



Board of City Commissioners

August 11, 2026

Tom Baker Meeting Room	City/County Office Building	5:15 PM
	221 N. 5th St.	
	Bismarck, ND 58501	

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 by 3:30 PM on the day of the meeting. Please include the item number that your comment references. The comments will be sent to the members and placed with the minutes.

Live meeting coverage is available on Government Access Channels 2 & 602HD, RadioAccess 102.5 FM Radio, or streaming on multiple platforms, including DakotaMediaAccess.org and [Facebook LIVE](https://www.facebook.com/BismarckCityCommission).

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

CALL TO ORDER

FUTURE COMMISSION MEETINGS

August 25, 2026
September 8, 2026 & September 22, 2026
October 13, 2026 & October 27, 2026

MISSION STATEMENT

Together, we deliver exceptional public service.

MEETING OF THE BOARD OF CITY COMMISSION

1. PUBLIC COMMENT

- A. [Public Comment Policy](#): Restricted to items on the Consent Agenda, Regular Agenda, or the Prior City Commission Agenda, excluding public hearing items.

2. CONSENT AGENDA

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

- D. Consider the request for approval from the Bismarck Airport for the following:
 - 1. Change order to Weisz and Son's contract for the outfall repair project.
 - 2. Department of Homeland Security Law Enforcement Officer Reimbursement Grant application.
- E. Consider the request for approval from the Engineering Department for the following:
 - 1. Introduction of and call for a public hearing to approve a non-exclusive right of way occupancy agreement with Metro Fibernet, LLC.
 - 2. Encroachment and Waiver Agreement with Church of the Ascension.
 - 3. Encroachment Agreement at 2513 E Main Ave.
 - 4. Resolutions approving plans and specifications, directing the advertisement for bids, and receiving bids for Street Improvement District No. SI 601 and Sewer Improvement District No. SE 587.
- F. Consider the request for approval from the Finance Department for the following:
 - 1. Resolution directing special assessments to be levied.
- G. Consider the request for approval from the Planning Department for the following:
 - 1. Introduction of and call for a public hearing on Ordinance 6679, a zoning map amendment from the existing RM30 – Residential (RM-Residential Multi-Family) zoning district to the CX-Commercial Mixed-Use and RM-Residential Multi-Family zoning districts, and a preliminary subdivision plat titled Paradise Valley Third Addition, where the Planning and Zoning Commission recommends approval.
 - 2. For the Bismarck-Mandan Metropolitan Planning Organization, on behalf of Bis-Man Transit, to decommission and dispose of four (4) Ford Econoline paratransit buses.
 - 3. Addendum to the Advanced Traffic Analysis Center (ATAC) Master Agreement for Signalized Intersection Traffic & Pedestrian Data Collection in Bismarck.
 - 4. Amendment to the Addendum to the Master Agreement with Advanced Traffic Analysis Center (ATAC) for Signalized Intersection Traffic & Pedestrian Data Collection in Mandan.
 - 5. Passenger Rail Station Siting Study Contract.

3. **REGULAR AGENDA**

- A. Public hearing on an application for a Class C-2 Hotel or Motel alcohol license by Jassi Bismarck 29 Corporation (dba) LaQuinta Inn & Suites at 2240 North 12th Street.
- B. Public hearing on Ordinance 6674 to amend Sections 2-05-01, 2-05-02, and 6-09-04 of the City of Bismarck Code of Ordinances relating to Term of Office, Duties and Powers, and Fee Assessments for Funding Crime Victim and Witness Program.
- C. Public hearing on Ordinance 6678 to amend sections 5-01-01, 5-01-06, 5-01-07, 5-01-13, and 5-03-05, of the City of Bismarck Code of Ordinances Relating to Alcoholic Beverages and Civic Center Exception, and Repeal 5-01-20 Relating to Enclosed Booths and Access to Licensed Premises and 5-10-01 Relating to Sunday Opening of Grocery Stores.
- D. Public hearing on the release of the access, watermain, sanitary sewer, stormwater, drainage, and utility easement on Lot 1 less the South 5 feet and all of Lot 2, Block 1, Tree Top Addition First Replat
- E. Consider the request to receive an update on the Water Treatment Plant Expansion Project and approve funding sources.
- F. Consider the request from the Finance Department to accept the 2025 Audit Results and the 2025 Annual Comprehensive Financial Report.
- G. Consider the request by Commissioner Connelly to discuss the upcoming September 2, 2026 special legislative session and the topic of kratom.
- H. Consider the request by Commissioner Connelly to discuss non-disclosure agreements relating to City of Bismarck staff and North Dakota open records laws.

4. OTHER BUSINESS

ADJOURN



MEETING OF THE BOARD OF CITY COMMISSIONERS

7/28/2026 - MINUTES

CALL TO ORDER

The Board of City Commissioners met on July 28, 2026, at 5:15 PM in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. Commissioners Connelly, Hull, Risch, Doll, and Mayor Schmitz were present.

FUTURE COMMISSION MEETINGS

August 11, 2026 & August 25, 2026
September 8, 2026 & September 22, 2026
October 13, 2026 & October 27, 2026

MISSION STATEMENT

Together, we deliver exceptional public service.

MEETING OF THE BOARD OF CITY COMMISSION

1. PUBLIC COMMENT

- A. [Public Comment Policy](#): Restricted to items on the Consent Agenda, Regular Agenda, or the Prior City Commission Agenda, excluding public hearing items.

No public comment was received.

2. CONSENT AGENDA

Commissioner Doll moved to approve the Consent Agenda as presented, and Commissioner Risch 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: 1133661-1133967

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

1. Receive bids and award the contract for the Bismarck Event Center Lighting and Control Modernization Project.

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

1. Disposal of a de-ice fluid storage tank for \$5,000.00.
2. Change order to Capital City Construction's contract for the Aircraft Rescue and Firefighting (ARFF) Building.
3. A 150-day time extension on House of Color Contract.
4. Architectural Contract with Ubl Design Group for the Design, Construction Administration and Construction Observation (CACO) of the Terminal Expansion Project.

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

1. Adjustments to Public Health fee schedule.

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

1. Transferring watermain and appurtenances ownership located on the North Dakota (ND) State Capitol Grounds to the State of ND.
2. Resolution approving the resolution of necessity for Park Improvement District No. PI 007.

3. Resolution approving a revised boundary map for Sewer Improvement District SE 576.
 4. Resolutions creating the district, ordering the preparation of the engineer's report, approving the engineer's report, and directing the preparation of the plans and specifications for Sewer Improvement District SE 587.
 5. Resolutions for declaring petitions have been received, creating the district, ordering the preparation of the engineer's report, approving the engineer's report, and directing the preparation of the plans and specifications for Street Improvement District SI 601.
- H. Consider the request for approval from the Finance Department for the following:
1. Application for abatement.
- I. Consider the request for approval from the Legal Department for the following:
1. Introduction of and call for a public hearing on Ordinance 6678 to amend sections 5-01-01, 5-01-06, 5-01-07, 5-01-13, 5-03-05, of the City of Bismarck Code of Ordinances Relating to Alcoholic Beverages and Civic Center Exception, and Repeal 5-01-20 Relating to Enclosed Booths and Access to Licensed Premises and 5-10-01 Relating to Sunday Opening of Grocery Stores
- J. Consider the request for approval from the Police Department for the following:
1. Accept a donation of \$2400.00 from Continental Resources for the K-9 Program.
- K. Consider the request for approval from the Public Works - Service Operations Department for the following:
1. Permission to sell or dispose of City Assets at Public Sale.

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

1. Task Order 38 with Advanced Engineering and Environmental Services, LLC (AE2S) for the SCADA Project, Phase IV.

3. **REGULAR AGENDA**

- A. Consider the request from Bismarck-Mandan Convention & Visitors Bureau Executive Director, Sheri Grossman, to present the 2025 CVB Annual Report.

Sheri Grossman, CEO of the Bismarck-Mandan Convention & Visitors Bureau (CVB), delivered an annual update highlighting tourism's economic impact, the CVB's funding sources, and major initiatives. Ms. Grossman reported substantial visitor activity tracked through Placer AI, noting millions of trips, hotel nights, and hundreds of millions in visitor spending. Ms. Grossman detailed the strong role of meetings and conventions, including significant future bookings and economic impact. Ms. Grossman also summarized the new Destination Master Plan, outlining long-term strategies across seven pillars to grow tourism, improve visitor experience, and strengthen community assets. The CVB launched new tools such as a community-wide events calendar, event microsites, an online store, and an AI-powered trip-planning guide. Ms. Grossman closed with data showing the sizable economic and tax impact of major conferences, emphasizing tourism's importance to local jobs, businesses, and overall community growth, and addressed questions about facilities, infrastructure, and future opportunities.

- [Presentation](#)

- B. Consider and discuss the five design options and potential project funding for renovations to the City/County Building.

City Administrator Jason Tomanek, addressed the Commission regarding the plans for the City/County Building after Burleigh County vacates the first floor of the building.

Administrator Tomanek noted that Endeavor North Design, PLLC has been helping to evaluate and address major deferred maintenance and future use of the City/County Building. Administrator Tomanek noted that the building faces significant issues, including aging HVAC, electrical and plumbing systems, the oldest elevator in all of North Dakota, and a basement meeting room that is not accessible or safe in an emergency.

Cole Johnson, an architect with Endeavor North Design, PLLC, presented five options A-E ranging from basic fixes to a full new construction. The five options include construction, contingency, escalation, soft costs, and multiphase construction assumptions.

- Option A: Minimal work / Essential upgrades — Option A focuses solely on essential infrastructure updates needed to keep the City-County Building operational for the next decade or two. This includes major replacements and repairs to HVAC systems, the aging elevator, roof, and core plumbing and electrical components. No functional or layout improvements are made, and the

commission chamber would remain in the basement with its current accessibility and safety limitations. The estimated total cost for this option is roughly \$11–\$13 million.

- Option B: Moderate Renovation — Option B introduces noticeable upgrades to public access and internal workflow. The commission chamber would be moved from the basement to the first floor, although ceiling height and column spacing remain limiting factors. Several key departments—Administration, Human Resources, and Legal—would be relocated to improve daily public interaction. The plan also includes a redesigned central area called “Heritage Hall” to create a better first impression for visitors. Overall, public flow is improved without major structural changes. Estimated costs fall in the mid \$20 millions to low \$30 millions.
- Option C: Enhanced Renovation With Structural Changes — Option C builds on the improvements of Option B but adds significant structural work to create a modern, high-ceiling commission chamber comparable to a new building. This option requires removing existing columns and portions of the second floor above the chamber. It also introduces a new south entry plaza made possible through a potential land swap. These enhancements provide better civic presence, accessibility, and public navigation but come with major complexity and cost. The estimated total is higher than Option B, landing in the high \$30 millions.
- Option D: Major Renovation / New Chamber Addition — Option D creates a new commission chamber and lobby as an addition on the south side of the building, avoiding the expensive structural modifications required in Option C. This new public-facing area greatly improves accessibility, visibility, overflow capacity, and security, resulting in a more intuitive and modern civic identity. Internal department layouts are reorganized to create clear separation between public and staff areas. Although substantial, the structural work is less complex than Option C, and the estimated cost falls in the mid–upper \$30 millions, slightly lower than Option C.
- Option E: New Building Construction — Option E proposes constructing an entirely new city hall on a nearby site at Fifth and Thayer. The new building allows for an efficient, purpose-built layout and includes underground parking, although limited in capacity. While this option offers the best long-term design flexibility and modern standards, it is the most costly and would leave the current building without a planned reuse. The estimated cost for new construction is \$46–\$50 million.

During discussion, the Commission agreed that Options A, C, and E are not feasible based on scope of work and unrealistic price points. The Commission expressed a desire to keep the project under \$30 million, making options B and D the most viable. Option B appears to be financially achievable, while Option D offers the best functional and civic improvements despite higher costs. The Commission directed staff and design team to refine Options B and D and return in late August with updated cost estimates, funding strategies that limit borrowing, potential energy-efficiency upgrades, and ways to keep the project in budget.

C. Public Hearing on Ordinance 6673 to create a special assessment district for annexed properties.

Mayor Schmitz opened the public hearing. No public comment was received.

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

- D. Public hearing on Ordinance 6676, a zoning map amendment from the A – Agriculture and CG – Commercial zoning district to the CG – Commercial zoning district, major subdivision final plat titled Berg Acres Addition, and Development Agreement.

Senior Planner Jenny Wollmuth addressed the Commission regarding Ordinance 6676, a zoning map amendment from the A – Agriculture and CG – Commercial zoning district to the CG – Commercial zoning district, major subdivision final plat titled Berg Acres Addition, and Development Agreement.

Mayor Schmitz opened the public hearing. No public comment was received.

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

- E. Public hearing on Ordinance 6677, a zoning map amendment from the A – Agricultural and RT – Residential zoning districts to the RT – Residential zoning district, and major subdivision final plat titled DCN Addition.

Senior Planner Jenny Wollmuth addressed the Commission regarding Ordinance 6676, 6677, a zoning map amendment from the A – Agricultural and RT – Residential zoning districts to the RT – Residential zoning district, and major subdivision final plat titled DCN Addition.

Mayor Schmitz opened the public hearing. No public comment was received.

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

- F. Consider the request from the Administration Department to provide an update on the Strategic Plan.

Assistant City Administrator Doug Wiles provided a second quarter update on the City's Strategic Plan, which includes 177 tasks that are nearly 24% complete. Assistant Administrator Wiles explained that some tasks are marked as disrupted, which means that their progress paths have changed due to new circumstances, and are not necessarily negative issues. Examples include land acquisition for a fire station, ADA compliance updates to the City's website, and timeline changes related to a Rural Health Transformation grant. Assistant Administrator Wiles also highlighted completed work, such as the half-cent sales tax extension. The commission expressed appreciation for the transparency and workload involved. Assistant Administrator Wiles confirmed that the strategic plan remains a flexible, living document that can be adjusted as needed.

- G. Consider the request to receive and approve the City's 2027 preliminary budget, budget requests, and Budget Committee recommendations.

Finance Director Ryan Skor and City Comptroller Eric Lund provided the 2027 Preliminary Budget. Director Skor opened with an overview of the budgeting process, statutory requirements, accounting standards, and timelines. He explained departmental submissions, committee review, and how recommendations were formulated. Comptroller Lund provided a comprehensive walkthrough of the general fund, revenue projections, fund balances, committed reserves, and key cost drivers. Comptroller Lund emphasized conservative revenue forecasting, intentional use of reserves for planned projects, and

major spending areas, particularly public safety and personnel costs. Comptroller Lund noted required property tax calculations under House Bill 1176 and clarified that mill levy rates will adjust downward as valuations change.

The Commission discussed fund balance categories, staffing requests, operational cost pressures, public safety capital needs, and utility rate increases. Comptroller Lund outlined major 2027 initiatives, including Fire Station 6, the new police station, equipment replacement cycles, street maintenance, and large enterprise-fund projects such as the airport expansion, wastewater plant improvements, and flood control. Commissioners raised questions and comments about efficiencies, staffing levels, electric vehicle adoption, nonprofit funding requests, employee compensation methods and ways to encourage cost-saving ideas from employees and departments.

Finance Director Skor and Comptroller Lund affirmed that approval of the preliminary budget allows staff and Commissioners to refine department-specific adjustments before final adoption in September. Commissioners Doll and Hull were invited to meet with departments as they were not part of the earlier Budget Committee process.

Commissioner Doll moved to approve the 2027 Preliminary Budget as presented and Commissioner Hull seconded. Upon a roll call vote, all voted aye. M/C.

4. OTHER BUSINESS

- A. Commissioner Risch noted that the City is currently revising its building code, and Building Official Brady Blaskowski is seeking input from builders and anyone interested, but has not received many responses. He noted that this is a good opportunity for residents to suggest changes, especially if certain requirements don't truly improve safety. Commissioner Risch also noted that Public Works Service Operations is trying to ease inconveniences caused by changes in garbage collection by providing two roll-off containers for tree branch collection. The Containers are located in North Bismarck near Ash Coulee water tower and one in South Bismarck near the Cottonwood parking lot on Santa Fe near 12th Street. Residents can deposit tree branches up to four inches thick but are encouraged to use the bins responsibly and avoid dumping inappropriate items.
- B. Commissioner Connelly expressed gratitude to the Police Department, Cencom, and medical support staff, for their work and support during a difficult situations that occurred within the last 48 hours. He thanked everyone for their support in the community.
- C. Administrator Tomanek recognized Bismarck-Burleigh Public Health Director Renae Moch for her recent appointment to the National Association of County and City Health Officials, representing Region 8 (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming). She is the first representative from North Dakota to serve on this national board and will hold a four-year appointment, progressing through leadership roles starting as vice president. Administrator Tomanek noted that his honor highlights both her professional accomplishments and the value of having a rural community voice at the national level.

ADJOURN

There being no further business to discuss, the meeting was adjourned at 7:57 PM.

PERSONNEL ACTIONS FOR THE MEETING ON AUGUST 11, 2026

<u>Full-Time and Part-Time Appointments</u>	<u>Department</u>	<u>Status/Action</u>	<u>Date</u>
Roehr, Leilani – 911 Comm Specialist -	CenCom	Full-Time	09/04/2026
Adamsen, Denise – Building Service Worker	PW-Services	Full-Time	08/17/2026
Cholette, Andrew – Building Maintenance Tech	PW-Services	Full-Time	08/04/2026
Danielson, Guy – Building Maintenance Tech	PW-Services	Full-Time	08/10/2026
Edwards, Robbie – Roads and Streets Supervisor	PW-Services	Full-Time	08/10/2026
Timm, Todd – Seasonal Truck Driver	PW-Services	Part-Time	08/17/2026

Separations

Unruh, Kyle – Engineering Tech II	Engineering	Full-Time	07/30/2026
Reese, Mitchell – Police Officer	Police	Full-Time	07/27/2026
Liesinger, Shawn – Heavy Equipment Operator	PW-Services	Full-Time	07/29/2026
Winkles, Julie – Office Assistant II	PW-Services	Full-Time	07/10/2026

Others

Beehler, Dennis – Senior Maintenance Tech	PW-Utilities	Full-Time	07/19/2026
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Airport

DATE: August 11, 2026

FROM: Gregory Haug, Airport Director

ITEM: Weisz and Sons Outfall Repair Contract Change Order

REQUEST:

Change order to Weisz and Son's contract for the outfall repair project.

BACKGROUND INFORMATION:

In April 2026, the City Commission approved entering into a contract with Weisz and Sons to complete the outfall repair project. Weisz and Sons has completed the project.

During final completion inspection and testing, the contractor and airport staff noticed the fabric and pea gravel at the end of the outfall has the potential to erode away faster than expected with normal flow from the lift station. When Airport staff asked about a solution to prevent this erosion from happening, the solution brought forth by the engineer was a concrete apron five feet from the end of the outfall. Based on previous experience with the outfall eroding away, Airport staff would like to ensure the outfall is reinforced and recommends proceeding with the additional concrete apron.

At the request of the Airport, Weisz and Sons developed a change order to install the concrete apron. The cost to complete the work is \$39,325.00. The change order amount is slightly above the original project budget contingency and requires City Commission approval.

RECOMMENDED CITY COMMISSION ACTION:

Approve a change order authorizing \$39,325 contract increase for the Weisz and Sons Outfall Repair contract.

STAFF CONTACT INFORMATION:

Matthew Remyense, Assistant Airport Director, 701-355-1806, mremynse@bismarcknd.gov
Gregory Haug, Airport Director, 701-355-1805, ghaug@bismarcknd.gov

ATTACHMENTS:

1. AIR - 1



CHANGE ORDER PROPOSAL

Proposal Submitted to: City of Bismarck Airport 2301 University Drive Bismarck ND 58502	Phone	Date: July 30, 2026
Job Name: Bismarck Airport – Apple Creek Outfall Improvements	Job Location: Bismarck, ND	

Scope of Work:

Price is for completing the work indicated on CO2-1 - description and drawings that were emailed on 7/29/26 by KJJ. Lump sum price includes all materials, labor, tools, and equipment necessary to complete the item as specified. We estimate this work to take 3.5 days to complete.

Concrete Cap Addition to Apple Creek Outfall Termination at Sheet Pile – \$37,125.00 Lump Sum Price

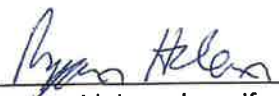
We anticipate being able to remove and reuse the existing cable concrete mats. If the cable concrete mats cannot be reused the following is a price for new concrete cable mats.

Concrete Cable Mats – \$2,200.00 Each (If needed)

We propose hereby to furnish material and labor – complete in accordance with above specifications and clarifications, for the sum of Dollars \$ See Above.

Payment to be made as follows: Per Contract.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

Authorized Signature:  Date 7-30-2026
(Note: This proposal may be withdrawn by us if not accepted within 5 days.)

Acceptance of proposal: The above prices and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance: _____ Signature _____



Airport

DATE: August 11, 2026

FROM: Gregory Haug, Airport Director

ITEM: Law Enforcement Officer Reimbursement Grant Application

REQUEST:

Department of Homeland Security Law Enforcement Officer Reimbursement Grant application.

BACKGROUND INFORMATION:

Per Transportation Security Administration requirements, the Airport is required to provide a Law Enforcement Officer (LEO) at the TSA passenger screening checkpoint. Staffing an officer at the TSA passenger screening checkpoint has been a requirement since 2017, when the airport enplaned over 250,000 passengers annually. Through a partnership with the Bismarck Police Department, there are five PD Officers assigned to cover the airport. The cost of these five officers is borne by the Airport.

In June 2026, the Department of Homeland Security issued a notice of funding opportunity for LEO Reimbursement Grants. The purpose of these grants is to reimburse airports for up to \$25 per hour for the cost of employing a LEO to monitor the TSA checkpoint.

The application window was open for only a brief period at the end of June. The timeline did not allow time for Airport staff to submit a memo to the City Commission seeking approval of the application prior to the deadline. Airport staff did submit the application on time and is now seeking retroactive approval of the application submission and, if successful in securing funding, requesting approval to accept the grant award.

