



July 28, 2020

Board of City Commissioners
Bismarck, ND

Dear Commissioners:

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

- August 11 & 25, 2020
- September 8 & 22, 2020
- October 13 & 27, 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. Public comment (restricted to items on the Consent Agenda and Regular Agenda, excluding public hearing items).
2. Consider the approval of the minutes.

Documents:

[MN071420.pdf](#)

3. CONSENT AGENDA

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

Documents:

[HR - Personnel Report.pdf](#)

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

1. Reappoint Robin Thorstenson and Rick Collin to the Dakota Media Access Board of Directors.

Documents:

[\(C\) ADMIN - Dakota Media Access Apointments.pdf](#)

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

1. Award bid to Hawkins Water Treatment Group for runway deicer.
2. Approve purchase of tires for Airport fire truck using State Bid.
3. Defer Airport rents and fees.

Documents:

[\(C\) AIR - Bids for Runway Deicer.pdf](#)
[\(C\) AIR - Purchase Tires for Airport Fire Truck.pdf](#)
[\(C\) AIR - Airport Rents and Fees.pdf](#)

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

1. Ratify the July 13, 2020 State of Emergency Declaration related to COVID-19 by the President of the City Commission and extend its effect to August 12, 2020.

Documents:

[\(C\) ATTY - Emergency Declaration.pdf](#)

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

1. Approve Deidre Hughes as a TrAMS User and an NTD User Manager.
2. Introduction of and call for a public hearing on Ordinance 6430, a request for a zoning change from the RM30-Residential and HM-Health Medical zoning districts to the HM-Health Medical zoning district for Tract 500 of Blocks 27 & 38, and Lots 3, 4, the North 20 feet of Lot 5, and Lots 9 & 10, Block 38, Northern Pacific Second Addition, requested by Bismarck Cancer Center. The Bismarck Planning and Zoning Commission recommends approval.
3. Introduction of and call for a public hearing on Ordinance 6431, a request for a zoning change from the A-Agricultural, R5-Residential, R10- Residential, RT-Residential and RM30-Residential zoning districts to the P-Public zoning district on part of the S1/2 of Section 19 and the N1/2 of Section 30, T139N-R80W/Hay Creek Township & City Lands, requested by Clairmont Family Trust. The Bismarck Planning and Zoning Commission recommends approval.
4. Request from Steven McNichols to release the Northerly 4 feet of the 10-foot utility easement along the southerly lot line of Lot 29, Block 3, Horizon Heights First Addition. Staff recommends approval.
5. Request from Mark and Miranda Hoffert to release all of the 20-foot access easement over the Easterly 20 feet of Lot 17, Block 1, Tatley Meadows VII. Staff recommends approval.

Documents:

[\(C\) CD - MPO TrAMS User.pdf](#)
[\(C\) CD - Northern Pacific.pdf](#)
[\(C\) CD - Hay Creek Township.pdf](#)
[\(C\) CD - Horizon Heights.pdf](#)
[\(C\) CD - Tatley Meadows.pdf](#)

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

1. Approve exempt City staff to be paid straight time for work beyond regular operations pertaining to the 2020 COVID-19 Pandemic through the Cares Act.

Documents:

[\(C\) HR - COVID-19 Reimbursement.pdf](#)

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

1. Permission to solicit donations and hold the event for the Tri-City Community Picnic.

Documents:

[\(C\) PD - Tri-City Picnic.pdf](#)

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

1. Extend the two-year contract with Waste Management for residential curbside recycling.

Documents:

[\(C\) PW-SO - Contract Extension for Waste Management.pdf](#)

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

1. Approve Change Order G1 with PKG Contracting, Inc. and Amendment to Task Order No. 9 with AE2S for the Water Treatment Plant Limeslaker Project.
2. Approve contract with Hach Company for lab data management software for the Water and Wastewater Treatment Plants.
3. Approve purchase of ceramic-lined elbows for the lime transfer system at the Water Treatment Plant.

Documents:

[\(C\) PW-UO - Change Order G-1.pdf](#)
[\(C\) PW-UO - Lab Data Software.pdf](#)
[\(C\) PW-UO - Sole Source Purchase for WTP.pdf](#)

4. REGULAR AGENDA

5. Consider the request from the Community Development Department for Jason and Krysta Sellers to release the drainage easement within Lot 36, Block 1, Misty Waters.

Documents:

[\(R\) CD - Misty Waters.pdf](#)

6. Public hearing on Ordinance 6427 and 6428, to create special assessment districts for annexed properties.

Documents:

[\(R\) FIN - Ordinance 6427-6428.pdf](#)

- 7. Consider the request from the Fire Department for Emergency Management to accept bid for the siren activation controller system for the City's outdoor warning system.**

- 1. Accept bid for the siren activation controller system.**

Documents:

[\(R\) FIR - Siren Activation Bids.pdf](#)

- 8. Consider the request from the Attorney for continued discussion regarding the Temporary License to Use Premises Agreement for the August 1, 2020 Medieval Rush event.**

Documents:

[\(R\) ATTY - Medieval Rush.pdf](#)

9. Receive a Budget Committee update, regarding Budget 2021, from Dmitriy Chernyak, Finance Director.
10. Consider the request from the Attorney for continued discussion regarding fireworks displays within City limits.

Documents:

[\(R\) ATTY - Fireworks Ballot Measure.pdf](#)

Other Business

Adjourn

MISSION STATEMENT

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

Acknowledgement for the Alliance for Community Media's 2020 Buske Leadership Award.

Congratulations to Mary Van Sickle, who is recognized for her commitment to the mission and goals of the Alliance for Community Media.

MEETING OF THE BOARD OF CITY COMMISSION

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

Bea Kaiser, Joyce Hinman and Katherine Waldera, employees of the Library, all spoke on behalf of the Commission supporting the Library's budget.

John Kuhn, an employee at Public Works, requested that as the City moves forward with the 2021 budget, to keep in mind how important the City health benefit package is to employees.

2. Consider the approval of the minutes.

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

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

3. CONSENT AGENDA

Commissioner Guy moved to approve the consent agenda as presented with the exception of Community Development's item F5, which she requested be pulled for further discussion. Commissioner Zenker seconded the motion.

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

After further discussion about item, F5, it was determined that the Community Development Department and the City Engineer recommended the property owner move forward with the easement release, as long as a new easement was established to replace it.

Commissioner Guy then moved to approve Community Development's item F5 as presented. No second followed.

Commissioner Marquardt motioned to table the item until the next commission meeting, with the understanding that more information will be provided from the Community Development Department and the City Engineer regarding the stormwater easement in question. Commissioner Splonskowski seconded Commissioner Marquardt's motion.

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

A. Consider approval of expenditures.

Vouchers: 1093663 - 1093986.

B. Consider the approval of personnel actions.

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

1. Appoint Ryan Fugere to the Bismarck-Mandan Mayors' Committee for People with Disabilities.
2. Authorize gaming site applications for the following:

Fort Abraham Lincoln Foundation

- Peacock Alley - 422 E. Main Ave.

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

1. Sole Source Purchase of LUMACURVE sign panels.

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

1. Permission to apply for a grant from the North Dakota Department of Health for an influenza vaccination rates in high risk adults.

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

1. Approve modified major subdivision final plat for Elk Ridge Second Addition.
2. Approve modified minor subdivision final plat for Wachters Addition.
3. Approve contract for a consultant to complete a historic architectural survey of portions of Highland Acres neighborhood.
4. Request from Ryan and Courtney Heiser to release the North 4 feet of the 7-foot utility easement along the south lot line of Lot 1, Block 4, Horizon Heights Fifth Addition. Staff recommends approval.
5. Request from Jason and Krysta Sellers to release the drainage easement within Lot 36, Block 1, Misty Waters. Staff recommends approval.
6. Introduction of and call for a public hearing on Ordinance 6429, a request for the annexation of the North 223 feet of Lot 1, Block 3, Timberlane Place Second Subdivision. The Bismarck Planning and Zoning Commission recommends approval.

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

1. Accept NDDOT Transportation Alternatives Funding for the School Safety Project.
2. Approve street closure amendment for the annual Downtowners' Street Fair.
3. Approve private utility and private drive agreement with Heritage Development, Inc.
4. Approve development agreement with Innovative Solutions, LLC.
5. Approve new banner design for Camp Hancock historical site.
6. Approve the Mandan Old Red Trail project for 2025 federal aid solicitation.

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

1. Approve the Belle Mehus Theater lighting project.

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

1. Application for abatement, for 2019, market value reduction, at 5428 Duncan Dr.

2. Introduction of and call for a public hearing on ordinances 6427-6428, to create special assessment districts for annexed properties.

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

1. Award bid for asphalt and concrete crushing, at the Municipal Landfill, to Hoffer Landscaping.

2. Award bid for the City/County Building backup generator project to Western Edge, Inc.

4. REGULAR AGENDA

5. Receive a Budget Committee update, regarding Budget 2021, from Dmitriy Chernyak, Finance Director.

Finance Director, Dmitry Chernyak, presented an overview of the City's 2021 budget.

Please see the link for his full presentation.

<https://www.bismarcknd.gov/AgendaCenter/ViewFile/Item/5266?fileID=12767>

In conclusion, the Budget Committee made these recommendations for the Commission with these goals in mind: Maintaining essential City services, understanding the current financial and economic situation, addressing critical needs to sustain services to citizens and reducing costs, where possible.

Priority initiatives, as recommended based on these goals were:

1. New/reclassified employees (All Funds)

Requested: \$547,357 - Recommended: \$128,261

2. Additional operations and maintenance (All Funds)

Requested: \$954,272 - Recommended: \$871,047

3. One-Time (All Funds)

Requested: \$13,672,231 - Recommended: \$9,122,944

4. Capital improvement projects, as recommended

5. Fees and charges for services with changes, as recommended

6. 3% increase in employee salaries with an employee cost index adjustment of 2.7%, as recommended in the Condrey plan from 2015

7. Maintain current health insurance plan for City employees

8. General Fund: Increase property taxes by \$8M to sustain General Fund and Roads and Streets Operations going forward, replacement of obsolete equipment, vehicles and machinery for Roads and Streets operations.

9. Bismarck Veterans Memorial Public Library: Increase property taxes by \$180K to sustain the Library operations going forward.

This increase equates to \$239.82 per property with a median value in 2019 of \$274K.

Commissioner Guy moved to approve the Budget Committee's recommendations as presented with an additional request to add the Library's building renovations. No second followed her motion.

After further discussion, the Commission directed staff to explore the options of doing an incremental or phased approach to the Budget Committee's recommendations.

At this time, no motion was made for this item. The Commission will re-address this item at the next City Commission meeting.

6. Consider the request from the Finance Department for an application for abatement, for 2020, market value reduction, for 315 Linden Lane.

Allison Jensen, the City Assessor, informed the commission that the property owner at 315 Linden Ln. was requesting an abatement for a market value reduction of \$23,000.00. This would make the property valued at \$315,000.00. Assessor Jensen stated that the Assessing Department valued the home at \$338,000.00, and did not recommend approval of the abatement.

Commissioner Guy asked about the impact the abatement would have on owner's property tax. Assessor Jensen stated the amount would be small and gave the estimation of about a \$50.00 decrease.

Commissioner Marquardt moved to deny the request for the abatement. Commissioner Zenker seconded the motion.

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

Abatement denied.

7. Consider the request from the Community Development Department for a request from 161 Commercial, LLC. for approval of a final plat of First Responders Addition. The Bismarck Planning and Zoning Commission recommends approval.

Commissioner Zenker moved to approve the final plat as presented. Commissioner Marquardt seconded the motion.

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

8. Consider the request from the Attorney for continued discussion regarding the Temporary License to Use Premises Agreement for the August 1, 2020 Medieval Rush event.

At the June 23, 2020 meeting, the Commission requested the Medieval Rush event organizer meet with the City Engineer and Ian Easton, a bicyclist in the community who assists with taking care of the bike trails overlooking the Missouri, to develop a better route for the race. The route change would have less of an impact on the existing trails adjacent to the MDU Resources Community Bowl.

After confirming this meeting was successful, Mayor Bakken asked the City Attorney, Janelle Combs, if she felt confident in the Temporary License to Use Premises Agreement to move forward with the event. Attorney Combs stated she felt the agreement covered the liability and insurance associated with allowing an event like this to occur on City property.

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

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

9. Consider the request from the Attorney for continued discussion regarding fireworks displays within City limits.

Commissioner Splonskowski, Marquardt and Guy all shared comments and concerns they had heard from Bismarck residents regarding firework displays within City limits.

Commissioner Zenker stated he felt Commissioner Guy's suggestion of placing the item on a ballot would be a more effective approach for making a decision on the item.

President Bakken then directed staff to find out the logistics of placing the item on the November, 2020 election ballot, including a timeline for writing the measure, and to present the information at the next meeting on July 28, 2020.

No motion was made for this item at this time.

Other Business

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

Adjourn

The meeting was adjourned at 7:34 p.m.

PERSONNEL ACTIONS FOR THE MEETING ON Jul 28, 2020

Full-Time and Part-Time Appointments

Miller, Anja Legal Assistant	Attorney	Probationary appointment @ \$23.55/hr. 8/10/2020
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Separations

Suko, Keith Building Service Worker	Airport	Retired. 7/25/2020
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Seidel, Chad Engineering Tech II	Engineering	Resigned. 8/1/2020
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Tipton, Angel Maintenance Attendant	Event Center	Resigned. 6/29/2020
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Long Feather, Wes HR Generalist	Human Resources	Terminated. 7/22/2020
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Hedstrom, Joshua Police Officer	Police	Resigned. 7/1/2020
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Mathias-Tweet, Ashley Police Youth Worker	Police	Resigned. 7/24/2020
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Others

Caniglia, Adam Firefighter	Fire	Begin 53 hr./work/week @ \$18.29/hr. 7/5/2020
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Erickson, Adam Firefighter	Fire	Begin 53 hr./work/week @ \$18.29/hr. 7/5/2020
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Hurt, Dale Fire Captain	Fire	End training duties-resume normal shift @ \$32.99/hr. 7/5/2020
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LaFond, Anthony Firefighter	Fire	Begin 53 hr./work/week @ \$18.29/hr. 7/5/2020
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Michlitsch, Andrew Firefighter	Fire	End training duties-resume normal shift @ \$25.30/hr. 7/5/2020
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Uhlich, Justin Firefighter	Fire	Begin 53 hr./work/week @ \$18.29/hr. 7/5/2020
Webber, Sheldon Firefighter	Fire	Begin 53 hr./work/week @ \$18.29/hr. 7/5/2020
Eckert, Sandra Client Services Rep	Public Health	Leave w/out pay 7/24/2020 pay period



City Administration

DATE: July 21, 2020
FROM: Jason Tomanek, Assistant City Administrator
ITEM: Dakota Media Access Board Appointments

REQUEST

Consider reappointing Robin Thorstenson and Rick Collin to the Dakota Media Access Board of Directors.

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

BACKGROUND INFORMATION

If confirmed by the Board of City Commissioners, both individuals would be appointed to a term expiring in 2024.

RECOMMENDED CITY COMMISSION ACTION

Consider the appointments of Robin Thorstenson and Rick Collin to the Dakota Media Access Board of Directors for the terms specified.

STAFF CONTACT INFORMATION

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



7/15/20

Honorable Mayor Steve Bakken
Bismarck City Commissioners
Bismarck City Hall
PO Box 5503
Bismarck, ND 58506-5503

Dear Mayor Bakken and Bismarck City Commissioners:

Dakota Media Access (DMA) requests the following Bismarck residents be considered for appointment to serve on the DMA Board of Directors.

Robin Thorstenson, ND Dept. of Human Services (re-appointment to 2024)

Rick Collin, Southwest District Representative for Senator Kevin Cramer (re-appointment to 2024)

Current DMA Board Members include:

Bismarck Appointees:

Jack McDonald, Wheeler Wolf Attorneys (2022)

Constance Hofland, Zuger Kirmis & Smith (2022)

Dave Diebel, D&N Cinematics (2023)

Greg Wheeler, Basin Electric (2023)

Tanna Kincaid, Bismarck Public Schools (2023)

Mark Splonskowski, Bismarck City Commission Liaison

Mandan Appointees:

Sue Balcom, BHG, Inc. (2020)

Amber Larson, Mandan City Commission Liaison

Thank you for your consideration.

Sincerely,

Handwritten signature of Mary Van Sickle in blue ink.

Mary Van Sickle, Executive Director
Dakota Media Access

Handwritten signature of Jack McDonald in blue ink.

Jack McDonald, President
Dakota Media Access

Bismarck

Airport

DATE: July 21, 2020

FROM: Greg Haug, Airport Director

ITEM: Receive and consider bids for runway deicer.

REQUEST

Please place this item on the 7/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

Runway deicer is used as part of the Airport's Snow and Ice Control Plan. With Commission approval, the Airport Maintenance Department will order and purchase runway deicer from the low bidder to meet airport snow and ice control needs for the upcoming winter season. Funds for runway deicer are budgeted in the approved Airport spending plan. Bids were opened July 20, 2020 at 4 PM. Four bids were received, the low bidder was Hawkins Water Treatment Group, Washburn ND for \$4.08 per gallon (Enclosure 1).

RECOMMENDED CITY COMMISSION ACTION

Receive the bids and award to the apparent low bidder Hawkins Water Treatment Group, Washburn ND for \$4.08 per gallon subject to staff review and checking.

STAFF CONTACT INFORMATION

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

Enclosure

1. Bid tab

Runway Deicer 2020-2021		7/20/2020	
	Company Name	Item 1 Potassium Acetate Per Gallon	Remarks
1	Two Rivers Terminal Pasco, WA	\$4.69 Per Gallon	
2	Nachurs Alpine Solutions Marion, OH	\$4.10 Per Gallon	
3	Cryotech Deicing Technology Fort Madison, IA	\$4.91 Per Gallon	
4	Hawkins Washburn, ND	\$4.08 Per Gallon	
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Airport

DATE: July 20, 2020

FROM: Gregory B. Haug, Airport Director

A handwritten signature in blue ink, appearing to be "GBH", located to the right of the "FROM:" line.

ITEM: Consider Purchase of Tires for Airport Fire Truck using State Bid
REQUEST

Please place this item on the 7/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

Bismarck Airport needs to replace tires on one of our Airport Fire Trucks. The Airport Fire Department has this vehicle ready 24/7 for any emergency that might happen at the airport and it is critical to meet requirements set forth by the FAA. Ordinance 7-01-03 paragraph 5 allows the use of state bid for purchases upon approval of the City Commission. Airport staff would like to replace the tires on the fire truck with Bridgestone Off-Road tires listed under state bid for \$16,317.35. A spreadsheet listing the state bid number and tire specifications is included for review. (Enclosure 1) Funds for this purchase are in the approved Airport spending plan.

RECOMMENDED CITY COMMISSION ACTION

Approve the purchase of tires for an Airport Fire Truck using State Bid for \$16,317.35. (Enclosure 1)

STAFF CONTACT INFORMATION

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

Enclosure:

1. ND State Bid Summary
2. NW Tire State Bid Quote

MATERIAL NUMBER	BRAND	TIRE TYPE	TIRE PATTERN	SIZE	PLY	LOAD INDEX SPEED RATING	CATALOG PRICE	DISCOUNT %	NASPO 2020-2021 PRICE
422770	Bridgestone	Off the Road	V-STL M-TRACTN P E1A	21.00R35	2*		\$11,696.43	37%	\$7,368.75
422789	Bridgestone	Off the Road	V-STL M-TRACTN P E2A	21.00R35	2*		\$11,696.43	37%	\$7,368.75
360449	Firestone	Off the Road	DURAFORCE DEEP TREAD	215/70D15NHS	8		\$210.51	37%	\$132.62
372762	Firestone	Off the Road	ALL TRACTION UTILITY	21L-24	18	A8	\$1,485.90	37%	\$936.12
321370	Firestone	Off the Road	ALL TRACTION UTILITY	21L-24	12	A8	\$1,142.05	37%	\$719.49
327727	Firestone	Off the Road	ALL TRACTION UTILITY	21L-24	16	A8	\$1,340.17	37%	\$844.31
356093	Firestone	Off the Road	ALL TRACTION UTILITY	21L-28	14		\$1,399.22	37%	\$881.51
403970	Firestone	Off the Road	SUPER DEEP TREAD L5	23.5-25	20		\$4,336.50	37%	\$2,732.00
403911	Firestone	Off the Road	SUPER DEEP TREAD L5	23.5-25	16		\$4,252.50	37%	\$2,679.08
404969	Firestone	Off the Road	SUPER GROUND GRIP E2/L2	23.5-25	20		\$2,665.95	37%	\$1,679.55
400610	Firestone	Off the Road	SUPER ROCK GRIP LD E3/L3	23.5-25	20		\$2,504.25	37%	\$1,577.68
400556	Firestone	Off the Road	SUPER ROCK GRIP LD E3/L3	23.5-25	16		\$2,400.30	37%	\$1,512.19
005309	Bridgestone	Off the Road	V-LUG2 D2A	23.5-25	20		\$2,875.00	37%	\$1,811.25
005501	Firestone	Off the Road	VERSABUILT ALL PURPOSE	23.5R25	MS		\$3,004.41	37%	\$1,892.78
005509	Firestone	Off the Road	VERSABUILT ALL TRACTION	23.5R25	1*		\$2,910.32	37%	\$1,833.50
005504	Firestone	Off the Road	VERSABUILT DEEP TREAD	23.5R25	MS		\$4,291.40	37%	\$2,703.58
422428	Bridgestone	Off the Road	V-STL D-LUG D2A	23.5R25	2*		\$8,282.21	37%	\$5,224.09
420565	Bridgestone	Off the Road	V-STL D-LUG D2A	23.5R25	1*		\$8,076.09	37%	\$5,087.94
006536	Bridgestone	Off the Road	V-STL J-TRACTN	23.5R25	2*		\$4,381.14	37%	\$2,760.12
431198	Bridgestone	Off the Road	V-STL J-TRACTN D2A	23.5R25	1*		\$4,097.10	37%	\$2,581.17
263400	Bridgestone	Off the Road	V-STL K-TRACTN D2A	23.5R25	1*		\$3,872.08	37%	\$2,439.41
261351	Bridgestone	Off the Road	V-STL K-TRACTN E1A	23.5R25	2*		\$4,119.36	37%	\$2,595.20
421960	Bridgestone	Off the Road	V-STL L-TRACTN DE2	23.5R25	MS		\$4,467.44	37%	\$2,814.49
422738	Bridgestone	Off the Road	V-STL L-TRACTN S DE2	23.5R25	MS		\$6,047.60	37%	\$3,809.90
418773	Bridgestone	Off the Road	V-STL M-TRACTN D2A	23.5R25	2*		\$4,381.14	37%	\$2,760.12
418137	Bridgestone	Off the Road	V-STL M-TRACTN D2A	23.5R25	1*		\$4,097.10	37%	\$2,581.17
418196	Bridgestone	Off the Road	V-STL M-TRACTN E1A	23.5R25	2*		\$4,381.14	37%	\$2,760.12
423750	Bridgestone	Off the Road	V-STL SNOW WEDGE DE2	23.5R25	MS		\$4,820.05	37%	\$3,036.63
423548	Bridgestone	Off the Road	V-STL SUPER DEEP TRACTN D2A	23.5R25	1*		\$7,559.24	37%	\$4,762.32
422703	Bridgestone	Off the Road	V-STL ULTRA TRACTN DG2	23.5R25	1*		\$3,512.27	37%	\$2,212.73
276057	Bridgestone	Off the Road	R-LUG S E2A	24.00-35	42		\$9,049.95	37%	\$5,701.47
003542	Bridgestone	Off the Road	V-STL M-TRACTN P E1A	24.00R35	2*		\$13,590.44	37%	\$8,561.98
422991	Bridgestone	Off the Road	V-STL M-TRACTN P E2A	24.00R35	2*		\$13,590.44	37%	\$8,561.98
003035	Bridgestone	Off the Road	V-STL M-TRACTN P E3A	24.00R35	2*		\$13,590.44	37%	\$8,561.98
423009	Bridgestone	Off the Road	V-STL M-TRACTN P LS E2A	24.00R35	2*		\$13,590.44	37%	\$8,561.98
275883	Bridgestone	Off the Road	V-STL R-LUG S E1A	24.00R35	2*		\$13,590.44	37%	\$8,561.98
419141	Bridgestone	Off the Road	V-STL R-LUG S E2A	24.00R35	2*		\$13,590.44	37%	\$8,561.98
422169	Bridgestone	Off the Road	V-STL R-LUG S LS E2A	24.00R35	2*		\$13,590.44	37%	\$8,561.98
431521	Bridgestone	Off the Road	V-STL ROCK QUARRY PREM E2A	24.00R35	2*		\$13,760.95	37%	\$8,669.40
427900	Bridgestone	Off the Road	V-STL ROCK QUARRY PREM E2A LS	24.00R35	2*		\$13,760.95	37%	\$8,669.40
418951	Bridgestone	Off the Road	V-STL G-TRACTN	24R21	1*		\$3,809.95	37%	\$2,463.27
275530	Bridgestone	Off the Road	D-LUG D2A	26.5-25	20		\$6,785.10	37%	\$4,274.61
417335	Firestone	Off the Road	PLAIN TREAD LDR DZR	26.5-25	26		\$7,638.75	37%	\$4,812.41
416568	Firestone	Off the Road	PLAIN TREAD LDR DZR UMS L5S	26.5-25	32		\$8,718.15	37%	\$5,492.43
003551	Bridgestone	Off the Road	R-LUG S D2A	26.5-25	26		\$5,198.55	37%	\$3,275.09
421863	Bridgestone	Off the Road	SMOOTH TREAD-MS D2A	26.5-25	36		\$9,103.50	37%	\$5,735.21
275573	Bridgestone	Off the Road	SMOOTH TREAD-MS D2A	26.5-25	32		\$8,850.45	37%	\$5,575.78
403989	Firestone	Off the Road	SUPER DEEP TREAD L5	26.5-25	20		\$6,018.60	37%	\$3,791.72
416428	Firestone	Off the Road	SUPER DEEP TREAD L5	26.5-25	26		\$6,122.55	37%	\$3,857.21
416401	Firestone	Off the Road	SUPER ROCK GRIP DT LD	26.5-25	26		\$5,171.25	37%	\$3,257.69
480136	Firestone	Off the Road	SUPER ROCK GRIP E3/L3 IDJ	26.5-25	44		\$7,822.50	37%	\$4,928.18
400629	Firestone	Off the Road	SUPER ROCK GRIP LD E3/L3	26.5-25	20		\$4,004.70	37%	\$2,522.96
401757	Firestone	Off the Road	SUPER ROCK GRIP LD E3/L3	26.5-25	26		\$4,572.75	37%	\$2,880.63
003553	Bridgestone	Off the Road	V-LUG2 DE2	26.5-25	20		\$4,150.40	37%	\$2,614.75
005502	Firestone	Off the Road	VERSABUILT ALL PURPOSE	26.5R25	MS		\$4,377.90	37%	\$2,758.08
005505	Firestone	Off the Road	VERSABUILT DEEP TREAD	26.5R25	MS		\$5,922.30	37%	\$3,731.05
421332	Bridgestone	Off the Road	V-STL D-LUG D2A	26.5R25	2*		\$10,550.97	37%	\$6,647.11
420573	Bridgestone	Off the Road	V-STL D-LUG D2A	26.5R25	1*		\$10,243.67	37%	\$6,453.51
431215	Bridgestone	Off the Road	V-STL J-TRACTN D2A	26.5R25	1*		\$5,496.21	37%	\$3,462.61
275611	Bridgestone	Off the Road	V-STL K-TRACTN D2A	26.5R25	1*		\$4,944.00	37%	\$3,114.72
275638	Bridgestone	Off the Road	V-STL K-TRACTN E1A	26.5R25	2*		\$5,055.08	37%	\$3,184.70
421979	Bridgestone	Off the Road	V-STL L-TRACTN DE2	26.5R25	MS		\$6,183.51	37%	\$3,895.61
422711	Bridgestone	Off the Road	V-STL L-TRACTN S E2A	26.5R25	2*		\$8,063.84	37%	\$5,080.22
419672	Bridgestone	Off the Road	V-STL M-TRACTN D2A	26.5R25	1*		\$5,496.21	37%	\$3,462.61
419311	Bridgestone	Off the Road	V-STL M-TRACTN E1A	26.5R25	2*		\$5,755.75	37%	\$3,626.12
423971	Bridgestone	Off the Road	V-STL N-TRACTN DE2	26.5R25	MS		\$8,467.05	37%	\$5,334.24
004604	Bridgestone	Off the Road	V-STL SMOOTH TREAD-MS2 D2A	26.5R25	2*		\$11,078.52	37%	\$6,979.47
423955	Bridgestone	Off the Road	V-STL SUPER DEEP TRACTN D2A	26.5R25	1*		\$9,945.30	37%	\$6,285.54
360457	Firestone	Off the Road	DURAFORCE DEEP TREAD	260/65015NHS	8		\$238.13	37%	\$150.02
362123	Firestone	Off the Road	DURAFORCE HD	265/70D16.5	8		\$213.37	37%	\$134.42



Bridgestone Americas Tire Operations, LLC
200 4th Avenue South
Nashville, TN 37201

June 29, 2020

APPROVED GOVERNMENT ACCOUNTS

SUBJECT: Bridgestone Americas Tire Operations, LLC – Acknowledgement of Authorized Government Sales Supply Point

Bridgestone Americas Tire Operations, LLC acknowledges NORTHWEST TIRE locations in North Dakota, are authorized government sales supply points to solicit, sell, service, and deliver tires to approved government accounts eligible to purchase Bridgestone and Firestone products covered by the Bridgestone Americas Tire Operations 2020 Government Sales Policy.

NORTHWEST TIRE locations in North Dakota are authorized to receive payments for products and services unless otherwise directed.

If you have any questions concerning this matter, please contact Linda McKinney at 800-543-7522, ext. 3186, or email address is mckinneylinda@bfusa.com .



**Linda McKinney
Government Sales Analyst
B2B Government Sales
Consumer Tires Sales Division
Bridgestone Americas, Inc.
Office: +1 (615) 937-3186
Fax: +1 (615) 493-4117
[Web](#) | [Twitter](#) | [Facebook](#) | [Instagram](#) | [LinkedIn](#)**

ON JULY 28, 2020
AGENDA

CONTRACT REVIEW FORM

DEPARTMENT

Contract between the City of Bismarck and NW TIRE

Purpose of Contract: PURCHASE OF TIRES (ON STATE BID)

Contract Amount: \$16,361.35

Contract Period: INDEF

Funding Source: AIRPORT SPENDING PLAN, CARES ACT GRANT

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

Comments:

After Mayor's Signature, route to: AIRPORT

Date:

Department Head Signature:

Date:

CITY ATTORNEY

Comments:

City Attorney Signature:

Date:

FINANCE

Comments:

Director of Finance Signature:

Date:

ADMINISTRATION

City Administrator Signature:

Date:

Please send copy of completed contracts to Administration.



