



September 8, 2020

Board of City Commissioners  
Bismarck, ND

Dear Commissioners:

The Board of City Commissioners is scheduled to meet in regular session on Tuesday, September 8, 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:

- September 22, 2020
- October 13 & 27, 2020
- November 10 & 24, 2020

#### 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. Public comment (restricted to items on the Consent Agenda and Regular Agenda, excluding public hearing items).
2. Consider the approval of the minutes.

Documents:

[MN082520.pdf](#)

#### 3. CONSENT AGENDA

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

Documents:

[HR Personnel Report.pdf](#)

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

1. Approve actions for Wetland Phase 5 Project.

Documents:

[\(C\) AIR - Wetland Phase 5 Project.pdf](#)

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

1. Approve Burleigh-Morton COVID-19 Task Force Purchase Agreement.
2. Permission to accept COVID-19 Cares Act Funding and authorize an increase in budget authority for Public Health Government Grants.
3. Permission to apply for grant funding from the National Association of City and County Health Officials.

Documents:

- (C) BBPH - Task Force Agreement.pdf
- (C) BBPH - Cares Act Funding.pdf
- (C) BBPH - NACCHO Grant.pdf

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

1. Approve the City's substantial amendment to the 2018 Annual Action Plan.
2. Consider re-authorizing the City's application for 2018 HOME, 2019 HOME and 2019 NSP funds for Boulevard Avenue Apartments.
3. Introduction of and call for a public hearing on Ordinance 6433, a request for the annexation of Lots 1-3, Block 3, Meadowlark Commercial 7th Addition and adjacent rights-of-way not previously annexed. The Bismarck Planning and Zoning Commission recommends approval.
4. Introduction of and call for a public hearing on Ordinance 6434, a request for a zoning change from an existing PUD-Planned Unit Development zoning district to a new PUD-Planned Unit Development zoning district for Stoneridge Addition Second Replat.
5. Introduction and call for a public hearing on Ordinance 6435, a request for a zoning change from the A-Agricultural, R10 - Residential, CA-Commercial and P-Public zoning districts to the R10-Residential, CA-Commercial and P-Public zoning districts for Silver Ranch Second Addition.
6. Introduction of and call for a public hearing on Ordinance 6436, for a zoning change from the A-Agricultural and RR-Residential zoning districts to the PUD-Planned Unit Development zoning district for Lot 1, Block 1, Pat's Acres and Auditor's Lots A, B and C of the NE 1/4 of the NE 1/4 of Section 14, T139N-R81W/West Hay Creek Township, requested by Chase and Toni Dauenhauer. The Bismarck Planning and Zoning Commission recommends approval.

Documents:

- (C) CD - Annual Action Plan.pdf
- (C) CD - HUD Funding.pdf
- (C) CD - Meadowlark Commercial Seventh Addition.pdf
- (C) CD - Stoneridge Addition.pdf
- (C) CD - Silver Ranch Second Addition.pdf
- (C) CD - Hay Creek Township.pdf

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

1. Approve amendment to existing agreement for professional services with AE2S for Tyler Coulee Regional Stormwater Design.
2. Approve Change Order No. 4 for WU 130.
3. Approve NDDOT's cost participation, construction and maintenance agreement for the School Safety Project - HC 136.
4. Approve the dedication and acceptance of a sanitary sewer easement on Lot 11, Block 1, Eagle Crest Eighth Addition.

Documents:

- (C) ENG - Tyler Coulee AE2S.pdf
- (C) ENG - Change Order WU130.pdf
- (C) ENG - HC 136.pdf
- (C) ENG - Sanitary Sewer Easement.pdf

G. Consider the request for approval from the Event Center for the following:

1. Approve Ubl Design and Northern Plains Plumbing to fix the deck area drain on the employee parking area.

Documents:

[\(C\) EC - Parking Deck Area Drain.pdf](#)

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

1. Application for abatement, 2020, market value reduction, 4801 Windsor St.
2. Approve resolution to direct special assessments to be levied.
3. Extend Joe Ibach's term with the Special Assessment Commission until April, 2023.
4. Introduction of and call for a public hearing on Budget 2021.
5. Introduction of and call for a public hearing on Burleigh County Housing Authority to apply for the Payment in Lieu of Taxes (PILOT) property tax incentive.
6. Introduction of and call for a public hearing on the concrete sidewalk, curb and gutter and private driveway assessment as part of the SW2019 assessments.

Documents:

[\(C\) FIN - Abatement.pdf](#)  
[\(C\) FIN - Special Assessment Levied.pdf](#)  
[\(C\) FIN - Special Assessment Term.pdf](#)  
[\(C\) FIN - Budget 2021.pdf](#)  
[Kent French E-Mail.pdf](#)  
[\(C\) FIN - Payment in Lieu of Taxes.pdf](#)  
[\(C\) FIN - SW2019 Assessments.pdf](#)

I. Consider the request for approval from the Human Resources Department for the following:

1. **Approve the Azurance Group's proposal for Flexible Spending and COBRA administration.**
2. **Approve City employees to use Sick or Annual Leave for the Families First Coronavirus Response Act.**

Documents:

[\(C\) HR - Cobra Benefits and Flex Spending.pdf](#)  
[\(C\) HR - Annual or Sick Leave for FFCRA.pdf](#)

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

1. Allow free disposal at the landfill Sept. 21-26, 2020 for Bismarck residents presenting their August 2020 City of Bismarck utility bill.
2. Approve contract for consulting services for Phase 1A and 1B for the Public Health, Police and Public Works facilities space needs.
3. Grant permission to dispose of/sell Public Works' inventory at a public marketplace, commonly used for the sale of motor vehicles, as described in City Ordinance 7-01-05.

Documents:

[\(C\) PW-SO - Fall Clean-Up Week.pdf](#)  
[\(C\) PW-SO - Consulting Services for Phase 1A and 1B.pdf](#)  
[\(C\) PW-SO - Inventory Disposal.pdf](#)

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

1. Approve Task Order No. 2 to the agreement with Apex Engineering Group Inc. for the Hay Creek Lift Station Improvements.

Documents:

[\(C\) PW-UO - Task Order 2.pdf](#)

4. REGULAR AGENDA

5. Receive the United Way Emergency Homeless Shelter mid-term report.

Documents:

[United Way Update.pdf](#)

6. Receive a Public Health COVID-19 update from Renae Moch, Bismarck-Burleigh Public Health Director.

Documents:

[COVID-19 Update.pdf](#)

7. Public hearing for the Bismarck Cancer Center to vacate the dedicated alley over the North 20 feet of Lot 5, the deeded alley over the East 8 feet of the North 20 feet of Lot 8, the deeded alley over the South 19.3 feet of the East 8 feet of Lot 9, and the deeded alley over the South 19.3 feet of the West 8 feet of Lot 4, all in Block 38, Northern Pacific Second Addition.

Documents:

[\(R\) CD - Northern Pacific Alley Vacation.pdf](#)

8. Consider the request from the Community Development Department for continued discussion on the easement release process.

Documents:

[\(R\) CD - Easement Release Discussion.pdf](#)  
[Easement Release Alternatives.pdf](#)

9. Consider the request from the Administration Department for discussion regarding the annual alcohol renewal process.

Documents:

[\(R\) ADMIN - Alcohol Licenses.pdf](#)  
[2 A.M. Closing.pdf](#)  
[New Class E License.pdf](#)

Other Business

Adjourn

*Phone: 701-355-1300 • Fax: 701-221-6470 • 221 North 5<sup>th</sup> Street • P.O. Box 5503 • Bismarck, ND 58501*  
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## MISSION STATEMENT

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

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

No member of the public appeared for comment.

2. Consider the approval of the minutes.

Commissioner Marquardt moved to approve the minutes as presented. Commissioner Guy seconded the motion.

Upon a roll call vote, all voted aye. M/C.

3. CONSENT AGENDA

Commissioner Zenker moved to approve the consent agenda as presented. Commissioner Guy seconded the motion.

Upon a roll call vote, all voted aye. M/C.

- A. Consider approval of expenditures.

Vouchers: 1094380 - 1094608.

- B. Consider approval of personnel actions.

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

1. Approve Amendment 1 to the Dec. 20, 2017 lease with GSA for TSA break room/office and computer room space in terminal.
2. Approve Amendment 1 to the Sept. 12, 2017 agreement with KLJ for Runway 13-31 Phase 3.
3. Approve Change Order #4 with Strata Corporation for the Short -Term Economy and Long-Term Parking Expansion.
4. Approve Change Order #9 with NIC for the Runway 13/31 Reconstruction Phase #3.

- D. Consider the request for the approval from the Attorney for the following:

1. Ratify the August 12, 2020 State of Emergency Declaration relating to COVID-19 by President Bakken and extend its effect to September 11, 2020.

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

1. Approve Andrew and Sarah Rodenburg's request to release an access and utility easement over Lots 1 - 4, Block 1, Torrance Hill Addition, to allow construction of a single - family residence.

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

1. Approve Amendment 7 with Apex Engineering Group for Storm Sewer Improvement District 563.
2. Approve encroachment agreements for the Bismarck Cancer Center's expansion.
3. Approve geotechnical service contract amendment with Terracon Consultants, Inc.
4. Sewer Utility Project SU 82 - Request bids and award contract for SU 82.
5. Street Improvement District No. 539 - Request for resolution approving plans and specifications for SI 539. Request for resolution directing the advertisement of bids and receive bids.
6. Water Improvement WA 333 and Sewer Improvement SE 577 - Request for resolution approving plans and specifications for Water Improvement District WA 333 and Sewer Improvement District SE 577.

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

1. Application for abatement, 2020, Church for Truth Fellowship Live, 2702 E. Rosser Ave.

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

1. Accept Change Order 1 with Skeels Electric Company for the HVAC renovation project at the Library.
2. Accept Change Order 4 with Custom Aire, Inc., for the HVAC renovation project at the Library.
3. Approve the sale fee of clay borrow material at the Bismarck Landfill.
4. Award bid for snow removal for the City parking lots and sidewalks to All Seasons Landscape and Bis-Man Outdoor Services.

#### 4. REGULAR AGENDA

5. Consider the request from the Community Development for Dennis Wetzel to appeal the July 2, 2020 decision of the Board of Adjustment to uphold an administrative zoning determination made by staff for the construction of a structure to be located on Lots 14 and 15, Block 4, Southbay Fifth Addition (4408 and 4412 Downing Street).

This item was pulled from the agenda at the applicant's request. The appeal will be revisited at the Nov. 10, 2020 City Commission Meeting.

6. Consider the request from the Community Development Department for the following:

1. Public hearing on Ordinance 6432, a request for a zoning change from the RT - Residential and CA - Commercial zoning districts to the RT - Residential and CA - Commercial zoning districts for Northern Sky Second Addition.
2. Final plat of Northern Sky Second Addition.

No member of the public appeared for comment.

Commissioner Marquardt moved to approve the zoning change as presented.  
Commissioner Zenker seconded the motion.

Upon a roll call vote, all voted aye. M/C.

7. Public hearing on a new Class I-1 Restaurant Full Alcohol Liquor License for Karman & Saiba Inc., doing business as India Clay Oven Bar & Grill, located at 510 E. Main Ave.

No member of the public appeared for comment.

Commissioner Marquardt moved to approve the new liquor license. Commissioner Guy seconded the motion.

Upon a roll call vote, all voted aye. M/C.

8. Consider the request from the Engineering Department to receive recommendations to convert a two - lane section of roadway to a three - lane section of roadway for HC 125.

City Engineer Gabe Schell presented the information the Commission asked the department to gather after the lane change request was proposed at the Aug. 11, 2020 City Commission Meeting. The Board instructed staff to contact adjacent multi-family housing units and churches adjacent to 26th St. where on-street parking was proposed to be removed for their input. Director Schell informed the Commission that all parties contacted, were in support of the lane conversions.

In addition, Director Schell recommended to remove on-street parking on the east side of 26th St. between E. Ave. D and E. Ave. F. north of Valley View Ave., parking is recommended to be prohibited on both sides through an area of single-family residential housing and the two church properties and to carry the left turn lane to Boulevard Ave. in order to provide the turning opportunity at the intersection where more of these movements are occurring.

Commissioner Zenker moved to approve the lane conversions as presented. Commissioner Guy seconded the motion.

Upon a roll call vote, all voted aye. M/C.

9. Receive a Financial Update from Finance Director, Dmitriy Chernyak.

Director Chernyak presented an update on the June tax collections to the Commission. This included the City's collected sales, lodging, liquor, restaurant and highway distribution tax.

Please see link for Director Chernyak's presentation: <https://www.bismarcknd.gov/AgendaCenter/ViewFile/Item/5351?fileID=12917>

No motion was made for this item.

10. Consider the request from the Attorney for discussion and provide policy for leave or accommodation for employees who have children participating in hybrid or online education.

City Attorney Jannelle Combs explained the federal government plan, Families First Coronavirus Response Act (FFCRA).

Commissioner Guy moved to adopt the FFCRA, to include emergency responders and healthcare workers. Commissioner Zenker seconded.

Upon a roll call vote, all voted aye. M/C.

#### Other Business

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

Assistant City Administrator Jason Tomanek requested direction on proceeding with the liquor license renewal process and if the Commission would like any additional information before the item is placed on the Sept. 8, 2020 City Commission Meeting's agenda.

At this time, the Commission did not inquire any additional information.

#### Adjourn

The meeting was adjourned at 5:56 p.m.

## PERSONNEL ACTIONS FOR THE MEETING ON Sept. 8, 2020

### Full-Time and Part-Time Appointments

Fetsch, Sadie Communications Specialist	CenCom	Probationary appointment @ \$20.94/hr. 10/5/2020
Schaible, Rachelle Communications Specialist	CenCom	Probationary appointment @ \$20.94/hr. 10/5/2020
Petrou, Katie Accounting Technician II	Finance/Fiscal	Probationary appointment @ \$20.19/hr. 9/14/2020
Sagsveen, David IT Support Tech Intern	Finance/IT	Part time appointment @ \$13.00/hr. 9/8/2020
Henke, Shannon Police Property Coordinator	Police	Probationary appointment @ \$26.25/hr. 9/1/2020
Eriksson, Kadie Community Health Nurse	Public Health	Part time appointment @ \$35.00/hr. 9/9/2020

### Separations

Johnson, Brenda Senior Real Property Appraiser	Finance/Assessing	Resigned. 9/1/2020
Kroh, Dwight Seasonal Truck Driver	Public Works	Terminated. 8/17/2020
Schwols, Seth Seasonal Truck Driver	Public Works	Terminated. 8/17/2020

### Others

Renner, David Engineering Technician III	Engineering	Promoted & salary adjustment @ \$27.08/hr. 8/30/2020
Heupel, Gary Ass't Concession Manager	Event Center	Leave w/out pay 9/4/2020 pay period
Kaftan, Heather Community Service Officer	Police	Leave w/out pay 9/4/2020 pay period

# Bismarck

## Airport

**DATE:** September 1, 2020  
**FROM:** Greg Haug, Airport Director  
**ITEM:** Consider actions for Wetland Phase 5 Project.



### REQUEST

Please place this item on the 9/8/2020 City Commission meeting agenda.

### BACKGROUND INFORMATION

Bismarck Airport has been working successive projects to remove wetlands to reduce wildlife attractants for more than 15 years. Previous phases have eliminated wetlands on the north end of the airport (approach end of Runway 13) and the north east corner of the airport (approach end of Runway 21). Wetland Phase 5 will remove wetlands starting from the south east corner of airport near the approach end of Runway 31 and include wetland removal and drainage improvements ending midfield near the Air Traffic Control Tower (Enclosure 1). The Board approved the design agreement with Kadrmass, Lee & Jackson (KLJ) for Phase 5 on February 19, 2019.

The four interconnected actions are needed to continue with the Wetland Phase 5 project. These items are:

- 1) Accept two grant offers from FAA: AIP No. 62 for \$6,381,629 and AIP No. 64 for \$6,026,218.
- 2) Receive and award construction bids and alternates as denoted on the bid tab enclosed.
- 3) Approve an Engineering Services Agreement with KLJ for Administration, Construction Inspection and Project Closeout.
- 4) Approve the project budget.

### ITEM 1

Based on guidance from the FAA, airport staff submitted two grant applications, AIP 62 for \$6,381,629.00 (Entitlement and CARES Act funding) and AIP 64 for \$6,026,218.00 (Discretionary funding). The total amount of funding (\$12,407,847) allows for award of specific work based on the FAA grant offer.

### ITEM 2

Not knowing how much funding would be approved for Bismarck this year, Airport staff and KLJ worked with the FAA this spring to determine how to breakout options for this bid, KLJ put together a bid package with a number of alternates that could be combined together that made sense from a constructability standpoint. Bismarck Airport opened bids Monday, June 15, 2020

at 4 PM (enclosure 2). Three general contractor bids and three electrical bids were received. The "basis of award" consisted of the base bid and one of the two base bid options for Schedule 1 and just the base bid for Schedule 2. Now after getting more fidelity from the FAA on what the grant funding will be, we packaged up the Base Bid with Option 2 and Additive Alternate A1 for Schedule 1 and the Base Bid for Schedule 2 to match the FAA funding offer.

KLE Construction LLC submitted the low general bid for Schedule 1. KLE's Base Bid with Option 2 and Additive Alternate A1 totals out at \$11,401,538, which is \$7,471 more than the engineer's opinion of probable costs of \$11,394,067 for these items. Edling Electric submitted the low electrical bid for Schedule 2. Edling's bid of \$112,700 was 42.2% lower than the engineer's opinion of probable construction cost of \$195,000.

Airport Staff recommends providing notice of award to General Contractor KLE Construction LLC, for Schedule 1, Division 1, Base Bid; Schedule 1, Division 1, Base Bid Option 2 and Schedule 1, Division 2, Additive Alternate A1 totaling \$11,401,538.00. Airport Staff recommends providing notice of award to Electrical Contractor Edling Electric, for Schedule 2, Division 1, Base Bid totaling \$112,700.00.

### ITEM 3

Airport staff had meetings with KLJ to establish a scope of work and tasks for the Wetland 5 project. The scope of work was submitted to FAA on April 20, 2020, after adjustments were approved. An independent fee review was solicited from TKDA to assist in negotiating the contract with KLJ. KLJ proposed a lump sum cost of \$1,603,916.81 for the engineering services work (Enclosure 3). Note that required sub consultant fees for Materials Testing, Electrical Engineering, Underground consultant, Survey and testing services (\$281,727.50) are added as a pass through to the KLJ contract and the Independent Fee Review. KLJ costs with sub consultants removed was \$1,322,189.31. Our Independent Fee Review done by TKDA calculated total Engineering Fees of \$1,314,483.16 with sub consultants and travel removed.

Overall, KLJ fees are 0.58% or \$7,706.15 more than the Independent Fee Review and are deemed to be reasonable. The total cost with sub consultants and expenses was \$1,603,916.81. Subsequent to the negotiations, FAA informed BIS Staff that grant funding would come in two grants and directed that a task be added to the agreement for work associated with closing a second grant. That task added \$19,479.94 for a total of \$1,623,396.75.

### ITEM 4

The project budget is at Enclosure 4.

### ADDITIONAL INFORMATION

Airport Staff applied for ND Aeronautics Commission funding and was recently awarded \$460,514.00 for Wetland Phase 5.

This work completes approximately 60% of the planned drainage improvements. Once we have consulted with the FAA the Board can expect Airport staff to return next year with an engineering agreement and construction bids for the remaining work in Phase 6.

## **RECOMMENDED CITY COMMISSION ACTION**

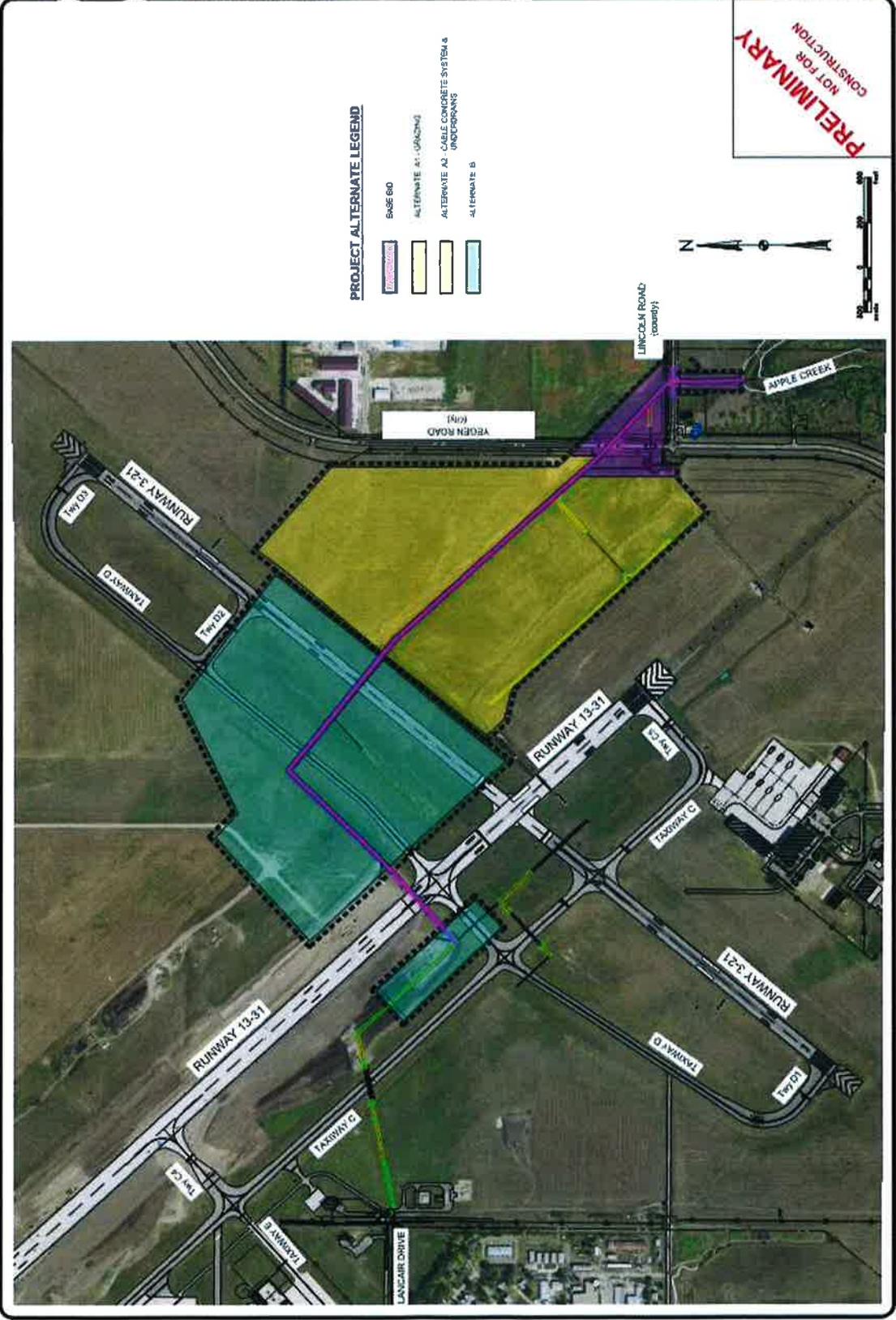
1. Accept and authorize the Mayor to sign two grant offers from FAA: 1) AIP No. 3-38-0003-62-2020 for \$6,381,629 and 2) AIP No. 3-38-0003-64-2020 for \$6,026,218.
2. Receive and award construction bids and alternates to the low bidders as described above and denoted on the bid tab enclosed.
3. Approve an Engineering Services Agreement with KLJ for Administration, Construction Inspection and Project Closeout.
4. Approve the Project Budget.

## **STAFF CONTACT INFORMATION**

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

Enclosures:

1. Project Diagram
2. Bid Tab
3. KLJ Engineering Services Agreement, Wetland Mitigation Phase 5 (Administration, Construction Inspection and Project Closeout)
4. Project Budget





### Bismarck Airport

Wetland Removal to Reduce Wildlife Attractants (Phase 5)

AIP #3-38-0003-062-2020 KLJ #1805-02200

Monday, June 15, 2020 4:00 P.M. CT

Bidder	Total Bid Schedule 1, Division 1 Base Bid	Total Bid Schedule 1, Division 1, Base Bid, Option 1	Total Bid Schedule 1, Division 1, Base Bid, Option 2	Total Bid Schedule 1, Division 2, Additive Alternate A1	Total Bid Schedule 1, Division 2, Additive Alternate A2	Total Bid Schedule 1, Division 2, Additive Alternate B	Total Bid Schedule 2, Division 1 Base Bid
Edling Electric Bismarck, ND	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	\$ 112,700.00
KLE Construction LLC Williston, ND	\$ 8,356,738.00	\$ 2,862,040.00	\$ 1,474,145.00	\$ 1,570,655.00	\$ 1,978,276.00	\$ 529,955.00	\$ 155,000.00
Minger Construction Co. Inc. Jordan, MN	\$ 10,772,381.95	\$ 2,850,351.20	\$ 1,792,789.40	\$ 724,194.00	\$ 1,720,658.15	\$ 540,383.30	\$ 124,000.00
Strata Corporation Grand Forks, ND	\$ 17,771,160.10	\$ 4,306,230.00	\$ 4,017,650.00	\$ 1,530,405.30	\$ 2,348,465.90	\$ 772,004.50	No Bid
<b>Engineer's Opinion of Construction Cost</b>	<b>\$ 7,305,481.20</b>	<b>\$ 1,630,680.00</b>	<b>\$ 1,395,905.00</b>	<b>\$ 2,692,681.00</b>	<b>\$ 2,779,290.00</b>	<b>\$ 851,720.00</b>	<b>\$ 195,000.00</b>

Costs shown are AS READ from the bid opening.



Denotes Awarded Amounts

## AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made this 8th of September, 2020, by and between the City of Bismarck, having an address of 2301 University Drive, P.O. Box 991, Bismarck, ND 58502, hereinafter referred to as the "OWNER", and KLJ Engineering LLC, having an address of 4585 Coleman Street, Bismarck, ND 58503, hereinafter referred to as the "ENGINEER".

WITNESSETH: That the OWNER and ENGINEER, for the consideration hereinafter named, agree as follows:

### I. GENERAL DESCRIPTION OF WORK TO BE PERFORMED.

The OWNER agrees to and hereby does retain and employ ENGINEER and ENGINEER agrees to perform Professional Services for the project at the Bismarck Airport, WHEREAS, the proposed project is described as follows:

- A. Removal of Wetlands to Reduce Wildlife Attractants (Phase 5)  
Construction Administration, Construction Observation and Project Closeout Report  
KLJ 1805-02200.3 Task 3 Construction Administration & Observation  
KLJ 1805-02200.14A Task 14A FAA AIP 062 Project Closeout Report  
KLJ 1805-02200.14B Task 14B FAA AIP 064 Project Closeout Report

The Project and those services to be performed hereunder are more particularly described in ATTACHMENT A, a part hereof, entitled "Detailed Scope of Services", and the anticipated level of effort is defined in ATTACHMENT B entitled "Hourly Rate and Cost Breakdown", both parts hereof.

### II. PERIOD OF SERVICE

Compensation for ENGINEER's services as provided elsewhere in this Agreement has been agreed to in anticipation of an orderly and continuous progress of ENGINEER's services through completion. In this regard, if the services covered by this Agreement have not been completed within 24 months of the date hereof, through no fault of ENGINEER, any lump sum or maximum payment amounts shall be equitably adjusted.

### III. COMPENSATION.

Compensation on this project shall be broken into separate and independent forms of compensation. The first form of compensation shall be lump sum compensation. The second form of compensation shall be cost plus fixed fee compensation. The third form of compensation shall be hourly rate compensation. Following the description of the compensation method below, a chart details the items which will be compensated on lump sum basis, cost plus fixed fee basis, and hourly rate basis. Generally speaking, those items compensated on a cost plus fixed fee are items that are currently not possible to be estimated accurately. These include, for instance, construction observation and project records phases, which are dependent upon the Contractor who is doing the construction work and the year in which it is constructed. Compensation under an hourly rate basis is typically used when the scope of services is open-ended, unknown and / or not definable. In this case, the ENGINEER shall only bill the cost and fixed fee that is used for that task. Previously audited overhead and general/administrative overhead at 193.73% shall apply to this agreement. The cost of facilities rate of 1.11% and fixed fee rate of 15% shall apply to this agreement.

A. Lump Sum Compensation.

For those work items specified below in the compensation table for lump sum payments, the OWNER shall compensate the ENGINEER for services a lump sum amount to cover all costs for completion of that work item. These costs shall include salary costs, overhead costs, direct non-salary expense, and all other expenses as defined within the latest edition of FAA Advisory Circular 150/5100-14.

The lump sum payment shall be based upon the hours and expenses provided within Attachment B that follow and shall include a fixed fee payment. The lump sum fee made for these items shall constitute full and total compensation for all of the work necessary to complete the individual items specified in the scope of services. Changes in the scope of services as defined at the time this contract is negotiated shall reflect an additional compensation as negotiated by the ENGINEER and the OWNER. Monthly payments for those items specified below shall be based upon the percentage of work completed to date.

The table below indicates those work items covered as a lump sum payment item, and the total cost or compensation for each of these individual items. ATTACHMENT B provides the justifications for the lump sum fees.

<b>Table A Lump Sum Compensation</b>	
Task Item	Total Compensation
Task 14A - FAA AIP 062 Project Closeout Report	\$70,687.65
Task 14B - FAA AIP 064 Project Closeout Report	\$19,479.94

All payments not made within 60 days of the date of the invoice shall be subject to 1.5% per month in interest fees.

B. Cost Plus Fixed Fee Compensation.

The OWNER shall compensate the ENGINEER for services on an actual cost plus a fixed fee basis. The actual costs will consist of salary costs, overhead expenses, and direct non-salary expenses as defined in the latest edition of FAA Advisory Circular 150/5100-14. All direct salary costs and expenses may be verified by auditing at the conclusion of this project. The fixed payment, based on the schedules in ATTACHMENT B, shall not vary from the maximum specified unless the overall scope of the project changes. The table below includes the description of services, the total estimated compensation for this service, and the fixed fee payment.

Payment to the ENGINEER shall be on a monthly basis as the work progresses.

<b>Table B Cost Plus Fixed Fee Compensation</b>		
Task Item	Fixed Fee Payment	Total Compensation
Task 3 - Construction Observation & Records - Base Bid	\$149,072.23	\$1,438,090.23
Task 3 - Construction Observation & Records - Alternate	\$12,181.57	\$95,138.93

All payments not made within 60 days of the date of the invoice shall be subject to 1.5% per month in interest fees.

C. Hourly Rate Compensation.

The OWNER shall compensate the ENGINEER for services on an actual cost plus overhead and fixed fee basis. The actual costs will consist of salary costs, overhead expenses, and direct non-salary expenses as defined in the latest edition of FAA Advisory Circular 150/5100-14. All direct salary costs and expenses may be verified by auditing at the conclusion of this project. The fixed fee shall be included in the hourly rate. The table below includes the description of services and the total estimated compensation for this service.

Payment to the ENGINEER shall be on a monthly basis as the work progresses. Refer to ATTACHMENT B for a detailed breakdown.

Table C Hourly Rate Compensation	
Task Item	Total Compensation
NA	NA

All payments not made within 60 days of the date of the invoice shall be subject to 1.5% per month in interest fees.

D. GENERAL

The total compensation for all agreement costs, based on the estimated costs put forth in Attachment B for Construction Observation and Records, FAA Project Closeout Report - Base Bid shall not exceed \$1,528,257.82. The fixed payment for all phases, based upon the estimated costs put forth in Table B for Base Bid shall be a lump sum amount of \$149,072.23.

The total compensation for all agreement costs, based on the estimated costs put forth in Attachment B for Construction Observation and Records, FAA Project Closeout Report - Base Bid plus Alternate shall not exceed \$1,623,396.75. The fixed payment for all phases, based upon the estimated costs put forth in Table B for Base Bid plus Alternate shall be a lump sum amount of \$161,253.80.

For any form of compensation listed above, the individual compensation amounts shall not exceed the maximum amount shown unless approved in writing by the OWNER.

IV. EXTRA WORK AND SERVICES NOT INCLUDED IN THIS CONTRACT.

If the ENGINEER is of the opinion that any services it has been directed to perform is beyond the Scope of this Agreement, or that the level of effort required significantly exceeds that estimated due to changed conditions and thereby constitutes extra work, they shall promptly notify the OWNER of that fact. Extra work, additional compensation for same, and extension of time for completion shall be covered by a Supplemental Agreement entered into by both parties, prior to proceeding with any extra work or related expenditures.

V. OWNER'S RESPONSIBILITY.

To permit ENGINEER to perform the services required hereunder, the OWNER shall supply in proper time and sequence, the following at no expense to ENGINEER.

- A. Cooperate with the ENGINEER in the approval of all plans and specifications, or should they disapprove of any part of said plans and specifications, shall make a decision timely in order that no undue expense will be caused the ENGINEER because of lack of decisions. If the ENGINEER is caused extra drafting or other expenses due to changes ordered by the OWNER after the completion and approval of the plans and specifications, the ENGINEER shall be equitably paid for such extra expenses and services involved.
- B. Pay publishing costs for advertisements of notices, public hearings, request for bids, and other similar items; shall pay for all permits and licenses that may be required by local, state or Federal authorities; shall secure the necessary land, easements, and right-of ways required for the project; and shall pay the costs of all material acceptance testing during the construction phase of the project performed by independent testing laboratories.
- C. Designate in writing, a person to act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have authority to transmit instructions, receive instructions, receive information, interpret and define OWNER's policies with respect to ENGINEER's services.
- D. Furnish, as required for performance of ENGINEER's services (except to the extent provided otherwise in ATTACHMENT A), data prepared by or services of others, including without limitation, core borings, probings and subsurface explorations, hydrographic and geohydrologic surveys, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic and utility surveys; property descriptions; zoning, deed and other land use restriction; and other special data not covered in ATTACHMENT A.
- E. Provide access to and make all provisions for ENGINEER to enter upon publicly- and privately-owned property as required to perform the work.
- F. Act as liaison with other agencies to carry out necessary coordination and negotiations; furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.
- G. Examine all reports, sketches, drawings, specifications and other documents prepared and presented by ENGINEER, obtain advise of an attorney, insurance counselor or others as OWNER deems necessary for such examination and render in writing, decisions pertaining thereto within a reasonable time so as not to delay the services of ENGINEER.
- H. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services or any defect in the work of Construction Contractor(s), ENGINEER's Consultants or ENGINEER.
- I. Initiate action, where appropriate, to identify and investigate the nature and extent of asbestos and/or pollution in the Project and to abate and/or remove the same as may be required by federal, state or local statute, ordinance, code, rule, or regulation now existing or hereinafter enacted or amended. For purposes of these General Provisions, "pollution" shall mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, alkalis, chemicals and hazardous or toxic waste. Hazardous or toxic waste means any substance, waste, pollutant or contaminant now or hereafter included within such terms under any federal, state or local statute, ordinance, code, rule or regulation now existing or hereinafter enacted or amended.
- J. If ENGINEER encounters, or reasonably suspects that it has encountered, asbestos, or pollution, including soil contamination in the project area, ENGINEER shall cease activity in said area and

promptly notify the OWNER who shall proceed as set forth above. Unless otherwise specifically provided in ATTACHMENT A, the services to be provided by ENGINEER do not include identification of asbestos or pollution, including soil contamination and ENGINEER has no duty to identify or attempt to identify the same in the project area.

- K. Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as OWNER may require or ENGINEER may reasonably request with regard to legal issues pertaining to the Project and such auditing service as OWNER may require to ascertain how or for what purpose any Contractor has used the monies paid under the construction contract.
- L. Provide such observation services (except to the extent provided otherwise in ATTACHMENT A) as OWNER may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.
- M. Provide "record" drawings and specifications for all Existing physical plants or facilities which are pertinent to the Project.
- N. Provide written notice to ENGINEER when the project has been financially closed out by FAA.
- O. Provide other services, materials, or data as may be set forth in ATTACHMENT A.
- P. The OWNER shall agree to renegotiate the compensation should the project change appreciably from the original scope of work, a change in conditions, or additional work required by the ENGINEER. The renegotiated compensation will be based on the new project scope of work.
- Q. Provide all necessary information regarding its requirements as necessary for orderly progress of the work.

## VI. COMPLETION TIME.

The ENGINEER shall complete the task item assigned as per the schedule defined in the Detailed Scope of Services for that individual task.

## VII. TERMS AND CONDITIONS.

### A. Ownership of Drawings and Contract Documents.

1. Original documents, such as tracings, maps, basic survey notes and sketches, charts, computations, and other data prepared or obtained under the terms of the contract, are instruments of service and shall remain the property of the ENGINEER unless otherwise agreed to by both parties. Reproducible copies of this information, including electronic copies shall be made available to the OWNER upon request.
2. ENGINEER and OWNER shall retain an ownership and property interest in all final documents created pursuant to this Agreement and any Work Order hereunder (including the right of reuse by ENGINEER at the discretion of ENGINEER) whether or not the Project is completed. OWNER may make and retain copies of Service related documents for information and reference in connection with use on the subject project by OWNER and others. Such Documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the subject project or on any other project. Any such reuse or modification without written verification or adaptation by ENGINEER, as appropriate for the specific

purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, ENGINEER's officers, directors, partners, employees, agents, or ENGINEER's Consultants. OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, agents, and ENGINEER's Consultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting from such unauthorized reuse. Any verification or adaptation of the Documents for extensions of the subject project or for any other project will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

3. When a contract is for preliminary plans only, no commitment is implied that would constitute a limitation on the subsequent use of preliminary plans or ideas incorporated therein.
4. The ENGINEER shall provide the OWNER three (3) sets and the FAA each one (1) set of final approved plans and specifications. The ENGINEER shall provide sets of plans and specifications to bidders for a nominal cost during the bidding process. The Contractor awarded the contract shall be provided additional sets of plans and specifications as per the FAA General Provision Item 50-04. The ENGINEER shall provide reproducible copies of reports, specifications and plans (including electronic files in the form of PDFs and the software used to create the final documents) to the OWNER.

B. Standard of Care.

The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

C. Limitations of Responsibility.

In the event the OWNER requests ENGINEER to execute any certificates or other documents, the proposed language of such certificates or documents shall be submitted to ENGINEER for review at least 15 days prior to the requested date of execution. ENGINEER shall not be required to execute any certificates or documents that in any way would, in ENGINEER's sole judgment, (a) increase ENGINEER's legal or contractual obligations or risks; (b) require knowledge, services or responsibilities beyond the scope of this Agreement; or (c) result in ENGINEER having to certify, guarantee or warrant the existence of conditions whose existence ENGINEER cannot ascertain.

D. Opinions of Probable Construction Cost.

Since the ENGINEER has no control over the cost of labor, materials or equipment, or over the contractor's methods of determining prices, or over competitive bidding or market conditions, opinions of probable construction costs for the project(s) provided for herein are to be made on the basis of experience and qualifications and represent a best judgment as a design professional familiar with the construction industry, but the ENGINEER cannot and does not guarantee that proposals, bids, change orders or the project construction cost will not vary from the prepared opinion of probable construction costs.

E. Termination.

This Agreement may be terminated by either party, by a seven days' written notice in the event of substantial failure to perform in accordance with the terms hereof by the other party through no fault of the terminating party. If this Agreement is so terminated, the ENGINEER shall be paid as provided under compensation for work completed to date of termination.

F. Dispute Resolution.

In the event of a dispute arising out of or relating to the agreement or the services to be rendered hereunder, both parties hereby agree to (1) attempt to resolve such disputes through direct negotiations between the appropriate representatives of each party, (2) if such negotiations are not fully successful, the parties agree to attempt to resolve any remaining dispute by formal nonbinding mediation conducted in accordance with rules and procedures to be agreed upon by both parties, and (3) if the dispute or any issues remain unresolved after the first two steps, either party may seek to have the dispute resolved by a court of competent jurisdiction.

G. Successors and Assigns.

The OWNER and ENGINEER each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the OWNER nor the ENGINEER will assign, sublet or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body, which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the OWNER and the ENGINEER.

H. Indemnification.

The ENGINEER agrees, to the fullest extent permitted by law, to indemnify and hold harmless the OWNER, its officers, directors and employees (collectively, OWNER) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the ENGINEER's negligent performance of professional services under this Agreement and that of its sub-engineers or anyone for whom the ENGINEER is legally liable. The OWNER agrees, to the fullest extent permitted by law, to indemnify and hold harmless the ENGINEER, its officers, directors, employees and sub-consultants (collectively, ENGINEER) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the OWNER'S negligent acts in connection with the Project and the acts of its contractors, subcontractors or engineers or anyone for whom the OWNER is legally liable. Neither the OWNER nor the ENGINEER shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

I. Hazardous Materials.

The parties acknowledge that ENGINEER'S scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If ENGINEER or any other party encounters a Hazardous Environmental Condition, ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (i) retains appropriate specialist engineers or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous

Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

J. Controlling Law.

This Agreement is to be governed by the law of the state in which the Project is located.

K. Construction Phase Services.

OWNER acknowledges that it is customary for the ENGINEER who is responsible for the preparation and furnishing of Drawings and Specifications and other construction related documents to be employed to provide professional services during the Bidding and Construction Phases of the Project, (1) to interpret and clarify the documentation so furnished and to modify the same as circumstances revealed during bidding and construction may dictate, (2) in connection with acceptance of substitute or equal items of materials and equipment proposed by bidders and contractor(s), (3) in connection with approval of shop drawings and same submittals, and (4) as a result of and in response to ENGINEER'S detecting in advance of performance of affected work inconsistencies or irregularities in such documentation. OWNER agrees that if ENGINEER is not employed to provide such professional services during the Bidding (if the work is put out for bids) and the Construction Phases of the Project, ENGINEER will not be responsible for, and OWNER shall indemnify and hold ENGINEER (and ENGINEER'S professional associates and consultants) harmless from, all claims, damages, losses and expenses including attorneys' fees arising out of, or resulting from, any interpretation, clarification, substitution acceptance, shop drawing or sample approval or modification of such documentation issued or carried out by OWNER or others. Nothing contained in this paragraph shall be construed to release ENGINEER (or ENGINEER'S professional associates or consultants) from liability for failure to perform in accordance with professional standards any duty or responsibility which ENGINEER has undertaken or assumed under this Agreement.

L. Compliance Requirements.

ENGINEER certifies that they are in compliance with all federal, state and local laws, regulations and orders including but not limited to those regarding non-discrimination, wages and hours, workers compensation and immigration and are not currently suspended or disbarred from working on federally funded projects. Failure of compliance may result in the cancellation of any OWNER agreement and exclusion from consideration for future agreements.

M. Insurance.

Throughout the duration of this Agreement, Engineer agrees to provide evidence of insurance coverages not less than the types and amounts specified in Attachment D.

N. Affirmative Action.

ENGINEER and any Subcontractors shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

VIII. FEDERAL CONTRACT PROVISIONS.

If this Agreement is to be financed in part by Federal funds, certain federally-required, contract provisions must be incorporated. These federally-required, contract provisions, included as ATTACHMENT C, are hereby incorporated herein and made a part of this Agreement. The ATTACHMENT C incorporated is for a Non-Construction Contract.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below.

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

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

Engineer KLJ Engineering LLC  
Signed   
Name Mark Anderson, PE  
Title VP, Environment and Public Works  
Date 8-17-2020

Attest   
Name Tom Neigum, PE  
Title Project Manager

CERTIFICATION OF ENGINEER

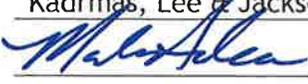
I hereby certify that I am the VP, Environment and Public Works (title) and duly authorized representative of KLJ Engineering LLC, whose address is 4585 Coleman Street, Bismarck, ND 58503, and that neither I nor the firm I here represent has:

- (a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above ENGINEER) to solicit or secure this contract, or
- (b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or
- (c) Paid or agreed to pay to any firm, organization, or person (other than a bona fide employee working solely for me or the above ENGINEER) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract; except as here expressly stated (if any):

The undersigned firm certifies that it has not been convicted of bribery or attempting to bribe an officer or employee of the State of North Dakota, nor has the firm made an admission of guilt of such conduct which is a matter of record, nor has an official, agent, or employee of the firm committed bribery or attempted bribery on behalf of the firm and pursuant to the direction or authorization of a responsible official of the firm.

I acknowledge that this certificate is to be furnished to the Federal Aviation Administration of the United States Department of Transportation in connection with this contract involving participation of Airport Improvement Program (AIP) funds and is subject to applicable state and federal laws, both criminal and civil.

The undersigned firm certifies, by submission of this proposal or acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by submitting this proposal and by execution of this contract that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the undersigned firm or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/proposal.

Engineer Kadrmaz, Lee & Jackson, Inc.  
Signed   
Name Mark Anderson, PE  
Title VP, Environment and Public Works  
Date 8-17-2020

Attest   
Name Tom Neigum, PE  
Title Project Manager



**Attachment A**  
**Detailed Scope of Services**  
**Removal of Wetlands to Reduce Wildlife Attractants (Phase 5)**  
**Construction Administration, Construction Observation and Project Closeout Report**  
**Bismarck Airport, Bismarck, North Dakota**  
**AIP Project # 3-38-0003-062-2020**  
**KLJ# 1805-02200.3, 1805-02200.14A, 1805-02200.14B**

#### EXECUTIVE SUMMARY

The Engineer is under an Agreement to complete the design of Removal of Wetlands to Reduce Wildlife Attractants (Phase 5), which will include design of the entire solution to drain the Central Airport Watershed as recommended in the Bismarck Airport Storm Water Analysis Report last revised in September 2018. It is currently anticipated that bidding and construction may be divided into two or three different phases / packages, depending on funding availability. This Agreement will only include the construction administration, construction observation, and project closeout services for the first phase. Subsequent Agreements will cover packaging the previously completed design, package specific construction safety phasing plans, specifications, bidding, and construction administration / observation services for those remaining phases.

#### PROJECT DESCRIPTION

**General.** The work is to occur at the Bismarck Airport in Bismarck, North Dakota, under the terms and conditions of the Agreement for Professional Services (Agreement) between the City of Bismarck (Owner) and KLJ (Engineer).

The federal work shall be performed and constructed under a Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grant to the Owner. The Engineer shall perform the work under this Agreement with FAA Advisory Circulars and regulations that are current as of the date of this Agreement. Any changes to the FAA Advisory Circulars and regulations after the date of this Agreement shall be addressed per Section IV and Section V, Item P, of the Agreement.

For the Removal of Wetlands to Reduce Wildlife Attractants (Phase 5) project, the design elements to be constructed are shown in the accompanying drawing.

**Completion Time.** The Engineer shall complete the total contract within 180 days after final construction acceptance. Schedule and fee is based on FAA funding for the project being approved for construction in 2021. If funding does not become available for 2021 construction, timelines may be revised accordingly.

#### PROJECT ADMINISTRATION

**Project Scoping Meeting with Owner.** The Engineer shall attend one (1) meeting to discuss project scoping, FAA Pre-Application and airport capital improvements plan with the Owner at the Bismarck Airport. The Engineer staff attending the meeting shall include:

- Senior Project Manager

**Prepare Project Scope of Services and Schedule.** The Engineer shall prepare a Detailed Scope of Services based on the information obtained during the Owner Scoping Meeting. Engineer shall submit the Detailed Scope of Services and schedule to the Owner for review and make applicable modifications as agreed upon.

**Project Detailed Scope of Services Review with FAA.** The Engineer shall present the final Detailed Scope of Services for review and approval. It is anticipated that the Engineer and Owner shall meet with the FAA at the FAA Bismarck ADO or via teleconference to discuss each comment and provide feedback. The Engineer shall then

update the Detailed Scope of Services per applicable FAA comments, and then resubmit the Detailed Scope of Services to the Owner for review and comment.

**Engineering Detailed Scope of Services and Hour Negotiations.** Upon Detailed Scope of Services approval from the FAA, the Engineer shall prepare a detailed hour breakdown with the associated fees for review by the Owner.

**Independent Fee Document Preparation.** The Engineer shall prepare the appropriate documents for the independent fee review based on the completed fee negotiations. The Owner shall follow FAA AC 150/5100-14E.

**Agreement for Professional Services.** The Engineer shall compile the Agreement for Professional Services (Agreement), complete an internal review and execution of the Agreement for approval by the Owner.

**Prepare and Coordinate Subconsultant Agreements.** The Engineer shall prepare the appropriate contract documents and the execution of subconsultant agreements to support the agreed upon Detailed Scope of Services and the Engineer's Agreement with the Owner. The Engineer anticipates the following subconsultants will be utilized on the project:

- Surveying Subconsultant
- Geotechnical / Materials Testing Subconsultant
- Electrical Engineer Subconsultant
- Trenchless Design Subconsultant

## PROJECT MANAGEMENT

**Overall Project Management.** The Engineer shall provide project management services to manage the completion of the project within the conditions of this Agreement. Project management is crucial to the success of all projects; specifically, it is crucial to this project. The Engineer has identified Tom Neigum, PE as the Project Manager for the project. Project management is the discipline of planning, organizing, and managing resources to successfully meet this project's objectives and goals. It is the Project Manager's responsibility to notify the Owner of any issues, problems, or concerns regarding the project; the delegation of all activities to the project team; and handling all subconsultant coordination. In addition, if any items arise during the duration of the project that are outside this scope of work, the Project Manager shall address them with the Owner.

For this project, it is anticipated that project management will occur from the time the Grant Agreement is accepted (estimated July 2020) through the closeout period (estimated April 2022), a period of twenty-two (22) months.

**Project Startup Meeting.** The Engineer shall conduct an internal kickoff meeting with the Engineering staff consisting of the Engineering team members.

**Project Budget Setup.** The Engineer shall coordinate with the internal Accounting staff to establish the internal budgets.

**Bi-weekly Budget Review / Projections.** The Engineer shall review budgets and budget projections on a bi-weekly basis and coordinate any known issues with the Owner.

**Monthly Invoicing.** The Engineer and shall prepare monthly billings of project accounting.

**Periodic Internal Meetings.** The Engineer and lead staff members shall conduct a bi-weekly status meeting to review schedule and outstanding issues encountered. This shall occur from the time the Grant Agreement is accepted (estimated July 2020) through the closeout period (estimated April 2022), a period of twenty-two (22) months.

**Develop Quality Control Plan.** The Engineer shall develop a Quality Control Plan for the project. The plan shall include project instructions, milestone checking, and peer review procedures at each phase of the project.

**FAA Grant Coordination.** The Engineer shall prepare the FAA Pre-Application for Federal Assistance per FAA SOP guidance information for submittal.

**Monthly Status Reports.** The Engineer shall prepare and submit monthly status reports to the Owner noting project progress, issues encountered and action requirements by the Owner. This shall occur from the time the Grant Agreement is accepted (estimated July 2020) through the closeout period (estimated April 2022), a period of twenty-two (22) months.

**FAA Quarterly Reports.** The Engineer shall prepare and submit the quarterly FAA reports. This shall occur from the time the Grant Agreement is accepted (estimated July 2020) through the closeout period (estimated April 2022), a period of twenty-two (22) months.

**DBE Reporting.** The Engineer shall prepare a Disadvantaged Business Enterprise (DBE) quarterly and annual reporting forms as applicable to the project. The Owner has an approved DBE plan that shall be utilized for the project.

## **CONSTRUCTION ADMINISTRATION**

**Develop and Submit Environmental Checklist.** The environmental checklist was completed as part of a separate project. As a result, the Engineer has not included work on this item as part of this Detailed Scope of Services. If any changes occur that impact the environmental documentation for the project, the Engineer shall consult with the Owner and FAA.

**Coordination of Changes to FAA Owned Facilities.** Regarding the FAA owned facilities, the Engineer anticipates additional coordination with the FAA regarding work pertaining to the changes to their FAA owned facilities.

**Utility Coordination.** As part of the project design, the Engineer sent a letter to utility companies that may be impacted by the project. The Engineer also evaluated utility information provided by the utility companies and identified utilities which may require relocation or lowering as a result of the proposed project. Once the contractor has potholed the utilities as part of the project, the Engineer shall perform additional coordination with the utility companies to determine solutions to the impacted utilities.

**Quality Acceptance Construction Materials Testing.** The Engineer shall subconsult with a materials testing firm to provide the required quality acceptance testing. The Engineer shall coordinate the development of a contract between the Engineer and the materials testing firm.

**Prepare Construction Management Plan (if paving costs exceed \$500,000 in overall cost).** A Construction Management Plan is not required on this project. As a result, no effort has been included in the Detailed Scope of Services for this task.

**Prepare and Conduct Project Kickoff Meeting.** The Engineer shall facilitate a project kickoff meeting at the Airport. This meeting will occur in the fall of 2020 with the successful general and electrical contractors. The purpose of the meeting will be to inform all parties of expectations and set the stage for requirements leading up to construction, as well as define the work to be completed in the fall of 2020. The Engineer shall prepare the meeting agenda, facilitate the meeting and attend a post-meeting site visit at the Airport. The detailed discussion of the project to include:

- Roles and responsibilities
- Contractor's representatives
- Project communication
- Project schedule, including coordination of Yegen Road closure
- Contractor's work schedule
- Testing requirements
- Subcontractors
- Plans and Specifications
- Materials certification requirements
- Shop drawing requirements

- Submittal requirements
- Work to complete in 2020

It is anticipated the following staff members shall attend the meeting:

- Senior Project Manager
- Engineering Technician IV
- Associate Engineer
- Engineer In Training II
- Surveying Subconsultant
- Geotechnical / Material Testing Subconsultant
- Electrical Engineer Subconsultant
- Trenchless Design Subconsultant (via teleconference)

**Prepare and Conduct Pre-Construction Conference.** Conduct a preconstruction meeting at the Airport in the spring of 2021. The Engineer shall prepare the preconstruction agenda, facilitate the preconstruction conference and attend a post-meeting site visit at the Airport. The detailed discussion of the project to include:

- Roles and responsibilities
- Contractor's representatives
- Schedules
- Safety
- Security
- Testing requirements
- Resident Engineer's role
- Labor requirements
- DBE and Civil Rights
- Environmental and materials storage
- Plans and Specifications
- Materials certification requirements
- Shop drawing requirements

It is anticipated the following staff members shall attend the meeting:

- Senior Project Manager
- Engineering Technician IV
- Associate Engineer
- Engineer In Training II
- Surveying Subconsultant
- Geotechnical / Material Testing Subconsultant
- Electrical Engineer Subconsultant
- Trenchless Design Subconsultant

**Prepare and Conduct Pre-Phase Meetings.** Conduct a pre-phase meeting at the Airport. The Engineer shall prepare the pre-phase agenda, conduct the pre-phase conference and site visit at the Airport. The meeting shall be held before each phase commences. It is estimated that there will be up to two (2) pre-phase meeting. Note that with the exception of the Senior Project Manager and Electrical Engineer Subconsultant, time for the pre-phase meetings is included in each person's hours for construction observation.

**Shop Drawing / Certification Review.** Review Contractor shop drawings and certifications for compliance with the project plans and specifications for up to two (2) contracts. Issue the appropriate response to the Contractor.

- Estimate based on up to 2 reviews of 55 shop drawings (average of 1 hour each for review, response, and filing in project records)
- Estimate based on up to 2 reviews of 80 material certification submittals (average of 0.5 hour each for review, response, and filing in project records)

**Review Contractor Requests for Information (RFI) and Responses.** Review Contractor requests for information up to two (2) contracts. Coordinate with Owner staff as applicable and issue the written response to the Contractor.

- Estimate based on responses to up to 25 RFIs (average of 2 hours each for review, response, and filing in project records)

**Prepare Change Orders.** The Engineer shall prepare change orders for modifications to the Contractors work, payment or schedule as the issue arise during the construction phase for up to two (2) contracts. The Engineer shall also assist the Owner in obtaining approval from the FAA for the change order work.

- Estimate based on up to 10 change orders (average of 10 hours each for review, preparation, coordination, response, and filing in project records)

**Prepare Periodical Estimates.** The Engineer shall prepare periodical pay estimates based on the Contractor's completed and accepted work on the project at a frequency agreed upon by the Owner and the Contractor for up to two (2) contracts.

- Estimate based on up to 14 pay estimates (average of 6 hours each for review, preparation, coordination, response, and filing in project records)

**Project Records & Payrolls.** Maintain a record of all of the project documents and correspondence. Conduct a review of the Contractor and subcontractor payrolls for conformance with the project wage rates and regulations for up to two (2) contracts.

- Estimate based on 7 months of payroll records (average of 20 hours per month)

**Weekly Construction Progress Meetings.** The Engineer shall coordinate progress meetings on a scheduled agreed upon by the Owner and the Contractor. The Engineer shall prepare the progress meeting agendas, conduct the meetings and issue meeting minutes to the appropriate parties. The Engineer shall coordinate with the Owner on user attendees at the meeting based on the progress of the work. Also, the Engineer shall submit weekly FAA construction status reports to the Owner and Contractor.

- Estimate based on 25 weekly meetings
  - Senior Project Manager
  - Engineering Technician IV \*
  - Associate Engineer \*
  - Engineer In Training II \*
  - Engineer In Training I \*
  - Electrical Engineer (Subconsultant)
  - Trenchless Design Subconsultant (when on-site during microtunneling or pilot tube auger boring work is being performed on the project)
    - Note that the time for the Engineering Technician IV, Associate Engineer, Engineer In Training II, and Engineer In Training I for the weekly construction progress meetings is included in their hours for construction observation

**Conduct Substantial / Punchlist Inspection of Project.** The Engineer shall coordinate with the Owner and the Contractor to conduct a pre-final inspection with the parties and prepare the final inspection punchlist for up to two (2) contracts. The Engineer shall verify that punchlist items have been completed and recommend to the Owner acceptance of the work. Review O&M Manuals and any required training materials for completeness. It is anticipated the following staff members shall attend the meeting:

- Senior Project Manager
- Engineering Technician IV \*
- Associate Engineer \*
- Engineer In Training II \*
- Engineer In Training I \*
- Electrical Engineer (Subconsultant)

- Note that the time for the Engineering Technician IV, Associate Engineer, Engineer In Training II, and Engineer In Training I for the weekly construction progress meetings is included in their hours for construction observation

**Conduct Final Inspection of Project.** The Engineer shall coordinate with the Owner and the Contractor to conduct a final inspection meeting at the Airport for up to two (2) contracts. The Engineer shall follow-up on any new deficiencies that are identified or punchlist items that have not been satisfactorily corrected. It is anticipated the following staff members shall attend the meeting:

- Senior Project Manager
- Engineering Technician IV \*
- Associate Engineer \*
- Engineer In Training II \*
- Engineer In Training I \*
- Electrical Engineer Subconsultant
  - Note that the time for the Engineering Technician IV, Associate Engineer, Engineer In Training II, and Engineer In Training I for the weekly construction progress meetings is included in their hours for construction observation

**Subconsultant Coordination.** The Engineer shall coordinate the applicable subconsultant tasks to support the agreed Detailed Scope of Services and the Engineer's Agreement with the Owner.

**Analyzing Grades per FAA Requirement.** On this project, there won't be the need to analyze grades per the FAA requirements. As a result, no effort has been included in this Detailed Scope of Services for this task.

**P-154, P-160, P-304, P-401, P-501, P610, D-705 QA Analysis Forms.** On this project, there won't be the need to analyze grades per the FAA requirements. As a result, no effort has been included in this Detailed Scope of Services for this task.

**Tribal Monitoring Coordination.** It is anticipated that Tribal monitoring shall not be required during the construction activities. As a result, no effort has been included in this Detailed Scope of Services for this task.

**FAA Reimbursement Processing.** The Engineer shall prepare and coordinate the appropriate documentation required for the Owner to received reimbursement for project eligible costs through the Owner's FAA grant for up to two (2) contracts.

**Periodic Owner Meetings.** It is anticipated that the Engineer shall attend twenty-two (22) monthly Owner meetings to coordinate any issues with the Owner. It is anticipated the following staff members shall attend the periodic owner meetings:

- Senior Project Manager

**Periodic Agency Meetings.** It is anticipated that the Engineer shall attend twenty-two (22) monthly agency meetings to coordinate final design activities and issues with the Owner and Agencies. It is anticipated the following staff members shall attend the periodic owner meetings:

- Senior Project Manager

**FAA Flight Check Coordination.** For this project, FAA flight checks are not required as part of the project. As a result, the Engineer has not included work on this item as part of this Detailed Scope of Services.

## CONSTRUCTION OBSERVATION

**Construction Staking - General.** A Professional Land Surveyor shall utilize an estimated 30 hours to coordinate and supervise survey crews, prepare survey data, and prepare reports.

**Construction Surveying - Establish Project Control.** The Engineer shall provide control points and alignment data as required by the project specifications. It is estimated that 20 hours shall be required by a 2-person survey crew.

**Contractor Staking QA / QC - Slope Staking.** The Engineer shall provide verification survey activities as required by the project specifications. It is estimated that 3 hours (1 trip) shall be required by a 2-person survey crew.

**Contractor Staking QA / QC - Top of Subgrade Elevations.** The Engineer shall provide verification survey activities as required by the project specifications. It is estimated that 3 hours (1 trip) shall be required by a 2-person survey crew.

**Contractor Staking QA / QC - Top of Recycled Asphalt Pavement for Subgrade Stabilization.** The Engineer shall provide verification survey activities as required by the project specifications. It is estimated that 3 hours (1 trip) shall be required by a 2-person survey crew.

**Contractor Staking QA / QC - Top of Crushed Aggregate Base Course.** The Engineer shall provide verification survey activities as required by the project specifications. It is estimated that 3 hours (1 trip) shall be required by a 2-person survey crew.

**Contractor Staking QA / QC - Top of Hot Mix Asphalt Pavement.** The Engineer shall provide verification survey activities as required by the project specifications. It is estimated that 3 hours (1 trip) shall be required by a 2-person survey crew.

**Contractor Staking QA / QC - Storm Sewer.** The Engineer shall provide verification survey activities as required by the project specifications. It is estimated that 160 hours (20 trips) shall be required by a 2-person survey crew.

**Contractor Staking QA / QC - Finished Topsoil.** The Engineer shall provide verification survey activities as required by the project specifications. It is estimated that 6 hours (1 trip) shall be required by a 2-person survey crew.

**Contractor Staking QA / QC - Other.** The Engineer shall provide verification survey activities as required by the project specifications. It is estimated that 20 hours (4 trips) shall be required by a 2-person survey crew.

**Observation - Full Time and Periodic.** The Engineer shall provide full time construction observation for this project. It is estimated at this time that 150 working days be allowed for the project. If the actual construction time exceeds that estimate, additional construction observation time shall be required, and the Engineer's fee shall be equitably adjusted.

- For this project, it is anticipated that the contractor will be working on multiple items concurrently, such as the lift station, deep storm sewer system, manholes, culverts, geogrid and fabric, subbase, under drains, cable concrete, surface grading, milling of existing pavement, hot mix asphalt pavement, electrical, and other items. As a result, the Engineer anticipates the following personnel and their corresponding hours:
  - Senior Project Manager
    - 25 weeks at 10 hours per week
  - Engineering Technician IV
    - Anticipated responsibility would be to manage overall construction on-site
    - 150 days at 12 hours per day
  - Associate Engineer
    - Anticipated responsibility would be to perform full-time observation of deep pipe installation
    - 150 days at 12 hours per day

- Engineer In Training II
  - Anticipated responsibility would be to perform part-time observation of the lift station, microtunneling pits installation / cleanup, microtunneling / pilot tube auger boring, grading
  - 150 days at 12 hours per day
- Engineer In Training I
  - Anticipated responsibility would be to perform full-time observation of the drain tile and cable concrete installation
  - Base Bid
    - 36 days at 12 hours per day
  - Alternate
    - An additional 72 days at 12 hours per day
- Electrical Engineer Subconsultant
  - 20 weeks at 2 hours per week
- Trenchless Design Subconsultant
  - Senior Associate / Senior Consultant I
    - 26 Hours
  - Associate / Senior Project Manager
    - 180 hours
  - Engineer
    - 83 hours
  - Field Staff
    - 816 hours

Although the Engineer shall perform construction administration and observation on this project, the Contractor is responsible for the means and methods of construction. The Engineer has no control over the Contractor's work product.

## AERONAUTICAL SURVEY SERVICES

Aeronautical Survey Services are not required on this project. As a result, no effort has been included in the Detailed Scope of Services for this task.

## FAA PROJECT CLOSEOUT REPORT, AIP 3-38-0003-062-2020

**Overall Project Management.** The Engineer shall provide project management services to manage the completion of the project within the conditions of this Agreement. Project management is crucial to the success of all projects; specifically, it is crucial to this project. The Engineer has Tom Neigum, PE identified as the project manager for the project. Project management is the discipline of planning, organizing, and managing resources to successfully meet this project's objectives and goals. It is the project manager's responsibility to notify the Owner of any issues, problems, or concerns regarding the project; the delegation of all activities to the project team; and handling all subconsultant coordination. In addition, if any items arise during the duration of the project that are outside this Detailed Scope of Services, the project manager shall address them with the Owner.