RECOMMENDED CITY COMMISSION ACTION:

1. Retroactively approve the application for the LEO reimbursement Grant,
2. Approve accepting the award, if successful.

STAFF CONTACT INFORMATION:

Matthew Remyense, Assistant Airport Director, 701-355-1806, mremynse@bismarcknd.gov
Gregory Haug, Airport Director, 701-355-1805, ghaug@bismarcknd.gov

ATTACHMENTS:

1. AIR - 1

Agreement Details

TSA Law Enforcement Officer Reimbursement Agreement Program (LEORP)

Section 1: Participant Details

Airport Code: **KBIS**

Airport Name: **Bismarck Municipal Airport**

UEI Number: **FGUNSYM8J426 (HHE6BW32JLP3)**

Federal Tax ID Number (TIN)/Employer ID Number (EIN): **45-6002036**

Applicant Information

Entity/Legal Name: **Bismarck Municipal Airport**

Address: **2301 University Drive**

City: **Bismarck**

State: **North Dakota**

Zip Code: **58504**

Authorized Representative

Full Name: **Matthew Remyense**

Title: **Assistant Airport Director**

Email Address: **mremynse@bismarcknd.gov**

Phone Number(s): **701-355-1806**

Section 2: Selection Information

- 1) Whether airport has a police department specifically dedicated to airport security and, if so, name of the entity providing Law Enforcement Services:

In accordance with 49 CFR 1542.217, the proposed project would provide for a LEO under a Hybrid/Combination Stationing posture that meets the baseline established under the Law Enforcement Officer (LEO) Reimbursement program. The officers would provide overall security of screening activities to enhance safety of screeners, airport/airline personnel and the traveling public. The City of Bismarck (Bismarck Airport) provides for LEO support of the passenger screening checkpoint with five permanently assigned City of Bismarck Police Department officers. The five officers are assigned to the airport which results in 24 hour LEO coverage operating. Assigned officers have an office immediately adjacent to the checkpoint. Normally one officer is on duty. Some scheduling overlap occurs when two officers are on duty. Additionally, Airport Staff works with Bismarck PD to train and badge all Patrol Officers and selected others such as those on the bomb squad and Regional SWAT team. Patrol Officers are trained and can substitute for the five permanently assigned PD officers if needed as backups. The training and badging of the Bismarck PD patrol officers, Bomb Squad and SWAT team allows for better familiarity with the airport and more effective response to emergencies such as active shooter or response to bomb threat.

- 2) Total number of LEOs assigned to the airport:

Five Bismarck PD officers are assigned to the airport which results in 24-hour coverage with normally one officer on duty

- 3) Number of LEOs dedicated to provide support of the passenger screening checkpoint(s):

One Bismarck Police Officer is on duty at Bismarck Airport 24 hours a day. That officer will be on duty supporting the passenger screening checkpoint when the checkpoint is open. The City of Bismarck (Bismarck Airport) provides LEO support of the passenger screening checkpoint with five permanently assigned Bismarck Police Department Officers. Bismarck PD Patrol Officers are trained on airport duties annually and can substitute for the five permanently assigned PD officers if needed as backups.

- 4) Operational Hours of the Passenger Screening checkpoint(s):

The Bismarck Airport TSA Passenger Screening Checkpoint has hours that vary by day. The checkpoint opens at 3:30 AM with closing time varying by day and by season. Most days the checkpoint is scheduled for 6 PM. Some days the checkpoint is scheduled to close at 10:30 PM. Occasionally, Aircraft delays cause extensions in checkpoint hours until the aircraft departs. The average daily hours of the checkpoint vary. Based on the records kept by Bismarck PD Officers, the checkpoint was open a daily average of 15.4 hours in CY 2023, 16.4 hours in CY24 and 15.7 hours in CY 2025. The three-year hourly average the checkpoint was open was 15.8 hours per day. The 15.8 hours per day is representative of what Bismarck Airport expects in the next three-year period. During times when flights are not departing the LEO will serve as an armed deterrent and presence. This will allow the LEO to resolve minor issues related to security while still focusing on support at the

screening checkpoint. Assigned officers will take appropriate action if a violation of the law occurs, will intercede and take action when individuals are interfering with screening, up to and including detaining/or arrest of individuals attempting to carry unauthorized items through the checkpoint.

- 5) Number of checkpoints and lanes:

Bismarck Airport has one Passenger Screening Checkpoint with 3 lanes.

- 6) Total number of daily departure flights. Note: arrival flights are not considered for reimbursement. Banks of departure flights at a particular checkpoint will be treated as singular periods of time for reimbursement purposes, regardless of the number of departing flights during that bank. A break of more than 1 hour from departure release time to the next departure report time constitutes a new bank:

Bismarck Airport has four airlines to seven direct destinations. Departing flights per day vary between 12-15 depending on the day and season. The number of banks varies between three to four per day.

- 7) Daily number of hours LEO(s) are assigned to checkpoint(s); daily number of hours LEOs are in the vicinity/close proximity of the checkpoint(s):

One Bismarck Police Officer is on duty at Bismarck Airport 24 hours a day. That officer will be on duty and in the vicinity or in close proximity to the checkpoint supporting the passenger screening operations when the checkpoint is open. The City of Bismarck provides LEO support to the passenger screening checkpoint with five permanently assigned Bismarck Police Department officers. Bismarck PD Patrol Officers are trained on airport duties and can substitute for the five permanently assigned PD officers if needed as backups.

- 8) Why the deployment of available resources cannot effectively fulfill airport security mandates, including any specific impacts the lack of program funding could have on security operations:

Prior to July 2017, there was no LEO on site to provide security at the checkpoint. The Airport operated on a 15 minutes LEO response basis while also utilizing a private security firm to provide on-site security of the terminal and passenger screening checkpoint. The requirement for an on-site LEO has resulted in a significant financial burden for Bismarck Airport. While the TSA LEO Reimbursement program is helpful assisting with the financial burden, the LEO Reimbursement Program covers only a fraction of the cost to Bismarck Airport.

- 9) Type of security posture (select one): [Fixed/Flexible/Hybrid]
Hybrid

Section 3: Project Narrative

- 1) Supplemental Requirements – describe the specific LEO support to be provided under this Agreement which supports TSA screening activities. Such support, based on the specific characteristics and security requirements of the airport, could include (but is not limited to) LEO patrol of a particular area, or unique assistance to local TSA. Note that such additional activities should only include those which are being performed during periods of TSA screening operations, and which do not interfere with the LEOs' ability to provide immediate response to incidents at the screening checkpoints. If utilizing Flexible or Hybrid Stationing, Participant must include specific LE response times to non-emergency/routine TSA calls for assistance and details of LEO support being provided in support of passenger screening:

Bismarck Airport will provide, at a minimum, one Bismarck PD officer at the Bismarck Airport 24 hours a day. That officer will support the passenger screening checkpoint when the checkpoint is open including responding to calls for assistance from the TSA screening officers. The officer's support of the screening checkpoint begins when the checkpoint opens and remains up to 30 minutes after the last departure. Assigned officers have an office immediately adjacent to the checkpoint. Officers will assist in the verification of LEO credentials (traveling LEO's) as well as provide incident reports, police reports and other information as requested by TSA as part of regulatory investigation, in accordance with Federal, State and local law. Officers will complete airport specific requirements accepted by the Federal Security Director and Bismarck Airport. In accordance with the Airport's approved Airport Security Program, a LEO will respond to the screening point within 10 minutes of being summoned for routine matters and as soon as possible in the event of an emergency or life-threatening situation. The LEO will respond as quickly and safely as possible when summoned for all other non-screening related incidents that would warrant the presence of a LEO.

- 2) Budget Request and Justification – provide details regarding the number of LEOs to support the project, salary & benefits of those supporting the project (include rank/position), number of shifts per officer and hours. A brief justification is required to support the requested budget. If additional supporting documentation is required, it may be included as an attachment to this document.

Budget Request:

Bismarck Airport requests an hourly rate of \$25.00 per eligible hour under the TSA LEO Reimbursement Program to support the law enforcement presence provided by the Bismarck Police Department. The total requests is \$144,576 which is \$25 multiplied by the three year average hours the checkpoint is open. The funding will offset a portion of the salary and benefits costs associated with maintaining the required on-site law enforcement presence, with the remaining costs funded by Bismarck Airport.

The hours calculation and officer compensation information is attached to the application.

Justification:

The Bismarck Airport requests the funding to support 5 permanently assigned Bismarck Police Department officers who provide 24-hour law enforcement coverage of the airport

using a hybrid model. Officers work rotating shifts to respond to TSA requests, security incidents, law enforcement needs at the airport, and they support TSA screening while the checkpoint is open. The TSA passenger screening checkpoint is open an average of 15.8 hours per day, requiring a consistent law enforcement presence to support screening operations and ensure the safety of TSA personnel, airport employees, airline employees, and the traveling public.

Prior to 2017, the airport operated under a 15-minute law enforcement response time requirement that was assisted by private security. The transition to a continuously assigned on-site LEO has significantly increased operating costs. In addition to personnel expenses, the Bismarck Airport has invested in training and badging requirements for the permanently assigned officers, patrol officers, and regional SWAT personnel to ensure familiarity with the airport operations and effective response.

Although the TSA LEO Reimbursement Program covers only a portion of these expenses, it is essential in maintaining compliance with federal security requirements and to continue to provide a safe and secure environment for TSA personnel, airline employees, airport employees, and the traveling public.

Signature from authorized official affirming that all terms and conditions of the Parent OTA will be met and that all information submitted within this document is complete and accurate.

DocuSigned by:

9F240C8C4F5C4A5...

Greg Haug
Airport Director

7/15/2026

Date

BISMARCK POLICE DEPARTMENT - AIRPORT TSA TIME					
YEAR					
Month	2023	2024	2025		
January	466.80	476.80	567.30		
February	434.25	645.40	458.40		
March	497.05	488.70	502.40		
April	455.25	469.30	494.10		
May	475.20	492.40	484.50		
June	466.39	494.00	453.90		
July	491.70	523.10	480.80		
August	472.70	486.70	467.30		
September	434.00	460.70	421.50		
October	501.20	476.80	460.20		
November	458.60	470.00	418.00		
December	469.70	512.30	521.70		
Totals:	5,622.84	5,996.20	5,730.10		
Daily Avg Hours	15.4	16.4	15.7		
Yearly Daily Avg	15.8				
Yearly Avg Hours	5,783.05				
Reimbursement Rate	\$25.00				
Total Request/Year	\$ 144,576.17				

AIRPORT SECURITY OFFICERS

Name	Salary* Social Security Medicare Cap on SS-->	FICA/Medicare 0.00% 1.45% \$184,500	Health and Life Insurance		Single or Depend- ent	Pension Cost	Worker Comp Code		Disability Cost	Total Benefits & Salary
			10128.00 24960.00 32.40	Single --Dependent Life			7720 7720	608.76 608.76		
Jostin Schaeffer Master Police Officer	\$75,394.68	\$1,093.08	\$24,992.40	D	\$10,953.39	7720	\$608.76	\$89.71	\$37,737.34	\$113,122.02
David Horner Master Police Officer	\$99,477.65	\$1,442.43	\$24,992.40	D	\$14,454.10	7720	\$608.76	\$118.38	\$41,616.07	\$141,093.72
Robert Rasmussen Police Officer	\$66,953.91	\$970.83	\$24,992.40	D	\$9,728.40	7720	\$608.76	\$79.68	\$36,380.07	\$103,333.98
vacant - 90% of midpoint	\$74,608.25	\$1,081.82	\$24,992.40	D	\$10,840.58	7720	\$608.76	\$88.78	\$37,612.34	\$112,220.59
Brad Jerome Master Police Officer	\$86,440.26	\$1,253.38	\$24,992.40	D	\$12,559.77	7720	\$608.76	\$102.86	\$39,517.18	\$125,957.44
			\$402,864.75	\$5,841.54	\$124,962.00	\$58,536.25	\$3,043.80	\$479.41	\$192,863.00	\$595,727.75



Engineering Department

DATE: August 11, 2026

FROM: Gabe Schell, City Engineer

ITEM: Right of Way Occupancy Agreement

REQUEST:

Introduction of and call for a public hearing to approve a non-exclusive right of way occupancy agreement with Metro Fibernet, LLC.

BACKGROUND INFORMATION:

Metro Fibernet, LLC (Metronet) approached the City of Bismarck to seek permission to construct, install, maintain, and operate a fiber optic infrastructure network within the City for the purposes of offering communication services. Metronet would provide internet services to residential and commercial customers within Bismarck. They would not provide video services. The agreement generally mirrors the terms of the right of way occupancy agreement approved by the Commission with a separate entity at their February 10, 2026. The agreement for consideration is enclosed.

A public hearing is not required prior to approval of a right of way occupancy agreement. However, City staff suggests a public hearing would be appropriate to allow time for the Commission and the public to ask questions and gain information before a decision is made.

A representative from Metronet will be available to answer any questions at the August 11, 2026, Commission meeting and will provide a presentation on their company and proposed service offerings at the August 25, 2026, Commission meeting prior to the public hearing.

RECOMMENDED CITY COMMISSION ACTION:

Call for a public hearing on the August 25, 2026, City Commission meeting to consider approval of a right of way occupancy agreement with Metro Fibernet, LLC.

STAFF CONTACT INFORMATION:

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

ATTACHMENTS:

1. Bismarck - Metronet ROW Agreement Final

NON-EXCLUSIVE RIGHT OF WAY OCCUPANCY AGREEMENT

This Non-Exclusive Right of Way Occupancy Agreement (the “**Agreement**”), dated _____, 2026, is made and entered into by and between the **City of Bismarck**, a North Dakota municipal corporation (the “**City**”), and **Metro Fibernet, LLC**, (“**Licensee**”). The City and Licensee are sometimes referred to in this Agreement as a “**Party**” and, collectively, as the “**Parties**.”

WHEREAS, the City has jurisdiction over the use of the public rights-of-way in the City (the “**Public ROW**”);

WHEREAS, the City has adopted an Ordinance, Chapter 10-04 of the Bismarck Code of Ordinances (the “**Ordinance**”), which authorizes the City to register any party wanting to occupy or use the Public ROW and which provides for terms for using the Public ROW;

WHEREAS, Licensee is a registered telecommunications company under North Dakota Chapter 49-03.1-09;

WHEREAS, Licensee desires to use the Public ROW in the City and occupy the Public ROW to construct, install, maintain, and operate a fiber optic infrastructure network and associated appurtenances within the City for the purpose of offering communications services;

WHEREAS, the City has determined that, upon Licensee completing the necessary registration for occupancy of the Public ROW, the Licensee can be granted access to the Public ROW in accordance with the terms of this Agreement; and

WHEREAS, the City Commission has determined that the Agreement as hereinafter set forth should be adopted.

NOW, THEREFORE, in consideration of the foregoing and the following covenants and agreements, it is hereby agreed by and between the City and Licensee (collectively the “**Parties**”) as follows:

SECTION 1 USE AND OCCUPANCY OF ROW

1.1. Permission to Use and Occupy ROW.

- A. Pursuant to the terms of this Agreement and any exhibits thereto (which are incorporated into and made part of this Agreement), and upon Licensee’s compliance with the Ordinance, City hereby grants Licensee permission to use and occupy the Public ROW (the “**License**”) for the purpose of constructing, installing, repairing, maintaining, operating, and, if necessary, removing a fiber optic infrastructure network and associated appurtenances (the “**Network**”) in accordance with the terms and conditions of this Agreement. The Network shall be for the purpose of offering wholesale and retail communications services, including broadband internet access service as defined in 47 C.F.R. § 8.1(b) and, voice over internet protocol services, services Licensee is authorized to provide under North Dakota Chapter 49-

03.1-09, and any other services Licensee is authorized to provide under applicable law (collectively, the “**Services**”), but excluding multichannel video programming services that would be subject to a video services franchise.

- B. The Network may also consist of equipment and facilities that may include underground fiber optic cables, lines, wires, or strands; underground conduits, vaults, access handholes; electronic equipment; power generators; pedestals; boxes; vaults; and other similar facilities (the “**Network Facilities**”). This Agreement and the License do not authorize Licensee to install or use any wireless communications facility within the Public ROW.
- C. This Agreement and the License do not authorize Licensee to use any property other than the Public ROW as agreed herein. Licensee’s use of any City owned property, including poles and conduits, must be governed under a separate agreement regarding that use, if any.
- D. This Agreement and License are subject and subordinate to City’s prior and continuing right to use the Public ROW, including but not limited to constructing, installing, operating, maintaining, repairing, or removing sewer mains, sewer lines, water mains, water lines, storm drains, utility poles, overhead and underground electric lines and related facilities, and other public utility and municipal purposes.
- E. City’s grant of the License is subject to all valid pre-existing easements, restrictions, conditions, covenants, encumbrances, superior claims of title or other property interests that may affect the Public ROW, in addition to those uses permitted by the Bismarck Municipal Code of Ordinances. Licensee will obtain at its own cost and expense any required permission or rights as may be necessary to accommodate such pre-existing property interests, so long as such pre-existing interests do not contravene state or federal law.
- F. Licensee hereby acknowledges that it has examined all the definitions and provisions of the Ordinance, which are incorporated herein by reference, and agrees that the provisions thereof are valid and binding upon Licensee, its contractors, subcontractors, and any person or entity performing any work on the Network or Network Facilities. Licensee agrees to abide by the provisions of the Ordinance, as it exists on the effective date of this Agreement and as thereafter amended or modified, and as may be amended from time to time as required by applicable law or agreement, and other relevant and generally applicable regulations and supplemental specifications as to construction, operation, or maintenance promulgated by the City.

- 1.2. Subject to Federal, State and Local Law. This Agreement and License are subject to the City’s valid authority under federal, state, and local laws as they exist now

or may be amended from time-to-time, and subject to the conditions set forth in this Agreement. In the event of a material conflict between the terms of local law and the applicable provisions of this Agreement, the applicable provisions of this Agreement will prevail. The Parties hereby agree that if federal or state law or future modifications or amendments to federal or state law necessitate modifications to the Bismarck Code of Ordinances or this Agreement, including but not limited to any provisions pertaining to revenue sharing or Public ROW occupancy fees, the Parties will work in good faith to agree upon the modifications.

- 1.3. No Grant of Property Interests. The License granted by this Agreement does not grant or convey any property interest to Licensee.
- 1.4. Non-Exclusive License. The License granted by this Agreement is non-exclusive. City expressly reserves the right to grant licenses, permits, franchises, privileges, or other rights to any other individual, corporation, partnership, limited liability company, trust, unincorporated association, joint venture, governmental authority, or other entity of any nature whatsoever, as well as the right in its own name as a city, to use Public ROW for similar or different purposes allowed Licensee under this Agreement.
- 1.5. Police Powers. Licensee's rights afforded by this Agreement are subject to the police powers of the City to adopt and enforce ordinances of general applicability and necessary to the health, safety, and welfare of the public. Licensee will comply with all such generally applicable laws and ordinances enacted by the City pursuant to that power.
- 1.6. Construction Plan. At least fifteen (15) days prior to the date Licensee submits the application for its first permit, Licensee and the City will memorialize in writing a mutually agreeable plan for construction of the Network (the "**Construction Plan**"), which will include, among other things, a timeline for meeting certain specified milestones established on a per linear foot basis. Any modifications to the Construction Plan must be agreed to in writing by designated representatives of both Parties.

SECTION 2 GENERAL FINANCIAL REQUIREMENTS

- 2.1. License Fee. From and after the date that Licensee first commences construction of the Network Facilities in the Public ROW (the "**Construction Commencement Date**"), Licensee shall pay the City a quarterly license fee (the "**License Fee**") equal to two and one-half percent (2.5%) of Gross Revenues (as defined below). Licensee shall remit payment to the City within forty-five (45) days of the end of each calendar quarter during the Term (as defined in Section 7.1 below). These payments will be accompanied by a report showing the basis for the computation and such other relevant facts as may be reasonably required by the City to determine the accuracy of such payments.

- 2.2. Gross Revenues. The term “**Gross Revenues**” means all consideration of any kind or nature, including without limitation, cash, credits, property, and in-kind contributions of services or goods, received by Licensee or its affiliated companies from any customers, consumers, businesses, residents, tenants, licensees, lessees, and others for broadband internet access services provided within the corporate boundaries of the City using Network Facilities located at least in part in the Public ROW. Gross Revenues do not include: (i) any revenue not actually received, even if billed, such as bad debt; (ii) refunds, rebates, or discounts made to Customers or the City; (iii) revenue received from the sale of broadband internet services for resale in which the purchaser is required to collect and remit a license or similar fee to the City from the purchaser’s customer; (iv) revenue derived from the provision of broadband internet services to customers where none of the Network Facilities used to provide such services are located in Public ROW; (v) any forgone revenue from Licensee’s provision of broadband internet services to customers at no charge if required by applicable law; (vi) any revenue derived from advertising; (vii) any revenue derived from voice over internet protocol services or other telecommunications services offered by Licensee as authorized by North Dakota Chapter 49-03.1-09; (viii) any revenue derived from rental of modems or other equipment used to provide or facilitate the provision of the broadband internet services; (ix) any revenue derived from referral or marketing agreements with third-party providers of online services which Licensee may make available to customers; (x) any tax of general applicability imposed upon Licensee or its customers by the City or by any state, federal, or any other governmental entity, and required to be collected by Licensee and remitted to the taxing entity (including but not limited to sales and use tax, gross receipts tax, excise tax, utility users’ tax, public service tax, communications taxes, and fees not imposed by this Agreement); (xi) any forgone revenue from Licensee’s provision, in Licensee’s discretion, of free or reduced cost broadband internet services to any person, including without limitation employees of Licensee; and (xii) sales of capital assets or sales of surplus equipment.
- 2.3. Pass Through. To the extent allowed by applicable law, Licensee may identify and collect, as a separate item on the regular bill of any customer of Licensee whose broadband internet services are provided by Network Facilities located at least in the Public ROW, that customer’s pro rata amount of the License Fee.
- 2.4. Other Fees.
- A. Except as provided herein, Licensee shall not be relieved from its obligation to pay administrative fees, public impact fees, and inspection fees, as may be required by the Ordinance.
 - B. Excavation and other permit fees relating to performance of work in the Public ROW shall continue to be paid by Licensee throughout its construction and installation of the Network Facilities.

- C. Licensee's third party open access network customers which utilize and physically access Licensee's Network and Network Facilities in the Public ROW that are subject to this Agreement to provide services to residents and businesses of the City must be either franchised with the City or enter into a separate agreement with the City prior to providing any services to any residents or businesses of the City.
- 2.5 Alternative Charge. In the event that the License Fee, as described in Section 2.1 above, is preempted by applicable law, the City and Licensee will negotiate in good faith an amendment to this Agreement establishing an alternative occupancy fee to compensate the City for its Public ROW management costs applied in a nondiscriminatory manner to all telecommunications service providers.
- 2.6 Failure to Pay. Failure by Licensee to pay the License Fee shall be deemed a breach of this Agreement and the Ordinance may be enforced according to the provision of this Agreement and the Ordinance or by any other means available to the City, including but not limited to, the denial of permits for work within the ROW.
- 2.7 Audits. Upon thirty (30) days prior written notice, the City will have the right to conduct an independent audit of Licensee's records once every two (2) years, in accordance with generally accepted accounting principles. Any undisputed additional amounts due the City as a result of such audit will be paid within thirty (30) days following written notice by the City to the Licensee, which notice will include a copy of the audit report. The audit cost will be paid by Licensee if payments have been underpaid by ten percent (10%) or more. In lieu of, or in addition to, an independent audit, City shall have the right to review Licensee's records. Licensee's records shall at all times be maintained in accordance with generally accepted accounting principles (GAAP), unless Licensee clearly and specifically indicates and fully describes to the City any variation from GAAP.
- 2.8 Acceptance of Payment. No acceptance of any payment will be construed as a release or accord and satisfaction of any claim the City may have for further or additional sums payable under this Agreement or for the performance of any other obligation hereunder.
- 2.9 Penalty for Late Payment. In the event that any undisputed License Fee is not made on or before the dates specified herein, Licensee will pay as additional compensation a late charge, equal to one and one-half percent (1.5%) of the total amount of the License Fee payment amount which was untimely.
- 2.10 Licensee's Financial Acknowledgements.
- A. Licensee expressly acknowledges and agrees that, except for License Fee, none of the payments or contributions made by, or the services, equipment, facilities, support, resources, or other activities to be provided or performed by Licensee at the direction of the City or the Ordinance pursuant to this Agreement, or otherwise in connection with the construction, operation,

maintenance, or upgrade of the Network Facilities (including specifically, but not by way of limitation, such payments, contributions, services, equipment, facilities, support, resources, or other activities as described in or provided for in this Agreement) are part of the License Fee.