NORTHWEST TIRE INC
 BISMARCK TRUCK & FARM
 900 YEGEN RD
 BISMARCK, ND 58504

701/221-2513

CUSTOMER: BISMARCK CITY OF (AIRPORT

21378 PO BOX 991
 BISMARCK ND
 58502-0991

BUSINESS: 701/222-6509 0

SALESMAN: 00082

ESTIMATE DATE: 06/23/20

DUE: 07/10/20

RETAIL LOCATIONS

BOWMAN, ND
 DICKINSON, ND
 JAMESTOWN, ND
 MANDAN, ND
 MINOT, ND
 GRANDFORKS, ND
 BEMIDJI, MN

BISMARCK, ND
 AUTO CENTER NORTH
 AUTO CENTER SOUTH
 TRUCK & FARM CENTER

WHOLESALE LOCATIONS

DICKINSON, ND
 MAPLETON, ND
 SIOUX FALLS (BRANDON), SD

ESTIMATE #: 403842

PAGE: 1

TIME STARTED: 11:41:36

Monthly Payments as Low as \$20.00/ month

Ask for Details
 payments required*
 Days

*minimum monthly
 Estimates valid for 30

418951	#24R21 BSTN VGT E2	1*	6	2463.27	14779.62
80650	OTR MOUNT/DEMOUNT		6	156.00	936.00
*86310	OTR O-RINGS		6	20.00	120.00
*DISP	LARGE TIRE DISPOSAL		6	40.00	240.00
17586	AG 618A AIR/LIQ STRAIGHT VALVE		6	11.99	71.94
87000	SERVICE CALL		1.00	90.00	90.00
see previous email for covid 19 information					
*86600	SHOP SUPPLIES			133.79	133.79

MERCHANDISE: 15211.56
 LABOR: 1159.79
 ESTIMATE TOTAL: 16371.35

SIGNATURE: _____

 - Monthly Payments as Low as \$20.00/ month -
 - Ask for Details -
 - *minimum monthly payments required* -
 - Estimates valid for 30 Days -



NORTHWEST TIRE INC

RETAIL LOCATIONS

BOWMAN, ND
DICKINSON, ND
JAMESTOWN, ND
MANDAN, ND
MINOT, ND
GRANDFORKS, ND
BEMIDJI, MN

BISMARCK, ND
AUTO CENTER NORTH
AUTO CENTER SOUTH
TRUCK & FARM CENTER

WHOLESALE LOCATIONS

DICKINSON, ND
MAPLETON, ND
SIOUX FALLS (BRANDON), SD

ESTIMATE #: 403842

PAGE: 2

CUSTOMER: BISMARCK CITY OF (AIRPORT

PRODUCT	DESCRIPTION	QUANTITY	PRICE	EXTENSION
<hr/>				

Required CARES Act Provisions

FAA policies for the CARES Act Reimbursement require that certain agreement provisions must be incorporated into all airport agreements. These required agreement provisions are hereby incorporated herein and made a part of this agreement or proposal and the contractor agrees to the following:

Attachment A Civil Rights Provisions

1. Airport and Airway Improvement Act of 1982, Section 520 - General Civil Rights Provisions

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

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

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

In these cases the provision obligates the party or any transferee for the longer of the following periods:

- A. The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- B. The period during which the airport sponsor or any transferee retains ownership or possession of the property.

2. Civil Rights Act of 1964, Title VI – Contractor Contractual Requirements

A. Title VI Solicitation Notice

(Source: Appendix 4 of FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration)

B. Title VI Solicitation Notice:

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

3. Title VI Clauses for Compliance with Nondiscrimination Requirements

(Source: Appendix A of Appendix 4 of FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration)

Compliance with Nondiscrimination Requirements

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

- A. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- B. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- C. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
- D. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

- E. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
- a. Withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
- F. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

4. Title VI List of Pertinent Nondiscrimination Authorities

(Source: Appendix E of Appendix 4 of FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration)

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

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age

Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and

private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

5. Clauses for Deeds Transferring United States Property

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.

NOW THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the *(Title of Recipient)* will accept title to the lands and maintain the project constructed thereon in accordance with the Uniform Administrative Requirement, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200), the regulations for the administration of the University Transportation Centers Program, and the policies and procedures prescribed by the Office of the Secretary of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim, and convey unto the

(Title of Recipient) all the right, title and interest of the U.S. Department of Transportation in and to said lands.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto (Title of Recipient) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real

property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the (Title of Recipient), its successors and assigns.

The (Title of Recipient), in consideration of the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the (Title of Recipient) will use the lands and interests in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].

6. Clauses For Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the (Title of Recipient) pursuant to the provisions for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program.

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the

benefits of, or be otherwise subjected to discrimination in the use of said facilities.

- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, *(Title of Recipient)* will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the *(Title of Recipient)* will have the right to enter or re-enter the lands and

facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the *(Title of Recipient)* and its assigns.

7. **Clauses for Construction/Use, Access to Real Property Acquired Under the Activity, Facility or Program**

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by (Title of Recipient) pursuant to the provisions for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above of the above Non-discrimination covenants, *(Title of Recipient)* will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, *(Title of Recipient)* will there upon revert to and vest in and become the absolute property of *(Title of Recipient)* and its assigns.

Federal Fair Labor Standards Act (Federal Minimum Wage)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Federal Agency with Enforcement Responsibilities	Requirement
U.S. Department of Labor – Wage and Hour Division	Federal Fair Labor Standards Act (29 USC 201)

Occupational Safety and Health Act of 1970

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Occupational Safety and Health Act of 1970 (20 CFR Part 1910)	U.S. Department of Labor – Occupational Safety and Health Administration

Buy American Clause

The Contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in CARES Act funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must complete and submit the Buy America certification included herein with their bid or offer. The Owner will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

Certificate of Buy American Compliance for Manufactured Products

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter "X".

- Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:
- a) Only installing steel and manufactured products produced in the United States;
 - b) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
 - c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
 - 2. To faithfully comply with providing U.S. domestic product.
 - 3. To furnish U.S. domestic product for any waiver request that the FAA rejects
 - 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that supports the type of waiver being requested.
 - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
 - 3. To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.

4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 3 Waiver – The cost of the item components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “item”. The required documentation for a Type 3 waiver is:

- a) Listing of all product components and subcomponents that are not comprised of 100 percent U.S. domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).
- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c) Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver – Total cost of project using U.S. domestic source product exceeds the total project cost using non-domestic product by 25 percent. The required documentation for a Type 4 of waiver is:

- a) Detailed cost information for total project using U.S. domestic product
- b) Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

6-26-2020

Date

Northwest Tire Inc.

Company Name

Kory Grossman (Kory Grossman)

Signature

Vice President

Title

Suspension or Debarment
CERTIFICATION OF OFFERER/BIDDER REGARDING DEBARMENT

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

CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT

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

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

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

Texting When Driving

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

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

Trafficking In Persons

- A. You as the Contractor your employees under this award, and subrecipients' employees may not
 - 1. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - 2. Procure a commercial sex act during the period of time that the award is in effect; or
 - 3. Use forced labor in the performance of the award or subawards under the award.
- B. The City Of Bismarck as the Owner may unilaterally terminate this award, without penalty, if you or a subrecipient
 - 1. Is determined to have violated a prohibition in paragraph A of this award term; or
 - 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph A.1 of this award term through conduct that is either—
 - a. Associated with performance under this award; or
 - b. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 2 CFR Part 1200.
 - 3. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph A during this award term.
 - 4. Our right to terminate unilaterally that is described in paragraph A of this section:
 - a. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and
 - b. is in addition to all other remedies for noncompliance that are available to the Owner under this award through the Cares Grant.

equipment.

7-01-03. Competitive Bidding Required.

1. All purchases of and contracts for supplies and contractual services, and all sales of property that has become obsolete or unusable must, except as otherwise provided herein, be based on competitive bids. Unless otherwise directed by the commission, or otherwise provided by law, all bids must be advertised in the local newspaper once each week for two consecutive weeks with the bid opening at least 10 days after the last advertisement.

2. All supplies and contractual services, except as otherwise provided herein, when the estimated cost exceeds \$50,000.00, must be purchased at public sale from the lowest and best bid meeting or exceeding specifications pursuant to Section 44-08-01.1, N.D.C.C. and subject to Section 44-08-01, N.D.C.C.

3. All sales or dispositions of obsolete or unusable property, when the estimated value exceeds \$3,000.00, may be sold only at public sale except as provided by Section 7-01-05. Sales of property of an estimated value of \$3,000.00 or less may be made by private sale.

4. Purchases of supplies and contractual services, when the estimated cost is \$10,000.00 or less, may be made in the open market without competitive bidding, unless otherwise required by law. Purchases of supplies and contractual services, when the estimated cost is more than \$10,000.00 but less than \$50,000.00, may be made in the open market without competitive bids, provided that documentation is submitted showing that prices or informal quotes were solicited from a minimum of three suppliers or, if fewer than three suppliers are available, then from all available suppliers, unless otherwise required by law.

5. Any supplies, materials, equipment, or contractual services previously competitively bid by the State or one of its agencies, for which the State or agency has made provision for participation by political subdivisions, may be purchased through the State or agency's bid letting upon approval by the City Commission.

6. Any supplies, materials, equipment, or contractual services may be purchased through another State's cooperative purchasing venture or professional Association cooperative purchasing venture, of which the City, or its Department, or an employee, is a member of the Association, upon approval by the City Commission.

Reference: NDCC Sec. 44-08-01; 44-08-01.1; 40-11-04.

(Ord. 4403 & 4404, 10-22-91; Ord. 4422, 03-24-92; Ord. 4592, 03-29-94; Ord. 6062, 06-10-14; Ord. 6093, 12-23-

Northwest Tire, Inc.

DUNS: 086107737 CAGE Code: 07YU4

Status: Active

1615 E Bismarck Expy
Bismarck, ND, 58504-6758 ,
UNITED STATES

Expiration Date: 09/16/2020

Purpose of Registration: All Awards

Entity Overview

Entity Registration Summary

Name: Northwest Tire, Inc.

Doing Business As: Northwest Tire & Truck Center

Business Type: Business or Organization

Last Updated By: David Eckroth

Registration Status: Active

Activation Date: 09/17/2019

Expiration Date: 09/16/2020

Exclusion Summary

Active Exclusion Records? No



Airport

DATE: July 13, 2020

FROM: Gregory B. Haug, Airport Director

A handwritten signature in blue ink, appearing to be "GBH", located to the right of the "FROM:" field.

ITEM: Consider deferral of airport rents and fees.

REQUEST

Please place this item on the 7/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

On April 14, 2020 the Board considered and approved deferral of fees and charges for airlines, concessionaires and tenants as a result of economic downturn in business resulting from COVID-19. The Board took these actions.

1. Airlines: Deferred three months of rent and fees (April-June 2020) and begin collecting fees in July by adding 1/6 of the deferred amount to their airlines monthly bill for the remaining 6 months.
2. FBO's: Deferred three months of rent (April-June 2020) and begin collecting fees in July by adding 1/6 of the deferred amount to their monthly bill for the remaining 6 months.
3. Food and Beverage Concessionaire (Faber): Approved suspension of Minimum Annual Guarantee requirements from March-June 2020.
4. Clear Channel Airports: Approved suspension of Minimum Annual Guarantee requirements March-June 2020.
5. Corner Café: Approved suspension of \$50 monthly minimum and apply only percentage of sales March-June, 2020.
6. Reef Parking: Suspended minimum annual guarantee requirements from March-June, 2020.

Even with recent increases in passenger activity this summer, Airport concessionaires and tenants are still negatively impacted by reduced airline ridership. As of June 2020 passengers screened through the TSA checkpoints nationally was down 81%. Bismarck was down 71% compared to last year. Corresponding activity for tenants and concessionaires still remains very depressed.

Because the recovery still has a long way to go to get back to even 75% of the activity level we had a year ago, the Airport is recommending we continue the following suspension of Minimum Annual Guarantee (MAG's) (see recommendations below).

RECOMMENDED CITY COMMISSION ACTION

Airport Staff recommends the following actions related to Minimum Annual Guarantee (MAG's).

1. Food and Beverage Concessionaire (Faber): Approve suspension of Minimum Annual Guarantee requirements until December 31, 2020.
2. Clear Channel Airports: Approve suspension of Minimum Annual Guarantee requirements until December 31, 2020.
3. Corner Café: Approve suspension of \$50 monthly minimum and apply only percentage of sales until December 31, 2020.
4. Reef Parking: Approve suspension of Minimum Annual Guarantee requirements until December 31, 2020.

* No additional rent deferrals are recommended for the Airlines and Fixed Base Operators (FBO's) at this time.

STAFF CONTACT INFORMATION

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



City Attorney

DATE: July 20, 2020

FROM: Janelle Combs, City Attorney

ITEM: State of Emergency Declaration ratification

REQUEST

Ratify the July 13, 2020, state of emergency declaration relating to COVID-19 by the President of City Commission and extend its effect to August 12, 2020.

Please place this item on the 7/28/2020 City Commission consent meeting agenda.

BACKGROUND INFORMATION

The June 13 2020, emergency declaration lapsed July 13, 2020. Mayor Bakken signed a new declaration July 13, 2020. Bismarck City ordinance 2-08-03 provides that the President of the City Commission can declare a local state of emergency. The emergency declaration will exist for a period not to exceed 15 days, unless the City Commission ratifies the declaration within the 15-day period. If it is ratified, it is then valid for another 15 days. There is a continuing need for emergency bidding protocols for Covid-19 response that continue to be an immediate possibility. We do have confirmation with the State that FEMA reimbursement does not require the City to have its own emergency declaration for this event at this time. This continuation is to deal with certain issues related to homeless individuals who have been ordered to isolate or quarantine and the lack of services for them to do so since the State is no longer providing that service. Based on what the State was paying for the service, it could exceed our fiscal procedures for bidding that would require us to do a formal bid procedure, for which there would be no time.

RECOMMENDED CITY COMMISSION ACTION

Ratify the July 13, 2020 state of emergency declaration relating to COVID-19 by President Bakken and extend its effect to August 12, 2020.

STAFF CONTACT INFORMATION

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



NEWS RELEASE

For Immediate Release:

July 13, 2020

For More Information, Contact:

Gloria David

Public Information Officer

Phone: 701.355.1306

E-mail: [gdavid@bismarcknd.gov](mailto:g david@bismarcknd.gov)

**COVID-19 EMERGENCY DECLARATION,
CITY OF BISMARCK, NORTH DAKOTA**

Bismarck, N.D.

WHEREAS, COVID-19 is a severe respiratory illness, caused by the SARS-CoV-2 virus, a new strain of coronavirus that is spread from person to person, posing a threat to the health and safety of the residents of the City of Bismarck; and

WHEREAS, no drug or vaccine is currently available to treat or prevent COVID-19; and

WHEREAS, United States Department of Health and Human Services Secretary Alex Azar declared a national public health emergency for COVID-19 on January 27, 2020; and

WHEREAS, the World Health Organization declared COVID-19 a global pandemic on March 11, 2020; and

WHEREAS, on March 13, 2020, President Donald Trump issued a declaration of a national emergency due to the growing COVID-19 crisis in the United States; and

WHEREAS, on March 13, 2020, Governor Doug Burgum issued a declaration of a state emergency in response to the public health crisis resulting from the novel coronavirus (COVID-19);

WHEREAS, on March 15, 2020, the City of Bismarck declared a disaster emergency, which was ratified by the City Commission, and a second declaration was declared and ratified by the City Commission on April 14, 2020, which extended the emergency to May 14, 2020, and a third declaration on May 14, 2020, which was ratified by the City Commission on May 26, 2020, and a fourth declaration on June 13, 2020, which was ratified by the City Commission on June 23, 2020, but such emergency still exists,

WHEREAS, Bismarck City Ordinance 2-08-03 provides that the President of the Commission has the power to declare a local disaster emergency, and

WHEREAS, preparedness, response and recovery from the COVID-19 virus requires a whole-of-government and whole-of-community approach across all governments as well as private and nonprofit sectors, and the virus has the risk of substantially endangering the health, safety and property of the citizens of Bismarck.

NOW, THEREFORE, BE IT RESOLVED, that the President of the Board of City Commissioners does declare a state of disaster emergency exists in the City of Bismarck, North Dakota in response to the public health crisis resulting from the novel coronavirus (COVID-19).

DATED at Bismarck, North Dakota this 13th day of July, 2020.



Steve Bakken, President
City of Bismarck Commission



Community Development Department

DATE: July 14, 2020
FROM: Ben Ehreth, Community Development Director
ITEM: TrAMS User Manager and User Role Designations

REQUEST

To approve the accompanying 'User Manager and User Role Designation' for the purposes of 1) interaction with the City of Bismarck's grant management and 2) reporting upon the Transit Agency.

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

BACKGROUND INFORMATION

City of Bismarck, Bis-Man Transit and Bis-Man MPO staff interact with FTA's Transit Award Management System (TrAMS) to create, manage, and review the City of Bismarck's transit grants. Certain staff also have access to the National Transit Database (NTD) to complete reports on the Transit Agency. All individuals who interact with the TrAMS and NTD platforms must be certified by the City of Bismarck.

The accompanying document designates Deidre Hughes as a User of TrAMS and a User Manager of NTD. Deidre will be granted read-only access in TrAMS but will have executive reporting and submitting roles in NTD. These are required by FTA for her position as Bis-Man Transit's Executive Director.

RECOMMENDED CITY COMMISSION ACTION

Consider the request for approval of Deidre Hughes as a TrAMS User and an NTD User Manager.

STAFF CONTACT INFORMATION

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

Steve Saunders | MPO Principal Transportation Planner, 355-1848 or ssaunders@bisamrcknd.gov

Rachel Drewlow | MPO Transportation Planner, 355-1852 or rdrewlow@bisamrcknd.gov

Designation of Authority for FTA TrAMS User Manager and Role Identification

FTA Recipient Organization Information	Date: 7/28/2020
Agency Name: City of Bismarck	
Agency Acronym: BISMK	
TrAMS ID: 1155	NTD ID: N/A

User Manager and/or TrAMS Role Authorization		
	User 1	User 2
Full Name:	Deidre Hughes	
Title:	Executive Director for Bis-Man Transit	
Email:	dhughes@bismantransit.com	
Phone:	701-258-6817	
NTD User Mgr:	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
TrAMS User Mgr:	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
TrAMS Roles: <i>(Check all roles that are authorized for each user.)</i>	Official*: <input type="checkbox"/> Attorney*: <input type="checkbox"/> Submitter*: <input type="checkbox"/> Developer: <input type="checkbox"/> MPR Reporter: <input type="checkbox"/> FFR Reporter: <input type="checkbox"/> Civil Rights: <input type="checkbox"/> Read Only: <input checked="" type="checkbox"/>	Official*: <input type="checkbox"/> Attorney*: <input type="checkbox"/> Submitter: <input type="checkbox"/> Developer: <input type="checkbox"/> MPR Reporter: <input type="checkbox"/> FFR Reporter: <input type="checkbox"/> Civil Rights: <input type="checkbox"/> Read Only: <input type="checkbox"/>

* - Official, Attorney and Submitter roles MUST have approval from agency CEO. For Official and Attorney access, information must match with Authorizing Resolution and/or Designation of Signature Authority.

Agency CEO Signature:



Community Development Department

DATE: July 21, 2020

FROM: Ben Ehreth, AICP, Community Development Director

ITEM: Tract 500 of Blocks 27 & 38, and Lots 3, 4, the North 20 feet of Lot 5, and Lots 9 & 10, Block 38, Northern Pacific Second Addition – Zoning Change

REQUEST

The Bismarck Cancer Center is requesting approval of a zoning change from the RM30 – Residential and HM – Medical Facility zoning districts to the HM – Medical Facility zoning district for Tract 500 of Blocks 27 & 38, and Lots 3, 4, the North 20 feet of Lot 5, and Lots 9 & 10, Block 38, Northern Pacific Second Addition. The zoning is being requested in order to bring all of the Cancer Center’s properties into one zoning district and allow the construction of an addition on the north side of the Bismarck Cancer Center.

The property is located in central Bismarck, between East Rosser Avenue and East Avenue B, and between North 7th Street and North 8th Street.

Please place this item on the July 28, 2020 and August 11, 2020 City Commission meeting agendas.

BACKGROUND INFORMATION

The Planning and Zoning Commission held a public hearing on this request on July 22, 2020.

No residents spoke at the public hearing; however, one email was received in support of the zoning change.

At the conclusion of the public hearing, and based on the findings contained in the staff report, the Planning & Zoning Commission unanimously recommended approval of the zoning change from the RM30 – Residential and HM – Medical Facility zoning districts to the HM – Medical Facility zoning district for Tract 500 of Blocks 27 & 38, and Lots 3, 4, the North 20 feet of Lot 5, and Lots 9 & 10, Block 38, Northern Pacific Second Addition.

RECOMMENDED CITY COMMISSION ACTION

July 28th meeting of the Board of City Commissioners – consider the zoning change as outlined in Ordinance 6430 and call for a public hearing on this item for the August 11th meeting of the Board of City Commissioners.

August 11th meeting of the Board of City Commissioners – hold a public hearing on the zoning change as outlined in Ordinance 6430 and take final action on the request.

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

ORDINANCE NO. 6430

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

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

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

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

The following described property shall be excluded from the HM – Medical Facility and RM30 – Residential zoning districts and included in the HM-Medical Facility zoning district:

Tract 500 of Blocks 27 & 38, and Lots 3, 4, the North 20 feet of Lot 5, and Lots 9 & 10, Block 38, Northern Pacific Second Addition.

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

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



STAFF REPORT

City of Bismarck
 Community Development Department
 Planning Division

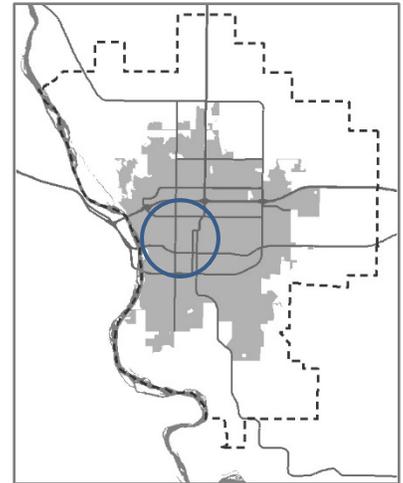
July 22, 2020

Application for: Zoning Change

TRAKiT Project ID: ZC2020-007

Project Summary

Title:	Tract 500 of Blocks 27 & 38, and Lots 3, 4, the North 20 feet of Lot 5, and Lots 9 & 10, Block 38, Northern Pacific Second Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Amy Gross, Bismarck Cancer Center
Project Contact:	Lon Romsaas, PE, Swenson, Hagen & Co
Location:	In central Bismarck, between East Rosser Avenue and East Avenue B, along the west side of North 8 th Street
Project Size:	68,240 square feet
Request:	Rezone property for the expansion of the Bismarck Cancer Center



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	4 parcels in 1 block	Number of Lots:	4 parcels in 1 block
Land Use:	Medical use (Bismarck Cancer Center)	Land Use:	Medical use (Bismarck Cancer Center)
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	HM – Medical Facility RM30 – Residential	Zoning:	HM – Medical Facility
Uses Allowed:	HM – Health and medical, multi-family and limited commercial uses RM30 – Multi-family residential	Uses Allowed:	HM – Health and medical, multi-family and limited commercial uses
Max Density Allowed:	HM – 30 units / acre RM30 – 30 units / acre	Max Density Allowed:	HM – 30 units / acre

Property History

Zoned:	Pre-1980	Platted:	1912	Annexed:	Pre-1980
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(continued)

Staff Analysis

The Bismarck Cancer Center is requesting approval of a zoning change from the HM – Medical Facility and RM30 – Residential zoning districts to the HM – Health Facility zoning district for Tract 500 of Blocks 27 & 38, and Lots 3, 4, the North 20 feet of Lot 5, and Lots 9 & 10, Block 38, Northern Pacific Second Addition.

The Planning and Zoning Commission, at their meeting of June 24, 2020, called for a public hearing on the proposed zoning change.

The proposed zoning change request is in conjunction with a plat modification to vacate and rededication portions of the adjacent alley and a lot combination to combine the parcels owned by the application to allow for a future addition to the existing building and reconfiguration of the property.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on July 10th and July 17th and 38 letters were mailed to the owners of nearby properties on July 10th.

Adjacent uses include existing single and multifamily residential to the north and east across North 8th street as well as various medical uses and associated parking to the east, across North 8th Street, south, and west across North 7th Street.

Required Findings of Fact (relating to land use)

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or other agencies would be able to provide necessary public

services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning change from the HM – Medical Facility and RM30 – Residential zoning districts to the HM – Medical Facility zoning district for Tract 500 of Blocks 27 & 38, and Lots 3, 4, the North 20 feet of Lot 5, and Lots 9 & 10, Block 38, Northern Pacific Second Addition.

Attachments

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

Staff report prepared
by:

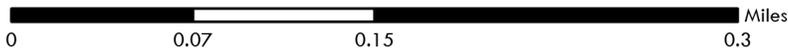
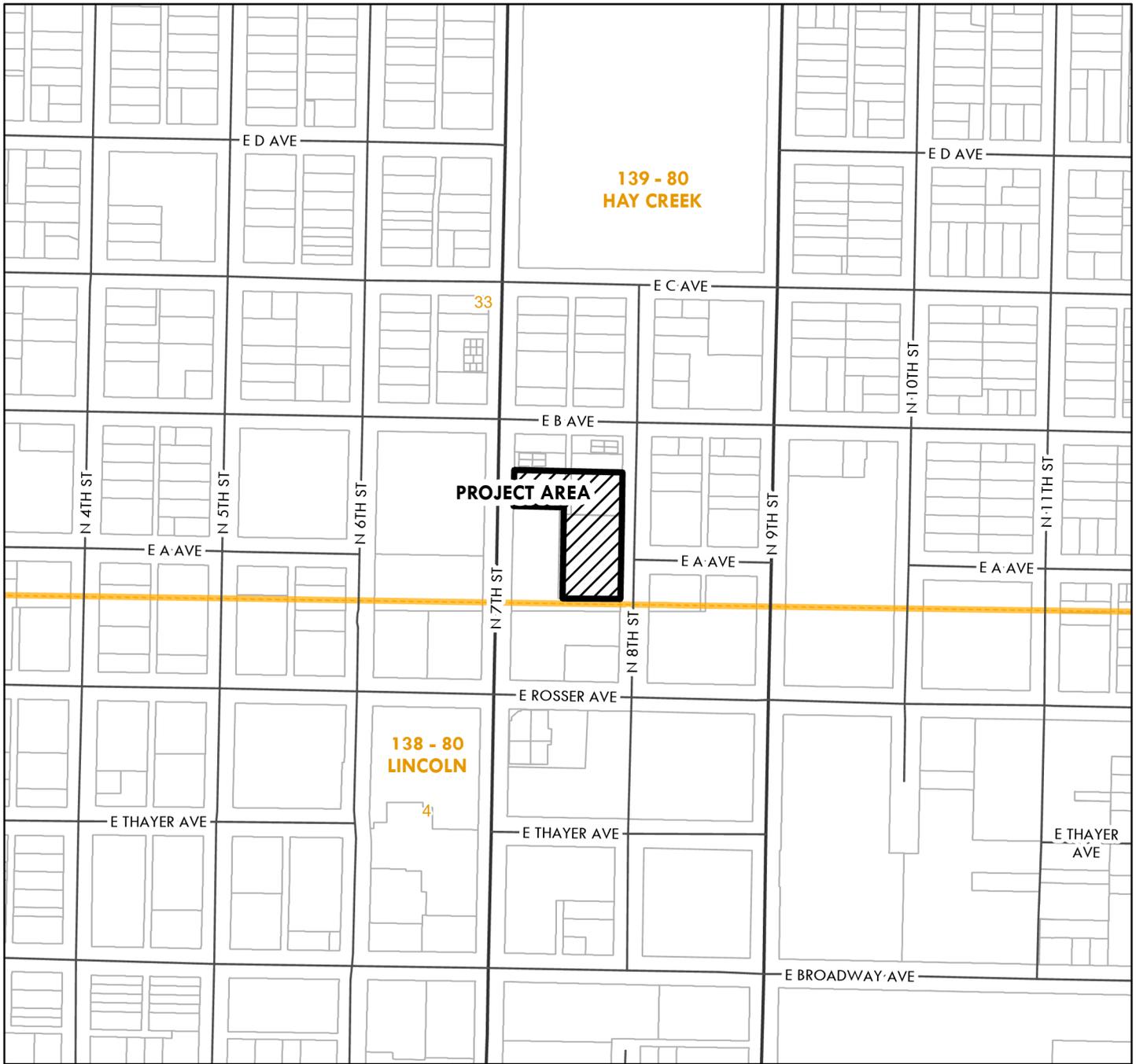
Jenny Wollmuth, AICP, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Location Map

ZC2020-007

TRACT 500 OF B27&38,L3,4,Pt 5,9,10,B38,NORTHERN PACIFIC 2ND

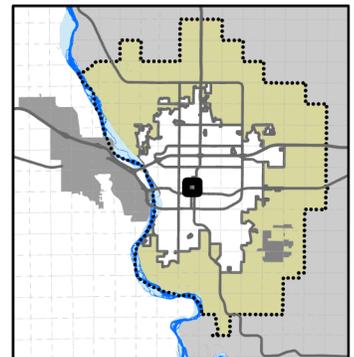


- City Limits
- County Outside ETA
- Bismarck ETA Jurisdiction

Section, township, and range indicated in orange

City of Bismarck
 Community Development Department
 Planning Division
 July 10, 2020 (HLB)

