be "EW", written over the printed name "Eric Wald".

Eric Wald  
Project Manager

Enc. (1 each) Exhibit A  
(1) Agreement and Waiver Application

NATIONAL PERSPECTIVE  
REGIONAL EXPERTISE  
TRUSTED ADVISOR

## AGREEMENT AND WAIVER

The City of Bismarck hereby grants DCN, LLC (Grantee) the right to install and maintain a cable under the public right-of-way as shown on the attached Exhibit A, subject to the following conditions:

1. The Grantee shall comply with all rules regarding non-franchised utility installations in the public right-of-way as set by the City Engineer.
2. The term of this grant shall be for fifteen (15) years and shall continue thereafter from year to year. The City may cancel this grant at any time after the initial 15-year term upon six month's written notice to the Grantee.
3. Upon the end of the term or prior abandonment by the Grantee, the Grantee shall, at its own expense, remove the cable and restore the public right-of-way to its original condition, if so required by the City.
4. In exchange for the City's permission to run a cable under City right-of-way or under a City street, Grantee agrees to release the City, its assigns or other franchised utilities from and waive any and all claims relating to said cable including but not limited to damages arising from damage resulting from damage to the cable by the City, its assigns or other franchised utilities. Grantee agrees that it is using the public right-of-way at its own risk and understands that the City, its assigns, or other franchised utilities have no reliable method of indexing or locating the cable. Grantee shall file complete facility location information with the City. Grantee shall not look to the City, its assigns, or other franchised utilities to pay for expense or damage to the cable by the City, its assigns, or other franchised utilities. Grantee agrees that it will hold harmless and indemnify the City, its assigns, or other franchised utilities from any and all claims in any way resulting from the placement of the cable under the public right-of-way. Grantee agrees to place facilities no deeper than 48", if depths greater than 48" are necessary, the actual depths will be identified on the as built drawings when the Grantee files complete facility location information with the City. Grantee agrees that after its installation, it will restore the City right-of-way or street to its original condition. In the event it shall become necessary for the City to perform street maintenance or construction at the location of the cable, Grantee shall temporarily relocate the cable at its sole expense upon notice from the City to relocate.
5. As a condition of the City's permission for the Grantee to locate its cable in the public right-of-way, Grantee agrees that it will not provide any services to local customers without first obtaining a franchise. If the Grantee should at any time obtain a franchise to provide services locally, it shall then be treated like other franchised utilities and be released from any obligation imposed by this agreement to indemnify or hold harmless other franchised utilities with respect to its cable installations.

DATED this 27<sup>TH</sup> day of MAY, 2016

DCN, LLC

By:   
Signature

3901 Great Plains Drive South  
Fargo, ND 58104  
Address

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2016

CITY OF BISMARCK

By: \_\_\_\_\_  
Mike Seminary  
Mayor

R80W

SECTION 33

T139N

T138N

E AVE A

E ROSSER AVE

310 BONE & JOINT N.9TH ST

E THAYER AVE

N 8TH ST

N 9TH ST

E BROADWAY AVE

SECTION 4

3901 Great Plains Drive South  
 Fargo, ND 58104  
 Office 800.814.3333  
 Fax 701.280.1188  
 www.dakotacarrier.com

Project No. 1816166  
 File Name EXH\_A  
 Drafted By DS  
 Drafted Date 05/26/16  
 Record Drawing By  
 Record Drawing Date  
 Revised By  
 Revision Date  
 Scale 1"=200'

**BISMARCK**  
**EXHIBIT "A"**



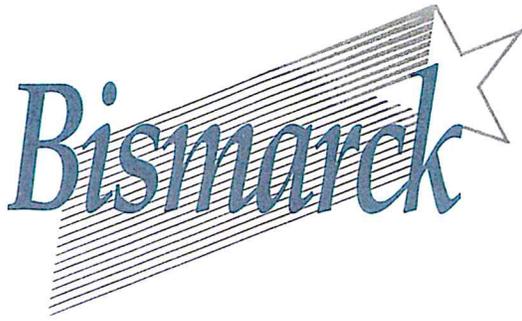
4585 Coleman Street  
 Bismarck, ND 58503  
 Office 701 355 8400  
 Fax 701 355 8781  
 www.kljeng.com



Sheet Number

1 OF 1

- NEW HANDHOLE ■ HH#
- EXISTING HANDHOLE □ HH#
- NEW CONSTRUCTION CORRIDOR —
- IN EXISTING DUCT - - -
- EXISTING CONSTRUCTION CORRIDOR — FO



**Engineering Department**

June 8, 2016

**MEMORANDUM**

**To:** Jason Tomanek  
Assistant City Administrator

**From:** Gabe J. Schell, PE   
City Engineer

**Re:** **AGENDA ITEM (SI 15-503)**  
**Request to Close District**

**Please schedule the following for consideration by the Board of City Commissioners at its meeting to be held on Tuesday, June 14, 2016, at 5:15 p.m. in the Tom Baker Room.**

Street Improvement District No. 15-503 consists of one (1) unit of petitioned street improvements (new asphalt pavement, curb and gutter, ADA ramps, and related work). The work was to be funded through special assessments and developer prepayments. The developer has failed to meet his commitments as per the City of Bismarck's Developer Policy. Bids were returned unopened. We ask that the district be closed.

**Unit No. 1**

19th Street - Brookside Lane to 1,290' south of Brookside Lane  
East LaSalle Drive - 19th Street to 390' west of 19th Street

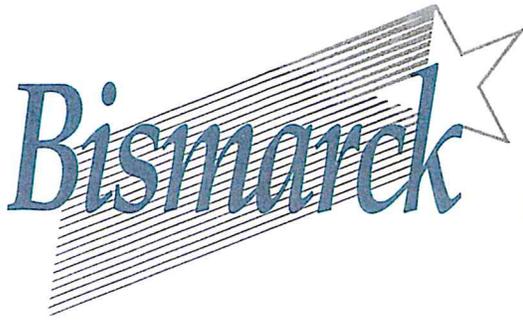
GJS/ps

**Gabriel J. Schell, PE, City Engineer**

Phone: 701-355-1505 • TDD: 711 • Fax: 701-222-6593 • 221 N. Fifth St. • PO Box 5503 • Bismarck, ND 58506-5503  
Email: bisengd@bismarcknd.gov • www.bismarcknd.gov

SI503 - UNIT 1





**Engineering Department**

June 8, 2016

**MEMORANDUM**

**To:** Jason Tomanek  
Assistant City Administrator

**From:** Gabe J. Schell, PE   
City Engineer

**Re: AGENDA ITEM**  
**Storm Sewer Easement - Burleigh County**

**Please schedule the following for consideration by the Board of City Commissioners at its meeting to be held on Tuesday, June 14, 2016, at 5:15 p.m. in the Tom Baker Room.**

Attached for your review and approval is the following:

Storm Sewer Easement from Burleigh County for the local storm sewer system in Midwest Business Park.

GJS/ps  
Enc.

**Gabriel J. Schell, PE, City Engineer**

Phone: 701-355-1505 • TDD: 711 • Fax: 701-222-6593 • 221 N. Fifth St. • PO Box 5503 • Bismarck, ND 58506-5503  
Email: bisengd@bismarcknd.gov • www.bismarcknd.gov

## STORM SEWER EASEMENT

This indenture, made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, between **Burleigh County**, whose post office address is P.O. 5518, Bismarck, North Dakota 58506-5518, Grantor, and the **City of Bismarck**, a municipal corporation, whose post office address is P.O. Box 5503, Bismarck, North Dakota 58506-5503, Grantee.

1. For and in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor grants to Grantee, its successors and assigns, an exclusive easement to construct, operate, maintain, and repair public utility facilities including storm sewer and drainage under or upon the real property hereinafter described, together with the right to remove undergrowth and other obstructions interfering with the location, construction, and maintenance of said utility. Grantee shall have the right to ingress and egress across real property of Grantor for the purpose herein granted.
2. This Easement is, except for right of access, limited to:

Parcel No. 1

A tract of land lying in Lot 12, Block 1, of the Missouri Valley Complex, Bismarck, North Dakota, more particularly described as follows:

Commencing at the southwest corner of Midwest Business Park Addition; thence N 89° 43' 41" W, a distance of 15.00 feet to the point of beginning; thence from said point of beginning S 00° 39' 43" W, a distance of 421.30 feet to the north line of the Western Area Power Association transmission line easement; thence N 38° 28' 22" W, a distance of 47.53 feet along the north line of said easement; thence N 00° 39' 43" E, a distance of 384.23 feet; thence S 89° 43' 41" E, a distance of 30.00 feet to the point of beginning.

Said tract contains 12,083 square feet, or 0.28 acres, more or less.

3. Grantee shall, after completing the above-described construction or installation, or after the exercise of any rights granted by this easement, restore the lands to as near



Acceptance of dedicated lands by the **City of Bismarck:**

\_\_\_\_\_  
Michael C. Seminary  
President, Board City Commissioners

Attest: \_\_\_\_\_  
Keith J. Hunke  
City Administrator

STATE OF NORTH DAKOTA    )  
  ) SS  
COUNTY OF BURLEIGH     )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me personally appeared Michael C. Seminary, President of Board of City Commissioners, and Keith J. Hunke, City Administrator, known to me to be the persons who are described in, and who executed the within and foregoing instrument and who severally acknowledged to me that they executed the same.

(SEAL)

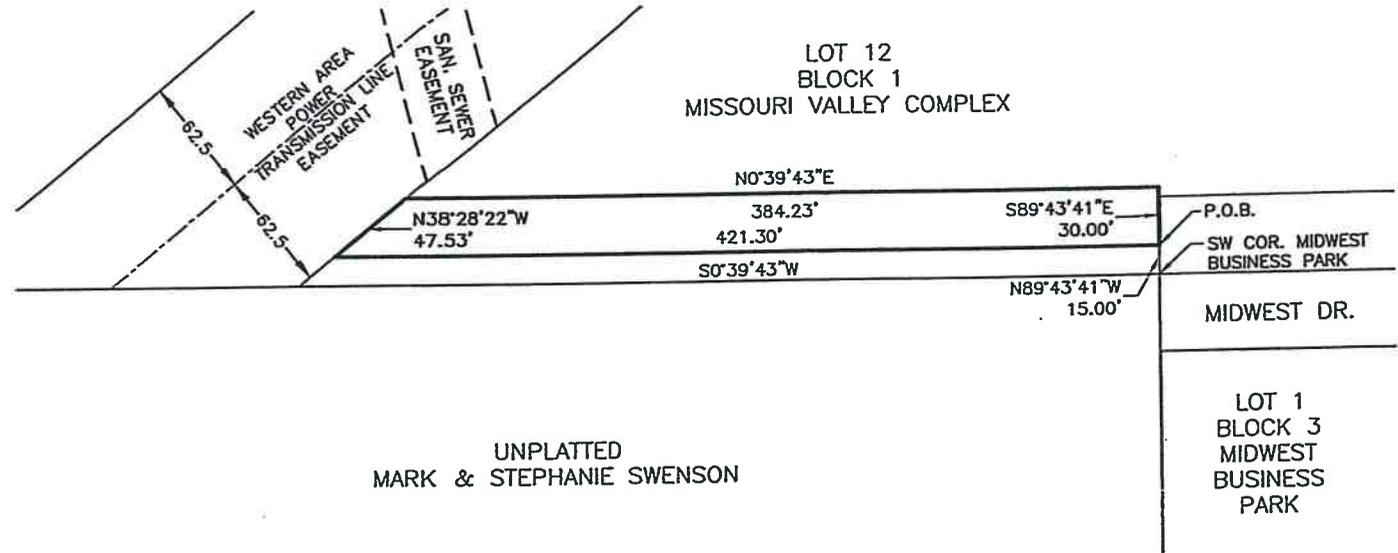
\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
The legal description was prepared by Cleary Johs, PLS, Box 5503, Bismarck, North Dakota 58506-5503  
or obtained from a previously recorded instrument.  
\_\_\_\_\_  
Burleigh County Recorder

# STORM SEWER EASEMENT

PART OF LOT 12, BLOCK 1 OF THE MISSOURI VALLEY COMPLEX  
 BISMARCK, NORTH DAKOTA  
 APRIL 7, 2016

OWNERS:  
 BURLEIGH COUNTY, ND



PARCEL No. 1

A tract of land lying in Lot 12, Block 1 of the Missouri Valley Complex, Bismarck, North Dakota, more particularly described as follows:

Commencing at the Southwest corner of Midwest Business Park Addition; thence N 89°43'41" W, a distance of 15.00 feet, to the point of beginning; thence from said point of beginning S 00°39'43" W, a distance of 421.30 feet, to the north line of the Western Area Power Association transmission line easment; thence N 38°28'22" W, a distance of 47.53 feet, along the north line of said easement; thence N 00°39'43" E, a distance of 384.23 feet; thence S 89°43'41" E, a distance of 30.00 feet, to the point of beginning.

Said tract contains 12,083 SF or 0.28 Acres, more or less.

SURVEYORS CERTIFICATE

I, CLEARY JOHS, NORTH DAKOTA PROFESSIONAL LAND SURVEYOR 5288, HEREBY CERTIFY THAT THE INFORMATION SHOWN ON THIS DOCUMENT IS TRUE AND CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE. ANY ALTERATION OF THIS DOCUMENT WILL VOID THIS CERTIFICATION.



*Cleary Johs*  
 \_\_\_\_\_  
 CLEARY JOHS, NDPLS 5288  
 CITY OF BISMARCK  
 221 N. 5TH STREET

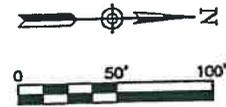
UNPLATTED  
 MARK & STEPHANIE SWENSON

**PAMELA SANDER**  
 Notary Public  
 State of North Dakota  
 My Commission Expires Mar 04, 2022

STATE OF NORTH DAKOTA }  
 SS }  
 COUNTY OF BURLEIGH

ON THIS 7th OF April, 2016, BEFORE ME PERSONALLY APPEARED CLEARY JOHS, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

*Pamela Sander*  
 \_\_\_\_\_  
 PAMELA SANDER, NOTARY PUBLIC  
 BURLEIGH COUNTY, NORTH DAKOTA



**Bismarck** Engineering Department

EASEMENT

PARCEL 1

BISMARCK, ND DATE: 4/7/2016



**Engineering Department**

June 8, 2016

**MEMORANDUM**

**To:** Jason Tomanek  
Assistant City Administrator

**From:** Gabe J. Schell, PE   
City Engineer

**Re: AGENDA ITEM**  
**Watermain Easement - Skyline Properties, LLC**

**Please schedule the following for consideration by the Board of City Commissioners at its meeting to be held on Tuesday, June 14, 2016, at 5:15 p.m. in the Tom Baker Room.**

Attached for your review and approval is the following:

Watermain Easement from Skyline Properties, LLP, to extend the water main through Meadowlark Commercial 7<sup>th</sup> Addition.

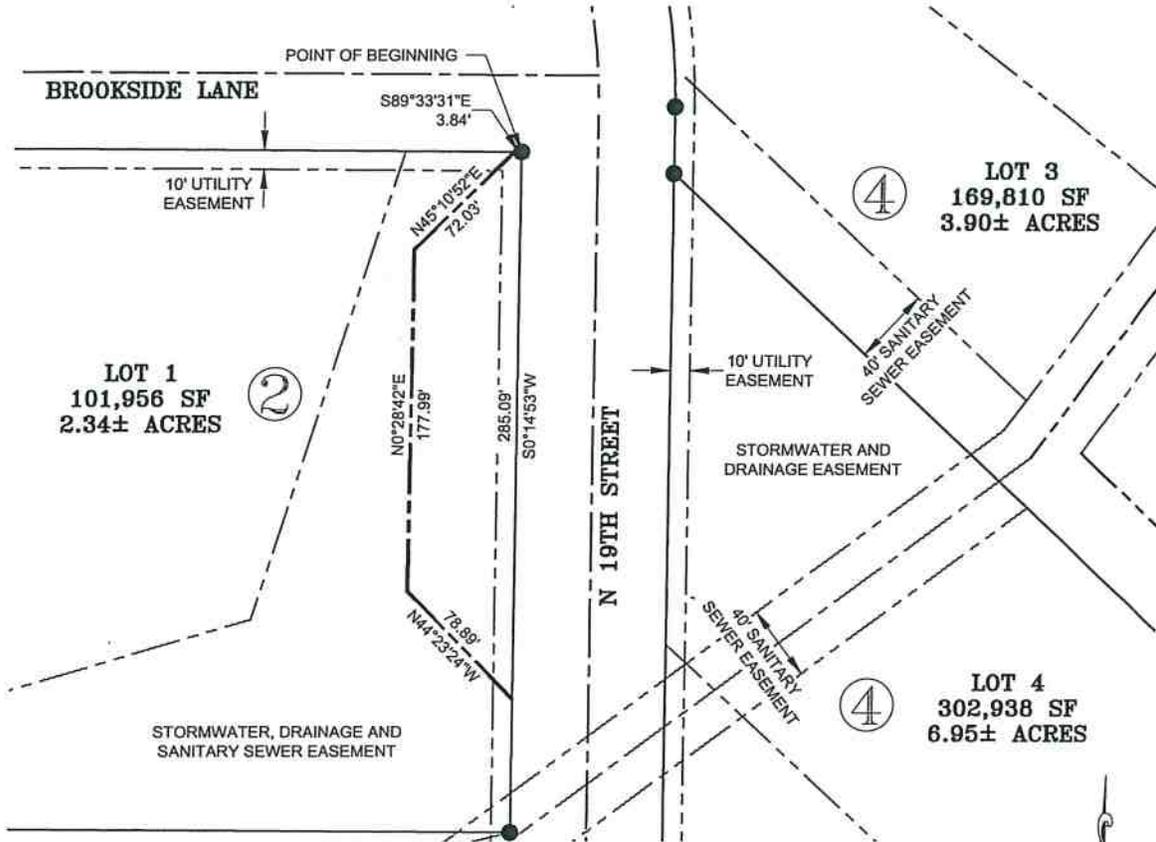
GJS/ps  
Enc.

**Gabriel J. Schell, PE, City Engineer**

Phone: 701-355-1505 • TDD: 711 • Fax: 701-222-6593 • 221 N. Fifth St. • PO Box 5503 • Bismarck, ND 58506-5503  
Email: bisengd@bismarcknd.gov • www.bismarcknd.gov

# WATERMAIN EASEMENT

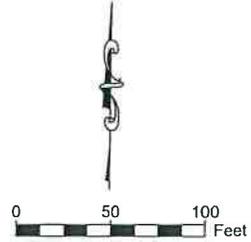
LOT 1, BLOCK 2  
MEADOWLARK COMMERCIAL SEVENTH ADDITION  
SECTION 15, TOWNSHIP 139 NORTH, RANGE 80 WEST  
OF THE FIFTH PRINCIPAL MERIDIAN  
BISMARCK, NORTH DAKOTA



### EASEMENT DESCRIPTION

COMMENCING AT THE NORTHEAST CORNER OF LOT 1, BLOCK 2, MEADOWLARK COMMERCIAL 7TH ADDITION, CITY OF BISMARCK, NORTH DAKOTA, WHICH IS THE POINT OF BEGINNING; THENCE S00°14'53\"/>

SAID TRACT CONTAINS 0.29± ACRES



J:\EDS\_PROJECTS\5295 - Skyline Properties, LLC\5295-0001 - Meadowlark Commercial 7th Utilities\DRAWINGS\WATERMAIN\_EASEMENT.dwg



301 1ST ST NE, STE 202  
MANDAN, ND 58554  
(701) 751-3370

Responsive partner. Exceptional outcomes.

CLIENT  
SKYLINE PROPERTIES, LLC  
1401 SKYLINE BLVD, STE 260  
BISMARCK, ND 58503

PROJECT  
MEADOWLARK COMMERCIAL SEVENTH ADDITION

SHEET TITLE  
WATERMAIN EASEMENT

REV	DWN	APP	REV DATE	DWN BY	CHK'D	APP'D	DWG DATE	PROJECT NO.	SHEET NO.	REV NO.	
				JME	KGN	KGN	5/11/2016	5295-0001	1 of 1		
							SCALE				
							1" = 100'				

Plot Date & Time: 11 May 2016 8:45 AM

# WATERMAIN EASEMENT

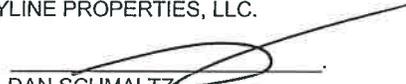
LOT 1, BLOCK 2  
MEADOWLARK COMMERCIAL SEVENTH ADDITION  
SECTION 15, TOWNSHIP 139 NORTH, RANGE 80 WEST  
OF THE FIFTH PRINCIPAL MERIDIAN  
BISMARCK, NORTH DAKOTA

## OWNER'S CERTIFICATE

I, THE UNDERSIGNED, HEREBY CERTIFY THAT I AM THE OWNER OF LOT 1, BLOCK 2 OF MEADOWLARK COMMERCIAL SEVENTH ADDITION. I DO DEDICATE THE WATERMAIN EASEMENT AS SHOWN HEREON INCLUDING ALL WATERMAIN, APPURTENANCES, PERMANENT FIXTURES AND ACCESS TO THE PROPERTY IN THE IMMEDIATE VICINITY OF THE CITY OF BISMARCK RIGHT-OF-WAY FOR NORTH 19TH STREET AS IT IS RELATED TO THE CITY OF BISMARCK WATER DISTRIBUTION SYSTEM.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND THIS, 24 DAY OF MAY, 2016.

SKYLINE PROPERTIES, LLC.

BY   
DAN SCHMALTZ

TITLE AUTHORIZED AGENT / MEMBER

STATE OF NORTH DAKOTA )  
  ) SS  
COUNTY OF BURLEIGH )

ON THIS, THE 24 DAY OF MAY, 2016, BEFORE ME, THE UNDERSIGNED OFFICER, PERSONALLY APPEARED DAN SCHMALTZ, AUTHORIZED AGENT / MEMBER OF SKYLINE PROPERTIES, LLC. A CORPORATION AND THAT HE, AS SUCH BEING AUTHORIZED TO DO SO, EXECUTED THE FOREGOING OWNER'S DEDICATION BY SIGNING THE NAME OF THE CORPORATION BY HIMSELF AS AUTHORIZED AGENT / MEMBER.

MY COMMISSION EXPIRES FEB 16, 2022

  
NOTARY PUBLIC

**BRIAN ZUROFF**  
Notary Public  
State of North Dakota  
My Commission Expires Feb 16, 2022

ACCEPTANCE OF DEDICATED LANDS BY THE CITY OF BISMARCK:

\_\_\_\_\_  
MICHAEL C. SEMINARY  
PRESIDENT, BOARD CITY COMMISSIONERS

ATTEST: \_\_\_\_\_  
KEITH HUNKE  
CITY ADMINISTRATOR

## RECORDER

STATE OF NORTH DAKOTA )  
  ) SS  
COUNTY OF BURLEIGH )

ON THIS, THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016, BEFORE ME PERSONALLY APPEARED MICHAEL C. SEMINARY, PRESIDENT OF BOARD OF CITY COMMISSIONERS, AND KEITH HUNKE, CITY ADMINISTRATOR, KNOWN TO ME TO BE THE PERSONS WHO ARE DESCRIBED IN, AND WHO EXECUTED THE WITHIN AND FOREGOING INSTRUMENT AND WHO SEVERALLY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

MY COMMISSION EXPIRES \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC



301 1ST ST NE, STE 202  
MANDAN, ND 58554  
(701) 751-3370

Responsive partner. Exceptional outcomes.

CLIENT  
SKYLINE PROPERTIES, LLC  
1401 SKYLINE BLVD, STE 260  
BISMARCK, ND 58503

PROJECT  
MEADOWLARK COMMERCIAL  
SEVENTH ADDITION

SHEET  
TITLE  
WATERMAIN EASEMENT

REV	DWN	APP	REV DATE	DWN BY	CHK'D	APP'D	DWG DATE	PROJECT NO.	SHEET NO.	REV NO.	
				JME	KGN	KGN	5/11/2016	5295-0001	1 of 1		
							SCALE				
							NONE				

Plot Date & Time: 17 May 2016 8:45 AM

J:\EDS\_PROJECTS\5295 - Skyline Properties, LLC\5295-0001 - Meadowlark Commercial 7th Utilities\SURVEY\DRAWINGS\WATERMAIN\_EASEMENT.dwg

# Bismarck *Finance Department*

## MEMORANDUM

TO: Jason Tomanek  
FROM: Sheila Hillman *SH*  
DATE: May 31, 2016  
SUBJECT: Approval of Service Contract with Vanguard Appraisals, Inc.

Please place this item on the consent agenda for the City Commission meeting on June 14, 2016.

The City currently has a contract with Vanguard Appraisals, Inc. for our computer assisted mass appraisal (CAMA) system for Assessing. Vanguard has an archive module that allows assessments to be digitally stored and accessed. Assessing would like to have an archive done for the annual assessment roll. The annual cost is \$3,600 with a six year contract with funding from Assessing's current budget. The contract is attached for Commission approval.

Enclosure

### SERVICE CONTRACT

#### Archive Module 1<sup>st</sup> – 6<sup>th</sup> processes

This agreement is made and entered into by and between Vanguard Appraisals, Inc. (hereinafter referred to as "Vanguard") and the Bismarck City, ND, (hereinafter referred to as "Client").

WHEREAS, Vanguard is the owner of Vanguard Computer Systems CAMAvision™ and the Client is presently using or desires to use said system and in connection with such use Vanguard agrees to provide the Client with the following services as applicable:

1. **TERM.** This contract is for six processes. Vanguard shall provide the client's chosen reports on a single CD. Additional CD's will be prepared if the reports are too large to be contained on one CD. All time for obtaining the client's data, installation, training and Vanguard's staff travel time will be charged as per item 5. See item 5 for additional CD copies. Vanguard reserves the right to collect the total amount of the contract fees should the client choose to terminate the contract prior to processing.
2. **INSTALLATION AND TRAINING.** Vanguard shall provide the client's chosen reports on a single CD. Additional CD's will be prepared if the reports are too large to be contained on one CD. All time for obtaining the client's data, installation, training and Vanguard's staff travel time will be charged as per item 5. See item 5 for additional CD copies.
3. **ENHANCEMENTS, UPDATES AND REVISIONS.** As we continue to improve on the basic program, and work on suggestions from clients, service contract holders will automatically receive all updating information; i.e. cost table revisions, current function enhancements, etc. However, this service contract does not include future programs such as, but not limited to, the professional version, income module, data conversion due to software rewrite because of operating system changes, data conversion from other vendor's software, etc.
4. **CONSULTATION.** All service contract holders have unlimited telephone consultation privileges which relate to Vanguard Computer Systems (VCS). All non-VCS telephone consultation will be charged at the normal telephone service fee rate (call for current rate). The first fifteen (15) minutes each month (non-accumulative) will be free. Service PLUS contracts for additional time may be purchased at a reduced service fee rate (call for rate).
5. **ADDITIONAL SERVICES.** Additional CD's may be ordered for resale to the public at \$25.00 per CD. Additional training, installations and on-site consultation, such as hardware troubleshooting, non-VCS software training, etc. shall be available at our normal service fee rate (call for current rate). All staff travel time will be charged at the per diem rate. Service PLUS contracts for additional time may be purchased at a reduced service fee rate (call for rate).
6. **ADDITIONAL INSTALLATIONS.** If additional copies of the program were installed on additional computers in the client's office, the terms of this agreement shall apply to additional installations in the same manner as the original installation.

Payment Schedule:

License - ARC0090		
Archive Module (Based on 25920 parcels with prc report.).....	\$ 27000.00	[\$4500.00/process]
<b>Less Multiple Process Discount</b>	<b>\$ 5400.00</b>	<b>[\$900.00/process]</b>
<b>Total:</b>	<b>\$ 21600.00</b>	<b>[\$3600.00/process]</b>

VANGUARD APPRAISALS, INC.

By: \_\_\_\_\_  
Brad M. Miller, Senior Vice President/CIO  
Dated: May 18, 2016

Bismarck City

By: \_\_\_\_\_  
Mayor  
Dated: \_\_\_\_\_

# *Bismarck* Department of Human Resources

DATE: 6/7/2016

TO: Jason Tomanek  
Assistant City Administrator

FROM: Robert McConnell  
Director of Human Resources

RE: Commission Agenda Item for June 14<sup>th</sup> Commission Meeting

Request approval to fill the Senior Planner position Grade 21 vacated by Jason Tomanek with a Planner Grade 19.

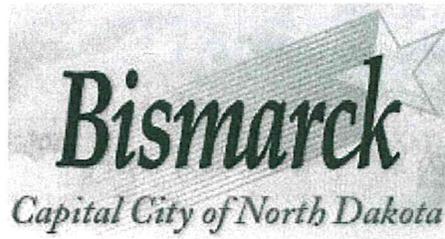
1. Please schedule this item for consideration by the Board of Commissioners at their meeting on Tuesday, June 14<sup>th</sup>.
2. The Community Development Department would like to maintain the ability to promote a Planner to Senior Planner at such time that a planner becomes eligible and meets the expectations and qualifications of the position. The Human Resource Department recommends approval.

Attachment:

Senior Planner Job Description  
Planner Job Description



*Robert W. McConnell, Director*



**Senior Planner**  
Community Development

CD/5

**JOB SUMMARY**

This position provides professional planning support for a variety of Planning Division programs and functions.

**MAJOR DUTIES**

- Identifies, collects, interprets, and analyzes information to prepare plans, reports and other documents.
- Performs professional planning duties in support of division projects and programs; coordinates assigned development and/or funding processes to ensure the effective evaluation of applications and to ensure compliance with applicable regulations, policies and procedures.
- Provides interpretation regarding the application of city ordinances, regulations, policies and procedures pertaining to division programs; interprets federal and state programs and regulations as they pertain to division activities.
- Performs technical and administrative work in the development of plans, studies, ordinances, policies and strategies for the implementation of division programs and projects.
- Evaluates development and funding applications to make recommendations regarding actions, decisions, and/or funding levels; prepares staff reports and other supporting documentation; presents applications and staff recommendations at public meetings.
- Represents the division at public meetings to present plans and programs, make staff recommendations and discuss and advise on the development and implementation of plans and programs; speaks to civic groups, organizations and the news media regarding division projects, programs and activities.
- Provides staff support to assigned advisory boards and commissions.
- Researches and responds to inquiries and concerns from officials, staff members, and citizens.
- Provides leadership, guidance, training and assistance to other planners in the division.
- Performs related duties.

**KNOWLEDGE REQUIRED BY THE POSITION**

- Knowledge of the principles and practices of sustainable development, urban design, community planning and community and economic development.
- Knowledge of planning theories and practices.
- Knowledge of computers, job-related software programs and standard office equipment.
- Knowledge of community development grant programs.
- Knowledge of program and project management principles.
- Knowledge of relevant federal and state laws, city ordinances, and department policies and procedures.
- Skill in preparing clear and precise reports.
- Skill in reading site plans, maps and subdivision plats.
- Skill in exercising independent judgment and problem solving.
- Skill in prioritizing and planning.
- Skill in interpersonal relations.
- Skill in public speaking.
- Skill in oral and written communication.

**SUPERVISORY CONTROLS**

The Planning Manager assigns work in terms of department goals and objectives. The supervisor reviews work through conferences, reports and observation of division activities.

**GUIDELINES**

Guidelines include local, state and federal planning requirements; environmental regulations; development requirements; and city and department policies and procedures. These guidelines require judgment, selection, and interpretation in application.

**COMPLEXITY/SCOPE OF WORK**

- The work consists of varied professional planning duties. Coordinating activities with a variety of stakeholders contributes to the complexity of the position.
- The purpose of this position is to provide professional planning support for city development activities. Success in this position contributes to the positive growth and development of the city.

## CONTACTS

- Contacts are typically with coworkers, other city employees, planners, engineers, landscape architects, attorneys, surveyors, land owners, members of the development community, and members of the general public.
- Contacts are typically to exchange information, resolve problems, and provide services.

## PHYSICAL DEMANDS/ WORK ENVIRONMENT

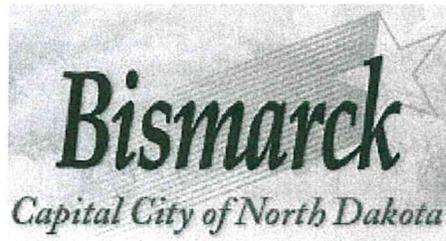
- The work is typically performed while sitting at a desk or table.
- The work is typically performed in an office.

## SUPERVISORY AND MANAGEMENT RESPONSIBILITY

None.

## MINIMUM QUALIFICATIONS

- Knowledge and level of competency commonly associated with the completion of a baccalaureate degree in a course of study related to the occupational field.
- Experience sufficient to thoroughly understand the work of subordinate positions to be able to answer questions and resolve problems, usually associated with three years' experience or service.
- Possession of or ability to readily obtain a valid driver's license issued by the State of North Dakota for the type of vehicle or equipment operated.
- AICP certification preferred.



## **Planner**

### Community Development

CD/7

#### **JOB SUMMARY**

This position provides professional planning support for assigned Planning Division programs and functions.

#### **MAJOR DUTIES**

- Identifies, collects and interprets information to prepare plans, reports, and other documents.
- Performs professional planning duties in support of division projects and programs; coordinates and monitors the development and/or funding review process to insure the effective evaluation of applications and to ensure that proposed activities are in compliance with applicable regulations, policies and procedures.
- Provides interpretation regarding the application of city ordinances, regulations, policies and procedures pertaining to division programs; interprets federal and state programs and regulations as they pertain to division activities.
- Performs technical and administrative work in the development of plans, studies, ordinances, policies and strategies for the implementation of division programs and projects.
- Evaluates development and funding applications and makes recommendations regarding actions, decisions, and/or funding levels; prepares staff reports and other supporting documentation; presents applications and staff recommendations and public meetings.
- Represents the division at public meetings to present plans, projects and program information and staff recommendations and to advise on implementation of plans and programs.
- Provides staff support to assigned advisory boards and commissions.
- Researches and responds to inquiries and concerns from officials, staff members and citizens.
- Performs related duties.

#### **KNOWLEDGE REQUIRED BY THE POSITION**

- Knowledge of the principles and practices of sustainable development, urban design, community planning and community and economic development.

- Knowledge of computers, job-related software programs, and standard office equipment.
- Knowledge of grant development principles.
- Knowledge of program and project management principles.
- Knowledge of community development grant programs.
- Knowledge of relevant federal and state laws, city ordinances, and department policies and procedures.
- Skill in preparing clear and precise reports.
- Skill in reading maps, subdivision plats and site plans.
- Skill in problem solving.
- Skill in prioritizing and planning.
- Skill in interpersonal relations.
- Skill in oral and written communication.

#### SUPERVISORY CONTROLS

The Planning Manager assigns work in terms of very general instructions. The supervisor spot-checks completed work for compliance with procedures and the nature and propriety of the final results.

#### GUIDELINES

Guidelines include local, state and federal planning requirements; environmental regulations; development requirements; and city and department policies and procedures. These guidelines require judgment, selection, and interpretation in application.

#### COMPLEXITY/SCOPE OF WORK

- The work consists of varied professional planning duties. Coordinating activities with a variety of stakeholders contributes to the complexity of the position.
- The purpose of this position is to provide professional planning support for city development activities. Success in this position contributes to the positive growth and development of the city.

#### CONTACTS

- Contacts are typically with coworkers, other city employees, planners, engineers, landscape architects, attorneys, surveyors, land owners, members of the development community, and members of the general public.
- Contacts are typically to exchange information, resolve problems, and provide services.

#### PHYSICAL DEMANDS/ WORK ENVIRONMENT

- The work is typically performed while sitting at a desk or table.
- The work is typically performed in an office.

#### SUPERVISORY AND MANAGEMENT RESPONSIBILITY

None.

#### MINIMUM QUALIFICATIONS

- Knowledge and level of competency commonly associated with the completion of a baccalaureate degree in a course of study related to the occupational field.
- Sufficient experience to understand the basic principles relevant to the major duties of the position, usually associated with the completion of an apprenticeship/internship or having had a similar position for one to two years.
- Possession of or ability to readily obtain a valid driver's license issued by the State of North Dakota for the type of vehicle or equipment operated.

# *Bismarck* Police Department

June 1, 2016

To: Mr. Jason Tomanek  
Assistant City Administrator

From: Dan Donlin  
Chief of Police

Subj: Commission Agenda Item for June 14, 2016 - Request for Permission to Conduct the Annual Deer and Turkey Archery Hunting Program on City Properties

Please schedule this item for consideration by the Board of City Commissioners at their meeting scheduled for Tuesday, June 14, 2016.

The Police Department is requesting authorization to conduct the Annual Deer and Turkey Archery Hunting Program on select City properties. This hunting season will begin September 2<sup>nd</sup> and will coincide with the archery season set forth by the ND Game & Fish Department (NDG&F). The deer hunting program is an annual program which has been in existence since 1987. The turkey hunting program was initially approved by the Board in 2008 and has been successfully conducted each year, with the exception of 2011 when it was cancelled due to the flood. Both programs have aided in controlling the problems associated with wild deer and turkeys entering areas of Bismarck, especially the residential areas in the southwest portion of the City.

All hunters must possess a valid North Dakota archery license to participate in the programs. The Animal Control section of the Police Department issues trespass permits to hunters who wish to participate in the Archery Hunting Program. There will be 25 permits issued for the season on a first-come-first-served basis.

Animal Control staff provides instructions and maps of specific authorized City property and monitors those selected to participate in the program.

I will be available at the meeting to answer any questions.

  
DAN DONLIN  
Chief of Police

dd  
attachment

*Dan Donlin, Chief of Police*

Phone: 701-223-1212 ★ FAX: 701-355-1927 ★ Tdd: 701-221-6820 ★ 700 S. Ninth Street ★ Bismarck, ND 58504-5899



To: Dan Donlin, Chief of Police

From: ACW Hilsendeger

Date: May 25<sup>th</sup>, 2016

Subject: Annual Deer/Turkey Archery Hunting program

The Bismarck Animal control is requesting this be placed on June's agenda for the commission to approve the archery hunting program in designated area within the city limits. The areas included in this program consist of the Airport property east of the Airway Avenue and south of Lincoln Road and a small section of land north of Lincoln Rd, also the area east of the archery range and horse arena extending south to Burleigh Ave to include the area surrounding the Waste water treatment plant.

The Hunting Season will begin September 2<sup>nd</sup> and will coincide with the archery season set forth by the Game and Fish Department. There will be 25 permits issued for the season, this is reduced from years past due to lower numbers of deer and receiving complaints of too many hunters in the area, it will remain on a first come bases. As in years past the permit will be issued by the Police Department and the animal control staff will provide instructions, and maps to all participating in the program.

Thank you

Melisa Hilsendeger  
Animal Control Warden

# *Bismarck* Department of Public Works

MEMORANDUM

TO: Jason Tomanek – Assistant City Administrator

FROM: Jeff Heintz – Public Works Service Operations Director



DATE: June 7, 2016

RE: Consent Agenda Item - Permission to provide 96 gallon garbage containers to be used during the Out of Darkness Suicide walk at the Capitol grounds on Friday, September 16<sup>th</sup>, 2016

Please place on the June 14<sup>th</sup>, 2016 Board of City Commissioner meeting consent agenda the request to provide 96 gallon garbage containers to be used during the Out of Darkness Suicide walk at the Capitol grounds on Friday, September 16<sup>th</sup>. The volunteers of the event would place the containers and collect them after the event for our pickup at one central location.

I will be present at the City Commission meeting to respond to questions the Board may have regarding this matter. Please contact me if you have questions or require additional information.

Thank you.

# Bismarck *Department of Public Works*

## MEMORANDUM

TO: Jason Tomanek – Assistant City Administrator

FROM: Jeff Heintz – Public Works Service Operations Director 

DATE: June 8, 2016

RE: Consent Agenda Item – Request Commission Approval to Accept Contract from J2 Studio for the City of Bismarck Police Station Storage Building Design, Contract Documents, Bidding, Contract and Construction Administration

Please place on the June 14<sup>th</sup>, 2016, Board of City Commissioner meeting consent agenda the request for approval to accept the contract from J2 Studio for the City of Bismarck Police Station Storage design and construction administration.

An RFQ was released in February of 2016 and a review committee selected J2 Studio to provide architectural and design and construction consulting needs for this project.

We have been working with J2 Studio to create a contract for this portion of the project which is attached for your review prior to the commission meeting. This contract is for the Design, Contract Documents, Bidding and Contract Administration for the Police Department Storage Building for the Impound Site and its site modifications. This building will allow separation of general storage from Evidence storage to simplify access for maintenance staff and to provide greater flexibility in storing large items of evidence such as vehicles when they need to be stored inside. The services include structural engineering for the foundation and framing, electrical engineering for lighting and power and civil engineering for site development and storm water permit application. Adjustments to surfaced areas and fenced areas will be addressed as well.

This is a continuation of the space needs study recently completed in 2015 for storage for the Police Department.

The contract amount for this project is not to exceed \$27,880.

I will be present at the City Commission meeting to respond to questions the Board may have regarding this matter. Please contact me if you have questions or require additional information.



**AIA**<sup>®</sup>

# Document B105<sup>™</sup> – 2007

## **Standard Form of Agreement Between Owner and Architect for a Residential or Small Commercial Project**

**AGREEMENT** made as of the Sixth day of June in the year Two Thousand Sixteen  
*(In words, indicate day, month and year.)*

**BETWEEN** the Owner:  
*(Name, legal status, address and other information)*

City of Bismarck  
221 N. 5th Avenue  
Bismarck, ND 58501  
Telephone Number: (701) 355-1300

and the Architect:  
*(Name, legal status, address and other information)*

J2 Studio Architecture + Design, PC  
925 Basin Avenue, Suite #5  
Bismarck, ND 58504  
Telephone Number: (701) 255-1622  
Fax Number: (701) 223-8927

for the following Project:  
*(Name, location and detailed description)*

City of Bismarck Police Station Storage Building Study  
700 South 9th Street  
Bismarck, ND 58504

Design, Contract Documents and Construction Administration for the new cold storage building to be constructed near the existing evidence storage building. New cold storage building shall be approximately 3,200 SF with a storage mezzanine of approximately 450 SF

The Owner and Architect agree as follows.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

State or local law may impose requirements on contracts for home improvements. If this document will be used for Work on the Owner's residence, the Owner should consult local authorities or an attorney to verify requirements applicable to this Agreement.

Init.

## ARTICLE 1 ARCHITECT'S RESPONSIBILITIES

The Architect shall provide architectural services for the Project as described in this Agreement in a manner consistent with locally accepted standards for professional skill and care. The Architect shall assist the Owner in determining consulting services required for the Project. The Architect's services include the following consulting services, if any:

Structural – CW Structural  
Electrical – Apex Engineering  
Civil - Swenson Hagen

During the Design Phase, the Architect shall review the Owner's scope of work, budget and schedule and reach an understanding with the Owner of the Project requirements. Based on the approved Project requirements, the Architect shall develop a design. Upon the Owner's approval of the design, the Architect shall prepare Construction Documents indicating requirements for construction of the Project and shall coordinate its services with any consulting services the Owner provides. The Architect shall assist the Owner in filing documents required for the approval of governmental authorities, in obtaining proposals and in awarding contracts for construction.

During the Construction Phase, the Architect shall act as the Owner's representative and provide administration of the Contract between the Owner and Contractor. The extent of the Architect's authority and responsibility during construction is described in AIA Document A105™–2007, Standard Form of Agreement Between Owner and Contractor for a Residential or Small Commercial Project. Generally, the Architect's services during construction include interpreting the Contract Documents, reviewing the Contractor's submittals, visiting the site, reviewing and certifying payments, and rejecting nonconforming Work.

## ARTICLE 2 OWNER'S RESPONSIBILITIES

The Owner shall provide full information about the objectives, schedule, constraints and existing conditions of the Project, and shall establish a budget that includes reasonable contingencies and meets the Project requirements. The Owner shall provide decisions and furnish required information as expeditiously as necessary for the orderly progress of the Project. The Architect shall be entitled to rely on the accuracy and completeness of the Owner's information. The Owner shall furnish consulting services not provided by the Architect, but required for the Project, such as surveying, which shall include property boundaries, topography, utilities, and wetlands information; geotechnical engineering; and environmental testing services. The Owner shall employ a Contractor, experienced in the type of Project to be constructed, to perform the construction Work and to provide price information.

## ARTICLE 3 USE OF DOCUMENTS

Drawings, specifications and other documents prepared by the Architect are instruments of the Architect's service and are for the Owner's use solely with respect to this Project. The Architect shall retain all common law, statutory and other reserved rights, including the copyright. Upon completion of the Project or termination of this Agreement, the Owner's right to use the instruments of service shall cease. When transmitting copyright-protected information for use on the Project, the transmitting party represents that it is either the copyright owner of the information, or has permission from the copyright owner to transmit the information for its use on the Project.

## ARTICLE 4 TERMINATION, SUSPENSION OR ABANDONMENT

In the event of termination, suspension or abandonment of the Project by the Owner, the Architect shall be compensated for services performed. The Owner's failure to make payments in accordance with this Agreement shall be considered substantial nonperformance and sufficient cause for the Architect to suspend or terminate services. Either the Architect or the Owner may terminate this Agreement after giving no less than seven days' written notice if the Project is suspended for more than 90 days, or if the other party substantially fails to perform in accordance with the terms of this Agreement.

## ARTICLE 5 MISCELLANEOUS PROVISIONS

This Agreement shall be governed by the law of the place where the Project is located. Terms in this Agreement shall have the same meaning as those in AIA Document A105–2007, Standard Form of Agreement Between Owner and Contractor for a Residential or Small Commercial Project. Neither party to this Agreement shall assign the contract as a whole without written consent of the other.

Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or the Architect.

The Architect and Architect's consultants shall have no responsibility for the identification, discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials in any form at the Project site.

#### ARTICLE 6 PAYMENTS AND COMPENSATION TO THE ARCHITECT

The Architect's Compensation shall be:

\$27,880; Lump Sum + Expenses. Refer to attached Fee Proposal.

The Owner shall pay the Architect an initial payment of Zero Dollars and Zero Cents (\$ 0.00) as a minimum payment under this Agreement. The initial payment shall be credited to the final invoice.

The Owner shall reimburse the Architect for expenses incurred in the interest of the Project, plus Ten percent ( 10.00 %).