- B. Licensee expressly acknowledges and agrees that the Licensee Fee shall take precedence over all other payments, contributions, services, equipment, facilities, support, resources, or other activities to be paid or supplied by Licensee pursuant to this Agreement and the License Fee shall not be deemed to be in the nature of a tax, and shall be in addition to any and all taxes or general applicability or other fees or charges which Licensee shall be required to pay to the City or to any state or federal agency or authority, all of which shall be separate and distinct obligations of Licensee.
- C. Licensee shall not have or make any claim for any deduction or other credit of all or any part of the amount of the License Fee from or against any City or other governmental taxes of general applicability, or other fees or charges which Licensee is required to pay to the City or other governmental agencies unless otherwise authorized by a change of applicable law.
- D. Licensee shall not apply or seek to apply all or any part of the amount of the License Fee as a deduction or other credit from or against any City or other government taxes of general applicability (other than income taxes) or other fees or charges, each of which shall be deemed to be separate and distinct obligations of the Licensee unless otherwise authorized by a change of applicable law.
- E. Licensee shall not apply or seek to apply all or any part of the amount of any City or other governmental taxes or other fees or charges of general applicability as a deduction or other credit from or against the License Fee, each of which shall be deemed to be separate and distinct obligations of Licensee unless otherwise authorized by a change of applicable law.
- F. Unless otherwise authorized by a future change of applicable law, in the event Licensee applies or seeks to apply all or any part of the amount of the License Fee as a deduction or other credit from or against any City or other governmental taxes of general applicability or other fees or charges, or unless authorized by a change in applicable law in the event that Licensee applies or seeks to apply all or any part of the amount of such taxes or other fees or charges as a deduction or other credit from or against the License Fee, then, in any such event, the City may terminate this Agreement for cause due to a material breach, and without any liability or compensation to Licensee.

SECTION 3 LICENSEE'S OBLIGATIONS

- 3.1. Individual Permits Required. Subject to the specific requirements of the Bismarck Code of Ordinances and policies adopted by the Bismarck City Commission, Licensee will obtain City's approval of required individual encroachment, construction, excavation, and other necessary permits before placing its Network Facilities in the Public ROW or other property of City, as may be authorized. Licensee will pay all processing, engineering, and inspection fees associated with the issuance of individual permits by City.
- 3.2. Performance Bond. Licensee must provide City with a performance bond in the amount of One Hundred Thousand Dollars (\$100,000) during construction of the Network and Network Facilities.
- 3.3. Insurance. Licensee must carry and maintain insurance in the amounts and of the types as follows:
 - A. Liability Insurance. As of the effective date of this Agreement and during the entire term of this Agreement, the Licensee will, at its sole expense, maintain public liability insurance with a company licensed to do business in the State of North Dakota with a rating by A.M. Best of not less than "A-" that will protect the Licensee, the City, and the City's officials, officers, employees, and agents from claims which may arise from operations under this Agreement, whether such operations are by the Licensee, its officials, officers, directors, employees, or agents, or any contractors or subcontractors of Licensee. This liability insurance will include, but will not be limited to, protection against claims arising from bodily and personal injury, death, and damage to property resulting from the Licensee's automobiles, products, construction, maintenance, installation, and other related work, and operations. The amount of such insurance shall be subject to periodic changes as described in this Section, or as may be required by applicable law, but will not be less than the following:

General Liability Insurance:

Bodily injury and/or death per person	\$1,000,000
Bodily injury and/or death per occurrence	\$1,000,000
Property damage per occurrence	\$1,000,000
Property damage and bodily injury, aggregate	\$2,000,000
Automobile Coverage	
Combined single limited	\$1,000,000
Umbrella Coverage	\$5,000,000

- B. The liability policy will provide for the following, by endorsement or otherwise:
- The policy will cover personal injury as well as bodily injury and death;
 - The policy will cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries, and property damage;
 - Broad form property damage liability will be afforded;
 - The City will be included as an additional insured on the policy;
 - The coverage is primary insurance and no other insurance or fund of the City will be called upon to contribute to a loss under the coverage;
 - Licensee shall obtain and maintain a waiver of subrogation endorsement in favor of the City, its officers, elected officials, employees, and agents on all applicable insurance policies required under this Agreement (which waiver of subrogation endorsement may be a blanket endorsement); and
 - The policy will not be cancelled without thirty (30) days prior written notice of such cancellation to the City, subject to policy terms and conditions.
- C. The automobile insurance policy will provide for the following, by endorsement or otherwise: (1) the City will be included as an additional insured on the policy; and (2) the policy will not be cancelled without thirty (30) days prior written notice of such cancellation to the City, subject to policy terms and conditions.
- D. Licensee will submit to the City documentation of the required insurance including a certificate of insurance signed by the insurance agent and companies named, as well as all properly executed endorsements. The certificate of insurance should confirm that the required endorsements are in effect.
- E. Any deductible or self-insured retention greater than \$250,000 must be declared to the City.
- F. Licensee will have insurance coverage to cover any valid claim arising before sale or transfer of the Network Facilities or termination of this Agreement.

- G. It will be the obligation of the Licensee to notify the City promptly of any pending or threatened litigation likely to negatively impact its ability to provide the insurance coverage required herein.
 - H. Notwithstanding the foregoing, Licensee will promptly repair any damage to the ROW, City property, or private property if such damage is directly caused by Licensee's work and no other person is responsible for the damage (e.g., where a person other than Licensee fails to accurately or timely locate its underground facilities as required by applicable law). Licensee will repair the damaged property to a condition equal to or better than that which existed prior to the damage. Licensee's obligation under this provision will be limited by, and consistent with, any applicable seasonal or other restrictions on construction or restoration work.
- 3.4. Worker's Compensation Insurance. Licensee will obtain and maintain worker's compensation insurance for all Licensee's employees, and in case any work is subcontracted, Licensee will require any subcontractor similarly to provide worker's compensation insurance for all of the subcontractors' employees, in compliance with state laws, and to fully protect the City from any and all claims arising out of work-related occurrences. Licensee hereby agrees to defend and indemnify the City for any damage resulting to it from failure of either Licensee or any subcontractor to obtain and maintain such insurance. Licensee will provide the City with a certificate of insurance indicating worker's compensation insurance prior to operations under this Agreement and the commencement of any construction, system upgrade, reconstruction, or maintenance of the Network Facilities. The certificate of insurance should confirm that the required endorsements are in effect.
 - 3.5. Licensee's Sole Cost and Expense. Licensee will perform all work on the Network Facilities at its sole cost and expense.
 - 3.6. Compliance with Laws. Licensee will comply with all applicable laws and regulations when performing its work. Licensee will place its Network Facilities in conformance with the required permits, plans, and drawings approved by the City.
 - 3.7. Reasonable Care. Licensee will exercise reasonable care when performing its work and will use commonly accepted practices and equipment to minimize the risks of personal injury, property damage, soil erosion, and pollution of surface or groundwater.
 - 3.8. No Nuisance. Licensee will maintain its Network Facilities in good and safe condition, normal wear and tear excepted.
 - 3.9. Repairs. Licensee will promptly repair any damage to the Public ROW, City property, or private property if such damage is caused by Licensee's work and no other person is responsible for the damage. Licensee will repair the damaged property to a condition reasonably comparable to that which existed prior to the

damage. Licensee's obligation under this Section will be limited by, and consistent with, any applicable seasonal or other restrictions on construction or restoration work.

- 3.10. As-Built Drawings and Maps. Licensee will maintain accurate as-built drawings and maps of its Network Facilities located in the Public ROW and will provide them to the City upon reasonable request and on a mutually-agreed timetable, subject to applicable confidentiality protections.
- 3.11. Network Design. Licensee hereby agrees, to the extent commercially reasonable and economically and technically feasible as reasonably determined by Licensee, that it shall build, install, and construct, within five years of the effective date of this Agreement, to all areas of the City making its Network and Services available to every residence, household, and business located within the City's municipal boundaries. In the event of annexation by the City, any new territory brought into the City's municipal boundaries shall become part of the service area covered by this Agreement. Licensee shall retain the discretion to determine the timing, location, design, and construction of the Network Facilities. Licensee's use of Public ROW or City property shall be conducted in a manner consistent with lawful and applicable public easement rights.
- 3.12. Traffic Control. Licensee shall provide traffic control that meets all requirements of the MUTCD adopted by the State of North Dakota. All such costs for traffic control will be the sole responsibility of the Licensee.
- 3.13. Reports. Licensee is required to submit to the City upon request all reports and information as provided in this Agreement or the Ordinance.

SECTION 4 CITY'S RESPONSIBILITIES

- 4.1. Emergency Removal or Relocation by City. In the event of a public emergency that creates an imminent threat to the health, safety, infrastructure, or property of the City or its residents, the City and/or other public utilities may remove or relocate the applicable portions of the Network Facilities without prior notice to Licensee. The City and any affected public utility will, however, make reasonable efforts to provide prior notice to Licensee before making an emergency removal or relocation. In any event, the City and any other public utility benefiting from this provision will promptly provide to Licensee a written description of any emergency removals or relocations of Licensee's Network Facilities. Licensee will reimburse the City and any affected public utility for its actual, reasonable, and documented costs or expenses incurred for any such emergency work, the direct cause of which was Licensee's construction, installation, operation, maintenance, repair, or removal of its Network Facilities. Licensee's obligation to reimburse the City and any affected public utility under this section will be separate from Licensee's obligation to reimburse the City for any other reasonable expense the City may incur.

- 4.2. Relocation to Accommodate Governmental Purposes. If Licensee's then-existing Network Facilities would interfere with planned use of the Public ROW or property of the City, State of North Dakota, or any other political subdivision for any governmental purpose as reasonably determined by the City, Licensee will, upon written notice from any of the foregoing entities, relocate its Network Facilities at Licensee's own expense to such other location or locations in the Public ROW as may be mutually agreed by the Parties, taking into account the needs of the governmental purpose and Licensee's interest in maintaining the integrity and stability of its Network. Licensee will relocate its Network Facilities within a commercially reasonable period of time agreed to by the Parties, taking into account the urgency of the need for relocation, the difficulty of the relocation, and other relevant facts and circumstances, except that City or any such public entity may not require Licensee to relocate or remove its Network Facilities with less than ninety (90) days' written notice.
- 4.3. Relocation to Accommodate Non-Governmental Purposes. If Licensee's then-existing Network Facilities would interfere with the City's planned use of the ROW for a non-governmental (i.e., commercial) purpose or a third-party's use of the Public ROW, Licensee will not be required to relocate its Network Facilities unless and until Licensee receives adequate funds for such relocation or adjustment. If there is any dispute between Licensee and the affected third party involving use of the ROW, the City will attempt to mediate the dispute between the parties so as to avoid or mitigate unreasonable delays.
- 4.4. Non-Discrimination. The City will, at all times, treat Licensee and provide access to the Public ROW in a non-discriminatory manner as compared to other similar holders of local or state authority to offer wired facilities-based Service.
- 4.5. Post-Removal Restoration of Public ROW. When removal or relocation is required under this Agreement, Licensee will, after the removal or relocation of the Network Facilities, at its own cost, repair and return the Public ROW in which the facilities were located to the same or similar conditions existing prior to Licensee's construction.
- 4.6. Expedited Permit Review. City will permit all work in the Public ROW as current staffing levels allow. If Licensee and/or its contractor would like expedited permit reviews, Licensee will be required to execute an Agreement with the City regarding reimbursement of related incremental expenses. The City would develop the Agreement and negotiate acceptable terms of the Agreement with the Licensee to cover the cost of expediting the permit approval and walk throughs.

SECTION 5 CONTRACTORS AND SUBCONTRACTORS

- 5.1. Use of Contractors and Subcontractors. Licensee may retain contractors and subcontractors to perform the work on Licensee's behalf.

- 5.2. Contractors to be Licensed, Bonded and Insured. Any contractors and subcontractors engaged or hired by Licensee to perform work under this Agreement must be licensed as a contractor with the State of North Dakota as well as bonded and insured in accordance with applicable law.
- 5.3. Authorized Individuals. Licensee's contractors and subcontractors may submit individual permit applications to City on Licensee's behalf, so long as the permit applications are signed by individuals that Licensee has authorized to act on its behalf via a letter of authorization provided to City ("**Authorized Individuals**"). City will accept permit applications under this Agreement submitted and signed by Authorized Individuals, and will treat those applications as if they had been submitted by Licensee under this Agreement.

SECTION 6 DEFENSE AND INDEMNITY

- 6.1. Obligations. Licensee will defend and indemnify the City, its Commission and the members, officers, elected representatives, agents, and employees, from and against any and all claims for injury or damage to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of the Network and Network Facilities whether by the Licensee, its subcontractors, or anyone acting on their behalf. Licensee shall assume and control the defense of any claim subject to this indemnification obligation with counsel reasonably acceptable to the City. If Licensee timely assumes and diligently conducts the defense, the City shall not be entitled to recover attorney fees. Notwithstanding the foregoing, the City may retain separate counsel at Licensee's expense, and such attorney fees shall be borne by Licensee if (i) Licensee fails or refuses to assume the defense; (ii) a conflict of interest exists between the City on the one hand and Licensee and contractor or subcontractor on the other hand; or (iii) the City reasonably determines that it requires separate representation to protect its interests; or (iv) the City incurs attorney fees enforcing Licensee's responsibilities and obligations in this Section 6.1 of the Agreement. It is expressly understood that the City has no control, standard, or regulation pertaining to the subject matter of programs distributed by Licensee. Licensee also agrees to hold harmless the City, its Commission and the members, officers, elected representatives, agents, and employees from any and all claims, suits, and actions at law or in equity, for libel, slander, patent or copyright infringements, to the extent that the City is made a party defendant in any action arising out of the subject matter of programs transmitted by Licensee. Licensee shall, at its sole cost and expense, defend such actions and appeals therefrom including those involving the City. Licensee's indemnity obligations shall require it to pay Licensee approved settlement amounts to resolve an indemnified claim and damages and costs finally awarded against the City by a competent tribunal in any legal proceeding filed by a third party for property damage, personal injury, or death to the extent caused by the negligence or willful misconduct of Licensee or its contractors arising from this Agreement ("**Third Party Legal Proceeding**").

- 6.2. Exclusions. Section 6.1 will not apply to the extent the underlying allegation arises from or is related to the negligence or willful misconduct of an indemnified party.
- 6.3. Notice of Claim. The City agrees to provide reasonable efforts to promptly notify Licensee in writing of the Third Party Legal Proceeding and any allegations that preceded the Third Party Legal Proceeding no later than five (5) days after the City became aware of the Third Party Legal Proceeding. City also must reasonably cooperate in the defense at Licensee's request. The City must tender sole control of the indemnified portion of the Third Party Legal Proceeding to Licensee, subject to the following: (a) the City may appoint its own non-controlling counsel, at its own expense; and (b) any settlement requiring the City to admit liability, pay money, or take (or refrain from taking) any action, will require the City's prior written consent, not to be unreasonably withheld, conditioned, or delayed.

SECTION 7 TERM AND TERMINATION

- 7.1. Term. This Agreement shall become effective on the date the last party to sign executes this Agreement ("**Effective Date**"). The Agreement will expire automatically on the fifth (5th) anniversary of the Effective Date ("**Original Term**"), unless earlier terminated in accordance with the provisions herein. Following expiration of the Original Term, this Agreement will automatically renew for additional five-year periods (each, a "**Renewal Term**") unless either Party provides notice of non-renewal not less than 120 days prior to expiration of the then current term. The Original Term and any Renewal Terms are sometimes collectively referred to in this Agreement as the "**Term**."
- 7.2. Procedure for Remedying Agreement Violations. In addition to any other applicable legal remedy, if Licensee fails to perform in a timely manner any material obligation required by the Ordinance or this Agreement, following notice from the City and an opportunity to cure such nonperformance, the City may remedy such violation in accordance with the following procedures:
- A. The City will first notify Licensee of the violation in writing, and demand a cure within a reasonable time, which will not be less than twenty (20) days in the case of the failure of the Licensee to pay any sum or other amount due the City under the Ordinance or this Agreement, and not less than thirty (30) days in all other cases. If Licensee fails to cure the violation within the time prescribed in the notice, or if Licensee fails to commence corrective action within the time prescribed and diligently remedy such violation thereafter, the Licensee will then be given a written notice of a public hearing to be held before the City Commission. The notice will specify the violations alleged to have occurred.
 - B. At the public hearing, the City Commission will hear and consider all relevant evidence, and thereafter render findings and its decision.

- C. In the event the City Commission finds that Licensee has corrected the violation or has diligently commenced efforts to correct such violation after notice thereof from the City and is diligently proceeding to fully remedy such violation, or that no material violation has occurred, the proceedings will terminate and no penalty or other sanction will be imposed.
- D. In the event the City Commission finds that a material violation exists and that Licensee has not corrected the same in a satisfactory manner or has not diligently commenced efforts to correct such violation, the City Commission may establish a date, no earlier than twenty (20) days after the public hearing, by which Licensee must comply with the obligation. The City Commission may also implement the termination procedures outlined in this Agreement and the Ordinance. However, any termination procedures will be stayed until a final ruling is obtained in accordance with subsection F below.
- E. In determining whether a violation is material, the City will take into consideration the reliability of the evidence of the violation, the nature of the violation, and the damage, if any, caused to the City or the City's residents thereby, whether the violation was chronic, and any justifying or mitigating circumstances, and such other matters as the City may deem appropriate.
- F. If the violation as proposed depends on a finding of fact, such finding of fact will be made by the City only after a hearing providing the Licensee with a full and fair opportunity to be heard. Licensee will have the right to appeal any such decision to state court and the revocation or penalty will not become effective until any such appeal has become final or the time for taking such appeal will have expired.

7.3. Revocation or Termination of Agreement.

- A. Upon completion of the Term, if a new Agreement is not granted to the Licensee by the City, Licensee's right to occupy the Public ROW shall terminate, subject to applicable state and federal law.
- B. The City shall have the right to revoke the Agreement for Licensee's failure to construct, operate or maintain the Network and Network Facilities as required by this Agreement or the Ordinance.
- C. To invoke the provisions of this Section, the City shall give Licensee written notice of the default in its performance. If, within ninety (90) days, following such written notice from the City to Licensee, or such other period as Licensee and the City shall agree, Licensee has not taken corrective action to the reasonable satisfaction of the City, the City may give written notice to Licensee of its intent to revoke the Agreement, stating its reasons.

- D. Prior to revoking the Agreement, the City shall hold a public hearing, upon thirty (30) days advance notice to the public and written notice to Licensee, at which time Licensee and the public shall be given an opportunity to be heard. Following the public hearing, the City may determine whether to revoke the Agreement based on the information presented at the hearing, and other information of record, or, where applicable, grant additional time to Licensee to affect any cure. If the City determines to revoke the Agreement, it shall issue a written decision setting forth the reasons for its decision. A copy of such decision shall be transmitted to Licensee.
- E. If the City revokes the Agreement, or if for any other reason Licensee abandons, terminates, or fails to operate or maintain the Network or Network Facilities, the following procedures and rights are effective:
- The City may (a) require the Licensee to remove its above-ground facilities along with junction boxes buried in the ROW and equipment at the Licensee's sole cost and expense and restore affected sites, or (b) permit the Licensee to abandon such Network Facilities in place. If the Licensee fails to do so within a reasonable period of time, the City may have the removal done at Licensee's expense.
 - If the Network Facilities is abandoned by the Licensee, the ownership of all portions of the Network and Network Facilities in the ROW shall revert to the City and the City may retain, sell, assign, or transfer all or part of the assets. City's assumption of ownership shall not render City liable for any claims, causes of action, injuries, disputes, lawsuits, or liabilities of Licensee accruing or arising prior to City's assumption of ownership.
- F. Notwithstanding the foregoing, Licensee may appeal a revocation decision by the City to a court of competent jurisdiction pursuant to Section 9.3 and such appeal shall stay the implementation of such revocation.

SECTION 8 NETWORK SYSTEM SERVICES

8.1. System Services.

- A. Licensee shall, to the extent commercially reasonable, economically feasible, and technologically feasible (in each case as reasonably determined by Licensee), provide additional facilities and equipment, expand capacity, and otherwise upgrade its Network and Network Facilities throughout the Term, as required to incorporate improvements in technology to reasonably meet the needs and interests of the community in light of the costs thereof.
- B. In furtherance of the general policy of the City that Licensee's services be innovative and modern, Licensee (i) will pursue a continuous policy of

incorporating new technical developments into the Network and Network Facilities and (ii) will identify and respond to changing community interests and desires regarding services where economically and technically feasible, with respect to clauses (i) and (ii) as reasonably determined by Licensee.