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

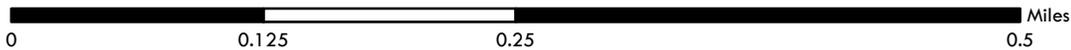
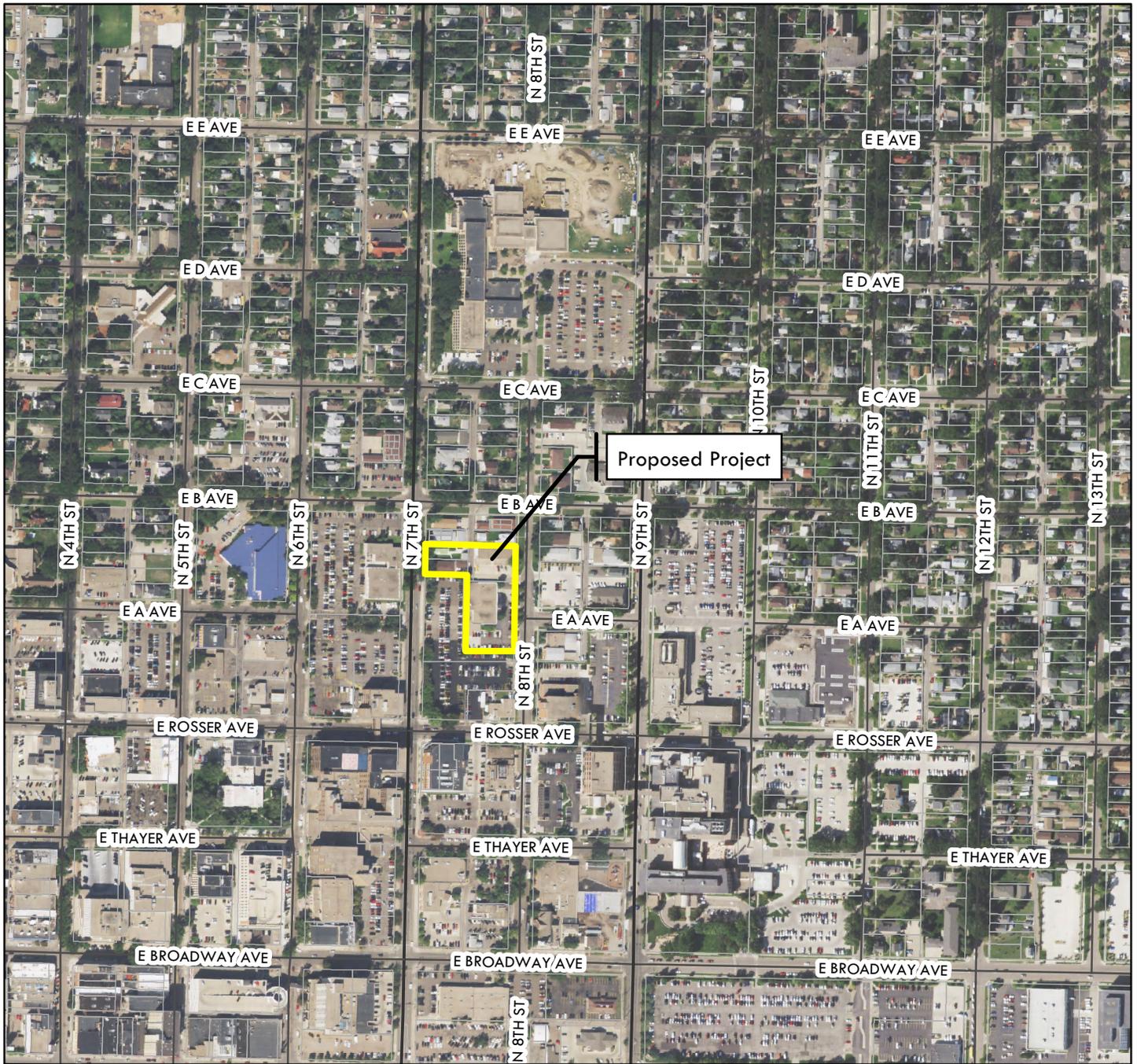




Aerial Map

ZC2020-007

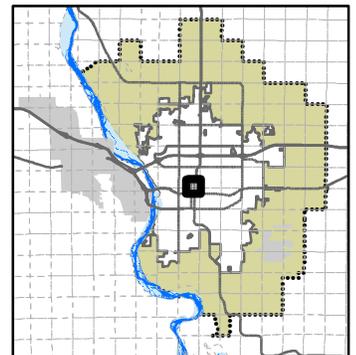
Tract 500 of Blocks 27 and 38, and Lots 3, 4 and the North 20 feet of Lot 5, and Lots 9 and 10, Block 38, Northern Pacific Second Addition



City Limits Bismarck ETA Jurisdiction

Aerial Imagery from 2018

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



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Zoning and Plan Reference Map

ZC2020-007

Tract 500 of Blocks 27 and 38, and Lots 3, 4 and the North 20 feet of Lot 5, and Lots 9 and 10, Block 38, Northern Pacific Second Addition

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

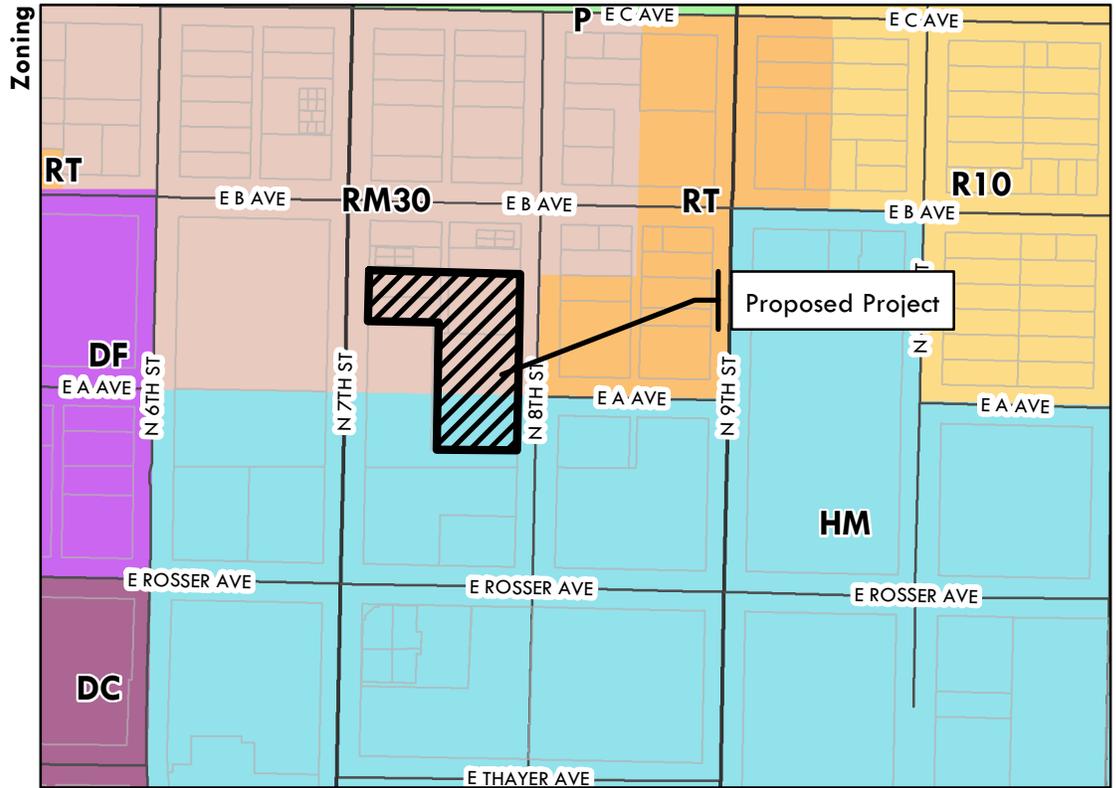
Zoning Districts

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

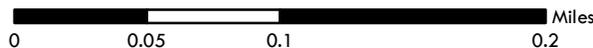
Diagonal lines indicate special condition

Future Land Use Plan

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



Fringe Area Road Master Plan



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



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



Community Development Department

DATE: July 21, 2020

FROM: Ben Ehreth, AICP, Community Development Director

ITEM: Parts of the S½ of Section 19 & the N½ of Section 30, T139N-R80W/Hay Creek Township & City Lands

REQUEST

Clairmont Family Trust is requesting approval of a zoning change from the A – Agricultural, R5 – Residential, R10 – Residential, RM30 – Residential and RT – Residential zoning districts to the P – Public zoning district for part of the S½ of Section 19 and part of the N½ of Section 30, T139N-R80W/Hay Creek Township and City Lands. The zoning is being requested in order facilitate the transfer of the property for future use as a park and conservation area.

The property is located in northwest Bismarck, north of Burnt Boat Drive between Clairmont Road and Tyler Parkway.

Please place this item on the July 28, 2020 and August 11, 2020 City Commission meeting agendas.

BACKGROUND INFORMATION

The Planning and Zoning Commission held a public hearing on this request on June 24, 2020 and a continued public hearing on this request on July 22, 2020.

One resident spoke at the public hearing, expressing concern about public use of land immediately adjacent to his home and the impacts to his property. In addition, written comments were received from eight property owners, with six in favor of the rezoning and two with concerns.

At the conclusion of the public hearing, and based on the findings contained in the staff report, the Planning & Zoning Commission unanimously recommended approval of the zoning change from the A – Agricultural, R5 – Residential, R10 – Residential, RM30 – Residential and RT – Residential zoning districts to the P – Public zoning district for part of the S½ of Section 19 and part of the N½ of Section 30, T139N-R80W/Hay Creek Township and City Lands.

RECOMMENDED CITY COMMISSION ACTION

July 28th meeting of the Board of City Commissioners – consider the zoning change as outlined in Ordinance 6431 and call for a public hearing on this item for the August 11th meeting of the Board of City Commissioners.

August 11th meeting of the Board of City Commissioners – hold a public hearing on the zoning change as outlined in Ordinance 6431 and take final action on the request.

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

ORDINANCE NO. 6431

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

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

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

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

The following described property shall be excluded from the A – Agricultural, R5 – Residential, R10 – Residential, RM30 – Residential and RT – Residential zoning districts and included in the P – Public zoning district:

Lots 4-5, Block 2, and Lots 2-4, Block 3 Country West V, and all adjoining vacated right-of-way named “El Rancho Road,” less that part taken as Replat of Part of Country West V, Lot 4B, and Tract 1722

Lot A and Lot B of Section 30, and Lot C of Section 19, T139N-R80W/Hay Creek Township

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

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



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

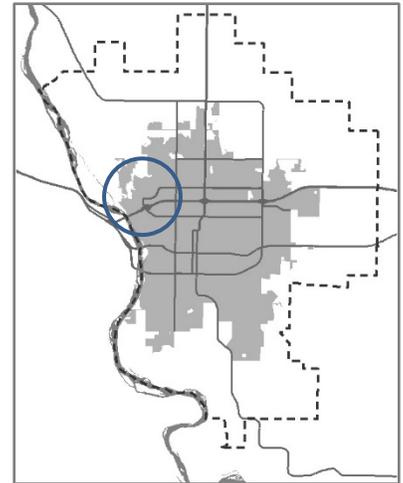
July 22, 2020

Application for: Zoning Change

TRAKiT Project ID: ZC2020-004

Project Summary

Title:	Parts of the S½ of Section 19 & the N½ of Section 30, T139N-R80W/Hay Creek Township & City Lands
Status:	Planning & Zoning Commission – Public Hearing (Continued)
Owner(s):	Clairmont Family Trust
Project Contact:	Landon Niemiller, Swenson, Hagen & Co.
Location:	In northwest Bismarck, north of Burnt Boat Drive between Clairmont Road and Tyler Parkway
Project Size:	116.45 Acres
Request:	Rezone an area to P – Public for future use as park and conservation area



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	13 parcels	Number of Lots:	13 parcels
Land Use:	Undeveloped	Land Use:	Park and Conservation Area
Designated GMP	Conservation	Designated GMP	Conservation
Future Land Use:		Future Land Use:	
Zoning:	A – Agricultural R5 – Residential R10 – Residential RM30 – Residential RT – Residential	Zoning:	P – Public Use
Uses Allowed:	A – Agriculture R5 – Single-family residential R10 – Single and two-family residential RM30 – Multi-family residential RT – Offices and multi-family residential	Uses Allowed:	P – Parks, open space, stormwater facilities, and other public uses
Max Density Allowed:	A – 1 unit / 40 acres R5 – 5 units / acre R10 – 10 units / acre RM30 – 30 units / acre RT – 30 units / acre	Max Density Allowed:	P – N/A

(continued)

Property History

Zoned: 02/1985 (RT and RM30) 05/1996 (R5) 01/1999 (A) 04/1999 (R5) 11/1999 (R10)	Platted: 02/1985 (Country West V)	Annexed: Pre-1980 (part)
--	--	---------------------------------

Staff Analysis

The Clairmont Family Trust is requesting approval of a zoning change from the A – Agricultural, R5 – Residential, R10 – Residential, RM30 – Residential and RT – Residential zoning districts to the P – Public zoning district for parts of the S¹/₂ of Section 19 and the N¹/₂ of Section 30, T139N-R80W/Hay Creek Township and City Lands, as shown on the attached location map.

The Planning and Zoning Commission considered this request at their meeting of May 27, 2020 and held a public hearing on June 24. The hearing was continued upon recommendation from staff because of an error in the location map, which impacted the neighbor notification process.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on June 12th and June 19th, and an additional 186 letters were mailed to the owners of nearby properties on July 10th.

The proposed final use of this land is a park and conservation area. After rezoning, the property would be transferred to another party for installation and dedication of this use.

Adjacent uses include single and two-family residential to the north, east, and west, and commercial and office uses to the south and southeast. The area proposed for rezoning is all low-lying land within Tyler Coulee.

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies the majority of this area as Conservation. This request for rezoning conforms to the Future Land Use Plan.

The southeast part of this area has been annexed, but the northern majority of the land has not. The entire area is surrounded by city limits. It is anticipated that a

future owner will seek to combine the land with a plat and annexation prior to final disposition of the land.

The southern portion of this area had been zoned and annexed for residential use, but was detached from the city limits and rezoned back to the A – Agricultural zoning district in 1999.

Required Findings of Fact (relating to land use)

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

(continued)

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning change from the A – Agricultural, R5 – Residential, R10 – Residential, RM30 – Residential and RT – Residential zoning districts to the P – Public zoning district for parts of the S½ of Section 19 and the S½ of Section 30, T139N-R80W/Hay Creek Township and City Lands, as shown on the attached location map.

Attachments

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. List of all Parcels in Rezoning

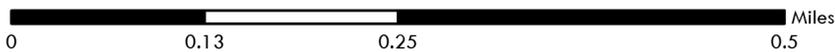
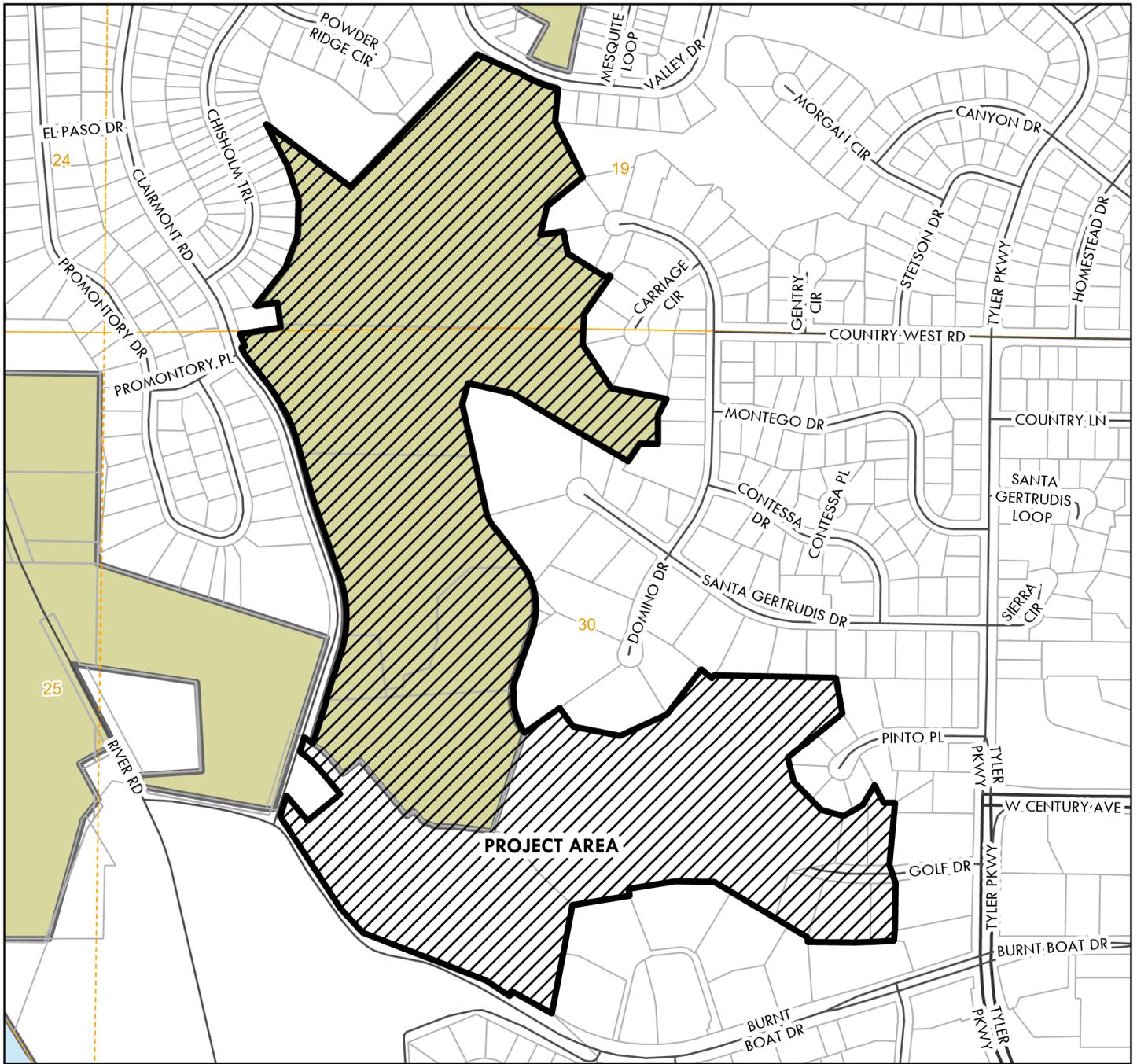
Staff report prepared by: Daniel Nairn, AICP, Planner
701-355-1854 | dnairn@bismarcknd.gov



Location Map

HAY CREEK TOWNSHIP, PT SEC 19 & 30

ZC2020-004



City Limits

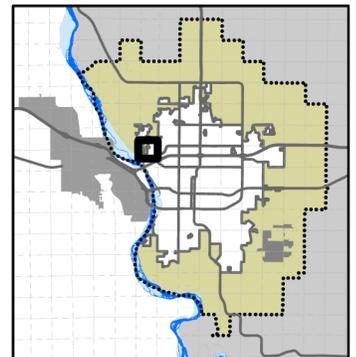
County Outside ETA

Bismarck ETA Jurisdiction

Section, township, and range indicated in orange

City of Bismarck
Community Development Department
Planning Division
July 9, 2020 (HLB)

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





Aerial Map

HAY CREEK TOWNSHIP, PT SEC 19 & 30

ZC2020-004

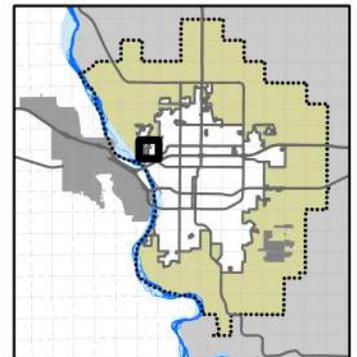


 City Limits  Bismarck ETA Jurisdiction

Aerial Imagery from 2019

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

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





Zoning and Plan Reference Map

ZC2020-004

HAY CREEK TOWNSHIP, PT SEC 19 & 30

Zoning Districts

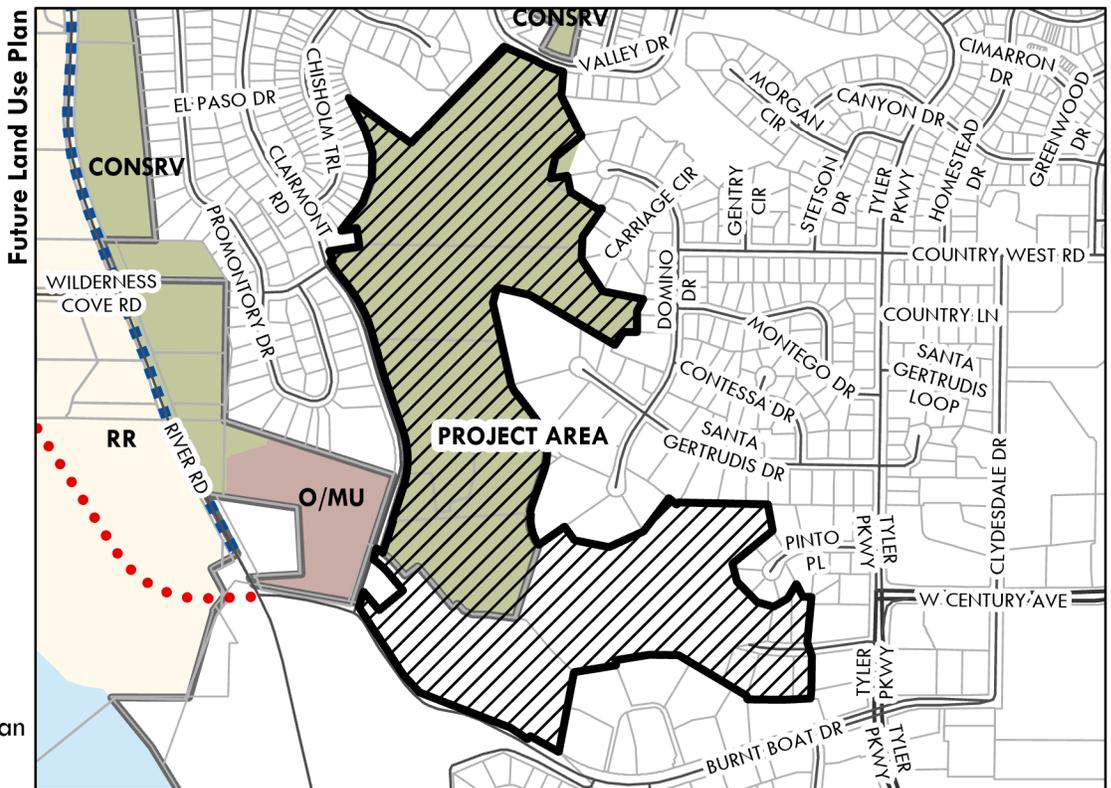
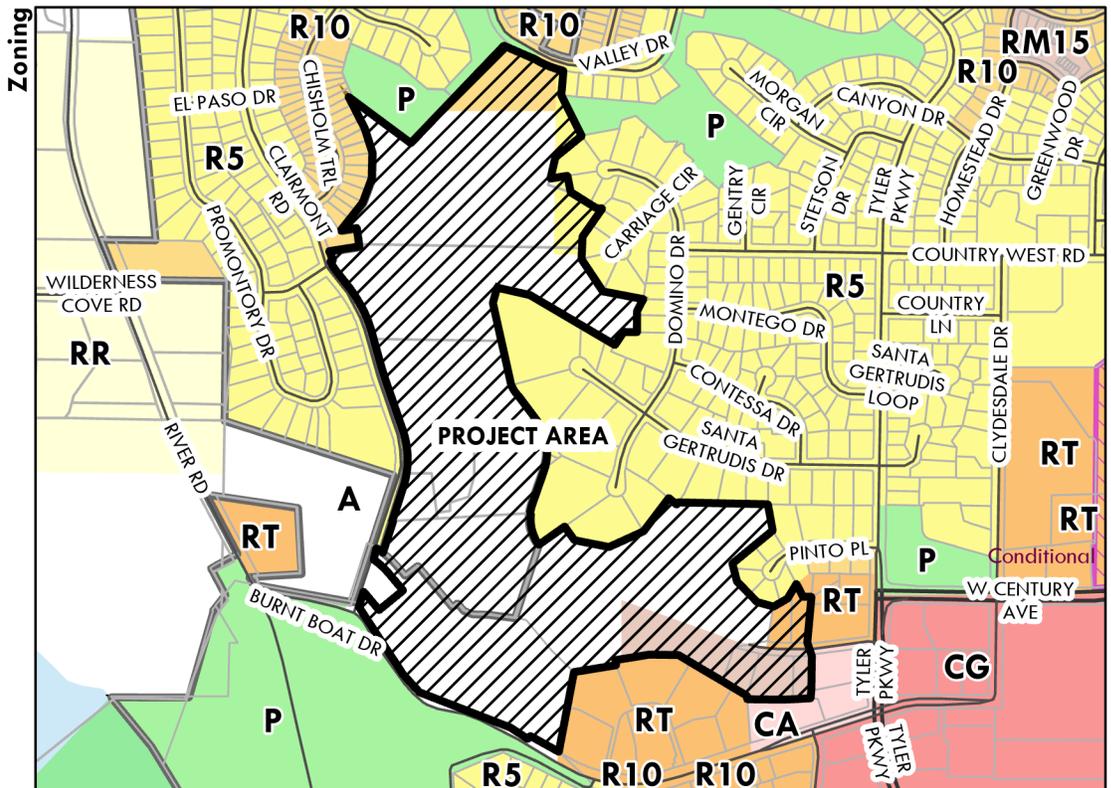
A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Multifamily Residential
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

Future Land Use Plan

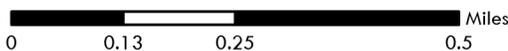
CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard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

Fringe Area Road Master Plan

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



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

Zoning change parcel #s:

Parcels:

31-139-80-000-19-620

31-139-80-00-30-420

31-139-80-00-30-410

31-139-80-00-30-414

31-139-80-00-30-400

31-139-80-00-30-412

0160-030-180

0160-030-175

0926-002-150 (Lots 3 & 4 Block 2 Country West V, less parts)

0926-002-200 (Lot 5 Block 3 & N 7' Vacated ROW Country West V)

0926-003-150 (Lot 4 Block 3 & S 7' Vacated ROW Country West V)

0926-003-100 (Lot 3 Block 3 & S 7' Vacated ROW Country West V)

0926-003-050 (Lot 2 Block 3 Country West V, less parts)



Community Development Department

DATE: July 21, 2020

FROM: Ben Ehreth, AICP, Community Development Director

ITEM: Release Part of Utility Easement in Lot 29, Block 3, Horizon Heights First Addition

REQUEST

Steven McNichols is requesting approval of the release of the northerly 4 feet of the 10-foot utility easement adjacent to the southerly property line of Lot 29, Block 3, Horizon Heights First Addition. The release of a portion of this easement will allow construction of a swimming pool on the lot without encroachment into the easement.

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

BACKGROUND INFORMATION

The easement was granted with the plat of Horizon Heights First Addition, which was recorded on May 14, 2003. The City Engineer has affirmed that this easement is no longer needed to provide municipal services to the area. The applicant has obtained letters from Montana-Dakota Utilities, Capital Electric Cooperative, Century Link, and Midcontinent Communications consenting to the release of the easement.

RECOMMENDED CITY COMMISSION ACTION

Based on the above findings, staff recommends approval of the attached resolution to release the Northerly 4 feet of the 10-foot utility easement adjacent to the south property line of Lot 29, Block 3, Horizon Heights First Addition.

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

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



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

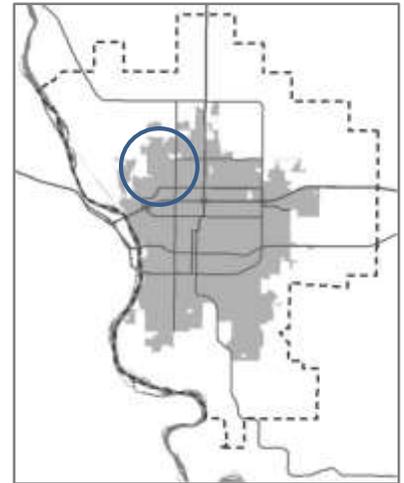
July 28, 2020

Application for: Plat Modification – Easement Release

TRAKiT Project ID: PLMD2020-008

Project Summary

<i>Title:</i>	Release Part of Utility Easement in Lot 29, Block 3, Horizon Heights First Addition
<i>Status:</i>	Board of City of Commissioners
<i>Owner(s):</i>	Steven McNichols
<i>Project Contact:</i>	Steven McNichols
<i>Location:</i>	In northwest Bismarck, west of North Washington Street in the southwest corner of Fountainblue Drive and Amberglow Drive (4724 Fountainblue Dr.)
<i>Project Size:</i>	4 feet in width by 114 feet in length, more or less
<i>Request:</i>	Release portion of utility easement to allow installation of swimming pool



Staff Analysis

Steven McNichols is requesting approval of the release of the northerly 4 feet of the 10-foot utility easement adjacent to the southerly property line of Lot 29, Block 3, Horizon Heights First Addition. The release of a portion of this easement will allow construction of a swimming pool on the lot without encroachment into the easement.

The easement was granted with the plat of Horizon Heights First Addition, which was recorded on May 14, 2003.

The City Engineer has affirmed that this easement is no longer needed to provide municipal services to the area. The applicant has also obtained letters from Montana-Dakota Utilities, Capital Electric Cooperative, Century Link, and Midcontinent Communications consenting to the release of the easement.

Required Findings of Fact (relating to land use)

1. The easement, or part thereof, shown on the plat of record and proposed for release is no

longer needed for the purpose for which it was dedicated;

2. The release of the easement is consistent with the general intent and purpose of the zoning ordinance; and
3. The release of the easement 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 the attached resolution to release the northerly 4 feet of the 10-foot utility easement adjacent to the southerly property line of Lot 29, Block 3, Horizon Heights First Addition.

Attachments

1. Location Map
2. Plat Map
3. Resolution

(continued)

4. Application/Petition

5. Letter(s) from Utility

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

RESOLUTION

**RELEASE OF UTILITY EASEMENT
IN HORIZON HEIGHTS FIRST ADDITION**

WHEREAS, the owner of property described as Lot 29, Block 3, Horizon Heights First Addition, adjoining and contiguous to a platted utility easement, has heretofore joined in petition requesting that part of said utility easement be released, verified by oath of at least one petitioner and accompanied by a plat of said utility easement to be released, having set forth the facts and reason for said release; and

WHEREAS, said platted utility easement was shown on the plat of Horizon Heights First Addition, which was recorded on May 14, 2003; and

WHEREAS, the City Engineer and utility companies with services in the area have determined that the part of the utility easement proposed for release is no longer necessary to provide utility services to the area.

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that the petition to release the utility easement described as:

The northerly 4 feet of the 10-foot utility easement adjacent to the southerly property line of Lot 29, Block 3, Horizon Heights First Addition in the City of Bismarck, Burleigh County, North Dakota.

is in all things allowed and granted.

BE IT FURTHER RESOLVED that the City Administrator be and is hereby authorized to file this resolution for record in the office of the County Recorder, Burleigh County, North Dakota.

Adopted this 28th day of July, 2020.

CERTIFICATE

I, Jason Tomanek, do hereby certify that I am the duly appointed, qualified Assistant City Administrator of the City of Bismarck, North Dakota, and that the foregoing is a full, true and correct copy of a resolution adopted at a legally convened meeting of the Board of City Commissioners held on July 28, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota, this 28th day of July, 2020.

