



February 11, 2020

Board of City Commissioners  
Bismarck, ND

Dear Commissioners:

The Board of City Commissioners is scheduled to meet in regular session on Tuesday, February 11, 2020 at 5:15 p.m. in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota.

Invocation and the Pledge of Allegiance presented by a Chaplain from the Bismarck Police Department.

Watch live meeting coverage on Government Access Channels 2 & 602HD, Listen to Radio Access 102.5 FM Radio, or stream [FreeTV.org](http://FreeTV.org) and [RadioAccess.org](http://RadioAccess.org). Agenda items can be found online at [www.bismarcknd.gov/agendacenter](http://www.bismarcknd.gov/agendacenter).

Future City Commission meetings are scheduled as follows:

- February 25, 2020
- March 10 & 24, 2020
- April 14 & 28, 2020

#### MISSION STATEMENT

To provide high-quality public services in partnership with our community to enhance our quality of life.

#### MEETING OF THE BOARD OF CITY COMMISSION

1. Consider approval of the minutes.

Documents:

[MN012820.pdf](#)

2. Public comment (restricted to items on the Consent Agenda and Regular Agenda, excluding public hearing items).

#### 3. CONSENT AGENDA

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

Documents:

[\(C\) HR - Personnel Report.pdf](#)

- C. Consider the request for approval from the Administration Department for the following:

1. Introduction of and call for a public hearing on a new Class D retail liquor license for Coborn's Incorporated, for Cash Wise Liquor, located at 1144 E. Bismarck Expressway.
2. Introduction of and call for a public hearing on a request for a new Class 1-2 Restaurant Beer and

- Wine liquor license for EAT Restaurant LLC, for Eat Thai Cafe, located on 409 Riverwood Dr.
3. Introduction of and call for a public hearing on a request for a new Class F- 1 Restaurant Full Alcohol liquor license for The Craftcade LLC, located at 405 N. 4th St.
  4. Gaming Site Authorization for RMEF Mindak Inc., 2402 Railroad Ave.
  5. Approve a Communications Services Agreement with agency MABU.

Documents:

- (C) ADMIN - New Liquor License - Coborns.pdf
- (C) ADMIN - New Liquor License - Eat Thai.pdf
- (C) ADMIN - New Liquor License - CraftCade.pdf
- (C) ADMIN - New Gaming Site Authorization - RMEF Mindak Inc..pdf
- (C) ADMIN - Approve Communication Services Agreement with Agency MABU.pdf

D. Consider the request for approval from Bismarck-Burleigh Public Health for the following:

1. Permission to apply for ND Junior Master Gardener Grant.
2. Permission to increase the fee for the Quantiferron Gold TB Testing Fee.

Documents:

- (C) BBPH - Master Gardener Grant.pdf
- (C) BBPH - Quantiferron TB Fee.pdf

E. Consider the request for approval from the Community Development Department for the following:

1. Introduction of and call for a public hearing on Ordinance 6408, a request for a zoning change from the A-Agriculture zoning district to the RT- Residential zoning district for Cooperative Addition.
2. Introduction of and call for a public hearing on Ordinance 6409, a request for a zoning change from the A - Agricultural zoning district to the A - Agricultural, R5 - Residential, and R10 - Residential zoning districts for the NE1/4 of Section 19 and part of the SE1/4 of Section 18, T138N-R80W/Hay Creek Township.
3. Introduction of and call for a public hearing on a Future Land Use Plan amendment to modify the boundary between the Low Density Residential and Conservation designations, in part of section 18 & 19, Hay Creek Township requested by Tyler Coulee, LLP and Ron Knutson.
4. Introduction of and call for a public hearing on Ordinance 6410, a request for the annexation of Lots 16 and 17, Block 1 and Lot 1, Block 4, Clear Sky Addition, requested by FRF Investments, LLP.
5. Introduction of and call for a public hearing on Ordinance 6411, a request for the annexation of Lots 2, 15 and 16, Block 2; Lots 14-22, Block 4 and Lots 1-6, Block 4, Boulder Ridge 7th Addition, requested by Five Guys Investment, LLP.
6. HUD 2020 Citizen Participation Plan.

Documents:

- (C) CD - Cooperative Addition.pdf
- (C) CD - Hay Creek Future Land Use Plan.pdf
- (C) CD - Clear Sky Annexation.pdf
- (C) CD - Boulder Ridge Annexation.pdf
- (C) CD - Citizen Participation Plan.pdf

F. Consider the request for approval from the Engineering Department for the following:

1. Amendment to Existing Agreement for Professional Services with KLJ for 43rd Ave. Reconstruction - HC 121.
2. Street Closure for the 8th Annual BisMarket.
3. Release existing sanitary sewer easement 728207, as part of project HC 120.
4. Award contract of Sewer Improvement District SE 573 to Weisz & Sons, Inc.
5. Street Improvement District No. 534 - Request for resolution of necessity.

Documents:

- (C) ENG - 43rd Ave Amendment.pdf
- (C) ENG - BisMarket Street Closure.pdf
- (C) ENG - Release Sanitary Sewer Easement.pdf
- (C) ENG - SE 573.pdf
- (C) ENG - SI 534.pdf

G. Consider the request for approval from the Finance Department for the following:

1. Application for Abatement for year 2019, Nonprofit Organization, at 200 E. Kavaney Dr.
2. Application for Abatement for year 2019, Disabled Veteran Credit, at 843 Mayflower Dr.
3. Application for Abatement for year 2018 & 2019, Blind Exemption, at 3433 Nebraska Dr.
4. Approve the budget transfers, authorizations and adjustments in the 2019 budget.

Documents:

- (C) FIN - Abatements.pdf
- (C) FIN - 2019 Budget Adjustments.pdf

H. Consider the request for approval from the Police Department for the following:

1. Permission to compete on "America's Top Dog" television show.
2. Permission to participate in "American Heroes Outdoors" television show.
3. Accept contract for the 2020, 2021 and 2022, with 4 Winds Auction, for the City of Bismarck's auctions.

Documents:

- (C) PD - Compete on Americas Top Dog.pdf
- (C) PD - American Heroes Outdoors Participation.pdf
- (C) PD - Auction Contract for 2020-2022.pdf

I. Consider the request for approval from the Public Works - Service Operations for the following:

1. Accept the report on contract cancellation with IPL, Inc. for the furnishing of solid waste and yard waste containers.
2. Accept the contract for consulting services for the Fire Station 3 Remodel Project.
3. Permission to request donations for the 2020 Public Works Day Celebration.

Documents:

- (C) PW-SO - Cancellation Agreement Waste Collection Containers.pdf
- (C) PW-SO - Contract Fire Station Remodel Project.pdf
- (C) PW-SO - Requesting Donations for Public Works Day.pdf

**J. Consider the request for approval from the Public Works - Utility Operations for the following:**

- 1. Approval of USGS Contract for Streamflow and Water Level Monitoring.**
- 2. Approval of Engineering Task Order and Grant Funding Request for Jackman Coulee Dam.**

**Documents:**

- (C) PW-UO - Contract for Streamflow and Water Level Monitoring.pdf
- (C) PW-UO - Stormwater Grant.pdf

4. REGULAR AGENDA

5. Continued Public hearing on Ordinance 6403, an amendment to Title 4 of the City Code of Ordinances (Building Regulations) regarding the 2018 Building Code and Fire Code adoption.

Documents:

- (R) CD - Ordinance 6403.pdf

6. Consider the request from the Community Development Department for a minor subdivision final plat of Daybreak Medical Addition First Replat, requested by 57 North Investors, LLP and Greenfield Commons, LLC.

Documents:

- (R) CD - Daybreak Medical Addition First Replat.pdf

7. Consider the request from the Engineering Department to receive bids and award 43rd Ave. Reconstruction - HC 121.

Documents:

- (R) ENG - HC 121 Award.pdf
- (R) ENG - Additional Bid Information.pdf

8. Consider the request from the Engineering Department for direction to staff regarding the development agreement for the future of the Northern Sky 2nd Addition.

Documents:

- (R) ENG - Northern Sky Development Agreement.pdf

Adjourn

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www.bismarcknd.gov ★ TDD 711 ★ An Equal Opportunity-Affirmative Action Employer*



## MISSION STATEMENT

To provide high-quality public service in partnership with our community to enhance our quality of life.

## MEETING OF THE BOARD OF CITY COMMISSION

1. Consider approval of the minutes.

Commissioner Marquardt moved to approve the minutes of the January 14, 2020 Regular Commission Meeting. Commissioner Oban seconded it. Upon a roll call vote, all voted aye. M/C.

2. Public comment (restricted to items on the Consent Agenda and Regular Agenda, excluding public hearing items).

No member of the public appeared.

3. CONSENT AGENDA

Commissioner Guy moved to approve the consent agenda. Commissioner Zenker seconded the motion. Upon a roll call vote, all voted aye. M/C.

- A. Consider approval of expenditures.

Voucher Numbers: 1091280-1091492.

- B. Consider approval of personnel actions.

- C. Consider the request for approval from the Airport for the following:

1. Trade out agreement with Newman Signs Inc. for billboard advertising.
2. Joining the national pledge by transportation leaders against Human Trafficking.

- D. Consider the request for approval from the Community Development Department for the following:

1. Request of the Historic Preservation Commission (HPC) to apply for an Historic Preservation Fund grant.
2. Permission for the Bismarck-Mandan MPO to submit a 'Bicycle friendly Community' renewal application on behalf of the City of Bismarck.
3. Request of chris and Kaycee Loraas to vacate the non-access line adjacent to Lot 3B of Lot 3, Block 3, Trillium 4th Addition, less the west 150 feet, which will reduce the length of the non-access line along Airway Ave. from 355.82 ft. to 150 ft.
4. Call for continued public hearing on Ordinance 6403, an amendment to Title 4 of the City Code of Ordinances (Building Regulation) regarding the 2018 Building Code and Fire Code adoption.

E. Consider the request for approval from the Engineering Department for the following:

1. Park District No. 003 - Resolution approving plans and specifications and resolutions directing advertisement of bids and receiving bids for PI 003.
2. Accept the North Dakota Department of Transportation's Special Roads Fund for the Chief Looking's Village Road Project.
3. North Dakota Department of Transportation's Bridge Inspection and Load Rating Services Agreement.
4. Street Improvement District No. 532 - Request for resolution approving plans and specifications, request for resolution of necessity, request for resolution directing the advertisement of bids and receive bids.
5. Street Improvement District No. 534 - Request for resolution creating district SI 534 and ordering preparation of the preliminary report. Request for resolution approving preliminary report and directing preparation of plans and specifications.

F. Consider the request for approval from the Finance Department for the following:

1. Application for Abatement for year 2018 & 2019, Wheelchair Exemption, at 3723 Valcartier St.
2. Application for Abatement for year 2018 & 2019, Disabled Veteran Credit, at 2831 Essex Loop.
3. Application for Abatement for year 2018 & 2019, Disabled Veteran Credit, at 3418 Chisholm Trail.
4. Approval to enter into a five-year contract with US Bank's Higher Education and Public Sector Program.
5. Replace and upgrade the wireless infrastructure at the Bismarck Events Center.
6. Replace all outdated network switches within the City of Bismarck's infrastructure.

G. Consider the request for approval from the Police Department for the following:

1. Grant approval of Memorandum of Understanding with the MSA United Way for "Single Point of Contact" services related to the operation of their homeless shelter.

H. Consider the request for approval from the Public Works - Utility Operations for the following:

1. Sole Source the purchase of four Frontheads, 4 Fronthead wear rings and 4 Volute gaskets for the 26th St. Sanitary Lift Station.

#### 4. REGULAR AGENDA

5. Receive an update from Bill Panos, the new director of the North Dakota Department of Transportation.

Please see link for presentation documents.

<https://www.bismarcknd.gov/DocumentCenter/View/35014/DOT-Presentation-1-28-20-PDF>

6. Consider the request from the Administration Department for the Park Board President Brian Beattie to make a presentation to the City Commission.

During the presentation, Mr. Brian Beattie, requested the Commission support the Bismarck Parks and Recreation District's request for a 1/2 cent increase in the city sales tax for the indoor community recreation complex, which will sunset when the bonds to finance up to \$108 million in costs to construct the complex are in full. The Park Board also requested the Commission draft the ballot language for the June 9, 2020 ballot and draft the necessary amendments to the City's Home Rule Charter for the proposed increase in City sales tax.

Commissioner Oban moved to approve the requests of the Park Board and clarified that his motion included the item appearing on the June 9, 2020 ballot. Commissioner Guy seconded the motion, and upon a roll call vote, all voted aye. M/C

7. Consider the request from the Administration Department to receive a presentation from PARC 365 Group.

Laura Pritchard and Heather Davis, PARC 365 Group members, spoke in favor of the Commission supporting the Park Board's indoor community recreation complex. The Commission received the presentation and took no action.

8. Receive an update from Bruce Whittey regarding the installation of sidewalks in the Highland Acres neighborhood.

Commissioner Zenker moved to extend the deadline of the construction of the Highland Acre sidewalks for 18 months, with the additional request that the Historical Preservation Committee provide the Commission with quarterly updates on their research. Commissioner Guy seconded the motion. Upon a roll call vote, Commissioner Marquardt, Zenker, Guy and President Bakken voted aye, Commissioner Oban voted nay. M/C

9. Consider the request from the Community Development Department for Premier Homes to appeal the January 2, 2020 decision of the Board of Adjustment to deny a variance from Section 14-04-03(7) of the City Code of Ordinances (R5-Residential) (Front Yard) to reduce the required front yard setback from twenty-five (25) feet to twenty-one (21) feet for the purpose of constructing a single-family dwelling to be located on Lot 26, Block 10, Silver Ranch First Addition (4011 Silver Boulevard).

Jenny Wollmuth, planner for the Community Development Department, presented the staff report and back-ground information on the request. Kevin Nelson, Mountain Plains Engineering, provided information relating to the survey work that was performed which resulted in the misplacement of the concrete foundation and an encroachment of 4-feet into the front yard setback.

Commissioner Marquardt inquired if this situation had occurred in the past. Miss Wollmuth replied that she was aware of one time in the past 12 years. City Attorney Janelle Combs informed the Commission that the denial of the variance by the Board of Adjustment cannot be overturned for financial hardship reasons. It was the general consensus of the commission is that no other hardship could be determined.

Commissioner Oban moved to deny the request for an appeal. Commissioner Guy seconded it, and upon a roll call vote, all voted in favor of denying the appeal. M/C.

10. Public hearing for a new Class C2 Hotel/Motel Liquor License, for the Expressway Suites, 180 E. Bismarck Expressway.

No member of the public appeared for comment.

Commissioner Marquardt moved to approve the new liquor license. Commissioner Zenker seconded the motion. Upon a roll call vote, all voted aye. M/C.

11. Public hearing on Ordinance 6406, regarding the age of purchase for Tobacco or Electronic Smoking Devices.

Jessica Arndt of the Bismarck Tobacco Free Coalition spoke in favor of the ordinance change. Century High School student, Maddy House, also spoke in favor of the change.

Commissioner Marquardt moved to approve the change to Ordinance 6406, Commissioner Guy seconded it. Upon a roll call vote, all voted aye. M/C.

12. Public hearing on Ordinance 6407, to amend Ordinance 2-11-01, regarding the Purpose of the Human Relations Committee.

No member of the public appeared for comment.

Commissioner Guy moved to approve the request. Commissioner Oban seconded the motion. Upon a roll call vote, all voted aye. M/C.

13. Public Hearing on staff-initiated amendments to the Growth Phasing Plan in the 2014 Growth Management Plan.

No member of the public appeared for comment.

Commissioner Zenker moved to approve the amendments. Commissioner Oban seconded the motion. Upon a roll call vote, all voted aye. M/C.

14. Consider the request from the Community Development Department on staff and Historic Preservation Commission recommendations associated with the BNSF Rail Bridge programmatic agreement.

Ben Ehreth, Community Development Director, provided recommendations from City staff and the Historic Preservation Commission.

Please see the link for the full explanation of the recommendations. <https://www.bismarcknd.gov/AgendaCenter/ViewFile/Item/4795?fileID=11366>

Mr. Ehreth noted that BNSF will have the opportunity to respond to the recommendations.

Commissioner Oban moved to approve the drafted recommendations. Commissioner Guy seconded the motion. Upon a roll call vote, President Bakken, Commissioner Oban and Guy voted aye. Commissioner Marquardt voted aye with the request of an update on the programmatic agreement as it is further developed. Commissioner Zenker nay. M/C.

15. Consider the request from the Engineering Department for Costco Related Items - Highway Construction 129.

Commissioner Zenker moved to approve the requests. Commissioner Marquardt seconded the motion. Upon a roll call vote, all voted aye. M/C.

16. Consider the request from the Engineering Department to receive additional traffic analysis and provide direction for E. Divide Ave. and S. Washington St. within the proposed SI 531 work area.

Gabe Schell, City Engineer, provided information and diagrams demonstrating the various lane configurations and turn lane scenarios along with recent crash data collected, over the past three years. Mr. Schell also noted there was a fatality involving a motorcyclist that was struck by a vehicle attempting to make a left-hand turn.

After Commissioners discussed and reviewed e-mails and feedback, primarily opposed to the proposed reconfigurations of S. Washington, St. from Expressway to the drainage ditch, Commissioner Oban moved to keep S. Washington St. 4 lanes. Commissioner Zenker seconded the motion. President Bakken requested the Engineering Department look into the possibility of turning the section of road into a 5-lane roadway. Upon a roll call vote, all voted aye. M/C.

Commissioner Zenker then made a motion to move forward with the E. Divide changes as presented by the Engineering Department. Commissioner Oban seconded the motion. Upon a roll call vote, all voted aye. M/C.

17. Consider the request from the Fire Department to continue participation in the Community Rating System Program and submit annual re-certification documentation.

Commissioner Marquardt moved to approve the request. Commissioner Oban seconded the motion. Upon a roll call vote, all voted aye. M/C.

18. Consider the request from the Administration Department to review information to be presented to the Interim Taxation Committee.

City Administrator, Keith Hunke, presented information from the Interim Taxation Committee. No motion was made at this time.

19. Consider the request from the Public Works - Utility Operations Department for approval on the draft Lead and Copper Rule to the EPA and our congressional delegation, working with the North Dakota League of Cities and communities across the state.

Commissioner Zenker moved to approve the request. Commissioner Marquardt seconded the motion. Upon a roll call vote, all voted aye. M/C.

Please see link for additional information presented at the meeting.

<https://www.bismarcknd.gov/DocumentCenter/View/35015/Lead-Service-Line-1-28-20-PDF->

#### Other Business

Having completed all the items on the agenda, President Bakken asked if there was any other business.

The next City Commission Meeting will be at 5:15 p.m. on February 11, 2020.

Adjourn

The meeting was adjourned at 8:29 p.m.



## PERSONNEL ACTIONS FOR THE MEETING ON Feb. 11, 2020

### Full-Time and Part-Time Appointments

Justice, Tracy Communications Specialist	CenCom	Probationary appointment @ \$20.94/hr. 2/27/2020
Fossum, Katherine Communications Specialist	CenCom	Probationary appointment @ \$20.94/hr. 2/27/2020
Grothier, John Communications Specialist	CenCom	Probationary appointment @ \$20.94/hr. 2/27/2020
Hoines, Brad J Communications Specialist	CenCom	Probationary appointment @ \$20.94/hr. 2/27/2020
Doll, Nicolas Concessions	Event Center	Part time appointment @ \$12.00/hr. 2/4/2020
Hendrickson, Holly Concessions	Event Center	Part time appointment @ \$12.00/hr. 2/4/2020
Runge, Vauna Concessions	Event Center	Part time appointment @ \$12.00/hr. 2/4/2020
Barnett, Charles Heavy Equipment Operator	Public Works	Probationary appointment @ \$20.94/hr. 2/3/2020
Goss, Benjamin Heavy Equipment Operator	Public Works	Probationary appointment @ \$20.94/hr. 2/3/2020
Jacobson, Randy Heavy Equipment Operator	Public Works	Probationary appointment @ \$20.94/hr. 2/3/2020
Werre, Todd Heavy Equipment Operator	Public Works	Probationary appointment @ \$20.94/hr. 2/3/2020

### Separations

Goldade, Daniel Airport Mechanic	Airport	Deceased. 1/13/2020
Hendrickson, Elaine Accounting Specialist	Airport	Retired. 1/24/2020

Hathaway, Kayse Communications Specialist	CenCom	Resigned. 1/30/2020
Fisher, Marissa Concessions	Event Center	Resigned. 1/27/2020
Haas, Robert Event Safety Officer II	Event Center	Resigned. 1/20/2020
Sarsten, Kraig Event Safety Officer I	Event Center	Resigned. 1/28/2020
Vetter, George Doorguard/Ticket Taker/Usher	Event Center	Resigned. 1/1/2020
Hersch, Tanner Police Officer	Police	Resigned. 2/2/2020
Meyer, Zachari Police Officer	Police	Resigned. 1/19/2020
Bren, Galen Recycling Specialist	Public Works	Retired. 4/3/2020
Selzler, Donald Customer Service Field Representative	Public Works	Retired. 4/3/2020
 <b><u>Others</u></b>		
Irmen, Scott Lead Maintenance Technician	Public Works	Promoted & salary adj. @ \$26.25/hr. 1/26/2020



## *City Administration*

**DATE:** February 4, 2020

**FROM:** Jason Tomanek, Assistant City Administrator

**ITEM:** Coborn's Incorporated (dba) Cash Wise Liquor Application for a New Class D Retail Liquor License.

### **REQUEST**

Introduction of and call for a public hearing on a request for a new Class D Retail liquor license for Coborn's Incorporated (dba) Cash Wise Liquor.

Please place this item on the February 11, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

Coborn's Incorporated (dba) Cash Wise Liquor is applying for a Class D Retail Liquor License for address, 1144 East Bismarck Expressway.

Class D Retail: To any applicant for the sale at retail of alcoholic beverages other than applicants in other classifications. The total number of Class D Retail licenses issued in any year may not exceed twenty-four, plus one additional license for each 2,500 people in excess of 60,000 people, as shown by the most recent official estimated census. New Class D Retail licenses or Class D Retail licenses revoked or not renewed may be issued only pursuant to section 5-01-06. A Class D Retail licensee that does not have an "on-sale" location may be issued a special permit under Section 5-01-13 to sell alcoholic beverages "on-sale" at special locations as designated in the permit. A Class D Retail license may be transferred to another person only with the prior approval of the board of city commissioners.

### **RECOMMENDED CITY COMMISSION ACTION**

Staff recommends approval of the introduction of and call for a public hearing on the request from Coborn's Incorporated (dba) Cash Wise Liquor with the public hearing scheduled for Tuesday, February 25, 2019. Staff also recommends approval of the new Class D Retail Liquor License.

### **STAFF CONTACT INFORMATION**

Jason Tomanek | Assistant City Administrator, 355-1300 or [jtomanek@bismarcknd.gov](mailto:jtomanek@bismarcknd.gov)



CITY OF BISMARCK  
ADMINISTRATION DEPARTMENT

Phone: 701-355-1300 • Fax: 701-221-6470 • TDD 711  
221 N 5th St • Bismarck, ND 58501

LAST REVISED: 5/1/2019

## APPLICATION FOR RETAIL ALCOHOL BEVERAGE LICENSE

Note: The \$200 application fee is due when the application is submitted.  
(Fee does not apply to renewal applications)

<b>License Type:</b>				
Individual <input type="checkbox"/>	Corporation <input checked="" type="checkbox"/>	Partnership <input type="checkbox"/>		
New Application <input type="checkbox"/>	Renewal <input type="checkbox"/>	Transfer <input checked="" type="checkbox"/>	Relocation <input type="checkbox"/>	
A-Nationally Organized Fraternal Order or Club <input type="checkbox"/>	E-Sale at Retail of Beer Only <input type="checkbox"/>	H-Commercial vessels on the Missouri River <input type="checkbox"/>	K-Beer and Wine at the Bismarck Event Center <input type="checkbox"/>	P-Event Site <input type="checkbox"/>
B-Airport Terminal Building <input type="checkbox"/>	F1-Restaurant - Alcoholic Beverages - 55/45 Split <input type="checkbox"/>	I1-Restaurant - Alcoholic Beverages - 70/30 Split <input type="checkbox"/>	L-Beer & Wine at Parks & Recreation Locations <input type="checkbox"/>	Q-Restaurant On-Sale and Off-Sale Wine <input type="checkbox"/>
C-Hotel or Motel Full Service <input type="checkbox"/>	F2-Restaurant - Beer/Wine Only - 55/45 Split <input type="checkbox"/>	I2-Restaurant - Beer and Wine Only - 70/30 Split <input type="checkbox"/>	M-Catered Retail Beer, Wine, & Liquor <input type="checkbox"/>	R-Commercial Airline <input type="checkbox"/>
C2-Hotel or Motel <input type="checkbox"/>	F3-Restaurant - Beer Only - 55/45 Split <input type="checkbox"/>	I3-Restaurant - Beer Only - 70/30 Split <input type="checkbox"/>	N-Domestic Winery <input type="checkbox"/>	S-Beer Arcade <input type="checkbox"/>
D-Sale at Retail of Alcoholic Beverages <input checked="" type="checkbox"/>	G-Concession Bismarck Municipal Country Club <input type="checkbox"/>	J-Non-profit Organization Club or Establishment <input type="checkbox"/>	O-Microbrewery <input type="checkbox"/>	T-Senior Living Community <input type="checkbox"/>

<b>Location Information:</b>				
Name of Partnership or Corporation:		Date of Incorporation:	State Business ID Number:	
Coborn's, Incorporated		12/15/58	281983 00	
Name of business for which license is requested (DBA):			If out of state corporation, is corporation registered in North Dakota? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Cash Wise Liquor				
Location Address:	City:	State:	Zip:	Phone Number:
1144 Bismarck Expressway	Bismarck	ND	58504	TBD
Owner of Building or Premises:				
Expressway Centre Two, LLC				

<b>Correspondence Information (Where correspondence is to be sent):</b>			
Primary Contact:	Phone Number:	Email Address:	
Joyce Schmidt	320-203-6218	joyce.schmidt@cobornsinc.com	
Mailing Address:	City:	State:	Zip:
PO Box 6146	St. Cloud	MN	56302-6146

**List all officers or director of corporation or partners and percentage of ownership:**

<b>Manager's Name:</b> Darrell Wrege		Date of Birth: 2/10/59	Race: Caucasian
Driver's License Number: WRE-60-1453		State Issued: ND	Gender: M
Home Address: 1725 N 26th St	City: Bismarck	State: ND	Zip: 58503
Occupation: liquor mgr	Phone Number: TBD	Title: liquor mgr	Email Address: liquormgr.3020@cobornsinc.com

<b>Name:</b> Christopher Coborn 17.1023% owner		Date of Birth: 2/10/59	Race: Caucasian
Driver's License Number: W363263658912		State Issued: MN	Gender: M
Home Address: 3104 Dunbar Road	City: St. Cloud	State: MN	Zip: 56301
Occupation: Officer	Phone Number: 320-250-1467	Title: Pres/CEO	Email Address: chris.coborn@cobornsinc.com

<b>Name:</b> James Shaw <1% owner		Date of Birth: 10/15/68	Race: Caucasian
Driver's License Number: Z676236775319		State Issued: MN	Gender: M
Home Address: 12940 56th Ave N	City: Plymouth	State: MN	Zip: 55442
Occupation: Officer	Phone Number: 612-916-4506	Title: CFO	Email Address: jim.shaw@cobornsinc.com

<b>Name:</b> Rebecca Estby <1% owner		Date of Birth: 10/9/65	Race: Caucasian
Driver's License Number: S919158621419		State Issued: MN	Gender: F
Home Address: 1560 39th St S	City: St. Cloud	State: MN	Zip: 56301
Occupation: Officer	Phone Number: 612-281-4064	Title: Sr. VP of Org Dvlp	Email Address: becky.estby@cobornsinc.com

**The undersigned states that the following information is true and correct.**

1. Are manager and partners legal residents of the United States and the State of North Dakota, and are all officers or directors legal residents of the United States? Yes  No  If not, please explain:

2. Have any of the persons listed above been convicted of any crime within the past five years? Yes  No

If yes, list all convictions and the dates, locations and sentence of disposition of each:

James Shaw was convicted of a misdemeanor DWI on 8/27/17. Sentenced to \$500 fine/2 yrs probation.

3. Does the building meet all state and local sanitation and safety requirements? Yes  No

4. Has applicant, or any of the persons listed above, within the past five years had any license to engage in sale of alcoholic beverages revoked or suspended? Yes  No  If yes, please give details:

5. If a new application, has applicant or any of the persons listed above, engaged in the sale or transportation of alcoholic beverages previously? Yes  No  If yes, please give details:

We previously operated a liquor store at this address. The store was closed late 2018.  
We plan to reopen at this location.

6. Has applicant, or any of the persons listed above, within the past five years, had an application for any federal or state or local license of any type rejected or denied? Yes  No  If yes, please give details:

7. Is there any agreement or understanding, or proposed agreement or understanding to obtain the license for another, or to operate the business for another, or as an agent for another? Yes  No  If yes, please give details:

8. Has the business been sold or leased, or is there any intention to sell or lease the business to another? Yes  No  If yes, please give details:

9. Has the applicant, or any of the persons listed above, shown interest in whatsoever, directly or indirectly, any other license liquor establishment within or without the State of North Dakota? Yes  No  If yes, please give details:

see attached

10. Will the applicant, or any of the persons listed above, be engaged in any other business other than the sale of liquor under the license applied for? Yes  No  If yes, please give details:

11. Have all property taxes and special assessments currently due been paid? Yes  No  If not, please explain:

I agree that I will not transfer or sell this license, if granted, without the prior approval of the governing body and in accordance with applicable ordinances.

I also agree that should any of the information contained in this application change within the period of the license, if granted, that I will inform city officials immediately and furnish such details as may be requested by such officials concerning any such changes. I also agree that, should there be a change in ownership or management during the period of the license, prior approval of the Board of City Commissioners is required.

I further agree that any misrepresentation, false statement or omission in this application shall be grounds for rejection of said application or for revocation or suspension of any license granted.

MN

State of

Signature of Applicant

Stearns

Print Name

JAMES F SHAW

County of

**License transfers require signatures from both parties.**

The Class D license owned by me is transferred to Applicant upon successful application.

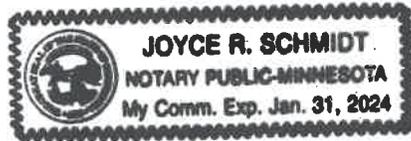
Signature of Current Owner of Liquor License

Signature of Applicant

Subscribed and sworn to before me this 27<sup>th</sup>

day of

Jan, 2020



Notary Public

Note: Each application needs to be signed and notarized.

### Restaurant Requirements:

**All applications for Class "F", Class "I" (restaurants), Class "M" (caterer), Class "P" (event site) and Class "Q" (Restaurant On-Sale and Off-Sale) licenses MUST be accompanied by a sworn statement executed by the licensee and a certified public accountant retained by the licensee certifying that gross food sales and liquor sales for the previous calendar year meet the requirements of Chapter 5-01-04 of the City Code of Ordinances.**

### Liquor License Site Diagram Requirements:

- Site diagrams are to be submitted on a plain sheet of paper, 8½ x 11-inch size. There shall be one-inch margin left clear on all edges of the diagram.
- The licensed area shall be identified within the margins.
- The agency name shall be included on the diagram.
- The direction "North" shall be included on the diagram.
- The interior design of the licensed area shall be represented. This should include entrances, exits, interior doors, windows, tables, coolers, storage offices and room dividers.
- The diagram may be hand drawn, but it must be neat and reasonably accurate. Do not submit copies of construction blueprints.
- If the licensed site is part of a larger complex such as a restaurant, areas such as mixing, serving and storage must be identified.
- Do not use reference or hi-lite markers to identify areas as they do not reproduce when copied.

Store	Invoice	Date	Type	Gross Amount	Net Amount
3020 Bismarck	3020200114 NEW LIQUOR LIC	1/14/20 NSE	I	200.00	200.00
Vendor Info.		Check No. / Date	Invoice Amounts		Net Amount
CITY53		912952 1/17/20	Gross: 200.00 Disc: .00		200.00

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER AND VISIBLE FIBERS.

**COBORN'S**  
INCORPORATED

1921 COBORN BOULEVARD  
P.O. BOX 6146  
ST. CLOUD, MINNESOTA 56302

US Bank  
Havre, Montana

93-455  
929

DATE	CHECK NO
1/17/20	912952

CHECK AMOUNT
*****200.00

PAY 200 DOLLARS AND 00 CENTS.

To The  
Order Of CITY OF BISMARCK  
PO BOX 5503  
BISMARCK, ND 58502-5503

*Christopher Coborn*

AUTHORIZED SIGNATURE  
Coborn's Inc.

⑈912952⑈ ⑆092904554⑆ 150080684817⑈



# LIQUOR

#3004 (7032) CASH WISE LIQUOR  
1305 SOUTH FIRST STREET  
WILLMAR, MN 56201  
(320) 235-8797  
FAX: (320) 235-5999  
Scott Kannenberg, Mgr

#3014 (7037) CASH WISE LIQUOR  
495 W NORTH STREET  
OWATONNA, MN 55060  
(507) 451-8440  
FAX: (507) 455-6700  
Dave Isaacson, Mgr

#3043 CASH WISE LIQUOR  
3224 16TH Street SW  
Minot, ND 58701  
(701) 852-4440  
FAX: (701) 852-4424\*  
Kip Kalvick, Mgr

#3046 CASH WISE LIQUOR  
300 11th St W  
Williston, ND 58801  
(701) 572-9326  
FAX: (701) 774-8130  
Bradley Knakmuhs, Mgr

#3049 CASH WISE LIQUOR  
410 10th Street S.E.  
Jamestown, ND 58401  
(701) 252-1527  
FAX: (701) 252-1522  
Arielle Fieber, Mgr

#7036 CASH WISE LIQUOR  
14092 EDGEWOOD DRIVE  
BAXTER, MN 56425  
(218) 829-9286  
FAX: (218) 829-4809  
Mark Dockendorf, Mgr

#7043 CASH WISE LIQUOR  
310 CENTRAL AVENUE EAST  
ST MICHAEL, MN 55376  
(763) 497-0659  
FAX: (763) 497-0739  
Artis Bisers, Mgr

#7046 Captain Jack's South  
808 S 2nd Street  
Bismarck, ND 58504-5720  
(701) 223-6546  
Marvin Sitter, Mgr

#7049 Captain Jack's-Mandan  
101 6th Avenue NE  
Mandan, ND 58554-3529  
Christopher Weiland, Mgr  
(701) 663-2510

#3009 (7031) CASH WISE LIQUOR  
45 2nd Street South  
WAITE PARK, MN 56387-1348  
(320) 259-1156  
FAX: (320) 259-5161  
Greg Anderson, Mgr

#3015 (7038) CASH WISE LIQUOR  
3310 HWY 10 EAST  
MOORHEAD, MN 56560  
(218) 236-8081  
FAX: (218) 236-8081\*\*  
Tom Sorensen, Mgr

#3044 Cash Wise Liquor  
1761 3rd Avenue West  
Dickinson, ND 58601  
(701) 225-9752  
FAX: (701) 225-9752\*\*  
Laura Dennis, Mgr

#3047 Cash Wise Liquor  
406 Westview Lane  
Stanley, ND 58784  
(701) 628-2280  
FAX: (701) 628-2280\*  
Janet Bigham, Mgr

#3051 CASH WISE LIQUOR  
900 NE 43rd Ave  
Bismarck, ND 60545  
(701) 255-6866  
FAX: (701) 223-5998\*  
Darrell Wrege, Mgr

#7039 CASH WISE LIQUOR  
513 "B" STREET NE  
BRAINERD, MN 56401  
(218) 828-9003  
FAX: (218) 825-0119  
Tony Klaers, Mgr

#7044 CASH WISE LIQUOR  
801 North Nokomis Street NE  
Alexandria, MN 56308  
(320) 762-2524  
FAX: (320) 762-2524 \*\*  
Aaron Tosh, Mgr

#7047 Captain Jack's North  
3131 Weiss Avenue  
Bismarck, ND 58503-1200  
Ryan Mertz, Mgr  
(701) 223-5113

#7052 CASH WISE LIQUOR  
4985 Timber Parkway S  
Fargo, ND 58104  
LeAnn Donley, Mgr  
701-232-2219

#3013 (7040) CASH WISE LIQUOR  
1216 WESTRIDGE RD  
NEW ULM, MN 56073  
(507) 354-7930  
FAX: (507) 354-7930\*\*  
Tom Portner, Mgr

#3042 CASH WISE LIQUOR  
113 6th Avenue SE, Suite #5100  
Watford City, ND 58854  
(701) 842-2519  
FAX: (701) 842-6126  
Cindy Jensen, Mgr

#3045 CASH WISE LIQUOR  
755 33RD AVE E  
WEST FARGO ND 58078  
(701) 281-6487  
Fax:  
Roger Nelson, Mgr

#3048 Cash Wise Liquor  
802 N Elm Street  
Tioga, ND 58852  
(701) 664-5303  
FAX:(701) 654-5303\*  
Shandar Loney, Mgr

#3054 CASH WISE LIQUOR  
1226 State Street N  
Waseca, MN 56093  
507-835-9181  
Chris Meneguzzo, Mgr

#7042 CASH WISE LIQUOR  
625 WEST CENTRAL ENTRANCE  
DULUTH, MN 55811  
(218) 722-4507  
FAX: (218) 722-4508  
Caron Daniel, Mgr

#7045 CASH WISH LIQUOR  
1414 - 34th Street South  
Fargo, ND 58103  
(701) 282-2323  
FAX: (701) 293-6016  
Tim Pausch, Mgr

#7048 Captain Jack's West  
1140 W Turnpike Avenue  
Bismarck, ND 58501-8114  
Randy Himmelspach, Mgr  
(701) 751-4418

#7054 HORNBACHER'S WINE & SPIRITS  
4265 45th St S #121  
Fargo, ND 58104  
Brandon McBain, Mgr  
701-364-2337

# LIQUOR

#2002 (6036) COBORN'S LIQUOR  
141 GLEN ST  
FOLEY, MN 56329  
(320) 968-8650  
FAX: (320) 968-7059\*  
Gary Stoltz, Mgr

#2024 COBORN'S LIQUOR  
2150 DAKOTA AVE S  
HURON, SD 57350  
(605) 352-6036\*  
FAX: (605) 352-8304\*  
Joseph Stewart, Mgr

#2032 (6035) COBORN'S LIQUOR  
1710 Pine Cone Road, Suite #100  
SARTELL, MN 56377  
(320) 258-4945  
FAX: (320) 258-4946  
Christopher Kliber, Mgr

#2037 (6040) COBORN'S LIQUOR  
225 W 33rd ST  
HASTINGS, MN 55033  
(651) 437-9430  
FAX: (651) 437-9430\*\*  
Keith McClellan, Mgr

#2042 (6043) COBORN'S LIQUOR  
1014 EAST ENTERPRISE DRIVE  
BELLE PLAINE, MN 56011  
(952) 873-2606  
FAX: (952) 873-2606\*\*  
Brian Burtness, Mgr

#2581 MARKETPLACE FOODS LIQUOR  
2191 US Hwy 8  
St. Crois Falls, WI 54024  
(715) 483-54024  
William Stork, Mgr

#2690 HORNBACHER'S WINE & SPIRITS  
2050 Sheyenne St  
West Fargo, ND 58078  
701-282-5555  
Heather Aal, Mgr

#2006 (6033) COBORN'S LIQUOR  
1113 FIRST AVENUE NE  
LITTLE FALLS, MN 56345  
(320) 632-3365  
FAX: (320) 632-3365\*\*  
Dan Moe, Mgr

#2025 COBORN'S LIQUOR  
1800 NORTH MAIN  
MITCHELL, SD 57301  
(605) 996-5593\*  
FAX: (605) 996-7651\*  
Mark McMahon, Mgr

#2033 (6039) COBORN'S LIQUOR  
7880 Sunwood Dr NW  
RAMSEY, MN 55303  
(763) 323-1382  
FAX: (763) 323-1382\*\*  
Robert Ahner, Mgr

#2038 (6041) COBORN'S LIQUOR  
202 ALTON AVENUE SE  
NEW PRAGUE, MN 56071  
(952) 758-4577  
FAX: (952) 758-4577\*\*  
Tara Duering, Mgr

#2043 (6044) COBORN'S LIQUOR  
105 EAST MAIN STREET  
MELROSE, MN 56362  
(320) 256-4450  
FAX: (320) 256-7774  
John Kociemba, Mgr

#2582 MARKETPLACE FOODS LIQUOR  
207 Pine Avenue West  
Menomonie, WI 54751  
(715) 235-4201  
Jonathan Huebener, Mgr

#2008 (6034) COBORN'S LIQUOR  
715 COUNTY RD 75  
CLEARWATER, MN 55320  
(320) 558-6761  
FAX: (320) 558-6761\*\*  
Chris Hanson, Mgr

#2029 (6038) COBORN'S LIQUOR  
5600 LaCENTRE AVE, Ste 114  
ALBERTVILLE, MN 55301  
(763) 497-2831  
FAX: (763) 497-5812\*  
Teresa Campa, Mgr

#2035 (6030) COBORN'S LIQUOR  
890 COOPER AVENUE SOUTH  
ST. CLOUD, MN 56301  
(320) 252-8340  
FAX: (320) 240-0655\*  
Brad Babcock, Mgr

#2039 (6042) COBORN'S LIQUOR  
1500 ELM STREET E #2  
ST JOSEPH, MN 56374  
(320) 363-0018  
FAX: (320) 363-0018\*\*  
Rachel Holmstrom, Mgr

#2580 MARKETPLACE FOODS LIQUOR  
330 S Main Street  
Rice Lake, WI 54868  
(701) 234-6991  
Trae Coleman, Mgr

#2583 MARKETPLACE FOODS LIQUOR  
10514 S Main Street  
Hayward, WI 54843  
(715) 634-8996  
Daniel Albert, Mgr



## *City Administration*

**DATE:** February 4, 2020

**FROM:** Jason Tomanek, Assistant City Administrator

**ITEM:** EAT Restaurant LLC (dba) Eat Thai Cafe Application for a New Class I-2 Restaurant Beer and Wine liquor license.

**REQUEST:**

Introduction of and call for a public hearing on a request for a new Class I-2 Restaurant Beer and Wine liquor license for EAT Restaurant LLC (dba) Eat Thai Cafe.

Please place this item on the February 11, 2020 City Commission meeting agenda.

**BACKGROUND INFORMATION:**

EAT Restaurant LLC (dba) Eat Thai Cafe is applying for a Class I-2 Restaurant Beer and Wine Liquor License for address, 409 Riverwood Drive.

Class I - To any restaurant applicant for a food and beverage license to sell at retail, subject to the following: Class I-2 - Beer and wine only.

1. Gross sales of alcoholic beverages may not be greater than 30% of total gross sales. All Class I license holders shall file with the application for license renewal a sworn statement executed by the licensee and a certified public accountant retained by the licensee certifying that gross food sales and gross liquor sales for the previous calendar year meet the requirements of this section. The board of city commissioners may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the commission deems necessary. All sales of alcoholic beverages by Class I licensees must be separately receipted to the customer by cash register receipt and clearly identified as sales of liquor, beer or wine on all receipts.
2. The license is for on-sale only, and no off-sale is permitted.
3. The restaurant serves, at a tabletop, food that is prepared in a kitchen with at least an indoor grill.
4. Once a license has been established at a particular location, the license may not be transferred to another location.
5. The licensee may not permit public dances or dancing of any kind. Minors are allowed on the licensed premises only as permitted by NDCC Section 5-02-06.
6. Alcoholic beverages may be sold or served only during such times that full menu service is available.
7. For a Class I-1 that has a minimum seating capacity of 100 seats, gross sales of alcoholic beverages may not be greater than 40 percent of total gross sales of food and alcoholic beverages.

**RECOMMENDED CITY COMMISSION ACTION:**

Staff recommends approval of the introduction of and call for a public hearing on the request from EAT Restaurant LLC (dba) Eat Thai Cafe with the public hearing scheduled for Tuesday, February 25, 2019. Staff also recommends approval of the new Class I-2 Restaurant Beer and Wine Liquor License.

**STAFF CONTACT INFORMATION:**

Jason Tomanek | Assistant City Administrator, 355-1300 or [jtomanek@bismarcknd.gov](mailto:jtomanek@bismarcknd.gov)



CITY OF BISMARCK  
ADMINISTRATION DEPARTMENT

APPLICATION FOR RETAIL  
ALCOHOL BEVERAGE LICENSE

Phone: 701-355-1300 • Fax: 701-221-6470 • TDD 711  
221 N 5th St • Bismarck, ND 58501

LAST REVISED: 5/1/2019

Note: The \$200 application fee is due when the application is submitted.  
(Fee does not apply to renewal applications)

<b>License Type:</b>				
Individual <input type="checkbox"/>	Corporation <input checked="" type="checkbox"/>		Partnership <input type="checkbox"/>	
New Application <input type="checkbox"/>	Renewal <input checked="" type="checkbox"/>	Transfer <input type="checkbox"/>	Relocation <input type="checkbox"/>	
A-Nationally Organized Fraternal Order or Club <input type="checkbox"/>	E-Sale at Retail of Beer Only <input type="checkbox"/>	H-Commercial vessels on the Missouri River <input type="checkbox"/>	K-Beer and Wine at the Bismarck Event Center <input type="checkbox"/>	P-Event Site <input type="checkbox"/>
B-Airport Terminal Building <input type="checkbox"/>	F1-Restaurant - Alcoholic Beverages - 55/45 Split <input type="checkbox"/>	I1-Restaurant - Alcoholic Beverages - 70/30 Split <input type="checkbox"/>	L-Beer & Wine at Parks & Recreation Locations <input type="checkbox"/>	Q-Restaurant On-Sale and Off-Sale Wine <input type="checkbox"/>
C-Hotel or Motel Full Service <input type="checkbox"/>	F2-Restaurant - Beer/Wine Only - 55/45 Split <input type="checkbox"/>	I2-Restaurant - Beer and Wine Only - 70/30 Split <input checked="" type="checkbox"/>	M-Catered Retail Beer, Wine, & Liquor <input type="checkbox"/>	R-Commercial Airline <input type="checkbox"/>
C2-Hotel or Motel <input type="checkbox"/>	F3-Restaurant - Beer Only - 55/45 Split <input type="checkbox"/>	I3-Restaurant - Beer Only - 70/30 Split <input type="checkbox"/>	N-Domestic Winery <input type="checkbox"/>	S-Beer Arcade <input type="checkbox"/>
D-Sale at Retail of Alcoholic Beverages <input type="checkbox"/>	G-Concession Bismarck Municipal Country Club <input type="checkbox"/>	J-Non-profit Organization Club or Establishment <input type="checkbox"/>	O-Microbrewery <input type="checkbox"/>	T-Senior Living Community <input type="checkbox"/>

<b>Location Information:</b>				
Name of Partnership or Corporation: EAT Restaurant LLC		Date of Incorporation:	State Business ID Number: 33886700	
Name of business for which license is requested (DBA): Eat Thai Cafe		If out of state corporation, is corporation registered in North Dakota? Yes <input type="checkbox"/> No <input type="checkbox"/>		
Location Address: 409 Riverwood Dr.	City: Bismarck	State: ND	Zip: 58504	Phone Number: 7019894916
Owner of Building or Premises: Chris Gillund				

<b>Correspondence Information (Where correspondence is to be sent):</b>				
Primary Contact: Benjamas Gillund		Phone Number: 7019894916	Email Address: ben@eatthcafe.com	
Mailing Address: 409 Riverwood Dr.		City: Bismarck	State: ND	Zip: 58504

**List all officers or director of corporation or partners and percentage of ownership:**

<b>Manager's Name:</b> Benjaminas Gillund		<b>Date of Birth:</b> 05/08/1980	<b>Race:</b> Asian
<b>Driver's License Number:</b> G12-80-1447		<b>State Issued:</b> ND	<b>Gender:</b> F
<b>Home Address:</b> 2617 Verity Lane SE		<b>City:</b> Mandan	<b>State:</b> ND
		<b>Zip:</b> 58554	
<b>Occupation:</b>	<b>Phone Number:</b> 701 9894916	<b>Title:</b> Owner/Manager	<b>Email Address:</b> ben@eatthairestaurant.com

<b>Name:</b>		<b>Date of Birth:</b>	<b>Race:</b>
<b>Driver's License Number:</b>		<b>State Issued:</b>	<b>Gender:</b>
<b>Home Address:</b>		<b>City:</b>	<b>State:</b>
		<b>Zip:</b>	
<b>Occupation:</b>	<b>Phone Number:</b>	<b>Title:</b>	<b>Email Address:</b>

<b>Name:</b>		<b>Date of Birth:</b>	<b>Race:</b>
<b>Driver's License Number:</b>		<b>State Issued:</b>	<b>Gender:</b>
<b>Home Address:</b>		<b>City:</b>	<b>State:</b>
		<b>Zip:</b>	
<b>Occupation:</b>	<b>Phone Number:</b>	<b>Title:</b>	<b>Email Address:</b>

<b>Name:</b>		<b>Date of Birth:</b>	<b>Race:</b>
<b>Driver's License Number:</b>		<b>State Issued:</b>	<b>Gender:</b>
<b>Home Address:</b>		<b>City:</b>	<b>State:</b>
		<b>Zip:</b>	
<b>Occupation:</b>	<b>Phone Number:</b>	<b>Title:</b>	<b>Email Address:</b>

**The undersigned states that the following information is true and correct.**

1. Are manager and partners legal residents of the United States and the State of North Dakota, and are all officers or directors legal residents of the United States? Yes  No  If not, please explain:

*Green card holder*

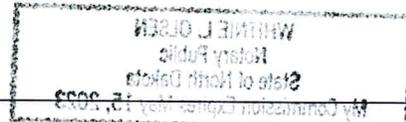
2. Have any of the persons listed above been convicted of any crime within the past five years? Yes  No   
If yes, list all convictions and the dates, locations and sentence of disposition of each:

3. Does the building meet all state and local sanitation and safety requirements? Yes  No

4. Has applicant, or any of the persons listed above, within the past five years had any license to engage in sale of alcoholic beverages revoked or suspended? Yes  No  If yes, please give details:

5. If a new application, has applicant or any of the persons listed above, engaged in the sale or transportation of alcoholic beverages previously? Yes  No  If yes, please give details:

6. Has applicant, or any of the persons listed above, within the past five years, had an application for any federal or state or local license of any type rejected or denied? Yes  No  If yes, please give details:



7. Is there any agreement or understanding, or proposed agreement or understanding to obtain the license for another, or to operate the business for another, or as an agent for another? Yes  No  If yes, please give details:

8. Has the business been sold or leased, or is there any intention to sell or lease the business to another? Yes  No   
If yes, please give details:

9. Has the applicant, or any of the persons listed above, shown interest in whatsoever, directly or indirectly, any other license liquor establishment within or without the State of North Dakota? Yes  No  If yes, please give details:

10. Will the applicant, or any of the persons listed above, be engaged in any other business other than the sale of liquor under the license applied for? Yes  No  If yes, please give details:

11. Have all property taxes and special assessments currently due been paid? Yes  No   
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North Dakota

State of

Burleigh

County of

Benjamas Allen

Signature of Applicant

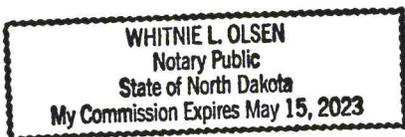
Benjamas Billund

Print Name

License transfers require signatures from both parties.

The Class \_\_\_\_\_ license owned by me is transferred to Applicant upon successful application.

Signature of Current Owner of Liquor License



Signature of Applicant

Subscribed and sworn to before me this 4<sup>th</sup>

day of February, 2020

Whitnie L. Olsen

Notary Public

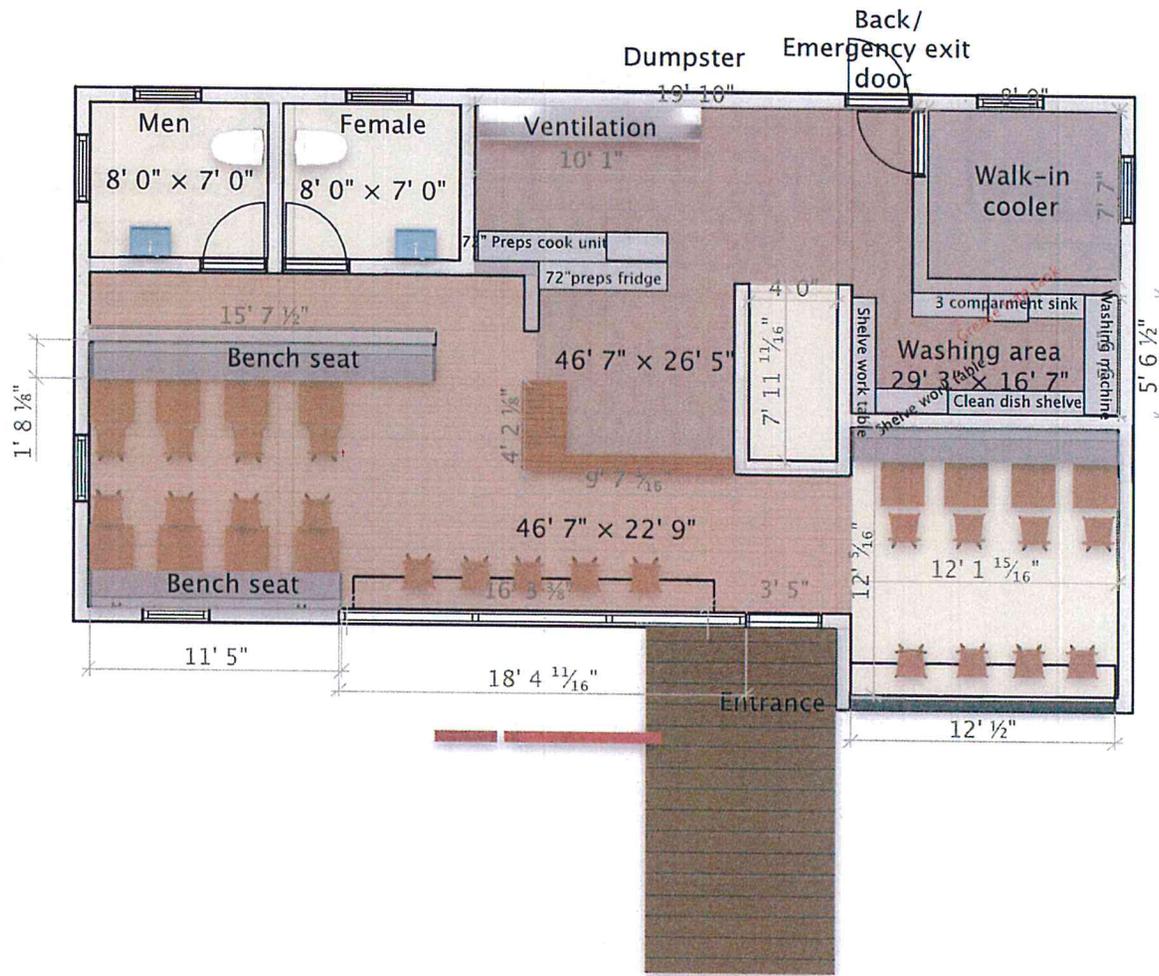
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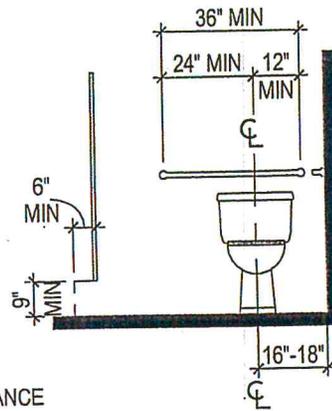
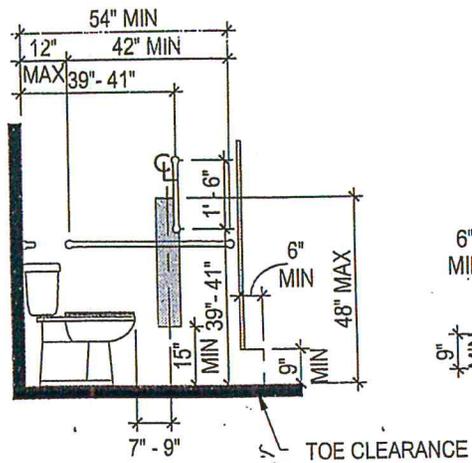
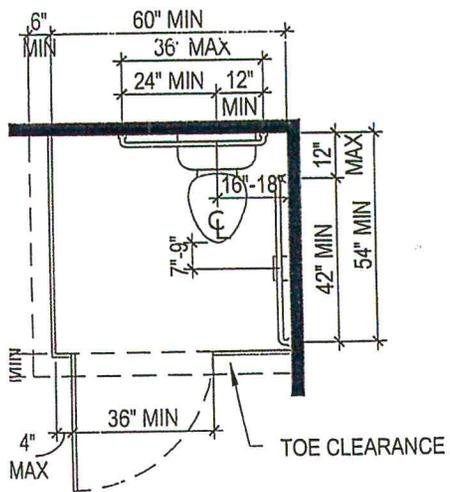
### Appliances & Kitchen equipment list

#### Washing & cleaning room

- Washing machine
- 3 compartments sink
- Wall mount faucet
- 72" Clean dish shelf
- 60" Shelf work table
- 36" Shelf work table
- 22"x15" Grease trap tank

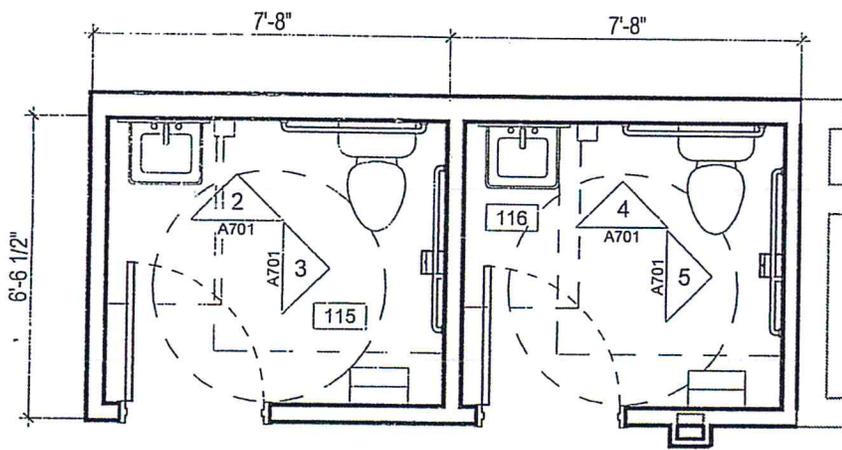
#### Cooking area

- Ventilation
- Suppression system
- Handsink
- 72" Preps cook unit
- 72" preps table fridge
- 2 front table
- Bar counter top

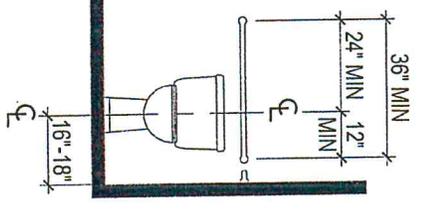
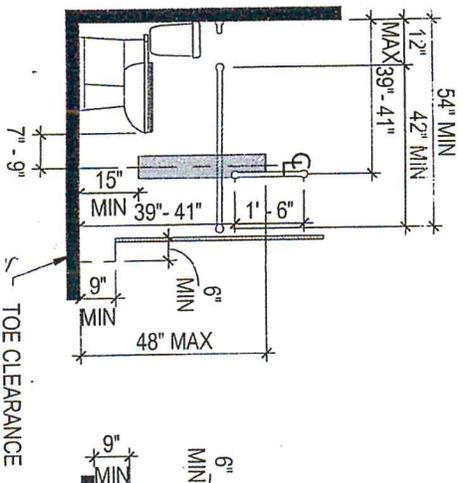
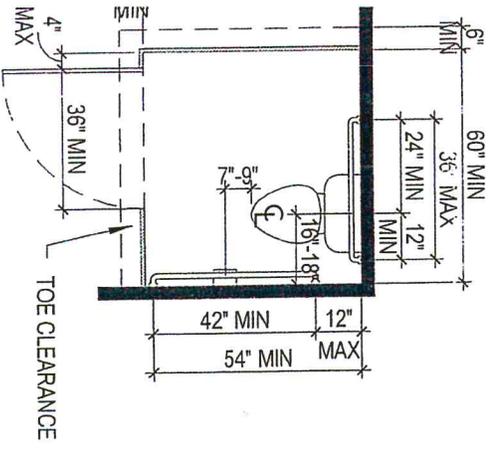


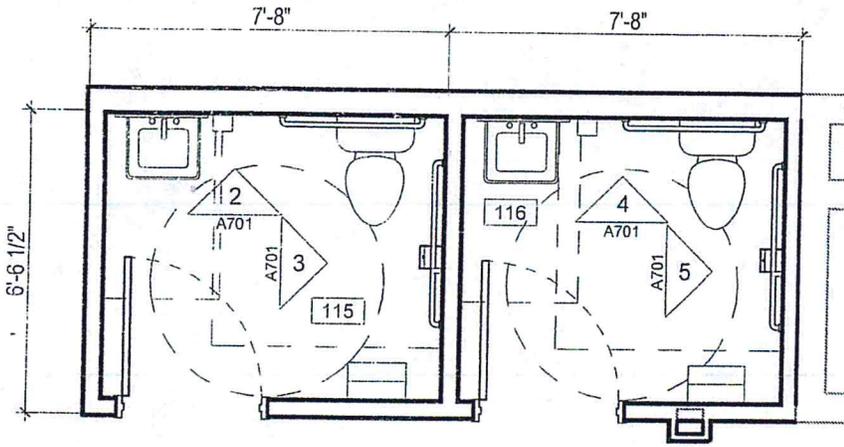
(b) Side Elevation

(c) Front Elevation



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## *City Administration*

**DATE:** February 5, 2020

**FROM:** Jason Tomanek, Assistant City Administrator

**ITEM:** The Craftcade LLC (dba) The Craftcade Application for a new Class F-1 Restaurant Full Alcohol liquor license.

**REQUEST:**

Introduction of and call for a public hearing on a request for a new Class F-1 Restaurant Full Alcohol liquor license for The Craftcade LLC (dba) The Craftcade.

Please place this item on the February 11, 2020 City Commission meeting agenda.

**BACKGROUND INFORMATION:**

The Craftcade LLC (dba) The Craftcade is applying for a Class F-1 Restaurant Full Alcohol Liquor License for address, 405 North 4th Street.

