



January 28, 2020

Board of City Commissioners
Bismarck, ND

Dear Commissioners:

The Board of City Commissioners is scheduled to meet in regular session on Tuesday, January 28, 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 and RadioAccess.org. Agenda items can be found online at www.bismarcknd.gov/agendacenter.

Future City Commission meetings are scheduled as follows:

- February 11 & 25, 2020
- March 10 & 24, 2020
- April 14 & 28, 2020

MISSION STATEMENT

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

MEETING OF THE BOARD OF CITY COMMISSION

1. Consider approval of the minutes.

Documents:

[MN011420.pdf](#)

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

3. CONSENT AGENDA

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

Documents:

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

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

1. Trade out agreement with Newman Signs Inc. for billboard advertising.

Documents:

[\(C\) AIR - Agreement with Newman Signs.pdf](#)

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

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

Documents:

- (C) ENG - Elk Ridge Park.pdf
- (C) ENG - NDDOT Special Roads Funding.pdf
- (C) ENG - NDDOT Bridge Inspection.pdf
- (C) ENG - SI 532.pdf
- (C) ENG - SI 534.pdf

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

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

Documents:

- (C) FIN - Abatement Valcartier Steet.pdf
- (C) FIN - Abatement Essex Loop.pdf
- (C) FIN - Abatement Chisholm Trail.pdf
- (C) FIN - City Card Service Enhancement.pdf
- (C) FIN - EC Wireless Option.pdf
- (C) FIN - Network Switches HP.pdf

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

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

Documents:

- (C) PD - MSA United Way MOU.pdf

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

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

Documents:

- (C) PW-UO - Sole Source Sanitary Lift Station.pdf

4. REGULAR AGENDA

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

Documents:

(R) NDDOT Director Presentation.pdf

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

Documents:

(R) ADMIN - BRPD.pdf

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

Documents:

(R) ADMIN - PARC 365.pdf

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

Documents:

(R) Highland Acres Sidewalks.pdf

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

Documents:

(R) CD - Silver Ranch Appeal.pdf

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

Documents:

(C) ADMIN - New Class C2 Liquor License.pdf

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

Documents:

(C) ATTY - Tobacco Change.pdf

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

Documents:

(C) ATTY - Human Relations Changes.pdf

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

Documents:

(C) CD - Growth Phasing Plan.pdf

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

Documents:

(C) CD - BNSF Programmatic Agreement.pdf

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

Documents:

(R) ENG - HC 129 Costco Items.pdf

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

Documents:

(R) [ENG - SI-531 Lane Configurations.pdf](#)

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

Documents:

(R) [FIR - CRS Resertification.pdf](#)

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

Documents:

(R) [ADMIN - Interim Tax Committee.pdf](#)

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

Documents:

(R) [PW-UO - Copper Lead EPA.pdf](#)

Other Business

Adjourn



MISSION STATEMENT

MEETING OF THE BOARD OF CITY COMMISSION

1. Consider approval of minutes.

Commissioner Marquardt moved to approve the minutes of the December 17, 2019 Regular Commission Meeting and the December 26 and 31, 2019 special meetings. Commissioner Guy seconded the motion. Upon a roll call vote, all voted aye. M/C.

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

No member of the public appeared.

3. CONSENT AGENDA

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

- A. Consider approval of expenditures.

Voucher Numbers: 1090854-1091279

- B. Consider approval of personnel actions.

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

1. Reappoint Shae Helling to the Bismarck Human Relations Committee.
2. Application for gaming: Dakota Pheasants Forever, 2402 Railroad Ave.
3. Introduction of and call for a public hearing for a new Class C2 Hotel/ Motel Liquor License, for the Expressway Suites, 180 E. Bismarck Expressway.
4. Accept the recommendation from the Human Relations Committee to present the Humanitarian Award to Dr. Robert Roswick.
5. Approve request from Nathan Schneider, VP Bismarck Mandan Chamber EDC, to make changes to the existing Laughing Sun Flex PACE Loan.

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

1. A \$1,500 sponsorship to the North Dakota Aviation Council for the 2020 Upper Midwest Aviation Symposium.
2. Approve contract with Volaire Aviation Consulting for air service development services.

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

1. Authorize the distribution of items over \$25.00 from Public Works to Edwinton Place.
2. Introduction of and call for a public hearing on Ordinance 6406, regarding the age of purchase for Tobacco or Electronic Smoking Devices.

3. Introduction of and call for a public hearing on Ordinance 6407, to amend Ordinance 2-11-01, regarding Purpose of the Human Relations Committee.

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

Approve the measurable outcomes for the United Way Emergency Homeless Shelter.

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

1. Introduction of and call for public hearing on staff-initiated amendments to the Growth Phasing Plan in the 2014 Growth Management Plan.
2. Request to change the date of the continued public hearing on Ordinance 6403, an amendment to Title 4 of the City Code of Ordinances (Building Regulations) regarding the 2018 Building Code and Fire Code adoption, to February 11, 2020.
3. Re-appointment of Joe Fink and Todd Van Orman to the City of Bismarck Renaissance Zone Authority.
4. Authorize the use of Neighborhood Stabilization Program funds for the Boulevard Apartment project.
5. Authorize resolution for Bis-Man Transit Grant filing.

1.

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

1. Street closure for the 47th Annual Downtowners Street Fair.
2. Dedication of and acceptance of a watermain easement in the north right of way of 43rd Ave. NE.
3. Street Improvement District No. 531 - Resolution Approving Plans and Specifications, Resolution of Necessity, Resolution Directing the Advertisement of Bids and Receive Bids.
4. Street Improvement District No. 532 - Ordering Preparation of the Preliminary Report, Approving Preliminary Report and Directing Preparation of Plans and Specifications.
5. Street Improvement District No. 533 - Resolution Approving Plans and Specifications, Resolution of Necessity and Resolution Directing Advertisement of Bids and Receiving Bids.
6. The North Dakota Department of Transportation Cost Participation, Construction and Maintenance Agreement for 43rd Ave. NE Reconstruction.
7. Approve the Development Agreement with Wilment Development LLC regarding storm water improvements associated with reconstruction of 43rd Ave.

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

1. Application for Abatement for year 2019, Disabled Veteran Credit, at 524 N. 19th St.
2. Application for Abatement for year 2018 & 2019, Disabled Veteran Credit, at 914 Calvert Dr.
3. Application for Abatement for year 2019, Disabled Veteran Credit, at 1321 Columbia Dr.
4. Application for Abatement for year 2018 & 2019, Disabled Veteran Credit, at 4511 Chamberlain Dr.
5. Application for Abatement for year 2019, Disabled Veteran Credit, at 1630 Columbia Dr.
6. Application for Abatement for year 2019, Disabled Veteran Credit, at 315 N.

Griffin St.

7. Application for Abatement for year 2019, Disabled Veteran Credit, at 4025 Knudsen Lp.

8. Application for Abatement for year 2019, Disabled Veteran Credit, at 5306 Mellowsun Dr.

9. Application for Abatement for year 2019, Disabled Veteran Credit, at 3127 Nevada St.

10. Application for Abatement for year 2019, Disabled Veteran Credit, at 1500 Portland Dr.

11. Approve the public depositories for City funds.

J. Consider the request for approval from the Human Resource Department for the following:

Approve the 2020 BC/BS Administrative Service and Stop Loss Agreement contracts and 2020 Summary Plan Description.

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

1. Permission to participate in solicitation of Donation for Regional K9 Training.
2. Authorize trade/purchase of replacement narcotics vehicle.

L. Consider the request for approval from the Public Works - Service Operation Department for the following:

1. Purchase Motorola portable and mobile radios at the State of North Dakota bid contract for the 2020 budget year.
2. Purchase oil for City vehicles and equipment under the state of North Dakota bid contract.
3. Purchase tires for City vehicles and equipment under the state of North Dakota bid contract.
4. Purchase vehicles under the state of North Dakota bid prices and the North Dakota Service contract.
5. Sole Source the purchase of Beet Heat for Winter Roadway Snow Fighting.
6. Award bid for bulbs and ballasts recyclable items to North Dakota E-Waste, LLC.

4. REGULAR AGENDA

5. Consider the request from the Community Development Department for Jason and Nita Sherwin to appeal the December 5, 2019 decision of the Board of Adjustment to deny a variance from Section 14-03-06(1)(b)(4) of the City Code of Ordinances (Incidental Uses) (Accessory Uses and Buildings) to increase the maximum allowable square footage of accessory buildings on the property from 1,200 square feet to 1,600 square feet and to increase the maximum side wall height of the proposed accessory building from 12 feet to 15 feet on Lot 2, Block 5, Imperial Valley Subdivision (3651 W. Princeton Ave.)

Commissioner Zenker moved to overturn the Board of Adjustment's decision to deny a variance, stating the variance was consistent with the neighboring accessory buildings. Commissioner Marquardt seconded the motion. Upon a roll call vote, all voted aye. M/C

6. Public Hearing on Ordinance 6404, a request for a zoning change from the RM10-Residential zoning district to the Conditional RT-Residential zoning district for Lot A-1 of Lot A of part of Lot 1, North Hills 6th Addition.

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

7. Public Hearing on Ordinance 6405, to amend Ordinance 7-01-03, regarding Competitive Bidding Required.

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

8. Public Hearing on the proposed revisions to the Special Assessment Policy.

Commissioner Oban moved to approve the revisions. Commissioner Guy seconded the motion. Commissioner Zenker then asked for further discussion on special assessments and the City's outstanding debit. Discussion was held regarding the concept of pausing with special assessment projects in 2020. The general consensus was that the pavement management program helps determine which roads are repaired and that pausing with annual maintenance could further deteriorate the condition of roads. It was also noted that the water utility projects could be negatively impacted as those projects often coincide with street improvement districts. After further discussion, upon a roll call vote, Commissioner Marquardt, Oban, Guy and President Bakken voted aye, and Commissioner Zenker voted nay. M/C.

9. Consider the request from the Administration Department for a request for Proposals for Architectural and Engineering Services for the space needs for Public Health, Police and Public Works facilities.

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

- ~~10. Receive an update on status of watermain easements on 43rd Ave. NE and request direction from the Board for any further actions.~~

This item was pulled from the agenda at this time, and no action was taken.

11. Consider the request from the Engineering Department to receive and accept the proposed US 83/ND1804 Watershed Stormwater Master Plan Update.

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

12. Consider the request from the Engineering Department for the recommendations for lane configurations on E. Divide Ave. and S. Washington St. within the proposed SI-531 work area.

Commissioner Oban moved to table the item until the next commission meeting on January 28, 2020, to give the Engineering Department time to speak to those living and working in the area of the proposed lane changes. In addition to this, the Commission requested the Engineering Department prepare and present findings from their recent traffic studies in the area. Commissioner Marquardt seconded the motion. 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 was any other

business.

The next City Commission Meeting will be at 5:15 on January 28, 2020.

Adjourn

The meeting was adjourned at 6:48 p.m.

PERSONNEL ACTIONS FOR THE MEETING ON Jan. 28, 2020

Full-Time and Part-Time Appointments

Separations

Basquin, Michelle Office Assistant I	Com Development	Resigned. 1/2/2020
Glover, Michael Event Safety Officer I	Event Center	Resigned. 1/9/2020
Schwahn, Tiffany Event Safety Officer I	Event Center	Resigned. 1/10/2020
Sibla, Bradley Event Safety Officer I	Event Center	Resigned. 1/7/2020
Zondo, Paul Event Safety Officer II	Event Center	Resigned. 1/7/2020
Delisle, Ronald Maintenance Technician	Public Works	Retired. 3/27/2020

Others

Basquin, Michelle Office Assistant I	Com Development	Leave w/out pay 1/24/2020 pay period
Mart, Michael Senior Project Engineer	Engineering	Promoted & salary adjustment @ \$38.19/hr. 1/19/2020
Gee, Chad Battalion Chief	Fire	Regular duty & salary adj. @ \$33.69/hr. 1/3/2020
McConnell, Jeff Acting Battalion Chief	Fire	Acting role & salary adjustment @ \$36.68/hr. 12/31/2019



AIRPORT

A handwritten signature in blue ink, appearing to be "G. B. Haug".

DATE: January 22, 2020
FROM: Gregory B. Haug, Airport Director
ITEM: Agenda Item for January 28, 2020

REQUEST

Consider the approval of a trade out agreement with Newman Signs Inc. for billboard advertising.

BACKGROUND INFORMATION

Bismarck Airport has had an ongoing trade out agreement with Newman Signs for five billboard locations on airport property. The most current agreement expired on November 30, 2019. In response to the expiration of the agreement, airport staff negotiated a new agreement with Newman in the last quarter of 2019.

The terms of lease allow Newman Signs access to airport property for the purpose of installing and maintaining five multisided billboards. Four of the sign locations are on the west side of University Ave near the Airport Road intersection and the fifth board is located on the North side of airport property at the corner of Airport Road and Airway Avenue. In exchange for the five billboard locations, the airport receives sixteen 30 day 14x24 poster billboards and two twelve month 14x24 bulletin billboards per year. The term of the agreement is ten years with an automatic renewal period of ten years. The agreement has proper protections in place related to interference with aircraft communication and future airport development.

Airport staff utilizes the billboards received in the trade out agreement to promote awareness of the airport's services and airlines to individuals in Bismarck and western and central North Dakota.

City Attorney Combs has reviewed and approved the agreement. There are no costs associated with the trade out agreement.

RECOMMENDED CITY COMMISSION ACTION

1. Approve the trade out agreement between the City of Bismarck and Newman Signs Inc. for billboard advertising

STAFF CONTACT INFORMATION

Greg Haug, Airport Director, 701-355-1808, ghaug@bismarcknd.gov

Enclosures:

1. Proposed contract between the City of Bismarck and Newman Sign Inc.



P.O. Box 1728
Jamestown, ND 58402

Permit No. _____

Structure No. * See Below _____

LOCATION LEASE

THIS AGREEMENT is made and entered into in duplicate this 10th day of December, 2019, by and between City of Bismarck, Airport hereinafter called Lessor, and Newman Signs, Inc., d/b/a

Newman Outdoor Advertising of Jamestown, North Dakota, hereinafter called Lessee.

In consideration of the rentals hereinafter set forth, Lessor does hereby grant, demise and lease to Lessee for the purpose of erecting, placing and relocating and maintaining advertising signs structures and advertisements for single and double-faced signs together with all sign location rights the following described premises: Legal description: Please See Attached

_____ , County Burleigh, including all of Lessor's property abutting Highway 1804 (University Drive) , City of Bismarck State of ND and on terms hereinafter described. This lease is for a term of Ten (10) years and for the annual rent of \$ ** Trade

payable annually in advance. The term of the lease shall commence on December 1, 2019 and is an extension of a previous lease. The term of this lease shall be automatically extended for a like term of years unless the Lessor or Lessee gives sixty days written notice otherwise in advance prior to the end of the term.

The Lessee shall have free access over and across the lands of the Lessor for the purpose of the construction of signs, to illuminate, maintain, place or remove advertisements and structures and to remove brush, trees, or obstructions impairing the full view of the signs and use of the ground space and Lessee is granted easements as are necessary if electrification is desired. Lessor agrees any local electric utility company may establish electric power at the location if desired for any sign but at no expense to Lessor. Lessee has the right to install electronic communications, antenna and structures attached to the said billboard(s) to serve as communications devices for Lessee. Lessee agrees to remove any electronic communications, antenna or structure that interferes with any communication signals for aircraft. In the event a sign structure and or its utilities are placed where it will be in the way of airport development during the term of the lease, the sign structure or utilities will be moved within ninety (90) days, or a reasonable time mutually agreed upon, to another location on the airport property that is mutually agreeable with both parties at no cost to the Lessor.

The Lessor covenants and agrees that from the date hereof until this Agreement is terminated, no other sign will be placed on the lands of the Lessor herein described or within 600 feet of any sign located on any property described in this Agreement, and Lessor further covenants and agrees that the Lessor will not obstruct the view of the Lessee's sign or permit Lessee's sign to be obstructed in any way or any manner whatsoever. Lessee is granted the full interest of Lessor in the sign location rights on the above described premises. Lessor covenants and warrants that Lessor has full authority to execute this Agreement.

The Lessee covenants that it will do nothing in and about the premises to cause damage to fences or other structures of the Lessor located on the property and will take all reasonable care to avoid damaging the property of the Lessor. If Lessee damages Lessors property, Lessee shall restore property to its original condition. It is agreed that all property placed upon the premises by the Lessee shall always remain Lessee's property, and may be removed by the Lessee at any time prior to or within ninety (90) days or a reasonable time mutually agreed upon, after the expiration of the term hereof or any extension thereof.

This Lease may be terminated by Lessee, in the sole discretion of the Lessee, on thirty (30) days written notice to Lessor, at any time or under any circumstances. Upon termination, any obligation for future rents will cease and Lessor shall refund, pro rate, any rent paid in advance. Lessee shall remain owner of all advertising signs, structures, and improvements erected or made by lessee, and, notwithstanding the fact that they may constitute real estate fixtures, lessee shall have the right to, and be responsible for the removal of the signs, structures, and improvements at any time during the term of the lease or within ninety (90) days or a reasonable time mutually agreed upon after the termination of this lease or any extensions. Lessee may sell or assign all of the Lessee's right, title and interest in this lease to any person or business entity as assignee, subject to Lessor's written permission which shall not be unreasonably withheld, and upon the express written assumption by assignee of all the obligations of Lessee under this lease. Lessor acknowledges that Lessee shall be fully discharged from any and all obligations under this lease.

This lease shall be binding on and shall inure to the benefit of the parties hereto and to the assigns, executors, personal representatives, heirs and successors of the parties and shall run with the land and shall bind the owners of the real property described herein. This agreement constitutes the entire agreement between the parties and supersedes all prior agreements and understandings.

If the Lessee is unable to attain the necessary permits required to build the structures, the lease will be null and void

This document drafted by Newman Signs, Inc
P.O. Box 1728, Jamestown, ND 58401, Phone 701-252-1970

* This lease includes (5) existing structures, 1558ST, 2286ST, 2616ST, 2619ST & 3564ST.

** Lease Trade Terms: -- (2) 14' X 24' bulletins annually. Lessee will reprint the ad(s) once every 36 months at no charge and the ad locations are subject to availability. Any additional ad changes will be billed to the Lessor at the current rate.
-- (16) 30 day poster faces annually placed in area markets at Lessor's discretion, subject to availability and includes one design annually at no charge to the Lessor. Any additional ad changes will be billed to the Lessor at the current rate.

By 

Title Operations Manager

The foregoing instrument was acknowledged before me

this 10th day of December, 2019

by James Englund, the Operations Manager
of Newman Signs, Inc., a corporation under the laws of
North Dakota, on behalf of the corporation.

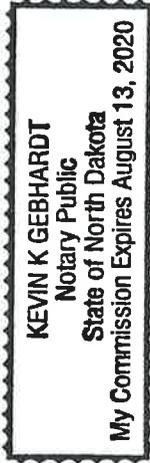


Signature of Person Taking Acknowledgement

Notarial stamp or seal (or other title or rank)

State of North Dakota

County of Stutsman



Authorized Signature _____ Lessor

Steve Beckken, President Board of City Commissioners.

Address: _____ Lessor

The foregoing instrument was acknowledged before me this _____ day of _____

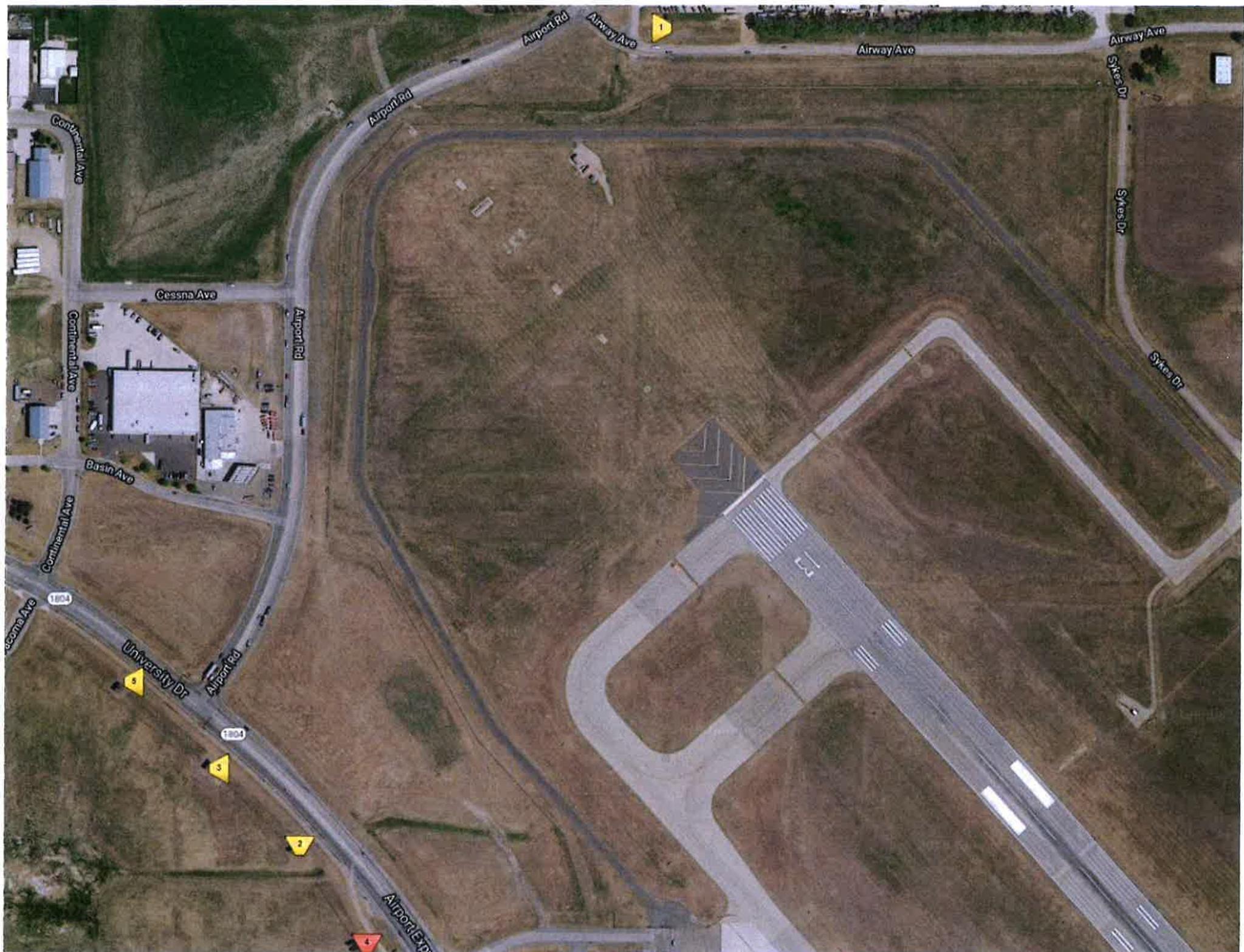
_____, by Steve Beckken
and President, Board of City Commissioners., Lessor(s)

Signature of Person Taking Acknowledgement

Notarial stamp or seal (or other title or rank)

State of _____

County of _____



Airport Rd
Airway Ave

Airway Ave

Airway Ave

Sykes Dr

Sykes Dr

Sykes Dr

Continental Ave

Cessna Ave

Airport Rd

Continental Ave

Basin Ave

Continental Ave

Cessna Ave

University Dr

Airport Rd

1804

Airport Exp





Jamestown, ND 58402-1728
701-252-1970
Toll Free 800-337-9770
Fax 701-252-7325

**LEGAL DESCRIPTION – CITY OF BISMARCK, AIRPORT – BURLEIGH COUNTY – CITY OF BISMARCK
STATE OF NORTH DAKOTA. PARCELS - 0115-010-040 and 0115-010-030**

Block One (1);

AND

Lot One (1), Block Seven (7);

AND

Lot Two (2), Block Seven (7).

All located in the Bismarck Airport Addition to the City of Bismarck, and located in Southwest Quarter of Section Ten (10), Township One Hundred Thirty-Eight (138) North, Range Eighty (80) West of the Fifth Principal Meridian in the County of Burleigh, State of North Dakota.



MEMORANDUM OF LOCATION LEASE

THIS MEMORANDUM is executed this 10th day of December, 2019, by NEWMAN SIGNS, INC. dba NEWMAN OUTDOOR ADVERTISING, Jamestown, North Dakota.

1) An Outdoor Sign Lease ("Lease") was entered into on the 10th day of December, 2019 by and between:

Lessor: City of Bismarck, Airport

Address: P.O. Box 991, Bismarck, North Dakota 58502-0991

Lessee: Newman Signs, Inc. dba Newman Outdoor Advertising

Address: P.O. Box 1728 - 1606 6th Ave. SW, Jamestown, ND 58402

2) The Legal Description of the property ("Property") subject to the lease is as follows: Please See Attached

3) The term of the Lease is for Ten (10) years commencing when the first sign is installed on the leased premises, and automatically extends for a like term of years unless the Lessor or Lessee gives 60 days written notice to terminate prior to the end of the term.

4) This Memorandum is executed for the sole purpose of evidencing the Lessee's rights in and to the leased premises described above.

5) The terms and conditions of the Lease dated December 10th, 2019, shall, at all times, control the relationship between the parties and where the terms of this Memorandum are inconsistent with the terms of the Lease, the Lease shall in all things control.

This document drafted by Newman Signs, Inc.

By [Signature] Lessee
Title Operations Manager

The foregoing instrument was acknowledged before me this 10th day of December, 2019 by James Englund

the Operations Manager of Newman Signs, Inc. on behalf of the Corporation

[Signature] Notary Public
Notary stamp or seal (or other title or rank)

STATE OF North Dakota

COUNTY OF Stutsman

By [Signature] Lessor
Title President, Board of City Commissioners

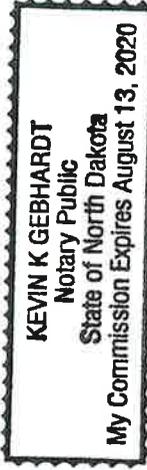
The foregoing instrument was acknowledged before me this day of [Signature] by Steve Becken.

the President of Board of City Commissioners

Signature of Person Taking Acknowledgment
Notary stamp or seal (or other title or rank)

STATE OF

COUNTY OF





Engineering Department

DATE: January 21, 2020
FROM: Gabe Schell, City Engineer
ITEM: Park Improvement District No. 003

REQUEST

Request for Resolution Approving Plans and Specifications

Request for Resolution Directing the Advertisement of Bids and Receive Bids

Please place this item on the 1/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

A Park Development Agreement was entered into between the Developer of Elk Ridge Addition and the Park District on November 15, 2018. As part of that agreement, a petition for park improvements was received from the Developer who owns 68.4% of the annexed benefitting area in Elk Ridge Addition. The remaining 31.6% of the annexed benefitting area is the lot where the park improvements will be located. The request from Bismarck Parks and Recreation District along with the Park Development Agreement are attached.

On October 22, 2019, the Board of City Commissioners created Park Improvement District PI 003 at the request of the Bismarck Park and Recreation District (see attached)

Park Improvement District No. 003 Unit 1 consists of the construction of neighborhood park amenities including playground equipment, a picnic shelter, and trails. The park will also include District-wide amenities including pickleball courts, a restroom building, and parking lot. The District-wide amenity costs will be assessed to the Park District.

The proposed Park Improvement District 003 includes benefitting property that is not currently annexed. The costs associated with benefited property outside city limits will be assessed to the Park District to be held in abeyance to be assessed to the actual benefited parcels when they are annexed.

Proposed Schedule

Authorization to Advertise:	January 28, 2020
Receipt and Opening of Bids:	March 11, 2020
Approval of Bids by Park Board	March 19, 2020
Award of Bids:	March 24, 2020
Project Completion:	Fall 2020

RECOMMENDED CITY COMMISSION ACTION

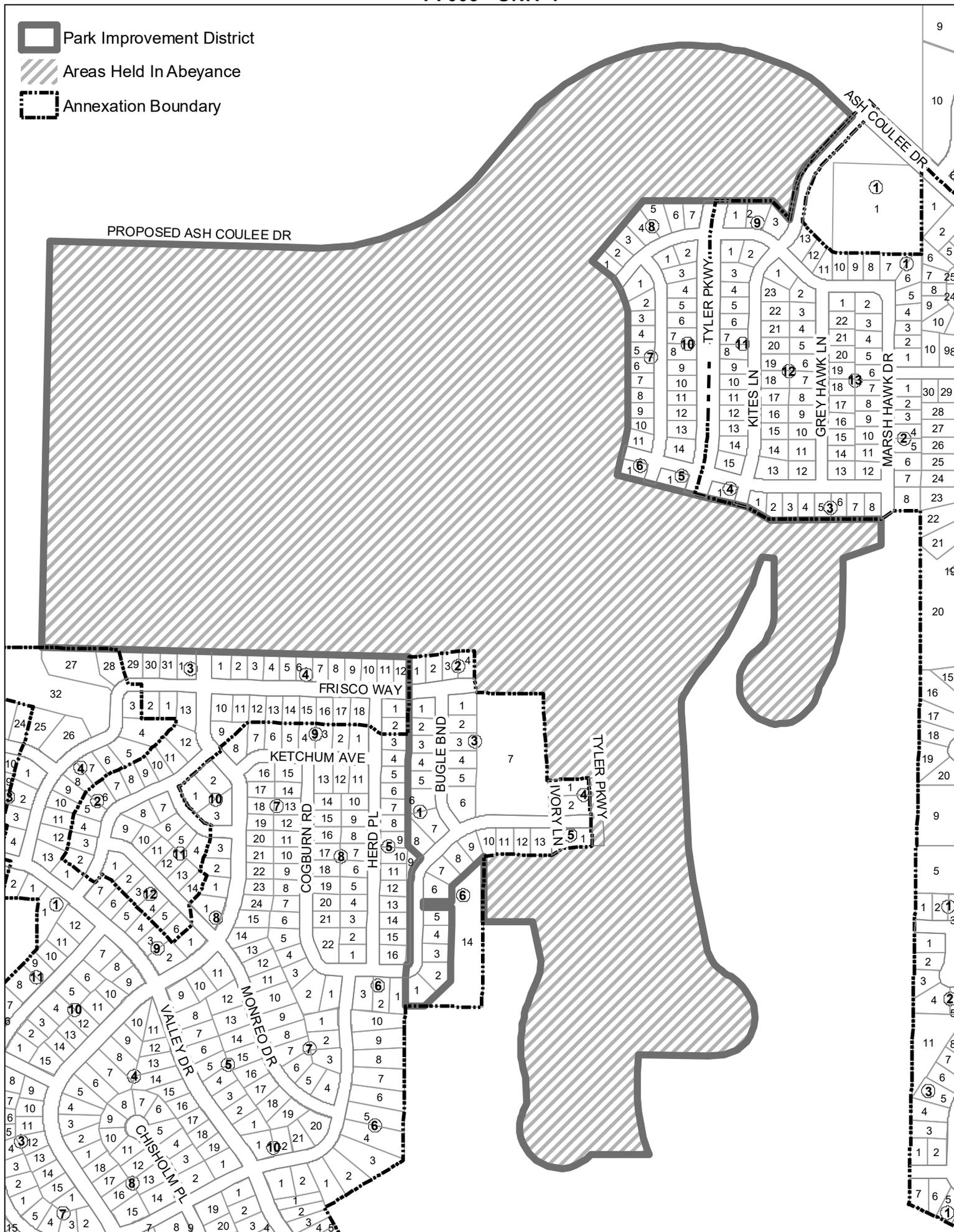
Consider request for approval of Resolution Approving Plans and Specifications and Resolution Directing Advertisement of Bids and Receiving Bids for PI 003.

STAFF CONTACT INFORMATION

Gabe Schell, PE | City Engineer, 355-1505 or gschell@bismarcknd.gov

PI 003 - UNIT 1

-  Park Improvement District
-  Areas Held In Abeyance
-  Annexation Boundary



October 14, 2019

MEMORANDUM

To: Gabe Schell, City Engineer
From: Randy Bina, Executive Director *RB*
Re: **AGENDA ITEM – Park Improvement District 19-003**
Request for Resolution Declaring Petition for Improvements has been Received
Request for Resolution Creating District and Ordering Preparation of Preliminary Engineering Reports
Request for Resolution Approving Preliminary Engineering Reports and Directing the Preparation of Plans and Specifications
Request for Resolution Approving Plans and Specifications
Request for Authorization to Advertise and Receive Bids

Please consider placing the above items on the applicable Board of City Commissioners agenda for the meetings to be held on Tuesday, October 22, 2019 and November 12, 2019 at 5:15 p.m. in the Tom Baker Room.

The Neighborhood Park and Open Space Policy was adopted by the City Commission on October 22, 2013. On December 23, 2014, the City Commission and the Park Board entered into a Joint Powers Agreement establishing the authority to finance park improvements through a special assessment district created by the City Commission.

A Park Development Agreement (attached) was entered into between the Developer and the Park District on November 15, 2018. Park Improvement District No. 19-003 Unit 1 consists of the construction of neighborhood park amenities including playground equipment, a picnic shelter, and trails. The park will also include District-wide amenities including pickleball courts, a restroom building, and parking lot. The District-wide amenity costs will be assessed to the Park District. The Developer, owning 68.4% of the benefitting area in Elk Ridge Addition, petitioned for these park improvements.

The estimated total special assessment for a median lot in Elk Ridge Addition is estimated to be between \$2,100 and \$2,625 which results in an estimated annual principal installment between \$140 and \$175 for a 15-year term. The proposed Park Improvement District 19-003 includes benefitting property that is not currently annexed. The costs associated with benefited property outside city limits will be assessed to the Park District to be held in abeyance to be assessed to the actual benefited parcels when they are annexed.

Proposed Schedule

Authorization to Advertise	November 12, 2019
Receipt and Opening of Bids	February 11, 2020
Approval of Bids by Park Board	February 20, 2020
Award of Bids	February 25, 2020
Project Completion	October 2020

Attachments: Park Development Agreement
Exhibit A-1 Diagram of the Park Area
Exhibit B Park Amenities and Cost Estimate

A nationally accredited park and recreation agency.

PARK DEVELOPMENT AGREEMENT
Neighborhood Park in Elk Ridge Addition

This Park Development Agreement (the "Agreement") is made and entered into this 15th day of November, 2018, by and between **Tyler Coulee, LLP**, whose post office address is 555 Highway 1804 NE, Bismarck, ND 58503 ("Developer") and the **PARK DISTRICT OF THE CITY OF BISMARCK**, a park district under the laws of the State of North Dakota, 400 East Front Avenue, Bismarck, North Dakota 58504 ("Park District").

Preliminary Statement

The purpose of the neighborhood parks and open space policy is to maintain and enhance the high quality visual aesthetic of the community and to ensure that adequate usable neighborhood parks, open space and recreational facilities are provided for the existing and future residents of the City of Bismarck. Because new development within the City, or intended to be in the City, increases population and the demand for public services, it shall be the policy of the City of Bismarck that the owner of major urban residential subdivision plats provide for neighborhood parks, playgrounds, open space and natural areas, and trails. The provision of such facilities in newly developed areas maintains the high quality of the life enjoyed by the citizens of the community by permitting the City to identify, obtain, continue, maintain and enhance its recreation and open space system.

Developer is the owner of a 5.38 acre, more or less, tract of real property (Park Area) located in, or planned to be annexed to, the City of Bismarck, Burleigh County, North Dakota (the "Developer Property"), specifically described below and delineated on the plat/survey as attached Exhibit A:

Park Area - Lot 7, Block 3 (5.38 acres) in Elk Ridge Addition

Developer is in the process of planning a residential development on the Developer Property in which the Developer desires to include a neighborhood park of approximately 5.38 acres on the Developer's Property, the location being generally shown on Exhibit A. Developer's focus is to create a community with its own character and to provide residential development and recreational amenities for the support of the community and to promote ease of access in and around the community.

Park District desires to establish an additional neighborhood park in Bismarck and will design the 5.38 acre tract (the "Park Area"), affect the construction of the park amenities and manage the Park Area, all pursuant to the terms and conditions of this Agreement and the rules and regulations established by the Board of Park Commissioners from time to time.

The Park Area will play a vital role in this development by not only providing recreational amenities for this community and the surrounding area but also to provide the necessary connections throughout the development to other areas in Bismarck. To the extent appropriate and possible, all trails will ultimately connect to current and future Park District parks.

Agreement

NOW, THEREFORE, in consideration of the above preliminary statements, the terms and conditions of this Agreement, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Scope of Agreement.** This Agreement shall not constitute a partnership or a joint venture by and between the Developer and the Park District. Neither party has a right or obligation to bind the other party to any course of action or commitment as it relates to the development of the Developer Property, including the Park Area that is described herein. Each of the parties is an independent contractor and, although they will coordinate their

efforts to develop the Park Area, possibly to include elements of design, access and amenities, neither party is assuming any obligation of the other party.

2. Conveyances. On the date of closing, as herein described, Developer shall cause to be transferred and conveyed to the Park District the approximately 5.38+/- acres that constitutes this portion of the Park Area, as is in the general location as shown on the site plan attached as Exhibit A and further delineated on Exhibit A-1. The terms of the conveyance are described in the attached Exhibit C, Real Estate Purchase Agreement. The parties acknowledge that the approved plat shall dedicate the Park Area to public use.

Developer will provide the Park District with an abstract of title to the Park Area no later than ten (10) days prior to closing. In lieu of an abstract of title, the Developer at its option may provide to the Park District an owner's policy of title insurance in an amount equal to the sales price of the Park Area as stated in the Real Estate Purchase Agreement.

