



August 4, 2016

Board of City Commissioners  
Bismarck, ND

Dear Commissioners:

The Board of City Commissioners is scheduled to meet in regular session on Tuesday, August 9, 2016 at 5:15 p.m. in the Multi-Purpose Room, Lewis Goodhouse Wellness Center, Building 69, United Tribes Technical College (UTTC), 3315 University Drive, Bismarck, North Dakota.

Invocation will be presented by Leander "Russ" McDonald, President, United Tribes Technical College.  
Posting of Colors will be presented by the United Tribes Technical College Veterans Color Guard.  
Welcome by Leander "Russ" McDonald, President, United Tribes Technical College.

Future City Commission meetings are scheduled as follows:

- August 23, 2016
- September 13 & 27, 2016
- October 11 & 25, 2016

#### **MEETING OF THE BOARD OF CITY COMMISSIONERS**

1. Consider approval of the minutes of the regular meeting on July 26, 2016.

2. CONSENT AGENDA

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

Documents:

[PERSONNEL ACTIONS FOR AUGUST 9 COMMISSION MEETING\\_2016080512595741991.PDF](#)

C. Consider approval of the tax abatement application for Market Value Reduction.

Documents:

[ABATEMENT 080916 MEETING\\_2016080512595768496.PDF](#)

D. Consider request from the City Administration Department to approve the renewal of the Memorandum of Understanding with ServeYes! for volunteers.

Documents:

[MEMORANDUM OF UNDERSTANDING SERVEYES VOLUNTEERS\\_2016080512595780996.PDF](#)

E. Consider request to call for public hearing on a request from a new owner of Bismarck Yellow Cab to obtain a new Taxi Cab License.

Documents:

[BISMARCK YELLOW CAB NEW OWNER NEW TAXI LICENSE\\_201608051257591697.PDF](#)

F. Consider introduction of and call for a public hearing on the following:

1. Ordinance 6219 relating to the creation of the Bismarck Animal Advisory Board (*revised since original introduction on July 12, 2016*);
2. Ordinance 6226 relating to city rights-of-way; and
3. Ordinance 6227 relating to rules and regulations for granting gaming site authorization.

Documents:

[ORDINANCE 6219 REVISED.PDF](#)  
[ORDINANCE 6226.PDF](#)  
[ORDINANCE 6227.PDF](#)

G. Consider the requests from the Community Development Department for introduction of and call for public hearing on the following items. The Bismarck Planning and Zoning Commission recommends approval:

1. Ordinance 6228 relating to a zoning change for Koch Creek Commercial Subdivision.
2. Ordinance 6229 relating to a zoning change for Lots 1-3, Block 1, Sonnet Heights Subdivision.
3. Ordinance 6230 relating to a zoning change for Lots 14-19, Block 4, South Meadows Addition.
4. Ordinance 6231 relating to a zoning change for part of Lot 21, Lounberry Outlots (Saxvik Elementary School).

Documents:

[ORDINANCE 6228.PDF](#)  
[ORDINANCE 6229.PDF](#)  
[ORDINANCE 6230.PDF](#)  
[ORDINANCE 6231.PDF](#)

H. Consider the following requests from the Engineering Department:

1. Approval of Contract Change Order No. 1 with Edling Electric for a change in contract timeline for Street Improvement District 15-492 from July 15, 2016 to September 30, 2016.
2. Approval of Contract Change Order No. 2 with Cofells Plumbing and Heating for a change in contract timeline for Water Improvement District 15-326/Sewer Improvement District 15-564 from September 30, 2015 to July 28, 2016.
3. Approval for department staff to notify property owners of their need to repair unsafe sidewalks in accordance with applicable Bismarck city ordinances.

Documents:

[CHANGE ORDER WITH EDLING ELECTRIC FOR SI 15 492.PDF](#)  
[CHANGE ORDER WITH COFELLS FOR WA 15 326 SE 15 564.PDF](#)  
[PERMISSION NOTIFY PROPERTY OWNER HAZARDOUS SIDEWALK REPAIRS NEEDED.PDF](#)

I. Consider the following requests relating to Water Improvement District 16-330 (installation of water trunk line and related items):

- Resolution Approving Plans and Specifications; and
- Resolution Directing Advertisement of Bids and Receive Bids.

Documents:

[RESOLUTIONS FOR WATER IMPROVEMENT DISTRICT 16 330.PDF](#)

J. Consider request from the Finance Department for approval of pledge bonds.

Documents:

[APPROVAL OF PLEDGE BONDS.PDF](#)

K. Consider request from the Human Resources Department to approve the reclassification of the Master Electrician position.

Documents:

[RECLASSIFICATION OF MASTER ELECTRICIAN POSITION.PDF](#)

L. Consider request from the Police Department for permission for city employees to participate in and donate blood on duty for the United Blood Services "Battle of the Badges" Blood Drive September 6-8, 2016.

Documents:

[PERMISSION CITY EMPLOYEES PARTICIPATE BATTLE OF BADGES BLOOD DRIVE.PDF](#)

- M. Consider request from the Public Works Service Operations Department to allow banners to be hung on city street light poles that surround Camp Hancock historical site on Main Avenue.

Documents:

[STREET LIGHT BANNERS NEAR CAMP HANCOCK HISTORICAL SITE.PDF](#)

- N. Consider request from Public Works Utility Operations Department for approval of Change Order 3 with AE2S for \$13,100 for design-related changes on the water treatment plant softening expansion project.

Documents:

[CHANGE ORDER WITH AE2S WTP SOFTENING EXPANSION PROJECT.PDF](#)

3. REGULAR AGENDA

- A. Receive an update from Lorraine Davis, special advisor to the mayor on Native American Career Development. (No attachment)
- B. Consider request from the Bismarck-Mandan Metropolitan Planning Organization (MPO) for Rick Stoppelmoor of HDR to appear and present the Mandan and Bismarck Corridor Improvement Study for consideration and acceptance by the Board.

Documents:

[MANDAN AND BISMARCK CORRIDOR IMPROVEMENT STUDY REPORT.PDF](#)

- C. Consider request to receive the Annual Report from the Mayor's Committee on Human Relations.

Documents:

[2015-2016 ANNUAL REPORT MAYORS COMMITTEE ON HUMAN RELATIONS.PDF](#)

- D. PUBLIC HEARING and approval of the waste collection franchise for IHD Solids Management.

Documents:

[PUBLIC HEARING FOR WASTE COLLECTION FRANCHISE FOR IHD SOLIDS MGMT.PDF](#)

- E. PUBLIC HEARING on Ordinance 6225 relating to harassment.

Documents:

[ORDINANCE 6225.PDF](#)

- F. Consider request for approval of the minor subdivision final plat of Sonnet Heights Subdivision 6th Replat, requested by J & D Construction. The Bismarck Planning and Zoning Commission recommends approval.

Documents:

[SONNET HEIGHTS SUBDIVISION SIXTH REPLAT MINOR SUBDIVISION FINAL PLAT.PDF](#)

- G. Consider request for approval of the minor subdivision final plat of Southbay Third Addition First Replat, requested by Alcor Investment, Inc. and Mitch Neumiller and Stacey Neumiller. The Bismarck Planning and Zoning Commission recommends approval.

Documents:

[SOUTHBAY THIRD ADDITION FIRST REPLAT MINOR SUBDIVISION FINAL PLAT.PDF](#)

- H. Consider the following requests from the Bismarck Airport regarding the Vehicle Parking Concession (pay parking lot) Requests For Proposal (RFP) at the airport terminal:

- Receive proposals and consider selection committee's recommendation to award (these will be provided at the meeting); and
- Approval of the format for the Concession Agreement.

Documents:

[AIRPORT TERMINAL PAY PARKING LOT RFP AND AGREEMENT.PDF](#)

- I. Consider request from the Engineering Department for approval of consultant services with Apex Engineering Group for the Tyler Coulee sanitary sewer servicing plan.

Documents:

[ENGINEERING CONSULTANT SERVICES FOR TYLER COULEE SANITARY SEWER SERVICE PLAN.PDF](#)

- J. Consider other business. (No attachment)

*Phone: 701-355-1300 ★ FAX: 701-222-6470 ★ 221 N. Fifth St. ★ P.O. Box 5503 ★ Bismarck, ND 58506-5503  
www.bismarcknd.gov ★ TDD 711 ★ An Equal Opportunity-Affirmative Action Employer*



## PERSONNEL ACTIONS FOR THE MEETING ON Aug. 9, 2016

### Full-Time and Part-Time Appointments

Fischer, Tonka W/WW Plant Operator	Public Works	Probationary appointment @ \$20.06/hr. 8/8/2016
Guenther, Kurt Mechanic	Public Works	Probationary appointment @ \$21.25/hr. 8/15/2016
Ketterling, Bruce Equipment Operator	Public Works	Probationary appointment @ \$18.20/hr. 8/8/2016

### Separations

Waldoch, Dan Golf Operations Manager	Parks & Rec	Retired. 8/19/2016
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### Others

Bourgeois, Gretchen Accounting Technician	Finance	Leave w/out pay 8/12/2016 pay period
Olsen, Whitnie Office Assistant II	Finance	End of acting position - sal. adj. \$16.51/hr. 7/17/2016
Gardiner, Luke Police Sergeant	Police	Leave w/out pay 8/12/2016 pay period
Jones, Cristy Environmental Health Specialist	Public Health	Promotion & salary adj. @ \$23.23/hr. 9/1/2016
Jacobson, Eric Waste Service Worker	Public Works	Leave w/out pay 7/29/2016 pay period

**Abatements for August 9, 2016 City Commission Meeting**

- 1750 Bonn Blvd (1020-025-050) – 2016 – Market Value Reduction



MEMORANDUM

TO: Jason Tomanek, Assistant City Administrator

FROM: Debra Goodsell, City Assessor *DKG*

DATE: August 3, 2016

SUBJECT: Applications for abatement.  
Property Owner-Sherwin & Cathy Nelson  
Property Address-1750 Bonn Blvd (1020-025-050)  
For the year of 2016

Please schedule the attached application for abatement on the agenda for City Commission consideration.

The Assessing Division has reviewed the subject property and discovered that the value on the property needed to be adjusted in order to compare with similar properties.

The applicant requests that the market value for 2016 of \$342,000 be reduced to \$308,700. The Assessing Division recommends approval of the application for abatement as presented.

If you should have any questions, please feel free to contact our office.



# Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1 of the year following the year in which the tax becomes delinquent.

State of North Dakota Assessment District \_\_\_\_\_  
County of Burleigh Property I.D. No. 1020-025-050  
Name Sherwin and Cathy Nelson Telephone No. \_\_\_\_\_  
Address 1750 Bonn Blvd

Legal description of the property involved in this application:

Lot 11, Block 25, Wachter's 9th

Total true and full value of the property described above for the year 2016 is:

Land \$ 60,000  
Improvements \$ 282,000  
Total \$ 342,000  
(1)

Total true and full value of the property described above for the year 2016 should be:

Land \$ 60,000  
Improvements \$ 248,700  
Total \$ 308,700  
(2)

The difference of \$ 33,300.00 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
- 6. Duplicate assessment
- 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
- 8. Error in noting payment of taxes, taxes erroneously paid
- 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application.
- 10. Other (explain) \_\_\_\_\_

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go directly to question #5.

1. Purchase price of property: \$ \_\_\_\_\_ Date of purchase: \_\_\_\_\_  
Terms: Cash \_\_\_\_\_ Contract \_\_\_\_\_ Trade \_\_\_\_\_ Other (explain) \_\_\_\_\_  
Was there personal property involved in the purchase price? \_\_\_\_\_ Estimated value: \$ \_\_\_\_\_  
yes/no
2. Has the property been offered for sale on the open market? \_\_\_\_\_ If yes, how long? \_\_\_\_\_  
yes/no  
Asking price: \$ \_\_\_\_\_ Terms of sale: \_\_\_\_\_
3. The property was independently appraised: \_\_\_\_\_ Purpose of appraisal: \_\_\_\_\_  
yes/no  
Market value estimate: \$ \_\_\_\_\_  
Appraisal was made by whom? \_\_\_\_\_
4. The applicant's estimate of market value of the property involved in this application is \$ \_\_\_\_\_
5. The estimated agricultural productive value of this property is excessive because of the following condition(s): \_\_\_\_\_

Applicant asks that the true and full value be reduced to 308,700.

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection. See N.D.C.C. § 57-23-05.1.

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a governmental matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant)

Date

Signature of Applicant

Date

*Sherwin Nelson* 7/22/2016

**Recommendation of the Governing Body of the City or Township**

Recommendation of the governing board of \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_\_, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
 \_\_\_\_\_  
 City Auditor or Township Clerk

**Action by the Board of County Commissioners**

Application was \_\_\_\_\_ by action of \_\_\_\_\_ County Board of Commissioners.  
 Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ \_\_\_\_\_ to \$ \_\_\_\_\_ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ \_\_\_\_\_. The Board accepts \$ \_\_\_\_\_ in full settlement of taxes for the tax year \_\_\_\_\_.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. \_\_\_\_\_

Dated \_\_\_\_\_  
 \_\_\_\_\_  
 County Auditor Chairperson

**Certification of County Auditor**

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor \_\_\_\_\_ Date \_\_\_\_\_

**Application For Abatement  
 Or Refund Of Taxes**

Name of Applicant Sherwin + Cathy Nelson

County Auditor's File No. 116-194

Date Application Was Filed With The County Auditor 7/27/16

Date County Auditor Mailed Application to Township Clerk or City Auditor \_\_\_\_\_  
(must be within five business days of filing date)

Heaven J. Elliott by ecb.



## ADMINISTRATION

**DATE:** August 3, 2016  
**FROM:** Keith J. Hunke, City Administrator *KJH*  
**ITEM:** MOU – ServeYes! Volunteers

### REQUEST

Consider and approve renewal of current Memorandum of Understanding (MOU) with ServeYes!

Please place this item on the August 9, 2016 City Commission meeting.

### BACKGROUND INFORMATION

The city of Bismarck currently has a MOU with ServeYes! for the provision of volunteers for activities involving Emergency Management, Police Department, Public Health and other assigned locations. The current MOU is due for renewal.

### RECOMMENDED CITY COMMISSION ACTION

Consider and approve the renewal of the Memorandum of Understanding with ServeYes!

### STAFF CONTACT INFORMATION

Keith J. Hunke, City Administration, 355-1300, [khunke@bismarcknd.gov](mailto:khunke@bismarcknd.gov)



# CONTRACT REVIEW FORM

## DEPARTMENT

Contract between the City of Bismarck and ServeYes!

Purpose of Contract: To provide volunteers for city department activities

Contract Amount: \$ 0.00

Contract Period: August 2016 thru August 2019

Funding Source: N/A

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

Comments: Renewal of current Memorandum of Understanding with ServeYes!

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

After Mayor's Signature, route to: Keith Hunke Date: Jul 11, 2016

Department Head Signature: [Signature] Date: \_\_\_\_\_

## **CITY ATTORNEY**

Comments: OK

City Attorney Signature: [Signature] Date: July 21-16

## **FINANCE**

Comments: OK

Director of Finance Signature: [Signature] Date: 7-21-16

## **ADMINISTRATION**

City Administrator Signature: [Signature] Date: 8-3-16

### **ATTENTION:**

Attach a signature flag at each place you want the Mayor to sign.  
Please send copy of completed contracts to Administration.

Print Form

# MEMORANDUM OF UNDERSTANDING (MoU)

between  and

**Host Station Name** (on file with Secretary of State) City of Bismarck  
**Trade Name/Department/Also Known As** \_\_\_\_\_  
**Street Address** 221 N 5th Street **PO Box** 5503  
**City** Bismarck **State** ND **Zip/+4** 58506-5503 **Email** \_\_\_\_\_  
**County** Burleigh **Phone** 701-355-1300 **Fax** 701-222-6470 **Website** www.bismarcknd.gov

**Host Station is**

- 501(c)(3) non-profit organization
- public agency/unit of government:  federal  state  county  city (check one)
- a proprietary health care facility that serves the frail elderly
- a conduit for in-home placements
- a faith-based organization
- a safe environment for volunteers and one that does not discriminate on the basis of race, ethnicity, national origin, gender, age, political affiliation, sexual orientation, religion, or disability
- accessible to those with mobility, hearing, vision, or mental/cognitive impairments; addictions/diseases, limited English proficiency

**This MoU contains basic provisions that guide the working relationship between parties. The MoU may be amended or terminated, in writing, with concurrence of both parties. MoUs must be renegotiated at least every three years. Coverage dates** 8/1/16 **through** 7/31/19 . (Attach Secretary of State page/web home page for gov't.)

## BASIC PROVISIONS OF MoU--

### A. ServeYES! will:

1. Recruit, interview, and enroll **volunteers**; ensure they are eligible to serve; and refer to registered **Host Stations**.
2. Orient **volunteers** to proper use of reports, reimbursement guidance (if any), and program procedures.
3. Provide orientation/screening assistance to **Host Station** prior to placement of volunteers, and other times as needed.
4. Promote whenever possible and across various media types that **volunteers** serve a broad spectrum of nonprofit organizations and government agencies, and mention **volunteers** and **Host Stations** whenever appropriate.
5. Provide accident, personal liability, and excess automobile insurance coverage as required by program policies. Insurance coverage is secondary coverage and is not primary insurance.
6. Periodically monitor **volunteer activities** at **Host Station** to assess/discuss needs of **volunteers** and **Host Station**.
7. Assist in arranging transportation to/from service sites with local transit if **volunteers** are unable to provide their own transportation, consistent with local program policies and availability.
8. Annually assess **volunteer placements** to ensure safety of **volunteers** to include an emailed assurance of safety and accessibility from all **Host Stations**.

### B. Host Station will:

1. Write a **volunteer job description** for each task requested.
  2. Interview and make final decision on assignment of **volunteers**; orient and train them; provide in-service instruction.
  3. Furnish **volunteers** with materials required for assignment(s), if any.
  4. Provide supervision of **volunteers** on assignments.
  5. Ensure adequate safety of the **volunteers** and submit an annual assurance upon request by **ServeYES!**. All **volunteer** placement sites must be accessible to persons as noted in the **Host Station** section above.
  6. Collect and validate appropriate **volunteer/client** reports for submission to regional **ServeYES!** office on a timely basis.
- For selected focus area volunteer activities, additional assessments and data may be requested to meet federal reporting requirements on a semi-annual basis. ServeYES! staff will be in contact with Host Station staff regarding such activities, reporting procedures, and timelines.**
7. Provide transportation **if** required during **volunteer assignments**, as described on the **volunteer job description**.
  8. Investigate and report in writing any accidents and injuries involving **volunteers** immediately to the **ServeYES!** office.
  9. Post placards when provided and mention in all relevant publicity the partnership between **Host Station** and **ServeYES!**.
  10. If meals are provided to **volunteers**, check one--

Contributed meals are federally funded under: 1) \_\_\_\_\_ Title III-Older Americans Act or 2) \_\_\_\_\_ Other federal funding source or 3) \_\_\_\_\_ Contributed meals are **NOT** provided by federal funds.

Meals will be provided to **volunteers** at a free or reduced price when \_\_\_\_\_ hours have been/will be served that day. Meals are valued at \$\_\_\_\_\_. **\*NOTE:** The value of free/reduced-price meals **not** provided by federal funds will be verified by the **Host Station** volunteer supervisor and reported monthly to **ServeYES!** as important and appreciated in-kind support.

**C. Other Provisions:**

1. Separation from Service: A **Host Station** may request the removal of a **volunteer** at any time. A **volunteer** may withdraw from service at the **Host Station** or from **ServeYES!** at any time. Discussion of individual separations will occur among **ServeYES!** staff, **Host Station** staff, and the **volunteer** to clarify the reasons, resolve conflicts, or take remedial action, including placement with another **Host Station**.
2. Letters of Agreement: When **in-home** assignments of **volunteers** are made, a letter of agreement will be signed by the parties involved. The document will authorize **volunteer service** in the home and identify specific **volunteer activities, periods, and conditions of service**.
3. Religious and Political Activities: The **Host Station** will not request or assign **volunteers** to conduct or engage in any religious, sectarian, or political activities.
4. Displacement of Employees: The **Host Station** will not assign **volunteers** to any assignment which would displace employed workers or impair existing contracts for services.
5. Accessibility and Reasonable Accommodation: The **Host Station** will ensure that the programs and activities to which **volunteers** are assigned are accessible to persons with disabilities and provide reasonable accommodation to allow persons with disabilities to participate in programs and activities.
6. Prohibition of Discrimination: The **Host Station** will not discriminate against **volunteers** or in the operation of its program on the basis of race, ethnicity, national origin, gender, age, political affiliation, religion, sexual orientation, limited English language proficiency, or on the basis of disability if the **volunteer** is a qualified individual with a disability.
7. This MoU contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, shall be deemed to exist or to bind either of the parties.
8. If anticipated **volunteer activities** will be conducted at a site(s) other than **Host Station** location, please note other location(s) here Emergency Management, Police Department, Public Health or assigned locations

The **Host Station** representative who will serve as liaison with **ServeYES!** and who will be responsible for **volunteer orientation and supervision** is: Name and Title Gary Stockert, Bismarck Emergency Manager

**For the Host Station:**

Printed Name and Title Michael C. Seminary, President Board of City Commissioners

Signature \_\_\_\_\_ Date \_\_\_\_\_

**For ServeYES!:**

Printed Name and Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

For **ServeYES!** Office Use Only--Station Type (specify): \_\_\_\_\_

**Originating Regional Program:**

- Bismarck Region
- Dickinson Region
- Devils Lake Region
- Fargo Region
- Grand Forks Region
- Jamestown Region
- Minot Region



**CERTIFICATE OF TITLE FOR A VEHICLE**  
 NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
 SFN 2875 (Rev. 06-16)



ND DEPT. OF TRANSPORTATION  
 MOTOR VEHICLE DIVISION  
 608 E BOULEVARD AVE  
 BISMARCK ND 58505-0780  
 Telephone: (701) 328-2725

VIN [REDACTED]	YEAR MODEL 2004	YEAR REGISTERED 2004	MAKE TOYOTA	BODY STYLE VAN PASSENGER	MODEL SIENNA
OWNER(S) NAME ZAMAN, SAQIB	TITLE NUMBER ND1309245440	VEHICLE TYPE TRUCK	SHIPPING WEIGHT 4120	DATE ISSUED 7/22/2016	ODOMETER READING ODOMETER STATUS EXEMPT

MAIL SAQIB ZAMAN  
 TO: [REDACTED]

**PART 1. ASSIGNMENT AND WARRANTY OF TITLE (DELIVER TITLE TO BUYER WITHIN 15 DAYS FROM DATE OF SALE)**

Applicant's/Buyer's Legal Name (first, middle, last) or Firm Name (Lessor, Trust):		<input type="checkbox"/> Driver's License	<input type="checkbox"/> FEIN	Telephone Number
Mailing Address	City	State	ZIP Code	County
Co-Applicant's/Buyer's Legal Name (first, middle, last) or Firm Name (Lessee, Trust):		<input type="checkbox"/> Driver's License	<input type="checkbox"/> FEIN	Telephone Number
Mailing Address	City	State	ZIP Code	County
Check one: <input type="checkbox"/> Or <input type="checkbox"/> And <input type="checkbox"/> And/Joint Tenants with Right of Survivorship	Purchase Date (Mo., Day, Year)	Purchase Price		

**Odometer Disclosure:** Federal and State laws require that you state the mileage in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment.  
 I certify to the best of my knowledge the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked:  Mileage stated is in excess of its mechanical limits.  Odometer reading is not the actual mileage (warning \*odometer discrepancy)

Signature of Seller/Transferor X	Date (Mo., Day, Year)	Signature of Applicant/Buyer/Transferee X	Date (Mo., Day, Year)
Signature of Seller/Transferor X	Date (Mo., Day, Year)	Signature of Applicant/Buyer/Transferee X	Date (Mo., Day, Year)
Hand-Printed Name(s) of Seller(s)/Transferor(s)	Daytime Telephone Number	Hand-Printed Name(s) of Applicant(s)/Buyer(s)/Transferee(s)	

**LEGAL TITLE OWNER (LIENHOLDER)**  
 Any lien recorded in the office of the Department of Transportation is shown below. The lienholder named is and shall remain legal owner of the vehicle until the encumbrance is released or satisfied.



**N0716659**

I certify that the applicant has complied with the requirements of Title 39 of the North Dakota Century Code relative to the issuance of a certificate of title for a vehicle.

*M. A. [Signature]*  
 Deputy Director for Driver and Vehicle Services

**LIEN RELEASE**  
 ALL INTERESTS IN THE VEHICLE DESCRIBED ABOVE ARE RELEASED.

Lienholder Name  
 Signature of Agent  
 Date  
 X

**THE DEPARTMENT OF TRANSPORTATION IS NOT RESPONSIBLE FOR FALSE OR FRAUDULENT STATEMENTS MADE IN THE ASSIGNMENT OF THE CERTIFICATE OF TITLE.**

SFN 2875 (Rev. 07-2015)

~~4.75~~ ~~4.80~~ All passengers  
~~1.80 per mile.~~

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\$ 4.75 ~~cent~~

\$ 1.80 per mile.

### NORTH DAKOTA INSURANCE IDENTIFICATION CARD

COMPANY NUMBER      COMPANY       COMMERCIAL       PERSONAL

**National Indemnity Company**

POLICY NUMBER      EFFECTIVE DATE      EXPIRATION DATE  
70APS066906-01      07/29/2016      07/29/2017

YEAR      MAKE/MODEL      VEHICLE IDENTIFICATION NUMBER  
2004      Toyota Sienna      [REDACTED]

AGENCY/COMPANY ISSUING CARD  
Lahr Agency LLC  
1500 E Capitol Ave  
Bismarck, ND 58501

(701) 557-7757  
INSURED  
 Bismarck Yellow Cab  
[REDACTED]

A VALID POLICY OF LIABILITY INSURANCE HAS BEEN ISSUED  
THAT MEETS THE REQUIREMENTS OF NORTH DAKOTA LAW  
SEE IMPORTANT NOTICE ON REVERSE SIDE

THIS CARD MUST BE KEPT IN THE INSURED  
VEHICLE AND PRESENTED UPON DEMAND

IN CASE OF ACCIDENT: Report all accidents to your Agent/Company as soon as possible. Obtain the following information:

1. Name and address of each driver, passenger and witness.
2. Name of Insurance Company and policy number for each vehicle involved.

# *State of North Dakota*

## SECRETARY OF STATE



### CERTIFICATE OF TRADE NAME ASSIGNMENT OF

BISMARCK YELLOW CAB

The undersigned, as Secretary of State of North Dakota, hereby certifies that an Application for the Assignment of a Trade Name, duly signed pursuant to the provisions of the North Dakota Trade Name statutes, has been received in this office and is found to conform to law.

**Accordingly** the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues the Certificate of Trade Name Assignment of

BISMARCK YELLOW CAB

to SAQIB ZAMAN whose business address is [REDACTED] BISMARCK, ND 58503-0816. The Trade Name Registration shall remain in force until August 27, 2019.

DATED: July 27, 2016

A handwritten signature in black ink, reading "Alvin A. Jaeger".

Alvin A. Jaeger  
Secretary of State



# License Reviews

## City of Bismarck

License Number: TAXC2016-00004

Licensee Name: BISMARCK YELLOW CAB

Applied: 8/3/2016

Issued:

Site Address: 2712 PROMONTORY DR

Expired:

City, State Zip Code: BISMARCK, ND 58503

Status: PENDING

Applicant: SAQIB, ZAMAN

Parent License:

Owner: J & J PROPERTIES LLP

Contractor: <NONE>

Details:

NEW APPLICATION FOR A PREVIOUSLY LICENSED TAXI COMPANY (SAME TAXI COMPANY NAME BUT NEW OWNER)

### LIST OF REVIEWS

SENT DATE	RETURNED DATE	DUE DATE	TYPE	CONTACT	STATUS	REMARKS
Review Group: AUTO						
8/3/2016	8/4/2016	8/4/2016	CHIEF REVIEW	Dan Donlin	APPROVED W/CONDITIONS	
Notes: Condition #1: Must submit a vehicle mechanical inspection prior to operating.						
8/3/2016	8/3/2016	8/4/2016	COMPLETENESS CHECK-TAXI	Marla Schroeder	INCOMPLETE	
Notes: NEED CERTIFICATE OF LIABILITY AND VEHICLE INSPECTION REPORT. OWNER STATED HE WOULD BRING PAPERWORK TO THIS OFFICE. did further research and found that Zaman had applied for a taxi permit as a driver for Yellow Cab. I'm assuming that he is purchasing the vehicle/company from Jama Mohammed.						
8/3/2016	8/3/2016	8/4/2016	POLICE TAXI REVIEW	Jeff Solemsaas	APPROVED W/CONDITIONS	
Notes: the rate is a little unclear. Vehicle will need an inspection by a qualified mechanic and the driver (s) will need to apply for a permit before operation.						
8/4/2016	8/4/2016	8/5/2016	CITY ADMIN	Jason Tomanek	APPROVED W/CONDITIONS	
Notes: Based on PD's review and comments, Administration would support the request provided the specific conditions outlined by the Police Department are met in satisfactory condition.						



# License Reviews City of Bismarck

8/4/2016	8/4/2016	8/5/2016	COMPLETENESS CHECK FINAL	Kristi Hass	INCOMPLETE	
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Notes:

THIS IS COMPLETE ENOUGH TO GO BEFORE THE BOARD FOR A PUBLIC HEARING TO REQUEST A NEW LICENSE.

BEFORE THE NEW TAXI LICENSE IS ISSUED TO THE OWNER, THE OUTSTANDING ITEMS, INCLUDING THE CONDITIONS PLACED ON THIS LICENSE BY THE POLICE DEPARTMENT MUST BE RECEIVED/MET:

- 1) NEED CERTIFICATE OF LIABILITY
- 2) VEHICLE INSPECTION REPORT.

**CITY OF BISMARCK**  
**Ordinance No.6219A**

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

AN ORDINANCE TO CREATE AND ENACT CHAPTER 3-04 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO THE BISMARCK ANIMAL ADVISORY BOARD.

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

Section 1. Amendment. Chapter 3-04 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the Bismarck Animal Advisory Board is hereby created and enacted to read as follows:

CHAPTER 3-04  
BISMARCK ANIMAL ADVISORY BOARD

**3-04-01. Bismarck Animal Advisory Board; Purpose.** There is hereby created and established a body to be known as the Bismarck Animal Advisory Board. The purpose of the Animal Advisory Board is to advise the Bismarck Police Department on companion animal policies, promote collaboration between the City and private citizens, institutions, and agencies interested in or conducting activities relating to companion animals in the city, to identify proactive, creative approaches to engage and facilitate communication and education within the companion animal community and to foster and assist the development of companion animal programs in the community. The Animal Advisory Board may study, advise, and report on policy recommendations it deems effective to promote outcomes consistent with City goals and objectives as outlined by the Police Department and the City Commission.

**3-04-02. Membership - Terms - Filling Vacancies.** The Bismarck Animal Advisory Board shall consist of seven members, who will serve without pay. The make-up of the Bismarck Animal

Advisory Board shall consist of one member of the board of city commissioners, or his or her designee, and six citizens who shall reside in or own property in the City of Bismarck. Members shall be nominated by members of the Board of City Commissioners and subject to confirmation by a majority of the Board of City Commissioners. It is the intent of this chapter for the Animal Advisory Board to be made up of a diverse membership from an array of companion animal businesses and organizations. This may include, but is not limited to; Small Animal Veterinarian; Large Animal Veterinarian; Animal Shelter; Animal Rescue; Attorney; Zoo; Large Animal organization; and a member at-large. City employees, whose chief function is to handle animals and enforce City Ordinances on a daily basis may staff the Animal Advisory Board as non-voting, technical advisors at the discretion of their departments. Of the initial appointees, three shall serve for three year terms and four shall serve for two year terms. After expiration of each initial term, all terms shall run for three years. After the initial terms, no Board Member may serve on the Bismarck Animal Advisory Board more than an unexpired term plus two full terms. Appointees to the Board should promote companion animal welfare and represent the citizens and animals of the City of Bismarck.

**3-04-03. Board President - Meetings - Records to be kept.**

The Bismarck Animal Advisory Board shall elect its President for a term of one year from among its members and shall hold regular meetings. The Bismarck Animal Advisory Board shall keep a record of its findings and determinations and all records shall be public records unless otherwise provided by North Dakota law. The Bismarck Animal Advisory Board may appoint such subcommittees from among the appointed members as may be necessary for its work.

**3-04-04. Powers and Duties of Board.** The Bismarck Animal Advisory Board shall:

1. Report to the Bismarck Police Department regarding the activities of the Bismarck Animal Advisory Board.

2. Recommend to the Bismarck Police Department action and programs within the authority of the City in furtherance of the purpose of the Bismarck Animal Advisory Board as described in this Chapter.

3. Consult with and advise public officials and agencies and with private individuals and organizations to provide education regarding companion animals.

4. Assist by offering information and referral guidance and services as a forum for discussion.

**3-04-05. Bismarck Animal Advisory Board Advisory in Nature.** The Bismarck Animal Advisory Board shall be advisory in nature and shall submit all reports and recommendations to the Bismarck Police Department.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

# **CITY OF BISMARCK**

## **Ordinance No. 6226**

<b>First Reading</b>	_____
<b>Second Reading</b>	_____
<b>Final Passage and Adoption</b>	_____
<b>Publication Date</b>	_____

AN ORDINANCE TO CREATE AND ENACT A NEW SECTION 2-01-04 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO CITY RIGHTS-OF-WAY.

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

Section 1. Amendment. Section 2-01-04 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to City Rights-Of-Way is hereby created and enacted to read as follows:

**2-01-04. City Rights-Of-Way.** The City retains the full authority provided to cities by the North Dakota Century Code for the regulation and control of the public rights-of-way located within the City.

1. No person may dig up, remove, displace, break, or otherwise injure or destroy any public right-of-way, including any public improvement located thereon, in the City without first securing written permission, an appropriate permit as required by this code, a franchise available under this code or an encroachment agreement from the City.

2. No person shall obstruct, encroach or place any object, thing or improvement on or over any public right-of-way in any manner without first securing written permission, an appropriate permit as required by this code, a franchise available under this code or an encroachment agreement from the City. A person violating this section shall be guilty of an offense.

Source: NDCC Section 40-05-01(8).

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

# **CITY OF BISMARCK**

## **Ordinance No. 6227**

<b>First Reading</b>	_____
<b>Second Reading</b>	_____
<b>Final Passage and Adoption</b>	_____
<b>Publication Date</b>	_____

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 6-06-04 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO RULES AND REGULATIONS FOR GRANTING SITE AUTHORIZATION.

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

Section 1. Amendment. Section 6-06-04 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Rules and Regulations for Granting Site Authorization is hereby amended and re-enacted to read as follows:

**6-06-04. Rules and Regulations for Granting Site Authorization.** In granting site authorization for locations at which eligible organizations licensed by the attorney general may conduct games of chance, the following rules and regulations apply:

\* \* \* \* \*

4. (a) Eligible organizations licensed by the city to conduct raffles may not sell tickets or conduct a raffle at a gaming site of another organization unless one of the conditions of NDCC Section 53-06.1-03(3)(a) are met. Organizations with a license issued by the state to conduct games of chance may conduct bingo, including electronic quick shot or bingo with the aid of a Bingo Card Dispensing Device pursuant to rules and regulations as promulgated by the state and only at locations other than licensed liquor premises, and may have pull-tabs at a location, other than a licensed liquor premises, where site authorization has been granted to conduct bingo.

(b) Organizations with a license issued by the state to conduct games of chance may conduct ~~promotional bingo, including electronic quick shot bingo,~~ on licensed liquor establishments. The following restrictions apply to ~~promotional bingo conducted on licensed liquor establishments:~~

~~(i) Promotional Bingo may be conducted during the normal business hours of the licensed liquor premises and under such rules and regulations as promulgated by the state from 1:00 p.m. to 11:45 p.m. on Saturdays and New Years Day and from 5:30 p.m. to 11:45 p.m. every day.~~

~~(ii) Charge per bingo card may not exceed one dollar.~~

~~(iii) Total pay out to the winner may not exceed five thousand dollars.~~

~~(c) Promotional Bingo may also be conducted with the aid of a Bingo Card Dispensing Device. The following additional restrictions will apply to the use of such a device.~~

~~(i) A gaming organization's employee with a valid work permit will be onsite during the operation of a Bingo Card Dispensing Device.~~

~~(ii) Winning bingo cards must be redeemed within 15 minutes of purchase.~~

~~(iii) A gaming employee may not pay a prize to a player who is redeeming a bingo card when the player and/or the bingo card has left the gaming site.~~

~~(iv) Restrictions contained in sections ii and iii must be legibly posted on or at the Bingo Card Dispensing Device.~~

~~(v) Promotional Bingo conducted with the aid of a Bingo Card Dispensing Device may be conducted between the hours of 2:00 p.m. and 12:00 a.m. (midnight).~~

\* \* \* \* \*

*Reference: Chapter 53-06.1, NDCC (1985 Supp.) (Ord. 4121, 12-30-86; Ord. 4131, 3-10-87; Ord. 4163, 6-30-87; Ord. 4164, 7-07-87; Ord. 4245, 2-28-89; Ord. 4268, 6-06-89; Ord. 4313, 1-23-90; Ord. 4357, 2-26-91; Ord. 4356, 1-19-91; Ord. 4409, 12-03-91; Ord. 4532, 07-06-93; Ord. 4549, 09-21-93; Ord. 4585, 02-15-94; Ord. 4636, 09-13-94; Ord. 4698, 06-13-95; Ord. 4722, 08-22-95; Ord. 5461, 10-11-05; Ord. 5757, 12-22-09; Ord. 5903, 07-10-12; Ord. 6183, 01-13-16)*

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance shall take effect following final passage, adoption and publication.



## COMMUNITY DEVELOPMENT DEPARTMENT

**DATE:** August 3, 2016

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

**ITEM:** Koch Creek Commercial Subdivision – Zoning Change and Final Plat

### REQUEST

Michael Koch is requesting approval of a zoning change from the A – Agricultural zoning district to the CG – Commercial zoning district and a final plat for Koch Creek Commercial Subdivision. These actions would allow the construction of an electrical substation on the northern lot and future commercial development on the southern lot.