Class F. To any restaurant applicant for a food and beverage license to sell at retail, subject to the following: Class F-1 - Alcoholic beverages

1. Gross sales of alcoholic beverages may not be greater than 45 percent of total gross sales of food and alcoholic beverages. All Class F license holders shall file with the application for license renewal a sworn statement executed by the licensee and a certified public accountant retained by the licensee certifying that gross food sales and liquor sales for the previous calendar year meet the requirements of this section. The board of city commissioners may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the commission deems necessary. All sales of alcoholic beverages by Class F licensees must be separately receipted to the customer by cash register receipt and clearly identified as sales of liquor, beer or wine on all receipts.
2. The restaurant serves, at a tabletop, food that is prepared in a kitchen with at least an indoor grill.
3. The license is for on-sale only, and off-sale is not permitted. A cessation of business at a licensed location for a period of ninety days or longer shall constitute cause to revoke such license pursuant to section 5-01-09.
4. Once a license has been established at a particular location, the license may not be transferred to another location.

5. The licensee may not sponsor or permit public dances or public dancing. Minors are allowed on the licensed premises only as permitted by NDCC Section 5-02-06.
6. Seating capacity. The minimum seating capacity required on the premises for a Class F license, including seasonal seating, is: Class F-1 – 150.

**RECOMMENDED CITY COMMISSION ACTION:**

Staff recommends approval of the introduction of and call for a public hearing on the request from The Craftcade LLC (dba) The Craftcade with the public hearing scheduled for Tuesday, February 25, 2019. Staff also recommends approval of the new Class F-1 Restaurant Full Alcohol Liquor License.

**STAFF CONTACT INFORMATION:**

Jason Tomanek | Assistant City Administrator, 355-1300 or [jtomanek@bismarcknd.gov](mailto:jtomanek@bismarcknd.gov)



## *City Administration*

**DATE:** February 4, 2020

**FROM:** Jason Tomanek, Assistant City Administrator

**ITEM:** Gaming Site Authorization – RMEF Mindak Inc.

**REQUEST:**

Consider application for gaming: RMEF Mindak Inc. – 2402 Railroad Ave.

Please place this item on the February 11, 2020 City Commission meeting agenda.

**BACKGROUND INFORMATION:**

Gaming site authorizations expire on June 30th of each year. The Bismarck Administration Department and the Police Department work collectively to administer the annual gaming site authorizations and renewals.

**RECOMMENDED CITY COMMISSION ACTION:**

Consider approving the gaming application for RMEF Mindak Inc..

**STAFF CONTACT INFORMATION:**

Jason Tomanek | Assistant City Administrator, 355-1300 or [jtomanek@bismarcknd.gov](mailto:jtomanek@bismarcknd.gov)



**GAMING SITE AUTHORIZATION**  
 OFFICE OF ATTORNEY GENERAL  
 SFN 17996 (07/2016)

G - _____ (____)____ Site License Number (Attorney General Use Only)
--

Full, Legal Name of Gaming Organization <b>RMEF Mindak Inc</b>
--

The above organization is hereby authorized to conduct games of chance under the license granted by the Attorney General of the State of North Dakota at the following location

Name of Location <b>Amvets</b>			
Street <b>2402 Railroad Ave</b>	City <b>Bismarck</b>	ZIP Code <b>58501</b>	County <b>Burleigh</b>
Beginning Date(s) Authorized <b>3/21/20</b>	Ending Date(s) Authorized <b>3/21/20</b>	Number of twenty-one tables if zero, enter "0": <b>0</b>	
Specific location where games of chance will be conducted and played at the site (required) <b>Ballroom</b>			
If conducting Raffle or Poker activity provide date(s) or month(s) of event(s) if known <b>3/21/20</b>			

<b>RESTRICTIONS (City/County Use Only)</b>	
Days of week of gaming operations (if restricted)	Hours of gaming (if restricted)

<b>ACTIVITY TO BE CONDUCTED</b> Please check all applicable games to be conducted at site (required)		
<input type="checkbox"/> Bingo	<input type="checkbox"/> Club Special	<input type="checkbox"/> Sports Pools
<input type="checkbox"/> <b>ELECTRONIC</b> Quick Shot Bingo	<input type="checkbox"/> Tip Board	<input type="checkbox"/> Twenty-One
<input checked="" type="checkbox"/> Raffles	<input type="checkbox"/> Seal Board	<input type="checkbox"/> Poker
<input type="checkbox"/> <b>ELECTRONIC</b> 50/50 Raffle	<input type="checkbox"/> Punchboard	<input type="checkbox"/> Calcuttas
<input type="checkbox"/> Pull Tab Jar	<input type="checkbox"/> Prize Board	<input type="checkbox"/> Paddlewheels with Tickets
<input type="checkbox"/> Pull Tab Dispensing Device	<input type="checkbox"/> Prize Board Dispensing Device	<input type="checkbox"/> Paddlewheel Table

<b>APPROVALS</b>	
Attorney General	Date
Signature of City/County Auditor	Date
PRINT Name and official position of person signing on behalf of city/county above	

**INSTRUCTIONS:**

1. City/County Auditors - Retain a **copy** of the Site Authorization for your files.
2. City/County Auditors - Return the **original** Site Authorization form to the Organization.
3. Organizations - Send the **original, signed**, Site Authorization to the Office of Attorney General with any other applicable licensing forms for final approval.

**RETURN ALL DOCUMENTS TO:**

Office of Attorney General  
 Licensing Section  
 600 E Boulevard Ave, Dept. 125  
 Bismarck, ND 58505-0040  
 Telephone: 701-328-2329 OR 800-326-9240



**RENTAL AGREEMENT**  
 OFFICE OF ATTORNEY GENERAL  
 LICENSING SECTION  
 SFN 9413 (Rev. 08-2013)

License Number (Office Use Only)

Site Owner (Lessor) <b>Amvets</b>		Site Name <b>Amvets</b>		Site Phone Number <b>(701) 258-8324</b>
Site Address <b>2402 Railroad Ave</b>		City <b>Bismarck</b>	State <b>ND</b>	Zip Code <b>58501</b>
Organization (Lessee) <b>Rmef Mindak Inc</b>		Rental Period <b>3/21/2020 to 3/21/2020</b>		County <b>Burleigh</b>
1. Is Bingo going to be conducted at this site? 1a. If "Yes" to number 1 above, is Bingo the <b>primary</b> game conducted? If "Yes," enter the monthly rent amount to be paid. Then answer questions 2 - 7 but do not enter any rent amounts.				\$
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes				
2. Is a raffle drawing going to be conducted at this site?				\$
3. Is Prize Boards involving a dispensing device conducted at this site?				\$
4. Is Twenty-One conducted at this site? Number of Tables with wagers up to \$5 _____ <input checked="" type="checkbox"/> Rent per Table \$ _____ <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes				\$
Number of Tables with wagers over \$5 _____ <input checked="" type="checkbox"/> Rent per Table \$ _____				\$
5. Is Paddlewheels conducted at this site? Number of Tables _____ <input checked="" type="checkbox"/> Rent per Table \$ _____ <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes				\$
6. Is Pull Tabs involving either a jar bar and/or a dispensing device conducted at this site? Please check: <input type="checkbox"/> Jar Bar Only <input type="checkbox"/> Dispensing Device Only <input type="checkbox"/> Jar Bar and Dispensing Device				\$
				<b>Total Monthly Rent</b> \$ 0.00

**TERMS OF RENTAL AGREEMENT:**

This RENTAL AGREEMENT is between the Owner (LESSOR) and Organization (LESSEE) that will be leasing the site to conduct games of chance.

The LESSOR agrees that no game will be directly operated as part of the lessor's business.

The LESSOR agrees that the (lessor), (lessor's) spouse, (lessor's) common household members, (management), (management's) spouse, or an employee of the lessor who is in a position to approve or deny a lease may not conduct games at any of the organization's sites and, except for officers and board of directors members who did not approve the lease, may not play games at that site. However, a bar employee may redeem a winning pull tab or prize boards involving a dispensing device and sell raffle tickets or sports pool chances on a board on behalf of an organization.

The LESSOR agrees that the lessor's on call or temporary or permanent employee will not, directly or indirectly, conduct games at the site as an employee of the lessee on the same day the employee is working in the area of the bar where alcoholic beverages are dispensed or consumed.

If the LESSEE provides the Lessor with a temporary loan of funds for redeeming pull tabs or prize boards, or both, involving a dispensing device, the Lessor agrees to repay the entire loan immediately when the lessee discontinues using the device at the site.

The LESSOR agrees not to interfere with or attempt to influence the lessee's selection of games, determination of prizes, including a bingo jackpot prize, or disbursement of net proceeds.

The LESSOR agrees not to loan money to, provide gaming equipment to, or count drop box cash for the lessee.

At the LESSOR'S option, the lessee agrees that this rental agreement may be automatically terminated if the lessee's gaming license is suspended at this site for more than fourteen days or revoked.

Signature of Lessor <i>[Signature]</i>	Title <i>OS Site Manager/Bookkeeper</i>	Date <i>1/24/20</i>
Signature of Lessee (Top Executive Official) <i>[Signature]</i>	Title Regional Director	Date 1/16/2020

### **North Dakota Century Code § 53-06.1-11 (Gross Proceeds - Allowable expenses – Rent limits)**

4. For a site where bingo is conducted:
  - a. If bingo is the primary game, the monthly rent must be reasonable.
  - b. If bingo is not the primary game, but is conducted with twenty-one, paddlewheels, or pull tabs, no additional rent is allowed.
5. For a site where bingo is not the primary game:
  - a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed two hundred dollars multiplied by the necessary number of tables based on criteria prescribed by the gaming rule. For each twenty-one table with a wager greater than five dollars, an additional amount up to one hundred dollars may be added to the monthly rent. If pull tabs is also conducted involving a jar bar or dispensing device, but not both, the monthly rent for pull tabs may not exceed an additional one hundred seventy-five dollars. If pull tabs is conducted involving both a jar bar and dispensing device, the monthly rent for pull tabs may not exceed an additional two hundred dollars.
  - b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted involving either a jar bar or dispensing device, or both, the monthly rent may not exceed four hundred dollars.

### **North Dakota Administrative Code § 99-01.3-02-06 (Rental agreement)**

3. Rent must be a fixed dollar amount per month.
  - a. A participatory or graduated rate arrangement based on gross proceeds or adjusted gross proceeds is prohibited.
  - b. If bingo is the primary game or if a site is leased by an organization that has the alcoholic beverage license for that site, the monthly rent must be reasonable. Factors include time usage, floor space, local prevailing rates, and available sites and services. An organization may pay seasonal expenses, such as snow removal, air-conditioning and heating, to a vendor.
  - c. If bingo is not the primary game, the maximum monthly rent must be according to subsection 5 of North Dakota Century code section 53-06.1-11.

Special considerations are:

    - (1) If two or more organizations conduct twenty-one or paddlewheels, or both, involving a table and pull tabs for less than a month at a temporary site which is a public or private premise, or if two or more organizations are issued site authorizations to conduct games at a site on different days of the week, the maximum monthly rent, in the aggregate, may not exceed the limit set by subsection 5 of the North Dakota Century Code section 53-06.1-11; and
    - (2) If a raffle, calcutta, sports pool, or poker is conducted with twenty-one, paddlewheels, or pull tabs, no additional rent is allowed.
  - d. Except for applying subsection 3 or 4 of section 99-01.3-03-04, and additional rent paid to a lessor for simulcast racing, an organization or employee may not pay any additional rent or expense, from any source, or for any other purpose, including office or storage space, snow removal, maintenance or cleaning fees, equipment, furnishings, entertainment, or utilities. Except for a leased site at which bingo is the primary game conducted, an organization may not pay for any capital or leasehold improvements or remodeling.
- \*4. If there is a change in the monthly rent or any other material change to a rental agreement, the agreement must be amended and a copy received by the attorney general **before** its effective date.

### **North Dakota Administrative Code § 99-01.3-03-04 (Restrictions and requirements)**

18. If an organization conducts twenty-one, it may pay monthly rent for more than one table provided that, each additional table, is used at least thirteen times a quarter. This level of activity is based on a site's historical experience, or seasonal activity, for each of the previous four quarters, regardless of which organization conducted twenty-one at the site. For a new site or a site that has been completely remodeled in appearance and function, the level of activity must be reviewed and reestablished after the first full quarter. If an additional table is used at least thirteen times in at least one but not all of the previous four quarters, the allowable monthly rent for that table must be prorated over all the active months of the licensing year. For example, if a second table was used at least thirteen times in only two of the previous four quarters, the additional monthly rent for the second table would be a maximum of two hundred dollars per month (or three hundred dollars per month if a wager greater than five dollars is accepted on the table) multiplied by six months (totaling one thousand two hundred dollars) and prorated to one hundred dollars per month for the licensing year.

I. CONSENT BY ELIGIBLE ORGANIZATION

Mirndak RMEF Inc. does hereby consent that local  
( Write the full legal name of the eligible organization on the above line )

law enforcement officers and officers of the Attorney General and his agents may, at any time Games of Chance are being conducted, enter upon the site to observe the playing of Games of Chance and to enforce the law for any unauthorized game or practice.

1/20/20  
Date

[Signature] Sec/Treasurer  
Chief Executive (i.e. Cmdr., Pres., etc.)

II. AUTHORIZATION TO INSPECT BANK RECORDS

Mirndak RMEF Inc. does hereby give authorization to  
( Write the full legal name of the eligible organization on the above line )

local law enforcement officers and officers of the Attorney General and his agents to inspect bank records whenever necessary to fulfill the requirements of Gaming rules and laws.

1/20/20  
Date

[Signature] Sec/Treasurer  
Chief Executive (i.e. Cmdr., Pres., etc.)

III. ACKNOWLEDGEMENT BY LOCAL LAW ENFORCEMENT OFFICIAL

I hereby acknowledge that I have been informed that the following named organization:

\_\_\_\_\_ will be conducting  
( Write the full legal name of the eligible organization on the above line )

Games of Chance at the following locations: ( list full legal name and address below )

NAME OF SITE	ADDRESS OF SITE
1.	_____
2.	_____
3.	_____

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Chief of Police or County Sheriff

Big Gun raffle | Predator raffle | Gun Raffle #2 | Pets raffle | Gun raffle | Ladies raffle | Youth Raffle | Buy Raffle

Pistol raffle

Live Auction

Auction

5 base

metal doors

Eating tables

Door

100-50 Raffle

Registration

General Raffle

Registration

Closest

FFC

General Raffle | General Raffle

License Number: (Office Use)

G -



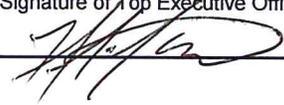
## ANNUAL STATE GAMING LICENSE REAPPLICATION

OFFICE OF ATTORNEY GENERAL

SFN 51575 (Rev. 02-2006)

Official, <u>Legal</u> Name of Organization: (Do Not Abbreviate) RMEF Mindak Inc		Business Telephone Number: 701-866-2421	
Business Address: (Street) 3311 Parkview Lane S	City: Fargo	State: ND	Zip Code: 58103
Mailing Address: 3311 Parkview Lane S	City: Fargo	State: ND	Zip Code: 58103
E-mail address: (optional) klostrom@rmeff.org	Contact Person: Kris Lofstrom	Contact Person Official Position: Regional Director Sec/Treasure	
<b>2. City and county in which games of chance will be conducted:</b>			
City: West Fargo		County: Cass	
3. Name and Title of Organization's Top Executive Official: (i.e., Cmdr., Pres., etc.) Kris Lofstrom Regional Director Sec/Treasure		Daytime Telephone Number: 701-866-2421	
4. Name of Gaming Manager: Kris Lofstrom		Daytime Telephone Number: 701-866-2421	
<b>5. List Governing Board Members (Print) - The governing board is primarily responsible for properly determining and distributing net proceeds.</b>			
Name: Kirk Murphy- President	Telephone Number: 406-523-4500	Name:	Telephone Number:
Name: Kris Lofstrom- Sec/Treasure	Telephone Number: 701-866-2421	Name:	Telephone Number:
Name: Deb Jenner	Telephone Number: 701-570-2907	Name:	Telephone Number:
Name: Martin Well	Telephone Number: 701-220-5832	Name:	Telephone Number:
Name:	Telephone Number:	Name:	Telephone Number:
Name:	Telephone Number:	Name:	Telephone Number:
6. Does the Organization Own or Rent the Premises at Which the Games of Chance will be Conducted? Own <input checked="" type="checkbox"/> Rent			

**AFFIDAVIT:**

The Top Executive Official declares that the information is correct and authorizes the Attorney General to inspect the organization's bank records.	Signature of Top Executive Official: 	Date: 1/26/20
---	--	------------------

**ENCLOSE \$150.00 LICENSE FEE WITH THIS APPLICATION (Check payable to: Office of ND Attorney General)**

**RETURN TO:** Office of Attorney General  
Licensing Section  
600 E Boulevard Ave Dept. 125 Bismarck, ND  
58505-0040  
Telephone: 701-328-2329 OR  
1-800-326-9240



## **ADMINISTRATION**

**DATE:** February 4, 2020  
**FROM:** Keith J. Hunke, City Administrator  
**ITEM:** Communications Services Agreement

### **REQUEST**

Consider request to approve a Communications Services agreement with Agency MABU.

Please place this item on the February 11, 2020 City Commission meeting.

### **BACKGROUND INFORMATION**

A request for proposals was issued on November 8, 2019 for a Strategic Communications Plan. The Communications Plan will advise the City on public communication strategies, outreach and engagement, communications best practices, and message templates for news releases, media advisories and similar forms of communication. Three firms were interviewed by the City selection committee on January 30, 2020 and the top ranked firm was Agency MABU.

### **RECOMMENDED CITY COMMISSION ACTION**

Approve Communications Services agreement with Agency MABU.

### **STAFF CONTACT INFORMATION**

Keith J. Hunke, [khunke@bismarcknd.gov](mailto:khunke@bismarcknd.gov), 701-355-1300



## Communications Services Agreement

This Agreement is entered by and between Marketing & Advertising Business Unlimited, Inc. (dba Agency MABU), hereinafter referred to as "Contractor" and the City of Bismarck, hereinafter referred to as "Client."

### **CONTRACTOR:**

Marketing & Advertising Business Unlimited, Inc. (dba Agency MABU)  
Michael J. Mabin, Chief Executive Officer  
1003 Gateway Avenue, Bismarck, ND 58503  
Phone #: (701) 250-0728  
E-mail: [mmabin@agencymabu.com](mailto:mmabin@agencymabu.com)

### **CLIENT:**

City of Bismarck  
Keith Hunke, City Administrator  
221 North 5<sup>th</sup> Street  
Bismarck, ND 58506-5503  
E-mail: [khunke@bismarcknd.gov](mailto:khunke@bismarcknd.gov)

### **SCOPE OF WORK:**

The CLIENT desires that CONTRACTOR perform, and CONTRACTOR agrees to perform, the work as described in **Addendum A**, which determines the full scope of work for this AGREEMENT unless an additional addendum is approved by both parties. **Addendum A** is the written proposal submitted by the CONTRACTOR to the City of Bismarck on November 22, 2019, titled "Communications Proposal."

### **PLACE OF WORK:**

The CONTRACTOR's services will be rendered primarily at the CONTRACTOR'S office locations, but the CONTRACTOR may, when necessary and when requested by the CLIENT, come to the CLIENT'S place of business or premises to consult and work with representatives of the CLIENT.

### **OTHER SPECIFICATIONS:**

CONTRACTOR will furnish all equipment, tools, materials and supplies except:

### **DATES OF WORK:**

Work shall be performed between in accordance with the timeframe described in **Addendum A**.

**TERMS OF PAYMENT:**

As compensation for work performed by the CONTRACTOR in accordance with the cost proposal in **Addendum A**, the CLIENT shall pay CONTRACTOR within thirty (30) days after CLIENT's receipt of invoice(s) from CONTRACTOR. The schedule of payments is further defined in **Addendum A**.

**RELATIONSHIP BETWEEN PARTIES:**

CONTRACTOR understands CONTRACTOR is not the CLIENT's employee and is not entitled to any benefits provided by CLIENT to its employees. CONTRACTOR will perform all services in an independent capacity, subject to the CLIENT's direction and control only as to the result and not the manner or means of accomplishing that result. Except as specified above, CONTRACTOR shall, at CONTRACTOR's sole expense, provide all instrumentalities or supplies, any required licenses or permits, additional staff or subcontractors, and any other expense incurred by CONTRACTOR except as otherwise specified herein.

**INSURANCE:**

CONTRACTOR assumes all risks as an independent contractor, and agrees to obtain all insurance necessary for CONTRACTOR's protection in connection with work under this agreement.

**INDEMNITY:**

Each party agrees to indemnify, defend and hold harmless the other from any injuries, property damage, or other claims and losses resulting from the activities of each party or the party's agents in performance of this agreement.

**OWNERSHIP:**

Until full payment has been made, the CONSULTANT retains ownership of all original artwork/files or parts contained therein, whether preliminary or final. Upon full payment, the CLIENT shall obtain ownership of the final original artwork and files. The CONSULTANT retains the right to use any completed projects for the purpose of competitions, education and/or portfolio examples. Electronic files may be transferred to the CLIENT upon request. The CLIENT may be charged a nominal fee to cover the time and other direct costs (e.g., storage device) to retrieve, transfer and store the files.

Notwithstanding the foregoing, it is understood that CONSULTANT may, on occasion, license materials from third parties for inclusion in Work Product. In such circumstances, ownership of such licensed materials remains with the licensor at the conclusion of the term of the license. In such instances, CLIENT agrees that it remains bound by the terms of such licenses (e.g., stock images, licensed music, voiceover narration, etc.).

**CONFIDENTIALITY:**

CONTRACTOR shall not, without the CLIENT'S express written permission, reveal or otherwise make available to any person or persons any confidential, privileged information or trade secrets regarding the Client's services, customers or methods of operation learned by the CONTRACTOR during the term of this Agreement.

**GOVERNING LAW/JURISDICTION:**

This Agreement, in its validity, construction and performance, shall be governed in all respects and in accordance with applicable state, tribal and federal law. If uncertainty or contradictions exist between any of these applicable laws, this Agreement shall be governed by the laws of the State of North Dakota.

**TERMINATION:**

Either party may terminate the agreement, without cause, by providing 30 days written notice. Furthermore, with reasonable cause, either party may terminate this agreement effective immediately upon giving written notice of termination for cause. Reasonable cause shall include material violation of this Agreement and any act exposing the other party to liability to others for personal injury or property damage. The failure of either party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach. Regardless of the reason for termination, the CLIENT will pay CONTRACTOR for all services performed and charges and expenses reasonably incurred by CONSULTANT in connection with the services provided under this Agreement through the date of termination.

**MODIFICATION:**

This writing contains the entire Agreement of the parties. No representations were made or relied on by either party, other than those expressly set forth. No agent, employee, or other representative of either party is empowered to alter any of the terms hereof, unless done in writing and signed by an executive officer of both parties.

No modification of either party which would have the effects of modifying the obligations of the other party (except as to lessen the same) shall be effective unless an Addendum regarding same is executed by an executive of both parties.

This agreement becomes effective upon signature of both parties.

**CLIENT**

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

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

**CONTRACTOR**

Approved By: Michael J. Mabin January 31, 2020  
Michael J. Mabin, Chief Executive Officer Date

*This Agreement contains confidential and proprietary information that is not to be reproduced or distributed to anyone other than the intended party listed as "CLIENT" as part of this document without express written permission from Agency MABU. Any infringement of this copyright will be prosecuted to the fullest extent of the law. (c) January 1, 2020 Agency MABU*



# Communications Proposal

ADDENDUM A – January 31, 2020

CLIENT: **City of Bismarck**

PROJECT: **Strategic Communications Plan**



## Section 1: Introduction

### 1a – Letter of Interest

Attn: City Administrator, City of Bismarck

November 22, 2019

Greetings on behalf of Marketing & Advertising Business Unlimited, Inc. (doing business as Agency MABU). We are a Bismarck-based communications company specializing in serving government entities, non-profit organizations and professional service providers (e.g., doctors, lawyers, engineers, architects, accountants, etc.).

**Our team is interested in being considered for this project and contributing to your communications success.** Working in collaboration with the City to create a Strategic Communications Plan is “near and dear” to our hearts. As longtime citizens of the community, we’re eager to help the City better inform, educate and engage area residents in discovering the good works occurring in Bismarck.

Sincerely,



Michael J. Mabin, President/Owner

### 1b – Understanding of Need and Proposed Approach

We understand the City of Bismarck is seeking a qualified consulting firm to create a Strategic Communications Plan based on best practices relating to public communications and outreach.

Our team is uniquely qualified to fill this need. We follow a structured 5-Step communications planning process. This **proven approach** is based on our extensive experience, combined with industry best practices, relating to the development and deployment of strategic communications plans.

#### Step 1: Discover Needs & Establish Goals

We begin each client relationship with a discovery meeting to assess needs and determine the overall goals. Meeting attendees are determined by the Client and typically include key decision makers, as well as members of the Client’s communications team.

#### Step 2: Conduct Market Research

Next, we conduct research by studying existing reports, statistics and communications materials relating to the organization. We also conduct primary research in the form of executive interviews, focus group sessions and internet-based surveys to gain added insight from stakeholders and target audiences.



### Step 3: Develop Communications Plan

Based on the discovery process and market research findings, we write a strategic communications plan addressing goals, staffing plan, brand identity, target audiences, key messages, media mix, timelines, budget parameters and measurement methods. The plan typically covers 12-18 months.

### Step 4: Deployment of the Plan

After a written plan is finalized and approved by the Client, we are available to offer advice and assistance with implementing the main initiatives. Examples of such support includes creating templates, providing media training, creating social media assets, developing crisis communications policies, etc.

### Step 5: Measure Results

Lastly, we work with our clients to measure outcomes against the objectives established through the planning process. Adjustments are then made in subsequent years to continually keep the plan current.

We propose to work in collaboration with *City of Bismarck* in two (2) distinct phases. Phase I will involve researching and writing a **Strategic Communications Plan**. Phase II will involve **possibly assisting the City of Bismarck with implementing the written plan**. **Our team will submit a separate proposal to the City of Bismarck for any communications assistance that's deemed to be necessary to move the plan forward toward successful completion. This two-phased approach is further described in Section 3.**

## 1c – City of Bismarck Role & Responsibilities

Under this proposal, the *City of Bismarck* will be responsible for handling the following activities to assure successful completion of the project.

- Assigning a primary point of contact to work with Agency MABU in seeking and securing input and approvals, as well as coordinating logistics for the various research & planning activities.
- Providing and/or arranging for the facilities and/or meeting room(s) where the various interviews and/or planning meeting(s) will be held.
- Identifying the names and contact information of executives & stakeholders to be interviewed and involved in the research and planning process.
- Working in collaboration with Agency MABU to identify and notify the participants of the interviews and planning meeting(s).
- Providing access to relevant data, documents and communications materials to assist Agency MABU in assessing past and present public communications activities and outcomes.



## Section 2: Company and Consultant Team Experience

Marketing & Advertising Business Unlimited, Inc. (doing business as Agency MABU) is a full-service management, marketing and multimedia production company. We help our clients communicate more effectively and build stronger relationships with those they serve.



Our team of nearly 20 award-winning project managers, graphic designers, copywriters, media planners and multimedia production professionals work together to develop a customized strategy and plan of action. Founded in 2001, we have nearly 20 years of proven experience in serving clients throughout North Dakota and beyond.

### 2a - Compelling Reasons to Choose MABU

Why is our team uniquely qualified to partner with **CITY OF BISMARCK**? Let's count the ways.

- 1) **We're all about strategic communications.** We start with the end goal in mind and build the communications strategy to ensure we can measure our success along the way. We make changes as needed to continuously improve the messaging, media mix and outcomes.
- 2) **We're a one stop communications shop.** Market research, writing, graphic design, web development, video, animation, advertising, media relations, event coordination - if it's related to communicating a message and influencing an audience, MABU does it, making sure all components work together in a cohesive, creative and constructive manner.
- 3) **We understand organizational dynamics.** We work well with complex entities and organizations involving multiple divisions and departments. We understand the important role communications plays in addressing organizational challenges and opportunities.
- 4) **We specialize in serving clients like you.** Our approach aims to influence behavior as a means of benefiting people and communities for the greater good of society. Our client base consists primarily of government entities, nonprofit organizations and professional service providers.



## 2b – Seasoned Team of Communications Professionals

We will assign a team of seasoned communications professionals to serve this contract. Our **lead team** possesses nearly 100 years of combined marketing, communications and management experience.

### **Trish Helgeson, Chief Marketing Officer (28+ years of experience)**

Trish Helgeson, Chief Marketing Officer, has nearly 30 years of communications expertise and experience in government, healthcare, tourism, banking and energy.



The North Dakota native has led marketing and public relations strategy throughout the Midwest in both corporate and advertising agency roles. A graduate of Minnesota State University Moorhead and North Dakota State University, Helgeson holds a Bachelor of Science in marketing and a Master of Business Administration (MBA).

### **Debra Anderson, Client Services Manager (30+ years of experience)**

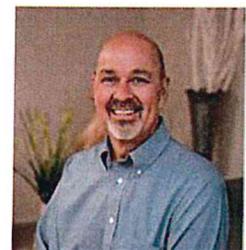
Debra Anderson, Client Services Manager, specializes in managing large-scale projects, which include stakeholder communications and media relations on behalf of government, healthcare and education clients.



Anderson has 30+ years of experience in organizational communication. Her career includes running a private consulting company, as well as positions in private and public organizations in North Dakota and Oklahoma including Blue Cross Blue Shield, North Dakota Department of Health, North Dakota University System (NDUS) and North Dakota Medical Association. Her NDUS experience includes developing long-term communications plans for the State Board of Higher Education and 11 campuses that make up the University system. Anderson received a Bachelor of Arts degree from the University of North Dakota with majors in English and public relations.

### **Mike Mabin, Chief Executive Officer (35+ years of experience)**

Mike Mabin, company owner, serves as a lead consultant in developing and implementing multi-faceted marketing plans and programs for clients including government agencies, non-profit organizations and corporations.



Prior to starting Agency MABU in 2001, Mabin served for over 20 years as the Vice President of Marketing and Development at St. Alexius Medical Center, Bismarck, ND. Mabin earned a Master's in Management and a Bachelor's in Communications from the University of Mary, Bismarck, ND. Mabin is one of only a handful of marketing professionals in the world to earn lifetime accreditation by the International Association of Business Communicators (IABC).

**Note:** Helgeson, Anderson and Mabin are joined by fifteen (15) other talented communications professionals at MABU who will serve in supporting roles on this project.

## Section 3: Scope and Budget

### 3a - Proposed Scope of Work

Our lead consulting team, led by Chief Marketing Officer Trish Helgeson, will create a Strategic Communications Plan on behalf of **City of Bismarck**. The written plan will include address goals, branding strategies, target audiences, key messages, mediums and methods, timelines, a calendar of activities, budget parameters and methods for measuring outcomes.

#### *Detailed Description of Proposed Deliverables:*

- **Discovery Meeting:** To initiate work on the project, our consulting team will conduct a discovery meeting with the City. Meeting attendees will be identified by the Client. The purpose of the discovery meeting is to meet in person to review the scope of work, discuss core strategies, share preliminary plans and confirm desired outcomes.
- **Executive Interviews:** Our consulting team will conduct up to six (6) executive interviews with key members of the City's leadership team to identify current issues, as well as communications challenges, priorities and opportunities for improvement. These one-on-one interviews will be conducted by MABU with executives representing administration, engineering, public works, public information and other key departments to be determined by the client.
- **Relevant Documents Review and Communications Audit:** Our consulting team will conduct a thorough review of any available documents relating to key operational matters (e.g., strategic plan, market research studies, public input reports, infrastructure improvement plans, etc.). Additionally, our team will conduct a communications audit to inventory and assess the City's existing communications materials, tools and assets (e.g., printed materials, public service announcements, community programs, newsletters, photo/video assets, press releases, etc.).
- **Website and Social Media Audit:** Our team will conduct a thorough analysis of the City's website and social media sites, resulting in a Top 10 list of action items for recommended improvements to design, content and coding, thereby improving the user experience and engagement. The City will receive a full audit report addressing content strategy, user engagement, user experience, functionality, site health and website performance.
- **Best Practices and Competitor Research:** Our team will also conduct Internet research on best practices relating to innovative and successful communications efforts being conducted by communities elsewhere across the region and beyond. This will include a review of various communications programs, activities and tools used by other communities of a similar size and nature to Bismarck.

- **Key Stakeholder Research:** Our team will conduct up to six (6) executive interviews with representatives from stakeholder groups integrally involved in or impacted by the activities of the City (e.g., City Commission, Bismarck Parks, etc.). Input and advice will be sought regarding strengths, weaknesses and opportunities for improving communications efforts. The individuals to be interviewed will be identified by the City of Bismarck.
- **Communications Planning and Branding Session:** Our team will facilitate a two (2) hour communications planning and brand building session with 8 – 12 representatives of the City of Bismarck. The meeting participants will include a cross section of key decision makers and team members (e.g., administrators, commissioners, department heads, communications staff, front line employees, etc.). The meeting will engage the participants in an interactive process whereby they'll define the organization as it exists today from a communications and branding standpoint, as well as how they envision it operating in the future. Agency MABU will lead the group through a process of identifying the unique attributes and characteristics of the City's brand identity and organizational persona.
- **Creation of a Strategic Communications Plan:** Upon completing the previously described market research and communications planning activities, our team will write a Strategic Communications Plan. The project will conclude with the printing of twelve (12) spiral bound copies of the written plan, along with an oral presentation to the City Administration describing the main findings and recommendations. A separate written report will provide recommendations for improving the City's website and social media presence.

### 3b - Proposed Timeline

We anticipate starting work on this project as early as February 15, 2019. The project will take 8-12 weeks to conduct the market research and write the Strategic Communications Plan.

### 3c - Proposed Budget (Firm-Fixed Fee = \$18,300)

PHASE 1 (January - March 2020)	Budget
Research and write a strategic communications plan (e.g., executive interviews, review of documents & materials, web & social media audit, branding & planning session, written plan and presentation for findings/recommendations).	\$14,250.00
Review and analyze the City's main website and social media sites.	\$3,800.00
Incidental expenses (printing and binding of written reports, meeting handouts, flipchart supplies, miscellaneous office supplies)	\$250.00
<b>Total Investment – Phase 1</b>	<b>\$18,300.00 *</b>

*\* If requested, a separate proposal may be offered to City of Bismarck to assist with implementation of various aspects of the plan following completion of Phase 1.*



### 3d - Proposed Payment Terms

Payment for services rendered under this Agreement will be issued by the CONSULTANT to the CLIENT on an installment basis in accordance with the following schedule:

- Installment #1: 25% of contract (\$4,575) issued upon approval of the Agreement (e.g., end of Feb. 2020)
- Installment #2: 25% of contract (\$4,575) issued upon completion of advance research (e.g., end of Mar. 2020)
- Installment #3: 25% of contract (\$4,575) issued upon completion of web/social audit (e.g., end of Apr. 2020)
- Installment #4: 25% of contract (\$4,575) issued upon completion of communications plan (e.g., end of May 2020)

Invoices will be payable on a net 30 basis. Interest at prevailing rates may be charged on accounts past due 60 days. In the event of default in payment, the CLIENT shall pay the CONSULTANT all costs, including attorney's fees, the fees of collection agencies, and other expenses incurred in enforcing any of the terms or conditions thereof. Invoices will be issued via e-mail from [mabuacct@gmail.com](mailto:mabuacct@gmail.com).

### Section 4: References

Agency MABU has provided services of a similar nature and scope to this proposal for the following client references.

<b>CLIENT</b>	<b>American Heart/Stroke Association</b>
Project Title	Mission: Lifeline Stroke North Dakota
Dollar Amount	\$276,000
Period of Performance	October 1, 2017 – May 31, 2020
Agency Contact	Chrissy Meyer, Communications Director Phone: 605.360.2542 E-mail: <a href="mailto:Chrissy.Meyer@heart.org">Chrissy.Meyer@heart.org</a>
Project Description	Conduct a statewide public awareness campaign relating to stroke prevention and treatment.

<b>CLIENT</b>	<b>AMERIND Risk</b>
Project Title	Strategic Marketing & Communications Plan
Dollar Amount	\$150,000
Period of Performance	January 1, 2019 - current
Agency Contact	Robert Dahl, Program Manager Phone: 505-404-5014 E-mail: <a href="mailto:rdahl@amerind.com">rdahl@amerind.com</a>
Project Description	Develop and deploy a strategic communications plan to market insurance products to tribal leaders and other target audiences.

<b>CLIENT</b>	<b>U.S. Army Medical Command – Civilian Corps</b>
Project Title	Recruitment Marketing & Advertising Program
Dollar Amount	\$3.496 million
Period of Performance	September 29, 2017 – September 28, 2020
Agency Contact	Dana "DJ" Martin, Civilian Human Resources Recruitment & Retention Phone: 210-850-1627 E-mail: <a href="mailto:dana.j.martin.civ@mail.mil">dana.j.martin.civ@mail.mil</a>
Project Description	Conduct a nationwide marketing & advertising program to recruit civilian medical, behavioral health and dental professionals to staff the U.S. Army's 70+ hospitals and clinics across the world.

***Marketing & Advertising Business Unlimited, Inc.***

Agency MABU (dba)  
1003 Gateway Avenue  
Bismarck, ND 58503

Office: 701.250.0728  
Fax: 701.250.1788  
[www.agencymabu.com](http://www.agencymabu.com)

Contact: Mike Mabin, President  
Mobile: 701.319.5500  
[mmabin@agencymabu.com](mailto:mmabin@agencymabu.com)

*Agency MABU (c) January 31, 2020*



## **REQUEST FOR PROPOSALS**

City of Bismarck Strategic Communications Plan

Date: November 8, 2019

Proposals Due: December 20, 2019

### **Statement of Purpose**

The City of Bismarck (City) invites proposals from qualified consulting firms and consultants to create a Strategic Communications Plan that would advise the City on public communication strategies, outreach and engagement, communications best practices, and message templates for news releases, media advisories and similar forms of communication.

### **Background**

The City communicates with residents, businesses, and other stakeholders and organizations about various City matters, including:

- Emergency preparedness
- City policy
- Traffic, public safety, and other alerts
- News and events
- Key issues and areas of interest
- Department programs, projects, campaigns, and news

Communications are done both at the department level and out of the City Administration Office. The City communicates daily using the following platforms:

- City website
- Press releases, news media outreach
- Social media: Facebook, Twitter, YouTube
- Alert notifications: CodeRED
- Engagement tools: website citizen request form, website Notify Me subscription service
- Email, department publications
- Department Annual reports

The City of Bismarck's communication goals are to:

- Communicate key City messages to residents, businesses, and other stakeholders and organizations
- Ensure residents and businesses have access to emergency alerts
- Establish plans and procedures for communicating about emergency issues and disasters
- Increase awareness of City projects and programs
- Increase awareness of and engagement with City infrastructure construction projects
- Increase overall civic engagement and participation
- Broaden the reach of City communications
- Establish trust with residents and businesses
- Communicate with all audiences, including youth and seniors, and in multiple languages
- Encourage City Departments to increase overall public communications

### **Scope of Work**

The City is looking for a highly qualified Consultant to work closely with the City's Administration Department to create a Citywide Strategic Communications Plan. The Consultant can be part of a firm or an individual consultant and is expected to create a Strategic Communications Plan that provides:

- Recommendations for maintaining and enhancing citywide communications
- Establish Bismarck audience profiles and methods to reach different audiences, including harder to reach stakeholders and ensures input is received by a broad cross section of the Bismarck community
- Direction on where to publish translated materials
- Best practices for social media, alert messages, surveys and community engagement
- Extensive boilerplate language for press releases and emergency messaging
- Guidance on establishing citywide newsletter
- Guidance on establishing citywide annual report
- Case studies in emergency preparedness and effective social media and other messaging from other municipalities

- Creative ideas for planned social media posts and campaigns
- Most effective way to establish a City presence on Facebook, Twitter, Instagram, YouTube, etc.
- How to be most effective with advertising, guidance on advertising outlets, best practices
- How to make effective videos and when to use them
- Advice on media relations, media training
- Best practices for establishing a Citywide photo database and photo release policy
- Information to share with City employees over an Intranet system
- Budget and staffing to implement and maintain Communications Plan

### **Submittal Requirements**

The City is requesting **six (6) hard copies and one PDF copy** of the proposal, which must contain the following information:

1. Letter of Interest and Approach (2-page maximum): Please include a letter expressing the Consultant's interest in being considered for the project. As part of the letter, please describe your approach for establishing a Strategic Communications Plan for the City of Bismarck.
2. Advisor/Project Manager Experience (2-page maximum): Please include information about the specific relevant experience of the Consultant or team who will draft the Strategic Communications Plan and serve as the principal contact for the scope of work.
3. Scope and Budget (2-page maximum): Based on the Proposed Scope of Work, please provide billing rates, budget, and schedule for the project.
4. References (1-page maximum)

### **Evaluation of Proposals**

The City of Bismarck's selection team will review and evaluate all properly submitted proposals that are received on or before the deadline. The selection team will first review each proposal for compliance with the minimum qualifications and mandatory requirements of the RFP. Failure to comply with any mandatory requirements may disqualify a proposal. The selection team shall participate in the analysis of RFPs, the interview process and the final recommendation of the selected consultant for the project. Upon successful negotiations with the selected consultant, the contract will be recommended for approval by the selection team to the Board of City Commissioners for final approval.

**Selection Process**

Based upon the qualifications of the submitted proposals, informational interviews will be conducted by the selection team. The selection team will then meet to review proposals, discuss interviews, and select a preferred Consultant. The City intends to complete the contract with the selected Consultant in a timely manner so that the Consultant can commence work in early 2020.

The final selection will be based upon the following criteria:

- A. The Consultant’s experience and results with similar projects and demonstrated expertise.
- B. The Consultant’s demonstrated understanding of the proposed scope and the approach to create a Strategic Communications Plan for the City.
- C. The Consultant’s proposed budget amount for this one-time project.
- D. Responses of the client references.
- E. Interview
- F. Such other information that may be required or secured.

The City will not discriminate against any interested firm or individual on the grounds of race, creed, color, sex, age, disability or national origin in the contract award. The City reserves the right to reject any and all proposals at its discretion, including not awarding the contract to any firm.

**City of Bismarck Rights**

The City of Bismarck reserves the right to reject any or all proposals, make counter proposals and/or engage in negotiations with any or all firms or individuals, waive any requirements or otherwise amend this RFP, or cancel the RFP in order to achieve the City’s goals and objectives for this project. Any changes in the status of the RFP will be brought to the attention of all parties that provide contact information for updates. The information contained in this RFP represent the City’s best information at the time of the release of the RFP and the City reserves the right to modify any term or condition contained herein.

**Responsibility for Proposal Preparation**

Except as otherwise specifically agreed to in writing by the City, each consulting individual or team submitting proposals shall provide and pay for all materials, labor, transportation, charges, levies, taxes, fees or expenses incurred, including all costs to prepare a response to this RFP, travel and presentation costs, and all other services and facilities of every nature whatsoever necessary for the preparation of the RFP. It is neither the City’s responsibility nor

practice to acknowledge receipt of any proposal as a result of the RFP process. It is the proposer's responsibility to assure that a proposal is delivered and received in a timely manner.

### **No Conflict of Interest**

No member of the Board of City Commissioners, member of the selection team for this RFP, and any other officer, employee or agent of the City of Bismarck who exercises any functions or responsibilities in the selection of a proposal, shall have any personal interest, direct or indirect, in the project.

### **Open Records/Proprietary Information**

The City of Bismarck recognizes that in responding to this RFP, the proposer may desire to provide proprietary information in order to clarify and enhance their response. To the extent permitted by law, the City of Bismarck will keep confidential such information provided that:

1. The information submitted is arguably proprietary, and
2. The proprietary information is submitted in a separate file or section that is clearly identified as containing proprietary information, according to the submittal instructions of this RFP. Only information that is credibly proprietary may be included. Inclusion of non-proprietary significant information in the sealed portions may render a submittal ineligible. Responders should note that the City of Bismarck is a municipality, and as such its files are available for public review pursuant to the North Dakota Constitution Article XI, Section 6 and NDCC Chapter 44-04-18.

### **Submittal Instructions**

Responses should be submitted by mail or in person by **5:00 PM on Friday, December 20, 2019** to:

City Administrator  
City of Bismarck  
PO Box 5503  
Bismarck, ND 58506-5503

Submittals shall be clearly marked on the outside cover or envelope "Response to Request for Proposals: Strategic Communications Plan."

### **Questions**

Keith Hunke, City Administrator and Jason Tomanek, Assistant City Administrator are available to answer questions and respond to requests for additional information. All questions must be submitted in writing to Keith Hunke [khunke@bismarcknd.gov](mailto:khunke@bismarcknd.gov) and Jason Tomanek [jtomanek@bismarcknd.gov](mailto:jtomanek@bismarcknd.gov)





## **BISMARCK-BURLEIGH PUBLIC HEALTH**

**DATE:** January 27, 2020

**FROM:** Renae Moch, MBA, FACMPE, Director *RM*

**ITEM:** Requesting permission to apply for ND Junior Master Gardener Grant

### **REQUEST**

Bismarck-Burleigh Public Health is requesting permission to apply for grant funding from the North Dakota Junior Master Gardener program.

Please place this item on the February 11, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

Bismarck-Burleigh Public Health is requesting permission to apply for up to \$1,000 of grant funding from the North Dakota Junior Master Gardener Program Grants. If awarded, funding would be used to implement a gardening program at a child care center in the Bismarck community. This opportunity would enhance children’s knowledge and intake of fruits and vegetables, provide a connection to the outdoors, and improve overall health and wellness and child development skills, aligning with the City of Bismarck’s Strategic Plan Focus Area “social health”.

### **RECOMMENDED CITY COMMISSION ACTION**

Recommend approval of request to apply for North Dakota Junior Mast Gardener Grant funding.

### **STAFF CONTACT INFORMATION**

Renae Moch, MBA, FACMPE | Public Health Director, 355-1540 or [rmoch@bismarcknd.gov](mailto:rmoch@bismarcknd.gov)



## BISMARCK-BURLEIGH PUBLIC HEALTH

**DATE:** January 27, 2020

**FROM:** Renae Moch, MBA, FACMPE, Director *RM*

**ITEM:** Request for adjustment in 2020 Quantiferron Gold TB Testing Fee

### REQUEST

Bismarck-Burleigh Public Health is requesting permission to increase the fee for the Quantiferron Gold TB test.

Please place this item on the February 11, 2020 City Commission meeting agenda.

### BACKGROUND INFORMATION

Due to an increase in state lab fees for the Quantiferron Gold TB blood test, Bismarck-Burleigh Public Health is requesting permission to increase the fee from \$35 to \$36 for 2020.

### RECOMMENDED CITY COMMISSION ACTION

Recommend approval to increase the Quantiferron Gold TB test from \$35 to \$36 for 2020 to cover the cost of lab fees for this service.

### STAFF CONTACT INFORMATION

Renae Moch, Public Health Director  
[rmoch@bismarcknd.gov](mailto:rmoch@bismarcknd.gov)  
(701) 355-1541



## *Community Development Department*

**DATE:** February 4, 2020

**FROM:** Ben Ehreth, AICP, Community Development Director

**ITEM:** Cooperative Addition – Zoning Change (A to RT) and Final Plat

### **REQUEST**

Capital Electric Cooperative, Inc. and Basin Electric Power Cooperative are requesting approval of a zoning change from the A – Agricultural zoning district to the RT – Residential zoning district and a major subdivision final plat for Cooperative Addition. The proposed plat and zoning change would allow the ownership of the southern portion of the parcel with the existing communication tower to be transferred to Basin Electric Cooperative and the northern portion of the parcel to be developed for residential and/or office uses.

The property is located in north Bismarck, west of US Highway 83/State Street between Coleman Street and Lockport Street, along the south side of 43rd Avenue NE (part of the NE¼ of Section 21, T139N-R80W/City Lands).

Please place this item on the February 11, 2020 City Commission meeting agenda and the February 25, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The Planning & Zoning Commission held a public hearing on this request on January 22, 2020.

One resident spoke at the public hearing and one resident submitted written comments. The issue of concern was whether or not Lambton Avenue and Mahone Avenue would be extended to serve future uses on the northern portion of the lot. It was noted that primary access for the northern lot would be from 43rd Avenue NE and access to the southern lots would be from the end of Dominion Street. Non-access lines have been placed on the plat at the end of both Lambton Avenue and Mahone Avenue.

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 RT – Residential zoning district and the major subdivision final plat for Cooperative Addition.

## **RECOMMENDED CITY COMMISSION ACTION**

February 11th meeting of the Board of City Commissioners – consider the zoning change as outlined in Ordinance 6408 call for a public hearing on this item for the February 25th meeting of the Board of City Commissioners.

February 25th meeting of the Board of City Commissioners - hold a public hearing on the zoning change as outlined in Ordinance 6408; consider the request for approval of the major subdivision final plat for Cooperative Addition; and take final action of the two related requests.

## **STAFF CONTACT INFORMATION**

Ben Ehreth, AICP | Community Development Director, 355-1842 or [behreth@bismarcknd.gov](mailto:behreth@bismarcknd.gov)

Kim L. Lee, AICP | Planning Manager, 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)

Jenny Wollmuth, AICP, CFM | Planner, 355-1845 or [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)

**ORDINANCE NO. 6408**

<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 RT-Residential zoning district:

Lots 1 and 2, Block 1, Cooperative Addition.

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

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



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

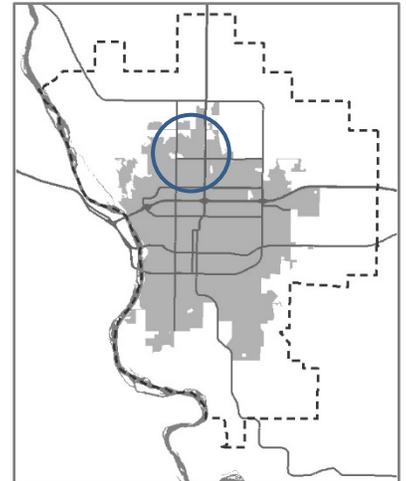
January 22, 2020

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

TRAKiT Project ID: ZC2019-007  
FPLT2019-007

## Project Summary

<b>Title:</b>	Cooperative Addition
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Capital Electric Cooperative, Inc. Basin Electric Power Cooperative
<b>Project Contact:</b>	Rob Illg, PLS, SEH
<b>Location:</b>	In north Bismarck, west of US Highway 83/State Street between Coleman Street and Lockport Street, along the south side of 43 <sup>rd</sup> Avenue NE (part of the NE¼ of Section 21, T139N-R80W/City Lands)
<b>Project Size:</b>	5.54 acres
<b>Request:</b>	Plat and rezone property for future development



## 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, existing telecommunications building and tower	<b>Land Use:</b>	Offices, multi-family residential and telecommunications building and tower
<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>	A – Agricultural	<b>Zoning:</b>	RT – Residential
<b>Uses Allowed:</b>	A – Agriculture	<b>Uses Allowed:</b>	RT – Offices and multi-family residential
<b>Max Density Allowed:</b>	A – 1 unit / 40 acres	<b>Max Density Allowed:</b>	RT – 30 units / acre

## Property History

<b>Zoned:</b>	N/A	<b>Platted:</b>	N/A	<b>Annexed:</b>	03/2016
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(continued)

## Staff Analysis

Capital Electric Cooperative, Inc. and Basin Electric Power Cooperative are requesting approval of a zoning change from the A – Agriculture zoning district to the RT – Residential zoning district and a major subdivision final plat for Cooperative Addition.

The Planning and Zoning Commission, at their meeting of September 25, 2019, tentatively approved the preliminary plat and called for a public hearing for the proposed zoning change.

Adjacent uses include commercial uses to the north, single-family and multi-family residential to the east, single-family residential to the south and undeveloped RT – Residential and RM15 – Residential zoned property to the west.

Three existing city streets (Dominion Street, Mahone Avenue and Lambton Avenue) terminate adjacent to the proposed plat. Non-access lines have been placed at the termination of Mahone Avenue and Lambton Avenue. The northern lot would be accessed from the north along 43<sup>rd</sup> Avenue NE. Access to this lot may be restricted to a right-in / right-out access in the future. The southern lot would be accessed from Dominion Street to the south.

As of February 1, 2019, the creation of any new lots in the City of Bismarck is subject to development capital charges for municipal utilities. The Public Works Department – Utility Operation Division has determined that utility capital charges will be due prior to the recordation of the proposed plat.

The proposed plat will include 2 lots in 1 block. There is an existing telecommunications tower and ancillary storage building on the southern lot. If approved as proposed, the proposed plat would be zoned RT – Residential and would be developed according to the uses permitted within the RT – Residential zoning district. If the northern lot develops as multi-family residential, the provisions of the Neighborhood Parks and Open Space Policy would apply.

## Required Findings of Fact (relating to land use)

### Zoning Change

1. The proposed zoning change is in a developed area of the community and is outside of 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/or 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.

### Final Plat

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat 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, as amended;

(continued)

4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP), with the understanding that at the time of site development of either lot in the proposed plat, the developer is required to provide a comprehensive Stormwater Management Plan for the lot being developed;
5. The requirements of the neighborhood parks and open space policy is not required at this time, if the property develops as residential, the provisions of the Neighborhood Parks and Open Space Policy would apply;
6. 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.
7. The City of Bismarck and/or 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;
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
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 – Agriculture zoning district to the RT – Residential zoning district and the major subdivision final plat for Cooperative Addition.

**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Final Plat
5. Preliminary Plat

---

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

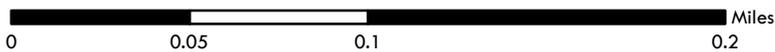
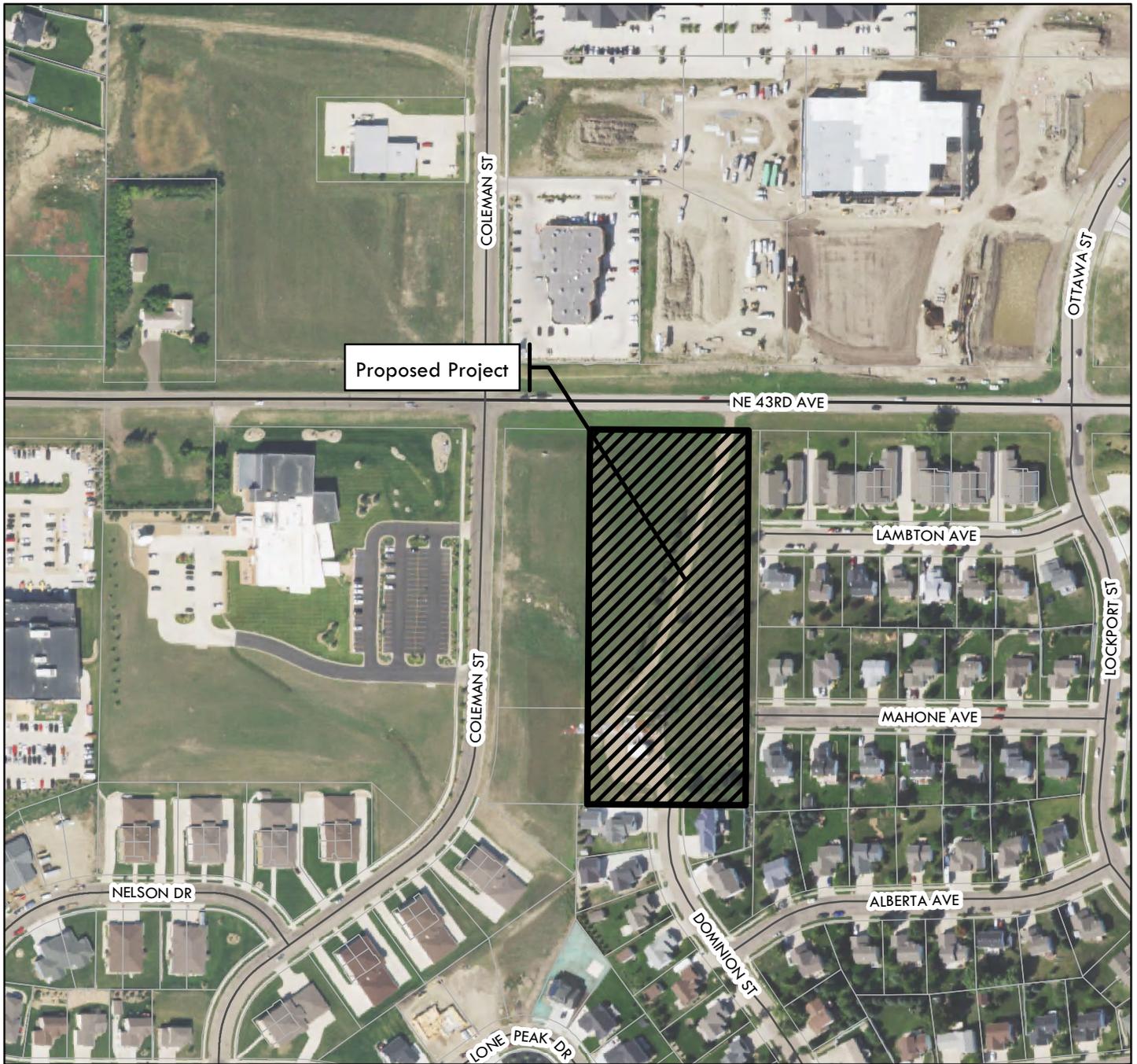




# Aerial Map

Cooperative Addition

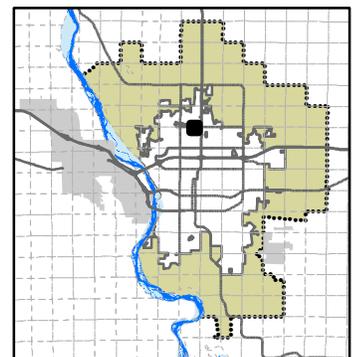
PPLT2019-005  
ZC2019-007



City Limits    Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
Community Development Department  
Planning Division  
September 20, 2019



*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.*



# Zoning and Plan Reference Map

Cooperative Addition

ZC2019-007  
PPLT2019-005

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

### Zoning Districts

- A** Agriculture
- RR** Rural Residential
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily (Offices)
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

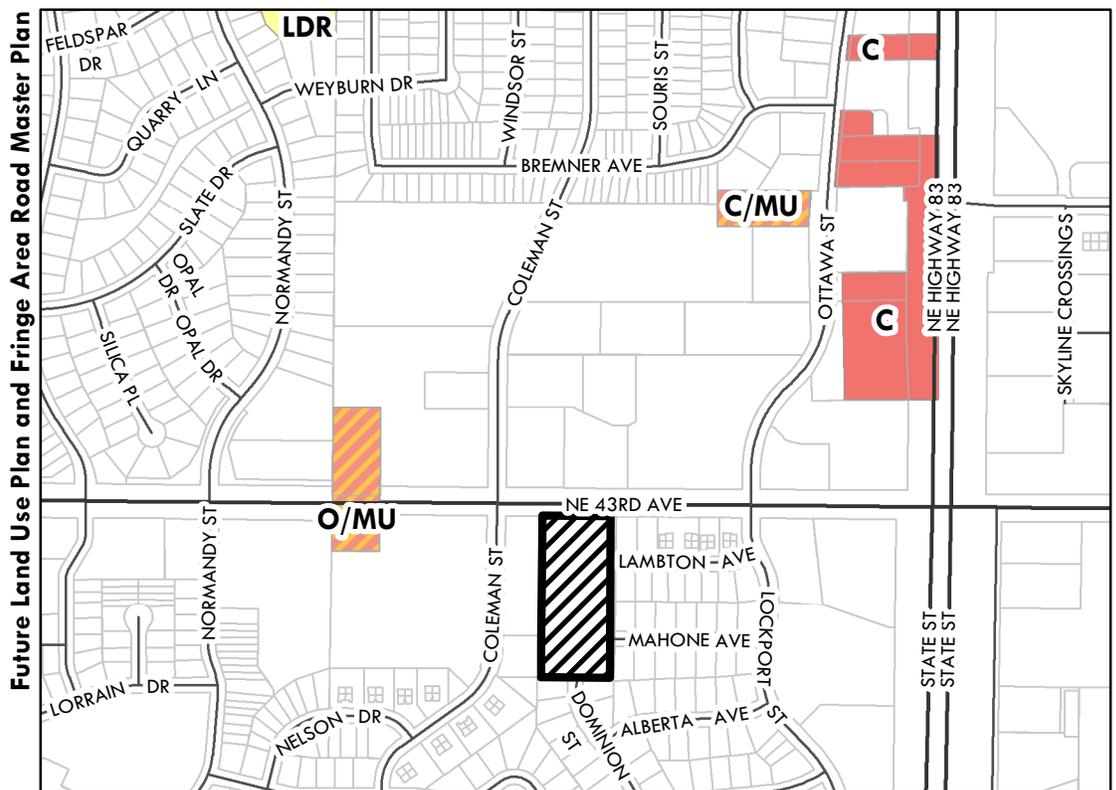
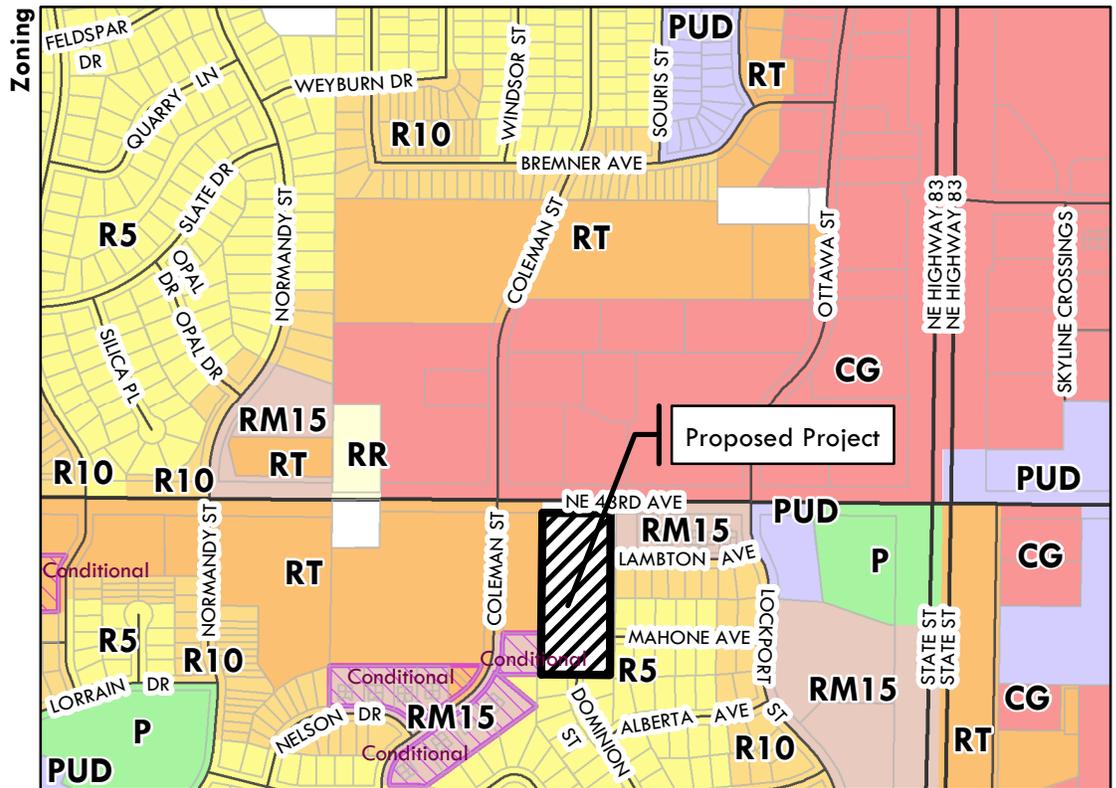
Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

### Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector



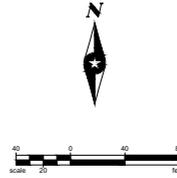
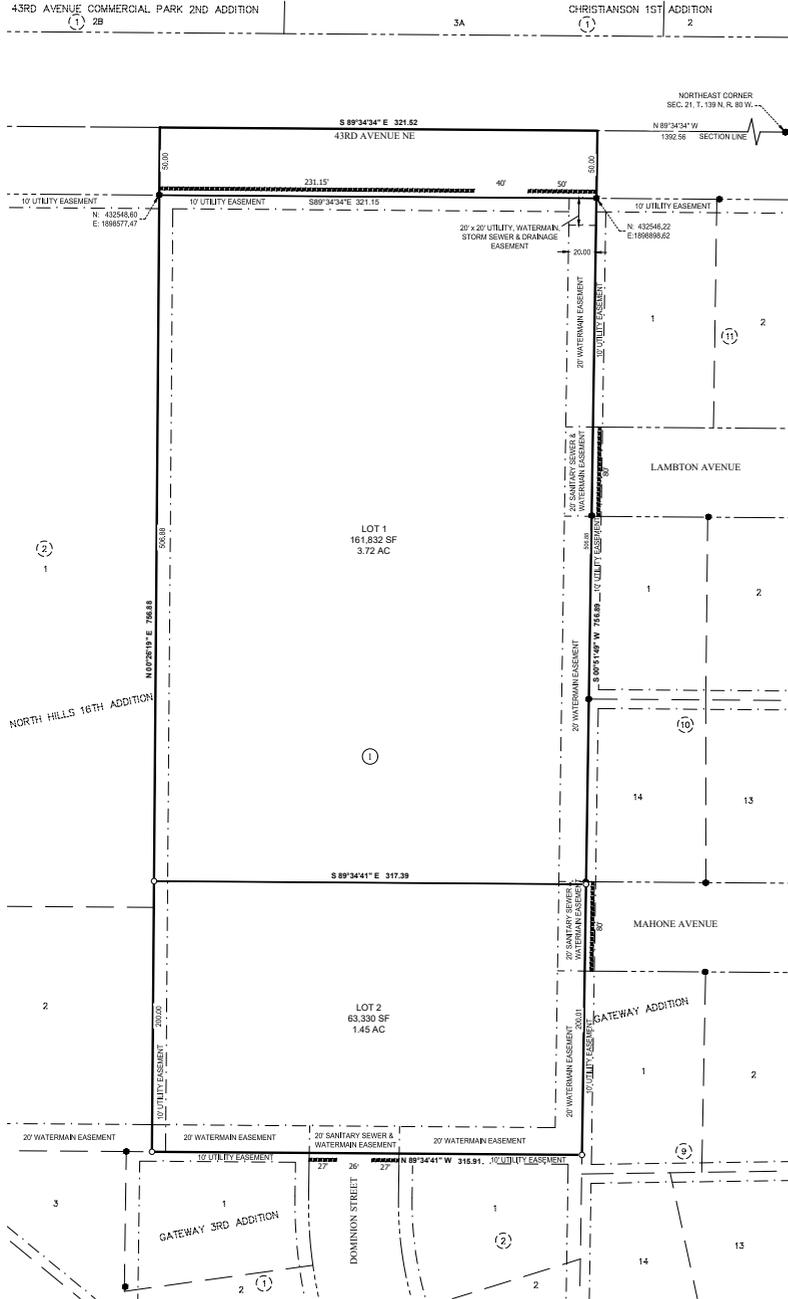
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck  
Community Development Dept.  
Planning Division  
September 17, 2019

# COOPERATIVE ADDITION

Part of the Northeast Quarter of Section 21, Township 139 North, Range 80 West of the Fifth Principal Meridian, City of Bismarck, Burleigh County, North Dakota



- LEGEND:**
- FOUND MONUMENT
  - REBAR W/ CAP LS-8444
  - PLAT BOUNDARY
  - NON ACCESS LINE
  - - - UTILITY EASEMENT
  - · - · - ADJACENT LOT LINE
  - - - SECTION LINE

**AREA TABULATIONS:**

2 Lots	=	225,162 SF	5.174 Acres
Right of Way	=	16,067 SF	0.374 Acres
Total	=	241,230 SF	5.548 Acres

**BASIS OF BEARING:**  
Derived from state plane coordinates.

**COORDINATE DATUM:**  
North Dakota State Plane Coordinate System  
NAD 83 South Zone 3302 (Adjusted 86)  
International Units

**VERTICAL DATUM:**  
National Geodetic Vertical Datum 29  
City Hydrant 1966  
DOMINION STREET 151 NORTH OF ALBERTA DRIVE  
(WEST SIDE) Elevation = 1913.89

**OWNERS:**  
Capital Electric Cooperative, Inc.  
4111 State Street  
Bismarck, ND 58503

**SURVEYOR:**  
SEPT ROBERT M. IIG, PLS  
4715 Sheburne St.  
Bismarck, ND 58503

**SURVEYED:**  
07/16/19

**DESCRIPTION:**

Part of the Northeast Quarter of Section 21, Township 139 North, Range 80 West of the Fifth Principal Meridian, City of Bismarck, Burleigh County, North Dakota consisting of tracts described on Deed of Record 275 filed as document number 139592, Deed of Record 331 filed as document number 182439 and a Quit Claim Deed filed as document number 37732 in the office of the county recorder, and being more particularly described as follows:

Commencing at the Northeast Corner of said Section 21, thence North 89 degrees 34 minutes 34 seconds West along the north line of said Section 21, a distance of 1392.56 feet to the northwest corner of GATEWAY ADDITION, said point being the point of beginning; thence South 00 degrees 51 minutes 49 seconds West along the west line of GATEWAY ADDITION 756.89 feet to the northeast corner of GATEWAY THIRD ADDITION; thence North 89 degrees 34 minutes 41 seconds West along the north line of GATEWAY THIRD ADDITION 315.91 feet to the southeast corner of Lot 2 Block 4, NORTH HILLS SIXTEENTH ADDITION; thence North 00 degrees 26 minutes 19 seconds East along the east line of NORTH HILLS SIXTEENTH ADDITION 756.88 feet to the north line of said Section 21; thence South 89 degrees 34 minutes 34 seconds East along said north line 321.52 feet to the Point of Beginning.