(SEAL)

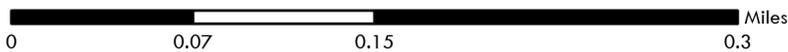
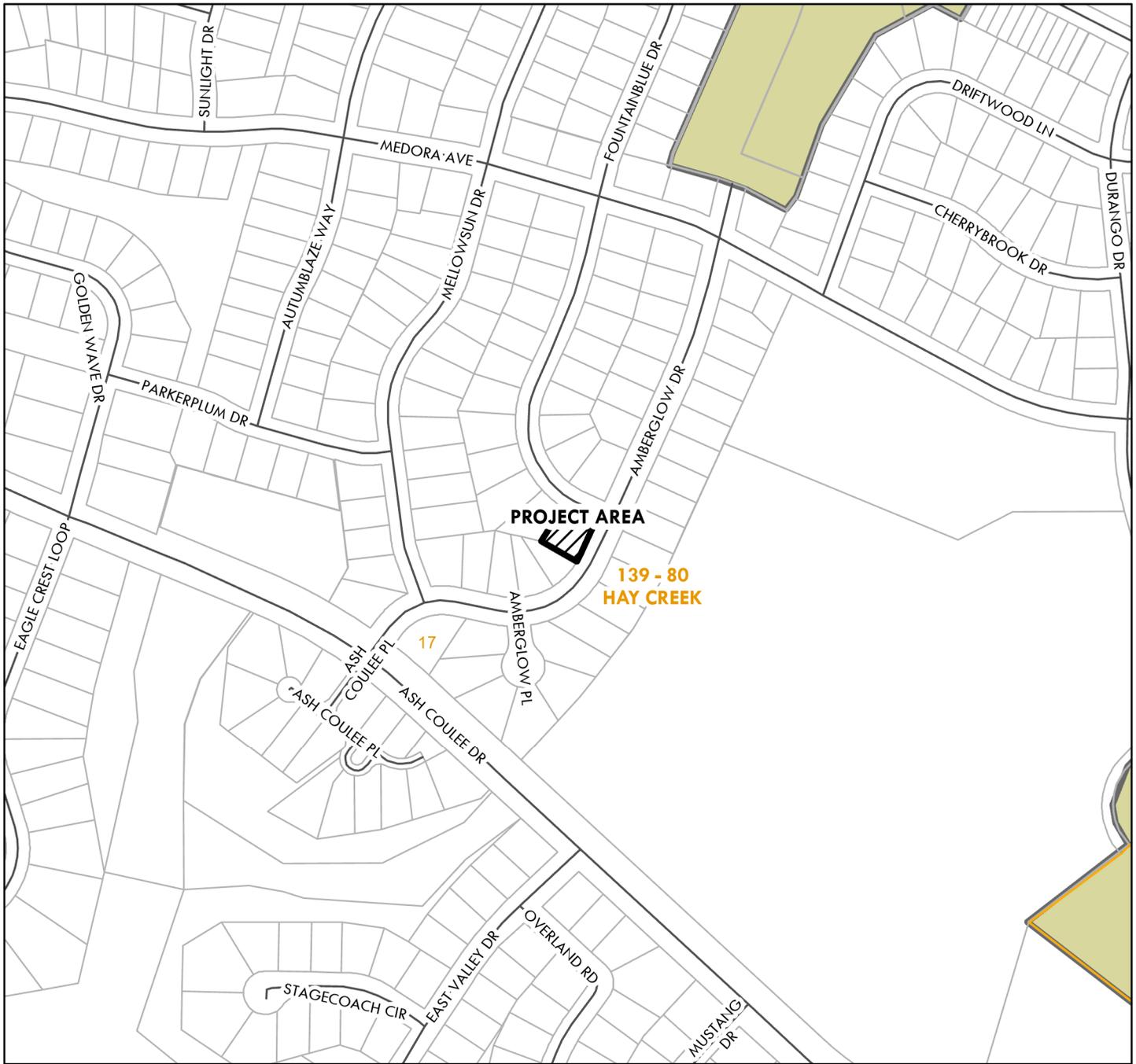
Jason Tomanek
Assistant City Administrator
Bismarck, North Dakota



Location Map

HORIZON HEIGHTS FIRST ADDITION, L29, B3

PLMD2020-010

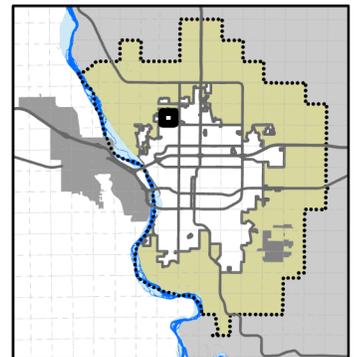


- City Limits
- County Outside ETA
- Bismarck ETA Jurisdiction
- Lots Pending Approval

Section, township, and range indicated in orange

City of Bismarck
Community Development Department
Planning Division
July 10, 2020 (HLB)

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





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

UNIFIED DEVELOPMENT APPLICATION

Last Revised: 1/1/2019

JUL 07 2020

NOTE: APPLICATIONS ARE NOT COMPLETE UNTIL ALL REQUIRED SUBMITTALS HAVE BEEN RECEIVED

Application submitted for (check all that apply):

- | | | | |
|---|---|--|--|
| <input type="checkbox"/> Preliminary Major Plat | <input type="checkbox"/> Final Major Plat | <input type="checkbox"/> Minor Plat | <input type="checkbox"/> Plat Vacation |
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Zoning Change | <input type="checkbox"/> PUD Zoning Change / PUD Amendment | |
| <input type="checkbox"/> Special Use Permit | <input type="checkbox"/> Variance | <input type="checkbox"/> Rural Lot Split (RR & RR5) | |
| <input type="checkbox"/> Fringe Area Road Master Plan Amendment | | <input type="checkbox"/> Land Use Plan Amendment | |

Lot Modification

- Lot Line Adjustment
- Lot Split
- Lot Combination

Plat Modification

- Street/Alley Vacation
- Easement Release
- Non-Access Line Release

PROPERTY INFORMATION			
Project Name:			
Legal description: <small>(Lot, Block, Addition/Subdivision)</small>	4' of 20' shared easement for utilities		
Street address of property:	4724 Fountainblue Drive		
Existing Zoning		Proposed Zoning:	
Acreage:		Number of Lots:	
Brief description of development proposal, including reason(s) for the request:			

X

PROPERTY DEVELOPER	
Name:	Steven L. McNichols
Mailing Address:	4724 Fountainblue Drive

X

PROPERTY OWNER (IF DIFFERENT FROM DEVELOPER)	
Name:	Steve McNichols
Mailing Address:	4724 Fountainblue Drive

X

OWNER'S DESIGNATED CONTACT PERSON	
Name:	Steven L. McNichols
Mailing Address:	4724 Fountainblue Drive

This application is filed complete with the required information as outlined in the attached submission checklist. If a subdivision plat application: because of scheduling and calendar considerations, your subdivision plat may not be finally approved within 30 days as per NDCC Section 40-48-21. I hereby waive said requirements in return for expeditious consideration of my application by the City. If an annexation application: the City will post legal notice of public hearing on behalf of the applicant rather than the applicant as specified in NDCC Section 40-51.2-05. I understand the regulations of the Bismarck Zoning Ordinance and the NDCC as they pertain to this request(s). I certify that all property owners have signed or ratified this application. I hereby request favorable consideration of the above described development application.

 Steven McNichols 7-7-2020
 (Applicant's Signature) (Printed Name) (Date)

 (Owner's Signature, if different) (Printed Name) (Date)

 (Additional Owner's Signature, if applicable) (Printed Name) (Date)

 (Additional Owner's Signature, if applicable) (Printed Name) (Date)

VERIFICATION FOR PLAT MODIFICATION REQUESTS:

The oath of at least one petitioner is required for **plat modification requests only**
 (vacation of street/alley, release of non-access line, or release of easement)

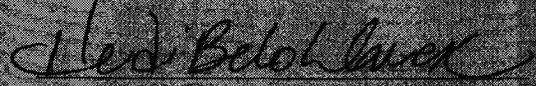
STATE OF NORTH DAKOTA)

: SS

COUNTY OF BURLEIGH)

On this 10 day of July, 2020, before me, a notary public in and for said county and state, appeared Steven McNichols, known to be personally to be the same person described in and whom executed the above instrument, and severally acknowledged that he/she executed the same.

HEIDI BELOHLAVEK
 Notary Public
 State of North Dakota
 My Commission Expires Mar 26, 2022


 Notary Public
 Burleigh County, State of North Dakota

Submission Deadlines:

The Planning and Zoning Commission regularly meets on the fourth Wednesday of each month. All development applications – except for variances, lot modifications and plat modifications – are due at **12:00 noon on the Friday that is 33 calendar days prior** to the meeting.

The Board of Adjustment regularly meets on the first Thursday of each month. All development applications for variances are due at **5:00 p.m. on the Monday that is 24 calendar days prior** to the meeting.

The Board of City Commissioners regularly meets on the second and fourth Tuesdays of each month. All development applications for plat modifications (street/alley vacation, non-access line release, easement release) are due at **5:00 p.m. on the Tuesday that is 14 calendar days prior** to the meeting.

Development applications for lot modifications are processed administratively and may be submitted at any time.

July 7, 2020

Mr. Toby Gross
MDU
909 Airport Road
Bismarck, ND 58501

Re: seeking to vacate the North 4' of the 10' easement of lot 29, Blk 3, of Horizon Heights First Addition

Dear Toby,

I, Steven L. McNichols, wish to vacate the North 4' of the 10' easement of lot 29 Blk 3 of Horizon Heights First Addition. Please see included documents which detail my request.

If you agree with this utility easement vacation, please sign below to indicate your consent and return to me at your earliest convenience.

Respectfully,



Steven L. McNichols
Property Owner

I, Toby Gross - Dist. of My, a representative of MDU, hereby consent to the proposal vacation of the utility easement as described above.



Signature

7-8-2020
Date

July, 6, 2020

Mr. Bill Boyd
Midco Communications
529 S 7th St.

Bismarck, ND 58503

Re: Utility Easement – 4724 Fountainblue Drive - Bismarck, ND 58503

Dear Bill,

I, Steven L. McNichols, wish to vacate the four (4) feet closest to my home of the shared twenty (20) foot easement between my home, lot 29, and my neighbors, lot 1, block three (3) in the Horizon Heights First Addition in the City of Bismarck, Burleigh County, North Dakota. Please see included documents which detail my request, have a plot map and a hand drawn close up of the relevant structures and defining lines within the easement and property areas.

If you agree with this utility easement vacation, please sign below to indicate your consent and return to me at your earliest convenience.

Sincerely,



Steven L. McNichols
Property Owner

I, Derek Weigel, a representative of Midco Inc., hereby consent to the proposed vacation of the utility easement as described above.



Signature

7/6/20
Date

July, 6, 2020

Mr. Greg Owen
Capital Electric Cooperative, Inc.
4111 State Street
Bismarck, ND 58503

Re: Utility Easement – 4724 Fountainblue Drive - Bismarck, ND 58503

Dear Greg,

I, Steven L. McNichols, wish to vacate the four (4) feet closest to my home of the shared twenty (20) foot easement between my home, lot 29, and my neighbors, lot 1, block three (3) in the Horizon Heights First Addition in the City of Bismarck, Burleigh County, North Dakota. Please see included documents which detail my request, have a plot map and a hand drawn close up of the relevant structures and defining lines within the easement and property areas.

If you agree with this utility easement vacation, please sign below to indicate your consent and return to me at your earliest convenience.

Sincerely,



Steven L. McNichols
Property Owner

I, Greg Owen, a representative of Capital Electric Cooperative, Inc., hereby consent to the proposed vacation of the utility easement as described above.


Signature

7/8/2020
Date

July, 6, 2020

Mrs. Connie Kassain

Century-Link
Bismarck, ND 58501

Re: Utility Easement - 4724 Fountainblue Drive - Bismarck, ND 58503

Dear Connie,

I, Steven L. McNichols, wish to vacate the four (4) feet closest to my home of the shared twenty (20) foot easement between my home, lot 29, and my neighbors, lot 1, block three (3) in the Horizon Heights First Addition in the City of Bismarck, Burleigh County, North Dakota. Please see included documents which detail my request, have a plot map and a hand drawn close up of the relevant structures and defining lines within the easement and property areas. * SEE BELOW

If you agree with this utility easement vacation, please sign below to indicate your consent and return to me at your earliest convenience.

Sincerely,



Steven L. McNichols
Property Owner

I, CONNIE M KASSAIN a representative of Century-Link, hereby consent to the proposed vacation of the utility easement as described above.



Signature

7-7-2020

Date

* CENTURY LINK HAS NO OBJECTIONS TO VACATING THE NORTH 4 FT OF THE SOUTH 10 FT UTILITY EASEMENT OF LOT 29 BLK 3 HORIZON HEIGHTS 1ST ADD. HOWEVER, IF CENTURY LINK'S FACILITIES ARE PLACED IN THE NORTH 4 FT OF THE 10 FT UTILITY EASEMENT, ALL RE-LOCATION COSTS WILL BE BURDENED UNTO THE PROPERTY OWNER





Community Development Department

DATE: July 21, 2020
FROM: Ben Ehreth, AICP, Community Development Director
ITEM: Release of access easement in Lot 17, Block 1, Tatley Meadows VII

REQUEST

Mark and Miranda Hoffert are requesting approval of the release of an access easement over the easterly 20 feet of Lot 17, Block 1, Tatley Meadows VII. A petition has also been submitted from owners of adjoining lots: Lot 22, Block 1, Tatley Meadows VI and Lot 18, Block 1, Tatley Meadows VII.

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

BACKGROUND INFORMATION

The easement was granted with the plat of Tatley Meadows VII, which was recorded August 4, 1992. The original intent of the easement was to provide access for a planned multifamily residential development to the south.

The Pheasant Run Condominium Association, comprised of 32 condominium property owners, purchased this vacant lot to the south shortly after the plat was recorded. The association has no intention of developing this lot, and has requested a lot modification to combine the vacant lot with the remainder of their adjacent property. Upon approval of the lot combination, this access easement will not be necessary to provide legal access to any independent parcel.

RECOMMENDED CITY COMMISSION ACTION

Based on the above findings, staff recommends approval of the attached resolution to release an access easement described as the Easterly 20 feet of Lot 17, Block 1, Tatley Meadows VII, with the following condition:

1. Lot 22, Block 1, Tatley Meadows VI is combined with the adjacent Part of Lot 2, Block 4, Tatley Meadows V prior to recordation of the easement release.

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

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



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

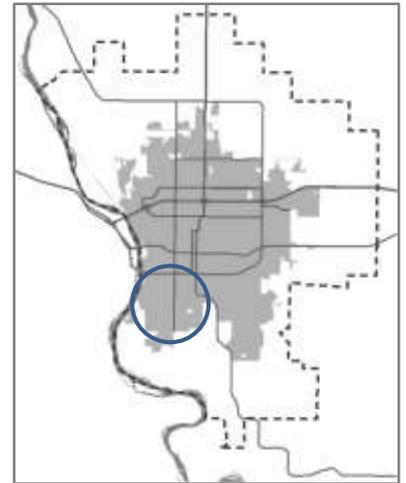
July 28, 2020

Application for: Plat Modification – Easement Release

TRAKiT Project ID: PLMD2020-009

Project Summary

Title:	Release of access easement in Lot 17, Block 1, Tatley Meadows VII
Status:	Board of City of Commissioners
Owner(s):	Mark and Miranda Hoffert Ryan Quinn and Julie Subart Pheasant Run Condominium Association
Project Contact:	Mark and Miranda Hoffert
Location:	In southwest Bismarck, west of South Washington Street and just east of the Riverwood Gold Course.
Project Size:	20 feet in width and approximately 140 feet in length
Request:	Release access easement through residential lot



Staff Analysis

Mark and Miranda Hoffert are requesting approval of the release of an access easement over the easterly 20 feet of Lot 17, Block 1, Tatley Meadows VII. A petition has also been submitted from owners of adjoining lots: Lot 22, Block 1, Tatley Meadows VI and Lot 18, Block 1, Tatley Meadows VII.

The access easement currently encumbers use of this lot. It must remain free of any obstructions and no accessory structures may be built within the easement or within a six-foot setback from the easement.

The easement was granted with the plat of Tatley Meadows VII, which was recorded August 4, 1992. The original intent of the easement was to provide access for a planned multifamily residential development to the south.

The Pheasant Run Condominium Association, comprised of 32 condominium property owners, purchased this vacant lot to the south shortly after the plat was recorded. The association has no intention of developing this lot, and has requested a lot modification to combine the vacant lot with the

remainder of their adjacent property. Upon approval of the lot combination, this access easement will not be necessary to provide legal access to any independent parcel.

Required Findings of Fact (relating to land use)

1. The easement, or part thereof, shown on the plat of record and proposed for release is no longer needed for the purpose for which it was dedicated;
2. The release of the easement is consistent with the general intent and purpose of the zoning ordinance; and
3. The release of the easement 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 the attached resolution to release an access easement described as the easterly 20 feet of

(continued)

Lot 17, Block 1, Tatley Meadows VII, with the following condition:

1. Lot 22, Block 1, Tatley Meadows VI is combined with the adjacent part of Lot 2, Block 4, Tatley Meadows V prior to recordation of the easement release.

Attachments

1. Location Map
 2. Aerial Map with proposed lot combination shown
 3. Plat Map
 4. Resolution
 5. Application/Petition
-

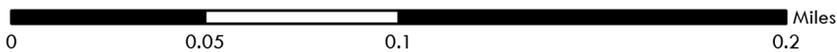
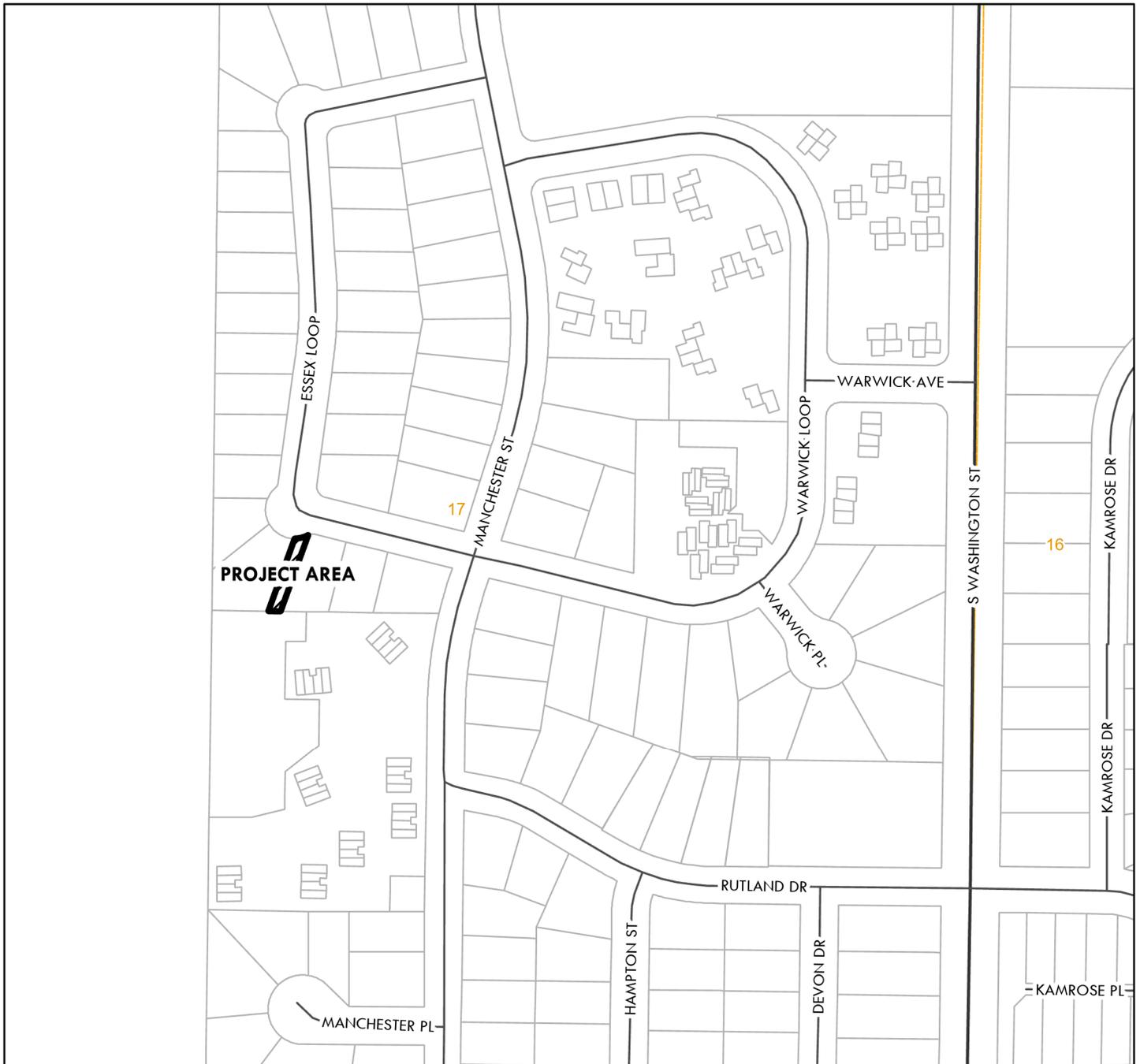
Staff report prepared by: Daniel Nairn, AICP, Planner
701-355-1854 | dnairn@bismarcknd.gov



Location Map

TATLEY MEADOWS VI, L17-18, B1

PLMD2020-009



City Limits

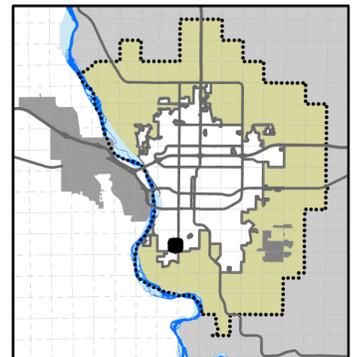
County Outside ETA

Bismarck ETA Jurisdiction

Section, township, and range indicated in orange

City of Bismarck
Community Development Department
Planning Division
July 6, 2020 (HLB)

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

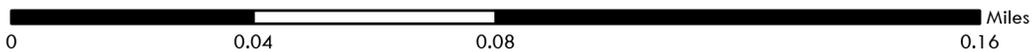
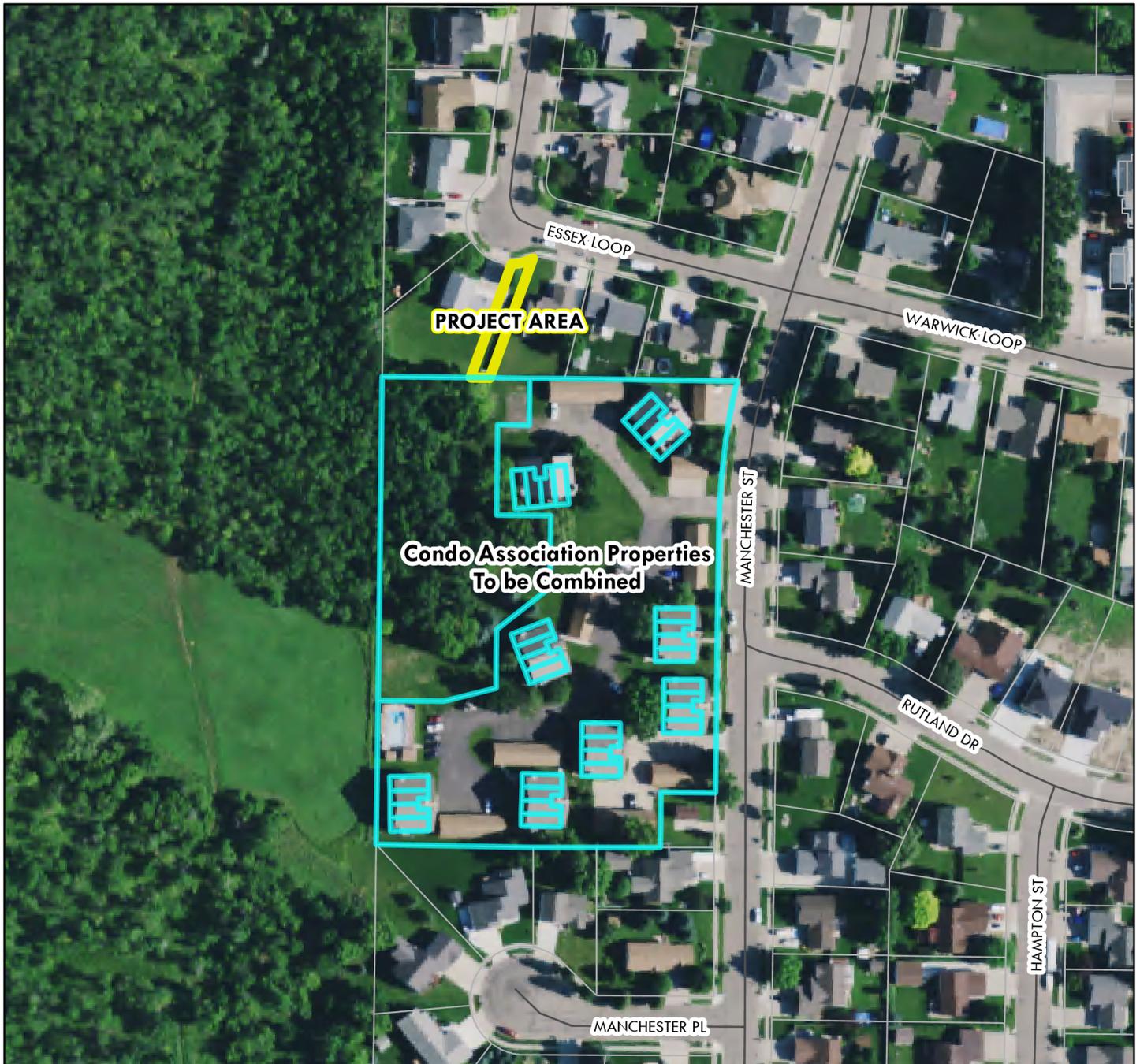




Aerial Map

TATLEY MEADOWS VII, L17-18, B1

PLMD2020-009

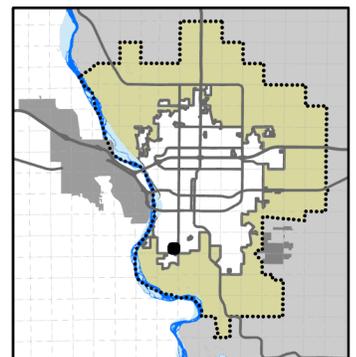


City Limits Bismarck ETA Jurisdiction

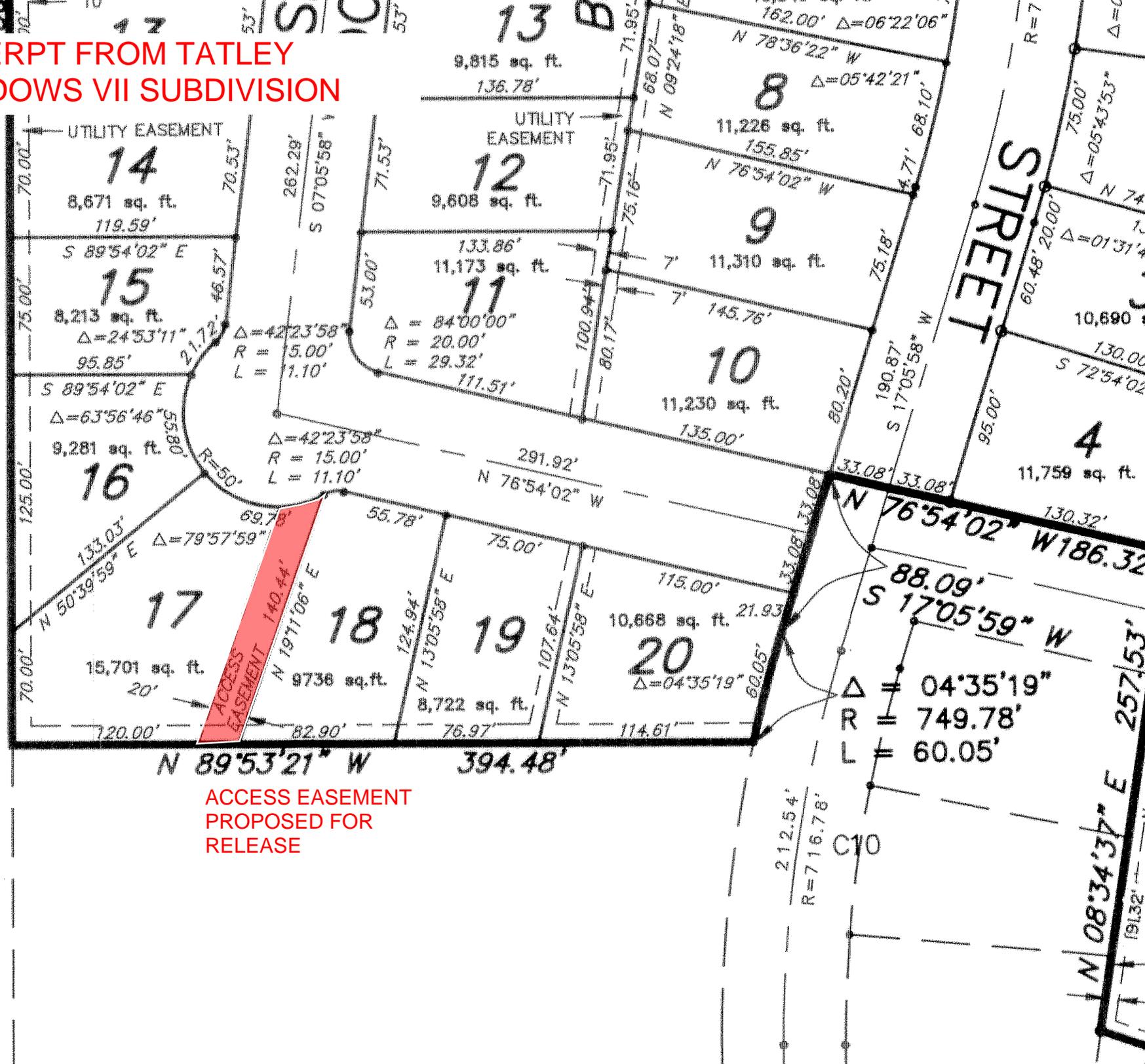
Aerial Imagery from 2019

City of Bismarck
Community Development Department
Planning Division
July 22, 2020

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



**EXCERPT FROM TATLEY
MEADOWS VII SUBDIVISION**



**ACCESS EASEMENT
PROPOSED FOR
RELEASE**

RESOLUTION

**RELEASE OF ACCESS EASEMENT
IN TATLEY MEADOWS VII**

WHEREAS, the owners of property described as Lot 17, Block 1, Tatley Meadows VII, adjoining and contiguous to a platted access easement, have heretofore joined in petition requesting that said access easement be released, verified by oath of at least one petitioner and accompanied by a plat of said access easement to be released, having set forth the facts and reason for said release; and

WHEREAS, said platted access easement was shown on the plat of Tatley Meadows VII, which was recorded on August 4, 1992; and

WHEREAS, the City Engineer has determined that the access easement proposed for release is no longer necessary to provide access services to the area, on the condition that the adjoining lot to the south can obtain legal access by another means.

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that the petition to release access easement described as:

The easterly 20 feet of Lot 17, Block 1, Tatley Meadows VII in the City of, Burleigh County, North Dakota.

is in all things allowed and granted.

BE IT FURTHER RESOLVED that the City Administrator be and is hereby authorized to file this resolution for record in the office of the County Recorder, Burleigh County, North Dakota.

Adopted this 28th day of July, 2020.

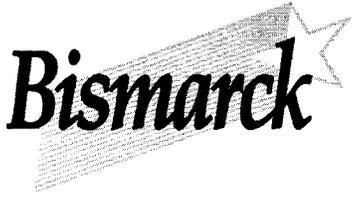
CERTIFICATE

I, Jason Tomanek, do hereby certify that I am the duly appointed, qualified Assistant City Administrator of the City of Bismarck, North Dakota, and that the foregoing is a full, true and correct copy of a resolution adopted at a legally convened meeting of the Board of City Commissioners held on July 28, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota, this 28th day of July, 2020.