The property is located north of Bismarck in the extraterritorial area, between US Highway 83 and North Washington Street along the north side of ND Highway 1804.

Please place this item on the August 9, 2016 and the August 23, 2016 City Commission meetings.

### BACKGROUND INFORMATION

The Planning & Zoning Commission held a public hearing on the zoning change and final plat requests on July 27, 2016.

Several members of the public spoke at the public hearing. Concerns raised at the hearing included the proximity of the proposed commercial development to an established rural residential area (Northridge Estates), the need for an electrical substation in this location, why the area needed to be rezoned to CG – Commercial, why the Future Land Use Plan identifies this area as Commercial, why they had already started site work for the electrical substation, and why this was a City action when it was not within the corporate limits of the City.

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 zoning district to the CG – Commercial zoning district, with the condition that Lot 2, Block 1, Koch Creek Commercial Subdivision be annexed into the City of Bismarck and municipal services in place prior to development, and approval of the final plat, including a waiver to delay the

paving of the roadways within the plat until the electrical substation located on Lot 1, Block 1 is completed.

## **RECOMMENDED CITY COMMISSION ACTION**

August 9<sup>th</sup> Meeting of the Board of City Commissioners – consider the request for the zoning change as outlined in Ordinance 6228, and call for a public hearing on this item for the August 23<sup>rd</sup> meeting of the Board of City Commissioners.

August 23<sup>rd</sup> Meeting of the Board of City Commissioners – hold a public hearing on the request for the zoning change as outlined in Ordinance 6228, consider the request for approval of the final plat for Koch Creek Commercial Subdivision, including the granting of waiver to delay the paving of the of the roadways within the plat until the electrical substation located on Lot 1, Block 1 is completed, and take final action on both requests.

## **STAFF CONTACT INFORMATION**

Please contact Jenny Wollmuth, CFM, the planner in our office assigned to this request, at 355-1845 or [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov) or Kim L. Lee, AICP, Planning Manager at 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov).

Planning Manager Kim Lee will present this item at the meetings.

**ORDINANCE NO. 6228**

<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 A-Agriculture zoning district and included in the CG-Commercial zoning district:

Lots 1 and 2, Block 1, Koch Creek Commercial Subdivision

This zoning change is subject to the condition that Lot 2 (the southern lot) be annexed into the City of Bismarck and municipal services in place prior to development.

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

July 27, 2016

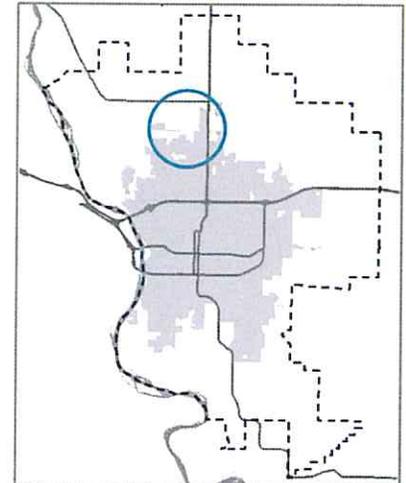
City of Bismarck  
Community Development Department  
Planning Division

**Application for: Zoning Change**  
**Major Subdivision Preliminary Plat**

TRAKiT Project ID: ZC2016-007  
PPLT2016-004

### Project Summary

<b>Title:</b>	Koch Creek Commercial Subdivision
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Michael Koch
<b>Project Contact:</b>	Mike Hill, Ulteig Engineers
<b>Location:</b>	North of Bismarck, between US Highway 83 and North Washington Street, along the north side of ND Highway 1804.
<b>Project Size:</b>	8.56 acres
<b>Request:</b>	Plat and rezone property for development of an electrical substation now and commercial use in the future.



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	1 Parcel	<b>Number of Lots:</b>	2 lots in 1 block
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Commercial uses, including electrical substation
<b>Designated GMP Future Land Use:</b>	Commercial	<b>Designated GMP Future Land Use:</b>	Commercial
<b>Zoning:</b>	A – Agricultural	<b>Zoning:</b>	CG – Commercial
<b>Uses Allowed:</b>	A – Agriculture	<b>Uses Allowed:</b>	CG – General commercial, multi-family residential, and offices
<b>Max Density Allowed:</b>	A – 1 unit / 40 acres	<b>Max Density Allowed:</b>	CG – 42 units / acre

### Property History

<b>Zoned:</b>	N/A	<b>Platted:</b>	N/A	<b>Annexed:</b>	N/A
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### Staff Analysis

The Planning and Zoning Commission at their April 25, 2016 meeting scheduled a public hearing for the

zoning change from the A – Agriculture zoning district to the CG – Commercial zoning district and tentatively approved the proposed preliminary plat.

(continued)

The zoning change and plat are being requested for future commercial development including an electrical substation to be located on Lot 1, Block 1 of the proposed subdivision. Future commercial development on the site will require approval of an annexation request by the Planning and Zoning Commission and the Board of City Commissioners.

A 15-foot buffer yard along the west side of Lot 1 and a 20-foot buffer yard along the west side of Lot 2 have been included on the plat. The buffer yards and corresponding landscaping are intended to provide a buffer between the proposed electrical substation on Lot 1 and proposed commercial uses on Lot 2 and the existing rural single-family uses to the west. Adjacent land uses include, undeveloped agriculturally-zoned property to the north, a religious institution to the east, undeveloped agriculturally-zoned property to the south across ND Highway 1804, and rural single-family uses to the west.

Williamson Drive, the north-south roadway within the plat, will provide access to the proposed subdivision and the adjacent religious institution to the east. Currently, the religious institution has two access points. The NDDOT has recommended that the eastern most access point be removed and that access to the religious institution be gained exclusively via Williamson Drive.

The applicant has requested a waiver to delay the paving of the roadways within the proposed plat. City Staff has deemed this request reasonable as the transportation of substation equipment, transformers and other materials may cause damage to a paved roadway. The applicant has indicated that the roadways will be paved once the substation is complete. In addition, at their meeting of April 4, 2016, the Burleigh County Board of Commissioners granted a waiver from the County's Gravel Road Improvement Policy, with the understanding that the roadways within the proposed plat shall be paved by the owner / developer once the construction of the electrical substation located on Lot 1, Block 1 is completed.

## Required Findings of Fact

### Zoning Change

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 at the time the property is developed;
4. The Hay Creek Township Board of Supervisors has recommended conditional approval of the proposed zoning change;
5. 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;
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

### Final Plat

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan (FARMP), as amended;

4. The storm water management plan for the subdivision has been approved by the City Engineer with written concurrence from the County Engineer;
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts;
6. The Hay Creek Township Board of Supervisors has recommended approval of the proposed final plat;
7. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision;
8. 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 proposed subdivision at the time the property is developed;
9. The proposed subdivision is not located in an area that is subject to flooding, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, and/or an area that is topographically unsuited for development;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision 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 A – Agricultural zoning district to the CG – Commercial zoning district, approval of the final plat for Koch Creek Commercial Subdivision and the waiver to delay the paving of the of the roadways within the plat until the electrical substation located on Lot 1, Block 1 is completed.

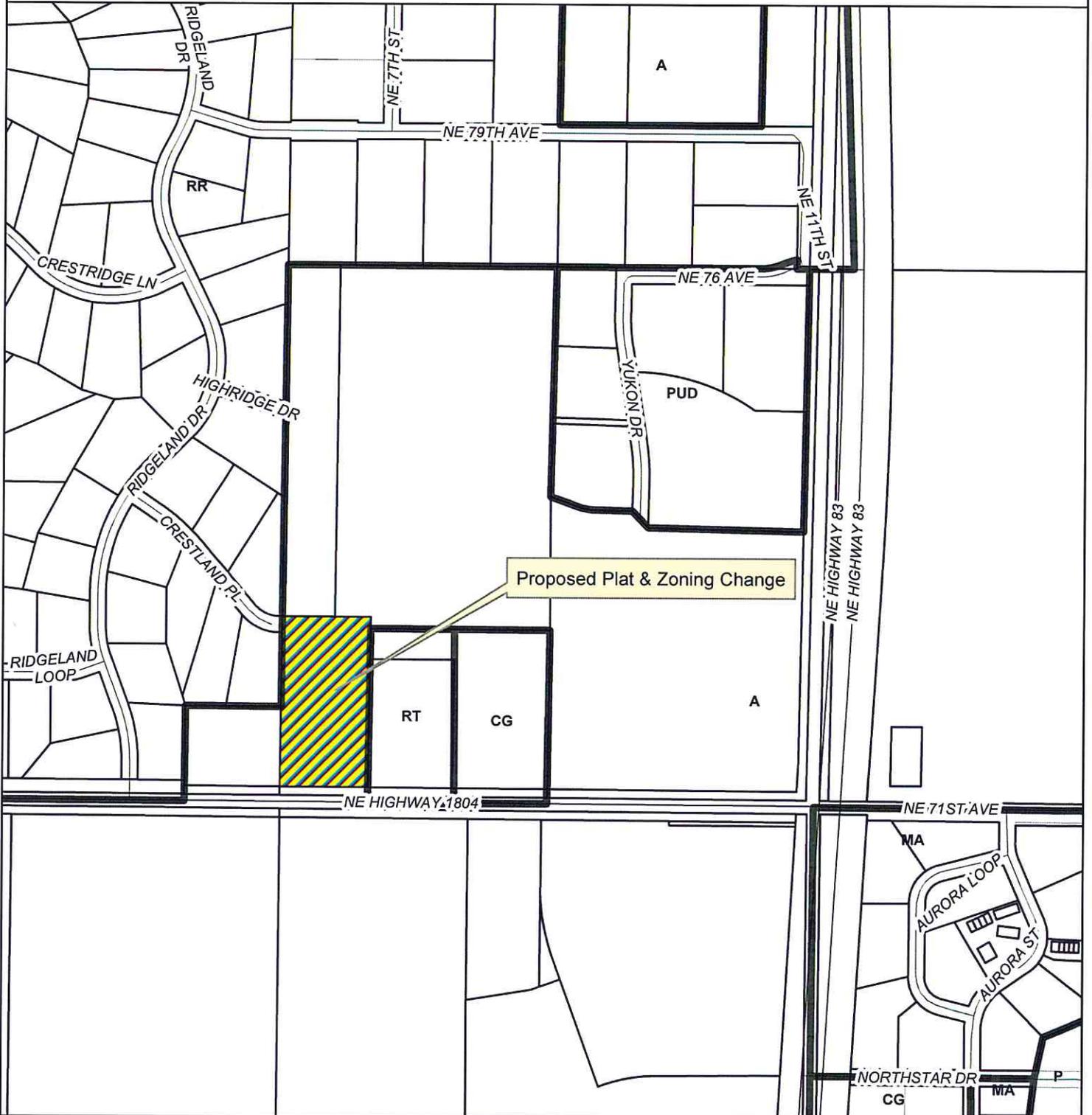
**Attachments**

1. Location Map
2. Zoning Map
3. Reduction of Final Plat
4. Reduction of Preliminary Plat
5. Waiver Request

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Staff report prepared by: Jenny Wollmuth, Planner  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)

# Proposed Plat and Zoning Change (A to CG) Koch Creek Commercial Subdivision

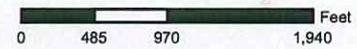
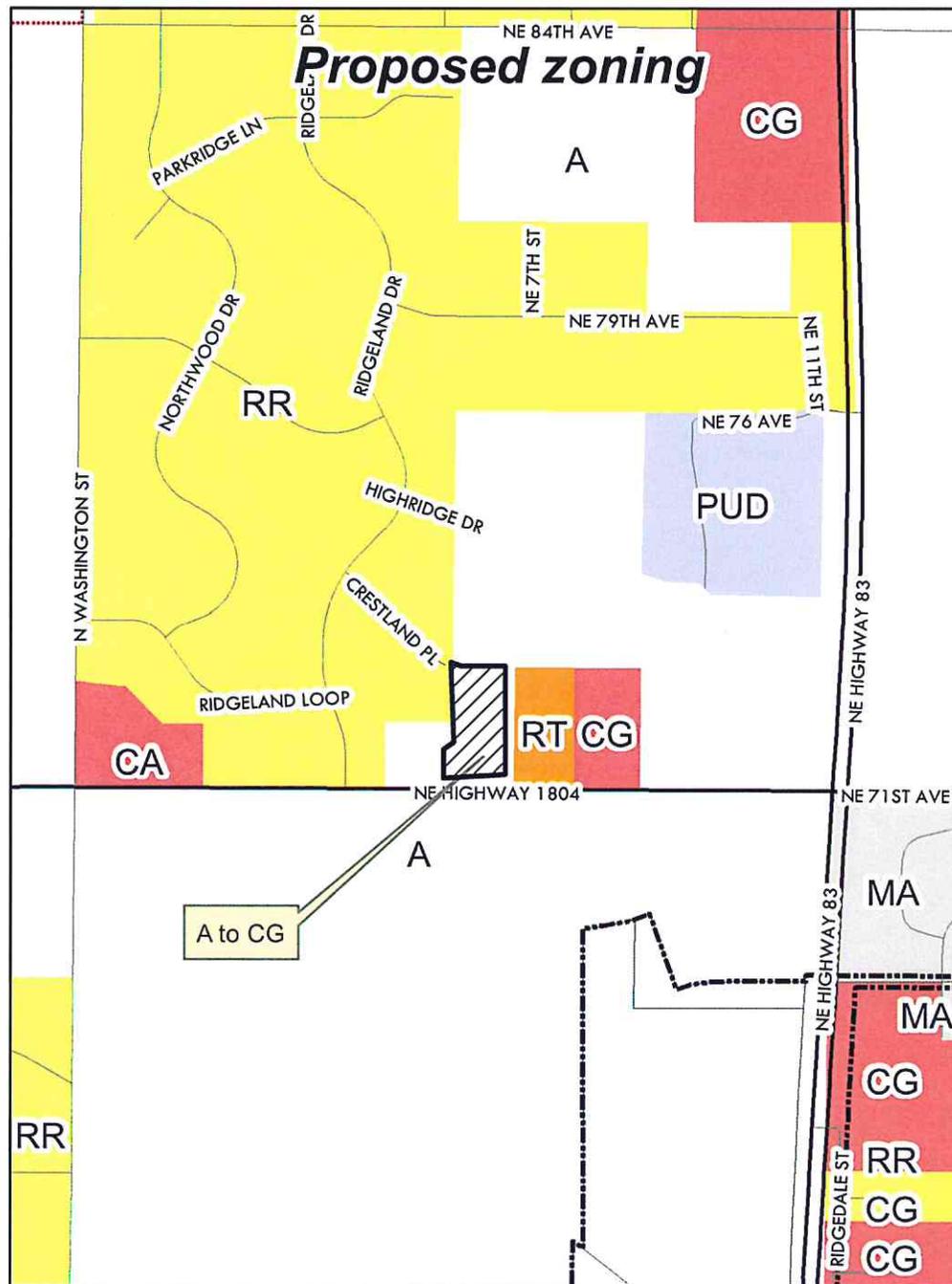
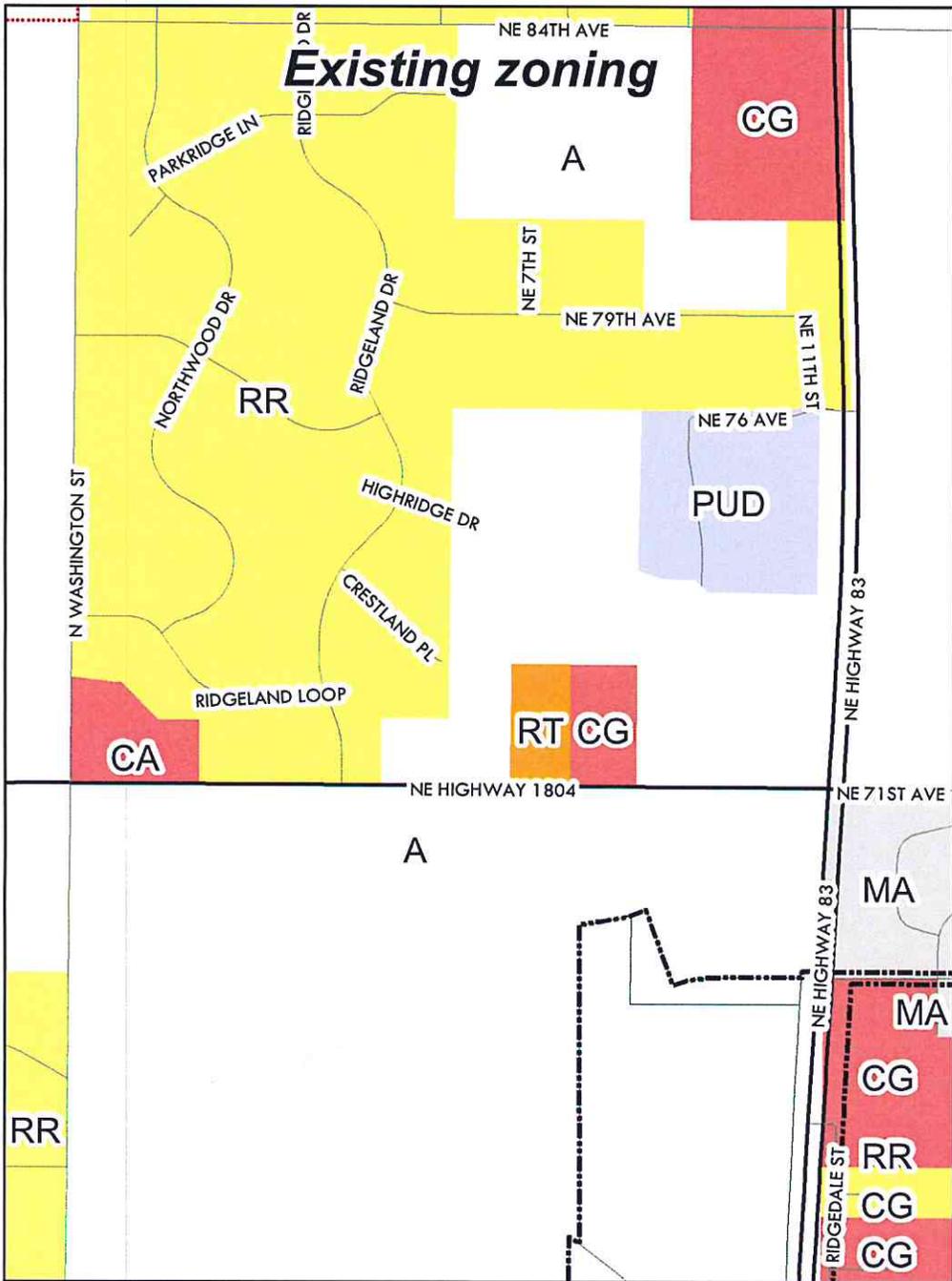


March, 28, 2016 (h1b)

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.



# Koch Creek Commercial Subdivision



*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**



## COMMUNITY DEVELOPMENT DEPARTMENT

**DATE:** August 3, 2016  
**FROM:** Carl D. Hokenstad, AICP, Director of Community Development  
**ITEM:** Lots 1-3, Block 1, Sonnet Heights Subdivision – Zoning Change

### REQUEST

Boustead Enterprises, LLC is requesting approval of a zoning change from the PUD – Planned Unit Development zoning district to the RM15 – Residential zoning district for Lots 1-3, Block 1, Sonnet Heights Subdivision. This action will reduce the number of allowable dwelling units from 45 to 33 and will allow more flexibility in development of the site.

The property is located in north Bismarck, west of US Highway 83 along the south side of 57<sup>th</sup> Avenue NE at the intersection with and west of Normandy Street.

Please place this item on the August 9, 2016 and the August 23, 2016 City Commission meetings.

### BACKGROUND INFORMATION

The Planning & Zoning Commission held a public hearing on the zoning change request on July 27, 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 PUD – Planned Unit Development zoning district to the RM15 – Residential zoning district.

### RECOMMENDED CITY COMMISSION ACTION

August 9<sup>th</sup> Meeting of the Board of City Commissioners – consider the request for the zoning change as outlined in Ordinance 6229, and call for a public hearing on this item for the August 23<sup>rd</sup> meeting of the Board of City Commissioners.

August 23<sup>rd</sup> Meeting of the Board of City Commissioners – hold a public hearing on the request for the zoning change as outlined in Ordinance 6229 and take final action on the request.

### **STAFF CONTACT INFORMATION**

Please contact Daniel Nairn, AICP, the planner in our office assigned to this request, at 355-1854 or [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov) or Kim L. Lee, AICP, Planning Manager at 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov).

Planning Manager Kim Lee will present this item at the meetings.

**ORDINANCE NO. 6229**

<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 PUD-Planned Unit Development zoning district and included in the RM15-Residential zoning district:

Lots 1-3, Block 1, Sonnet Heights Subdivision.

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

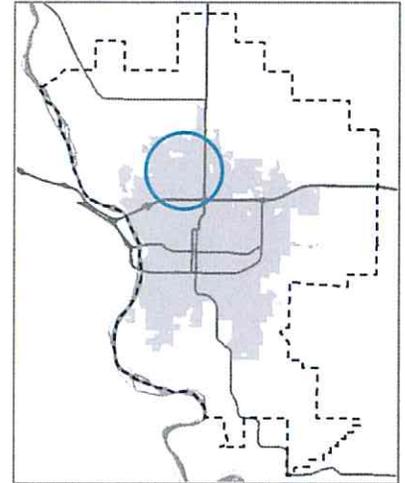
Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

**Application for: Zoning Change**

TRAKiT Project ID: ZC2016-014

**Project Summary**

<b>Title:</b>	Lots 1-3, Block 1, Sonnet Heights Subdivision
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Boustead Enterprises, LLC
<b>Project Contact:</b>	Ken Nysether, SEH
<b>Location:</b>	In north Bismarck, on the south side of 57 <sup>th</sup> Avenue NE approximately a half mile west of US Highway 83.
<b>Project Size:</b>	2.25 Acres
<b>Request:</b>	Rezone three lots from PUD to RM15 to accommodate development.



**Site Information**

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	3 lots in 1 block	<b>Number of Lots:</b>	3 lots in 1 block
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Multifamily 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>	PUD – Planned Unit Development	<b>Zoning:</b>	RM15 – Residential
<b>Uses Allowed:</b>	PUD – Uses specified in PUD	<b>Uses Allowed:</b>	RM15 – Multi-family residential
<b>Max Density Allowed:</b>	PUD – Density specified in PUD	<b>Max Density Allowed:</b>	RM15 – 15 units / acre

**Property History**

<b>Zoned:</b>	RM 15 to PUD on 11/25/2014	<b>Platted:</b>	12/15/1980	<b>Annexed:</b>	04/10/2007
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**Staff Analysis**

During their June 26, 2016 meeting, the Planning and Zoning Commission considered this request to rezone these three lots in Sonnet Heights Subdivision from PUD – Planned Unit Development to RM15 – Residential.

The applicant intends to construct multifamily housing on the site. The existing PUD zoning district, explained in more detail below, allows the development of 45 dwelling units but also requires the development adhere to a specific site plan. The requested RM15 Zoning District would result in a reduction in the total allowable

(continued)

units from 45 to approximately 33 (which is 15 units/acre in a 2.25 acre site) in exchange for more flexibility in the building configuration and site design. The applicant has submitted a preliminary sketch of four separate four-plex condo buildings for illustrative purposes, but the requested zoning district would not strictly require this design.

Lots 1-3, Block 1, Sonnet Heights Subdivision were rezoned from RM15 – Residential to PUD – Planned United Development, in order to accommodate development that was proposed at the time. The PUD allowed greater density, but required general conformance to a site plan, as well as certain landscaping and design standards. The existing PUD is attached to this report.

Prior to the PUD rezoning, the Planning and Zoning Commission had recommended denial of a rezoning of these properties from RM15 to RM30, because of incompatibility with the adjacent single and two-family residential uses. The property owner adjusted the request to RM20 the following year, and the Planning Commission also denied this request. These zoning decisions were made prior to the construction of 57<sup>th</sup> Avenue NE and the construction of other multifamily housing directly to the east.

#### 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 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

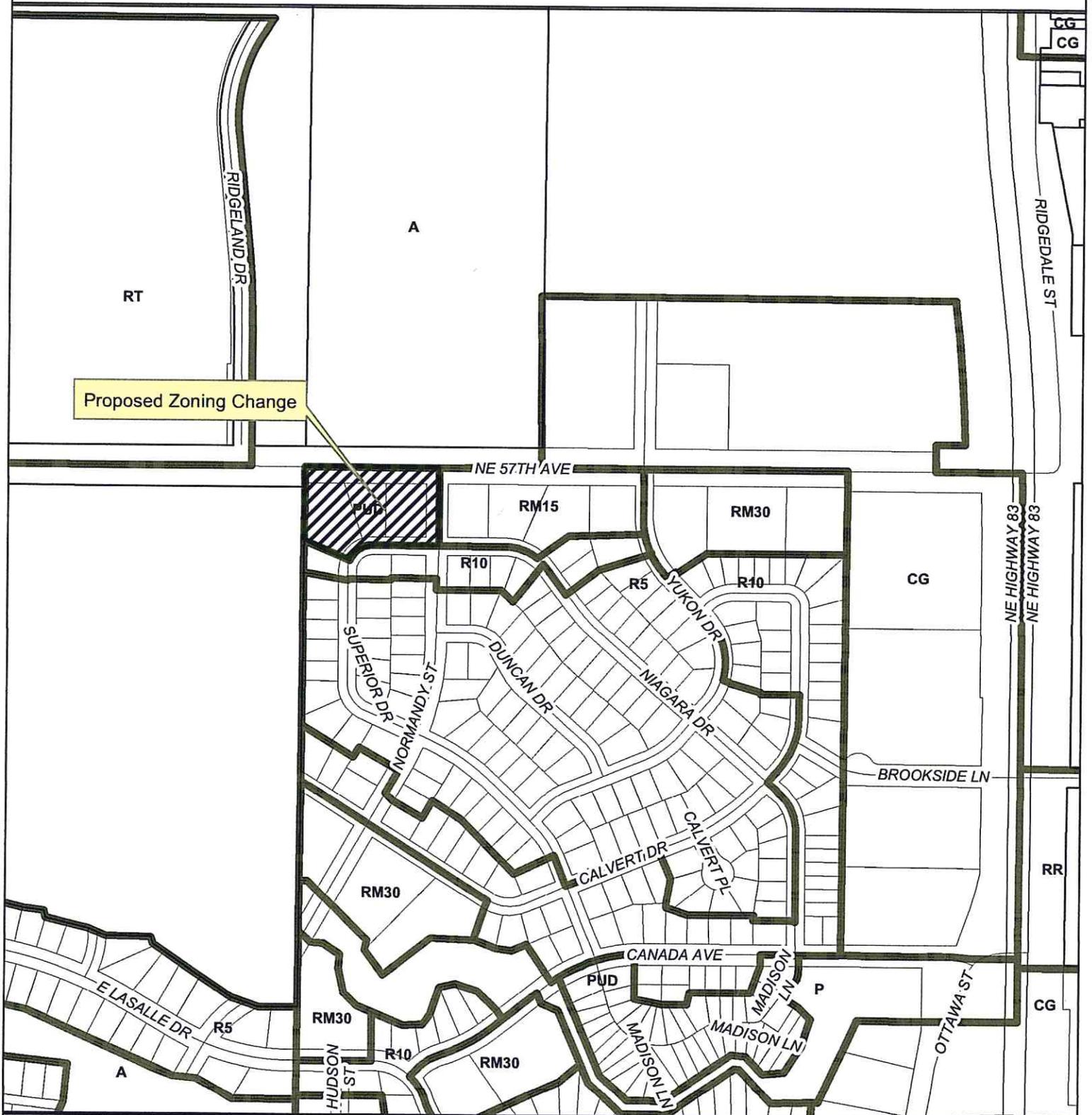
Based on the above findings, staff recommends approval of the zoning change from PUD – Planned Unit Development zoning district to RM15 – Residential zoning district for Lots 1-3, Block 1, Sonnet Heights Subdivision.

#### Attachments

1. Location Map
2. Zoning Map
3. Tentative Preliminary Site Plan
4. Existing PUD Ordinance (proposed to be removed)

# Proposed Zoning Change (PUD to RM15)

## Lots 1-3, Block 1, Sonnet Heights Subdivision



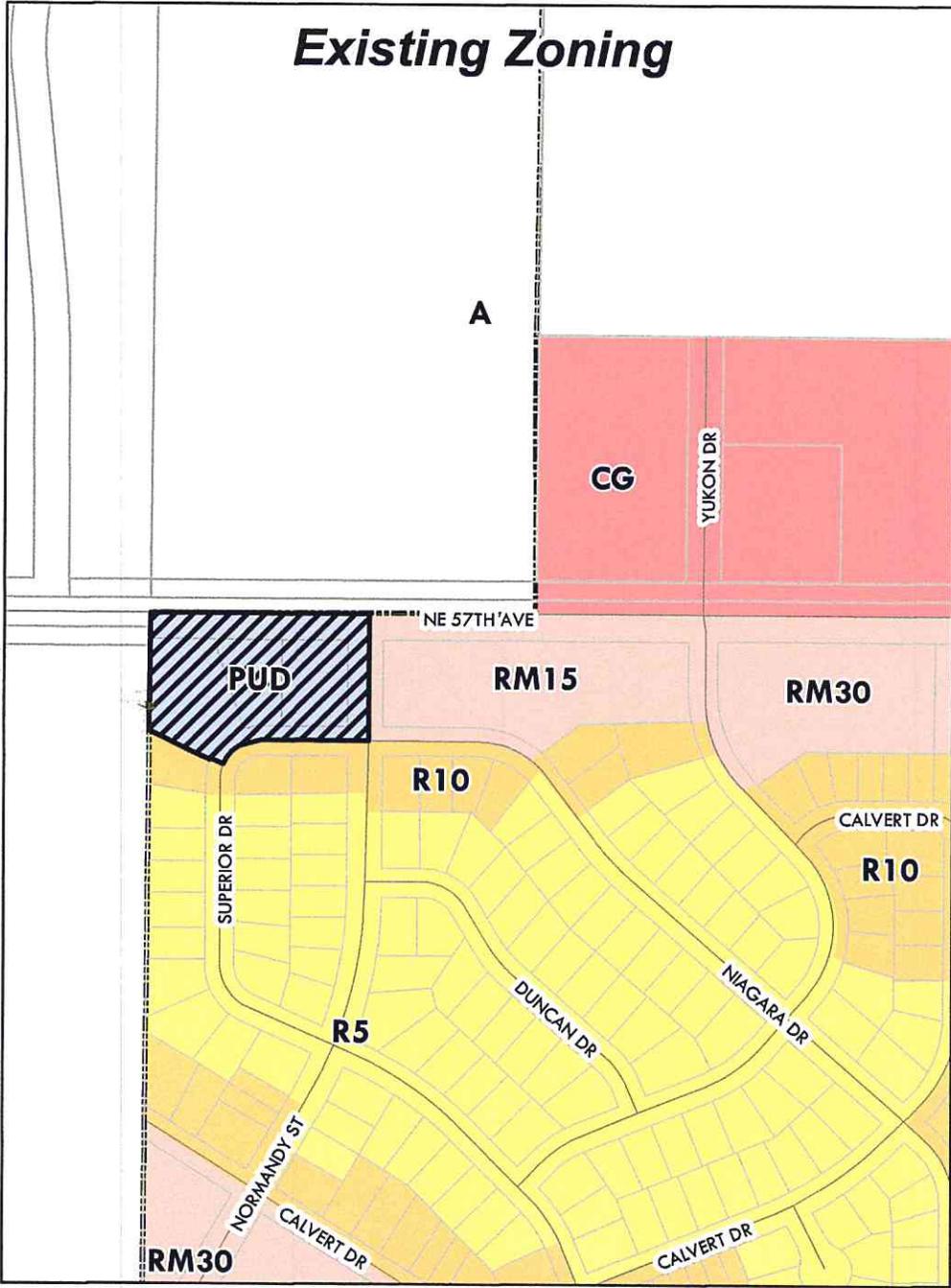
May 17, 2016 (h1b)

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.

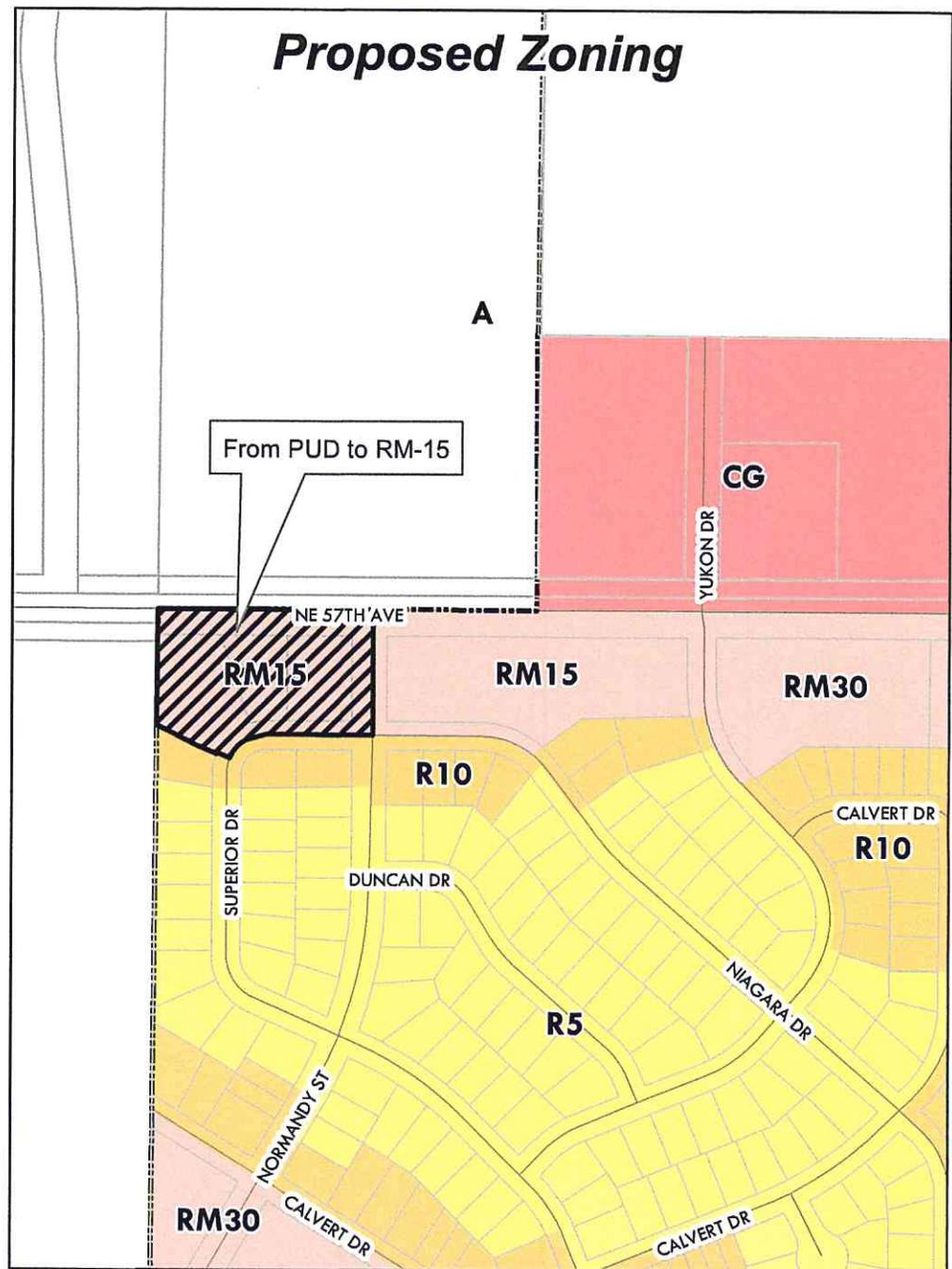


# Sonnet Heights Subdivision, Lots 1-3, Block 1

## Existing Zoning

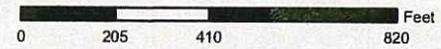


## Proposed Zoning



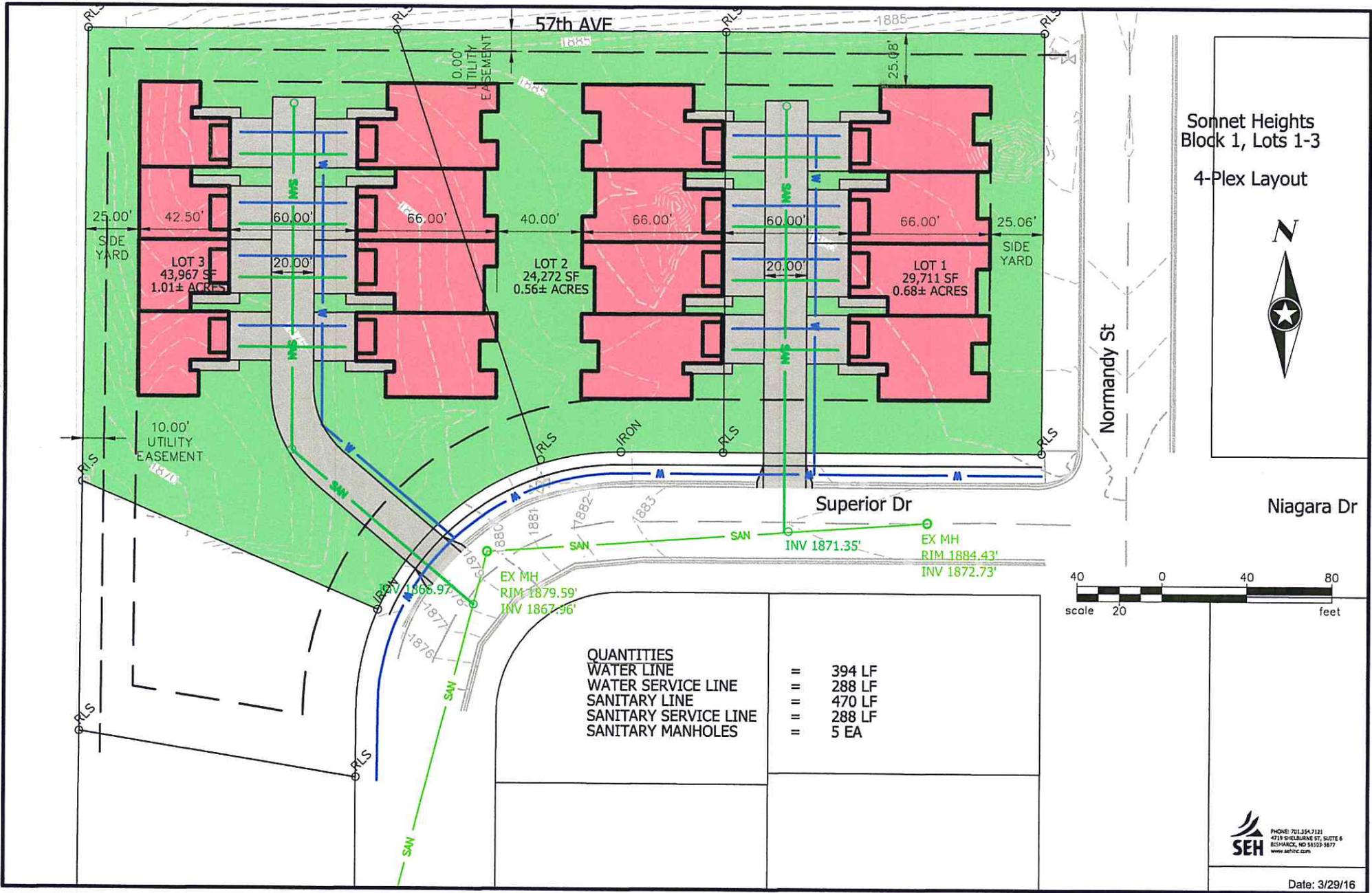
SonnetHeights\_Rezone
  Parcels to Rezone
  City Limits
  Extraterritorial Area

*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.*



June, 2016





Somnet Heights  
Block 1, Lots 1-3  
4-Plex Layout



Niagara Dr

QUANTITIES	
WATER LINE	= 394 LF
WATER SERVICE LINE	= 288 LF
SANITARY LINE	= 470 LF
SANITARY SERVICE LINE	= 288 LF
SANITARY MANHOLES	= 5 EA


 PHONE: 703.354.7131  
 4719 GUELBORNE ST., SUITE 6  
 BETHANCK, MD 20814-5677  
 www.sehic.com

Date: 3/29/16

ORDINANCE NO. 6092

<i>First Reading</i>	<u>November 11, 2014</u>
<i>Second Reading</i>	<u>November 25, 2014</u>
<i>Final Passage and Adoption</i>	<u>November 25, 2014</u>
<i>Publication Date</i>	<u>November 14 &amp; 21, 2014</u>

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 RM15 – Residential District and included within the PUD – Planned Unit Development District.