Payments are due and payable upon receipt of the Architect's monthly invoice. Amounts unpaid Forty-five ( 45 ) days after the invoice date shall bear interest from the date payment is due at the rate of One and one-half percent ( 1.50 %) monthly, or in the absence thereof, at the legal rate prevailing at the principal place of business of the Architect.

At the request of the Owner, the Architect shall provide services not included in Article 1 for additional compensation. Such services may include providing or coordinating services of consultants not identified in Article 1; revisions due to changes in the scope, quality or budget; evaluating changes in the Work and Contractors' requests for substitutions of materials or systems; and services not completed within Twenty-four ( 24 ) months of the date of this Agreement through no fault of the Architect.

#### ARTICLE 7 OTHER PROVISIONS

*(Insert descriptions of other services and modifications to the terms of this Agreement.)*

1) Contract is for contract documents based on preliminary design developed in the study.

2) Insurance. Architect shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

a. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.

b. Professional errors and omissions, including that "tail coverage endorsement" which is currently carried by the Architect, with minimum liability limits of \$1,000,000 per occurrence and in the aggregate. If Architect changes carriers, then such tail coverage endorsement must be for a three year period of time.

c. Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.

d. Workers compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this contract.

3) Contract includes site survey and storm water management plan.

Init.

This Agreement entered into as of the day and year first written above.

OWNER

ARCHITECT

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

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

\_\_\_\_\_  
(Printed name and title)

James Devine, AIA, NCARB, LEED-AP, President

\_\_\_\_\_  
(Printed name and title)

Init.

## Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, James Devine, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 10:40:10 on 06/06/2016 under Order No. 3970743225\_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B105™ – 2007, Standard Form of Agreement Between Owner and Architect for a Residential or Small Commercial Project, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.



(Signed)

PRESIDENT

(Title)

6/6/16

(Dated)

# FEE PROPOSAL

June 6, 2016



City of Bismarck  
Police Station Storage Building  
Bismarck, North Dakota

Contract Documents, Bidding, Construction Administration

Architect	Lump Sum
Architecture - Lump Sum	\$10,500
<b>Total Architect :</b>	<b>\$10,500</b>
<b>Structural Engineer</b>	
Structural (lump sum)	\$7,920
<b>Total Structural Engineer</b>	<b>\$7,920</b>
<b>Mechanical Engineer</b>	
NOT INCLUDED	\$0
<b>Total Mechanical Engineer</b>	<b>\$0</b>
<b>Electrical Engineer</b>	
Electrical (Lump sum)	\$4,510
<b>Total Electrical Engineer</b>	<b>\$4,510</b>
<b>Civil Engineer</b>	
Civil (Lump sum)	\$4,950
<b>Total Electrical Engineer</b>	<b>\$4,950</b>
<b>Grand Total Design Services</b>	<b>\$27,880</b>
<b>Office Expenses</b>	<b>Total</b>
Printing, travel and office expenses (estimate)	\$500
<b>Subtotal Office Expenses:</b>	<b>\$500</b>

# *Bismarck* Department of Public Works

MEMORANDUM

TO: Jason Tomanek – Assistant City Administrator

FROM: Jeff Heintz – Public Works Service Operations Director



DATE: June 7, 2016

RE: Consent Agenda Item – Consider the request from the Burleigh County Water Resource District to provide a source for clay borrow to assist with their construction of permanent flood protection for the Missouri River Correctional Center and nearby residents from future Missouri River flood events

Please place on the June 14<sup>th</sup>, 2016 Board of City Commissioner meeting agenda the request from the Missouri River Correctional Center for the City of Bismarck to donate 53,400 cubic yards of clay to assist with their construction of the Missouri River flood protection for properties in south Bismarck

Michael Gunsch PE, Houston Engineering, Inc, working for the Burleigh County Water Resource District, contacted me in February, asking if the city would have suitable material for a clay embankment to help protect the detention center and residents south of Bismarck. I indicated that we may not be in a position to provide this material, but with our current expansion effort getting ready to start for the east end of cell #3 and the inert waste cell excavation underway, we could be in a position to allow them to have access to the material they need. Michael has provided a formal request today that lists the project and provides maps that illustrate the impact to the area with regards to flood impacts.

The clay would be excavated by the BCWD contractor at no cost to the city, using material that needs to be dug out of the next solid waste disposal cell and inert waste disposal cell. By allowing this material to be excavated and hauled at their cost, it saves our landfill customers and residents the expense occurred digging the future waste cell expansion. During the 2011 flood fight, we were able to have our west side of cell #3 excavated at no cost to the utility. Typical bid prices of excavation are \$3/cubic yard which would save the Solid Waste Utility

approximately \$160,200 in construction cost. Future pit construction will yield additional clay material that will not be needed in the operation or closure of the cells, yielding additional surplus.

I will be present at the City Commission meeting to respond to questions the Board may have regarding this matter. Please contact me if you have questions or require additional information.

# Technical Memorandum

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**To:** Jeff Heintz, Director of Service Operations, City of Bismarck  
Brad Wright, Bismarck City Engineering  
Dennis Reep Chairman BCWRD  
Greg Larson, BCWRD Manager

**From:** Michael H Gunsch PE, Houston Engineering, Inc.  
Senior Project Manager

**Subject:** City of Bismarck Landfill Clay Borrow

**Date:** June 8, 2016

**Project:** Missouri River Correctional Facility Flood Control Project  
Burleigh County Water Resource District

## INTRODUCTION

On June 19, 2015 residents within the designated assessment district, established by the Burleigh County Water Resource District (BCWRD), voted to approve a permanent flood control project to protect themselves and the Missouri River Correctional Center from future Missouri River flood events. The BCWRD is proceeding with project implementation with funding being provided through the North Dakota Department of Corrections, a direct legislative appropriation and special assessments. See attached briefing document that was provided to the North Dakota Legislative Water Topics Policy Committee. Our reason for contacting you is that the project requires imported clay fill materials which are not readily available near the construction site. We have had several discussions regarding this approach and general concurrence prior to bidding.

## REQUEST

The BCWRD opened bids on the project yesterday, with Weisz and Sons, being the apparent low bidder. The BCWRD intends to consider awarding the project at its meeting on June 15<sup>th</sup>, and the project is proceeding. Therefore, per our discussions and on behalf of the BCWRD we formally request approval to obtain the required clay materials from the City of Bismarck Landfill for this public project.

The project is estimated to require approximately 53,400 cubic yards of clay borrow. The clay materials from within the landfill area, as discussed, have characteristics suitable for the levee construction and are a viable source for such use. The contractors bid this project with the landfill as the source for their borrow material. As you know we did consider other alternatives in the area, however during the 2011 event it was difficult to locate any available clay materials.

The current construction schedule, pending final permit approval by the North Dakota State Engineer, is for construction to start is late June or early July and conclude in mid-November of 2016. The logistics for the contractor procedures for the removal of materials from the landfill and hauling requirements have been included in the project specifications, and are subject to City of Bismarck approval and site designation.

Please advise if you require additional information.



# **Burleigh County Water Resource District**

**1811 East Thayer Avenue  
Bismarck, North Dakota 58501  
(701) 222-3499  
[www.bcwrdd.org](http://www.bcwrdd.org)**

## ***Missouri River Correctional Center Flood Control Project Water Topics Policy Committee Briefing Document***

The Burleigh County Water Resource District (BCWRD) is proceeding with the design and construction of the Missouri River Correctional Center Flood Control Project (MRCC Project). This project has been progressing through the development process since the Missouri River Flood of 2011. The following is a summary of project events that have occurred.

1. The North Dakota State Engineer's office approved cost share fund to evaluate project alternatives and feasibility evaluation for the MRCC Flood Control Project after the request was submitted on August 15, 2012. The local cost for temporary flood control measures implemented in this area during the 2011 event was approximately \$2 Million.
2. This flood control project was established by action of the BCWRD November 12, 2013, as part of the Burleigh County Flood Control Plan (BCFCP), and is an extension of the 48<sup>th</sup> Avenue grade raise that is part of that plan. The BCFCP was prepared by the Burleigh County Highway Department, after consultation with the BCWRD, and approved by the Burleigh County Commission.
3. Several public informational meetings related to the project were held prior to the Board's resolution, including discussion on the Burleigh County Highway Department's 48<sup>th</sup> Avenue grade raise, which was completed as part of the overall BCFCP. The MRCC Flood Control Project Preliminary Engineering Report was prepared in accordance with NDCC 61-16.1 and noted its location, project costs and anticipated assessment district. This report was approved by the BCWRD on November 18, 2013 and notice of its completion mailed to the residents on November 20, 2013.
4. The 2013 North Dakota Legislature, recognizing the value of this project in providing flood protection to the Missouri River Correctional Center allocated \$349,950 toward project implementation and their share of the roadway grade raise into the facility. These funds remain available and will be requested and utilized for its completion.
5. A Public Hearing was held December 13, 2013 for the benefited landowners. The landowners were then given until January 13, 2014 to cast their votes. The vote failed with 46% in favor and 54% opposed – representing 68% of the total eligible votes. Discussions after the conclusion of this process determined that the vote failed in part due to unknowns associated with state cost participation levels and unrelated local issues. Notice was provided to the landowners on January 26, 2014 that the vote had failed and the project was de-authorized by the BCWRD.
6. The landowners subsequently discussed the project and joined together to file a petition with the BCWRD, received September 9, 2014, to re-establish this project. The signatory's on the petition represented 63% of the benefited properties within the original assessment district. The petition submittal occurred after following the receipt of a conditional cost share assistance letter from the North Dakota State Engineer.

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#### **Current Board Members:**

Terry Fleck, Chairman, Bismarck 223-9768    Dennis Reep, Vice Chairman, Bismarck 557-9621    Gordon Weixel, Secretary/Treasurer, Bismarck 258-5390  
Greg Larson, Manager, Bismarck 400-7217    Rick Detwiller, Manager, Bismarck 223-8782

7. The BCWRD reauthorized the MRCC Flood Control Project on December 9, 2014, followed by the Public Hearing May 19, 2015. The 2013 Preliminary Engineering Report was updated and published April 28, 2015, primarily to reflect changes since its original completion related to costs increasing. This second project vote was closed on July 19, 2015, with 62% voting in favor and 38% opposed – representing 78% of the total benefited properties. There are 154 parcels and rural residential properties (154) in the assessment district. The Missouri River Correctional Center is not included in this total and was not part of the assessment district voting process as they have a direct contribution to its construction.
8. The BCWRD has authorized Houston Engineering, Inc. to proceed with project design with the intent to advertise for bids in early 2016, followed by a spring construction start and fall completion.

The \$1.2 Million in funding allocated by the North Dakota Legislature in HB 2020 for the Missouri River Correctional Center Flood Control Project has been requested and received by the BCWRD. The BCWRD has placed these funds into a separate project account and upon project completion, or as requested, will provide an accounting for the use of these funds. The current opinion of probable project cost is \$1.7 million, and is subject to market and bidding conditions in 2016.

Respectfully,



Terry Fleck, Chairman

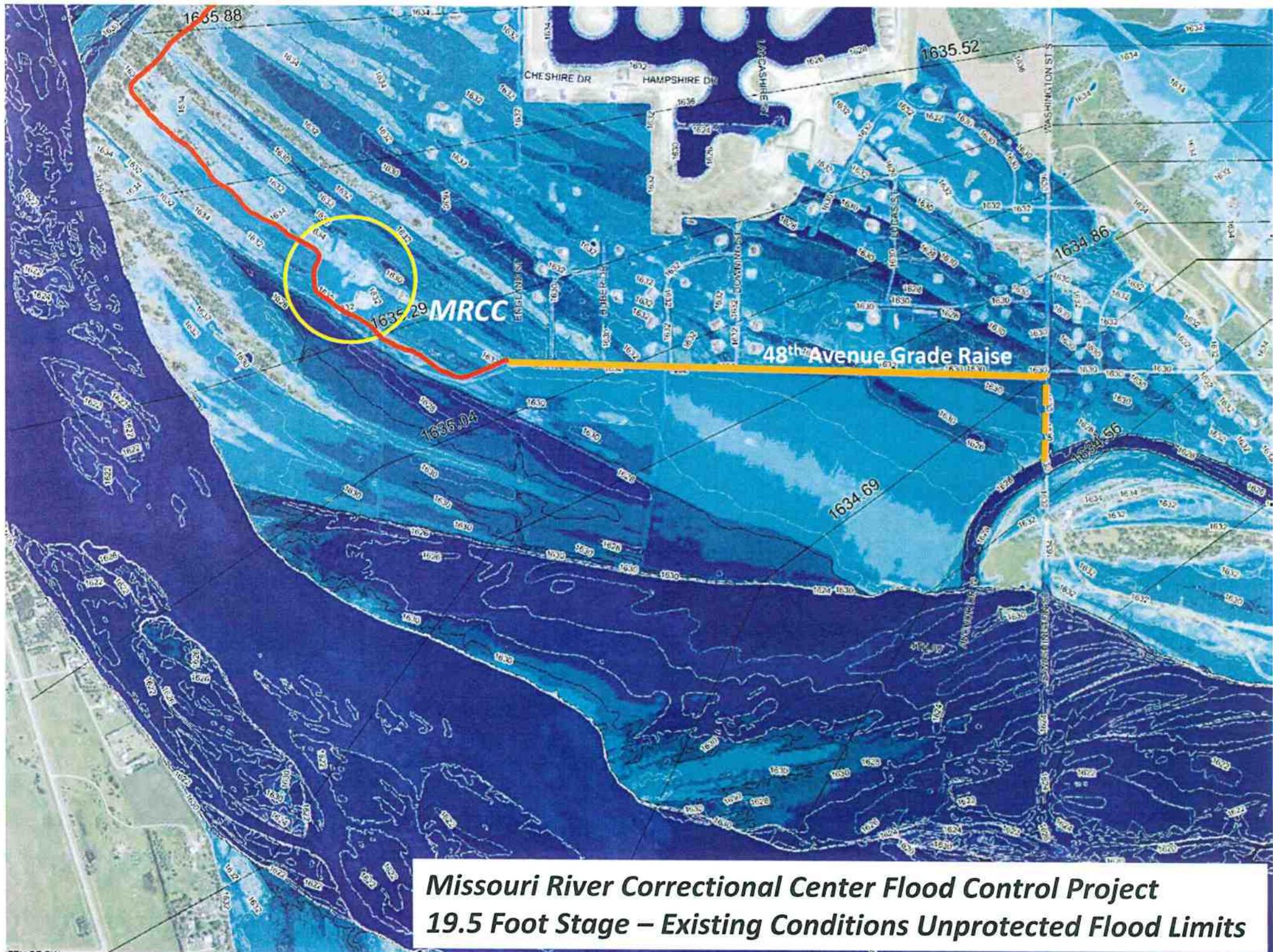
- ✓ 2009 Ice Jam Flood Aerial
- ✓ 2011 Flood Extents without protection
- ✓ 2011 Project Limits and protected area
- ✓ 2011 Assessment District Area

# MRCC – Department of Corrections Property

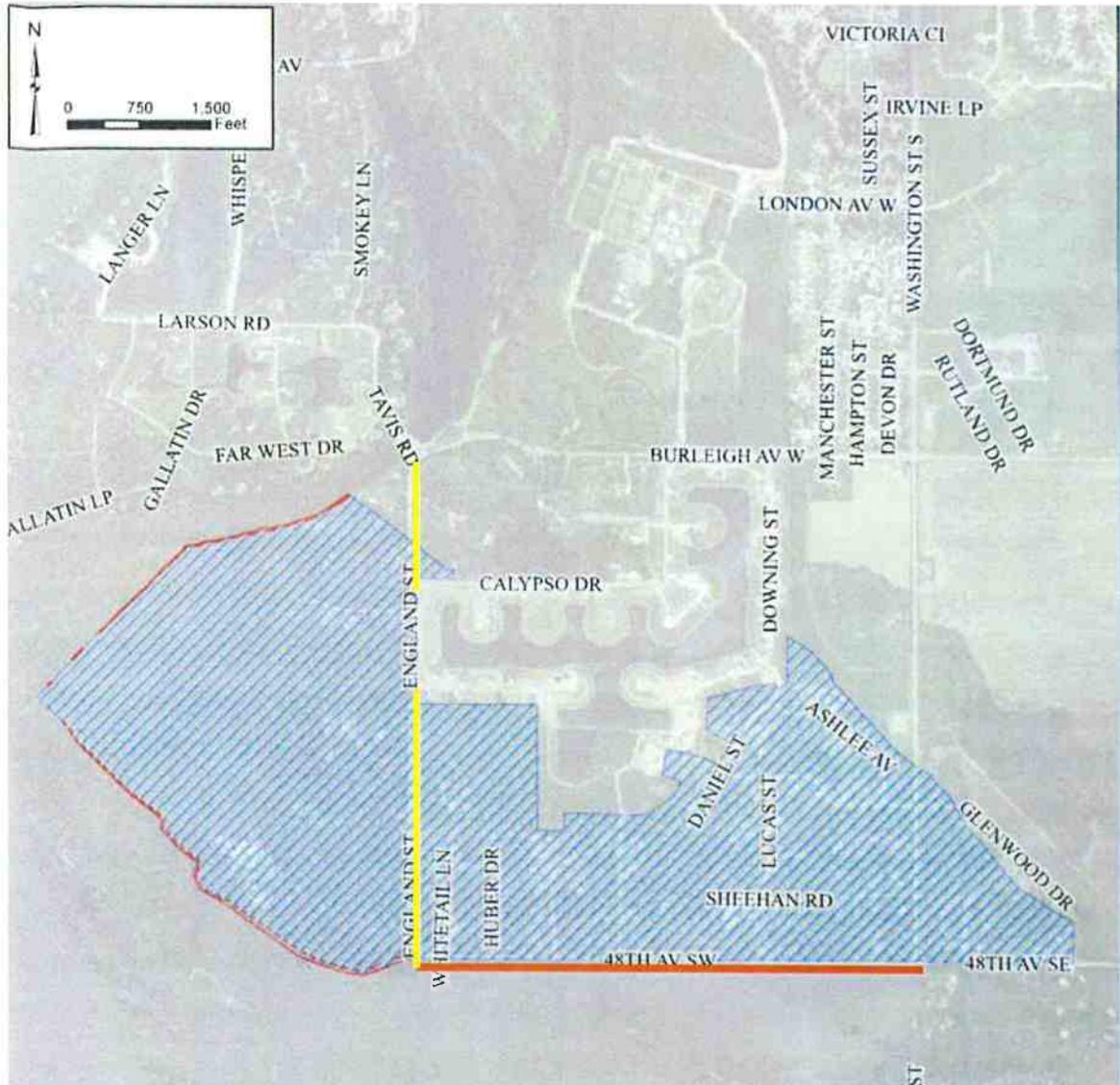


Date: 25MAR09  
TOT: 13412  
Location: South of Bismarck, ND  
Latitude: N 46° 44.87' / Longitude: W 100° 50.59'  
Object: Missouri River





**Missouri River Correctional Center Flood Control Project  
19.5 Foot Stage – Existing Conditions Unprotected Flood Limits**



# Missouri River Correctional Center Protection Area

*Assessed Properties based on  
extent of 2011 Flood Boundary  
and Benefit.*

- 2011 Temporary Levee
- #24 - 48<sup>th</sup> Avenue Grade Raise (2014)

**Legend**

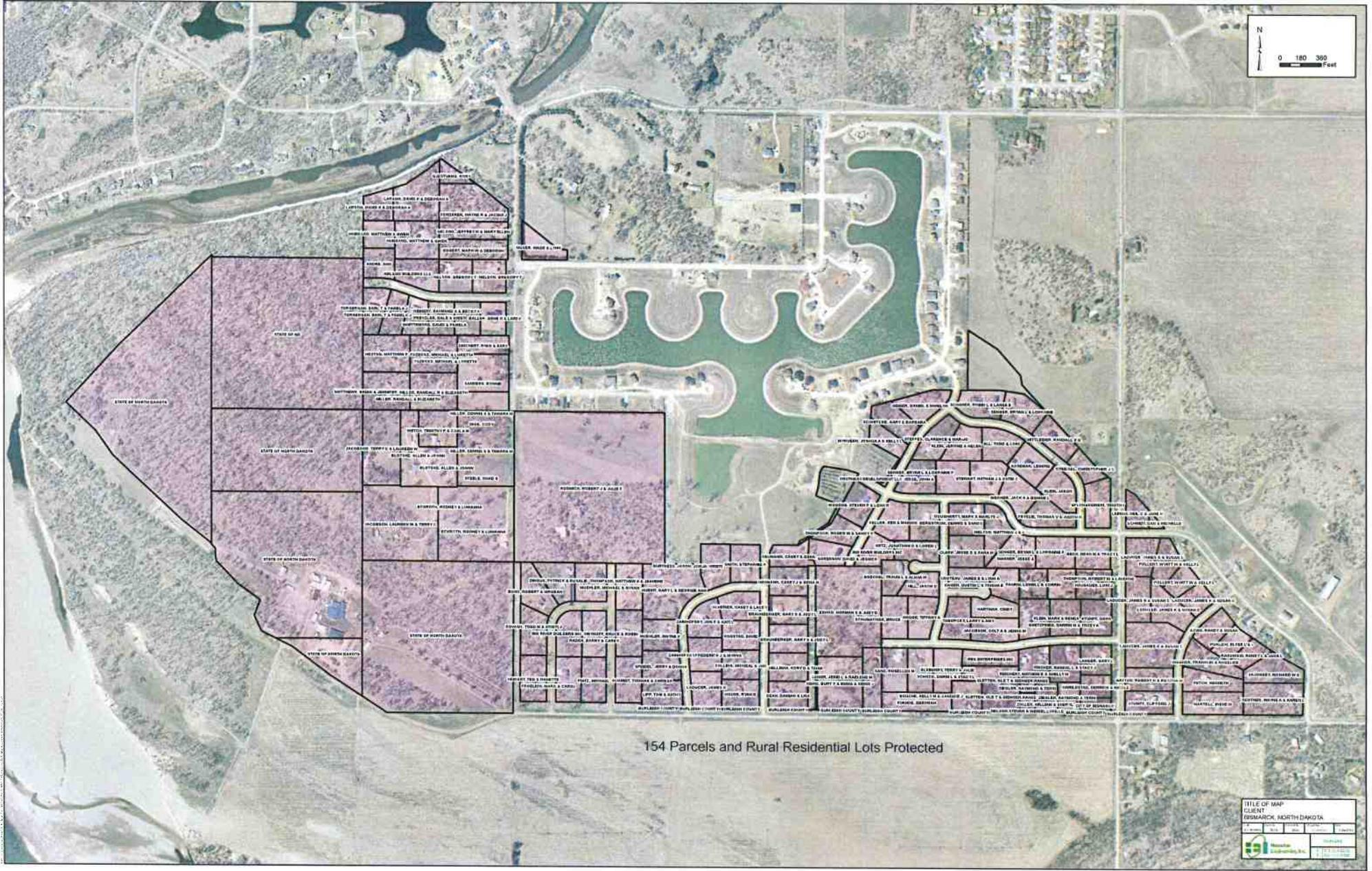
- Protected Area 1635.65
- MRCC Levee

**FIGURE 5 - MRCC LEVEE PROTECTION AREA**

Scale	Drawn By	Checked By	Project No.	Date
AS SHOWN	NRC	MWD	8025-012	7/18/2013

Nevada  
Engineering Inc.

Bentley  
 P: 702.523.0205  
 F: 702.523.0109



154 Parcels and Rural Residential Lots Protected

TITLE OF MAP  
CLIENT  
BISMARCK, NORTH DAKOTA

DATE	PROJECT	SCALE

# *Bismarck* Department of Public Works

## MEMORANDUM

TO: Jason Tomanek – Assistant City Administrator

FROM: Jeff Heintz – Public Works Service Operations Director 

DATE: June 8, 2016

RE: Consent Agenda Item – Request Commission Approval to Accept Contract from Architectural Concepts Inc. for the City of Bismarck Library Re-Roofing, Exterior Insulation and Finish System and Window Replacement

Please place on the June 14<sup>th</sup>, 2016, Board of City Commissioner meeting consent agenda the request for approval to accept the contract from Architectural Concepts Inc. for the City of Bismarck Library re-roofing, exterior insulation and finish system and window replacement.

An RFQ was released and a review committee selected Architectural Concepts Inc. to provide evaluation of the existing roof and walls to determine the extent of moisture intrusion from the roof structure and walls of the building. The project will include replacement of the roofing materials and insulation and repair of structural members as determined by the report. The project also consists of replacement of clerestory windows and flashing assemblies between the upper and lower roof structures. The repair and correction of exterior walls will be determined by this report propose a similar or alternate material for the new wall finish. The exterior wall repair will be selected, detailed and bid as part of this project.

The contract amount for this project is 8.5% of the cost of the work plus \$28,800 for structural engineering evaluation.

I will be present at the City Commission meeting to respond to questions the Board may have regarding this matter. Please contact me if you have questions or require additional information.



# Document B101™ – 2007

## Standard Form of Agreement Between Owner and Architect

**AGREEMENT** made as of the Eighth day of June in the year Two Thousand and Sixteen  
(In words, indicate day, month and year.)

**BETWEEN** the Architect's client identified as the Owner:  
(Name, legal status, address and other information)

City of Bismarck  
221 North 5th Street  
Fourth Floor  
P.O. Box 5503  
Bismarck, ND 58506-5503  
Telephone Number: 701-355-1300  
Fax Number: 701-222-6470

and the Architect:  
(Name, legal status, address and other information)

Architectural Concepts Inc.  
122 East Main Avenue  
Suite 202  
Bismarck, ND 58501  
Telephone Number: 701-255-3057  
Fax Number: 701-255-3062

for the following Project:  
(Name, location and detailed description)

Bismarck Veterans Memorial Public Library Re-Roofing, Exterior Insulation and Finish System and Window Replacement  
515 North 5th Street  
Bismarck, North Dakota 58501

This project consists of evaluation of the existing roof and walls to determine the extent of moisture intrusion from the roof structure and walls of the building. The project will include replacement of the roofing materials and insulation and repair of structural members as determined by the report. The project also consists of replacement of clerestory windows and flashing assemblies between the upper and lower roof structures. The repair and correction of exterior walls will be determined by this report propose a similar or alternate material for the new wall finish. The exterior wall repair will be selected, details and bid as part of this project.

The Owner and Architect agree as follows.

### ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information:

*(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)*

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

.1 Commencement of construction date:

Fall of 2016

.2 Substantial Completion date:

Fall of 2017

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

Init.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:  
*(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)*

.1 General Liability

\$ 1,000,000.00 Each Occurrence  
\$ 2,000,000.00 General Aggregate

.2 Automobile Liability

Does not apply

.3 Workers' Compensation

Limits as required by the State of North Dakota

.4 Professional Liability

\$ 1,000,000.00 Per Occurrence  
\$ 1,000,000.00 Aggregate

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

Init.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.5 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

### § 3.2 SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

### § 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building

systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

#### § 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

#### § 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

##### § 3.5.1 GENERAL

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

##### § 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

*(Paragraphs deleted)*

§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

### § 3.6 CONSTRUCTION PHASE SERVICES

#### § 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2007, those modifications shall not affect the Architect’s services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor’s failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect’s negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect’s responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

#### § 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect’s response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

Init.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### § 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

### § 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

**§ 3.6.5 CHANGES IN THE WORK**

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

**§ 3.6.6 PROJECT COMPLETION**

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

**ARTICLE 4 ADDITIONAL SERVICES**

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

*(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)*

Additional Services	Responsibility <i>(Architect, Owner or Not Provided)</i>	Location of Service Description <i>(Section 4.2 below or in an exhibit attached to this document and identified below)</i>
§ 4.1.1 Programming (B202™-2009)	Not Provided	
§ 4.1.2 Multiple preliminary designs	Not Provided	

§ 4.1.3	Measured drawings	Not Provided	
§ 4.1.4	Existing facilities surveys	Not Provided	
§ 4.1.5	Site Evaluation and Planning (B203™-2007)	Not Provide	
§ 4.1.6	Building Information Modeling (E202™-2008)	Not Provided	
§ 4.1.7	Civil engineering	Not Provided	
§ 4.1.8	Landscape design	Not Provided	
§ 4.1.9	Architectural Interior Design (B252™-2007)	Not Provided	
§ 4.1.10	Value Analysis (B204™-2007)	Not Provided	
§ 4.1.11	Detailed cost estimating	Not Provided	
§ 4.1.12	On-site Project Representation (B207™-2008)	Not Provided	
§ 4.1.13	Conformed construction documents	Not Provided	
§ 4.1.14	As-Designed Record drawings	Not Provided	
§ 4.1.15	As-Constructed Record drawings	Architect	Section 4.2
§ 4.1.16	Post occupancy evaluation	Architect	Section 4.2
§ 4.1.17	Facility Support Services (B210™-2007)	Not Provided	
§ 4.1.18	Tenant-related services	Not Provided	
§ 4.1.19	Coordination of Owner's consultants	Not Provided	
§ 4.1.20	Telecommunications/data design	Not Provided	
§ 4.1.21	Security Evaluation and Planning (B206™-2007)	Not Provided	
§ 4.1.22	Commissioning (B211™-2007)	Not Provided	
§ 4.1.23	Extensive environmentally responsible design	Not Provided	
§ 4.1.24	LEED® Certification (B214™-2012)	Not Provided	
§ 4.1.25	Fast-track design services	Not Provided	
§ 4.1.26	Historic Preservation (B205™-2007)	Not Provided	
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	Not Provided	
§ 4.1.28	Structural Engineering	Architect	Section 4.2
§ 4.1.29			

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

See Exhibit "A"

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;

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- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of bidders or persons providing proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 Twelve ( 12 ) visits to the site by the Architect over the duration of the Project during construction
- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two ( 2 ) inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within Eighteen ( 18 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the

Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment

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of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 GENERAL

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

*(Paragraphs deleted)*

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

*(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)*

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

[ ] Other (Specify)

*(Paragraphs deleted)*

#### **ARTICLE 9 TERMINATION OR SUSPENSION**

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

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**ARTICLE 10 MISCELLANEOUS PROVISIONS**

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner’s rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect’s promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect’s materials shall not include the Owner’s confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner’s promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

**ARTICLE 11 COMPENSATION**

§ 11.1 For the Architect’s Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

8.5% of the cost of the Work

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows: *(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

4.1.28 – Structural Engineering Evaluation: \$ 28,800.00

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows: *(Insert amount of, or basis for, compensation.)*

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Negotiated prior to service.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Fifteen percent ( 15 %), or as otherwise stated below:

Hourly rates

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Schematic Design Phase	Fifteen	percent (	15	%)
Design Development Phase	Twenty	percent (	20	%)
Construction Documents Phase	Forty	percent (	40	%)
Bidding or Negotiation Phase	Five	percent (	5	%)
Construction Phase	Twenty	percent (	20	%)
<hr/>				
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

See Exhibit "B"

Employee or Category	Rate
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#### § 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent ( 10 %) of the expenses incurred.

#### § 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

The Architect shall be compensated entirely for the Phase of service in paragraph 11.5 for which the Architect is working at the time of termination.

#### § 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of Zero Dollars and no/100 (\$ 0.00 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.  
*(Insert rate of monthly or annual interest agreed upon.)*

1.5 % monthly

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

#### ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

The City of Bismarck shall reserve the right to negotiate for future services as necessary to complete implementation of the exterior water intrusion report. Including and not limited to additional design related services.

#### ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
  
- .3 Other documents:  
*(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)*

Exhibit "A" Description of Additional Services  
Exhibit "B" Hourly Rates and reimbursable expenses

This Agreement entered into as of the day and year first written above.

OWNER

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

\_\_\_\_\_  
*(Printed name and title)*

ARCHITECT

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

Richard Bohrer, President

\_\_\_\_\_  
*(Printed name and title)*

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# Additions and Deletions Report for AIA® Document B101™ – 2007

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 00:06:56 on 06/08/2016.

## PAGE 1

**AGREEMENT** made as of the Eighth day of June in the year Two Thousand and Sixteen

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City of Bismarck  
221 North 5th Street  
Fourth Floor  
P.O. Box 5503  
Bismarck, ND 58506-5503  
Telephone Number: 701-355-1300  
Fax Number: 701-222-6470

*(Name, legal status, address and other information)*

Architectural Concepts Inc.  
122 East Main Avenue  
Suite 202  
Bismarck, ND 58501  
Telephone Number: 701-255-3057  
Fax Number: 701-255-3062

...

Bismarck Veterans Memorial Public Library Re-Roofing, Exterior Insulation and Finish System and Window Replacement

515 North 5th Street  
Bismarck, North Dakota 58501

This project consists of evaluation of the existing roof and walls to determine the extent of moisture intrusion from the roof structure and walls of the building. The project will include replacement of the roofing materials and insulation and repair of structural members as determined by the report. The project also consists of replacement of clerestory windows and flashing assemblies between the upper and lower roof structures. The repair and correction of exterior walls will be determined by this report propose a similar or alternate material for the new wall finish.

The exterior wall repair will be selected, details and bid as part of this project.

## PAGE 2

Fall of 2016

...

Fall of 2017

PAGE 3

\$ 1,000,000.00 Each Occurrence  
\$ 2,000,000.00 General Aggregate

...

Does not apply

...

Limits as required by the State of North Dakota

...

\$ 1,000,000.00 Per Occurrence  
\$ 1,000,000.00 Aggregate

PAGE 6

**§ 3.5.3 NEGOTIATED PROPOSALS**

~~§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.~~

~~§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by~~

- ~~1 procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;~~
- ~~2 organizing and participating in selection interviews with prospective contractors; and~~
- ~~3 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.~~

PAGE 8

§ 4.1.1	Programming (B202™-2009)	<u>Not Provided</u>	
§ 4.1.2	Multiple preliminary designs	<u>Not Provided</u>	
§ 4.1.3	Measured drawings	<u>Not Provided</u>	
§ 4.1.4	Existing facilities surveys	<u>Not Provided</u>	
§ 4.1.5	Site Evaluation and Planning (B203™-2007)	<u>Not Provide</u>	
§ 4.1.6	Building Information Modeling (E202™-2008)	<u>Not Provided</u>	
§ 4.1.7	Civil engineering	<u>Not Provided</u>	
§ 4.1.8	Landscape design	<u>Not Provided</u>	
§ 4.1.9	Architectural Interior Design (B252™-2007)	<u>Not Provided</u>	
§ 4.1.10	Value Analysis (B204™-2007)	<u>Not Provided</u>	
§ 4.1.11	Detailed cost estimating	<u>Not Provided</u>	
§ 4.1.12	On-site Project Representation (B207™-2008)	<u>Not Provided</u>	
§ 4.1.13	Conformed construction documents	<u>Not Provided</u>	
§ 4.1.14	As-Designed Record drawings	<u>Not Provided</u>	
§ 4.1.15	As-Constructed Record drawings	<u>Architect</u>	<u>Section 4.2</u>
§ 4.1.16	Post occupancy evaluation	<u>Architect</u>	<u>Section 4.2</u>
§ 4.1.17	Facility Support Services (B210™-2007)	<u>Not Provided</u>	
§ 4.1.18	Tenant-related services	<u>Not Provided</u>	
§ 4.1.19	Coordination of Owner's consultants	<u>Not Provided</u>	
§ 4.1.20	Telecommunications/data design	<u>Not Provided</u>	

§ 4.1.21	Security Evaluation and Planning (B206™-2007)	<u>Not Provided</u>	
§ 4.1.22	Commissioning (B211™-2007)	<u>Not Provided</u>	
§ 4.1.23	Extensive environmentally responsible design	<u>Not Provided</u>	
§ 4.1.24	LEED® Certification (B214™-2012)	<u>Not Provided</u>	
§ 4.1.25	Fast-track design services	<u>Not Provided</u>	
§ 4.1.26	Historic Preservation (B205™-2007)	<u>Not Provided</u>	
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	<u>Not Provided</u>	
§ 4.1.28	Structural Engineering	<u>Architect</u>	Section 4.2
§ 4.1.29			

PAGE 9

See Exhibit "A"

PAGE 10

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 Twelve ( 12 ) visits to the site by the Architect over the duration of the Project during construction
- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two ( 2 ) inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within Eighteen ( 18 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

PAGE 13

## § 8.2 MEDIATION

~~§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.~~

~~§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~

~~§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.~~

...

Litigation in a court of competent jurisdiction

~~§ 8.3 ARBITRATION~~

~~§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

~~§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

~~§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 8.3.4 CONSOLIDATION OR JOINDER~~

~~§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.~~

8.5% of the cost of the Work

...

4.1.28 – Structural Engineering Evaluation: \$ 28,800.00

Negotiated prior to service.

§ 11.4 Compensation for Additional Services of the Architect’s consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Fifteen percent ( 15 %), or as otherwise stated below:

Hourly rates

...

Schematic Design Phase	<u>Fifteen</u>	percent (	<u>15</u>	%)
Design Development Phase	<u>Twenty</u>	percent (	<u>20</u>	%)
Construction Documents Phase	<u>Forty</u>	percent (	<u>40</u>	%)
Bidding or Negotiation Phase	<u>Five</u>	percent (	<u>5</u>	%)
Construction Phase	<u>Twenty</u>	percent (	<u>20</u>	%)

...

See Exhibit "B"

**PAGE 17**

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent ( 10 %) of the expenses incurred.

...

The Architect shall be compensated entirely for the Phase of service in paragraph 11.5 for which the Architect is working at the time of termination.

...

§ 11.10.1 An initial payment of Zero Dollars and no/100 (\$ 0.00.) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

...

1.5 % monthly

...

The City of Bismarck shall reserve the right to negotiate for future services as necessary to complete implementation of the exterior water intrusion report. Including and not limited to additional design related services.

...

Exhibit "A" Description of Additional Services  
Exhibit "B" Hourly Rates and reimbursable expenses

**PAGE 18**

Richard Bohrer, President

## Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Richard Bohrer, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 00:06:56 on 06/08/2016 under Order No. 6775512819\_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2007, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

  
(Signed)

**PRESIDENT**  
(Title)

**06/08/16**  
(Dated)

# **AIA Document B101 – 2007 EXHIBIT A**

## *Description of Additional Services*

### **4.1.15 As-Constructed Record Drawings**

The Architect will provide at the project closeout As-Constructed Record Drawings. The record drawings will be completed by the Contractor and submitted by Contractor to the Architect and the Architect's subconsultants. The Architect will complete and submit to the Owner a digital (pdf) copy and hard copy for the Owner's Record. The Architect will not warrant that the Record Drawings are complete and accurate.

### **4.1.16 Post Occupancy Evaluation**

The Architect will provide a Post Occupancy Evaluation prior to the one year contractor warranty period.

### **4.1.28 Structural Engineering**

We understand the project scope to include an initial analysis of the existing building structure for support of a new roof system. The existing roof construction consists of metal building type z-purlins supported by custom built steel trusses (approximately 26 total) and steel columns. The lateral load resisting system for the building is unknown and will not be further analyzed. After analysis of the steel trusses, any deficient members and connections will be identified and reported.

This proposal assumes we must be provided all member sizing, geometry and member connection information to perform our work. This information is likely on the steel shop drawings supplied for the project. All information that is not provided to us via the shop drawings or otherwise must be obtained and any effort by CWSTRUCTURAL will be agreed upon and compensated for as Additional Services.

Our Lump Sum Fee does NOT include field measurements and data collection regarding the truss member orientations, connections, etc. CWSTRUCTURAL does not have the equipment required to safely access the heights necessary and portions of the structure are not exposed to view or accessible at this time. If access to all the exposed structural members and their connections can be provided, CWSTRUCTURAL can coordinate the effort needed to obtain the required information, however, additional time and expense will be incurred. A separate proposal can be generated for this work based on

a Lump Sum or on a Time-and-Material basis once the scope of this work has been determined. Our proposed fee also does NOT include analysis of the lateral load resisting system for the building as indicated.

Once the deficient structural members and their connections are identified through the initial analysis, we can provide a fee proposal to design and prepare Construction Documents for reinforcing the structural deficiencies. Our Lump Sum Fee for the initial analysis and reporting phase also does NOT include any work associated with reinforcing or retrofitting the existing structure including its members or their connections in any way to support the new proposed load should our analysis deem it necessary. This includes study, design and preparation of Construction Documents and associated Construction Administration.

Our initial Lump Sum Fee also does NOT include any work associated with reconditioning the existing structure including its members or their connections due to corrosion as a result of past years of roof leakage. Any work associated with reinforcing or retrofitting the existing structure including study, design and preparation of Construction Documents and Construction Administration shall be considered Additional Services and shall be compensated for based on an agreed upon Lump Sum Fee or on a Time-and-Material basis.

## **AIA Document B101 – 2007 EXHIBIT B**

### *Hourly Rate Schedule for Architect and Architect's Consultants:*

#### **Architectural Concepts Inc.**

Principle Architect	\$ 150.00
Senior Project Manager	\$ 125.00
Project Designer/CADD Support	\$ 95.00
Administrative Support	\$ 65.00

#### **CW Structural Engineering**

Principle Project Structural Engineer	\$ 145.00
Senior Project Structural Engineer	\$ 140.00
CADD Project Manager	\$ 100.00
CADD Technician II	\$ 80.00
Clerical/Administrative Assistant	\$ 60.00

### *Reimbursable Expenses:*

#### **REIMBURSABLE EXPENSES**

Equipment/Lift Rental and labor to operate the lift for Forensic and Structural Survey	Cost + 15%
Fees/Permits	Cost + 15%
Postage/Delivery/Shipping	Cost + 15%
Project Printing Costs	Cost + 15%

### *Items Provide by Owner:*

Existing Architectural and Engineering Drawings  
Structural Shop Drawings of Existing Roof structural members.  
This proposal assumes we must be provided all member sizing,  
geometry and member connection information to perform our work



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/8/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Bain Agency, Inc. 1500 E Capitol Ave Bismarck ND 58501	CONTACT NAME: Donna Breidenbach	
	PHONE (A/C No. Ext): (701) 223-2233 FAX (A/C No.): (701) 223-0284 E-MAIL ADDRESS: donna@bainagency.com	
INSURED Architectural Concepts, Inc. 122 E. Main Avenue Ste 202 Bismarck ND 58501	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: State Auto Insurance Companies	
	INSURER B: National Casualty Co	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER: CL1641200779 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		BOP2170198	3/26/2016	3/26/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> SCHEDULED <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	BOP2170198	3/26/2016	3/26/2017	<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional Liability		ARO0004607	5/21/2015	5/21/2016	Each Claim 1,000,000 Annual Aggregate 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 Evidence of Liability Insurance for project "Bismarck Veterans Memorial Public Library Exterior Repairs".

<b>CERTIFICATE HOLDER</b>  City of Bismarck 221 N 5th Street P O Box 5503 Bismarck, ND 58506-5503	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  Donna Breidenbach/DB 

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# Bismarck *Department of Public Works*

## MEMORANDUM

To: Jason Tomanek  
Assistant City Administrator

From: Michelle Klose, P.E.  
Director of Utility Operations

Date: June 7, 2016

Re: AGENDA ITEM – Approval of Engineering Services Agreement for Design and Construction Support for Storm Water System Repair and Correction Projects

Please schedule this item for consideration by the Board of City Commissioners at their meeting on Tuesday, June 14th.

Recently we issued a request for proposals for engineering services to provide design and construction support for projects to make repairs and corrections to the City's storm water system. We received four proposals that were evaluated by a selection committee. Advanced Engineering and Environmental Services (AE2S) was the selection committee's recommendation to perform this work.

A proposed engineering agreement is attached. The agreement has a term of one year with an option to renew the agreement for an additional year. The work under this agreement will be performed at the request of the City and will be billed on an hourly basis. The agreement has a maximum contract amount of \$104,300 during the first year for the work to assist in identifying and prioritizing projects, design and completion of plans and specifications for selected projects. The contract will be amended to provide funding for construction support services after the scope of the construction projects has been defined.

We request that the Commission authorize us to enter into this agreement with AE2S to complete this work. This work will be funded from the Storm Water Utility.

I will be available at the meeting to answer any questions the Commission might have.

Cc: Keith Hunke  
Charlie Whitman  
Gabe Schell



**CONTRACT REVIEW FORM**

**DEPARTMENT**

Contract between the City of Bismarck and Advanced Engineering and Environmental

Purpose of Contract: Stormwater repair projects for 2016

Contract Amount: \$ 104,300.00

Contract Period: 6/14/2016 thru 6/14/2017

Funding Source: 675-680-676-4310.200

Project Number: (If needed, send copy to Fiscal Services)

Comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

After Mayor's Signature, route to: Michelle Klose Date: 6/8/2016

Department Head Signature: Michelle Klose Date: 6/8/16

**CITY ATTORNEY**

Comments:

\_\_\_\_\_  
\_\_\_\_\_

City Attorney Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**FINANCE**

Comments:

\_\_\_\_\_  
\_\_\_\_\_

Director of Finance Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**ADMINISTRATION**

Date: \_\_\_\_\_

City Administrator Signature: \_\_\_\_\_

**ATTENTION:**

Attach a signature flag at each place you want the Mayor to sign.  
Please send copy of completed contracts to Administration.



STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of June 14, 2016 (“Effective Date”) City of Bismarck, 221 North 5<sup>th</sup> Street, Bismarck, ND 58501 (“OWNER”) and Advanced Engineering and Environmental Services, Inc., 1815 Schafer Street, Suite 301, Bismarck, ND 58501 (“ENGINEER”).

OWNER retains ENGINEER to perform preliminary engineering, final design, and bid related professional services in connection with stormwater repair and correction projects, all components together make the “Project”, as further described in Exhibit E. OWNER and ENGINEER in consideration of their mutual covenants as set forth herein agree as follows:

## ARTICLE 1 - SERVICES OF ENGINEER

---

### 1.01 Scope

A. ENGINEER shall provide the Basic and Additional Services set forth herein and in Exhibits A and E.

B. Upon this Agreement becoming effective, ENGINEER is authorized to begin Basic Services as set forth in Exhibit A.

C. If authorized by OWNER, ENGINEER shall furnish Resident Project Representative(s) with duties, responsibilities and limitations of authority as set forth in Exhibit D.