- 8.2. Dark Fiber. For the purpose of expanding City's internal network, provided it does not cause a delay in deployment of its Network Facilities as reasonably determined by Licensee, Licensee will provide City two (2) strands of "dark" fiber optic cable along routes requested from time to time by the City during the Term on terms and conditions mutually agreed by the Parties, upon the initial construction, modification, or expansion by Licensee of the Network Facilities along such routes. Such dark fiber shall be limited to the exclusive use of City or its governmental entity designee for any noncommercial, public purpose. The City shall be responsible for all marginal costs relating to the dark fiber. All costs relating to the use, maintenance, or repair of the dark fiber shall be the responsibility of the City as calculated on a pro-rata basis with reference to the total number of fiber(s) in the strand. City and Licensee will execute an additional agreement addressing the disposition and maintenance of such dark fiber in greater detail.
- 8.3. Innerduct Option. Provided it does not cause a delay in deployment of its Network Facilities as reasonably determined by Licensee, Licensee shall provide City the option of causing the installation of additional innerduct by Licensee along any and all routes upon the initial construction, modification, or expansion by Licensee of the Network Facilities on terms and conditions mutually agreed to by the Parties. Such innerduct shall be and remain under the exclusive control of the City, or its designated governmental entity, and shall be limited to the exclusive use of the City for any noncommercial, public purpose. If the City wishes to exercise this option, the City shall be responsible for all marginal costs relating to the installation of such innerduct and its maintenance by the Licensee. The Licensee shall cooperate with and assist the City in identifying likely routes, build-out schedules, and cost estimates. The City and Licensee will execute an additional agreement addressing the City's innerduct option in greater detail. The foregoing limit on use shall not be construed to limit the City's ability to transmit, interconnect, and otherwise enable services using such facility for noncommercial, public purpose with any other public sector entity, including federal, state, or local agencies and/or political subdivisions.
- 8.4. Right of Inspection. The City will have the right to inspect all construction, reconstruction, or installation work performed by Licensee under the provisions of the Agreement and other pertinent provisions of law, to ensure Licensee's compliance and to protect the public health, safety, and welfare of City's residents and citizens. Licensee will have the right to be present at such inspections.
- 8.5. Periodic Evaluation. The Parties acknowledge the field of communications is rapidly changing and may see many regulatory, technical, financial, marketing, and legal changes during the term of this Agreement. Therefore, in order to provide for a maximum degree of flexibility in this Agreement, and to help achieve a continued

advanced and modern Network and Network Facilities, the following evaluation provisions shall apply:

- A. Upon thirty (30) days written notice to Licensee, the City may require an evaluation session. Evaluation sessions may occur no more than once every three (3) years beginning three (3) years from the Effective Date, unless otherwise mutually agreed to by the parties.
- B. All evaluation sessions shall be open to the public and notice of sessions published the same way as a legal notice.
- C. Topics which may be discussed at any evaluation session may include, but are not limited to, application of new technologies, Network and Network Facilities performance, facilities and support, municipal uses of fiber, customer complaints, amendments to this Agreement, judicial rulings, FCC rulings, line extension policies, and any other topics City and Licensee deem relevant.
- D. As part of a periodic review, at its own cost and expense, the City or Licensee may contract with an independent research organization to conduct an objective survey to identify ongoing community needs.
- E. As part of a periodic evaluation, at its own cost and expense, the City or Licensee may contract for or perform a technical review and performance evaluation. The City and Licensee shall be notified of all such technical reviews and performance evaluations and may designate representatives to be in attendance and shall also be provided with the results of such reviews and evaluations including any recommendations resulting from such reviews and evaluations along with City or Licensee's proposed satisfaction of any such recommendations.
- F. As a result of a periodic review or evaluation session, the City and Licensee, in good faith, may develop such changes and modifications to the terms and conditions of the Agreement as are mutually agreed upon.

SECTION 9 MISCELLANEOUS

- 9.1. Assignment. Neither party may assign or transfer its rights or obligations under this Agreement, in whole or in part, without the written consent of the other party, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the preceding sentence, Licensee may, without the City's consent, (i) assign its rights and obligations under this Agreement to an affiliate, (ii) assign its right to receive payments under this Agreement to any creditor, and (iii) assign its rights and obligations under this Agreement to an entity acquiring all or substantially all of Licensee's assets. Any agreed upon assignee will take the place of the assigning party, and the assigning party will be released from all of its rights and obligations upon such assignment.

9.2. Notices. Notices related to this Agreement will be in writing and sent:

A. If to Licensee:

Metronet
11880 College Boulevard, Suite 100
Overland Park, KS 66210
Attn: President and CEO

With a copy to:

Metronet
11880 College Boulevard, Suite 100
Overland Park, KS 66210
Attn: Legal Department

B. If to the City:

City Administrator
City of Bismarck
PO Box 5503
Bismarck, ND 58506-5503

Notices are effective when actually received by the Party designated above by personal delivery, registered or certified mail postage prepaid, by express mail, or by overnight courier. The addresses of the Parties may be changed upon notice to the other party given as provided in this Section.

Operational Notices. Notwithstanding the foregoing, notices and communications relating to operation issues (e.g. construction activities, permit applications, utility coordination, utility conflicts, relocations, inspections, as-built drawings, project schedules, maintenance activities, outage notifications, emergency repairs, network operations, and similar day-to-day operational matters) may be transmitted electronically to the operational contact addresses designated by the Parties. Such notices shall be deemed effective upon transmission, provided no automated notice of failed delivery is received. For avoidance of doubt, notices pertaining to default, termination, revocation, indemnity claims, assignments, disputes, and other non-operational matters shall be transmitted by personal delivery, registered or certified mail, express mail or overnight courier to the addresses shown above (as may be changed from time to time).

Transmission of plans, drawings, specifications, GIS data, utility conflict information, construction schedules, and other large files may be accomplished by providing an electronic link to a shared website, cloud-based repository, or other electronic storage location accessible to the receiving Party.

Each Party may change its operational contact information by written notice or email to the other Party.

Operational Contacts.

Metronet:

Construction, utility coordination, relocations, and permit matters:
Tobin.Brummer@metronet.com

Network operations, outages, and emergency issues: mfn-noc@metronet.com

City:

Engineering and construction coordination: engineering@bismarcknd.gov

Utility locate and conflict coordination: publicworks@bismarcknd.gov

Emergency/public works issues: publicworks@bismarcknd.gov

- 9.3. Governing Law. This Agreement is governed by the laws of the State of North Dakota, without regard to its conflict of laws rules. The parties hereby agree that any and all disputes arising hereunder shall be litigated in the State District Court for Burleigh County, North Dakota, and Licensee hereby consents to jurisdiction and waives any objection based upon improper venue.
- 9.4. Entire Agreement. This Agreement constitutes the entire agreement between Licensee and the City relating to the subject matter hereof. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by Licensee and the City.
- 9.5. No Forbearance or Waiver. The failure or delay of a Party to insist on the timely performance or any of the terms of this Agreement, or the waiver of any particular breach of any of the terms of this Agreement, at any time, will not be construed as a continuing waiver of those terms or any subsequent breach, and all terms will continue and remain in full force and effect as if no forbearance or waiver had occurred.
- 9.6. Non-Discrimination. Licensee will comply, and require compliance by its contractors), with applicable federal, state, and local laws with respect to prohibitions against discrimination on the basis of race, color, sex, age, disability, political, or religious opinions, affiliations, or national origin.
- 9.7. Reservation of Rights. The Parties expressly reserve any rights either of them may have under state or federal law concerning the subject matter of this Agreement and

further agree that by execution and performance of this Agreement, neither Party shall be deemed to have waived any such rights.

- 9.8. Binding Effect. This Agreement is made expressly for the benefit of, and shall be binding on, the heirs, beneficiaries, personal representatives, successors, and assigns of the respective parties. This Agreement shall run with the Network Facilities and will be binding upon all successive owners of record.
- 9.9. Severability. If any part of this Agreement is deemed invalid, illegal, or unenforceable, the remainder of this Agreement will remain in effect.
- 9.10. Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but which together will constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including .pdf) or other transmission method, and any counterpart so delivered will be deemed to have been duly and validly delivered and be valid and effective for all purposes.

Dated this ____ day of _____, 2026

Metro Fibernet, LLC

By: _____

Name:

Title:

STATE OF _____)
_____) ss
COUNTY OF _____)

On this ____ day of _____, 2026, before me, a notary public in and for said county and state, personally appeared _____ to me known to be the _____ of Metro Fibernet, LLC, the entity described in and who executed the within and foregoing instrument and acknowledged to me that said entity executed the same.

(SEAL)

Notary Public

County, _____

My Commission expires: _____

Dated this _____ day of _____, 2026

City of Bismarck

By: _____

Michael T Schmitz, President of the Board of Commissioners

ATTEST:

Jason Tomanek, City Administrator

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BURLEIGH)

On this _____ day of _____, 2026, before me, a notary public in and for said county and state, personally appeared Jason Tomanek and Michael T Schmitz, to me known to be the City Administrator and President of the Board of City Commissioners, respectively, of the City of Bismarck, Burleigh County, North Dakota, the North Dakota municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

(SEAL)

Notary Public
Burleigh County, North Dakota
My commission expires: _____



Engineering Department

DATE: August 11, 2026

FROM: Gabe Schell, City Engineer

ITEM: Encroachment Agreement - Church of the Ascension

REQUEST:

Encroachment and Waiver Agreement with Church of the Ascension.

BACKGROUND INFORMATION:

Church of the Ascension is planning an expansion to connect the sanctuary with the parish center and offices. As part of this expansion, they will be removing a portion of an existing sanitary sewer main and all of the water main that exists in City Lands adjacent to the site and adjacent to the City Storm Drainage Ditch. The sanitary sewer main will be reconnected within the City Lands. The portion of the sanitary sewer main that exists in City Lands adjacent to the City Storm Drainage Ditch will not affect the planned future improvements to the drainage ditch.

RECOMMENDED CITY COMMISSION ACTION:

Approve Encroachment and Waiver Agreement with Church of the Ascension.

STAFF CONTACT INFORMATION:

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

ATTACHMENTS:

1. Agreement - Ascension Church
2. Exhibits

ENCROACHMENT AGREEMENT AND WAIVER

The City of Bismarck (City) hereby grants Church of the Ascension (Grantee) the right to install and maintain a sanitary sewer service and appurtenances (Encroachment) in the South Bismarck Drainage Channel (City Property) adjacent to 1825 S 3rd Street, Lot 12, Block 24, Second Replat of Meadow Valley Fifth Addition, Bismarck, Burleigh County, North Dakota, as depicted in exhibits on file with the City of Bismarck Engineering Department. This encroachment is subject to the following conditions:

1. The Grantee shall comply with all rules regarding maintenance of the Encroachment in City Property as set by the City Engineer.
2. The term of this grant shall be for ten (10) years and shall continue thereafter from year to year. The City may terminate this Agreement upon thirty (30) days written notice after the initial term. Notwithstanding the foregoing, the City may terminate this Agreement immediately if the Encroachment creates a public safety hazard or interferes with public improvements.
3. Upon termination of this Agreement, abandonment of the Encroachment, or upon written request by the City, the Grantee shall, at its sole expense, remove the Encroachment and restore the City Property to a condition acceptable to the City.
4. For and in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, for the City's permission to operate and maintain the Encroachment on City property, Grantee agrees to release the

City, its assigns or other franchised utilities from and waive any and all claims relating to said Encroachment, but not limited to, damages arising from damage to the Encroachment, loss of business, or other personal injury or property damage resulting from damage to the Encroachment by the City, its assigns or other franchised utilities.

5. Grantee agrees that it is using the City Property at its own risk. Grantee shall not look to the City, its assigns, or other franchised utilities to pay for any expense or damage to the Encroachment by the City, its assigns or other franchised utilities. Grantee agrees that it will hold harmless and indemnify the City, its assigns, or other franchised utilities from any and all claims in any way resulting from the placement of the Encroachment on the right of way and City Property. Grantee agrees that after installation of the Encroachment, Grantee will restore the City Property to a condition acceptable to the City.
6. Grantee acknowledges that reconstruction of the 3rd Street sanitary sewer line as part of the South Bismarck Flood Control Project may temporarily interrupt or affect the encroachment and its service connection. The City will use reasonable efforts to maintain the encroachment during construction; however, the City does not guarantee uninterrupted service or continued operation of the encroachment during construction activities. The City agrees to reconnect the service connection as part of the project. The Grantee shall be responsible for costs, as determined by the City, associated with protecting or maintaining the encroachment or its service connection during construction, provided that the Grantee's total responsibility for such costs shall not exceed \$20,000.
7. If the City determines that maintenance, reconstruction, utility work, or other public improvements require access to the area occupied by the Encroachment, the Grantee shall, upon written notice from the City, temporarily protect, relocate, modify, or remove the Encroachment at the Grantee's sole expense.
8. This Encroachment Agreement and Waiver and the covenants, agreements, and restrictions contained herein, shall run with the land benefitted and burdened hereunder. The Grantee shall provide notice of this Agreement to any purchaser, transferee, or successor in interest of the property prior to transfer of ownership.

9. This Agreement constitutes a revocable license only and shall not be construed as granting any ownership interest, leasehold interest, easement, or other property right in the City Property.

10. In the event of the commission of any breach of the terms of this Agreement by a party, the non-breaching party may cause this Agreement to be terminated on ten (10) days written notice. All obligations contained in paragraphs 3 and 4 will survive the termination of this Agreement, including but not limited to, the restoration of the right of way and property to a condition acceptable to the City.

Grantee

Church of the Ascension

By: _____

_____ Date

Print: _____

Title: _____

STATE OF _____)
COUNTY OF _____) SS.

On this _____ day of _____, 20____, before me personally appeared _____, known to me to be the person who is described in, and who executed the within and foregoing instrument, and acknowledged to me that they executed the same.

Notary Public
My commission expires:

City of Bismarck

Gabe Schell, PE
City Engineer

Date

Jason Tomanek
City Administrator

Date

Michael T. Schmitz
President, Board of City Commissioners

Date

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 20____ before me personally appeared Gabe Schell, known to me to be the City Engineer of the City of Bismarck, the person who is described in, and who executed the within and foregoing instrument, and acknowledged to me that they executed the same.

Notary Public
My commission expires:

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 20____, before me personally appeared Jason Tomanek, known to me to be the City Administrator of the City of Bismarck, the person who is described in, and who executed the within and foregoing instrument, and acknowledged to me that they executed the same.

Notary Public
My commission expires:

STATE OF _____)
) SS.
COUNTY OF _____)

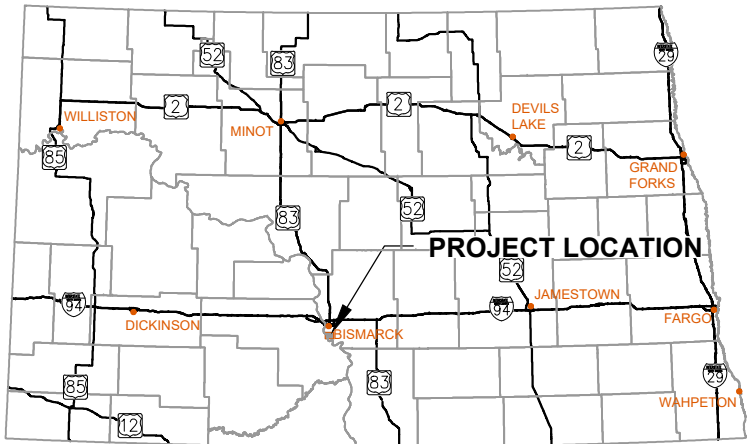
On this _____ day of _____, 20____, before me personally appeared Michael T. Schmitz, known to me to be the President of the Bismarck City Commission, the person who is described in, and who executed the within and foregoing instrument, and acknowledged to me that they executed the same.

Notary Public
My commission expires:

ASCENSION CHURCH BUILDING EXPANSION SITE PLAN

CHURCH OF THE ASCENSION
BISMARCK, NORTH DAKOTA

NOVEMBER, 2025



STATE OF NORTH DAKOTA

SITE INFORMATION

ADDRESS: 1905 S 3RD ST, BISMARCK, ND 58504

MEADOW VALLEY 5TH ADDITION 2ND REPLAT, BLOCK 24, LOT 12.

ZONING: R5

BUILDING HEIGHT: 40 FT MAX

FRONT YARD SETBACK: 25 FT

SIDE YARD SETBACK: 6 FT MIN

REAR YARD SETBACK: 20 FT

BUILDING INFORMATION:

TYPE OF CONSTRUCTION: TYPE V-B (EXISTING CHURCH - AERA A)
TYPE II-B (EXISTING EDU. BLDG. - AREA C)
TYPE V-B (NEW CONSTRUCTION - AREA B)

OCCUPANCY CLASS: B (BUSINESS)
A-3 (ASSEMBLY)
S-1 (STORAGE)

FIRE PROTECTION SYSTEM: FULLY-SPRINKLED - NFPA 13

BUILDING FOOTPRINT BREAKDOWN:

EXISTING RECTORY	2,000 SF ±
EXISTING PARISH CENTER & OFFICES	9,995 SF
EXISTING SANCTUARY	11,680 SF
PROPOSED ADDITIONS	5,830 SF (BID PACKAGE 1)
PROPOSED ADDITIONS	4,355 SF (BID PACKAGE 2)
PROPOSED ADDITIONS	1,140 SF (FUTURE)

PROPOSED TOTAL 35,000 SF

PARKING CALCULATIONS:

REQUIREMENTS PER CITY OF BISMARCK ZONING ORDINANCE:
RELIGIOUS INSTITUTIONS - 1 SPACE FOR EACH 5 SEATS PROVIDED

EXISTING PARKING STALLS: 148 STALLS

REQUIRED STALLS: (1 STALL / 5 SEATS)

SANCTUARY :785 OCCUPANTS * 1 STALL / 5 OCCUPANTS = 157 STALLS

PROVIDED PARKING:

ON-STREET PARKING:	35 SPACES
SW PARKING LOT:	49 SPACES (2 ADA)
NE PARKING LOT:	117 SPACES (6 ADA)
TOTAL:	201 SPACES (8 ADA)

BASIS OF SURVEY

ALL CONTOURS, ELEVATIONS, AND COORDINATES FOR THE PROJECT ARE BASED ON NAD83 (2011) STATE PLANE COORDINATE SYSTEM (BURLEIGH COUNTY GROUND SCALE FACTOR), NORTH DAKOTA SOUTH ZONE 3302, GEOID 18 (CONUS) AND NAVD-88 (INTERNATIONAL FEET).

BISMARCK, NORTH DAKOTA



VICINITY MAP

NO SCALE

OWNER

CHURCH OF THE ASCENSION
1905 S 3RD ST,
BISMARCK, ND 58504
PH: 701.223.3606
www.ascensionbismarck.org

CIVIL ENGINEER

KLJ ENGINEERING, LLC
400 E BROADWAY AVE, SUITE 600
BISMARCK, ND 58501
PH: 701.355.8400
www.kljeng.com

ARCHITECT

J2 STUDIO ARCHITECTURE & DESIGN, PC
919 S 7TH ST SUITE 400
BISMARCK, ND 58504
PH: 701.255.1622
www.j2studio.us

KLJ PROJECT NO. 2414-01176

INDEX OF SHEETS

C0.0	COVER SHEET
C1.0-C1.1	NOTES & LEGEND
C2.0	EXISTING CONDITIONS & REMOVALS - OVERVIEW
C2.1	EXISTING CONDITIONS & REMOVALS - NORTH
C2.2	EXISTING CONDITIONS & REMOVALS - SOUTH
C2.3	EXISTING CONDITIONS & REMOVALS - EAST
C3.0	SITE LAYOUT PLAN - OVERVIEW
C3.1	SITE LAYOUT PLAN - NORTH
C3.2	SITE LAYOUT PLAN - SOUTH
C3.3	SITE LAYOUT PLAN - EAST
C4.0	SITE UTILITY PLAN - OVERVIEW
C4.1	SITE UTILITY PLAN - NORTH
C4.2	SITE UTILITY PLAN - SOUTH
C4.3	SITE UTILITY PLAN - EAST
C5.0	SITE GRADING AND EROSION CONTROL PLAN
C6.0	SPOT ELEVATION PLAN - NORTH
C6.1	SPOT ELEVATION PLAN - SOUTH
C6.2	SPOT ELEVATION PLAN - EAST
C7.0-C7.5	CONSTRUCTION DETAILS
C8.0	LANDSCAPE PLAN - SCHEDULE
C8.1	LANDSCAPE PLAN - OVERVIEW
C8.2	LANDSCAPE PLAN - NORTH
C8.3	LANDSCAPE PLAN - SOUTH
C8.4	LANDSCAPE PLAN - EAST
C8.5	LANDSCAPE DETAILS

CERTIFICATION

I HEREBY CERTIFY THAT THE ATTACHED PLANS WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF NORTH DAKOTA.

DATE: _____
ANDREW WERDER, PE-6696

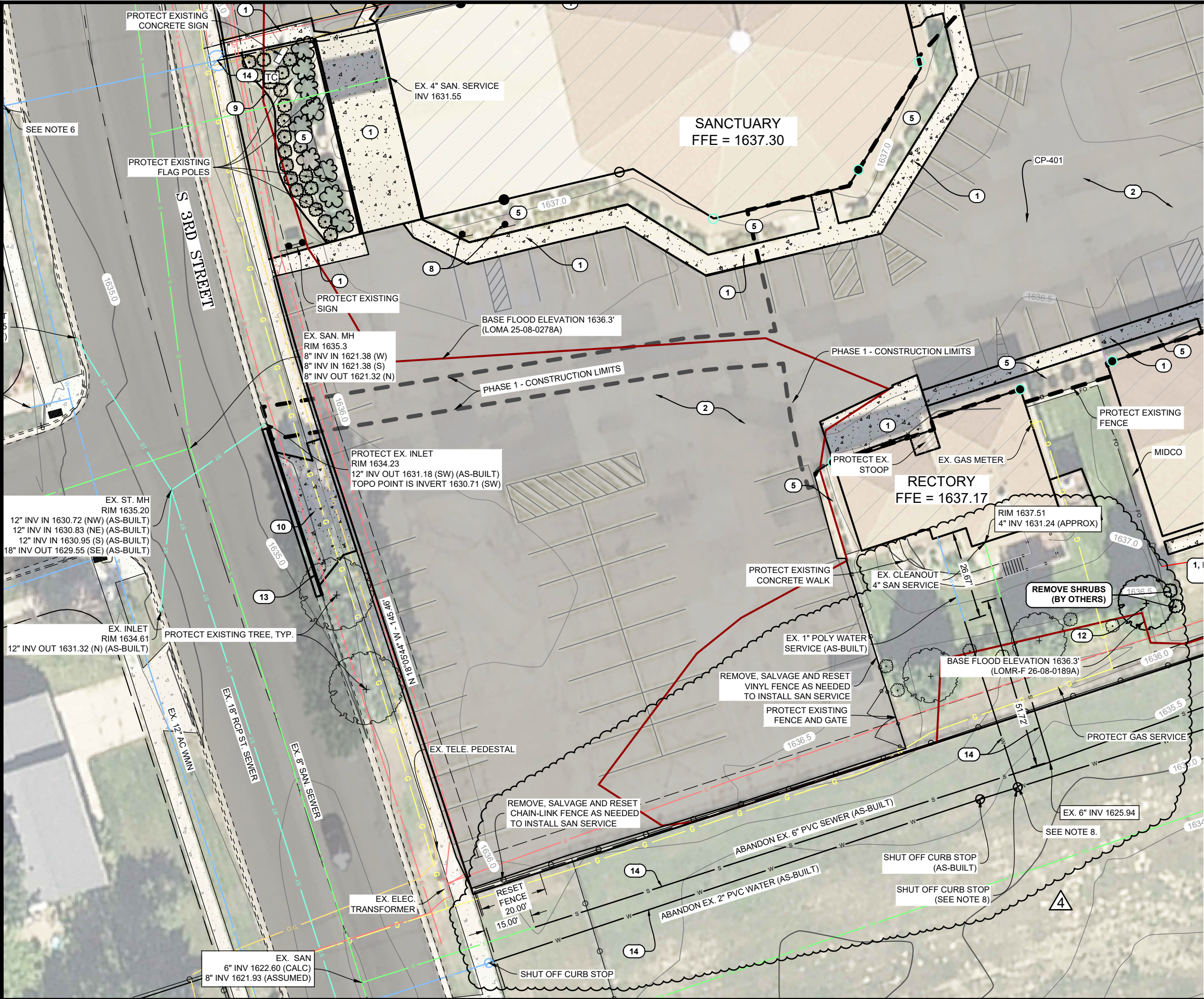


No.	REVISED SHEETS	DESCRIPTION	DATE
2	C2.0, C2.2, C2.3, C3.0, C3.1, C3.2, C3.3, C5.0, C7.3, C7.2, C7.3, C7.4	ADDENDUM 2: TREE REMOVAL, 5.5" CONCRETE ADDITION, 5" ASPHALT, AGGREGATE BASE	11/10/25
3	C0.0, C2.0, C2.2, C2.3, C3.0, C3.2, C3.3, C4.0, C4.2, C4.3, C5.0, C6.1, C6.2, C8.1, C8.2, C8.3, C8.4	REVISION 3 - PHASE 2 BUILDING EXPANSION	6/5/26
4	C0.0, C2.0-C2.3, C3.0-C3.3, C4.0-C4.3, C6.0-C6.1, C8.1-C8.5	REVISION 4 - PHASE 2 BUILDING EXPANSION	7/17/26