Containing 5.54 acres, more or less.

**OWNER'S CERTIFICATE AND DEDICATION**

Capital Electric Cooperative, Inc. being all the owners of the lands platted herein, do hereby voluntarily consent to the execution of this plat titled COOPERATIVE ADDITION, and dedicate and rededicate all rights of way as shown on this plat for public use, and consent to any access control to the property as shown.

We 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, drainage and watermain easements.

We further dedicate any other easements or servitudes as shown and those that are recorded but not shown.

Richard Koski, Board President  
Capital Electric Cooperative, Inc.

STATE OF NORTH DAKOTA }  
COUNTY OF BURLEIGH } SS

Be it known on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Richard Koski, known to me to be the person described in and who executed the within certificate and he acknowledged to me that he executed the same.

Notary Public, Burleigh County, North Dakota

My Commission Expires: \_\_\_\_\_

**SURVEYOR'S CERTIFICATE:**

I, Robert M. Iig, a Registered Professional Land Surveyor in the State of North Dakota, hereby certify that I made the within and foregoing plat which is a correct representation of the survey prepared under my direct supervision and completed on July 16th, 2019, that all distances are correct, that the outside boundary lines are correctly designated hereon, that all dimensional and geodetic details shown hereon are true and correct to the best of my knowledge and belief and that all required monuments are placed in the ground as shown.

ROBERT M. IIG  
Registered Professional Land Surveyor  
License No. LS-8444

STATE OF NORTH DAKOTA }  
COUNTY OF BURLEIGH } SS



**APPROVAL OF CITY PLANNING AND ZONING COMMISSION**

The subdivision of land as shown hereon has been approved by the Planning and Zoning Commission of the City of Bismarck, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in accordance with the laws of the State of North Dakota, ordinances of the City of Bismarck and regulations adopted by said Planning and Zoning Commission. In witness whereof are set the hands and seals of the Chairman and the Secretary of the Planning and Zoning Commission of the City of Bismarck.

Mike Schwartz, Chairman

Ann J. Schell, Secretary

**APPROVAL OF BOARD OF CITY COMMISSIONERS**

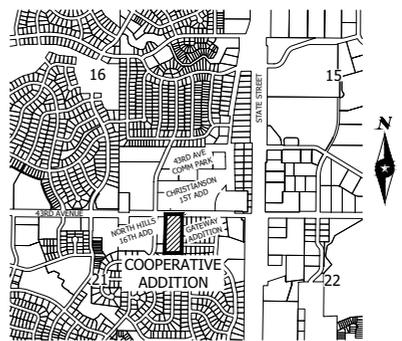
The Board of City Commissioners of the City of Bismarck, North Dakota, has approved the subdivision of land as shown hereon and does hereby vacate any previous platting within the boundary of the annexed plat and amends the master plan for the City of Bismarck on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Attest:  
Keith I. Hunkle, City Administrator

**APPROVAL OF CITY ENGINEER**

I, Gabriel J. Schell, City Engineer of the City of Bismarck, North Dakota, hereby approve "COOPERATIVE ADDITION" Bismarck, North Dakota, as shown hereon.

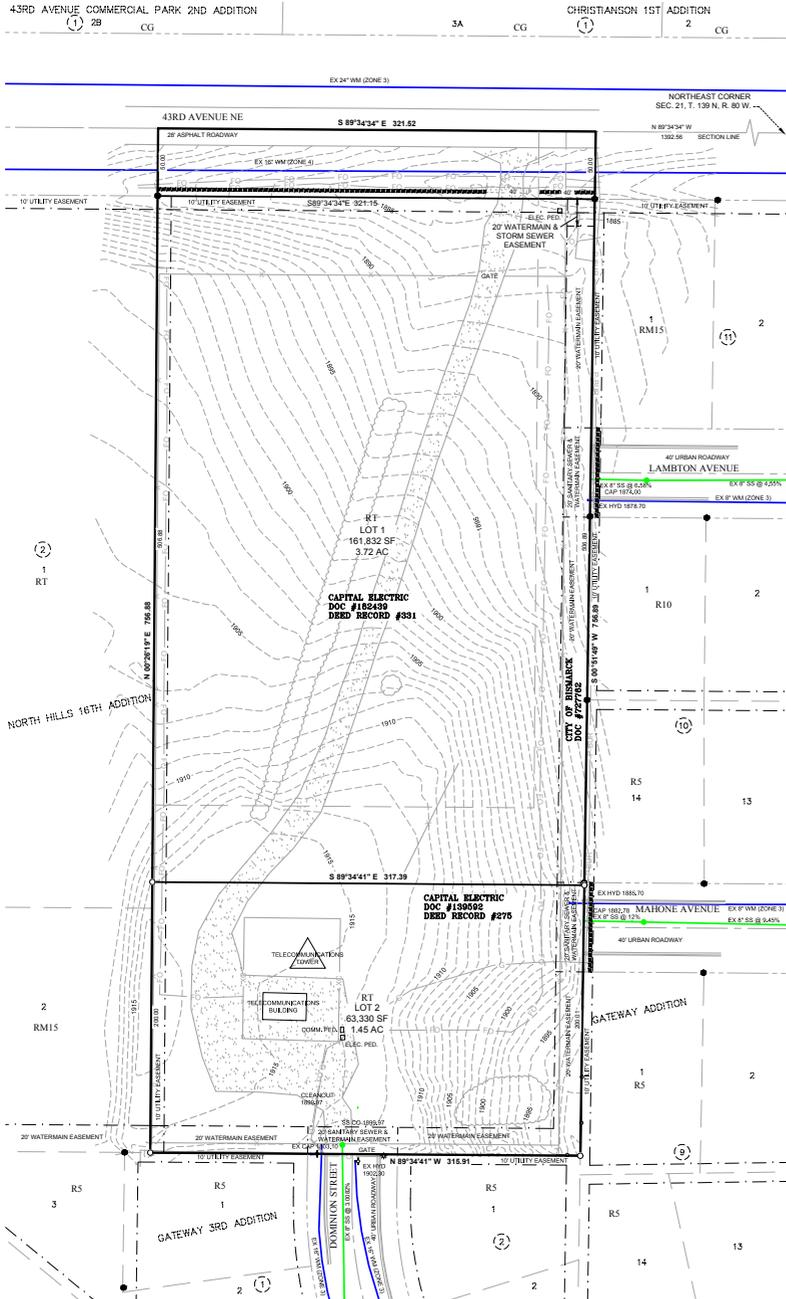
Gabriel J. Schell - City Engineer



**VICINITY MAP**  
NOT TO SCALE

# COOPERATIVE ADDITION

Part of the Northeast Quarter of Section 21, Township 139 North, Range 80 West  
of the Fifth Principal Meridian, City of Bismarck, Burleigh County, North Dakota



**LEGEND:**

- FOUND MONUMENT
- REBAR W/ CAP LS-8444
- PLAT BOUNDARY
- NON ACCESS LINE
- - - UTILITY EASEMENT
- - - ADJACENT LOT LINE
- SECTION LINE

**AREA TABULATIONS:**

2 Lots	=	225,163 SF	5.174 Acres
Right of Way	=	16,067 SF	0.374 Acres
<b>Total</b>		<b>241,230 SF</b>	<b>5.548 Acres</b>

**DESCRIPTION:**

A tract of land consisting of tracts described on Deed of Record 275 filed as document number 139592, Deed of Record 331 filed as document number 182439 and a Quit Claim Deed filed as document number 727762 in the office of the county recorder, all being in the Northeast Quarter of Section 21, Township 139 North, Range 80 West of the Fifth Principal Meridian, City of Bismarck, Burleigh County, North Dakota, and being more particularly described as follows:

Beginning at the Northeast Corner of said Section 21; thence North 89 degrees 34 minutes 34 seconds West along the north line of said Section 21, a distance of 1392.56 feet to the northwest corner of GATEWAY ADDITION; thence South 00 degrees 51 minutes 49 seconds West along the west line of GATEWAY ADDITION 750.89 feet to the northeast corner of GATEWAY THIRD ADDITION; thence North 89 degrees 34 minutes 41 seconds West along the north line of GATEWAY THIRD ADDITION 315.93 feet to the southeast corner of Lot 2, Block 2, NORTH HILLS SIXTEENTH ADDITION; thence North 00 degrees 26 minutes 19 seconds East along the east line of NORTH HILLS SIXTEENTH ADDITION 756.88 feet to the north line of said Section 21; thence South 89 degrees 34 minutes 34 seconds East along said north line 321.52 feet to the Point of Beginning.

Containing 5.54 acres, more or less.

**BASIS OF BEARING:**  
Derived from State Plane coordinates.

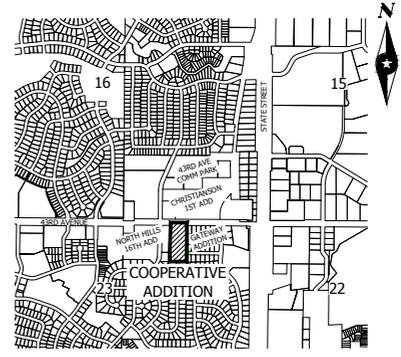
**COORDINATE DATUM:**  
North Dakota State Plane Coordinate System  
NAD 83 South Zone 3302 (Adjusted 86)  
International Units

**VERTICAL DATUM:**  
NATIONAL GEODESIC VERTICAL DATUM 29  
City Hydrant 1966  
DOMINION STREET 1ST NORTH OF ALBERTA DRIVE  
(WEST SIDE) Elevation = 3913.89

**OWNERS:**  
Divided of Record 275 & 331  
Capital Electric Cooperative, Inc.  
4111 State Street  
Bismarck, ND 58503  
(Doc. No. 727762)  
City of Bismarck  
222 North Fifth Street  
Bismarck, ND 58501

**SURVEYOR:**  
SERT FROST W. THE PLS  
4719 Shelburne St.  
Bismarck, ND 58503

**SURVEYED:**  
07/16/19



**VICINITY MAP**  
NOT TO SCALE



## *Community Development Department*

**DATE:** February 4, 2020

**FROM:** Ben Ehreth, AICP, Community Development Director

**ITEM:** Part of the SE $\frac{1}{4}$  of Section 18 and part of the NE $\frac{1}{4}$  of Section 19, Hay Creek Township – Future Land Use Plan Amendment and Zoning Change

### **REQUEST**

Tyler Coulee, LLP and Ron Knutson are requesting approval of a Future Land Use Plan (FLUP) amendment to modify the boundary between the Low Density Residential and Conservation land use designations and a zoning change from the A – Agricultural zoning district to the A – Agricultural, R5 – Residential and R10 – Residential zoning districts for part of the SE $\frac{1}{4}$  of Section 18 and part of the NE $\frac{1}{4}$  of Section 19, Hay Creek Township. The requested actions would establish the future land use and zoning prior to platting, annexation and development of the area.

The property is located in northwest Bismarck, north of Valley Drive between the Promontory Point/Elk Ridge developments and the Eagle Crest development.

Please place this item on the February 11, 2020 City Commission meeting agenda and the February 25, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The Planning & Zoning Commission held a public hearing on these requests on January 22, 2020.

Five residents spoke at the public hearing and numerous written comments were received prior to the public hearing. The concerns expressed included the impact of residential development on Tyler Coulee, the decision of residents adjacent to the area to purchase their lots based on the Conservation areas designated in the Future Land Use Plan, the rationale behind the designation of the entire area as Conservation, the stability of slopes within Tyler Coulee, and the impact of the proposed extension of Tyler Parkway on residences south of Valley Drive.

Upon the conclusion of the public hearing, and based on the findings contained in the staff report, the Planning & Zoning Commission unanimously recommended approval of

Future Land Use Plan (FLUP) amendment to modify the boundary between the Low Density Residential and Conservation land use designations and a zoning change from the A – Agricultural zoning district to the A – Agricultural, R5 – Residential and R10 – Residential zoning districts for part of the SE¼ of Section 18 and part of the NE¼ of Section 19, Hay Creek Township.

### **RECOMMENDED CITY COMMISSION ACTION**

February 11th meeting of the Board of City Commissioners – consider the amendment to the Future Land Use Plan as outlined in the attached resolution and the zoning change as outlined in Ordinance 6409 and call for a public hearing on these items for the February 25th meeting of the Board of City Commissioners.

February 25th meeting of the Board of City Commissioners - hold a public hearing on amendment to the Future Land Use Plan as outlined in the attached resolution and the zoning change as outlined in Ordinance 6409, and take final action on the requests.

### **STAFF CONTACT INFORMATION**

Ben Ehreth, AICP | Community Development Director, 355-1842 or [behreth@bismarcknd.gov](mailto:behreth@bismarcknd.gov)

Kim L. Lee, AICP | Planning Manager, 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)

**RESOLUTION OF ADOPTION  
of an Amendment to the Future Land Use Plan  
for Sections 18 & 19, T138N-R80W/Hay Creek Township**

**WHEREAS**, the Bismarck Board of City Commissioners received the Future Land Use Plan (FLUP) of the 2014 Growth Management Plan Study on April 22, 2014; and

**WHEREAS**, the City of Bismarck has amended the Future Land Use Plan on occasion since that time to address changes in conditions since the Future Land Use Plan was established, including the adoption of the 2014 Fringe Area Road Master Plan, the acceptance of the 2015 Ash and Ward Coulee Watershed Study, and ongoing land development; and

**WHEREAS**, the land use identified in the FLUP is used as a policy tool in conjunction with the 2014 Bismarck Growth Management Plan and the Bismarck Comprehensive Policy Plan; and

**WHEREAS**, the City of Bismarck finds it necessary, from time to time, to amend portions of the FLUP to further the public interest; and

**WHEREAS**, the proposed amendment does reflect a change in conditions since the FLUP was received.

**NOW, THEREFORE BE IT RESOLVED**, by the Bismarck Board of City Commissioners to amend the City of Bismarck's Future Land Use Plan to modify the Low Density Residential and Conservation designations for that portion of Sections 18 & 19, T139N-R80W/Hay Creek Township, as shown on the attached exhibit.

**CERTIFICATE**

The undersigned, duly qualified members of the Bismarck Board of City Commissioners certify that the foregoing is a true and correct copy of a Resolution, adopted at a legally convened meeting of the Board of City Commissioners held on February 25, 2020.

---

Steve Bakken, President  
Bismarck Board of City Commissioners

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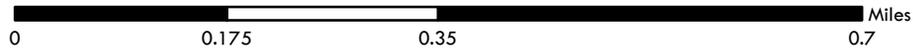
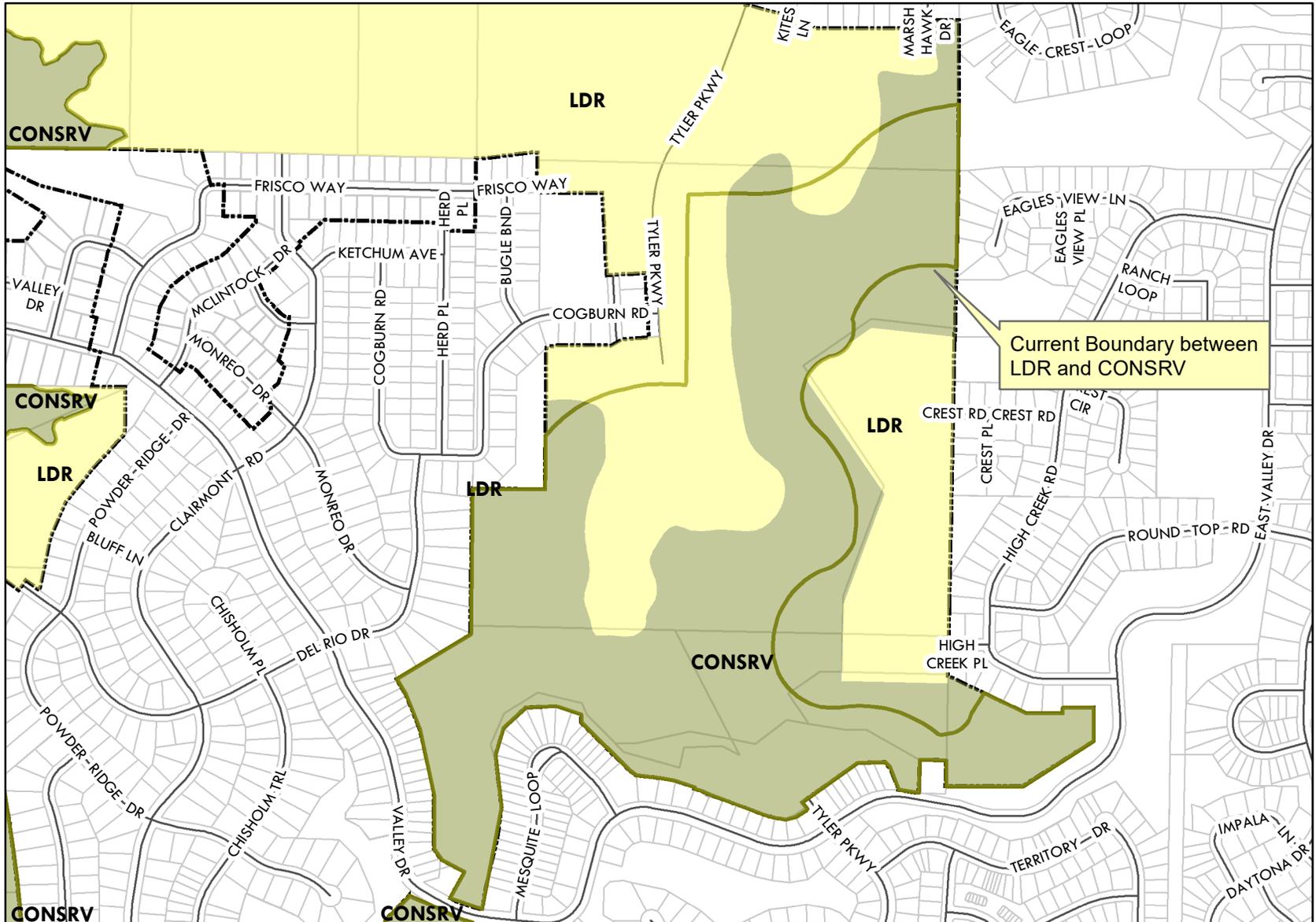
Keith J. Hunke  
Bismarck City Administrator

### Proposed New FLUP Map

Project Area (FLUP within is proposed)

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve



City Limits

*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.*



**ORDINANCE NO. 6409**

<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 properties shall be excluded from the A – Agricultural zoning district and included in the R5-Residential zoning district:

ALL THAT PART OF THE NE 1/4 OF SECTION 19 & THE SE 1/4 OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 80 WEST, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 10 BLOCK 6 ELK RIDGE ADDITION; THENCE SOUTH 00 DEGREES 38 MINUTES 34 SECONDS WEST, ALONG THE BOUNDARY OF SAID ELK RIDGE ADDITION, A DISTANCE OF 375.00 FEET; THENCE SOUTH 89 DEGREES 33 MINUTES 13 SECONDS EAST, A DISTANCE OF 259.12 FEET; THENCE SOUTH 11 DEGREES 30 MINUTES 24 SECONDS EAST, A DISTANCE OF 161.78 FEET; THENCE SOUTH 17 DEGREES 34 MINUTES 25 SECONDS WEST, A DISTANCE OF 419.76 FEET; THENCE SOUTH 08 DEGREES 41 MINUTES 44 SECONDS EAST, A DISTANCE OF 318.08 FEET; THENCE SOUTH 13 DEGREES 02 MINUTES 58 SECONDS WEST, A DISTANCE OF 198.00 FEET; THENCE SOUTH 21 DEGREES 00 MINUTES 57 SECONDS EAST, A DISTANCE OF 173.42 FEET TO THE SOUTH LINE OF THE NE 1/4 OF SAID SECTION 19; THENCE SOUTH 88 DEGREES 45 MINUTES 23 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 358.43 FEET; THENCE NORTH 41 DEGREES 40 MINUTES 23 SECONDS EAST, A DISTANCE OF 233.81 FEET; THENCE NORTH 00 DEGREES 04 MINUTES 45 SECONDS EAST, A DISTANCE OF 352.21 FEET; THENCE SOUTH 89 DEGREES 21 MINUTES 44 SECONDS EAST, A DISTANCE OF 603.10

FEET; THENCE NORTH 45 DEGREES 22 MINUTES 54 SECONDS EAST, A DISTANCE OF 255.89 FEET; THENCE NORTH 18 DEGREES 07 MINUTES 23 SECONDS WEST, A DISTANCE OF 229.25 FEET; THENCE NORTH 36 DEGREES 34 MINUTES 33 SECONDS WEST, A DISTANCE OF 303.30 FEET; THENCE NORTH 11 DEGREES 30 MINUTES 24 SECONDS WEST, A DISTANCE OF 473.54 FEET; THENCE NORTH 02 DEGREES 57 MINUTES 44 SECONDS WEST, A DISTANCE OF 809.90 FEET; THENCE NORTHEASTERLY AND TO THE RIGHT, ON A 100.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 64.36 FEET; THENCE NORTH 33 DEGREES 54 MINUTES 45 SECONDS EAST, A DISTANCE OF 55.17 FEET; THENCE SOUTH 56 DEGREES 05 MINUTES 15 SECONDS EAST, A DISTANCE OF 379.02 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, ON A 200.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 346.32 FEET; THENCE NORTH 24 DEGREES 42 MINUTES 02 SECONDS EAST, A DISTANCE OF 277.24 FEET; THENCE NORTHEASTERLY AND TO THE LEFT, ON A 500.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 215.55 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 254.88 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 189.42 FEET; THENCE NORTH 00 DEGREES 21 MINUTES 30 SECONDS EAST, A DISTANCE OF 248.75 FEET TO THE BOUNDARY OF EAGLE CREST SIXTH ADDITION; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 585.39 FEET; THENCE NORTH 61 DEGREES 26 MINUTES 37 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 137.55 FEET; THENCE NORTH 76 DEGREES 00 MINUTES 00 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 33.00 FEET; THENCE SOUTHWESTERLY AND TO THE LEFT, ON A 160.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 17.73 FEET; THENCE SOUTH 20 DEGREES 07 MINUTES 17 SECONDS WEST, A DISTANCE OF 314.82 FEET; THENCE SOUTHWESTERLY AND TO THE RIGHT, ON A 1363.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 392.67 FEET; THENCE SOUTH 36 DEGREES 37 MINUTES 40 SECONDS WEST, A DISTANCE OF 226.70 FEET; THENCE SOUTHWESTERLY AND TO THE LEFT, ON A 357.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 246.68 FEET; THENCE SOUTH 02 DEGREES 57 MINUTES 44 SECONDS EAST, A DISTANCE OF 645.87 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, ON A 1757.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 262.02 FEET; THENCE SOUTH 11 DEGREES 30 MINUTES 24 SECONDS EAST, A DISTANCE OF 260.22 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, ON A 500.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 155.18 FEET; THENCE SOUTH 29 DEGREES 17 MINUTES 21 SECONDS EAST, A DISTANCE OF 83.91 FEET; THENCE SOUTHEASTERLY AND TO THE RIGHT, ON A 100.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 209.31 FEET; THENCE NORTH 89 DEGREES 21 MINUTES 44 SECONDS WEST, A DISTANCE OF 587.01 FEET; THENCE NORTHEASTERLY AND TO THE

RIGHT, ON A 566.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 76 DEGREES 06 MINUTES 15 SECONDS EAST, AN ARC LENGTH OF 123.97 FEET; THENCE NORTH 26 DEGREES 26 MINUTES 42 SECONDS EAST, A DISTANCE OF 76.99 FEET; THENCE NORTHEASTERLY AND TO THE LEFT, ON A 200.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 132.48 FEET; THENCE NORTH 11 DEGREES 30 MINUTES 24 SECONDS WEST, A DISTANCE OF 308.63 FEET; THENCE NORTHWESTERLY AND TO THE RIGHT, ON A 2243.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 271.09 FEET TO THE BOUNDARY OF ELK RIDGE ADDITION; THENCE SOUTH 61 DEGREES 25 MINUTES 13 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 36.03 FEET; THENCE NORTH 89 DEGREES 21 MINUTES 26 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 292.22 FEET; THENCE SOUTH 79 DEGREES 22 MINUTES 39 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 63.83 FEET TO THE POINT OF BEGINNING.

**Section 2. 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 properties shall be excluded from the A – Agricultural zoning district and included in the R10-Residential zoning district:

ALL THAT PART OF THE NE 1/4 OF SECTION 19 & THE SE 1/4 OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 80 WEST, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1 BLOCK 5 ELK RIDGE ADDITION; THENCE SOUTH 61 DEGREES 25 MINUTES 13 SECONDS WEST, ALONG THE BOUNDARY OF ELK RIDGE ADDITION, A DISTANCE OF 36.20 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, ON A 2243.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS NORTH 85 DEGREES 25 MINUTES 05 SECONDS EAST, AN ARC LENGTH OF 271.09 FEET; THENCE SOUTH 11 DEGREES 30 MINUTES 24 SECONDS EAST, A DISTANCE OF 308.63 FEET; THENCE SOUTHEASTERLY AND TO THE RIGHT, ON A 200.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 132.48 FEET; THENCE SOUTH 26 DEGREES 26 MINUTES 42 SECONDS WEST, A DISTANCE OF 76.99 FEET; THENCE SOUTHWESTERLY AND TO THE LEFT, ON A 566.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 123.97 FEET; THENCE SOUTH 89 DEGREES 21 MINUTES 44 SECONDS EAST, A DISTANCE OF 587.01 FEET; THENCE NORTHEASTERLY AND TO THE LEFT, ON A 100.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 209.31 FEET; THENCE NORTH 29 DEGREES 17 MINUTES 21 SECONDS WEST, A DISTANCE OF 83.91 FEET; THENCE NORTHWESTERLY AND TO THE RIGHT, ON A 500.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 155.18 FEET;

THENCE NORTH 11 DEGREES 30 MINUTES 24 SECONDS WEST, A DISTANCE OF 360.22 FEET; THENCE NORTHWESTERLY AND TO THE RIGHT, ON A 1757.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 262.02 FEET; THENCE NORTH 02 DEGREES 57 MINUTES 44 SECONDS WEST, A DISTANCE OF 645.87 FEET; THENCE NORTHEASTERLY AND TO THE RIGHT, ON A 357.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 246.68 FEET; THENCE NORTH 36 DEGREES 37 MINUTES 40 SECONDS EAST, A DISTANCE OF 226.70 FEET; THENCE NORTHEASTERLY AND TO THE LEFT, ON A 1363.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 392.67 FEET; THENCE NORTH 20 DEGREES 07 MINUTES 17 SECONDS EAST, A DISTANCE OF 314.82 FEET; THENCE NORTHEASTERLY AND TO THE LEFT, ON A 166.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 17.73 FEET TO THE BOUNDARY OF EAGLE CREST SIXTH ADDITION; THENCE NORTH 76 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 242.48 FEET TO THE CENTERLINE OF THE HIGHWAY RIGHT-OF-WAY EASEMENT (DOC # 875093); THENCE SOUTH 20 DEGREES 07 MINUTES 17 SECONDS WEST, ALONG SAID CENTERLINE, A DISTANCE OF 315.54 FEET; THENCE SOUTHWESTERLY AND TO THE RIGHT, CONTINUING ALONG SAID CENTERLINE, ON A 1120.00 FOOT RADIUS CURVE, A DISTANCE OF 322.66 FEET; THENCE SOUTH 36 DEGREES 37 MINUTES 40 SECONDS WEST, CONTINUING ALONG SAID CENTERLINE, AN ARC LENGTH OF 226.70 FEET; THENCE SOUTHWESTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 600.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 298.19 FEET; THENCE NORTH 82 DEGREES 29 MINUTES 08 SECONDS WEST, A DISTANCE OF 198.08 FEET; THENCE NORTHWESTERLY AND TO THE LEFT, ON A 500.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 59.97 FEET; THENCE SOUTH 02 DEGREES 57 MINUTES 46 SECONDS EAST, A DISTANCE OF 493.53 FEET TO THE BOUNDARY OF ELK RIDGE ADDITION; THENCE NORTH 87 DEGREES 02 MINUTES 16 SECONDS EAST, ALONG THE WESTERLY EXTENSION, NORTH LINE, AND EASTERLY EXTENSION OF THE NORTH LINE OF LOT 1 BLOCK 4 ELK RIDGE ADDITION, A DISTANCE OF 275.99 FEET TO THE CENTERLINE OF THE HIGHWAY RIGHT-OF-WAY EASEMENT (DOC # 875093); THENCE SOUTH 02 DEGREES 57 MINUTES 44 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 312.37 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 2000.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 43.11 FEET TO THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 1 BLOCK 5 ELK RIDGE ADDITION; THENCE SOUTH 85 DEGREES 46 MINUTES 19 SECONDS WEST, ALONG SAID EASTERLY EXTENSION AND THE BOUNDARY OF ELK RIDGE ADDITION, A DISTANCE OF 209.98 FEET TO THE POINT OF BEGINNING.

**Section 3. Repeal.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**Section 4. Taking Effect.** This ordinance shall take effect upon final passage, adoption and publication.



# ZONING EXHIBIT

Section 18 & 19, Township 139 N., Range 80 W

## PARCEL 1 REQUESTED ZONING—R5

ALL THAT PART OF THE NE 1/4 OF SECTION 19 & THE SE 1/4 OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 80 WEST, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 10 BLOCK 6 ELK RIDGE ADDITION; THENCE SOUTH 00 DEGREES 38 MINUTES 34 SECONDS WEST, ALONG THE BOUNDARY OF SAID ELK RIDGE ADDITION, A DISTANCE OF 375.00 FEET; THENCE SOUTH 89 DEGREES 33 MINUTES 13 SECONDS EAST, A DISTANCE OF 259.12 FEET; THENCE SOUTH 11 DEGREES 30 MINUTES 24 SECONDS EAST, A DISTANCE OF 161.78 FEET; THENCE SOUTH 17 DEGREES 34 MINUTES 25 SECONDS WEST, A DISTANCE OF 419.76 FEET; THENCE SOUTH 08 DEGREES 41 MINUTES 44 SECONDS EAST, A DISTANCE OF 318.08 FEET; THENCE SOUTH 13 DEGREES 02 MINUTES 58 SECONDS WEST, A DISTANCE OF 198.00 FEET; THENCE SOUTH 21 DEGREES 00 MINUTES 57 SECONDS EAST, A DISTANCE OF 173.42 FEET TO THE SOUTH LINE OF THE NE 1/4 OF SAID SECTION 19; THENCE SOUTH 88 DEGREES 45 MINUTES 23 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 358.43 FEET; THENCE NORTH 41 DEGREES 40 MINUTES 23 SECONDS EAST, A DISTANCE OF 233.81 FEET; THENCE NORTH 00 DEGREES 04 MINUTES 45 SECONDS EAST, A DISTANCE OF 352.21 FEET; THENCE SOUTH 89 DEGREES 21 MINUTES 44 SECONDS EAST, A DISTANCE OF 603.10 FEET; THENCE NORTH 45 DEGREES 22 MINUTES 54 SECONDS EAST, A DISTANCE OF 255.89 FEET; THENCE NORTH 18 DEGREES 07 MINUTES 23 SECONDS WEST, A DISTANCE OF 229.25 FEET; THENCE NORTH 36 DEGREES 34 MINUTES 33 SECONDS WEST, A DISTANCE OF 303.30 FEET; THENCE NORTH 11 DEGREES 30 MINUTES 24 SECONDS WEST, A DISTANCE OF 473.54 FEET; THENCE NORTH 02 DEGREES 57 MINUTES 44 SECONDS WEST, A DISTANCE OF 809.90 FEET; THENCE NORTHEASTERLY AND TO THE RIGHT, ON A 100.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 64.36 FEET; THENCE NORTH 33 DEGREES 54 MINUTES 45 SECONDS EAST, A DISTANCE OF 55.17 FEET; THENCE SOUTH 56 DEGREES 05 MINUTES 15 SECONDS EAST, A DISTANCE OF 379.02 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, ON A 200.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 346.32 FEET; THENCE NORTH 24 DEGREES 42 MINUTES 02 SECONDS EAST, A DISTANCE OF 277.24 FEET; THENCE NORTHEASTERLY AND TO THE LEFT, ON A 500.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 215.55 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 254.88 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 189.42 FEET; THENCE NORTH 00 DEGREES 21 MINUTES 30 SECONDS EAST, A DISTANCE OF 248.75 FEET TO THE BOUNDARY OF EAGLE CREST SIXTH ADDITION; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 585.39 FEET; THENCE NORTH 61 DEGREES 26 MINUTES 37 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 137.55 FEET; THENCE NORTH 76 DEGREES 00 MINUTES 00 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 33.00 FEET; THENCE SOUTHWESTERLY AND TO THE LEFT, ON A 160.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 17.73 FEET; THENCE SOUTH 20 DEGREES 07 MINUTES 17 SECONDS WEST, A DISTANCE OF 314.82 FEET; THENCE SOUTHWESTERLY AND TO THE RIGHT, ON A 1363.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 392.67 FEET; THENCE SOUTH 36 DEGREES 37 MINUTES 40 SECONDS WEST, A DISTANCE OF 226.70 FEET; THENCE SOUTHWESTERLY AND TO THE LEFT, ON A 357.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 246.68 FEET; THENCE SOUTH 02 DEGREES 57 MINUTES 44 SECONDS EAST, A DISTANCE OF 645.87 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, ON A 1757.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 262.02 FEET; THENCE SOUTH 11 DEGREES 30 MINUTES 24 SECONDS EAST, A DISTANCE OF 260.22 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, ON A 500.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 155.18 FEET; THENCE SOUTH 29 DEGREES 17 MINUTES 21 SECONDS EAST, A DISTANCE OF 83.91 FEET; THENCE SOUTHEASTERLY AND TO THE RIGHT, ON A 100.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 209.31 FEET; THENCE NORTH 89 DEGREES 21 MINUTES 44 SECONDS WEST, A DISTANCE OF 587.01 FEET; THENCE NORTHEASTERLY AND TO THE RIGHT, ON A 566.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 76 DEGREES 06 MINUTES 15 SECONDS EAST, AN ARC LENGTH OF 123.97 FEET; THENCE NORTH 26 DEGREES 26 MINUTES 42 SECONDS EAST, A DISTANCE OF 76.99 FEET; THENCE NORTHEASTERLY AND TO THE LEFT, ON A 200.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 132.48 FEET; THENCE NORTH 11 DEGREES 30 MINUTES 24 SECONDS WEST, A DISTANCE OF 308.63 FEET; THENCE NORTHWESTERLY AND TO THE RIGHT, ON A 2243.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 271.09 FEET TO THE BOUNDARY OF ELK RIDGE ADDITION; THENCE SOUTH 61 DEGREES 25 MINUTES 13 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 36.03 FEET; THENCE NORTH 89 DEGREES 21 MINUTES 26 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 292.22 FEET; THENCE SOUTH 79 DEGREES 22 MINUTES 39 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 63.83 FEET TO THE POINT OF BEGINNING.

## PARCEL 2 REQUESTED ZONING—R10

ALL THAT PART OF THE NE 1/4 OF SECTION 19 & THE SE 1/4 OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 80 WEST, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1 BLOCK 5 ELK RIDGE ADDITION; THENCE SOUTH 61 DEGREES 25 MINUTES 13 SECONDS WEST, ALONG THE BOUNDARY OF ELK RIDGE ADDITION, A DISTANCE OF 36.20 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, ON A 2243.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS NORTH 85 DEGREES 25 MINUTES 05 SECONDS EAST, AN ARC LENGTH OF 271.09 FEET; THENCE SOUTH 11 DEGREES 30 MINUTES 24 SECONDS EAST, A DISTANCE OF 308.63 FEET; THENCE SOUTHEASTERLY AND TO THE RIGHT, ON A 200.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 132.48 FEET; THENCE SOUTH 26 DEGREES 26 MINUTES 42 SECONDS WEST, A DISTANCE OF 76.99 FEET; THENCE SOUTHWESTERLY AND TO THE LEFT, ON A 566.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 123.97 FEET; THENCE SOUTH 89 DEGREES 21 MINUTES 44 SECONDS EAST, A DISTANCE OF 587.01 FEET; THENCE NORTHEASTERLY AND TO THE LEFT, ON A 100.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 209.31 FEET; THENCE NORTH 29 DEGREES 17 MINUTES 21 SECONDS WEST, A DISTANCE OF 83.91 FEET; THENCE NORTHWESTERLY AND TO THE RIGHT, ON A 500.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 155.18 FEET; THENCE NORTH 11 DEGREES 30 MINUTES 24 SECONDS WEST, A DISTANCE OF 360.22 FEET; THENCE NORTHWESTERLY AND TO THE RIGHT, ON A 1757.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 262.02 FEET; THENCE NORTH 02 DEGREES 57 MINUTES 44 SECONDS WEST, A DISTANCE OF 645.87 FEET; THENCE NORTHEASTERLY AND TO THE RIGHT, ON A 357.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 246.68 FEET; THENCE NORTH 36 DEGREES 37 MINUTES 40 SECONDS EAST, A DISTANCE OF 226.70 FEET; THENCE NORTHEASTERLY AND TO THE LEFT, ON A 1363.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 392.67 FEET; THENCE NORTH 20 DEGREES 07 MINUTES 17 SECONDS EAST, A DISTANCE OF 314.82 FEET; THENCE NORTHEASTERLY AND TO THE LEFT, ON A 160.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 17.73 FEET TO THE BOUNDARY OF EAGLE CREST SIXTH ADDITION; THENCE NORTH 76 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 242.48 FEET TO THE CENTERLINE OF THE HIGHWAY RIGHT-OF-WAY EASEMENT (DOC # 875093); THENCE SOUTH 20 DEGREES 07 MINUTES 17 SECONDS WEST, ALONG SAID CENTERLINE, A DISTANCE OF 315.54 FEET; THENCE SOUTHWESTERLY AND TO THE RIGHT, CONTINUING ALONG SAID CENTERLINE, ON A 1120.00 FOOT RADIUS CURVE, A DISTANCE OF 322.66 FEET; THENCE SOUTH 36 DEGREES 37 MINUTES 40 SECONDS WEST, CONTINUING ALONG SAID CENTERLINE, AN ARC LENGTH OF 226.70 FEET; THENCE SOUTHWESTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 600.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 298.19 FEET; THENCE NORTH 82 DEGREES 29 MINUTES 08 SECONDS WEST, A DISTANCE OF 198.08 FEET; THENCE NORTHWESTERLY AND TO THE LEFT, ON A 500.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 59.97 FEET; THENCE SOUTH 02 DEGREES 57 MINUTES 46 SECONDS EAST, A DISTANCE OF 493.53 FEET TO THE BOUNDARY OF ELK RIDGE ADDITION; THENCE NORTH 87 DEGREES 02 MINUTES 16 SECONDS EAST, ALONG THE WESTERLY EXTENSION, NORTH LINE, AND EASTERLY EXTENSION OF THE NORTH LINE OF LOT 1 BLOCK 4 ELK RIDGE ADDITION, A DISTANCE OF 275.99 FEET TO THE CENTERLINE OF THE HIGHWAY RIGHT-OF-WAY EASEMENT (DOC # 875093); THENCE SOUTH 02 DEGREES 57 MINUTES 44 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 312.37 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 2000.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 43.11 FEET TO THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 1 BLOCK 5 ELK RIDGE ADDITION; THENCE SOUTH 85 DEGREES 46 MINUTES 19 SECONDS WEST, ALONG SAID EASTERLY EXTENSION AND THE BOUNDARY OF ELK RIDGE ADDITION, A DISTANCE OF 209.98 FEET TO THE POINT OF BEGINNING.



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

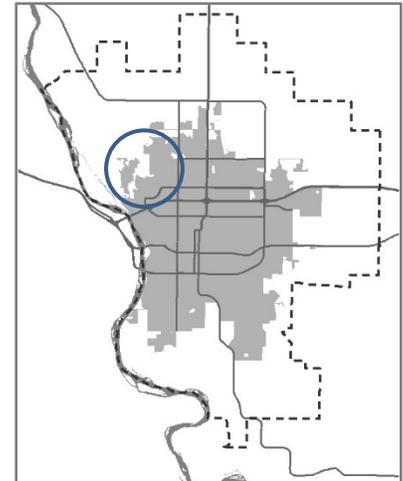
January 22, 2020

**Application for: Future Land Use Plan  
 Zoning Change**

TRAKiT Project ID: FLUP2019-002  
 ZC2019-012

**Project Summary**

<b>Title:</b>	Part of Sections 18 & 19, Hay Creek Township
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Tyler Coulee, LLP (NE¼ of Section 19) Ron Knutson (SE¼ of Section 18)
<b>Project Contact:</b>	Lon Romsaas, PE, Swenson, Hagen & Co.
<b>Location:</b>	Northwest Bismarck, north of Valley Drive between the Promontory Point/Elk Ridge developments and the Eagle Crest development
<b>Project Size:</b>	136.0 acres, more or less
<b>Request:</b>	Amend the Future Land Use Plan to modify the boundary between the Low Density Residential and Conservation land use designations and rezone property to establish zoning for this area prior to platting, annexation and development



**Site Information**

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	2 unplatted tracts	<b>Number of Lots:</b>	2 unplatted tracts
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Low density residential
<b>Designated GMP</b>	Low Density Residential	<b>Designated GMP</b>	Low Density Residential
<b>Future Land Use:</b>	Conservation	<b>Future Land Use:</b>	Conservation
<b>Zoning:</b>	A – Agricultural	<b>Zoning:</b>	A – Agricultural R5 – Residential R10 – Residential
<b>Uses Allowed:</b>	A – Agriculture	<b>Uses Allowed:</b>	A – Agriculture R5 – Single-family residential R10 – Single and two-family residential
<b>Max Density Allowed:</b>	A – 1 unit / 40 acres	<b>Max Density Allowed:</b>	A – 1 unit / 40 acres R5 – 5 units / acre R10 – 10 units / acre

(continued)

**Property History**

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Zoned:	N/A	Platted:	N/A	Annexed:	N/A
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**Staff Analysis**

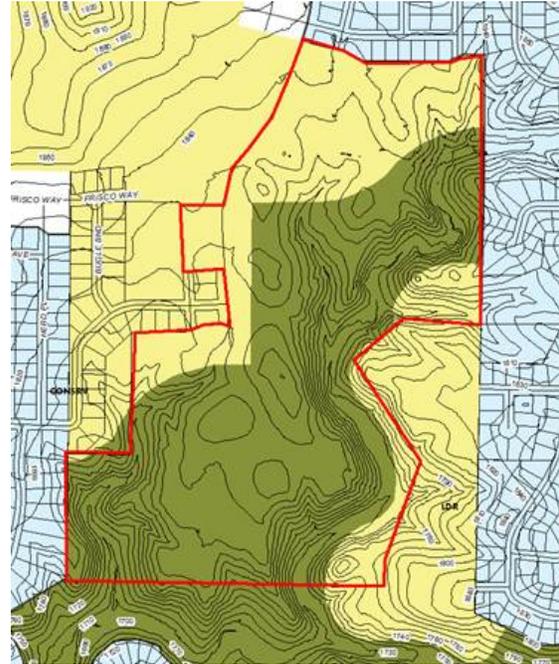
Tyler Coulee, LLP and Ron Knutson are requesting approval of a Future Land Use Plan amendment to modify the boundary between the Low Density Residential and Conservation designations and approval of a zoning change from the A – Agricultural zoning district to the A – Agricultural, R5 – Residential, and R10 – Residential zoning districts in order to establish the zoning for this area prior to platting, annexation and development of the NE¼ of Section 19 and part of the SE¼ of Section 18, T138N-R80W/Hay Creek Township.

Adjacent uses include developing single-family residential to the north, east and west; undeveloped property to the northwest and undeveloped property along with a mix of single and two-family residential to the south.

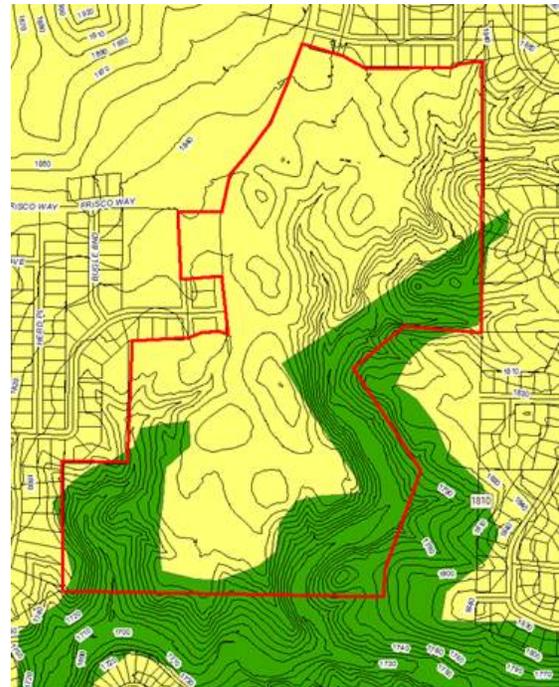
The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies the Tyler Coulee area between Valley Drive and Ash Coulee Drive as Low Density Residential and Conservation. The boundary between the two designations was established through the digitization of a hand drawn map that designated future land uses on a more general basis. Staff now uses that map at a much finer level of detail than was originally intended. Because of the difference in the level of detail between the original hand drawn paper map and the current digital version, staff recognizes that the level of detail is not as refined as it would have been if it had it been prepared at the scale at which it is currently being used.

It should also be noted that a Regional Future Land Use Plan was prepared by the Metropolitan Planning Organization and adopted by the City of Bismarck in 2007. Although this plan was superseded by the current Future Land Use Plan in the 2014 Growth Management Plan, as amended, it does include a different boundary between the Urban Residential and Parks/Open Space/Greenways designations.

*Future Land Use Plan (GMP 2014, as amended)*



*Regional Future Land Use Plan (MPO, 2007)*



The future alignment of Tyler Parkway bisects this area, and is planned to be developed as a connecting roadway between Ash Coulee Drive and Valley Drive.

The modification to the Future Land Use Plan originally requested by the applicants was based on a potential future plat for the area rather than topography or slope stability. After the December Planning & Zoning Commission meeting, staff met with the applicants and their consulting engineer to discuss revisions to the proposed boundary between the Conservation and Low Density Residential land use designations that utilizes available topography and slope stability information. The boundary between the two districts now being requested is based on the results of a Geotechnical Evaluation Report prepared for the applicants by Braun Intertec Corporation (November 2019). Because the revised boundary is based on the findings of this Geotechnical Evaluation Report, staff believes the concerns raised in the previous staff report have been addressed.

The proposed zoning change from the A – Agricultural zoning district to the R5 – Residential and R10 – Residential zoning districts for the areas that would be designated as Low Density Residential originally requested by the applicants was also based on a potential future plat for the area. Because a plat is not being submitted for review at this time, staff cannot ensure that the areas identified as Conservation in Future Land Use Plan, if amended, would be protected with a slope protection easement. For that reason, the zoning request has been modified to follow the Future Land Use Plan, if amended, with the understanding that the area designated as Conservation would remain within the A – Agricultural zoning district until such time as the property is platted and annexed. Depending on the future ownership of the slope and stormwater conveyance areas, these areas could be rezoned to R5 – Residential or R10 – Residential in conjunction with platting as part of the adjoining lots (with a slope protection easement over them) or as P – Public if the property is to be owned by a public entity.

### **Required Findings of Fact**

#### **Future Land Use Plan Amendment**

1. The proposed amendment is compatible with adjacent land uses;
2. The proposed amendment is justified by a change in conditions since the future land use plan was established or last amended;
3. The Hay Creek Township Board of Supervisors has been informed of the proposed amendment but has not yet made a recommendation;
4. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner;
5. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance;
6. The proposed amendment is consistent with the other aspects of the master plan, other adopted plans, policies and accepted planning practice; and
7. The proposed amendment would not adversely affect the public health, safety, and general welfare.

#### **Zoning Change**

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, if amended in conjunction with this zoning change amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or 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 been informed of the proposed zoning change but has not yet made a recommendation;
5. The proposed zoning change is justified by a change in conditions since the previous zoning

*(continued)*

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.

#### **Staff Recommendation**

Based on the above findings, staff recommends approval of the Future Land Use Plan Amendment to modify the boundary between the Conservation and Low Density Residential land use designations as shown on the attached exhibit and the zoning change from the A – Agricultural zoning district to the A –

Agricultural, R5 – Residential and R10 – Residential zoning districts as shown on the attached exhibit for part of the NE¼ of Section 19 and part of the SE¼ of Section 18, T138N-R80W/Hay Creek Township, with the understanding that staff would support rezoning of entire lots to R5- Residential or R10-Residential in conjunction with the future platting of the property, provided a slope protection easement is shown over that portion of the lots included in the Conservation designation in the Future Land Use Plan, as amended.

#### **Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. FLUP Exhibit – Revised Request
5. Zoning Exhibit – Revised Request
6. FLUP Amendment Narrative from Applicant
7. FLUP Exhibit – Original Request
8. Zoning Exhibit – Original Request

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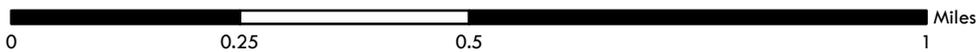
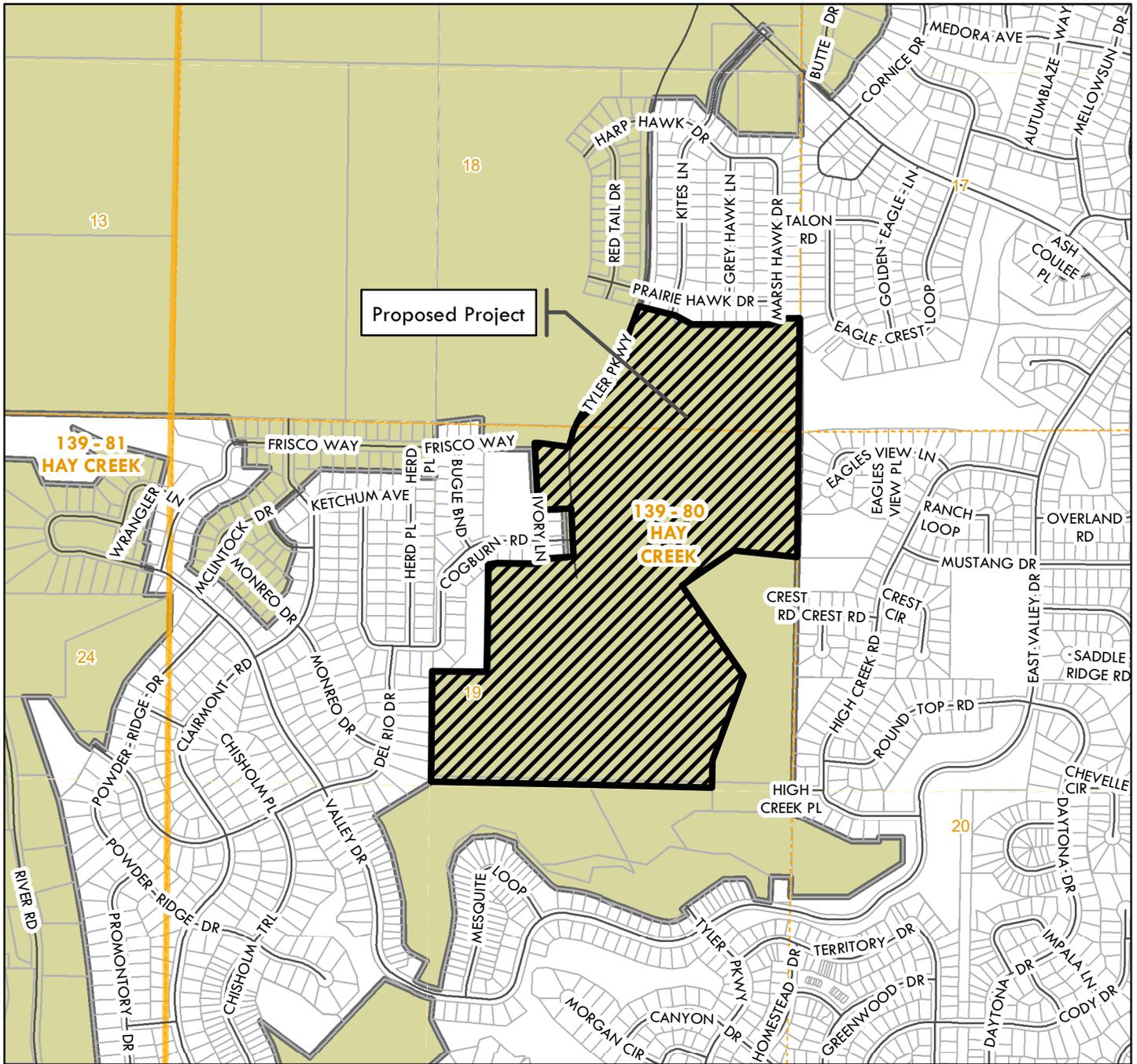
*Staff report prepared by:* Kim L. Lee, AICP, Planning Manager  
701-355-1846 | [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)



# Location Map

Part of Sections 18 & 19, T139N-R80W/Hay Creek Township

FLUP2019-002  
ZC2019-012

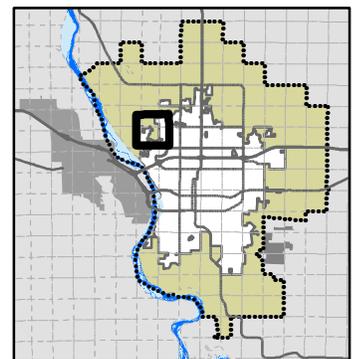


- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

Section, township, and range indicated in orange

City of Bismarck  
Community Development Department  
Planning Division  
December 11, 2019 (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 hereon.

