



## Engineering Department

**DATE:** April 23, 2024

**FROM:** Gabe Schell, City Engineer

**ITEM:** Development Agreement with HD Real Estate Investments, Inc.

**REQUEST:**

Consider approval of Development Agreement with HD Real Estate Investments, Inc.

**BACKGROUND INFORMATION:**

HD Real Estate Investments, Inc is developing a single parcel in south Bismarck located in the northwest quadrant of Airway Avenue and Burlington Drive. A 6,700 sf office building will be constructed as part of this project. There is approximately 6,000 feet of Airway Avenue that is currently constructed as a ditch section of roadway, of which approximately 285 feet is adjacent to the HD Real Estate Investment site. See attached Exhibit 1.

The City of Bismarck's development policy would require that Airway Avenue adjacent to the HD Real Estate Investments site be constructed to the current City standard as part of this development. However, without adequate petitions for the remainder of Airway Avenue, the reconstruction would not take place at this time.

This development agreement, along with a companion petition for street improvements, allows the developer to forego the improvement of Airway Avenue at this time until such time that the City receives additional petitions from other properties adjacent to the unimproved Airway Avenue.

**RECOMMENDED CITY COMMISSION ACTION:**

Approve the Development Agreement with HD Real Estate Investments, Inc.

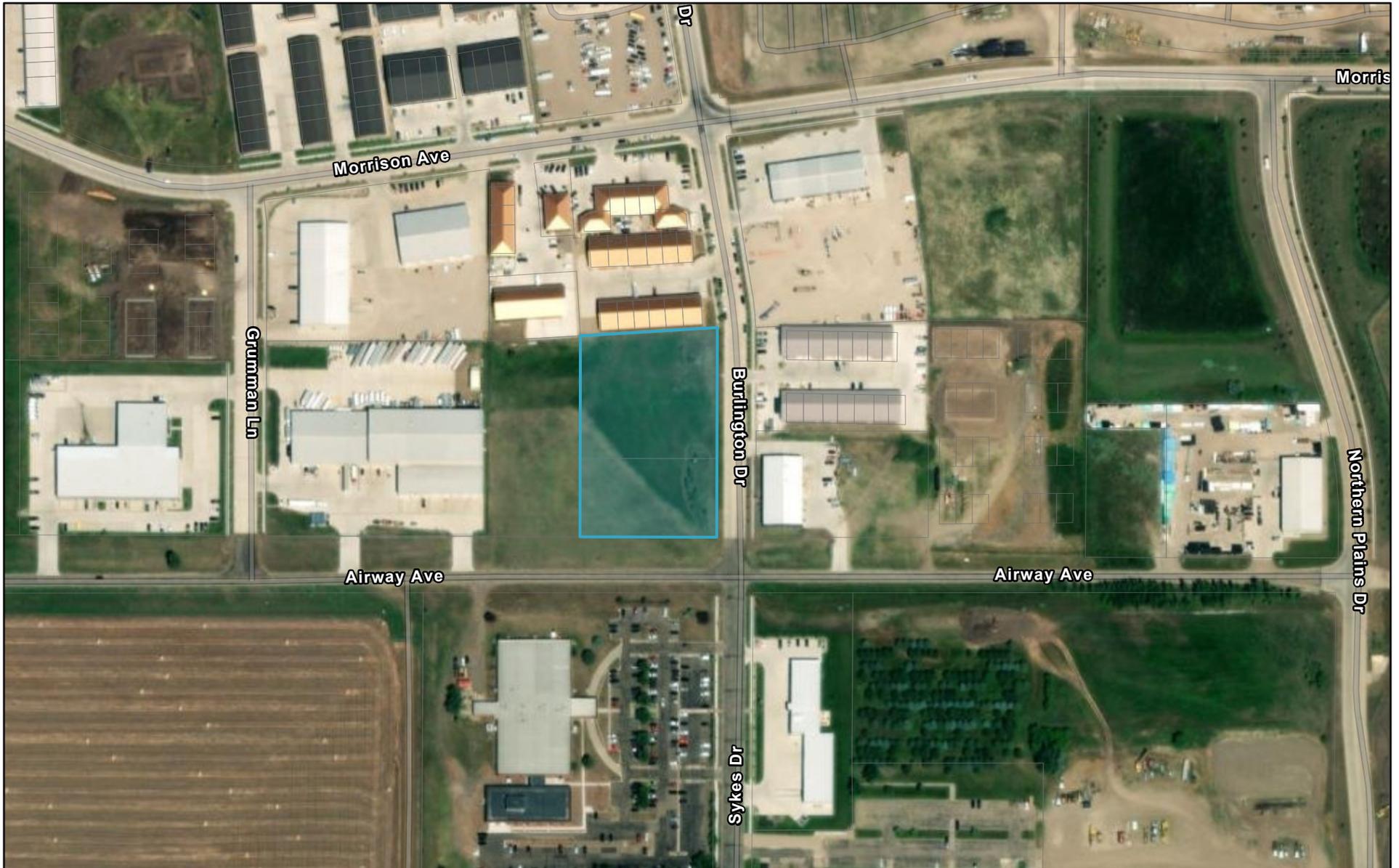
**STAFF CONTACT INFORMATION:**

Gabe Schell, City Engineer, 701-355-1507, [gschell@bismarcknd.gov](mailto:gschell@bismarcknd.gov)