(SEAL)

Jason Tomanek
Assistant City Administrator
Bismarck, North Dakota



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

UNIFIED DEVELOPMENT APPLICATION

Last Revised: 1/1/2019

NOTE: APPLICATIONS ARE NOT COMPLETE UNTIL ALL REQUIRED SUBMITTALS HAVE BEEN RECEIVED

Application submitted for (check all that apply):

- Preliminary Major Plat
- Annexation
- Special Use Permit
- Fringe Area Road Master Plan Amendment
- Final Major Plat
- Zoning Change
- Variance
- Minor Plat
- PUD Zoning Change / PUD Amendment
- Rural Lot Split (RR & RR5)
- Land Use Plan Amendment
- Plat Vacation
- Street/Alley Vacation
- Easement Release
- Non-Access Line Release

Lot Modification

- Lot Line Adjustment
- Lot Split
- Lot Combination

Plat Modification

- Street/Alley Vacation
- Easement Release
- Non-Access Line Release

PROPERTY INFORMATION			
Project Name:	Easement Release		
Legal description: <small>(Lot, Block, Addition/Subdivision)</small>	All of the 20' access easement on Lot 17, Block 1, Tatley Meadows VII		
Street address of property:	2918 Essex Loop, Bismarck, ND 58504		
Existing Zoning		Proposed Zoning:	
Acreage:		Number of Lots:	
Brief description of development proposal, including reason(s) for the request:	To release of an access easement from homeowner's property.		

APPLICANT/DEVELOPER	
Name:	Mark and Miranda Hoffert
Mailing Address:	2918 Essex Loop, Bismarck, ND 58504

PROPERTY OWNER (IF DIFFERENT THAN APPLICANT/DEVELOPER)	
Name:	
Mailing Address:	

CONTACT PERSON/CONSULTANT (IF DIFFERENT THAN APPLICANT/DEVELOPER)	
Name:	
Mailing Address:	

This application is filed complete with the required information as outlined in the attached submission checklist. If a subdivision plat application: because of scheduling and calendar considerations, your subdivision plat may not be finally approved within 30 days as per NDCC Section 40-48-21. I hereby waive said requirements in return for expeditious consideration of my application by the City. If an annexation application: the City will post legal notice of public hearing on behalf of the applicant rather than the applicant as specified in NDCC Section 40-51.2-05. I understand the regulations of the Bismarck Zoning Ordinance and the NDCC as they pertain to this request(s). I certify that all property owners have signed or ratified this application. I hereby request favorable consideration of the above described development application.

Patricia Klein Patricia Klein 6-23-20
 (Applicant's Signature) (Printed Name) (Date)

 (Owner's Signature, if different) (Printed Name) (Date)

 (Additional Owner's Signature, if applicable) (Printed Name) (Date)

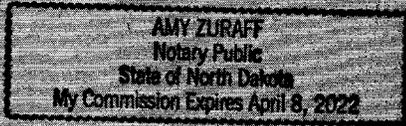
 (Additional Owner's Signature, if applicable) (Printed Name) (Date)

VERIFICATION FOR PLAT MODIFICATION REQUESTS:

The oath of at least one petitioner is required for plat modification requests only
 (vacation of street/alley, release of non-access line, or release of easement)

STATE OF NORTH DAKOTA)
) : SS
 COUNTY OF BURLEIGH)

On this 23rd day of June, 2020, before me, a notary public in and for said county and state, appeared Patricia Klein, known to be personally to be the same person described in and whom executed the above instrument, and severally acknowledged that he/she executed the same.



Amy Zuraff
 Notary Public
 Burleigh County, State of North Dakota

Submission Deadlines:

The Planning and Zoning Commission regularly meets on the fourth Wednesday of each month. All development applications – except for variances, lot modifications and plat modifications – are due at **12:00 noon on the Friday that is 33 calendar days prior** to the meeting.

The Board of Adjustment regularly meets on the first Thursday of each month. All development applications for variances are due at **5:00 p.m. on the Monday that is 24 calendar days prior** to the meeting.

The Board of City Commissioners regularly meets on the second and fourth Tuesdays of each month. All development applications for plat modifications (street/alley vacation, non-access line release, easement release) are due at **5:00 p.m. on the Tuesday that is 14 calendar days prior** to the meeting.

Development applications for lot modifications are processed administratively and may be submitted at any time.

This application is filed complete with the required information as outlined in the attached submission checklist. If a subdivision plat application: because of scheduling and calendar considerations, your subdivision plat may not be finally approved within 30 days as per NDCC Section 40-48-21. I hereby waive said requirements in return for expeditious consideration of my application by the City. If an annexation application: the City will post legal notice of public hearing on behalf of the applicant rather than the applicant as specified in NDCC Section 40-51.2-05. I understand the regulations of the Bismarck Zoning Ordinance and the NDCC as they pertain to this request(s). I certify that all property owners have signed or ratified this application. I hereby request favorable consideration of the above described development application.

Miranda Hofferz Miranda Hofferz 6-8-2020
 (Applicant's Signature) (Printed Name) (Date)

 (Owner's Signature, if different) (Printed Name) (Date)

 (Additional Owner's Signature, if applicable) (Printed Name) (Date)

 (Additional Owner's Signature, if applicable) (Printed Name) (Date)

VERIFICATION FOR PLAT MODIFICATION REQUESTS:

The oath of at least one petitioner is required for plat modification requests only
 (vacation of street/alley, release of non-access line, or release of easement)

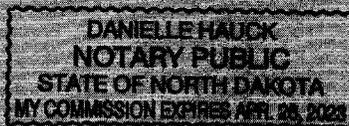
STATE OF NORTH DAKOTA)

: SS

COUNTY OF BURLEIGH)

On this 8 day of June, 2020, before me, a notary public in and for said county and state, appeared

Miranda Hofferz, known to be personally to be the same person described in and whom executed the above instrument, and severally acknowledged that he/she executed the same.



Danielle Hauck
 Notary Public
 Burleigh County, State of North Dakota

Submission Deadlines:

The Planning and Zoning Commission regularly meets on the fourth Wednesday of each month. All development applications – except for variances, lot modifications and plat modifications – are due at **12:00 noon on the Friday that is 33 calendar days prior** to the meeting.

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Julie Subart (Applicant's Signature) Julie Subart (Printed Name) 6-25-2020 (Date)

____ (Owner's Signature, if different) _____ (Printed Name) _____ (Date)

____ (Additional Owner's Signature, if applicable) _____ (Printed Name) _____ (Date)

____ (Additional Owner's Signature, if applicable) _____ (Printed Name) _____ (Date)

VERIFICATION FOR PLAT MODIFICATION REQUESTS:

The oath of at least one petitioner is required for **plat modification requests only**
(vacation of street/alley, release of non-access line, or release of easement)

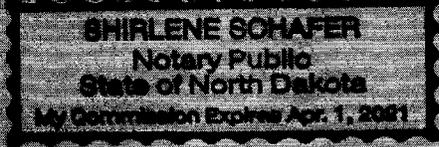
STATE OF NORTH DAKOTA)

, SS

COUNTY OF BURLEIGH)

On this 25 day of June, 2020, before me, a notary public in and for said county and state, appeared

Julie Subart, known to be personally to be the same person described in and whom executed the above instrument, and severally acknowledged that he/she executed the same.



Shirlene Schaffer
Notary Public
Burleigh County, State of North Dakota

Submission Deadlines:

The Planning and Zoning Commission regularly meets on the fourth Wednesday of each month. All development applications – except for variances, lot modifications and plat modifications – are due at **12:00 noon on the Friday that is 33 calendar days prior** to the meeting.

The Board of Adjustment regularly meets on the first Thursday of each month. All development applications for variances are due at **5:00 p.m. on the Monday that is 24 calendar days prior** to the meeting.

The Board of City Commissioners regularly meets on the second and fourth Tuesdays of each month. All development applications for plat modifications (street/alley vacation, non-access line release, easement release) are due at **5:00 p.m. on the Tuesday that is 14 calendar days prior** to the meeting.

Development applications for lot modifications are processed administratively and may be submitted at any time.



HUMAN RESOURCES DEPARTMENT

DATE: July 20, 2020

FROM: Robert McConnell, Director of Human Resources

ITEM: Approval for Exempt City Employees to be paid straight time in 2020 for COVID-19

pandemic emergency reimbursed hours worked beyond the normal workweek and beyond regular operations of the City.

REQUEST

Please consider for exempt public health employees to be paid straight time in 2020 for reimbursed hours worked beyond the normal workweek due to the COVID-19 pandemic emergency.

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

BACKGROUND INFORMATION

The City of Bismarck departments have exempt staff working significant hours above their normal schedule in support of the COVID-19 emergency declaration. Reimbursement for this service is allowed under the CARES Act. Where non-exempt employees are being paid overtime for their work, these exempt employees who are performing essential work related to the emergency declaration due to COVID-19 pandemic have not been compensated above their normal salaried amount. The Human Resource department is requesting approval to pay exempt employees straight time in 2020 for the hours worked above their normal schedule and limited to the hours reimbursed under the CARES Act. Only the Cares Act reimbursed hours in excess of their regular time will be paid to certain Exempt staff with no resulting impact on the City of Bismarck's 2020 budget authorization.

RECOMMENDED CITY COMMISSION ACTION

The Human Resource department recommends approval for Exempt City staff to be paid straight time in 2020 limited to the Cares Act reimbursed amount for the hours worked beyond the normal workweek and beyond regular operations pertaining to the COVID-19 Emergency.

STAFF CONTACT INFORMATION

Robert McConnell, Director Human Resources, 701-355-1332, rmcconnell@bismarcknd.gov



Police Department

DATE: July 20, 2020
FROM: Dave Draovitch, Chief of Police
ITEM: Tri-City Community Picnic

REQUEST

I am requesting the Commission's approval of a Community Event to be known as the Tri-City Community Picnic.

Please place this item on the 7/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The events of 2020 have been unprecedented and daunting, with the COVID-19 Pandemic and civil unrest across the nation. The residents of Bismarck and the neighboring communities have been truly amazing in their support of First Responders, Healthcare workers and of each other.

The Bismarck Police Department Community Engagement Section, with the help of the Crisis Care Chaplaincy and Neighborhood Crime Watch Advisory Committee, wishes to host a community event to be known as the Tri City Community Picnic.

The purpose of the event is to celebrate the achievements of the community, as a whole, in facing these difficult times and working together to keep us all safe.

The theme of the picnic is "Back to a Simpler Time". Music, food and games along with First Responder and Military Vehicle Displays will fill the day. Donations will be sought as door prizes and prizes for game participants. We will follow the CDC COVID-19 recommendations for everyone's safety.

RECOMMENDED CITY COMMISSION ACTION

Grant permission to solicit donations and hold the event.

STAFF CONTACT INFORMATION

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



Public Works Service Operations Department

DATE: July 21, 2020

FROM: Jeff Heintz, Service Operations Director

ITEM: Contract Extension for Residential Recycling with Waste Management of North Dakota, Inc.

REQUEST

Approve the two-year contract extension for residential curbside recycling with Waste Management of North Dakota, Inc.

Please place this item on the 7/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The contract with Waste Management of North Dakota, Inc. for residential curbside recycling has entered its final year and will terminate on December 31, 2020. The contract may be extended upon the written mutual agreement of the parties for an additional two-year period. After much deliberation with Waste Management, an agreement has been reached: The residential curbside recycling rate increase would be 4% (\$.24) for 2021 and 5% (\$.31) for 2022. The drop sites rate increase would be 10% for 2021 and 5% in 2022.

RECOMMENDED CITY COMMISSION ACTION

Approve the two-year contract extension of 4% for 2021 and 5% for 2022 for residential curbside recycling and 10% for 2021 and 5% for 2022 for the drop sites with Waste Management of North Dakota, Inc.

STAFF CONTACT INFORMATION

Jeff Heintz | Service Operations Director, 355-1700 or jheintz@bismarcknd.gov



PUBLIC WORKS – UTILITY OPERATIONS

DATE: July 20, 2020

FROM: Michelle Klose, Director of Utility Operations

ITEM: Change Order G-01 with PKG Contracting, Inc. and Amendment to Task Order No. 9 with AE2S for the WTP Limeslaker Project

REQUEST

Approve Contract Change Order G-01 with PKG Contracting, Inc. and Amendment to Task Order No. 9 with AE2S for the WTP Limeslaker Project.

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

BACKGROUND INFORMATION

The change order for PKG Contracting, Inc. modifies the completion date due to delays beyond their control related to the airline service complications for technicians and adjustment is to allow time to complete all work. The Amendment to Task Order No. 9 for AE2S is for additional construction-phase engineering services due to the contractor's closeout extending past the original date for final payment. This amendment results in an increase of \$6,000.00.

RECOMMENDED CITY COMMISSION ACTION

Approve Contract Change Order G1 with PKG Contracting, Inc. and Amendment to Task Order No. 9 with AE2S for the WTP Limeslaker Project.

STAFF CONTACT INFORMATION

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

Change Order

No. G-01

Date of Issuance: July 21, 2020

Effective Date: July 28, 2020

Project: <i>Bismarck 2019 Lime Slaking Expansion</i>	Owner: <i>City of Bismarck, ND</i>	Owner's Contract No.:
Contract: <i>General Construction</i>	Date of Contract: <u>September 10, 2019</u>	
Contractor: <i>PKG Contracting, Inc.</i>	Engineer's Project No.: <u>P00501-2018-000</u>	

The Contract Documents are modified as follows upon execution of this Change Order:

Description of Change

No cost change order to extend Contract Times. The Contractor experienced delays beyond their control related to the airline service complications for technicians and adjustment is to allow time to complete all Work.

Item	Description	Cost Adjustment
G-01	<i>No Cost Time Extension</i>	<i>\$0.00</i>
Total Net Change CO-G-01:		<i>\$0.00</i>

Attachments: None

CHANGE IN CONTRACT PRICE:

CHANGE IN CONTRACT TIMES:

<p>Original Contract Price:</p> <p style="text-align: right;">\$ <u>486,900.00</u></p> <p>Increase from previously approved Change Orders</p> <p>No. 0 to No. 0</p> <p style="text-align: right;">\$ <u>-</u></p> <p>Contract with Increase from previously approved Change Orders</p> <p style="text-align: right;">\$ <u>486,900.00</u></p> <p>Increase of this Change Order</p> <p style="text-align: right;">\$ <u>-</u></p> <p>Contract Price incorporating this Change Order:</p> <p style="text-align: right;">\$ <u>486,900.00</u></p>	<p>Substantial completion: <u>April 15, 2020</u></p> <p>Ready for final payment: <u>May 15, 2020</u></p> <p>Increase from previously approved Change Orders</p> <p>No. 0 to No. 0</p> <p>Substantial completion: <u>0</u></p> <p>Ready for final payment: <u>0</u></p> <p>Contract Times prior to this Change Order:</p> <p>Substantial completion: <u>April 15, 2020</u></p> <p>Ready for final payment: <u>May 15, 2020</u></p> <p>Increase Time of this Change Order:</p> <p>Substantial completion: <u>5</u></p> <p>Ready for final payment: <u>77</u></p> <p>Contract Times with all approved Change Orders:</p> <p>Substantial completion: <u>April 20, 2020</u></p> <p>Ready for final payment: <u>July 31, 2020</u></p>
--	---

RECOMMENDED:
By: 
Engineer (Authorized Signature)

Date: 7/21/2020

Approved by Funding Agency (if applicable): _____

ACCEPTED: **City of Bismarck**
By: _____
Owner (Authorized Signature)

Date: July 28, 2020

ACCEPTED:
By: 
Contractor (Authorized Signature)

Date: 7-21-2020

Date: _____

Amendment to Task Order No. 9, consisting of 2 pages, referred to in and part of **Short Form of Task Order Agreement Between Owner and Engineer for Professional Services**, dated November 13, 2018

1. Background Data:

- a. Effective Date of Task Order: September 24, 2019
- b. Owner: City of Bismarck
- c. Engineer: Advanced Engineering and Environmental, Inc.
- d. Specific Project (title): 2019 Lime Slaking Expansion Construction and Post Construction Services
- e. Specific Project (description): Provide construction, post-construction, and commissioning services to the Water Treatment Facility staff in support of a lime slaking expansion.

2. Description of Modifications

- a. Engineer shall perform the following Additional Services:
 - a. Equitable increase in compensation for the additional construction phase engineering services due to the Contractor's close out extending past the original date for Final Payment.
 - b. Schedule of Services – Engineer's services will match the Contractor's work progress.

3. Task Order Summary (Reference only)

- a. Original Task Order amount: \$67,000
- b. Net change for prior amendments: \$0
- c. This amendment amount: \$6,000
- d. Adjusted Task Order amount: \$73,000

The foregoing Task Order Summary is for reference only and does not alter the terms of the Task Order.

Owner and Engineer hereby agree to modify the above-referenced Task Order as set forth in this Amendment. All provisions of the Agreement and Task Order not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is 7/28/2020.

OWNER:

ENGINEER:

By: _____

By:  _____

Print Name: Steve Bakken
President of Board of City

Print Name: Jasper Klein

Title: Commissioners

Title: Operations Manager

Date Signed: July 28, 2020

Date Signed: 7/20/2020



Public Works Utility Operations Department

DATE: July 21, 2020

FROM: Michelle Klose, Utility Operations Director

ITEM: Approval to enter into a contract with Hach Company for Lab Data Management Software for Water and Wastewater Treatment Plants

REQUEST

Request for approval to enter into a contract with Hach Company for Lab Data Management Software for Water and Wastewater Treatment Plants.

Please place this item on the 7/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The lab data software had been reviewed by the Information Technology Governance Charter at its January 2020 meeting, and the IT Manager was part of the selection process. An RFP was released in June, 2020, and a review committee ranked three proposals from firms and selected Hach Company to provide water/wastewater data management systems software to consolidate information for the purposes of regulatory reporting and data analysis. The contract amount of \$82,200 includes the lab management software, setup, three years of support, and two-day and three-day training sessions with our lab staff, water and wastewater plant operations staff, and City IT staff. A written quote from Hach Company is attached.

RECOMMENDED CITY COMMISSION ACTION

Approve entering into a contract with Hach Company for lab data management software for the Water and Wastewater Treatment Plants.

STAFF CONTACT INFORMATION

Michelle Klose, PE | Utility Operations Director, 355-1700 or mklose@bismarcknd.gov.



Be Right™

Quotation

Quote Number: 100528505v4

Use quote number at time of order to ensure that you receive prices quoted

Hach
PO Box 608
Loveland, CO 80539-0608
Phone: (800) 227-4224
Email: quotes@hach.com
Website: www.hach.com

Quote Date: 01/31/2020

Quote Expiration: 12/31/2020

City of Bismarck
Public Works
PO Box 5503
Bismarck, ND 58506-5503

Name: Michelle Klose
Phone: 701-355-1700
Email: mklose@bismarcknd.gov

Customer Account Number : 069535
Customer Quote Reference: Pricing for Lab Management Software

Sales Contact: Emily Coppola Email: ecoppola@hach.com Phone: 970-342-3671

PRICING QUOTATION

Line	Part Number	Description	Qty	Net Unit Price	Extended Price
SOFTWARE					
1	WM-MU	WIMS Multi User License with one concurrent user and one facility	1	4,923.00	4,923.00
2	WM-MU-CONUSR	WIMS Concurrent User License	4	1,071.00	4,284.00
3	WM-FACILITY	WIMS Additional Facilities	1	1,442.00	1,442.00
4	WM-DBSQLSERVER	WIMS for MS SQL Server DB	1	4,563.00	4,563.00
5	WM-SCADA-INT	SCADA/Historian Interface Module connects to a single SCADA source . Standard lead time 5 days.	1	3,131.00	3,131.00
6	WM-SW	WIMS base software for support contracts.. Standard lead time 5 days.	1	0.00	0.00
7	DMWIMS-SPT-BAS	(3) Years WIMS Annual Support Contract - Basic support is 18% of overall software value.	1	9,162.00	9,162.00
8	WM-MU-LABCAL	Hach LAB Cal - Laboratory Information Management Software	1	5,397.00	5,397.00
9	WM-LABCAL-ADDL	WIMS LabCal Module Additional Facility	1	1,329.00	1,329.00
				Subtotal	\$ 34,231.00
SERVICES					
10	DM_WIMS-SERVICES	WIMS Services	156	200.00	31,200.00

Line	Part Number	Description	Qty	Net Unit Price	Extended Price
11	NOSHIPOPENPROJ	Keeps order open for WIMS Project. Do not ship.	1	0.00	0.00
				Subtotal	\$ 31,200.00
TRAINING					
12	DM_WIMS-OSTRN-3DAY	Onsite Services Three Day (concurrent) – Project Manager	1	9,373.00	9,373.00
13	DM_WIMS-OSTRN-2DAY	Onsite Services Two Day (concurrent) – Project Manager	1	7,416.00	7,416.00
				Subtotal	\$ 16,789.00
				Grand Total	\$ 82,220.00

NOTES

Hach WIMS Software:

Hach WIMS™ with 5 concurrent users, 2 facility databases, 1 year of support (starts on ship date)

MS SQL Server Support

Annual Support renewal:

Included at no additional charge for 1 year with initial Software License. Annual Renewals are available for a fee of approximately 18% of the then current list price of Software Licenses owned by the customer. Includes: Support Team Services via 800 Number and e-mail, Live internet enabled Support, access to Hach WIMS internet Knowledge Base. Software Updates are also included. Three year renewal below:

Year 1: included in first year of software purchase

Year 2: \$4,513

Year 3: \$4,649

Standard SCADA Interface for Hach WIMS™ Wonderware:

Please go to www.hach.com/im, under "Helpful Links" click on Standard SCADA and LIMS Interfaces to review the list of Standard SCADA interfaces currently available. Please verify your system is listed and click on the Documentation link to review the technical details of the interface. Contact IIM Support at 800-667-0067 if you need assistance.

NOTE: If your SCADA system is not on the Hach list of standard interfaces, a custom interface will be required and additional costs will be incurred. Completion of custom interfaces may extend beyond the completion of other aspects of the project but should not delay the use of most WIMS functionality. You should discuss impact to the project schedule with your HACH RSM and Project Manager.

LabCal Sample Scheduling & Tracking Module (for 2 facilities):

Lab Cal is an "add-on" Module to schedule samples and track results including Chain of Custody.

Implementation Services (Wastewater):

Typically includes (your Project Manager will finalize the scope of work based on your needs):

- Project Administration
- Consultation to gather information and determine specific needs to create a project plan.
- Remote Basic Install Assistance
- Basic Variable setup - Adapting an industry standard list of parameters and calculations for your plant/system.
- Site specific calculation setup
- The Hach Project Manager will complete set up of up to a 10 Page DMR of 100 parameter NetDMR. Customer to provide copies of reports prior to implementation.
- 1 standard format monthly KPI report with up to 10 user defined KPIs (key performance indicators)
- Predefined dashboard with 10 user defined KPI's and KPI graph set
- 1 standard format yearly summary KPI report with up to 10 user defined KPIs
- Data Entry Form development including 1 Custom Data Entry Form and standard Monthly Data Entry Forms for all parameters
- Additional scope/work, billed at our standard labor rate, can be requested and will require a change order.
- Implementation assumes internet access is available at installation site.
- Data Migration services are NOT included. Historical data may be imported from SCADA/LIMS systems with Purchased Interfaces.

Implementation Services (Drinking Water):

Typically includes (your Project Manager will finalize the scope of work based on your needs):

- Project Administration
- Consultation to gather information and determine specific needs to create a project plan.
- Remote Basic Install Assistance
- Basic Variable setup - Adapting an industry standard list of parameters and calculations for your plant/system.
- Site specific calculation setup
- The Hach Project Manager will complete set up of up to a 10 Page MOR of 100 parameter eMOR. Customer to provide copies of reports prior to

Implementation.

- 1 standard format monthly KPI report with up to 10 user defined KPIs (key performance indicators)
- Predefined dashboard with 10 user defined KPI's and KPI graph set
- 1 standard format yearly summary KPI report with up to 10 user defined KPIs
- Data Entry Form development including 1 Custom Data Entry Form and standard Monthly Data Entry Forms for all parameters
- Additional scope/work, billed at our standard labor rate, can be requested and will require a change order.
- Implementation assumes internet access is available at installation site.
- Data Migration services are NOT included. Historical data may be imported from SCADA/LIMS systems with Purchased Interfaces.

LabCal Implementation Services for 2 facilities:

Input of 20 tests/analytes (methods), 10 samples (which includes scheduling), 10 personnel, chain of custody report, and certificate of analysis report for each (2) facilities

Onsite Training and Services:

3 Days - Onsite Training and Services

- Installation Review
- Training - Basic, Advanced, and Admin (A Hach project manager will create a training agenda based on training requirements)
- SCADA Interface installation, configuration and training. Up to 40 variables will be cross referenced for each facility. Customer will be trained on how to cross-reference additional variables.

Onsite Follow-up Services:

2 Days On Site Post installation session to provide:

- Additional training using customer database
- System "Health Check" of Database, Data Entry Forms, Reports, and Graphs
- Learn to increase efficiency via Dashboards, Trending/Analysis Tools, and Interfaces

TERMS OF SALE

Freight: Ground Prepay and Add

FCA: Hach's facility

All purchases of Hach Company products and/or services are expressly and without limitation subject to Hach Company's Terms & Conditions of Sale ("Hach TCS"), incorporated herein by reference and published on Hach Company's website at www.hach.com/terms. Hach TCS are contained directly and/or by reference in Hach's offer, order acknowledgment, and invoice documents. The first of the following acts constitutes an acceptance of Hach's offer and not a counteroffer and creates a contract of sale "Contract" in accordance with the Hach TCS: (i) Buyer's issuance of a purchase order document against Hach's offer; (ii) acknowledgement of Buyer's order by Hach; or (iii) commencement of any performance by Hach pursuant to Buyer's order. Provisions contained in Buyer's purchase documents (including electronic commerce interfaces) that materially alter, add to or subtract from the provisions of the Hach TCS are not part of the Contract.

Due to International regulations, a U.S. Department of Commerce Export License may be required. Hach reserves the right to approve specific shipping agents. Wooden boxes suitable for ocean shipment are extra. Specify final destination to ensure proper documentation and packing suitable for International transport. In addition, Hach may require: 1). A statement of intended end-use; 2). Certification that the intended end-use does not relate to proliferation of weapons of mass destruction (prohibited nuclear end use, chemical / biological weapons, missile technology); and 3). Certification that the goods will not be diverted contrary to U.S. and/or applicable laws in force in Buyer's jurisdiction.

ORDER TERMS:

Terms are Subject to Credit Review

In order for Hach to process the order as quickly as possible, please provide the following information.

- Complete Billing address.
- Complete Shipping address.
- Part numbers and quantities of items being ordered.
- Please reference the quotation number on your purchase order

If the order is over \$25,000 Hach will also require the following additional information.

- Pricing
- Purchase Order Number
- Freight terms and INCO term FOB Origin or FCA Shipping Point
- Required delivery date
- Vendor name should specify "Hach Company" with the Loveland address:
 - o Hach, PO Box 389, Loveland, CO 80539
- Credit terms of payment. Default payment terms are Net 30.
- Indicate if order needs to ship complete or if it can ship partial.
- Tax status
- Special invoicing instructions

Sales tax is not included on quote. Applicable sales tax will be added to the invoice based on the U.S. destination, if applicable provide a resale/exemption certificate.

Shipments will be prepaid and added to invoices unless otherwise specified.

Equipment quoted operates with standard U.S. supply voltage.

Hach standard terms and conditions apply to all sales.

Additional terms and conditions apply to orders for service partnerships.

Prices do not include delivery of product. Reference attached Freight Charge Schedule and Collect Handling Fees.

Standard lead time is 30 days.

This Quote is good for a one time purchase

Sales Contact:

Name: Emily Coppola
Title: Regional Sales Manager
Phone: 970-342-3671
Email: ecoppola@hach.com



HACH COMPANY

Headquarters

P.O. Box 389
5600 Lindbergh Drive
Loveland, CO 80539-0389

Purchase Orders

PO Box 608
Loveland, CO 80539-0608

WebSite: www.hach.com

U.S.A.

Phone: 800-227-4224
Fax: 970-669-2932
E-Mail: orders@hach.com
quotes@hach.com
techhelp@hach.com

Export

Phone: 970-669-3050
Fax: 970-461-3939
Email: intl@hach.com

Remittance

2207 Collections Center Drive
Chicago, IL 60693

Wire Transfers

Bank of America
231 S. LaSalle St.
Chicago, IL 60604
Account: 8765602385
Routing (ABA): 071000039

Quotation Addendum

ADVANTAGES OF WORKING WITH HACH

Hach Service	Pick&Ship™	Technical Support
<p><i>Protect your investment & peace of mind</i></p> <ul style="list-style-type: none"> ✓ A global partner who understands your needs ✓ Delivers timely, high-quality service you can trust ✓ Provides team of unique experts to help you maximize instrument uptime ✓ Ensure data integrity ✓ Maintain operational stability ✓ Reduce compliance risk <p>www.hach.com/service-contracts</p>	<p><i>Pick&Ship™ Program offers a better way to keep your supplies in stock</i></p> <ul style="list-style-type: none"> ✓ Convenience of one purchase order for the entire year ✓ Flexibility to change, cancel or create new orders ✓ Savings from locking in prices & thus avoiding price surges and rush charges ✓ Peace of mind with automatic, reliable shipments just as you need them <p>www.Hach.com/pickandship</p>	<p><i>Provides post-sale instrumentation and application support</i></p> <ul style="list-style-type: none"> ✓ Hach's highly skilled Technical Support staff is dedicated to helping you resolve technical issues before, during and after the sale. ✓ Available via phone, e-mail, or live online chat at Hach.com! ✓ Fast access to answers at https://support.hach.com ✓ Toll-free phone: 800-227-4224 ✓ E-mail: techhelp@hach.com <p>www.Hach.com</p>

ADVANTAGES OF SIMPLIFIED SHIPPING AND HANDLING

Safe & Fast Delivery	Save Time – Less Hassle	Save Money
<ul style="list-style-type: none"> ✓ Receive tracking numbers on your order acknowledgement ✓ Hach will assist with claims if an order is lost or damaged in shipment 	<ul style="list-style-type: none"> ✓ No need to set up deliveries for orders or to schedule pickup ✓ Hach ships order as product is available, at no additional charge, when simplified shipping and handling is used. 	<ul style="list-style-type: none"> ✓ No additional invoice to process – save on time and administrative costs ✓ Only pay shipping once, even if multiple shipments are required

STANDARD SIMPLIFIED SHIPPING AND HANDLING CHARGES ^{1, 2, 3, 4} Pricing Effective 4/11/2020						Collect ⁴
Total Price of Merchandise Ordered	Standard Surface (Mainland USA)	Second Day Delivery (Mainland USA)	Next Day Delivery (Mainland USA)	Second Day Delivery (Alaska & Hawaii)	Next Day Delivery (Alaska & Hawaii)	Handling Fee Effective 4/11/2020
\$0.00 - \$49.99	\$17.99	\$44.99	\$83.90	\$72.21	\$137.27	\$13.47
\$50.00 - \$149.99	\$28.59	\$84.27	\$159.00	\$120.84	\$229.73	\$13.85
\$150.00 - \$349.99	\$50.22	\$133.98	\$272.91	\$169.07	\$329.04	\$14.72
\$350.00 - \$649.99	\$69.95	\$182.91	\$363.75	\$228.65	\$442.76	\$15.48
\$650.00 - \$949.99	\$88.16	\$191.13	\$399.98	\$236.66	\$446.10	\$16.04
\$950.00 - \$1,999.99	\$110.91	\$235.85	\$498.69	\$280.67	\$543.06	\$17.52
\$2,000.00 - \$3,999.99	\$128.04	\$250.64	\$513.44	\$291.54	\$554.54	\$20.22
\$4,000.00 - \$5,999.99	\$148.44	\$260.33	\$538.23	\$292.89	\$570.53	\$24.90
\$6,000.00 - \$7,999.99	\$175.40	\$296.40	\$612.84	\$323.07	\$622.86	\$29.04
\$8,000.00 - \$9,999.99	\$200.15	\$336.83	\$658.19	\$360.41	\$683.52	\$33.51
Over \$10,000	2.5% of Net Order Value	4.5% of Net Order Value	7% of Net Order Value	4.5% of Net Order Value	7% of Net Order Value	\$51.84

- Shipping & Handling charges shown are only applicable to orders billing and shipping to U.S. destinations. Shipping & Handling charges will be prepaid and added to invoice. Shipping & Handling for the Pick&Ship Program is charged on each shipment release and is based on the total price of each shipment release. Shipping & Handling charges are subject to change without notice.
 - Additional Shipping & Handling charges will be applied to orders containing bulky and/or especially heavy orders. Refrigerated and all weather Samplers do not qualify for simplified Shipping & Handling charges, and are considered heavy products. Dissolved Oxygen Sensors can be damaged if exposed to temps below freezing, causing sensor failure. Must be shipped over night or 2nd day air during the cold weather months.
 - Orders shipping to Alaska or Hawaii: Additional Shipping & Handling charges may be applied at time of order processing. Second Day and Next Day delivery is not available to all destinations.
 - Hach Company will assess a collect handling fee on orders with collect shipping terms. This handling fee covers the additional costs that Hach Company incurs from processing and managing collect shipments.
- Due to variations in component characteristics, regulatory transportation requirements and/or associated shipping and handling costs, individual kit components may or may not be packaged together in a single carton at time of final packaging and shipping.