## ARTICLE 2 - OWNER'S RESPONSIBILITIES

---

### 2.01 General

A. OWNER shall have the responsibilities set forth herein and in Exhibit B.

## ARTICLE 3 - TIMES FOR RENDERING SERVICES

---

### 3.01 General

A. ENGINEER's services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion. Unless specific periods of time or specific dates for providing services are specified in this Agreement, ENGINEER's obligation to render services hereunder will be for a period which may reasonably be required for the completion of said services.

B. If in this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or dates are changed through no fault of ENGINEER, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If OWNER has requested changes in the scope, extent, or character of the Project, the time of performance of ENGINEER's services shall be adjusted equitably.

C. For purposes of this Agreement the term "day" means a calendar day of 24 hours.

### 3.02 Suspension

A. If OWNER fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, or if ENGINEER's services are delayed through no fault of ENGINEER, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement.

B. If ENGINEER's services are delayed or suspended in whole or in part by OWNER, or if ENGINEER's services are extended by Contractor's actions or inactions for more than 90 days through no fault of ENGINEER, ENGINEER shall be entitled to equitable adjustment of rates and amounts of compensation provided for elsewhere in this Agreement to reflect, reasonable costs incurred by ENGINEER in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised.

## ARTICLE 4 - PAYMENTS TO ENGINEER

---

### 4.01 Methods of Payment for Services and Reimbursable Expenses of ENGINEER

A. *For Basic Services.* OWNER shall pay ENGINEER for Basic Services performed or furnished under Exhibit A, Part 1, as set forth in Exhibit C.

B. *For Additional Services.* OWNER shall pay ENGINEER for Additional Services performed or furnished under Exhibit A, Part 2, as set forth in Exhibit C.

C. *For Reimbursable Expenses.* In addition to payments provided for in paragraphs 4.01.A and 4.01.B, OWNER shall pay ENGINEER for Reimbursable Expenses incurred by ENGINEER and ENGINEER's Consultants as set forth in Exhibit C.

### 4.02 Other Provisions Concerning Payments

A. *Preparation of Invoices.* Invoices will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER, unless otherwise agreed. The amount billed in each invoice will be calculated as set forth in Exhibit C.

B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If OWNER fails to make any payment due ENGINEER for services and expenses within 30 days after receipt of ENGINEER's invoice therefor, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

C. *Disputed Invoices.* In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

D. *Payments Upon Termination.*

1. In the event of any termination under paragraph 6.06, ENGINEER will be entitled to invoice OWNER and will be paid in accordance with Exhibit C for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination.

2. In the event of termination by OWNER for convenience or by ENGINEER for cause, ENGINEER, in addition to invoicing for those items identified in paragraph 4.02.D.1, shall be entitled to invoice OWNER and shall be paid a reasonable amount for services and expenses directly attributable to termination, including those provided or incurred after the effective date of termination, including, but not limited to, reassignment of personnel, costs of terminating contracts with ENGINEER's Consultants, and other related close-out costs, using methods and rates for Additional Services set forth in Exhibit C.

E. *Records of ENGINEER's Costs.* Records of ENGINEER's costs pertinent to ENGINEER's compensation under this Agreement shall be kept in accordance with generally accepted accounting practices. To the extent necessary to verify ENGINEER's charges and upon OWNER's timely request, copies of such records will be made available to OWNER at cost.

F. *Legislative Actions.* In the event of legislative actions after the Effective Date of the Agreement by any level of government that impose taxes, fees, or costs on ENGINEER's services or other costs in connection with this Project or compensation therefor, such new taxes, fees, or costs shall be invoiced to and paid by OWNER as a Reimbursable Expense to which a Factor of 1.0 shall be applied. Should such taxes, fees, or costs be imposed, they shall be in addition to ENGINEER's estimated total compensation.

G. *Adjustment of ENGINEER's Compensation:* If it becomes apparent to ENGINEER that the amount estimated in paragraph C4.01.A. in Exhibit C will be exceeded, ENGINEER shall give OWNER written notice thereof. Promptly thereafter OWNER and ENGINEER shall review the matter of services remaining to be performed and compensation for such services.

## ARTICLE 5 - OPINIONS OF COST

---

### 5.01 Opinions of Probable Construction Cost

A. ENGINEER's opinions of probable Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional generally familiar with the industry. However, since ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by ENGINEER. If OWNER wishes greater assurance as to probable Construction Cost, OWNER shall employ an independent cost estimator as provided in Exhibit B.

### 5.02 Designing to Construction Cost Limit

Not Used.

### 5.03 Opinions of Total Project Costs

A. ENGINEER assumes no responsibility for the accuracy of opinions of Total Project Costs.

## ARTICLE 6 - GENERAL CONSIDERATIONS

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### 6.01 Standards of Performance

A. The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

B. ENGINEER shall be responsible for the technical accuracy of its services and documents resulting therefrom, and OWNER shall not be responsible for discovering deficiencies therein.

C. ENGINEER shall perform or furnish professional engineering and related services in all phases of the Project to which this Agreement applies. ENGINEER shall serve as OWNER's prime professional for the Project. ENGINEER may employ such ENGINEER's Consultants, as ENGINEER deems necessary to assist in the performance or furnishing of the services. ENGINEER shall not be required to employ any ENGINEER's Consultant unacceptable to ENGINEER.

D. ENGINEER and OWNER shall comply with applicable Laws or Regulations and OWNER-mandated standards. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to OWNER's responsibilities or to ENGINEER's scope of services, times of performance, or compensation.

E. OWNER shall be responsible for, and ENGINEER may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by OWNER to ENGINEER pursuant to this Agreement. ENGINEER may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.

F. OWNER shall make decisions and carry out its other responsibilities in a timely manner and shall bear all costs incident thereto so as not to delay the services of ENGINEER.

G. Prior to the commencement of the Construction Phase, OWNER shall notify ENGINEER of any notice or certification that ENGINEER will be

requested to provide to OWNER or third parties in connection with the Project. OWNER and ENGINEER shall reach agreement on the terms of any such requested notice or certification, and OWNER shall authorize such Additional Services as are necessary to enable ENGINEER to provide the notices or certifications requested.

H. ENGINEER shall not be required to sign any documents, no matter by whom requested, that would result in the ENGINEER's having to certify, guarantee or warrant the existence of conditions whose existence the ENGINEER cannot ascertain. OWNER agrees not to make resolution of any dispute with the ENGINEER or payment of any amount due to the ENGINEER in any way contingent upon the ENGINEER's signing any such certification.

I. During the Construction Phase, ENGINEER shall not supervise, direct, or have control over Contractor's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work.

J. ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

K. ENGINEER shall not be responsible for the acts or omissions of any Contractor(s), subcontractor or supplier, or of any of the Contractor's agents or employees or any other persons (except ENGINEER's own employees) at the Site or otherwise furnishing or performing any of the Contractor's work; or for any decision made on interpretations or clarifications of the Contract Documents given by OWNER without consultation and advice of ENGINEER.

L. The General Conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (Document No. C-700, 2002 Edition), as may be modified by OWNER's standard specifications.

## 6.02 Authorized Project Representatives

A. Contemporaneous with the execution of this Agreement, ENGINEER and OWNER shall designate specific individuals to act as ENGINEER's and OWNER's representatives with respect to the services to be performed or furnished by ENGINEER and responsibilities of OWNER under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

## 6.03 Design without Construction Phase Services

A. Should OWNER provide Construction Phase services with either OWNER's representatives or a third party, ENGINEER's Basic Services under this Agreement will be considered to be completed upon completion of the Final Design or Bidding and Negotiating Phase as outlined in Exhibit A.

B. It is understood and agreed that if ENGINEER's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, and that such services will be provided by OWNER, then OWNER assumes all responsibility for interpretation of the Contract Documents and for construction observation or review and waives any claims against the ENGINEER that may be in any way connected thereto.

## 6.04 Use of Documents

A. All Documents are instruments of service in respect to this Project, and the ENGINEER and OWNER shall retain an ownership and property interest therein (including the right of reuse by the Engineer at his discretion) whether or not the Project is completed.

B. Copies of OWNER-furnished data that may be relied upon by ENGINEER are limited to the printed copies (also known as hard copies) that are delivered to the ENGINEER pursuant to Exhibit B. Files in electronic media format of text, data, graphics, or of other types that are furnished by OWNER to ENGINEER are only for convenience of ENGINEER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

C. Copies of Documents that may be relied upon by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of

OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

D. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. ENGINEER shall not be responsible to maintain documents stored in electronic media format after acceptance by OWNER.

E. When transferring documents in electronic media format, ENGINEER makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ENGINEER at the beginning of this Project.

F. OWNER may make and retain copies of Documents for information and reference in connection with use on the Project by OWNER. Such Documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's Consultants. OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's Consultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting therefrom.

G. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

H. Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

## 6.05 Insurance

A. ENGINEER shall maintain insurance coverage as set forth in Exhibit G "Insurance".

B. Not Used.

C. OWNER shall require Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause ENGINEER and ENGINEER's Consultants to be listed as additional insured with respect to such liability and other insurance purchased and maintained by Contractor for the Project.

D. Not Used.

E. Not Used.

F. At any time, OWNER may request that ENGINEER, at OWNER's sole expense, provide additional insurance coverage, increased limits, or revised deductibles. If so requested by OWNER, with the concurrence of ENGINEER, and if commercially available, ENGINEER shall obtain and shall require ENGINEER's Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by OWNER.

#### 6.06 Termination

A. The obligation to provide further services under this Agreement may be terminated:

1. *For cause,*

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

b. By ENGINEER:

1) upon seven days written notice if ENGINEER believes that ENGINEER is being requested by OWNER to furnish or perform services contrary to ENGINEER's responsibilities as a licensed professional; or

2) upon seven days written notice if the ENGINEER's services for the Project are delayed or suspended for more than 90 days for reasons beyond ENGINEER's control.

3) ENGINEER shall have no liability to OWNER on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of such substantial failure if the party receiving

such notice begins, within seven days of receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. *For convenience,*

a. By OWNER effective upon the receipt of notice by ENGINEER.

B. The terminating party under paragraphs 6.06.A.1 or 6.06.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow ENGINEER to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

#### 6.07 Controlling Law

A. This Agreement is to be governed by the law of the state of North Dakota.

#### 6.08 Successors, Assigns, and Beneficiaries

A. OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 6.08.B the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

B. Neither OWNER nor ENGINEER may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by OWNER or ENGINEER to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party. The OWNER agrees that the substance of the provisions of this paragraph 6.08.C shall appear in the Contract Documents.

#### 6.09 Dispute Resolution

Not Used.

#### 6.10 Hazardous Environmental Condition

A. OWNER represents to Engineer that to the best of its knowledge a Hazardous Environmental Condition does not exist.

B. OWNER has disclosed to the best of its knowledge to ENGINEER the existence of all Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Material located at or near the Site, including type, quantity and location.

C. If a Hazardous Environmental Condition is encountered or alleged, ENGINEER shall have the obligation to notify OWNER and, to the extent of applicable Laws and Regulations, appropriate governmental officials.

D. It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to a Hazardous Environmental Condition. In the event ENGINEER or any other party encounters a Hazardous Environmental Condition, ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

E. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become

an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the Site in connection with ENGINEER's activities under this Agreement.

F. If ENGINEER's services under this Agreement cannot be performed because of a Hazardous Environmental Condition, the existence of the condition shall justify ENGINEER's terminating this Agreement for cause on 30 days notice.

#### 6.11 Allocation of Risks

##### A. Indemnification

1. To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by the negligent acts or omissions of ENGINEER or ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants in the performance and furnishing of ENGINEER's services under this Agreement.

2. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by the negligent acts or omissions of OWNER or OWNER's officers, directors, partners, employees, and OWNER's consultants with respect to this Agreement or the Project.

##### 3. Not Used.

4. In addition to the indemnity provided under paragraph 6.11.A.2 of this Agreement, and to the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER and its officers, directors, partners, employees, and ENGINEER's Consultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution

costs) caused by, arising out of or resulting from a Hazardous Environmental Condition, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph 6.11.A.4. shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

#### 5. Not Used.

#### 6.12 Limit of Liability

A. To the fullest extent permitted by law, the total liability, in the aggregate, of ENGINEER and ENGINEER's officers, directors, partners, employees, agents, and ENGINEER's Consultants, and any of them, to OWNER and anyone claiming by, through, or under OWNER for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied, of ENGINEER or ENGINEER's officers, directors, partners, employees, agents, or ENGINEER's Consultants, or any of them (hereafter "OWNER's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to ENGINEER by ENGINEER's insurers in settlement or satisfaction of OWNER's Claims under the terms and conditions of ENGINEER's insurance policies applicable thereto up to the coverage amounts set forth in Exhibit G (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal).

#### 6.13 Notices

A. Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

#### 6.14 Survival

A. All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.

#### 6.15 Severability

A. Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

#### 6.16 Waiver

A. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

#### 6.17 Headings

A. The headings used in this Agreement are for general reference only and do not have special significance.

### ARTICLE 7 - DEFINITIONS

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#### 7.01 Defined Terms

A. Wherever used in this Agreement (including the Exhibits hereto) and printed with initial or all capital letters, the terms listed below have the meanings indicated, which are applicable to both the singular and plural thereof:

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Documents.

2. *Additional Services*--The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 2 of this Agreement.

3. *Agreement*--This "Standard Form of Agreement between OWNER and ENGINEER for Professional Services," including those Exhibits listed in Article 8 hereof.

4. *Application for Payment*--The form acceptable to ENGINEER which is to be used by Contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

5. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

6. *Basic Services*--The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 1, of this Agreement.

7. *Bid*--The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

8. *Bidding Documents*--The advertisement or invitation to Bid, instructions to bidders, the Bid form and attachments, the Bid bond, if any, the proposed Contract Documents, and all Addenda, if any.

9. *Change Order* -- A document recommended by ENGINEER, which is signed by Contractor and OWNER to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Construction Agreement.

10. *Construction Agreement*--The written instrument which is evidence of the agreement, contained in the Contract Documents, between OWNER and Contractor covering the Work.

11. *Construction Contract*--The entire and integrated written agreement between the OWNER and Contractor concerning the Work.

12. *Construction Cost*--The cost to OWNER of those portions of the entire Project designed or specified by ENGINEER. Construction Cost does not include costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

13. *Contract Documents*--Documents that establish the rights and obligations of the parties engaged in construction and include the Construction Agreement between OWNER and Contractor, Addenda (which pertain to the Contract

Documents), Contractor's Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the notice of award) when attached as an exhibit to the Construction Agreement, the notice to proceed, the bonds, appropriate certifications, the General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Construction Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Construction Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.

14. *Contract Price*--The moneys payable by OWNER to Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Construction Agreement.

15. *Contract Times*--The numbers of days or the dates stated in the Construction Agreement to: (i) achieve Substantial Completion, and (ii) complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of final payment.

16. *Contractor*--An individual or entity with whom OWNER enters into a Construction Agreement.

17. *Correction Period*--The time after Substantial Completion during which Contractor must correct, at no cost to OWNER, any Defective Work, normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Contract Documents.

18. *Defective*--An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment.

19. *Documents*--Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases

by ENGINEER to OWNER pursuant to this Agreement.

20. *Drawings*--That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.

21. *Effective Date of the Construction Agreement*--The date indicated in the Construction Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Construction Agreement is signed and delivered by the last of the two parties to sign and deliver.

22. *Effective Date of the Agreement*--The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

23. *ENGINEER's Consultants*--Individuals or entities having a contract with ENGINEER to furnish services with respect to this Project as ENGINEER's independent professional associates, consultants, subcontractors, or vendors. The term ENGINEER includes ENGINEER's Consultants.

24. *Field Order*--A written order issued by ENGINEER which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

25. *General Conditions*--That part of the Contract Documents which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by Contractor with respect to the Project.

26. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

27. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

28. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, standards, and

orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

29. *PCB's*--Polychlorinated biphenyls.

30. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

31. *Radioactive Materials*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

32. *Record Drawings*--The Drawings as issued for construction on which the ENGINEER, upon completion of the Work, has shown changes due to Addenda or Change Orders and other information which ENGINEER considers significant based on record documents furnished by Contractor to ENGINEER and which were annotated by Contractor to show changes made during construction.

33. *Reimbursable Expenses*--The expenses incurred directly by ENGINEER in connection with the performing or furnishing of Basic and Additional Services for the Project for which OWNER shall pay ENGINEER as indicated in Exhibit C.

34. *Resident Project Representative*--The authorized representative of ENGINEER, if any, assigned to assist ENGINEER at the Site during the Construction Phase. The Resident Project Representative will be ENGINEER's agent or employee and under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are as set forth in Exhibit D.

35. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

36. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by

Contractor to ENGINEER to illustrate some portion of the Work.

37. *Site*--Lands or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for use of Contractor.

38. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

39. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

40. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements the General Conditions.

41. *Total Project Costs*--The sum of the Construction Cost, allowances for contingencies, the total costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement.

42. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents with respect to this Project. Work includes and is the result of performing or furnishing labor, services, and documentation necessary to produce such construction and furnishing, installing, and incorporating all materials and all equipment into such construction, all as required by the Contract Documents.

43. *Work Change Directive*--A written directive to Contractor issued on or after the

Effective Date of the Construction Agreement and signed by OWNER upon recommendation of the ENGINEER, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

44. *Written Amendment*--A written amendment of the Contract Documents signed by OWNER and Contractor on or after the Effective Date of the Construction Agreement and normally dealing with the non-engineering or non-technical rather than strictly construction-related aspects of the Contract Documents.

**ARTICLE 8 - EXHIBITS AND SPECIAL PROVISIONS**

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amended, supplemented, modified, or canceled by a duly executed written instrument.

**8.01 Exhibits Included**

A. Exhibit A, "ENGINEER's Services," consisting of seven pages.

B. Exhibit B, "OWNER's Responsibilities," consisting of two pages.

C. Exhibit C, "Payments to Engineer for Services and Reimbursable Expenses," consisting of one page and Appendix 1 to Exhibit C, "2014 Hourly Fee and Expense Schedule" consisting of two pages.

D. Exhibit D, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative," consisting of four pages.

E. Exhibit E, "Project Description", consisting of two pages.

F. Exhibit F – Not used.

G. Exhibit G, "Insurance", consisting of one page.

**8.02 Total Agreement**

A. This Agreement (consisting of pages 1 to 13 inclusive, together with the Exhibits identified above) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may only be

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER:

\_\_\_\_\_

By: Mike Seminary

Title: President of Board of City Commissioners

Date Signed: \_\_\_\_\_

ATTEST: \_\_\_\_\_

Name: Keith Hunke

Title: City Administrator

Address for giving notices:

City of Bismarck

P.O. Box 5503

Bismarck, ND 58506-5503

Designated Representative (paragraph 6.02.A):

Terry Halstengard

Title: Stormwater Program Coordinator

Phone Number: (701) 355-1700

Facsimile Number: (701) 221-6840

E-Mail Address: thaltengard@bismarcknd.gov

ENGINEER:

\_\_\_\_\_

By: Jeffrey M. Hruby, PE

Title: Civil Practices Director

Date Signed: 6/8/16

ATTEST: \_\_\_\_\_

Name: Lisa Ansley, PE

Title: Operations Director

Address for giving notices:

Advanced Engineering and Environmental Services, Inc.

1815 Schafer Street, Suite 301

Bismarck, ND 58501

Designated Representative (paragraph 6.02.A):

Jeffrey M. Hruby, PE

Title: Civil Practices Director

Phone Number: (701) 221-0530

Facsimile Number: (701) 221-0531

E-Mail Address: jeff.hruby@ae2s.com

This is **EXHIBIT A**, consisting of seven pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated June 14, 2016.

## ENGINEER's Services

Article 1 of the Agreement is amended and supplemented to include the following agreement of the parties. ENGINEER shall provide Basic and Additional Services as set forth below.

### PART 1 -- BASIC SERVICES

#### A1.01 *Study and Report Phase – Not Used.*

#### A1.02 *Preliminary Design Phase*

##### A. ENGINEER shall:

1. Consult with OWNER to define and clarify OWNER's requirements for the Project and available data.
2. Advise OWNER as to the necessity of OWNER's providing data or services of the types described in Exhibit B which are not part of ENGINEER's Basic Services, and assist OWNER in obtaining such data and services.
3. Provide necessary field surveys and topographic and utility mapping for design purposes. Utility mapping will be based upon information obtained from utility owners.
4. Perform additional Preliminary Engineering Tasks: Refer to Project Description for such items in Exhibit E.

#### A1.03 *Design Phase*

##### A. Upon authorization from OWNER, ENGINEER shall:

1. Obtain required data and measurements for improvements included as part of this Agreement.
2. On the basis of the authorization, prepare final Drawings and Specifications for projects indicating the scope, extent, and character of the Work to be performed and furnished by Contractor. Specifications will be prepared, where appropriate, in general conformance with the Construction Specifications for Municipal Public Works Improvements, Bismarck, North Dakota.
3. Provide technical criteria, written descriptions, and design data for OWNER's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design for both Projects and assist OWNER in consultations with appropriate authorities.
4. Advise OWNER of the opinion of Total Project Costs known to ENGINEER.
5. Perform additional Final Design Tasks: Refer to Project Description for such items in Exhibit E.
6. Prepare and furnish Bidding Documents for review and approval by OWNER, its legal counsel, and other advisors, as appropriate.
7. Prepare and submit three final copies of the Bidding Documents and a revised opinion of probable Construction Cost to OWNER.

B. In the event that the Work designed or specified by ENGINEER is to be performed or furnished under more than one prime contract, or if ENGINEER's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), OWNER and ENGINEER shall, prior to commencement of the

Final Design Phase, develop a schedule for performance of ENGINEER's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.

C. The number of prime contracts for Work designed or specified by ENGINEER upon which the ENGINEER's compensation has been established is noted under Exhibit E.

D. ENGINEER's services under the Design Phase will be considered complete on the date when the submittals required by paragraph A1.03 have been delivered to OWNER.

#### A1.04 *Bidding or Negotiating Phase*

A. After acceptance by OWNER of the Bidding Documents and the most recent opinion of probable Construction Costs as determined in the Design Phase, and upon authorization by OWNER to proceed, ENGINEER shall:

1. Assist OWNER in advertising for and obtaining bids or negotiating proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, and attend pre-Bid conferences, if any.
2. Issue Addenda as appropriate to clarify, correct, or change the Bidding Documents.
3. Consult with OWNER as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by Contractor for those portions of the Work as to which such acceptability is required by the Bidding Documents.
4. Perform or provide the following additional Bidding or Negotiating Phase tasks or deliverables: None identified on the Effective Date of this Agreement.
5. Attend the Bid openings, prepare bid tabulation sheets, and assist OWNER in evaluating Bids or proposals and in assembling and awarding contracts for the Work.

B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective Contractors.

#### A1.05 *Construction Phase*

A. Upon successful completion of the Bidding and Negotiating Phase, and upon authorization from OWNER, ENGINEER shall:

1. *General Administration of Construction Contract.* Consult with OWNER and act as OWNER's representative as provided in the General Conditions. The extent and limitations of the duties, responsibilities and authority of ENGINEER as assigned in said General Conditions shall not be modified, except as ENGINEER may otherwise agree in writing. All of OWNER's instructions to Contractor will be issued through ENGINEER, who shall have authority to act on behalf of OWNER in dealings with Contractor to the extent provided in this Agreement and said General Conditions except as otherwise provided in writing.
2. *Resident Project Representative (RPR).* Provide the services of an RPR at the Site to assist the ENGINEER and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not extend ENGINEER's responsibilities or authority beyond the specific limits set forth elsewhere in this Agreement.
3. *Select Independent Testing Lab.* Assist OWNER in the selection of an independent testing laboratory to perform the services identified in paragraph B2.01.O.
4. *Pre-Construction Conference.* Participate in Pre-Construction Conferences prior to commencement of Work at the Sites.

5. *Baselines and Benchmarks.* As appropriate, establish baselines and benchmarks for locating the Work, which in ENGINEER's judgment are necessary to enable Contractor to proceed.

6. *Visits to Site and Observation of Construction.* In connection with observations of Contractor's work in progress while it is in progress:

a. Make visits to the Site at intervals appropriate to the various stages of construction, as ENGINEER deems necessary, in order to observe as an experienced and qualified design professional the progress and quality of the Work. Such visits and observations by ENGINEER, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress or to involve detailed inspections of Contractor's work in progress beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on ENGINEER's exercise of professional judgment as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and such observations, ENGINEER will determine in general if Contractor's work is proceeding in accordance with the Contract Documents, and ENGINEER shall keep OWNER informed of the progress of the Work.

b. The purpose of ENGINEER's visits to the Site will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by the exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by Contractor. ENGINEER shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, or for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

7. *Defective Work.* Recommend to OWNER that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, ENGINEER believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.

8. *Clarifications and Interpretations; Field Orders.* Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. ENGINEER may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.

9. *Change Orders and Work Change Directives.* Recommend Change Orders and Work Change Directives to OWNER, as appropriate, and prepare Change Orders and Work Change Directives as required.

10. *Shop Drawings and Samples.* Review and approve or take appropriate action with respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.

11. *Substitutes and "or-equal."* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of paragraph A2.01.A.13 of this Exhibit A.

12. *Inspections and Tests.* Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. ENGINEER's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. ENGINEER shall be entitled to rely on the results of such tests.

13. *Disagreements between OWNER and Contractor.* Render formal written decisions on all claims of OWNER and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of Contractor's work. In rendering such decisions, ENGINEER shall be fair and not show partiality to OWNER or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

14. *Applications for Payment.* Based on ENGINEER's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

a. Determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to OWNER, based on such observations and review, that, to the best of ENGINEER's knowledge, information and belief, Contractor's work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent test called for in the Contract Documents and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe Contractor's work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of Contractor's work (subject to any subsequent adjustments allowed by the Contract Documents). The responsibilities of ENGINEER contained in paragraph A1.05.A.6 are expressly subject to the limitations set forth in paragraph A1.05.A.6.b and other express or general limitations in this Agreement and elsewhere.

b. By recommending any payment, ENGINEER shall not thereby be deemed to have represented that observations made by ENGINEER to check the quality or quantity of Contractor's work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. Neither ENGINEER's review of Contractor's work for the purposes of recommending payments nor ENGINEER's recommendation of any payment including final payment will impose on ENGINEER responsibility to supervise, direct, or control Contractor's work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the work in progress, materials, equipment has passed to OWNER free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

15. *Contractor's Completion Documents.*

a. Receive and review maintenance and operating instructions, schedules, and guarantees.

b. Receive bonds, certificates, or other evidence of insurance not previously submitted and required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as provided under paragraph A1.05.A.10, and the annotated record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. The extent of such ENGINEER's review will be limited as provided in paragraph A1.05.A.10.

c. ENGINEER shall transmit these documents to OWNER.

16. *Substantial Completion.* Promptly after written notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with OWNER and Contractor, conduct an inspection to determine if the Work is Substantially Complete. If after considering any objections of OWNER, ENGINEER considers the Work Substantially Complete, ENGINEER shall deliver a Punch List of items to be completed and date of Substantial Completion to OWNER and Contractor.

17. *Additional Tasks.*

a. Preparing and furnishing to OWNER Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor.

18. *Final Notice of Acceptability of the Work.* Conduct a final inspection to determine if the completed Work of Contractor is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, ENGINEER shall also provide a notice that the Work is acceptable (subject to the provisions of paragraph A1.05.A.14.b) to the best of ENGINEER's knowledge, information, and belief and based on the extent of the services provided by ENGINEER under this Agreement.

B. *Duration of Construction Phase.* The Construction Phase will commence with the execution of the first Construction Agreement for the Project or any part thereof and will terminate upon written recommendation by ENGINEER for final payment to Contractors. If the Project involves more than one prime contract as indicated in paragraph A1.03.C, Construction Phase services may be rendered at different times in respect to the separate contracts.

C. *Limitation of Responsibilities.* ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing any of the Work. ENGINEER shall not be responsible for failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

A1.06 *Post-Construction Phase*

A. Upon authorization from OWNER, ENGINEER, during the Post-Construction Phase, shall:

1. Provide assistance in connection with the testing and adjusting Project Work.
2. Together with OWNER, visit the Project to observe any apparent defects in the Work, assist OWNER in consultations and discussions with Contractor concerning correction of any such defects, and make recommendations as to replacement or correction of Defective Work, if present.
3. In company with OWNER or OWNER's representative, provide an inspection of the Project before end of the Correction Period to ascertain whether any portion of the Work is subject to correction.

B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate at the end of the Correction Period.

A1.07 *Perform Additional Services as stated in Exhibit E.*

**PART 2 -- ADDITIONAL SERVICES**

A2.01 *Additional Services Requiring OWNER's Authorization*

A. If authorized by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the types listed below. These services will be paid for by OWNER as indicated in Article 4 of the Agreement.

1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER other than those required under basic services.
3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by ENGINEER or its design requirements including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of this Agreement or are due to any other causes beyond ENGINEER's control.
4. Services resulting from OWNER's request to evaluate additional Study and Report Phase alternative solutions beyond those identified in paragraph A1.01.A.4.
5. Services required as a result of OWNER's providing incomplete or incorrect Project information with respect to Exhibit B.
6. Providing renderings or models for OWNER's use.
7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting OWNER in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by OWNER.
8. Furnishing services of ENGINEER's Consultants for other than Basic Services.
9. Services attributable to more prime construction contracts than specified in paragraph A1.03.C.
10. Services during out-of-town travel required of ENGINEER other than for visits to the Site or OWNER's office.
11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by OWNER; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
12. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by OWNER for the Work or a portion thereof.
13. Determining the acceptability of substitute materials and equipment proposed during the Bidding or Negotiating Phase when substitution prior to the award of contracts is allowed by the Bidding Documents.
14. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.
15. Providing construction surveys and staking to enable Contractor to perform its work other than as required under paragraph A1.05.A.5, and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
16. Providing Construction Phase services beyond the Construction Contract completion dates.
17. Providing assistance in resolving any Hazardous Environmental Condition in compliance with current Laws and Regulations.
18. Not Used.
19. Preparation of operation and maintenance manuals beyond what is provided by the Contractor.

20. Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other dispute resolution process related to the Project.
21. Providing more extensive services required to enable ENGINEER to issue notices or certifications requested by OWNER under paragraph 6.01.G of the Agreement.
22. Other services performed or furnished by ENGINEER not otherwise provided for in this Agreement.
23. Services in connection with Work Change Directives and Change Orders to reflect changes requested by OWNER so as to make the compensation commensurate with the extent of the Additional Services rendered.
24. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; and services after the award of the Construction Agreement in evaluating and determining the acceptability of a substitution which is found to be inappropriate for the Project or an excessive number of substitutions.
25. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
26. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work, (2) an occurrence of a Hazardous Environmental Condition, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.
27. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.
28. Providing in company with OWNER or OWNER's representative, an inspection of the Project after the Correction Period to ascertain whether any portion of the Work is subject to warranty.

This is **EXHIBIT B**, consisting of two pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated June 14, 2016.

## **OWNER's Responsibilities**

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Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of OWNER as set forth in this Agreement, OWNER shall:

A. Provide ENGINEER with all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications; and furnish copies of OWNER's standard forms, conditions, and related documents for ENGINEER to include in the Bidding Documents, when applicable.

B. Furnish to ENGINEER any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.

C. Following ENGINEER's assessment of initially-available Project information and data and upon ENGINEER's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable ENGINEER to complete its Basic and Additional Services.

D. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of a Hazardous Environmental Condition or of any other development that affects the scope or time of performance of ENGINEER's services, or any defect or nonconformance in ENGINEER's services or in the work of any Contractor.

E. Authorize ENGINEER to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.

F. Arrange for safe access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under the Agreement.

G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by ENGINEER (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as OWNER deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by ENGINEER and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

I. Provide, as required for the Project:

1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
2. Legal services with regard to issues pertaining to the Project as OWNER requires, Contractor raises, or ENGINEER reasonably requests.
3. Such auditing services as OWNER requires to ascertain how or for what purpose Contractor has used the moneys paid.
4. Placement and payment for advertisement for Bids in appropriate publications.

J. Advise ENGINEER of the identity and scope of services of any independent consultants employed by OWNER to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.

K. Furnish to ENGINEER data as to OWNER's anticipated costs for services to be provided by others for OWNER so that ENGINEER may make the necessary calculations to develop and periodically adjust ENGINEER's opinion of Total Project Costs.

L. OWNER designated Construction Manager: **Not Used.**

M. If more than one prime contract is to be awarded for the Work designed or specified by ENGINEER, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of ENGINEER as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

N. Attend the pre-bid conference, bid opening, pre-construction conference, construction progress and other Project related meetings, and Substantial Completion and final payment inspections, as applicable.

O. Provide the services of an independent testing laboratory, as Owner deems necessary to perform additional inspections, tests, and approvals of Samples, materials, and equipment, or to evaluate the performance of materials, equipment, and facilities of OWNER, prior to their incorporation into the Work with appropriate professional interpretation thereof.

P. Provide inspection or monitoring services by an individual or entity other than ENGINEER (and disclose the identity of such individual or entity to ENGINEER) as OWNER determines necessary to verify:

1. That Contractor is complying with any Laws and Regulations applicable to Contractor's performing and furnishing the Work.

2. That Contractor is taking all necessary precautions for safety of persons or property and complying with any special provisions of the Contract Documents applicable to safety.

Q. Provide ENGINEER with the findings and reports generated by the entities providing services pursuant to paragraph B.2.01.O. and P.

This is **EXHIBIT C**, consisting of one page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated June 14, 2016.

**Payments to ENGINEER for Services and Reimbursable Expenses**

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Article 4 of the Agreement is amended and supplemented to include the following agreement of the parties:

**ARTICLE 4 -- PAYMENTS TO THE ENGINEER**

**C4.01 For Basic Services Having A Determined Scope - Standard Hourly Rates Method of Payment**

A. OWNER shall pay ENGINEER for Basic Services as set forth in Exhibit A as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of ENGINEER's employees times Standard Hourly Rates for each applicable billing class for all services performed as part of the task-order services, plus Reimbursable Expenses and ENGINEER's Consultant's charges, if any.

2. ENGINEER's Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit C as Appendix 1.

3. The total compensation for services under Paragraph C4.01 is not to exceed \$104,300 based on the following assumed distribution of compensation.'

- |  |          |
|--|----------|
| a. Design and Bidding Phase Services for 19 <sup>th</sup> Street N & Pebbleview Loop               | \$67,500 |
| b. Design and Bidding Phase Services for Hay Creek at Main Street                                  | \$25,700 |
| c. Design Phase Services for City Stormwater Project List Update and Pebble Creek Golf Course Pond | \$11,100 |
| d. Construction  | TBD      |
| e. Post-Construction   | TBD      |

4. ENGINEER may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total compensation amount without written authorization from OWNER.

5. Compensation for Construction and Post Construction Phase Services to be determined at a later date.

6. The amounts billed for ENGINEER's services under paragraph C4.01 will be based on the cumulative hours charged to the Project during the billing period by each class of ENGINEER's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and ENGINEER's Consultant's charges.

6. The Standard Hourly Rates and Reimbursable Expenses Schedule may be adjusted annually (as of January 1) to reflect equitable changes in the compensation payable to ENGINEER.

**C4.02 For Additional Services Requiring OWNER's Authorization in Advance**

A. OWNER shall pay ENGINEER for services and reimbursable expenses for Additional Services set forth in Article A2.01 per the Hourly Fee and Expense Schedule included as Appendix 1 of Exhibit C.

**C4.03 For Required Additional Services: None**

This is **Appendix 1 to EXHIBIT C**, consisting of two pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated June 14, 2016.

**2016 AE2S HOURLY FEE AND EXPENSE SCHEDULE**

**Labor Rates**

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Administrative I \$55.00  
Administrative II \$67.00  
Administrative III \$80.00  
Administrative IV \$92.00

Communications Specialist I \$82.00  
Communications Specialist II \$94.00  
Communications Specialist III \$108.00  
Communications Specialist IV \$131.00  
Communications Specialist V \$144.00

Construction Services Manager I \$125.00  
Construction Services Manager II \$135.00  
Construction Services Manager III \$152.00  
Construction Services Manager IV \$169.00  
Construction Services Manager V \$185.00

Construction Services Rep I \$77.00  
Construction Services Rep II \$92.00  
Construction Services Rep III \$108.00

Engineer I \$98.00  
Engineer II \$121.00  
Engineer III \$144.00  
Engineer IV \$164.00  
Engineer V \$179.00  
Engineer VI \$202.00  
Engineer VII \$215.00  
Engineer VIII \$225.00

Engineering Technician I \$62.00  
Engineering Technician II \$80.00  
Engineering Technician III \$94.00  
Engineering Technician IV \$110.00  
Engineering Technician V \$125.00  
Engineering Technician VI \$140.00

GIS Specialist I \$80.00  
GIS Specialist II \$97.00  
GIS Specialist III \$115.00  
GIS Specialist IV \$130.00

I&C Technician I \$91.00  
I&C Technician II \$103.00  
I&C Technician III \$118.00  
I&C Technician IV \$128.00  
I&C Technician V \$141.00  
I&C Specialist \$152.00  
I&C Senior Specialist \$160.00  
I&C Manager \$170.00

Land Surveyor I \$91.00  
Land Surveyor II \$111.00  
Land Surveyor III \$121.00  
Land Surveyor IV \$135.00

Program Coordinator I \$164.00  
Program Coordinator II \$175.00  
Program Coordinator III \$185.00

Project Coordinator I \$98.00

Project Manager I \$154.00  
Project Manager II \$169.00  
Project Manager III \$185.00  
Project Manager IV \$200.00  
Senior Design \$175.00  
Senior Consultant \$215.00

*Titles are for labor rate grade purposes only.*

*These rates are subject to adjustment each year on January 1.*

## Reimbursable Expense Rates

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Transportation \$0.65/mile  
Survey Vehicle \$0.70/mile  
B&W Photocopies 8½" x11" \$0.10/copy  
B&W Laser Printouts 8½" x11" \$0.20/page  
Color Laser Printouts/Copies 8½" x11" \$0.68/page  
Plots – Color Bond \$1.25/sf  
Plots – Monochrome Bond/Vellum \$0.75/sf  
Plots – Film/Photo High Gloss \$2.00/sf  
Total Station – Robotic \$35.00/hour  
Pro-XR GPS \$15.00/hour  
Fast Static/RTK GPS \$50.00/hour  
Sonar Mite \$50.00/day  
All-Terrain Vehicle/Boat \$100.00/day  
Air Transportation - Pilatus \$1,600/hour  
Air Transportation - Cirrus \$700/hour  
In-house Lodging \$150.00/day  
Legal Services Reimbursement \$206.00/hour  
Outside Services\*\* cost \*1.15  
Out of Pocket Expenses\*\*\* cost\*1.15  
Rental Car cost\*1.20

\*\*Includes laboratory testing, architectural and engineering consultants, surveying, etc.

\*\*\*Includes toll telephone, shipping, postage, subsistence, technical literature, equipment rental, etc.

*These rates are subject to adjustment each year on January 1.*

This is **EXHIBIT D**, consisting of four pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated June 14, 2016.

**Duties, Responsibilities, and Limitations of Authority of Resident Project Representative**

Paragraph 1.01.C of the Agreement is amended and supplemented to include the following agreement of the parties:

D1.01 *Resident Project Representative*

A. ENGINEER shall furnish a Resident Project Representative (“RPR”), assistants, and other field staff to assist ENGINEER in observing progress and quality of the Work. The RPR, assistants, and other field staff under this Exhibit D may provide full time representation or may provide representation to a lesser degree.

B. Through such additional observations of Contractor’s work in progress and field checks of materials and equipment by the RPR and assistants, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the Work. However, ENGINEER shall not, during such visits or as a result of such observations of Contractor’s work in progress, supervise, direct, or have control over the Contractor’s Work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures selected by Contractor, for safety precautions and programs incident to the Contractor’s work in progress, for any failure of Contractor to comply with Laws and Regulations applicable to Contractor’s performing and furnishing the Work, or responsibility of construction for Contractor’s failure to furnish and perform the Work in accordance with the Contract Documents. In addition, the specific limitations set forth in section A.1.05 of Exhibit A of the Agreement are applicable.

C. The duties and responsibilities of the RPR are limited to those of ENGINEER in the Agreement with the OWNER and in the Contract Documents, and are further limited and described as follows:

1. *General:* RPR is ENGINEER’s agent at the Site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR’s actions. RPR’s dealings in matters pertaining to the Contractor’s work in progress shall in general be with ENGINEER and Contractor, keeping OWNER advised as necessary. RPR’s dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.
2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with ENGINEER concerning acceptability.
3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
4. *Liaison:*
  - a. Serve as ENGINEER’s liaison with Contractor, working principally through Contractor’s superintendent and assist in understanding the intent of the Contract Documents.
  - b. Assist ENGINEER in serving as OWNER’s liaison with Contractor when Contractor’s operations affect OWNER’s on-Site operations.
  - c. Assist in obtaining from OWNER additional details or information, when required for proper execution of the Work.
5. *Interpretation of Contract Documents:* Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by ENGINEER.

6. *Shop Drawings and Samples:*
  - a. Record date of receipt of Samples and approved Shop Drawings.
  - b. Receive Samples which are furnished at the Site by Contractor, and notify ENGINEER of availability of Samples for examination.
  - c. Advise ENGINEER and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by ENGINEER.
7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to ENGINEER. Transmit to Contractor decisions as issued by ENGINEER.
8. *Review of Work and Rejection of Defective Work:*
  - a. Conduct on-Site observations of Contractor's work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.
  - b. Report to ENGINEER whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
9. *Inspections, Tests, and System Startups:*
  - a. Consult with ENGINEER in advance of scheduled major inspections, tests, and systems startups of important phases of the Work.
  - b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate OWNER's personnel, and that Contractor maintains adequate records thereof.
  - c. Observe, record, and report to ENGINEER appropriate details relative to the test procedures and systems startups.
  - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to ENGINEER.
10. *Records:*
  - a. Maintain orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project related documents.
  - b. Maintain construction observation notes, recording Contractor's hours on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER.
  - c. Record names, addresses and telephone numbers of all Contractors, subcontractors, and major suppliers of materials and equipment.
  - d. Maintain records for use in preparing Project documentation.

e. Not Used.

11. *Reports:*

- a. Prepare periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to ENGINEER proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to ENGINEER and OWNER copies of all inspection, test, and system startup reports.
- d. Report immediately to ENGINEER the occurrence of any Site accidents, any Hazardous Environmental Conditions, emergencies, or acts of God endangering the Work, and property damaged by fire or other causes.

12. *Payment Requests:* Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to ENGINEER for review and forwarding to OWNER prior to payment for that part of the Work.

14. *Completion:*

- a. Before ENGINEER issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
- b. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public agencies having jurisdiction over the Work.
- c. Participate in a final inspection in the company of ENGINEER, OWNER, and Contractor and prepare a final list of items to be completed or corrected.
- d. Observe whether all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance and issuance of the Notice of Acceptability of the Work.

D. Resident Project Representative shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of ENGINEER's authority as set forth in the Agreement or the Contract Documents.
3. Undertake any of the responsibilities of Contractor, subcontractors, suppliers, or Contractor's superintendent.
4. Advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advice or directions are specifically required by the Contract Documents.
5. Advise on, issue directions regarding, or assume control over safety precautions and programs in connection with the activities or operations of OWNER or Contractor.

6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by ENGINEER.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize OWNER to occupy the Project in whole or in part.

This is **EXHIBIT E**, consisting of four pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated June 14, 2016.

## Project Description

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Article 1 and Exhibit A of the Agreement are amended and supplemented to include the following agreement of the parties.

### **E.1.01 ENGINEER's Services**

#### **A. Design and Bidding Phase Services for Stormwater Repair and Correction Projects: 19<sup>th</sup> Street N & Pebbleview Loop.**

1. Project Management, Administration, and Coordination
  - a. Attend periodic working sessions with City staff to review project and evaluate potential solutions.
  - b. Coordinate with Department of Public Works and City Engineering staff throughout the project.
2. Regulatory and Permitting
  - a. Obtain necessary wetland delineations and ordinary high water mark determinations to aid in verifying the potential extent of impacts to potentially jurisdictional waters of the U.S., including wetlands.
  - b. Assist the City with obtaining the necessary 404 permits required from the U.S. Army Corps of Engineers (USACE) and if necessary, create and submit wetland mitigation plans for areas of wetland fill in accordance with the requirements of the USACE. Impacts over 0.5 acres or stream impacts over 300 feet in length will require an individual permit, while impacts less than 0.5 acres and stream impacts less than 300 feet in length will involve obtaining a Nationwide Permit. Additionally, we anticipate using the option of wetland mitigation credits from Ducks Unlimited as an alternate to on-site mitigation should it be required.
  - c. With the anticipated impacts associated with this project, it has been assumed that an individual permit will be required. This permitting process is generally a minimum of a 6-month process, which depending on the final outcome, could delay this project for construction in 2017.
3. Data Collection
  - a. Perform topographic, property, structure, and utility survey to augment existing information.
  - b. Coordinate with Geotechnical Subconsultant to obtain necessary site specific soils and geotechnical information.
4. 30% Design
  - a. Calculate design flows and analyze existing and proposed improvements using HEC-RAS.
  - b. Assemble preliminary channel stabilization design alternatives for City consideration, including preliminary opinions of probable cost. This includes the design recommendation alternatives for the culvert outfalls into the Pebble Creek Golf Course Pond.
  - c. Analyze and design recommended alternative sufficient for permitting submittals. 30% design will generally consist of horizontal geometry and overall project footprint.
  - d. Perform review with City staff.
5. 60% Design
  - a. Refine designs to include horizontal and vertical geometry.
  - b. Perform review with City staff.
6. 90% Design
  - a. Refine designs to include horizontal and vertical geometry as well as specifications (City of Bismarck Standard Specifications with Special Provisions).
  - b. Perform review with City staff.
  - c. Update the opinion of probable cost.