The Engineer shall perform the following closeout items per the requirements of the FAA:

**Prepare Final Outlay and Acceptance Forms.** Prepare final outlay request for final grant payment and required acceptance forms.

**Prepare DBE Summary Report.** Prepare required FAA documentation regarding DBE participation on the project based on data obtained from the Contractor.

**Prepare Executive Summary.** The Engineer shall perform appropriate post-construction photographic documentation of the project and any adjacent properties that could have been affected by construction activities. The Engineer shall also prepare an Executive Summary of the project.

**Prepare Quantity Revision Summary.** Perform three-way check of all project costs and explanations of cost variations from plan.

**Prepare ALP Update.** An ALP Update is not required on this project. As a result, no effort has been included in the Detailed Scope of Services for this task.

**Exhibit A Update.** An Exhibit A Update is not required on this project. As a result, no effort has been included in the Detailed Scope of Services for this task.

**Prepare Record Drawings.**

- Prepare record construction plans and provide two (2) bound hard copy sets and three (3) electronic sets on CD in PDF and AutoCAD 2017 format to the Owner. One set of each shall be delivered to the Owner, City Engineering Department, and one electronic set to City GIS department. The set may be delivered to City Engineering and City GIS department by a mutually agreeable alternative electronic delivery means. For the record construction plans, there are approximately 160 plan sheets that will require updating.
- Deliver two (2) sets of Operation and Maintenance (O&M) Manuals as provided by the Contractor.

**Update City of Bismarck GIS Map.**

- Update the City of Bismarck GIS Map for the Owner to reflect revisions based on this project.
- Provide one (1) PDF version of the utility map base drawing to the Owner.

**Update Owner Utility Maps.**

- Update the Owner's Utility Maps (approximately 21 plan sheets) to reflect revisions based on this project. The Engineer shall also provide the FAA an overall drawing of the utilities on the airport.

**Prepare Closeout Report Document.**

- Prepare summaries of all test results on materials installed as required and final testing report.
- Once FAA has approved the Closeout Report, the Engineer shall provide one (1) copy to the Owner.

**Prepare and Submit NDAC Pavement History Update.** A NDAC Pavement History Update is not required on this project. As a result, no effort has been included in the Detailed Scope of Services for this task.

**Coordination of FAA Reimbursable Agreement Closeout.** For this project, there isn't an FAA Reimbursable Agreement. As a result, the Engineer has not included work on this item as part of this Detailed Scope of Services.

**FAA PROJECT CLOSEOUT REPORT, AIP 3-38-0003-064-2020**

**Overall Project Management.** The Engineer shall provide project management services to manage the completion of the project within the conditions of this Agreement. Project management is crucial to the success of all projects; specifically, it is crucial to this project. The Engineer has Tom Neigum, PE identified as the project manager for the project. Project management is the discipline of planning, organizing, and managing resources to successfully meet this project's objectives and goals. It is the project manager's responsibility to notify the Owner of any issues, problems, or concerns regarding the project; the delegation of all activities to the project team; and handling all subconsultant coordination. In addition, if any items arise during the duration of the project that are outside this Detailed Scope of Services, the project manager shall address them with the Owner.

The Engineer shall perform the following closeout items per the requirements of the FAA:

**Prepare Final Outlay and Acceptance Forms.** Prepare final outlay request for final grant payment and required acceptance forms.

**Prepare DBE Summary Report.** Prepare required FAA documentation regarding DBE participation on the project based on data obtained from the Contractor.

**Prepare Executive Summary.** The work effort for this task is included in the FAA Project Closeout Report for AIP 3-38-0003-062-2020. As a result, no additional effort has been included under this closeout for this task.

**Prepare Quantity Revision Summary.** Perform three-way check of all project costs and explanations of cost variations from plan.

**Prepare ALP Update.** An ALP Update is not required on this project. As a result, no effort has been included in the Detailed Scope of Services for this task.

**Exhibit A Update.** An Exhibit A Update is not required on this project. As a result, no effort has been included in the Detailed Scope of Services for this task.

**Prepare Record Drawings.** The work effort for this task is included in the FAA Project Closeout Report for AIP 3-38-0003-062-2020. As a result, no additional effort has been included under this closeout for this task.

**Update City of Bismarck GIS Map.** The work effort for this task is included in the FAA Project Closeout Report for AIP 3-38-0003-062-2020. As a result, no additional effort has been included under this closeout for this task.

**Update Owner Utility Maps.** The work effort for this task is included in the FAA Project Closeout Report for AIP 3-38-0003-062-2020. As a result, no additional effort has been included under this closeout for this task.

**Prepare Closeout Report Document.**

- Prepare summaries of all test results on materials installed as required and final testing report.
- Once FAA has approved the Closeout Report, the Engineer shall provide one (1) copy to the Owner.

**Prepare and Submit NDAC Pavement History Update.** A NDAC Pavement History Update is not required on this project. As a result, no effort has been included in the Detailed Scope of Services for this task.

**Coordination of FAA Reimbursable Agreement Closeout.** For this project, there isn't an FAA Reimbursable Agreement. As a result, the Engineer has not included work on this item as part of this Detailed Scope of Services.

## **OWNER'S RESPONSIBILITIES**

**Project Representative.** The Owner shall designate a Project Representative with authority to administer the Engineer's Agreement. All requests for information or a decision by the Owner on any aspect of the work shall be directed to the Owner's Project Representative.

**Submittal Reviews.** The Owner shall review submittals by the Engineer and provide prompt decisions and responses to questions in order to minimize delay in the progress of the Engineer's work. The Owner shall also be responsible for coordination of timely responses by Agencies.

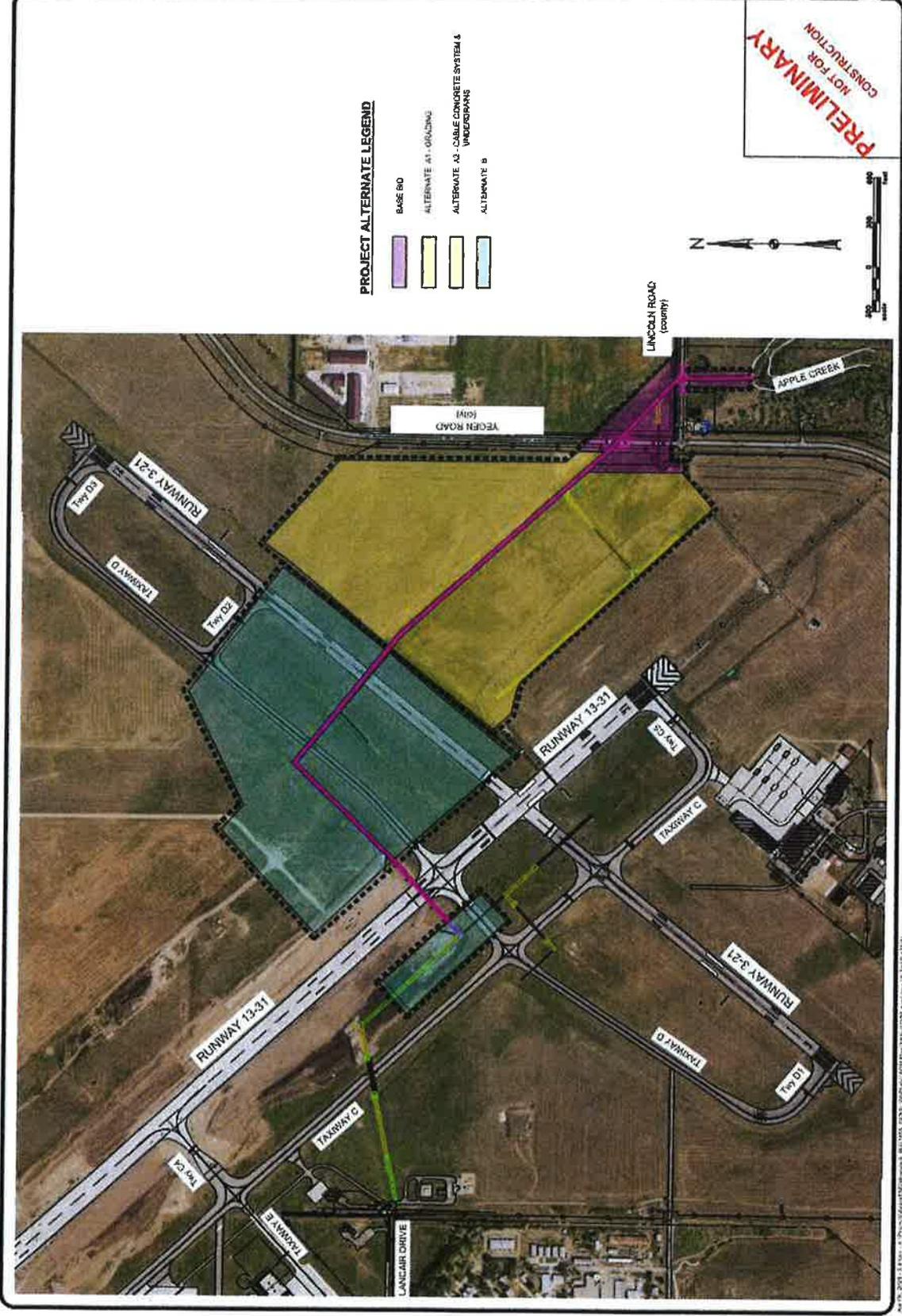
**Outlay Reviews.** The Owner shall review and approve outlays and other information submitted by the Engineer in a prompt manner.

**Historical Information.** The Owner shall furnish the Engineer one copy of as-built drawings, maps, records, surveys, reports, preliminary designs, utility locates, etc. that are pertinent to the project.

**Agreement Between Owner and Contractor.** The Owner shall provide a legal review of the Agreement Between Owner and Contractor template that is provided by the Engineer to make sure that it complies with local, state, and federal law.

**DBE Plan.** The Owner has an approved DBE Plan and shall make determinations on accomplishments and participation.

**Coordination with Utility Companies and FAA Technical Operations Personnel.** The Owner shall assist the Engineer in coordination with applicable utility companies and FAA Technical Operations.



**PROJECT ALTERNATE LEGEND**

- BASE 80
- ALTERNATE A1 - GRADING
- ALTERNATE A3 - CABLE CONCRETE SYSTEM & UNDERDRAINS
- ALTERNATE 5



PHASE: Construction Administration / Construction Observation - Base Bid  
 Estimate based on 150 working days

KLJ Title	Principal Engineer	Senior Project Manager	Engineering Technician IV	Associate Engineer	Engineer in Training II	Engineer in Training I	CAD Technician II	Environmental Planner III	Senior Technical Advisor	Project Assistant II	Project Controls Specialist I	Senior Project Manager	Engineer	Associate Engineer	Engineer	Task Direct Labor Cost
<b>Project Administration (Task 3.1)</b>																
Project Scoping Meeting with Owner																
Meeting Preparation		1														\$ 76.00
Participate in Meeting (including travel)		1														\$ 76.00
Prepare and File Meeting Minutes		1														\$ 76.00
Prepare Project Detailed Scope of Services and Schedule		8										4	1	1		\$ 993.00
Project Detailed Scope of Services Review with FAA																
Meeting Preparation		1														\$ 76.00
Participate in Meeting (including travel)		2														\$ 152.00
Prepare and File Meeting Minutes		1														\$ 76.00
Engineering Detailed Scope of Services and Hour Negotiations	1	4														\$ 369.00
Independent Fee Document Preparation		2									1					\$ 188.00
Agreement for Professional Services	1	1								2	1					\$ 227.00
Prepare and Coordinate Subconsultant Agreements		4								8	8	2				\$ 944.00
																\$ -
																\$ -
<b>Subtotal</b>																<b>\$ 3,253.00</b>
<b>Project Management (Task 3.2)</b>																
Overall Project Management		44						4	4	1	1					\$ 3,857.00
Project Startup Meeting		1														\$ 137.00
Project Budget Setup		1								1	1					\$ 320.00
Bi-Weekly Budget Review / Projections (44 estimated)		44								4	4					\$ 5,478.00
Monthly Invoicing (22 months estimated)		22								22	44					\$ 2,618.00
Periodic Internal Meetings (44 meetings estimated)		22	22	22	22	22					11		11	11	11	\$ 7,106.00
Develop Quality Control Plan		1		4												\$ 220.00
FAA Grant Coordination		2								4	2					\$ 324.00
Monthly Status Reports (22 months estimated)		22								11						\$ 1,947.00
FAA Quarterly Reports (8 estimated)		4								4						\$ 404.00
DBE Reporting		2								8						\$ 352.00
																\$ -
<b>Subtotal</b>																<b>\$ 22,763.00</b>
<b>Construction Administration (Task 3.3)</b>																
Develop and Submit Environmental Checklist																
Coordination of Changes to FAA Owned Facilities		8	24													\$ -
Utility Coordination		24	80	16			16			4						\$ 1,688.00
Quality Acceptance Construction Materials Testing		2	4									8				\$ 6,548.00
Prepare Construction Management Plan (If paving costs exceed \$500,000 in overall cost)																\$ 940.00
Prepare and Conduct Project Kickoff Meeting																\$ -
Meeting Preparation		2	4	4	2		2			2						\$ 648.00
Participate in Meeting (including travel)		4	4	4	4											\$ 760.00
Prepare and File Meeting Minutes		1	1	2	1					1						\$ 251.00
Prepare and Conduct Pre-Construction Conference																\$ -
Meeting Preparation		2	4	4	2		2			2						\$ 648.00
Participate in Meeting (including travel)		4	4	4	4											\$ 760.00
Prepare and File Meeting Minutes		1	1	2	1					1						\$ 251.00
Prepare and Conduct Pre-Phase Meetings (2 estimated)																\$ -
Meeting Preparation		4					2			2						\$ 410.00
Participate in Meeting (including travel)		8														\$ 608.00
Prepare and File Meeting Minutes		4								2						\$ 354.00
Shop Drawing Review (55 estimated)		55		25						10			10	5	5	\$ 6,185.00
Certification Review (80 estimated)		40		15						10			5	5	5	\$ 4,460.00
Review Contractor Requests for Information (RFI) and Responses (25 estimated)		20		10						5			5	5	5	\$ 2,635.00
Prepare Change Orders (10 estimated)		60								10	10		10	5	5	\$ 6,025.00
Prepare Periodical Estimates (14 estimated)		42								14	14		7	7	7	\$ 4,613.00
Project Records and Payrolls (7 months estimated)		28								112						\$ 4,928.00
Weekly Construction Progress Meetings (25 estimated)																\$ -
Meeting Preparation		25														\$ 1,900.00
Participate in Meeting (including travel)		50														\$ 3,800.00
Prepare and File Meeting Minutes		25								25						\$ 2,525.00
Conduct Substantial / Punchlist Inspection of Project (1 estimated)																\$ -
Meeting Preparation		1								1						\$ 101.00
Participate in Meeting (including travel)		4														\$ 304.00



**PHASE: Construction Administration / Construction Observation - Base Bid**  
Estimate based on 150 working days

KLJ Title	Principal Engineer	Senior Project Manager	Engineering Technician IV	Associate Engineer	Engineer In Training II	Engineer In Training I	CAD Technician II	Environmental Planner III	Senior Technical Advisor	Project Assistant II	Project Controls Specialist I	Senior Project Manager	Engineer	Associate Engineer	Engineer	Task Direct Labor Cost
Prepare and File Meeting Minutes		1								1						\$ 101.00
Conduct Final Inspection of Project (1 estimated)																\$ -
Meeting Preparation		1								1						\$ 101.00
Participate in Meeting (including travel)		4														\$ 304.00
Prepare and File Meeting Minutes		1								1						\$ 101.00
Subconsultant Coordination (4 Subconsultants)		16								16		8				\$ 2,224.00
Analyzing Grades per FAA Requirement																\$ -
P-304 CTB, P-401, P-403, P-501 QA Analysis Forms																\$ -
Tribal Monitoring Coordination																\$ -
FAA Reimbursement Processing (22 months)		22								66	44					\$ 4,906.00
Periodic Owner Meetings (22 estimated)																\$ -
Meeting Preparation		22														\$ 1,672.00
Participate in Meeting (including travel)		44														\$ 3,344.00
Prepare and File Meeting Minutes		11									11					\$ 1,232.00
Periodic Agency Meetings (22 estimated)																\$ -
Meeting Preparation		44														\$ 3,344.00
Participate in Meeting (including travel)		44														\$ 3,344.00
Prepare and File Meeting Minutes		11									11					\$ 1,232.00
FAA Flight Check Coordination																\$ -
																\$ -
																\$ -
																\$ -
																\$ -
<b>Subtotal</b>																<b>\$ 73,247.00</b>
<b>Construction Observation (Task 3.4)</b>																
Construction Surveying - Provide Data to Subconsultant		8					16									\$ 1,056.00
Observation - Full Time and Periodic		250	1800	1800	1800	432										\$ 238,024.00
Aeronautical Survey Services																\$ -
																\$ -
																\$ -
<b>Subtotal</b>																<b>\$ 239,080.00</b>
Total Hours	2	1084	1948	1912	1836	454	38	4	4	373	163	33	49	39	31	
Hourly Rate	\$65.00	\$76.00	\$45.00	\$36.00	\$33.00	\$32.00	\$28.00	\$37.00	\$76.00	\$25.00	\$36.00	\$76.00	\$45.00	\$36.00	\$45.00	

Direct Labor Total	\$	338,343.00
Indirect Labor Total (1.9373 Overhead Rate)	\$	655,471.89
Direct and Indirect Labor Total	\$	993,814.89
Fixed Fee (15%)	\$	149,072.23
Cost of Facilities (1.11%)	\$	3,755.61

Subtotal \$ 1,146,642.73

Expenses				
Air Charter		per trip @		trips
Per Diem		per day @		days
Vehicle Usage	\$ 20.00	per day @	486	days \$ 9,720.00
Materials and Supplies				
Other Expenses				
		Materials Testing Subconsultant - Terracon (Task 3.10)		\$ 45,696.00
		Electrical Engineering Subconsultant - Apex Engineering (Task 3.11)		\$ 12,000.00
		Underground Subconsultant - Brierley Associates (Task 3.12)		\$ 177,541.50
		Survey Subconsultant - Holly Beck Surveying (Task 3.13)		\$ 46,490.00

Expenses Total \$ 291,447.50

**Construction Administration / Construction Observation - Base Bid Total Cost \$ 1,438,090.23**

Attachment B  
 Bismarck Airport  
 Bismarck, North Dakota  
 KLJ #1805-02200.3 and 1805-02200.14, AIP #3-38-0003-062-2020 and AIP #3-38-0003-064-2020  
 Hourly Rate and Cost Breakdown



PHASE: Construction Administration / Construction Observation - Base Bid plus Alternate  
 Estimate based on 150 working days

KLJ Title	Principal Engineer	Senior Project Manager	Engineering Technician IV	Associate Engineer	Engineer in Training II	Engineer in Training I	CAD Technician II	Environmental Planner III	Senior Technical Advisor	Project Assistant II	Project Controls Specialist I	Senior Project Manager	Engineer	Associate Engineer	Engineer	Task Direct Labor Cost
<b>Construction Observation (Task 3.4)</b>																
Observation - Full Time and Periodic						864										\$ 27,648.00
<b>Subtotal</b>																\$ 27,648.00
Total Hours	0	0	0	0	0	864	0	0	0	0	0	0	0	0	0	
Hourly Rate	\$65.00	\$76.00	\$45.00	\$36.00	\$33.00	\$32.00	\$28.00	\$37.00	\$76.00	\$25.00	\$36.00	\$76.00	\$45.00	\$36.00	\$45.00	

Direct Labor Total	\$	27,648.00
Indirect Labor Total (1.9373 Overhead Rate)	\$	53,562.47
<b>Direct and Indirect Labor Total</b>	\$	<b>81,210.47</b>
Fixed Fee (15%)	\$	12,181.57
Cost of Facilities (1.11%)	\$	306.89
<b>Subtotal</b>	\$	<b>93,698.93</b>
<b>Expenses Total</b>	\$	<b>1,440.00</b>

Expenses				
Air Charter		per trip @		trips
Per Diem		per day @		days
Vehicle Usage	\$ 20.00	per day @	72	days
Materials and Supplies				

Construction Observation - Alternate Subtotal	\$	95,138.93
Construction Administration / Construction Observation - Base Bid Subtotal	\$	1,438,090.23

**Construction Administration / Construction Observation - Base Bid plus Alternate Total Cost \$ 1,533,229.16**

**Attachment B**  
**Bismarck Airport**  
**Bismarck, North Dakota**  
**KLJ #1805-02200.3 and 1805-02200.14, AIP #3-38-0003-062-2020 and AIP #3-38-0003-064-2020**  
**Hourly Rate and Cost Breakdown**



**PHASE: FAA Project Closeout Report**  
 FAA AIP 3-38-0003-062-2020

KLJ Title	Senior Project Manager	Engineering Technician IV	Associate Engineer	Engineer in Training II	CAD Technician II	Senior Technical Advisor	Project Assistant II	Project Controls Specialist I	GIS Analyst II							Task Direct Labor Cost
Overall Project Management	16					2		2								
Prepare Final Outlay and Acceptance Forms	2		4	8			8	8								\$ 1,440.00
Prepare DBE Summary Report							8									\$ 1,048.00
Prepare Executive Summary	1		1	24												\$ 200.00
Prepare Quantity Revision Summary	1		1	8			8									\$ 904.00
Prepare ALP Update																\$ 576.00
Exhibit A Update																\$ -
Prepare Record Drawings (160 plan sheets estimated)	4	40	4		320											\$ -
Update City of Bismarck GIS Map		12														\$ 11,208.00
Update Owner Utility Maps (21 estimated)		2			42				32							\$ 1,500.00
Prepare Closeout Report Document	16						60									\$ 1,266.00
Prepare and Submit NDAC Pavement History Update																\$ 2,716.00
Coordination of FAA Reimbursement Agreement Closeout																\$ -
																\$ -
																\$ -
																\$ -
<b>Subtotal</b>																\$ -
																\$ 20,858.00
Total Hours	40	54	10	40	362	2	84	10	32	0	0	0	0	0	0	
Hourly Rate	\$76.00	\$45.00	\$36.00	\$33.00	\$28.00	\$76.00	\$25.00	\$36.00	\$30.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	

Direct Labor Total	\$	20,858.00
Indirect Labor Total (1.9373 Overhead Rate)	\$	40,408.20
Direct and Indirect Labor Total =	\$	61,266.20
Fixed Fee (15%)	\$	9,189.93
Cost of Facilities (1.11%)	\$	231.52
<b>Subtotal</b>	\$	<b>70,687.65</b>

Expenses			
Air Charter	per trip @		trips
Per Diem	per day @		days
Materials and Supplies			
Other Expenses			

Expenses Total	\$	-
<b>FAA Project Closeout Report Total Cost</b>	\$	<b>70,687.65</b>

Attachment B  
 Bismarck Airport  
 Bismarck, North Dakota  
 KLJ #1805-02200.3 and 1805-02200.14, AIP #3-38-0003-062-2020 and AIP #3-38-0003-064-2020  
 Hourly Rate and Cost Breakdown



PHASE: FAA Project Closeout Report  
 FAA AIP 3-38-0003-064-2020

KLJ Title	Senior Project Manager	Engineering Technician IV	Associate Engineer	Engineer In Training II	CAD Technician II	Senior Technical Advisor	Project Assistant II	Project Controls Specialist I	GIS Analyst II							Task Direct Labor Cost
Overall Project Management	16					2		2								
Prepare Final Outlay and Acceptance Forms	2		4	8			8	8								\$ 1,440.00
Prepare DBE Summary Report							8									\$ 1,048.00
Prepare Executive Summary																\$ 200.00
Prepare Quantity Revision Summary	1		1	4			4									\$ 344.00
Prepare ALP Update																\$ -
Exhibit A Update																\$ -
Prepare Record Drawings (160 plan sheets estimated)																\$ -
Update City of Bismarck GIS Map																\$ -
Update Owner Utility Maps (21 estimated)																\$ -
Prepare Closeout Report Document	16						60									\$ -
Prepare and Submit NDAC Pavement History Update																\$ 2,716.00
Coordination of FAA Reimbursement Agreement Closeout																\$ -
																\$ -
																\$ -
																\$ -
<b>Subtotal</b>																\$ -
																\$ 5,748.00
Total Hours	35	0	5	12	0	2	80	10	0	0	0	0	0	0	0	
Hourly Rate	\$76.00	\$45.00	\$36.00	\$33.00	\$28.00	\$76.00	\$25.00	\$36.00	\$30.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	

Direct Labor Total	\$	5,748.00
Indirect Labor Total (1.9373 Overhead Rate)	\$	11,135.60
Direct and Indirect Labor Total =	\$	16,883.60
Fixed Fee (15%)	\$	2,532.54
Cost of Facilities (1.11%)	\$	63.80
<b>Subtotal</b>	\$	19,479.94

Expenses				
Air Charter		per trip @		trips
Per Diem		per day @		days
Materials and Supplies				
Other Expenses				

Expenses Total \$ -

FAA Project Closeout Report Total Cost \$ 19,479.94

Total Cost - Construction Observation and Records, FAA Project Closeout Report - Base Bid	\$	1,528,257.82
Total Cost - Construction Observation and Records, FAA Project Closeout Report - Base Bid plus Alternate	\$	1,623,396.75

## Federal Contract Provisions

### Required Contract Provisions for Airport Improvement Program and for Obligated Sponsors

#### A1 ACCESS TO RECORDS AND REPORTS

2 CFR § 200.333

2 CFR § 200.336

FAA Order 5100.38

#### ACCESS TO RECORDS AND REPORTS

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

#### A2 AFFIRMATIVE ACTION REQUIREMENT

41 CFR part 60-4

Executive Order 11246

#### NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION to ENSURE EQUAL EMPLOYMENT OPPORTUNITY

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

#### Timetables

Goals for minority participation for each trade: 0.4%

Goals for female participation in each trade: 6.9%

These goals are applicable to all of the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is State of ND, Burleigh County and City of Bismarck.

### **A3 BREACH OF CONTRACT TERMS**

2 CFR § 200 Appendix II(A)

#### **BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the Consultant or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide Consultant written notice that describes the nature of the breach and corrective actions the Consultant must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Consultant must correct the breach. Owner may proceed with termination of the contract if the Consultant fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

## A4 CIVIL RIGHTS - GENERAL

49 USC § 47123

### GENERAL CIVIL RIGHTS PROVISIONS

The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

## A5 CIVIL RIGHTS – TITLE VI ASSURANCE

49 USC § 47123

FAA Order 1400.11

### TITLE VI SOLICITATION NOTICE:

The **City of Bismarck** in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, [select disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

### COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

#### TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 *et seq.*).

## **A6 CLEAN AIR AND WATER POLLUTION CONTROL**

2 CFR § 200, Appendix II(G)

### **CLEAN AIR AND WATER POLLUTION CONTROL**

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceeds \$150,000.

## **A7 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

2 CFR § 200, Appendix II(E)

### **CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

#### **1. Overtime Requirements.**

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

#### **2. Violation; Liability for Unpaid Wages; Liquidated Damages.**

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

#### **3. Withholding for Unpaid Wages and Liquidated Damages.**

The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

#### **4. Subcontractors.**

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

## **A8 DEBARMENT AND SUSPENSION**

2 CFR part 180 (Subpart C)

2 CFR part 1200

DOT Order 4200.5

### **CERTIFICATION OF OFFERER/BIDDER REGARDING DEBARMENT**

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

### **CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT**

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of Offerer /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

## **A9 DISADVANTAGED BUSINESS ENTERPRISE**

49 CFR part 26

### **DISADVANTAGED BUSINESS ENTERPRISES**

#### Information submitted as a matter of bidder responsibility:

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR §26.53.

The successful Bidder or Offeror must provide written confirmation of participation from each of the DBE firms the Bidder or Offeror lists in its commitment within five days after bid opening.

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1)

- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal; and
- 5) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26.

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the City of Bismarck to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

**Contract Assurance (§ 26.13) –**

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the Contractor from future bidding as non-responsible.

**Prompt Payment (§26.29)** – The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from City of Bismarck. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Bismarck. This clause applies to both DBE and non-DBE subcontractors.

## **A10 DISTRACTED DRIVING**

Executive Order 13513

DOT Order 3902.10

### **TEXTING WHEN DRIVING**

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

## **A11 ENERGY CONSERVATION REQUIREMENTS**

2 CFR § 200, Appendix II(H)

### **ENERGY CONSERVATION REQUIREMENTS**

Consultant and Sub-consultant agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201*et seq.*).

## **A12 EQUAL EMPLOYMENT OPPORTUNITY (EEO)**

2 CFR 200, Appendix II(C)

41 CFR § 60-1.4

41 CFR § 60-4.3

Executive Order 11246

### **EQUAL OPPORTUNITY CLAUSE**

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising

the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
CONSTRUCTION CONTRACT SPECIFICATIONS**

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. "Minority" includes:

- (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
- (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);
- (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
- (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Contractor has a collective bargaining agreement to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Contractor during the training period and the Contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or female sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing

it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions, including specific review of these items, with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor union, contractor community, or other similar groups of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally), the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

### **A13 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

29 USC § 201, et seq

#### **FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The Consultant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

### **A14 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

31 USC § 1352 – Byrd Anti-Lobbying Amendment

2 CFR part 200, Appendix II(J)

49 CFR part 20, Appendix A

## **CERTIFICATION REGARDING LOBBYING**

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **A15 PROHIBITION of SEGREGATED FACILITIES**

41 CFR § 60

### **PROHIBITION OF SEGREGATED FACILITIES**

(a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

(b) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and

housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

## **A16 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

29 CFR part 1910

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

## **A17 TAX DELINQUENCY AND FELONY CONVICTIONS**

Sections 415 and 416 of Title IV, Division L of the Consolidated Appropriations Act, 2014 (Pub. L. 113-76), and similar provisions in subsequent appropriations acts.

DOT Order 4200.6 - Requirements for Procurement and Non-Procurement Regarding Tax Delinquency and Felony Convictions

### **CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS**

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

#### **Certifications**

- 1) The applicant represents that it is ( ) is not ( ✓ ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The applicant represents that it is ( ) is not ( ✓ ) a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

## Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

## Term Definitions

**Felony conviction:** Felony conviction means a conviction within the preceding twenty-four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

**Tax Delinquency:** A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

## A18 TERMINATION OF CONTRACT

2 CFR § 200 Appendix II(B)

FAA Advisory Circular 150/5370-10, Section 80-09

### TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES)

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

## TERMINATION FOR DEFAULT (PROFESSIONAL SERVICES)

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party 7 days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

a) **Termination by Owner:** The Owner may terminate this Agreement in whole or in part, for the failure of the Consultant to:

1. Perform the services within the time specified in this contract or by Owner approved extension;
2. Make adequate progress so as to endanger satisfactory performance of the Project; or
3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

b) **Termination by Consultant:** The Consultant may terminate this Agreement in whole or in part, if the Owner:

1. Defaults on its obligations under this Agreement;
2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
3. Suspends the Project for more than 180 days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the

Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

## **A19 TRADE RESTRICTION CERTIFICATION**

49 USC § 50104

49 CFR part 30

### **TRADE RESTRICTION CERTIFICATION**

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

- 1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- 2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- 3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or

3) who incorporates in the public works project any product of a foreign country on such USTR list. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

## **A20 VETERAN'S PREFERENCE**

49 USC § 47112(c)

### **VETERAN'S PREFERENCE**

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

**Attachment D**  
**Insurance Coverage levels**

1. Throughout the duration of this Agreement, ENGINEER agrees to provide evidence of insurance coverages not less than the types and amounts specified below.
  - a. Workers' Compensation: Statutory
  - b. Employer's Liability
    - 1) Each Accident: \$1,000,000
    - 2) Disease, Policy Limit: \$1,000,000
    - 3) Disease, Each Employee: \$1,000,000
  - c. General Liability
    - 1) General Aggregate: \$2,000,000
    - 2) Each Occurrence (Bodily Injury and Property Damage): \$1,000,000
  - d. Excess Umbrella Liability
    - 1) Each Occurrence: \$5,000,000
    - 2) General Aggregate: \$5,000,000
  - e. Automobile Liability
    - 1) Combined Single Limit (Bodily Injury and Property Damage):
      - a) Each Accident \$1,000,000
  - f. Professional Liability
    - 1) Each claim made \$2,000,000
    - 2) Annual Aggregate \$4,000,000
  - g. Other conditions (specify):
    - 1) Commercial General Liability policy will be endorsed to add the City of Bismarck, its employees, officers, agents and contractors as additional insureds.
    - 2) Certificates evidencing required insurance shall be provided to the City of Bismarck upon execution of the agreement and prior to commencement of services or work.
    - 3) Certificates shall provide not less than 30 days notification to the City of Bismarck prior to cancellation or material change in coverage.

**AIRPORT PROJECT BUDGET**

Date: September 8, 2020

**Number** AIP 62 & 64 **Description** Wetland Removal to Reduce Attractants (Phase 5)

**Scheduled Start** Sep 20 **Scheduled End** Dec 21

**Project Construction Contracts**

<u>Project Construction Contracts</u>	<u>Amount</u>
1. KLE Construction LLC. (General Phase 5)	\$ 11,401,538.00
2. Edling Electric (Electrical Phase 5)	\$ 112,700.00
<b>Total Construction Contracts</b>	<b>\$ 11,514,238.00</b>

<u>Engineer, Testing and Misc. Contracts</u>	<u>Amount</u>
1. KLJ - Construction Observance, Administration, Close Out, and Testing (Phase 5)	\$ 1,623,916.81
2. Public Utility Relocation (Phase 1)- Estimated	\$ 70,000.00
3. Ducks Unlimited Wetland Credits	\$ 45,100.00
4. Wetland Mitigation Monitoring	\$ 55,494.91
<b>Total Engineer, Testing and Misc. Contracts</b>	<b>\$ 1,794,511.72</b>

**Administration** \$ 20,124.28

**Sub Total** \$ 13,328,874.00

<u>Project Funding</u>		<u>Amount</u>
FAA Grant:	AIP 62	\$6,381,629.00
	AIP 64	\$6,026,218.00
State Grant:		\$ 460,514.00
Airport Funds:		\$ 460,513.00
<b>Total Funding (without contingencies)</b>		<b>\$ 13,328,874.00</b>

CONTINGENCIES	10%	\$1,332,887.40
OTHER COSTS		
<b>TOTAL PROJECT COST</b>		<b>\$14,661,761.40</b>

Note:



## *Bismarck-Burleigh Public Health*

**DATE:** September 9, 2020

**FROM:** Renae Moch, Public Health Director

**ITEM:** Burleigh-Morton COVID-19 Task Force Purchase Agreement

**REQUEST:**

Approval of contract to support the efforts of the Burleigh-Morton COVID-19 Task Force.

Please place this item on the 9/8/2020 City Commission meeting agenda.

**BACKGROUND INFORMATION:**

The Burleigh-Morton COVID-19 Task Force - vulnerable population subcommittee has identified a need for a shelter to house vulnerable individuals who have contracted COVID-19 or need to quarantine due to close contact.

**RECOMMENDED CITY COMMISSION ACTION:**

Approve the attached contract.

**STAFF CONTACT INFORMATION:**

Renae Moch, MBA, FACMPE | Public Health Director, 355-11370 or  
[rmoch@bismarcknd.gov](mailto:rmoch@bismarcknd.gov)

## EMERGENCY OCCUPANCY AGREEMENT

This OCCUPANCY AGREEMENT, made and entered into this 14 day of Sept, 2020 by and between the parties to this Agreement (Agreement), which are the **City of Bismarck** (CITY) and **Bismarck Motel Properties, LLC DBA Bismarck Motor Motel** having its principal place of business at **2301 E Main Avenue, Bismarck, ND 58501-4941** (OWNER). This Agreement is entered into pursuant to the Governor's Executive Order 2020-03, Declaring a State of Emergency across the State in response to COVID-19.

### SCOPE OF WORK

OWNER, in exchange for the compensation paid by CITY under this Agreement, shall provide the following:

**See Attachment A Scope of Work**

#### Repair and Maintenance

During the term of this occupancy agreement, the Owner shall maintain the occupied premises in good repair and tenantable condition.

#### Assignment

CITY shall have the ability to assign this occupancy agreement.

#### Quiet Possession

The OWNER agrees that the CITY, while keeping and performing the covenants herein contained, shall at all times during the existence of this occupancy agreement, peaceably and quietly have, hold, and enjoy the occupied premises without suit, trouble, or hindrance from the OWNER or any person claiming under OWNER.

### COMPENSATION

#### Contractual Amount

CITY shall pay for the accepted services provided by OWNER under this Agreement an amount not to exceed \$ 300 per room per week + tax per day per room. The Contractual Amount is firm for the duration of this Agreement and constitutes the entire compensation due OWNER for performance of its obligations under this Agreement regardless of the difficulty, materials or equipment required, including fees, licenses, overhead, profit and all other direct and indirect costs incurred by OWNER, except as provided by an amendment to this Agreement.

#### Payment

- 1) Payment made in accordance with this Compensation section shall constitute payment in full for the services and work performed and the deliverables and work(s) provided under this Agreement and OWNER shall not receive any additional compensation hereunder.
- 2) CITY shall make payment under this Agreement within thirty (30) calendar days after receipt of a correct invoice.
- 3) Payment of an invoice by CITY will not prejudice CITY's right to object to or question that or any other invoice or matter in relation thereto. OWNER's invoice will be subject to reduction for

amounts included in any invoice or payment made which are determined by CITY, on the basis of audits conducted in accordance with the terms of this Agreement, not to constitute allowable costs. At CITY's sole discretion, all payments shall be subject to reduction for amounts equal to prior overpayments to OWNER.

4) For any amounts that are or will become due and payable to CITY by OWNER, CITY reserves the right to deduct the amount owed from payments that are or will become due and payable to OWNER under this Agreement.

**Prepayment**

CITY will not make any advance payments before performance by OWNER under this Agreement.

**Payment of Taxes by CITY**

CITY is not responsible for and will not pay local, state, or federal taxes. CITY will furnish certificates of exemption upon request by the OWNER.

**Purchasing Card**

CITY may make a payment using a government credit card. OWNER will accept a government credit card without passing the processing fees for the government credit card back to CITY.

**TERM OF AGREEMENT**

This Agreement term (Term) begins on 9-14-20, 2020 and ends on 12-31-20 2020.

**No Automatic Renewal**

This Agreement will not automatically renew, except as listed in the below extension option.

**Extension Option**

CITY reserves the right to extend this Agreement for an additional period of time, not to exceed *ninety (90) days* beyond the current termination date of this Agreement.

**TIME IS OF THE ESSENCE**

OWNER hereby acknowledges that time is of the essence for performance under this Agreement unless otherwise agreed to in writing by the parties.

**TERMINATION**

**Termination by Mutual Agreement**

This Agreement may be terminated by mutual consent of both parties executed in writing, with fourteen days (14) days notice.

**Early Termination in the Public Interest**

CITY is entering into this Agreement for the purpose of carrying out the public policy of the CITY of Bismarck, as determined by its City Commission. If this Agreement ceases to further the

public policy of the City of Bismarck, CITY, in its sole discretion, by written notice to OWNER, may terminate this Agreement in whole or in part.

**Termination for Lack of Funding or Authority**

CITY by written notice to OWNER, may terminate the whole or any part of this Agreement under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.
- 3) If any license, permit, or certificate required by law or rule, or by the terms of this Agreement, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Agreement under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

**Termination for Cause.**

CITY may terminate this Agreement effective upon delivery of written notice to OWNER, or any later date stated in the notice:

- 1) If OWNER fails to provide services required by this Agreement within the time specified or any extension agreed to by CITY; or
- 2) If OWNER fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms.

The rights and remedies of CITY provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

**Restoration of Premises**

Upon termination of this Agreement, OWNER agrees that the equipment installed by the CITY shall be and remain the property of the CITY, and CITY shall remove such property when vacating the premises. CITY shall restore all surfaces, including floors and walls, to the condition existing prior to its installation.

CITY, or appointed designee, will conduct a walk-through of rooms in-between occupancies to inspect the condition of the room. If occupancy of room is for more than one week, a walk through will occur once a week. If damage occurs to the room due to CITY sponsored occupancy, CITY agrees to restore the room to the pre-occupied condition, up to the amount of FEMA reimbursement. If damage is due to criminal activity, CITY reserves the right to restitution through the criminal justice system.

## **FORCE MAJEURE**

Neither party shall be held responsible for delay or default caused by fire, riot, terrorism, acts of God, or war if the event is beyond the party's reasonable control and the affected party gives notice to the other party promptly upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default.

## **LIABILITY**

The CITY and OWNER each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.

## **INSURANCE**

OWNER shall secure and keep in force during the term of this agreement property insurance insuring the full and true value of the premises for which this emergency occupancy agreement relates for all losses. Owner waives any right to seek compensation from CITY for any covered losses for which this required insurance is to apply.

## **NOTICE**

All notices or other communications required under this Agreement must be given by registered or certified mail and are complete on the date postmarked when addressed to the parties at the following addresses:

### **CITY**

Name: Keith Hunke  
Title: City Administrator  
Address: 221 N 5<sup>th</sup> Street  
City, State, Zip: Bismarck, ND  
58501

### **OWNER**

Name: Bismarck Motel Properties, LLC  
Title  
Address  
City, State, Zip

## **CONFIDENTIALITY**

OWNER shall not use or disclose any information it receives from CITY under this Agreement that CITY has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Agreement or as authorized in advance by CITY. CITY shall not disclose any information it receives from OWNER that OWNER has previously identified as confidential and that CITY determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota public records law, N.D.C.C. ch. 44-04. The duty of CITY and OWNER to maintain confidentiality of information under this section continues beyond the Term of this Agreement.

## **COMPLIANCE WITH PUBLIC RECORDS LAWS**

OWNER understands that, in accordance with this Agreement's Confidentiality clause, CITY must disclose to the public upon request any records it receives from OWNER. OWNER further understands that any records obtained or generated by OWNER under this Agreement, may, under certain circumstances, be open to the public upon request under the North Dakota public records law. OWNER agrees to contact CITY promptly upon receiving a request for information under the public records law and to comply with CITY's instructions on how to respond to the request.

#### **INDEPENDENT ENTITY**

OWNER is an independent entity under this Agreement and is not a CITY employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workforce Safety and Insurance Act. OWNER retains means of carrying out OWNER'S activities and responsibilities under this Agreement, except to the extent specified in this Agreement.

#### **ASSIGNMENT AND SUBAGREEMENTS**

OWNER may not assign or otherwise transfer or delegate any right or duty without CITY's express written consent, provided, however, that OWNER may assign its rights and obligations hereunder in the event of a change of control or sale of all or substantially all of its assets related to this Agreement, whether by merger, reorganization, operation of law, or otherwise. Should Assignee be a business or entity with whom CITY is prohibited from conducting business, CITY shall have the right to terminate without cause.

OWNER may enter into subcontracts provided that any subcontracts acknowledges the binding nature of this Agreement and incorporates this Agreement, including any attachments. OWNER is solely responsible for the performance of any subcontracts with whom OWNER Agreements. OWNER does not have authority to Agreement for or incur obligations on behalf of CITY.

#### **SPOILIATION – PRESERVATION OF EVIDENCE**

OWNER shall promptly notify CITY of all potential claims that arise or result from this Agreement. OWNER shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to CITY the opportunity to review and inspect such evidence, including the scene of an accident.

#### **MERGER AND MODIFICATION, CONFLICT IN DOCUMENTS**

This Agreement, including the following documents, constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not

specified within this Agreement. This Agreement may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

Notwithstanding anything herein to the contrary, in the event of any inconsistency or conflict among the documents making up this Agreement, the documents must control in this order of precedence:

- a. The terms of this Agreement as may be amended;
- b. Scope of Work (Attachment A)

#### **SEVERABILITY**

If any term of this Agreement is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the parties are to be construed and enforced as if this Agreement did not contain that term.

#### **APPLICABLE LAW AND VENUE**

This Agreement is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Agreement must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

#### **ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL**

By entering into this Agreement, CITY does not agree to binding arbitration, mediation, or any other form of mandatory Alternative Dispute Resolution. The parties may enforce the rights and remedies in judicial proceedings. CITY does not waive any right to a jury trial.

#### **ATTORNEY FEES**

In the event a lawsuit is instituted by CITY to obtain performance due under this Agreement, and CITY is the prevailing party, OWNER shall, except when prohibited by N.D.C.C. § 28-26-04, pay CITY's reasonable attorney fees and costs in connection with the lawsuit.

#### **NONDISCRIMINATION AND COMPLIANCE WITH LAWS**

OWNER agrees to comply with all applicable federal and state laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights.

#### **Compliance with Federal Law, Regulations and Executive Orders**

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the Agreement. The OWNER will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

#### **No Obligation by Federal Government**

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Agreement.

**AUDIT**

All records, regardless of physical form, and the accounting practices and procedures of OWNER relevant to this Agreement are subject to examination by the City's Auditor, the Auditor's designee, or Federal auditors, if required. OWNER shall maintain all of these records for at least three (3) years following completion of this Agreement and be able to provide them upon reasonable notice. CITY, City Auditor, or Auditor's designee shall provide reasonable notice to OWNER prior to conducting examination.

**EFFECTIVENESS OF AGREEMENT**

This Agreement is not effective until fully executed by both parties.

**OWNER**

**CITY**

*Bismarck Motel Properties, LLC*

*City of Bismarck*

BY: *[Signature]*

BY:

*[Printed Name]*

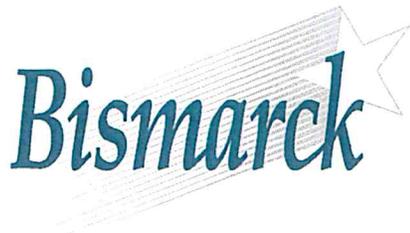
**Steve Bakken**

*[Title]*

**President, City Commission**

Date: *9-21-2020*

Date:



## *BISMARCK-BURLEIGH PUBLIC HEALTH*

**DATE:** September 4, 2020

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

**ITEM:** Requesting permission to accept COVID-19 Cares Act Funding and authorize an increase in budget authority for Public Health Govt. Grants

### **REQUEST**

Bismarck-Burleigh Public Health is requesting permission to accept Cares Act Funding for the Burleigh Morton Taskforce in the amount of \$734,680 and increase budget authority for Govt. Grants by that amount.

Please place this item on the Sept. 8<sup>th</sup>, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

Bismarck-Burleigh Public Health is requesting permission to accept Cares Act Funding in the amount of \$734,680 and increase budget authority for Govt. Grants. The funding is allocated to Bismarck-Burleigh County Public Health to provide the leadership, oversight & services related to Burleigh/Morton COVID19-Taskforce necessary to contain and mitigate COVID19. Expenditures will be covered as early as September 4, 2020 and ends December 30,2020. An increase in budget authority is needed to accept these funds since these funds were not part of the 2020 budget.

### **RECOMMENDED CITY COMMISSION ACTION**

Recommend approval to accept COVID-19 Cares Act funding for the Burleigh Morton Taskforce budget authority for Govt. Grants by \$734,680

### **STAFF CONTACT INFORMATION**

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



**NOTICE OF GRANT AWARD**  
 NORTH DAKOTA DEPARTMENT OF HEALTH  
 SFN 53771 (04-2019)

Grant Number G19.1052	CFDA Name Coronavirus Relief Fund	CFDA Number 21.019
FAIN Number unknown	Grant Type (Check One) <input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D	Grant Start Date 9/4/2020
Federal Award Date Unknown	Federal Awarding Agency US Treasury	Grant End Date 12/30/2020

This award is not effective and expenditures related to this award should not be incurred until all parties have signed this document.

Title of Project/Program COVID19 Funding for Burleigh Morton Task Force	North Dakota Department of Health (NDDoH) Project Code 1151 HLH0018-15
Grantee Name Bismarck Burleigh Public Health	Project Director Brenda Weisz
Address PO Box 5503	Address 600 East Boulevard Ave. Dept. 301
City/State/ZIP Code Bismarck, ND 58506-5503	City/State/ZIP Code Bismarck ND, 58505
Contact Name Rena Moch	Contact Name Brenda Weisz
Telephone Number 701-355-1540	Telephone Number 701-328-4542
Email Address rmoch@nd.gov	Email Address bmweisz@nd.gov

	NDDoH Cost Share	Grantee Cost Share	Total Costs
Amount Awarded	\$734,680	\$0.00	\$734,680
Previous Funds Awarded	\$0.00	\$0.00	\$0.00
Total Funds Awarded	\$734,680	\$0.00	\$734,680
Indirect Rate (Check One)	<input checked="" type="checkbox"/> Subrecipient waived indirect costs	<input type="checkbox"/> De minimus rate of 10%	<input type="checkbox"/> Negotiated/Approved rate of %

**Scope of Service**  
 Grantee will provide leadership, oversight and services related to the Burleigh Morton COVID-19 Task Force necessary to contain and mitigate COVID19 in an amount up to \$734,680 as identified in Attachment A.

**Reporting Requirements**  
 Grantee will submit expenditure reports monthly by the 15<sup>th</sup> of the month following the month of expenditure through the Grantor's Reporting System (PRS). Expenditure reports for the period ending December 30 must be received by January 15.

**Special Conditions**  
 Funding will be provided on a reimbursement basis up to the amount awarded in this agreement based on allowable expenditures as identified in section 601 (d) of the Social Security Act, as added by section 5001 of the CARES Act. Expenditures incurred related to the Scope of Service for this agreement will be covered as early as July 28, 2020.

This Notice of Grant Award is subject to the terms and conditions incorporated either directly or by reference in the following: (1) Requirements Addendum and Grantee Assurances for Notice of Grant Awards issued by the NDDoH as signed by Grantee for the period of July 1, 2019 to June 30, 2021 [Accounting Use Only:  Requirements Received;  Questionnaire received] and (2) applicable State and Federal regulations.

Evidence of Grantee's Acceptance		Evidence of NDDoH Acceptance	
Date	Signature	Date	Signature
Typed Name/Title of Authorized Representative		Typed Name/Title of Authorized Representative Brenda M. Weisz, Chief Financial Officer	
Date	Signature	Date	Signature
Typed Name/Title of Authorized Representative		Typed Name/Title of Authorized Representative	

If attachments are referenced, they must be returned with the signed award.  
 If you did not receive attachments as indicated, contact the Program Director identified above.

# Attachment A -Burleigh Morton Covid-19 Task Force Budget

This budget takes us through **December 30, 2020** . Additional funding may be needed if response efforts go beyond this date.

## PUBLIC HEALTH

### STAFFING \$140,480

Bismarck Public School District - School Nurse Contact Tracing/Investigation Staff	\$40,000
Custer Health - Registered Nurses to Assist with COVID Testing Activities & Response Efforts 4 nurses X 32 hours/week @ \$35/hour X 16 weeks =	\$71,680
City of Bismarck Public Information Staff: 3 staff @ 20 hrs/week. \$30/hr X16 weeks	\$28,800

### EQUIPMENT/SUPPLIES \$7,000

Office/General supplies/PPE Supplies	\$1,000
Custer Health Work stations/computers for 4 nurses = \$1500 X 4 = 6,000	\$6,000

### PUBLIC HEALTH MEDIA CAMPAIGN \$120,000

Translated print materials. Print advertising in area publications.	
Paid radio ads on multiple stations. Video production. Business Education: Printed material. Video	\$76,800
Development of Marketing Strategy and Content	\$43,200

### COVID-19 POSITIVE ISOLATION & QUARANTINE SERVICES VULNERABLE POPULATION \$457,380

Hotel \$300 per week X 6 rooms X 24 weeks = \$43,200	\$43,200
Food \$175 per week X 6 rooms X 24 weeks = \$25,220	\$25,220
Transportation \$50 per ride X 5 rides per week X 24 weeks = \$6,000	\$6,000
Personal Hygiene Kits = \$15 ea X 6 X 24 weeks = \$2160	\$2,160
24/7 Security/Compliance Officers = \$7,800 per week X 24 weeks = 187,200	\$187,200
Shelter Management Services = \$7,500 per week X 24 weeks = 180,000	\$180,000
Prepaid Cell Phone for Symptom Monitoring During Isolation = \$50 X 5 phones/week X 24 weeks = \$6,000	\$6,000
Prescription medications while in quarantined \$50/prescriptions X 3 scripts/week X 24 weeks	\$3,600
PPE supplies /Disinfecting Equipment for Shelter Managers and Security/Compliance Officers	\$4,000

### TARGETED COVID-19 TESTING \$127,500

Bismarck Event Center - \$8000 per event X 15 events	\$120,000
Bismarck Event Center Support Staffing - \$500/event X 15 events	\$7,500

### TOTAL REQUEST FOR BURLEIGH-MORTON TASK FORCE \$852,360

TOTAL REQUEST FOR BISMARCK PUBLIC SCHOOLS	\$40,000
TOTAL REQUEST FOR CUSTER HEALTH	\$77,680
TOTAL REQUEST FOR CITY OF BISMARCK/BISMARCK-BURLEIGH PUBLIC HEALTH:	\$734,680
	<hr/> \$852,360



## BISMARCK-BURLEIGH PUBLIC HEALTH

**DATE:** September 1, 2020

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

**ITEM:** National Association of City & County Health Officials Grant

### REQUEST

Bismarck-Burleigh Public Health is requesting permission to apply for grant funding from the National Association of County and City Health Officials.

Please place this item on the September 8, 2020 City Commission meeting agenda.

### BACKGROUND INFORMATION

Bismarck-Burleigh Public Health (BBPH) is requesting permission to apply for up to \$8,000 in grant funding through the National Association of City and County Health Officials. Grant funding will be utilized by BBPH to remove barriers that women in our community face accessing prenatal STD screening, linkage to prenatal care, and case management services.

### RECOMMENDED CITY COMMISSION ACTION

Approve request to apply for grant funding through National Association of City and County Health Officials.

### STAFF CONTACT INFORMATION

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



## *Community Development Department*

**DATE:** September 1, 2020

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

**ITEM:** Substantial Amendment to 2018 Annual Action Plan

### **REQUEST**

Approve the City's proposed Substantial Amendment to the 2018 Annual Action Plan to reallocate \$60,000 of 2018 program funds to the 2019 program year.

Please place this item on the September 8, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The U.S. Department of Housing and Urban Development (HUD) requires all entitlement communities receiving Community Development Block Grant (CDBG) funds, such as the City of Bismarck, to prepare and submit a Consolidated Plan every five years to establish a unified, strategic vision for economic development, housing and community development actions. The Consolidated Plan encompasses the analysis of local community needs and coordinates appropriate responses to those needs and priorities. The City Commission adopted the current 2015-2019 Five Year Consolidated Plan in 2015.

The Consolidated Plan is carried out through Annual Action Plans which provide a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan. The City Commission approved the 2018 Annual Action Plan on July 24, 2018

This Substantial Amendment to the 2018 Annual Action Plan is necessary because the Patterson Place project was cancelled due to the project owner giving up the CDBG award of \$60,000. Staff is proposing to reallocate those funds to 2019. A future 2019 amendment will stipulate what those funds are to be used for within the 2019 Annual Action Plan.

Per the City's Citizen Participation Plan, a Substantial Amendment to an Annual Action Plan is required when a "substantial" change is proposed, which includes:

- The addition of a new activity or priority;

- A change in the nature of an activity, its location, or its target population; or
- A change of more than 50 percent in the amount of funds allocated to an activity.

In accordance with the City's Citizen Participation Plan, the change was noticed in the Bismarck Tribune on July 20, 2020 with a 30 day comment period ending on August 21, 2020 and a public hearing on the proposed amendment was held on August 10, 2020. No residents commented on the proposed amendment or attended the public hearing.

### **RECOMMENDED CITY COMMISSION ACTION**

Approve the proposed Substantial Amendment to the 2018 Annual Action Plan to reallocate \$60,000 to the 2019 program year.

Staff will be making another request to the City Commission in the future with the proposed uses of those funds within the 2019 Annual Action Plan.

### **STAFF CONTACT INFORMATION**

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

Kim 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)



## *Community Development Department*

**DATE:** September 1, 2020

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

**ITEM:** Boulevard Avenue Apartments Project – 2018 HOME, 2019 HOME, HOME Program Income and 2019 NSP Application for HUD Funding

### **REQUEST**

Re-authorize the City's application for 2019 HOME Program set-aside funds, including 2018 HOME Program set-aside funds, HOME program income and 2019 NSP Program funds for the Boulevard Avenue Apartments project with CWND Bismarck LLLP (CommunityWorks North Dakota) as the applicant.

Please place this item on the September 8, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

CWND Bismarck LLLP has been working on a plan to purchase and rehabilitate the foreclosed property located at 1100 East Boulevard Avenue. At the December 17, 2019 meeting, the City Commission took action to approve the City's 2019 HOME Program application for Boulevard Avenue Apartments to receive the City's 2019 HOME allocation of \$335,000 and the City's 2018 HOME allocation of \$245,000, with the understanding that signing the contract for the funds would not occur until the utility bill balance for 1100 East Boulevard Avenue was paid in full. In addition, at the January 14, 2020 meeting, the City Commission took action to approve the City's 2019 NSP application for Boulevard Avenue Apartments to receive \$830,000 in pass-through funding. Since the original funding was approved, the City has been informed by the State that \$109,650 in HOME Program Income can also be applied to this project.

This project was originally presented as a joint endeavor between CommunityWorks North Dakota and Lutheran Social Services. Since the previous applications were approved, Lutheran Social Services has discontinued their involvement in the project and CWND Bismarck LLLP is now the sole applicant.

This project will retain 85 units and create an additional 35 units, for a total of 120 housing units for low and moderate income households with an overall project budget of \$16,471,617.

Both HOME and NSP Funds are allocated by the US Department of Housing and Urban Development (HUD) and are administered by the North Dakota Commerce Department – Division of Community Services (DCS). The State requires the City to make an application to receive the funding, with the State making a final determination of project eligibility and funding.

HOME funds must be used for housing activities that benefit low- and moderate-income households. The City receives a set-aside allocation of HOME funds from the State each year because we are an entitlement community under the CDBG program.

NSP funds must also be used for the benefit of low- to moderate-income households. The NSP funds were allocated to Bismarck for this project by the State because the City of Bismarck is identified as a primary target city in the State's Consolidated Plan, again because we are an entitlement community under the CDBG program.

No City funds are included in this application or will be allocated for this project.

### **RECOMMENDED CITY COMMISSION ACTION**

Re-authorize the City's application for 2018 HOME set-aside funds (\$335,000), 2019 HOME set-aside funds (\$245,000), up to \$109,650 in HOME Program Income, and 2019 NSP funds (\$830,000), for the Boulevard Avenue Apartments project with CWND Bismarck LLLP (CommunityWorks North Dakota) as the applicant and recipient of these funds from the US Department of Housing and Urban Development (HUD).

As previously directed by the City Commission, staff will ensure that contracts are not signed and funds are not transferred to CWND Bismarck LLLP until the utility bill balance for 1100 East Boulevard Avenue is paid in full.

### **STAFF CONTACT INFORMATION**

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

Kim 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)



## *Community Development Department*

**DATE:** September 1, 2020

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

**ITEM:** Lots 1 – 3, Block 3, Meadowlark Commercial 7<sup>th</sup> Addition – Annexation

### **REQUEST**

Skyline Properties, LLC is requesting approval of the annexation of Lots 1-3, Block 3, Meadowlark Commercial 7th Addition. The annexation is being requested in preparation for future commercial development of the property.

The property is located in northeast Bismarck, north of 43rd Avenue NE and east of US Highway 83, between Brookside Lane and 57th Avenue NE, along the west side of North 19th Street.

Please place this item on the September 8, 2020 and September 22, 2020 City Commission meeting agendas.

### **BACKGROUND INFORMATION**

The Planning and Zoning Commission held final consideration of this item on August 26, 2020.

At the conclusion of final consideration, and based on the findings contained in the staff report, the Planning & Zoning Commission unanimously recommended approval of the annexation of the Lots 1-3, Block 3, Meadowlark Commercial 7th Addition, the west half of the adjacent North 19th Street right-of-way, and all of the adjacent Brookside Lane right-of-way not previously annexed.

### **RECOMMENDED CITY COMMISSION ACTION**

September 8th meeting of the Board of City Commissioners – consider the annexation as outlined in Ordinance 6433 and call for a public hearing on this item for the September 22nd meeting of the Board of City Commissioners.

September 22nd meeting of the Board of City Commissioners – hold a public hearing on the annexation as outlined in Ordinance 6433 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. 6433**

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

AN ORDINANCE ANNEXING PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF BISMARCK, BURLEIGH COUNTY, 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, BURLEIGH COUNTY, 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, Burleigh County, North Dakota, as follows:

Lots 1-3, Block 3, Meadowlark Commercial 7<sup>th</sup> Addition; the west half of the North 19<sup>th</sup> Street right-of-way between the south line of 57<sup>th</sup> Avenue NE and the centerline of Brookside Lane adjacent to Lots 1-3, Block 3, Meadowlark Commercial 7<sup>th</sup> Addition; the East 280.27 feet of the north half of the Brookside Lane right-of-way adjacent to Lot 3, Block 3, Meadowlark Commercial 7<sup>th</sup> Addition; and all of the Brookside Lane right-of-way adjacent to Lots 1, 2 and the West 100 feet of Lot 3, Block 3, Meadowlark Commercial 7<sup>th</sup> Addition and adjacent to the East 228 feet of Lot 3 and all of Lot 4, Gussner Acreage Homesites.

The above described tract of land contains 11.37 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, Burleigh County, North Dakota.



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

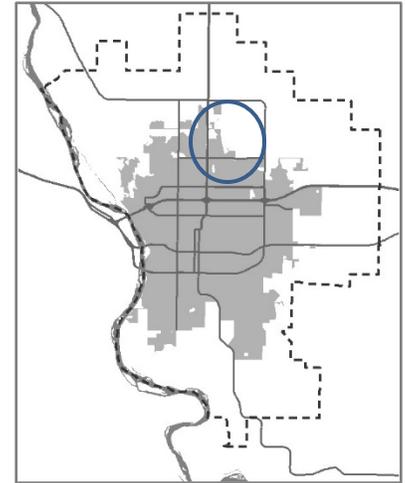
Agenda Item # 2  
August 26, 2020

## Application for: Annexation

TRAKiT Project ID: ANNX2020-007

### Project Summary

<b>Title:</b>	Lots 1-3, Block 3, Meadowlark Commercial 7 <sup>th</sup> Addition
<b>Status:</b>	Planning & Zoning Commission – Final Consideration
<b>Owner(s):</b>	Skyline Properties LLC
<b>Project Contact:</b>	Sanjay Patel, Managing Partner
<b>Location:</b>	In northeast Bismarck, north of 43 <sup>rd</sup> Avenue NE and east of US Highway 83, between Brookside Lane and 57 <sup>th</sup> Avenue NE, along the west side of North 19 <sup>th</sup> Street
<b>Project Size:</b>	11.37 acres
<b>Request:</b>	Annex property for future commercial development



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	3 lots in 1 block	<b>Number of Lots:</b>	3 lots in 1 block
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Commercial uses
<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan	<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan
<b>Zoning:</b>	CG – Commercial	<b>Zoning:</b>	CG – Commercial
<b>Uses Allowed:</b>	CG – General commercial, multi-family residential, and offices	<b>Uses Allowed:</b>	CG – General commercial, multi-family residential, and offices
<b>Max Density Allowed:</b>	CG – 42 units / acre	<b>Max Density Allowed:</b>	CG – 42 units / acre

### Property History

<b>Zoned:</b>	12/2015	<b>Platted:</b>	12/2015	<b>Annexed:</b>	N/A
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### Staff Analysis

Skyline Properties LLC is requesting approval of the annexation of Lots 1-3, Block 3, Meadowlark Commercial 7<sup>th</sup> Addition.

The annexation also includes the unannexed portions of the North 19<sup>th</sup> Street and Brookside Lane rights-of-way adjacent to this request. Annexation of these portions of North 19<sup>th</sup> Street and Brookside Lane would avoid

(continued)

segments of public rights-of-way in this location being outside corporate limits while the adjacent properties are within corporate limits.

Annexation of the property, including the adjacent rights-of-way, would allow for commercial development and the construction Brookside Lane and North 19<sup>th</sup> Street at the time of site development.

*Utility Capital Charges*

The annexation of any new lots within in the City of Bismarck is subject to utility capital charges for municipal utilities. Utility capital charges are due at the latter of three points: annexation and platting; water and sewer escrow; or petition for street improvement.

**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 1-3, Block 3, Meadowlark Commercial 7<sup>th</sup> Addition and the westerly half of the North 19<sup>th</sup> Street right-of-way between 57<sup>th</sup> Avenue NE and Brookside Lane, adjacent to Lots 1-3, Block 3, and the entire right-of-way for Brookside Lane adjacent to Lots 1-2, and the west half of Lot 3, Block 3, as well as the north half of Brookside Lane adjacent to the east half of Lot 3, Block 3, Meadowlark Commercial 7<sup>th</sup> Addition.