SALES TAX

Sales Tax is not included in the attached quotation. Applicable sales and usage taxes will be added to your invoice, at the time of order, based on U.S. destination of goods, unless a valid resale/exemption certificate for destination state is provided to the above address or fax number, attention of the Tax Dept.

TERMS & CONDITIONS OF SALE FOR HACH COMPANY PRODUCTS AND SERVICES

This document sets forth the Terms & Conditions of Sale for goods manufactured and/or supplied, and services provided, by Hach Company of Loveland, Colorado ("Hach") and sold to the original purchaser thereof ("Buyer"). Unless otherwise specifically stated herein, the term "Hach" includes only Hach Company and none of its affiliates. Unless otherwise specifically stated in a previously-executed written purchase agreement signed by authorized representatives of Hach and Buyer, these Terms & Conditions of Sale establish the rights, obligations and remedies of Hach and Buyer which apply to this offer and any resulting order or contract for the sale of Hach's goods and/or services ("Products").

1. **APPLICABLE TERMS & CONDITIONS:** These Terms & Conditions of Sale are contained directly and/or by reference in Hach's offer, order acknowledgment, and invoice documents. The first of the following acts constitutes an acceptance of Hach's offer and not a counteroffer and creates a contract of sale ("Contract") in accordance with these Terms & Conditions: (i) Buyer's issuance of a purchase order document against Hach's offer; (ii) acknowledgment of Buyer's order by Hach; or (iii) commencement of any performance by Hach pursuant to Buyer's order. Provisions contained in Buyer's purchase documents (including electronic commerce interfaces) that materially alter, add to or subtract from the provisions of these Terms & Conditions of Sale are not a part of the Contract.

2. **CANCELLATION:** Buyer may cancel goods orders subject to fair charges for Hach's expenses including handling, inspection, restocking, freight and invoicing charges as applicable, provided that Buyer returns such goods to Hach at Buyer's expense within 30 days of delivery and in the same condition as received. Buyer may cancel service orders on ninety (90) day's prior written notice and refunds will be prorated based on the duration of the service plan. Inspections and re-instatement fees may apply upon cancellation or expiration of service programs. Seller may cancel all or part of any order prior to delivery without liability if the order includes any Products that Seller determines may not comply with export, safety, local certification, or other applicable compliance requirements.

3. **DELIVERY:** Delivery will be accomplished FCA Hach's facility located in Ames, Iowa or Loveland, Colorado, United States (Incoterms 2010). Legal title and risk of loss or damage pass to Buyer upon transfer to the first carrier. Hach will use commercially reasonable efforts to deliver the Products ordered herein within the time specified on the face of this Contract or, if no time is specified, within Hach's normal lead-time necessary for Hach to deliver the Products sold hereunder. Upon prior agreement with Buyer and for an additional charge, Hach will deliver the Products on an expedited basis. Standard service delivery hours are 8 am – 5 pm Monday through Friday, excluding holidays.

4. **INSPECTION:** Buyer will promptly inspect and accept any Products delivered pursuant to this Contract after receipt of such Products. In the event the Products do not conform to any applicable specifications, Buyer will promptly notify Hach of such nonconformance in writing. Hach will have a reasonable opportunity to repair or replace the nonconforming product at its option. Buyer will be deemed to have accepted any Products delivered hereunder and to have waived any such nonconformance in the event such a written notification is not received by Hach within thirty (30) days of delivery.

5. **PRICES & ORDER SIZES:** All prices are in U.S. dollars and are based on delivery as stated above. Prices do not include any charges for services such as insurance; brokerage fees; sales, use, inventory or excise taxes; import or export duties; special financing fees; VAT, income or royalty taxes imposed outside the U.S.; consular fees; special permits or licenses; or other charges imposed upon the production, sale, distribution, or delivery of Products. Buyer will either pay any and all such charges or provide Hach with acceptable exemption certificates, which obligation survives performance under this Contract. Hach reserves the right to establish minimum order sizes and will advise Buyer accordingly.

6. **PAYMENTS:** All payments must be made in U.S. dollars. For Internet orders, the purchase price is due at the time and manner set forth at www.hach.com. Invoices for all other orders are due and payable NET 30 DAYS from date of the invoice without regard to delays for inspection or transportation, with payments to be made by check to Hach at the above address or by wire transfer to the account stated on the front of Hach's invoice, or for customers with no established credit, Hach may require cash or credit

card payment in advance of delivery. In the event payments are not made or not made in a timely manner, Hach may, in addition to all other remedies provided at law, either: (a) declare Buyer's performance in breach and terminate this Contract for default; (b) withhold future shipments until delinquent payments are made; (c) deliver future shipments on a cash-with-order or cash-in-advance basis even after the delinquency is cured; (d) charge interest on the delinquency at a rate of 1-1/2% per month or the maximum rate permitted by law, if lower, for each month or part thereof of delinquency in payment plus applicable storage charges and/or inventory carrying charges; (e) repossess the Products for which payment has not been made; (f) recover all costs of collection including reasonable attorney's fees; or (g) combine any of the above rights and remedies as is practicable and permitted by law. Buyer is prohibited from setting off any and all monies owed under this from any other sums, whether liquidated or not, that are or may be due Buyer, which arise out of a different transaction with Hach or any of its affiliates. Should Buyer's financial responsibility become unsatisfactory to Hach in its reasonable discretion, Hach may require cash payment or other security. If Buyer fails to meet these requirements, Hach may treat such failure as reasonable grounds for repudiation of this Contract, in which case reasonable cancellation charges shall be due Hach. Buyer grants Hach a security interest in the Products to secure payment in full, which payment releases the security interest but only if such payments could not be considered an avoidable transfer under the U.S. Bankruptcy Code or other applicable laws. Buyer's insolvency, bankruptcy, assignment for the benefit of creditors, or dissolution or termination of the existence of Buyer, constitutes a default under this Contract and affords Hach all the remedies of a secured party under the U.C.C., as well as the remedies stated above for late payment or non-payment. See [120](#) for further wire transfer requirements.

7. **LIMITED WARRANTY:** Hach warrants that Products sold hereunder will be free from defects in material and workmanship and will, when used in accordance with the manufacturer's operating and maintenance instructions, conform to any express written warranty pertaining to the specific goods purchased, which for most Hach instruments is for a period of twelve (12) months from delivery. Hach warrants that services furnished hereunder will be free from defects in workmanship for a period of ninety (90) days from the completion of the services. Parts provided by Hach in the performance of services may be new or refurbished parts functioning equivalent to new parts. Any non-functioning parts that are repaired by Hach shall become the property of Hach. No warranties are extended to consumable items such as, without limitation, reagents, batteries, mercury cells, and light bulbs. **All other guarantees, warranties, conditions and representations, either express or implied, whether arising under any statute, law, commercial usage or otherwise, including implied warranties of merchantability and fitness for a particular purpose, are hereby excluded.** The sole remedy for Products not meeting this Limited Warranty is replacement, credit or refund of the purchase price. This remedy will not be deemed to have failed of its essential purpose so long as Hach is willing to provide such replacement, credit or refund.

8. **INDEMNIFICATION:** Indemnification applies to a party and to such party's successors-in-interest, assignees, affiliates, directors, officers, and employees ("Indemnified Parties"). Hach is responsible for and will defend, indemnify and hold harmless the Buyer Indemnified Parties against all losses, claims, expenses or damages which may result from accident, injury, damage, or death due to Hach's breach of the Limited Warranty. Buyer is responsible for and will defend, indemnify and hold harmless the Hach Indemnified Parties against all losses, claims, expenses or damages which may result from accident, injury, damage, or death due to negligence, misuse or misapplication of any goods or services, violations of law, or the breach of any provision of this Contract by the Buyer, its affiliates, or those employed by, controlled by or in privity with them. Buyer's workers' compensation immunity, if any, does not preclude or limit its indemnification obligations.

9. **PATENT PROTECTION:** Subject to all limitations of liability provided herein, Hach will, with respect to any Products of Hach's design or manufacture, indemnify Buyer from any and all damages and costs as finally determined by a court of competent jurisdiction in any suit for infringement of any U.S. patent (or European patent for Products that Hach sells to Buyer for end use in a member state of the E.U.) that has issued as of the delivery date, solely by reason of the sale or normal use of any Products sold to Buyer hereunder and from reasonable expenses incurred by Buyer in defense of such suit if Hach does not undertake the defense thereof, provided that Buyer promptly notifies



TERMS AND CONDITIONS OF SALE FOR HACH® PRODUCTS

Hach of such suit and offers Hach either (i) full and exclusive control of the defense of such suit when Products of Hach only are involved, or (ii) the right to participate in the defense of such suit when products other than those of Hach are also involved. Hach's warranty as to use patents only applies to infringement arising solely out of the inherent operation of the Products according to their applications as envisioned by Hach's specifications. In case the Products are in such suit held to constitute infringement and the use of the Products is enjoined, Hach will, at its own expense and at its option, either procure for Buyer the right to continue using such Products or replace them with non-infringing products, or modify them so they become non-infringing, or remove the Products and refund the purchase price (prorated for depreciation) and the transportation costs thereof. The foregoing states the entire liability of Hach for patent infringement by the Products. Further, to the same extent as set forth in Hach's above obligation to Buyer, Buyer agrees to defend, indemnify and hold harmless Hach for patent infringement related to (x) any goods manufactured to the Buyer's design, (y) services provided in accordance with the Buyer's instructions, or (z) Hach's Products when used in combination with any other devices, parts or software not provided by Hach hereunder.

10. **TRADEMARKS AND OTHER LABELS:** Buyer agrees not to remove or alter any indicia of manufacturing origin or patent numbers contained on or within the Products, including without limitation the serial numbers or trademarks on nameplates or cast, molded or machined components.

11. **SOFTWARE AND DATA.** All licenses to Hach's separately-provided software products are subject to the separate software license agreement(s) accompanying the software media and/or included as an Appendix to these Terms & Conditions of Sale. Except to the extent such express licenses conflict with the remainder of this paragraph, the following also applies relative to Hach's software: Hach grants Buyer only a personal, non-exclusive license to access and use the software provided by Hach with Products purchased hereunder solely as necessary for Buyer to enjoy the benefit of the Products. A portion of the software may contain or consist of open source software, which Buyer may use under the terms and conditions of the specific license under which the open source software is distributed. Buyer agrees that it will be bound by all such license agreements. Title to software remains with the applicable licensor(s). In connection with Buyer's use of Products, Hach may obtain, receive, or collect data or information, including data produced by the Products. In such cases, Buyer grants Hach a non-exclusive, worldwide, royalty-free, perpetual, non-revocable license to use, compile, distribute, display, store, process, reproduce, or create derivative works of such data, or to aggregate such data for use in an anonymous manner, solely to facilitate marketing, sales and R&D activities of Hach and its affiliates.

12. **PROPRIETARY INFORMATION; PRIVACY:** "Proprietary Information" means any information, technical data or know-how in whatever form, whether documented, contained in machine readable or physical components, mask works or artwork, or otherwise, which Hach considers proprietary, including but not limited to service and maintenance manuals. Buyer and its customers, employees and agents will keep confidential all such Proprietary Information obtained directly or indirectly from Hach and will not transfer or disclose it without Hach's prior written consent, or use it for the manufacture, procurement, servicing or calibration of Products or any similar products, or cause such products to be manufactured, serviced or calibrated by or procured from any other source, or reproduce or otherwise appropriate it. All such Proprietary Information remains Hach's property. No right or license is granted to Buyer or its customers, employees or agents, expressly or by implication, with respect to the Proprietary Information or any patent right or other proprietary right of Hach, except for the limited use licenses implied by law. Hach will manage Customer's information and personal data in accordance with its Privacy Policy, located at <http://www.hach.com/privacypolicy>.

13. **CHANGES AND ADDITIONAL CHARGES:** Hach reserves the right to make design changes or improvements to any products of the same general class as Products being delivered hereunder without liability or obligation to incorporate such changes or improvements to Products ordered by Buyer unless agreed upon in writing before the Products' delivery date. Services which must be performed as a result of any of the following conditions are subject to additional charges for labor, travel and parts: (a) equipment alterations not authorized in writing by Hach; (b) damage resulting from improper use or handling, accident, neglect, power surge, or operation in an environment or manner in which the instrument is not designed to operate or is not in accordance with Hach's operating manuals; (c) the use of parts or accessories not provided by Hach; (d) damage resulting from acts of war, terrorism or nature; (e) services outside standard business hours; (f) site

prework not complete per proposal; or (g) any repairs required to ensure equipment meets manufacturer's specifications upon activation of a service agreement.

14. **SITE ACCESS / PREPARATION / WORKER SAFETY / ENVIRONMENTAL COMPLIANCE:** In connection with services provided by Hach, Buyer agrees to permit prompt access to equipment. Buyer assumes full responsibility to back-up or otherwise protect its data against loss, damage or destruction before services are performed. Buyer is the operator and in full control of its premises, including those areas where Hach employees or contractors are performing service, repair and maintenance activities. Buyer will ensure that all necessary measures are taken for safety and security of working conditions, sites and installations during the performance of services. Buyer is the generator of any resulting wastes, including without limitation hazardous wastes. Buyer is solely responsible to arrange for the disposal of any wastes at its own expense. Buyer will, at its own expense, provide Hach employees and contractors working on Buyer's premises with all information and training required under applicable safety compliance regulations and Buyer's policies. If the instrument to be serviced is in a Confined Space, as that term is defined under OSHA regulations, Buyer is solely responsible to make it available to be serviced in an unconfined space. Hach service technicians will not work in Confined Spaces. In the event that a Buyer requires Hach employees or contractors to attend safety or compliance training programs provided by Buyer, Buyer will pay Hach the standard hourly rate and expense reimbursement for such training attended. The attendance at or completion of such training does not create or expand any warranty or obligation of Hach and does not serve to alter, amend, limit or supersede any part of this Contract.

15. **LIMITATIONS ON USE:** Buyer will not use any Products for any purpose other than those identified in Hach's catalogs and literature as intended uses. Unless Hach has advised the Buyer in writing, in no event will Buyer use any Products in drugs, food additives, food or cosmetics, or medical applications for humans or animals. In no event will Buyer use in any application any Product that requires FDA 510(k) clearance unless and only to the extent the Product has such clearance. Buyer will not sell, transfer, export or re-export any Hach Products or technology for use in activities which involve the design, development, production, use or stockpiling of nuclear, chemical or biological weapons or missiles, nor use Hach Products or technology in any facility which engages in activities relating to such weapons. Unless the "ship-to" address is in California, U.S.A., the Products are not intended for sale in California and may lack markings required by California Proposition 65; accordingly, unless Buyer has ordered Products specifying a California ship-to address, Buyer will not sell or deliver any Hach Products for use in California. Any warranty granted by Hach is void if any goods covered by such warranty are used for any purpose not permitted hereunder.

16. **EXPORT AND IMPORT LICENSES AND COMPLIANCE WITH LAWS:** Unless otherwise specified in this Contract, Buyer is responsible for obtaining any required export or import licenses. Buyer will comply with all laws and regulations applicable to the installation or use of all Products, including applicable import and export control laws and regulations of the U.S., E.U. and any other country having proper jurisdiction, and will obtain all necessary export licenses in connection with any subsequent export, re-export, transfer and use of all Products and technology delivered hereunder. Buyer will comply with all local, national, and other laws of all jurisdictions globally relating to anti-corruption, bribery, extortion, kickbacks, or similar matters which are applicable to Buyer's business activities in connection with this Contract, including but not limited to the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"). Buyer agrees that no payment of money or provision of anything of value will be offered, promised, paid or transferred, directly or indirectly, by any person or entity, to any government official, government employee, or employee of any company owned in part by a government, political party, political party official, or candidate for any government office or political party office to induce such organizations or persons to use their authority or influence to obtain or retain an improper business advantage for Buyer or for Hach, or which otherwise constitute or have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining business or any improper advantage, with respect to any of Buyer's activities related to this Contract. Hach asks Buyer to "*Speak Up!*" if aware of any violation of law, regulation or our Standards of Conduct ("SOC") in relation to this Contract. See <http://danaher.com/integrity-and-compliance> and www.danaherintegrity.com for a copy of the SOC and for access to our Helpline portal.

17. **RELATIONSHIP OF PARTIES:** Buyer is not an agent or representative of Hach and will not present itself as such under any circumstances unless and to

TERMS AND CONDITIONS OF SALE FOR HACH® PRODUCTS

the extent it has been formally screened by Hach’s compliance department and received a separate duly-authorized letter from Hach setting forth the scope and limitations of such authorization.

18. **FORCE MAJEURE:** Hach is excused from performance of its obligations under this Contract to the extent caused by acts or omissions that are beyond its control of, including but not limited to Government embargoes, blockages, seizures or freeze of assets, delays or refusals to grant an export or import license or the suspension or revocation thereof, or any other acts of any Government; fires, floods, severe weather conditions, or any other acts of God; quarantines; labor strikes or lockouts; riots; strife; insurrections; civil disobedience or acts of criminals or terrorists; war; material shortages or delays in deliveries to Hach by third parties. In the event of the existence of any force majeure circumstances, the period of time for delivery, payment terms and payments under any letters of credit will be extended for a period of time equal to the period of delay. If the force majeure circumstances extend for six months, Hach may, at its option, terminate this Contract without penalty and without being deemed in default or in breach thereof.

19. **NON ASSIGNMENT AND WAIVER:** Buyer will not transfer or assign this Contract or any rights or interests hereunder without Hach’s prior written consent. Failure of either party to insist upon strict performance of any provision of this Contract, or to exercise any right or privilege contained herein, or the waiver of any breach of the terms or conditions of this Contract will not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same will continue and remain in force and effect as if no waiver had occurred.

20. **FUNDS TRANSFERS (PAYMENTS):** Buyer and Hach both recognize that there is a risk of banking fraud when individuals impersonating a business demand payment under new banking or mailing instructions. To avoid this risk, Buyer must verbally confirm any new or changed bank transfer or mailing instructions by calling Hach at +1-970-663-1377 and speaking with Hach’s Credit Manager before mailing or transferring any monies using the new instructions. Both parties agree that they will not institute mailing or bank transfer instruction changes and require immediate payment under the new instructions but will instead provide a ten (10) day grace period to verify any payment instruction changes before any new or outstanding payments are due using the new instructions.

21. **LIMITATION OF LIABILITY:** None of the Hach Indemnified Parties will be liable to Buyer under any circumstances for any special, treble, incidental or consequential damages, including without limitation, damage to or loss of property other than for the Products purchased hereunder; damages incurred in installation, repair or replacement; lost profits, revenue or opportunity; loss of use; losses resulting from or related to downtime of the products or inaccurate measurements or reporting; the cost of substitute products; or claims of Buyer’s customers for such damages, howsoever caused, and whether based on warranty, contract, and/or tort (including negligence, strict liability or otherwise). The total liability of the Hach Indemnified Parties arising out of the performance or nonperformance hereunder or Hach’s obligations in connection with the design, manufacture, sale, delivery, and/or use of Products will in no circumstance exceed in the aggregate a sum equal to twice the amount actually paid to Hach for Products delivered hereunder.

22. **APPLICABLE LAW AND DISPUTE RESOLUTION:** The construction, interpretation and performance hereof and all transactions hereunder shall be governed by the laws of the State of Colorado, without regard to its principles or laws regarding conflicts of laws. If any provision of this Contract violates any Federal, State or local statutes or regulations of any countries having jurisdiction of this transaction, or is illegal for any reason, said provision shall be self-deleting without affecting the validity of the remaining provisions. Unless otherwise specifically agreed upon in writing between Hach and Buyer, any dispute relating to this Contract which is not resolved by the parties shall be adjudicated in order of preference by a court of competent jurisdiction (i) in the State of Colorado, U.S.A. if Buyer has minimum contacts with Colorado and the U.S., (ii) elsewhere in the U.S. if Buyer has minimum contacts with the U.S. but not Colorado, or (iii) in a neutral location if Buyer does not have minimum contacts with the United States.

23. **ENTIRE AGREEMENT & MODIFICATION:** These Terms & Conditions of Sale constitute the entire agreement between the parties and supersede any prior agreements or representations, whether oral or written. No change to or modification of these Terms & Conditions shall be binding upon Hach unless in a written instrument specifically referencing that it is amending these Terms & Conditions of Sale and signed by an authorized representative of Hach. Hach

rejects any additional or inconsistent Terms & Conditions of Sale offered by Buyer at any time, whether or not such terms or conditions materially alter the Terms & Conditions herein and irrespective of Hach’s acceptance of Buyer’s order for the described goods and services.

24. **APPENDICES:** If checked, the following Appendices are attached hereto and incorporated by reference into these Terms & Conditions of Sale:

CLAROS SOFTWARE AS A SERVICE SUBSCRIPTION AGREEMENT

* * *



Public Works Utility Operations Department

DATE: July 15, 2020

FROM: Michelle Klose, Utility Operations Director

ITEM: Approval of sole source purchase of ceramic-lined elbows for the lime transfer system at the Water Treatment Plant

REQUEST

Request for approval to purchase ceramic-lined elbows for the lime transfer system at the Water Treatment Plant.

Please place this item on the 7/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The Water Treatment Plant is requesting approval to purchase ceramic-lined elbows for the lime transfer system. The lime transfer system is a critical part to move lime between the silos. The failed unit is epoxied and duct taped together until a new one is installed. These elbows need to be installed before winter weather sets in, and there is an eight-week lead time.

A written quote of \$22,610 is attached with an additional \$1,390 in shipping costs.

RECOMMENDED CITY COMMISSION ACTION

Approve the request to purchase ceramic-lined elbows for the lime transfer system at the Water Treatment Plant without competitive bidding as per Ordinance 7-01-04.

STAFF CONTACT INFORMATION

Michelle Klose, PE | Utility Operations Director, 355-1700 or mklose@bismarcknd.gov.



QUOTE

3010 Iowa Lane, Bismarck, ND 58503
 Phone 701.425.5711 Fax 866.350.0440
 kheiser@ptspower.com

JUNE 30, 2020

City of Bismarck Water Treatment
 Bill Pifer
 615 River Road
 Bismarck, ND 58504
 701-355-1660

SALESPERSON	DELIVERY	FREIGHT	FOB POINT
Karlis Heiser	8 Weeks	FOB Factory	Oxford, MI

QTY	DESCRIPTION	UNIT PRICE	LINE TOTAL
1	5" 90 degree elbow lined with 1/2 ceramic tile coated with red oxide primer	\$9,680.00	\$9,680.00
1	5" 180 degree elbow lined with 1/2 ceramic tile coated with red oxide primer	\$12,930.00	\$12,930.00
SUBTOTAL			\$22,610.00
SALES TAX			
TOTAL			

THANK YOU FOR YOUR BUSINESS

WARRANTY IS LIMITED TO THAT OF THE MANUFACTURER, NO LIABILITY FOR CONSEQUENTIAL DAMAGES.



Community Development Department

DATE: July 21, 2020

FROM: Ben Ehreth, AICP, Community Development Director

ITEM: Release of Drainage Easement in Lot 36, Block 1, Misty Waters

REQUEST

Jason and Krysta Sellers are requesting approval of the release of a drainage easement over Lot 36, Block 1, Misty Waters to allow installation of a swimming pool and landscaping retaining wall without encroachment into the easement. A new 20-foot drainage easement will be recorded on the same lot, to the south of the released easement.

This item appeared on the July 14, 2020 agenda and was continued to the next regular meeting of the Bismarck City Commission on July 28, 2020. Please place this item on the July 28, 2020 City Commission meeting agenda.

BACKGROUND INFORMATION

The easement was granted with the plat of Misty Waters, which was recorded September 28, 2005. The provision of this easement was required by the U.S. Army Corps of Engineers in granting a permit for the initial construction of the bay and subdivision. The easement is intended to intercept runoff before it reaches the bay to prevent erosion. A consulting engineer for the applicant has indicated the revised drainage easement would prevent runoff from traversing the slope to the bay. Staff has confirmed from the U.S. Army Corps of Engineers that a new permit would not be necessary for the subject easement release.

The Misty Waters Architectural Review Committee has consented to this change in the drainage easement, with a statement from the applicant placing any and all financial and/or landscaping responsibility on the homeowner should the drainage easement cause any issues to adjacent properties.

The City Engineer has affirmed that this easement would provide the drainage function on the lot, as stipulated in the U.S. Army Corps of Engineers permit. Staff has confirmed from the U.S. Army Corps of Engineers that a new permit would not be necessary for

the subject easement release.

Additional information included within this agenda packet, which was not included in the agenda packet on July 14, 2020 includes:

- Images provided by a neighboring property owner (Attachment 7)
- The narrative from the applicant dated April 17, 2020 and describing the easement release (Attachment 8)

RECOMMENDED CITY COMMISSION ACTION

Based on the findings in the staff report, staff recommends approval of the attached resolution to release the entire drainage easement over Lot 36, Block 1, Misty Waters, on the condition that staff will withhold recording of the subject release until such time that an replacement easement is granted which provides an equivalent function and is consistent with the replacement exhibit document provided within this packet.

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

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

RESOLUTION

**RELEASE OF DRAINAGE EASEMENT
IN MISTY WATERS**

WHEREAS, the owners of property described as Lot 36, Block 1, Misty Waters, adjoining and contiguous to a platted drainage easement, have heretofore joined in petition requesting that all of said drainage easement be released, verified by oath of at least one petitioner and accompanied by a plat of said drainage easement to be released, having set forth the facts and reason for said release; and

WHEREAS, said platted drainage easement was shown on the plat of Misty Waters, which was recorded on September 28, 2005; and

WHEREAS, the City Engineer has determined that the part of the drainage easement proposed for release is no longer necessary, on the condition that a replacement drainage easement is recorded that provides an equivalent drainage function on the lot, as stipulated in the U.S. Army Corps of Engineers permit for the development.

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that the petition to release the drainage easement described as:

All of the 20-foot drainage easement on Lot 36, Block 1, Misty Waters, Burleigh County, North Dakota

is in all things allowed and granted.

BE IT FURTHER RESOLVED that the City Administrator be and is hereby authorized to file this resolution for record in the office of the County Recorder, Burleigh County, North Dakota.

Adopted this 28th day of July, 2020.

CERTIFICATE

I, Jason Tomanek, do hereby certify that I am the duly appointed, qualified Assistant City Administrator of the City of Bismarck, North Dakota, and that the foregoing is a full, true and correct copy of a resolution adopted at a legally convened meeting of the Board of City Commissioners held on July 28, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota, this 28th day of July, 2020.

(SEAL)

Jason Tomanek
Assistant City Administrator
Bismarck, North Dakota



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

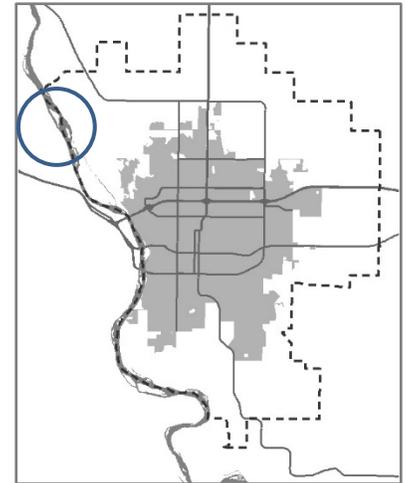
July 14, 2020

Application for: Plat Modification – Easement Release

TRAKiT Project ID: PLMD2020-007

Project Summary

Title:	Drainage Easement in Lot 36, Block 1, Misty Waters
Status:	Board of City of Commissioners
Owner(s):	Jason and Krysta Sellers
Project Contact:	Jordan Anderson, Big River Builders
Location:	Northwest of Bismarck, west of River Road on bay of Misty Waters
Project Size:	20-foot easement over approximately 82 feet
Request:	Release drainage easement to allow installation of swimming pool and landscaping retaining wall.



Staff Analysis

Jason and Krysta Sellers are requesting approval of the release of a drainage easement over Lot 36, Block 1, Misty Waters to allow installation of a swimming pool and landscaping retaining wall without encroachment into the easement. A new 20-foot drainage easement will be recorded on the same lot, to the south of the released easement. An exhibit showing the location of the proposed replacement easement is attached to this report.

The drainage easement was granted with the plat of Misty Waters, which was recorded September 28, 2005. The provision of this easement was required by the U.S. Army Corps of Engineers in granting a permit for the initial construction of the bay and subdivision. The easement is intended to intercept runoff before it reaches the bay to prevent erosion.

A consulting engineer for the applicant has indicated that the revised drainage easement would prevent runoff from traversing the slope to the bay. The City Engineer has affirmed that this replacement easement would provide the drainage function on the lot, as stipulated in the U.S. Army Corps of Engineers permit.

The Misty Waters Architectural Review Committee has consented to this change in the drainage easement, with a statement from the applicant placing any and all financial and/or landscaping responsibility on the homeowner should the drainage easement cause any issues to adjacent properties.

A representative from the U.S. Army Corps of Engineers has been contacted regarding this request, but has not formally provided an interpretation on whether this modification meets the terms of the permit.

Required Findings of Fact (relating to land use)

1. The easement, or part thereof, shown on the plat of record and proposed for release is no longer needed for the purpose for which it was dedicated;
2. The release of the easement is consistent with the general intent and purpose of the zoning ordinance; and
3. The release of the easement is consistent with the master plan, other adopted plans, policies and accepted planning practice.

(continued)

Staff Recommendation

Based on the above findings, staff recommends approval of the attached resolution to release the entire drainage easement over Lot 36, Block 1, Misty Waters, with the following conditions:

1. A replacement drainage easement is granted that provides an equivalent function.
2. Any conditions or stipulations raised by the U.S. Army Corp of Engineers are addressed to the satisfaction of this entity prior to recordation of the resolution.