7. Final Plans, Specifications, and Bid Documents
    - a. Prepare final bidding and construction documents and a final opinion of probable cost.
  8. Bidding
    - a. ENGINEER will prepare bid documents for the project and conduct the bid in coordination with the OWNER.
  9. Advertisement
    - a. ENGINEER to coordinate with the OWNER for the advertisement of Bids in the official newspaper and regional construction plan exchanges.
  10. Interpretation and Clarifications
    - a. ENGINEER to communicate with prospective bidders and issue addenda as required.
  11. Bid Evaluation and Recommendations
    - a. ENGINEER to prepare Bid Tab and Recommendations for award and submit documents to the City.
  12. Notice of Award
    - a. ENGINEER will coordinate the execution of Notice of Award.
  13. Contract Preparation
    - a. ENGINEER will prepare and submit necessary number of copies of contracts for each procurement contract.
- B. Design and Bidding Phase Services for **Stormwater Repair and Correction Projects: Hay Creek at Main Street.**
1. Project Management, Administration, and Coordination
    - a. Attend periodic working sessions with City staff to review project and evaluate potential solutions.
    - b. Coordinate with Department of Public Works, City Engineering staff, and the NDDOT throughout the project.
  2. Regulatory and Permitting
    - a. Assist the City with obtaining the necessary 404 permits required from the U.S. Army Corps of Engineers (USACE) and if necessary, create and submit wetland mitigation plans for areas of wetland fill in accordance with the requirements of the USACE. Impacts over 0.5 acres or stream impacts over 300 feet in length will require an individual permit, while impacts less than 0.5 acres and stream impacts less than 300 feet in length will involve obtaining a Nationwide Permit. Additionally, we anticipate using the option of wetland mitigation credits from Ducks Unlimited as an alternate to on-site mitigation should it be required.
    - b. With the anticipated impacts associated with this project, it has been assumed that Nationwide Permit will be required.
  3. Data Collection
    - a. Perform topographic, property, structure, and utility survey to augment existing information.
  4. 60% Design
    - a. Perform preliminary design including a preliminary opinion of probable cost for the design and replacement of the four wing walls for the existing concrete box culverts at the Hay Creek Main Street crossing and all associated final restoration.
    - b. Perform review with City staff.
  5. 90% Design
    - a. Refine designs to include horizontal and vertical geometry as well as specifications (City of Bismarck Standard Specifications with Special Provisions).
    - b. Perform review with City staff.

- c. Update opinion of probable cost.
  - 6. Final Plans, Specifications, and Bid Documents
    - a. Prepare final bidding and construction documents and a final opinion of probable cost.
  - 7. Bidding
    - a. ENGINEER will prepare bid documents for the project and conduct the bid process in coordination with OWNER.
  - 8. Advertisement
    - a. ENGINEER to coordinate with the OWNER for the advertisement of Bids in the official newspaper and regional construction plan exchanges.
  - 9. Interpretation and Clarifications
    - a. ENGINEER to communicate with prospective bidders and issue addenda as required.
  - 10. Bid Evaluation and Recommendations
    - a. ENGINEER to prepare Bid Tab and Recommendations for award and submit documents to the City.
  - 11. Notice of Award
    - a. ENGINEER will coordinate the execution of Notice of Award.
  - 12. Contract Preparation
    - a. ENGINEER will prepare and submit necessary number of copies of contracts for each procurement contract.
- C. **Design Phase Services for Stormwater Repair and Correction Projects: City Stormwater Project List and Pebble Creek Golf Course Pond.**
- 1. City Stormwater Project List Update
    - a. Update City stormwater project list spreadsheet to include completed and new 2016 priority projects.
    - b. Review and update cost estimate unit rates for previously estimated City projects.
    - c. Perform project list review with City staff.
  - 2. Pebble Creek Golf Course Pond – Concept Design
    - a. Data Collection
      - i. Perform topographic, bathymetric, property, structure, and utility survey to augment existing information.
    - b. Concept Design
      - i. Assemble concept design and pond sediment dredging alternatives for City consideration, including sediment quantity removal estimates and preliminary opinions of probable cost.
      - ii. Perform concept review with City staff.
- D. Construction and Post-Construction Phase Services to be determined.

**E.2.01 Times for Rendering Services**

- A. The term of this Agreement shall be one year, effective June 14, 2016 through June 14, 2017. As the parties may agree in writing, the term of this agreement may be extended in order to facilitate the completion of construction and close out of any projects designed under this Agreement. Further, as the parties may agree in writing, this Agreement may be renewed for additional one year periods in order to facilitate project design.

This is **EXHIBIT G**, consisting of four pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated June 14, 2016.

**Insurance**

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Paragraph 6.05 of the Agreement is amended and supplemented to include the following agreement of the parties.

G6.05 *Insurance*

A. The limits of liability for the insurance required by paragraph 6.05.A and 6.05.B of the Agreement are as follows:

1. By ENGINEER:

a. Workers' Compensation:	Statutory
b. Employer's Liability --	
1) Each Accident:	<u>\$1,000,000</u>
2) Disease, Policy Limit:	<u>\$1,000,000</u>
3) Disease, Each Employee:	<u>\$1,000,000</u>
c. General Liability --	
1) Each Occurrence (Bodily Injury and Property Damage):	<u>\$1,000,000</u>
2) General Aggregate:	<u>\$2,000,000</u>
d. Excess or Umbrella Liability --	
1) Each Occurrence:	<u>\$N/A</u>
2) General Aggregate:	<u>\$N/A</u>
e. Automobile Liability --	
1) Combined Single Limit (Bodily Injury and Property Damage): Each Accident	<u>\$1,000,000</u>
f. Other (specify):	
<u>Professional Liability (Each Claim)</u>	<u>\$2,000,000</u>

# CONTRACT CHANGE ORDER FORM

## DEPARTMENT

Contract between the City of Bismarck and **GEA Heat Exchangers - ENEXIO**

Contract Number: 2015-61 Change Order Number: **FM-01**

Project/Subproject: **SANSWRUTIL.TFILTERS.DESIGNCONST**

Original Contract Amt: **\$3,050,000**

Project Description: **Bismarck WWTP Trickling Filters – Media Equipment Procurement**

Previous Contract Amount: **\$3,050,000**

Change Order Amount: **\$0**

Original Contract Date: **Dec 1, 2015** Change in Contract Timeline: **June 15, 2018**

Within Project Scope: Y / N\*      Within Project Funding: Y / N\*\*  
*\*If not within project scope, attach description of change in scope for Board approval.*      *\*\*If not within project funding, attach revised Project Budget for Board approval.*

## Type of Change Order

- Non Design-related Change Order: These change orders include unforeseen conditions, code-related issues, and building inspector changes.
- Design-related Change Order: These change orders include unforeseen conditions that affect the appearance, layout, functionality, dimensions, and/or quality of the project.
- Emergency Field Condition Change Orders: These change orders include any condition that causes an emergency situation where safety or other immediate losses may occur.
- Other: (describe) \_\_\_\_\_

Project Manager Signature: (<\$15,000) \_\_\_\_\_

Department Head Signature: (<\$25,000) Michelle Klove      6/8/16  
Date

## ADMINISTRATION

City Administrator Signature: (<\$50,000) \_\_\_\_\_

Add to Commission Consent Agenda

## COMMISSION APPROVAL

Commission Approval Date: \_\_\_\_\_

Attach minutes for Commission Approval

## FISCAL

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

Signature      Date Completed

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

# Change Order

No. FM-01

Date of Issuance: June 3, 2016

Effective Date: June 3, 2016

Project: <u>Bismarck WWTP - Trickling Filter Improvements</u>	Owner: <u>City of Bismarck, ND</u>	Owner's Contract No.:
Contract: <u>Trickling Filter Media Procurement</u>		Date of Contract: <u>August 23, 2015</u>
Contractor: <u>ENEXIO</u>		Engineer's Project No.: <u>P00501-2007-017-050</u>

The Contract Documents are modified as follows upon execution of this Change Order:

**Description of Change**

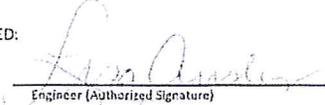
At the request of the Phase I general construction bidders, the completion dates of the Phase I construction contract were pushed back 5 months. Intended delivery of Phase I Trickling Filter Media was originally 7/1/16, which no longer matches the needs of the Phase I general contractor. This change order modifies the delivery date of Trickling Filter media to match the needs of the Phase I general contractor, moving the delivery date for phase I media from 7/1/16, to 10/31/16. Phase IIa and IIb, which has not yet been bid, will require the media delivery date to also move, to accommodate the shift in completion dates of Phase I. Phase IIa and IIb delivery dates have been changed from 3/1/17 and 8/1/17 to 8/15/17 and 3/15/18, respectively.

At the request of ENEXIO (contractor), the postponement of media delivery requires the payment schedule to be modified (refer to Exhibit C). This modification is due to materials cost control, storage costs, and handling costs not originally included in the contract. To assist in covering these additional costs to the contractor, an alternate media support system is also included to offset these additional increases in cost (refer to Exhibit B).

Item	Description	Cost Adjustment
1	<i>Modification of Dates for Delivery of Goods -- See attached Exhibit A</i>	<i>\$0.00</i>
2	<i>Modification of Media Support -- See attached Exhibit B</i>	<i>\$0.00</i>
3	<i>Modification of Progress Payments schedule -- See attached Exhibit C</i>	<i>\$0.00</i>
<b>Total Net Change - CO-FM-01</b>		<b><i>\$0.00</i></b>

Attachments: Exhibit A, Exhibit B, Exhibit C

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price:  \$ <u>3,050,000.00</u>	Original Contract Times: <input type="checkbox"/> Working days <input type="checkbox"/> Calendar days Substantial completion (days or date): <u>See Exhibit A for revised dates</u> Ready for final payment (days or date): <u>See Exhibit A for revised dates</u>
Increase from previously approved Change Orders No. 0 to No. 0:  \$ <u>\$0.00</u>	Increase from previously approved Change Orders No. 0 to No. 0: Substantial completion (days): <u>See Exhibit A for revised dates</u> Ready for final payment (days): <u>See Exhibit A for revised dates</u>
Contract with [Increase] [Decrease] from previously approved Change Orders  \$ <u>\$3,050,000.00</u>	Contract Times prior to this Change Order: Substantial completion (days or date): <u>See Exhibit A for revised dates</u> Ready for final payment (days or date): <u>See Exhibit A for revised dates</u>
Increase of this Change Order  \$ <u>\$0.00</u>	Increase Time of this Change Order: Substantial completion (days or date): <u>See Exhibit A for revised dates</u> Ready for final payment (days or date): <u>See Exhibit A for revised dates</u>
Contract Price incorporating this Change Order:  \$ <u>\$3,050,000.00</u>	Contract Times with all approved Change Orders: Substantial completion (days or date): <u>See Exhibit A for revised dates</u> Ready for final payment (days or date): <u>See Exhibit A for revised dates</u>

RECOMMENDED:  
By:   
Engineer (Authorized Signature)  
Date: 6/3/2016

ACCEPTED:  
By: \_\_\_\_\_  
Owner (Authorized Signature)  
Date: \_\_\_\_\_

ACCEPTED:  
By:   
Supplier (Authorized Signature)  
Date: 6.6.16

## CHANGE ORDER CO-FM-01 — EXHIBIT A

At the request of the Phase I general construction bidders, the completion dates of the Phase I construction contract were pushed back 5 months. Intended delivery of Phase I Trickling Filter Media was originally 7/1/16, which no longer matches the needs of the Phase I general contractor.

Phase IIa and IIb, which has not yet been bid, will require the media delivery date to also move, to accommodate the shift in completion dates of Phase I.

This change order modifies the delivery dates of Trickling Filter media and other corresponding contract dates to match the needs of the Phase I general contractor. ENEXIO is directed to modify contract dates in the specification manual, Section 00 52 00, as follows:

1. Section 00 52 00, Part 5.02 — Contract Times
  - a. **Original Date:** Trickling Filter Media for Phase I (Trickling Filter No. 3) – October 1, 2016
    - i. **Revised Date:** March 31, 2017
  - b. **Original Date:** Trickling Filter Media for Phase IIa (Trickling Filter No. 2) – May 1, 2017
    - i. **Revised Date:** November 15, 2017
  - c. **Original Date:** Trickling Filter Media for Phase IIb (Trickling Filter No. 1) – November 1, 2017
    - i. **Revised Date:** June 15, 2018
2. Section 00 52 00, Part 5.04 — Date for Delivery of Goods
  - a. **Original Date:** Trickling Filter Media for Phase I (Trickling Filter No. 3) – July 1, 2016
    - i. **Revised Dates:** Delivery between October 31, 2016 and November 25, 2016. Delivery rate per contractor's schedule.
  - b. **Original Date:** Trickling Filter Media for Phase IIa (Trickling Filter No. 2) – March 1, 2017
    - i. **Revised Dates:** Delivery between August 15, 2017 and September 11, 2017 (final start and stop dates to be finalized, +/- two weeks to match construction schedule). Delivery rate per contractor's schedule.
  - c. **Original Date:** Trickling Filter Media for Phase IIb (Trickling Filter No. 1) – August 1, 2017
    - i. **Revised Dates:** Delivery between March 15, 2018 and April 11, 2018 (final start and stop dates to be finalized, +/- two weeks to match construction schedule). Delivery rate per contractor's schedule.
3. Section 00 52 00, Part 5.05 — Furnishing Special Services
  - a. **Original Date:** Trickling Filter Media for Phase I (Trickling Filter No. 3) – December 1, 2016
    - i. **Revised Date:** July 1, 2017
  - b. **Original Date:** Trickling Filter Media for Phase IIa (Trickling Filter No. 2) – June 1, 2017
    - i. **Revised Date:** November 15, 2017
  - c. **Original Date:** Trickling Filter Media for Phase IIb (Trickling Filter No. 1) – December 1, 2018<sup>7</sup>
    - i. **Revised Date:** June 15, 2018

## **CHANGE ORDER CO-FM-01 — EXHIBIT B**

At the request of ENEXIO, an alternate media support system has been proposed and is included as part of this change, to offset increased storage and handling costs.

In lieu of the originally specified, submitted, and approved polypropylene PIERdek/Buzon pedestal supports, ENEXIO is directed to provide an alternate support system, consisting of pedestals that combine PVC stanchions and slope correcting base plates. The pedestals will support FRP beams and pultruded FRP grating, the will be held down by stainless steel hardware. Details for this system, including installation instructions, can be found in the attached Exhibit B-1. Per project correspondence, schedule 80 PVC is to be used in lieu of the schedule 40 PVC pipe stanchions noted in the details and installation instructions. All fastening and misc. hardware to be stainless steel, glass-reinforced ABS, or PVC.

### **Attachments:**

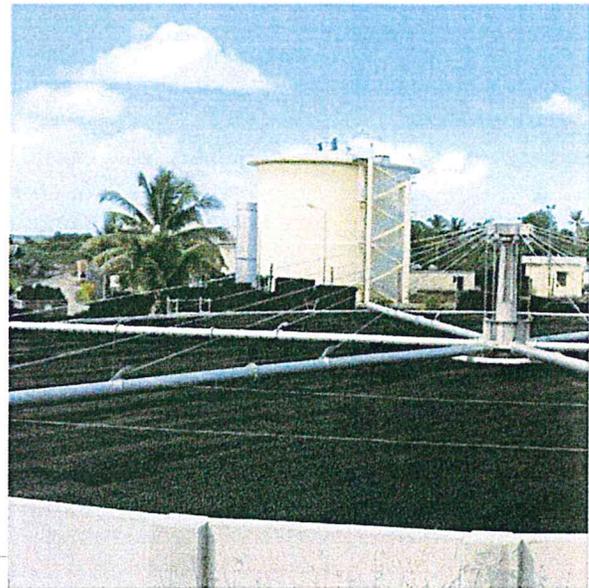
- Exhibit B-1: BIOdek Support System Details

# CHANGING GEA HEAT EXCHANGERS

CO-FM-01 -- Exhibit B-1 -- BIOdek Support System Details

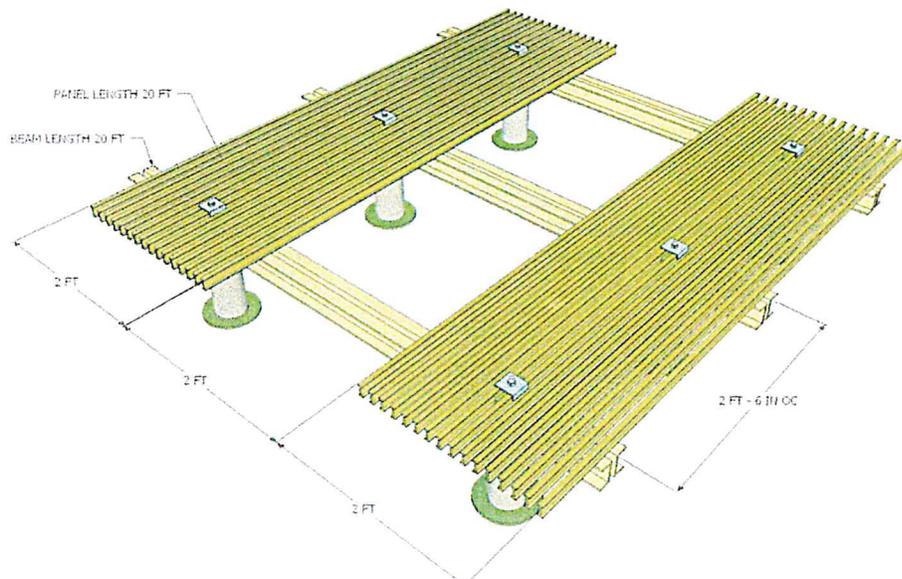
## 2H BIOdek®

### Installation Handbook



For Trickling Filter No 3  
Bismarck, ND

#### Part II – Support structure



# **CHANGING GEA HEAT EXCHANGERS**

## Table of Contents

### Section 1 Support Structure Components

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1.2 Unloading

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2.2 Preparation of Work

2.3 Requirements of Workers

2.4 Structure Installation

2.4.1 Center Channel

2.4.2 Perimeter Gratings

2.4.3 Inner Gratings

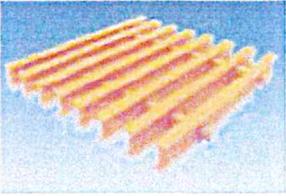
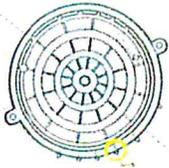
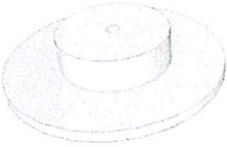
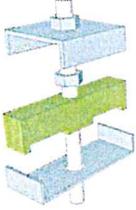
### Section 3 Anchoring of PIERdek Piers

# CHANGING GEA HEAT EXCHANGERS

Support structure components

Following items will be delivered to set-up the support structure

Table 1: Scope of delivery

ITEM	Pcs	Discription	
1		PVC pipe 4' schedule 40, length 20'	
2		Pultruded grating 20' x 2'  Pultruded grating 20' x 1'	
3		FRP beams 20' , channel type	
4		Slope corrector discs for slope adjustment 0% - 4%	
5		Base flange to be glued to PVC pipe	
6		Top disc to be glued to PVC pipe after field cutting	
7		Fixing sets <ul style="list-style-type: none"> <li>• 1 bolt with 2 nuts</li> <li>• 1 lower bracket (SS)</li> <li>• 1 middle bracket (PVC)</li> <li>• 1 upper bracket (SS)</li> </ul>	

# **CHANGING GEA HEAT EXCHANGERS**

## **1.1 Delivery**

Support structure components are delivered on pallets or crates. The support structure components are delivered a minimum of 2 weeks before the fill media to allow sufficient time for installation prior to fill media installation.

## **1.2 Unloading**

The pallets and or crates must be moved to the back of the truck by a pallet jack suitable to move pallets. From the back of the truck, the pallets must be lifted by some sort of a forklift and lowered to the ground.

After unloading the support structure components can be stored or conveyed directly into the filter for installation, see storage and/or installation instructions for details

Unloaded material shall be controlled and checked for the following:

- Do the delivered components and quantities match with the packing list?
- Are there damages?
- Are there other significant observations?

If any of these questions are answered with "YES" , an immediate report shall be issued to GEA with details and photos.

## **1 Storage Instructions for PIERdek Components**

### **1.1 Storage**

PIERdek support structure components can be stored as delivered without further protection.

### **1.2 Preparation work**

The site engineer is to ensure that the filter floor is clean and clear of all construction debris prior to start of media installation.

The site engineer is to ensure that the as-build dimensions match with the construction drawings. Following dimensions are of most importance and were used for support structure design

- Diameter 136 ft
- Max elevation from filter floor to the support level shall be 2'-3". (Center channel area)
- Min elevation at the perimeter at max distance from channel 1'-4 3/8"
- Slope should be even bend-penny shaped
- The edge of the center channel shall be even and without increased slope

Please report any divergences immediately to GEA , since a re adjustment of design components and/or support structure component quantities may become necessary.

## **2.3 Requirements to workers**

# CHANGING GEA HEAT EXCHANGERS

All support structure installations works in the filter is to be undertaken by trained installers or under supervision of 2H until the installers are trained enough. A specific skill is not mandatory.

The installers must be instructed about all applicable safety instructions.

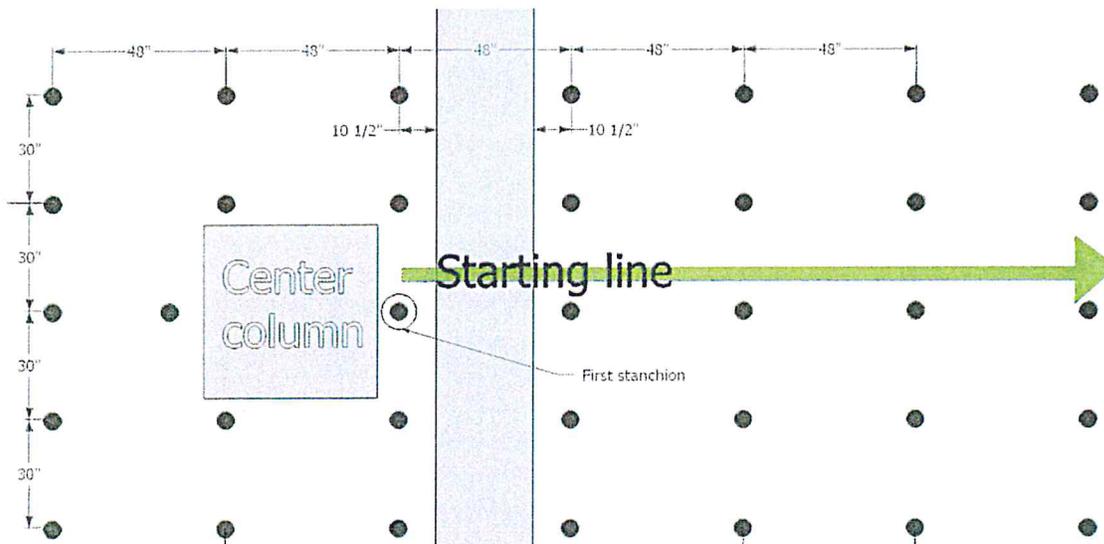
## 2.4 Support Structure Installation

This section refers to the proposed order of installation. A separate instruction is provided for the installation slope adjustment of the piers. These separate instructions shall be followed.

### Step 1: Grit markings

The position of the stanchions shall be marked in accordance with the grit-scheme. For the Bismarck-Trickling filters the position grit is 4' by 2'-6". Since the center channel width is 27", it can be spanned with the 4' distance, when the positions are marked 10-1/2" away from the channel edge.

The installation should start at the center line of the filter perpendicular to the channel.



Once the positions are properly marked, the slope corrector plates shall be placed on its assigned positions. Don't anchor at this step!

### Step 2: Pipe cutting

Cut the PVC pipes to length, if the measure can be clearly defined. Cut the pipes with some extra length, if not. In the second case the pipe need a second cut to gain the correct length.

Note: the pipe itself shall be 138 mm (5-7/16") shorter than the measure from the floor to the upper side of the grating. The max length from floor to upper side of the grating can be found along the channel. Its 2'-8 5/8", thus the PVC pipe need to be ~2'-3 3/16"

### Step 3: Gluing the base

Glue the PVC base flange ( Item 5) into the inner side of the pipe and place the pipe with the base onto the slope corrector

## **CHANGING GEA HEAT EXCHANGERS**

### Step 3: Doublecheck the stanchion height

Doublecheck the stanchion height and re-adjust if necessary. All stanchions should have the same level on the upper side

### Step 4: Glue the upper disc

Glue the upper disc with the thread into the inner part of the pipe. The disc and the upper pipe-cut shall be at the same level.

### Step 5: Start installation of the FRP beams

Screw the bolts (part of the fixing set) into thread of the disc , let ~140mm (5-1/2") out.

Push the lower bracket of the fixing sets over the bolt with the folds reaching upwards.

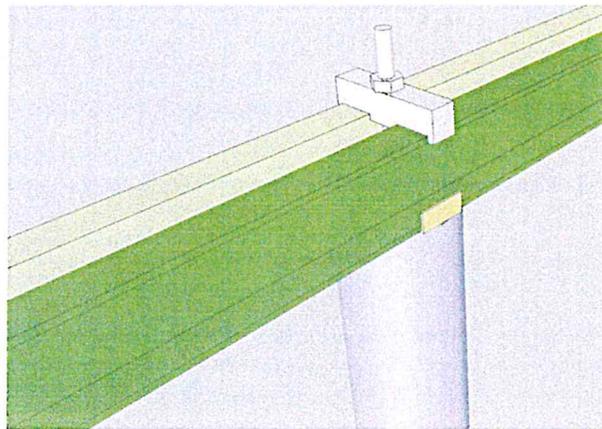
Place a pair of 20ft FRP beams on the lower bracket over 5 stanchions. The ends of the beams shall be in the middle between two stanchions. Place the pairs in a staggered mode

Whenever a row reaches the wall an additional stanchion shall be mounted close to the wall, when the distance of the last regular stanchion to the wall is less then 1'-6"

### Step 5: Tighten the FRP beams

Place the PVC block bracket upon the beam and tighten with a nut. The PVC bracket acts as a guide for the second grating and shall be perpendicular to the FRP beams.

After the entire beam is mounted, the row shall be doublechecked for its position and realigned if neccessary. Every 5<sup>th</sup> Base-plates shall be anchored to the floor. Don't anchor stanchions close to the wall at this point, since the might be re-aligned when the perimeter grating is to be placed



Repeat Step 1 to 5 with the parallel beam rows

### Step 6: Layout of the perimeter grating

Perimeter grating is 1ft width and shall be placed over the the FRP beams along the perimeter. Follow the installation drawing for positioning.

## CHANGING GEA HEAT EXCHANGERS

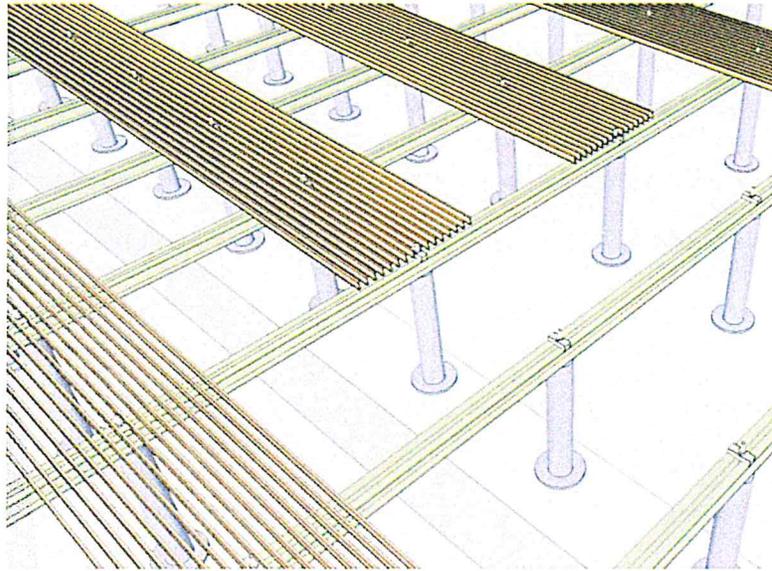
Since the perimeter grating isn't perpendicular to the FRP beams, the middle PVC block bracket cannot be used in the fashion. Wherever this bracket serves as a guide to interlock with the pultruded grating, the block has to be turned upside-down to allow rotation .

### Step 7: Layout of the inner grating

The inner grating is placed over 9 FRP supports. The ends of two adjacent gratings shall meet in the middle of the FRP beam pair.

Gratings shall be placed in a staggered fashion for best results in structural integrity. Wherever a grating meets the wall – the perimeter grating, it shall be field cut to fit.

The pultruded grating are clamped to the stanchion screw the upper steel bracket



## CHANGE ORDER CO-FM-01 — EXHIBIT C

At the request of ENEXIO, postponement of media delivery requires modification of the originally specified payment schedule, to offset increased storage and handling costs, and to help with material cost control.

This change order modifies the originally specified payment schedule, outlined in Section 00 52 00, Part 7.02 — Progress Payments, to allow the following alternate payment schedule, provided media material is produced and properly stored, bonded, and insured.

Original payment schedule is as follows:

1. Section 00 52 00, Part 7.02 — Progress Payments
  - a. 10% of contract value 30 days following completion and acceptance of approved shop drawings.
  - b. 80% of contract value at delivery of Goods to the Point of Destination for only the equipment delivered in accordance with the schedule for delivery under 5.04 above.
  - c. 10% of contract value at Engineer acceptance of installation and performance services for Trickling Filter Media Equipment for only the equipment installed in accordance with the schedule under 5.05 above.

Alternate payment schedule to allow the following:

1. Phase I
  - a. 10% of contract value 30 days following completion and acceptance of approved shop drawings. – **NO CHANGE – Already invoiced**
  - b. \$500,000 invoice on 6/15/16, pending approval of CO-FM-01 at 6/14/16 Bismarck City Commission meeting.
  - c. \$150,000 invoice on 7/15/16
  - d. Final Phase I (balance) invoice, following shipment of finished materials to jobsite.
2. Phase IIa
  - a. 10% of contract value 30 days following completion and acceptance of approved shop drawings. – **NO CHANGE – Already invoiced**
  - b. \$400,000 invoice on original ship date, 3/1/17
  - c. Final Phase IIa (balance) invoice, following shipment of finished materials to jobsite, approximately 9/1/18.
3. Phase IIb
  - a. 10% of contract value 30 days following completion and acceptance of approved shop drawings. – **NO CHANGE – Already invoiced**
  - b. \$400,000 invoice on original ship date, 8/1/17
  - c. Final Phase IIa (balance) invoice, following shipment of finished materials to jobsite, approximately 4/1/18.

# CONTRACT CHANGE ORDER FORM

## DEPARTMENT

Contract between the City of Bismarck and **PKG Contracting, INC.**

Contract Number: **2015-58** Change Order Number: **G-5**

Project/Subproject: **SANSWRUTIL.TFILTERS.DESIGNCONST**

Original Contract Amt: **\$16,469,000**

Project Description: **Bismarck WWTP Trickling Filters – General Construction**

Previous Contract Amount: **\$16,505,475**

Change Order Amount: **\$43,342**

Original Contract Date: **July 15, 2017** Change in Contract Timeline: **July 16, 2017**

Within Project Scope: Y / N\*

*\*If not within project scope, attach description of change in scope for Board approval.*

Within Project Funding: Y / N\*\*

*\*\*If not within project funding, attach revised Project Budget for Board approval.*

## Type of Change Order

Non Design-related Change Order: These change orders include unforeseen conditions, code-related issues, and building inspector changes.

Design-related Change Order: These change orders include unforeseen conditions that affect the appearance, layout, functionality, dimensions, and/or quality of the project.

Emergency Field Condition Change Orders: These change orders include any condition that causes an emergency situation where safety or other immediate losses may occur.

Other: (describe) \_\_\_\_\_

Project Manager Signature: (<\$15,000) \_\_\_\_\_  
Date

Department Head Signature:(<\$25,000) \_\_\_\_\_  
Date

## ADMINISTRATION

City Administrator Signature: (<\$50,000) \_\_\_\_\_  
Date

Add to Commission Consent Agenda

## COMMISSION APPROVAL

Commission Approval Date: \_\_\_\_\_

Attach minutes for Commission Approval

## FISCAL

Comments: \_\_\_\_\_  
Signature Date Completed

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

## Michelle Klose

---

**From:** [REDACTED]  
**Sent:** Wednesday, June 08, 2016 11:00 AM  
**To:** Michelle Klose  
**Subject:** BWWTf CO-G-05 - Helical Piers

This is a follow up to yesterday's discussion to make sure you have the language needed for CO justification. See below:

The general contract was set up where the contractor designed the pier system based on soil boring and field testing of the actual soil conditions. A bid item for additional pier installation is provided on the bid form and described in the in the In the Special Provisions Section 1.20. Additional pier costs are controlled by the contract. The contractor and his designer recognized that 65 helical piers were not achieving the required torque and through field investigation determined the pier as designed would need to extend to the gravel strata located an additional 40' deeper. This would have required an additional 2,600 LF of helical pier at the bid price of \$40/LF or a total of \$104,000. The contractor and his designer opted to use a different helical design to minimize the additional pier depth. The modified design required installation of a larger flight diameter and a substantially less total length of 650 LF. The contractor is asking for the amount of \$43,342 in lieu of the prescribed bid item. It is apparent that the contractor was able to actually save the City money by installing the additional piers using an alternate design.

**Kenneth J. Weber PE (ND, MN,SD)**  
**Senior Project Manager**  
**Advanced Engineering and**  
**Environmental Services, Inc. (AE2S)**  
1815 Schafer St., Suite 301  
Bismarck, ND 58501

[REDACTED]  
[www.ae2s.com](http://www.ae2s.com)

Voice: 701 [REDACTED]  
Cell: 701 [REDACTED]  
Fax: 701 [REDACTED]

# Change Order

No. G-05

Date of Issuance: June 3, 2016

Effective Date: May 10, 2016

Project: <u>Bismarck WWTF - Trickling Filter Improvements</u>	Owner: <u>City of Bismarck, ND</u>	Owner's Contract No.:
Contract: <u>General Construction</u>	Date of Contract: <u>August 28, 2015</u>	
Contractor: <u>PKG Contracting, Inc.</u>	Engineer's Project No.: <u>P00501-2007-017-060</u>	

The Contract Documents are modified as follows upon execution of this Change Order:

**Description of Change**

The general construction contract was set up such that the general contractor designed a helical pier system for the Trickling Filter, based on soil boring and field testing of actual soil conditions. A unit price bid item for additional helical pier length installation was provided on the bid form and described in the Special Provisions Section 1.20. Additional pier costs are controlled by the contract. The contractor and his designer recognized that 65 helical piers were not achieving the required torque, relating to load carrying capacity, and through field investigation determined the piers, as designed, would need to extend to the gravel strata located an additional 40' deeper. This would have required an additional 2,600 LF (65 x 40') of helical pier footage, at the bid price of \$40/LF, for a total unit price add of \$104,000.

The contractor and his designer opted to use an alternate design method to minimize the additional helical pier depth and corresponding footage. The modified design requires installation of additional 10' helical extensions, with larger flight diameters than the original flights, and a substantially less total additional footage of 650 LF (65 x 10').

Item	Description	Cost Adjustment
PCO-11	<u>Additional Helical Pier Lengths</u>	<u>\$43,342.00</u>
<b>Total Net Change: CO G-05</b>		<b><u>\$43,342.00</u></b>

Attachments: PKG PCO-11

CHANGE IN CONTRACT PRICE:		CHANGE IN CONTRACT TIMES:	
Original Contract Price:		Original Contract Times:	<input type="checkbox"/> Working days <input type="checkbox"/> Calendar days
\$ <u>16,469,000.00</u>		Substantial completion (days or date):	<u>May 31, 2017</u>
		Ready for final payment (days or date):	<u>July 15, 2017</u>
Increase from previously approved Change Orders		Increase from previously approved Change Orders	
No. 0 to No. 2:	<u>\$36,475.00</u>	No. 0 to No. 1:	
		Substantial completion (days):	<u>1</u>
		Ready for final payment (days):	<u>1</u>
Contract with Increase from previously approved Change Orders		Contract Times prior to this Change Order:	
\$ \$ <u>16,505,475.00</u>		Substantial completion (days or date):	<u>June 1, 2017</u>
		Ready for final payment (days or date):	<u>July 16, 2017</u>
Increase of this Change Order		[Increase] [Decrease] Time of this Change Order:	
\$ <u>\$43,342.00</u>		Substantial completion (days or date):	<u>0</u>
		Ready for final payment (days or date):	<u>0</u>
Contract Price incorporating this Change Order:		Contract Times with all approved Change Orders:	
\$ \$ <u>16,548,817.00</u>		Substantial completion (days or date):	<u>June 1, 2017</u>
		Ready for final payment (days or date):	<u>July 16, 2017</u>

RECOMMENDED:  
 By: [Signature]  
 Engineer (Authorized Signature)  
 Date: 6/3/2016  
 Approved by Funding Agency (if applicable): \_\_\_\_\_

ACCEPTED:  
 By: \_\_\_\_\_  
 Owner (Authorized Signature)  
 Date: \_\_\_\_\_

ACCEPTED:  
 By: [Signature]  
 Contractor (Authorized Signature)  
 Date: 6-7-16  
 Date: \_\_\_\_\_

# PKG CONTRACTING, INC.

4301 SOUTH UNIVERSITY DRIVE, FARGO, ND 58104

PHONE: (701) 232-3878 FAX: (701) 232-3935

e-mail: admin@pkg-inc.com

5/09/16

Mr. Nick Thompson

AE2S, Inc.  
1815 Schafer Street, Suite 301  
Bismarck, ND 58501

RE: Bismarck WWTF Trickling Filter  
Improvements / Bismarck, ND  
P00501-2007-017-060

SUBJECT: Change Order Proposal

PCO-11

Dear Mr. Thompson

Below is a change order proposal for modifications to the contract drawings.

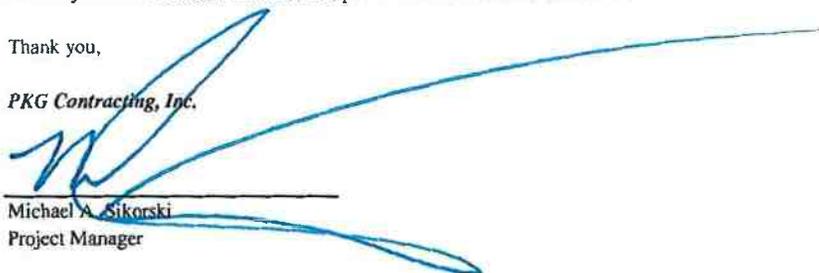
**PCO-11** Costs below are associated with a change in site conditions, as the soils in the NE quadrant of the Trickling Filter did not achieve the required torque as required by design. We could have achieved torque by adding an additional 40 foot of extension to each pier, however it was determined to be more cost effective to install a double 16" helical flighted extension.

A.)	1. Labor / Burden / Lodging / Per Diem	1,960.00	
	2. Material (including tax):	32,108.15	
	3. Equipment: (Fuel, Oil, & Other)	1,050.00	
	4. 15% Fee (Overhead & Profit on items A.1,2,3)	5,267.72	
	<i>Subtotal Section A</i>		\$40,385.87
B.)	1. Subcontractor:	990.00	
	2. 5% Fee (Overhead & Profit on item B.1)	49.50	
	<i>Subtotal Section B</i>		\$1,039.50
C.)	Supplemental Costs:		
	1. Small Tools/Equip. & Expendables (10% of A.1)	196.00	
	2. Safety Expense (2% of A.1)	39.20	
	3. Temporary Construction Facilities (2% of Section A, B & C.1)	832.43	
	4. Bonds & Insurance Premium (2% of Section A, B, C1., C.2)	849.08	
	<i>Subtotal Section C</i>		\$1,916.70
	<b>TOTAL CHANGE REQUEST .....</b>		<b>\$43,342</b>

Should you need additional information, please do not hesitate to contact me.

Thank you,

PKG Contracting, Inc.

  
Michael A. Sikorski  
Project Manager

cc: 1505 PCO file  
attachments

# PKG CONTRACTING, INC.

4301 SOUTH UNIVERSITY DRIVE • FARGO, ND 58104 • PHONE (701) 232-3878 • FAX: (701) 232-3935 • www.pkg-inc.com

HEUCAL FIER PRO wkst

MA                      32,108.15

SU / NTI                      990

LA                      JUST UNDER DAY & 1/2  
TESTING, EXPLORING, EXTEND OF SADA 20

28 hrs x                      = \$1960

EQ                      1.4 x \$750                      = \$1050



Pier Tech Systems, LLC

17813 Edison Ave.  
Suite 100  
Chesterfield, MO. 63005

Phone 636-536-5007  
Fax 636-536-5008  
www.piertech.com

# Invoice

Date	Invoice #
4/28/2016	6526

Bill To
PKG Contracting, Inc. 4301 South University Drive Fargo, ND 58104

Ship To
PKG Contracting C/O Bismark WWTF 601 London Ave. Bismarck, ND 58504

PierTech P.O.	Terms	Rep	Customer P.O. No.
6288	Net 30	MW	

Item	Description	Order...	Backorder	Invoiced	U/M	Prev. Inv.	Unit Rate	Extended ...
Custom Par...	RS 4.5" x .337 x 10', 16 x 16 x .5 Ft	65		65		0	431.75	28,063.75
FREIGHT	Ext Galv FREIGHT	1		1		0	2,084.75	2,084.75

*w/tax 32,108.15*

<b>Total</b>	\$30,148.50
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$30,148.50



**NTI**<sup>™</sup>  
 NORTHERN  
 TECHNOLOGIES, LLC

3522 4th Avenue South  
 Fargo, ND 58103  
 P: 701.232.1822 F: 701.232.1864

www.NTigeo.com

# INVOICE

Mike Sikorski  
 PKG Contracting, Inc.  
 4301 S University Drive  
 Fargo, ND 58104

March 31, 2016  
 Project No: 15.13339.701  
 Invoice No: 17318

*BRA  
 4/7/16*

Total Budget 4,500.00

Project 15.13339.701 Bismarck WWTF - Design Review

Professional Services from March 01, 2016 to March 31, 2016

**Professional Personnel**

	Hours	Rate	Amount
Principal	5.00	198.00	990.00
Totals	5.00		990.00
Total Labor			990.00

TOTAL THIS INVOICE \$990.00

	Current	Prior	Total Billings
Project Billings	990.00	5,514.00	6,504.00

*1505  
 07715  
 SW*

RECEIVED  
 APR 09 2016  
 PKG Contracting, Inc.

*ENGINEERING  
 REVIEW OF NE Quad.*

# CONTRACT CHANGE ORDER FORM

## DEPARTMENT

Contract between the City of Bismarck and **PKG Contracting, INC.**

Contract Number: **2015-58** Change Order Number: **G-4**

Project/Subproject: **SANSWRUTIL.TFILTERS.DESIGNCONST**

Original Contract Amt: **\$16,469,000**

Project Description: **Bismarck WWTP Trickling Filters – General Construction**

Previous Contract Amount: **\$16,505,475**

Change Order Amount: **\$0**

Original Contract Date: **July 15, 2017** Change in Contract Timeline: **July 16, 2017**

Within Project Scope: Y / N\*

*\*If not within project scope, attach description of change in scope for Board approval.*

Within Project Funding: Y / N\*\*

*\*\*If not within project funding, attach revised Project Budget for Board approval.*

## Type of Change Order

Non Design-related Change Order: These change orders include unforeseen conditions, code-related issues, and building inspector changes.

Design-related Change Order: These change orders include unforeseen conditions that affect the appearance, layout, functionality, dimensions, and/or quality of the project.

Emergency Field Condition Change Orders: These change orders include any condition that causes an emergency situation where safety or other immediate losses may occur.

Other: (describe) \_\_\_\_\_

Project Manager Signature: (<\$15,000) \_\_\_\_\_

Department Head Signature: (<\$25,000) Mehdi Dose \_\_\_\_\_  
Date 6/8/16  
Date

## ADMINISTRATION

City Administrator Signature: (<\$50,000) \_\_\_\_\_  
Date

Add to Commission Consent Agenda

## COMMISSION APPROVAL

Commission Approval Date: \_\_\_\_\_

Attach minutes for Commission Approval

## FISCAL

Comments: \_\_\_\_\_  
Signature Date Completed

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

# Change Order

No. G-04

Date of Issuance: June 3, 2016

Effective Date: June 3, 2016

Project: <u>Bismarck WWTF - Trickling Filter Improvements</u>	Owner: <u>City of Bismarck, ND</u>	Owner's Contract No.:
Contract: <u>General Construction</u>		Date of Contract: <u>August 28, 2015</u>
Contractor: <u>PKG Contracting, Inc.</u>		Engineer's Project No.: <u>P00501-2007-017-060</u>

The Contract Documents are modified as follows upon execution of this Change Order:

**Description of Change**

At the request of the Phase I general construction bidders, the completion dates of the Phase I construction contract were pushed back 5 months. Intended delivery of Phase I Trickling Filter Media was originally 7/1/16, which no longer matches the needs of the Phase I general contractor. This change order modifies the delivery date of Trickling Filter media to match the needs of the Phase I general contractor, moving the delivery date for phase I media from 7/1/16, to 10/31/16.

Due to the postponement of media delivery and the additional handling and storage costs this places onto the media supplier, ENEXIO, at the request of ENEXIO, as part of a separate change order, they have proposed an alternate media support system to assist them in covering the aforementioned additional costs. As part of this change, PKG has agreed to, and is directed to install the alternate media support system at no additional cost to the Owner. For details of the alternate support system, refer to Exhibit B.