3. Developer and Park District Obligations. Developer and Park District acknowledge that they will be responsible for the following amenities to be located on the Developer Property and the Park Area:
- a. Specific Neighborhood Park Amenities are described on Exhibit B and will be installed by the Park District and financed through a City of Bismarck special assessment improvement district with the costs for the Specific Park Amenities assessed against the benefitted Lot Owners Property as described in Exhibit A-2.
 - b. Park District District-wide Amenities are described on Exhibit B and will be installed by the Park District and financed through a City of Bismarck special assessment improvement district with the costs for the Park District District-wide Amenities assessed against the benefitted Park District Property.
 - c. The Developer shall provide the necessary easements for utilities for the Park Area.
 - d. The Developer/Assigns, at its sole cost and expense, shall provide the following with regard to the Park Area:
 - i. Provide a complete boundary survey of the Park Area showing all rights-of-way, easements and any other physical burdens that may encumber the Park Area.
 - ii. The Developer will provide the Park District with copies of such tests, investigations and reports which may have been completed by the Developer including, but not limited to, any soil boring tests and results of environmental testing. Should such test disclose that the Park Area cannot support the intended park development or if there are environmentally hazardous conditions on the Developer Property and/or Park Area, the Park District will not be required to close and accept the portion of the Developer Property to be included in the Park Area.
 - iii. To the best of its ability, the Developer shall provide the Park District with safe access to the Park Area and such areas leading to the Park Area.

4. Park Area Design. The Park District shall develop a design for the Park Area that provides park activities, such as walking trails, shelters and playgrounds. Attached on Exhibit A-1 is the parties' initial concept of the park design. As the Park District designs and plans the Park Amenities for the Park Area, it will provide the Developer with periodic reports.

5. Maintenance. In entering into this Agreement, the Park District contemplates it will maintain the Park Area within its normal park maintenance program and consistent with other parks within the Bismarck area. The Park District will be generally responsible for future maintenance of the Park Area, the trails leading to the Park Area and the equipment and the other Park Amenities in the Park Area. If the Developer and the Park District agree to coordinate access to other trails or parks or provide other amenities, any such other amenities agreed to by and between the Park District and the Developer may require a joint maintenance agreement.

6. Construction. The construction of the Park Amenities described in Section 3 and as shown on Exhibit B are intended to be completed by one calendar year after annexation is approved.

7. Naming Rights. The Developer reserved the right to approve the name of the Park Area with final approval by the Park Board.

8. General Provisions.

a. This Agreement, together with the other surveys, plans and specifications that have been reviewed by the parties or will later be provided pursuant to this Agreement and the attachments hereto, contain the entire agreement among the parties respecting the matters herein set forth and supersede all prior discussions with respect to such matters. Notwithstanding the above, the parties acknowledge that this is a work in progress and development of the final design for the Park Area will be part of this Agreement.

b. This Agreement shall be binding upon and inure to the benefit of all the parties and their respective successors and assigns.

c. This Agreement shall be construed and enforced in accordance with the laws of the State of North Dakota.

d. This Agreement may be modified only by a written document signed by all parties. A purported oral modification shall not be effective.

e. The Developer shall hold the Park District harmless for any claim or injury to a person or property arising out of, or in the course of, its construction, design, and plan of the Park Area. In like manner, the Park District, once it acquires the Park Area and assumes maintenance responsibility, will hold the Developer harmless for claims arising out of its negligence in maintaining the Park Area.

f. If the Developer creates a new entity for the development of the Developer Property, Developer agrees to assign this agreement to the new developer entity and that the new entity will accept the assignment.

g. Developer agrees to inform anyone who agrees to purchase a lot in Elk Ridge Addition from the Developer that a park improvement is planned and that the cost will be special assessed by the City of Bismarck to the lots in Elk Ridge Addition.

DEVELOPER:
Tyler Coulee, LLP

By: _____

Ron Knutson

By: _____

PARK DISTRICT:

THE PARK DISTRICT OF THE CITY OF BISMARCK

By: _____

Its: President

By: _____

Its: Clerk

EXHIBIT A - Plot of Developer Property

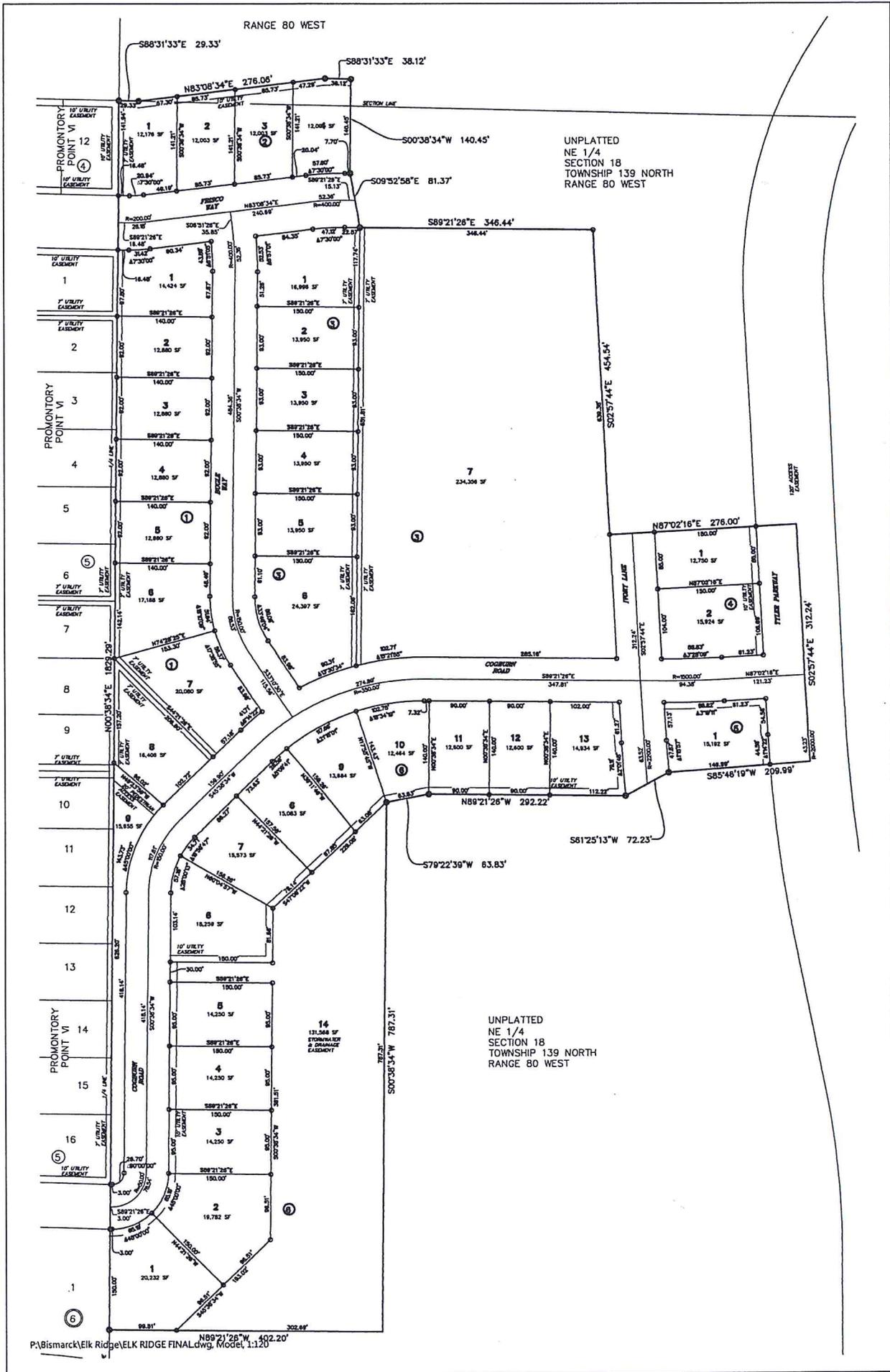


EXHIBIT A-1 Diagram of Park Area

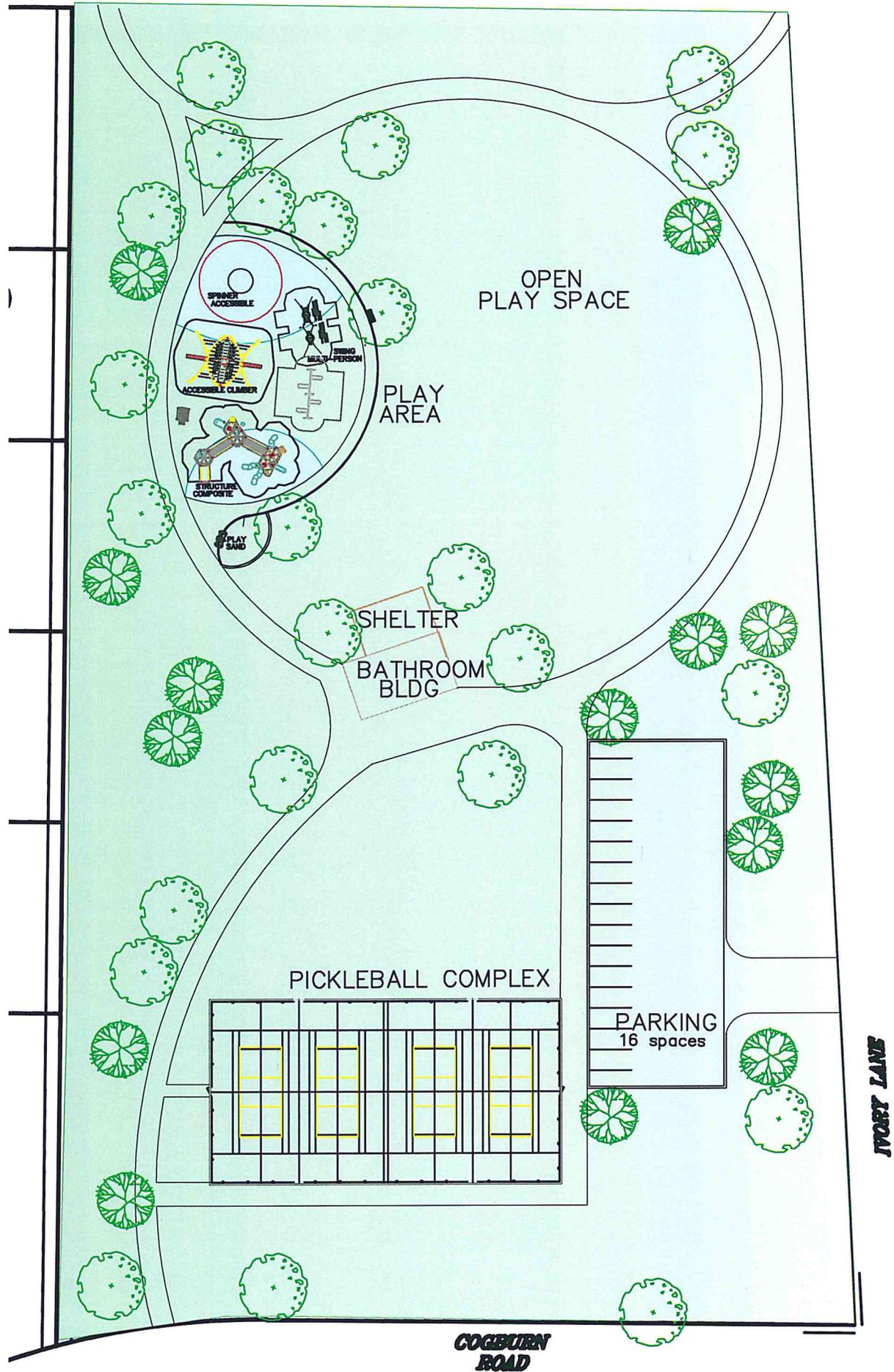


EXHIBIT A-2 Map of Benefitted Area

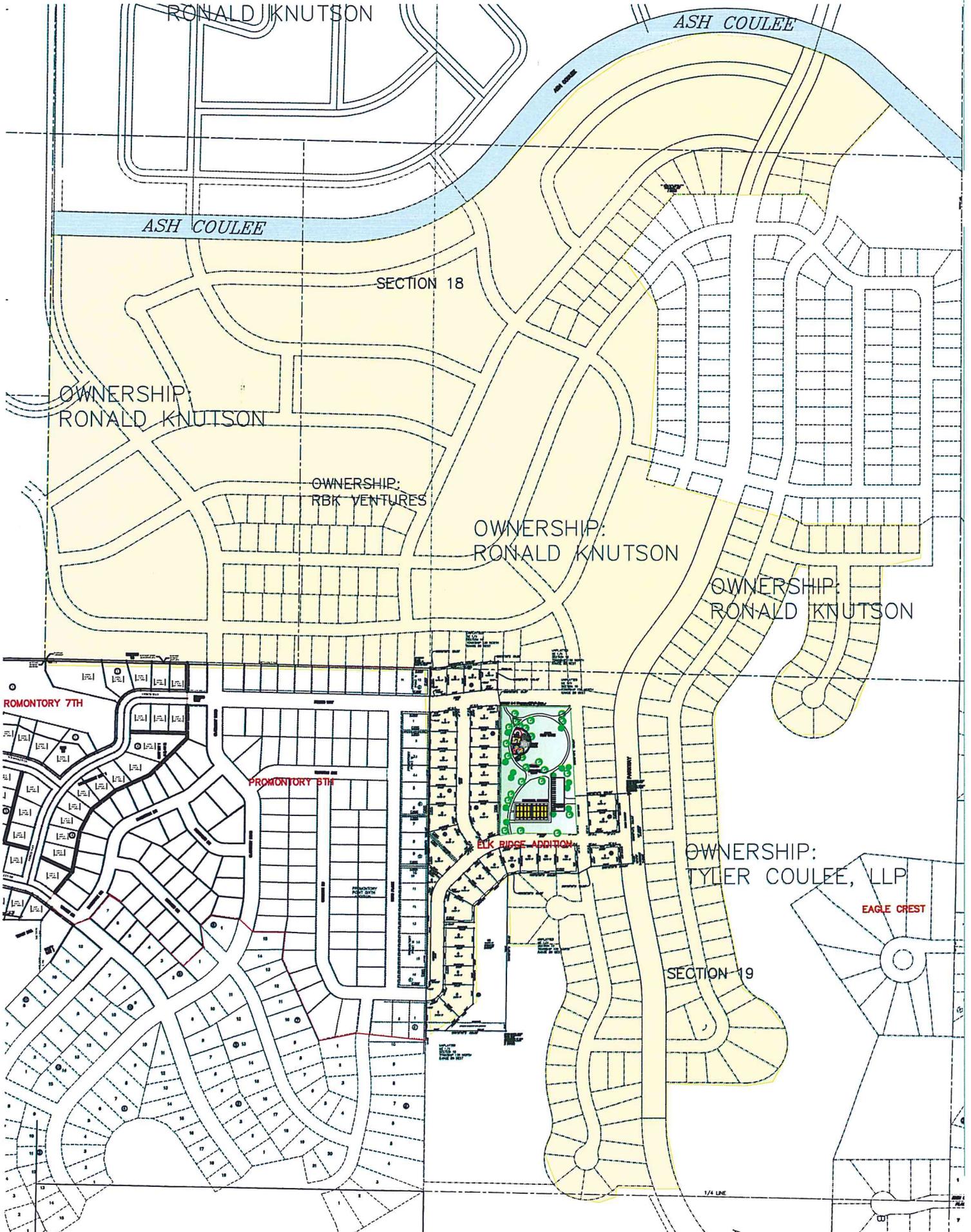


EXHIBIT B - Park Amenities and Cost Estimate of Individual Park Amenities

	QTY	UNIT	PRICE	TOTAL PRICE
Community-wide Park Amenities				
PICKLEBALL COURTS				
Paving	1700	SY	\$ 79	\$ 134,300
Color Coating	1	LS	\$ 25,000	\$ 25,000
Fencing	520	LF	\$ 70	\$ 36,400
Gates	1	LS	\$ 6,100	\$ 6,100
Nets, Posts	4	EA	\$ 2,000	\$ 8,000
Pickleball Total				\$ 209,800
BATHROOM BUILDING				
Restroom Building	1	LS	\$ 100,000	\$ 100,000
Water & Sewer to Building	1	LS	\$ 35,000	\$ 35,000
Building Total				\$ 135,000
PARKING LOT				
Paving	15360	SF	\$ 6	\$ 92,160
Curb & Gutter	450	LF	\$ 35	\$ 15,750
Driveway Apron	29	SY	\$ 120	\$ 3,480
Parking Lot Total				\$ 111,390
COMMUNITY-WIDE PARK AMENITIES TOTAL				\$ 456,190
Neighborhood Park Amenities				
EARTHWORK/INFRASTRUCTURE				
Mobilization	1	LS	\$ 20,000	\$ 20,000
Contract Bond	1	LS	\$ 4,235	\$ 4,235
General Grading	1	LS	\$ 75,000	\$ 75,000
Water Service/Irrigation	1	LS	\$ 75,000	\$ 75,000
Electrical Service	1	LS	\$ 10,000	\$ 10,000
Earthwork/Infrastructure Total				\$ 184,235
PLAY EQUIPMENT				
Play Equipment & Installation	1	LS	\$ 160,000	\$ 160,000
Poured-in-Place Surfacing	1	LS	\$ 75,000	\$ 75,000
Wood Fiber	1	LS	\$ 8,000	\$ 8,000
Play Equipment Total				\$ 243,000
BATHROOM BUILDING				
Picnic Shelter/Pavilion	1	LS	\$ 25,000	\$ 25,000
Shelter Pad	500	SF	\$ 7	\$ 3,500
Building Total				\$ 28,500
PAVEMENT				
Loop Trail	18680	SF	\$ 4	\$ 74,720
Play Access Path	800	SF	\$ 7	\$ 5,600
Play Curb	280	LF	\$ 35	\$ 9,800
Paving Total				\$ 90,120

FURNISHINGS				
Benches	2	EA	\$ 1,200	\$ 2,400
Picnic Tables	4	EA	\$ 1,800	\$ 7,200
Trash Cans	2	EA	\$ 800	\$ 1,600
Furnishings Total				\$ 11,200
PLANTINGS				
Evergreen Trees	14	EA	\$ 500	\$ 7,000
Deciduous Trees	28	EA	\$ 450	\$ 12,600
Ornamental Grasses/Perennials	45	EA	\$ 60	\$ 2,700
Lawn Seed/Prep	5.50	ACRE	\$ 4,000	\$ 22,000
Plantings Total				\$ 44,300
NEIGHBORHOOD PARK AMENITIES TOTAL				\$ 601,355

Estimated neighborhood park costs	\$ 601,355
Land costs *	\$ 270,364
Estimated consultant fees	\$ 90,203
Assessment fees	\$ 87,172
10% contingencies	\$ 69,156
Total estimated cost	<u>\$1,118,250</u>

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT is entered into as of the 15th day of November, 2018, by and between Tyler Coulee, LLP, whose post office address is 555 Highway 1804 NE, Bismarck, ND 58503 (as "Seller") and Park District of the City of Bismarck, a park district under the laws of the State of North Dakota, 400 East Front Avenue, Bismarck, North Dakota 58504 (as "Buyer").

In consideration of the mutual terms, covenants, conditions and agreements herein contained, it is hereby agreed by and between the parties as follows:

1. **Sale and Conveyance of Real Property.** Seller agrees to sell, convey, assign, transfer and deliver to Buyer, and Buyer agrees to purchase, acquire and take from Seller, all of Seller's right, title and interest, in and to that certain real property at **Lot 7, Block 3 (5.38 acres) in Elk Ridge Addition** in the City of Bismarck, in the County of Burleigh, State of North Dakota. This sale and conveyance is contingent upon the approval and recording of the Elk Ridge Addition plat.

2. **Purchase Price and Payment.** The agreed selling price for the 5.3 acre parcel is two hundred seventy thousand, three hundred sixty four dollars (\$270,364). This amount shall be paid upon the date of closing. The agreed selling price of this 5.3 acres of the property is the negotiated price, based on the County-verified price paid by the Seller for these 5.3 acres plus an estimated cost of water and sanitary sewer along the right-of-way platted in this addition (Exhibit A). The Seller agrees to not have the cost of water and sanitary sewer along the right-of-way as platted in this addition included in a special assessment district assessed by the City of Bismarck. Costs for the installation of water and sanitary sewer along the right-of-way adjacent to Lot 7, Block 3 in Elk Ridge Addition platted in future additions will be special assessed by the City of Bismarck.

3. **Closing.** The Closing Date shall be determined after the plat for Elk Ridge Addition is approved but will be no later than three months after this plat is recorded. Seller shall deliver at the time of closing a Warranty Deed conveying title to the Buyer free and clear of all liens and encumbrances and subject to easements, zoning and restrictions of record. Real estate taxes and special assessments shall be prorated to the time of Closing with the Buyer responsible for all taxes accrued after the Date of Closing. The Seller is responsible for all taxes accrued before the date of closing. Seller will provide the Buyer with an abstract of title to the real property no later than ten (10) days prior to closing. In lieu of an abstract of title, the Seller at its option may provide to the Buyer an owner's policy of title insurance in an amount equal to the sales price. All costs associated with the title search, title insurance and abstract update will be paid by the Seller.

4. **Possession of the Property.** Buyer shall be given possession of the property on the date of closing.

5. **Risk of Loss.** The risk of loss by destruction or damage to the property by fire or otherwise prior to the closing of the sale is that of the Seller.

6. **Survival.** All of the terms, covenants, conditions, representations, warranties and agreements of this Agreement shall survive and continue in force and effect and shall be enforceable after the Date of Closing and delivery of the Warranty Deed.

7. **Effective Agreement.** This Agreement shall become effective and shall be binding upon the parties only after it has been executed by all of the parties.

8. **Entire Agreement; Modification.** This Agreement constitutes the entire and complete agreement between the parties and supersedes any prior oral or written agreements between the parties with respect to the property. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions set forth herein, and that no modification of this Agreement and no waiver of any of its terms and conditions shall be effective unless in writing and duly executed by the parties.

9. **Binding Effect.** All covenants, agreements, warranties and provisions of this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors and assigns. When used herein, the singular shall include the plural, the plural shall include the singular, and the use of one gender shall include all other genders, as and when the context so requires.

10. **Subsequent Owners.** Seller agrees to assign this agreement to any subsequent legal entity created as the entity for the development of this area.

11. **Controlling Law.** This Agreement has been made and entered into under the laws of the state of North Dakota, and said laws shall control its interpretation.

12. **Time of Essence.** Time is of the essence as to all dates and time periods set forth in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

SELLER:

Tyler Coulee, LLP

By: _____

By: _____

BUYER:

Park District of the City of Bismarck

By: _____
Brian Beattie, President, BPRD Board

RECEIVED

AUG 02 2019

BY _____

PETITION FOR PARK IMPROVEMENTS
For lots zoned R5 Residential

DATE: 07/16/2019

To the Honorable Board of City Commissioners
Bismarck, North Dakota

Commissioners:

The undersigned owners of the property liable to be assessed for the park improvement respectfully petition your Honorable Board to have park improvements completed on (legal description of lots where park is to be developed):

Lot 7, Block 3 Elk Ridge Addition

It is agreed that 100% of the costs of said park improvements shall be assessed to the benefited property according to Bismarck Parks and Recreation District's Basis of Special Assessment Policy. See Exhibit A-2 map of benefitted area per Park Development Agreement for Lot 7 Block 3 Elk Ridge Addition.

PROPERTY DESCRIPTION

Lots 1-9, Block 1
Lots 1-4, Block 2
Lots 1-7, Block 3
Lots 1-2, Block 4
Lot 1, Block 5
Lots 1-14, Block 6
All in Elk Ridge Addition

SIGNATURE and ADDRESS
(Property Owner/s)

Bismarck North Developers, LLC
555 Hwy 1804 NE
Bismarck, ND 58503

By: 
Ron Knutson
Its: _____

For City Engineer Use Only


Approved by Gabe Schell, P.E.
City Engineer, Bismarck, ND

9/30/19
Date



Engineering Department

DATE: January 22, 2020

FROM: Gabe Schell, City Engineer

ITEM: North Dakota Department of Transportation (NDDOT) Special Roads Fund (SRF) Chief Lookings Village Road Project

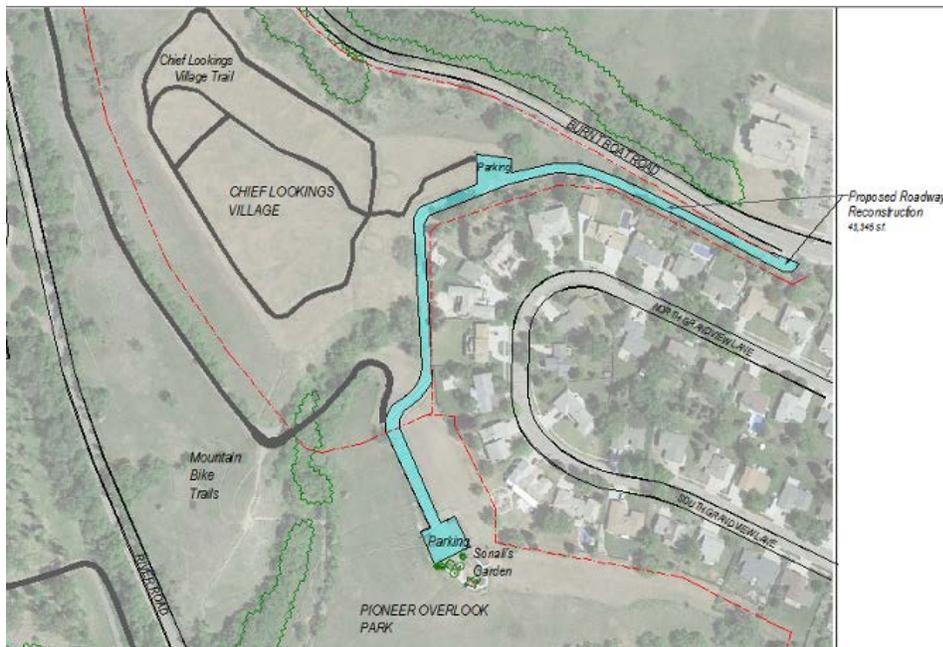
REQUEST

Request acceptance of NDDOT SRF for Chief Lookings Village Road Project

Please place this item on the 1/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

NDDOT has notified the City that they have awarded a maximum of \$233,449 in federal funding to the Chief Lookings Village Road Project. This project was sponsored by the City of Bismarck on behalf of the Bismarck Parks and Recreation District (BPRD) to rehab/reconstruct the pavement as per the September 24, 2019 Board action. Please see below for the project scope highlighted in blue.



The BPRD Board approved receiving the federal funds at their January 16, 2020 meeting. All costs associated with this project would be paid by BPRD similar to other NDDOT funding sources. If the funds are received, NDDOT will require the City enter into a cost participation and maintenance agreement outlining the costs and responsibilities associated with the project. At that time, the City will draft a companion agreement assigning all costs and responsibilities to BPRD to be considered by the BPRD Board.

RECOMMENDED CITY COMMISSION ACTION

Accept NDDOT SRF Funding for Chief Lookings Village Road Project

STAFF CONTACT INFORMATION

Gabe Schell, PE | City Engineer, 355-1505 or gschell@bismarcknd.gov



ENGINEERING DEPARTMENT

DATE: January 22, 2020
FROM: Gabe Schell, PE | City Engineer
ITEM: NDDOT - Safety Inspections of Bridges and Concrete Box Culverts

REQUEST

Consider approval of North Dakota Department of Transportation (NDDOT) Bridge Inspection and Load Rating services agreement.

Please place this item on the January 28, 2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The NDDOT currently inspects all structures (bridges and box culverts with a span greater than 20') for the City of Bismarck. This agreement would allow the NDDOT, if necessary, to hire a consultant to inspect the nine (9) bridges/culverts within the City on a cyclical basis. The City's responsibility for these inspections would be a 20% local match of all applicable costs whether performed by the NDDOT or a consultant. Local costs to the City have historically been less than \$500 every other year.

RECOMMENDED CITY COMMISSION ACTION

Recommend approval NDDOT Bridge Inspection and Load Rating Agreement.

STAFF CONTACT INFORMATION

Gabe Schell, PE, City Engineer, 355-1505, gschell@bismarcknd.gov

**North Dakota Department of Transportation
LPA BRIDGE INSPECTION AND LOAD RATING AGREEMENT**

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the Local Public Agency (LPA) of city of Bismarck, North Dakota, hereinafter referred to as the LPA, whose address is 221 N 5th St., Bismarck, ND 58506, who agree that:

It is in the best interest of both parties to have the NDDOT provide bridge inspection and/or load rating Services on LPA owned bridges that are greater than 20.0' in span length in accordance with the National Bridge Inspection Standards (NBIS), 23 CFR 650. NDDOT will provide this service either with internal staff and/or acting through a qualified Engineering Consulting Firm hired by NDDOT.

PART I

LPA Obligation:

1. The LPA will reimburse NDDOT for all costs associated with performing this service less the amount paid by Federal Highway Administration (FHWA). The federal funds will come from the LPA's allocation of federal funds.

If the LPA fails to reimburse NDDOT within 60 days after billing, 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 LPA will provide or perform the following task(s) to assist NDDOT in meeting the requirements list in the NBIS (to include but not limited to):
 - a. Allow NDDOT or consultant access to the bridge to perform the inspection(s) as deemed necessary.
 - b. Notify NDDOT if a bridge has been repaired, rehabilitated, replaced, a new bridge constructed, or damaged in order to perform the required inspection and/or load rating as necessary.
 - c. Post bridge load ratings within the required timeframe when notified by NDDOT.
 - d. Return Alert code 3 notifications and scour and channel profiles when due.
 - e. Close bridges when recommended by NDDOT so the traveling public cannot remove or go around the bridge closure.
 - f. And comply with any other requirements as federal regulations are revised.
3. Provide any bridge plans, shop drawings, etc. if available when requested.



PART II

NDDOT obligation:

1. NDDOT or consultant will perform the necessary bridge inspection(s) and/or load rating on said LPA bridge(s) in accordance with NBIS, 23 CFR 650.
2. NDDOT will secure the federal funds to perform the bridge inspection(s) and load rating on all LPA owned bridges that are required to be inspected in accordance with NBIS, 23 CFR 650.
3. NDDOT will submit the following information to the LPA for their use or action as required, but is not limited to the following:
 - a. Completed inspection report for each bridge.
 - b. Updated Structural Inventory and Appraisal (SI&A) sheet(s) for each bridge.
 - c. Bridge Load postings as required.
 - d. Bridge Alert Code 3's as required.
 - e. Bridge scour and channel profiles that need to be completed.
 - f. Bridge Critical Findings as required.
 - g. And any other requirements as federal regulations are revised.

PART III

1. This agreement will remain in place for all current and future inspections and/or load rating of LPA owned bridges unless the agreement is terminated in writing. This agreement can be terminated at any time by either party. If either party terminates this agreement, sufficient time will be provided so the other party can make the necessary arrangements to provide the necessary bridge inspection(s) and/or load ratings in accordance with NBIS, 23 CFR 650. Any costs incurred prior to and up to the termination date will be reimbursed by the applicable party.
2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
3. If any part of this agreement is determined to be invalid, illegal, or unenforceable, the determination does not affect the validity, legality, or enforceability of any other part of this agreement, and the remaining parts of this agreement shall be carried out by each party.



Executed by the LPA of city of Bismarck, North Dakota, the date last below signed.

APPROVED:

Janelle Combs
CITY/STATES ATTORNEY (TYPE OR PRINT)

SIGNATURE
1/28/2020
DATE

LPA of city of Bismarck

*
Steve Bakken
NAME (TYPE OR PRINT)

SIGNATURE
* President, Board of City Commissioners
TITLE
1/28/2020
DATE

ATTEST:

Keith Hunke
AUDITOR (TYPE OR PRINT)

SIGNATURE
1/28/2020
DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

DIRECTOR (TYPE OR PRINT)

SIGNATURE

SIGNATURE

DATE

DATE

*Mayor, President or Chairperson of Commission

CLA 1097 (Div. 38)
L.D. Approved 1-6-20



**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: January 21, 2020
FROM: Gabe Schell, City Engineer
ITEM: Street Improvement District No. 532

REQUEST

Request for Resolution Approving Plans and Specifications

Request for Resolution of Necessity.

Request for Resolution Directing the Advertisement of Bids and Receive Bids

Please place this item on the 1/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

Street Improvement District No. 532 consists of 2 units (70 blocks) of roadway maintenance with work consisting of scrub seal. Unit 1 includes 13,735 LF of sealed roadway. Unit 2 includes 9,665 LF of sealed roadway.

A scrub seal is similar to a standard chip seal where a rejuvenating emulsion and crushed rock are placed on the asphalt surface to extend life of the pavement. The emulsion is applied to the road utilizing a series of brushes which helps to work the emulsion into all cracks and provide a better seal. This will be the second time a scrub seal is used in Bismarck but it has been used in other municipalities in North Dakota. The first project was completed during the 2019 construction season with favorable results.

Letters will be sent to property owners prior to the public hearing. Included in the letter will be an invitation to a public information meeting to answer questions property owners may have on the project. This meeting will take place prior to the public hearing.

Unit No. 1

Ithica Drive – Century Avenue to Springfield Street
Springfield Street – Ithica Drive to Interstate Avenue
Stevens Street – Ithica Drive to Interstate Avenue
Hawken Street – Century Avenue to Stevens Street
Winchester Drive – Weatherby Way to Interstate Avenue
Stewart Drive – Remington Avenue to Winchester Drive
Apollo Avenue – Washington Street to Cul-De-Sac
Weatherby Way – Stevens Street to Washington Street
Browning Avenue – Cul-De-Sac to Washington Street
Remington Avenue – Stevens Street to Washington Street
Dohn Avenue – Stevens Street to Winchester Drive

Unit No. 2

Stonewall Drive – 170’ north of Tucker Lane to 129’ south of Hitchcock Drive
Roosevelt Drive – 159’ north of Tucker Lane to 231’ south of Hitchcock Drive
Tucker Lane – 128’ west of Stonewall Drive to Roosevelt Drive
Calgary Avenue – 128’ west of Stonewall Drive to Roosevelt Drive
Chamberlain Drive – Stonewall Drive to Frost Lane
Chamberlain Place – Frost Lane to Cul-De-Sac
Penn’s Lane – 160’ west of Stonewall Drive to Stonewall Drive
Penn’s Place – Stonewall Drive to Cul-De-Sac
Frost Lane – Stonewall Drive to Roosevelt Drive
Hitchcock Drive – Stonewall Drive to Roosevelt Drive

Project Schedule

Letters to Property Owners Sent:	January 30, 2020
Public Information Meeting	February 20, 2020
Protest Period Ends:	March 4, 2020
Public Hearing:	March 10, 2020
Receipt and Opening of Bids:	April 6, 2020
Award of Bid:	April 14, 2020
Project Completion:	Fall 2020

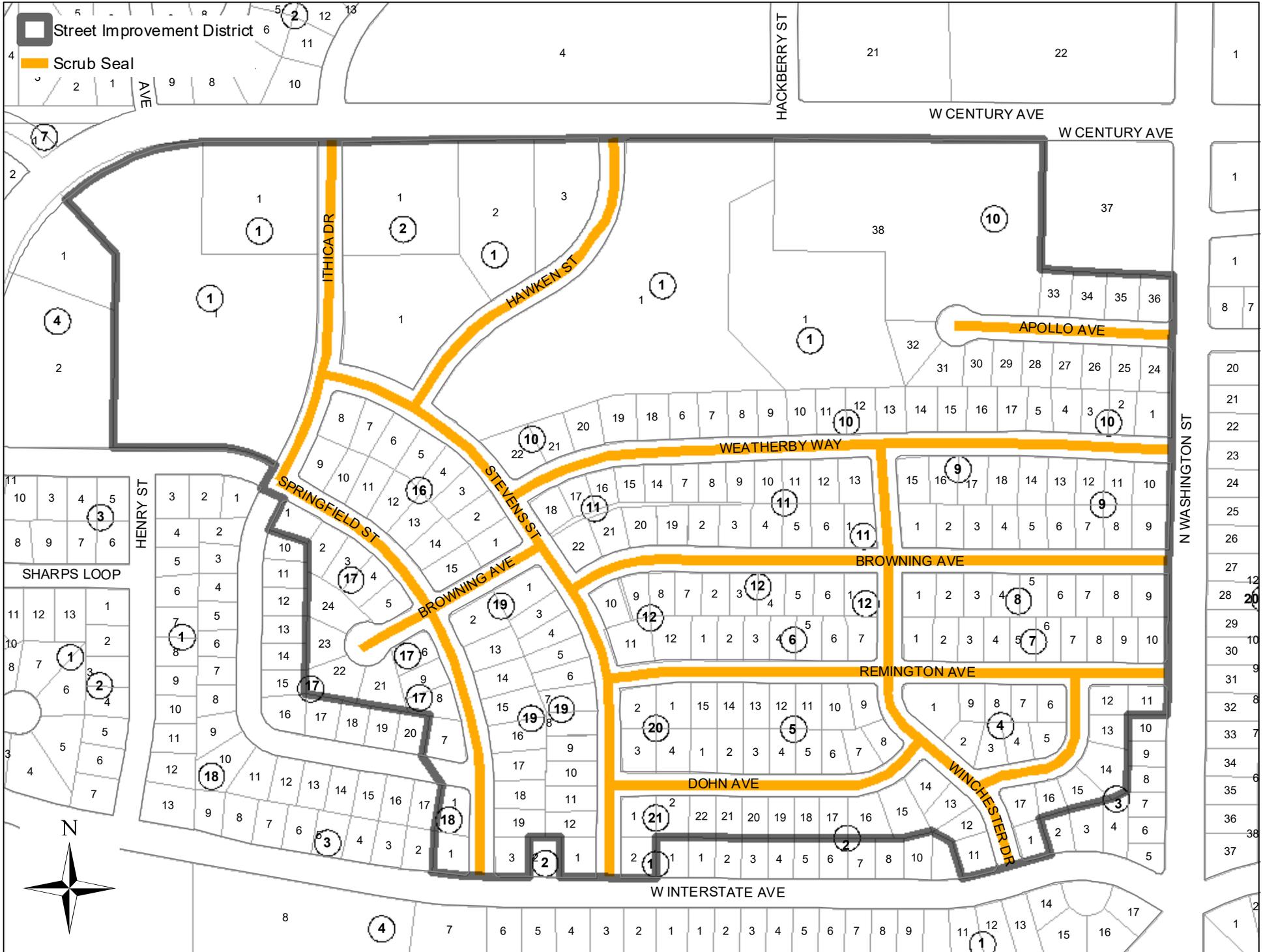
RECOMMENDED CITY COMMISSION ACTION

Consider request for approval of Resolution Approving Plans and Specifications, Resolution of Necessity, and Resolution Directing Advertisement of Bids and Receiving Bids for SI 532

STAFF CONTACT INFORMATION

Linda Oster, PE, Design & Construction Engineer, 355-1505, loster@bismarcknd.gov

SI 532 - UNIT 1



SI 532 - UNIT 2

Street Improvement District

Scrub Seal





Engineering Department

DATE: January 21, 2020
FROM: Gabe Schell, City Engineer
ITEM: Street Improvement District No. 534

REQUEST

Request for Resolution Creating District SI 534 and Ordering Preparation of the Preliminary Report.