Lots 1, 2, and 3, Block 1, Sonnet Heights Subdivision.

This PUD is subject to the following development standards:

1. *Uses Permitted.* The following uses are permitted within this Planned Unit Development:
  - a. A maximum of forty-five (45) residential units in a three-story multi-family building. The configuration of the site shall generally conform to the site plan submitted with the application dated September 8, 2014. Any change in the use of the property from that indicated above will require an amendment to this PUD.
2. *Dimensional Standards:*
  - a. Setbacks shall be provided in accordance with Section 14-04-07 of the City Code of Ordinances (RM District Regulations).
  - b. Heights. The maximum height of the building is thirty-seven (37) feet.
  - c. Lot Coverage. The maximum lot coverage for buildings and required off-street parking is fifty (50) percent of the total lot area.

3. *Design Standards:*

- a. Intent. It is the intent of the design standards to create and maintain a high visual quality and appearance for this development, encourage architectural creativity and diversity and create a lessened visual impact upon the surrounding land uses. Each building or structure shall utilize complementary building materials, colors and design features that will be present throughout the site. Exterior lighting shall be designed and installed in a manner intended to limit the amount off off-site impacts.

4. *Landscaping and Screening:*

- a. Landscaping and screening shall be provided in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening). Additional landscape plantings and buffering, including a three (3) foot high by four (4) foot wide (top) berm along the south side of the property adjacent to Superior Drive, shall be installed as shown in the site plan dated September 8, 2014 with a combination of trees and shrubs with no less than two (2) shade trees and two (2) ornamental trees and two (2) large upright coniferous trees to help mitigate the visual impacts and provide a transition between the multi-family residential building and the existing single and two-family dwellings to the south.
- b. Screening of Mechanical Equipment and Solid Waste Collection Areas. Mechanical equipment and solid waste collection areas shall be screened in accordance with Section 14-03-12 of the City Code of Ordinances (Screening of Mechanical Equipment and Solid Waste Collection Areas).

5. *Off-Street Parking and Loading:* Off-street parking and loading will be required in accordance with Section 14-03-10 of the City Code of Ordinances (Off-Street Parking and Loading).

6. *Changes:* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major changes require a public hearing and a majority vote of the Bismarck Planning and Zoning Commission.

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.



## COMMUNITY DEVELOPMENT DEPARTMENT

**DATE:** August 3, 2016  
**FROM:** Carl D. Hokenstad, AICP, Director of Community Development  
**ITEM:** Lots 14-19, Block 4, South Meadows Addition – Zoning Change

### REQUEST

Investcore, Inc. and Microvest, LLC are requesting approval of a zoning change from the R5 – Residential and R10 – Residential zoning districts to the Conditional R10 – Residential and RM15 – Residential zoning districts for Lots 14 – 19, Block 4, South Meadows Addition. This action will allow the combination of Lots 16 – 19 with the adjacent RM15 – zoned Lot 20 for development of a multi-family residential project (proposed to be an independent living residential facility for seniors) and provide for a zoning transition between this facility and the R5 – zoned lots to the west.

The property is located in southwest Bismarck, west of South Washington Street and south of West Burleigh Avenue along the south side of Meridian Drive.

Please place this item on the August 9, 2016 and the August 23, 2016 City Commission meetings.

### BACKGROUND INFORMATION

The Planning & Zoning Commission held a public hearing on the zoning change request on July 27, 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 R5 – Residential zoning district to the Conditional R10 – Residential zoning district on Lots 14 & 15 and from the R10 – Residential zoning district to the RM15 – Residential zoning district on Lots 16-19, Block 4, South Meadows Addition, with the condition that the development of Lots 14 & 15 is limited to two-family dwellings in order to provide an appropriate land use transition between the single family residential land use to the west and the multi-family residential land use on Lots 16-20.

## **RECOMMENDED CITY COMMISSION ACTION**

August 9<sup>th</sup> Meeting of the Board of City Commissioners – consider the request for the zoning change as outlined in Ordinance 6230, and call for a public hearing on this item for the August 23<sup>rd</sup> meeting of the Board of City Commissioners.

August 23<sup>rd</sup> Meeting of the Board of City Commissioners – hold a public hearing on the request for the zoning change as outlined in Ordinance 6230 and take final action on the request.

## **STAFF CONTACT INFORMATION**

Please contact Kim L. Lee, AICP, the planner in our office assigned to this request, at 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov).

Planning Manager Kim Lee will present this item at the meetings.

**ORDINANCE NO. 6230**

<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 14-15, Block 4, South Meadows Addition, with the following condition:

1. The development of these two lots will be limited to two-family dwellings.

The following described property shall be excluded from the R10-Residential zoning district and included in the RM15-Residential zoning district:

Lots 16-19, Block 4, South Meadows Addition.

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

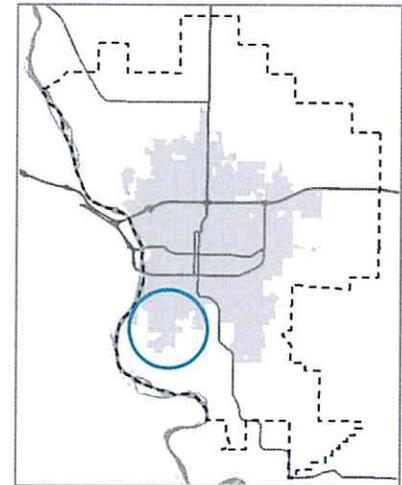
Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

**Application for: Zoning Change**

TRAKiT Project ID: ZC2015-029

**Project Summary**

<b>Title:</b>	Lots 14-19, Block 4, South Meadows Addition
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Investcore, Inc. and Microvest, LLC
<b>Project Contact:</b>	Chad Wachter
<b>Location:</b>	In southwest Bismarck, west of South Washington Street and south of West Burleigh Avenue along the south side of Meridian Drive.
<b>Project Size:</b>	1.52 acres
<b>Request:</b>	Rezone property for multi-family residential development and required zoning transition.



**Site Information**

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	6 lots in 1 block	<b>Number of Lots:</b>	6 lots in 1 block (3 parcels)
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Multi-family residential project and two two-family lots to provide a zoning transition
<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 R10 – Residential	<b>Zoning:</b>	Conditional R10 - Residential RM15 – Residential
<b>Uses Allowed:</b>	R5 – Single-family residential R10 – Single and two-family residential	<b>Uses Allowed:</b>	Conditional R10 – Two-family residential RM15 – Multi-family residential
<b>Max Density Allowed:</b>	R5 – 5 units / acre R10 – 10 units / acre	<b>Max Density Allowed:</b>	Conditional R10 – 10 units / acre RM15 – 15 units / acre

**Property History**

<b>Zoned:</b>	10/2014	<b>Platted:</b>	10/2014	<b>Annexed:</b>	10/2014
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**Staff Analysis**

The Planning and Zoning Commission, at their October 28, 2015 meeting, scheduled a public hearing for the zoning change from the R5 – Residential and R10 – Residential zoning districts to the Conditional R10 – Residential and RM15 – Residential zoning districts.

The applicants are requesting a zoning change on Lots 16-19 in order to combine them with the adjacent RM15-Residential zoned Lot 20 for development of a multi-family residential project. Lots 14 & 15 are being rezoned to Conditional R10 – Residential in order to provide an appropriate zoning transition between the R5-zoned lots to the northwest and the proposed multi-family development. A buffer yard will also be required between the multi-family residential development on Lots 16-20 and the two-family residential use on Lot 15.

The proposed use of Lots 16-20 is an independent senior living facility with parking garages and a landscaped buffer yard; however, the zoning change would not limit the use to what is being proposed.

**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 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 and R10 – Residential zoning districts to the Conditional R10 – Residential zoning district on Lots 14 and 15, and to the RM15 – Residential zoning district on Lots 16-19, Block 4, South Meadows Addition, with the understanding that the development of the two R10-Residential lots will be limited to two-family dwellings in order to provide an appropriate land use transition between the single-family residential land use to the west and the multi-family residential land use on Lots 16-20.

**Attachments**

1. Location Map
2. Zoning Map
3. Tentative Site Plan
4. Tentative Building Elevations

# Proposed Zoning Change (R5 and R10 to R10 and RM15) Lots 14-19, Block 4, South Meadows Addition

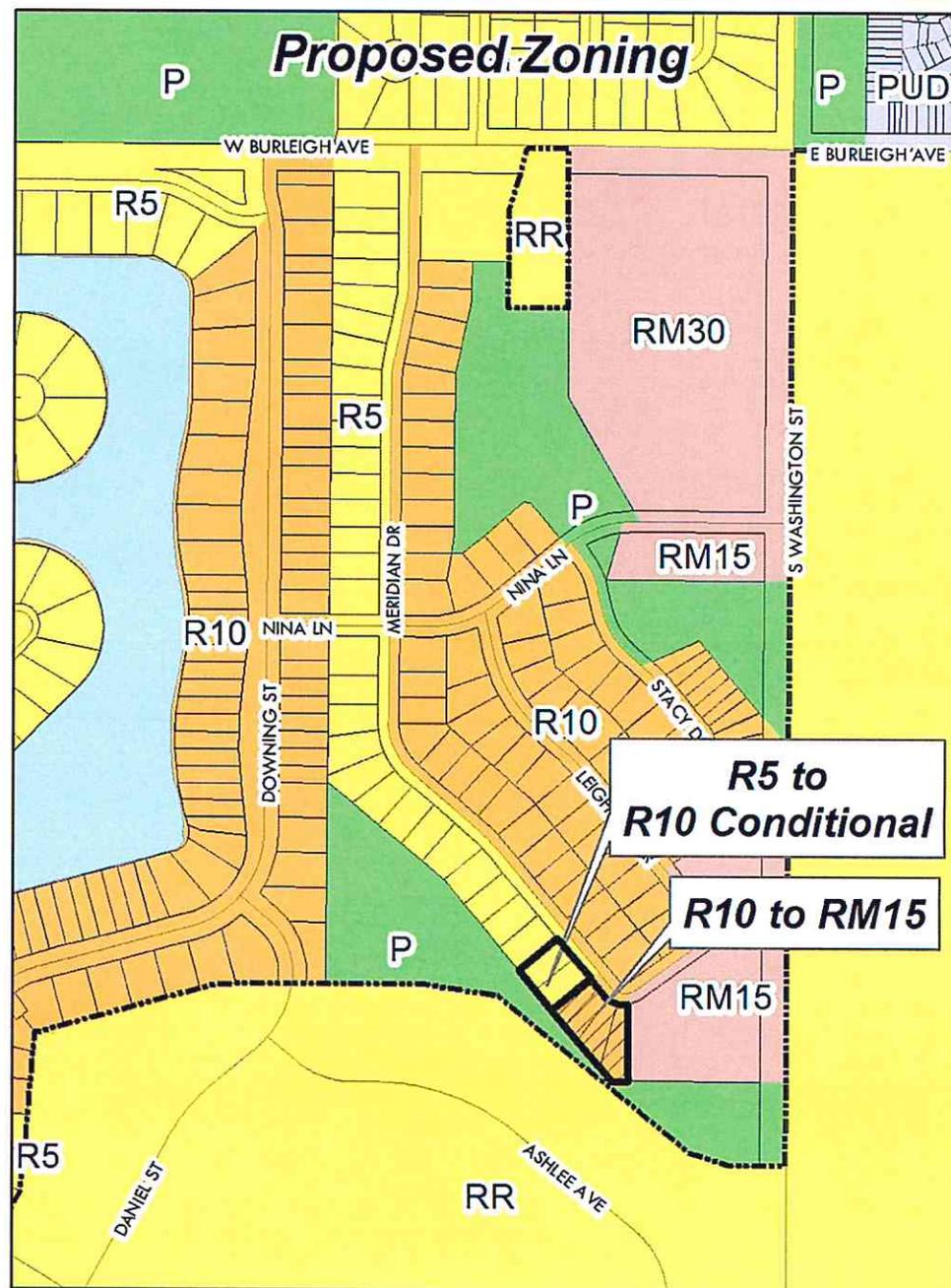
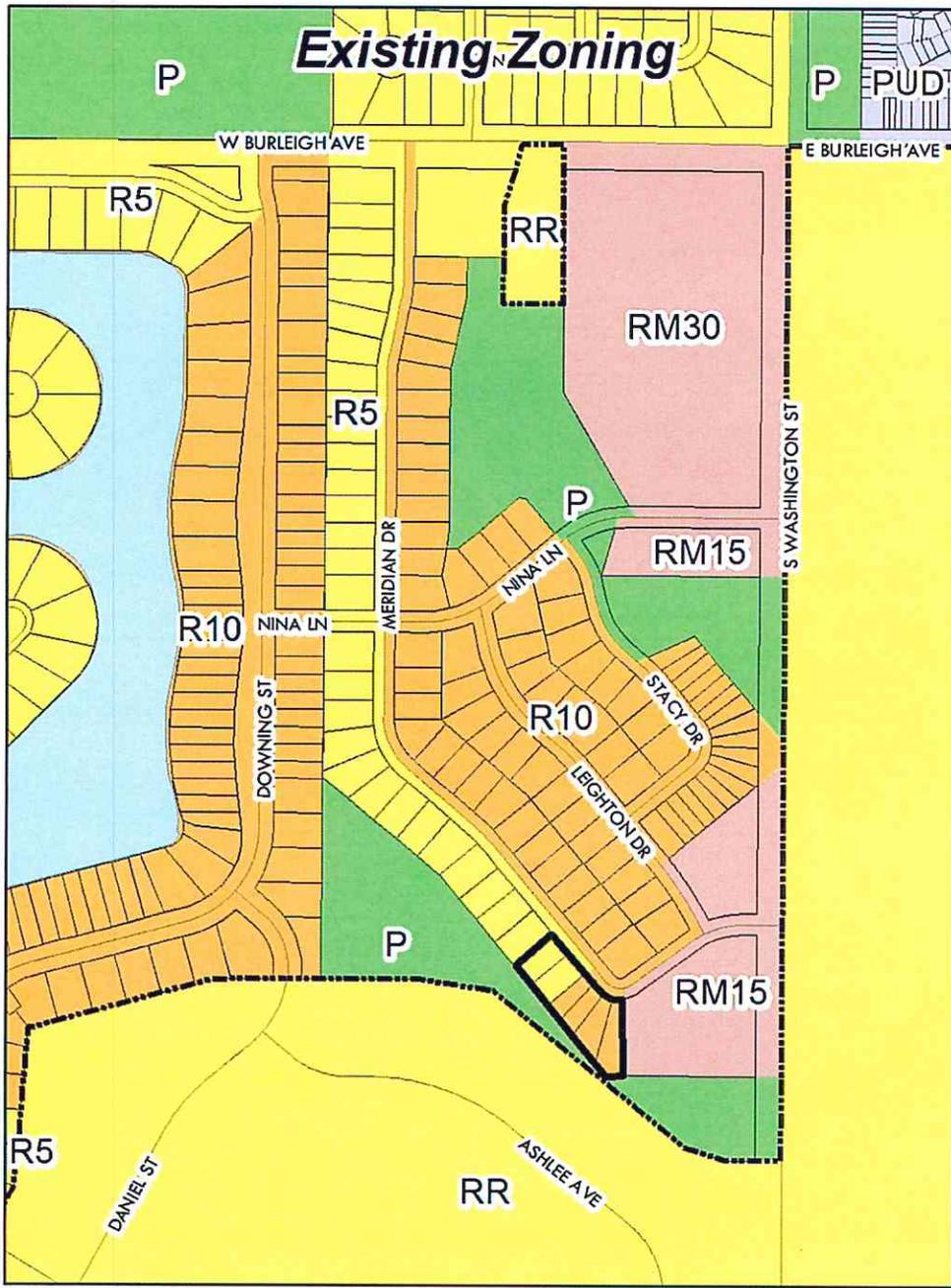


July 20, 2016 (klee)

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 14-19, Block 4, South Meadows 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.

October, 2015









## COMMUNITY DEVELOPMENT DEPARTMENT

**DATE:** August 3, 2016  
**FROM:** Carl D. Hokenstad, AICP, Director of Community Development  
**ITEM:** Part of Lot 21, Lounsberry Outlots (Saxvik Elementary) – Zoning Change

### REQUEST

Bismarck Public Schools is requesting approval of a zoning change from the P – Public zoning district to the PUD – Planned Unit Development zoning district for part of Lot 21, Lounsberry Outlots. This action will allow the adaptive reuse of the former Saxvik Elementary School for pre-kindergarten through 12<sup>th</sup> grade before and after school programming, adult education, community meeting space and office uses to support the proposed uses.

The property is located in central Bismarck, along the east side of North 21<sup>st</sup> Street between East Rosser Avenue and East Avenue B.

Please place this item on the August 9, 2016 and the August 23, 2016 City Commission meetings.

### BACKGROUND INFORMATION

The Planning & Zoning Commission held a public hearing on the zoning change request on July 27, 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 P – Public zoning district to the PUD – Planned Unit Development zoning district on part of Lot 21, Lounsberry Outlots (former Saxvik Elementary School Property) as outlined in the PUD ordinance.

## **RECOMMENDED CITY COMMISSION ACTION**

August 9<sup>th</sup> Meeting of the Board of City Commissioners – consider the request for the zoning change as outlined in Ordinance 6231, and call for a public hearing on this item for the August 23<sup>rd</sup> meeting of the Board of City Commissioners.

August 23<sup>rd</sup> Meeting of the Board of City Commissioners – hold a public hearing on the request for the zoning change as outlined in Ordinance 6231 and take final action on the request.

## **STAFF CONTACT INFORMATION**

Please contact Kim L. Lee, AICP, the planner in our office assigned to this request, at 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov).

Planning Manager Kim Lee will present this item at the meetings.

# CITY OF BISMARCK

## Ordinance No. 6231

*First Reading* \_\_\_\_\_

*Second Reading* \_\_\_\_\_

*Final Passage and Adoption* \_\_\_\_\_

*Publication Date* \_\_\_\_\_

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 THE CITY 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 P - Public zoning district and included in the PUD - Planning Unit Development zoning district:

A Tract of Land in Lounsberry's Bismarck Outlots, described as beginning at a point 167 feet North of the Southwest corner of Outlot 21, thence North 340 feet, East 180 feet, North 50 feet, East 117 feet, South 390 feet, West 297 feet to the point of beginning, Outlot 21, Lounsberry's Bismarck Outlots.

This PUD is subject to the following development standards:

1. *Uses Permitted.* Uses permitted include adaptive reuse of the Saxvik Elementary School building and grounds for pre-kindergarten through 12th grade before and after school programming, adult education training, community meeting space and office uses to support the proposed uses.

2. *General Development Standards.* The lot coverage, setbacks and height limits shall be the same as the surrounding R10 - Residential zoning district.

3. Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structure.

4. *Parking.* The existing off-street parking shall continue to be provided for the proposed reuses, with the understanding that additional parking may be provided if needed in accordance with applicable provisions of the City Code of Ordinances.

5. *Signage.* Signage is limited to the existing building signage and no more than one monument style sign with a face no more than 15 square feet in area on the front of the building. The existing signs may be upgraded and refurbished as needed, although the size of the faces cannot be increased.

6. *Changes.* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major changes require a public hearing and a majority vote of the Bismarck Planning & Zoning Commission.

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

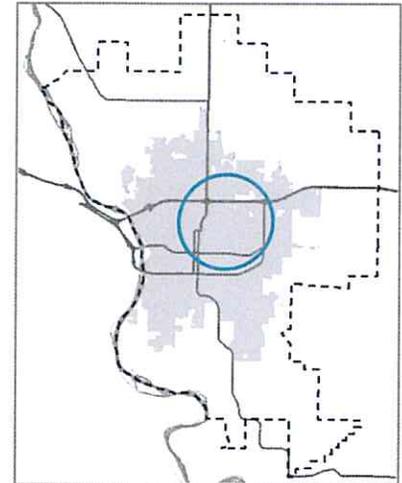
Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

**Application for: Zoning Change**

TRAKiT Project ID: ZC2016-016

**Project Summary**

<b>Title:</b>	Part of Lot 21, Lounsberry Outlots
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Bismarck Public Schools
<b>Project Contact:</b>	Darin Scherr, PE, Business and Operations Manager
<b>Location:</b>	In central Bismarck, along the east side of North 21 <sup>st</sup> Street between East Rosser Avenue and East Avenue B.
<b>Project Size:</b>	2.45 acres
<b>Request:</b>	Rezone property to allow the adaptive reuse of the former Saxvik Elementary School for educational programming and community services.



**Site Information**

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	Part of 1 outlot	<b>Number of Lots:</b>	Part of 1 outlot
<b>Land Use:</b>	Elementary school	<b>Land Use:</b>	Adaptive reuse of building for pre-kindergarten through 12 <sup>th</sup> grade before and after school programming, adult education training room, community meeting space and office uses to support the proposed uses
<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>	P – Public Use	<b>Zoning:</b>	PUD – Planned Unit Development
<b>Uses Allowed:</b>	P – Parks, open space, stormwater facilities, and other public uses	<b>Uses Allowed:</b>	PUD – Uses specified in PUD
<b>Max Density Allowed:</b>	P – N/A	<b>Max Density Allowed:</b>	PUD – Density specified in PUD

**Property History**

<b>Zoned:</b>	03/2016	<b>Platted:</b>	12/1877	<b>Annexed:</b>	Pre-1940
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### Staff Analysis

The applicant is requesting a zoning change to allow the adaptive reuse of the Saxvik Elementary School property. The Board of Education decided to close this elementary school at the end of the 2015-2016 school year and move the students to four neighboring schools.

Although a final plan for the reuse of the property is still being developed, the School District would like to continue to use the space for pre-kindergarten through 12<sup>th</sup> grade programming, including both before and after school programs.



West side of Saxvik Elementary School



Aerial of Saxvik Elementary School

The Missouri River Educational Coop has been providing before and after school programs at the school and the plan is for these services to continue. Children would come to the Saxvik building for before school programming and would be bussed to the neighboring schools from this location. At the end of the school day, they would be bussed back to this location for after school programming.

Other identified near term uses of the property include adult education training, community meeting space and office space to support these uses. If other uses are proposed for the building in the future, an amendment to this PUD would be required.

### Required Findings of Fact

1. The proposed zoning change is outside of the area covered by 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 character and nature of the proposed planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located;
7. The proposed planned unit development would preserve the natural features of the site inasmuch as possible, including the preservation of trees and natural drainage ways;

8. The internal roadway circulation system within the planned unit development has been adequately designed for the type of traffic that would be generated;
9. Adequate buffer areas have been provided between the planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
10. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
11. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
12. 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 P – Public zoning district to the PUD – Planned Unit Development zoning district for a tract of land in Lounsberry’s Bismarck Outlots occupied by the former Saxvik Elementary School, as outlined in the attached draft PUD ordinance.

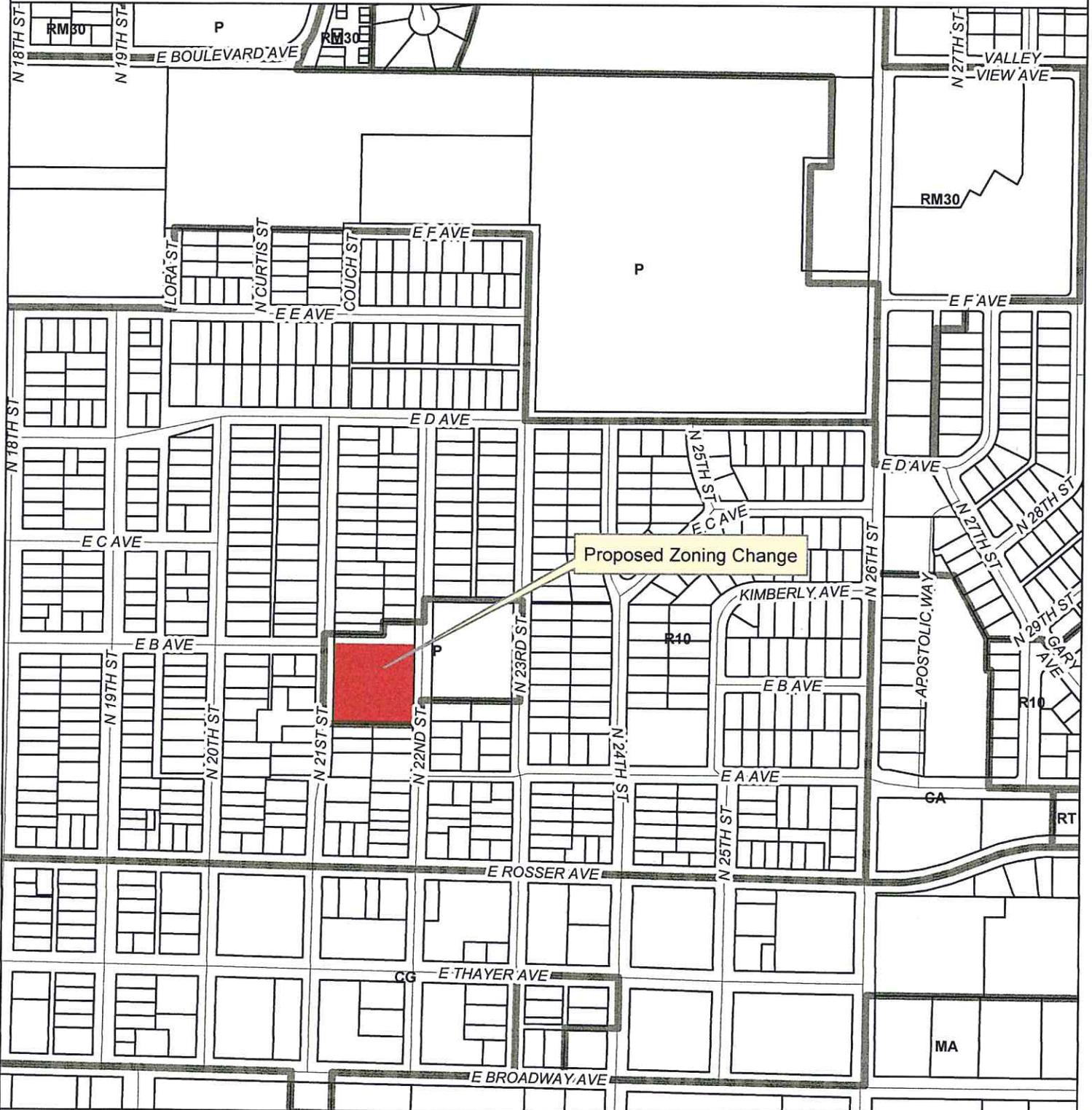
**Attachments**

1. Draft PUD Ordinance
2. Location Map
3. Zoning Map
4. PUD Written Statement

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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 (P to PUD) Part of Block 21, Lounsberry Outlots

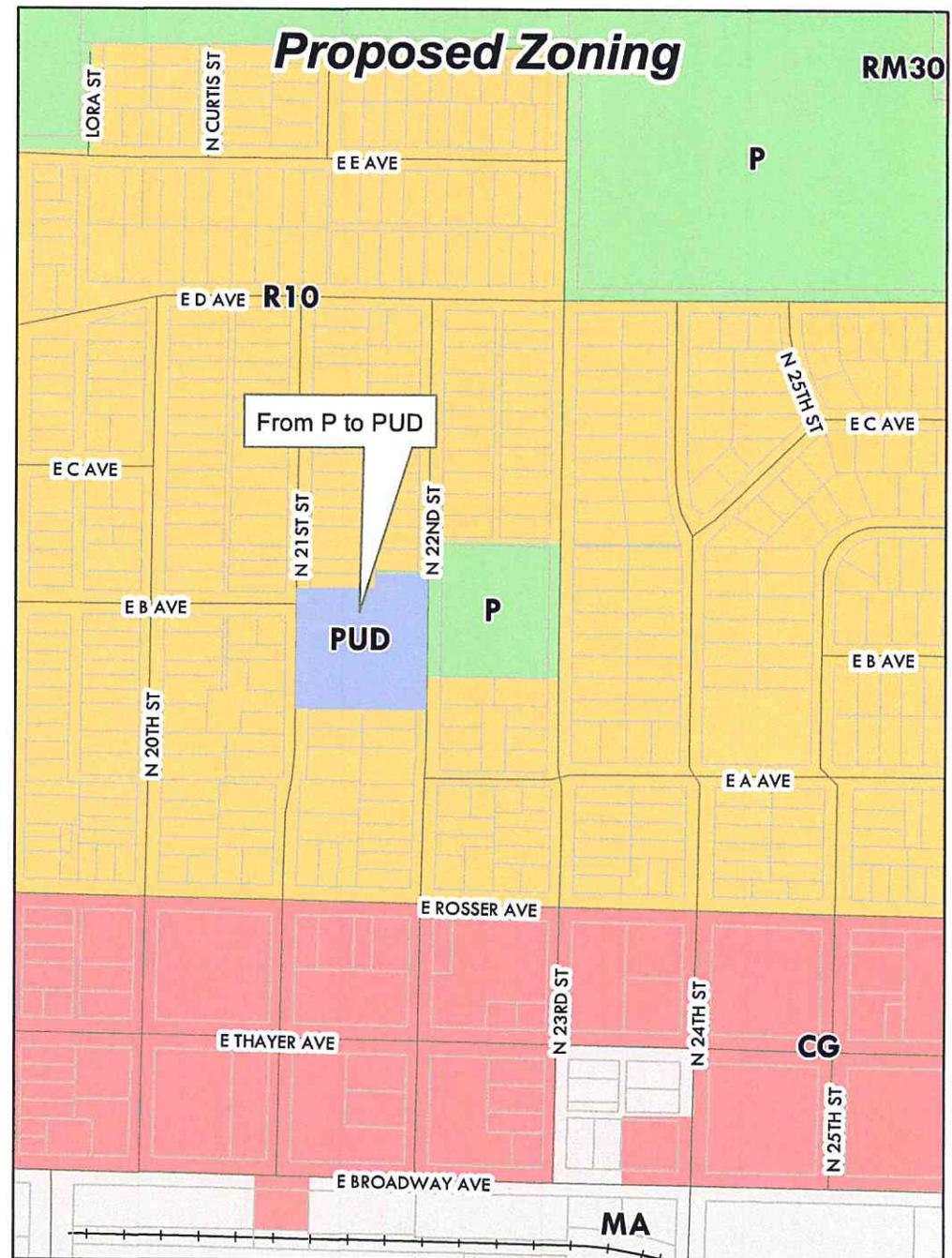
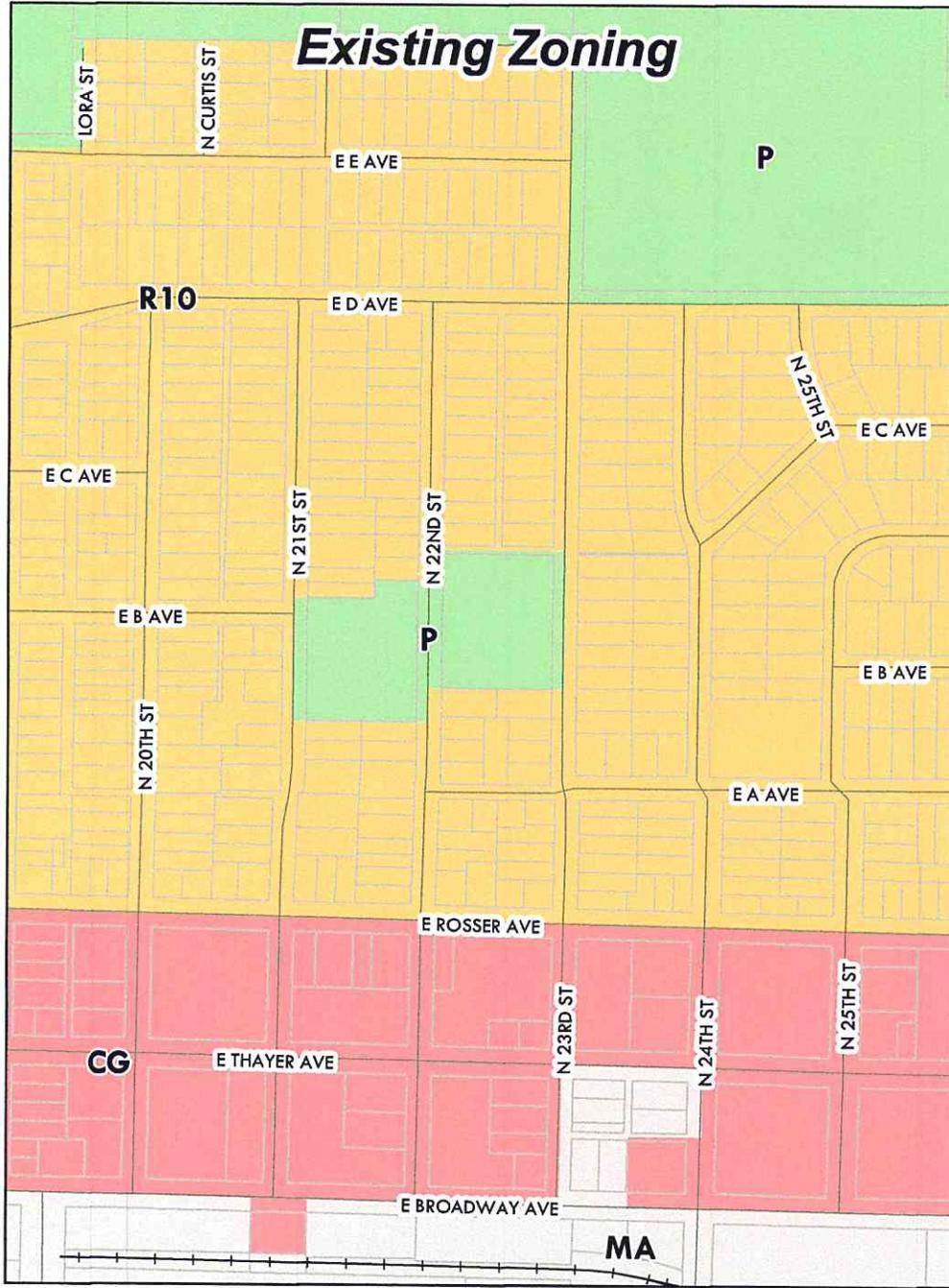


June 13, 2016 (hlb)

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 herein.

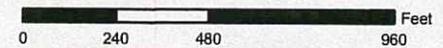


# Lounsberry Outlots, Part of Lot 21



-  Parcels to Rezone
-  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.*



June, 2016



## Saxvik School Building

Saxvik was an elementary school for Bismarck Public Schools. The board of education decided to close the school and move the students to four neighboring schools. The plan for Saxvik is being developed; however, we do know that we need to provide space for prek-12 programming at the start of next school year.

### Old Use

k-5 elementary school.

### Potential New Use

Pre k-12 student programming (before and after school)

Adult education training room

Community meeting space

Office space to support above items



## ENGINEERING

**DATE:** August 3, 2016  
**FROM:** Gabe Schell, PE | City Engineer   
**ITEM:** Street Improvement District SI 15-492

### REQUEST

Request approval of Contract Change Order No. 1, change in contract timeline.