Item	Description	Cost Adjustment
1	Modify Trickling Filter Media Delivery Schedule -- See attached Exhibit A	\$0.00
2	Installation of Alternate Trickling Filter Media Support System -- See attached Exhibit B	\$0.00
Total Net Change - CO G-04		\$0.00

Attachments: Exhibit A, Exhibit B

**CHANGE IN CONTRACT PRICE:**

**CHANGE IN CONTRACT TIMES:**

Original Contract Price:	Original Contract Times:	<input type="checkbox"/> Working days	<input type="checkbox"/> Calendar days
\$ <u>16,469,000.00</u>	Substantial completion (days or date):		<u>May 31, 2017</u>
	Ready for final payment (days or date):		<u>July 15, 2017</u>
Increase from previously approved Change Orders	Increase from previously approved Change Orders		
No. 0 to No. 2:	No. 0 to No. 1:		
<u>\$36,475.00</u>	Substantial completion (days):		<u>1</u>
	Ready for final payment (days):		<u>1</u>
Contract with Increase from previously approved Change Orders	Contract Times prior to this Change Order:		
\$ \$ <u>16,505,475.00</u>	Substantial completion (days or date):		<u>June 1, 2017</u>
	Ready for final payment (days or date):		<u>July 16, 2017</u>
Increase of this Change Order	[[Increase] [Decrease] Time of this Change Order:		
\$ <u>\$0.00</u>	Substantial completion (days or date):		<u>0</u>
	Ready for final payment (days or date):		<u>0</u>
Contract Price incorporating this Change Order:	Contract Times with all approved Change Orders:		
\$ \$ <u>16,505,475.00</u>	Substantial completion (days or date):		<u>June 1, 2017</u>
	Ready for final payment (days or date):		<u>July 16, 2017</u>

RECOMMENDED:

By:

  
 Engineer (Authorized Signature)  
 Date: 6/3/2016

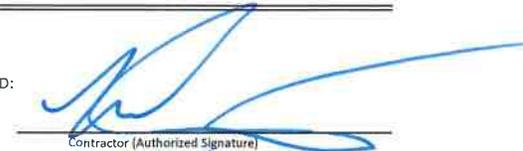
ACCEPTED:

By:

\_\_\_\_\_  
 Owner (Authorized Signature)  
 Date: \_\_\_\_\_

ACCEPTED:

By:

  
 Contractor (Authorized Signature)  
 Date: 6-7-16

Approved by Funding Agency (if applicable):

Date:

## CHANGE ORDER CO-G-04 — EXHIBIT A

At the request of the Phase I general construction bidders, the completion dates of the Phase I construction contract were pushed back 5 months. Intended delivery of Phase I Trickling Filter Media was originally 7/1/16, which no longer matches the needs of the Phase I general contractor. This change order modifies the delivery date of Trickling Filter media to match the needs of the Phase I general contractor.

This change order modifies the delivery date of Trickling Filter media only. Current contract completion dates are unaffected. The modified delivery date of Trickling Filter media is as follows:

1. **Original Date:** Phase I Trickling Filter Media Delivery (Trickling Filter #3) – July 1, 2016
  - a. **Revised Date:** October 31, 2016

## **CHANGE ORDER CO-G-04 — EXHIBIT B**

Due to the postponement of media delivery and the additional handling and storage costs this places onto the media supplier, ENEXIO, at the request of ENEXIO, as part of a separate change order, they have proposed an alternate media support system to assist them in covering the aforementioned additional costs. As part of this change, PKG has agreed to, and is directed to install the alternate media support system at no additional cost to the Owner.

In lieu of the originally specified, submitted, and approved polypropylene PIERdek/Buzon pedestal supports, the media supplier, ENEXIO, will be providing an alternate support system, consisting of pedestals that combine PVC stanchions and slope correcting base plates. The pedestals will support FRP beams and pultruded FRP grating, that will be held down by stainless steel hardware. Details for this system, including installation instructions, can be found in the attached Exhibit B-1. All fastening and misc. hardware to be stainless steel, glass-reinforced ABS, or PVC.

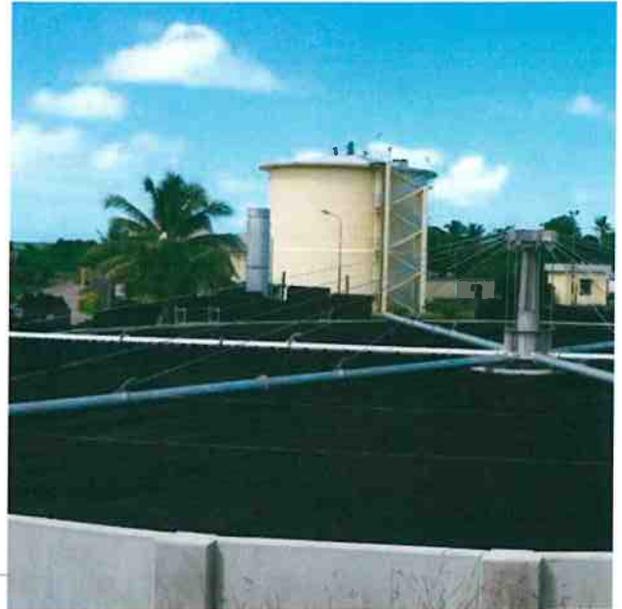
### **Attachments:**

- Exhibit B-1: BIOdek Support System Details

**CO-G-04 -- Exhibit B-1 -- BIOdek Support System Details**

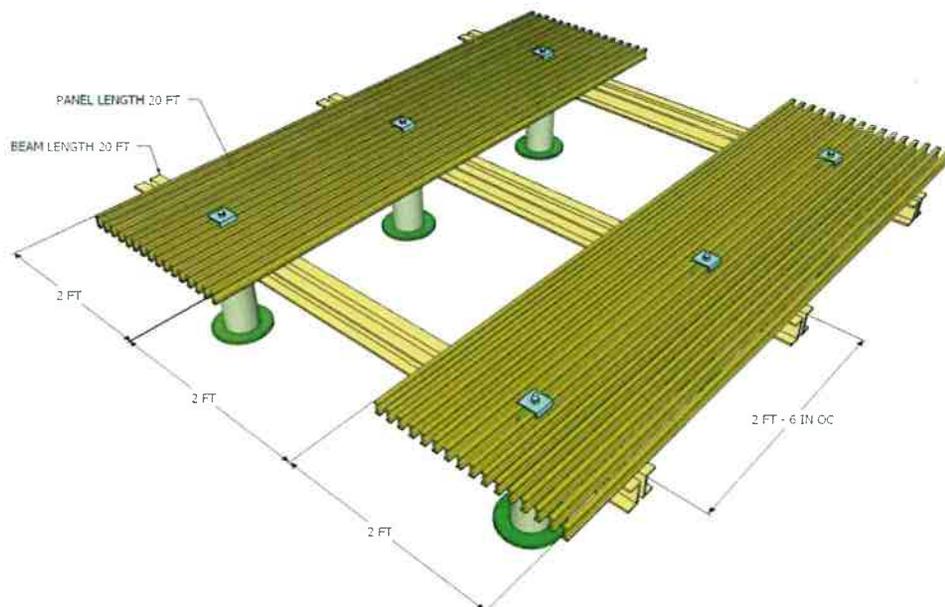
**2H BIOdek®**

Installation Handbook



For Trickling Filter No 3  
Bismarck, ND

Part II – Support structure



## Table of Contents

### Section 1 Support Structure Components

1.1 Delivery

1.2 Unloading

### Section 2 Storage & Installation Instructions for PIERdek Structure

2.1 Storage

2.2 Preparation of Work

2.3 Requirements of Workers

2.4 Structure Installation

2.4.1 Center Channel

2.4.2 Perimeter Gratings

2.4.3 Inner Gratings

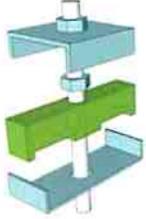
### Section 3 Anchoring of PIERdek Piers

# GEA HEAT EXCHANGERS

Support structure components

Following items will be delivered to set-up the support structure

Table 1: Scope of delivery

ITEM	Pcs	Discription	
1		PVC pipe 4' schedule 40, length 20'	
2		Pultruded grating 20' x 2'	
		Pultruded grating 20' x 1'	
3		FRP beams 20' , channel type	
4		Slope corrector discs for slope adjustment 0% - 4%	
5		Base flange to be glued to PVC pipe	
6		Top disc to be glued to PVC pipe after field cutting	
7		Fixing sets <ul style="list-style-type: none"> <li>• 1 bolt with 2 nuts</li> <li>• 1 lower bracket (SS)</li> <li>• 1 middle bracket (PVC)</li> <li>• 1 upper bracket (SS)</li> </ul>	

# **GEA HEAT EXCHANGERS**

## **1.1 Delivery**

Support structure components are delivered on pallets or crates. The support structure components are delivered a minimum of 2 weeks before the fill media to allow sufficient time for installation prior to fill media installation.

## **1.2 Unloading**

The pallets and or crates must be moved to the back of the truck by a pallet jack suitable to move pallets. From the back of the truck, the pallets must be lifted by some sort of a forklift and lowered to the ground.

After unloading the support structure components can be stored or conveyed directly into the filter for installation, see storage and/or installation instructions for details

Unloaded material shall be controlled and checked for the following:

- Do the delivered components and quantities match with the packing list?
- Are there damages?
- Are there other significant observations?

If any of these questions are answered with "YES" , an immediate report shall be issued to GEA with details and photos.

## **1 Storage Instructions for PIERdek Components**

### **1.1 Storage**

PIERdek support structure components can be stored as delivered without further protection.

### **1.2 Preparation work**

The site engineer is to ensure that the filter floor is clean and clear of all construction debris prior to start of media installation.

The site engineer is to ensure that the as-build dimensions match with the construction drawings. Following dimensions are of most importance and were used for support structure design

- Diameter 136 ft
- Max elevation from filter floor to the support level shall be 2'-3". (Center channel area)
- Min elevation at the perimeter at max distance from channel 1'-4 3/8"
- Slope should be even bend-penny shaped
- The edge of the center channel shall be even and without increased slope

Please report any divergences immediately to GEA , since a re adjustment of design components and/or support structure component quantities may become necessary.

### **2.3 Requirements to workers**

# GEA HEAT EXCHANGERS

All support structure installations works in the filter is to be undertaken by trained installers or under supervision of 2H until the installers are trained enough. A specific skill is not mandatory.

The installers must be instructed about all applicable safety instructions.

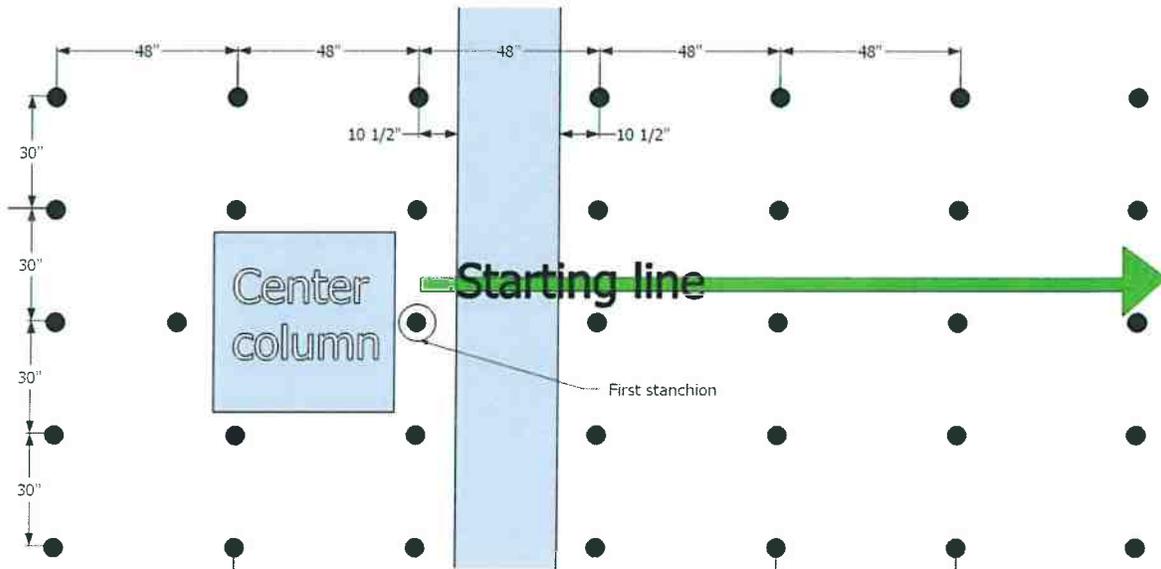
## 2.4 Support Structure Installation

This section refers to the proposed order of installation. A separate instruction is provided for the installation slope adjustment of the piers. These separate instructions shall be followed.

### Step 1: Grit markings

The position of the stanchions shall be marked in accordance with the grit-scheme. For the Bismarck-Trickling filters the position grit is 4' by 2'-6". Since the center channel width is 27", it can be spanned with the 4' distance, when the positions are marked 10-1/2" away from the channel edge.

The installation should start at the center line of the filter perpendicular to the channel.



Once the positions are properly marked, the slope corrector plates shall be placed on its assigned positions. Don't anchor at this step!

### Step 2: Pipe cutting

Cut the PVC pipes to length, if the measure can be clearly defined. Cut the pipes with some extra length, if not. In the second case the pipe need a second cut to gain the correct length.

Note: the pipe itself shall be 138 mm (5-7/16") shorter than the measure from the floor to the upper side of the grating. The max length from floor to upper side of the grating can be found along the channel. Its 2'-8 5/8", thus the PVC pipe need to be ~2'-3 3/16"

### Step 3: Gluing the base

Glue the PVC base flange ( Item 5) into the inner side of the pipe and place the pipe with the base onto the slope corrector

# GEA HEAT EXCHANGERS

## Step 3: Doublecheck the stanchion height

Doublecheck the stanchion height and re-adjust if necessary. All stanchions should have the same level on the upper side

## Step 4: Glue the upper disc

Glue the upper disc with the thread into the inner part of the pipe. The disc and the upper pipe-cut shall be at the same level.

## Step 5: Start installation of the FRP beams

Screw the bolts (part of the fixing set) into thread of the disc , let ~140mm (5-1/2") out.

Push the lower bracket of the fixing sets over the bolt with the folds reaching upwards.

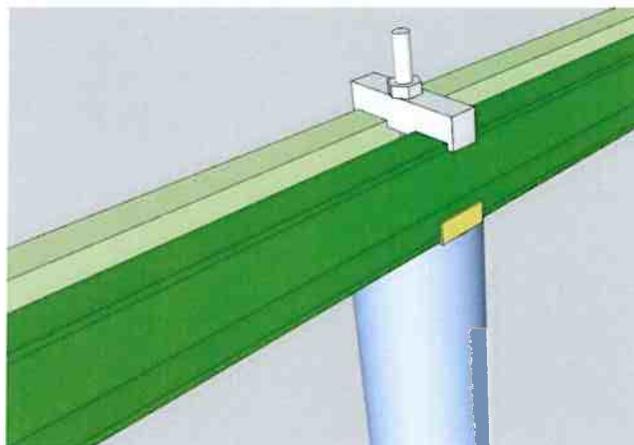
Place a pair of 20ft FRP beams on the lower bracket over 5 stanchions. The ends of the beams shall be in the middle between two stanchions. Place the pairs in a staggered mode

Whenever a row reaches the wall an additional stanchion shall be mounted close to the wall, when the distance of the last regular stanchion to the wall is less then 1'-6"

## Step 5: Tighten the FRP beams

Place the PVC block bracket upon the beam and tighten with a nut. The PVC bracket acts as a guide for the second grating and shall be perpendicular to the FRP beams.

After the entire beam is mounted, the row shall be doublechecked for its position and realigned if neccessay. Every 5<sup>th</sup> Base-plates shall be anchored to the floor. Don't anchor stanchions close to the wall at this point, since the might be re-aligned when the perimeter grating is to be placed



Repeat Step 1 to 5 with the parallel beam rows

## Step 6: Layout of the perimeter grating

Perimeter grating is 1ft width and shall be placed over the the FRP beams along the perimeter. Follow the installation drawing for positioning.

# GEA HEAT EXCHANGERS

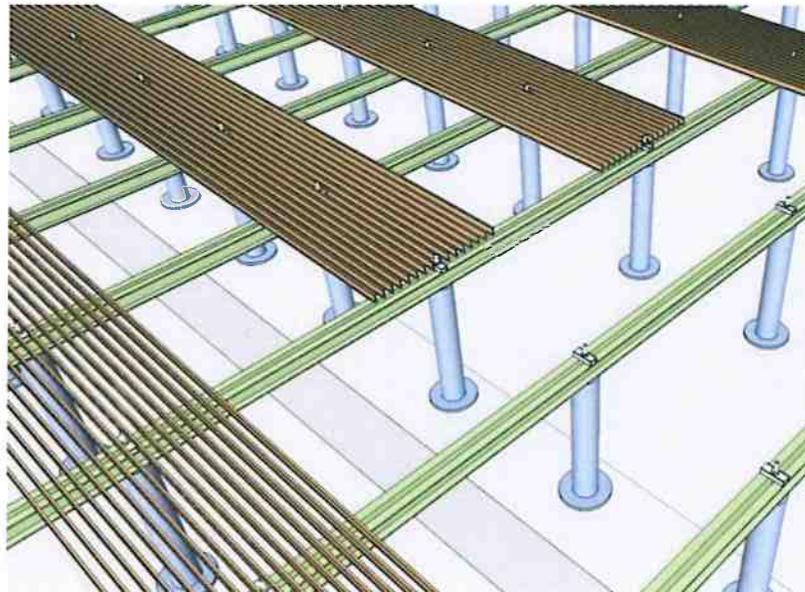
Since the perimeter grating isn't perpendicular to the FRP beams, the middle PVC block bracket cannot be used in the fashion. Wherever this bracket serves as a guide to interlock with the pultruded grating, the block has to be turned upside-down to allow rotation .

## Step 7: Layout of the inner grating

The inner grating is placed over 9 FRP supports. The ends of two adjacent gratings shall meet in the middle of the FRP beam pair.

Gratings shall be placed in a staggered fashion for best results in structural integrity. Wherever a grating meets the wall – the perimeter grating, it shall be field cut to fit.

The pultruded grating are clamped to the stanchion screw the upper steel bracket



# CONTRACT CHANGE ORDER FORM

## DEPARTMENT

Contract between the City of Bismarck and **PKG Contracting, INC.**

Contract Number: 2015-58 Change Order Number: **G-3**

Project/Subproject: **SANSWRUTIL.TFILTERS.DESIGNCONST**

Original Contract Amt: **\$16,469,000**

Project Description: **Bismarck WWTP Trickling Filters – General Construction**

Previous Contract Amount: **\$16,489,542**

Change Order Amount: **\$15,933.00**

Original Contract Date: **July 15, 2017** Change in Contract Timeline: **July 16, 2017**

Within Project Scope: Y / N\*

*\*If not within project scope, attach description of change in scope for Board approval.*

Within Project Funding: Y / N\*\*

*\*\*If not within project funding, attach revised Project Budget for Board approval.*

## Type of Change Order

Non Design-related Change Order: These change orders include unforeseen conditions, code-related issues, and building inspector changes.

Design-related Change Order: These change orders include unforeseen conditions that affect the appearance, layout, functionality, dimensions, and/or quality of the project.

Emergency Field Condition Change Orders: These change orders include any condition that causes an emergency situation where safety or other immediate losses may occur.

Other: (describe)

Project Manager Signature: (<\$15,000) \_\_\_\_\_

Department Head Signature: (<\$25,000) Michelle Close \_\_\_\_\_  
Date 6/8/16  
Date \_\_\_\_\_

## ADMINISTRATION

City Administrator Signature: (<\$50,000) \_\_\_\_\_

Date \_\_\_\_\_

Add to Commission Consent Agenda

## COMMISSION APPROVAL

Commission Approval Date: \_\_\_\_\_

Attach minutes for Commission Approval

## FISCAL

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

Signature

Date Completed

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

# Change Order

No. G-03

Date of Issuance: June 3, 2016

Effective Date: May 10, 2016

Project: <u>Bismarck WWTF - Trickling Filter Improvements</u>	Owner: <u>City of Bismarck, ND</u>	Owner's Contract No.:
Contract: <u>General Construction</u>	Date of Contract: <u>August 28, 2015</u>	
Contractor: <u>PKG Contracting, Inc.</u>	Engineer's Project No.: <u>P00501-2007-017-060</u>	

The Contract Documents are modified as follows upon execution of this Change Order:

**Description of Change**

**PCO-G-07:** During review of the Open Screw Pump submittal, an issue was identified with the specified factory and field-applied coatings. After consulting with the Tnemec coatings representative, it was determined that the final coating should be Tnemec 431 EnduraShield, rather than a second coat of Tnemec N69. This change order substitutes a final 30 mil DFT coat of Tnemec 431, in lieu of the specified second, final coat of Tnemec N69.

**PCO-09:** During review of the Open Screw Pump submittal, it was identified that openings and inspection hatches in the Open Screw Pump splash guards would be valuable to the Bismarck WWTF staff, both for operational inspection and the adding of de-foaming solutions. This change order incorporates four inspection hatches, one in the center and above each Open Screw Pump.

Item	Description	Cost Adjustment
	PCO-G-07 <u>Open Screw Pump Coatings</u>	<u>\$13,601.00</u>
	PCO-09 <u>Add Access Hatches to Screw Pump Splash Guards</u>	<u>\$2,332.00</u>
<b>Total Net Change - CO G-03</b>		<b><u>\$15,933.00</u></b>

Attachments: PCO-G-07, PCO-G-09

**CHANGE IN CONTRACT PRICE:**

**CHANGE IN CONTRACT TIMES:**

Original Contract Price:	Original Contract Times:	<input type="checkbox"/> Working days	<input type="checkbox"/> Calendar days
<u>\$ 16,469,000.00</u>	Substantial completion (days or date):		<u>May 31, 2017</u>
	Ready for final payment (days or date):		<u>July 15, 2017</u>
Increase from previously approved Change Orders	Increase from previously approved Change Orders		
No. 0 to No. 2:	No. 0 to No. 1:		
<u>\$20,542.00</u>	Substantial completion (days):		<u>1</u>
	Ready for final payment (days):		<u>1</u>
Contract with Increase from previously approved Change Orders	Contract Times prior to this Change Order:		
<u>\$ \$ 16,489,542.00</u>	Substantial completion (days or date):		<u>June 1, 2017</u>
	Ready for final payment (days or date):		<u>July 16, 2017</u>
Increase of this Change Order	[[Increase] [Decrease] Time of this Change Order:		
<u>\$ 15,933.00</u>	Substantial completion (days or date):		<u>0</u>
	Ready for final payment (days or date):		<u>0</u>
Contract Price incorporating this Change Order:	Contract Times with all approved Change Orders:		
<u>\$ \$ 16,505,475.00</u>	Substantial completion (days or date):		<u>June 1, 2017</u>
	Ready for final payment (days or date):		<u>July 16, 2017</u>

RECOMMENDED:

By:

  
 Engineer (Authorized Signature)  
6/3/2016

ACCEPTED:

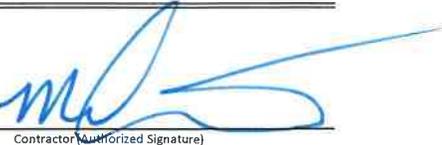
By:

Owner (Authorized Signature)

Date:

ACCEPTED:

By:

  
 Contractor (Authorized Signature)

Date:

6-7-16

Approved by Funding Agency (if applicable):

Date:

# PROPOSED CHANGE REQUEST

No. PCO-G-07

Date of Issuance: 4/4/16  
Owner: City of Bismarck Owner's Contract Number: \_\_\_\_\_  
Contractor: PKG Contracting, Inc. Contractor's Project Number: 1505  
Engineer: AE2S Engineer's Project Number: P00501-2007-017  
Project: Bis. WWTF – Trickling Filter Imp. Contract Name: Contract #1 – General Const.

Contractor is hereby requested to provide a Change Proposal to make changes in the Work, affecting either cost and/or time. Contractor must submit a Change Proposal, which must be accepted, before proceeding with this Work.

Reference: 09 90 02 – High Perf. Coatings, 43 21 39 – Open Screw Pumps TFPS-P2, P7, P11  
Specification(s) Drawing(s) / Detail(s)

## Description:

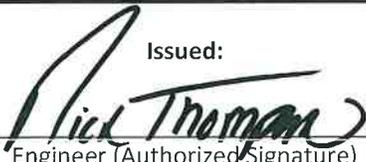
During review of the Open Screw Pump submittal, an issue was identified with the specified factory and field-applied coatings.

After consulting with the Tnemec coatings representative, it was determined that the final coat should be Tnemec 431 EnduraShield, rather than a second coat of Tnemec N69. Please see the items below, and provide a cost proposal for these modifications accordingly.

1. Provide pricing to substitute a final 30 mil DFT coat of Tnemec 431, in lieu of the specified second, final coat of Tnemec N69. Intermediate coat of Tnemec N69 to remain as specified (see Section 3.07 E. of specification section 09 90 02).
2. Provide deduct pricing identifying the credit amount for the supplier-proposed Amercoat 4083 coating, in lieu of the specified Tnemec Series 1 Omnithane primer. The Amercoat 4083 product is not an equal to the Omnithane primer, but is acceptable as a primer for N69 tie-in.

## Attachments:

None.

By:   
Engineer (Authorized Signature)

Title: Construction Services Representative

Date: 4/4/16

**PKG CONTRACTING, INC.**  
 4301 SOUTH UNIVERSITY DRIVE, FARGO, ND 58104  
 PHONE: (701) 232-3878 FAX: (701) 232-3935  
 e-mail: admin@pkg-inc.com

5/3/16

Mr. Nick Thompson

AE2S, Inc.  
 1815 Schafer Street, Suite 301  
 Bismarck, ND 58501

RE: Bismarck WWTF Trickleing Filter  
 Improvements / Bismarck, ND  
 P00501-2007-017-060

SUBJECT: Change Order Proposal

**PCO-07**

Dear Mr. Thompson

Below is a change order proposal for modifications to the contract drawings.

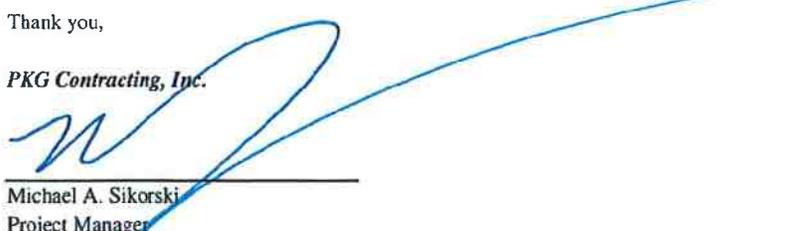
**PCO-07** Costs below are associated with PCO-G-07 for modifications to the Screw Pump coatings.

A.)	1. Labor / Burden / Lodging / Per Diem	0.00	
	2. Material (including tax):	0.00	
	3. Equipment: (Fuel, Oil, & Other)	0.00	
	4. 15% Fee (Overhead & Profit on items A.1,2,3)	0.00	
	<i>Subtotal Section A</i>		\$0.00
B.)	1. Subcontractor:	12,450.00	
	2. 5% Fee (Overhead & Profit on item B.1)	622.50	
	<i>Subtotal Section B</i>		\$13,072.50
C.)	<b>Supplemental Costs:</b>		
	1. Small Tools/Equip. & Expendables (10% of A.1)	0.00	
	2. Safety Expense (2% of A.1)	0.00	
	3. Temporary Construction Facilities (2% of Section A, B & C.1)	261.45	
	4. Bonds & Insurance Premium (2% of Section A, B, C.1., C.2)	266.68	
	<i>Subtotal Section C</i>		\$528.13
	<b>TOTAL CHANGE REQUEST.....</b>		<b>\$13,601</b>

Should you need additional information, please do not hesitate to contact me.

Thank you,

**PKG Contracting, Inc.**

  
 Michael A. Sikorski  
 Project Manager

cc: 1505 PCO file  
 attachments



*Industrial Painting and Protective Coatings  
Floor Coating and Topping Applications*

Box 9217 Fargo, ND 58106-9217  
(701) 235-9243  
Toll Free (800) 825 9243  
Fax (701) 235-6720

**QUOTATION**

Quote No.: Q16-174  
Page No.: 1 of 1  
Quote Date: 4/19/16

To: PKG  
Attn: Mike

Project: 09 90 02 High Perf Coating 43 21 39 Open Screw Pumps

I. Scope of work: Protech Contracting Services, Inc. will provide labor, equipment, materials for the following:

Final Coat: Apply 30 mil DFT coat of Tnemec 431 to (4) Open Screws

**TOTAL QUOTE: \$12,450.00**

All Screws will be done at the same time.

**Terms and Requirements:**

1. Price includes all labor, materials, freight, tax, equipment, and insurance.
2. Protech Contracting Services, Inc. will accept your order or contract only after both parties agree on scheduling & availability
3. Payment - 30 days after receipt of invoice.

---

Above prices quoted for acceptance within 30 days from date. Prices quoted apply only to project specified.

---

Quoted by: Rod Mulvaney

Customer approval by: \_\_\_\_\_.

**PKG CONTRACTING, INC.**  
 4301 SOUTH UNIVERSITY DRIVE, FARGO, ND 58104  
 PHONE: (701) 232-3878 FAX: (701) 232-3935  
 e-mail: admin@pkg-inc.com

5/03/16

Mr. Nick Thompson

AE2S, Inc.  
 1815 Schafer Street, Suite 301  
 Bismarck, ND 58501

RE: Bismarck WWTF Tricking Filter  
 Improvements / Bismarck, ND  
 P00501-2007-017-060

SUBJECT: Change Order Proposal PCO-09

Dear Mr. Thompson

Below is a change order proposal for modifications to the contract drawings.

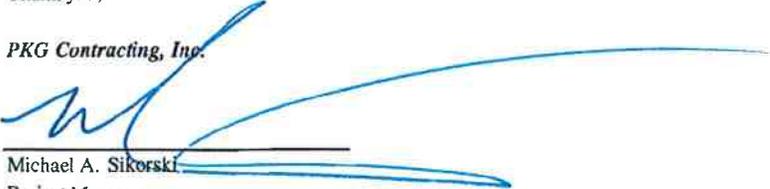
**PCO-09** Costs below are associated with comments from Submittal 032 requesting the addition of an 18" square access hatch on splash plates.

A.)	1. Labor / Burden / Lodging / Per Diem	0.00	
	2. Material (including tax):	1,948.95	
	3. Equipment: (Fuel, Oil, & Other)	0.00	
	4. 15% Fee (Overhead & Profit on items A.1,2,3)	292.34	
	<i>Subtotal Section A</i>		\$2,241.29
B.)	1. Subcontractor:	0.00	
	2. 5% Fee (Overhead & Profit on item B.1)	0.00	
	<i>Subtotal Section B</i>		\$0.00
C.)	<b>Supplemental Costs:</b>		
	1. Small Tools/Equip. & Expendables (10% of A.1)	0.00	
	2. Safety Expense (2% of A.1)	0.00	
	3. Temporary Construction Facilities (2% of Section A, B & C.1)	44.83	
	4. Bonds & Insurance Premium (2% of Section A, B, C.1., C.2)	45.72	
	<i>Subtotal Section C</i>		\$90.55
	<b>TOTAL CHANGE REQUEST .....</b>		<b>\$2,332</b>

Should you need additional information, please do not hesitate to contact me.

Thank you,

*PKG Contracting, Inc.*

  
 Michael A. Sikorski  
 Project Manager

cc: 1505 PCO file  
 attachments



Project Bismarck WWTF -

Date 3/19/16

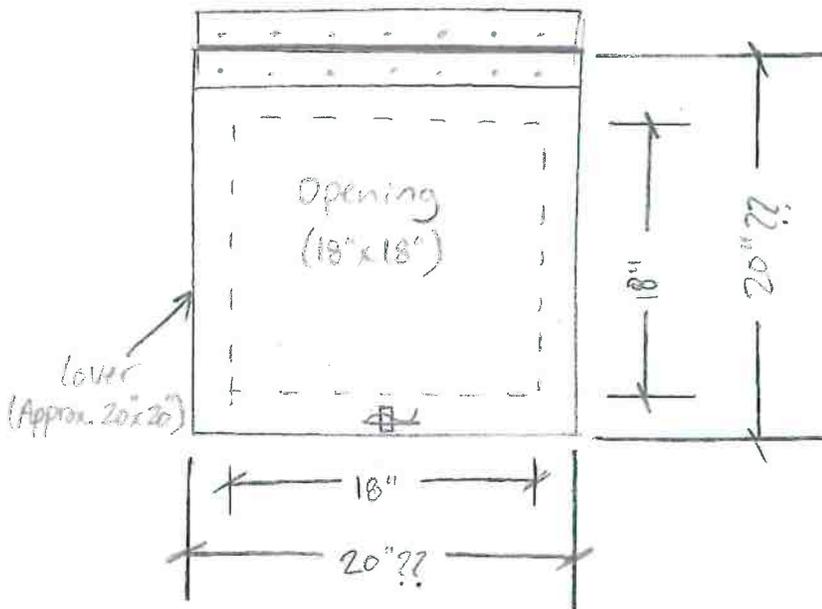
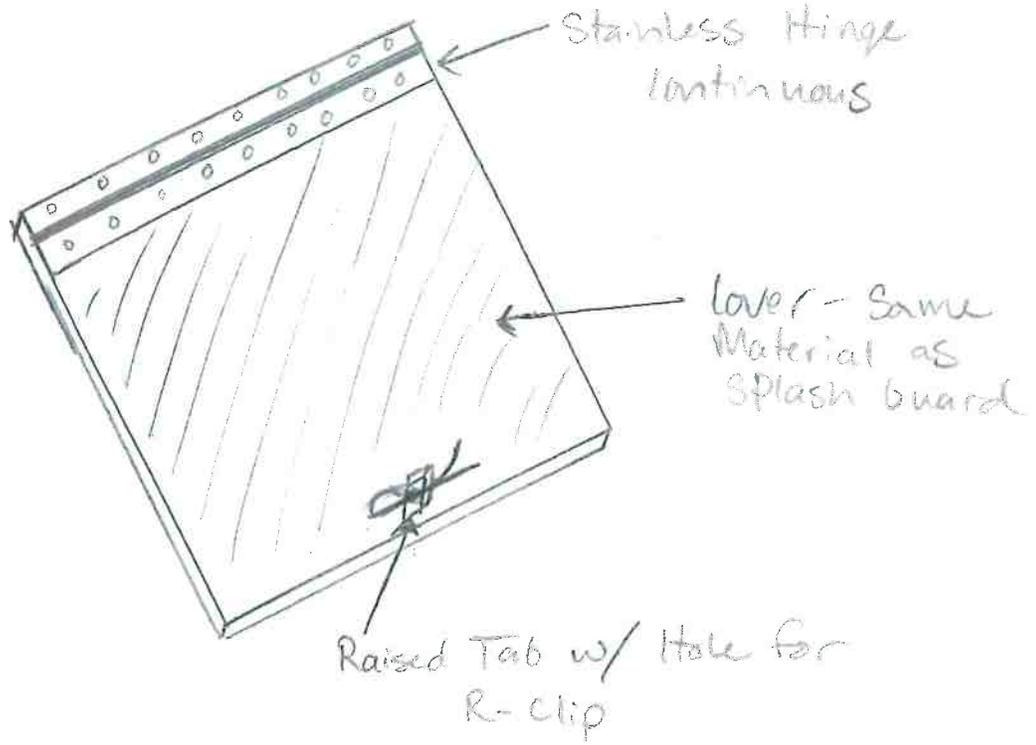
Project Number Pa501-2007-017-060

Prepared By NRT

Checked By \_\_\_\_\_

Page 1 of 1

Subject Screw Pump Splash guard Inspection Cover



Not to Scale

**Mike Sikorski**

---

**From:** Mark Enochs [REDACTED]  
**Sent:** Tuesday, April 26, 2016 12:17 PM  
**To:** Mike Sikorski  
**Subject:** Re: Bis. WWTF: Screw/Grease Pump

Mike

Spaans Babcock provided the additional costs for the following items. Prices shown below are total for all 4 pumps:

- ~~1. Cost adder for the change in length of screw pump tube – US \$2,035.00~~ Went away
- 2. Cost adder for adding inspection covers on splash plates – US \$ 1,830.00
- ~~3. Cost adder to supply grease lubrication system with flow switches – US \$ 2,945.00~~ Rejected

Please let me know how you'd like to proceed.

Once Spaans Babcock has an approval for change order, they can proceed with the GA drawing revisions accordingly and finish the Submittal revisions.

Thanks,

Mark Enochs  
PARSONS ENGINEERED PRODUCTS  
[REDACTED]

---

**From:** Mark Enochs [REDACTED]  
**Date:** Monday, April 25, 2016 at 5:01 PM  
**To:** Mike Sikorski [REDACTED]  
**Subject:** Re: Bis. WWTF: Screw/Grease Pump

Good thought, Mike. Will do.

Thanks,

Mark Enochs  
PARSONS ENGINEERED PRODUCTS  
[REDACTED]

June 8, 2016

**MEMORANDUM**

**To:** Commissioners Askvig, Grossman, Guy, Marquardt, and Mayor Seminary  
**From:** Randy Bina, Executive Director   
**Re:** **AGENDA ITEM – Park Improvement District 16-001**  
**Request for Resolution Receiving Bids and Ordering Preparation of Engineer's Statement**  
**Request for Resolution Awarding Contract**  
**Request for Resolution Approving Contract and Contractor's Bond**

Please consider the following at the Board of City Commissioners meeting to be held on Tuesday, June 14, 2016, at 5:15 p.m. in the Tom Baker Room.

The City Commission approved the creation of Park Improvement District 16-001 and authorized advertisement of bids on February 23, 2016. The advertisement for bids was published April 7, 14, and 21<sup>st</sup>. Bids were received on April 29<sup>th</sup> and are summarized in the enclosed letter and Tabulation of Bids provided by KLJ. The original engineer's cost estimate, including three alternates, was \$499,811. The Park Board approved the awarding the bid to Capital City Construction for a total bid amount of \$457,341.95, which includes all three alternates.

Requested Board action is to concur with the Park Board's approval of awarding the bid to Capital City Construction and to approve the contract and contractor's bond.

Attachments

**CC:** Jason Tomanek, Assistant City Administrator  
Sheila Hillman, City of Bismarck Director of Finance  
Kathy Feist, Park District Finance Director  
Julie Jeske, Board of Park Commissioners President



◇ May 5, 2016

Randy Bina  
Executive Director  
Bismarck Parks and Recreation District  
400 East Front Avenue  
Bismarck, ND 58504

Re: South Meadows Park

Dear Randy:

Bids for the construction of South Meadows Park were opened on April 29, 2016. Five complete bids were received, opened and checked for mathematical accuracy, with a few minor errors present. The Bidders were notified of the errors and are allowing their bids to stand as shown with the corrected amounts. A completed tabulation of the bids received is attached.

The apparent low bidder is Capital City Construction, Inc. The following is a summary bid results for the bids received:

<u>Contractor</u>	<u>Bid Total</u>	<u>Alt. 1</u>	<u>Alt. 2</u>	<u>Alt. 3</u>
Engineers Opinion of Cost	\$394,676.00	\$60,005.00	\$9,702.00	\$19,801.87
<b>Capital City Construction</b>	<b>\$397,713.00</b>	<b>\$42,882.00</b>	<b>\$3,623.15</b>	<b>\$13,123.80</b>
Weisz & Sons, Inc.	\$401,740.55	\$36,992.50	\$10,938.00	\$12,330.00
Veit Specialty Contracting	\$492,354.20	\$38,217.50	\$10,623.00	\$18,912.00
JR Civil, LLC	\$522,097.81	\$63,210.73	\$12,301.80	\$21,386.16
Wright Brothers	\$651,409.75	\$40,875.32	\$19,157.00	\$23,829.00

The bid was presented to contractors with three alternates, they are as follows:

Alternate 1: Landscape Package, which includes shrubs, trees and irrigation

Alternate 2: Concrete Trail, which would provide and install a 10FT wide concrete trail within the park in lieu of asphalt.

Alternate 3: Concrete Parking lot, concrete parking lot in lieu of asphalt.



Our recommendation is to award the project to the low bidder. Based on the bids, we recommend moving forward with the base bid, and all alternates as the selected package. This package will cost more than selecting only the base bid and alternate 1 but will save the Park District money over the life of the park. Concrete has a much longer life expectancy than asphalt, the initial upfront cost versus future asphalt repairs and overlays is minimal.

If you have any questions, please contact our office.

Sincerely,

KLJ

A handwritten signature in blue ink that reads "David M. Mayer". The signature is fluid and cursive, with a long horizontal line extending to the right.

