



Board of City Commissioners

The Board of City Commissioners is scheduled to meet on Tuesday, February 13, 2024, at 5:15 PM in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota.

The Invocation and the Pledge of Allegiance will be presented by a Chaplain from the Bismarck Police Department.

The City of Bismarck encourages citizens to provide their comments for public hearing items on the Bismarck City Commission agenda via email to bismarckadmin@bismarcknd.gov. Please include the item number that your comment references. The comments will be sent to the members and placed with the minutes.

To ensure your comments are received before the meeting, please submit them by 3:30 PM on the day of the meeting and reference the item your comments address. If you would like to appear via video or audio link for a 3-5 minute comment on a regular agenda public hearing item, please provide your email address and contact information to the above email at least one business day before the meeting.

Live meeting coverage is available on Government Access Channels 2 & 602HD, Radio Access 102.5 FM Radio, or streaming on multiple platforms, including [FreeTV.org](https://www.freeTV.org) and [Facebook LIVE](https://www.facebook.com/bismarckndgov). Agenda items can be found online at www.bismarcknd.gov/agendacenter.

Call to Order

FUTURE COMMISSION MEETINGS

- February 27, 2024
- March 12, 2024 & March 26, 2024
- April 9, 2024 & April 23, 2024

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. CONSENT AGENDA
 - A. Consider approval of minutes

Documents:

[January 23, 2024 - Minutes.pdf](#)

[January 29, 2024 - Minutes.pdf](#)

B. Consider approval of personnel actions

Documents:

[HR Personnel Report.pdf](#)

C. Consider approval of expenditures

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

1. Request by the Bismarck-Mandan Convention & Visitors Bureau to conduct gaming at Blarney Stone Pub, 408 East Main Avenue.
2. Application to transfer the Class F-1 - Restaurant alcohol license, located at 512 East Main Avenue, from Jimmy V's, Inc. to The Mob Menu, LLC.

Documents:

[C\) ADMIN - Gaming Site Authorization.pdf](#)

[C\) ADMIN - Liquor License Transfer.pdf](#)

E. Consider the request for approval from Bismarck Airport for the following:

1. Sole Source Purchase of Airport Exit Doors.
2. Receive bids and award bid to Northern Improvement Company, approve additional future FAA BIL grant funds, and approve project budget for Hangar 5 Demolition and GA Apron Phase 5 Project.
3. Incentive package recommendation for Allegiant Air's new route between Bismarck Airport and St. Petersburg/Clearwater Airport.
4. Change Order #1 to the Interiors by Design Contract to replace carpet in the terminal.
5. Replacement of utility tractors using Sourcewell Cooperative Purchasing.

Documents:

[C\) AIR - Exit Doors Replacement.pdf](#)

[C\) AIR - Hangar 5 Demolition and GA Apron Phase 5 Project.pdf](#)

- [C\) AIR - Incentives for PIE Route.pdf](#)
- [C\) AIR - Interiors by France Change Order 1.pdf](#)
- [C\) AIR - Tractor Replacement.pdf](#)

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

1. Permission to apply for funding from AARP's Community Challenge Grant.

Documents:

- [C\) BBPH - Grant Request AARP Grant.pdf](#)

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

1. Permission to sell goalposts to the Bismarck Bucks.

Documents:

- [C\) BEC - Sale of Goalposts.pdf](#)

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

1. Approval of a major subdivision final plat titled First Responders Third Addition, where the Planning and Zoning Commission recommends approval.
2. Introduction of and call for a public hearing on Ordinance 6571, a request for zoning map amendment from the RM30 – Residential zoning district to the planned unit development (PUD) zoning district on Lot 6, Block 1, Sonnet Heights Subdivision Sixth Replat where the Planning and Zoning Commission recommends approval.
3. Selection of Clarion Associates, SRF, and Madden Planning to assist Bismarck with the creation of a new Land Development Code.

Documents:

- [C\) CD - First Responders Third Addition.pdf](#)
- [C\) CD - Sonnet Heights Subdivision Ninth Replat.pdf](#)
- [C\) CD - Land Development Code Consultant.pdf](#)

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

1. Street closure for 51st Annual Downtowners Street Fair.
2. Use of online bid openings.
3. ND Department of Transportation Cost Participation and Maintenance Agreement for South Washington Street reconstruction project AC-NHU-1-981(137) PCN 23859 and CPU-1-981(140) PCN 24022, HC 158.
4. Request to Hear Insufficiency of Protest on Resolution of Necessity for Street Improvement District 577.
5. Request for resolution approving plans and specifications, resolution directing the advertisement for bids and receiving bids for SI 578.

Documents:

- [C\) ENG - Downtowner Street Fair.pdf](#)
- [C\) ENG - Online Bid Opening and Fee.pdf](#)
- [C\) ENG - HC 158.pdf](#)
- [C\) ENG - SI 577.pdf](#)
- [C\) ENG - SI 578.pdf](#)

- J. Consider the request for approval from the Finance Department for the following:

1. Applications for Abatement.

Documents:

- [C\) FIN - Abatements.pdf](#)

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

1. Permission to purchase replacement special threat ballistic plates through Balco Uniform Inc.
2. Permission to sell two decommissioned Police vehicles.
3. Permission to sell a decommissioned police vehicle.
4. Permission to transfer ownership of damaged Police vehicles.

Documents:

- [C\) PD - Replacement Balistic Plates.pdf](#)
- [C\) PD - Sell 2 Decommissioned Police Vehicles.pdf](#)
- [C\) PD - Sell Decommissioned Police Vehicle.pdf](#)
- [C\) PD - Transfer Ownership of Damaged Police Vehicles_wo.pdf](#)

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

1. Permission to request donations for the Forestry Division's 2024 Partners In Planting and Arbor Day Fund.
2. Permission to appoint members to the Forestry Advisory Board.
3. Permission to offer Bismarck residents free disposal at the landfill, excluding tires, for the 2024 Spring and Fall clean-up weeks by presenting their most recent City of Bismarck utility bill or current driver's license, and to offer free curbside pickup during the Spring clean-up week.
4. Permission to sell the assets from Solid Waste Disposal and Roads and Streets divisions.
5. Permission to award the bid for Diesel Fuel and Gasoline Supplies to Farstad Oil, Inc.
6. Extension to the Master Short Form Agreement to February 16, 2026, with HDR Engineering, Inc. for Solid Waste Collections and Landfill Operations.
7. Change Order 2 to Task Order 2 to the 2018 Agreement with HDR Engineering for Solid Waste operations.
8. Task Order 21-01 to extend the Master Services Agreement with Houston Engineering, Inc. for an additional period of two years, or until February 11, 2026, for solid waste operations which provides support services for the NDDEQ permit.
9. Task Order 24-01 from Houston Engineering for the Solid Waste operations to provide 2024 BMWF Groundwater Sampling, Analysis, and Reporting.
10. Time Extension to Task Order 22-03 with Houston Engineering for Landfill Final Cover Closure Phase I-III to December 31, 2024.

Documents:

- [C\) PW SO - Partners in Planting Donations Request.pdf](#)
- [C\) PW SO - Forestry Advisory Board Appointments.pdf](#)
- [C\) PW SO - Cleanup Week Free Disposal at Landfill.pdf](#)
- [C\) PW SO - Sale of Fleet Assets.pdf](#)
- [C\) PW SO - Fuel Bid Award to Farstad Oil Inc.pdf](#)
- [C\) PW SO - HDR Engineering Extend MSA.pdf](#)
- [C\) PW SO - HDR Engineering Greenfield Investigation.pdf](#)
- [C\) PW SO - Houston Engineering Extend MSA.pdf](#)
- [C\) PW SO - Houston Engineering Groundwater Monitoring Task](#)

3. REGULAR AGENDA

- A. Public hearing on the application to transfer the Class E - Sale At Retail of Beer Only alcohol license, located at 619 Memorial Hwy, from 3 Fat Boys, LLC. to BHB, LLC

Documents:

[R\) ADMIN - Liquor License Transfer.pdf](#)

- B. Request of Gusaas Signs to appeal the January 4, 2024, decision of the Bismarck Board of Adjustment to uphold the Planning Manager / Zoning Administrator's interpretation of the zoning ordinance relating to a proposed off-premise advertising sign on Lot 1, Block 1, Basin Electric Fourth Addition.

Documents:

[R\) CD - Gusaas Signs BOA Appeal.pdf](#)

- C. Consider the request by the Community Development Department for the creation of the Neighborhood Reinvestment Initiative.

Documents:

[R\) CD - NRI Creation.pdf](#)

- D. Consider the request for direction relating to curbside waste collection for all residential and collection of extra items.

Documents:

[R\) PW SO - Curbside Collection for All Residential.pdf](#)

- E. Continued discussion and approval of department director employment and performance processes.

Documents:

[R\) ADMIN - Director Policy.pdf](#)

- F. Update on the status of Burleigh County and the Provident Building.

Documents:

[R\) ADMIN - Provident Building Update.pdf](#)

- G. Discussion regarding the request from Bismarck Event Center to change the insurance limits for contracts.

Documents:

R) LEGAL - Bismarck Event Center Insurance Limits.pdf

4. Other Business

Adjourn

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MEETING OF THE BOARD OF CITY COMMISSIONERS

1/23/2024 - Minutes

Call to Order

The Board of City Commissioners met on January 23, 2024, at 5:15 PM in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. Commissioner Cleary, Commissioner Connelly, Commissioner Marquardt, and Commissioner Zenker were present. Mayor Schmitz attended the meeting over Teams. Commissioner Marquardt resided over the meeting due to Mayor's online participation.

FUTURE COMMISSION MEETINGS

- February 13, 2024 & February 27, 2024
- March 12, 2024 & March 26, 2024
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MISSION STATEMENT

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

No public comment was received.

2. CONSENT AGENDA

Commissioner Marquardt noted that Item E1 was being pulled from the Consent Agenda.

Mayor Schmitz motioned to approve with the removal of Item E1 and Commissioner Zenker seconded. Upon a roll call vote, all voted aye. M/C.

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

Vouchers: #1115545 - 1115848.

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

1. Introduction of and call for a public hearing on the request to have the Class E - Sale At Retail of Beer Only alcohol license located at 619 Memorial Hwy transferred from 3 Fat Boys, LLC. to BHB, LLC.

E. Consider the request for approval from Bismarck Airport for the following:

1. ~~Actions for the Hangar 5 Demolition and GA Apron Phase 5 Project.~~
2. Permission to sell the 2005 Ford Expedition at a public marketplace.
3. Amendment 1 to the Architectural Agreement with Ubl Design Group for the Snow Removal Equipment (SRE) Building Project.
4. \$1,500 sponsorship to the North Dakota Aviation Association (NDAA) for the 2024 Conference and Expo.

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

1. Authorizing Resolution to allow Bis-Man Transit to make application through the North Dakota Department of Transportation.
2. Permission for the Historic Preservation Commission to apply for the 2024 Historic Preservation Fund Grant.

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

1. Street closure for BisMarket.
2. North Dakota Department of Transportation (NDDOT) Cost Participation and Maintenance Agreement for I-94 Exit 161 Interchange Reconstruction Project IM-NHU-1-094(212)161, PCN 22648; City project HC 132.
3. Request for Resolution Approving the Revised Preliminary Engineering Report and Approving Plans and Specifications, Resolution Approving Plans and Specifications, and Resolution Directing the Advertisement of Bids and Receive Bids for Sewer Improvement SE 582.
4. Consider Request for Resolution Approving Plans and Specifications and Request for Resolution Directing the Advertisement for Bids and Receive Bids for Street Improvement District SI 577 Part A and Part B.
5. Development Agreement with COM Properties, LLC.
6. Encroachment Agreement - 205 N 2nd St - Shelter Partners, LLP.

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

1. Applications for Abatement.
2. **Permission to use the ND State Contract to purchase Technology Equipment from Advanced Business Methods.**

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

1. Continue participation in the Community Rating System (CRS) program and submit annual recertification documentation.
2. Permission to purchase Rapid Intervention Packs from Grand Forks Fire and Equipment.
3. Change order for the Fire Station 1 Remodel.

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

1. Permission to accept grant funds from the Law Enforcement Resiliency Grant Award.

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

1. Award bid for Bismarck Expressway Warranty LED Replacement Project.

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

1. Permission to accept wastewater flows from the University of Mary.

3. REGULAR AGENDA

- A. Public Hearing on the application for a new Class F2: Restaurant Beer and Wine Liquor license for Dakota Asian Fusion Cuisine (dba) Ichiban Ramen Japanese & Asian Bistro at 1825 N 13th Street.

Commissioner Marquardt opened the public hearing. No member of the public appeared for comment.

Commissioner Cleary motioned to approve the item as presented, and Commissioner Connelly seconded. Upon a roll call vote, all voted aye. M/C.

- B. Public Hearing on Taxi License Application for Bismarck Transportation Services, Co.

Commissioner Marquardt opened the public hearing. No member of the public appeared for comment.

Mayor Schmitz motioned to approve the item as presented, and Commissioner Zenker seconded. Upon a roll call vote, all voted aye. M/C.

- C. Public Hearing on Taxi License Application for Dakota Transportation Services, LLC.

Commissioner Marquardt opened the public hearing. No member of the public appeared for comment.

Commissioner Cleary motioned to approve the item as presented, and Commissioner Connelly seconded. Upon a roll call vote, all voted aye. M/C.

- D. Public hearing to amend the dimensional requirements for residential accessory

buildings – Zoning Ordinance Text Amendment.

Isak Johnson, Community Development Planner, presented information to amend the dimensional requirements for residential accessory buildings – Zoning Ordinance Text Amendment.

Commissioner Connelly motioned to approve Ordinance 6570 as presented with the exception of a uniform measurement of 25 feet height limit for Urban and Rural areas, and Mayor Schmitz seconded. Upon a roll call vote, Commissioners Connelly, Cleary, Marquardt and Mayor Schmitz voted aye. Commissioner Zenker voted nay. M/C.

- E. Consider the abatement application requested by Harbor Properties LLC for the 2023 assessment year.

Allison Jensen, City Assessor, presented information to the Commission regarding the application for abatement requested by Harbor Properties, LLC to reduce the value from \$1,053,700.00 to \$804,000.00 for the 2023 assessment year. The Assessing Division recommends the denial of the proposed abatement application but rather a reduced valuation of \$924,900.00, land value is \$91,800.00, improvements value is \$833,100.00.

Commissioner Cleary motioned to approve the abatement with a certified value of \$924,900.00, and Commissioner Zenker seconded. Upon a roll call vote, all voted aye. M/C.

- F. Consider the request for the New Extraterritorial Area (ETA) Agreement with Apple Creek Township.

Ben Ehreth, Community Development Director, presented information regarding the request for the New Extraterritorial Area (ETA) Agreement with Apple Creek Township to address actions in the existing agreement that are no longer current.

Commissioner Zenker motioned to approve the request as presented, and Commissioner Connelly seconded. Upon a roll call vote, all voted aye. M/C.

- G. Consider the request by the Community Development Department to provide an update on the status of the FEMA Risk MAP Project for Burleigh County.

Brady Blaskowski, City Building Official, presented information to the Commission regarding the status of the FEMA Risk Map Project for Burleigh County. FEMA issued a Letter of Final Determination to the City of Bismarck stating that the new Flood Insurance Study (FIS) Report and Flood Insurance Rate Map (FIRM) for the City of Bismarck and Burleigh County will become effective on June 6, 2024. City of Bismarck staff is in the process of reviewing the current floodplain management ordinance with a stakeholder group to determine if any modifications to the ordinance are necessary and will provide an updated floodplain management ordinance to the Commission for consideration prior to the June 6, 2024, effective date.

The Commission received the report.

- H. Consider the request to authorize the renewal of Bismarck's Renaissance Zone Program.

Ben Ehreth, Community Development Director, presented information regarding the request to issue a resolution and enter into a Memorandum of Agreement with the North Dakota Division of Community Services to continue the Renaissance Zone program for a period of one year.

Commissioner Zenker motioned to approve the request as presented and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

I. Consider request to pursue NDDOT Urban Road and Urban Regional program projects.

Gabe Schell, City Engineer, presented information regarding a request to pursue federal aid through the North Dakota Department of Transportation (NDDOT) for the following projects:

Urban Roads

- Burleigh Avenue – Tavis Road to Washington Street
- South 12th Street - Santa Fe Avenue to Burleigh Avenue
- Yegen Road – University Drive to Hagen Avenue – mill and overlay

Urban Regional

- Regional roadway sign replacement project (previously applied)
- 7th St. and 9th St. underpass stormwater improvements (previously applied)
- 7th Street and Boulevard Avenue and 9th Street and Boulevard Avenue traffic signal improvements
- Tyler Parkway and Westbound off ramp I-94 Ramp traffic signal improvements
- Regional roadway microsurface pavement preservation
- State Street Trail Rehabilitation – Divide Avenue to Calgary Avenue

Commissioner Zenker motioned to approve the request as presented and Commissioner Cleary seconded. Upon a roll call vote, all voted aye. M/C.

J. Consider discussion and approval of department director employment and performance processes.

Mayor Schmitz introduced a proposed policy for Department Director employment and performance processes.

Commissioner Connelly noted that the policy should include a record of the attempts made by the Administrator to communicate with the portfolio holding Commissioner to discuss the situation prior to any employment related action in item three. Attorney Combs will update the policy with Commissioner Connelly's requested language.

Mayor Schmitz requested that the item be brought back with the changes to the February 13, 2024, meeting.

4. Other Business

Commissioner Marquardt requested that employees review and follow all policies relating to

procurement of equipment, fleet, and IT services and software, especially when purchasing new equipment.

Adjourn

There being no further business to discuss, the meeting adjourned at 6:30 PM.

DRAFT



MEETING OF THE BOARD OF CITY COMMISSIONERS

1/29/2024 - Minutes

SPECIAL MEETING OF THE BOARD OF CITY COMMISSION

Call to Order

The Board of City Commissioners met on January 29, 2024, at 1:00 PM in the Mayor's Conference Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. Commissioner Connelly and Commissioner Marquardt were present. Commissioner Zenker, Commissioner Cleary, Commissioner Zenker and Mayor Schmitz attended the meeting through Microsoft Teams.

1. Consider approval of Fire Alarm Monitoring with Johnson Controls for the Snow Removal Equipment (SRE) building using North Dakota State bid.

Greg Haug, Airport Director, provided information relating to the contract with Johnson Controls for fire alarm monitoring in the Snow Removal Equipment Building.

Mayor Schmitz moved to approve the item as presented, and Commissioner Connelly seconded. Upon a roll call vote, all voted aye. M/C.

Adjourn

There being no further business to discuss, the meeting adjourned at 1:04 PM.

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PERSONNEL ACTIONS FOR THE MEETING ON February 13, 2024

Full-Time and Part-Time Appointments

Parsons, Andrew Airport Operations Agent	Airport	FT Appointment @\$24.55/hr 2/12/24
Cejka, Shannon Concession Worker	Event Center	PT Appointment @\$14/hr 1/31/24
Schnaible, Caden Concession Worker	Event Center	PT Appointment @\$14/hr 1/30/24
Smith, Isis Mtc Attendant I (Part Time)	Event Center	PT Appointment @\$17.50/hr 1/19/24
Thomas, Paul Mtc Attendant I (PT)	Event Center	PT Appointment @\$17.50/hr 1/31/24
Williamson, Jackie Concession Worker	Event Center	PT Appointment @\$14/hr 2/5/24
Dalo, Fulgence Police Officer	Police	FT Appointment @\$28.47/hr 2/5/24
Sisk, John Police Officer	Police	FT Appointment @\$29.09/hr 2/5/24
Tishmack, Cole Heavy Equipment Operator	PW-Services	FT Appointment @\$25.5/hr 1/29/24

Separations

Schmidt, Donald Concession Worker	Event Center	Resigned 1/16/24
Sparrow, Greg Concession Worker	Event Center	Resigned 1/11/24
Anderson, James Police Officer	Police	Resigned 2/2/24
Bolme, Michael Police Sergeant	Police	Resigned 2/2/24
Goldsack Clarissa	Police	Retired

Records Technician

1/2/24

Mollman, Logan
Police Officer

Police

Resigned
1/25/24

Others

Peterson, Mary
Communications Specialist

CenCom

Leave w/out Pay
1/20/24

Eisenbeisz, Farren
HR Payroll Specialist

Human Resources

Promotion
@\$26.47/hr 1/21/24

Ware, Kristi
Social Worker

Public Health

Leave w/out Pay
1/20/24

Ware, Kristi
Social Worker

Public Health

Leave w/out Pay
2/3/24

Krause, Kaden
Forestry Tech I

PW-Services

Leave w/out Pay
1/20/24

Vetter, Brent
Heavy Equipment Operator

PW-Services

Leave w/out Pay
1/20/24

Walby, Joel
Heavy Equipment Operator

PW-Services

Leave w/out Pay
1/20/24



Administration Department

DATE: February 13, 2024

FROM: Jason Tomanek, Acting City Administrator

ITEM: Gaming Site Authorization

REQUEST:

Consider the request by the Bismarck-Mandan Convention & Visitors Bureau to conduct gaming at Blarney Stone Pub, 408 East Main Avenue.

BACKGROUND INFORMATION:

Gaming site authorizations expire on June 30th of each year. The Bismarck Administration Department administers the annual gaming site authorizations and renewals.

RECOMMENDED CITY COMMISSION ACTION:

Approve the request by the Bismarck-Mandan Convention & Visitors Bureau to conduct gaming at Blarney Stone Pub, 408 East Main Avenue.

STAFF CONTACT INFORMATION:

Whitnie Olsen, Senior Administrative Assistant, wolsen@bismarcknd.gov

ATTACHMENTS:

1. Site Authorization Application



GAMING SITE AUTHORIZATION
ND OFFICE OF ATTORNEY GENERAL
SFN 17996 (4-2023)

G - _____ (_____) _____
Site License Number
(Attorney General Use Only)

Full, Legal Name of Gaming Organization

BISMARCK-MANDAN CONVENTION & VISITORS BUREAU

This organization is authorized to conduct games of chance under the license granted by the North Dakota Attorney General at the following location

Name of Location

BLARNEY STONE PUB

Street

408 E MAIN AV

City

BISMARCK

ZIP Code

58501

County

BURLEIGH

Beginning Date(s) Authorized

03-01-2024

Ending Date(s) Authorized

06-30-2024

Number of Twenty-One
tables, if zero, enter "0"

1

Specific location where games of chance will be conducted and played at the site (required)

ENTIRE FACILITY - EXCLUDING RESTROOMS

If conducting **Raffle** or **Poker** activity provide date(s) or month(s) of the event(s) if known

RESTRICTIONS FOR CITY/COUNTY USE ONLY

The organization **must** provide the City/County a list of game types included in their Internal Control Manual and have the manual available upon request. The manual must thoroughly explain each game type to be conducted. The City/County can only approve these games at the site.

ACTIVITY TO BE CONDUCTED Please check all applicable games to be conducted at site (required)

- | | | |
|---|--|---|
| ☐ Bingo | ☐ Club Special | ☐ Sports Pools |
| ☐ ELECTRONIC Quick Shot Bingo | ☐ Tip Board | ☐ Twenty-One |
| ☐ Raffles | ☐ Seal Board | ☐ Poker |
| ☐ ELECTRONIC 50/50 Raffle | ☐ Punchboard | ☐ Calcuttas |
| ☐ Pull Tab Jar | ☐ Prize Board | ☐ Paddlewheel with Tickets |
| ☐ Pull Tab Dispensing Device | ☐ Prize Board Dispensing Device | ☐ Paddlewheel Table |
| ☐ ELECTRONIC Pull Tab Device | | |

Days of week of gaming operations (if restricted)

Hours of gaming (if restricted)

If any information above is false, it is subject to administrative action on behalf of the State of North Dakota Office of Attorney General

APPROVALS

Attorney General

Date

Signature of City/County Official

Date

PRINT Name and official position of person signing on behalf of city/county above

INSTRUCTIONS:

1. City/County - Retain a **copy** of the Site Authorization for your files.
2. City/County - Return the **original** Site Authorization form to the Organization.
3. Organizations - Send the **original, signed**, Site Authorization to the Office of Attorney General with any other applicable licensing forms for final approval

RETURN ALL DOCUMENTS TO:

Office of Attorney General
Licensing Section
600 E Boulevard Ave, Dept. 125
Bismarck, ND 58505-0040
Telephone: 701-328-2329 OR 800-326-9240



RENTAL AGREEMENT
OFFICE OF ATTORNEY GENERAL
LICENSING SECTION
SFN 9413 (7-2023)

License Number (Office Use Only)

Site Owner (Lessor) BLARNEY STONE PUB, LLC		Site Name BLARNEY STONE PUB		Site Phone Number 701-751-7512	
Site Address 408 E MAIN AV		City BISMARCK	State ND	Zip Code 58501	County BURLEIGH
Organization Bismarck-Mandan Convention & Visitors Bureau		Rental Period 03-01-2024 to 06-30-2026			Monthly Rent Amount
1. Is Bingo going to be conducted at the site?				☒ No	☐ Yes
1a. If "Yes" to number 1 above, is Bingo the primary game conducted? - If Bingo is the primary game, enter the monthly rent amount to be paid. Then answer questions 2 - 7 but do not enter any rent amounts.				☐ No	☐ Yes
2. Is Twenty-One conducted at this site? Number of Tables with wagers up to \$5 _____ X Rent per Table \$ _____				☐ No	☒ Yes
Number of Tables with wagers over \$5 1 X Rent per Table \$ 300					\$ 300
3. Is Paddlewheels conducted at this site? Number of Tables 0 X Rent per Table \$ _____				☒ No	☐ Yes
4. Is Pull Tabs Involving either a jar bar or standard dispensing device conducted at this site? Please Check: ☒ Jar Bar ☒ Standard Dispensing Device				☐ No	☒ Yes
5. Are Electronic Pull-Tabs conducted at this site? If "Yes" please indicate the number of devices 5				☐ No	☒ Yes
Total Monthly Rent					\$ 1,500
6. If the only gaming activity to be conducted at the site is a raffle drawing, please check here. ☐					

TERMS OF RENTAL AGREEMENT:

This RENTAL AGREEMENT is between the Owner (LESSOR) and Organization (LESSEE) that will be leasing the site to conduct games of chance.

The LESSOR agrees that no game will be directly operated as part of the lessor's business.

The LESSOR agrees that the (lessor), (lessor's) spouse, (lessor's) common household members, (management), (management's) spouse, or an employee of the lessor who is in a position to approve or deny a lease may not conduct games at any of the organization's sites and except for officers and board of directors members who did not approve the lease, may not play games at that site. However, a bar employee may redeem a credit ticket voucher from an electronic tab device, winning pull tab involving a dispensing device, pay a prize board cash prize, and award a prize board merchandise prize involving a dispensing device, and sell raffle tickets or sports pool chances on a board on behalf of an organization.

The LESSOR agrees that the lessors on call or temporary or permanent employee(s) will not, directly or indirectly, conduct games at the site as an employee of the lessee on the same day the employee is working in the area of the bar where alcoholic beverages are dispensed or consumed.

If the LESSEE provides the Lessor with a temporary loan of funds for redeeming credit ticket vouchers from an electronic pull-tab device, or pull tabs or prize boards involving a dispensing device, the lessor agrees to repay the entire loan immediately when the lessee discontinues using the device at the site.

The LESSOR agrees not to interfere with or attempt to influence the lessee's selection of games, determination of prizes, including a bingo jackpot prize, or disbursement of net proceeds.

The LESSOR agrees not to loan money to, provide gaming equipment to, or count drop box cash for the lessee.

The LESSOR agrees any advertising by the lessor that includes charitable gaming must include the charitable gaming organization's name.

A LESSOR who is an officer or board member of an organization may not participate in the organization's decision-making that is a conflict of interest.

At the LESSOR's option, the lessee agrees that this rental agreement may be automatically terminated if the lessee's gaming license is suspended at this site for more than fourteen days or revoked.

Signature of Lessor 	Title COO	Date 2/5/24
Signature of Lessee 	Title CEO	Date 2/5/24

North Dakota Century Code § 53-06.1-11 (Gross Proceeds - Allowable Expenses - Rent Limits)

4. For a site where bingo is conducted:
 - a. If bingo is the primary game, the monthly rent must be reasonable
 - b. If bingo is not the primary game, but is conducted with twenty-one, paddlewheels, or pull tabs, no additional rent is allowed.
5. For a site where bingo is not the primary game.
 - a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed two hundred dollars multiplied by the necessary number of tables based on criteria prescribed by gaming rule. For each twenty-one table with a wager greater than five dollars, an additional amount up to one hundred dollars may be added to the monthly rent. If pull tabs is also conducted involving only a jar bar, the monthly rent for pull tabs may not exceed an additional one hundred seventy-five dollars. If pull tabs is conducted involving only a dispensing device or a jar bar and dispensing device, the monthly rent for pull tabs may not exceed an additional three hundred twenty-five dollars.
 - b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted involving either a jar bar or dispensing device, the monthly rent may not exceed four hundred dollars.
 - c. If pull tabs is conducted using one or more electronic pull tab devices, the monthly rent may not exceed one hundred seventy-five dollars per machine for the first five machines in the same venue. For each additional machine in the same venue beyond five, the monthly rent may not exceed seventy-five dollars per machine up to a maximum of one thousand two hundred fifty dollars per month for all electronic pull tab devices in a single venue.

North Dakota Administrative Code § 99-01.3-02-06 (Rental Agreement)

3. Rent must be a fixed dollar amount per month
 - a. A participatory or graduated rate arrangement based on gross proceeds or adjusted gross proceeds is prohibited.
 - b. If bingo is the primary game or if a site is leased by an organization that has the alcoholic beverage license for that site, the monthly rent must be reasonable. Factors include time usage, floor space, local prevailing rates, and available sites and services. An organization may pay seasonal expenses, such as snow removal, air-conditioning, and heating, to a vendor.
 - c. If bingo is not the primary game, the maximum monthly rent must be according to subsection 5 of North Dakota Century Code section 53-06.1-11.

Special considerations are:

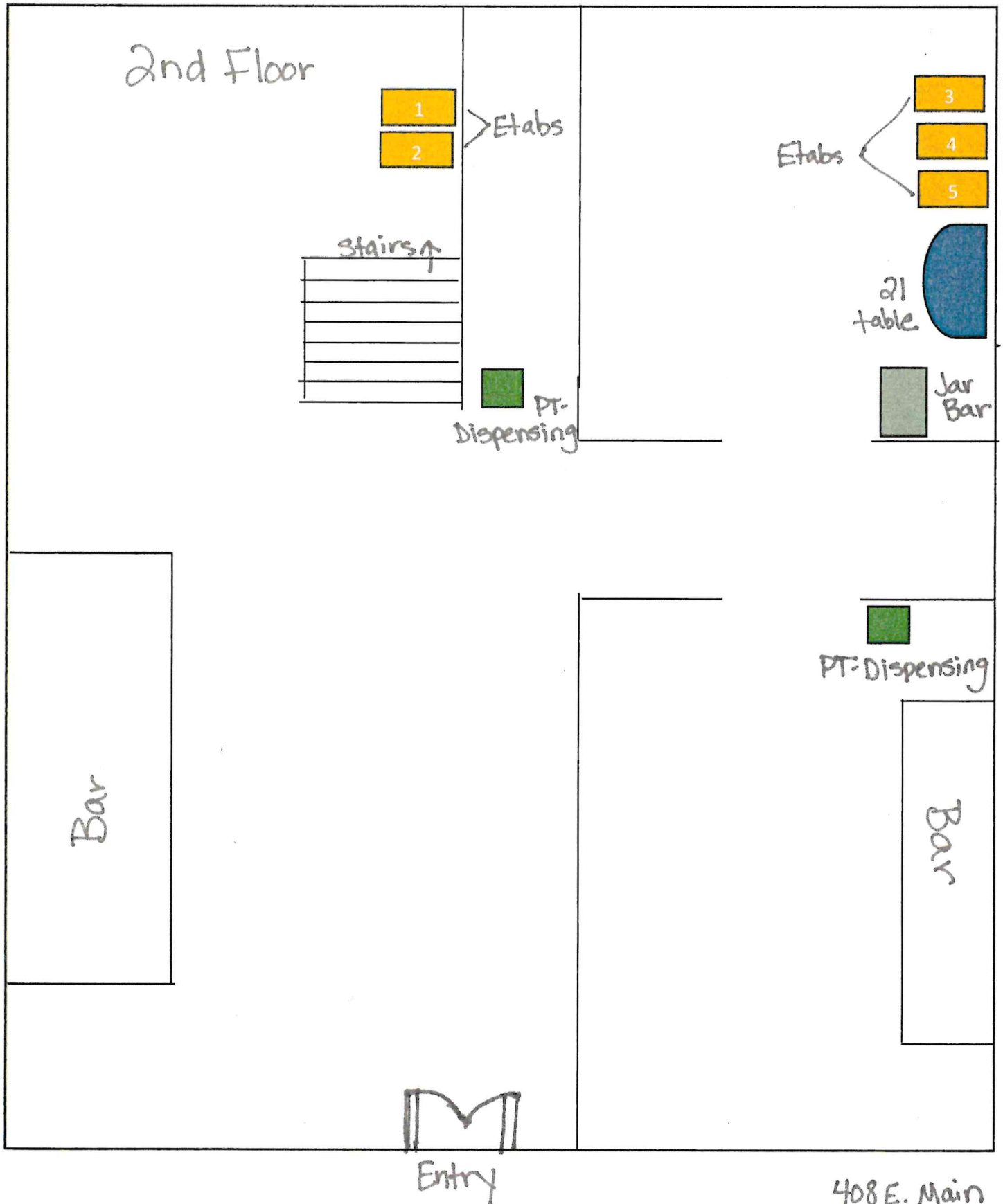
 - (1) If two or more organizations conduct twenty-one or paddlewheels, or both, involving a table and pull tabs for less than a month at a temporary site which is a public or private premise, or if two or more organizations are issued site authorizations to conduct games at a site on different days of the week, the maximum monthly rent, in the aggregate, may not exceed the limit set by subsection 5 of North Dakota Century Code section 53-06.1-11; and
 - (2) If a raffle, calcutta, sports pool, or poker is conducted with twenty-one, paddlewheels or pull tabs, no additional rent is allowed.
 - d. Except for applying subsection 3 or 4 of section 99-01.3-03-04, and additional rent paid to a lessor for simulcast racing, an organization or employee may not pay any additional rent or expense, from any source, or for any other purpose, including office or storage space, snow removal, maintenance or cleaning fees, equipment, furnishings, entertainment, or utilities. Except for a leased site at which bingo is the primary game conducted, an organization may not pay for any capital or leasehold improvements or remodeling.
- *4. If there is a change in the monthly rent or any other material change to a rental agreement, the agreement must be amended and a copy received by the attorney general before its effective date.

North Dakota Administrative Code § 99-01.3-08-01 (Restrictions and Requirements)

4. An organization may pay monthly rent for more than one table provided that each additional table is used at least thirteen times a quarter. This level of activity is based on a site's historical experience, or seasonal activity, for each of the previous four quarters, regardless of which organization conducted twenty-one at the site. For a new site or a site that has been completely remodeled in appearance and function, the level of activity must be reviewed and reestablished after the first full quarter. If an additional table is used at least thirteen times in at least one but not all of the previous four quarters, the allowable monthly rent for that table must be prorated over all the active months of the licensing year. For example, if a second table was used at least thirteen times in only two of the previous four quarters, the additional monthly rent for the second table would be a maximum of two hundred dollars per month (or three hundred dollars per month if a wager greater than five dollars is accepted on the table) multiplied by six months (totaling one thousand two hundred dollars) and prorated to one hundred dollars per month for the licensing year. The organization shall document each table's usage, which includes the date, table number, and drop box cash amount for each table and how the prorated rental amounts were determined. This documentation must be retained with the organization's twenty-one records for three years.



- 5 – Etabs
- 2 – Pull Tab Dispensing Devices
- 1 – Blackjack Table
- 1 – Jar Bar





Bismarck-Mandan
Convention & Visitors Bureau
1600 Burnt Boat Drive
Bismarck, ND 58503
701-222-4308
800-767-3555

February 6, 2024

Jason Tomanek
Acting City Administrator
City of Bismarck
PO Box 5503
Bismarck, ND 58506

Dear Jason:

Attached is the Site Authorization paperwork for the Blarney Stone Pub, a check for \$100, and the documentation from Bismarck Hockey relinquishing the current Site Authorization.

Game types conducting include:

Electronic Pull Tabs
Pull Tab Dispensing Device
Twenty-One
Pull Tab Jar

Please contact me if you have any questions.

A handwritten signature in blue ink, appearing to read "KBreiner", with a long horizontal flourish extending to the right.

Karen Breiner
Gaming Manager
701-367-6673



AGREEMENT FOR EARLY TERMINATION
OF RENTAL AGREEMENT

THE PARTIES to this Agreement are:

1. BLARNEY STONE PUB, LLC of 408 E Main Ave., Bismarck, ND 58501 (hereinafter referred to as "Blarney Stone"); and
2. BISMARCK HOCKEY BOOSTERS, INC. of 2709 Boston Drive, Bismarck, ND 58504 (hereinafter referred to as "Bismarck Hockey").

Recitals

The following recitals shall be deemed a part of this Agreement, and the parties agree that they accurately set forth the circumstances and basis upon which this Agreement has been executed.

WHEREAS, Blarney Stone and Bismarck Hockey entered into a "Rental Agreement" (SFN 9413), as amended, with a rental term of July 1, 2023 through June 30, 2024.

WHEREAS, Due to a material change in circumstances, the parties agree that it is necessary, and they further mutually desire, to terminate the Rental Agreement, as amended, early and prior to the expiration of the Rental Agreement's term.

WHEREAS, Both parties agree that further amendments to the Rental Agreement will not resolve the material change in circumstances and that a mutual stipulation to terminate the Rental Agreement early is the appropriate course of action which both parties to hereby voluntarily consent to.

Agreement

NOW, THEREFORE, In consideration of the premises, the parties agree as follows:

1. The Rental Agreement, as amended, shall be terminated effective February 29, 2024. The parties shall remain obligated to perform all obligations of the Rental Agreement through the revised term mutually agreed to herein. However, in consideration for this Agreement, the parties shall be released from any and all obligations arising under the Rental Agreement upon its early termination on February 29, 2024.
2. Bismarck Hockey, or its designee, shall remove all gaming equipment from Blarney Stone's premises, located at 408 E Main Ave., Bismarck, ND 58501, after February 29, 2024, but

before March 5, 2024.

3. The parties agree that they will provide any and all information required by the Office of the Attorney General in order to obtain said Office's approval of the parties agreement to terminate the Rental Agreement as of February 29, 2024.

4. The parties acknowledge and agree that they enter into this agreement freely and voluntarily and that their agreement to the early termination of the Rental Agreement is not based upon any violation of administrative rules, laws or ordinances. The parties merely acknowledge that unanticipated circumstances have arisen since the execution of the Rental Agreement, as amended, which justify the parties' mutual desire to end their contractual relationship prior to the expiration of the original contractual term.

Miscellaneous

This Agreement shall bind the signers, their heirs, next-of-kin, executors, administrators, successors or assigns, and shall inure to the benefit of the parties released, their agents, attorneys, representatives, employees, insurers, and all other persons, firms, associations, corporations, successors and assigns.

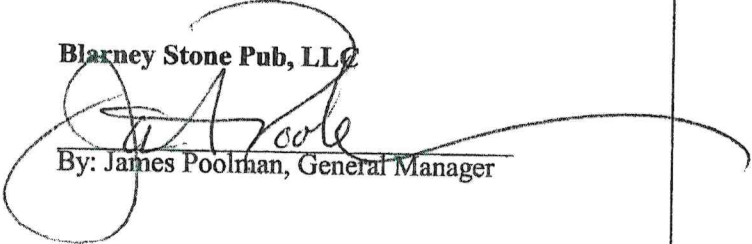
The undersigned have carefully read this Agreement and understand all of its items.

Copies signatures that are sent via scan and email, Docusign, or via facsimile, shall be treated as original signatures.

IN WITNESS WHEREOF, the parties hereto have set their hands the date hereafter written.

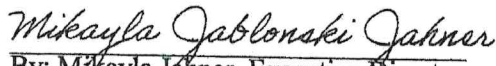
Blarney Stone Pub, LLC

Dated this 5th day of February, 2024.


By: James Poolman, General Manager

Bismarck Hockey Boosters, Inc.

Dated this 4th day of February, 2024.


By: Mikayla Jahner, Executive Director



Administration Department

DATE: February 13, 2024

FROM: Jason Tomanek, Acting City Administrator

ITEM: Application to transfer the Class F-1 - Restaurant alcohol license.

REQUEST:

Application to transfer the Class F-1 - Restaurant alcohol license, located at 512 East Main Avenue, from Jimmy V's, Inc. to The Mob Menu, LLC.

BACKGROUND INFORMATION:

The Mob Menu, LLC. is requesting to have the Class F-1 - Restaurant alcohol license, located at 512 East Main Avenue, transferred from Jimmy V's, Inc.

Class F: To any restaurant applicant for a food and beverage license to sell at retail, subject to the following:

Class F-1 - Alcoholic beverages.

1. Gross sales of alcoholic beverages may not be greater than 45 percent of total gross sales of food and alcoholic beverages. All Class F license holders shall file with the application for license renewal a copy of their report of food and alcoholic beverage amounts that they have filed with the State of North Dakota for their state alcohol permit for the immediately preceding calendar year prior to renewal. The board of city commissioners may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the commission deems necessary. All sales of alcoholic beverages by Class F licensees must be separately receipted to the customer by cash register receipt and clearly identified as sales of liquor, beer or wine on all receipts.
2. The restaurant complies with state law regarding minors in licensed premises as listed in North Dakota Century Code Title 5.
3. The license is for on-sale only, and off-sale is not permitted. A cessation of business at a licensed location for a period of ninety days or longer shall constitute cause to revoke such license pursuant to section 501-09.
4. Once a license has been established at a particular location, the license may not be transferred to another location.
5. Minors are allowed on the licensed premises only as permitted by NDCC Section 5-02-06.

RECOMMENDED CITY COMMISSION ACTION:

Staff recommends approval of the application to transfer the Class F-1 - Restaurant alcohol license, located at 512 East Main Avenue, from Jimmy V's, Inc. to The Mob Menu, LLC.

STAFF CONTACT INFORMATION:

Whitnie Olsen, Senior Administrative Assistant, wolsen@bismarcknd.gov

ATTACHMENTS:

1. License Transfer Application



Retail Alcohol Beverage License - Submission #22041

Date Submitted: 2/1/2024

License Information:

Application Type*

Transfer

License Type*

F-1: Restaurant - Alcoholic Beverages - \$3,500

Please select the type of license you are applying for.

Location Information:

Legal Business Name:*

The Mob Menu LLC

Doing Business As (DBA) Name, if Applicable:*

Jimmy V's

Date of Incorporation:*

01/31/2024

State of ND Liquor License No.:

LIQ2023-103

**If out of state corporation,
is corporation registered in
North Dakota?**

- ☐ Yes
☐ No
☒ N/A

Location Address:*

512 E Main Ave

City:*

Bismarck

State:*

ND

Zip:*

58501

Phone No.:*

7015577676

Name and Title of Person Completing Form (must be the person listed in ownership information or manager):

Corey Schick

Contact Information (Where correspondence is to be sent):

Primary Contact:*

Corey Schick

Email Address:*

bismarckcpa@gmail.com

Mailing Address:*

3005 Hillside Road NW

City:*

MANDAN

State:*

ND

Zip:*

58554

Phone No.:*

7012506712

Manager's Name:*

Corey Schick

Date of Birth:*

07/12/1985

Percentage of Ownership:*

16.67%

Driver's License No.:*

SCH-85-1071

State Issued:*

ND

Gender:

Male

Race:

White

Home Address:*

3005 Hillside Road NW

City:*

MANDAN

State:*

ND

Zip:*

58554

Phone No.:*

7012506712

Occupation:*

CPA

Title:*

President

Email Address:*

bismarckcpa@gmail.com

.....

List all officers, directors, and stockholders of corporation and percentage of ownership:

Name:*

Ryan Deichert

Date of Birth:*

03/17/1984

**Percentage of
Ownership:***

33.33

Driver's License No.:*

DEI-84-8690

State Issued:*

ND

Gender:

Male

Race:

White

Home Address:*

5750 E Main Ave

City:*

Bismarck

State:*

ND

Zip:*

58501

Phone No.:*

7013919489

Occupation:*

Rental Management

Title:*

Member

Email Address:

missourivalleyrentals@gmail.com

Name:

Christopher Strand

Date of Birth:

08/12/1979

**Percentage of
Ownership:**

16.66

Driver's License No.:

STR-79-1322

State Issued:

ND

Gender:

Male

Race:

White

Home Address:

3406 Heartwood Dr SE

City:

Mandan

State:

ND

Zip:

58554

Phone No.:

7015951673

Occupation:

Sales

Title:

Member

Email Address:

christophernstrand@gmail.com

Name:

Jeran Thomson

Date of Birth:

05/30/1982

**Percentage of
Ownership:**

16.67

Driver's License No.:

THO-82-9532

State Issued:

ND

Gender:

Male

Race:

White

Home Address:

2100 Frisco Way

City:

Bismarck

State:

ND

Zip:

58503

Phone No.:

7015952926

Occupation:

Home Builder

Title:

Member

Email address:

jeran@jehomesnd.com

Please submit all officers that will not fit on this form.

Choose File

No file chosen

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

1. Are manager and partners legal residents of the United States and the State of North Dakota, and are all officers or directors legal residents of the United States?*

☒ Yes

☐ No

If no, please explain:

Name: Daniel Anderson		Date of Birth: 08/13/1985		Percentage of Ownership: 16.67	
Driver's License Number: AND-85-8850		State Issued: ND		Gender: Male	
Race: White		Home Address: 500 Augsburg Ave		City: Bismarck	
State: ND		Zip: 58504		Occupation: Attorney	
Phone Number: (701) 202-8695		Title: Member		Email Address: dan.anderson@legacylawfirmpllp.com	

2. Have any of the persons listed above been convicted of any crime within the past five years? *

- ☐ Yes
☒ No

If yes, list all convictions and the dates, locations and sentence of disposition of each:

3. Does the building meet all state and local sanitation and safety requirements?*

- ☒ Yes
☐ No

4. Has applicant, or any of the persons listed above, within the past five years had any license to engage in sale of alcoholic beverages revoked or suspended? *

- ☐ Yes
☒ No

If yes please, give details:

5. If new application, have you ever engaged in the sale or transportation of alcoholic beverages previously?*

- ☒ Yes
☐ No
☐ N/A

If yes please, give details:

We are all the same ownership as Galpin Entertainment LLC, DBA The Pier Bar & Grill

6. Has applicant, or any of the persons listed above, within the past five years, had an application for any federal or state or local license of any type rejected or denied? *

- ☐ Yes
☒ No

If yes please, give details:

7. Is there any agreement or understanding, or proposed agreement or understanding to obtain the license for another, or to operate the business for another, or as an agent for another?*

- ☐ Yes
☒ No

If yes please, give details:

8. Has the business been sold or leased, or is there any intention to sell or lease the business to another?*

- ☐ Yes
☒ No

If yes please, give details:

9. Has the applicant, or any of the persons listed above, shown interest in whatsoever, directly or indirectly, any other license liquor establishment within or without the State of North Dakota?*

- ☒ Yes
☐ No

If yes please, give details:

We are all the same ownership as Galpin Entertainment LLC, DBA The Pier Bar & Grill
Ryan Deichert is the owner of Bar Operators LLC

10. Will the applicant, or any of the persons listed above, be engaged in any other business other than the sale of liquor under the license applied for?*

- ☐ Yes
☒ No

If yes please, give details:

11. Have all property taxes and special assessments currently due been paid?*

- ☒ Yes
☐ No

If not please, explain why:

Special Requirements:

All Class F-1, F-2, C-2, & G license holders shall file with the application for license renewal a copy of their report of food and alcoholic beverage amounts that they have filed with the State of North Dakota for their state alcohol permit for the immediately preceding calendar year prior to renewal. The Board of City Commissioners may, at its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the commission deems necessary.

Upload Gross Food Sales Report:

fd040923.pdf

Liquor License Site Diagram Requirements:

- ☒ Site diagrams are to be submitted on a plain sheet of paper, 8½ x 11-inch size.
- ☒ The agency name shall be included on the diagram.
- ☒ The direction "North" shall be included on the diagram.
- ☒ The interior design of the licensed area shall be represented. This should include entrances, exits, interior doors, windows, tables, coolers, storage offices and room dividers.
- ☒ The diagram may be hand drawn, but it must be neat and reasonably accurate.
- ☒ If the licensed site is part of a larger complex such as a restaurant, areas such as mixing, serving and storage must be identified.

Upload Site Diagram:*

fd040924.pdf

Liquor License Transfers

Download Required Form for License Transfer:

[Alcoholic Beverage License Transfer Form](#)

Upload Notarized Alcoholic Beverage License Transfer Form

Choose File

No file chosen

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

☒ I agree

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

☒ I agree

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

☒ I agree

Signature of Applicant:*

Corey Schick

By checking this box I acknowledge that I am electronically signing this liquor license application.*

☒ Electronic Signature

Date:*

2/1/2024

Payment Options:*

Check By Mail

NOTE: This application must be accompanied by required fees.

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

Credit Card

[Credit Card Authorization Form](#)

Upload Credit Card Authorization Form

No file chosen

Mail Payments To:

City of Bismarck Administration, 221 North 5th Street, Bismarck, ND 58501



Alcoholic Beverages License Transfers

The following licenses may be transferred according to City Code 5-01-12. Licenses may be transferred with the prior approval of the Board of City Commissioners:

- **Class A** license may not be transferred to another person. It may be transferred to a new location only if the fraternal order or club is moved to that location.
- **Class B-1** license may not be transferred to another person or to a new location other than the airport terminal.
- **Class B-2** license may not be transferred to another person or to a new location other than the Municipal Country Club.
- **Class B-3** license may be transferred to another person only if that person has purchased or entered into an agreement to purchase the passenger vessel. It may not be transferred to a new location other than the passenger vessel and the location where the vessel docks and boards passengers.
- **Class B-4** license may not be transferred to a new entity or location.
- **Class B-5** license may not be transferred and may be held only by the person or entity holding the lease with the Bismarck Parks and Recreation District for the Riverwood or Tom O'Leary Golf Courses.
- **Class B-6** license may not be transferred to a new location or Entity.
- **Class C** license may be transferred to another person only if that person has purchased or entered into an agreement to purchase the hotel or motel. It may not be transferred to a new location.
- **Class D** license may be transferred to another person only with the prior approval of the board of city commissioners.
- **Class E** license may be transferred to another person only with the prior approval of the board of city commissioners.
- **Class F** license may be transferred to another person only if that person has purchased or entered into an agreement to purchase that establishment. It may not be transferred to a new location.
- **Class G** license may be transferred to another person or entity only if that person or entity has purchased or has entered into an agreement to purchase the catering business.
- **Class H** license may be transferred to another person only if that person has purchased or entered into an agreement to purchase that establishment. It may not be transferred to a new location except by the current owner.
- **Class I** license may be transferred to another person only if that person has purchased or entered into an agreement to purchase that establishment. It may not be transferred to a new location.

Notarized signatures of both parties are required for eligible license transfers.

STATE OF NORTH DAKOTA

COUNTY OF BURLINGHAM

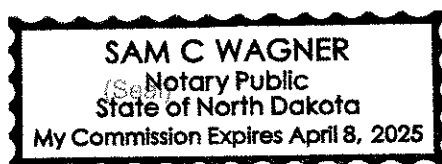
On this 2 day of FEBRUARY, in the year 2024 before me, personally appeared

STEVEN NARDELLO (Original license holder) and COREY SCHICK (Transfer applicant) to

acknowledge the transfer of a Class F alcoholic beverage license. The applicant agrees to abide by all rules of the license and the City of Bismarck Chapter 5-01 Alcoholic Beverages Code of Ordinances.

Original License Holder Signature

Transfer Applicant Signature


Notary Signature

NORTH

Dunk
station

Bar Top

St/b

Hand
writing

Exit
Door

THE MOB MENU LLC DBA JIMMY VS



Airport

DATE: February 13, 2024

FROM: Greg Haug, Airport Director

ITEM: Consider a Sole Source Purchase of Airport Exit Doors

REQUEST:

Consider a Sole Source Purchase of Airport Exit Doors

BACKGROUND INFORMATION:

The Bismarck Airport terminal building has numerous frames, doors, windows in a paint scheme done by Fargo Glass and Paint Company. As part of Bismarck Airport's ongoing maintenance programs, airport staff needs to replace the passenger boarding area exit doors at the second floor of the terminal. Staff is requesting permission for sole source purchase of new doors to maintain consistency of the manufacturer. With the same manufacturer, the new doors will match up to the frame, hinges, and color scheme without having to replace the original framing, simplifying the install and reducing overall project cost. Airport staff is requesting to purchase the quoted exit doors and the optional protection plates (door armor) for a total of \$12,610.00. The purchase is accommodated in the approved airport spending plan.

RECOMMENDED CITY COMMISSION ACTION:

Approve sole source purchase of airport exit doors from Fargo Glass and Paint Co. for \$12,610.00 at Enclosure 1

STAFF CONTACT INFORMATION:

Tim Thorsen, Assistant Airport Director, 701-355-1806, tthorsen@bismarcknd.gov

ATTACHMENTS:

1. AIR - 1



Fargo Glass and Paint Co.
A FRIENDLY HOUSE

ALL GLASS PRODUCTS – STOREFRONTS, ALUMINUM ENTRANCES, ALUMINUM WINDOWS, MIRRORS,
SUSPENDED CEILINGS, SUNROOMS, AUTOMATIC AND HANDICAPPED ACCESSIBLE ENTRANCES AND HARDWARE.

GENERAL OFFICE:
FARGO, ND

PHONE (701) 255-0882 – FAX (701) 255-0887
1333 20th St S
Bismarck, NORTH DAKOTA 58102

WAREHOUSES:
MINOT, ND
BISMARCK, ND
SIOUX FALLS, SD

February 1, 2024

We propose to furnish and install the following described material for

Bismarck Airport Doors in Bismarck, ND

Base Bid \$12,130.00

Includes: Furnish & Install the Following:
Demo & Replace Pair of Kawneer Doors in Existing Frame, Wide Style w/ 10"
Bottom & 8" Mid-Rail, Von Duprin 9947 US26D Concealed Vertical Rod Exit
Devices (Standard Hex Key Dogging) (Top Latching Only) (one with Night Latch),
4040XP Regular Arm Closers Aluminum Color, 1/4" Clear Tempered Glass,
Temporary Cylinder

Optional ADD (Door Armor) \$480.00

Includes: Furnish & Install the Following:
4-1/2" x 24" .050 Stainless Steel Door Protection Plates on Meeting Door Styles
Below Exit Devices & 9-1/2" x 34" .050 Stainless Steel Door Protection Plates on
Bottom Rails

Excluded: Glass Films or Decals, Structural Calculations, Field Testing, Final Cleaning
Interior Finish Caulking, Mockups, Mirrors, Final Keying by Others

NOTES: Should you accept this estimate yet use your own contract form, it is understood that we will incorporate and make a part
thereof a true copy of this estimate and all of its conditions.

NO FINAL WASHING OR CLEANING OF GLASS OR ALUMINUM.

WE ARE NOT RESPONSIBLE FOR DAMAGE TO GLASS OR MATERIAL BY OTHER TRADES.

NO CONSTRUCTION PROTECTION. NO TEMPORARY ENCLOSURES OR HEATING.

CONTRACT GOOD FOR THIRTY (30) DAYS FROM DATE.

ACCEPTANCE OF OFFER SUBJECT TO CREDIT APPROVAL.

BREAKAGE: Resulting from conditions beyond our control will be charged as extras.

FREIGHT: F.O.B. shipping point, freight allowed.

Accepted _____, 20____

FARGO GLASS & PAINT, CO.
FARGO, BISMARCK & SIOUX FALLS

By _____

By Claude Hier

"An Equal Opportunity Employer"

Claude Hier

ENC 1



Airport

DATE: February 13, 2024

FROM: Greg Haug, Airport Director

ITEM: Hangar 5 Demolition and GA Apron Phase 5 Project

REQUEST:

Receive bids and award bid to Northern Improvement Company, approve additional future FAA BIL grant funds, and approve project budget for Hangar 5 Demolition and GA Apron Phase 5 Project.

BACKGROUND INFORMATION:

Bismarck Airport has been working on incremental actions over the last 20 years to set the conditions for future development in the north General Aviation (GA) area. Previous related implementation actions approved by the Board were on June 28, 2022, the Board approved a Development Agreement with Simson Investment Corp on October 11, 2022, the Board approved a Development Agreement with Executive Air Taxi Corporation (EATC) and on March 23, 2023, the Board approved actions for GA Apron Phase 4. Simson's two 115 foot x 100 foot hangars are nearly completed and GA Apron Phase 4 (apron and associated work) are completed except for warranty items.

On May 23, 2023, the Board approved an agreement with KLJ for Hangar 5 Demolition and GA Apron Phase 5 for demolition of Hangar 5 and design and construction of an apron and other ancillary items to further prepare the North GA area for development and to meet City/Airport obligations in the development agreements. At that July meeting, Bismarck Airport staff said we would bring bids to the Board in the Fall of 2023.

The design was completed, and the project advertised (Enclosure 1). During the design, staff worked with Federal Aviation Administration (FAA) Project Managers to approve the apron use plan and coordinate funding. The bids were opened on Monday, December 11, 2023 (Enclosure 2). Northern Improvement Company (NIC) and Strata Corporation bid on the project. NIC is the apparent low bidder with a total bid of \$4,837,409.00. NIC's total bid was 5% higher than the Engineers Opinion of Probable Construction Cost of \$4,594,680.00.

With engineering and other costs added, the total project cost is \$5,777,717.40. To fund the project, Airport staff will initially pay for the project from the Airport cash reserves, then later reimburse the project at 90% for eligible items through BIL entitlement funding earmarked for Bismarck Airport (approximately \$1.4 Million from FY 2025 BIL and approximately \$2.6 Million from FY 2026 BIL). Bismarck Aero Center is obligated to participate in 50% of the 43 feet of

ineligible apron in front of the planned Fixed Base Operator (FBO)s (approximately \$130,992.90). Executive Air Taxi Corporation is obligated to participate in 50% of the 43 feet of ineligible apron in front of their planned new hangar buildings (approximately \$167,865.80). Additionally, Bismarck Airport staff will apply for reimbursement of 5% of the BIL eligible portions of the project and 90% of the FAA ineligible project work from the ND State Aeronautics Commission. The budget is at Enclosure 3. With Board approval to proceed, this project will be completed by Fall 2024.

RECOMMENDED CITY COMMISSION ACTION:

1. Receive bids and award Bid to Northern Improvement Company for \$4,837,409.00, subject to review and checking.
2. Approve receiving additional future FAA BIL grant funds for this project.
3. Approve the project budget.

STAFF CONTACT INFORMATION:

Tim Thorsen, Assistant Airport Director, 701-355-1806, tthorsen@bismarcknd.gov
Greg Haug, Airport Director, 701-355-1805, ghaug@bismarcknd.gov

ATTACHMENTS:

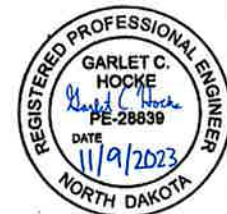
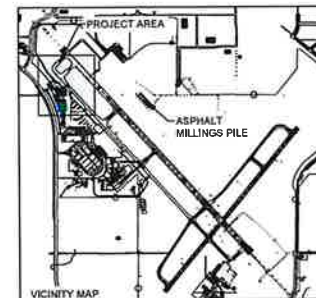
1. Project Information

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DIVISION 3
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DIVISION 5
DIVISION 1
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DIVISION 4

1	HANGAR 5 BUILDING DEMOLITION (APPROXIMATELY 17,000 S.F.)
2	REMOVE EXISTING APRON (APPROXIMATELY 3,175 S.Y. OF ASPHALT AND 1,228 S.Y. OF CONCRETE)
3	CONSTRUCT GENERAL AVIATION PCC APRON - AIP ELIGIBLE (APPROXIMATELY 7,274 S.Y.)
4	CONSTRUCT GENERAL AVIATION PCC APRON - AIP INELIGIBLE (APPROXIMATELY 861 S.Y.)
5	REMOVE AND DISPOSE OF CHAIN-LINK SECURITY FENCE (APPROXIMATELY 328 L.F.)
6	REMOVE EXISTING APRON (APPROXIMATELY 493 S.Y. OF ASPHALT AND 674 S.Y. OF CONCRETE)
7	CONSTRUCT GENERAL AVIATION PCC APRON - AIP ELIGIBLE (APPROXIMATELY 1,193 S.Y.)
8	REMOVE EXISTING APRON (APPROXIMATELY 684 S.Y. OF ASPHALT AND 77 S.Y. OF CONCRETE) CONSTRUCT GENERAL AVIATION PCC APRON (APPROXIMATELY 1,034 S.Y.) - AIP INELIGIBLE
9	INSTALL AIRCRAFT PARKING POSITION MARKINGS WITH THE COORRS
10	INSTALL AIRCRAFT PARKING POSITION MARKINGS
11	REMOVE AND DISPOSE OF EXISTING CHAIN-LINK SECURITY FENCE, GATE 25 WITH OPERATOR GATE 35, AND MISCELLANEOUS ITEMS

PAVEMENT REMOVAL (P-101) -	5 Y. PAVEMENT REMOVED AVERAGE DEPTH OF CONCRETE IS 18" AND ASPHALT PAVEMENT IS ± 4"
TOPSOIL REMOVAL (P-152) -	STRIP 6" OVER ALL EXCAVATION OR EMBANKMENT AREAS (INCLUDES UNCLASSIFIED EXCAVATION QUANTITY FOR PAYMENT)
EMBANKMENT (P-152) -	40% ADDITIONAL VOLUME HAS BEEN ADDED FOR ANTICIPATED MATERIAL SHRINKAGE
GEOGRID (PLAN NOTES) -	ACTUAL S.Y. IN PLACE, NO OVERLAP INCLUDED
RECYCLED ASPHALT PAVEMENT (P-152) -	COMPACTED VOLUME IN PLACE
SEPARATION GEOTEXTILE (P-209) -	ACTUAL S.Y. IN PLACE, NO OVERLAP INCLUDED
CRUSHED AGGREGATE BASE COURSE (P-209) -	COMPACTED VOLUME IN PLACE
ASPHALT PAVEMENT (P-401) -	TONS OF MATERIAL IN PLACE (2 TONS / CY)
8-INCH CONCRETE PAVEMENT (P-501) -	ACTUAL S.Y. IN PLACE
EMULSIFIED ASPHALT TACK COAT (P-493) -	0.05 GAL/S.Y.
TOPSOIL REPLACEMENT (T-505) -	MEASURED IN STOCKPILES BY AVERAGE END AREAS OR PRISMoidal METHOD (PAID FOR AS TOPSOILING)



	
	
PROJECT NO.	REVISION
DATE	
APPROVED	
REVIEWED	
PROJECT NUMBER	
2205-01910	
ISSUE DATE	
11/9/2023	

HANGAR 5 DEMOLITION AND GA APRON PHASE 5

BISMARCK AIRPORT - CITY OF BISMARCK
BISMARCK, NORTH DAKOTA

PROJECT WORK DESCRIPTION & BASIS OF ESTIMATE





Bismarck Airport

Hangar 5 Demolition and General Aviation Apron Construction Phase 5

AIP: TBD; KLJ #2205-01910

Monday, December 11, 2023; 4:00 P.M. CT

Bidder	Total Cost Divisions 1, 3, and 4 (AIP Eligible)	Total Cost Divisions 2 and 5 (AIP Ineligible)
Northern Improvement Company Bismarck, ND	\$ 4,239,691.60	\$ 597,717.40
Strata Corporation Grand Forks, ND	\$ 5,105,405.90	\$ 693,048.10
Engineer's Opinion of Construction Cost	\$ 4,041,923.00	\$ 552,757.00

Costs shown are AS READ from the bid opening.