**Attachments**

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

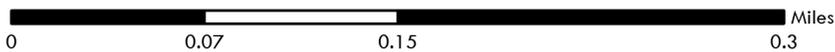
Staff report prepared by: Jenny Wollmuth, AICP, CFM  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)



# Location Map

ANNX2020-007

## ANNEXATION OF MEADOWLARK COMMERCIAL 7TH ADD, L1-3, B3

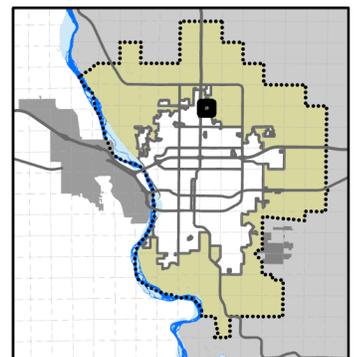


- Bismarck ETA Jurisdiction
- County Outside ETA

*Section, township, and range indicated in orange*

City of Bismarck  
 Community Development Department  
 Planning Division  
 August 18, 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.*

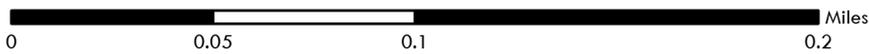
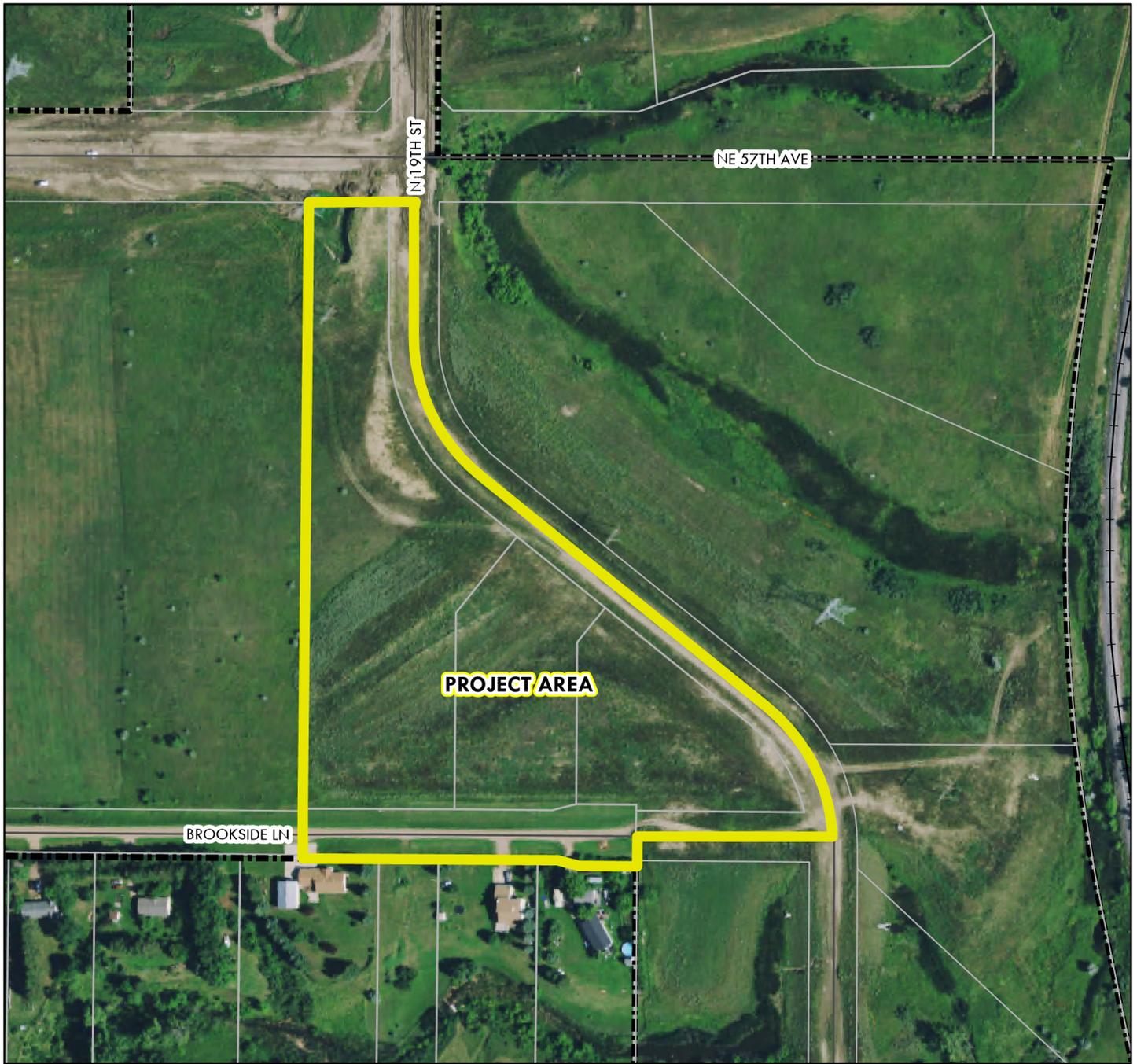




# Aerial Map

MEADOWLARK COMMERCIAL 7TH ADD, L1-3, B3

ANNX2020-007

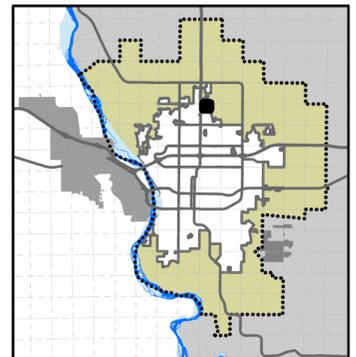


 City Limits
  Bismarck ETA Jurisdiction

Aerial Imagery from 2019

City of Bismarck  
 Community Development Department  
 Planning Division  
 August 18, 2020

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# Zoning and Plan Reference Map

MEADOWLARK COMMERCIAL 7TH ADD, L1-3, B3

ANNX2020-007  
ZC2020-005

## Zoning Districts

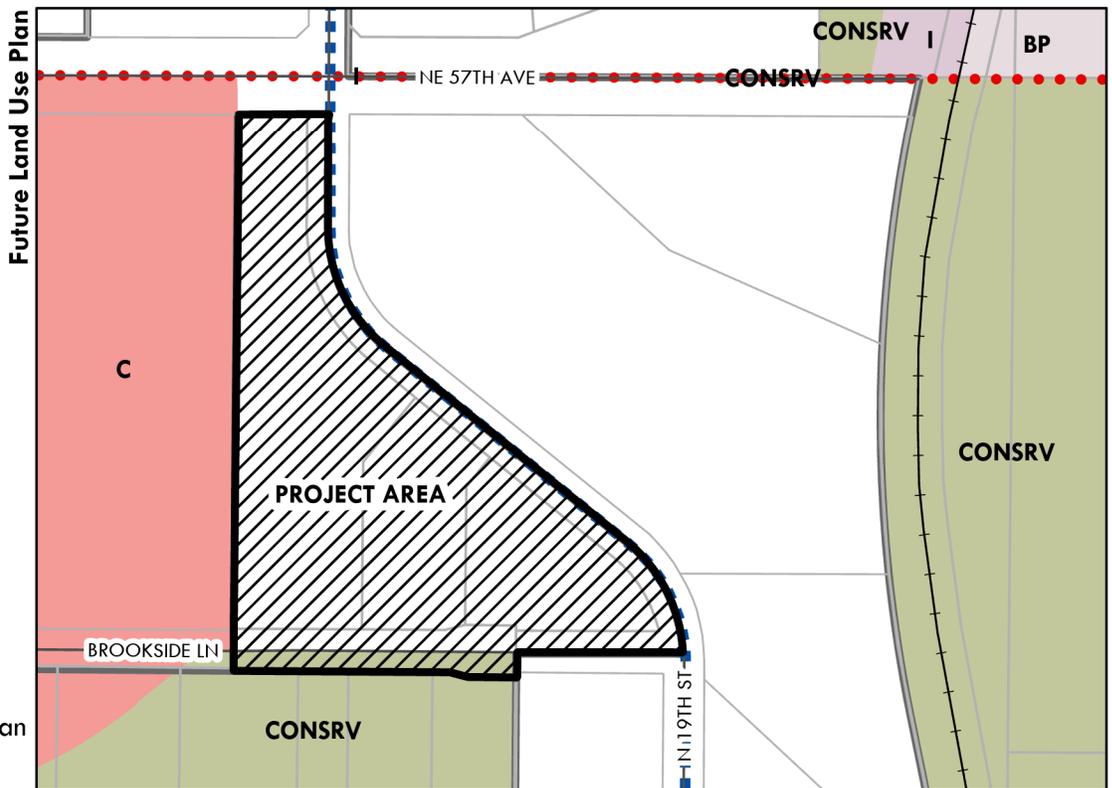
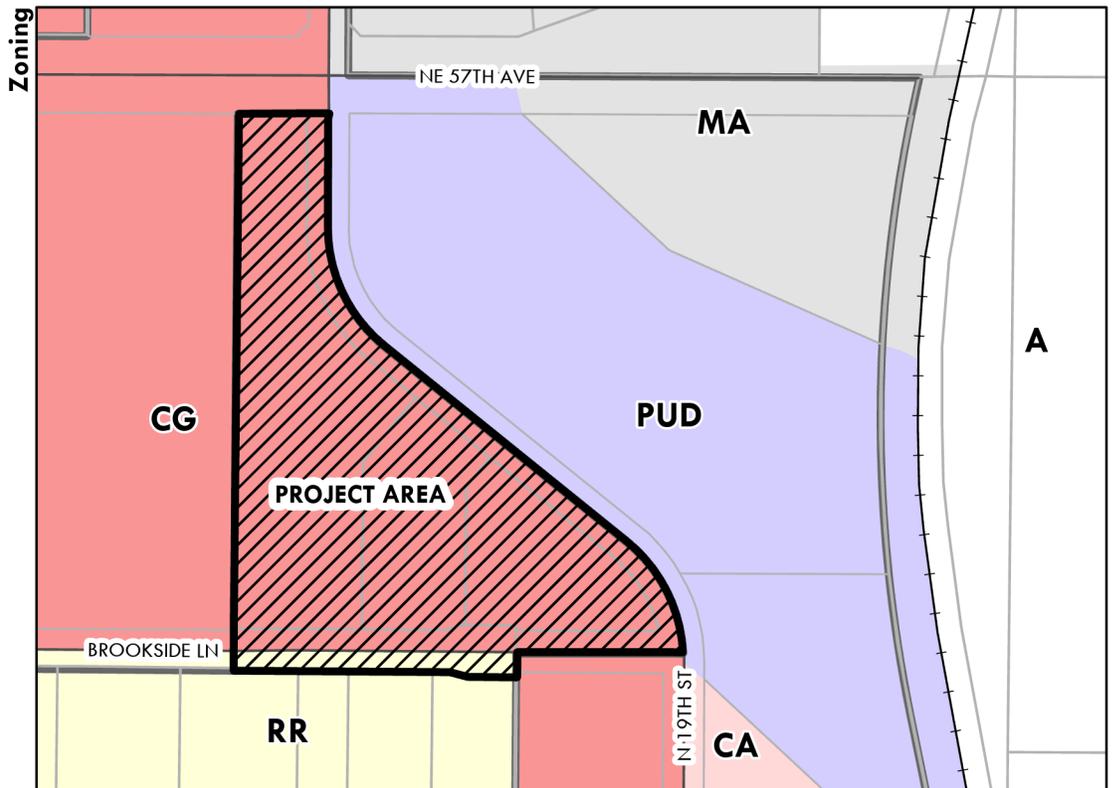
<b>A</b>	Agriculture
<b>RR</b>	Rural
<b>R5</b>	Residential
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<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit Development
<b>DC</b>	Downtown Core
<b>DF</b>	Downtown Fringe

## Future Land Use Plan

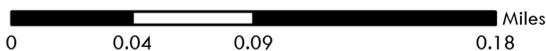
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<b>RR-C</b>	Clustered Rural Residential
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## Fringe Area Road Master Plan

- ● ● Future Arterial Road
- ■ ■ Future Collector Road



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City of Bismarck  
Community Development Dept.  
Planning Division  
August 18, 2020



## *Community Development Department*

**DATE:** September 1, 2020

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

**ITEM:** Stoneridge Addition Second Replat – Zoning Change and Minor Subdivision Final Plat

### **REQUEST**

Verity Homes of Bismarck, LLC is requesting approval of a zoning change from the PUD – Planned Unit Development zoning district to a new PUD – Planned Unit Development zoning district and a minor subdivision final plat for Stoneridge Addition Second Replat. The requested actions will allow reconfiguration of the site for the development of two eight-unit, two-story row-house style multi-family buildings with attached garages on individual lots.

The property is located in northeast Bismarck, west of Centennial Road and north of East Century Avenue, along the west side of French Street (a replat of Block 1, Stoneridge Addition First Replat).

Please place this item on the September 8, 2020 and September 22, 2020 City Commission meeting agendas.

### **BACKGROUND INFORMATION**

The Planning and Zoning Commission held a public hearing on these items on August 26, 2020.

No residents spoke at the public hearing and one written comment was received.

At the conclusion of the public hearing, and based on the findings contained in the staff report, the Planning & Zoning Commission unanimously recommended of the zoning change from the PUD – Planned Unit Development zoning district to a new PUD – Planned Unit Development zoning district, as outlined in the draft PUD ordinance, and a minor subdivision final plat for Stoneridge Addition Second Replat.

## **RECOMMENDED CITY COMMISSION ACTION**

September 8th meeting of the Board of City Commissioners – consider the zoning change as outlined in Ordinance 6434 and call for a public hearing on this item for the September 22nd meeting of the Board of City Commissioners.

September 22nd meeting of the Board of City Commissioners – hold a public hearing on the zoning change as outlined in Ordinance 6434, consider the request for approval of the minor subdivision final plat for Stoneridge Addition Second Replat, and take final action on 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. 6434**

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

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

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

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

The following described property shall be excluded from the PUD – Planned Unit Development zoning district and included within the PUD – Planned Unit Development zoning district:

Lots 1-16, Block 1, Stoneridge Addition Second Replat (formerly known as Lots 1-16, Block 1, Stoneridge Addition First Replat)

This PUD is subject to the following standards:

1. *Conformance to Submitted Documents*. The development must generally conform to the submitted site plan approved in conjunction with the PUD.
2. *Uses Permitted*. The uses within the district shall be limited to the following:
  - a. Two eight-unit, two-story residential row houses with rear loaded attached garages.
3. *Special Uses*. The following uses shall be allowed with a special use permit
  - a. None.
4. *Dimensional Standards*. The following dimensional standards shall apply to all structures within district:

- a. The minimum lot area shall be 1,600 square feet.
  - b. The minimum lot width shall be 12 feet.
  - c. Front yard setbacks adjacent to public rights-of-way shall be 25 feet.
  - d. Side yard setbacks shall be zero feet for attached row houses and six feet, measured from the common lot line, between the two eight-unit row houses to each building.
  - e. Rear yard setback, along the private access easement located along the west side of the property, shall be zero feet.
5. *Development Standards.* The following development standards shall apply to all development within the district.
- a. *Off-street Parking and Loading.* All off-street parking and loading must conform to the layout shown and number indicated on the submitted site plan.
  - b. *Landscaping and Screening.* Street trees and perimeter parking lot landscaping must be installed in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening).
6. *Design and Aesthetic Standards.* The following design and aesthetic standards shall apply to all development within the district:
- a. *Design standards.* The design of the two eight-unit row houses shall generally comply with the elevations submitted with site plan and be complementary to the existing neighborhood.
  - b. *Signs.* Signs must be installed in accordance with Chapter 14-03.1 of the City Code of Ordinances (Signs), following requirements for RM – Residential zoning districts.
  - c. *Lighting.* All exterior lighting shall be designed and installed in a manner intended to limit the amount of off-site impacts to adjacent properties.
  - d. *Screening.* Mechanical equipment and solid waste collection areas shall be screened in accordance with Section 14-03-12 of the City Code of Ordinances (Screening of Mechanical Equipment and Solid Waste Collection Areas).
7. *Modifications.* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit

Developments). Major modifications require a public hearing and approval by the Bismarck Planning & Zoning Commission.

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

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



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

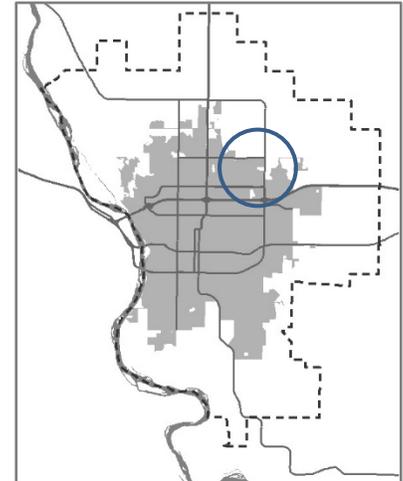
August 26, 2020

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

TRAKiT Project ID: ZC2020-008  
MPLT2020-007

## Project Summary

<b>Title:</b>	Stoneridge Addition Second Replat
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Verity Homes of Bismarck, LLC
<b>Project Contact:</b>	Landon Niemiller, Swenson, Hagen & Co
<b>Location:</b>	In northeast Bismarck, west of Centennial Road and north of East Century Avenue, along the west side of French Street
<b>Project Size:</b>	1.75 acres
<b>Request:</b>	Replat and rezone property to allow for two 8-unit multifamily buildings



## Site Information

### Existing Conditions

<b>Number of Lots:</b>	16 lots in 1 block
<b>Land Use:</b>	Multifamily residential
<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan
<b>Zoning:</b>	PUD – Planned Unit Development
<b>Uses Allowed:</b>	PUD – Uses specified in PUD
<b>Max Density Allowed:</b>	PUD – Density specified in PUD

### Proposed Conditions

<b>Number of Lots:</b>	16 lots in 1 block
<b>Land Use:</b>	Multifamily residential
<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan
<b>Zoning:</b>	PUD – Planned Unit Development
<b>Uses Allowed:</b>	PUD – Uses specified in PUD
<b>Max Density Allowed:</b>	PUD – Density specified in PUD

## Property History

<b>Zoned:</b>	04/2014 PUD 04/2015 PUDA	<b>Platted:</b>	04/2015	<b>Annexed:</b>	04/2011
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## Staff Analysis

Verity Homes of Bismarck, LLC is requesting approval of a zoning change from an existing PUD – Planned Unit Development to a new PUD – Planned Unit

Development and minor subdivision final plat titled Stoneridge Addition Second Replat.

(continued)

The Planning and Zoning Commission, at their meeting of July 22, 2020, called for a public hearing on the proposed zoning change.

The proposed zoning change and minor subdivision final plat would allow for the development of two 8-unit, 2-story multifamily buildings with attached garages on individual lots. Staff have determined that a zoning change rather than a PUD Amendment would be needed, as the overall layout of the development is changing significantly. The density of the project will not differ from the density in the existing PUD.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on August 14<sup>th</sup> and 21<sup>st</sup>, and 21 letters were mailed to the owners of nearby properties on August 14<sup>th</sup>.

Adjacent uses include multifamily residential to the north across Jericho Road, developing CG – Commercial zoned property to the east across French Street, and RM – Residential and CG – Commercial zoned property to the south across Greensboro Drive and single-family residential to the west.

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

##### *Zoning Change*

1. The proposed amendment generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed amendment 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 proposed amendment at the time the property is developed;
4. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner;
5. The character and nature of the amended planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located;

6. The amended planned unit development would preserve the natural features of the site insomuch as possible, including the preservation of trees and natural drainage ways;
7. The internal roadway circulation system within the amended planned unit development has been adequately designed for the type of traffic that would be generated;
8. Adequate buffer areas have been provided between the amended planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
9. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed amendment would not adversely affect the public health, safety, and general welfare.

##### *Minor Plat*

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

#### **Staff Recommendation**

Based on the above findings, staff recommends approval of the zoning change from an existing PUD – Planned Unit Development to a new PUD – Planned Unit Development, as outlined in the attached draft

(continued)

PUD Ordinance, and minor subdivision final plat for Stoneridge Addition Second Replat.

**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Draft PUD Ordinance
5. PUD Written Statement
6. Minor Subdivision Final Plat
7. Proposed Site Plan
8. Proposed Building Elevations

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*Staff report prepared  
by:*

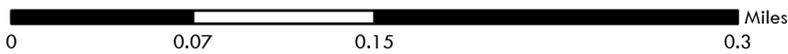
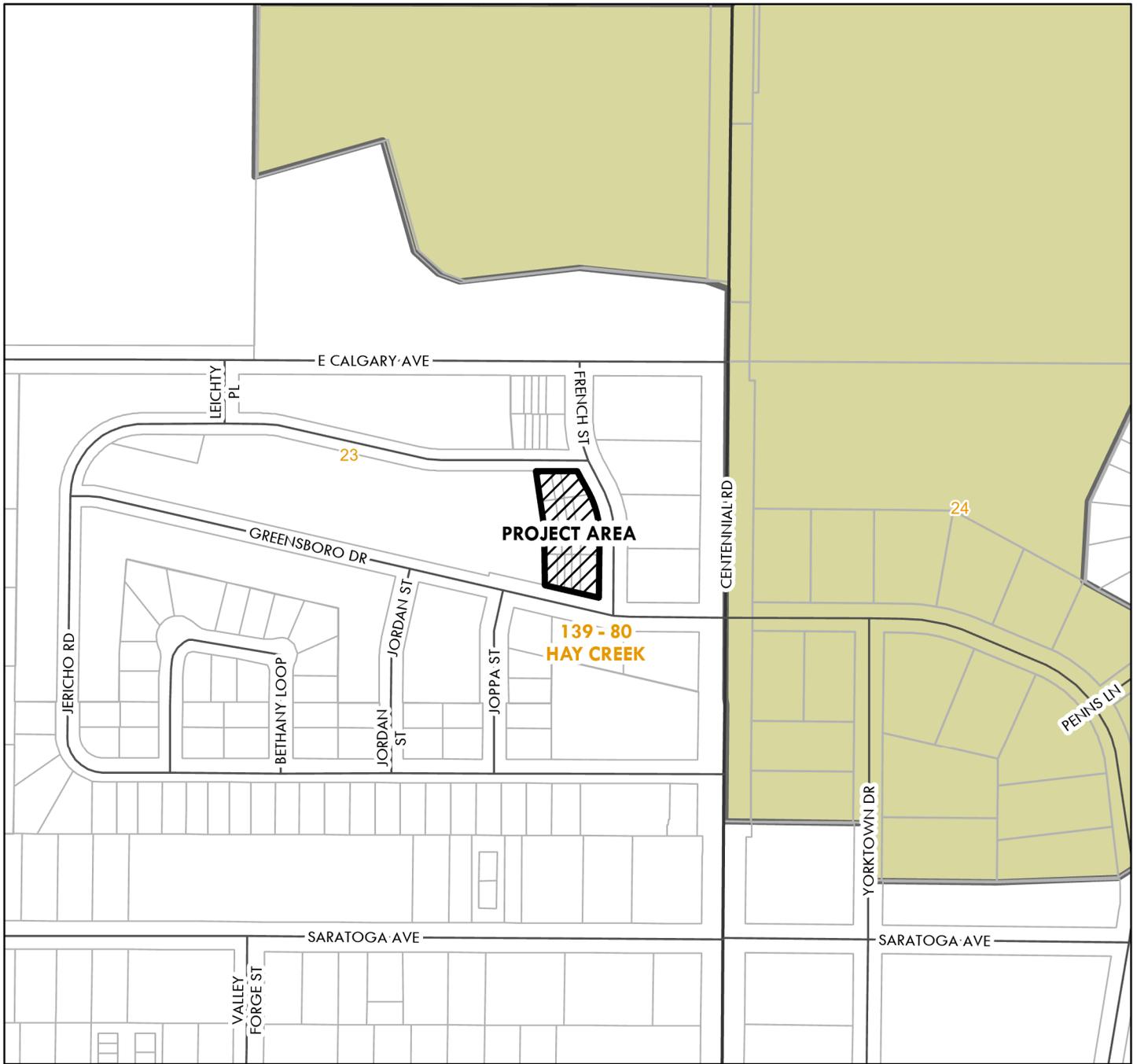
Jenny Wollmuth, AICP, CFM  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)



# Location Map

## STONERIDGE ADDITION SECOND REPLAT

MPLT2020-007  
ZC2020-008

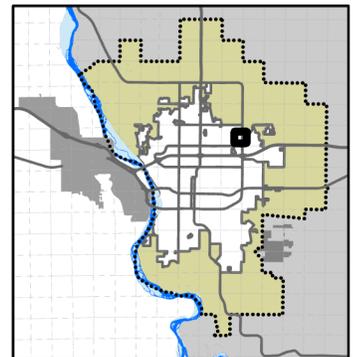


- City Limits
- County Outside ETA
- Bismarck ETA Jurisdiction

*Section, township, and range indicated in orange*

City of Bismarck  
Community Development Department  
Planning Division  
July 27, 2020 (HLB)

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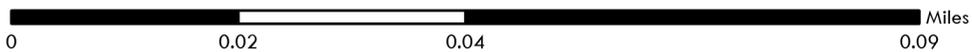
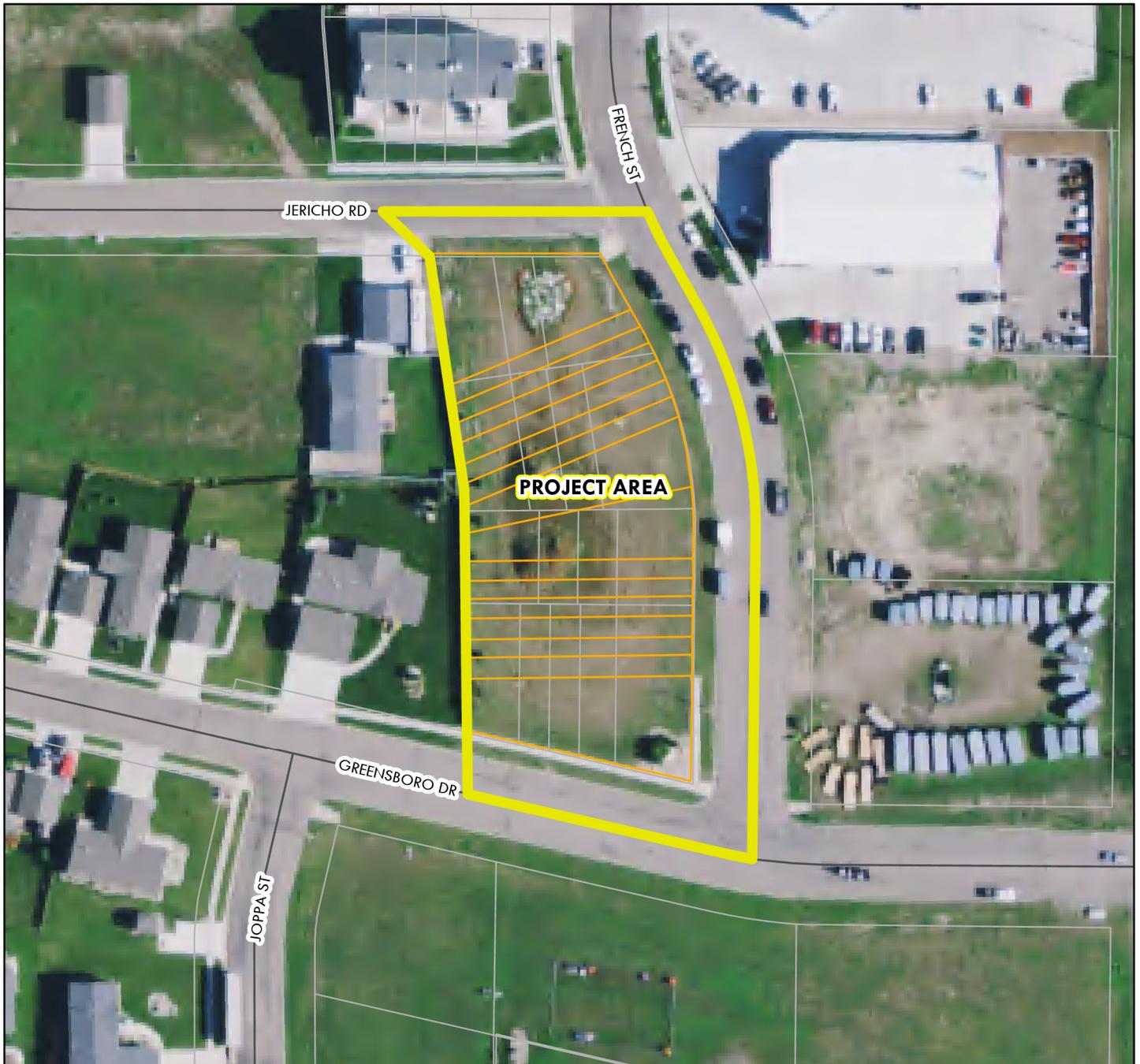




# Aerial Map

## STONERIDGE ADDITION SECOND REPLAT

MPLT2020-007  
ZC2020-008

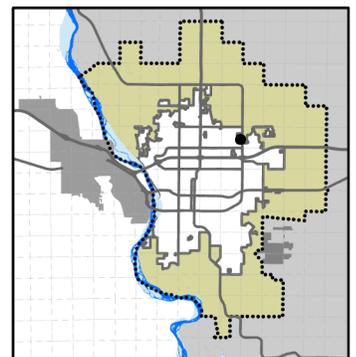


- Lots Pending Approval
- ⋯ City Limits
- ⋯ Bismarck ETA Jurisdiction

Aerial Imagery from 2019

City of Bismarck  
Community Development Department  
Planning Division  
August 18, 2020

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# Zoning and Plan Reference Map

STONERIDGE ADDITION SECOND REPLAT

MPLT2020-007  
ZC2020-005

## Zoning Districts

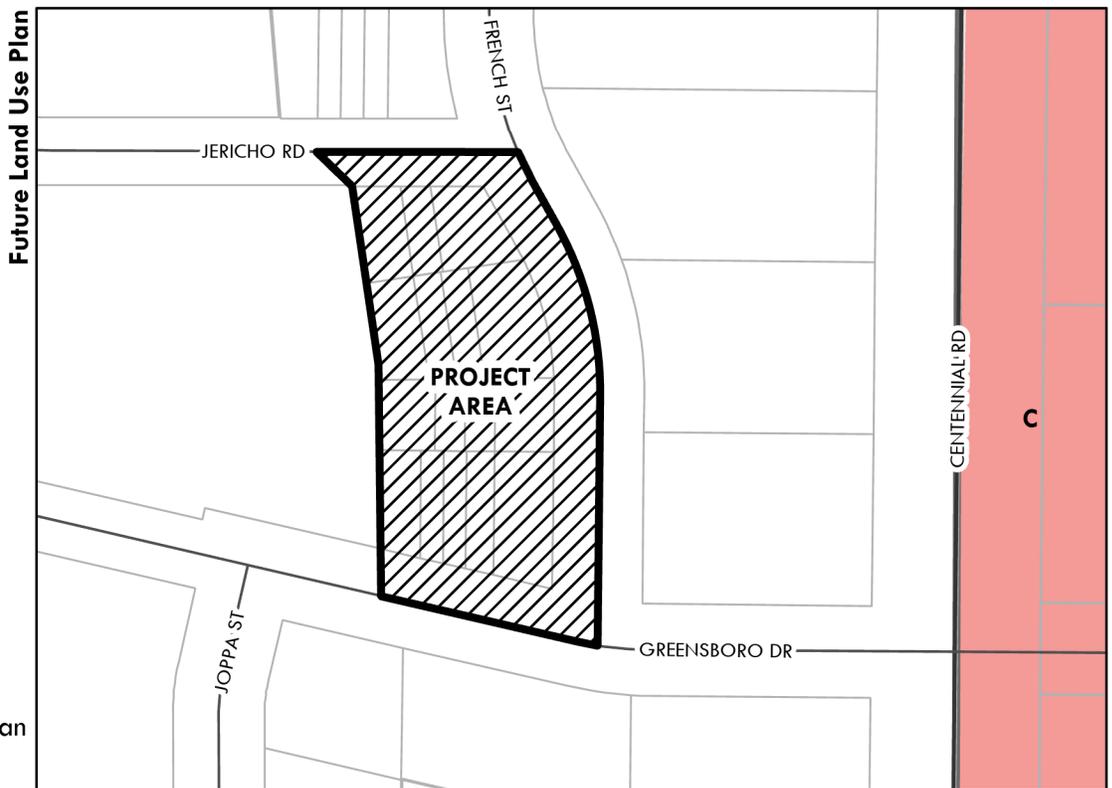
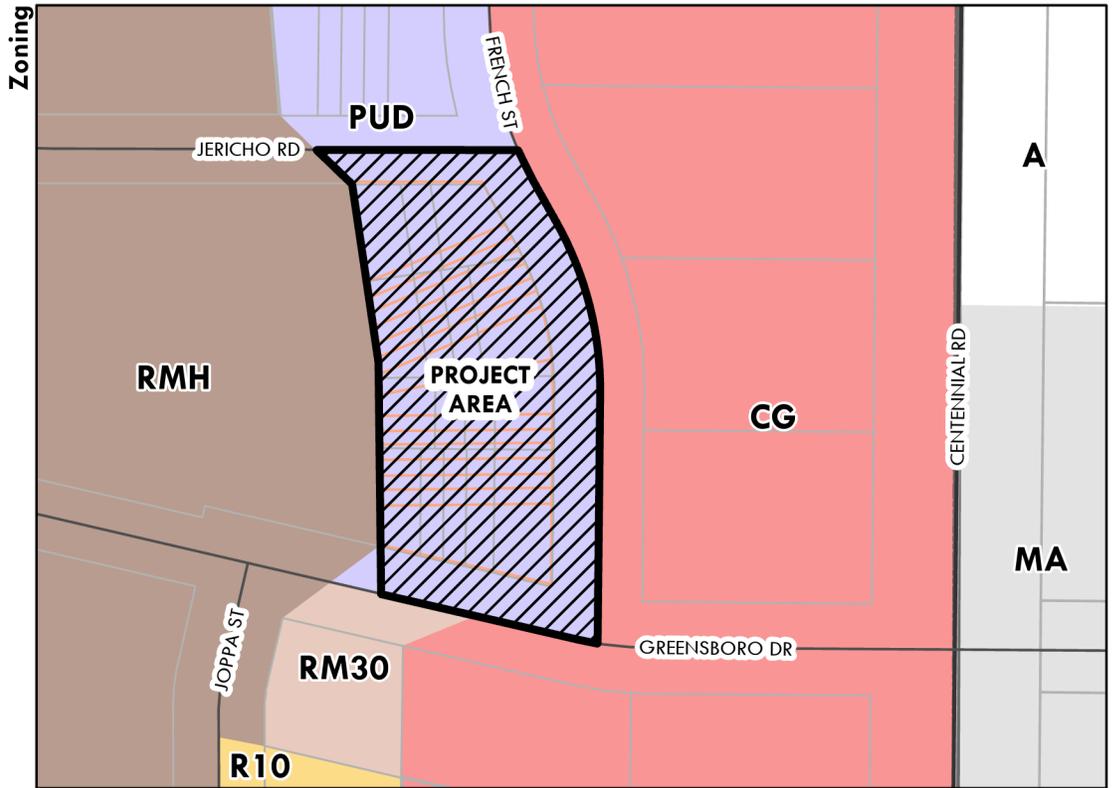
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## Future Land Use Plan

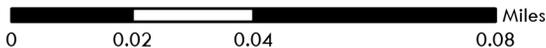
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## Fringe Area Road Master Plan

- ● ● Future Arterial Road
- ■ ■ Future Collector Road



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City of Bismarck  
Community Development Dept.  
Planning Division  
August 18, 2020



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## SWENSON, HAGEN & CO. P.C.

---

civil engineering . surveying . land planning . hydrology  
landscape & site design . construction management

### STONERIDGE ADDITION SECOND REPLAT

#### Request for Stoneridge PUD zoning change

Verity Homes of North Dakota is proposing to develop approximately 1.7 acres located west of French Street, North of Greensboro Drive, and south of Jericho Road. The area is currently platted as Stoneridge Addition First Replat.

Verity Homes is considering developing the property into a residential development with 2 eight-unit rowhouse structures, 2 story homes with garages, platted as individual lots

The projected density of the area will not change, as the existing PUD & plat allows for 16 units to be constructed.

Vehicle access for the buildings will be provided through an access easement on the west side of the lot, to be maintained by the Home Owners' Association. Garage doors will not face the public right-of-way, allowing for better aesthetics along the east property line.

Additional parking for the subdivision will be provided along the landscape buffer on the west side of the property.

The request also includes a variation in setback requirements, namely 0' setbacks off of the private access easement & 6' side yard setbacks on the lot line common to both buildings, (Lots 8 & 9 Block 1 of the replat).

The building setback adjacent to public rights-of-way will remain at 25'.

Lot size minimums shall be:

Lot width—12'

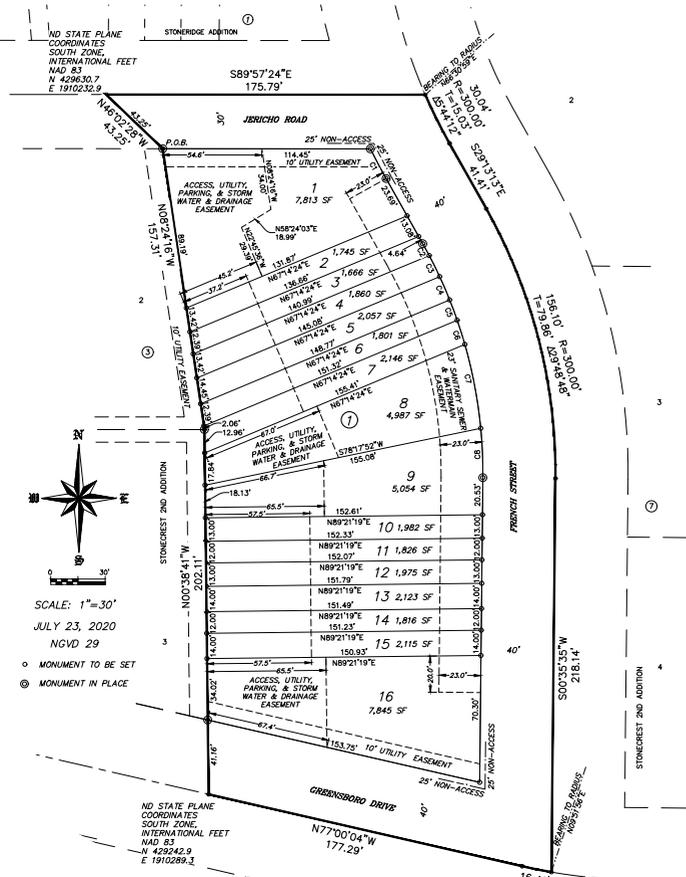
Lot Area—1700 SF

See site plan for PUD specifics.

# STONERIDGE ADDITION SECOND REPLAT

BEING A REPLAT OF PARTS OF JERICO ROAD, FRENCH STREET, & GREENSBORO DRIVE RIGHTS-OF-WAY AND

ALL OF BLOCK 1 STONERIDGE ADDITION FIRST REPLAT  
OF THE SE 1/4 OF SECTION 23 TOWNSHIP 139 NORTH, RANGE 80 WEST  
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



### DESCRIPTION

BEING A REPLAT OF PARTS OF JERICO ROAD, FRENCH STREET, & GREENSBORO DRIVE RIGHTS-OF-WAY AND ALL OF BLOCK 1 STONERIDGE ADDITION FIRST REPLAT OF THE SE 1/4 OF SECTION 23 TOWNSHIP 139 NORTH, RANGE 80 WEST

### DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 2 BLOCK 3 STONERIDGE 2ND ADDITION; THENCE NORTH 46 DEGREES 00 MINUTES 28 SECONDS WEST, A DISTANCE OF 43.25 FEET TO THE CENTERLINE OF JERICO ROAD RIGHT-OF-WAY; THENCE SOUTH 89 DEGREES 57 MINUTES 24 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 175.79 FEET TO THE CENTERLINE OF FRENCH STREET RIGHT-OF-WAY; THENCE SOUTHEASTERLY AND TO THE LEFT, ALONG SAID CENTERLINE, ON A 300.00 FOOT RADIUS CURVE, THE RADII OF WHICH BEARS NORTH 68 DEGREES 30 MINUTES 59 SECONDS EAST, AN ARC LENGTH OF 30.04 FEET; THENCE SOUTH 29 DEGREES 13 MINUTES 13 SECONDS EAST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 41.41 FEET; THENCE SOUTHEASTERLY AND TO THE RIGHT, CONTINUING ALONG SAID CENTERLINE, ON A 300.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 156.10 FEET; THENCE SOUTH 00 DEGREES 35 MINUTES 35 SECONDS WEST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 218.14 FEET TO THE CENTERLINE OF GREENSBORO DRIVE RIGHT-OF-WAY; THENCE NORTHWESTERLY AND TO THE RIGHT, ALONG SAID CENTERLINE, ON A 300.00 FOOT RADIUS CURVE, THE RADII OF WHICH BEARS NORTH 09 DEGREES 51 MINUTES 56 SECONDS EAST, AN ARC LENGTH OF 16.41 FEET; THENCE NORTH 77 DEGREES 00 MINUTES 04 SECONDS WEST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 177.29 FEET TO THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 3 BLOCK 3 STONERIDGE 2ND ADDITION; THENCE NORTH 00 DEGREES 38 MINUTES 41 SECONDS WEST, ALONG SAID SOUTHERLY EXTENSION AND SAID EAST LINE, A DISTANCE OF 202.11 FEET TO THE SOUTHEAST CORNER OF LOT 2 BLOCK 3 STONERIDGE 2ND ADDITION; THENCE NORTH 08 DEGREES 24 MINUTES 16 SECONDS WEST, ALONG THE EAST LINE OF SAID LOT 2, A DISTANCE OF 157.31 FEET TO THE POINT OF BEGINNING, CONTAINING 1.75 ACRES, MORE OR LESS.

### SURVEYOR'S CERTIFICATE

I, TERRY BALTZER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE APPROVED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020, 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 ) SS

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 & ZONING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT HAS BEEN APPROVED BY THE PLANNING & ZONING COMMISSION OF THE CITY OF BISMARCK, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA AND ORDINANCES OF THE CITY OF BISMARCK.

MICHAEL J. SCHWARTZ - CHAIRMAN ATTEST  
BEV EHRHRT - 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, HAS APPROVED THE GROUNDS AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS ACCEPTED THE RE-DEDICATION OF ALL RIGHTS-OF-WAY AND PUBLIC EASEMENTS SHOWN THEREON, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THIS PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

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 "ELK RIDGE SECOND ADDITION", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

GABRIEL J. SCHELL  
CITY ENGINEER

### OWNER'S CERTIFICATE & DEDICATION

WE, THE VERITY HOMES OF BISMARCK, BEING THE OWNERS OF THE LAND PLATTED HEREIN, DO HEREBY VOLUNTARILY CONSENT TO THE EXECUTION OF THIS PLAT TITLED "STONERIDGE ADDITION SECOND REPLAT" AND RE-DEDICATE ALL RIGHTS-OF-WAY TO THE CITY OF BISMARCK, AS SHOWN ON THIS PLAT FOR PUBLIC USE, AND CONSENT TO ANY ACCESS CONTROL, THE PROPERTY AS SHOWN.

WE ALSO DEDICATE ALL EASEMENTS AS SHOWN ON THIS PLAT AS "UTILITY EASEMENTS" TO RUN WITH THE LAND FOR PUBLIC AND PRIVATE UTILITIES OR SERVICES ON, ACROSS, ABOVE OR, UNDER THOSE CERTAIN STRIPS OF LAND.

WE ALSO DEDICATE ALL EASEMENTS AS SHOWN ON THIS PLAT AS "STORMWATER & DRAINAGE EASEMENTS" TO RUN WITH THE LAND FOR USE BY ALL LAND OWNING PARTIES, THEIR TENANTS, VISITORS AND LICENSEES, TO PASS AND REPASS ALONG SAID EASEMENTS, AND FOR THE USE OF ANY GOVERNMENTAL SUBDIVISION, ITS OFFICERS AND EMPLOYEES FOR EMERGENCY SERVICES AND ANY OTHER GOVERNMENTAL USE OR USES, PROVIDED THAT MAINTENANCE AND CLEARANCE OF THE EASEMENT IS THE RESPONSIBILITY OF THE LAND OWNING PARTIES AND THE CITY SHALL NOT BE RESPONSIBLE IN ANY WAY TO FURNISH ANY CITY SERVICES IF SUCH ACCESS EASEMENTS ARE NOT PROPERLY MAINTAINED OR ARE OBSTRUCTED BY THE OWNERS OF THE PROPERTY IN THE SUBDIVISION. SAID EASEMENTS TO ARE ALSO

WE ALSO DEDICATE WATERMAIN & SANITARY SEWER EASEMENTS TO RUN WITH THE LAND FOR USE BY ALL LAND OWNING PARTIES TO CONSTRUCT, OPERATE, MAINTAIN AND REPAIR WATERMAIN & SANITARY SEWER FACILITIES UNDER OR UPON THOSE AREAS DESIGNATED AS SUCH.

WE FURTHER GRANT ANY OTHER EASEMENTS OR SERVITUDES AS SHOWN AND THOSE THAT ARE RECORDED BUT NOT SHOWN.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH ) ATTEST  
ARTHUR GOLDAMMER, PRESIDENT  
VERTY HOMES OF BISMARCK, LLC

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020, BEFORE ME PERSONALLY APPEARED ARTHUR GOLDAMMER, PRESIDENT OF VERTY HOMES OF BISMARCK, LLC, 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 \_\_\_\_\_

Curve #	Length	Radius	Delta
C1	18.58'	340.00'	3°07'51"
C2	7.42'	260.00'	1°38'10"
C3	13.03'	260.00'	2°52'14"
C4	14.00'	260.00'	3°05'07"
C5	12.01'	260.00'	2°38'50"
C6	14.06'	260.00'	3°05'56"
C7	47.38'	260.00'	10°26'31"
C8	27.38'	260.00'	6°02'00"

AREA DATA	
LOTS	48,814.52 ± 1.12 ACRES
STREETS	27,500.53 ± 0.63 ACRES
TOTAL	76,315.05 ± 1.75 ACRES

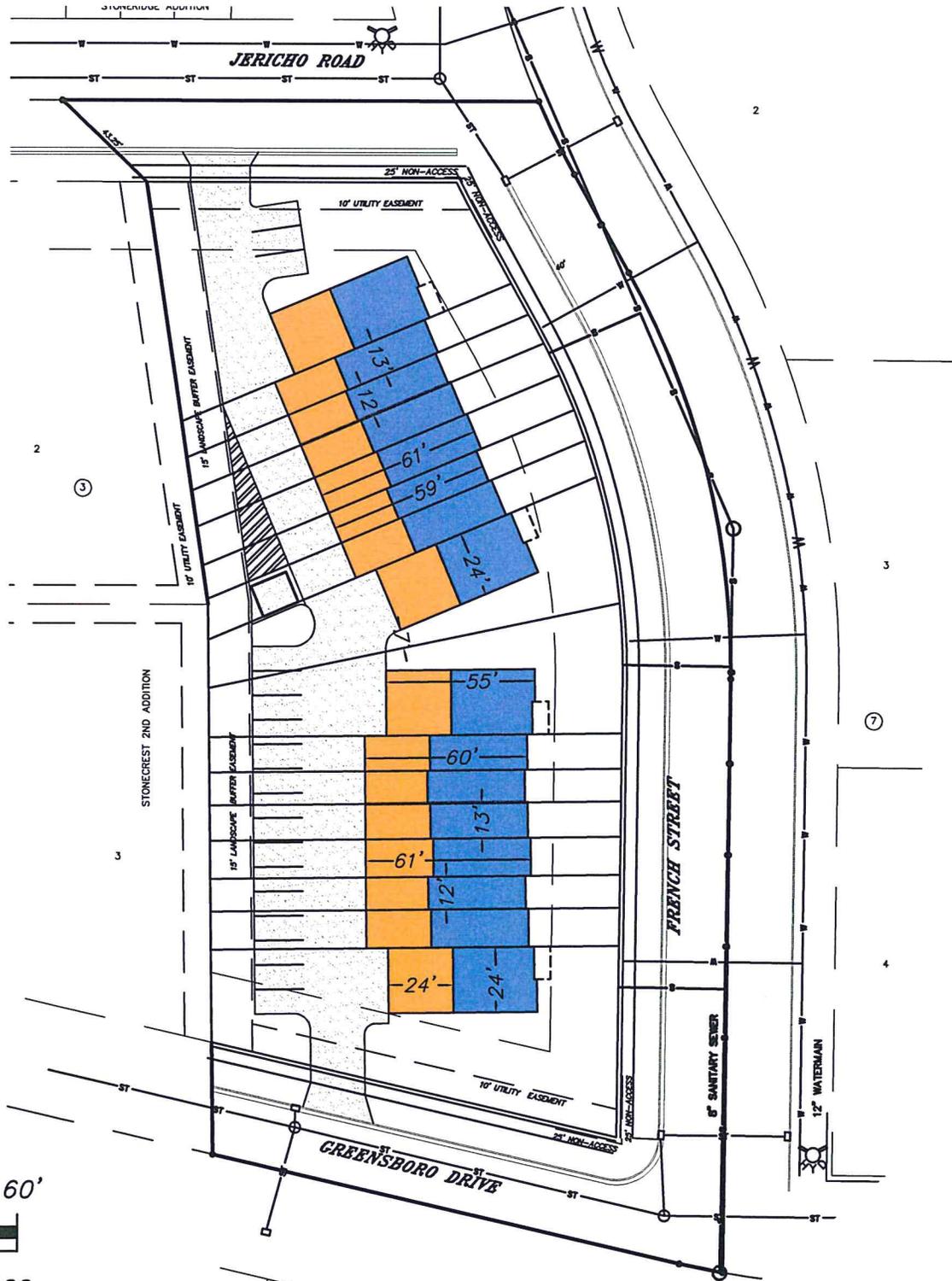
### NOTES

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.

# STONERIDGE ADDITION SECOND REPLAT PUD SITE PLAN

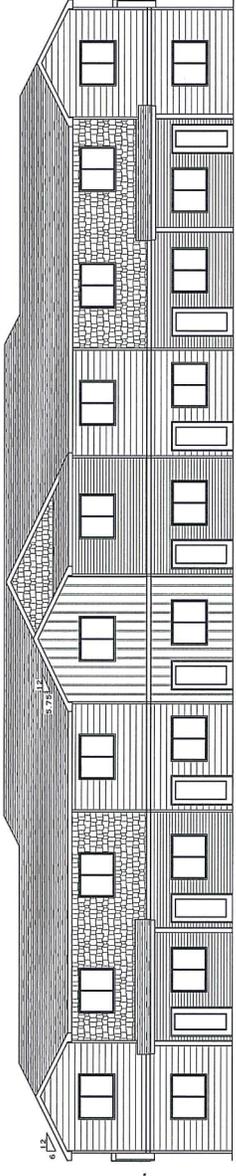


SCALE: 1/8" = 1'-0"

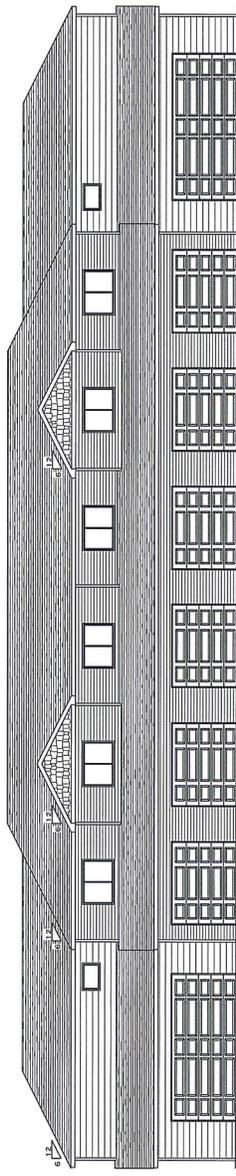
DRAWN BY: MARCIE FRANKLUND  
DATE: OCTOBER 6, 2017  
WEDNESDAY, JANUARY 16, 2019

PLAN NUMBER: VH-STONE RIDGE RENTALS 2018  
VERITY HOMES  
DRAWN FOR:

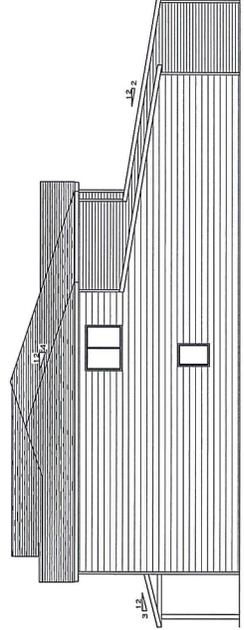
FRONT STREET MILLWORK & LUMBER INC.  
3320 E CENTURY AVE - BISMARCK, ND 58503  
PHONE: 701-255-1636 FAX: 701-222-0500  
MARCIE@FRONTSTREETMILLWORK.COM



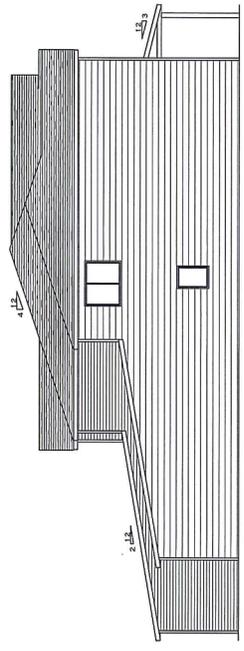
FRONT ELEVATION



REAR ELEVATION



RIGHT ELEVATION



LEFT ELEVATION

NOTES: 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED. 2. FINISHES TO BE DETERMINED AT THE TIME OF PERMITTING. 3. SEE SEPARATE SHEETS FOR FOUNDATION AND MECHANICAL/ELECTRICAL/PLUMBING DETAILS. 4. REFER TO ARCHITECTURAL SPECIFICATIONS FOR MATERIALS AND FINISHES. 5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSURANCE. 6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURES. 7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND MAINTENANCE OF ALL ADJACENT PROPERTIES. 8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND MAINTENANCE OF ALL PUBLIC UTILITIES AND STRUCTURES. 9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND MAINTENANCE OF ALL ADJACENT PROPERTIES. 10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND MAINTENANCE OF ALL PUBLIC UTILITIES AND STRUCTURES.



## *Community Development Department*

**DATE:** September 1, 2020

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

**ITEM:** Silver Ranch Second Addition – Zoning Change and Major Subdivision Final Plat

### **REQUEST**

Investcore, Inc. and Silver Ranch 19, LLLP are requesting approval of a zoning change from the A – Agricultural, R10 – Residential, CA – Commercial and P – Public zoning districts to the R10 – Residential, CA – Commercial and P – Public zoning districts and a major subdivision final plat for Silver Ranch Second Addition. The requested actions replat and rezone a portion of Silver Ranch Addition First Replat and plat and re-zone additional property for future development of low density residential, a public park and areas for neighborhood commercial uses. Annexation is not being requested at this time.

The property is located in northeast Bismarck, on the south side of 43rd Avenue NE east of 52nd Street NE (a replat of Lots 1-24, Block 7, Silver Ranch Addition First Replat and part of the NE ¼ of Seciton 19, T139N-R79W/Gibbs Township).

Please place this item on the September 8, 2020 and September 22, 2020 City Commission meeting agendas.

### **BACKGROUND INFORMATION**

The Planning and Zoning Commission held a public hearing on these items on August 26, 2020.

No residents spoke at the public hearing and no written comments were received.

At the conclusion of the public hearing, and based on the findings contained in the staff report, the Planning & Zoning Commission recommended approval of the zoning change from the A – Agricultural, R10 – Residential, CA – Commercial and P – Public zoning districts to the R10 – Residential, CA – Commercial and P – Public zoning districts and a major subdivision final plat for Silver Ranch Second Addition on a 7-1 vote.

## **RECOMMENDED CITY COMMISSION ACTION**

September 8th meeting of the Board of City Commissioners – consider the zoning change as outlined in Ordinance 6435 and call for a public hearing on this item for the September 22nd meeting of the Board of City Commissioners.

September 22nd meeting of the Board of City Commissioners – hold a public hearing on the zoning change as outlined in Ordinance 6435, consider the request for approval of the major subdivision final plat for Silver Ranch Second Addition, and take final action on 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)

Daniel Nairn, AICP | Planner, 355-1845 or [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)

**ORDINANCE NO. 6435**

<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 R10-Residential and CA-Commercial zoning districts and included within the R10 – Residential zoning district.

Lots 1-23, Block 1, Silver Ranch Second Addition.

The following described property shall be excluded from the CA-Commercial zoning district and included within the CA-Commercial zoning district.

Lot 24, Block 1, Silver Ranch Second Addition.

The following described property shall be excluded from the P-Public and R10-Residential zoning districts and included within the P-Public zoning district.

Lot 25, Block 1, Silver Ranch Second Addition.

The following described property shall be excluded from the A – Agricultural district and included within the CA – Commercial District.

Lot 1, Block 2, Silver Ranch Second Addition.

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.



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

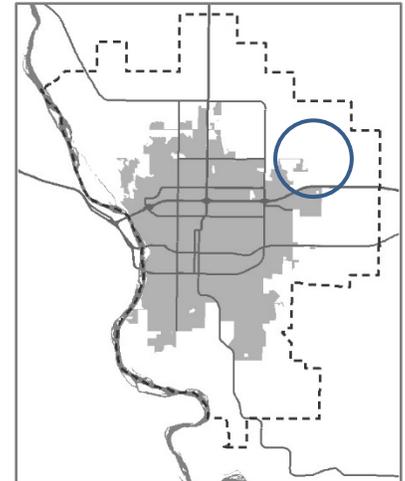
August 26, 2020

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

TRAKiT Project ID: ZC2020-005  
 FPLT2020-009

## Project Summary

<b>Title:</b>	Silver Ranch Second Addition
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Silver Ranch 19, LLLP (owner) Investcore, Inc. (applicant)
<b>Project Contact:</b>	Landon Niemiller, Swenson, Hagen & Co.
<b>Location:</b>	In northeast Bismarck, on the south side of 43 <sup>rd</sup> Avenue NE (a replat of Lots 1-24, Block 7, Silver Ranch First Addition First Replat, and part of the NE¼ of Section 19, T139N-R79W/Gibbs Township)
<b>Project Size:</b>	24.55 Acres
<b>Request:</b>	Replat residential, commercial, and park lots and plat and rezone additional commercial lots



## Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	46 lots in 1 block	<b>Number of Lots:</b>	26 lots in 2 blocks
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Single and two-family residential, neighborhood commercial, and park
<b>Designated GMP</b>	Medium Density Residential/Mixed Use (portions not previously platted)	<b>Designated GMP</b>	Medium Density Residential/Mixed Use (portions not previously platted)
<b>Future Land Use:</b>		<b>Future Land Use:</b>	
<b>Zoning:</b>	A – Agricultural R10 – Residential CA – Commercial P – Public Use	<b>Zoning:</b>	R10 – Residential CA – Commercial P – Public Use
<b>Uses Allowed:</b>	A – Agriculture R10 – Single and two-family residential CA – Neighborhood commercial P – Parks, open space, stormwater facilities, and other public uses	<b>Uses Allowed:</b>	R10 – Single and two-family residential CA – Neighborhood commercial P – Parks, open space, stormwater facilities, and other public uses
<b>Max Density Allowed:</b>	R10 – 10 units / acre CA – 30 units / acre	<b>Max Density Allowed:</b>	R10 – 10 units / acre CA – 30 units / acre

(continued)

**Property History**

Zoned:	05/2018 (Silver Ranch First Addition First Replat)	Platted:	05/2018 (Silver Ranch First Addition First Replat)	Annexed:	N/A
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**Staff Analysis**

Investcore Inc. and Silver Ranch 19, LLLP are requesting approval of a zoning change from the R10 – Residential, CA – Commercial, P – Public and A – Agricultural zoning districts to the R10 – Residential, CA – Commercial and P – Public zoning districts and approval of a major subdivision final plat for Silver Ranch Second Addition.

The Planning and Zoning Commission considered this request at their meeting of June 24, 2020 and called for a public hearing on the zoning change and tentatively approved the preliminary plat.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on August 14<sup>th</sup> and 21<sup>st</sup>, and 10 letters were mailed to the owners of nearby properties on August 14<sup>th</sup>.

Adjacent uses include developing two-family residential areas to the west and agricultural land in all other directions.

The majority of this plat is a replat of portions of Silver Ranch First Addition First Replat, resulting in a net reduction of residential lots from to 45 to 23. Most of the lots previously planned for two-family development would be converted to lots sized for single-family homes.

Additional land is included in the plat on the east side of Silver Ranch Road, with a requested zoning of CA – Commercial, which matches the current zoning across this collector roadway to the west.

*Conformance with Comprehensive Plan*

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies the new portion proposed for platting as Medium Density Residential/Mixed Use. The requested CA – Commercial zoning district conforms to this classification,

as it could be utilized for either neighborhood commercial uses or multifamily residential.

The Growth Phasing Plan identifies this entire plat, even areas already platted, as a Future Urban Growth Area. This area cannot currently be served with city utilities until a sanitary sewer trunkline is extended through the undeveloped areas east of this plat. The necessary infrastructure should be in place prior or in conjunction with annexation of these lots, and the City would not be responsible for costs of installation. Annexation is not proposed at this time.

*Transportation and Access*

This plat would convert a previously platted loop road, Bronze Loop, into two separate cul-de-sacs, Iron Circle and Iron Place. A waiver for use of the cul-de-sacs has been submitted, citing topography as a justification. According to the statement, the previous loop road would require the foundations of homes to be placed on significant fill, while the use of cul-de-sacs would allow homes to be built on natural slopes. The slopes are approximately 15-18% in this area, which are under the threshold when a slope protection easement would typically be required.

Secondary access may become an issue during construction of this subdivision. An alternate means of access must be provided once 32 residential building permits are issued with a single access. Although this is not a concern at the present platting stage, the developer should be aware that the sequence of roadway construction will determine how many lots can be developed.

Both police and fire staff have expressed concerns with any new development in this area without further access improvements to the overall area. The existing primary access to the Silver Ranch development, the two-lane rural 43<sup>rd</sup> Avenue NE, could be strained by further

(continued)

development, and the only secondary access currently available would add considerable distance for emergency response from the stations.

A temporary turnaround for emergency vehicles may be necessary at the southern terminus of Silver Ranch Road if the platted segment of the right-of-way is constructed without continuation of the roadway to the southeast. Staff recommends obtaining an easement for such a turnaround beyond the extent of the plat to use for a turnaround, if needed.

#### *Park and Open Space*

Lots 25, Block 1 was originally platted for a park to satisfy the conditions of the Neighborhood Parks and Open Space ordinance and policy for the entire Silver Ranch First Addition. The park lot will be included in the replat, with a slightly expanded footprint to allow sufficient space for stormwater conveyance and a multiuse trail. The Bismarck Parks and Recreation District has expressed interest in installing the planned improvements for this park in the short-term, to allow the existing residents to have access to these amenities and effectively communicate the park's existence to prospective residents. Because of the change in lot numbering and dimensions for the park, an addendum to the Park Development Agreement will be presented to the Bismarck Parks and Recreation District for review. Because the overall programming, location, and function of the park would not change, this addendum is not attached to the report.

A stormwater and drainage easement is included as part of Lot 1, Block 2, Silver Ranch 2<sup>nd</sup> Addition. This was shown as a separate lot on the preliminary plat, but has been combined with the lot to the north because this stormwater detention facility will remain privately owned. The Parks and Recreation District does not intend to use this land for continuation of a trail.

The area includes a series of wetlands. A jurisdictional determination is pending from the U.S. Army Corps of Engineers, with possible measures necessary to mitigate any impacts to these wetlands from development or construction of infrastructure. The City Engineer conditionally approved the post construction stormwater management permit and noted that a final resolution of

wetland permitting process may require amendments to the permit and/or the plat.

#### *Utility Capital Charges*

The creation of any new lots in the City of Bismarck is subject to utility capital charges for municipal utilities. The Public Works Department – Utility Operation Division has determined that utility capital charges will be due prior to annexation or establishment of the street improvement district for this subdivision, whichever is initiated last.

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

##### *Zoning Change*

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or other agencies may 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, if necessary trunklines are extended prior to annexation;
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.