David M. Mayer  
Landscape Architect/Project Manager

Enclosure(s): Tabulation of Bids  
Project #: 1416103  
cc: Brett Gurholt –KLJ, file

TABULATION OF BIDS  
South Meadows Park  
Bismarck Parks and Recreation District



Bid Letting: 10:00 AM, April 29, 2016  
Comp. No. 1416103  
Checked by: DMH

ITEM	UNIT DESCRIPTION	QTY	UNIT	Engineers Estimate		Capital City Construction Bismarck, ND		Welsh and Sons, Inc Bismarck, ND		Veit Speciality Contracting Mandan, ND		JR Civil, LLC Sheridan, WY		Wright Brothers Sheridan, WY	
				UNIT PRICE	TOTAL SUM	UNIT PRICE	TOTAL SUM	UNIT PRICE	TOTAL SUM	UNIT PRICE	TOTAL SUM	UNIT PRICE	TOTAL SUM	UNIT PRICE	TOTAL SUM
BASE BID															
1	Contract Bond	1	LS	\$ 6,000.00	\$ 6,000.00	\$ 2,800.65	\$ 2,800.65	\$ 4,700.00	\$ 4,700.00	\$ 4,100.00	\$ 4,100.00	\$ 12,756.42	\$ 12,756.42	\$ 13,500.00	\$ 13,500.00
2	Mobilization	1	LS	25,000.00	25,000.00	20,800.00	20,800.00	15,000.00	15,000.00	109,800.00	109,800.00	27,359.64	27,359.64	60,486.00	60,486.00
3	12" Fiber Roll	700	LF	4.00	2,800.00	2.62	1,834.00	2.65	1,855.00	2.80	1,960.00	6.04	4,228.00	6.85	4,795.00
4	Erosion Control Blanket	100	SY	5.00	500.00	2.10	210.00	2.10	210.00	2.25	225.00	10.04	1,004.00	12.00	1,200.00
5	Construction Entrance	1	LS	4,000.00	4,000.00	2,350.00	2,350.00	2,800.00	2,800.00	2,325.00	2,325.00	3,893.60	3,893.60	6,920.00	6,920.00
6	Earthwork	1	LS	25,000.00	25,000.00	21,500.00	21,500.00	16,000.00	16,000.00	33,000.00	33,000.00	38,518.07	38,518.07	98,000.00	98,000.00
7	12IN RCP Culvert	22	LF	35.00	770.00	49.00	1,078.00	90.00	1,980.00	68.00	1,496.00	61.33	1,349.26	181.82	4,004.04
8	15IN RCP Culvert	30	LF	45.00	1,350.00	64.30	1,929.00	97.00	2,910.00	73.00	2,190.00	66.48	1,994.40	150.00	4,500.00
9	12IN RCP FES	2	EA	800.00	1,600.00	900.00	1,800.00	430.00	860.00	1,215.00	2,430.00	1,350.85	2,701.70	2,040.50	4,081.00
10	15IN RCP FES	4	EA	900.00	3,600.00	700.00	2,800.00	495.00	1,980.00	1,250.00	5,000.00	1,431.95	5,727.80	1,206.25	4,825.00
11	Remove Curb and Gutter	32	LF	15.00	480.00	10.00	320.00	4.50	144.00	5.00	160.00	17.54	561.28	29.38	940.16
12	CL 5 Aggregate Base	308	TON	35.00	10,780.00	46.00	14,168.00	42.00	12,936.00	33.00	10,164.00	71.23	21,938.84	127.62	39,306.96
13	4" Hot Bituminous Pavement CL 27 Parking Lot	99	TON	140.00	13,860.00	131.80	13,048.20	130.00	12,870.00	112.00	11,088.00	126.16	12,489.84	141.12	13,970.88
14	Standard Curb and Gutter	286	LF	32.00	9,152.00	18.50	5,291.00	19.25	5,505.50	18.50	5,291.00	19.64	5,617.04	51.59	14,754.74
15	4IN Concrete Sidewalk W/ Intergal Curb	208	SY	54.00	11,232.00	63.75	13,260.00	99.00	20,592.00	77.00	16,016.00	85.89	17,856.80	75.48	15,699.84
16	4IN Concrete Sidewalk	434	SY	50.00	21,700.00	46.50	20,181.00	108.00	46,872.00	48.00	20,832.00	50.35	21,859.26	66.82	28,999.88
17	6IN Reinforced Concrete	733	SY	65.00	47,645.00	45.00	32,985.00	51.00	37,383.00	53.00	38,849.00	59.19	43,386.27	75.92	55,649.36
18	Commercial Concrete Driveway	60	SY	110.00	6,600.00	101.55	6,093.00	92.00	5,520.00	60.00	3,600.00	68.50	4,110.00	79.17	4,750.20
19	10' - 2 3/4 IN Asphalt Trail	90	TON	150.00	13,500.00	154.68	13,921.20	130.00	11,700.00	133.50	12,015.00	150.78	13,570.20	164.44	14,799.60
20	Court Pavement Surfacing	1	LS	9,000.00	9,000.00	14,550.00	14,550.00	15,000.00	15,000.00	15,600.00	15,600.00	6,378.21	6,378.21	6,000.00	6,000.00
21	Basketball Hoop	4	EA	3,000.00	12,000.00	1,820.00	7,280.00	1,850.00	7,400.00	1,950.00	7,800.00	2,206.86	8,827.44	2,237.50	8,950.00
22	Parking Lot Striping	288	LF	3.00	864.00	2.75	792.00	2.00	576.00	1.50	432.00	12.76	3,674.88	10.70	3,081.60
23	Playground Equipment	1	LS	70,000.00	70,000.00	95,300.00	95,300.00	77,200.00	77,200.00	80,500.00	80,500.00	115,701.97	115,701.97	109,000.00	109,000.00
24	Engineered Wood Fiber	1	LS	10,000.00	10,000.00	6,300.00	6,300.00	6,300.00	6,300.00	6,700.00	6,700.00	7,602.82	7,602.82	9,950.00	9,950.00
25	Mason Sand - 2-5 Play Area	20	CY	100.00	2,000.00	84.00	1,680.00	55.00	1,100.00	60.00	1,200.00	102.05	2,041.00	175.00	3,500.00
26	Playground Underground Drainage	1	LS	4,500.00	4,500.00	670.00	670.00	2,600.00	2,600.00	1,450.00	1,450.00	7,791.62	7,791.62	9,900.00	9,900.00
27	Playground Access	1	LS	350.00	350.00	500.00	500.00	325.00	325.00	400.00	400.00	8,291.67	8,291.67	5,900.00	5,900.00
28	24' Shade Shelter	1	LS	25,000.00	25,000.00	48,900.00	48,900.00	48,950.00	48,950.00	52,600.00	52,600.00	59,419.39	59,419.39	49,000.00	49,000.00
29	Park Bench	5	EA	1,200.00	6,000.00	1,410.00	7,050.00	1,150.00	5,750.00	1,530.00	7,650.00	1,712.42	8,562.10	1,942.40	9,712.00
30	Trash Receptacle	2	EA	1,800.00	3,600.00	1,150.00	2,300.00	1,050.00	2,100.00	1,130.00	2,260.00	1,395.55	2,791.10	1,400.00	2,800.00
31	Seeding - Nonirrigated - Hydro-Mulch	1.35	ACRE	5,000.00	6,750.00	2,205.00	2,976.75	2,200.00	2,970.00	2,400.00	3,240.00	5,816.93	7,852.86	7,185.19	9,700.01
32	Amur Maple	3	EA	475.00	1,425.00	393.00	1,179.00	390.00	1,170.00	425.00	1,275.00	436.27	1,308.81	250.00	750.00
33	Common Hackberry	2	EA	500.00	1,000.00	395.00	790.00	390.00	780.00	425.00	850.00	619.96	1,239.92	475.00	950.00
34	American Larch	3	EA	500.00	1,500.00	366.75	1,100.25	365.00	1,095.00	400.00	1,200.00	700.33	2,100.99	295.00	885.00
35	Ironwood	3	EA	500.00	1,500.00	394.00	1,182.00	390.00	1,170.00	425.00	1,275.00	543.42	1,630.26	500.00	1,500.00
36	Black Hills Spruce	6	EA	500.00	3,000.00	367.50	2,205.00	365.00	2,190.00	400.00	2,400.00	375.04	2,250.24	496.67	2,980.02
37	Austrian Black Pine	1	EA	500.00	500.00	330.00	330.00	330.00	330.00	355.00	355.00	554.90	554.90	500.00	500.00
38	Scotch Pine	12	EA	500.00	6,000.00	325.00	3,900.00	330.00	3,960.00	355.00	4,260.00	363.56	4,362.72	241.67	2,900.04
39	Quaking Aspen	3	EA	500.00	1,500.00	330.00	990.00	330.00	990.00	355.00	1,065.00	474.54	1,423.62	500.00	1,500.00
40	Bur Oak	2	EA	650.00	1,300.00	395.00	790.00	390.00	780.00	425.00	850.00	665.89	1,331.78	600.00	1,200.00
41	Ivory Silk Lilac	3	EA	500.00	1,500.00	290.00	870.00	290.00	870.00	310.00	930.00	459.23	1,377.69	416.17	1,248.51
42	American Linden	3	EA	500.00	1,500.00	378.00	1,134.00	370.00	1,110.00	405.00	1,215.00	642.92	1,928.76	466.67	1,400.01
43	Discovery Elm	1	EA	500.00	500.00	360.00	360.00	360.00	360.00	385.00	385.00	604.65	604.65	500.00	500.00
44	Light Standard	1	EA	4,500.00	4,500.00	2,205.00	2,205.00	4,100.00	4,100.00	4,400.00	4,400.00	2,678.85	2,678.85	950.00	950.00
45	Luminaire	1	EA	2,300.00	2,300.00	4,110.00	4,110.00	2,200.00	2,200.00	2,400.00	2,400.00	4,994.14	4,994.14	3,500.00	3,500.00
46	#10 AWG CU Type THWN	285	LF	1.60	456.00	0.33	94.05	1.35	384.75	1.40	399.00	0.38	108.30	0.26	74.10
47	#10 AWG CU Ground	118	LF	1.50	177.00	0.35	41.30	1.35	159.30	1.40	165.20	0.38	44.84	1.69	199.42
48	2-in Diameter Conduit	118	LF	7.50	885.00	14.70	1,734.60	8.50	1,003.00	9.00	1,062.00	17.86	2,107.48	14.41	1,700.38
49	FeedPoint	1	EA	8,000.00	8,000.00	8,380.00	8,380.00	5,400.00	5,400.00	5,800.00	5,800.00	10,179.62	10,179.62	9,000.00	9,000.00
50	Power Pedestal	1	EA	1,500.00	1,500.00	1,650.00	1,650.00	1,600.00	1,600.00	1,695.00	1,695.00	2,002.76	2,002.76	1,000.00	1,000.00
TOTAL ESTIMATED PROJECT COST (Base Bid)					\$ 394,676.00		\$ 397,713.00		\$ 401,740.55		\$ 492,354.20		\$ 522,097.81		\$ 651,409.75
Alternate 1 (Landscaping)															
1	Irrigation System	1	LS	\$ 45,000.00	\$ 45,000.00	\$ 21,800.00	\$ 21,800.00	\$ 19,850.00	\$ 19,850.00	\$ 22,300.00	\$ 22,300.00	\$ 43,713.69	\$ 43,713.69	\$ 25,750.00	\$ 25,750.00
2	Meter Pit	1	LS	4,500.00	4,500.00	11,150.00	11,150.00	8,400.00	8,400.00	8,675.00	8,675.00	10,516.97	10,516.97	4,995.00	4,995.00
3	2" Water Service	25	LF	30.00	750.00	230.00	5,750.00	172.00	4,300.00	108.00	2,700.00	115.00	2,875.00	159.00	3,975.00
4	Seeding - Irrigated - Hydro-Mulch	1.20	ACRE	6,500.00	7,800.00	2,090.00	2,508.00	2,100.00	2,520.00	2,250.00	2,700.00	5,255.64	6,306.77	7,123.30	8,547.96
5	Deduct Partial, Bid Item #31 - Unit Price Full Credit	(1.20)	ACRE	5,000.00	(6,000.00)	2,205.00	(2,646.00)	2,100.00	(2,520.00)	2,375.00	(2,850.00)	5,816.93	(6,980.32)	7,185.00	(8,622.00)
6	1" Crushed Washed Landscape Rock w/ Fabric	190	SY	20.00	3,800.00	10.00	1,900.00	10.00	1,900.00	10.75	2,042.50	15.31	2,908.90	13.16	2,500.40
7	Concrete Landscape Edging	210	LF	8.00	1,680.00	5.50	1,155.00	5.75	1,207.50	6.00	1,260.00	7.65	1,606.50	6.90	1,449.00
8	Feather Reed Grass	18	EA	35.00	630.00	26.30	473.40	27.00	486.00	28.00	504.00	39.55	711.90	33.33	599.94
9	Arctic Fire Red Twig Dogwood	4	EA	60.00	240.00	32.50	130.00	32.00	128.00	34.00	136.00	48.48	193.92	47.50	

June 8, 2016

**MEMORANDUM**

**To:** Commissioners Askvig, Grossman, Guy, Marquardt, and Mayor Seminary  
**From:** Randy Bina, Executive Director *RB*  
**Re:** **AGENDA ITEM – Park Improvement District 16-002**  
**Request for Resolution Creating District and Ordering Preparation of Preliminary Engineering Reports**  
**Request for Resolution Approving Preliminary Reports and Directing the Preparation of Plans and Specifications**  
**Request for Resolution Approving Plans and Specifications**  
**Request for Resolution Declaring Petition for Improvements has been Received**  
**Request for Authorization to Advertise and Receive Bids**

**Please consider the following at the Board of City Commissioners meeting to be held on Tuesday, June 14, 2016 at 5:15 p.m. in the Tom Baker Room.**

A Park Development Agreement (attached) was entered into between the Developer and the Park District on April 16, 2015. Park Improvement District No. 16-002 Unit 1 (see attached map) consists of the construction of neighborhood park amenities including playground equipment, a picnic shelter, and parking lot. The Developer, owning 100% of the benefitting area in Heritage Park and Heritage Ridge, petitioned for these park improvements.

The estimated total special assessment for a median lot in Heritage Ridge and Heritage Park is estimated to be between \$1,500 and \$1,875 which results in an estimated annual principal installment between \$100 and \$125 for a 15 year term. The proposed Park Improvement District 16-002 includes benefitting property that is not currently annexed. The costs associated with benefited property outside city limits will be assessed to the Park District to be held in abeyance to be assessed to the actual benefited parcels when they are annexed.

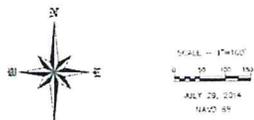
**Attachments:** Map of Improvement District  
Park Development Agreement  
Estimate of Neighborhood Park Costs  
Project Budget  
Diagram of Proposed Park

**CC:** Jason Tomanek, Assistant City Administrator  
Sheila Hillman, City of Bismarck Director of Finance  
Kathy Feist, Park District Finance Director  
Julie Jeske, Board of Park Commissioners President

*A nationally accredited park and recreation agency.*

# HERITAGE RIDGE ADDITION

THE SOUTHWEST 1/4  
OF SECTION 8, T. 139 N., R. 80 W.  
BISMARCK, NORTH DAKOTA



OWNER:  
LADAN, LLC  
200 SHELTON DRIVE SE  
BISMARCK, ND

OWNER:  
DELA P. SMITH  
6040 WESTER DITTE LN  
BISMARCK, ND

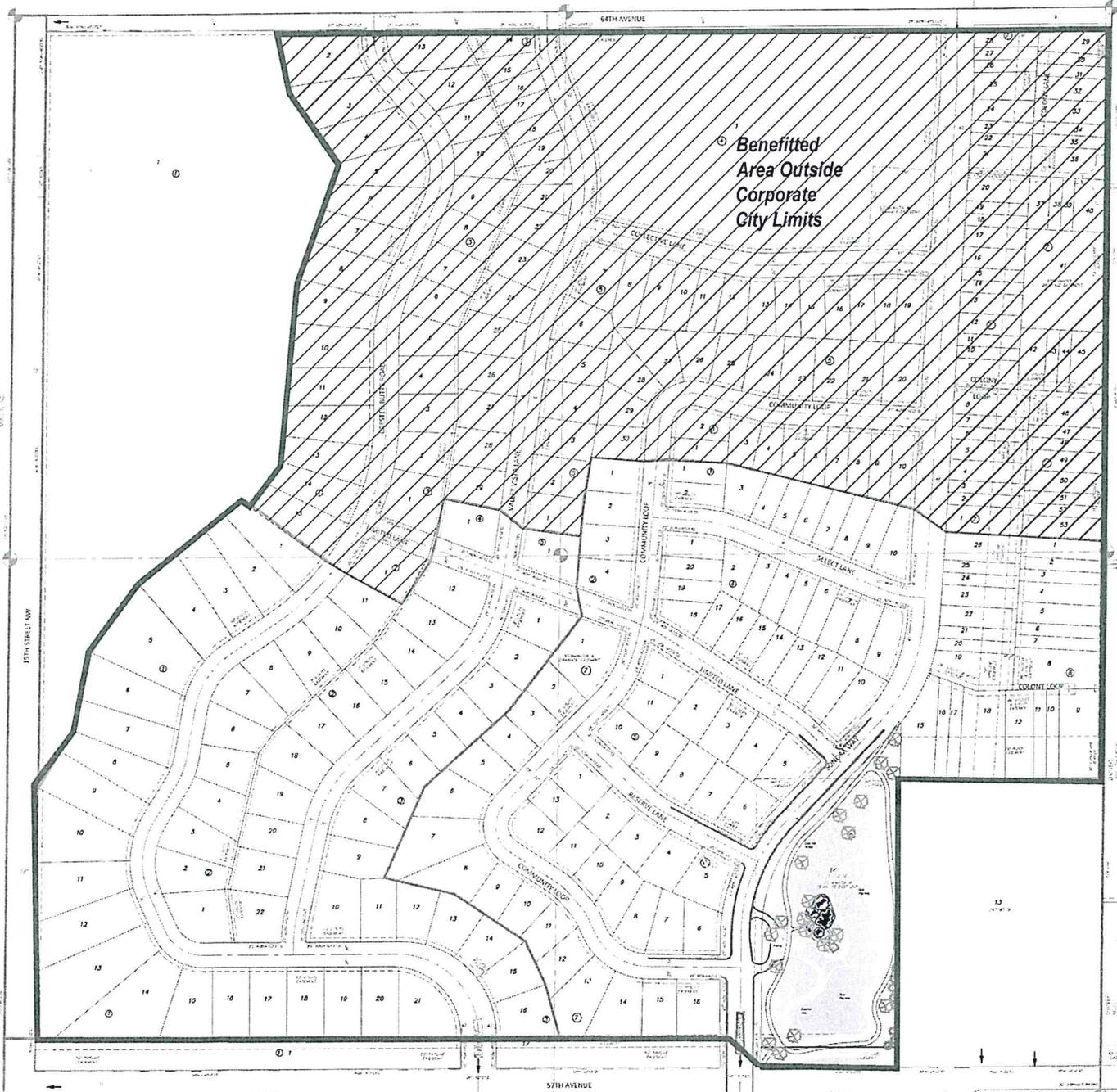
OWNER:  
WILLIAM BRADY  
1000 S. DICK  
BISMARCK, ND

OWNER:  
NORME & GAIN GORDON  
400 S. GARDEN ST  
BISMARCK, ND

OWNER:  
MARK & TERRI LUTHE  
215 S. HALEY DRIVE SE  
BISMARCK, ND

OWNER:  
WILL & HOLLY BENTLEY  
1203 S. HOLLIS WAY  
BISMARCK, ND

OWNER:  
DENISE F. FOLLO  
6137 FORDWAY WAY  
BISMARCK, ND



STATE PLANNED COORDINATES  
BISMARCK, ND  
K=1602729.6

DATE: 07/29/2014  
DRAWN BY: [Name]

OWNER: [Name]

DATE: 07/29/2014  
DRAWN BY: [Name]

**PARK DEVELOPMENT AGREEMENT**  
**Neighborhood Park in Heritage Park Addition and Heritage Ridge Addition**

This Park Development Agreement (the "Agreement") is made and entered into this 16<sup>th</sup> day of April, 2015, by and between Heritage Development, Inc., whose address is PO Box 7188, Bismarck, North Dakota 58507, ("Developer") and the **PARK DISTRICT OF THE CITY OF BISMARCK**, a park district under the laws of the State of North Dakota, 400 East Front Avenue, Bismarck, North Dakota 58504 ("Park District").

Preliminary Statement

The purpose of the neighborhood parks and open space policy is to maintain and enhance the high quality visual aesthetic of the community and to ensure that adequate usable neighborhood parks, open space and recreational facilities are provided for the existing and future residents of the City of Bismarck. Because new development within the City, or intended to be in the City, increases population and the demand for public services, it shall be the policy of the City of Bismarck that the owner and/or developer of major urban residential subdivision plats provide for neighborhood parks, playgrounds, open space and natural areas, and trails. The provision of such facilities in newly developed areas maintains the high quality of the life enjoyed by the citizens of the community by permitting the City to identify, obtain, continue, maintain and enhance its recreation and open space system.

Developer is the owner of an 151 acre, more or less, tract of real property located in, or planned to be annexed to, the City of Bismarck, Burleigh County, North Dakota (the "Developer Property"), specifically described below and delineated on the plat/survey as attached Exhibit A:

Heritage Park Addition and Heritage Ridge Addition to the City of Bismarck

Developer is in the process of planning a residential development on the Developer Property in which the Developer desires to include a neighborhood park of approximately 5 acres on the Developer Property, the location being generally shown on Exhibit A. Developer's focus is to create a community with its own character and to provide residential development and recreational amenities for the support of the community and to promote ease of access in and around the community. The Developer intends to develop the area beginning when annexation is approved.

Park District desires to establish an additional neighborhood park in Bismarck and will design the 5 acre tract (the "Park Area"), affect the construction of the park amenities and manage the Park Area, all pursuant to the terms and conditions of this Agreement and the rules and regulations established by the Board of Park Commissioners from time to time.

The Park Area will play a vital role in this development by not only providing recreational amenities for this community and the surrounding area but also to provide the necessary connections throughout the development to other areas in Bismarck. To the extent appropriate and possible, all trails will ultimately connect to current and future Park District parks.

Agreement

NOW, THEREFORE, in consideration of the above preliminary statements, the terms and conditions of this Agreement, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Scope of Agreement. This Agreement shall not constitute a partnership or a joint venture by and between the Developer and the Park District. Neither party has a right or obligation to bind the

other party to any course of action or commitment as it relates to the development of the Developer Property, including the Park Area that is described herein. Each of the parties is an independent contractor and, although they will coordinate their efforts to develop the Park Area, possibly to include elements of design, access and amenities, neither party is assuming any obligation of the other party.

2. Conveyances. On the date of closing, as herein described, Developer shall cause to be transferred and conveyed to the Park District the approximately 5 +/- acres that constitutes the Park Area, as is in the general location as shown on the site plan attached as Exhibit A and further delineated on Exhibit A-1. The terms of the conveyance are described in the attached Exhibit C, Real Estate Contribution Agreement. The parties acknowledge that the approved plat shall dedicate the Park Area to public use. The Developer and Park District agree that the Park Area shall be used for no purposes other than those outlined in this Agreement and that the Park District may not transfer or convey any portion of the Park Area without the express written consent of the Developer.

Developer will provide the Park District with an abstract of title to the Park Area no later than ten (10) days prior to closing. In lieu of an abstract of title, the Developer at its option may provide to the Park District an owner's policy of title insurance in an amount equal to the sales price of the Park Area as stated in the Real Estate Contribution Agreement.

3. Developer and Park District Obligations. Developer and Park District acknowledge that they will be responsible for the following amenities to be located on the Developer Property and the Park Area:

- a. Specific Neighborhood Park Amenities are described on Exhibit B and will be installed by the Park District and financed through a City of Bismarck special assessment improvement district with the costs for the Specific Park Amenities assessed against the benefitted Lot Owners/Developer Property as described in Exhibit A-2.
- b. The Developer shall provide the necessary easements for utilities for the Park Area.
- c. The Developer, at its sole cost and expense, shall provide the following with regard to the Park Area:
  - i. Prepare a complete boundary survey of the Park Area showing all rights-of-way, easements and any other physical burdens that may encumber the Park Area. The Developer shall cause the Park Area to be staked so that it can be later identified by the Park District.
  - ii. The Developer will provide the Park District with copies of such tests, investigations and reports which may have been completed by the Developer including, but not limited to, any soil boring tests and results of environmental testing. Should such test disclose that the Park Area cannot support the intended park development or if there are environmentally hazardous conditions on the Developer Property and/or Park Area, the Park District will not be required to close and accept the portion of the Developer Property to be included in the Park Area.
  - iii. To the best of its ability, the Developer shall provide the Park District with safe access to the Park Area and such areas leading to the Park Area.

4. Park Area Design. The Park District shall develop a design for the Park Area that provides park activities, such as walking trails, shelters and playgrounds. Attached on Exhibit A-1 is the parties' initial concept of the park design. As the Park District designs and plans the Park Amenities for the Park Area, it will provide the Developer with periodic reports.

5. Maintenance. In entering into this Agreement, the Park District contemplates it will maintain the Park Area within its normal park maintenance program and consistent with other parks within the Bismarck area. The Park District will be generally responsible for future maintenance of the Park Area, the trails leading to the Park Area and the equipment and the other Park Amenities in the Park Area. If the Developer and the Park District agree to coordinate access to other trails or parks or provide other amenities, any such other amenities agreed to by and between the Park District and the Developer may require a joint maintenance agreement.

6. Construction. The construction of the Park Amenities described in Section 3 and as shown on Exhibit B are intended to be completed by one calendar year after annexation is approved.

7. Park Name. The Park Area shall be named and referred to as Heritage Park.

8. Future Provisions. It is understood that this Agreement will satisfy the Developer's obligation under Chapter 14-09 of the City of Bismarck Code of Ordinances for any future additions to the areas highlighted in the attached Exhibit A-2 Map of the Benefitted Property.

9. General Provisions.

- a. This Agreement, together with the other surveys, plans and specifications that have been reviewed by the parties or will later be provided pursuant to this Agreement and the attachments hereto, contain the entire agreement among the parties respecting the matters herein set forth and supersede all prior discussions with respect to such matters. Notwithstanding the above, the parties acknowledge that this is a work in progress and development of the final design for the Park Area will be part of this Agreement.
- b. This Agreement shall be binding upon and inure to the benefit of all the parties and their respective successors and assigns.
- c. This Agreement shall be construed and enforced in accordance with the laws of the State of North Dakota.
- d. This Agreement may be modified only by a written document signed by all parties. A purported oral modification shall not be effective.
- e. The Developer shall hold the Park District harmless for any claim or injury to a person or property arising out of, or in the course of, its construction, design, and plan of the Park Area. In like manner, the Park District, once it acquires the Park Area and assumes maintenance responsibility, will hold the Developer harmless for claims arising out of its negligence in maintaining the Park Area.

DEVELOPER:

HERITAGE DEVELOPMENT, INC.

By: *Bob Williams*  
Its: President

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

PARK DISTRICT:

THE PARK DISTRICT OF THE  
CITY OF BISMARCK

By: *Julie Jeske*  
Julie Jeske, Board President

By: *Randy Bina*  
Randy Bina, Clerk

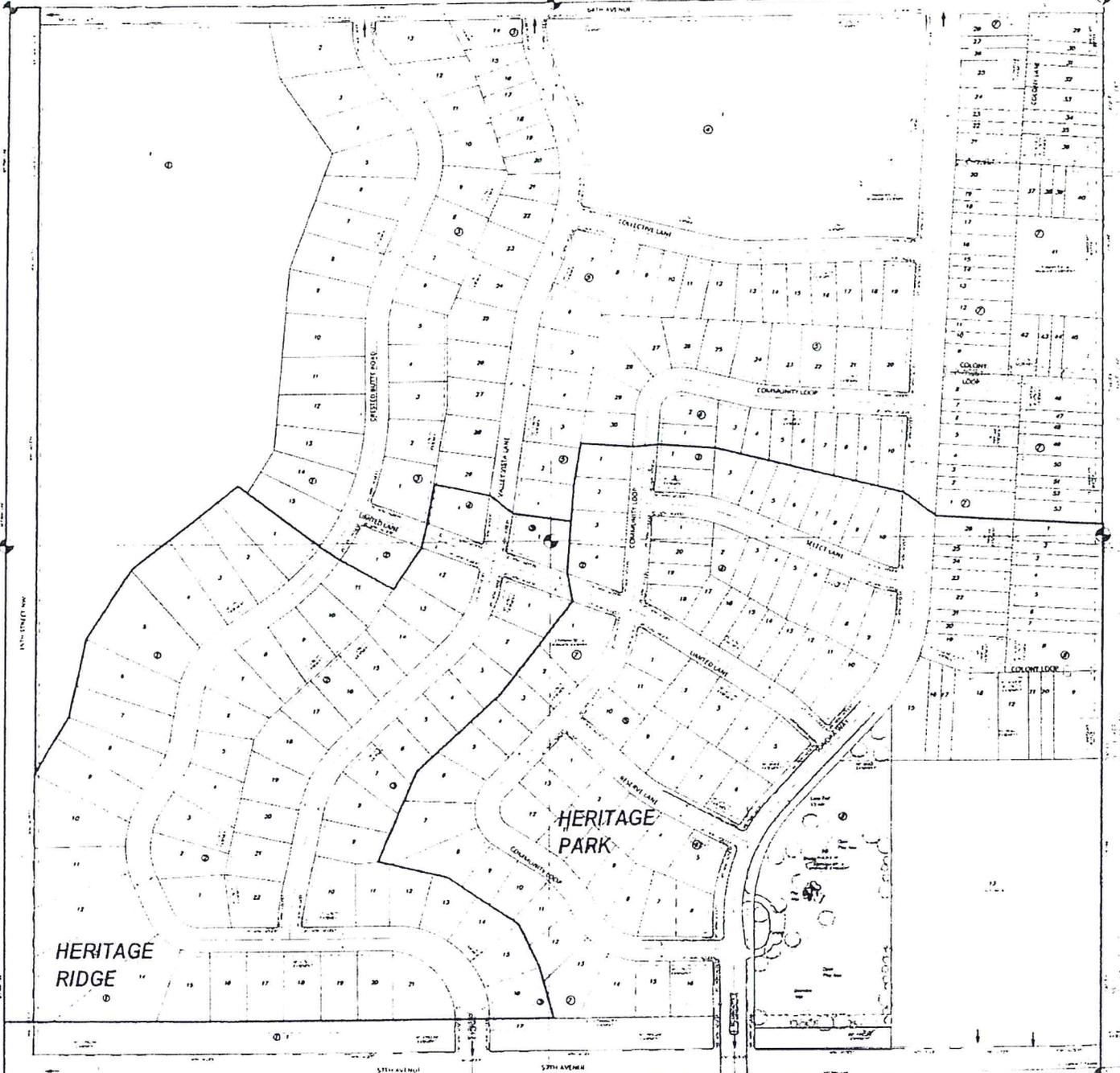


EXHIBIT A - Plat/Survey of Developer Property

# HERITAGE RIDGE ADDITION

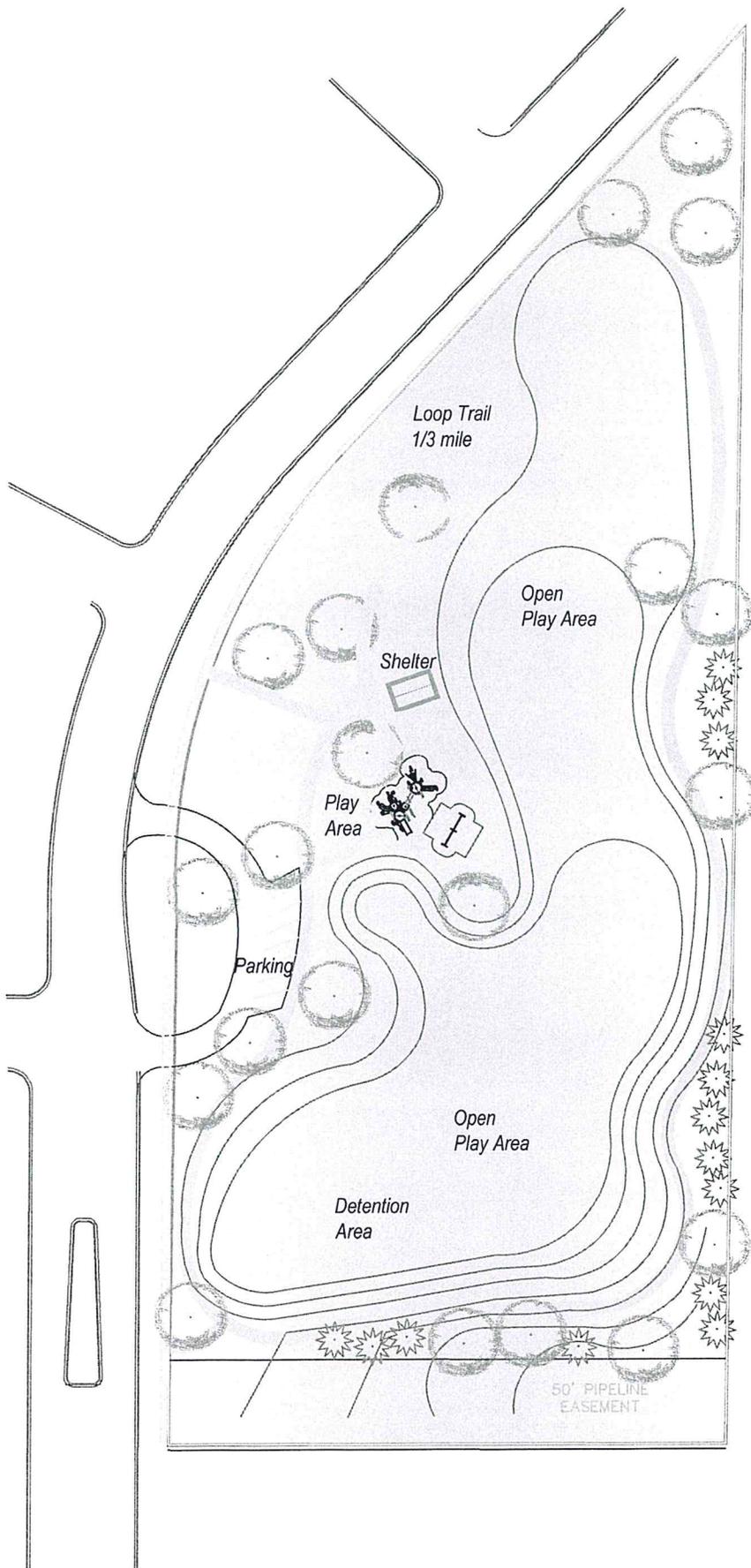
THE SOUTHWEST 1/4  
OF SECTION 8, T. 139 N., R. 80 W.

## BISMARCK, NORTH DAKOTA



DAVID GAY, LAND SURVEILLOR  
REGISTERED SURVEILLOR  
LICENSE NO. 1101

# EXHIBIT A-1 Diagram of the Park Area



## *Heritage Ridge Subdivision Preliminary Neighborhood Park Plan*



EXHIBIT A-2 Map of Benefitted Property

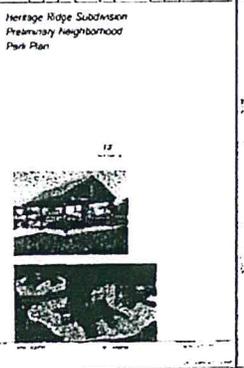
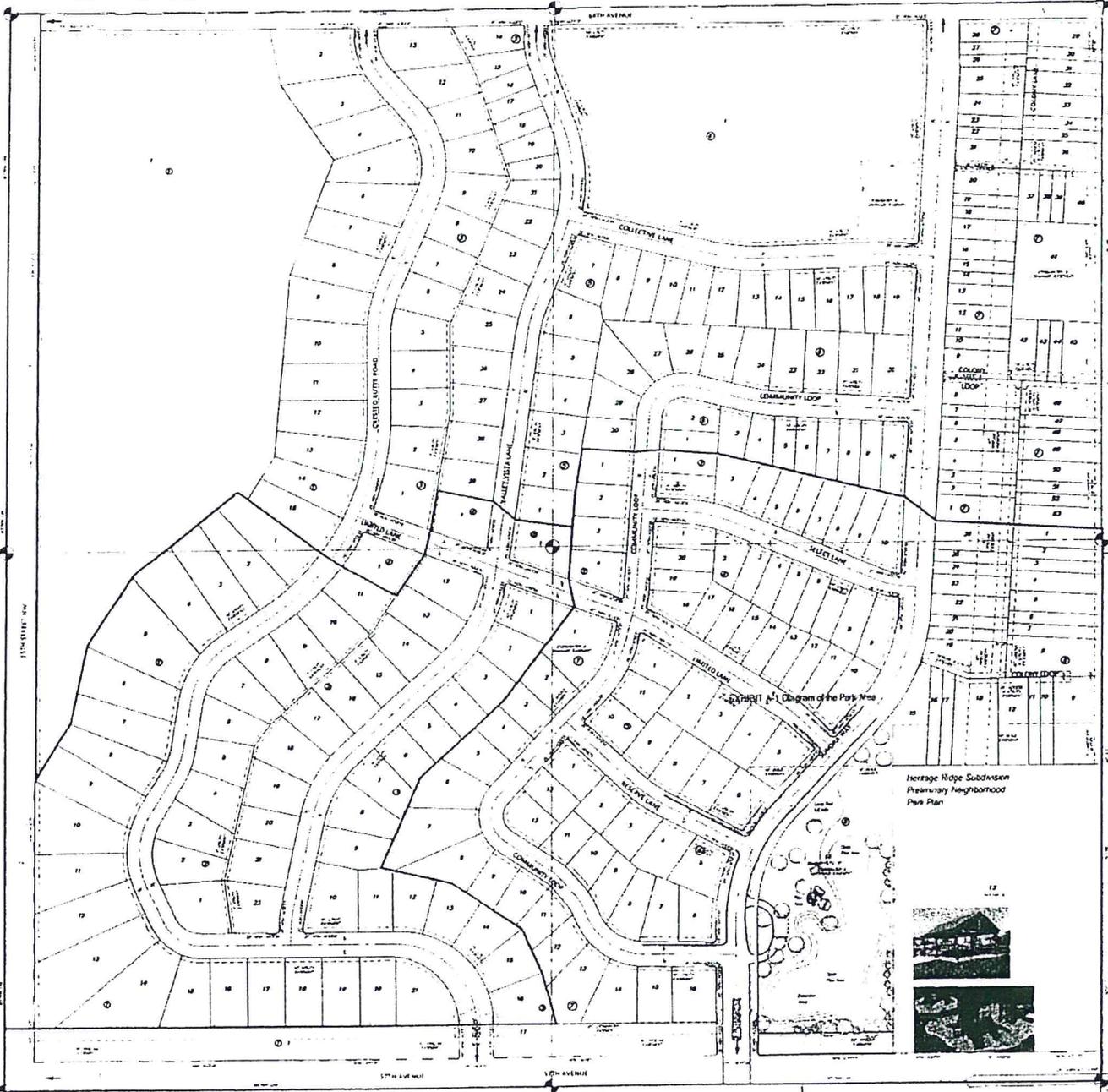
# HERITAGE RIDGE ADDITION

THE SOUTHWEST 1/4  
OF SECTION 8, T. 139 N., R. 80 W.

## BISMARCK, NORTH DAKOTA



SCALE: 1" = 100'  
DATE: JULY 29, 2014  
DRAWN BY: [Name]



DATE: [Date]  
DRAWN BY: [Name]

NEIGHBORHOOD PARK  
PROPOSED BENEFITTING AREA

benefitting area based on 1/2 mile  
walking distance from edge of park

EXHIBIT B - Park Amenities and Cost Estimate of Individual Park Amenities

Heritage Ridge Park- Preliminary Plan				1/8/2015
Estimate of Neighborhood Park Costs				
	QTY	UNIT	PRICE	TOTAL PRICE
<b>EARTHWORK</b>				
General Grading and Levelling	1	LS	20000.00	\$20,000.00
			<b>Grading Total</b>	<b>\$20,000.00</b>
<b>PLAY EQUIPMENT</b>				
Play Equipment & Installation	1	LS	80000.00	\$80,000.00
Wood Fiber	1	LS	10000.00	\$10,000.00
			<b>Play Equipment Total</b>	<b>\$90,000.00</b>
<b>PICNIC SHELTER</b>				
Wood Shelter with Metal Roof	1	LS	30000.00	\$30,000.00
Electric to Shelter	1	LS	10000.00	\$10,000.00
			<b>Shelter Total</b>	<b>\$40,000.00</b>
<b>PAVEMENT</b>				
Parking Lot	5671	SF	8.00	\$45,368.00
Shelter Pad	350	SF	6.00	\$2,100.00
Trail Loop	18700	SF	5.00	\$93,500.00
Play Access Path	2130	SF	6.00	\$12,780.00
Play Curb	213	LF	22.00	\$4,686.00
			<b>Paving Total</b>	<b>\$113,066.00</b>
<b>FURNISHINGS</b>				
Benches	2	EA	800.00	\$1,600.00
Picnic Tables	7	EA	800.00	\$5,600.00
Grill	1	EA	200.00	\$200.00
			<b>Furnishings Total</b>	<b>\$7,400.00</b>
<b>PLANTINGS</b>				
Evergreen Trees	14	EA	350.00	4,900.00
Deciduous Trees	21	EA	250.00	5,250.00
Ornamental Grasses/Perennials	45	EA	15.00	675.00
Lawn Seed/Prep	214065	SF	0.15	32,109.75
			<b>Plantings Total</b>	<b>42,934.75</b>
			<b>TOTAL</b>	<b>313,400.75</b>

Estimated park costs	\$ 313,401
Estimated consultant fees	\$ 34,474
Assessment fees	\$ 31,340
10% Contingencies	\$ 34,787
<b>Total estimated cost</b>	<b><u>\$ 414,002</u></b>

**REAL ESTATE CONTRIBUTION AGREEMENT**

THIS REAL ESTATE CONTRIBUTION AGREEMENT is entered into as of the 16<sup>th</sup> day of April, 2015, by and between Heritage Development, Inc., whose address is PO Box 7188, Bismarck, North Dakota 58507 (as "Contributor") and Park District of the City of Bismarck, a park district under the laws of the State of North Dakota, 400 East Front Avenue, Bismarck, North Dakota 58504 (as "Recipient").

In consideration of the mutual terms, covenants, conditions and agreements herein contained, it is hereby agreed by and between the parties as follows:

1. **Sale of Real Property.** Contributor agrees to contribute, convey, assign, transfer and deliver to Recipient, and Recipient agrees to accept, acquire and take from Contributor, all of Contributor's right, title and interest, in and to that certain real property located at Lot 14, Block 8 in Heritage Park Addition, in the City of Bismarck, in the County of Burleigh, State of North Dakota.

2. **Contribution Transaction.** Contributor shall transfer the Property to the Recipient for no monetary payment and such transfer is intended to be a charitable gift to Recipient to be used for the public purpose of a park. Recipient represents and warrants that it is a political subdivision of the State of North Dakota, and the Property shall be used for a public purpose.

3. **Closing.** The Closing Date shall be determined after a Park Improvement Special Assessment District for this Property is created by the City of Bismarck. Contributor shall deliver at the time of closing a Warranty Deed conveying title to the Recipient free and clear of all liens and encumbrances and subject to easements, zoning and restrictions of record. Real estate taxes and special assessments shall be prorated to the time of Closing with the Recipient responsible for all taxes accrued after the Date of Closing. The Contributor is responsible for all taxes accrued before the date of closing. Contributor will provide the Recipient with an abstract of title to the real property no later than ten (10) days prior to closing. In lieu of an abstract of title, the Contributor at its option may provide to the Recipient an owner's policy of title insurance in an amount equal to the sales price

4. **Possession of the Property.** Recipient shall be given possession of the property on the date of closing.

5. **Risk of Loss.** The risk of loss by destruction or damage to the property by fire or otherwise prior to the closing of the sale is that of the Contributor.

6. **Survival.** All of the terms, covenants, conditions, representations, warranties and agreements of this Real Estate Contribution Agreement shall survive and continue in force and effect and shall be enforceable after the Date of Closing and delivery of the Warranty Deed.

7. **Effective Real Estate Contribution Agreement.** This Real Estate Contribution Agreement shall become effective and shall be binding upon the parties only after it has been executed by all of the parties.

8. **Entire Agreement; Modification.** This Real Estate Contribution Agreement constitutes the entire and complete agreement between the parties and supersedes any prior oral or written agreements between the parties with respect to the Property. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions set forth herein, and that no modification of this Real Estate Contribution Agreement and no waiver of any of its terms and conditions shall be effective unless in writing and duly executed by the parties.

9. **Binding Effect.** All covenants, agreements, warranties and provisions of this Real Estate Contribution Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors and assigns. When used herein, the singular shall include the plural, the plural shall include the singular, and the use of one gender shall include all other genders, as and when the context so requires.

10. **Controlling Law.** This Real Estate Contribution Agreement has been made and entered into under the laws of the state of North Dakota, and said laws shall control its interpretation.

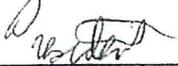
11. **Time of Essence.** Time is of the essence as to all dates and time periods set forth in this Agreement.

**IN WITNESS WHEREOF,** the parties hereto have caused this Real Estate Contribution Agreement to be executed as of the date first above written.

**CONTRIBUTOR:**

Heritage Development, Inc.

By:   
Chad Moldenhauer

Its: 

**RECIPIENT:**

Bismarck Parks and Recreation District

By:   
Julie Jeske, Board President

By:   
Randy Bina, Clerk

**PETITION FOR PARK IMPROVEMENTS**  
**For lots zoned R5, R10, RM, or RT Residential**

**DATE:** 6/8/2016

To the Honorable Board of City Commissioners  
Bismarck, North Dakota

Commissioners:

The undersigned owners of the property liable to be assessed for the park improvement respectfully petition your Honorable Board to have park improvements completed on (legal description of lots where park is to be developed):

Lot 14, Block 8 Heritage Park Addition  
\_\_\_\_\_  
\_\_\_\_\_

It is agreed that 100% of the costs of said park improvements shall be assessed to the benefited property according to Bismarck Parks and Recreation District's Basis of Special Assessment Policy.

**PROPERTY DESCRIPTION**

Lot 1, Block 1  
Lots 1-3, Block 2  
Lots 1-4, Block 3  
Lots 1-20, Block 4  
Lots 1-11, Block 5  
Lots 1-13, Block 6  
Lots 1-17, Block 7  
Lots 1-12, 14-26, Block 8  
All in Heritage Park Addition

Lots 1-21, Block 1  
Lots 1-22, Block 2  
Lots 1-16, Block 3  
Lot 1, Block 4  
Lot 1, Block 5  
All in Heritage Ridge Addition

**SIGNATURE and ADDRESS**  
**(Property Owner/s)**

Heritage Development, Inc.  
PO Box 7188  
Bismarck, ND 58507

By:   
Chad Moldenhauer  
Its: President

-----  
For City Engineer Use Only

  
Approved by Gabe Schell, P.E.  
City Engineer, Bismarck, ND

6/9/16  
Date

## Estimate of Neighborhood Park Costs

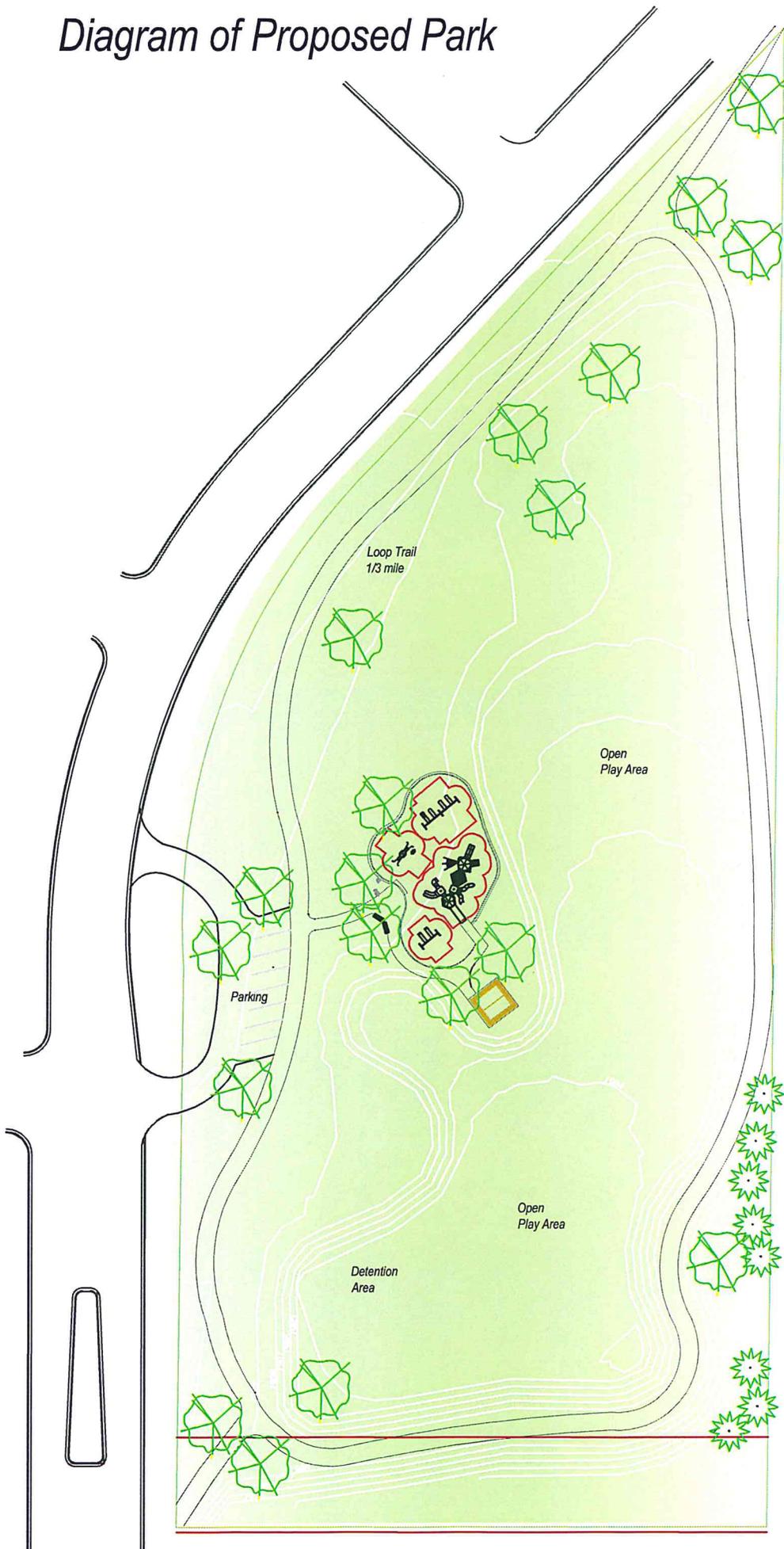
	QTY	UNIT	PRICE	TOTAL PRICE
<b>NEIGHBORHOOD PARK FEATURES</b>				
<b>PLAY EQUIPMENT</b>				
Play Equipment & Installation	1	LS	100000.00	\$100,000.00
Wood Fiber	1	LS	7500.00	\$7,500.00
<b>Play Equipment Total</b>				<b>\$107,500.00</b>
<b>PICNIC SHELTER</b>				
Wood Shelter with Metal Roof	1	LS	30000.00	\$30,000.00
Electric to Shelter	1	LS	10000.00	\$10,000.00
<b>Shelter Total</b>				<b>\$40,000.00</b>
<b>PAVEMENT</b>				
Subgrade Preparation 12"	560	SY	2.00	\$1,120.00
Subgrade Preparation 18"	560	SY	2.25	\$1,260.00
5" Concrete	5000	SF	8.00	\$40,000.00
Standard Curb & Gutter	400	LF	17.00	\$6,800.00
8" Concrete Driveway	1150	SF	8.00	\$9,200.00
Grading	1	LS	15000.00	\$15,000.00
Shelter Pad	350	SF	6.00	\$2,100.00
Trail Loop	18700	SF	5.00	\$93,500.00
Play Access Path	2130	SF	6.00	\$12,780.00
Play Curb	295	LF	22.00	\$6,490.00
<b>Paving Total</b>				<b>\$188,250.00</b>
<b>UTILITIES</b>				
Utility Services	1	LS	25000.00	\$25,000.00
<b>Utility Total</b>				<b>\$25,000.00</b>
<b>IRRIGATION</b>				
Irrigation	1	LS	20000.00	\$20,000.00
<b>Irrigation Total</b>				<b>\$20,000.00</b>
<b>FURNISHINGS</b>				
Benches	2	EA	800.00	\$1,600.00
Picnic Tables	6	EA	800.00	\$4,800.00
Grill	1	EA	200.00	\$200.00
<b>Furnishings Total</b>				<b>\$6,600.00</b>
<b>PLANTINGS</b>				
Evergreen Trees	8	EA	350.00	2,800.00
Deciduous Trees	19	EA	250.00	4,750.00
Ornamental Grasses/Perennials	45	EA	15.00	675.00
Lawn Seed/Prep	214065	SF	0.15	32,109.75
Mulching	214065	SF	0.05	10,703.25
<b>Plantings Total</b>				<b>51,038.00</b>
<hr/>				
Engineering		LS		20,500.00
<b>TOTAL</b>				<b>458,888.00</b>

**NEIGHBORHOOD PARK - HERITAGE PARK AND HERITAGE RIDGE SUBDIVISIONS  
PROJECT BUDGET**

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COSTS:		
Construction Cost	\$ 438,388	\$ 547,985
Contingencies	\$ 43,839	\$ 54,799
Land Purchase	\$ -	\$ -
Engineering Fees	\$ 20,500	\$ 20,500
Assessment Fees	\$ 50,273	\$ 62,329
TOTAL ESTIMATED PROJECT COST	<u>\$ 552,999</u>	<u>\$ 685,613</u>
Estimated Special Assessment for a median lot in Heritage Ridge & Heritage Park:	<u>\$ 1,425</u>	<u>\$ 1,800</u>
Estimated Annual Principal Installment - 15 year term	<u>\$ 95</u>	<u>\$ 120</u>

# Diagram of Proposed Park



# CONTRACT CHANGE ORDER FORM

## DEPARTMENT

Contract between the City of Bismarck and Edling Electric

Contract Number: 15-35 Change Order Number: 1

Project/Subproject: SI15-493 Original Contract Amt: \$822,243.00

Project Description: SI 493 2015 Citywide Street Lighting

Previous Contract Amount: \_\_\_\_\_

Change Order Amount: \_\_\_\_\_

Original Contract Date: 10/30/2015 Change in Contract Timeline: 6/30/2016

Within Project Scope: Y / N\* Within Project Funding: Y / N\*\*

*\*If not within project scope, attach description of change in scope for Board approval.*

*\*\*If not within project funding, attach revised Project Budget for Board approval.*

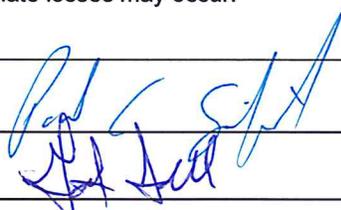
## Type of Change Order

Non Design-related Change Order: These change orders include unforeseen conditions, code-related issues, and building inspector changes.