Request for Resolution Approving Preliminary Report and Directing Preparation of Plans and Specifications.

Please place this item on the 1/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

Street Improvement District No. 534 consists of 1 unit of resurfacing of existing roadways. Unit 1 includes approximately 7,780 LF of roadway improvements.

Letters will be sent to parcel owners prior to the public hearing date scheduled for March 24, 2020.

Unit No. 1

Yegen Road – 231’ south of Morrison Ave to 150’ north of Hagen Ave

Project Schedule

Resolution of Necessity and Authorization to Advertise:	February 11, 2020
Letters to Property Owners Sent:	February 13, 2020
Protest Period Ends:	March 18, 2020
Public Hearing:	March 24, 2020
Receipt and Opening of Bids:	April 20, 2020
Award of Bid:	April 28, 2020
Project Completion:	August 1, 2021

RECOMMENDED CITY COMMISSION ACTION

Consider request creating Street Improvement District SI 534, Ordering Preparation of the Preliminary Report, Approving Preliminary Report, and Directing Preparation of Plans and Specifications.

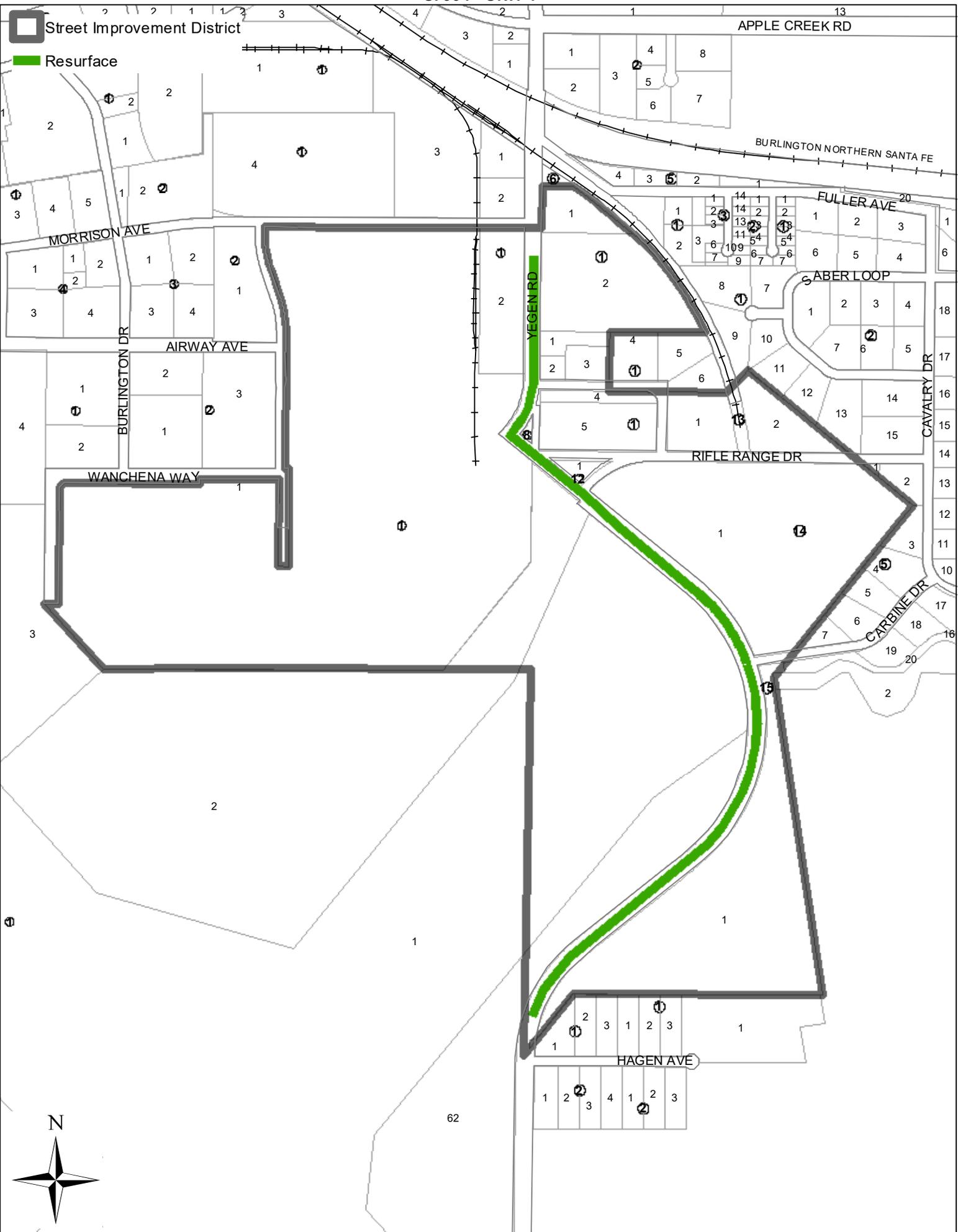
STAFF CONTACT INFORMATION

Linda Oster, PE, Design & Construction Engineer, 355-1505, loster@bismarcknd.gov

SI 534 - UNIT 1

Street Improvement District

Resurface



APPLE CREEK RD

BURLINGTON NORTHERN SANTA FE

FULLER AVE

MORRISON AVE

ABER LOOP

AIRWAY AVE

WANCHENA WAY

RIFLE RANGE DR

CARBINE DR

HAGEN AVE



62



Finance Department

DATE: January 9, 2020

FROM: Dmitriy Chernyak, Finance Director *dlc 01/09/20*

ITEM: Applications for Abatement

REQUEST

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

Applications for Abatement for 2018 & 2019- Wheelchair Exemption
Property Owner- Jerry & Judy Feist
Property Address- 3723 Valcartier St / 0803-015-010

Please place this item on the 1/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The above property applicant has met all the requirements set forth in the N.D.C.C 57-02-08(20) to apply for the Wheelchair exemption.

RECOMMENDED CITY COMMISSION ACTION

The Assessing Division recommends approval of the applications for abatement as presented.

STAFF CONTACT INFORMATION

Allison Jensen
ajensen@bismarcknd.gov
355-1630

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District #1
County of BURLEIGH Property I.D. No. 0803-015-010
Name JERRY & JUDY FEIST Telephone No.
Address 3723 Valcartier St. Bismarck ND

Legal description of the property involved in this application:

NORTH HILLS 10TH ADDITION
BLOCK 15
TRACT H OF PART OF LOT 3

Total true and full value of the property described above for the year 2018 is:
Land \$ 42,000
Improvements \$ 258,000
Total \$ 300,000
(1)

Total true and full value of the property described above for the year 2018 should be:
Land \$ 42,000
Improvements \$ 158,000
Total Adj \$ 200,000
(2)

The difference of \$ 100,000.00 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption. (wheelchair Exempt)
- 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) (Full year)

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

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

Applicant asks that the wheelchair exemption be approved as presented.

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

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

Signature of Preparer (if other than applicant) _____ Date _____
Signature of Applicant *Judy Feist* Date 12-30-2019

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 Feist Jerry + Judy
 County Auditor's File No. 20-009
 Date Application Was Filed With The County Auditor 1/9/20
 Date County Auditor Mailed Application to Township Clerk or City Auditor 1/9/20
 (must be within five business days of filing date)
Wendy Outman
by epb.

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District #1
County of BURLEIGH Property I.D. No. 0803-015-010
Name JERRY & JUDY FEIST Telephone No.
Address 3723 Valcartier St. Bismarck ND

Legal description of the property involved in this application:

NORTH HILLS 10TH ADDITION
BLOCK 15
TRACT H OF PART OF LOT 3

Total true and full value of the property described above for the year 2019 is:
Land \$ 42,000
Improvements \$ 258,000
Total \$ 300,000 (1)

Total true and full value of the property described above for the year 2019 should be:
Land \$ 42,000
Improvements \$ 158,000
Total Adj. \$ 200,000 (2)

The difference of \$ 100,000.00 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption. (wheelchair Exempt.)
- 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) (Full year)

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

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

Applicant asks that the wheelchair exemption be approved as presented.

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

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

Signature of Preparer (if other than applicant) _____ Date _____
Signature of Applicant *Judy Feist* Date *12-30-2019*

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
 Feist
 Jerry + Judy

County Auditor's File No. 20-010

Date Application Was Filed With The County Auditor
 1/9/20

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

Callan Ostermer
 Taxepo.



Finance Department

DATE: January 8, 2020

FROM: Dmitriy Chernyak, Finance Director

MAC 01/08/20

ITEM: Applications for Abatement

REQUEST

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

Applications for Abatement for 2018 & 2019- Disabled Veteran Credit
Property Owner- Mark & Marguerite Kriechbaumer
Property Address- 2831 Essex Loop / 0839-002-060

Please place this item on the 1/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The above property applicant has met all the requirements set forth in the N.D.C.C 57-02-08(20) to apply for the Disabled Veteran Credit.

RECOMMENDED CITY COMMISSION ACTION

The Assessing Division recommends approval of the applications for abatement as presented.

STAFF CONTACT INFORMATION

Allison Jensen
ajensen@bismarcknd.gov
355-1630

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District #1
County of BURLEIGH Property I.D. No. 0839-002-060
Name KRIECHBAUMER, MARK & MARGUERITE L Telephone No.
Address 2831 ESSEX LOOP, BISMARCK

Legal description of the property involved in this application:

TATLEY MEADOWS VII
Block: 2
LOT 13

Total true and full value of the property described above for the year 2018 is:

Land \$ 52,000
Improvements \$ 266,200
Total \$ 318,200
(1)

Total true and full value of the property described above for the year 2018 should be:

Land \$ 52,000
Improvements \$ 266,200
Total Adj. \$ 243,200
(2)

The difference of \$ 75,000 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
- 6. Duplicate assessment
- 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
- 8. Error in noting payment of taxes, taxes erroneously paid
- 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application.
- 10. Other (explain) (50% Dis.)

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

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

Applicant asks that the disabled veteran credit be approved as presented.

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

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

Signature of Preparer (if other than applicant)

Date

Signature of Applicant

Date

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: Kriechbaumer
Mark & Marguerite

County Auditor's File No. 20-0001

Date Application Was Filed With The County Auditor 1/8/20

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

Allan Outmeers

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District #1
County of BURLEIGH Property I.D. No. 0839-002-060
Name KRIECHBAUMER, MARK & MARGUERITE L Telephone No.
Address 2831 ESSEX LOOP, BISMARCK

Legal description of the property involved in this application:

TATLEY MEADOWS VII
Block: 2
LOT 13

Total true and full value of the property described above for the year 2019 is:

Land \$ 52,000
Improvements \$ 266,200
Total \$ 318,200
(1)

Total true and full value of the property described above for the year 2019 should be:

Land \$ 52,000
Improvements \$ 266,200
Total Adj \$ 183,200
(2)

The difference of \$ 135,000 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
- 6. Duplicate assessment
- 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
- 8. Error in noting payment of taxes, taxes erroneously paid
- 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application.
- 10. Other (explain) (90% Dis)

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

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

Applicant asks that the disabled veteran credit be approved as presented.

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

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

Signature of Preparer (if other than applicant)

Date

Signature of Applicant

Date

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**

Kruehbaumner
 Name of Applicant Marg H Marguerde

County Auditor's File No. 20-005

Date Application Was Filed With The County Auditor 1/8/20

Date County Auditor Mailed Application to Township Clerk or City Auditor 1/8/20
(must be within five business days of filing date)

Allan Wetmer



Finance Department

DATE: January 9, 2020
FROM: Dmitriy Chernyak, Finance Director *alac 01/09/20*
ITEM: Applications for Abatement

REQUEST

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

Applications for Abatement for 2018 & 2019- Disabled Veteran Credit
Property Owner- Virgil Jr & Shaundra Ziemann-Bolinske
Property Address- 3418 Chisholm Tr / 1319-006-055

Please place this item on the 1/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The above property applicant has met all the requirements set forth in the N.D.C.C 57-02-08(20) to apply for the Disabled Veteran credit.

RECOMMENDED CITY COMMISSION ACTION

The Assessing Division recommends approval of the applications for abatement as presented.

STAFF CONTACT INFORMATION

Allison Jensen
ajensen@bismarcknd.gov
355-1630

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
 Bodinske
 Virginia Strauder

County Auditor's File No.
 20-000

Date Application Was Filed With The County Auditor
 1/19/20

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

Allan Outman
 burepb

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District #1
County of Burleigh Property I.D. No. 1319-006-055
Name BOLINSKE, VIRGIL & ZIEMANN-BOLINSKE, SHAWN DRA Telephone No.
Address 3418 Chisholm Tr. Bismarck ND

Legal description of the property involved in this application:

PROMONTORY POINT IV
Block: 6
LOT 12

Total true and full value of the property described above for the year 2019 is:

Land \$ 88,000
Improvements \$ 379,300
Total \$ 467,300
(1)

Total true and full value of the property described above for the year 2019 should be:

Land \$ 88,000
Improvements \$ 379,300
Total Adj. \$ 377,300
(2)

The difference of \$ 90,000 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
- 6. Duplicate assessment
- 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
- 8. Error in noting payment of taxes, taxes erroneously paid
- 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application.
- 10. Other (explain) (60% Dis.)

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

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

Applicant asks that the disabled veteran credit be approved as presented

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

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

Signature of Preparer (if other than applicant)

Date

Signature of Applicant

Date

Shawn DRA 1-8-2020

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**

Belinske

Name of Applicant *Urgil + Chandira*

County Auditor's File No. *20-008*

Date Application Was Filed With The County Auditor *1/9/20*

Date County Auditor Mailed Application to Township Clerk or City Auditor *1/9/20*
(must be within five business days of filing date)

*Allan Quetmeyer
Tayepo*



Finance Department

DATE: January 22, 2020
FROM: Dmitriy Chernyak, Finance Director
ITEM: Enhancement of Services for City's Purchasing Card

REQUEST

Receive approval to enter into a five-year contract with US Bank's Higher Education and Public Sector Program.

Please place this item on the 1/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The City currently utilizes US Bank's purchasing card program for city credit card transactions. The Finance department would like to enter into a five-year contract with US Bank as an enhancement to our current program. Joining US Bank's Higher Education and Public Sector Program would allow the City to receive rebates annually on City credit card purchases. There is no cost to the City to join the program. The transition to the program will be seamless to our current credit card holders.

RECOMMENDED CITY COMMISSION ACTION

Approval to enter into a five-year contract with US Bank's Higher Education and Public Sector Program.

STAFF CONTACT INFORMATION

Dmitriy Chernyak | Finance Director, 355-1600 or dchernyak@bismarcknd.gov



Finance Department

DATE: January 14, 2020

FROM: Andrew Milas, IT/GIS Manager

ITEM: Consider request and approval to replace and upgrade the Wireless infrastructure at the Bismarck Event Center.

REQUEST

Upgrade and replacement of the wireless infrastructure at the Bismarck Event Center. Please place this item on the 1/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The wireless infrastructure at the Bismarck Event Center has reached its end of life. All devices are needing to be replaced to ensure we can apply security patches and protect our City of Bismarck's infrastructure.

RECOMMENDED CITY COMMISSION ACTION

Approve purchase of replacement wireless access points and related components from High Point Networks (State Contract #022) needed for the project in order to keep the City of Bismarck's infrastructure secure.

STAFF CONTACT INFORMATION

Andrew Milas | IT/GIS Manager, 355-1635 or amilas@bismarcknd.gov

PROPOSAL



PROPOSAL NAME: Event Center Wireless Option #2

PROPOSAL DATE: January 08, 2020

▶▶ PREPARED FOR:

City of Bismarck
Andy Milas

221 N 5th Street
Bismarck, ND 58506

amilas@bismarcknd.gov

▶▶ PREPARED BY:

Jason Herner
High Point Networks, LLC.

Direct/Mobile/Fax: 701-214-5914

jason@highpointnetworks.com



877.850.6459



www.HighPointNetworks.com



sales@highpointnetworks.com

Event Center Wireless Option #2



Summary

Completion Date: TBD

P.O.C(s): Andrew Milas

Site Address: Bismarck Event Center

Project Brief: Bismarck Event Center has aging and NON-supported Wired and Wireless infrastructure which needs to be replaced. This design will correct all Fiber cabling.

Scope of Work:

- **HPN Responsibilities:**

- Pull Fiber runs to Arena Catwalk AMP room & Termination
- Pull Fiber runs to East Arena Lower Level & Termination
- Pull Fiber runs to West Arena Lower Level & Termination
- Pull Fiber runs to Control room and Termination & Termination
- Pull Fiber runs to Exhibition Hall East Catwalk from West Catwalk
- Pull Fiber runs to Exhibition Hall hallway closet to Concession IDF
- Pull Cat6 from Arena Catwalk AMP Room to Catwalk AP's & Cameras + Termination
- Configuration of New Wireless AP's
- Deployment of all new AP's
- Deployment of Catwalk AP's & Antennas in Arena
- Configuration of 5 Network switches to replace current outdated network switches
- Configuration of Network Infrastructure throughout facility to collapse two physically separated networks to one physical network with three logical networks

- **Client Responsibilities:**

- Provide Access to all areas of Event Center

Exclusion: This quote reduces the number of switches required by 3 (48 port) switches in the network. Also it removes the redundant 10gig optics to ensure full resiliency in case of core or optic failure.

Change Control:

- In the event that it becomes necessary to alter the scope of work, High Point Networks will initiate contact with the company's point of contact to work out the details associated with impacts to schedules, deliverables and/or financial commitments. No changes to the scope of work will occur without prior written authorization.

Event Center Wireless Option #2

Hardware

Qty	Item	Description	Price	Ext. Price
47	JZ337A	Aruba AP-535 (US) Dual Radio 4x4:4 802.11ax Internal Antennas Unified Campus AP	\$685.00	\$32,195.00
8	JZ332A	Aruba AP-534 (US) Dual Radio 4x4:4 802.11ax External Antennas Unified Campus AP	\$685.00	\$5,480.00
8	JW019A	AP-ANT-48 2.4/5G 8DBI 4X4 PANEL 60x60 Deg	\$220.00	\$1,760.00
8	JW021A	AP-ANT-MNT-4 AP-ANT-48 Azimuth and Elevation Adjustable Mount Kit	\$55.00	\$440.00
60	JW546AAE	ARUBA AIRWAVE 1 DEVICE LICENSE	\$41.00	\$2,460.00
60	H2YV3E	HPE 1 year Foundation Care 24X7 Airwave 1 Device E-LTU SVC	\$12.00	\$720.00
4	JL356A	Aruba 2540 24G PoE+ 4SFP+ Switch	\$1,533.00	\$6,132.00
1	JL258A	Aruba 2930F 8G PoE+ 2SFP+ Swch	\$924.00	\$924.00
6	J9283D	Aruba DAS - SFP+ 10GBase direct attach Copper cable - 10 ft	\$142.00	\$852.00
2	J9151E-COMP	10G SFP+ LC LR SM	\$150.00	\$300.00
8	J9150D-COMP	10G SFP+ LC SR MM	\$122.00	\$976.00
5	J9151A-D-COMP	10G SFP+ LC BX-D 10KM	\$315.00	\$1,575.00
5	J9151A-U-COMP	10G SFP+ LC BX-U 10KM	\$315.00	\$1,575.00
1	Misc-Cable Material	Cat6 Cable & Fiber Cable with Termination	\$10,154.88	\$10,154.88

Subtotal: \$65,543.88

HPN Service Bundle

Qty	Item	Description	Price	Ext. Price
1	PROSERVE-PKG	High Point Networks Professional Services defined in the pdf online or above in this document	\$16,890.00	\$16,890.00

Subtotal: \$16,890.00

Event Center Wireless Option #2

Prepared for:

City of Bismarck

Attn: Andy Milas
221 N 5th Street
Bismarck, ND 58506

Prepared by:

High Point Networks, LLC

Jason Herner
Direct: 701-214-5914
jason@highpointnetworks.com



Quote Summary

Description	Amount
Hardware	\$65,543.88
HPN Service Bundle	\$16,890.00

Total: \$82,433.88

For questions related to your quotation, please contact us using the information above. By signing below, the undersigned accepts High Point Networks Master Service Agreement and represents that he or she is authorized to execute the agreement on behalf of the customer. Acceptance of the quote online is considered acceptance of an offer and binding. All quotes are subject to shipping costs that may not be listed on the quote. Prices quoted are valid for 30 days from Quotation Date. Limitation of Liability for Consequential Damages. High Point Networks, LLC shall not be liable for any indirect, incidental, consequential, exemplary, or punitive damages of any kind or nature. All IP Telephony and projects exceeding 10 hours of service will require a 50% down payment of the total project due upon acceptance of the quotation and the remainder due within 30 days of completion. Payment for all other orders are due in 30 days subject to credit approval. Credit card usage as a form of payment may be accepted on pre-approval basis and may be subject to a convenience fee. "Optional" items on the above quote are not included in the total pricing at the bottom of the quote. Note: Once product is ordered and shipped there is NO right of return and may be subject to a restocking fee. Product cannot be returned if ordered in error. Product cannot be returned if next generation product has been released.

Signature _____

Date _____



Finance Department

DATE: January 14, 2020

FROM: Andrew Milas, IT/GIS Manager

ITEM: Consider request and approval to replace all outdated network switches within the City of Bismarck's infrastructure.

REQUEST

Upgrade and replacement of all city owned network switches.

Please place this item on the 1/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The City of Bismarck has 65 switches that have reached their end of life. These are needing to be replaced to ensure we can apply security patches and fixes in order to keep the City of Bismarck's infrastructure secure.

RECOMMENDED CITY COMMISSION ACTION

Approve purchase of replacement network switches and related components from High Point Networks (State Contract #022) needed for the project in order to keep the City of Bismarck's infrastructure secure.

STAFF CONTACT INFORMATION

Andrew Milas | IT/GIS Manager, 355-1635 or amilas@bismarcknd.gov

PROPOSAL



PROPOSAL NAME: Network Refresh

PROPOSAL DATE: January 08, 2020



PREPARED FOR:

City of Bismarck
Drew Milas

Attn: Andrew Milas
Bismarck, ND 58506

amilas@bismarcknd.gov



PREPARED BY:

Jason Herner
High Point Networks, LLC.

Direct/Mobile/Fax: 701-214-5914

jason@highpointnetworks.com



877.850.6459



www.HighPointNetworks.com



sales@highpointnetworks.com

Network Refresh



Summary

Completion Date: TBD

P.O.C(s): Andrew Milas

Site Address: City Buildings - Bismarck

Project Brief: City of Bismarck has aging Network infrastructure that is no longer supported. Complete replacement of all network hardware with proper licenses for City Admin staff to centrally manage and monitor with existing Network management system.

Scope of Work:

- **HPN Responsibilities:**

- Work with City Network staff to configure proper baseline configuration on all network hardware with proper security patches and firmware.
- Work with City Network staff to coordinate deployment of 65 Network switches across 21 Buildings.
- Finalize proper Vlan assignments deployed throughout city network for correct network design.
- Assist with correcting internet connectivity with State of ND Technology Department.
- Correct Fiber runs at City/county building with new fiber and termination
-

- **Client Responsibilities:**

- Provide Access to all areas of Network and city/buildings
- Physically racking and mounting of network hardware
- Communication of network migration to city employees

Change Control:

- In the event that it becomes necessary to alter the scope of work, High Point Networks will initiate contact with the company's point of contact to work out the details associated with impacts to schedules, deliverables and/or financial commitments. No changes to the scope of work will occur without prior written authorization.

Network Refresh

Hardware

Qty	Item	Description	Price	Ext. Price
27	JL357A	Aruba 2540 48G PoE+ 4SFP+ Switch	\$2,188.00	\$59,076.00
1	JL356A	Aruba 2540 24G PoE+ 4SFP+ Switch	\$1,437.00	\$1,437.00
16	J9772A	Aruba 2530-48G-PoE+ - switch - 48 ports - managed - desktop, rack-mountable, wall-mountable	\$1,470.00	\$23,520.00
15	J9773A	Aruba 2530-24G-PoE+ - Switch - managed - 24 x 10/100/1000 (PoE+) + 4 x Gigabit SFP - desktop, rack-mountable, wall-mountable - PoE+	\$919.00	\$13,785.00
4	JL075A	Aruba 3810M 16SFP+ 250W Switch	\$5,305.00	\$21,220.00
2	JL430A	Aruba 3810M 24SFP+ 250W Switch	\$6,665.00	\$13,330.00
6	JL084A	Aruba -3810 Network stacking module 4 ports	\$503.00	\$3,018.00
6	J9578A	Aruba - Stacking cable - 1.6 ft - 3810M	\$116.00	\$696.00
6	JL085A	Aruba 3810M/2930M X371 250W PS	\$201.00	\$1,206.00
15	J9283D	Aruba DAS - SFP+ 10GBase direct attach Copper cable - 10 ft	\$71.00	\$1,065.00
10	J9281D	Aruba DAS - SFP+ 10GBase direct attach Copper cable - 3.3 ft	\$46.00	\$460.00
65	JW546AAE	ARUBA AIRWAVE 1 DEVICE LICENSE	\$41.00	\$2,665.00
65	H2YV4E	HPE Foundation Care Software Support 24x7 - technical support - for Aruba AirWave - 3 years	\$35.00	\$2,275.00
2	J9151A-D-COMP	10G SFP+ LC BX-D 10KM	\$315.00	\$630.00
2	J9151A-U-COMP	10G SFP+ LC BX-U 10KM	\$315.00	\$630.00
20	J9150D-COMP	10G SFP+ LC SR MM	\$122.00	\$2,440.00
6	J9151E-COMP	10G SFP+ LC LR SM	\$150.00	\$900.00
1	MISC-Material	Cabling material & Fiber Patch cables & Termination	\$6,855.00	\$6,855.00

Subtotal: \$155,208.00

HPN Service Bundle

Qty	Item	Description	Price	Ext. Price
1	PROSERVE-PKG	High Point Networks Professional Services defined in the pdf online or above in this document	\$13,020.00	\$13,020.00

Subtotal: \$13,020.00

Network Refresh

Prepared for:

City of Bismarck

Attn: Drew Milas

Attn: Andrew Milas 221 N 5th Street

Bismarck, ND 58506

Prepared by:

High Point Networks, LLC

Jason Herner

Direct: 701-214-5914

jason@highpointnetworks.com



Quote Summary

Description	Amount
Hardware	\$155,208.00
HPN Service Bundle	\$13,020.00
Total:	
	\$168,228.00

For questions related to your quotation, please contact us using the information above. By signing below, the undersigned accepts High Point Networks Master Service Agreement and represents that he or she is authorized to execute the agreement on behalf of the customer. Acceptance of the quote online is considered acceptance of an offer and binding. All quotes are subject to shipping costs that may not be listed on the quote. Prices quoted are valid for 30 days from Quotation Date. Limitation of Liability for Consequential Damages. High Point Networks, LLC shall not be liable for any indirect, incidental, consequential, exemplary, or punitive damages of any kind or nature. All projects exceeding 10 hours of service will require a 50% down payment of the total project due upon acceptance of the quotation and the remainder due within 30 days of completion. Payment for all other orders are due in 30 days subject to credit approval. Credit card usage as a form of payment may be accepted on pre-approval basis and may be subject to a convenience fee. "Optional" items on the above quote are not included in the total pricing at the bottom of the quote. Note: Once product is ordered and shipped there is NO right of return and may be subject to a restocking fee. Product cannot be returned if ordered in error. Product cannot be returned if next generation product has been released.

Signature _____

Date _____



Police Department

DATE: January 22, 2020
FROM: Dave Draovitch, Chief of Police
ITEM: MOU with United Way for Single Point of Contact

REQUEST

I am requesting the Commission's approval of an MOU with the MSA United Way for "Single Point of Contact" services related to the operation of their homeless shelter.

Please place this item on the 1/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

As a result of the partnership between the City of Bismarck and the MSA United Way, I am seeking the Commission's approval of an MOU with MSA United Way for "Single Point of Contact" services. The single point of contact services will allow us to bring all people we come in contact with that are in need of social or behavioral services to the MSA United Way homeless shelter. The shelter will then determine the best resource for the person in need and ensure the person is connected with that resource. This single point of service will greatly benefit the City and the people in need by saving time, effort and frustration.

RECOMMENDED CITY COMMISSION ACTION

Grant approval of the MOU.

STAFF CONTACT INFORMATION

Dave Draovitch | Chief of Police, 223-1212 or ddraovitch@bismarcknd.gov



PUBLIC WORKS – UTILITY OPERATIONS

DATE: January 21, 2020

FROM: Michelle Klose, Director of Utility Operations *MK*

ITEM: Approval for sole source purchase of four Frontheads, 4 Fronthead wear rings, 4 Volute gaskets for the 26th St Sanitary Lift Station

REQUEST

Approval of sole source purchase of four Frontheads, four Fronthead wear rings, four Volute gaskets for the 26th St Sanitary Lift Station.

Please place this item on the January 28, 2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The Water/Sewer Department is requesting approval to purchase four Frontheads, four Fronthead wear rings, 4 Volute gaskets for the 26th St Sanitary Lift Station. These items will rebuild the existing four wastewater pumps bringing their efficiency back into the range of when they were new.

A written quote for \$14,280 from Dakota Pump & Control, Inc. is attached. Dakota Pump & Control, Inc is the only Regional representative available in the Bismarck area who sells Fairbanks Morse pumps and parts.

I will be present at the City Commission meeting to respond to questions the Board may have regarding this matter.

RECOMMENDED CITY COMMISSION ACTION

Approve the request to purchase four Frontheads, four Fronthead wear rings, four Volute gaskets from Dakota Pump & Control, Inc. in the amount of \$14,280 for the 26th St Sanitary Lift Station as allowed by Ordinance 7-01-04.

STAFF CONTACT INFORMATION

Michelle Klose, Director of Utility Operations, 355-1700, mklose@bismarcknd.gov.



Dakota Pump & Control, Inc.

705 Quadee Drive SW
Watertown, SD 57201

Phone: (605)886-4672
Fax: (605) 886-4674

Quote

Date	Quote #
1/15/2020	7499

Quoted To:
Bismarck (City of) Dept. of Public Works PO Box 5503 Bismarck, ND 58506-5503

****Unless otherwise noted, this quote does not include freight and/or applicable taxes****

Customer Phone	Customer Fax
701-355-1700 x 0	701-221-6840

Project	Rep
Master Lift Station	Dave

Attn:	Matt Routledge
-------	----------------

Description	Qty	U/M	Cost	Total
Fairbanks Morse 8" C5415, S/N 1534858				
Fronthead	1	ea	2,655.00	2,655.00
Fronthead Wear Ring	1	ea	875.00	875.00
Volute Gaskets	2	ea	20.00	40.00
Fairbanks Morse 8" C5415, S/N K3N1-05591 (0,1,3)				
Fronthead	3	ea	2,655.00	7,965.00
Fronthead Wear Ring	3	ea	875.00	2,625.00
Volute Gaskets	6	ea	20.00	120.00

*Prices exclude freight, tax and installation.
*Price firm for 30 days.
*Delivery is approximately 3-4 weeks.
*Items not specifically listed would be an additional charge.

<p>Quote is valid for 30 days. If Accepted; Terms: Net 30 days from time of shipment. 2% Interest per month will be charged after 30 days. To purchase the equipment and/or services on this quote please sign and date in the space provided and return to DPC.</p>	Subtotal	\$14,280.00
	Sales Tax	
	Total	

www.dpc.us.com

Customer Signature _____



ADMINISTRATION

DATE: January 7, 2020
FROM: Keith J. Hunke, City Administrator
ITEM: NDDOT Director Bill Panos Presentation

REQUEST

Consider request from Bill Panos, ND Department of Transportation Director, to make a presentation to the City Commission.

Please place this item on the January 28, 2020 City Commission meeting.

BACKGROUND INFORMATION

The new North Dakota Department of Transportation Director, Bill Panos, would like to make a presentation to the City Commission and share his vision for the transportation initiatives going on in our District and the whole state.

RECOMMENDED CITY COMMISSION ACTION

Consider request from Bill Panos, ND Department of Transportation Director, to make a presentation to the City Commission.

STAFF CONTACT INFORMATION

Keith J. Hunke, khunke@bismarcknd.gov, 701-355-1300



City Administration

DATE: January 21, 2020
FROM: Jason Tomanek, Assistant City Administrator
ITEM: Bismarck Parks & Recreation District Executive Director, Randy Bina

REQUEST:

Consider request from Randy Bina, Executive Director of Bismarck Parks & Recreation District, to make a presentation to the City Commission.

BACKGROUND INFORMATION

Bismarck Parks & Recreation District is requesting to have ballot language on the June 9, 2020 City election ballot to increase sales tax collections by ½-cent that will sunset when the bonds to finance up to \$108 million in costs to construct and indoor community recreation complex are paid in full.

Additional information has been provided and is appended to this memorandum.

RECOMMENDED CITY COMMISSION ACTION

Consider the request from Randy Bina, Executive Director of Bismarck Parks & Recreation District.

STAFF CONTACT INFORMATION

Jason Tomanek | Assistant City Administrator, 355-1300 or jtomanek@bismarcknd.gov

Let's Play!

TO: Jason Tomanek, Assistant City Administrator
FROM: Randy Bina 
Executive Director
DATE: January 17, 2020
RE: Request to Appear Before the City Commission

Bismarck Parks and Recreation District respectfully requests to appear at the January 28, 2020 City Commission meeting. At the January 16, 2020 Park Board meeting, the Board approved the following motion:

1. To appear before the City Commission to request a ½ cent increase in city sales tax that will sunset when the bonds to finance up to \$108 million in costs to construct an indoor community recreation complex are paid in full and
2. To request that the City Commission direct City staff to draft ballot language to appear on the June 9, 2020 City election ballot and draft the necessary amendments to the City's Home Rule Charter necessary for the proposed increase in city sales tax.

Park Board President Brian Beattie will present the request to the City Commission.

Enclosed with this memo you will find information about the Facilities Master Plan and Feasibility Study and Frequently Asked Questions about a proposed Indoor Community Recreation Complex. We look forward to providing the City Commission with this information. Please contact me if you have any questions.

Cc: Commissioners Gilbertson, Jeske, Munson, Zimmerman and President Beattie

FACILITIES MASTER PLAN AND FEASIBILITY STUDY

January 2019

Facilities Master Plan

- BSC Aquatic & Wellness Center
- Capital Racquet & Fitness Center
- VFW Sports Center
- Wachter Aquatic Complex

Study potential gaps in recreation facilities and assist with future facilities planning and improvements with the help of GreenPlay LLC, Übl Design Group, RCC Associates and Bismarck Parks and Recreation District (BPRD) staff.

Information Gathering

Meetings with 19 stakeholders, 58 staff, 125 focus group attendees, public input meetings and project team.

- Recurring themes (no particular order):
- Take care of/enhance what we have
- Gymnasium/multi-purpose building
- Indoor artificial turf fields/multi-use field
- Indoor tennis and pickleball
- More Ice
- Aquatics (Indoor/outdoor)
- Trails and connectivity
- River access

Key Issues and Values from information gathering

- Accessibility
- Affordability
- Inclusivity
- Workforce Shortage
- Build beyond capacity for future growth
- Keeping up with trends and keeping people in Bismarck

March 2019

Community Needs Assessment Survey

- Community survey through mailed invitation – 306 completed the statistically valid survey
- Open link survey invitation – 1,411 responses received
- Survey asked about the four identified facilities; satisfaction, importance and meeting community needs
- Survey asked about a new indoor multi-use center and what amenities could be included, as well as how to pay for such a facility.

April 2019

Survey Recommendations

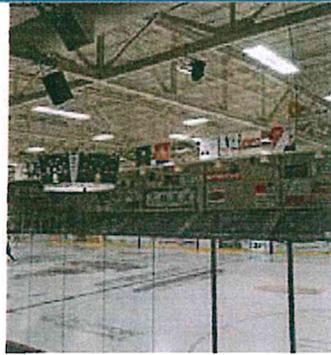
- Consider making improvements and upgrades to the VFW Sports Center
- Consider adding additional space at the BSC Aquatic & Wellness Center
- Consider making improvements and upgrades to the Wachter Aquatic Complex
- Consider developing a new indoor community recreation complex, possibly replacing all or partial elements of the Capital Racquet & Fitness Center, which could include:
- Walking/running track, athletic courts, fitness equipment, group exercise, ice sheets, indoor turf, tennis courts, playground

June 2019

Project Vision

Using the Facilities Master Plan as a guiding document, a feasibility study was conducted for a new indoor community recreation complex.