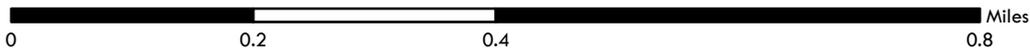
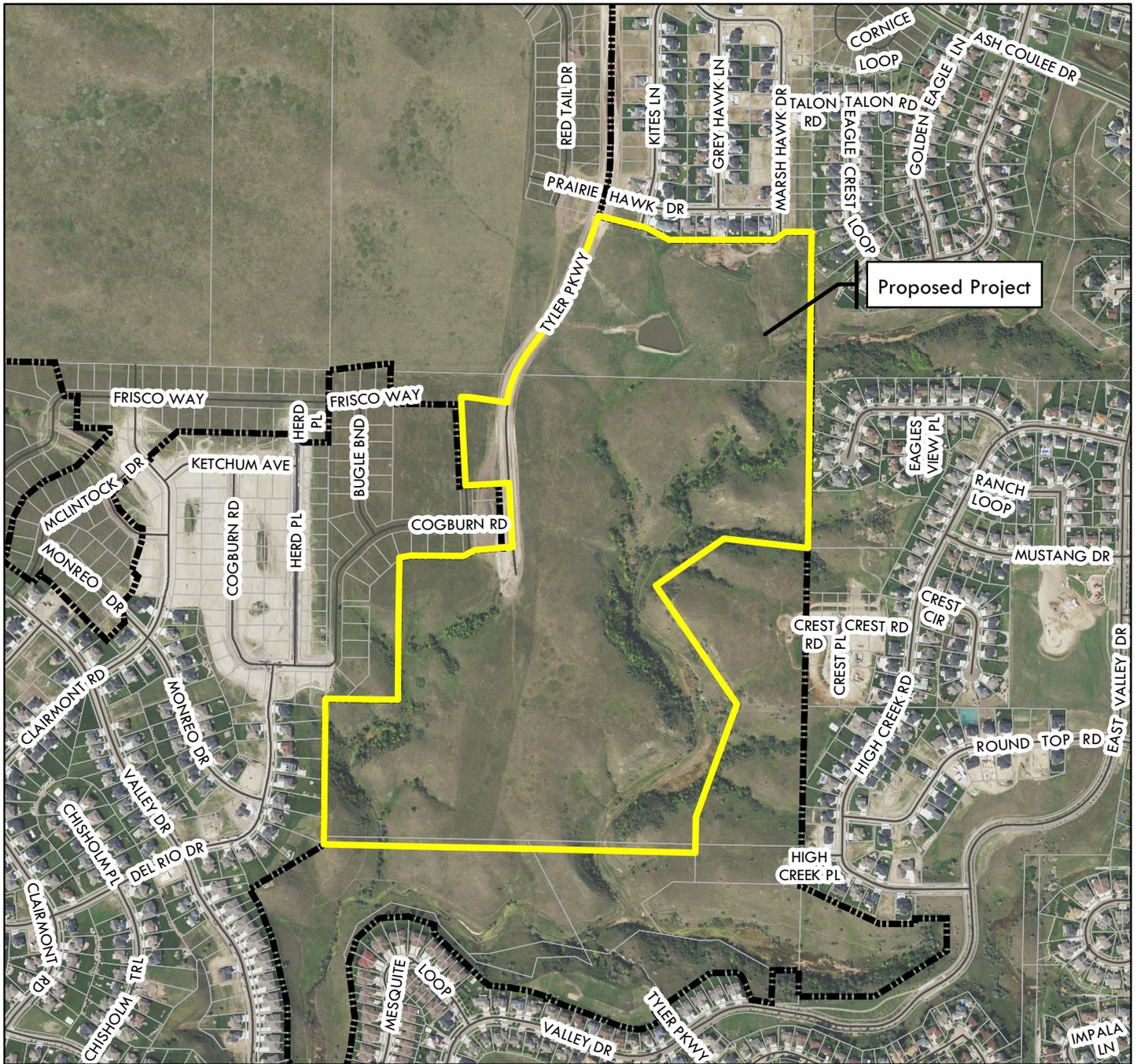




# Aerial Map

Part of Sections 18 & 19, T139N-R80W/Hay Creek Township

FLUP2019-002  
ZC2019-012

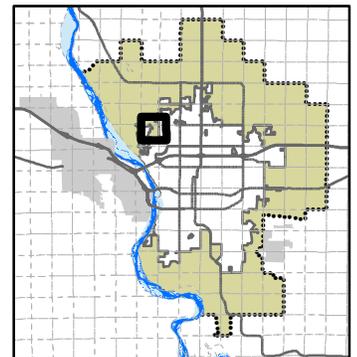


City Limits Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
Community Development Department  
Planning Division  
December 12, 2019

*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.*





# Zoning and Plan Reference Map

Part of Sections 18 & 19, T139N-R80W/Hay Creek Township

FLUP2019-002  
ZC2019-012

-  Project Area - No Change Proposed
-  Zoning or Plan Change Proposed

### Zoning Districts

- A** Agriculture
- RR** Rural Residential
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily (Offices)
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

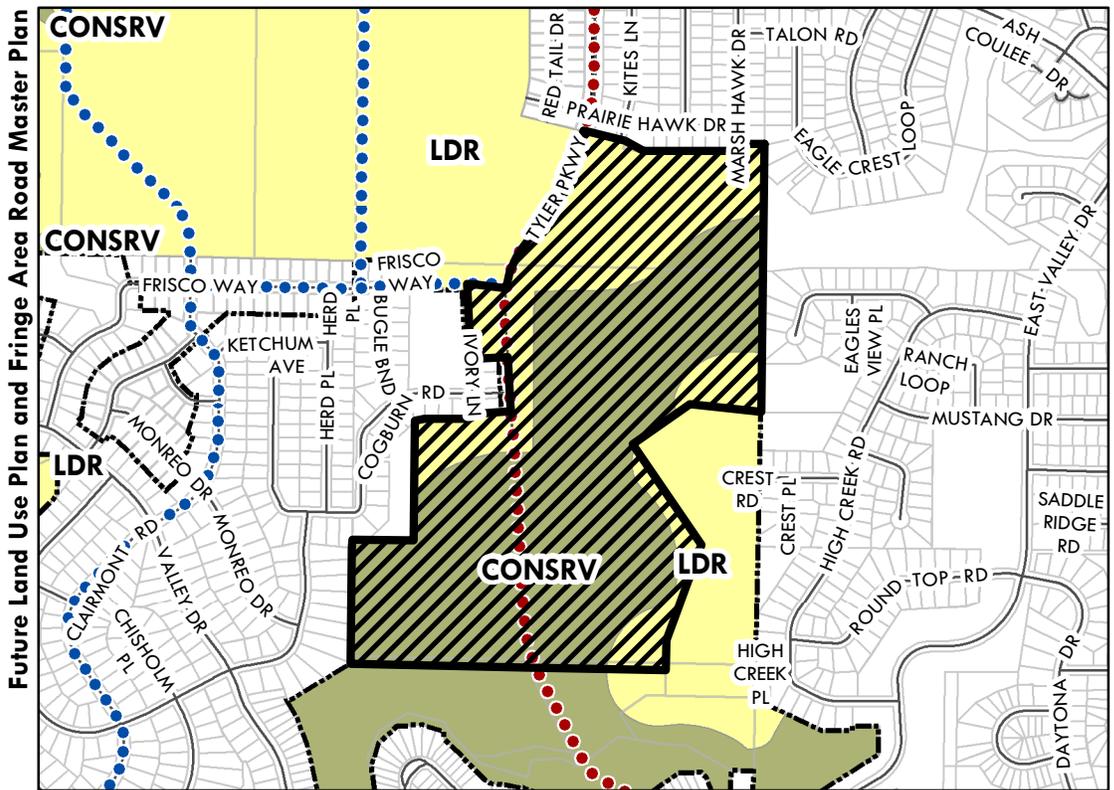
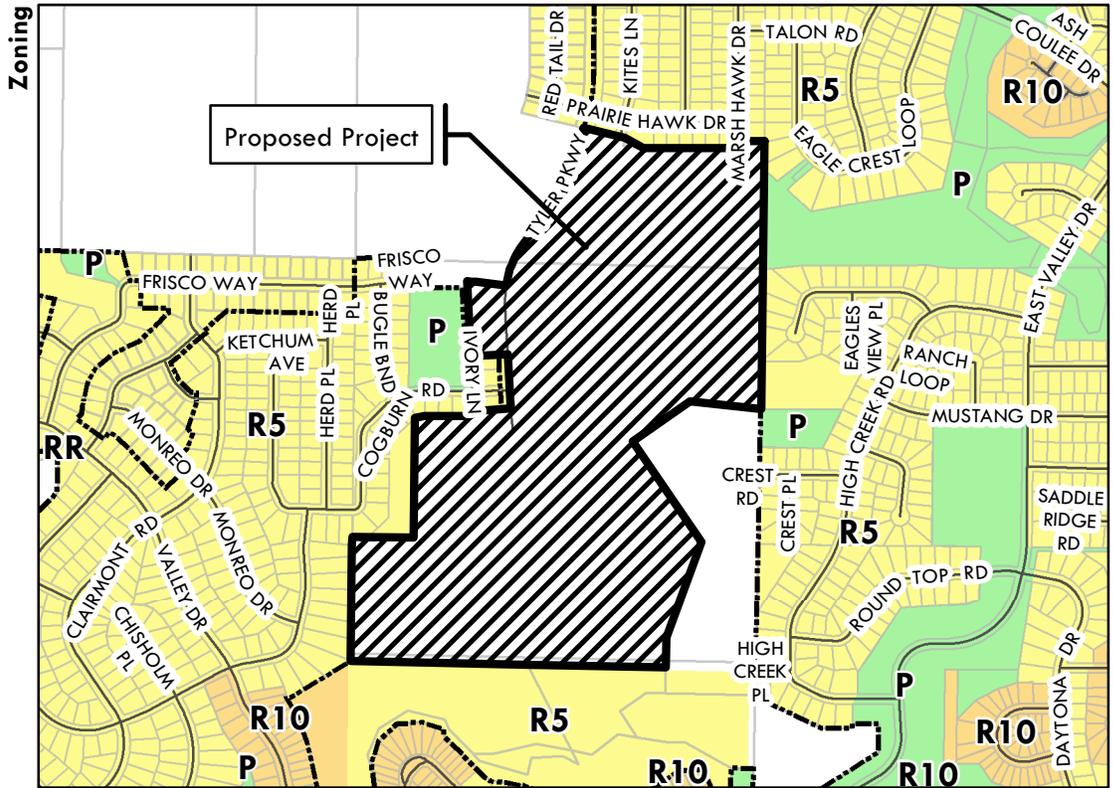
Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

### Fringe Area Road Master Plan

-  Planned Arterial
-  Planned Collector



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.



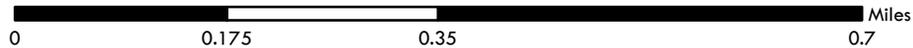
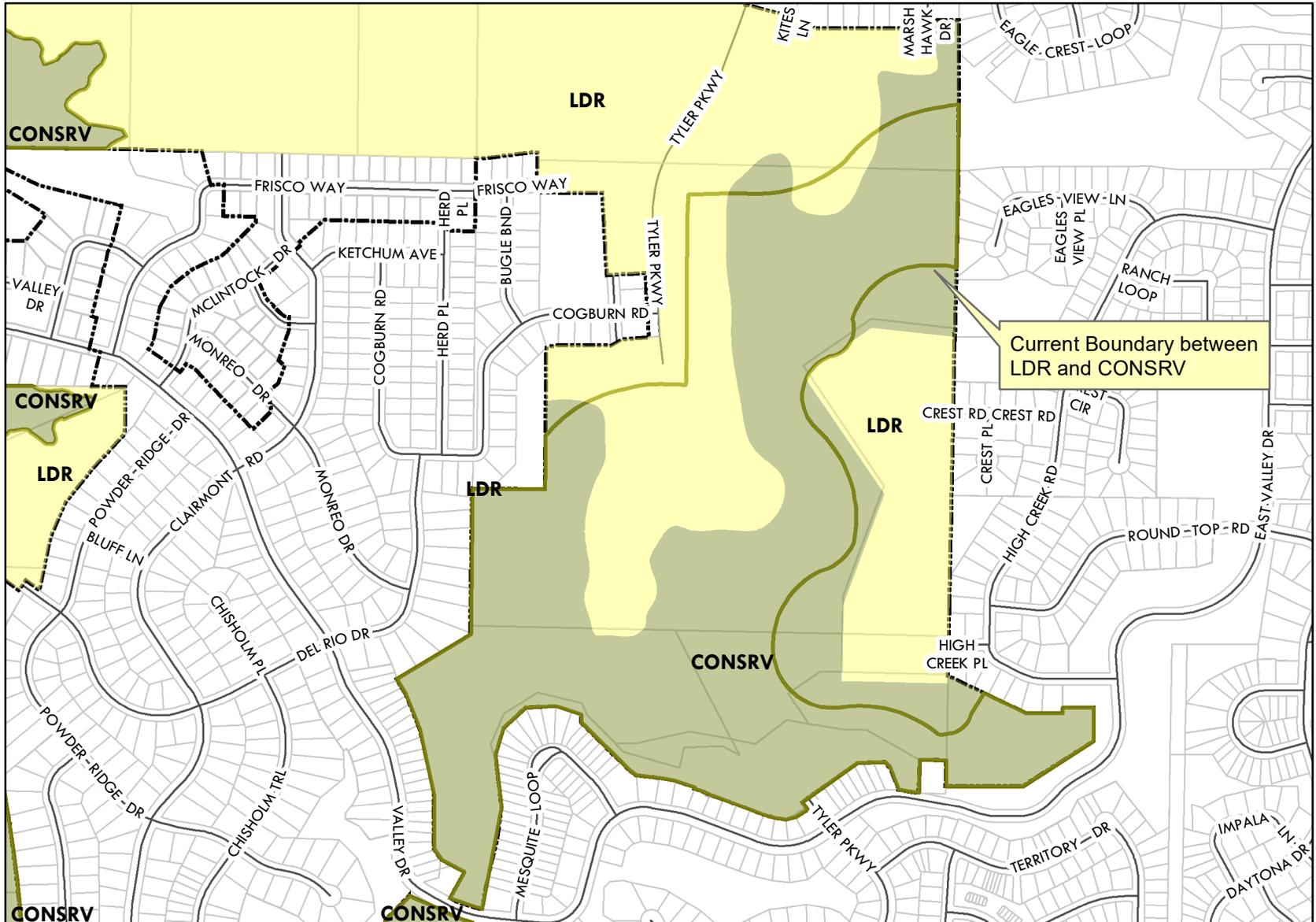
City of Bismarck  
Community Development Dept.  
Planning Division  
December 12, 2019

### Proposed New FLUP Map

Project Area  
(FLUP within is proposed)

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve



City Limits

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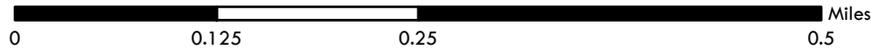
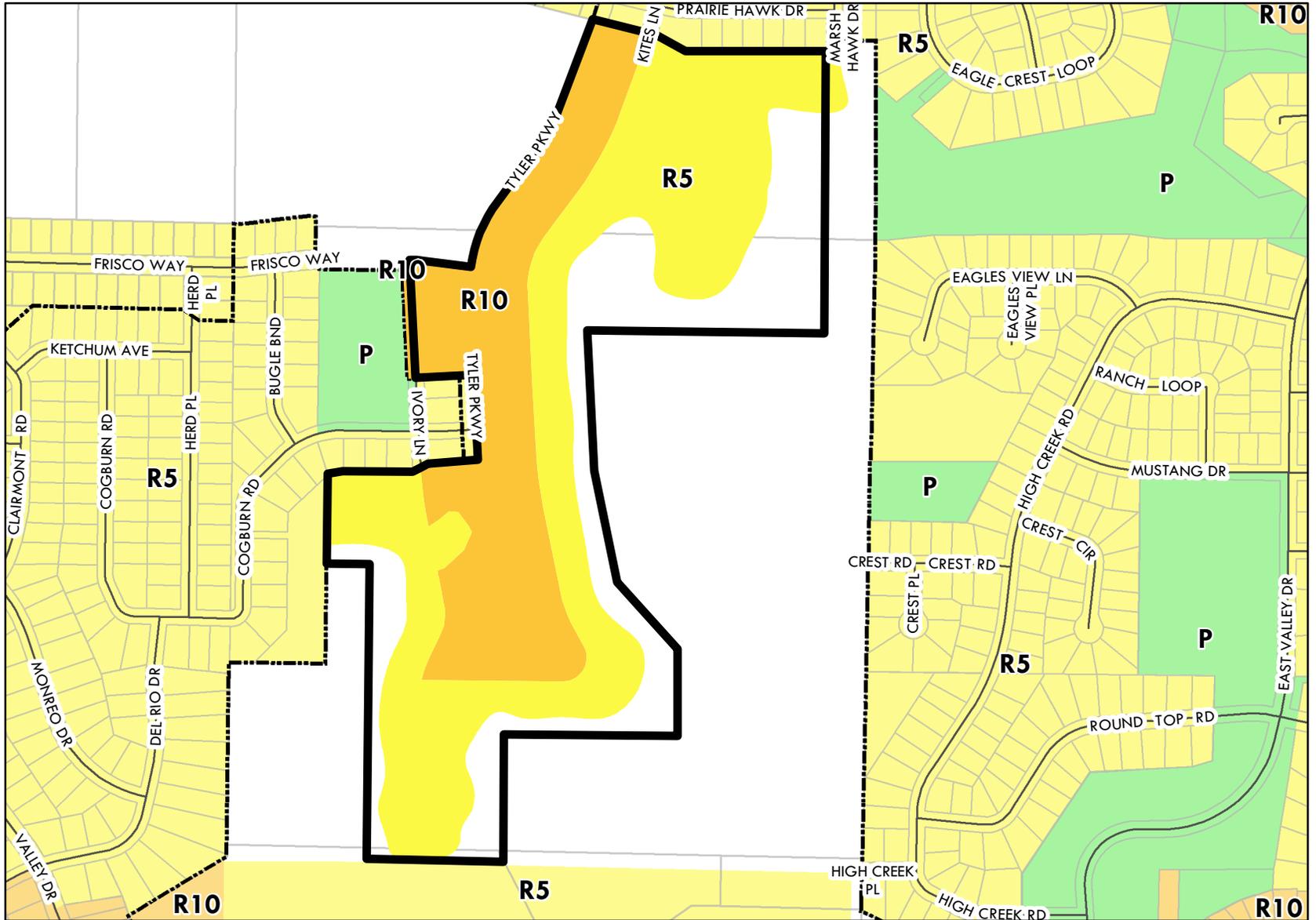
**Proposed New  
FLUP Map**

Project Area  
(zoning within  
is proposed)

**Zoning Districts**

- A** Agriculture
- RR** Rural
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

A "C-" prior to the district indicates that special conditions would apply to the zoning district



City Limits

*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.*



NOV 15 2019

FLUP/Zoning change—Sections 18 & 19-139-80

Tyler Coulee, LLP & Ron Knutson are requesting a zoning change from A-Agricultural zoning to R5 & R10-Residential Districts, and a FLUP change from Conservation to Low Density Residential.

The proposed changes are compatible with adjacent land uses and zoning, (LDR/R5 zoning in Promontory Point Subdivisions to the west & Eagle Crest Sixth & Eighth Additions to the east) and will allow for the future extension of roadways to connect communities within NW Bismarck.

The goal of this request is to inform adjacent property owners of the land owners' intent to master plan for future development and the proposed type of development that can be expected (single family and twin homes).

The second goal of this request is to adjust and update the future land use plan (FLUP) for this area as it relates to the FLUP conservation area. The "Conservation area" first showed up in the 2007 Regional Land Use Plan. At that time, it was referred to as "Parks/Open Space/Greenways". The future eland use plan in the 2014 Growth Management Plan changed the classification to "Conservation". The Growth Management Plan was updated in 2016. The update in 2016 was a broad brush updated so that it could be easily utilized in GIS. That change from 2014 to 2016 unfortunately included buildable areas on the high ground adjacent to Tyler Coulee. City staff have regularly told developers and the general public that the conservation areas were identified broadly, and that they could be modified in conjunction with zoning changes.

The definition of the conservation land use is "areas such as streams, trail corridors, and wetlands to be maintained as permanent open space."

This request still maintains the goal of conservation areas for this tract of land.

# FLUP EXHIBIT

Section 18 & 19, Township 139 N., Range 80 W

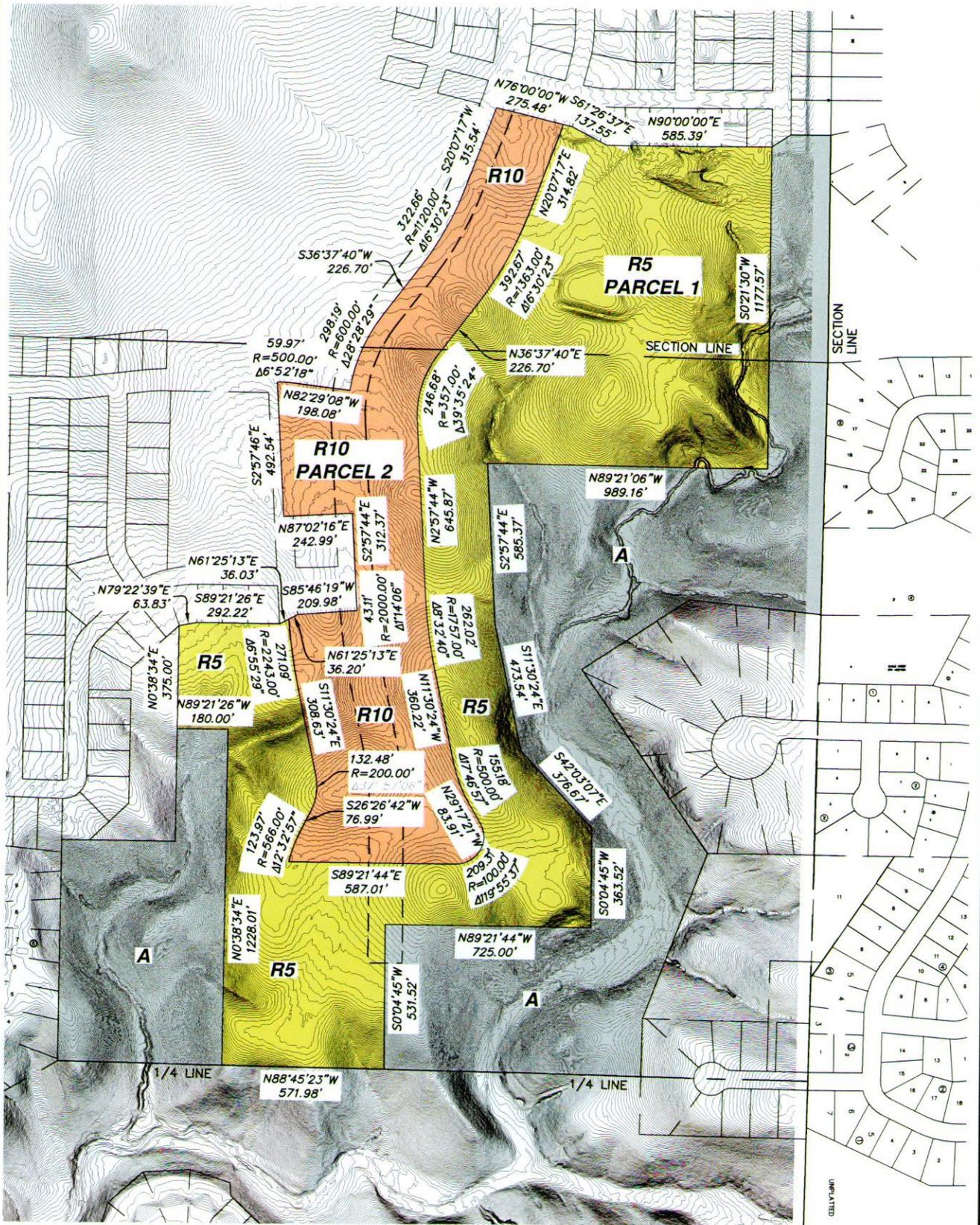
NOV 15 2019



# ZONING EXHIBIT

Section 18 & 19, Township 139 N., Range 80 W

NOV 15 2019





## *Community Development Department*

**DATE:** February 4, 2020

**FROM:** Ben Ehreth, AICP, Community Development Director

**ITEM:** Part of Clear Sky Addition – Annexation

### **REQUEST**

FRF Investments, LLP is requesting the annexation of Lots 16 and 17, Block 1 and Lot 1, Block 4, Clear Sky Addition. The request will allow the development of three additional single-family residences, and the roadway providing access to these lots will provide a paved fire and emergency turnaround and enhanced site grading for stormwater runoff for Phase I of the development.

The property is located in southeast Bismarck, east of 52nd Street SE between County Highway 10/East Main Avenue and Apple Creek Road along the north and south sides of Smette Bend, east of Hermanson Drive.

Please place this item on the February 11, 2020 City Commission meeting agenda and the February 25, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The Planning & Zoning Commission considered this request on January 22, 2020.

Upon consideration, and based on the findings contained in the staff report, the Planning & Zoning Commission unanimously recommended approval of the annexation of Lots 16 and 17, Block 1 and Lot 1, Block 4, Clear Sky Addition.

### **RECOMMENDED CITY COMMISSION ACTION**

February 11th meeting of the Board of City Commissioners – consider the annexation as outlined in Ordinance 6410 call for a public hearing on this item for the February 25th meeting of the Board of City Commissioners.

February 25th meeting of the Board of City Commissioners - hold a public hearing on the annexation as outlined in Ordinance 6410 and take final action on the request.

## **STAFF CONTACT INFORMATION**

Ben Ehreth, AICP | Community Development Director, 355-1842 or [behreth@bismarcknd.gov](mailto:behreth@bismarcknd.gov)

Kim L. Lee, AICP | Planning Manager, 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)

Jenny Wollmuth, AICP, CFM | Planner, 355-1845 or [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)

**ORDINANCE NO. 6410**

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

AN ORDINANCE ANNEXING PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF BISMARCK, NORTH DAKOTA, DECLARING THE TERRITORY ANNEXED; DECLARING THE SAME TO BE A PART OF THE CORPORATE LIMITS OF SAID CITY.

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

Section 1. Territory Annexed. The territory and land hereinafter described is hereby declared and found to be a part of the corporate limits of the City of Bismarck, North Dakota, as follows:

Lots 16 and 17, Block 1; and Lot 1, Block 4, Clear Sky Addition.

The above described tract of land contains 1.49 acres, more or less.

Section 2. Provisions Applicable. From and after the final passage and adoption of this Ordinance and upon recording of this ordinance with the Burleigh County Recorder, the territory herein described shall be a part of the corporate limits of the City of Bismarck, North Dakota.



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

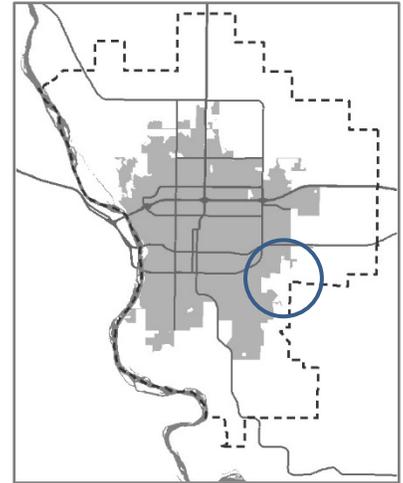
January 22, 2020

**Application for: Annexation**

TRAKiT Project ID: ANNX2019-004

## Project Summary

<i>Title:</i>	Lots 16 and 17, Block 1 and Lot 1, Block 4, Clear Sky Addition
<i>Status:</i>	Planning & Zoning Commission – Final Consideration
<i>Owner(s):</i>	FRF Investments, LLP
<i>Project Contact:</i>	Harvey Schneider, PE, Toman Engineering
<i>Location:</i>	In southeast Bismarck, east of 52 <sup>nd</sup> Street SE along the north and south side of Smette Bend, east of Hermanson Drive (Lots 16 and 17, Block 1 and Lot 1, Block 4, Clear Sky Addition)
<i>Project Size:</i>	1.49 acres
<i>Request:</i>	Annex three lots for future single-family development



## Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	3 lots in 2 blocks	<i>Number of Lots:</i>	3 lots in 2 blocks
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Single-family residential
<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan	<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	R5 – Residential	<i>Zoning:</i>	R5 – Residential
<i>Uses Allowed:</i>	R5 – Single-family residential	<i>Uses Allowed:</i>	R5 – Single-family residential
<i>Max Density Allowed:</i>	R5 – 5 units / acre	<i>Max Density Allowed:</i>	R5 – 5 units / acre

## Property History

<i>Zoned:</i>	06/2019	<i>Platted:</i>	06/2019	<i>Annexed:</i>	N/A
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## Staff Analysis

FRF Investments, LLP is requesting approval of the annexation of Lots 16 and 17, Block 1 and Lot 1, Block 4, Clear Sky Addition.

The plat of Clear Sky Addition containing 229 lots, a zoning change to the R5 – Residential and P – Public zoning districts and annexation of Phase I, which included 48 lots, were approved in 2019.

(continued)

The proposed annexation would include three residential lots and would provide a paved fire and emergency turnaround and enhance site grading for stormwater runoff for Phase I of the development.

The proposed annexation is located within the Future Area of the Growth Phasing Plan in the 2014 Growth Management Plan, as amended. Costs associated with extending municipal services from current corporate limits to the proposed subdivision will continue to be the responsibility of the property owner as indicated in the previous approval of the plat, zoning change and partial annexation for this subdivision.

**Required Findings of Fact** (relating to land use)

1. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the annexation at the time the property is developed;
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck;

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

**Staff Recommendation**

Based on the above findings, staff recommends approval of the annexation of Lots 16 and 17, Block 1 and Lot 1, Block 4, Clear Sky Addition.

**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map

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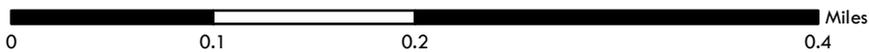
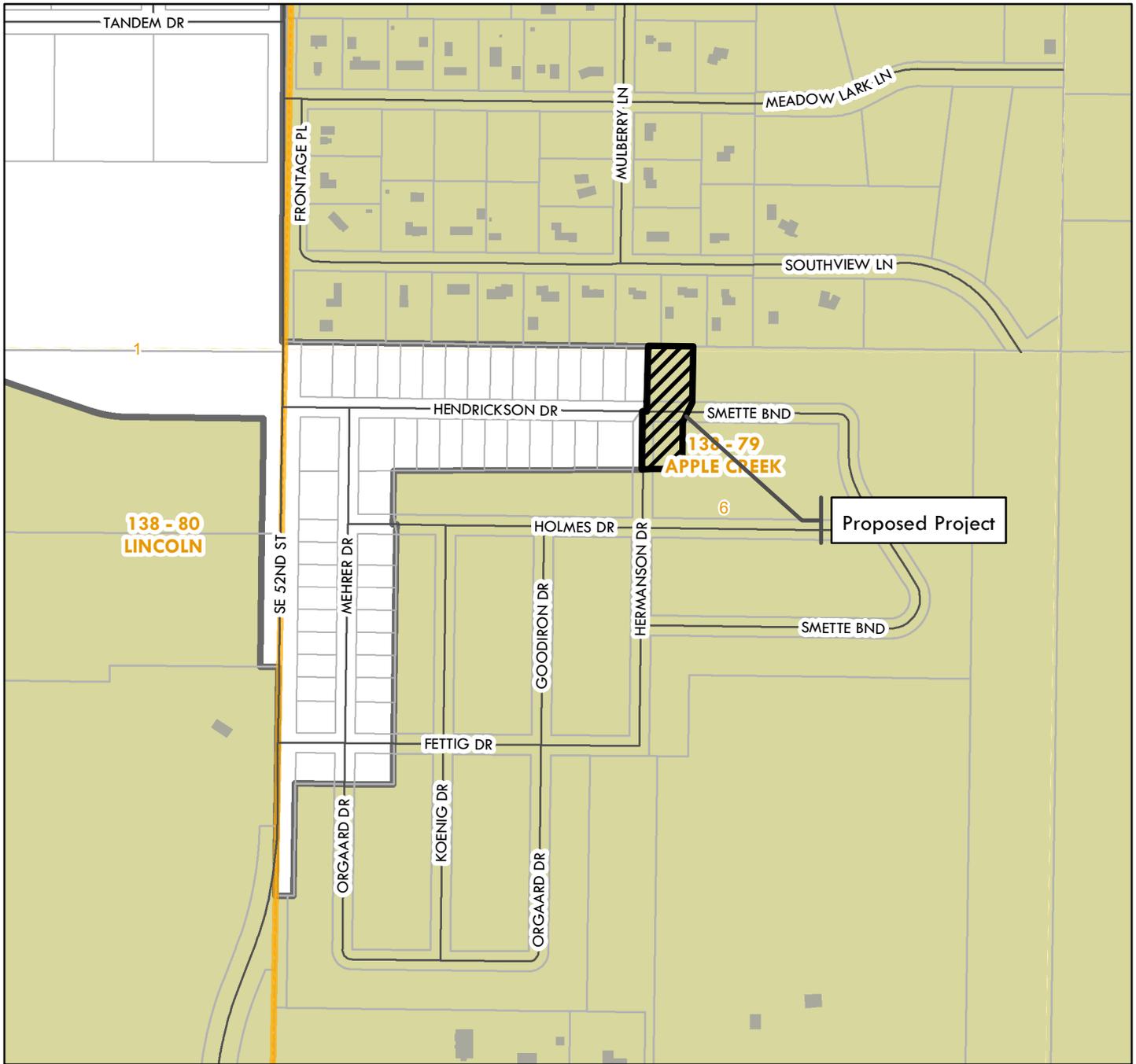
Staff report prepared by: Jenny Wollmuth, AICP, CFM  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)



# Location Map

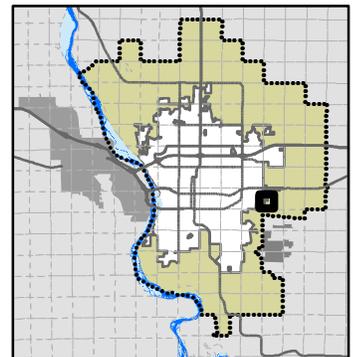
ANNX2019-004

Lots 16-17, Block 1 and Lot 1, Block 4, Clear Sky Addition



- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

Section, township, and range indicated in orange



City of Bismarck  
 Community Development Department  
 Planning Division  
 January 17, 2020 (HLB)

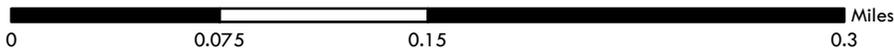
*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.*



# Aerial Map

ANNX2019-004

Lots 16 and 17, Block 1 and Lot 1, Block 4, Clear Sky Addition

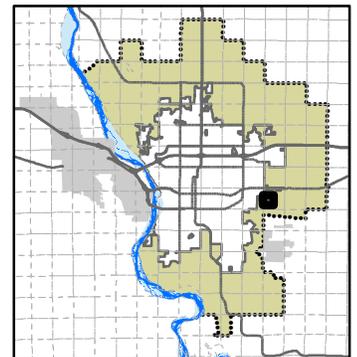


 City Limits
  Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
 Community Development Department  
 Planning Division  
 January 15, 2020

*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.*

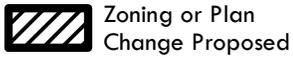




# Zoning and Plan Reference Map

ANNX2019-004

Lot 16 and 17, Block 1 and Lot 1, Block 4, Clear Sky Addition



### Zoning Districts

- A** Agriculture
- RR** Rural Residential
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

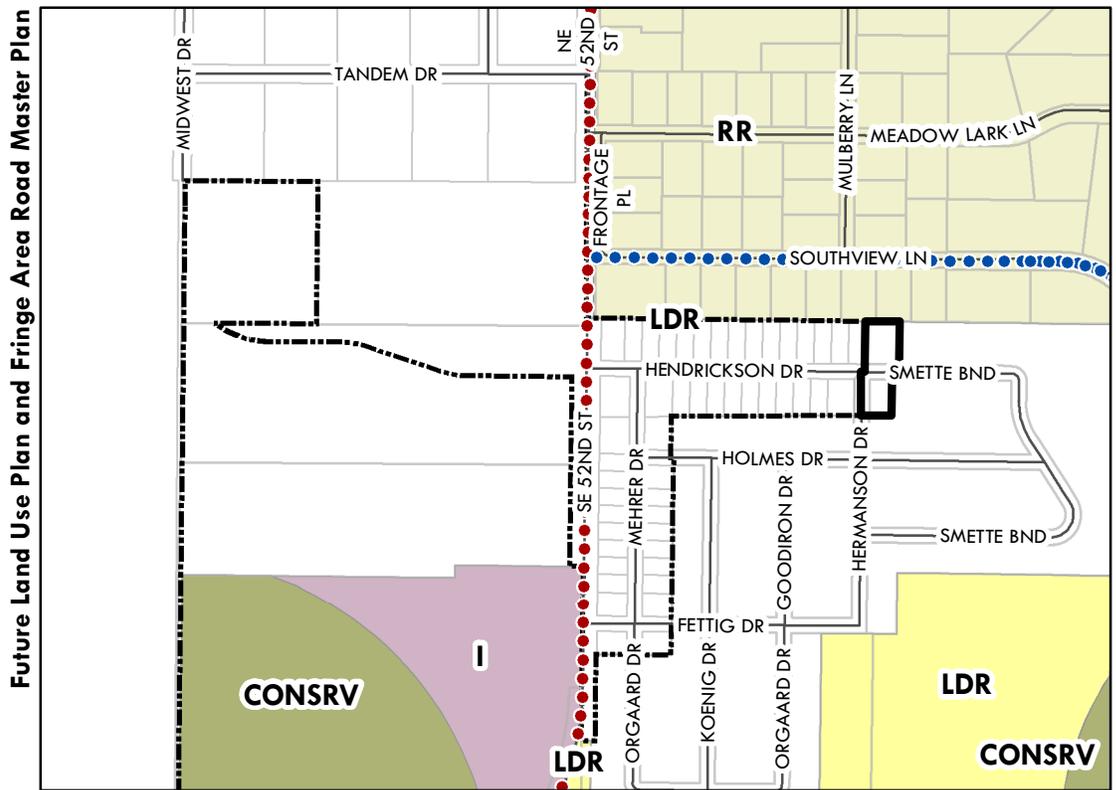
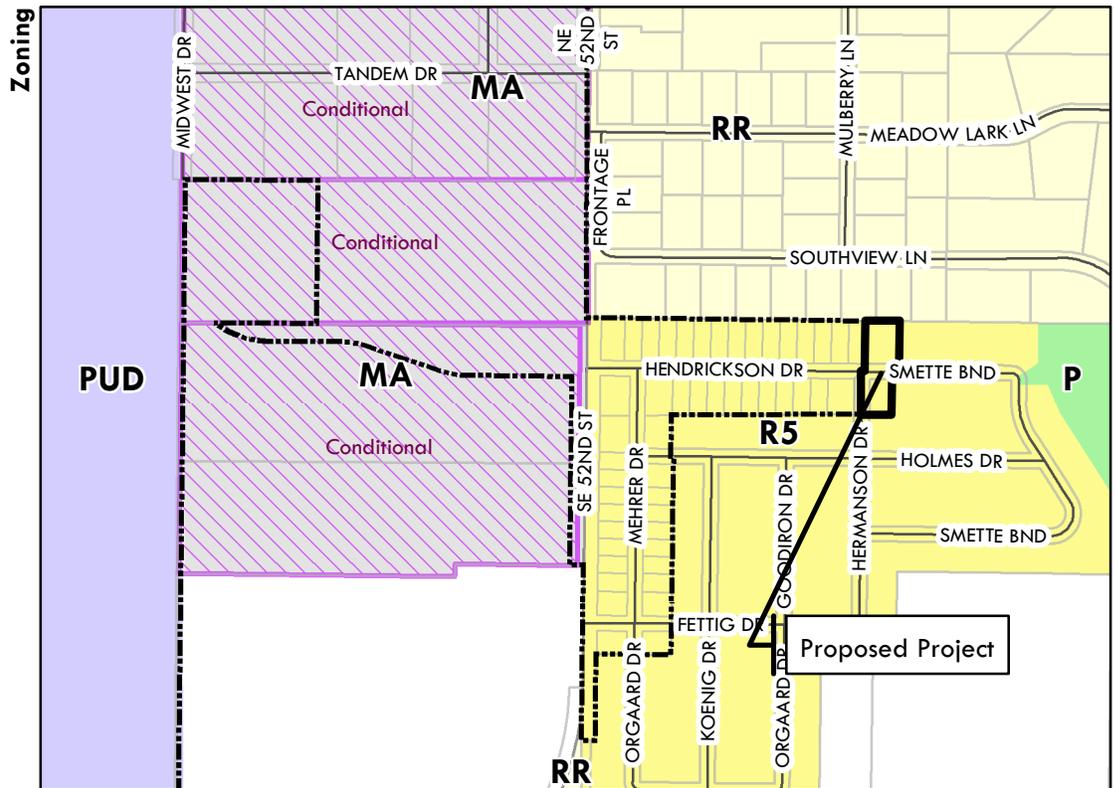
Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

### Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector



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City of Bismarck  
Community Development Dept.  
Planning Division  
January 15, 2020



## *Community Development Department*

**DATE:** February 4, 2020

**FROM:** Ben Ehreth, AICP, Community Development Director

**ITEM:** Part of Boulder Ridge Seventh Addition – Annexation

### **REQUEST**

Five Guys Investments, LLP is requesting the annexation of Lots 2, 15 and 16, Block 2; Lots 14-22, Block 4; and Lots 1-6, Block 5; Boulder Ridge Seventh Addition. The plat for Boulder Ridge Seventh Addition was approved by the Board of City Commissioners in July 2019 and a revision to the plat was approved in August 2019; however, the plat has not yet been recorded. The annexation of these additional lots would allow them to be developed in conjunction with the lots previously annexed.

The property is located in north-central Bismarck, east of North Washington Street and south of 57th Avenue NE.

Please place this item on the February 11, 2020 City Commission meeting agenda and the February 25, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The Planning & Zoning Commission considered this request on January 22, 2020.

Upon consideration, and based on the findings contained in the staff report, the Planning & Zoning Commission unanimously recommended approval of the annexation of Lots 2, 15 and 16, Block 2; Lots 14-22, Block 4; and Lots 1-6, Block 5; Boulder Ridge Seventh Addition.

### **RECOMMENDED CITY COMMISSION ACTION**

February 11th meeting of the Board of City Commissioners – consider the annexation as outlined in Ordinance 6411 call for a public hearing on this item for the February 25th meeting of the Board of City Commissioners.

February 25th meeting of the Board of City Commissioners - hold a public hearing on the annexation as outlined in Ordinance 6411 and take final action on the request.

## **STAFF CONTACT INFORMATION**

Ben Ehreth, AICP | Community Development Director, 355-1842 or [behreth@bismarcknd.gov](mailto:behreth@bismarcknd.gov)

Kim L. Lee, AICP | Planning Manager, 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)

Will Hutchings | Planner, 355-1850 or [whutchings@bismarcknd.gov](mailto:whutchings@bismarcknd.gov)

**ORDINANCE NO. 6411**

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

AN ORDINANCE ANNEXING PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF BISMARCK, NORTH DAKOTA, DECLARING THE TERRITORY ANNEXED; DECLARING THE SAME TO BE A PART OF THE CORPORATE LIMITS OF SAID CITY.

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

Section 1. Territory Annexed. The territory and land hereinafter described is hereby declared and found to be a part of the corporate limits of the City of Bismarck, North Dakota, as follows:

Lots 2, 15 and 16, Block 2; Lots 14-22, Block 4; and Lots 1-6, Block 5, Boulder Ridge Seventh Addition.

The above described tract of land contains 12.1 acres, more or less.

Section 2. Provisions Applicable. From and after the final passage and adoption of this Ordinance and upon recording of this ordinance with the Burleigh County Recorder, the territory herein described shall be a part of the corporate limits of the City of Bismarck, North Dakota.



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

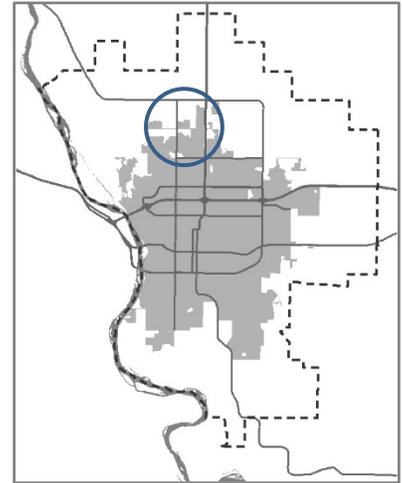
January 22, 2020

**Application for: Annexation**

TRAKiT Project ID: ANNX2019-006

## Project Summary

<b>Title:</b>	Lots 2, 15 and 16, Block 2, Lots 14-22, Block 4, and Lots 1-6, Block 5, Boulder Ridge Seventh Addition, currently part of the NW¼ of Section 16, T139N-R80W/Hay Creek Township
<b>Status:</b>	Planning & Zoning Commission – Final Consideration
<b>Owner(s):</b>	Five Guys Investment, LLP
<b>Project Contact:</b>	Landon Niemiller, Swenson, Hagen & Co.
<b>Location:</b>	North-central Bismarck, along the east side of North Washington Street and the south side of 57 <sup>th</sup> Avenue NE
<b>Project Size:</b>	12.1 acres
<b>Request:</b>	Annex property for future single-family residential and public stormwater uses



## Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	1 unplatted parcel	<b>Number of Lots:</b>	18 lots in 3 blocks
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Residential and public stormwater
<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 P – Public Use
<b>Uses Allowed:</b>	R5 – Single-family residential	<b>Uses Allowed:</b>	R5 – Single-family residential P – Parks, open space, stormwater facilities, and other public uses
<b>Max Density Allowed:</b>	R5 – 5 units / acre	<b>Max Density Allowed:</b>	R5 – 5 units / acre P – N/A

## Property History

<b>Zoned:</b>	R5 - 1/2018 R5 & P - Pending (Approved 7/2019)	<b>Platted:</b>	Pending (Approved 8/2019)	<b>Annexed:</b>	N/A
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(continued)

**Staff Analysis**

Five Guys Investment, LLP is requesting approval of the annexation of part of the NW $\frac{1}{4}$  of Section 16, T139N-R80W/Hay Creek Township to be known as Lots 2 and 15-16, Block 2, Lots 14-22, Block 4, and Lots 1-6, Block 5, Boulder Ridge Seventh Addition.

The final plat of Boulder Ridge Seventh Addition and zoning changes for the entire area of the plat were approved by the Bismarck City Commission in July 2019, with a revision to the plat approved in August 2019. However, the final plat has not yet been recorded and the previous annexation and zoning changes are not effective until the plat is recorded. The proposed annexation of these lots within the pending plat would allow for development of additional single-family residential uses in this area. The proposed annexation would not be effective until the plat is recorded.

The proposed annexation is located within the Priority Area of the Growth Phasing Plan in the 2014 Growth Management Plan, as amended. The Priority Area is where development can be anticipated in the short-term because city services may be readily accessed, subject to available funding.

**Required Findings of Fact** (relating to land use)

1. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any

development allowed by the annexation at the time the property is developed;

2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck;
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the annexation of part of the NW $\frac{1}{4}$  of Section 16, T139N-R80W/Hay Creek Township, to be known as Lots 2, 15 and 16, Block 2, Lots 14-22, Block 4, and Lots 1-6, Block 5, Boulder Ridge Seventh Addition.

**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Plat with Annexation Areas Highlighted

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Staff report prepared by: Will Hutchings, Planner

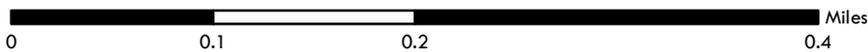
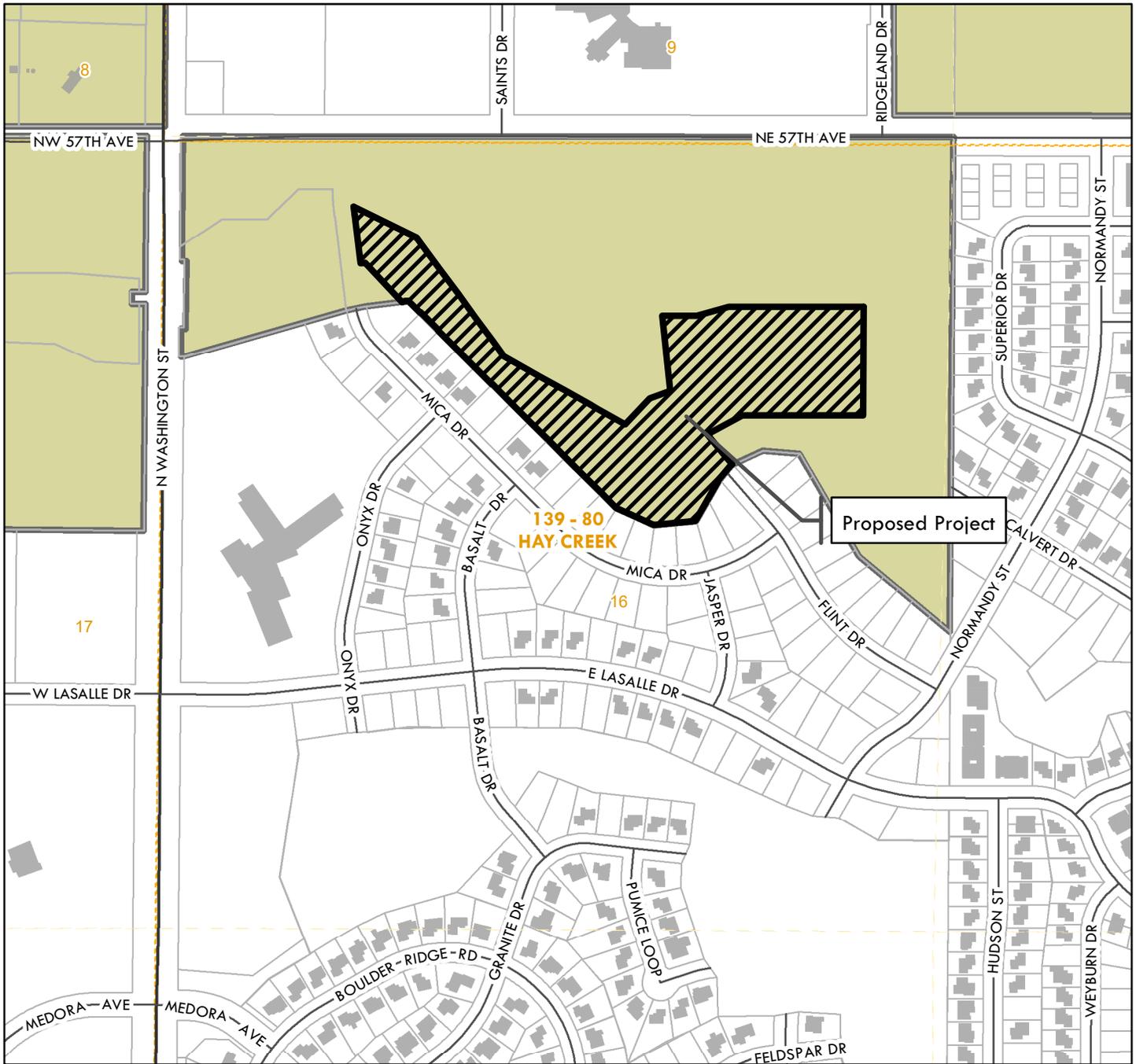
701-355-1850 | [whutchings@bismarcknd.gov](mailto:whutchings@bismarcknd.gov)



# Location Map

ANNX2019-006

Lots 2 and 15-16, Block 2, Lots 14-22, Block 4, and Lots 1-6, Block 5, Boulder Ridge Seventh Addition

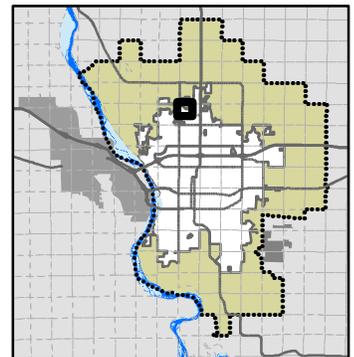


- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

Section, township, and range indicated in orange

City of Bismarck  
Community Development Department  
Planning Division  
December 23, 2019 (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 hereon.

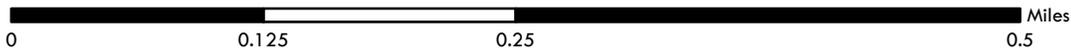
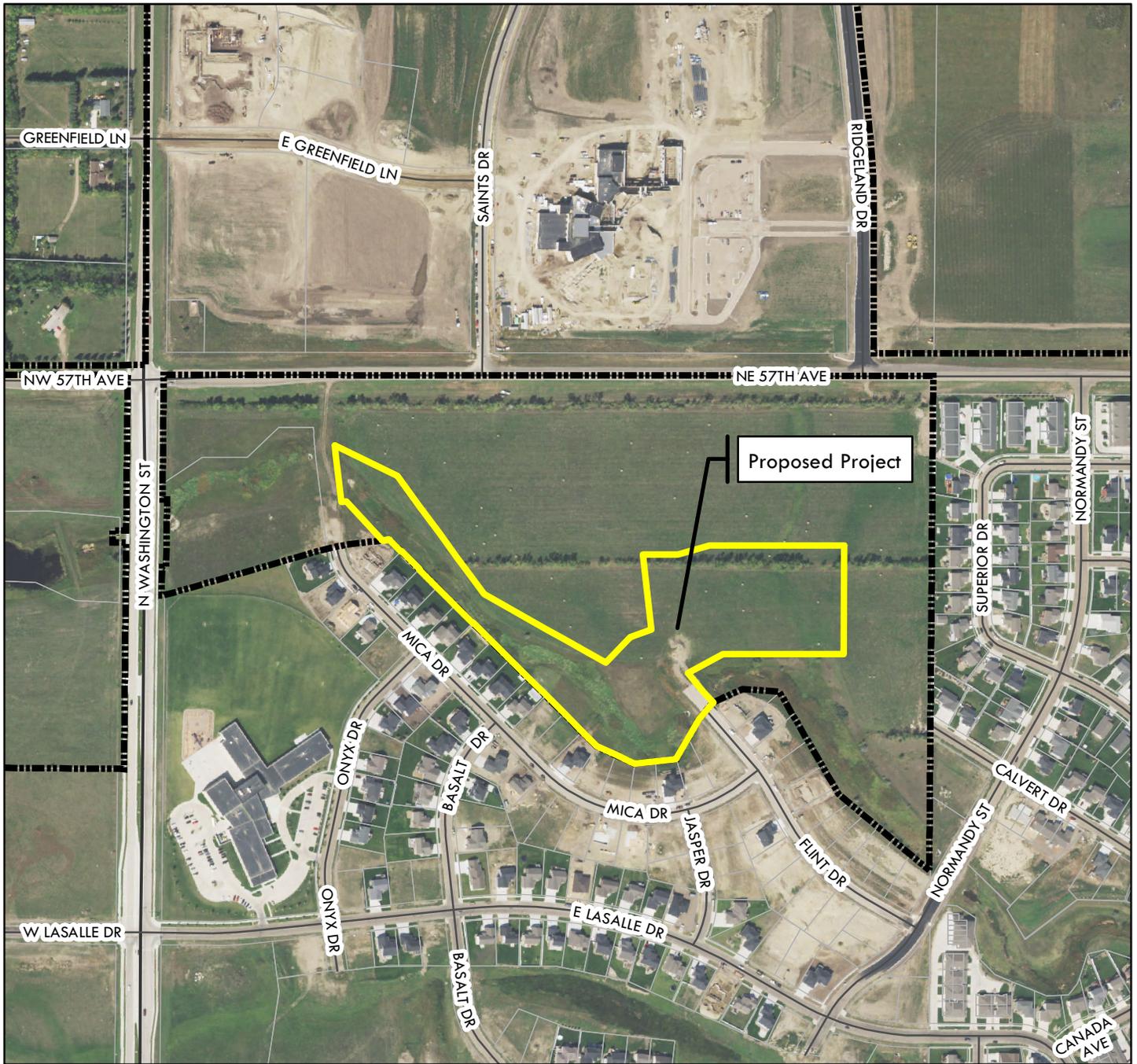




# Aerial Map

ANNX2019-006

Lots 2 and 15-16, Block 2, Lots 14-22, Block 4, and Lots 1-6, Block 5, Boulder Ridge Seventh Addition

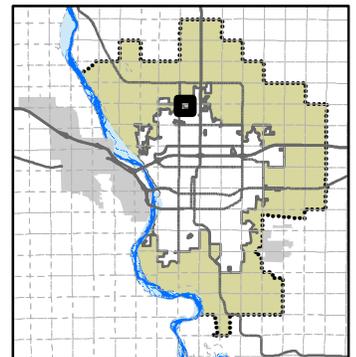


 City Limits
  Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
 Community Development Department  
 Planning Division  
 January 14, 2020

*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.*





# Zoning and Plan Reference Map

ANNX2019-006

Lots 2 and 15-16, Block 2, Lots 14-22, Block 4, and Lots 1-6, Block 5, Boulder Ridge Seventh Addition

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

### Zoning Districts

- A** Agriculture
- RR** Rural
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

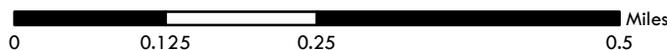
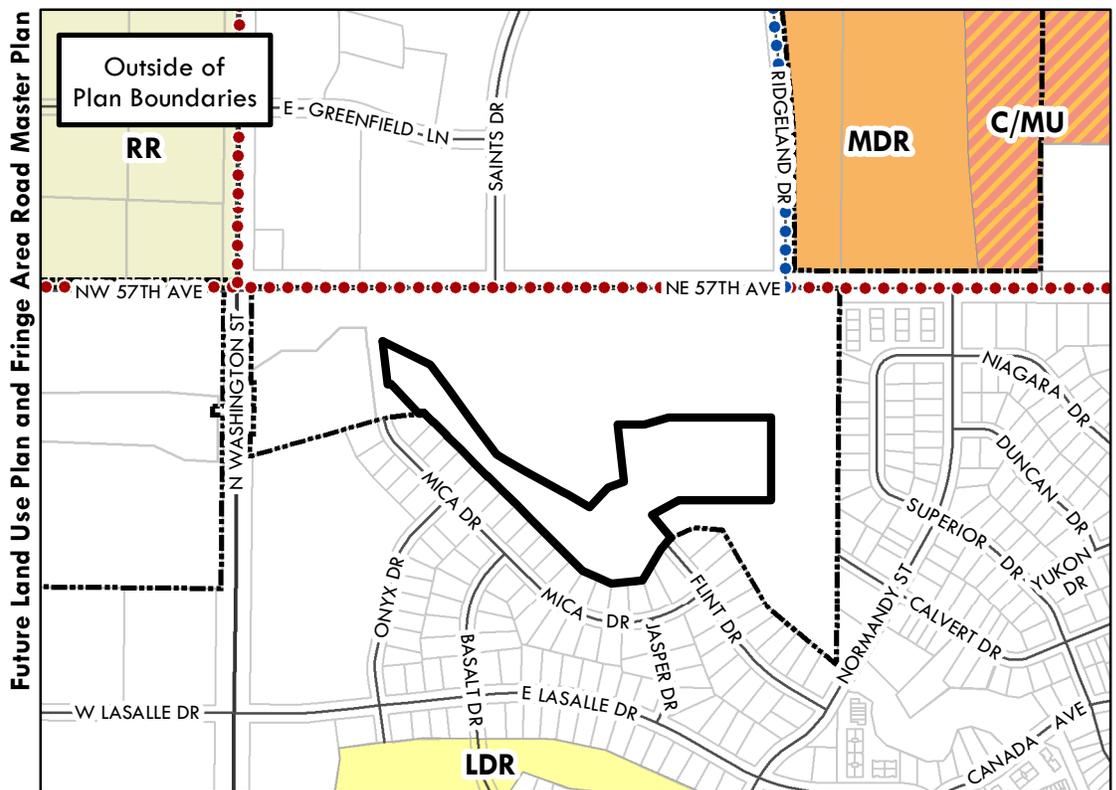
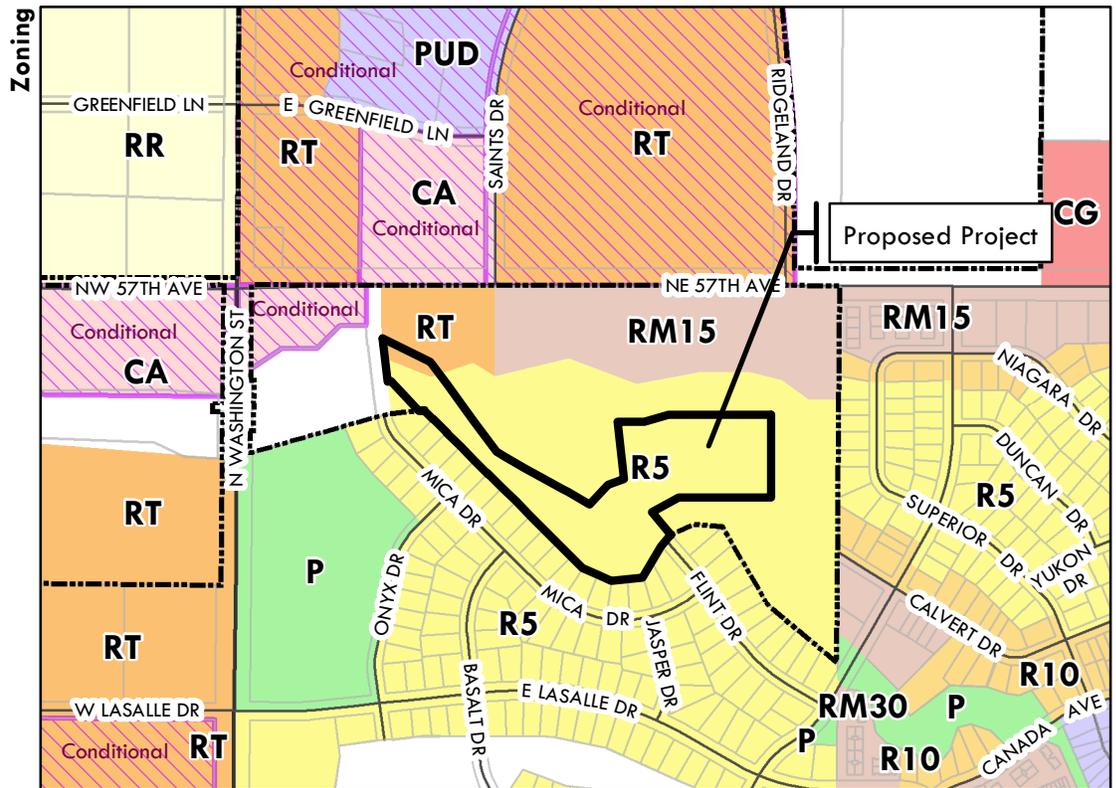
Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

### Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector



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.