Design-related Change Order: These change orders include unforeseen conditions that affect the appearance, layout, functionality, dimensions, and/or quality of the project.

Emergency Field Condition Change Orders: These change orders include any condition that causes an emergency situation where safety or other immediate losses may occur.

Other: (describe \_\_\_\_\_

Project Manager Signature: (<\$15,000)  6/13/2016

Department Head Signature: (<\$25,000)  6/13/16

Date

## ADMINISTRATION

City Administrator Signature: (<\$50,000) \_\_\_\_\_

Date

Add to Commission Consent Agenda

## COMMISSION APPROVAL

Commission Approval Date: \_\_\_\_\_

Attach minutes for Commission Approval

## FISCAL

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

Signature

Date Completed

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

# *Bismarck* Department of Human Resources

DATE: 6/13/2016

TO: Jason Tomanek  
Assistant City Administrator

FROM: Robert McConnell  
Director of Human Resources

RE: Commission Consent Agenda Item for Tuesday June 14<sup>th</sup> 2016  
**Appointment of Master Police Officer to complete Condrey classification**

1. Please schedule this item for consideration by the Board of Commissioners at their meeting on Tuesday, June 14<sup>th</sup> 2016.
2. Based on the classification of a Master Police Officer by Condrey and Associates approved earlier by the Board of City Commissioner, the Human Resource Office would like to designate 19 Police Officers as Master Police Officers grade 18 effective 6/19/2016. There is no budgetary impact for this designation as all are currently within the salary range of the position. Please see the attached criteria and list of designated officers.



*Robert W. McConnell, Director*

PD/6	Master Police Officer	Grade	Exemption	
		18	N	
		Min	Mid	Max
	Salary Range	50,725.97	63,407.46	76,088.95
	Effective 6/19/2016			

Employ#	Master Police Officer	Current Salary
	Fuller, Clint	60,935.11
	Horner, David	67,771.22
	Mortiz, Nicole	67,117.47
	Renz, Patrick	66,496.65
	Wanner, Lynn	56,817.04
	Anderson, Brett	65,098.03
	Anderson, Susan	67,909.18
	Bleth, Timothy	62,383.40
	Bolme, Michael	67,332.63
	Clarkson, Dean	70,686.54
	Curtis, Jeremy	66,269.27
	Grensteiner, Loren	64,525.46
	Klabo, Steven	59,498.44
	McKay, Preston	55,613.27
	McNamee, Karin	63,294.33
	Rask, Brandon	61,524.98
	Spotts, Chad	66,555.97
	Stein, Jerry	71,497.61
	Welch, Klaes	55,082.99
	Burkhartsmeier, Shaun	58,903.46
	Miller, Dustin	55,045.95

## MASTER POLICE OFFICER REQUIREMENTS

In order to determine the qualifications to become a "Master Police Officer" we had to look at the wide variety of specialized positions within the police department, beyond what the normal police officer is expected to do. We also had to consider those officers, who do not move around the department during their career, but rather, stay on Patrol and, based on their extensive knowledge, experience and sound ability, are the "go-to-guy" or the informal leader on the shift. Outside of the Patrol Section, the "special" positions we looked at included three basic categories: Special Teams, Special Positions and Field Training Officers (FTO).

In addition to a set years of experience requirement every position listed below will also need to meet the following requirements:

- 1) Must have attained an overall average score (3) on their Annual Performance Evaluations for the previous five (5) years.
- 2) Must possess a minimum 30 hours of supervision, leadership and/or management related training courses.
- 3) Must be being used or trusted to be used by your supervisors/commander in the role of a Field Supervisor in the absence of your immediate supervisor.
- 4) While in the Master Police Officer classification the officer must maintain a score of an overall three (3) or above in their annual Performance Evaluation. If the officer fails to maintain an overall score of three (3) for two consecutive years, they will be subject to removal from the Master Police Officer classification.

In addition to the above listed minimum requirements to become a "Master Police Officer," officers need to meet at least one of the below criteria:

- 1) Ten (10) years of accumulated service as a police officer with the Bismarck Police Department, or
- 2) Perform police officer duties in a specialized position or on a special team for a minimum of five (5) years. Special Teams and Specialized Positions include:

### Specialized Teams:

- West Dakota SWAT Team
- Bismarck Bomb Team

### Specialized Positions:

- K-9
- Traffic
- Investigations
- Accreditation
- Crime Prevention/Community Services
- Training Officer
- Crime Analyst
- School Resource Officer
- Drug Recognition Expert (DRE)
- Polygraph Operator, or

- 3) Be an ACTIVE Field Training Officer (FTO) for a minimum of four (4) years – This was put to four (4) years rather than five (5) years because of the sheer amount of actual supervision and mentoring that occurs; additionally the FTO has the absolute responsibility, liability, etc. of the recruit officer.

To meet the five (5) year requirement above, the years served in either a rotational or non-rotational position will count; however, if an officer's only experience is through moving from one rotational position to another, then they will need to attain a total of seven (7) years' experience in order to qualify for Master Police Officer.

## MEMORANDUM

TO: Jason Tomanek – Assistant City Administrator

FROM: Jeff Heintz – Public Works Service Operations Director

DATE: June 13, 2016

RE: Consent Agenda Item – Amendment to Scope of Work for Bismarck Solid Waste Service Task Order #1 – Site Soil Balance



Please place on the June 14<sup>th</sup>, 2016 Board of City Commission meeting consent agenda the request to add the amendment to the scope of work for the Bismarck Solid Waste division Service Task Order #1 – Site Soil Balance with HDR Engineering Inc.

The purpose of this amendment is to summarize the estimated level of effort for completing a site soil balance for the Bismarck landfill. Completion of this Site Soil Balance was requested by the North Dakota Department of Health (NDDoH) in response to a request by the City to remove earthen material from the landfill facility for offsite project. North Dakota Administrative Code (NDAC) 33-20-04.1-09(2)(k) states: *“All earthen material must be maintained onsite unless removal from the site is authorized by the department”*.

The purpose of the site soils balance will be to classify the soil needs for operation and closure of the permitted MSW and ISW Units. The Site Soil Balance Summary deliverable will be a technical memorandum and necessary exhibits to:

1. Summarize an estimate of necessary construction soils to operate the existing MSW and ISW units. Examples of construction soils classifications include SPGM, clay-rich material, common fill, clay liner daily cover ect.
2. Summarize the site excavation quantities and potential uses for construction soils.
3. Review of permit materials to summarize the location and approximate quantity of SPGM stockpiled on site.
4. Make recommendations to the overall soil balance and soil operations for the site.

I will be present at the City Commission meeting to respond to questions the Board may have regarding this matter. Please feel free to contact me if you have questions or require additional information prior to the meeting.

# PROFESSIONAL SERVICES CONTRACT CHANGE FORM

## DEPARTMENT

Contract between the City of Bismarck and HDR Engineering Inc.

Purpose of Contract Inert Solid Waste Unit Expansion

Contract Number: 2014-63 Project/Subproject Number: SWDUTIL.WASTE.INERTCELL

Original Contract Amount: \$80,850

Contract Change Amount: \$6,300 (there is approx. \$38,000 remaining in the original contract fund balance that can be used for this analysis)

Funding Source of Change Amount (If applicable) 650-660-652-4310-200

Change in Contract Timeline: \_\_\_\_\_

Change in Scope of Contract: Provide site soil balance determination as requested by the State of ND Health Department – Solid Waste Division

Department Head Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## COMMISSION APPROVAL

Change in contract amount less than 10% of the original contract amount or not greater than \$15,000 placed on the City Commission consent agenda

Change in contract amount that exceeds 10% of the original contract amount or \$15,000 or greater, placed on City Commission regular agenda

Change to original scope of contract and/or contract period placed on City Commission consent agenda

City Commission Meeting Date: June 14<sup>th</sup>, 2016

**TO ALL DEPARTMENTS:** Please attach verification of Commission approval and send to Fiscal Services.



June 9, 2016

City of Bismarck  
Attn: Jeff Heintz  
Director of Public Works Service Operations  
601 S 26<sup>th</sup> St  
PO Box 5503  
Bismarck, ND 58506

Re: City of Bismarck Solid Waste Service Task Order #1 – Inert Solid Waste Unit Expansion – Amendment to Scope of Work

Dear Jeff,

The purpose of this letter is to request an amendment to Task Order #001 dated August 26<sup>th</sup>, 2014 an agreement for professional engineering services between the City of Bismarck (City) and HDR for the Inert Solid Waste Expansion (Project). This letter documents a change in scope of work to provide additional services not originally included in Task Order #001.

The purpose of this amendment is to summarize the estimated level of effort for completing a site soil balance for the Bismarck landfill. Completion of this Site Soil Balance was requested by the North Dakota Department of Health (NDDoH) in response to a request by the City to remove earthen material from the landfill facility for offsite project. North Dakota Administrative Code (NDAC) 33-20-04.1-09(2)(k) states: *“All earthen material must be maintained onsite unless removal from the site is authorized by the department”*.

The purpose of the site soils balance will be to classify the soil needs for operation and closure of the permitted MSW and ISW Units. The Site Soil Balance Summary deliverable will be a technical memorandum and necessary exhibits to:

1. Summarize an estimate of necessary construction soils to operate the existing MSW and ISW units. Examples of construction soils classifications include SPGM, clay-rich material, common fill, clay liner daily cover ect.
2. Summarize the site excavation quantities and potential uses for construction soils.
3. Review of permit materials to summarize the location and approximate quantity of SPGM stockpiled on site.
4. Make recommendations to the overall soil balance and soil operations for the site.

Key Assumptions:

1. City Engineering staff will provide a summary of the remaining material to be excavated from Phase 3 of the existing MSW Unit.
2. City Engineering staff will provide a summary of the remaining airspace in MSW Phase 3.

3. SPGM (topsoil) stockpiles are quantified and documented in the 2012 Permit Application.
4. The MSW Expansion Area is not included in the summary.
5. Work will include the preparation of up to three exhibits to support the findings of the soil summary.
6. Estimate of areas of the existing ISW and MSW units to receive final cover will be quantified from air photos and field review.

Unless specifically requested the following items are not included in the estimated level of effort is:

1. Field survey of existing stockpiles.
2. A Suitable Plant Growth Material (SPGM) Soil Survey or Plan
3. Detailed engineering plans or specifications

The estimated level of effort is approximately 50 hours with a fee of \$6,300 as shown in the attached spreadsheet. The additional services described above will be charged per the terms and conditions of Task Order #001. No additional fee is requested for this amendment because at this time the Project has approximately \$38,000 in fee remaining from the original \$80,850 contract maximum fee. Additionally the Project is 90% complete and appears to be on track to complete with fee remaining.

As always don't hesitate to call with questions or comments at 701-557-9608. Work will commence on the work described above upon authorization from the City to start work.

Sincerely,  
HDR Engineering, Inc.



Brent Erickson  
*Project Manager*

Enclosures

**City of Bismarck**  
**Solid Waste MSA TO 1 Amendment for Soil Balance Analysis**  
**Level of Effort Estimate**

**Labor Hours by Category**

Labor Category	Principal	QC	PM	ENG III	CAD II	Account	Admin	Total Hours	Total \$
2016 Project Billing Rate	\$210	\$195	\$170	\$135	\$100	\$100	\$70		
2016 Payroll Rates	\$85.26	\$91.79	\$52.22	\$31.95	\$31.75	\$32.03	\$28.60		

**Direct Expenses**

Travel	Printing	Expense	Total	Line Item Total
--------	----------	---------	-------	-----------------

<b>Task 100 - Soil Management Plan</b>									
Project Initiation	1					0.5		1.5	\$260
Invoicing & Status Updates								0	\$0
Review MSW Unit & Quantity Calculations			4	16				20	\$2,840
Figures - 2 Maximum					21.5			21.5	\$2,150
Technical Memorandum		1	4				2	7	\$1,015
								0	\$0
<b>Subtotal</b>	<b>1</b>	<b>1</b>	<b>8</b>	<b>16</b>	<b>21.5</b>	<b>0.5</b>	<b>2</b>	<b>50</b>	<b>\$ 6,265</b>
<b>Total</b>	<b>1</b>	<b>1</b>	<b>8</b>	<b>16</b>	<b>21.5</b>	<b>0.5</b>	<b>2</b>	<b>50</b>	<b>\$6,265.00</b>

		\$0	\$260
		\$0	\$0
		\$0	\$2,840
		\$0	\$2,150
	\$35	\$35	\$1,050
		\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$35</b>	<b>\$35</b>
<b>Line Item Total</b>			<b>\$6,300</b>

<b>HDR Total Labor (Rates)</b>	<b>\$ 6,265</b>
<b>HDR Total Expenses</b>	<b>\$ 35</b>
<b>Subconsultant</b>	<b>\$ -</b>
<b>Total NTE Fee</b>	<b>\$ 6,300</b>

**MEMORANDUM**

TO: Jason Tomanek, Assistant City Administrator  
FROM: <sup>SLS</sup> Steve Saunders  
Bismarck Mandan Metropolitan Planning Organization  
DATE: June 7, 2016  
SUBJECT: Bismarck Board of City Commissioners Regular Agenda Item

The MPO requests the following item be placed on the Regular Agenda of the June 14, 2016 meeting of the Bismarck Board of City Commissioners:

- Consideration of proposed changes to Bis-Man Transit's Fixed Route and Paratransit bus services including a new component for an extended hours service.

Roy Rickert, Bis-Man Transit Director, will be present to present and discuss the proposed changes. He will summarize the proposed changes and the reasons for them, including system sustainability and customer experience. He will ultimately be asking the Commission for permission to hold a public hearing, concerning these changes, at a future Commission meeting.

Thank you for your assistance.



# Proposed Fixed Route, Paratransit Revisions

*June 2016*

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

3750 East Rosser Avenue, Bismarck, ND 58501 • P: (701) 258-6817 • F: (701) 258-6752 • [www.bismantransit.com](http://www.bismantransit.com)

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## Introduction

### The Need for Revisions

Due to federal and state funding cuts over the past year, concern has been expressed about the sustainability of the public transportation systems provided by Bis-Man Transit. These concerns have prompted the organization to take a critical look at its structure and at how resources are dedicated within that structure.

Bismarck-Mandan's fixed route system, Capital Area Transit, began providing service in 2004. Presently the system is comprised of 12 routes totaling about 123 miles of service. Of those dozen routes, 10 exclusively serve Bismarck, while two routes link Mandan and Bismarck. Service begins Monday through Saturday at about 6 a.m. and is concluded by 7 p.m., depending on the route. At peak transportation times, as many as seven fixed route buses are in service.

The demand response system has been providing door-to-door service to up to two miles outside the corporate city limits of Bismarck, Mandan, Lincoln and the University of Mary since 1990. The system operates 24/7/365. During peak travel times, as many as 17 paratransit vehicles are in service. This service currently employs liberal eligibility standards resulting in a 'membership' of over 13,000 riders.

Ridership between the two systems has been relatively stagnant for the past five years, and decreased about 8 percent from the end of 2014 to the conclusion of 2015. The two systems provided 283,263 rides in 2015, with Capital Area Transit delivering 133,348 rides while the paratransit system accounted for 149,915 rides.

Bis-Man Transit is proposing a number of revisions to improve how the fixed route service, as well as the demand response system, provides service to the community. These changes have taken into account comments and suggestions from the public through listening sessions, as well as the Mobility 2017 study that was performed in 2012. This document is intended to give an overview of those changes, as well as try to answer initial questions that may arise from the alterations.

The goal of the proposed revisions is to make the fixed route system easier and more convenient for the areas producing the most ridership and transitioning as many capable riders from paratransit to fixed route service. Paratransit service is a variable expense which increases with ridership, as opposed to the fixed route service which has a flat cost based on service hours, regardless of ridership. By switching riders from one mode of service to the other, overall operating costs will eventually reduce by as much as 20% and those who truly need paratransit service will receive a higher quality service.

### Background Summary

In October 2015, a fixed route ridership survey was conducted. The following list includes some of the priorities that ridership felt the system needed to address:

- 28% of individuals surveyed wanted earlier or later hours for the fixed route system.
- 15% of individuals surveyed wanted higher route frequency for the fixed route system.

- 52% of individuals surveyed said the time it takes to reach a destination on the fixed route system was “good”.
- 53% of individuals surveyed said the fixed route was a “good” use of their time.
- 47% of individuals surveyed said the overall stress of using the fixed route was good.

Some suggestions gathered from individuals participating in the survey included the following:

- More direct routes.
- Go to the University of Mary.

In January 2016 Bis-Man Transit held the first of three listening sessions to give the organization another chance to gather input from advocacy groups, current stakeholders, current riders, and the community at large. Both staff and Bis-Man Transit Board members attended these listening sessions, listening to the inquiries and comments from attendees and answering questions. The listening sessions were held at locations in Bismarck and Mandan:

- January 29, 2016, at Bis-Man Transit Center.
- February 3, 2016, at Mandan City Hall.
- February 10, 2016, at Bismarck Veteran’s Memorial Public Library.

The listening sessions also provided a number of opportunities for input from the general public. Some public responses included the following:

- Fixed route service to the University of Mary.
- Frequency of fixed route service is inconsistent and needs to be higher.
- The paratransit needs to be more streamline and efficient.
- Paratransit needs to be more consistent with pickup times and the duration until clients are dropped off.
- There needs to be balance between the fixed route and paratransit systems that doesn’t currently exist.

Based on all of the input provided by the community well as recommendations from the Mobility 2017 study, Bis-Man Transit staff created a draft proposal for a new transit system structure to replace what is in place currently. This proposal would include a new route structure for the fixed route system, eligibility changes for the paratransit system, revised hours of service for both the fixed route and paratransit systems, and the creation of a third service that would be available for night and Sunday service.

A Community Public Transportation Task Force was pulled together that included a collection of community leaders and professionals to provide additional suggestions and recommendations for improvements to the overall system and review the draft of existing revisions. The initial meeting on March 10, 2016, resulted a great deal of discussion and the task force requesting more information about how the present system is constructed and to see the completed proposal. The task force would

meet a second time on May 25, 2016, and subsequently voted to support the proposed revisions to the public transportation system.

Following this endorsement, several advocacy agencies were approached to discuss the revisions and how they might affect their clientele. Overall, the responses were positive. Those agencies that serve the disabled community thought that the proposed revisions would result in higher quality service with only a few minor drawbacks. One agency that serves the aging population determined that the revisions would most likely impact negatively on their organization but conceded that they were probably beneficial to the transit system and the overall community.

At its monthly meeting on May 26, 2016, the Bis-Man Transit Board voted to approve the proposed system revisions, and take them to the Bismarck City Commission for a public hearing and opportunity to implement changes if given the Commission's approval.

Between now and that potential July public hearing, Bis-Man Transit will also host another public listening session to answer questions and address any concerns of the community. Implementation of the proposed revisions is able to begin on September 1, 2016, to allow for dissemination of new rider information.

## Fixed Route System Changes

### Overview of Fixed-Route Service

The most significant revision for the fixed route will be the philosophical switch from utilizing a large geographic footprint to cover the greatest possible area, that of higher frequency within the core ridership areas. This alteration will allow for more consistent and convenient runs along major ridership corridors by providing greater bus frequency.

- Routes are being reconfigured to reduce the geographical footprint of the service and focusing them on higher usage areas.
- The 12 circuitous interlined routes will be replaced with six direct routes.
- Fixed Route service will operate Monday through Friday, 6:30 a.m. to 7:00 p.m. and Saturday, 8:00 a.m. to 7:00 p.m.
- Five routes will have one hour headways with one being a pilot route to service U-Mary and there will be one circulator with a two-hour headway.
- A “My Ride” pilot program for Student Fares will begin, allowing for six month Semester passes good from July 1 to December 31 and January 1 to June 30. This will be a sponsored program and rates will be based on the number of pre-sold passes, with the option to extend to private sector.
- Passengers that are 65 years of age or older and passengers that are ADA qualified or receiving Medicare will be able to ride the Fixed Route service for free, with an appropriate Transit-issued ID.
- Overall revenue hour increase will be negligible and offset by reduced maintenance and deadhead cost savings.

### Route Examination

#### Black Route – Kirkwood Mall to Gateway Mall

This route follows the center-most corridor of Bismarck, streamlining one of our top-performing routes and moving customers to the north and south parts of the city. It will also provide service to St. Alexius, Bismarck High School and the State Capitol grounds.

#### Blue Route – Kirkwood Mall to Bismarck State College

This route will connect individuals coming from, and going to, Mandan with Bismarck, as well as people utilizing Bismarck State College with Kirkwood Mall. Other areas highlighted on the route will be Dan’s Supermarket, Dakota Zoo, Riverside Education Center, High Rise, Arrowhead Plaza, and YMCA.

#### Green Route – Kirkwood Mall to University of Mary

This route will connect the University of Mary with Kirkwood Mall and ultimately Bismarck. Other highlights along the route include United Tribes Technical College, intermodal options through Bismarck Municipal Airport, south Super Wal-Mart, and Cash Wise Foods.



7

### **Red Route – Kirkwood Mall to Gateway Mall, Gateway Mall to Bismarck State College**

This route will provide service from Bismarck State College to north Bismarck, as well as connect customers in the eastern portion of town with north and south Bismarck. Other highlighted areas on the route includes Burleigh County Senior Center, Simle School, Ruth Meiers, Bismarck Veterans Memorial Library, Sanford, Bismarck Event Center, Gateway Mall, Pinehurst Shopping Center, north Dan's Supermarket and north Super Wal-Mart.

### **Brown Route (Mandan) – Dan's Supermarket to Kirkwood Mall**

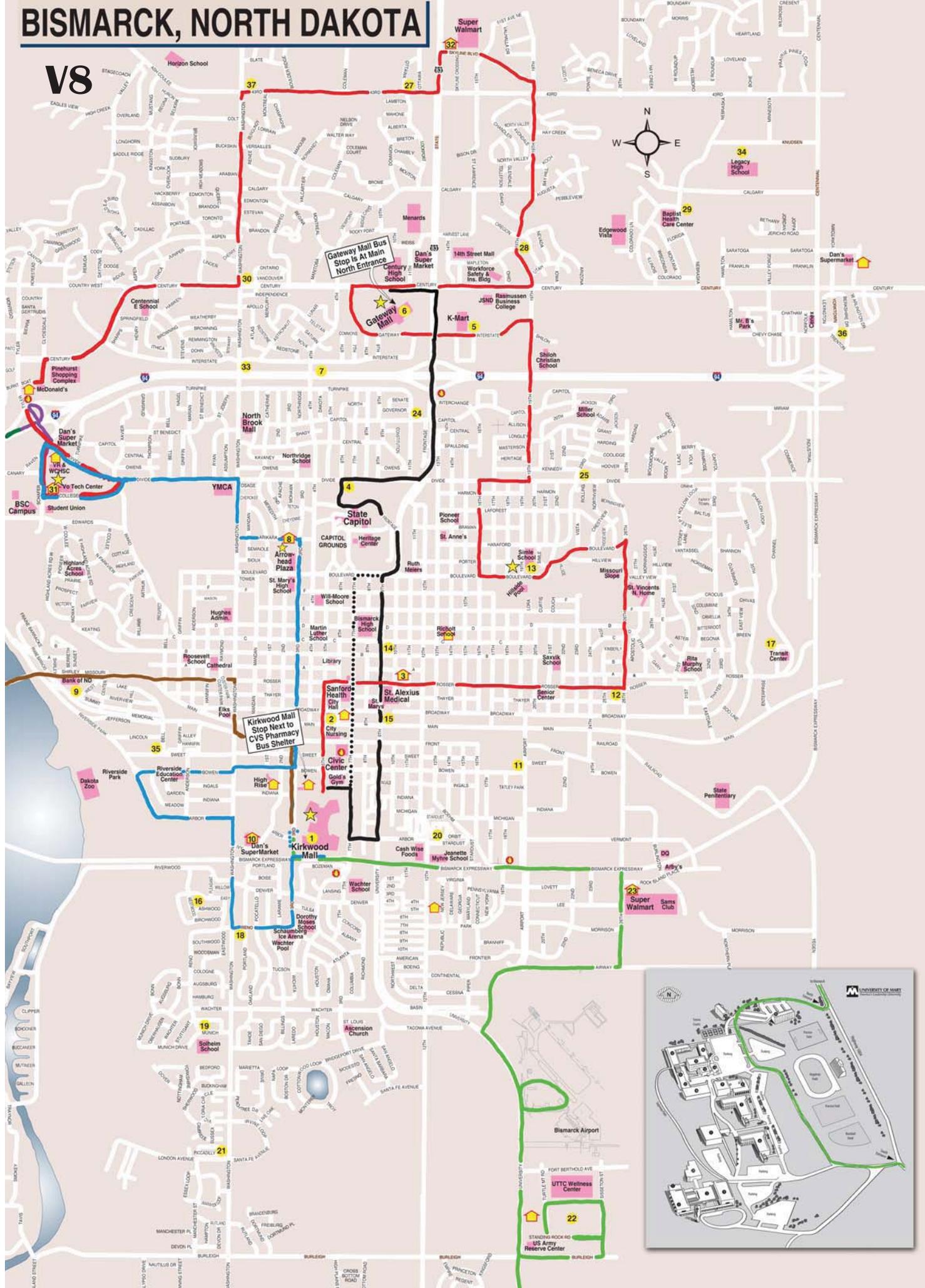
This route will provide service to South Mandan and connect Mandan with Bismarck. Service will also be provided to the Fort Lincoln Trolley, a number of businesses along the Strip, as well as Raging Rivers Water Park and the soon-to-be-built YMCA.

### **Purple Route (Mandan) – Dan's Supermarket to Bismarck State College**

This route will provide service to North Mandan and connect Mandan with Bismarck. Service will also be provided to the Mandan Braves Center, Sanford Health Sunset Drive Continuing Care Center, Super Wal-Mart, Liberty Heights, and Sanford East Mandan Clinic.

# BISMARCK, NORTH DAKOTA

## V8



Gateway Mall Bus Stop is At Main North Entrance

Kirkwood Mall Stop Next to CVS Pharmacy Bus Shelter

US Army Reserve Center

UTTC Wellness Center

Bismarck Airport

Super Walmart

Sams Club

Arby's

State Penitentiary

St. Vincent's Home

Missouri Slope

St. Anne's

Pioneer School

St. Mary's

St. Alexius Medical

St. Joseph's

St. Mary's High School

St. Anthony's

St. Vincent's

St. Joseph's

St. Mary's

St. Anthony's

St. Vincent's

St. Joseph's

St. Mary's

St. Anthony's

St. Vincent's

St. Joseph's

St. Mary's

State Capitol

Heritage Center

North Brook Mall

Northridge School

YMCA

WCHS

Y Tech Center

McDonald's

Pinehurst Shopping Complex

Edgewood Villa

Rapid Heart Care Center

Dan's Super Market

Super Walmart

Manards

Dan's Super Market

US Army Reserve Center

UTTC Wellness Center

Bismarck Airport

Arby's

State Penitentiary

St. Vincent's Home

Missouri Slope

St. Anne's

Pioneer School

St. Mary's

St. Alexius Medical

St. Joseph's

St. Mary's High School

St. Anthony's

St. Vincent's

St. Joseph's

St. Mary's

St. Anthony's

US Army Reserve Center

UTTC Wellness Center

Bismarck Airport

Arby's

State Penitentiary

St. Vincent's Home

Missouri Slope

St. Anne's

Pioneer School

St. Mary's

St. Alexius Medical

St. Joseph's

St. Mary's High School

St. Anthony's

St. Vincent's

St. Joseph's

St. Mary's

St. Anthony's

US Army Reserve Center

UTTC Wellness Center

Bismarck Airport

Arby's

State Penitentiary

St. Vincent's Home

Missouri Slope

St. Anne's

Pioneer School

St. Mary's

St. Alexius Medical

St. Joseph's

St. Mary's High School

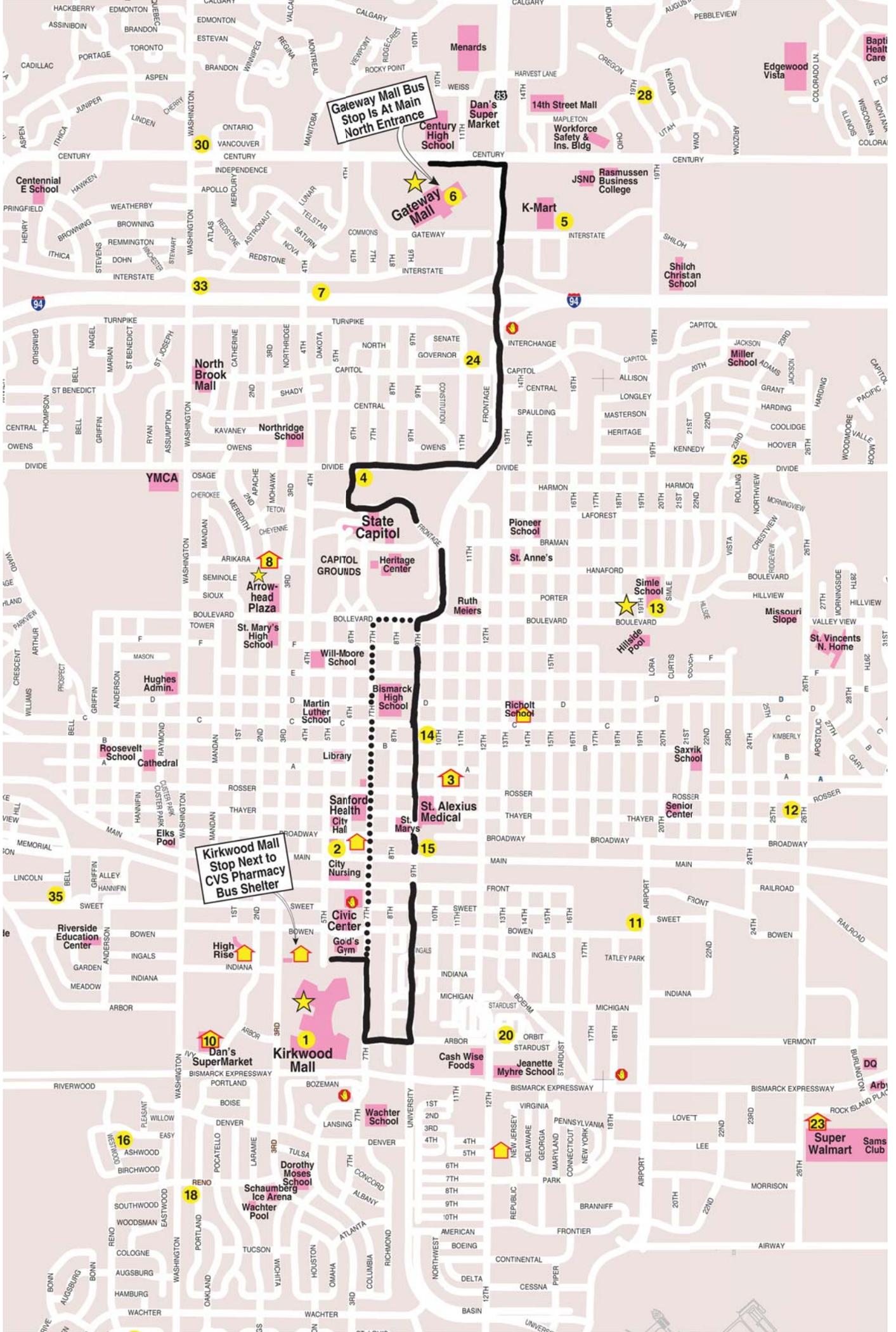
St. Anthony's

St. Vincent's

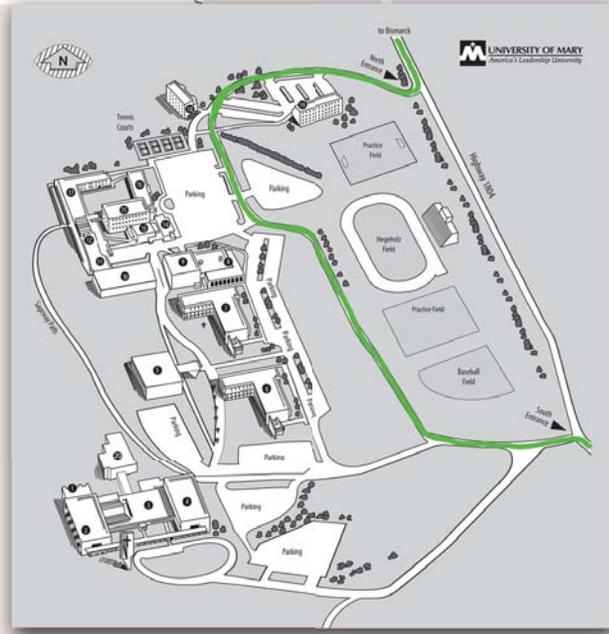
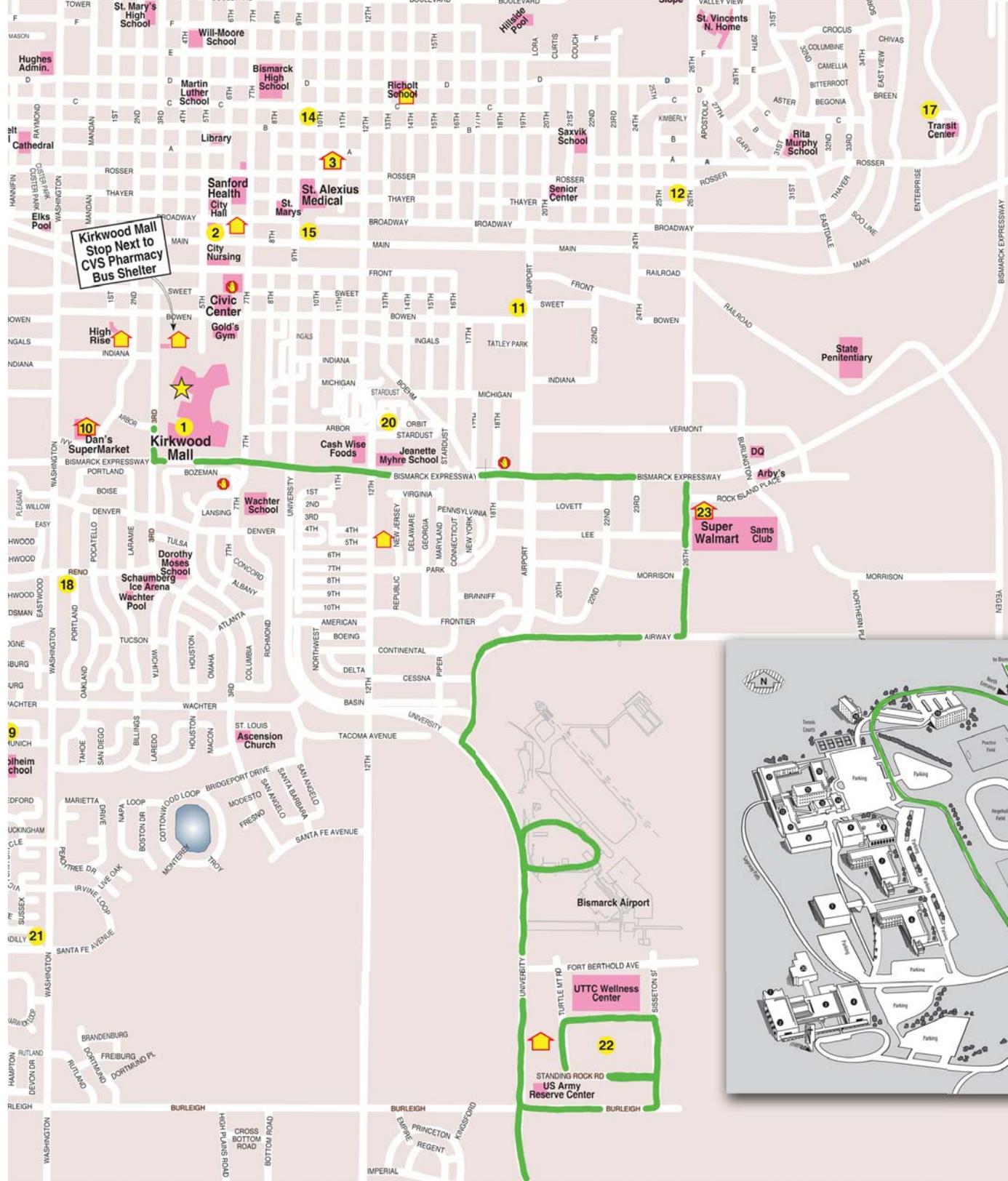
St. Joseph's

St. Mary's

St. Anthony's









# MANDAN, NORTH DAKOTA

## V6





Morton Mandan Public Library

Dan's Supermarket  
Burlington Mall

Centre, Inc.

Spirit of Life

Fort Lincoln Trolley

McDonald's

Rodeo Grounds and Race Track

Midway Lanes

Dakota Centennial Park

Prairie West Golf Course

Ft. Lincoln School

810

1806

71

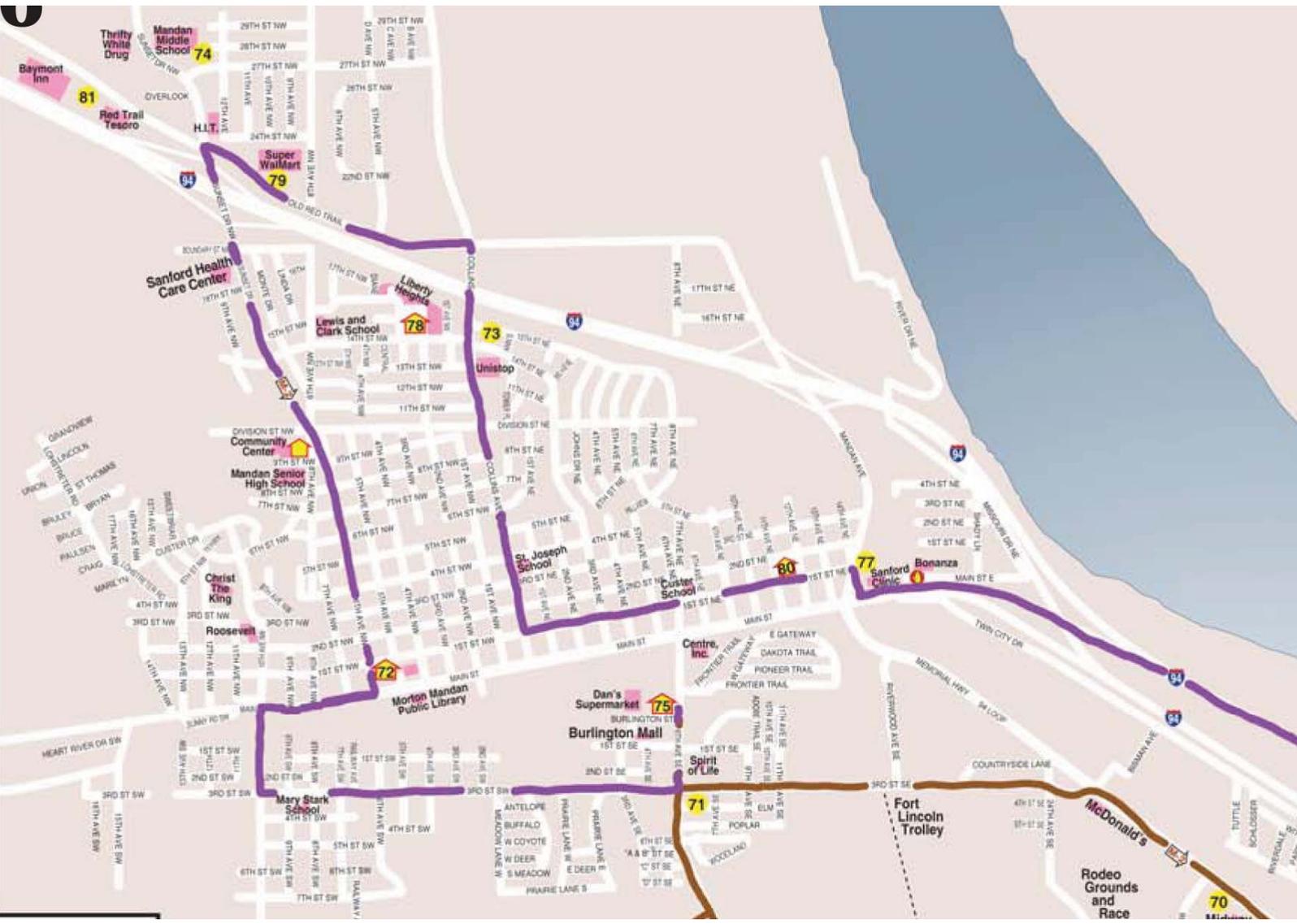
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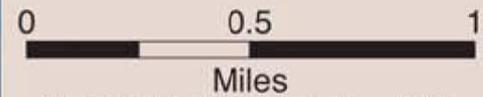
94



- ..... Express Gateway to Kirkwood E-2
- E Bismarck - Route A-1
- ..... E Bismarck - Route A-2
- SW Bismarck - Route B-1
- ..... SW Bismarck - Route B-2
- Bismarck & Mandan M-1
- Mandan & Bismarck M-2
- Indicates Timing Point #'s
- 🏠 Shelter
- 🚫 No Stop Zone
- 🛑 Indicates Stop Permitted
- ★ Transfer Point



Printed By:



This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated here-in.

## Fixed Route Schedule

<b>Weekdays</b>	Start Time	Mandan	Kirkwood	BSC	Gateway	U-Mary	End Time
Purple	7:00	:00		:30			7:00
Brown	6:30	:30	:00				6:30
Blue	7:00		:00	:30			6:30
Black	7:00		:00		:30		7:00
Green	7:00		:00			:30	7:00
Red (2hr Headway)	7:30		Even Hr :30	Odd hour :30	:00		7:00

<b>Saturdays</b>	Start Time	Mandan	Kirkwood	BSC	Gateway	U-Mary	End Time
Purple	8:00	:00		:30			7:00
Brown	8:30	:30	:00				6:30
Blue	8:00		:00	:30			6:30
Black	8:00		:00		:30		7:00
Green	8:00		:00			:30	7:00
Red (2hr Headway)	8:00		Even Hr :30	Odd hour :30	:00		7:00

## Demand Response System Changes

### Overview of Paratransit Service

The paratransit system will be altered to a curb-to-curb service with an origin-to-destination option upon request. Service hours will be close to the fixed route system, beginning at 5:30 a.m. and completing at 7 p.m., Monday through Saturday. Service will be provided within the city limits of Bismarck and Mandan, or within  $\frac{3}{4}$  of a mile from a fixed route. For passengers outside of that area, West River Transit is available to address their needs.

ADA standards require service to be comparable to that provided by the fixed route system. The paratransit system is not intended to be a transportation service that meets every need of the population it serves. Instead, it serves as a safety net for persons whose disabilities prevent them from using the accessible fixed route system. Eligibility will be based on ADA standards, and age alone, will no longer be a qualifier for the paratransit system.

The cost for a one-way trip on the paratransit system will remain at \$2.50. The system will observe the same holidays as the fixed-route system, and not provide service New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day.

- ADA paratransit service is provided to complement the fixed route service as required by law. This ADA regulated service will be operated at a minimum of the same hours as the fixed routes. It is a curb-to-curb service with origin-to-destination upon request.
- Eligibility for the service will adhere strictly to ADA standards based solely on a customer's physical and/or mental inability to ride on the accessible fixed route service.
- Eligibility of customers will be renewed every 3 years, or as needed, if accepted on a conditional basis.
- The service area for complementary ADA service will be within the boundaries of Bismarck and Mandan or within  $\frac{3}{4}$  of a mile of a fixed route.
- Complimentary ADA service will be provided Monday through Friday, 5:30 a.m. to 7:00 p.m. and Saturday, 7:00 a.m. to 7:00 p.m.
- Areas currently served by Bis-Man Transit that do not fall within the new service area can obtain service through West River Transportation.
- There will be no service on holidays that the fixed route does not operate.