### BACKGROUND INFORMATION

Street Improvement District SI 15-492 consists of 9 units of new street lighting and related items throughout Bismarck. All work on the project was completed prior to the July 15, 2016 substantial completion date with the exception of the installation of one street light pole and related cable and other items. This street light pole is located along Durango Drive adjacent to Washington Street which is currently under construction. City staff requested that the contractor, Edling Electric, delay installation of the pole until curb and gutter in this area is completed. In the attached letter, Edling Electric requests a time extension of November 15, 2016 to correlate with the Washington Street Construction schedule. Recent information from staff indicates that work in this area will be ready for Edling Electric to complete their work in prior to the November 15 date. See attached Contract Change Order Form.

### RECOMMENDED CITY COMMISSION ACTION

Consider request approving Contract Change Order No.1, change in contract timeline from July 15, 2016 to September 30, 2016.

GJS/ds

# CONTRACT CHANGE ORDER FORM

## DEPARTMENT

Contract between the City of Bismarck and Edling Electric

Contract Number: 15-45 Change Order Number: 1

Project/Subproject: SI 15-492 Original Contract Amt: \$927,956.40

Project Description: City Wide Street Lighting Project (10 Unit)

Previous Contract Amount: \_\_\_\_\_

Change Order Amount: \_\_\_\_\_

Original Contract Date: 08/01/2016 Change in Contract Timeline: 11/15/2016

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) \_\_\_\_\_  
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



May 31, 2016

Attn: Paul Seifert  
City of Bismarck  
PO Box 5503  
Bismarck, ND 58506-5503

Re: SID #492 Time Extension Request – Completion Date

Dear Mr. Seifert:

Per our previous discussions, project Unit #4 is along Durango Drive and runs up to North Washington Street. This year we are working with Northern Improvement reconstructing North Washington on a project and the overlap of these two projects has prevented us from installing Pole # L4-1 and the conductor between Pole #L4-2 & L4-1, as shown on sheet #11 of the plan set.

As discussed in the last North Washington Project Progress meeting, it is very unlikely this work will be completed prior to our July 15, 2016 substantial completion date on SID #492. Due to these two projects overlapping and right of way elevation adjustments happening under this North Washington Reconstruction project, I need to request a time extension to November 15, 2016 to correlate with the North Washington Reconstruction roadway completion date. Since we are working on both projects, we will complete 492 shortly after Northern Improvement Company and their subcontractors get this intersection of Durango & Washington properly graded. The intersection will likely be done in August or September, but in reality could take all the way into November depending on their schedule so that is why I have requested the date of November 15, 2016.

Please call me with any questions.

Respectfully submitted,

  
James Ruud, Project Manager



1300 Basin Avenue • PO Box 1451 • Bismarck, ND 58502  
Telephone: (701) 255-2831 • Fax: (701) 255-2835

MASTER  
LICENSE  
#1541

We are an Equal Opportunity Employer M/F/V/H



## ENGINEERING

**DATE:** August 3, 2016  
**FROM:** Gabe Schell, PE | City Engineer   
**ITEM:** Water/Sewer Improvement District WA15-326/SE15-564

### REQUEST

Request approval of Contract Change Order No. 2, change in contract timeline.

### BACKGROUND INFORMATION

Water/Sewer Improvement District WA15-326/SE15-564 included installing water and sewer along Buckskin Avenue and Brunswick Drive. All work was completed last fall with the exception of the chip seal on Buckskin Avenue due to temperature constraints. The contractor completed the chip seal early this summer. See attached Contract Change Order Form.

### RECOMMENDED CITY COMMISSION ACTION

Consider request approving Contract Change Order No. 2, change in contract timeline, from September 30, 2015, to July 28, 2016.

GJS/ds

# CONTRACT CHANGE ORDER FORM

## DEPARTMENT

Contract between the City of Bismarck and Cofells Plumbing and Heating, Inc

Contract Number: 15-46 Change Order Number: 2

Project/Subproject: WA15-326 & SE15-564 Original Contract Amt: \$434,751.00

Project Description: Water Imp. Dist. 15-326 & Sewer Imp. Dist. 15-564

Previous Contract Amount: \$541,849.00

Change Order Amount: \_\_\_\_\_

Original Contract Date: 9/30/15 Change in Contract Timeline: 7/28/16

Within Project Scope: Y Within Project Funding: Y

*\*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: Contract time extension due to necessity of Chip Seal

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



## ENGINEERING

**DATE:** August 3, 2016  
**FROM:** Gabe Schell, PE | City Engineer   
**ITEM:** Part B1 of the 2016 City Sidewalk Construction Project (Hazardous Sidewalk)

### REQUEST

Permission to notify property owners regarding repair of hazardous sidewalks.

### BACKGROUND INFORMATION

Sidewalks located on the following properties were investigated as a result of complaints received and are deemed unsafe for pedestrian traffic in accordance with applicable City of Bismarck Code of Ordinances. The repairs shall be completed under Part B1 of the 2016 City Sidewalk Construction Contract and the associated costs assessed to each property owner.

1957 North 20th Street

### RECOMMENDED CITY COMMISSION ACTION

Consider a request to allow the Engineering Department to notify the property owners of their need to repair these hazardous sidewalks.

GJS/ds



## ENGINEERING

**DATE:** August 3, 2016  
**FROM:** Gabe Schell, PE | City Engineer *JS*  
**ITEM:** Water Improvement District (WA 16-330)

### REQUEST

Resolution Approving Plans and Specifications  
Resolution Directing Advertisement of Bids and Receive Bids

### BACKGROUND INFORMATION

Water Improvement District No.16-330 consists of installation of water trunk line and related items as detailed in the unit description below and as shown on the attached boundary map. This trunk line will provide water to Light of Christ Addition and other future developments in northwest Bismarck. This project will be bid in conjunction with Sewer Utility Project SU16-64, which includes installing a sanitary sewer trunk line to service Light of Christ Addition and future developments in the area.

#### Unit No. 1

57th Avenue - Future Mica Drive to Normandy Street  
Future Mica Drive - 57th Avenue to 250' south

#### Project Schedule

District Created:	July 26, 2016
Authorization to Advertise:	August 9, 2016
Receipt and Opening of Bids:	September 7, 2016
Award:	September 13, 2016
Construction Completion:	Spring 2017

## **RECOMMENDED CITY COMMISSION ACTION**

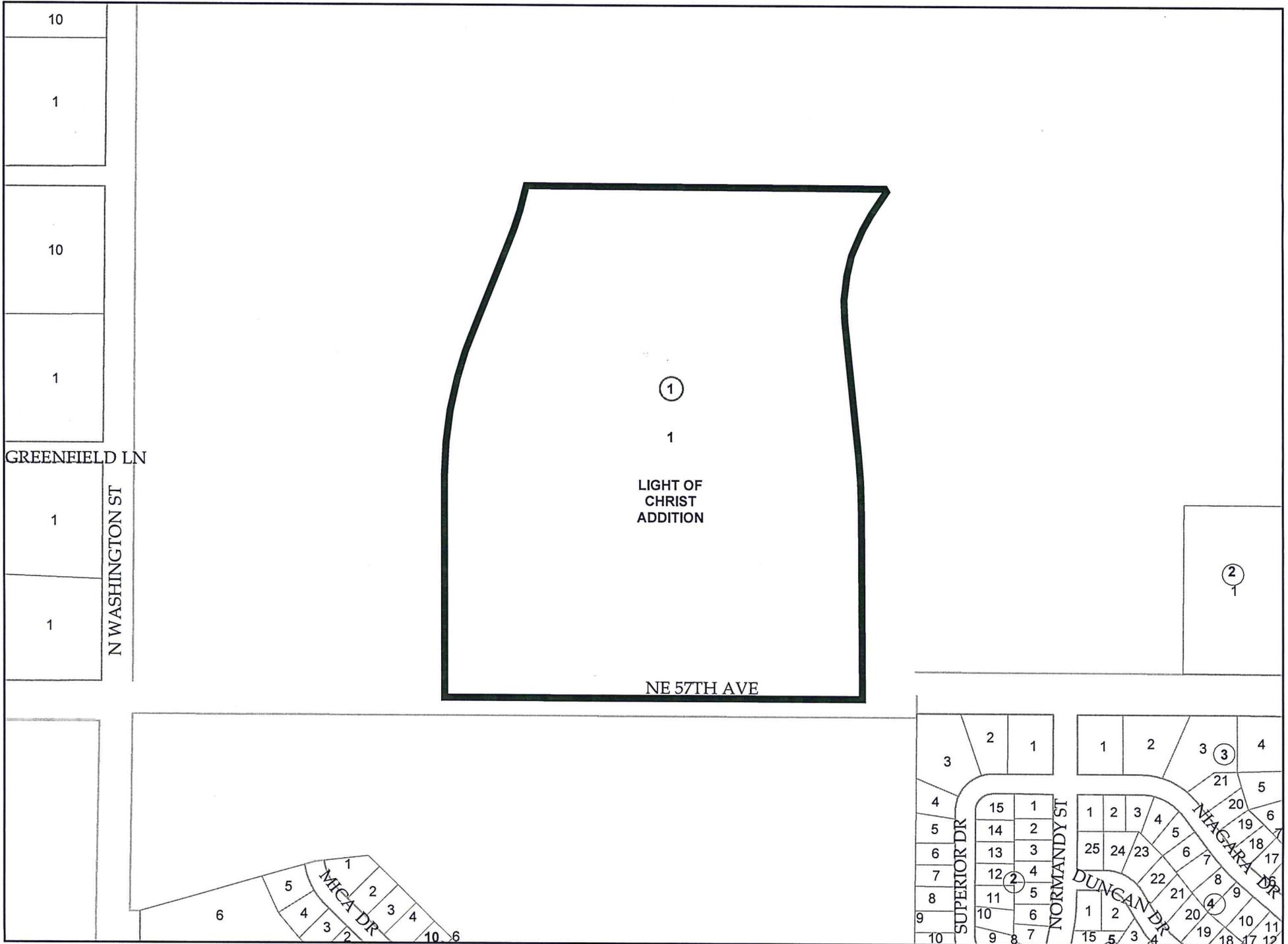
Consider Request for the Resolution Approving Plans and Specifications and Resolution Directing Advertisement of Bids and Receive Bids.

GJS/ps

Enc.

cc: Michelle Klose, PE, Director of Utility Operations (digital only)

# WA 330 - UNIT 1





## FINANCE DEPARTMENT

**DATE:** August 1, 2016  
**FROM:** Sheila Hillman *SH*  
**ITEM:** Approval of Pledge Bonds

### REQUEST

Request City Commission approval of the pledge bonds for the banks with deposits of City funds.

Please place this item on the August 9, 2016 City Commission meeting.

### BACKGROUND INFORMATION

In accordance with the provisions of NDCC 21-04, bank with City deposits are required to pledge securities equivalent to 110% of the deposit. The Commission is required to approve the pledge bonds for the deposit of the City funds semi-annually. The list of pledge bonds as of June 30, 2016 is attached.

### RECOMMENDED CITY COMMISSION ACTION

City Commission to approve the list of pledge bonds dated June 30, 2016.

### STAFF CONTACT INFORMATION

Sheila Hillman: [shillman@bismarcknd.gov](mailto:shillman@bismarcknd.gov) or 355-1600

**PLEDGE BONDS (6/30/16)**

<b>BANK AND TYPE OF BOND</b>	<b>RATE</b>	<b>AMOUNT</b>	<b>DUE DATE</b>
<b>US Bank</b>			
Letter of Credit No. 5-19733		1,000,000	10/3/2016
<b>STARION FINANCIAL</b>			
FNMA Agency - 1X	0.80%	1,000,000	12/30/2016
FNMA Conv <7	3.74%	800,000	5/1/2018
FNMA Agency - 1X	1.35%	1,000,000	7/11/2018
FHMS K706 A2	2.32%	1,500,000	10/25/2018
FHLB Agency	3.75%	1,000,000	12/14/2018
FHMS K711 A2	1.73%	2,500,000	7/25/2019
FHMS K711 A2	1.73%	1,000,000	7/25/2019
FHLB Agency 1X	2.00%	1,000,000	12/23/2019
Fargo Park A Ref Impt ND 20	3.00%	500,000	5/1/2020
Oakes Ref ND 20	2.55%	285,000	5/1/2020
FNMA 7 Yr Balloon	2.14%	1,500,000	1/1/2021
FNMA Conv > 7 Act/360 MEGA	4.31%	1,300,000	7/1/2021
FNA 2012-M5 A2	2.72%	1,000,000	2/25/2022
Fargo Park Dist-Ref ND 22	1.75%	385,000	5/1/2022
Rugby SD #5 ND 23	3.40%	260,000	5/1/2023
FHR 4305 EG	2.00%	2,000,000	5/15/2023
FNMA 15 Yr	4.50%	4,375,000	4/1/2025
FHR 4335 LV	4.25%	2,094,000	7/15/2025
FHLMC 15 Yr	3.50%	4,000,000	1/1/2026
FNMA 15 Yr	3.00%	3,000,000	1/1/2026
FHR3906 EA	3.00%	3,250,000	5/15/2026
FNMA 15 Yr	4.00%	2,400,000	6/1/2026
FNMA 15 Yr	4.50%	1,500,000	7/1/2026
Fargo SD #1-Ref ND 26	2.50%	440,000	8/1/2026
FNMA 15 Yr	3.50%	4,100,000	8/1/2026
FHR 3906 HG	4.00%	4,000,000	8/15/2026
FNMA 15 Yr	3.50%	3,800,141	9/1/2026
FNMA 15 Yr	3.50%	1,000,000	9/1/2026
FNMA 15 Yr	4.50%	2,000,000	9/1/2026
FHLMC 15 Yr	3.50%	3,750,000	10/1/2026
FNMA 15 Yr	4.50%	1,500,000	9/1/2026

**PLEDGE BONDS (6/30/16) cont.**

<b>BANK AND TYPE OF BOND</b>	<b>RATE</b>	<b>AMOUNT</b>	<b>DUE DATE</b>
FHLMC 15 Yr	3.50%	2,175,000	10/1/2026
FNMA 15 Yr	4.50%	2,150,000	10/1/2026
FNMA 15 Yr	3.00%	1,500,000	11/1/2026
FNMA 15 Yr	3.00%	1,725,000	12/1/2026
FNMA 15 Yr	3.50%	2,725,000	12/1/2026
FNMA 15 Yr	4.50%	1,500,000	1/1/2027
FHLMC 15 Yr	4.00%	2,000,000	3/1/2027
FHLMC 15 Yr	3.00%	2,500,000	4/1/2027
FNMA 15 Yr	3.50%	1,150,000	4/1/2027
FHLMC 15 Yr	4.00%	908,463	5/1/2027
FHLMC 15 Yr	3.00%	3,300,000	6/1/2027
FNR 2012-66 HE	1.50%	3,000,000	6/25/2027
FNMA 15 Yr	4.00%	1,500,000	9/1/2027
FNMA 15 Yr	3.00%	2,870,000	2/1/2028
FHLMC 15 Yr	3.00%	1,000,000	5/1/2028
Mandan C Ref Impt ND 28	3.50%	260,000	5/1/2028
FHLMC 15 Yr	3.50%	1,500,000	10/1/2028
FHLMC 15 Yr	4.50%	1,250,000	10/1/2028
FNMA 15 Yr	4.00%	2,200,000	11/1/2028
FHLMC 15 Yr Giant	4.00%	1,500,000	4/1/2029
FNMA 15 Yr	4.00%	1,500,000	12/1/2029
FNMA Conv <30 Mtg	4.00%	2,400,000	3/1/3034
FHR 3838 MG	3.00%	1,575,000	3/15/2040
GNR 2014-3 MA	3.50%	1,500,000	4/16/2043
FNMA 30 Yr	3.50%	1,177,060	4/1/2045
<b>BNC NATIONAL BANK</b>			
GNR 2010 4-WA MTHLY-16TH	3.00%	600,000	1/16/2040
<b>AMERICAN BANK CENTER</b>			
Bayfield CO SCh Dist GO	3.00%	250,000	12/1/2020
<b>CHOICE FINANCIAL</b>			
Irrevocable Standby Letter of Credit 5927	0.47%	5,000,000	7/25/2016
Irrevocable Standby Letter of Credit 5928	0.40%	5,000,000	10/25/2016



## Human Resources

**DATE:** July 21, 2016  
**FROM:** Robert McConnell, Director  
**ITEM:** Reclassification of Master Electrician Position

### REQUEST

Commission Consent Item for the Tuesday August 9<sup>th</sup>  
Approval of PW-Service Master Electrician at Grade 17 and Job Description

### BACKGROUND INFORMATION

An Electrician position was approved by the Board of City Commissioner during the 2016 Budget. Since then, Condrey & Associates has reviewed a PDQ and classified the position as a Master Electrician at Grade 17 and provided a Job Description.

### RECOMMENDED CITY COMMISSION ACTION

The Human Resource Department recommends approval of the classification and job description for a Master Electrician assigned to Public Works-Services.

A handwritten signature in black ink, appearing to read "R. McConnell".

Robert McConnell  
Director, Human Resources  
701-355-1330



## **BISMARCK POLICE DEPARTMENT**

**DATE:** August 1, 2016

**FROM:** Dan Donlin – Chief of Police 

**ITEM:** United Blood Services Annual Battle of the Badges Blood Drive

### **REQUEST**

Commission Agenda Item for August 9, 2016 – Authorization for City Employees to Participate in the United Blood Services “Battle of the Badges” Blood Drive

### **BACKGROUND INFORMATION**

United Blood Services has scheduled the annual “Battle of the Badges” blood drive event for September 6-8, 2016 at Kirkwood Mall. This event is designed to encourage the public to donate blood as part of a friendly competition between law enforcement officers and firefighters. When a person donates blood at this event, the donor indicates whether the donation is credited towards the police or fire total. The group that has the highest total of donations is declared the winner of the “battle.” During the event, there will be competitive events, pitting “Team Law” against “Team Fire,” to attract public interest. This event involves not only Bismarck police and fire, but also includes Mandan, Morton County, Burleigh County, and Lincoln emergency services. Not only is this event beneficial to the community by encouraging blood donations, it also provides an excellent opportunity to further our positive relations with those we serve. This has proven to be United Blood Service’s largest donation event.

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

### **RECOMMENDED CITY COMMISSION ACTION**

I am requesting authorization to allow City employees to participate and donate blood on duty for scheduled times. The Commission has historically approved City employees to participate in blood drives that are held at City offices. Approval is being sought since this event will not be held on site.



## **PUBLIC WORKS**

### **SERVICE OPERATIONS DEPARTMENT**

**DATE:** August 3, 2016

**FROM:** Jeff Heintz, Public Works Service Operations Director 

**ITEM:** Banners to be hung near Camp Hancock historical site on Main Avenue

#### **REQUEST**

Please place on the August 9, 2016, Board of City Commissioner meeting consent agenda a request from Myron Atkinson, ND Title, to hang "Welcome to Camp Hancock" type banners on City street light poles that surround the Camp Hancock historical site. I have included the letter from Mr. Atkinson and a picture of the banners for you to review prior to the commission meeting.

#### **BACKGROUND INFORMATION**

Recently Mr. Atkinson contacted the Downtowners regarding Camp Hancock on Main Avenue. He is part of a small group that is looking to make some upgrades to the Camp Hancock historical site, spruce it up, make it accessible and get more users to the site. Mr. Atkinson said they have some private funds for signage.

The banners and hardware will be purchased privately and will be installed and maintained by the Downtowners staff, with City Street Light staff overseeing the installation. We will be on site to make sure that the banners would not impede our future maintenance to the light fixtures. A picture of the banners is included for your information.

#### **RECOMMENDED CITY COMMISSION ACTION**

Allow banners to be hung on City street light poles that surround the Camp Hancock historical site.

August 2, 2016

Keith Hunke, City Administrator  
Mayor Mike Seminary & City Commissioners  
Jeff Heintz, Public Works Director  
PO Box 5503  
Bismarck ND 58502-5503

Re: 2016 Street Banner Installation Request

Dear Mr. Hunke, Mayor Seminary, City Commissioners, and Mr. Heintz:



**DOWNTOWNERS**  
**BISMARCK**

Recently Myron Atkinson reached out to the Downtowners regarding Camp Hancock on Main Ave. Myron is part of a small group that is looking to make some upgrades to the Camp Hancock historical site, spruce it up, make it accessible to get more users to the site. He asked if the Downtowners would assist him and is requesting installation of Camp Hancock Street Banners adjacent to the site. The banners and hardware would be purchased privately and maintained by the Downtowners and/or Camp Hancock Site Manager.

Please see attached a map of the locations for proposed single horizontal banners identifying the historical site. Banners would be the same size as the existing City of Bismarck banners located Downtown. Downtowners and Mr. Atkinson will work with Public Works to make sure they are installed properly and any other considerations. The banners would be installed on the decorative lighting, similar to other areas of Downtown Bismarck decorated with banners.

Please also see attached a preliminary design for the banners created by the State Historical Society of North Dakota Camp Hancock Site Manager.

*Camp Hancock: Located at 101 East Main Ave., Bismarck, this site preserves part of a military installation established as Camp Greeley in 1872 to provide protection for work gangs then building the Northern Pacific Railroad. The camp's name was changed to Camp Hancock in 1873. A log headquarters building still stands on the site; it has been enlarged and remodeled several times, and the logs have been concealed by clapboard siding. The building serves as an interpretive museum for artifacts and information about local history. Camp Hancock is the initial impetus and location for creating the town of Edwinton, later renamed Bismarck.*

Thank you for consideration on this matter,

Kate Herzog--Assistant Director

Downtowners Association  
407 E Main Ave  
Bismarck ND 58501  
701-223-1958

camp hancock



**Camp Hancock State Historic Site**  
Tourist Attraction

Directions

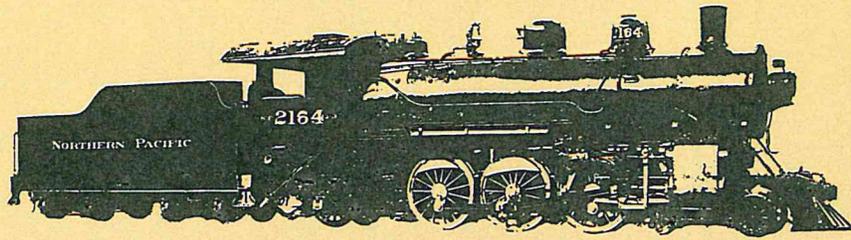
SAVE NEARBY SEND TO YOUR PHONE SHARE

101 E Main Ave, Bismarck, ND 58501  
history.nd.gov  
Claim this business  
Suggest an edit

Add missing information

Add phone number  
Add hours



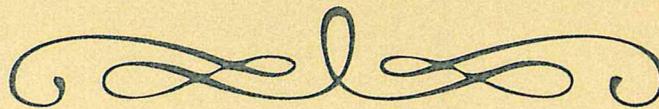


Camp Hancock  
State Historic Site



*Where  
Bismarck Began*

1872



# CONTRACT CHANGE ORDER FORM

## DEPARTMENT

Contract between the City of Bismarck and **AE2S**

Contract Number: **2012-70**

Change Order Number: **3**

Project/Subproject: **WTRUTIL.WPSOFTENING.CONSPH2**

Original Contract Amt: **\$1,006,000**

Project Description: **Bismarck WTP Softening Expansion Project**

Previous Contract Amount: **\$2,313,000**

Change Order Amount: **\$13,100**

Original Contract Date: **December 19, 2012** Change in Contract Timeline: **None**

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 *Grit removal had been discussed in 2014 and city decided not to proceed based on unknowns with the horizontal collector well and this construction project. A new handling system for the grit is required now. Recommend approval with this contract. The additional grit is tied with the current contract construction. MK*

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)

*Michelle Kline*

*8/3/2016*

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

**AMENDMENT NO. 3  
TO  
AGREEMENT BETWEEN OWNER AND  
ENGINEER FOR PROFESSIONAL SERVICES  
DATED  
July 26, 2016**

This Amendment No. 3 is effective as of July 26, 2016 (“Effective Date”) between 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”).

The document amends the Agreement between Owner and Engineer for Professional Services (the Agreement) dated December 19, 2012 for:

**Bismarck Water Treatment Plant Softening Expansion (Project).**

All provisions not amended remain in full effect.

OWNER and ENGINEER, in consideration of their mutual covenants as set forth herein, agree to amend the following portions of the Agreement:

**1. Exhibit C:**

a. Replace Paragraph C4.01-A-3 with the following:

“3. The total compensation for services under Paragraph C4.01 is \$2,326,700.00, based on the following assumed distribution of compensation.

a. 030 - Preliminary Design Phase	\$ 238,000.00
b. <b>030 - Preliminary Design Phase (Deduct)</b>	<b>\$ (2,000.00)*</b>
c. 040 - Design Phase	\$ 660,000.00
d. <b>040 – Design Phase (Increase)</b>	<b>\$ 13,600.00*</b>
e. 050 - Bidding Phase	\$ 108,000.00
f. 060 - Construction Phase Softening	\$ 800,000.00
g. <b>060 - Construction (Increase)</b>	<b>\$ 12,000.00*</b>
h. 061 - Construction Phase Reclaim	\$ 210,000.00
i. <b>061 - Construction Phase Reclaim (Deduct)</b>	<b>\$ (9,000.00)*</b>
j. 070 - Post Construction Phase	\$ 80,000.00
k. 071 - Post Construction Phase	\$ 37,000.00
l. <b>071 - Post Construction Phase (Deduct)</b>	<b>\$ (6,000.00)*</b>
m. 080 - I&C Phase Softening	\$ 125,000.00
n. <b>080 – I&amp;C Phase Softening (Increase)</b>	<b>\$ 5,100.00*</b>
o. 081 - I&C Phase Reclaim	\$ 55,000.00

\*Added this Amendment”

**2. Exhibit E:**

**Add the following major elements to the Project Description**

- **Phase 040 Design Phase Increase Services (Softening):** This phase will include the addition of a lime grit classifier for the RDP system to generally be located on the chemical operations in the existing PAC storage

room. Design will include equipment selection, pump operations verification, grit handling system, pressure feed pipe routing and gravity discharge pipe to aging tank. Design will include room modification, electrical service, mechanical equipment and I&C integration. A change order will be prepared for presentation to PKG contracting.

- **Phase 060 Construction Phase Increase Services (Softening):** This phase will include the construction services described in Exhibit A as they relate to the construction of the installation of a new lime grit classifier in the chemical storage and handling area. Bismarck Water Treatment Plant Softening Expansion Project. Generally the project includes the equipment described above. It is anticipated that the construction of the improvements will start construction in summer 2016 and be completed fall 2016.
- In general the major tasks to be completed during Construction phase include:
  - Meetings
    - Arrange and conduct bi-monthly project progress meetings.
  - Shop Drawing Review
    - Administer the submittal process, and provide review of product submittals.
  - Construction Observation
    - Provide periodic construction observation as required by construction progress and schedules.
    - Maintain records and document project activities, progress, and issues.
  - Construction Administration
    - Provide continuous construction administration for each construction Phase and Contract throughout duration of project.
    - Maintain records and provide assistance to manage project progress, problems, and potential scope changes.
    - Facilitate coordination of project with Owner, applicable Agencies, and Contractors.
    - Complete project closeout procedures and Final Inspection and Acceptance.
- **Phase 080 I&C Phase Increase Services (Softening):** This phase will include the I&C programming and integration services as for the lime grit classifier. Bismarck Water Treatment Plant Softening Expansion Project. Generally the project includes the equipment described above. It is anticipated that the construction of the improvements will start construction in summer 2016 and be completed fall 2016.
  - Instrumentation and Control Services (I&C)
    - Provide coordination and programming of the control systems for integration with existing SCADA system.
    - Provide coordination of modifications to existing SCADA to accommodate:
      - Temporary operational modifications during project sequencing.
      - Permanent operational modifications.
      - Integration with the WTP system.
    - Modify SCADA System as follows:
      - System modifications will be required for classifier operations:
      - Various SCADA Screen modifications.
      - Program changes to accommodate system modifications.
    - Provide field services during startup, including training of operators.
    - Troubleshoot system as issues arise during construction, startup, and warranty activities.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 3, 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):

Michelle Klose, PE

Title: Director of Utility Operations

Phone Number: (701) 355-1704

Facsimile Number: (701) 222-6840

E-Mail Address: mklose@bismarcknd.gov

ENGINEER:

\_\_\_\_\_

By: Jasper Klein, PE

Title: Operations Manager

Date Signed: 7/27/2016

ATTEST: \_\_\_\_\_

Name: Kenneth Weber, PE

Title: Senior Project Manager

Address for giving notices:

Advanced Engineering and Environmental Services, Inc.

1815 Schafer Street, Suite 301

Bismarck, ND 58501

Designated Representative (paragraph 6.02.A):

Kenneth Weber, PE

Title: Senior Project Manager

Phone Number: (701) 221-0530

Facsimile Number: (701) 221-0531

E-Mail Address: ken.weber@ae2s.com



## COMMUNITY DEVELOPMENT DEPARTMENT

**DATE:** August 3, 2016  
**FROM:** Carl D. Hokenstad, AICP, Director of Community Development  
**ITEM:** Mandan and Bismarck Corridor Improvement Study Report

### REQUEST

The Bismarck-Mandan Metropolitan Planning Organization (MPO) is requesting for Rick Stoppelmoor of HDR to appear before the Bismarck Board of City Commissioners to present the Mandan and Bismarck Corridor Improvement Study for consideration and acceptance.

Please place this item on the August 9, 2016 City Commission meeting.

### BACKGROUND INFORMATION

The Cities of Mandan and Bismarck continue to exhibit strong growth, both in population and vibrant economic business communities. Associated with our strong economy comes heavy pressures to maintain and improve the existing roadway infrastructure. Our community leaders understand that traffic congestion and associated travel delays affects the financial stability of the area. With this in mind the Bismarck-Mandan Metropolitan Planning Organization (MPO) has initiated a study to determine operational improvements for specific corridors within Bismarck and Mandan.

Rick Stoppelmoor, HDR, will make a short presentation of the Mandan and Bismarck Corridor Improvement Study and its recommendations. After the presentation, Rick will answer questions and comments that the Commissioners may have.

Attached is the Executive Summary of the study and below is a link to the project website where the full study document can be seen.

[http://www.mandanbismarckcorridors.com/assets/documents/Mandan-BismarckCorridorImprovements\\_Final\\_Report\\_072716.pdf](http://www.mandanbismarckcorridors.com/assets/documents/Mandan-BismarckCorridorImprovements_Final_Report_072716.pdf)

## **RECOMMENDED CITY COMMISSION ACTION**

Staff is seeking acceptance of the Mandan and Bismarck Corridor Improvement Study

## **STAFF CONTACT INFORMATION**

Steve Saunders  
Executive Director, MPO  
[ssaunders@bismarcknd.gov](mailto:ssaunders@bismarcknd.gov)  
701-355-1840

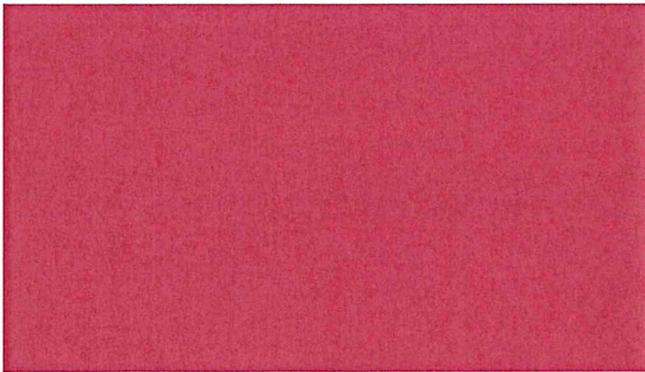
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# Executive Summary

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Mandan-Bismarck Corridor Improvement Study

*Mandan and Bismarck, North Dakota*  
July 19, 2016



# Mandan-Bismarck Corridor Improvement Study: Executive Summary

## Introduction

This document summarizes the results of the Mandan-Bismarck Corridor Improvement Study Final Report. The Bismarck-Mandan Metropolitan Planning Organization (MPO), the City of Mandan, and the City of Bismarck requested a transportation planning study be developed to evaluate 20 total corridors and a possible truck route within the Mandan and Bismarck city limits. Project oversight was provided by the North Dakota Department of Transportation (NDDOT), Federal Highway Administration (FHWA), and the Federal Transit Administration (FTA). The corridors selected for this project were selected by the MPO and project entities.

## Objective

The corridors included in this study provide mobility for high volumes of traffic daily and are vital for connecting major activity centers. This transportation study evaluates the selected corridors and develops low-cost alternatives for each that will address both safety and operational concerns to help them function as the arterial roadways they are intended to be. The objective of the study was to develop low-cost solutions to aid in improving traffic operations, as well as enhancing safety by reducing crashes along each selected corridor.

A secondary objective was to determine the need for a truck route in the City of Mandan to alleviate heavy vehicle traffic along Main Street/Business I-94 between ND Highway 25 to Twin City Drive.

The corridors selected by the Bismarck-Mandan MPO to be included within the study for the City of Bismarck include the following Figure ES-1:

- Washington Street (Calgary Avenue to Divide Avenue)
- Divide Avenue (Schafer Street to Bismarck Expressway/ND Highway 810)
- 4<sup>th</sup> Street (Century Avenue to Boulevard Avenue)
- 7<sup>th</sup> Street (Boulevard Avenue to Rosser Avenue)
- 9<sup>th</sup> Street (Boulevard Avenue to Rosser Avenue)
- Front Avenue/Memorial Highway (Main Avenue to 12<sup>th</sup> Street)
- 26<sup>th</sup> Street (Divide Avenue to Airway Avenue)
- 19<sup>th</sup> Street (Divide Avenue to LaSalle Drive)
- Ward Road (Edwards Avenue to Divide Avenue)

The corridors selected for the City of Mandan include the following Figure ES-2:

- Main Street /Business I-94 (ND Highway 25 to Twin City Drive)
- Sunset Drive/6<sup>th</sup> Avenue NW (Main Street to Oil Red Trail)
- ND Highway 6 (Main Street to 19<sup>th</sup> Street NW)
- Old Red Trail (Mandan Avenue to Sunset Drive)
- Mandan Avenue/ND Highway 1806 (Main Street to Old Red Trail)
- 3<sup>rd</sup> Street (ND Highway 6 to Memorial Highway)

- 19<sup>th</sup> Street (ND Highway 6 to ND Highway 1806)
- Collins Avenue (Main Street to Old Red Trail)
- ND Highway 1806 North (Old Red Trail to 38<sup>th</sup> Street)
- ND Highway 1806 South (Main Street to 19<sup>th</sup> Street)
- Division Street (Sunset Avenue to 8<sup>th</sup> Avenue NE)

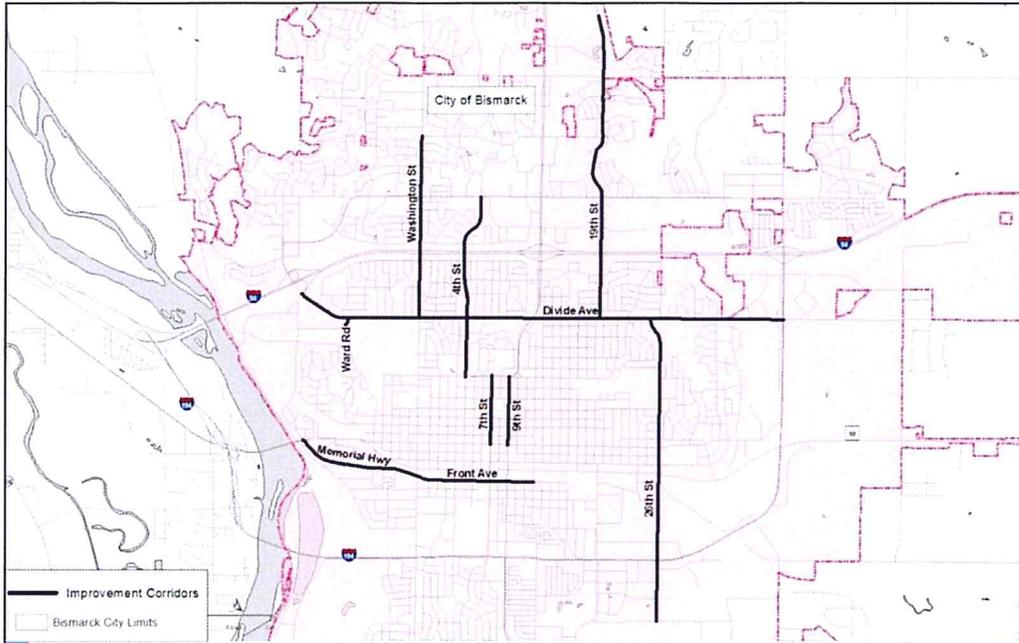


Figure ES-1. Bismarck Improvement Corridors

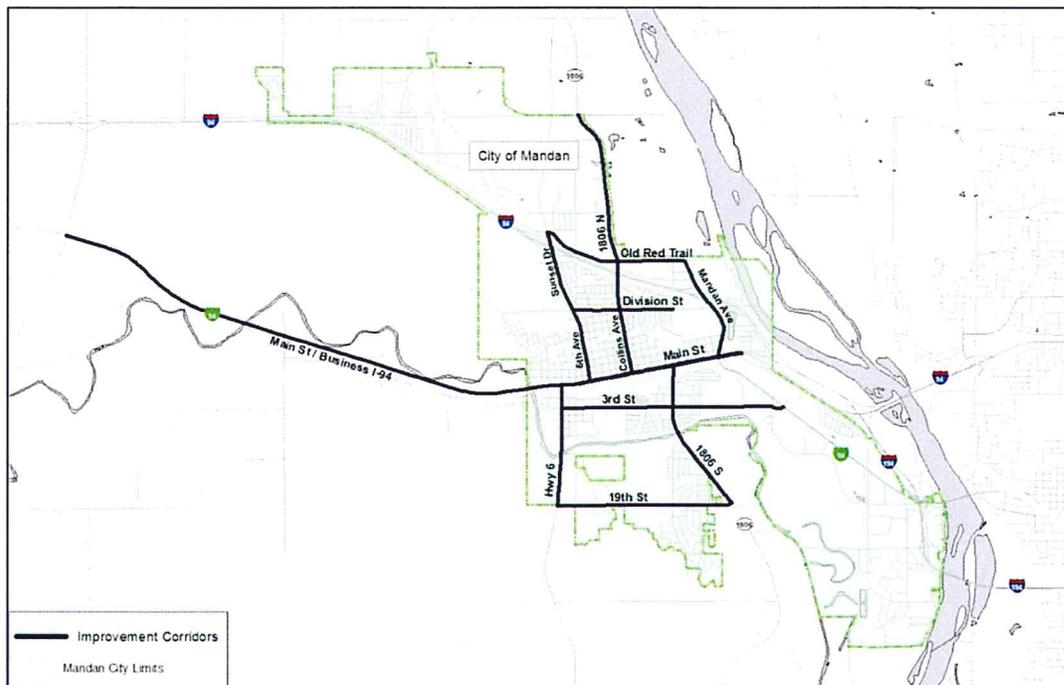


Figure ES-2. Mandan Improvement Corridors

## Methodology

### Existing 2014 Traffic Operations

The existing traffic operations of the corridors were analyzed using a planning-level Level of Service (LOS) approach based on the ARTPLAN analysis program within the Highway Capacity Manual (HCM). Using this methodology, characteristics such as daily traffic volumes, signal timings, and basic roadway geometry at major intersections were taken into account and used as inputs to generate generalized peak hour estimates of traffic operations for each corridor.