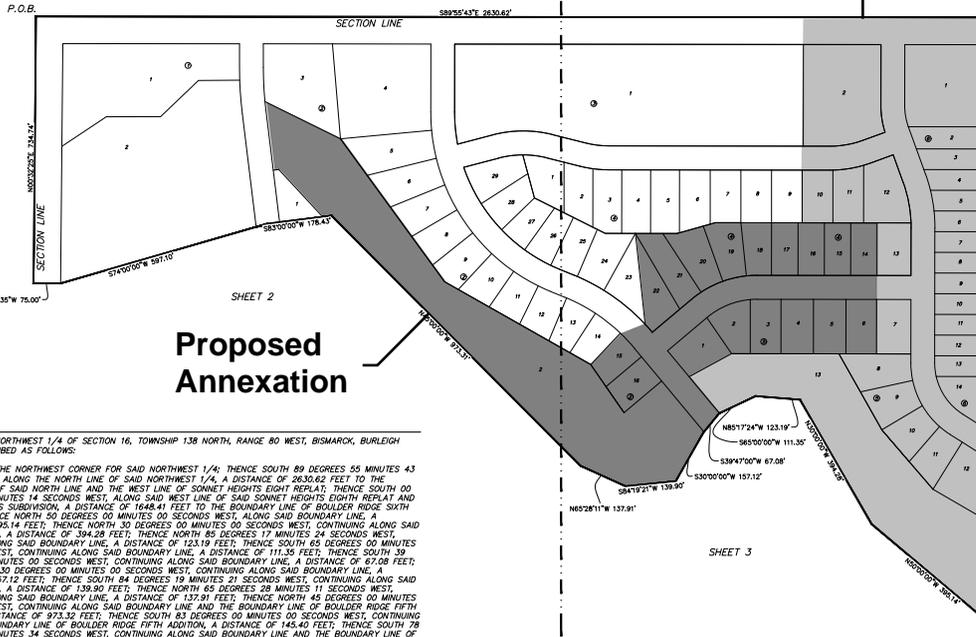
City of Bismarck  
Community Development Dept.  
Planning Division  
January 14, 2020

# BOULDER RIDGE SEVENTH ADDITION

PART OF THE NW 1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST

## BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

Annexation -  
Approved 7/2019



### Proposed Annexation

#### DESCRIPTION

PART OF THE NORTHWEST 1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, BURLEIGH COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER FOR SAID NORTHWEST 1/4, THENCE SOUTH 89 DEGREES 55 MINUTES 43 SECONDS EAST, ALONG THE NORTH LINE OF SAID NORTHWEST 1/4, A DISTANCE OF 2630.62 FEET TO THE INTERSECTION OF SAID NORTH LINE AND THE WEST LINE OF SONNET HEIGHTS EIGHT REPLAT; THENCE SOUTH 00 DEGREES 28 MINUTES 14 SECONDS WEST, ALONG SAID WEST LINE OF SAID SONNET HEIGHTS EIGHT REPLAT AND SONNET HEIGHTS SUBDIVISION, A DISTANCE OF 1648.41 FEET TO THE BOUNDARY LINE OF BOULDER RIDGE SIXTH ADDITION; THENCE NORTH 50 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG SAID BOUNDARY LINE, A DISTANCE OF 395.14 FEET; THENCE NORTH 30 DEGREES 00 MINUTES 00 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 394.28 FEET; THENCE NORTH 85 DEGREES 17 MINUTES 24 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 123.19 FEET; THENCE SOUTH 65 DEGREES 00 MINUTES 00 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 111.35 FEET; THENCE SOUTH 39 DEGREES 47 MINUTES 00 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 67.08 FEET; THENCE SOUTH 30 DEGREES 00 MINUTES 00 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 127.12 FEET; THENCE SOUTH 84 DEGREES 19 MINUTES 21 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 139.90 FEET; THENCE NORTH 65 DEGREES 28 MINUTES 11 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY LINE AND THE BOUNDARY LINE OF BOULDER RIDGE FIFTH ADDITION, A DISTANCE OF 973.32 FEET; THENCE SOUTH 83 DEGREES 00 MINUTES 00 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY LINE AND THE BOUNDARY LINE OF BOULDER RIDGE FIFTH ADDITION, A DISTANCE OF 145.40 FEET; THENCE SOUTH 78 DEGREES 28 MINUTES 34 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY LINE AND THE BOUNDARY LINE OF LIBERTY ADDITION, A DISTANCE OF 66.21 FEET; THENCE SOUTH 74 DEGREES 00 MINUTES 00 SECONDS WEST, CONTINUING ALONG THE BOUNDARY LINE OF LIBERTY ADDITION, A DISTANCE OF 563.72 FEET; THENCE NORTH 89 DEGREES 27 MINUTES 35 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 75.00 FEET TO THE WEST LINE OF SAID NORTHWEST 1/4; THENCE NORTH 00 DEGREES 32 MINUTES 25 SECONDS EAST, ALONG SAID WEST LINE, A DISTANCE OF 134.74 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 2,570,119 SQUARE FEET, MORE OR LESS.

#### SURVEYOR'S CERTIFICATE

I, TERRY BALTZER, 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 AUGUST 20, 2019, 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 GEODETIC DETAILS ARE CORRECT.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )  
SWENSON, HAGEN & CO. P.C.  
909 BASIN AVENUE  
BISMARCK, NORTH DAKOTA  
58504

TERRY BALTZER  
PROFESSIONAL LAND SURVEYOR  
N.D. REGISTRATION NO. 3595

#### APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE DAY OF JULY, 2019, 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 I SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

MICHAEL J. SCHWARTZ - CHAIRMAN  
BEN EHRETH - 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 PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE DAY OF JULY, 2019.

ATTEST  
KEITH J. HUNKE - CITY ADMINISTRATOR

#### APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "BOULDER RIDGE SEVENTH ADDITION", BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

GABRIEL J. SCHELL  
CITY ENGINEER

#### OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT FIVE GUYS INVESTMENTS, LLP, AND THE CITY OF BISMARCK, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "BOULDER RIDGE SEVENTH ADDITION", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, 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 EASEMENTS.

THEY FURTHERMORE DEDICATE UNTO THE CITY OF BISMARCK "STORM WATER AND DRAINAGE EASEMENTS" TO RUN WITH THE LAND FOR THE PURPOSE OF STORM SEWER AND SURFACE WATER DRAINAGE UNDER, OVER, THROUGH AND/OR ACROSS THOSE AREAS DEDICATED HEREON AS "STORM WATER AND DRAINAGE EASEMENTS" FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, REPAIR, ENLARGING AND MAINTAINING STORM WATER MANAGEMENT FACILITIES TOGETHER WITH NECESSARY APPURTENANCES THERE TO FOR STORM WATER, STORM SEWER AND SURFACE WATER DRAINAGE AND MANAGEMENT OF SAID STORM WATER FLOW IN A MANNER THAT WILL PERMIT THE FREE AND UNOBSTRUCTED FLOW OF WATER UNDER, OVER AND/OR ACROSS THE EASEMENT AREA.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

FIVE GUYS INVESTMENT, LLP  
107 SLATE DR.  
BISMARCK, ND 58503  
OWNER, ALL LOTS EXCEPTING LOT 2 BLOCK 1

ON THIS DAY OF JULY, 2019, BEFORE ME PERSONALLY APPEARED OF FIVE GUYS INVESTMENT, LLP, 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 )

CITY OF BISMARCK  
221 N. 5TH ST.  
BISMARCK, ND 58501  
OWNER, LOT 2 BLOCK 1

ON THIS DAY OF JULY, 2019, BEFORE ME PERSONALLY APPEARED OF THE CITY OF BISMARCK, 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

FLOODPLAIN INFORMATION  
FEMA FLOOD INSURANCE RATE MAP  
COMMUNITY NUMBER 38015C07850  
DATED AUGUST 6, 2014  
FLOOD PLAN REVISION  
APPROXIMATELY 1860-18245 (NAVD 88)

#### NOTES

BASIS OF BEARING:  
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY CITY ORDINANCE

COORDINATE DATUM:  
NORTH DAKOTA STATE PLANE COORDINATE SYSTEM

NAD 83 SOUTH ZONE  
ADJUSTMENT OF 1986  
UNITS ARE INTERNATIONAL FEET

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

N-== NON-ACCESS

THE EAST LINE OF THE NW 1/4 FOR THIS PLAT IS DEFINED AS BEING THE WEST LINE OF SONNET HEIGHTS SUBDIVISION AND SONNET HEIGHTS EIGHTH REPLAT. THE NORTH LINE OF SAID NW 1/4 IS DEFINED AS BEING THE SOUTH LINE OF DAYBREAK MEDICAL ADDITION AND LIGHT OF CHRIST ADDITION

Curve #	Length	Radius	Delta	Tangent
C1	123.42'	1000.00'	70°4'18"	61.79'
C2	593.41'	900.00'	68°00'00"	337.25'
C3	256.56'	525.00'	28°00'00"	130.90'
C4	150.31'	300.00'	28°42'27"	76.77'
C5	73.30'	300.00'	14°00'00"	36.84'
C6	104.72'	300.00'	20°00'00"	52.90'
C7	68.81'	200.00'	20°00'00"	35.27'
C8	139.63'	400.00'	20°00'00"	70.53'
C9	174.53'	250.00'	40°00'00"	90.99'
C10	202.46'	200.00'	58°00'00"	110.86'

AUGUST 20, 2019

#### AREA DATA

LOTS	1,993,614.37	45,777 ACRES
STREETS	576,905.31	13,133 ACRES
TOTAL	2,570,519.68	58,910 ACRES

**SWENSON, HAGEN & COMPANY P.C.**  
Surveying  
Hydrology  
Land Planning  
Civil Engineering  
Landscape & Site Design  
Construction Management

909 Basin Avenue  
Bismarck, North Dakota 58504  
sheng@swensonsurvey.com  
Phone: (701) 223-2600  
Fax: (701) 223-2606



## *Community Development Department*

**DATE:** February 3, 2020  
**FROM:** Ben Ehreth, AICP, Community Development Director  
**ITEM:** Approval of CDBG Citizen Participation Plan

### **REQUEST**

Consider approval of the 2020 Citizen Participation Plan.

Please place this item on the February 11, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The City of Bismarck's Community Development Department – Planning Division is in the process of developing its five-year Consolidated Plan, an aspect of which is developing the Citizen Participation Plan.

The adoption of a citizen participation plan sets forth our jurisdiction's policies and procedures for citizen participation, wherein the population of Bismarck, particularly our low- and moderate-income persons, is encouraged to participate in the determination of how CDBG funds are used in our community.

### **RECOMMENDED CITY COMMISSION ACTION**

Consider request for approval of CDBG Citizen Participation Plan.

### **STAFF CONTACT INFORMATION**

Ben Ehreth, AICP | Director, 355-1842 or [behreth@bismarcknd.gov](mailto:behreth@bismarcknd.gov)

Kim L. Lee, AICP | Planning Manager, 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)

Jenna Corsiatto | Planner, 355-1847 or [jcorsiatto@bismarcknd.gov](mailto:jcorsiatto@bismarcknd.gov)

# **City of Bismarck**

## **Draft Citizen Participation Plan**

The Community Development Block Grant (CDBG) is a federal grant through the U.S. Department of Housing and Urban Development (HUD). The primary objective of CDBG is the development of viable communities by the provision of decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. In order to define what is needed to develop a suitable living environment, HUD and the City of Bismarck request the input of the public during the process to determine priorities for the CDBG program and to select projects to be funded by CDBG.

### **Purpose of the Citizen Participation Plan**

The purpose of the Citizen Participation Plan is to set forth the policies and procedures by which the City will encourage citizens to participate in the development of the CDBG strategic plans and the use of the grant funding. The City of Bismarck will follow its Citizen Participation Plan, as long as the requirements for citizen participation do not restrict the responsibility or authority of the City to develop and execute its Consolidated Plan.

### **Background**

The City of Bismarck became an entitlement jurisdiction in 1990 for the CDBG program. As an entitlement jurisdiction, the City receives CDBG funding directly from HUD and administers the grant, including ensuring the funds are used according to the Code of Federal Regulations (CFR) and the associated plans, reports and certifications are completed on time and accurately.

Each entitlement jurisdiction must complete a Consolidated Plan at least once every five years (24 CFR § 91.15). The Consolidated Plan is a strategic plan that examines the housing and community development needs of a jurisdiction, sets priorities for HUD grant monies and establishes an action plan for meeting current and future needs. Each Consolidated Plan is also required to have a strategy for citizen participation in the Consolidated Planning process (24 CFR Part 91.105). The City of Bismarck's last Consolidated Plan covered the program years 2015- 2019.

HUD requires an entitlement jurisdiction to submit an Annual Action Plan each year to receive the CDBG funding (24 CFR § 91.15). The Annual Action Plan serves as the City's application to HUD for the following year's CDBG funding and includes the projects that the entitlement jurisdiction desires to fund. The Plan also outlines the tasks and objectives that will be accomplished during the program year and includes sections that describe the public participation process, how other resources will be leveraged, and how the City plans to address barriers to affordable housing, fair housing and homelessness. The City's CDBG program year begins June 1 and ends May 31.

At the end of each CDBG program year, the City creates the Consolidated Annual Performance and Evaluation Report (CAPER), which reviews the progress the City has made in carrying out the priorities in the Consolidated Plan. The report includes a description of the resources made available, the investment of the resources, the distribution and location of investments, per 24 CFR § 91.520. This report must be submitted to HUD within 90 days of the end of the program year.

The City of Bismarck also receives HOME Investment Partnerships Program (HOME) funds through the State of North Dakota. The citizen participation requirements for the HOME funds are outlined under the North Dakota Department of Commerce's Citizen Participation Plan and all public participation is conducted through this lead agency.

## Contact

The Community Development Department - Planning Division is the designated lead agency in the development of Bismarck's Consolidated Plan, Annual Action Plan, CAPER and Citizen Participation Plan for CDBG. This division resides within the City of Bismarck. Any comments or questions regarding the Consolidated Plan, Annual Action Plan, CAPER or the CDBG program can be sent to:

City of Bismarck  
Community Development Department  
PO Box 5503  
Bismarck, ND 55806-5503  
[planning@bismarcknd.gov](mailto:planning@bismarcknd.gov)

Information can also be found at <https://www.bismarcknd.gov/1041/HUD-Grant-Programs>

## Public Participation

The City of Bismarck strives to involve citizens, public agencies, and other impacted parties in the process of setting priorities for the use of CDBG funds and identifying community needs. Since the national objectives of the grant are to benefit low and moderate income persons, prevent or eliminate slums or blight, or meet an urgent community need, emphasis is placed on involving low and moderate income people, particularly those living in areas where CDBG funds are proposed to be used. Also, the City encourages participation from organizations that provide services to residents, especially those focused on the needs of the homeless, people with disabilities, veterans, the elderly, and youth. However, the City invites any interested parties to attend community meetings on CDBG and makes available the Consolidated Plan, Annual Action Plan, CAPER and any substantial amendment to these Plans before the City submits these documents to HUD.

## Community Meetings

Community meetings may be held, as necessary, to communicate information regarding a CDBG project or projects or to obtain feedback from low and moderate income residents or those that serve these populations in Bismarck. Community meetings will be held in locations that are American with Disabilities Act (ADA) compliant, when available. If residents require special assistance for community meetings for physical, visual, or language impairments, as well as for alternative format/language assistance, they should contact the Community Development Department – Planning Division at 701-355-1840 during operating hours, Monday through Friday, 8:00 a.m. to 5:00 p.m. at least eight hours in advance of the scheduled meeting.

## Public Comment Period

- a. The City will hold a 30-day public comment period for the Consolidated Plan, Annual Action Plan and any substantial amendment(s) to these plans.
- b. For the CAPER, the City will hold a public comment period of not less than 15 days to receive comments from citizens on this report.
- c. The City will consider any comments or views of citizens received in writing or orally during the public comment period in the preparation of the Plans, reports and substantial amendments.

## Public Hearings

- a. Bismarck will hold a minimum of two public hearings during each funding year, per 24 CFR § 91.105. The hearings will be held at two different stages of the program year and together, the hearings will address housing and community development needs, development of proposed activities, and review of program performance.
- b. The City will hold one public hearing to obtain the views of citizens on the proposed Consolidated Plan or Annual Action Plan (24 CFR § 91.105). This hearing will be held after the public comment period. The second public hearing could be held for a substantial amendment or for the CAPER. Other public hearings may be held, as necessary. There will be a public comment period before each of these public hearings.
- c. A summary of the comments received during the public comment period and at public hearings will be summarized and attached to the strategic plans and reports. The comments could influence the City to adjust the priorities or projects in the current or future Consolidated Plan or Annual Action Plan. Any adjustments would be approved by the City Commission.
- d. All public hearings will be held at a location that is accessible to persons with disabilities and to public transportation.
- e. If residents require special assistance for public hearings, they should contact the Community Development Department – Planning Division at 701-355-1840 during operating hours, Monday through Friday, 8:00 a.m. to 5:00 p.m. at least one business day in advance of the scheduled public hearing.
- f. Auxiliary aids and services are available upon request to individuals with disabilities or limited English proficiency using TTY/TTD equipment via TDD/TTY via 711/TDD, the ND Relay Service at 1-800-366-6888/TTY or 1-800-435-8590/Spanish.
- g. The Community Development Department will make every reasonable effort to publish notice of public hearings in the official newspaper of the City of Bismarck, at least fifteen days in advance.

## Notice of Public Hearings and Community Meetings

It is the policy of the City of Bismarck to give residents reasonable and timely notice of meetings and access to materials related to the City's use of CDBG funds.

- a. Notice of all public comment periods will be published as advertisements in the local newspaper, the Bismarck Tribune, beginning on or prior to the first day of the public comment period. The public hearing date, time and location will be listed in the newspaper notice with the public comment period. The public hearing will also be posted on the City's website (<https://www.bismarcknd.gov/>).
- b. Whenever reasonable, every attempt will be made to give fifteen days' notice will prior to a public hearing.
- c. Information that may be reviewed at community meetings and public hearings includes, but is not limited to:
  - i. Amount of grant funding and program income anticipated in the coming year.
  - ii. Range of activities that may be undertaken.
  - iii. Estimated amount of grant funding and program income proposed to be used for activities that will benefit low and moderate income persons.
  - iv. Any proposed activities likely to result in displacement and the City of Bismarck's plan for minimizing displacement.

## **Application Process for CDBG-Eligible Organizations**

- a. The City will accept applications annually from CDBG-eligible organizations, including housing service providers, nonprofit organizations, and City departments. Information on the process will be available at <https://www.bismarcknd.gov/>. The timeframe for intake of applications will be emailed to eligible agencies that have requested the information and posted on the City's website and/or in the local newspaper, the Bismarck Tribune. The City also has the option to solicit additional applications in the event that more funding becomes available or it is determined that additional projects are necessary to meet the community needs.
- b. Applications or a summary of projects may be placed on the City's website during the public comment period.
- c. City staff may conduct an application workshop and/or provide technical assistance to allow applicants to ask specific questions about the grant or potential projects.
- d. Applicants may request one-on-one technical assistance session with City CDBG staff. The City will make a good faith effort to see that reasonable requests for technical assistance are responded to in a timely manner. Reasonable requests are those made more than a week in advance of the application deadline and are requests referring to assistance with completing the application.

## **Substantial Amendment to the Consolidated or Annual Action Plans**

A "Substantial Change" to the Consolidated or Annual Action Plans is defined by the City of Bismarck to be:

- a. A change in the allocation priorities or goals identified in the Consolidated Plan; or
- b. A change in the method of distributing funds (i.e. application process, selection criteria for projects, etc.); or
- c. A proposed new project for the program year; or
- d. A change in the purpose, scope, location, or type of beneficiaries of a project to such an extent that it can no longer reasonably be construed as the activity reviewed by the public and approved by the City Commission.

All other minor changes to the Plan will be considered informal amendments and will be noted in the Effective Date and Amendments section of this document. Examples may include, but are not limited to, updates to contact information, the modes of outreach utilized, City policies referenced in this Plan that are amended, clarifications of terms used in the document and applicable CFR's referenced in the Plan that are amended and do not substantially change the information included in the Plan.

## **Public Access to Records**

The City of Bismarck will provide all interested parties with reasonable and timely access to information and records related to the City's CDBG program. The current Plans and CAPER will be posted online at <https://www.bismarcknd.gov/>.

## **Complaints and Grievances**

It is the policy of the City of Bismarck to take reasonable steps to address concerns expressed by citizens and to respond to any formal complaints or grievances in a timely manner.

- a. Citizens should bring any concerns they may have regarding the CDBG program, Plans, policies or projects to the attention of the City of Bismarck, Community Development Department – Planning Division, 701-355-1840, [planning@bismarcknd.gov](mailto:planning@bismarcknd.gov).
- b. Unresolved issues, complaints, or grievances may be formally submitted to the City Administrator. The grievance and/or request must be in writing and legible; typed correspondence is strongly urged.
  - i. The letter/email must be signed, dated, and indicate if the correspondent is representing his/her personal concerns or those of a larger group, in which case, the name and description of the group must be stated.
  - ii. The letter/email must contain contact information including the person or organization's name, address, phone number, email address, and, if the organization has a fax, the fax number.
  - iii. The letter/email must clearly identify the specific complaint or grievance and should state what corrective action is being sought.
  - iv. b. Unresolved issues, complaints, or grievances may be formally submitted to the City Administrator. The grievance and/or request must be in writing and legible; typed correspondence is strongly urged.
- c. It is anticipated that most concerns can be addressed through direct conversation. Should a written response be requested, the City will provide timely written answers to letters/emails that follow the guidelines listed in (b) above. The time required to respond may vary depending upon the nature and complexity of the specific complaint. Where practicable, written answers will be provided within 15 working days of the receipt of the written complaint.

### **Certifying Officers**

For the CDBG program, the City of Bismarck's primary elected official/certifying officer is the Mayor. The Mayor will sign documents and HUD forms that will have a legal or financial impact to the CDBG program or the City of Bismarck, and those that have been approved through a public participation process.

The Mayor can delegate the administrative authority to the department heads in certain matters, to ensure the smooth and timely flow of information and documentation within and between the City, its employees, applicants for employment, contractors, suppliers, and outside service providers. In an effort to ensure the City meets the timing requirements of the CDBG program, the Mayor may direct the City Administrator or the Community Development Director to sign CDBG forms and documents on behalf of Mayor. For example, administrative forms and certification will be signed by the Community Development Director.

### **Effective Date and Amendments**

This City of Bismarck Citizen Participation Plan was approved on \_\_\_\_\_ by the Bismarck City Commission. The Plan may be amended as necessary. It is recommended that this Plan is reviewed when creating a new Consolidated Plan.



## *Engineering Department*

**DATE:** February 4, 2020

**FROM:** Gabe Schell, City Engineer

**ITEM:** Amendment to Existing Agreement for Professional Services with KLJ for 43<sup>rd</sup> Avenue Reconstruction – HC 121

### **REQUEST**

Approval of Amendment #4 to Existing Agreement for Professional Services with KLJ for 43rd Avenue Reconstruction - HC 121 for construction engineering services.

Please place this item on the 2/11/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

KLJ is under contract to perform design engineering services relating to the reconstruction of 43rd Avenue NE between N Washington Street and State Street as part of federal aid project AC-NHU-1-981(119).

Attached is amendment 4 for construction engineering services along with the amended scope and fee. The amendment amount is \$837,000.00 bring the total contract amount to \$1,710,059.19 (hourly not to exceed). Project funding was identified as ½ cent sales tax in the 2020 budget and will be identified as such in the project budget to be considered at the 2/11/20 meeting.

### **RECOMMENDED CITY COMMISSION ACTION**

Approve amendment 4 to existing agreement for professional services with KLJ for 43rd Avenue Reconstruction.

### **STAFF CONTACT INFORMATION**

Gabe Schell, PE | City Engineer, 355-1505 or [gschell@bismarcknd.gov](mailto:gschell@bismarcknd.gov)



## Amendment to Agreement for Professional Services

Project # HC 18-121

Amendment # 4

### Background Data

- a. Effective Date of Agreement for Professional Services February 12, 2019
- b. Engineer Kadmas, Lee & Jackson, Inc.
- c. Owner City of Bismarck
- d. Project 43<sup>rd</sup> Avenue N Reconstruction
- e. This Part of the Project Phase III - Construction Administration

### Nature of Amendment (check all that apply)

- Additional services to be performed by Engineer
- Modifications to services of Engineer
- Modifications to responsibilities of Owner
- Modifications to payment to Engineer
- Modifications to time(s) for rendering Services

### Description of Modifications

Refer to Attachment "F", Amendment #4 Phase III - Construction Administration Scope of Services.

Refer to Attachment "G" for a breakdown of contract costs.

### Agreement Summary

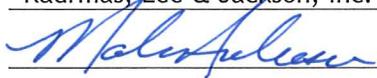
- c. This Amendment amount \$837,000.00\*

\*Amendment amount for Phase III Construction Administration Services will be billed separately from original contract and prior amendment amounts.

Engineer and Owner hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is January 28, 2020.

Owner City of Bismarck  
Signed \_\_\_\_\_  
Name Steve Bakken  
Title President, Board of City Commissioners  
Date \_\_\_\_\_

Attest \_\_\_\_\_  
Name Keith J. Hunke  
Title City Administrator

Engineer Kadmas, Lee & Jackson, Inc.  
Signed   
Name Mark Anderson, PE  
Title VP, Environment & Public Works  
Date 1/30/2020

Attest   
Name Erika Lorenz  
Title Contact Administrator



**ATTACHEMENT "F"**  
**AMENDMENT #4**  
**January 28, 2020**  
**PHASE III - CONSTRUCTION ADMINISTRATION**  
**SCOPE OF SERVICES**  
**43<sup>rd</sup> Avenue N Reconstruction Project**  
**North Washington Street to State Street**

**PURPOSE**

The purpose of this document is to describe the scope of services and responsibilities required to complete the Construction Administration and Engineering for the offsite improvements, as defined in this scope of services, along 43<sup>rd</sup> Avenue N from North Washington Street to State Street (project no. AC-SU-1-981(119), PCN 22492) in the City of Bismarck. Kadmas, Lee & Jackson, Inc. (KLJ) will provide the construction administration services for the work included on the construction documents signed November 27, 2019. KLJ will administer the construction of the improvements to meet the approved plans and specifications and North Dakota Department of Transportation (NDDOT). KLJ will oversee and manage work performed by the subcontractors under agreement with KLJ. Material testing for this project will be provided by Terracon.

**OBJECTIVE**

The objective of the construction administration phase of the project is to provide project management, inspection, survey and materials testing services for the construction of 43<sup>rd</sup> Avenue N Reconstruction Project from North Washington Street to State Street. These services will be provided to verify that the contractor's work is performed in general conformance with the governing specifications, plans and special provisions. The following documents will be used in the administration of the project:

- Contract documents for Project No. AC-SU-1-981(119), PCN 22492.
- North Dakota Department of Transportation standards specifications for Road and Bridge Construction, 2014 Edition, and current supplementary Specifications.
- North Dakota Department of Transportation, Field Sampling and Testing Manual, March 2019 Edition.
- North Dakota Department of Transportation, Construction Records Manual, October 2019 Edition.

KLJ will participate in the preconstruction conference, participate in weekly meetings, provide updates to the client regarding progress, and upcoming work as described herein. KLJ will perform the necessary construction engineering work including staking, cross sectioning, onsite construction observation, quantity measurements, materials testing, preparation of interim and final contract payments, and computation of final pay quantities. Construction observation shall include observation of the contractor's means and methods, verify that the contractor is in general conformance with the contract, the project plans, and specifications. Contract administration including shop drawing review, project documents, record keeping, record drawings and filing will be provided by KLJ.

The work tasks outlined in this exhibit are estimated based on the construction completion dates as identified below and may vary depending upon the contractor's actual schedule.



## PROJECT SCHEDULE

Bid Date: 2/7/20

Signal Shop Drawings: 02/24/20 – 04/10/20

Start Construction: 04/13/2020

Substantial Completion – Road and Utilities 10/30/20

Substantial Completion – Signal: 11/20/20

Final Completion: 07/31/2021

A total of 165 day of construction administration services have been assumed for the 2020 construction season. A total of 45 days of construction administration services have been assumed for the 2021 construction season. The hourly summary is based on an average of 1-4 full time project staff working 5 days per week for 10-hour days. Our fee summary will also include hours for surveying and materials testing on the project.

## EXCLUSIONS

KLJ is not responsible for the contractor's safety procedures or operations. This scope of work does not include any safety inspections of the contractor's equipment, procedures or operations. Also, KLJ is not responsible for the safety of City of Bismarck or NDDOT personnel, visitors, contractor's personnel, subcontractor's personnel, or any other personnel. KLJ will not proceed with their duties in areas or situation that are deemed unsafe or hazardous to our staff, due to the contractor's non-conformance with OSHA or other agency safety regulations.

KLJ will not assume the duties and responsibilities of the Contractor, or Subcontractors. The Contractor is solely responsible for his construction operations.

## CONSTRUCTION ENGINEERING SERVICES

A detailed summary of work tasks and estimated hours is included in spreadsheet format with this exhibit. Major work tasks are outlined below with a summation of criteria used as a basis for estimating hours.

### Task 1 – Construction Administration

#### Project Management & Coordination

KLJ will manage the project and provide overall coordination of the work completed by the construction administration team. This work shall consist of managing work assignments, internal team meetings, client coordination, project budget, and schedule.

#### Project Initiation & Shop Drawing Review

Includes time for the construction staff to review plans, setup the record keeping system and create a work plan. Also includes shop drawing review by the design and construction staff.

#### Pre-Construction Conference

Attend the pre-construction conference.

#### Weekly Planning/Coordination/Utility Meetings

KLJ's Project Manager will attend the Weekly Planning/Coordination Meetings along with the weekly utility coordination meetings that are facilitated by the contractor according to the project specifications.



## Weekly Records

Maintain a daily diary of construction activities throughout the duration of the project. Take photographs of the project throughout the duration of the project and maintain files of photographs taken.

## Construction Automated Records System (CARS) Entry

KLJ will keep appropriate project records in the NDDOT CARS system. These items will include project diary, haul sheets, pay quantities, pay estimates, progress reports, change orders, stockpile/invoice items, construction status, contract adjustment, and final checklist.

## Final Records and Record Drawings

Contract administration and project documentation will be according to established NDDOT construction procedures, as outlined in the Construction Records Manual. Major tasks will include weekly progress reports, progressive payment for work complete, pay reports, haul sheets, general change orders and final records assembly and submittal. Final records will include verifying all quantities for accuracy, completing all necessary final document forms, completing record drawings, packaging and delivering final documents to the District Office.

## Substantial and Final Inspections

- Prepare for, conduct and prepare minutes for the following inspections.
  - Substantial Completion - Roads and Utilities (October 30<sup>th</sup>, 2020).
  - Substantial Completion – Traffic Signal (November 20<sup>th</sup>, 2020)
  - Final Completion – Project (July 31<sup>st</sup>, 2021)
- Compile relevant closeout information for the work completed in year one of the project.

## Task 2 – Construction Observation

KLJ will provide construction engineers and technicians to verify that the contractor is in conformance with the contract documents as the contractor's work proceeds. The major works items for each construction operation are summarized below.

### **Earthwork – Section 200 and 708**

#### Removals

- Clearing and Grubbing
- Bituminous and Concrete Pavement
- Removal of Culverts
- Quantity Measurement & Documentation

#### Topsoil

- Removal/Stockpile/Replacement
- Review/Approve Imported Topsoil
- Quantity Measurement & Documentation

#### Excavation/Embankment

- Compaction Control
- Finishing
- Quantity Measurement & Documentation



#### Erosion Control

- Seeding
- Temporary Erosion Control Measures
- Permanent Erosion Control Measures
- Quantity Measurement & Documentation

#### **Aggregate Base – Section 300 and 709**

##### Aggregate Based Course CL-5/Traffic Service Aggregate/Geosynthetic Material

- Aggregate Hauling
- Placement & Compaction
- Grade Control
- Quantity Measurement and Documentation

#### **Bituminous Pavement – Section 400**

##### Commercial Grade HMA

- Hauling, Placement & Compaction
- Quantity Measurement and Documentation

#### **Rigid Pavement – Section 550**

##### Concrete Pavement

- Jointing Layout / Rebar Placement
- Placement
- Joint sealant
- Quantity Measurement and Documentation

#### **Traffic Control – Section 704**

##### Construction Traffic Control

- The contractor will develop work plans and proposed traffic control layouts prior to the start of work in conformance with the requirements of the plans and specifications, NDDOT requirement, and the MUTCD. This will involve communication and coordination between the contractor, subcontractors, NDDOT, and affected landowners.
- Temporary traffic signal installation and maintenance
- Sign installation and maintenance
- Quantity measurement & documentation

#### **Storm Sewer– Section 714 and 722**

- Installation of Manholes, Inlets, Mainline, Headwall, etc.
- Under Drain and Edge Drain
- Horizontal/Vertical Grade Control
- Backfill/Compaction
- Quantity Measurement & Documentation

### **Water Main– Section 724**

Watermain/Valves/Hydrants

- Installation
- Horizontal/Vertical Grade Control
- Backfill/Compaction
- Pressure and Bacteriological Testing
- Quantity Measurement & Documentation

### **Curb & Gutter/Median/Boulevard/Sidewalk/Driveway– Sections 748 & 750**

- Horizontal and Vertical Alignment
- Base Preparation
- Forming/Rebar Placement
- Concrete Placement/Curing
- Quantity Measurement & Documentation

### **Fencing/Mailbox– Sections 752 & 766**

- Verify Location/Installation
- Quantity Measurement & Documentation

### **Signing/Temporary Pavement Marking– Sections 754 & 762**

- Verify Location/Installation
- Quantity Measurement & Documentation

### **Lighting/Traffic Signals– Sections 770 and 772**

- Verify Location/Installation
- Cable and Conduit
- Quantity Measurement & Documentation

### **2021 Final Chip Seal – Section 420**

- Installation

### **2021 Landscaping – Section 970**

- Installation

### **2021 Final Pavement Markings– Section 754 & 762**

- Verify Location/Installation
- Quantity Measurement & Documentation

### **2021 Erosion Control Clean Up – Section 200 & 700**

- Verify Cleanup and Finalization



### Task 3 – Construction Staking

KLJ will provide construction staking to include survey control and horizontal and vertical control necessary for construction of the project. Major items of survey include the following:

- Traffic Control
- Machine Control
- Survey Control Points
- Construction Limits
- Removals
- Temporary Road Staking
- Slope Staking
- Storm Sewer
- Red-Top Staking
- Blue-Top Staking
- Concrete Trim Line Staking
- Curb and Gutter
- Sidewalk Staking
- Asphalt Edge Staking
- Traffic Light Staking
- Re-setting Quarter Corner
- As-built Utilities
- As-built Seeding Limits
- Erosion Control Staking
- Path Staking

This scope and fee are based off stakes being provided one time. Additional staking required due to contractor's negligence, or additional trips required due to inadequate contractor scheduling will be subject to additional costs.

KLJ will not provide bluetop staking until the contractor has satisfactorily graded to within 0.1' of the design grade for the surface to be bluetopped. Bluetop staking will be limited to the limits of roadway paving.

#### TASK 3.4 – SUBCONSULTANTS

Materials testing will be provided by Terracon under a separate agreement with Kadrmass, Lee and Jackson, Inc. See attached scope of work for materials testing services.

KLJ will review material test reports for general conformance to the plans & specifications. KLJ will inform the contractor of the status of material testing. Costs for retesting will be billed to the contractor.



January 21, 2020

Kadrmass, Lee & Jackson  
4585 Coleman Street  
Bismarck, ND 58503

Attn: Troy Ripplinger  
P: (701) 355 8435  
F: (701) 355 8781  
E: troy.ripplinger@kljeng.com

RE: Proposal for Materials Testing Services  
NDDOT Job # 6, AC-SU-1-981(119) (PCN-22492)  
43<sup>rd</sup> Avenue NE - Bismarck, North Dakota  
Terracon Proposal No. PM2201002

Dear Mr. Ripplinger:

Terracon Consultants, Inc. (Terracon) appreciates the opportunity to submit this proposal to provide materials testing services for the above-referenced project. This proposal outlines our understanding of the project and scope of services and provides our fees for our services.

**A. PROJECT INFORMATION**

**Project Description**

ITEM	DESCRIPTION
<b>Excavation, Base Aggregates, Trench Backfill, Concrete Paving, Hot Bituminous Paving, Sidewalks, Medians, Driveways, Curb &amp; Gutter, and Lighting Foundations</b>	This project will consist of the approximate quantities designated by spec number on the proposal for Job No. 6, prepared by Kadrmass, Lee & Jackson for the February 7, 2020, North Dakota Department of Transportation bid opening.

Should any of the above information or assumptions be inconsistent with the planned project, please let us know so that we may make any necessary modifications to this proposal.

**B. SCOPE OF SERVICES**

Our understanding of the construction materials testing services for this project is based upon the NDDOT Standard Specifications and Field Sampling and Testing Manual, as well as our experience with similar projects in the area. All services will be in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale.

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

## Proposal for Materials Testing Services

AC-SU-1-981(119) (PCN-22492) ■ Bismarck, North Dakota  
January 21, 2020 ■ Terracon Proposal No. PM2201002



The general services estimated for this project are listed below, followed by the specific scope of services for each service type:

- Field nuclear density testing of backfill soils and base aggregates
- Laboratory testing and evaluation of soils
- Laboratory evaluation and testing of base aggregates
- Field and laboratory evaluation and testing of concrete
- Field sampling and laboratory testing of concrete aggregates
- Field evaluation of riprap aggregate
- Field sampling and laboratory evaluation and testing of hot bituminous pavement
- Project administration and reports

Our services will be provided on an as-requested basis. Services must be requested by the Engineer or the Engineer's authorized representative a minimum of one working day in advance. Terracon will only perform services when requested by such authorized personnel. It is the Engineer's responsibility to meet the specified testing frequencies. The detailed scope of services envisioned to complete the testing is as follows:

Field compaction testing: Field density-compaction testing will be performed by an engineering technician during placement operations at the project. The field services will be supported by appropriate laboratory evaluation of backfill soils and base aggregates used at the project site. The Engineer's representative onsite will be informed verbally of our field observations and test results.

Laboratory testing and evaluation of soils: The laboratory testing will include laboratory moisture-density relationship (Modified Proctor), and visual soil classification. Laboratory material evaluations will be conducted for each different type of soil observed during operations.

Field sampling and laboratory testing and evaluation of base aggregate: A certified technician will obtain aggregate samples in the field and return them to the laboratory for testing. The laboratory testing will include sieve analysis and physical properties as required by the project specifications.

Field and laboratory evaluation of concrete: Terracon will provide a certified engineering technician for the purpose of performing field concrete testing for concrete placements on an as-requested basis. During concrete placements, the technician will perform slump, air content, plastic unit weight, temperature, and the casting of 4 concrete test cylinders. The concrete test cylinders for compressive strength testing will be transported to our laboratory and will be placed in a controlled curing environment. From each set of 4 concrete test cylinders, 3 will be tested at 7 days and 1 will be tested at 28 days for compressive strength. If the average of the first two cylinders at 7 days of age does not meet the project criteria, the third 7 day cylinder will be tested at an age as directed by the client. Aggregate samples will be obtained daily from the concrete plant site to verify moisture, gradation and quality properties as listed in the specifications.

## Proposal for Materials Testing Services

AC-SU-1-981(119) (PCN-22492) ■ Bismarck, North Dakota  
January 21, 2020 ■ Terracon Proposal No. PM2201002



Field sampling and laboratory testing and evaluation of hot bituminous pavement: A certified technician will obtain samples of the hot mix asphalt in the field and return it to the laboratory for testing. The laboratory testing will include gradation and physical properties of the aggregate and bituminous mixture as required by the project specifications.

Project administration and reports: Our engineering technicians work under the supervision of a Professional Engineer licensed in the State of North Dakota assigned to the project for administrative purposes. The administrative functions for the project include scheduling technicians, review of field and laboratory data and reports, and verbal communications with personnel of the project team. Summarized reports of tests and observations will be submitted by email on a timely basis. Invoices for the project will be submitted on a monthly basis.

### C. COMPENSATION

The cost for our services including all field work, laboratory testing, engineering analysis, and report preparation has been estimated on the basis of unit rates prepared specifically for this project. Terracon services are based on the number of trips and estimated quantities shown on pages 4 and 5 of this proposal.

The time required for materials testing services on the project will be directly related to the schedule and performance of the contractor on the site. As a result, total estimated fees for the materials testing services include only those services outlined in this proposal. Additional services required beyond the estimated quantities outlined above will be invoiced based on the applicable unit rates as presented in the proposal table.

### D. AUTHORIZATION

Your authorization for Terracon to proceed in accordance with this proposal can be issued by initiating a work order in accordance with the Master Agreement for Consulting Services. The agreement, including the limitations it contains, shall constitute the exclusive terms, conditions and services to be performed for this project.

We appreciate your consideration of Terracon for this work and look forward to working as your materials testing consultant for this project.

Sincerely,

**Terracon Consultants, Inc.**

Ty E. Kelsch, CET  
Materials Department Manager

Brian Fettig, CET  
Office Manager



Task Code	Description	Senior Project Manager	Project Manager	Engineer III	Engineer III	Engineering Technician III	Engineer I	Engineer II	Engineer I	Surveyor IV	2-Person Survey Crew	DIRECT LABOR Subtotal	Subconsultant Bill	KLJ's % Markup Subconsultant's Name	Subconsultant Fee	Bal to: Lump Sum or Agreed Fee	TASK TOTAL
<b>1</b>	<b>Construction Administration</b>	\$ 76.00	\$ 58.00	\$ 45.00	\$ 45.00	\$ 38.00	\$ 31.00	\$ 35.25	\$ 31.00	\$ 44.00	\$ 65.00						
	Project Management & Coordination	90										\$ 6,840.00			\$ -		\$ 6,840.00
	Project Initiation & Shop Drawing Review	4	14	40	36			30				\$ 5,593.50			\$ -		\$ 5,593.50
	Pre-Construction Conference	4		4		4	4	4		4		\$ 1,077.00			\$ -		\$ 1,077.00
	Planning/Coordination/Utility Meetings	50										\$ 3,800.00			\$ -		\$ 3,800.00
	Weekly Records	10				80						\$ 3,800.00			\$ -		\$ 3,800.00
	CARS Entry	4				140						\$ 5,624.00			\$ -		\$ 5,624.00
	Final Records/Record Drawings	20		100								\$ 6,020.00			\$ -		\$ 6,020.00
	Substantial/Final Inspections	6		10		6						\$ 1,134.00			\$ -	\$ 48.29	\$ 1,182.29
		<b>188</b>	<b>14</b>	<b>154</b>	<b>36</b>	<b>230</b>	<b>4</b>	<b>34</b>		<b>4</b>		<b>\$ 33,888.50</b>	\$ -		\$ -	\$ 48.29	<b>\$ 33,936.79</b>
<b>2</b>	<b>Construction Observation</b>	\$ 76.00	\$ 58.00	\$ 45.00	\$ 45.00	\$ 38.00	\$ 31.00	\$ 35.25	\$ 31.00	\$ 44.00	\$ 65.00						
	Earthwork - Removals					50						\$ 1,900.00			\$ -		\$ 1,900.00
	Earthwork - Topsoil					50						\$ 1,900.00			\$ -		\$ 1,900.00
	Earthwork - Excavation/Embankment					200	200		250			\$ 21,550.00			\$ -		\$ 21,550.00
	Earthwork - Erosion Control					50			100			\$ 5,000.00			\$ -		\$ 5,000.00
	Aggregate Base					200	200		250			\$ 21,550.00			\$ -		\$ 21,550.00
	Bituminous Pavement					100	100					\$ 6,900.00			\$ -		\$ 6,900.00
	Concrete Pavement					200	300		300			\$ 26,200.00			\$ -		\$ 26,200.00
	Construction Traffic Control					200	50		320			\$ 19,070.00			\$ -		\$ 19,070.00
	Storm Sewer					10		400				\$ 14,480.00			\$ -		\$ 14,480.00
	Watermain					10		100				\$ 3,905.00			\$ -		\$ 3,905.00
	Curb & Gutter/Sidewalk/Driveway					120	150		180			\$ 14,790.00			\$ -		\$ 14,790.00
	Lighting/Traffic Signals					150	150					\$ 10,350.00			\$ -		\$ 10,350.00
	2021 Permanent Signing/Marking						80					\$ 2,480.00			\$ -		\$ 2,480.00
	2021 Landscaping						80					\$ 2,480.00			\$ -		\$ 2,480.00
	2021 Chip Seal						100		100			\$ 6,200.00			\$ -		\$ 6,200.00
						<b>1340</b>	<b>1410</b>	<b>500</b>	<b>1500</b>			<b>\$ 158,755.00</b>	\$ -		\$ -	\$ -	<b>\$ 158,755.00</b>
<b>3</b>	<b>Construction Staking</b>	\$ 76.00	\$ 58.00	\$ 45.00	\$ 45.00	\$ 38.00	\$ 31.00	\$ 35.25	\$ 31.00	\$ 44.00	\$ 65.00						
	Traffic Control									2	10	\$ 738.00			\$ -		\$ 738.00
	Machine Control									2	15	\$ 1,063.00			\$ -		\$ 1,063.00
	Survey Control Points									3	20	\$ 1,432.00			\$ -		\$ 1,432.00
	Construction Limits									2	20	\$ 1,388.00			\$ -		\$ 1,388.00
	Removals									2	15	\$ 1,063.00			\$ -		\$ 1,063.00
	Temporary Road Staking									3	8	\$ 652.00			\$ -		\$ 652.00
	Slope Staking									2	20	\$ 1,388.00			\$ -		\$ 1,388.00
	Storm Sewer									5	30	\$ 2,170.00			\$ -		\$ 2,170.00
	Red-Top Staking									10	40	\$ 3,040.00			\$ -		\$ 3,040.00
	Blue-Top Staking									10	40	\$ 3,040.00			\$ -		\$ 3,040.00
	Concrete Trim Line Staking									25	120	\$ 8,900.00			\$ -		\$ 8,900.00
	Curb and Gutter									25	50	\$ 4,350.00			\$ -		\$ 4,350.00
	Sidewalk Staking									20	30	\$ 2,830.00			\$ -		\$ 2,830.00
	Asphalt Edge Staking									15	3	\$ 855.00			\$ -		\$ 855.00
	Traffic Light Staking									5	10	\$ 870.00			\$ -		\$ 870.00
	Re-setting Quarter Corner									2	2	\$ 218.00			\$ -		\$ 218.00
	As-built Utilities									1	15	\$ 1,019.00			\$ -		\$ 1,019.00
	As-built Seeding Limits									1	15	\$ 1,019.00			\$ -		\$ 1,019.00
	Erosion Control Staking									1	20	\$ 1,344.00			\$ -		\$ 1,344.00
	Path Staking									5	30	\$ 2,170.00			\$ -		\$ 2,170.00
	Additional Calculations									10		\$ 440.00			\$ -		\$ 440.00
	Misc. Staking									10	15	\$ 1,415.00			\$ -		\$ 1,415.00
										<b>161</b>	<b>528</b>	<b>\$ 41,404.00</b>	\$ -		\$ -	\$ -	<b>\$ 41,404.00</b>
<b>4</b>	<b>Materials Testing</b>	\$ 76.00	\$ 58.00	\$ 45.00	\$ 45.00	\$ 38.00	\$ 31.00	\$ 35.25	\$ 31.00	\$ 44.00	\$ 65.00		\$ 69,800.00	Terracon	\$ 69,800.00		\$ 69,800.00
												\$ -	\$ 69,800.00		\$ 69,800.00	\$ -	\$ 69,800.00
		<b>188</b>	<b>14</b>	<b>154</b>	<b>36</b>	<b>1570</b>	<b>1414</b>	<b>534</b>	<b>1500</b>	<b>165</b>	<b>528</b>	<b>6103</b>	<b>\$ 234,047.50</b>		<b>\$ 69,800.00</b>	<b>\$ 48.29</b>	<b>\$ 303,895.79</b>

<sup>1</sup> To be billed at actual with an \$150 maximum (Meals \$35- Lodging \$115)

<sup>2</sup> Includes: equipment, rental/subscriptions, mileage... etc.

Summary of Costs:		NDDOT
Direct Labor		\$ 234,047.50
	181.55%	\$ 424,913.24
<b>Subtotal</b>		<b>\$ 658,960.74</b>
On bill rate	15.00%	\$ 98,844.11
Raw labor cost	0.96%	\$ 2,246.86
Direct Expenses		\$ -
Subconsultants		\$ 69,800.00
Reimbursables		\$ -
Balance to Lump Sum or Agreed Fee		\$ 48.29
<b>Total Estimated Engineering Costs</b>		<b>\$ 829,900.00</b>

## FEE ESTIMATE

Materials Testing Services  
 AC-SU-1-981(119) (PCN-22492) - 43rd Avenue NE  
 Bismarck, North Dakota  
 Job No. 6 - February 7, 2020 NDDOT Bid Letting  
 Terracon Proposal No. PM2201002

Spec	Service	Rate	Quantity	Units	Cost
203	<b>Common Excavation - Type A (43,522 CY)</b>				
	Field Testing Technician	\$88.00	15	hours	\$1,320.00
	Modified Proctor	\$204.00	3	each	\$612.00
	Trips to Site	\$10.00	10	round trip	\$100.00
				subtotal	\$2,032.00
256	<b>Riprap - Grade 1 (18 CY)</b>				
	Field Gradation Technician	\$160.00	2.5	hours	\$400.00
	Trips to Site	\$10.00	1	round trip	\$10.00
				subtotal	\$410.00
302	<b>Traffic Service / Aggregate Base Course (39,368 Tons)</b>				
	Field Sampling & Testing Technician	\$88.00	65	hours	\$5,720.00
	Modified Proctor	\$204.00	2	each	\$408.00
	Sieve Analysis	\$136.00	45	each	\$6,120.00
	Physical Properties	\$180.00	5	each	\$900.00
	Trips to Site	\$10.00	65	round trip	\$650.00
				subtotal	\$13,798.00
420	<b>Cover Coat Material (2,946 SY)</b>				
	Field Sampling Technician	\$88.00	1.5	hours	\$132.00
	Sieve Analysis	\$136.00	3	each	\$408.00
	Trips to Site	\$10.00	1	round trip	\$10.00
				subtotal	\$550.00
430	<b>Hot Mix Asphalt (1,209 Tons)</b>				
	Field Sampling Technician	\$88.00	2	hours	\$176.00
	Gyratory Density & Rice (% Voids)	\$359.00	2	each	\$718.00
	Asphalt Extraction	\$189.00	2	each	\$378.00
	Sieve Analysis & Fine Aggregate Angularity	\$288.00	2	each	\$576.00
	Shale/Fractures/Flat & Elongated/Sand Equivalent	\$350.00	1	each	\$350.00
	Trips to Site	\$10.00	2	round trip	\$20.00
				subtotal	\$2,218.00
550	<b>8.5" Concrete Pavement (33,595 SY)</b>				
	Field Sampling & Testing Technician	\$88.00	125	hours	\$11,000.00
	Compressive Strength Cylinders	\$20.00	80	each	\$1,600.00
	Flexural Beams	\$54.00	4	each	\$216.00
	Fine Aggregate Gradation & Moisture	\$115.00	23	each	\$2,645.00
	Fine Aggregate Gradation & Quality	\$160.00	2	each	\$320.00
	Intermediate Aggregate Gradation & Moisture	\$115.00	23	each	\$2,645.00
	Intermediate Aggregate Gradation & Quality	\$160.00	2	each	\$320.00
	Coarse Aggregate Gradation & Moisture	\$145.00	23	each	\$3,335.00
	Coarse Aggregate Gradation & Quality	\$215.00	2	each	\$430.00
	Coring for Thickness	\$170.00	6	hours	\$1,020.00
	Bit Wear	\$2.50	80	inches	\$200.00
	Measure Length	\$45.00	9	each	\$405.00
	Field Surface Texture Testing	\$88.00	5	hours	\$440.00
	Trips to Site & Plant	\$10.00	65	round trip	\$650.00
				subtotal	\$25,226.00

714	<b>Storm Drain Pipe (5,570 LF)</b>				
	Field Testing Technician	\$88.00	20	hours	\$1,760.00
	Modified Proctor	\$204.00	2	each	\$408.00
	Sieve Analysis (Drainage Aggregate)	\$136.00	2	each	\$272.00
	Trips to Site	\$10.00	20	round trip	\$200.00
				subtotal	\$2,640.00
722	<b>Manholes &amp; Inlets (72)</b>				
	Field Testing Technician	\$88.00	12	hours	\$1,056.00
	Modified Proctor	\$204.00	2	each	\$408.00
	Trips to Site	\$10.00	12	round trip	\$120.00
				subtotal	\$1,584.00
724	<b>Watermain (234 LF)</b>				
	Field Testing Technician	\$88.00	2	hours	\$176.00
	Modified Proctor	\$204.00	1	each	\$204.00
	Trips to Site	\$10.00	2	round trip	\$20.00
				subtotal	\$400.00
748	<b>Curb &amp; Gutter - Type 1 (18,671 LF)</b>				
	Field Sampling & Testing Technician	\$88.00	30	hours	\$2,640.00
	Compressive Strength Cylinders	\$20.00	80	each	\$1,600.00
	Fine Aggregate Gradation & Moisture	\$115.00	2	each	\$230.00
	Fine Aggregate Gradation & Quality	\$160.00	2	each	\$320.00
	Coarse Aggregate Gradation & Moisture	\$145.00	2	each	\$290.00
	Coarse Aggregate Gradation & Quality	\$215.00	2	each	\$430.00
	Trips to Site & Plant	\$10.00	30	round trip	\$300.00
				subtotal	\$5,810.00
750	<b>Boulevards, Sidewalks, Medians &amp; Driveways (Approx. 1,406 CY)</b>				
	Field Sampling & Testing Technician	\$88.00	50	hours	\$4,400.00
	Compressive Strength Cylinders	\$20.00	140	each	\$2,800.00
	Fine Aggregate Gradation & Moisture	\$115.00	2	each	\$230.00
	Fine Aggregate Gradation & Quality	\$160.00	2	each	\$320.00
	Coarse Aggregate Gradation & Moisture	\$145.00	2	each	\$290.00
	Coarse Aggregate Gradation & Quality	\$215.00	2	each	\$430.00
	Trips to Site & Plant	\$10.00	50	round trip	\$500.00
				subtotal	\$8,970.00
770	<b>Lighting Foundations (28)</b>				
	Field Testing Technician	\$88.00	9	hours	\$792.00
	Compressive Strength Cylinders	\$20.00	24	each	\$480.00
	Trips to Site	\$10.00	9	round trip	\$90.00
				subtotal	\$1,362.00
	<b>Project Management</b>				
	Project Manager	\$120.00	40	hours	\$4,800.00
				subtotal	\$4,800.00

Total Estimated Testing Costs

**\$69,800.00**



## *Engineering Department*

**DATE:** February 4, 2020  
**FROM:** Gabe Schell, City Engineer  
**ITEM:** Street Closure for 8th Annual BisMarket

### **REQUEST**

Street Closure for 8th Annual BisMarket.

Please place this item on the 2/11/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

BisMarket would like to request permission from the City of Bismarck to close a portion of West Sweet Avenue between Kiwanis Park and the Municipal Ballpark for these regular community markets. The proposed road closure would be West Sweet Avenue from Hannifin Street to Washington Street. BisMarket is scheduled to be held from 10:00 am – 1:00 pm on Saturday mornings from June 6 through October 24, 2020 (weather and vendor availability permitting).

Vendor set-up begins at 8:30 am, and vendors take down their booths until around 1:30. For this reason they request that the road be closed from 8:00 am until 2:00 pm on Saturdays during the market. This request is consistent with previous requests from BisMarket for this event.

### **RECOMMENDED CITY COMMISSION ACTION**

Approval of Street Closure Request.

### **STAFF CONTACT INFORMATION**

Mark Berg, PE, Traffic Engineer, 355-1505, [mberg@bismarcknd.gov](mailto:mberg@bismarcknd.gov)

## Mark Berg

---

**From:** BisMarket <info@bismarket.com>  
**Sent:** Tuesday, January 28, 2020 3:37 PM  
**To:** Mark Berg  
**Cc:** Karen K. Ehrens; Jan Stankiewicz  
**Subject:** Request for Street Closure - BisMarket 2020  
**Attachments:** 2020 BisMarket Layout.docx

To: Mark Berg  
Bismarck Engineering Department  
221 5<sup>th</sup> St.  
Bismarck, ND 58506

RE: street closure request

Good afternoon,

As BisMarket moves into its 8<sup>th</sup> season, we are proposing to set up the Saturday market in Kiwanis Park and along Sweet Avenue for the 2020 market season. BisMarket and the Bismarck Parks and Recreation District continue to work together to coordinate these events.

BisMarket would like to request the City of Bismarck close a portion of Sweet Avenue between Kiwanis Park and the Municipal Ballpark for these regular community markets. The proposed road closure would be Sweet Avenue from Hannifin Street to Washington Street. BisMarket is scheduled to be held from 10:00 am – 1:00 pm event Saturday morning from June 6 through October 24, 2020 (weather and vendor availability permitting).

Vendor set-up begins at 8:30 am, and vendors take down their booths until around 1:30. For this reason we request that the road be closed from 8:00 am until 2:00 pm on Saturdays during the market. Closing this portion of the road will allow the event to be safer for everyone, vendors and customers alike. Participants will be able to safely walk, bike, shop, and eat along Sweet Avenue between the park and the ballpark.

Please see our attached proposed layout, which maintains the required 20' drive through path for EMS vehicles. We plan to use the barricades provided by BPRD at the intersection of Sweet Avenue at Hannifin St. and at Washington St. (same as the 2019 season barricade setup).

If you have any questions about this event, please contact me at 406-579-7432.

Thank you for your consideration,

**Jan Stankiewicz, MS, MPH cert.**

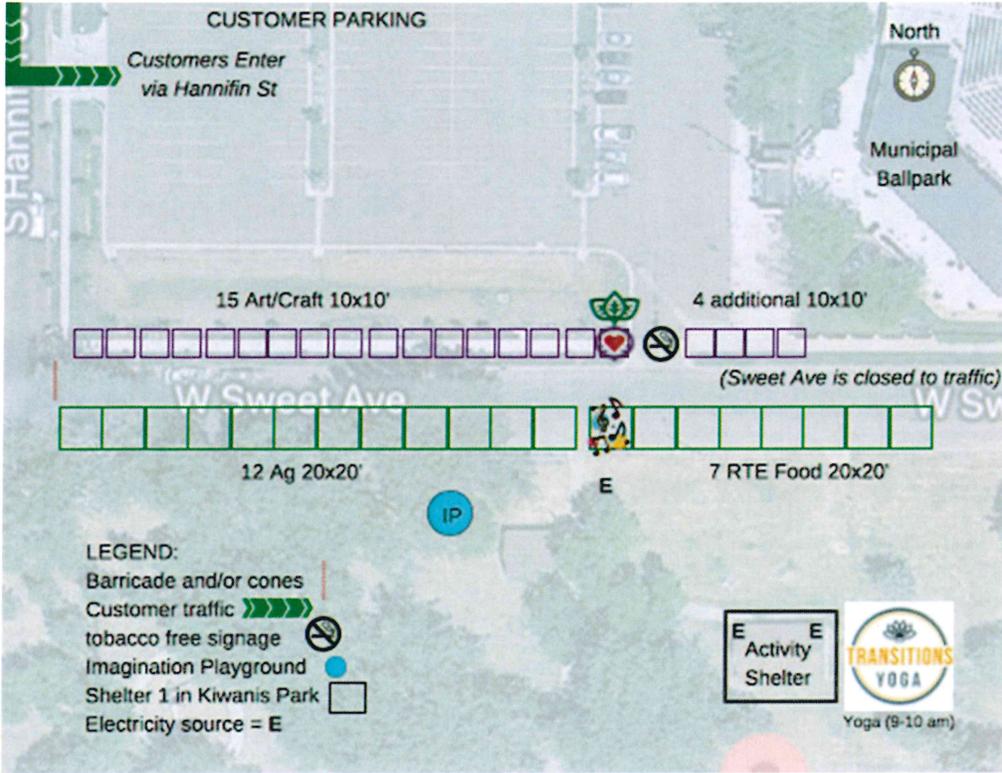
President, BisMarket

P.O. Box 3112 | Bismarck, ND 58502

[info@bismarket.com](mailto:info@bismarket.com) | [bismarket.com](http://bismarket.com)

Follow us: [Facebook](#) | [Instagram](#)







## *Engineering Department*

**DATE:** February 4, 2020  
**FROM:** Gabe Schell, City Engineer  
**ITEM:** Release of Sanitary Sewer Easement

### **REQUEST**

Request approval to release an existing sanitary sewer easement.

Please place this item on the 2/11/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The Board awarded the offsite improvements associated with Costco as part of project HC 120 at the January 28, 2020 meeting. With properties adjacent to Brookside Lane able to be served with sanitary sewer to be constructed as part of HC 120, a previous sanitary sewer easement dedicated to the City of Bismarck recorded as document number 728207 is no longer necessary. There are no facilities constructed within this easement.

If the easement release is approved, staff will prepare an easement release document to be signed by the Mayor and recorded against the affected properties within Memory Second Addition and Meadowlark Commercial Seventh Addition. The original document number 728207 is included as a reference in this agenda item.

### **RECOMMENDED CITY COMMISSION ACTION**

Approval of release of existing sanitary sewer easement 728207

### **STAFF CONTACT INFORMATION**

Gabe Schell, PE | City Engineer, 355-1505 or [gschell@bismarcknd.gov](mailto:gschell@bismarcknd.gov)



728207

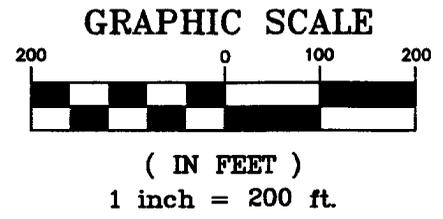


NW SEC. COR.  
SECTION 15  
T 139 N, R 80 W

S89°45'28"E  
1112.51'

SECTION LINE

S00°26'27"W  
504.87'



SECTION LINE

NW 1/4  
SECTION 15  
NOT PLATTED

POINT OF  
BEGINNING

± 40.00' WIDE  
SANITARY  
SEWER EASEMENT

S63°32'59"E  
1380.27'

N76°24'05"E  
41.23'

S89°33'42"E  
414.97'

S89°33'45"E  
122.45'

S00°24'30"W  
50.68'

S89°13'45"E  
883.03'

BROOKSIDE LANE  
80.00' R.O.W.

DAKOTA MISSOURI VALLEY & WESTERN RAILROAD

1/4 LINE

NW 1/4  
SECTION 15  
NOT PLATTED

EXISTING 40' WIDE SANITARY  
SEWER EASEMENT

LOT 2

LOT 3

LOT 4

LOT 1

GUSSNER HOMESITE ACRES

Prepared By:  
**BARTLETT & WEST**  
 3456 E. Century Ave.  
 Bismarck, North Dakota 58503  
 701-258-1110  
 FAX 701-258-1111  
 www.bartwest.com



## *Engineering Department*

**DATE:** February 3, 2020  
**FROM:** Gabe Schell, City Engineer  
**ITEM:** Sewer Improvement District SE 573

### **REQUEST**

Request for Resolution Receiving Bids and Ordering Preparation of the Engineer's Statement for SE 573.