- To determine the appropriate mix of programs and amenities
- To determine the costs associated with building the complex
- To determine the potential cost recovery
- To determine probable funding sources for construction (bonds, sales tax, user fees, grants, public/private partnerships)



August 2019

Feasibility Study Scope of Work with GreenPlay LLC

- **A:** Strategic kick-off with BPRD Project Team and Task Force on August 29 to understand the issue and process, formalize a timeline
- **B:** Used data from Facilities Master Plan study public input process to study possible uses of facility
- **C:** Conducted a site analysis of up to three potential sites; evaluate the components and potential costs
- Based on Tasks A-C, prepare a business plan for selected programs, services and amenities; prepare operational budget and revenue strategies and funding options

October 2019

Public Open House

- Hosted a public Open House and Presentation Session to present conceptual plans to receive additional feedback.
- Presented conceptual plans to Board of Park Commissioners

November 2019

Presentations

- Hosted a public Plan Presentation with updated conceptual plans, community comparisons of recreational facilities and sales tax structures, facility construction costs and operational budget
- Presented updated information to Board of Park Commissioners

December 2019

Next Steps

- Present final Feasibility Study report to Board of Park Commissioners

January 2020

- The Board of Park Commissioners voted to ask the Bismarck City Commission to place a half cent sales tax on the June ballot. The half cent would sunset when the bonds to finance up to \$108 million in costs to construct an indoor community recreation complex are paid in full. In addition, a capital campaign committee will work to raise a minimum of 5-10% of the project cost.



NATIONAL GOLD MEDAL WINNER
BISMARCK PARKS AND RECREATION DISTRICT
Est. 1927

Vision

Be the leader and premier provider of public parks, programs, facilities and leisure services

Mission

Work with the community to provide residents and visitors the highest quality park, program, facility and event experience.

Core Purpose

Provide affordable, accessible, and sustainable public park and recreation services.

Core Values

Accountability	Diversity
Collaboration	Integrity
Community	Professionalism

Questions?

For more information, contact bisparcs@bisparcs.org.

Bismarck Parks and Recreation District

Frequently Asked Questions about a proposed Indoor Community Recreation Complex in Bismarck

What would be in this Bismarck Parks and Recreation District (BPRD) facility?

At this time, the amenities in this facility would include the following:

- Six tennis courts (with room for future expansion)
- Five pickleball courts (with room for future expansion)
- Four racquetball courts
- An indoor turf field for soccer, lacrosse, baseball, football, softball, and open play space for family activities.
- Gymnastics space
- An ice arena (with room for future expansion) with seating for 2,500. The surface could also be used for non-ice activities like roller skating, roller hockey and community events and activities.
- Two gymnasiums (with room for future expansion) for basketball, volleyball or family activities.
- A walking track with both level surfaces and an "adventure track" with changing elevations.
- Group fitness space; cardio and weights space.
- Community rooms for meetings, group gatherings, educational opportunities, crafts, cards and conversation
- An indoor playground
- A climbing wall
- Concessions/coffee shop

How did you come up with these particular facility features?

- A Facilities Master Plan was launched in January 2019 and studied four facilities; VFW Sports Center, Wachter Aquatic Complex, BSC Aquatic & Wellness Center and the Capital Racquet & Fitness Center. The study, conducted by a nationally recognized consultant and local architectural firm, looked at the facilities, current community offerings, recreation trends and gaps and community demographics. Information was gathered through public input sessions, meetings with stakeholders, user groups and staff. A statistically valid survey and an open invitation survey were conducted.
- Capital Racquet & Fitness Center was identified as the highest need of the four facilities studied due to facility infrastructure, accessibility and program capacities. Expansion at that facility's current site are not possible due to the facility's age and land locked location. This proposed recreation complex would replace the program elements of Capital Racquet & Fitness Center as well as provide for the other needs that were identified in the community survey.

What about the other facilities you studied; VFW Sports Center, Wachter Aquatic Complex and the BSC Aquatic & Wellness Center?

- BPRD is using the community survey as a guide to address the most pressing need, which is to replace the 1979 Capital

Racquet & Fitness Center. There are not any aquatics features in this new complex. BPRD will continue to address other facility needs at the VFW Sports Center, Wachter Aquatic Complex and the BSC Aquatic & Wellness Center through the annual budgeting and planning process. The needs of the other facilities were clearly identified and heard. The survey said BPRD should plan for future growth, understand community interests AND take care of existing facilities.

What else did you learn from the Facilities Master Plan?

- One of the recommendations of the Facilities Master Plan was to conduct a Feasibility Study for a new indoor community recreation complex that would include the facility features that the public desires, as well as facility costs, potential locations and options on how to pay for a facility like this. That process was started in August of 2019. Public input sessions were held in October and November to present conceptual plans, take additional public comment, make adjustments based on input and present a final Feasibility Study report to the Board of Park Commissioners in December 2019.

Where do you plan on building this facility?

- The community input that was gathered indicated a preference for a North/Northeast Bismarck location. Four possible sites include the areas near Sunrise Center, Silver Ranch, Missouri Valley Complex and Section 9. A site with a minimum of 25 acres will be needed for a facility of this size. A final site location decision has not been made at this time.

Who is going to be able to use this indoor recreation complex?

- Anyone and everyone would be able to use this complex, whether they live in Bismarck-Mandan or in the surrounding area of Burleigh County, or are visiting from out of town. All ages and abilities would be welcome. There would be membership rates put into place as well as daily use fees. BPRD would strive to make the facility affordable and accessible to all.

Besides all the features, what else did BPRD take into consideration with this new facility?

The community feedback and surveys clearly say that BPRD should focus on the following:

- Provide family-oriented activities
- Provide affordable and accessible activities and facilities to all
- Provide a high level of safety and security
- These statements are providing the guiding principles for the development of an indoor recreation complex. These core concepts are tied closely to BPRD's Vision: Be the leader and premier provider of public parks, programs, facilities and leisure services. The BPRD Mission: Work with the community to provide residents and visitors the highest quality park, program, facility and event experience. The Core Purpose of BPRD: Provide affordable, accessible, and sustainable public park and recreation services.

Don't we have enough facilities in Bismarck? There are already ice rinks and indoor tennis courts and other private fitness facilities.

- Bismarck is very fortunate to have many diverse recreational facilities. BPRD facilities are close to or at capacity with our current population. As we know, Bismarck is growing. More and more individuals and families want to move here and want to have quality of life amenities and offerings and to explore a variety of recreational experiences. Recreational facilities impact the quality of life in Bismarck and assist in workforce attraction and retention. Recreation facilities also have an economic impact and provide another reason for visitors to come to Bismarck as a destination for shopping, eating and recreating.

Why can't you remodel big spaces that are available, like the former Herberger's or Sears or the K-Mart building?

- We understand there are some larger spaces that are available in Bismarck, but none of them meet the total needs of what was identified in the community survey and public feedback sessions; to have a large, multi-purpose and multi-use facility that can serve many uses and many audiences. The available retail spaces aren't able to do that.

The big question – How much will this cost?

- This is always a difficult question. Right now these costs are estimates, but are estimates based on the best calculations and current costs available. A budget range of low, mid and high costs are \$108 million to \$114 million and the high of \$120 million. This includes construction, permits, bonds, insurance, construction testing, contingencies, the purchase of the land, escalation factors, furnishing the facility and professional fees. The target is \$108 million.

Why not make the facility smaller so it costs less?

- This has been considered, but the feedback from the public input sessions actually asked for MORE in this facility; eight tennis courts, not six; two sheets of ice, not one; four gyms, not two. It would be nice to meet all those expectations and community desires, but there is an associated cost, so this facility size was a "meet in the middle" concept, taking into consideration Bismarck's growing population and growing enrollment in Bismarck public and private schools. This facility would meet the needs of Bismarck residents and visitors and is also designed for expansion and growth in the future.

What are some options on how to pay for this?

- That very important question was asked in the Facilities Master Plan. Some of the options on how to pay for a large recreation complex include increasing property tax for Bismarck residents, increase user fees, sell bonds, implement a city sales tax, apply for grants and seek out public/private partnerships. The survey results favored public/private partnerships, which means using a combination of private fundraising and public funds, like a sales tax.
- This \$108 million project cannot be funded just through traditional methods, like budgeting and fundraising. BPRD has a strong track record of private fundraising for facility upgrades and improvements (like the Bismarck Municipal Ballpark, the Capital Ice Complex and eight additional softball fields at Cottonwood Park), but again, this large of a facility, in order to be built in a timely and efficient manner, requires fundraising and an additional public funding source, like a sales tax.

So, let's say this facility gets built using a combination of donations and sales tax. Will this facility be able to pay for itself?

- BPRD staff looked at the costs to operate current facilities, including staff and all operational costs. Total operating costs for the new indoor recreation complex are estimated to be about \$3.1 million. These operating costs are planned to be funded at 85% from generated revenue (rental fees, membership fees, etc.) and 15% from the existing park district levy. Please note that these revenue projections and costs are based on the current fee structure and prices for 2020.

How much of sales tax are you talking about? How much can you raise privately?

- A half-cent sales tax is being discussed. The half-cent would sunset (that is stop) when the bonds to finance up to \$108 million in costs to construct an indoor community recreation complex are paid in full.
- In addition, a capital campaign committee will work to raise a minimum of 5-10% of the project cost.

What kind of impact does a half cent have on a household in Bismarck?

- According to the North Dakota Tax Department's 2018 State and Local Taxes report, a family of three earning \$50,000 would expect to pay \$66 more per year (\$5.50 per month) in sales tax with a ½ cent increase.

Where does Bismarck rank right now in its sales tax percentage, in compared with say, Fargo, Grand Forks, Minot and Mandan?

- Currently, the breakdown looks like this: Bismarck: 7%; Fargo: 7.5%; Grand Forks: 7.25%; Minot: 7.5% and Mandan: 7.25%

Who will benefit from this proposed indoor recreation complex?

- Everyone. The features, programs, spaces and activities being discussed could be used by the senior population, youth, teens, toddlers – people of all ages. This complex would create all kinds of new recreational programming space and social spaces, for people to meet, gather, move, learn and grow. This complex can impact the quality of life in Bismarck regardless of age or ability. It could offer a place to be healthy, meet friends, try a new activity, spend time with other family members, have fun or learn something new.

Vision

Be the leader and premier provider of public parks, programs, facilities and leisure services

Mission

Work with the community to provide residents and visitors the highest quality park, program, facility and event experience.

Core Purpose

Provide affordable, accessible, and sustainable public park and recreation services.

Core Values

Accountability
Diversity
Collaboration
Integrity
Community
Professionalism

Questions?

For more information, contact bisparks@bisparks.org.



NATIONAL GOLD MEDAL WINNER
BISMARCK PARKS AND RECREATION DISTRICT
Est. 1927



City Administration

DATE: January 21, 2020
FROM: Jason Tomanek, Assistant City Administrator
ITEM: PARC 365 Group, Mike Motschenbacher

REQUEST:

Consider request from Mike Motschenbacher, PARC 365 Group, to make a presentation to the City Commission.

BACKGROUND INFORMATION

PARC 365 has requested the opportunity to present information in regard to the proposed ½-cent sales tax collection by Bismarck Parks & Recreation District to construct an indoor community recreation complex.

Laura Pitcher and Heather Davis will provide a presentation.

RECOMMENDED CITY COMMISSION ACTION

Consider the request from PARC 365 group.

STAFF CONTACT INFORMATION

Jason Tomanek | Assistant City Administrator, 355-1300 or jtomanek@bismarcknd.gov



City Administration

DATE: January 21, 2020

FROM: Jason Tomanek, Assistant City Administrator

ITEM: Highland Acres Sidewalks | Update from Bruce Whitey

REQUEST:

Consider receiving an update from Bruce Whitey regarding the installation of sidewalks in the Highland Acres neighborhood.

BACKGROUND INFORMATION

On July 24, 2017 Bruce Whitey requested the postponement of sidewalk construction in portions of the Highland Acres neighborhood citing the area was being considered historically significant. The request was to allow for an 18-month postponement to allow time to conduct research with the State Historical Society.

On September 11, 2018, Mr. Whitey reported the State Historical Society/ND State Historic Preservation Office would require the entire Highland Acres neighborhood be included in the application; the original request was to nominate Blocks 1-5, Highland Acres Addition, Highland Acres 2nd Addition, Torrance Addition and Memorial Park Addition. The remaining blocks were appended to the initial application. The Board of City Commissioners directed staff to explore establishing a Certified Local Government Program and granted an extension to postpone a determination regarding sidewalk installation to February 2020.

Additional information has been provided and is appended to this memorandum.

RECOMMENDED CITY COMMISSION ACTION

Receive the report from Bruce Whitey and consider the request for additional time to allow for the on-going research to support the historic designation of the Highland Acres neighborhood.

STAFF CONTACT INFORMATION

Jason Tomanek | Assistant City Administrator, 355-1300 or jtomanek@bismarcknd.gov



Background:

July 25, 2017 The City Commission delayed the consideration of installation of a number of sidewalks during the application and nomination process to formally recognize Highland Acres by the National Register as an historic district.

July 2018 Bruce Whittey met with Community Development to begin discussions on creating a Certified Local Government (CLG) which would create a local Historic Preservation Commission. As part of the Commission's mission it could facilitate the nomination of historic districts and solicit funding for implementation.

September 11, 2018 Bruce Whittey reported to the City Commission that the ND State Preservation Office would require that the historic nomination would require that the entire Highland Acres subdivision be included in the application. The original request was to nominate Highland Acres Blks 1-5, Highland Acres 2nd, Torrance, and Memorial Park. The remaining blocks were to be added at a later date amending the original application. The Commission supported the request to delay sidewalk consideration until January 2020.

September 25, 2018 The City Commission directed Community Development to pursue designation of Bismarck as a Certified Local Government, creating an Historic Preservation Ordinance which would be submitted the ND Preservation Office for approval.

January 8, 2019 After public hearing, Ordinance 6358, creating the Bismarck Historic Preservation Commission was approved by the City Commission.

August 21, 2019 Bruce Whittey appeared before the Bismarck Historic Preservation Commission to ask their assistance in nominating Highland Acres as an historic district.

October 16, 2019 The Bismarck Historic Preservation Commission directed that a Cultural Heritage grant be prepared to fund Highland Acres site surveys required in the historic district application.

November 26, 2019 The City Commission approved the Bismarck Historic Preservation Commission's request to submit the Cultural Heritage grant to the ND State Historical Preservation Office.

Other City of Bismarck support:

July 2016 In a setback variance request before the Board of Adjustments for new construction in Highland Acres 2nd addition, Community development reversed an earlier decision to honor the front setback as originally filed on the plat rather than the City's policy of 25 feet.

September 20, 2019 The City of Bismarck issued a letter to Claudia Berg, State Preservation Officer, supporting Bismarck Historic Preservation Board in its efforts to create Highland Acres as an historic district.

Safety:

In a letter issued by Mark Berg, Traffic Engineer, September 2018 and updated in January 2020 it indicated that there have been no vehicle/pedestrian incidents within Highland Acres in the last 11 years.



Community Development Department

DATE: January 22, 2020
FROM: Ben Ehreth, AICP, Community Development Director
ITEM: Lot 26, Block 10, Silver Ranch First Addition - Appeal

REQUEST

Premier Homes, Inc. is appealing the January 2, 2020 decision of the Board of Adjustment to deny a variance from Section 14-04-03(7) of the City Code of Ordinances (R5 – Residential / Front Yard) to reduce the required front yard setback from 25 feet to 21 feet in order to continue the construction of a single-family dwelling on Lot 26, Block 10, Silver Ranch First Addition (4011 Silver Boulevard).

The property is located in northeast Bismarck, east of 52nd Street NE and South of 43rd Avenue NE, in the southeast quadrant of the intersection of Titanium Drive and Silver Boulevard.

Please place this item on the January 28, 2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The Board of Adjustment held a public hearing on the variance request on January 2, 2020.

A building permit to construct a single-family dwelling was obtained October 30, 2019. The lot survey indicating the property lines and placement of the proposed single-family dwelling were in conformance to required setbacks was submitted and reviewed prior to approval of the permit.

A footing and a foundation inspection was conducted and passed by a member of the Building Inspections Division, as the location of the proposed single-family dwelling met setback requirements based on the lot survey and the placement of the property pins by the owner's surveyor. However, while performing an inspection on an adjacent property, the owner's surveyor determined that the single-family dwelling on this lot was projecting approximately 4 feet into the required front yard setback, adjacent to Silver Boulevard.

During the public hearing, the owner's consulting engineer indicated that there may

have been surveying errors within the plat of Silver Ranch Addition. City Staff investigated and reviewed the original surveying information for the plat and determined that the plat was physically located correctly, but an error was made in the coordinates shown on the face of the plat. This error will be corrected by the original surveyor of the plat via a surveyor's affidavit. Additionally, City Staff determined that errors were made by the owner's surveyor when the property pins identifying the property lines for this lot were placed. These pins were not calibrated with existing physical controls on site, such as block corner pins.

No members of the public spoke at the public hearing.

At the conclusion of the public hearing, and based on the findings contained in the staff report the Board of Adjustment unanimously denied the request (5-0).

The minutes for the January 2, 2020 Board of Adjustment meeting, outlining discussion by the Board and the applicant's consulting engineer are attached.

RECOMMENDED CITY COMMISSION ACTION

Consider the request for an appeal at the January 28, 2020 City Commission Meeting

STAFF CONTACT INFORMATION

Ben Ehreth, AICP | Community Development Director, 355-1842 or behreth@bismarcknd.gov

Kim L. Lee, AICP | Planning Manager, 355-1846 or klee@bismarcknd.gov

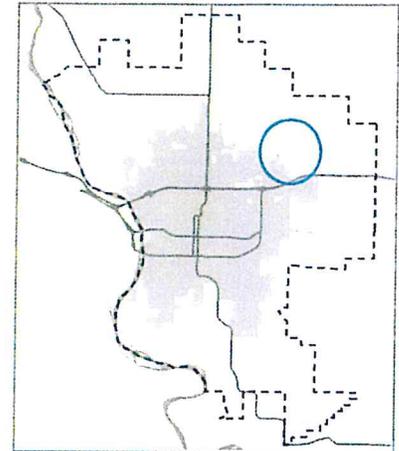
Jenny Wollmuth, AICP, CFM | Planner, 355-1845 or jwollmuth@bismarcknd.gov

Application for: Variance

TRAKiT Project ID: VAR2019-027

Project Summary

Title:	Lot 26, Block 10, Silver Ranch Addition (4011 Silver Boulevard Avenue)
Status:	Board of Adjustment
Owner(s):	Premier Homes Inc.
Project Contact:	Brian Zuroff, PE, Mountain Plains LLC
Location:	In northeast Bismarck east of 52 nd Street NE and south of 43 rd Avenue NE, between Titanium Drive and Gold Drive, along the east side of Silver Boulevard
Request:	Variance from Section 14-04-03(7) of the City Code of Ordinances (R5 – Residential / Front Yard)



Staff Analysis

Premier Homes Inc. is requesting a variance to reduce the required front yard setback located along the western portion of the property, adjacent to Silver Boulevard, from 25 feet to 21 feet for the construction of a proposed single-family dwelling.

A building permit to construct a single-family dwelling was obtained October 30, 2019. A lot survey indicating the placement of the proposed single-family dwelling conforming to required setbacks was submitted and reviewed prior to approval of the Permit.

A footing inspection occurred on November 14, 2019 and a foundation inspection occurred on November 15, 2019. Both passed inspection; however, while performing an inspection on an adjacent property, the surveyor determined that the foundation of the proposed single-family dwelling was projecting approximately 4 feet into the required front yard setback located along the western portion of the property, adjacent to Silver Boulevard.

The zoning ordinance makes provisions for the allowance of contextual setbacks for certain properties that may allow the reduction of front yard setbacks. However, this particular property is located in an area

of Bismarck that was recently platted and is not subject to this allowance

Applicable Provision(s) of Zoning Ordinance

Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, "A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return."

Section 14-04-03(7) of the City Code of Ordinances (R5 – Residential / Front Yard) states, "Each lot shall have a front yard for a principal or accessory structures not less than twenty-five (25) feet in depth" According to the site plan submitted with the application, the proposed single-family dwelling would be 21 feet from the front property line located along the western portion of the property, adjacent to Silver Boulevard.

Required Findings of Fact

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally

(continued)

applicable to other properties in this area and within R5 – Residential zoning district.

2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

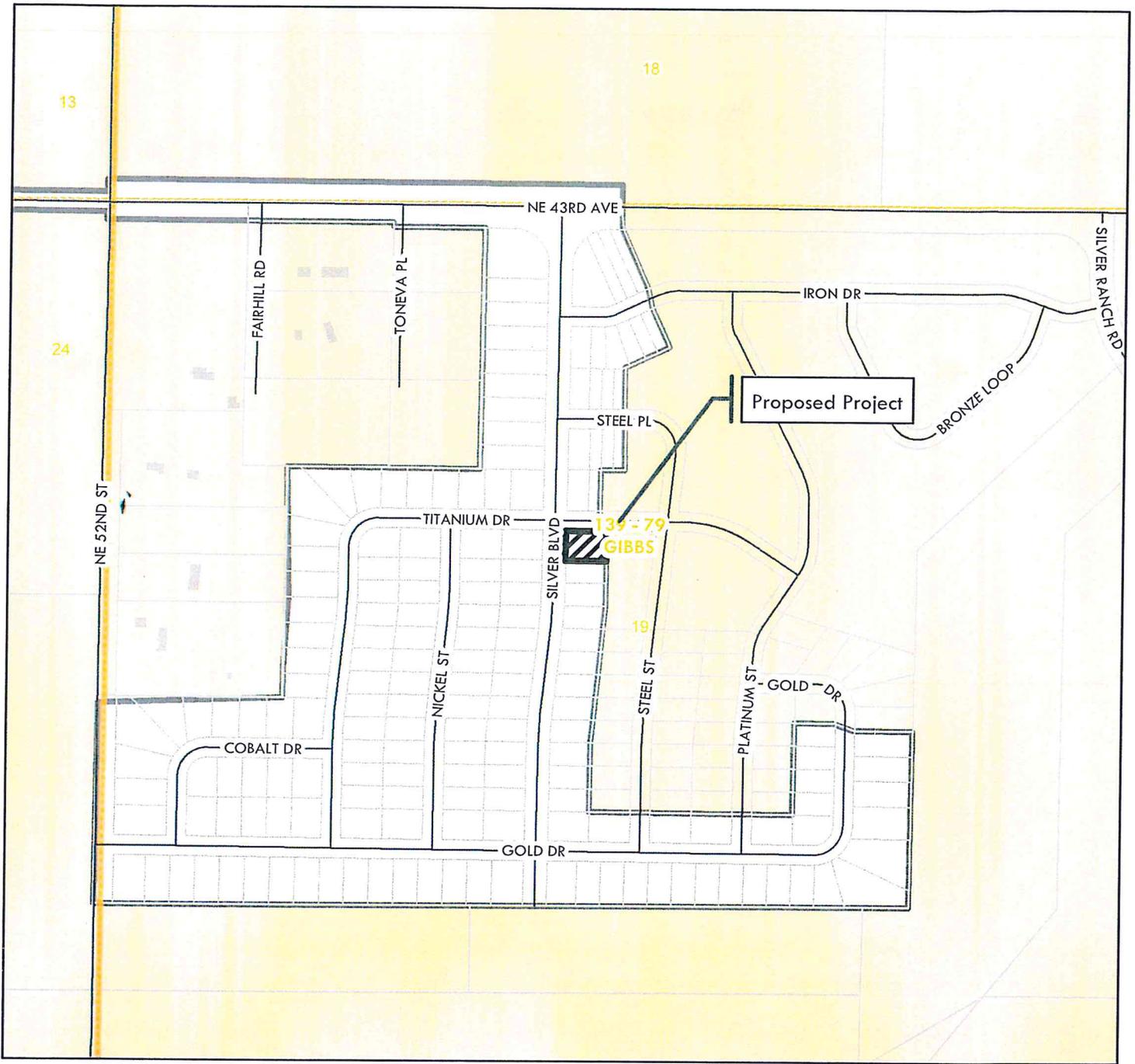
Staff Recommendation

Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

Attachments

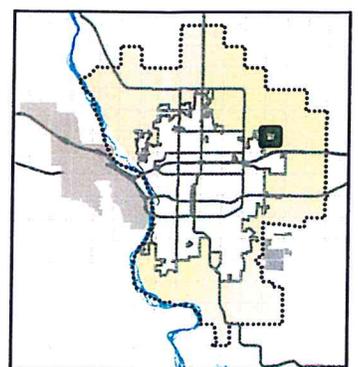
1. Location Map
2. Aerial Map
3. Site plan
4. Written Statement of Hardship

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



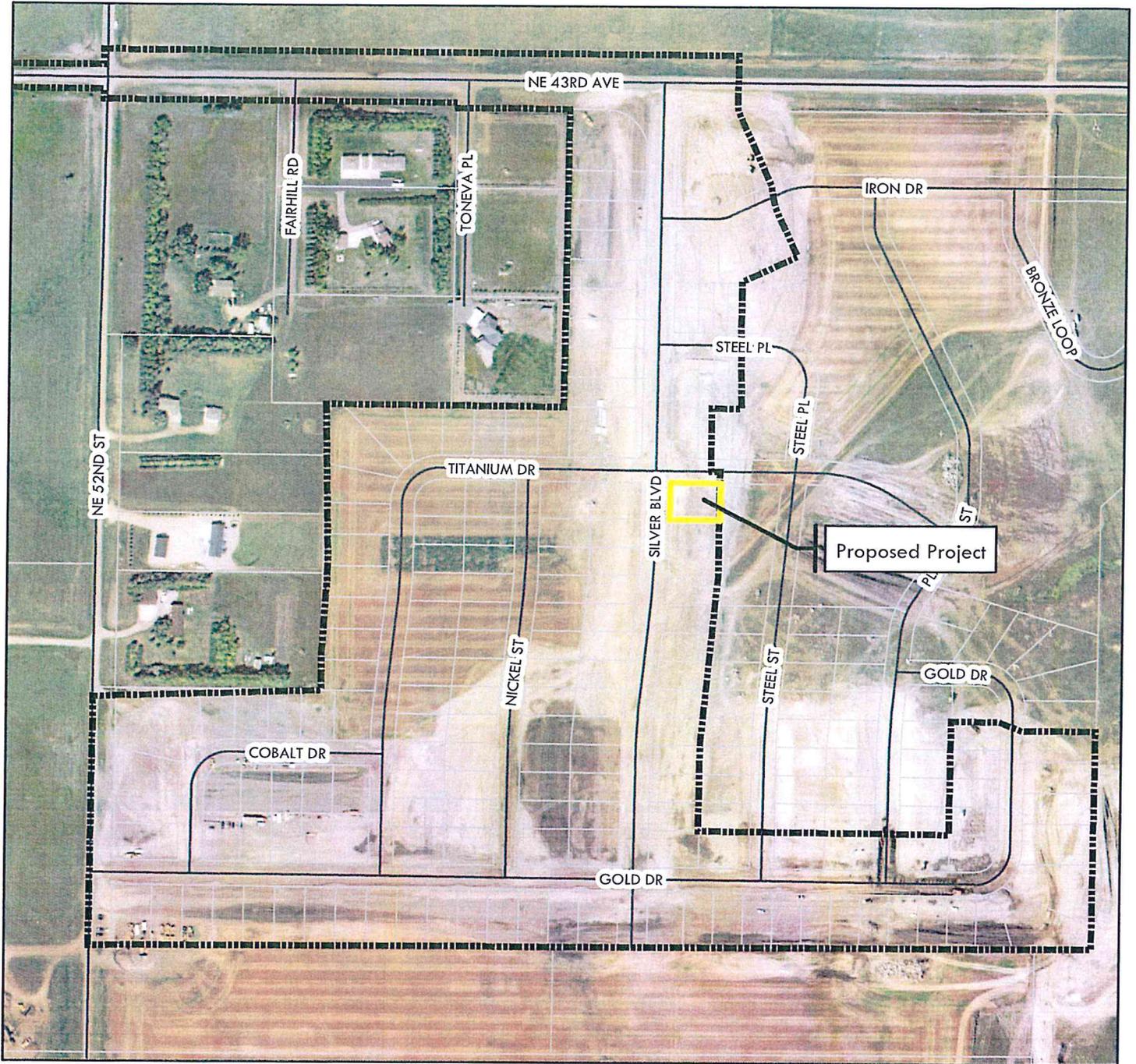
City Limits
 Bismarck ETA Jurisdiction
 County Outside ETA

Section, township, and range indicated in orange



City of Bismarck
 Community Development Department
 Planning Division
 December 10, 2019 (HLB)

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

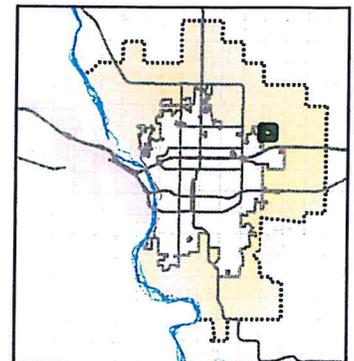


 City Limits
  Bismarck ETA Jurisdiction

Aerial Imagery from 2018

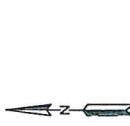
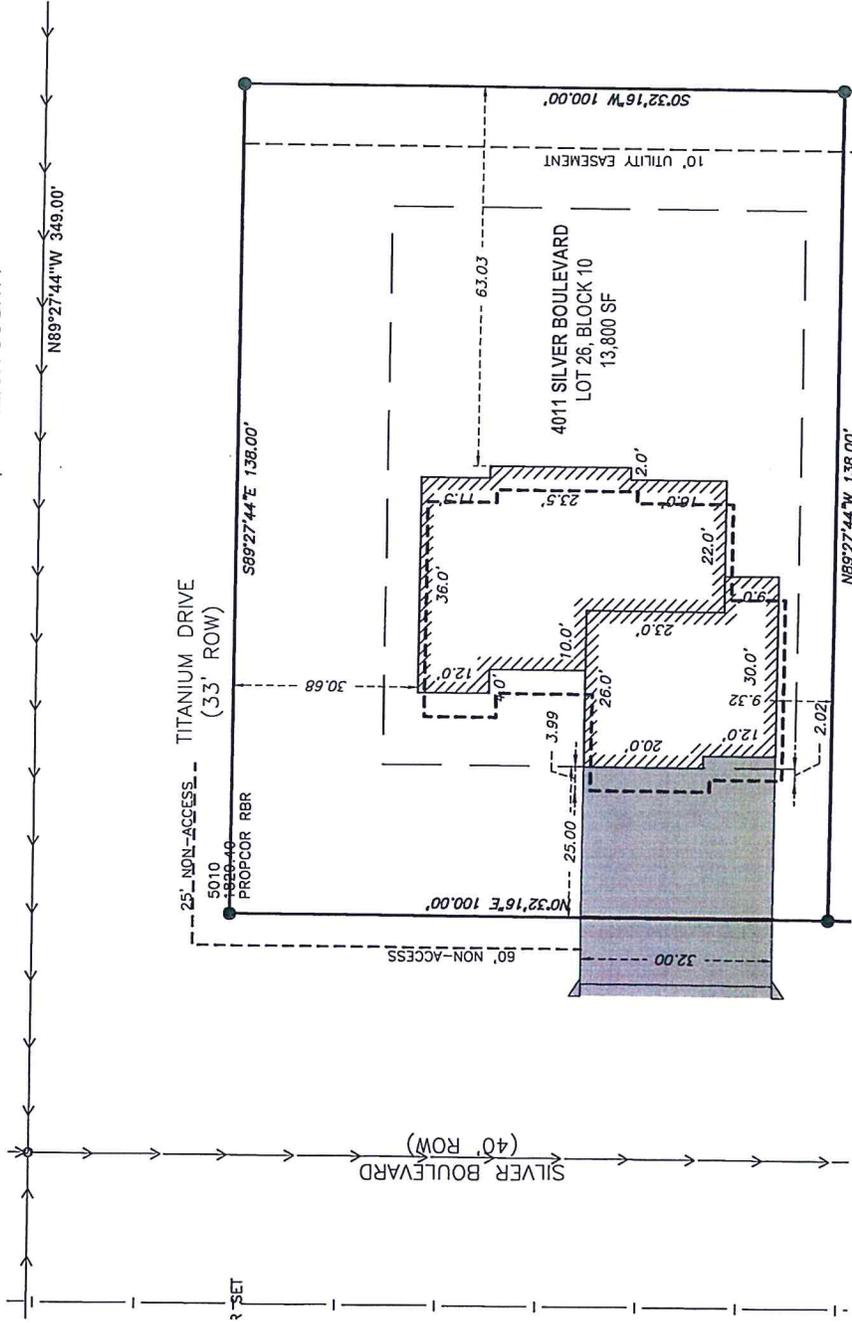
City of Bismarck
 Community Development Department
 Planning Division
 December 11, 2019

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



LOT EXHIBIT

LOT 26, BLOCK 10
 SILVER RANCH FIRST ADDITION
 BISMARCK, NORTH DAKOTA
 SECTION 19, TOWNSHIP 139 N RANGE 79 W OF THE 5TH
 PRINCIPAL MERIDIAN, BURLEIGH COUNTY



SCALE: 1 INCH = 20 FEET

LEGEND

- PLATTED MONUMENT
- ⊙ SANITARY MANHOLE
- ▨ STORM INLET
- PROPERTY LINE
- - - RIGHT-OF-WAY LINE
- - - ADJACENT PROPERTY LINE
- - - EASEMENT
- SANITARY SEWER
- STORM SEWER
- WATERMAIN
- ▨ PROPOSED DRIVEWAY
- ▨ PROPOSED BUILDING

NOTES

- 1 BEARINGS AND DIMENSIONS FOR LOTS SHOWN ARE BASED ON THE APPROVED PLAT "SILVER RANCH FIRST ADDITION" APPROVED BY ROBERT M. ILLG, LS-6444 OF SEH, INC. ON 2 JANUARY 2018, BURLEIGH COUNTY DOCUMENT NO. 871063.
- 2 SETBACK DIMENSIONS SHOWN FOR CITY OF BISMARCK R-5 ZONING.
- 3 UNDERGROUND UTILITIES SHOWN ARE PROVIDED BY CITY OF BISMARCK GIS DATABASE..

PROJECT TITLE LOT EXHIBIT LOT 26, BLOCK 10 SILVER RANCH FIRST ADDITION			
CLIENT NAME 1300 TACOMA AVE BISMARCK, ND 58004 701.781.1111 WWW.PREMIERHOMES.COM		1300 TACOMA AVE BISMARCK, ND 58004 701.781.1111 WWW.MOUNTAINPLANS.COM	
DRAWN BY: JONAS NNN BIZ BIZ	CHECKED BY: JONAS NNN BIZ BIZ	DATE: 12/10/2019	SCALE: 1" = 20' SHEET NO: 003464 1 OF 1

January 6, 2020

Wade Vogel
Premier Homes, Inc.
2041 40th Ave. SE Suite 112
Mandan, N.D. 58554

Dear Mr. Vogel,

This letter is to inform you that we have received your letter notifying the Bismarck City Commission that you have requested an appeal of the Bismarck Board of Adjustment's decision to deny a variance from Section 14-04-03(8) of the City Ordinances (R5 – Residential/ Side Yard) to decrease the required side yard setback along the south side of the property located on Lot 4, Block 11, Silver Ranch First Addition (3912 Silver Boulevard) from 6 feet to 4 feet, 6 inches.

In addition to your appeal of the Board of Adjustment's decision to deny a variance from Section 14-04-03(7) of the City Code of Ordinances (R5- Residential / Front Yard) to decrease the required front yard setback located along the west side of the property, adjacent to Silver Boulevard, from 25 feet to 21 feet on Lot 26, Block 10, Silver Ranch First Addition (4011 Silver Boulevard.)

We have placed your appeals on the regular agenda of the January 28, 2020 City Commission meeting. The meeting will be held in the Tom Baker Meeting Room of the City/County Office Building at 221 N. 5th St. and will begin at 5:15 p.m. You, or a representative, should attend this meeting to answer any questions the Commission may have.

Sincerely,

Jason Tomanek
Assistant City Administrator

cc: Ben Ehreth, Director of Community Development
Jenny Wollmuth, Planner with Community Development
Brian Zuroff, Mountain Plains, LLC



City of Bismarck
 Community Development Department
 Planning Division
 Phone: 701-355-1840 * FAX: 701-222-6450 * TDD: 711
 PO Box 5503 * Bismarck, ND 58506-5503
planning@bismarcknd.gov

**WRITTEN STATEMENT
 OF HARDSHIP
 (VARIANCE REQUEST)**

Last Revised: 01/2017

NOTE: WRITTEN STATEMENTS OF HARDSHIP MUST ACCOMPANY EVERY VARIANCE REQUEST APPLICATION

PROPERTY INFORMATION

Property Address or Legal Description: <small>(Lot, Block, Addition/Subdivision)</small>	Silver Ranch
Location of Property:	<input checked="" type="checkbox"/> City of Bismarck <input type="checkbox"/> ETA
Type of Variance Requested:	Setback Variance
Applicable Zoning Ordinance: <small>(Chapter/Section)</small>	R-5 Res. District - 14-04-03.7 "Front Yard" and 14-04-03.8 "Side Yards"

Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features – such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition – that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)

In early November 2019, Premier Homes applied for, and received building permits for 7 houses in Silver Ranch 1st Addition. These houses were staked by Mountain Plains via the coordinate system on recorded plat on file with the Burleigh County Recorder and City of Bismarck. This coordinate system did not match the on-site monuments. The foundations for Lot 26, Block 10 and Lot 4, Block 11 were installed and approved by the city's Building Inspections department before the discrepancy between the recorded coordinate system and field monumentation was realized and corrected. The discrepancy has been addressed and corrected for future structures. The discrepancy creates an approximate 4-foot encroachment to the 25-foot front yard setback for Lot 4, Block 10, and a 1-foot side-yard encroachment to the 6-foot side yard setback for Lot 26, Block 10.