AIRPORT PROJECT BUDGET

Date: February 13, 2024

Number	AIP TBD	Description	GA Apron (Phase 5) / Hangar 5 Demolition
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Scheduled Start	NTP	Scheduled End	December 6, 2024
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Project Construction Contracts

<u>Project Construction Contracts</u>	<u>Amount</u>
1. Northern Improvement Company (General)	\$ 4,837,409.00
Total Construction Contracts	\$ 4,837,409.00

<u>Engineer, Testing and Misc. Contracts</u>	<u>Amount</u>
1. KLJ - Hangar 5 HABS / HAER Documentation (Phase 5)	\$ 22,494.36
2. KLJ - Construction Observation, Administration, Close Out, and Testing (Phase 5)	\$ 887,271.78
3. Utility Relocation (Estimated - If Needed)	\$ 20,000.00
Total Engineer, Testing and Misc. Contracts	\$ 929,766.14

Administration	\$ 10,542.26
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Sub Total	\$ 5,777,717.40
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<u>Project Funding</u>	<u>Amount</u>
FAA Grant:	
BIL FY 2025	\$1,418,389.00
BIL FY 2026	\$2,600,060.00
State Grant 5% BIL Match	\$ 259,000.00
BAC Apron 50% Share	\$ 130,992.90
EATC Apron 50% Share	\$ 167,865.80
Airport Funds:	
5% BIL Match *	\$ 259,000.00
Airport Share (50%) of BAC Apron	\$ 130,992.90
Airport Share (50%) of EATC Apron	\$ 167,865.80
Costs Eligible for Federal Funding but not Identified *	\$ 643,551.00
Total Funding (without contingencies)	\$ 5,777,717.40

* Federally Eligible Costs to be Reimbursed in PFC Application 8

CONTINGENCIES	10%	\$ 577,771.74
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OTHER COSTS	\$ -
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TOTAL PROJECT COST	\$ 6,355,489.14
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Enclosure 3



Airport

DATE: February 13, 2024

FROM: Greg Haug, Airport Director

ITEM: Incentive Package for Allegiant Air's Route Between Bismarck Airport and St. Petersburg/Clearwater Airport

REQUEST:

Approve incentive package recommendation for Allegiant Air's new route between Bismarck Airport and St. Petersburg/Clearwater Airport.

BACKGROUND INFORMATION:

Since 2004, the Airport has had an airline incentive program designed to help airlines offset initial startup costs and create awareness when starting a new route at Bismarck. For a route to be eligible for incentives, the route must be non-stop service and be a top 20 destination for the airport. Eligible routes may be offered incentives in the form of fee waivers and marketing assistance. Marketing incentives can be used for up to 24 months. Airport staff reviews each request and considers the appropriate incentives based on the specifics of the route including whether the new route is seasonal or yearly, how often per week it is flown and whether it is already being served. The current program was approved by the City Commission in 2011 and is included at Enclosure 1.

The approved Airport incentive program has been utilized several times in the past 10 years for new service.

- 2013 – Seasonal twice weekly Allegiant service to Orlando/Sanford received \$50,000 in marketing and one year of fee waivers
- 2014 – Daily American service to Dallas/Ft. Worth and Chicago O'Hare received \$50,000 marketing and two years of fee waivers per route.
- 2020 – Seasonal daily American Service to Phoenix Sky Harbor received \$25,000 in marketing assistance and one year of fee waivers.

In November, Allegiant Airlines announced new twice weekly service between St. Petersburg/Clearwater Airport and Bismarck Airport starting May 15, 2024. Allegiant inquired if the route was eligible for any incentives under the Airport's current incentive program. Upon review, Airport Staff found that St. Petersburg/Clearwater Airport is a market within the top 20 destinations for the airport, is non-stop service and therefore is eligible for an incentive package. Based on past incentives, Airport Staff is recommending approval of \$50,000 in

marketing and one year of fee waivers worth approximately \$101,000 for a combined total incentive package of \$151,000, Enclosure 2.

The marketing assistance would be available for 24 months starting February 15, 2024. The fee waiver would be in effect from May 15, 2024 through May 14, 2025. The marketing funds would be used by Allegiant for marketing the new route on multiple mediums including digital, social media, billboard, radio, TV and the inaugural flight promotion at the airport on May 15, 2024. Enclosure 3 includes the forms Allegiant has requested we complete and sign approving the incentive program.

The Airport reserves \$50,000 of its advertising and promotions budget every year for new route marketing incentives. Waived fees are not calculated into the airport's revenue projection in any budget year, so the fee waiver does not influence the airport's annual budget. In fact, the additional passengers from the new route will increase revenue from our concessionaires through increased parking and restaurant usage as well as increase Airport passenger facility charge collections.

RECOMMENDED CITY COMMISSION ACTION:

Approve Airport Staff's recommended incentive program for Allegiant Air's new route between Bismarck Airport and St. Petersburg/Clearwater Airport and authorize staff to execute the necessary paperwork with Allegiant to authorize the incentive program.

STAFF CONTACT INFORMATION:

Tim Thorsen, Assistant Airport Director, 701-355-1806, tthorsen@bismarcknd.gov

ATTACHMENTS:

1. AIR - 1



**BISMARCK AIRPORT
CITY OF BISMARCK, ND
AIR SERVICE DEVELOPMENT INCENTIVE PROGRAM**

The purpose of the Air Service Development Incentive Program ("incentive program") is to encourage new, non-stop air service and competition at the Bismarck Airport by providing temporary assistance to an airline beginning new, nonstop service to a destination within the Bismarck Airport's "Top 20 O & D passenger markets".

1. Incentive program will be offered to all airlines on a reasonable, non-discriminatory basis who meet the above requirement subject to funding availability. If funds allocated for the incentive program in any fiscal year have been depleted, no further incentives may be available until the following year.
2. Incentive program will be offered for an agreed upon start up period not to exceed 24 consecutive calendar months and in conjunction with all applicable Federal, State, and Local laws.
3. Financial incentives for qualifying routes include:
 - a. Waiver of specific fees (i.e. landing fees, terminal use charges, and jet bridge charges)
 - b. Marketing/advertising initiatives not to exceed \$50,000 in 24 consecutive calendar months in accordance with Federal, State, and Local laws (subject to Airport's approval).
4. Air carriers who increase the frequency of flights per week to a Top 20 O & D passenger market on a route they currently fly would not be eligible for the incentive program. However, this excludes a carrier that is currently receiving an incentive from Bismarck Airport under this program during the agreed upon incentive period.
5. An air carrier may not qualify for the incentive program if it has previously flown the proposed route within the last 12 months and took the incentive program offered, but cancelled the service and is proposing to fly the route again.

Enclosure

2024 Allegiant St. Petersburg/Clearwater Airport Service Incentives

Allegiant Costs Est.

Total Cost Per Flight

DEPARTURE LOUNGE AREA %	\$	119.12
LANDING FEES	\$	172.98
SECURITY CHARGES %	\$	404.31
ARFF CHARGES %	\$	237.11
LOADING BRIDGE (JETWAY)	\$	25.33
MISC. FEES & CHARGES	\$	12.36
Total	\$	971.20

Fee Waiver Calculation

Allegiant's Cost Per Flight	\$	971.20
Number of Flight per week		2
Total Cost per week	\$	1,942.40
Number of Weeks		52
Total Fee Waiver For 1 Year (EST.)	\$	<u>101,004.95</u>

Marketing Incentive 2024/2025

Allegiant Marketing	\$45,000
Airport Inaugural Promotional Event	<u>\$5,000</u>
Total Marketing Incentive	<u>\$50,000</u>

Total Incentive 1 year waiver	\$	151,004.95
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Enclosure 2



Airport Incentive for New Route Summary

Thank you for your support. Please take a few moments to fill out the following form to ensure we appropriately capture the Airport Incentives available for this new route.

Airport Name:	Bismarck Airport (KBIS)
New Route being served by Allegiant:	St. Petersburg/Clearwater International Airport
Announced Date:	November 16, 2023
First Flight:	May 15, 2024
Seasonality:	Unsure at this time
Primary Schedule:	Wednesday and Saturday
Is this route currently served by another carrier? - If yes, who?	No.
Does this new route qualify for an Airport incentive?	Yes.
If yes, please provide details: (Attach airport Incentive Plan, if preferred.)	\$50,000 in marketing funding to promote the new route. \$100,000 (estimate) in operational fee waivers for the route. Fees include landing fees, ARFF fees, terminal usage fees.
What is valid term for the Airport Incentives?	Marketing 24 months February 15, 2024 – February 14, 2026 Operational Fee Waivers 12 Months May 15, 2024 – May 14, 2025
What is the estimated value of the Incentives?	\$150,000
Comments:	For the marketing incentive, Allegiant will receive \$45,000 to market the route using their marketing firm and the airport will retain \$5,000 for an inaugural promotional event to held at the airport on May 15, 2024.

Airport Representative _____ Date: _____ Allegiant Representative _____ Date: _____

Enclosure 3



Co-op Marketing Fund Summary

Thank you for your support. Please take a few moments to fill out the following form to ensure we appropriately utilize the available marketing funds to the fullest extent.

Airport Name: Bismarck Airport

Airport Marketing Contact (who will approve use of funds?): Greg Haug

Billing Contact (if different): Matthew Remyse

Billing Address: P.O. Box 991 Bismarck, ND 58502

Total amount of funds available: \$50,000.00 (\$45,000 advertising and marketing + \$5,000.00 for Airport Inaugural event)

(When are funds available to start?)
: February 15, 2024

When do these funds expire? : May 31, 2025

Deadline for to receive final invoice: June 15, 2025

End of Fiscal Year?: December 31.

Is there a specific route the funds must be used for?: Bismarck to St. Petersburg/Clearwater

What is the percentage of reimbursement (Dollar for dollar match 50/50 or 100% without match)? 100% no match required.

In order to effectively message with a price point call to action as well as save on placement fees, Allegiant prefers to make the media placements and bill you for these costs with appropriate documentation. If this is not permitted, please explain why:

How are funds required to be processed? An invoice must be sent to the billing contact each month from the ad agency.

Please specify any media outlets or geographic areas that these funds may not be applied to? Fargo, ND region.

Is a logo required? ☒ Yes or ☐ No

Allegiant works diligently to ensure co-op funds are utilized with great efficiency and that its brand is represented accurately and consistently. We will work with you to ensure that you have the opportunity to review all media plans utilizing co-op funds and all creative utilizing your logos. We ask that in return we have the opportunity to review any placements you may make on our behalf. We also require that we have an opportunity to review and approve any use of our name or logo in your advertising/marketing efforts.

Thank you again for your support.

Date: _____
Airport Representative

Date: _____
Allegiant Representative



Airport

DATE: February 13, 2024

FROM: Greg Haug, Airport Director

ITEM: Interiors By Design Change Order #1 to the Terminal Carpet Replacement Contract

REQUEST:

Approve Change Order #1 to the Interiors by Design Contract dated 10/21/2023

BACKGROUND INFORMATION:

On September 12, 2023, The City Commission accepted bids and approved entering into a contract with Interiors by Design to replace the carpet in the terminal. The completion date of the contract was February 29, 2024. The contract requires a two-part Change Order, Enclosure #1.

The first part of the change order is a 92-day time extension to complete the removal and installation of the carpet in the boarding bridges of airport. The reason for the extension is that the glue used in the carpet installation process requires the temperature of the floor to be above 55 degrees. The floors of the boarding bridges are not able to maintain the minimum temperature during this time of year. So, Interiors by Design has requested a time extension to May 31, 2024 to complete the project.

The second part of the change order is \$287.00 additional cost to install new transition strips between the carpet and different styles of flooring at several locations in the terminal.

Ubl Design Group has reviewed the change order for Interiors By Design and found it to be reasonable. Airport Staff recommends approval of Change Order #1.

RECOMMENDED CITY COMMISSION ACTION:

Approve Change Order #1 to the Interiors by Design Contract

STAFF CONTACT INFORMATION:

Tim Thorsen, Assistant Airport Director, 701-355-1806, tthorsen@bismarcknd.gov

ATTACHMENTS:

1. AIR - 1

AIA® Document G701® – 2017

Change Order

PROJECT: <i>(Name and address)</i> BIS Terminal Carpet Replacement Bismarck	CONTRACT INFORMATION: Contract For: General Construction Date: September 27, 2023	CHANGE ORDER INFORMATION: Change Order Number: 001 Date: February 1, 2024
OWNER: <i>(Name and address)</i> City of Bismarck 221 N. 5th Street Bismarck, ND 58504	ARCHITECT: <i>(Name and address)</i> Übl Design Group, P.C. 210 South 12th Street Bismarck, ND 58504	CONTRACTOR: <i>(Name and address)</i> Interior by Design 322 North 26th Street Bismarck, ND 58501

THE CONTRACT IS CHANGED AS FOLLOWS:

(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)

Item 1: Modify the contract time for carpet installation in passenger boarding bridges to occur when weather allows.

Item 2: Remove and replace vinly carpet transitions throughout the terminal.

The original Contract Sum was	\$ 202,138.00
The net change by previously authorized Change Orders	\$ 0.00
The Contract Sum prior to this Change Order was	\$ 202,138.00
The Contract Sum will be increased by this Change Order in the amount of	\$ 267.00
The new Contract Sum including this Change Order will be	\$ 202,405.00

The Contract Time will be increased by Ninety-Three (93) days.

The new date of Substantial Completion will be June 01, 2024

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Übl Design Group, P.C. ARCHITECT <i>(Firm name)</i>	Interiors By Design CONTRACTOR <i>(Firm name)</i>	City of Bismarck OWNER <i>(Firm name)</i>
SIGNATURE	SIGNATURE	SIGNATURE
Jeffrey J Übl, Principal Architect	Joe Heimann, Project Manager	Michael T. Schmitz, President Board of City Commissioners
PRINTED NAME AND TITLE	PRINTED NAME AND TITLE	PRINTED NAME AND TITLE
DATE	DATE	DATE



Airport

DATE: February 13, 2024

FROM: Greg Haug, Airport Director

ITEM: Consider Replacement of Utility Tractors using Sourcewell Cooperative Purchasing

REQUEST:

Consider Replacement of Utility Tractors using Sourcewell Cooperative Purchasing

BACKGROUND INFORMATION:

The Airport has five small utility tractors used for mowing, spraying and snow removal on the airport grounds. These tractors are used year-round for ground maintenance and have the ability to have multiple types of attachments including mower decks, snowplows, sprayers, sweepers and snow blowers. Two of the utility tractors have reached the end of their useful life. They are the 1999 Hustler Tractor and a 2007 Toro Tractor.

To replace these two tractors, Airport staff requested a quote from RDO Equipment using Sourcewell Cooperative pricing. The cost for the two tractors with attachments is \$103,470.67. The two tractors quoted are the same type of tractors the Airport already has in its fleet which will provide consistency for operators and mechanics that use and maintain the equipment. Airport staff has reviewed the quotes and recommend approval to purchase the two tractors using Sourcewell Cooperative Purchasing allowable under City Ordinance 07-01-03.6. The cost to replace the tractors is in the Airport's approved 2024 spending plan. Airport staff plans to request a grant from the ND Aeronautics Commission which may reimburse up to 50% of the purchase cost.

Additionally, Airport staff requests approval to dispose of the 1999 Hustler and 2007 Toro tractors in accordance with City Ordinance 07-01-05.2.

RECOMMENDED CITY COMMISSION ACTION:

Approve the purchase of two utility tractors with attachments from RDO Equipment at a total cost of \$103,470.67, allow staff to enter contracts for the purchase of the tractors and approve the disposal of the two obsolete tractors.

STAFF CONTACT INFORMATION:

Matthew Remyense, Marketing and Operations Manager, 701-355-1812,
mremynse@bismarcknd.gov

ATTACHMENTS:

1. AIR - 1



JOHN DEERE

Customer:

Quotes are valid for 30 days from the creation date or upon contract expiration, whichever occurs first.

A Purchase Order (PO) or Letter of Intent (LOI) including the below information is required to proceed with this sale. The PO or LOI will be returned if information is missing.

- Vendor: Deere & Company
- ☐ 2000 John Deere Run
Cary, NC 27513
- ☐ Signature on all LOIs and POs with a signature line
- ☐ Contract name or number; or JD Quote ID
- ☐ Sold to street address
- ☐ Ship to street address (no PO box)
- ☐ Bill to contact name and phone number
- ☐ Bill to address
- ☐ Bill to email address (required to send the invoice and/or to obtain the tax exemption certificate)
- ☐ Membership number if required by the contract

For any questions, please contact:

Kipp Anderson

RDO Equipment Co.
2000 Industrial Drive
Bismarck, ND 58501

Tel: 701-255-1139

Fax: 701-223-2819

Email: ktanderson@rdoequipment.com

Quotes of equipment offered through contracts between Deere & Company, its divisions and subsidiaries (collectively "Deere") and government agencies are subject to audit and access by Deere's Strategic Accounts Business Division to ensure compliance with the terms and conditions of the contracts.



ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580
UEID: FNSWEDARMK53

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

RDO Equipment Co.
2000 Industrial Drive
Bismarck, ND 58501
701-255-1139
act-bis@rdoequipment.com

Quote Summary**Prepared For:**

BISMARCK MUNICIPAL AIRPORT-BIS
PO BOX 991
BISMARCK, ND 58502
Business: 701-222-6502

Delivering Dealer:

RDO Equipment Co.

Kipp Anderson
2000 Industrial Drive
Bismarck, ND 58501
Phone: 701-255-1139
ktanderson@rdoequipment.com

Quote ID: 30333887

Created On: 06 February 2024

Last Modified On: 06 February 2024

Expiration Date: 07 March 2024

Equipment Summary**Selling Price****Qty****Extended**

JOHN DEERE 1585 TerrainCut™
with ComfortCab Commercial Front
Mower (Less Mower Deck)

\$ 43,615.03 X 2 = \$ 87,230.06

Contract: Sourcewell Grounds Maintenance 031121-DAC (PG NB CG 70)

Price Effective Date: February 5, 2024

JOHN DEERE 72 In. 7-Iron PRO
Commercial Side Discharge Mower
Deck

\$ 4,934.93 X 2 = \$ 9,869.86

Contract: Sourcewell Grounds Maintenance 031121-DAC (PG NB CG 70)

Price Effective Date: February 5, 2024

AMA AMA-00389

\$ 6,370.75 X 1 = \$ 6,370.75

Contract: Sourcewell Grounds Maintenance 031121-DAC (PG NB CG 70)

Price Effective Date:

Equipment Total**\$ 103,470.67**

* Includes Fees and Non-contract items

Quote Summary

Equipment Total \$ 103,470.67

Trade In

SubTotal **\$ 103,470.67**

Salesperson : X _____

Accepted By : X _____

Confidential



JOHN DEERE

**ALL PURCHASE ORDERS MUST BE MADE OUT
TO (VENDOR):**

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580
UEID: FNSWEDARMK53

**ALL PURCHASE ORDERS MUST BE SENT
TO DELIVERING DEALER:**

RDO Equipment Co.
2000 Industrial Drive
Bismarck, ND 58501
701-255-1139
act-bis@rdoequipment.com

Est. Service	\$ 0.00
Agreement Tax	
Total	\$ 103,470.67
Down Payment	(0.00)
Rental Applied	(0.00)
Balance Due	\$ 103,470.67

Salesperson : X _____

Accepted By : X _____

Confidential

**JOHN DEERE**

Selling Equipment

Quote Id: 30333887

Customer Name: BISMARCK MUNICIPAL AIRPORT-BIS

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580
UEID: FNSWEDARMK53**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**RDO Equipment Co.
2000 Industrial Drive
Bismarck, ND 58501
701-255-1139
act-bis@rdoequipment.com**JOHN DEERE 1585 TerrainCut™ with ComfortCab Commercial Front Mower**

Hours:

Stock Number:

Contract: Sourcewell Grounds Maintenance 031121-DAC
(PG NB CG 70)Selling Price *
\$ 43,615.03

Price Effective Date: February 5, 2024

* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
246BTC	1585 TerrainCut™ with ComfortCab Commercial Front Mower (Less Mower Deck)	2	\$ 54,629.00	23.00	\$ 12,564.67	\$ 42,064.33	\$ 84,128.66
Standard Options - Per Unit							
001A	United States and Canada	2	\$ 0.00	23.00	\$ 0.00	\$ 0.00	\$ 0.00
183N	JDLink™ M Modem	2	\$ 0.00	23.00	\$ 0.00	\$ 0.00	\$ 0.00
Standard Options Total			\$ 0.00		\$ 0.00	\$ 0.00	\$ 0.00
Dealer Attachments/Non-Contract/Open Market							
BUC11627	Beacon LED Light Kit (Cab Only)	2	\$ 353.77	23.00	\$ 81.37	\$ 272.40	\$ 544.80
LVB24844	External Mirror Kit (Cab Only)	2	\$ 275.42	23.00	\$ 63.35	\$ 212.07	\$ 424.14
UC13263	Quik-Tatch Weight, 42 lb (19 kg)	8	\$ 85.88	23.00	\$ 19.75	\$ 264.52	\$ 529.04
BTC10677	Radio Mount Kit (Cab Only)	2	\$ 176.33	23.00	\$ 40.56	\$ 135.77	\$ 271.54
BUC11654	Rear LED Work Light Kit (2 Lights) (Cab Only)	2	\$ 356.92	23.00	\$ 82.09	\$ 274.83	\$ 549.66
TCB10303	Rear Weight Mounting Kit	2	\$ 172.88	23.00	\$ 39.76	\$ 133.12	\$ 266.24
SWJHD1630	Stereo with AM/FM,, Weatherband, SIRIUS Satellite and iPod Ready	2	\$ 335.07	23.00	\$ 77.07	\$ 258.00	\$ 516.00
Dealer Attachments Total			\$ 2,013.91		\$ 463.20	\$ 1,550.71	\$ 3,101.42
Value Added Services Total			\$ 0.00			\$ 0.00	\$ 0.00
Total Selling Price			\$ 56,642.91		\$ 13,027.87	\$ 43,615.04	\$ 87,230.08

Confidential

**JOHN DEERE**

Selling Equipment

Quote Id: 30333887

Customer Name: BISMARCK MUNICIPAL AIRPORT-BIS

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580
UEID: FNSWEDARMK53**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**RDO Equipment Co.
2000 Industrial Drive
Bismarck, ND 58501
701-255-1139
act-bis@rdoequipment.com

JOHN DEERE 72 In. 7-Iron PRO Commercial Side Discharge Mower Deck

Equipment Notes:**Hours:****Stock Number:****Selling Price *****Contract:** Sourcewell Grounds Maintenance 031121-DAC
(PG NB CG 70)

\$ 4,934.93

Price Effective Date: February 5, 2024

* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
034NTC	72 In. 7-Iron PRO Commercial Side Discharge Mower Deck	2	\$ 6,409.00	23.00	\$ 1,474.07	\$ 4,934.93	\$ 9,869.86
Standard Options - Per Unit							
001A	United States and Canada	2	\$ 0.00	23.00	\$ 0.00	\$ 0.00	\$ 0.00
Standard Options Total			\$ 0.00		\$ 0.00	\$ 0.00	\$ 0.00
Total Selling Price			\$ 6,409.00		\$ 1,474.07	\$ 4,934.93	\$ 9,869.86

AMA AMA-00389

Equipment Notes:**Hours:** 0**Stock Number:****Selling Price *****Contract:** Sourcewell Grounds Maintenance 031121-DAC
(PG NB CG 70)

\$ 6,370.75

Price Effective Date:

* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
AMA-00389	JD 1500 MCT	1	\$ 6,157.68	0.00	\$ 0.00	\$ 6,157.68	\$ 6,157.68
Standard Options - Per Unit							
43-190629	DEFLECTOR, 5' *OPTIONAL	1	\$ 213.07	0.00	\$ 0.00	\$ 213.07	\$ 213.07
Standard Options Total			\$ 213.07		\$ 0.00	\$ 213.07	\$ 213.07
Total Selling Price			\$ 6,370.75		\$ 0.00	\$ 6,370.75	\$ 6,370.75



JOHN DEERE

Selling Equipment

Quote Id: 30333887

Customer Name: BISMARCK MUNICIPAL AIRPORT-BIS

**ALL PURCHASE ORDERS MUST BE MADE OUT
TO (VENDOR):**

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580
UEID: FNSWEDARMK53

**ALL PURCHASE ORDERS MUST BE SENT
TO DELIVERING DEALER:**

RDO Equipment Co.
2000 Industrial Drive
Bismarck, ND 58501
701-255-1139
act-bis@rdoequipment.com

PRICE SCHEDULE: Sourcewell RFP # 031121		
Price Page Tabs	Product Descriptions	Discounts off MSRP
TURF EQUIPMENT		
L21	Residential Zero-Turn-Radius Mowers & Equipment (excludes Z700s)	4%
L21	Residential Zero-Turn-Radius Mowers & Equipment (Z700s only)	9%
L25	Lawn Tractors (S100s, S240s only) & Equipment	4%
L25	Lawn Tractors (X300s only) & Equipment	18%
L30	Garden Tractors & Equipment	18%
L35	Equipment for Lawn & Garden Tractors	18%
C10	Commercial Walk-Behind Mowers & Equipment	23%
C13	Commercial Zero-Turn-Radius Mowers & Equipment	23%
C15	Commercial Front Mowers & Equipment	23%
C18	Commercial Wide Area Mowers & Equipment	23%
C20	Compact Utility Tractors & Equipment	18%
C21	Equipment for Commercial Mowing Products	23%
C25	Equipment for Compact Utility Tractors	18%
C40	Mid Duty Crossover Utility Vehicles & Equipment	14%
C41	High-Performance Utility Vehicles & Equipment	14%
C42	Gator Utility Vehicles & Equipment	17%
C47	HPX Utility Vehicles & Equipment	14%
C48	Implements for Utility Vehicles	14%
GOLF EQUIPMENT		
G10	Reel Mowers & Equipment	24%
G15	Special Application Mowers & Equipment	24%
G20	Special Application Vehicles & Equipment	24%
G25	Aeration & Equipment	24%
G30	Debris Maintenance & Equipment	24%
G35	Golf Fleet Management	13%
FRONTIER PRODUCTS		
Frontier	Cotton	18%
Frontier	Cutting & Mowing	18%
Frontier	Hay & Forage	18%
Frontier	Landscaping	18%
Frontier	Livestock	18%
Frontier	Material Handling	18%
Frontier	Planting & Seeding	18%
Frontier	Snow Equipment	18%
Frontier	Sprayers	18%
Frontier	Tillage	18%

Discounts listed are off John Deere's list price (MSRP). List price can be found on www.deere.com by utilizing "Build Your Own" and building the desired machine.

Note: Discounts will be calculated based on current pricing at the time an agency requests the quote and will be valid for 30 days.

Note: For equipment deliveries to Sourcewell participating entities in Alaska or Hawaii, factory freight to the delivering dealer will be paid by the end-user. Factory freight is known at the time of quoting and will be included on the quote to the end-user.

Note: John Deere dealers have the option to charge \$4.00 per loaded mile to deliver the equipment to the end-user. Mileages will be calculated using Google Maps.

Note: Agencies may utilize www.deere.com to obtain the most current information regarding John Deere dealership locations. Select "Find A Dealer" at the top of the page to locate the nearest dealer.



Bismarck-Burleigh Public Health Department

DATE: February 13, 2024

FROM: Renae Moch, Director

ITEM: AARP Community Challenge Grant.

REQUEST:

Permission to apply for funding from AARP's Community Challenge Grant.

BACKGROUND INFORMATION:

Bismarck-Burleigh Public Health (BBPH) is requesting permission to apply for funding from AARP's Community Challenge Grant. The AARP Community Challenge Grant provides grant funding to make communities more livable for people of all ages with tangible improvements that jump-start long-term change. Since 2017, AARP Community Challenge grant awards have ranged from \$500 to \$50,000 with an average award amount of \$11,900.

If approved, BBPH would submit an application requesting funds to support art installation and safety enhancements to the inside of the Bismarck Expressway Pedestrian Tunnel, which is a part of the Sertoma Park trail system. This project would be completed in partnership with Bismarck Parks and Recreation District and local artists. If awarded, the project would be completed in summer 2024. There is no request for FTE's and no match requirement for these funds. This project supports the City of Bismarck's strategic focus areas of Signature Spaces, All Ages and All Wages, and Social Health.

RECOMMENDED CITY COMMISSION ACTION:

Approve request to apply for funding from AARP's Community Challenge Grant.

STAFF CONTACT INFORMATION:

Renae Moch, Director, 701-355-1541, rmoch@bismarcknd.gov
Katie Johnke, Nutrition Services Program Coordinator, 701-355-1555, kjohnke@bismarcknd.gov

ATTACHMENTS:

None



Bismarck Event Center

DATE: February 13, 2024

FROM: Charlie Jeske, Director

ITEM: Permission to sell goalposts to the Bismarck Bucks.

REQUEST:

Permission to sell goalposts to the Bismarck Bucks.

BACKGROUND INFORMATION:

The Bismarck Bucks would like to purchase the football goalposts which were used during their football games at the BEC. These goalposts were made by BEC Maintenance Staff, over 10 years ago and are currently taking up space in the BEC north storage area. The Bismarck Bucks are no longer a tenant of the BEC, and for the foreseeable future the BEC has no use for the goalposts.

RECOMMENDED CITY COMMISSION ACTION:

Approval to sell the goalposts to the Bismarck Bucks for \$1,600.00.

STAFF CONTACT INFORMATION:

Charlie Jeske, Director, 701-355-1372, cjeske@bismarcknd.gov

ATTACHMENTS:

1. Purchase Agreement

PURCHASE ORDER

Dakota Pro Football

923 E Interstate Ave

P.O. NO.

B23-001

Dakota Pro Football

DATE _____

January 10, 2024

D.B.A. Bismarck Bucks

VENDOR

City of Bismarck

SHIP TO

Greg Schuh

xxx

Bek Communications

xxx

923 E. Interstate Ave

Bismarck, ND 58503

701-475-1374

QTY

Total Price

1

Set of football goalposts

\$	1,600.00
----	----------

SUBTOTAL

\$	1,600.00
----	----------

For:

Freight

SALES TAX

TOTAL

\$	1,600.00
----	----------

SHIPPING METHOD

X

DELIVERY DATE

N/A

Will pick up at Bismarck Event Center

N/A

Item designation according to material list on construction drawings

Accepted:

Dakota Pro Football

Purchaser

Seller

Greg Schuh

General Manager

By

Signature

Title

Date _____

Authorized Representative

PURCHASE AGREEMENT

This purchase agreement is made and entered into on _____, 2024 by and between the City of Bismarck ("Seller") and Dakota Pro Football LLC ("Buyer"). Buyer and Seller are referred to as "Parties".

Whereas, Seller desires to sell certain property to Buyer in an "as is" condition; and

Whereas Buyer desires to purchase certain property from Seller in an "as is" condition and be responsible for the pick up and transport of said property.

The Parties hereby agree as follows;

TERMS

1. PROPERTY

Seller agrees to sell, convey, assign and transfer to Buyer and Buyer agrees to purchase from Seller, the following property:

Set of Football goalposts used for IFL football games

Property is located at the Bismarck Event Center, Bismarck, North Dakota. The sale conveyance, assignment and transfer of said property shall become effective as of the Effective Date of this agreement and Buyer will take the property from Seller promptly within 5 business days of the effective date and assumes all liability on that date.

2. PURCHASE PRICE

Buyer shall purchase the property from the Seller for the total sum of \$1600.00

3. ENTIRE AGREEMENT

This agreement is the complete statement of the Parties agreement and supersedes all previous and contemporaneous written and oral communication about its subject.

4. AUTHORITY

The parties represent that they have full capacity and authority to grant all rights and assume all obligations they have granted and assumed under this agreement.

The parties hereto have executed this Agreement on the date first written here.

Michael T Schmitz President

(Authorized Seller Signature)

Greg Schuh General Manager

(Authorized Buyer Signature)

(Date Signed)

1/10/2024

(Date Signed)

Football goal post cost to build

6- 10' 3" pvc pipe 29.99 each	\$299.90
4- 3" y connectors \$16.82 each	\$67.20
4- eye hooks \$2.41	\$ 9.60
120' 3/16 chain	\$89.88
Paint & pvc glue	\$32.00
Labor	\$150.00
 Total	 \$648.50

This would be today's price to build. This figure would have been closer to \$500.00 dollars 10 years ago.

Richard Fleckenstein
1/10/24



Community Development Department

DATE: February 13, 2024

FROM: Ben Ehreth, Community Development Director

ITEM: First Responders Third Addition – Major Subdivision Final Plat

REQUEST:

161 Commercial, LLC and Valor Property Group, LLC are requesting approval of a major subdivision final plat titled First Responders Third Addition.

This request is being made to increase the platted area to include unplatted property to the west and create an additional lot for development.

BACKGROUND INFORMATION:

The attached staff report contains a complete review of the request, according to the standards of the Comprehensive Plan, city ordinances, and relevant law. Additionally, the staff report contains an overview of past public engagement related to this request.

A public hearing at the Planning and Zoning Commission meeting was held on January 24, 2024. No members of the public spoke at the hearing and no written comments were submitted. At the conclusion of the public hearing and based on the findings contained in the staff report, the Planning & Zoning Commission unanimously approved the major subdivision final plat for First Responders Third Addition.

RECOMMENDED CITY COMMISSION ACTION:

Consider approval of the major subdivision final plat.

STAFF CONTACT INFORMATION:

Daniel Nairn, Planning Manager, 701-355-1854, dnairn@bismarcknd.gov

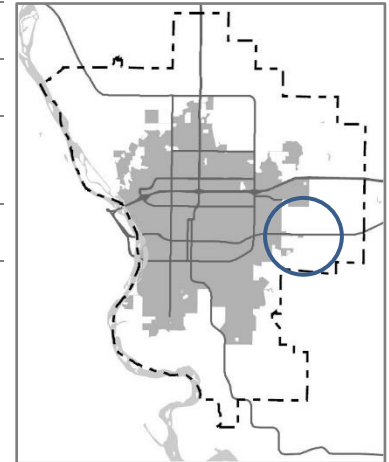
Jenny Wollmuth, Senior Planner, 701-355-1850, jwollmuth@bismarcknd.gov

ATTACHMENTS:

1. First Responders Third Addition

Project Summary

<i>Title:</i>	First Responders Third Addition
<i>Status:</i>	Board of City Commissioners
<i>Property Owner(s):</i>	161 Commercial, LLC Valor Property Group, LLC
<i>Project Contact:</i>	Harvey Schneider, Toman Engineering
<i>Project Location:</i>	East Bismarck, east of North Bismarck Expressway and south of East Main Avenue / County Highway 10, in the northwest quadrant of 52nd Street NE and Midwest Drive (a replat of all of First Responders Addition, Part of Auditor's Lot 6A of Auditor's Lot 6, Part of Lot 7B of Auditor's Lot 7, part of the W½ of 52nd Street SE right-of-way, and part of the N½ of Midwest Drive right-of-way, Section 1, T138N-R80W/Lincoln Township)
<i>Project Size:</i>	5.34 acres
<i>Applicant Request:</i>	Plat property for future development
<i>Staff Recommendation:</i>	Approve



Site Information

<i>Existing Conditions</i>		<i>Proposed Conditions</i>	
<i>Lots/Blocks:</i>	1 lot in 1 block and part of 1 parcel	<i>Lots/Blocks:</i>	2 lots in 1 block
<i>Land Use:</i>	Industrial / Storage	<i>Land Use:</i>	Industrial / Storage
<i>Future Land Use:</i>	Industrial Flex (IF)	<i>Future Land Use:</i>	Industrial Flex (IF)
<i>Zoning:</i>	Conditional MA – Industrial	<i>Zoning:</i>	Conditional MA – Industrial
<i>Uses Allowed:</i>	Conditional MA – Light industrial, general commercial, warehouse, manufacturing and shop condos with additional design and aesthetic standards	<i>Uses Allowed:</i>	Conditional MA – Light industrial, general commercial, warehouse, manufacturing and shop condos with additional design and aesthetic standards
<i>Max Density:</i>	Conditional MA – N/A	<i>Max Density:</i>	Conditional MA – N/A

Area Information**Property History**

<i>Zoning Jurisdiction:</i>	Bismarck City Limits	<i>Zoned:</i>	03/2017
<i>Township:</i>	N/A (City of Bismarck)	<i>Platted:</i>	08/2020 (First Responders Addition)
<i>Neighborhood:</i>	Old Highway 10	<i>Annexed:</i>	07/2019

Project Narrative

161 Commercial, LLC and Valor Property Group, LLC are requesting approval of a major subdivision final plat titled First Responders Third Addition.

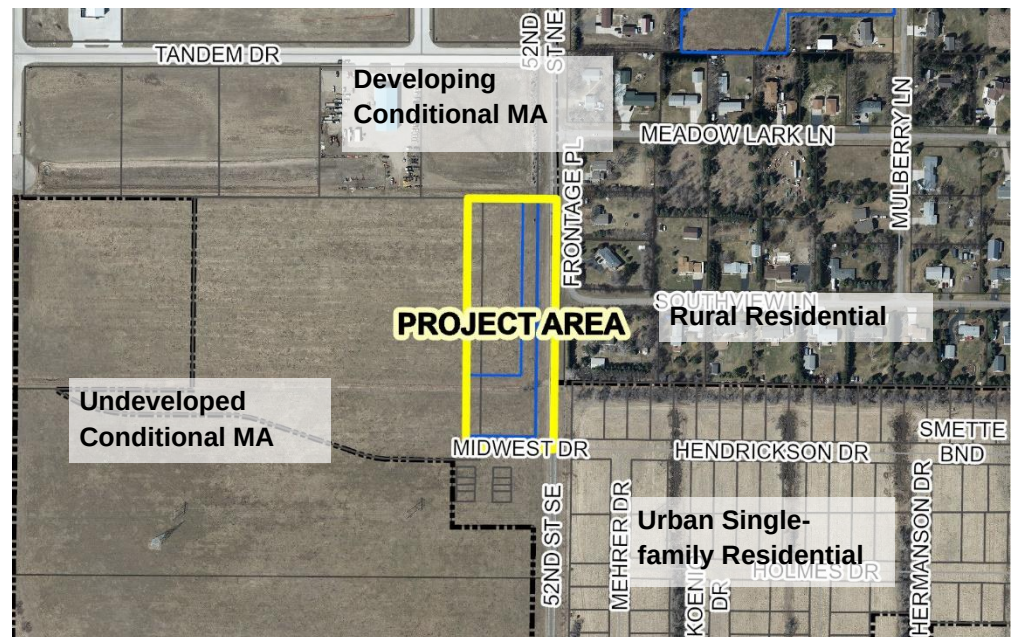
This request is being made to increase the platted area to include unplatted property to the west and create an additional lot for development.

The Planning and Zoning Commission held a public hearing on this request on January 24, 2024. At the conclusion of the public hearing and based on the findings listed below, the Planning and Zoning Commission recommended approval of this request.

Project Context

Land uses adjacent to the project area are depicted on the adjacent map:

A Zoning and Plan Reference Map is attached to this staff report, including current zoning, the Future Land Use Plan, Major Street Plan, and Active Mobility Plan.



The property has been identified as Industrial Flex in the Future Land Use Plan. The Industrial Flex (IF) areas are flexible employment centers for a range of businesses. Goals and objectives of this plan as they relate to the proposed preliminary plat are referenced in review standards below.

The proposed plat is zoned Conditional MA – Industrial. Conditions include design and aesthetic standards for buildings and a 50-foot landscape buffer along the west side of 52nd Street. The landscape buffer in this location was installed in conjunction with site development in 2022.

(continued)

Public Engagement

The public was duly notified of this request prior to the public hearing at the Planning and Zoning Commission meeting. A notice was published in the Bismarck Tribune on January 13 and 19, and 52 letters were mailed to the owners of nearby properties on January 12, 2024.

Basic project information, with the ability to contact staff for more details, has been provided publicly online through the Community Development Activities map.

At the January 24 public hearing, the applicant's representative spoke. However, no other members of the public spoke at the public hearing. No written comments were submitted.

Review Standards and Findings of Fact

The request is evaluated according to standards contained within the Comprehensive Plan, Bismarck Code of Ordinances, and relevant state law. Findings of fact, related to land use, are presented in response to each standard.

Final Plat

The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission

Yes. The proposed final plat is substantially similar to the preliminary plat.

Any and all conditions placed on approval of the preliminary plat by the Planning and Zoning Commission have been satisfied or will remain in place for future completion

N/A. The planning and Zoning Commission did not place conditions on the approval of the preliminary plat.

Sufficient easements and rights-of-way are included on the proposed subdivision to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision ([Goal G3-d](#))

Yes. The proposed subdivision includes easements that extended into and through the plat. Easements are included for stormwater and drainage, municipal water and sanitary sewer, access, other utilities, and landscaping.

Technical specifications required of the final plat have been met (Section 14-09-07)

Yes. The proposed final plat contains the required information to ensure an accurate and timely review by staff, the Planning and Zoning Commission, and the general public.

Proper administrative procedures related to the request are being followed (Section 14-09-04)

Yes. All administrative procedures of the City Code of Ordinances and North Dakota Century Code have been followed to date. Staff held a meeting with the applicant to discuss the request prior to submittal of a formal application. A complete application for final plat approval, and the required staff review of all submitted materials has occurred prior to the submittal of this report to the Planning and Zoning Commission.

The Planning and Zoning Commission held a public hearing for this request, and all requirements for notice of the hearing were met, as document in this report above.

Creation of any new lots in the City of Bismarck is subject to development capital charges for municipal utilities. Capital utility charges will be due prior to recordation of the plat.

The Major Street Plan is adhered to with the proposed subdivision ([Major Street Plan](#))

Yes. The corridors identified in the Major Street Plan are incorporated into rights-of-way within the proposed subdivision. 52nd Street SE is included in the proposed plat and is an existing arterial roadway. A plan reference map is attached to this staff report.

(continued)

The Active Mobility Plan is adhered to with the proposed subdivision ([Active Mobility Plan](#))

Yes. There are no corridors identified in the Active Mobility Plan within or adjacent to the proposed subdivision. A plan reference map is attached to this staff report.

A neighborhood park will be available within walking distance for all urban residents ([Goal I1-a](#), Section 14-09-04(2)a(vii))

Yes. The proposed plat will not be developed for residential uses; therefore, the provision of neighborhood parks and open space is not required.

Vehicle trips generated by the proposed subdivision will be adequately supported by the transportation system ([Goal C3-c](#))

Yes. The proposed subdivision would likely not have a substantial effect on circulation and safety of public roadways in the vicinity, and therefore, no traffic impact study is required.

Street connectivity is provided for efficient travel and secondary access for emergency services ([Goal C4](#), Section 14-09-05)

Yes. Subdivision design requirements, such as maximum block length, intended to promote street connectivity have been met, and there are no cul-de-sacs or dead-end streets in the proposed subdivision. The City's Secondary Roadway Access Policy has been met allowing alternative routes into and out of the subdivision.

Roadway access is managed to reduce potential points of conflict and improve safety ([Goal C3-b](#))

Yes. Direct access to major public roadways is appropriately limited and spacing of all intersections is adequate to meet the City's access management standards and professional engineering judgement. Non-access lines will be dedicated with the proposed plat to communicate and enforce this access control.

Stormwater runoff impacted by this subdivision is adequately managed to protect public and private investments and the natural environment ([Goal I5](#), Section 14.1-04-03);

Yes. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) for the proposed subdivision.

Natural hazards and impact to environmentally sensitive land is minimized through the location and design of the proposed subdivision ([Goal I6-a](#))

Yes. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development.

Water supply systems will seamlessly transition from a rural to an urban system through cooperation with the South-Central Regional Water District ([Goal G3-f](#), Section 14-09-04(2)d)

Yes. The proposed subdivision will be served with municipal water upon development and no future transition will be necessary.

The City's investment in infrastructure associated with the proposed subdivision is expected to receive a proportional long-term return to residents through future revenues or other public goods associated with this subdivision ([Goal G3-a](#))

Yes. The future revenue and other public goods generated by the proposed subdivision are expected to be proportional to the public costs of development. Public costs associated with provision of municipal water and sewer service to new development will be adequately compensated for through payment of utility capital charges. The initial development will be funded by the developer or through special assessment of properties benefitted by said improvements, as outlined in the Development Cost Policy. Ongoing

(continued)

costs of maintenance and operation of all public facilities will be offset by property and/or sales tax derived from the proposed subdivision.

The public health, safety and general welfare will not be adversely impacted by the proposed subdivision (Goal S10-a)

Yes. As a cumulative result of all findings contained in this staff report, City of Bismarck staff find that the proposed subdivision would not adversely impact the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the major subdivision final plat for First Responders Third Addition.

Attachments

1. Zoning and Plan Reference Map
2. Final Plat
3. Preliminary Plat

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



Zoning and Plan Reference Map

FIRST RESPONDERS THIRD ADDITION

PPLT2023-003

Zoning Districts

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

Future Land Use Plan

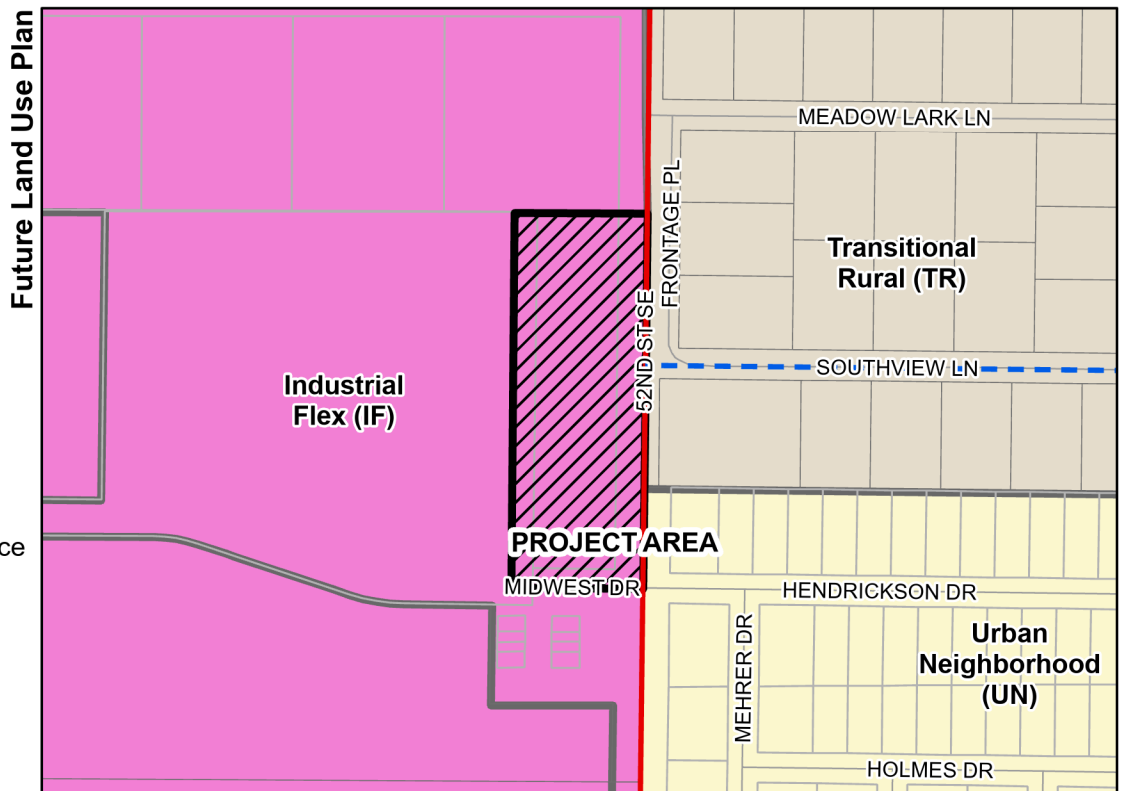
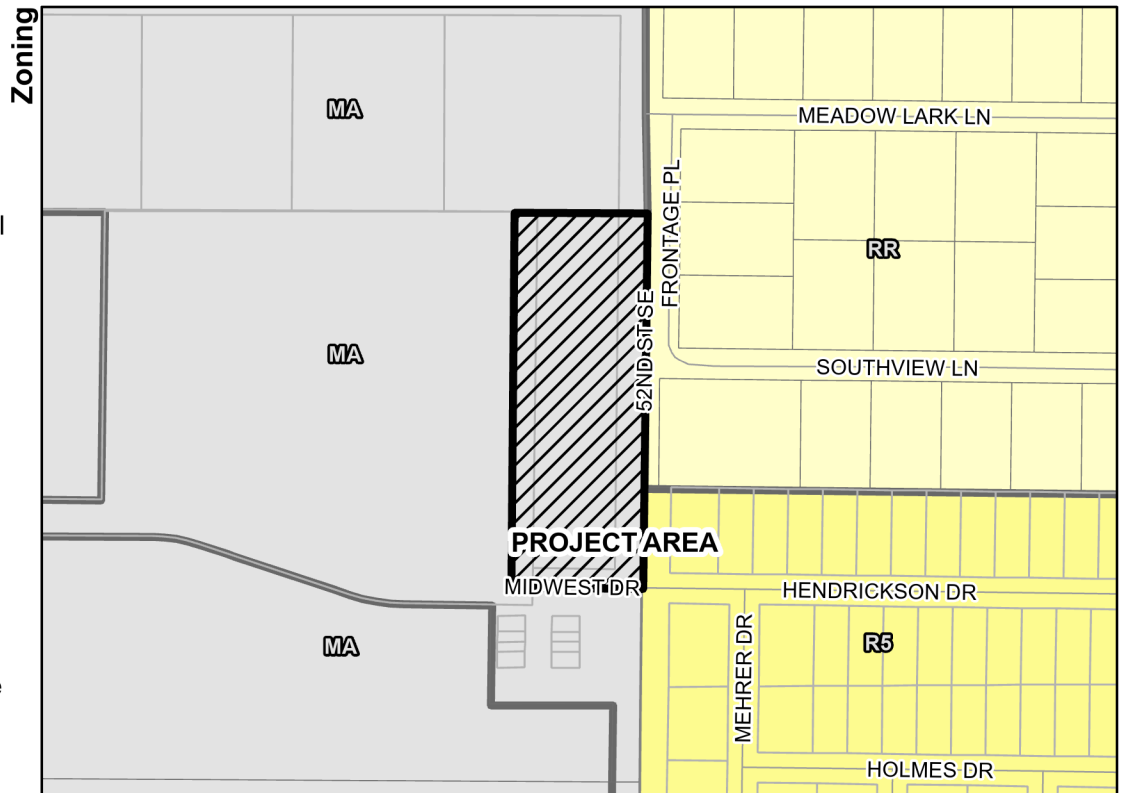
UN	Urban
NMU	Neighborhood Mixed Use
CMU	Community Mixed Use
DMU	Destination Mixed Use
DT	Downtown
IND	Industrial
IF	Industrial Flex
IMU	Industrial Mixed Use
INS	Institutional
RR	Rural Residential
TR	Transitional Rural
PKOS	Parks/Open Space
URA/	Urban Reserve
URB	Mid/Long-Term

Active Mobility Plan

— Future Shared Trail

Major Street Plan

- Existing Arterial
- Future Arterial
- Existing Collector
- Future Collector
- Existing Interstate
- Future Interstate



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.

0 305 610 1,220 Feet



City of Bismarck
Community Development
Planning Division
December 12, 2023

FIRST RESPONDERS THIRD ADDITION

TO THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

ALL OF FIRST RESPONDERS ADDITION, PART OF AUDITOR'S LOT 6A OF AUDITOR'S LOT 6, PART OF LOT 7B OF AUDITOR'S LOT 7, PART OF THE W1/2 OF 52ND ST SE, AND PART OF THE N1/2 OF MIDWEST DRIVE OF THE E1/2 OF SECTION 1, T138N-R80W OF THE 5TH PRINCIPAL MERIDIAN, OF THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

DESCRIPTION OF PROPERTY

A TRACT OF LAND BEING ALL OF FIRST RESPONDERS ADDITION, PART OF AUDITOR'S LOT 6A OF AUDITOR'S LOT 6, PART OF LOT 7B OF AUDITOR'S LOT 7, PART OF THE W1/2 OF 52ND ST SE, AND PART OF THE N1/2 OF MIDWEST DRIVE OF THE E1/2 OF SECTION 1, TOWNSHIP 138 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, OF THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE SE1/4 OF SECTION 1, T138N-R80W; THENCE SOUTH 00°44'45" WEST ALONG THE EAST BOUNDARY LINE OF SAID SE1/4 AND THE CENTERLINE OF 52ND ST SE FOR 218.46 FEET TO THE POINT OF INTERSECTION OF SAID 52ND ST SE AND MIDWEST DRIVE; THENCE NORTH 89°15'15" WEST ALONG THE CENTERLINE OF SAID MIDWEST DRIVE FOR 285.95 FEET; THENCE NORTH 00°40'07" EAST FOR 812.24 FEET; THENCE SOUTH 89°43'51" EAST TO A POINT ON THE NORTH BOUNDARY LINE OF AUDITOR'S LOT 6A OF AUDITOR'S LOT 6 OF THE E1/2 OF SAID SECTION 1 FOR 285.98 FEET TO A POINT ON THE EAST BOUNDARY LINE OF THE NE1/4 OF SAID SECTION 1, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID 52ND ST SE; THENCE SOUTH 00°38'33" WEST ALONG SAID EAST BOUNDARY LINE AND SAID CENTERLINE FOR 596.17 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 5.34 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, ANDRA L. MARQUARDT, HEREBY CERTIFY I AM A LICENSED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, THAT THIS SURVEY WAS MADE BY ME OR UNDER MY DIRECTION AND SUPERVISION AND THAT THE SURVEY IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE, THAT ALL MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

ANDRA MARQUARDT
PROFESSIONAL LAND SURVEYOR
N.D. REGISTRATION NO 4623

OWNER'S CERTIFICATE AND DEDICATION

WE, VALOR PROPERTY GROUP, LLC, BEING ALL THE OWNERS OF THE LANDS PLATTED HEREIN, HAVE CAUSED THE LAND TO BE PLATTED AND DO HEREBY VOLUNTARILY CONSENT TO THE EXECUTION OF THIS PLAT TITLED FIRST RESPONDERS 3RD ADDITION, AND DEDICATE ALL RIGHTS OF WAY TO THE CITY OF BISMARCK AS SHOWN ON THIS PLAT FOR PUBLIC USE, AND CONSENT TO ANY ACCESS CONTROL TO THE PROPERTY AS SHOWN, AND AFFIRM THAT THE DESCRIPTION AS SHOWN IN THE CERTIFICATE OF THE REGISTERED LAND SURVEYOR IS CORRECT.

WE ALSO DEDICATE ALL EASEMENTS AS SHOWN ON THIS PLAT AS "UTILITY EASEMENT" TO RUN WITH THE LAND FOR GAS, ELECTRIC, COMMUNICATION AND/OR OTHER PUBLIC UTILITIES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON.

WE ALSO DEDICATE TO THE CITY OF BISMARCK ALL EASEMENTS AS SHOWN ON THIS PLAT AS "STORMWATER & DRAINAGE EASEMENT" TO RUN WITH THE LAND FOR THE FREE AND UNOBSTRUCTED FLOW OF WATER UNDER AND/OR OVER THOSE AREAS INCLUDING THE CONSTRUCTION AND MAINTENANCE OF STORMWATER FACILITIES TOGETHER WITH NECESSARY APPURTENANCES.

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

WE ALSO DEDICATE TO THE CITY OF BISMARCK ALL PUBLIC EASEMENTS AS SHOWN ON THIS PLAT AS "WATER, SANITARY SEWER EASEMENT" TO RUN WITH THE LAND FOR USE BY ANY GOVERNMENTAL SUBDIVISION, ITS OFFICERS AND EMPLOYEES TO CONSTRUCT, OPERATE, MAINTAIN, AND REPAIR WATERMAIN AND SANITARY SEWER FACILITIES UNDER OR UPON THOSE AREAS DESIGNATED AS SUCH.

BRADY WOLF, PRESIDENT
VALOR PROPERTY GROUP, LLC
813 S 18TH ST
BISMARCK, ND 58504

STATE OF _____)
COUNTY OF _____) SS

ON THIS _____ DAY OF _____, 2024, BEFORE ME PERSONALLY APPEARED [OWNER(S)] FULL NAME], KNOWN TO ME TO BE THE PERSON(S) DESCRIBED IN AND WHO EXECUTED THE WITHIN CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

NOTARY PUBLIC _____

APPROVAL OF CITY PLANNING AND ZONING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT HAS BEEN APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF BISMARCK, NORTH DAKOTA, ON THE _____ DAY OF _____, 2024, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA AND ORDINANCES OF THE CITY OF BISMARCK.

MICHAEL J. SCHWARTZ - CHAIR ATTEST: BEN EHRETH - SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT, HAS APPROVED THE GROUNDS AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS ACCEPTED THE DEDICATION AND REDEDICATION OF ALL RIGHTS OF WAY AND PUBLIC EASEMENTS SHOWN THEREON AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THIS PLAT.

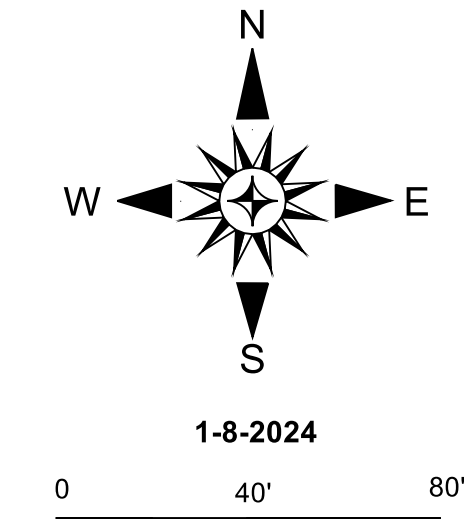
THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS APPROVED THE _____ DAY OF _____, 2024.

MICHAEL T. SCHMITZ - PRESIDENT ATTEST: JASON TOMANEK
ACTING CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER FOR THE CITY OF BISMARCK, NORTH DAKOTA HEREBY APPROVE THIS PLAT.

GABRIEL J. SCHELL - CITY ENGINEER



COORDINATE DATUM:
ND STATE PLANE COORDINATES
NAD83, 86 ADJUSTMENT
INTERNATIONAL FEET
BENCHMARK: HYDRANT #3523
TANDEM DRIVE & 52ND STREET
ELEV: 1704.04 (NGVD29)

LEGEND		
△	SECTION/QUARTER CORNER	
○	FOUND REBAR MONUMENT	
●	SET REBAR MONUMENT	

LOT TABLE		
LOT	ACRES	SQ FT
LOT 1	2.32	101,173
LOT 2	1.69	73,653

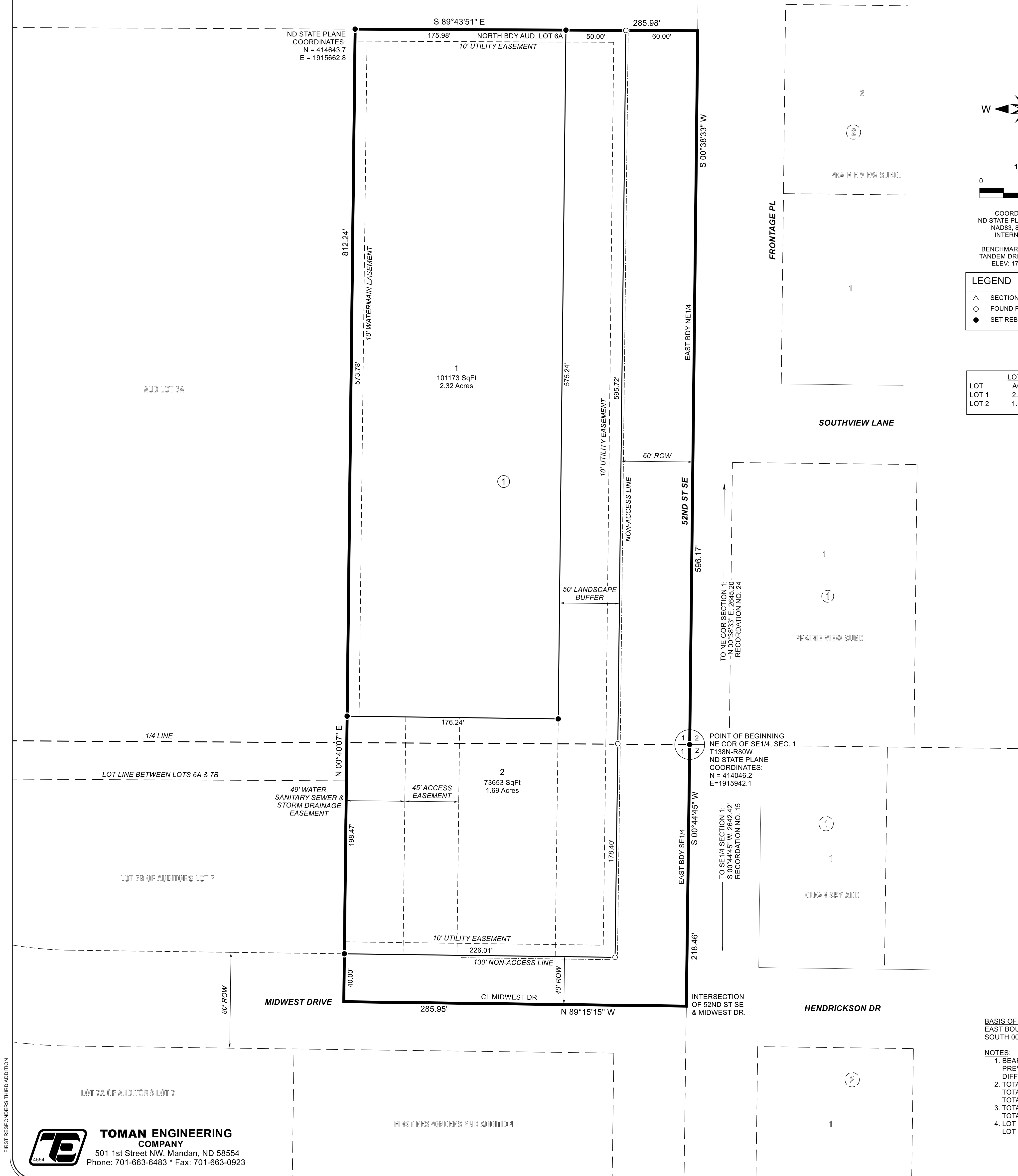
POINT OF BEGINNING
NE COR OF SE1/4, SEC. 1
T138N-R80W
ND STATE PLANE
COORDINATES:
N = 414046.2
E = 1915942.1

TO SE1/4 SECTION 1:
S 00°44'45" W, 2642.42'
RECORDATION NO. 15

INTERSECTION
OF 52ND ST SE
& MIDWEST DR.

BASIS OF BEARING:
EAST BOUNDARY LINE NE1/4
SOUTH 00°38'33" WEST

- NOTES:
- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENT.
 - TOTAL LOTS: 4.01 AC± (174,826 SF)
TOTAL ROW: 1.33 AC± (57,902 SF)
TOTAL AREA: 5.34 AC± (232,728 SF)
 - TOTAL ACREAGE IN NE1/4: 3.91 AC±
TOTAL ACREAGE IN SE1/4: 1.43 AC±
 - LOT 1 ACREAGE IN NE1/4: 0.77 AC±
LOT 1 ACREAGE IN SE1/4: 0.92 AC±



**TOMAN ENGINEERING
COMPANY**
501 1st Street NW, Mandan, ND 58554
Phone: 701-663-6483 * Fax: 701-663-0923

FIRST RESPONDERS 2ND ADDITION

HENDRICKSON DR

CLEAR SKY ADD.