(continued)

*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;
4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP)
5. The requirements of the neighborhood parks and open space policy have been met with an existing park development agreement;
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 located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain. However, the subdivision is proposed to be developed according to existing ordinance requirements pertaining to development in the floodplain and therefore, the proposed development would not adversely impact water quality and/or environmentally sensitive lands,
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 for a zoning change from the R10 – Residential, CA – Commercial, P – Public and A – Agricultural zoning districts to the R10 – Residential, CA – Commercial and P – Public zoning districts, and of a major subdivision final plat for Silver Ranch Second Addition, including the waiver request for cul-de-sacs, with the following conditions:

1. An easement for an emergency vehicle turnaround is obtained immediately beyond the southeast terminus of Silver Ranch Road in conjunction with recordation of the plat.
2. The City would not enter into any contracts relating to the construction of municipal infrastructure in any delineated wetland areas until a resolution on the jurisdictional determination, avoidance and mitigation is achieved with the US Army Corps of Engineers.

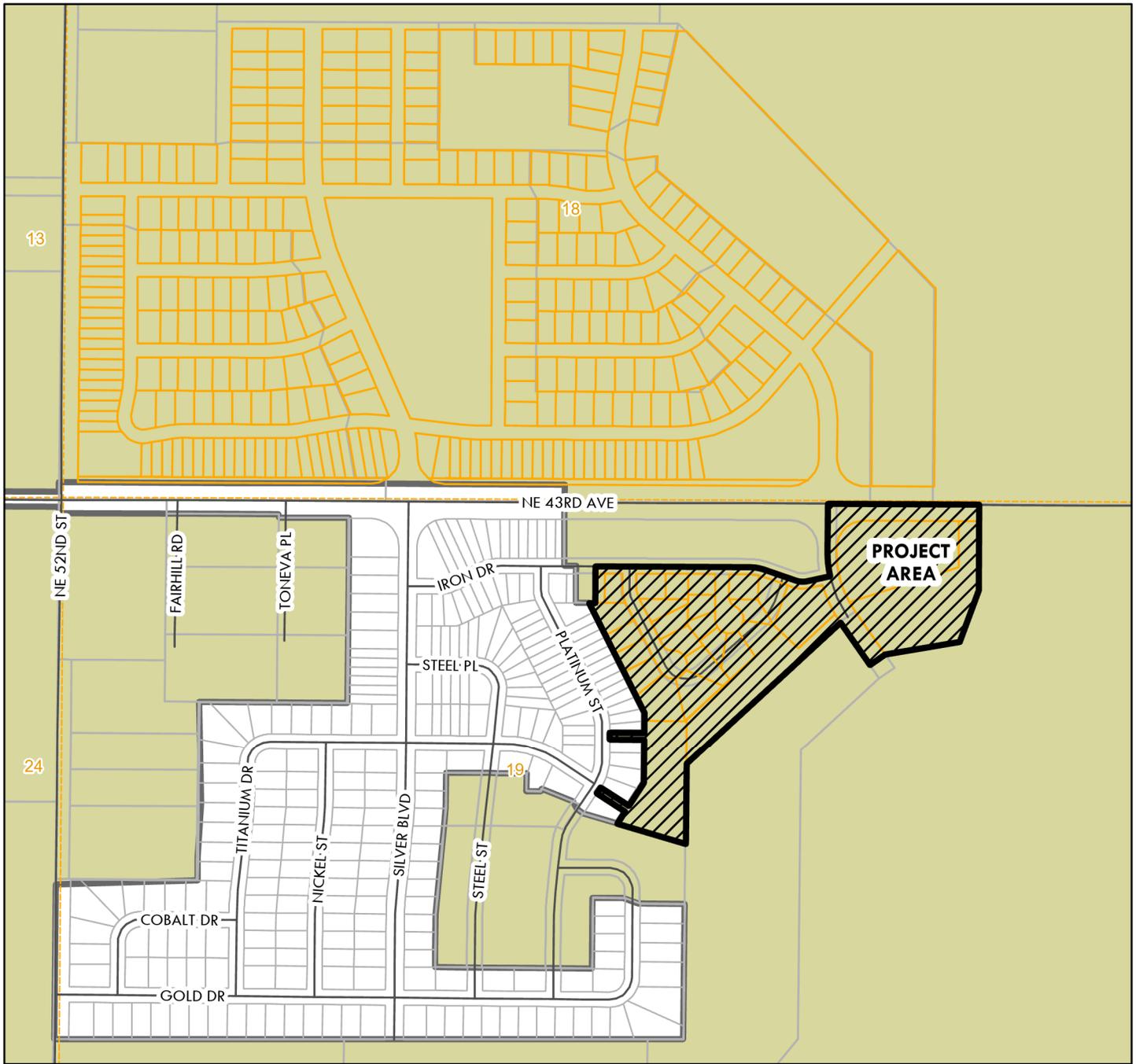
**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Proposed zoning map
5. Final Plat
6. Preliminary Plat
7. Cul-de-sac Waiver Request



**Location Map**  
SILVER RANCH SECOND ADDITION

FPLT2020-009  
ZC2020-005

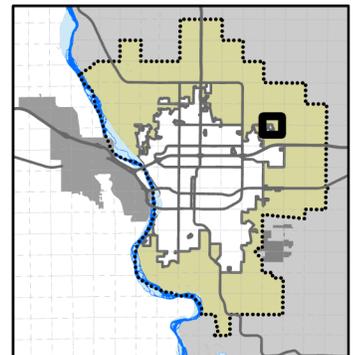


- City Limits
- County Outside ETA
- Bismarck ETA Jurisdiction
- Lots Pending Approval

*Section, township, and range indicated in orange*

City of Bismarck  
Community Development Department  
Planning Division  
August 13, 2020 (HLB)

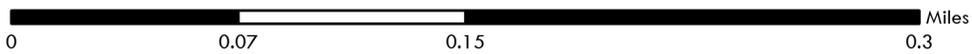
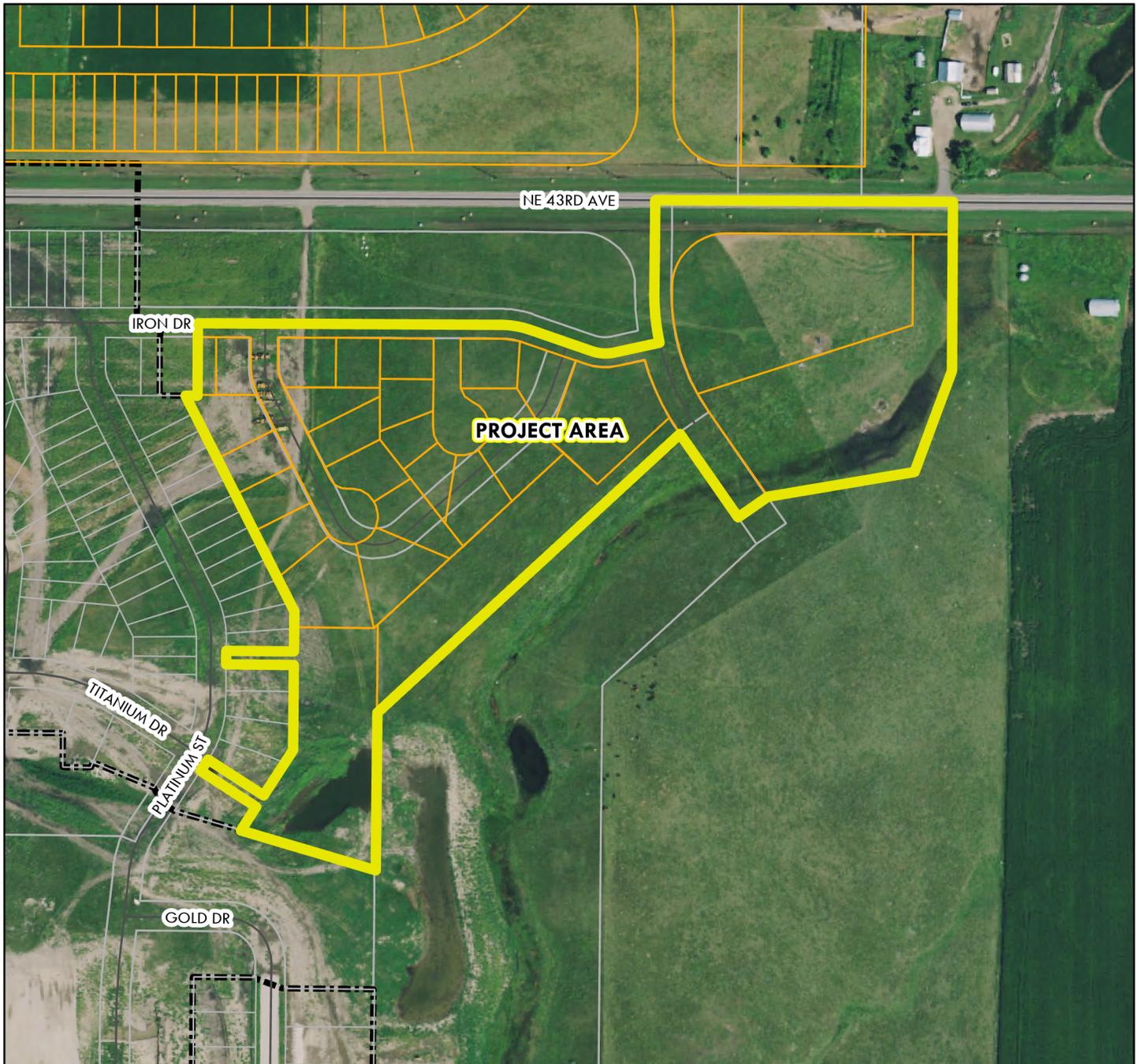
*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.*





**Aerial Map**  
SILVER RANCH SECOND ADDITION

FPLT2020-009  
ZC2020-005

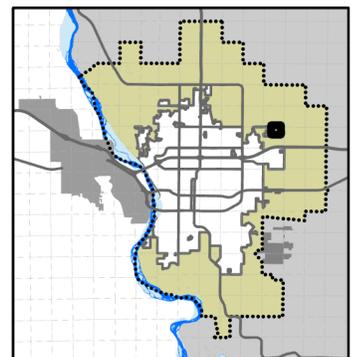


- Lots Pending Approval
- City Limits
- Bismarck ETA Jurisdiction

Aerial Imagery from 2019

City of Bismarck  
Community Development Department  
Planning Division  
August 13, 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

Lots 4-6, Block 16, Northern Pacific Addition

FPLT2020-009  
ZC2020-005

### Zoning Districts

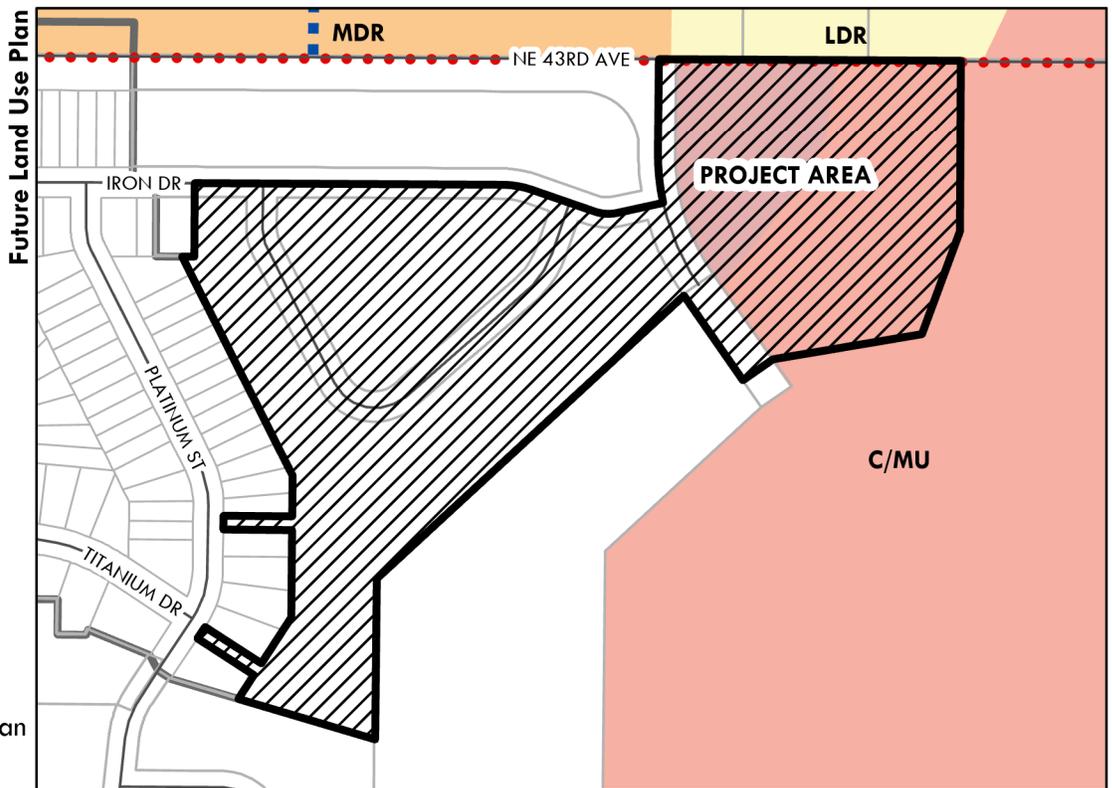
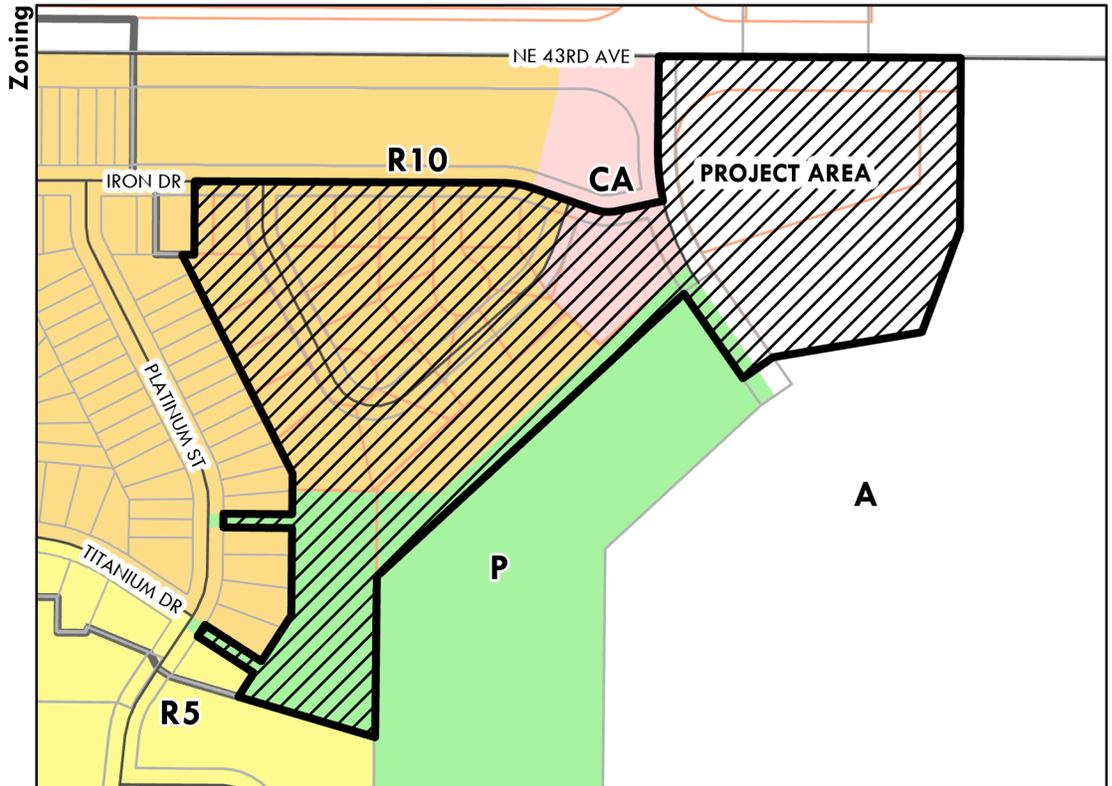
- A** Agriculture
- RR** Rural
- R5** Residential
- RMH** Residential  
Manufactured Home Residential
- R10** Residential
- RM** Residential  
Multifamily
- RT** Residential  
(Offices)
- HM** Health and  
Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned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

### Future Land Use Plan

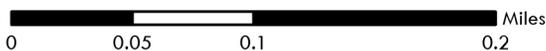
- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/  
Mixed Use
- CIVIC** Civic
- HDR** High Density  
Residential
- I** Industrial
- LDR** Low Density  
Residential
- MDR** Medium Density  
Residential
- MDR-  
/MU** Medium Density  
Residential/  
Mixed Use
- O/MU** Office/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

### Fringe Area Road Master Plan

- Future Arterial Road
- ■ ■ Future Collector Road



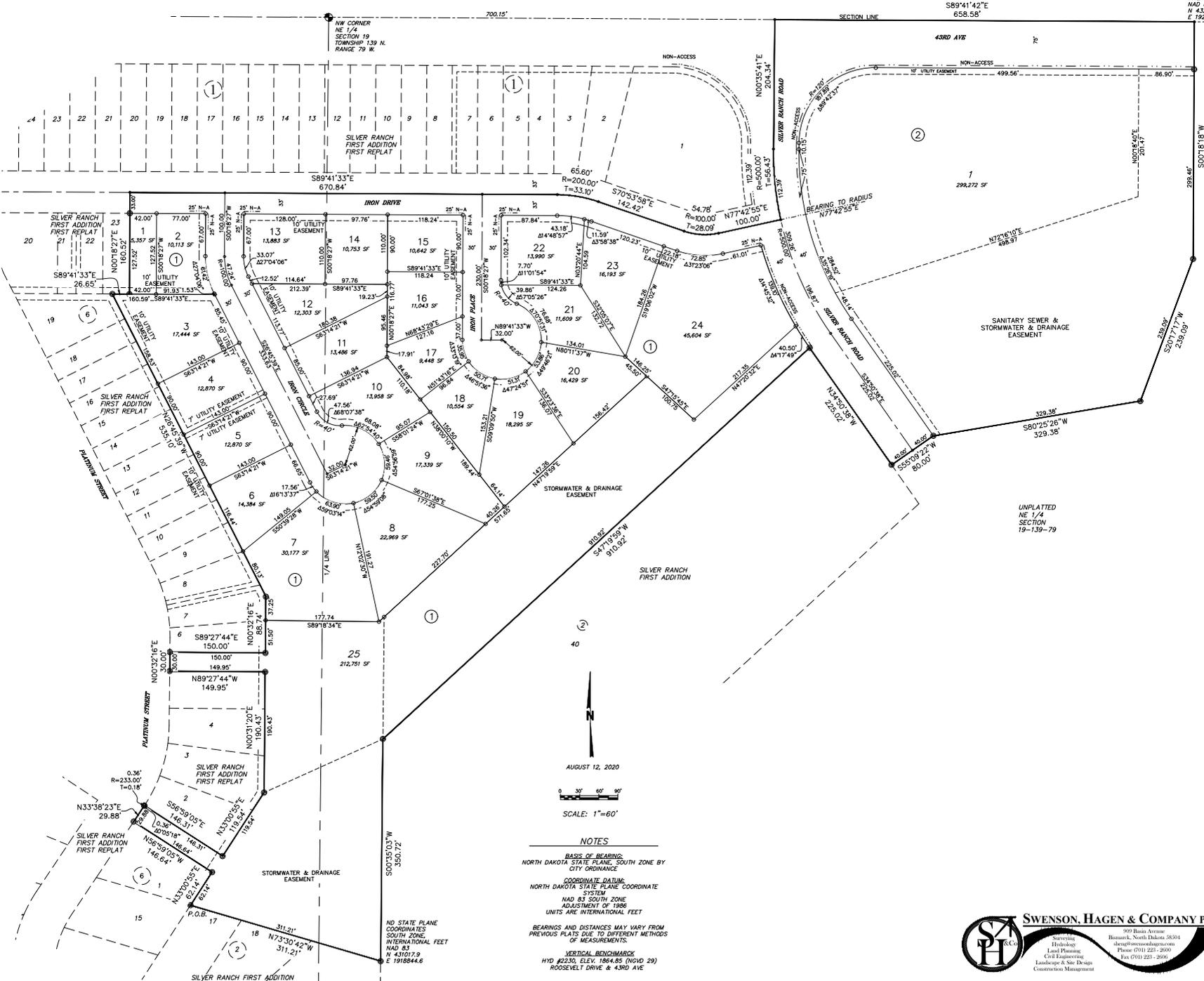
*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.*



City of Bismarck  
Community Development Dept.  
Planning Division  
August 13, 2020

**SILVER RANCH SECOND ADDITION**  
 BEING A REPLAT OF LOTS 24-49 BLOCK 6, LOTS 1-20 BLOCK 7,  
 SILVER RANCH FIRST ADDITION FIRST REPLAT, ALL OF BRONZE LOOP RIGHT-OF-WAY,  
 PART OF IRON DRIVE AND SILVER RANCH ROAD RIGHTS-OF-WAY,  
 AND AUDITOR'S LOT D OF THE NE 1/4 OF  
 SECTION 19, TOWNSHIP 139 NORTH, RANGE 79 WEST OF THE FIFTH PRINCIPAL MERIDIAN  
 BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

NO STATE PLANE  
 COORDINATES  
 SOUTH ZONE  
 INTERNATIONAL FEET  
 NAD 83  
 N 432500.5  
 E 1920127.9



**NOTES**

**BASIS OF BEARINGS:**  
 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

**VERTICAL BENCHMARK:**  
 HYD 2230, ELEV. 1864.85 (NGVD 29)  
 ROOSEVELT DRIVE & 43RD AVE

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

500 Main Avenue  
 Bismarck, North Dakota 58501  
 shen@swensonhagen.com  
 Phone (701) 223-2600  
 Fax (701) 223-2606  
 Construction Management







## *Community Development Department*

**DATE:** September 1, 2020

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

**ITEM:** Lot 1, Block 1, Pat’s Acres and Auditor’s Lots A, B and C of the NE¼ of the NE¼ of Section 14, T139N-R81W/West Hay Creek Township – Zoning Change

### **REQUEST**

Chase and Toni Dauenhauer are requesting approval of a zoning change from the A – Agricultural and RR – Residential zoning districts to the PUD – Planned Unit Development zoning district on Lot 1, Block 1, Pat’s Acres and Auditor’s Lots A, B and C of the NE¼ of the NE¼ of Sec 14, T139N-R80W/Hay Creek Township. This zoning change would allow seasonal commercial recreation and agritourism uses on the property in addition to the existing rural residential and agricultural uses.

The property is located northwest of Bismarck, west of River Road along the south side of Burnt Creek Loop.

Please place this item on the September 8, 2020 and September 22, 2020 City Commission meeting agendas.

### **BACKGROUND INFORMATION**

The Planning and Zoning Commission held a public hearing on this request on August 26, 2020.

No residents spoke at the public hearing and no written comments were received.

At the conclusion of final consideration, 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 and RR – Residential zoning districts to the PUD – Planned Unit Development zoning district on Lot 1, Block 1, Pat’s Acres and Auditor’s Lots A, B and C of the NE¼ of the NE¼ of Section 14, T139N-R81W/West Hay Creek Township as outlined in the draft PUD ordinance.

## **RECOMMENDED CITY COMMISSION ACTION**

September 8th meeting of the Board of City Commissioners – consider the zoning change as outlined in Ordinance 6436 and call for a public hearing on this item for the September 22nd meeting of the Board of City Commissioners.

September 22nd meeting of the Board of City Commissioners – hold a public hearing on the zoning change as outlined in Ordinance 6436 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. 6436**

<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 and RR – Residential districts and included within the PUD – Planned Unit Development District.

Lot 1, Block 1, Pat’s Acres and Auditor’s Lots A, B, and C of the NE ¼ of the NE ¼ of Section 14, T139N-R81W/West Hay Creek Township.

This PUD is subject to the following development standards:

1. *Permitted Uses.* The following uses are permitted within this Planned Unit Development:
  - a. Single-family rural residential uses.
  - b. Farming group
  
2. *Seasonal Permitted Uses.* The following seasonal uses are permitted within this Planned Unit Development:
  - a. Seasonal commercial recreation uses limited to agritourism and commercial recreation activities such as pumpkin patches, corn mazes, horse-drawn rides and other activities that are traditional agritourism activities and involve little food processing (September to October).

- b. Winter agritourism and commercial recreation activities such as sleigh rides, horse-drawn rides, and Christmas tree sales (Thanksgiving to New Year's Day).
  - c. Special events such as reunions, weddings, planting events, horse show and riding events, company picnics, fund raising events and other similar special events and activities outside of the seasonal period listed above. The total number of days for these events shall not exceed 20 per year and shall be limited to no more than 3 consecutive days in length.
  - d. Event-themed activities, attractions, demonstrations, concessions and sales of event-themed merchandise in conjunction with the above uses. Mechanical rides, such as those typically found at a carnival, shall not be allowed.
  - e. An indoor arena up to twenty thousand (20,000) square feet for equine events on a limited basis per the date limitations for events and activities indicated above.
  - f. An indoor event center, to support the permitted uses, up to eight thousand (8,000) square feet on a limited basis per the date limitations for events and activities indicated above.
3. *Special Uses.* The following uses are allowed as special uses within this Planned Unit Development, subject to the provisions of Section 14-03-08 of the City Code of Ordinances:
- a. Seasonal sales of locally grown farm or garden produce.
  - b. Seasonal sales of nursery and bedding stock.
- Other special uses identified in Section 14-03-08 but not included in this list shall be prohibited.
4. *Use Standards.* All uses within this planned unit development shall conform to the following requirements:
- a. There is no unusual fire, explosion or safety hazard.
  - b. If a public address (PA) or similar system is used to amplify sound, speakers must be directed so as to minimize the impact of the amplified sound on adjacent properties. The use of amplified sound on the site shall be limited to the hours of 9:00am to 7:00pm.
  - c. Parking on grass and agricultural areas may be used for commercial recreation and agritourism activities that are

not indoors. Gravel surface parking areas must be provided for the indoor arena and event center buildings in accordance with the parking calculations outlined in Section 14-03-10. Appropriate improvements to ingress and egress locations shall be made and maintained to ensure no tracking of mud and debris onto adjacent roadways. Access to the property shall be limited to permitted access points along Burnt Creek Loop.

- d. If external illumination is used, lighting must be placed and directed so as to minimize light trespass on adjacent properties. The use of external lighting shall not be allowed after 8:00pm.

5. *Dimensional Standards.*

- a. Front Yard Setback. The minimum front yard setback is fifty (50) feet as measured from the front property line for all new buildings.
- b. Side Yard Setback. The minimum side yard setback is fifty (50) feet for all new buildings.
- c. Rear Yard Setback. The minimum rear yard setback is fifty (50) feet for all new buildings.
- g. Height. The maximum building height is thirty-five (35) feet for all new buildings, with a maximum sidewall height of twenty (20) feet.

6. *Development Standards.*

- a. Landscaping and Screening. The existing wooded areas along the southwesterly corner of Auditor's Lot A of the NE ¼ of the NE ¼ of Section 14, T139N-R81W/West Hay Creek Township shall remain in place in order to provide continued screening of the seasonal commercial recreational uses from the adjacent rural residential uses. Additional trees shall be planted along the western edge of Auditor's Lot A of the NE ¼ of the NE ¼ of Section 14, T139N-R81W/West Hay Creek Township if additional structures or site improvements are implemented to support the agritourism and commercial recreational uses. If trees need to be removed for any reason, replacement trees shall be provided at the rate of two replacement trees for each tree removed. No additional landscaping or buffer yards will be required.

- b. Design and Aesthetic. All new buildings and building renovations shall be constructed in a style typical of agricultural buildings. Façade design should be complimentary to existing buildings on the properties and shall be wood, synthetic or metal materials (vinyl products are not allowed). Principal building façade color shall be red and all accents and trim colors either white or black. Where buildings have long, visually uninteresting facades and roof lines, the façade should be broken up with variations such as building bump outs or use of alternating materials, and the roof broken up by the addition of dormers or variations of roof lines. Buildings shall have clearly identifiable entrances.
  - c. Signage. Signs shall be allowed per the standards outlined in Chapter 14-03.1 for the A – Agricultural zoning district.
7. *Changes.* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major changes require a public hearing and approval by the Bismarck Planning & Zoning Commission.

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

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



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

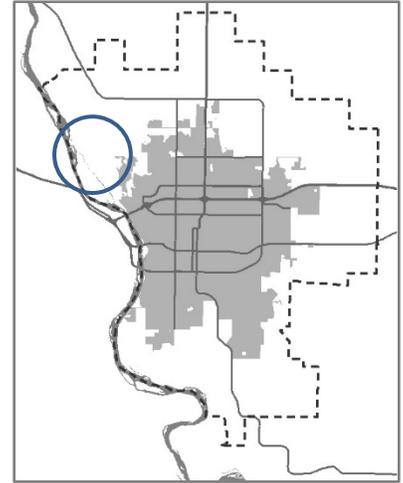
August 26, 2020

## Application for: Zoning Change

TRAKiT Project ID: ZC2020-009

### Project Summary

<b>Title:</b>	Lot 1, Block 1, Pat's Acres and Auditor's Lots A, B and C of the NE <sup>1</sup> / <sub>4</sub> of the NE <sup>1</sup> / <sub>4</sub> of Section 14, T139N-R81W/West Hay Creek Township
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Chase and Toni Dauenhauer
<b>Project Contact:</b>	Chase Dauenhauer
<b>Location:</b>	Northwest of Bismarck, west of River Road, along the south side of Burnt Creek Loop
<b>Project Size:</b>	33.25 acres
<b>Request:</b>	Rezone property to allow for seasonal commercial recreation uses in addition to existing rural residential and agricultural uses.



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	4 parcels	<b>Number of Lots:</b>	4 parcels
<b>Land Use:</b>	Rural residential and agricultural	<b>Land Use:</b>	Agricultural and seasonal commercial recreation uses
<b>Designated GMP Future Land Use:</b>	Conventional Rural Residential	<b>Designated GMP Future Land Use:</b>	Conventional Rural Residential
<b>Zoning:</b>	A – Agricultural RR – Residential	<b>Zoning:</b>	PUD – Planned Unit Development
<b>Uses Allowed:</b>	A – Agriculture RR – Large lot single-family residential and limited agriculture	<b>Uses Allowed:</b>	PUD – Uses specified in PUD
<b>Max Density Allowed:</b>	A – 1 unit / 40 acres RR – 1 unit per 65,000 square feet	<b>Max Density Allowed:</b>	PUD – Density specified in PUD

### Property History

<b>Zoned:</b>	Pat's Acres 9/2004	<b>Platted:</b>	Pat's Acres 1/1988	<b>Annexed:</b>	N/A
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(continued)

## Staff Analysis

Chase and Toni Dauenhauer are requesting approval of a zoning change from the A – Agricultural and RR – Residential zoning districts to a PUD – Planned Unit Development zoning district for Lot 1, Block 1, Pat's Acres and Auditor's Lots A, B and C of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 14, T139N-R81W/West Hay Creek Township.

The Planning and Zoning Commission considered this request at their meeting of July 22, 2020 and called for a public hearing on the zoning change.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on August 14<sup>th</sup> and 21<sup>st</sup>, and 13 letters were mailed to the owners of nearby properties on August 14<sup>th</sup>.

Adjacent uses include agricultural uses to the north and east; rural residential, agricultural and seasonal commercial recreation uses to the south; and rural residential uses to the west.

The applicant has historically assisted the south-adjointing property owner with operation of what is known as Papa's Pumpkin Patch. Those events will not occur this year. The applicant desires to provide events in the fall similar to those that occurred at Papa's Pumpkin Patch but in a reduced capacity. In addition, the applicant is interested in future development of their site for other agritourism and commercial recreation uses.



Photo of existing site conditions from Burnt Creek Loop.

Commercial recreational uses are only allowed in the CG – Commercial and MA – Industrial zoning districts. Neither of these zoning districts would be appropriate in this location because of the intensity of the other permitted uses within those districts; therefore, the PUD is being proposed to address seasonal commercial recreational uses.

### *Allowable Uses*

The proposed Planned Unit Development would allow the continued use of the properties for agricultural and rural residential uses and also allow for seasonal agritourism and commercial recreation uses. Examples of these uses may include pumpkin patches, corn mazes, horse-drawn rides, sleigh rides, Christmas tree sales and other activities that are traditional agritourism activities and involve little food processing. These agritourism and commercial recreation uses will allow concessions and sales of event-themed merchandise.

### *Allowable Events and Date Limitation*

Date limitations on these uses are confined to September to October, Thanksgiving Day to New Year's Day and up to 20 additional days per calendar year for one to three day events such as reunions, weddings, planting events, company picnics, fundraising events, church events, equine events, training, demonstrations, horse drawn rides, and riding lessons.

It is anticipated that some of the agritourism and commercial recreation activities may extend onto the south adjacent property consisting of Lots 4, 5 and 6, Block 1, Pearce Estates, which is a separate PUD that allows commercial recreation uses for Papa's Pumpkin Patch. Both properties may allow these uses to cross each of the two PUD zoning districts and property boundaries as long as the spill-over uses are allowed within each respective property's PUD zoning provisions.

### *Use Standards*

Additional standards are outlined in the PUD that are intended to lessen impacts of the proposed agritourism and commercial recreational uses on the adjacent rural residential uses. These standards include measures to

(continued)

prevent sound and light trespass and additional planting requirements in conjunction with future development.

The PUD allows for parking on grass and agricultural land for outdoor seasonal activities. The construction of any new buildings intended for agritourism and commercial recreation uses will require a gravel surface parking area and are subject to the off-street parking calculations outlined in Section 14-03-10 (Off-Street Parking and Loading) of the City Code of Ordinances.

#### *Future Site Development*

The applicant has indicated a desire to construct an indoor event center space for events such as weddings, reunions and company picnics and an indoor arena for equine events within the proposed zoning district to support the seasonal agritourism and commercial recreation uses. The maximum allowable sizes of these buildings would be 8,000 square feet for the indoor event center and 20,000 square feet for the indoor arena for equine events. The maximum allowable sidewall height for these buildings is 20 feet with a maximum allowable height of 35 feet. All new buildings will need to meet applicable building and fire code standards.

Portions of the property are not platted. If future buildings will be constructed to support any of the proposed uses on property in an area that is not currently platted, the remaining property would need to be platted. All access to the property and the proposed uses will be from Burnt Creek Loop. If an additional access points are desired to serve the new proposed uses, the applicant will need to obtain approval of new access from Burleigh County.

#### *Design Standards*

Future development will be subject to design and aesthetic standards that are intended to be harmonious with the existing uses on site and compatible with the adjacent uses.

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

1. The proposed zoning change does not generally conform to the Future Land Use Plan

in the 2014 Growth Management Plan, as amended; however, because of the seasonal nature of the commercial recreation uses, the proposed zoning change would be consistent with the Future Land Use Plan which identifies the long-term use of the land as rural residential;

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 recommended approval of the proposed zoning change;
5. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

#### **Staff Recommendation**

Based on the above findings, staff recommends approval for the zoning change from the A – Agricultural and RR – Residential zoning district to a PUD – Planned Unit Development zoning district for Lot 1, Block 1, Pat's Acres and Auditor's Lots A, B and C of the NE<sup>1</sup>/<sub>4</sub> of the NE<sup>1</sup>/<sub>4</sub> of Section 14, T139N-R81W/West Hay Creek Township as outlined in the attached PUD ordinance.

(continued)

**Attachments**

1. Draft PUD Ordinance
  2. Location Map
  3. Aerial Map
  4. Zoning and Plan Reference Map
  5. Site Exhibit
- 

*Staff report prepared  
by:*

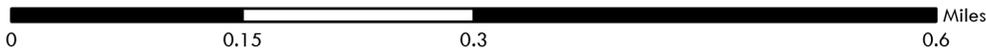
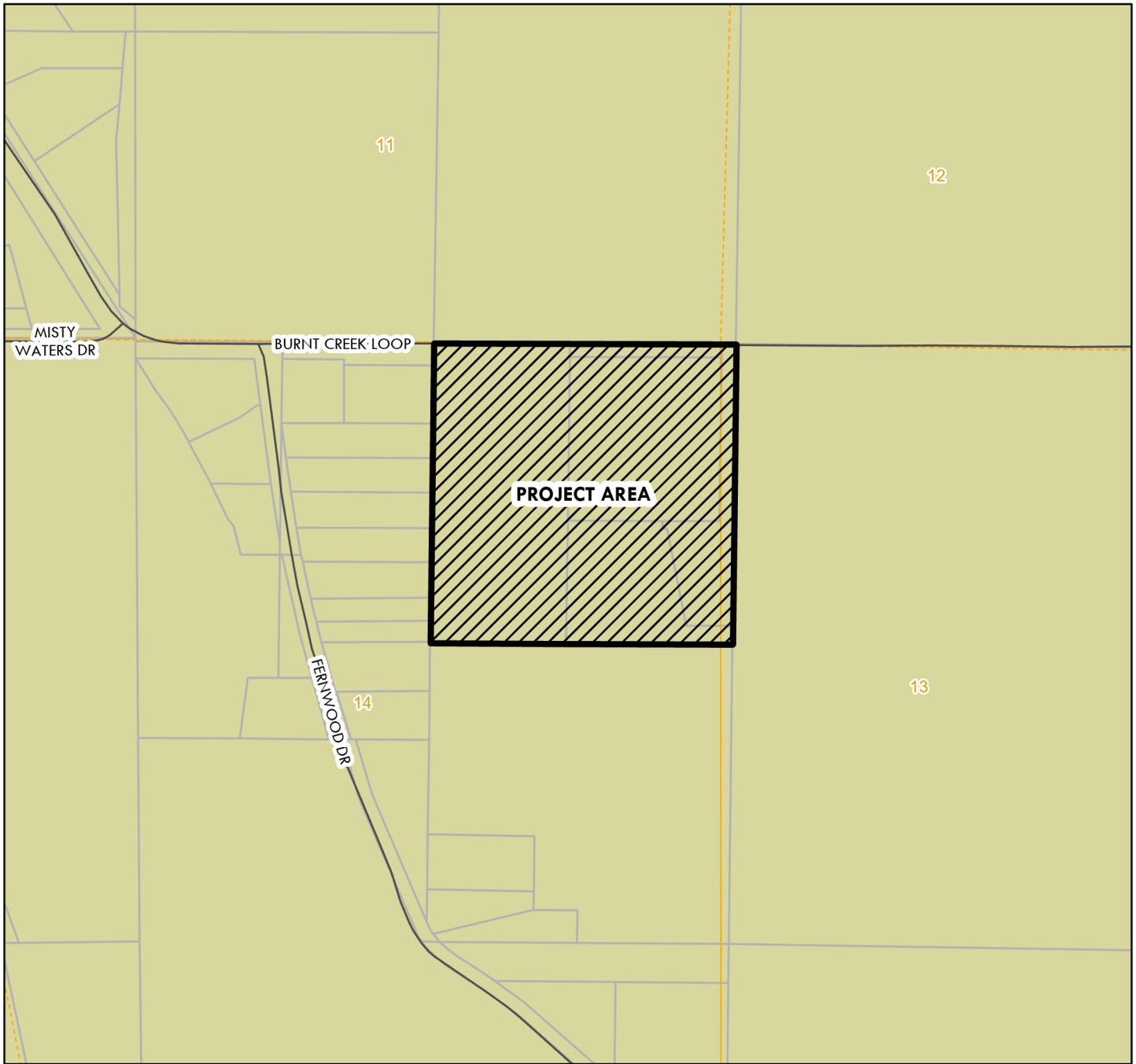
Will Hutchings, Planner  
701-355-1850 | [whutchings@bismarcknd.gov](mailto:whutchings@bismarcknd.gov)



# Location Map

ZC2020-009

PATS ACRES, L1, B1; PT SEC 14 HAY CREEK TWP

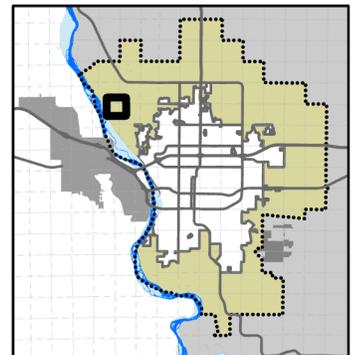


- Bismarck ETA Jurisdiction
- County Outside ETA

*Section, township, and range indicated in orange*

City of Bismarck  
 Community Development Department  
 Planning Division  
 August 18, 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 herein.*

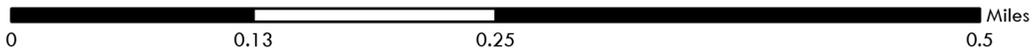
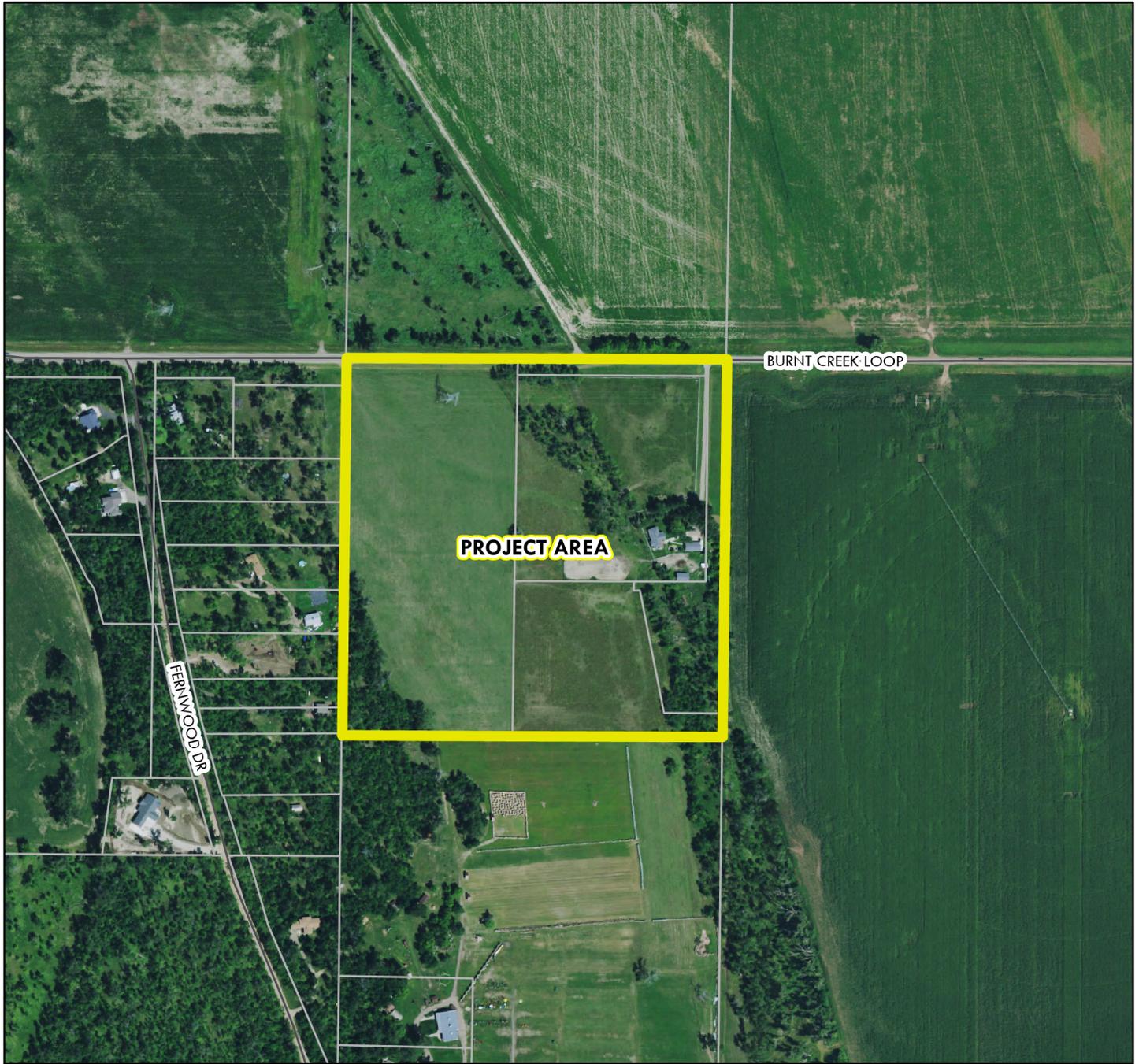




# Aerial Map

ZC2020-009

PATS ACRES, L1, B1; PT SEC 14 W HAY CREEK TWP

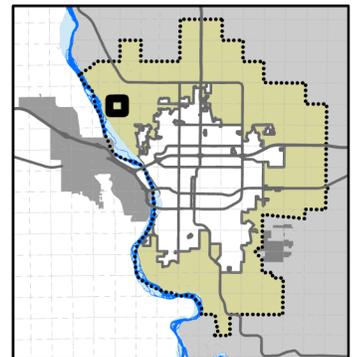


 Bismarck ETA Jurisdiction

Aerial Imagery from 2019

City of Bismarck  
Community Development Department  
Planning Division  
August 31, 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

ZC2020-009

PATS ACRES, L1, B1; PT SEC 14 W HAY CREEK TWP

### Zoning Districts

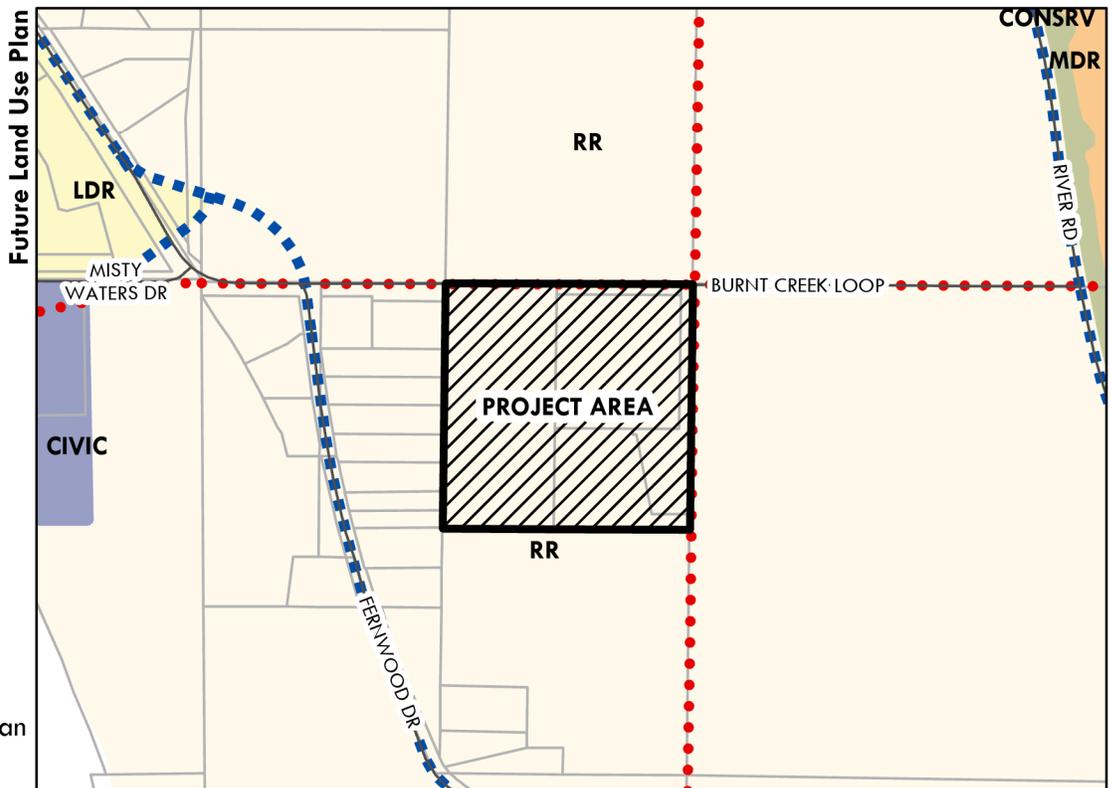
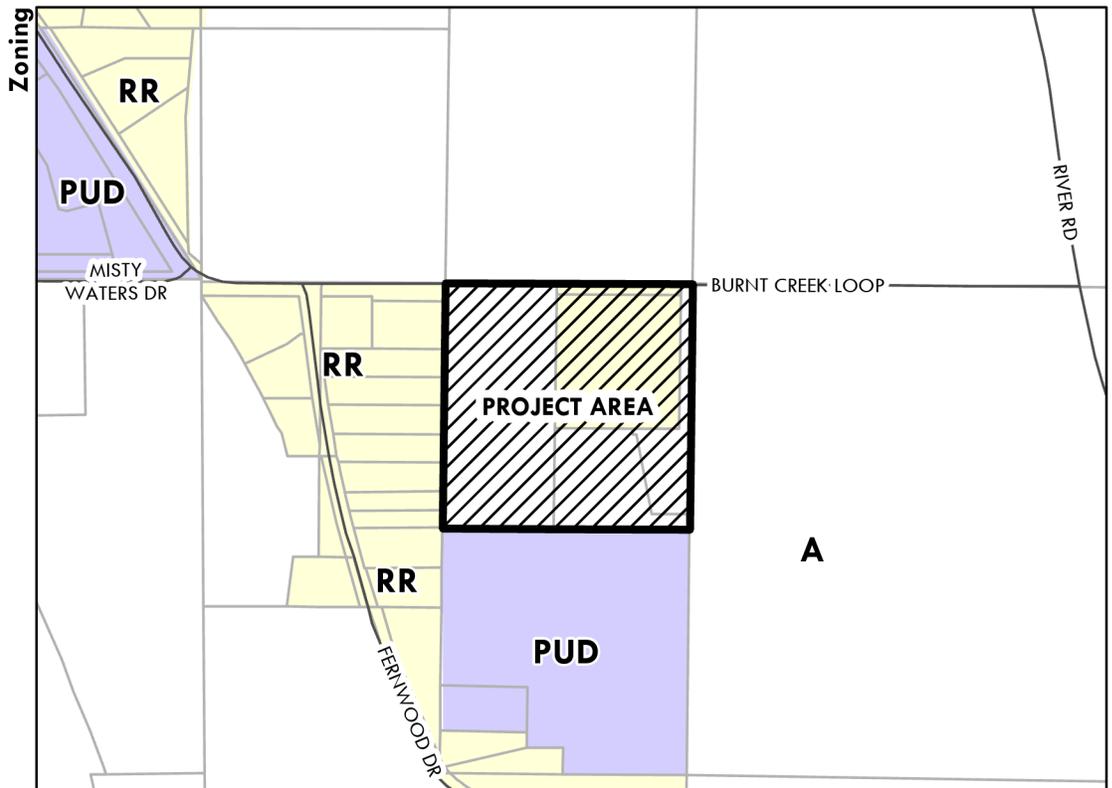
<b>A</b>	Agriculture
<b>RR</b>	Rural Residential
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>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

### Future Land Use Plan

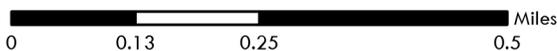
<b>CONSRV</b>	Conservation
<b>BP</b>	Business Park
<b>C</b>	Commercial
<b>C/MU</b>	Commercial/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use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

### Fringe Area Road Master Plan

- ● ● Future Arterial Road
- ■ ■ Future Collector Road

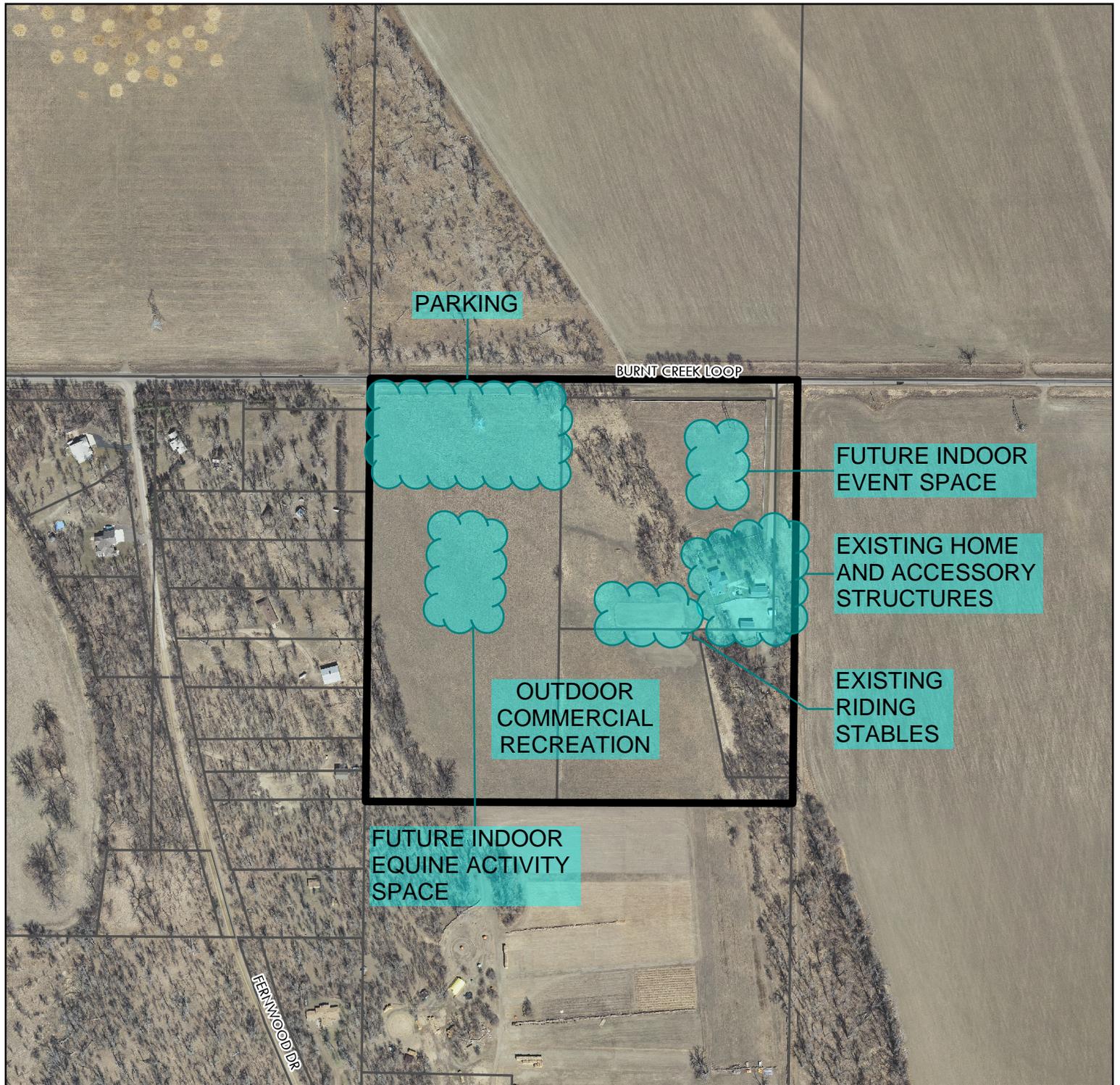


*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.*



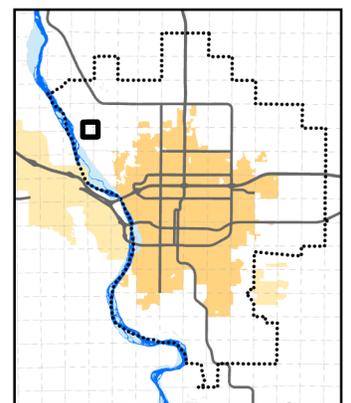
City of Bismarck  
 Community Development Dept.  
 Planning Division  
 August 31, 2020

# Site Plan Exhibit



This map is for reference purpose only and is not intended as a survey or accurate representation of all map features.

0 8,14516,290 32,580 Feet





## *Engineering Department*

**DATE:** September 1, 2020

**FROM:** Gabe Schell, City Engineer

**ITEM:** Amendment to Existing Agreement for Professional Services with AE2S for Tyler Coulee Regional Stormwater Design

### **REQUEST**

Approval of Amendment #2 to Existing Agreement for Professional Services with AE2S for Tyler Coulee Regional Stormwater Design

Please place this item on the 9/8/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

AE2S is under contract to perform engineering services relating to regional stormwater improvements in the Tyler Coulee watershed. This project would construct necessary stormwater peak flow mitigation improvements as outlined in the 2016 Tyler Coulee Stormwater Master Plan.

The general scope outlined in this amendment is to perform additional cultural resource delineations as required by the US Army Corp of Engineers in conjunction with project permitting.

### **RECOMMENDED CITY COMMISSION ACTION**

Approve amendment to existing agreement for professional services with AE2S for Tyler Coulee Regional Stormwater Design

### **STAFF CONTACT INFORMATION**

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

**AMENDMENT NO. 2  
TO  
AGREEMENT BETWEEN OWNER AND  
ENGINEER FOR  
PROFESSIONAL SERVICES**

This Amendment No. 2 is effective as of September 8, 2020 (“Effective Date”) between City of Bismarck, 221 North 5<sup>th</sup> Street, Bismarck, ND 58501 (“OWNER”) and Advanced Engineering and Environmental Services, Inc., 1815 Schafer Street, Suite 301, Bismarck, ND 58501 (“ENGINEER”).

The document amends the Agreement between Owner and Engineer for Professional Services (the Agreement) dated October 28, 2014 for:

**Tyler Coulee Stormwater Management Plan (Project)**

All provisions not amended remain in full effect.

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

**1. Exhibit C:**

a. Replace of Paragraph 4.01.A.3 with the following:

3. “The total compensation for services under Paragraph C4.01 shall increase by \$5,200 to an amount not to exceed \$374,100, based on the following assumed distribution of compensation.

a. Study and Report	\$	54,900
b. Preliminary Design	\$	\$319,200
c. Final Design	\$	TBD
d. Bidding	\$	TBD
e. Construction	\$	TBD
f. Post Construction	\$	TBD

**2. Exhibit E:**

**Modify the following major elements:**

**II. Preliminary Design (030)**

Preliminary design phase services for construction of the stormwater features identified at the conclusion of the Study and Report Phase are comprised of the primary tasks identified below. Specific features include the Pioneer Park Channel, River Road Crossing, Clairmont Road Crossing, Clairmont Basin/Golf Drive, Valley Drive Crossing, Valley Basin, Tyler Parkway Crossing, Tyler Basin, and Eagle Crest Basin.

5. Data Collection

iii. ENGINEER will retain a subconsultant to perform the following services.

1. An update of the February 2020 Literature Review of the State Historical Society of North Dakota’s (SHSND) site and manuscript files will be conducted. Data collected from this review will provide an overview of previously conducted cultural resource

work within one mile either side of the area of potential effect (APE). This will identify all previously recorded cultural resource locations.

2. A Cultural Resource Inventory will be performed to Class III standards within the APE of the proposed undertaking. Areas with low visibility and good potential for cultural resources will be examined using shovel probes. It is anticipated that one archaeologist will conduct the fieldwork. Fieldwork will be completed in a timely manner when weather permits. ENGINEER's subconsultant is aware of a recent cultural resource survey that covers 0.75-miles of the project area. This area will not be resurveyed. In addition, ENGINEER's subconsultant will not revisit previously recorded sites 32BL847, 32BL849, 32BL850, and 32BL851. These sites were recently recorded, but not evaluated for listing on the National Register of Historic Places for a separate project. All cultural resources encountered will be recorded and site forms and GPS data submitted to the SHSND for a Smithsonian Institution Trinomial System (SITS) number. This scope assumes the identification/revisiting of up to, and including, two cultural resources (excepting 32BL847, 32BL849, 32BL850, and 32BL851).

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1, the Effective Date of which is indicated on page 1.

OWNER:

\_\_\_\_\_

By: Steve Bakken

Title: President of Board of City Commissioners

Date Signed: \_\_\_\_\_

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

Name: Keith Hunke

Title: City Administrator

Address for giving notices:

City of Bismarck

P.O. Box 5503

Bismarck, ND 58506-5503

Designated Representative (paragraph 6.02.A):

Michael J. Greer

Title: Design and Construction Engineer

Phone Number: (701) 355-1505

Facsimile Number: (701) 222-6593

E-Mail Address: mgreer@bismarcknd.gov

ENGINEER:

\_\_\_\_\_

By: Jeffrey M. Hruby, PE

Title: Chief Development Officer

Date Signed: 8/26/2020

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

Name: Brent Erickson, PE

Title: Senior Project Manager

Address for giving notices:

Advanced Engineering and Environmental Services, Inc.

1815 Schafer Street, Suite 301

Bismarck, ND 58501

Designated Representative (paragraph 6.02.A):

Jeffrey M. Hruby, PE

Title: Chief Development Officer

Phone Number: (701) 221-0530

Facsimile Number: (701) 221-0531

E-Mail Address: Jeff.Hruby@ae2s.com



## *Engineering Department*

**DATE:** September 1, 2020  
**FROM:** Gabe Schell, City Engineer  
**ITEM:** Water Utility Project No. 130

### **REQUEST**

Consider approval of Contract Change Order No. 4, Contract increase

Please place this item on the 9/8/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

Water Utility Project No. 130 consists of cast iron watermain replacement by pipe bursting in central Bismarck at various locations bounded by Boulevard Avenue, N 11th Street, Main Avenue and Washington St.

During construction, the number of lead service lines exceeded the estimated amount, resulting in quantity overruns on the related bid items. Lead service lines, when encountered, are replaced with copper service lines up to the curb stop, along with replacement of the curb stop. Change order No. 4 reflects the quantity overruns on copper service pipe, curb stop boxes and restoration related to the replacement of lead service lines.

Change Order No. 4 is for \$126,330.00. Previous approved change orders totaled \$42,459.30. The total for change orders 1 through 4 is \$168,789.30, resulting in a current contract amount of \$3,864,400, which is within the approved project budget. The original contract amount was \$3,695,611.00 with an approved project budget of \$4,065,172.10.

### **RECOMMENDED CITY COMMISSION ACTION**

Approved Change Order No. 4 for WU 130 in the amount of \$126,330.00.

### **STAFF CONTACT INFORMATION**

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

# CONTRACT CHANGE ORDER FORM

**DEPARTMENT**

City Department	<u>Engineering</u>		
Contractor	<u>Basaraba Excavating</u>		
Contract Number	<u>0</u>	Change Order Number	<u>4</u>
Project Number	<u>WU 130</u>	Change Order Date	<u>8/31/2020</u>
Project Description	<u>Water Main Replacement 2020</u>		
Original Contract Amount	<u>\$ 3,695,611.00</u>	Approved Contract Budget	<u>\$ 4,065,172.10</u>
Previous Contract Amount	<u>\$ 3,738,070.30</u>		
Change Order Amount	<u>\$ 126,330.00</u>		<b>ACTION REQUIRED (SEE BELOW)</b>
Proposed Contract Amount	<u>\$ 3,864,400.30</u>		
Within Project Scope	<u>YES</u>	Within Project Funding	<u>YES</u>
Contract Completion Date	<u>8/15/2021</u>	Change in Completion Date	<u>NO</u>
Revised Completion Date*		<small>*If completion date changed on this Change Order</small>	
Type of Change Order	<u>Design-related</u>	Work Order No(s).	<u>Qty Overrun</u>

**Description:**

Quantity overruns for lead service lines.  
 1" CU Water Service Pipe - 888LF @ \$60 = \$53,280.00  
 1" CB Stop - 38 @ \$650 = \$24,700.00  
 Replace Lead Service Farside - 10 @ \$3900 = \$39,000.00  
 Replace Lead Service Nearside - 7 @ \$800 = \$5,600.00  
 Sanitary Sewer Service Repair - 1 @ \$3,750 = \$3,750.00  
 TOTAL = \$126,330.00

Project Manager Signature (≤\$15,000) \_\_\_\_\_ **SIGN HERE**  
Date

Department Head Signature (≤\$25,000) \_\_\_\_\_ **SIGN HERE**  
Date

**ADMINISTRATION**

City Administrator Signature (≤\$50,000) \_\_\_\_\_  
 Add to Commission Agenda Date

**COMMISSION APPROVAL**

Commission Approval Date \_\_\_\_\_  
 Attach minutes for Commission Approval

**COMMISSION APPROVAL  
REQUIRED**

**FISCAL**

Comments



## *Engineering Department*

**DATE:** September 1, 2020

**FROM:** Gabe Schell, City Engineer

**ITEM:** North Dakota Department of Transportation (NDDOT) – School Safety Project – HC 136

### **REQUEST**

Consider approval of North Dakota Department of Transportation (NDDOT) Cost Participation, Construction, and Maintenance Agreement for Bismarck Public School Safety Improvements Project (TAU-1-981(124), PCN 22950, HC 136)

Please place this item on the 9/8/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The NDDOT requires approval of the attached agreement as a condition for the award of federal funding. This agreement details the respective responsibilities of the NDDOT and the City of Bismarck during construction and maintenance phases of the Bismarck Public School Safety Improvements Project. This project consists of installation of school speed limit signs. Funding is for federal fiscal year 2022.

The agreement obligates \$27,516 in federal funding not exceeding 80.93% of the total eligible project costs. The City is responsible for the 19.07% local match as well as all costs exceeding approximately \$34,000.