A safety analysis was also conducted using NDDOT provided crash data for the calendar years of 2012, 2013, and 2014. The data provided by NDDOT contained crash report information that allowed crashes to be categorized based on characteristics such as location, manner of collision, and severity. This information was used to identify which intersections or roadway segments within the study area experienced the most crashes, and what types of crashes occurred.

### Forecasted 2040 Traffic Operations (No-Build)

The traffic growth rates were forecasted for corridor segments by evaluating outputs from the Bismarck-Mandan MPO travel demand model. The year 2014 ADT volumes were used as the baseline data source for the analysis and forecasts. The modeled growth rates were prorated to a rate reflecting growth as a 30-year trend from the model to the year 2040.

Using the constraints of the existing infrastructure, also referred to as the No-Build Alternative, the forecasted 2040 traffic volumes were applied to determine the estimated 2040 LOS for each corridor segment located within the Bismarck-Mandan study area. The 2040 LOS results are provided in Figure ES-3.

Comparing the 2014 and 2040 LOS results, there is no variance for Mandan but several corridors in Bismarck are projected to see deterioration in Level of Service by the year 2040. Divide Avenue from Schafer Street to Washington Street will decrease from LOS A to LOS F. 4<sup>th</sup> Street from Interstate Avenue to Divide Avenue will decrease from LOS C to LOS D. 7<sup>th</sup> Street from Boulevard Avenue to Rosser Avenue will decrease from LOS E to LOS F. Finally, Front Avenue from 3<sup>rd</sup> Street to 7<sup>th</sup> Street will decrease from LOS E to LOS F.

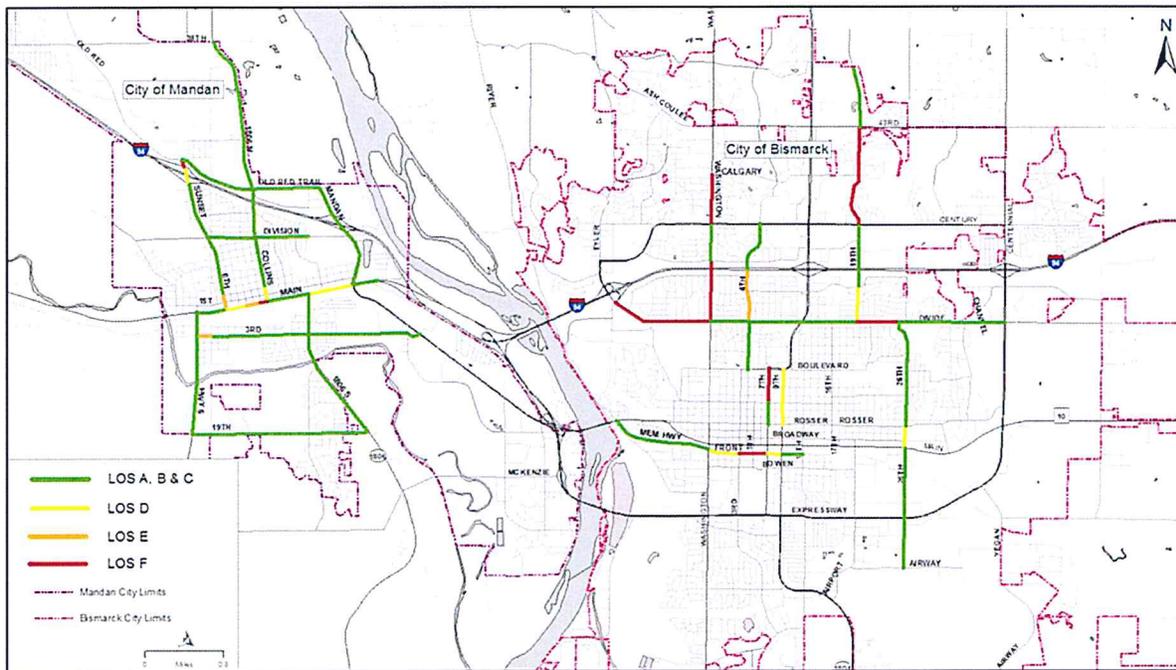


Figure ES-3. 2040 Forecasted LOS

### Mandan Safety Analysis

There were a total of 259 intersection crashes and 183 segment crashes that occurred on the City of Mandan study corridors between 2012, 2013 and 2014.

The intersections that experienced the highest number of injury-related crashes were the intersections of Main Street and ND 1806 S, and the intersection of ND 1806 S and Burlington Street SE.

The roadway segment that experienced the most injury-related crashes was Main Street between Highway 6 and Twin City Drive, with one fatality and three non-incapacitating injury crashes being reported during the study period. Main Street between ND Hwy 6 and Twin City Drive. experienced the highest frequency of angle crashes in comparison with other corridors, comprising approximately 33% of its total crashes. 3<sup>rd</sup> Street and Hwy 1806 S experienced the highest total rear-end crashes.

### Bismarck Safety Analysis

There were a total of 524 reported intersection crashes and 716 reported segment crashes occurring on Bismarck corridors between the years of 2012, 2013 and 2014. There were no reported fatalities during the study period for any of the Bismarck corridors.

The Bismarck intersection with the highest intersection crash rate was identified as Front Avenue and 3<sup>rd</sup> Street. The intersection of 4<sup>th</sup> Street and Century Avenue had the second highest crash rate and the intersection of Front Avenue and 9<sup>th</sup> Street had the third highest crash rate. The intersection with the highest injury crash rate was identified as 7<sup>th</sup> Street and Rosser Avenue.

Divide Ave was found to not only have the highest number of total segment crashes (186 crashes), but it experienced the highest total of head-on collisions (4 crashes) and non-collision with motor vehicle crashes (19 crashes) as well. Washington Street, 9<sup>th</sup> Street, and Divide Avenue experienced the highest total crashes resulting in injury. 9<sup>th</sup> Street and 7<sup>th</sup> Street were found to have the highest segment crash rates for corridors studied within the City of Bismarck. Memorial Highway/ Front Street was found to have the third highest segment crash rate.

### **Mandan Truck Route**

To determine existing truck patterns on Main Street through central Mandan, three different sources of data were used to assess truck flows, focusing primarily on through-movements. These sources were:

- A StreetLight commercial vehicle flow dataset, purchased from StreetLight Data, Inc.
- Assessing current corridor truck patterns based on NDDOT truck counts from various locations within the corridor.
- Conducting interviews with major trucking companies and locations that generate truck traffic in and around Mandan to understand truck travel patterns.

Evaluating the data from the aforementioned sources it was concluded that although Main Street is the most direct route for many truck trips in Mandan, a route south of Main Street would provide the most direct option for an alternate truck route. An aggregate pit and asphalt plant located west of Mandan accounts for approximately 66% of the truck traffic along Main Street. Based upon conversations with the aggregate pit owner, the aggregate pit will be relocated in the near future due to lack of available natural resources within the area. The asphalt plant will also be relocated in the near future to the Twin City Industrial Site in East Mandan.

### **Development of Alternatives**

The alternatives presented in this report are intended for long-term planning purposes only, not for design. Prior to implementation, a field review should be done to examine existing roadway widths and a more detailed analysis conducted to determine the necessary lane widths for proposed typical sections. Parking will also need to be evaluated in more detail prior to alternative implementation.

## **Recommended Alternatives**

The LOS of each corridor was re-evaluated with the proposed mitigation characteristics applied to help measure the effectiveness of each alternative. Keep in mind that certain improvements, namely those that are safety related (i.e. improving lighting, signing, pedestrian crossing, etc.) may not have a direct improvement on LOS but are desirable because they enhance driver awareness and safety.

### **Mandan Corridor Alternatives**

The following list provides the proposed alternatives for each corridor within the study areas of Mandan. A no-build alternative is proposed for certain segments where forecasted traffic is

expected to function at acceptable levels or where future changes are constrained by existing parameters.

**MAIN STREET (ND HWY 25 TO TWIN CITY DRIVE)**

Recommended Alternative:

- No-build between Hwy 25 and 10th Avenue NW (Hwy 6)
- Install 3-lane section between 10th Avenue NW and 3rd Avenue NE
  - Maintain on-street parking on north side, except for areas near intersection where a few stalls will be eliminated to incorporate extended right-turn lane.
  - Add on-street parking on the south side
  - Lengthen right-turn lane at major intersections
- Coordinate all traffic signals and add protected left turn phasing at all signalized intersections
- Re-stripe all crosswalks and improve all crosswalks
- Install Pedestrian Hybrid Beacon, (HAWK beacon) at un-signalized intersections, if warranted
- Add advanced pedestrian crossing signage at the intersections of 2nd Avenue NW and 4th Avenue NW

The anticipated construction cost of the recommended alternative is approximately \$910,000. This cost includes approximately \$780,000 for HAWK beacons if warranted.

**SUNSET DRIVE / 6<sup>TH</sup> AVENUE (MAIN STREET TO OLD RED TRAIL)**

Recommended Alternative:

- No-build between Main Street and North ramp terminal of the I-94/Sunset Drive Interchange
- Intersection of Sunset Drive and Old Red Trail
  - Install a dedicated right turn lane for northbound to eastbound traffic on Sunset Drive
  - Remove island on the west approach of Old Red Trail, and remove the channelized right-turn lane
  - Narrow the through lane for the southbound traffic immediately south of the intersection
  - Add clear advanced signage for drivers on the westbound I-94 off-ramp
- South ramp terminal of the I-94/Sunset Drive Interchange Install signal control on channelized right turn on eastbound-to-southbound approach
- Coordinate timing of signals at the I-94 westbound and eastbound ramp terminals with the signal at Old Red Trail

The anticipated construction cost of the recommended alternative is approximately \$180,000.

**ND HIGHWAY 6 (19<sup>TH</sup> STREET TO MAIN STREET)**

Recommended Alternative:

- No-build between 19<sup>th</sup> Street and Main Street
- Intersection of ND Hwy 6 and 19<sup>th</sup> Street
  - Install a southbound left turn lane and a northbound right turn lane (Currently under development and includes intersection lighting)
  - Install advance intersection signing

The anticipated construction cost of the recommended alternative is approximately \$235,000.

**OLD RED TRAIL (MANDAN AVENUE TO SUNSET DRIVE)**

Recommended Alternative:

- No-build between Mandan Avenue and Sunset Drive
- Intersection of Old Red Trail and Mandan Avenue
  - Flatten horizontal curve
  - Add advance intersection signing
  - Consolidate Tesoro access to one approach as a radial “T” intersection
  - Provide left and right turn lanes

The anticipated construction cost of the recommended alternative is approximately \$700,000.

**MANDAN AVENUE (MAIN STREET TO OLD RED TRAIL)**

Recommended Alternative:

- No-build between Main Street and Old Red Trail
- Intersection of Mandan Avenue and Main Street
  - Update and restripe the pavement markings on intersection approaches
  - Add lane extension skips through the intersection to help drivers navigate
  - Add overhead lane designation signs on mast arms of traffic signal

The anticipated construction cost of the recommended alternative is approximately \$13,000.

**3<sup>RD</sup> STREET (ND HWY 6 TO MEMORIAL HWY)**

Recommended Alternative:

- No-build between ND Hwy 6 and Memorial Highway
- Intersection of 3<sup>rd</sup> Street and 9<sup>th</sup> Avenue
  - Replace 4-way stop with 2-way stop
  - Add Pedestrian Signing
  - Install Pedestrian Hybrid Beacon, (HAWK beacon)
- Intersection of 3<sup>rd</sup> Street and 8<sup>th</sup> Avenue
  - Replace 4-way stop with 2-way stop
  - Add Pedestrian Signing
  - Install Pedestrian Hybrid Beacon, (HAWK beacon)
- Intersection of 3<sup>rd</sup> Street and Memorial Highway
  - Add curb and gutter or guardrail along radius to prevent erosion and enhance safety of turning vehicles

The anticipated construction cost of the recommended alternative is approximately \$264,000.

**19<sup>TH</sup> STREET (ND HWY 6 TO ND HWY 1806)**

Recommended Alternative:

- Extend the existing urban section from Ridge Drive to ND HWY 6 with a 3-lane section
  - No on-street parking
- Extend the existing urban section from 14<sup>th</sup> Avenue SE to ND Hwy 1806 with a 3-lane section
  - No on-street parking

- Provide turn lanes to all major intersections between Ridge Drive and ND Hwy 6
- 3-lane section between Ridge Drive and 14th Avenue SE
  - No on-street parking

The anticipated construction cost of the recommended alternative is approximately \$3,411,000.

#### COLLINS AVENUE (MAIN STREET TO OLD RED TRAIL)

Recommended Alternative:

- No-build between Main Street and Old Red Trail
- Intersection of Collins Avenue and 5<sup>th</sup> Street NE Improve sight distance by offsetting retaining walls at the 5<sup>th</sup> Street NE, 7<sup>th</sup> Street NE and Division Street intersections
- Intersection of Collins Avenue and 14th Street
  - Replace 4-way stop with a 2-way stop
  - Signalize if warranted
- Intersection of Collins Avenue and Old Red Trail
  - Because of the proposed Starion Sports Complex intersection improvements may be needed
    - Install traffic signal and left turn lanes in all quadrants or Install a roundabout.

The anticipated construction cost of the recommended alternative is approximately \$390,000.

#### HIGHWAY 1806 N (38<sup>TH</sup> STREET TO OLD RED TRAIL)

Recommended Alternative:

- No-build between Old Red Trail and 38<sup>th</sup> Street
- Intersection of ND Hwy 1806 N and 27<sup>th</sup> Street NW
  - Installation of left turn lane on northbound ND 1806 N at the intersection of 27<sup>th</sup> Street
  - Installation of right turn lane on southbound ND 1806 at the intersection of 27<sup>th</sup> Street
  - Provide right/left turn lanes on the eastbound minor approach 27<sup>th</sup> Street at intersection with ND 1806 N
  - Install a Pedestrian Hybrid Beacon (HAWK beacon) at the pedestrian crossing, if warranted

The anticipated construction cost of the recommended alternative is approximately \$322,000.

#### HIGHWAY 1806 S (MAIN STREET TO 19<sup>TH</sup> STREET SE)

Recommended Alternative:

- 3-lane section between 3<sup>rd</sup> Street SE to Main Street
  - No on-street parking
- Intersection of ND Hwy 1806 S and 3<sup>rd</sup> Street SE
  - Extend curb and gutter around radius to control access into the gas station
  - Line up left turn lane offsets on the east and west approaches
  - Utilize the boulevard on the east approach between the curb and sidewalk to improve intersection lane geometry without eliminating on-street parking

- Intersection of ND Hwy 1806 S and Burlington Street
  - Add a pedestrian crossing and sidewalk along the east side of ND 1806 S (6th Avenue SE)
  - Install traffic signal if warranted
  - If signal not warranted install a Pedestrian Hybrid Beacon (HAWK beacon) at the pedestrian crossing
  - Install left turn lane on ND 1806 S on the south approach and right turn lane on north approach for vehicles turning onto Burlington Street
- Just south of the intersection of 3<sup>rd</sup> Street and ND 1806 S, the southbound through movement quickly merges from two through lanes to one with very little transition.
  - Use one lane as a right turn lane on the north approach and drop it at the intersection. Therefore only one lane is carried through the intersection and eliminates the need for merging
  - Incorporate a dedicated left turn lane
- No-build between 3<sup>rd</sup> Street SE and 19<sup>th</sup> Street SE

The anticipated construction cost of the recommended alternative is approximately \$405,000.

#### **DIVISION STREET (SUNSET AVENUE TO 8<sup>TH</sup> AVE NE)**

Recommended Alternative:

- No –build between Sunset Drive and 8<sup>th</sup> Avenue NE
- At the intersection of Sunset Drive and Division Street:
  - Restripe stop bar on Division Street closer to perpendicular travel lane on Sunset Drive to increase sight distance on approach
  - Maintain roadside vegetation and prune trees as necessary to provide adequate sight distance for drivers on Division Street approach
- At the intersection of Division Street and 6<sup>th</sup> Avenue:
  - Eliminate yield and stop control for Division Street approaches and allow for free through movement. Make 6<sup>th</sup> Avenue approaches stop controlled
- At the intersection of Division Street and Collins Avenue:
  - As previously mentioned, offset retaining wall further from roadway to provide increased sight distance for drivers on east Division Street approach

The anticipated construction cost of the recommended alternative is approximately \$13,700.

#### **MANDAN TRUCK ROUTE**

With a significant reduction of truck traffic on Main Street imminent due to the relocation of the aggregate pit and asphalt plant west of Mandan, and the high cost of improving an alternative route for a small number of trucks we recommend the no-build alternative.

#### **Bismarck Corridor Alternatives**

The following list provides the proposed alternatives for each corridor within the study areas of Bismarck. A no-build alternative is proposed for certain segments where forecasted traffic is expected to function at acceptable levels or where future changes are constrained by existing parameters.

**WASHINGTON STREET (DIVIDE AVENUE TO CALGARY AVENUE)**

Recommended Alternative:

- 3-lane section from Divide Avenue to Calgary Avenue
  - No on street parking
- Reduce the number of driveways (vehicle access points) from Washington Street to the Northbrook Tesoro Gas Station at Central Avenue
- Washington Street & Century Avenue Intersection
  - Re-align the Century Avenue left turn lanes to remove negative offsets
  - Install Flashing Yellows (FYA) on all approaches
  - Relocate light poles
- Improve coordination of traffic signals between Interstate Avenue and Turnpike Avenue

The anticipated construction cost of the recommended alternative is approximately \$253,000.

**DIVIDE AVENUE (SHAFER STREET TO BISMARCK EXPRESSWAY)**

Recommended Alternative:

- 3-lane section from Shafer Street to 26<sup>th</sup> Street. (This recommendation is consistent with the NDDOT Local Safety Plan recommendation)
  - No on street parking
  - Keep bike lanes from Shafer Street to Washington Street and State Street to 26<sup>th</sup> Street
  - Enhance visibility of bike lane pavement markings
  - Keep share the road signage from Washington Street to State Street
- Divide Avenue & Washington Street Intersection
  - Increase curb radius in each quadrant
- Divide Avenue & 4<sup>th</sup> Street Intersection
  - Increase length of Divide Avenue left turn lanes
  - Install Flashing Yellows (FYA) on all approaches

The anticipated construction cost of the recommended alternative is approximately \$136,000.

**4<sup>TH</sup> STREET (BOULEVARD AVENUE TO CENTURY AVENUE)**

Recommended Alternative:

- 3-lane section from Boulevard Avenue to Century Avenue (This recommendation is consistent with the NDDOT Local Safety Plan recommendation)
  - No on street parking
  - Improve street lighting from Interstate Avenue to Century Avenue
- 4<sup>th</sup> Street & Century Avenue Intersection
  - Re-align the Century Avenue left turn lanes to remove negative offsets
  - Install Flashing Yellows (FYA) on all approaches
  - Relocate light poles
- Divide Ave. & 4<sup>th</sup> Street Intersection
  - Increase length of Divide Avenue left turn lanes
  - Install Flashing Yellows (FYA) on all approaches
- Coordinate traffic signals along Boulevard Avenue between 3<sup>rd</sup> Street and 7<sup>th</sup> Street

The anticipated construction cost of the recommended alternative is approximately \$370,000.

**7<sup>TH</sup> STREET (BOULEVARD AVENUE TO ROSSER AVENUE)**

Recommended Alternative:

- Install 3 through lanes from Boulevard Avenue to Rosser Avenue
  - No parking on west side
- Improve lighting along 7th Street corridor, especially in the school zone at Bismarck High School
- Move stop bars further back from crosswalks.
- Install “Stop Here for Pedestrian” signing to get vehicles to stop further away from crosswalks.
- Add and improve signing and pavement marking to all pedestrian crossings to increase visibility

The anticipated construction cost of the recommended alternative is approximately \$98,000.

**9<sup>TH</sup> STREET (BOULEVARD AVENUE TO ROSSER AVENUE)**

Recommended Alternative:

- Install 3 through lanes from Rosser Avenue to Boulevard Avenue
  - No parking on east side
- Improve lighting along 9th Street corridor, especially in the school zone at Bismarck High School
- Move stop bars further back from crosswalks.
- Install “Stop Here for Pedestrian” signing to get vehicles to stop further away from crosswalks
- Add and improve signing and pavement markings to all pedestrian crossings to increase visibility

The anticipated construction cost of the recommended alternative is approximately \$96,000.

**FRONT AVE/MEMORIAL HIGHWAY (MAIN AVENUE TO 12<sup>TH</sup> STREET)**

Recommended Alternative:

- No build between Main Avenue and Washington Street
- 3-lane section from Washington Street to 12<sup>th</sup> Street (This recommendation is consistent with the NDDOT Local Safety Plan recommendation)
  - No on street parking
- Front Street & 3<sup>rd</sup> Street Intersection
  - Install Flashing Yellows (FYA) on all approaches
- Eliminate 2 accesses from strip mall north of Front Street near Washington Street

The anticipated construction cost of the recommended alternative is approximately \$72,600.

**26<sup>TH</sup> STREET (AIRWAY AVENUE TO DIVIDE AVENUE)**

Recommended Alternative:

- No build between Airway Avenue and Main Avenue

- 3-lane section from Main Ave. to Ave D.
  - No on street parking from Thayer Ave. to Ave D.
- No build between Ave D. and Divide Ave.

The anticipated construction cost of the recommended alternative is approximately \$24,000.

#### **19<sup>TH</sup> STREET (DIVIDE AVENUE TO LASALLE DRIVE)**

Recommended Alternative:

- 3-lane section from Divide Avenue to Capitol Avenue
  - No on street parking
- Between Capitol Avenue to Century Avenue, extend 3-lane section further south to accommodate turn lane at Basin Electric
- 3-lane section from Century Avenue to LaSalle Drive (This recommendation is consistent with the NDDOT Local Safety Plan recommendation)
  - Eliminate on street parking
- Between Yucca Avenue to 43<sup>rd</sup> Avenue
  - Extend urban from where it ends south of Yucca Drive to 43<sup>rd</sup> Avenue and strip as a 3 lane section with no parking
  - Re-align the 19<sup>th</sup> Street south approach to line up with the 19<sup>th</sup> Street north approach
  - Provide left turn lane and a right/through lane on south approach

The anticipated construction cost of the recommended alternative is approximately \$780,000.

#### **WARD ROAD (DIVIDE AVENUE TO EDWARDS AVENUE)**

Recommended Alternative:

- Realignment of Ward Road and College Drive

The anticipated construction cost of the recommended alternative is approximately \$354,000.

## **Conclusions**

Based on the safety analysis and the existing and forecasted LOS results, various recommended alternatives were developed for each corridor within the study area. Some alternatives focus more on traffic operations and efficiency, while others are meant to mitigate safety concerns and crashes. Project stakeholders were included in the development of the preliminary alternatives and provided helpful insight. Utilizing various aspects of each of the proposed recommendation will be beneficial in improving traffic operations along each corridor and will also improve the overall safety at major intersections by reducing either the frequency of crashes or severity of crashes. Ultimately, these recommendations are intended to assist the corridors in functioning as the high-volume, high-mobility arterial roadways they should be.

## **Implementation**

Evaluation of LOS, social impacts, comparison between advantages and disadvantages, cost comparisons, as well as overall construction feasibility were all considered in recommending a low-cost alternative. Prioritization should be given to alternatives that improve safety and driver

understanding relating to signing, striping, signalization, and improving visibility and line of sight at intersections.

It is recommended that a more thorough evaluation be conducted as a separate study before the future implementation of any of the proposed alternatives. This further analysis should include any site-specific traffic volumes and turning movement counts, signalization timings, and should also take into consideration details regarding existing utilities and nearby landowners as relevant to the proposed alternative project location.

### **Prioritization**

Lists prioritizing the corridors for each city are provided below. These lists may be used as a guideline when deciding which corridor should be studied further for alternative implementation as funds are made available. The prioritization ranking is based on forecasted 2040 LOS as well as the segment and intersection crash rates associated with each corridor and its major intersections.

The Bismarck corridors are listed in order of highest priority (1) to lowest priority (9) below:

1. 9<sup>th</sup> Street (Boulevard Avenue to Rosser Avenue)
2. 7<sup>th</sup> Street (Boulevard Avenue to Rosser Avenue)
3. Washington Street (Calgary Avenue to Divide Avenue)
4. Front Avenue/Memorial Highway (Main Avenue to 12<sup>th</sup> Street)
5. Divide Avenue (Schafer Street to Bismarck Expressway/ND Highway 810)
6. 19<sup>th</sup> Street (Divide Avenue to LaSalle Drive)
7. 26<sup>th</sup> Street (Divide Avenue to Airway Avenue)
8. 4<sup>th</sup> Street (Century Avenue to Boulevard Avenue)
9. Ward Road (Edwards Avenue to Divide Avenue)

The Mandan corridors are listed in order of highest priority (1) to lowest priority (11) below:

1. Main Street /Business I-94 (ND Highway 25 to Twin City Drive)
2. Collins Avenue (Main Street to Oil Red Trail)
3. 3<sup>rd</sup> Street (ND Highway 6 to Memorial Highway)
4. Sunset Drive/6<sup>th</sup> Avenue NW (Main Street to Oil Red Trail)
5. ND Highway 1806 South (Main Street to 19<sup>th</sup> Street)
6. ND Highway 6 (Main Street to 19<sup>th</sup> Street NW)
7. Old Red Trail (Mandan Avenue to Sunset Drive)
8. Mandan Avenue/ND Highway 1806 (Main Street to Old Red Trail)
9. ND Highway 1806 North (Old Red Trail to 38<sup>th</sup> Street)
10. 19<sup>th</sup> Street (ND Highway 6 to ND Highway 1806)
11. Division Street (Sunset Avenue to 8<sup>th</sup> Avenue NE)

# *Bismarck*

**Mayor's Committee on Human Relations**

**Annual Report**

**2015-2016**



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## **MISSION OF COMMITTEE**

The mission of the Bismarck Human Relations Committee is to protect and promote the personal dignity of all Bismarck citizens and eliminate any discriminatory barriers that prevent them from reaching their full human potential. We seek to make education and compliance a meaningful and visible strategy as we work to recognize the value of a diverse community.

## **GOALS OF COMMITTEE**

The Bismarck Human Relations Committee has the following goals and objectives as defined in its strategic plan:

1. To exhibit leadership in the areas of civil and human rights:
  - a. The committee will be comprised of individuals that represent and are knowledgeable of diverse populations.
  - b. The committee members will practice and model action that exemplify nondiscrimination, acceptance, and respect of diversity.
2. To educate the public about civil and human rights:
  - a. The committee will implement a public education plan to identify and address issues.
  - b. The committee will actively plan, sponsor, and participate in events that promote and celebrate diversity.
3. To identify issues of principle concern in the area of civil and human rights:
  - a. The committee will provide access for public input.
  - b. The committee will prioritize issues based on input received.
4. To recommend priorities and objectives about issues of community concern to the City Commission:
  - a. The committee will serve as a liaison in issues of civil and human rights between the community and the City Commissioners.
5. To advocate for compliance with federal and state laws regarding civil and human rights, including North Dakota Century Code Chapters 14-02.4 (Human Rights) and 14-02.5 (Housing):
  - a. The committee will provide information about current laws through multiple formats.
  - b. The committee will maintain data regarding civil and human rights issues.

## **ESTABLISHMENT OF COMMITTEE**

Bismarck Ordinance 5208 created the Bismarck Human Relations Committee and received final passage on October 8, 2002. The committee's purpose is to promote acceptance and respect for diversity through educational programs and activities and to discourage all forms of discrimination including protected class discrimination, ADA violations, or other statutory or constitutional violations (Chapter 2-11).

### **APPOINTMENT TO COMMITTEE**

The committee consists of nine members who serve without pay. Member appointment is by the President of the Board of City Commissioners, and subject to confirmation by the Board of City Commissioners. Appointees serve three-year terms.

### **COMMITTEE MEETING TIMES AND LOCATION**

The Bismarck Human Relations Committee meets on the third Monday of each month (except on holidays) at 5:15 pm in the First Floor Conference Room 221 of the City/County Office Building, North 5<sup>th</sup> Street in downtown Bismarck. Meetings are open to the public and accept public comment.

### **COMMITTEE MEMBERS AND CURRENT TERMS**

Chair - Karel Sovak  
Vice Chair - Sharon Korsmo  
Will Kincaid  
Rissa Williams  
Amy Ingersoll-Johnson  
Krista Harju

### **PUBLICATIONS AND OTHER INFORMATION**

A copy of the Human Relations Committee Ordinance, Strategic Plan, Annual Report, complaint filing forms, and other information may be accessed online at [www.bismarcknd.gov](http://www.bismarcknd.gov) or by mailing:

Mayor's Committee on Human Relations  
City of Bismarck  
PO Box 5503  
221 N 5 Street  
Bismarck, ND 58506-5503

## **ACTIVITIES OF COMMITTEE 2015-2016**

**Diversity University** was held in 2015 on four consecutive Thursdays in the fall, September 10<sup>th</sup> - October 1st. The events were a Discrimination Legislation forum held at BSC, a Cultural Celebration at the ND Heritage Center, Homelessness and Hospitality held at U Mary, and Interactive Bullying Prevention at UTTC. Some events were well attended, and some had disappointing numbers. For that reason, the committee voted to adapt to quarterly events in order to focus on identifying and promoting each event more fully.

So far in 2016, the committee has partnered with the ND Heritage Center for a Black History Month event titled “Living Black History in Bismarck and Beyond”, for the first quarter activity. Approximately 100 people attended.

The second quarter activity was the Missouri River Intercultural Festival at Gateway Mall. An estimated 2000+ people attended this daylong event.

The third quarter forum was at the Bismarck Veterans Memorial Library, in partnership with the North Dakota Humanities Council. There was a book talk on Monday, July 25th, based on the book *A Dreadful Deceit: The Myth of Race from the Colonial Era to Obama’s America*, by Jacqueline Jones. The ND Humanities Council will have ongoing free public lectures and discussions addressing issues our nation is facing.

The fourth quarter event is planned as a cultural meal featuring the cuisine of India, prepared by the Culinary Arts students at Legacy High School. The students will be advised by Aruna Seth, former school board member and former Human Relations Committee member. Tickets will be available to the public

The **Human Rights Essay and Poetry Contest** were held to coincide with Dr. Martin Luther King Jr. day and World Human Rights Day. Three winners were named from Bismarck schools, Ryan Zhang, Rylie Fode, and Haiden Pederson. The winners were presented with awards in a ceremony with the mayor on February 10th.

This annual report includes two **Humanitarian Award** winners, 2015 and 2016. The winner for 2015 was Judith Roberts, for her work opening and administrating two sober living homes in Bismarck, Hope Manor and Hope Manor II.

The recipient of the 2016 Humanitarian Award received three separate nominations. Christina Sambor was recognized as a champion of efforts that promote human and civil rights, a driving force to stop human trafficking and an advocate for victim services in North Dakota.

As a committee, we seek to grow and evolve with the community we serve. Our quarterly Diversity University series is the minimum we would like to meet for involvement. As new opportunities are known and discussed, it is our intent to provide support to community education programs as we are able to do so.

# DIVERSITY UNIVERSITY 2015

FREE AND OPEN TO THE PUBLIC • REFRESHMENTS PROVIDED

## DISCRIMINATION LEGISLATION

7 p.m. Thursday, September 10  
NECE Auditorium • Bismarck State College

The cultural landscape has changed with the recent Supreme Court ruling. Come learn about the impact of the ruling on the community landscape. Discussing how discrimination exists in our community and what we can do together will be Jennifer Cook of the American Civil Liberties Union.



## CULTURAL HERITAGE, DIVERSITY CELEBRATION

7 p.m. Thursday, September 17  
North Dakota Heritage Center, Bismarck, North Dakota Capitol Grounds

This local celebration of culture will include food tasting, dancing and music, from new and established cultures and ethnicities living in the Bismarck area. All are welcome to attend and join the celebration of cultures. In attendance will be the Asian Gourmet Market, La Tejana Mexican Market, The Sons of Norway, Native American drummers and more.



## HOSPITALITY IN BISMARCK

7 p.m. Thursday, September 24  
University of Mary, Gary Tharaldson School of Business

Jaelyn Hall, Ruth Meiers Hospitality House; Carrie Grosz of Carrie's Kids and Sr. Kathleen Atkinson, Ministry on the Margins, will lead a discussion on homelessness in the Bismarck/Mandan area. They will discuss what services are available and what each agency is doing to address the homeless in our communities. You are invited to bring a non-perishable food item to be donated.



## INTERACTIVE BULLYING PREVENTION

6:30 pm, Thursday, Oct 1  
United Tribes Technical College, James Henry Gymnasium, Bldg. 69

United Tribes Technical College has booked a nationally known speaker, Devyn Rush, who was bullied as a child and who is now a singer and song writer after appearing on American Idol. She has an inspiring message and will be providing empowering talks to UTTC students. This event will begin at 6:30 pm with a Community Assembly and mini-concert to be held at UTTC. October is National Stop Bullying Month. Stop Bullying Week is Oct 11 – 17.



**Note: Each event has a different venue so be sure to arrive at the right location.**

[www.bismarcknd.gov](http://www.bismarcknd.gov)

THANK YOU TO OUR PARTNERS:





# 4.23.2016 MISSOURI RIVER INTERCULTURAL FESTIVAL

Gateway Mall | Bismarck, ND  
10:00 am-4:00 pm.



Hosted by KATZ Events and Bismarck Global Neighbors in partnership with the Bismarck Human Relations Committee.

La Tejana Mexican Restaurant, Eat Thai Food Truck and Asian Gourmet International Market

**free event!**

INTERNATIONAL  
FOODS, CRAFTS,  
AND COSTUMES!

MUSIC, DANCING,  
AND SHOPPING

SHARE YOUR  
CULTURE

LEARN SOMETHING  
NEW

CELEBRATE  
COMMUNITY

MEET NEW FRIENDS

[www.facebook.com/  
BisManIntercultural](http://www.facebook.com/BisManIntercultural)

to register a booth:

Contact Kim at [ktirona@aol.com](mailto:ktirona@aol.com)  
local businesses, cultural  
organizations, faith groups,  
language clubs all welcome!



## HUMAN RIGHTS ESSAY & POETRY CONTEST

CALLING BISMARCK STUDENTS!

- Grades 4-5: Write about a person or idea that fosters respect for Human Rights

- Grades 6-8: Write about your concept of leadership for Human Rights

CHOOSE TO WRITE AN ESSAY OR A POEM ON HUMAN RIGHTS!

All entries must be postmarked or e-mailed and received by the Human Relations Committee by 5:00 p.m. January 11, 2016. Please limit entries to one page.

Two outstanding entries from each age level will be selected. One essay and one poem from each.

The Bismarck Human Relations Committee (HRC) sponsors this contest to heighten awareness of human rights among students. The mission of the Human Relations Committee is to protect and promote the personal dignity of all Bismarck citizens and to eliminate any discriminatory barriers that prevent them from reaching their full human potential.

Outstanding entries will be recognized at a ceremony during the month of January 2016 where Bismarck Mayor Mike Seminary will present the selected entrants with a special award. The selected essay or poem will be displayed on the Human Relations committee web page.\*

[www.bismarcknd.gov](http://www.bismarcknd.gov)

\*All submitted items and content become the property of the City of Bismarck and may be used for the non-commercial purpose of illustration, display or publication.

Submit entries to:  
City of Bismarck  
Human Relations Committee  
221 N. 5th St.  
Bismarck, ND  
58506-5503  
E-mail:  
[gdavid@bismarcknd.gov](mailto:g david@bismarcknd.gov)



Students are encouraged to visit the United Nations website to learn more about the "The Universal Declaration of Human Rights".

<http://www.un.org/en/universal-declaration-human-rights/index.html>



Essay Contest Award Recipients 2016 from left: Ryan Zhang, Haiden Pederson, and Rylie Fode. HRC members: Will Kincaid, Karel Sovak, Mayor Mike Seminary, Susan Sisk and Rissa Williams.



**NEWS RELEASE**

**For Immediate Release:**  
July 12, 2016

**For More Information, Contact:**  
Karel Sovak, Chair  
Human Relations Committee  
Phone: (701) [REDACTED]  
Email: [REDACTED]

**Bismarck Human Relations Committee Announces Humanitarian Award Recipient**

BISMARCK, N.D. – The Bismarck Human Relations Committee has selected Christina Sambor as the recipient of the 2016 Humanitarian Award. Each year the Bismarck Human Relations Committee Humanitarian Award honors an individual, business or organization that has exhibited leadership in the areas of human and civil rights with a focus upon recognizing those that educate, identify and address human rights issues.