PRAIRIE VIEW SUBD.

(1)

1

SOUTHVIEW LANE

1

(2)

2

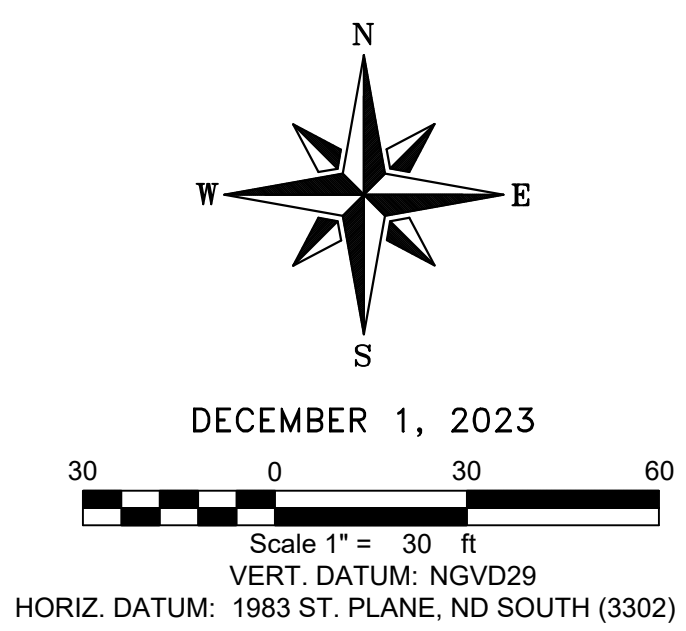
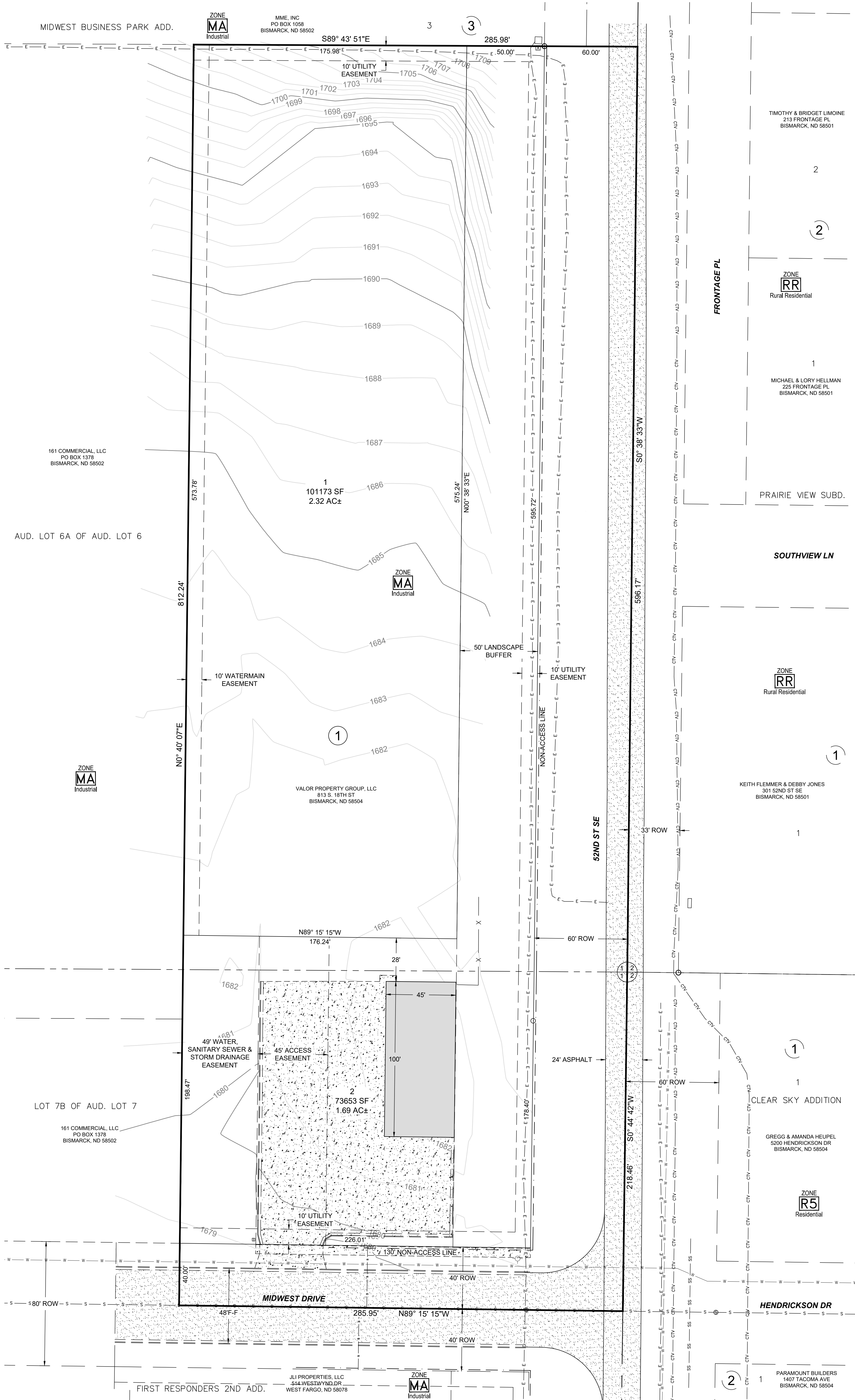
2

FIRST RESPONDERS THIRD ADDITION

PRELIMINARY PLAT OF
FIRST RESPONDERS THIRD ADDITION

TO THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

ALL OF FIRST RESPONDERS ADDITION, PART OF AUDITOR'S LOT 6A OF AUDITOR'S LOT 6, PART OF LOT 7B OF AUDITOR'S LOT 7, PART OF THE W1/2 OF 52ND ST SE, AND PART OF THE N1/2 OF MIDWEST DRIVE OF THE E1/2 OF SECTION 1, T138N-R80W OF THE 5TH PRINCIPAL MERIDIAN, OF THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



LEGEND

- FOUND PROPERTY CORNER
- △ SECTION/QUARTER CORNER
- ELECTRIC/UTILITY BOX
- ⊙ SANITARY SEWER MANHOLE
- ⊕ FIRE HYDRANT
- ⊕ GATE VALVE
- FO FG FIBER OPTIC LINE
- CTV CTV CABLE TV
- E E E UNDERGROUND ELECTRIC
- OH OH OVERHEAD POWER
- W W W WATERMAIN
- S S S SANITARY SEWERMAIN
- A A A SANITARY SERVICE
- SS SS STORM SEWER CULVERT
- QUARTER/GOVT LOT LINE
- X FENCE LINE
- == CURB & GUTTER
- EXISTING BUILDING
- CONCRETE
- ASPHALT ROAD

OWNERS:

161 COMMERCIAL, LLC
408 E. MAIN AVE
BISMARCK, ND 58501

VALOR PROPERTY GROUP, LLC
813 S 18TH ST, BISMARCK, ND 58504

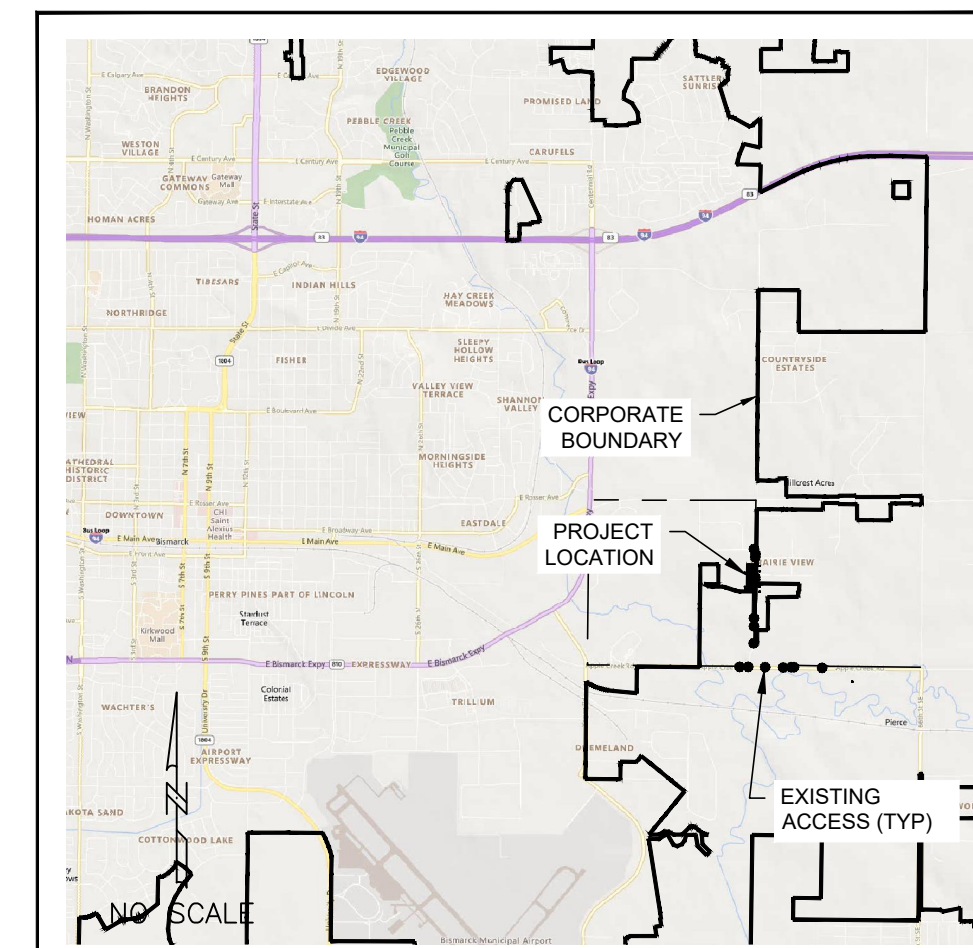
BASIS OF BEARING:

BASIS OF BEARING: EAST BOUNDARY LINE OF THE NE1/4, SECTION 1, T138N-R80W SOUTH 00° 38' 33" WEST.

NOTES:

- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENT.
- TOTAL LOT ACREAGE: 4.01
TOTAL ROW ACREAGE: 1.33
TOTAL ACREAGE: 5.34

VICINITY MAP



TOMAN ENGINEERING
501 1st Street NW, Mandan, ND 58554
Phone: 701-663-6483 * Fax: 701-663-0923
SURVEYOR: ANDRA L. MARQUARDT, RLS-4623



Community Development Department

DATE: February 13, 2024

FROM: Ben Ehreth, Community Development Director

ITEM: Sonnet Heights Subdivision Ninth Replat – Minor Subdivision Final Plat and Zoning Map Amendment

REQUEST:

J & D Construction is requesting approval of a minor subdivision final plat and a zoning map amendment from the RM30 – Residential zoning district to a planned unit development (PUD) on Lot 6, Block 1, Sonnet Heights Subdivision Sixth Replat. The replat would be titled Sonnet Heights Subdivision Ninth Replat. The applicant (also the developer) wishes to develop the area with a duplex and a tri-plex, with each unit on their own lot rather than the one lot that currently exists, with shared access and utilities.

BACKGROUND INFORMATION:

The applicant initially planned to sell the proposed units as condos on a common lot in the existing RM30 – Residential district, and a site plan for this development was approved in June 2023. However, the developer then decided to sell each unit on their own lot instead.

A minor subdivision final plat is required because the developer was proposing to split the one existing lot into five lots. The creation of more than three new lots from one existing lot triggers the minor plat process. With the newly created lots, a PUD is required to accommodate the need for minor reductions to certain setbacks on some of the lots.

The attached staff report contains a complete review of the request, according to the standards of the Comprehensive Plan, city ordinances, and other relevant law. Additionally, the staff report contains an overview of past public engagement related to this request.

A public hearing at the Planning and Zoning Commission meeting was held on January 24, 2024. At the end of the public hearing, the Planning and Zoning Commission approved the plat and the zoning map amendment unanimously. An overview of the discussion at the Planning and Zoning Commission hearing is provided in the staff report. This minor subdivision final plat appeared before the Planning and Zoning Commission public hearing with the title “Sonnet Heights Subdivision Eighth Replat”. After the public hearing, it was brought to staff’s attention that a subdivision with the name “Sonnet Heights Subdivision Eighth Replat” already exists and is recorded. As such, the name of the proposed minor subdivision final plat was changed to “Sonnet Heights Subdivision Ninth Replat”.

RECOMMENDED CITY COMMISSION ACTION:

Consider the request for Ordinance 6571 to amend zoning from the RM30 – Residential district to a Planned Unit Development (PUD) for Sonnet Heights Addition Ninth Replat and call for a public hearing.

STAFF CONTACT INFORMATION:

Daniel Nairn, Planning Manager, 701-355-1854, dnairn@bismarcknd.gov

Isak Johnson, Planner, 701-355-1850, ijohnson@bismarcknd.gov

ATTACHMENTS:

1. Sonnet Heights Subdivision 9th Replat

STAFF REPORT

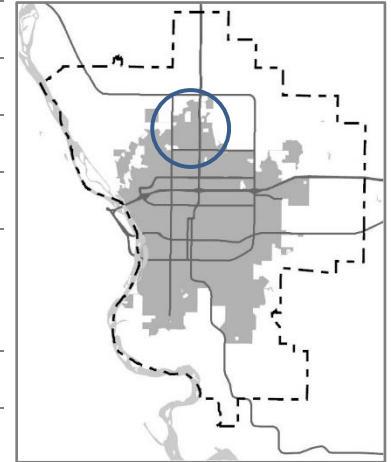
February 13, 2024

Application for: **Zoning Map Amendment**
Minor Plat

Project ID: **ZC2023-012**
MPLT2023-006

Project Summary

<i>Title:</i>	Sonnet Heights Subdivision Ninth Replat
<i>Status:</i>	Board of City Commissioners - Consideration
<i>Property Owner(s):</i>	J & D Construction
<i>Project Contact:</i>	Andra Marquardt, Toman Engineering
<i>Project Location:</i>	In North Bismarck, along the east side of Normandy Street between Calvert Drive and East Lasalle Drive
<i>Project Size:</i>	1.15 acres, more or less
<i>Applicant Request:</i>	Replat of all of Lot 6, Block 1, Sonnet Heights Subdivision Sixth Replat, and the adjacent Normandy Street Right-of-Way, and rezone to a PUD for future development
<i>Staff Recommendation:</i>	Call for public hearing



Site Information

<i>Existing Conditions</i>		<i>Proposed Conditions</i>	
<i>Lots/Blocks:</i>	1 lot in 1 block	<i>Lots/Blocks:</i>	5 lots in 1 block
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Two-family and row house residential
<i>Future Land Use:</i>	Urban Neighborhood (UN)	<i>Future Land Use:</i>	Urban Neighborhood (UN)
<i>Zoning:</i>	RM30 – Residential	<i>Zoning:</i>	PUD – Planned Unit Development
<i>Uses Allowed:</i>	RM30 – Multi-family residential	<i>Uses Allowed:</i>	PUD – Uses specified in PUD
<i>Max Density:</i>	RM30 – 30 units / acre	<i>Max Density:</i>	PUD – Density specified in PUD

Area Information

<i>Zoning Jurisdiction:</i>	Bismarck City Limits
<i>Township:</i>	N/A (City of Bismarck)
<i>Neighborhood:</i>	Sonnet Heights

Property History

<i>Zoned:</i>	05/2007
<i>Platted:</i>	05/2017
<i>Annexed:</i>	05/2007

(continued)

Project Narrative

J & D Construction is requesting approval of a minor subdivision final plat and a zoning map amendment from the RM30 – Residential zoning district to a planned unit development (PUD) on Lot 6, Block 1, Sonnet Heights Subdivision Sixth Replat. The replat would be titled Sonnet Heights Subdivision Ninth Replat. The applicant would develop the area with a duplex and a tri-plex, each on their own lot rather than the one lot that currently exists, with shared access and utilities. The primary needs for the PUD request are to reduce the side yard and rear setbacks for one of proposed duplex lots, to reduce the front yard setback for the tri-plex, as well as to include the private access, water and sewer easements.

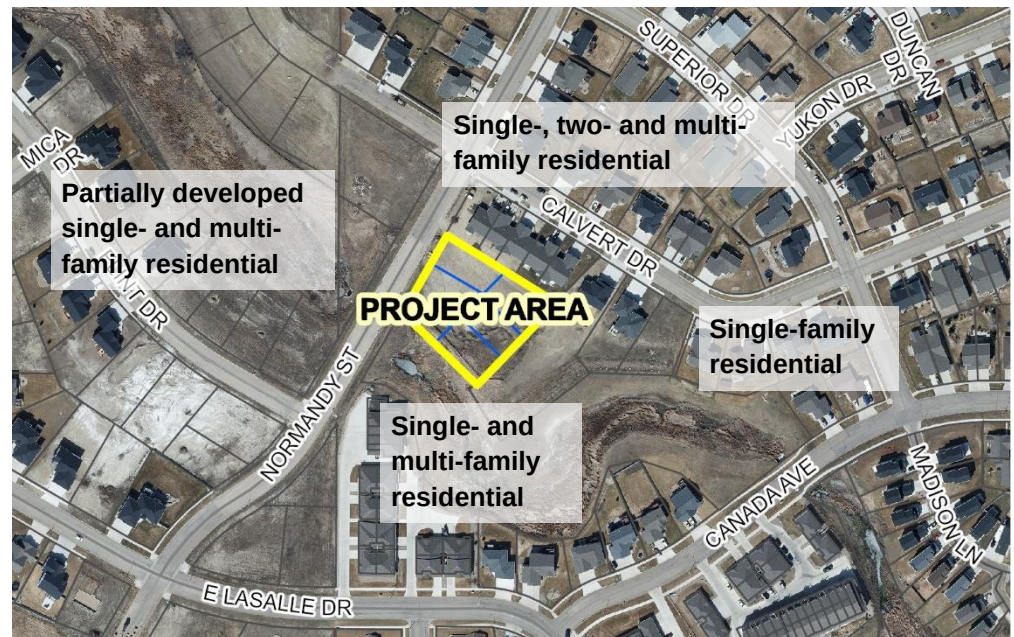
The Planning and Zoning Commission considered this request at their meeting of December 20, 2023, and held a public hearing on the minor subdivision final plat and zoning map amendment on January 24, 2024.

This minor subdivision final plat appeared before the Planning and Zoning Commission public hearing with the title “Sonnet Heights Subdivision **Eighth** Replat” (bold for emphasis only). After the public hearing, it was brought to staff’s attention that a subdivision with the name “Sonnet Heights Subdivision Eighth Replat” already exists and is recorded. As such, the name of the proposed minor subdivision final plat was changed to “Sonnet Heights Subdivision **Ninth** Replat” (bold, again, for emphasis only).

Project Context

Land uses adjacent to the project area are depicted on the adjacent map:

A Zoning and Plan Reference Map is attached to this staff report, including current zoning, the Future Land Use Plan, Major Street Plan, and Active Mobility Plan.



The property has been identified as Urban Neighborhood (UN) in the Future Land Use Plan. The UN areas are places of quiet enjoyment of home life. Goals and objectives of this plan as they relate to minor subdivision final plats and

zoning map amendments are referenced in review standards below.

The project area is surrounded by a mixture of land zoned R5 – Residential, R10 – Residential and RM30 – Residential. The adjacent land uses

(continued)

include single-family, two-family, and some multi-family residential areas.

The applicant initially planned to sell the proposed units as condos on a common lot in the existing RM30 – Residential district, and a site plan for this development was approved in June 2023. However, the developer then decided to sell each unit on their own lot instead.

A minor subdivision final plat is required because the developer was proposing to split the one existing lot into five lots; the creation of more than three new lots from one existing lot triggers the minor plat process. With the newly created lots, a PUD is required to accommodate the need for some minor reductions to setbacks on some of the lots.

Public Engagement

The public has been duly notified of this request at the Planning and Zoning Commission level. A notice was published in the Bismarck Tribune on January 13 and January 19, 2024, and 58 letters were mailed to the owners of nearby properties on January 12, 2024.

Basic project information, with the ability to contact staff for more details, has been provided publicly online through the Community Development Activities map.

No members of the public spoke at the hearing. One written comment by a collective group of four nearby households was received by staff prior to the public hearing on January 24, 2023, was distributed to the Planning and Zoning Commission and summarized by staff during the oral presentation.

The signatories of the written public comment expressed concern over how the newly created lots would be accessed, how stormwater would be managed, and how the proposed development would impact access to the backyards of the commenting property owners.

These comments were addressed by the applicant and their consultant representative stating that the proposed lots would all be accessed via Normandy St, the development has a conditionally approved post construction stormwater management plan from City Engineering staff, and that there have never been explicit access points to the adjacent property owners via this project area because the two areas have always been private property boundaries.

Additional public engagement, in the form of publications in the Bismarck Tribune, will commence if the Board of City Commissioners calls for a public hearing on this request. Any public comments received before the public hearing at the Board of City Commissioners will be summarized in the staff report.

Review Standards and Findings of Fact

The request is evaluated according to standards contained within the Comprehensive Plan, Bismarck Code of Ordinances, and relevant state law. Findings of fact, related to land use, are presented in response to each standard.

Zoning Map Amendment

The Future Land Use Plan is adhered to with the proposed zoning map amendment ([Future Land Use Plan](#))

Yes. The proposed zoning map amendment is within the area designated as Urban Neighborhood (UN) in the Future Land Use Plan, as described in the Project Context section above. The proposed zoning district would generally conform to the character of this district.

The proposed amendment is compatible with adjacent land uses and zoning ([Goal S10-a](#), [S5-a](#))

Yes. Adjacent uses are described in the project context section above. The proposed zoning district would allow a twin home and a three-unit

(continued)

rowhouse. Development that may be anticipated from the proposed zoning would have no negative impact on the surrounding properties.

A change in conditions or by an error in the zoning map has occurred since the previous zoning classification was established ([Goal S9-e](#))

Yes. The current zoning district of RM30 – Residential was established in May 2007. Conditions have changed since this time.

This area has been replatted multiple times over several decades, primarily to address geographic constraints. With each replat, the area of the existing lot shrunk to its current size. The proposed zoning map amendment would allow for development that would fit the geography and be consistent with existing nearby developments.

Undue restriction of housing options or access to neighborhood amenities would not result from the proposed zoning map amendment ([Goal S1-a](#), [Goal T1-c](#))

Yes. The proposed zoning map amendment would enhance the diversity of housing types available to Bismarck residents and would support a mix of uses to create vibrant neighborhoods where necessities and amenities of daily life are easily accessible to all residents.

The general intent and purpose of the zoning ordinance would be adhered to with the proposed zoning map amendment (Section 14-02-01; [NDCC 40-27-03](#))

Yes. The proposed zoning map amendment would support the purpose of the zoning ordinance, as stated in the City Code of Ordinances and North Dakota Century Code.

Proper administrative procedures related to the request are being followed (Section 14-07-02, [NDCC Chapter 40-47](#))

Yes. All administrative procedures of the City Code of Ordinances and North Dakota Century

Code have been followed to date. The applicant has submitted a complete application for a zoning map amendment, and the required staff review of all submitted materials has occurred prior to submittal of this report to the Planning and Zoning Commission.

Planned Unit Development

Together 2045 Bismarck's Comprehensive Plan is adhered to with the proposed Planned Unit Development (Section 14-04-18(3)a)

Yes. the following objectives of the plan would be advanced through the proposed PUD.

S6: Encourage a diversity of housing types to meet the variety of household needs in the community.

S10: Support the arrangement of compatible land uses to minimize adjacent conflicts.

G1: Encourage infill and redevelopment of land already connected to municipal services.

T3: Ensure that the variety and quality of housing in aligned with the needs of the community.

Adequate buffer areas have been provided between any noncompatible land uses (Section 14-04-18(3)b)

Yes. There are no uses adjacent to this proposed PUD that are incompatible and require a buffer.

Natural features of the site would be preserved, insomuch as possible, including the preservation of trees and natural drainage ways (Section 14-04-18(3)c)

Yes. Directly adjacent to the project area, to the southwest, there is a coulee used for stormwater detention. The proposed PUD incorporates these existing natural features into the design of the development to the greatest extent feasible. Development would be adjacent to the coulee but would not take place within the coulee itself.

(continued)

The internal roadway circulation system within the planned unit development has been adequately designed for the type of traffic that would be generated (Section 14-04-18(3)d)

Yes. The proposed PUD is served by Normandy Street and a private access easement to the three units on the eastern side of the PUD.

The character and nature of the proposed planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located (Section 14-04-18(3)e)

Yes. The proposed PUD contains only residential land uses, specifically a twin home and a three-unit rowhouse. These uses, as designed and laid out in the proposed layout in the proposed PUD, would be compatible and harmonious with the surrounding area.

The public health, safety and general welfare will not be adversely impacted by the proposed zoning map amendment (Goal S10-a)

Yes. As a cumulative result of all findings contained in this staff report, City of Bismarck staff find that the proposed zoning map amendment would not adversely impact the public health, safety, and general welfare.

Minor Subdivision Final Plat

Dimensional standards of the zoning ordinance are met with the proposed subdivision (Title 14)

Yes. All lots meet area and width requirements of the zoning district within which they are located, and there is sufficient space within each lot for anticipated buildings to meet density, setback, and lot coverage requirements. The proposed PUD reduces the side yard setback for one unit, while all other setbacks are consistent with these building types in their standard zoning districts.

Stormwater runoff impacted by this subdivision is adequately managed to protect public and private

investments and the natural environment (Goal 15, Section 14.1-04-03);

Yes. There is a plan to manage any stormwater runoff generated by this subdivision. The post-construction stormwater management permit (PCSMP) has been conditionally approved by the City Engineer.

Technical specifications required of the final plat have been met (Section 14-09-07)

Yes. The proposed final plat contains the required information to ensure an accurate and timely review by staff, the Planning and Zoning Commission, and the general public.

Proper administrative procedures related to the request are being followed (Section 14-09-04)

Yes. All administrative procedures of the City Code of Ordinances and North Dakota Century Code have been followed to date. The applicant has submitted a complete application for final plat approval, and the required staff review of all submitted materials has occurred prior to submittal of this report to the Planning and Zoning Commission. A public hearing was held for this request, and all requirements for notice of this hearing were met, as documented in this report above.

If the Board of City Commissioners calls for a public hearing, staff will meet the additional requirements for public engagement as documented in this report above.

Creation of any new lots in the City of Bismarck is subject to development capital charges for municipal utilities. Utility capital charges will be due prior to recordation of the plat.

The public health, safety and general welfare will not be adversely impacted by the proposed subdivision (Goal S10-a)

Yes. As a cumulative result of all findings contained in this staff report, City of Bismarck staff

(continued)

find that the proposed subdivision would not adversely impact the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends calling for a public hearing of the zoning map amendment from the RM30 – Residential zoning district to a Planned Unit Development (PUD) and a minor subdivision final plat for Sonnet Heights Subdivision Ninth Replat.

1. Draft Zoning Ordinance
2. Zoning and Plan Reference Map
3. Proposed Zoning Map
4. PUD Narrative
5. Proposed Site Exhibit
6. Proposed Building Elevations
7. Minor Plat
8. Original Plat with Replatted Area Highlighted

Attachments

Staff report prepared by: Isak Johnson, Planner

701-355-1850 | ijohnson@bismarcknd.gov

CITY OF BISMARCK

ORDINANCE NO. 6571

Introduced by
First Reading
Second Reading
Final Passage and Adoption
Publication Date

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

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, BURLEIGH COUNTY, 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 RM30 – Residential zoning district and included in the PUD – Planned Unit Development zoning district:

Lots 1-5, Block 1, Sonnet Heights Subdivision Ninth Replat

This PUD is subject to the following standards:

1. *Conformance to Submitted Documents*. The development must generally conform to the submitted site plan approved in conjunction with the PUD.
2. *Uses Permitted*. The uses within the district shall be limited to the following:
 - a. *Principal Uses*. The following principal uses shall be allowed:
 - i. One rowhouse building with two (2) units (i.e., twin home)
 - ii. One rowhouse building with three (3) units.
3. *Special Uses*. No uses shall be allowed with a special use permit.

4. *Dimensional Standards.* The following dimensional standards shall apply to all structures within this district:
- a. *Lot Dimensions.* Minimum lot size dimensions shall conform to the appropriate sections of the City Code of Ordinances based on the above uses.
 - i. Row house buildings with two (2) units: Section 14-04-06(2)e (R10 Residential District).
 - ii. Row house buildings with three (3) to eight (8) units: Section 14-04-07(2)e (RM Residential District).
 - b. *Front Yards.* The minimum front yard setback from Normandy Street shall be twenty-five (25) feet. The minimum front yard setback from the shared access easement shall be twenty (20) feet.
 - c. *Side Yards.* All buildings shall have side yards in accordance with the appropriate sections of the City Code of Ordinances based on the above uses:
 - i. Row house buildings with two (2) units: Section 14-04-06(2)e (R10 Residential District).
 - ii. Row house buildings with three (3) to eight (8) units: Section 14-04-07(2)e (RM Residential District).

With the exception of Lot 2, Block 1, which shall have a side yard which at no point measures smaller than three (3) feet.
 - d. *Rear Yards.* All buildings shall have rear yards in accordance with the appropriate sections of the City Code of Ordinances based on the above uses:
 - i. Row house buildings with two (2) units: Section 14-04-06(2)e (R10 Residential District).
 - ii. Row house buildings with three (3) to eight (8) units: Section 14-04-07(2)e (RM Residential District).

With the exception of Lot 2, Block 1, which shall have a rear yard which at no point measures smaller than three (3) feet.
 - e. *Height.* All buildings shall have a height limit in accordance with the appropriate sections of the City Code of Ordinances based on the above uses.
 - i. Row house buildings with two (2) units: Section 14-04-06(2)e (R10 Residential District).

- ii. Row house buildings with three (3) to eight (8) units:
Section 14-04-07(2)e (RM Residential District).

5. *Development Standards.* The following development standards shall apply to all development within the district.

- a. *Off-Street Parking and Loading.* All off-street parking and loading must conform to the submitted site plan and be in full compliance with Section 14-03-11 of the City Code of Ordinances (Off-Street Parking and Loading).
- b. *Landscaping and Screening.* Street trees and buffer yard landscaping must be installed in accordance with the submitted landscape plan contained within the site plan. Deviation from this plan may only be allowed if in full compliance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening).

6. *Modifications.* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major modifications require a public hearing and approval by the Bismarck Planning & Zoning Commission.

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

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



Zoning and Plan Reference Map

SONNET HEIGHTS SUBDIVISION NINTH REPLAT

MPLT2023-006

Zoning Districts

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

Future Land Use Plan

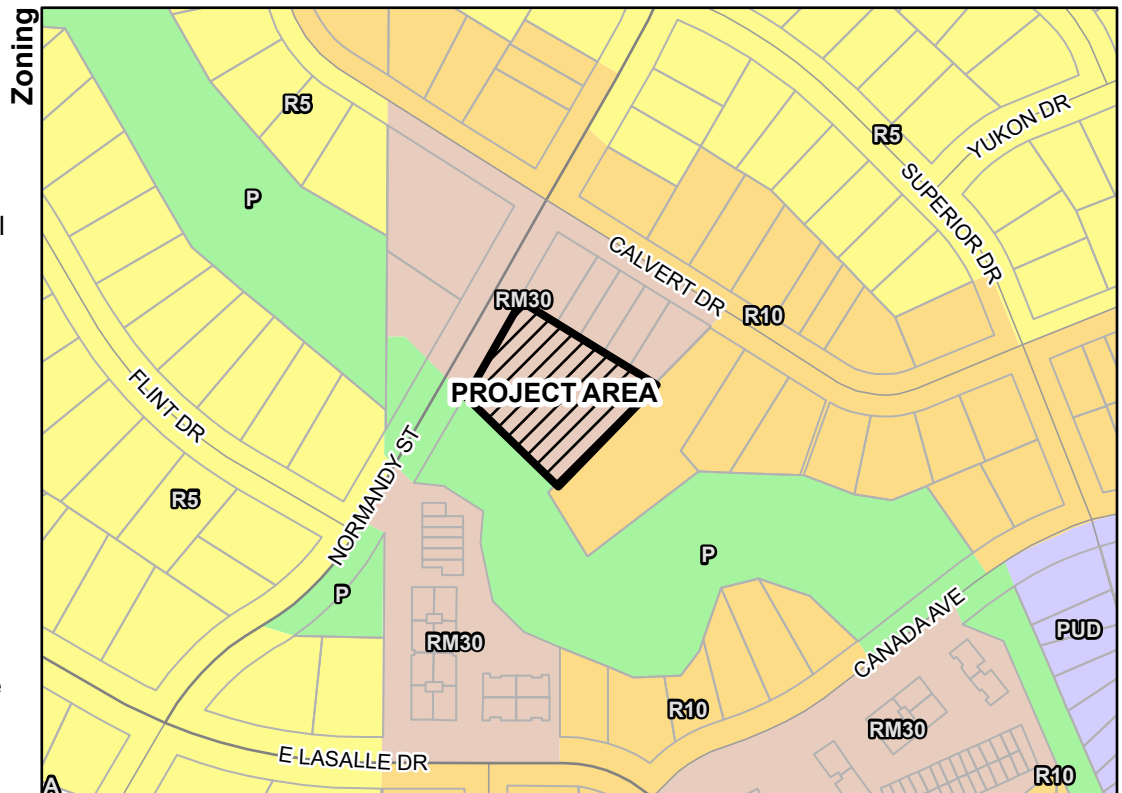
UN	Urban
NMU	Neighborhood Mixed Use
CMU	Community Mixed Use
DMU	Destination Mixed Use
DT	Downtown
IND	Industrial
IF	Industrial Flex
IMU	Industrial Mixed Use
INS	Institutional
RR	Rural
TR	Residential Transitional
PKOS	Rural Parks/Open Space
URA/	Urban Reserve
URB	Mid/Long-Term

Active Mobility Plan

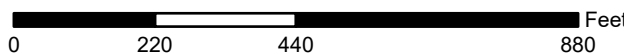
Future Shared Trail

Major Street Plan

Existing Arterial
Future Arterial
Existing Collector
Future Collector
Existing Interstate
Future Interstate



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
Planning Division
February 5, 2024

Proposed New Zoning Map

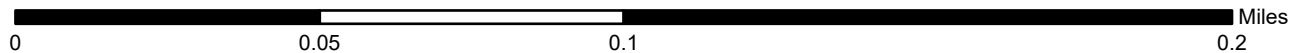
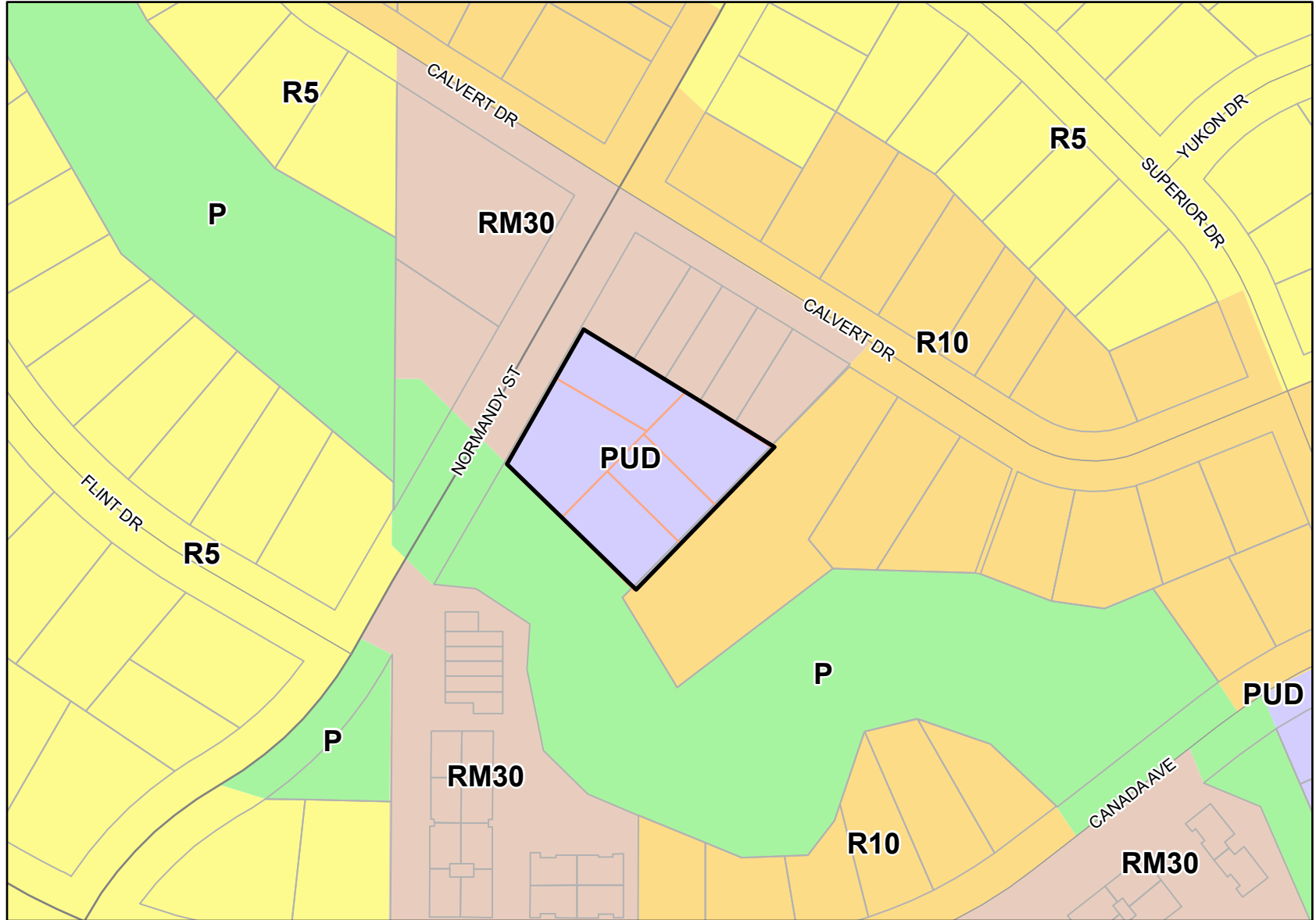
 Project Area
(zoning within
is proposed)

 City Limits

Zoning Districts

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

*A "C-" prior to the district
indicates that special
conditions would apply
to the zoning district*



*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.*

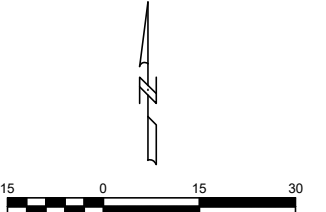
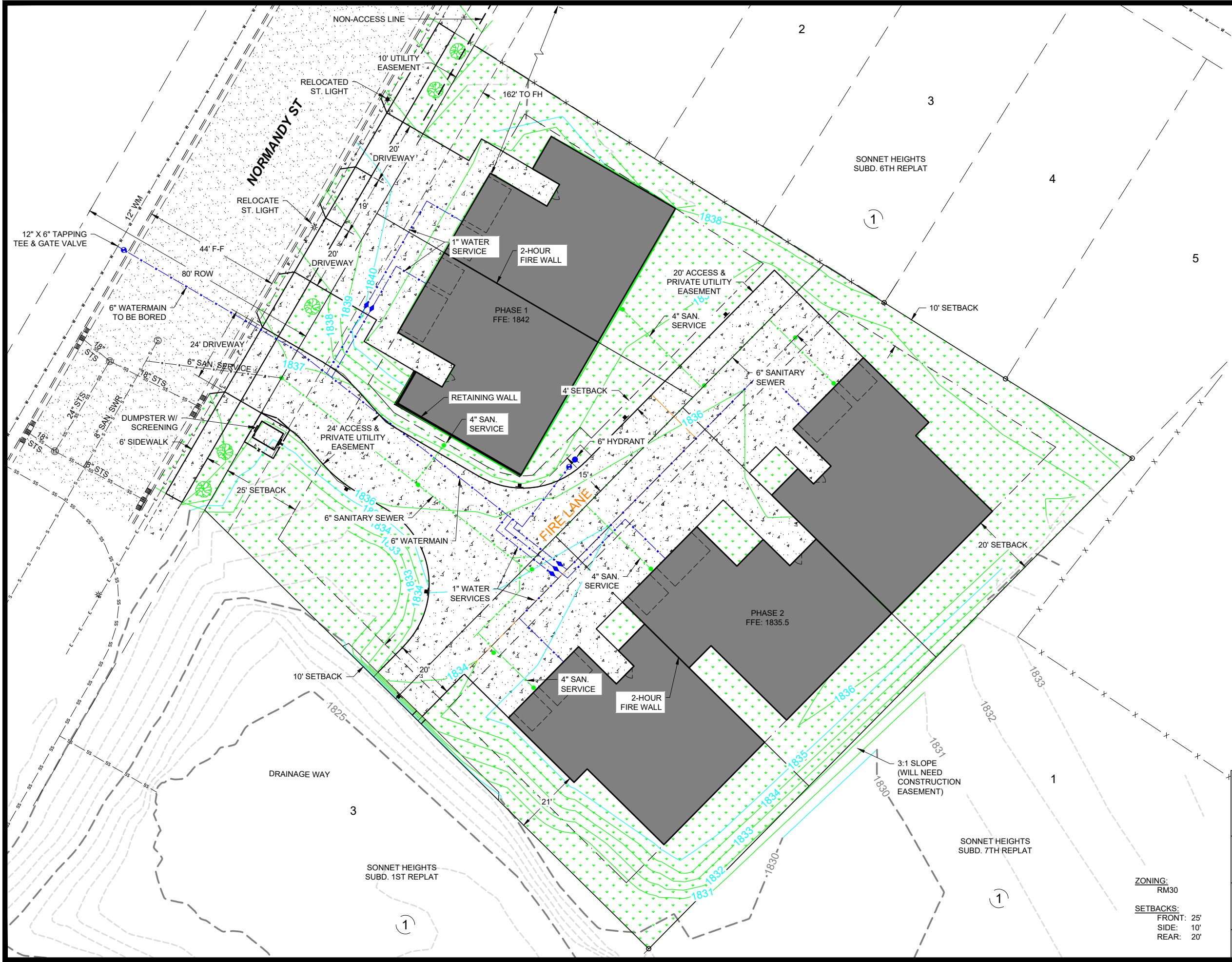


City of Bismarck
Community Development
Planning Division
February 5, 2024

Statement for PUD Request: Sonnet Heights 6th Subdivision 8th Replat

To the City of Bismarck Planning Office:

JD Construction requests a PUD for the purpose of modifying the side yard setbacks abutting the private drive and to include said private drive and private water and sanitary sewer.



VERT. DATUM: NGVD88
HORIZ DATUM: 1983 STATE PLANE, ND
SOUTH (3302)

LEGEND

- PROPOSED SANITARY CLEANOUT
- PROPOSED SANITARY SEWER SERVICE
- PROPOSED WATER SERVICE
- PROPOSED CURB STOP
- PROPOSED FIRE HYDRANT
- PROPOSED GATE VALVE
- RELOCATED LIGHT POLE
- FIRE LANE/NO PARKING SIGN
- PROPOSED CONTOUR
- PROPOSED CONCRETE PAVEMENT
- PROPOSED GRASS
- PROPOSED ROCK RETAINING WALL

ACCOLADE ELM
H=40', S=35'
ulmus davidiana var. japonica (Morton)
SIZE=1 1/2" CALIPER, QUANTITY=5

- NOTES:
- ALL SANITARY SEWER LINES TO BE INSULATED.
 - ACCESS & PRIVATE UTILITY EASEMENT AS SHOWN TO BE DEDICATED VIA A REPLAT OF THIS LOT.



CAUTION
UTILITY LOCATIONS ARE APPROXIMATE.
CONTRACTOR IS RESPONSIBLE FOR
VERIFYING LOCATION PRIOR TO
EXCAVATION

TE **TOMAN ENGINEERING**
501 1st Street NW, Mandan, ND 58554
Phone: 701-663-6483 * Fax: 701-663-0923

J & D CONSTRUCTION
5305 NORMANDY ST
BISMARCK, NORTH DAKOTA

LOT 6, BLOCK 1, SONNET HEIGHTS
SUBDIVISION 6TH REPLAT
BISMARCK, NORTH DAKOTA
SHEET 2 OF 2

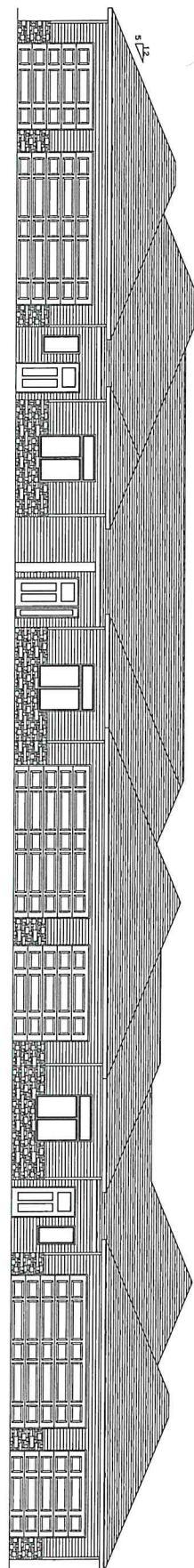
NOVEMBER, 2022

PROPOSED CONDITIONS

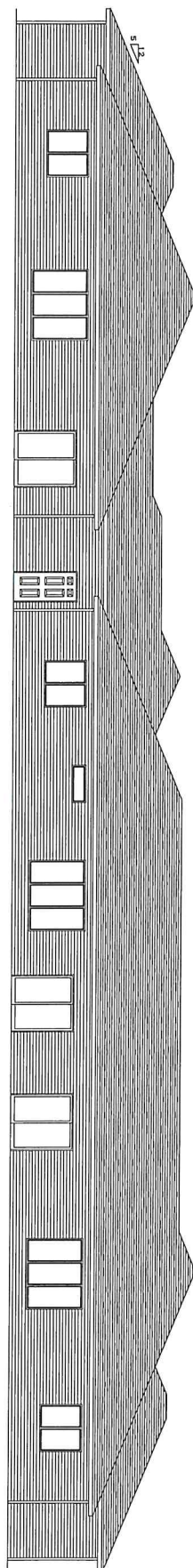
ZONING:
RM30

SETBACKS:
FRONT: 25'
SIDE: 10'
REAR: 20'

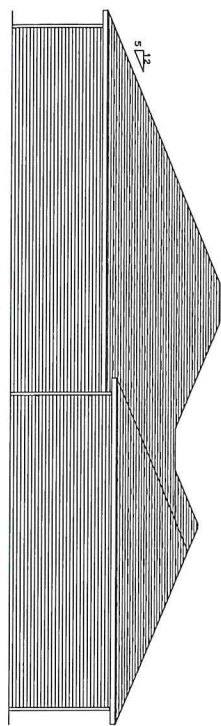
FRONT ELEVATION



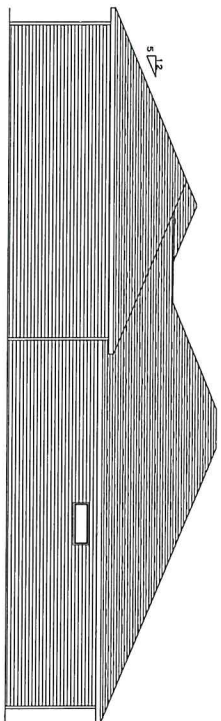
REAR ELEVATION



LEFT ELEVATION



RIGHT ELEVATION



RECEIVED
NOV 17 2023

Drawn By:
MARCIE FORNSHELL
Date: AUGUST 31, 2022
Scale:
Monday, May 15, 2023
Title:
1/8" = 1'-0"

Drawn For:
VOEGELE SIGNATURE HOMES
Plan Name:
VSH- 2023 NORMADY DR 3 PLEX

DISCLAIMER OF WARRANTY: PLANS FURNISHED BY FRONT STREET MILLWORK & LUMBER, INC. ARE PREPARED BY DRAFTSPERSONS WHO ARE NOT QUALIFIED AS LICENSED ARCHITECTS OR PROFESSIONAL ENGINEERS. FRONT STREET MILLWORK & LUMBER, INC. EXPRESSLY DISCLAIMS ANY LIABILITY WHATSOEVER FOR ERRORS OF ANY KIND WHICH MAY BE FOUND ON THE PLANS. USE OF SUCH PLANS SHALL BE AT THE SOLE RISK OF THE USER. ANY PLANS FURNISHED BY FRONT STREET MILLWORK & LUMBER, INC. ARE FURNISHED WITHOUT ANY WARRANTY BY SAID LUMBER COMPANY THAT THEY ARE SUITABLE FOR ANY GENERAL OR PARTICULAR PURPOSE. RELIANCE BY ANY USER OF THE PLANS AND ALL PERSONS BUILT FOR THE SAME UNDER CALCULATION OF CORRECT STRUCTURAL MATERIALS, SPANS, LOADS, & BEARING THEREON OR APPLICATION OF THE ART OR ARTS OF CONSTRUCTION BASED ON THE PRINCIPLES OF MATHEMATICS, AESTHETICS OR THE PHYSICAL SCIENCES MUST BE THE RESPONSIBILITY OF THE DULDER, THE OWNER, OR THE USER OF THE PLANS.

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

SONNET HEIGHTS SUBDIVISION NINTH REPLAT

TO THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

ALL OF LOT 6, BLOCK 1, SONNET HEIGHTS SUBDIVISION SIXTH REPLAT INCLUDING A PORTION OF NORMANDY STREET RIGHT-OF-WAY OF THE NE1/4 OF SECTION 16, T139N-R80W OF THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

N1/4 COR
SEC. 16
T139N-R80W
N 00°22'41"E
1202.39'



1-30-2024

COORDINATE DATUM:
NO STATE PLANE COORDINATES
NAD83, 88 ADJUSTMENT
INTERNATIONAL FEET
BENCHMARK: HYDRANT 43109
CALVERT DRIVE & NORMANDY ST
ELEV: 1849.01 (NGVD29)

LEGEND

- SECTION/QUARTER CORNER
- FOUND REBAR MONUMENT
- SET REBAR MONUMENT

DESCRIPTION OF PROPERTY

A TRACT OF LAND BEING ALL OF LOT 6, BLOCK 1, SONNET HEIGHTS SUBDIVISION SIXTH REPLAT AND A PORTION OF NORMANDY STREET RIGHT-OF-WAY OF THE NE1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN OF THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE EASTERNMOST CORNER OF LOT 6, BLOCK 1, SONNET HEIGHTS SUBDIVISION 6TH REPLAT OF THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA; THENCE SOUTH 44°34'59" WEST ALONG THE SOUTHEASTERLY BOUNDARY LINE OF SAID LOT 6 FOR 220.73 FEET TO THE SOUTHERNMOST CORNER OF SAID LOT 6; THENCE NORTH 45°21'09" WEST ALONG THE SOUTHWESTERLY BOUNDARY LINE OF SAID LOT 6 FOR 241.37 FEET TO A POINT ON THE CENTERLINE OF NORMANDY STREET; THENCE NORTH 30°06'37" EAST ALONG SAID CENTERLINE FOR 163.21 FEET TO A POINT ON THE NORTHEASTERLY BOUNDARY LINE EXTENDED WESTERLY OF SAID LOT 6; THENCE SOUTH 57°53'29" EAST ALONG SAID NORTHEASTERLY BOUNDARY LINE EXTENDED WESTERLY FOR 288.98 FEET TO THE POINT OF BEGINNING, SAID TRACT OF LAND CONTAINING 1.15 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, ANDREA L. MARQUARDT, HEREBY CERTIFY I AM A LICENSED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, THAT THIS SURVEY WAS MADE BY ME OR UNDER MY DIRECTION AND SUPERVISION AND THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN, THAT ALL MONUMENTS AND MARKS SET TOGETHER WITH THOSE FOUND, ARE OF THE CHARACTER AND OCCUPY THE POSITIONS SHOWN THEREON, AND ARE SUFFICIENT TO ENABLE THIS SURVEY TO BE RETRACED.

ANDREA L. MARQUARDT, RLS 4623

DATE

OWNER'S CERTIFICATE AND DEDICATION

WE, OF J & D CONSTRUCTION, INC. BEING THE OWNERS OF THE LANDS PLATTED HEREIN, DO HEREBY VOLUNTARILY CONSENT TO THE EXECUTION OF THIS PLAT TITLED "SONNET HEIGHTS SUBDIVISION NINTH REPLAT" AND DEDICATE ALL RIGHTS OF WAY TO THE CITY OF BISMARCK AS SHOWN ON THIS PLAT FOR PUBLIC USE, AND CONSENT TO ANY ACCESS CONTROL TO THE PROPERTY AS SHOWN.

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

WE ALSO DEDICATE ALL EASEMENTS AS SHOWN ON THIS PLAT AS "ACCESS EASEMENTS" TO RUN WITH THE LAND FOR THE PURPOSE OF SHARED ACCESS BETWEEN ALL LOTS OF THIS SUBDIVISION.

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

J & D CONSTRUCTION, INC.

SUBSCRIBED AND SWORN BEFORE ME, A NOTARY PUBLIC, THIS ____ DAY OF ____ 20__.

_____, NOTARY PUBLIC
_____, COUNTY, ____
MY COMMISSION EXPIRES: ____

APPROVAL OF CITY PLANNING AND ZONING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK ON THE ____ DAY OF ____ 20__, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK.

MICHAEL J. SCHWARTZ - CHAIRMAN

ATTEST: BEN ERRETH - SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS ACCEPTED THE DEDICATION OF ALL RIGHTS OF WAY AND PUBLIC EASEMENTS SHOWN THEREON, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THIS PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS APPROVED THE ____ DAY OF ____ 20__.

ATTEST:
KEITH J. HUNKE - CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER FOR THE CITY OF BISMARCK, NORTH DAKOTA HEREBY APPROVES THIS PLAT THIS ____ DAY OF ____ 20__.

GABRIEL J. SCHELL - CITY ENGINEER

OWNER:
J & D CONSTRUCTION, INC.
701 CALVERT DR
BISMARCK, ND 58503

BASES OF BEARING:
NORTH BOUNDARY LINE
SOUTH 57° 53' 29" EAST

NOTES:

1. BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENT.
2. PORTIONS OF LOTS 2 & 3, BLOCK 1, LIE WITHIN THE 100-YEAR FLOOD PLAIN (ZONE AE) PER FEMA PANEL MAP NO. 300160700D, EFFECTIVE DATE 08/04/2014, BFE: 1825.5 (NAVD83).
3. TOTAL LOTS: 1.09 AC4 (43,499 SF)
TOTAL ROW: 0.15 AC4 (6,708 SF)
TOTAL AREA: 1.15 AC4 (50,207 SF)

SONNET HEIGHTS SUBD.
1ST REPLAT

SOUTHERNMOST
COR. LOT 9
NO STATE PLANE COORDINATES:
N = 436115.8
E = 1897956.2

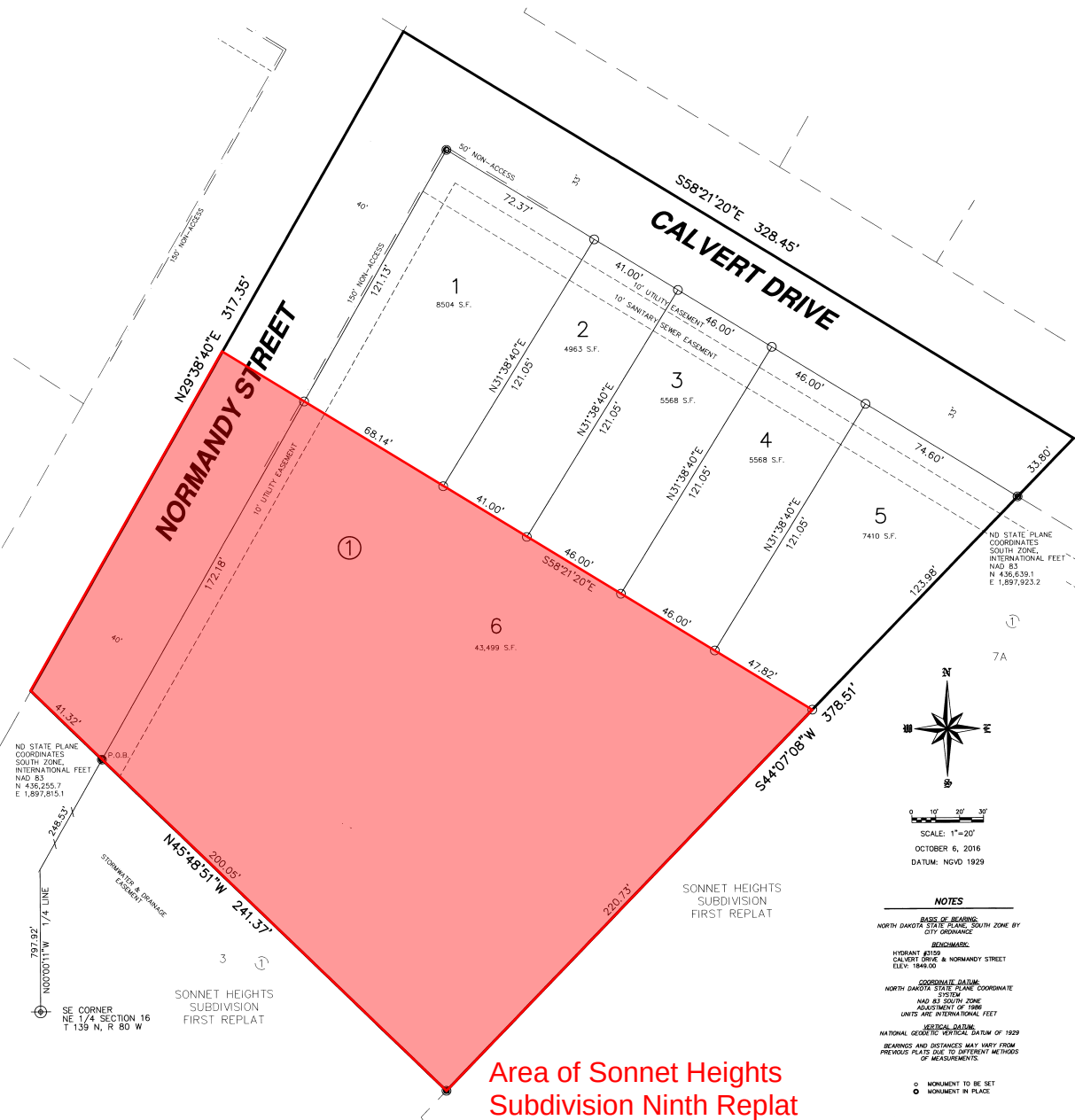


**TOMAN ENGINEERING
COMPANY**
501 1st Street NW, Mandan, ND 58554
Phone: 701-663-6483 * Fax: 701-663-0923

SONNET HEIGHTS SUBDIVISION SIXTH REPLAT

BEING A REPLAT OF LOT 6 BLOCK 1 SONNET HEIGHTS SUBDIVISION FIRST REPLAT
AND PARTS OF CALVERT DRIVE AND NORMANDY STREET RIGHTS OF WAY
PART OF THE NORTHEAST 1/4 SECTION 16, TOWNSHIP 139 NORTH,
RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN,

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



DESCRIPTION

BEING A REPLAT OF LOT 6 BLOCK 1 SONNET HEIGHTS SUBDIVISION FIRST REPLAT AND PARTS OF CALVERT DRIVE AND NORMANDY STREET RIGHTS OF WAY, PART OF THE NORTHEAST 1/4 SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA CONTAINING 2.24 ACRES, MORE OR LESS, DESCRIBED AS FOLLOWS:
BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 3 BLOCK 1 SONNET HEIGHTS SUBDIVISION FIRST REPLAT; THENCE NORTH 45 DEGREES 48 MINUTES 48 SECONDS WEST, A DISTANCE OF 41.32 FEET TO THE CENTERLINE OF NORMANDY STREET RIGHT OF WAY; THENCE NORTH 29 DEGREES 38 MINUTES 40 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 37.45 FEET TO THE INTERSECTION OF THE CENTERLINES OF NORMANDY STREET AND CALVERT DRIVE; THENCE SOUTH 58 DEGREES 21 MINUTES 20 SECONDS EAST, ALONG THE CENTERLINE OF CALVERT DRIVE RIGHT OF WAY, A DISTANCE OF 328.45 FEET TO THE NORTHEASTERLY EXTENSION OF THE WEST LINE OF LOT 7A BLOCK 1 SONNET HEIGHTS SUBDIVISION FIRST REPLAT; THENCE SOUTH 44 DEGREES 07 MINUTES 08 SECONDS WEST, ALONG SAID CENTERLINE, A DISTANCE OF 46.00 FEET TO THE NORTHERLY LINE OF LOT 3 BLOCK 1 SONNET HEIGHTS SUBDIVISION FIRST REPLAT; THENCE NORTH 45 DEGREES 48 MINUTES 48 SECONDS WEST, ALONG SAID NORTHERLY LINE, A DISTANCE OF 200.05 FEET TO THE POINT OF BEGINNING.
THE ABOVE DESCRIBED TRACT CONTAINS 2.24 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, TERRY BALTZER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE AND CORRECT COPY OF THE NOTES AND FIELD BOOKS UNDER MY SUPERVISION AND COMPLETED ON OCTOBER 6, 2016, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.



STATE OF NORTH DAKOTA) SWENSON, HAGEN & CO. P.C.
COUNTY OF BURLEIGH) 909 BASH AVENUE
BISMARCK, NORTH DAKOTA

Terry Baltzer
TERRY BALTZER
PROFESSIONAL LAND SURVEYOR
N.D. REGISTRATION NO. 3595

ON THIS 11th DAY OF OCTOBER, 2016, BEFORE ME PERSONALLY APPEARED TERRY BALTZER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NATALIE THIEL
Notary Public
State of North Dakota
My Commission Expires Aug 8, 2022

Natalie Thiel
NATALIE THIEL
NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES 8-8-2022

APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE 27th DAY OF August, 2016, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK, AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

Wayne L. Wacker
WAYNE L. WACKER - CHAIRMAN
Carl D. Hornstad
CARL D. HORNSTAD - SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN ADDENDUM TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE ANNEXED PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE 27th DAY OF August, 2016.

Keith R. Hunke
KEITH R. HUNKE - CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHILL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "SONNET HEIGHTS SUBDIVISION SIXTH REPLAT, BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT."

Gabriel J. Schill
GABRIEL J. SCHILL
CITY ENGINEER

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT J & D CONSTRUCTION, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "SONNET HEIGHTS SUBDIVISION SIXTH REPLAT, BISMARCK, NORTH DAKOTA, AND DO SO RE-DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY, SANITARY SEWER, STORM SEWER & STORM WATER EASEMENTS.

THEY FURTHERMORE DEDICATE UNTO THE CITY OF BISMARCK "STORM WATER AND DRAINAGE EASEMENTS" TO RUN WITH THE LAND FOR THE PURPOSE OF STORM SEWER AND SURFACE WATER DRAINAGE UNDER, OVER, THROUGH AND/OR ACROSS THOSE AREAS DESIGNATED HEREON AS "STORM WATER AND DRAINAGE EASEMENTS" FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, REPAIR, ENLARGING AND MAINTAINING STORM WATER MANAGEMENT FACILITIES TOGETHER WITH NECESSARY APPURTENANCES THEREFOR FOR STORM WATER, STORM SEWER AND SURFACE WATER DRAINAGE AND MANAGEMENT OF SAID STORM WATER FLOW IN A MANNER THAT WILL PERMIT THE FREE AND UNOBSTRUCTED FLOW OF WATER UNDER, OVER AND/OR ACROSS THE EASEMENT AREA.