### **RECOMMENDED CITY COMMISSION ACTION**

Approve the NDDOT Cost Participation, Construction, and Maintenance Agreement

### **STAFF CONTACT INFORMATION**

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



Federal funds may not be obligated by the LPA, prior to FHWA approval of the program documents for the project.

## PART I

LPA Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

The LPA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The LPA shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the LPA of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

Include the following paragraph verbatim in any subcontracts they sign relative to this project:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the solicitation, award, and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.
3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways and the current edition of the NDDOT's *Local Government Manual*.
4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.
5. To comply with the procedures outlined in the current edition of NDDOT's *Local Government Manual*.
6. To comply with the current edition of NDDOT's *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects*.
7. The LPA will be responsible for any consideration, avoidance, and minimization of impacts upon real property related to this project, such as changes in the grades of streets, inconvenience to property or business, and any loss of light, air, view, access, egress, drainage, support, or nuisance,
8. To comply with the requirements of Appendices A and E of the Title VI Assurances, attached and incorporated by reference herein.



## PART II

### Contracting and Construction:

1. On behalf of the LPA, NDDOT will:
  - a. Prepare the bid package, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.
  - b. Evaluate the bids as to the sufficiency of Disadvantaged Business Enterprise (DBE) participation and the bidder's good faith efforts in satisfying the requirements of the current edition of the DBE special provision, and 49 CFR Part 26. NDDOT shall have exclusive authority in evaluating the adequacy of DBE participation.
  - c. Tabulate the bids and send to the LPA.
  - d. Concur in the award of the contract, after the LPA has executed the contract, for the sole purpose of enabling the LPA to procure federal aid for the construction of the project.
2. The LPA will:
  - a. Review bids to determine the lowest responsible bidder.
  - b. Execute the contract.
  - c. Distribute copies of the executed contract and contract bond to NDDOT.
3. During the construction of the project, the LPA will:
  - a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual* and the *Standard Specifications for Road and Bridge Construction*.
  - b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System*.
  - c. Make all records available to NDDOT and FHWA for inspection upon request. The LPA will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the LPA.
  - d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

## PART III

### Post Construction:

After the project is completed the LPA agrees to:

1. If the traffic corridor intersects a state highway, the LPA must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.



2. Prohibit the installation of traffic signals and pedestrian beacons on or in connection with the project, including those installed at the sole cost and expense of the LPA or by others, without NDDOT approval.
3. Maintain all traffic control devices on the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.
4. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.
5. Provide maintenance to the completed project at its own cost and expense.
6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

#### PART IV

General:

1. NDDOT will make all contract payments on behalf of the LPA. Payment will be made upon receipt of the engineer's estimate. The LPA will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

If the LPA fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the LPA, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the LPA out of the highway tax distribution fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
3. No official, employee, or other person performing services for the LPA who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the LPA shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the LPA, and such officer, employee, or person has not participated in such acquisition for and in behalf of the LPA.
4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.
5. Entities that receive federal funds through NDDOT may be required to obtain an audit in accordance with 2 C.F.R. Part 200, Subpart F. A copy of such audit shall be submitted to NDDOT. Entities that spend less than \$750,000 of federal funds from all sources may be subject to reviews by NDDOT at its discretion. Additionally, all entities receiving federal funds through NDDOT shall certify whether a Single Audit has been completed as part of the annual Federal award process. These requirements are applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.
6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.



Local Government Engineer  
ND Department of Transportation  
608 East Boulevard Avenue  
Bismarck, ND 58505-0700

7. The LPA is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.
8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The LPA, by the signature below of its authorized representative, hereby acknowledges that the LPA has read this agreement, understands it, and agrees to be bound by its terms and conditions.



Executed by the LPA of Bismarck, North Dakota, the date last below signed.

APPROVED:

Janelle Coombs

CITY/STATES ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

LPA of Bismarck

\*

Steve Bakken

NAME (TYPE OR PRINT)

SIGNATURE

\* President, Board of City Commissioners

TITLE

DATE

ATTEST:

Keith Hunke

AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA  
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

\*Mayor, President or Chairperson of Commission

CLA 19256 (Div. 38)  
L.D. Approved 4-12-93; 9-19



**CERTIFICATION OF LOCAL MATCH**

It is hereby certified that the LPA of Bismarck will provide non-federal funds, whose source is identified below, as match for the amount the LPA is obligated to pay under the terms of the attached agreement with the North Dakota Department of Transportation. The certified amount does not duplicate any federal claims for reimbursement, nor are the funds used to match other federal funds, unless expressly allowed by federal regulation.

**Non-Federal Match Funds provided by LPA.** Please designate the source(s) of funds in the LPA budget that will be used to match the federal funds obligated for this project through the North Dakota Department of Transportation.

**Source:** Sales Tax

Executed at Bismarck, North Dakota, the last date below signed.

ATTEST:

Keith Hunke

AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

APPROVED:

LPA of Bismarck

Steve Bakken

NAME (TYPE OR PRINT)

SIGNATURE

\* President, Board of City Commissioners

TITLE

DATE

\*Mayor, President or Chairperson of Commission

CLA 19256 (Div. 38)  
L.D. Approved 4-12-93; 9-19



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
APPENDIX A OF THE TITLE VI ASSURANCES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
APPENDIX E OF THE TITLE VI ASSURANCES**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



## Risk Management Appendix

### **Routine\* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:**

**Parties: State** – State of North Dakota, its agencies, officers and employees

**Governmental Entity** – The Governmental Entity executing the attached document, its agencies, officers and employees

**Governments** – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

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

- 1) **Commercial general liability and automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **\$250,000 per person** and **\$500,000 per occurrence**. The minimum limits of liability required of the State are **\$250,000 per person** and **\$1,000,000 per occurrence**.
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

**The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.**

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are \$250,000 per person and \$1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. The Governments shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this agreement or by the contractual indemnity obligations of the Contractor. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

\*See *North Dakota Risk Management Manual*, section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007  
Revised 11-19





## *Engineering Department*

**DATE:** September 1, 2020  
**FROM:** Gabe Schell, City Engineer  
**ITEM:** Sanitary Sewer Easement

### **REQUEST**

Request dedication of and acceptance of a sanitary sewer easement on Lot 11, Block 1, Eagle Crest Eighth Addition

Please place this item on the 9/8/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

This proposed sanitary sewer easement would append the platted sanitary sewer easement within Lots 11, 14, 15, and 16 to convey sanitary sewer flows from High Creek Place to the planned sanitary sewer lift station within Lot 12. The applicant will make minor modifications to the easement per remarks given to him by City staff prior to approval but the easement location and intent will remain the same.

### **RECOMMENDED CITY COMMISSION ACTION**

Approve dedication and acceptance of a sanitary sewer easement on Lot 11, Block 1, Eagle Crest Eighth Addition.

### **STAFF CONTACT INFORMATION**

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

## SANITARY SEWER EASEMENT

This indenture, made this \_\_\_\_\_ day of \_\_\_\_\_, 2020, between KNUTSON HOMES, INC whose address is 101 Slate Dr. Ste. 1, Bismarck, ND 58503, Grantors, and the **City of Bismarck**, a municipal corporation, whose post office address is P.O. Box 5503, Bismarck, North Dakota 58506-5503, Grantee.

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

2. This Easement is, except for right of access, limited to:

ALL THAT PART OF LOT 11 BLOCK 1 OF EAGLE CREST EIGHTH ADDITION OF SECTION 19, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE LOT LINE THAT IS COMMON TO LOTS 11 & 12 BLOCK 1 EAGLE CREST EIGHTH ADDITION, NORTH 01 DEGREE 14 MINUTES 37 SECONDS EAST, A DISTANCE OF 15' FROM THE NORTHEAST CORNER OF LOT 14 BLOCK 1 EAGLE CREST ADDITION; THENCE NORTH 88 DEGREES 45 MINUTES 23 SECONDS WEST, PARALLEL WITH THE NORTH LINE OF SAID LOT 14, AND ALONG THE NORTH LINE OF THE EXISTING 30' SANITARY SEWER EASEMENT, A DISTANCE OF 36.90 FEET; THENCE NORTH 20 DEGREES 50 MINUTES 02 SECONDS EAST, A DISTANCE OF 110.06 FEET TO THE LOT LINE THAT IS COMMON TO LOTS 11 & 12 EAGLE CREST EIGHTH ADDITION; THENCE SOUTH 01 DEGREE 14 MINUTES 37 SECONDS WEST, ALONG SAID LOT LINE, A DISTANCE OF 103.69 FEET TO THE POINT OF BEGINNING.



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

\_\_\_\_\_  
Steve Bakken, President  
Board City Commissioners

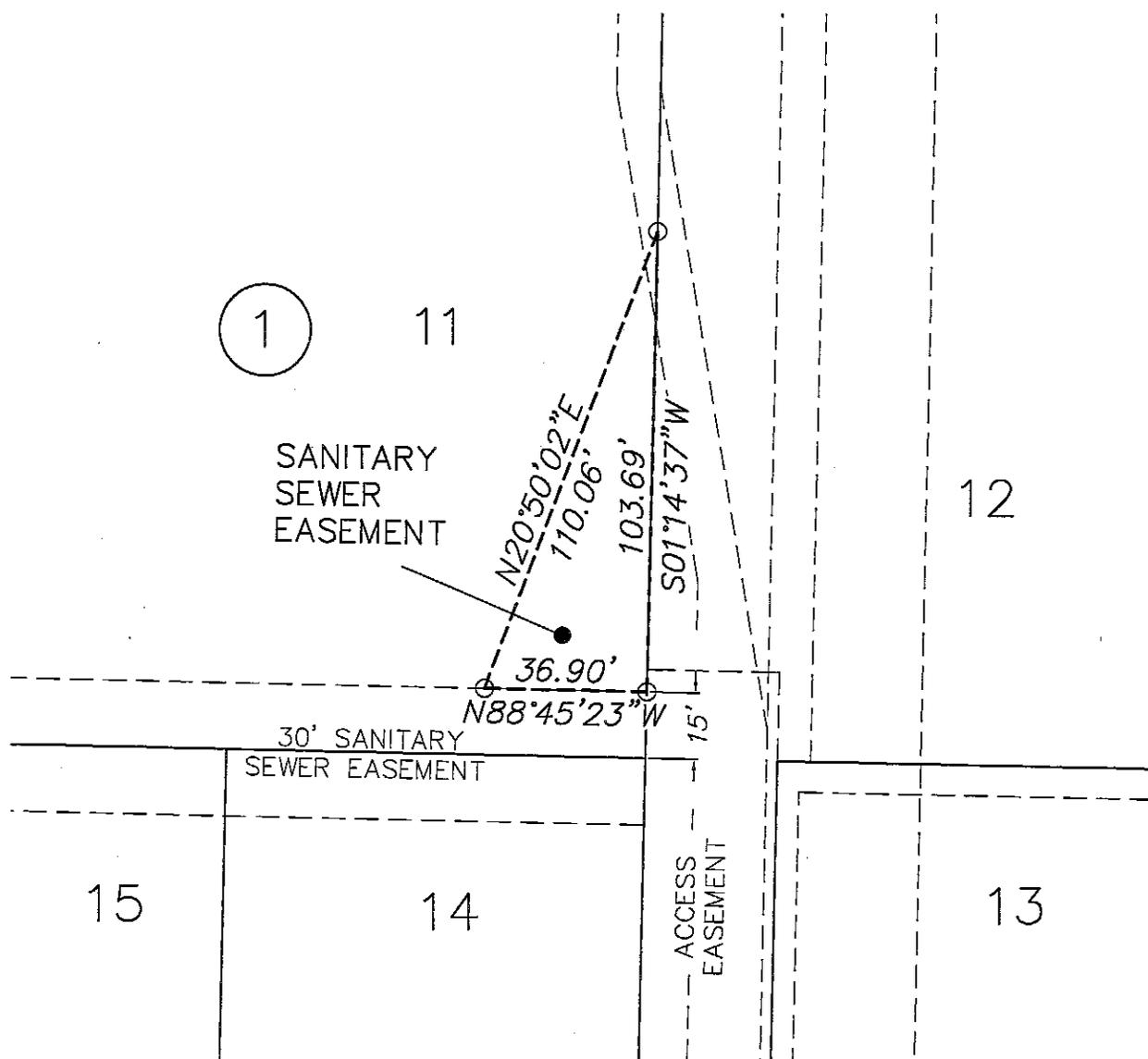
Attest: \_\_\_\_\_  
Keith J. Hunke  
City Administrator

STATE OF NORTH DAKOTA    )  
  ) SS  
COUNTY OF BURLEIGH     )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me personally appeared Steve Bakken, President of Board of City Commissioners, and Keith J. Hunke, City Administrator, known to me to be the persons who are described in, and who executed the within and foregoing instrument and who severally acknowledged to me that they executed the same.

\_\_\_\_\_  
Notary Public

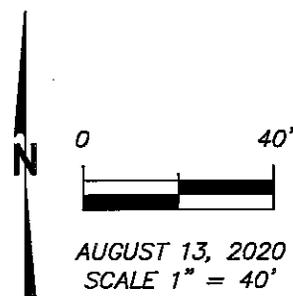
# SANITARY SEWER EASEMENT EXHIBIT



## SANITARY SEWER EASEMENT

ALL THAT PART OF LOT 11 BLOCK 1 OF EAGLE CREST EIGHTH ADDITION OF SECTION 19, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE LOT LINE THAT IS COMMON TO LOTS 11 & 12 BLOCK 1 EAGLE CREST EIGHT ADDITION, NORTH 01 DEGREE 14 MINUTES 37 SECONDS EAST, A DISTANCE OF 15' FROM THE NORTHEAST CORNER OF LOT 14 BLOCK 1 EAGLE CREST ADDITION; THENCE NORTH 88 DEGREES 45 MINUTES 23 SECONDS WEST, PARALLEL WITH THE NORTH LINE OF SAID LOT 14, AND ALONG THE NORTH LINE OF THE EXISTING 30' SANITARY SEWER EASEMENT, A DISTANCE OF 36.90 FEET; THENCE NORTH 20 DEGREES 50 MINUTES 02 SECONDS EAST, A DISTANCE OF 110.06 FEET TO THE LOT LINE THAT IS COMMON TO LOTS 11 & 12 EAGLE CREST EIGHTH ADDITION; THENCE SOUTH 01 DEGREE 14 MINUTES 37 SECONDS WEST, ALONG SAID LOT LINE, A DISTANCE OF 103.69 FEET TO THE POINT OF BEGINNING.





## EVENT CENTER

**DATE:** September 2, 2020  
**FROM:**  Charlie Jeske, Director  
**ITEM:** Parking deck area drain

### REQUEST

Please place on the September 8 Commission agenda the request to approve the recommendation for Northern Plains Plumbing with direction from Ubl Design to fix our drain on the Sweet Avenue employee parking area.

### BACKGROUND INFORMATION

This area has caused excessive water leakage the past few years and this would address this problem. Northern Plains Plumbing proposal is for \$8,600 and Ubl Design proposal for design and oversight is not to exceed \$1,500.

### RECOMMENDED CITY COMMISSION ACTION

Staff recommends Ubl Design and Northern Plains Plumbing to do the work .

### STAFF CONTACT INFORMATION

I will not be present at the City Commission meeting so please contact me at 355-1370 or [cjeske@bismarcknd.gov](mailto:cjeske@bismarcknd.gov) if you have any questions or require additional information prior to the meeting.

## Charlie Jeske

---

**From:** Jeff Ubl <jeff@ubldesign.com>  
**Sent:** Wednesday, August 5, 2020 11:31 AM  
**To:** Charlie Jeske  
**Subject:** BEC Parking Deck Area Drain  
**Attachments:** Bismarck Event Center Area Drain.pdf

Charlie,

Attached is the quote for North Plains Plumbing for the area drain at the upper level parking area. In addition to this I would estimate and additional \$1,500.00 for us to over see the installation. I would invoice that on an hourly not to exceed with a maximum of \$1,500.00.

If you have any question please give me a call.

**Jeffrey J. Ubl, AIA**  
**Übl Design Group, P.C.**  
210 South 12th Street  
Bismarck, North Dakota 58504-5622  
t:701-751-4555 | f:701-751-4556 | m:701-426-2544

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**Plumbing, Heating & Air**

**\*\* 24 HOUR EMERGENCY SERVICE \*\***

2510 VERMONT AVENUE

BISMARCK, ND 58504

PHONE: (701) 222-2155

FAX: (701) 222-3422

MPL#9607

**~Plumbing Proposal~**

August 5, 2020

UBL Design

Attn: Jeff

Re: Bismarck Event Center

**We propose** hereby to furnish material and labor - complete in accordance with above specifications, for the sum of:

**PRICING LISTED BELOW**

**\*\*Payment is to be made in full as work progresses unless previous arrangements are made\*\***

All material is guaranteed to be as specified. All work to be completed in a competent manner according to standard practices. Any alteration or deviation from the below specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond our control. Due to the unstable market on commodity items, we are experiencing drastic increases on plumbing supplies, which may cause prices to fluctuate. Owners to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

Authorized Signature

WORK TO INCLUDE:

• LABOR AND MATERIALS TO REMOVE AND REPLACE CONCRETE TO ADD DRAIN ON UPPER LEVEL PARKING AREA ON EAST SIDE \$ 8,600.00

**\*\* 4 WEEK LEAD TIME ON DECK DRAIN**

**\*\*WE SERVICE ACCOUNTS PROMPTLY THAT PAY US PROMPTLY\*\***

- \* All prices containing materials include sales tax
- \* Northern Plains Plumbing & Heating, Inc. offers a one-year warranty on workmanship
- \* Northern Plains Plumbing & Heating, Inc. does not warranty and is not responsible for fixtures that are supplied by homeowners

**\*\*THIS PROPOSAL MAY BE WITHDRAWN IF NOT ACCEPTED WITHIN 30-DAYS\*\***

The above prices, specifications and conditions are satisfactory and are hereby accepted. Northern Plains Plumbing & Heating Inc. is authorized to do the work specified. Payment will be made as outlined above.

Date \_\_\_\_\_

Signature \_\_\_\_\_



## *Finance Department*

**DATE:** September 1, 2020  
**FROM:** Dmitriy Chernyak, Finance Director  
**ITEM:** Application for Abatement

### **REQUEST**

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

Application for Abatement for 2020 – Market Value Reduction  
Property Owner – Brandon & Jennifer Dockter  
Property Address – 4801 Windsor St (1580-021-095)

Please place this item on the 9/8/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

Due to an error in basement finish.

### **RECOMMENDED CITY COMMISSION ACTION**

The Assessing Division recommends approval of the application 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 \_\_\_\_\_  
 County of BURLEIGH Property I.D. No. 1580-021-095  
 Name BRANDON AND JENNIFER DOCKTER Telephone No. \_\_\_\_\_  
 Address 4801 WINDSOR ST

Legal description of the property involved in this application:

LOT 20  
BLOCK 21  
SONNET HEIGHTS SUBDIVISION

Total true and full value of the property described above for the year 2020 is:  
 Land \$ 65,000  
 Improvements \$ 346,800  
 Total \$ 411,800  
(1)

Total true and full value of the property described above for the year 2020 should be:  
 Land \$ 65,000  
 Improvements \$ 311,200  
 Total \$ 376,200  
(2)

The difference of \$ 35,600.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

1. Purchase price of property: \$ \_\_\_\_\_ Date of purchase: \_\_\_\_\_  
 Terms: Cash \_\_\_\_\_ Contract \_\_\_\_\_ Trade \_\_\_\_\_ Other (explain) \_\_\_\_\_  
 Was there personal property involved in the purchase price? \_\_\_\_\_ Estimated value: \$ \_\_\_\_\_  
yes/no

2. Has the property been offered for sale on the open market? \_\_\_\_\_ If yes, how long? \_\_\_\_\_  
yes/no  
 Asking price: \$ \_\_\_\_\_ Terms of sale: \_\_\_\_\_

3. The property was independently appraised: \_\_\_\_\_ Purpose of appraisal: \_\_\_\_\_  
yes/no  
 \_\_\_\_\_ Market value estimate: \$ \_\_\_\_\_  
 Appraisal was made by whom? \_\_\_\_\_

4. The applicant's estimate of market value of the property involved in this application is \$ \_\_\_\_\_

5. The estimated agricultural productive value of this property is excessive because of the following condition(s): \_\_\_\_\_

Applicant asks that the true and full value be reduced to \$376,200.

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 8-22-20

**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 *Docket Brandon + Jennifer*

County Auditor's File No. *20-162*

Date Application Was Filed With The County Auditor *8/31/2020*

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

*AD Wetmore*  
*by eob*



## FINANCE DEPARTMENT

**DATE:** August 27, 2020  
**FROM:** Dmitriy Chernyak, Director of Finance  
**ITEM:** Resolution Directing Special Assessments to be Levied

### REQUEST

Approve the Resolution Directing Special Assessments to be Levied.

Please place this item on the September 8, 2020 City Commission meeting agenda.

### BACKGROUND INFORMATION

The assessment lists will be published in the Bismarck Tribune as required. Approval of this resolution allows the Special Assessment Commission to meet September 10, 2020 to hear objections to these assessments and confirm the assessment lists for these districts.

	<u>Total Assessment</u>
Park Improvement District No. 003	\$1,192,995.08
Sewer Improvement District No. 563	\$2,238,585.62
Sewer Improvement District No. 575	\$481,988.60
Street Improvement District No. 529	\$798,888.93
Street Improvement District No. 530	\$301,459.97

Following the action of the Special Assessment Committee, the assessment list will be brought before the City Commission for the final public hearing and confirmation.

### RECOMMENDED CITY COMMISSION ACTION

Approve resolution to direct special assessments to be levied.

## **STAFF CONTACT INFORMATION**

Tawny Wagner, Financial Analyst, 355-1604, [twagner@bismarcknd.gov](mailto:twagner@bismarcknd.gov)



## FINANCE DEPARTMENT

**DATE:** August 20, 2020  
**FROM:** Dmitriy Chernyak, Director of Finance  
**ITEM:** Extend term to Special Assessment Commission

### REQUEST

Approve extended term to the Special Assessment Commission

Please place this item on the September 8, 2020 City Commission meeting.

### BACKGROUND INFORMATION

Joe Ibach is a member of the Special Assessment Commission. He was reappointed June 25, 2019 until April 2023. N.D.C.C. 40-23-01 states each appointment shall be made for 6 years and therefore, his term needs to be extended until April 2025.

### RECOMMENDED CITY COMMISSION ACTION

Approve the extended term for Joe Ibach to the Special Assessment Commission.

### STAFF CONTACT INFORMATION

Dmitriy Chernyak, Finance Director, [dchernyak@bismarcknd.gov](mailto:dchernyak@bismarcknd.gov), 701-355-1601



## *Finance Department*

**DATE:** September 8, 2020  
**FROM:** Dmitriy Chernyak, Finance Director  
**ITEM:** Introduction of 2021 Budget Ordinance

### **REQUEST**

Consider introduction of the 2021 budget ordinance and call for a public hearing.  
Please place this item on the September 8, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

Attached is the 2021 budget ordinance for the general fund, special revenue funds, debt service funds, and property tax mill levies. These documents reflect the Commission's actions on the budget agenda items of the August 4, 2020 special meeting. The 2021 preliminary budget book (separate document) includes the budget actions, priority initiatives, CIPs, charges and fees, and the details of the budget revenue and expenditures for budgeted funds of the City.

### **RECOMMENDED CITY COMMISSION ACTION**

Commission action to introduce the 2021 budget ordinance and call for a public hearing on September 22, 2020.

### **STAFF CONTACT INFORMATION**

Dmitriy Chernyak | Finance Director, 701-355-1600 or [dchernyak@bismarcknd.gov](mailto:dchernyak@bismarcknd.gov)

# ORDINANCE NO. 6437

*First Reading* \_\_\_\_\_  
*Second Reading* \_\_\_\_\_  
*Final Passage and Adoption* \_\_\_\_\_  
*Publication Date* \_\_\_\_\_

AN ORDINANCE MAKING THE ANNUAL APPROPRIATIONS FOR EXPENDITURES OF THE CITY OF BISMARCK, NORTH DAKOTA FOR THE FISCAL YEAR COMMENCING JANUARY 1, 2021 AND ENDING DECEMBER 31, 2021 AND MAKING THE ANNUAL TAX LEVY FOR THE YEAR 2019.

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

Section 1. There are hereby appropriated the following sums of money for so much thereof that may be necessary for the purpose of paying expenses of the City of Bismarck, North Dakota for the fiscal year commencing January 1, 2021 and ending December 31, 2021.

	Personal Services	Maintenance & Operations	Capital Outlay	Transfers	Total
<b>Budgeted Funds:</b>					
<b>General Fund</b>					
<b>Administration</b>	704,373	192,416	25,000	-	921,789
Salary & Benefits Adjustment	1,369,818	26,000	-	-	1,395,818
One-Time Operations	-	349,500	-	-	349,500
<b>Building Maintenance</b>	604,414	272,254	-	-	876,668
One-Time Operations	35,208	65,500	64,566	-	165,274
<b>Building Construction</b>	-	-	-	1,550,400	1,550,400
<b>Dakota Media Access</b>	-	479,317	-	-	479,317
One-Time Operations	-	31,570	-	-	31,570
<b>Contingencies</b>	-	-	-	825,000	825,000
<b>Attorney</b>	599,235	22,511	-	-	621,746
<b>Central Dakota Comm Center</b>	2,496,284	1,589,984	-	-	4,086,268
One-Time Operations	15,000	-	-	-	15,000
<b>City Emergency Management</b>	107,059	22,044	-	-	129,103
<b>Engineering</b>	2,649,844	132,631	-	-	2,782,475
One-Time Operations	-	71,272	73,300	15,000	159,572
<b>Finance</b>	3,319,082	696,545	9,458	-	4,025,085
Equipment Reserve	-	60,825	-	-	60,825
Computer Expansion Reserve	-	75,825	-	-	75,825
<b>Fire Department</b>	8,780,513	575,044	-	-	9,355,557
Fire Truck	-	41,000	-	-	41,000
One-Time Operations	265,000	122,800	-	-	387,800
<b>Human Resources</b>	537,202	20,326	-	-	557,528
Employee Training	18,140	39,620	-	-	57,760
One-Time Operations	-	40,000	-	-	40,000
<b>Municipal Court</b>	560,291	114,903	-	-	675,194
Equipment Reserve	-	16,620	-	-	16,620

	Personal Services	Maintenance & Operations	Capital Outlay	Transfers	Total
<b>Budgeted Funds:</b>					
<b>Community Development</b>	1,715,304	158,247	-	-	1,873,551
Inspections One-Time	-	-	79,200	-	79,200
<b>Police</b>	13,387,109	1,278,830	-	-	14,665,939
One-Time Operations	60,000	950,595	2,129,836	-	3,140,431
<b>Public Health</b>	2,302,519	433,948	-	-	2,736,467
Equipment Reserve	-	34,165	-	-	34,165
<b>Nondepartmental</b>	1,110,308	112,400	-	2,932,909	4,155,617
One-Time Operations	-	135,000	-	1,686,186	1,821,186
<b>General Fund Total</b>	<b>40,636,703</b>	<b>8,161,692</b>	<b>2,381,360</b>	<b>7,009,495</b>	<b>58,189,250</b>
<b>Special Revenue Funds</b>					
Public Transit System	-	3,675,426	-	-	3,675,426
Bismarck Public Library	2,054,141	921,250	8,000	74,991	3,058,382
Police Asset Forfeiture	1,375	171,870	24,999	-	198,244
Roads & Streets	4,019,697	3,555,541	2,077,550	169,732	9,822,520
Street Lights & Traffic Signal	668,419	1,490,848	714,961	392,249	3,266,477
Hotel & Motel Tax	-	710,753	-	254,247	965,000
Lodging Liquor & Food Tax	-	12,100	-	2,673,100	2,685,200
Sales Tax	-	100	-	21,986,217	21,986,317
Vision Fund	-	250,000	-	-	250,000
Special Deficiency & Assumption	-	171,500	165,000	1,915,980	2,252,480
Gov't Grants & Activities	1,785,645	3,966,786	50,000	279	5,802,710
<b>Special Revenue Funds Total</b>	<b>8,529,277</b>	<b>14,926,174</b>	<b>3,040,510</b>	<b>27,466,795</b>	<b>53,962,756</b>
<b>Debt Service Funds</b>					
Sewermain Bonds	-	6,970,407	-	500,000	7,470,407
Watermain Bonds	-	708,784	-	250,000	958,784
Sidewalk Bonds	-	1,793,489	-	50,000	1,843,489
Street Improvement Bonds	-	22,117,920	-	1,000,000	23,117,920
<b>Debt Service Funds Total</b>	<b>-</b>	<b>31,590,600</b>	<b>-</b>	<b>1,800,000</b>	<b>33,390,600</b>
<b>Total Budgeted Funds</b>	<b>49,165,980</b>	<b>54,678,466</b>	<b>5,421,870</b>	<b>36,276,290</b>	<b>145,542,606</b>
<b>Financial Plans:</b>					
<b>Enterprise Funds</b>					
Airport	2,136,700	3,514,606	15,714,000	176,048	21,541,354
Bismarck Event Center	3,098,199	7,269,982	392,000	280,651	11,040,832
Solid Waste Disposal	1,088,113	2,203,068	8,565,000	802,726	12,658,907
Solid Waste Collections	2,023,798	2,750,825	455,450	166,111	5,396,184
Water&Sewer-Water	3,354,622	9,326,291	4,301,083	1,786,994	18,768,990
Water&Sewer-SanitarySewer	1,924,879	6,167,580	6,145,000	183,957	14,421,416
Water&Sewer-Storm Water	480,130	733,779	2,050,000	80,404	3,344,313
Northern Plains Commerce Ctr	-	75,750	-	1,002,079	1,077,829
Parking Authority Lots	-	968,500	-	26,357	994,857
<b>Enterprise Funds Total</b>	<b>14,106,441</b>	<b>33,010,381</b>	<b>37,622,533</b>	<b>4,505,327</b>	<b>89,244,682</b>
<b>Internal Service Funds</b>					
Fleet Services	999,008	2,419,394	281,148	81,406	3,780,956
<b>Internal Service Funds Total</b>	<b>999,008</b>	<b>2,419,394</b>	<b>281,148</b>	<b>81,406</b>	<b>3,780,956</b>
<b>Total City Funds</b>	<b>64,271,429</b>	<b>90,108,241</b>	<b>43,325,551</b>	<b>40,863,023</b>	<b>238,568,244</b>

Section 2. There are hereby levied the following sums of money on all taxable property in the City of Bismarck for the year 2021 for the purpose of paying expenses of the City of Bismarck.

<b>CATEGORY</b>	<b>AMOUNT</b>
General Fund	\$23,800,092
Building Construction	2,802,783
Special Deficiency	404,442
Public Transit System	1,213,326
Library	2,426,652
<b>TOTAL</b>	<b>27,844,512</b>

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

Section 4. Taking Effect. This ordinance shall be in full force and effect from and after its final passage and adoption.

## Mayor and City Commissioners

Some commissioners have asked for input into the budget because we do complain when it's not to our liking.

Commissioners need to remember that the outcome and the information they're getting from the city employees are going to be the same. It's the direction and input you give them that will get you the desired outcome. The proper input and information should come from the national, state, and local economy now and what is forecast.

Our city government has increased in size and cost because of unprecedented growth mostly due to the oil boom. With the pandemic, the oil bust, and the problems in agriculture, everyone is affected by the economic disaster. Some of this may be short term but oil, gas, and coal will be more long-term.

The city manager and department heads need to rethink and reduce their budgets. A prominent government employee said that with the economic downturn and the large buildup of government over the last few years, the ability for taxpayers to meet those increased costs has diminished. There is plenty of room for a reduction in the budget. Families, businesses, nonprofits, and the unemployed are making reductions, therefore, the city government needs to be just as responsible and understand the economic conditions we live in and make their reductions.

A suggestion that may be beneficial would be to give the budget portfolio to one of the other commissioners and direct the city manager to come up with a budget that reflects Bismarck's economy and the needs of its citizens.

Please don't come back with a statement WHAT SERVICES DO YOU WANT CUT. Some of us business people remember the city engineer that raised our water rates. Prior to becoming a city engineer, that person worked for the state and got an approximate \$30,000 increase in salary to come work for the city of Bismarck. Those types of decisions are coming home to haunt us now.

Please manage the budget.

Kent French  
701-214-1424



## *Finance Department*

**DATE:** September 1, 2020  
**FROM:** Dmitriy Chernyak, Finance Director  
**ITEM:** Application for Payments in Lieu of Taxes

### **REQUEST**

Consider request from Burleigh County Housing Authority to apply for a Payment in Lieu of Taxes (PILOT) property tax incentive.

Please place this item on the 9/8/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The Burleigh County Housing Authority has property located at 415, 419, and 423 S Washington. This consists of three buildings with a total of 17 two-bedroom apartments. They intend to demolish these three buildings and replace them with 14 two-bedroom units in a townhouse style and put up an additional 20 one-bedroom units to house homeless and elderly with supportive services available to the tenants. Dwight Barden, Executive Director of the Burleigh County Housing Authority has provided an explanation of the project and a completed application for the PILOT property tax incentive which is attached.

### **RECOMMENDED CITY COMMISSION ACTION**

Consider approval of the request from Burleigh County Housing Authority to apply for a Payment in Lieu of Taxes (PILOT) property tax incentive and call for a public hearing on the request. The public hearing would be scheduled for the September 22, 2020 City Commission meeting.

### **STAFF CONTACT INFORMATION**

Dmitriy Chernyak | Finance Director, 355-1600 or [dchernyak@bismarcknd.gov](mailto:dchernyak@bismarcknd.gov)



## BURLEIGH COUNTY HOUSING AUTHORITY

DWIGHT BARDEN  
Executive Director



410 SOUTH 2ND STREET, BISMARCK, ND 58504-5534, 701-255-2540 FAX 701-255-3459  
TDD: 1-800-545-1833 EXT. 439 • WEBSITE: [www.burleighcountyhousing.com](http://www.burleighcountyhousing.com)

August 6, 2020

Mayor Steve Bakken

Commissioner Nancy Guy  
Commissioner Steve Marquardt  
Commissioner Greg Zenker  
Commissioner Mark Splonskowski

Re: Burleigh County Housing Authority  
Payment in Lieu of Taxes (PILOT)

Dear Mayor Bakken and Commissioners,

Burleigh County Housing Authority has property located at 415, 419 and 423 S. Washington. This consists of three buildings with a total of 17 two bedroom apartments. They were built with HUD funds in 1971 and are functionally obsolete. It is our intent to demolish these three buildings.

It is the intent to build 14 two bedroom units in a townhouse style and put up an additional 20 one bedroom units to house homeless and elderly with supportive services available to the tenants. They will be located in the same area on vacant land that we have.

Due to the funding of this development, we will not use traditional HUD funds to build this project. We will use Federal Tax Credit programs, Federal Housing Trust, State Housing Incentive Fund, Federal Home Loan Grant, and others to fund this project. Due to these funding sources HUD will not have ownership in these buildings. Burleigh County Housing Authority will control and eventually own these properties.

HUD will provide project based Vouchers so that these units will continue to be affordable to the tenants as in they will pay approximately 30% of their income for rent.

We have always paid a PILOT on all of our properties. These units are exempt from taxes but we understand that we must contribute to services in the community such as Police, Fire protection, education and recreation. This amounts to about 5% of the tenant collected rents or about 30% of the total property tax.

With this I respectfully request your approval of paying a PILOT for the New and Replacement units for Burleigh County Housing Authority. This will show local support for the need of this type of housing in our community.

Sincerely,

A handwritten signature in blue ink that reads "Dwight Barden".

Dwight Barden  
Executive Director

# Application For Property Tax Incentives For New or Expanding Businesses

N.D.C.C. Chapter 40-57.1

Project Operator's Application To City of Bismarck  
City or County

File with the City Auditor for a project located within a city; County Auditor for locations outside of city limits.

A representative of each affected school district and township is included as a non-voting member in the negotiations and deliberation of this application.

**This application is a public record**

## Identification Of Project Operator

1.	Name of project operator of new or expanding business	<u>Burleigh County Housing Authority</u>	
2.	Address of project	<u>415, 419, 423 S. Washington Street</u>	
	City	<u>Bismarck</u> County <u>Burleigh</u>	
3.	Mailing address of project operator	<u>410 S. 2nd Street</u>	
	City	<u>Bismarck</u> State <u>ND</u> Zip <u>58504</u>	
4.	Type of ownership of project		
	<input type="checkbox"/> Partnership	<input type="checkbox"/> Subchapter S corporation	<input type="checkbox"/> Individual proprietorship
	<input checked="" type="checkbox"/> Corporation	<input type="checkbox"/> Cooperative	<input type="checkbox"/> Limited liability company
5.	Federal Identification No. or Social Security No.	<u>45-0318953</u>	
6.	North Dakota Sales and Use Tax Permit No.	<u>E-3242</u>	
7.	If a corporation, specify the state and date of incorporation	<u>North Dakota - May 8, 1969</u>	
8.	Name and title of individual to contact	<u>Dwight Barden</u>	
	Mailing address	<u>410 S. 2nd Street</u>	
	City, State, Zip	<u>Bismarck, ND 58504</u> Phone No. <u>701-255-2540</u>	

## Project Operator's Application For Tax Incentives

9.	Indicate the tax incentives applied for and terms. Be specific.	
	<input type="checkbox"/> Property Tax Exemption	<input checked="" type="checkbox"/> Payments In Lieu of Taxes
	<u>          </u> Number of years	<u>2023</u> Beginning year <u>2042</u> Ending year
	<u>          </u> Percent of exemption	<u>See attach</u> : Amount of annual payments (attach schedule if payments will vary)
10.	Which of the following would better describe the project for which this application is being made:	
	<input checked="" type="checkbox"/> New business project	<input type="checkbox"/> Expansion of a existing business project

**Description of Project Property**

11. Legal description of project real property

Site is being replatted so legal description will be modified through that process.

12. Will the project property be owned or leased by the project operator?  Owned  Leased

If the answer to 12 is leased, will the benefit of any incentive granted accrue to the project operator?

Yes  No

If the property will be leased, attach a copy of the lease or other agreement establishing the project operator's benefits.

13. Will the project be located in a new structure or an existing facility?  New construction  Existing facility

If existing facility, when was it constructed? \_\_\_\_\_

If new construction, complete the following:

a. Estimated date of commencement of construction of the project covered by this application September 2021

b. Description of project to be constructed including size, type and quality of construction  
New construction of 14 - two bedroom townhouse style and 20 - one bedroom units in an apartment style building. All units will have Project Based Vouchers and will remain affordable to the low and extremely low income in our community. This development will increase the affordable housing stock in Bismarek by replacing 17 dated apartments with 34 new modern units.

c. Projected number of construction employees during the project construction It will vary

14. Approximate date of commencement of this project's operations Fall of 2022

15. Estimated market value of the property used for this project:

a. Land..... \$ 419,616

b. Existing buildings and structures for which an exemption is claimed..... \$ NA

c. Newly constructed buildings and structures when completed ..... \$ 8,500,000

d. Total..... \$ 8,919,616

e. Machinery and equipment ..... \$ NA

16. Estimate taxable valuation of the property eligible for exemption by multiplying the market values by 5 percent:

a. Land (not eligible) ..... 

b. Eligible existing buildings and structures..... \$ \_\_\_\_\_

c. Newly constructed buildings and structures when completed..... \$ 445,980

d. Total taxable valuation of property eligible for exemption (Add lines b and c)..... \$ 445,980

e. Enter the consolidated mill rate for the appropriate taxing district ..... 236.59

f. Annual amount of the tax exemption (Line d multiplied by line e) ..... \$ \_\_\_\_\_

**Description of Project Business**

**Note: "project" means a newly established business or the expansion portion of an existing business. Do not include any established part of an existing business.**

17. Type of business to be engaged in:  Ag processing  Manufacturing  Retailing  
 Wholesaling  Warehousing  Services

18. Describe in detail the activities to be engaged in by the project operator, including a description of any products to be manufactured, produced, assembled or stored (attach additional sheets if necessary).

This site will continue to function as affordable housing for the low and extremely low income individuals in our community with the tenant portion of the rent being based on 30% of their income. The development will demolish 17 functionally obsolete units with new construction of 34 newly constructed, modern, energy efficient units of affordable housing.

19. Indicate the type of machinery and equipment that will be installed

Mechanical, plumbing and electrical equipment for running a household. The 20 unit building will also have an elevator.

20. For the project only, indicate the projected annual revenue, expense, and net income (before tax) from either the new business or the expansion itself for each year of the requested exemption.

Year (12 mo. periods)	New/Expansion Project only				
	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
Annual revenue	<u>See attached</u>	<u>Proforma</u>	_____	_____	_____
Annual expense	_____	_____	_____	_____	_____
Net income	_____	_____	_____	_____	_____

21. Projected annual average number of persons to be employed by the project itself at the project location for each year for the first five years and the estimated annual payroll.

Year	Company-wide (before project)	New/Expansion Project only				
		<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
No. of Employees	(1) <u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	(2) _____	<u>1</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>
Estimated payroll	(1) _____	_____	_____	_____	_____	_____
	(2) _____	_____	_____	_____	_____	_____

(1) - full time  
(2) - part time

**Previous Business Activity**

22. Is the project operator succeeding someone else in this or a similar business?  Yes  No

23. Has the project operator conducted this business at this or any other location either in or outside of the state?  
 Yes  No

24. Has the project operator or any officers of the project received any prior property tax incentives?  Yes  No

If the answer to 22, 23, or 24 is yes, give details including locations, dates, and name of former business (attach additional sheets if necessary).  
Burleigh County Housing Authority currently has 289 units that we provide a PILOT payment. We also have 40 units at Edwinton Place and manage 96 units at Washington Court and 56 units for Community Homes of Bis.

**Business Competition**

25. Is any similar business being conducted by other operators in the municipality?  Yes  No

If YES, give name and location of competing business or businesses  
There are other units owned and managed by non-profits, Low Income Tax Credit units such as the Patterson.

**Property Tax Liability Disclosure Statement**

26. Does the project operator own real property in North Dakota which has delinquent property tax levied against it?  Yes  No

27. Does the project operator own a greater than 50% interest in a business that has delinquent property tax levied against any of its North Dakota real property?  Yes  No

If the answer to 26 or 27 is Yes, list and explain

**Use Only When Reapplying**

28. The project operator is reapplying for property tax incentives for the following reason(s):

- To present additional facts or circumstances which were not presented at the time of the original application
- To request continuation of the present property tax incentives because the project has:
  - moved to a new location
  - had a change in project operation or additional capital investment of more than twenty percent
  - had a change in project operators
- To request an additional annual exemption for the year of \_\_\_\_\_ on structures owned by a governmental entity and leased to the project operator. (See N.D.C.C. § 40-57.1-04.1)

**Notice to Competitors of Hearing**

Prior to the hearing, the applicant must present to the governing body of the county or city a copy of the affidavit of publication giving notice to competitors unless the municipality has otherwise determined there are no competitors.

I, Dwight Barden, do hereby certify that the answers to the above questions and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.

Dwight Barden  
Signature

Executive Director  
Title

08/06/2020  
Date

Dakota Apartments II  
20 Year Revenue Proforma  
Adjusted for tenant estimated portion of Rent

2023	\$	138,400
2024		141,168
2025		143,991
2026		146,871
2027		149,809
2028		152,805
2029		155,861
2030		158,978
2031		162,158
2032		165,401
2033		168,709
2034		172,083
2035		175,525
2036		179,035
2037		182,616
2038		186,268
2039		189,994
2040		193,793
2041		197,669
2042		201,623

**PRIVACY ACT NOTIFICATION**

In compliance with the Privacy Act of 1974, disclosure of a social security number or Federal Employer Identification Number (FEIN) on this form is required under N.D.C.C. §§ 40-57.1-03, 40-57.1-07, and 57-01-15, and will be used for tax reporting, identification, and administration of North Dakota tax laws. Disclosure is mandatory. Failure to provide the social security number or FEIN may delay or prevent the processing of this form.

**Certification of Governing Body (To be completed by the Auditor of the City or County)**

The municipality shall, after granting any property tax incentives, certify the findings to the State Tax Commissioner and Director of Tax Equalization by submitting a copy of the project operator's application with the attachments. The governing body, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, granted the following:

<input type="checkbox"/> <b>Property Tax Exemption</b>	<input type="checkbox"/> <b>Payments in lieu of taxes</b>
_____ Number of years	_____ Beginning year      _____ Ending year
_____ Percent of exemption	_____ Amount of annual payments (Attach schedule if payments will vary)

\_\_\_\_\_ Auditor

# Dakota Apartments II

## PILOT Request

Calendar Year	Year	RE Taxes w/o PILOT	PILOT	TOTAL
2023	1	\$105,515	\$ 7,140	\$ 7,140
2024	2	\$107,625	\$ 7,283	\$ 7,283
2025	3	\$109,778	\$ 7,428	\$ 7,428
2026	4	\$111,973	\$ 7,577	\$ 7,577
2027	5	\$114,213	\$ 7,729	\$ 7,729
2028	6	\$116,497	\$ 7,883	\$ 7,883
2029	7	\$118,827	\$ 8,041	\$ 8,041
2030	8	\$121,203	\$ 8,202	\$ 8,202
2031	9	\$123,628	\$ 8,366	\$ 8,366
2032	10	\$126,100	\$ 8,533	\$ 8,533
2033	11	\$128,622	\$ 8,704	\$ 8,704
2034	12	\$131,195	\$ 8,878	\$ 8,878
2035	13	\$133,818	\$ 9,055	\$ 9,055
2036	14	\$136,495	\$ 9,236	\$ 9,236
2037	15	\$139,225	\$ 9,421	\$ 9,421
2038	16	\$142,009	\$ 9,609	\$ 9,609
2039	17	\$144,849	\$ 9,802	\$ 9,802
2040	18	\$147,746	\$ 9,998	\$ 9,998
2041	19	\$150,701	\$ 10,198	\$ 10,198
2042	20	\$153,715	\$ 10,402	\$ 10,402
<b>Total</b>		<b>\$ 2,563,735</b>	<b>\$ 173,483</b>	<b>\$ 173,483</b>

**2019 PILOT Payment for Cul-de-sac townhomes (17 units) \$2,317.29**

### Assumptions

First full year of operations	2023
Years 1 - 20	\$210 per unit increasing annually by 2%

Both PILOT and land tax reflect 2% annual increase

Estimated Land Value	\$419,616
taxable value	5% \$20,981
0.23659	\$4,964 estimated land tax



Vacancy Rate 7%  
 Management Fee 6%

Year 16	Year 17	Year 18	Year 19	Year 20
445,106	454,008	463,088	472,350	481,797
0	0	0	0	0
93	93	93	93	93
(31,157)	(31,781)	(32,416)	(33,064)	(33,720)

414,041	422,320	430,765	439,378	448,164
---------	---------	---------	---------	---------

414,041	422,320	430,765	439,378	448,164
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102,186	105,251	108,409	111,661	115,011
59,608	61,396	63,238	65,135	67,089
67,226	69,243	71,320	73,460	75,664
52,214	53,780	55,394	57,055	58,767
18,540	19,096	19,669	20,259	20,867
299,773	308,767	318,030	327,571	337,398

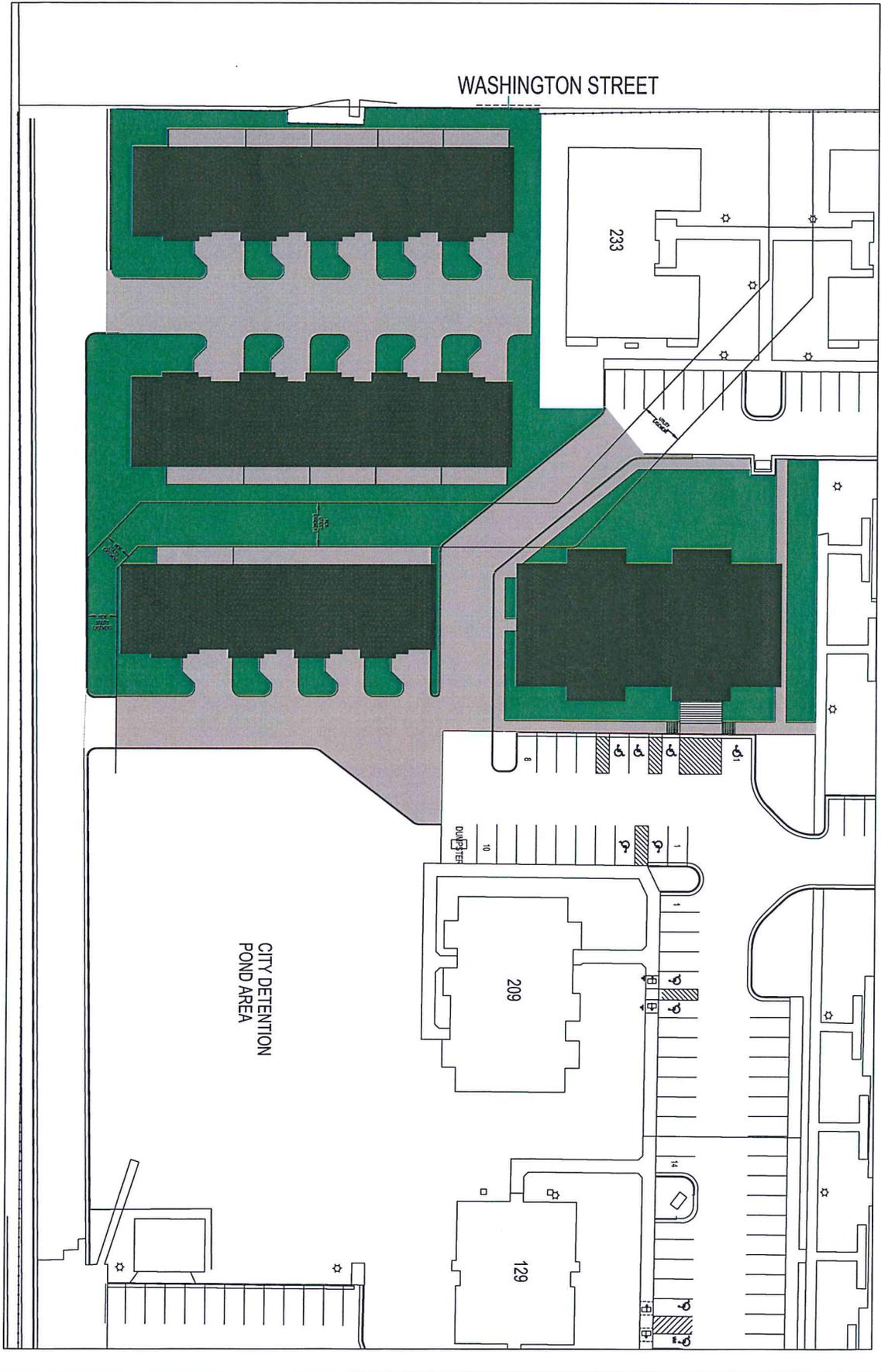
114,268	113,554	112,735	111,808	110,766
74,104	74,104	74,104	74,104	74,104
1,54	1,53	1,52	1,51	1,49

40,164	39,450	38,631	37,704	36,662
7,790	8,024	8,264	8,512	8,766
0	0	0	0	0

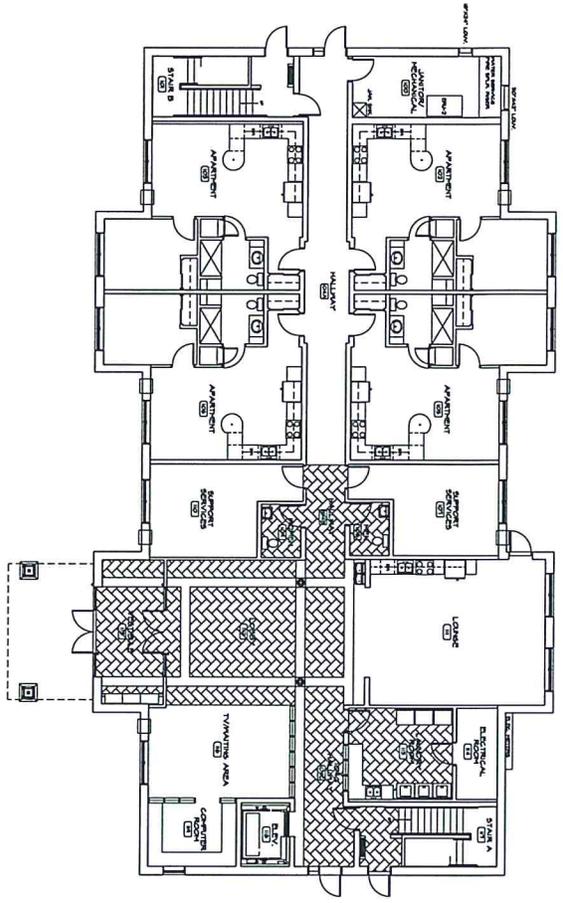
7,790	8,024	8,265	8,512	8,767
0	0	0	0	0
22,349	21,275	20,093	18,800	17,388
0	0	0	0	0
0	0	0	0	0
2,235	2,127	2,009	1,880	1,739
0	0	0	0	0

0	0	0	0	0
1,00	1,00	1,00	1,00	1,00
Year 16	Year 17	Year 18	Year 19	Year 20

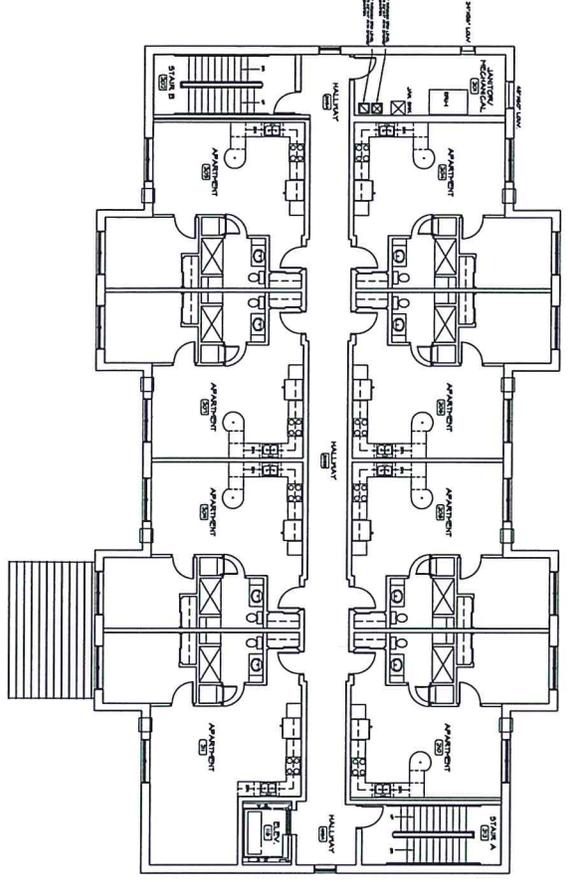
93,079    93,079    93,079    93,079    93,079



**NOT FOR CONSTRUCTION**  
DATE: 08-16-2020



1 APARTMENT FIRST FLOOR PLAN



2 APARTMENT SECOND FLOOR PLAN

**NOT FOR CONSTRUCTION**  
DATE: 04-10-2020

SHEET  
A1.1  
OF 8

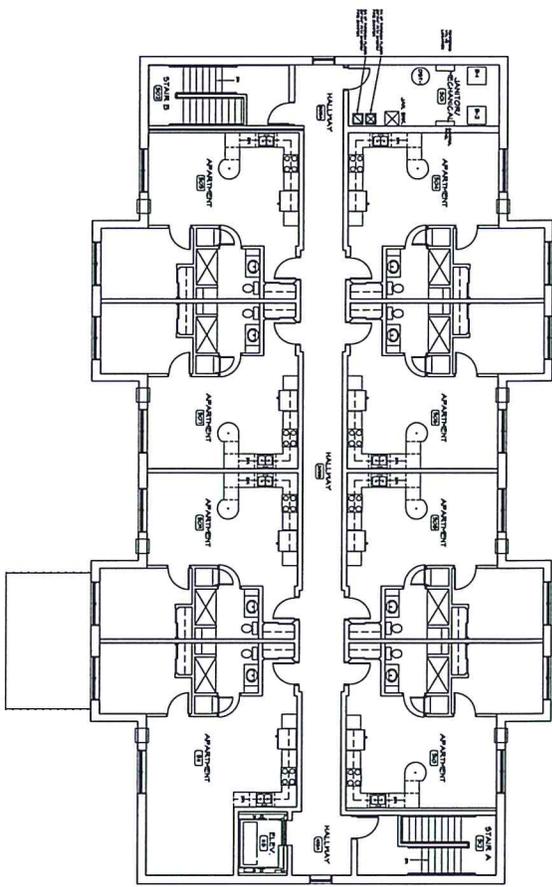
APARTMENT FIRST FLOOR PLAN  
APARTMENT SECOND FLOOR PLAN

**BURLEIGH COUNTY HOUSING AUTH.  
& BEYOND SHELTER**

20 UNIT APARTMENT COMPLEX AND 14 UNIT TOWN-HOMES  
XXXX WASHINGTON STREET, BISMARCK, ND 58501

Project No: 2011  
Drawing File No: APARTMENT PLAN  
Date Issued: 04/10/20  
Drawn By: [Name]  
Checked By: [Name]

Village Construction Inc.  
122 East Main Avenue, Suite 202  
Bismarck, North Dakota 58501  
701 255 3057  
701 255 3062 fax  
email: info@vci-nd.net



1 APARTMENT THIRD FLOOR PLAN  
A1.2

**NOT FOR CONSTRUCTION**  
DATE: 05-10-2020

SHEET  
A1.2  
OF 8



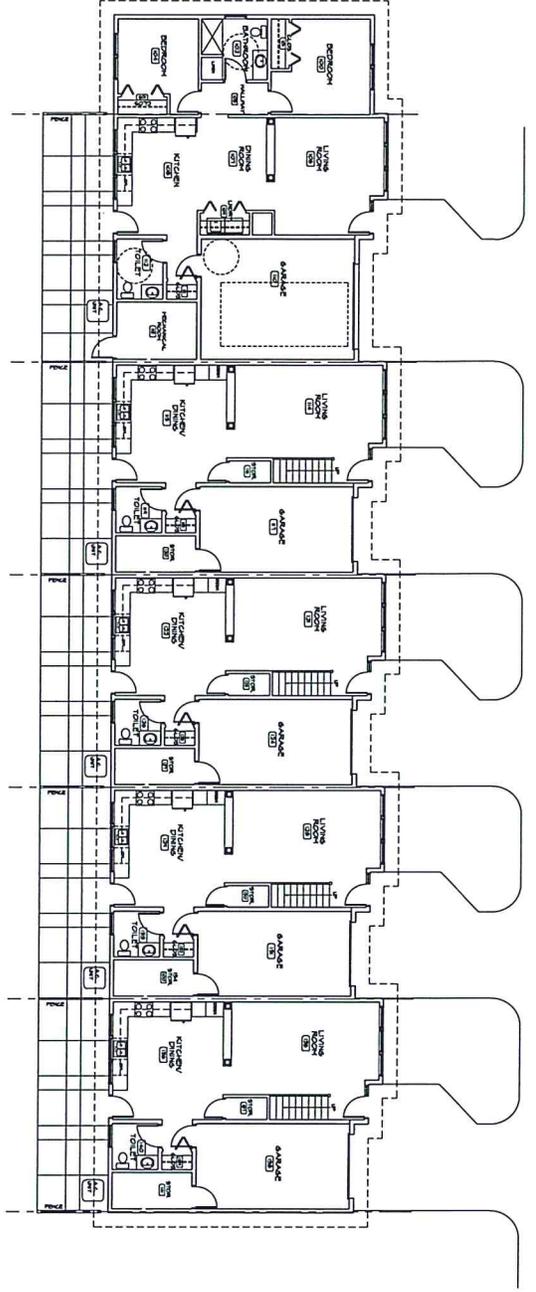
APARTMENT THIRD FLOOR PLAN

BURLEIGH COUNTY HOUSING AUTH.  
& BEYOND SHELTER  
20 UNIT APARTMENT COMPLEX AND 14 UNIT TOWNHOMES  
XXXX WASHINGTON STREET, BISMARCK, ND 58501

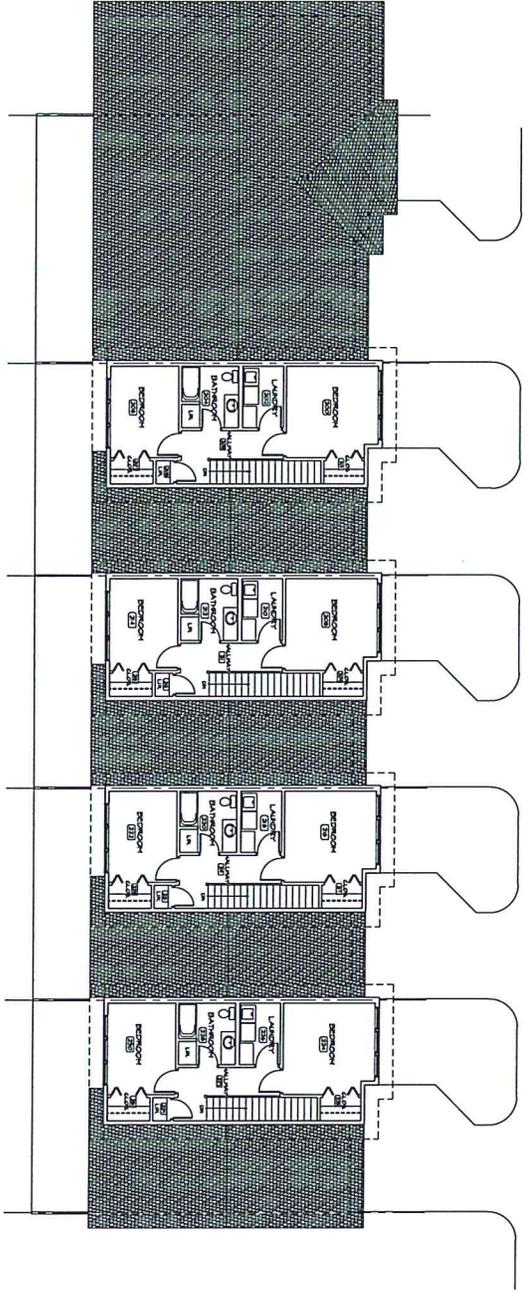
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307 1/2  
Bismarck, ND  
APARTMENT PLAN  
Date Issued:  
06/10/20  
Drawn By:  
X  
Checked By:  
RFB

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122 East Main Avenue, Suite 202  
Bismarck, North Dakota 58501  
701 255 3057  
701 255 3062 Fax  
email: rrobner@acind.net



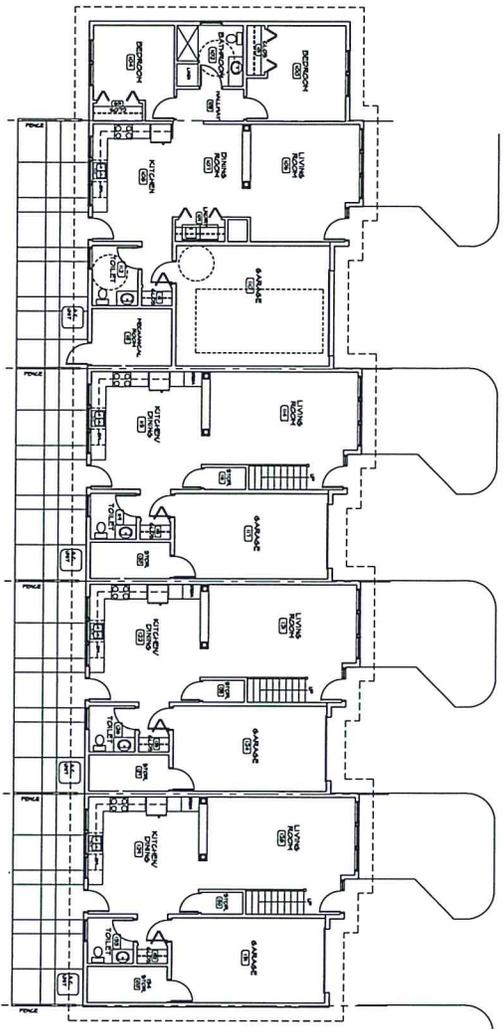
1 5 UNIT TOWNHOUSE - FIRST FLOOR PLAN



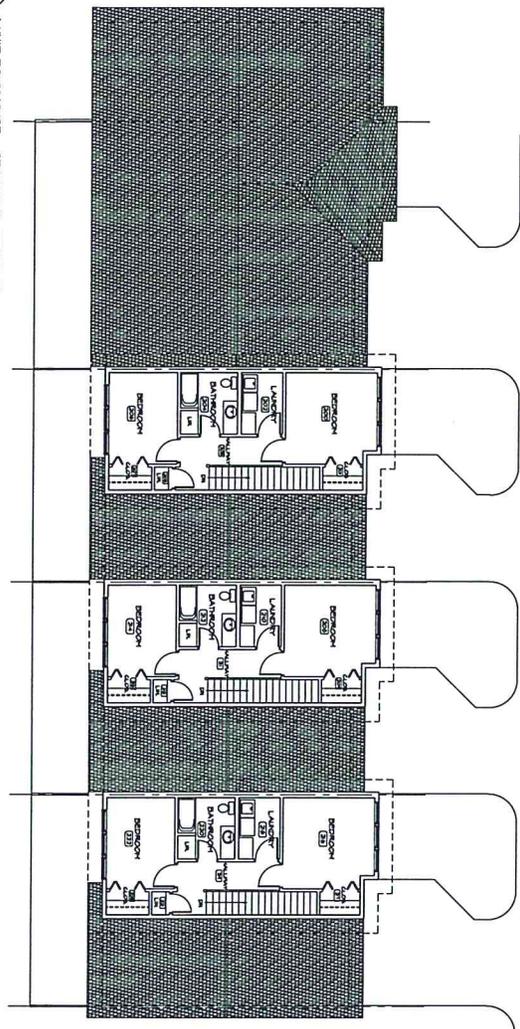
2 3 UNIT TOWNHOUSE - SECOND FLOOR PLAN

**NOT FOR CONSTRUCTION**  
DATE: 08-10-2020

 SHEET A1.3 OF	TOWNHOUSE FIRST FLOOR PLAN TOWNHOUSE SECOND FLOOR PLAN	<b>BURLEIGH COUNTY HOUSING AUTH.          &amp; BEYOND SHELTER</b> 20 UNIT APARTMENT COMPLEX AND 14 UNIT TOWNHOUSES XXXX WASHINGTON STREET, BISMARCK, ND 58501	Copyright 2020 by Architectural Concepts, Inc. Project No. 2019-11 Drawn By: J. N. N. Date Issued: 08/10/20 Checked By: RRB	 122 East Main Avenue, Suite 202 Bismarck, North Dakota 58501 701.255.3257 701.255.3063 fax email: rrobber@acincd.net
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1. 4 UNIT TOWNHOUSE - FIRST FLOOR PLAN  
 1/4" = 1'-0"