Describe how these limitations would deprive you of reasonable use of the land or building involved, and result in unnecessary hardship.

In discussion with Premier Homes, City Inspection, Engineering, and Planning staff, the previously approved foundations would need to be removed in their entirety. Given the distance to surrounding structures and properties are readily under development, such demolition work could cause disturbance to the surrounding properties.

Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

The variance allows the structures to be complete per the current placement of the foundation - it allows no additional setback than what is required for the existing foundation to be utilized.

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES EXCERPT
January 2, 2020**

The Bismarck Board of Adjustment met on January 2, 2020, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chair Marback presided.

Members present were Jennifer Clark, Curtis Janssen, Michael Marback, Chris Seifert and Rick Wohl.

Member Ken Hoff was absent.

Staff members present were Ben Ehreth – Community Development Director, Kim Lee – Planning Manager, Jannelle Combs – City Attorney, Jenny Wollmuth – Planner and Hilary Balzum – Community Development Administrative Assistant.

VARIANCE FROM SECTION 14-04-03(7) OF THE CITY CODE OF ORDINANCES (R5 – RESIDENTIAL/FRONT YARD) – LOT 26, BLOCK 10, SILVER RANCH ADDITION (4011 SILVER BOULEVARD)

Chair Marback stated the applicant, Premier Homes Inc., is requesting a variance to reduce the required front yard setback located along the western portion of the property, adjacent to Silver Boulevard, from 25 feet to 21 feet for the construction of a single-family dwelling.

Ms. Wollmuth said a building permit to construct a single-family dwelling was obtained October 30, 2019 and a lot survey indicating the placement of the proposed single-family dwelling conforming to required setbacks was submitted and reviewed prior to approval of the permit. She then said a footing inspection occurred on November 14, 2019 and a foundation inspection occurred on November 15, 2019. Ms. Wollmuth said both passed inspection; however, while performing an inspection on an adjacent property, the owner's surveyor determined that the foundation of the proposed single-family dwelling was projecting approximately 4 feet into the required front yard setback located along the western portion of the property, adjacent to Silver Boulevard, as the property pins were set incorrectly.

Ms. Wollmuth gave an overview of the request, including the following findings:

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the R5-Residential zoning classifications.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.

4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Ms. Wollmuth said staff recommends reviewing the findings in the staff report and modifying them as necessary to support the decision of the Board.

Chair Marback opened the public hearing.

There being no comments, Chair Marback closed the public hearing.

MOTION: A motion was made by Mr. Wohl to deny the variance from Section 14-04-03(7) of the City Code of Ordinances (R5 – Residential/Front Yard) to reduce the required front yard setback located along the western portion of the property, adjacent to Silver Boulevard, from 25 feet to 21 feet for the construction of a proposed single-family dwelling on Lot 26, Block 10, Silver Ranch Addition (4011 Silver Boulevard). The motion was seconded by Mr. Janssen and with Board Members Clark, Janssen, Marback, Seifert and Wohl voting in favor of the motion, the motion was approved and the variance was denied.



City Administration

DATE: December 30, 2019
FROM: Jason Tomanek, Assistant City Administrator
ITEM: Dosch Hospitality Inc. (dba) Expressway Suites application for a Class C2 Hotel / Motel Liquor License.

REQUEST:

Introduction of and call for a public hearing on a request for a new Class C2 Hotel / Motel Liquor License for Dosch Hospitality Inc. (dba) Expressway Suites.

Please place this item on the January 14, 2020 City Commission meeting agenda.

BACKGROUND INFORMATION:

Dosch Hospitality Inc. (dba) Expressway Suites is applying for a Class C2 Hotel / Motel Liquor License application for address, 180 East Bismarck Expressway.

Class C2 - To a hotel or motel that provides at least forty-five rooms for transient guests, to provide on-sale or complementary alcoholic beverages to registered customers and their guests in their rooms or in a common room designated for that purpose. The value of the alcoholic beverages sold shall not exceed the value of the alcoholic beverages given to or otherwise provided to registered customers and their guests. Any alcoholic beverage sold or provided under this license shall not be mixed or dispensed in the direct view of a minor.

RECOMMENDED CITY COMMISSION ACTION:

Staff recommends approval of the introduction of and call for a public hearing on the request from Dosch Hospitality Inc. (dba) Expressway Suites with the public hearing scheduled for Tuesday, January 14, 2020. Staff also recommends approval of the new Class C2 Hotel / Motel Liquor License.

STAFF CONTACT INFORMATION:

Jason Tomanek | Assistant City Administrator, 355-1300 or jtomanek@bismarcknd.gov



CITY OF BISMARCK
ADMINISTRATION DEPARTMENT

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

LAST REVISED: 5/1/2019

APPLICATION FOR RETAIL
ALCOHOL BEVERAGE LICENSE

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

License Type:					
Individual	<input type="checkbox"/>	Corporation	<input checked="" type="checkbox"/>	Partnership	<input type="checkbox"/>
New Application <input checked="" type="checkbox"/>					
Renewal <input type="checkbox"/>					
Transfer <input type="checkbox"/>					
Relocation <input type="checkbox"/>					
A-Nationally Organized Fraternal Order or Club	<input type="checkbox"/>	D-Sale at Retail of Alcoholic Beverages	<input type="checkbox"/>	G-Concession Bismarck Municipal Country Club	<input type="checkbox"/>
A2-Nationally Organized Fraternal Order or Club	<input type="checkbox"/>	E-Sale at Retail of Beer Only	<input type="checkbox"/>	H-Commercial vessels on the Missouri River	<input type="checkbox"/>
B-Airport Terminal Building	<input type="checkbox"/>	F1-Restaurant - Alcoholic Beverages - 55/45 Split	<input type="checkbox"/>	I1-Restaurant - Alcoholic Beverages - 70/30 Split	<input type="checkbox"/>
C-Hotel or Motel Full Service	<input type="checkbox"/>	F2-Restaurant - Beer/Wine Only - 55/45 Split	<input type="checkbox"/>	I2-Restaurant - Beer and Wine Only - 70/30 Split	<input type="checkbox"/>
C2-Hotel or Motel	<input checked="" type="checkbox"/>	F3-Restaurant - Beer Only - 55/45 Split	<input type="checkbox"/>	I3-Restaurant - Beer Only - 70/30 Split	<input type="checkbox"/>
				J-Non-profit Organization Club or Establishment	<input type="checkbox"/>
				K-Beer and Wine at the Bismarck Event Center	<input type="checkbox"/>
				L-Beer & Wine at Parks & Recreation Locations	<input type="checkbox"/>
				M-Catered Retail Beer, Wine, & Liquor	<input type="checkbox"/>
				N-Domestic Winery	<input type="checkbox"/>
				O-Microbrewery	<input type="checkbox"/>
				P-Event Site	<input type="checkbox"/>
				Q-Restaurant On-Sale and Off-Sale Wine	<input type="checkbox"/>
				R-Commercial Airline	<input type="checkbox"/>
				S-Beer Arcade	<input type="checkbox"/>

Location Information:				
Name of Partnership or Corporation:		Date of Incorporation:		State Business ID Number:
Dosch Hospitality Inc		1-1-15		
Name of business for which license is requested (DBA):			If out of state corporation, is corporation registered in North Dakota? Yes <input type="checkbox"/> No <input type="checkbox"/>	
Expressway Suites				
Location Address:	City:	State:	Zip:	Phone Number:
180 E Bismarck Expy	Bismarck	ND	58504	(701) 222-3311
Owner of Building or Premises:				
Dosch Hospitality Inc.				

Correspondence Information (Where correspondence is to be sent):			
Primary Contact:		Phone Number:	Email Address:
Joe Dosch		(701) 222-3311	joe@expresswayhotels.com
Mailing Address:		City:	State:
180 E Bismarck Expy		Bismarck	ND
		Zip:	
			58504

List all officers or director of corporation or partners and percentage of ownership:			
Manager's Name: Joe Dosch 10% Ownership		Date of Birth: 09-14-1990	Race: White
Driver's License Number: DOS-90-8632		State Issued: ND	Gender: Male
Home Address: 1206 Salmon St	City: Bismarck	State: ND	Zip: 58503
Occupation: Manager	Phone Number: (701) 426-5351	Title: Manager/Secretary	Email Address: joe@expresswayhotels.com

Name: Mark Dosch 40% Ownership		Date of Birth: 03/30/1960	Race: White
Driver's License Number: DOS-60-7361		State Issued: ND	Gender: Male
Home Address: 709 Calypso Dr	City: Bismarck	State: ND	Zip: 58504
Occupation: Hotel Owner	Phone Number: (701) 426-8258	Title: President	Email Address: expyinn@aol.com

Name: Debra Dosch 30% Ownership		Date of Birth: 09/14/1963	Race: White
Driver's License Number: DOS-63-9545		State Issued: ND	Gender: Female
Home Address: 709 Calypso Dr	City: Bismarck	State: ND	Zip: 58504
Occupation: Sales/Marketing	Phone Number: (701) 426-8382	Title: Vice President	Email Address: deb@expresswayhotels.com

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

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

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

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

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

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

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

We currently have a City of Bismarck Class D Liquor License and have operated a hotel lounge.

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

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

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

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

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

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

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

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

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

North Dakota

State of



Signature of Applicant

Burleigh

County of

Joe Bosch

Print Name

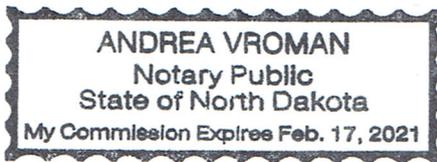
License transfers require signatures from both parties.

The Class C-2 license owned by me is transferred to Applicant upon successful application.

Signature of Current Owner of Liquor License



Signature of Applicant



Subscribed and sworn to before me this 19th

day of December, 2019



Notary Public

Note: Each application needs to be signed and notarized.

Restaurant Requirements:

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

Liquor License Site Diagram Requirements:

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

Site Diagram

Dosch Hospitality Inc.
Expressway Suites

"North"

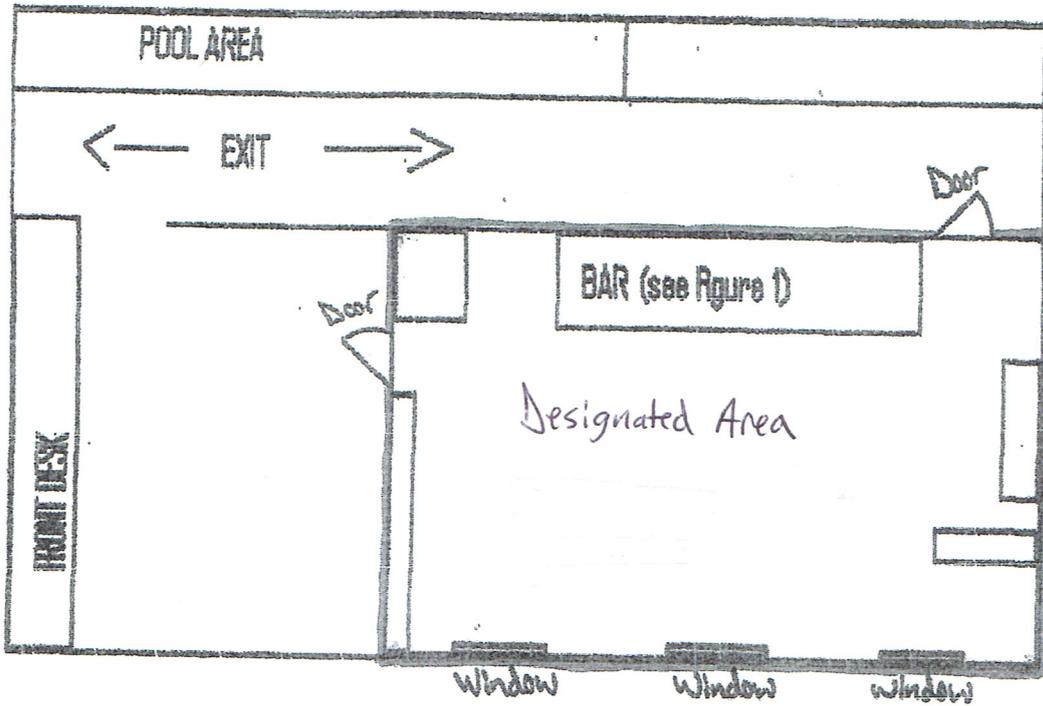
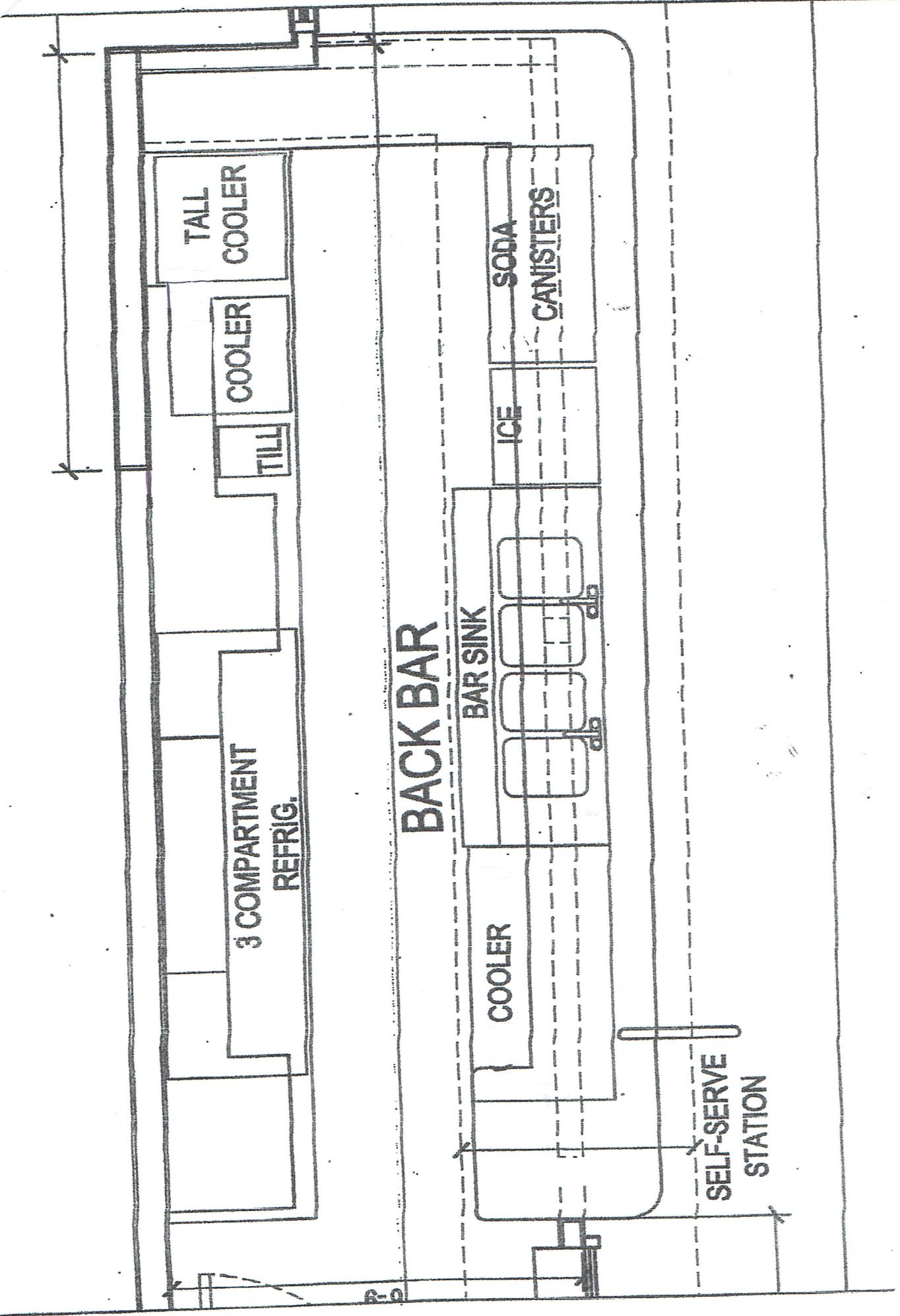


Figure 1

DOOR



TALL COOLER

COOLER

TILL

3 COMPARTMENT REFRIG.

BACK BAR

BAR SINK

COOLER

ICE

SODA CANISTERS

SELF-SERVE STATION



City Attorney

DATE: January 3, 2020

FROM: Jannelle Combs, City Attorney

ITEM: Ordinance 6406 regarding Tobacco or Electronic Smoking Ages

REQUEST

Consider introduction and call for a public hearing on Ordinance 6406 to amend Ordinances 5-11-04 and 6-07-01 regarding Violations and Sale of Tobacco or Electronic Smoking Devices to Minors.

Please place this item on the 1/14/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

On December 20, 2019, President Trump signed a federal law raising the legal age to purchase tobacco to 21. The changes on the attached ordinance will reflect the current state of federal law.

RECOMMENDED CITY COMMISSION ACTION

First reading and introduction of Ordinance 6406 and call for a public hearing.

STAFF CONTACT INFORMATION

Jannelle Combs | City Attorney, 355-1340 or jcombs@bismarcknd.gov

CITY OF BISMARCK
Ordinance No. 6406

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

AN ORDINANCE TO AMEND SECTIONS 5-11-04 and 6-07-01 OF THE BISMARCK CODE OF ORDINANCES RELATING TO VIOLATIONS AND SALE OF TOBACCO OR ELECTRONIC SMOKING DEVICES TO MINORS.

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

Section 1. Amendment. Section 5-11-04 of the City of Bismarck Code of Ordinances relating to Violations is hereby amended and re-enacted to read as follows:

5-11-04. Violations.

* * * * *

3. If after the hearing the Municipal Judge finds that the violation charged has occurred as proven by a preponderance of the evidence, the Municipal Judge may assess a fine of up to \$1000. The Municipal Court may suspend all or part of any fine imposed upon a showing by the person or business that it has attempted to train its employees on the prevention of the sale of tobacco products and electronic smoking devices to persons under ~~18~~21 years of age. The Municipal Court shall issue its Findings and Order which shall be served on the person or business. The decision of the Municipal Court shall be final.

(Ord. 5017, 11-23-99; Ord. 5157, 02-26-02; Ord. 6164, 10-27-15)

* * * * *

Section 2. Amendment. Section 6-07-01 of the City of Bismarck Code of Ordinances relating to Sale of Tobacco or Electronic Smoking Devices to Minors is hereby amended and re-enacted to read as follows:

6-07-01. Sale of Tobacco or Electronic Smoking Devices to Minors Person Under 21 Years of Age.

1. Any person who sells or furnishes to a ~~minor person~~ under the age of 21, or procures for a ~~minor person~~ under the age of 21, cigarettes, cigarette papers, cigars, snuff, tobacco, tobacco products, or an electronic smoking device, in any form in which it may be utilized for smoking, inhaling or chewing is guilty of an infraction. For the purposes of this Chapter:

* * * * *

2. No person over 13 and under ~~18~~21 years of age shall sell, possess, purchase, attempt to purchase, smoke or use tobacco products or an electronic smoking device or tobacco in any other form in which it may be utilized for smoking, inhaling, or chewing except that a person under ~~18~~21 years of age employed by a licensed tobacco dealer or distributor may handle the tobacco products, or electronic smoking devices listed in this section as a part of his or her employment. In addition, an individual under ~~eighteen~~21 years of age may purchase and possess tobacco products or an electronic smoking device as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco retailer, or association of tobacco retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority. Any person or business that is subject to a compliance survey shall be notified of the results within 7 days of the survey. Any person violating this section shall have committed a non-criminal violation and shall pay a fee of seventy (\$70) dollars, subject to the following procedures:

* * * * *

3. It shall be an infraction for any person to sell or dispense any tobacco product or electronic smoking device through the use of a vending machine except that tobacco products or electronic smoking devices may be offered for sale or sold from a vending machine on licensed on-sale or off-sale alcoholic beverage premises in those areas not accessible to ~~minor~~persons under the age of 21 or through a

vending machine that requires a salesperson to control the dispensation of such product. Vending machines for tobacco products or electronic smoking devices located upon licensed premises must be located within the immediate vicinity, plain view and control of a responsible employee, so that all purchases will be readily observable. The vending machine shall not be located in a coat room, restroom, unmonitored hallway, outer lobby or waiting area or similar unobserved area; nor shall the vending machine be accessible to the public when the establishment is closed.

* * * * *

*Reference: NDCC Sec. 12.1-31-03 (1985)
(Ord. 4418, 02-25-92; Ord. 4687, 06-13-95; Ord. 4741, 01-23-96;
Ord. 4826, 02-25-97; 4988, 05-25-99; Ord. 5017, 11-23-99; Ord.
5031, 03-14-00; Ord. 5129, 08-28-01; Ord. 5160, 02-26-02; Ord.
6029, 02-11-14; Ord. 6164, 10-27-15).*

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

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



City Attorney

DATE: January 6, 2020

FROM: Janelle Combs, City Attorney

ITEM: Ordinance 6407 regarding Human Relations Committee purpose

REQUEST

Consider introduction and call for a public hearing on Ordinance 6407 to amend Ordinance 2-11-01 regarding Purpose of the Human Relations Committee.

Please place this item on the 1/14/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The Human Relations Committee at their meeting on December 16, 2019, moved to change the mission of the Human Relations Committee. Since its mission is enacted through the ordinances, in order to accomplish this a change in the ordinance is required. A copy of the minutes from both the December and October Human Relations Committee meetings are attached.

RECOMMENDED CITY COMMISSION ACTION

First reading and introduction of Ordinance 6407 and call for a public hearing.

STAFF CONTACT INFORMATION

Janelle Combs | City Attorney, 355-1340 or jcombs@bismarcknd.gov

CITY OF BISMARCK
Ordinance No. 6407

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

AN ORDINANCE TO AMEND SECTION 2-11-01 OF THE BISMARCK CODE OF ORDINANCES RELATING TO PURPOSE.

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

Section 1. Amendment. Section 2-11-01 of the City of Bismarck Code of Ordinances relating to Purpose is hereby amended and re-enacted to read as follows:

2-11-01. Purpose. The purpose of the Bismarck Human Relations Committee is to create an atmosphere of inclusion, equality and accessibility through ~~protect and promote the personal dignity of all Bismarck citizens and eliminate any discriminatory barriers that prevent them from reaching their full human potential.~~ The Bismarck Human Relations Committee seeks to make education and outreach ~~and compliance a meaningful and visible strategy~~ to recognize the value of a diverse community.

(Ord. 5208, 10-08-02)

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

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



Bismarck Human Relations Committee
Meeting Minutes
December 16, 2019

The Bismarck Human Relations Committee (HRC) met on December 16, 2019, at 5:15 PM in the Bismarck City/County Building, 1st Floor Conference Room, 221 N 5th Street. Chair Rausch presided.

Call to Order

Chair Rausch called the meeting to order at 5:15 PM.

Roll Call

Committee members present were Darcy Andahl, Brandi Jude, Trevor Vannett and S. Hannah Vanorny. Whitnie Olsen with the City of Bismarck was present.

Committee member Shae Helling was absent.

HRC Mission

The Mission was read by Chair Rausch.

Acceptance of Minutes

Chair Rausch called for consideration of the minutes of the November 18, 2019 Bismarck Human Relations Committee meeting.

Motion: Brandi Jude made a motion to approve the minutes of the November 18, 2019 meeting as received. Trevor Vannett seconded the motion and it was unanimously approved with committee members in attendance voting in favor of the motion.

Humanitarian Award Nomination

Dr. Robert Roswick was nominated for the Humanitarian Award. The committee discussed the merits of Dr. Roswick and how it met the qualifications to be recognized for the award.

Motion: Brandi Jude made a motion to seek the Bismarck City Commission's approval to present the Humanitarian Award to Dr. Robert Roswick. Trevor Vannett seconded the motion and it was unanimously approved with the committee member in attendance in favor of the motion.

Public Comment

No public comment.

Renaming the Human Relations Committee/Committee Bylaws

The committee discussed the options for changing their name.

Motion: Trevor Vannett made a motion to not change the name. Brandi Jude seconded the motion. S. Hannah Vanorny and Darci Andahl did not approve the motion. With a lack of committee votes, the discussion had been tabled for a meeting in the future.



Discussion on drafting the bylaws is tabled for a meeting in the future.

Rewriting the Mission Statement

The committee created a draft mission statement on October 21, 2019: The mission of the Bismarck Human Relations Committee is to create an atmosphere of inclusion, equality and accessibility through education and outreach to recognize the value of a diverse community.

Motion: Trevor Vannett made a motion to approve the mission statement drafted on October 21, 2019 meeting. Brandi Jude seconded the motion and it was unanimously approved with the committee members in attendance in favor of the motion.

Diversity University

Spring Event:

Brandi Jude provided an update on the spring event. Brandi Jude asked S. Hannah Vanorny to contact her peers in request of participation in the event. The committee discussed different key topics to highlight at the event. The event will be specific to women and their various roles in the community. The committee discussed a name for the event. Brandi Jude would like to schedule the event around other women's activities in the month of March.

Motion: Trevor Vannett made a motion to allow Brandi Jude to move forward with the March Diversity University event allowing her up to \$1500.00 for expenses. Darci Andahl seconded the motion and it was unanimously approved with the committee members in attendance in favor of the motion.

Chair Rausch asked Brandi Jude to provide a list of the qualities, skills, etc. that they are looking for in event participants. Brandi Jude will supply the committee with a list at the January meeting. She also asked for ideas as to how the committee members can help.

Upcoming Events

Interfaith Multicultural Potluck

Bismarck Interfaith is hosting an Interfaith Multicultural Potluck on Saturday, February 1, 2020 from 11:00 AM to 1:00 PM at the Hillside Aquatics Complex community room.

Families Around the World

S. Hannah Vanorny gave the members a handout for an event being held at the Bismarck Public Library on January 13th from 6-8 pm. S. Hannah Vanorny will take brochures and applications for the HRC to distribute at the event. Krista Rausch will try to stay at the booth for an hour. Due to a lack of participation commitment the committee decided to not participate in the event this year. They will revisit discussion to participate in the event in the future.

Annual Report

2019 annual report prepared by S Hannah Vanorny. She will present the report at the January 28th Bismarck City Commission Meeting.



Goals for 2020

Discuss at the next meeting.

Resignations and new membership

Whitnie Olsen updated the committee on the resignation of Paul Zondo. She also let the committee know that Trevor Vannette and Manisha Sawhney would be reviewed for approval at the December 17, 2019 Bismarck City Commission Meeting. Shae Helling's term will expire January 31, 2020. Whitnie Olsen will send him notice of the term expiration and an application.

Other Business

Whitnie Olsen provided a draft brochure to the committee. Committee members provided comment on the brochure.

Motion: Brandi Jude made a motion to approve the draft brochure with recommended changes. Darci Andahl seconded the motion and it was unanimously approved with committee members in attendance voting in favor of the motion.

January Meeting Date

January 27, 2020 will be the next meeting date for the Human Relation Committee.

Adjournment

There being no further business, the meeting was adjourned by Chair Rausch. The next meeting of the Bismarck Human Relations Committee will be held at 5:15 PM. on Monday, January 27, 2019 in the 1st floor conference room of the Bismarck City/County Building.

Reported by Whitnie Olsen



Bismarck Human Relations Committee
Meeting Minutes
October 21, 2019

The Bismarck Human Relations Committee (HRC) met on October 21, 2019, at 5:15 PM in the Bismarck City/County Building, 1st Floor Conference Room, 221 N 5th Street. Chair Krista Rausch presided.

Call to Order

Chair Rausch called the meeting to order at 5:15 PM.

Roll Call

Committee members present were Darcy Andahl, Shae Helling, Brandi Jude, Krista Rausch, Trevor Vannette, S. Hannah Vanorny and Paul Zondo. Other guests present were Whitnie Olsen and Jason Tomanek.

HRC Mission

The Mission was read by Chair Rausch.

Acceptance of Minutes

Chair Rausch called for consideration of the minutes of the September 16, 2019 Bismarck Human Relations Committee meeting.

Motion: Brandi Jude made a motion to approve the minutes of the September 16, 2019 meeting as received. Darcy Andahl seconded the motion and it was unanimously approved with committee members in attendance voting in favor of the motion.

Revising Meeting Date and Time

The committee discussed changing the meeting date and time. Committee members did not present an issue with the date and time. Whitnie Olsen will conduct quorum calls on meeting days.

Upcoming Events

Cultural Dinner – An Evening in Guatemala

Chair Rausch provided an update to the committee. The dinner will take place at Legacy High School in their Black Box Theater on November 7, 2019, at 6:00 PM. Guatemalan volunteers will direct an in-class session for the Legacy High School culinary students on October 24, 2019 from 10:50 AM - 12:10 PM and October 25, 2019 from 12:10 PM - 1:30 PM. S. Hannah Vanorny will attend the Thursday session and Shae Helling will attend the Friday session. The event is listed on Eventbrite and tickets are \$25.00.

Film Festival

The committee was asked to participate in the Human Family event, North Dakota Human Rights Film Festival, November 1-2, 2019. S. Hannah Vanorny, Shae Helling and Chair Rausch committed to volunteer at the event. Chair Rausch will contact Sean Coffman to confirm three volunteers for the event.



Spring Event

Brandi Jude volunteered to be the lead for the spring event. She would like to plan the event for late February or early March. The event would highlight culture and diversity throughout the City. She will provide additional information as the plans come together.

Renaming the Human Relations Committee

The committee brainstormed words which they felt described the Human Relations Committee and the work that they do. The following words were mentioned: inclusion, equality, diversity, education, unity, outreach, accessibility, welcoming, neighbors, friends and human rights.

The committee also created a draft mission statement: The mission of the Bismarck Human Relations Committee is to create an atmosphere of inclusion, equality and accessibility through education and outreach to recognize the value of a diverse community.

Meeting Bylaws

The committee discussed creating bylaws outlining various expectations including attendance. Whitnie Olsen will send copies of other committee bylaws for the committee members to review for discussion at the November 18, 2019 meeting.

Other Business

Adjournment

There being no further business, the meeting was adjourned by Chair Rausch. The next meeting of the Bismarck Human Relations Committee will be held at 5:15 PM. on Monday, November 18, 2019 in the 1st floor conference room of the Bismarck City/County Building.

Reported by Whitnie Olsen



Community Development Department

DATE: January 7, 2020
FROM: Ben Ehreth, AICP, Community Development Director
ITEM: Amendment to Growth Phasing Plan

REQUEST

The Community Development Department – Planning Division is initiating an amendment to the Priority and Future areas of the Growth Phasing Plan, which was first adopted with the 2014 Growth Management Plan. This Plan is amended in the fourth quarter of every year to reflect changing development conditions.

Please place this item on the January 14, 2020 City Commission meeting agenda and the January 28, 2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The Planning & Zoning Commission held a public hearing on this request on December 18, 2019.

No members of the public spoke during the public hearing.

At the conclusion of the public hearing, and based on the findings contained in the staff report, the Planning & Zoning Commission unanimously recommended approval of the proposed amendment to the Priority and Future areas of the Growth Phasing Plan.

RECOMMENDED CITY COMMISSION ACTION

January 14th meeting of the Board of City Commissioners – consider the request for the proposed amendment to Growth Phasing Plan sections of the 2014 Growth Management Plan and call for a public hearing on the proposed amendment for the January 28th meeting of the Board of City Commissioners.

January 28th meeting of the Board of City Commissioners – hold a public hearing on the proposed amendment to the Future and Priority areas of the Growth Phasing Plan.

STAFF CONTACT INFORMATION

Ben Ehreth, AICP | Community Development Director, 355-1842 or behreth@bismarcknd.gov

Kim L. Lee, AICP | Planning Manager, 355-1846 or klee@bismarcknd.gov

Daniel Nairn, AICP | Planner, 355-1854 or dnairn@bismarcknd.gov



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

December 18, 2019

Project Summary

<i>Title:</i>	Amendment to Growth Phasing Plan
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Project Contact:</i>	Daniel Nairn, AICP, Planner
<i>Request:</i>	Modify Priority and Future areas of the Growth Phasing Plan to reflect changing development conditions

Staff Analysis

The Community Development Department is proposing an amendment to the Priority and Future areas of the Growth Phasing Plan, which was first adopted with the 2014 Growth Management Plan. This Plan is amended in the fourth quarter of every year to reflect changing development conditions.

Purpose of the Growth Phasing Plan

The Growth Phasing Plan establishes the phasing for growth in areas outside of the City of Bismarck and within the City’s extraterritorial area. The areas within the plan could reasonably be served by municipal utilities at some point in the future. The outer boundary of the Growth Phasing Plan coincides with the Urban Service Area Boundary (USAB), first established in the 2003 Growth Management Plan.

The Growth Phasing Plan is further divided into Priority and Future areas. The Priority areas are anticipated for development in the short-term because City services may be readily accessed, based on available funding. The Future areas are anticipated for development in the long-term, with immediate City participation in financing or extending municipal services unlikely and limited. However, development in these areas may be possible with private funding for infrastructure.

Areas that are already developed as rural residential are assumed to remain as such and are not included in either the Priority or Future areas. It is anticipated that

future urban growth will occur around these subdivisions.

Growth Capacity Analysis

Each year, City staff analyzes the potential development capacity within the city limits, as well as within the existing Priority and Future areas. This available capacity is compared to overall growth projections for the City to help determine how much additional serviceable land may be necessary to meet expected demand for new development. The results of the analysis inform staff’s recommendation for boundary adjustments.

Within the city limits, there is capacity for an additional 7,899 residents and 17,432 jobs. An additional 5,755 residents and 7,930 jobs may be accommodated in the Priority areas. At projected population and employment growth rates, this development capacity would be exhausted in 15 years for population and 23 years for jobs.

Proposed Changes to the Growth Phasing Plan

The proposed changes to the Plan are relatively minor. No change is proposed to the outside boundary of the USAB. Three new areas are proposed to be added to the Future area:

- Areas of Promontory Point VI Addition and Promontory Point VII Addition that are not annexed are proposed to shift to the Future

(continued)

areas. These areas cannot be developed until further sanitary sewer facilities are installed by the developer.

- Areas of Silver Ranch First Addition and Silver Ranch First Addition First Replat that are not annexed are proposed to shift to the Future areas. These areas cannot be developed until further sanitary sewer facilities are installed by the developer.
- Unplatted land in SE $\frac{1}{4}$ of Section 19, T139N-R79W/Gibbs Township is proposed to shift to Future areas.

Additionally, five annexations occurred in 2019 for approximately 259 acres, most of which was taken from the Priority areas. Based on the proposed changes to the plan and prior annexations, the new proposed Priority areas are approximately 26% smaller than the areas in the currently approved plan. The proposed Priority areas have an estimated capacity of 14 years of population growth and 22 years of job growth, assuming city limits are filled first.

Required Findings of Fact (relating to land use)

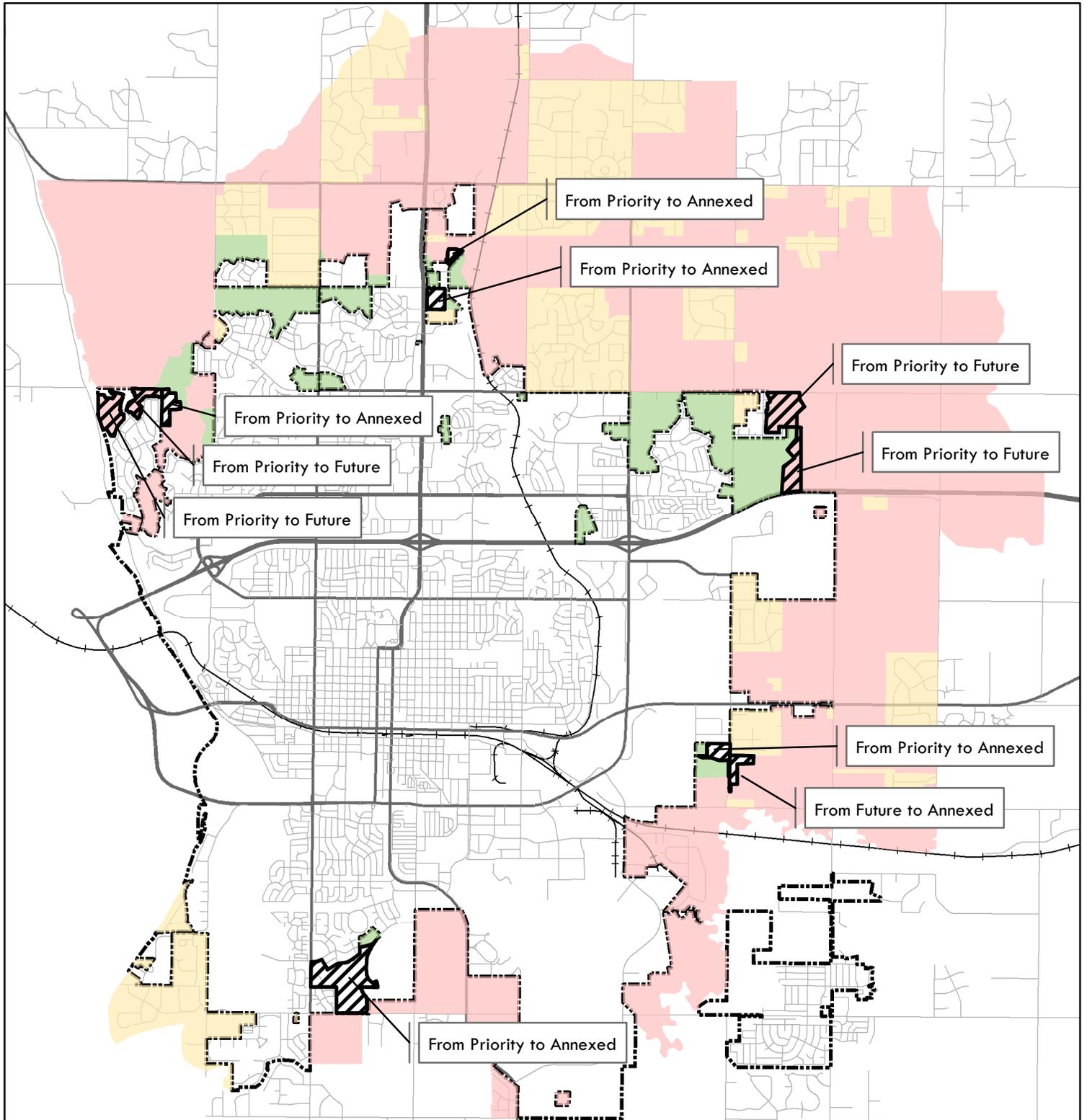
1. The proposed Growth Phasing Plan amendment would not adversely affect the public health, safety or general welfare;
2. The proposed Growth Phasing Plan amendment is justified by a change in conditions since the Growth Phasing Plan was adopted in 2014;
3. The proposed amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends approval of amendments to the Priority and Future areas of the Growth Phasing Plan, as shown on the attached map.