STATE OF NORTH DAKOTA))
COUNTY OF BURLEIGH))

Jason Voegle
JASON VOEGLE
J&D CONSTRUCTION
4750 MOST DRIVE
BISMARCK, N.D. 58503

ON THIS 11th DAY OF October, 2016, BEFORE ME PERSONALLY APPEARED JASON VOEGLE, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NATALIE THIEL
Notary Public
State of North Dakota
My Commission Expires Aug 8, 2022

Natalie Thiel
NATALIE THIEL
NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES 8-8-2022



SWENSON, HAGEN & COMPANY P.C.
Surveying
Bismarck, North Dakota 58504
sh@swensonhagen.com
Land Planning
Phone (701) 221-2000
Civil Engineering
Fax (701) 221-2000
Landscape & Site Design
Construction Management

NOTES

BASES OF BEARING:
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY
CITY OF BISMARCK

BEACHMARKS:
HYDRAULIC BEACH MARK
CALVERT DRIVE & NORMANDY STREET
ELEV. 1649.00

COORDINATE DATUM:
NORTH DAKOTA STATE PLANE COORDINATE
SYSTEM
NAD 83 SOUTH ZONE
ADJUSTMENT OF 1986
UNITS ARE INTERNATIONAL FEET

VERTICAL DATUM:
NATIONAL GEODETIC VERTICAL DATUM OF 1929
BEARINGS AND DISTANCES MAY VARY FROM
PREVIOUS PLATS DUE TO DIFFERENT METHODS
OF MEASUREMENTS.

○ MONUMENT TO BE SET
● MONUMENT IN PLACE



Community Development Department

DATE: February 13, 2024

FROM: Ben Ehreth, Community Development Director

ITEM: Selection of Consultant for Land Development Code (LDC)

REQUEST:

The Community Development Department recommends selection of Clarion Associates, SRF, and Madden Planning to assist Bismarck with the creation of a new Land Development Code.

BACKGROUND INFORMATION:

A new Land Development Code will be pursued as a replacement of Title 14 of the Bismarck Code of Ordinances, which pertains primarily to zoning and subdivision of land. The project is expected to begin in March 2024 with expected completion by the end of 2025.

A Request for Proposals was issued on November 20, 2023. Proposals were received in early January. A selection committee reviewed proposals, conducted interviews, and now recommend Clarion Associates, SRF, and Madden Planning to the City Commission for consideration.

RECOMMENDED CITY COMMISSION ACTION:

Select Clarion Associates, SRF, and Madden Planning to assist Bismarck with the creation of a new Land Development Code.

STAFF CONTACT INFORMATION:

Daniel Nairn, Planning Manager, 701-355-1854, dnairn@bismarcknd.gov

ATTACHMENTS:

None



Engineering Department

DATE: February 13, 2024

FROM: Gabe Schell, City Engineer

ITEM: Street Closure for 51st Annual Downtowners Street Fair.

REQUEST:

Consider approval of street closure for 51st Annual Downtowners Street Fair.

BACKGROUND INFORMATION:

The 51st Annual Downtowners Street Fair is scheduled for September 13-14, 2024. The areas and timeframes requested for closure are the same as those requested for the 2023 Street Fair. See attached request from Downtown Business Association.

RECOMMENDED CITY COMMISSION ACTION:

Approve street closure request.

STAFF CONTACT INFORMATION:

Gabe Schell, City Engineer, 701-355-1507, gschell@bismarcknd.gov

ATTACHMENTS:

1. Street Fair 2024 Road Closure Request

January 1, 2024

Mayor Schmitz & City Commissioners
Gabe Schell,
Mark Berg, City Traffic Engineer
PO Box 5503
Bismarck ND 58502-5503



Re: 2024 Street Closure Request

Dear Mayor Schmitz, City Commissioners, and Mr. Berg:

The Downtown Business Association requests the following street closings for the following annual community event:

51st Annual Downtowners Street Fair - September 13-14, 2024

Same street areas as in 2023.

Eight blocks: 300, 400 and 500 E Broadway Ave, 100 and 200 blocks of Fourth Street and 100, 200 and 300 blocks of Fifth Street and all alleys leading into the event. Time schedule: close after 5 pm on Thursday, September 12th for vendor setup and reopen after final cleanup on Saturday night, September 14th.

This request is the same as requested for the 2023 Street Fair, which included one additional optional block on the 300 block of Fifth Street if needed for additional vendors. We also request some flexibility in closing other blocks should the need arise with any downtown street construction.

The Downtowners agrees to post "No Parking" signs along all streets occupied by Street Fair within the time required.

Please contact the Downtowners with any questions or concerns.

Thank you,

A handwritten signature in black ink, appearing to read 'Kate Herzog', is located below the 'Thank you,' text.

Kate Herzog, COO
Chief Operating Officer



Engineering Department

DATE: February 13, 2024

FROM: Gabe Schell, City Engineer

ITEM: Online Bid Opening and Plan Fee Changes

REQUEST:

Receive update on Engineering Dept use of online bid openings and consider 2024 fee changes for sale of plans and specs

BACKGROUND INFORMATION:

The Engineering Dept posts plans and specifications for projects that are bid to an online system called QuestCDN. This system provides a centralized location that houses plans and specifications before bidding and allows for transparent communication between the City and potential bidders on a project. For the last 4 years, the City has held in-person bid openings at a specific location, date and time while allowing remote participation through online hosting of the meeting. The bidders physically deliver their proposals, contractor's license, bid bonds, and any other required documentation prior to the meeting. These documents are opened and read at the bid opening and reviewed for compliance prior to requesting commission action.

QuestCDN offers a technology solution (vBid) that conducts the bid opening process online. In this system, bidders upload their bid bond, contractor license and submit their bid electronically. This solution allows for reduced errors in submittals, uniform proposals and reduced redundant processes performed by both the bidders and City staff. The Engineering Dept will utilize the online bid opening solution on projects we lead starting in 2024. We will continue to host a public bid opening in the City/County Building and broadcast the meeting online for all interested parties, but instead of opening up physical bids, we will be "opening" the uploaded electronic bids. All bidders wishing to submit a bid will be required to do so through the QuestCDN's system. City Attorney Combs, Finance Director Chernyak, Acting City Administrator Tomanek have been coordinated with before initiating this change. Our conversations with area contractors have been positive as many of the contractors who do work in Bismarck also do work in other cities in North Dakota that have implemented this change to online bid openings.

There is no cost to the City to utilize this system. However, there is a cost QuestCDN charges to bidders for access to its system. QuestCDN establishes a minimum fee for each download of plans and specifications (they can be viewed for free) and for each contractor who submits a bid. The Owner (City/County/etc) can set a fee above the required minimum and participates in a 50/50 revenue share with QuestCDN for all revenue above the minimum fee. The current fee

to download plans and specifications produced by the Engineering Dept is \$75. The recommended fee for 2024 is the minimum QuestCDN fee of \$22 to download and \$42 to submit an online bid. This change will result in a net decrease for all contractors who previously accessed their plans via QuestCDN. No fee changes are recommended for plans and specs printed and mailed by the Engineering Dept and there will remain no fee to bid on a project that does not utilize online bidding.

RECOMMENDED CITY COMMISSION ACTION:

Receive update regarding online bid openings and approve a revised fee schedule to \$22 to download plans and specifications and create a new \$42 fee to submit an online bid.

STAFF CONTACT INFORMATION:

Gabe Schell, City Engineer, 701-355-1507, gschell@bismarcknd.gov

ATTACHMENTS:

None



Engineering Department

DATE: February 13, 2024

FROM: Gabe Schell, City Engineer

ITEM: Consider approval of ND Department of Transportation Cost Participation and Maintenance Agreement for South Washington Street reconstruction project AC-NHU-1-981(137) PCN 23859 and CPU-1-981(140) PCN 24022, HC 158

REQUEST:

Consider approval of ND Department of Transportation Cost Participation and Maintenance Agreement for South Washington Street reconstruction project AC-NHU-1-981(137) PCN 23859 and CPU-1-981(140) PCN 24022, HC 158

BACKGROUND INFORMATION:

The NDDOT requires approval of the attached agreement as a condition for the award of federal funding. This agreement details the respective responsibilities of the NDDOT and the City of Bismarck during construction and maintenance phases of the South Washington Street Reconstruction project between Burleigh Avenue and the south Bismarck drainage ditch. This project is scheduled to be bid on February 16, 2024 with construction and substantial completion in 2024.

The agreement obligates \$4,500,000 in federal funds not to exceed 80.93% of the total eligible project costs. The City is responsible for the 19.07% local match as well as all costs exceeding approximately \$5.6 million. There is an additional funding clause in this agreement reflecting the City's desire to advance construct the entirety of the project in 2024 with a requested reimbursement of the federal funding in 2026. Please note that if federal funding does not become available, the City will not be reimbursed. The local match for federal aid eligible items on S Washington Street is funded through half-cent sales tax.

RECOMMENDED CITY COMMISSION ACTION:

Approve ND Department of Transportation Cost Participation and Maintenance Agreement for South Washington Street reconstruction project AC-NHU-1-981(137) PCN 23859 and CPU-1-981(140) PCN 24022, HC 158

STAFF CONTACT INFORMATION:

Gabe Schell, City Engineer, 701-355-1507, gschell@bismarcknd.gov

ATTACHMENTS:

1. CPM Agreement

MEMO TO: Chad Orn
Deputy Director for Planning

FROM: Marohl, Sengaroun H., 328-4449
Local Government Division

DATE: 02/05/2024

SUBJECT: Cost Participation, Construction and Maintenance Agreement for Project
AC-NHU-1-981(137) PCN 23859 and CPU-1-981(140) PCN 24022

This contract is a Cost Participation, Construction and Maintenance (CPM) agreement with City of Bismarck on S Washington St (Burleigh Ave-Denver Ave) projects.

Contract # 38240127

- The type of work is Grading, Aggregate Base Course, PCC Pavement, Hot Mix Asphalt, Curb & Gutter, Milling, Shared Use Path, Storm Sewer, Watermain, Forcemain, Lighting, Signal, Signing Pavement Marking, Interconnect Cable
 - The NHU Federal Funds for this project is limited to \$4,500,000.
 - Any costs over the above limited amount will be City responsibility.
 - City to make contractor payments.
 - NDDOT to reimburse City NHU federal funds in fiscal year 2026 when federal funds becomes available.
 - CPU project is City 100% cost.
- No one time changes on the standard agreement template.

38/sm

Contract routing:
Seng Marohl - Contract Owner
Stacey Hanson
Paul Benning
Shannon Sauer
Gabe Schell - Bismarck City Engineer
Bismarck Officials
Seng Marohl
Legal
Chad Orn
Stacey Hanson

NDDOT Contract No. 38240127

**North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
LPA FEDERAL AID PROJECT**

Federal Award Information

Assistance Listing No.: 20.205

Assistance Listing Title: Highway Planning & Construction

Award Name: Federal-Aid Highway Program

Awarding Federal Agency: Federal Highway Administration (FHWA)

Pass-through entity: North Dakota Department of Transportation (NDDOT)

NDDOT Program Mgr.: Marohl, Sengaroun Telephone: (701) 328-4449

Subrecipient/LPA Name:

Subrecipient Unique Entity Identifier (UEI) No.:

Federal Award Identification No. (FAIN):

Federal Award Date:

Subaward Period of Performance Start & End Date:

Subaward Budget Period Start & End Date:

Amount of Federal Funds Obligated by this action:

Total Amount of Federal Funds Obligated: \$

Total Federal Award: \$

Federal Award Project Description:

Research and Development Activities:

Indirect Cost Rate (ICAP):

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

Project No. AC-NHU-1-981(137), CPU-1-981(140) PCN: 23859, 24022

LPA: CITY OF**BISMARCK****Location: BISMARCK S WASHINGTON ST FROM BURLEIGH AVE TO DENVER AVE**

**Type of Improvement: GRADING, AGGREGATE BASE, PCC PAVEMENT, HOT MIX ASPHALT,
CURB & GUTTER, MILLING, SHARED USE PATH, STORM SEWER, WATERMAIN, FORCE MAIN,
LIGHTING, SIGNAL, SIGNING, MARKING, INTERCONNECT CABLE**

Length: 2.638**MILES**

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

It is in the best interest of both parties to have the LPA construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the LPA with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The LPA agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost up to a maximum of \$4,500,000. The balance of the project is the obligation of the LPA.

Additional Funding Clause

City to make contractor payments. NDDOT to reimburse City federal funds in fiscal year 2026 when funding become available. CPU project is 100% city funds.

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.

Federal funds may not be obligated by the LPA, prior to FHWA approval of the program documents for the project.

PART I

LPA Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

The LPA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The LPA shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the LPA of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

Include the following paragraph verbatim in any subcontracts they sign relative to this project:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the solicitation, award, and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract,



which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.
3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways and the current edition of the NDDOT's *Local Government Manual*.
4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.
5. To comply with the procedures outlined in the current edition of NDDOT's *Local Government Manual*.
6. To comply with the current edition of NDDOT's *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects*.
7. The LPA will be responsible for any consideration, avoidance, and minimization of impacts upon real property related to this project, such as changes in the grades of streets, inconvenience to property or business, and any loss of light, air, view, access, egress, drainage, support, or nuisance,
8. To comply with the requirements of Appendices A and E of the Title VI Assurances, attached and incorporated by reference herein.

PART II

Contracting and Construction:

1. On behalf of the LPA, NDDOT will:
 - a. Prepare the bid package, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.
 - b. Evaluate the bids as to the sufficiency of Disadvantaged Business Enterprise (DBE) participation and the bidder's good faith efforts in satisfying the requirements of the current edition of the DBE special provision, and 49 CFR Part 26. NDDOT shall have exclusive authority in evaluating the adequacy of DBE participation.
 - c. Tabulate the bids and send to the LPA.
 - d. Concur in the award of the contract, after the LPA has executed the contract, for the sole purpose of enabling the LPA to procure federal aid for the construction of the project.
2. The LPA will:
 - a. Review bids to determine the lowest responsible bidder.
 - b. Execute the contract.
 - c. Distribute copies of the executed contract and contract bond to NDDOT.



3. During the construction of the project, the LPA will:
 - a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual* and the *Standard Specifications for Road and Bridge Construction*.
 - b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System*.
 - c. Make all records available to NDDOT and FHWA for inspection upon request. The LPA will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the LPA.
 - d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the LPA agrees to:

1. Control the length and location of curb openings for future entrances and to not permit the length of curb openings for entrances to exceed the length shown on the plans or as shown on a sketch of typical entrances for similar entrances; and prohibit the construction or use of any entrances along the project within the LPA other than those shown on the plans, without prior approval of NDDOT.
2. Prohibit double parking and diagonal parking within the limits of the project. Additional parallel parking will be allowed within the limits of the project if designed considering the effects the added parking will have on the entire traffic corridor. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.
3. If the traffic corridor intersects a state highway, the LPA must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.
4. Prohibit the installation of traffic signals and pedestrian beacons on or in connection with the project, including those installed at the sole cost and expense of the LPA or by others, without NDDOT approval.
5. Maintain all traffic control devices on the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.
6. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.
7. Provide maintenance to the completed project at its own cost and expense.
8. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.



PART IV

General:

1. The LPA will make all contract payments. NDDOT will reimburse the LPA for the amount paid by FHWA. Payment will be made upon receipt of the engineer's estimate.
2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
3. No official, employee, or other person performing services for the LPA who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the LPA shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the LPA, and such officer, employee, or person has not participated in such acquisition for and in behalf of the LPA.
4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.
5. Entities that receive federal funds through NDDOT may be required to obtain an audit in accordance with 2 C.F.R. Part 200, Subpart F. A copy of such audit shall be submitted to NDDOT. Entities that spend less than \$750,000 of federal funds from all sources may be subject to reviews by NDDOT at its discretion. Additionally, all entities receiving federal funds through NDDOT shall certify whether a Single Audit has been completed as part of the annual Federal award process. These requirements are applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.
6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Local Government Engineer
ND Department of Transportation
608 East Boulevard Avenue
Bismarck, ND 58505-0700

7. The LPA is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.
8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The LPA, by the signature below of its authorized representative, hereby acknowledges that the LPA has read this agreement, understands it, and agrees to be bound by its terms and conditions.



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

APPROVED:

LPA/STATES ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

ATTEST:

AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

LPA of _____

★

NAME (TYPE OR PRINT)

SIGNATURE

★

TITLE

DATE

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

APPROVED as to substance:

Paul Benning

SH

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

Paul Benning
SIGNATURE

02/05/24

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

SS

DATE

*Mayor, President or Chairperson of Commission

CLA 19256 (Div. 38)
L.D. Approved 4-12-93; 10-22



Project AC-NHU-1-981(137)

CERTIFICATION OF LOCAL MATCH

It is hereby certified that the LPA of _____ will provide non-federal funds, whose source is identified below, as match for the amount the LPA is obligated to pay under the terms of the attached agreement with the North Dakota Department of Transportation. The certified amount does not duplicate any federal claims for reimbursement, nor are the funds used to match other federal funds, unless expressly allowed by federal regulation.

Non-Federal Match Funds provided by LPA. Please designate the source(s) of funds in the LPA budget that will be used to match the federal funds obligated for this project through the North Dakota Department of Transportation.

Source:

Executed at _____, North Dakota, the last date below signed.

ATTEST:

APPROVED:

AUDITOR (TYPE OR PRINT)

LPA of _____

SIGNATURE

NAME (TYPE OR PRINT)

DATE

SIGNATURE

*

TITLE

DATE

*Mayor, President or Chairperson of Commission

CLA 19256 (Div. 38)
L.D. Approved 4-12-93; 1-23



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX A OF THE TITLE VI ASSURANCES**

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

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.



NORTH DAKOTA DEPARTMENT OF TRANSPORTATION APPENDIX E OF THE TITLE VI ASSURANCES

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

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



Risk Management Appendix

Routine* Service Agreements with Sovereign Entities and Political Subdivisions of the State of North Dakota:

Parties: **State** – State of North Dakota, its agencies, officers and employees

Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees

Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) **Commercial general liability and automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **\$406,250 per person and \$1,625,000 per occurrence**. The minimum limits of liability required of the State are **\$406,250 per person and \$1,625,000 per occurrence**.
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are \$500,000 per person and \$2,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. The Governments shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this agreement or by the contractual indemnity obligations of the Contractor. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual*, section 5.1 for discussion of "unique" and "routine" agreements.

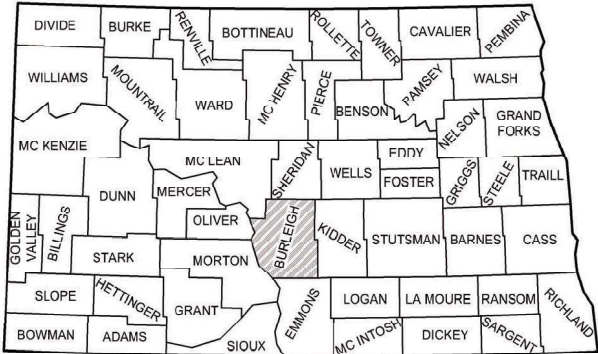
RM Consulted 2007
Revised 11-23



DESIGN DATA - South Washington Street				
Traffic:	Average Daily			
Current: 2022	Pass: 11,370	Trucks: 230	Total: 11,600	
Forecast: 2045	Pass: 17,840	Trucks: 360	Total: 18,200	
Clear Zone Distance: 14'		Design Speed: 40 mph		
Minimum Sight Dist. for Stopping: 305'		Bridges: N/A		
Sight Dist. for No Passing Zone: N/A				
Pavement Design Life 30 (years)				
Design Accumulated One-way Rigid ESALs: 2,895,000				

DESIGN DATA - Burleigh Avenue				
Traffic:	Average Daily			
Current: 2022	Pass: 3,625	Trucks: 75	Total: 3,700	
Forecast: 2045	Pass: 8,035	Trucks: 165	Total: 8,200	
Clear Zone Distance: 16'		Design Speed: 35 mph		
Minimum Sight Dist. for Stopping: 250'		Bridges: N/A		
Sight Dist. for No Passing Zone: N/A				
Pavement Design Life 20 (years)				
Design Accumulated One-way Flexible ESALs: 412,000				

DESIGNER Amanda Vetter, PE, PTOE
DESIGNER Caleb Weisgarber, EI
DESIGNER Jennifer Malloy, PE, CFM
DESIGNER Derek Anderson, PE
DESIGNER Chris Dahl, PE
DESIGNER Josh Loegering, PE



STATE COUNTY MAP

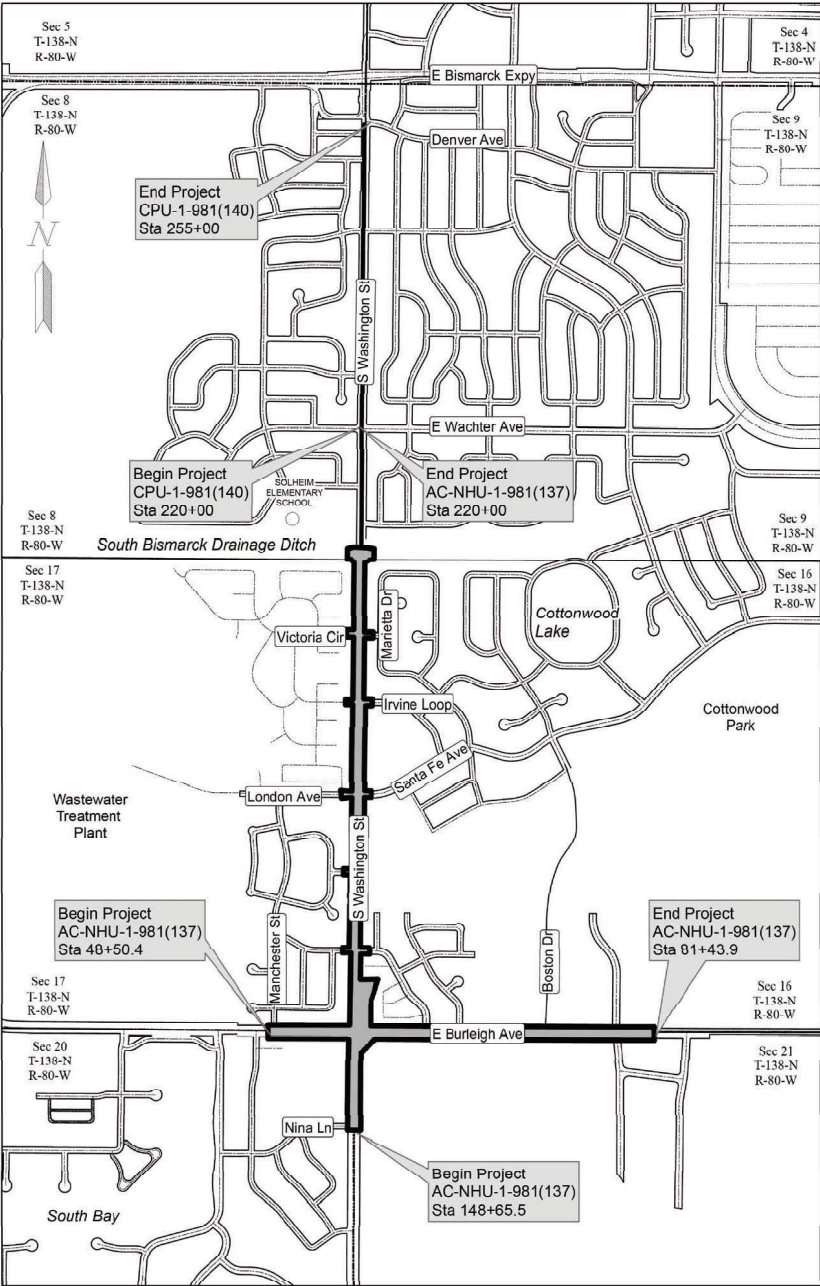
City of Bismarck

South Washington Street Reconstruction

AC-NHU-1-981(137)
CPU-1-981(140)
City Project HC 158

Washington Street from Burleigh Avenue to Wachter Avenue
Burleigh Ave from South Washington to Boston Drive
Traffic Signal Interconnect Cable from Wachter Avenue to Denver Avenue

Grading, Aggregate Base Course, PCC Pavement, Hot Mix Asphalt,
Curb & Gutter, Milling, Shared Use Path, Sidewalk, Storm Sewer, Watermain, Force Main,
Lighting, Traffic Signal, Traffic Interconnect Cable, Signing, & Pavement Marking



	STATE	PROJECT NO.	PCN	SECTION NO.	SHEET NO.
	ND	AC-NHU-1-981(137)	23859	1	1
		CPU-1-981(140)	24022		

GOVERNING SPECIFICATIONS	Date Published and Adopted by the North Dakota Department of Transportation
Standard Specifications	4/1/2023
Supplemental Specifications	NONE

PROJECT NUMBER \ DESCRIPTION	NET MILES	GROSS MILES
AC-NHU-1-981(137)		
South Washington Street	1.351	1.351
Burleigh Ave	0.624	0.624
CPU-1-981(140)		
Traffic Signal Interconnect	0.663	0.663

CITY OF BISMARCK CITY ENGINEER	Approval Name Gabe Schell <i>Gabe Schell</i>	Date Signed 11/29/23
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Engineering Department

DATE: February 13, 2024

FROM: Gabe Schell, City Engineer

ITEM: Hear the insufficiency of protests for Street Improvement District SI 577

REQUEST:

Consider Request to Hear Insufficiency of Protest on Resolution of Necessity for Street Improvement District 577

BACKGROUND INFORMATION:

Street Improvement District 577 consists of seven units (153 blocks) of street maintenance. Street maintenance would include areas of resurfacing and reconstruction. Resurfacing would include patching, leveling, milling, overlay, chip seal, curb repair and related items; reconstruction would include curb repair, full depth pavement removal and replacement, subgrade modification, stormwater and ground water improvements and related items. Given the size of the district, it will be bid in two parts, Part A and Part B, to allow for two separate contracts.

The Engineering Report along with the district boundary maps have been posted to the city website under Special Assessment District Information at www.bismarcknd.gov/streets.

The Resolution of Necessity was published in the Bismarck Tribune on January 4, 2024 and January 11, 2024. Letters were sent to property owners notifying them of this project along with their estimated special assessment cost and their right to protest this improvement per NDCC Chapter 40-22. The summary of protests of the Resolution of Necessity is included as an attachment to this agenda memo. All units' protest amount area was insufficient and all units can proceed as proposed.

Unit No. 1 (Part A)

Driftwood Lane – Medora Avenue to 330' north
Medora Avenue – Autumn Blaze Way to Mellowsun Drive
Medora Avenue – Amberglow Drive to Washington Street

Unit No. 2 (Part A)

Brome Avenue – Coleman Street to 130' west of Brome Loop
Coleman Court – Coleman Street to Cul-De-Sac
Coleman Drive – Brome Avenue to Calgary Avenue
Walter Way – Brome Avenue to 135' north

Unit No. 3 (Part A)

14th Street – Calgary Avenue to Harvest Lane
19th Street – 760' north of Koch Drive to 100' north of Century Avenue
Harvest Lane – 150' east of State Street to 14th Street
Idaho Drive – 19th Street to 285' west
Oregon Drive – 19th Street to 240' west

Unit No. 4 (Part A)

Boulevard Avenue – Washington Street to 4th Street

Unit No. 5 (Part B)

Divide Avenue – 5th Street to 11th Street

Unit No. 6 (Part B)

12th Street – Broadway Avenue to Main Avenue
17th Street – Broadway Avenue to Main Avenue
Broadway Avenue – 7th Street to 17th Street

Unit No. 7 (Part B)

Fraine Barracks Road – River Road to 150' north of Main Avenue
Griffin Street – Memorial Highway to Sweet Avenue
Hannafin Street – Memorial Highway to 265' south
Memorial Highway – 200' south of Main Avenue to Hannafin Street
River Road – 1180' north of Fraine Barracks Road to Memorial Highway

Project Schedule

Protest Period Ends:	February 2, 2024
Public Reading of Sufficiency of Protest:	February 13, 2024
Receipt and Opening of Bids	February 19, 2024
Award of Bid	February 27, 2024
Project Completion	Fall 2025

RECOMMENDED CITY COMMISSION ACTION:

Accept the Insufficiency of Protests on the Resolution of Necessity for all units within this district.

STAFF CONTACT INFORMATION:

Gabe Schell, City Engineer, 701-355-1507, gschell@bismarcknd.gov

ATTACHMENTS:

1. Protests results - SI 577

SI 577 - Summary of Protests

2/5/2024

UNIT	TOTAL SF	PROTESTED SF	% OF PROTEST	TOTAL PARCELS	PROTESTED PARCELS	INSUFFICIENT PROTESTS
1	1,266,335	0	0.000%	34	0	Yes
2	287,878	27,602	9.588%	25	3	Yes
3	5,799,358	122,415	2.111%	119	6	Yes
4	567,533	0	0.000%	31	0	Yes
5	5,589,148	0	0.000%	14	0	Yes
6	1,781,157	10,500	0.590%	39	1	Yes
7	2,219,565	92,142	4.151%	36	5	Yes



Engineering Department

DATE: February 13, 2024

FROM: Gabe Schell, City Engineer

ITEM: Request for resolution approving plans and specifications, resolution directing the advertisement for bids and receiving bids for SI 578.

REQUEST:

Consider Resolution Approving Plans and Specifications and Resolution Directing the Advertisement of Bids and Receiving Bids.

BACKGROUND INFORMATION:

Street Improvement District SI 578 consists of 6 units (266 blocks) for roadway maintenance consisting of a scrub seal. Along with the scrub seal, the work will include asphalt patching, concrete curb and gutter repair, and other related work.

The Engineering Report along with the district boundary maps have been posted to the city website under Special Assessment District Information at www.bismarcknd.gov/streets.

Unit No. 1

Huron Drive – Cul-de-sac to 360' east of Selkirk Road
Brunswick Drive – Mustang Drive to 370' east of Overlook Drive
Brunswick Drive – 480' north of Buckskin Avenue to Buckskin Avenue
Brunswick Circle – Brunswick Drive to cul-de-sac
Buckskin Avenue – 170' west of Kingston Drive to 180' east of Brunswick Drive
Sudbury Avenue – Overlook Drive west to cul-de-sac
Sudbury Avenue – Overlook Drive east to cul-de-sac
Arabian Avenue – Overlook Drive to 330' east
Arabian Place – Arabian Avenue to cul-de-sac
York Lane – Kingston Drive to Overlook Drive
Kingston Drive – Brunswick Drive to Overlook Drive
Mustang Drive – 400' north of Regina Lane to Brunswick Drive
Regina Lane – Mustang Drive to Huron Drive
Selkirk Road – Huron Drive to Overlook Drive
Overlook Drive – Selkirk Road to 100' north of Hackberry Street
Colt Avenue – Selkirk Drive to 150' east
High Meadows Circle – Arabian Avenue to cul-de-sac
High Meadows Place – Arabian Avenue to cul-de-sac
Horizon Place – Arabian Avenue to cul-de-sac

Unit No. 2

Koch Drive – 19th Street to East Calgary Avenue
East Calgary Avenue – 19th Street to 225' east of Koch Drive
Pebbleview Circle – East Calgary Avenue to cul-de-sac
Pebbleview Loop – East Calgary Avenue (W) to East Calgary Avenue (E)
Pebbleview Place – Pebbleview Loop to cul-de-sac

Unit No. 3

Arizona Drive – Oregon Drive to 300' south of Iowa Lane
Utah Drive – 19th Street to 215' east of Iowa Lane
Oregon Drive – 19th Street to cul-de-sac
Nevada Street – Arizona Drive to Utah Drive
Iowa Lane – Arizona Drive to 250' south of Utah Drive

Unit No. 4

27th Street – Avenue F to Avenue D
27th Street – Avenue D to 29th Street
28th Street – 230' south of Avenue E to 27th Street
29th Street - Avenue C to 27th Street

Unit No. 5

Nautilus Drive – Calypso Drive to Downing Street
Mayflower Drive – Calypso Drive to 950' west
Mayflower Circle – Calypso Drive to cul-de-sac
Calypso Drive – England Street to Burleigh Avenue
Voyager Drive – England Street to Britannic Lane
Voyager Place – Britannic Lane to cul-de-sac
Intrepid Circle – Downing Street to cul-de-sac
Nina Lane – Downing Street to 180' east
Santa Maria Lane – Calypso Drive to Voyager Drive
Neptune Circle – Calypso Drive to cul-de-sac
Endeavor Place – Calypso Drive to cul-de-sac
Bounty Circle – Calypso Drive to Cul-de-sac
Downing Street – Burleigh Avenue to Intrepid Circle
Daniel Street – Downing Street to 300' South

Unit No. 6

East Main Avenue – Bismarck Expressway to 870' west of NE 66th Street

Project Schedule

Protest Period Ends:	February 14, 2024
Public Reading of Sufficiency of Protest:	February 27, 2024
Receipt and Opening of Bids	March 5, 2024
Award of Bid	March 12, 2024
Project Completion	Fall 2024

RECOMMENDED CITY COMMISSION ACTION:

Approve Resolution Approving Plans and Specifications and Resolution Directing the Advertisement of Bids and Receiving Bids.

STAFF CONTACT INFORMATION:

Gabe Schell, City Engineer, 701-355-1507, gschell@bismarcknd.gov

ATTACHMENTS:

None



Finance Department

DATE: February 13, 2024

FROM: Dmitriy Chernyak, Finance Director

ITEM: Applications for Abatement

REQUEST:

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

Application for Abatement for 2023
Property Owner - Dennis & Donte Adams
Property Address - 2407 Peach Tree Dr
Property ID - 1530-002-100

Application for Abatement for 2023
Property Owner - Tomi & Scott Collins
Property Address - 507 N 21st St
Property ID - 0060-021-105

Applications for Abatement for 2022 & 2023
Property Owner - Timarra & Jordan Kenner
Property Address - 1800 Heritage Ave
Property ID - 0705-002-090

Application for Abatement for 2023
Property Owner - Allen & Nancy Bittner
Property Address - 2033 N Washington St Unit 4
Property ID - 0460-013-303

Application for Abatement for 2023
Property Owner - Todd Perman
Property Address - 210 N 16th St
Property ID - 0010-009-014

Application for Abatement for 2023
Property Owner - Todd Perman & Terry Perman
Property Address - 1516 E Broadway Ave
Property ID - 0010-009-015

Application for Abatement for 2023
Property Owner - Herbert Davis II & Ashten Bristow
Property Address - 518 Munich Dr
Property ID - 1082-004-035

Application for Abatement for 2023
Property Owner - Adam & Sheila Otteson
Property Address - 3413 Frost Ln
Property ID - 1365-002-070

Application for Abatement for 2023
Property Owner - Kohl & Andrea Stewart
Property Address - 4101 Downing St
Property ID - 1555-007-030

Application for Abatement for 2023
Property Owner - James & Peggy Rudick
Property Address - 3009 Baltimore Dr
Property ID - 2310-004-080

Application for Abatement for 2023
Property Owner - Kimberly Speidel
Property Address - 2914 E Ave B
Property ID - 0410-018-085

Application for Abatement for 2023
Property Owner - Brett & Amy Ruff
Property Address - 2502 Colonial Dr
Property ID - 1054-006-045

Application for Abatement for 2023
Property Owner - Real Estate Bel LLC
Property Address - 500 Columbia Dr
Property ID - 0590-002-085

Application for Abatement for 2023
Property Owner - Jon Rykowski
Property Address - 3711 Pebbleview Loop
Property ID - 1600-004-135

Application for Abatement for 2023
Property Owner - Sean & Lisa Lund
Property Address - 647 Regina Ln
Property ID - 1052-003-035

Application for Abatement for 2023
Property Owner - Corinne Lee
Property Address - 711 N 2nd St
Property ID - 0015-003-050

Application for Abatement for 2023

Property Owner - Thomas & Joyce Walker
Property Address - 324 W Turnpike Ave
Property ID - 0400-001-015

Application for Abatement for 2023
Property Owner - Anna Vogel
Property Address - 814 N Anderson St
Property ID - 0180-007-020

Application for Abatement for 2023
Property Owner - Ethen Roemmich
Property Address - 1306 Harmon Ave
Property ID - 0100-014-001

BACKGROUND INFORMATION:

Market value reductions due to errors in the property description; the property owners have met the requirements set forth in NDCC 57-02-08 to apply for the homestead credit and the disabled veteran credit.

RECOMMENDED CITY COMMISSION ACTION:

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

STAFF CONTACT INFORMATION:

ATTACHMENTS:

1. Abatements

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____.

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____,

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

**Application For Abatement
Or Refund Of Taxes**

Name of Applicant

Deans & Dorte Adams

County Auditor's File No.

24-144

Date Application Was Filed
With The County Auditor

1/22/24

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Marks Spansky

MB



Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District #1
 County of BURLEIGH Property I.D. No. 0060-021-105
 Name COLLINS, TOMI & SCOTT J Telephone No. _____
 Address PO BOX 851, BISMARCK, ND 58502-0851

Legal description of the property involved in this application:

LOUNSBERRY OUTLOTS Block: 21 BEG 61 FT N OF SW COR N 53 FT E 148.5 FT S 53 FT W 148.5 FT TO BEG

Property Address: 507 N 21ST ST

Total true and full value of the property described above for the year 2023 is:

Land \$ 40,000
 Improvements \$ 155,800
 Total \$ 195,800
 (1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 40,000
 Improvements \$ 121,900
 Total \$ 161,900
 (2)

The difference of \$ 33,900.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

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

Applicant asks that the true and full value be reduced to \$161900.00.

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

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

Signature of Preparer (if other than applicant) _____

Date _____

Signature of Applicant [Signature]

Date 1-10-24

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____.

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____, _____

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

**Application For Abatement
Or Refund Of Taxes**

Name of Applicant

Tom & Scott Collins

County Auditor's File No.

24-1415

Date Application Was Filed
With The County Auditor

1/22/20

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Splanzewski

MP

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____,

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____,

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

**Application For Abatement
Or Refund Of Taxes**

Name of Applicant

Timothy & Sandra Kowalski

County Auditor's File No.

24-1696

Date Application Was Filed
With The County Auditor

1/22/24

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Spangenberg

MS

Application For Abatement Or Refund Of Taxes
North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District #1
County of Burleigh Property I.D. No. 0705-002-090
Name KENNER, TIMARRA & JORDAN Telephone No. _____
Address 1800 HERITAGE AVE, BISMARCK, ND 58501-2162

Legal description of the property involved in this application:

INDIAN HILLS Block: 2 LOT 19

Total true and full value of the property described above for the year 2023 is:

Land \$ 52,000
Improvements \$ 239,600
Total \$ 291,600
(1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 52,000
Improvements \$ 214,800
Total \$ 266,800
(2)

The difference of \$ 24,800.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

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

Applicant asks that the true and full value be reduced to \$266,800.

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

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

Signature of Preparer (if other than applicant) _____

Date _____

Signature of Applicant Timarra Jordan

Date 01/17/2024

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____
City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____,

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

**Application For Abatement
Or Refund Of Taxes**

Name of Applicant

County Auditor's File No.

Date Application Was Filed
With The County Auditor

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Timothy & Jordan Remyer

24-147

1/22/20

Mark Sporskowski
MD

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District #1
County of BURLEIGH Property I.D. No. 0460-013-303
Name BITTNER, ALLEN R & NANCY G Telephone No. _____
Address 2033 N WASHINGTON ST APT 4, BISMARCK, ND 58501-7606

Legal description of the property involved in this application:

REPLAT HOMAN ACRES Block: 13 LOT E OF LOT 1 WASHINGTON COURT CONDOMINIUMS
BUILDING 2033 UNIT 4 & GARAGE 5

Total true and full value of the property described
above for the year 2023 is:

Land \$ 26,000
Improvements \$ 86,400
Total \$ 112,400
(1)

Total true and full value of the property described
above for the year 2023 should be:

Land \$ 26,000
Improvements \$ 86,400
Total Adj \$ 11,240
(2)

The difference of \$ 101,160 true and full value between (1) and (2) above is due to the following reason(s):

- ☐ 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- ☐ 2. Residential or commercial property's true and full value exceeds the market value
- ☐ 3. Error in property description, entering the description, or extending the tax
- ☐ 4. Nonexisting improvement assessed
- ☐ 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
- ☐ 6. Duplicate assessment
- ☐ 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
- ☐ 8. Error in noting payment of taxes, taxes erroneously paid
- ☒ 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application.
- ☐ 10. Other (explain) (HC = 5090) and (Dis Vet - 80% Dis.)

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

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

Applicant asks that the Application be Approved AS presented.

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

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

Signature of Preparer (if other than applicant)

Date

Signature of Applicant

Date

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____.

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____,

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

Application For Abatement Or Refund Of Taxes

Name of Applicant

Allen B & Nancy G. Bittner

County Auditor's File No.

24-169

Date Application Was Filed
With The County Auditor

1/23/24

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Splanskowski

MB

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District 1
County of BURLEIGH Property I.D. No. 0010-009-014
Name PERMAN, TODD Telephone No. _____
Address 1516 E BROADWAY AVE, BISMARCK, ND 58501-4666

Legal description of the property involved in this application:

STURGIS Block: 9 LOTS 7-9

Property Address: 210 N 16th ST

Total true and full value of the property described above for the year 2023 is:

Land \$ 80,900
Improvements \$ 12,600
Total \$ 93,500
(1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 80,900
Improvements \$ 4,300
Total \$ 85,200
(2)

The difference of \$ 8,300.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

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

Applicant asks that Abatement be approved as submitted.

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

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

Signature of Preparer (if other than applicant) _____

Date _____

Signature of Applicant [Signature]

Date 11/5/24

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____.

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____, _____

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

**Application For Abatement
Or Refund Of Taxes**

Name of Applicant

Todd Perman

County Auditor's File No.

24-170

Date Application Was Filed
With The County Auditor

1/23/24

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Splawski
MP

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District 1
County of BURLEIGH Property I.D. No. 0010-009-015
Name PERMAN, TODD & PERMAN, TERRY Telephone No. _____
Address 1516 E BROADWAY AVE, BISMARCK, ND 58501-4666

Legal description of the property involved in this application:

STURGIS Block: 9 LOTS 10-12

Property Address: 1516 E Broadway AVE

Total true and full value of the property described above for the year 2023 is:

Land \$ 80,900
Improvements \$ 101,600
Total \$ 182,500
(1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 80,900
Improvements \$ 91,600
Total \$ 172,500
(2)

The difference of \$ 10,000.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

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

Applicant asks that Abatement be approved as submitted.

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

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

Signature of Preparer (if other than applicant) _____

Date _____

Signature of Applicant [Signature]

Date 1/5/24

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____.

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____,

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

**Application For Abatement
Or Refund Of Taxes**

Name of Applicant

Todd & Terry Permin

County Auditor's File No.

24-171

Date Application Was Filed
With The County Auditor

1/23/24

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Spornowski

msd

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota

Assessment District #1

County of BURLEIGH

Property I.D. No. 1082-004-035

Name DAVIS, HERBERT KLAUS II & BRISTOW, ASHTEN M

Telephone No. _____

Address 518 MUNICH DR, BISMARCK, ND 58504-7037

Legal description of the property involved in this application:

WASHINGTON MEADOWS 2ND
BLOCK: 4
LOT 8

Total true and full value of the property described above for the year 2023 is:

Land	\$ 74,000
Improvements	\$ 243,500
Total	\$ 317,500

Total true and full value of the property described above for the year 2023 should be:

Land	\$ 74,000
Improvements	\$ 243,500
Total Adj	\$ 317,500 (2)

The difference of \$ 94,500 true and full value between (1) and (2) above is due to the following reason(s):

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

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

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

Applicant asks that the application be approved as presented.

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

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

Signature of Preparer (if other than applicant)

Date _____

Signature of Applicant _____

Date _____

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____
On _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____
City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ Approved/Rejected _____ by action of _____ County Board of Commissioners.

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____
County Auditor _____ Chairperson _____

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

Markert Klaus David II & Ashlyn M Bickel
County Auditor _____ Date _____

Application For Abatement
Or Refund Of Taxes

Name of Applicant _____
County Auditor's File No. 24-180
Date Application Was Filed With The County Auditor 1/24/24
Date County Auditor Mailed Application to Township Clerk or City Auditor Mark Sporenburg
(must be within five business days of filing date) MF

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____.

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____, _____

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

Application For Abatement Or Refund Of Taxes

Name of Applicant

County Auditor's File No.

Date Application Was Filed
With The County Auditor

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Spalden

MR

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota

Assessment District

#1

County of

Burleigh

Property I.D. No.

1555-007-030

Name STEWART, KOHL & ANDREA

Telephone No.

Address 4101 DOWNING ST, BISMARCK, ND 58504-8848

Legal description of the property involved in this application:

SOUTHBAY 2ND ADDITION Block: 7 LOT 7 & UNDIVIDED INTEREST IN COMMON AREAS

Total true and full value of the property described above for the year 2023 is:

Land \$ 105,000
Improvements \$ 500,700
Total \$ 605,700
(1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 105,000
Improvements \$ 496,100
Total \$ 601,100
(2)

The difference of \$ 4,600.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

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

Applicant asks that Value be reduced from \$605,700 to \$601,100.

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

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

Signature of Preparer (if other than applicant)

Date

Signature of Applicant

Date

1-22-24
1-22-24

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____
City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____,

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

**Application For Abatement
Or Refund Of Taxes**

Name of Applicant

Kohl & Andrea Stewart

County Auditor's File No.

24-187

Date Application Was Filed
With The County Auditor

1/25/24

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Solarek

MS

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District #1
County of BURLEIGH Property I.D. No. 2310-004-080
Name RUDICK, JAMES W & PEGGY A Telephone No. _____
Address 3009 BALTIMORE DR, BISMARCK, ND 58504-5553

Legal description of the property involved in this application:

COTTONWOOD PARKVIEW ADDITION BLOCK 4 LOT 17

Total true and full value of the property described above for the year 2023 is:

Land \$ 53,300
Improvements \$ 282,300
Total \$ 335,600
(1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 53,300
Improvements \$ 282,300
Total Adj. \$ 283,100
(2)

The difference of \$ 52,500 true and full value between (1) and (2) above is due to the following reason(s):

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

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

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

Applicant asks that the application be approved as presented.

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

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

Signature of Preparer (if other than applicant)

Date

* James W Rudick
Signature of Applicant

Date

01/25/2023 PR

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

**Application For Abatement
Or Refund Of Taxes**

Name of Applicant

James & Peggy Rudick

County Auditor's File No.

24-190

Date Application Was Filed
With The County Auditor

1/25/24

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Spiszewski

MP

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota
County of Borleigh
Name SPEIDEL, KIMBERLY A
Address 2914 E AVENUE B, BISMARCK, ND 58501-3249

Assessment District #1
Property I.D. No. 0410-018-085
Telephone No. -

Legal description of the property involved in this application:

MORNINGSIDE HEIGHTS Block: 18 LOT 18

Total true and full value of the property described above for the year 2023 is:

Land \$ 48,000
Improvements \$ 149,600
Total \$ 197,600
(1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 48,000
Improvements \$ 127,200
Total \$ 175,200
(2)

The difference of \$ 22,400.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

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

Applicant asks that 2023 value be reduced from \$197,600 to \$175,200.

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

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

Signature of Preparer (if other than applicant) _____ Date _____
Signature of Applicant Kim Speidel Date _____

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____, _____

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

**Application For Abatement
Or Refund Of Taxes**

Name of Applicant

Kimberly Speidel

County Auditor's File No.

24-201

Date Application Was Filed
With The County Auditor

1/26/24

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Spaulding

mg

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District #1
County of BURLEIGH Property I.D. No. 1054-006-045
Name RUFF, BRETT & AMY Telephone No. _____
Address 2502 COLONIAL DR, BISMARCK, ND 58503-5804

Legal description of the property involved in this application:

CENTENNIAL PARK 4TH Block: 6 LOT 10

Total true and full value of the property described above for the year 2023 is:

Land \$ 64,000
Improvements \$ 225,500
Total \$ 289,500
(1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 64,000
Improvements \$ 225,500
Total Adj \$ 145,500
(2)

The difference of \$ 144,000 true and full value between (1) and (2) above is due to the following reason(s):

- ☐ 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- ☐ 2. Residential or commercial property's true and full value exceeds the market value
- ☐ 3. Error in property description, entering the description, or extending the tax
- ☐ 4. Nonexisting improvement assessed
- ☐ 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
- ☐ 6. Duplicate assessment
- ☐ 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
- ☐ 8. Error in noting payment of taxes, taxes erroneously paid
- ☒ 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application.
- ☐ 10. Other (explain) (80% Dis)

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

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

Applicant asks that the application be approved as presented

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

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

Signature of Preparer (if other than applicant) _____

Date _____

Signature of Applicant Brett Ruff

Date 11/29/2024

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____.

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____, _____

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

Application For Abatement
Or Refund Of Taxes

Name of Applicant

Brett & Amy Rude

County Auditor's File No.

24-263

Date Application Was Filed
With The County Auditor

2/1/24

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Spensberg

MS

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District #1
County of Burleigh Property I.D. No. 0590-002-085
Name REAL ESTATE BEL LLC Telephone No. _____
Address 1306 HARMON AVE, BISMARCK, ND 58501-2749

Legal description of the property involved in this application:

MEADOW VALLEY Block: 2 LOT 19

Property Address: 500 Columbia DR

Total true and full value of the property described above for the year 2023 is:

Land \$ 52,000
Improvements \$ 281,800
Total \$ 333,800
(1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 52,000
Improvements \$ 138,100
Total \$ 190,100
(2)

The difference of \$ 143,700.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

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

Applicant asks that the market value be reduced as recommended.

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

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

Signature of Preparer (if other than applicant)

Date

Signature of Applicant

Date

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____, _____

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

Application For Abatement
Or Refund Of Taxes

Name of Applicant

County Auditor's File No.

Date Application Was Filed
With The County Auditor

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Real Estate Bel/LLC

24-264

2/17/24

Mark Sparskowsky
MP

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

Assessment District #1

Property I.D. No. 1600-004-135

Telephone No. _____

EDGEWOOD VILLAGE 1ST Block: 4 LOT 25

(2)

☐ 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2

☐ 2. Residential or commercial property's true and full value exceeds the market value

☒ 3. Error in property description, entering the description, or extending the tax

☐ 4. Nonexisting improvement assessed

☐ 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.

☐ 6. Duplicate assessment

☐ 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))

☐ 8. Error in noting payment of taxes, taxes erroneously paid

☐ 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application.

☐ 10. Other (explain) _____

5. The estimated agricultural productive value of this property is excessive because of the following condition(s):

Date _____

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____.

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____,

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

**Application For Abatement
Or Refund Of Taxes**

Name of Applicant

Jon J. Rykowski

County Auditor's File No.

24-265

Date Application Was Filed
With The County Auditor

2/11/24

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Scholten

MS

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District #1
County of BURLEIGH Property I.D. No. 1052-003-035
Name LUND, SEAN G & LISA J Telephone No. _____
Address 647 REGINA LN, BISMARCK, ND 58503-8237

Legal description of the property involved in this application:

HIGH MEADOWS 6TH Block: 3 LOT 8

Total true and full value of the property described above for the year 2023 is:

Land \$ 74.000
Improvements \$ 358.200
Total Adj \$ 342,200
(1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 74.000
Improvements \$ 358.200
Total Re-Adj \$ 324,200
(2)

The difference of \$ 18,000 true and full value between (1) and (2) above is due to the following reason(s):

- ☐ 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- ☐ 2. Residential or commercial property's true and full value exceeds the market value
- ☐ 3. Error in property description, entering the description, or extending the tax
- ☐ 4. Nonexisting improvement assessed
- ☐ 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
- ☐ 6. Duplicate assessment
- ☐ 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
- ☐ 8. Error in noting payment of taxes, taxes erroneously paid
- ☒ 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or **Disabled Veterans Credit (N.D.C.C. § 57-02-08.8)**. Attach a copy of the application.
- ☐ 10. Other (explain) (WAS @ 50% DIS / L - NOW @ 20% DIS)

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

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

Applicant asks that the application be approved as presented.

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

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

Signature of Preparer (if other than applicant) _____

Date _____

Signature of Applicant [Signature]

Date 2/1/24

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

**Application For Abatement
Or Refund Of Taxes**

Name of Applicant

Shirley Lisa Lund

County Auditor's File No.

14-266

Date Application Was Filed
With The County Auditor

2/2/24

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Spanskangki

MP

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota

Assessment District 11

County of Burleigh

Property I.D. No. 0015-003-050

Name LEE, CORINNE J LIVING TRUST

Telephone No. ()

Address 711 N 2ND ST, BISMARCK, ND 58501-3637

Legal description of the property involved in this application:

NORTHERN PACIFIC Block: 3 N 50FT LOT 3

Total true and full value of the property described above for the year 2023 is:

Land \$ 40,000
Improvements \$ 148,400
Total \$ 188,400
(1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 40,000
Improvements \$ 101,000
Total \$ 141,000
(2)

The difference of \$ 47,400 true and full value between (1) and (2) above is due to the following reason(s):

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

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

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

Applicant asks that the market value be reduced as recommended.

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

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

Signature of Preparer (if other than applicant)

Date

Signature of Applicant Corinne Lee

Date 19 JAN '24

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____, _____

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

Application For Abatement Or Refund Of Taxes

Name of Applicant

County Auditor's File No.

Date Application Was Filed
With The County Auditor

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Corinne Lee Living Trust

24-303

2/2/24

Mark Spenslowski

MP

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota

Assessment District #1

County of Burleigh

Property I.D. No. 0400-001-015

Name WALKER, THOMAS S & JOYCE M

Telephone No. _____

Address 324 W TURNPIKE AVE, BISMARCK, ND 58501-1518

Legal description of the property involved in this application:

MARIAN PARK 2ND Block: 1 LOT 5 & EAST 41' OF LOT 6

Total true and full value of the property described above for the year 2023 is:

Land \$ 52,000

Improvements \$ 359,300

Total \$ 411,700

(1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 52,000

Improvements \$ 327,300

Total \$ 379,300

(2)

The difference of \$ 32,400.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

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

Applicant asks that the market value be reduced as recommended.

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

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

Signature of Preparer (if other than applicant)

Date

Signature of Applicant

Date

Joyce M. Walker

2-1-2024

Thomas S. Walker

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____
City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached _____

Dated _____, _____

County Auditor Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor Date

**Application For Abatement
Or Refund Of Taxes**

Name of Applicant

Thomas & Joyce Walker

County Auditor's File No.

24-310

Date Application Was Filed
With The County Auditor

2/5/24

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Splansky

MS

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District #1
County of Burleigh Property I.D. No. 0180-007-020
Name VOGEL, ANNA Telephone No. _____
Address 814 N ANDERSON ST, BISMARCK, ND 58501-3406

Legal description of the property involved in this application:

SASSE Block: 7 LOT 6

Total true and full value of the property described above for the year 2023 is:

Land \$ 44,000
Improvements \$ 167,000
Total \$ 211,000
(1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 44,000
Improvements \$ 137,600
Total \$ 181,600
(2)

The difference of \$ 29,400.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

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

Applicant asks that Value be reduced from \$211,000 to \$181,600.

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

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

Signature of Preparer (if other than applicant)

Date

Signature of Applicant

Date

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

**Application For Abatement
Or Refund Of Taxes**

Name of Applicant

Anna Vogel

County Auditor's File No.

24-311

Date Application Was Filed
With The County Auditor

2/5/24

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Splankowski
MP

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota

Assessment District

#1

County of

Burleigh

Property I.D. No.

0100-014-001

Name ROEMMICH, ETHER

Telephone No.

Address 1306 HARMON AVE, BISMARCK, ND 58501-2749

Legal description of the property involved in this application:

FISHER Block: 14 EAST 80' OF LOTS 1-4

Total true and full value of the property described above for the year 2023 is:

Land \$ 48,000
Improvements \$ 190,700
Total \$ 238,700
(1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 48,000
Improvements \$ 139,600
Total \$ 187,600
(2)

The difference of \$ 51,100.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

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

Applicant asks that the market value be reduced as recommended.

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

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

Signature of Preparer (if other than applicant)

Date

Signature of Applicant

Date

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____

City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____

County Auditor

Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

**Application For Abatement
Or Refund Of Taxes**

Name of Applicant

Ethan Roanich

County Auditor's File No.

24-315

Date Application Was Filed
With The County Auditor

2/5/24

Date County Auditor Mailed
Application to Township
Clerk or City Auditor

(must be within five business days of filing date)

Mark Sparskowski

MP



Police Department

DATE: February 13, 2024

FROM: Dave Draovitch, Police Chief

ITEM: Vendor approval for replacement ballistic plates

REQUEST:

Request permission to purchase replacement special threat ballistic plates through Balco Uniform Inc.

BACKGROUND INFORMATION:

Through the 2023 one-time budget the police department purchased ShotStop special threat ballistic plates from a vendor known as Protector Capital. In October of 2023 ShotStop Ballistics, LLC was dissolved as the result of a federal investigation by the Ohio Department of Homeland Security for fraudulently representing the ballistic certification of certain rifle rated plates. Because of the unknown quality, origination, and certification of our current plates we are requesting to purchase replacement plates from a reputable manufacturer (Safariland) and state contract vendor, Balco Uniform Inc. Balco Uniform Inc. is an authorized and state recognized contractor to sell and distribute the selected special threat plates listed in the North Dakota procurement master service agreement.

RECOMMENDED CITY COMMISSION ACTION:

To avoid unnecessary delays we are requesting the City Commission Grant the police department to utilize Balco Uniform Inc. as the seller and distributor of our replacement special threat plates.

STAFF CONTACT INFORMATION:

Cody Trom, Police Lieutenant, 701-355-1935, ctrom@bismarcknd.gov
Dave Draovitch, Police Chief, 701-355-1866, ddraovitch@bismarcknd.gov

ATTACHMENTS:

None



Police Department

DATE: February 13, 2024

FROM: Dave Draovitch, Police Chief

ITEM: Permission to sell two decommissioned Police vehicles.

REQUEST:

Request to Sell 2 Decommissioned Police Vehicles at Mid State Auto Auction.

BACKGROUND INFORMATION:

Request to sell the two below-listed Police Department vehicles at Mid State Auto Auction. Both vehicles have reached their end of life for departmental use.

- 2012 Dodge Caravan VIN# 2C4RDGBG6CR231803 (Unit# 9577) with 67,901 miles
- 2013 Ford Edge VIN# 2FMDK4KC8DBB74988 (Unit# 9595) with 90,774 miles.

RECOMMENDED CITY COMMISSION ACTION:

Grant the above listed request to sell 2 police vehicles at Mid State Auto Auction.

STAFF CONTACT INFORMATION:

Cody Trom, Police Lieutenant, 701-355-1935, ctrom@bismarcknd.gov

Dave Draovitch, Police Chief, 701-355-1866, ddraovitch@bismarcknd.gov

ATTACHMENTS:

None



Police Department

DATE: February 13, 2024

FROM: Dave Draovitch, Police Chief

ITEM: Permission to sell a decommissioned police vehicle

REQUEST:

Request to send 1 Decommissioned Police Vehicle to Mid-States Auction.

BACKGROUND INFORMATION:

The listed police vehicle has reached its end-of-life for police use. However, if another city department is in need of the vehicle a transfer could be made to another department.

- 2017 Ford Taurus VIN# 1FAHP2MK5HG123940 (Unit #9635 D-17) with approximately 92,000 miles

RECOMMENDED CITY COMMISSION ACTION:

Grant the above listed request.

STAFF CONTACT INFORMATION:

Cody Trom, Police Lieutenant, 701-355-1935, ctrom@bismarcknd.gov

ATTACHMENTS:

None



Police Department

DATE: February 13, 2024

FROM: Dave Draovitch, Police Chief

ITEM: Permission to transfer ownership of damaged Police vehicles.

REQUEST:

Permission to transfer ownership of damaged/salvaged Police vehicles.

BACKGROUND INFORMATION:

I am requesting to transfer ownership of two damaged/salvaged police patrol vehicles. Both vehicles suffered damage on separate dates and different locations within the City of Bismarck, resulting in a total loss. Below is a description of each damaged police vehicle to include date of loss and transfer of ownership. The insurance companies will be paying the City of Bismarck the replacement cost for each vehicle, less depreciation, based on fair market pricing.

- 2021 Ford Explorer VIN# 1FM5K8ABXMGB46557 (Unit# 9692) Car 5 with 62,404 miles-Date of loss was December 16, 2023. Transfer Ownership to the North Dakota Insurance Reserve Fund for Salvage-Claim# 23058996
- 2022 Ford Explorer VIN# 1FM5K8AB0NGA42225 (Unit# 9710) Car 42 with 27,865 miles-Date of loss was December 26, 2023. Transfer Ownership to American Family Insurance-Claim# 01007079737-02.

RECOMMENDED CITY COMMISSION ACTION:

Grant permission to transfer the ownership of both damaged/salvaged police vehicle to the appropriate insurance company.

STAFF CONTACT INFORMATION:

Cody Trom, Police Lieutenant, 701-355-1935, ctrom@bismarcknd.gov

Dave Draovitch, Police Chief, 701-355-1866, ddraovitch@bismarcknd.gov

ATTACHMENTS:

1. Market Valuation Report
2. NDIRF Letter of Total Loss
3. Total Loss Settlement Breakdown



REPORT SUMMARY



CLAIM INFORMATION

Owner	City Of Bismarck Bismarck, ND 58501
Loss Unit	Police 2022 Ford EXPLORER POLICE AWD 6cyl. 3.3l Sport Utility Vehicle
Loss Unit Type	SPECIALTY VEHICLES
Loss Incident Date	12/26/2023
Claim Reported	01/08/2024



INSURANCE INFORMATION

Report Reference Number	116954495
Claim Reference	01007079737-2
Adjuster	Melvin, Kyle
Odometer	27,867
Last Updated	01/09/2024 10:36 AM



VALUATION SUMMARY

Base Value	\$ 28,760.00
Adjusted Value	\$ 28,760.00
Total	\$ 28,760.00

The total may not represent the total of the settlement as other factors (e.g. license and fees) may need to be taken into account.

The CCC ONE® Market Valuation Report reflects CCC Intelligent Solutions Inc.'s opinion as to the value of the loss unit, based on information provided to CCC by AMERICAN FAMILY INSURANCE COMPANY.

BASE VALUE

This is derived from comparable unit(s) available or recently available in the marketplace at the time of valuation, per our valuation methodology described on the next page.

Inside the Report

Valuation Methodology.....	2
Loss Unit Information.....	3
Comparable Units.....	6
Valuation Notes.....	9
Supplemental Information.....	10

VALUATION METHODOLOGY

How was the valuation determined?



CLAIM INSPECTION

AMERICAN FAMILY INSURANCE COMPANY has provided CCC with the zip code where the loss unit is garaged, loss unit VIN, mileage/hours, options and additional equipment, as well as loss unit condition, which is used to assist in determining the value of the loss unit.

DATABASE REVIEW

CCC maintains an extensive database of units that currently are or recently were available for sale in the U.S. This database includes units advertised for sale by dealerships or private parties. All of these sources are updated regularly.

SEARCH FOR COMPARABLES

When a valuation is created the database is searched and comparable units are selected. On current year units, new units for sale at the time of the valuation may have been used. The zip code where the loss unit is garaged determines the starting point for the search. Comparable units are similar to the loss unit based on relevant factors. If a sufficient number of comparable units cannot be located, CCC may also obtain dealer quotations for a unit with attributes as reported by the insurer.

CALCULATE VALUATION

Adjustments to the price of the selected comparable units are made to reflect differences in attributes, including mileage/hours, options, additional equipment, refurbishments, after factory equipment, and condition. Dollar adjustments are based upon market research. Finally, the Base Value is the straight average of the adjusted values of the comparable units. Due to the unique nature of the loss units valued in the Commercial and Recreational Vehicle division, a valuation specialist handles each request individually.