ONE CALL
BEFORE DIGGING
1-800-795-0555

CITY REVIEW - NOT FOR CONSTRUCTION

© KLJ ENGINEERING LLC 2025

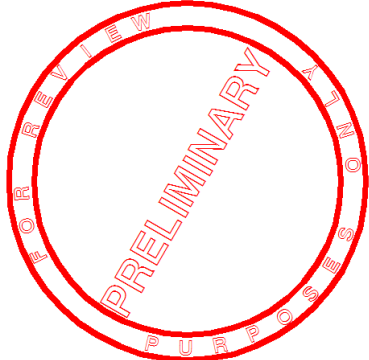
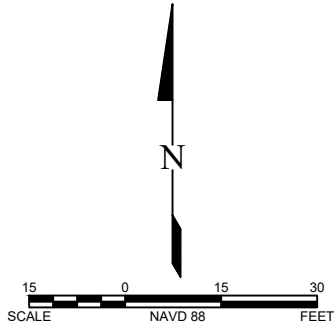


REMOVAL KEYNOTES:

- 1 REMOVE CONCRETE
- 2 REMOVE ASPHALT PAVEMENT
- 3 REMOVE EX. NGAS LINE (BY OTHERS)
- 4 NOT USED
- 5 REMOVE PLANTINGS, REMOVE LANDSCAPE ROCK, & REMOVE FABRIC.
- 6 NOT USED.
- 7 NOT USED.
- 8 REMOVE SIGNS
- 9 REMOVE LANDSCAPE EDGING
- 10 REMOVE DRIVEWAY
- 11 REMOVE SHED, BY OWNER
- 12 REMOVE TREES
- 13 REMOVE CURB AND GUTTER
- 14 REMOVE OR ABANDON EX SERVICE

NOTES:

- 1. EXISTING CONTOURS SHOWN AT 0.5' INTERVALS.
- 2. REMOVE AGGREGATE AT 4" DEPTH.
- 3. LOCATION OF EXISTING WATER & SEWER SERVICES ARE SHOWN IN AN APPROXIMATE LOCATIONS. CONTRACTOR SHALL VERIFY LOCATION.
- 4. CONTRACTOR IS ADVISED THAT AN UNDERGROUND IRRIGATION SYSTEM IS CURRENTLY UTILIZED. CONTRACTOR SHALL MAINTAIN IRRIGATION DURING CONSTRUCTION IN THE RECTORY YARD.
- 5. SALVAGE ALL EXISTING LANDSCAPE BOULDERS FOR REUSE ONSITE.
- 6. DISCONNECT SANCTUARY WATER SERVICE AT CORPORATION STOP. REMOVE EX. CURB STOP
- 7. CONTRACTOR SHALL UTILIZE EXISTING NORTHEAST DRIVEWAY FOR SITE CONSTRUCTION ACCESS.
- 8. RUN WATER AND SEWER FROM NEW COMMUNITY ROOM ADDITION TO RECTORY THEN ABANDON EXISTING WATER AND SEWER SERVICE TO THE SOUTH AND WEST. MAINTAIN SERVICE TO THE RECTORY AT ALL TIMES.
- 9. REMOVE CONCRETE AT NEAREST JOINT.
- 10. COORDINATE WITH MIDCO & MDU (ELECTRICAL & GAS) TO CONFIRM WHICH EXISTING TELEPHONE, ELECTRICAL & GAS LINES CAN BE ABANDONED, REMOVED, AND WHICH LINES MUST BE RELOCATED.



REVISION	DATE	NO.	DESCRIPTION
ADDENDUM 2	11/10/25	2	
REVISION 3 - PHASE 2 BUILDING EXPANSION	6/5/26	3	
REVISION 4 - PHASE 2 BUILDING EXPANSION	7/17/26	4	

DRAFTED
MJM

REVIEWED
ADW

PROJECT NUMBER
2414-01176

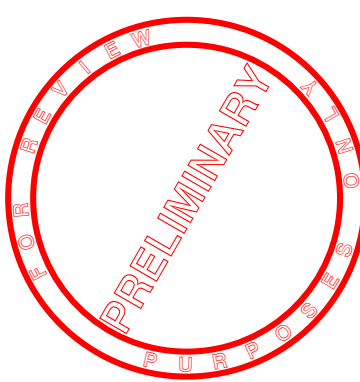
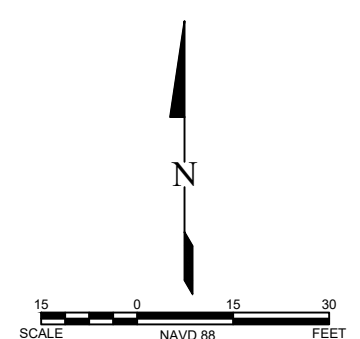
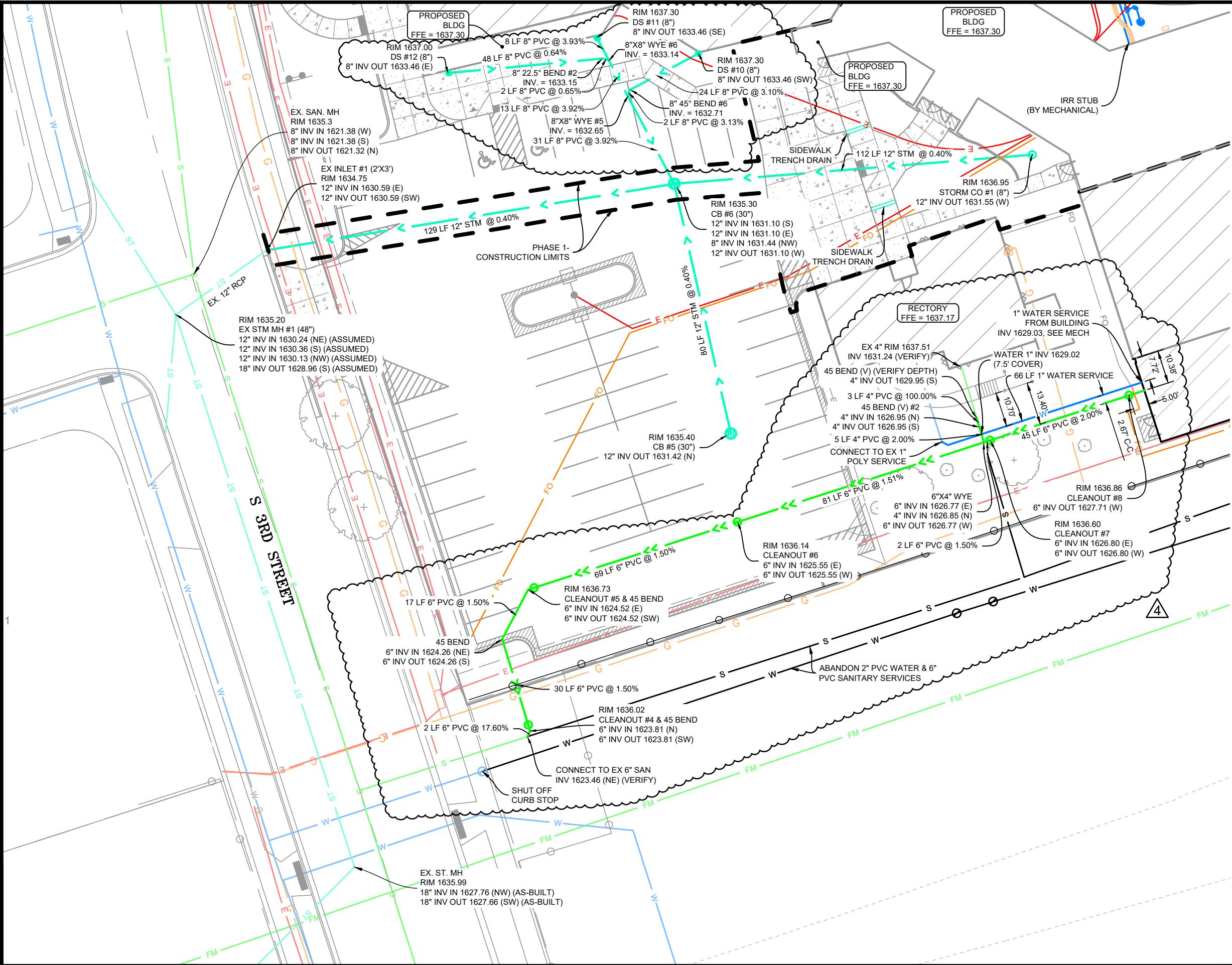
ISSUE DATE
10/27/2025

ASCENSION CHURCH BUILDING EXPANSION SITE PLAN

CHURCH OF THE ASCENSION
BISMARCK, NORTH DAKOTA

EXISTING CONDITIONS & REMOVALS - SOUTH

SHEET
C2.2



			
NO.	DATE	REVISION	
	6/5/26	REVISION 3 - PHASE 2 BUILDING EXPANSION	
	7/17/26	REVISION 4 - PHASE 2 BUILDING EXPANSION	
DRAFTED MJM			
REVIEWED ADW			
PROJECT NUMBER 2414-01176			
ISSUE DATE 10/27/2025			
ASCENSION CHURCH BUILDING EXPANSION SITE PLAN CHURCH OF THE ASCENSION BISMARCK, NORTH DAKOTA SITE UTILITY PLAN - SOUTH			
SHEET C4.2			



Engineering Department

DATE: August 11, 2026

FROM: Gabe Schell, City Engineer

ITEM: Encroachment Agreement - 2513 E Main Ave

REQUEST:

Encroachment Agreement at 2513 E Main Ave.

BACKGROUND INFORMATION:

The owner of 2513 E Main Avenue applied for a site plan and during that review, it was found that the existing sign overhangs the right-of-way. The owner does not intend to change the foundation or sign post and only change the sign face; the City is requesting an encroachment agreement. The encroachment committee has reviewed and approved the request for an encroachment agreement.

RECOMMENDED CITY COMMISSION ACTION:

Approval of encroachment agreement with Peggy Becker, 2513 E Main Ave.

STAFF CONTACT INFORMATION:

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

ATTACHMENTS:

1. Encroachment Agreement and Waiver - 2513 E Main Ave
2. Exhibit - SP2026-040 - Little Cottage Sign

ENCROACHMENT AGREEMENT AND WAIVER

The City of Bismarck (City) hereby grants Peggy Becker (Grantee) the right to install and maintain a privately owned box sign (Encroachment) located within Lot 5, Block 51, Governor Pierce, 2513 E Main Avenue, City of Bismarck, Burleigh County, North Dakota. The sign foundation is located entirely on the Grantee's property; however, a portion of the sign cabinet extends into the vertical airspace of the public right-of-way of Main Avenue, as depicted in exhibits on file with the City of Bismarck Engineering Department. This encroachment is subject to the following conditions:

1. The Grantee shall comply with all rules regarding maintenance of the Encroachment in the right-of-way as set by the City Engineer.
2. The term of this grant shall be for one (1) year and shall continue thereafter from year to year. The City may terminate this Agreement upon thirty (30) days written notice after the initial one-year term. Notwithstanding the foregoing, the City may terminate this Agreement immediately if the Encroachment creates a public safety hazard, interferes with public improvements, or is otherwise determined by the City to be inconsistent with public use of the right-of-way.
3. The Grantee acknowledges that the Encroachment was installed without prior authorization from the City and constitutes an existing encroachment within the public right-of-way. By entering into this Agreement, the Grantee accepts full responsibility for

the Encroachment and assumes all obligations, costs, liabilities, maintenance responsibilities, and corrective actions associated with its continued existence, regardless of whether such obligations arise before or after the execution of this Agreement.

4. Upon termination of this Agreement, abandonment of the Encroachment, or upon written request by the City, the Grantee shall, at its sole expense, remove the Encroachment and restore the affected right-of-way to a condition acceptable to the City.
5. For and in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, for the City's permission to operate and maintain the Encroachment over the right-of-way, Grantee agrees to release the City, its assigns or other franchised utilities from and waive any and all claims relating to said Encroachment, but not limited to, damages arising from damage to the Encroachment, loss of business, or other personal injury or property damage resulting from damage to the Encroachment by the City, its assigns or other franchised utilities.
6. Grantee agrees that it is using the right-of-way at its own risk. Grantee shall not look to the City, its assigns, or other franchised utilities to pay for any expense or damage to the Encroachment by the City, its assigns, or other franchised utilities. Grantee agrees that it will hold harmless and indemnify the City, its assigns, or other franchised utilities from any and all claims in any way resulting from the placement of the Encroachment over the right-of-way. The Grantee agrees that, after the installation of the Encroachment, the Grantee will restore the City's right-of-way or street to its original condition.
7. If the City determines that maintenance, reconstruction, utility work, or other public improvements require access to the area occupied by the Encroachment, the Grantee shall, upon written notice from the City, temporarily protect, relocate, modify, or remove the Encroachment at the Grantee's sole expense.
8. This Encroachment Agreement and Waiver and the covenants, agreements, and restrictions contained herein, shall run with the land benefitted and burdened hereunder.

The Grantee shall provide notice of this Agreement to any purchaser, transferee, or successor in interest of the property prior to transfer of ownership.

9. This Agreement constitutes a revocable license only and shall not be construed as granting any ownership interest, leasehold interest, easement, or other property right in the public right-of-way.

GRANTEE NAME

By: _____

_____ Date

Print: _____

Title: _____

STATE OF _____)
COUNTY OF _____) SS.

On this _____ day of _____, 20____, before me personally appeared _____ known to me to be the _____ of _____, and that executed the within instrument, and acknowledged to me that such entity executed the same.

Notary Public
My commission expires:

City of Bismarck

Gabe Schell, PE
City Engineer

Date

Jason Tomanek
City Administrator

Date

Michael T. Schmitz
President, Board of City Commissioners

Date

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 20__, before me personally appeared Gabe Schell, known to me to be the City Engineer of the City of Bismarck described in and who executed the within instrument, and acknowledged to me that they executed the same.

Notary Public
My commission expires:

STATE OF _____)
) SS.
COUNTY OF _____)

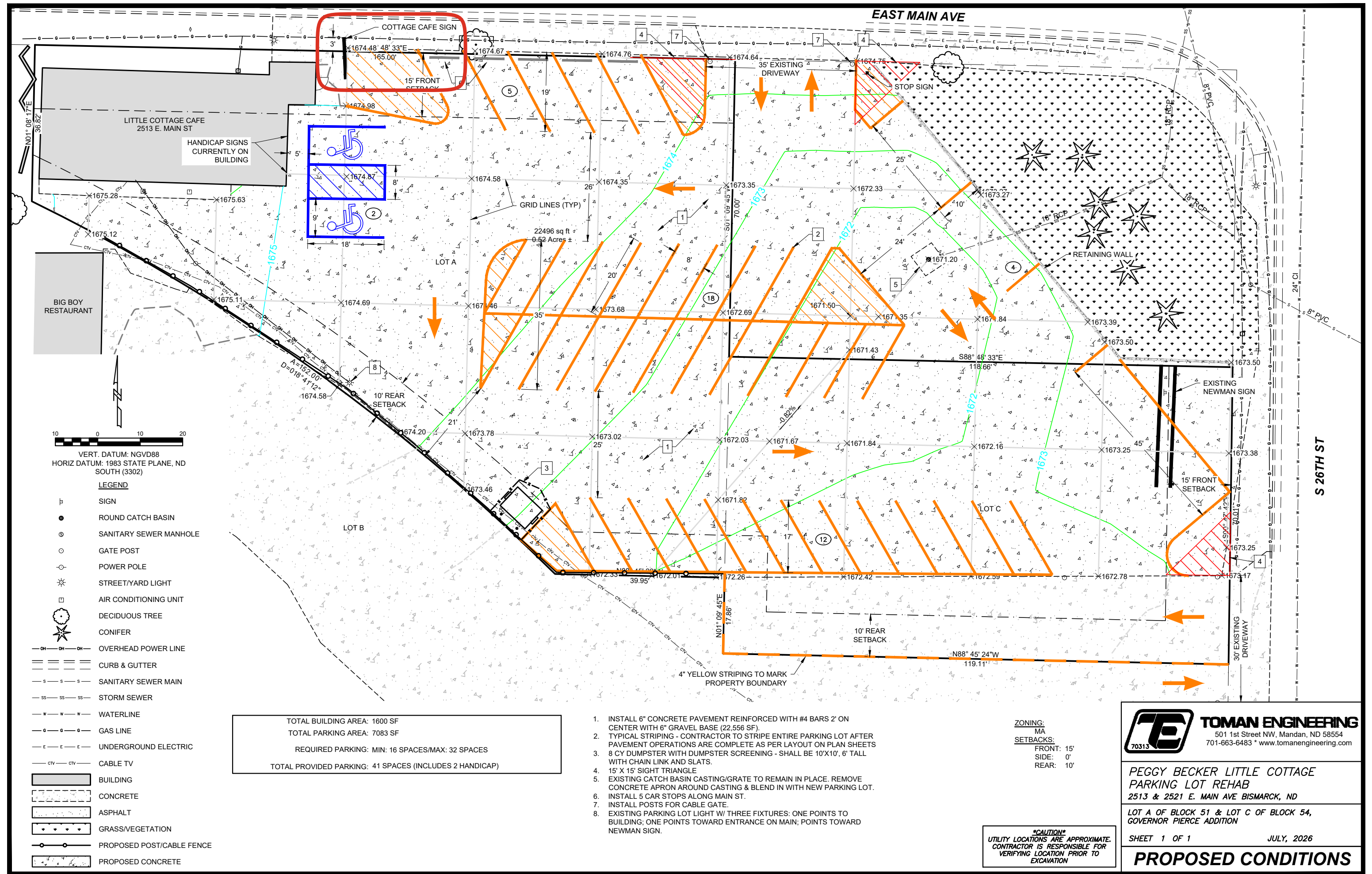
On this _____ day of _____, 20__, before me personally appeared Jason Tomanek, known to me to be the City Administrator of the City of Bismarck described in who executed the within instrument, and acknowledged to me that they executed the same.

Notary Public
My commission expires:

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 20__ , before me personally appeared Michael T. Schmitz, known to me to be the President of the Board of City Commissioners of the City of Bismarck described in and who executed the within instrument, and acknowledged to me that they executed the same.

Notary Public
My commission expires:





Engineering Department

DATE: August 11, 2026

FROM: Gabe Schell, City Engineer

ITEM: Street Improvement District SI 601 Sewer Improvement District SE 587

REQUEST:

Resolutions approving plans and specifications, directing the advertisement for bids, and receiving bids for Street Improvement District No. SI 601 and Sewer Improvement District No. SE 587.

BACKGROUND INFORMATION:

Street Improvement District 601 consists of one unit of asphalt pavement, curb and gutter, ADA ramps, and related work. The overall length of this project is approximately 2,955 linear feet in Elk Ridge Fourth Addition.

Sewer Improvement District 587 consists of one unit of new storm sewer and related work. Unit 1 includes approximately 1,330 LF of new storm sewer ranging from 15" to 42" in size and related appurtenances in Elk Ridge Second and Elk Ridge Fourth Additions.

The two districts will be bid under one contract for construction.

The engineer's reports and boundary maps for both districts have been posted to the city website at www.bismarcknd.gov/streets.

SI 601 Unit No. 1 (100% Petitioned)

Tule Lane – Clairmont Road to 150' west of Elk Ridge Road
Rohan Avenue - Clairmont Road to 150' west of Elk Ridge Road
Clairmont Loop - Clairmont Road to 750' west of Clairmont Road
Clairmont Road – 160' north of Rohan Avenue to 170' south of Tule Lane

Project Schedule

Authorization to Advertise	August 11, 2026
Receipt and Opening of Bids	September 1, 2026
Award of Bid	September 8, 2026
Project Completion	Fall 2027

RECOMMENDED CITY COMMISSION ACTION:

Approve resolutions approving plans and specifications, directing the advertisement for bids,

and receiving bids for Street Improvement District No. SI 601 and Sewer Improvement District No. SE 587.

STAFF CONTACT INFORMATION:

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

ATTACHMENTS:

None



Finance Department

DATE: August 11, 2026

FROM: Ryan Skor, Finance Director

ITEM: Direct Levy Special Assessments

REQUEST:

Resolution directing special assessments to be levied.

BACKGROUND INFORMATION:

The assessment lists will be published in the Bismarck Tribune as required. Approval of this resolution allows the Special Assessment Commission to meet August 20, 2026, to hear objections to these assessments and confirm the assessment lists for these districts.

	<u>Total Assessment</u>
Park Improvement District No. 200	\$114,433.74
Sewer Improvement District No. 585	\$58,372.32
Sewer Improvement District No. 586	\$427,624.80
Street Improvement District No. 583	\$996,187.21
Street Improvement District No. 586	\$540,071.06
Street Improvement District No. 590	\$205,183.14
Street Improvement District No. 591	\$294,604.49
Water Improvement District No. 334	\$104,031.36
Water Improvement District No. 335	\$128,340.24

Following the action of the Special Assessment Committee, the assessment list will be brought before the City Commission for the final public hearing and confirmation.

RECOMMENDED CITY COMMISSION ACTION:

Approve resolution to direct special assessments to be levied.

STAFF CONTACT INFORMATION:

Ryan Skor, Finance Director, 701-355-1601, rskor@bismarcknd.gov

ATTACHMENTS:

None



Planning Department

DATE: August 11, 2026

FROM: Daniel Nairn, Planning Department Director

ITEM: Ordinance 6679

REQUEST:

Introduction of and call for a public hearing on Ordinance 6679, a zoning map amendment from the existing RM30 – Residential (RM-Residential Multi-Family) zoning district to the CX-Commercial Mixed-Use and RM-Residential Multi-Family zoning districts, and a preliminary subdivision plat titled Paradise Valley Third Addition, where the Planning and Zoning Commission recommends approval.

BACKGROUND INFORMATION:

EWR Bismarck Paradise Valley, LLC is requesting approval of a zoning map amendment from the existing RM30 – Residential (RM-Residential Multi-Family) zoning district to the CX-Commercial Mixed-Use and RM-Residential Multi-Family zoning districts, and a preliminary subdivision plat titled Paradise Valley Third Addition.

The applicant chose to opt into the new Land Development Code process which permits zoning map amendments (including those accompanied by preliminary subdivision plats) to appear for a public hearing by the Planning and Zoning Commission without an initial meeting for consideration/calling for a public hearing.