Christina was nominated and selected for being a driving force behind changes to the North Dakota Century Code in the last legislative session that made drastic and needed changes to how North Dakota law enforcement and corrections interact with children who are being sold for sex and adults who are being forced into sexual activity, and for going above and beyond as an advocate for victims. Christina was selected from a pool of three worthy candidates and was nominated by three individuals: Jason Nisbet, Chris Rausch and Nick Keaveny.

Chris Rausch submitted that he is in awe of her work, drive and the unwavering strength of her convictions. Christina has long been a champion of human rights, and seeing a desperate need in our State, met the challenge of human trafficking head on, starting FUSE - a non-profit focused on the issue - and serving as Director for the North Dakota Human Trafficking Task Force. "Through these roles, Christina lobbies tirelessly for more effective and strict legislation, and is a passionate advocate for victims." Jason Nisbet nominated her because of her efforts to promote human and civil rights, particularly for the work that she's done as Chair of the ND Human Trafficking Task Force.

Mayor Seminary, City Commissioners and members of the Bismarck Human Relations Committee congratulated Christina for her tireless efforts to promote human and civil rights and for the work she's done as Chair of the ND Human Trafficking Task Force and F.U.S.E. "You make our community and state a better place in which to live because of what you do to educate, address human trafficking and advocate for victim services," said Mayor Seminary.

The North Dakota Human Trafficking Task Force (NDHTTF) is a federally funded partnership between the US Attorney's Office of North Dakota, the North Dakota Bureau of Criminal Investigation and CAWS North Dakota, the statewide domestic violence/sexual assault coalition. NDHTTF funds and coordinates proactive law enforcement investigations of sex and labor trafficking, and the provision of victim centered, trauma-informed care for survivors of human trafficking.

FUSE (Force to End Human Sexual Exploitation) is a statewide anti-trafficking coalition in North Dakota serves as a space for advocates, direct service providers, law enforcement, and allied partners who are seeking to develop and implement a coordinated, comprehensive response to the sex trafficking crisis in North Dakota.

The mission of the Bismarck Human Relations Committee is to protect and promote the personal dignity of all Bismarck citizens and eliminate any discriminatory barriers that prevent them from reaching their full human potential. For more information please visit [www.bismarcknd.gov](http://www.bismarcknd.gov).

###



2015 Humanitarian Award Recipient Judith Roberts, Hope Manor, Hope Manor II.



2016 Humanitarian Award Recipient Christina Sambor with Bismarck City Commission members from left: Shawn Oban, Nancy Guy, Mayor Mike Seminary, Josh Askvig and Steve Marquardt.

**FOR MORE INFORMATION CONTACT:**

Mayor's Committee on Human Relations

City of Bismarck

PO Box 5503

221 N 5 Street

Bismarck, ND 58506-5503

[www.bismarcknd.gov](http://www.bismarcknd.gov)



## **PUBLIC WORKS SERVICE OPERATIONS**

**DATE:** August 3, 2016

**FROM:** Jeff Heintz, Director of Service Operations

**ITEM:** Regular Agenda Item - Public Hearing for Approval of Waste Collection Franchise for IHD Solids Management

### **REQUEST**

Please place on the August 9, 2016, Board of City Commissioner meeting regular agenda the public hearing for approval of waste collection franchise application for IHD Solids Management.

### **BACKGROUND INFORMATION**

IHD Solids Management has submitted their required application fee, proof of insurance and had their vehicles inspected by the Bismarck Environmental Health Division. A copy of the Notice of Public Hearing is attached.

### **RECOMMENDED CITY COMMISSION ACTION**

Approve the Waste Collection Franchise for IHD Solids Management.

### **STAFF CONTACT INFORMATION**

I will be present at the City Commission meeting to respond to questions the Board maybe have regarding this matter. **Contact:** Jeff Heintz, 355-1700, [jheintz@bismarcknd.gov](mailto:jheintz@bismarcknd.gov)

NOTICE OF PUBLIC HEARING  
BEFORE THE BOARD OF CITY COMMISSIONERS  
CITY OF BISMARCK, NORTH DAKOTA

Notice is hereby given that the Bismarck City Commission will conduct a public hearing on Tuesday, August 9, 2016, at the hour of 5:15 p.m. in the Wellness Center/James Henry Gymnasium at United Tribes Technical College, Bismarck, North Dakota, at which time and place all interested persons will be heard on a new waste collection franchise application from IHD Solids Management.

CITY OF BISMARCK  
*Keith J. Hunke*  
City Administrator

Dated this 29<sup>th</sup> day of July, 2016

**CITY OF BISMARCK**  
**Ordinance No. 6225**

<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 6-03-03 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO HARASSMENT.

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

Section 1. Amendment. Section 6-06-03 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Harassment is hereby amended and re-enacted to read as follows:

**6-03-03. Harassment.** A person is guilty of an offense if, with intent to frighten or harass another, that person:

1. Makes a telephone call anonymously, or ~~in~~ using offensively course language or, using other electronic communication, communicates offensive material with no purpose of legitimate communication;

2. Makes repeated telephone calls, or other electronic communication, whether or not conversation ensues, with no purpose of legitimate communication; or

3. Communicates a falsehood by telephone or by electronic communication and causes mental anguish.

4. Telephones or initiates communication with a 911 emergency line with the intent to annoy or harass another person or a public safety agency or who makes a false 911 report.

a. Intent to annoy or harass is established by proof of one or more calls with no legitimate 911 emergency purpose.

b. Upon conviction of a violation of this subsection, a person is also liable for all costs incurred as the result of any unnecessary emergency response.

5. Any offense defined herein and committed by use of ~~a telephone~~ electronic communication may be deemed to have been committed at either the place at which the ~~telephone call or calls~~ electronic communication ~~were~~ was made or at the place where the ~~telephone calls or calls~~ electronic communication ~~were~~ was received.

6. Electronic communication means the transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, telephone, radio, electromagnetic, digital, photo-electronic, wireless or photo-optical system.

*Reference: NDCC Sec. 12.1-17-07 (1985) (Ord. 5032, 03-14-00)*

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance shall take effect following final passage, adoption and publication.



## COMMUNITY DEVELOPMENT DEPARTMENT

**DATE:** August 3, 2016  
**FROM:** Carl D. Hokenstad, AICP, Director of Community Development  
**ITEM:** Sonnet Heights Subdivision Sixth Replat – Minor Subdivision Final Plat

### REQUEST

Jason Voegele, J & D Construction, is requesting approval of a minor subdivision final plat for Sonnet Heights Subdivision Sixth Replat. This action would allow the development of five rowhouses in two buildings (one two-unit building and one three unit building) and future multi-family development.

The property is located in north Bismarck, west of US Highway 83 and south of 57<sup>th</sup> Avenue NE in the southeast quadrant of the intersection of Normandy Street and Calvert Drive.

Please place this item on the August 9, 2016 City Commission meeting.

### BACKGROUND INFORMATION

The Planning & Zoning Commission held a public hearing on minor subdivision final plat request on July 27, 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 minor subdivision final plat for Sonnet Heights Subdivision Sixth Replat.

### RECOMMENDED CITY COMMISSION ACTION

Consider the request for approval of the minor subdivision final plat for Sonnet Heights Subdivision Sixth Replat and take final action on the request.

## STAFF CONTACT INFORMATION

Please contact Jenny Wollmuth, CFM, the planner in our office assigned to this request, at 355-1845 or [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov) or Kim L. Lee, AICP, Planning Manager at 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov).

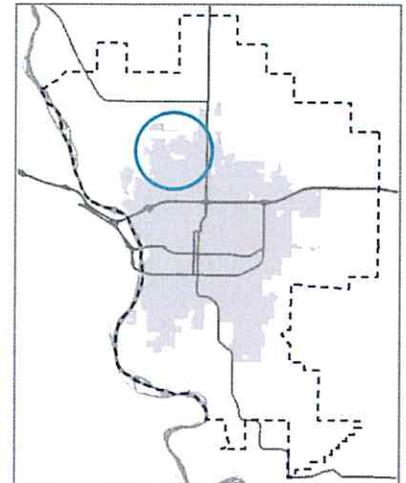
Planning Manager Kim Lee will present this item at the meetings.

**Application for: Minor Subdivision Final Plat**

TRAKiT Project ID: MPLT2016-007

**Project Summary**

<b>Title:</b>	Sonnet Heights Subdivision Sixth Replat
<b>Status:</b>	Planning & Zoning Commission – Final Consideration
<b>Owner(s):</b>	Jason Voegele, J & D Construction
<b>Project Contact:</b>	Dave Patience, Swenson, Hagen & Co.
<b>Location:</b>	In north Bismarck, in the southeast quadrant of the intersection of Normandy Street and Calvert Drive.
<b>Project Size:</b>	1.73 acres
<b>Request:</b>	Replat property for five row houses and future multi-family development.



**Site Information**

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	1 lot in 1 block	<b>Number of Lots:</b>	6 lots in 1 block
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Multi-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>	RM30 – Residential	<b>Zoning:</b>	RM30 – Residential
<b>Uses Allowed:</b>	RM30 – Multi-family residential	<b>Uses Allowed:</b>	RM30 – Multi-family residential
<b>Max Density Allowed:</b>	RM30 – 30 units / acre	<b>Max Density Allowed:</b>	RM30 – 30 units / acre

**Property History**

<b>Zoned:</b>	12/1980	<b>Platted:</b>	12/1980	<b>Annexed:</b>	02/2007
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**Staff Analysis**

The proposed subdivision plat is being requested for the development of five row houses on Lots 1 through 5. The applicant has not proposed a use for Lot 6; however, as the property is zoned RM30 – Residential

staff anticipates Lot 6 will be developed as multi-family.

**Required Findings of Fact**

1. All technical requirements for approval of a minor subdivision final plat have been met;

(continued)

2. The stormwater management plan for the subdivision has been approved by the City Engineer;
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the minor subdivision final plat for Sonnet Heights Subdivision Sixth Replat.

**Attachments**

1. Location Map
2. Reduction of minor subdivision final plat

---

*Staff report prepared by:* Jenny Wollmuth, CFM, Planner  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)

# Proposed Minor Plat Sonnet Heights Subdivision Sixth Replat



June 6, 2016 (h/b)

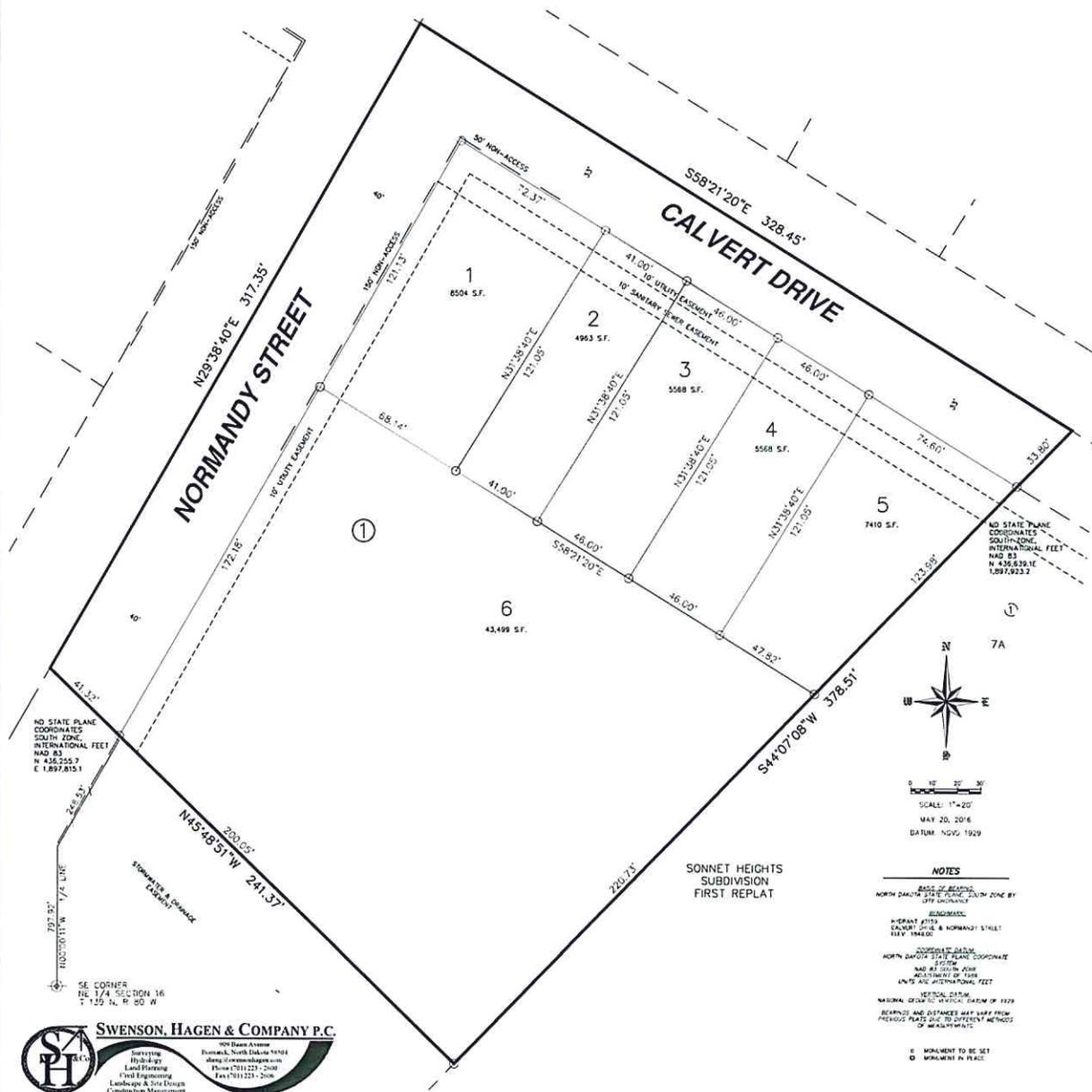
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



# SONNET HEIGHTS SUBDIVISION SIXTH REPLAT

BEING A REPLAT OF LOT 6 BLOCK 1 SONNET HEIGHTS SUBDIVISION  
PART OF THE NORTHEAST 1/4 SECTION 16, TOWNSHIP 139  
NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN,

## BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



**DESCRIPTION**

LOT 6 BLOCK 1 SONNET HEIGHTS SUBDIVISION AND THE ADJOINING RIGHTS OF WAY BEING THE EASTERN 40 FEET OF NORMANDY STREET AND THE SOUTHERLY 33 FEET OF CALVERT DRIVE BISMARCK NORTH DAKOTA CONTAINING 2.34 ACRES MORE OR LESS ALSO DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF CALVERT DRIVE AND NORMANDY STREET THENCE SOUTH 88 DEGREES 25 MINUTES 20 SECONDS EAST ALONG THE CENTERLINE OF CALVERT DRIVE A DISTANCE OF 328.45 FEET THENCE SOUTH 88 DEGREES 05 MINUTES 06 SECONDS WEST ALONG THE EASTERN LINE OF LOT 6 IN PATROL A DISTANCE OF 318.00 FEET THENCE NORTH 88 DEGREES 05 MINUTES 06 SECONDS WEST ALONG THE SOUTHERLY LINE OF LOT 6 EXTENDED A DISTANCE OF 241.37 FEET THENCE NORTH 35 DEGREES 58 MINUTES 40 SECONDS EAST ALONG THE CENTERLINE OF NORMANDY STREET A DISTANCE OF 317.35 FEET TO THE POINT OF BEGINNING.

**SURVEYOR'S CERTIFICATE**

I, TIM LANGRISH, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON \_\_\_\_\_ 2016 THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL SURVEYING AND RECORDING IS IN ACCORDANCE WITH THE

STATE OF NORTH DAKOTA ) SWENSON, HAGEN & CO. P.C.  
COUNTY OF BURLEIGH ) BISMARCK, NORTH DAKOTA  
TIM LANGRISH  
PROFESSIONAL LAND SURVEYOR  
N.D. REGISTRATION NO. 5778

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2016, BEFORE ME PERSONALLY APPEARED TIM LANGRISH, 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.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_

**APPROVAL OF CITY PLANNING COMMISSION**

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, NORTH DAKOTA, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2016 IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE PLANNING COMMISSION. IT IS HEREBY RECOMMENDED AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

RAINE LEE YEAGER - CHAIRMAN CARL D. HOEHNSTAD - SECRETARY

**APPROVAL OF BOARD OF CITY COMMISSIONERS**

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS ACCEPTED THE SITUATION OF ALL STREETS SHOWN HEREON, AND HAS APPROVED THE SITUATION AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATING WITHIN THE BOUNDARY OF THE ANNEXED PLAT.

ATTEST:  
KELLY J. HORN - CITY ADMINISTRATION

**APPROVAL OF CITY ENGINEER**

CARROLL J. SCHILL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVES "SONNET HEIGHTS SUBDIVISION SIXTH REPLAT, BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

GARROLL J. SCHILL  
CITY ENGINEER

**OWNER'S CERTIFICATE & DEDICATION**

I, KNOW ALL MEN BY THESE PRESENTS THAT J & D CONSTRUCTION, BEING THE OWNER AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT FORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "SONNET HEIGHTS SUBDIVISION SIXTH REPLAT, BISMARCK, NORTH DAKOTA, AND DO SO RE-DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CALVERTS, WATER AND OTHER PUBLIC UTILITY LINES HEREON SHOWN HEREON OR NOT TO THE PUBLIC USE.

IT IS ALSO DEDICATED TO THE CITY OF BISMARCK TO RUN WITH THE LAND FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DISCONTIGUOUS HEREON AS SHOWN HEREON UNDER SEWER & SURFACE WATER EASEMENTS.

IT IS FURTHER DEDICATED TO THE CITY OF BISMARCK "STORM WATER AND DRAINAGE CALCULATIONS" TO RUN WITH THE LAND FOR THE PURPOSE OF STORM SEWER AND SURFACE WATER DRAINAGE UNDER OVER, THROUGH AND/OR ACROSS TRACED AREAS DEDICATED HEREON AS "STORM WATER AND DRAINAGE CALCULATIONS" FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, REPAIR, MAINTENANCE AND MAINTAINING STORM WATER MANAGEMENT PRACTICES TOGETHER WITH NECESSARY APPURTENANCES NECESSARY FOR STORM WATER, STORM SEWER AND SURFACE WATER DRAINAGE AND MANAGEMENT OF SAID STORM WATER RISK IN A MANNER THAT WILL PERMIT THE FREE AND UNHINDERED FLOW OF WATER UNDER, OVER AND/OR ACROSS THE EASEMENT AREA.

STATE OF NORTH DAKOTA ) JASON WEDDES  
COUNTY OF BURLEIGH ) J & D CONSTRUCTION  
455 15TH DRIVE  
BISMARCK, ND 58503

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2016, BEFORE ME PERSONALLY APPEARED JASON WEDDES, 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.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_

NO STATE PLANE COORDINATES SOUTH ZONE, INTERNATIONAL FEET! NAD 83 N 436,255.7 E 1,897,815.1



SCALE: 1"=20'  
MAY 20, 2016  
DATUM: NOV. 1929

**NOTES**

BASED ON BEARING NORTH DAKOTA STATE PLANE ZONE BY CITY ENGINEER.

ENCLOSURE: INHERENT FITS CALVERT DRIVE & NORMANDY STREET ELEV. 1160.00.

COORDINATE DATUM: NORTH DAKOTA STATE PLANE COORDINATE SYSTEM NAD 83 SOUTH ZONE MULTICASTING OF STATE UNITS ARE INTERNATIONAL FEET.

VERTICAL CURVE: NATIONAL GRADE SURVEY SYSTEM OF 1929.

BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENTS.

☐ MONUMENT TO BE SET  
● MONUMENT IN PLACE

**SWENSON, HAGEN & COMPANY P.C.**

400 Basin Avenue  
Bismarck, North Dakota 58503  
Surveying  
Hydrology  
Land Planning  
Civil Engineering  
Landscape & Site Design  
Construction Management

2016  
Phone: (701) 221-2000  
Fax: (701) 221-2006





## COMMUNITY DEVELOPMENT DEPARTMENT

**DATE:** August 3, 2016  
**FROM:** Carl D. Hokenstad, AICP, Director of Community Development  
**ITEM:** SouthBay Third Addition First Replat – Minor Subdivision Final Plat

### REQUEST

Alcor Investments, Inc. and Mitch and Stacy Neumiller are requesting approval of a minor subdivision final plat for SouthBay Third Addition First Replat. This action would allow the realignment of lot lines and eliminate auditor's plats.

The property is located in southwest Bismarck, west of South Washington Street and south of East Burleigh Avenue, along the southeast side of Calypso Drive.

Please place this item on the August 9, 2016 City Commission meeting.

### BACKGROUND INFORMATION

The Planning & Zoning Commission held a public hearing on minor subdivision final plat request on July 27, 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 minor subdivision final plat for SouthBay Third Addition First Replat.

### RECOMMENDED CITY COMMISSION ACTION

Consider the request for approval of the minor subdivision final plat for Sonnet Heights Subdivision Sixth Replat and take final action on the request.

## **STAFF CONTACT INFORMATION**

Please contact Kim L. Lee, AICP, Planning Manager, the planner in our office assigned to this request, at 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov).

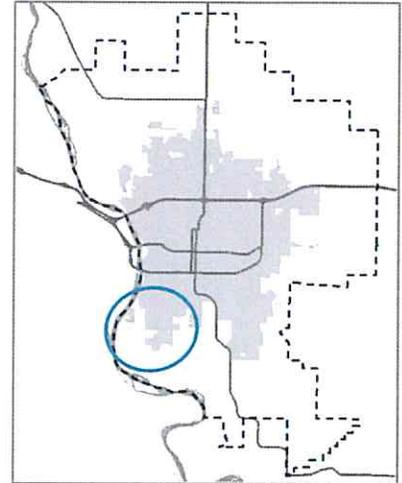
Planning Manager Kim Lee will present this item at the meetings.

**Application for: Minor Subdivision Final Plat**

TRAKiT Project ID: MPLT2016-006

**Project Summary**

<b>Title:</b>	SouthBay Third Addition First Replat
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Alcor Investments, Inc. & Mitch & Stacy Neumiller
<b>Project Contact:</b>	Landon Niemiller, Swenson, Hagen & Co.
<b>Location:</b>	In southwest Bismarck, west of South Washington Street and south of East Burleigh Avenue southeast of Calypso Drive within Poseidon Loop.
<b>Project Size:</b>	1.02 acres
<b>Request:</b>	Replat property to realign lot lines and eliminate auditor's lots.



**Site Information**

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	3 parcels	<b>Number of Lots:</b>	3 lots
<b>Land Use:</b>	Single-family residential	<b>Land Use:</b>	Single-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>	R5 – Residential
<b>Uses Allowed:</b>	R5 – Single-family residential	<b>Uses Allowed:</b>	R5 – Single-family residential
<b>Max Density Allowed:</b>	R5 – 5 units / acre	<b>Max Density Allowed:</b>	R5 – 5 units / acre

**Property History**

<b>Zoned:</b>	07/2007	<b>Platted:</b>	07/2007 07/2009	<b>Annexed:</b>	07/2007
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**Staff Analysis**

The applicants are requesting this minor subdivision final plat in order to realign the boundaries of three parcels in SouthBay 3<sup>rd</sup> Addition. Several lots within the proposed plat were modified administratively in 2014

through the City's lot modification process. These modifications would have exceeded the number allowed under the lot modification requirements, so a minor subdivision final plat was required. The proposed adjustments are minor lot line adjustments and the number of lots will not change.

(continued)

**Required Findings of Fact**

1. All technical requirements for approval of a minor subdivision final plat have been met;
2. The requirement to provide a stormwater management plan has been waived by the City Engineer;
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the minor subdivision final plat for SouthBay Third Addition First Replat.

**Attachments**

1. Location Map
  2. Reduction of minor subdivision final plat
- 

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

# Proposed Minor Plat Southbay Third Addition First Replat



June 6, 2016 (h/b)

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 herein.



# SOUTHBAY THIRD ADDITION FIRST REPLAT

BEING A REPLAT OF LOTS 1, 2A, 2C, 7, AND 8 BLOCK 1 SOUTHBAY THIRD ADDITION,  
PART OF THE NORTH 1/2 OF SECTION 20, TOWNSHIP 138 NORTH, RANGE 80 WEST,  
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

**DESCRIPTION**

A REPLAT OF LOTS 1, 2A, 2C, 7, AND 8 BLOCK 1 SOUTHBAY THIRD ADDITION, PART OF THE NORTH 1/2 OF SECTION 20, TOWNSHIP 138 NORTH, RANGE 80 WEST.

**SURVEYOR'S CERTIFICATE**

I, MATTHEW M. STERN, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON APRIL 8, 2016. THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEOMETRIC DETAILS ARE CORRECT.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH ) SS

SWENSON, HAGEN & CO  
808 BASH AVENUE  
BISMARCK, NORTH DAKOTA

MATTHEW M. STERN  
PROFESSIONAL LAND SURVEYOR  
N.D. REGISTRATION NO. 8279

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016, BEFORE ME PERSONALLY APPEARED MATTHEW M. STERN, 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.

DAVID PATENCE, NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES AUGUST 24, 2018

**APPROVAL OF CITY PLANNING COMMISSION**

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

WYNNE LEE YEAGER - CHAIRMAN CARL D. HORNSTAD - SECRETARY

**APPROVAL OF BOARD OF CITY COMMISSIONERS**

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE COUNDS AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY REVOKE ANY PREVIOUS PLATING WITHIN THE BOUNDARY OF THE ANNEXED PLAT.

IN WITNESS WHEREOF, THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, HAS TAKEN BY RESOLUTION APPROVED THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.

AJEEZ KEITH J. HANKE - CITY ADMINISTRATOR

**APPROVAL OF CITY ENGINEER**

I, CARREL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE 'SOUTHBAY THIRD ADDITION FIRST REPLAT', BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

CARREL J. SCHELL  
CITY ENGINEER

**OWNER'S CERTIFICATE & DEDICATION**

KNOW ALL MEN BY THESE PRESENTS THAT ALDRE INVESTMENT, INC. AND MITCH & STACY NEUMULLER, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS 'SOUTHBAY THIRD ADDITION FIRST REPLAT', BISMARCK, NORTH DAKOTA, AND SO RE-DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, SANITARY, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY, SANITARY SEWER, STORM SEWER & STORM WATER EASEMENTS.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

ALDRE INVESTMENT, INC.  
AL THOMAS  
1331 CLIPPER PLACE  
BISMARCK, ND 58504  
OWNER OF LOTS 2-3 BLOCK 1

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016, BEFORE ME PERSONALLY APPEARED AL THOMAS OF ALDRE INVESTMENT, INC., KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_

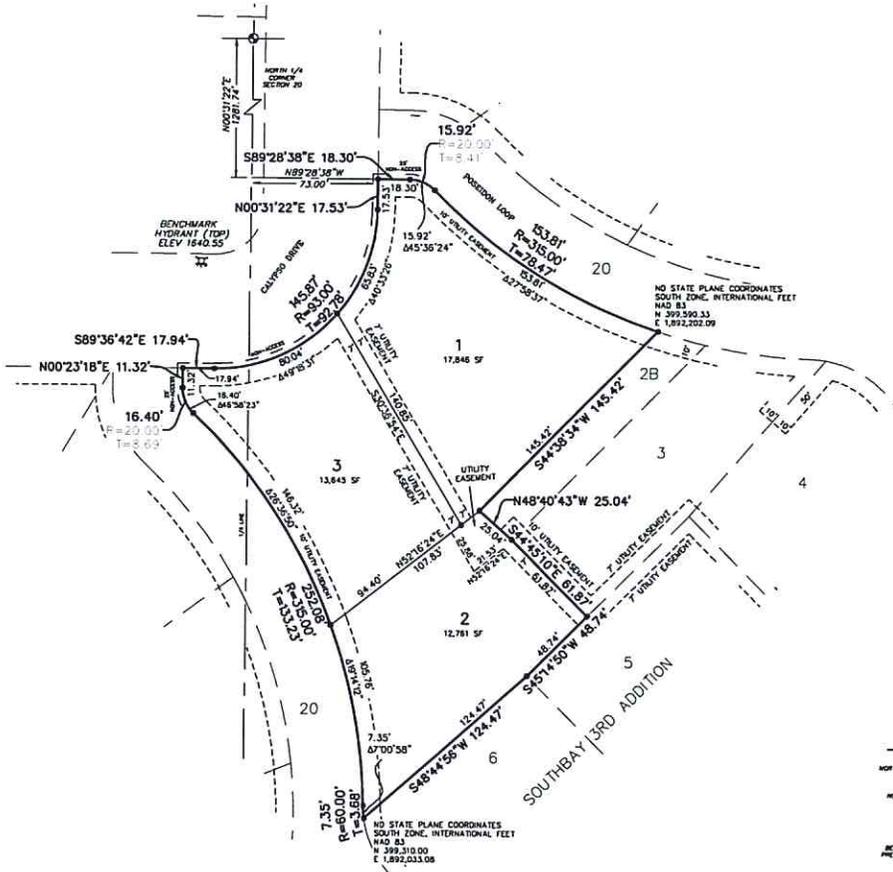
STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

MITCH NEUMULLER  
2228 SOUTH 3RD ST.  
BISMARCK, ND 58504  
CO-OWNER LOT 1 BLOCK 1

STACY NEUMULLER  
2228 SOUTH 3RD ST.  
BISMARCK, ND 58504  
CO-OWNER LOT 1 BLOCK 1

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016, BEFORE ME PERSONALLY APPEARED MITCH & STACY NEUMULLER, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_



**FLOOD PLAIN NOTE:**  
This property has been removed from the Base Flood LOMR (Elevation 1636.2)  
CASE NO.: 07-08-0982A

**NOTES**

- BASE OF MEASURING NORTH DAKOTA STATE PLANE, SOUTH ZONE BY COORDINATE SYSTEM
- COORDINATE SYSTEM NORTH DAKOTA STATE PLANE, COORDINATE SYSTEM
- AND 83 SOUTH ZONE ADJUSTMENT OF TIME UNITS ARE INTERNATIONAL FEET METRIC DATUM 1984
- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENTS
- MONUMENT IN PLACE



SCALE: 1"=30'  
JUNE 8, 2016  
DATUM: NAD83





**DATE:** August 3, 2016  
**FROM:** Gregory B. Haug, Airport Director   
**ITEM:** Vehicle Parking Request for Proposals (RFP)

## **REQUEST**

Consider proposals for Vehicle Parking Concession RFP and format of concession agreement.

## **BACKGROUND INFORMATION**

Bismarck Airport has a management agreement with SP Plus to operate the vehicle parking concession (pay parking lot) at the airport terminal. This agreement has been in a month to month status and needed to be re-bid. Airport staff has advertised a request for proposals (RFP) with a proposal due date of August 4, 2016 at 4 p.m. A selection committee will review the proposals submitted and their recommendation will be brought to the Commission at the August 9, 2016 Commission meeting.

The RFP requires proposers to submit their bids for minimum annual guarantees as well as percentages of gross receipts each year through the initial and optional terms of the lease. The RFP also requires the concessionaire to purchase and install new revenue control equipment throughout all three parking lots and at the exit plaza. This new equipment is necessary as the current system is nearing 15 years old, it's not supported by the manufacturer any longer and the system cannot keep up with the amount of transactions that occur during peaks in travel times. A \$375,000 allowance has been made for this system in the RFP that will be recovered by the concessionaire in the first several months of the contract through a reduction in gross revenue payments to the Airport. The reason we acquire the equipment this way is because the parking lot concessionaires have a lot more buying power with the revenue control equipment companies than we do, so it represents some savings for this large purchase. This is the same method the airport used the last time new equipment was installed.

The initial term of the agreement is for 5 years with an optional term of 5 additional years with mutual agreement. The agreement will be finalized with the selected proposer after the proposals have been received and the Commission has approved the selection of the best proposal. The final agreement will be coordinated with the City Attorney.

## **RECOMMENDED CITY COMMISSION ACTION**

Receive proposals and consider selection committees recommendation to award and approval of format for Concession Agreement.

## **STAFF CONTACT INFORMATION**

Greg Haug, Airport Director, 701-355-1808, [ghaug@bismarcknd.gov](mailto:ghaug@bismarcknd.gov)

Enclosure:

1. Draft Concession Agreement

**CONCESSION AGREEMENT**

**BETWEEN**

**THE CITY OF BISMARCK**

**AND**

---

**FOR THE  
VEHICLE PARKING LOT CONCESSION**

**AT**

**BISMARCK AIRPORT**

**June 13, 2016  
Draft 1**

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PARKING CONCESSION AGREEMENT

Concession Agreement, hereinafter, the "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, \_\_\_\_\_ authorized to do business in the State of North Dakota, having its principal offices at \_\_\_\_\_, hereinafter, "Concessionaire".  
Concessionaire's Federal Identification Number is \_\_\_\_\_. For purposes of this Agreement, City and Concessionaire may from time to time, be individually referred to as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, the City is the owner and operator of the premises known as the Bismarck Airport located in Bismarck, North Dakota, hereinafter, the "Airport";

WHEREAS, the City desires to contract for the professional management and operation of the Airport's current vehicle Parking Facilities, the "Existing Facilities", and new management control and collection systems, the "New Equipment" for the convenience of Airport passengers and the general public utilizing such parking facilities at the Airport; and

WHEREAS, the Concessionaire submitted a Proposal to the City dated \_\_\_\_\_, 2016, hereinafter, the "Proposal", for the operation of the Existing Facilities; and the installation of new management, control and collection systems as well as the operation and management of the New Equipment; and

WHEREAS, the City and the Concessionaire have agreed upon the terms and conditions for the professional management and operation of said Facilities and New Equipment pursuant to the Concessionaire's Proposal.

NOW, THEREFORE, in consideration of the terms, conditions and covenants hereinafter set forth, the Parties agree as follows:

**1. Term**

- A. The Term of this Agreement shall be for a period of five (5) years, commencing on October 1, 2016 and expiring on September 30, 2021 (the "Initial Term"), plus one five (5) year option upon mutual consent, the "Option Term", unless sooner terminated, as hereinafter

provided. For purposes of this Agreement, the Initial Term and the Option Term shall hereinafter be collectively referred to as the "Term".

- B. To obtain the Option Term, the Concessionaire (i) shall give the City at least one year's prior written notice and (ii) shall not be in default of any of its obligations hereunder at the time of providing notice to the City or at any time subsequent to providing notice but prior to commencement of the Option Term.

## **2. Parking Facility Occupancy and Rights of Concessionaire**

- A. The City hereby grants to Concessionaire the right and privilege to conduct and operate the Existing Facilities commencing October 1, 2016 and the exclusive right to use and occupy Existing Facilities at the Airport consisting of approximately 1,119 permanent parking spaces. The "Existing Facilities", are identified in Exhibit A attached hereto and made a part hereof.
- B. The Existing Facilities shall be used by Concessionaire solely as outdoor vehicle parking facilities for serving the patrons and tenants of the Airport and for no other purposes whatsoever.
- C. Concessionaire also agrees to manage the Terminal Employee Parking Lot adjacent to the commercial terminal and to administer the Terminal employee parking permits. Concessionaire shall have the right to charge a monthly fee to all Terminal employees for these services. Any fees so charged shall be: (i) paid to the Concessionaire, (ii) included as part of the gross receipts, (iii) subject to approval by the Airport Director and the provisions of Section 4.8. hereof, and (iv) not in conflict with the provisions of any existing Airport Terminal Building leases with specific provisions for free parking.

## **3. Minimum Annual Guarantee and Gross Receipts**

- A. "Gross Receipts", as used herein, shall mean all sums collected by Concessionaire from customers at the Existing or any New or Expanded Facilities for parking and storage of vehicles on an hourly, daily, weekly, monthly or other basis, including without limitation, receipts, if any from parking meters, restaurant validations, electric plug-ins and parking coin machines and permit fees, determined in accordance with generally accepted accounting principles, consistently applied, but excluding any sales taxes imposed by law which are separately stated to, and paid by, customers and directly remitted by the Concessionaire to the taxing or tax-collecting authority.

B. During the Term of this Agreement, subject to the provisions of this Article 3 and Article 5 hereof, the Concessionaire shall pay to the City on the dates and in the manner specified in Section C) below, annual Gross Receipts Fees which shall be the sum of the following:

- 1) In Year 1, October 1, 2016, to September 30, 2017, a Minimum Annual Guarantee of \_\_\_\_\_ dollars (\$\_\_\_\_\_.\_\_) in twelve (12) equal monthly installments, the "Monthly Guarantee", of \_\_\_\_\_ dollars and \_\_\_\_\_ cents (\$\_\_\_\_\_.\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from zero dollars (\$0) to \_\_\_\_\_ dollars (\$\_\_\_\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from \_\_\_\_\_ dollars (\$\_\_\_\_\_) to \_\_\_\_\_ dollars (\$\_\_\_\_\_), net of the minimum annual guarantee, and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts in excess of \_\_\_\_\_ (\$\_\_\_\_\_), net of the minimum annual guarantee.
  
- 2) In Year 2, October 1, 2017 to September 30, 2018, a Minimum Annual Guarantee of \_\_\_\_\_ dollars (\$\_\_\_\_\_.\_\_) in twelve (12) equal monthly installments, the "Monthly Guarantee", of \_\_\_\_\_ dollars and \_\_\_\_\_ cents (\$\_\_\_\_\_.\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from zero dollars (\$0) to \_\_\_\_\_ dollars (\$\_\_\_\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from \_\_\_\_\_ dollars (\$\_\_\_\_\_) to \_\_\_\_\_ dollars (\$\_\_\_\_\_), net of the minimum annual guarantee, and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts in excess of \_\_\_\_\_ (\$\_\_\_\_\_), net of the minimum annual guarantee.
  
- 3) In Year 3, October 1, 2018 to September 30, 2019, a Minimum Annual Guarantee of \_\_\_\_\_ dollars (\$\_\_\_\_\_.\_\_) in twelve (12) equal monthly installments, the "Monthly Guarantee", of \_\_\_\_\_ dollars and \_\_\_\_\_ cents (\$\_\_\_\_\_.\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from zero dollars (\$0) to \_\_\_\_\_ dollars (\$\_\_\_\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from \_\_\_\_\_ dollars (\$\_\_\_\_\_) to \_\_\_\_\_ dollars (\$\_\_\_\_\_), net of the minimum annual guarantee, and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts in excess of \_\_\_\_\_ (\$\_\_\_\_\_), net of the minimum annual guarantee.
  