LOSS UNIT INFORMATION

LOSS UNIT DETAILS

Location	Bismarck , ND 58501
VIN	1FM5K8AB0NGA42225
Year	2022
Make	Ford
Model	EXPLORER POLICE AWD
Drivetrain	4X4

LOSS UNIT CONDITION

	Condition
Overall Rating	Average

LOSS UNIT EQUIPMENT

CT - Transmission	AUTOMATIC TRANSMISSION	✓
	4 WHEEL DRIVE	✓
PO - Power	POWER STEERING	✓
	POWER BRAKES	✓
	POWER WINDOWS	✓
	POWER LOCKS	✓
	POWER MIRRORS	✓
	POWER DRIVER SEAT	✓
	POWER TRUNK/LIFTGATE	✓
IS - Seats/Interior	BUCKET SEATS	✓
	CLOTH SEATS	✓
	RECLINING/LOUNGE SEATS	✓
CS - Convenience	AIR CONDITIONING	✓
	DUAL MIRRORS	✓

Vehicles sold in the United States are required to have a manufacturer assigned Vehicle Identification Number(VIN). This number provides certain specifications of the vehicles .

Please review the information in the Loss Unit Information Section to confirm the reported mileage and condition, and to verify that the information accurately reflects the options, additional equipment, refurbishments or other aspects of the loss unit that may impact the value.

AMERICAN FAMILY INSURANCE COMPANY uses condition inspection guidelines to determine the condition of the loss unit prior to the loss. The guidelines describe physical characteristics for the loss unit, for the condition selected based upon age. Inspection Notes reflect observations from the appraiser regarding the loss unit's condition.

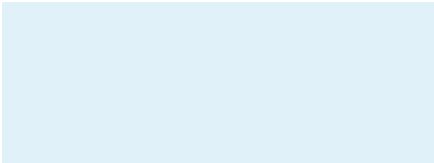
To the left is the equipment of the loss unit that AMERICAN FAMILY INSURANCE COMPANY provided to CCC.

LOSS UNIT EQUIPMENT

	INTERMITTENT WIPERS	✓
	TILT WHEEL	✓
	CRUISE CONTROL	✓
	REAR DEFOGGER	✓
	KEYLESS ENTRY	✓
	HEATED MIRRORS	✓
	MESSAGE CENTER	✓
	STEERING WHEEL TOUCH CONTROLS	✓
	REAR WINDOW WIPER	✓
	TELESCOPIC WHEEL	✓
	CLIMATE CONTROL	✓
	OVERHEAD CONSOLE	✓
CR - Radio	AM RADIO	✓
	FM RADIO	✓
	STEREO	✓
	SEARCH/SEEK	✓
	AUXILIARY AUDIO CONNECTION	✓
CW - Wheels	STYLED STEEL WHEELS	✓
SS - Safety	AIR BAG (DRIVER ONLY)	✓
	PASSENGER AIR BAG	✓
	ANTI-LOCK BRAKES (4)	✓
	4-WHEEL DISC BRAKES	✓
	TRACTION CONTROL	✓
	STABILITY CONTROL	✓
	FRONT SIDE IMPACT AIR BAGS	✓
	HEAD/CURTAIN AIR BAGS	✓
	HANDS FREE	✓
	BACKUP CAMERA	✓
	XENON OR L.E.D. HEADLAMPS	✓
	PARKING SENSORS	✓
OP - Other	PRIVACY GLASS	✓
	REAR SPOILER	✓
	CLEARCOAT PAINT	✓
	METALLIC PAINT	✓

LOSS UNIT EQUIPMENT

TRAILER HITCH	✓
CALIFORNIA EMISSIONS	✓



COMPARABLE UNITS

	Loss Unit	Comp 1	Comp 2
Price		\$33,990	\$25,491
Year/Make/Model	2022 Ford EXPLORER POLICE AWD Police Interceptor	2022 Ford EXPLORER POLICE AWD	2022 Ford EXPLORER POLICE AWD
Trim		Police Interceptor	
Odometer	27,867	3,998	28,428
Configuration			
Model Description	3.3L	3.3L	3.3L
Body Type	SPORT UTILITY VEHICLE	SPORT UTILITY VEHICLE	SPORT UTILITY VEHICLE
Drivetrain	4X4	4X4	4X4
Engine Cylinder	6	6	6
Options			
PS - Power Steering	✓	✓	✓
DG - Head/Curtain Air Bags	✓	✓	✓
TW - Tilt Wheel	✓	✓	✓
TX - Traction Control	✓	✓	✓
PT - Power Trunk/Liftgate	✓	✗	✗
HM - Heated Mirrors	✓	✗	✗
M3 - Auxiliary Audio Connection	✓	✓	✓
PW - Power Windows	✓	✓	✓
PX - Backup Camera	✓	✓	✓
DM - Dual Mirrors	✓	✓	✓
DT - Privacy Glass	✓	✓	✓
MC - Message Center	✓	✓	✓
AB - Anti-Lock Brakes (4)	✓	✓	✓
AC - Air Conditioning	✓	✓	✓
MP - Metallic Paint	✓	✗	✗
4W - 4 Wheel Drive	✓	✓	✓
AG - Drivers Side Air Bag	✓	✓	✓
IP - Clearcoat Paint	✓	✓	✓
EM - California Emissions	✓	✓	✓
AM - AM Radio	✓	✓	✓
IW - Intermittent Wipers	✓	✓	✓

Comp 1 Updated Date: 11/21/2023

**2022 Ford EXPLORER POLICE AWD
Police Interceptor**

VIN 1FM5K8AB6NGB31734

**Dealership BROWNS WEST BRANCH
F**

Location West Branch, IA

Telephone (319) 253-2778

Source Dealer Ad

Stock # AP4628

Comp 2 Updated Date: 01/09/2024

2022 Ford EXPLORER POLICE AWD

VIN 1FM5K8AB4NGA15898

Dealership COLUMBIA MOTORS

Location Beaverton, OR

Telephone (971) 213-3316

Source Dealer Ad

Stock # A15898

Comparables used in the determination of the Base Value are not intended to be replacement units but are reflective of the market value, and may no longer be available for sale.

Price is the amount that the dealership will accept to sell the unit, though a lower price may be obtainable through negotiation.

COMPARABLE UNITS

	Loss Unit	Comp 1	Comp 2
RD - Rear Defogger	✓	✓	✓
AT - Automatic Transmission	✓	✓	✓
RG - Passenger Air Bag	✓	✓	✓
RL - Reclining/Lounge Seats	✓	✓	✓
FM - FM Radio	✓	✓	✓
BS - Bucket Seats	✓	✓	✓
SE - Search/Seek	✓	✓	✓
SL - Rear Spoiler	✓	✓	✓
WP - Rear Window Wiper	✓	✓	✓
KE - Keyless Entry	✓	✗	✗
T1 - Stability Control	✓	✓	✓
SP - Power Driver Seat	✓	✓	✓
CC - Cruise Control	✓	✓	✓
ST - Stereo	✓	✓	✓
SY - Styled Steel Wheels	✓	✓	✓
CL - Climate Control	✓	✓	✓
CO - Overhead Console	✓	✓	✓
XE - Xenon Or L.e.d. Headlamps	✓	✓	✓
XG - Front Side Impact Air Bags	✓	✓	✓
CS - Cloth Seats	✓	✓	✓
PB - Power Brakes	✓	✓	✓
TH - Trailer Hitch	✓	✓	✓
TL - Telescopic Wheel	✓	✓	✓
PJ - Parking Sensors	✓	✗	✗
PL - Power Locks	✓	✓	✓
PM - Power Mirrors	✓	✓	✓
TQ - Steering Wheel Touch Controls	✓	✓	✓
HF - Hands Free	✓	✓	✓
DB - 4-Wheel Disc Brakes	✓	✓	✓

Condition	Average	Average	Average
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Adjustments:

Options

HM - Heated Mirrors	\$ 66	\$ 66
KE - Keyless Entry	\$ 150	\$ 150
PJ - Parking Sensors	\$ 100	\$ 100
Odometer	- \$ 2,648	\$ 55

Condition

 COMPARABLE UNITS

Adjusted Comparable Value	\$31,658	\$25,862
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VALUATION NOTES

01/08/2024 16:54 - STANDARD EQUIPMENT: 4W, AB, AC, AG, AM, AT, BS, CC, CL, CO, CS, DB, DG, DM, DT, EM, FM, HF, IP, IW, M3, MC, PB, PL, PM, PS, PW, PX, RD, RG, RL, SE, SL, SP, ST, SY, T1, TH, TL, TQ, TW, TX, WP, WU, XE, XG

01/08/2024 16:53 - LOSS VEHICLE AVERAGE MILEAGE: 22742

This Market Valuation Report has been prepared exclusively for use by AMERICAN FAMILY INSURANCE COMPANY, and no other person or entity is entitled to or should rely upon this Market Valuation Report and/or any of its contents. CCC is one source of valuations, and there are other valuation sources available.

SUPPLEMENTAL INFORMATION



LOSS UNIT HISTORY SUMMARY

Experian AutoCheck

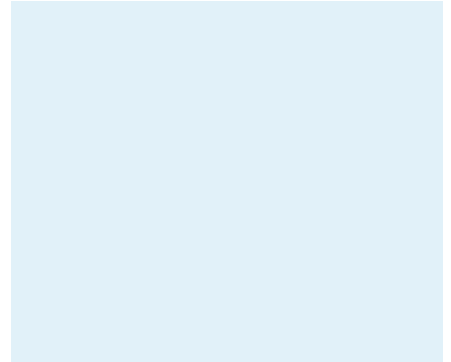
No Title Problem Found



LOSS UNIT HISTORY INFORMATION

VINGuard®

VINGuard® Message: VINGuard has decoded this VIN without any errors



SUPPLEMENTAL INFORMATION

SUPPLEMENTAL INFORMATION



EXPERIAN® AUTOCHECK® VEHICLE HISTORY REPORT

TITLE CHECK	RESULTS FOUND
Abandoned	✓ No Abandoned Record Found
Damaged	✓ No Damaged Record Found
Fire Damage	✓ No Fire Damage Record Found
Grey Market	✓ No Grey Market Record Found
Hail Damage	✓ No Hail Damage Record Found
Insurance Loss	✓ No Insurance Loss Record Found
Junk	✓ No Junk Record Found
Rebuilt	✓ No Rebuilt Record Found
Salvage	✓ No Salvage Record Found
EVENT CHECK	RESULTS FOUND
NHTSA Crash Test Vehicle	✓ No NHTSA Crash Test Vehicle Record Found
Frame Damage	✓ No Frame Damage Record Found
Major Damage Incident	✓ No Major Damage Incident Record Found
Manufacturer Buyback/Lemon	✓ No Manufacturer Buyback/Lemon Record Found
Odometer Problem	✓ No Odometer Problem Record Found
Recycled	✓ No Recycled Record Found
Branded Title Auction	✓ No Branded Title Auction Record Found
Water Damage	✓ No Water Damage Record Found
VEHICLE INFORMATION	RESULTS FOUND
Accident	✓ No Accident Record Found
Corrected Title	✓ No Corrected Title Record Found
Driver Education	✓ No Driver Education Record Found
Duplicate Title	✓ No Duplicate Title Record Found
Emissions Safety Inspection	✓ No Emissions Safety Inspection Record Found
Fire Damage Incident	✓ No Fire Damage Incident Record Found
Lease	✓ No Lease Record Found
Lien	✓ No Lien Record Found
Livery Use	✓ No Livery Use Record Found
Government Use	✓ No Government Use Record Found
Police Use	✓ No Police Use Record Found
Fleet	✓ No Fleet Record Found
Rental	✓ No Rental Record Found
Fleet and/or Lease	✓ No Fleet and/or Lease Record Found
Fleet and/or Rental	✓ No Fleet and/or Rental Record Found
Repossessed	✓ No Repossessed Record Found
Taxi use	✓ No Taxi use Record Found
Theft	✓ No Theft Record Found

CCC provides AMERICAN FAMILY INSURANCE COMPANY information reported by Experian® regarding the 2022 Ford EXPLORER POLICE AWD 6cyl. 3.3l (1FM5K8AB0NGA42225). This data is provided for informational purposes. Unless otherwise noted in this Market Valuation Report, CCC does not adjust the value of the loss unit based upon this information.

LEGEND :

- ✓ No Event Found
- ⊘ Event Found
- 📄 Information Needed

TITLE CHECK

THIS VEHICLE CHECKS OUT

AutoCheck's result for this loss unit show no significant title events. When found, events often indicate automotive damage or warnings associated with the unit.

EVENT CHECK

THIS VEHICLE CHECKS OUT

AutoCheck's result for this loss unit show no historical events that indicate a significant automotive problem. These problems can indicate past previous car damage, theft, or other significant problems.

VEHICLE INFORMATION

THIS VEHICLE CHECKS OUT

AutoCheck's result for this loss unit show no vehicle information that indicate a significant automotive problem. These problems can indicate past previous car damage, theft, or other significant problems.

ODOMETER CHECK

THIS VEHICLE CHECKS OUT

AutoCheck's result for this loss unit show no indication of odometer rollback or tampering was found. AutoCheck determines odometer rollbacks by searching for records that indicate odometer readings less than a previously reported value. Other odometer events can report events of tampering, or possible odometer breakage.

SUPPLEMENTAL INFORMATION



FULL HISTORY REPORT RUN DATE: 01/09/2024

Below are the historical events for this vehicle listed in chronological order.

EVENT DATE	EVENT LOCATION	ODOMETER READING	DATA SOURCE	EVENT DETAIL
			Independent Source	Vehicle Manufactured and Shipped to Dealer
01/19/2022	IL	7	Auto Auction	Reported at Auto Auction
07/12/2022	BISMARCK, ND	261	Motor Vehicle Dept.	Title (Lease Reported)
10/09/2023			Manufacturer	Manufacturer Recall

AUTOCHECK TERMS AND CONDITIONS:

Experian's Reports are compiled from multiple sources. It is not always possible for Experian to obtain complete discrepancy information on all vehicles; therefore, there may be other title brands, odometer readings or discrepancies that apply to a vehicle that are not reflected on that vehicle's Report. Experian searches data from additional sources where possible, but all discrepancies may not be reflected on the Report.

These Reports are based on information supplied to Experian by external sources believed to be reliable, BUT NO RESPONSIBILITY IS ASSUMED BY EXPERIAN OR ITS AGENTS FOR ERRORS, INACCURACIES OR OMISSIONS. THE REPORTS ARE PROVIDED STRICTLY ON AN "AS IS WHERE IS" BASIS, AND EXPERIAN FURTHER EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE REGARDING THIS REPORT.

YOU AGREE TO INDEMNIFY EXPERIAN FOR ANY CLAIMS OR LOSSES, INCLUDING COSTS, EXPENSES AND ATTORNEYS FEES, INCURRED BY EXPERIAN ARISING DIRECTLY OR INDIRECTLY FROM YOUR IMPROPER OR UNAUTHORIZED USE OF AUTOCHECK VEHICLE HISTORY REPORTS.

Experian shall not be liable for any delay or failure to provide an accurate report if and to the extent which such delay or failure is caused by events beyond the reasonable control of Experian, including, without limitation, "acts of God", terrorism, or public enemies, labor disputes, equipment malfunctions, material or component shortages, supplier failures, embargoes, rationing, acts of local, state or national governments, or public agencies, utility or communication failures or delays, fire, earthquakes, flood, epidemics, riots and strikes.

These terms and the relationship between you and Experian shall be governed by the laws of the State of Illinois (USA) without regard to its conflict of law provisions. You and Experian agree to submit to the personal and exclusive jurisdiction of the courts located within the county of Cook, Illinois.



January 29, 2024

BISMARCK POLICE DEPARTMENT
ATTN: CODY TROM

SENT VIA EMAIL AT CTROM@BISMARCKND.GOV

RE: POOL MEMBER: Bismarck, City Of
CLAIMANT: Bismarck, City Of
DATE OF LOSS: 12/16/2023
NDIRF CLAIM NO: 23058996-2

Dear Cody,

The 2021 Ford Explorer (Police), last 5 of VIN 46557, is a total loss. You elected not to retain the salvage. We are requesting the title be released, appropriately signed, and sent to us so the salvage can be processed.

Please contact me to discuss any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Jordan Wahl", is written over a light blue horizontal line.

Jordan Wahl
Claims Adjuster
Jordan.Wahl@NDIRF.com
701-751-9109
NORTH DAKOTA INSURANCE RESERVE FUND

For North Dakota. For Local Government. For You.

PO Box 2258 • Bismarck, ND 58502 • ND WATS: 1-800-421-1988 • Local: 224-1988 •
Fax: 1-701-224-0609 • www.ndirf.com



6000 AMERICAN PARKWAY
MADISON, WI 53783-0001

Underwritten By:
American Family Insurance Company
Tel: 1-800-MY AMFAM (1-800-692-6326)
Fax: 1-866-935-2858

CITY OF BISMARCK
PO BOX 5503
221 N 5TH ST
BISMARCK, ND 58506-5503

Claim Number:	01-007-079737
Date Of Loss:	12/26/2023
Policy Number:	410568491599
Policyholder:	Bethany Alyea And Billy Alyea

February 7, 2024

Dear City Of Bismarck,

This correspondence contains important information regarding your Vehicle claim. Please review and respond accordingly.

Regarding **Year:** 2022 **Make:** Ford Truck **Model:** Explorer 4d 4x4 **VIN:** 1FM5K8AB0NGA42225 **Mileage:** 27,867

This notice serves as confirmation the 2022 Ford Truck Explorer 4d 4x4 has been deemed a total loss by American Family Insurance Company due to the events on the above referenced date of loss. The cause of loss for this vehicle was Collision with Motor Vehicle/Watercraft.

These values represent for when American Family Insurance Company retains the vehicle.

- At the time of loss, the Actual Cash Value (ACV) of your vehicle was \$37,685.70.
- **The final net payment for this vehicle will be \$37,685.70.**

In order for us to issue payment, we need you to provide us with the following documents:

- **Certificate of Title:** This is your vehicle title, and should be signed by all persons named as owners. Please sign on the "Signature of Seller" line, and ensure all signatures appear the same as the printed names on the title.

Please mail the original, signed title to Copart, Attention Title Department, Post Office Box 169, Avon, MN 56310.

We are committed to providing excellent customer service and are here to assist you. Please contact us with any questions you may have.

Sincerely,

Kimberly Beloate

Kimberly Beloate
Senior Desk Adjuster
AFICS on behalf of American Family Insurance Company
Kimberly.Beloate@afics.com
Phone: 1-608-722-2082 | Fax: 1-866-935-2858
Mail: 6000 American Parkway, Madison, WI 53783-0001

Total Loss Frequently Asked Questions (FAQ)

Based on the estimate that has been completed on your vehicle, the vehicle has been deemed to be a total loss. Your total loss adjuster is here to assist you with the total loss process and below, you will find answers to some frequently asked questions.

1. What is a total loss?

A vehicle is considered a total loss if the vehicle cannot safely be repaired, the cost to repair exceeds the state's threshold to repair, or the cost to repair the vehicle, along with associated cost such as rental, towing, and storage, equal or exceed the value of the vehicle at the time of the loss.

2. How is the value of my vehicle determined?

A market search will look at comparable vehicles in your local market area and what those vehicles are selling for. It also takes into consideration your vehicle's condition, mileage, options and any prior damage. A copy of this evaluation will be provided along with your settlement letter.

3. What are the next steps once my vehicle is deemed a total loss?

Once your vehicle has been inspected, a total loss adjuster will contact you to go over the value of the vehicle and the total loss process. If your vehicle has not already been moved to the salvage yard, we will need you to clean out all your personal belongings, including any paperwork, and advise your adjuster that the vehicle is ready to be picked up. In some states, you may also need to remove your license plate(s). If your vehicle is located at a tow yard or body shop, be sure to advise them that **American Family Insurance Company** has permission to pick up your vehicle.

The vehicle title, being in your name, is required to resolve your total loss. Separate from the evaluation and offer letter, you will receive a total loss packet from the title department, via mail or email, advising of the paperwork that needs to be completed and sent in to conclude your total loss.

4. Will the total loss vehicle be automatically removed from my policy?

If you are insured with American Family Insurance Company, your vehicle being deemed a total loss will not automatically remove the vehicle from the policy. You can contact policy services at 1-800-MY AMFAM (1-800-692-6326) or visit AmFam.com at your earliest convenience to replace the vehicle on your policy. You can also make changes to your policy utilizing American Family Insurance Company's Mobile App.

If you are not insured with American Family Insurance Company, please contact your own carrier once payment has been issued and advise them that your vehicle has been deemed a total loss.

5. What if I still owe money on my vehicle?

If you are currently making payments on your vehicle, we will need to obtain the name, phone number, and account number for the lienholder where you make your payments. In states where the lienholder keeps the title, a power of attorney form will be sent to you to complete and return for the title transfer process. If you have the title to your vehicle, the vehicle title will be required to resolve your total loss.

6. What if I want to retain my vehicle after it has been deemed a total loss?

Each state has its own laws and regulations to determine if you are able to keep a vehicle once it has been deemed a total loss. A salvage value may also be deducted from the settlement. If you are still making payments on your vehicle, the loan company will need to be involved in this process. Please contact your total loss adjuster for additional information specific to your claim.

7. Can I get a rental vehicle?

For those that are insured with American Family Insurance Company, a rental will be afforded based on the coverages purchased and displayed on your Declarations Page. To keep your rental covered during the processing of your claim, your policy must remain active.

If you are not insured with American Family Insurance Company, you are eligible for a rental vehicle for a reasonable amount of time once coverage and liability are in order.

If a rental is provided as part of your claim, the total loss adjuster will advise you of the rental last day. Rental last days are determined based on reasonable claims expectations and state laws and regulations.

8. How long with the total loss process take?

We work diligently to resolve your total loss claim as quickly as possible. The faster we are able to get any requested information and the correctly completed total loss paperwork from you and, if applicable, your lienholder, the faster we are able to issue payment.

9. What is the quickest way to get my claim paid?

Any funds not being sent to the lienholder are eligible to be disbursed via various electronic funds transfer (EFT) methods. To set up your claim for EFT, you will need to give consent for email communication prior to the payment being issued. Once payment has been issued, you will receive an email communication prompting you to log into a secure website and select your preferred EFT method. Contact your Total Loss Adjuster to update your email consent. Paper checks are also an available form of payment and are delivered through standard mail.



Public Works Service Operations

DATE: February 13, 2024

FROM: Steve Salwei, Director Public Works Services

ITEM: Permission to request donations for the Forestry Division's 2024 Partners In Planting and Arbor Day Fund.

REQUEST:

Permission to request donations for the Forestry Division's 2024 Partners In Planting and Arbor Day Fund.

BACKGROUND INFORMATION:

Each year, the Forestry Division uses corporate sponsorship in the form of donations to encourage street tree planting along Bismarck's roadways. These corporate sponsorships are matched with City funds to provide a 50% match with a maximum of a \$100 per tree rebate. This program has been very successful and continues to provide property owners with an opportunity to recover some of their costs for planting street trees.

The Arbor Day donation allows Bismarck the opportunity to celebrate Bismarck's Tree City designation and promote tree planting in our community. The donations are used to purchase plaques for outstanding commercial landscaping, recognition of volunteers who planted trees in Bismarck under the Forestry Division's guidance, purchasing of the Arbor Day tree, Apple Seed awards, dedication plaque, printing of the Arbor Day celebration program, and billboard advertising promoting Arbor Day in Bismarck.

Both of these programs are in the Forestry Division's 2024 budget. These donations will be requested from February 2024 thru December 2024. Bismarck businesses will be contacted by a letter from the City Forester asking for their support of these programs.

RECOMMENDED CITY COMMISSION ACTION:

Grant permission to the Forestry Division to request donations for its 2024 Partners in Planting Program and Arbor Day Fund.

STAFF CONTACT INFORMATION:

Christy Ames-Davis, Forestry Programs Coordinator, 701-355-1723, comes@bismarcknd.gov

ATTACHMENTS:

None



Public Works Service Operations

DATE: February 13, 2024

FROM: Steve Salwei, Director Public Works Services

ITEM: Permission to appoint members to the Forestry Advisory Board.

REQUEST:

Consider appointing Mr. Mitch Becker, Mrs. Amy Sakariassen, and Mr. Brian Houle to serve on the Forestry Advisory Board.

BACKGROUND INFORMATION:

If confirmed by the Board of City Commissioners, Mr. Becker and Mrs. Sakariassen's terms would begin January 1, 2024. Both would be appointed for terms of 4 years with terms expiring December 31, 2027.

If confirmed, Mr. Brian Houle will be serving the remainder of a vacated term expiring December 31, 2024.

RECOMMENDED CITY COMMISSION ACTION:

It is recommended that Mr. Becker and Mrs. Sakariassen be appointed to serve on the Forestry Advisory Board for terms expiring December 31, 2027.

It is also recommended that Mr. Brian Houle be appointed to serve the remainder of a vacated position of the Forestry Advisory Board for a term expiring December 31, 2024.

STAFF CONTACT INFORMATION:

Douglas Wiles, City Forester, 701-355-1722, dwiles@bismarcknd.gov

ATTACHMENTS:

None



Public Works Service Operations

DATE: February 13, 2024

FROM: Steve Salwei, Director Public Works Services

ITEM: Free Disposal at the Landfill for Bismarck residents during Spring and Fall Clean-up Weeks

REQUEST:

Request City Commission approval to offer Bismarck residents free disposal at the landfill, excluding tires, for the 2024 Spring and Fall clean-up weeks by presenting their most recent City of Bismarck utility bill or current driver's license, and to offer free curbside pickup during the Spring clean-up week.

BACKGROUND INFORMATION:

The 2024 clean-up weeks are scheduled for April 15-19 (Spring) and September 16-19 (Fall). In an effort to accommodate residents who wish to utilize the landfill in lieu of curb pick-up during clean-up week, I recommend allowing Bismarck residents who present their most recent City of Bismarck utility bill or current driver's license indicating a Bismarck address, free disposal, excluding tires, at the landfill during the weeks in which the clean-up is held. Residents may dispose of tires at the landfill, but normal disposal fees will apply. The City will also offer free curbside pickup during the Spring clean-up week. This is a change from previous years, where we provided curbside pickup during both the spring and fall clean-up weeks.

RECOMMENDED CITY COMMISSION ACTION:

Approval to allow free disposal at the landfill, excluding tires, during the weeks in which the 2024 Spring and Fall clean-up weeks are held, for Bismarck residents presenting their most recent City of Bismarck utility bill or current driver's license.

STAFF CONTACT INFORMATION:

Steve Salwei, Director Public Works Services, 701-355-1705, ssalwei@bismarcknd.gov

ATTACHMENTS:

None



Public Works Service Operations

DATE: February 13, 2024

FROM: Steve Salwei, Director Public Works Services

ITEM: Sale of Fleet Assets at Public Auction and Function/Procure Under Contracts

REQUEST:

Request Permission to Sell Fleet Assets and Function/Procure Under Contracts

BACKGROUND INFORMATION:

Request permission to sell the assets from Solid Waste Disposal and Roads and Streets divisions as listed. We are also requesting permission to function and procure under the Contracts listed for the 2024 Fiscal Year.

RECOMMENDED CITY COMMISSION ACTION:

Approve the sale of Fleet Assets at Public Auction and Function and Procure Under Contracts for the 2024 Fiscal Year.

STAFF CONTACT INFORMATION:

Steve Salwei, Director Public Works Services, 701-355-1705, ssalwei@bismarcknd.gov

ATTACHMENTS:

1. Fleet - Sale of Assets at Public Auction & Function-Procure under Contracts 20230213

Request permission to sell the following assets at Public Auction

Division: Solid Waste Disposal Unit: 3210 Asset Number: 6652 Year: 1992 Make: Caterpillar Model: 627E VIN: 7CG00868 Hours: 19,113 Division: Solid Waste Disposal Unit: 3238 Asset Number: Year: 2008 Make: Ford Model: F250 VIN: 1FTNF21518EC38853 Miles: 40,767 Division: Roads and Streets Unit: 1543 Asset Number: 8737 Year: 2000 Make: Caterpillar Model: 143H VIN: 1AL00863 Hours: Shown 4499 Hr. Actual Est. 5500 Hrs. (due to meter replacement)	Division: Roads and Streets Unit: 1520 Asset Number: 8960 Year: 2005 Make: John Deere Model: 544J VIN: DW544JZ597675 Hours: 10,510 Attachment: JRB 3.0 Yard Yellow Bucket Division: Roads and Streets During the past 3 years Roads and Streets has replaced Frontend Loaders and, in the process, has updated the quick hitch systems. The following items no longer work with the updated hitch system and can be retired and sold at Public Auction • Sell (1) one used “Hot Mix” 3.0 Yard Bucket Serial Number 148718 • Sell (1) one used 3.0 Yard Front End Loader Bucket Unit: 1681 Make: JRB Model: 3.0 Yard Serial Number: J00005481-1
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Request permission to function and procure under the following Contracts for the 2024 Fiscal Year

Annual Contacts for Fleet Services Operations

2024		
Company	Contract Information	Items Purchased
Fastenal	Sourcewell 0914922-FAS	Supplies/hardware/Safety supplies
Napa	Vehicles - Auto Parts - Light Duty (NASPO Value Point) 373	Automotive parts and Supplies
Factory Motor Parts	Vehicles - Auto Parts - Light Duty (NASPO Value Point) 373	Automotive parts and Supplies
Northwest Tire Inc #20 Bismarck	123165 ND State Contract	Tires and Tubes
Northwest Tire Inc #23 Bismarck	123167 ND State Contract	Tires and Tubes
Northwest Tire Inc #8 Bismarck	123203 ND State Contract	Tires and Tubes

Brands		
Bridgestone	Tires, Tubes and Services (NASPO Value Point) 041	Tires and Tubes
Goodyear	Tires, Tubes and Services (NASPO Value Point) 041	Tires and Tubes
Continental Tire	Tires, Tubes and Services (NASPO Value Point) 041	Tires and Tubes
Gov Deals	Auction Services - Online (NASPO Value Point) 468	Auction Services

Procurement Contracts		
Sourcewell	Various Contracts preapproved through Sourcewell	Equipment and Supplies
Minnesota State Contracts	Various Contracts preapproved through Minnesota State Contracts	Equipment and Supplies
GSA (Federal Government)	Various Contracts preapproved through General Services Administration	Equipment and Supplies
Omnia	Various Contracts preapproved through Omnia	Equipment and Supplies
Houston Galveston Area Contracts	Various Contracts preapproved through HGCA	Equipment and Supplies
North Dakota State Contracts	Various Contracts preapproved through ND State Contracts	Equipment and Supplies



Public Works Service Operations

DATE: February 13, 2024

FROM: Steven Salwei, Director Public Works Services

ITEM: Approve Fuel Bid Award to Farstad Oil, Inc.

REQUEST:

Request permission to award the bid for Diesel Fuel and Gasoline Supplies to Farstad Oil, Inc.

BACKGROUND INFORMATION:

A request for proposal for furnishing Diesel Fuel and Gasoline Supplies for a one (1) year period starting in 2024 and automatically renew for four (4) additional one-year periods for the City of Bismarck was opened and reviewed on January 29, 2024. Two vendors submitted bids. We recommend accepting the low bid and award to Farstad Oil, Inc. with the Rack Price of +\$0.01/gallon. The bid tab and RFP are attached.

RECOMMENDED CITY COMMISSION ACTION:

Approve the bid award for Diesel Fuel and Gasoline Supplies to Farstad Oil, Inc.

STAFF CONTACT INFORMATION:

Steven Salwei, Director Public Works Services, 701-355-1705, ssalwei@bismarcknd.gov

ATTACHMENTS:

1. Bid Tab - Furnishing Diesel Fuels And Gasoline Supplies
2. Fuel Bid Proposal for 2024

CITY OF BISMARCK PUBLIC WORKS DEPARTMENT
PO BOX 5503 -BISMARCK ND 58506-5503

BIDS RECEIVED: 10:00 am CT Monday, January 29, 2024
BIDS OPENED: 11:00 am CT Monday, January 29, 2024

Furnishing Diesel Fuels And Gasoline Supplies
BID TABULATION

	VENDOR:	Farstad Oil, Inc.	Tri Energy Cooperative
Product	Description	Rack +/-	Rack +/-
Diesel	#1	+ <u>\$0.01</u> /gal	+ <u>\$0.02</u> /gal
Diesel	#1 Dyed		
Diesel	#2		
Diesel	#2 Dyed		
Gasoline	E87 Unleaded Gasoline		

**PROPOSAL
FOR
FURNISHING DIESEL FUELS AND GASOLINE SUPPLIES
CITY OF BISMARCK
2024**

**PUBLIC WORKS DEPARTMENT
BISMARCK, NORTH DAKOTA**

**BIDS RECEIVED
January 29, 2024
10:00 AM**

**BIDS OPENED
January 29, 2024
11:00 AM**

ADVERTISEMENT

The City of Bismarck is seeking cost proposals from qualified suppliers or their representatives for Furnishing Diesel Fuels and Gasoline supplies for a one (1) year period starting in 2024 and automatically renew for four (4) additional one-year periods. Proposals for the Furnishing Diesel Fuels and Gasoline supplies for the City of Bismarck will be received by the Board of City Commissioners of the City of Bismarck in the office of the City Administrator, until 10:00 a.m. on Monday, January 29, 2024. Bids will be publicly opened and reviewed at 11:00 a.m. on Monday, January 29, 2024.

The proposals must be mailed to the City Administrator Office (PO Box 5503, Bismarck ND 58506-5503) or otherwise deposited with the City Administrator Office (221 North Fifth Street, Bismarck ND 58501) and shall be sealed and endorsed "Furnishing Diesel Fuels and Gasoline Supplies for 2024." If a bid is to be faxed, the bid must be sent to a bidder's agent independent of the City of Bismarck, placed in a sealed envelope, labeled according to this specification, and delivered to the office of the City Administrator prior to the bid deadline.

Bids must be submitted on blanks furnished by the City of Bismarck and in accordance with specifications and conditions therein contained. Copies of proposal blanks and specifications may be downloaded from the website or obtained from the Public Works Service Operation, 601 S 26th St, Bismarck ND 58504, or Gale Nicholson, publicworksservice@bismarcknd.gov or 701-355-1707. All bidders are invited to be present at the opening of proposals.

The right is reserved to hold all bids for a period of forty-five (45) days, to reject any and all bids, to waive technicalities or to accept such as may be determined to be for the best interest of the City of Bismarck.

CITY OF BISMARCK
Jason Tomanek
Acting City Administrator

Adv 1/12 & 1/19

GENERAL CONDITIONS

The Standard Specifications described below, the plans, and all supplementary documents are essential parts of the contract, and a requirement occurring in one is as binding as though occurring in all.

The Detailed Minimum Specifications described below, are to be met or exceeded. The SUPPLIER must provide in writing the information, specs, and a reason for the deviation or any alternative from the Detailed Minimum Specifications.

The SUPPLIER shall take no advantage of any apparent error or omission in the plans or specifications. In the event the SUPPLIER discovers such an error or omission, the SUPPLIER shall immediately notify the Public Works Director of Service Operations. The Public Works Director of Service Operations will then make such corrections and interpretations as may be necessary for fulfilling the intent of the plans and specifications.

The SUPPLIER shall give the work the constant attention necessary to facilitate the progress thereof and shall cooperate with the Public Works Director of Service Operations, inspectors, and other SUPPLIERS in every way possible.

INSURANCE REQUIREMENTS: All delivery vehicles going onto city property (whether owned or contracted) must be properly licensed and insured to operate in the state of North Dakota. All vehicles must carry at least the following insurance coverage:

SUPPLIER shall provide a certificate of insurance prior to starting the work. The City of Bismarck shall be named as an additional insured with waiver of subrogation on the policy for the duration of this contract. The City shall be immediately notified of any cancellation or cessation of insurance coverage.

Comprehensive Liability Insurance	
Bodily Injury	\$ 500,000 Each Person \$2,000,000 Each Occurrence
Property Damage	\$2,000,000 Each Occurrence

Comprehensive Automobile Liability	
Bodily Injury	\$ 500,000 Each Person \$2,000,000 Each Accident
Property Damage	\$2,000,000 Each Occurrence

Note:

- A. Comprehensive General Liability must be provided by the company contracting with the City of Bismarck for this contract.
- B. If other entities are providing delivery services, Supplier must insure that their subcontractors will be responsible for the insurance with limits as listed above to make the City whole in the event of a claim or that the Supplier will be responsible.
- C. All above dollar values are in United States dollars.

The successful Supplier may need to provide a Delegation of Authority documentation showing who can sign on behalf of the company with the signed contract.

Delegation of Authority

- INC - president & vice president, secretary, and treasurer can sign. Others would need a show a delegation of authority to sign.
- LLC - Member, Managing Member, Officer (like President, VP, Sec/Treas) are OK with Inc's or LLC. Others would need to show a delegation of authority to sign.
- If not an LLC or Inc they are a DBA (doing business as) so they would be signing as an individual, so contract is in "persons name" and DBA "name of company."

STANDARD SPECIFICATIONS

The CITY OF BISMARCK has a need for the Furnishing of Diesel Fuels and Gasoline supplies, as required. The term of the agreement shall be for one (1) year and shall automatically renew for four (4) additional one-year periods unless either party shall have cancelled the agreement by giving the other party 30 days written notice of cancellation.

The contract shall include both Diesel Fuels and Gasoline. A SUPPLIER is required to bid on all products listed to have a valid bid. Bid bonds are not required to be submitted with the bid. A fax or scanned and emailed bid is acceptable if sent to a third party and not directly to the City of Bismarck. The third party is then responsible for the delivery of the bid to the City of Bismarck prior to the date and time listed for the receipt of bids. Label the bid envelope "Diesel Fuels and Gasoline Supplies for 2024."

Delivery of Diesel Fuel and Gasoline products shall occur within 24 hours of receipt of written notice to deliver. Notice to deliver may include the call for various types and quantities of Diesel Fuel and/or Gasoline to be received at the Department of Public Works Location located at 601 South 26th Street, Bismarck ND 58504 or the Bismarck Landfill Location located at 2111 North 52nd Street, Bismarck ND 58501 as directed by the CITY OF BISMARCK.

There will be no guarantee as to the quantity of Diesel Fuels and Gasoline required as such material shall be based on need.

DETAILED MINIMUM SPECIFICATIONS

FURNISHING DIESEL FUELS AND GASOLINE SUPPLIES **FOR 2023 and 2024**

#1 Diesel Fuel

- 1) Both Clear and Dyed Diesel
- 2) The fuel must meet a POUR POINT of -45 deg. F or greater.
- 3) The fuel must meet a CLOUD POINT of -10 deg. F or greater.
- 4) The fuel must meet a CFPP (Cold Filter Plug Point) of -30 deg. F or better.
- 5) The fuel must have a LUBRICITY by HFRR (High Frequency Rotating Rig) with a minimum of 430.
- 6) The fuel must be delivered to our site within 24 hours of the order being placed unless delivery arrangements are pre-approved.
- 7) The fuel must meet any and all federal guidelines.

#2 Diesel Fuel

- 1) Both Clear and Dyed Diesel
- 2) The fuel must meet a **POUR POINT** of 0 deg. F or greater.
- 3) The fuel must meet a **CLOUD POINT** of 14 deg. F or greater.
- 4) The fuel must meet a **CFPP** (Cold Filter Plug Point) of 12 deg. F or better.
- 5) The fuel must have a **LUBRICITY by HFRR** (High Frequency Rotating Rig) minimum of <520.
- 6) The fuel must be delivered to our site within **24 hours** of the order being placed unless delivery arrangements are preapproved.
- 7) The fuel must meet any and all federal guidelines.

E87 unleaded gasoline (with or without 10% Ethanol)

- 1) Additives to meet the OEM requirements for "Top Tier" gasoline rating.
- 2) The fuel must be delivered to our site within **24 hours** of the order being placed unless delivery arrangements are pre-approved.
- 3) The fuel must meet any and all federal guidelines.

Rack Pricing

- 1) Bids shall be awarded on the "Rack Price" plus or minus any added cost for markup and delivery.
- 2) PROOF of current daily rack price must be provided with every load.

Product Consistency Oversight

- Random sampling of fuel supplies may be taken from any delivery by the City of Bismarck and tested to meet spec compliance. If the results comply with the specification, the city will stand the expense. If results do not comply. The Supplier will be required to remove all product within 24 hours after notification. The Supplier will replace and pay for, a suitable product and bear the costs of all test analyses if the product tested does not comply with the City's specifications.

Deliveries

- Motor Fuels shall be delivered by the contractor in appropriate vehicles and all transportation and delivery costs shall be borne by the Supplier. Trucks delivering fuels shall be equipped with proper equipment such as ticket printers and meters to assure accurate measures. All vehicles will display State of North Dakota certification and safety placard.

Delivery Locations

- Fuel will be delivered to the Bismarck Public Works Department location, 601 South 26th Street Bismarck ND 58504 or the Bismarck Landfill location, 2111 North 52nd Street Bismarck ND 58501 or in combination of each location by the tanker load and the tanker may consist of a combination of diesel and unleaded gasoline quantities to meet the tanker load requirements.

Office Hours

- Monday through Friday 8:00 AM to 4:30 PM. Coordinate with City staff for deliveries outside the normal office hours
- If the Supplier is unable to comply with this requirement, the City reserves the right to purchase fuels on the open Market.

Any questions regarding this bid should be referred to Kurt Ohnell – City of Bismarck Fleet Manager, 701-355-1711.

Proof of current rack price with each load shall be provided to the City.

Provide pricing for product below:

Product	Description	Rack +/-
Diesel	#1	+ ____/gal
Diesel	#1 Dyed	
Diesel	#2	- ____/gal
Diesel	#2 Dyed	
Gasoline	E87 Unleaded Gasoline	

In submitting the bid, it is understood that the contract will be awarded on the basis of lowest and best bid, that the right to reject any and all bids is reserved by the owner, and it is agreed that this bid may not be withdrawn within 60 days after actual date of the opening. Payments will be made within 30 days after receipt of invoice.

PROPOSAL

Bidder: _____ Date: _____

Commissioners:

The undersigned proposes to furnish diesel fuels and gasoline supplies to the CITY OF BISMARCK at the unit prices listed below:

The term of the agreement shall be for one (1) year from the date the contract is signed and shall automatically renew for four (4) additional one-year periods unless either party shall have cancelled the agreement by giving the other party 30 days written notice of cancellation.

Product	Description	Rack +/-
Diesel	#1	+ ____/gal
Diesel	#1 Dyed	
Diesel	#2	
Diesel	#2 Dyed	- ____/gal
Gasoline	E87 Unleaded Gasoline	

The foregoing proposal is in accordance with the advertisement and the specifications, and the Bidder agrees on acceptance of this proposal to enter into contract and complete said work in accordance with the advertisement and specifications and this proposal, all of which shall be made a part hereof.

FIRM (legal name) _____

SIGNATURE (Authorized) _____

PRINTED NAME & TITLE _____

ADDRESS _____

CITY STATE ZIP CODE _____

PHONE _____

EMAIL _____



Public Works Service Operations

DATE: February 13, 2024

FROM: Steve Salwei, Director Public Works Services

ITEM: Extend Agreement with HDR Engineering, Inc. for Solid Waste Collection and Landfill Operations.

REQUEST:

Extend Agreement with HDR Engineering, Inc for Solid Waste Collections and Landfill Operations.

BACKGROUND INFORMATION:

HDR ENGINEERING, INC. ("HDR") entered into a Master Short Form Agreement for Professional Services on February 16, 2021, to perform engineering services for various task orders for the solid waste collection and landfill operations for the City of Bismarck. The period of service will be extended two (2) years to a total agreement duration of five (5) years as allowed under Section IV. Period of Service. The agreement extends the term of the Master Short Form until February 16, 2026.

RECOMMENDED CITY COMMISSION ACTION:

Approve extension to the Master Short Form Agreement to February 16, 2026, with HDR Engineering, Inc. for Solid Waste Collections and Landfill Operations.

STAFF CONTACT INFORMATION:

Steve Salwei, Director Public Works Services, 701-355-1705, ssalwei@bismarcknd.gov

ATTACHMENTS:

1. Amendment - 2021_SolidWaste_MSA_Extend_HDR
2. CO3_HDR Engineering MSA 2 year extension_exp 2.16.2026
3. HDR Contract signed by Both 02162021

AMENDMENT TO AGREEMENT
FOR
ENGINEERING SERVICES

WHEREAS:

HDR ENGINEERING, INC. ("HDR") entered into a Master Short Form Agreement for Professional Services on **February 16, 2021** to perform engineering services for various task orders for the solid waste collection and landfill operations for the City of Bismarck of ("Owner").

The Owner desires to amend this Agreement to extend the contract for two (2) additional years as allowed in Section IV. Period of Service.;

HDR is willing to amend the agreement.

NOW, THEREFORE, HDR and Owner do hereby agree:

The Agreement and the terms and conditions therein shall remain unchanged other than those sections and exhibits listed below;

The period of service will be extended two (2) years to a total agreement duration of five (5) years as allowed under Section IV. Period of Service. New contract end date shall be February 16, 2026.

Exhibit B, Terms and Conditions dated 5/2020 will be replaced with the attached Exhibit B, Terms and Conditions dated 5/2023.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year written below:

HDR ENGINEERING, INC. ("HDR")

City of Bismarck ("Owner")

By:  _____

By: _____

Title: ND Managing Principal

Title: _____

Date: Feb 2, 2024

Date: _____

HDR Engineering, Inc. Terms and Conditions for Professional Services

1. STANDARD OF PERFORMANCE

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

2. INSURANCE/INDEMNITY

ENGINEER agrees to procure and maintain, at its expense, Workers' Compensation insurance as required by statute; Employer's Liability of \$250,000; Automobile Liability insurance of \$1,000,000 combined single limit for bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability insurance of \$1,000,000 combined single limit for personal injury and property damage; and Professional Liability insurance of \$1,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omissions for which ENGINEER is legally liable. If flying an Unmanned Aerial System (UAS or drone), ENGINEER will procure and maintain aircraft unmanned aerial systems insurance of \$1,000,000 per occurrence. OWNER shall be made an additional insured on Commercial General and Automobile Liability insurance policies and certificates of insurance will be furnished to the OWNER. ENGINEER agrees to indemnify OWNER for third party personal injury and property damage claims to the extent caused by ENGINEER's negligent acts, errors or omissions. However, neither Party to this Agreement shall be liable to the other Party for any special, incidental, indirect, or consequential damages (including but not limited to loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; cost of capital; and/or fines or penalties), loss of profits or revenue arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, errors or omissions, strict liability or breach of contract. The employees of both parties are intended third party beneficiaries of this waiver of consequential damages.

3. OPINIONS OF PROBABLE COST

Any opinions of probable project cost or probable construction cost provided by ENGINEER are made on the basis of information available to ENGINEER and on the basis of ENGINEER's experience and qualifications, and represents its judgment as an experienced and qualified professional engineer. However, since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s') methods of determining prices, or over competitive bidding or market conditions, ENGINEER does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost ENGINEER prepares.

4. CONSTRUCTION PROCEDURES

ENGINEER's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. ENGINEER shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. ENGINEER shall not be responsible for the acts or omissions of the contractor or other parties on the project. ENGINEER shall be

entitled to review all construction contract documents and to require that no provisions extend the duties or liabilities of ENGINEER beyond those set forth in this Agreement. OWNER agrees to include ENGINEER as an indemnified party in OWNER's construction contracts for the work, which shall protect ENGINEER to the same degree as OWNER. Further, OWNER agrees that ENGINEER shall be listed as an additional insured under the construction contractor's liability insurance policies.

5. CONTROLLING LAW

This Agreement is to be governed by the law of the state where ENGINEER's services are performed.

6. SERVICES AND INFORMATION

OWNER will provide all criteria and information pertaining to OWNER's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations. OWNER will also provide copies of any OWNER-furnished Standard Details, Standard Specifications, or Standard Bidding Documents which are to be incorporated into the project.

OWNER will furnish the services of soils/geotechnical engineers or other consultants that include reports and appropriate professional recommendations when such services are deemed necessary by ENGINEER. The OWNER agrees to bear full responsibility for the technical accuracy and content of OWNER-furnished documents and services.

In performing professional engineering and related services hereunder, it is understood by OWNER that ENGINEER is not engaged in rendering any type of legal, insurance or accounting services, opinions or advice. Further, it is the OWNER's sole responsibility to obtain the advice of an attorney, insurance counselor or accountant to protect the OWNER's legal and financial interests. To that end, the OWNER agrees that OWNER or the OWNER's representative will examine all studies, reports, sketches, drawings, specifications, proposals and other documents, opinions or advice prepared or provided by ENGINEER, and will obtain the advice of an attorney, insurance counselor or other consultant as the OWNER deems necessary to protect the OWNER's interests before OWNER takes action or forebears to take action based upon or relying upon the services provided by ENGINEER.

7. SUCCESSORS, ASSIGNS AND BENEFICIARIES

OWNER and ENGINEER, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the covenants of this Agreement. Neither OWNER nor ENGINEER will assign, sublet, or transfer any interest in this Agreement or claims arising therefrom without the written consent of the other. No third party beneficiaries are intended under this Agreement.

8. RE-USE OF DOCUMENTS

All documents, including all reports, drawings, specifications, computer software or other items prepared or furnished by ENGINEER pursuant to this Agreement, are instruments of service with respect to the project. ENGINEER retains ownership of all such documents. OWNER may retain copies of the documents for its information and reference in connection with the project; however, none of the documents are intended or represented to be suitable for reuse by OWNER or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, and OWNER will defend, indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses, including attorney's fees,

arising or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

9. TERMINATION OF AGREEMENT

OWNER or ENGINEER may terminate the Agreement, in whole or in part, by giving seven (7) days written notice to the other party. Where the method of payment is "lump sum," or cost reimbursement, the final invoice will include all services and expenses associated with the project up to the effective date of termination. An equitable adjustment shall also be made to provide for termination settlement costs ENGINEER incurs as a result of commitments that had become firm before termination, and for a reasonable profit for services performed.

10. SEVERABILITY

If any provision of this agreement is held invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or condition shall not be construed by the other party as a waiver of any subsequent breach of the same provision, term or condition.

11. INVOICES

ENGINEER will submit monthly invoices for services rendered and OWNER will make payments to ENGINEER within thirty (30) days of OWNER's receipt of ENGINEER's invoice.

ENGINEER will retain receipts for reimbursable expenses in general accordance with Internal Revenue Service rules pertaining to the support of expenditures for income tax purposes. Receipts will be available for inspection by OWNER's auditors upon request.

If OWNER disputes any items in ENGINEER's invoice for any reason, including the lack of supporting documentation, OWNER may temporarily delete the disputed item and pay the remaining amount of the invoice. OWNER will promptly notify ENGINEER of the dispute and request clarification and/or correction. After any dispute has been settled, ENGINEER will include the disputed item on a subsequent, regularly scheduled invoice, or on a special invoice for the disputed item only.

OWNER recognizes that late payment of invoices results in extra expenses for ENGINEER. ENGINEER retains the right to assess OWNER interest at the rate of one percent (1%) per month, but not to exceed the maximum rate allowed by law, on invoices which are not paid within thirty (30) days from the date OWNER receives ENGINEER's invoice. In the event undisputed portions of ENGINEER's invoices are not paid when due, ENGINEER also reserves the right, after seven (7) days prior written notice, to suspend the performance of its services under this Agreement until all past due amounts have been paid in full.

12. CHANGES

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. Adjustments in the period of services and in compensation shall be in accordance with applicable paragraphs and sections of this Agreement. Any proposed fees by ENGINEER are estimates to perform the services required to complete the project as ENGINEER understands it to be defined. For those projects involving conceptual or process development services, activities often are not fully definable in the initial planning. In any event, as the project progresses, the facts developed may dictate a change in the services to be performed, which may alter the scope. ENGINEER will inform OWNER of such situations so that changes in scope and adjustments to the time of performance and compensation can be made as required. If such change, additional services, or suspension of services results in an increase or decrease in the cost of or time required for performance

of the services, an equitable adjustment shall be made, and the Agreement modified accordingly.

13. CONTROLLING AGREEMENT

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice-to-proceed, or like document.

14. EQUAL EMPLOYMENT AND NONDISCRIMINATION

In connection with the services under this Agreement, ENGINEER agrees to comply with the applicable provisions of federal and state Equal Employment Opportunity for individuals based on color, religion, sex, or national origin, or disabled veteran, recently separated veteran, other protected veteran and armed forces service medal veteran status, disabilities under provisions of executive order 11246, and other employment, statutes and regulations, as stated in Title 41 Part 60 of the Code of Federal Regulations § 60-1.4 (a-f), § 60-300.5 (a-e), § 60-741 (a-e).

15. HAZARDOUS MATERIALS

OWNER represents to ENGINEER that, to the best of its knowledge, no hazardous materials are present at the project site. However, in the event hazardous materials are known to be present, OWNER represents that to the best of its knowledge it has disclosed to ENGINEER the existence of all such hazardous materials, including but not limited to asbestos, PCB's, petroleum, hazardous waste, or radioactive material located at or near the project site, including type, quantity and location of such hazardous materials. It is acknowledged by both parties that ENGINEER's scope of services do not include services related in any way to hazardous materials. In the event ENGINEER or any other party encounters undisclosed hazardous materials, ENGINEER shall have the obligation to notify OWNER and, to the extent required by law or regulation, the appropriate governmental officials, and ENGINEER may, at its option and without liability for delay, consequential or any other damages to OWNER, suspend performance of services on that portion of the project affected by hazardous materials until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the hazardous materials; and (ii) warrants that the project site is in full compliance with all applicable laws and regulations. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous materials, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the project site in connection with ENGINEER's services under this Agreement. If ENGINEER's services hereunder cannot be performed because of the existence of hazardous materials, ENGINEER shall be entitled to terminate this Agreement for cause on 30 days written notice. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, its officers, directors, partners, employees, and subconsultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from hazardous materials, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's sole negligence or willful misconduct.

16. EXECUTION

This Agreement, including the exhibits and schedules made part hereof, constitute the entire Agreement between ENGINEER and

OWNER, supersedes and controls over all prior written or oral understandings. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by the parties.

17. ALLOCATION OF RISK

OWNER AND ENGINEER HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING ENGINEER'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE RISKS, SO, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF ENGINEER (AND ITS RELATED CORPORATIONS, SUBCONSULTANTS AND EMPLOYEES) TO OWNER AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE LESSER OF \$1,000,000 OR ITS FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF ENGINEER'S SERVICES OR THIS AGREEMENT REGARDLESS OF CAUSE(S) OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. ENGINEER'S AND SUBCONSULTANTS' EMPLOYEES ARE INTENDED THIRD PARTY BENEFICIARIES OF THIS ALLOCATION OF RISK.

18. LITIGATION SUPPORT

In the event ENGINEER is required to respond to a subpoena, government inquiry or other legal process related to the services in connection with a legal or dispute resolution proceeding to which ENGINEER is not a party, OWNER shall reimburse ENGINEER for reasonable costs in responding and compensate ENGINEER at its then standard rates for reasonable time incurred in gathering information and documents and attending depositions, hearings, and trial.

19. NO THIRD PARTY BENEFICIARIES

Except as otherwise provided in this Agreement, no third party beneficiaries are intended under this Agreement. In the event a reliance letter or certification is required under the scope of services, the parties agree to use a form that is mutually acceptable to both parties.

20. UTILITY LOCATION

If underground sampling/testing is to be performed, a local utility locating service shall be contacted to make arrangements for all utilities to determine the location of underground utilities. In addition, OWNER shall notify ENGINEER of the presence and location of any underground utilities located on the OWNER's property which are not the responsibility of private/public utilities. ENGINEER shall take reasonable precautions to avoid damaging underground utilities that are properly marked. The OWNER agrees to waive any claim against ENGINEER and will indemnify and hold ENGINEER harmless from any claim of liability, injury or loss caused by or allegedly caused by ENGINEER's damaging of underground utilities that are not properly marked or are not called to ENGINEER's attention prior to beginning the underground sampling/testing.

21. UNMANNED AERIAL SYSTEMS

If operating UAS, ENGINEER will obtain all permits or exemptions required by law to operate any UAS included in the services. ENGINEER's operators have completed the training, certifications and licensure as required by the applicable jurisdiction in which the UAS will be operated. OWNER will obtain any necessary permissions for ENGINEER to operate over private property, and assist, as necessary, with all other necessary permissions for operations.

22. OPERATIONAL TECHNOLOGY SYSTEMS

OWNER agrees that the effectiveness of operational technology systems and features designed, recommended or assessed by ENGINEER (collectively "OT Systems") are dependent upon OWNER's continued operation and maintenance of the OT Systems

in accordance with all standards, best practices, laws, and regulations that govern the operation and maintenance of the OT Systems. OWNER shall be solely responsible for operating and maintaining the OT Systems in accordance with applicable laws, regulations, and industry standards (e.g. ISA, NIST, etc.) and best practices, which generally include but are not limited to, cyber security policies and procedures, documentation and training requirements, continuous monitoring of assets for tampering and intrusion, periodic evaluation for asset vulnerabilities, implementation and update of appropriate technical, physical, and operational standards, and offline testing of all software/firmware patches/updates prior to placing updates into production. Additionally, OWNER recognizes and agrees that OT Systems are subject to internal and external breach, compromise, and similar incidents. Security features designed, recommended or assessed by ENGINEER are intended to reduce the likelihood that OT Systems will be compromised by such incidents. However, ENGINEER does not guarantee that OWNER's OT Systems are impenetrable and OWNER agrees to waive any claims against ENGINEER resulting from any such incidents that relate to or affect OWNER's OT Systems.

23. FORCE MAJEURE

ENGINEER shall not be responsible for delays caused by factors beyond ENGINEER's reasonable control, including but not limited to delays because of strikes, lockouts, work slowdowns or stoppages, government ordered industry shutdowns, power or server outages, acts of nature, widespread infectious disease outbreaks (including, but not limited to epidemics and pandemics), failure of any governmental or other regulatory authority to act in a timely manner, failure of the OWNER to furnish timely information or approve or disapprove of ENGINEER's services or work product, or delays caused by faulty performance by the OWNER's or by contractors of any level or any other events or circumstances not within the reasonable control of the party affected, whether similar or dissimilar to any of the foregoing. When such delays beyond ENGINEER's reasonable control occur, the OWNER agrees that ENGINEER shall not be responsible for damages, nor shall ENGINEER be deemed in default of this Agreement, and the parties will negotiate an equitable adjustment to ENGINEER's schedule and/or compensation if impacted by the force majeure event or condition.

24. EMPLOYEE IMMUNITY

The parties to this Agreement acknowledge that an individual employee or agent may not be held individually liable for negligence with regard to services provided under this Agreement. To the maximum extent permitted by law, the parties intend i) that this limitation on the liability of employees and agents shall include directors, officers, employees, agents and representatives of each party and of any entity for whom a party is legally responsible, and ii) that any such employee or agent identified by name in this Agreement shall not be deemed a party. Specifically, in the event that all or a portion of the services is performed in the State of Florida, the following provision shall be applicable:

THE PARTIES ACKNOWLEDGE THAT PURSUANT TO APPLICABLE FLORIDA STATUTES AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE WITH REGARD TO SERVICES PROVIDED UNDER THIS AGREEMENT. To the maximum extent permitted by law, the Parties intend i) that this limitation on the liability of employees and agents shall include directors, officers, employees, agents and representatives of each Party and of any entity for whom a Party is legally responsible, and ii) that any such employee or agent identified by name in this Agreement shall not be deemed a Party. The Parties further acknowledge that the Florida statutes referred to above include but are not limited to: §558.0035(1)(a)-(e); §471.023(3) (an engineer is personally liable for negligence except as provided in § 558.0035); §472.021(3) (surveyor and mapper); §481.219(11) (architect and interior designer); §481.319(6) (landscape architect); and §492.111(4) (geologist).

CONTRACT CHANGE ORDER FORM

DEPARTMENT

City Department	Public Works - Service		
Contractor	HDR Engineering Inc.		
Contract Number	2018-23	Change Order Number	3
Project Number	NA	Change Order Date	2.2.2024
Project Description	Perform engineering services for the solid waste collection and landfill op		
Original Contract Amount	\$ 51,505.00	Approved Contract Budget	
Previous Contract Amount	\$ 333,830.00		
Change Order Amount	\$ -		#VALUE!
Proposed Contract Amount	\$ 333,830.00		
Within Project Scope	YES	Within Project Funding	YES
Completion Date	12.31.2023	Change in Completion Date	YES
Revised Completion Date*	2.16.2026	REV COMP DATE REQ'D *If completion date changed on this Change Order	
Type of Change Order	Non Design-related	Work Order No(s).	

Description:

The period of service with HDR Engineering, Inc. will be extended two (2) years to a total agreement duration of five (5) years as allowed under Section IV. Period of Service. New contract end date shall be February 16, 2026.

Project Manager Signature (≤\$15,000)

SIGN HERE

Send to Fiscal if change is ≤\$15,000, completion date ≤5 days, no scope change or no revised budget

Date

Department Head Signature (≤\$25,000)

Send to Fiscal if change is ≤\$25,000, completion date ≤15 days, no scope change or no revised budget

Date

ADMINISTRATION

City Administrator Signature (≤\$50,000)

Add to Commission Agenda

Date

COMMISSION APPROVAL

Commission Approval Date

Attach Commission approval memo and send to Fiscal

#VALUE!

FISCAL

Comments

**If not within project scope or funding, attach revised description and/or revised Project Budget for Board Approval*

MASTER SHORT FORM AGREEMENT FOR PROFESSIONAL SERVICES
AGREEMENT NUMBER _____

THIS AGREEMENT is made as of this 16th day of February, 2021, between City of Bismarck with principal offices at Public Works Building, 601 South 26th Street, PO Box 5503, Bismarck, ND, hereinafter referred to as "OWNER", and HDR Engineering, Inc., hereinafter referred to as "ENGINEER" or "CONSULTANT," for engineering services as described in this Agreement.

WHEREAS, OWNER desires to retain ENGINEER, a professional engineering firm, to provide professional engineering, consulting and related services ("Services") on one or more projects in which the OWNER is involved; and

WHEREAS, ENGINEER desires to provide such services on such projects as may be agreed, from time to time, by the parties;

WHEREAS, this Agreement does not constitute a commitment by OWNER to ENGINEER to issue any Task Orders;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

SECTION I. PROJECT TASK ORDER

- 1.1 This Agreement shall apply to as many projects as OWNER and ENGINEER agree will be performed under the terms and conditions of this Agreement. Each project ENGINEER performs for OWNER hereunder shall be designated by a "Task Order." A sample Task Order is attached to this Agreement and marked as Exhibit "A". No Task Order shall be binding or enforceable unless and until it has been properly executed by both OWNER and ENGINEER. Each properly executed Task Order shall become a separate supplemental agreement to this Agreement.
- 1.2 In resolving potential conflicts between this Agreement and the Task Order pertaining to a specific project, the terms of this Agreement shall control.
- 1.3 ENGINEER will provide the Scope of Services as set forth in Part 2 of each Task Order.
- 1.4 Anticipated services under this agreement include, but are not limited to:

Provide analysis, design, and construction support services for Solid Waste collection and disposal projects. Examples of work include; strategic planning, garbage collection set out rate study and data collection (in and in-addition-to tote), continuation of greenfield site investigations for future landfill relocation or expansion, waste compaction and composition study, recycling set out rate study, education and awareness assistance, CNG feasibility study and market analysis,

piggyback cell development feasibility study, volumetric based fee structure evaluation, and ground water analysis.

SECTION II. RESPONSIBILITIES OF OWNER

In addition to the responsibilities described in paragraph 6 of the attached "HDR Engineering, Inc. Terms and Conditions for Professional Services," OWNER shall have the responsibilities described in Part 3 of each Task Order.