Attachments

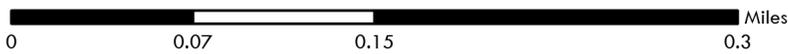
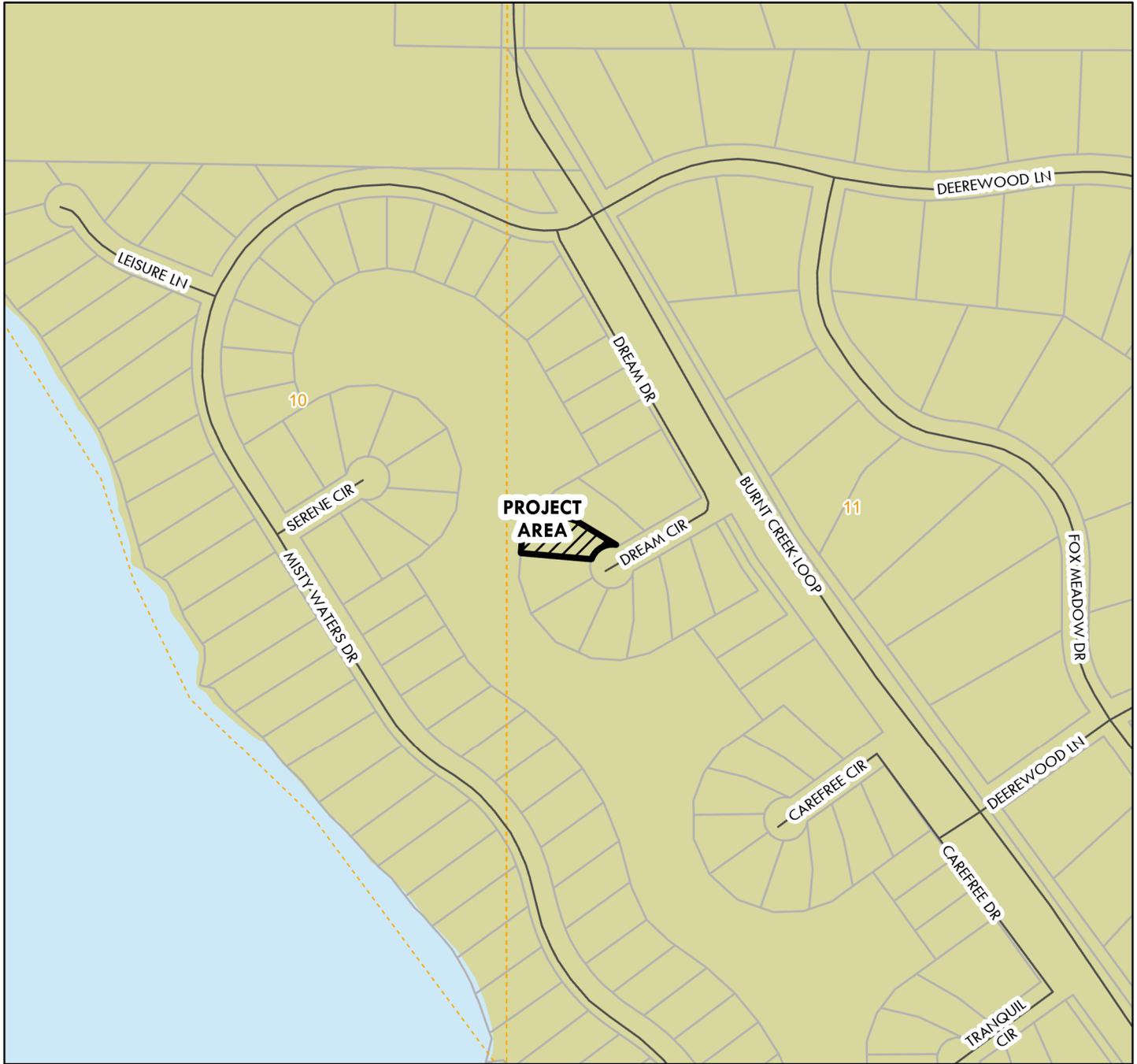
1. Location Map
2. Plat Map
3. Exhibit of Replacement Easement
4. Resolution
5. Application/Petition
6. Email from Architectural Review Committee

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



Location Map
MISTY WATERS, L36, B1

PLMD2020-007

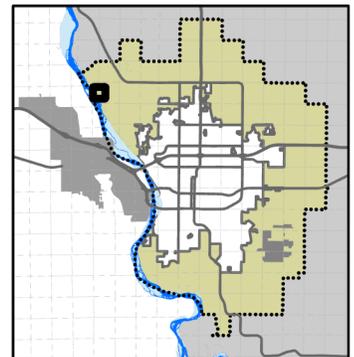


- Bismarck ETA Jurisdiction
- County Outside ETA

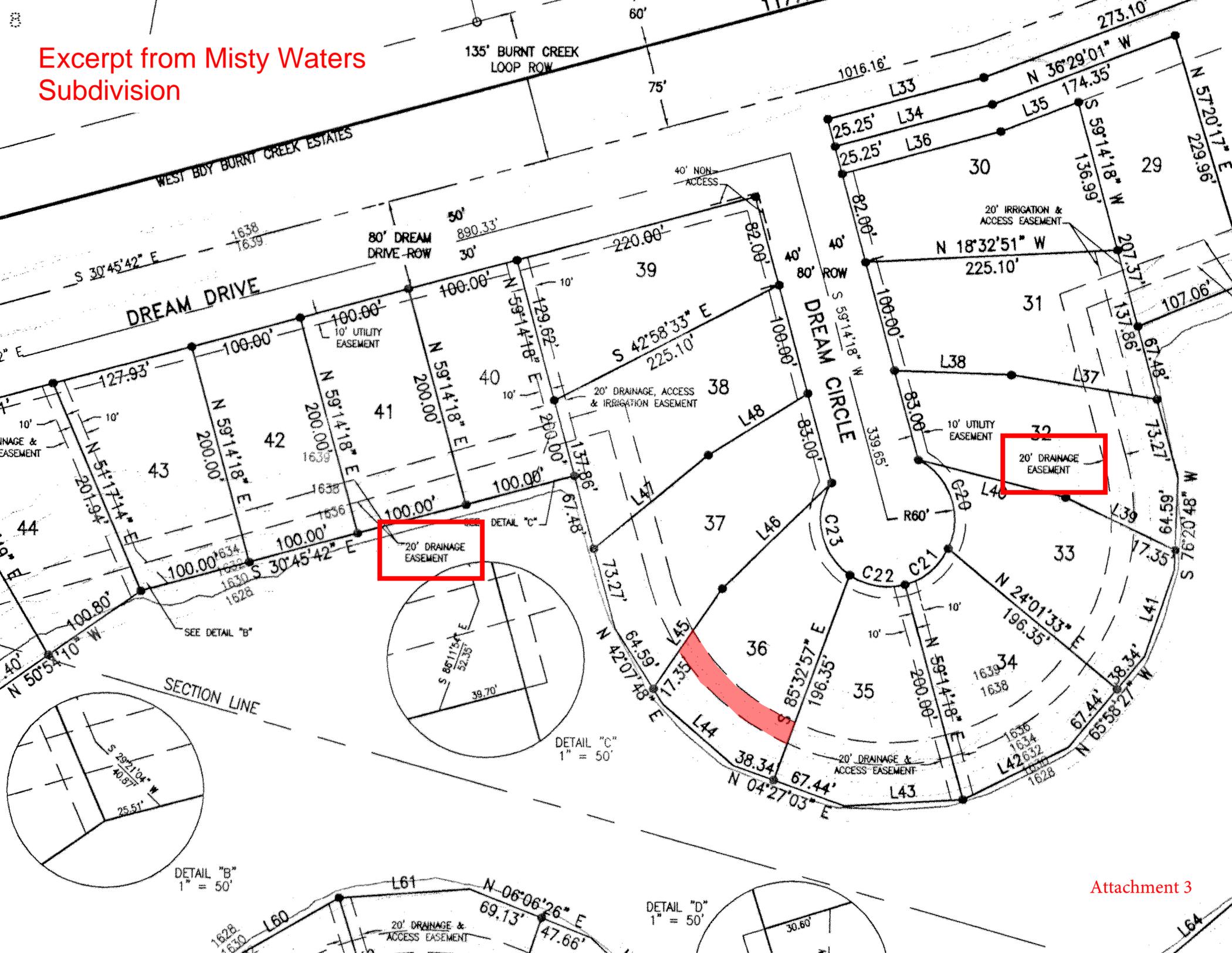
Section, township, and range indicated in orange

City of Bismarck
Community Development Department
Planning Division
June 26, 2020 (HLB)

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

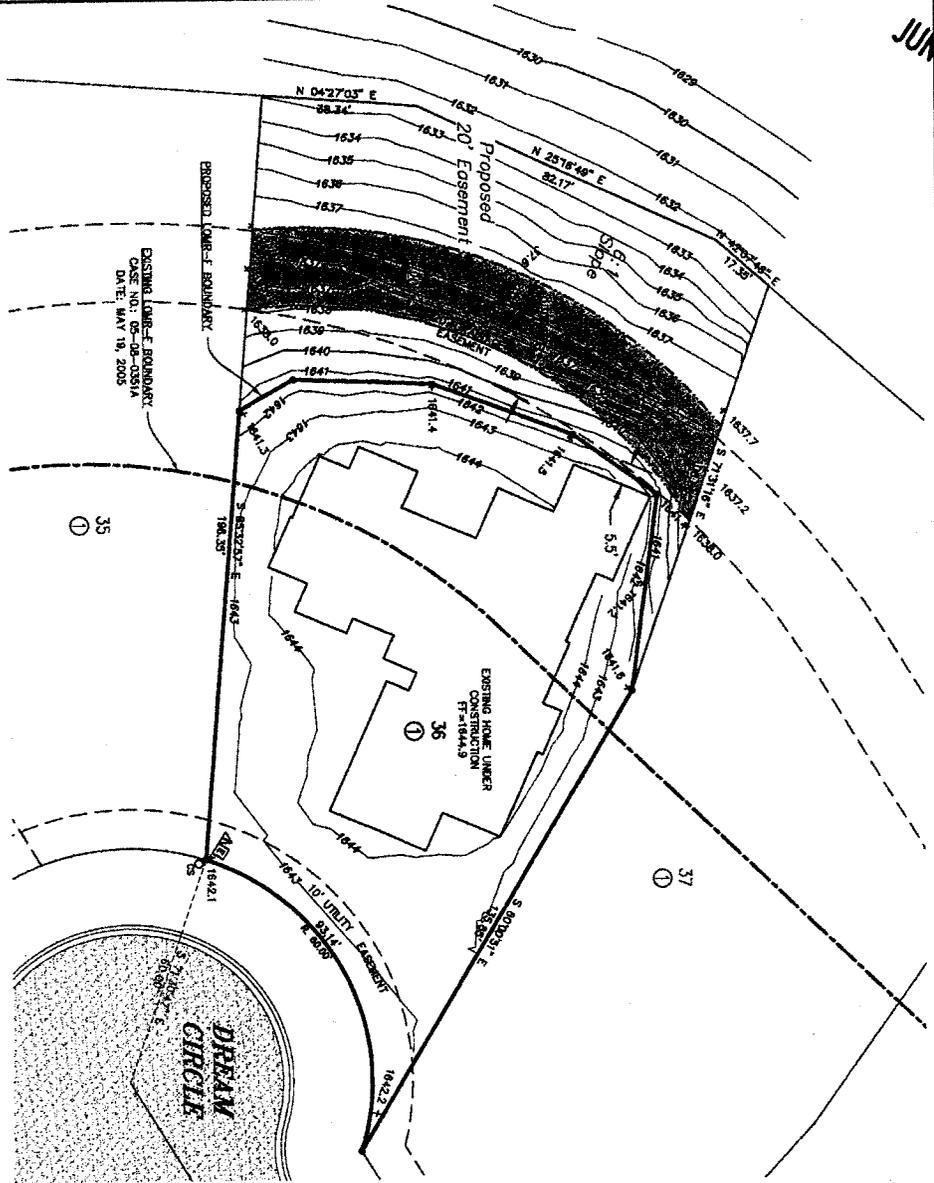


Excerpt from Misty Waters Subdivision



RECEIVED
JUN 06 2020

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in any form or by any means without the express written permission of
Swenson Hagen & Co.



**PRELIMINARY-NOT FOR CONSTRUCTION,
RECORDING PURPOSES OR IMPLEMENTATION**

VERTICAL DATA AND FB
BASE FLOOD PLAIN ELEVATION = 1640.9
TAKEN FROM FLOOD INSURANCE RATE MAP NUMBER 3001502700
DATED AUGUST 4, 2014
HORIZONTAL DATA
BASE OF BEARING AND COORDINATE DATA IS NO STATE PLANE AS DERIVED
FROM THE SEAWARD CORS STATION

SCALE: 1"=30'
APRIL 20, 2020
NAVD 88



<p>SWENSON, HAGEN & COMPANY P.C. Professional Surveyors 1000 1st Avenue S.W. Fargo, ND 58103 701.785.1100 www.swhc.com</p>	<p>PROPOSED EASEMENT LOT 36, BLOCK 1, MISTY WATERS BURLEIGH COUNTY, NORTH DAKOTA</p>	REVISION	DATE

SHEET
1 OF 1



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

Last Revised: 1/1/2019

**UNIFIED
 DEVELOPMENT
 APPLICATION**

RECEIVED
 JUN 0 2020

NOTE: APPLICATIONS ARE NOT COMPLETE UNTIL ALL REQUIRED SUBMITTALS HAVE BEEN RECEIVED

Application submitted for (check all that apply):

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> Preliminary Major Plat | <input type="checkbox"/> Final Major Plat | <input type="checkbox"/> Minor Plat | <input type="checkbox"/> Plat Vacation |
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Zoning Change | <input type="checkbox"/> PUD Zoning Change / PUD Amendment | |
| <input type="checkbox"/> Special Use Permit | <input type="checkbox"/> Variance | <input type="checkbox"/> Rural Lot Split (RR & RR5) | |
| <input type="checkbox"/> Fringe Area Road Master Plan Amendment | | <input checked="" type="checkbox"/> Land Use Plan Amendment | |
- | | |
|--|--|
| <u>Lot Modification</u> | <u>Plat Modification</u> |
| <input type="checkbox"/> Lot Line Adjustment | <input type="checkbox"/> Street/Alley Vacation |
| <input type="checkbox"/> Lot Split | <input checked="" type="checkbox"/> Easement Release |
| <input type="checkbox"/> Lot Combination | <input type="checkbox"/> Non-Access Line Release |

PROPERTY INFORMATION			
Project Name:	Big River Builders		
Legal description: <small>(Lot, Block, Addition/Subdivision)</small>	lot 36 Block 1 Misty Waters		
Street address of property:	6334 Dream Circle		
Existing Zoning		Proposed Zoning:	
Acreage:		Number of Lots:	1
Brief description of development proposal, including reason(s) for the request:	We intend to remove a portion of the property from the Drainage easement.		

APPLICANT/DEVELOPER	
Name:	Jordan Anderson
Mailing Address:	PO Box 7447 Bismarck, ND 58507

PROPERTY OWNER (IF DIFFERENT THAN APPLICANT/DEVELOPER)	
Name:	Jason Sellers
Mailing Address:	413 E Expy. Bismarck, ND 58504

CONTACT PERSON/CONSULTANT (IF DIFFERENT THAN APPLICANT/DEVELOPER)	
Name:	
Mailing Address:	

From: Jordan
To: [Brady Blaskowski](#); [Hilary Balzum](#)
Subject: Fwd: Drainage Easement Approval
Date: Tuesday, June 23, 2020 2:52:15 PM

Sent from my iPhone

Begin forwarded message:

From: Misty Waters Homeowners Assoc <[REDACTED]>
Date: June 23, 2020 at 2:50:58 PM CDT
To: Jordan <[REDACTED]>
Cc: Joshua Kuntz <[REDACTED]>
Subject: Drainage Easement Approval

Hi Jordan,

In regard to the change of easement at 6334 Dream Circle, Bismarck, ND 58503; the Architectural Review Committee approves the change of the easement. We will require a statement in writing that will place any and all financial and/or landscaping responsibility on the homeowner should the drainage easement cause any issues to adjacent properties.

We look forward to having the Seller's as part of the Misty Waters Community!

Respectfully,

Sarah

--

Sarah M. Volk, President
Misty Waters BOD

Images submitted by the neighboring property owner located at 6328 Dream Circle



Image from 6328 Dream Circle looking south to 6334 Dream Circle



Image from 6328 Dream Circle

Images submitted by the neighboring property owner located at 6328 Dream Circle



Image from 6328 Dream Circle looking south to 6334 Dream Circle



Image from 6328 Dream Circle

Images submitted by the neighboring property owner located at 6328 Dream Circle



Image from 6328 Dream Circle looking south to 6334 Dream Circle



Image from 6328 Dream Circle looking south to 6334 Dream Circle



Image from 6328 Dream Circle looking south to 6334 Dream Circle



April 17, 2020

SWENSON, HAGEN & CO. P.C.

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

Jordan Anderson
Big River Builders
2200 Larson Road
Bismarck, ND 58504

RE: Lot 36 Block 1 - Lot Drainage

During the original construction of Misty Water Subdivision, a Corps of Engineers permit was applied for and obtained. That permit indicated that the lots were to have a 20 foot drainage easement and that the easement was to be graded to prevent runoff from entering the bay and causing erosion. The runoff from the graded channel was to be intercepted by an inlet, allowing runoff to be discharged below the water surface. The drainage easement is part of the corps permit and removing it is a violation of the permit. Modification to the easement can be allowed if the intent of the permit is retained.

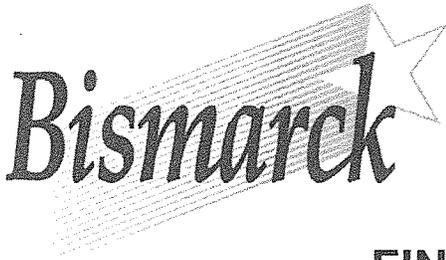
The easement would be required to be tied into the existing easement locations on Lots 35 and 37. The easement could be bulged at the midpoint of the lot, thus pushing the easement out towards the bay approximately 9 feet at the center of the lot. Even with this change, the slope from the bay to the edge of the new easement would still be a 6:1 slope. The major change to accommodate the new easement location is the top width of the 1637 contour, once the slope is at 1637, the slope would be brought back down to form the drainage channel. A 4:1 slope and 5 foot bottom width would be accommodated within the new easement. This would prevent runoff from traversing down the slope to the bay. Attached exhibit defines the new easement location as well as proposed grades for the swale.

It should be noted that the original easement would be required to be vacated and the new easement dedicated. This letter does not constitute any approvals by the City, County, HOA or other agencies which may be required. The City Building Inspections Dept. should be consulted on to the process of who will be approving and accepting the new easements. It should be noted that this does not constitute an approval of a LOMR, rather if a LOMR submittal is successful, the easement would be the next step to complete the drainage changes.

If you have any questions feel free to call.

Sincerely,

Jason Petryszyn, PE
Swenson, Hagen & Co.



FINANCE DEPARTMENT

DATE: June 29, 2020
FROM: Dmitriy Chernyak, Director of Finance
ITEM: Ordinances 6427-6428

REQUEST

Please schedule the introduction of and call for public hearing on Ordinances 6427-6428 to create special assessment districts for annexed properties.

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

BACKGROUND INFORMATION

Sections 40-23-17 through 40-23-21 of the North Dakota Century Code allows assessments on annexed property that previously benefited from the infrastructure constructed before the parcels were annexed. Ordinances 6427-6428 rural road charges and storm sewer charges to be assessed to benefiting property that were outside the city limits at the time of construction.

Creation of these ordinances allows the applicable fees to be calculated. After the fees are calculated, the assessment lists will be published in the Bismarck Tribune and presented to the Special Assessment Commission for approval. The final step in the assessment process is confirmation of the assessment lists by the Board of City Commissioners.

RECOMMENDED CITY COMMISSION ACTION

At the July 14th meeting of the City Commission, schedule the introduction of ordinances 6427-6428 and call for a public hearing and approval of the ordinances at the July 28th meeting.

STAFF CONTACT INFORMATION

Tawny Wagner, Financial Analyst, 355-1600, twagner@bismarcknd.gov

ORDINANCE NO. 6427

First Reading	_____
Second Reading	_____
Final Passage and Adoption	_____
Publication Date	_____

AN ORDINANCE CREATING STORM SEWER IMPROVEMENT DISTRICT NUMBER ONE HUNDRED (100), UNIT NUMBERS FORTY-TWO THROUGH FORTY-THREE (42-43), OF THE CITY OF BISMARCK, NORTH DAKOTA.

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

Section 1. Pursuant to the provisions of Sections 40-23-17 through 40-23-21 of the North Dakota Century Code as amended, providing for assessments on annexed property previously benefited, it is hereby determined that the property within the boundary lines as hereinafter set forth was at the time of contracting for a storm sewer improvement district, therein located outside the corporate limits and which was benefited by the storm sewer improvement was, thereby subsequently annexed to the City of Bismarck, and there is hereby created sewer improvement district hereinafter designated as Storm Sewer Improvement District Number One Hundred (100), Unit Numbers Forty-Two through Forty-Three (42-43) whereas Units Forty-Two through Forty-Three (42-43) are associated with the storm sewer improvement contracted under SE541.

Section 2. Consultation with respect thereto has been made with the City Engineer of the City of Bismarck, said district shall include all lots, tracts and parcels of land lying within the following described property:

- Unit #42 MEADOW VILLAGE ADDITION
 Lots 1-6, Block 1; Lots 1-11, Block 2, and Lots 1-2, Block 3

- Unit #43 COTTONWOOD PARKVIEW ADDITION
 Lots 1-9, Block 1; Lot 1, Block 2; Lot 1, Block 3; Lots 1-30,
 Block 4; Lots 1-28, Block 5; Lots 1-24, Block 6; Lot 1, Block
 7; and Lot 1, Block 8

Section 3. Taking Effect. This ordinance shall be in full force and effect from and after its final passage and adoption.

ORDINANCE NO. 6428

First Reading	_____
Second Reading	_____
Final Passage and Adoption	_____
Publication Date	_____

AN ORDINANCE CREATING RURAL ROAD STREET IMPROVEMENT DISTRICT NUMBER ONE HUNDRED (100), UNIT NUMBER SIX (6), OF THE CITY OF BISMARCK, NORTH DAKOTA.

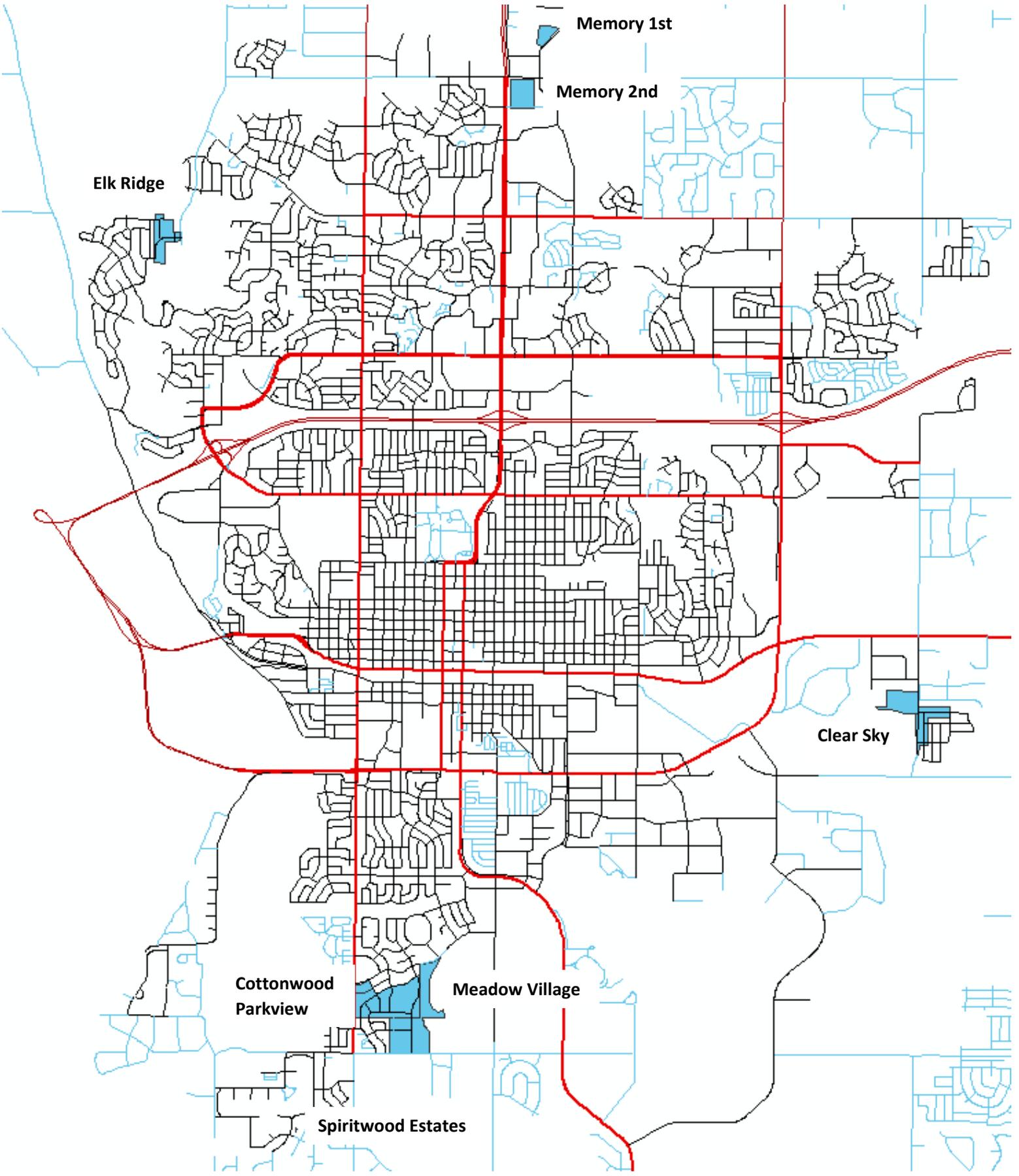
BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA.

Section 1. Pursuant to the provisions of Sections 40-23-17 through 40-23-21 of the North Dakota Century Code as amended, providing for assessments on annexed property previously benefited, it is hereby determined that the property within the boundary lines as hereinafter set forth was at the time of contracting for a street improvement district, therein located outside the corporate limits and which was benefited by the street improvement was, thereby subsequently annexed to the City of Bismarck, and there is hereby created street improvement district hereinafter designated as Rural Road Street Improvement District Number One Hundred (100), Unit Number Six (6) whereas Unit Number Six (6) is associated with a street improvement contracted under SI515.

Section 2. Consultation with respect thereto has been made with the City Engineer of the City of Bismarck, said district shall include all lots, tracts and parcels of land lying within the following described property:

Unit #6 MEMORY 1ST ADDITION
 Lot 2, Block 2

Section 3. Taking Effect. This ordinance shall be in full force and effect from and after its final passage and adoption.