### Overview of Extended Hours Service

To address the needs of individuals who require transportation options later in the evening, such as 2<sup>nd</sup> and 3<sup>rd</sup> shift employees, a new service will be created to complement the paratransit and fixed route systems, after those services have concluded for the day. This curb-to-curb, ride-share service will begin providing service at 7 p.m., Monday through Saturday, and conclude at midnight. The system will observe the same holidays as the fixed-route system, and not provide service New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day.

- Extended Hour Service will be available as a curb-to-curb service only.

- Service will be available to the general public on a first-come first-served basis.
- Fare per trip will be \$5.00.
- Service Hours will be Monday through Saturday, 7:00 p.m. to 12:00 a.m. and Sundays, 7:30 a.m. to 2:30 p.m.
- The service area will remain the same as the ADA paratransit service.
- There will be no service on holidays that the fixed route does not operate.
- The number of buses available will be determined by both budget and demand.

### Overview of Sunday Service

To address the need for transportation services on Sundays to get clients to and from services such as religious worship, a demand response service will be available to the general public on Sundays from 7:30 a.m. to 2:30 p.m. Four cutaway buses will be utilized to provide service.

Similar to the Extended Hours Service, this will be a curb-to-curb service with origin-to-destination available upon request. Rides must be scheduled at least a day in advance, but no more than a week ahead of time. Automatically-populated rides are not available with this service.

The cost per ride is \$5. The system will observe the same holidays as the fixed route system, and not provide service New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas Day.

**MEMORANDUM**

TO: Jason Tomanek  
Assistant City Administrator

FROM: Rebecca Collins *RC*  
Comptroller

DATE: May 18, 2016

SUBJECT: Introduction and Call for Public Hearing on Ordinances 6211 – 6214

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Please schedule the introduction of and call for public hearing on Ordinances 6211-6214 as an item on the May 24, 2016 City Commission Agenda.

Sections 40-23-17 through 40-23-21 of the North Dakota Century Code allows assessments on annexed property that previously benefited from the installation of water and sewer mains constructed before the parcels were annexed. Ordinances 6211-6214 relate to water and sewer trunk line fees, rural road charges, and storm water charges to be assessed to benefiting property that was outside the city limits at the time of construction.

Creation of these ordinances allows the applicable fees to be calculated. After the fees are calculated, the assessment lists will be published in the Bismarck Tribune and presented to the Special Assessment Commission for approval. The final step in the assessment process is confirmation of the assessment lists by the Board of City Commissioners.

Attachments: Ordinances 6211-6214

ORDINANCE NO. 6211

<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

AN ORDINANCE CREATING STORM SEWER IMPROVEMENT DISTRICT NUMBER ONE HUNDRED (100), UNIT NUMBERS TWENTY-SIX THROUGH THIRTY-ONE (26-31), OF THE CITY OF BISMARCK, NORTH DAKOTA.

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA.

Section 1. Pursuant to the provisions of Sections 40-23-17 through 40-23-21 of the North Dakota Century Code as amended, providing for assessments on annexed property previously benefited, it is hereby determined that the property within the boundary lines as hereinafter set forth was at the time of contracting for a storm sewer improvement district, therein located outside the corporate limits and which was benefited by the storm sewer improvement was, thereby subsequently annexed to the City of Bismarck, and there is hereby created sewer improvement district hereinafter designated as Storm Sewer Improvement District Number One Hundred (100), Unit Numbers Twenty-Six through Thirty-One (26-31) whereas Unit Twenty-Six (26) is associated with storm sewer improvements contracted under SE541; Unit Twenty-Seven (27) is associated with storm sewer improvements contracted under SE541; Unit Twenty-Eight (28) is associated with storm sewer improvements contracted under SE384 and SE532; Unit Twenty-Nine (29) is associated with storm sewer improvements contracted under SE541; Unit Thirty (30) is associated with storm sewer improvements contracted under SE384 and SE532; and Unit Thirty-One (31) is associated with a storm sewer improvements contracted under SE527, SE383 and SE522.

Section 2. Consultation with respect thereto has been made with the City Engineer of the City of Bismarck, said district shall include all lots, tracts and parcels of land lying within the following described property:

Unit #26 SOUTH MEADOWS ADDITION  
Lots 1-16, Block 1; Lots 1-20, Block 2; Lots 1-22, Block 3; Lots 1-22, Block 4; Lots 1-28, Block 5; Lots 1-16, Block 6

Unit #27 SOUTHLAND 2<sup>ND</sup> ADDITION  
Lots 1-6, Block 1; Lots 1-2, Block 2; Lots 1-15, Block 3; Lots 1-4, Block 4; Lots 1-26, Block 5; Lots 1-20, Block 6; Lots 1-7, Block 7; Lots 1-6, Block 8; Lots 1-37, Block 9

- Unit #28      KMK ESTATES  
                  Lots 1-4, Block2; Lots 1 & 7, Block 3
- HIGH MEADOWS 9<sup>TH</sup> ADDITION  
                  Lot 6 & 7B of Lot 7, Block 1
- Unit #29      SOUTHBAY 5<sup>TH</sup> ADDITION  
                  Lots 1-26, Block 1; Lots 1-3, Block 2, Lots 1-8,  
                  Block 3; Lots 1-40, Block 4
- Unit#30      EVERGREEN RIDGE ADDITION  
                  Lots 1-39, Block 1; Lots 1-10, Block 2
- Unit#31      MR. B's WEST ADDITION  
                  Lot 2 & Tract 11 of Tract 7 of Tract C Zollers  
                  of Section 26 Lands 139-80, Block 1

Section 3.    Taking Effect. This ordinance shall be in full force and effect from and after its final passage and adoption.



Unit #468            SOUTHLAND 2<sup>ND</sup> ADDITION  
 Lots 1-6, Block 1; Lots 1-2, Block 2; Lots 1-15,  
 Block 3; Lots 1-4, Block 4; Lots 1-26, Block 5;  
 Lots 1-20, Block 6; Lots 1-7, Block 7; Lots 1-6,  
 Block 8; Lots 1-37, Block 9

Unit #469            KMK ESTATES  
 Lots 1-4, Block 2; Lots 1 & 7, Block 3

                          HIGH MEADOWS 9<sup>TH</sup> ADDITION  
 Lot 6 & 7B of Lot 7, Block 1

Unit #470            GELOFF ESTATES  
 Lots 1-6, Block 1

Unit #471            SOUTHBAY 5<sup>TH</sup> ADDITION  
 Lots 1-26, Block 1; Lots 1-3, Block 2; Lots 1-8,  
 Block 3; Lots 1-40, Block 4

Unit #472            EVERGREEN RIDGE ADDITION  
 Lots 1-39, Block 1; Lots 1-10, Block 2

Unit #473            LEGACY ADDITION  
 Lot 2, Block 1

Unit #474            MR. B's WEST ADDITION  
 Lot 2 & Tract 11 of Tract 7 of Tract C Zollers  
 Of Section 26 Lands 139-80, Block 1

Unit#475            EAGLE CREST 4<sup>TH</sup> ADDITION  
 Lots 1-13, Block 2; Lots 2-7, Block 4; Lots  
 1-4, Block 5

Unit#476            HAMBURG INDUSTRIAL PARK 2<sup>ND</sup> ADDITION  
 Lots 1-3, Block 1; Lots 1-3, Block 2

Unit#477            NORTHERN SKY ADDITON  
 Lot 2, Horizon Clinic Condo Association Suits  
 1-2, Block 1

Unit#478            WUTZKES 2<sup>ND</sup> SUBDIVISION  
 W 68' of Lots 5-7 & W 68' of ½ Lot 8 & N ½ Lot 15  
 & Lots 16-18 & vac Ottawa St Adj, W 68' of Lot 4  
 & all of Lot 19, Block 1

CITY LANDS 139-80  
PT SE ¼ SE ¼ Beg @ PT 562' W of NE cor Thence  
W 395' S 110' E 395' N 110' to PT Beg Section  
16 Lands 139-80, Block 16

Section 3. Taking Effect. This ordinance shall be in full force and effect from and after its final passage and adoption.

ORDINANCE NO. 6213

<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

AN ORDINANCE CREATING WATER IMPROVEMENT DISTRICT NUMBER ONE HUNDRED FORTY-EIGHT (148), UNIT NUMBERS FOUR HUNDRED FORTY-SEVEN THROUGH FOUR HUNDRED SIXTY (447-460), OF THE CITY OF BISMARCK, NORTH DAKOTA.

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA.

Section 1. Pursuant to the provisions of Sections 40-23-17 through 40-23-21 of the North Dakota Century Code as amended, providing for assessments on annexed property previously benefited, it is hereby determined that the property within the boundary lines as hereinafter set forth was at the time of contracting for a water improvement district, therein located outside the corporate limits and which was benefited by the water district improvement was, thereby subsequently annexed to the City of Bismarck, and there is hereby created water improvement district hereinafter designated as Water Improvement District Number One Hundred Forty-Eight (148), Unit Numbers Four Hundred Forty-Seven through Four Hundred Sixty (447-460).

Section 2. Consultation with respect thereto has been made with the City Engineer of the City of Bismarck; said district shall include all lots, tracts and parcels of land lying within the following described property:

- Unit #447                      RDO HAYCREEK INDUSTRIAL ADDITION  
Lots 1-4, Block 1; Lots 1-5, Block 2
  
- Unit #448                      SOUTH MEADOWS ADDITION  
Lots 1-16, Block 1; Lots 1-20, Block 2; Lots 1-22, Block 3; Lots 1-22, Block 4; Lots 1-28, Block 5; Lots 1-16, Block 6
  
- Unit #449                      EAST DIVIDE INDUSTRIAL PARK ADDITION  
Lot 1, Block 1; Lots 1-4, Block 2; Lots 1-8, Block 3; Lots 1-3, Block 4; Lots 1-5, Block 5;

Unit #450            SOUTHLAND 2<sup>ND</sup> ADDITION  
 Lots 1-6, Block 1; Lots 1-2, Block 2; Lots 1-15,  
 Block 3; Lots 1-4, Block 4; Lots 1-26, Block 5;  
 Lots 1-20, Block 6; Lots 1-7, Block 7; Lots 1-6,  
 Block 8; Lots 1-37, Block 9

Unit #451            KMK ESTATES  
 Lots 1-4, Block 2; Lots 1 & 7, Block 3

                          HIGH MEADOWS 9<sup>TH</sup> ADDITION  
 Lot 6 & 7B of Lot 7, Block 1

Unit #452            GELOFF ESTATES  
 Lots 1-6, Block 1

Unit #453            SOUTHBAY 5<sup>TH</sup> ADDITION  
 Lots 1-26, Block 1; Lots 1-3, Block 2; Lots  
 1-8, Block 3; Lots 1-40, Block 4

Unit #454            EVERGREEN RIDGE ADDITION  
 Lots 1-39, Block 1; Lots 1-10, Block 2

Unit#455            LEGACY ADDITION  
 Lot 2, Block 1

Unit#456            MR. B's WEST ADDITION  
 Lot 2 & Tract 11 of Tract 7 of Tract C Zollers  
 Of Section 26 Lands 139-80, Block 1

Unit#457            EAGLE CREST 4<sup>TH</sup> ADDITION  
 Lots 1-13, Block 2; Lots 2-7, Block 4; Lots  
 1-4, Block 5

Unit#458            HAMBURG INDUSTRIAL PARK 2<sup>ND</sup> ADDITION  
 Lots 1-3, Block 1; Lots 1-3, Block 2

Unit#459            NORTHERN SKY ADDITON  
 Lot 2, Horizon Clinic Condo Association Suits  
 1-2, Block 1

Unit#460            WUTZKES 2<sup>ND</sup> SUBDIVISION  
 W 68' of Lots 5-7 & W 68' of ½ Lot 8 & N ½ Lot 15  
 & Lots 16-18 & vac Ottawa St Adj, W 68' of Lot 4  
 & all of Lot 19, Block 1

CITY LANDS 139-80  
PT SE ¼ SE ¼ Beg @ PT 562' W of NE cor Thence  
W 395' S 110' E 395' N 110' to PT Beg Section  
16 Lands 139-80, Block 16

Section 3. Taking Effect. This ordinance shall be in full force and effect from and after its final passage and adoption.

ORDINANCE NO. 6214

<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

AN ORDINANCE CREATING RURAL ROAD STREET IMPROVEMENT DISTRICT NUMBER ONE HUNDRED (100), UNIT NUMBER ONE (1), OF THE CITY OF BISMARCK, NORTH DAKOTA.

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA.

Section 1. Pursuant to the provisions of Sections 40-23-17 through 40-23-21 of the North Dakota Century Code as amended, providing for assessments on annexed property previously benefited, it is hereby determined that the property within the boundary lines as hereinafter set forth was at the time of contracting for a street improvement district, therein located outside the corporate limits and which was benefited by the street improvement was, thereby subsequently annexed to the City of Bismarck, and there is hereby created street improvement district hereinafter designated as Rural Road Street Improvement District Number One Hundred (100), Unit Number One (1) whereas Unit One (1) is associated with street improvement contracted under SI476.

Section 2. Consultation with respect thereto has been made with the City Engineer of the City of Bismarck, said district shall include all lots, tracts and parcels of land lying within the following described property:

Unit #1            RDO HAYCREEK INDUSTRIAL ADDITION  
                          Lots 1-4, Block 1; Lots 1-5, Block 2

Section 3. Taking Effect. This ordinance shall be in full force and effect from and after its final passage and adoption.



Memorandum

To: Jason Tomanek, Assistant City Administrator

Fr: Joel Boespflug, Fire Chief 

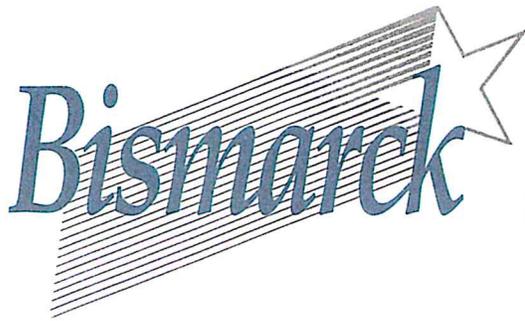
Re: Agenda Item – Receive and Consider Disposition of Bids for Training Building Footings and Foundations

Da: June 8, 2016

Please place on the June 14, 2016, Board of City Commissioner meeting agenda Receive and Consider Disposition of Bids for Training Building Footings and Foundations.

Bids will be received on June 13, 2016. A Bid-Tab will be supplied at the meeting.

Please contact me if you should have any question or require additional information.



**Engineering Department**

June 8, 2016

**MEMORANDUM**

**To:** Jason Tomanek  
Assistant City Administrator

**From:** Gabe J. Schell, PE   
City Engineer

**Re: AGENDA ITEM (SE 16-569)  
Request for Resolution Receiving Bids  
Request for Resolution Awarding Contract**

**Please schedule the following for consideration by the Board of City Commissioners at its meeting to be held on Tuesday, June 14, 2016, at 5:15 p.m. in the Tom Baker Room.**

Sewer Improvement District No. 16-569 consists of installation of local storm sewer and appurtenances in Heritage Ridge Addition and Heritage Park Addition. The work will be funded through special assessments.

Bid Opening and Award:

June 14, 2016

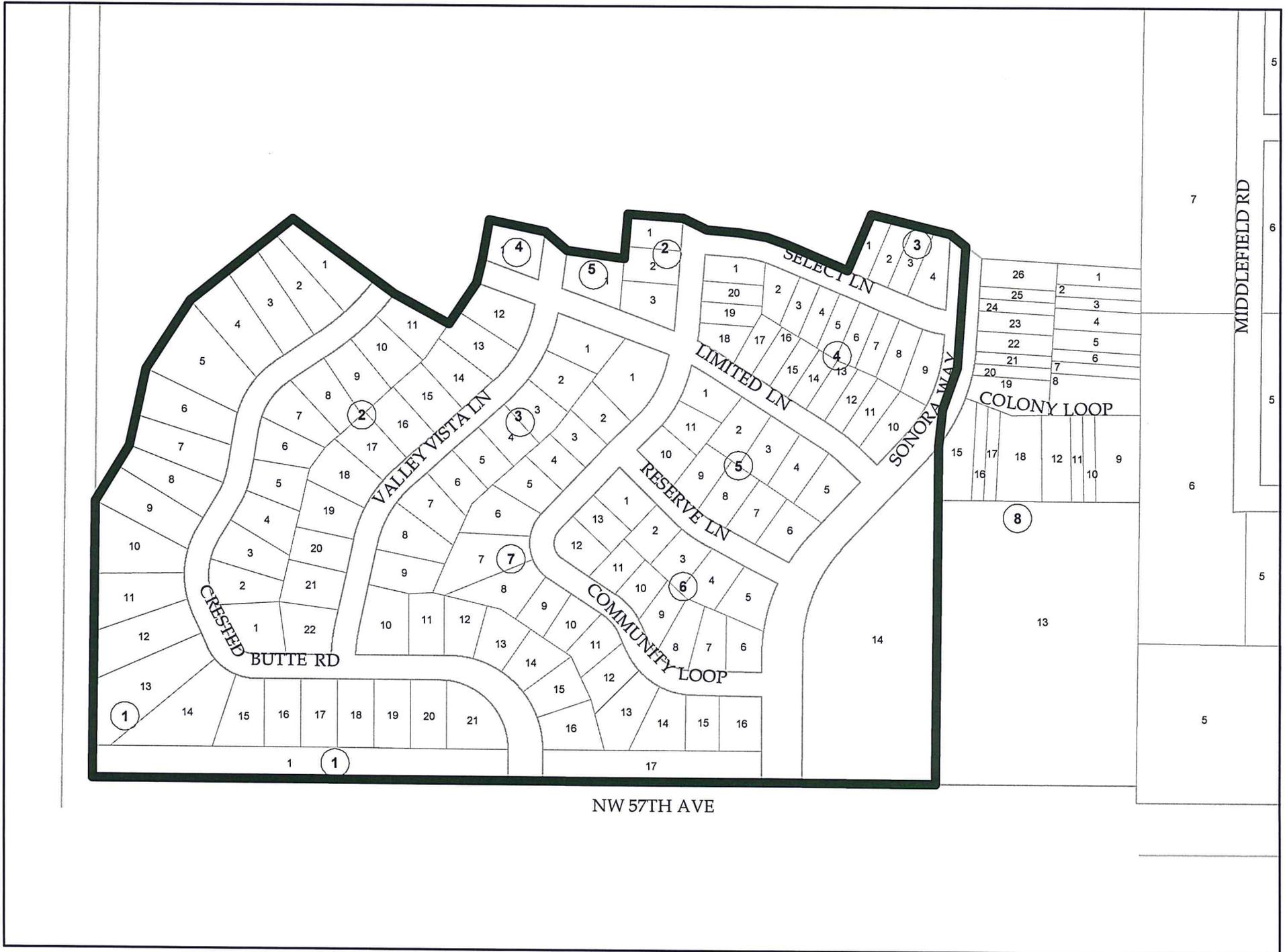
GJS/ps

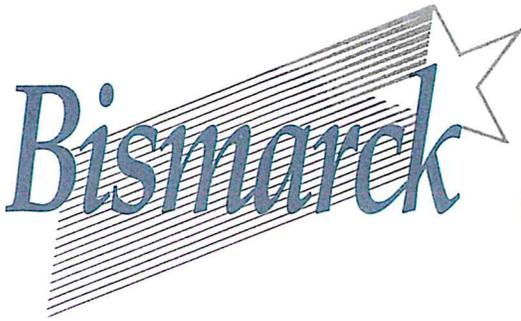
cc: Michelle Klose, PE, Director of Utility Operations  
Rebecca Collins, Comptroller  
Fiscal Services

**Gabriel J. Schell, PE, City Engineer**

Phone: 701-355-1505 • TDD: 711 • Fax: 701-222-6593 • 221 N. Fifth St. • PO Box 5503 • Bismarck, ND 58506-5503  
Email: bisengd@bismarcknd.gov • www.bismarcknd.gov

# SE 569 UNIT 1





Engineering Department

June 8, 2016

**MEMORANDUM**

**To:** Jason Tomanek  
Assistant City Administrator

**From:** Gabe J. Schell, PE   
City Engineer

**Re: AGENDA ITEM (SI 15-494)**  
**Request for Resolution Receiving Bids**  
**Request for Resolution Awarding Contract**

**Please schedule the following for consideration by the Board of City Commissioners at its meeting to be held on Tuesday, June 14, 2016, at 5:15 p.m. in the Tom Baker Room.**

Street Improvement District No. 15-494 consists of one (1) unit of street improvements. Unit 1 consists of new concrete, curb and gutter, sidewalks, and related work. The work will be funded through special assessments and developer prepayments.

**Unit No. 1**

Channel Drive - Global Drive to Miriam Avenue  
Miriam Avenue - Channel Drive to 490' east

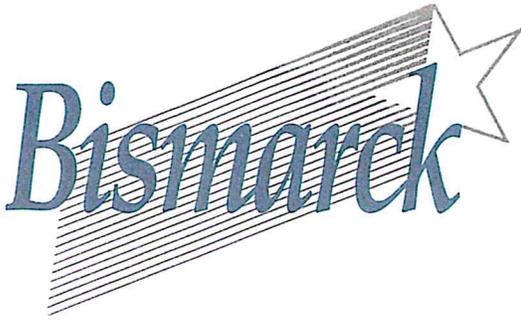
Bid Opening: June 13, 2016  
Award: June 14, 2016

GJS/ps  
cc: Jeff Heintz, Service Operations Director  
Cora Bauer, Special Assessment Coordinator  
Fiscal Services

**Gabriel J. Schell, PE, City Engineer**

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Email: bisengd@bismarcknd.gov • www.bismarcknd.gov





**Engineering Department**

June 8, 2016

**MEMORANDUM**

**To:** Jason Tomanek  
Assistant City Administrator

**From:** Gabe J. Schell, PE   
City Engineer

**Re: AGENDA ITEM (SI 15-499)**  
**Request for Resolution Receiving Bids**  
**Request for Resolution Awarding Contract**

**Please schedule the following for consideration by the Board of City Commissioners at its meeting to be held on Tuesday, June 14, 2015, at 5:15 p.m. in the Tom Baker Room.**

Street Improvement District No. 15-499 consists of one unit of new concrete pavement, curb and gutter, ADA ramps, sidewalk, storm sewer, and related work. The work will be funded through special assessments and developer prepayments.

Unit No. 1

Brigade Street - Divide Avenue to 17th Avenue NE  
Battalion Street - Platoon Street to 17th Avenue NE  
Platoon Street - Brigade Street to 52nd Street

Bid Opening:

June 6, 2016

Award:

June 14, 2016

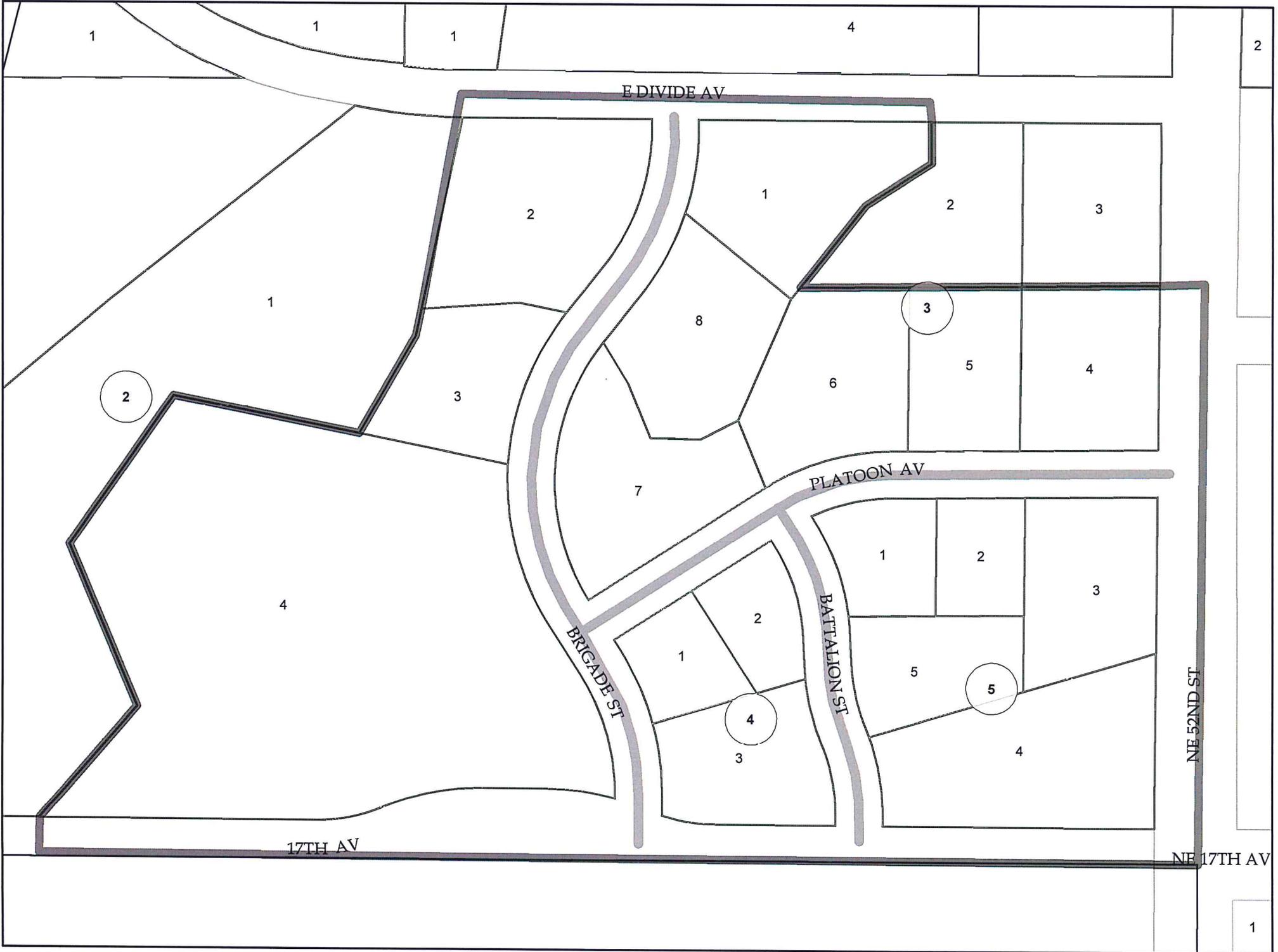
GJS/ps

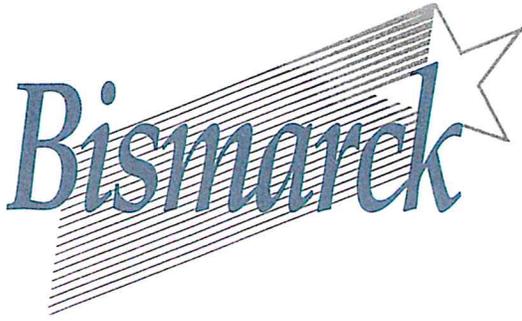
cc: Jeff Heintz, Service Operations Director  
Cora Bauer, Special Assessment Coordinator  
Fiscal Services

**Gabriel J. Schell, PE, City Engineer**

Phone: 701-355-1505 • TDD: 711 • Fax: 701-222-6593 • 221 N. Fifth St. • PO Box 5503 • Bismarck, ND 58506-5503  
Email: bisengd@bismarcknd.gov • www.bismarcknd.gov

# SI499 - UNIT 1





Engineering Department

June 8, 2016

**MEMORANDUM**

**To:** Jason Tomanek  
Assistant City Administrator

**From:** Gabe J. Schell, PE   
City Engineer

**Re: AGENDA ITEM (WA 16-329)**  
**Request for Resolution Receiving Bids**  
**Request for Resolution Awarding Contract**

**Please schedule the following for consideration by the Board of City Commissioners at its meeting to be held on Tuesday, June 14, 2016, at 5:15 p.m. in the Tom Baker Room.**

Water Improvement District No. 16-329 consists of extension of two (2) water trunk lines and related items.

**Unit No. 1**

57th Avenue - Washington Street to 15th Street NW

Bid Opening and Award:

June 14, 2016

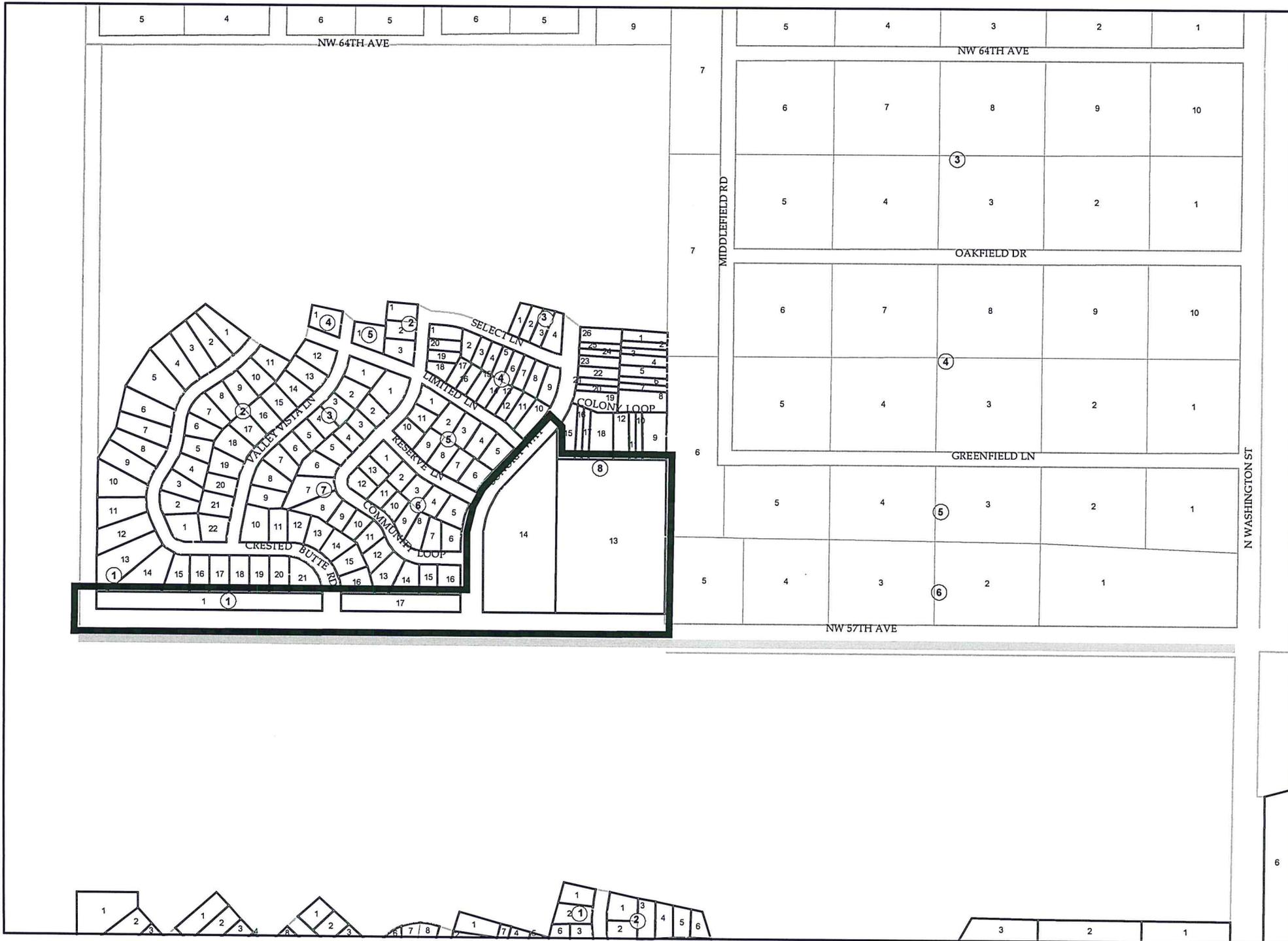
GJS/ps

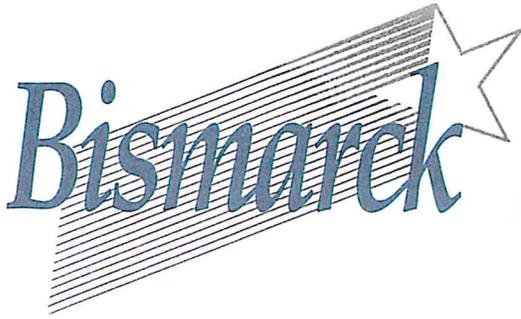
cc: Michelle Klose, PE, Director of Utility Operations  
Rebecca Collins, Comptroller  
Fiscal Services

**Gabriel J. Schell, PE, City Engineer**

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Email: bisengd@bismarcknd.gov • www.bismarcknd.gov

# WA 329 UNIT 1





**Engineering Department**

June 8, 2016

**MEMORANDUM**

**To:** Jason Tomanek  
Assistant City Administrator

**From:** Gabe J. Schell, PE   
City Engineer

**Re: AGENDA ITEM (WU 15-114)**  
**Request for Authorization to Receive Bids and Awarding Contract**

**Please schedule the following for consideration by the Board of City Commissioners at its meeting to be held on Tuesday, June 14, 2016, at 5:15 p.m. in the Tom Baker Room.**

Water Utility Project No. 15-114 consists of hydrant and valve replacements and appurtenances. This work is funded by the water utility.

Bid Opening: June 13, 2016  
Award: June 14, 2016

GJS/ps  
Enc.

cc: Michelle Klose, PE, Utility Operations Director  
Cora Bauer, Special Assessment Coordinator  
Fiscal Services

**Gabriel J. Schell, PE, City Engineer**

Phone: 701-355-1505 • TDD: 711 • Fax: 701-222-6593 • 221 N. Fifth St. • PO Box 5503 • Bismarck, ND 58506-5503  
Email: bisengd@bismarcknd.gov • www.bismarcknd.gov

# *Bismarck* Department of Public Works

MEMORANDUM

TO: Jason Tomanek – Assistant City Administrator

FROM: Jeff Heintz – Public Works Service Operations Director

DATE: June 8, 2016

RE: Agenda Item - Permission to award bid for Furnishing Paving Materials – Salt, Sand and Aggregates (F-G)



Please place on the June 14<sup>th</sup>, 2016 Board of City Commissioner meeting agenda the awarding of bid for furnishing paving materials – salt, sand and aggregate.

The City received and opened bids on June 7, 2016. Knife River was the low bidder for Sand, Stabilized Gravel Base, Aggregate, and Sand. NSC Minerals, Ltd. was the low bidder for Salt. Roads and Street supervisor Keith Glass and I reviewed the bids and recommend accepting these bids. Bid tabulation is provided for your review.

Funding for this work will be from the Roads and Streets budget.

I will be present at the City Commission meeting to respond to questions the Board may have regarding this matter. Please contact me if you have questions or require additional information.

Furnish Paving Materials Bid Tab 2016

Bids Opened June 7, 2016 at 4:00 p.m.

	Quantity Unit	GUTHMILLER & SONS		KNIFE RIVER CORPORATION		NORTHERN IMPROVEMENT		NSC MINERALS LTD		COMPASS MINERALS		JMAC	
		Price Bid	Total	Price Bid	Total	Price Bid	Total	Price Bid	Total	Price Bid	Total	Price Bid	Total
<b>PART F</b>													
Part F1(a) Deicing Sand	3000 Ton	27.85	83550	\$16.59	\$49,770.00	\$17.31	\$51,930.00					\$26.50	\$79,500.00
<b>Total Price F1(a)</b>			<b>\$83,550.00</b>		<b>\$49,770.00</b>		<b>\$51,930.00</b>						<b>\$79,500.00</b>
Part F1(b) Rock Salt	2500 Ton							\$81.57	\$203,925.00				
<b>Total Price F1(b)</b>									\$203,925.00				
<b>TOTAL SUM PART F</b>													
<b>PART G</b>													
Stabilized Gravel Base	500 Ton			\$17.00	\$8,500.00	\$23.39	\$11,695.00						
Cover Aggregate	1000 Ton			\$18.75	\$18,750.00	\$19.73	\$19,730.00						
Blotter Sand	200 Ton			\$16.59	\$3,318.00	\$17.31	\$3,462.00						
<b>TOTAL SUM PART G</b>					<b>\$30,568.00</b>		<b>\$34,887.00</b>						



## MEMORANDUM

DATE: June 7, 2016

TO: Mayor Mike Seminary  
Commissioner Parrell Grossman  
Commissioner Josh Askvig  
Commissioner Nancy Guy  
Commissioner Steve Marquardt

FROM: Greg Haug, Airport Director 

RE: Regular Agenda Items for June 14, 2016 City Commission Meeting.

The Airport has placed three items on your regular agenda; receive and consider bids and project budget for Maverick Avenue Reconstruction/Terminal Boulevard Rehabilitation; consider a Request for Proposals (RFP) recommendation for airport radio system and consider a lease agreement with the State Historical Society of North Dakota for a storage building.

The first item is to receive and consider bids and project budget for Maverick Avenue Reconstruction/Terminal Boulevard Rehabilitation. Airport staff conducts rehabilitation of paved surfaces as part of our ongoing maintenance program. As part of that program, the Board approved an agreement with Kadrmas, Lee & Jackson (KLJ) on January 12, 2016 for design, bidding, and construction inspection of this rehabilitation. Maverick Avenue will be reconstructed and street lights will be added. Terminal Boulevard will be crack sealed, patched where necessary then micro sealed and striped. KLJ completed the design and the project was bid. Bids were opened on June 6, 2016 at 4 p.m. Two bids were received from Northern Improvement Company and Idling Electric Inc. (enclosure 1).

The Maverick Avenue Reconstruction/Terminal Boulevard Rehabilitation will be funded initially by airport funds and later reimbursed for engineering and construction costs in PFC #7. Airport Staff recommends award to Northern Improvement for general work in Schedule 1 totaling \$829,479.50 and Edling Electric for the electrical work in Schedule 2 for \$68,771.35 and approval of project budget included with enclosure 1.

W:\2008 & Forward\Commission Meeting Agenda info\2016\Agenda Support Letter Regular Agenda June 14, 2016.docx

The second item is to consider a RFP recommendation for a new airport radio system. Airport staff conducted a request for proposals to replace the existing airport radio system which is over 20 years old and is becoming hard to maintain. System function is critical to airport operations. The proposals were received by 4 p.m. on May 31, 2016. One proposal was received from Electronic Communications Inc. Electronic Communications Inc. proposed new equipment that includes one Motorola repeater, 36 mobile radios, 11 portable radios with installation and setup for \$41,630.00. The system will use existing frequencies. The system is digital and will allow for future radio enhancements. Setup and installation of the repeater will also be completed by Electronic Communications Inc. The radio system will be funded by the airport departments approved spending plan. Airport Staff recommends approval of Electronic Communications Inc. proposal of \$41,630.00.

The third regular agenda item is to consider a lease agreement with the State Historical Society of North Dakota for a storage building along Airway Avenue just west of the NPCC (enclosure 2). The building is in the top center of the picture provided (enclosure 3). The contract is for one year with a one year extension with mutual agreement of both parties. The contract is written so the City must agree to the extension and must agree to any new improvements, structures, or alterations to the leased property. The ground lease is the same lease the Board considered and approved last year and represents \$837.46 of income to the Airport Enterprise Fund.

As always, I am available to answer any questions you may have at 701-355-1808.

Enclosures:

1. Maverick Avenue /Terminal Boulevard bid tab and project budget
2. State Historical Society of North Dakota lease agreement
3. Historical Society Building location picture



## Bismarck Airport

Maverick Avenue Reconstruction, Terminal Boulevard Rehabilitation & Miscellaneous Items

Future AIP; KLJ #1516700

Monday, June 6, 2016; 4:00 P.M. CT

Bidder	Total Bid Schedule 1 Division 1	Total Bid Schedule 1 Division 2	Total Bid Schedule 2 Division 1	Total Bid Schedules 1 and 2 Combined
Edling Electric, Inc. Bismarck, ND	NO BID	NO BID	\$ 68,771.35	
Mariner Construction, Inc. Bismarck, ND				
Mayo Construction Company, Inc. Cavalier, ND				
Northern Improvement Company Bismarck, ND	\$ 699,770.50	\$ 129,709.00	NO BID	
Quam Construction Company, Inc. Willmar, MN				
Strata Corporation Grand Forks, ND				
<b>Engineer's Opinion of Construction Cost</b>	\$ 640,373.00	\$ 78,211.00	\$ 61,774.50	\$ 780,358.50

Costs shown are AS READ from the bid opening.

ENCL 1 P 1

## AIRPORT PROJECT BUDGET

Date: June 14, 2016

<b>Number</b>	Non-AIP 57	<b>Description</b>	Maverick Ave/Terminal Blvd Rehabilitation
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<b>Scheduled Start</b>	Jul-16	<b>Scheduled End</b>	Oct-16
------------------------	--------	----------------------	--------

### Project Construction Contracts

<b>Project Construction Contracts</b>	<b>Amount</b>
1. Northern Improvement Company ( General)	\$829,479.50
2. Edling Electric (Electrical)	\$68,771.35
<b>Total Construction Contracts</b>	<b>\$898,250.85</b>

<b>Engineer, Testing and Misc. Contracts</b>	<b>Amount</b>
1. KLJ - Design and Bidding Services	\$85,436.64
2. Construction Observation, Testing, and Administration	\$192,160.19
3. Project Closeout Report	\$8,944.61
4. Midcontinent Cable Lowering (Estimated)	\$8,000.00
5. CenturyLink Telephone Cable Lowering (Estimated)	\$8,000.00
6. MDU Natural Gas Lowering (Estimated)	\$15,000.00
<b>Total Engineer, Testing and Misc. Contracts</b>	<b>\$317,541.44</b>

<b>Administration</b>	\$14,207.71
-----------------------	-------------

<b>Sub Total</b>	<b>\$1,230,000.00</b>
------------------	-----------------------

CONTINGENCIES    15%   

OTHER COSTS   

**TOTAL PROJECT COST**   

<b>Project Funding</b>	<b>Amount</b>
FAA Grant:	-
State Grant:	-
Airport Funds:                    (\$1,230,000.00 without contingencies)	1,380,000.00
<b>Total Funding</b>	<b>\$1,380,000.00</b>

Note: Reimbursed by PFC #7

ON JUNE 14, 2016  
A6 92014

## CONTRACT REVIEW FORM

### DEPARTMENT

Contract between the City of Bismarck and HISTORICAL SOCIETY of ND

Purpose of Contract: LAND LEASE

Contract Amount: \$ 837.46

Contract Period: 1 YEAR + 1

Funding Source: INCOME TO AIRPORT ENTERTAINMENT FUND

Project Number: (If needed, send copy to Fiscal)

Comments: SAME AGREEMENT AS LAST YEAR WITH CAFE INCREASE

After Mayor's Signature, route to: AIRPORT

Date:

Department Head Signature:

Date:

### **CITY ATTORNEY**

Comments:

City Attorney Signature:

Date:

### **FINANCE**

Comments:

Director of Finance Signature:

Date:

### **ADMINISTRATION**

City Administrator Signature:

Date:

Please send copy of completed contracts to Administration.



**STATE  
HISTORICAL  
SOCIETY**  
OF NORTH DAKOTA

Jack Dalrymple  
*Governor of North Dakota*

North Dakota  
State Historical Board

Margaret Puetz  
*Bismarck - President*

Gereld Gerntholz  
*Valley City - Vice President*

Albert I. Berger  
*Grand Forks - Secretary*

Calvin Grinnell  
*New Town*

Diane K. Larson  
*Bismarck*

Chester E. Nelson, Jr.  
*Bismarck*

A. Ruric Todd III  
*Jamestown*

Sara Otte Coleman  
*Director  
Tourism Division*

Kelly Schmidt  
*State Treasurer*

Alvin A. Jaeger  
*Secretary of State*

Mark Zimmerman  
*Director  
Parks and Recreation  
Department*

Grant Levi  
*Director  
Department of Transportation*

Claudia J. Berg  
*Director*

*Accredited by the  
American Alliance  
of Museums since 1986*

May 19, 2016

Timothy J. Thorsen  
Airport Operations Manager  
2200 Terminal Boulevard, Suite 225B  
PO Box 991  
Bismarck, ND 58502-0991

Re: State Historical Society of ND Lease

Dear Mr. Thorsen,

Enclosed is the lease agreement between the State Historical Society of ND and the City of Bismarck. Please have the President of the Board of City Commissioners sign the lease and return a copy to me. A scanned copy will work ([rwarn@nd.gov](mailto:rwarn@nd.gov)).

Contact me at 701-328-3561 if you have any questions.

Sincerely,

Ronald Phil Warner  
Administrative Officer

Enclosure  
State Historical Society of ND Lease Agreement

## LEASE

THIS LEASE dated this 1<sup>st</sup> day of July, 2016, between the CITY OF BISMARCK, a municipal corporation of the state of North Dakota, hereinafter called the LESSOR and the State of North Dakota acting through the State Historical Society of North Dakota, hereinafter called the LESSEE, witnesseth:

1. The Lessor leases to the Lessee a tract of land at the Bismarck Municipal Airport, being a tract in the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$ ) of Section Ten (10), Township One Hundred Thirty-Eight North (T. 138 N.), Range Eighty (80), Burleigh County, North Dakota, described as follows, to wit: Lot Eighteen (18) which is 60 feet by 115 feet, tract contains 6,900 square feet and shown in Exhibit "A" attached hereto and made a part hereof, for a one-year term at an annual rental of \$ 837.46 payable annually on or before July 1. If the Lessor and Lessee agree, the Lessee shall have the right and option to renew the Lease for an additional one-year term by giving written notice to the Lessor of the exercise of the option at least 90 days before the end of the Lease term.
2. The Lessee agrees that it will pay the rent at the times and in the manner stated.
3. The property is leased to be used for warehousing and for any other lawful business if approved in writing by the City.
4. No additional improvements, structures, alterations, or additions shall be made in, to, or upon the leased premises without the prior written consent of the city. The Lessee has the right to remove any buildings on termination of the lease provided that the premises are left in good condition.
5. The Lessee is taking the premises as is and the Lessee shall be responsible for all charges for utility or other services and for applicable taxes and the City as Lessor assumes no responsibility for upkeep or maintenance or charges or costs of any kind.