SECTION III. COMPENSATION

Compensation for ENGINEER's Services shall be in accordance with Part 5 of each Task Order, and in accordance with paragraph 11 of the attached HDR Engineering, Inc. Terms and Conditions. Standard Hourly Rates and Reimbursable Expenses are included as Appendix 1 to this agreement. The Standard Hourly Rates and Reimbursable Expenses will be adjusted annually (as of January) to reflect equitable changes in the compensation payable to the Engineer.

SECTION IV. PERIOD OF SERVICE

This agreement is for three years from the contract date, with additional time for the completion of construction and close out of any projects designed under the agreement. The agreement may be renewed for up to an additional two-year period on the agreement of both parties.

SECTION V. TERMS AND CONDITIONS OF ENGINEERING SERVICES

The HDR Engineering, Inc. Terms and Conditions, which are attached hereto in Exhibit B, are incorporated into this Agreement by this reference as if fully set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

CITY OF BISMARCK

"OWNER"

BY:



NAME:

Steve Bakken

TITLE:

President of Board of City Commissioners

ADDRESS:

PO Box 5503

Bismarck ND 58506-5503

HDR ENGINEERING, INC.
"ENGINEER"

BY:



NAME:

Dennis Reep

TITLE:

Managing Principal

ADDRESS:

3231 Greensboro Dr, Ste 200
Bismarck, ND 58503

EXHIBIT A

TASK ORDER

This Task Order pertains to an Agreement by and between _____, (“OWNER”), and HDR Engineering, Inc. (“ENGINEER”), dated _____, 20____, (“the Agreement”). Engineer shall perform services on the project described below as provided herein and in the Agreement. This Task Order shall not be binding until it has been properly signed by both parties. Upon execution, this Task Order shall supplement the Agreement as it pertains to the project described below.

TASK ORDER NUMBER:

PROJECT NAME:

PART 1.0 PROJECT DESCRIPTION:

PART 2.0 SCOPE OF SERVICES TO BE PERFORMED BY ENGINEER ON THE PROJECT:

PART 3.0 OWNER’S RESPONSIBILITIES:

PART 4.0 PERIODS OF SERVICE:

PART 5.0 ENGINEER’S FEE:

PART 6.0 OTHER:

This Task Order is executed this _____ day of _____, 20____.

"OWNER"

HDR ENGINEERING, INC.
"ENGINEER"

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

ADDRESS: _____

ADDRESS: _____

EXHIBIT B

TERMS AND CONDITIONS

Exhibit B - HDR Engineering, Inc. Terms and Conditions for Professional Services

1. STANDARD OF PERFORMANCE

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

2. INSURANCE/INDEMNITY

ENGINEER agrees to procure and maintain, at its expense, Workers' Compensation Insurance as required by statute; Employer's Liability of \$250,000; Automobile Liability Insurance of \$1,000,000 combined single limit for bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability Insurance of \$1,000,000 combined single limit for personal injury and property damage; and Professional Liability Insurance of \$1,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omissions for which ENGINEER is legally liable. If flying an Unmanned Aerial System (UAS or drone), ENGINEER will procure and maintain aircraft unmanned aerial systems insurance of \$1,000,000 per occurrence. OWNER shall be made an additional insured on Commercial General and Automobile Liability insurance policies and certificates of insurance will be furnished to the OWNER. ENGINEER agrees to indemnify OWNER for third party personal injury and property damage claims to the extent caused by ENGINEER's negligent acts, errors or omissions. However, neither Party to this Agreement shall be liable to the other Party for any special, incidental, indirect, or consequential damages (including but not limited to loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; cost of capital; and/or fines or penalties), loss of profits or revenue arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, errors or omissions, strict liability or breach of contract.

3. OPINIONS OF PROBABLE COST (COST ESTIMATES)

Any opinions of probable project cost or probable construction cost provided by ENGINEER are made on the basis of information available to ENGINEER and on the basis of ENGINEER's experience and qualifications, and represents its judgment as an experienced and qualified professional engineer. However, since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s) methods of determining prices, or over competitive bidding or market conditions, ENGINEER does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost ENGINEER prepares.

4. CONSTRUCTION PROCEDURES

ENGINEER's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. ENGINEER shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. ENGINEER shall not be responsible for the acts or omissions of the contractor or other parties on the project. ENGINEER shall be entitled to review all construction contract documents and to require that no provisions extend the duties or liabilities of ENGINEER

beyond those set forth in this Agreement. OWNER agrees to include ENGINEER as an indemnified party in OWNER's construction contracts for the work, which shall protect ENGINEER to the same degree as OWNER. Further, OWNER agrees that ENGINEER shall be listed as an additional insured under the construction contractor's liability insurance policies.

5. CONTROLLING LAW

This Agreement is to be governed by the law of the state where ENGINEER's services are performed.

6. SERVICES AND INFORMATION

OWNER will provide all criteria and information pertaining to OWNER's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations. OWNER will also provide copies of any OWNER-furnished Standard Details, Standard Specifications, or Standard Bidding Documents which are to be incorporated into the project.

OWNER will furnish the services of soils/geotechnical engineers or other consultants that include reports and appropriate professional recommendations when such services are deemed necessary by ENGINEER. The OWNER agrees to bear full responsibility for the technical accuracy and content of OWNER-furnished documents and services.

In performing professional engineering and related services hereunder, it is understood by OWNER that ENGINEER is not engaged in rendering any type of legal, insurance or accounting services, opinions or advice. Further, it is the OWNER's sole responsibility to obtain the advice of an attorney, insurance counselor or accountant to protect the OWNER's legal and financial interests. To that end, the OWNER agrees that OWNER or the OWNER's representative will examine all studies, reports, sketches, drawings, specifications, proposals and other documents, opinions or advice prepared or provided by ENGINEER, and will obtain the advice of an attorney, insurance counselor or other consultant as the OWNER deems necessary to protect the OWNER's interests before OWNER takes action or forebears to take action based upon or relying upon the services provided by ENGINEER.

7. SUCCESSORS, ASSIGNS AND BENEFICIARIES

OWNER and ENGINEER, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the covenants of this Agreement. Neither OWNER nor ENGINEER will assign, sublet, or transfer any interest in this Agreement or claims arising therefrom without the written consent of the other. No third party beneficiaries are intended under this Agreement.

8. RE-USE OF DOCUMENTS

All documents, including all reports, drawings, specifications, computer software or other items prepared or furnished by ENGINEER pursuant to this Agreement, are instruments of service with respect to the project. ENGINEER retains ownership of all such documents. OWNER may retain copies of the documents for its information and reference in connection with the project; however, none of the documents are intended or represented to be suitable for reuse by OWNER or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, and OWNER will defend, indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses, including attorney's fees, arising or resulting therefrom. Any such verification or adaptation will

entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

9. TERMINATION OF AGREEMENT

OWNER or ENGINEER may terminate the Agreement, in whole or in part, by giving seven (7) days written notice to the other party. Where the method of payment is "lump sum," or cost reimbursement, the final invoice will include all services and expenses associated with the project up to the effective date of termination. An equitable adjustment shall also be made to provide for termination settlement costs ENGINEER incurs as a result of commitments that had become firm before termination, and for a reasonable profit for services performed.

10. SEVERABILITY

If any provision of this agreement is held invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or condition shall not be construed by the other party as a waiver of any subsequent breach of the same provision, term or condition.

11. INVOICES

ENGINEER will submit monthly invoices for services rendered and OWNER will make payments to ENGINEER within thirty (30) days of OWNER's receipt of ENGINEER's invoice.

ENGINEER will retain receipts for reimbursable expenses in general accordance with Internal Revenue Service rules pertaining to the support of expenditures for income tax purposes. Receipts will be available for inspection by OWNER's auditors upon request.

If OWNER disputes any items in ENGINEER's invoice for any reason, including the lack of supporting documentation, OWNER may temporarily delete the disputed item and pay the remaining amount of the invoice. OWNER will promptly notify ENGINEER of the dispute and request clarification and/or correction. After any dispute has been settled, ENGINEER will include the disputed item on a subsequent, regularly scheduled invoice, or on a special invoice for the disputed item only.

OWNER recognizes that late payment of invoices results in extra expenses for ENGINEER. ENGINEER retains the right to assess OWNER interest at the rate of one percent (1%) per month, but not to exceed the maximum rate allowed by law, on invoices which are not paid within thirty (30) days from the date OWNER receives ENGINEER's invoice. In the event undisputed portions of ENGINEER's invoices are not paid when due, ENGINEER also reserves the right, after seven (7) days prior written notice, to suspend the performance of its services under this Agreement until all past due amounts have been paid in full.

12. CHANGES

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. Adjustments in the period of services and in compensation shall be in accordance with applicable paragraphs and sections of this Agreement. Any proposed fees by ENGINEER are estimates to perform the services required to complete the project as ENGINEER understands it to be defined. For those projects involving conceptual or process development services, activities often are not fully definable in the initial planning. In any event, as the project progresses, the facts developed may dictate a change in the services to be performed, which may alter the scope. ENGINEER will inform OWNER of such situations so that changes in scope and adjustments to the time of performance and compensation can be made as required. If such change, additional services, or suspension of services results in an increase or decrease in the cost of or time required for performance of the services, an equitable adjustment shall be made, and the Agreement modified accordingly.

13. CONTROLLING AGREEMENT

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice-to-proceed, or like document.

14. EQUAL EMPLOYMENT AND NONDISCRIMINATION

In connection with the services under this Agreement, ENGINEER agrees to comply with the applicable provisions of federal and state Equal Employment Opportunity for individuals based on color, religion, sex, or national origin, or disabled veteran, recently separated veteran, other protected veteran and armed forces service medal veteran status, disabilities under provisions of executive order 11246, and other employment, statutes and regulations, as stated in Title 41 Part 60 of the Code of Federal Regulations § 60-1.4 (a-f), § 60-300.5 (a-e), § 60-741 (a-e).

15. HAZARDOUS MATERIALS

OWNER represents to ENGINEER that, to the best of its knowledge, no hazardous materials are present at the project site. However, in the event hazardous materials are known to be present, OWNER represents that to the best of its knowledge it has disclosed to ENGINEER the existence of all such hazardous materials, including but not limited to asbestos, PCB's, petroleum, hazardous waste, or radioactive material located at or near the project site, including type, quantity and location of such hazardous materials. It is acknowledged by both parties that ENGINEER's scope of services do not include services related in any way to hazardous materials. In the event ENGINEER or any other party encounters undisclosed hazardous materials, ENGINEER shall have the obligation to notify OWNER and, to the extent required by law or regulation, the appropriate governmental officials, and ENGINEER may, at its option and without liability for delay, consequential or any other damages to OWNER, suspend performance of services on that portion of the project affected by hazardous materials until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the hazardous materials; and (ii) warrants that the project site is in full compliance with all applicable laws and regulations. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous materials, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the project site in connection with ENGINEER's services under this Agreement. If ENGINEER's services hereunder cannot be performed because of the existence of hazardous materials, ENGINEER shall be entitled to terminate this Agreement for cause on 30 days written notice. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, its officers, directors, partners, employees, and subconsultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from hazardous materials, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's sole negligence or willful misconduct.

16. EXECUTION

This Agreement, including the exhibits and schedules made part hereof, constitute the entire Agreement between ENGINEER and OWNER, supersedes and controls over all prior written or oral

understandings. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by the parties.

17. ALLOCATION OF RISK

OWNER AND ENGINEER HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING ENGINEER'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE RISKS, SO, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF ENGINEER (AND ITS RELATED CORPORATIONS, SUBCONSULTANTS AND EMPLOYEES) TO OWNER AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE LESSER OF \$1,000,000 OR ITS FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF ENGINEER'S SERVICES OR THIS AGREEMENT REGARDLESS OF CAUSE(S) OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY.

18. LITIGATION SUPPORT

In the event ENGINEER is required to respond to a subpoena, government inquiry or other legal process related to the services in connection with a legal or dispute resolution proceeding to which ENGINEER is not a party, OWNER shall reimburse ENGINEER for reasonable costs in responding and compensate ENGINEER at its then standard rates for reasonable time incurred in gathering information and documents and attending depositions, hearings, and trial.

19. NO THIRD PARTY BENEFICIARIES

No third party beneficiaries are intended under this Agreement. In the event a reliance letter or certification is required under the scope of services, the parties agree to use a form that is mutually acceptable to both parties.

20. UTILITY LOCATION

If underground sampling/testing is to be performed, a local utility locating service shall be contacted to make arrangements for all utilities to determine the location of underground utilities. In addition, OWNER shall notify ENGINEER of the presence and location of any underground utilities located on the OWNER's property which are not the responsibility of private/public utilities. ENGINEER shall take reasonable precautions to avoid damaging underground utilities that are properly marked. The OWNER agrees to waive any claim against ENGINEER and will indemnify and hold ENGINEER harmless from any claim of liability, injury or loss caused by or allegedly caused by ENGINEER's damaging of underground utilities that are not properly marked or are not called to ENGINEER's attention prior to beginning the underground sampling/testing.

21. UNMANNED AERIAL SYSTEMS

If operating UAS, ENGINEER will obtain all permits or exemptions required by law to operate any UAS included in the services. ENGINEER's operators have completed the training, certifications and licensure as required by the applicable jurisdiction in which the UAS will be operated. OWNER will obtain any necessary permissions for ENGINEER to operate over private property, and assist, as necessary, with all other necessary permissions for operations.

22. OPERATIONAL TECHNOLOGY SYSTEMS

OWNER agrees that the effectiveness of operational technology systems ("OT Systems") and features designed, recommended or assessed by ENGINEER are dependent upon OWNER's continued operation and maintenance of the OT Systems in accordance with all standards, best practices, laws, and regulations that govern the operation and maintenance of the OT Systems. OWNER shall be solely responsible for operating and maintaining the OT System in accordance with applicable industry standards (i.e. ISA, NIST, etc.)

and best practices, which generally include but are not limited to, cyber security policies and procedures, documentation and training requirements, continuous monitoring of assets for tampering and intrusion, periodic evaluation for asset vulnerabilities, implementation and update of appropriate technical, physical, and operational standards, and offline testing of all software/firmware patches/updates prior to placing updates into production. Additionally, OWNER recognizes and agrees that OT Systems are subject to internal and external breach, compromise, and similar incidents. Security features designed, recommended or assessed by ENGINEER are intended to reduce the likelihood that OT Systems will be compromised by such incidents. However, ENGINEER does not guarantee that OWNER's OT Systems are impenetrable and OWNER agrees to waive any claims against ENGINEER resulting from any such incidents that relate to or affect OWNER's OT Systems.

23. FORCE MAJEURE

ENGINEER shall not be responsible for delays caused by factors beyond ENGINEER's reasonable control, including but not limited to delays because of strikes, lockouts, work slowdowns or stoppages, government ordered industry shutdowns, power or server outages, acts of nature, widespread infectious disease outbreaks (including, but not limited to epidemics and pandemics), failure of any governmental or other regulatory authority to act in a timely manner, failure of the OWNER to furnish timely information or approve or disapprove of ENGINEER's services or work product, or delays caused by faulty performance by the OWNER's or by contractors of any level or any other events or circumstances not within the reasonable control of the party affected, whether similar or dissimilar to any of the foregoing. When such delays beyond ENGINEER's reasonable control occur, the OWNER agrees that ENGINEER shall not be responsible for damages, nor shall ENGINEER be deemed in default of this Agreement, and the parties will negotiate an equitable adjustment to ENGINEER's schedule and/or compensation if impacted by the force majeure event or condition.



Public Works Service Operations

DATE: February 13, 2024

FROM: Steven Salwei, Director Public Works Services

ITEM: Approve Change Order 2 to Task Order 2 Greenfield Investigation with HDR Engineering for Solid Waste

REQUEST:

Approve Change Order 2 to Task Order 2 to the 2018 Agreement with HDR Engineering for Solid Waste operations.

BACKGROUND INFORMATION:

Change Order 2 to Task Order 2 Greenfield Investigation to the 2018 Agreement with HDR Engineering, Inc. is for an extension of time to continue evaluating potential greenfield sites for future landfill relocation or expansion, preliminary environmental reviews and negotiations with landowners. The new time period will run through December 31, 2024.

RECOMMENDED CITY COMMISSION ACTION:

Approve Change Order 2 to Task Order 2 Greenfield Investigation to the 2018 Agreement with HDR Engineering, Inc. for time extension to December 31, 2024.

STAFF CONTACT INFORMATION:

Steven Salwei, Director Public Works Services, 701-355-1705, ssalwei@bismarcknd.gov

ATTACHMENTS:

1. _TaskOrder2_BismarckSolidWasteMSA_Greenfield
2. _CO2_Task Order 2 LF Greenfield - HDR Eng Inc exp 12.31.2024
3. _TaskOrder2_BismarckSolidWaste_Greenfield_Manhours
4. _Amendment - 2021_SolidWaste_MSA_Extend_HDR



Engineering Scope of Services for the City of Bismarck, North Dakota Greenfield Site Investigation

December, 2023

This Task Order pertains to an Agreement by and between City of Bismarck, (“OWNER”), and HDR Engineering, Inc. (“ENGINEER”), dated February 16, 2021, (“the Agreement”) and amended on _____, 2024. Engineer shall perform services on the project described below as provided herein and in the Agreement. This Task Order shall not be binding until it has been properly signed by both parties. Upon execution, this Task Order shall supplement the Agreement as it pertains to the project described below.

TASK ORDER NUMBER: 2
PROJECT NAME: Greenfield Site Investigation

Project Description

The purpose of this scope is to describe the objectives, activities, deliverables, key assumptions, and approach that the ENGINEER will utilize in carrying out the services requested by the OWNER for the identification and evaluation of a potential greenfield site for future use as a sanitary landfill.

The OWNER has requested assistance in conducting research, including background data collection, field investigations, regulatory data, and office based site analysis to identify and evaluate a proposed site is capable of meeting North Dakota Department of Environmental Quality (NDDEQ) rules prescribed in North Dakota Administrative Code Chapters 33.1-20-04.1-01 and 33.1-20-06.1, and to prepare a draft site selection letter report regarding municipal solid waste landfills in OWNER’s service area. The Scope of Services described in Part 2 has been established by Task Series, which are described in detail in Part 2. The key Tasks are as follows:

Task 100 – Project Management

Task 200 – Right of Way Services

Task 300 – Location Restriction and Site Characterization Investigation

Task 400 – Summary of Findings



SCOPE OF SERVICES TO BE PERFORMED BY ENGINEER ON THE PROJECT:

This Scope of Services consists of a detailed breakdown of each task series and includes additional items associated with various elements of each task. These tasks were prepared based upon our meeting with OWNER and our understanding of the goals and objectives. For each major deliverable, the OWNER will receive a draft and final copy of all documents. Final copies will be furnished in electronic format.

TASK 100 – PROJECT MANAGEMENT

Throughout the execution of the various tasks described in this Scope of Services, the ENGINEER will support the task specific activities by coordination of tasks and team members, meetings, communication, reporting, and quality controls. This task series has been established in recognition that these activities transcend the individual tasks, are required for effective project execution, may require flexibility in timing, extent and response to project needs, and cannot always be precisely predicted or assigned to an individual activity.

Objective:

Conduct communications between OWNER and ENGINEER; plan, organize, and monitor project team activities; attend meetings; and prepare and update project schedules. Provide support and assistance to OWNER in communicating the key attributes of the project to regulatory personnel.

ENGINEER's Activities:

- Overall Project Coordination, including, resource management and allocation based on project schedules and activities, and production coordination.
- Meetings including meetings and communications with subconsultants and electronic communications, telephone conversations, meetings and conferences with NDDEQ (as requested) and others as directed by the OWNER. The general types of meetings and associated the ENGINEER's activities anticipated are listed below.
- Quality Audits, to confirm compliance with scope and the project quality objectives.
- Initiation and closeout of project.
- Preparation and submittal of monthly invoices and project updates.

Meetings/Travel:

- Two (2) meetings in Bismarck with the OWNER attended by the ENGINEER's Project Manager for general project progress and review.

**Task Deliverables:**

- Project schedule and schedule updates upon significant changes to original project schedule.
- Overall project documentation
- Meeting notes for key meetings

Key Understandings and Assumptions:

- HDR's Project Manager will be responsible for coordinating management and production activities.
- All communications with regulatory agencies will be through OWNER, unless otherwise directed by OWNER.
- All activities covered by this scope will be completed throughout the duration of the project.

TASK 200 – RIGHT OF WAY SERVICES

Identify, contact, and initiate negotiations with individual owners of land parcels of interest for potential landfill siting, while maintaining confidentiality of the OWNER. Investigate land suitability for transaction, research and obtain vested title ownership of potential lands, and identify prior-existing restrictions or easements that would eliminate it from landfill consideration.

Objective:

To identify and initiate potential buy-sell ability with willing sellers of land parcels that make up a contiguous area of approximately 640 acres within an approximate 10 mile distance of the City of Bismarck's corporate boundaries.

ENGINEER's Activities:

Contact landowners in OWNER-defined general locations that form part of a 640 contiguous land area and ascertain the potential for a willing buyer-seller arrangement while maintaining confidentiality of the buyer.

Upon finding potential willing sellers, begin initial negotiations to determine terms of sale.

Meetings/Travel:

- ROW personnel are assumed to be remotely located from Bismarck, North Dakota, but within reasonable driving distance. In-person meetings with the OWNER and negotiation meetings will require expenses for driving travel. For the purposes of fee estimating, up to 10 dedicated trips are included in this proposal.

**Deliverables:**

- Surface Owner Reports containing vested ownership detail and recorded encumbrances. Deliverables will be prepared and submitted under Task 400.

Key Understanding and Assumptions

- Contacts and negotiations will include up to 12 separate parcels. Additional parcels will necessitate additional fee.
- ROW personnel are assumed to be remotely located from Bismarck, North Dakota, but within reasonable driving distance. In-person meetings with the OWNER and negotiation meetings will require expenses for driving travel.

TASK 300 – LOCATION RESTRICTION AND SITE CHARACTERIZATION INVESTIGATION

Gather existing publicly available data for identification of a potential greenfield site by conducting a desk-top analysis utilizing GIS data and other available data to evaluate a site's suitability as a sanitary landfill. Site visits will be made by ENGINEER to evaluate and confirm certain parameters resulting from the desk-top analysis.

Objective:

To evaluate up to two potential greenfield sites for siting criteria based on those criteria set forth by NDDEQ rules prescribed in North Dakota Administrative Code Chapters 33.1-20-04.1-01 and 33.1-20-06.1.

ENGINEER's Activities:

It is anticipated to evaluate in the field and through research and data collection the following criteria:

- No solid waste management facility may be located in areas which result in impacts to human health or environmental resources or in an area which is unsuitable because of reasons of topography, geology, hydrology, or soils.
- Minimize, control, or prevent the movement of waste or waste constituents with geologic conditions and engineered improvements. Sites should be underlain by materials with low permeability to provide a barrier to contaminant migration.

The following geographic areas or conditions must be excluded in the consideration of the sites:

- Where the waste is disposed within an aquifer;
- Within a public water supply designated wellhead protection area;
- Within a one hundred-year floodplain;

- Where geologic or manmade features, including underground mines, may result in differential settlement and failure of a structure or other improvement on the facility;
- On the edge of or within channels, ravines, or steep topography whose slope is unstable due to erosion or mass movement;
- Within woody draws; or
- In areas designated as critical habitats for endangered or threatened species of plant, fish, or wildlife.
- The following geographic areas or conditions may not be approved unless a demonstration indicates there are no reasonable alternatives:
 - Over or immediately adjacent to principal glacial drift aquifers identified by the state engineer;
 - Closer than one thousand feet to a down gradient drinking water supply well;
 - Closer than two hundred feet horizontally from the ordinary high water elevation of any surface water or wetland;
 - Within final cuts of surface mines; or
 - Closer than one thousand feet to any state or national park.
- No municipal waste landfill may be located within ten thousand feet of any airport runway currently used by turbojet aircraft or five thousand feet of any runway currently used by only piston-type aircraft.
- A minimum horizontal separation of twenty-five feet must be maintained between solid waste management units and any aboveground or underground pipeline or transmission line.
- Location and water quality of lakes, rivers, streams, springs, or wetlands within one mile of the site boundary based on available data;
- Domestic and livestock wells within one mile of the site boundary. Information collected may include the location, water quality, depth to water, well depth, screened intervals, yields, and the aquifers tapped;
- Site location in relation to the one hundred-year floodplain;
- Depth to the thicknesses of the uppermost aquifers; and
- Hydrologic properties of the uppermost aquifers beneath the proposed site including existing water quality, flow directions, flow rates, porosity, coefficient of storage, hydraulic conductivity, and potentiometric surface or water table.

**Meetings/Travel:**

- No meetings are associated with this subtask.

Deliverables:

- No deliverables for this task. Deliverables will be prepared and submitted under Task 400.

Key Understanding and Assumptions

- Task 300 will commence in earnest upon indications of willing sellers resulting from Task 200. Prior to that, cursory desktop investigations will be performed to assure a reasonable expectation of a satisfactory site that meets siting requirements.
- All existing information shall be acquired from readily available data from the City of Bismarck and other online resources. The primary method of investigation includes review of available mapping with limited on-site confirmation.
- No detailed site investigations (geotechnical, environmental, cultural, etc.) will be performed in this Task Order.
- The OWNER will obtain permission from land owners to conduct site visits.
- Project schedule is subject to change based on the amount of time required to acquire data from third parties.
- A budget of \$1,500 has been allocated for the acquisition of files, if necessary.

TASK 400 – SUMMARY OF FINDINGS**Objective:**

Assessment of two potential landfill sites utilizing information gathered in Task 300.

ENGINEER's Activities:

- Utilizing information gathered in Task 300, determine the level of field confirmation necessary to qualify desktop information. It is anticipated to conduct a two-day site reconnaissance at each of the two potential sites with up to two personnel.
- Prepare a draft technical memorandum summarizing the key findings in Task 300, property maps, identification of potential site challenges and permitting obstacles, and determine next steps with implementation schedule for OWNER review.



- Attend meeting with OWNER to discuss findings of the draft technical memorandum. Up to two personnel will attend meeting.
- Prepare a final technical memorandum addressing OWNER comments for OWNER's final use.

Meetings/Travel:

- One (1) meeting in Bismarck attended by the ENGINEER's Project Engineer and Project Manager to discuss draft technical memorandum.

Deliverables:

- Draft Technical Memorandum.
- Final Technical Memorandum.

Key Understanding and Assumptions

Geotechnical exploration of the sites is not included in this task order but may be necessary to evaluate the sites and underlying geology.

OWNER'S RESPONSIBILITIES:

The OWNER will provide the ENGINEER with readily available GIS data for up to two potential sites.

PERIODS OF SERVICE:

Upon receipt of written authorization to proceed, ENGINEER shall perform the services within the Project Schedule timeframe as outlined below:

Notice to Proceed	January 22, 2024
ROW Services	August 31, 2024
Location & Site Investigation	October 31, 2024
Draft Technical Memorandum	November 20, 2024
Incorporate City Comments	December 15, 2024
Final Technical Memorandum	December 31, 2024

The ENGINEER'S compensation is conditioned on the time to complete the services by December 31, 2024. Should the time to complete services be extended beyond this period, total compensation to Engineer may be appropriately adjusted.



PAYMENTS TO ENGINEER:

Compensation for ENGINEER'S services under this Agreement shall be on the basis of Standard Hourly Rates, with a not to exceed limit of \$117,245.

Compensation terms are defined as follows:

Standard Hourly Rates shall mean an amount equal to the cumulative hours charged to the Project by each class of ENGINEER's personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and ENGINEER's Consultants' charges, if any.

ENGINEER may alter the distribution of compensation between individual phases of the work noted above to be consistent with services actually rendered, but shall not exceed the total not to exceed compensation amount unless approved in writing by OWNER.

The total estimated compensation for ENGINEER's services as noted above incorporates all labor, overhead, profit, Reimbursable Expenses and Engineer's Consultants' charges.

Reimbursable expense shall mean the actual expenses incurred directly or indirectly in connection with the Project for transportation travel, subconsultants, subcontractors, computer usage, telephone, telex, shipping and express, and other incurred expense. ENGINEER will add five percent (5%) to invoices received by ENGINEER from subconsultants and subcontractors to cover supervision, administrative, and insurance expenses.

OTHER:

None Identified.



This Task Order is executed this _____ day of _____, 2024.

City of Bismarck

“OWNER”

BY:

NAME: Michael Schmitz

TITLE: President of the Board of City
Commissioners

ADDRESS: City of Bismarck
PO Box 5503
Bismarck, ND 58506-5503

HDR ENGINEERING, INC.

“ENGINEER”

BY:

NAME: Dennis Reep

TITLE: Managing Principal

ADDRESS: 3231 Greensboro Drive, Ste
200
Bismarck, ND 58503-5413

CONTRACT CHANGE ORDER FORM

DEPARTMENT

City Department	Public Works - Service		
Contractor	HDR Engineering, Inc.		
Contract Number	2018-23	Change Order Number	2
Project Number	See below	Change Order Date	2.13.2024
Project Description	SWDUTIL.CONSULTING.GREENFIELDSITE		
Original Contract Amount	\$ 226,615.00	Approved Contract Budget	
Previous Contract Amount	\$ 226,615.00		
Change Order Amount	\$ -		#VALUE!
Proposed Contract Amount	\$ 226,615.00		
Within Project Scope	YES	Within Project Funding	YES
Completion Date	12.31.2023	Change in Completion Date	YES
Revised Completion Date*	12.31.2024	REV COMP DATE REQ'D *If completion date changed on this Change Order	
Type of Change Order	Non Design-related	Work Order No(s).	

Description:

Solid Waste Disposal Utility, Solid Waste Engineering Consulting, 2018 Greenfield Site Investigation - Explore options for landfill expansion and preliminary environmental reviews and negotiate with landowners.

Project Manager Signature (≤\$15,000)

SIGN HERE

Send to Fiscal if change is ≤\$15,000, completion date ≤5 days, no scope change or no revised budget

Date

Department Head Signature (≤\$25,000)

Send to Fiscal if change is ≤\$25,000, completion date ≤15 days, no scope change or no revised budget

Date

ADMINISTRATION

City Administrator Signature (≤\$50,000)

Add to Commission Agenda

Date

COMMISSION APPROVAL

Commission Approval Date

Attach Commission approval memo and send to Fiscal

#VALUE!

FISCAL

Comments

**If not within project scope or funding, attach revised description and/or revised Project Budget for Board Approval*

City of Bismarck
Greenfield Site Investigation
Level of Effort Estimate

Labor Hours by Category													
	Reep	K. Sanders	Van Smith	R Anderson	Van Luick	Fricke	Greg Shafer	Richard Wilson	Sand/Whit worth	Schramm	Henze	Labor	
Labor Category	Principal	PM/ENG III	ENG VI	Eng I/GIS	GIS	Env. Sci	Geotech VI	Hydro V	ROW II	Account	Proj Coord	Total Hours	Total \$
Project Billing Rate	\$235	\$145	\$205	\$120	\$110	\$180	\$200	\$180	\$155	\$95	\$95		
Task 100 - Project Management and Meetings													
Project Management\Mgt Reviews	2	24	4	2							8	40	\$5,770
PARR												0	\$0
Invoicing/progress updates		12								16		28	\$3,260
Client Communications		8										8	\$1,160
Four Meetings with City	4	8										12	\$2,100
Progress/Project Meetings	4	4		4					4			16	\$2,620
SubTotal	10	56	4	6	0	0	0	0	4	16	8	104	\$ 14,910
Task 200 - Right of Way Services													
Landowner Negotiations									120			120	\$18,600
Parcel Ownership/encumbrance research (SOR)									16			16	\$2,480
Subtotal	0	0	0	0	0	0	0	0	136	0	0	136	\$ 21,080
Task 300 - Location & Site Investigation (2 sites)													
Kickoff Meeting	2	2	2	2								8	\$1,410
Airports		4		4								8	\$1,060
Floodplains		4		4								8	\$1,060
Unstable Areas		4		4			12					20	\$3,460
Wetlands		4		4		16						24	\$3,940
Fault Areas		4		4			8					16	\$2,660
Seismic Impact Zones		4		4			8					16	\$2,660
Horizontal Buffers		4	4	4								12	\$1,880
Groundwater		4		4				16				24	\$3,940
Waters of the US		4		4								8	\$1,060
Drinking Wells		4		4								8	\$1,060
Topography		4		4	32							40	\$4,580
Geology/Soils		4	4	4			12	16				40	\$7,160
Mines		4		4								8	\$1,060
Endangered or Threatened Species		4		4		12						20	\$3,220
Underground Utilities		4	12	4								20	\$3,520
ROW/Landowner Coordination												0	\$0
QC Review	4		16									20	\$4,220
SubTotal	6	62	38	62	32	28	40	32	0	0	0	300	\$ 47,950
Task 400 - Summary of Findings													
Field Confirmation		12		24		20						56	\$8,220
Identification of Challenges		4	3	2								9	\$1,435
Permitting Obstacles		2	4	8								14	\$2,070
Develop Maps		4	3	8	12							27	\$3,475
Next Steps & Schedule		4	2	4								10	\$1,470
Draft Tech Memo		16	6	8					4			34	\$5,130
QC	4											4	\$940
Meeting with City	2	2		2					8			14	\$2,240
Final Tech Memo	1	8	2	4	4				4			23	\$3,345
Subtotal	7	52	20	60	16	20	0	0	16	0	0	191	\$ 28,325
Total	23	170	62	128	48	48	40	32	156	16	8	595	\$112,265.00

Expenses					
Travel	Mapping/ GIS	Printing	Expense Total	Subs Subcons ultants	Line Item Total
			\$0		\$5,770
			\$0		\$0
			\$0		\$3,260
			\$0		\$1,160
			\$0		\$2,100
\$100			\$100		\$2,720
\$100	\$0	\$0	\$100	\$0	\$15,010

			\$0		\$18,600
			\$0		\$2,480
\$0	\$0	\$0	\$0	\$0	\$21,080

	\$1,500		\$1,500		\$2,910
			\$0		\$1,060
			\$0		\$1,060
			\$0		\$3,460
			\$0		\$3,940
			\$0		\$2,660
			\$0		\$2,660
			\$0		\$1,880
			\$0		\$3,940
			\$0		\$1,060
			\$0		\$1,060
			\$0		\$4,580
			\$0		\$7,160
			\$0		\$1,060
			\$0		\$3,220
			\$0		\$3,520
\$2,930		\$200	\$3,130		\$3,130
			\$0		\$4,220
\$2,930	\$1,500	\$200	\$4,630	\$0	\$52,580

\$250			\$250		\$8,470
			\$0		\$1,435
			\$0		\$2,070
			\$0		\$3,475
			\$0		\$1,470
			\$0		\$5,130
			\$0		\$940
			\$0		\$2,240
			\$0		\$3,345
\$250	\$0	\$0	\$250	\$0	\$28,575
\$3,280.00	\$1,500.00	\$200.00	\$4,980.00	\$0.00	\$117,245.00

HDR Total Labor (Rates)	\$ 112,265
HDR Total Expenses	\$ 4,980
Subconsultants	\$ -
Total NTE Fee	\$ 117,245

AMENDMENT TO AGREEMENT
FOR
ENGINEERING SERVICES

WHEREAS:

HDR ENGINEERING, INC. ("HDR") entered into a Master Short Form Agreement for Professional Services on **February 16, 2021** to perform engineering services for various task orders for the solid waste collection and landfill operations for the City of Bismarck of ("Owner").

The Owner desires to amend this Agreement to extend the contract for two (2) additional years as allowed in Section IV. Period of Service.;

HDR is willing to amend the agreement.

NOW, THEREFORE, HDR and Owner do hereby agree:

The Agreement and the terms and conditions therein shall remain unchanged other than those sections and exhibits listed below;

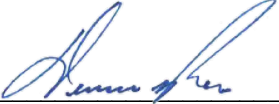
The period of service will be extended two (2) years to a total agreement duration of five (5) years as allowed under Section IV. Period of Service. New contract end date shall be February 16, 2026.

Exhibit B, Terms and Conditions dated 5/2020 will be replaced with the attached Exhibit B, Terms and Conditions dated 5/2023.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year written below:

HDR ENGINEERING, INC. ("HDR")

City of Bismarck ("Owner")

By:  _____

By: _____

Title: ND Managing Principal

Title: _____

Date: Feb 2, 2024

Date: _____

HDR Engineering, Inc. Terms and Conditions for Professional Services

1. STANDARD OF PERFORMANCE

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

2. INSURANCE/INDEMNITY

ENGINEER agrees to procure and maintain, at its expense, Workers' Compensation insurance as required by statute; Employer's Liability of \$250,000; Automobile Liability insurance of \$1,000,000 combined single limit for bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability insurance of \$1,000,000 combined single limit for personal injury and property damage; and Professional Liability insurance of \$1,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omissions for which ENGINEER is legally liable. If flying an Unmanned Aerial System (UAS or drone), ENGINEER will procure and maintain aircraft unmanned aerial systems insurance of \$1,000,000 per occurrence. OWNER shall be made an additional insured on Commercial General and Automobile Liability insurance policies and certificates of insurance will be furnished to the OWNER. ENGINEER agrees to indemnify OWNER for third party personal injury and property damage claims to the extent caused by ENGINEER's negligent acts, errors or omissions. However, neither Party to this Agreement shall be liable to the other Party for any special, incidental, indirect, or consequential damages (including but not limited to loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; cost of capital; and/or fines or penalties), loss of profits or revenue arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, errors or omissions, strict liability or breach of contract. The employees of both parties are intended third party beneficiaries of this waiver of consequential damages.

3. OPINIONS OF PROBABLE COST

Any opinions of probable project cost or probable construction cost provided by ENGINEER are made on the basis of information available to ENGINEER and on the basis of ENGINEER's experience and qualifications, and represents its judgment as an experienced and qualified professional engineer. However, since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s') methods of determining prices, or over competitive bidding or market conditions, ENGINEER does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost ENGINEER prepares.

4. CONSTRUCTION PROCEDURES

ENGINEER's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. ENGINEER shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. ENGINEER shall not be responsible for the acts or omissions of the contractor or other parties on the project. ENGINEER shall be

entitled to review all construction contract documents and to require that no provisions extend the duties or liabilities of ENGINEER beyond those set forth in this Agreement. OWNER agrees to include ENGINEER as an indemnified party in OWNER's construction contracts for the work, which shall protect ENGINEER to the same degree as OWNER. Further, OWNER agrees that ENGINEER shall be listed as an additional insured under the construction contractor's liability insurance policies.

5. CONTROLLING LAW

This Agreement is to be governed by the law of the state where ENGINEER's services are performed.

6. SERVICES AND INFORMATION

OWNER will provide all criteria and information pertaining to OWNER's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations. OWNER will also provide copies of any OWNER-furnished Standard Details, Standard Specifications, or Standard Bidding Documents which are to be incorporated into the project.

OWNER will furnish the services of soils/geotechnical engineers or other consultants that include reports and appropriate professional recommendations when such services are deemed necessary by ENGINEER. The OWNER agrees to bear full responsibility for the technical accuracy and content of OWNER-furnished documents and services.

In performing professional engineering and related services hereunder, it is understood by OWNER that ENGINEER is not engaged in rendering any type of legal, insurance or accounting services, opinions or advice. Further, it is the OWNER's sole responsibility to obtain the advice of an attorney, insurance counselor or accountant to protect the OWNER's legal and financial interests. To that end, the OWNER agrees that OWNER or the OWNER's representative will examine all studies, reports, sketches, drawings, specifications, proposals and other documents, opinions or advice prepared or provided by ENGINEER, and will obtain the advice of an attorney, insurance counselor or other consultant as the OWNER deems necessary to protect the OWNER's interests before OWNER takes action or forebears to take action based upon or relying upon the services provided by ENGINEER.

7. SUCCESSORS, ASSIGNS AND BENEFICIARIES

OWNER and ENGINEER, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the covenants of this Agreement. Neither OWNER nor ENGINEER will assign, sublet, or transfer any interest in this Agreement or claims arising therefrom without the written consent of the other. No third party beneficiaries are intended under this Agreement.

8. RE-USE OF DOCUMENTS

All documents, including all reports, drawings, specifications, computer software or other items prepared or furnished by ENGINEER pursuant to this Agreement, are instruments of service with respect to the project. ENGINEER retains ownership of all such documents. OWNER may retain copies of the documents for its information and reference in connection with the project; however, none of the documents are intended or represented to be suitable for reuse by OWNER or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, and OWNER will defend, indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses, including attorney's fees,

arising or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

9. TERMINATION OF AGREEMENT

OWNER or ENGINEER may terminate the Agreement, in whole or in part, by giving seven (7) days written notice to the other party. Where the method of payment is "lump sum," or cost reimbursement, the final invoice will include all services and expenses associated with the project up to the effective date of termination. An equitable adjustment shall also be made to provide for termination settlement costs ENGINEER incurs as a result of commitments that had become firm before termination, and for a reasonable profit for services performed.

10. SEVERABILITY

If any provision of this agreement is held invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or condition shall not be construed by the other party as a waiver of any subsequent breach of the same provision, term or condition.

11. INVOICES

ENGINEER will submit monthly invoices for services rendered and OWNER will make payments to ENGINEER within thirty (30) days of OWNER's receipt of ENGINEER's invoice.

ENGINEER will retain receipts for reimbursable expenses in general accordance with Internal Revenue Service rules pertaining to the support of expenditures for income tax purposes. Receipts will be available for inspection by OWNER's auditors upon request.

If OWNER disputes any items in ENGINEER's invoice for any reason, including the lack of supporting documentation, OWNER may temporarily delete the disputed item and pay the remaining amount of the invoice. OWNER will promptly notify ENGINEER of the dispute and request clarification and/or correction. After any dispute has been settled, ENGINEER will include the disputed item on a subsequent, regularly scheduled invoice, or on a special invoice for the disputed item only.

OWNER recognizes that late payment of invoices results in extra expenses for ENGINEER. ENGINEER retains the right to assess OWNER interest at the rate of one percent (1%) per month, but not to exceed the maximum rate allowed by law, on invoices which are not paid within thirty (30) days from the date OWNER receives ENGINEER's invoice. In the event undisputed portions of ENGINEER's invoices are not paid when due, ENGINEER also reserves the right, after seven (7) days prior written notice, to suspend the performance of its services under this Agreement until all past due amounts have been paid in full.

12. CHANGES

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. Adjustments in the period of services and in compensation shall be in accordance with applicable paragraphs and sections of this Agreement. Any proposed fees by ENGINEER are estimates to perform the services required to complete the project as ENGINEER understands it to be defined. For those projects involving conceptual or process development services, activities often are not fully definable in the initial planning. In any event, as the project progresses, the facts developed may dictate a change in the services to be performed, which may alter the scope. ENGINEER will inform OWNER of such situations so that changes in scope and adjustments to the time of performance and compensation can be made as required. If such change, additional services, or suspension of services results in an increase or decrease in the cost of or time required for performance

of the services, an equitable adjustment shall be made, and the Agreement modified accordingly.

13. CONTROLLING AGREEMENT

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice-to-proceed, or like document.

14. EQUAL EMPLOYMENT AND NONDISCRIMINATION

In connection with the services under this Agreement, ENGINEER agrees to comply with the applicable provisions of federal and state Equal Employment Opportunity for individuals based on color, religion, sex, or national origin, or disabled veteran, recently separated veteran, other protected veteran and armed forces service medal veteran status, disabilities under provisions of executive order 11246, and other employment, statutes and regulations, as stated in Title 41 Part 60 of the Code of Federal Regulations § 60-1.4 (a-f), § 60-300.5 (a-e), § 60-741 (a-e).

15. HAZARDOUS MATERIALS

OWNER represents to ENGINEER that, to the best of its knowledge, no hazardous materials are present at the project site. However, in the event hazardous materials are known to be present, OWNER represents that to the best of its knowledge it has disclosed to ENGINEER the existence of all such hazardous materials, including but not limited to asbestos, PCB's, petroleum, hazardous waste, or radioactive material located at or near the project site, including type, quantity and location of such hazardous materials. It is acknowledged by both parties that ENGINEER's scope of services do not include services related in any way to hazardous materials. In the event ENGINEER or any other party encounters undisclosed hazardous materials, ENGINEER shall have the obligation to notify OWNER and, to the extent required by law or regulation, the appropriate governmental officials, and ENGINEER may, at its option and without liability for delay, consequential or any other damages to OWNER, suspend performance of services on that portion of the project affected by hazardous materials until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the hazardous materials; and (ii) warrants that the project site is in full compliance with all applicable laws and regulations. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous materials, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the project site in connection with ENGINEER's services under this Agreement. If ENGINEER's services hereunder cannot be performed because of the existence of hazardous materials, ENGINEER shall be entitled to terminate this Agreement for cause on 30 days written notice. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, its officers, directors, partners, employees, and subconsultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from hazardous materials, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's sole negligence or willful misconduct.

16. EXECUTION

This Agreement, including the exhibits and schedules made part hereof, constitute the entire Agreement between ENGINEER and

OWNER, supersedes and controls over all prior written or oral understandings. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by the parties.

17. ALLOCATION OF RISK

OWNER AND ENGINEER HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING ENGINEER'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE RISKS, SO, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF ENGINEER (AND ITS RELATED CORPORATIONS, SUBCONSULTANTS AND EMPLOYEES) TO OWNER AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE LESSER OF \$1,000,000 OR ITS FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF ENGINEER'S SERVICES OR THIS AGREEMENT REGARDLESS OF CAUSE(S) OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. ENGINEER'S AND SUBCONSULTANTS' EMPLOYEES ARE INTENDED THIRD PARTY BENEFICIARIES OF THIS ALLOCATION OF RISK.

18. LITIGATION SUPPORT

In the event ENGINEER is required to respond to a subpoena, government inquiry or other legal process related to the services in connection with a legal or dispute resolution proceeding to which ENGINEER is not a party, OWNER shall reimburse ENGINEER for reasonable costs in responding and compensate ENGINEER at its then standard rates for reasonable time incurred in gathering information and documents and attending depositions, hearings, and trial.

19. NO THIRD PARTY BENEFICIARIES

Except as otherwise provided in this Agreement, no third party beneficiaries are intended under this Agreement. In the event a reliance letter or certification is required under the scope of services, the parties agree to use a form that is mutually acceptable to both parties.

20. UTILITY LOCATION

If underground sampling/testing is to be performed, a local utility locating service shall be contacted to make arrangements for all utilities to determine the location of underground utilities. In addition, OWNER shall notify ENGINEER of the presence and location of any underground utilities located on the OWNER's property which are not the responsibility of private/public utilities. ENGINEER shall take reasonable precautions to avoid damaging underground utilities that are properly marked. The OWNER agrees to waive any claim against ENGINEER and will indemnify and hold ENGINEER harmless from any claim of liability, injury or loss caused by or allegedly caused by ENGINEER's damaging of underground utilities that are not properly marked or are not called to ENGINEER's attention prior to beginning the underground sampling/testing.

21. UNMANNED AERIAL SYSTEMS

If operating UAS, ENGINEER will obtain all permits or exemptions required by law to operate any UAS included in the services. ENGINEER's operators have completed the training, certifications and licensure as required by the applicable jurisdiction in which the UAS will be operated. OWNER will obtain any necessary permissions for ENGINEER to operate over private property, and assist, as necessary, with all other necessary permissions for operations.

22. OPERATIONAL TECHNOLOGY SYSTEMS

OWNER agrees that the effectiveness of operational technology systems and features designed, recommended or assessed by ENGINEER (collectively "OT Systems") are dependent upon OWNER's continued operation and maintenance of the OT Systems

in accordance with all standards, best practices, laws, and regulations that govern the operation and maintenance of the OT Systems. OWNER shall be solely responsible for operating and maintaining the OT Systems in accordance with applicable laws, regulations, and industry standards (e.g. ISA, NIST, etc.) and best practices, which generally include but are not limited to, cyber security policies and procedures, documentation and training requirements, continuous monitoring of assets for tampering and intrusion, periodic evaluation for asset vulnerabilities, implementation and update of appropriate technical, physical, and operational standards, and offline testing of all software/firmware patches/updates prior to placing updates into production. Additionally, OWNER recognizes and agrees that OT Systems are subject to internal and external breach, compromise, and similar incidents. Security features designed, recommended or assessed by ENGINEER are intended to reduce the likelihood that OT Systems will be compromised by such incidents. However, ENGINEER does not guarantee that OWNER's OT Systems are impenetrable and OWNER agrees to waive any claims against ENGINEER resulting from any such incidents that relate to or affect OWNER's OT Systems.

23. FORCE MAJEURE

ENGINEER shall not be responsible for delays caused by factors beyond ENGINEER's reasonable control, including but not limited to delays because of strikes, lockouts, work slowdowns or stoppages, government ordered industry shutdowns, power or server outages, acts of nature, widespread infectious disease outbreaks (including, but not limited to epidemics and pandemics), failure of any governmental or other regulatory authority to act in a timely manner, failure of the OWNER to furnish timely information or approve or disapprove of ENGINEER's services or work product, or delays caused by faulty performance by the OWNER's or by contractors of any level or any other events or circumstances not within the reasonable control of the party affected, whether similar or dissimilar to any of the foregoing. When such delays beyond ENGINEER's reasonable control occur, the OWNER agrees that ENGINEER shall not be responsible for damages, nor shall ENGINEER be deemed in default of this Agreement, and the parties will negotiate an equitable adjustment to ENGINEER's schedule and/or compensation if impacted by the force majeure event or condition.

24. EMPLOYEE IMMUNITY

The parties to this Agreement acknowledge that an individual employee or agent may not be held individually liable for negligence with regard to services provided under this Agreement. To the maximum extent permitted by law, the parties intend i) that this limitation on the liability of employees and agents shall include directors, officers, employees, agents and representatives of each party and of any entity for whom a party is legally responsible, and ii) that any such employee or agent identified by name in this Agreement shall not be deemed a party. Specifically, in the event that all or a portion of the services is performed in the State of Florida, the following provision shall be applicable:

THE PARTIES ACKNOWLEDGE THAT PURSUANT TO APPLICABLE FLORIDA STATUTES AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE WITH REGARD TO SERVICES PROVIDED UNDER THIS AGREEMENT. To the maximum extent permitted by law, the Parties intend i) that this limitation on the liability of employees and agents shall include directors, officers, employees, agents and representatives of each Party and of any entity for whom a Party is legally responsible, and ii) that any such employee or agent identified by name in this Agreement shall not be deemed a Party. The Parties further acknowledge that the Florida statutes referred to above include but are not limited to: §558.0035(1)(a)-(e); §471.023(3) (an engineer is personally liable for negligence except as provided in § 558.0035); §472.021(3) (surveyor and mapper); §481.219(11) (architect and interior designer); §481.319(6) (landscape architect); and §492.111(4) (geologist).



Public Works Service Operations

DATE: February 13, 2024

FROM: Steve Salwei, Director Public Works Services

ITEM: Extend Agreement with Houston Engineering, Inc for Solid Waste Operations Engineering Services

REQUEST:

Request approval of Task Order 21-01 to extend the Master Services Agreement with Houston Engineering, Inc. for an additional period of two years, or until February 11, 2026, for solid waste operations which provides support services for the NDDEQ permit.

BACKGROUND INFORMATION:

On February 11, 2021, the City of Bismarck entered into an agreement with Houston Engineering for professional engineering services for solid waste operations. The North Dakota Department of Environmental Quality issued the City of Bismarck's Permit Number 0017 to construct and operate a solid waste facility at its designated location. As part of the approved permit, the NDDEQ requires periodic compliance and utilization reporting, review activities, and annual closure post closure care cost estimate reviews.

The Master Services Agreement (MSA) that defines the terms and conditions for engineering services to support the Bismarck Solid Waste Operations was for three years following the effective date of February 11, 2021. In accordance with Article 3 Paragraph 3.01.B, the MSA may be extended for an additional two-year period. The agreement extends the term of the MSA, without changes, for an additional period of two years, or until February 11, 2026. The total estimated cost of Task Order No. 21-01 is \$37,500.

RECOMMENDED CITY COMMISSION ACTION:

Approve Task Order 21-01 to extend the Master Services Agreement for an additional period of two years, or until February 11, 2026, with Houston Engineering, Inc., for professional engineering services for solid waste operations.

STAFF CONTACT INFORMATION:

Steve Salwei, Director Public Works Services, 701-355-1705, ssalwei@bismarcknd.gov

ATTACHMENTS:

1. Bismarck Solid Waste MSA Extension_Houston Eng_exp 2.11.2026
2. CO2 Houston Engineering MSA 2 year extension_exp 2.11.2026
3. Solid Waste MSA Houston Eng - signed by City 2.23.21

January 30, 2024

Steve Salwei, PE
Director of Service Operations
Bismarck Department of Public Works
PO Box 5503
601 South 26th Street
Bismarck, ND 58504

**Subject: Master Services Agreement for Engineering Services
Bismarck Solid Waste Operations**

Dear Mr. Salwei:

The Master Services Agreement (MSA) that defines the terms and conditions for engineering services to support the Bismarck Solid Waste Operations was for three years following the effective date of February 11, 2021. The MSA is a task order agreement where the City of Bismarck Solid Waste Operations may request, by separate task order, that Houston Engineering, Inc provide professional services for solid waste collection, disposal, and regulatory response projects. Examples of work include, but are not limited to:

- Inert and MSW cell expansion,
- MSW and Inert cell closure,
- Waste/compaction and composition study,
- Landfill topographic survey,
- Tier II NMOC assessment,
- Methane vent well installation,
- Ground water monitoring and analysis,
- Periodic working sessions with City staff to review potential projects and evaluate potential solutions.
- Provide the necessary services for design of selected projects including, but not limited to, environmental analysis, survey, design and preparation of bidding documents and bidding support.
- Provide construction support services including, but not limited to, contract administration, survey support, construction observation, project close out, as-built drawing preparation, and warranty support.

In accordance with Article 3 Paragraph 3.01.B the MSA may be extended for an additional two-year period upon agreement of both parties, with or without changes, by written instrument. Upon agreement below this letter proposal extends the term of the MSA, without changes, for an additional period of two years, or until February 11, 2026.

Solid waste operations services provided by the City of Bismarck are a critical service to not only City residents but the entire region. We greatly value the working partnership that we have established while

assisting the City of Bismarck provide these services and are pleased to have the opportunity to continue that partnership.

Sincerely,

HOUSTON ENGINEERING, INC.

OWNER: **City of Bismarck**

By:
Print Name: Michael Schmitz
Title: Mayor

Date
Signed: _____

Attest: _____

Name Jason Tomanek

Title: **Acting City Administrator**

ENGINEER: **Houston Engineering Inc.**

By: _____
Print Name: Sherwin Wanner, PE
Title: Bismarck Office Manager/Project Manager

Date
Signed: _____

Attest: _____

Name Kevin Martin, PE

Title **Principal**

CONTRACT CHANGE ORDER FORM

DEPARTMENT

City Department	Public Works - Service		
Contractor	Houston Engineering Inc.		
Contract Number	2021-04	Change Order Number	2
Project Number	NA	Change Order Date	2.11.2024
Project Description	To provide professional services for solid waste collection, disposal, and		
Original Contract Amount	\$ 20,000.00	Approved Contract Budget	
Previous Contract Amount	\$ 37,500.00		
Change Order Amount	\$ -		#VALUE!
Proposed Contract Amount	\$ 37,500.00		
Within Project Scope	YES	Within Project Funding	YES
Completion Date	2.11.2024	Change in Completion Date	YES
Revised Completion Date*	2.11.2026	REV COMP DATE REQ'D *If completion date changed on this Change Order	
Type of Change Order	Non Design-related	Work Order No(s).	

Description:

Extends the term of the MSA, without changes, for an additional period of two years, or until February 11, 2026 with Houston Engineering, Inc.

Project Manager Signature (≤\$15,000) _____ SIGN HERE

Send to Fiscal if change is ≤\$15,000, completion date ≤5 days, no scope change or no revised budget Date

Department Head Signature (≤\$25,000) _____

Send to Fiscal if change is ≤\$25,000, completion date ≤15 days, no scope change or no revised budget Date

ADMINISTRATION

City Administrator Signature (≤\$50,000) _____

Add to Commission Agenda Date

COMMISSION APPROVAL

Commission Approval Date _____

Attach Commission approval memo and send to Fiscal #VALUE!

FISCAL

Comments

**If not within project scope or funding, attach revised description and/or revised Project Budget for Board Approval*

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated project and the controlling laws and regulations.

**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES**

TASK ORDER EDITION

Prepared by



Issued and Published Jointly by



This Agreement has been prepared for use with EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC® E-001, Commentary on the EJCDC Engineering Services Agreements, 2013 Edition.

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National Society of Professional Engineers

1420 King Street, Alexandria, VA 22314-2794

(703) 684-2882

www.nspe.org

American Council of Engineering Companies

1015 15th Street N.W., Washington, DC 20005

(202) 347-7474

www.acec.org

American Society of Civil Engineers

1801 Alexander Bell Drive, Reston, VA 20191-4400

(800) 548-2723

www.asce.org

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**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES**

TASK ORDER EDITION

THIS IS AN AGREEMENT effective as of February 11, 2021 (“Effective Date of the Agreement”) between
City of Bismarck, 221 North Fifth Street, Bismarck, North Dakota 58501 (“Owner”) and
Houston Engineering Inc., 3712 Lockport St., Bismarck, ND 58503 (“Engineer”).

Other terms used in this Agreement are defined in Article 7.

From time to time Owner may request that Engineer provide professional services for Specific Projects **under the general heading of Bismarck Solid Waste Operations Engineering Services to provide analysis, and construction support services for Solid Waste collection and disposal projects**. Each engagement will be documented by a Task Order. This Agreement sets forth the general terms and conditions which shall apply to all Task Orders duly executed under this Agreement.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 Scope

- A. Engineer’s services will be detailed in a duly executed Task Order for each Specific Project. The general format of a Task Order is shown in Attachment 1 to this Agreement. Each Task Order will indicate the specific services to be performed and deliverables to be provided. **Examples of work include, but are not limited to:**
- Inert and MSW cell expansion,
 - Exploration and purchase of suitable site for future City of Bismarck Landfill,
 - MSW and Inert cell closure,
 - Waste/compaction and composition study,
 - Landfill topographic survey,
 - Tier II NMOC assessment,
 - Methane vent well installation,
 - Feasibility study of methane gas collection and potential for usage on and off site,
 - CNG collection vehicle fuel feasibility study,
 - Ground water analysis.
 - Periodic working sessions with City staff to review potential projects and evaluate potential solutions.
 - On an as-requested basis, provide the necessary services for design of selected projects including, but not limited to, environmental analysis, survey, design and preparation of bidding documents and bidding support.

- **Provide construction support services including, but not limited to, contract administration, survey support, construction observation, project close out, as-built drawing preparation, and warranty support.**
- B. This Agreement is not a commitment by Owner to Engineer to issue any Task Orders.
- C. **Work will be assigned on an as-requested basis at a negotiated yearly rate schedule. This Agreement is for analysis and design services for three years of the contract date, with additional time for the completion of construction and close out of any projects designed under the agreement. The agreement may be renewed for up to an additional two-year period for project design on the agreement of both parties.**
- D. Engineer shall not be obligated to perform any prospective Task Order unless and until Owner and Engineer agree as to the particulars of the Specific Project, including the scope of Engineer's services, time for performance, Engineer's compensation, and all other appropriate matters.

1.02 Task Order Procedure

- A. Owner and Engineer shall agree on the scope, time for performance, and basis of compensation for each Task Order. With respect to the scope of Engineer's services, each specific Task Order shall either (1) be accompanied by and incorporate a customized Exhibit A, "Engineer's Services for Task Order," prepared for the Specific Project, (2) state the scope of services in the Task Order document itself, or (3) incorporate by reference all or portions of Exhibit A, "Engineer's Services for Task Order," as attached to this Agreement. Each duly executed Task Order shall be subject to the terms and conditions of this Agreement.
- B. Engineer will commence performance as set forth in the Task Order.
- C. Engineer shall provide, or cause to be provided, the services set forth in the Task Order.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 General

- A. Owner shall have the responsibilities set forth in this Agreement; in Exhibit B, "Owner's Responsibilities"; and in each Task Order.
- B. Owner shall pay Engineer as set forth in each Task Order, pursuant to the applicable terms of Article 4 and Exhibit C.
- C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement; such responsibility extends to requirements, instructions, programs, reports, data, and other information furnished by Owner pursuant to any Task Order. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of: (1) any development that affects the scope or time of performance of Engineer's services; (2) the presence at the Site of any Constituent of Concern; or (3) any relevant, material defect or nonconformance in Engineer's services, the Work, the performance of any Constructor, or in Owner's performance of its responsibilities under this Agreement.

ARTICLE 3 – TERM; TIMES FOR RENDERING SERVICES

3.01 *Term*

- A. This Agreement shall be effective and applicable to Task Orders issued hereunder for **3** years from the Effective Date of the Agreement.
- B. The parties may extend or renew this Agreement **up to an additional two-year period for project design on the agreement of both parties**, with or without changes, by written instrument establishing a new term.

3.02 *Times for Rendering Services*

- A. The Effective Date of the Task Order and the times for completing services or providing deliverables will be stated in each Task Order. Engineer is authorized to begin rendering services under a Task Order as of the Effective Date of the Task Order.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Specific Project, or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in a Task Order within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.
- F. With respect to each Task Order, the number of Construction Contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established shall be identified in the Task Order. If the Work designed or specified by Engineer under a Task Order is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), then the Task Order will state the schedule for performance of Engineer's services in order to sequence and properly coordinate such services as are applicable to the Work under the Construction Contracts. If the Task Order does not address such sequencing and coordination, then Owner and Engineer shall jointly develop a schedule for sequencing and coordination of services prior to commencement of final design services; this schedule is to be prepared and included in or become an amendment to the authorizing Task Order whether or not the work under such contracts is to proceed concurrently.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices, the terms of Exhibit C, and the specific Task Order. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 *Payments*

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within **60** days after receipt of Engineer's invoice, then:
 - 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said **sixtieth** day; and
 - 2. Engineer may, after giving seven days written notice to Owner, suspend services under any Task Order issued until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices:* If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to the terms of Paragraph 4.01.
- D. *Sales or Use Taxes:* If after the Effective Date of a Task Order any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under the Task Order, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C and the specific Task Order.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 *Designing to Construction Cost Limit*

- A. If a Construction Cost limit for a Specific Project is established between Owner and Engineer in a Task Order, then such Construction Cost limit and Engineer's rights and responsibilities with respect thereto will

be governed by Exhibit F, "Construction Cost Limit," which shall be attached to and incorporated in the Task Order. If no Construction Cost limit is established in a Task Order, then Exhibit F does not apply.

5.03 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs for a Specific Project shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures*
 - 1. Engineer and Owner shall comply with applicable Laws and Regulations.
 - 2. Engineer shall comply with the policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 - 3. Each Task Order is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date of the Task Order. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date of the Task Order to Laws and Regulations;

- b. the receipt by Engineer after the Effective Date of the Task Order of Owner-provided written policies and procedures;
 - c. changes after the Effective Date of the Task Order to Owner-provided policies or procedures.
- F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant the existence of conditions whose existence Engineer cannot ascertain within its services for that Specific Project. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to the Engineer in any way contingent upon Engineer signing any such document.
- G. The general conditions for any construction contract documents prepared hereunder are to be EJCDC® C-700 "Standard General Conditions of the Construction Contract" (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in Exhibit J or in the specific Task Order.
- H. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- I. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- J. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.
- K. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or for enforcement of construction insurance or surety bonding requirements.
- L. Engineer's services do not include providing legal advice or representation.
- M. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- N. While at a Site, Engineer, its Consultant, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

- A. For each design performed or furnished, Engineer shall be responsible only for those Construction Phase services that have been expressly required of Engineer in the authorizing Task Order. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services. Owner waives all claims against Engineer that may be in any way connected to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in the authorizing Task Order.