Zoning map amendments (including those accompanied by preliminary subdivision plats) still require two meetings before the City Commission (i.e. consideration and then a public hearing). The project is located in south Bismarck, along the south side of Burleigh Avenue, between Rutland Drive and Boston Drive.

The Planning and Zoning Commission held a public hearing on this request on July 22, 2026, and voted to recommend approval.

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.

RECOMMENDED CITY COMMISSION ACTION:

Call for a public hearing on Ordinance 6679, a zoning map amendment, in the proposed Paradise Valley Third Addition, a preliminary subdivision plat.

STAFF CONTACT INFORMATION:

Daniel Nairn, Planning Department Director, 701-355-1854, dnairn@bismarcknd.gov
Lauren Oster, Planner, 701-355-1846, laoster@bismarcknd.gov

ATTACHMENTS:

1. Staff Report

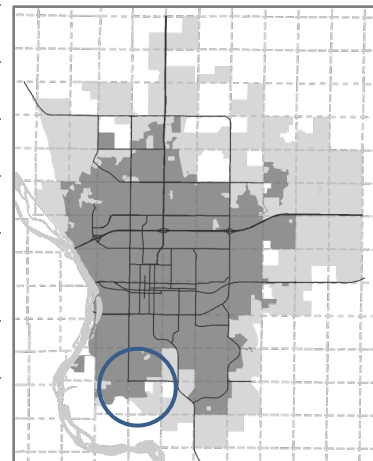
STAFF REPORT

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

Project ID: **ZC2026-007**
PPLT2026-005

Project Summary

<i>Title:</i>	Paradise Valley Third Addition
<i>Status:</i>	Board of City Commissioners - Consideration
<i>Property Owner(s):</i>	EWR Bismarck Paradise Valley, LLC
<i>Project Contact:</i>	Hanna Boese, PE, Lowry Engineering
<i>Project Location:</i>	In south Bismarck, along the south side of Burleigh Avenue between Rutland Drive and Boston Drive
<i>Project Size:</i>	14.33 acres
<i>Applicant Request:</i>	Replat and rezone the property to facilitate future mixed-use (residential & commercial) development
<i>PZC Recommendation:</i>	Approve
<i>Staff Recommendation:</i>	Approve



Site Information

<i>Existing Conditions</i>		<i>Proposed Conditions</i>	
<i>Lots/Blocks:</i>	1 lot in 1 block	<i>Lots/Blocks:</i>	2 lots in 1 block
<i>Land Use:</i>	Developing residential	<i>Land Use:</i>	Residential and commercial mixed-use
<i>Future Land Use:</i>	Neighborhood Mixed Use (NMU)	<i>Future Land Use:</i>	No change
<i>Zoning:</i>	RM30 – Residential (RM – Residential Multi-Family)	<i>Zoning:</i>	CX-Commercial Mixed-Use RM-Residential Multi-Family
<i>Uses Allowed:</i>	RM30 – Multi-family residential	<i>Uses Allowed:</i>	CX – Neighborhood commercial RM – Multi-family residential

Area Information

Property History

<i>Zoning Jurisdiction:</i>	Bismarck City Limits	<i>Zoned:</i>	Pre-LDC:02/2023 LDC: 10/2026
<i>Township:</i>	N/A (City of Bismarck)	<i>Platted:</i>	01/2023
<i>Neighborhood:</i>	Paradise Valley	<i>Annexed:</i>	08/2022

(continued)

Project Narrative

EWR Bismarck Paradise Valley, LLC is requesting approval of a zoning map amendment from the existing RM30 – Residential (RM-Residential Multi-Family) zoning district to the CX-Commercial Mixed-Use and RM-Residential Multi-Family zoning districts, and a preliminary subdivision plat titled Paradise Valley Third Addition.

The applicant intends to replat the existing single parcel into a two-lot in one-block subdivision where the larger, northern lot would be zoned CX-Commercial Mixed-Use and the southern lot would be zoned RM-Residential Multi-Family (which is roughly equivalent to the current RM30 – Residential zoning district).

There are a series of four-unit townhouse-style buildings being constructed on what will become the southern lot, for which a site plan was

approved on July 14, 2025. The applicant intends to create a mixture of commercial and apartment-style residential uses on the northern lot; a tentative, preliminary site plan for the northern lot is attached. The replat will ensure that both parcels have sufficient easements for utilities and access.

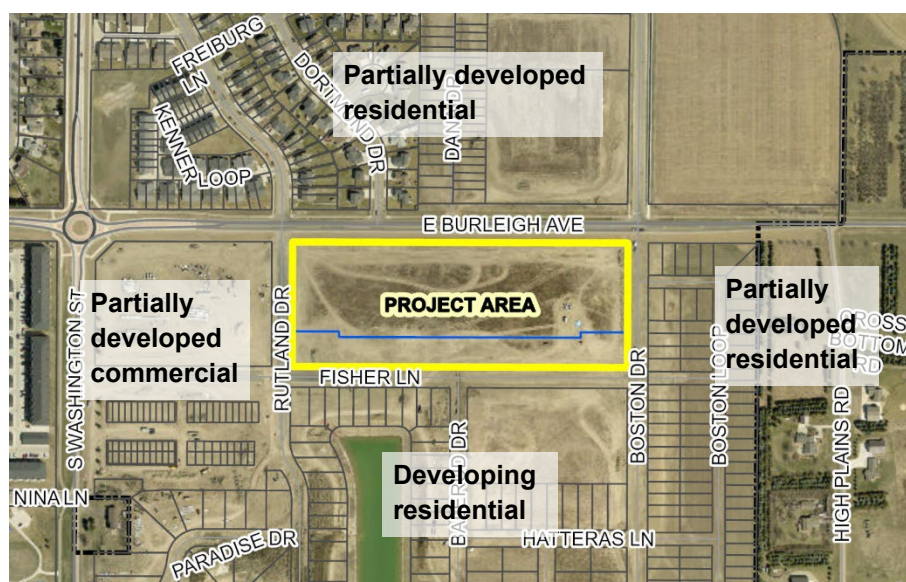
The applicant chose to opt into the new Land Development Code process which permits zoning map amendments (including those accompanied by preliminary subdivision plats) to appear for a public hearing by the Planning and Zoning Commission without an initial meeting for consideration/calling for a public hearing.

Zoning map amendments (including those accompanied by preliminary subdivision plats) still require two meetings before the City Commission (i.e. consideration and then a public hearing).

Project Context

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

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



The property has been identified as Neighborhood Mixed-Use (NMU) in the Future Land Use Plan. The NMU areas are described as the social and commercial gathering spaces for the immediate surrounding residential areas. Goals and

objectives of this plan, as they relate to zoning map amendments and preliminary subdivision plats, are referenced in review standards below.

(continued)

The project area is on the northern edge of the developing Paradise Valley neighborhood. To the north, east, and south, is developing or partially developed land primarily with single- and two-family dwellings. To the west is partially developed commercial land.

Public Engagement

Planning and Zoning Commission

The public was duly notified of this request. A notice was published in the Bismarck Tribune on July 9 and 16, and 45 postcards were mailed to the owners of nearby properties on July 10, 2026.

A physical sign providing information on the public hearing was placed in a publicly accessible spot at the project location on July 7, 2026.

The Planning and Zoning Commission held a public hearing on this request on July 22, 2026. Staff received one inquiry prior to the hearing, but did not receive any written comments. No members of the public spoke at the hearing. At the conclusion of the hearing, the Planning and Zoning Commission voted to recommend approval of the request.

City Commission

A public notice will be issued if the City Commission calls for a public hearing.

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

All written comments received by staff prior to the public hearing will be distributed to the City Commission and summarized by staff during the oral presentation.

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 amendment is consistent with the Future Land Use Plan and all other provisions of the Comprehensive Plan – 14-20-05(10)(d)(i)

Yes. The proposed zoning map amendment is within the area designated as Neighborhood Mixed Use (NMU) 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 amendment adheres to the general intent and purpose of this Code – 14-20-05.10(d)ii

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.

The proposed zoning district is compatible with adjacent land uses and zoning – 14-20-05(10)(d)(iii)

Yes. Adjacent uses are described in the Project Context section above. The proposed zoning district would allow a variety of residential uses as well as neighborhood-supporting commercial uses. Development that may be anticipated from the proposed zoning would have no negative impact on the surrounding properties.

Proper administrative procedures related to the request have been followed – 14-20-05(10)(d)(iv)

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

(continued)

submittal of this report to the Planning and Zoning Commission and the City Commission.

A public hearing was scheduled by the Planning and Zoning Commission for this request, and all requirements for notice of this hearing have been met, as documented in this report above.

Additional notice requirements will be met if the City Commission calls for a public hearing.

The amendment will not adversely impact the public health, safety, and general welfare – 14-20-05(10)(d)(v)

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.

Preliminary Subdivision Plat

The subdivision complies with the applicable dimensional standards of this Code – 14-20-06(3)(c)(iv)(1)

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 setback and lot coverage requirements. All rights-of-way and dedicated easements conform to design standards of the subdivision ordinance.

The subdivision adheres to the Major Street Plan – 14-20-06(3)(c)(iv)(2) ([Major Street Plan](#))

Yes. The following corridors are identified in the Major Street Plan and are adjacent to the boundary of the proposed subdivision: East Burleigh Avenue and Boston Drive. Neither the plat nor the anticipated development are expected to interfere with the Major Street Plan. A plan reference map is attached to this staff report.

Vehicle trips generated by the proposed subdivision will be adequately supported by the transportation system – 14-20-06(3)(c)(iv)(3)

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 – 14-20-06(3)(c)(iv)(4)

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 – 14-20-06(3)(c)(iv)(5)

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.

A neighborhood park will be available within walking distance for all urban residents – 14-20-06(3)(c)(iv)(6)

Yes. Adequate parks and open space already exist to serve anticipated residents of this subdivision. The requirements of the neighborhood parks and open space policy have been waived by the Bismarck Parks and Recreation District per Section 14-16-02(2)(b)(iii). The plat area is a replat of an area served by the Parks Development Agreement of the original Paradise Valley Addition.

(continued)

The subdivision is designed to minimize natural hazards and impacts to environmentally sensitive land – 14-20-06(3)(c)(iv)(7)

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

Stormwater runoff impacted by this subdivision is adequately managed to protect public and private investments and the natural environment – 14-20-06(3)(c)(iv)(8)

Yes. There is a plan to manage any stormwater runoff generated by this subdivision. A scoping sheet for a post-construction stormwater management permit (PCSMP) has been approved by the City Engineer, and the PCSMP will be approved prior to submittal of a final plat.

Water supply systems will be adequately supplied by the City or seamlessly transition from a rural to an urban system through cooperation with the South Central Regional Water District – 14-20-06(3)(c)(iv)(9)

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 the proposed subdivision – 14-20-06(3)(c)(iv)(10)

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

Technical specifications required of the preliminary plat have been met – 14-20-06(3)(c)(iv)(11)

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

Proper administrative procedures related to the request have been followed – 14-20-06(3)(c)(iv)(12)

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 the preliminary plat was submitted to the Planning Department, and the required staff review of all submitted materials has occurred prior to submittal of this report to the Planning and Zoning Commission and the City Commission.

The subdivision will not adversely impact the public health, safety, and general welfare – 14-20-06(3)(c)(iv)(13)

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.

Recommendations

Planning and Zoning Commission

Based on the above findings, and at the conclusion of the public hearing, the Planning and

(continued)

Zoning Commission recommended approval of the zoning map amendment from the existing RM30 – Residential (RM-Residential Multi-Family) zoning district to the CX-Commercial Mixed-Use and RM-Residential Multi-Family zoning districts, and a preliminary subdivision plat titled Paradise Valley Third Addition.

Planning Staff

Based on the above findings, staff recommends approval of the zoning map amendment from the existing RM30 – Residential (RM-Residential

Multi-Family) zoning district to the CX-Commercial Mixed-Use and RM-Residential Multi-Family zoning districts, and a preliminary subdivision plat titled Paradise Valley Third Addition.

Attachments

1. Draft Zoning Ordinance
2. Zoning and Plan Reference Map
3. Proposed Zoning Map
4. Preliminary Plat

Staff report prepared by: Isak Johnson, AICP, Planner

701-355-1850 | ijohnson@bismarcknd.gov

**CITY OF BISMARCK
ORDINANCE NO. 6679**

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

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

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

Section 1. Amendment. Section 14-02-02 of the Code of Ordinances of the City of Bismarck, North Dakota, which will become effective on October 1, 2026, is hereby amended to read as follows:

The following described property shall be excluded from the RM-Residential Multi-Family zoning district and included in the CX-Commercial Mixed-Use zoning district:

Lot 1, Block 1, Paradise Valley Third Addition

Section 2. Amendment. Section 14-02-02 of the Code of Ordinances of the City of Bismarck, North Dakota, which will become effective on October 1, 2026, is hereby amended to read as follows:

The following described property shall be excluded from the RM-Residential Multi-Family zoning district and included in the RM-Residential Multi-Family zoning district:

Lot 2, Block 1, Paradise Valley Third Addition

Section 3. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

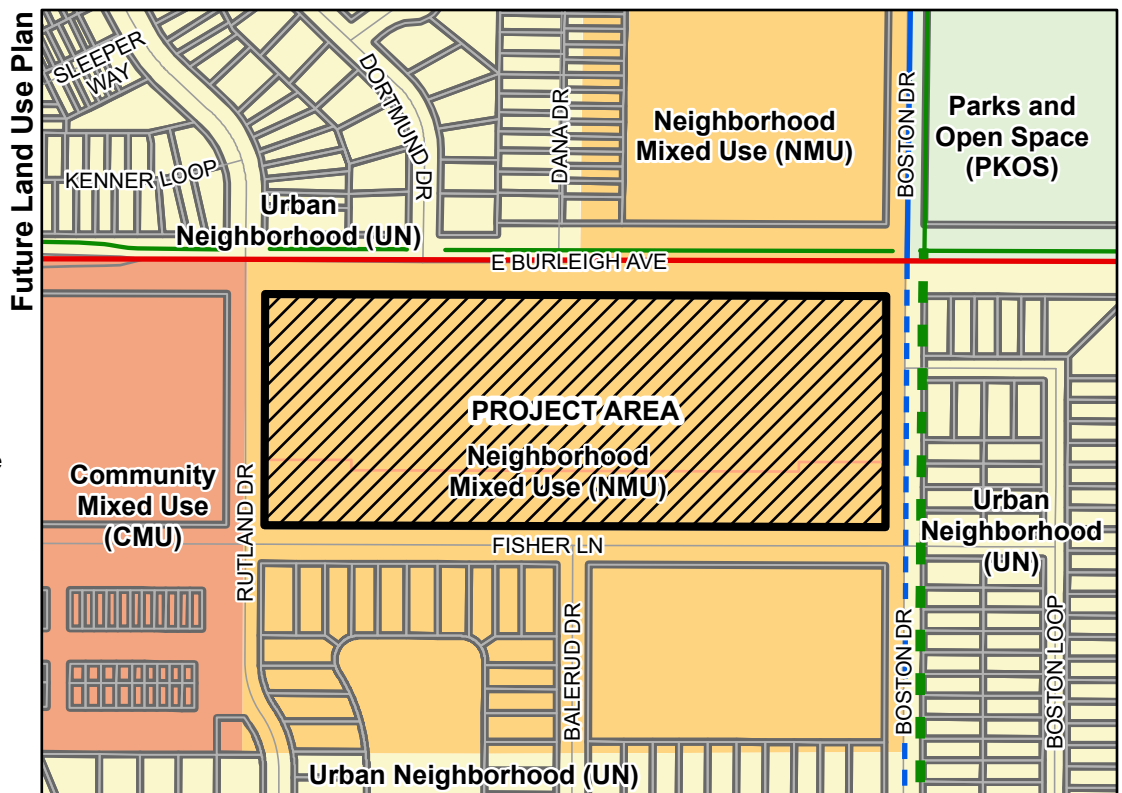
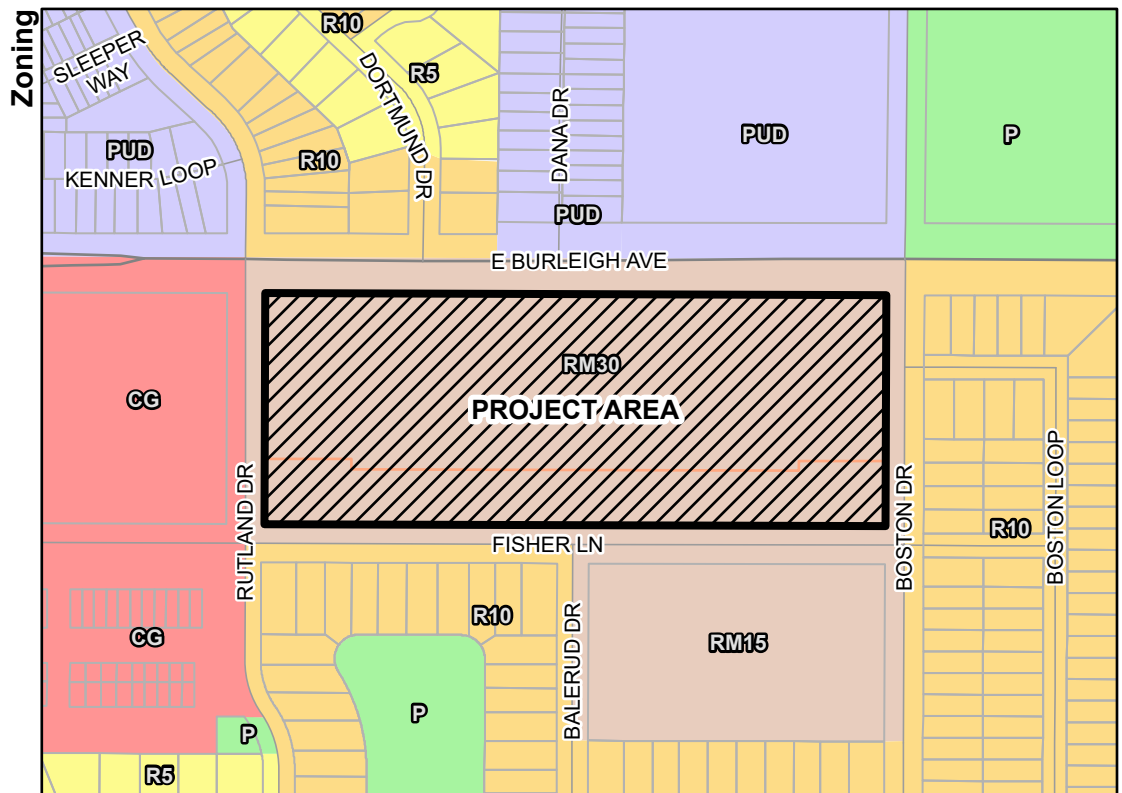
Zoning Districts

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 Industrial
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	Transitional Rural
PKOS	Parks/Open Space
URA/	Urban Reserve
URB	Mid/Long-Term

- Existing Arterial
- - - Future Arterial
- Existing Collector
- - - Future Collector
- Existing Interstate
- - - Future Interstate
- City Limits
- - - Future Shared Use Trail
- Existing Shared Use Trail



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.

0 290 580 1,160 Feet



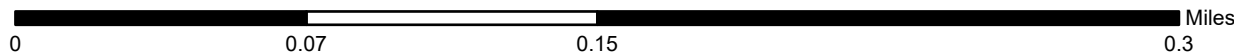
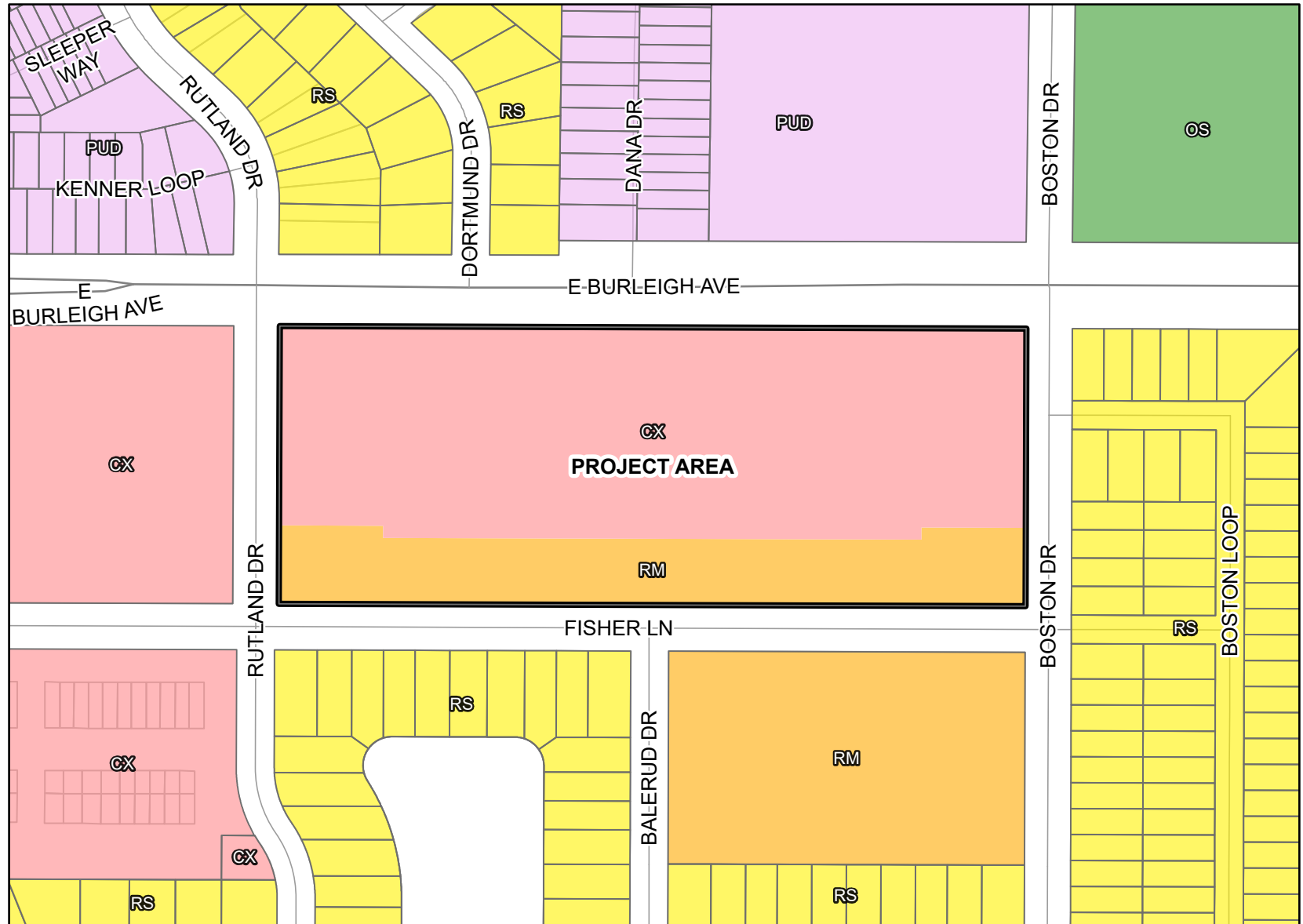
City of Bismarck
Planning Department
July 13, 2026