2. 4 UNIT TOWNHOUSE - SECOND FLOOR PLAN  
 1/4" = 1'-0"

**NOT FOR CONSTRUCTION**  
 DATE: 08-10-2020

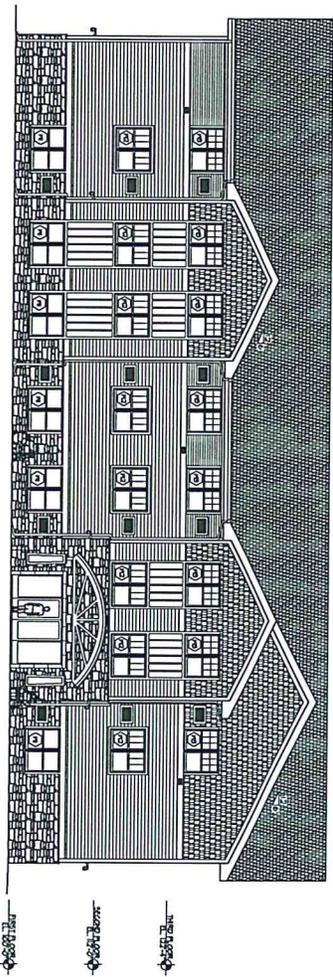
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 A1.4  
 OF 8

TOWNHOUSE FIRST FLOOR PLAN  
 TOWNHOUSE SECOND FLOOR PLAN

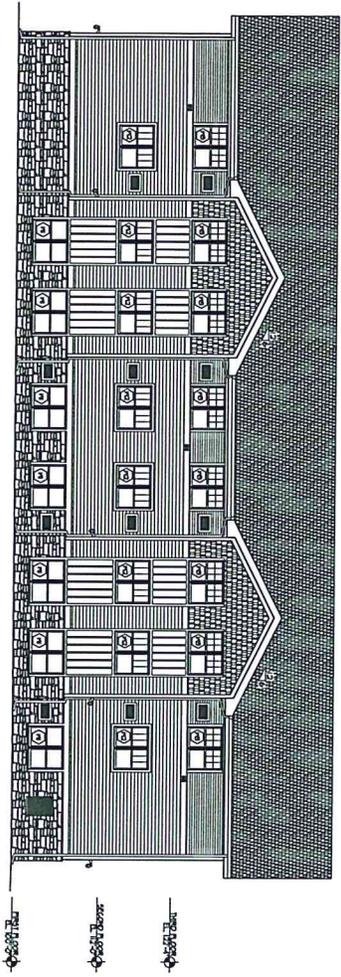
**BURLEIGH COUNTY HOUSING AUTH.  
 & BEYOND SHELTER**  
 20 UNIT APARTMENT COMPLEX AND 14 UNIT TOWNHOMES  
 XXXX WASHINGTON STREET, BISMARCK, ND 58501

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 RPB

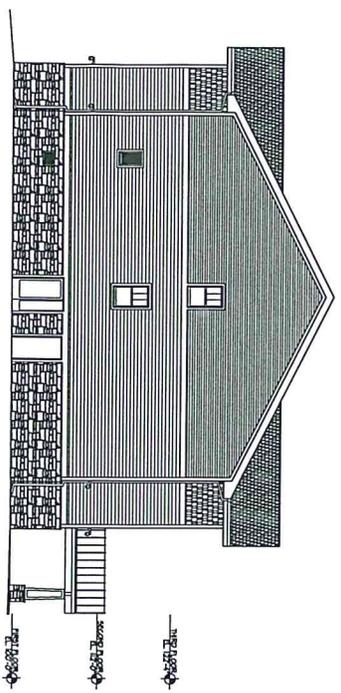
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 Bismarck, North Dakota 58501  
 701 255 3057  
 701 255 3062 fax  
 email: rpoetzer@acinc.net



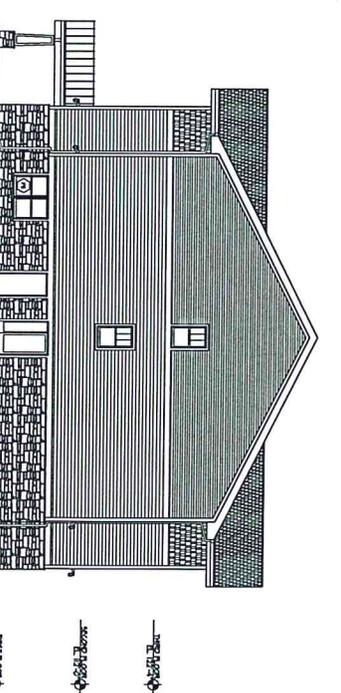
1 WEST APARTMENT BUILDING ELEVATION



2 EAST APARTMENT BUILDING ELEVATION

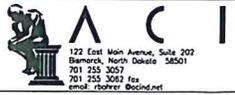


3 SOUTH APARTMENT BUILDING ELEVATION



4 NORTH APARTMENT BUILDING ELEVATION

**NOT FOR CONSTRUCTION**  
DATE: 04-06-2020



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Bismarck, North Dakota 58501  
701.255.2653  
701.255.3262 fax  
email: rfohrer@acinc.net

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Project No:  
2011

Drawing Title:  
APARTMENT PLAN

Date Issued:  
04/06/20

Drawn By:  
RFB

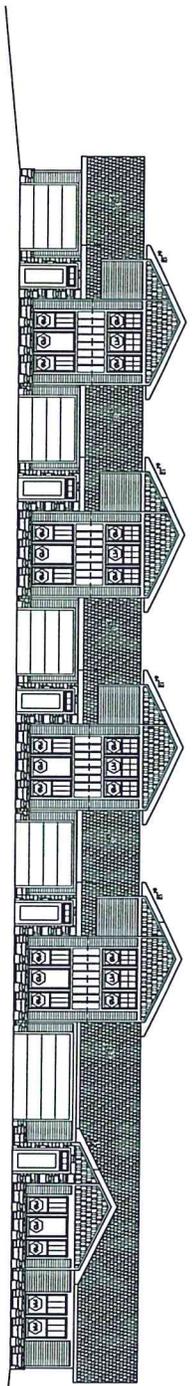
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RFB

**BURLEIGH COUNTY HOUSING AUTH.  
& BEYOND SHELTER**  
20 UNIT APARTMENT COMPLEX AND 14 UNIT TOWNHOMES  
XXXX WASHINGTON STREET, BISMARCK, ND 58501

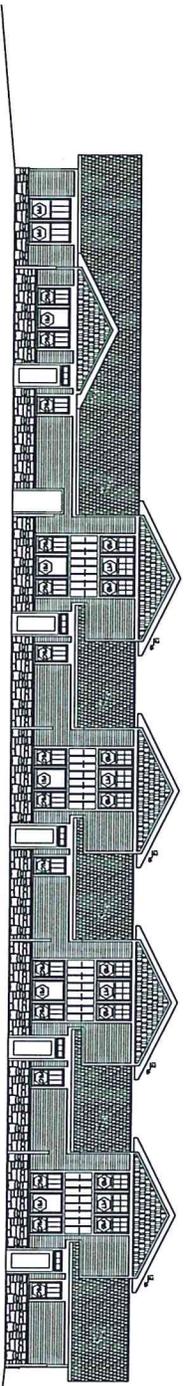
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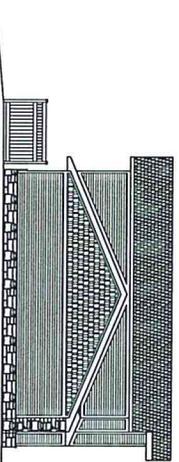
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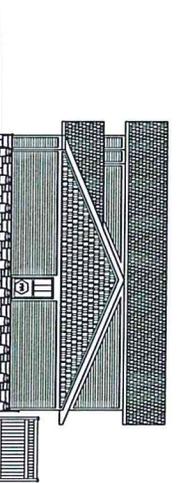
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A2.2 06/11/20



2 REAR ELEVATION - 5 UNIT TOWNHOMES  
A2.2 06/11/20



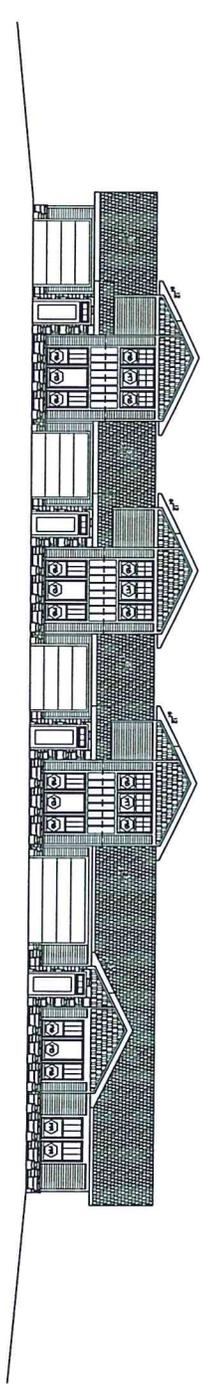
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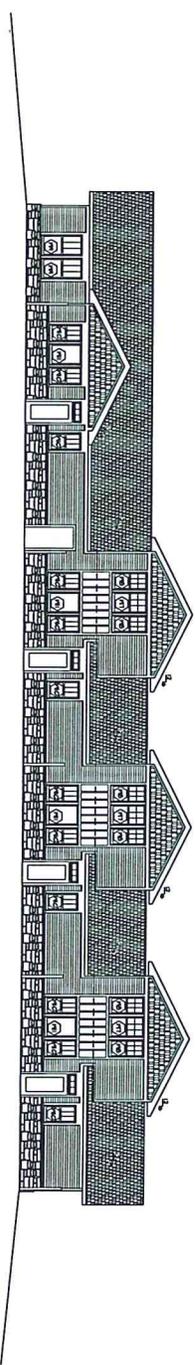
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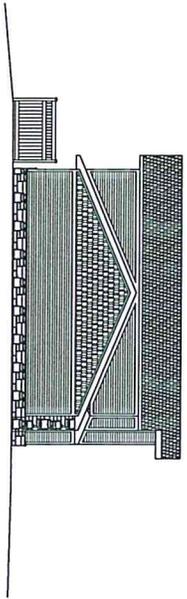




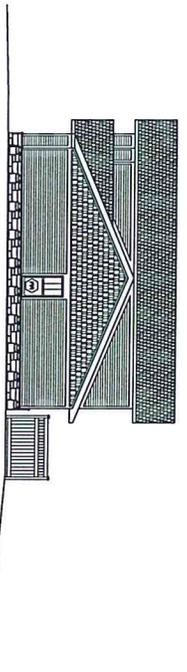
1 FRONT ELEVATION - 4 UNIT TOWNHOMES  
A2.3 06-10-20



2 REAR ELEVATION - 4 UNIT TOWNHOMES  
A2.3 06-10-20



3 END ELEVATION - 4 UNIT TOWNHOMES  
A2.3 06-10-20



4 END ELEVATION - 4 UNIT TOWNHOMES  
A2.3 06-10-20

NOT FOR CONSTRUCTION  
DATE: 06-10-2020



## FINANCE DEPARTMENT

**DATE:** August 31, 2020  
**FROM:** Dmitriy Chernyak, Director of Finance  
**ITEM:** Approval of SW2019 Assessments

### REQUEST

Please call for and schedule a public hearing and the approval of the concrete sidewalk, curb & gutter, and private driveway assessments as part of SW2019 assessments.

Please place this item on the September 8, 2020 City Commission meeting agenda.

### BACKGROUND INFORMATION

These improvements consist of new construction, removal and replacement of hazardous sidewalks, or mud-jacking adjacent to the owner’s lot that were either petitioned by the property owner or ordered in by the City Commission. The items of expense included in such assessments are as follows:

Construction Cost	\$ 1,246,195.92
Engineering & Supervision	\$ 124,619.83
Administration	\$ 24,924.10
Advertising, Legals etc.	\$ 24,924.10
Interest during Construction	<u>\$ 37,385.92</u>
Amount Assessed	\$ 1,458,049.87

The assessment list that includes 407 parcels will be published in the Bismarck Tribune on September 10, 2020, as required under Section 40-29-05 of the North Dakota Century Code, and is attached for Commission approval.

### RECOMMENDED CITY COMMISSION ACTION

September 8, 2020 meeting - call for a public hearing on SW2019 assessments for the September 22, 2020 meeting.  
September 22, 2020 meeting - hold a public hearing and approve the SW2019 assessments.

**STAFF CONTACT INFORMATION**

Tawny Wagner, Financial Analyst, 355-1604, [twagner@bismarcknd.gov](mailto:twagner@bismarcknd.gov)

Attachment

PARCEL ID	ADDRESS	AMOUNT ASSESSED
	WILLIAM'S SURVEY	
0005-035-001	921 E FRONT AVE	4,577.98
	NORTHERN PACIFIC	
0015-003-000	215 E D AVE	4,477.69
0015-003-002	217 E D AVE	4,477.69
0015-003-003	219 E D AVE	4,477.69
0015-003-004	221 E D AVE	4,477.68
	MCKENZIE & COFFIN'S	
0025-085-001	200 TOWER AVE	3,847.09
0025-085-010	1014 N MANDAN ST	5,282.59
0025-085-045	216 TOWER AVE	1,504.93
0025-085-050	222 TOWER AVE	1,447.14
0025-085-055	226 TOWER AVE	1,492.65
0025-085-060	230 TOWER AVE	2,285.63
0025-089-005	1024 N 4TH ST	5,769.72
	COFFIN'S	
0035-013-050	501 S 11TH ST	2,241.96
	MCKENZIE'S	
0040-001-020	302 W C AVE	516.43
0040-001-035	316 W C AVE	237.13
0040-002-020	410 W C AVE	1,765.26
0040-002-030	418 W C AVE	1,047.49
0040-010-010	612 N GRIFFIN ST	233.08
0040-010-015	700 W B AVE	277.21
0040-010-025	710 W B AVE	598.95
0040-010-035	716 W B AVE	425.94
0040-011-025	608 W B AVE	211.81
0040-011-050	621 W C AVE	739.99
0040-012-005	622 N HANNIFIN ST	224.99
0040-012-040	611 N ANDERSON ST	223.97
0040-012-050	615 N ANDERSON ST	612.16
0040-013-025	416 W B AVE	940.74
0040-013-030	422 W B AVE	426.67
0040-014-010	614 N WASHINGTON ST	1,134.86
0040-014-055	313 W C AVE	483.32
0040-016-001	508 RAYMOND ST	7,791.64
0040-017-015	510 N HANNIFIN ST	715.52
0040-017-020	500 N HANNIFIN ST	206.75
0040-017-030	512 W A AVE	477.43
0040-017-040	520 W A AVE	405.36
0040-017-060	521 N ANDERSON ST	2,351.22
0040-019-001	522 N GRIFFIN ST	652.78
0040-019-010	514 N GRIFFIN ST	810.81
0040-019-025	706 W A AVE	431.73
0040-019-055	717 W B AVE	1,031.73
0040-024-001	420 N GRIFFIN ST	1,171.57

PARCEL ID	ADDRESS	AMOUNT ASSESSED
0040-024-005	418 N GRIFFIN ST	40.54
0040-024-010	707 W A AVE	207.76
0040-024-025	411 N BELL ST	1,536.43
0040-024-035	721 W A AVE	2,965.90
0040-024-040	715 W A AVE	905.49
0040-026-001	420 N HANNIFIN ST	630.39
0040-026-025	515 W A AVE	2,011.14
0040-026-035	519 W A AVE	1,492.90
0040-028-005	301 W A AVE	443.90
0040-028-015	413 RAYMOND ST	972.97
0040-028-020	415 RAYMOND ST RIVERVIEW	16,514.92
0045-002-001	404 W ROSSER AVE	733.72
0045-002-010	406 W ROSSER AVE	220.92
0045-002-025	418 W ROSSER AVE	1,052.00
0045-002-030	405 N HANNIFIN ST	1,902.92
0045-004-005	600 W ROSSER AVE	182.44
0045-004-015	606 W ROSSER AVE	549.30
0045-004-025	620 W ROSSER AVE	267.65
0045-005-001	406 N GRIFFIN ST	229.04
0045-005-015	714 W ROSSER AVE FLANNERY & WETHERBY	273.64
0050-018-025	802 N 19TH ST	1,449.29
0050-022-020	814 N 15TH ST CLIFFORDS SUBDIVISION	1,404.12
0080-011-065	2014 E D AVE MACKIN'S SUBDIVISION	4,651.17
0085-004-045	423 N 20TH ST FISHER	7,398.67
0100-004-035	1611 N 16TH ST	3,838.32
0100-005-010	1608 N 16TH ST	1,852.10
0100-030-055	1321 N 17TH ST	729.72
0100-034-025	1204 N 19TH ST	1,449.29
0100-035-030	1716 PORTER AVE	3,496.46
0100-035-035	1704 PORTER AVE	6,557.17
0100-035-045	1211 N 17TH ST	2,063.74
0100-035-055	1223 N 17TH ST	1,187.86
0100-035-060	1701 HANAFORD AVE	3,906.06
0100-039-001	1228 N 14TH ST GOVERNOR PIERCE	5,498.31
0105-003-001	1600 E BROADWAY AVE	48,209.40
0105-034-045	2201 E ROSSER AVE	8,721.20
0105-038-001	2323 E THAYER AVE	7,662.68
0105-038-050	221 N 23RD ST	7,509.02
0105-045-001	2406 E THAYER AVE	36,935.37
0105-049-001	2520 E BROADWAY AVE	11,809.98

PARCEL ID	ADDRESS	AMOUNT ASSESSED
	CITY LANDS 138-80	
0115-003-120	602 AIRPORT RD	26,396.85
0115-010-081	1625 S 12TH ST	15,889.62
	CITY LANDS 139-80	
0160-016-001	5001 BASALT DR	11,139.46
0160-028-087	1120 E DIVIDE AVE	5,406.23
0160-028-090	1800 N 12TH ST	19,144.45
0160-032-170	326 W F AVE	192.55
0160-032-175	322 W F AVE	657.10
0160-032-220	928 N WASHINGTON ST	678.03
	SASSE	
0180-001-025	413 W F AVE	370.92
0180-001-045	408 MASON AVE	229.04
0180-002-025	506 MASON AVE	802.65
0180-002-030	502 MASON AVE	195.60
0180-002-035	426 MASON AVE	604.45
0180-002-040	422 MASON AVE	196.59
0180-003-001	513 W F AVE	2,008.39
0180-003-005	933 N ANDERSON ST	2,477.12
0180-003-010	921 N ANDERSON ST	668.86
0180-004-001	609 W F AVE	1,649.90
0180-004-025	931 N GRIFFIN ST	427.68
0180-005-010	904 N ANDERSON ST	334.44
0180-005-015	921 N GRIFFIN ST	553.36
0180-005-020	915 N GRIFFIN ST	498.59
0180-005-025	907 N GRIFFIN ST	968.86
0180-006-010	905 N ANDERSON ST	358.75
0180-006-020	827 N ANDERSON ST	352.71
0180-006-035	815 N ANDERSON ST	635.43
0180-006-045	801 N ANDERSON ST	713.47
0180-007-040	801 N GRIFFIN ST	1,027.04
0180-007-050	815 N GRIFFIN ST	618.22
0180-007-055	825 N GRIFFIN ST	236.14
0180-007-065	831 N GRIFFIN ST	529.02
	HIGHLAND ACRES	
0190-010-040	913 MIDWAY DR	309.11
	KINGS VIEW	
0275-001-020	1025 N HANNIFIN ST	376.97
0275-001-025	415 W BOULEVARD AVE	293.89
0275-001-035	408 W F AVE	703.15
0275-001-040	410 W F AVE	688.13
0275-001-050	412 W F AVE	626.33
0275-002-001	507 W BOULEVARD AVE	4,277.26
0275-002-025	1021 N ANDERSON ST	5,790.79
0275-002-030	1004 N HANNIFIN ST	907.46
0275-002-045	520 W F AVE	1,858.70

PARCEL ID	ADDRESS	AMOUNT ASSESSED
0275-003-045	616 W F AVE CASEY'S 1ST	1,398.55
0300-004-001	1211 N 2ND ST PARK DISTRICT	1,806.05
0355-001-005	308 W BOULEVARD AVE	411.46
0355-001-025	404 W BOULEVARD AVE	196.59
0355-001-030	410 W BOULEVARD AVE	220.92
0355-001-065	524 W BOULEVARD AVE	458.85
0355-001-085	618 W BOULEVARD AVE MORNINGSIDE HEIGHTS	527.18
0410-018-002	623 N 29TH ST	1,450.18
0410-018-003	627 N 29TH ST	1,450.18
0410-018-095	615 N 29TH ST	2,929.41
0410-019-001	609 N 29TH ST NAGEL'S 2ND REPLAT	3,348.19
0482-007-001	2023 GRIMSRUD DR SOUTHWOOD TERRACE 2ND REP	585.31
0497-020-075	1212 WESTWOOD ST REPLAT OF LOT 2 & PART OF	1,082.65
0532-010-030	2218 LAFOREST AVE STEIN'S 4TH	3,891.85
0550-024-070	1955 N 23RD ST STEIN'S 5TH	671.89
0552-004-030	2347 HOOVER AVE MEADOW VALLEY 3RD	3,816.86
0594-011-030	309 E DENVER AVE WACHTER'S 3RD	1,557.76
0605-027-001	1504 WICHITA DR EASTDALE	24,611.88
0655-007-025	3130 E BROADWAY AVE	8,684.67
0655-007-030	3120 E BROADWAY AVE PINEHURST 3RD REPLAT	12,729.21
0760-001-015	124 CHERRY LN	435.79
0760-001-050	226 JUNIPER DR	447.96
0760-002-020	121 JUNIPER DR	1,625.89
0760-002-035	225 JUNIPER DR	809.75
0760-002-040	301 JUNIPER DR	686.04
0760-002-045	309 JUNIPER DR	647.60
0760-002-065	3101 HACKBERRY ST	1,452.36
0760-002-070	314 LINDEN LN	1,109.96
0760-002-080	304 LINDEN LN	796.61
0760-002-095	309 LINDEN LN	1,982.38
0760-002-100	315 LINDEN LN	846.26
0760-002-120	300 W CENTURY AVE	540.54
0760-003-001	3216 HACKBERRY ST PINEHURST 4TH	409.47

PARCEL ID	ADDRESS	AMOUNT ASSESSED
0761-001-001	409 ASPEN AVE	1,764.08
0761-001-010	425 ASPEN AVE	691.20
0761-001-015	433 ASPEN AVE	209.27
0761-001-025	507 ASPEN AVE	243.33
	RP B1 & PT B2 PINEHURST 4	
0763-001-095	530 JUNIPER DR	1,076.33
0763-001-100	522 JUNIPER DR	1,153.88
0763-001-115	502 JUNIPER DR	228.04
0763-001-135	410 JUNIPER DR	650.64
	REPLAT BLK 3 PINEHURST 4TH	
0764-001-050	749 ASPEN AVE	1,596.78
0764-001-085	631 ASPEN AVE	233.08
764-002-045	2900 ITHICA DR	898.82
	PINEHURST 5TH	
0766-001-050	734 ASPEN PL	251.86
	NORTH HILLS 5TH	
0797-001-107	3125 MANITOBA LN	563.36
	REPLAT OF NORTH HILLS 12TH	
0807-001-020	3415 DOMINION ST	2,196.09
0807-001-025	3423 DOMINION ST	3,863.31
0807-002-001	3406 DOMINION ST	10,556.13
0807-002-075	815 E CALGARY AVE	7,316.38
	NORTH HILLS 17TH	
0813-001-030	748 WALTER WAY	6,060.56
0813-002-001	749 WALTER WAY	5,386.34
0813-003-010	3940 LONE PEAK DR	4,262.26
0813-003-080	3833 LONE PEAK DR	768.34
	CARUFEL'S 2ND	
0903-002-050	3305 SARATOGA AVE	5,511.65
0903-002-090	3402 FRANKLIN AVE	2,828.32
0903-002-115	3452 FRANKLIN AVE	18,397.35
	COUNTRY WEST XV	
0941-001-005	908 MUSTANG DR	1,721.22
0941-001-010	900 MUSTANG DR	419.57
	COUNTRY WEST XIX	
0946-001-001	719 BUCKSKIN AVE	766.91
	COUNTRY WEST XXVII	
0958-003-010	2001 MESQUITE LOOP	11,009.56
	FRENCH'S 1ST	
1035-009-020	3831 MONTREAL ST	601.95
	HIGH MEADOWS	
1043-001-060	120 W BRANDON DR	1,082.13
1043-001-065	3421 HACKBERRY ST	3,799.34
1043-001-080	3515 HACKBERRY ST	791.34
1043-001-085	3521 HACKBERRY ST	233.08
1043-001-090	439 W EDMONTON DR	1,513.52

PARCEL ID	ADDRESS	AMOUNT ASSESSED
1043-001-095	461 W EDMONTON DR	943.23
1043-002-001	413 TORONTO DR	448.94
1043-003-010	3613 HACKBERRY ST	486.18
1043-003-015	3607 HACKBERRY ST	1,252.21
1043-003-035	438 W EDMONTON DR	334.44
1043-004-030	502 ASSINIBOIN DR	672.92
1043-004-035	512 ASSINIBOIN DR	456.06
1043-005-010	519 ASSINIBOIN DR	902.44
1043-006-005	3315 OVERLOOK DR	492.55
1043-006-055	501 PORTAGE DR	1,373.97
1043-006-060	3334 HACKBERRY ST	926.02
1043-006-070	3316 HACKBERRY ST	1,585.17
1043-006-080	418 ASPEN AVE	1,129.85
1043-006-085	426 ASPEN AVE	643.54
	HIGH MEADOWS 2ND	
1045-001-020	200 W BRANDON DR	456.80
1045-001-050	117 W EDMONTON DR	229.04
1045-001-060	101 W EDMONTON DR	709.41
1045-002-020	225 W BRANDON DR	387.15
1045-003-030	407 W EDMONTON DR	1,268.87
1045-004-001	116 W EDMONTON DR	871.30
1045-004-025	208 W EDMONTON DR	537.09
	HIGH MEADOWS 3RD	
1047-002-015	3658 HACKBERRY ST	449.70
1047-002-036	660 ASSINIBOIN DR	279.42
1047-002-115	3424 OVERLOOK DR	233.84
	HIGH MEADOWS 5TH	
1051-001-010	3718 KINGSTON DR	452.21
1051-001-035	3754 KINGSTON DR	1,289.88
1051-001-050	3800 KINGSTON DR	696.98
1051-001-055	3808 KINGSTON DR	263.46
1051-003-015	533 ARABIAN AVE	2,836.78
1051-008-001	602 BUCKSKIN AVE	4,560.90
1051-008-015	630 BUCKSKIN AVE	233.08
1051-008-030	3925 KINGSTON DR	2,169.85
1051-008-040	613 BRUNSWICK DR	2,005.64
1051-008-045	603 BRUNSWICK DR	4,345.88
1051-010-025	614 BRUNSWICK CIR	910.73
1051-010-060	700 BRUNSWICK DR	452.21
1051-013-001	516 COLT AVE	242.93
	HIGH MEADOWS 6TH	
1052-001-005	718 MUSTANG DR	630.39
1052-002-010	665 MUSTANG DR	456.06
1052-003-015	623 REGINA LN	402.84
	HIGH MEADOWS 7TH	
1053-001-025	608 MUSTANG DR	202.75

PARCEL ID	ADDRESS	AMOUNT ASSESSED
1053-002-060	524 HURON DR	208.76
1053-003-001	617 REGINA LN	507.44
	CENTENNIAL PARK 4TH	
1054-002-130	3920 TRENTON DR	13,564.02
1054-002-150	3900 TRENTON DR	4,949.73
1054-007-030	2505 COLONIAL DR	4,522.98
	WASHINGTON MEADOWS 2ND	
1082-005-035	1804 S RENO DR	491.76
	PEBBLE CREEK 8TH	
1239-003-049	3014 HAMILTON ST	26,006.55
1239-003-351	3300 HAMILTON ST 1	156.03
1239-003-359	3304 HAMILTON ST 1	156.03
1239-003-360	3304 HAMILTON ST 2	156.03
1239-003-361	3304 HAMILTON ST 3	156.03
	SOUTHPORT	
1255-001-220	1606 RIVERWOOD DR	11,591.91
	PROMONTORY POINT	
1315-001-080	2816 PROMONTORY DR	2,408.47
	PROMONTORY POINT IV	
1319-001-015	3008 PROMONTORY DR	2,841.59
1319-001-080	3312 PROMONTORY DR	2,193.43
1319-005-045	3504 CLAIRMONT RD	7,111.47
1319-009-150	3415 CHISHOLM TRL	6,494.92
1319-010-010	2418 DEL RIO DR	2,201.69
	PROMONTORY POINT IV FIRST	
1321-002-001	2501 DEL RIO DR	3,255.64
1321-002-045	3300 VALLEY DR	7,667.07
	PROMONTORY POINT V	
1326-001-010	2917 POWDER RIDGE DR	1,334.64
1326-001-015	2923 POWDER RIDGE DR	6,467.76
1326-002-005	2912 POWDER RIDGE DR	10,807.44
1326-002-010	2918 POWDER RIDGE DR	2,330.12
1326-002-020	3607 POWDER RIDGE DR	7,307.24
1326-002-035	2815 DEL RIO DR	6,453.59
1326-002-045	2807 DEL RIO DR	5,839.84
1326-005-090	3710 MONREO DR	8,063.78
1326-007-001	3812 DEL RIO DR	7,362.68
1326-009-025	3923 VALLEY DR	8,820.07
1326-010-001	3727 POWDER RIDGE DR	11,150.19
1326-010-010	3811 POWDER RIDGE DR	1,477.62
	PROMONTORY POINT VI	
1327-005-040	4011 HERD PL	4,668.64
1327-005-065	3913 HERD PL	5,706.86
1327-007-110	3933 CLAIRMONT RD	8,019.57
1327-008-090	3927 COGBURN RD	6,351.09
1327-008-095	3921 COGBURN RD	5,863.93

PARCEL ID	ADDRESS	AMOUNT ASSESSED
1327-011-005	3936 CLAIRMONT RD HORIZON HEIGHTS 5TH	8,078.84
1436-001-015	5300 CORNICE DR	4,905.91
1436-001-020	5218 CORNICE DR	1,789.30
1436-003-030	5302 SUNLIGHT DR	13,776.75
1436-003-035	5304 SUNLIGHT DR EAGLE CREST	1,288.14
1440-003-050	1405 EAGLE CREST LOOP EAGLE CREST 4TH	638.48
1443-002-005	1107 ROUND TOP RD	5,206.40
1443-002-020	1125 ROUND TOP RD	6,508.46
1443-002-030	1207 ROUND TOP RD	2,543.45
1443-003-001	1406 HIGH CREEK PL	6,292.86
1443-004-020	1224 ROUND TOP RD	6,269.53
1443-004-025	1300 ROUND TOP RD	6,855.14
1443-005-010	1112 ROUND TOP RD EAGLE CREST 5TH ADDITION	6,111.74
1444-002-060	3823 CREST CIR EAGLE CREST 6TH ADDITION	3,674.02
1446-001-010	4723 MARSH HAWK DR	1,222.50
1446-002-001	4627 MARSH HAWK DR	5,335.63
1446-004-001	1717 PRAIRIE HAWK DR	9,591.51
1446-013-005	4800 MARSH HAWK DR	6,092.63
1446-013-040	4614 MARSH HAWK DR	6,007.11
1446-013-045	4608 MARSH HAWK DR	6,163.94
1446-013-060	1602 PRAIRIE HAWK DR	10,782.26
1446-013-085	4629 GREY HAWK LN	6,306.26
1446-013-090	4701 GREY HAWK LN EAGLE CREST 7TH ADDITION	1,426.56
1447-002-010	3912 CREST PL	6,199.60
1447-002-015	3904 CREST PL	5,085.32
1447-002-020	3903 CREST PL	3,321.26
1447-002-025	3911 CREST PL	5,082.60
1447-002-030	3919 CREST PL	1,523.36
1447-002-035	3927 CREST PL TRILLIUM 4TH ADDITION 1ST	5,514.47
1469-001-001	2909 MORRISON AVE	7,791.21
1469-001-050	2913 MORRISON AVE BOULDER RIDGE 2ND ADDITION	4,878.51
1511-006-015	4619 NORMANDY ST	10,660.00
1511-007-001	4843 FELDSPAR DR	9,190.27
1511-007-005	4719 NORMANDY ST BOULDER RIDGE 5TH ADDITION	8,044.24
1514-002-005	313 E LASALLE DR	98.08
1514-003-050	527 E LADALLE DR	1,679.27
1514-006-010	534 E LASALLE DR	7,833.83

PARCEL ID	ADDRESS	AMOUNT ASSESSED
1514-007-001	5329 BASALT DR	6,385.90
1514-007-015	5211 BASALT DR	1,372.89
1514-007-040	416 E LASALLE DR	1,320.94
1514-007-060	510 E LASALLE DR	5,486.20
1514-008-045	218 E LASALLE DR	2,712.67
1514-008-055	312 E LASALLE DR	2,211.96
1514-008-060	320 E LASALLE DR	8,984.79
1514-010-001	5511 MICA DR	3,202.50
1514-010-045	5353 MICA DR	6,105.80
	BOULDER RIDGE 6TH ADDITION	
1516-001-001	515 FLINT DR	2,793.25
1516-001-015	601 FLINT DR	6,033.45
1516-001-020	607 FLINT DR	1,426.66
1516-003-025	612 FLINT DR	6,403.38
1516-003-030	618 FLINT DR	5,976.54
1516-004-005	5346 MICA DR	5,843.23
1516-004-010	5340 MICA DR	5,721.34
1516-004-020	5328 MICA DR	1,270.85
1516-004-025	5322 MICA DR	1,316.39
1516-004-035	5210 JASPER DR	4,873.84
	SOUTHBAY 2ND ADDITION	
1555-003-015	3612 MAYFLOWER CIR	3,298.83
1555-003-290	3819 ENDEAVOR PL	5,339.83
1555-003-330	1025 CALYPSO DR	6,630.89
1555-003-360	3826 NEPTUNE CIR	4,760.35
1555-003-520	823 VOYAGER PL	4,121.52
1555-003-535	907 VOYAGER PL	8,466.39
1555-003-610	4092 INTREPID CIR	6,198.21
	SOUTHBAY 5TH ADDITION	
1558-002-006	4117 DOWNING ST	1,337.35
1558-003-030	4405 DOWNING ST	8,231.92
1558-004-170	725 WEST GLENWOOD DR	4,752.40
1558-004-175	723 WEST GLENWOOD DR	4,690.37
	SONNET HEIGHTS SUBDIVISION	
1580-003-030	5619 NIAGARA DR	1,395.01
1580-022-055	4804 SOURIS ST	7,271.30
	SONNET HEIGHTS SUBDIVISION	
1586-001-001	705 CALVERT DR	3,755.06
1586-001-005	707 CALVERT DR	2,629.39
1586-001-010	709 CALVERT DR	3,845.56
	EDGEWOOD VILLAGE 6TH	
1611-001-095	3821 CALGARY CIR	6,344.30
	EDGEWOOD VILLAGE 7TH	
1612-002-075	3914 NEBRASKA DR	7,559.72
1612-002-090	3836 NEBRASKA DR	8,049.45
1612-002-115	3803 KNUDSEN LOOP	12,237.75

PARCEL ID	ADDRESS	AMOUNT ASSESSED
1619-001-001	ACE HARDWARE ADDITION 4321 OTTAWA ST HAMILTON'S 1ST ADDITION	8,335.54
2020-001-159	3403 HAMILTON ST I	566.63
2020-001-160	3403 HAMILTON ST J	566.63
2020-001-161	3403 HAMILTON ST K	566.63
2020-001-162	3403 HAMILTON ST L	566.63
2020-001-163	3407 HAMILTON ST M	566.64
2020-001-164	3407 HAMILTON ST N	566.64
2020-001-165	3407 HAMILTON ST O	566.64
2020-001-166	3407 HAMILTON ST P	566.64
2020-001-167	3407 HAMILTON ST Q	566.64
2020-001-168	3407 HAMILTON ST R	566.63
2020-001-169	3407 HAMILTON ST S	566.63
2020-001-170	3405 HAMILTON ST T	566.63
2020-001-171	3405 HAMILTON ST U	566.63
2020-001-172	3405 HAMILTON ST V	566.63
2020-001-173	3405 HAMILTON ST W	566.63
	BREI ESTATES FIRST ADD REP	
2111-001-001	100 W LASALLE DR	16,300.78
2111-003-001	5106 DURANGO DR	12,249.15
	TRENTON 2ND ADDITION	
2117-001-020	4216 CUMBERLAND LOOP	1,185.06
2117-001-025	4220 CUMBERLAND LOOP	737.59
2117-001-030	4224 CUMBERLAND LOOP	3,042.20
2117-001-035	4228 CUMBERLAND LOOP	3,561.85
2117-001-040	4230 CUMBERLAND LOOP	3,841.01
2117-001-045	4236 CUMBERLAND LOOP	6,365.04
	KAMROSE ADDITION	
2140-002-015	3118 KAMROSE DR	4,790.57
2140-002-020	3124 KAMROSE DR	4,122.84
	LIBERTY ADDITION	
2170-001-001	5434 MICA DR	6,189.39
2170-001-010	5502 MICA DR	1,292.28
	EVERGREEN RIDGE ADDITION	
2175-001-125	4119 HURON DR	848.94
2175-002-010	301 HURON DR	2,982.80
	RDO HAY CREEK INDUSTRIAL A	
2235-002-150	2005 CHANNEL DR	31,697.43
	HERITAGE RIDGE ADDITION	
2245-001-025	5908 CRESTED BUTTE RD	2,235.24
2245-001-050	5824 CRESTED BUTTE RD	1,225.09
2245-001-055	5820 CRESTED BUTTE RD	5,612.87
2245-001-060	5816 CRESTED BUTTE RD	2,608.04
2245-001-090	5716 CRESTED BUTTE RD	6,034.23
2245-001-095	5708 CRESTED BUTTE RD	5,730.91

<b>PARCEL ID</b>	<b>ADDRESS</b>	<b>AMOUNT ASSESSED</b>
2245-002-001	5809 CRESTED BUTTE RD	9,311.08
2245-002-080	5830 HERITAGE RIDGE RD HERITAGE PARK ADDITION	5,008.50
2250-004-025	919 SELECT LN	937.65
2250-004-085	1400 COMMUNITY LOOP	4,837.70
2250-004-090	1408 COMMUNITY LOOP	2,861.07
2250-005-025	1002 RESERVE LN	4,805.16
2250-005-030	1010 RESERVE LN	1,337.94
2250-005-040	1026 RESERVE LN	5,738.21
2250-006-001	1228 COMMUNITY LOOP	4,760.77
2250-006-005	1025 RESERVE LN	1,423.95
2250-006-015	1011 RESERVE LN	5,393.18
2250-006-025	1004 COMMUNITY LOOP	2,901.64
2250-006-030	1012 COMMUNITY LOOP	4,851.31
2250-006-035	1102 COMMUNITY LOOP	4,209.20
2250-006-045	1118 COMMUNITY LOOP	4,744.13
2250-006-050	1126 COMMUNITY LOOP	4,284.60
2250-008-160	6003 SONORA WAY	2,811.05
2250-008-165	6005 SONORA WAY	1,793.68
2250-008-170	6007 SONORA WAY	1,822.35
2250-008-175	6009 SONORA WAY SILVER RANCH 1ST ADDITION	3,516.76
2275-003-015	5503 GOLD DR	5,767.47
2275-003-020	5413 GOLD DR	5,918.58
2275-004-001	5200 COBALT DR	6,280.65
2275-011-055	3802 SILVER BLVD	7,358.50
2275-011-060	3712 SILVER BLVD SILVER RANCH ADDITION 1ST	5,518.45
2276-002-050	4130 STEEL PL	3,103.76
2276-002-055	4128 STEEL PL	3,216.78



## *Human Resources Department*

**DATE:** August 19, 2020

**FROM:** Robert McConnell, Human Resources Director

**ITEM:** Award Flexible Benefit & COBRA Administration Proposal

### **REQUEST**

Approval of the Azurance Group Flexible Spending – COBRA Administration Proposal

Please place this item on the August 25, 2020 City Commission meeting.

### **BACKGROUND INFORMATION**

The Human Resource Department is requesting award of Flexible Spending and COBRA Administration to the Azurance Group. This would allow the department to fully implement a complete electronic or on-line enrollment of all City of Bismarck benefits.

### **RECOMMENDED CITY COMMISSION ACTION**

The Human Resource Department recommends approval of the Azurance Group's proposal for Flexible Spending and COBRA administration.

### **STAFF CONTACT INFORMATION**

Robert McConnell | Human Resources Director, 355-1330 or  
[rmcconnell@bismarcknd.gov](mailto:rmcconnell@bismarcknd.gov)

## **Flexible Spending and COBRA Administration for 2021**

Earlier this year the Human Resource Department issued a Request for Proposal to consider proposals for Flexible Spending and COBRA administration. It has been considerable time since we have looked at these benefit areas and felt that the City of Bismarck might be better served in this area.

We received proposals from 8 vendors and assembled an RFP committee to review and score the proposals. The RFP review committee included three members of the Human Resources staff and a representative of the Employee Relations Committee. The proposals were rated on the following factors; Responsiveness to the scope of work, Reliability and level of Customer Service, Assistance with Enrollment, Compatibility with our electronic enrollment feature, Billing and Claim process, Cost of the Services, and Offering of a Mobile Application. Online enrollment capability is of great benefit especially in the middle of Covid-19 and will complete our capability to offer all new hire and open enrollments electronically avoiding in person enrollments. The Azurance Group, was ranked number one by the review committee.

The Human Resource Department recommends approval of the proposal submitted by the Azurance Group for Flexible Spending and COBRA administration.

Robert McConnell  
Director, Human Resources

**City of Bismarck**

DATE ISSUED: August 26, 2020

# DISCOVERY BENEFITS ADMINISTRATIVE SERVICES PROPOSAL

## FSA Fee Schedule

<b>Administrative Fees – ppm</b>	<b>\$3.75</b>
<b>Minimum Monthly Fee</b> (Applies only if the monthly administrative fee times the number of participants is less than this amount)	
<b>If two or more Reimbursement Account products are bundled (with the exception of Commuter Benefits); Discovery will assess only one minimum monthly fee per employer group.</b>	<b>\$50.00</b>
<b>Eligible Employees</b>	<b>694</b>
<b>Number of FSA Participants</b>	<b>337</b>
FSA Election per Participant (Industry Avg.)	\$1,500.00
FSA Elections for all Participants	\$505,500.00
FICA Tax Rate	7.65%
<b>Estimated Annual FICA Savings</b>	<b>\$38,670.75</b>
<b>Estimated Annual Fees Paid to Discovery Benefits</b>	<b>\$15,165.00</b>
<b>Estimated Employer Savings</b>	<b>\$23,505.75</b>

*The proposed rate may reflect Discovery's multi-product discount; if only one product is placed with Discovery, the quoted rate may increase by 10%. Please contact your Sales & Marketing team with any questions.*

Discovery does not charge implementation, set-up or renewal fees. Pricing is contingent upon partnership.

### **Monthly administrative fees are guaranteed until January 1, 2026.**

Discovery reserves the right to increase fees at any time that are caused by Federal postal rate increases, increases in bank fees, or that are due to Federal legislative changes.

\*FICA savings is based on estimated annual elections and participation. Actual savings may vary.

# DISCOVERY BENEFITS ADMINISTRATIVE SERVICES PROPOSAL

## COBRA Fee Schedule

**Administrative Fees - per covered employee per month** (Discovery will retain the 2% administrative fee paid by COBRA Continuant.) **\$0.65**

**Minimum Monthly Fee** (Applies only if the monthly administrative fee times the number of covered lives is less than this amount) **\$85.00**

**Eligible Employees** **694**

**Number of Covered Employees\*** **630**

**Estimated Annual Fees Paid to Discovery Benefits** **\$4,914.00**

The following services are also included at no additional cost:

- 1) Access to Discovery Marketplace
- 2) Initial notice
- 3) COBRA notice and election
- 4) Premium billing and remittance
- 5) Termination tracking and notification
- 6) Standard postage and printing
- 7) Open enrollment form
- 8) Plan change notice

Discovery does not charge implementation, set-up or renewal fees. Pricing is contingent upon partnership.

**Monthly administrative fees are guaranteed until January 1, 2026.**

Discovery reserves the right to increase fees at any time that are caused by Federal postal rate increases, increases in bank fees, or that are due to Federal legislative changes.

\*A covered employee is defined as any employee participating in a COBRA-eligible plan (medical, dental, vision, etc.).

# DISCOVERY BENEFITS ADMINISTRATIVE SERVICES PROPOSAL

## ADMINISTRATIVE SERVICES APPLICATION

City of Bismarck ("Employer") hereby requests the administrative services indicated below from **Discovery Benefits, LLC** ("DBI"). If not signed below prior to the Effective Date, Employer's consent to the terms and conditions set forth in the attached agreements will be presumed and deemed to have been obtained upon submission of Employer data through the DBI portal, the DBI design guide or any other DBI authorized format.

- {AB} Arrears Bill
- X COBRA
- {SPM} Direct Bill
- {EA} Education Assistance Program
- {HSA} Health Savings Account
- {PC} Premium Conversion Plan
- X Reimbursement Account
- {ND} Non-Discrimination Testing Subscription

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X HIPAA Business Associate (acknowledged by the Employer as the sponsor on behalf of and as a representative of the group health plan or plans)

### SIGNATURE

The services shall be subject to the corresponding terms and conditions set forth in the attached agreements, accepted and entered into as of 01/01/2021 ("Effective Date").

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Employer Authorized Signature

---

Name



## HUMAN RESOURCES DEPARTMENT

**DATE:** September 3, 2020  
**FROM:** Robert McConnell, Director of Human Resources  
**ITEM:** Supplemental Use of Annual or Sick Leave for FFCRA

### REQUEST

Approval for the workforce to use supplement Sick or Annual Leave during use of Items number 4, 5 or 6 of the Families First Coronavirus Response Act (FFCRA)

Please place this item on the September 8, 2020 City Commission meeting.

### BACKGROUND INFORMATION

In administering the Family Medical Leave Act (FMLA) which is an unpaid leave for qualifying medical reasons, employees are permitted to substitute their leave so that they are paid for the qualifying absences under FMLA. In similar manner the Human Resource department is requesting that the workforce be permitted to supplement Sick or Annual leave to supplement the 2/3 pay provided under the FFCRA while providing care for; individuals subject to a quarantine order, caring for their child whose school is closed or is experiencing any other substantially-similar condition as specified by item number 4,5, or 6 of the FFCRA. This would in effect make the employee whole, by permitting them to use their own leave bank for the remaining 1/3 of their normal compensation while qualified under the FFCRA.

### RECOMMENDED CITY COMMISSION ACTION

The Human Resource Department recommends approval of the use of the employee's own leave bank to supplement the remaining 1/3 of their normal compensation while qualified under the FFCRA which is only providing 2/3 pay for qualifying events pertaining to FFCRA.

### STAFF CONTACT INFORMATION

Robert McConnell, Director Human Resources, 701-355-1332, [rmcconnell@bismarcknd.gov](mailto:rmcconnell@bismarcknd.gov)

# EMPLOYEE RIGHTS

## PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

### ▶ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- $\frac{2}{3}$  for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at  $\frac{2}{3}$  for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

### ▶ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days* prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

### ▶ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to **telework**, because the employee:

- |   |   |
|---|---|
| <ol style="list-style-type: none"><li>1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;</li><li>2. has been advised by a health care provider to self-quarantine related to COVID-19;</li><li>3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;</li><li>4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);</li></ol> | <ol style="list-style-type: none"><li>5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or</li><li>6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.</li></ol> |
|---|---|

### ▶ ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



**WAGE AND HOUR DIVISION**  
UNITED STATES DEPARTMENT OF LABOR

For additional information  
or to file a complaint:  
**1-866-487-9243**  
TTY: 1-877-889-5627  
[dol.gov/agencies/whd](https://dol.gov/agencies/whd)



WH1422 REV 03/20



## *Public Works Service Operations Department*

**DATE:** September 1, 2020

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

**ITEM:** Request to offer free disposal to Bismarck residents during Fall clean-up week

### **REQUEST**

Request Commission approval to offer Bismarck residents free disposal September 21-26, 2020 by presenting their August 2020 Bismarck utility bill.

Please place this item on the 9/8/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

It has been decided that Fall clean-up week will proceed as normal September 21-26, 2020. In an effort to accommodate residents who wish to utilize the landfill in lieu of curb pick-up during clean-up week, I recommend allowing Bismarck residents who present their August 2020 Bismarck utility bill, free disposal at the landfill from September 21-26, 2020. The City allowed free disposal during the Spring clean-up week.

### **RECOMMENDED CITY COMMISSION ACTION**

Allow free disposal at the landfill September 21-26, 2020 for Bismarck residents presenting their August 2020 Bismarck utility bill.

### **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.



## *Public Works Service Operations Department*

**DATE:** September 1, 2020

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

**ITEM:** Request Commission approval of contract for consulting services for phase 1A and 1B of the Space Needs for Public Health, Police, and Public Works facilities

### **REQUEST**

Approval to accept the contract for consulting services with Leo A. Daly for the space needs for Public Health, Police, and Public Works facilities Phase 1A and 1B.

Please place this item on the 9/8/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

An RFP was released in January, 2020 and the review committee selected Leo A. Daly to provide site analysis, schematic design, design development, contract documents, bidding and construction administration services for the space needs for Public Health, Police, and Public Works facilities. The first contract will review program validation, current PD and PW site analysis, alternative site discussions, onsite building systems assessments for the PD and PW building, Construction Management (CM) questionnaire and planning, four site assessments and additional systems assessment for new sites, CM selection and onboarding, and onsite presentations to the commission October 27, 2020 and January 2021. The contract amount for Phase 1A and 1B is \$315,705. Future contracts regarding site selection, design documentation, bidding and construction management will be brought back to the City Commission for review and approval.

### **RECOMMENDED CITY COMMISSION ACTION**

Approve the contract with Leo A. Daly for Phase 1A and 1B space needs for Public Health, Police, and Public Works facilities for \$315,705.

### **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 any questions.



# AIA<sup>®</sup> Document B133<sup>™</sup> – 2019

## Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition

**AGREEMENT** made as of the 8th day of September in the year 2020  
(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, North Dakota  
221 North 5<sup>th</sup> Street  
PO Box 5503  
Bismarck, ND 58506-5503

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

LEO A DALY  
730 Second Avenue South, Suite 1300,  
Minneapolis, MN 55402

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

City of Bismarck – Facility Design and Construction Administration of Police Station,  
Public Health Building, and Public Works Building

The Construction Manager (if known):  
(Name, legal status, address, and other information)

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.

This document is intended to be used in conjunction with AIA Documents A201–2017<sup>™</sup>, General Conditions of the Contract for Construction; A133–2019<sup>™</sup> Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134–2019<sup>™</sup> Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price. AIA Document A201<sup>™</sup>–2017 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

## TABLE OF ARTICLES

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12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

### 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:

Phase 1 Design will include the following scope items, as determined by Bismarck:

- Program Validation to include 2-day Preliminary Workshop, as needed
- Preliminary Discussion of Site Options and Needs, to be included in Preliminary Workshop
- Site evaluations, to include onsite representation from KLJ, Axtman, and select members of LEO A DALY team, as needed
- Existing building evaluations, to include onsite representation from KLJ, Axtman, and 2-day onsite visit from select LEO A DALY engineers, as needed
- Owner information gathering, including Owner Project Requirements discussions and draft report by LAD/KLJ engineers, as needed,
- Design team support for Construction Manager selection, onboarding, and preliminary Construction Manager conceptual budget, as determined by Bismarck.

§ 1.1.2 The Project's physical characteristics: Existing facilities of Public Health, Police Department, Public Works, and other sites as desired by Bismarck to be included in citywide analysis of future locations for the above-mentioned departments.

§ 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.)*

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

- .1a Phase 1: Space Program confirmation, Site Analysis, and Building Evaluation for re-use
  - September 14, 2020 – Jan 18, 2021
  - Refer to the Phase 1 Design Schedule, attached here as Exhibit A
- .1b Phase 2: Site selection and Early Design (Potentially full design if project progress allows)
  - Spring 2021 – Winter 2021
- .1c Phase 3: Construction Documents, Bidding, and Construction
  - Beginning early 2022

.3 Substantial Completion date or  
(Paragraphs deleted)  
dates:

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement:  
(Indicate agreement type.)

- AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

§ 1.1.6 The Owner's requirements for accelerated or fast-track design and construction, or phased construction are set forth below:

*No fast track design or multi-phase delivery needed.*

(Paragraphs deleted)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.4:  
(List name, address, and other contact information.)

N/A

§ 1.1.9 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.)

N/A

§ 1.1.10 The Owner shall retain the following consultants and contractors:  
(List name, legal status, address, and other contact information.)

- .1 Construction Manager:

Init.

/

*(The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1.1)*

*(Paragraphs deleted)*

Owner to contract for A/V, Security, Acoustical and FF&E Consultants as determined is needed for design, coordination and delivery.

§ 1.1.11 The Architect identifies the following representative in accordance with Section 2.4:

*(List name, address, and other contact information.)*

Leif Eikevik  
Senior Project Manager  
730 Second Avenue South, Suite 1300  
Minneapolis, MN 55402-2416

Todd LaVold  
Senior Architect  
730 Second Avenue South, Suite 1300  
Minneapolis, MN 55402-2416

Cindy McCleary  
Managing Principal  
730 Second Avenue South, Suite 1300  
Minneapolis, MN 55402-2416

§ 1.1.12 The Architect shall retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:

*(List name, legal status, address, and other contact information.)*

§ 1.1.12.1 Consultants retained under Basic Services:

- .1 Structural Engineer:  
Leo A Daly
- .2 Mechanical Engineer:  
Leo A Daly
- .3 Electrical Engineer:  
Leo A Daly
- .3 Fire Protection Engineer:  
Leo A Daly
- .3 Civil Engineer:  
KLJ
- .3 Landscape Designer and Site Planner:  
Axtman + Associates

§ 1.1.12.2 Consultants retained under Supplemental Services:

Init.

/

§ 1.1.13 Other Initial Information on which the Agreement is based:

s

§ 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.

*(Paragraph deleted)*

**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 ("Standard of Care"). 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 provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for actions taken by the Construction Manager.

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

§ 2.5 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.

§ 2.6 **Insurance.** 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.

*(Paragraphs deleted)*

§ 2.6.1 Commercial General Liability with policy limits of one million dollars (\$1,000,000) for each occurrence and one million (\$ 1,000,000 ) in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of five hundred thousand dollars (\$500,000) 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.

§ 2.6.3 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.

§ 2.6.4 Workers' Compensation at statutory limits.

Init.

§ 2.6.5 Employers' Liability with policy limits not less than five hundred thousand (\$ 500,000) each accident, and five hundred thousand (\$ 500,000) policy limit.

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of one million dollars (\$1,000,000) per claim and one million dollars (\$1,000,000) in the aggregate.

§ 2.6.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary 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. Umbrella policies, if any, shall follow form of the underlying policies.

§ 2.6.8 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 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, the Construction Manager, 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, the Construction Manager, 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, and if requested by Owner or otherwise required herein, 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.

§ 3.1.3.1 The Owner agrees that the Architect is not responsible for damages arising from any circumstances beyond the Architect's reasonable control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; pandemic, severe weather disruptions, natural disasters, fire or other acts of God; riots, war or other emergencies; failure of any governmental agency to act in timely manner; failure of performance by the Owner or the Owner's other designers, contractor, or any of their subcontractors; or discovery of any hazardous substances or differing and unforeseeable site conditions.

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect's services.

§ 3.1.5 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.

§ 3.1.6 The Architect shall, in coordination with the Construction Manager, contact governmental authorities required to approve the Construction Documents. The Architect shall respond to applicable design requirements imposed by those authorities.

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

§ 3.1.8 Prior to the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, or the Owner's approval of the Construction Manager's Control Estimate, as applicable, the Architect shall consider the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner in communications related to substitution requests, clarifications, and interpretations.

### § 3.2 Review of the Construction Manager's Guaranteed Maximum Price Proposal or Control Estimate

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for review by the Owner and Architect, and for the Owner's acceptance or approval, a Guaranteed Maximum Price proposal or Control Estimate. The Architect shall assist the Owner in reviewing the Construction Manager's proposal or estimate. The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

§ 3.2.2 Upon authorization by the Owner, and subject to Section 4.2.1.14, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

### § 3.3 Schematic Design Phase Services

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

§ 3.3.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, 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.

§ 3.3.3 The Architect shall present its preliminary evaluation to the Owner and Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

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

§ 3.3.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for Construction Manager's review and 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.

§ 3.3.5.1 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.

§ 3.3.5.2 The Architect shall consider with the Owner and the Construction Manager 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.

§ 3.3.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.

§ 3.3.7 Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

§ 3.3.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.

#### § 3.4 Design Development Phase Services

§ 3.4.1 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 Construction Manager's review and the Owner's approval. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and 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.

§ 3.4.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents.

§ 3.4.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.

#### § 3.5 Construction Documents Phase Services

§ 3.5.1 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 Construction Manager's review and 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 Construction Manager 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.

§ 3.5.1.1 Substantial changes to the Assessment scope on or after <insert date> would necessitate an Add Service.

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

§ 3.5.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall review and comment on the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include sample forms, as developed and prepared by the Owner and Construction Manager. the

§ 3.5.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents.

§ 3.5.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7, and request the Owner's approval of the Construction Documents.

## § 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 Construction Manager as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction. If the Owner and Construction Manager 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. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 3.6.1.2 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or by a written agreement between the Owner and Construction Manager which sets forth a description of the Work to be performed by the Construction Manager prior to such acceptance or approval. Subject to Section 4.2, and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.3 The Architect shall advise and consult with the Owner and Construction Manager 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 Construction Manager'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 Construction Manager or of any other persons or entities performing portions of the Work.

### § 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at reasonable intervals as 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 Construction Manager, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect shall notify the Owner of Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall recommend to the Owner 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, a decision made in good faith by the Architect shall not 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 Construction Manager. 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 Construction Manager, 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 Construction Manager 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 Construction Manager as provided in the Contract Documents.

### § 3.6.3 Certificates for Payment to Construction Manager

§ 3.6.3.1 The Architect shall review and certify the amounts due the Construction Manager 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 Construction Manager'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 Construction Manager 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 Construction Manager's right to payment, or (4) ascertained how or for what purpose the Construction Manager 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 Construction Manager'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 take appropriate action upon, the Construction Manager'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 Construction Manager's responsibility. The Architect's review shall not constitute approval of a deviation from the requirements of the Contract Documents unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and the Architect has given written acknowledgement of the specific deviation of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's review 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 Construction Manager 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 Construction Manager'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 Construction Manager 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 site observations 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 Construction Manager; and
- .4 issue a final Certificate for Payment based upon a final site observation 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 site observations shall be conducted with the Owner to (1) check conformance of the Work with the requirements of the Contract Documents and (2) verify the accuracy and completeness of the list submitted by the Construction Manager 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 Construction Manager, 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 Construction Manager: (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 Construction Manager under the Contract Documents.

§ 3.6.6.5 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.)*

<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Assistance with Selection of Construction Manager	Architect
§ 4.1.1.2 Programming	Architect
§ 4.1.1.3 Multiple Preliminary Designs	Architect
§ 4.1.1.4 Measured drawings	Not provided, reliant on existing building drawings
§ 4.1.1.5 Existing facilities surveys	Owner
§ 4.1.1.6 Site evaluation and planning	Architect
§ 4.1.1.7 Building Information Model management responsibilities	Architect
§ 4.1.1.8 Development of Building Information Models for post construction use	Not provided
§ 4.1.1.9 Civil engineering	Consultant to Architect
§ 4.1.1.10 Landscape design	Consultant to Architect
§ 4.1.1.11 Architectural interior design	Architect
§ 4.1.1.12 Value analysis / Value engineering	Not provided
§ 4.1.1.13 Cost estimating	Owner via Construction Manager
§ 4.1.1.14 On-site project representation	Provided in base as periodic onsite representation
§ 4.1.1.15 Conformed documents for construction	Owner via Construction Manager
§ 4.1.1.16 As-designed record drawings	Not provided
§ 4.1.1.17 As-constructed record drawings	Not provided
§ 4.1.1.18 Post-occupancy evaluation	Not provided
§ 4.1.1.19 Facility support services	Not provided
§ 4.1.1.20 Tenant-related services	Not provided
§ 4.1.1.21 Architect's coordination of the Owner's consultants	Not provided
§ 4.1.1.22 Telecommunications/data design	<To be determined prior to execution>
§ 4.1.1.23 Security evaluation and planning	<To be determined prior to execution>
§ 4.1.1.24 Commissioning	<To be determined prior to execution>
§ 4.1.1.25 Sustainable Project Services pursuant to Section 4.1.3	<To be determined prior to execution>
§ 4.1.1.26 Historic preservation	Not provided
§ 4.1.1.27 Furniture, furnishings, and equipment design	<To be determined prior to execution>
§ 4.1.1.28 Other services provided by specialty Consultants	
§ 4.1.1.29 Other Supplemental Services	

## § 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.)*

**4.1.1.1** Architect to support Owner in discussion of available CM candidates, as well as review list of questions and performance criteria compiled by Owner for selection of CM. Orchestration and participation in the interview process would be an optional additional service.

**4.1.1.2** Architect to lead discussions with each department to validate programming criteria compiled for the 2015 Needs Assessment. Updated understandings from Programming meetings of needs, adjacencies and space planning goals to be compiled for Owner review at the end of Phase 1.

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**4.1.1.3** Architect and consultants to provide up to 2 site planning options for each site under investigation.

**4.1.1.6** Architect and consultants to analyze up to 6 sites, which includes existing sites under consideration such as Police Department and Public Works. Refer to 4.1.1.3 for site options.

**4.1.1.7** Architect to create and manage a Building Information Management (Revit) model for each project site for use in internal coordination between design team member and toward the goal of producing design and construction documents. Development and provision of BIM model for Contractor use or Post-Construction use would be an additional service not covered under 4.1.1.7

**4.1.1.9** Civil engineering to be provided by KLJ

**4.1.1.10** Landscape design to provided by Axtman+Associates.

**4.1.1.14** Onsite representation during construction outlined in 4.2.3

**§ 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.)*

*(Paragraph deleted)*

#### **§ 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 recommendations given by the Construction Manager or the Owner, 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 bid packages in addition to those listed in Section 1.1.6;
- .2** Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;
- .3** Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .4** 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;
- .5** Services necessitated by decisions of the Owner or Construction Manager 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;
- .6** Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner- authorized recipients;
- .7** Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8** Preparation for, and attendance at, public presentations to community or City Commission or others public groups beyond the Oct 27, 2020 and Jan 26, 2021 Commission approval meetings.
- .9** Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .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;
- .12 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method;
- .13 Services necessitated by the Owner's delay in engaging the Construction Manager;
- .14 Making revisions to the Drawings, Specifications, and other documents resulting from agreed-upon assumptions and clarifications included in the Guaranteed Maximum Price Amendment or Control Estimate; and
- .15 Making revisions to the Drawings, Specifications, and other documents resulting from substitutions included in the Guaranteed Maximum Price Amendment or Control Estimate.
- .16 Design Professional shall work closely with Construction Manager and address any recommendations that include design optimization, risk assessment and/or value engineering. If these total efforts during design are greater than 5% of the full construction value of the Owner's budget or GMP, then additional value engineering efforts would be an add service.