6.03 *Use of Documents*

- A. All Documents are instruments of service, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Specific Project is completed.
- B. If Engineer is required to prepare or furnish Drawings or Specifications under the specific Task Order, then Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- C. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Specific Project. Engineer grants Owner a limited license to use the Documents on the Specific Project, extensions of the Specific Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Specific Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Specific Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and its Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.
- D. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Specific Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Electronic Transmittals*

- A. Owner and Engineer may transmit, and shall accept, Specific Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Specific Project website, in accordance with a mutually agreeable protocol.

- B. If this Agreement or a Task Order does not establish protocols for electronic or digital transmittals, then Owner and Engineer shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 Insurance

- A. Commencing with the Effective Date of the Agreement, Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer that is applicable to a Specific Project.
- B. Commencing with the Effective Date of the Agreement, Owner shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability insurance policies carried by Owner, which are applicable to the Specific Project.
- C. Owner shall require Contractors to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Specific Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor.
- D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished promptly after the Effective Date of the Agreement and at renewals thereafter during the life of this Agreement.
- ~~E. All policies of property insurance relating to a Specific Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer or its Consultants. Owner and Engineer waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Specific Project. Owner and Engineer shall take appropriate measures in other Specific Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.~~
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.
- G. Under the terms of any Task Order, or after commencement of performance of a Task Order, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to

obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner.

6.06 *Suspension and Termination*

A. *Suspension*

1. By Owner: Owner may suspend a Task Order for up to 90 days upon seven days written notice to Engineer.
2. By Engineer: Engineer may suspend services under a Task Order (a) if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraph 4.02.B, or (b) in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.10.A.4.
3. A suspension on a specific Task Order, whether by Owner or Engineer, shall not affect the duty of the two parties to proceed with their obligations under other Task Orders.

B. *Termination for Cause—Task Order:* The obligation to provide further services under a specific Task Order may be terminated for cause:

1. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms of the specific Task Order or this Agreement, whose terms govern the specific Task Order, through no fault of the terminating party.
2. By Engineer:
 - a. upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - b. upon seven days written notice if the Engineer's services under a Task Order are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.10.A.5.
 - c. Engineer shall have no liability to Owner on account of such termination.
 - d. Notwithstanding the foregoing, neither this Agreement nor the Task Order will terminate under Paragraph 6.06.B.1 if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

C. *Termination for Cause—Agreement:* In the case of a default by Owner in its obligation to pay Engineer for its services under more than one specific Task Order, Engineer may request immediate payment of all amounts invoiced on other Task Orders, and may invoice Owner for continued services on such Task Orders on a two-week billing cycle, with payment due within one week of an invoice. If Owner fails to make such

payments, then upon seven days notice Engineer may terminate this Agreement, including Engineer's services under all Task Orders.

- D. *Termination for Convenience by Owner:* Owner may terminate a Task Order or this Agreement for Owner's convenience, effective upon Engineer's receipt of notice from Owner.
- E. *Effective Date of Termination:* The terminating party under Paragraphs 6.06.B, C, and D may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Task Order materials in orderly files.
- F. *Payments Upon Termination:*
 - 1. In the event of any termination under Paragraph 6.06, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with the specific Task Order and this Agreement, and for all expenses incurred through the effective date of termination, to the extent that the specific Task Order (or Task Orders) allows reimbursement for such expenses. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.
 - 2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.06.F.1, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using the basis of compensation for Additional Services, as indicated in the specific Task Order.

6.07 *Controlling Law*

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Specific Project is located.

6.08 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.08.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
3. The Owner agrees that the substance of the provisions of this Paragraph 6.08.C shall appear in any Construction Contract Documents prepared for any Specific Project under this Agreement.

6.09 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights at law.
- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.09.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.10 *Environmental Condition of Site*

- A. With respect to each specific Task Order, Specific Project, and Site (unless indicated otherwise in a specific Task Order):
 1. Owner represents to Engineer that as of the Effective Date of the Task Order, to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
 2. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (a) Owner and (b) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
 3. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
 4. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, immediately suspend performance of services on the portion of the Specific Project affected thereby until such portion of the Specific Project is no longer affected.
 5. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under the specific Task Order, then the Engineer shall have the option of (a) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (b) terminating the specific Task Order for cause on seven days notice.

6. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under a specific Task Order or this Agreement.

6.11 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to this Agreement, any Task Order, or any Specific Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any **fault, negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."**
- B. *Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Specific Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, **but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, employees, or agents with respect to this Agreement or to the Specific Project.**
- ~~C. *Environmental Indemnification:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorneys' fees) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under any Site, provided that (1) any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this Paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.~~
- D. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- E. *Percentage Share of Negligence:* To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- F. *Mutual Waiver:* To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all

claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, any Task Order, or a Specific Project, from any cause or causes.

6.12 *Records Retention*

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services under each Task Order, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under the Task Order. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

6.13 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver:* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims:* To the fullest extent permitted by Laws and Regulations, all causes of action arising under a Specific Project shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion of such Specific Project.
- F. *Applicability to Task Orders:* The terms and conditions set forth in this Agreement apply to each Task Order as if set forth in the Task Order, unless specifically modified. In the event of conflicts between this Agreement and a Task Order, the conflicting provisions of the Task Order shall take precedence for that Task Order. The provisions of this Agreement shall be modified only by a written instrument. Such amendments shall be applicable to all Task Orders issued after the effective date of the amendment if not otherwise set forth in the amendment.
- G. *Non-Exclusive Agreement:* Nothing herein shall establish an exclusive relationship between Owner and Engineer. Owner may enter into similar agreements with other professionals for the same or different types of services contemplated hereunder, and Engineer may enter into similar or different agreements with other project owners for the same or different services contemplated hereunder.

22. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
24. *Owner*—The individual or entity with which Engineer has entered into this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning Specific Projects.
25. *Record Drawings*—Drawings depicting the completed Specific Project, or a specific portion of the completed Specific Project, prepared by Engineer as an Additional Service and based solely on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
26. *Resident Project Representative*—The authorized representative, if any, of Engineer assigned to assist Engineer at the Site of a Specific Project during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of the RPR. The duties and responsibilities of the RPR will be as set forth in each Task Order.
27. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
28. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for a Contractor and submitted by a Contractor to Engineer to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
29. *Site*—Lands or areas indicated in the Construction Contract Documents for a Specific Project as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for use of a Contractor.
30. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
31. *Specific Project*—The total specific undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under a specific Task Order are a part.
32. *Subcontractor*—An individual or entity having a direct contract with a Contractor or with any other Subcontractor for the performance of a part of the Work.
33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently

complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.

- 34. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with a Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
- 35. *Task Order*—A document executed by Owner and Engineer, including amendments if any, stating the scope of services, Engineer's compensation, times for performance of services and other relevant information for a Specific Project.
- 36. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Specific Project, including Construction Cost and all other Specific Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, the total costs of services of Engineer or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Specific Project, and the cost of other services to be provided by others to Owner.
- 37. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents for a Specific Project. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning; all as required by such Construction Contract Documents.
- 38. *Work Change Directive*—A written directive to a Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. *Day*: The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Suggested Form of Task Order*

- A. The Suggested Form of Task Order is attached as Attachment 1, and shall be used as the basis for preparing a specific Task Order for each Specific Project under this Agreement.

8.02 *Exhibits Included:*

- A. Exhibit A, Engineer's Services for Task Order. Services, tasks, and terms in Exhibit A as included with this Agreement are for reference in preparing the scope of services for specific Task Orders, and are contractually binding only to the extent expressly incorporated in a specific Task Order.
- B. Exhibit B, Owner's Responsibilities. This Exhibit applies to all Task Orders.

- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses. The terms of Exhibit C that will be applicable to and govern compensation under a specific Task Order will be determined by the selection of compensation methods made in Paragraph 6, "Payments to Engineer," of the specific Task Order.
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative. This Exhibit is not contractually binding except when expressly incorporated in a specific Task Order.
- E. Exhibit E, **Not Used**
- F. Exhibit F, Construction Cost Limit. This Exhibit is contractually binding only with respect to those specific Task Orders that (1) expressly incorporate Exhibit F by reference in the Task Order, Paragraph 2, "Services of Engineer," and (2) expressly state a specific Construction Cost Limit and contingency for the Specific Project in Paragraph 2, "Services of Engineer," of the specific Task Order.
- G. Exhibit G, Insurance. This Exhibit is applicable to all Task Orders.
- H. Exhibit H, Dispute Resolution. This Exhibit is applicable to all Task Orders.
- I. Exhibit I, Limitations of Liability. This Exhibit is applicable to all Task Orders.
- J. Exhibit J, Special Provisions. This Exhibit is applicable to all Task Orders.
- K. Exhibit K, Amendment to Task Order. Owner and Engineer may use this form during a Specific Project to modify the specific Task Order. (Form)

8.03 *Total Agreement*

- A. This Agreement (together with the Exhibits included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties.
- B. An executed Task Order under this Agreement (including any incorporated exhibits or attachments) constitutes the entire agreement between Owner and Engineer with respect to the Specific Project, and supersedes all prior written or oral understandings. Such a Task Order may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments to such a Task Order should be based whenever possible on the format of Exhibit K to this Agreement.

8.04 *Designated Representatives*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party that the individual represents. Each Task Order shall likewise designate representatives of the two parties with respect to that Task Order.

8.05 *Engineer's Certifications*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.05:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on Page 1.

OWNER: City of Bismarck

ENGINEER: Houston Engineering Inc.

By: 
Print Name: Steve Bakken

By: _____
Print Name: Sherwin Wanner, PE

Title: President of Board of City Commissioners

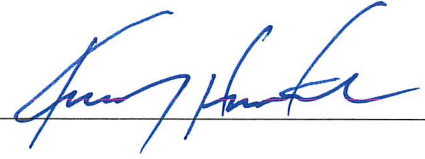
Title: Bismarck Office Manager/Project Manager

Engineer License or Firm's Certificate No. (if required): 015C

State of : North Dakota

Date Signed: February 9, 2021

Date Signed: _____

Attest: 
Name Keith Hunke

Attest: _____
Name Kevin Martin, PE

Title: City Administrator

Title Principal

Address for Owner's receipt of notices:

Address for Engineer's receipt of notices:

Bismarck Department of Public Works
PO Box 5503
221 N 5th St.
Bismarck, ND 58506-5503

Houston Engineering Inc
3712 Lockport Street
Bismarck, ND 58503

DESIGNATED REPRESENTATIVE
(Paragraph 8.04):

DESIGNATED REPRESENTATIVE
(Paragraph 8.04):

Jeff Heintz

Sherwin Wanner, PE

Title: Director of Service Operations

Title: Project Manager

Phone Number: 701-355-1705

Phone Number: 701-323-0200

E-Mail Address: jheintz@bismarcknd.gov

E-Mail Address: swanner@houstoneng.com

**SUGGESTED FORM OF
TASK ORDER**

This is Task Order No. _____, consisting of _____ pages.
--

Task Order

[NOTE TO USER: Modify as to scope, compensation, schedule, and other key items.]

In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated [REDACTED] ("Agreement"), Owner and Engineer agree as follows:

1. Background Data

- a. Effective Date of Task Order:
- b. Owner:
- c. Engineer:
- d. Specific Project (title):
- e. Specific Project (description):

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are:

[Select one of the following three options and delete the other two.]

- ☐ set forth in Part 1—Basic Services of Exhibit A, "Engineer's Services for Task Order," modified for this specific Task Order, and attached to and incorporated as part of this Task Order.

[or]

- ☐ as follows: [REDACTED] ***[Note: Insert scope of services here, or incorporate by reference a scope of services set out in a separate document such as a letter or proposal.]***

[or]

- ☐ the services (and related terms and conditions) set forth in the following sections of Exhibit A, as attached to the Agreement referred to above, such sections being hereby incorporated by reference: ***[Note: If this option is selected, include only those sections below that are part of Basic Services for the specific Task Order, and delete those sections below that do not apply.]***
- Study and Report Services (Exhibit A, Paragraph A1.01)
 - Preliminary Design Phase (Exhibit A, Paragraph A1.02)

- Final Design Phase (Exhibit A, Paragraph A1.03)
- Bidding or Negotiating Services (Exhibit A, Paragraph A1.04)
- Construction Phase Services (Exhibit A, Paragraph A1.05)
 - including Resident Project Representative (RPR) services (A1.05.A.2)
 - **[or]** [not including Resident Project Representative (RPR) services (A1.05.A.2)]
- Post-Construction Phase Services (Exhibit A, Paragraph A1.06)
- Commissioning Services (Exhibit A, Paragraph A1.07)

B. Resident Project Representative (RPR) Services

If the scope of services established in Paragraph 2.A above includes RPR services, then Exhibit D of the Agreement is expressly incorporated in this Task Order by reference.

[1. If RPR services are not in the scope of this Task Order, do not include any references to RPR services in Exhibit A (Paragraph A1.05.A.2) for this Task Order (or state "Does not apply" or similar), or in any other scope of services text or document.

2. If appropriate, modify Exhibit D for this specific Task Order, and attach it, rather than incorporating the Exhibit D that is included with the Agreement.]

C. Designing to a Construction Cost Limit

[If the design under this Task Order will be governed by a Construction Cost limit, then include the following clause, with blanks filled in, and thereby incorporate Exhibit F; if not, then delete the clause or indicate "Does not apply" or similar)]

Under this Task Order Engineer will design to a Construction Cost Limit, subject to the terms of Paragraph 5.02 of the Agreement and of Exhibit F to the Agreement. Exhibit F is expressly incorporated by reference. The Construction Cost Limit is \$ _____. The bidding or negotiating contingency to be added to the Construction Cost Limit is _____ percent.

D. Other Services

Engineer shall also provide the following services: ***[Summarize or provide a brief description of other services (if any) that are to be provided by Engineer as Basic Services, but have not been addressed in Paragraphs 2.A through 2.C. If applicable, categorize such other services by phases, such as other Study and Report Phase Services, other Preliminary Design Phase Services, and so on. If all Basic Services have been covered in Paragraphs 2.A through 2.C, then indicate "None" here in 2.D, or delete 2.D in its entirety.]***

- E. All of the services included above comprise Basic Services for purposes of Engineer's compensation under this Task Order.

3. Additional Services

- A. Additional Services that may be authorized or necessary under this Task Order are:

[Select one of the following three options and delete the other two.]

- ☐ set forth as Additional Services in Part 2—Additional Services, of Exhibit A, "Engineer's Services for Task Order," modified for this specific Task Order, and attached to and incorporated as part of this Task Order.

[or]

- ☐ as follows: ***[Note: Insert list of Additional Services here, or incorporate by reference a list of Additional Services set out in a separate document. Indicate whether advance authorization is needed, and include other governing terms and conditions.]***

[or]

- ☐ those services (and related terms and conditions) set forth in Paragraph A2.01 of Exhibit A, as attached to the Agreement referred to above, such paragraph being hereby incorporated by reference.

4. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 of the Agreement and in Exhibit B, subject to the following: ***[State any additions or modifications to Exhibit B for this Specific Project here.]***

5. Task Order Schedule

In addition to any schedule provisions provided in Exhibit A or elsewhere, the parties shall meet the following schedule: ***[Revise and amend for each specific Task Order.]***

<u>Party</u>	<u>Action</u>	<u>Schedule</u>
Engineer	Furnish <i>[]</i> review copies of the Report and other Study and Report Phase deliverables to Owner.	Within <i>[]</i> days of the Effective Date of the Task Order.
Owner	Submit comments regarding Report and other Study and Report Phase deliverables to Engineer.	Within <i>[]</i> days of the receipt of Report and other Study and Report Phase deliverables from Engineer.
Engineer	Furnish <i>[]</i> copies of the revised Report and other Study and Report Phase deliverables to Owner.	Within <i>[]</i> days of the receipt of Owner's comments regarding the Report and other Study and Report Phase deliverables.
Engineer	Furnish <i>[]</i> review copies of the Preliminary Design Phase documents,	Within <i>[]</i> days of Owner's authorization to proceed with Preliminary Design Phase

	opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	services.
Owner	Submit comments regarding Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Engineer.	Within [] days of the receipt of Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables from Engineer.
Engineer	Furnish [] copies of the revised Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	Within [] days of the receipt of Owner's comments regarding the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Furnish [] copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Owner.	Within [] days of Owner's authorization to proceed with Final Design Phase services.
Owner	Submit comments and instructions regarding the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Engineer.	Within [] days of the receipt of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables from Engineer.
Engineer	Furnish [] copies of the revised final Drawings and Specifications, assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Owner.	Within [] days of the receipt of Owner's comments and instructions regarding the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables

6. Payments to Engineer

A. Owner shall pay Engineer for services rendered under this Task Order as follows:

[Notes: 1. Delete line items that do not apply to this Task Order. 2. For each line item indicate either "Lump Sum," "Direct Labor," or "Hourly Rates" as the Basis of Compensation. 3. Cross-references are to Exhibit A. Revise if necessary, or

delete cross-references if Exhibit A is not used to establish the scope of services under this Task Order.]

Description of Service	Amount	Basis of Compensation
1. Basic Services (Part 1 of Exhibit A)	\$ []	[]
a. Study and Report Phase (A1.01)	\$ []	[]
b. Preliminary and Final Design Phase (A1.02, A1.03)	\$ []	[]
c. Bidding or Negotiating Phase (A1.04)	\$ []	[]
d. Construction Phase (A1.05)*	\$ []	[]
e. Resident Project Representative Services* (A1.05.A.2).	\$ []	[]
f. Post-Construction Phase (A1.06)	\$ []	[]
g. Commissioning Phase (A1.07)	\$ []	[]
h. Other Services (see A1.08, and 2.D above)	\$ []	[]
TOTAL COMPENSATION (lines 1.a-h)	\$ []	
2. Additional Services (Part 2 of Exhibit A)	(N/A)	[]

[Many of the line items under Line 1, Basic Services, will frequently be governed by a single Basis of Compensation; however, it is not unusual to have some variation among the services so the table allows the user to establish different bases of compensation for the various Basic Compensation phases (1.a-1.h).]

*Based on a [] -month continuous construction period.

Compensation items and totals based in whole or in part on Hourly Rates or Direct Labor are estimates only. Lump sum amounts and estimated totals included in the breakdown by phases incorporate Engineer's labor, overhead, profit, reimbursable expenses (if any), and Consultants' charges, if any. For lump sum items, Engineer may alter the distribution of compensation between individual phases (line items) to be consistent with services actually rendered, but shall not exceed the total lump sum compensation amount unless approved in writing by the Owner.

B. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C.

7. Consultants retained as of the Effective Date of the Task Order:

8. Other Modifications to Agreement and Exhibits:

[Supplement or modify Agreement and Exhibits, if appropriate.]

9. Attachments:

10. Other Documents Incorporated by Reference:

11. Terms and Conditions

Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is [REDACTED].

OWNER:

By: _____

Print Name: _____

Title: _____

ENGINEER:

By: _____

Print Name: _____

Title: _____

Engineer License or Firm's
Certificate No. (if required): _____
State of: _____

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: _____

Title: _____

Address: _____

E-Mail
Address: _____

Phone: _____

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: _____

Title: _____

Address: _____

E-Mail
Address: _____

Phone: _____

Engineer's Services for Task Order

PART 1—BASIC SERVICES

A1.01 Study and Report Phase Services

A. As Basic Services, Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Specific Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.
 - a. If Owner has already identified one or more potential solutions to meet its Specific Project requirements, then proceed with the study and evaluation of such potential solutions: **City of Bismarck Municipal Waste Facility Permit Requirements and Master Plan**.
 - b. If Owner has not identified specific potential solutions for study and evaluation, then assist Owner in determining whether Owner's requirements, and available data, reports, plans, and evaluations, point to a single potential solution for Engineer's study and evaluation, or are such that it will be necessary for Engineer to identify, study, and evaluate multiple potential solutions.
 - c. If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify three alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree that some other specific number of alternatives should be identified, studied, and evaluated.
2. Identify potential solution(s) to meet Owner's Specific Project requirements, as needed.
3. Study and evaluate the potential solution(s) to meet Owner's Specific Project requirements.
4. Visit the Site, or potential Specific Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.
5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Specific Project-related data and information, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Specific Project requirements, and preparation of a related report.
6. After consultation with Owner, recommend to Owner the solution(s) which in Engineer's judgment meet Owner's requirements for the Specific Project.

7. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Specific Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Specific Project.
 8. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and Engineer's recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by Owner, a tabulation of other items and services included within the definition of Total Project Costs.
 9. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B, for use in Project design, or in preparation for Contractor selection and construction.
 10. When mutually agreed, assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph shall be referred to in Exhibit A and B as "Specific Project Strategies, Technologies, and Techniques."
 11. If requested to do so by Owner, assist Owner in identifying opportunities for enhancing the sustainability of the Specific Project, and pursuant to Owner's instructions plan for the inclusion of sustainable features in the design.
 12. Use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" as a means to advise the Owner on a recommended scope of work and procedure for the identification and mapping of existing utilities.
 13. Develop a scope of work and survey limits for any topographic and other surveys necessary for design.
 14. Pursuant to the Task Order schedule, furnish the required number of review copies of the Report and any other Study and Report Phase deliverables to Owner, and review it with Owner. Owner shall submit to Engineer any comments regarding the furnished items within the time established in the Task Order schedule.
 15. Pursuant to the Task Order schedule, revise the Report and any other Study and Report Phase deliverables in response to Owner's comments, as appropriate, and furnish the required number of copies of the revised Report and any other Study and Report Phase deliverables to the Owner.
- B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the revised Report and any other Study and Report Phase deliverables.

A1.02 Preliminary Design Phase

A. As Basic Services, Engineer shall:

1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Specific Project.
2. In preparing the Preliminary Design Phase documents, use any specific applicable Specific Project Strategies, Technologies, and Techniques authorized by Owner during or following the Study and Report Phase, and include sustainable features, as appropriate, pursuant to Owner's instructions.
3. Provide necessary field surveys and topographic and utility mapping for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities selected and authorized by Owner pursuant to advice from Engineer based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as set forth in Paragraph A1.01.A.12 above. If no such scope of work and procedure for utility mapping has been selected and authorized, then at a minimum the utility mapping will include Engineer contacting utility owners and obtaining available information.
4. Visit the Site as needed to prepare the Preliminary Design Phase documents.
5. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.
6. Continue to assist Owner with Specific Project Strategies, Technologies, and Techniques that Owner has chosen to implement.
7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in tabulating the various cost categories which comprise Total Project Costs.
8. Obtain and review Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Also obtain and review copies of Owner's design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents or content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in the draft Construction Contract Documents, when applicable.
9. Pursuant to the Task Order schedule, furnish the required number of review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner, and review them with Owner. Within the time established in the Task Order schedule, Owner shall submit to Engineer any comments regarding the furnished items.

10. Pursuant to the Task Order schedule, revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner the required number of copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.
- B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

A1.03 *Final Design Phase*

A. As Basic Services, Engineer shall:

1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
3. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.
4. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost.
5. After consultation with Owner, include in the Construction Contract Documents any specific protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website. Any such protocols shall be applicable to transmittals between and among Owner, Engineer, and Contractor during the Construction Phase and Post-Construction Phase, and unless agreed otherwise shall supersede any conflicting protocols previously established for transmittals between Owner and Engineer.
6. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
7. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from Owner.
8. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from Owner.
9. Pursuant to the Task Order schedule, furnish for review by Owner, its legal counsel, and other advisors, the required number of copies of the final Drawings and Specifications, assembled drafts

of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, and review them with Owner. Within the time required by the Task Order schedule, Owner shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions.

10. Pursuant to the Task Order schedule, revise the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables in accordance with comments and instructions from the Owner, as appropriate, and submit the required number of final copies of such documents to Owner after receipt of Owner's comments and instructions.
 11. **Verify the Bidding Documents contain the Owners requirement that the Contractor purchase and maintain policies of insurance covering workers' compensation, general liability, property damage (other than to the Work itself), motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Verify the Bidding Documents contain the Owners requirement to cause Owner and Engineer and its Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractors.**
- B. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables.
- C. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Task Order is one. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Task Order.

A1.04 *Bidding or Negotiating Phase*

- A. As Basic Services, Engineer shall:
1. Assist Owner in advertising for and obtaining bids or proposals for the Work, assist Owner in issuing assembled design, contract, and bidding-related documents (or requests for proposals or other construction procurement documents) to prospective contractors, and, where applicable, maintain a record of prospective contractors to which documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the issued documents.
 2. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents.
 3. Provide information or assistance needed by Owner in the course of any review of proposals or negotiations with prospective contractors.
 4. Consult with Owner as to the qualifications of prospective contractors.

5. Consult with Owner as to the qualifications of Subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
 6. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Paragraph A2.01.B.2 of this Exhibit A.
 7. Attend the bid opening, prepare bid tabulation sheets to meet Owner's schedule, and assist Owner in evaluating bids or proposals, assembling final contracts for the Work for execution by Owner and Contractor, and in issuing notices of award of such contracts.
 8. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.
 9. Perform or provide the following additional Bidding or Negotiating Phase tasks or deliverables: **Verify Contractor has provided evidence that Owner and Engineer and its Consultants are listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractors.**
- B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if Exhibit F is a part of this Task Order).

A1.05 Construction Phase

A. As Basic Services, Engineer shall:

1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer shall be as assigned in EJCDC® C-700, Standard General Conditions of the Construction Contract (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, or other construction general conditions specified in the Agreement. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.
2. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not

limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D

3. *Selection of Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the testing services identified in Exhibit B, Paragraph B2.01.A.
4. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.
5. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with Owner and Contractor jointly develop such protocols for transmittals between and among Owner, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.
6. *Original Documents:* If requested by Owner to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.
7. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
8. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
9. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:
 - a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Agreement, this Task Order, and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.
 - b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties

and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.

10. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.
11. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.
12. *Clarifications and Interpretations:* Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.
13. *Field Orders:* Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
14. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
15. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews, obtain information, and prepare findings, conclusions, and recommendations for Owner's use, subject to the limitations and responsibilities under the Agreement and the Construction Contract.

16. *Non-reviewable matters:* If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (1) the performance or acceptability of the Work under the Construction Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.
17. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.
18. *Substitutes and "or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Paragraph A2.01.B.2 of this Exhibit A.
19. *Inspections and Tests:*
 - a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
 - b. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
 - c. Pursuant to the terms of the Construction Contract, require additional inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.
20. *Change Proposals and Claims:* (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.

21. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
- a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).
 - b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Agreement or this Task Order. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.
22. *Contractor's Completion Documents:* Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Paragraph A1.05.A.17. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages.
23. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to

review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.

24. *Final Notice of Acceptability of the Work:* Conduct a final visit to the specific Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to Owner and Contractor in the form attached hereto as Exhibit E ("Notice of Acceptability of Work") (also available as a construction form, EJCDC® C-626 (2013)) that the Work is acceptable (subject to the provisions of the Notice and Paragraph A1.05.A.21.b) to the best of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under the Agreement and this Task Order.
 25. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.
- B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the specific Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the specific Project involves more than one prime contract as indicated in Paragraph A1.03.C, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the final Construction Contract under the Task Order.

A1.06 *Post-Construction Phase*

- A. Upon written authorization from Owner during the Post-Construction Phase, as Basic Services, Engineer shall:
1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.
 2. Together with Owner, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.

- B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.

A1.07 Commissioning Phase

A. As Basic Services, Engineer shall:

1. Assist Owner in connection with the adjusting of Specific Project equipment and systems.
2. Assist Owner in training Owner's staff to operate and maintain Specific Project equipment and systems.
3. Prepare operation and maintenance manuals.
4. Assist Owner in developing procedures for (a) control of the operation and maintenance of Specific Project equipment and systems, and (b) related record-keeping.
5. Prepare and furnish to Owner, in the format agreed to, Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor.

A1.08 *Other Services:* Each specific Task Order may include Basic Services that do not fit into the categories above. Such services should be expressly stated in the specific Task Order itself.

PART 2—ADDITIONAL SERVICES

A2.01 Additional Services Requiring an Amendment to Task Order

- A. *Advance Written Authorization Required:* During performance under a Task Order, Owner may authorize Engineer in writing to furnish or obtain from others Additional Services of the types listed below. Unless expressly indicated above or in the specific Task Order to be included Basic Services, the following services are not included as part of Basic Services and will be paid for by Owner as Additional Services, using the basis of compensation for Additional Services, as indicated in the specific Task Order.
1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Specific Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Specific Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Specific Project.
 2. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
 3. Services resulting from significant changes in the scope, extent, or character of the portions of the Specific Project designed or specified by Engineer, or the Specific Project's design requirements, including, but not limited to, changes in size, complexity, Owner's schedule, character of

construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of the Task Order or are due to any other causes beyond Engineer's control.

4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those agreed to in Paragraph A1.01.A.1 and 2.
5. Services required as a result of Owner's providing incomplete or incorrect Specific Project information to Engineer.
6. Providing renderings or models for Owner's use, including services in support of building information modeling or civil integrated management.
7. Undertaking investigations and studies including, but not limited to:
 - a. detailed consideration of operations, maintenance, and overhead expenses;
 - b. based on the engineering and technical aspects of the Project, the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
 - c. preparation of appraisals;
 - d. evaluating processes available for licensing, and assisting Owner in obtaining process licensing;
 - e. detailed quantity surveys of materials, equipment, and labor; and
 - f. audits or inventories required in connection with construction performed or furnished by Owner.
8. Furnishing services of Consultants for other than Basic Services.
9. Providing data or services of the types described in Exhibit B, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
10. Providing the following services:
 - a. Services attributable to more prime construction contracts than specified in Paragraph A1.03.C or the specific Task Order.
 - b. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, and administering Owner's contract for such services.
11. Services during out-of-town travel required of Engineer, other than for visits to the Site or Owner's office as required in Basic Services.

Exhibit A – Engineer's Services

EJCDC® E-505, Agreement Between Owner and Engineer for Professional Services – Task Order Edition.
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12. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructibility review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.
13. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents) or Construction Contract Documents for alternate bids or cost estimates requested by Owner for the Work or a portion thereof.
14. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services required by Paragraph 5.02.A and Exhibit F.
15. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all Addenda and any amendments negotiated by Owner and Contractor.
16. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.
17. Preparing Record Drawings, and furnishing such Record Drawings to Owner.
18. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources.
19. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed.
20. Preparation of operation, maintenance, and staffing manuals.
21. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
22. Assistance to Owner in training Owner's staff to operate and maintain Specific Project equipment and systems.
23. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
24. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, mediation, lien or bond claim, or other legal or administrative proceeding involving the Project.
25. Overtime work requiring higher than regular rates.

Exhibit A – Engineer's Services

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26. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Paragraph A1.05.A.8, and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
 27. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
 28. Excessive services during any correction period, or with respect to guarantees called for in the Construction Contract (except as agreed to under Basic Services).
 29. Provide assistance in responding to the presence of any Constituent of Concern at any Site, in compliance with current Laws and Regulations.
 30. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.
- B. *Advance Written Authorization Not Required:* Engineer shall advise Owner in advance that Engineer will immediately commence to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice from Owner. Unless expressly indicated above or in the specific Task Order to be included Basic Services, the following services are not included as part of Basic Services and will be paid for by Owner as Additional Services, using the basis of compensation for Additional Services, as indicated in the specific Task Order.
1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by Owner.
 2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.
 3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
 4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.
 5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.

Exhibit A – Engineer's Services

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6. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.
7. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.
8. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.

Owner's Responsibilities

Article 2 of the Agreement is amended and supplemented to include the following responsibilities unless expressly stated otherwise in a Task Order.

B2.01 Specific Responsibilities

A. Owner shall:

1. Provide Engineer with all criteria and full information as to Owner's requirements for the Specific Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations.
2. Give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Furnish copies (or give specific directions requesting Engineer to use copies already in Engineer's possession) of all design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and draft Construction Contract Documents, when applicable. Owner shall have responsibility for the final content of (1) such bidding-related documents (or requests for proposals or other construction procurement documents), and (2) those portions of any Construction Contract other than the design (as set forth in the Drawings, Specifications, or otherwise), and other engineering or technical matters; and Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
3. Furnish to Engineer any other available information pertinent to the Specific Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
4. Following Engineer's assessment of initially-available Specific Project information and data and upon Engineer's request, obtain, furnish, or otherwise make available (if necessary through title searches, or retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - a. Property descriptions.

- b. Zoning, deed, and other land use restrictions.
 - c. Utility and topographic mapping and surveys.
 - d. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 - e. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
 - f. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Specific Project, the Site, and adjacent areas.
 - g. Data or consultations as required for the Project but not otherwise identified in this Agreement.
5. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
6. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
- a. Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 - b. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
 - c. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.
7. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
8. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

Exhibit B— Owner's Responsibilities

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9. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.
10. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
11. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, other work is to be performed at or adjacent to the Site by others or by employees of Owner, or if Owner arranges to have work performed at the Site by utility owners, then Owner shall coordinate such work unless Owner designates an individual or entity to have authority and responsibility for coordinating the activities among the various prime Contractors and others performing work. In such case Owner shall define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
12. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
13. Examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
14. Inform Engineer regarding any need for assistance in evaluating the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
15. Advise Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
16. Place and pay for advertisement for Bids in appropriate publications.
17. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
18. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
19. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement, as required.

Exhibit B— Owner's Responsibilities

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20. Perform or provide the following: ***None Listed.***

Payments to Engineer for Services and Reimbursable Expenses

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER'S RESPONSIBILITIES

C2.01 Basis of Compensation

- A. The bases of compensation (compensation methods) for Basic Services (including if applicable the bases of compensation for individual phases of Basic Services) and for Additional Services shall be identified in each specific Task Order (see Suggested Form of Task Order, Paragraph 6). Owner shall pay Engineer for services in accordance with the applicable basis of compensation.
- B. The three following bases of compensation are used for services under the Task Orders, as identified in each specific Task Order:
 1. Lump Sum (plus any expenses expressly eligible for reimbursement)
 2. Standard Hourly Rates (plus any expenses expressly eligible for reimbursement)
 3. ~~Direct Labor Costs Times a Factor (plus any expenses expressly eligible for reimbursement)~~

C2.02 Explanation of Compensation Methods

A. Lump Sum

1. Owner shall pay Engineer a Lump Sum amount for the specified category of services.
2. The Lump Sum will include compensation for Engineer's services and services of Consultants, if any. The Lump Sum constitutes full and complete compensation for Engineer's services in the specified category, including labor costs, overhead, profit, expenses (other than those expenses expressly eligible for reimbursement, if any), and Consultant charges.
3. In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following expenses reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of the services in the specified category (see Appendix 1 for rates or charges): **Subconsultant Fees**
4. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the proportion of the total services actually completed during the billing period to the Lump Sum.

B. Standard Hourly Rates

1. For the specified category of services, the Owner shall pay Engineer an amount equal to the cumulative hours charged to the Specific Project by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class. Under this method, Engineer shall also be entitled to reimbursement from Owner for the expenses identified in Paragraph C2.03 below, and Appendix 1.
2. Standard Hourly Rates include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
3. Engineer's Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit as Appendices 1 and 2.
4. The total estimated compensation for the specified category of services shall be stated in the Task Order. This total estimated compensation will incorporate all labor at Standard Hourly Rates, and reimbursable expenses (including Consultants' charges, if any).
5. The amounts billed will be based on the cumulative hours charged to the specified category of services on the Specific Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus reimbursable expenses (including Consultant's charges, if any).
6. The Standard Hourly Rates and Reimbursable Expenses Schedule shall be adjusted annually (as of January 1, 2022) to reflect equitable changes in the compensation payable to Engineer.

~~C. Direct Labor Costs Times a Factor~~

- ~~1. For the specified category of services, the Owner shall pay Engineer an amount equal to Engineer's Direct Labor Costs times a factor of 1.00 for the services of Engineer's employees engaged on the Specific Project. Direct Labor Costs means salaries and wages paid to employees but does not include payroll-related costs or benefits. Under this method, Engineer shall also be entitled to reimbursement from Owner for the expenses identified in Paragraph C2.03 below, and Appendix 1.~~
- ~~2. Engineer's Reimbursable Expenses Schedule is attached to this Exhibit as Appendix 1.~~
- ~~3. The total estimated compensation for the specified category of services shall be stated in the Task Order. This total estimated compensation incorporates all labor, overhead, profit, and reimbursable expenses (including Consultant's charges, if any).~~
- ~~4. The amounts billed will be based on the applicable Direct Labor Costs for the cumulative hours charged to the specified category of services on the Specific Project during the billing period times the above-designated Factor, plus reimbursable expenses (including Consultant's charges, if any).~~
- ~~5. The Direct Labor Costs and the factor applied to Direct Labor Costs will be adjusted annually (as of January 1, 2022) to reflect equitable changes in the compensation payable to Engineer.~~

C2.03 *Reimbursable Expenses*

- A. Under the Lump Sum method basis of compensation to Engineer, unless expressly indicated otherwise the Lump Sum amount **includes** the following categories of expenses: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone services, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items; and Consultant charges. These expenses are not reimbursable under the Lump Sum method, unless expressly indicated otherwise in C2.02.A.3 above.
- B. Expenses eligible for reimbursement under the Direct Labor Costs Times a Factor and Standard Hourly Rate methods of compensation include the following expenses reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Task Order: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone services, and courier services; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items; Consultant charges; and any other expenses identified in Appendix 1.
- C. Reimbursable expenses reasonably and necessarily incurred in connection with services provided under the Direct Labor Costs Times a Factor and Standard Hourly Rate methods shall be paid at the rates set forth in Appendix 1, Reimbursable Expenses Schedule, subject to the factors set forth below.
- D. The amounts payable to Engineer for reimbursable expenses will be the Project-specific internal expenses actually incurred or allocated by Engineer, plus all invoiced external reimbursable expenses allocable to the Specific Project, the latter multiplied by a factor of **1.0**.
- E. Whenever Engineer is entitled to compensation for the charges of its Consultants, those charges shall be the amount billed by such Consultants to Engineer times a factor of **1.10**.
- F. The external reimbursable expenses and Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

C2.04 *Serving as a Witness*

- A. For services performed by Engineer's employees as witnesses giving testimony in any litigation, arbitration or other legal or administrative proceeding under Paragraph A2.01.A.20, at a rate of **1.25** times the witness's standard hourly rate. Compensation for Consultants for such services will be by reimbursement of Consultants' reasonable charges to Engineer for such services.

C2.05 *Other Provisions Concerning Payment*

- A. *Extended Contract Times:* Should the Contract Times to complete the Work be extended beyond the period stated in the Task Order, payment for Engineer's services shall be continued based on the Standard Hourly Rates Method of Payment.
- B. *Estimated Compensation Amounts*

1. Engineer's estimate of the amounts that will become payable for services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
2. When estimated compensation amounts have been stated in a Task Order and it subsequently becomes apparent to Engineer that a compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof. Promptly thereafter Owner and Engineer shall review the matter of services remaining to be performed and compensation for such services. Owner shall either agree to such compensation exceeding said estimated amount or Owner and Engineer shall agree to a reduction in the remaining services to be rendered by Engineer so that total compensation for such services will not exceed said estimated amount when such services are completed. If Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, the Engineer shall give written notice thereof to Owner and shall be paid for all services rendered thereafter.

This is **Appendix 1 to EXHIBIT C**, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition**, dated **February 11, 2021**.

Reimbursable Expenses Schedule

Expenses eligible for reimbursement are subject to review and adjustment per Exhibit C. Rates and charges for reimbursable expenses as of the date of the Agreement are:

Chargeable Expenses	Rate
Subsistence	Actual Cost
Mileage-Vehicles:	
2-Wheel Drive	IRS Standard Rate
4-Wheel Drive	IRS Standard Rate + \$0.20/Mile
GPS Equipment	\$25/hour/unit
Robotic Total Station	\$40/hour
ATV/Snowmobile/Boat	\$15/hour
ATV with Tracks	\$30/hour
Hydrone RCV	\$50/hour
Small UAS/Large UAS	\$25/hour / \$50/hour
Delivery, Postage, Printing	Actual Cost
Surveying Materials, Special Equipment, and other Materials required	Actual Cost
Subconsultants	Actual Cost + 10%

This is **Appendix 2 to EXHIBIT C**, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated **February 11, 2021**.

Standard Hourly Rates Schedule

The following standard hourly rates are subject to review and adjustment per Exhibit C. Hourly rates for services as of the Effective Date of the Task Order are:

Category	2021 Rates
Engineer I	\$129
Engineer II	142
Engineer III	161
Project Engineer	179
Project Manager	196
Sr Project Manager	215
Scientist I	\$129
Scientist II	142
Scientist III	162
Project Mgr – Environmental	190
Sr Project Mgr – Environmental	215
Hydrogeologist I	\$129
Hydrogeologist II	143
Hydrogeologist III	162
Sr Hydrogeologist	202
Construction Engineer	\$148
Sr Construction Engineer	175
Land Surveyor I	\$129
Land Surveyor II	148
Land Surveyor III	163
Project Mgr – Land Surveying	175
Sr Project Manager – Land Surveying	196
Survey Crews:	
1-Person Crew (+ equipment)	\$157
2-Person Crew (+ equipment)	191
3-Person Crew (+ equipment)	237
4-Person Crew (+ equipment)	265
Landscape Architect	\$137
CAD Technician I	\$88
CAD Technician II	101
CAD Supervisor	116

Exhibit C – Appendix 2 – Standard Hourly Rates Schedule

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Category	2021 Rates
Designer I	\$135
Designer II	145
Sr Designer	156
Engineering Specialist	165
Technician Intern (all areas)	\$88
Technician I	\$101
Technician II	116
Sr Technician	129
Right-of-Way Technician	\$118
Right-of-Way Specialist	196
GIS Analyst I	\$96
GIS Analyst II	112
GIS Analyst III	129
Sr GIS Analyst	148
Project Manager – GIS	163
Sr Project Manager – GIS	190
Software Engineer I	\$112
Software Engineer II	129
Software Engineer III	148
Sr Software Engineer	162
Computer Technician	\$156
Communications Specialist	\$88
Sr Communications Specialist	98
Administrative Assistant	\$83
Sr Administrative Assistant	88
Planner	\$142
Senior Planner	196
Legislative/Grant Specialist	\$182
Expert Witness	236
Drone Pilot	\$137
Drone Visual Observer	54

Schedule of Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

The following duties, responsibilities, and limitations of authority may be incorporated in the Task Order for a Specific Project:

D1.01 Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative ("RPR") to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree. RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.
- B. Through RPR's observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor's work in progress, for the coordination of the Constructors' work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A, Paragraph A1.05, as incorporated in this Task Order, are applicable.
- C. The duties and responsibilities of the RPR are as follows:
 - 1. *General:* RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 - 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.
 - 3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. *Liaison*
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor. ,
7. *Shop Drawings and Samples*
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.
9. *Review of Work; Defective Work*
 - a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected, removed and replaced, or accepted as provided in the Construction Contract Documents.
 - b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not

compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work; and

- c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups*

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.

11. *Records*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Upon request from Owner to Engineer, photograph or video work in progress or Site conditions.
- d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Specific Project documentation.

- f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

12. *Reports*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately inform Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

15. *Completion:*

- a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion, submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's visit to the Site in the company of, Owner, and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).

D. Resident Project Representative shall not:

- 1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).

2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Specific Project in whole or in part.

Construction Cost Limit

Paragraph 5.02 of the Agreement is amended and supplemented to include the following when incorporated in the Task Order for a Specific Project:

F5.02 *Designing to Construction Cost Limit*

- A. A Construction Cost limit may be set forth in the Task Order.
- B. If a Construction Cost limit is set forth in a Task Order, then the Task Order will also specify bidding or negotiating contingency to be added to such Construction Cost limit.
- C. The acceptance by Owner at any time during Basic Services of a revised opinion of probable Construction Cost in excess of the then established Construction Cost limit will constitute a corresponding increase in the Construction Cost limit.
- D. Engineer will be permitted to determine what types of materials, equipment and component systems, and the types and quality thereof are to be included in the Drawings and Specifications and to make reasonable adjustments in the scope, extent, and character of a Specific Project to the extent consistent with the project requirements and sound engineering practices to bring the project within the Construction Cost limit.
- E. If the Bidding or Negotiating Phase has not commenced within three months after completion of the Final Design Phase, or if industry-wide prices are changed because of unusual or unanticipated events affecting the general level of prices or times of delivery in the construction industry, the established Construction Cost limit will not be binding on Engineer, and Owner shall consent to an adjustment in such Construction Cost limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or Bids are sought.
- F. If the lowest bona fide proposal or Bid exceeds the established Construction Cost limit, Owner shall (1) give written approval to increase such Construction Cost limit, or (2) authorize negotiating or rebidding the Specific Project within a reasonable time, or (3) cooperate in revising the Specific Project's scope, extent, or character to the extent consistent with the Specific Project's requirements and with sound engineering practices. In the case of (3), Engineer shall modify the Construction Contract Documents as necessary to bring the Construction Cost within the Construction Cost limit. Owner shall pay Engineer's cost to provide such modification services, including the costs of the services of its Consultants, all overhead expenses reasonably related thereto, and Reimbursable Expenses, but without profit to Engineer on account of such services. The providing of such services will be the limit of its responsibility in this regard and, having done so, Engineer shall be entitled to payment for services and expenses in accordance with this Agreement and will not otherwise be liable for damages attributable to the lowest bona fide proposal or bid exceeding the established Construction Cost limit.

Exhibit F – Construction Cost Limit

Insurance

Paragraph 6.05 of the Agreement is amended and supplemented to include the following agreement of the parties.

G6.05 Insurance

- A. The limits of liability for the insurance required by Paragraphs 6.05.A and 6.05.B of the Agreement are as follows, unless and except as specifically modified by a specific Task Order:
1. By Engineer:
 - a. Workers' Compensation: Statutory
 - b. Employer's Liability –
 - 1) Bodily injury, each accident: \$ 1,000,000
 - 2) Bodily injury by disease, each employee: \$ 1,000,000
 - 3) Bodily injury/disease, aggregate: \$ 1,000,000
 - c. General Liability –
 - 1) Each Occurrence
(Bodily Injury and Property Damage): \$ 1,000,000
 - 2) General Aggregate: \$ 2,000,000
 - d. Excess or Umbrella Liability –
 - 1) Each Occurrence: \$ 4,000,000
 - 2) General Aggregate: \$ 4,000,000
 - e. Automobile Liability – Combined Single Limit
(Bodily Injury and Property Damage): \$ 1,000,000
 - f. Professional Liability –
 - 1) Each Claim Made: \$ 5,000,000
 - 2) Annual Aggregate: \$ 5,000,000
 - g. Other (specify): \$ _____

Exhibit G - Insurance

2. By Owner:

- a. Workers' Compensation: Statutory
- b. Employer's Liability –
- 1) Bodily injury, each accident \$ _____
 - 2) Bodily injury by disease, each employee \$ _____
 - 3) Bodily injury/disease, aggregate \$ _____
- c. General Liability –
- 1) General Aggregate: \$ 2,000,000
 - 2) Each Occurrence (Bodily Injury and Property Damage): \$ 1,000,000
- d. Excess Umbrella Liability --
- 1) Each Occurrence: \$ _____
 - 2) General Aggregate: \$ _____
- e. Automobile Liability –
- 1) Combined Single Limit (Bodily Injury and Property Damage): Each Accident \$ 2,000,000
- f. Other (specify): \$ _____

B. Additional Insureds:

1. Engineer and the Consultants identified in the Task Order for a Specific Project shall be listed on Owner's general liability policies of insurance as additional insureds.
2. During the term of each Task Order the Engineer shall notify Owner of any other Consultant to be listed as an additional insured on Owner's general liability policies of insurance.
3. The Owner shall be listed on Engineer's general liability policy.

Exhibit G - Insurance

This is **EXHIBIT H**, consisting of **1** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated **February 11, 2021**.

Dispute Resolution

Paragraph 6.09 of the Agreement is supplemented to include the following agreement of the parties:

H6.09 Dispute Resolution

- A. Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement, including any Task Order, or the breach thereof ("Disputes") to mediation **pursuant to the Construction Industry Mediation Rules of the American Arbitration Association in effect on the Effective Date of the Agreement**. Owner and Engineer agree to participate in the mediation process in good faith. The process should be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution of their choice, or (2) either party may seek to have the dispute resolved by a court of competent jurisdiction.

Limitations of Liability

Paragraph 6.11 of the Agreement is supplemented to include the following agreement of the parties:

6.11.A Limitation of Engineer's Liability

1. *Engineer's Liability Limited to Amount of Insurance Proceeds:* Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by Laws and Regulations, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal), up to the amount of insurance required under this Agreement.

This is **EXHIBIT J**, consisting of **11** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **February 11, 2021**.

Special Provisions

Paragraph(s) ___ of the Agreement is/are amended to include the following agreement(s) of the parties:

This is **EXHIBIT K**, consisting of [REDACTED] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated **February 11, 2021**.

Amendment To Task Order No. _____

1. Background Data:

- a. Effective Date of Task Order:
- b. Owner:
- c. Engineer:
- d. Specific Project:

2. Description of Modifications

[Include the following paragraphs that are applicable and delete those not applicable to this amendment. Refer to paragraph numbers used in the Agreement or a previous amendment for clarity with respect to the modifications to be made. Use paragraph numbers in this document for ease of reference herein and in future correspondence or amendments.]

- a. Engineer shall perform the following Additional Services: [REDACTED]
- b. The Scope of Services currently authorized to be performed by Engineer in accordance with the Task Order and previous amendments, if any, is modified as follows: [REDACTED]
- c. The responsibilities of Owner with respect to the Task Order are modified as follows: [REDACTED]
- d. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation: [REDACTED]
- e. The schedule for rendering services under this Task Order is modified as follows: [REDACTED]
- f. Other portions of the Task Order (including previous amendments, if any) are modified as follows: [REDACTED]

[List other Attachments, if any]

3. Task Order Summary (Reference only)

- | | | | |
|----|----------------------------------|----|--|
| a. | Original Task Order amount: | \$ | |
| b. | Net change for prior amendments: | \$ | |
| c. | This amendment amount: | \$ | |
| d. | Adjusted Task Order amount: | \$ | |

The foregoing Task Order Summary is for reference only and does not alter the terms of the Task Order, including those set forth in Exhibit C.

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 _____.

OWNER:

ENGINEER:

By: _____

By: _____

Title: _____

Title: _____

Date
Signed: _____

Date
Signed: _____



Public Works Service Operations

DATE: February 13, 2024

FROM: Steve Salwei, Director Public Works Services

ITEM: Groundwater Monitoring Task Order 24-01

REQUEST:

Approval of Task Order 24-01 from Houston Engineering for the Solid Waste operations to provide 2024 BMWF Groundwater Sampling, Analysis, and Reporting.

BACKGROUND INFORMATION:

The ND Department of Environmental Quality issued the City of Bismarck Permit No. 0017 to construct and operate a solid waste facility at its designated location. As part of the approved permit, the NDDEQ requires annual groundwater monitoring and annual reporting of results in accordance with the permit-approved Groundwater Monitoring Plan (GWMP). The total estimated cost of Task Order No. 24-01 is \$36,900.

RECOMMENDED CITY COMMISSION ACTION:

Approve Task Order No. 24-01 Ground Water Monitoring to the Agreement with Houston Engineering for professional engineering services for Solid Waste operations.

STAFF CONTACT INFORMATION:

Steve Salwei, Director Public Works Services, 701-355-1705, ssalwei@bismarcknd.gov

ATTACHMENTS:

1. MWF Task Order 24-01 Groundwater Sampling, Analysis, and Reporting
2. BMWF Task Order 24-02 (2024 T2 NMOC)

**TASK ORDER AGREEMENT TO
BISMARCK SOLID WASTE OPERATIONS ENGINEERING SERVICES
AGREEMENT**

This is Task Order No **24-01**,
consisting of **5** pages.

Task Order

In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated February 11, 2021 ("Agreement"), Owner and Engineer agree as follows:

1. Background Data

- a. Effective Date of Task Order: **February 13, 2024**
- b. Owner: **City of Bismarck**
- c. Engineer: **Houston Engineering Inc.**
- d. Specific Project (title): **2024 BMWF Groundwater Sampling, Analysis, and Reporting**
- e. Specific Project (description): **The North Dakota Department of Environmental Quality (NDDEQ) issued the City of Bismarck's Permit Number 0017 to construct and operate a solid waste facility at its designated location. As part of the approved permit the NDDEQ requires annual groundwater monitoring and annual reporting of results in accordance with the permit approved Groundwater Monitoring Plan (GWMP).**

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are as follows:
 - 1. **Prepare an annual report presenting the groundwater data collected in 2023 including the statistical analysis of the 2023 groundwater quality data relative to the past groundwater quality data. NOTE: Remaining consistent with past practices, the groundwater data collected in 2024 will be submitted in an annual report to be provided in 2024 under a 2025 task order contract;**
 - 2. **In Spring/Summer 2024, obtain groundwater elevation data from 54 monitoring wells in accordance with the site groundwater monitoring plan.**
 - 3. **In late Fall 2024, obtain groundwater elevation measurements from 28 monitoring wells in accordance with the site groundwater monitoring plan.**
 - 4. **Measure the percent methane (% CH₄), percent oxygen (% O₂), and percent carbon dioxide (% CO₂) in four on-site buildings, three off-site buildings, two leachate sumps,**

and ten landfill gas monitoring wells on a quarterly basis (March, June, August, and November 2024);

- 5. In Spring/Summer 2024, collect groundwater samples from the 40 existing monitoring wells in accordance with the site groundwater monitoring plan;**
- 6. In late Fall 2024, collect groundwater samples from the 22 existing monitoring wells in accordance with the site groundwater monitoring plan;**
- 7. Analyze the groundwater samples collected from the groundwater monitoring wells for the presence and concentration of the Group A, Group B, Group D, Group F, and Group H parameters; and**
- 8. Take the appropriate Quality Assurance/Quality Control measures relative to the groundwater quality data, to include obtaining trip blanks and collecting field blanks for analysis of Volatile Organic compounds (VOCs), and collecting equipment blanks for analysis of the parameters listed in Group A, Group B, Group D, Group F, and Group H.**

B. Other Services

As directed during the required permit action coordination meetings with the City of Bismarck and NDDEQ.

- C. All of the services included above comprise Basic Services for purposes of Engineer's compensation under this Task Order.**

3. Additional Services

- A. Additional Services that may be authorized or necessary under this Task Order are:**

Set forth as Additional Services in Part 2—Additional Services, of Exhibit A, "Engineer's Services for Task Order," modified for this specific Task Order, and attached to and incorporated as part of this Task Order.

4. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 of the Agreement and in Exhibit B.

5. Task Order Schedule

In addition to any schedule provisions provided in Exhibit A or elsewhere, the parties shall meet the following schedule:

The timeframe and/or due date as set forth in the permit documentation for annual reporting. Monitoring and sampling are through the end of 2024.

6. Payments to Engineer

- A. Owner shall pay Engineer for services rendered under this Task Order as follows:**

By Standard Hourly rates set forth in Article 2 and described in Exhibit C Article 2 Paragraph C2.02.B of the Agreement.

The total estimated fee for services is \$85,100. This cost estimate includes subcontractor costs for Minnesota Valley Testing Laboratories (MVTL) to perform the sampling and analysis and it is expected that MVTL will invoice the City directly for these services. The portion of the estimated fee for MVTL to perform the sampling and analysis services is \$50,800. The portion of the estimated fee for Engineer services is \$34,300. The Engineer services will be based on the cumulative hours charged during the billing period plus Reimbursable Expenses and Engineer's Consultant's charges. The total estimated fee will not be exceeded without prior written authorization of the Owner.

- B. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C.

7. Sub-Consultants retained as of the Effective Date of the Task Order:

Minnesota Valley Testing Laboratories, Inc., 2616 E. Broadway Ave, Bismarck, ND 58501

8. Other Modifications to Agreement and Exhibits:

None

9. Attachments:

None

10. Other Documents Incorporated by Reference:

Bismarck Solid Waste Operations Engineering Services Agreement- **February 11, 2021**

11. Terms and Conditions

Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is **February 13, 2024**.

OWNER: City of Bismarck

ENGINEER: Houston Engineering Inc.

By: _____

Name: Mike Schmitz

Title: Mayor

By: _____

Name: Sherwin Wanner, PE

Title: Project Manager / Bismarck Office
Manager

Engineer License or Firm's
Certificate No. 015C

State of: North Dakota

Date Signed: _____

Date Signed: _____

Attest: _____

Name: Jason Tomanek

Title: Acting City Administrator

Attest: _____

Name: Kevin Martin, PE

Title: Principal/Senior Project Manager

Address for giving notices:

Bismarck Department of Public Works
PO Box 5503
601 S. 26th Street

Bismarck, ND 58506-5503

Address for giving notices:

Houston Engineering Inc.
3712 Lockport St.

Bismarck, ND 58503

Task Order Form

EJCDC® E-505, Agreement Between Owner and Engineer for Professional Services – Task Order Edition.
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and American Society of Civil Engineers. All rights reserved.

DESIGNATED REPRESENTATIVE
(Paragraph 8.03.A):

Steve Salwei

Title: Director of Service Operations

Phone Number: 701-355-1705

Facsimile Number: 701-221-6840

E-Mail

Address: ssalwei@bismarcknd.gov

DESIGNATED REPRESENTATIVE
(Paragraph 8.03.A):

Sherwin Wanner, PE

Title: Project Manager

Phone Number: 701-323-0200

Facsimile Number: 701-323-0300

E-Mail

Address: swanner@houstoneng.com

**TASK ORDER AGREEMENT TO
BISMARCK SOLID WASTE OPERATIONS ENGINEERING SERVICES
AGREEMENT**

This is Task Order No **24-02**,
consisting of **5** pages.

Task Order

In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated February 11, 2021 ("Agreement"), Owner and Engineer agree as follows:

1. Background Data

- a. Effective Date of Task Order: **February 13, 2024**
- b. Owner: **City of Bismarck**
- c. Engineer: **Houston Engineering Inc.**
- d. Specific Project (title): **2024 BMWF Tier 2 NMOC Emission Testing, Analysis, and Reporting**
- e. Specific Project (description): **The North Dakota Department of Environmental Quality (NDDEQ) issued the City of Bismarck's Permit Number 0017 to construct and operate a solid waste facility at its designated location. As part of the approved permit, the performance of Tier 2 NMOC emission testing is required every 5 years. The previous Tier 2 testing was performed in 2019. The Air Quality Title V permit is required by the NDDEQ and EPA as part of the permitting process and includes the NMOC monitoring.**

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are as follows:
 - 1. **Install up to 55 drive point methane monitoring locations within the pertinent waste areas of the Subtitle D landfill.**
 - a. **The monitoring points will be installed to a depth of up to 8 feet below the surface.**
 - b. **Assumes 5 points will encounter refusal and re-drilling will be required (net 50 sample probe locations is assumed).**
 - 2. **Collect survey point data of all the drive points and geo-reference the survey points to the landfill benchmarks.**

3. Landfill gas encountered at each monitoring location will be purged and the flow stabilized with respect to percent oxygen (O₂), carbon dioxide (CO₂), lower explosive limit (LEL) and Methane (CH₄).
4. Landfill gas will be collected from each monitoring point in a 6-liter (L) summa canister for chemical analysis.
5. Composite samples will be collected to minimize sample analysis costs.
 - a. Up to four samples may be composited in a 6L canister;
 - b. the minimum individual sample size will be no less than 1L; and
 - c. up to 15 composite samples are assumed.
6. Composite samples will be analyzed for total NMOC as carbon, CH₄, CO₂, O₂, and Nitrogen by EPA Method 25C and EPA Method 3C.
7. Calculate NMOC concentrations and prepare a report presenting the data generated during our activities with our conclusions and recommendations based on that data.

B. Other Services

As directed during the required permit action coordination meetings with the City of Bismarck and NDDEQ.

- C. All of the services included above comprise Basic Services for purposes of Engineer's compensation under this Task Order.

3. Additional Services

- A. Additional Services that may be authorized or necessary under this Task Order are:

Set forth as Additional Services in Part 2—Additional Services, of Exhibit A, "Engineer's Services for Task Order," modified for this specific Task Order, and attached to and incorporated as part of this Task Order.

4. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 of the Agreement and in Exhibit B.

5. Task Order Schedule

In addition to any schedule provisions provided in Exhibit A or elsewhere, the parties shall meet the following schedule:

The timeframe and/or due date as set forth in the permit documentation. Monitoring and sampling are through the end of 2024.

6. Payments to Engineer

- A. Owner shall pay Engineer for services rendered under this Task Order as follows:

By Standard Hourly rates set forth in Article 2 and described in Exhibit C Article 2 Paragraph C2.02.B of the Agreement.

The total estimated fee for services is \$36,900. This cost estimate includes subcontractor costs for Eurofins Laboratories Inc. to perform the chemical analysis and R&B Environmental Drilling, LLC (RBE) or Traut Companies (depending on availability) to perform field services. HEI will process the subcontractor invoices for inclusion in HEI billing. The portion of the estimated fee for Eurofins to perform the sampling and analysis services is \$6,300. The portion of the estimated fee for drilling services is \$11,900. The portion of the estimated fee for Engineer services to complete the Tier 2 NMOC monitoring, analysis and reporting is \$18,700. The Engineer services will be based on the cumulative hours charged during the billing period plus Reimbursable Expenses and Engineer's Consultant's charges. The total estimated fee will not be exceeded without prior written authorization of the Owner.

- B. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C.

7. Sub-Consultants retained as of the Effective Date of the Task Order:

Eurofins Laboratories Inc. will perform landfill gas chemical analysis.

R&B Environmental Drilling, LLC or Traut Companies will install the methane drive point sample probes for subsequent sampling by HEI.

8. Other Modifications to Agreement and Exhibits:

None

9. Attachments:

None

10. Other Documents Incorporated by Reference:

Bismarck Solid Waste Operations Engineering Services Agreement- February 11, 2021.

11. Terms and Conditions

Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is **February 13, 2024**.

OWNER: City of Bismarck

ENGINEER: Houston Engineering Inc.

By: _____

Name: Mike Schmitz

Title: Mayor

By: _____

Name: Sherwin Wanner, PE

Title: Project Manager / Bismarck Office Manager

Engineer License or Firm's
Certificate No. 015C

State of: North Dakota

Date Signed: _____

Date Signed: _____

Attest: _____

Name: Jason Tomanek

Title: Acting City Administrator

Attest: _____

Name: Kevin Martin, PE

Title: Principal/Senior Project Manager

Address for giving notices:

Bismarck Department of Public Works
PO Box 5503
601 S. 26th Street

Bismarck, ND 58506-5503

Address for giving notices:

Houston Engineering Inc.
3712 Lockport St.

Bismarck, ND 58503

DESIGNATED REPRESENTATIVE

DESIGNATED REPRESENTATIVE

H:\JBN\4400\4489\4489_BMSWF General-Annual Services\Contracts\2024-2025\BMWF Task Order 24-02 (2024 T2 NMOC).doc

Task Order Form

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and American Society of Civil Engineers. All rights reserved.

(Paragraph 8.03.A):

Steve Salwei

Title: Director of Service Operations

Phone Number: 701-355-1705

Facsimile Number: 701-221-6840

E-Mail

Address: ssalwei@bismarcknd.gov

(Paragraph 8.03.A):

Sherwin Wanner, PE

Title: Project Manager

Phone Number: 701-323-0200

Facsimile Number: 701-323-0300

E-Mail

Address: swanner@houstoneng.com



Public Works Service Operations

DATE: February 13, 2024

FROM: Steve Salwei, Director Public Works Services

ITEM: LF Final Cover Closure Time Extension

REQUEST:

Consider and approve Time Extension to Task Order 22-03 with Houston Engineering for Landfill Final Cover Closure Phase I-III to December 31, 2024.