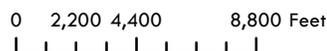
Attachments

1. Proposed amendments to the Growth Phasing Plan.



Phase

- Priority - Development anticipated in the short-term because city services may be readily accessed, as funding is available.
- Future - Development anticipated in the long-term and immediate City participation in extending services is unlikely. Development may occur with private funding of infrastructure costs.
- Rural Residential
- Proposed 2019 Changes



This map is for reference purpose only and is not intended as a survey or accurate representation of all map features.





Community Development Department

DATE: January 22, 2020

FROM: Ben Ehreth, AICP, Community Development Director

ITEM: Recommendations for Inclusion in the United States Coast Guard
Programmatic Agreement Associated with BNSF Rail Bridge

REQUEST

The City of Bismarck Community Development Department requests consideration of a variety of recommendations, provided by City staff and the City of Bismarck Historic Preservation Commission, for possible inclusion in the attached draft Programmatic Agreement associated with the proposed BNSF rail bridge replacement, prepared by the US Coast Guard.

Please place this item on the January 28, 2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The US Coast Guard, in accordance with Section 106 of the National Historic Preservation Act of 1966, has been facilitating discussions amongst interested parties on the proposed BNSF rail bridge replacement across the Missouri River.

As the Missouri River is deemed a Navigable Waterway by the US Army Corps of Engineers, permits are required to be obtained to construct, demolish, or alter a bridge structure. The US Coast Guard has jurisdiction in issuing any permits to construct, demolish, or alter a bridge structure across a Navigable Waterway and is the permitting authority. The Section 106 process requires each federal agency (in this case the US Coast Guard) to identify and assess the effects its actions may have on an historic structure. The existing BNSF Rail Bridge has been determined to be a structure of historic significance.

The US Coast Guard has opted to use a Programmatic Agreement to address the varied and diverse interests associated with this project. The initial draft Programmatic Agreement for this project is attached. A Programmatic Agreement is a document which identifies the terms of a formal legally binding agreement involving (in this case) the US Coast Guard and various interested parties. In general, it identifies specific actions and associated responsible parties. The Programmatic Agreement for this project is

somewhat unique in that it identifies two possible outcomes and the associated actions and responsible parties for each outcome. In this case, one outcome identified in Stipulation III of the attached Programmatic Agreement assumes a new bridge will be constructed and the existing bridge will be retained. The other possible outcome identified in Stipulation IV of the attached Programmatic Agreement assumes that a new bridge will be constructed and the existing bridge will not be retained. Ultimately, the US Coast Guard will make the determination on whether the existing bridge is retained or not, in part through concurrent actions associated with the National Environmental Policy Act.

The US Coast Guard has requested the interested parties involved in this Section 106 process to provide comments to them by January 31, 2020, in order to modify the attached draft Programmatic Agreement. Both City of Bismarck staff and the City of Bismarck Historic Preservation Commission have met to provide recommended additions/ modifications to the Programmatic Agreement, which are attached for your consideration.

RECOMMENDED CITY COMMISSION ACTION

Consider and take final action on the attached recommendations for possible inclusion into the draft Programmatic Agreement being prepared by the United States Coast Guard on the proposed BNSF rail bridge replacement.

STAFF CONTACT INFORMATION

Ben Ehreth, AICP | Community Development Director, 355-1842 or behreth@bismarcknd.gov

Kim Lee, AICP | Planning Manager, 355-1846 or klee@bismarcknd.gov

Will Hutchings | Planner, 355-1850 or whutchings@bismarcknd.gov

City of Bismarck Recommendations for Consideration of Inclusion within the US Coast Guard Programmatic Agreement for the Proposed BNSF Rail Bridge Replacement

City of Bismarck Staff Recommendations

- A. **Stipulation III, Page 4** – Within the matrix of responsible parties and associated actions modify the second bullet under BNSF’s responsibilities to read, “Protect water intake/water plant, underground reservoir, and piping”.
- B. **Stipulation III, Page 4** – Within the matrix of responsible parties and associated actions add a bullet under BNSF’s responsibilities to read, “Ensure adequate slope stability”.
- C. **Stipulation IV** – Add BNSF responsibilities identified in Stipulation III, page 4 of the matrix of responsible parties and associated actions, including the preceding recommendations.

Historic Preservation Commission Recommendations

- A. **Page 2** – Confirm if ND Indian Affairs Commission is included as a consulted party and if not recommend their consideration for inclusion.
- B. **Page 3 (first full paragraph)** – Provide further definition of the terms “feasible” and “reasonable”.
- C. **Page 3 (first sentence under Stipulations section)** – Change sentence to read, “The USCG shall ensure that the following measures are implemented as a condition of any permit issued:”.
- D. **Stipulation III, Page 4** – Within the matrix of responsible parties and associated actions add Bismarck Historic Preservation Commission as a responsible party to FORB and SHPO related to the nomination of the BNSF rail bridge to the National Register of Historic Places.
- E. **Stipulation III, Page 4** – Within the matrix of responsible parties and associated actions and under the responsibility of BNSF include that the granite piers be deconstructed in a way so the individual pieces or portions thereof can be used for public purposes elsewhere in the community.
- F. **Stipulation IV, B., 3. Photographs** – Photographic documentation should also include color photographs, as well as aerial photographs obtained by drone or similar means.
- G. **Stipulation IV, B. HAER Documentation: Review and Comment** – Require that a Level 1 HEAR (Historic American Engineering Record) Document be performed
- H. **Stipulation IV, C. Post Review Discoveries** – Include language that, in addition to SHPO and BNSF, the City of Bismarck through the Historic Preservation Commission will have the opportunity to review findings.
- I. **Stipulation IV** – BNSF would be responsible for a scan of the existing BNSF rail bridge for recreation as a 3-D model.
- J. **Stipulation IV** – Record demolition of existing bridge structure, such as, through the use of video.
- K. **Stipulations III and IV** – BNSF would be responsible to provide funding to survey this and other historic sites around the communities for possible nomination to the National Register of Historic Places.

- L. **Stipulations III and IV** – BNSF would be responsible to provide funding for the development of a multi-use trail(s) and associated interpretative displays, as well as, public art preserving the memory of the existing BNSF rail bridge.
- M. **Stipulations III and IV** – BNSF would be responsible to provide funding to document the history of the bridge and its impact on the region and nation for presentation as a museum exhibit. As part of this effort a qualified historian should be funded to write a comprehensive history of the bridge. This comprehensive history should include the impact of the railroad and bridge on Native Americans and their decedents.
- N. **Stipulations III and IV** – BNSF in partnership with FORB, SHPO, and the Bismarck Historic Preservation Commission would establish a design review committee to review and provide comment on the design of the new bridge structure.
- O. **Stipulations III and IV** – BNSF would be responsible for developing and updating a project web-site so interested parties can remain informed of the current status of the project.

PROGRAMMATIC AGREEMENT

**AMONG THE UNITED STATES COAST GUARD,
THE NORTH DAKOTA STATE HISTORIC PRESERVATION OFFICE, AND THE ADVISORY COUNCIL ON
HISTORIC PRESERVATION, REGARDING THE PROPOSED BRIDGE REPLACEMENT AT MILE 1315.0 ON THE
MISSOURI RIVER NEAR BISMARCK AND MANDAN, NORTH DAKOTA**

WHEREAS, the United States Coast Guard (USCG) is the lead federal agency, responsible for the processing of a federal bridge permit application for the Burlington Northern Santa Fe, LLC (BNSF) Bridge Replacement Project (Undertaking) in accordance with the General Bridge Act of 1946, as amended; and

WHEREAS, the Undertaking considers permitting the construction of a railroad bridge to replace the existing BNSF through truss bridge over the Missouri River, Jamestown Subdivision, Milepost 1315.0 (Bismarck Bridge), in Burleigh County, North Dakota, constructed between 1880 and 1883; and

WHEREAS, the USCG has consulted with the North Dakota State Historic Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA) (54 United States Code [U.S.C.] Section 306108) and its implementing regulations at 36 *Code of Federal Regulations* (CFR) Part 800, as amended; and

WHEREAS, the USCG, in consultation with the North Dakota SHPO, has determined that the existing Bismarck Bridge is eligible for listing in the National Register of Historic Places (NRHP) under Criterion A for its association with broad patterns of railroad, commercial, and military history in the United States, under Criterion B for its association with engineer George Shattuck Morison, and under Criterion C for design and construction; and

WHEREAS, The National Trust for Historic Preservation listed the BNSF Bridge 0038-196.6 to America's Most Endangered Historic Places on May 30, 2019, because it was the first bridge to cross the upper Missouri River, George Shattuck Morison designed and oversaw its construction between 1880 and 1883, the project employed advanced construction methods, including pneumatic caissons such as those used to build its contemporary, the Brooklyn Bridge, and it is the most historically significant structure on the Northern Plains; and

WHEREAS, Mandan, Hidatsa & Arikara ancestral sites overlook this industrial infrastructure that altered the history of their lands and people that is visible from On-A-Slant Village, where Mandan Chief Sheheke was born and later accompanied Lewis & Clark back to Washington, D.C., and where Sheheke and President Jefferson met. Historic properties within the Indirect APE include Chief Looking's Village, Black Cat's Village, Crying Hill, and areas of the Missouri River bottomlands used to plant corn, beans, and squash; and for the Standing Rock Sioux Tribe the BNSF Railroad Bridge serves as reminder to a powerful and hard chapter in United States History of military oppression of indigenous peoples; and

WHEREAS, the USCG, in consultation with the North Dakota SHPO, has determined that the undertaking would have an adverse effect on the Bismarck Bridge if it was removed and could have an adverse effect if the existing bridge is retained and a new adjacent bridge is constructed; and the Area of Potential Effect is defined as the footprint of the proposed undertaking within which all proposed construction and ground disturbing activity is confined,

including the existing and proposed right of way for the replacement of the railroad bridge;
and

WHEREAS, in accordance with 36 CFR Section 800.6(a)(1), the USCG has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation and the ACHP has chosen to participate in the consultation pursuant to 36 CFR Section 800.6(a)(1)(iii); and

WHEREAS, BNSF is the project proponent and has been invited to participate in this consultation and to sign this Programmatic Agreement (PA) as an Invited Signatory; and

WHEREAS, the USCG has consulted with BNSF, the North Dakota SHPO, the ACHP, Friends of the Bridge (FORB), Bismarck Parks and Recreation District, Bismarck Historical Society, Bismarck-Mandan Historical and Genealogical Society, Bismarck Tour Company, Bismarck-Mandan Metropolitan Planning Organization, Burleigh County, Captain's Landing Township, City of Bismarck, City of Mandan, Fort Abraham Lincoln Foundation, Historic Bridge Foundation, Mandan Historical Society, Morton County, Morton County Historical Society, Nancy Willis, National Trust for Historic Preservation, North Dakota Department of Transportation, North Dakota Parks and Recreation Natural Resources Division, North Dakota State Railroad Museum, Preservation North Dakota, Rails to Trails Conservancy, the State Historic Society of North Dakota, U.S. Army Corps of Engineers, North Dakota State Senator Erin Oban, and North Dakota State University Department of Landscape Architecture regarding the effects of the undertaking on historic properties and has invited them to participate in this consultation and to sign this PA as Concurring Parties; and

WHEREAS, in accordance with 36 CFR 800.2(c)(2)(ii), the USCG invited the following Federally-recognized Indian tribes to participate in consultation on this Project and to sign this PA as Concurring Parties: Cheyenne River Sioux Tribe, Chippewa Cree, Crow Creek Sioux Tribe, Crow Nation, Flandreau Santee Sioux Tribe, Fort Peck Assiniboine and Sioux Tribes, Mandan, Hidatsa & Arikara Nation, Northern Cheyenne Nation, Oglala Sioux Tribe, Rosebud Sioux Tribe, Santee Sioux Nation, Sisseton-Wahpeton Oyate, Spirit Lake Tribe, Standing Rock Sioux, Turtle Mountain Band of Chippewa, and Yankton Sioux Tribe; and

WHEREAS, the USCG invited the Wahpekute Band of Dakotah, a non- Federally-recognized Indian tribe, to participate in consultation on this Project and to sign this PA as a Concurring Party; and

WHEREAS, the Northern Cheyenne Nation accepted the invitation to participate in consultation on this Project; and MHA Nation via representation by Lakota Consulting.

WHEREAS, the ACHP in consultation with the USCG and the SHPO has determined that the development of a PA, in accordance with 36 CFR 800.14(b)(1)(ii), is warranted because effects of the undertaking are not fully known for all reasonable alternatives; and

WHEREAS, the USCG conducted a public meeting on December 14, 2017 in compliance with Section 106 of the National Historic Preservation Act, 36 Code of Federal Regulations 800.2(d) and to explain the National Environmental Policy Act process for the project; and

WHEREAS, BNSF provided to the consulting parties a description of alternatives identified and/or rejected prior to publication of the Notice of Intent to develop an Environmental Impact Statement;

and

WHEREAS, if in the course of completing the NEPA review for this undertaking, it is determined that retaining the existing bridge and constructing a new adjacent bridge is feasible and reasonable, USCG will follow stipulations related to that alternative as listed in this PA; and

NOW, THEREFORE, the USCG, North Dakota SHPO, and ACHP agree that the USCG shall ensure that the following stipulations are implemented to take into account the effects of the Undertaking on historic properties, and that these stipulations shall govern the Undertaking and all of its parts.

STIPULATIONS

The USCG shall ensure that the following measures are implemented:

- I. FORB (and other interested consulting parties) will conduct an independent floodplain evaluation to determine if there is an alternative that meets the no net rise requirement. If such an alternative is identified, at least one month prior to the draft environmental document being published for public comment, FORB (and other interested consulting parties) will submit a flood model evaluation of a new railroad bridge adjacent to the existing bridge that would cause no net rise in the floodplain. The USCG and BNSF will then analyze this alternative and its potential impacts on the environment, and include in the draft environmental document for public comment. Historic impacts, including how the new bridge will be visually compatible with the existing bridge, will either be addressed in the environmental document or in this programmatic agreement.
- II. Each party that identifies an alternative that results in a net rise to the floodplain must document the potential mitigation measures (in coordination with the floodplain administrators) and local government approval process associated with the net rise for those alternatives and submit those to the USCG for incorporation in the NEPA document associated with this project.
- III. If the USCG determines that the existing bridge can be retained and that this is a reasonable alternative for BNSF to pursue, FORB, BNSF and other interested consulting parties must complete the following actions [insert appropriate amount of time before commencement of construction], in order to provide BNSF sufficient time to let a contract to begin work:

Responsible Party	Action
USCG	<ul style="list-style-type: none">• If applicable, include timelines in this PA associated with mitigation measures and the approval process for accepting the floodplain net rise. [Add those additional steps and timelines here]
FORB	<ul style="list-style-type: none">• Take ownership of the existing bridge or sign a contract or lease agreement with BNSF• Provide reasonable assurance that the following will be obtained:<ul style="list-style-type: none">• Pedestrian access to rail ROW• Maintenance fund for the existing bridge (if applicable)

	<ul style="list-style-type: none"> • Funding for pedestrian bridge conversion • Document steps and timelines in this PA associated with obtaining the above listed items.
FORB and SHPO	<ul style="list-style-type: none"> • SHPO, with assistance from FORB, nominates BNSF Bridge 0038-196.6A to the NRHP and FORB initiates fundraising campaign for conversion of BNSF Bridge 0038-196.6A to pedestrian use as described in their Feasibility Report. • Include steps in this PA documenting the timeline associated with nominating the bridge to the NRHP.
BNSF	<ul style="list-style-type: none"> • Secure additional ROW • Protect water intake/water plant • Include steps in this PA documenting the timeline associated with the above listed steps.
FORB and BNSF	<ul style="list-style-type: none"> • Develop cost share agreement for additional costs to construct the alternative that retains the existing bridge • Develop a hold harmless agreement for BNSF • Include steps in this PA documenting the timeline associated with the above listed steps.

IV. If the existing bridge cannot be retained, the following stipulations apply:

A. Alternate Preservation Considerations

1. Before the environmental document is finalized, consulting parties shall determine what, if any, portions of the existing bridge can be retained to preserve the historicity of the bridge while still maintaining no net rise. Impacts and associated mitigation related to keeping a portion of the bridge in the waterway shall be documented in the environmental document and/or this Preservation Agreement.

B. HISTORIC AMERICAN ENGINEERING RECORD DOCUMENTATION

The BNSF shall develop a document that records the bridge structure in accordance with the Historic American Engineering Record (HAER) documentation guidelines. This shall include measured drawings; professional quality black and white photographs taken with a digital camera, printed on archival paper with an accompanying archival “gold” compact disc (CD); and an architectural and historical narrative, all in an archive-stable format.

1. Architectural and Historical Narrative

The narrative shall contain a description of the bridge and a summary of the history of the bridge. The narrative shall include a history of the Jamestown Subdivision between Mandan and Bismarck, including construction of the railroad and its major features, historic ownership information, the impact of the railroad on the growth and development of the towns and counties along the route, any significant historic users of the railroad, any significant alterations or new construction on the railroad, and any

significant historic events or patterns of history related to the railroad.

2. Measured Drawings of the Bridge

The documentation shall include reproduction of all existing drawings of the current bridge, minus duplicates. A site plan/aerial photograph of the bridge project and the quadrangle map of the project area shall also be included. The final version of these drawings shall be submitted on archival CDs and printed in hard copy on 11 x 17, acid-free, 100-year archival paper. No new drawings shall be produced.

3. Photographs

The documentation shall include no more than 20 black and white digital photographs to include all four elevations of the bridge, bridge details, and at least one context photograph. The documentation shall include a photograph key showing the location and view direction of each image. Final versions of the photographs will be printed on 8½ x 11, acid-free, 100-year archival paper and the digital photos shall be submitted electronically on archival CDs.

HAER DOCUMENTATION: REVIEW AND COMMENT

1. Prior to the start of construction activity, the BNSF shall prepare the draft HAER photo documentation in accordance with Stipulation I.C. and shall distribute it via electronic mail or CD to the USCG and the North Dakota SHPO for review. The USCG and the North Dakota SHPO shall review and provide comments to the BNSF within ten (10) calendar days of receipt of the photo documentation.

2. If comments are provided to the BNSF, the BNSF shall revise the photo documentation in response to the comments, as needed, and resubmit the photo documentation as described in Stipulation III.A within ten (10) calendar days of receipt of comments. If no comments are provided to the BNSF by the end of the 10-day comment period, the photo documentation shall be considered complete and final.

3. The BNSF shall prepare the draft HAER narrative and measured drawings in accordance with Stipulation I.A. and I.B., and shall distribute them via electronic mail or CD to the USCG and the North Dakota SHPO for review within one hundred eighty (180) calendar days of the execution of this PA. The USCG and the North Dakota SHPO shall review and provide comments to the BNSF within thirty (30) calendar days of receipt of the draft HAER narrative and/or measured drawings.

4. If comments are provided to the BNSF, the BNSF shall revise the draft HAER narrative and measured drawings in response to the comments, as needed, and resubmit the report as described in Stipulation III.C. within thirty (30) calendar days of receipt of comments. If no comments are provided to the BNSF by the end of the 30-day comment period, the BNSF shall finalize the HAER narrative and measured drawings as described in Stipulation IV and submit a final copy to the USCG and the North Dakota SHPO within fifteen (15) calendar days of the end of the comment period.

HAER DOCUMENTS: FINALIZATION

1. Once photo documentation is final as defined in Stipulation III.B., construction on

the substructure of the bridge may proceed, in accordance with USCG permits. No demolition of the bridge shall occur until the photo documentation is declared final by the North Dakota SHPO, with the exception provided in Stipulation IV.E.

2. Final HAER documentation shall be produced on acid-free, 100-year archival paper, with the photographs and drawings on archival CDs.

3. Upon finalization of the HAER documentation, the BNSF shall submit one copy of the documentation to the North Dakota SHPO and shall offer one copy of the documentation to the Historic Bridge Foundation, the Bismarck Historical Society, FORB, the Mandan Historical Society, the North Dakota State Railroad Museum, the Burleigh County Library System, and the North Dakota State University library. Documentation shall be made available in print on acid-free, 100-year archival paper and/or electronically on archival CDs. The BNSF shall consult with the recipients to determine which media the recipients wish to receive and whether they wish to receive all of the photographs and drawings or only selected images and/or sheets.

4. Evidence of transfer to the recipients listed in Stipulation IV.C., which may include a copy of the transmittal letter(s), shall be provided to the North Dakota SHPO by the BNSF.

5. The HAER documentation shall be considered final upon issuance of a written notice from the USCG that all comments have been satisfactorily addressed. However, the parties acknowledge that, if the bridge is determined by the BNSF to be subject to imminent failure, derailment, or other physical breakdown, the BNSF would notify the USCG, the USACE, and the North Dakota SHPO, and commence the bridge removal and replacement immediately in coordination with the USCG and the USACE.

6. The BNSF shall bear the cost for compliance with Stipulations I–IV.

C. POST-REVIEW DISCOVERIES

a. If properties are discovered other than those names in this Agreement, or if unanticipated effects on historic properties are found, the USCG shall consult with the SHPO, BNSF and other affected parties to reconsider the terms of this Agreement and to amend it in accordance with Stipulation VII.

b. In the event of a discovery, any project activity in the vicinity of the discovery shall cease. The USCG and/or BNSF shall notify the SHPO and other relevant authorities of the discovery within 24 hours of the discovery. If human remains are discovered during construction, work in that portion of the project shall stop immediately. The remains shall be covered and/or protected in place in such a way that minimizes further exposure of and damage to the remains, and the USCG shall immediately consult with the SHPO and the Intertribal Reinterment Committee in compliance with *North Dakota Century Code 23-06-27* and the North Dakota Administrative Code 40-02-03. If the remains are found to be Native American, in accordance with applicable

law, a treatment plan shall be developed by USCG and SHPO in consultation with appropriate federally recognized Indian tribes. USCG shall ensure that any treatment and reburial plan is fully implemented. If the remains are not Native American, the appropriate local authority shall be consulted to determine final disposition of the remains. Avoidance and preservation in place is the preferred option for treating human remains.

Administrative Provisions

IV. EFFECTIVE DATE

The terms of this agreement will become effective upon signature of all Signatories, and a copy filed by USCG with the ACHP.

If an emergency is declared by the President or Governor in the project area, any deadlines written into this PA are automatically extended 60 days.

V. DURATION

This PA will expire if its terms are not carried out within 6 years from the date of issuance of the USCG bridge permit. Prior to such time, the USCG may consult with the other signatories to reconsider the terms of the PA and amend it in accordance with Stipulation IX.

VI. MONITORING AND REPORTING

BNSF and FORB shall provide all parties to this PA a summary report detailing work undertaken pursuant to its terms on the 1st of each month following the execution of this PA until the environmental document is finalized, then reporting can occur quarterly, commencing on the 1st of the month three months after the date of the signed final environmental document, until the PA expires or is terminated. Such report shall include all proposed scheduling changes and disputes or objections received in BNSF or FORB's efforts to carry out the terms of this PA. These reports should be emailed to the USCG POC.

VII. DISPUTE RESOLUTION

If any party to this agreement objects to any actions conducted during the term of this PA or to the manner in which the terms of this PA are implemented, the USCG shall consult with such party to resolve the objection. If the USCG determines that such objection(s) cannot be resolved, the USCG will:

- a. Forward all documentation relevant to the dispute, including the USCG's proposed resolution, to the ACHP. The ACHP shall provide the USCG with its advice on the resolution of the objection within thirty (30) calendar days of receiving documentation. Prior to reaching a final decision on the dispute, the USCG shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and Signatories and provide them with a copy of this written response. The USCG will then proceed according to its final decision.
- b. If the ACHP does not provide its advice regarding the dispute within the thirty (30)-day time period, the USCG may make a final decision regarding the dispute and proceed accordingly. Prior to reaching a final decision, the USCG shall prepare a written response that

takes into account any timely advice or comments regarding the dispute from the Signatories to the PA and provide them and the ACHP with a copy of such written response.

- c. The USCG's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

VII. AMENDMENTS AND NONCOMPLIANCE

This Agreement may be modified upon the mutual written consent of the parties in accordance with 36 CFR 800.6(c)(7).

VIII. TERMINATION

- a. If the USCG, SHPO or ACHP determines that the terms of this PA will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Provision VII above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, the USCG, SHPO or ACHP may terminate the PA upon written notification to the other signatories. The Party proposing to terminate the Agreement shall so notify all parties to this Agreement explaining the reasons for termination and affording at least sixty (60) days to consult and seek alternatives to termination. The parties shall then consult.
- b. Should such consultation fail to resolve the dispute, the USCG, the ACHP or the SHPO may terminate the Agreement by so notifying all parties. Should this Agreement be terminated, the USCH shall either:
 - 1. Consult in accordance with 36 CFR 800.6(a) in an effort to resolve any adverse effects, or
 - 2. Terminate consultation and request the Council comment in accordance with 36 CFR 800.7(c).

VIV. POINTS OF CONTACT

The USCG Point of Contact (POC) will be the Chief, Office of Bridge Programs, Coast Guard Headquarters, (202) 372-1510. The POC for the SHPO will be Lorna Meidinger, (701-328-3576). The POC for the ACHP will be Chris Wilson, (202) 517-0229. The POC for BNSF will be Mike Herzog (913)551-4229.

Execution of this PA by the USCG, North Dakota SHPO, ACHP, and BNSF, and implementation of its terms, is evidence that the USCG has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORY PAGE

PROGRAMMATIC AGREEMENT

**AMONG THE UNITED STATES COAST GUARD,
THE NORTH DAKOTA STATE HISTORIC PRESERVATION OFFICE, AND THE ADVISORY COUNCIL ON HISTORIC
PRESERVATION, REGARDING THE PROPOSED BRIDGE REPLACEMENT AT MILE 1315.0 ON THE MISSOURI
RIVER NEAR BISMARCK AND MANDAN, NORTH DAKOTA**

Signatory:

United States Coast Guard

Date _____

David R. Callahan, Rear Admiral, U.S. Coast Guard
Commander, Eighth Coast Guard District

SIGNATORY PAGE

PROGRAMMATIC AGREEMENT

***AMONG THE UNITED STATES COAST GUARD,
THE NORTH DAKOTA STATE HISTORIC PRESERVATION OFFICE, AND THE ADVISORY COUNCIL ON HISTORIC
PRESERVATION, REGARDING THE PROPOSED BRIDGE REPLACEMENT AT MILE 1315.0 ON THE MISSOURI
RIVER NEAR BISMARCK AND MANDAN, NORTH DAKOTA***

Signatory:

North Dakota State Historic Preservation Officer

_____ Date _____
Claudia Berq, State Historic Preservation Officer

INVITED SIGNATORY PAGE

PROGRAMMATIC AGREEMENT

***AMONG THE UNITED STATES COAST GUARD,
THE NORTH DAKOTA STATE HISTORIC PRESERVATION OFFICE, AND THE ADVISORY COUNCIL ON HISTORIC
PRESERVATION, REGARDING THE PROPOSED BRIDGE REPLACEMENT AT MILE 1315.0 ON THE MISSOURI
RIVER NEAR BISMARCK AND MANDAN, NORTH DAKOTA***

Invited Signatory:

Burlington Northern Santa Fe, LLC

Xxx, Burlington Northern Santa Fe, LLC

Date _____

CONCURRING PARTY PAGE

PROGRAMMATIC AGREEMENT

**AMONG THE UNITED STATES COAST GUARD,
THE NORTH DAKOTA STATE HISTORIC PRESERVATION OFFICE, AND THE ADVISORY COUNCIL ON HISTORIC
PRESERVATION, REGARDING THE PROPOSED BRIDGE REPLACEMENT AT MILE 1315.0 ON THE MISSOURI
RIVER NEAR BISMARCK AND MANDAN, NORTH DAKOTA**

Concurring Party:

Historic Bridge Foundation

_____ Date _____
Kitty Henderson, Executive Director

CONCURRING PARTY PAGE

PROGRAMMATIC AGREEMENT

**AMONG THE UNITED STATES COAST GUARD,
THE NORTH DAKOTA STATE HISTORIC PRESERVATION OFFICE, AND THE ADVISORY COUNCIL ON HISTORIC
PRESERVATION, REGARDING THE PROPOSED BRIDGE REPLACEMENT AT MILE 1315.0 ON THE MISSOURI
RIVER NEAR BISMARCK AND MANDAN, NORTH DAKOTA**

Concurring Party:

_____ Date _____





Engineering Department

DATE: January 22, 2020

FROM: Gabe Schell, City Engineer

ITEM: Costco Related Items – Highway Construction (HC) 129

REQUEST

Request approval of North Dakota Department of Transportation (NDDOT) Cost Participation and Maintenance Agreement for HC 129

Request Award of HC 129 relating to offsite improvements to US 83 and Brookside Lane

Request approval of construction observation contract to KLJ for HC 129

Please place this item on the 1/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

As accordance with the development agreement with Costco Wholesale Corporation (Costco) associated with development of Memory Second Addition approved by this Board on August 27, 2019, Costco has prepared plans for offsite improvements to public right of way in the vicinity of their property that have been approved by NDDOT and the City. These improvements were identified in a traffic impact study and recommended changes to US 83 (State Street) at its intersection with Brookside Lane and at 57th Avenue as well as improvements to Brookside Lane and 57th Avenue themselves outside of the US 83 right of way.

The NDDOT will require the City enter into a Cost Participation and Maintenance Agreement for the improvements as a portion of the project is within the NDDOT right of way. The agreement states that the NDDOT will not be a financial partner in this project and that all improvements on US 83 are to be constructed to NDDOT Standards.

Two bids were received on January 21, 2020. The engineer's estimate was \$2,896,590.00. Northern Improvement Company had the low bid of \$2,733,812.90. The bids have been verified as shown on the bid summary.

Cost share between the City and Costco had been previously negotiated as part of the development agreement. This cost share was updated using the bid prices of the low bidder and the project budget funding was updated accordingly. The bid summary and project budget (without funding sources identified) are attached.

The development agreement also allows for the consulting engineering costs for construction observation of the improvements to be cost shared between the City and Costco. Staff recommends awarding a contract for construction observation to the design engineer under contract by Costco to prepare the design plans. Staff believes this provides continuity between design and construction which should minimize risk for the City. For this project, Costco elected to utilize KLJ to prepare the bid documents. KLJ and the City have negotiated an hourly not to exceed contract of \$294,026.90 for their services of construction administration.

Staff is currently coordinating with Costco representatives regarding the award of HC 129 and the construction observation contract with KLJ. I will provide you an update of their approval of both items at the Commission meeting.

RECOMMENDED CITY COMMISSION ACTION

Approve NDDOT Cost Participation and Maintenance Agreement for HC 129

Award HC 129 to Northern Improvement Company for \$2,733,812.90.

Approve construction observation contract to KLJ for an hourly not to exceed contract of \$294,026.90 for HC 129.

Approve project budget for HC 129.

STAFF CONTACT INFORMATION

Gabe Schell, PE | City Engineer, 355-1505 or gschell@bismarcknd.gov

**North Dakota Department of Transportation
COST PARTICIPATION AND MAINTENANCE AGREEMENT**

City Project: Bismarck, 57th Ave, Brookside Lane, and US 83 Intersections

WHEREAS, the City of Bismarck intends to proceed with the construction of the following-described street improvements:

Location: Bismarck, 57th Ave, Brookside Lane, and US 83 Intersections

Type of Improvement: Grading, Salvage Base Course, Hot Bituminous Pavement, Curb and Gutter, Lighting, Traffic Signals, Turning Lanes, Signing and Marking, and Incidentals

Point of Beginning: Sta. 220+88 or RP 91.12

Point of Ending: Sta 244+63 or RP 91.57

NOW THEREFORE, In consideration of the mutual benefits to be derived therefrom, it is agreed between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the Local Public Agency (LPA) of Bismarck, North Dakota, hereinafter referred to as the LPA, that the LPA construct the project in accordance with the current edition of NDDOT's *Standard Specifications for Road and Bridge Construction* and with the plans incorporated into this agreement by reference.

1. The LPA
 - a. Will pay 100 percent of the cost of rights of way and easements acquired for the project; and
 - b. Will manage and pay all cost for completion of the design, plans, and construction of this project; and
 - c. Will construct all work on US 83 Highway to NDDOT Standards; and
 - d. Will maintain and pay all electrical costs for the new lighting and traffic signals added by this project. The maintenance will be in a manner satisfactory to NDDOT and FHWA. Exact limit of the project are shown on the attached map.
2. The NDDOT
 - a. Will provide assistance in checking the proposed set of plans for sufficiency and ensure they are in accordance with NDDOT design specifications and standards; and
 - b. Provide final inspection of the traffic signals and lighting installed with this project.
3. All signs, signals, markings, and other protective structures erected on or in connection with the project, including those installed at the sole cost and expense of the LPA or by others, shall be approved by NDDOT. All traffic control devices will be in conformance with the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.
4. All existing right of way within the project limits will be provided by the LPA with clear title and available for use in the project. All right of way for the project will be maintained free of all encroachments except utilities and others in accordance with the current edition of NDDOT's "A Policy for Accommodation of Utilities on State Highway Right-of-Way". All obstructions to,



interference with, or hazards to traffic flow will be removed by the LPA at the request of NDDOT. 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 the streets, inconveniences to property or business, and any loss of light, air, view, access, egress, drainage, support, or nuisance.

5. The LPA will control the length and location of curb openings on US 83 for future entrances and will not permit the length of curb openings for entrances to exceed the length shown on the plans or as shown on the plans or as shown on a sketch of typical entrances; and will prohibit the construction or use of any entrances along US 83 within the project and the LPA other than those shown on the plans, without prior approval of NDDOT.
6. The LPA will not change any speed limit signs on US 83 as shown on the plans without prior approval of NDDOT.
7. The LPA will prohibit double and diagonal parking on US 83 and will control all parallel parking where allowed with the limits of the project in a manner satisfactory to NDDOT and to the Federal Highway Administration (FHWA), or both.
8. The Risk Management Appendix, attached, is hereby incorporated and made part of this agreement.
9. 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 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.
10. NDDOT is not responsible for any Property Taxes or Special Assessments on property which has been acquired as part of the roadway reconstruction project. The LPA is responsible to make arrangements for deferral or payment of such Taxes and/or Special Assessments.
11. The LPA will, at its own expense, maintain or cause to be maintained, all portions of the project unless otherwise noted in this paragraph. The maintenance will be in a manner satisfactory to NDDOT and FHWA. Exact limits of the project are shown on the attached map.



Executed by the LPA of Bismarck, at Bismarck, North Dakota, the last date below signed.

APPROVED:

LPA of Bismarck

Janelle Combs
LPA ATTORNEY (TYPE OR PRINT)

Steve Bakken
NAME (TYPE OR PRINT)

SIGNATURE

SIGNATURE

1/28/20
DATE

* President, Board of City Commissioners
TITLE

1/28/20
DATE

ATTEST:

Keith Hunke
AUDITOR (TYPE OR PRINT)

SIGNATURE

1/28/20
DATE

Executed for the North Dakota Department of Transportation by the Director at Bismarck, North Dakota, the last date below signed.

APPROVED as to substance by:

NORTH DAKOTA DEPARTMENT OF
TRANSPORTATION

DIVISION DIRECTOR(TYPE OR PRINT)

DIRECTOR (TYPE OR PRINT)

SIGNATURE

SIGNATURE

DATE

DATE

*Mayor or President of Commission

CLA 17058 (Div. 38)
L.D. Approved 10-17, Rev. 08-18; C.M. 01/09/2020



AUTHORIZATION

At a City Commission meeting held on the 28 day of January, 20 20, it was moved by _____ and seconded by _____ that the attached certification and agreement be approved, and that the * President of Commission and the LPA Administrator be authorized to execute in behalf of the LPA of Bismarck and that two executed copies be returned to the NDDOT Director.

Adopted on a vote of _____ aye, _____ nay, _____ absent.