Proposed New Zoning Map

-  Project Area
-  City Limits
-  Plan Overlay District

Zoning Districts

- A** Agriculture
- RRE** Residential Rural Estate
- RR** Residential Rural
- RS** Residential Suburban
- RM** Residential Multi-Family
- RU** Residential Urban
- RMH** Residential Manufactured Housing
- RX** Residential Mixed
- OX** Office Mixed
- CX** Commercial Mixed
- CG** Commercial General
- IX** Industrial Mixed
- IG** Industrial General
- DT** Downtown
- PCI** Public Civic
- OS** Institutional
- OS** Open Space



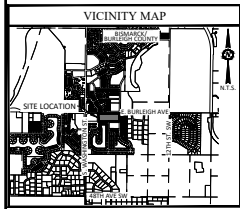
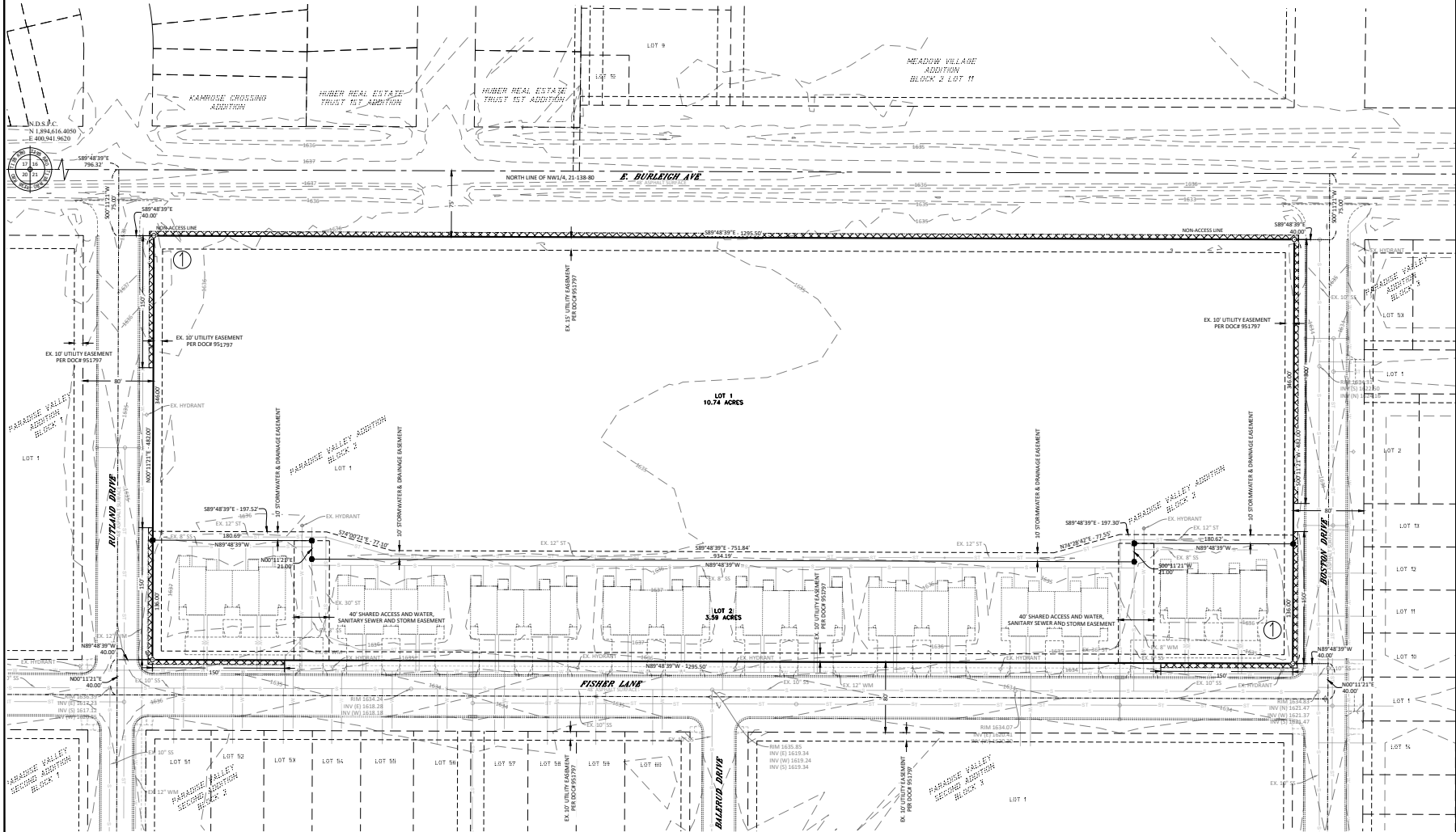
This map is for representational use only and does not represent a survey.
No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck
Planning Department
July 16, 2026

PARADISE VALLEY THIRD ADDITION

A REPLAT OF LOT 1 BLOCK 2 OF PARADISE VALLEY ADDITION,
IN THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 138 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

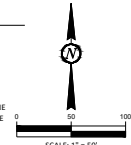


LOWRY
ENGINEERING
5306 51ST AVENUE SOUTH, SUITE A
FARGO, NORTH DAKOTA 58104
DATE: 07/02/20

SHEET 1 OF 2

AREA		
LOTS	624,430 SF	14.33 ACRES
RIGHT-OF-WAY	0 SF	0 ACRES
TOTAL	624,430 SF	14.33 ACRES

LEGEND	
	BLOCK #
	MONUMENT SET
	EASIMENT
	EX. PROPERTY LINE
	EX. SECTION LINE
	PROPERTY BOUNDARY LINE
	NEW ROW/PROPERTY LINE
	NEW EASEMENT LINE
	EX. NON-ACCESS LINE



SURVEY INFORMATION

DATE OF SURVEY: DECEMBER 2021
BASIS OF BEARING: ND STATE PLANE SOUTH ZONE NAD83 (3302)
ADJUSTMENT 1986. UNIT OF MEASURE IS INTERNATIONAL FEET.
CONTOUR VERTICAL DATUM: NAVD 88
TOPOGRAPHIC CONTOURS ARE DERIVED FROM SURVEY.
BENCHMARK USED: T-NUT HYDRANT LOCATED IN THE NORTHWEST CORNER OF SECTION 21 NEAR THE SOUTHEAST CORNER OF THE INTERSECTION OF SOUTH WASHINGTON STREET AND E. BURLEIGH AVE HAS AN ELEV: 1640.98' (NAVD 88)

NOTES

- ALL DISTANCES SHOWN ARE GROUND MEASUREMENT.
- EXISTING SITE ZONED AS RM - RESIDENTIAL MULTI-FAMILY.
- ADJACENT ZONING = EX - COMMERCIAL MIXED USE
RM - RESIDENTIAL MULTI-FAMILY
RS - RESIDENTIAL SUBURBAN
PUD - PLANNED UNIT DEVELOPMENT
OS - OPEN SPACE
4. PROPOSED ZONING = EX - COMMERCIAL MIXED USE (NORTH LOT)
RM - RESIDENTIAL MULTI-FAMILY (SOUTH LOT)



Planning Department

DATE: August 11, 2026

FROM: Daniel Nairn, Planning Department Director

ITEM: Transit Vehicle Decommission Request

REQUEST:

For the Bismarck-Mandan Metropolitan Planning Organization, on behalf of Bis-Man Transit, to decommission and dispose of four (4) Ford Econoline paratransit buses.

BACKGROUND INFORMATION:

Buses 1901, 1902, 1903, and 1904 (2019 Ford Econoline paratransit buses, further details provided in attached Letter of Intent) were purchased by Transit in 2018 & 2019. The vehicles have exceeded their useful life (as defined by the Federal Transit Administration) in both age and mileage. Three (3) replacement buses have been received by Transit, and the last bus is expected to be delivered in mid-August.

Per City ordinance, the vehicles were offered to other City departments for purchase. As there was no interest within the City, the vehicles will be sold at public auction if approved for decommissioning. Transit will retain the proceeds from the sales, unless a vehicle sells for more than \$10,000. If any sale should exceed \$10,000, a portion of the funds would be returned to the Federal Transit Administration. The Transit Board approved the decommission of all four (4) vehicles on July 23, 2026.

RECOMMENDED CITY COMMISSION ACTION:

Staff recommends approval for Transit to decommission and dispose of Buses 1901, 1902, 1903, and 1904.

STAFF CONTACT INFORMATION:

Paulette Jacobsen, Transportation Planner, 701-355-1473, pjacobsen@bismarcknd.gov

ATTACHMENTS:

1. 8.11.2026 Decommission Bus 1901-1904 (8.11.26 BCC mtg)



August 11, 2026

TO: Bismarck City Commission

FROM: Deidre Hughes, Executive Director

SUBJECT: Decommission and Dispose of Buses 1901-1904

BACKGROUND: Bis-Man Transit is seeking approval to decommission and sell Buses 1901, 1902, 1903, and 1904 as they have exceeded their useful life in both years and miles.

Fleet Information	VIN #	Mileage	Acquisition Date
#1901 2019 Ford E-450	1FDFE4FS5KDC02285	222,480	10/25/2018
#1902 2019 Ford E-450	1FDFE4FSXKDC00998	254,524	10/25/2018
#1903 2019 Ford E-450	1FDFE4FS6KDC07382	247,529	2/25/2019
#1904 2019 Ford E-450	1FDFE4FS5KDC07387	205,298	2/25/2019

Bis-Man Transit has received three replacement buses and is expected to receive the other one by mid-August. Once they are inspected and ready for service, 1901-1904 will be removed from service.

DISCUSSION: If approved, the vehicles will be sold through public auction via GovDeals.com.

FINANCIAL IMPACT: Funds received from the private sale of the Ford E-450 will be retained by Bis-Man Transit unless the sale exceeds \$10,000, with the exception of bus 1903, which was purchased using private funds (Otto Bremer Grant). If more than \$10,000 is received for a single vehicle, a portion will be returned to the Federal Transit Administration.

RECOMMENDATION: The Bis-Man Transit Board recommends approval of the request to decommission and sell buses 1901, 1902, 1903, and 1904.





Planning Department

DATE: August 11, 2026

FROM: Daniel Nairn, Planning Department Director

ITEM: ATAC Addendum to Master Agreement for Bismarck Data Collection

REQUEST:

Addendum to the Advanced Traffic Analysis Center (ATAC) Master Agreement for Signalized Intersection Traffic & Pedestrian Data Collection in Bismarck.

BACKGROUND INFORMATION:

The Bismarck-Mandan MPO (MPO) maintains a Master Agreement contract with ATAC of North Dakota State University (NDSU). Occasionally, the MPO needs additional modeling or data collection performed by ATAC that is outside of the specific activities and services identified in the Master Agreement, but which can be provided through an addendum to the Master Agreement.

This addendum will authorize ATAC to perform traffic and pedestrian data collection at 29 signalized intersection locations within Bismarck which have been identified by Bismarck Engineering. It will also allow ATAC to analyze the collected data so that it can be used in the 2027 update to the MPO's Travel Demand Model.

The total cost of the project is \$50,613 with the MPO providing 80% of the cost and the remaining 20% local match of \$10,122 provided by City of Bismarck. The project completion date is December 31, 2026.

The addendum has successfully completed the City of Bismarck's review process and was approved by the MPO Policy Board at its meeting on July 21, 2026.

RECOMMENDED CITY COMMISSION ACTION:

Staff requests approval of the Addendum to the ATAC Master Agreement for Signalized Intersection Traffic & Pedestrian Data Collection in Bismarck.

STAFF CONTACT INFORMATION:

Kimberly Riepl, Transportation Planner, 701-355-1844, kriepl@bismarcknd.gov

ATTACHMENTS:

1. ATAC Addendum_Signalized Intersection Data Collection

To: Kimberly Riepl, Bismarck-Mandan MPO

From: Kshitij Sharma, UGPTI/ATAC

Re: Signalized Intersections Traffic & Pedestrian Data Collection for City of Bismarck - 2026.

Date: July 16, 2026

Background/Purpose

Upper Great Plains Transportation Institute's Advanced Traffic Analysis Center (ATAC) previously completed traffic data collection projects in early 2023 and late 2025 for the City of Bismarck supported by the Bismarck Mandan Metropolitan Planning Organization (BisMan MPO). Under these projects 6 and 15 intersections were added to the Traffic Analysis Tool created by ATAC, respectively. This project will continue expanding the traffic data collection efforts at up to 29 City of Bismarck intersections as outlined below. Note that 13 of these intersections are only semi-actuated meaning that they have only 2 cameras per intersection which is equivalent to approximately 6 fully actuated -legged intersections.

Project Tasks

ATAC has outlined the tasks for this project as follows:

1. Setup up to 29 of the agency's camera-based intersections for traffic data collection including pedestrian counting
2. Update API data download/transfer scripts for up to 29 VISION based intersections setup during current project
3. Download of up to 5 .arch "archive" files per intersection for future emergency use by the agency (in case of camera failure requiring replacement)

Resources Required

ATAC's requirements are listed below:

1. Continued remote access to City of Bismarck's machine dedicated to Traffic Operations

Deliverables

In addition to ongoing maintenance of previously setup intersections and a presentation, the deliverables in this project will consist of the following:

1. Setup of up to 29 signalized intersections for traffic and pedestrian data collection with automated import and analysis capabilities using the existing Traffic Analysis Tool website
 - a. Corresponding update to existing scripts to download data
2. Pedestrian count reporting capabilities for the 29 intersections included in this project

3. Archive files saved for the 29 intersections included in this project

DRAFT

North Dakota MPO Planning Support Program Master Agreement

Bismarck Mandan MPO Addendum to the Master Agreement

Upon execution by the parties below, this Addendum and any attachments shall become attached to and incorporated into the 'North Dakota MPO Planning Support Program Master Agreement' between 'Bismarck Mandan MPO' and North Dakota State University.

1. *Project Title:* **Signalized Intersections Traffic & Pedestrian Data Collection for City of Bismarck - 2026**
2. *Effective Dates:* **August 1, 2026 through December 31, 2026**
3. *Statement of Work:* ATAC will setup up to 29 City of Bismarck signalized intersections for traffic and pedestrian data collection and setup automated download and import scripts accordingly. ATAC will also download archive files for the corresponding intersections.
4. *Principal Investigator:* Kshitij Sharma
5. *Desired Deliverables:*

In addition to ongoing maintenance of previously setup intersections and a presentation, the deliverables in this project will consist of the following:

- a. Setup of up to 29 signalized intersections for traffic and pedestrian data collection with automated import and analysis capabilities using the Traffic Analysis Tool website
 - i. Corresponding update to existing scripts to download data
 - b. Pedestrian count reporting capabilities for the 29 intersections in this project and previously set up intersections
 - c. Download of up to 5 .arch "archive" files per intersection for future emergency use by the agency (in case of camera failure requiring replacement)
6. *Contract Amount :* \$ 50,612 (ESTIMATE ONLY)
 7. *SOURCE(S) of FUNDING*

- *Federal Source:* \$ / /
CFDA # *Federal Award Date* *Federal Award Identification Number*
- *Federal Source:* \$ / /
CFDA # *Federal Award Date* *Federal Award Identification Number*
- *State:* \$
- *Other:* \$

AUTHORIZATION:
Bismarck Mandan MPO

North Dakota State University

Authorized Signature

Name and Title Date

Authorized Signature

Name and Title Date

BUDGET ESTIMATE:

ND MPO Planning Support Program 2024-2027
Addendum: Signalized Intersections Traffic & Pedestrian Data
Collection for City of Bismarck - 2026

Cost Item	Amount
Staff Salaries	\$ 14,595
Benefits	\$ 5,984
Grad Student Salaries	\$ 4,999
Undergrad Student Salaries	\$ 9,062
Benefits	\$ 703
Operating	\$ -
Total direct costs	\$ 35,344
NDSU overhead (43.2%)	\$ 15,269
Total project cost estimate	\$ 50,612



Planning Department

DATE: August 11, 2026

FROM: Daniel Nairn, Planning Department Director

ITEM: ATAC Amendment for Additional Mandan Data Collection

REQUEST:

Amendment to the Addendum to the Master Agreement with Advanced Traffic Analysis Center (ATAC) for Signalized Intersection Traffic & Pedestrian Data Collection in Mandan.

BACKGROUND INFORMATION:

The Bismarck-Mandan Metropolitan Planning Organization (MPO) maintains a Master Agreement contract with ATAC of North Dakota State University (NDSU). Occasionally, the MPO needs additional modeling or data collection performed by ATAC that is outside of the specific activities and services identified in the Master Agreement.

The MPO entered into an addendum to the Master Agreement in 2025 to allow ATAC to perform traffic and pedestrian data collection at 5 signalized intersections in Mandan, ND throughout 2026 and 2027, using the collected and analyzed data for the 2027 update to the MPO's Travel Demand Model. An additional three(3) locations have been identified for data collection/analysis needs which would be authorized by this amendment to the addendum.

The total cost of the project is \$9,828 with the MPO paying 80% or \$7,862.40 and the remainder paid by City of Mandan. The project would begin immediately upon approval and conclude December 31, 2026.

The Amendment to the Addendum has successfully completed the City of Bismarck's contract review process and was approved by the MPO Policy Board on July 21, 2026.

RECOMMENDED CITY COMMISSION ACTION:

Staff requests approval of the Amendment to the Addendum to the Master Agreement with ATAC for Signalized Intersection Traffic & Pedestrian Data Collection in Mandan.

STAFF CONTACT INFORMATION:

Kimberly Riepl, Transportation Planner, 701-355-1844, kriepl@bismarcknd.gov

ATTACHMENTS:

1. ATAC Ammendment for Additional Mandan Data Collection

North Dakota MPO Planning Support Program Master Agreement

Amendment to: City of Mandan Signalized Intersections Traffic Data Collection Pilot Project
Addendum to the Master Agreement

City of Mandan with support from Bismarck Mandan MPO has requested that 3 additional intersections be added to the above-mentioned addendum. The selected intersections will be added and the original budget will increase as noted below.

- 1. Project Title: City of Mandan Signalized Intersections Traffic Data Collection Pilot Project - Amendment 1
- 2. Effective Dates: August 18, 2026 through December 31, 2026
- 3. Amendment Tasks:
 - a. ATAC will setup 3 additional prioritized City of Mandan intersections for traffic data collection following tasks 2 through 10 as outlined in the addendum
- 4. Principal Investigator: Kshitij Sharma
- 5. Desired Deliverables:
 - a. Traffic Analysis Tool based reporting capabilities for the additional intersections for City of Mandan
- 6. Contract Amount (ESTIMATE ONLY): \$ 9,828
- 7. SOURCE(S) of FUNDING
 - Federal Source: \$7,862.40

- CFDA #20.205 Federal Award Date 01/01/2026 Federal Award Identification 693JJ22630000Y410ND2026060
- CFDA #20.505 Federal Award Date 01/01/2026 Federal Award Identification Number 693JJ2263000024MPND2026060
- State: \$0
- Other: \$1,965.60

AUTHORIZATION:

Bismarck-Mandan MPO

North Dakota State University

Authorized Signature

Authorized Signature

Name and Title Date

Name and Title Date

BUDGET:

ND MPO Planning Support Program 2025-2027

**City of Mandan Signalized Intersections Traffic Data Collection Pilot
Project - Amendment 1**

Cost Item	Amount
Staff Salaries	\$ 2,189
Benefits	\$ 898
Grad Student Salaries	\$ 500
Undergrad Student Salaries	\$ 906
Benefits	\$ 70
Operating	\$ 2,300
Total direct costs	\$ 6,863
NDSU overhead (43.2%)	\$ 2,965
Total project cost	\$ 9,828



Planning Department

DATE: August 11, 2026

FROM: Daniel Nairn, Planning Department Director

ITEM: Passenger Rail Station Siting Study Contract

REQUEST:

Passenger Rail Station Siting Study Contract.

BACKGROUND INFORMATION:

The Bismarck-Mandan Metropolitan Planning Organization (MPO) Policy Board, at their meeting on June 16, 2026, approved KLJ Engineering to lead the Passenger Rail Station Siting Study as prime consultant, along with David Evans and Associates and Obi Design Group serving as subconsultants on the project.

The study will identify and evaluate station corridors and potential site locations for a new passenger rail service station(s) and platform(s) to serve the MPO area and surrounding region. Results from the study will prepare the MPO and its partners, as members in the Big Sky Passenger Rail Authority's (BSPRA) Government Partners Program, with alternatives to provide recommendations for appropriate placement of passenger rail depot(s) or train station(s) within the MPO region.

BSPRA's federally funded Corridor Identification Program project, along with results from the Federal Rail Administration's (FRA) 2021 Long Distance Service Study, prioritizes the restoration of Amtrak's former North Coast Hiawatha passenger rail service which previously served the MPO region. It is critical that local communities are prepared to offer recommendations to BSPRA and FRA regarding the placement of train stations along the route.

The contract is for a 12-month period with a not-to-exceed budget of \$225,000. The MPO will provide 80% of the funding for this study with the remaining 20% local match provided by its member jurisdictions, of which the City of Bismarck share is \$27,000.

This is a standard contract using the MPO's contract template. It has successfully completed a review by the North Dakota Department of Transportation for scope accuracy and federal funding eligibility.

RECOMMENDED CITY COMMISSION ACTION:

Staff requests approval of the Passenger Rail Station Siting Study Contract.

STAFF CONTACT INFORMATION:

Kimberly Riepl, Transportation Planner, 701-355-1844, kriepl@bismarcknd.gov

ATTACHMENTS:

1. 1.Passenger Rail Station Siting Study Contract_KLJ_July2026

**AGREEMENT FOR SERVICES
BETWEEN
KLJ Engineering LLC
AND THE
BISMARCK-MANDAN METROPOLITAN PLANNING ORGANIZATION**

THIS AGREEMENT, entered into this ____ day of _____, _____, by and between Bismarck-Mandan Metropolitan Planning Organization (hereinafter called BMMPO or Client), and KLJ Engineering LLC (hereinafter called the Consultant or the Contractor).

WITNESSETH THAT:

WHEREAS, BMMPO desires to retain the Consultant to provide such services with respect to the Client's project known as the Passenger Rail Station Siting Study (the Project).