BACKGROUND INFORMATION:

On February 11, 2021, the City of Bismarck entered into an agreement with Houston Engineering for professional engineering services for solid waste operations, which included engineering design and construction management support services for the final cover closure of Phases I-III of the facilities existing landfill. The initial task order for the Landfill Final Cover Closure Phase I-III identified a completion date of December 31, 2023.

Engineering design, project solicitation and initiation of construction occurred during the 2023 construction season. As of December 2023, the Contractor had completed placement of the soil barrier layer component of the final cover system. Due to the onset of frozen conditions, the Contractor suspended construction operations for the season in early December 2023. It is anticipated the Contractor will re-mobilize to the site in the spring of 2024. Based on the construction contract schedule and related construction management services to support construction operations, we request that the completion date of Task Order 22-03 be extended to December 31, 2024. The extended task order timeline will support project completion including development and submission of required reporting documentation to the North Dakota Department of Environmental Quality.

RECOMMENDED CITY COMMISSION ACTION:

Approve the completion date of Task Order 22-03 Final Cover Closure Phase I-III with Houston Engineering to be extended to December 31, 2024.

STAFF CONTACT INFORMATION:

Steve Salwei, Director Public Works Services, 701-355-1705, ssalwei@bismarcknd.gov

ATTACHMENTS:

1. 20240213 LF Final Cover Closure Time Extension to 12.31.2024

This is **EXHIBIT K**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated February 11, 2021.

Amendment To Task Order No. 22-03

1. Background Data:

- a. Effective Date of Task Order: **December 27, 2022**
- b. Owner: **City of Bismarck**
- c. Engineer: **Houston Engineering Inc. (HEI)**
- d. Specific Project: **Engineering Design and Construction Management Services for Final Cover Closure of Phases I-III; BSWMF Expansion Existing Landfill Facility**

2. Description of Modifications

- a. The Scope of Services currently authorized to be performed by Engineer in accordance with the Task Order and previous amendments, if any, is modified as follows:

Services under this Amendment to Task Order 22-03 included engineering design and construction management support services for the final cover closure of Phases I-III of the facilities existing landfill. The initial task order identified a completion date of December 31, 2023.

Engineering design, project solicitation and initiation of construction occurred during the 2023 construction season. As of December 2023, the Contractor had completed placement of the soil barrier layer component of the final cover system. Due to the onset of frozen conditions the Contractor suspended construction operations for the season in early December 2023. It is anticipated the Contractor will re-mobilize to the site in the spring of 2024 and complete the installation of the vegetative and topsoil components of the final cover system to satisfy the contract specified substantial completion. The construction contract identified a substantial completion date of April 1, 2024, with final project completion by June 14, 2024.

- b. The schedule for rendering services under this Task Order is modified as follows:

Based on the construction contract schedule and related construction management services to support construction operations, we/HEI request that the completion date of Task Order 22-03 be extended to December 31, 2024. The extended task order timeline will support project completion including development and submission of required reporting documentation to the North Dakota Department of Environmental Quality.

- c. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation:

No additional compensation is requested.

3. Task Order Summary (Reference only)

- | | | |
|----|----------------------------------|------------|
| a. | Original Task Order amount: | \$ 332,352 |
| b. | Net change for prior amendments: | \$ 0 |
| c. | This amendment amount: | \$ 0 |
| d. | Adjusted Task Order amount: | \$ 332,352 |

The foregoing Task Order Summary is for reference only and does not alter the terms of the Task Order, including those set forth in Exhibit C.

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 January 1, 2024.

OWNER:

By: _____

Title: _____

Date
Signed: _____

ENGINEER:

By: _____

Title: Principal in Charge / Bismarck Office
Manager

Date
Signed: _____

CONTRACT CHANGE ORDER FORM

DEPARTMENT

City Department	Public Works - Service		
Contractor	Houston Engineering Inc		
Contract Number	2022-98	Change Order Number	1
Project Number	see below	Change Order Date	1/1/2024
Project Description	Landfill Final Cover Closure Phase I-III		
Original Contract Amount	\$ 332,352.00	Approved Contract Budget	
Previous Contract Amount	\$ 332,352.00		
Change Order Amount	\$ -		#VALUE!
Proposed Contract Amount	\$ 332,352.00		
Within Project Scope	YES	Within Project Funding	YES
Completion Date	12.31.2023	Change in Completion Date	NO
Revised Completion Date*	12.31.2024	*If completion date changed on this Change Order	
Type of Change Order	Non Design-related	Work Order No(s).	

Description:

Project: SWDUTIL.CONSULTING.FINALCOVERCLOSUR
Amendment to Task Order 22-03 included engineering design and construction management support services for the final cover closure of Phases I-III of the facilities existing landfill

Project Manager Signature (≤\$15,000)

SIGN HERE

Send to Fiscal if change is ≤\$15,000, completion date ≤5 days, no scope change or no revised budget

Date

Department Head Signature (≤\$25,000)

Send to Fiscal if change is ≤\$25,000, completion date ≤15 days, no scope change or no revised budget

Date

ADMINISTRATION

City Administrator Signature (≤\$50,000)

Add to Commission Agenda

Date

COMMISSION APPROVAL

Commission Approval Date

Attach Commission approval memo and send to Fiscal

FISCAL

Comments

**If not within project scope or funding, attach revised description and/or revised Project Budget for Board Approval*



Administration Department

DATE: February 13, 2024

FROM: Jason Tomanek, Acting City Administrator

ITEM: Public hearing on the application to transfer the Class E - Sale At Retail of Beer Only alcohol license, located at 619 Memorial Hwy, from 3 Fat Boys, LLC. to BHB, LLC

REQUEST:

Public hearing on the request to have the Class E - Sale At Retail of Beer Only alcohol license located at 619 Memorial Hwy transferred from 3 Fat Boys, LLC. to BHB, LLC.

BACKGROUND INFORMATION:

BHB, LLC. is requesting to have the Class E - Sale at Retail of Beer Only alcohol license located at 619 Memorial Hwy transferred from 3 Fat Boys, LLC.

Class E.

To any applicant for the sale at retail of beer only. The total number of Class E licenses issued in any year may not exceed sixteen plus one additional license for each 2,500 people in excess of 60,000 people, as shown by the most recent official estimated census. New Class E licenses or Class E licenses revoked or not renewed may be issued only pursuant to section 5-01-06

RECOMMENDED CITY COMMISSION ACTION:

Staff recommends approval of the request to have the Class E - Sale At Retail of Beer Only alcohol license located at 619 Memorial Hwy transferred from 3 Fat Boys, LLC. to BHB, LLC.

STAFF CONTACT INFORMATION:

Whitnie Olsen, Senior Administrative Assistant, wolsen@bismarcknd.gov

ATTACHMENTS:

1. Application
2. Site Diagram



APPLICATION FOR RETAIL ALCOHOL BEVERAGE LICENSE

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

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

LAST REVISED: 5/15/2023

License Type:		☐ New Application	☐ Renewal	☒ Transfer	☐ Relocation
Class A: Nationally Organized Fraternal Order or Club ☐ \$3,700	Class B-1: Operator of the Beverage Concession at the Airport Terminal Building ☐ \$650	Class B-2: Concession at the Bismarck Municipal Country Club ☐ \$650	Class B-3: Commercial passenger vessels on the Missouri River ☐ \$650	Class B-4: Sale of Beer & Wine at the Bismarck Event Center ☐ \$650	
Class B-5: Sale of Beer & Wine at Bismarck Parks and Recreation Locations ☐ \$650	Class B-6: Commercial Airline ☐ \$650	Class C-1: Hotel or Motel Full Service ☐ \$3,800	Class C-2: Hotel or Motel ☐ \$1,000	Class D: Sale at Retail of Alcoholic Beverages ☐ \$4,100	
Class E: Sale at Retail of Beer Only ☒ \$800	Class F-1: Restaurant - Alcoholic Beverages ☐ \$3,500	Class F-2: Restaurant - Beer & Wine Only ☐ \$1,100	Class G: Catered Retail Beer, Wine, & Liquor ☐ \$650	Class H: Domestic Brewery / Distillery / Winery ☐ \$800	
Class I: Senior Living Community / Complimentary ☐ \$350		All Class F-1, F-2, C-2, & G license holders shall file with the application for license renewal a copy of their report of food and alcoholic beverage amounts that they have filed with the State of North Dakota for their state alcohol permit for the immediately preceding calendar year prior to renewal. The Board of City Commissioners may, at its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the commission deems necessary.			

Location Information:				
Legal Business Name: BHB, LLC			Date of Incorporation: 12/14/2023	State Business ID Number: 0006528396
Doing Business As (DBA) Name, if Applicable: The Tap-In Tavern			If out of state corporation, is corporation registered in North Dakota? ☐ Yes ☒ No	
Location Address: 619 Memorial Highway	City: Bismarck	State: ND	Zip: 58504	Phone Number:
Name and Title of Person Completing Form (must be the person listed in ownership information or manager): Kyle Leftwich - BHB, LLC Board Member				

Contact Information (Where correspondence is to be sent):				
Primary Contact: Kyle Leftwich		Phone Number: 701-226-4487	Email Address: president@bismarckhockey.com	
Mailing Address: 1504 Wichita Dr		City: Bismarck	State: ND	Zip: 58504

Manager's Name: Kyle Leftwich		Date of Birth: 08/07/1983	Percentage of Ownership: 0%
Driver's License Number: LEF-83-S631		State Issued: ND	Gender: M
Home Address: 4443 Glenwood Dr		City: Bismarck	Race: Caucasian
Occupation: Pharmacist		State: ND	Zip: 58504
Phone Number: 701-226-4487	Title: Board Member	Email Address: president@bismarckhockey.com	

List all officers or directors of corporation or partners and percentage of ownership:

Name: Brad Thompson		Date of Birth: 2-3-70	Percentage of Ownership: 0%
Driver's License Number: Tho - 70 - 7426	State Issued: ND	Gender: Male	Race: Caucasian
Home Address: 6222 Fox Meadow Place	City: Bismarck	State: ND	Zip: 58503
Occupation: Banking	Phone Number: 701-391-1009	Title: Branch President	Email Address: Bthompson@Fibt.com

Name: Matt Power		Date of Birth: 3-5-83	Percentage of Ownership: 0%
Driver's License Number: POW-83-3509	State Issued: ND	Gender: Male	Race: Caucasian
Home Address: 1240 W Coulee Rd	City: Bismarck	State: ND	Zip: 58501
Occupation: Banking	Phone Number: 701-527-9900	Title: Private Banking	Email Address: mpower3230@gmail.com

Name: Layne Sedevic		Date of Birth: 4-8-83	Percentage of Ownership: 0%
Driver's License Number: SED-83-7436	State Issued: ND	Gender: Male	Race: Caucasian
Home Address: 1422 Harmon AVE	City: Bismarck	State: ND	Zip: 58501
Occupation: Hockey Coach	Phone Number: 701-204-5678	Title: Head Coach GM	Email Address: lynesedevic@gmail.com

Name: Jackie Ressler		Date of Birth: 5-3-87	Percentage of Ownership: 0%
Driver's License Number: RES-87-3204	State Issued: ND	Gender: Female	Race: Caucasian
Home Address: 4910 Mellowson Dr.	City: Bismarck	State: ND	Zip: 58503
Occupation: Accountant	Phone Number: 701-391-9786	Title: Audit Manager	Email Address: jackiecastleberry@gmail.com

List all officers or directors of corporation or partners and percentage of ownership:

Name: Bismarck Hockey Boosters		Date of Birth:	Percentage of Ownership: 100 %
Driver's License Number:	State Issued:	Gender:	Race:
Home Address: 1504 Wichita Dr.	City: Bismarck	State: ND	Zip: 58504
Occupation: Non-Profit	Phone Number: 701-712-8914	Title:	Email Address:

Name: Ian MacDonald		Date of Birth: 11-18-93	Percentage of Ownership: 0 %
Driver's License Number: MAC-93-1118	State Issued: ND	Gender: Male	Race: Caucasian
Home Address: 916 Baffin Loop, Bismarck ND 58503	City: Bismarck	State: ND	Zip: 58503
Occupation: Board Member	Phone Number: 701-500-2162	Title: Treasurer	Email Address: treasurer@bismarckhockey.com

Name: Kyle Leftwich		Date of Birth: 8-7-83	Percentage of Ownership: 0 %
Driver's License Number: LEF-83-5631	State Issued: ND	Gender: Male	Race: Caucasian
Home Address: 4443 Glenwood Dr.	City: Bismarck	State: ND	Zip: 58504
Occupation: Pharmacist	Phone Number: 701-226-4487	Title: Pharmacist	Email Address: president@bismarckhockey.com

Name: Mikayla Jablonski Lehner		Date of Birth: 5-4-84	Percentage of Ownership: 0 %
Driver's License Number: SAB-84-2316	State Issued: ND	Gender: Female	Race: Caucasian
Home Address: 525 Live Oak Ln	City: Bismarck	State: ND	Zip: 58504
Occupation: Albrey	Phone Number: 701-426-6681	Title: Executive Director	Email Address: executivedirector@Bismarckhockey.com

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

1. Are the manager and partners legal residents of the United States and the State of North Dakota, and are all officers or directors legal residents of the United States?

☒ Yes ☐ No

If no, please explain:

2. Have any of the persons listed above been convicted of any crime within the past five years?

☐ Yes ☒ No

If yes, list all convictions and the dates, locations and sentence of disposition of each:

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

4. Has applicant, or any of the persons listed above, within the past five years had any license to engage in sale of alcoholic beverages revoked or suspended?

☐ Yes ☒ No

If yes, please give details:

5. If a new application, has the applicant or any of the persons listed above engaged in the sale or transportation of alcoholic beverages previously?

☐ Yes ☒ No

If yes, please give details:

6. Has the applicant, or any of the persons listed above, within the past five years, had an application for any federal or state, or local license of any type rejected or denied?

☐ Yes ☒ No

If yes, please give details:

7. Is there any agreement or understanding, or proposed agreement or understanding to obtain the license for another, or to operate the business for another, or as an agent for another?

☐ Yes ☒ No

If yes, please give details:

8. Has the business been sold or leased, or is there any intention to sell or lease the business to another?

☐ Yes ☒ No

If yes, please give details:

9. Has the applicant, or any of the persons listed above, shown interest in whatsoever, directly or indirectly, any other licensed liquor establishment within or without the State of North Dakota?

☐ Yes ☒ No

If yes, please give details:

10. Will the applicant, or any of the persons listed above, be engaged in any other business other than the sale of liquor under the license applied for?

☐ Yes ☒ No

If yes, please give details:

11. Have all property taxes and special assessments currently due been paid?

☒ Yes ☐ No

If no, please give details:

Signature:

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

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

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



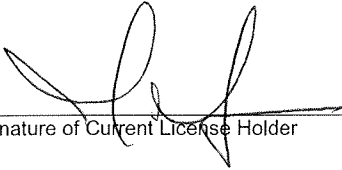
Signature of Applicant

12/29/23
Date

Kyle Lettwich / Board member
Print Name / Title of Officer

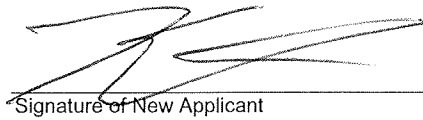
Liquor License Transfers (only use if license is being transferred):

The Class E license owned by me is transferred to Applicant upon successful application.



Signature of Current License Holder

James Masser
Print Name



Signature of New Applicant

Kyle Lettwich
Print Name

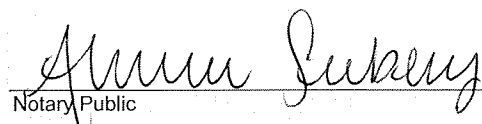
North Dakota
State of

Burleigh
County of

Subscribed and sworn to before me this 29th

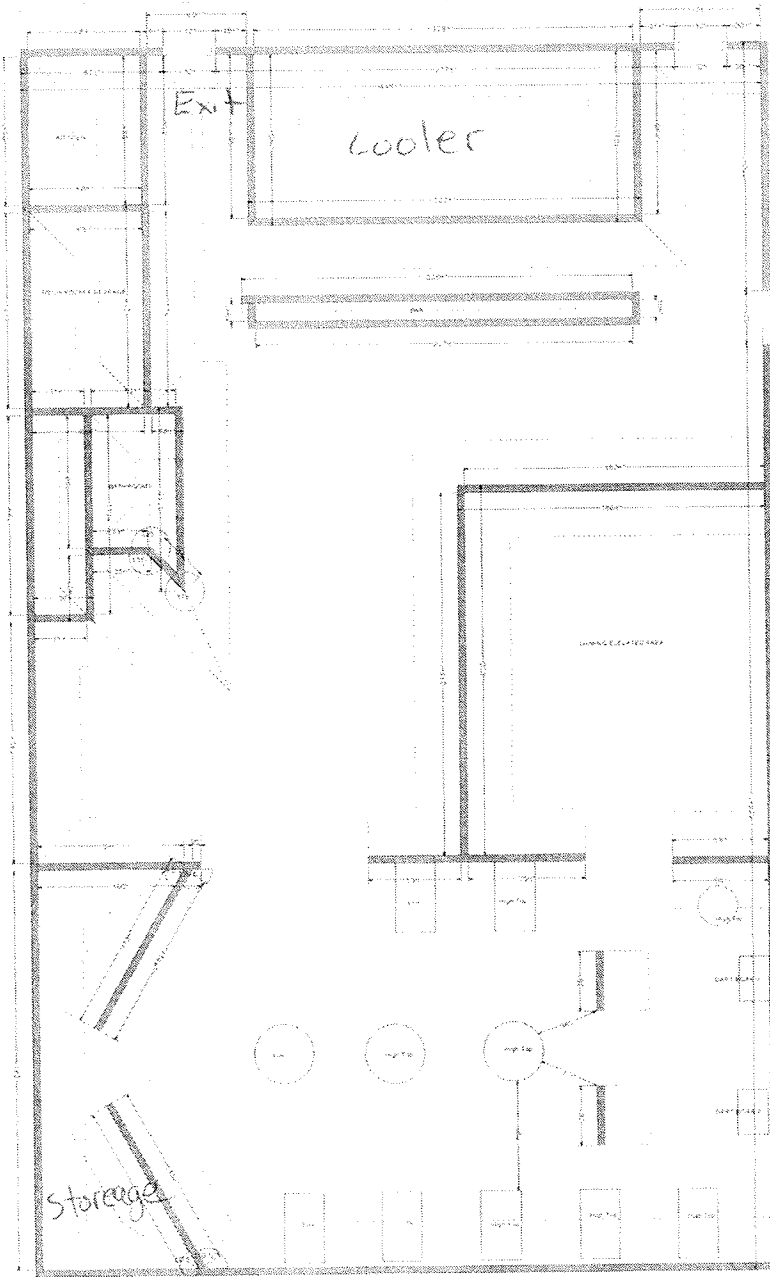
day of December

ALANNA SEEBERG
Notary Public
State of North Dakota
My Commission Expires April 6, 2027



Notary Public

April 6, 2027
My Commission Expires



N ↑

BHB LLC

Exit 601 MEMORI
Bismarck, ND

All dimensions size designations given are subject to verification on job site and adjustment to fit job conditions.

2020

This is an original design and must not be released or copied unless applicable fee has been paid or job order placed.

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BAR LAYOUT 5-17

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Community Development Department

DATE: February 13, 2024

FROM: Ben Ehreth, Community Development Director

ITEM: Gusaas Signs Bismarck Board of Adjustment Appeal

REQUEST:

Request of Gusaas Signs to appeal the January 4, 2024, decision of the Bismarck Board of Adjustment to uphold the Planning Manager / Zoning Administrator's interpretation of the zoning ordinance relating to a proposed off-premise advertising sign on Lot 1, Block 1, Basin Electric Fourth Addition.

BACKGROUND INFORMATION:

Joe Gusaas is appealing the January 4, 2024, decision of the Bismarck Board of Adjustment to affirm a zoning determination made by the Planning Manager / Zoning Administrator that the dimensional requirements outlined in Section 14-03-3.1-08(4)i would prohibit the installation of an off-premise advertising sign located at 2830 North 19th Street (Lot 1, Block 1, Basin Electric Fourth Addition).

The Board of Adjustment considered this request at their meeting of January 4, 2024. As this was not a public hearing, no residents spoke or submitted written comments. At the conclusion of the hearing, the Board of Adjustment unanimously affirmed the zoning determination made on December 12, 2023, by the Planning Manager / Zoning Administrator with regard to a proposed off-premise advertising sign.

RECOMMENDED CITY COMMISSION ACTION:

Consider the appeal of the Board of Adjustment's decision to affirm the Planning Manager / Zoning Administrator's interpretation of the zoning ordinance relating to an off-premise advertising sign.

STAFF CONTACT INFORMATION:

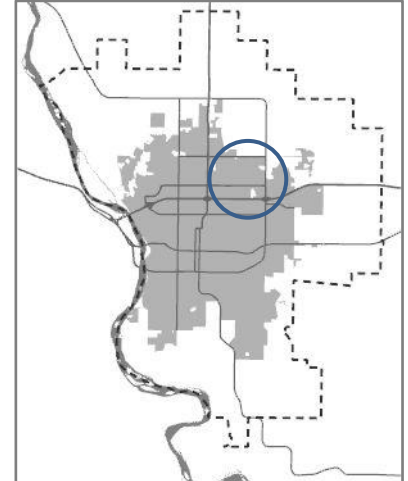
Ben Ehreth, Community Development Director, 701-355-1842, behreth@bismarcknd.gov
Daniel Nairn, Planning Manager, 701-355-1854, dnairn@bismarcknd.gov
Jenny Wollmuth, Senior Planner, 701-355-1850, jwollmuth@bismarcknd.gov

ATTACHMENTS:

1. Gusaas Sign BOA Appeal

Project Summary

<i>Title:</i>	Lot 1, Block 1, Basin Electric 4 th Addition (2830 North 19 th Street)
<i>Status:</i>	Board of City Commissioners
<i>Owner(s):</i>	Columbo LLC
<i>Project Contact:</i>	Joe Gusaas, Gusaas Signs
<i>Location:</i>	In northeast Bismarck, in the southwest quadrant of the intersection of East Century Avenue and North 19 th Street



Appeal of Zoning Determination

Joe Gusaas is appealing the January 4, 2024 decision of the Bismarck Board of Adjustment to affirm a zoning determination made by the Planning Manager / Zoning Administrator that the dimensional requirements outlined in Section 14-03-3.1-08(4)i would prohibit the installation of an off-premise advertising sign located at 2830 North 19th Street (Lot 1, Block 1, Basin Electric Fourth Addition).

Background Information

This property was zoned from the RT – Residential zoning district to the Conditional CA – Commercial in September 2023. An off-premise advertising sign is not permitted within the RT – Residential zoning district.

Prior to rezoning the property and during the rezoning process, Planning staff communicated to the property owner, both in private communications and public documents, that an off-premise advertising sign could not be placed on the property as it would not meet the required spacing distance from the intersection of East Century Avenue and North 19th Street. A copy of the staff report relating to the zoning change is included for your review.

The zoning ordinance requires an off-premise sign to be placed at least 200 feet from the center point of any intersection of an arterial (East Century Avenue) and arterial and/or collector roadway (North 19th Street), which is also the NE ¼ of the NW ¼ of Section 27, T139M-R80W. It should be noted that all spacing distances are measured as the linear distance along the centerline of the roadway. The western boundary of the property is exactly 200 feet from the center point of the intersection, therefore there is no location within the property that would meet this requirement.

A building permit for an off-premise advertising sign on this property was submitted and denied by the Building Inspection Department in October 2023 as the proposed sign did not meet the criteria for approval

(continued)

outlined in the zoning ordinance. Planning staff explained that the spacing requirement was added to the zoning ordinance in 2016. Planning staff offered to discuss a possible amendment to the ordinance with other City staff, including those from the Bismarck Police Department and the City Engineering Department who helped craft the ordinance requirements in 2016. City staff affirmed that they would not be supportive of any changes to the ordinance that would allow the proposed sign to be placed on the property.

Applicable Sections of the Zoning Ordinance

Section 14-06-03(1) of the City Code of Ordinances (Appeal Procedure / Appeal – How Taken) states, “An appeal to the board of adjustment may be taken by any aggrieved applicant, including any person, firm, or corporation aggrieved, or by any governmental officer, department, board, or bureau affected by any decision of the Zoning Administrator based in whole or in part upon the provisions of this article. Such appeal shall be taken within such time as shall be prescribed by the board of adjustment by general rule, by filing with the Zoning Administrator and with the board of adjustment at the community development department, a notice of appeal and specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the board of adjustment, after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application, and notice to the Zoning Administrator and on due cause shown.”

Section 14-03.1 of the City Code of Ordinances (Signs / Off-Premise Advertising Signs – Spacing) states, “Any and all parts of the sign, whether static or digital, shall be located at least three hundred (300) feet from any part of an existing or approved off-premise advertising sign, whether static or digital; at least two hundred (200) feet from the center point of any intersection of arterial and an arterial and/or collector roadway; and at least five hundred (500) feet from the nearest right-of-way of an interstate interchange. In addition, all parts of a digital off-premise advertising sign shall be located at least twelve hundred (1,200) feet from any part of an existing or approved digital off-premise advertising sign. Distance is measured as the linear distance along the centerline of the roadway toward which the sign is oriented. The distance shall be measured between any two signs on the same or opposite sides of this roadway.”

Staff analysis and determination

The Planning Manager / Zoning Administrator has reviewed the zoning ordinance and the proposed request, and has determined that the dimensional requirements outlined in the zoning ordinance would prohibit the installation of an off-premise advertising sign located at 2830 North 19th Street (Lot 1, Block 1, Basin Electric Fourth Addition).

Attachments

1. Appeal of Zoning Determination
2. Zoning Determination
3. Site Exhibit
4. Bismarck Board of Adjustment Minutes (01/04/24)

(continued)

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

Jenny Wollmuth

From: Joe Gusaas [REDACTED]
Sent: Friday, December 8, 2023 8:18 AM
To: Daniel Nairn
Cc: Jenny Wollmuth; Mark Kern
Subject: Re: Off-Premise Advertising Sign Measurements

CAUTION: *External Email - Use caution clicking links or opening attachments*****

Daniel,

I would like to appeal the denial of this permit. What are the steps I need to take to do so?

Thanks,
Joe Gusaas
Gusaas Signs

On Dec 6, 2023, at 11:11 AM, Daniel Nairn <dnairn@bismarcknd.gov> wrote:

Joe,

Thanks for following up. I had a full day yesterday, but now have some time to send a more thorough response. We did raise this issue during our plat review meeting on Monday, and the general consensus of the City staff group is that there is no desire to change the sign code to reduce the spacing distance for off-premise advertising signs from intersections.

The spacing distance requirement, including the method of measuring as a linear distance along the centerline of the adjacent roadway, originated from Ordinance 6190 which was adopted in March 2016. Many of the staff in this week's meeting were involved in that process and affirmed that maintaining distances from intersections was the intent.

Based on the images you sent, we did research and confirmed that other cities in our region generally do not have specific spacing distances from intersections and rely on more subjective judgements for interference or sight distance obstruction. Signs have been placed closer to intersections than we allow. This appears to be one provisions in which Bismarck is more restrictive than our peers. That was communicated during the meeting but did not change the outcome.

You have the right to appeal a determination to deny a sign permit. However, as a reminder the grounds for this appeal are whether the provisions of Section 14-03.1-08(14) Off-Premise Advertising Signs are being accurately applied as written. This is not a vehicle for changing the ordinance or varying from it.

Best,

Daniel Nairn, AICP
Planning Manager

City of Bismarck - Community Development Department



December 12, 2023

Joe Gusaas
Gusaas Signs
800 Calypso Dr
Bismarck, ND 58504

RE: Section 14-03.1-05(4) Off-Premise Advertising Signs Zoning Determination

Dear Mr. Gusaas,

The purpose of this letter is to provide you with a zoning determination for the proposed installation of an off-premise advertising sign on the property of 2830 North 19th Street or Lot 1, Block 1, Basin Electric Fourth Addition.

The subject property is located within the Conditional CG – Commercial zoning district. Off - premise advertising signs are an allowable use within this zoning district. However, spacing distances are required by ordinance between any two off-premise advertising signs and between an off-premise advertising sign and a roadway intersection, according to Section 14-03.1-05(4)i. The intersection of East Century Avenue, an arterial roadway, and North 19th Street, a collector roadway, is at the northeast corner of the subject lot. The minimum required distance between the center point of an intersection of a collector and arterial roadway and any part of a sign is 200 feet.

All spacing distances required in this provision are measured “as the linear distance along the centerline of the roadway toward which the sign is oriented.” In this case, the measurement would be taken from the intersection center point, which is also the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 27 T139N-R80W, to the west along East Century Avenue for a distance of 200 feet. The distance to the west lot line is exactly 200 feet, so there is no location on the subject lot that exceeds the minimum spacing distance.

Off-premise advertising signs are only permitted when adjacent to (i.e. oriented toward) an arterial roadway, according to Section 14-03.1-05(4)d. Therefore, it would not be permissible to place the sign adjacent to North 19th Street.

This property was recently rezoned from RT – Residential, within which off-premise advertising signs are not permitted. Ordinance 6557 was approved by the City Commission on August 22,

2023 to effect this change. During the review process for this zoning change, the applicant and property owners were advised on numerous occasions, both in private communications and public documents, that dimensional requirements would disallow the installation of an off-premise advertising sign on the subject lot. For example, the staff report to the June 28, 2023 Planning and Zoning Commission meeting stated the following:

“It should be noted that an off-premise advertising sign (billboard) would not be permitted on either Lot 1 or Lot 2, Basin Electric Fourth Addition, regardless of zoning. There are no locations on this property that would comply with required spacing distance from the intersection of East Century Avenue and North 19th Street. Furthermore, the Highway Beautification Act of 1965, and North Dakota’s agreement to comply, does not recognize commercial rezoning “created primarily to permit outdoor advertising structures” as valid for the purposes of permitting billboards.”

The ordinance provisions in question originated from Ordinance 6190, which was adopted in March 2016.

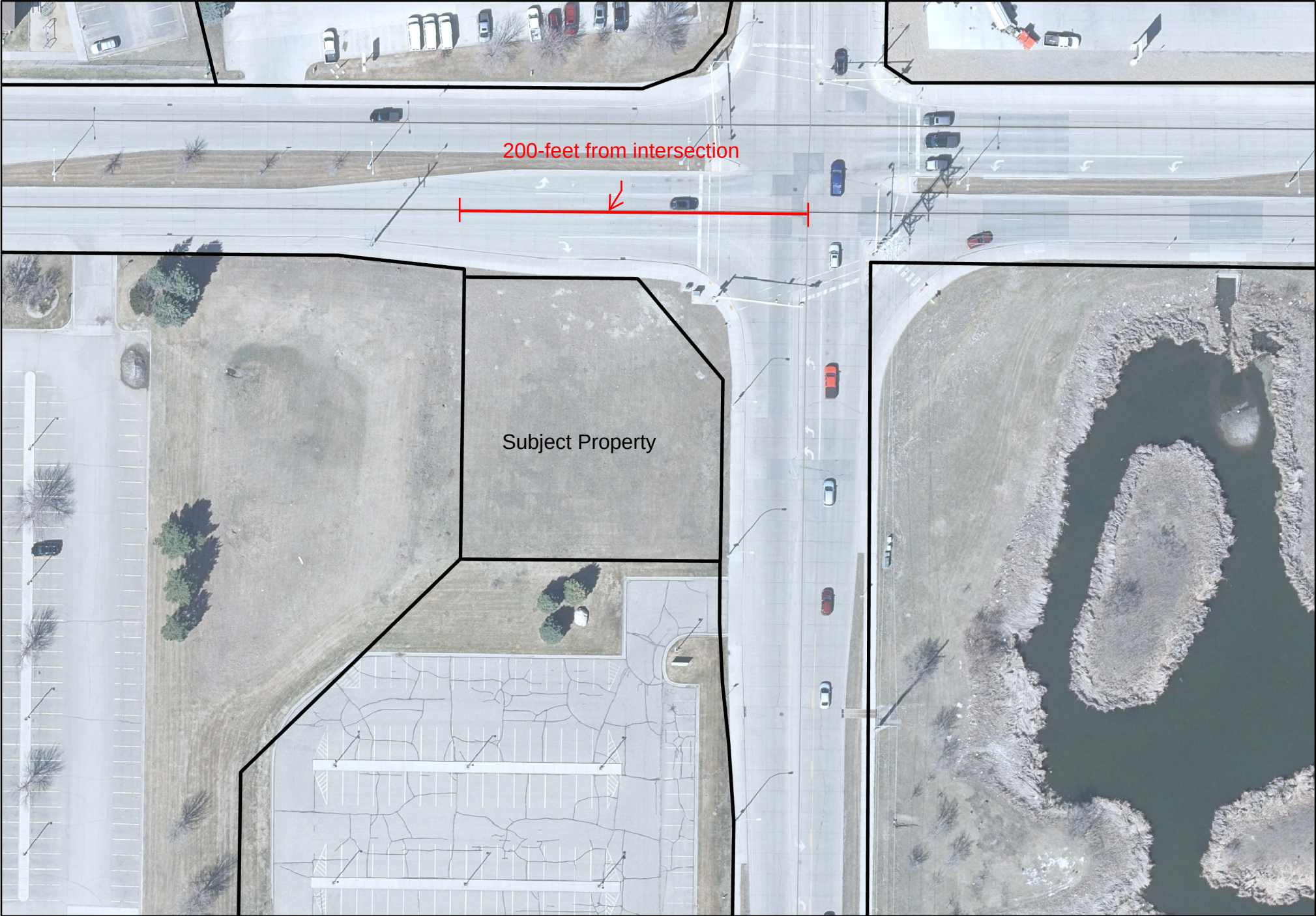
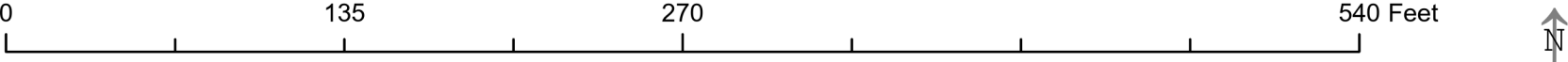
You have the right to appeal any interpretation or determination made by the Zoning Administrator or any other administrative official to the City’s Board of Adjustment.

Please let me know if you have any questions or need any additional information.

Sincerely,



Daniel Nairn, AICP
Planning Manager/Zoning Administrator



**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
January 4, 2024**

The Bismarck Board of Adjustment met on January 4, 2024, at 5:30 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street.

Board members present were Curtis Janssen, Jennifer Clark, Chris Seifert, Al Wangler, Rick Wohl, and alternate Ken Hoff.

Staff members present were, Jannelle Combs – City Attorney, Jenny Wollmuth – Senior Planner, Daniel Nairn – Planning Manager, Brady Blaskowski – Building Official, and Tracy Walters – Office Assistant II.

TERMS AND OATHS OF OFFICE:

Vice Chair Clark stated that Curt Janssen has been re-appointed to the Board of Adjustment and she also welcomed new Board member, Al Wangler. She stated that Mr. Janssen and Mr. Wangler have both signed the Oath of Office prior to the start of the meeting of the Board of Adjustment.

ELECTION OF OFFICERS:

Vice Chair Clark asked for nominations for Chairman of the Board of Adjustment Committee.

NOMINATION: Mr. Seifert nominated Jennifer Clark for Chairman of the Board of Adjustment. Mr. Wohl seconded the nomination with Board members Janssen, Seifert, Wangler Wohl, and Clark all in favor. Jennifer Clark is voted as Chairman of the Board of Adjustment.

Chair Clark asked for nominations for Vice Chairman of the Board of Adjustment.

NOMINATION: Mr. Wohl nominated Chris Seifert for Vice Chairman of the Board of Adjustment. Mr. Wangler seconded the nomination with Board members Janssen, Wangler, Wohl, Seifert and Clark all in favor. Chris Seifert is voted as Vice Chairman of the Board of Adjustment.

MINUTES:

Chair Clark called for approval of the minutes of the October 5, 2023 meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Seifert and seconded by Mr. Janssen to approve the minutes of the October 5, 2023 meeting. Board members Janssen, Seifert, Wangler, Wohl and Chair Clark all voted in favor and the minutes were approved.

APPEAL OF ZONING DETERMINATION | OFF-PREMISE ADVERTISING SIGN – LOT 1, BLOCK 1, BASIN ELECTRIC FOURTH ADDITION (2830 NORTH 19th STREET).

Ms. Wollmuth stated Joe Gusaas, with Gusaas Signs is appealing a zoning determination made on December 12, 2023, by the Planning Manager / Zoning Administrator with regard to a

proposed off-premise advertising sign to be located on Lot 1, Block 1, Basin Electric Fourth Addition (2830 North 19th Street).

Ms. Wollmuth stated this property is located in northeast Bismarck, in the southwest quadrant of the intersection of East Century Avenue and North 19th Street and was recently rezoned from the RT – Residential zoning district to the conditional CG – Commercial zoning district. Planning staff did communicate with the property owner prior to the rezoning of the property and during the rezoning process that an off-premise advertising sign could not be placed on the property as it would not meet the required spacing distance from the intersection of East Century Avenue and North 19th Street.

Ms. Wollmuth also stated the zoning ordinance requires an off-premise sign to be placed at least 200 feet from the center point of an intersection of an arterial roadway (East Century Avenue) and collector roadway (North 19th Street). She also noted that all spacing distances are measured as linear distance along the centerline of the roadway. The western boundary of the property is exactly two hundred (200) feet from the center point of the intersection, therefore is no location within the property that would meet this requirement. This requirement was added to the zoning ordinance in 2016.

Ms. Wollmuth added that a building permit was submitted for the proposed sign but it was denied. After the permit was denied, Planning staff offered to discuss a possible amendment to the ordinance with other City staff, including those from the Bismarck police Department and City Engineering Department, who helped create the ordinance requirements in 2016. City staff stated they would not be supportive of any changes to the ordinance that would allow the proposed sign to be placed on this property.

Ms. Wollmuth also stated the Planning Manager / Zoning Administrator, Daniel Nairn has reviewed the zoning ordinance and the proposed request. Mr. Nairn has determined that the dimensional requirements outlined in the zoning ordinance would prohibit the installation of an off-premise advertising sign located at 2830 North 19th Street (Lot 1, Block 1, Basin Electric Fourth Addition). She also stated that both the Planning Manager and Building Official are here to answer questions, and asked if the Board had any questions for her at this time.

Chair Clark asked Ms. Wollmuth for clarification on whether the Board was to find that there is a hardship in the case or if their job was only to determine whether the ordinance was applied correctly.

Ms. Wollmuth replied that this is not a variance request and finding a hardship was not required. The Board must determine whether the ordinance was applied correctly.

Chair Clark invited the applicant to come forward at this time.

Joe Gusaas, with Gusaas Signs came forward and provided an example of a sign that was permitted at Calgary Avenue and State Street between 2020 and 2021. The exhibit that he displayed is closer to approximately thirty-five (35) feet from the roadway to the south (East Calgary Avenue) and roughly two hundred fifty (250) feet from the intersection. Mr. Gusaas also displayed Section 14-03.1-05 (i) of the ordinance. He discussed the different ways that the ordinance could be interpreted, and he believes that different interpretations lead up to the denial of the building permit. He then displayed an exhibit of the property located at 2830 North 19th Street that he presented to City Staff and asked if the area in orange on the exhibit was permissible. Mr. Gusaas stated he received a yes answer with the condition it would also have

to be approved by the Chief of Police, and the Traffic Engineer. He went on to say that upon turning in the building permit, staff once again questioned the ordinance interpretation and asked him to not apply any more resources to the project until the ordinance could be interpreted correctly. Mr. Gusaas asked the Board if they had any questions for him.

Chair Clark asked if anyone had questions for Mr. Gusaas.

Mr. Janssen asked Mr. Gussas why he included a radius in his third exhibit that he showed the Board.

Mr. Gusaas stated he added the radius as a crow flies measurement to illustrate that it was two hundred (200) feet.

Mr. Janssen asked for clarification that the ordinance reads measurements by linear distance, and not by radius.

Mr. Gusaas answered that the second sentence in the paragraph of the ordinance measures between structures, and then by linear distance. He went on to say that interpreting the ordinance may be slightly different for every individual. He believes that he is not the only one who interpreted the ordinance in a way that makes the sign permissible.

Mr. Janssen asked if everyone involved in the request was clearly informed of the sign requirements and ordinance interpretation when the property was rezoned.

Mr. Gusaas stated that the landowners had been properly informed, but he is not the landowner. He went on to say that if the City computers had been updated and showed that the property was re-zoned on the day that he applied for the permit, the Building Official, Brady Blaskowski, would not have contacted the Planning Manager, Daniel Nairn regarding this matter, and that the permit would have been issued.

Mr. Janssen asked if it would have been issued because the ordinance was interpreted differently.

Mr. Gussas stated that the Building Official had initially interpreted the ordinance in a way that the permit could have been issued.

Jed Fluhrer, one of the property owners, came forward and confirmed that it was communicated to the landowners that they could not have the off-premise sign at this location. He stated that he could not disagree with the interpretation of the ordinance until the property was re-zoned. Once the property was re-zoned, the process of having an interpretation of the ordinance was conducted by City staff. He stated the landowners disagreed with the City staff's decision and this is the reason they are here today to have a discussion with the Board of Adjustment.

Mr. Janssen asked Mr. Fluhrer if he was aware when he bought the property that there might be a possibility they could not have the sign on the premises.

Mr. Fluhrer stated they had compared similar signs that were approved in the past and believed that they would be able to have the sign.

Mr. Janssen asked that if they were unable to put up the proposed off-premise sign, would they still have the ability to put a sign on the building.

Mr. Fluhrer stated that he would like to add an off-premise sign and had not discussed putting a sign on the building at this time.

Chair Clark asked if Board members had any additional questions for the appellant or for Staff.

Mr. Janssen asked City staff to address the fact that if the computer system had been updated at the time Mr. Gusaas had spoken with the Building Official, Brady Blaskowski, that we would not be having this discussion today.

Mr. Blaskowski stated that if the zoning had been changed in the GIS software, he believes it is possible we would have issued the permit as he was interpreting the ordinance differently in the past. After having a conversation with the Planning Manager / Zoning Administrator, Daniel Nairn, he stated he was applying the zoning ordinance incorrectly.

Chair Clark asked if there were any additional questions or discussion from the Board.

Mr. Wohl stated that he feels for the applicant, however, the appeal is not based on the examples provided by the applicant. He went on to say that if the ordinance was interpreted differently in the past, we can't bring that into the present situation.

Chair Clark stated she agreed with Mr. Wohl's statement. She went on to say that the entity that is responsible for enforcing the ordinance is also responsible for interpreting the ordinance.

MOTION: Mr. Wohl made a motion to affirm the decision made by the Planning Manager / Zoning Administrator. Mr. Wagner seconded the motion with Board members Janssen, Seifert, Wohl, Wagner and Chair Clark all in favor, the motion was approved.

OTHER BUSINESS:

RESOLUTION OF APPRECIATION FOR MICHAEL MARBACK.

Chair Clark read the Resolution of Appreciation for Michael Marback. See the Resolution of Appreciation in the attachments of the minutes.

BYLAWS:

The bylaws were presented with the meeting packet for approval at this time.

MOTION: Mr. Seifert made a motion to approve the bylaws. Mr. Janssen seconded the motion with Board Members, Janssen, Seifert, Wangler, Wohl and Chair Clark in favor, the motion was unanimously approved.

CITY ATTORNEY JANNELE COMBS, BOARD OF ADJUSTMENT | PROCEDURE AND PROTOCOL.

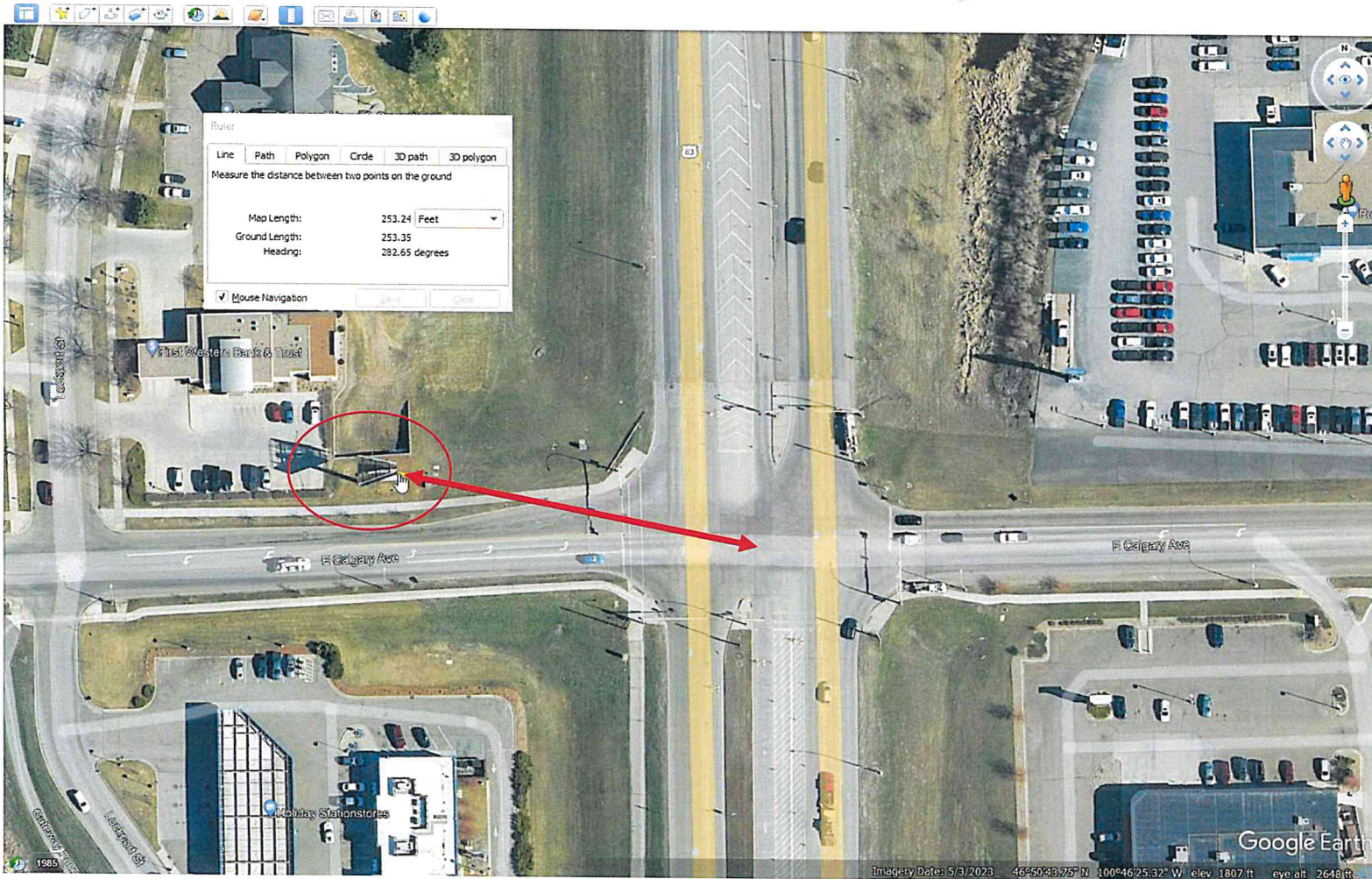
City Attorney Jannelle Combs presented an overview of variance law, procedures and protocol to the Board of Adjustment.

ADJOURNMENT:

There being no other business, Chair Clark declared the meeting of the Bismarck Board of Adjustment adjourned at 6:24 p.m. to meet again on February 1, 2024.

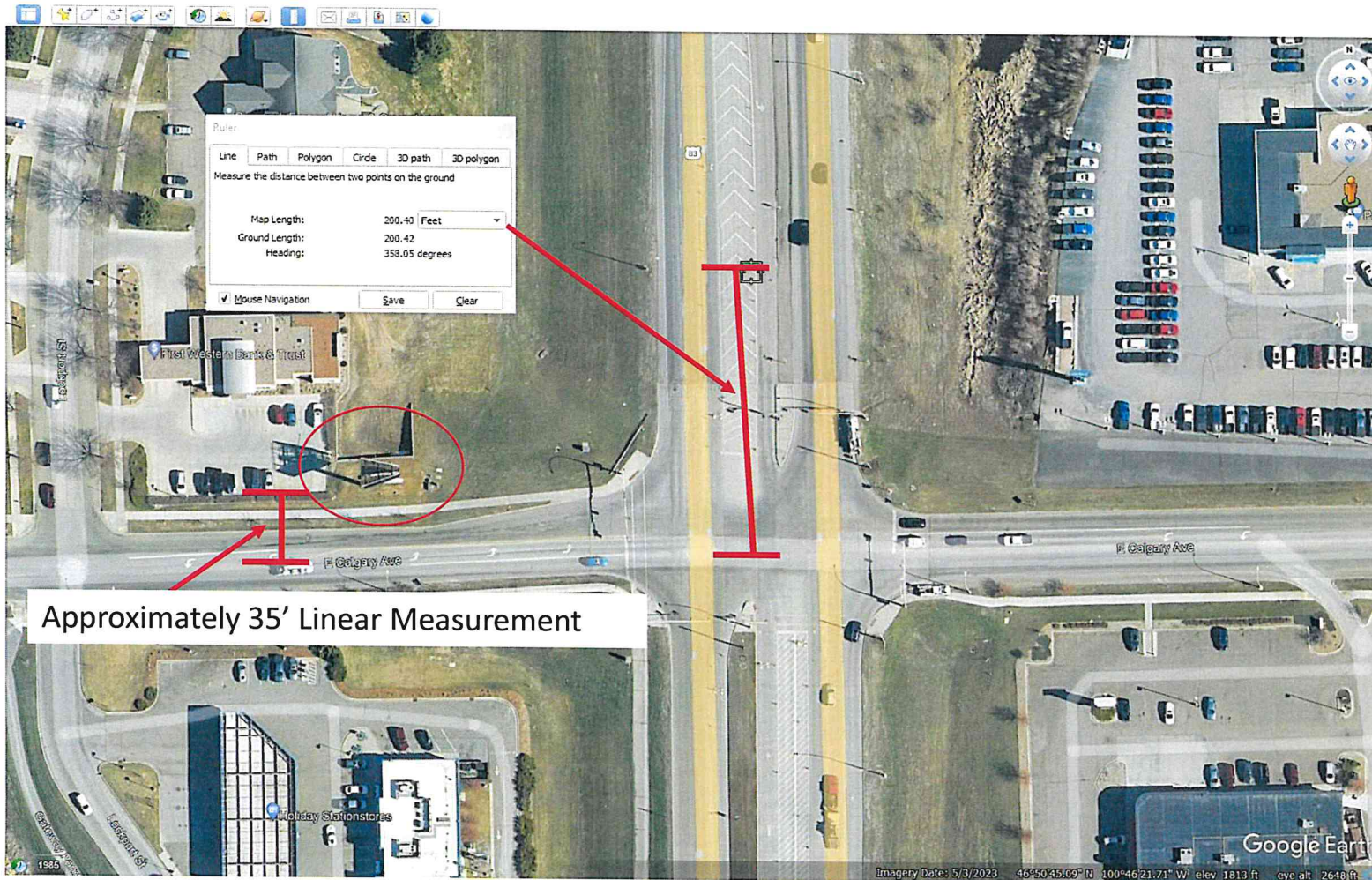
DRAFT

Sign Example – Idigital from Fargo



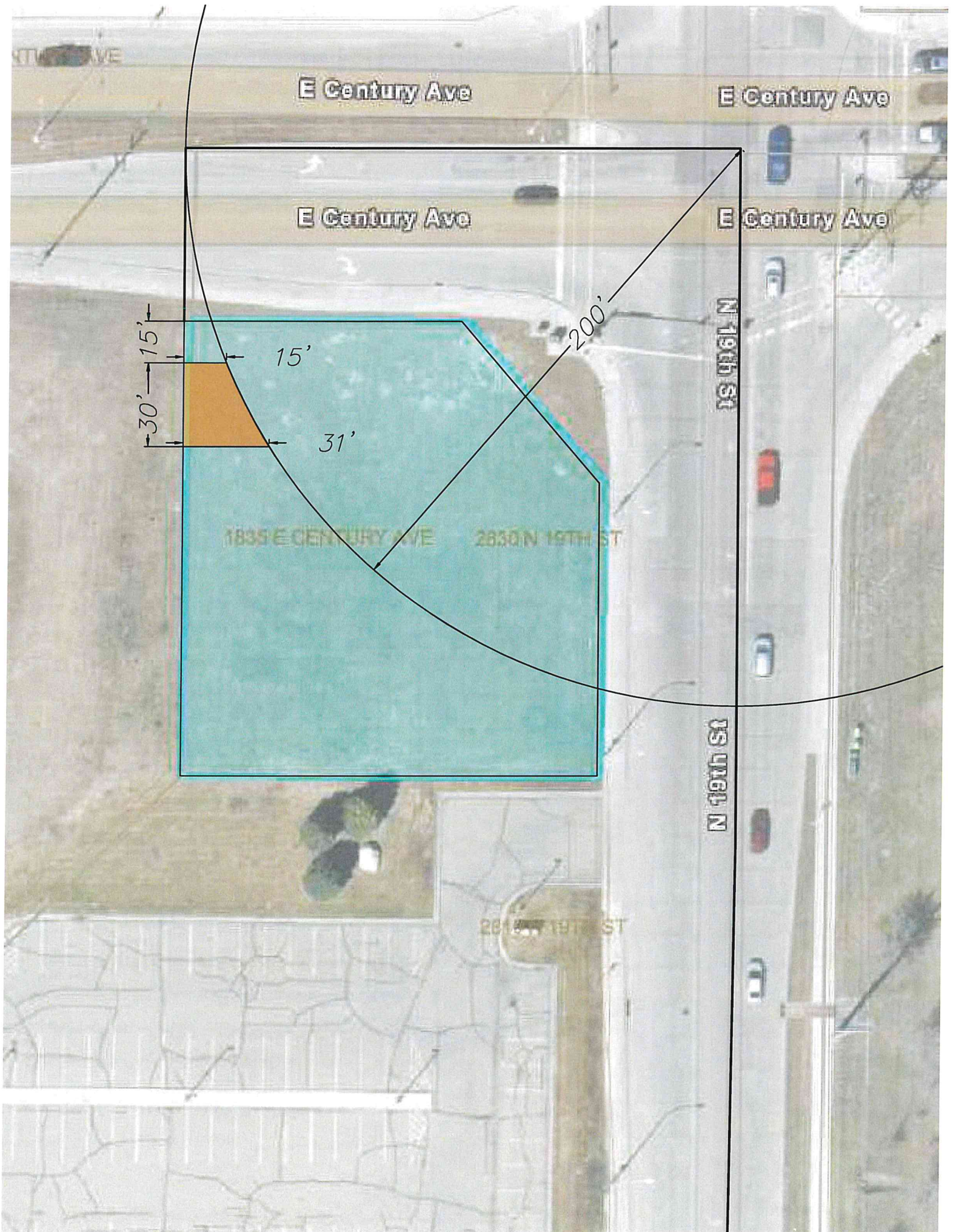
- Calgary Ave & State Street
- Bismarck, ND
- ~ 250' as the crow flies measurement
- 26,000 cars per day NDDOT

Sign Example - Idigital from Fargo



Calgary Ave & State Street Bismarck, ND

- Put up in 2020-2021 timeframe – post moratorium
- Does not meet the linear 200' measurement



E Century Ave

E Century Ave

E Century Ave

E Century Ave

15'
30'

15'

31'

200'

N 19th St

1835 E CENTURY AVE

2830 N 19TH ST

N 19th St

2815 N 19TH ST

area on the perimeter of the sign face for extension elements. All sign extension space shall be of the same material as the sign face.

g. Number of Faces. The sign shall have no more than two (2) faces.

h. Height of Signs. The sign shall not exceed fifty (50) feet in height, and the sign face shall have a clearance of at least ten (10) feet.

i. **Spacing.** Any and all parts of the sign, whether static or digital, shall be located at least three hundred (300) feet from any part of an existing or approved off-premise advertising sign, whether static or digital; at least two hundred (200) feet from the center point of any intersection of an arterial and an arterial and/or collector roadway; and at least five hundred (500) feet from the nearest right-of-way of an interstate interchange. In addition, all parts of a digital off-premise advertising sign shall be located at least twelve hundred (1,200) feet from any part of an existing or approved digital off-premise advertising sign. Distance is measured as the linear distance along the centerline of the roadway toward which the sign is oriented. The distance shall be measured between any two signs on the same or opposite sides of this roadway.

j. Residential Setback. The sign shall be located at least three hundred (300) feet from any residential zoning district, as measured from any part of the sign to the nearest property line within any residential zoning district.

k. No Obstruction of View. The sign shall not obstruct any other existing sign, either off-premise or on-premise.

l. Digital Signs. Digital off-premise advertising signs shall meet the following additional standards:

i. The sign shall have a frame hold time of no less than seven (7) seconds and must transition instantaneously from one static image to another static image without any special effects. The use of streaming video, full-motion video, animation or frame effects is prohibited.

ii. The sign shall have a default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs; and

ii. The sign shall have a mechanism able to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell.



Community Development Department

DATE: February 13, 2024

FROM: Ben Ehreth, Community Development Director

ITEM: Neighborhood Reinvestment Initiative (NRI) Creation

REQUEST:

The Community Development Department requests the creation of a new initiative to achieve several goals of our Comprehensive Plan related to housing. This City of Bismarck would partner with interested financial institutions to offer low-interest loans for eligible residential remodeling projects.

BACKGROUND INFORMATION:

In the Fall of 2023, staff from the Community Development Department engaged in discussion with Kate Herzog and Gate City Bank about creating a low-interest loan program to help Bismarck homeowners. Gate City Bank already operates similar programs in cities throughout the region, including Mandan and Fargo. The program may be administered in conjunction with an existing 3-year home remodel exemption offered by the City.

Gate City Bank has approved a rate and terms for the 2024 building season, which would be in effect between March 18 and October 31. Gate City Bank would make \$2 million in loans available for Bismarck during this period. Other financial institutions willing to offer the same rates may be added to the program.

The guidelines of the program establish the purpose, benefits available, property eligibility criteria, improvement program eligibility criteria, and a procedure for program administration. If approved, the guidelines, interest rates, and terms will be reviewed for potential changes for subsequent building seasons.

City staff involvement and participation in administration of this program is expected to be minimal and manageable with current staffing in the Community Development Department.

RECOMMENDED CITY COMMISSION ACTION:

Create a Neighborhood Reinvestment Initiative (NRI) for the City of Bismarck to be administered according to the attached guidelines.

STAFF CONTACT INFORMATION:

Daniel Nairn, Planning Manager, 701-355-1854, dnairn@bismarcknd.gov

ATTACHMENTS:

None



Public Works Service Operations

DATE: February 13, 2024

FROM: Steve Salwei, Director Public Works Services

ITEM: Curbside Waste Collection for All Residential & Collection of Extra Items

REQUEST:

Request City Commission approval to move all residential trash collection to curbside pickup (unless prohibitive because of topography) and to decide on an option to address the collection of extra items.

BACKGROUND INFORMATION:

Five of the eight trucks that we use for residential garbage collection have over 10,000 hours on them and are due for replacement. We were recently informed that the type of trucks we use are no longer available. Currently, we use Multipack Garbage Trucks to collect our residential trash because they are the only trucks that have a side arm for the cans and have a rear load capability to throw any extra trash into the truck.

The City of Bismarck is unique, for we are one of the last communities in the state that allow residents to place as much trash out for collection as they want. Most communities across the state, (and country), provide a 96 gallon can for residents to use. All trash must fit inside the can in order for it to be picked up. If the trash is not in the can, it is not picked up.

Since we are not able to acquire Multipack Trucks, we will need to purchase trucks that only have a side arm, therefore, the collection of extras will be extremely cumbersome and slow. I would like to have a discussion on how to best move forward given the recent change.

RECOMMENDED CITY COMMISSION ACTION:

Approval to move all residential trash collection to curbside pickup (unless prohibitive because of topography) and to decide on an option to address the collection of extra items.

STAFF CONTACT INFORMATION:

Steve Salwei, Director Public Works Services, 701-355-1705, ssalwei@bismarcknd.gov

ATTACHMENTS:

None



Administration Department

DATE: February 13, 2024

FROM: Michael Schmitz, Mayor

ITEM: Department Director Employment and Performance Policy.

REQUEST:

Continued discussion and approval of department director employment and performance processes.

BACKGROUND INFORMATION:

At the January 23, 2024, City Commission meeting, the Board reviewed the amended Department Director Employment and Performance Process Policy. At the meeting, the Commission directed staff to amend the drafted policy regarding how the City Administrator interacts with the City Commission regarding supervision of department directors. The amended policy is attached for consideration and approval.

RECOMMENDED CITY COMMISSION ACTION:

Approve the department director employment and performance process policy.

STAFF CONTACT INFORMATION:

Michael Schmitz, Mayor, mschmitz@bismarcknd.gov

ATTACHMENTS:

1. Revised Director Policy

DEPARTMENT DIRECTOR EMPLOYMENT AND PERFORMANCE PROCESSES

For all department directors protected by civil service, the following additional steps are required with their employment:

1. When a vacancy occurs in a department director position, the Human Resources Director shall consult with the City Administrator and portfolio holders affected to develop a plan for filling the vacancy to be presented to the City Commission for approval. That plan will detail the types of examinations, composition of interview panel(s) and proposed timeline for the process.
2. For every probationary and annual performance evaluations for a department director, the City Administrator shall provide the draft evaluation to the portfolio holder(s) for review and input at least five days prior to the scheduled time for meeting with the department director.
3. Prior to any adverse employment action, the City Administrator will record the attempt to inform and discuss the action with the portfolio holder of the plan for such action. Adverse employment action will include, but not be limited to, a disciplinary warning, performance improvement plan, suspension, or termination of a department director. If a department director is placed on paid administrative leave, the City Administrator will notify the portfolio holder as soon as practicable, recognizing that placing an employee on paid administrative leave may require immediate action to protect the City. All civil service processes and protections remain for department directors.

Approval Date:



Administration Department

DATE: February 13, 2024

FROM: Michael Schmitz, Mayor

ITEM: Update on the status of Burleigh County and the Provident Building.

REQUEST:

Receive an update regarding the status of the Burleigh County Provident Building.

BACKGROUND INFORMATION:

During the discussion of the Bismarck Burleigh Commissions Committee, City representation inquired with County representatives regarding Burleigh County's intent to remodel and occupy the Provident Building in the future.

RECOMMENDED CITY COMMISSION ACTION:

Receive a report from Mayor Schmitz.

STAFF CONTACT INFORMATION:

Michael Schmitz, Mayor, mschmitz@bismarcknd.gov

ATTACHMENTS:

None



Legal Department

DATE: February 13, 2024

FROM: Jannelle Combs, City Attorney

ITEM: Request from Bismarck Event Center to change insurance limits

REQUEST:

Bismarck Event Center has requested a deviation from the insurance limits for contracts.

BACKGROUND INFORMATION:

At the December 13, 2022, City Commission meeting, the limits of liability were approved to be \$500,000 per person and \$2,000,000 per occurrence for contracts with the City effective January 1, 2023.

Due to the use of DocuSign process has been extended to include rentals of space at the Event Center, there is concern from BEC staff that the limits are problematic. They would like to retain the ability to lower the limits to \$1 Million per occurrence if the event has less than 1,000 people attending. The City would then be responsible if we are sued for any negligent actions for the potential damages from \$1 Million to the \$2 Million tort cap that the State legislature has passed. For events over 1,000 people, the \$2 Million per occurrence cap would apply.

RECOMMENDED CITY COMMISSION ACTION:

Determine the contractual insurance amounts for the Bismarck Event Center.

STAFF CONTACT INFORMATION:

Jannelle Combs, City Attorney, 701-355-1342, jcombs@bismarcknd.gov

ATTACHMENTS:

None