Request for Resolution Awarding Contract for SE 573.

Please place this item on the 2/11/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

Sewer Improvement District SE 573 is a project to construct a regional storm water detention pond, pump station and appurtenances for the benefitting properties in Cottonwood Parkview Addition and Meadow Village Addition. All benefitted properties are annexed into the City and there are no costs held in abeyance for this project.

At the June 26, 2018 Commission meeting, the City agreed to enter into a development agreement with Wachter Family Revocable Trust. As per the agreement, the developer would design the pond, pump station and force main and excavate the pond. The City agreed to purchase the land where the pond and pump station are located and place this project out for public bid to be funded through special assessments. This project will include final grading and grass stabilization of the detention pond, construction of the pump station and force main and other associated costs.

Two bids were received on January 30, 2020. Weisz & Sons, Inc. was the lower bidder with a bid of \$763,861.90. The bid summary and project budget are attached.

Project Schedule

Contract Award:

February 11, 2020

Project Completion:

September 15, 2020

**RECOMMENDED CITY COMMISSION ACTION**

Resolution Receiving Bids and Ordering Preparation of the Engineer's Statement for SE 573.

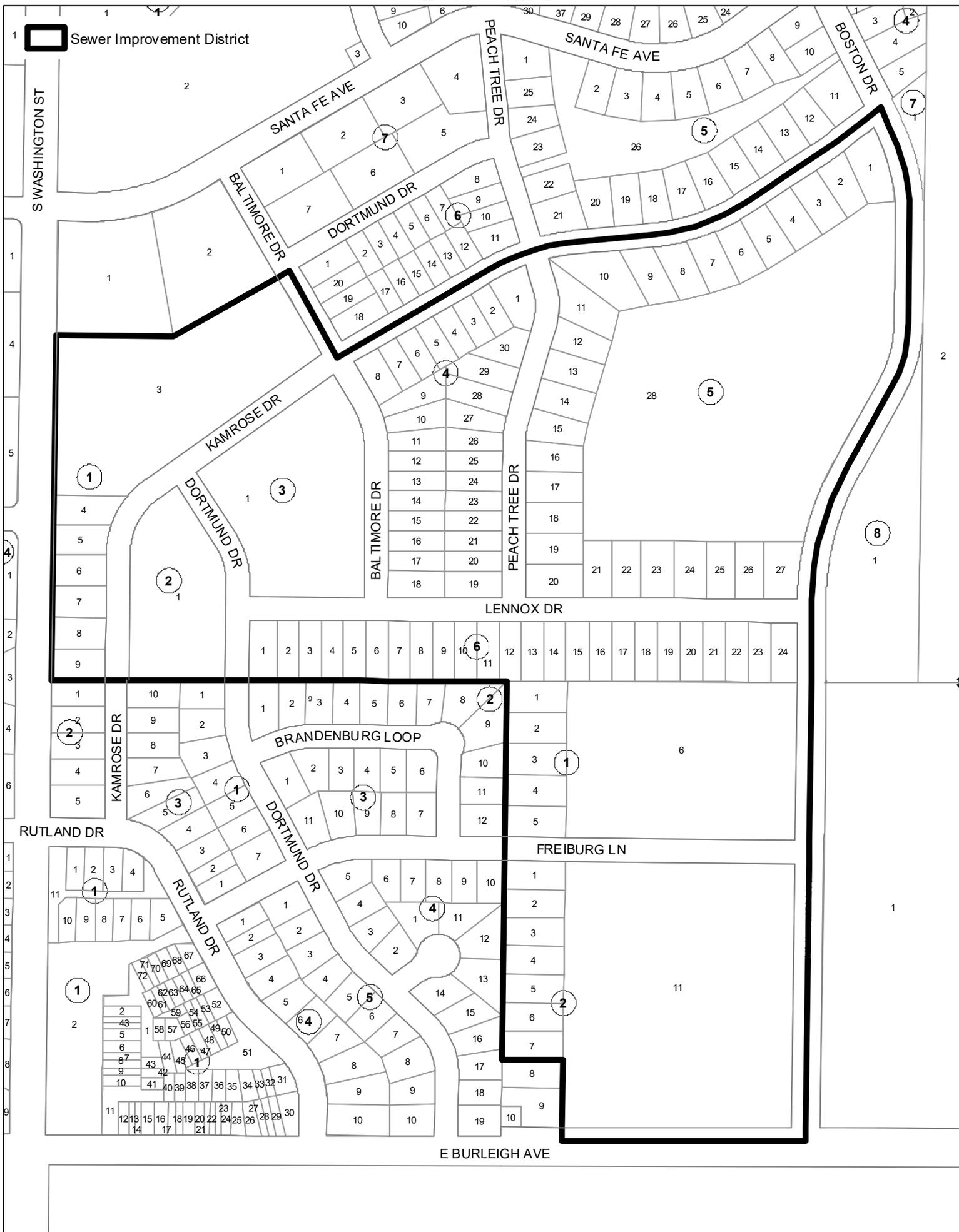
Resolution Awarding Contract for SE 573 to Weisz & Sons, Inc. for \$763,861.90.

**STAFF CONTACT INFORMATION**

Linda Oster, PE, Design & Construction Engineer, 355-1505, [loster@bismarcknd.gov](mailto:loster@bismarcknd.gov)

# SE 573 - UNIT 1

 Sewer Improvement District



**BID TABULATION  
FOR  
SEWER IMPROVEMENT DISTRICT NO. 573**

January 30, 2020

**ENGINEER'S ESTIMATE: \$620,943.50**

<b>BIDDER</b>	<b>BOND</b>	<b>LICENSE</b>	<b>ADDENDUM</b>	<b>SIGNATURE</b>	<b>AMOUNT</b>
Weisz & Sons Inc.	<u>  X  </u>	<u>  X  </u>	<u>  X  </u>	<u>  X  </u>	<u>\$763,861.90</u>
Cofell's Plumbing & Excavating	<u>  X  </u>	<u>  X  </u>	<u>  X  </u>	<u>  X  </u>	<u>\$842,100.00</u>
Edling Electric	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Mike Coleman Construction Inc	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Markwed Excavating Inc	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
JR Civil LLC	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>

# PROJECT BUDGET

<b>Number</b>	SE 573	<b>Description</b>	Storm Water - CPA & MVA
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<b>Scheduled Start</b>	3/1/2020	<b>Scheduled End</b>	9/15/2020
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## Project Contracts

<u>Project Construction Contracts</u>	<u>Amount</u>
Weisz & Sons, Inc	763,861.90
Subtotal	763,861.90
Contingencies 10%	76,386.19
<b>Total Construction Contracts</b>	<b>840,248.09</b>

<u>Other Contracts, Land Purchases, Etc.</u>	<u>Contract No.</u>	<u>Amount</u>
Land Purchase		1,035,963.00
Subtotal		1,035,963.00
*Contingencies 10%		-
<b>Total Other Contracts</b>		<b>1,035,963.00</b>

<u>Work by Other City Departments</u>	<u>Amount</u>
Signs*	
Subtotal	-
*Contingencies 10%	-
<b>Total Work by Other City Departments</b>	<b>-</b>

## SUMMARY

<b>Construction Cost - No Contingencies</b>	<b>1,799,824.90</b>
<b>TOTAL CONSTRUCTION COST WITH CONTINGENCIES</b>	<b>1,876,211.09</b>
Engineering 5%	93,810.55
Administration 4%	75,048.44
Advertising and Legal 2%	37,524.22
Interest During Construction 3%	56,286.33
<b>SE 573 TOTAL PROJECT COST</b>	<b>2,138,880.64</b>

<u>Project Funding</u>	<u>Amount</u>
Special Assessments-SE 573	2,138,880.64
<b>Total Funding</b>	<b>2,138,880.64</b>

<b>Date</b>	2/3/2020
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## *Engineering Department*

**DATE:** February 3, 2020  
**FROM:** Gabe Schell, City Engineer  
**ITEM:** Street Improvement District No. 534

### **REQUEST**

Request for Resolution of Necessity.

Please place this item on the 2/11/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

Street Improvement District No. 534 consists of 1 unit of resurfacing of existing roadways. Unit 1 includes approximately 7,780 LF of roadway improvements. Letters will be sent to parcel owners prior to the public hearing date scheduled for March 24, 2020.

#### **Unit No. 1**

Yegen Road – 231’ south of Morrison Ave to 150’ north of Hagen Ave

#### **Project Schedule**

Letters to Property Owners Sent:	February 13, 2020
Protest Period Ends:	March 18, 2020
Public Hearing:	March 24, 2020
Receipt and Opening of Bids:	April 20, 2020
Award of Bid:	April 28, 2020
Project Completion:	August 1, 2020

### **RECOMMENDED CITY COMMISSION ACTION**

Consider request for approval of Resolution of Necessity for SI 534.

### **STAFF CONTACT INFORMATION**

Linda Oster, PE, Design & Construction Engineer, 355-1505, [loster@bismarcknd.gov](mailto:loster@bismarcknd.gov)

SI 534 - UNIT 1

Street Improvement District

Resurface





## *Finance Department*

**DATE:** February 4, 2020

**FROM:** Dmitriy Chernyak, Finance Director *DC by aj*

**ITEM:** Applications for Abatement

### **REQUEST**

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

Application for Abatement for 2019- Nonprofit Organization  
Property Owner- Pride Inc  
Property Address- 200 E Kavaney Dr / 0455-005-055

Application for Abatement for 2019 – Disabled Veteran  
Property Owner – Carla Leingang  
Property Address – 843 Mayflower Dr / 1557-002-005

Applications for Abatement for 2018 & 2019 – Blind Exemption  
Property Owner – Norman Tibke & Shirley Rebenitsch  
Property Address – 3433 Nebraska Dr / 1605-005-016

Please place these items on the 2/11/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The above property applicants have met all the requirements set forth in the N.D.C.C 57-02-08 to apply for these exemptions / credit.

### **RECOMMENDED CITY COMMISSION ACTION**

The Assessing Division recommends approval of the applications for abatement as presented.

### **STAFF CONTACT INFORMATION**

Allison Jensen  
[ajensen@bismarcknd.gov](mailto:ajensen@bismarcknd.gov)  
355-1630

# 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 #1  
County of Burleigh Property I.D. No. 0455-005-055  
Name PRIDE INC Telephone No.  
Address PO BOX 4086, BISMARCK ND

Legal description of the property involved in this application:

HOMAN ACRES 1ST RE PROPERTY ADDRESS: 200 E KVANEY DR  
Block: 5  
EAST 24' OF LOT 12 & WEST 56' OF LOT 13

Total true and full value of the property described above for the year 2019 is:

Land \$ 48,000  
Improvements \$ 181,300  
Total \$ 229,300  
(1)

Total true and full value of the property described above for the year 2019 should be:

Land \$ 12,000  
Improvements \$ 45,300  
Total Adj. \$ 57,300  
(2)

The difference of \$ 172,000.00 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) (EXEMPT 9 MONTHS)

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 application be approved as presented.

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

**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 Pride Inc.

County Auditor's File No. 80-033

Date Application Was Filed With The County Auditor 1/27/00

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

*Allan Oetmeren  
 by epd.*

# 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 # 1  
County of BURLEIGH Property I.D. No. 1557-002-005  
Name LEINGANG, CARLA Telephone No. \_\_\_\_\_  
Address 843 MAYFLOWER DR. BISMARCK

Legal description of the property involved in this application:

SOUTHBAY 4TH ADDITION  
Block: 2  
LOT 2

Total true and full value of the property described above for the year 2019 is:

Land \$ 46,800  
Improvements \$ 167,600  
Total \$ 214,400  
(1)

Total true and full value of the property described above for the year 2019 should be:

Land \$ 46,800  
Improvements \$ 167,600  
Total Adj. \$ 64,400  
(2)

The difference of \$ 150,000.00 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) (100% / Full Year)

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 disabled veteran credit be approved as presented.

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

Carla J. Leingang 1-27-20

**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 Carla Lungang

County Auditor's File No. 20-037

Date Application Was Filed With The County Auditor 11/28/20

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

*allan Dietmeier  
 by epb.*

# 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 BISMARCK  
 County of BURLEIGH Property I.D. No. 1605-005-016  
 Name TIBKE, NORMAN H & REBENITSCH, SHIRLEY L Telephone No. \_\_\_\_\_  
 Address 3433 NEBRASKA DR, BISMARCK, ND 58503-1649

Legal description of the property involved in this application:

EDGEWOOD VILLAGE 2ND ADDITION Block: 5 LOT 1B OF LOT 1 STAR CONDOS II UNIT 3433 BUILDING 4

Total true and full value of the property described above for the year 2018 is:

Land \$ 42,000  
 Improvements \$ 204,400  
 Total \$ 246,400  
(1)

Total true and full value of the property described above for the year 2018 should be:

Land \$ 42,000  
 Improvements \$ 44,400  
 Total Adj. \$ 86,400  
(2)

The difference of \$ 160,000 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) Blind Exemption (Full year)

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 blind exemption be approved as presented.

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 Shirley Rebenitsch 1-29-20  
Norm H Tibke 1-29-20

**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 Tibke Rebenitsch  
Norman + Shirley

County Auditor's File No. 20-038

Date Application Was Filed With The County Auditor 1/29/20

Date County Auditor Mailed Application to Township Clerk or City Auditor 1/29/20  
(must be within five business days of filing date)

Alan Vutmerer  
VAEpb

# 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 BISMARCK  
County of BURLEIGH Property I.D. No. 1605-005-016  
Name TIBKE, NORMAN H & REBENITSCH, SHIRLEY L Telephone No. \_\_\_\_\_  
Address 3433 NEBRASKA DR. BISMARCK, ND 58503-1649

Legal description of the property involved in this application:

EDGEWOOD VILLAGE 2ND ADDITION Block: 5 LOT 1B OF LOT 1 STAR CONDOS II UNIT 3433 BUILDING 4

Total true and full value of the property described above for the year 2019 is:

Land \$ 42,000  
Improvements \$ 211,800  
Total \$ 253,800  
(1)

Total true and full value of the property described above for the year 2019 should be:

Land \$ 42,000  
Improvements \$ 51,800  
Total Adj \$ 93,800  
(2)

The difference of \$ 160,000 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) Blind Exemption (Full Year)

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 Blind exemption be Approved As presented,

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

Shirley Rebenitsch 1-29-20  
Norman Tibke 1-29-20

**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

Tilke Rebenitsch  
 Norman + Shirley

Name of Applicant  
 County Auditor's File No. 20-039

Date Application Was Filed With The County Auditor 1/29/20

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

Arlan Wetmore  
 by eps



## FINANCE DEPARTMENT

**DATE:** February 11, 2020

**FROM:** Dmitriy Chernyak, Finance Director

**ITEM:** 2019 Budget Adjustments, Amendments, and Rollovers

### REQUEST

To approve the budget transfers, authorizations, and adjustments in the 2019 budget.

Please place this item on the February 11, 2020 City Commission meeting regular agenda.

### BACKGROUND INFORMATION

#### **Budget Authorizations:**

The 2016 budget included \$840,940 for the purchase and implementation of the new Work Order Management System (WMS). The contract and project budget for AssetWorks for WMS was approved by the Commission on August 23, 2016. Since this is a multi-year project, the funds are to be expended over the next 2-3 years. The funds were carried over for 2017, 2018, and 2019. The estimated \$455,486 balance of the funds also needs to be carried over to 2020. Depending on current and future IT resources and potential complications with the vendor, this project may take longer than expected.

During the 2020 budget process, the Budget Committee and the City Commission approved the contribution of \$112,000 for 2019 to subsidize the operations and provide cash flow of the Bis-Man Transit. This adjustment uses remaining one-time budgetary appropriation to create a transfer out from the General Fund to the Public Transit System Fund. This request also creates a budget amendment in the Public Transit System Fund to provide additional budgetary appropriation for the additional contribution to Bis-Man Transit.

Re-appropriate the remaining one-time budget of \$30,615 for the transfer of additional resources from the General Fund to subsidize the Roads and Streets Fund operations and equipment, including roads and streets and forestry division expenditures.

Create additional budget appropriation for the subsidy for snow gates from the Sales Tax Fund to the Roads and Streets Fund for \$27,000. Actual expenditures exceeded the 2019 budget appropriation as a result of additional snow fall in 2019.

In 2019, the City is expecting to collect additional \$150,000 of revenue from the hotel/motel tax. As a result, an increase in the budget appropriation for the Hotel / Motel Tax Fund is needed to appropriately distribute the additional tax revenue to the Convention Visitors Bureau (85%) and the City's Event Center Fund (15%) in 2019. The City is requesting an amendment of additional \$150,000 of budgetary appropriation in the Hotel / Motel Tax Fund.

In 2019, the City is expecting to collect an additional \$30,000 of car rental tax revenue in the Lodging, Liquor, Food Tax Fund. The City distributes the car rental tax to the Event Center Fund and Airport Fund based on a 75% and 25% distribution ratio, accordingly. As a result, the City requests an additional budget appropriation for the Lodging, Liquor, Food Tax Fund to distribute the additional tax revenue to the Event Center Fund and Airport Fund.

The City's 2019 General Fund non-departmental pooled repair and maintenance exceeded the budget by a total of \$56,689 as a result of additional maintenance expenditures related to police and fire vehicles. The request is to re-appropriate the remaining 2019 one-time budget to cover the excess.

#### **2019 Budget Rollover to the 2020 Budget:**

1. CenCom requests that the 2019 remaining \$29,183 one-time budgetary appropriation for system software maintenance to be rolled over to the 2020 budget as an additional appropriation for the purchase of the professional standards program module that will be used to manage the internal affairs and 'use of force' investigations in the Police Department. \$50,000 is already budgeted for this module in the 2020 budget.
2. Administration requests that the 2019 unspent \$50,000 General Fund budgetary appropriation for the operational study is rolled over to the 2020 budget for the economic impact study of the City's Event Center.
3. Fire Department requests to rollover the 2019 unspent building maintenance budget appropriation in the General Fund in the amount of \$53,535 to complete station #1 landscape / sidewalk install, station #2 replacement of overhead garage doors / openers, and station #2 parking lot crack seal / chip seal projects were not completed in 2019 and considered necessary to be rolled over to 2020.
4. Police Department requests to rollover \$23,000 to 2020 from the 2019 remaining one-time equipment changeover budget for the purpose of purchasing marketing services for recruitment outreach campaign in 2020. This will include three recruitment videos.
5. Community Development Department requests a rollover of \$1,240 for the intersection analysis study that was not completed in 2019 and necessary to be completed in 2020.

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

To approve the 2019 budget adjustments, amendments, and rollovers.



## *Police Department*

**DATE:** February 3, 2020  
**FROM:** Dave Draovitch, <sup>DD</sup>Chief of Police  
**ITEM:** Permission to compete on "America's Top Dog" television show.

### **REQUEST**

We are requesting permission to compete on the "America's Top Dog" television show. Our participation is not guaranteed as the K9 Handler and K9 would have to be cast by the show first.

Please place this item on the 2/11/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

Two of our K9 Handlers are considering applying for season two of the show should permission be granted. Two of our K9 Teams competed on season one of the show. If a K9 Handler and K9 is cast for the show and wins the competition, all proceeds would be deposited into the Department's K9 account. There is no cost to the City of Bismarck.

### **RECOMMENDED CITY COMMISSION ACTION**

Grant permission to apply for and compete on the television show "America's Top Dog".

### **STAFF CONTACT INFORMATION**

Dave Draovitch | Chief of Police, 223-1212 or [ddraovitch@bismarcknd.gov](mailto:ddraovitch@bismarcknd.gov)



## *Police Department*

**DATE:** February 3, 2020  
*add*

**FROM:** Dave Draovitch, Chief of Police

**ITEM:** Participation in "American Heroes Outdoors" TV Show

### **REQUEST**

I am requesting the Commission's approval for Sergeants Lyle Sinclair, Kent Kaylor, Dustin Miller and Cody Berger to participate in the recording of an episode of "American Heroes Outdoors".

Please place this item on the 2/11/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

"American Heroes Outdoors" contacted Sergeant Lyle Sinclair after they learned he and fellow Sergeants Kent Kaylor, Dustin Miller and Cody Berger paddle fish each year near Williston, ND. They would like to do a story about the Sergeants during the May 2020 paddle fish season. There will be no cost to the City of Bismarck.

### **RECOMMENDED CITY COMMISSION ACTION**

Grant permission for the Sergeants to participate in the recording of an episode of "American Heroes Outdoors".

### **STAFF CONTACT INFORMATION**

Dave Draovitch | Chief of Police, 223-1212 or [ddraovitch@bismarcknd.gov](mailto:ddraovitch@bismarcknd.gov)



## *Police Department*

**DATE:** February 3, 2020  
**FROM:** Dave Draovitch, Chief of Police  
**ITEM:** City of Bismarck Auction Contract

### **REQUEST**

I am requesting the Commission's approval of a contract between the City of Bismarck and 4 Winds Auction. The contract will be for the 2020, 2021 and 2022 City of Bismarck auctions.

Please place this item on the 2/11/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

Lieutenant Mike McMerty sought bids for an auctioneer to conduct the City of Bismarck 2020, 2021 and 2022 auctions. Only one bid was received and it was from 4 Winds Auctions. 4 Winds Auctions has conducted the City of Bismarck auction since 2011 and has done so in a satisfactory manner. The bid was for a commission of 12% of the auction proceeds.

### **RECOMMENDED CITY COMMISSION ACTION**

Accept the contract for the 2020, 2021 and 2022 City of Bismarck auctions.

### **STAFF CONTACT INFORMATION**

Dave Draovitch | Chief of Police, 223-1212 or [ddraovitch@bismarcknd.gov](mailto:ddraovitch@bismarcknd.gov)

## CITY AUCTION SERVICE CONTRACT

The Bismarck Police Department is seeking an Auctioneer to conduct the annual City of Bismarck Auction for 2020, 2021 and 2022.

The auctions must be conducted per specifications, which are available upon request at the Bismarck Police Department, 700 South 9<sup>th</sup> Street, Bismarck, ND 58504, or by contacting Lt. Michael McMerty at the Bismarck Police Department. All bids must be submitted on the bid form contained in the specifications. Bids will be received at the Bismarck Police Department until 3:00pm (local time) on Friday, January 24, 2020. Bids will be publicly opened and reviewed at 4:00pm (local time) on Monday, January 27, 2020 at the Bismarck Police Department. All bidders are invited to be present at the opening of the bids.

All bids must be mailed to the Bismarck Police Department, Attn: Lt. Michael McMerty, 700 South 9<sup>th</sup> Street, Bismarck, ND 58504 or otherwise deposited with Lt. McMerty at the Bismarck Police Department and **shall be sealed and endorsed** "Auctioneer Bid." All bids must be received by the deadline. Bids received after the deadline will not be opened and will not be considered.

The right is reserved to hold all bids for a period of 45 days, to reject any and all bids, to waive technicalities or to accept such as may be determined to be for the best interest of the City of Bismarck.

This bid is for the auctioneer sales commission for each auction that is held on the third Saturday of May.

The mandated specifications and responsibilities of the auctioneer are as follows:

### **Advertisement and prep work**

1. Must be currently licensed and bonded to conduct auction sales in the State of North Dakota.
2. Meet with the Bismarck Police Department and City department heads in February concerning the yearly auction.
3. After receiving the preliminary list of items (by the last week in March), will prepare sale bills to be printed as least one month in advance for advertisement.
4. Set up local advertising with approval of Bismarck Police Department.

### **Items needed the week prior to the auction**

1. A minimum of three 18-20 foot trailers for miscellaneous items.
2. One 20 foot flatbed trailer for the sale of bicycles.

3. One bike rack that can hold a minimum of 15 bikes upright to be used on the trailer during the auction of bicycles.
4. Order two double portable bathrooms and a wash sink.
5. Secure a food vendor for the day.

#### **Day of sale**

1. Must have an adequate public address system (PA) assuring that all bidders can hear and understand auctioneer.
2. The auction is held no matter what the weather; in case of inclement weather, an enclosed trailer will be necessary in order to conduct all necessary business related activities on the day of sale.
3. Must have at least two personnel available for bidder registration and after auction checkout at all times during the auction.
4. Must have at least two auctioneers/clerks for documentation of items sold to highest bidders.
5. Must supply at least six to eight workers to assist with the smooth transition from item to item during the bidding process.
6. Must keep complete documentation of all items sold to the identified bidder(s), assuring that each of the City departments' items are accounted for after the auction.
7. Will provide or arrange for concession services the day of sale.
8. Will have the ability to run concurrent dual auctions if the amount of items available would exceed having the auction completed in a timely manner.

#### **After sale paperwork**

1. Must provide a "bidders list" which must consist of the bidder's name, address, telephone number, driver's license number and bidder number.
2. Make copies of bidder list(s) and vehicle buyers and provide this information to the Bismarck Police Department within one week of the sale.
3. Provide auction results (items, winning bidder and highest bid) for each item supplied by the individual City departments. These results will be supplied to the Bismarck Police Department within two weeks after the sale.
4. Provide separate checks for each of the City departments that participated in the auction for the items supplied by that department, less the percentage of auction expenses.
5. The auctioneer will be responsible for all auction expenses, which will be reimbursed at the end of the auction. Auctioneer will determine the percentage of responsibility for related expenses for the individual City departments participating in the auction.
6. All bills to be paid from auctioneer and reimbursed through the auction funding. Examples are: portable bathrooms, locksmith for unlocking

doors, advertisement, and towing company for relocating vehicles, if necessary, etc.

**Other items**

1. Work closely with the Bismarck Police Department to address new concerns and changing requirements during prep work, during the auction, and after the auction.
2. The auctioneer accepts full responsibility for all checks accepted as a result of the auction.

Your sales commission for conducting the auction is 12 % for each of the annual auctions held in 2020, 2021 and 2022.

Dated this 21<sup>st</sup> day of January, 2020.

Kenneth Mowen  
Signature

Harold's Auction  
Name of Company

701-220-8575  
Telephone Number



## **PUBLIC WORKS – SERVICE OPERATIONS**

**DATE:** January 31, 2020  
**FROM:** Jeff Heintz, Director of Service Operations   
**ITEM:** Cancellation of Agreement for Waste Collection Containers

### **REQUEST**

Report on cancellation of agreement with IPL, Inc. for solid waste and yard waste collection containers.

Please place this item on the February 11, 2020 City Commission meeting.

### **BACKGROUND INFORMATION**

The Public Works Service Operations Department entered into a contract with IPL, Inc. for furnishing solid waste and yard waste containers on February 12, 2019. The City has been experiencing failures of the containers when the automated truck system grabs them. The failures include crushing, cracking, and wheels breaking. The City has contacted IPL to remedy the situation, but to no avail. On January 24, 2020, a certified letter was mailed to IPL, Inc. giving them a 30-day notice of cancellation of the contract. Public Works Service Operations will begin the bidding process for a new cart supplier.

I will be present at the meeting to respond to questions the Board may have regarding this matter.

### **RECOMMENDED CITY COMMISSION ACTION**

Accept the report on the contract cancellation with IPL, Inc. for the furnishing of solid waste and yard waste containers.

### **STAFF CONTACT INFORMATION**

Jeff Heintz, Director of Service Operations, 355-1700, [jheintz@bismarcknd.gov](mailto:jheintz@bismarcknd.gov)



Bismark



## *Public Works Service Operations Department*

**DATE:** February 3, 2020

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

A handwritten signature in blue ink, appearing to read "JH", is written over the name "Jeff Heintz" in the "FROM:" line.

**ITEM:** Request Commission approval of contract for consulting services for the Fire Station 3 Remodel Project

### **REQUEST**

Approval to accept the contract for consulting services for the Fire Station 3 Remodel Project.

Please place this item on the 2/11/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

An RFQ was released November, 2019 and a review committed selected Engineers-Architects, P.C. (EAPC) to provide engineering/architectural services for design, contract documents preparation, and bidding and contract administration for the Fire Station 3 Remodel Project. The contract amount is not to exceed \$53,044.01.

### **RECOMMENDED CITY COMMISSION ACTION**

Approve the contract with EAPC for the Fire Station 3 Remodel Project for an amount not to exceed \$53,044.01.

### **STAFF CONTACT INFORMATION**

Jeff Heintz | Service Operations Director, 355-1700 or [jheintz@bismarcknd.gov](mailto:jheintz@bismarcknd.gov) I will be present at the meeting for questions.



# AIA<sup>®</sup> Document B101<sup>™</sup> – 2017

## Standard Form of Agreement Between Owner and Architect

**AGREEMENT** made as of the Twentieth day of January in the year Two thousand twenty  
(In words, indicate day, month and year.)

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

City of Bismarck, Other  
601 South 26th Street  
P.O. Box 5503  
Bismarck, ND 58506-5503

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

Engineers-Architects, P.C. (herein known as EAPC Architects Engineers)  
116 West Main Ave., Suite A  
Bismarck, ND 58501  
Telephone Number: (701) 258-3116  
Fax Number: (701) 223-7983

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

Fire Department Facilities  
Station #3 Remodel  
2340 Tyler Parkway  
Bismarck, North Dakota  
Project Number: 20201440

The Owner and Architect agree as follows.

### ADDITIONS AND DELETIONS:

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

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

Init.

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**ARTICLE 1 INITIAL INFORMATION**

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

To be worked out and mutually agreed upon with Architect and Owner.

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

Apparatus addition (single bay) to the west side of the existing station with an infill addition to square off the northeast corner of the station to provide 4 individual sleeping quarters. Also consider remodeling of the existing kitchen, dayroom and Captain's quarters.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

*(Provide total and, if known, a line item breakdown.)*

\$650,000 and to be finalized as project progresses.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

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- .1 Design phase milestone dates, if any:  
To be complete for a pre-spring 2020 bid date.
- .2 Construction commencement date:  
Spring 2020
- .3 Substantial Completion date or dates:  
Spring 2021
- .4 Other milestone dates:  
N/A

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:  
*(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)*

Design, bid, build utilizing three prime contracts – General, Mechanical and Electrical.

§ 1.1.6 The Owner’s anticipated Sustainable Objective for the Project:  
*(Identify and describe the Owner’s Sustainable Objective for the Project, if any.)*

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner’s Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:  
*(List name, address, and other contact information.)*

Bruce Shirado, Facilities Manager  
City of Bismarck Public Works  
601 S. 26<sup>th</sup> St.  
P. O. Box 5503  
Bismarck, ND 58506-5503  
Telephone Number: (701) 390-0070  
Email: bschirado@bismarcknd.gov

§ 1.1.8 The persons or entities, in addition to the Owner’s representative, who are required to review the Architect’s submittals to the Owner are as follows:  
*(List name, address, and other contact information.)*

Dean Meyer, Deputy Chief  
Bismarck Fire Department  
1020 East Center Ave.  
Bismarck, ND 58501  
Telephone Number: (701) 222-6524  
Fax Number: (701) 222-6524

Email: dmeyer@bismarcknd.gov

§ 1.1.9 The Owner shall retain the following consultants and contractors:  
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

Unknown at this time.

.2 Civil Engineer:

N/A

.3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

N/A

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:  
(List name, address, and other contact information.)

Brett Donat  
EAPC Architects Engineers  
116 West Main Ave., Suite A  
Bismarck, ND 58501  
Telephone Number: (701) 224-7302  
Fax Number: (701) 223-7983  
Mobile Number: (701) 425-2626  
Email Address: brett.donat@eapc.net

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:  
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

EAPC (In-house)

.2 Mechanical Engineer:

EAPC (In-house)

.3 Electrical Engineer:

EAPC (In-house)

4. Civil Engineer:

Unknown at this time.

§ 1.1.11.2 Consultants retained under Supplemental Services:

N/A

§ 1.1.12 Other Initial Information on which the Agreement is based:

N/A

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

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

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

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

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than One Million Dollars (\$ 1,000,000 ) for each occurrence and Two Million Dollars (\$ 2,000,000 ) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars (\$ 1,000,000 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than One Million Dollars (\$ 1,000,000 ) each accident, One Million Dollars (\$ 1,000,000 ) each employee, and One Million Dollars (\$ 1,000,000 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Five Million Dollars (\$ 5,000,000 ) per claim and Five Million Dollars (\$ 5,000,000 ) in the aggregate.

§ 2.5.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

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

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

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

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

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

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

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

### § 3.2 Schematic Design Phase Services

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

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

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

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

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

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

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

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

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

### § 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

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

### § 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the

Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

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

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

**§ 3.4.4** The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

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

### **§ 3.5 Procurement Phase Services**

#### **§ 3.5.1 General**

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

#### **§ 3.5.2 Competitive Bidding**

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

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

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

**§ 3.5.2.3** If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

#### **§ 3.5.3 Negotiated Proposals**

**§ 3.5.3.1** Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

**§ 3.5.3.2** The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

**§ 3.5.3.3** If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

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### **§ 3.6 Construction Phase Services**

#### **§ 3.6.1 General**

**§ 3.6.1.1** The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect’s services under this Agreement unless the Owner and the Architect amend this Agreement.

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

**§ 3.6.1.3** Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect’s responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

#### **§ 3.6.2 Evaluations of the Work**

**§ 3.6.2.1** The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

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

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

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

**§ 3.6.2.5** Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

#### **§ 3.6.3 Certificates for Payment to Contractor**

**§ 3.6.3.1** The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect’s certification for payment shall constitute a representation to the Owner, based on the

Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

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

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

#### **§ 3.6.4 Submittals**

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

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

**§ 3.6.4.3** If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

**§ 3.6.4.4** Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

#### **§ 3.6.5 Changes in the Work**

**§ 3.6.5.1** The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to

Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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

**§ 3.6.6 Project Completion**

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

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

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

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

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

**ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES**

**§ 4.1 Supplemental Services**

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect/Owner – Part of Basic Services
§ 4.1.1.2 Multiple preliminary designs	Architect – Part of Basic Services
§ 4.1.1.3 Measured drawings	Architect – Additional Services
§ 4.1.1.4 Existing facilities surveys	Not Provided
§ 4.1.1.5 Site evaluation and planning	Architect – Part of Basic Services
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided

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Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Architect – Part of Basic Services
§ 4.1.1.9 Landscape design	Architect – Part of Basic Services
§ 4.1.1.10 Architectural interior design	Architect – Part of Basic Services
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Not Provided
§ 4.1.1.14 Conformed documents for construction	Not Provided
§ 4.1.1.15 As-designed record drawings	Architect – Part of Basic Services
§ 4.1.1.16 As-constructed record drawings	Architect – Part of Basic Services
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Not Provided
§ 4.1.1.21 Telecommunications/data design	Architect – Part of Basic Services
§ 4.1.1.22 Security evaluation and planning	Not Provided
§ 4.1.1.23 Commissioning	Not Provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Not Provided
§ 4.1.1.29 Other services provided by specialty Consultants	Not Provided
§ 4.1.1.30 Other Supplemental Services	Not Provided

**§ 4.1.2 Description of Supplemental Services**

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

*(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)*

All items noted as by "Architect" and "Part of Basic Services" will be provided within the base fee. See attached Fee Proposal for addition services.

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

*(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)*

N/A

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

#### § 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

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

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

\* Visits per Exhibit "C" – attached to this Contract.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within twenty-four ( 24 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

#### ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

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

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

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

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

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

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

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

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

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

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

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

## ARTICLE 6 COST OF THE WORK

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

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

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar

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conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

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

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

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

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

**§ 6.7** If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## **ARTICLE 7 COPYRIGHTS AND LICENSES**

**§ 7.1** The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

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

**§ 7.3** The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

**§ 7.3.1** In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of

action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

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

**§ 7.5** Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§ 8.1 General**

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

**§ 8.1.2** To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

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

### **§ 8.2 Mediation**

**§ 8.2.1** Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

**§ 8.2.2** The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

**§ 8.2.3** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

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

*(Check the appropriate box.)*

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: *(Specify)*

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

### § 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

### § 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

## ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of

services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

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

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

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

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

.1 Termination Fee:

Any remaining unpaid fees for work already completed.

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

None.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

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

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if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

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

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

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

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

## ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum  
*(Insert amount)*  
  
N/A
- .2 Percentage Basis  
*(Insert percentage value)*

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N/A ( ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

**.3 Other**  
*(Describe the method of compensation)*

See Exhibit "B" Part One – Fee Structure, Reimbursables & Additional Services

**§ 11.2** For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

See Exhibit "B" Part One – Fee Structure, Reimbursables & Additional Services

**§ 11.3** For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation.)*

To be negotiated on an hourly basis.

**§ 11.4** Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus ten percent ( 10%), or as follows:  
*(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*

**§ 11.5** When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	Fifteen	percent (	15	%)
Design Development Phase	Twenty	percent (	20	%)
Construction Documents Phase	Forty	percent (	40	%)
Procurement Phase	Five	percent (	5	%)
Construction Phase	Twenty	percent (	20	%)
Total Basic Compensation	one hundred	percent (	100	%)

**§ 11.6** When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

**§ 11.6.1** When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

**§ 11.7** The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.  
*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

See Exhibit "B" Part Two FY 2020 Hourly Rates

Employee or Category

Rate (\$0.00)

**§ 11.8 Compensation for Reimbursable Expenses**

**§ 11.8.1** Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

**§ 11.8.2** For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent ( 10 %) of the expenses incurred.

**§ 11.9 Architect's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

*(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)*

N/A

**§ 11.10 Payments to the Architect**

**§ 11.10.1 Initial Payments**

**§ 11.10.1.1** An initial payment of Zero (\$ 0 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

**§ 11.10.1.2** If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of N/A (\$ N/A ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

**§ 11.10.2 Progress Payments**

**§ 11.10.2.1** Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid sixty ( 60 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

*(Insert rate of monthly or annual interest agreed upon.)*

1.5 % Monthly

**§ 11.10.2.2** The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

**§ 11.10.2.3** Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

**ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Agreement are as follows:

*(Include other terms and conditions applicable to this Agreement.)*

None.

**ARTICLE 13 SCOPE OF THE AGREEMENT**

**§ 13.1** This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

**§ 13.2** This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:  
*(Insert the date of the E203-2013 incorporated into this agreement.)*

N/A

- .3 Exhibits:  
*(Check the appropriate box for any exhibits incorporated into this Agreement.)*

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:  
*(Insert the date of the E204-2017 incorporated into this agreement.)*

Other Exhibits incorporated into this Agreement:  
*(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)*

Exhibit "A" Not Used

Exhibit "B" Part One – Fee Structure, Reimbursables and Additional Services

Exhibit "B" Part Two – Hourly Rates

Exhibit "C" Site Visitation Schedule

- .4 Other documents:  
(List other documents, if any, forming part of the Agreement.)

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

\_\_\_\_\_  
**OWNER** (Signature)

\_\_\_\_\_  
Mayor, City of Bismarck  
(Printed name and title)

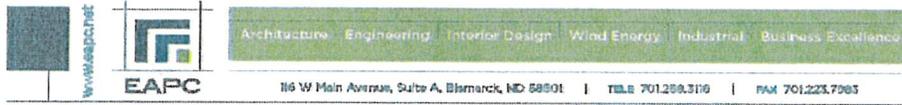


\_\_\_\_\_  
**ARCHITECT** (Signature)

\_\_\_\_\_  
Alan D. Dostert, AIA, President/CEO for EAPC  
(Printed name, title, and license number, if required)

Init.

Exhibit "B" Part One



**Architectural/Engineering Fee Proposal -Bismarck Station #3 Remodel/Additions**  
 1/20/2020

This fee proposal is based upon delivery of the services as noted in the Request for Qualifications:

Full Professional Services Fee including Architectural, Interiors, Structural, Mechanical, Electrical and Civil.  
 Fee is based upon a Percentage of Construction Costs.

<b>A. Project Budget:</b>	
Total Budget	\$ 650,000.00
<b>B. Budget Breakdown:</b>	
Owners Soft Costs	
Appraisal	\$ 1,250.00
Site Survey	\$ 2,000.00
Soil Borings	\$ 2,000.00
Advertisement (Bidding)	\$ 600.00
FFE	\$ 10,000.00
<b>A/E Fees (Standard Basic Services)</b>	<b>\$ 49,394.01</b>
<b>A/E Fees (Additional Services)</b>	
Measured Drawings (as-builts)	\$ 2,500.00
Construction Cost (Including Contingency)	\$ 581,105.99
<b>C. Direct Reimbursables</b>	
Exterior 3-D Rendering (optional)	\$ 2,500.00 (Optional)
Prints, Etc.	\$ 750.00
Postage, Delivery, Misc. Office Expense	\$ 400.00
<b>Total Reimbursables</b>	<b>\$ 1,150.00</b>
<b>TOTAL DESIGN FEE (w/o Rendering)</b>	<b>\$ 53,044.01</b>

EAPC Architects Engineers  
 300 3rd Ave SW  
 Suite A  
 Minot, ND 58701

Prepared by:  
 Alan D. Dostert, AIA  
[alan.dostert@eapc.net](mailto:alan.dostert@eapc.net)

Init.

Exhibit "B" Part Two



**Hourly Rate Structure – FY2020**

<b>Business Excellence/Lean</b>	
▪ Program Director -----	\$ 201.00 per hour
<b>Architectural/Engineering Services</b>	
▪ Principal Architect/Engineer -----	\$ 200.00 per hour
▪ Associate Architect/Engineer -----	\$ 185.00 per hour
▪ Department Manager -----	\$ 178.00 per hour
▪ Project Manager -----	\$ 170.00 per hour
▪ Senior Architect/Engineer/Designer -----	\$ 170.00 per hour
▪ Architect/Engineer/Designer -----	\$ 153.00 per hour
▪ Architect/Engineer/Designer Intern I -----	\$ 141.00 per hour
▪ Architect/Engineer/Designer Intern II -----	\$ 131.00 per hour
▪ Architect/Engineer Technician Level I -----	\$ 119.00 per hour
▪ Architect/Engineer Technician Level II -----	\$ 115.00 per hour
▪ CADD Technician Level I -----	\$ 102.00 per hour
▪ CADD Technician Level II -----	\$ 93.00 per hour
▪ Intern -----	\$ 60.00 per hour
<b>Construction Services</b>	
▪ Associate Construction Specialist -----	\$ 160.00 per hour
▪ Construction Specialist Level I -----	\$ 131.00 per hour
▪ Construction Specialist Level II -----	\$ 119.00 per hour
▪ Construction Technician Level I -----	\$ 110.00 per hour
▪ Construction Technician Level II -----	\$ 98.00 per hour
<b>Office Support Services</b>	
▪ Secretarial Level I -----	\$ 80.00 per hour
▪ Secretarial Level II -----	\$ 74.00 per hour
▪ Office Assistant -----	\$ 60.00 per hour
Mileage (follows the current federal rate) -----	\$ 0.575 per mile

Direct project costs such as printing, postage and out of town travel expenses (i.e. meals, hotels, airfare or other related expenses) will be assessed a 15% markup for administration. Mileage will be charged at the current federal rate at the time of invoicing.

All rates are effective through December 31, 2020.

Bismarck, Fargo, Grand Forks, Minot, Williston ND	Sioux Falls SD	Bemidji, St. Paul MN
Phoenix AZ	Fort Collins CO	Norwich VT
Buenos Aires ARG		

**Exhibit 'C'**

**SITE VISITATION SCHEDULE**

"Site Visits" – The Architect will visit the Project Site during Schematic Design, Design Development, Construction Documentation and the Bidding Phase as required to obtain information prior to the Construction Phase and for a Pre-Bid Conference with all (attending) Plan-holders prior to issuing the last Addendum.

Further, the Architect will visit the project site during the Construction Phase at the following times (all on an as needed basis as directed by the owner/owner's rep):

1. Pre-Construction meeting with Owner, Construction Manager Agency.
2. Bi-monthly construction meetings.
3. Before closing walls.
4. During painting.
5. Final inspection. (up to 2 trips)
6. Punch list follow-up. (up to 2 trips)
7. Visit site at other times, as Project demands.
8. As required, if deficiencies occur during the one year warranty period.
9. Prior to the release of the Construction one-year warranty obligation.

Note: Some visits will be combined with the "Monthly Pay-Out" visit.

Init.



## **PUBLIC WORKS – SERVICE OPERATIONS**

**DATE:** February 4, 2020  
**FROM:** Jeff Heintz, Director of Service Operations   
**ITEM:** Permission to request donations for the 2020 Public Works Day Celebration.

### **REQUEST**

Request to ask for donations for the 2020 Public Works Day celebration.

Please place this item on the February 11, 2020 City Commission meeting.

### **BACKGROUND INFORMATION**

The annual observance of Public Works Week takes place in May and is designed to educate communities and their leaders on the importance of our nation's public infrastructure and public works services. It is also designed to increase public awareness of the contributions as well as to enlighten the public about the duties, practices, and goals of public works professionals.

In 2019, the Bismarck Public Works Department geared the event to children K-5 at the Public Works Building. There were demonstrations, equipment displays, hands-on displays, and much more. As part of this year's festivities, we would like to use donations to enhance the opportunity to promote and celebrate Public Works Week in our community.

I will be present at the City Commission meeting to respond to questions the Board may have regarding this matter.

### **RECOMMENDED CITY COMMISSION ACTION**

Approve Public Works to solicit donations for the 2020 "Public Works Week" celebration.

### **STAFF CONTACT INFORMATION**

Jeff Heintz, Director of Service Operations, 355-1700, [jheintz@bismarcknd.gov](mailto:jheintz@bismarcknd.gov).

# NATIONAL PUBLIC WORKS WEEK

MAY 17-23, 2020



THE  
*Rhythm*  
OF  
PUBLIC WORKS

**APWA**



## PUBLIC WORKS – UTILITY OPERATIONS

**DATE:** January 29, 2020  
**FROM:** Michelle Klose, P.E., Director of Utility Operations *MK*  
**ITEM:** Approval of USGS Contract for Streamflow and Water Level Monitoring

### REQUEST

Approval of U.S. Geological Survey Contract for Streamflow and Water Level Monitoring.

Please place this item on the February 11, 2020 City Commission meeting.

### BACKGROUND INFORMATION

The City has been working with the United States Geological Survey (USGS) to develop historic streamflow information for Hay Creek within the City of Bismarck. The USGS has provided a proposal to continue the streamflow monitoring program for an additional year. The City-funded portion of the proposal includes monitoring of Hay Creek at (at Main Avenue) plus the water level monitoring station at the South Bismarck Storm Water Channel at Wachter Avenue. The City's share of this program for the coming year is \$11,860 after the USGS cost share is applied.

### RECOMMENDED CITY COMMISSION ACTION

We are requesting permission from the Board to allow the City of Bismarck to enter into a one-year contract with the USGS to continue the streamflow monitoring program detailed in the agreement at a cost of \$11,860. This project would be funded by the storm water utility fund.

### STAFF CONTACT INFORMATION

Michelle Klose, P.E., Director of Utility Operations  
[mklose@bismarcknd.gov](mailto:mklose@bismarcknd.gov) 701-355-1700



United States Department of the Interior  
U.S. GEOLOGICAL SURVEY  
Dakota Water Science Center

ND Programs Office  
821 E. Interstate Avenue  
Bismarck, ND 58503

SD Programs Office  
1608 Mountain View Road  
Rapid City, SD 57702

January 17, 2020

Ms. Michelle Klose  
Director of Utility Operations  
City of Bismarck  
P.O. Box 5503  
Bismarck, North Dakota 58506

Dear Ms. Klose:

Enclosed are two signed originals of our standard joint-funding agreement (20NTJFAND0058) for the Dakota Water Science Center Water Resources Investigations project operation and maintenance of the streamflow monitoring gaging stations on Hay Creek at Main and Wachter Avenue's, during the period January 1, 2020 through December 31, 2020 in the amount of \$11,860 from your agency. U.S. Geological Survey contributions for this agreement are \$5,130 for a combined total of \$16,990. Please sign and return one fully-executed original to Sheri Meier at the Rapid City address above.

Federal law requires that we have a signed agreement before we start or continue work. Please return the signed agreement as soon as possible. If, for any reason, the agreement cannot be signed and returned promptly, please contact Christopher Laveau at phone number (701) 775-7221 or email him at [cdlaveau@usgs.gov](mailto:cdlaveau@usgs.gov) to make alternative arrangements.

This is a fixed cost agreement to be billed annually via Down Payment Request (automated Form DI-1040). Please allow 30-days from the end of the billing period for issuance of the bill. If you experience any problems with your invoice(s), please contact Sheri Meier at phone number (605) 394-3210 or email at [smeier@usgs.gov](mailto:smeier@usgs.gov).

The results of all work performed under this agreement will be available for publication by the U.S. Geological Survey. We look forward to continuing this and future cooperative efforts in these mutually beneficial water resources studies.

Sincerely,

Peter J. Cinotto  
Acting Director

Enclosure  
20NTJFAND0058 (2)

Form 9-1366  
(May 2018)

U.S. Department of the Interior  
U.S. Geological Survey  
Joint Funding Agreement  
FOR  
Water Resource Investigations

Customer #: 6000000114  
Agreement #: 20NTJFAND0058 Zd  
Project #: NT00GT1 1ND  
TIN #: 45-6002036

Fixed Cost Agreement YES[ X ] NO[ ]

THIS AGREEMENT is entered into as of the January 1, 2020, by the U.S. GEOLOGICAL SURVEY, Dakota Water Science Center, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the City of Bismarck party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation for the Water Resource Investigations project for operation and maintenance of the streamflow monitoring gaging stations on Hay Creek at Main and Wachter Avenue's, herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50, and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) include In-Kind-Services in the amount of \$0.00

- (a) \$5,130 by the party of the first part during the period January 1, 2020 to December 31, 2020
- (b) \$11,860 by the party of the second part during the period January 1, 2020 to December 31, 2020
- (c) Contributions are provided by the party of the first part through other USGS regional or national programs, in the amount of: \$0  
Description of the USGS regional/national program: n/a
- (d) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.
- (e) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program, and if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at cost, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties. The Parties acknowledge that scientific information and data developed as a result of the Scope of Work (SOW) are subject to applicable USGS review, approval, and release requirements, which are available on the USGS Fundamental Science Practices website (<https://www.usgs.gov/about/organization/science-support/science-quality-and-integrity/fundamental-science-practices>).

U.S. Department of the Interior  
U.S. Geological Survey  
Joint Funding Agreement  
FOR  
Water Resource Investigations

Customer #: 6000000114  
Agreement #: 20NTJFAND0058 Zd  
Project #: NT00GT1 IN D  
TIN #: 45-6002036

9. Billing for this agreement will be rendered annually. Invoices not paid within 60 days from the billing date will bear Interest, Penalties, and Administrative cost at the annual rate pursuant the Debt Collection Act of 1982, (codified at 31 U.S.C. § 3717) established by the U.S. Treasury.

USGS Technical Point of Contact

Name: Christopher Laveau  
Supervisory Hydrologist  
Address: 4575 32nd Ave. S. Suite 6  
Grand Forks, ND 58201  
Telephone: (701) 775-7221  
Fax: (701) 775-1114  
Email: cdlaveau@usgs.gov

Customer Technical Point of Contact

Name: Michelle Klose  
Director of Utility Operations  
Address: PO Box 5503  
Bismarck, North Dakota 58506  
Telephone: (701) 355-1700  
Fax:  
Email: mklose@bismarcknd.gov

USGS Billing Point of Contact

Name: Sheri Meier  
Budget Analyst  
Address: 1608 Mountain View Road  
Rapid City, SD 57702  
Telephone: (605) 394-3210  
Fax: (605) 355-4523  
Email: smeier@usgs.gov

Customer Billing Point of Contact

Name: Michelle Klose  
Director of Utility Operations  
Address: PO Box 5503  
Bismarck, North Dakota 58506  
Telephone: (701) 355-1700  
Fax:  
Email: mklose@bismarcknd.gov

U.S. Geological Survey  
United States  
Department of Interior

City of Bismarck

Signature

By  Date: 01/17/2020  
Name: Peter J. Cinotto  
Title: Acting Director

Signatures

By \_\_\_\_\_ Date: 2.11.20  
Name: Steve Backen  
Title: President of Board of City Commissioners

By \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Title:

By \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Title:



## PUBLIC WORKS – UTILITY OPERATIONS

**DATE:** February 11, 2020

**FROM:** Michelle Klose, P.E., Director of Utility Operations *MK*

**ITEM:** Approval of Engineering Task Order and Grant Funding Request for Jackman Coulee Dam

### REQUEST

Approval of Engineering Task Order for development of Emergency Action Plan and Grant application to the State Water Commission for Emergency Action Plan and repairs of Jackman Coulee High Hazard Dam.

Please place this item on the February 11, 2020 City Commission meeting.

### BACKGROUND INFORMATION

The recent annual State Water Commission inspection of Jackman Coulee Dam identified the facility in poor condition and recommended completion of an emergency action plan. The State Water Commission has grant funding available to cover costs up to 80% for Emergency Action Plans and 50% for high hazard dam repairs. This project can be considered at the April 9<sup>th</sup> State Water Commission meeting if our application is submitted prior to February 24, 2020.

The task order with Houston Engineering is to complete the Emergency Action Plan and the Breach Inundation Study for \$34,000, and meet the requirements of the State Water Commission. We request City Commission approval of this task order. The work under the task order is eligible for up to 80% grant funding of \$27,200.

Bismarck Engineering Department is working on the contract for the emergency repairs and the estimated cost is \$130,000. The potential State Water Commission grant funding is up to \$65,000.

### RECOMMENDED CITY COMMISSION ACTION

We are requesting approval of the Engineering Task Order in the amount of \$34,000 for preparation of the Emergency Action Plan, and approval to submit grant application for both the emergency action plan and the dam repairs.

## STAFF CONTACT INFORMATION

Michelle Klose, P.E., Director of Utility Operations  
[mklose@bismarcknd.gov](mailto:mklose@bismarcknd.gov) 701-355-1700



Bismarck Office

P 701.323.0200

F 701.323.0300

3712 Lockport Street | Bismarck ND 58503

January 21, 2020

Terry Halstengard  
Program Coordinator  
Public Works Utility Operations  
PO Box 5503  
Bismarck, ND 58506-5503

Dear Mr. Halstengard:

Attached is a proposed scope of services including projected costs for development of an Emergency Action Plan for the Jackman Coulee Dams located within the Tom O'Leary Golf Course. Task I includes the development of all the elements of an emergency action plan including identification of responsibilities and expected actions, notification flow charts as well as developing the comprehensive report document.

Task II includes the breach inundation modeling and mapping. The State Engineer requires mapping of both a 'sunny day' breach as well as a breach occurring during the inflow design event, which is, in the case of Jackman Coulee Dam, a 0.5 PMP event. As we discussed, our proposed approach is to utilize the prior existing 0.5 PMP hydrology and breach model developed for the original design and regulatory compliance. The resulting hydrograph will then be routed through the HEC-RAS and SWMM hydraulic models used for the limited detailed study of Jackman Coulee for the currently effective Flood Insurance Study.

We did discuss the benefits of developing a new HEC-RAS 2D model for Jackman Coulee below the dam, but your stated desire was to avoid that additional cost at this time. We also discussed the ongoing effort to update PMP hydrology for the entire state, but the desire was to move forward at this time rather than waiting. The likelihood of an analysis completed using the current PMP hydrology to be 'conservative' was a factor in that decision.

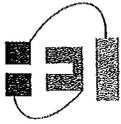
The State Water Commission's cost share policy is to provide up to 80% cost share assistance for the development of Emergency Action Plans. If that level of assistance were provided, the SWC would reimburse \$27,200 of the cost with the city's ultimate cost being \$6,800. Because the cost is less than \$35,000 no engineering selection process is required. Because the cost is less than \$75,000 the State Engineer can approve the request without it needing to go to the full commission. However, no costs incurred prior to cost share approval would be eligible for reimbursement. Therefore, if it is your intent to proceed with this effort, and you desire state cost share assistance, it would be advantageous to proceed as soon as possible with an application, given the pending retirement of the current State Engineer.

If you have any questions or comments, please feel free to call at (701) 323-0200 or contact me by email at [codenbach@houstoneng.com](mailto:codenbach@houstoneng.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Odenbach", is written over a horizontal line.

Craig Odenbach, P.E., CFM  
Project Manager



**JACKMAN COULEE DAM  
EMERGENCY ACTION PLAN  
SCOPE OF SERVICES**

**Task I Emergency Action Plan Report**

**\$14,700**

This initial Phase will include developing all the information required to complete an Emergency Action Plan document with the exception of the Breach Analysis and Inundation Mapping. Specific tasks include:

- Compiling General Project Data
- Identifying Detection and Evaluation Procedures
- Identifying Responsibilities and Expected Actions
- Develop Directory and Notification Flowchart
- Describe Emergency Remedial Measures
- Develop List of Locally Available Resources & Contractors
- Develop Comprehensive Report Document

**Task II Breach Inundation Study/Mapping**

**\$19,300**

This subsequent Phase will include everything required to complete an analysis of a breach of the structure and to map the resulting inundation and incorporate the results in the EAP report document. Specific tasks include:

- Refine existing 0.5PMP Hydrology
- Refine existing HEC-1 Breach Analysis
- Route 0.5 PMP Breach and Sunny Day Breach using existing HEC-RAS and SWMM models.
- Digital Mapping of Inundation Zones
- Incorporation of Results in EAP Document
- Develop Narrative summary of modelling approach

---

**Total Cost**

**\$34,000**



## *Community Development Department*

**DATE:** January 11<sup>th</sup>, 2020

**FROM:** Ben Ehreth, Community Development Director

**ITEM:** Bismarck Building Code and Fire Prevention Code – Building Regulation Ordinance Text Amendment

### **REQUEST**

The City of Bismarck Community Development Department – Building Inspections Division is initiating a building regulations ordinance text amendment in order to update the City of Bismarck Building Code and Fire Prevention Code.

Please place this item on the January 28<sup>th</sup>, 2020 City Commission meeting agenda and the February 11<sup>th</sup>, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The proposed amendments will update the City of Bismarck Building Code to the 2018 International Building Code (IBC), International Residential Code (IRC), International Mechanical Code (IMC), International Fuel Gas Code (IFGC), International Energy Conservation Code (IECC) International Existing Building Code (IEBC) and the Bismarck Fire Prevention Code to the 2018 International Fire Code.

These International Codes published by the International Code Council are nationally recognized codes that are updated every three years and establish the minimum acceptable standards necessary for protecting the public health, safety, and welfare in the built environment.

The North Dakota Legislative Assembly mandates that the North Dakota State Building Code consist of the above referenced codes. The City of Bismarck has consistently adopted the same codes as the State of North Dakota. The proposed amendments provided in this text amendment include State of North Dakota amendments and local amendments.

The North Dakota Department of Commerce, Division of Community Services announced its intentions to update and amend the State Building Code in 2019.

Proposed amendments received in May 2019 were reviewed and considered by the North Dakota Building Code Advisory Committee and posted on the Department of Commerce, Division of Community Services website.

A public hearing of the Building Code Advisory Committee to receive comments and develop recommendations on the proposed amendments was held in July 2019 and proposed amendments recommended by the Building Code Advisory Committee were posted on the Department of Commerce, Division of Community Services website in August 2019.

A meeting of eligible voting jurisdictions and voting individuals was held in September 2019.

The updated 2020 North Dakota State Building Code was recently posted on the Department of Commerce, Division of Community Service website in November 2019.

The State Building Code was effective January 1, 2020.

### **RECOMMENDED CITY COMMISSION ACTION**

January 28th meeting – consider the building regulation ordinance text amendment as outlined in Ordinance 6403 and call for a public hearing on this item for the February 11th meeting.

February 11th meeting – hold a public hearing on the building regulation ordinance text amendment as outlined in Ordinance 6403 and take final action on the request.

### **STAFF CONTACT INFORMATION**

Ben Ehreth, AICP | Community Development Director, 355-1842 or [behreth@bismarcknd.gov](mailto:behreth@bismarcknd.gov)

Brady Blaskowski, CBCO, CFM | Building Official, 355-1467 or [bblaskowski@bismarcknd.gov](mailto:bblaskowski@bismarcknd.gov)

**CITY OF BISMARCK**  
**Ordinance No. 6403**

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

AN ORDINANCE TO AMEND SECTIONS 4-02-02, 4-02-06 AND 4-07-06 OF THE BISMARCK CODE OF ORDINANCES RELATING TO BISMARCK BUILDING CODE AND AMENDMENTS AND BISMARCK FIRE PREVENTION CODE AND AMENDMENTS THERETO.

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

Section 1. Amendment. Section 4-02-02 of the City of Bismarck Code of Ordinances relating to Adoption of the City of Bismarck Building Code is hereby amended and re-enacted to read as follows:

**4-02-02. Adoption of the City of Bismarck Building Code.**

There is hereby adopted by the City of Bismarck and incorporated by reference herein the City of Bismarck Building Code which shall consist of the following codes, except those portions hereinafter deleted, modified or amended; (appendix chapters are not adopted unless specified):

~~2015~~ 2018 International Building Code (IBC)

~~2015~~ 2018 International Residential Code (IRC) (including appendix E & J)

~~2015~~ 2018 International Mechanical Code (IMC)

~~2015~~ 2018 International Fuel Gas Code (IFGC)

~~2015~~ 2018 International Energy Conservation Code (IECC)

2018 International Existing Building Code

Wiring Standards of North Dakota

North Dakota State Plumbing Code

(Ord. 4281, 8-23-89; Ord. 4452, 07-21-92; Ord. 4688, 05-23-95; Ord. 4911, 05-26-98; Ord. 5025, 01-11-00; Ord. 5316, 05-25-04; Ord. 5578, 02-26-08; Ord. 5802, 02-22-11; Ord. 6035, 04-08-14)

Section 2. Amendment. Section 4-02-06 of the City of Bismarck Code of Ordinances relating to Amendments to the Codes is hereby amended and re-enacted as follows:

**4-02-06. Amendments to the Codes.** The codes adopted in Section 4-02-02 are hereby amended as follows:

1. General: Whenever reference is made to the National Electrical Code (NEC) it shall mean the Wiring Standards of North Dakota. Whenever reference is made to the International Plumbing Code (IPC) or the International Private Sewage Disposal Code (IPSDC) it shall mean the North Dakota State Plumbing Code. Whenever reference is made to flood hazard areas or flood-resistant construction requirements, the City of Bismarck Ordinance, Title 14, Chapter 14-04, Floodplain District regulations shall apply.

Whenever any work for which a permit is required has been commenced without first obtaining said permit the fee for said permit shall be double the normal fee.

2. 2018 ~~2015~~ International Building Code (IBC):

Section 101.1 Title. Amend: NAME OF JURISDICTION to The City of Bismarck)

Section 101.4.3 Plumbing. Amend to read: Section 101.4.3 The provisions of the North Dakota State Plumbing Code shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. The provisions of the North Dakota State Plumbing Code shall apply to private sewage disposal systems.