§ 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 Construction Manager's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Construction Manager's requests for information that are not prepared in accordance with the Contract Documents, are unnecessarily repetitive, or where such information is available to the Construction Manager from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Construction Manager-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders, and Construction Change Directives that require evaluation of the Construction Manager'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 Construction Manager 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:

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
- .2 Two ( 2 ) visits to the site by the Architect during construction for each site.
- .3 One ( 1 ) trip for site observations 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 One ( 1 ) site observations for any portion of the Work to determine final completion

§ 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 thirty ( 30 ) 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 retain a Construction Manager to provide services, duties, and responsibilities as described in the agreement selected in Section 1.1.5.

§ 5.3 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 increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect and Construction Manager. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Construction Manager to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 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.

§ 5.5 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.

§ 5.5.1 The Owner shall furnish all needed existing building information and drawings associated with the project areas.

§ 5.6 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.

§ 5.7 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.8 NA

§ 5.9 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.

§ 5.10 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.

§ 5.11 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.

§ 5.12 The Owner shall provide prompt written notice to the Architect and Construction Manager 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.

§ 5.13 The Owner shall include the Architect in all communications with the Construction Manager 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 Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.14 The Owner shall coordinate the Architect's duties and responsibilities set forth in the Agreement between the Owner and the Construction Manager 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 Construction Manager, including the General Conditions of the Contract for Construction.

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

§ 5.16 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 the Construction Manager's 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 compensation of the Construction Manager for Preconstruction Phase services; 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 the Initial Information, and shall be adjusted throughout the Project as required under Sections 5.3 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates, or due to market conditions the Architect could not reasonably anticipate. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

*(Paragraph deleted)*

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, 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.

§ 6.5 If the Construction Manager's estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 terminate in accordance with Section 9.5;
- .3 in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .4 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.3, the Architect shall, as an Additional Service, incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's revisions in the Construction Documents Phase shall be the limit of the Architect's responsibility under this Article 6.

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by the Construction Manager's subsequent cost estimates, the Guaranteed Maximum Price proposal, or Control Estimate that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

## 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 Construction Manager, 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 Construction Manager, contractors, consultants, agents and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner’s officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys’ fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect’s obligation to indemnify and hold the Owner and the Owner’s officers and employees harmless does not include a duty to defend. The Architect’s duty to indemnify the Owner under this Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement, or as otherwise limited by this agreement

§ 8.1.4 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.

§ 8.1.5 Mutual Waiver and Release Against Individual Employees. Consultant and Owner agree to release, waive, discharge, and covenant not to sue individual employees of the other party from any and all liability, claims, demands, actions, and causes of action whatsoever arising out of or the result of any loss or injury stemming from the performance of the Agreement that may be sustained, regardless of whether such loss is caused by the negligence of the employee and regardless of whether such liability arises in tort, contract, strict liability, or otherwise, to the fullest extent allowed by law—except in cases of gross negligence or willful misconduct.

## § 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 the Architect work done prior to the time of termination.

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

.1 Termination Fee:

N/A

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

N/A

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate on < Jan 26, 2023>, two years after <the Jan 26, 2021 City Commission Meeting>.

§ 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, except as modified in this Agreement. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, 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, as well as name the Owner and Project in the Architect's promotional and professional materials, to include submission of the Project to industry award programs. 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 Lump Sum for **Phase 1** Design and Coordination

*(Paragraphs deleted)*

\$315,705 lump sum, payable monthly on a percent complete basis. Lump sum amount includes Phase 1 reimbursable expenses, which are further defined in Section 11.8.1.

§ 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.)*

§ 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.)*

§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent ( %), 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	percent (	%)
Design Development Phase	percent (	%)
Construction Documents Phase	percent (	%)
Construction Phase	percent (	%)
<hr/>		
Total Basic Compensation	one hundred percent (	100 %)

The Owner acknowledges that with an accelerated Project delivery, multiple bid package process, or Construction Manager as constructor project delivery method, the Architect may be providing its services in multiple Phases simultaneously. Therefore, the Architect shall be permitted to invoice monthly in proportion to services performed in each Phase of Services, as appropriate.

*(Table deleted)*

*(Paragraphs deleted)*

**§ 11.8 Compensation for Reimbursable Expenses**

§ 11.8.1 Reimbursable Expenses for Phase 1 only are included in 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; Reimbursable travel expenses are to include 14 person-trips during Phase 1, specifically covering 8 person-trips during the initial 6-week Programming work and 6 person-trips during the remainder of Phase 1. Person-trips required in addition to those listed here would be an additional service.
- .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 **for Phase 1**, the compensation shall be included in the lump sum fee amount in Section 11.1 and includes the expenses incurred by the Architect during Phase 1 work including printing and travel.

**§ 11.9 Architect's Insurance.** If the types and limits of coverage required in Section 2.6 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 2.6, and for which the Owner shall reimburse the Architect.)

**§ 11.10 Payments to the Architect**

not used

*(Paragraphs deleted)*

**§ 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 thirty ( 30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

*(Insert rate of monthly or annual interest agreed upon.)*

8% annually

**§ 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:

12.1 Limit of Liability. It is agreed that the Owner's maximum recovery against Architect for any damages, claims, costs, or expenses arising under the Agreement, whether in contract, tort or otherwise, is 110% of the fee of services, whichever is greater. It is expressly agreed that Owner's sole and exclusive remedy against Architect under the Agreement, whether based in contract, tort or otherwise, is the award of damages, costs or expenses not to exceed 110% of the fee of services, whichever is greater.

12.2 Remodeling. Inasmuch as the remodeling and/or rehabilitation of an existing building or structure requires that certain assumptions be made regarding existing conditions, and because some of these assumptions cannot be verified without expending great sums of additional money, or destroying otherwise adequate or serviceable portions of the building or structure, the Owner agrees that, except for negligence on the part of the Architect, Owner will release, hold harmless, and indemnify the Architect for and against any and all claims, damages, and costs of defense arising out of such professional services involving those assumptions, as long as those assumptions are commercially reasonable.

**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 B133™–2019, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition

.2

*(Paragraphs deleted)*

- .3 Exhibits:

Init.

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**User Notes:**

(1449552968)

(Check the appropriate box for any exhibits 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.)

- 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.

**City of Bismarck**

**LEO A DALY Company**

\_\_\_\_\_  
**OWNER** (Signature)

\_\_\_\_\_  
**ARCHITECT** (Signature)

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

\_\_\_\_\_  
(Printed name, title, and license number, if required)

**Bismarck Phase 1 Fee Breakdown**

ver 3 9/1/2020 *Revisions*

**First 6 Weeks**

<b>Phase 1A</b>	<b>Contract Negotiation</b>
	<b>Program Validation</b>
	<b>Current PD &amp; PW Site Analysis</b>
	<b>Alternative Site Discussions</b>
	<b>Onsite Building Systems Assessments - PD &amp; PW</b>
	<b>CM Questionnaire &amp; Planning</b>
	<b>Onsite Presentation to Council 10/27</b>
<i>Duration</i>	<b>6 weeks</b> Sept 14 - Oct 27
<i>Fee</i>	<b>\$ 167,886</b>

**Fall 2020**

LAD, KLJ, Axtman

<b>Phase 1B</b>	<b>4 Site Assessments</b>	<i>Up from 3</i>
	<b>Additional Systems Assessment (New Sites)</b>	
	<b>CM Selection &amp; Onboarding</b>	
	<b>Onsite Presentation to Council 1/26</b>	
<i>Duration</i>	<b>12 weeks</b>	Oct 28 - Jan 27
<i>Fee</i>	<b>\$ 147,819</b>	

**\$ 315,705** Total Phase 1 Fee + Expenses

**2021**

LAD, KLJ, Axtman

<b>Phase 2</b>	<b>Site Selection</b>
	<b>Design Documentation</b>
<i>Duration</i>	9 Months
<i>Fee</i>	

**2022**

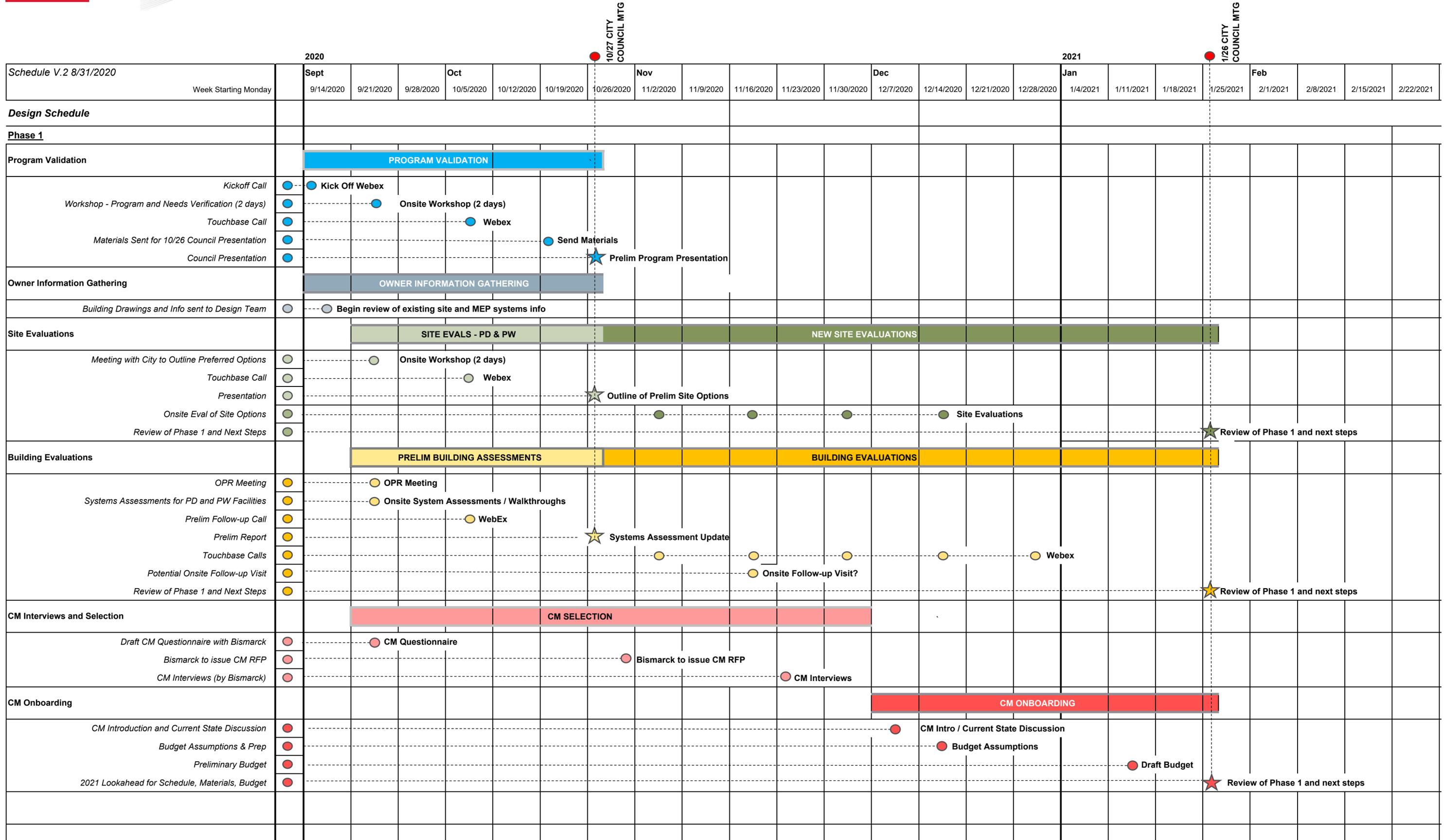
LAD, KLJ, Axtman

<b>Phase 3</b>	<b>Bidding</b>
	<b>Construction</b>
<i>Duration</i>	12-24 months
<i>Fee</i>	



# Police Department, Public Health, Public Works Design

## Phase 1 - Project Design Schedule





## *Public Works Service Operations Department*

**DATE:** September 1, 2020

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

**ITEM:** Request to dispose of/sell Public Works inventory at a public marketplace commonly used for the sale of motor vehicles as described in City Ordinance 7-01-05

### **REQUEST**

Approval to dispose of/sell Public Works inventory at a public marketplace commonly used for the sale of motor vehicles as described in City Ordinance 7-01-05.

Please place this item on the 9/8/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

Due to the increased repair costs and high hours, it is no longer feasible to continue maintenance on the following vehicle:

<b>Unit Number</b>	<b>Description</b>	<b>Division</b>
3557	2008 Peterbilt Chassis 13,425 hours	Solid Waste Division

### **RECOMMENDED CITY COMMISSION ACTION**

Approve to dispose of/sell Public Works inventory at a public marketplace commonly used for the sale of motor vehicles as described in City Ordinance 7-01-05.

### **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 any questions.



## *Public Works Utility Operations Department*

**DATE:** August 31, 2020

**FROM:** Michelle Klose, Utility Operations Director <sup>mk</sup>

**ITEM:** Task Order No. 2 to the Agreement with Apex Engineering Group, Inc. for Hay Creek Lift Station Improvements

### **REQUEST**

Request for approval to accept Task Order No. 2 to the Agreement with Apex Engineering Group, Inc. for Hay Creek Lift Station improvements.

Please place this item on the 9/8/2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

Task Order No. 2 is for engineering services related to improvements at the Hay Creek Lift Station and its associated forcemain. The preliminary design phase is to identify the basis of design and to resolve all major design decisions (\$147,200.00); and the final design phase is to produce final plans and specifications and updated cost estimates, and to conduct a public bid for the proposed improvements (\$183,900.00). The total estimated fee for Task Order No. 2 is not to exceed \$331,100.00.

### **RECOMMENDED CITY COMMISSION ACTION**

Approve Task Order No. 2 to the agreement with Apex Engineering Group, Inc. in the amount not to exceed \$331,100.00 for the Hay Creek Lift Station improvements.

### **STAFF CONTACT INFORMATION**

Michelle Klose, PE | Utility Operations Director, 355-1700 or [mklose@bismarcknd.gov](mailto:mklose@bismarcknd.gov).  
I will be available at the meeting to respond to questions.

**SUGGESTED FORM OF  
TASK ORDER**

This is Task Order No. 2,  
consisting of 8 pages.

**Task Order**

---

In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated [ March 27<sup>th</sup>, 2018 ] ("Agreement"), Owner and Engineer agree as follows:

**1. Background Data**

- a. Effective Date of Task Order: September 8<sup>th</sup>, 2020
- b. Owner: City of Bismarck
- c. Engineer: Apex Engineering Group, Inc.
- d. Specific Project (title): Hay Creek Lift Station Improvements
- e. Specific Project (description): Engineering services related to improvements at the Hay Creek Lift Station and its associated forcemain.

**2. Services of Engineer**

- A. The specific services to be provided or furnished by Engineer under this Task Order are:  
Described in Attachment 1 to Task Order 2
- B. All of the services included above comprise Basic Services for purposes of Engineer's compensation under this Task Order.

**3. Owner's Responsibilities**

Owner shall have those responsibilities set forth in Article 2 of the Agreement and in Exhibit B, subject to the following: **None**

**4. Task Order Schedule**

In addition to any schedule provisions provided in Exhibit A or elsewhere, the parties shall meet the following schedule: **As described in Attachment 1 to Task Order 2.**

**5. Payments to Engineer**

- A. Owner shall pay Engineer for services rendered under this Task Order as follows:
  - a. An amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Equipment Rentals, Reimbursable Expenses and Engineer's Consultants' charges, if any.

- b. The Engineer's Reimbursable Expenses Schedule and Standard Hourly Rates are incorporated into Exhibit C.

Hay Creek Lift Station Improvements	Amount	Basis of Compensation
1. Basic Services (Part 1 of Exhibit A)		
Phase 1, Preliminary Design (30%)	\$147,200	HNTE
Phase 2, Final Design and Bidding Services	\$183,900	HNTE
<b>TOTAL COMPENSATION</b>	<b>\$331,100</b>	<b>Hourly Not To Exceed (HNTE)</b>

- B. Compensation items and totals based in whole or in part on Hourly Rates or Direct Labor are estimates only. Lump sum amounts and estimated totals included in the breakdown by phases incorporate Engineer's labor, overhead, profit, reimbursable expenses (if any), and Consultants' charges, if any. Engineer may alter the distribution of compensation between individual phases (line items) to be consistent with services actually rendered, but shall not exceed the total compensation amount unless approved in writing by the Owner.
- C. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C.

6. **For Reference Only;** the following items are anticipated to be added as future amendments.

- a. Phase 3, Construction Services

7. **Attachments:** Attachment 1 to Task Order 2

8. **Other Documents Incorporated by Reference:** None

9. **Terms and Conditions**

Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is [ September 8<sup>th</sup>, 2020].

OWNER:

ENGINEER:

By: City of Bismarck

By: Apex Engineering Group, Inc.

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

Signature: *Mike Berg*

Print Name: Steve Bakken

Print Name: Mike Berg

Title: President of Board of City Commissioners

Title: Principal

Date Signed: September 8, 2020

Date Signed: 8/30/20

Engineer License or Firm's Certificate No. (if required): COCP #975

State of: North Dakota

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: Michelle Klose

Name: Mike Berg, PE

Title: Director of Utility Operations

Title: Project Manager

Address: PO Box 5503  
Bismarck ND 58502-5503

Address: 600 S. 2<sup>nd</sup> St., Bismarck, ND 58504

E-Mail Address: mklose@bismarcknd.gov

E-Mail Address: Mike.Berg@ApexEngGroup.com

Phone: 701.355.1704

Phone: 701-323-3952



# Attachment 1 to Task Order 2

## Hay Creek Lift Station Improvements

City of Bismarck, North Dakota  
*August 28, 2020*

Phase	Description
1	Preliminary Design (30%)
2	Final Design and Bidding Services

## Project Background

The Hay Creek Lift Station was constructed and placed into service in 1975. Approximately 26% of the total flow of wastewater from the City of Bismarck passes through this station. The primary service area of the Hay Creek Lift Station is the east, northeast, and far north areas of the City of Bismarck. This service area is expected to receive the majority of City development over the next 20 years.

The City of Bismarck has completed a phased study of the Hay Creek Lift Station and Interceptor. This study identified the existing condition, capacity and remaining useful life of the existing lift station and force main. This study also forecasted future flows, evaluated alternatives to meet future demands, and established a preferred alternative.

Phase 1 of the Hay Creek Lift Station Improvements project will develop 30% plans for the improvements to the lift station and its associated forcemain and provide a preliminary engineering report (PER) that addresses the major design issues and decisions along with updated cost estimates. Phase 2 will develop final plans and specifications and updated cost estimates. Phase 2 will also include bidding services.

## Phase 1 – Preliminary Design (30%)

### **Objective:**

The objective of the preliminary design phase is to identify the basis of design and to resolve all major design decisions.

### **Activities:**

#### Project Management

Project Management will be ongoing throughout the project. Progress meetings, progress reporting, management of engineers, technicians and subconsultants through all phases of the project, including contract administration and coordination of quality assurance and quality control.

- 1.1 Project Administration
- 1.2 Quality Assurance / Quality Control
- 1.3 Progress Meetings

#### Preliminary Design (30%)

The preliminary design phase will develop 30% Civil and Electrical plans for the lift station and forcemain improvements. Architectural and mechanical improvements will be identified however they are anticipated to be minor. A Preliminary Engineering Report (PER) will be developed to establish the design concepts and standards. The purpose of the PER is to build consensus regarding the design concepts. The subtasks for this section include the following:

- 2.1 Field Survey
- 2.2 Preliminary Design (30%)
  - Finalize hydraulic design conditions and pump basis of design
  - Evaluate stairway alternatives and operator access
  - Evaluate equipment access and hoist
  - Develop 30% piping, floor layout, and access plans
  - Develop 30% primary and emergency power plans
  - Identify additional lift station improvements
  - Evaluate Forcemain Right-Of-Way
  - Develop 30% forcemain plans
- 2.3 Cost Estimates
- 2.4 Preliminary Engineering Report (PER)
- 2.5 Review Meeting and Incorporation of City Comments

## Phase 2 – Final Design and Bidding Services

### Objective:

The objective of the final design phase is to produce final plans and specifications and updated cost estimates and to conduct a public bid for the proposed improvements.

### Activities:

#### Final Design

This task includes the development of the detailed design of Civil, Architectural, Structural, Mechanical, and Electrical improvements. This task includes the preparation of bidding documents, including plans and specifications. Subtasks for this section include the following:

- 3.1 60% Design
- 3.2 Review Meetings and Incorporate City Comments
- 3.3 Preliminary Opinion of Probable Construction Costs
- 3.4 90% Design
- 3.5 Review Meetings and Incorporate City Comments
- 3.6 Final Opinion of Probable Construction Costs
- 3.7 Specifications
- 3.8 Final Plans

#### Bidding Services

This task includes advertising and receiving bids for the project. Received bids will be evaluated and a recommendation made to the owner. Subtasks for this section include the following:

- 4.1 Advertise for Bidding
- 4.2 Pre-Bid Meeting
- 4.3 Bidding Questions
- 4.4 Bid Opening
- 4.5 Bid Tab and Award Recommendation

## Compensation for Engineering Services

Phase 1 Preliminary Design (30%)	\$147,200
Phase 2 Final Design and Bidding Services	<u>\$183,900</u>
	\$331,100 Total (hourly not to exceed)

## City of Bismarck Responsibilities

- Execute the Apex contract amendment
- Provide Record Drawings and Shop Drawings as Requested
- Attend Review Meetings
- Review and Comment on Draft Reports and Plans

## Apex Responsibilities and Deliverables:

- Communicate with Bismarck on updates, schedule, and assumptions
- Deliver a Preliminary Engineering Report (PER)
- Deliver 60%, 90%, and Final Plans and Specifications
- Conduct review meetings with City staff
- Conduct a Public Bid for the Proposed Improvements

## Future Tasks

- Anticipated additional Hay Creek Lift Station tasks not authorized under this amendment:
- Phase 3, Construction Services

---

## Anticipated Project Schedule:

### Task/Schedule

- Contract Amendment Approval
- Draft Preliminary Engineering Report
- Final Preliminary Engineering Report
- 60% Plans and Specifications
- 90% Plans and Specifications
- Final Plans and Specifications

### Date / Schedule

- September 8<sup>th</sup>, 2020
- November 3<sup>rd</sup>, 2020
- November 17<sup>th</sup>, 2020
- January 12<sup>th</sup>, 2021
- February 9<sup>th</sup>, 2021
- February 23<sup>rd</sup>, 2021

# Emergency Homeless Shelter

## Missouri Slope Areawide United Way

**City of Bismarck**

September 8, 2020

**LIVE UNITED**

**United  
Way**



# Highlights

## January 2020 - August 2020

- Facility opened 24/7 as of January 1, 2020
- Recruited and trained staff
- Re-implemented use of Homeless Management Information Systems (HMIS)
- Implemented best practices
- Served as “Single Point of Contact” for BPD
- Successfully discharged 79 to permanent housing or to facilities w additional support

## Highlights (continued)

### January 2020 - August 2020

- Kept vulnerable population safe by reducing numbers at congregate setting
- Secured funding and provided support for permanent housing
- Provide Intake for COVID-positive homeless clients
- Designed a larger Shelter and Center for Opportunity to create pathways out of poverty to be built
- Secured \$1.384m of \$3.4m capital project

# Emergency Homeless Shelter Demographics

## Sheltered Nights in Congregate Setting:

- 07/2019 – 08/2020 = 11,424
- 01/2020 – 08/2020 = 5,528

## Hometown:

- From ND = 110
- Other = 40
- Unknown/Refuse = 40

## Gender:

- Males = 136
- Females = 54
- Children = 6 (included in above totals)

## Age:

- 55+ = 34
- 25-54 = 139
- 18-24 = 9
- Under 18 = 6
- Unknown = 2

# Shelter Demographics (continued)

## Race:

- White = 83
- American Indian/Alaskan Native = 68
- African American = 12
- White/American Indian = 10
- Native Hawaiian/Islander = 3
- Native Hawaiian/White = 1
- African American/American Indian = 2
- Refuse/Unknown = 11

## Ethnicity:

- Non-Hispanic = 158
- Hispanic = 19
- Refused/Unknown = 13

## Disabilities (Self-Reported):

- Substance Abuse = 41
- Mental Illness = 32
- Dual Diagnosis = 52
- No Disabilities = 56
- Unknown = 9

# Shelter Demographics & Statistics

## Case Types:

- Chronically Homeless = 87
- Domestic Violence = 47
- Under Supervised Probation = 42
- Veterans = 13
- HIV/AIDS = 2

## Discharged from Service:

- Successful = 79
- Unknown = 61
- Unsuccessful = 36
- Current = 14

## Average Length of Stay:

- 29 Nights

# Services

- Diversion Screenings
- Vulnerability Screenings
- Linkages to mental health, addiction, medical, dental & vision services
- Assistance with applications for income supports (WIC, SNAP, SSI, SSDI, Housing support)
- Linkages to Job Services of North Dakota
- Additional basic case management services, such as obtaining medications, birth certificate, driver's license, communications with providers and parole officers, etc.
- Assistance with registering for the Census

## Services (continued)

- Resumes, job applications, and interview preparation
- Affordable housing searches and rental assistance, when needed
- Stress management and coping skills
- Daily living skills
- Weekly Bible group and counseling with a pastor
- Conflict resolution and management
- Budgeting

## Additional Services Due to Pandemic

- Instead of providing 3 meals/week provided by volunteers, staff began preparing 3 meals/day
- Food delivery to shelter, apartments, and hotels
- Intense cleaning protocol each shift
- Laundry for clients due to restrictions to limit exposure
- Professional cleaning of shelter after COVID-positive case
- Travel (plane or bus tickets back home during pandemic)
- Stopped volunteers due to increase risk to clients
- Part-time staff elected not to work due to high risk of exposure
- Provided assessments for many on a waiting list of 135 individuals

# COVID-positive Homeless Individuals Intake for the City of Bismarck

- Complete Releases of Information, assessments and intake questionnaire
- Arrange housing for 14 days or until released by medical professional to enter shelter; coordinate transportation
- Contact BBPH regarding the COVID positive individual with personal identifying information along with health concerns, disabilities, nicotine and dependence
- Email WCHSC with intake information, including if the COVID-positive individual would like to receive services
- Contact a nurse on call to provide information and to start contact tracing.
- Inform Department of Human Services
- Data entry

# Looking Ahead...

## United Way's Center for Opportunity

### **New shelter will offer both congregate and individuals rooms**

- Ability to isolate symptomatic individuals
- Ability to shelter COVID-positive homeless clients

### **Family-friendly space**

- Serve single fathers
- Keep fathers in sleeping area with mothers and children
- Safe space for victims of domestic violence overflow from AARC

### **Improve access and coordination of services for the poor**

- Shared office space for agencies to provide services
- Increased ability to offer AA/NA support groups, parenting groups, job training, financial literacy programs, and bible studies

# Success Stories – Meet Mike

“When we first met Mike at the shelter in January 2020. He was quiet and kept to himself. It took many short conversations with Mike before he started to come out of his shell. Mike is an honorably discharged veteran of the United States Navy. Through his time in the military, he developed PTSD from several horrifying events a person should never have to see. He turned to alcohol as a coping mechanism. Unfortunately, when Mike drinks, he gets depressed. It is an endless downward spiral. This spiral led to several suicide attempts.

Mike has now been sober for over 8 months. He not only came out of his shell, he is the first person to help staff or other clients. He always meets our food volunteers to carry in their donation, helps with chores around the shelter, and does it all with a smile. Watching Mike transform from a shy, quiet, often afraid of crowds man to a joyful, smiling, and happy man has been one of the most rewarding experiences of working at the shelter.

While most stays at the shelter are short-term, everyone’s story is different, as is the time needed to gain stability and build a strong support network. Mike is just now ready to move on to permanent housing. We know being at the shelter and having the opportunity to work with staff daily has allowed him to make immeasurable strides in his physical, mental, and emotional health. We can’t wait to see what the future brings for Mike.” – The United Way Emergency Shelter Team



## Client Remarks

“Without the shelter, I would not have been able to provide for my daughter. I have my own apartment and it is thanks to United Way ‘s help with rent and deposit.”

“After I unexpectedly lost my job, staying at the shelter helped me to save money. Now I am able to attend school. I am very grateful for everything.”

“The shelter helped me to share my fears with others. I am looking forward to their continued help and to get in to my own place soon.”

“The routine is what I was missing. Without the routine, I would have continued to use and may not be alive today.”

**Thank you**

**LIVE UNITED**

**United  
Way**





**Burleigh-Morton  
COVID-19 Task Force Update  
Bismarck City Commission  
September 8, 2020**



# BISMARCK-BURLEIGH PUBLIC HEALTH ACTIVITIES

## ■ MID MARCH-MAY

- Efforts focused on contact tracing, public education, assisting with COVID questions and concerns from the public, employers, businesses

## ■ JUNE-CURRENT

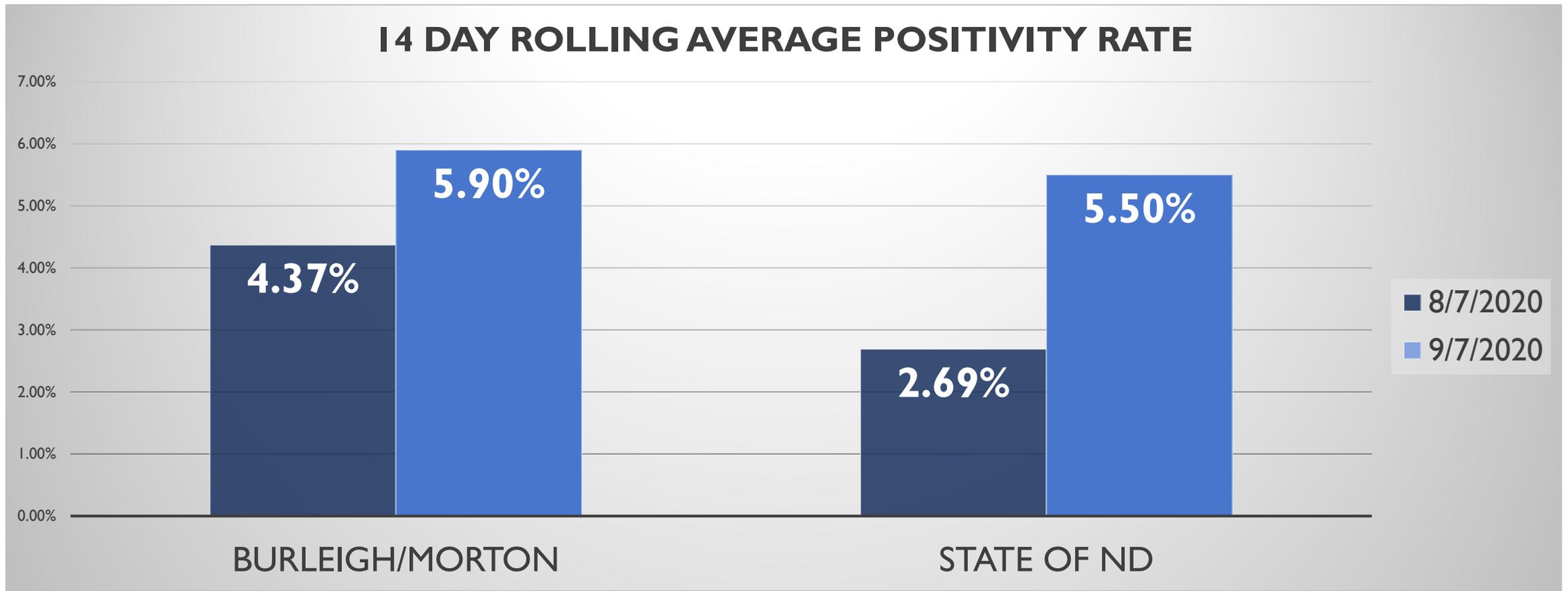
- Efforts focused on COVID-19 testing – 24/7 call for positive cases
- Resumed all regular public health programs and services
- Planning for drive-through flu clinics scheduled for October
  - COVID-19 vaccination planning
- COVID-19 positive homeless sheltering coordination
- Assisting schools with return to school protocols and positive case management
- Burleigh-Morton COVID-19 Task Force Coordination

# **TASK FORCE - GENERAL INFORMATION**

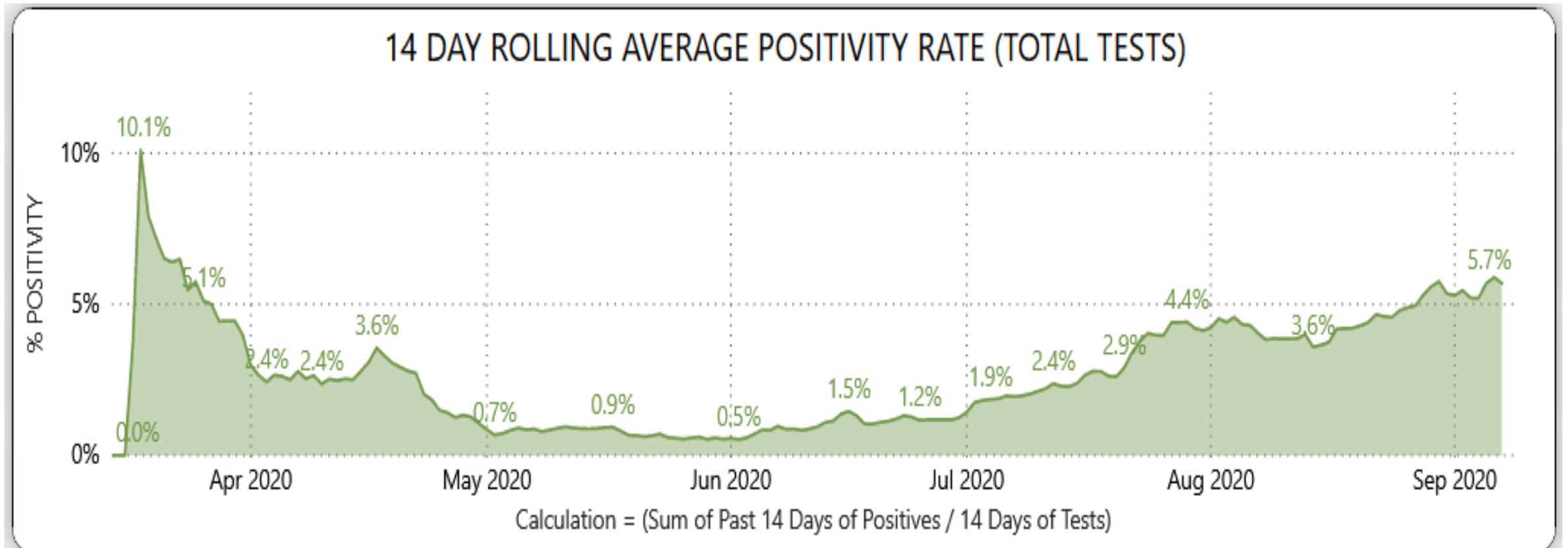
- **Task Force Kick-off Meeting 8/7/2020**
- **Steering Committee**
- **Subcommittees**
  - **Healthcare/Testing Strategy/Contact Tracing**
  - **Educational Institutions & Activities**
  - **Underserved Populations**
  - **Business Community**
  - **Public Education & Awareness**

# TASK FORCE GOAL: PREVENT & MITIGATE COMMUNITY SPREAD OF COVID-19 IN BURLEIGH AND MORTON COUNTIES.

**Metric:** Decrease Burleigh & Morton County COVID-19, 14 day rolling average % of positive tests to be equal to or less than the state average.



# BURLEIGH-MORTON 14 DAY ROLLING AVG POSITIVITY RATE

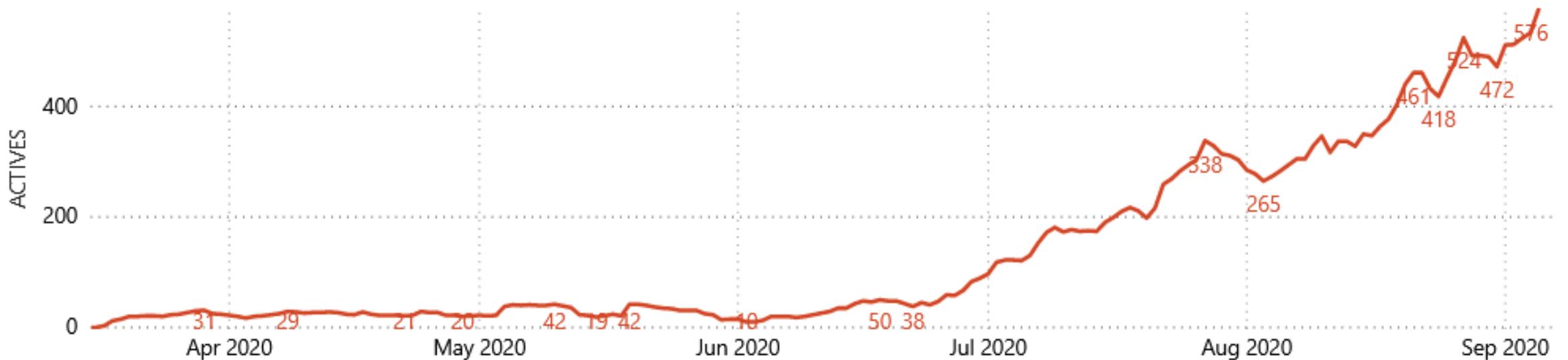


# BURLEIGH-MORTON ACTIVE POSITIVE CASES AS OF 9/7/20 = 23% OF ACTIVE CASES IN ND

ACTIVE POSITIVES

**582**

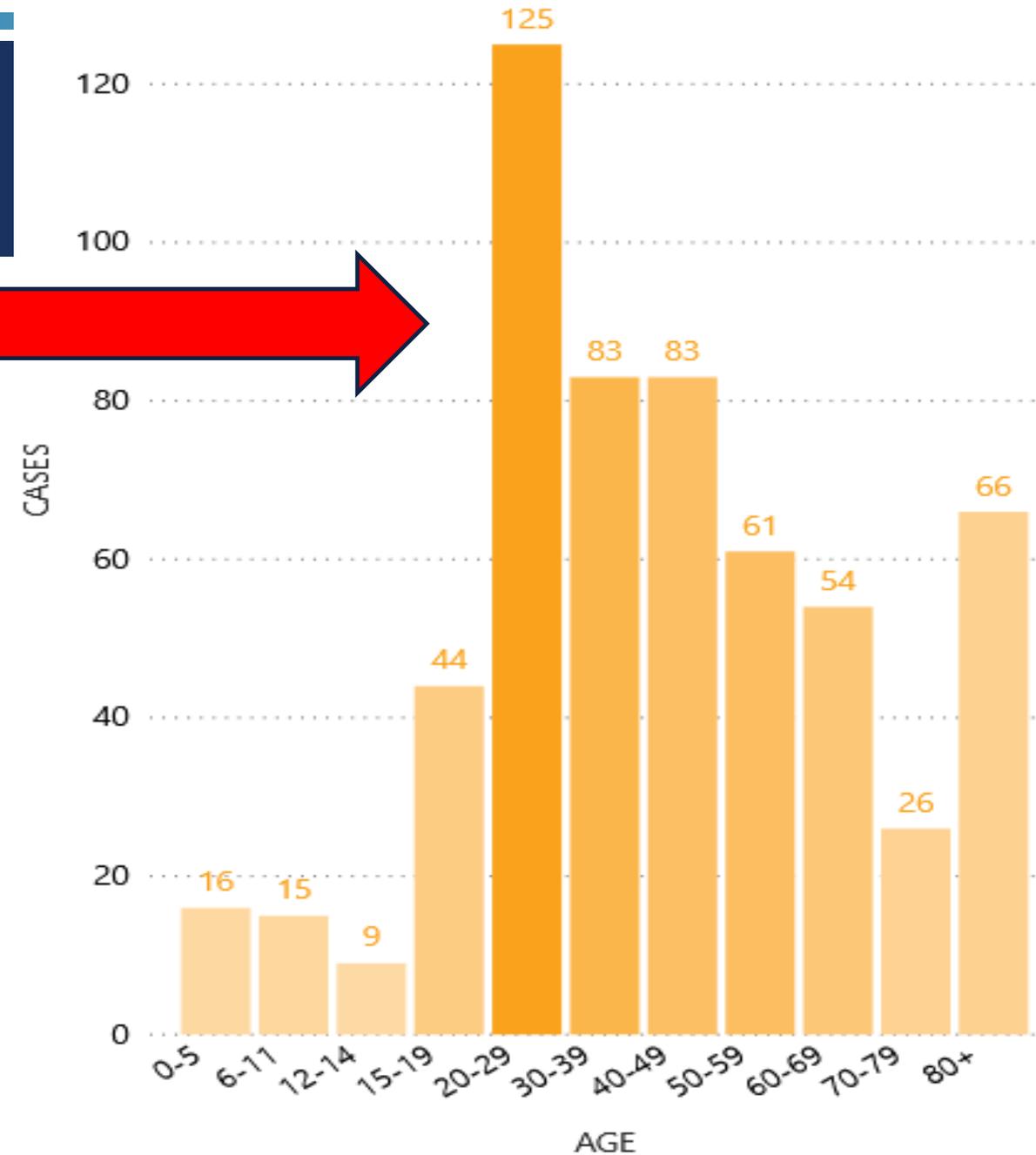
ACTIVE POSITIVES



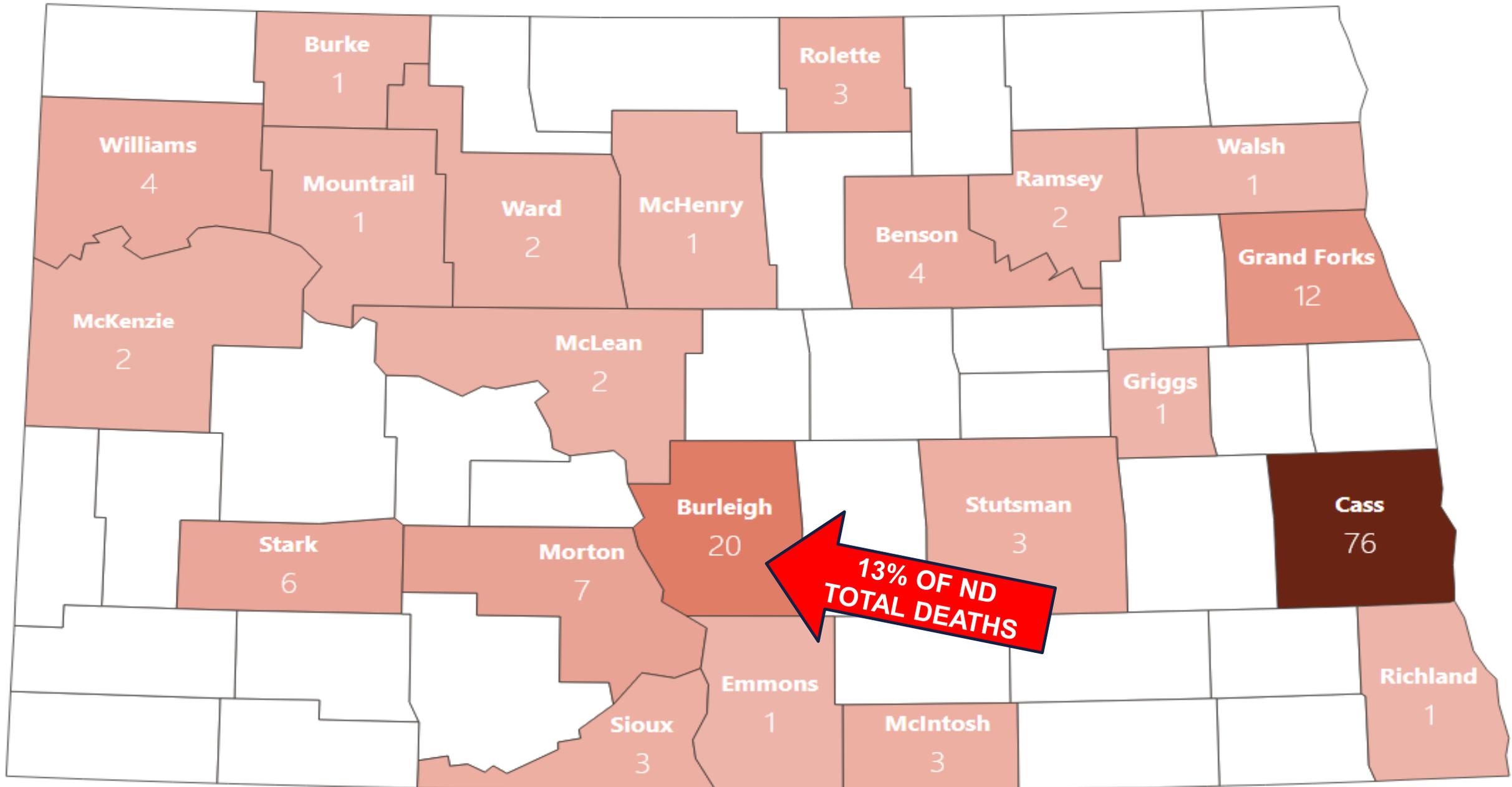
# BURLEIGH-MORTON AGE OF ACTIVE POSITIVES 9/7/2020

## Active Positive Cases 20-29 Year Olds

- 125 cases
- 22% of active positive cases are in this age group



# TOTAL COVID-19 DEATHS BY COUNTY

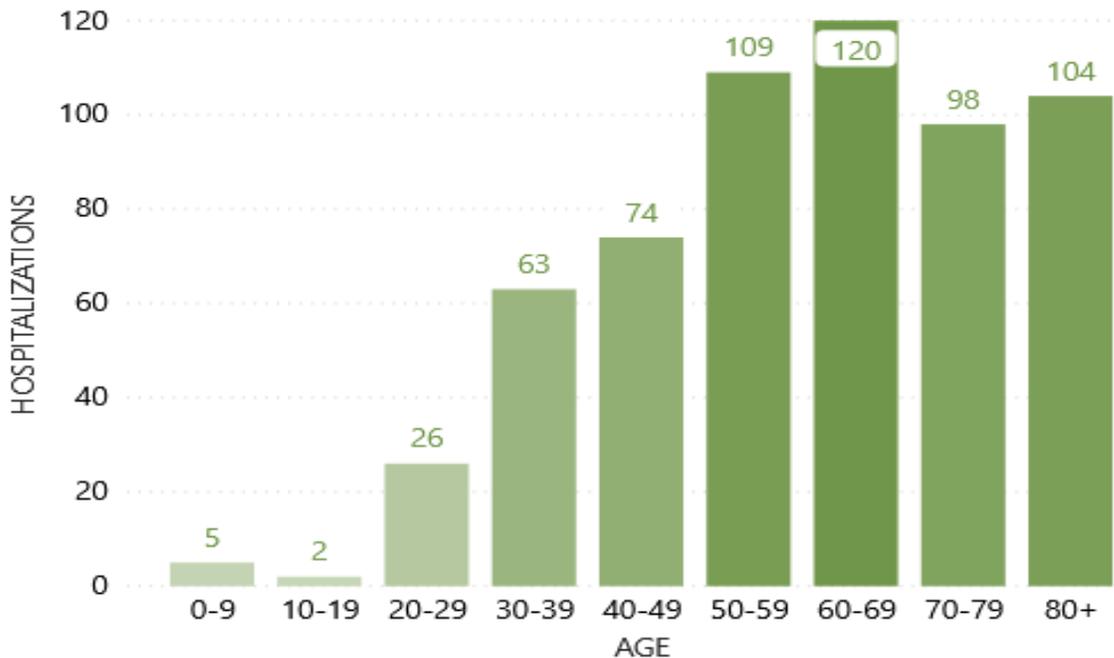


# HOSPITALIZATIONS STATE OF NORTH DAKOTA 9/7/2020

## ACTIVE HOSPITALIZATIONS



## AGE OF TOTAL HOSPITALIZED



COVID ACTIVE  
NON-ICU

49

2

COVID ACTIVE  
HOSPITALIZATIONS

68

COVID ACTIVE ICU

19

COVID TOTAL  
NON-ICU

440

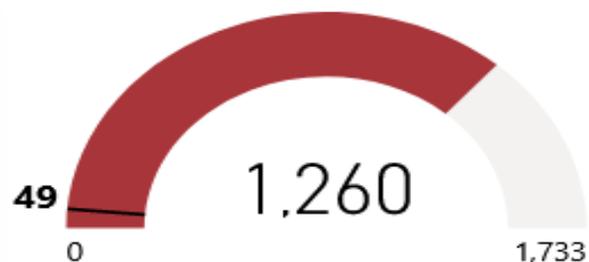
COVID TOTAL  
HOSPITALIZATIONS

602

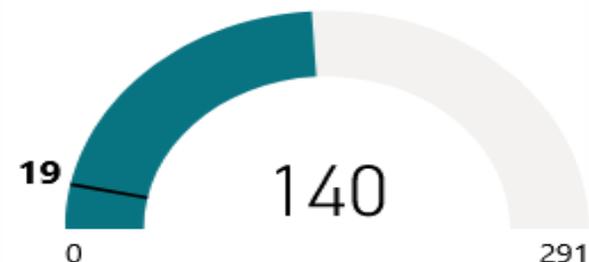
COVID TOTAL ICU

162

## OCCUPIED NON-ICU BEDS



## OCCUPIED ICU BEDS



NON-ICU BEDS OCCUPIED DUE TO COVID

2.83%

ICU BEDS OCCUPIED DUE TO COVID

6.53%

AVERAGE HOSPITALIZATION LENGTH OF STAY (DAYS)

8.22

# GUIDING METRICS OF ASSESSMENT



CRITICAL RISK



HIGH RISK



MODERATE RISK



LOW RISK



NEW NORMAL

## ACTIVE CASES PER 10,000 RESIDENTS (14-DAY ROLLING)



## TESTS PER 10,000 RESIDENTS (14-DAY ROLLING)

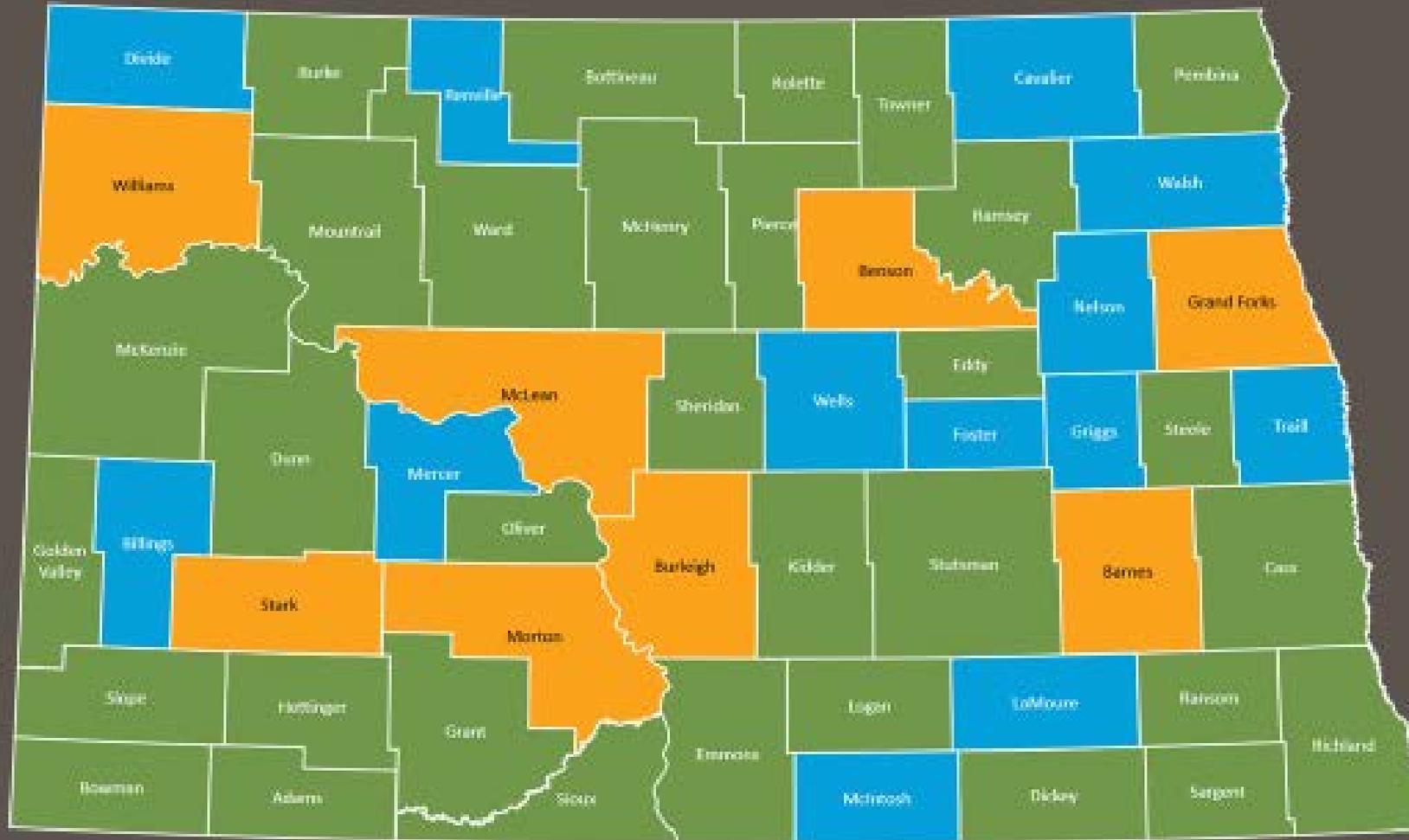


## TEST POSITIVITY RATE (14-DAY ROLLING)



**IMPORTANT NOTE:** This is not exhaustive or exclusive. We will continue to take a holistic approach.

# UPDATED GUIDELINES ON RISK LEVEL



**Eight counties are moving to the moderate risk level:**  
Barnes, Benson, Burleigh, Grand Forks, McLean, Morton, Stark and Williams.

**Changes take effect 5 p.m. Friday, Sept. 4.**

# US PUBLIC HEALTH SERVICE COVID-19 RESPONSE TEAM SITE VISIT

## PURPOSE OF THE VISIT:

- Federal interagency team that visits emerging hotspots to listen, learn, and support local and state efforts.
- Engage with local jurisdictions, including public health partners, and community-based organizations to help identify the root cause of an outbreak at the community level, identify lessons learned, and put forth broader efforts to stop the spread of COVID-19.
- Provide access to public health experts with knowledge of federal policy solutions that can help break the chain of transmission in a community.
- Invite local jurisdictions and community-based organizations to share their experiences with COVID-19 and outline the unique challenges they face.

# **SITE VISIT AGENDA – SEPTEMBER 1-3, 2020**

- Observed COVID-19 Drive Through Testing site at Bismarck Event Center
- Met with Burleigh-Morton COVID-19 Task Force Steering Committee
- Met with State, Regional, and Tribal Organizations
- Met with Local Homeless Service Providers & Churches
- Met with Burleigh-Morton COVID-19 Task Force Subcommittees

# TAKE-AWAYS FROM SITE VISIT

- **What is going well?**
  - Community partnerships & collaboration
  - Access to COVID-19 Testing (5 days/week for Burleigh-Morton)
  - Schools/Colleges/Universities implementing & enforcing strong COVID-19 prevention protocols and guidelines – setting example for all organizations
  - Public Education campaign ready to launch

# TAKE-AWAYS FROM SITE VISIT

## Challenges

- Community-wide spread of COVID-19
- High positivity testing rates trending upward
  - 20-29 year-old demographic
- Mask wearing compliance issues
- COVID Fatigue for Isolation/Quarantine & Testing

# TAKE-AWAYS FROM SITE VISIT

## Suggestions for Change

- Mask wearing in public highly recommended
  - Need local champions to lead the charge
  - Peer-to-peer connections / social-norming
- One solution doesn't work for all areas, need to determine what is best for our community based on our population

# ACTION ITEM FROM 9/4/2020 MEETING



**Request all political subdivisions to enact a mask mandate and make the COVID guidelines mandatory for businesses.**



## *Community Development Department*

**DATE:** September 1, 2020

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

**ITEM:** Vacation of Alley Rights-of-Way – Block 38, Northern Pacific Second Addition

### **REQUEST**

Bismarck Cancer Center is requesting approval of the vacation of a portion of a north-south alley and all of an east-west alley within Block 38, Northern Pacific Second Addition. A new access easement has been accepted by the City to replace the east-west alley in a location north of the existing alley. The purpose of this request is to facilitate an expansion of the Bismarck Cancer Center building.

Please place this item on the September 8, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

This request was originally presented to the City Commission for consideration on June 23, 2020, and a public hearing was called for and scheduled for the August 11, 2020 meeting. The proposed vacation was noticed in accordance with the requirements in North Dakota Century Code related to vacations of right-of way; however, staff realized during the preparation of the agenda item for that meeting that the legal description included on the application/petition for the vacation and used in the legal notices in the Bismarck Tribune was incorrect.

A revised legal notice with the correct legal description was published in the Bismarck Tribune on August 8th, 15th, 22nd and 29th, which meets the publication requirement of once per week for four weeks prior to the September 8, 2020 meeting of the City Commission.

The staff report and resolution for this item, which were originally included in the packet for the June 23rd meeting, have been corrected and are attached. The corrected exhibit for the alley vacation, exhibit for the replacement easement for the east-west alley, application/petition, and letters from the utility companies are also attached.

## **RECOMMENDED CITY COMMISSION ACTION**

Hold a public hearing on the petition to vacate the dedicated alley over the North 20 feet of Lot 5; the deeded alley over the East 8 feet of the North 20 feet of Lot 8; the deeded alley over the South 19.3 feet of the East 8 feet of Lot 9; and the deeded alley over the South 19.3 feet of the West 8 feet of Lot 4, all in Block 38, Northern Pacific Second Addition, and take final action on the request.

The City Commission accepted the replacement east-west alley in a location north of the existing alley during the August 11th meeting.

## **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)

Daniel Nairn, AICP | Planner, 355-1850 or [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)

## RESOLUTION

### VACATION OF RIGHT-OF-WAY ALLEY IN BLOCK 38 NORTHERN PACIFIC SECOND ADDITION

**WHEREAS**, the owners of property described as Tract 500 of Block 27 and 38, Northern Pacific Second Addition and Lots 3 and 4, less the West 8 feet for alley, and Lot 9, less the East 8 feet for alley, all within Block 38, Northern Pacific Second Addition adjoining and contiguous to the alley right-of-way proposed for vacation, have heretofore joined in petition requesting that part of said right-of-way contiguous to these lots be vacated, verified by oath of at least one petitioner and accompanied by a plat of said right-of-way to be vacated, having set forth the facts and reason for said vacation; and

**WHEREAS**, said right-of-way is within plat of Northern Pacific Second Addition, which was recorded on 1911. A portion of the right-of-way proposed for vacation was dedicated on September 29, 1998 through document number 534789; and

**WHEREAS**, an access easement providing a similar function to the alley to be hereby vacated will be recorded.

**WHEREAS**, the City Traffic Engineer has determined that the part of the alley to be vacated is not necessary for efficient traffic movement or public safety, on the condition that an equivalent easement will be provided; and

**WHEREAS**, public utility companies known to have facilities in this area have consented to the proposed action; and

**WHEREAS**, the Board of City Commissioners of the City of Bismarck, North Dakota, deemed it expedient that said matter be preceded with, ordered said petition to be filed in the office of the City Administrator; and

**WHEREAS**, the Board of City Commissioners ordered that notice be given on hearing the aforesaid petitions and the same was so given by publication in the official newspaper of said City on August 8, August 15, August 22, and August 29, 2020 in accordance with law. The Board of City Commissioners at the time appointed, investigated and considered the matter and heard testimony of the persons interested therein.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of City Commissioners of the City of Bismarck, North Dakota Petitions heretofore described to vacate that portion of the right-of-way described as:

The dedicated alley of over the North 20 feet of Lot 5, the deeded alley over the East 8 feet of the North 20 feet of Lot 8, the deeded alley over the South 19.3 feet of the East 8 feet of Lot 9, and the deeded alley over the South 19.3 feet of the West 8 feet of Lot 4, all in Block 38, Northern Pacific Second Addition in the City of Bismarck, Burleigh County, North Dakota.

is in all things allowed and granted.

**BE IT FURTHER RESOLVED** that the City Administrator is hereby authorized to file a transcript thereof for record in the office of the County Recorder, Burleigh County, North Dakota.

Adopted this 8<sup>th</sup> day of September, 2020.

**CERTIFICATE**

I, Jason Tomanek, do hereby certify that I am the duly appointed, qualified Assistant City Administrator of the City of Bismarck, North Dakota, and that the foregoing is a full, true and correct copy of a resolution adopted at a legally convened meeting of the Board of City Commissioners held on September 8, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota, this 8<sup>th</sup> day of September, 2020.

(SEAL)

Jason Tomanek  
Assistant City Administrator  
Bismarck, North Dakota



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

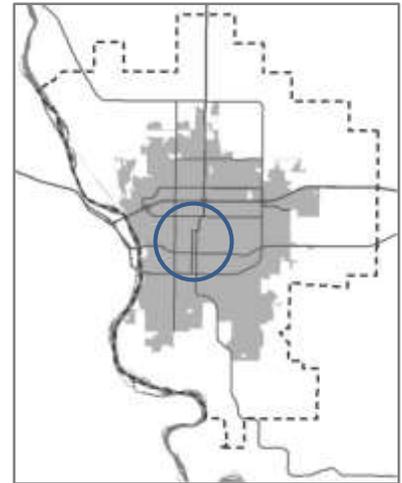
September 8, 2020

## Application for: Plat Modification – Right-of-Way Vacation

TRAKiT Project ID: PLMD2020-006

### Project Summary

Title:	Vacation of alleys in Block 38, Northern Pacific 2 <sup>nd</sup> Addition
Status:	Board of City Commissioners - Public Hearing
Owner(s):	Bismarck Cancer Center
Project Contact:	Lon Romsaas, PE, Swenson, Hagen & Co.
Location:	In central Bismarck, north of East Rosser Avenue and between North 7 <sup>th</sup> Street and North 8 <sup>th</sup> Street
Project Size:	20' width by 150' length, plus 16' width by 19.3' length
Request:	Release existing public alleys to facilitate an expansion of the Bismarck Cancer Center building



### Staff Analysis

Bismarck Cancer Center is requesting approval of the vacation of alleys within Block 38, Northern Pacific Second Addition, as shown in the attached exhibit and legally described in the attached resolution. A new access easement would be recorded to replace the east-west alley in a location north of the existing alley. The purpose of this request is to facilitate an expansion of the Bismarck Cancer Center building.

These alleys were not dedicated with the plat of Northern Pacific Second Addition, which was recorded in 1911. The north-south alley proposed for vacation has existed through the middle of Block 38 of this subdivision for many years, and was deeded after the plat was recorded. The east-west alley proposed for vacation was dedicated as a public right-of-way by recorded instrument in 1998.

Representatives from Capital Electric, MDU, CenturyLink and Midcontinent have all consented to this vacation, with the understanding that an alternate access easement would be granted.

The replacement easement would suffice for all access and utility needs to this area. A new access easement

has been accepted by the City to replace the east-west alley in a location north of the existing alley.

This request was originally presented to the City Commission for consideration on June 23, 2020, and a public hearing was called for and scheduled for the August 11, 2020 meeting. The proposed vacation was noticed in accordance with the requirements in North Dakota Century Code related to vacations of right-of way; however, staff realized during the preparation of the agenda item for that meeting that the legal description included on the application/petition for the vacation and used in the legal notices in the Bismarck Tribune was incorrect.

A revised legal notice with the correct legal description was published in the Bismarck Tribune on August 8th, 15th, 22nd and 29th, which meets the publication requirement of once per week for four weeks prior to the September 8, 2020 meeting of the City Commission.

The staff report and resolution for this item, which were originally included in the packet for the June 23rd meeting, have been corrected and are attached. The corrected exhibits for the alley vacation and the

(continued)

replacement easement for the east-west alley are also attached.