- 4) In Year 4, October 1, 2019 to September 30, 2020, a Minimum Annual Guarantee of \_\_\_\_\_ dollars (\$\_\_\_\_\_.\_\_) in twelve (12) equal monthly installments, the "Monthly Guarantee", of \_\_\_\_\_ dollars and \_\_\_\_\_ cents (\$\_\_\_\_\_.\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from zero dollars (\$0) to \_\_\_\_\_ dollars (\$\_\_\_\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from \_\_\_\_\_ dollars (\$\_\_\_\_\_) to \_\_\_\_\_ dollars (\$\_\_\_\_\_), net of the minimum annual guarantee, and \_\_\_\_\_ percent

(\_\_%) of Gross Receipts in excess of \_\_\_\_\_ (\$ \_\_\_\_\_), net of the minimum annual guarantee.

- 5) In Year 5, October 1, 2020 to September 30, 2021, a Minimum Annual Guarantee of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) in twelve (12) equal monthly installments, the "Monthly Guarantee", of \_\_\_\_\_ dollars and \_\_\_\_\_ cents (\$ \_\_\_\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from zero dollars (\$0) to \_\_\_\_\_ dollars (\$ \_\_\_\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from \_\_\_\_\_ dollars (\$ \_\_\_\_\_) to \_\_\_\_\_ dollars (\$ \_\_\_\_\_), net of the minimum annual guarantee, and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts in excess of \_\_\_\_\_ (\$ \_\_\_\_\_), net of the minimum annual guarantee.
- 6) In Option Year 1, October 1, 2021 to September 30, 2022, a Minimum Annual Guarantee of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) in twelve (12) equal monthly installments, the "Monthly Guarantee", of \_\_\_\_\_ dollars and \_\_\_\_\_ cents (\$ \_\_\_\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from zero dollars (\$0) to \_\_\_\_\_ dollars (\$ \_\_\_\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from \_\_\_\_\_ dollars (\$ \_\_\_\_\_) to \_\_\_\_\_ dollars (\$ \_\_\_\_\_), net of the minimum annual guarantee, and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts in excess of \_\_\_\_\_ (\$ \_\_\_\_\_), net of the minimum annual guarantee.
- 7) In Option Year 2, October 1, 2022 to September 30, 2023, a Minimum Annual Guarantee of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) in twelve (12) equal monthly installments, the "Monthly Guarantee", of \_\_\_\_\_ dollars and \_\_\_\_\_ cents (\$ \_\_\_\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from zero dollars (\$0) to \_\_\_\_\_ dollars (\$ \_\_\_\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from \_\_\_\_\_ dollars (\$ \_\_\_\_\_) to \_\_\_\_\_ dollars (\$ \_\_\_\_\_), net of the minimum annual guarantee, and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts in excess of \_\_\_\_\_ (\$ \_\_\_\_\_), net of the minimum annual guarantee.
- 8) In Option Year 3, October 1, 2023 to September 30, 2024, a Minimum Annual Guarantee of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) in twelve (12) equal monthly installments, the "Monthly Guarantee", of \_\_\_\_\_ dollars and \_\_\_\_\_ cents (\$ \_\_\_\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from zero dollars (\$0) to \_\_\_\_\_ dollars (\$ \_\_\_\_\_) and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts from \_\_\_\_\_ dollars (\$ \_\_\_\_\_) to \_\_\_\_\_ dollars (\$ \_\_\_\_\_), net of the minimum annual guarantee, and \_\_\_\_\_ percent (\_\_\_%) of Gross Receipts in excess of \_\_\_\_\_ (\$ \_\_\_\_\_), net of the minimum annual guarantee.

9) In Option Year 4, October 1, 2024 to September 30, 2025, a Minimum Annual Guarantee of \_\_\_\_\_ dollars (\$\_\_\_\_\_.\_\_) in twelve (12) equal monthly installments, the "Monthly Guarantee", of \_\_\_\_\_ dollars and \_\_\_\_\_ cents (\$\_\_\_\_\_.\_\_) and \_\_\_\_\_ percent (\_\_\_\_%) of Gross Receipts from zero dollars (\$0) to \_\_\_\_\_ dollars (\$\_\_\_\_\_) and \_\_\_\_\_ percent (\_\_\_\_%) of Gross Receipts from \_\_\_\_\_ dollars (\$\_\_\_\_\_) to \_\_\_\_\_ dollars (\$\_\_\_\_\_), net of the minimum annual guarantee, and \_\_\_\_\_ percent (\_\_\_\_%) of Gross Receipts in excess of \_\_\_\_\_ (\$\_\_\_\_\_), net of the minimum annual guarantee.

10) In Option Year 5, October 1, 2025 to September 30, 2026, a Minimum Annual Guarantee of \_\_\_\_\_ dollars (\$\_\_\_\_\_.\_\_) in twelve (12) equal monthly installments, the "Monthly Guarantee", of \_\_\_\_\_ dollars and \_\_\_\_\_ cents (\$\_\_\_\_\_.\_\_) and \_\_\_\_\_ percent (\_\_\_\_%) of Gross Receipts from zero dollars (\$0) to \_\_\_\_\_ dollars (\$\_\_\_\_\_) and \_\_\_\_\_ percent (\_\_\_\_%) of Gross Receipts from \_\_\_\_\_ dollars (\$\_\_\_\_\_) to \_\_\_\_\_ dollars (\$\_\_\_\_\_), net of the minimum annual guarantee, and \_\_\_\_\_ percent (\_\_\_\_%) of Gross Receipts in excess of \_\_\_\_\_ (\$\_\_\_\_\_), net of the minimum annual guarantee.

11) Title to such Gross Receipts Fees shall vest in the City immediately upon the Concessionaire's collection of Gross Receipts at the Airport in excess of the amounts specified in Sections 8.1) through 8.10) hereof, and the Concessionaire, as custodian for the City, shall be solely responsible for all such funds until their delivery to the City.

C. On or before the twentieth day of each calendar month, Concessionaire shall furnish the City with a statement, prepared in accordance with generally accepted accounting principles, consistently applied, showing:(i) the total Gross Receipts derived from the operation of the Parking Facilities during the preceding month and (ii) the cumulative Gross Receipts from the beginning of the annual period to the end of the month for which such statement is rendered. The Concessionaire shall pay the Gross Receipts Fee due to the City for the Concessionaire's preceding month's operation at the time of submission of said statement net of the Monthly Guarantee noted in Section D hereof.

D. Notwithstanding the Gross Receipts Fee payments, Concessionaire, subject to the provisions of Section 3.B.1) hereof, guarantees to the City for each year of the Term of the Agreement Minimum Annual Guarantees as shown below:

Year One (10/01/16 to 09/30/17)	\$_____
Year Two (10/01/17 to 09/30/18)	\$_____

Year Three (10/01/18 to 09/30/19)	\$ _____
Year Four (10/01/19 to 09/30/20)	\$ _____
Year Five (10/01/20 to 09/30/21)	\$ _____
Option Year One (10/01/21 to 09/30/22)	\$ _____
Option Year Two (10/01/22 to 09/30/23)	\$ _____
Option Year Three (10/01/23 to 09/30/24)	\$ _____
Option Year Four (10/01/24 to 09/30/25)	\$ _____
Option Year Five (10/01/25 to 09/30/26)	\$ _____

Concessionaire shall pay to the City on or before the first day of each and every month one twelfth (1/12) of the Minimum Annual Guarantee, the "Monthly Guarantee", applicable to each year of this Agreement in accordance with the amounts specified above.

1) Concessionaire shall keep the following books of account and records of gross receipts from its operation:

- i General Ledger Books
- ii Shift Reports
- iii Daily Revenue Reports
- iv Bank Statements
- v Deposit Slips

hereinafter collectively referred to as "Financial Records", which shall be kept in accordance with generally accepted accounting principles, consistently applied. The Concessionaire shall retain, the Financial Records relating to its operations for five (5) years after the year to which such records apply except for machine tickets from the ticket spitters. Machine tickets from the ticket spitters shall be kept for the two previous contract years. The Shift Reports, Daily Revenue Reports and Deposit Slips and the machine tickets from the ticket spitters shall be retained by the Concessionaire at the Airport. In addition, the Concessionaire shall make its General Ledger Book available at the Airport as requested by the City. All such Financial Records shall be subject to inspection and audit by the City at all reasonable times during normal business hours.

2) Concessionaire, at its sole cost and expense, shall submit to the City, no later than ninety (90) days following the conclusion of each calendar year during the Term hereof, an audited statement of its gross receipts, as defined in Section 3.A hereof, for such year. Within sixty (60) days of the submission of such audited statement, the Concessionaire shall make available to the City copies of all its Financial Records relating to its operations for such audited year as reasonably requested by the City. The audited statement referred

to in this Section 3.C.2) shall be prepared by a reputable certified public accountant or a licensed public accountant.

- 3) All monies paid by or charged to Concessionaire's customers at the Existing or New Facilities shall be recorded on cash registers with cumulative totaling and taping capacity or a comparable computerized cash management system and Concessionaire shall deliver such cash register or computer tapes or disks to the City on an annual basis in accordance with Section C.2) and shall allow the City to inspect the such cash management systems in accordance with Section C.1) above.
  - 4) If, as a result of an inspection thereof, it is determined that Concessionaire has paid the City less than the amount to which it is entitled under Section 3.8 hereof, Concessionaire shall pay to the City the amount of such deficiency within thirty (30) days of an invoice therefore and, if the amount of such deficiency is five per cent (5%) or more of the amount reported for the period under audit, the Concessionaire shall reimburse the City for the costs of making such inspection of said books and records. This obligation of reimbursement shall be in addition to all other obligations of Concessionaire hereunder. Termination of this Agreement by the City for cause shall not nullify such obligations.
- E. It is further agreed by the Parties that a service charge in the amount of one and one half percent (1.5%) per month shall be added to any balance due and owing by the Concessionaire for a period of thirty days or more.
- F. Payment of all fees shall be by check or money order payable to the order of City of Bismarck, and shall be mailed to Bismarck Airport, P.O. Box 991, Bismarck, ND 58502, or personally delivered to the Airport Director's office.
- G. Except as otherwise expressly provided herein, it is the intention of the Parties that the Gross Receipts Fee herein specified shall be net to the City and that all costs, expenses and obligations of every kind relating to the Existing or New Facilities which may arise or become due during the Term shall be paid by the Concessionaire and the Concessionaire shall indemnify the City against such costs, expenses and obligations. The Gross Receipts Fee shall be paid to the City without notice or demand and without abatement, deduction or set-off.

**4. Concessionaire Parking Rates**

- A. Parking rates charged by Concessionaire at the Existing or New Facilities effective October 1, 2016 shall be according to the following schedule:

<u>SHORT TERM</u>	<u>LONG TERM</u>	<u>ECONOMY LOT</u>
1st 20 Minutes - Free	\$1.00 each Hour	\$1.00 each Hour
\$1.50 each additional ½ Hour	\$8.00 Per Day	\$7.00 Per Day

\$10.00 Maximum Per Day

\$40.00 Weekly

\$35.00 Weekly

- B. An increase in the parking rate schedule may be implemented in the first month of Option Year 1, October 1, 2021, subject to the mutual agreement of the Parties to reflect then current economic conditions.
- C. Upon the request of the Airport Director, Concessionaire shall be prepared to implement a validation program providing Airport Terminal patrons with a stipulated amount of free parking in return for a minimum purchase in consideration of a validation charge to be paid by the airlines or Terminal concessionaires. The final terms and conditions of such a validation program shall be subject to the prior written approval by the Airport Director.

**5. Existing and New Facilities Improvements**

- A. The Concessionaire shall commit to and fully implement the New Equipment Improvements, the "Improvements", presented and described in Exhibit C to this Agreement which is attached hereto and made a part hereof.
- B. As stated in Exhibit C, the cost of Concessionaire's recommended option, is \_\_\_\_\_ (\$ \_\_\_\_\_). Concessionaire further agrees to contribute on the City's behalf, an additional \_\_\_\_\_ (\$ \_\_\_\_\_) towards the New Equipment Improvements. Costs for construction and New Improvements in excess of \$ \_\_\_\_\_ (\$ \_\_\_\_\_) shall be funded by the City.
- C. Also, as stated in Exhibit C, Concessionaire will serve in a project management capacity and oversee the procurement, installation, testing and training associated with the New Facilities at no additional cost to the City.
- D. Concessionaire will use its best efforts to assure that in its project management role it will provide for the delivery of the requisite equipment identified in Exhibit C within the estimated time frames stipulated (November 15, 2016).
- E. All Improvements shall be made to the reasonable satisfaction of the City and shall be subject to the provisions of Article 9 hereof.

**6. Undertakings of Concessionaire**

The Concessionaire shall cooperate and work with the City, at its direction, to implement the required undertakings set forth in Articles 5 and 6, including but not limited to those listed below.

- A. Install, to the extent required, so as to be operational by the dates stated in Sections D., of Article 5 the Improvements in the New Facilities.
- B. Provide adequate staffing of uniformed attendants trained and disciplined to perform their duties in an efficient manner and adequate to meet a goal to process exiting vehicles with a wait time not to exceed eight (8) minutes.
- C. Operate the Existing and New Facilities twenty-four (24) hours a day, seven (7) days a week.
- D. Employ qualified management to perform duties and responsibilities in accordance with those set forth in Exhibit "C" attached hereto and made a part hereof.
- E. Operate and maintain the Existing and New Facilities provided hereunder and keep the same and the Improvements installed therein and thereon all in good order, condition and repair, including the removal of all trash and debris.
- F. Be responsible for all maintenance, repair and rehabilitation of the paved surface of the Existing and New Facilities and the attendant equipment, normal wear and tear excepted.
- G. Be responsible for snow removal and ice control using due diligence to provide adequate and safe access for Airport patrons, invitees, tenants and employees at all times so as to accommodate the demand for parking at the Airport. The City may provide any sanding or chemical treatment needed for snow and ice control at the gates.
- H. Provide adequate accessible parking spaces to accommodate vehicles of persons with disabilities, as required by law.
- I. Display parking rates in a conspicuous location on attractive, legible signs.
- J. Install and maintain all traffic control devices, signing pertaining to rates and exit location and marking of parking places and traffic lanes; such to be in compliance with recognized industry standards considering the traffic volumes and the geometry and uses of the Existing and New Facilities.
- K. Furnish its service on a fair, equal and not unjustly discriminatory basis to the public, and to charge fair, reasonable, and not unjustly discriminatory prices.
- L. Provide the services necessary to properly serve the needs of the general public, passengers and invitees at the Airport.
- M. Obtain, at its sole expense, all licenses and permits necessary for its operations under this Agreement. All operations shall be in strict conformity with all applicable Federal and

State laws, rules and regulations.

- N. Control the conduct and demeanor of its agents and employees and, upon objection from the City, the Concessionaire shall immediately take lawful steps to remove the cause of the objection. If the City so requests, Concessionaire agrees to supply and require its employees to wear suitable attire and to wear or carry badges or other suitable means of identification, which shall be subject to prior and continuing approval of the City.
- O. Faithfully submit its payments under this Agreement and the reports of its operations, as defined in Article 3 and this Article 6 hereof.
- P. Prepare and deliver to the City, on or before the twentieth day of each calendar month during the Term of this Agreement, a statement which shall be subscribed and certified to as correct by Concessionaire, or its authorized representatives, showing a duly certified monthly operating statement on forms prescribed or approved by the City, showing all of the gross receipts, as defined in Section 3.A hereof, from Concessionaire's operations at the Airport for the previous month. The certification shall be by an official of the Concessionaire who is responsible for the Financial Records of the Concessionaire at the Airport.
- Q. Within ninety (90) days following the earlier expiration or termination of this Agreement, the Concessionaire, at its sole expense, shall submit to the City an audited statement of its Financial Records of operation at the Airport.
- R. Operate its business at the Airport so that parking tickets, serially numbered shall be issued with each parking transaction. Concessionaire shall keep its Financial Records in accordance with standard accounting practices consistently applied and such other records as are satisfactory to the City. Tickets or other records of issuance of same and all other Financial Records of Concessionaire, as aforesaid, shall be available for 90 days and shall be open for inspection by authorized representatives of the City at all reasonable times during business hours. If such an inspection is made by said authorized representatives and it is determined as a result thereof that Concessionaire has underpaid the City by more than 5% of the amount to which it is entitled under Article 3 hereof, Concessionaire shall reimburse the City for its costs of making such inspection of said Financial Records, and this obligation of reimbursement shall be in addition to all other obligations of Concessionaire hereunder. Termination of this Agreement for fraud shall not serve to nullify such obligation. With the payment of Gross Receipts Fees each month as provided above, Concessionaire shall submit to the City a detailed statement showing gross receipts from the operation of the parking concession for the preceding calendar month. These reports shall show such reasonable detail and breakdown as may be required by the City.
- S. Provide to the City upon the execution of this Agreement and thereafter maintain in effect throughout the Term of this Agreement a Performance Bond in an amount of one hundred

twenty thousand dollars (\$120,000.00) to assure the faithful performance by Concessionaire of its obligations under this Agreement.

- T. Cooperate with the Airport's law enforcement staff, in developing and implementing reasonable security measures to protect against vehicle vandalism and theft at the Existing and New Facilities.
- U. The Concessionaire shall conduct its operations hereunder in an orderly and proper manner, considering the nature of such operation so as not to unreasonably annoy, disturb, endanger or be offensive to others.
- V. Further, the Concessionaire shall take all reasonable measures not to produce on the Airport through the operation of machinery or equipment any electrical, electronic or other disturbance that interferes with the operation by the City or the Federal Aviation Administration of air navigational, communication or flight equipment on the Airport or on aircraft using the Airport, or with ground transportation communications.
- W. The Concessionaire shall provide and use suitable covered metal or other rigidly and sturdily constructed receptacles, suitably screened from public view, for all garbage, trash and other refuse created on or arising in connection with the activities conducted on the Existing and New Facilities. Concessionaire shall use extreme care when effecting removal of all such waste to prevent littering the Airport.
- X. The Concessionaire shall commit no nuisance, waste or injury on the Existing and New Facilities, and shall not do, or permit to be done, anything which may result in the creation, commission or maintenance of such nuisance, waste or injury on the Existing and New Facilities.
- Y. The Concessionaire shall take measures to insure security in compliance with applicable Federal Aviation Regulations and the Airport Security Plan.

**7. CITY'S OBLIGATIONS, RULES AND REGULATIONS**

- A. Except as herein provided, the City agrees that it will, with reasonable diligence and in a manner consistent with that of a reasonably prudent operator of an airport of comparable size, operate, maintain, develop and keep in good repair and order the Airport and all common use and public appurtenances, facilities and equipment provided by the City as the same relates to Concessionaire's business, including the lighting of the Existing and New Facilities. The City agrees that it will operate the Airport in a manner consistent with standards established by the Federal Aviation Administration, or any successor Federal agency exercising similar powers for airports of comparable size and in accordance with rules and regulation of the Federal Aviation

Administration and any other governmental agency having jurisdiction thereof.

- B. From time to time, the City may adopt and enforce Rules and Regulations. Concessionaire agrees to observe and obey any and all such Rules and Regulations and all other Federal, State and municipal rules, regulations and laws and to require its officers, agents, employees, contractors, and suppliers, to observe and obey the same.
- C. The City reserves the right to deny access to the Airport and its facilities to any person, firm or corporation that fails or refuses to obey and comply with such Rules and Regulations and laws.

#### **8. UTILITIES**

- A. The City shall provide electrical service to the Existing and New Facilities at no cost to Concessionaire.
- B. The Concessionaire shall, at its expense, contract with the furnishers of any other utilities for the furnishing of such services to the Existing and New Facilities, which are not currently provided, or planned to be provided, by the City. The location and routing of all utilities on the Airport must have the written approval of the City prior to installation.

#### **9. CONSTRUCTION, MAINTENANCE AND REPAIR OF THE EXISTING AND NEW FACILITIES**

- A. The Concessionaire shall, throughout the Term of this Agreement, assume the entire responsibility, cost and expense, for all routine repair and maintenance of the Existing and New Facilities and all improvements thereon in a good workmanlike manner. Provided, however, that the City shall be responsible for the repair and maintenance of (i) the underground wiring associated solely with the overhead lighting and (ii) the overhead lighting. Subsequent to the satisfactory completion of the New Facilities Improvements by the Concessionaire, the City shall be responsible for all major structural surface repairs.

Additionally, the Concessionaire, without limiting the generality hereof, shall:

- 1) Keep at all times, in a clean and orderly condition and appearance, the Existing and New Facilities, all improvements thereon, including the "Improvements" defined in Exhibit C, structures, fixtures and equipment which are now or subsequently located on any part of the Existing and New Facilities pursuant to the provisions of this Article 9. The Concessionaire shall also be responsible for the maintenance and repair of underground wiring associated with the improvements, as herein defined, notwithstanding that title to the improvements is vested in the City.

- 2) Repair any damage caused by Concessionaire to paving or other surface of the Existing and New Facilities caused by any oil, gasoline, grease, lubricants or other flammable liquids and substances having a corrosive or detrimental effect thereon.
  - 3) Be responsible for the maintenance and repair of all utility services lines placed on the Existing and New Facilities and used by the Concessionaire exclusively.
- B. In the event the Concessionaire fails: to comply with the above provisions within a period of thirty (30) days after written notice from the City to do any maintenance or repair work required to be done under the provisions of this Agreement, then, the City may, at its option, and in addition to any other remedies which may be available to it, enter the Existing and New Facilities, without such entering causing or constituting a cancellation of this Agreement, and repair, replace, rebuild or paint all or any part of the Existing and New Facilities or the improvements thereon, and do all things reasonably necessary to accomplish the work required, and the cost and expense thereof shall be payable to the City by the Concessionaire on demand. The City's costs and expenses shall include, but not be limited to, all direct and indirect costs and expenses of the City, its agents, contractors, and employees and all financing charges, if any, and all allocations of fringe benefits, overhead, legal, and administration charges the City deems appropriate. Furthermore, should the City, its officers, employees or agents undertake any work hereunder, the Concessionaire hereby waives any claim for damages, consequential or otherwise, as a result there from except for claims for damages arising from the negligence of the City, its agents and contractors. The foregoing shall in no way affect or alter the primary obligations of Concessionaire as set forth in this Agreement, and shall not impose or be construed to impose upon the City any obligations to maintain the Existing and New Facilities, unless specifically stated otherwise herein.
- C. Concessionaire may construct or install, at its own expense, any equipment, improvements, trade fixtures and facilities, including the Improvements and any additions thereto on all or any part of the Existing and New Facilities, under the conditions, as hereinafter set forth. Concessionaire shall keep and maintain all such improvements and facilities and additions thereto constructed or installed by it in good condition, reasonable wear and tear excepted.
- D. No improvements, structures, alterations, or additions shall be made in, to, or upon the Existing and New Facilities without the prior written consent of the City, and all such improvements, structures, alterations, additions and work shall be in accordance with any conditions relating thereto then stated in writing by the City.
- E. At the time of requesting approval by the City, the Concessionaire shall submit preliminary plans for such improvements, which shall conform to the general architectural scheme and overall plans adopted by the City for the Airport. Upon approval of said preliminary plans, the Concessionaire shall prepare and obtain the City's approval of working drawings and specifications which shall be a true and accurate reflection of the preliminary plans so

approved. All construction shall conform to the approved working drawings and specifications. No substantial change, addition or alteration shall be made in said working plans or specifications or in the construction called therefore without the City's prior written approval. When construction work is commenced, it shall be completed with reasonable dispatch. Upon completion of said improvements, the Concessionaire shall furnish the City, at no charge, two (2) complete sets of "as built" drawings of the improvements as constructed.

- F. All improvements constructed by the Concessionaire pursuant to this Section shall conform in all respects to all applicable building codes, ordinances, statutes, rules and regulations of all governmental agencies having jurisdiction.
- G. During the Term of this Agreement, title to all improvements, including the Improvements and structures, alterations or additions erected or installed in or on the Existing and New Facilities by the Concessionaire pursuant to this Section shall vest in the City and so remain upon the expiration or earlier termination of this Agreement.

#### **10. INSURANCE, DAMAGE OR DESTRUCTION**

- A. The Concessionaire shall procure and maintain, throughout the Term of this Agreement, insurance protection for fire and extended coverage on the Improvements and other improvements to the Existing and New Facilities for one hundred percent (100%) of their actual replacement cost. Such insurance shall be issued by insurers of recognized financial standing and authorized to conduct business in the State of North Dakota. If said insurers become financially incapable of performing under the terms of said policy, the Concessionaire will promptly obtain a new policy issued by a financially responsible carrier and shall submit revised evidence of insurance as previously provided. If the Concessionaire is, at any time, unable to obtain such insurance to the extent required, this Agreement shall automatically terminate unless the City is able and elects to insure the Improvement and other improvements and Concessionaire is willing to pay the City the requisite insurance premiums therefore.
- B. The Concessionaire shall settle all losses directly with the insurance carrier. The proceeds of all insurance shall be paid to the Concessionaire and shall be for the repair and reconstruction of the Improvements to the Existing and New Facilities upon the City's approval pursuant to the provisions of Article 9 hereof.
- C. In the event the Improvements and other improvements are damaged or destroyed to the extent that they are unusable by Concessionaire for the purposes for which they were used prior to such damage, or same is destroyed, the Concessionaire shall repair or reconstruct the improvements substantially as they were immediately prior to such casualty or in a new or modified design consistent with Concessionaire's use thereof under the provisions of Article 9 hereof.

- D. Concessionaire shall, at its expense, replace and repair any and all of the City's Improvements and Concessionaire's fixtures, equipment and other personal property necessary to properly and adequately continue its business on the Airport, but in no event shall Concessionaire be obligated to provide equipment and fixtures in excess of those existing prior to such damage or destruction except for requirements of construction codes existing at the time of repair or replacement.
- E. In the event of damage or destruction of Airport property caused by the Concessionaire, its agents, employees, aircraft or other equipment, Concessionaire agrees to repair, reconstruct, or replace the affected property to the condition which existed prior to such damage or destruction. Concessionaire further agrees to cause such repair, reconstruction or replacement of affected property with due diligence and to the satisfaction of the City.

**11. SECURITY**

- A. Concessionaire agrees to abide by the security measures the City deems necessary from time to time for the proper identification of persons and vehicles and to prevent or deter the unauthorized access of persons or vehicles to or on its Existing and New Facilities.
- B. Concessionaire shall reimburse the City in full for any fines or penalties levied against the City for any violation of Federal, State and local laws, rules or regulations as a result of any act or failure to act on the part of the Concessionaire, its agents, suppliers, or employees.

**12. CITY'S RIGHT TO ENTER EXISTING AND NEW FACILITIES**

The City reserves the right to inspect the Existing and New Facilities and improvements at any reasonable time, with prior notification, throughout the Term of this Agreement. When, for any reason, an entry is deemed necessary, and Concessionaire is not present to permit such entry, the City, its agents and employees, shall be permitted to enter the Existing and New Facilities and improvements. The City's agents or employees shall not be liable for any civil or criminal claim or cause of action for damage because of entering the Existing and New Facilities or improvements at reasonable times and in a reasonable manner for purposes consistent with its responsibilities as owner and operator of the Airport.

**13. INDEMNITY AND WAIVER OF DAMAGES**

- A. The Concessionaire shall indemnify, defend and keep and hold the City of Bismarck, its

electd and appointed officials, agents and employees, free and harmless from any and all claims and actions, loss, damage expense or cost including attorney's fees (where allowable by law) incidental to the investigation and defense thereof claimed by anyone by reason of injury, or death or damage to persons or property sustained as a result of the Concessionaire's use, maintenance and operation of the Existing and New Facilities and operations, (individually and collectively "Claims") including but not limited to, any Concessionaire breach or uncured default arising hereinafter, excluding only Claims caused by the gross negligence or willful misconduct of the City, its elected and appointed officials, agents and employees, or the gross negligence of said Parties in concert with a third party, provided, that, the City shall give the Concessionaire prompt and reasonable notice of any such claim or action made or filed against it, and shall tender the defense thereof to Concessionaire. In the event that the Concessionaire does not settle or compromise such claim, then the Concessionaire shall undertake the legal defense of such claim both on behalf of the Concessionaire and behalf of the City. It is specifically agreed, however, that the City at its own cost and expense, may participate in the legal defense of any such claim. Any judgment, final beyond all possibility of appeal, rendered against the City for any cause for which the Concessionaire is liable hereunder shall be conclusive against the Concessionaire as to liability and amount upon the expiration of the time for appeal. The forgiving indemnity shall survive the expiration or early termination of this Agreement.

- B. Notwithstanding any other provision of this Agreement, under no circumstances shall the City be liable to Concessionaire for any indirect, incidental, consequential, special, exemplary or punitive damages hereunder, whether asserted in contract, warranty, indemnity, tort (including strict liability and negligence), or under any other legal theory, such as, but not limited to, loss of revenue, diminution or loss of value, loss of use or loss of anticipated profits, even if the possibility of such damages was known in advance of any claim.
- C. The City hereby reserves the right to adopt Rules and Regulations not in conflict with Federal rules and regulations pertaining to the Airport. The Concessionaire hereby agrees to operate in compliance with said Rules and Regulations so adopted and hereby waives any claims, rights, damages or costs of any kind against the City incurred by Concessionaire in complying with said rules and regulations.

#### **14. ENVIRONMENTAL CONSIDERATIONS**

- A. In order to assure that the Leased Premises described in Section 2.A hereof are environmentally acceptable, the City shall conduct on or before October 1, 2016 a Phase I and, if required, Phase II Environmental Baseline Studies consistent with protocols approved by the City, the "First Studies", to ascertain whether adverse environmental conditions or hazardous materials exist on the Leased Premises. The costs of such First Studies shall be borne by the City. If the First Studies reveal the presence of adverse environmental conditions or hazardous materials on the Leased Premises, appropriate remedial action as required by law shall be undertaken. The City shall be responsible for

all costs of such remedial action relating to adverse conditions, provided, however, that nothing herein shall be construed as a limitation of the City's rights to pursue contributions from third parties who might have caused or contributed to such adverse conditions. Upon expiration or earlier termination of this Agreement, additional Phase I and, if required, Phase II Environmental Baseline Studies shall be conducted by the City and paid for by the Lessee, the "Second Studies", to determine if the Lessee has caused or allowed adverse environmental conditions to occur. If so, Lessee shall be liable for, and be required to immediately undertake, at its sole cost and expense, all remedial actions as required by applicable law.

## **15. INSURANCE**

- A. Concessionaire shall, at its expense, maintain insurance in full force and effect during the Term of this Agreement in such amounts as to meet the minimum limits of liability specified in Schedule A attached hereto. The insurance shall be placed with companies or underwriters satisfactory to the City and licensed to conduct business in the State of North Dakota. The insurance policy(ies) shall be the standard comprehensive commercial liability insurance coverage, covering all operations of the Concessionaire within the City of Bismarck and shall include, but not by way of limitation, bodily injury, personal injury, property damage, independent contractors, products liability, automobile and contractual coverage. The City of Bismarck, its elected and appointed officials, agents and employees shall be named as additional insured's with respect to Concessionaire's use of the Airport and the and New Facilities which are the subject of this Agreement.
- B. Concessionaire shall promptly upon execution of this Agreement, furnish to the City appropriate certificates of insurance evidencing coverage affected and to be maintained for the Term of this Agreement. The coverage shall not be less than the amounts specified in Schedule A, attached hereto and made a part hereof. Such amounts are subject to periodic adjustments upward by Concessionaire based on Concessionaire's own assessment of the risks associated with its operations at the Airport. City shall not, in any event, be liable for any shortfall in Concessionaire's coverage. The insurance policies shall not be subject to cancellation except after notice to the City by registered mail at least thirty (30) days prior to the date of such cancellation or material change. Where any policy(ies) has (have) normal expirations during the Term of this Agreement, written evidence of renewal shall be furnished to the City at least thirty (30) days prior to such expiration.

## **16. ADVERTISING AND SIGNS**

Concessionaire shall have the right, at its own expense, to install and maintain signs for the purpose of identification and advertising. Prior to installation of such signage, the

Concessionaire shall submit plans and obtain the approval of the City. Said approval shall not be unreasonably withheld. In the event the signs are removed and not replaced, Concessionaire shall repair the area to its normal appearance.

**17. TAXES**

- A. Concessionaire agrees to pay all lawful taxes and assessments which, during the Term hereof or any extension as provided for herein, may become a lien or which may be levied or charged by the State, County, City or other tax-levying body upon Existing and New Facilities, the operations of Concessionaire, or upon any taxable interest acquired by the Concessionaire in this Agreement, or any taxable possessory right which the Concessionaire may have in or to the Existing and New Facilities hereby leased or the improvements thereon, by reason of its occupancy thereof, or otherwise, as well as all taxes on the taxable property, real or personal, owned by the Concessionaire in or about the Existing and New Facilities. Failure to taxes when due, prior to delinquency, will be considered a breach of this agreement.
- B. Nothing herein shall prevent the Concessionaire from protesting, through due process, any taxes levied.
- C. In the event a tax is imposed by the City which adversely impacts Concessionaire's ability to pay the Minimum Annual Guarantee and Gross Receipts fees as set forth in Article 3 hereof, the City agrees to negotiate with Concessionaire to establish a reasonable adjustment to the provisions of Article 3 to compensate for the impact of the tax imposed.
- D. Upon any termination of this Agreement all taxes then levied, or liens upon any of said property or taxable interest therein, shall be paid in full without proration by the Concessionaire forthwith, or as soon as a statement thereof has been issued by the tax collector, if termination occurs during the interval between the attachment of the lien and issuance of statement.

**18. GOVERNMENT RESERVATIONS AND RESTRICTIONS**

The Existing and New Facilities being leased and rights granted by this Agreement shall be subject to all enforced reservations and restrictions, including but not limited to, the following:

- A. It is understood and agreed to by Concessionaire that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right forbidden by Section 308 of the Federal Aviation Act of 1958 and as amended.

- B. During the time of war or national emergency, City shall have the right to lease the landing area or any part thereof to the United States Government for military or naval use and, if such lease is executed, the provisions of this Agreement insofar as they are inconsistent with the provisions of the agreement or lease with the Government, shall be suspended.
- C. This Agreement shall be subject to the terms of any Sponsor's Assurances and agreements now required or imposed in the future, between the City and the Federal Aviation Administration or any successor Federal agency.
- D. This Agreement shall be subordinate to the provisions of any existing or future agreement between the United States Government and the City relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport. Failure of Concessionaire to comply with the requirements of any existing or future agreement between the City and the United States Government, which failure shall continue after reasonable notice to make appropriate corrections, shall be cause for immediate termination of Concessionaire's rights hereunder, subject to Concessionaire's right of appeal and condemnation rights.

**19. CITY'S RIGHT OF TERMINATION**

In addition to any conditions as specified herein and all other remedies available to the City, this Agreement shall be subject to termination by the City should any one or more of the following occur:

- A. If Concessionaire shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or any other similar law or statute of the United States or any state, or government, or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of the property of the Concessionaire.
- B. If, by order or decree of a court of competent jurisdiction, Concessionaire shall be adjudged bankrupt or an order shall be made approving a petition seeking its reorganization, or the readjustment of its indebtedness under the Federal bankruptcy laws or any law or statute of the United States or any state, territory, or possession thereof, or under the law of any other state, nation or government; provided, that, if any such judgment or order be stayed or vacated within ninety (90) days after the entry thereof, any notice of cancellation given shall be and become null, void and of no effect.

- C. If, by or pursuant to any order or decree of court or governmental authority, board, agency or officer having jurisdiction, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of Concessionaire for the benefit of creditors, provided that if such order or decree be stayed or vacated within sixty (60) days after the entry thereof or during such longer period in which Concessionaire diligently and in good faith contests the same, any notice of cancellation shall be and become null, void and of no effect.
- D. If Concessionaire shall voluntarily abandon or discontinue the conduct and operation of its business at the Airport for a continuous period of ninety (90) days, except when such abandonment is caused by fire, earthquake, war, strike or other calamity beyond the Concessionaire's control.
- E. If Concessionaire shall fail to perform, keep and observe any of the applicable covenants and conditions contained in this Agreement, provided that upon the happening of any contingency recited in this Section, Concessionaire Shall be given written notice to correct or cure such default, failure to perform or breach. If, within thirty (30) days from the date of receipt of such notice, the default, breach or complaint shall not have been corrected in a manner satisfactory to the City, then and in such event, the City shall have the right at once to declare this Agreement terminated. The City does, however, reserve the right to extend the time period to correct the default if, in its opinion, due diligence is shown by Concessionaire in curing the default.
- F. If under any of the foregoing provisions of this Article, the City shall have the right to re-enter and take possession of the Existing and New Facilities, the City may enter and eject Concessionaire and those claiming through or under it, and remove their property and effects (using reasonable force, if necessary) without any liability therefore: without prejudice to any remedies of the City in the event of default by the Concessionaire: and without liability for any interruption of the conduct of the affairs of Concessionaire or those claiming through or under it.