ATTEST:

APPROVED:

Keith Hunke

LPA ADMINISTRATOR (TYPE OR PRINT)

LPA of Bismarck

Steve Bakken

NAME (TYPE OR PRINT)

SIGNATURE

1/28/20

DATE

SIGNATURE

* President, Board of City Commissioners

TITLE

1/28/20

DATE

*Mayor or President of Commission



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.

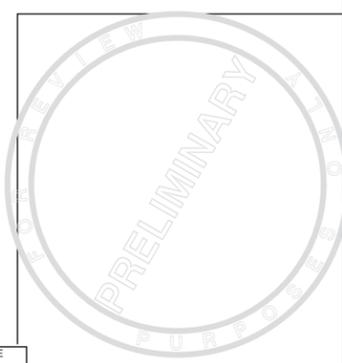
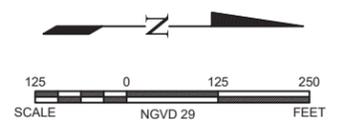
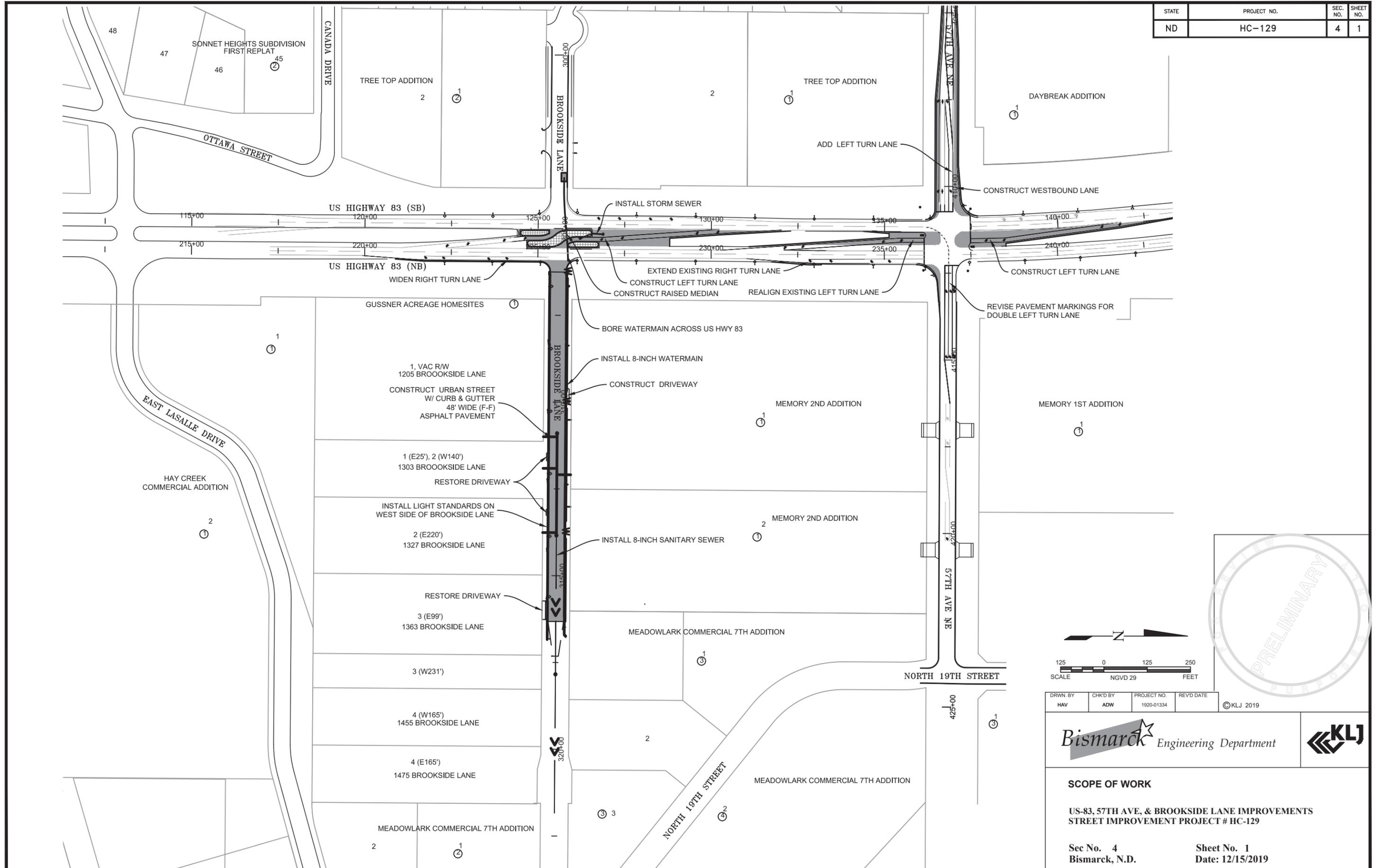
Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation 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. 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 5-09



STATE	PROJECT NO.	SEC. NO.	SHEET NO.
ND	HC-129	4	1



DRWN. BY HAV	CHK'D BY ADW	PROJECT NO. 1920-01334	REVD DATE
			© KLJ 2019

Bismarck Engineering Department

SCOPE OF WORK

US-83, 57TH AVE, & BROOKSIDE LANE IMPROVEMENTS
STREET IMPROVEMENT PROJECT # HC-129

Sec No. 4
Bismarck, N.D.

Sheet No. 1
Date: 12/15/2019

Nov 20, 2019 - 8:28am - P:\Retail\Costco\Wholesale\1920_01334\CAD\CD's\Cover-Notes-Scope\004SC-001-Costco-Scope.dwg

**BID TABULATION
FOR
HIGHWAY CONSTRUCTION PROJECT NO. 129**

January 21, 2020

ENGINEER'S ESTIMATE: \$2,896,590.00

BIDDER	BOND	LICENSE	ADDENDUM	SIGNATURE	AMOUNT
Northern Improvement Co	<u> X </u>	<u> X </u>	<u> X </u>	<u> X </u>	<u>\$2,733,812.90</u>
Mariner Construction	<u> X </u>	<u> X </u>	<u> X </u>	<u> X </u>	<u>\$2,954,596.79</u>
Knife River	<u> </u>				
Weisz & Sons, Inc	<u> </u>				
Markwed Excavating Inc.	<u> </u>				
Central Specialties Incorporated	<u> </u>				

**SHORT FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of **January 28, 2020** (“Effective Date”) between **City of Bismarck** (“Owner”) and **Kadrmās, Lee & Jackson, Inc.** (“Engineer”).

Owner’s Project, of which Engineer’s services under this Agreement are a part, is generally identified as follows: **HC-129: US 83, 57th Ave, and Brookside Lane street improvements** (“Project”).

KLJ Project Number: 2004-00171

Engineer’s services under this Agreement are generally identified as follows: See Exhibit A – Scope of Services (“Services”).

Owner and Engineer further agree as follows:

1.01 *Basic Agreement and Period of Service*

- A. Engineer shall provide or cause to be provided, the Services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above (“Additional Services”). Owner shall pay Engineer for its services as set forth in Paragraphs 7.01 and 7.02.
- B. Engineer shall complete its Services within a reasonable time, or the following specific time period: **NA**. If no specific time period is indicated, Engineer shall complete its Services within a reasonable period of time.
- C. If the Project includes construction-related professional services, then Engineer's time for completion of services is conditioned on the time for Owner and its contractors to complete construction not exceeding **22** months. If the actual time to complete construction exceeds the number of months indicated, then Engineer's period of service and its total compensation shall be appropriately adjusted.

2.01 *Payment Procedures*

- A. *Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for Services, Additional Services, and expenses within 30 days after receipt of Engineer’s invoice, then (1) the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and (2) in addition Engineer may, after giving seven days written notice to Owner, suspend Services under this Agreement until Engineer has been paid in full all amounts due for Services, Additional Services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension. Payments will be credited first to interest and then to principal.

B. *Payment:* As compensation for Engineer providing or furnishing Services and Additional Services, Owner shall pay Engineer as set forth in Paragraphs 2.01, 2.02 (Services), and 2.03 (Additional Services). If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

2.02 *Basis of Payment—Hourly Rates Plus Reimbursable Expenses*

A. Owner shall pay Engineer for Services as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class, plus reimbursement of expenses incurred in connection with providing the Services and Engineer's consultants' charges, if any.
2. Engineer's Standard Hourly Rates are attached as Appendix 1.
3. The total compensation for Services and reimbursable expenses is estimated to be \$294,026.90.

2.03 *Additional Services:* For Additional Services, Owner shall pay Engineer an amount equal to the cumulative hours charged in providing the Additional Services by each class of Engineer's employees, times standard hourly rates for each applicable billing class; plus reimbursement of expenses incurred in connection with providing the Additional Services and Engineer's consultants' charges, if any. Engineer's standard hourly rates are attached as Appendix 1.

3.01 *Termination*

A. The obligation to continue performance under this Agreement may be terminated:

1. For cause,
 - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.
 - b. By Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's Services are delayed for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern.
 - c. Engineer shall have no liability to Owner on account of a termination by Engineer UNDER Paragraph 3.01.A.1.b.
 - d. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such

substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon Engineer's receipt of written notice from Owner.

- B. The terminating party under Paragraph 3.01.A may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- C. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all Services and Additional Services performed or furnished in accordance with this Agreement, and all reimbursable expenses incurred through the effective date of termination.

4.01 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 4.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any contractor, subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

5.01 *General Considerations*

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of 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. Subject to the foregoing standard of care, Engineer and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- B. Engineer shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures

of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Contractor to comply with laws and regulations applicable to such contractor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any contractor.

- C. This Agreement is to be governed by the laws and of the state in which the Project is located, without reference to the conflict of laws principles thereof. Each Party hereby irrevocably (1) submits to the exclusive jurisdiction of the state and federal courts located in the state in which the Project is located, in respect of any actions or proceedings relating in any way to this Agreement, and agrees not to commence any proceeding relating thereto except in such courts; and (2) waives any objection to the venue of any proceeding relating to this Agreement in the state and federal courts located in the state in which the Project is located, including the objection that any such proceeding has been brought in an inconvenient forum.
- D. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor. Engineer is not responsible for variations between actual construction bids or costs and Engineer's opinions or estimates regarding construction costs.
- E. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees) at the Project site or otherwise furnishing or performing any construction work; or for any decision made regarding the construction contract requirements, or any application, interpretation, or clarification of the construction contract other than those made by Engineer.
- F. Engineer shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, or clarification of the construction contract documents other than those made by Engineer.
- G. **RESERVED**
- H. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment for all Services and Additional Services relating to preparation of the documents and subject to the following limitations:
 - 1. Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
 - 2. any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants;

3. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and
 4. such limited license to Owner shall not create any rights in third parties.
- I. The Owner and Engineer each agree to assume its own liability for claims of any nature including all costs, expenses and reasonable attorney's fees, which may in any manner result from or arise out of this agreement. 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.
 - J. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is greater.
 - K. 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 as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq., or 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: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
 - L. In the event of a dispute arising out of or relating to the Agreement or the services to be rendered hereunder, both parties agree to attempt in good faith to resolve such disputes through direct negotiations between the appropriate representatives of each party during the 15 days after a party receives notice of a dispute from the other party. In the event Owner and Engineer cannot settle the dispute, the parties agree that they shall submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement, or the breach thereof ("Disputes") to mediation by a mediation service agreed to by both parties. Owner and Engineer agree to participate in the mediation process in good faith. The process shall be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then either party may seek to have the Dispute resolved by a state or federal court of competent jurisdiction located in the state in which the Project is located.
 - M. Engineer's Services and Additional Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements; or (4) providing legal advice or representation.

6.01 *Total Agreement*

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

Definitions

- A. *Contractor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and consultants), performing or supporting construction activities relating to the Project, including but not limited to contractors, subcontractors, suppliers, Owner’s work forces, utility companies, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
- B. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

Attachments:

Appendix 1: Engineer's Standard Hourly Rates

Exhibit A: Scope of Services

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: City of Bismarck

Engineer: Kadrmas, Lee & Jackson, Inc.

By: _____

By:  _____

Print name: _____

Print name: Mark Anderson

Title: _____

Title: Vice President, EPW

Date Signed: _____

Date Signed: 1/20/2020

Firm's Certificate No. (if required): 061-C

State of: ND

Address for Owner's receipt of notices:

Address for Engineer's receipt of notices:

Kadrmas, Lee & Jackson, Inc.
4585 Coleman Street
Bismarck ND 58503
Legal Notices to: klj.legal@kljeng.com



Exhibit A
January 17, 2020
SCOPE OF SERVICES
US 83, 57th Ave & Brookside Lane Improvements
City Project HC-129

PURPOSE

The purpose of this document is to describe the scope of services and responsibilities required to complete the Construction Administration and Engineering for the offsite improvements, as defined in this scope of services, associated with the Costco Site along US Highway 83, near 57th Avenue NE and Brookside Lane in the City of Bismarck. Kadrmas, Lee & Jackson, Inc. (KLJ) will provide the construction administration services for the work included on the construction documents signed December 30, 2019. KLJ will administer the construction of the improvements to meet the approved plans and specifications and North Dakota Department of Transportation (NDDOT) and City of Bismarck standards.

OBJECTIVE

The objective of the construction administration phase of the project is to provide project management, inspection and survey services for the construction of the of the US 83, 57th Ave and Brookside Lane street improvements. These services will be provided to verify that the contractor's work is performed in general conformance with the governing specifications, plans and special provisions. The following documents will be used in the administration of the project:

- Contract documents, plan and specifications for City of Bismarck Project Number 129.
- North Dakota Department of Transportation standards specifications for Road and Bridge Construction, 2014 Edition, and current supplementary Specifications.
- City of Bismarck, Construction Specifications for Municipal Public work improvements March 2019 edition.

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

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



PROJECT SCHEDULE

City Commission Approval of Contract: 1/28/20

Signal Shop Drawings: 1/28/20 – 2/21/20

Start Construction: 05/11/2020

Substantial Completion – Road and Utilities 7/31/20

Substantial Completion – Signal: 8/28/20

Stabilization and Winterization: 10/16/20

Final Completion: 08/01/2021

A total of 115 day of construction administration services have been assumed for the 2020 construction season. A total of 20 days of construction administration services have been assumed for the 2021 construction season. The hourly summary is based on an average of 1-1.5 full time project staff working 5 days per week for 10-hour days. Our fee summary will also include hours for surveying on the project.

EXCLUSIONS

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

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

CONSTRUCTION ENGINEERING SERVICES

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

Task 1 – Construction Administration

Project Management & Coordination

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

Project Initiation & Shop Drawing Review

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

Pre-Construction Conference

Prepare for, conduct and prepare minutes of the pre-construction conference.



Weekly Progress Meetings

KLJ's Project Manager will attend the Weekly Planning/Reporting Meeting that is facilitated by the contractor according to the project specifications.

Weekly Records

Review of the inspector's daily diary of construction activities throughout the duration of the project.

Final Records and Record Drawings

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

Substantial and Final Inspections

- Prepare for, conduct and prepare minutes for the following inspections.
 - Substantial Completion - Roads and Utilities (July 31st, 2020).
 - Substantial Completion – Traffic Signal (August 28th, 2020)
 - Substantial Completion – Winter Stabilization (Oct 16th, 2020)
 - Final Completion – Project (August 1st, 2021)
- Compile relevant closeout information for the work completed in year one of the project.

Task 2 – Construction Observation

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

Earthwork – Section 200 and 708

Removals

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

Topsoil

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

Excavation/Embankment

- Compaction Control
- Finishing



- Quantity Measurement & Documentation

Erosion Control

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

Aggregate Base – Section 300 and 709

Salvaged Based Course/Traffic Service Aggregate/Geosynthetic Material

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

Bituminous Pavement – Section 400

Superpave/Chip Seal

- Hauling, Placement & Compaction
- Quantity Measurement and Documentation

Traffic Control – Section 704

Construction Traffic Control

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

Storm Sewer– Section 714 and 722

- Installation
- Under Drain and Edge Drain
- Horizontal/Vertical Grade Control
- Backfill/Compaction
- Quantity Measurement & Documentation



Curb & Gutter/Median/Driveway– Sections 748 & 750

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

Temporary Signing/Pavement Marking– Sections 754 & 762

- Verify Location/Installation
- Quantity Measurement & Documentation

Lighting/Traffic Signals– Sections 770, 772, and 764

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

Sanitary Sewer– Section 801

- Installation
- Horizontal/Vertical Grade Control
- Backfill/Compaction
- Quantity Measurement & Documentation

Water Main– Section 901

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

2021 Final Chip Seal – Section 420

- Installation

2021 Final Pavement Markings– Section 754 & 762

- Verify Location/Installation
- Quantity Measurement & Documentation

2021 Erosion Control Clean Up – Section 200 & 700

- Verify Cleanup and Finalization



Task 3 – Construction Staking

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

- Control
- Removals
- Sanitary Sewer
- Water Main Staking
- Curb and Gutter
- Electrical
- Subgrade Bluetop
- Gravel Grade Bluetop
- Lighting
- Signal Lights
- Striping
- Misc. Staking
- Slope Stakes
- As-built Utilities
- Calculations
- Reset Section Corner

Survey staking for each item will be provided one time under this agreement. Additional staking required due to contractor's negligence, or additional trips required due to inadequate contractor scheduling will be subject to additional costs which will be billed to the contractor.

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

KLJ Project Name:	US 83, 57th Ave & Brookside Ln
KLJ Project Number:	2004-00171

Project Budget

Task Code	Description	Start Date	End Date	Job Classification:								DIRECT LABOR Subtotal	REIMBURSABLE EXPENSE ¹ Total	Subconsultant Fee	TASK TOTAL
				Senior Project Manager	Engineer III	Engineer II	Engineer II	Engineer I	Surveyor IV	2-Person Survey Crew	Project Assistant II				
1	Construction Administration	1/28/2020	10/1/2021	\$ 258.40	\$ 153.00	\$ 119.85	\$ 119.85	\$ 105.40	\$ 149.60	\$ 221.00	\$ 81.60				
	Project Management and Coordination			90							8	\$ 23,908.80	\$ -	\$ -	\$ 23,908.80
	Project Initiation and Shop Drawing Review			16	40	40	20					\$ 17,445.40	\$ -	\$ -	\$ 17,445.40
	Pre-Construction Conference			10	4	4						\$ 3,675.40	\$ -	\$ -	\$ 3,675.40
	Weekly Progress Meetings			30								\$ 7,752.00	\$ -	\$ -	\$ 7,752.00
	Weekly Records			30							20	\$ 9,384.00	\$ -	\$ -	\$ 9,384.00
	Final Records and Record Drawings			24	6	6	120				20	\$ 23,852.70	\$ -	\$ -	\$ 23,852.70
	Substantial and Final Inspections			6			8	4				\$ 2,930.80	\$ -	\$ -	\$ 2,930.80
		1/28/2020	10/1/2021	206	50	46	152	4			48	\$ 88,949.10	\$ -	\$ -	\$ 88,949.10

2	Construction Observation	1/28/2020	10/1/2021	\$ 258.40	\$ 153.00	\$ 119.85	\$ 119.85	\$ 105.40	\$ 149.60	\$ 221.00	\$ 81.60				
	Earthwork - Removals						25	50				\$ 8,266.25	\$ -	\$ -	\$ 8,266.25
	Earthwork - Topsoil						20	30				\$ 5,559.00	\$ -	\$ -	\$ 5,559.00
	Earthwork - Excavation/Embankment						20	60				\$ 8,721.00	\$ -	\$ -	\$ 8,721.00
	Earthwork - Erosion Control						20	60				\$ 8,721.00	\$ -	\$ -	\$ 8,721.00
	Aggregate Base						40	100				\$ 15,334.00	\$ -	\$ -	\$ 15,334.00
	Bituminous Pavement						100	100				\$ 22,525.00	\$ -	\$ -	\$ 22,525.00
	Construction Traffic Control						30	30				\$ 6,757.50	\$ -	\$ -	\$ 6,757.50
	Storm Sewer						20	40				\$ 6,613.00	\$ -	\$ -	\$ 6,613.00
	Sanitary Sewer						20	40				\$ 6,613.00	\$ -	\$ -	\$ 6,613.00
	Watermain						40	60				\$ 11,118.00	\$ -	\$ -	\$ 11,118.00
	Curb & Gutter/Sidewalk/Driveway						25	60				\$ 9,320.25	\$ -	\$ -	\$ 9,320.25
	Temporary Signing/Marking						40					\$ 4,794.00	\$ -	\$ -	\$ 4,794.00
	Lighting/Traffic Signals						200					\$ 23,970.00	\$ -	\$ -	\$ 23,970.00
	2021 Chip Seal						20					\$ 2,397.00	\$ -	\$ -	\$ 2,397.00
	2021 Final Pavement Markings						30					\$ 3,595.50	\$ -	\$ -	\$ 3,595.50
	2021 Erosion Control Clean Up						30					\$ 3,595.50	\$ -	\$ -	\$ 3,595.50
		1/28/2020	10/1/2021				680	630				\$ 147,900.00	\$ -	\$ -	\$ 147,900.00

3	Construction Staking	4/1/2020	9/1/2020	\$ 258.40	\$ 153.00	\$ 119.85	\$ 119.85	\$ 105.40	\$ 149.60	\$ 221.00	\$ 81.60				
	Control								2	15		\$ 3,614.20	\$ -	\$ -	\$ 3,614.20
	Removals								2	10		\$ 2,509.20	\$ -	\$ -	\$ 2,509.20
	Storm Sewer								2	5		\$ 1,404.20	\$ -	\$ -	\$ 1,404.20
	Sanitary Sewer								2	10		\$ 2,509.20	\$ -	\$ -	\$ 2,509.20
	Water Main Staking								2	10		\$ 2,509.20	\$ -	\$ -	\$ 2,509.20
	Curb and Gutter								3	20		\$ 4,868.80	\$ -	\$ -	\$ 4,868.80
	Electrical								3	5		\$ 1,553.80	\$ -	\$ -	\$ 1,553.80
	Subgrade Bluetop									40		\$ 8,840.00	\$ -	\$ -	\$ 8,840.00
	Gravel Grade Bluetop									40		\$ 8,840.00	\$ -	\$ -	\$ 8,840.00
	Lighting								1	10		\$ 2,359.60	\$ -	\$ -	\$ 2,359.60
	Signal Lights								2	10		\$ 2,509.20	\$ -	\$ -	\$ 2,509.20
	Striping								1	10		\$ 2,359.60	\$ -	\$ -	\$ 2,359.60
	Misc. Staking								3	10		\$ 2,658.80	\$ -	\$ -	\$ 2,658.80
	Slope Stakes								2	15		\$ 3,614.20	\$ -	\$ -	\$ 3,614.20
	As-built Utilities								1	20		\$ 4,569.60	\$ -	\$ -	\$ 4,569.60
	Calculations								10			\$ 1,496.00	\$ -	\$ -	\$ 1,496.00
	Reset Section Corner								2	3		\$ 962.20	\$ -	\$ -	\$ 962.20
		4/1/2020	9/1/2020						38	233		\$ 57,177.80	\$ -	\$ -	\$ 57,177.80

				206	50	46	832	634	38	233	48	2087				
													\$ 294,026.90	\$ -	\$ -	\$ 294,026.90

PROJECT BUDGET

Number	HC 129	Description	Hwy 83, 57th Ave and Brookside Improvements
---------------	--------	--------------------	---

Scheduled Start	2/3/2020	Scheduled End	8/1/2021
------------------------	----------	----------------------	----------

Project Contracts

<u>Project Construction Contracts</u>	<u>Amount</u>
Northern Improvement Company -----	2,733,812.90
Subtotal	2,733,812.90
Contingencies 10%	273,381.29
Total Construction Contracts	3,007,194.19

<u>Other Contracts, Land Purchases, Etc.</u>	<u>Contract No.</u>	<u>Amount</u>
Construction Engineering - KLJ*		\$294,026.90
Subtotal		294,026.90
*Contingencies 10%		29,402.69
Total Other Contracts		323,429.59

<u>Work by Other City Departments</u>	<u>Amount</u>
Subtotal	-
*Contingencies 10%	-
Total Work by Other City Departments	-

SUMMARY

Construction Cost - No Contingencies **3,027,839.80**

TOTAL CONSTRUCTION COST WITH CONTINGENCIES **3,330,623.78**

Engineering	0%	-----	-
Administration	0%	-----	-
Advertising and Legal	0%	-----	-
Interest During Construction	0%	-----	-

HC 129 TOTAL PROJECT COST **3,330,623.78**

<u>Project Funding</u>	<u>Amount</u>
City Cost - Sales Tax	\$ 1,819,526.78
Developer Cost per Development Agreement	\$ 1,511,097.00
Total Funding	3,330,623.78

Date	1/21/2020
-------------	-----------



ENGINEERING DEPARTMENT

DATE: January 21, 2020
FROM: Gabe Schell, PE | City Engineer
ITEM: SI 531 Traffic Operations Analysis

REQUEST

Present traffic operations analysis along East Divide Avenue and South Washington Street within the proposed SI 531 work area.

Please place this item on the January 28, 2020 City Commission meeting agenda.

BACKGROUND INFORMATION

Divide Avenue from 19th Street to Volk Drive and South Washington Street from Bismarck Expressway to the south Bismarck drainage ditch are included in Street Improvement District 531. The annual street rehabilitation projects provide an opportunity to implement improvements to the roadway network configuration at minimal project costs. This process has been used on previous projects to implement cross walks, turn lanes, parking areas, etc. The Board directed staff on January 14, 2020 to reach out to additional public and provide additional analysis and report back at the next Commission meeting.

Washington Street

The existing conditions were reviewed to establish a baseline to compare and determine any future impacts associated with the proposed lane conversion to a 3 lane roadway. The evaluation of existing conditions includes existing traffic volumes, a crash analysis, and intersection capacity analysis.

Existing Conditions

Washington Street is a four-lane undivided principal arterial roadway with a 35 mile per hour (mph) posted speed limit south of Bismarck Expressway. Parking is prohibited along the corridor within the SI 531 proposed work area. The intersections of Riverwood Drive/Denver Avenue, Reno Avenue and Wachter Avenue are all signalized intersections. All other public streets are stop controlled on the minor street.

Traffic Volumes

24-hour traffic volumes for the following study intersections was collected on of September 27, 2018.

- Reno Avenue and Washington Street
- Wachter Avenue and Washington Street

Traffic volumes on the corridor range from nearly 13,000 average annual daily traffic (AADT) south of Riverwood Drive/Denver Avenue to approximately 10,000 AADT south of Wachter Avenue. As a comparison, traffic volumes on other 3-lane roadways such as Washington Street near E Avenue C are approximately 15,000 AADT and on N 19th Street near Century Avenue are 13,000. The ADDT on Reno Avenue is approximately 1,500 on each approach and on Wachter Avenue is approximately 1,500 on the west approach and 4,000 on the east approach.

Crash Analysis

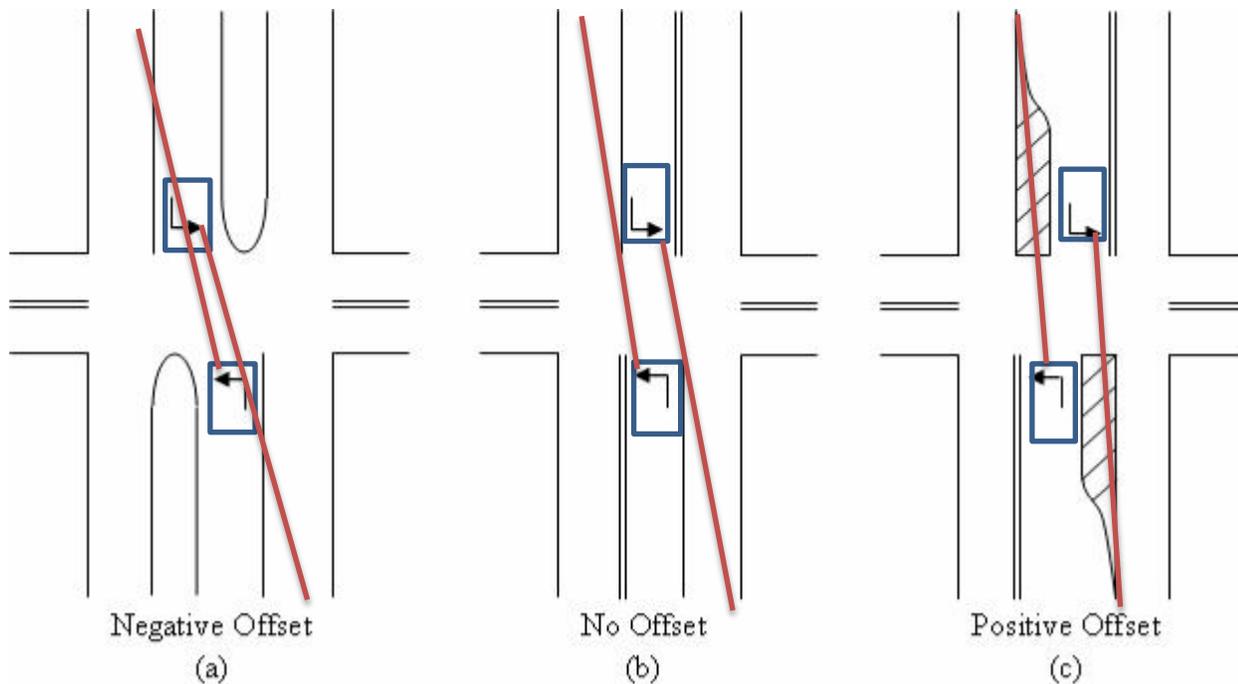
Crash data was reviewed from January 1, 2017 through December 31, 2019, which represents the most recent three-year period available. Based on this data, there were a total of 55 crashes between Easy Street and the drainage ditch. 22 of the 55 crashes were not intersection related. 37 of the 55 crashes involved at least one vehicle turning left, turning right, slowing or stopped on Washington Street. This is partially attributed to the unpredictable nature of the inside through lane that also functions as a left turn lane. Vehicles making a left turn off of Washington Street come to a complete stop or significantly slow down waiting for an adequate gap in the opposing traffic to complete the turn. Meanwhile vehicles following are trapped behind the slower moving or stopped lead vehicle and react accordingly by safely slowing themselves, maneuvering around the stopped vehicle or unfortunately crashing into the lead vehicle. Reported crashes occurring over the analysis period are summarized type in Table 1. Studies have shown that a conversion from a four-lane roadway to a three-lane roadway with center left turn lane can reduce crashes by 47%. While a conversion to a three-lane roadway would still result in crashes, it is anticipated to greatly reduce the angle crashes, head on and sideswipe type of crashes with the angle and head on generally having a higher severity of injury potential.

Table 1 Crash Data

Crash Type	Rear End	Side Swipe	Angle	Head On	Non-Collision w/ veh	Total
	29	6	12	1	7	55
Crash Severity	Property Damage Only	Non-Incapacity Injury	Possible Injury	Total		
	45	5	5	55		

Though outside of the 3-year analysis period, there was a fatality on this corridor that occurred on Sunday, July 24, 2016 at the intersection of Reno Avenue and Washington Street. The crash involved a northbound left turning vehicle and a southbound motorcycle. Circumstances of the

crash indicate that the southbound motorcyclist's view was obstructed due to a southbound left turning vehicle in the inside lane waiting to make a left turn. The northbound left turning vehicle experienced a similar situation with their view of opposing traffic being obstructed by the southbound left turning vehicle. On four-lane roadways the left turning traffic does not directly oppose each other, obstructing each other's view of oncoming opposing traffic or sight distance. This is referred to a "negative offset". When left turning vehicles directly oppose each other there is minimal obstruction or "zero offset" this is a typical situation on multi-lane roadways that have exclusive left turn lanes. The figure below illustrates the three types of offsets.



Capacity Analysis

A capacity analysis was conducted to determine how traffic is currently operating at the study intersections. All intersections were analyzed using Synchro/SimTraffic and the Highway Capacity Manual (HCM).

Synchro is a macroscopic analysis and optimization software application. Synchro supports the Highway Capacity Manual's (HCM) 6th Edition, 2010 and 2000 for signalized intersections, unsignalized intersections and roundabouts.. Synchro's signal optimization routine allows the user to weight specific phases, thus providing users more options when developing signal timing plans.

SimTraffic is a micro-simulation software application. With SimTraffic, individual vehicles are modeled and displayed traversing a street network. SimTraffic models signalized and unsignalized intersections, as well as freeway sections with cars, trucks, pedestrians, and buses.

Capacity analysis results identify a Level of Service (LOS) which indicates how well an intersection is operating. Intersections are ranked from LOS A through LOS F. The LOS results are based on average delay per vehicle results from SimTraffic, which correspond to the delay

threshold values shown in Table 2. LOS A indicates the best traffic operation and LOS F indicates an intersection where demand exceeds capacity. Overall intersection LOS A through D is generally considered acceptable by drivers in the Bismarck area.

Table 2. Level of Service Criteria for Signalized Intersections

LOS Designation	Signalized Intersection Average Delay/Vehicle (seconds)
A	≤ 10
B	> 10 - 20
C	> 20 - 35
D	> 35 - 55
E	> 55 - 80
F	> 80

Results of the existing capacity analysis shown in Table 3 indicate that the studied intersections operate at a LOS C or better for all approaches and for the intersection overall during the weekday a.m. and p.m. peak hours with the existing traffic control and geometric layout. No other significant side-street delays or queuing issues were observed in the traffic simulation at the study intersections. Delay is expressed in seconds per vehicle.

Table 3. Existing 4-Lane Peak Hour Capacity Analysis

Intersection	Weekday AM Peak Hour		Weekday PM Peak Hour			
	Intersection LOS/Delay	Approach LOS/Delay	Intersection LOS/Delay	Approach LOS/Delay		
Reno Ave and Washington St	A/6.8	NB	A/6.3	A/5.6	NB	A/3.1
		SB	A/4.3		SB	A/3.7
		EB	B/12.8		EB	C/20.6
		WB	B/11.6		WB	B/19.4
Wachter Ave and Washington St	A/7.7	NB	A/6.1	A/7.6	NB	A/3.4
		SB	A/4.6		SB	A/4.7
		EB	B/14.7		EB	C/22.2
		WB	B/13.5		WB	C/22.5

Proposed 3-Lane

Results of the proposed 3-lane capacity analysis shown in Table 4 indicate that the studied intersections operate at a LOS C or better for all approaches and for the intersection overall during the weekday a.m. and p.m. peak hours and the proposed 3-lane roadway configuration. The overall intersection delay times would be longer through the corridor but still within acceptable values. No other significant side-street delays or queuing issues were observed in the traffic simulation at the study intersections.

Table 4. Proposed 3-Lane Peak Hour Capacity Analysis

Intersection	Weekday AM Peak Hour			Weekday PM Peak Hour		
	Intersection LOS	Movement	Delay	Intersection LOS	Movement	Delay
Reno Ave and Washington St	B/11.7	NB	B/12.7	A/6.9	NB	A/4.4
		SB	A/5.0		SB	A/5.4
		EB	B/19.6		EB	C/20.8
		WB	B/17.5		WB	B/19.6
Wachter Ave and Washington St	B/12.6	NB	B/14.9	A/9.1	NB	A/4.4
		SB	A/6.1		SB	A/6.5
		EB	B/14.7		EB	C/23.2
		WB	B/13.5		WB	C/23.5

Speed

In the fall of 2019 speed studies were conducted along South Washington in both directions between Reno Avenue and Denver Avenue and between Reno Avenue and Wachter Avenue. The results of those studies are provided in Table 5. The results are expressed in 85th percentile speeds.

Table 5. Fall of 2019 Travel Speed Data Summary – S Washington Street

Location	Northbound (mph)	Southbound (mph)
Denver Ave to Reno Avenue	38	36
Reno Avenue to Wachter Avenue	39	39

As part of the SimTraffic simulation, travel speeds are predicted in the model. A comparison of travels speeds through the corridor of the data collected and simulation indicated travel speeds through the corridor will be slower.

Summary and Conclusion – S Washington Street

Converting South Washington Street from a 4-lane roadway to 3-lane roadway will not have significant negative impacts to traffic operations. The proposed 3-lane roadway changes would improve safety through the corridor by improving sight distances at the signalized intersections through creating a “zero offset” left turn lanes for left turning traffic and the reduction of travel speeds. Since there is no existing parking on Washington Street, there would be no impacts to parking. I have discussed this concept with the Bismarck Police Department Traffic Commander for his input. We are in agreement that a 3-lane roadway on S Washington Street would improve safety to the general public and may lower excessive speeding.

No lane configuration changes are recommended north of Riverwood Drive/Denver Avenue as there is not the same opportunity to create a safer and yet still efficient traffic improvement in that area.

Divide Avenue

The existing conditions were reviewed to establish a baseline to compare and determine any future impacts associated with the proposed lane conversion. The evaluation of existing conditions includes existing traffic volumes and a crash analysis.

Existing Conditions

The existing lane configuration of Divide Avenue from 19th Street to Northview Lane is a 48-foot roadway two-lane roadway with a bike lane for eastbound and westbound bicycle traffic. Parking is permitted along the south side of Divide Avenue near 20th Street and along the north side of Divide Avenue from 300' east of 19th Street to Northview Lane. Divide Avenue is a 48-foot roadway from 26th Street to Volk Drive and is a 3-lane roadway section with parking permitted only on the south side adjacent to Sleepy Hollow Park. Outside of and adjacent to the project area, Divide Avenue is a 3-lane section with parking prohibited west of 19th Street to State Street and east of Volk Drive to Bismarck Expressway. Private access onto Divide Avenue decreases significantly as you travel east through the corridor. Also, the traffic volumes utilizing these private access points are high due to the adjacent land use, multi-unit housing.

Traffic Volumes

24 hour vehicular turning movement counts were used for the following study intersections from of September 25, 2018.