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

1. The right-of-way proposed to be vacated does not substantially contribute to the function or safety of the overall roadway network in the area;
2. The right-of-way proposed to be vacated is not needed by the City of Bismarck or any affiliated entities for public utilities, and/or easements have been granted for any existing utility infrastructure in use within the right-of-way;
3. The proposed vacation of right-of-way is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed vacation of right-of-way is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed vacation of right-of-way would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the attached resolution to vacate The dedicated alley of over the North 20 feet of Lot 5, the deeded alley over the East 8 feet of the North 20 feet of Lot 8, the deeded alley over the South 19.3 feet of the East 8 feet of Lot 9, and the deeded alley over the South 19.3 feet of the West 8 feet of Lot 4, all in Block 38, Northern Pacific Second Addition, as shown on the attached map.

**Attachments**

1. Location Map
2. Aerial Map
3. Alley Vacation Exhibit (revised)
4. Replacement Easement (revised)
5. Resolution (revised)
6. Application/Petition (revised)
7. Letters from Utilities (revised)

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Staff report prepared by: Daniel Nairn, AICP

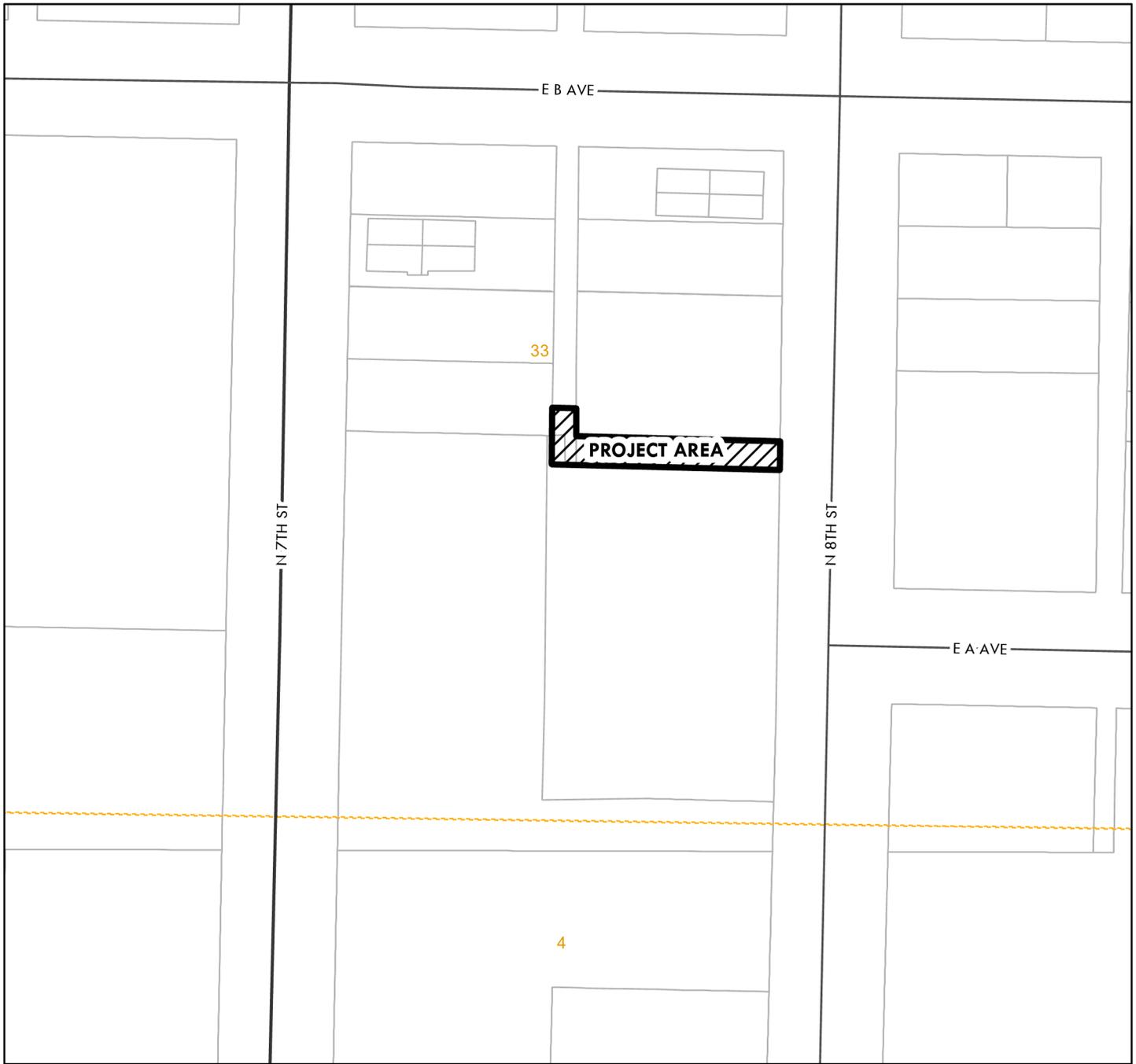
701-355-1854 | [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)



# Location Map

NORTHERN PACIFIC 2ND ADD, PT L3,4&9,B38

PLMD2020-006



City Limits

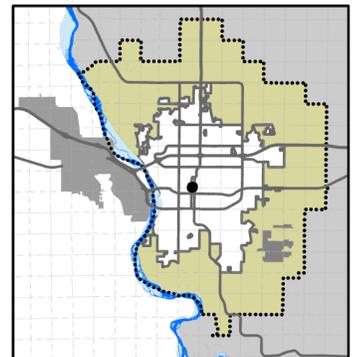
County Outside ETA

Bismarck ETA Jurisdiction

*Section, township, and range indicated in orange*

City of Bismarck  
Community Development Department  
Planning Division  
June 16, 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.*

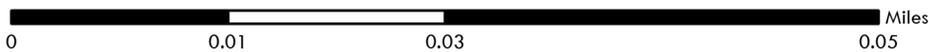




# Aerial Map

NORTHERN PACIFIC 2ND ADD, PT L3,4&9,B38

PLMD2020-006  
ZC2020-006

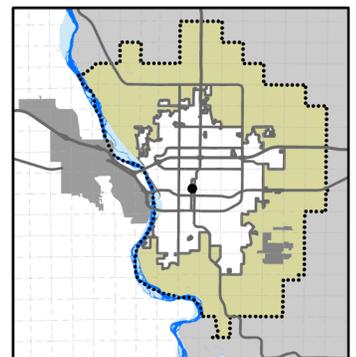


 City Limits     Bismarck ETA Jurisdiction

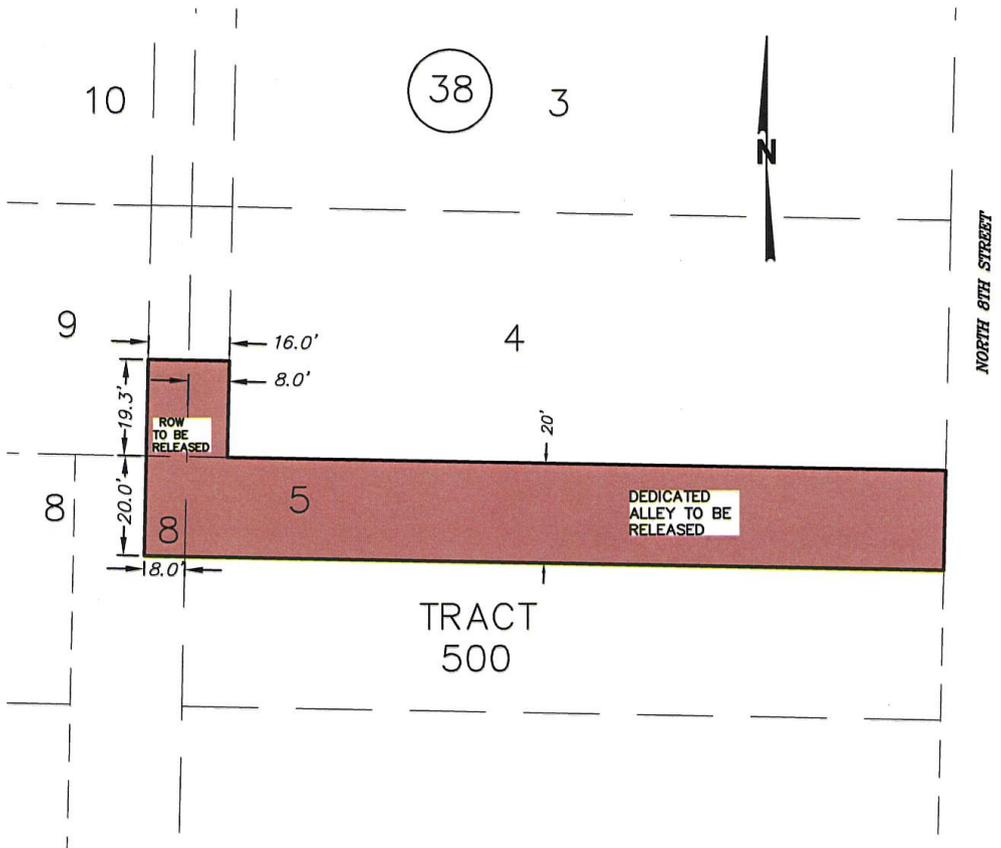
Aerial Imagery from 2019

City of Bismarck  
Community Development Department  
Planning Division  
June 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.*

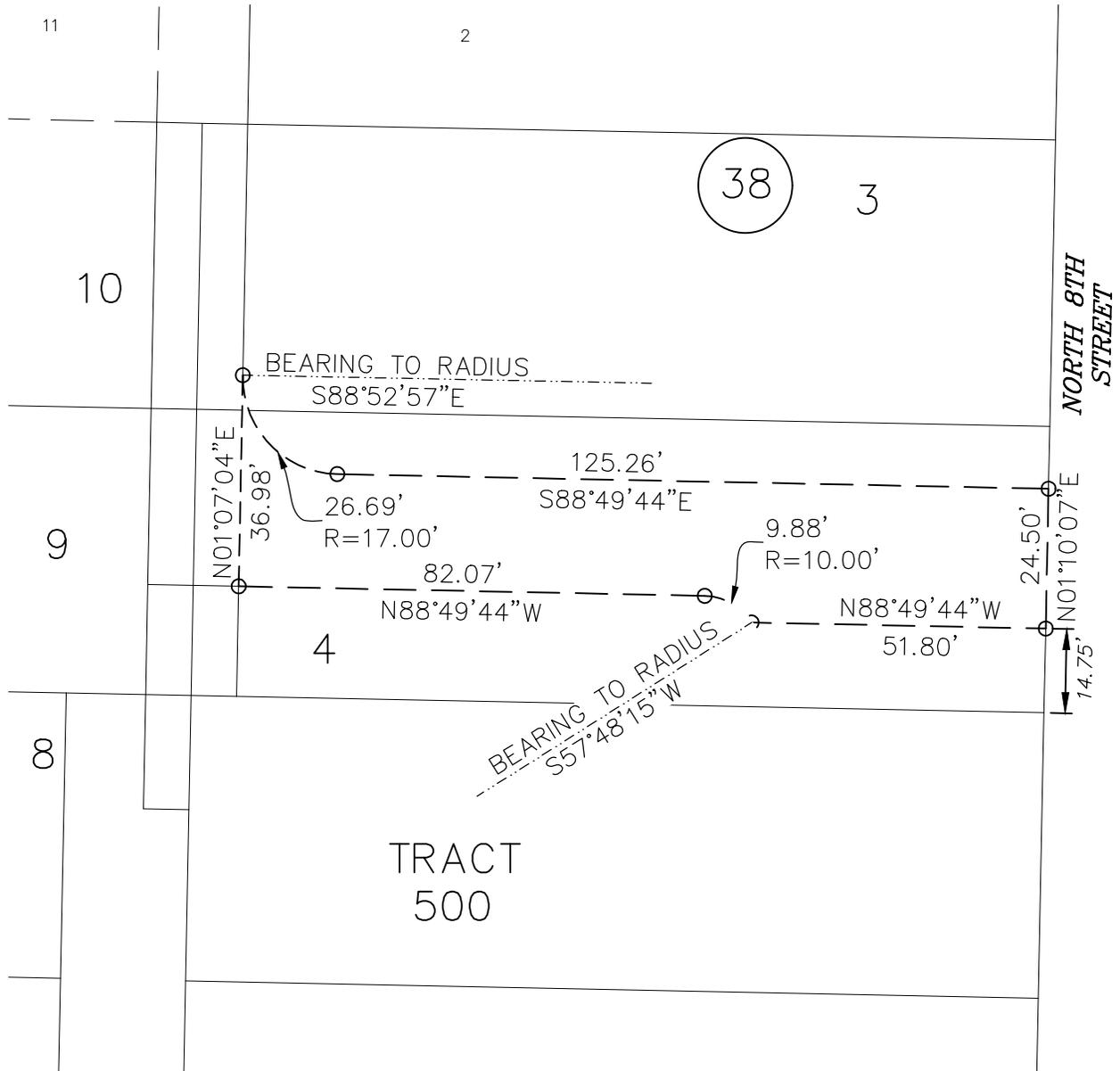


# ALLEY VACATE EXHIBIT



Vacate the dedicated alley of the North 20' of Lot 5  
& Vacate the deeded alley of the E 8' of the N. 20' of Lot 8  
& the S. 19.3' of the E 8' of Lot 9 & the S. 19.3' of the W 8' of Lot 4

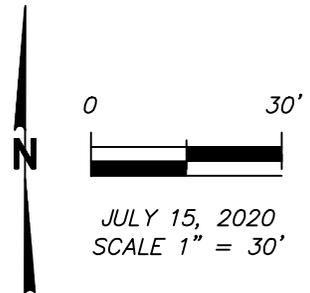
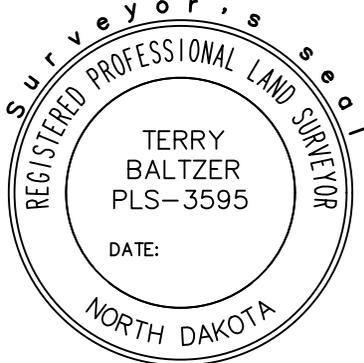
# ACCESS & UTILITY EASEMENT EXHIBIT



## ACCESS & UTILITY EASEMENT

ALL THAT PART OF LOTS 3 & 4 BLOCK 38 OF NORTHERN PACIFIC SECOND ADDITION OF THE SOUTH 1/2 OF SECTION 33, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA DESCRIBED AS FOLLOWS:

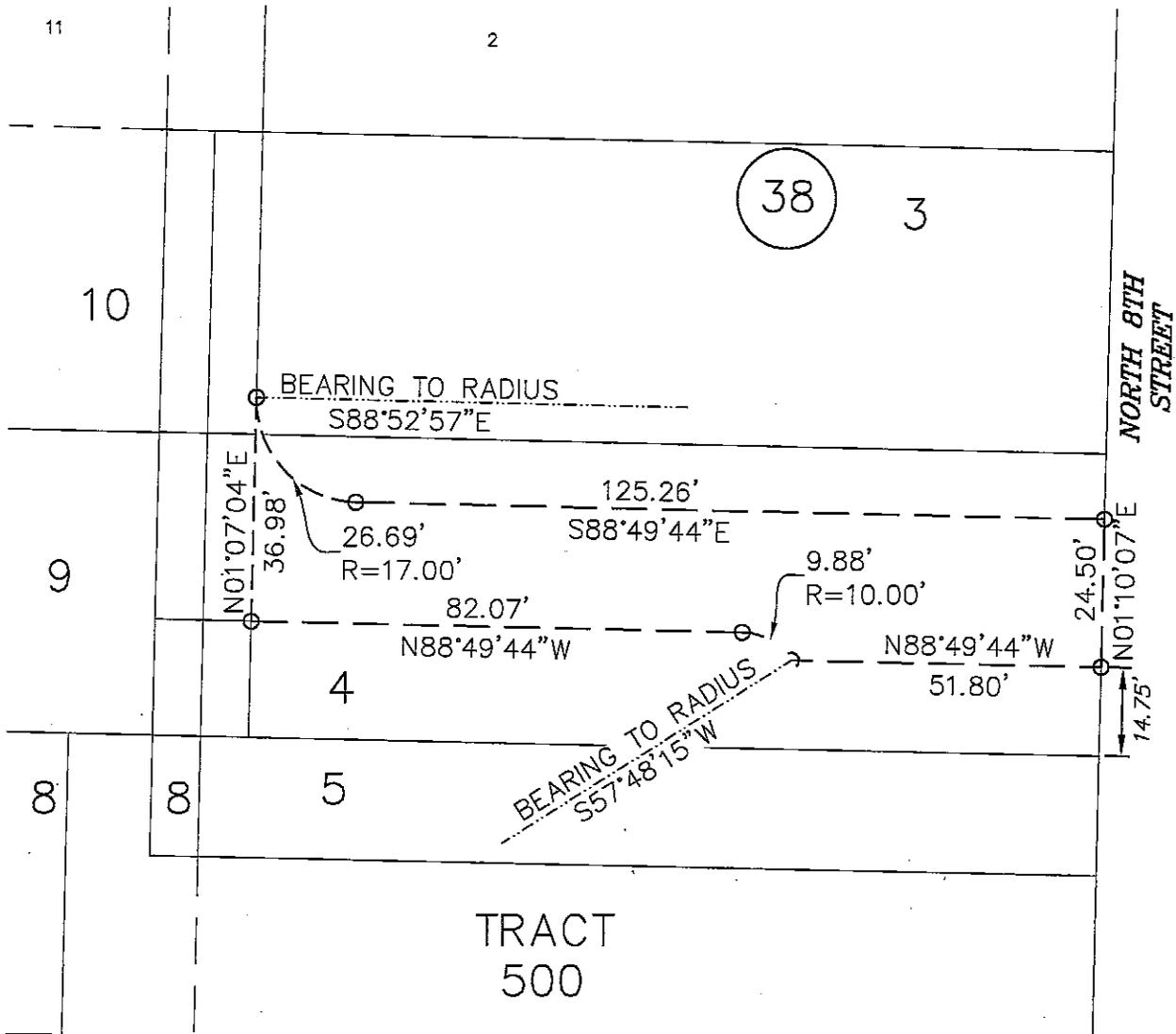
BEGINNING AT A POINT ON THE EAST LINE OF SAID LOT 4 THAT IS NORTH 01 DEGREE 10 MINUTES 07 SECONDS EAST, A DISTANCE OF 14.75 FEET FROM THE SOUTHEAST CORNER OF SAID LOT 4; THENCE NORTH 88 DEGREES 49 MINUTES 44 SECONDS WEST, A DISTANCE OF 51.80 FEET; THENCE NORTHWESTERLY AND TO THE LEFT, ON A 10.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 57 DEGREES 48 MINUTES 15 SECONDS WEST, AN ARC LENGTH OF 9.88 FEET; THENCE NORTH 88 DEGREES 49 MINUTES 44 SECONDS WEST, A DISTANCE OF 82.07 FEET TO THE EAST LINE OF QUIT CLAIM DEED DOC. #317304 OF LOTS 3 & 4 BLOCK 38 NORTHERN PACIFIC SECOND ADDITION; THENCE NORTH 01 DEGREES 07 MINUTES 04 SECONDS EAST, ALONG SAID EAST LINE, A DISTANCE OF 36.98 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, ON A 17.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 88 DEGREES 52 MINUTES 57 SECONDS EAST, AN ARC LENGTH OF 26.69 FEET; THENCE SOUTH 88 DEGREES 49 MINUTES 44 SECONDS EAST, A DISTANCE OF 125.26 FEET TO THE EAST LINE OF SAID LOT 4; THENCE SOUTH 01 DEGREE 10 MINUTES 07 SECONDS WEST, ALONG SAID EAST LINE, A DISTANCE OF 24.50 FEET TO THE POINT OF BEGINNING.



**SWENSON, HAGEN & COMPANY P.C.**  
 909 Basin Avenue  
 Bismarck, North Dakota 58504  
 sheng@swensonhagen.com  
 Phone (701) 223-2600  
 Fax (701) 223-2606

Surveying  
 Hydrology  
 Land Planning  
 Civil Engineering  
 Landscape & Site Design  
 Construction Management

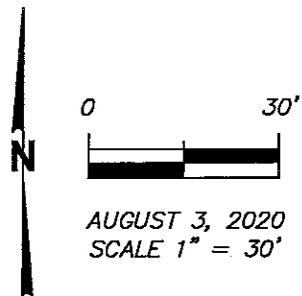
# ACCESS & UTILITY EASEMENT EXHIBIT



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

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

Surveying  
Hydrology  
Land Planning  
Civil Engineering  
Landscape & Site Design  
Construction Management



City of Bismarck  
 Community Development Department  
 Planning Division  
 Phone: 701-355-1840 \* FAX: 701-222-6450 \* TDD: 711  
 P.O. Box 5503 \* Bismarck, ND 58506-5503  
 planning@bismarcknd.gov

Last Revised: 6/29/2020

# UNIFIED DEVELOPMENT APPLICATION

AUG 06 2020

**NOTE: APPLICATIONS ARE NOT COMPLETE UNTIL ALL REQUIRED SUBMITTALS HAVE BEEN RECEIVED**

**Application submitted for (check all that apply):**

- |   |   |  |  |
|---|---|--|--|
| <input type="checkbox"/> Preliminary Major Plat                 | <input type="checkbox"/> Final Major Plat | <input type="checkbox"/> Minor Plat                        | <input type="checkbox"/> Plat Vacation |
| <input type="checkbox"/> Annexation                             | <input type="checkbox"/> Zoning Change    | <input type="checkbox"/> PUD Zoning Change / PUD Amendment |  |
| <input type="checkbox"/> Special Use Permit                     | <input type="checkbox"/> Variance         | <input type="checkbox"/> Rural Lot Split (RR & RR5)        |  |
| <input type="checkbox"/> Fringe Area Road Master Plan Amendment |   | <input type="checkbox"/> Land Use Plan Amendment           |  |
- |  |   |
|--|---|
| <u>Lot Modification</u>                      | <u>Plat Modification</u>                                  |
| <input type="checkbox"/> Lot Line Adjustment | <input checked="" type="checkbox"/> Street/Alley Vacation |
| <input type="checkbox"/> Lot Split           | <input type="checkbox"/> Easement Release                 |
| <input type="checkbox"/> Lot Combination     | <input type="checkbox"/> Non-Access Line Release          |

**PROPERTY INFORMATION**

Project Name:	Alley Vacation--Bismarck Cancer Center		
Legal description: <small>(Lot, Block, Addition/Subdivision)</small>	Lots 4, 5, 8 & 9 Block 38 Northern Pacific 2nd		
Street address of property:	500 N. 8th St		
Existing Zoning		Proposed Zoning:	
Acreage:		Number of Lots:	
Brief description of development proposal, including reason(s) for the request:	Vacate the dedicated alley of the North 20' of Lot 5 & Vacate the deeded alley of the E 8' of the N. 20' of Lot 8 & the S 19.3' of the E 8' of Lot 9 & the S 19.3' of the W 8' of Lot 4		

**APPLICANT/DEVELOPER**

Name:	Bismarck Cancer Center
Mailing Address:	PO Box 5598, Bismarck, ND 58506

**PROPERTY OWNER (IF DIFFERENT THAN APPLICANT/DEVELOPER)**

Name:	
Mailing Address:	

**CONTACT PERSON/CONSULTANT (IF DIFFERENT THAN APPLICANT/DEVELOPER)**

Name:	Swenson Hagen & Co
Mailing Address:	909 Basin Ave., Bismarck, ND 58504



August 4, 2020

Century Link  
Connie Kassian  
1101 16<sup>th</sup> Street NE  
Mandan, ND 58554

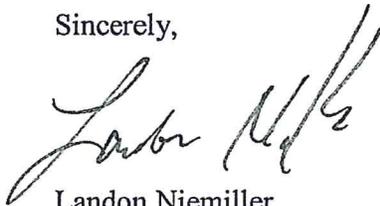
Re: Northern Pacific 2<sup>nd</sup> Addition

Dear Connie,

Bismarck Cancer Center wishes to vacate the dedicated alley of the North 20' of Lot 5 & Vacate the deeded alley of the E 8' of the N. 20' of Lot 8 & the S. 19.3' of the E 8' of Lot 9 & the S. 19.3' of the W 8' of Lot 4 Block 38 Northern Pacific 2<sup>nd</sup> Addition. This will be replaced with an easement upon City of Bismarck approval.

If you agree with this easement vacation, please sign your consent below and return to the office of Swenson, Hagen & Co. within the next 10 business days.

Sincerely,



Landon Niemiller  
Land Development Tech

LN;lm

I, CONNIE M KASSIAN, a representative of Century Link, hereby consent to the proposed vacation of the above described utility easement.



Century Link

August 4, 2020

Midcontinent Communications  
Derek Weigel  
719 Memorial Highway  
Bismarck, ND 58504

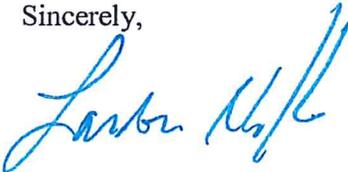
Re: Northern Pacific 2<sup>nd</sup> Addition

Dear Derek

Bismarck Cancer Center wishes to vacate the dedicated alley of the North 20' of Lot 5 & Vacate the deeded alley of the E 8' of the N. 20' of Lot 8 & the S. 19.3' of the E 8' of Lot 9 & the S. 19.3' of the W 8' of Lot 4 Block 38 Northern Pacific 2<sup>nd</sup> Addition. This will be replaced with an easement upon City of Bismarck approval.

If you agree with this easement vacation, please sign your consent below and return to the office of Swenson, Hagen & Co. within the next 10 business days.

Sincerely,



Landon Niemiller  
Land Development Tech

LN;lm

I, Derek Weigel, a representative of Midcontinent Communications, hereby consent to the proposed vacation of the above described utility easement.

  
\_\_\_\_\_  
Midcontinent Communications

August 4, 2020

Montana-Dakota Utilities  
Shelley Vetter  
400 North 4<sup>th</sup> Street  
Bismarck, ND 58501

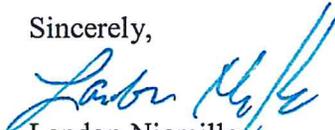
Re: Northern Pacific 2<sup>nd</sup> Addition

Dear Shelley,

Bismarck Cancer Center wishes to vacate the dedicated alley of the North 20' of Lot 5 & Vacate the deeded alley of the E 8' of the N. 20' of Lot 8 & the S. 19.3' of the E 8' of Lot 9 & the S. 19.3' of the W 8' of Lot 4 Block 38 Northern Pacific 2<sup>nd</sup> Addition. This will be replaced with an easement agreeable to all utilities, upon City of Bismarck approval.

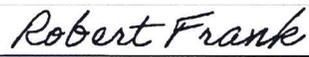
If you agree with this easement vacation, please sign your consent below and return to the office of Swenson, Hagen & Co. within the next 10 business days.

Sincerely,

  
Landon Niemiller  
Land Development Tech

LN;lm

I, Robert Frank, a representative of Montana-Dakota Utilities, hereby consent to the proposed vacation of the above described utility easement.

  
\_\_\_\_\_  
Montana-Dakota Utilities

August 4, 2020

Mr. Mike Berg  
Capital Electric Cooperative  
PO Box 730  
Bismarck, ND 58502-0730

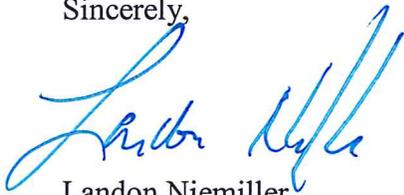
Re: Northern Pacific 2<sup>nd</sup> Addition

Dear Mike,

Bismarck Cancer Center wishes to vacate the dedicated alley of the North 20' of Lot 5 & Vacate the deeded alley of the E 8' of the N. 20' of Lot 8 & the S. 19.3' of the E 8' of Lot 9 & the S. 19.3' of the W 8' of Lot 4 Block 38 Northern Pacific 2<sup>nd</sup> Addition. This will be replaced with an easement upon City of Bismarck approval.

If you agree with this alley vacation, please sign your consent below and return to the office of Swenson, Hagen & Co. within the next 10 business days.

Sincerely,



Landon Niemiller  
Land Development Tech

LN;lm

I, Michael Berg, a representative of Capital Electric Cooperative, hereby consent to the proposed vacation of the above described utility easement.



Michael Berg - Staffing Engineer  
Capital Electric Cooperative



## *Community Development Department*

**DATE:** September 1, 2020  
**FROM:** Ben Ehreth, AICP Community Development Director  
**ITEM:** Easement Release Process History and Alternatives

### **REQUEST**

The Community Development Department is seeking continued direction from the Bismarck Board of City Commissioners on the Easement Release process.

### **BACKGROUND INFORMATION**

At the August 11, 2020 Board of City Commission meeting, staff sought direction on possible changes associated with the existing easement release process. The City Commission requested additional information including the number of easement releases processed in recent history, as well as, possible process alternatives.

#### Easement Release History

Since 2002, the Community Development Department has taken the lead in processing applications for easement releases recorded on the face of a plat. Easements not only exist through dedication on the face of a plat but may also be created through recording of a separate easement document. In these cases, the Engineering Department has taken the lead in releasing easements recorded through means other than on the face of the plat if they identify the City of Bismarck as one of the grantees.

From the beginning of 2019 to present, the Community Development Department has processed 11 easement release applications and the Engineering Department has processed 7.

#### Process Considerations

Since 2002, there have been very few known incidents where neighboring property owners have expressed public concern over the release of an easement. Many releases involve easements where the impact is exclusively associated with the individual property in question. Some easement release efforts already require properties directly impacted by the release of an easement to petition the release. For example, with

access easements, any adjacent property owner that could potentially use the easement for access to their lot would need to sign a petition for release of the subject easement.

Presently, the time frame to process an easement release on the face of a plat by Community Development is approximately 25 days. Staff provides a staff report and the item is generally placed on the consent agenda for City Commission consideration.

The Engineering Department addresses easement release requests not specifically dedicated on the face of a plat and are generally tied to an underlying plat, a replacement easement, or alternative servicing of water/sewer/storm sewer/access that render the subject easement unnecessary. Engineering Department staff review and process the easement release request and place the item on the consent agenda for Bismarck City Commission consideration or is tied to a Major Plat consideration or acceptance of a replacement easement, also considered by the Bismarck City Commission.

Community Development and Engineering staff have made recent refinements to process, including replacement easement acceptance in conjunction with an associated easement release if a replacement easement is necessary. Additionally, the Community Development Department has been working with City of Bismarck GIS staff to implement a Community Development project map, which will depict all Community Development related applications (including easement releases) being processed and geographically represented through an online map. It is anticipated that this map project will provide an added level of public engagement, information, and awareness of all projects processed through the Community Development Department.

#### Possible Alternatives

Based on Commission discussion at the August 11, 2020 Board of City Commission meeting it appeared there may be interest in providing notification to directly adjacent neighboring property owners. The following represents possible alternative process considerations.

Alternative A – Keep processes as is and assume no change to process.

#### Benefits

- Would generally not add additional staff time and/or expense to applicant.
- Would generally not add additional delay to applicant's proposed schedule of development.

#### Drawbacks

- Could limit awareness from neighboring property owners.

Alternative B – Adjacent property owner notifications for easements which benefit the City of Bismarck. These types of easements would generally be related to stormwater/drainage easements, specific utility easements involving public infrastructure, and access easements. This alternative would involve sending out

directly adjacent property owner notifications of the process culminating in a public hearing opportunity at the City Commission level. Easement releases in conjunction with a Major Plat would be assumed to not be included in the notification of adjacent property owners as that would occur through the plating processes.

#### Benefits

- Adjacent property owners could be more informed of the impacts to easements adjacent to their property with formal opportunity to comment.

#### Drawbacks

- There may be other types of easements which also impact neighboring property owners such as landscape easements which would not be included.
- Could increase staff time and/or possibly application expense.
- Could increase delay in development if easement release is a prerequisite for other City approvals.

Alternative C – Adjacent property owner notifications for all easement releases. This alternative would involve sending out directly adjacent property owner notifications of the process culminating in a public hearing opportunity at the City Commission level. Easement releases in conjunction with a Major Plat would be assumed to not be included in the notification of adjacent property owners as that would occur through the plating processes.

#### Benefit

- Adjacent property owners could be more informed of the impacts to easements adjacent to their property with formal opportunity to comment.
- Other easements, such as landscape easements, which may have impact on neighboring property owners would be included.

#### Drawbacks

- Many of the easement release applications processed are related to private utility easements and generally only impact the specific property.
- Likely increase staff time and/or possibly application expense.
- Could increase delay in development if easement release is a prerequisite for other City approvals.

If a process change is recommended it should be consistent with both the Community Development and Engineering Departments.

### **RECOMMENDED CITY COMMISSION ACTION**

Provide direction to staff on pursuing any identified process changes to the easement release process.

### **STAFF CONTACT INFORMATION**

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

# Discussion

Easement Release Process Alternative Direction

September 8, 2020

# Recent History

---

- Community Development and Engineering both have a role
- Easement Releases processed January 2019 to present
  - Community Development – 11
  - Engineering - 7

# Other Public Engagement

## Bismarck Community Development Activities

A Story Map [f](#) [t](#) [l](#)

This map shows community development activities proposed and recently approved within the City of Bismarck and its extraterritorial area (ETA). Click on any project to learn more about it and see contact information for questions or comments. The City seeks public input on certain projects, and the dates of future public hearings with opportunity for comment are provided. Interested persons are encouraged to attend hearings or send comments to the staff contact in advance, which will be given to the appropriate board prior to the hearing.



All Planning Development Activities

Annexations

Subdivisions

Zoning Changes

Special Use Permits

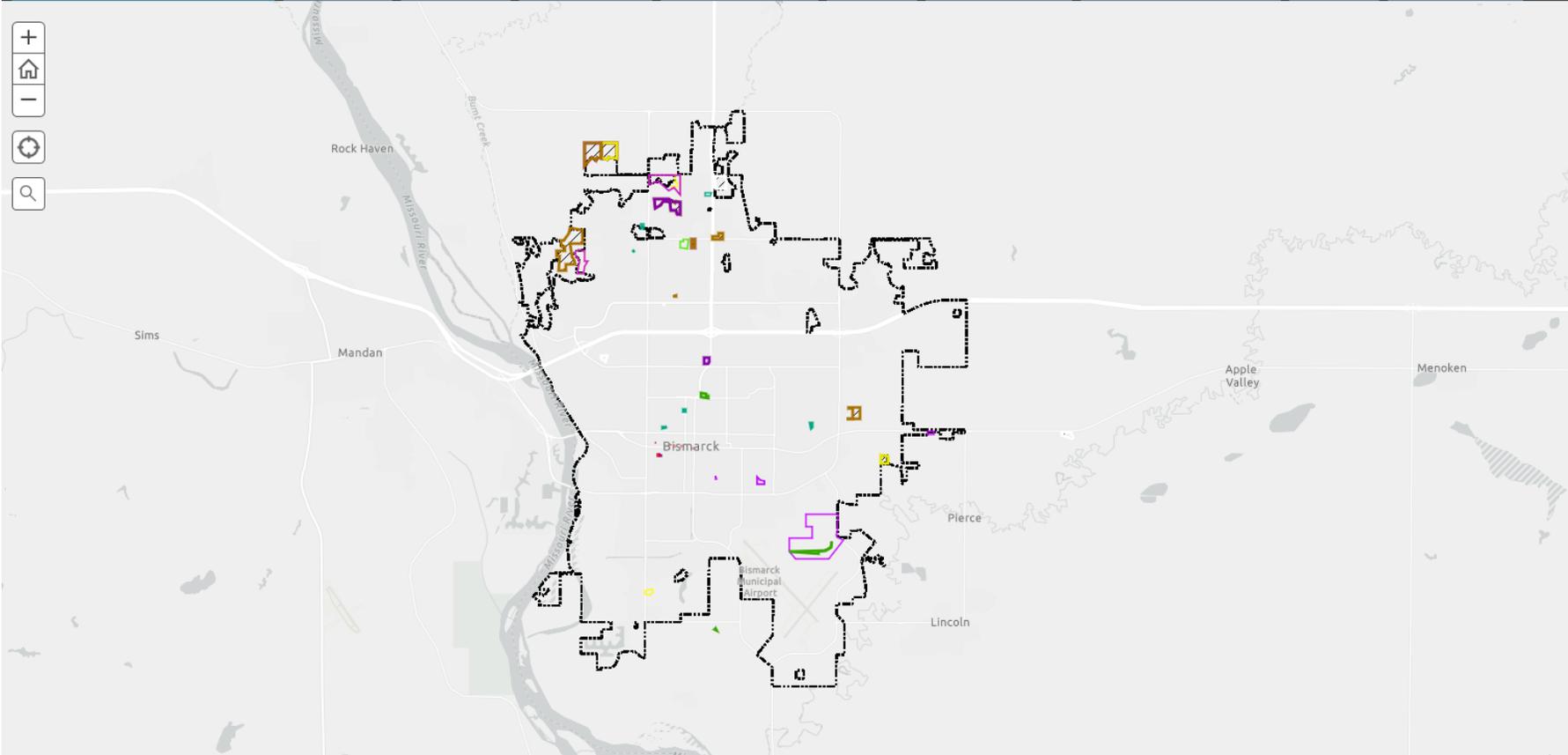
Variations

Renaissance Zone

Downtown Design Review

Site Plans

Building Permits



This tab displays all planning projects approved or in review from Bismarck Community Development within the last 2 years.

*This map is for reference purpose only and is not intended as a survey or accurate representation of all map features. Public hearings are all advertised in the Bismarck Tribune. Failure to show public hearings on this map does not invalidate proceedings.*

### All Planning Activities In Review

- Annexation
- Downtown Design Review
- Renaissance Zone
- Site Plan
- Special Use Permit
- Subdivision
- Variance
- Zoning

### All Planning Activities Approved

- Annexation
- Downtown Design Review
- Renaissance Zone



# Alternatives

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## A. Do Nothing

- Benefits
  - No additional staff time/expense
  - No additional delay for applicant
- Drawbacks
  - Could limit awareness of from neighboring property owners

# Alternatives

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## B. Adjacent Property owner notifications for easements with City of Bismarck as grantee

- Benefits
  - Adjacent property owners could be more informed of impacts to easements adjacent to property with formal opportunity to comment
- Drawbacks
  - There may be other types of easements that also impact neighboring properties (landscape easements)
  - Could increase staff time/expense
  - Could increase delay to applicant

# Alternatives

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## C. Adjacent Property owner notifications for all easement releases

- Benefits
  - Adjacent property owners could be more informed of impacts to easements adjacent to property with formal opportunity to comment
  - Additional easements having potential impact on neighboring properties would be included
- Drawbacks
  - Many easement release applications processed are only related to private utility easements and impact only that property
  - Could increase staff time/expense
  - Could increase delay to applicant



## *City Administration*

**DATE:** April 21, 2020

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

**ITEM:** Alcohol License Renewal Process

### **REQUEST**

Consider discussion regarding the annual alcohol license renewal process.

Please place this item on the April 28, 2020 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

Each year the City Administration department facilitates the annual renewal of alcohol licenses throughout the city, all City alcohol licenses expire on July 31. Typically renewal information is sent to all licensed establishments the first week of May each year. Over the course of two months, the Administration department receives the renewal applications and reviews them prior to the Commission's review and action at a regular City Commission meeting. Administration staff is seeking direction prior to initiating the annual alcohol license renewal process. Below are a series of options for your consideration.

1. Extend the expiration date of all current alcohol licenses until a date to be determined.
2. Pro-rate the annual license renewal fee based on dates when select businesses were not able to operate/sell alcohol due to the COVID-19 pandemic due to state guidelines limiting the operation of select businesses statewide.
3. Waive renewal fees for select businesses that were not able to operate/sell alcohol due to the COVID-19 pandemic due to state guidelines limiting the operation of select businesses statewide.
4. Proceed with the annual renewal process without any changes to the fee structure or renewal fees.

The attached spreadsheet identifies the annual renewal fee for each alcohol license available through the City of Bismarck. The spreadsheet lists the full renewal fee for each license in fourth column. The following columns demonstrate a pro-rated amount for each license for the remaining months of the calendar year (September through December).

It should be noted that not all businesses with an alcohol license have suspended sales and activity; for example, the off-sale retail establishments such as liquor stores and convenience stores selling beer have continued to provide products to consumers. If the Commission decides to pro-rate select alcohol licenses, City staff may need to work with each business that currently holds an alcohol license to determine if the business was operational during the statewide closure to ensure fairness to all businesses impacted by the pandemic.

Please consider a pro-rated renewal fee could help offset losses incurred by businesses impacted by reduced sales during the pandemic. It should be noted that a reduced renewal fee also would be considered a loss of revenue to the general fund; this could result in other changes to general fund department budgets such as the Police Department, the Fire Department and CenCom among others, which rely on this type of City revenue to balance their annual budgets. The annual renewal fees are calculated as part of the 2020 budget; changes to the 2020-2021 renewal fee schedule could result in compromised budgets for general fund departments. City staff would need to review the impacts caused by a reduced fee schedule to determine the overall impacts on the 2020 general fund departments' budgets.

## **RECOMMENDED CITY COMMISSION ACTION**

Consider discussion regarding the annual alcohol renewal process and direct staff how to move forward with renewals and the annual fee for each license. Additionally, if adjustments are made to the annual renewal fees, staff will also need direction to review general fund departments' budgets for 2020 to determine the impacts of a pro-rated or reduced renewal amount.

## **STAFF CONTACT INFORMATION**

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

LICENSE #	COMPANY	LICENSE TYPE	Full License Amount	Prorated Fee/One Month Reduction	Prorated Fee/Two Month Reduction	Prorated Fee/Three Month Reduction	Prorated Fee/Four Month Reduction
LIQ2019-00081	AMVETS CLUB POST NO. 9	CLASS A - CLUBS	\$ 3,528.00	\$ 3,228.36	\$ 2,938.39	\$ 2,638.75	\$ 2,348.78
LIQ2019-00047	BISMARCK EAGLES CLUB #2237	CLASS A - CLUBS	\$ 3,528.00	\$ 3,228.36	\$ 2,938.39	\$ 2,638.75	\$ 2,348.78
LIQ2019-00026	BISMARCK MOOSE LODGE #302	CLASS A - CLUBS	\$ 3,528.00	\$ 3,228.36	\$ 2,938.39	\$ 2,638.75	\$ 2,348.78
LIQ2019-00040	BISMARCK-MANDAN ELKS LODGE 1199 BPOE	CLASS A - CLUBS	\$ 3,528.00	\$ 3,228.36	\$ 2,938.39	\$ 2,638.75	\$ 2,348.78
			<b>\$ 14,112.00</b>	<b>\$ 12,913.45</b>	<b>\$ 11,753.56</b>	<b>\$ 10,555.00</b>	<b>\$ 9,395.11</b>
LIQ2019-00006	THE JUNCTION	CLASS B - AIRPORT CONCESSION	\$ 630.00	\$ 576.49	\$ 480.15	\$ 471.21	\$ 419.42
			<b>\$ 630.00</b>	<b>\$ 576.49</b>	<b>\$ 480.15</b>	<b>\$ 471.21</b>	<b>\$ 419.42</b>
LIQ2019-00112	RADISSON HOTEL & CONFERENCE CENTER	CLASS C - HOTEL/MOTEL	\$ 3,654.00	\$ 3,343.66	\$ 2,784.86	\$ 2,732.99	\$ 2,432.66
LIQ2019-00059	RAMADA BISMARCK HOTEL	CLASS C - HOTEL/MOTEL	\$ 3,654.00	\$ 3,343.66	\$ 2,784.86	\$ 2,732.99	\$ 2,432.66
LIQ2019-00113	RAMKOTA HOTEL & CONFERENCE CENTER	CLASS C - HOTEL/MOTEL	\$ 3,654.00	\$ 3,343.66	\$ 3,043.33	\$ 2,732.99	\$ 2,432.66
LIQ2019-00043	HOLIDAY INN BISMARCK	CLASS C - HOTEL/MOTEL	\$ 3,654.00	\$ 3,343.66	\$ 3,043.33	\$ 2,732.99	\$ 2,432.66
			<b>\$ 14,616.00</b>	<b>\$ 13,374.64</b>	<b>\$ 11,656.38</b>	<b>\$ 10,931.97</b>	<b>\$ 9,730.65</b>
LIQ2019-00072	BISMARCK COURTYARD	CLASS C-2 - HOTEL/MOTEL	\$ 945.00	\$ 864.74	\$ 787.07	\$ 706.81	\$ 629.14
LIQ2019-00073	BISMARCK RESIDENCE INN	CLASS C-2 - HOTEL/MOTEL	\$ 945.00	\$ 864.74	\$ 787.07	\$ 706.81	\$ 629.14
LIQ2019-00069	BISMARCK STAYBRIDGE SUITES	CLASS C-2 - HOTEL/MOTEL	\$ 945.00	\$ 864.74	\$ 787.07	\$ 706.81	\$ 629.14
LIQ2019-00151	COURTYARD BISMARCK	CLASS C-2 - HOTEL/MOTEL	\$ 945.00	\$ 864.74	\$ 787.07	\$ 706.81	\$ 629.14
LIQ2019-00082	EXPRESSWAY SUITES	CLASS C-2 - HOTEL/MOTEL	\$ 945.00	\$ 864.74	\$ 787.07	\$ 706.81	\$ 629.14
LIQ2019-00135	LAQUINTA INN & SUITES	CLASS C-2 - HOTEL/MOTEL	\$ 945.00	\$ 864.74	\$ 787.07	\$ 706.81	\$ 629.14
			<b>\$ 5,670.00</b>	<b>\$ 5,188.44</b>	<b>\$ 4,722.41</b>	<b>\$ 4,240.85</b>	<b>\$ 3,774.82</b>
LIQ2019-00070	COMFORT LOUNGE	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00126	CORRAL BAR	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2020-00004	COSTCO WHOLESALE #1380	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00099	COUNTRY WEST MVP	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00131	ELBOW ROOM	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00150	MAIN BAR	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00057	OBRIAN'S	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00023	PLAZA BEER DEPOT	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00031	SAMS CLUB #4933	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00062	SIDELINES	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00064	SPORTS PAGE	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00029	WALMART #1534	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00030	WALMART #3648	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00120	WILLIQUORS INC	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00032	BLARNEY STONE PUB	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00035	BORROWED BUCKS ROADHOUSE	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00010	CAPTAIN JACK'S #7046	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00011	CAPTAIN JACK'S #7047	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00012	CAPTAIN JACK'S #7048	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00013	CASH WISE LIQUOR	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2020-00001	CASH WISE LIQUOR SOUTH	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00100	HUMPBACK SALLY'S	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00037	POLAR PACKAGE PLACE / LUCKY'S BAR	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00068	PUB 21	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
LIQ2019-00121	STADIUM SPORTS BAR & LODGE	CLASS D - FULL ALCOHOL	\$ 3,906.00	\$ 3,574.26	\$ 3,253.22	\$ 2,921.47	\$ 2,600.43
			<b>\$ 97,650.00</b>	<b>\$ 89,356.44</b>	<b>\$ 81,330.41</b>	<b>\$ 73,036.85</b>	<b>\$ 65,010.82</b>

LICENSE #	COMPANY	LICENSE TYPE	Full License Amount	Prorated Fee/One Month Reduction	Prorated Fee/Two Month Reduction	Prorated Fee/Three Month Reduction	Prorated Fee/Four Month Reduction
LIQ2019-00028	BEER CAVE	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00076	JL BEERS	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00055	MIDWAY TAVERN	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00109	NORTHBROOK MVP	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00110	OUR PLACE TAVERN	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00058	PILOT TRAVEL CENTERS LLC STORE #1224	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00116	SUPERPUMPER #39	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00117	SUPERPUMPER #40	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00140	THE TAP-IN TAVERN	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00020	HORIZON MARKET	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00107	LANDERS SHELL	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00044	LOAF N JUG #685	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00016	PETRO SERVE USA #077	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00015	RUNWAY EXPRESS MART	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00063	SIMONSON STATION STORES INC	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00036	TRI ENERGY CENEX CENTENNIAL	CLASS E - BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
			<b>\$ 12,096.00</b>	<b>\$ 11,068.67</b>	<b>\$ 10,074.48</b>	<b>\$ 9,047.15</b>	<b>\$ 8,052.95</b>
LIQ2019-00102	40 STEAK & SEAFOOD	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00079	A & B PIZZA SOUTH INC	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00144	ALE WORKS	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00093	APPLEBEES NEIGHBORHOOD GRILL & BAR	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00094	APPLEBEES NEIGHBORHOOD GRILL & BAR	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00097	BISTRO 1100, INC	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00074	BROADWAY GRILL & TAVERN	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00104	BUFFALO WILD WINGS	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00103	BUFFALO WILD WINGS NORTH	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00125	BUFFALO WINGS & RINGS	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00105	EDWINTON BREWING COMPANY	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00132	FAMOUS DAVES	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00106	HONG KONG RESTAURANT	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00128	JACK'S STEAKHOUSE & SALOON	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00048	KOBES JAPANESE STEAKHOUSE & SUSHI BAR	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00039	LONGHORN STEAKHOUSE #5557	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00141	LOS LUNA'S	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00066	LUCKY'S 13 PUB	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00127	MACKENZIE RIVER PIZZA GRILL & PUB	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00054	MARLINS FAMILY RESTAURANT	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00134	OAHU HAWAIIAN BBQ & SUSHI BAR	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00111	PEACOCK ALLEY	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00060	ROCK'N 50'S CAFE	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00022	SHOGUN JAPANESE STEAKHOUSE	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00061	SICKIES GARAGE	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00114	STONEHOME BREWING COMPANY	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2020-00003	THE CRAFTCADE	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00038	THE OLIVE GARDEN ITALIAN RESTAURANT #178	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89

LICENSE #	COMPANY	LICENSE TYPE	Full License Amount	Prorated Fee/One Month Reduction	Prorated Fee/Two Month Reduction	Prorated Fee/Three Month Reduction	Prorated Fee/Four Month Reduction
LIQ2019-00046	THE PIER BAR & GRILL	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00129	THE TOASTED FROG	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00033	CARINO'S ITALIAN	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00027	GROUND ROUND	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00034	PARADISO	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00018	RED LOBSTER #0487	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00019	RUBY TUESDAY	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00042	SPACE ALIENS GRILL & BAR	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
LIQ2019-00021	TEXAS ROADHOUSE	CLASS F-1 – RESTAURANT FULL ALCOHOL	\$ 3,402.00	\$ 3,113.06	\$ 2,833.45	\$ 2,544.51	\$ 2,264.89
			<b>\$ 125,874.00</b>	<b>\$ 115,183.33</b>	<b>\$ 104,837.52</b>	<b>\$ 94,146.85</b>	<b>\$ 83,801.05</b>
LIQ2019-00067	BISMARCK HUHOT MONGOLIAN GRILL	CLASS F-2 – RESTAURANT BEER & WINE	\$ 1,449.00	\$ 1,325.93	\$ 1,206.84	\$ 1,083.77	\$ 964.68
LIQ2019-00098	BRUNO'S PIZZA	CLASS F-2 – RESTAURANT BEER & WINE	\$ 1,449.00	\$ 1,325.93	\$ 1,206.84	\$ 1,083.77	\$ 964.68
LIQ2019-00065	GOLF ETC BISMARCK	CLASS F-2 – RESTAURANT BEER & WINE	\$ 1,449.00	\$ 1,325.93	\$ 1,206.84	\$ 1,083.77	\$ 964.68
LIQ2019-00075	JL BEERS	CLASS F-2 – RESTAURANT BEER & WINE	\$ 1,449.00	\$ 1,325.93	\$ 1,206.84	\$ 1,083.77	\$ 964.68
LIQ2019-00050	LAUGHING SUN BREWING COMPANY	CLASS F-2 – RESTAURANT BEER & WINE	\$ 1,449.00	\$ 1,325.93	\$ 1,206.84	\$ 1,083.77	\$ 964.68
LIQ2019-00053	LUCKY STAR BUFFET	CLASS F-2 – RESTAURANT BEER & WINE	\$ 1,449.00	\$ 1,325.93	\$ 1,206.84	\$ 1,083.77	\$ 964.68
LIQ2019-00133	THE WALRUS RESTAURANT	CLASS F-2 – RESTAURANT BEER & WINE	\$ 1,449.00	\$ 1,325.93	\$ 1,206.84	\$ 1,083.77	\$ 964.68
LIQ2019-00017	CHINATOWN BUFFET	CLASS F-2 – RESTAURANT BEER & WINE	\$ 1,449.00	\$ 1,325.93	\$ 1,206.84	\$ 1,083.77	\$ 964.68
			<b>\$ 11,592.00</b>	<b>\$ 10,607.47</b>	<b>\$ 9,654.71</b>	<b>\$ 8,670.18</b>	<b>\$ 7,717.41</b>
LIQ2019-00085	INTERSTATE A & B PIZZA INC	CLASS F-3 – RESTAURANT BEER ONLY	\$ 819.00	\$ 749.44	\$ 682.13	\$ 612.57	\$ 545.25
			<b>\$ 819.00</b>	<b>\$ 749.44</b>	<b>\$ 682.13</b>	<b>\$ 612.57</b>	<b>\$ 545.25</b>
LIQ2019-00092	LADY J'S CATERING INC	CLASS G - MUNICIPAL COUNTRY CLUB	\$ 693.00	\$ 634.14	\$ 577.18	\$ 518.33	\$ 461.37
			<b>\$ 693.00</b>	<b>\$ 634.14</b>	<b>\$ 577.18</b>	<b>\$ 518.33</b>	<b>\$ 461.37</b>
LIQ2019-00005	LEWIS & CLARK RIVERBOAT	CLASS H REGULAR	\$ 680.00	\$ 622.25	\$ 566.36	\$ 508.60	\$ 452.71
			<b>\$ 680.00</b>	<b>\$ 622.25</b>	<b>\$ 566.36</b>	<b>\$ 508.60</b>	<b>\$ 452.71</b>
LIQ2019-00143	A & B PIZZA SOUTH, INC	CLASS I-1 – RESTAURANT FULL ALCOHOL	\$ 3,276.00	\$ 2,997.76	\$ 2,728.50	\$ 2,450.27	\$ 2,181.01
LIQ2019-00142	BUTTERHORN	CLASS I-1 – RESTAURANT FULL ALCOHOL	\$ 3,276.00	\$ 2,997.76	\$ 2,728.50	\$ 2,450.27	\$ 2,181.01
LIQ2019-00009	CHARRAS	CLASS I-1 – RESTAURANT FULL ALCOHOL	\$ 3,276.00	\$ 2,997.76	\$ 2,728.50	\$ 2,450.27	\$ 2,181.01
LIQ2019-00083	COUNTRY HOUSE DELI	CLASS I-1 – RESTAURANT FULL ALCOHOL	\$ 3,276.00	\$ 2,997.76	\$ 2,728.50	\$ 2,450.27	\$ 2,181.01
LIQ2019-00052	LA CARRETA MEXICAN RESTAURANT	CLASS I-1 – RESTAURANT FULL ALCOHOL	\$ 3,276.00	\$ 2,997.76	\$ 2,728.50	\$ 2,450.27	\$ 2,181.01
LIQ2019-00045	LA ENCHILADA MEXICAN RESTAURANT	CLASS I-1 – RESTAURANT FULL ALCOHOL	\$ 3,276.00	\$ 2,997.76	\$ 2,728.50	\$ 2,450.27	\$ 2,181.01
LIQ2019-00084	PIROGUE GRILLE	CLASS I-1 – RESTAURANT FULL ALCOHOL	\$ 3,276.00	\$ 2,997.76	\$ 2,728.50	\$ 2,450.27	\$ 2,181.01
			<b>\$ 22,932.00</b>	<b>\$ 20,984.35</b>	<b>\$ 19,099.53</b>	<b>\$ 17,151.88</b>	<b>\$ 15,267.06</b>
LIQ2019-00090	ANIMA CUCINA	CLASS I-2 – RESTAURANT BEER & WINE	\$ 1,386.00	\$ 1,268.28	\$ 1,154.37	\$ 1,036.65	\$ 922.73
LIQ2020-00002	EAT THAI CAFE	CLASS I-2 – RESTAURANT BEER & WINE	\$ 1,386.00	\$ 1,268.28	\$ 1,154.37	\$ 1,036.65	\$ 922.73
LIQ2019-00089	FIREFLOUR PIZZA	CLASS I-2 – RESTAURANT BEER & WINE	\$ 1,386.00	\$ 1,268.28	\$ 1,154.37	\$ 1,036.65	\$ 922.73
LIQ2019-00077	NOODLEZIP	CLASS I-2 – RESTAURANT BEER & WINE	\$ 1,386.00	\$ 1,268.28	\$ 1,154.37	\$ 1,036.65	\$ 922.73
LIQ2019-00139	TERRA NOMAD	CLASS I-2 – RESTAURANT BEER & WINE	\$ 1,386.00	\$ 1,268.28	\$ 1,154.37	\$ 1,036.65	\$ 922.73
			<b>\$ 6,930.00</b>	<b>\$ 6,341.42</b>	<b>\$ 5,771.84</b>	<b>\$ 5,183.26</b>	<b>\$ 4,613.67</b>
LIQ2019-00130	LA TEJANA MEXICAN MARKET & RESTAURANT	CLASS I-3 – RESTAURANT BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00056	NARDELLO'S	CLASS I-3 – RESTAURANT BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00078	PANCHERO'S	CLASS I-3 – RESTAURANT BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00071	TACO DEL MAR	CLASS I-3 – RESTAURANT BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00041	THE WOOD HOUSE RESTAURANT	CLASS I-3 – RESTAURANT BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00024	PANCHERO'S MEXICAN GRILL	CLASS I-3 – RESTAURANT BEER ONLY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
			<b>\$ 4,536.00</b>	<b>\$ 4,150.75</b>	<b>\$ 3,777.93</b>	<b>\$ 3,392.68</b>	<b>\$ 3,019.86</b>

LICENSE #	COMPANY	LICENSE TYPE	Full License Amount	Prorated Fee/One Month Reduction	Prorated Fee/Two Month Reduction	Prorated Fee/Three Month Reduction	Prorated Fee/Four Month Reduction
LIQ2019-00138	RIVERWOOD GOLF COURSE	CLASS L - GOLF COURSE	\$ 334.00	\$ 305.63	\$ 278.18	\$ 249.81	\$ 222.36
LIQ2019-00137	TOM O'LEARY GOLF COURSE	CLASS L - GOLF COURSE	\$ 334.00	\$ 305.63	\$ 278.18	\$ 249.81	\$ 222.36
LIQ2019-00095	BISMARCK LARKS BASEBALL	CLASS L - REGULAR	\$ 334.00	\$ 305.63	\$ 278.18	\$ 249.81	\$ 222.36
			<b>\$ 1,002.00</b>	<b>\$ 916.90</b>	<b>\$ 834.54</b>	<b>\$ 749.44</b>	<b>\$ 667.08</b>
LIQ2019-00096	BAREKNUCKLE EVENTS, LLC	CLASS M - CATERING	\$ 630.00	\$ 576.49	\$ 524.71	\$ 471.21	\$ 419.42
LIQ2019-00101	JAMES RIVER CAFE	CLASS M - CATERING	\$ 630.00	\$ 576.49	\$ 524.71	\$ 471.21	\$ 419.42
LIQ2019-00091	LADY J'S CATERING INC	CLASS M - CATERING	\$ 630.00	\$ 576.49	\$ 524.71	\$ 471.21	\$ 419.42
LIQ2019-00051	LAUGHING SUN BREWING COMPANY	CLASS M - CATERING	\$ 630.00	\$ 576.49	\$ 524.71	\$ 471.21	\$ 419.42
LIQ2019-00088	SIXTEEN 03 MAIN EVENTS	CLASS M - CATERING	\$ 630.00	\$ 576.49	\$ 524.71	\$ 471.21	\$ 419.42
			<b>\$ 3,150.00</b>	<b>\$ 2,882.47</b>	<b>\$ 2,623.56</b>	<b>\$ 2,356.03</b>	<b>\$ 2,097.12</b>
LIQ2019-00014	VINTNER'S CELLAR WINERY	CLASS N - DOMESTIC WINERY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
			<b>\$ 756.00</b>	<b>\$ 691.79</b>	<b>\$ 629.65</b>	<b>\$ 565.45</b>	<b>\$ 503.31</b>
LIQ2019-00123	BIRD DOG BREWING LLC	CLASS O - MICROBREWERY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00124	BISMARCK BREWING	CLASS O - MICROBREWERY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00145	GIDEON'S BREWING COMPANY INC	CLASS O - MICROBREWERY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00049	LAUGHING SUN BREWING COMPANY	CLASS O - MICROBREWERY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
LIQ2019-00115	STONEHOME BREWING COMPANY	CLASS O - MICROBREWERY	\$ 756.00	\$ 691.79	\$ 629.65	\$ 565.45	\$ 503.31
			<b>\$ 3,780.00</b>	<b>\$ 3,458.96</b>	<b>\$ 3,148.27</b>	<b>\$ 2,827.23</b>	<b>\$ 2,516.55</b>
LIQ2019-00148	BISMARCK AMVETS POST #9	CLASS P - CATERED LOCATION	\$ 630.00	\$ 576.49	\$ 524.71	\$ 471.21	\$ 419.42
LIQ2019-00087	SIXTEEN 03 MAIN EVENTS	CLASS P - CATERED LOCATION	\$ 630.00	\$ 576.49	\$ 524.71	\$ 471.21	\$ 419.42
			<b>\$ 1,260.00</b>	<b>\$ 1,152.99</b>	<b>\$ 1,049.42</b>	<b>\$ 942.41</b>	<b>\$ 838.85</b>
LIQ2019-00086	MESA AIRLINES, INC.	CLASS R - COMMERCIAL AIRLINE	\$ 50.00	\$ 45.75	\$ 41.64	\$ 37.40	\$ 33.29
			<b>\$ 50.00</b>	<b>\$ 45.75</b>	<b>\$ 41.64</b>	<b>\$ 37.40</b>	<b>\$ 33.29</b>
LIQ2019-00149	TOUCHMARK ON WEST CENTURY	CLASS T - SENIOR LIVING COMMUNITY	\$ 334.00	\$ 305.63	\$ 278.18	\$ 249.81	\$ 222.36
			<b>\$ 334.00</b>	<b>\$ 305.63</b>	<b>\$ 278.18</b>	<b>\$ 249.81</b>	<b>\$ 222.36</b>
			<b>\$ 329,162.00</b>	<b>\$ 300,583.53</b>	<b>\$ 273,589.85</b>	<b>\$ 246,195.14</b>	<b>\$ 219,140.73</b>
				\$ 28,578.47	\$ 55,572.15	\$ 82,966.86	\$ 110,021.27

## Kristine Kostuck

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**From:** borrowedbucks@qwestoffice.net  
**Sent:** Friday, September 4, 2020 11:10 AM  
**To:** Janelle Combs  
**Cc:** borrowedbucks@qwestoffice.net  
**Subject:** RE: 2am closing

To whom it my concern:

I'm writing in regards of 2:00am closing. With Cross Roads having a County liquor license and being able to be open until 2:00am I'm asking if the City commission would grant the City license holders such as myself to be able to do the same. I know this has been asked of City of Mandan and Lincoln in the past, but they tabled it until Bismarck makes that decision.

I would be more than happy to meet with commissioners about this subject at anytime. Brad Erickson/GM Borrowed Bucks

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**From:** Janelle Combs <jcombs@bismarcknd.gov>  
**Sent:** Thursday, September 3, 2020 4:56 PM  
**To:** Brad Erickson <borrowedbucks@qwestoffice.net>  
**Cc:** Whitnie Olsen <wolsen@bismarcknd.gov>  
**Subject:** 2am closing

Brad,

Can you please just send an email about the 2am request to provide to the Commissioners? FYI, Sahara is not open after 1am unless it's a "dance marathon for charitable purposes only." You may wish to discuss that change too if you would like. It might be better coming from a business owner than from staff.

Janelle.

Janelle Combs  
Bismarck City Attorney  
221 N 5<sup>th</sup> Street  
PO Box 5503  
Bismarck, ND 58506-5503  
701-355-1342  
701-306-0039 (cell)  
[jcombs@bismarcknd.gov](mailto:jcombs@bismarcknd.gov)

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## Kristine Kostuck

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**From:** Arch R Simonson <Arch@gosimonson.com>  
**Sent:** Thursday, September 3, 2020 4:48 PM  
**To:** Jannelle Combs  
**Subject:** Class E license...

Ms. Combs,

Thank you for returning my call this afternoon. As per our conversation, I am interested in purchasing a Class E Alcohol License from the City of Bismarck for our location at 1011 E. Main Ave. Knowing if we're able to purchase a license is imperative to the design of a new store and the site plan we are designing and intending to build in 2021.

I also mentioned to you that we are in the process of purchasing 925 Main Ave. (Meisner Pool Supply) and are intending to incorporate that additional property into our site plan.

Please advise me if I'm able to purchase a Class E License (or another Class of License) which will make this project more viable... thank you.

Arch Simonson  
Simonson Station Stores, Inc.  
3105 S. Washington St. 'B'  
Grand Forks, ND 58201  
Phone # 701-772-3971  
Fax # 701-772-9672