



## *Engineering Department*

**DATE:** January 7, 2020

**FROM:** Gabe Schell, City Engineer

**ITEM:** Development Agreement – Wilment Development LLC – HC-121 43<sup>rd</sup> Avenue Reconstruction from Washington Street to State Street

### **REQUEST**

Consider Development Agreement with Wilment Development LLC regarding storm water improvements associated with reconstruction of 43<sup>rd</sup> Avenue.

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

### **BACKGROUND INFORMATION**

As part of the project development Wilment Development LLC requested that the City consider discharging the proposed storm sewer system from the existing low point on the north side of 43<sup>rd</sup> Avenue to a point further east to allow the drainage to flow through an existing platted storm water easement. By agreeing to relocate the drainage point the developer has agreed to complete the necessary storm water improvements beyond the right of way of 43<sup>rd</sup> Avenue. This agreement serves to bind the developer to complete the work by a specified date.

### **RECOMMENDED CITY COMMISSION ACTION**

Approve development agreement.

### **STAFF CONTACT INFORMATION**

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

**DEVELOPMENT AGREEMENT**

The City of Bismarck (the City) and Wilment Development LLC (the Landowner) make this Development Agreement with regard to the proposed outfall of the storm water system to be constructed as part of the City's 43<sup>rd</sup> Avenue NE reconstruction project HC 121 in Bismarck, North Dakota.

In exchange for the City's agreement to outfall the proposed storm water system within the platted storm water easement within Lot 26, Block 1, Boulder Ridge First Addition, Burleigh County, Bismarck, North Dakota, the Landowner agrees to the following:

1. Construct a storm water conveyance system consisting of a series of pipes and/or grading to adequately convey the proposed storm water discharge. The upstream termini of the system is the limits of the City's project at a location adjacent to the 43<sup>rd</sup> Avenue right of way and the platted storm water easement across lot 26, Block 1, Boulder Ridge First Addition and the downstream termini of the conveyance system is the storm water easement in the NE corner of said lot 26.
2. Construction shall be completed by \_\_\_\_\_, 20\_\_ in order to avoiding adversely affecting the schedule of the City's project. This date can be amended if mutually agreed upon by both the City and the Landowner.

This Agreement shall bind the parties, their successors, assigns and heirs.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_

Wilment Development LLC

STATE OF NORTH DAKOTA        )

) ss.

COUNTY OF BURLEIGH        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me personally appeared \_\_\_\_\_, known to me to be the person who is described in and who executed the within and foregoing instrument, and acknowledged to me that s/he executed the same.

\_\_\_\_\_

Notary Public  
State of North Dakota

(SEAL)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Steve Bakken  
President, Board of City Commissioners

Attest: \_\_\_\_\_

Keith J. Hunke  
City Administrator

STATE OF NORTH DAKOTA     )

) ss.

COUNTY OF BURLEIGH     )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me personally appeared \_\_\_\_\_, known to me to be the person who is described in and who executed the within and foregoing instrument, and acknowledged to me that s/he executed the same.

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(SEAL)