Memory 1st

Memory 2nd

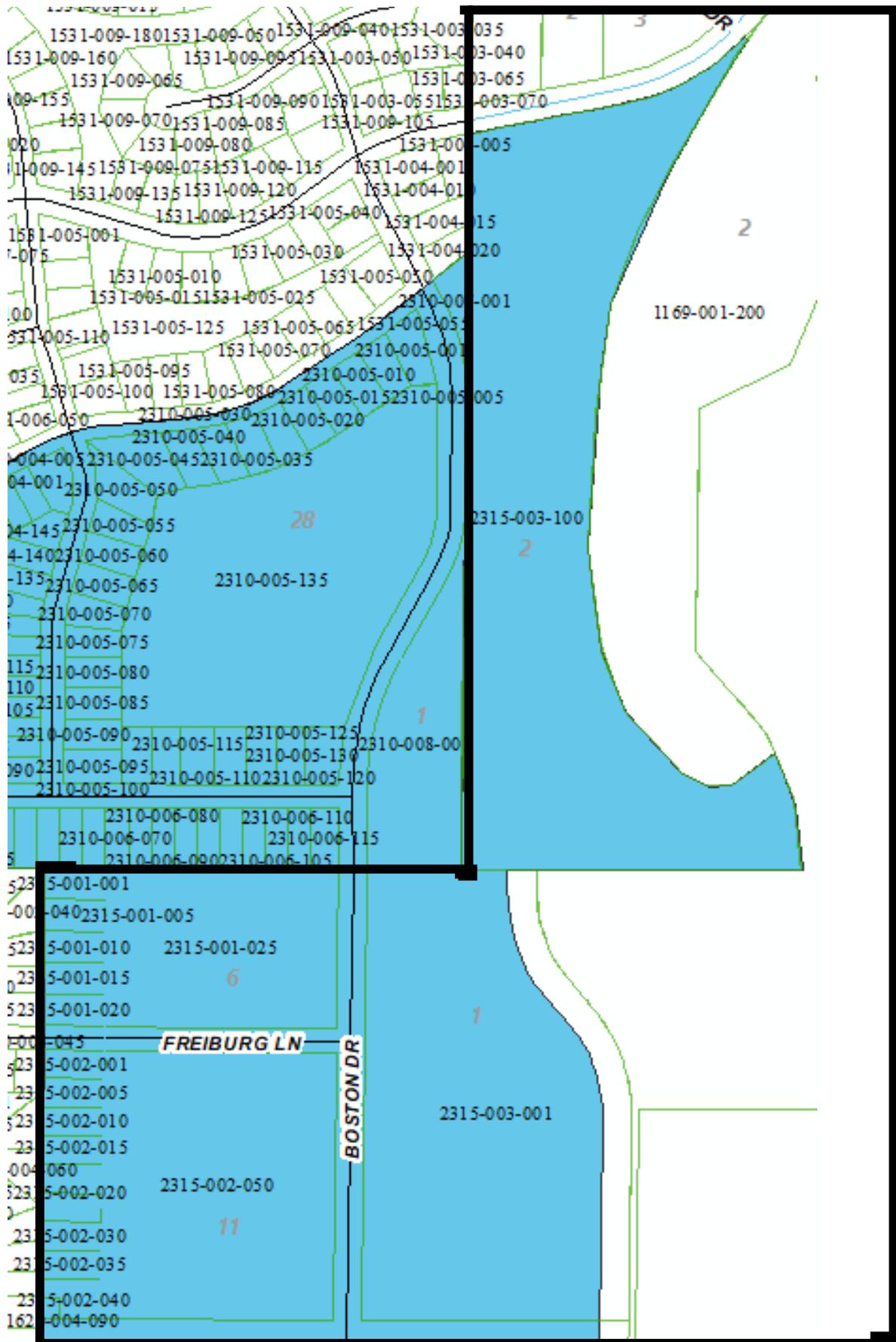
Elk Ridge

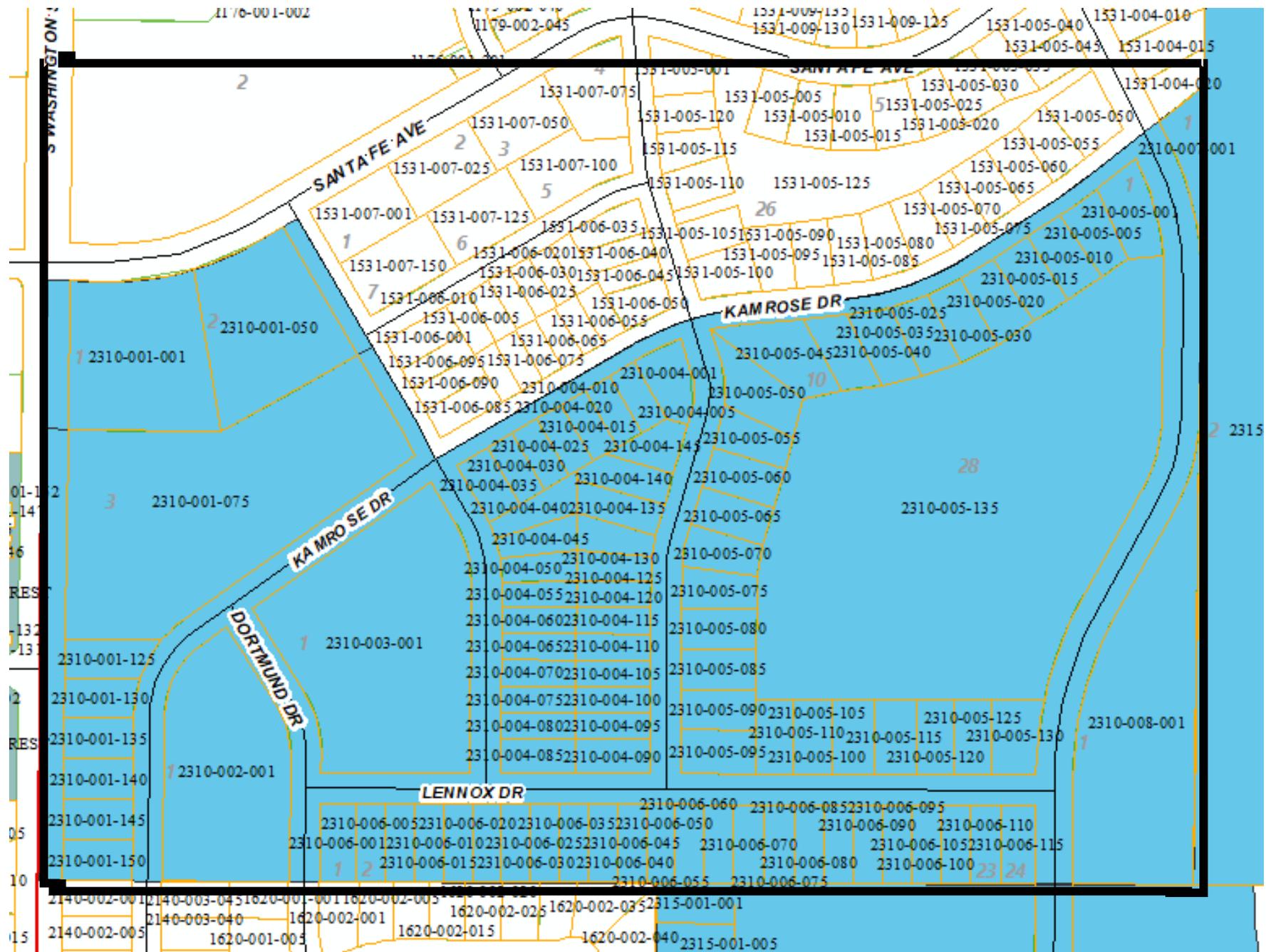
Clear Sky

Cottonwood
Parkview

Meadow Village

Spiritwood Estates









Fire Department

DATE: July 21, 2020
FROM: Gary Stockert
ITEM: Siren Activation Controller System Bids

REQUEST

Bismarck Emergency Management is requesting the City Commission: 1) receive an overview of bids submitted for purposes of replacing the activation controller system of the outdoor warning siren system, 2) receive the recommendations of the activation controller system bid review committee, 3) discuss and provide direction on pursuing a contract for replacement of the activation controller system, and 4) provide for funding based on bid selected using General Fund budget appropriations via a budget amendment for 2020 calendar year, per the recommendation of the Budget Committee.

Please place this item on the 7/28/2020 City Commission meeting agenda.

BACKGROUND INFORMATION

RFPs for the Activation Controller System are due July 22, 2020 with the bid opening to occur on the same date. A bid review selection committee will review the bid proposals on July 23 for purposes of making a recommendation to the City Commission on July 28, 2020. Per City Commission Meeting held June 9, 2020, the RFPs allow for flexibility for vendors to provide bids that focus on systems that activate using traditional radio technology as well as alternate technologies such as cellular and/or satellite communications. Bids must also include maintenance/service contract pricing as well as references and other applicable information to support bid price/value.

RECOMMENDED CITY COMMISSION ACTION

Accept bid and approve General Fund budget appropriations via a budget amendment for 2020 calendar year, per the recommendation of the Budget Committee and allow Bismarck Emergency Management to pursue a contract with the selected vendor and bid option as identified by the City Commission in order to procure and install an updated activation controller system for the outdoor warning siren system.

STAFF CONTACT INFORMATION

Gary Stockert | City Emergency Manager, 222-6727 or gstockert@bismarcknd.gov

Activation Controller System – for Outdoor Warning Siren System
City of Bismarck
Bids Received – July 22, 2020

1. Federal Signal				
	Base Bid - \$	2-Way Full Functional - \$	2-Way + Mobile - \$	Alternate - \$
Equipment and Installation	\$161,675.62	\$168,521.62	\$172,521.62	NA
Annual Maintenance / Service	\$8,000.00	\$8,000.00	\$8,000.00	NA
Annual Fee (ie: Mobile)			\$4,000.00	NA
Bidder's Bond (5%)	Yes			
2. Jamestown Communications				
	Base Bid - \$	2-Way Full Functional - \$	2-Way + Mobile - \$	Alternate - \$
Equipment and Installation	\$164,044.75	\$178,050.03	\$178,050.03	NA
Annual Maintenance / Service	\$6,000.00	\$6,000.00	\$6,000.00	NA
Annual Fee (ie: Mobile)			No Annual Charge	NA
Bidder's Bond (5%)	Yes			



City Attorney

DATE: July 27, 2020

FROM: Janelle Combs, City Attorney

ITEM: Medieval Rush Temporary License to Use Premises Agreement Amendment

REQUEST

Discuss approval of an Amendment to the Temporary License to Use Premises Agreement for the August 1, 2020, Medieval Rush event.

Please place this item on the 7/28/2020 City Commission regular meeting agenda.

BACKGROUND INFORMATION

The Medieval Rush event was previously approved by this Commission, and the signed contract is attached. On Friday, City Engineer Schell was contacted by the event organizer indicating that he was unable to obtain a bond. Today, they met on-site to revise the path more to avoid more of the raw land portions. The City Engineer is comfortable that with the new race location, and he has requested that no soil be dug or made into mud on city lands with the new path. As such, he is comfortable with eliminating the bond provision and allowing a cash deposit of \$1500 for any possible damages to city property. The amendment with the changes in those terms and the new map are attached.

RECOMMENDED CITY COMMISSION ACTION

Discuss approval/disapproval of the Amendment to the Temporary License to Use Premises Agreement for the August 1, 2020, Medieval Rush event.

STAFF CONTACT INFORMATION

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

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

TEMPORARY LICENSE TO USE PREMISES AGREEMENT

This License Agreement is entered into as of the 14th of July, 2020, by and between City of Bismarck, PO Box 5503, Bismarck North Dakota (“City”) and Recreation Athletic Wellness, LLC, whose address is 213 W Avenue A, Bismarck, ND 58501-3735 (“Licensee”).

WHEREAS, City owns real property located near Bismarck State College, Bismarck, North Dakota, and WHEREAS, Licensee desires to have temporary use of property, as specified in Exhibit A, to host a race according to the schedule in Exhibit A; and

WHEREAS, City is willing to permit the Licensee to use the designated property for such purpose subject to the terms and conditions of this Temporary License to Use Premises Agreement (“Agreement”);

NOW, THEREFORE, the parties agree as follows:

1. License to Use Licensed Space. City hereby grants Licensee permission to use the real property listed on Exhibit A (the “Licensed Space”) on August 1, 2020, and in accordance with the purposes, specified on Exhibit A hereto. Exhibit A must detail the activities, and planned management designed to ensure safe operations in the Licensed Space. The parties expressly acknowledge and agree that this Agreement is not a lease, and that it does not create or convey to the Licensee any interest in the Licensed Space. Licensee will be entitled to occupy the Licensed Space solely for the purposes herein provided for the term stated herein. In the event of breach of Licensee of any of the covenants hereof, and in any event upon the expiration of the term of the License Agreement, City shall be entitled to immediate possession of the Licensed Space, and the Licensee shall not be entitled to any of the rights of a tenant under law, including the law of forcible entry and detainer. No permission is given and is explicitly prohibited to use existing bike trails on the real property.
2. Fee. Licensee will pay City \$1.00 for the use of the property.
3. Independent Contractor. Licensee is an independent contractor and will have sole authority to control and direct the details of its performance and its activities. However, Licensee agrees that it will conduct all activities in accordance with applicable federal and state laws, and City policies and ordinances. In addition, Licensee agrees to employ the sufficient number of qualified staff for its operations. Licensee will not be the employee of City under the meaning or application of any federal or state laws, including but not limited to unemployment insurance or workers’ compensation laws, and will not be entitled to any of the benefits of a City employee.

Licensee assumes all liabilities and obligations imposed by any such laws. Licensee will have no authority to act as an agent of City and will not hold itself out as such.

4. Use of Name. Licensee agrees not to use City's name, logos or marks for any advertising or other commercial purposes without the prior written approval of City.

5. Use of Licensed Space. Licensee shall use the Licensed Space only to conduct its activities in accordance with Exhibit A, utilizing only staff and materials supplied by Licensee. Licensee shall not use or permit the use of the Licensed Space for any other purpose. Licensee shall use and occupy the Licensed Space in a careful, safe and lawful manner which does not interfere with the use of the surrounding premises. Licensee agrees that its use of the Licensed Space shall at all times be in full compliance with all applicable laws, regulations and City policies and ordinances. Licensee agrees to remove all garbage and debris from the Licensed Space upon termination of this Agreement and return of the premises to their prior or improved condition. Licensee shall be responsible for any unreasonable wear or tear caused to the premises and/or any damage to equipment, including any costs incurred to clean or repair same. City, its agents and its employees shall have the right to enter the Licensed Space at all times. City shall in no event be liable for any inconvenience, disturbance, or other damage to Licensee by reason of the performance by City of any activities or work in, upon, above, or under the Licensed Space or for bringing materials, tools, and equipment in, through, above, or under the Licensed Space, nor shall the same constitute any ground for the abatement of any payments hereunder.

6. Condition of Premises. City makes no warranties whatsoever regarding the condition of the Licensed Space. Licensee has inspected the Licensed Space and found it suitable for Licensee's purposes. City shall not be liable for any personal injury or damage to property which Licensee or its guests or invitees may incur, regardless of the cause thereof. Licensee hereby releases City from all such liability, it being the intent of the parties that Licensee shall maintain adequate insurance to cover any such losses. Licensee hereby agrees to defend, indemnify and hold harmless City, its trustees, officers, employees and agents from and against any and all claims, damages, losses, suits, judgments, costs and expenses arising from Licensee's occupation of the Licensed Space including, but not limited to, the amounts of deductibles on Licensee's insurance policies, or any costs resulting from Licensee's failure to acquire insurance coverage as required hereunder, and any costs arising from subrogation under worker's compensation or liability claims. No existing trees will be trimmed or cut. There will be only one location dug, which will be allowed only in the previously disturbed upper parking area near the water reservoir. The approximate size will be 25 feet by 150 feet and only to a depth of three feet.

7. Cultural Resource Preservation. If cultural materials are encountered while disturbing the soil, digging must stop until a recommendation by the qualified archaeologist is made and followed regarding that excavation area.

8. Insurance/Bond. Licensee agrees, at its sole cost and expense, to procure and maintain in full force during the term of this Agreement (i) statutory worker's compensation, (ii) general liability insurance, with limits of at least \$1,000,000/\$2,000,000 and (iii) surety bond, in favor of the City, in the amount of \$25,000.00 from a company licensed to do business in North Dakota to insure Licensee's restoration of the property after completion of the event. Licensee agrees to name City as an additional insured on these policies. Licensee shall provide a certificate of proof of such insurance and bond at least 30 days prior to the event.

9. Compliance with Laws. Licensee agrees to comply with all applicable federal, state and local laws and regulations. Licensee will not discriminate on the basis of race, religion, age, sex, color, disability, sexual orientation, political affiliation, national or ethnic origin, or veteran status. Licensee will obtain the appropriate permits from any other City department, including but not limited to the City Traffic Engineer, and other entities for this event. Licensee appropriately sign closures of Edwards Ave at Schafer St with barricade mounted "Road Closed to Thru Traffic" and full road closures with barricades on Edwards Avenue west of reservoir driveway, as well as appropriately sign closures of Canary Ave at Raven Dr with barricade mounted "Road Closed to Thru Traffic" and full road closures with barricades on Canary Ave west of BSC Bowl parking lot driveway in coordination with final race route location.

10. Liens. Licensee shall keep the Licensed Space free and clear of all construction, mechanic's or material men's liens or any other liens on account of any work done on the Licensed Space at Licensee's request. Licensee agrees to and shall indemnify, and hold the City free from and harmless against all liability, loss, damage, cost, attorney's fees (where allowable by law) and all other expenses on account of claims of lien of laborers or material men, or others, for work performed or materials or supplies furnished to Licensee for use on the Licensed Space.

11. Indemnification. City shall not be liable to Licensee's employees, agents or visitors or to any other person whomsoever, for any injury to a person or damage to property on or about the Licensed Space including sidewalks, parking lots, and other areas on or adjacent to the Licensed Space, caused by the negligence or misconduct of or situations involving the liability of the Licensee, its agents, servants, employees or of any other person entering upon the Licensed Space under express or implied invitation of Licensee. Licensee agrees to indemnify City from all liability, loss, or

other damage claims or obligations resulting from any injuries to property or persons or any other losses sustained as a result of the Licensee's use of the Licensed Space.

12. Notices. Each provision of this Agreement with reference to the sending, mailing or delivery of any notice or the making of any payment between the parties shall be deemed to be delivered, whether actually received or not, when deposited in the U.S. Mail, postage prepaid, Registered or Certified Mail, Return Receipt Requested and addressed to either party at the address as they have specified by written notice pursuant to this Agreement.

CITY: City of Bismarck
City Administrator
P O. Box 5503
Bismarck, ND 58506-5503

LICENSEE: Recreation Athletic Wellness, LLC
213 W Avenue A
Bismarck, ND 58501-3735

13. Termination. This Agreement shall automatically terminate after the event is completed and the Licensed Space is restored to the condition it was immediately prior to Licensee's use of the Licensed Space. In addition, City may immediately terminate this Agreement if Licensee fails to abide by the terms and condition of this Agreement.

14. Assignment. Licensee may not assign or sub-license this Agreement without the prior written consent of City.

15. Entire Agreement; Amendment. This Agreement contains the entire agreement of the parties, and no covenants, representatives, inducements or promises, oral or otherwise, not embodied herein, shall be in force or effect. This Agreement may not be modified, nor any of its provisions waived, except by a writing signed by both parties.

16. Governing Law. This Agreement will be governed by and construed in accordance with the law of the State of North Dakota. The parties consent to the exclusive jurisdiction of the Burleigh County, North Dakota courts for any dispute arising hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this contract the day and year above written in duplicate originals.

CITY: CITY OF BISMARCK

Dated this 29th day of July, 2020.

By 
Steve Bakken, President City Commission
City of Bismarck

Attest: 
Keith J. Hunke, City
Administrator

LICENSEE: Recreation Athletic Wellness, LLC

Dated this 17 day of 2020, 2020.

By 
Tanner Schweitzer
Its Managing Member

EXHIBIT A – LICENSED SPACE

In the event of rain or a wet course as determined by the City Engineer, "Map 1" would be utilized and no race activity would take place on any City of Bismarck steep terrain but would take place on the old road bed. In normal conditions, "Map 2" would be utilized as per the above requirements.

Map 1:



Map 2:



**FIRST AMENDMENT TO TEMPORARY LICENSE TO USE PREMISES AGREEMENT-
RECREATIONS ATHLETIC WELLSNESS, LLC**

This First Amendment to Temporary License to Use Premises Agreement (this “**Amendment**”) is entered into by and between the Recreation Athletic Wellness, LLC, Bismarck, North Dakota (“**Licensee**”), and the City of Bismarck, a North Dakota municipal corporation, (“**City**”).

WHEREAS, Licensee and City are parties to that certain Temporary License to Use Premises Agreement, dated July ___, 2020, (the “**Agreement**”);

WHEREAS, Licensee and City wish to amend some of the terms of the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. The parties elect to extend the contract under the same terms and conditions. This will extend the contract to end on December 31, 2020.
2. Paragraph 6 shall be deleted and replaced with the following new paragraph: Condition of Premises. City makes no warranties whatsoever regarding the condition of the Licensed Space. Licensee has inspected the Licensed Space and found it suitable for Licensee’s purposes. City shall not be liable for any personal injury or damage to property which Licensee or its guests or invitees may incur, regardless of the cause thereof. Licensee hereby releases City from all such liability, it being the intent of the parties that Licensee shall maintain adequate insurance to cover any such losses. Licensee hereby agrees to defend, indemnify and hold harmless City, its trustees, officers, employees and agents from and against any and all claims, damages, losses, suits, judgments, costs and expenses arising from Licensee’s occupation of the Licensed Space including, but not limited to, the amounts of deductibles on Licensee’s insurance policies, or any costs resulting from Licensee’s failure to acquire insurance coverage as required hereunder, and any costs arising from subrogation under worker’s compensation or liability claims. No existing trees will be trimmed or cut. There will be no digging of soil. All barriers or obstacles on course on the Licensed Space will not be affixed to the soil, pavement or concrete but constructed and used in a safe and reasonable manner.
3. Paragraph 7 shall be deleted.
4. Paragraph 8 shall be deleted and replaced with the following new paragraph: Insurance/Bond. Licensee agrees, at its sole cost and expense, to procure and maintain in full force during the term of this Agreement (i) statutory worker’s compensation, (ii) general liability insurance, with limits of at least \$1,000,000/\$2,000,000 and (iii) a deposit, in favor of the City, in the amount of \$1,500.00 in cash, certified check or cashier’s check (“**Deposit**”) to insure Licensee’s restoration of the property after completion of the event. Licensee agrees to name City as an additional insured on the insurance policy. On or before the end of business day August 3, 2020, the City will inspect the property. If any items are unsatisfactory in the

condition of the Licensed Space, the City will verbally inform Licensee of those items. If Licensee has not remedied them prior to City hiring or starting work to remedy any defects, the Deposit will be retained in full by the City. If the repairs cost more than the Deposit, City retains the right to sue Licensee for payment of additional costs for repair.

5. Exhibit A is replaced with the attachment of this new Exhibit A.
6. Except as expressly amended by this Amendment, the terms and provisions of the Agreement shall remain in full force and effect. To the extent any of the terms and provisions of the Agreement are inconsistent with the terms and provisions of this Amendment, the terms and provisions of this Amendment shall govern and control. All defined terms used in this Amendment and not otherwise defined herein shall have the respective meanings ascribed to them in the Agreement. No modification, waiver, amendment, discharge or change of this Amendment shall be valid unless the same is in writing and signed by the Party against which the enforcement of such modification, waiver, amendment, discharge or change is or may be sought.
7. This Amendment may be executed in any number of counterparts, each of which so executed shall be deemed original; such counterparts shall together constitute but one agreement. Facsimile and/or digitally transmitted signatures shall be sufficient to bind the Parties and shall in all respects be treated in court proceedings or otherwise as the legal equivalent of an original signature.
8. This Amendment is effective upon full execution by all parties.

CITY: CITY OF BISMARCK

Dated this ____ day of _____, 2020.

By _____
Steve Bakken, President City Commission
City of Bismarck

Attest:

Keith J. Hunke, City
Administrator

LICENSEE: Recreation Athletic Wellness, LLC

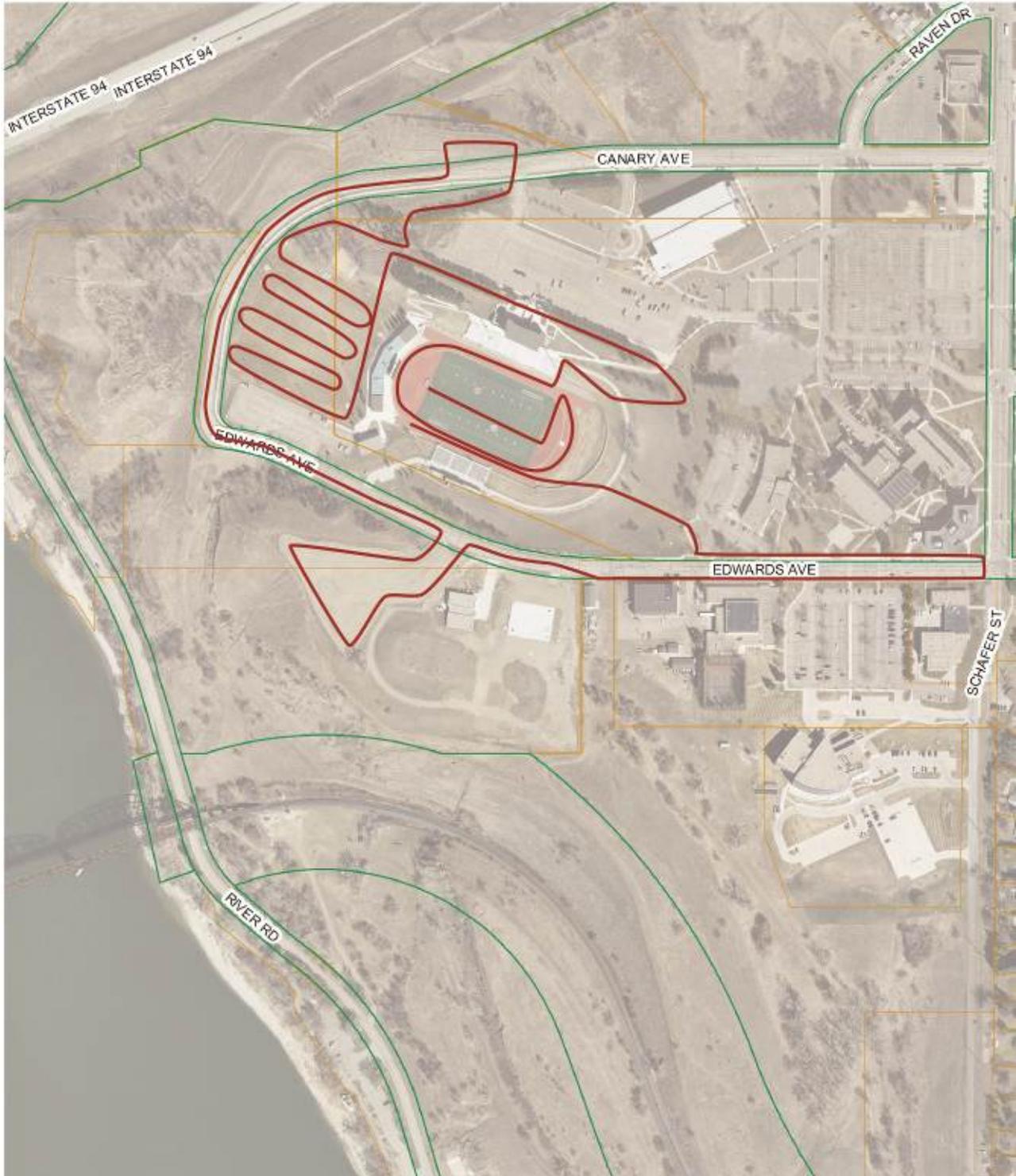
Dated this ____ day of _____, 2020.

By _____
Tanner Schweitzer
Its Managing Member

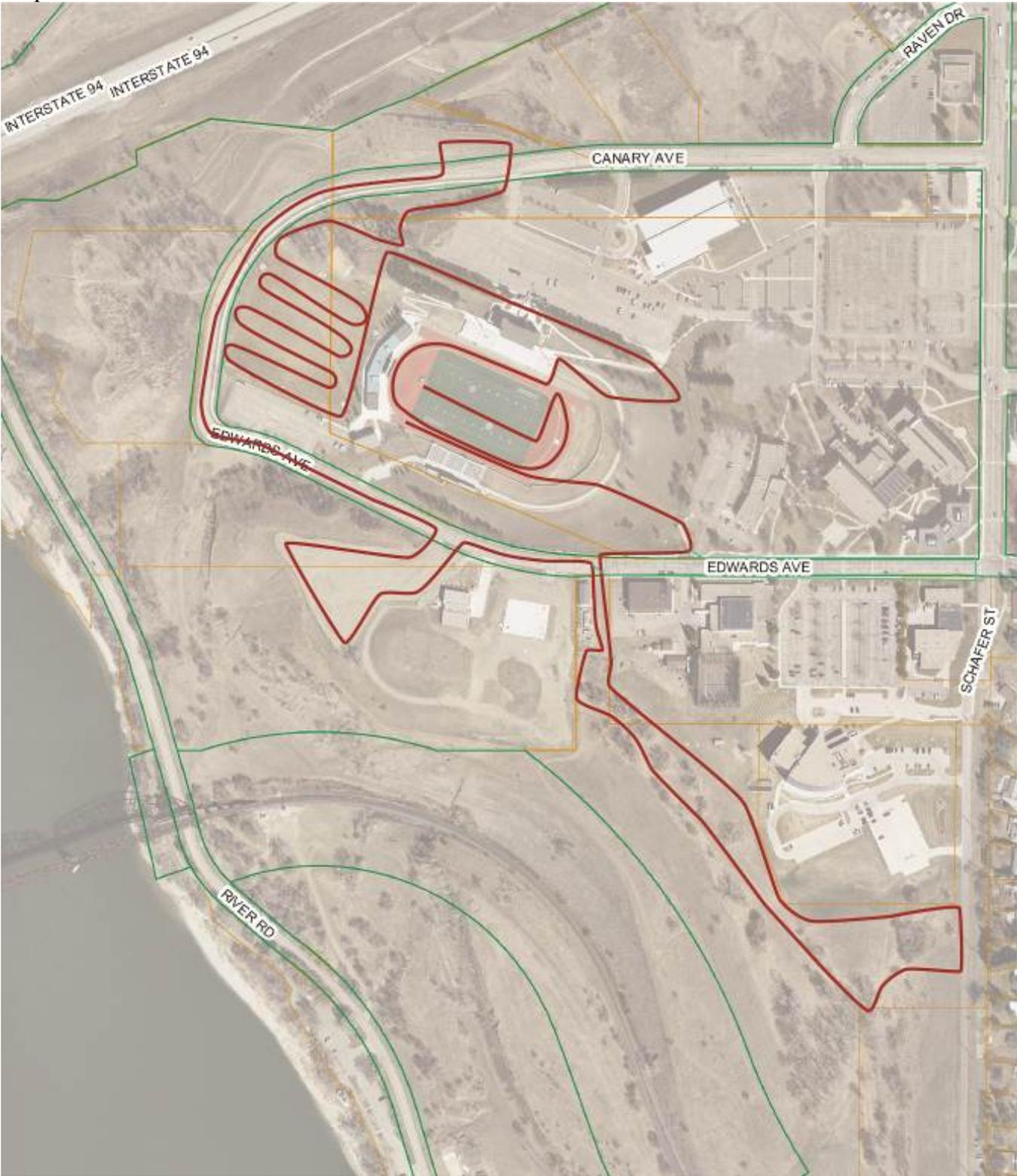
EXHIBIT A – LICENSED SPACE

In the event of rain or a wet course as determined by the City Engineer, “Map 1” would be utilized and no race activity would take place on any City of Bismarck grassed areas. In normal conditions, “Map 2” would be utilized as per the above requirements.

Map 1



Map 2





City Attorney

DATE: July 21, 2020
FROM: Janelle Combs, City Attorney
ITEM: Continued discussion regarding fireworks in city limits

REQUEST

Discuss fireworks displays within city limits.

Please place this item on the 7/28/2020 City Commission regular meeting agenda.

BACKGROUND INFORMATION

This matter came before the City Commission at the June 23, 2020, and continued discussion occurred at the July 14, 2020, meeting. Mayor Bakken directed staff to find out the timeline for putting a measure on this November's ballot and cost. The deadline for measures is August 31, 2020, at 4pm to the County. I have attached the cost information received from Burleigh County. With the primary election in June, the costs were split between the county, city and park board. A final percentage of cost between the parties for the November election would have to be negotiated, but the estimate of the total cost of the election is attached. In addition, one measure will take up an entire column, so there is a significant risk of the ballot being pushed to two pieces of paper, which will increase costs much more. In the primary, I believe historically, the City has had a 30% share of costs.

RECOMMENDED CITY COMMISSION ACTION

Hold discussion regarding firework displays within City limits.

STAFF CONTACT INFORMATION

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

Janelle,

The best I can give you is an estimate based off ballot and programming costs from the Primary Election.

My estimate is a 50% to 100% increase from the 2020 Primary programming and printing costs by going from a 1-page to a 2-page ballot. In addition, we'd be looking at additional postage costs for absentees which will only increase from the 2020 Primary as we already have 20,000 absentees in the queue for the 2020 General.

Primary	
Printing	\$ 33,000.00
Programming	\$ 9,900.00
Total	\$ 42,900.00
50% Increase	\$ 64,350.00
100% Increase	\$ 85,800.00
Primary 2020 Postage	\$10,000

Erika White

: RE: Fall ballot

Janelle,

The filing deadline is the 64th day before the General Election, Monday, August 31st at 4:00pm.

There are actually 2 measures put on the 2020 General ballot by legislators last session. In addition, the SOS is reviewing 2 additional petitions. So we may have a total of 4 statewide ballot measures at this time. If the Amendment to Article IV petition is approved I could see it utilizing an entire column on the ballot.

Having a city measure on the ballot would create additional ballot styles (splits) in Precinct 3004 and 4701 because those two precincts have residents within and outside of city

limits. So, we would have additional testing, programming, and ballot costs associated with that regardless of the number of pages.

I also have to mention the hardships that come with 2-page ballots other than cost. Having a 2-page ballot nearly doubles the time it takes to proof, conduct logic & accuracy testing (which is a 2 week process), it's impossible to balance post-election, and puts undue hardship on the election workers of the county. We're going to be conducting an election this year that we've never experienced in the past. I'd hate to add another obstacle to the success of the General.

Please let me know if you have additional questions or would like to discuss further.

Thanks,

Erika White

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Hi Erika,

Our Commission is considering putting fireworks on the ballot for the Fall election. What are your deadlines for submission to get on the ballot? And since it's not our usual local election in June, are there anticipated costs that would be associated? I told the Commission that if another page is required to be printed due to this measure, that would be extra but I believe we have just the 1 statewide measure and the usual elections, so we should be good on that.

Thanks,

Jannelle.