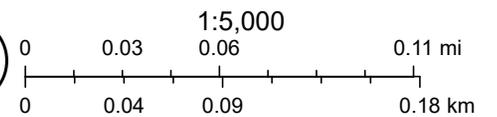
**ATTACHMENTS:**

1. Location Map
2. Petition and Development Agreement

# HD Real Estate Investments Inc - 1416 Burlington Dr & 3002 Airway Ave



4/15/2024



Maxar, Esri Community Maps Contributors, City of Bismarck, State of North Dakota, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph,

## EXHIBIT 1

**PETITION FOR PERMANENT STREET IMPROVEMENT**

DATE: 3.18.24

To the Honorable Board of City Commissioners  
Bismarck, North Dakota  
Commissioners:

The undersigned owners of the property liable to be assessed for the improvement respectfully petition your Honorable Board to have permanent street improvements completed on:

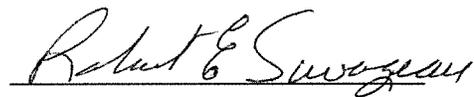
Airway Avenue – from Airport Road and Northern Plains Drive

It is agreed that the necessary permanent street improvements be completed following the installation of the necessary water and sewer service line stubouts by the abutting property owner(s) and that 100% of the paving cost of said permanent street improvements be assessed to or other funding arrangements made by the benefitted property according to the Current Development Costs Policy. For parcels not zoned residential, 40% of the permanent street improvement cost will be prepaid by the benefitted petitioned property. It is agreed that 100% of any temporary street improvements shall be prepaid by the benefited petitioned property.

**PROPERTY DESCRIPTION**

**SIGNATURE  
(Property Owner/s)**

Lot 4 less the west 187', Block 4,  
Trillium 4<sup>th</sup> Addition to the City of Bismarck,  
Burleigh County, North Dakota



Robert Savageau  
Managing Partner  
HD Real Estate Investments Inc.

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For City Engineer Use Only

\_\_\_\_\_  
Approved by Gabe J. Schell, PE  
City Engineer, Bismarck, ND

\_\_\_\_\_  
Date

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Above this line used for recordation purposes only.

### DEVELOPMENT AGREEMENT

The City of Bismarck (the "City") and HD Real Estate Investments Inc. (the "Owner") make this Development Agreement with regard to the development of a parcel (the Property) located in Bismarck, North Dakota and described as follows:

Lot 4 less the west 187', Block 4, Trillium 4<sup>th</sup> Addition to the City of Bismarck, Burleigh County, North Dakota

The Owner desires to develop this Property for commercial use. The Property is located on the west side of Burlington Drive and north of Airway Avenue. The city would normally require the improvement of Airway Avenue adjacent to the site at the time of the development of the Property. The parties are in agreement that the improvement of Airway Avenue adjacent to the Property is not necessary for the further development of the site at this time and can be delayed until such time as the City receives a petition to improve Airway Avenue from any Property located on Airway Avenue between Airport Road and Northern Plains Drive.

In exchange for the City's agreement to delay the requirement of the improvement of Airway Avenue between Airport Road and Northern Plains Drive, the parties agree as follows:

1. The City will approve the site plan and issue building permits in its normal course of business. Prior to such approvals or permits being issued, the Owner will execute and deliver a petition for the improvement of Airway Avenue for that portion adjacent to the Property. The petition will be conditioned that it will be deemed to be submitted upon the receipt of another valid petition for improvement of any portion of Airway Avenue between Airport Road and Northern Plains Drive. By entering into this Agreement, the Owner also agrees to waive their right to protest a special assessment district formed to Airway Avenue that includes the roadway between Airport Road and Northern Plains Drive. This agreement will be placed of record in the title for the Property, and all successors in interest agree to waive their right to protest the special assessment district under N.D.C.C. Ch 40-22 by accepting delivery of title. The City also agrees that in order to activate the petition, any

project for the improvement of Airway Avenue between Airport Road and Northern Plains Drive must include the entire width of the roadway.

2. It is the intention of the parties that this Agreement will run with the land as to the parcels within the plat and that the Owner will have the obligation to inform any successor in interest of the terms of this Agreement and the successor's obligation to abide by this Agreement and include compliance with this Agreement as a condition in any written instrument of conveyance of real property for the site.
3. The terms of this agreement shall be considered a covenant running with the land and bind all future owners in the same manner as if they had personally entered this agreement.

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

Dated this 18<sup>th</sup> day of March, 2024

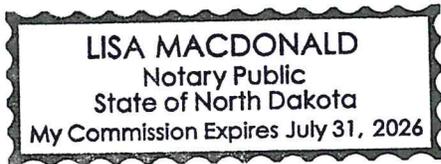
Robert E. Savageau  
Robert Savageau  
Managing Partner  
HD Real Estate Investments Inc.

STATE OF NORTH DAKOTA )

) ss.

COUNTY OF BURLEIGH )

On this 18<sup>th</sup> day of March, 2024, before me personally appeared Robert Savageau, 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.



Lisa MacDonald  
Notary Public  
State of North Dakota

(SEAL)