Section 103 DEPARTMENT OF BUILDING SAFETY. Delete:

Section 101.4.7 Existing Buildings. Add: Exception: 1. Existing buildings may use Chapter 34 of the IBC 2012 as an alternative to using the IEBC 2015.

Section 104.8 Liability. Add: This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

Section 104.10.1 Flood Hazard areas. Delete:

Section 105.2 Work exempt from permit. Building: Amend items 2,4,6,11 and ~~11~~ 12 to read:

2. Fences not over 8.5 feet high.

4. Retaining walls.

6. Sidewalks and driveways.

11. Swings and other playground equipment.

12. Window awnings

Section 105.2 Work exempt from permit. Building: Add item 14:

14. Reroofing.

Section 107.2.6.1 Design flood elevations. Delete:

Section 107.3.1 Approval of construction documents. Amend to read: When the Building Official issues a permit, the construction documents shall be approved. One set of construction drawings so reviewed shall be retained by the Building Official.

Section 109.2 Schedule of permit fees. Amend to read: On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit and plan review shall be paid as required, in accordance with the schedule as established by the local jurisdiction. The plan review fees specified in

this subsection are separate from, and in addition to, permit fees.

~~Section 109.2 Schedule of permit fees. Amend to read: Building permit valuation shall include total value of the work for which a permit is being issued, such as electrical, gas, mechanical, plumbing equipment and other permanent systems, including materials and labor. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. Final building permit valuation shall be set by the building official.~~

Section 110.3.3 Lowest floor elevation. Delete:

Section 110.3.6 Weather-exposed balcony and walking surface waterproofing. Delete:

Section 111~~0~~.1: Add: Occupying or permitting occupancy of any building or structure prior to the issuance of a Certificate of Occupancy shall constitute an infraction under the provisions of the Code of Ordinances of the City of Bismarck.

Section 112 Board of Appeals: Delete.

Section 201.3 Terms defined in other codes. Amend to read: Terms defined in other codes. Where terms are not defined in this code such terms shall have meanings ascribed to them as in other code publications of the International Code Council. Whenever electrical codes are referenced by the International Code Council (ICC) in the International Building Code, International Residential Code, International Mechanical Code, International Fuel Gas Code, International Energy Conservation Code, International Existing Building Code, it shall mean the most recent versions of the National Electrical Code and the North Dakota State Wiring Standards adopted by the North Dakota State Electrical Board and the most recent versions of the Uniform Plumbing Code and the Laws, Rules and Plumbing Installation Standards of North Dakota adopted by the North Dakota State Plumbing Board.

Wherever reference is made to flood plain requirements, it shall mean the local flood plain management ordinance.

Section 202 DEFINITIONS, COMMERCIAL MOTOR VEHICLE. Amend to read: A motor vehicle used to transport passengers or property, or motorized equipment where the motor vehicle or equipment: Has a gross vehicle weight rating of 10,000 pounds or more; or have combined weights greater than 26,000 lbs; or is designed to transport 16 or more passengers, including the driver.

Section 305.2 Group E, day care facilities. Amend to read: Group E Day care facilities. This group includes buildings and structures or portions thereof occupied by more than twelve children older than 2½ years of age who receive educational supervision or personal care services for fewer than 24 hours per day.

Section 305.2.2 Twelve or fewer children. Amend to read: Twelve or fewer children. A facility having twelve or fewer children receiving such day care shall be classified as part of the primary occupancy.

Section 305.2.3 Twelve or fewer children in a dwelling unit. Amend to read: A facility such as above within a dwelling unit and having twelve or fewer children in a single family dwelling and having twelve or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the Residential Code.

Section 308.65 Institutional Group I-4, day care facilities. Amend to read: Institutional Group I-4 occupancy shall include buildings and structures occupied by more than twelve persons of any age who receive custodial care for fewer than 24 hours per day by persons other than parents or guardians, relatives by blood, marriage or adoption, and in a place other than the home of the person cared for. This group shall include, but not be limited to, the following:

Adult day care

## Child day care

Section 308.65.1 Classification as Group E. Amend to read: A child day care facility that provides care for more than twelve but not more than 100 children 2 ½ years of age, where the rooms in which children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

Section 308.65.3 Twelve or fewer persons receiving care. Amend to read: A facility having twelve or fewer persons receiving custodial care shall be classified as part of the primary occupancy.

Section 308.65.4 Five or fewer persons receiving care in a dwelling. Amend to read: A facility such as above within a dwelling unit having twelve or fewer persons receiving custodial care shall be classified as Group R-3 occupancy or shall comply with the International Residential Code.

~~Section 310.5.1 Amend to read: Care Facilities within a dwelling. Care facilities for twelve or fewer persons receiving personal care that are within a single family dwelling are permitted to comply with the International Residential Code.~~

Section 406.3.42.1 Dwelling unit Separation. Amend to read: The private garage shall be separated from the dwelling unit and its attic area by means of gypsum board, not less than 5/8 inch in thickness, applied to the garage side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than a 5/8 inch type X gypsum board or equivalent and 5/8 inch gypsum board applied to structures supporting the separation from habitable rooms above the garage. Door openings between a private garage and the dwelling unit shall be either solid wood doors or solid or honeycomb core steel doors not less than 1 3/8 inch in thickness, or doors in compliance with section 716.5.3 with a fire protection rating of not less than 20 minutes.

Section 706.6 Vertical continuity. Exceptions. Add:

7. Fire walls installed within detached structures of group U or Group S-2 occupancies may terminate at the underside of the roof sheathing provided such walls are not required to be fire-resistance rated construction due to fire separation distance.

Section 902.1 Definitions. Add: COMMERCIAL MOTOR VEHICLE.

Section [F] 903.2.8 Group R: Amend to read: An automatic sprinkler system installed in Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exception: Single family dwelling or a residential building that contains no more than two dwelling units.

Section [F] 903.2.11.3 Buildings 55 feet or more in height. Amend to read: Buildings 55 feet, or five stories or more in height. An automatic sprinkler system shall be installed throughout buildings that have one or more stories with an occupant load of 30 or more located 55 feet, or five stories or more above the lowest level of fire department vehicle access, measured to the finished floor.

Section 903.3.1 Automatic sprinkler systems. Amend to read: Sprinkler systems shall be designed with a 5 psi safety margin and installed in accordance with Sections 903.3.1.1, 903.3.1.2 or 903.3.1.3 and other chapters of this code, as applicable.

Section 903.3.1.1 NFPA 13 sprinkler systems. Amend to read: Sprinkler heads in unoccupied mall tenant spaces may be installed at ceiling height if allowed by the code official. Permission will be granted on an individual basis. Combustible storage shall not be allowed in these unoccupied tenant spaces if sprinkler heads are installed at ceiling height. Signage shall be provided outlining the storage restrictions.

Section [F] 903.3.1.2.1 Balconies and decks: Amend to read: Sprinkler protection shall be provided for

exterior balconies, decks and ground floor patios of dwelling units and sleeping units where the building is of Type V construction, provided there is a roof, overhang six (6) inches greater, or deck above. Sidewall sprinklers that are used to protect such areas shall be permitted to be located such that their deflectors are within 1 inch to 6 inches below the structural members and a maximum distance of 14 inches below the deck of the exterior balconies and decks that are constructed of open wood joist construction.

Section [F] 905.1 General. Add: Class II and III standpipe systems are prohibited. Where required within this section, all standpipe systems shall meet the requirements of a Class 1 standpipe.

Section [F] 907.2.3 Group E. Amend to read: A manual fire alarm system that initiates the occupant notification signal utilizing an emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group E occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system. Where approved by the fire code official, a building's emergency communication system interfaced with the fire alarm system in accordance with NFPA 72 is acceptable.

Section [F] 907.2.1~~±~~0.1 Group R-1. Exceptions. Add:

4. In dwelling units where the ceiling height of a room open to the hallway serving the sleeping rooms exceeds that of the hallway by 24 inches or more, smoke detectors shall be installed in the hallway and in the adjacent room.

Section [F] 907.2.1~~±~~0.2 Group R-2, R-3, R-4, and I-1. Exceptions. Add:

4. In dwelling units where the ceiling height of a room open to the hallway serving the sleeping rooms exceeds that of the hallway by 24 inches or more, smoke detectors shall be

installed in the hallway and in the adjacent room.

Section 1010.1.9 .4 Amend paragraph 7 to read:

7. Egress doors from occupied roofs, or doors that are used to gain access to the interior of the building may be locked from the outside if all of the following are provided.

7.1 Compliance with all aspects of Section 1010.1.9.4 item #2

7.2 Compliance with 1009.8

7.3 The door locks shall unlock on actuation of the automatic sprinkler system and automatic fire detection system and the door locking system shall be installed to have the capability of being unlocked by a switch located at the Fire Command center

Section 1011.1 General. Exceptions. Add:

2. Stairways used only to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public; need not comply with sections 1011.2 through 1011.13.

Section 1011.2 Width and capacity. Add:

Exception 4. Stairways used to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public.

Section 1011.5.2 Riser height and tread depth. Amend item 3, and Add item 6 to read:

3. In Group R-3 occupancies; within dwelling units in Group R-2 occupancies; and in Group U occupancies that are accessory to a Group R-3 occupancy or accessory to individual dwelling units in Group R-2 occupancies; the maximum riser height shall be 8 inches; the

minimum tread depth shall be 9 inches; the minimum winder tread depth at the walkline shall be 10 inches; and the minimum winder tread depth shall be 6 inches. A nosing projection not less than 3/4 inch but not more than 1 1/4 inches shall be provided on stairways with solid risers where the tread depth is less than 11 inches.

6. Stairways used only to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public are permitted to have a maximum 8-inch riser height and minimum 9-inch tread depth.

Section 1011.11 Handrails. Exceptions. Add:

5. Stairways used only to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public shall have a handrail on at least one side.
6. Vehicle service pit stairways are exempt from the rules for stairway railings and guards if they would prevent a vehicle from moving into place over the pit.

Section 1015.2 Where required. Amend to read: Guards shall be located along open-sided walking surfaces, including mezzanines, equipment platforms, stairs, ramps and landings, that are located more than 30 inches above the floor or grade below or if within 36 inches horizontally to the edge of the open side the vertical measurement to the floor or grade below is greater than 48 inches. Guards shall be adequate in strength and attachment in accordance with section 1607.8.

Section 1101.2 Add: Section 1101.2 State of North Dakota Accessibility Standards. After July 31, 2013, a newly designed and constructed building in excess of seven thousand five hundred square feet which is classified within the state building code as assembly, business, educational, institutional,

or mercantile occupancy and required by the state building code to be accessible must include at the primary exterior public entrance an automatic door or power-assisted manual door that complies with the requirements of the Americans with Disabilities Act of 1990, revised 2010. If a multiple unit building does not have a primary exterior public entrance, an individual unit within that building is not required to include an automatic door or power-assisted manual door unless that individual unit is in excess of seven thousand five hundred square feet.

Section 1104.4 Multistory buildings and facilities. Exception 1. Amend to read: An accessible route is not required to stories, basements and mezzanines that have an area of not more than 3,000 square feet, are located above or below accessible levels and are below the third story.

Section 1202.1 General. Amend paragraph 2 to read: Ambulatory care facilities and Group I-2 occupancies shall be ventilated by mechanical means in accordance with Section 407 of the International Mechanical Code.

~~Section 1203.1 General. Amend to read: Buildings shall be provided with natural ventilation in accordance with section 1203.4, or mechanical ventilation in accordance with the International Mechanical Code. Ambulatory care facilities and Group I-1 occupancies shall be ventilated by mechanical means in accordance with section 407 of the International Mechanical Code.~~

Section 12076 SOUND TRANSMISSION: Delete:

Section 1402.6 Flood resistance. Delete:

Section 1402.7 Flood resistance for coastal high hazard areas and coastal A zones: Delete:

~~Section 1507.2 Fasteners. Amend to read: Fasteners for asphalt shingles shall be galvanized, stainless steel, aluminum, or copper roofing nails, minimum 12 gage 0.105 inch with a minimum 0.375 inch diameter head, of a length to penetrate through the~~

~~roofing materials and a minimum of 0.75 into the roof sheathing or other fasteners as approved by the building official and shingle manufacturer. Where the roof sheathing is less than 0.75-inch-thick, the nails shall penetrate through the sheathing. Fasteners shall comply with ASTM F 1667.~~

Section 1603.1. Add: It shall not be the responsibility of the building official to determine engineering requirements of this code. Exclusive of the conventional light-frame wood construction provisions referenced in Section 2308, the method to resist loads as referenced in this chapter is the responsibility of a structural engineer or other qualified design professional.

Section 1610.1 General. Exception: Amend to read: Foundation walls extending not more than 9 feet below grade and laterally supported at the top by flexible diaphragms shall be permitted to be designed for active pressure.

Section 1612 Flood Loads. Delete

Section 1804.4 Site Grading. Amend to read: Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection. Lots shall be graded to drain surface water away from foundation walls. The procedure used to establish the final ground level adjacent to the foundation shall account for additional settlement of the backfill.

Section 1804.5 Grading and fill in flood hazard areas. Delete:

Section 1805.1.2.1 Flood Hazard Areas. Delete:

Section 1809.5 Frost Protection. Exception. Add:

4. Free-standing buildings used as Group U occupancies for the storage of private or pleasure-type motor vehicles constructed in accordance with section 406.3.1.

Section 2901.1 General. Amend to read: The provisions of this chapter and the North Dakota

State Plumbing Code shall govern the erection, installation, alteration, repairs, relocations, replacement, addition to, use or maintenance of plumbing equipment and systems. Toilet and bathing rooms shall be constructed in accordance with Section 1210. Plumbing systems and equipment shall be constructed, installed and maintained in accordance with the North Dakota State Plumbing Code. Private sewage disposal systems shall conform to the North Dakota State Plumbing Code. The International Fire Code, the International Property Maintenance Code and the North Dakota State Plumbing Code shall govern the use and maintenance of plumbing components, appliances, equipment and systems. The International Existing Building Code and the North Dakota State Plumbing Code shall govern the alteration, repair, relocation, replacement and addition of plumbing components, appliances, equipment and systems.

Section 2902.2 Separate Facilities. Exception. ~~Add~~  
Amend to read:

2. Separate facilities shall not be required in structures or tenant spaces with a total occupant load, including both employees and customers, of 25 or fewer. 4. ~~Separate facilities shall not be required in business occupancies with a floor area of fifteen-hundred (1,500) square feet or less.~~

Section 2902.6 Small occupancies. Amend to read:  
Drinking fountains shall not be required for an occupant load of 30 or fewer.

Section 3313 Water Supply for fire protection.  
Amend to read: An approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on a site located within the city limits.

3. 2018 2015 International Residential Code (IRC):

Section 101.1 Title. Amend: NAME OF JURISDICTION to City of Bismarck.

Section 103 DEPARTMENT OF BUILDING SAFETY. Delete:

Section R104.8 Liability. Add: This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

Section R104.8.1 Legal Defense. Amend to read: Any suit or criminal complaint instituted against an officer or employee because of an act or omission performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the immunities and defenses provided by other applicable local, state, or federal laws. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

Section R104.10.1 Flood Hazard areas. Delete:

~~Section R105.2: Section 105.2 Work exempt from permit. Building: Amend item 1 to read: One-story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 120 square feet.~~

Section R105.2: Section R105.2 Work exempt from permit. Building: Amend items 1,2,3,9, and 10 to read: Section R105.2 Work exempt from permit. Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Building Permits shall not be required for the following:

1. One-story detached accessory structures provided the floor area does not exceed 120 square feet.
2. Fences not over 8.5 feet high.
4. Retaining walls.

9. Window awnings supported by an exterior wall that do not require additional support.
10. Decks not exceeding 120 square feet in area, that are not more than 7 inches above grade at any point, are not attached to a dwelling and do not serve the exit door required by Section R311.4.

Section R106.3.1 Approval of construction documents. Amend to read: Where the building official issues a permit, one set of construction documents so reviewed shall be retained by the building official.

Section R108.3 Building permit valuations. Amend to Read: Building permit valuation shall include total value of the work for which a permit is being issued, such as electrical, gas, mechanical, plumbing equipment and other permanent systems, including materials and labor. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. Final building permit valuation shall be set by the building official.

Section R110.1.1: Add: Occupying or permitting occupancy of any building or structure prior to the issuance of a Certificate of Occupancy shall constitute an infraction under the provisions of the Code of Ordinances of the City of Bismarck.

Section R112 Board of Appeals: Delete.

Section R201.3 Terms defined in other codes. Amend to read: Section R201.3 Where terms are not defined in this code such terms shall have meanings ascribed to them as in other code publications of the International Code Council. Whenever electrical codes are referenced by the International Code Council (ICC) in the International Building Code, International Residential Code, International Mechanical Code, International Fuel Gas Code, International Energy Conservation Code, International Existing Building Code, it shall mean the most recent versions of the National Electrical

Code and the North Dakota State Wiring Standards adopted by the North Dakota State Electrical Board and the most recent versions of the Uniform Plumbing Code and the Laws, Rules and Plumbing Installation Standards of North Dakota adopted by the North Dakota State Plumbing Board. Where ever reference is made to flood plain requirements, it shall mean the local flood plain management ordinance.

Table R301.2 CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA (1). Add:

Ground snow load: 35 psf  
Wind Design speed: 115 mph  
Wind Design topographic effects: NO  
Wind Design special wind region: NO  
Wind Design wind-borne debris zone: NO  
Seismic Design Criteria: Zone A  
Subject to Damage from weathering: Severe  
Subject to Damage from frost depth: 4 feet  
Subject to Damage from termite: NO  
Winter Design Temp: -19  
Ice Barrier Underlayment Required: YES  
Flood Hazards: (a)First FIRM adopted in 1985,  
(b)current/revise FIRM adopted 2014.  
Air Freezing Index: 4000  
Mean Annual Temp: 42 degrees (F)

Table R302.1 (1) Exterior walls. Amend the fourth column and Add; foot note c. for the first column in walls to read:

0 feet  
3 feet  
<2 feet to <3 feet  
>3 feet  
5 feet  
<3 feet  
3 feet

A common 2-hour fire-resistance- rated wall is permitted for two or more family dwellings where the common wall is on a property line provided such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installations shall be

installed in accordance with chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with section 302.4

~~Section R302.2 Townhouses: Exception 2. Amend to read: Where a sprinkler system is not provided, the common wall shall be not less than a 2-hour fire-resistance-rated wall assembly or two 1-hour fire-resistance-rated wall assemblies tested in accordance with ASTM E 119 or UL 263.~~

Section R302.5.1 Opening protection. Amend to read: Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 $\frac{3}{8}$  inches in thickness, solid or honeycomb-core steel doors not less than 1 $\frac{3}{8}$  inches thick, or 20-minute fire-rated doors.

Section R303.4 Mechanical ventilation. Delete:

Section R307.1 Space required. Amend to read: Fixtures shall be spaced in accordance with the requirements of North Dakota State Plumbing Code and per Figure R307.1, with the exception of the clearance in front of water closets and bidets which shall be at least 24 inches.

Section R310.2.3.1 Ladder and Steps. Amend to read: Window wells with a vertical depth greater than 44 inches shall be equipped with a permanently affixed ladder or steps usable with the window in the fully open position, or shall be equipped with a permanently-attached platform at least 30 inches by 16 inches. The maximum distance between the top of the window well and a platform shall be 42 inches and shall not impede the operation of the window. Ladders or steps required by this section shall not be required to comply with Sections R311.7 and R311.8. Ladders or rungs shall have an inside width of at least 12 inches, shall project at least 3 inches from the wall and shall be spaced not more than 18 inches on center vertically for the full height of the window well.

Exception: Terraced window wells with a maximum of 24 inches per vertical rise and minimum of 12 inches per horizontal projection on each level shall also be allowed.

Section R311.3 Floors and landings at exterior doors. Add: Exception 2. A landing is not required on the outside of exterior doors other than the required egress door, where a stairway with a total rise of less than 30 inches is located on the exterior side of the door, provided the door does not swing over the stairway.

Section R311.3.1 Floor elevations at the required egress door. Exception: Amend to read: The landing or floor on the exterior side shall not be more than 8 inches below the top of the threshold provided the door does not swing over the landing or floor.

Where exterior landings or floors serving the required egress door are not at grade, they shall be provided with access to grade by means of a ramp in accordance with Section R311.8 or a stairway in accordance with Section R311.7.

Section R311.3.2 Floor elevations for other exterior doors. Amend to read: Floor elevations for other exterior doors. Doors other than the required egress door shall be provided with landings or floors not more than 8 inches below the top of the threshold.

Exception: A landing is not required where a stairway with a total rise of less than 30 inches is located on the exterior side of the door, provided the door does not swing over the stairway.

Section R311.7.5.1 Risers. Amend to Read: The Riser height shall not be more than 8 inches. The riser shall be measured vertically between landing edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch. Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30 degrees from the vertical. Open risers are

permitted provided that the openings located more than 30 inches, as measured vertically, to the floor or grade below do not permit the passage of a 4-inch-diameter sphere.

Exceptions:

1. The opening between adjacent treads is not limited on spiral stairways.
2. The riser height of spiral stairways shall be in accordance with Section R311.7.10.1.

Section R311.7.5.2 Treads ~~depth~~. Amend to read: The minimum tread depth shall be 9 inches. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch.

Exception: Where a landing is not provided or required by section R311.3, R311.3.2 or R311.7.6, the top tread of a stair serving exterior doors other than the required exit door, and in-swinging doors opening into an attached garage, shall be permitted to exceed the smallest tread by more than 3/8 inch. Such a tread shall be at least 18 inches measured in the direction of travel.

Section R311.7.5.2.1 Winder treads. Amend to read: Winder treads shall have a minimum tread depth of 9 inches measured between the vertical planes of the foremost projection of adjacent treads at the intersections with the walkline. Winder treads shall have a tread depth of not less than 6 inches at any point within the clear width of the stair. Within any flight of stairs, the largest winder tread depth at the walkline shall not exceed the smallest winder tread by more than 3/8 inch). Consistently shaped winders at the walkline shall be allowed within the same flight of stairs as rectangular treads and do not have to be within 3/8 inch of the rectangular tread depth.

Exception: The tread depth at spiral stairways shall be in accordance with Section R311.7.10.1.

Section R311.7.6 Landings for stairways. Exception: Amend to read: Exceptions:

A floor or landing is not required at the top of an interior flight of stairs, including stairs in an enclosed garage, provided a door does not swing over the stairs.

A landing is not required at the top of an interior flight of stairs with a total rise of less than 30 inches, provided the door does not swing over the stairway.

Section R312.1.1 Where Required. Amend to read: Guards shall be located along open-sided walking surfaces, stairs, ramps and landings that are located more than 30 inches measured vertically to the floor or grade below. Insect screening shall not be considered as a guard.

~~Section R313.1 Townhouse automatic fire systems. Amend to read: Townhouse automatic fire systems. An automatic residential fire sprinkler system may be installed in townhouses.~~

Section R313.1.1 Design and installation. Amend to read: Automatic residential sprinkler systems for townhouses shall be designed and installed in accordance with NFPA 13D, NFPA 13R, or NFPA 13.

~~Section R313.2 One- and two-family dwellings automatic fire systems. One- and two-family dwellings automatic fire systems. An automatic residential fire sprinkler system may be installed in one- and two-family dwellings.~~

Section R314.3 Location. Add: 5. In dwelling units where the ceiling height of a room open to the hallway serving the bedrooms exceeds that of the hallway by 24 inches or more, smoke detectors shall be installed in the hallway and in the adjacent room.

Section R322 Flood-Resistant Construction. Delete:

Section R325.5 Openness. Amend to read: Mezzanines shall be open and unobstructed to the room in which they are located except for walls not more than 36 inches in height., columns and posts.

Section R326.1 General. Amend to read: The design and construction of pools and spas shall comply with the City of Bismarck Ordinance, Title 4, Chapter 4-06, Swimming Pools.

Section R401.3 Drainage. Amend to read: Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection. Lots shall be graded to drain surface water away from foundation walls.

Section R403.1 General. All exterior walls shall be supported on continuous solid or fully grouted masonry or concrete footings, crushed stone footings, wood foundations, or other approved structural systems that shall be of sufficient design to accommodate all loads according to Section R301 and to transmit the resulting loads to the soil within the limitations as determined from the character of the soil. Footings shall be supported on undisturbed natural soils or engineered fill and shall include a concrete encased contiguous rebar stubbed out near the electrical service for grounding of the electrical system as per the requirements of the most recently adopted version of North Dakota State Electrical Board's Laws, Rules and Wiring Standards. Coordinate with the electrical contractor.

Section R403.1.4.1 Frost Protection. Exceptions 1 and 2, Amend to Read: Add Exception 4:

1. Protection of freestanding accessory structures of light framed construction shall not be required.
2. Protection of freestanding accessory structures with an area of 400 square feet or less, of other than light-framed construction shall not be required.

4. Single story uncovered decks supported by a single attachment to a dwelling need not be provided with footings that extend below the frost line.

Non-frost protected Foundations supporting detached accessory structures of light frame construction greater than 200 sf must be constructed of monolithic slab-on-grade construction with turned-down footings. Perimeter turned-down footings must be a minimum of 12-inches in depth and eight-inches wide. Perimeter turned-down footings shall have a minimum of one no. 4 bar at the top and at the bottom of the footing. Footings shall not bear on frozen soil.

~~Table R403.1 (4). Alternate Width and Thickness for Concrete Footings for Light Frame Construction. Add: Effective, July 1<sup>st</sup>, 2017.~~

<del>Story and Type of structure</del>	<del>Footing Width (inches)</del>	<del>Footing Depth (inches)</del>
<del>1 story slab-on-grade</del>	<del>16</del>	<del>8</del>
<del>1 story with crawl space</del>	<del>16</del>	<del>8</del>
<del>1 story plus basement</del>	<del>19</del>	<del>8</del>
<del>2 story slab-on-grade</del>	<del>16</del>	<del>8</del>
<del>2 story with crawl space</del>	<del>16</del>	<del>8</del>
<del>2 story plus basement</del>	<del>23</del>	<del>8</del>
<del>3 story slab-on-grade</del>	<del>16</del>	<del>8</del>
<del>3 story with crawl space</del>	<del>20</del>	<del>8</del>
<del>3 story plus basement</del>	<del>26</del>	<del>8</del>

~~Notes:~~

~~Chart is based on a soil load-bearing value of 1500 psf.~~

~~Chart is based on a snow load or roof live load of 30 psf.~~

~~Interpolation allowed. Extrapolation is not allowed.~~

~~Based on 32-foot wide house with load bearing center wall that carries half of the tributary attic, and floor framing. For every 2 feet of adjustment to the width of the house, add or subtract 2 inches of footing width and 1 inch of footing thickness (but not less than 6 inches thick).~~

Add: Table R404.1.2 (10). Alternate Vertical Reinforcement for 8-inch Concrete Foundation Walls.  
Add: Effective, July 1st, 2017.

<u>Wall Height (feet)</u>	<u>Unbalanced Backfill Height (feet)</u>	<u>Wall Thickness (inches)</u>	<u>On Center Spacing of Vertical Reinforcement</u>
<u>8</u>	<u>&gt;6</u>	<u>8</u>	<u>#4 at 24"</u>
<u>9</u>	<u>&gt;6</u>	<u>8</u>	<u>#4 at 18"</u>
<u>10</u>	<u>&gt;6</u>	<u>8</u>	<u>#4 at 15"</u>

Notes:

Chart is based on an active soil pressure of 45 pounds per cubic foot (pcf) and soil classes GM, GC, SM, SM-CL and ML.

Reinforcing steel shall be ASTM A615 Fy - 60,000 pounds per square inch (psi).

The vertical reinforcing bars are to be located on the inside face.

Minimum concrete strength Fc1 - 3,000 pounds per square inch (psi).

Backfill shall not be placed until first floor framing and sheathing is installed and fastened or adequately braced and the concrete floor slab is in place or the wall is adequately braced.

Horizontal reinforcement must be installed in accordance with Table 404.1.2 (1).

Design is required for wall heights greater than 10 feet.

<u>Minimum Reinforcement for concrete Foundation Walls, Active Pressure=45pcf Soil Classes GM,GC,SM,SM-SC and ML</u>		
<u>Wall Height Feet</u>	<u>Wall Thickness Inches</u>	<u>Vertical Reinforcement</u>
<u>8'</u>	<u>8"</u>	<u>#4 @ 24"</u>
		<u>#5 @ 40"</u>
	<u>10"</u>	<u>#4 @ 30"</u>
		<u>#5 @ 50"</u>
<u>9'</u>	<u>8"</u>	<u>#4 @ 18"</u>
		<u>#5 @ 28"</u>
	<u>10"</u>	<u>#4 @ 24"</u>
		<u>#5 @ 36"</u>
<u>10'</u>	<u>10"</u>	<u>#4 @ 16"</u>
		<u>#5 @ 26"</u>

Notes:

1. Chart is based on an active soil pressure of 45 pounds per cubic foot (pcf)
2. Reinforcing steel shall be ASTM A615 Fy - 60,000 pounds per square inch (psi).
3. The vertical reinforcing bars are to be located on the inside face.
4. Minimum concrete strength Fc1 = 3,000 pounds per square inch (psi).

5. Backfill shall not be placed until first floor framing and sheathing is installed and fastened or adequately braced and the concrete floor slab is in place or the wall is adequately braced.

Table R404.1.2 (11). Alternate Vertical Reinforcement for 8-inch Concrete Foundation Walls. Add: Effective, July 1st, 2017.

<u>Wall Height (feet)</u>	<u>Unbalanced Backfill Height (feet)</u>	<u>Wall Thickness (inches)</u>	<u>On Center Spacing of Vertical Reinforcement</u>
<u>8</u>	<u>&gt;5</u>	<u>8</u>	<u>#4 at 18"</u>
<u>9</u>	<u>&gt;5</u>	<u>8</u>	<u>#4 at 12"</u>
<u>10</u>	<u>&gt;5</u>	<u>8</u>	<u>#4 at 10"</u>

Notes:

Chart is based on an active soil pressure of 60 pounds per cubic foot (pcf) and soil classes SC, ML-CL and inorganic CL.

Reinforcing steel shall be ASTM A615 Fy = 60,000 pounds per square inch (psi).

The vertical reinforcing bars are to be located on the inside face.

Minimum concrete strength Fc1 = 3,000 pounds per square inch (psi).

Backfill shall not be placed until first floor framing and sheathing is installed and fastened or adequately braced and the concrete floor slab is in place or the wall is adequately braced.

Horizontal reinforcement must be installed in accordance with Table 404.1.2 (1).

Design is required for wall heights greater than 10 feet.

<u>Minimum Reinforcement for concrete Foundation Walls, Active Pressure=65pcf Soil Classes SC,ML-CL and inorganic CL</u>		
<u>Wall Height Feet</u>	<u>Wall Thickness Inches</u>	<u>Vertical Reinforcement</u>

<u>8'</u>	<u>8"</u>	<u>#4 @ 18"</u>
		<u>#5 @ 26"</u>
	<u>10"</u>	<u>#4 @ 24"</u>
		<u>#5 @ 36"</u>
<u>9'</u>	<u>8"</u>	<u>#4 @ 12"</u>
		<u>#5 @ 18"</u>
	<u>10"</u>	<u>#4 @ 16"</u>
		<u>#5 @ 24"</u>
<u>10'</u>	<u>10"</u>	<u>#4 @ 12"</u>
		<u>#5 @ 18"</u>

Notes:

1. Chart is based on an active soil pressure of 65 pounds per cubic foot (pcf)
2. Reinforcing steel shall be ASTM A615 Fy - 60,000 pounds per square inch (psi).
3. The vertical reinforcing bars are to be located on the inside face.
4. Minimum concrete strength Fc1 = 3,000 pounds per square inch (psi).
5. Backfill shall not be placed until first floor framing and sheathing is installed and fastened or adequately braced and the concrete floor slab is in place or the wall is adequately braced.

Section R404.1.3.2 Reinforcement for foundation walls. Amend to read: Concrete foundation walls shall be laterally supported at the top and bottom. Horizontal reinforcement shall be provided in accordance with Table R404.1.2(1). Vertical reinforcement shall be provided in accordance with Table R404.1.2(2), R404.1.2(3), R404.1.2(4), R404.1.2(5), R404.1.2(6), R404.1.2(7), or R404.1.2(8)., or Table R404.1.2(10) and R404.1.2(11). Vertical reinforcement for flat basement walls retaining 4 feet or more of unbalanced backfill is permitted to be determined in accordance with Table R404.1.2(9). For basement walls supporting above-grade concrete walls, vertical reinforcement shall be the greater of that required by Tables R404.1.2(2) through R404.1.2(8) or by Section R611.6 for the above-grade wall. In Buildings assigned to Seismic Design Category D0, D1, or D2, concrete foundation walls shall also comply with Section R404.1.4.2.

Section R507.3 Footings. Amend to read: Decks supported by more than one attachment to a dwelling, covered decks, and multi-story decks shall be supported on concrete footings or other approved structural systems designed to accommodate all loads in accordance with Section R301. Deck footings shall be sized to carry the imposed loads from the deck to the ground as shown in figure R507.3. The footing depth shall be in accordance with Section R403.1.4.

Table R507.3.1 Minimum footing size for decks. Delete:

Section 507.5 Deck Beams. Amend to read: Maximum allowable spans for wood deck beams, as shown in Figure R507.5, shall be in accordance with Table R507.5. Beam plies shall be fastened with two rows of 10d (3-inch x 0.128-inch) nails minimum at 16 inches (406 mm) on center along each edge. Beams shall be permitted to cantilever at each end up to one-fourth of the actual beam span. Deck beams of other materials shall be permitted where designed in accordance with accepted engineering practices.

Section R602.7.2 Rim board headers. Revise to read: Rim board header size, material and span shall be in accordance with Table R602.7(1). Rim board headers shall be constructed in accordance with Figure R602.7.2 and shall be supported at each end by full-height studs. Rim board headers supporting concentrated loads shall be designed in accordance with accepted engineering practice.

Section R602.7.5 Supports for headers. Amend to read: Headers shall be supported on each end with one or more jack studs or with approved framing anchors in accordance with Table R602.7(1) or R602.7(2). The full-height stud adjacent to each end of the header shall be end nailed to each end of the header with four-16d nails (3.5 inches × 0.135 inches).

~~Table R602.7.5 Minimum number of full height studs at each end of headers in exterior walls. Delete:~~

~~Section R602.10 Wall Bracing. Add: Exception: The wall bracing requirements of section R602.10 of the 2006 International Residential Code may be used as an alternative to this section.~~

~~Section R703.7.2 - Plaster. Add: Approved decorative coatings applied to a concrete or masonry surface shall be installed in accordance with the manufacturer's installation instructions.~~

~~Section R905.2.5 Fasteners. Amend to read: Fasteners for asphalt shingles shall be galvanized steel, stainless steel, aluminum or copper roofing nails, minimum 12 gage [0.105 inch (3 mm)] shank with a minimum 3/8 inch (10 mm) diameter head, ASTM F 1667, of a length to penetrate through the roofing materials and a minimum of 3/4 inch (19 mm) into the roof sheathing or other fasteners as approved by the building official and shingle manufacturer. Where the roof sheathing is less than 3/4 inch (19 mm) thick, the fasteners shall penetrate through the sheathing.~~

Table N1102.1.2 (R402.1.2) Insulation and Fenestration Requirements by Component. Climate

zone 6, Wood Frame Wall R-Value. Amend to read:  
21 or 13+5h, i.

Table N1102.1.2 (R402.1.2) Insulation and Fenestration Requirements by Component. Climate zone 6, Basement Wall R-Value. Amend to read: 10/13.

Table N1102.1.2 (R402.1.2) Insulation and Fenestration Requirements by Component. Climate zone 6, Crawlspace R-Value. Amend to read: 10/13.

Table N1102.1.4 (R402.1.4) Equivalent U-Factors. Climate zone 6, Frame Wall Factor. Amend to Read: 0.057.

Table N1102.1.4 (R402.1.4) Equivalent U-Factors. Climate zone 6, Basement Wall U-Factor. Amend to Read: 0.059.

Table N1102.1.4 (R402.1.4) Equivalent U-Factors. Climate zone 6, Crawl Space Wall U-Factor. Amend to Read: 0.059.

Section N1102.4 (R402.4) Air leakage (Mandatory). Add: Exception: Dwelling units of R-2 Occupancies and multiple single family dwellings shall be permitted to comply with IECC Section C402.5.

~~Section N1102.4.1.2 (R402.4.1.2) Testing. Delete~~

Section N1102.4.1.3 (R402.4.1.3) Visual Inspection Option. Add: Visual Inspection Option. Building envelope tightness and insulation shall be considered acceptable when installed in accordance with Table N1102.4.1.1 (R402.4.1.1) - "Air Barrier and Insulation" and has been field verified.

~~Section 1103.1.1 Programmable Thermostat. Delete:~~

~~Section N1103.3.2 (R403.3.2) Sealing (Mandatory). Exception 2. Amend to read: For ducts having a static pressure classification of less than 2 inches of water column (500 Pa), additional closure systems shall not be required for continuously welded joints and seams, and locking type joints and seams.~~

Section N1103.3.5 (R403.3.5) Building Cavities (Mandatory). Amend to read: Building framing cavities shall not be used as supply ducts.

Section N1103.~~63~~.5 (R403.~~63~~.5) Mechanical Ventilation (Mandatory). Amend title to read: Ventilation (Mandatory)

Table N1105.5.2(1) [R405.5.2(1)] Specifications for the Standard Reference and Proposed Design. Air exchange rate. Amend to read:

Standard Reference Design: Air leakage rate of 5 air changes per hour in Climate Zones 1 through 8 at a pressure of 0.2 inches w.g (50 Pa). (Balance is unchanged.)

Proposed design: For residences that are not tested, the same air leakage rate as the standard reference design. For tested residences, the measured air exchange rate. The mechanical ventilation rated shall be in addition to the air leakage rate and shall be as proposed.

<u>Building Component</u>	<u>Standard Reference Design</u>	<u>Proposed Design</u>
<u>Air exchange rate</u>	<u>Air leakage rate of 5 air changes per hour in Climate Zones 1 through 8 at a pressure of 0.2 inches w.g (50 Pa). (Balance is unchanged.)</u>	<u>For residences that are not tested, the same air leakage rate as the standard reference design. For tested residences, the measured air exchange rate. The mechanical ventilation rated shall be in</u>

		<del>addition to the air leakage rate and shall be as proposed.</del>
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Section M1502.4.2 Duct Installation. Amend to Read: Exhaust ducts shall be supported at intervals not to exceed 4 feet and shall be secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Exhaust duct joints may be mechanically fastened. Ducts shall not be joined with screws. Where dryer exhaust ducts are enclosed in wall or ceiling cavities, such cavities shall allow the installation of the duct without deformation.

Section M1503.64 Makeup Air Required. Amend to read: Exhaust hood systems capable of exhausting in excess of 400 cubic feet per minute (0.19m<sup>3</sup>/S) shall be mechanically or naturally provided with makeup air at a rate in excess of 400 cfm. Such makeup air systems shall be equipped with not less than one damper. Each damper shall be a gravity damper or an electrically operated damper that automatically opens when the exhaust system operates. Dampers shall be accessible for inspection, service, repair and replacement without removing permanent construction or any other ducts not connected to the damper being inspected, serviced, repaired or replaced. Where one or more gas, liquid or solid fuel-burning appliance that is neither direct-vent nor uses a mechanical draft venting system is located within a dwelling unit's air barrier, each exhaust-hood systems capable of exhausting in excess of 400 cubic feet per minute (0.19m<sup>3</sup>/S) shall be mechanically or passively provided with makeup air at a rate approximately equal to the exhaust air rate in excess of 400 cfm. Such makeup air systems shall be equipped with not fewer than one damper complying with Section M1503.6.2.

Section 1506.1.1 Required Condensation Provisions. Amend to read: Air exhaust openings shall terminate not less than 3 feet (914 mm) from property lines; 3 feet (914 mm) from operable into the building and

~~10 feet (3048 mm) from mechanical air intakes except where the opening is located 3 feet (914 mm) above the air intake. Openings shall comply with Sections R303.5.2 and R303.6.~~

Section M1601.4.1 Joints, Seams and Connections.

Amend to read: Exception 3. For ducts having a static pressure classification of less than 2 inches of water column (500 Pa), additional closure systems shall not be required for continuously welded joints and seams and locking-type joints and seams.

~~Add Section M1701.2.1 Prohibited Sources. Add: Attic spaces shall not be used as a source of combustion air.~~

~~M1801.1 Venting required. Amend to read: Fuel-burning appliances shall be vented to the outside in accordance with their manufacturer's installation instructions. Venting systems shall consist of approved chimneys or vents, or venting assemblies that are integral parts of labeled appliances. Gas-fired appliances shall be vented in accordance with Chapter 24.~~

Section M2005.1 General. Water heaters shall be installed in accordance with the North Dakota State Plumbing Code, the manufacturer's instructions and the requirements of this code. Water heaters installed in an attic shall comply with the requirements of Section M1305.1.3. Gas-fired water heaters shall comply with the requirements in Chapter 24. Domestic electric water heaters shall comply with UL 174. Oiled-fired water heaters shall comply with UL 732. Thermal solar water heaters shall comply with Chapter 23 and UL 174. Solid fuel-fired water heaters shall comply with UL 2523.

Section M2101.3 Protection of potable water. Amend to read: The potable water system shall be protected from backflow in accordance with the provisions listed in the North Dakota State Plumbing Code.

Section M2101.10 Tests. Amend to read: New hydronic piping shall be isolated and tested hydrostatically at a pressure of not less than 100-pounds per square

inch (psi) (689 kPa). The duration of each test shall be not less than 15 minutes and not more than 20 minutes.

Section M2103.3 Piping Joints. Item 2. Amend to read: Copper tubing shall be joined by brazing complying with the North Dakota State Plumbing Code.

G2404.7 Flood Hazard. Delete:

~~Section G2406.2 Prohibited locations. Exceptions 3 and 4. Delete:~~

~~Section G2406.4 Indoor Locations. Add: Any room within a building that contains a condensing appliance must be equipped with a floor drain or other approved means of condensate/liquid waste disposal.~~

Figure G2407.6.1 (1) All air from indoors-inlet air from ventilated crawl space and outlet air to ventilated attic. Delete:

Figure G2407.6.1 (2) All air from outdoors through ventilated attic. Delete:

Section G2407.11 Combustion air ducts. Item 5. Amend to read: Ducts shall not terminate in an attic space.

~~Section G2413.5 Allowable pressure drop. Amend to read: The design pressure loss in any piping system under maximum probable flow conditions, from the point of delivery to the inlet connection of the appliance, shall be such that the supply pressure at the appliance is greater than or equal to the minimum pressure required by the appliance but such pressure loss shall not be greater than .5-inch water column for gas pipe systems operating at less than 2 psi.~~

Section G2417.4.1 Test pressure. Amend to read: The test pressure to be used shall not be less than one and one half times the proposed maximum working pressure, but not less than 25 psig, irrespective of design pressure. Where the test pressure exceeds

125 psig the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe.

~~Section G2425.8 Appliances not required to be vented. Item 7. Delete:~~

Section G2425.12 Residential and low-heat appliances flue lining systems. Amend to read: Flue lining systems for use with residential-type and low-heat appliances shall be limited to the following:

Clay flue lining complying with the requirements of ASTM C 315 or equivalent when each appliance connected into the masonry chimney has a minimum input rating greater than 400,000 Btu/h. Clay flue lining shall be installed in accordance with Chapter 10.

Listed chimney liner systems complying with UL 1777.

Other approved materials that will resist, without cracking, softening, or corrosion, flue gases and condensate at temperatures up to 1800 F (982 C). Aluminum (1100 or 3003 alloy or equivalent) not less than 0.032 inches thick up to 8 inches in diameter.

Stainless steel (304 or 430 alloy or equivalent) not less than 26 gauge (0.018 inches thick) to 8 inches in diameter or not less than 24 gauge (0.024 inches thick) 8 inches in diameter and larger.

When a metal liner is used other than a listed chimney liner a condensation drip tee shall be installed and supported in an approved manner.

Section G2427.5.2 Masonry chimneys. Amend to read: Masonry chimneys shall be built and installed in accordance with NFPA211 and shall be lined as per G2425.12.

Section G2442.5 Screen. Amend to read: Required outdoor air inlets shall be covered with a screen

having  $\frac{1}{4}$  inch (6.4 mm) openings. Required outdoor air inlets serving a nonresidential portion of a building shall be covered with screen having openings larger than  $\frac{1}{4}$  inch (6.4 mm) and not larger than  $\frac{1}{2}$  inch.

~~Section C2445 UNVENTED ROOM HEATERS. Delete:~~

Chapter 25 PLUMBING ADMINISTRATION. Delete:

Chapter 26 GENERAL PLUMBING REQUIREMENTS. Delete:

Chapter 27 PLUMBING FIXTURES. Delete:

Chapter 28 WATER HEATERS. Delete

Chapter 29 WATER SUPPLY AND DISTRIBUTION. Delete:

Chapter 30 SANITARY DRAINAGE. Delete:

Chapter 31 VENTS. Delete:

Chapter 32 TRAPS. Delete:

Chapter 34 GENERAL REQUIREMENTS. Delete:

Chapter 35 ELECTRICAL DEFINITIONS. Delete:

Chapter 36 SERVICES. Delete:

Chapter 37 BRANCH CIRCUIT AND FEEDER REQUIREMENTS.  
Delete:

Chapter 38 WIRING METHODS. Delete:

Chapter 39 POWER AND LIGHTING DISTRIBUTION. Delete:

Chapter 40 DEVICES AND LUMINAIRES. Delete:

Chapter 41 APPLIANCE INSTALLATION. Delete:

Chapter 42 SWIMMING POOLS. Delete:

Chapter 43 CLASS 2 REMOTE-CONTROL, SIGNALING AND  
POWER-LIMITED CIRCUITS. Delete:

Appendix E Section AE101.1 General. Amend to read: These provisions shall be applicable only to a manufactured home used as a single dwelling unit.

Appendix E Section AE101.2 Flood hazard areas. Delete:

4. ~~2015~~ 2018 International Mechanical Code (IMC)

Section 101.1 Title. Amend: NAME OF JURISDICTION to City of Bismarck.

Section 103 Department of Mechanical Inspection. Delete:

Section 103.4 Liability. Add: This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

Section 106.4.8 Posting of Permit. Delete:

Section 106.5.2 Fee Schedule. Amend to read: The fees for mechanical work shall be as indicated in the schedule as established by the local jurisdiction.

Section 109 Means of appeal. Delete:

~~Section 201.3 Terms defined in other codes. Amend to read: Section 201.3 Where terms are not defined in this code and are defined in the International Building Code, International Fire Code, International Fuel Gas Code, National Electrical Code and North Dakota State Wiring Standards or the North Dakota State Plumbing Code, such terms shall have meanings ascribed to them as in those codes.~~

Section 201.3 Terms defined in other codes. Amend to read: Where terms are not defined in this code such terms shall have meanings ascribed to them as in other code publications of the International

Code Council. Whenever electrical codes are referenced by the International Code Council (ICC) in the International Building Code, International Residential Code, International Mechanical Code, International Fuel Gas Code, International Energy Conservation Code, International Existing Building Code, it shall mean the most recent versions of the National Electrical Code and the North Dakota State Wiring Standards adopted by the North Dakota State Electrical Board and the most recent versions of the Uniform Plumbing Code and the Laws, Rules and Plumbing Installation Standards of North Dakota adopted by the North Dakota State Plumbing Board. Wherever reference is made to flood plain requirements, it shall mean the local flood plain management ordinance.

~~Section 304.10 Clearance from grade. Amend to read: Equipment and appliances installed at grade level shall be supported on a level concrete slab or other approved material extending not less than 2" above adjoining grade or shall be suspended not less than 6" above adjoining grade. Such support shall be in accordance with the manufacturers installation instructions.~~

Section 305.4 Interval of support. Amend to read: Piping shall be supported at distances not exceeding the spacing specified in Table 305.4, or in accordance with MSS SP-69. In addition to the requirements of Table 305.4, piping and tubing shall be supported within 2 feet of every bend or angle.

Section 307.2.2 Drain pipe materials and sizes. Amend to read: Components of the condensate disposal system shall be cast iron, galvanized steel, copper, cross-linked polyethylene, polybutylene, polyethylene, ABS, CPVC or PVC pipe or tubing. All components shall be selected for the pressure and temperature rating of the installation. Joints and connections shall be made in accordance with the applicable provisions of the North Dakota State Plumbing Code relative to the material type. Condensate waste and drain line size shall be not less than 3/4- inch (19 mm) internal diameter and shall not decrease in size from the

drain pan connection to the place of condensate disposal. Where the drain pipes from more than one unit are manifolded together for condensate drainage, the pipe or tubing shall be sized in accordance with Table 307.2.2.

Section 401.2 Ventilation. Amend to read: Ventilation required. Every occupied space shall be ventilated by natural means in accordance with Section 402 or by mechanical ventilation in accordance with Section 403.

Section 403.1 Ventilation system. Amend to read: Mechanical ventilation shall be provided by a method of supply air and return or exhaust air. The amount of supply air shall be approximately equal to the amount of return and exhaust air. The system shall not be prohibited from producing negative or positive pressure. The system to convey ventilation air shall be designed and installed in accordance with Chapter 6.

Exception: The latest version of ASHRAE 62.1 (Ventilation for acceptable indoor air quality) shall be considered to be an acceptable alternative to this section.

~~Section 505.2 Makeup air required. Amend to read: Exhaust hood systems capable of exhausting in excess of 400 cfm shall be provided with makeup air at a rate in excess of 400 cfm. Such makeup air systems shall be equipped with a means of closure and shall be automatically controlled to start and operate simultaneously with the exhaust system.~~

~~Section 508.1.1 Makeup air temperature. Add: Exception: Makeup air shall not be required to be cooled when supplied directly into the kitchen space.~~

504.8.2 Duct installation. Amend to read: Exhaust ducts shall be supported at 4-foot (1219 mm) intervals and secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined with screws. Where dryer exhaust ducts are enclosed in wall or ceiling cavities,

such cavities shall allow the installation of the duct without deformation.

Section 505.4 Makeup air required. Amend to read: Exhaust hood systems capable off exhausting in excess of 400 cfm (0.19m<sup>3</sup>/s) shall be provided with makeup air at a rate in excess of 400 cfm. Such makeup air systems shall be equipped with a means of closure and shall be automatically controlled to start and operate simultaneously with the exhaust system.

Section 508.2 Compensating hoods. Amend to read: Manufacturers of compensating hoods shall provide a label indicating minimum exhaust flow and/or maximum makeup airflow that provides capture and containment of the exhaust effluent. Short circuit compensating hoods are prohibited.

Add: Section 508.2.1 Compensating Hood Make-up Air. Compensating hoods shall extract at least 40% of the required exhaust air flow from the kitchen area.

~~Section 509.2 Exhaust fan operation. Add: A hood exhaust fan(s) shall continue to operate after the extinguishing system has been activated unless fan shutdown is required by a listed component of the ventilation system or by the design of the extinguishing system. When the fire extinguishing system discharges makeup air shall be shut off.~~

~~Add: Section 603.12.1 Required Condensation Provisions. All exhaust ducts, such as bathroom fans and dryer vents, if in a conditioned space, must be insulated at the last 5 feet before exiting building to no less than R-4.2. All exhaust ducts, such as bathroom fans and dryer vents, if in an unconditioned space must be insulated to no less than R-6.~~

~~Add: Section 701.3 Attic space. Attic space shall not be used for combustion air.~~

Section 908.5 Water Supply. Amend to read: Cooling towers, evaporative coolers and fluid coolers shall be provided with an approved water supply, sized

for peak demand. The quality of water supply shall be provided in accordance with the equipment manufacturer's recommendations. The piping system and protection of the potable water system shall be installed as required by the North Dakota State Plumbing Code.

Section 1008.2 Discharge. Amend to read: Blowoff valves shall discharge to a safe place of disposal. Where discharge to the drainage system, the installation shall conform to the North Dakota State Plumbing Code.

Section 1104.2 Machinery room. Add: Exception 3. If an existing refrigerating system is replaced or if an existing refrigeration plant is increased by not more than 50% of its original capacity, but not more than 100 tons per system using a non-flammable class A1 or B1 refrigerant and the refrigeration machinery room was not provided in the original installation prior to 1994, a refrigeration machinery room shall not be required. If the existing refrigeration is not located in general machinery room separated from occupied spaces, a refrigeration machinery room shall be provided. The space containing the refrigeration machinery shall meet the requirement of Section 1104.3.4, protection room refrigerant decomposition, and Section 1105.3 requiring refrigerant detection. If the requirements of 1104.3.4 and 1105.3 cannot be met, a refrigeration machinery room shall be provided.

Section 1208.1 General. Amend to read: New hydronic piping shall be isolated and tested hydrostatically at not less than 100 psi. The duration of the test shall not be less than 15 minutes.

Section 1208.1 General. Amend to read: New hydronic piping shall be isolated and tested hydrostatically at not less than 100 psi (689 kPa). The duration of the test shall be not less than 15 minutes.

5. ~~2015~~ 2018 International Fuel Gas Code (IFGC)

Section 101.1 Title. Amend: NAME OF JURISDICTION to City of Bismarck.

Section 103 Department of Inspection. Delete:

Section 103.4 Liability. Add: This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

~~Add: Section 108.8 Equipment submerged under water. Equipment submerged under water constitutes a fire and health hazard and is considered unsafe equipment. All residential and light commercial furnaces, boilers, and water heaters shall be replaced when any of the following components are submerged under water: gas control valve, burner assembly, electrical control panel, heat exchanger. The following components may be replaced without replacing the furnace or water heater when they are the only things submerged: furnace blower or insulation.~~

Section 109 Means of appeal. Delete.

Section 201.3 Terms defined in other codes. Amend to read: Where terms are not defined in this code such terms shall have meanings ascribed to them as in other code publications of the International Code Council. Whenever electrical codes are referenced by the International Code Council (ICC) in the International Building Code, International Residential Code, International Mechanical Code, International Fuel Gas Code, International Energy Conservation Code, International Existing Building Code, it shall mean the most recent versions of the National Electrical Code and the North Dakota State Wiring Standards adopted by the North Dakota State Electrical Board and the most recent versions of the Uniform Plumbing Code and the Laws, Rules and Plumbing Installation Standards of North Dakota adopted by the North Dakota State Plumbing Board. Wherever reference is made to flood plain

requirements, it shall mean the local flood plain management ordinance.

~~Section 303.3 Prohibited locations. Delete: Exceptions 3 and 4.~~

~~Section 304 Combustion, ventilation, and dilution air. Delete all references to attic space.~~

Section 304.6.1 Two permanent openings method. Amend to read: Two permanent openings, one commencing within 12 inches (305 mm) of the top and one commencing within 12 inches (305 mm) of the bottom of the enclosure, shall be provided. The openings shall communicate directly, or by ducts, with the outdoors or spaces that freely communicate with the outdoors.

Where directly communicating with the outdoors, or where communicating with the outdoors through vertical ducts, each opening shall have a minimum free area of 1 square inch per 4,000 Btu/h (550 mm<sup>2</sup>/kW) of total input rating of all appliances in the enclosure.

Where communicating with the outdoors through horizontal ducts, each opening shall have a minimum free area of not less than 1 square inch per 2,000 Btu/h (1,100 mm<sup>2</sup>/kW) of total input rating of all appliances in the enclosure [see Figure 304.6.1(3)].

Figures 304.6.1(1) and 304.6.1(2). Delete:

Section 304.6.2 One permanent opening method. Amend to Read: One permanent opening, commencing within 12 inches (305 mm) of the top of the enclosure, shall be provided. The appliance shall have clearances of at least 1 inch (25 mm) from the sides and back and 6 inches (152 mm) from the front of the appliance. The opening shall directly communicate with the outdoors or through a vertical or horizontal duct to the outdoors and shall have a minimum free area of 1 square inch per 3,000 Btu/h (734mm<sup>2</sup>/kW) of the total input rating of all appliances located in the enclosure and not less

than the sum of the areas of all vent connectors in the space.

Section 304.11(5) Combustion air ducts. Items 5. Amend to read:

~~Section 304.11(5) Combustion air ducts. Add:~~ Ducts shall not terminate in an attic space.

~~Exception. High efficient sealed combustion appliances may obtain combustion air from a well-ventilated attic space provided the installation complies with the manufacturers installation instructions.~~

~~Section 305.7 Clearance from grade. Amend to read: Equipment and appliances installed at grade level shall be supported on a level concrete slab or other approved material extending not less than 2 inches (76 mm) above adjoining grade or shall be suspended not less than 6 inches (152 mm) above adjoining grade. Such supports shall be installed in accordance with the manufacturer's instructions.~~

~~Section 310.1 Pipe and tubing other than CSST. Amend to read: Each above ground portion of a gas piping that is likely to become energized shall be electrically continuous and bonded to an effective ground-fault current path. Gas piping shall be considered to be bonded where it is connected to appliances that are connected to the equipment grounding conductor of the circuit supplying that appliance. Corrugated stainless steel tubing (CSST) piping systems listed with an arc resistant jacket or coating system in accordance with ANSI LC-1 shall comply with this section. Where any CSST segments of a piping system are not listed with an arc resistant jacket or coating system in accordance with ANSI LC-1, Section 310.1.1 shall apply.~~

~~Section 310.1.1 CSST~~

~~Section 310.1.1 CSST. Amend to read: CSST without arc resistant jacket or coating system. CSST gas piping systems and piping systems containing one or more segments of CSST not listed with an arc resistant jacket or coating system in accordance~~

~~with ANSI LC-1 shall be bonded to the electrical service grounding electrode system or, where provided, the lightning protection grounding electrode system and shall comply with Sections 310.1.1.1 through 310.1.1.5.~~

Section 403.3 Other materials. Amend to read: Material not covered by the standards specifications listed herein shall be investigated and tested to determine that it is safe and suitable for the proposed service, and, in addition, shall be recommended for that service by the manufacturer and shall be approved by the code official.

Listed LPG hose may be used with natural gas when used for temporary heating at a maximum length of 50 feet.

Add: Section 403.10.1.1 Pipe joints. Gas supply systems with pressures 5 psig or greater and gas pipe joints 2 ½ inches or larger, regardless of pressure, shall be welded.

Section 403.10.4 Metallic fittings. Item 1. Amend to read: Threaded fittings in sizes 2 ½ inches or larger shall not be used except where approved.

Section 406.4 Test pressure measurement. Amend to read: Test pressure shall be measured with a manometer or with a pressure-measuring device designed and calibrated to read, record, or indicate a pressure loss caused by leakage during the pressure test period. The source of pressure shall be isolated before the pressure tests are made. Dial gauges used to measure test pressures shall be performed with gauges of 2 psi increments or less and have a range not exceeding 100 psi unless otherwise approved.

Section 406.4.1 Test pressure. Amend to read: The test pressure to be used shall be no less than 1 1/2 times the proposed maximum working pressure, but not less than 20 psig irrespective of design pressure. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the piping

greater than 50 percent of the specified minimum yield strength of the pipe.

Section 408.2 Drips. Amend to read: Where wet gas exists, a drip shall be provided at any point in the line of pipe where condensate could collect.

~~Section 411.1 Connecting appliances. Item 3. Delete:~~

Section 411.2 Manufactured home connections. Amend to read: Manufactured homes shall be connected to the distribution piping system by listed and labeled connectors in compliance with ANSI Z21.75/CSA 6.27 and installed in accordance with the manufacturer's installation instructions.

Section 415.1 Interval of support. Amend to read: Piping shall be supported at intervals not exceeding the spacing specified in Table 415.1. Spacing of supports for CSST shall be in accordance with the CSST manufacturer's instructions. In addition to the requirements of Table 415.1, piping and tubing shall be supported within 2 feet of every bend or angle.

~~Section 501.8 Appliances not required to be vented. Item 8. Delete:~~

Section 501.12 Residential and low-heat appliances flue lining systems. Amend to read: Flue lining systems for use with residential-type and low-heat appliances shall be limited to the following:

1. Clay flue lining complying with the requirements of ASTM C 315 or equivalent when each appliance connected into the masonry chimney has a minimum input rating greater than 400,000 Btu/h. Clay flue lining shall be installed in accordance with the International Building Code.
2. Listed chimney lining systems complying with UL1777.
3. Other approved materials that will resist, without cracking, softening or corrosion, flue

gases and condensate at temperatures up to 1,800°F (982°C).

4. Aluminum (1100 or 3003 alloy or equivalent) not less than 0.032 inches thick to 8 inches diameter.
5. Stainless steel (304 or 430 alloy or equivalent) not less than 26 gauge (0.018 inches thick) to 8 inches diameter or not less than 24 gauge (0.024 inches thick) 8 inches diameter and larger.

When a metal liner is used other than a listed chimney liner a condensation drip tee shall be installed and supported in an approved manner.

Section 503.5.3 Masonry chimneys. Amend to read: Masonry chimneys shall be built and installed in accordance with NFPA 211 and shall be lined as per Section 501.12.

Section 503.5.6.1 Chimney lining. Amend to read: Chimneys shall be lined in accordance with NFPA 211 and Section 501.12.

Exception: Where an existing chimney complies with Sections 503.5.6 through 503.5.6.3 and its sizing is in accordance with Section 503.5.5, its continued use shall be allowed when, in more than one appliance venting system the secondary appliance, such as a water heater, is replaced and the primary heating appliance remains.

Section 614.8.2 Duct installation. Amend to read: Exhaust ducts shall be supported at 4-foot intervals and secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined with screws.

~~Section 621 Unvented room heaters~~

6. ~~2015~~ 2018 International Energy Conservation Code.

IECC-COMMERCIAL PROVISIONS

Section C101.1 Title. Amend: NAME OF JURISDICTION to City of Bismarck.

Section C103.3.1 Approval of construction documents. Amend to read: When the Building Official issues a permit, the construction documents shall be approved. One set of construction drawings so reviewed shall be retained by the Building Official.

Section C105.2.3 Plumbing system. Delete:

Section C105.2.4 Mechanical system. Delete:

Section C105.2.5 Electrical system. Delete:

Section C105.2.6 Final inspection. Delete:

Section C109 Board of Appeals. Delete:

Section C201.3 Terms defined in other codes. Amend to Read: Where terms are not defined in this code such terms shall have meanings ascribed to them as in other code publications of the International Code Council. Whenever electrical codes are referenced by the International Code Council (ICC) in the International Building Code, International Residential Code, International Mechanical Code, International Fuel Gas Code, International Energy Conservation Code, International Existing Building Code, it shall mean the most recent versions of the National Electrical Code and the North Dakota State Wiring Standards adopted by the North Dakota State Electrical Board and the most recent versions of the Uniform Plumbing Code and the Laws, Rules and Plumbing Installation Standards of North Dakota adopted by the North Dakota State Plumbing Board. Wherever reference is made to flood plain requirements, it shall mean the local flood plain management ordinance.