## **20. CONCESSIONAIRE'S RIGHT OF TERMINATION**

- A. In addition to all other remedies available to the Concessionaire, this Agreement shall be subject to termination by Concessionaire should any one or more of the following occur:
  - 1) The permanent abandonment of the Airport;
  - 2) The issuance of any order, rule or regulation by the U.S. Department of Transportation, the Federal Aviation Administration, or their successor Federal agencies, or the issuance by any court of competent jurisdiction of an injunction, materially restricting for a period of at least ninety (90) days, the use of the Airport provided, that, none of the foregoing has been initiated, caused or contributed to by the Concessionaire:

- 3) The breach by the City of any covenants, terms or conditions of this Agreement to be kept, performed and observed by the City and the failure to remedy such breach for a period of sixty (60) days after written notice from Concessionaire of the existence of such a breach;
  - 4) The assumption by the United States Government or any authorized agent of the same, of the operation, control or use of the Airport and its facilities in such a manner as to substantially restrict Concessionaire from conducting its business, if such restrictions be continued for a period of ninety (90) days or more:
  - 5) The inability of Concessionaire to conduct its business at the Airport in substantially the same manner and to the same extent as theretofore conducted, for a period of at least ninety (90) days, because of (1) any law, or (2) any rule, order, judgment, decree, regulation or other action or non-action of any governmental authority, board, agency or officer having jurisdiction thereof, without fault of the Concessionaire:
  - 6) The taking of the whole or any part of the Existing and New Facilities by the exercise of any right of condemnation or eminent domain.
  - 7) The occurrence of an act of terrorism resulting in a twenty-five percent (25%) loss in enplanements over those of the previous year for a period of ninety days or more.
- B. In the event any of the contingencies described in this Article 20, Section A, Paragraphs 1, 2, 4, 5, 6 and 7 herein occur, The Minimum Annual Guarantee and Gross Receipts shall be adjusted from the time of such happening until the affected premises are returned for Concessionaire's use and / or enplanements return to within ten percent (10%) of those of the previous year.

## **21. AGREEMENT SUBORDINATE TO BOND INSTRUMENTS**

This Agreement and all rights of the Concessionaire hereunder are expressly subordinated and subject to the lien and provisions of any pledge or assignment made by the City of Bismarck to secure any bonds authorized by law to be issued for the development or improvement of Bismarck Airport, and the City and the Concessionaire agree that the holders of the said Bonds shall possess, enjoy and may exercise all rights of the City hereunder to the extent such possession, enjoyment and exercise are necessary to ensure compliance by Concessionaire and the City with the terms and provisions of the bond covenant. Concessionaire shall receive notification of any new bonding ordinance affecting City's Airport operations.

**22. ASSIGNMENT AND SUBLETTING**

Neither Concessionaire nor any successor of Concessionaire shall in any manner, directly or indirectly, by operation of law or otherwise, assign, sublet, transfer or encumber any of Concessionaire's rights in and to this Agreement or any interest therein, nor license or permit the use or the rights herein granted in whole or in part without the prior written consent of the City. Such consent shall not be unreasonably withheld, providing, that, any such assignee shall be professionally qualified to do business on the Airport, acceptable to the City, possess sufficient financial resources and security to assure compliance with all the terms and conditions of this Agreement.

**23. ADVANCES BY THE CITY**

If the Concessionaire should fail to do anything required to be done under the terms and conditions of this Agreement, except for the payment of rents, fees or charges, the City may, at its sole option and after giving written notice to the Concessionaire, perform such act on behalf of the Concessionaire. Upon notification to the Concessionaire of the cost thereof by the City, the Concessionaire shall promptly pay the City the amount due as additional Gross Receipts Fees.

**24. LEGAL CLAIMS AND ATTORNEY FEES**

- A. Each Party hereto shall promptly report to the other any claim or suit against it arising out of or in connection with the Existing and New Facilities or the operation of the Concessionaire's business at the Airport. The City and Concessionaire shall each have the right to settle and/or defend the same to the extent of its own interest; provided the defense of the same has not been tendered and accepted by the other Party. The Concessionaire is an "Independent contractor in every respect, and not the agent of the City.
- B. If any legal action is instituted by the Parties hereto to enforce this Agreement, or any part thereof, the prevailing Party shall be entitled to recover reasonable attorney's fees and court cost. Any such legal action shall be commenced and maintained in Burleigh County, North Dakota, regardless of Concessionaire's residence or place of business.

**25. ENCUMBRANCES AND LIENS**

- A. The Concessionaire's interest in the Existing and New Facilities may not be encumbered by the Concessionaire for any purpose.

- B. Concessionaire agrees that it shall pay directly, or cause to be paid, all costs and expenses for work done and materials delivered to the Existing and New Facilities and improvements at Concessionaire's request, during the leasehold term, for improvement to the Existing and New Facilities. Concessionaire shall keep the Existing and New Facilities free and clear of all mechanic's or material men's liens or any other liens on account of any work done on the Existing and New Facilities at Concessionaire's request. Concessionaire agrees to and shall indemnify, and hold the City of Bismarck free from and harmless against all liability, loss, damage, cost, attorney's fees (where allowable by law) and all other expenses on account of claims of lien of laborers or material men, or others, for work performed or materials or supplies furnished to Concessionaire for use on the Existing and New Facilities.

**26. NON-DISCRIMINATION**

- A. Concessionaire, for it, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the Existing and New Facilities, for a purpose for which a United States Government program or activity is extended, Concessionaire shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- B. Concessionaire, for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, creed, color, sex, national origin, age, disability or marital status shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Existing and New Facilities: (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, creed, color, sex, national origin, age, disability or marital status shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Concessionaire shall use the Existing and New Facilities in compliance with all other requirements imposed by or pursuant to Title 49, code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- C. Concessionaire assures that it will undertake an affirmative action program as required by 14CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, sex, age, disability or marital status be excluded from participation in any

employment activities covered in 14 CFR Part 152, Subpart E. Concessionaire assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Subpart E. Concessionaire assures that it will require that its covered sub organizations provide assurances to Concessionaire that they similarly will undertake affirmative action program and that they will require assurances from their sub organizations, to the extent required by 14 CFR Part 152, Subpart E, to the same effect.

- D. Concessionaire agrees to comply with all other State and Federal statutory and constitutional non-discrimination provisions. In addition, Concessionaire agrees to comply with all pertinent provisions of the Americans with Disabilities Act of 1990, P.L. 101-336, July 26, 1990, 42 USC 12101, et seq.; and all pertinent regulations pursuant thereto. Concessionaire shall not discriminate in the use of the Existing and New Facilities or any access thereto if such Existing and New Facilities are used as a public accommodation or in connection with a public service. Concessionaire will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status.
- E. In this connection, the City reserves the right to take whatever action it might be entitled by law to take in order to enforce this provision. This provision is to be considered as a covenant on the part of Concessionaire, a breach of which, continuing after notice by the City to cease and desist and after a determination that a violation exists made in accordance with the procedures and appeals provided by law, will constitute a material breach of this Agreement and will entitle the City, at its option, to exercise its right of termination as provided for herein, or take any action that it deems necessary to enforce compliance herewith.
- F. Concessionaire shall include the foregoing provisions in every agreement or concession pursuant to which any person or persons, other than Concessionaire, operates any facility on the Existing and New Facilities providing service to the public and shall include thereon a provision granting the City a right to take such action as the United States may direct to enforce such covenant.
- G. Concessionaire shall indemnify and hold harmless the City from any claims and demands of third persons including the United States of America resulting from Concessionaire's noncompliance with any of the provisions of this Section and Concessionaire shall reimburse the City for any loss or expense incurred by reason of such noncompliance.

**27. PRIOR AND COLLATERAL AGREEMENTS**

This Agreement shall constitute the entire Agreement between the Parties and no other stipulation, agreement or understanding, written or oral, expressed or implied of the Parties

hereto or of their agents, relating to the Agreement and use of the Existing and New Facilities described in Article 2 herein, shall limit or modify its terms. This Agreement shall, as of the commencement date hereof, cancel and supersede all prior agreements, written or oral, expressed or implied, between the Parties for the rights granted herein. This Agreement shall not be subject to modification or change except by written instrument duly signed.

**28. SEVERABILITY**

If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remaining terms and provisions of this Agreement shall not be affected thereby, but each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**29. NON-WAIVER OF BREACH**

The waiving of any of the covenants of this Agreement by either Party shall be limited to the particular instance and shall not be deemed to waive any other breaches of such covenants. The consent by the City to any act by Concessionaire requiring City's consent shall not be deemed to waive consent to any subsequent similar act by Concessionaire.

**30. VENUE**

This Agreement is to be construed in accordance with the applicable laws, rules and regulations of the City of Bismarck, the County of Burleigh and the State of North Dakota.

**31. TIME OF ESSENCE**

It is mutually agreed that time is of the essence in the performance of all covenants and conditions to be kept and performed under the terms of this Agreement.

**32. HOLDOVER POSSESSION OF EXISTING AND NEW FACILITIES BY CONCESSIONAIRE**

Any holding over at the expiration or termination of the Term of this Agreement, with or without the consent of the City, shall constitute a tenancy from month-to-month. The month-to-month tenancy shall be subject to all other terms and conditions of this Agreement, with the exception of fees and rates which shall be mutually determined by the City and Concessionaire, provided, however, that the fees and rates shall not be less than those in effect in Option Year 5 as it

pertains to both fees to the City and parking rates for users.

**33. SURRENDER OF POSSESSION**

Upon the expiration of this Agreement or its earlier termination as herein provided, Concessionaire shall remove all of its personal property from the Airport and surrender entire possession of its rights at the Airport to the City, unless, at the discretion of the

City, this Agreement is renewed or replaced.

**34. APPROVAL OR DIRECTION BY CITY**

Wherever consent, approval or direction by the City is required under this Agreement, such consent, approval or direction by the City shall be effective if given by the Airport Director or his designee in the manner set forth in this Agreement. Nothing requiring consent, approval or direction from the City shall be unreasonably requested by Concessionaire nor shall such consent, approval or direction be unreasonably withheld by the City.

**35. NOTICES**

All payments, demands and notices required herein shall be deemed to be properly served if hand delivered or if sent by certified or registered mail, postage prepaid, to the last address previously furnished by the Parties hereto. Until hereafter changed by the Parties, in writing, notices shall be addressed as follows:

<u>City</u>	<u>CONCESSIONAIRE</u>
<u>Courier</u>	Name
AIRPORT DIRECTOR	Company
BISMARCK AIRPORT	Address
2301 University Drive Bldg. 17, Suite 225B	City, State Zip
Bismarck, ND 58502	
	With a copy to:
<u>US Mail</u>	Name
AIRPORT DIRECTOR	Company
BISMARCK AIRPORT	Address
P.O. Box 991	City, State Zip
Bismarck, ND 58502	

The date of service of such notice shall be the date such notice is delivered by hand or is deposited in a Post Office of the U.S. Postal Service or with a courier service for delivery.

**36. ARTICLE HEADINGS**

Article headings contained herein are for convenience in reference only, and are not intended to define or limit the scope of any provisions of this Agreement.

**37. ENTIRE AGREEMENT**

- A. Agreement consists of Articles 1 to 37, inclusive, Schedule A, Exhibits A, B, C and D.
  
- B. It constitutes the entire agreement of the Parties hereto and may not be changed, modified, discharged or extended except by written instrument duly executed by the City and Concessionaire. The Parties agree that no representations or warranties shall be binding upon the City or Concessionaire unless expressed in writing in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year written below.

RECOMMENDED APPROVAL  
TERMS AND CONDITIONS BY:

APPROVED AS TO FORM AND LEGALITY  
BY:

\_\_\_\_\_  
Gregory B. Haug  
Airport Director

\_\_\_\_\_  
Charles C. Whitman  
City Attorney

ATTEST:

CITY OF BISMARCK, ND

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

\_\_\_\_\_  
Michael C. Seminary  
President, Board of City Commissioners  
Date: \_\_\_\_\_

ATTEST:

CONCESSIONAIRE:

\_\_\_\_\_

\_\_\_\_\_  
Name:  
Title:  
Business Name:  
Date:

## SCHEDULE A

Concessionaire shall, at its own cost and expense, take out and maintain such insurance for the Term of this Agreement as the Concessionaire is required under the Workers' Compensation Act; and also take out and maintain such public liability insurance as will protect the Concessionaire, the City and its elected and appointed officials, agents and employees from any claims for damage to persons, property, etc., arising out of, occurring or caused by operations under this Agreement by the Concessionaire or otherwise arising out of this Agreement. The policy will provide the amounts of insurance specified in this Schedule A. Upon execution of this Agreement, certificates of insurance in form acceptable to the City and marked "premium paid" should be submitted to the City. Each certificate shall have endorsed thereon:

- A clause naming the City of Bismarck and its elected and appointed officials, agents and employees as additional insureds under the policies.
- "No cancellation or change in the policy shall become effective until after thirty (30) days notice by registered mail to the Airport Director, Bismarck Airport, P.O. Box 991, Bismarck, North Dakota 58502."

Upon failure of Concessionaire to furnish, deliver and maintain such insurance as above provided, the City may obtain such insurance and charge Concessionaire as additional rental, the cost of the insurance plus all appropriate administrative charges and incidental expenses associated with the transaction. Failure of Concessionaire to take out and/or maintain, or the taking out and/or maintenance or any required insurance shall not relieve Concessionaire from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with the obligations of Concessionaire concerning indemnification.

All required insurance must be in effect and shall continue during the Term of this Agreement (and for a period of one (1) year following its expiration or termination) in not less than the following amounts:

- A. Workers' Compensation Unlimited - Statutory - in compliance with the Laws of the State of North Dakota.
- B. Employer's Liability Coverage (Stop Gap) in the amount of \$1,000,000 per occurrence and \$1,000,000 annual aggregate.
- C. General Liability Insurance with a maximum combined single limit of \$2,000,000 per occurrence and \$4,000,000 annual aggregate.
- D. Commercial Liability Umbrella in the amount of \$3,000,000.
- E. Garage keepers Legal Liability coverage in the amount of \$1,000,000.

This insurance shall indicate on the Certificate(s) of Insurance, marked "premium paid", the following coverage, all on a per occurrence basis:

Comprehensive Commercial Liability

Premises/Operations

Contractual Liability

Independent Contractors

Products and Completed Operations

Broad Form Property Damage

Bodily Injury

Personal Injury

F. Auto Liability (combined single limit)

Owned, Non-owned and Hired- \$2,000,000., with an express acknowledgement that the policy shall be effective on airport premises.

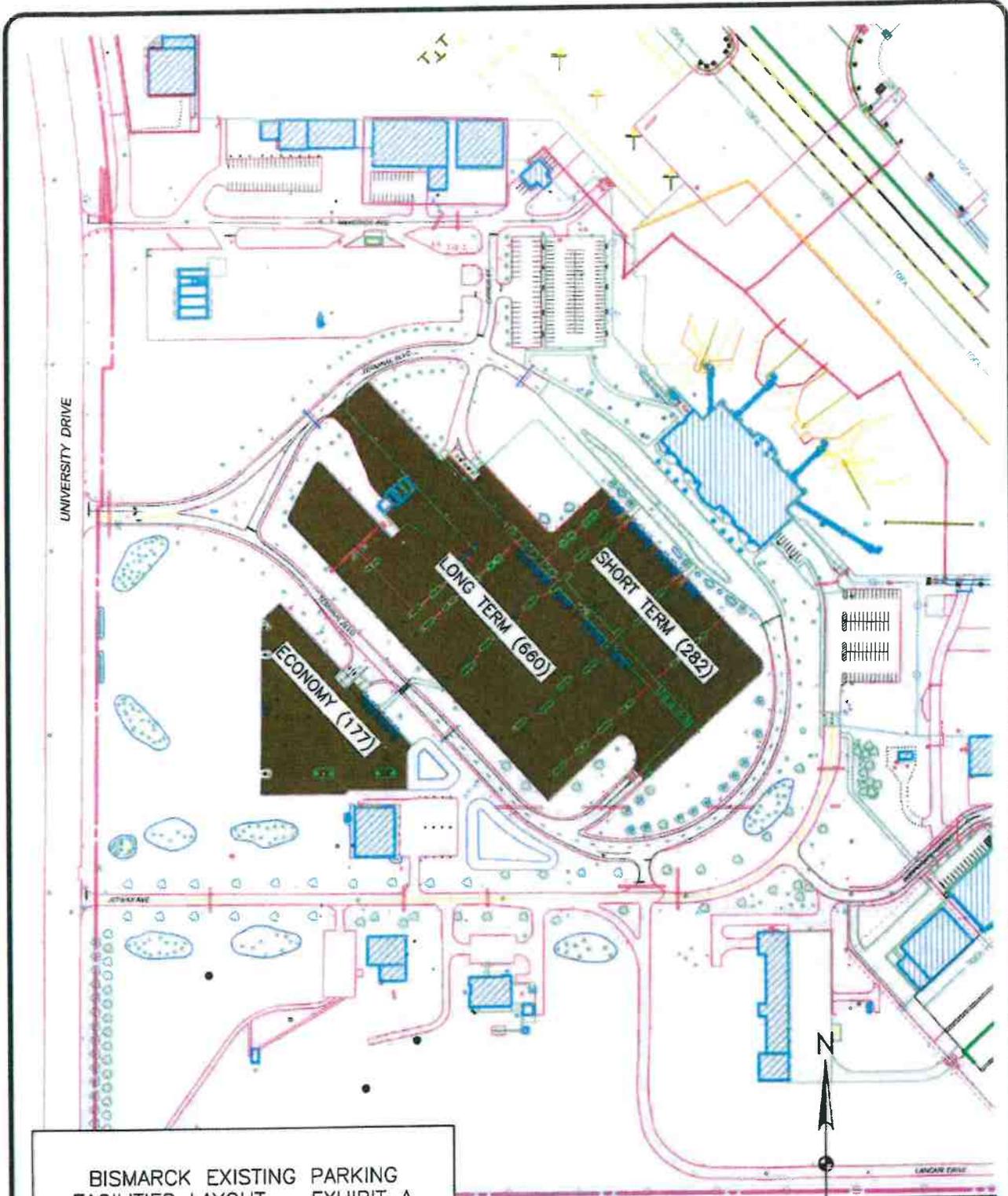
Location of operation shall be "Bismarck Airport, City of Bismarck, County of Burleigh, North Dakota".

Nothing herein contained shall prevent the Concessionaire from taking out any other insurance for protection of its interest which it deems advisable or necessary.

All Concessionaires' policies set forth and required herein shall expressly waive the underwriters and insurance carriers' right of subrogation against the City and its insurance carriers.

Consistent with the indemnification provisions of this Agreement, Concessionaire's insurance policies will respond on a primary basis, with any insurance carried by the City to be constructed as secondary or excess coverage.

Notwithstanding the insurance requirements of this Agreement and this Schedule A, Concessionaire expressly agrees and understands its potential liability is not limited to the amount of insurance coverage it maintains nor to the limits required herein.



BISMARCK EXISTING PARKING FACILITIES LAYOUT – EXHIBIT A



DRAFTED BY: APT  
 REVIEWED BY: BT  
 PROJECT NO: 1515709  
 ISSUE DATE: 06/14/2016

**BISMARCK AIRPORT**  
 THE CITY OF BISMARCK  
 BISMARCK, NORTH DAKOTA



EXHIBIT B  
(Example)

CONCESSIONAIRE'S IMPROVEMENT PROGRAM FOR THE NEW FACILITIES

A. Revenue Control System Upgrade

After considerable consultation with the City, (selected concessionaire) has developed a revenue control upgrade plan utilizing (type/brand) equipment. The following is an itemized list of the major system components, the "Improvements".

Revenue Control Equipment			
_____	-	_____	-
_____	-	_____	-
_____	-	_____	-
_____	-	_____	-
_____	-	_____	-
Office Equipment			
_____	-	_____	-
_____	-	_____	-
_____	-	_____	-

B. System Description

C. Signage Upgrades

D. Contribution

\_\_\_\_\_ will contribute \$\_\_\_\_\_ towards the total cost of its program, reducing the cost to the City to \$\_\_\_\_\_.

**G. Projected Airport Returns**

	Year One	Year Two	Year Three	Year Four	Year Five
Projected Gross					
Percentage Rent					
*Equipment Lease					
Airport Return					

*'Note: Assumes 7- Year lease on System Option (2) Presented Herein.*

In addition to the tax exempt financing referenced above, \_\_\_\_\_ would be willing to finance the revenue control system at an 8% interest rate on a short-term basis ranging from six to nine months depending upon the system option selected. The following is an illustration of airport returns using system option (2) On-line without pay station financed for six months by \_\_\_\_\_ at an \_\_\_% rate.

	Year One	Year Two	Year Three	Year Four	Year Five
Projected Gross					
Percentage Rent					
*Equipment Lease					
Airport Return					

\_\_\_\_\_ financial contributions, coupled with the substantial discount we will pass along on the revenue control system add significant value to our proposal. Most importantly, however, the upgrades to the parking operations at the Bismarck Airport will help us to be more efficient and to provide a higher level of customer satisfaction. Throughout the years, \_\_\_\_\_ has invested considerably in the growth and development of the airport parking operation and we appreciate having the opportunity to participate in this most important project.

**EXHIBIT C**  
**(Example)**

**Location Manager**

The Resident Manager is responsible for the daily management and operation of the public Parking Facilities. Responsibilities encompass implementing and enforcing all procedures. The Location Manager provides assistance to the Airport with customer/airport relations and in developing efficient methods of operation.

The Location Manager's duties include, but are not limited to, the following:

- A. Plan, schedule and have general responsibility for the work of all Concessionaire's employees on-site, including employment and termination.
- B. Abide by Airport policies and regulations and the Concession Agreement between the Airport and Concessionaire.
- C. Liaise to the Airport on matters of mutual concern, including suggestions for improving service.
- D. Maintain contact with police and airport personnel regarding such issues as traffic congestion, patron security and abandoned vehicles.
- E. Administer local contracts for supplies, maintenance and services.
- F. Administer policies for Affirmative Action and Equal Opportunity Employment.
- G. Direct the training of new employees and improve the job performance of current employees. Identify employees who merit promotion.
- H. Enforce standards for employees' personal appearance and demeanor, so employees exhibit courtesy in dealing airport and parking patrons.
- I. Conduct unannounced personal inspections of the facilities to observe operations.
- J. Oversee financial and revenue reporting functions.
- K. Assign supervisory responsibility and hours to provide sufficient management seven days a week, including peak traffic periods.

**Shift Supervisors**

Shift Supervisors assist the Location Manager by directing personnel, monitoring revenue collection activities and documenting location activity. Shift Supervisors will assume the duties and responsibilities of the Manager in the absence of the Manager.

The duties of Shift Supervisors include the following:

- A. Train cashiering, parking and shuttle personnel.
- B. Audit parking tickets, bank deposits and reports.
- C. Perform spot on-site inspections.

- D. Procure operating supplies and materials.
- E. Assist parking patrons and airport representatives.
- F. Maintain a labor pool to assure a full complement of qualified service employees.
- G. Transfer revenues safely to off-site cash secure areas.

#### Cashiers

Cashier responsibilities have been established from the following criteria;

- A. Cashiers are to possess sufficient mathematical skills to allow for accurate and rapid fee computation utilizing information as provided by the revenue control system.
- B. Cashiers are required to have accurate money handling and change providing skills.
- C. Cashiers shall have sufficient knowledge of the Bismarck Airport ground transportation roadway system and the surrounding airport area to allow rapid and accurate information dissemination in response to patron questions.
- D. While on duty, be pleasant and courteous with every customer. Do not get involved in arguments. Refer all complaints to the Resident Manager or the Shift Supervisor.

## Exhibit D FAA Required Provisions

### 1. Airport and Airway Improvement Act of 1982, Section 520 - General Civil Rights Provisions

The contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

In these cases the provision obligates the party or any transferee for the longer of the following periods:

- A. The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- B. The period during which the airport sponsor or any transferee retains ownership or possession of the property.

### 2. Civil Rights Act of 1964, Title VI – Contractor Contractual Requirements

#### A. Title VI Solicitation Notice

(Source: Appendix 4 of FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration)

#### B. Title VI Solicitation Notice:

The City of Bismarck, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

### 3. Title VI Clauses for Compliance with Nondiscrimination Requirements

(Source: Appendix A of Appendix 4 of FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration)

#### Compliance with Nondiscrimination Requirements

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- A. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- B. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- C. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
- D. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.

- F. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

4. **Title VI List of Pertinent Nondiscrimination Authorities**

(Source: Appendix E of Appendix 4 of FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration)

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation

regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

5. **Clauses for Deeds Transferring United States Property**

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.

**NOW THEREFORE**, the U.S. Department of Transportation as authorized by law and upon the condition that the *(Title of Recipient)* will accept title to the lands and maintain the project constructed thereon in accordance with the Uniform Administrative Requirement, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200), the regulations for the administration of the University Transportation Centers Program, and the policies and procedures prescribed by the Office of the Secretary of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim, and convey unto the *(Title of Recipient)* all the right, title and interest of the U.S. Department of Transportation in and to said lands.

**(HABENDUM CLAUSE)**

**TO HAVE AND TO HOLD** said lands and interests therein unto *(Title of Recipient)* and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real

property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the *(Title of Recipient)*, its successors and assigns.

The *(Title of Recipient)*, in consideration of the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the *(Title of Recipient)* will use the lands and interests in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].

6. Clauses For Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the *(Title of Recipient)* pursuant to the provisions for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program.

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, *(Title of Recipient)* will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the *(Title of Recipient)* will have the right to enter or re-enter the lands and

facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the *(Title of Recipient)* and its assigns.

**7. Clauses for Construction/Use, Access to Real Property Acquired Under the Activity, Facility or Program**

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by (Title of Recipient) pursuant to the provisions for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above of the above Non-discrimination covenants, *(Title of Recipient)* will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, *(Title of Recipient)* will there upon revert to and vest in and become the absolute property of *(Title of Recipient)* and its assigns.



## ENGINEERING

**DATE:** August 3, 2016  
**FROM:** Gabe Schell, PE | City Engineer *AS*  
**ITEM:** Engineering Consultant Services – Tyler Coulee Sanitary Sewer Servicing Plan

### REQUEST

Approval of consultant services with Apex Engineering Group relating to sanitary sewer planning services for the Tyler Coulee sewershed.

### BACKGROUND INFORMATION

This project will plan the sanitary sewer and related infrastructure required to serve the undeveloped area of Tyler Coulee and the adjacent areas to the north and west. This planning will include coordination with the property owners and other affected stakeholders. Scope and fee information is attached and the full contract is available if requested. Contract is hourly not to exceed \$118,969. Design and construction phases may be added by amendment to this contract at a future date with Board approval.

#### Project Schedule

Contract Approval:

Draft Sewer Servicing Plan Submittal:

Final Sewer Servicing Plan Submittal:

August 9, 2016

November 14, 2016

December 5, 2016

### RECOMMENDED CITY COMMISSION ACTION

Approval of contract with Apex Engineering Group

GJS/ps

Enc.

cc: Michelle Klose, PE, Director of Utility Operations (digital only)



Water | Transportation | Municipal | Facilities

## Attachment 1 to Exhibit A - Scope of Services

### Tyler Coulee Sanitary Sewer Servicing Plan

City of Bismarck, North Dakota

*August 2, 2016*

Phase No.	Description
1	Planning
2	Design
3	Construction Services

### **Project Background**

The City of Bismarck is experiencing increased development pressure in the northern region of the City, and public infrastructure is necessary in order to serve new developments that will be annexed into the City. This project will plan the sanitary sewer and related infrastructure required to serve the undeveloped areas of Tyler Coulee and adjacent areas to the north and west. This planning will include coordination with property owners and other affected stakeholders.

Design and Construction Services are not included in this scope, however this contract may be amended if the City so chooses to include such services.

## Phase 1, Task 1 – Project Management

### Objective:

Management of engineers and technicians through all phases of the project, including contract administration and coordination of quality assurance and quality control. Provide a point of contact and hold progress meetings for the City of Bismarck.

### Activities:

- 1.1. Project Administration: The Apex project manager will be responsible for monitoring project milestones and ensuring that adequate progress is made by Apex. Internal Apex staff meetings will be held as needed to coordinate with the project staff and to discuss the work plan
- 1.2. Quality Assurance/Quality Control: An internal QA/QC review will be conducted prior to the submission of the draft Sanitary Sewer Servicing Plan. The Internal QA/QC review will be performed by a senior engineer without prior direct involvement in the development of the plan.
- 1.3. Progress Meetings: Four (4) progress meetings are planned with the City of Bismarck.

## Phase 1, Task 2 – Sanitary Sewer Service Planning

### Objective:

To develop a sanitary sewer servicing plan for the Tyler Coulee Watershed and nearby adjacent property to the north and west. The servicing plan is to specifically include the preliminary regional sanitary sewer trunk main concept and proposed routing. The plan is to be compatible with the Storm Water Master Plan for the Tyler Coulee Watershed and the City of Bismarck Growth Management Plan 2014 update.

### Activities:

- 2.1. Stakeholder Communications:
  - 2.1.1. Identification and direct mailing: The interested parties and stakeholders will be identified by Apex and reviewed with the City. Following identification, Apex will contact these individuals and entities by US Mail to outline the purpose and objectives of the proposed planning document. A suitable timeline will be established for the stakeholders to respond and provide comment to Apex about the proposed plan, to ensure that their input is received. The initial contact will take place concurrently with the Data Collection phase
  - 2.1.2. Property Owner meetings: Apex staff will meet with owners of undeveloped properties within the study area to gather and compile the potential development master plans that eventually will be brought to the City for platting. The proposed meetings will be conducted with City Staff present, and will also include the technical representatives that property owners work with. These meetings will be conducted with each property owner to preserve confidentiality of potential future development plans. For scoping purposes it is assumed that eight (8) meetings will be required.
  - 2.1.3. Communication of proposed infrastructure: Apex will provide written communication to stakeholders and interested parties following the development of preliminary sanitary sewer

sizing and alignments. The intent of this communication is to provide the proposed service area for sanitary sewer, and the proposed locations of lateral connections to serve developable properties. As follow-up to the written communications, Apex staff will meet with stakeholders to address concerns that they may have with the preliminary plans. For scoping purposes it is assumed that eight (8) meetings will be required.

- 2.2. Data Collection: Data collection is an ongoing process throughout a planning project and will be incorporated into several different planning activities. This Data Collection activity includes the collection and review of existing City data as well as the collection of sanitary sewer flow and rainfall data.
  - 2.2.1. Collection of City data: Apex will request applicable records from the City of Bismarck including as-builts, plats, water records, TV inspections, known defects, and records on repairs.
  - 2.2.2. Review of collected City data.
  - 2.2.3. Flow metering: Apex will procure three (3) flow meters and work with City of Bismarck staff to get them installed. The flow meters will be installed at the Pioneer Park Lift Station, Eagle Crest Lift Station, and in a sanitary sewer manhole along Valley Drive. The flow meters will monitor flows for two (2) months.
  - 2.2.4. Rainfall monitoring and classifications: Apex staff will collect rainfall data from several private weather stations and assess the data for accuracy and relevancy. Rain events will be classified for use correlating Inflow and Infiltration (I/I).
- 2.3. Field Survey: Field survey consists of Apex staff collecting the following information.
  - 2.3.1. Dip manholes: Apex will dip manholes to determine invert elevations on tees, crosses, and endpoints. Apex will also dip all manholes on the main trunk sewers. The quantity of dipped manholes may be reduced if high-quality as-built records exist.
  - 2.3.2. Spot check property elevations: Apex will spot check some elevations of plats and undeveloped property to assist in planning gravity sanitary sewer infrastructure.
- 2.4. Service Area Evaluation: The existing Tyler Coulee sanitary sewer system will be evaluated so that current sewer flows can be evaluated and future service area expansions can be planned.
  - 2.4.1. Service area delineation: There are a number of locations where sanitary sewers cross sewershed boundaries. Apex will evaluate these cross-boundary sewers and make determinations on the correct Tyler Coulee sanitary sewer service area.
  - 2.4.2. Sub-basin property counts and classifications: The existing Tyler Coulee sanitary sewer service area will be subdivided based on flow meter locations and contributing properties will be counted and classified.
- 2.5. Condition and Capacity Assessment: The condition and capacity assessment includes evaluating existing conditions in the sanitary sewer system that will impact the ability to accommodate future demands. The sanitary sewer system includes the existing gravity sewer within Tyler Coulee, the Pioneer Park Lift Station and force mains, the water treatment plant lift station and the Community Bowl pressure gravity sewer.
  - 2.5.1. Field investigation of known defects: Apex will field inspect physical defects to assess future performance and to document needed improvements.
  - 2.5.2. Existing I/I projections at design event: The inflow and infiltration (I/I) for a design rain event will be projected based on the flows recorded during the two month flow monitoring period.

- 2.5.3. Collection system modeling: The collection system will be modeled based on existing as-built records and field survey data. Projected inflow and infiltration (I/I) for a design rain event will be added in the model to predict current remaining capacity of the sanitary sewer system.
- 2.5.4. Pioneer Park Lift Station capacity analysis: The condition and capacity of the Pioneer Park lift station and force mains, the water treatment plant lift station, and the Community Bowl pressure gravity will be evaluated as part of this project.
- 2.6. Flow Projections: Future sanitary sewer flows will be projected based on the existing flows and future development plans. Flows will be calculated using two (2) alternate methods and reviewed with the City for applicability.
- 2.7. Alternative Analysis: This task includes evaluating alternatives for providing regional sanitary sewer service to the undeveloped areas of northwest Bismarck. This task also includes evaluating alternatives for providing sanitary sewer service to the undeveloped areas within the Tyler Coulee watershed.
  - 2.7.1. Northwest Bismarck sanitary sewer alternatives: The northwest Bismarck area encompasses Tyler Coulee and the adjacent areas to the north and west. The 2001 Master Plan called for these areas to all flow by gravity to the Pioneer Park Lift Station. Alternatives for providing sanitary sewer services to northwest Bismarck will be identified and evaluated. For scoping purposes it is assumed that four (4) alternatives will be evaluated. The preferred alternative will be chosen in conjunction with the City. A project list and cost estimates will be developed for the preferred alternative.
  - 2.7.2. Tyler Coulee sanitary sewer alternatives: Alternatives for providing sanitary sewer service to future development areas within Tyler Coulee will be identified and evaluated. This evaluation will include evaluating future development areas that could be added to the Tyler Coulee sanitary sewer service area. For scoping purposes it is assumed that this task will include a full evaluation and cost estimates of the two (2) most viable alternatives and a 'do nothing' alternative.
- 2.8. Conceptual Sanitary Sewer Servicing Plan: A written conceptual sanitary servicing plan, incorporating the above items, will be provided to the City of Bismarck. This plan will include a list of recommended improvements and estimated costs. An initial draft will be provided to the City followed by a comment period and a stamped final draft.

## Phase 2 –Design

On completion and acceptance of the Phase I recommendations by the City of Bismarck, the City reserves the right to extend the contract to perform design for the recommended improvements.

## Phase 3 – Construction Services

The City of Bismarck reserves the right to extend the contract to include construction management services, construction observation, and contract administration.

**City of Bismarck Responsibilities:**

- ✓ Execute contract between Bismarck and Apex.
- ✓ Provide requested information including as-built plans, plats, and water records

**Apex Responsibilities and Deliverables:**

- ✓ Review and execute contract with Bismarck in a timely manner.
- ✓ Communicate with Bismarck on project updates and schedule.
- ✓ Manage Project Staff to complete project tasks, meet contractual deadlines and stay within budget.
- ✓ Provide five (5) copies of the Tyler Coulee Sanitary Sewer Servicing Plan.

**Project Schedule**

**Task/Activity**

Contract Approval by City  
Draft Sanitary Sewer Servicing Plan  
Final Sanitary Sewer Servicing Plan

**Week Of**

August 9<sup>th</sup>, 2016  
November 14<sup>th</sup>, 2016  
December 5<sup>th</sup>, 2016

**Apex Engineering Group**

Attachment 1 to Exhibit A - Scope and Fee

City of Bismarck, North Dakota

Tyler Coulee Sanitary Sewer Servicing Plan

Phase/Task	Principal	Senior Engineer	Lead Engineer	Graduate Engineer	Engineering Technician	Surveyor	Admin Support	Total
	\$165	\$155	\$143	\$100	\$84	\$82	\$82	
<b>Phase 1 - Planning</b>								
<b>Phase 1, Task 1 - Project Management</b>								
1.1 Project Administration	8	12						\$3,180
1.2 Quality Assurance/Quality Control	8	8						\$2,560
1.3 Progress Meetings w/ City	8	12	4					\$3,752
<b>Phase 1 - Task 1 Subtotal</b>	<b>24</b>	<b>32</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$9,492</b>
<b>Phase 1, Task 2 - Sanitary Sewer Service Planning</b>								
2.1 Stakeholder Communications								
2.1.1 Identification and direct mailing	2	1					8	\$1,141
2.1.2 Property Owner meetings	12	2	8				2	\$3,598
2.1.3 Communication of proposed infrastructure	60	4	20					\$13,380
2.2 Data Collection								
2.2.1 Collection of City data		12	8					\$3,004
2.2.2 Review of collected data			32		8			\$5,248
2.2.3 Flow metering		8	16					\$3,528
2.2.4 Rainfall monitoring and classification				8				\$800
2.3 Field Survey								
2.3.1 Dip manholes			6		16	48		\$6,138
2.3.2 Spot check property elevations			4		4	16		\$2,220
2.4 Service Area Evaluation								
2.4.1 Service area delineation		4	16					\$2,908
2.4.2 Sub-basin property counts and classifications			8		8			\$1,816
2.5 Condition and Capacity Assessment								
2.5.1 Field investigation of known defects		16	16		14			\$5,944
2.5.2 Existing I/I projections at design event			16					\$2,288
2.5.3 Collection system modeling		8	20	40				\$8,100
2.5.4 Pioneer Park LS capacity analysis		4	8		2			\$1,932
2.6 Flow Projections		8	32					\$5,816
2.7 Alternative Analysis								
2.7.1 Tyler Coulee sewer servicing alternatives	2	12	52		5			\$10,046
2.7.2 Gravity sewer routing alternatives	6	13	36		21			\$9,917
2.8 Conceptual Sanitary Sewer Servicing Plan	6	10	60		10		4	\$12,288
<b>Phase 1, Task 2 Subtotal</b>	<b>88</b>	<b>102</b>	<b>358</b>	<b>48</b>	<b>88</b>	<b>64</b>	<b>14</b>	<b>\$100,112</b>
<b>Phase 1 - Reimbursables</b>								<b>\$9,365</b>
<b>Phase 1 Total</b>	<b>112</b>	<b>134</b>	<b>362</b>	<b>48</b>	<b>88</b>	<b>64</b>	<b>14</b>	<b>\$118,969</b>