- Divide Avenue At 26th Street

To the west of 26th Street the traffic volumes nearly double (13331 ADT) in comparison to east of 26th Street (7713 ADT).

Crash Analysis

Crash data was utilized from January 1, 2017 through December 31, 2019, which represents the most recent three-year period available. Reported crashes occurring at segments over the analysis period are summarized by type in Table 6.

Table 6 Crash Segment Study – E Divide Ave

Segments	Rear End	Side Swipe	Angle
19th Street to 23 rd Street	38	10	20
23 rd Street to 26 th Street	6	0	1
26 th Street to Volk Drive	7	1	2

In reviewing the crash data, the majority of the rear end and sideswipe crashes are occurring between 19th Street and 23rd Street. Currently traffic desiring to make a left turn off of Divide Avenue into the numerous multi-family complexes, stop in the through lane waiting for an adequate gap in opposing traffic to complete the turn. Meanwhile vehicles following will be trapped behind the stopped left turning vehicle or maneuver around the stopped vehicle. It was noticed in this area that the adjacent land use leads to higher volumes of non-intersection turning traffic utilizing private access points than to the east of 23rd Street. To the east of 23rd Street the land use has a lower density and the number of private access points is very limited resulting in a lower number on non-intersection turning movements.

This increase in non-intersection turning volumes using the access points resulting from the multi-family land use can be an indicator higher numbers non-intersection turning movements. Drivers may not anticipate traffic stopping if not near an intersection. The high volume of through traffic movements limiting gaps can increase the potential for rear end crashes or side swipes crashes.

Summary and Conclusion – E Divide Ave

Implementing a TWLTL roadway configuration would likely reduce the number of crashes on this segment of E Divide Avenue from 19th Street to Volk Drive. The implementation of a center left turn lane would improve safety of the roadway by removing left turning traffic from the through traffic lane. To implement a TWLTL roadway configuration while maintaining the existing bike lanes, existing parking on Divide Avenue would need to be removed along the north side of E Divide Avenue from Northview Lane to 300' east of 19th Street and on the south side between 20th Street and 200' east of 20th Street.

The draft Metropolitan Planning Organization's Metropolitan Transportation Plan "Arrive2045" will host a public meeting on January 23, 2020 at 5:30 PM at the City/County Building where these specific projects as well as concepts for other transportation projects will be communicated to the public. If it is the Board's direction to engage in additional public input regarding proposed changes to S Washington Street and E Divide Avenue, I can present my thoughts at the Commission meeting as to how that input and decision making could be integrated into the bid documents for SI 531.

RECOMMENDED CITY COMMISSION ACTION

Receive additional traffic operations analysis and provide direction to staff.

STAFF CONTACT INFORMATION

Gabe Schell, PE, City Engineer, 355-1505, gschell@bismarcknd.gov



FIRE DEPARTMENT

DATE: January 21, 2020
FROM: GARY STOCKERT, CITY EMERGENCY MANAGER / CRS PROGRAM COORDINATOR
ITEM: CRS PROGRAM RECERTIFICATION

REQUEST

Continue participation in the Community Rating System (CRS) program and submit annual recertification documentation. Request to provide the City Commission and viewing public a brief status of flood mitigation action items as identified in the 2015 Bismarck Multi-Hazard Mitigation Plan and to inform of the availability of the annual progress report (CRS Activity 510) which summarizes the implementation status of the flood mitigation projects.

Please place this item on the January 28, 2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The required annual CRS recertification documentation has been completed and is due for submission by February 1, 2020. As part of the annual recertification process, attached is the annual progress report regarding the status of flood mitigation action items as outlined in the city's 2015 Multi-Hazard Mitigation Plan. I will present at the meeting to address any questions the Board may have regarding the CRS program and recertification process. Gloria David, City PIO will be distributing a media advisory and news release prior to the commission meeting to provide for public awareness of the CRS program and availability of the annual progress report.

RECOMMENDED CITY COMMISSION ACTION

Receive and accept the CRS program recertification documentation attached, including the annual progress report, and provide the required signature on the CC-213 Community Rating System Annual Recertification form.

STAFF CONTACT INFORMATION

Gary Stockert | 222.6727 or gstockert@bismarcknd.gov

Attachment List: CRS Recertification

January 28, 2020 City Commission Meeting

Attachment	# of pages per attachment
Form CC-213-1 Recertification Forms Signature required on page CC-213-1 (first page)	3
CRS Program Data Table	1
Elevation Certificate Summary (Activity 310)	1
Repetitive Loss (Activity 501)	1
Repetitive Loss Outreach Letter sent to Repetitive Loss Area	1
Repetitive Loss Area Map	1
CRS Activity 510 – Progress Report <i>2015 Bismarck Multi-Hazard Mitigation Plan (flood hazard only)</i>	3
Total Pages Attached	11

Community _____ State _____ CID _____
(6-digit NFIP Community Identification Number)

CC-213 Recertification

Date	
Chief Executive Officer	CRS Coordinator
Name	
Title	
Address	
Phone number	
E-mail address	

I hereby certify that _____ [community name] is implementing the following activities on the attached pages as credited under the Community Rating System and described in our original application to the CRS and subsequent modifications.

I hereby certify that, to the best of my knowledge and belief, we are in full compliance with the minimum requirements of the NFIP and we understand that we must remain in full compliance with the minimum requirements of the NFIP. We understand that at any time we are not to be in full compliance, we will retrograde to a CRS Class 10.

I hereby certify that we will continue to maintain FEMA Elevation Certificates on all new buildings and substantial improvements constructed in the Special Flood Hazard Area following the date at which we joined the CRS.

I hereby certify that if there are one or more repetitive loss properties in our community that we must take certain actions that include reviewing and updating the list of repetitive loss properties, mapping repetitive loss areas, describing the cause of the losses, and sending an outreach project to those areas each year, and if we have fifty (50) or more unmitigated repetitive loss properties we must earn credit under Activity 510 (Floodplain Management Planning) for either a repetitive loss area analysis (RLAA) or a floodplain management plan (FMP).

I hereby certify that, to the best of my knowledge and belief, we are maintaining in force all flood insurance policies that have been required of us as a condition of federal financial assistance for insurable buildings owned by us and located in the Special Flood Hazard Area (SFHA) shown on our Flood Insurance Rate Map. I further understand that disaster assistance for any community-owned building located in the SFHA is reduced by the amount of National Flood Insurance Program (NFIP) flood insurance coverage (structure and contents) that a community should be carrying on the building, regardless of whether the community is carrying a policy.

Signature _____ (Chief Executive Officer)

CC-213-1

COMMUNITY RATING SYSTEM ANNUAL RECERTIFICATION

Your community has been verified as receiving CRS credit for the following Activities.

- If your community is still implementing these activities the CRS coordinator is required to put his or her initials in the blank (do not use a checkmark or an "X") and **attach** the appropriate items. A blank with no initials indicates you are not implementing that Activity anymore, and will result in loss of points (and possible CRS Class).
- If the word "**attached**" is used you must provide the requested documentation for that Activity. If no documentation has been acquired for that Activity, please explain why there is no documentation from the past year.

 310 EC: We are maintaining Elevation Certificates, Floodproofing Certificates, Basement Floodproofing Certificates and V Zone design certificates on all new construction and substantially improved buildings in our Special Flood Hazard Area (SFHA) and make copies of all Certificates available at our present office location. [] Initial here is you have had no new construction or substantial improvement in the SFHA in the last year.

 310 EC: **Attached is the permit list for only new or substantially improved structures in the SFHA that have been completed in the last year**. We have permitted 4 new building and substantial improvements in the SFHA during this reporting period.

 310 EC: **Attached are all the Certificates for new or substantially improved structures that have been completed during this reporting period that are included on the above permit list.** (Note: The total number of Elevation and Floodproofing certificates should match the number of permits issued and completed within the reporting period defined above. All permits issued for new construction or substantial improvement within the V zone should have both an Elevation Certificate and a V Zone Certificate, and all buildings with basements within the basement exemption communities should have both an Elevation Certificate and a Basement Floodproofing Certificate).

 330 OP: We continue to conduct or provide all credited outreach projects.

 350 LIB/LPD: Our public library continues to maintain flood protection materials.

 350 WEB: We continue to conduct an annual review and update of the information and links in our flood protection website.

 420 OSP: We continue to preserve our open space in the floodplain.

 430: We continue to enforce the floodplain management provisions of our zoning, subdivision and building code ordinances for which we are receiving credit.

COMMUNITY RATING SYSTEM ANNUAL RECERTIFICATION

Initial here if you have amended your floodplain regulations. **Attach a copy of the amended regulations, provide a summary of the changes and mark up the regulations indicating what's been changed.**

-  430 RA-1: We continue to employ those staff credited for attaining their CFM, and those who have attended the credited training courses.
-  440 AMD: We continue to use and update our flood data maintenance system on an annual basis as needed.
-  440 FM: We continue to maintain our historical Flood Hazard Boundary Map, FIRMs and Flood Insurance Studies.
-  450 ESC/WQ: We continue to enforce the provisions of our zoning, subdivision and building codes as they pertain to erosion and sediment control and water quality.
-  502 RL: We currently have 26 repetitive loss properties and send our notice to 293 properties in the repetitive loss areas.
-  502 RL: **Attached is a copy of this year's notice on property protection, flood insurance and financial assistance that we sent to our repetitive loss areas.**
-  510 FMP/RLAA: **Attached is a copy of our floodplain management plan's annual progress and/or a copy of the annual progress report on the recommendations of the repetitive loss area analyses.** We have included a progress report template for you to use (in the email notification) if you don't have one of your own.
-  510 FMP/RLAA: We have provided copies of this progress report to our governing board and local media.

NOTE: Please do not mail or ship packages that need a signature.

Additional Comments:

Attachments:

Community _____ State _____ CID _____
 (6-digit NFIP Community Identification Number)

CRS Program Data Table	A. In the SFHA	B. In a regulated floodplain outside the SFHA	C. In the rest of the community
1. Last report's number of buildings in the SFHA (bSF) (line 6, last report)			
2. Number of new buildings constructed since last report	+		
3. Number of buildings removed/demolished since last report	-		
4. Number of buildings affected by map revisions since last report (+ or -)			
5. Number of buildings affected by corporate limits changes (+ or -)			
6. Current total number of buildings in the SFHA (bSF) (total lines 1-5)			
7. Number of substantial improvement/damage projects since last report			
8. Number of repetitive loss properties mitigated since last report			
9. Number of LOMRs and map revisions (not LOMAs) since last report			
10. Acreage of the SFHA (aSFHA) as of the last report (line 13, last report)			
11. Acreage of area(s) affected by map revisions since last report (+ or -)			
12. Acreage of area(s) affected by corporate limits changes (+ or -)			
13. Current acreage of the SFHA (total lines 10-12)			
14. Primary source for building data:			
15. Primary source for area data:			
16. Period covered:		Current FIRM date	
<i>If available, the following data would be useful:</i>			
17. Number of new manufactured homes installed since last report			
18. Number of other new 1 -4 family buildings constructed since last report			
19. Number of all other buildings constructed/installed since last report			

Comments:

(Please note the number of the line to which the comment refers.)

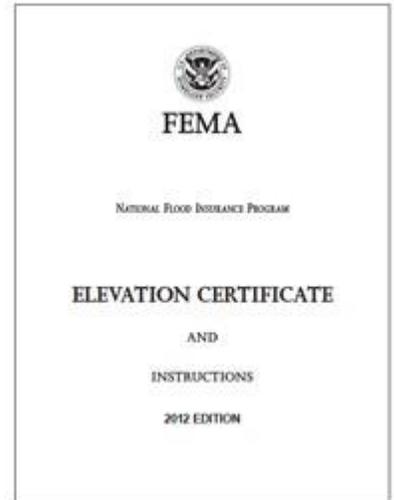


CRS RECERTIFICATION

City of Bismarck
Community Development Department
Building Inspections Division

January 8, 2020

Activity:	310 (Elevation Certificates)
Contact:	Brady Blaskowski, CBCO, CFM Building Official



Elevation Certificates

Four (4) building permits have been issued for new structures located in the SFHA and zero (0) building permits have been issued for substantially improved structures located in the (1) SFHA within the reporting period. All four (4) of the new projects are currently under Construction; therefore, elevation certificates of the finished construction have not been provided. Four (4) of the Eight (8) projects that were under construction during the last reporting period have been completed and the elevation certificates for those projects have been provided.

Building Permit List

- BRES2017-0210 5400 Falconer Dr PERMIT ISSUED
- BCOM2017-0171 1700 River Rd PERMIT ISSUED
- BRES2017-0354 4022 England St PERMIT ISSUED
- BRES2018-0107 1700 Scout Dr PERMIT ISSUED
- BRES2018-0118 4430 White Tail La PERMIT CLOSED - Elevation Certificate Attached
- BRES2018-0357 5200 Fernwood Dr PERMIT CLOSED - Elevation Certificate Attached
- BRES2018-0363 6401 Sully Dr PERMIT CLOSED - Elevation Certificate Attached
- BRES2018-0396 4100 England St PERMIT CLOSED - Elevation Certificate Attached
- BRES2019-0419 6749 Apple Creek Dr PERMIT ISSUED
- BRES2019-0463 6749 Apple Creek Dr PERMIT ISSUED
- BRES2019-0225 2720 Wilderness Cove PERMIT ISSUED
- BRES2019-0532 6334 Dream Circle PERMIT ISSUED

Attachments

- Elevation Certificates

Prepared by:

Brady Blaskowski, CBCO, CFM
Building Official

701-355-1467 | bblaskowski@bismarcknd.gov



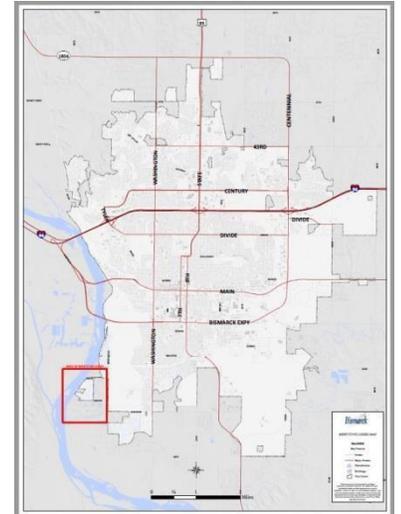
CRS RECERTIFICATION

City of Bismarck
Community Development Department
Building Inspections Division

January 9, 2020

Activity: 501 (Repetitive Loss)

Contact: Brady Blaskowski, CBCO, CFM
Building Official



Notice to Property Owners

The City of Bismarck and its Extra Territorial Area (ETA) has experienced two major flooding incidents in 2009 and in 2011 which has created repetitive loss areas within the community. Twenty-six (26) repetitive loss properties are located in the repetitive loss area; approximately, two-hundred and ninety-three (293) notices were sent to property owners in the repetitive loss area.

Contributing Repetitive Loss Incidents

March 2009

Two ice jams on the Missouri River, one south and one north of Bismarck, occurred in March 2009. The northern ice jam was located ten miles north of Bismarck and out of its ETA jurisdiction. The southern ice jam occurred within the City of Bismarck’s ETA jurisdiction and caused flooding within the City and its ETA.

Summer 2011

Unprecedented precipitation and runoff from above normal basin snowpack occurred during the spring and summer of 2011 resulting in the open water flooding of the Missouri River. Flooding occurred within the City of Bismarck and its ETA.

Attachments

- Repetitive loss map
- Repetitive loss outreach letter

Prepared by:

Brady Blaskowski, CBCO, CFM
Building Official
701-355-1467 | bblaskowski@bismarcknd.gov



City of Bismarck
Community Development Department
Building Inspections Division
Phone: 701-355-1465 * FAX: 701-258-5173 * TDD: 711
PO Box 5503 * Bismarck, ND 58506-5503
buildinginspections@bismarcknd.gov

OUTREACH LETTER

December 18, 2019

Dear Resident:

You have received this letter because the City of Bismarck is a participating community in the National Floodplain Insurance Program (NFIP) Community Rating System (CRS), and your property is either located in an area that has been flooded several times, or at least one of your neighbors suffered insured flood damage in excess of \$1,000 two or more times. The CRS is a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements. As a result, flood insurance premium rates may be discounted to reflect the reduced flood risk resulting from the City of Bismarck meeting the goals of the CRS program. To protect yourself and your property from future flooding, here are some things you can do.

Consider permanent flood protection measures:

- Mark your fuse or breaker box to show the circuits to the floodable areas.
- Consider elevating your house above flood levels.
- Additional information can be found at www.ready.gov/floods
- Building permits may be required for some flood protection measures, contact the City of Bismarck Building Division for more information.

Get a Flood Insurance Policy:

- Most homeowner's standard policies do not cover damage from floods.
- Because the City of Bismarck participates in the NFIP, separate flood insurance policies can be purchased.
- If you purchased flood insurance as required by the terms of your mortgage or home improvement loan, it may only cover the building's structure and not the contents, such as furniture and appliances. Be sure to obtain contents coverage.
- Don't wait for the next flood to buy insurance protection. In most cases it takes 30 days before coverage takes effect.
- Contact your insurance agent for questions and information regarding rates and coverage. You may qualify for a discounted rate. Be sure your insurance agent knows the appropriate community number for the City of Bismarck. The community number is **380149**.

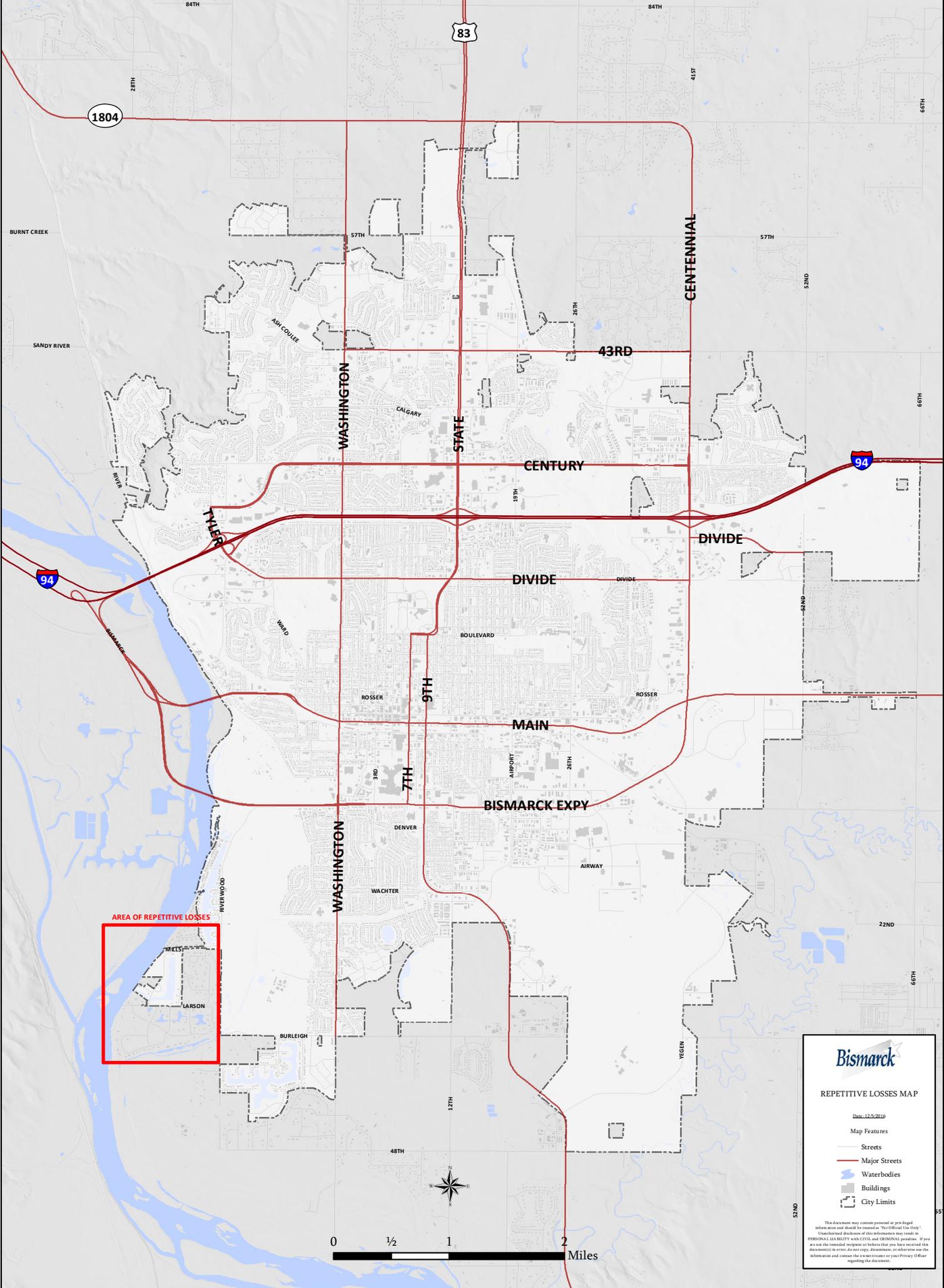
Prepare for possible flooding:

- Know how to shut off the electricity and gas to your house when a flood comes.
- Make a list of emergency numbers and identify a safe place to go.
- Make a household inventory, especially of basement contents.
- Put insurance policies, valuable papers, medicine, etc. in a handy place.
- Collect and put cleaning supplies, camera, waterproof boots, etc. in a handy place.
- Develop a disaster response plan.
- Clean and maintain the drains around your home, including roof gutters, down spouts, drain inlets, pipes, drainage ditches, and driveway culverts.

During a Flood:

- Never drive or walk through flooded areas. Water levels can rise unexpectedly and be deadly.
- Stay away from downed power lines and displaced wild animals in the water, such as rats or snakes.

For more information regarding the NFIP or CRS, please contact the City of Bismarck – Floodplain Administrator, Brady Blaskowski at 701-355-1467.



AREA OF REPETITIVE LOSSES

MILLS
LARSON

Bismarck

REPETITIVE LOSSES MAP

Date: 12/5/2016

Map Features

- Streets
- Major Streets
- Waterbodies
- Buildings
- City Limits

This document may contain personal or proprietary information and should be treated as "Not Official Use Only". Unauthorized disclosure of this information may result in PERSONAL LIABILITY with CIVIL and CRIMINAL penalties. If you are not the intended recipient or believe that you have received this document in error, do not copy, disseminate, or otherwise use the information and contact the sender/creator or your Privacy Officer regarding the document.



CRS Activity 510

Progress Report on Implementation of Credited Plan

Date this Report was Prepared: January 10, 2020

Name of Community: City of Bismarck, ND

Name of Plan: Bismarck Multi-Hazard Mitigation Plan

Date of Adoption of Plan: May 26, 2015.

5 Year CRS Expiration Date: The Bismarck Multi-Hazard Mitigation Plan (CRS 510 Plan) expires April 30, 2020.

1. Bismarck Multi-Hazard Mitigation Plan Availability:

The 2015 Bismarck Multi-Hazard Mitigation Plan, addressing the flood hazard and other hazards, is available on the city's website located on the Emergency Management "Get Prepared" page at <https://www.bismarcknd.gov/DocumentCenter/View/22621/Bismarck-MHMP-2015-Public?bidId=>

The 2015 Bismarck Multi-Hazard Mitigation Plan is also made available to the public via the City of Bismarck website at www.bismarcknd.gov on the home page within **Services, Flood Resources**. Also, citizens or other interested parties may contact the Bismarck Emergency Management office at 222-6727 to obtain a copy.

2. CRS 510 Progress Report Development and Dissemination:

This CRS Activity 510 flood mitigation progress report (Progress Report) is developed by Gary Stockert, City Emergency Manager (and CRS Program Coordinator) in cooperation with representatives from other city departments including Administration, Community Development, and Public Works. This Progress Report is made available to the city commission, media and general public via news release and media advisory to inform of the CRS Activity 510 progress report agenda item placed on the January 28, 2020 City Commission Meeting. The commission meeting minutes remain available via the city's website within the "Agenda Center" and "Archive Center" permanently. The flood mitigation annual Progress Report is also made available to the public via the City of Bismarck website at www.bismarcknd.gov on the home page within **Services, Flood Resources**. It is also published for a period of time within the **News** on the homepage.

3. Implementation Status of Flood Hazard Mitigation Action Items:

Flood Mitigation Action Items as identified in the 2015 Bismarck Multi-Hazard Mitigation Plan	Status
1. Apply to participate in the National Flood Insurance Program (NFIP) Community Rating System (CRS).	Completed. Approved as Class 8. Effective Date (flood policy insurance reductions) is October 1, 2017.
2. Apex Engineering has been contracted to conduct a preliminary investigation into solutions to reduce urban flooding in south Bismarck in the Expressway and South 12 th Street areas. (current mitigation activity)	Identified infrastructure project solutions were completed in 2017 to reduce flooding in this area. This project addresses those vulnerable areas as identified in the mitigation plan including 12 th street (University Drive to Bismarck Expressway) and Bismarck Expressway from 7 th Street to 12 th Street.
3. Continue Watershed master planning and updating as an on-going mitigation activity conducted jointly by Engineering, Public Works, and Community Development.	Completed and on-going. Annual funds are allocated within the budget (approx. 60K) for continuous updating of the master plan.
4. Develop an Emergency Action Plan for Jackman Coulee Dam #2. (Tom O'Leary Golf Course)	Not yet completed. Contracted with Houston Engineering - Estimated completion of the Emergency Action Plan: early 2020
5. Conduct maintenance activities at Jackman Coulee Dam #2 (Tom O'Leary Golf Course) as recommended by the State Water Commission and/or annual inspections conducted by Bismarck Public Works.	Annual inspections are completed for all outfalls, dam, and ponds related to the Jackman Coulee Dam #2 located at the Tom O'Leary Golf Course.
6. Maintain existing flood protective measures to minimize vulnerability as a result of ice jams as well as 100-year and 500-year flood events. Note: Refers to maps (Figures 1 thru 5) within "existing mitigation"	All flood gate structures are exercised and maintained annually.
<p>Public Education Topics:</p> <p>7. Coordinate and/or support NFIP flood insurance promotional efforts including the availability of flood insurance for community residents and businesses.</p> <p>8. Conduct Flood Mitigation and Preparedness Public Education efforts for local citizens and businesses.</p>	<p>- Flood preparedness and mitigation public education materials are maintained within the city's website as well informational materials available at various locations including the Bismarck Library.</p> <p>Feb 25, 2019: Interview with KX News to promote flood preparedness and awareness of flood insurance options.</p> <p>June 18, 2019: Tuesday Tidbit (via Facebook): Every Season to Prepare (all hazards preparedness)</p> <p>August 19, 2019: Sunrise Elementary Open House – Public Education (all hazards including flood preparedness and insurance options).</p> <p>Oct 22, 2019: Public Meeting – USACE. Garrison Dam Management / flood preparedness.</p> <p>Nov 7, 2019: Interview with KFYP TV to promote flood preparedness and awareness of flood</p>

	<p>insurance options.</p> <p>Dec 16, 2019: City of Bismarck Facebook post promoting NFIP flood insurance and informing of Bismarck's status as a CRS community.</p> <p>Dec 18, 2019: Outreach letter sent to all homes within Repetitive Loss area identified to inform of flood risk and opportunity for insurance via NFIP.</p>
--	---

4. Additional Planned, Recommended, or Mitigation Project Revisions:

- To address flood hazard vulnerability as identified in the 2015 Multi-Hazard Mitigation plan, Public Works will be enhancing pumping capabilities at the 7th and 9th Street underpasses to alleviate urban flooding impact during major rain events. Pumping equipment at the 7th street location was replaced in 2019.
- ND State Water Commission is coordinating with FEMA and Burleigh County to conduct a review of the Burleigh County FEMA Flood Risk Map. Bismarck will be supporting that project as necessary. The review process itself and completion of an updated flood risk map will inform applicable future mitigation action items.
- Based on the 5-Year cycle of the Bismarck Multi-Hazard Mitigation plan, the identification of new or revised flood mitigation action items is currently being addressed as part of the mitigation plan update process for 2020.



ADMINISTRATION

DATE: January 21, 2020
FROM: Keith J. Hunke, City Administrator
ITEM: Interim Taxation Committee Presentation

REQUEST

Consider request to review information to be presented to the Interim Taxation Committee.

Please place this item on the January 28, 2020 City Commission meeting.

BACKGROUND INFORMATION

The Chairman of the Interim Taxation Committee has asked for a presentation of information pertaining to the following items to assist in its study of special assessment revenue replacement options: The purpose for which special assessments are used in Bismarck; Suggestions for alternative revenue options to replace the revenue generated by special assessments; and Comments and any suggested edits or additions to House Bill 1474 as amended by the House Political Subdivisions Committee.

RECOMMENDED CITY COMMISSION ACTION

Consider request to review information to be presented to the Interim Taxation Committee.

STAFF CONTACT INFORMATION

Keith J. Hunke, khunke@bismarcknd.gov, 701-355-1300

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Tentative Agenda

TAXATION COMMITTEE

Wednesday, January 29, 2020
Roughrider Room, State Capitol
Bismarck, North Dakota

9:00 a.m. Call to order
Roll call
Consideration of the minutes of the September 24, 2019, meeting

PROPERTY TAX REPORT

9:05 a.m. Demonstration by a representative of the Tax Department of an online property tax levy look-up tool and presentation of:

- The statewide average taxable value percentage increase for 2019
- The amount paid by the state to each county for social service costs
- Additional property tax increase information

SPECIAL ASSESSMENT REVENUE REPLACEMENT STUDY

9:30 a.m. Presentation by the Legislative Council staff of a memorandum detailing the elected or appointed status of those imposing special assessments and review of Engrossed House Bill No. 1474 (2019)

9:40 a.m. Presentation by Mr. Keith Hunke, City Administrator, City of Bismarck, regarding the use of special assessments, potential revenue replacement options, and suggested changes to Engrossed House Bill No. 1474

10:00 a.m. Presentation by Mr. Allen Grasser, City Engineer, City of Grand Forks, regarding the use of special assessments, potential revenue replacement options, and suggested changes to Engrossed House Bill No. 1474

10:20 a.m. Break

10:35 a.m. Presentation by representatives of the City of Fargo, regarding the use of special assessments, potential revenue replacement options, and suggested changes to Engrossed House Bill No. 1474

10:55 a.m. Presentation by Mr. Tom Barry, City Manager, City of Minot, regarding the use of special assessments, potential revenue replacement options, and suggested changes to Engrossed House Bill No. 1474

11:15 a.m. Presentation by Mr. David Tuan, City Administrator, City of Williston, regarding the use of special assessments, potential revenue replacement options, and suggested changes to Engrossed House Bill No. 1474

11:35 a.m. Comments from interested persons regarding the committee's study of special assessment revenue replacement options

11:50 a.m. Committee discussion

12:00 noon Luncheon recess

ECONOMIC DEVELOPMENT TAX INCENTIVES STUDY

1:00 p.m. Presentation by Ms. Ellen Harpel, Founder, Smart Incentives, regarding evaluating the effectiveness of economic development tax incentives

1:30 p.m. Presentation by the Legislative Council staff of a memorandum regarding the history of fuel tax rate changes

- 1:40 p.m. Presentation by a representative of the Tax Department of fiscal information relating to coal severance and conversion tax exemptions, oil and gas gross production and oil extraction tax exemptions, and fuel tax refunds for certain users
- 2:00 p.m. Comments from interested persons regarding the committee's study of economic development tax incentives
- 2:15 p.m. Committee discussion
- 2:25 p.m. Break

TAXATION OF ELECTRONIC SMOKING DEVICES STUDY

- 2:35 p.m. Presentation by Ms. Heather Austin, Executive Director, Tobacco Free North Dakota, regarding recent federal changes increasing the legal age to purchase tobacco products to age 21 and the United States Food and Drug Administration's plans to restrict sales of flavored e-liquid
- 2:45 p.m. Presentation by a representative of the State Department of Health regarding vaping-related illness cases in North Dakota and updated vaping information released by the Centers for Disease Control and Prevention
- 3:00 p.m. Presentation by a representative of the Department of Public Instruction regarding the use of electronic smoking devices by minors
- 3:15 p.m. Presentation by the Legislative Council staff of a bill draft regarding the taxation of electronic smoking device liquid
- 3:25 p.m. Comments from interested persons regarding the bill draft and the committee's study of the taxation of electronic smoking devices
- 3:50 p.m. Committee discussion
- 4:00 p.m. Adjourn

Committee Members

Representatives: Jim Grueneich (Chairman), Jason Dockter, Matt Eidson, Sebastian Ertelt, Ron Guggisberg, Patrick Hatlestad, Craig Headland, Tom Kading, Ben Koppelman, Alisa Mitskog, Vicky Steiner

Senators: Dwight Cook, Jim Dotzenrod, Jordan Kannianen, Curt Kreun, Dale Patten, Jessica Unruh

Staff Contact: Emily L. Thompson, Code Revisor



PUBLIC WORKS – UTILITY OPERATIONS

DATE: January 23, 2020
FROM: Michelle Klose, Director of Utility Operations
ITEM: Utility comments on EPA draft Lead and Copper Rule

REQUEST

Approval for Utility to submit comments on the draft Lead and Copper Rule to EPA and our congressional delegation, working with the North Dakota League of Cities and communities across the state.

Please place this item on the January 28, 2020 City Commission meeting agenda.

BACKGROUND INFORMATION

Bismarck Public Works took the lead to coordinate comments on the draft Lead and Copper Rule with League of Cities, North Dakota Department of Environmental Quality, and multiple cities across the state. We first pulled together the public works and engineering contacts across the state to share and discuss the proposed rule and the impact to the utilities. We worked with our congressional delegation to extend the 30-day comment period to 60 days, and also organized an in person meeting with the communities across the state and North Dakota Department of Environmental Quality to go through the details of the proposed rule and how we could jointly provide feedback on the impacts to each of our cities and provide constructive recommendations. We are in the process of developing a joint letter outlining major concerns with the proposed Lead and Copper Rule. The major points in the comments we will provide include the information below, which are broadly supported with our fellow North Dakota cities.

There are significant concerns with the direction of the EPA proposed Lead and Copper Rule. On a high level they are:

1. The draft rule increases responsibility, liability, and costs for the utility, and all the rate payers within the utility, for infrastructure not owned by the utility but instead adds the pipes and fittings that are between the main and the water tap inside a person's home. This places the utility in a level of high risk for compliance failure and at the same time provides no support for the property owners' cooperation in testing or replacement of

the service line, and no control over the fittings or plumbing within the home or school that may increase lead levels. In light of that requirement, the utility would need to either get access through city ordinance inside of people's homes, even against their will, or else we will need to treat the water to highest level of lead and copper found in a home in Bismarck. The draft rule places regulatory compliance requirements on the utility, including replacement of extensive underground infrastructure, based on test results of samples that the utility does not take nor have any level of quality control or quality assurance.

2. The draft rule provides no responsibility on the property owner for their portion of a lead service line, no responsibility on the property owner to cooperate with the utility, no responsibility of the owner to identify the material of the service line entering their home, no responsibility to disclose existence of the lead service line or testing levels especially to customers if they run a business or day care facility from their property that has a lead service line, no responsibility to disclose if they have waived the tracking of their lead service line at time of the property sale. In addition, the draft rule places requirements to forever test for lead in schools and daycare facilities, even in facilities that do not have lead service lines or detectable levels of lead. All of this would require state or local leaders to face extreme increased costs for compliance or the alternative of requiring private property owners to give us mandated access.
3. The draft rule places a large administrative burden on the utility for the inventory of all lead service lines, the tracking of individual use filters and replacement cartridges, and places the highest emphasis in the water treatment and water quality on protection of lead service lines. The utility currently balances funding needs for all regulatory compliance, growth, and infrastructure reliability for all utility customers. The draft rule creates a higher cost to provide service to properties with lead service lines, and requires all treatment to favor lead service lines which may adversely affect other types of service lines. This focus on corrosion control solely for lead service lines could create consequences for other types of water service lines. The draft rule is setting the stage for an imbalance with the residential rate structure as the cost of service for properties with lead service lines will be much higher than the other customers. To protect the services being provided to all water customers, and for the utility remain in compliance with the lead and copper rule, the utility may be forced to shut off water service to if we can no longer provide safe reliable water service to a property that has very high levels resulting from interior plumbing and fittings that are solely the property owner's responsibility.

The utility would recommend the following changes in the draft rule:

*Recognize the required balance between the utility and the property owner so the burden of compliance is based upon who owns the infrastructure at the point of collection of the sample. There are benefits of having a trigger point below the compliance level to push review of the corrosion control methods.

*The noncompliance time period that triggers replacement of all lead service lines needs to be lengthened by a year to allow results in changes to corrosion control to actually be seen in the distribution system.

*The rule must recognize the property owner has responsibility for their portion of the lead service line and the plumbing and fittings within the structure that can adversely affect the water quality.

*Require the property owner to disclose the lead service line to the utility, and property owner be responsible for their own filters especially if using the property as a business such as a daycare

or rental property. This allows a balance of cooperation between the utility and the property owner to reduce lead levels.

*If the goal of EPA is to have all lead service lines removed in the next 33 years as implied by the rule, they should be direct and set a future date of compliance for removal of lead service lines by the owner of the lead service line.

While the comments the utilities are drafting are in much more depth, I would generally like approval to present these items and others that directly impact the utility. Due to time constraints, a final draft of those comments will be due prior to any further Commission meeting. I will be present at the City Commission meeting to respond to questions the Board may have regarding this matter.

RECOMMENDED CITY COMMISSION ACTION

Approval for Utility to submit comments on the draft Lead and Copper Rule to EPA and our congressional delegation, working with the North Dakota League of Cities and communities across the state.

STAFF CONTACT INFORMATION

Michelle Klose, Director of Utility Operations, 355-1700, mklose@bismarcknd.gov.