Section C408.2.4.1 Acceptance of report. Delete:

Section C408.2.5 Documentation requirements. Delete:

Section C408.3.1 Functional testing. Delete:

IECC-RESIDENTIAL PROVISIONS

Section R101.1 Title. Amend: NAME OF JURISDICTION to City of Bismarck.

Section R109 Board of Appeals. Delete:

Section R103.3.1 Approval of construction documents. Amend to read: When the Building Official issues a permit, the construction documents shall be approved. One set of construction drawings so reviewed shall be retained by the Building Official.

Section R105.2.3 Plumbing rough-in inspection. Delete:

Section R105.2.4 Mechanical rough-in inspection. Delete:

Section R105.2.5. Final Inspection:

Section R201.3 Terms defined in other codes. Amend to Read: Where terms are not defined in this code such terms shall have meanings ascribed to them as in other code publications of the International Code Council. Whenever electrical codes are referenced by the International Code Council (ICC) in the International Building Code, International Residential Code, International Mechanical Code, International Fuel Gas Code, International Energy Conservation Code, International Existing Building Code, it shall mean the most recent versions of the National Electrical Code and the North Dakota State Wiring Standards adopted by the North Dakota State Electrical Board and the most recent versions of the Uniform Plumbing Code and the Laws, Rules and Plumbing Installation Standards of North Dakota adopted by the North Dakota State Plumbing Board. Wherever reference is made to flood plain requirements, it shall mean the local flood plain management ordinance.

Table (R402.1.2) Insulation and Fenestration Requirements by Component. Climate zone 6, Wood

Frame Wall R-Value. Amend to read:  $21\theta$  or  $13+5h$ ,  
i.

Table (R402.1.2) Insulation and Fenestration Requirements by Component. Climate zone 6, Basement Wall R-Value. Amend to read: 10/13.

Table (R402.1.2) Insulation and Fenestration Requirements by Component. Climate zone 6, Crawlspace R-Value. Amend to read: 10/13.

Table (R402.1.4) Equivalent U-Factors. Climate zone 6, Frame Wall Factor. Amend to Read: 0.057.

Table (R402.1.4) Equivalent U-Factors. Climate zone 6, Basement Wall U-Factor. Amend to Read: 0.059.

Table (R402.1.4) Equivalent U-Factors. Climate zone 6, Crawl Space U-Factor. Amend to Read: 0.059.

Section R402.4 Air leakage (Mandatory) Add: Exception. Dwelling units of R-2 occupancies and multiple single family dwellings shall be permitted to comply with IECC Section C402.5.

~~Section R402.4.1.2 Testing. Delete:~~

Section R402.4.1.2 Testing. Amend to read: The building or dwelling unit shall be tested and verified as having an air leakage rate not exceeding five air changes per hour in Climate Zones 1 through 8.

Add: Section R402.4.1.3 Visual Inspection Option. Building envelope tightness and insulation shall be considered acceptable when installed in accordance with Table R402.4.1.1 - "Air Barrier and Insulation" and has been field verified.

~~Section R403.3.2 Sealing (Mandatory). Exception 2. Amend to read: For ducts having a static pressure classification of less than 2 inches of water column (500 Pa), additional closure systems shall not be required for continuously welded joints and seams, and locking-type joints and seams.~~

Section R403.3.5 Building cavities (Mandatory)  
 Amend to read: Building framing cavities shall not be used as supply ducts.

Section R403.6 Mechanical ventilation (Mandatory).  
 Amend to read: Ventilation (Mandatory)

Table R405.5.2(1) Specifications for the Standard Reference and Design: Amend to read:

Standard Reference Design: Air leakage rate of 5 air changes per hour in Climate Zones 1 through 8 at a pressure of 0.2 inches w.g (50 Pa). (Balance is unchanged.)

Proposed design: For residences that are not tested, the same air leakage rate leakage rate as the standard reference design. For tested residences, the measured air exchange rate. The mechanical ventilation rated shall be in addition to the air leakage rate and shall be as proposed.

<u>Building Component</u>	<u>Standard Reference Design</u>	<u>Proposed Design</u>
<u>Air exchange rate</u>	<u>Air leakage rate of 5 air changes per hour in Climate Zones 1 through 8 at a pressure of 0.2 inches w.g (50 Pa). (Balance is unchanged.)</u>	<u>For residences that are not tested, the same air leakage rate as the standard reference design. For tested residences, the measured air exchange rate. The mechanical ventilation rated shall be in addition to the air leakage rate</u>

		<u>and shall be as proposed.</u>
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7. 2018 Existing Building Code

Section 101.1 title. Amend: NAME OF JURISDICTION to  
The City of Bismarck)

Section 103 DEPARTMENT OF BUILDING SAFETY. Delete:

Section 104.8 Liability. Add: This code shall not  
be construed to relieve from or lessen the  
responsibility of any person owning, operating, or  
controlling any building or structure for any  
damages to persons or property caused by defects,  
nor shall the code enforcement agency or city be  
held as assuming any such liability by reason of  
the inspection authorized by this code or any  
permits or certificates issued under this code.

Section 104.10.1 Flood Hazard areas. Delete:

Section 105 .2 Work exempt from permit. Building.  
Add items 7 and 8:

7. Reroofing

8. Window Replacement

Section 112 Board of Appeals: Delete.

Section 201.3 Terms defined in other codes. Amend  
to read: Terms defined in other codes. Where terms  
are not defined in this code such terms shall have  
meanings ascribed to them as in other code  
publications of the International Code Council.  
Whenever electrical codes are referenced by the  
International Code Council (ICC) in the  
International Building Code, International  
Residential Code, International Mechanical Code,  
International Fuel Gas Code, International Energy  
Conservation Code, International Existing Building  
Code, it shall mean the most recent versions of the  
National Electrical Code and the North Dakota State  
Wiring Standards adopted by the North Dakota State  
Electrical Board and the most recent versions of  
the Uniform Plumbing Code and the Laws, Rules and

Plumbing Installation Standards of North Dakota adopted by the North Dakota State Plumbing Board. Wherever reference is made to flood plain requirements, it shall mean the local flood plain management ordinance.

Section 1401.2 Conformance. Add: Buildings to be moved within this jurisdiction shall comply with provisions of this chapter. Buildings to be moved into this jurisdiction shall comply with the provisions of the North Dakota State Building Code for new buildings and shall be certified as to that compliance by an agency approved by the Building official.

*( Ord. 4281, 8-23-89; Ord. 4314, 2-06-90; Ord. 4452, 07-21-92; Ord. 4688, 05-23-95; Ord. 4776, 07-23-96; Ord. 4911, 05-26-98; Ord. 4958, 12-21-98; Ord. 5316, 05-25-04; Ord. 5578, 02-26-08; Ord. 5802, 02-22-11; Ord. 6035, 04-08-14; Ord. 6035, 04-08-14)*

Section 3. Amendment. Section 4-07-06 of the City of Bismarck Code of Ordinances relating to Amendments to the Bismarck Fire Prevention Code is hereby amended and re-enacted as follows:

**4-07-06. Amendments.** The International Fire Code adopted by the provisions of this article is hereby amended as follows:

1. Chapter 1. Administration.

Section 101, General, is amended to read as follows:

Section 101.1 Title. These regulations shall be known as the City of Bismarck Fire Prevention Code, hereafter referred to as "this code."

Section 103. Department of Fire Prevention. Deleted.

Section 105.1.1 Permits Required is amended to read as follows:

A property owner or owner's authorized agent who intends to conduct an operation or business, or install or modify systems and equipment that are regulated by this code, or to cause any such work to be performed, shall first make application to the fire code official permit and may be required to

obtain a permit.

Section 105.6.1 through 105.6.48 are amended to read as follows:

The specified permits identified in each operational section as "being required" are amended to "required upon the determination of the code official."

Section 105.7 required construction permits is amended to read as follows:

The fire code official is authorized to issue construction permits for work as set forth in Sections 105.7.1 through 105.7.18. The fire code official may utilize existing permitting and approval processes already established in Community Development, Engineering or other departments.

Section ~~108~~ 109, Board of Appeals: Deleted.

Section ~~109~~ 110, Violations, is amended in part to read as follows:

Section ~~109.4~~ 110.4 Violation penalties. A person who violates a provision of this code or who fails to comply with any of the requirements thereof or who erects, installs, alters, repairs or does work in violation of the approved construction documents or directives of the fire code official, or of a permit or certificate used under the provisions of this code, shall be guilty of an infraction. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section ~~111~~ 112, Stop Work Order, is amended in part to read as follows:

Section ~~111.4~~ 112.4 Failure to comply. Any person who continues any work after having been served with a stop work order, except work as that person is directed to perform to remove a violation of unsafe condition, shall be guilty of an infraction.

2. Chapter 2. Definitions

Section 202 General Definitions is amended as follows:

Commercial Motor Vehicles is amended to read as follows: A motor vehicle used to transport passengers or proper, or motorized equipment where the motor vehicle(s) or equipment:

1. Has a gross vehicle weight rating of 10,000 pounds or more; or
2. Have combined weights greater than 26,000 lbs.; or
3. Is designed to transport 16 or more passengers, including the driver

Fireworks, 1.4G is deleted in its entirety and replaced with the following:

Small fireworks devices containing restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion or deflagration that complies with the construction, chemical composition and labeling regulations of the DOTn for Fireworks, UN0336, and the U.S. Consumer Product Safety Commission as set forth in CPSC 16 CFR Parts 1500 and 1507, or otherwise listed and defined in NDCC 23-15-01.

Occupancy classifications Educational Group E, day care facilities.

Educational group E.

Occupancy classifications Educational Group E, day care facilities is amended to read as follows: This group includes buildings and structures or portions thereof occupied by more than twelve children older than 2 ½ years of age who receive educational, supervision or personal care services for less than 24 hours per day.

Five or fewer children. Amend to read:

Twelve or fewer children. A facility having twelve or fewer children receiving such day care shall be classified as part of the primary occupancy.

Educational Group E.

Occupancy classifications Educational Group E, Five or fewer children in a dwelling unit is amended to read as follows: A facility such as the above within a dwelling unit and having twelve or fewer children receiving such care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

Institutional Group I-4, day care facilities. Amend to read:

Institutional Group I-4 occupancy shall include buildings and structures occupied by more than twelve persons of any age who receive custodial care for fewer than 24 hours per day by persons other than parents or guardians, relatives by blood, marriage or adoption, and in a place other than the home of the person cared for. This group shall include, but not be limited to, the following:

Adult day care. Child day care.

Classification as Group E. Amend to read:

A child day care facility that provides care for more than twelve but not more than 100 children 2 ½ years of age, where the rooms in which children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

Five or fewer persons receiving care. Amend to read:

A facility having twelve or fewer persons receiving custodial care shall be classified as part of the primary occupancy.

Five or fewer persons receiving care in a dwelling. Amend to read:

A facility such as above within a dwelling unit having twelve or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

Care Facilities within a dwelling. Amend to read:

Care facilities for twelve or fewer persons receiving personal care that are within a single family dwelling are permitted to comply with the International Residential Code.

3. Chapter 3. General Requirements.

Section 308, Open Flames, is amended in part to read as follows:

Section 308.1.4, Open-flame cooking devices is amended to read as follows:

Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or decks or within 10 feet (3048 mm) of combustible construction.

Exceptions:

1. One- and two-family dwellings.
2. Where buildings, balconies and decks are protected by an automatic sprinkler system.
3. LP-gas cooking devices having LP-gas container with a water capacity not greater than 47.8 pounds [nominal 20 pounds (9 kg) LP-gas capacity]. Devices using deep oil containers, (i.e. turkey fryers), are not included in this exception.

Section 308 Open Flames. Section 308.3 Group A Occupancy is amended to read by adding the following subsection 1.4 to exception 1:

1.4 Open-flame devices for food warming.

Section 308.1.6.3 Sky Lanterns. delete in its entirety to be consistent with fireworks definition and restrictions

Vacant premises.

Section 311.6 Unoccupied tenant spaces in mall buildings.

Item 1 is amended to read as follows:

1. Storage is kept to a minimum and is neat and orderly.

4. Chapter 5 ~~Fire Apparatus Access Road~~ Fire Service Features.

Section 503.2.3 Surface is amended to read as follows:

Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus, shall be surfaced so as to provide all weather driving capabilities, and shall meet the specifications of the City Engineering Department.

~~Fire Service Features~~

Section 510, Emergency Responder Radio Coverage, is amended to read as follows:

Section 510.4 Technical requirements.

Systems, components and equipment required to provide emergency responder radio coverage shall comply with technical requirements established at issuance of the construction permit.

Section 510.5 Installation requirements. Delete

Section 510.6 Maintenance.

The emergency responder radio coverage system shall be maintained at all times in accordance with the requirements established at issuance of the construction permit, and with Sections 510.6.2 and 510.6.3.

5. Chapter 9. Fire Protection and Life Safety Systems.

Section 903, Automatic Sprinkler Systems, is amended to read as follows:

Section 903.2.8 Group R.

An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all

buildings with Group R fire area, except in a single family dwelling or a residential building that contains no more than two dwelling units.

Automatic sprinkler systems.

Section 903.2.11.3 is amended to read as follows:

Buildings 55 feet, or five stories or more in height. An automatic sprinkler system shall be installed throughout buildings that have one or more stories with an occupant load of 30 or more located 55 feet, or five stories or more above the lowest level of fire department vehicle access, measured to the finished floor.

Automatic sprinkler systems.

Section 903.3.1 Standards is amended to read as follows:

Sprinkler systems shall be designed with a 5 psi safety margin and installed in accordance with Sections 903.3.1.1, 903.3.1.2 or 903.3.1.3 and other chapters of this code, as applicable.

Section 903.3.1.2.1 Balconies and decks.

Sprinkler protection shall be provided for exterior balconies, decks and ground floor patios of dwelling units and sleeping units where the building is of Type V construction, provided there is a roof, overhang six (6) inches greater, or deck above. Sidewall sprinklers that are used to protect such areas shall be permitted to be located such that their deflectors are within 1 inch (25 mm) to 6 inches (152 mm) below the structural members and a maximum distance of 14 inches (356 mm) below the deck of the exterior balconies and decks that are constructed of open wood joist construction.

Section 905, Standpipe Systems, is amended to read as follows:

Section 905.1 General. Add:

Class II and III standpipe systems are prohibited. Where required within this section, all standpipes systems shall meet the requirements of a Class I standpipe.

Section 907, Fire alarm and detection systems

Section 907.2.3 Group E Add:

Where approved by the fire code official, a building's emergency communication system interfaced with the fire alarm system in accordance with NFPA 72 is acceptable.

Section 907.2.~~44~~ 10.1 Group R-1. Exceptions. Add:

In dwelling units where the ceiling height of a room open to the hallway serving the sleeping rooms exceeds that of the hallway by 24 inches or more, smoke detectors shall be installed in the hallway and in the adjacent room.

Section 907.2.~~44~~ 10.2 Group R-2, R-3, R-4 and I-1. Exceptions. Add:

In dwelling units where the ceiling height of a room open to the hallway serving the sleeping rooms exceeds that of the hallway by 24 inches or more, smoke detectors shall be installed in the hallway and in the adjacent room.

Section 907.8.3 - delete in its entirety.

6. Chapter 10. Means of Egress.

1010.1.9.4 Locks and Latches is amended to add subsection 7 as follows:

7. Egress doors from occupied roofs, or doors that are used to gain access to the interior of the building shall be locked from the outside if all of the following are provided.

7.1 Compliance with 1010.1.9.4 item #2

7.2 Compliance with 1009.8

7.3 The door locks shall unlock on activation of the automatic sprinkler system and automatic fire detection system and the door locking system shall be installed to have the capability of being unlocked by a switch located at the fire command center.

7.4 A readily visible durable sign is posted on both sides of the door or adjacent to the door stating: THIS

DOOR TO REMAIN UNLOCKED WHEN THIS SPACE IS OCCUPIED.  
The sign shall be in letters 1 inch (25 mm) high on a  
contrasting background.

Section 1011.1 General. Exceptions. Add:

Stairways used only to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public.

Section 1011.2 Width and capacity. Add:

Exception. Stairways used to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public.

Section 1011.5.2 Riser height and tread depth. Amend item 3 and add item 6 to read:

3. In Group R-3 occupancies; within dwelling units in Group R-2 occupancies; and in Group R-3 occupancy or accessory to individual dwelling units in Group R-2 occupancies; the maximum riser height shall be 8 inches; the minimum tread depth shall be 9 inches; the minimum winder tread depth at the walk-line shall be 10 inches; and the minimum winder tread depth shall be 6 inches. A nosing projection not less than  $\frac{3}{4}$  inch but not more than  $1\frac{1}{4}$  inches shall be provided on stairways with solid risers where the tread depth is less than 11 inches.

6. Amend to read: In stairways serving an occupant load of less than ten (10) and stairways to unoccupied roofs, the maximum riser height shall be 8 inches and the minimum tread depth shall be 9 inches. Stairways used only to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public are permitted to have a maximum 8-inch riser height and minimum 9-inch tread depth.

Section 1011.11 Handrails. Exceptions, Add:

5. Stairways used only to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public shall have a handrail on at least one side.

6. Vehicle service pit stairways are exempt from the rules for stairway railings and guards if they would prevent a vehicle from moving into place over the pit.

Section 1015.2 Where required. Amend to read:

Guards shall be located along open-sided walking surfaces, including mezzanines, equipment platforms, stairs, ramps, and landings that are located more than 30 inches above the floor or grade below if within 36 inches horizontally to the edge of the open side of the vertical measurement to the floor or grade below is greater than 48 inches. Guards shall be adequate in strength and attachment in accordance with section 1607.8.

7. Chapter 11. Construction Requirements for Existing Buildings

Section 1103, Fire Safety Requirements for Existing Buildings, is amended to read as follows:

Section 1103.6.1 Existing multiple-story buildings. Change 50 feet (15 240 mm) to read five (5) stories.

8. Chapter 53. Compressed Gases

Section 5307.3 change 100 pounds to 500.

Section 5307.4 change 100 pounds to 500.

9. Chapter 56. Explosives and Fireworks.

Section 5601, General, is amended to read as follows:

Section 5601.1.3, Fireworks. The possession, manufacture, storage, sale, handling, and use of fireworks are prohibited. Amended as follows:

Delete Exceptions 2 and 4.

Section 5601.2.4., Financial Responsibility. The permittee shall furnish a bond or insurance in an amount deemed adequate by the board of city commissioners, but not less than two hundred and fifty thousand dollars (\$250,000.00) per individual or one million dollars (\$1,000,000.00) per occurrence, conditioned for the payment of all potential damages which may be caused either to a person or persons or to property by reason of the permitted display, and arising from any act of the permittee, its agents, employees or subcontractors.

10. Chapter 57. Flammable and Combustible Liquids.

Section 5704, Storage, is amended to read as

follows:

Section 5704.2.9.6.1, Locations where above-ground tanks are prohibited. Amend to read:

Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited in all zoning districts within the corporate boundaries of the City of Bismarck, with the exception of Industrial, Agricultural, and Public (MA, MB, A, P) districts.

Section 5704.2.12.2 is deleted in its entirety and replaced with the following:

Documentation of tightness testing shall be provided to the fire department. Piping shall be tested in accordance with Section 5703.6.3.

Section 5706, Special Operations, is amended to read as follows:

Section 5706.2.4.4, Locations where above-ground tanks are prohibited. Amend to read:

Storage of Class I and II liquids in permanent above-ground tanks outside of buildings is prohibited in all zoning districts within the corporate boundaries of the City of Bismarck, with the exception of Industrial, Agricultural, and Public (MA, MB, A, P)

districts.

11. Chapter 58. Flammable Gases and Flammable Cryogenic Fluids.

Section 5806.2 Limitations is amended to read as follows:

Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited except for Industrial, Agricultural, and Public Districts (MA, MB, A, P).

12. Chapter 61. Liquefied Petroleum Gases.

Section 6103.2.1.6 Use with self-contained torch assemblies is amended to read as follows:

Portable LP-gas are allowed to be used to supply approved self-contained torch assemblies or similar appliances. Such containers shall not exceed a water capacity of ~~2.7 pounds (1.2KG)~~ 12 pounds.

Section 6104, Location of LP-Gas Containers, is amended to read as follows:

Section 6104.2, Maximum capacity within established limits, the first paragraph is amended to read:

Within residentially-zoned districts of the corporate boundaries of the City of Bismarck, storage of liquefied petroleum gas used to supply a structure or for any other use shall not exceed a maximum water capacity of 29 gallons (109 L).

In all other districts, except for Industrial, Agricultural, and Public districts (MA, MB, A, P), the maximum capacity of any one installation shall not exceed a water capacity of 2,000 gallons (7570 L).

13. Appendix B. Fire-Flow Requirements for Buildings adopt in its entirety.

14. Appendix C. Fire Hydrant Locations and Distribution adopt in its entirety.

15. Appendix D. Fire Apparatus Access Roads adopt in its entirety.

*(Ord. 4145, 4-28-87; Ord. 4302, 11-07-89; Ord. 4379, 6-18-91; Ord. 4688, 05-23-95; Ord. 4744, 01-09-96; Ord. 4911, 05-26-98; Ord. 5316, 05-25-04; Ord. 5497, 04-25-06; Ord. 5654, 02-26-08; Ord. 5707, 02-24-09; Ord. 5803, 02-22-11; Ord. 6035, 04-08-14; Ord. 6245, 1-24-17)*

Section 4. 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 5. Effective Date. This ordinance shall take effect following final passage, adoption and publication.



## *Community Development Department*

**DATE:** February 4, 2020

**FROM:** Ben Ehreth, AICP, Community Development Director

**ITEM:** Daybreak Medical Addition First Replat – Minor Subdivision Final Plat

### **REQUEST**

57 North Investors, LLP and Greenfield Commons, LLC are requesting approval of a minor subdivision final plat for Daybreak Medical Addition First Replat. The proposed minor plat would better align lot lines for the continued development of a mix of residential, commercial and office uses.

The property is located in north Bismarck, north of 57th Avenue NE and east of North Washington Street, in the northwest quadrant of the intersection of East Greenfield Drive and Saints Drive (a replat of Block 2, Daybreak Medical Addition).

Please place this item on the February 11, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The Planning & Zoning Commission held a public hearing on this request on January 22, 2020.

No residents 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 Daybreak Medical Addition First Replat.

### **RECOMMENDED CITY COMMISSION ACTION**

Consider the request for approval of the minor subdivision final plat for Daybreak Medical Addition First Replat and take final action on the request.

### **STAFF CONTACT INFORMATION**

Ben Ehreth, AICP | Community Development Director, 355-1842 or [behreth@bismarcknd.gov](mailto:behreth@bismarcknd.gov)

Kim L. Lee, AICP | Planning Manager, 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)

Jenny Wollmuth, AICP, CFM | Planner, 355-1845 or [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

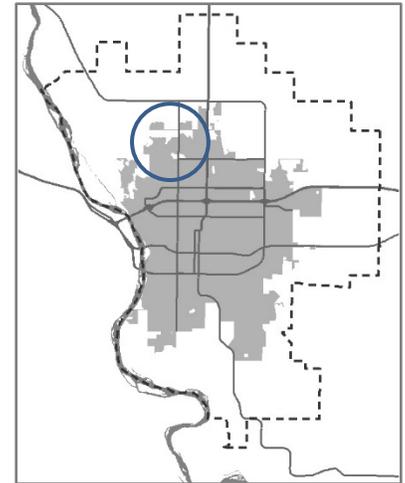
January 22, 2020

## Application for: Minor Subdivision Final Plat

TRAKiT Project ID: MPLT2019-005

### Project Summary

<b>Title:</b>	Daybreak Medical Addition First Replat
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	57 North Investors, LLP Greenfield Commons, LLC
<b>Project Contact:</b>	Landon Niemiller, Swenson Hagen & Co.
<b>Location:</b>	In north Bismarck, north of 57 <sup>th</sup> Avenue NE and east of North Washington Street, in the northwest quadrant of the intersection of East Greenfield Drive and Saints Drive (a replat of all of Block 2, Daybreak Medical Addition)
<b>Project Size:</b>	16.59 acres
<b>Request:</b>	Replat property for continued mixed use development



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	4 parcels in 1 block	<b>Number of Lots:</b>	7 lots in 1 block
<b>Land Use:</b>	Mixed use; office, commercial & residential	<b>Land Use:</b>	Mixed use office, commercial & 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>	RT – Residential PUD – Planned Unit Development	<b>Zoning:</b>	RT – Residential PUD – Planned Unit Development
<b>Uses Allowed:</b>	RT – Office and multi-family PUD – Uses specified in PUD	<b>Uses Allowed:</b>	RT – Office and multi-family PUD – Uses specified in PUD
<b>Max Density Allowed:</b>	RT – 30 units / acre PUD – Density specified in PUD	<b>Max Density Allowed:</b>	RT – 30 units / acre PUD – Density specified in PUD

### Property History

<b>Zoned:</b>	Lot 1 – 12/2017 (RT) Remaining – 07/2018 (PUD)	<b>Platted:</b>	12/2017	<b>Annexed:</b>	12/2017
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(continued)

**Staff Analysis**

57 North Investors, LLP and Greenfield Commons, LLC are requesting approval of a minor subdivision final plat for Daybreak Medical Addition First Replat.

If approved as proposed, the minor plat would better align lot lines for the continued development of a mix of residential, commercial and office uses. The property is partially developed; Bismarck Surgical Associates is located on Lot 1, and there are 2 mixed use buildings currently being constructed on Lot 6 of the proposed plat.

Adjacent land uses include undeveloped agricultural land to the north, St. Mary's High School and related facilities to the east, existing rural residential properties to the west across North Washington Street and undeveloped property to the south across 57<sup>th</sup> Avenue NE.

Lot 1 is zoned RT – Residential and Lots 2-7 of the proposed plat are zoned PUD – Planned Unit Development. The applicants have indicated that upon approval of the proposed plat, Lots 2 and 3, Block 1 and Lots 4 and 5, Block 1 will be combined into two separate parcels for ownership purposes, as there are multiple owners within the development.

As of February 1, 2019, the creation of any new lots in the City of Bismarck is subject to development capital charges for municipal utilities. Public Works Department – Utility Operation Division have determined that utility capital charges will be due prior to the recordation of the proposed plat.

**Required Findings of Fact** (relating to land use)

1. All technical requirements for approval of a minor subdivision final plat have been met;
2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) with the understanding that additional development of the property will require a more detailed stormwater management plan during site plan review;
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 the minor subdivision final plat for Daybreak Medical Addition First Replat.

**Attachments**

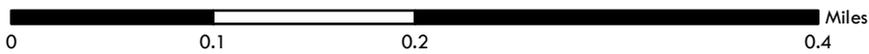
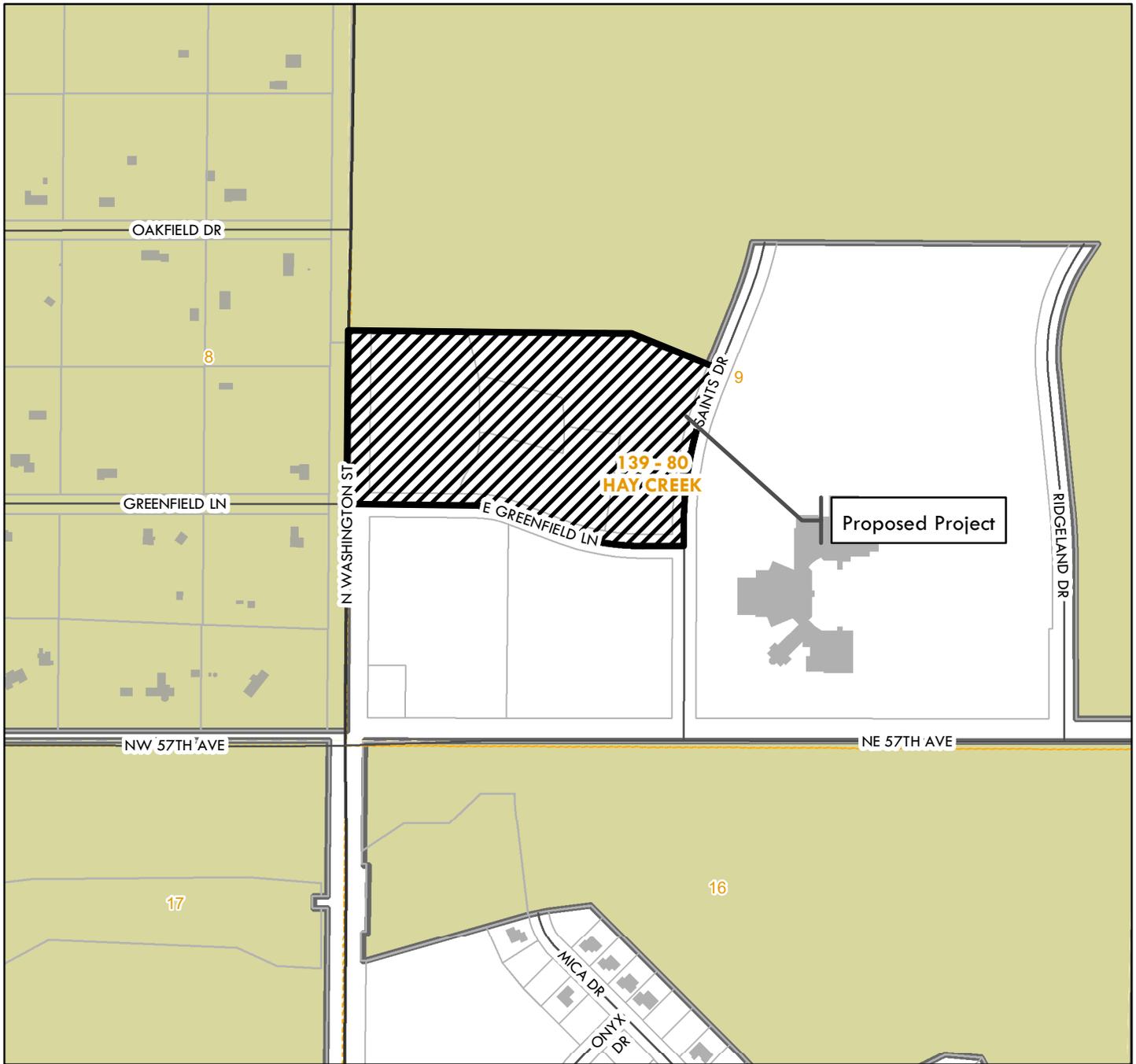
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Final Plat
5. Original Plat with Replatted Area Highlighted



# Location Map

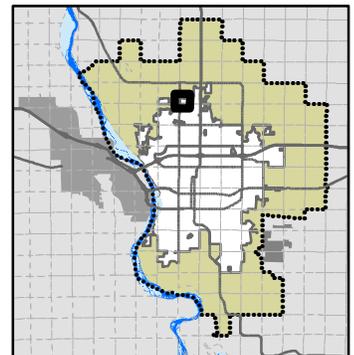
Daybreak Medical Addition First Replat

MPLT2019-005



- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

Section, township, and range indicated in orange



City of Bismarck  
 Community Development Department  
 Planning Division  
 December 23, 2019 (HLB)

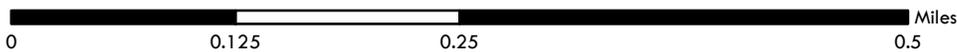
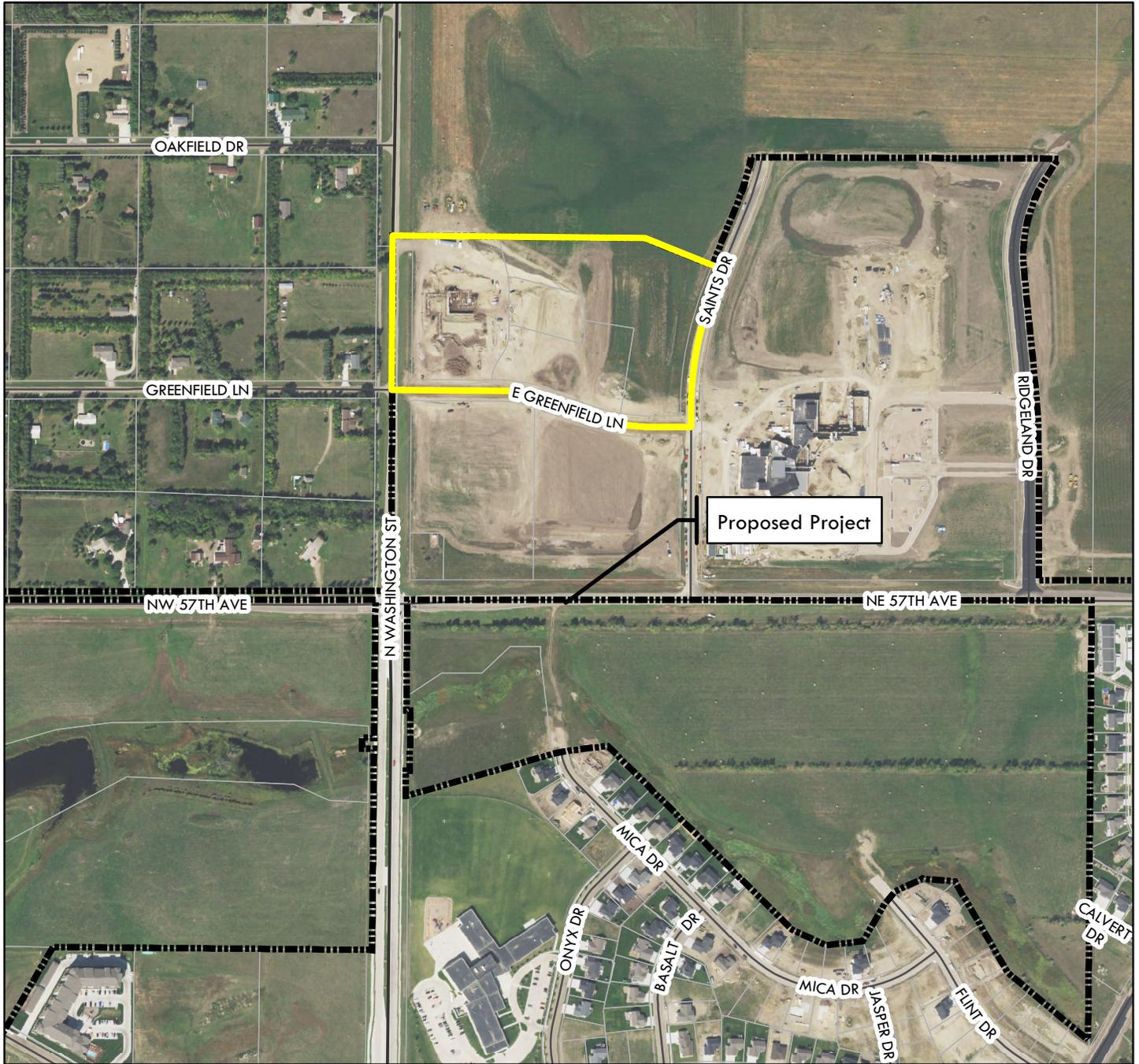
*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.*



# Aerial Map

MPLT2019-005

## Daybreak Medical Addition First Replat

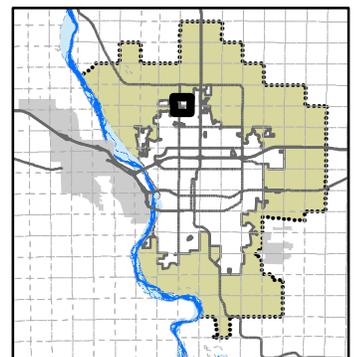


 City Limits
  Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
 Community Development Department  
 Planning Division  
 January 16, 2020

*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.*

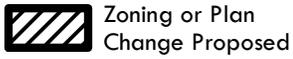




# Zoning and Plan Reference Map

MPLT2019-005

Daybreak Medical Addition First Replat



### Zoning Districts

- A** Agriculture
- RR** Rural Residential
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

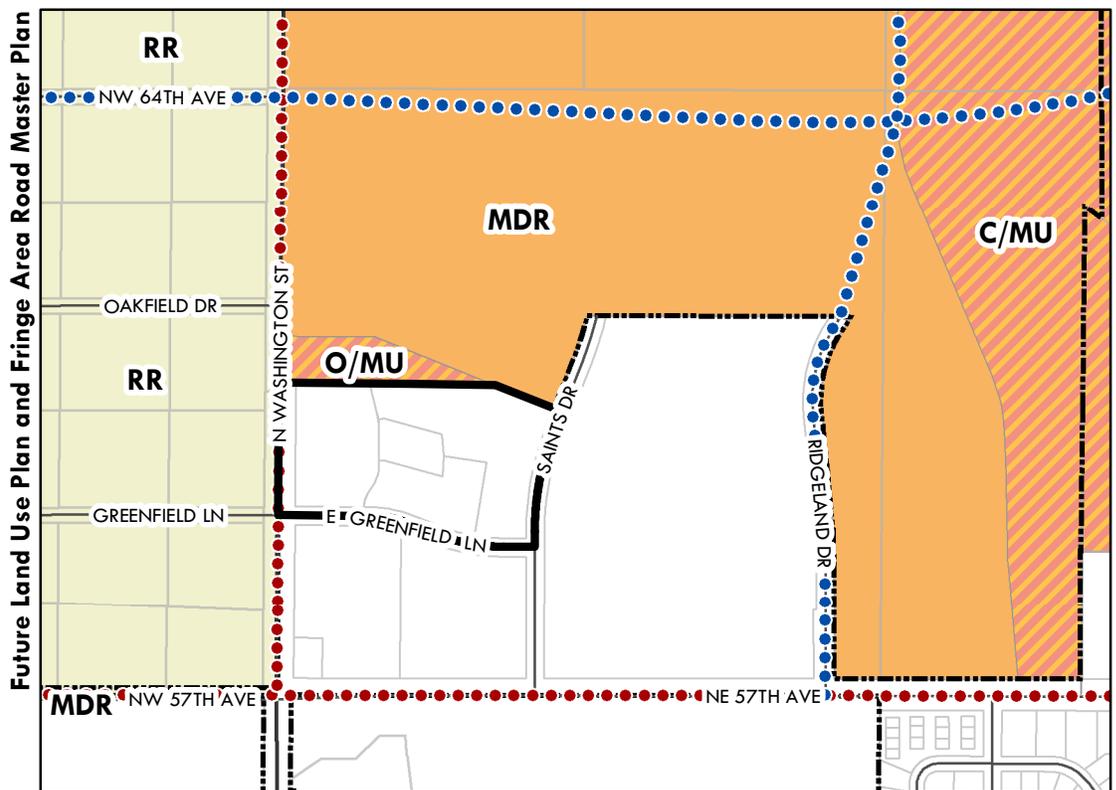
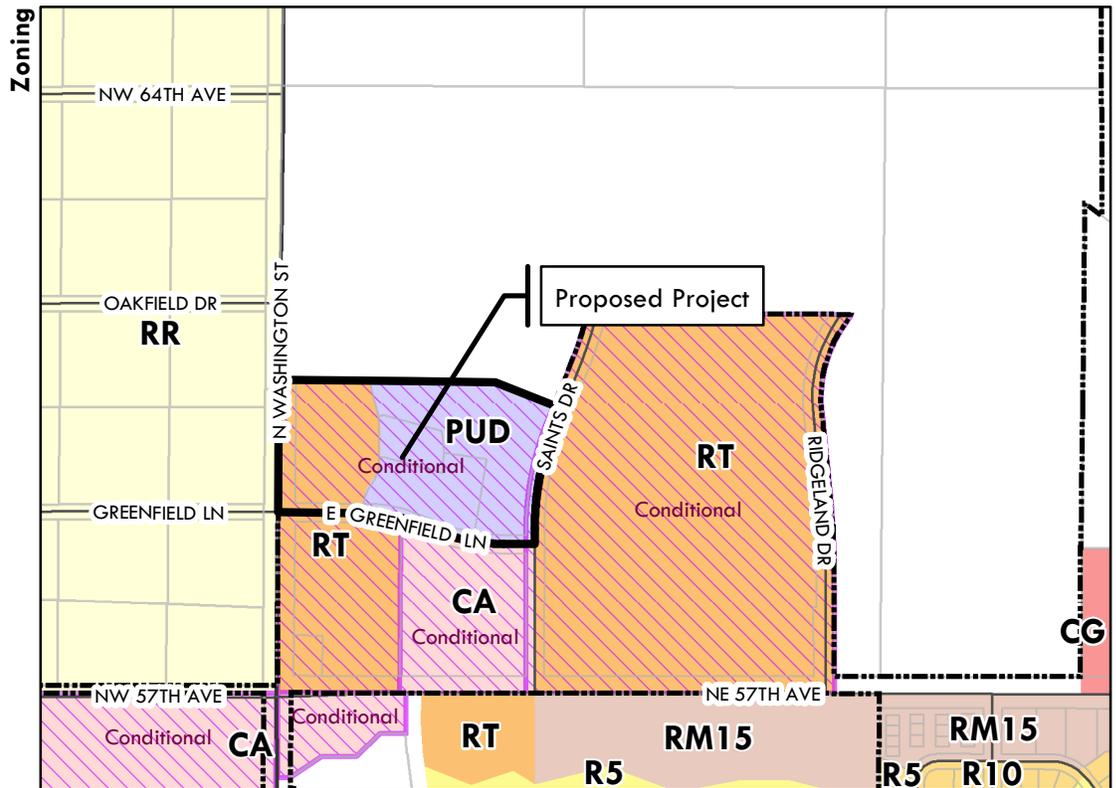
Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

### Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector



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.



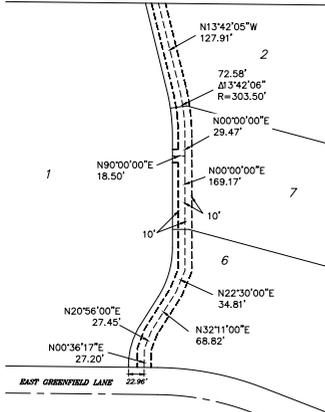
City of Bismarck  
Community Development Dept.  
Planning Division  
January 16, 2020



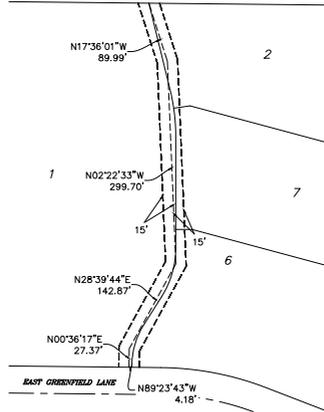
# DAYBREAK MEDICAL ADDITION FIRST REPLAT

BEING A REPLAT OF ALL OF BLOCK 2 DAYBREAK MEDICAL  
 ADDITION AND PARTS OF  
 NORTH WASHINGTON STREET, EAST GREENFIELD LANE,  
 AND SAINTS DRIVE RIGHTS-OF-WAY  
 PART OF THE SW 1/4 OF  
 SECTION 9, TOWNSHIP 139 NORTH, RANGE 80 WEST

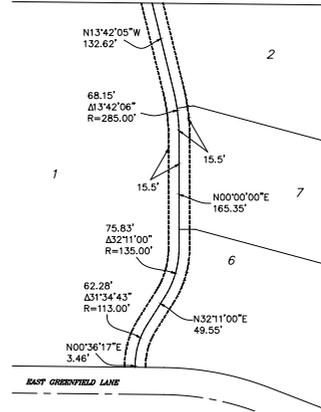
**BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA**



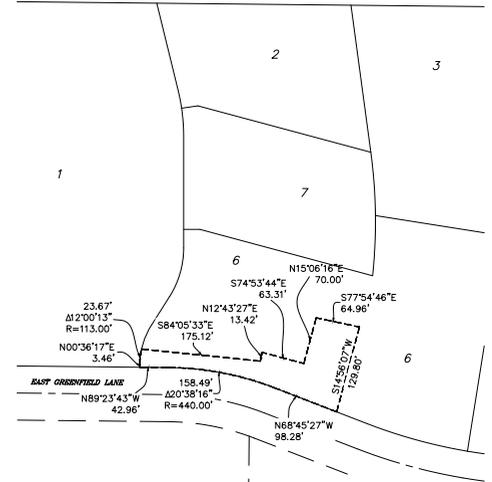
**WATERMAIN EASEMENT DETAIL**  
 DOC #876243



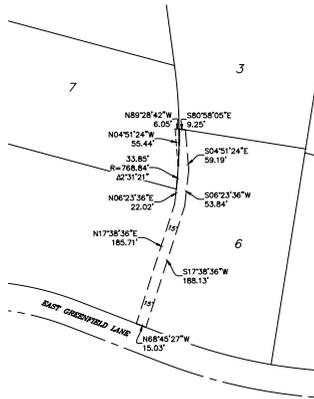
**SANITARY SEWER EASEMENT DETAIL**  
 DOC #876243



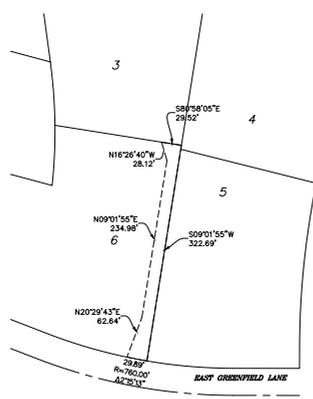
**ACCESS EASEMENT DETAIL**  
 DOC #876243



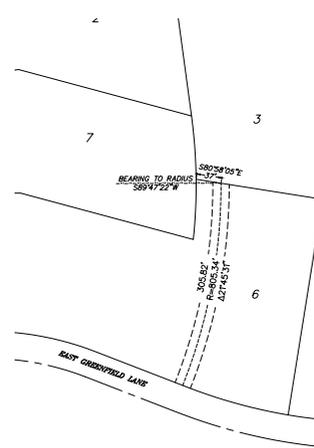
**STORMWATER & DRAINAGE  
 EASEMENT DETAIL**  
 DOC #876243



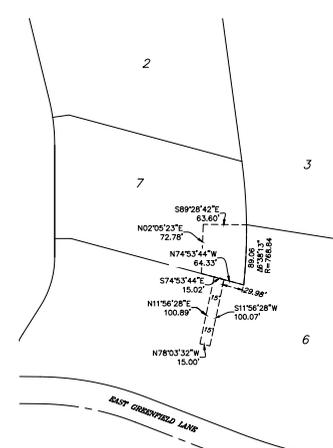
**WATERMAIN EASEMENT DETAIL**  
 DOC #881538



**SANITARY SEWER EASEMENT DETAIL**  
 DOC #881538



**ACCESS EASEMENT DETAIL**  
 DOC #881538



**STORMWATER & DRAINAGE  
 EASEMENT DETAIL**  
 DOC #881538

# DAYBREAK MEDICAL ADDITION

## BEING AUDITOR'S LOT F, PART OF SAINTS DRIVE RIGHT OF WAY, AND PART OF THE SW 1/4 OF SECTION 9 TOWNSHIP 139 NORTH RANGE 80 WEST BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

### DESCRIPTION

BEING AUDITOR'S LOT F, PART OF SAINTS DRIVE RIGHT OF WAY, AND PART OF THE SW 1/4 OF SECTION 9 TOWNSHIP 139 NORTH RANGE 80 WEST, BISMARCK, BURLEIGH COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SW 1/4; THENCE NORTH 00 DEGREES 28 MINUTES 43 SECONDS EAST, ALONG THE WEST LINE OF SAID SW 1/4, A DISTANCE OF 1364.76 FEET; THENCE SOUTH 89 DEGREES 23 MINUTES 43 SECONDS EAST, A DISTANCE OF 943.78 FEET; THENCE SOUTH 68 DEGREES 03 MINUTES 32 SECONDS EAST, A DISTANCE OF 312.68 FEET TO THE CENTERLINE OF SAINTS DRIVE RIGHT OF WAY; THENCE SOUTH 21 DEGREES 36 MINUTES 28 SECONDS WEST, ALONG SAID CENTERLINE, A DISTANCE OF 80.81 FEET; THENCE SOUTHWESTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 1200.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 458.14 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 717.66 FEET TO THE SOUTH LINE OF SAID SW 1/4; THENCE NORTH 89 DEGREES 55 MINUTES 42 SECONDS WEST, ALONG SAID CENTERLINE, A DISTANCE OF 1127.33 FEET TO THE POINT OF BEGINNING, CONTAINING 1,543,047 SQUARE FEET, MORE OR LESS.

### SURVEYOR'S CERTIFICATE

I, TERRY BALTZER, 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 JANUARY 19, 2018, 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 GEODETIC DETAILS ARE CORRECT.



STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )  
SWENSON, HAGEN & CO. P.C.  
909 BASIN AVENUE  
BISMARCK, NORTH DAKOTA  
58504

TERRY BALTZER  
PROFESSIONAL LAND SURVEYOR  
N.D. REGISTRATION NO. 3395

ON THIS 7th DAY OF February, 2018, BEFORE ME PERSONALLY APPEARED TERRY BALTZER, 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.



Ma J. Waldman  
NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES July 31, 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, NORTH DAKOTA, ON THE 25th DAY OF September, 2017, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND RESOLUTIONS 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.

DOUGLAS M. LEE - CHAIRMAN

CARL D. HOKENSTAD - 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 GROUNDS 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 PLATTING WITHIN THE BOUNDARY OF THE ANNEXED PLAT. THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE 12th DAY OF December, 2017.

### APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE 'DAYBREAK MEDICAL ADDITION', BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

GABRIEL J. SCHELL  
CITY ENGINEER

### OWNERS' CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT 57 NORTH INVESTORS, LLP AND MONTANA-DAKOTA UTILITIES CO., BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS 'DAYBREAK MEDICAL ADDITION', BISMARCK, NORTH DAKOTA, AND DO SO DEDICATE AND RE-DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWERS, CULVERTS, 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 THESE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY, SANITARY SEWER, STORM SEWER & STORM WATER EASEMENTS.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

KATHLEEN J. KAEBERER  
NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES June 4, 2021

ON THIS 6th DAY OF February, 2018, BEFORE ME PERSONALLY APPEARED KATHLEEN J. KAEBERER, MANAGING PARTNER OF 57 NORTH INVESTORS, LLP, 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.



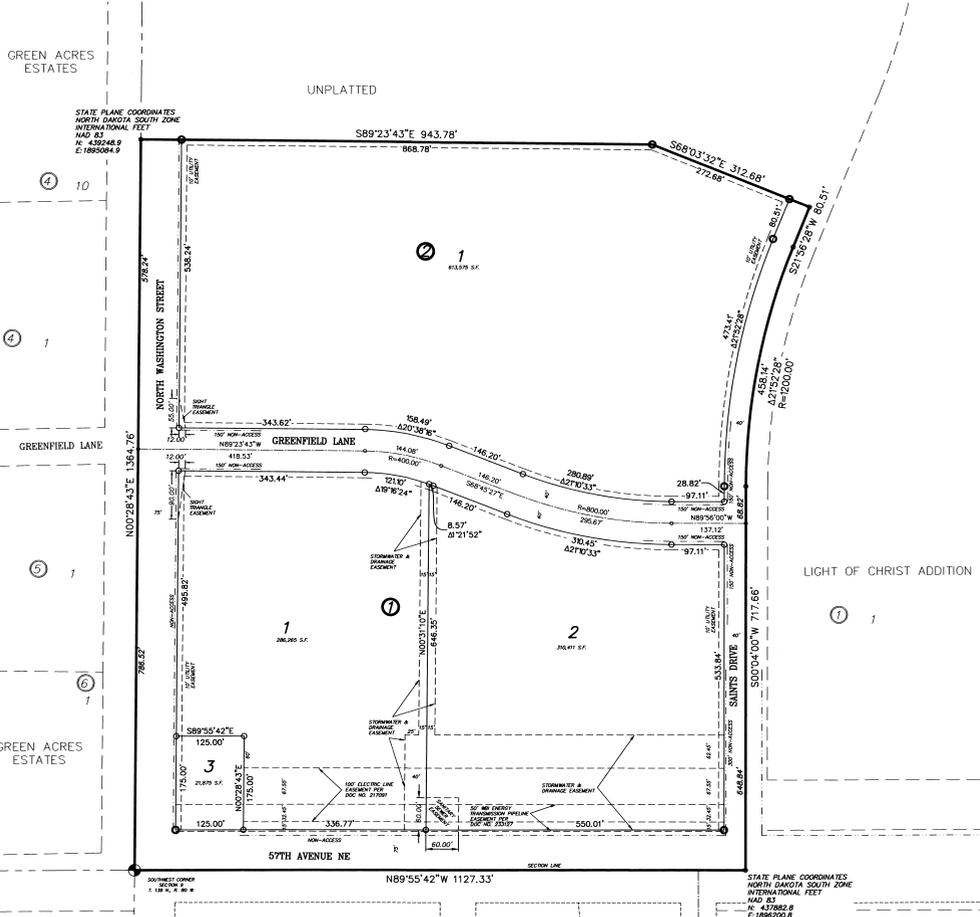
STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

JAY SKASO  
NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES February 5, 2018

ON THIS 9th DAY OF February, 2018, BEFORE ME PERSONALLY APPEARED JAY SKASO, OWNER, LOT 3 BLOCK 1 OF MDU CO., 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.



JAY SKASO  
NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES February 5, 2018



SCALE: 1"=100'  
FEBRUARY 5, 2018

NOTES  
BASIS OF BEARING:  
NORTH DAKOTA STATE PLANE SOUTH ZONE BY CITY ORDINANCE  
COORDINATE DATUM:  
NORTH DAKOTA STATE PLANE COORDINATE SYSTEM  
NAD 83 SOUTH ZONE  
ADJUSTMENT OF 2011  
UNITS ARE INTERNATIONAL FEET  
BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENTS.

AREA DATA

LOTS	1,432.08 S.F. 0.0329 ACRES
STREETS	310,020 S.F. 7.13 ACRES
TOTAL	1,543,028 S.F. 35.42 ACRES

BEACHMANN  
HYDRA-MAT # 3172  
MICA DRIVE SOUTH OF 57th AVE.  
ELEV. = 1966.01 (NGVD 29)





## *Engineering Department*

**DATE:** February 4, 2020  
**FROM:** Gabe Schell, City Engineer  
**ITEM:** 43rd Avenue NE Reconstruction Award – HC 121

### **REQUEST**

Consider approval of award of 43rd Avenue NE Reconstruction – AC-NHU-1-981(119) PCN 22492, HC 121.

Please place this item on the 2/11/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The North Dakota Department of Transportation (NDDOT) will receive bids for this project on February 7, 2020. The Board of City Commissioners approved the Cost Participation, Construction, and Maintenance Agreement with NDDOT at their January 14, 2020 meeting which outlined a federal cost participation of 80.93% of eligible project costs up to a maximum of \$7,280,000 of federal funding in fiscal year 2022 but with the City responsible for all costs initially as per our request to advance construct the project. If federal funds are available in fiscal year 2022, they would be reimbursed to the City.

This project is included in the 2020 Capital Improvement Program with the funding source identified as ½ cent sales tax for the entirety of the project.

A bid tabulation and project budget will be supplied at the 2/11/20 meeting. The NDDOT will review the low bidder's proposal to assure the Disadvantaged Business Enterprise (DBE) Program requirements have been met. Upon review, the NDDOT will advise whether or not this project may be awarded.

### **RECOMMENDED CITY COMMISSION ACTION**

Receive bids and award HC 121 contingent upon success review of DBE requirements and advisement by NDDOT that the project can be awarded.

### **STAFF CONTACT INFORMATION**

Gabe Schell, PE | City Engineer, 355-1505 or [gschell@bismarcknd.gov](mailto:gschell@bismarcknd.gov)

# Apparent Bids for Letting of February 7, 2020

Letting ID: 20020701

Cut-Off Time: 09:30:00 AM

Proposal	Description	Bidder ID	Bidder Name	Address	Is Public	DBE	Bid Amount	Alt or Opt Bid Limitation	Total Discount
003 - 20200207003	PCC PAVEMENT & CONCRETE MEDIAN BARRIER	9048	ENGINEERS ESTIMATE	607 E BOULEVARD AVE BISMARCK, ND 58505-0606	Yes	0.00%	\$3,193,998.32		
		140	NORTHERN IMPROVEMENT COMPANY	PO BOX 2846 FARGO, ND 58108-2846	Yes	0.00%	\$3,612,834.65		
		360	KPH INC	9530 39TH ST S FARGO, ND 58104-7824	Yes	0.00%	\$3,731,977.60		
		78	DAKOTA UNDERGROUND COMPANY	4001 15TH AVE N FARGO, ND 58102-2832	Yes	0.00%	\$4,516,934.10		
		180	STRATA CORPORATION	PO BOX 13500 GRAND FORKS, ND 58208-3500	Yes	0.04%	\$4,877,002.35		
004 - 20200207004	BRIDGE DECK OVERLAY; POLYURETHANE FOAM JACKING; JOINT REPAIR; BRIDGE DECK CRACK SEALING; CONCRETE SPALL REPAIR; CONCRETE PAVEMENT REPAIR	9048	ENGINEERS ESTIMATE	607 E BOULEVARD AVE BISMARCK, ND 58505-0606	Yes	0.00%	\$1,881,430.20		
		8055	PCI ROADS LLC	14123 42ND ST NE SAINT MICHAEL, MN 55376-9564	Yes	0.00%	\$2,269,264.18		
		100	INDUSTRIAL BUILDERS INC	PO BOX 406 FARGO, ND 58107-0406	Yes	0.00%	\$2,416,978.65		
006 - 20200207006	GRADING; AGGREGATE BASE COURSE; PCC PAVEMENT; HOT MIX ASPHALT; CURB & GUTTER; SHARED USE PATH; SIDEWALK; STORM SEWER; LIGHTING; TRAFFIC SIGNALS; SIGNING AND MARKING	9048	ENGINEERS ESTIMATE	607 E BOULEVARD AVE BISMARCK, ND 58505-0606	Yes	8.00%	\$8,394,470.30		
		140	NORTHERN IMPROVEMENT COMPANY	PO BOX 2846 FARGO, ND 58108-2846	Yes	8.00%	\$8,637,473.65		
		180	STRATA CORPORATION	PO BOX 13500 GRAND FORKS, ND 58208-3500	Yes	7.22%	\$9,997,109.68		

# PROJECT BUDGET

<b>Number</b>	HC 121	<b>Description</b>	43rd Ave NE Reconstruction - Montreal to State
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<b>Scheduled Start</b>	3/1/2020	<b>Scheduled End</b>	7/31/2021
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**Project Contracts** AC-SU-1-981(119)

<u>Project Construction Contracts</u>	<u>Amount</u>
Northern Improvement Company -----	8,637,473.65
Subtotal	8,637,473.65
Contingencies 10%	863,747.37
<b>Total Construction Contracts</b>	<b>9,501,221.02</b>

<u>Other Contracts, Land Purchases, Etc.</u>	<u>Contract No.</u>	<u>Amount</u>
Design Engineering		873,059.19
Construction Engineering*		873,000.00
Land Purchases		\$105,465.70
Utility Relocation		11,000.00
Subtotal		1,862,524.89
*Contingencies 10%		87,300.00
<b>Total Other Contracts</b>		<b>1,949,824.89</b>

<u>Work by Other City Departments</u>	<u>Amount</u>
NA	
Subtotal	-
*Contingencies 10%	-
<b>Total Work by Other City Departments</b>	<b>-</b>

## SUMMARY

**Construction Cost - No Contingencies** **10,499,998.54**

**TOTAL CONSTRUCTION COST WITH CONTINGENCIES** **11,451,045.91**

Engineering	0%	-----	-
Administration	0%	-----	-
Advertising and Legal	0%	-----	-
Interest During Construction	0%	-----	-

**HC 121 TOTAL PROJECT COST** **11,451,045.91**

<u>Project Funding</u>	<u>Amount</u>
1/2 ¢ Sales Tax -----	11,451,045.91
<b>Total Funding</b>	<b>11,451,045.91</b>



## *Engineering Department*

**DATE:** February 4, 2020

**FROM:** Gabe Schell, City Engineer

**ITEM:** Development Agreement – Northern Sky 2nd Addition

### **REQUEST**

Present request for consideration of a development agreement prior to platting of Northern Sky 2nd Addition.

Please place this item on the 2/11/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The owner (Willment Development, LLC) of the unannexed property in the NW quadrant of the N Washington Street and Ash Coulee Dr/43<sup>rd</sup> Avenue intersection is interested in platting and annexing a portion of the property. The proposed annexation would be for the right of way only of what would be Northern Sky Drive to make a continuous connection between Ash Coulee Drive to the south and Durango Drive to the north and for Wilkinson Way which would connect from Northern Sky Drive to the west to N Washington Street to the east (see attachment). The annexation request would not include the adjacent properties along Northern Sky Drive or Wilkinson Way. The owner's intention would be to construct sanitary sewer, storm sewer, water, and street within Northern Sky Drive and sanitary sewer and storm sewer within Wilkinson Way and would pay for all costs associated with constructing these improvements. No sidewalks or street lighting is proposed at this time.

The owner would agree to a delayed annexation of the adjacent properties along Northern Sky Drive of up to 10 years and would annex the adjacent properties sooner if the market dictates.

Requests for considerations outside of the what the ordinances or policies prescribe are typically vetted by staff and incorporated into a development agreement to be considered by the Board during the other platting, zoning, annexation, or site plan approval actions. The owner requests that the Board consider a development agreement prior him expending time and efforts into platting the property. The primary item to be included in a development agreement will be the annexation request and

delay for up to 10 years for the adjacent properties along what would be Northern Sky Drive.

If the Board is receptive to that request, a Development Agreement would be prepared and brought before you for consideration at a subsequent commission meeting.

**RECOMMENDED CITY COMMISSION ACTION**

Direction to staff regarding development agreement for future Northern Sky 2<sup>nd</sup> Addition.

**STAFF CONTACT INFORMATION**

Gabe Schell, PE | City Engineer, 355-1505 or [gschell@bismarcknd.gov](mailto:gschell@bismarcknd.gov)

Untitled Map

Write a description for your map.



Horizon  
Middle  
School

Durango Dr

Northern Sky Drive

Wilkinson Way

N Washington St

Ash Coulee Dr

KMK ESTATES  
SECOND SUBDIVISION

KMK ESTATES