NOW THEREFORE, the parties hereto do mutually agree as follows:

- A. Employment of Consultant and Scope of Work: BMMPO hereby agrees to engage the Consultant, and the Consultant hereby agrees to perform those tasks and activities as outlined in the Consultant's Scope of Work, illustrated on **Exhibit A** attached hereto and incorporated herein by this reference (the Work Plan).
- B. Time of Performance: The services of the Consultant are to commence as soon as practicable after execution of this Agreement. All products shall be completed and delivered to BMMPO by the dates as set forth on **Exhibit A**.
- C. Conflicts of Interest: No official or employee of a state or any other governmental instrumentality who is authorized in their official capacity to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract. No engineer, attorney, appraiser, inspector, or other person performing services for a state or a governmental instrumentality in connection with a project shall have, directly or indirectly, a financial or other personal interest, other than their employment or retention by a state or other governmental instrumentality, in any contract or subcontract in connection with such project. No officer or employee of such person retained by a state or other governmental instrumentality shall have, directly or indirectly, any financial or other personal interest in any real property acquired for a project unless such interest is openly disclosed upon the public records of BMMPO and of such other governmental instrumentality, and such officer, employee, or person has not participated in such acquisition for and in behalf of the state.
- D. Ownership of Work Product: All work products and copyrights of the contract, which result from the contract, are the exclusive property of BMMPO and North Dakota Department of Transportation (NDDOT), with an unlimited license for use by the federal government and its assignees without charge.
- E. Personnel & Subcontracting: The Consultant will secure, in accordance with the Scope of Work, all personnel required in performing the services under this contract. The Consultant shall not assign any portion of the work under this agreement, execute any contract, or obligate itself in any manner with a third party with respect to its rights and responsibilities to this agreement without written consent of

BMMPO. Any agreement with a subconsultant does not create a contractual relationship between the BMMPO and the subconsultant.

- F. Assignments: The Consultant shall not assign nor transfer the Consultant's interests or duties under this agreement without the express written consent of the Client.
- G. Procurement - Property Management: The Consultant shall adhere to 2 CFR 200 when procuring services, supplies, or equipment, which are incorporated into this agreement by reference and are available from BMMPO.
- H. Termination:

- 1. This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' notice, in writing, and delivered by certified mail or in person.
- 2. In addition, BMMPO may terminate this contract effective upon delivery of written notice to the Consultant, or at such later date as may be established by BMMPO, under any of the following conditions:

- a. If BMMPO funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.
- b. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract;
- c. If any license or certificate required by law or regulation to be held by the Consultant to provide the services required by this contract is for any reason denied, revoked, or not renewed;

Any such termination of this contract under (a), (b), or (c), above, shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

- 3. BMMPO, by written notice to the Consultant, may terminate the whole or any part of this agreement:
 - a. If the Consultant fails to provide services called for by this contract within the time specified herein or any extension thereof; or
 - b. If the Consultant fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from BMMPO, fails to correct such failures within ten days or such longer period as BMMPO may authorize.
 - c. The consultant may terminate this Agreement after 10 days' prior written notice to the Client if the Client breaches this Agreement or fails to pay the Consultant pursuant to the terms of this Agreement and the Client fails to cure within 10 business days after receipt of the consultant's notice, or such longer period of cure as the Consultant may specify in such notice.

4. BMMPO desires continuity of consultant staff throughout the project from the firm chosen. If the Consultant replaces key staff and BMMPO is dissatisfied with replacement staff, the firm chosen will have 30 days from the written notice by BMMPO to supply replacement key staff acceptable to the MPO. If the firm chosen fails to supply acceptable replacement staff within the 30-day period, BMMPO may cancel the contract.

I. Governing Law: Notwithstanding any rules regarding the choice of law or venue, it is agreed by the parties that this contract shall be governed by and construed in accordance with applicable federal law and the laws of the state of North Dakota, at the time this contract was executed.

J. Additional Services: From time to time hereafter, the parties hereto may agree to the performance by the Consultant of Additional Services with respect to the Project. Any such agreement shall be set forth in writing in an Addendum and shall be executed by the respective parties prior to Consultant's performance of any services thereunder. Upon proper completion and execution of any such Addendum, such Addendum shall be incorporated into this Agreement and shall have the same force and effect as if the terms of such Addendum were a part of this Agreement as originally executed. The performance of services pursuant to an Addendum shall be subject to the terms and conditions of this Agreement except where the Addendum shall control. In all other respects, any Addendum shall supplement and be construed in accordance with the terms and conditions of this Agreement.

K. Compensation:

1. The total cost to BMMPO for the performance of work pursuant to this Agreement shall not exceed a total of \$225,000, (Two Hundred Twenty-five Thousand dollars). This amount will include ALL project costs including labor, general and administrative overhead, fixed fees, travel, materials, supplies, subcontracts, and miscellaneous.

2. The Consultant shall receive payment pursuant to the following:

a. Labor Services: BMMPO shall compensate the Consultant for labor services on the basis of hourly rates for person hours spent on the project in accordance with the individual rate schedule outlined in **Exhibit A**.

b. Reimbursable Expenses: The Consultant shall be reimbursed for actual expenses as shown in **Exhibit A**. These costs shall not exceed the amounts shown in **Exhibit A**.

3. The MPO reserves the right to hold ten percent (10%) of the total contracted invoiced amounts until the MPO believes it has received all of the following to its satisfaction. (This clause may be enforced upon the discretion of the MPO Project Manager.)

a. Contracted deliverables as described in the RFP and final contract;

b. Completed tasks as described in the RFP and final contract

L. Allowable Costs and Documentation:

1. Allowable cost must be made in conformance with the project description and the project budget, and

all other provisions of this contract, and:

- a. Be necessary in order to accomplish the project.

Be reasonable in amount of the goods or services purchased.

- b. Be actual net costs to the Consultant (i.e., the price paid minus any refunds, rebates or other items of value received by the Consultant which have the effect of reducing the cost actually incurred).
- c. Be incurred (and be for work performed) after the date of this contract, unless specific authorization from BMMPO to the contrary is received.
- d. Be treated uniformly and consistently under accounting principles and procedures approved or prescribed by BMMPO for its Consultants.

2. All costs charged to the project, including any approved services contributed by the Consultant or others, shall be documented and supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing, in detail, the nature and propriety of the charges.

M. Records: The Consultant shall maintain all accounting and project records BMMPO may require. Such records shall be made available to BMMPO, and the state and federal government for inspection and audit during the agreement term and for three years after the closure of the consolidated planning grant, unless any litigation, claim, or audit is started before the expiration of the three years, in which case the records shall be retained until such action is satisfied.

N. Method of Payment: BMMPO shall pay the Consultant on a monthly basis. The payment shall be made upon the Consultant's submission of a bill for the previous month's expenses and BMMPO's approval thereof. Such billing shall be made as hereinafter provided in this section.

1. The Consultant shall submit to BMMPO an itemized invoice [identified as INVOICE FOR (month, year)] for the Consultant's eligible costs incurred during that month. BMMPO shall remit the amount of the approved invoice within thirty days of invoice receipt.
2. For the final payment, an itemized invoice (identified as FINAL INVOICE) for the Consultant's remaining eligible costs, shall be submitted upon completion of the project when project deliverables are approved by BMMPO, BMMPO's member jurisdictions, and state and federal grantor agencies. BMMPO shall remit the amount of the approved invoice within thirty days of invoice receipt if deliverables are approved.

O. Amendments: The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties.

P. Interest of Consultant: The Consultant covenants that they presently have no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of

service required to be performed under this contract. The Consultant further covenants that in the performance of this contract no person having any such interest shall be employed.

- Q. Publication, Reproduction, and Use of Materials: No material produced in whole or part under this Agreement shall, during the life of this Agreement, be subject to copyright in the United States or in another country. Permission and approval must be obtained from BMMPO and its state and federal grant agencies before any notification, report, handbook, manual, plan, or intermediate or final results of analyses are published either in the form of paper copies, distributed via mail or email, or published as web-based content. Draft copies of all deliverables must be prepared by the Consultant and reviewed and approved by BMMPO and its state and federal grantor agencies before publication. The Consultant, subject to the approval by BMMPO and its state and federal grantor agencies, shall have the authority to publish, disclose, distribute, and otherwise use in whole and part, any reports, data, or other materials prepared under this Agreement.
- R. Risk Management and Liability Considerations: Consultant agrees to adhere and abide to the requirements listed as the "Governmental Entity" or "Governments" in the NDDOT Risk management Appendix in Exhibit D as if Consultant were the "Governmental Entity" or "Governments."
- S. Deliverables and Products. The consultant shall provide BMMPO with deliverables and product within the established schedule as outlined in **Exhibit A**.
- T. Eligibility of Proposer, Non-Procurement Debarment and Suspension Certification, and Restrictions on Lobbying: The Consultant is advised that their signature on this contract certifies that the Consultant and their agent will comply with all provisions of this agreement as well as applicable federal and state laws, regulations, and procedures. Moreover, the Consultant affirms their compliance with the federal Debarment and Suspension Certification (**Exhibit B**) and the Federal Restrictions on Lobbying (**Exhibit C**).
- U. Title VI Assurances: During the performance of this contract, the Consultant, for itself, its assignees, and successors in interest agrees as follows:
1. Compliance with Regulations: The Consultant 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 Consultant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, national origin, sex, age, disability, or income status**, in the selection and retention of subconsultants, including procurements of materials and leases of equipment. The Consultant shall not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.
 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation, made by the Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subconsultant or supplier shall be notified by the Consultant of the Consultant's obligations to BMMPO under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**.

** The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability, 29 U.S.C. 791; and low income, E.O. 12898.

4. Information and Reports: The Consultant 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 Consultant is in the exclusive possession of another who fails or refuses to furnish the information, the Consultant 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 Consultant's noncompliance with the nondiscrimination 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 Consultant under the contract until the Consultant complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Consultant 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 Consultant 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 Consultant becomes involved in, or is threatened with litigation by a subconsultant, or supplier because of such direction, the Consultant may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Consultant may request the United States to enter into the litigation to protect the interests of the United States. Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided that, if the Consultant becomes involved in, or is threatened with litigation by a subconsultant, or supplier because of such direction, the Consultant may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Consultant may request the United States to enter into the litigation to protect the interests of the United States.
7. The Consultant agrees to adhere and abide to the non-discrimination statutes and authorities, as outlined in **Exhibit E**.

- V. Disadvantaged Business Enterprise: In the performance of this agreement, the Consultant shall cooperate with BMMPO in meeting its commitments and goals with regard to the maximum utilization of disadvantaged business enterprises, and will use its best efforts to ensure that disadvantaged business enterprises shall have the maximum practical opportunities to compete for subcontract work under this agreement. The Consultant shall comply with the requirements of 49 CFR Part 26.

The Consultant 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 Consultant shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts.

BMMPO DBE program, as required by 49 CFT Part 26 and as approved by NDDOT/USDOT, as incorporated by reference in this agreement. Implementation of this program is a legal obligations and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Consultant of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. seq.)

1. The Consultant will include the following paragraph verbatim in any subcontracts they sign relative to this project:

- The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the Consultant 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 the BMMPO deems appropriate.

- W. Disability: The Consultant shall ensure that no qualified disabled individual, as defined in 29 U.S.C. 794 and 49 C.F.R. Part 27 shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance under this agreement.
- X. Successors in Interest: The provisions of this agreement shall be binding upon and shall insure to the benefit of the parties hereby, and their respective successors and assigns.
- Y. Notice: All notices, certificates, or other communications shall be considered sufficiently given when delivered or mailed, postage prepaid, to the parties at their respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Kim Riepl
Principal Transportation
Planner
Bismarck- Mandan MPO
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Cassie McNames PE
Project Manager
KLJ
300 23rd Ave E, Suite 100
West Fargo, ND 58078
(701) 241-2317
Cassie.McNames@kljeng.com

- Z. Merger and Waiver: 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 Consultant, by the signature below of its authorized representative, hereby acknowledges that the Consultant has read this agreement, understands it, and agrees to be bound by its terms and conditions.
- AA. BMMPO's Responsibilities: BMMPO shall do the following in a timely manner so as not to delay the services of the Consultant:

1. Designate a person to act as BMMPO's representative with respect to the Services. BMMPO's designee shall have complete authority to transmit instructions, receive information, interpret and define BMMPO's policies and decisions with respect to the Services.
 2. Furnish the Consultant with all information, criteria, objectives, date, schedules and standards for the Project and the Services.
 3. Examine all drafts, reports, memos, and other documents prepared by the Consultant and render decisions regarding such documents in a timely manner to prevent delay of the Services.
- BB. Additional Federal Clauses: The Consultant must comply with all provisions in **Exhibit F**, which is attached and incorporated by reference herein.
- CC. Additional Local Clauses: As the City of Bismarck is the Host Agency for the BMMPO, the Consultant must comply with all City of Bismarck's 'Goods and Services when Buying with Federal Funds' provisions. This is **Exhibit G**, which is attached and incorporated by reference herein. Certification Forms referenced in **Exhibit G** shall revert to Exhibit B and Exhibit C for signature.

IN WITNESS THEREOF:

KLJ Engineering LLC

Jennie Krause, Associate VP, P & ES, as duly authorized

WITNESS: _____

Dated this _____ day of _____, _____.

BISMARCK-MANDAN METROPOLITAN PLANNING

ORGANIZATION

Kim Riepl, BMMPO Executive Director

WITNESS: _____

Dated this _____ day of _____, _____.

EXHIBIT A

Passenger Rail Station Siting Study Bismarck-Mandan MPO

Scope of Services

The Consultant shall provide professional transportation planning and engineering services to support the Bismarck-Mandan Metropolitan Planning Organization (BMMPO) in completing a Passenger Rail Station Siting Study for the MPO planning area and surrounding region. The purpose of the study is to identify station corridors and evaluate potential station and platform locations that could serve future restored passenger rail service along the former North Coast Hiawatha corridor. The study shall focus on the existing BNSF rail corridor extending through Bismarck, Lincoln, Mandan, Burleigh County, and Morton County. The study shall identify if a single station or multiple station locations are necessary to support passenger rail service within the MPO planning area. In addition, station locations should be evaluated and prioritized against the technical and planning principles outlined in the Request for Proposal (RFP). Up to three (3) prioritized alternatives will be organized to identify short-, medium-, and long-term actions and shall include a summary of benefits, tradeoffs, implementation considerations, planning-level cost considerations, potential funding sources, and anticipated roles and responsibilities for future ownership, operations, maintenance, and coordination.

KLJ will be the prime consultant providing project management, public engagement, planning/engineering services associated with the existing conditions and station programming, and capital planning/programming. David Evans and Associates, Inc (DEA) will be providing rail system planning, BNSF coordination, quality control, and landscape architecture as a subconsultant to KLJ. Übl Design Group (Übl) will be assisting the team with architectural design services associated with the station programming as a subconsultant to KLJ. Our scope of services associated with this study are outlined below.

Task 1: Project Management & Coordination

Unless otherwise noted, KLJ will provide the following services.

1. Execute and administer contracts with BMMPO and KLJ subconsultants.
2. Review and prepare monthly invoices and progress reports. Progress reports will summarize the work performed in the current period, outline upcoming activities, include a summary of project decisions, document milestone schedule progress, identify concerns with scope, schedule and budget.
3. DEA will prepare and maintain quality management plan (QMP) which will be integrated into project milestone schedule. The QMP will outline processes for detailed checks (informal and formal), internal/external reviews, independent reviews, and will identify appropriate review types for each deliverable. The QMP will also establish internal deadlines, detail checking, and other required reviews based on the QMP.
4. Create and maintain a project milestone schedule. Updates will be made in conjunction with monthly progress reports.

5. Monitor scope, schedule and budget. Prepare contract amendments as necessary to address changes to scope, schedule and budget.
6. Meetings:
 - a. Host a kick-off meeting with design team and BMMPO to review project goals and schedule, confirm stakeholders, establish Study Review Committee (SRC) members, define communication protocols and establish roles and responsibilities. KLJ will be in person in Bismarck. DEA will attend virtually.
 - b. Attend monthly meetings with BMMPO Technical Advisory Committee (TAC) and Policy Board to review progress, scope, schedule and budget. Meetings will be utilized to coordinate project decisions. A KLJ team member will attend the meetings virtually.
 - c. Administer monthly coordination meetings between KLJ, DEA, and Übl team members.
 - d. Host six (6) Study Review Committee (SRC) meetings to guide study development and support recommendations. A KLJ team member will attend the meeting in person with additional design team members attending virtually as required. Meetings are anticipated to align with the following tasks further described herein:
 - i. Existing Conditions
 - ii. Identification of Candidate Sites
 - iii. Refined Station Siting Alternatives
 - iv. Operational Concept
 - v. Draft Report
 - vi. Final Report
 - e. Present study recommendations via seven (7) individual presentations to the following parties:
 - i. Bismarck City Commission
 - ii. Lincon City Council
 - iii. Mandan City Commission
 - iv. Burleigh County Commission
 - v. Morton County Commission
 - vi. MPO TAC
 - vii. MPO Policy Board
 - f. Deliverables:
 - i. Contract
 - ii. QMP
 - iii. Monthly Invoices
 - iv. Monthly Progress Reports
 - v. Monthly Progress Meetings
 - vi. SRC Meetings
 - vii. Meeting Agenda/Minutes
 - viii. Final Presentations

Task 2: Existing Conditions

1. Desktop Analysis
 - a. KLJ will collect and evaluate a series of data sets including former station facilities, land use, zoning, parcel data, parking, multimodal features, and Capital Area Transit

(CAT) Routes and system infrastructure to assist with site identification, assessment and prioritization.

- b. KLJ will review existing reports to assist with collection of data points, including the following MPO reports:
 - i. Arrive 2050 (2025-2050 MTP)
 - ii. Travel Demand Model Review and Socio-Economic Projections Final Report
 - iii. 2026-2029 Transportation Improvement Program
 - iv. 2023 Transit Development Plan
 - v. MPO Monitoring Report (2025)
 - vi. Bismarck Together 2045 Comprehensive Plan
 - vii. Downtown Bismarck Subarea Study
 - viii. MPO Public Participation Plan
 - ix. MPO Traffic Count Data (Provided through NDDOT)
 - x. Multi-Use Trails Map
 - xi. Safe Routes to Services
 - xii. Bismarck Mandan Regional Freight Study
 - xiii. Mandan Downtown Subarea Study
 - xiv. Burleigh County Future Land Use Plan
 - xv. Fringe Area Road Master Plan – Burleigh County
 - xvi. Fringe Area Roads Master Plan – Morton County
 - xvii. I-94 Corridor Study
 - xviii. Bismarck Mandan Regional North South Beltway Corridor Study
 - c. DEA will gather known information about existing BNSF Railway operations and infrastructure through the Study area.
2. System Planning Principles/Requirements
- a. DEA will review relevant guidance documents to establish design principles and infrastructure requirements framework for identifying, assessing and prioritizing potential station locations. Documents are anticipated to include:
 - i. Amtrak Station Planning and Development Guidelines (ASPDG)
 - ii. Federal Railroad Administration (FRA) Guidance
 - iii. Transportation Security Administration (TSA) Guidance
3. Deliverables:
- a. Existing Conditions Memorandum
 - b. System Planning Principles/Requirements Memorandum

Task 3: Alternatives Development & Screening

- 1. Station Program
 - a. Develop a space program that defines the methodology to identify feasible station locations and determines how to best accommodate trains, passengers, and required rail operations.

- i. DEA will review ridership from peer cities with existing passenger rail service to develop a projected ridership range for the proposed station.
 - ii. DEA will define station program requirements to align with future demand using ASPDG.
 - iii. DEA will review BNSF guidelines to identify additional design criteria and potential future right-of-way needs for the station.
 - iv. KLJ and Übl will integrate local building codes and zoning ordinances into the station program criteria.
- 2. Evaluation of Station Siting Alternatives
 - a. KLJ and DEA will identify a comprehensive set of candidate sites within the Study area to review with SRC.
 - b. DEA will screen candidate sites using a preliminary site evaluation matrix comprised of the technical principles outlined in the RFP and below.
 - i. Train access and operation (including freight impacts)
 - 1. Track availability
 - 2. Track ownership/ROW
 - 3. Rail curvature or tangent track
 - 4. Wye, sidings, rip track, yards
 - ii. Site size and configuration - minimum geometric requirements
 - 1. Station area
 - a. Access
 - b. Parking
 - c. Amenities (i.e. restrooms, ticket kiosks, customer service/support stations, etc.)
 - 2. Platform requirements, dimensions, and clearances
 - 3. Track dimensions/spacing
 - iii. Site size and configuration - rail amenity space
 - 1. Multiple platforms or platform faces
 - 2. Multiple station tracks
 - 3. Level boarding
 - iv. Site ownership and control
 - 1. Agreements
 - 2. Additional space/acreage for compatible facilities/uses beyond those required by Amtrak/RR operations
 - v. Safety and security
 - 1. Operations
 - 2. Site
 - c. Candidate sites meeting the requirements outlined in the preliminary evaluation matrix will be further refined and evaluated by DEA against the planning principles included in the RFP and outlined below to identify up to three (3) feasible alternatives to move forward into the next phase.

- i. Community focus - connections and proximity
 - 1. People
 - 2. Employment centers/jobs
 - 3. Destinations
 - ii. Community focus – corroboration
 - 1. Compatibility with existing/future zoning
 - 2. Compatibility with local plans
 - 3. Community and stakeholder support
 - iii. Equitable access and multimodal connectivity – existing and future
 - 1. Bicycle & pedestrian infrastructure
 - 2. Transit proximity
 - iv. Connectivity to destinations
 - 1. Safety opportunities
 - v. Environmental resources
 - 1. Cultural
 - 2. Historic
 - 3. Natural
 - vi. Land use and development
 - 1. Amenities and facilities beyond the minimum requirements of Amtrak/FRA (mobility hub, etc.)
 - 2. Transit Oriented Development
 - 3. Visitor Destinations
 - vii. Implementable Solutions
 - 1. Time
 - 2. Cost
 - 3. Low-mitigation impacts
 - 4. Acquisition complexity
 - 5. Funding sources
- 3. Operational Concept Development
 - a. Three (3) feasible alternatives will be moved forward from the alternative site evaluation task to be further developed by KLJ and DEA. This is anticipated to include:
 - i. Evaluation of short, medium, and long-term actions
 - ii. Discussion of feasibility of implementation
 - iii. Development of preliminary opinion of cost
 - iv. Comparison of alternatives to summarize benefits and tradeoffs.
 - v. Identification of funding sources available to assist with implementation of the concepts
 - vi. Utilization of the ASPDG Development Process Checklist to draft roles and responsibilities for partner agencies and establish a framework for future station ownership, operations and maintenance

- b. KLJ and DEA will develop concept level plans, for planning purposes only, for the three (3) feasible alternatives moved forward into the operational concept development phase. KLJ will obtain aerial photogrammetry of the BNSF railway corridor at the 3 site locations area using a federally approved drone and an FAA certified drone pilot.
- 4. Deliverables:
 - a. Station Program Memorandum
 - b. Station Siting Evaluation Memorandum
 - c. Operational Concepts

Task 4: Engagement

Unless otherwise noted, KLJ will provide the following services.

- 1. Public Involvement Plan (PIP)
 - a. Develop a PIP that engages a cross-section of the population to obtain input that is utilized in development of the Study. PIP will identify:
 - i. Engagement goals and objectives
 - ii. Key stakeholder groups
 - iii. Tactics and strategies to gain input
- 2. Stakeholder Outreach
 - a. Collaborate with stakeholders to gather feedback through two (2) stakeholder presentations at two points in the planning process. Participants will be developed in cooperation with the SRC and integrated into the PIP and are anticipated to include a broad range of MPO stakeholder groups. The first presentation is anticipated to review siting alternatives and operational concepts developed in Task 3. The second presentation will review draft report elements and recommendations prior to or as part of the public comment period.
 - b. Develop promotional materials to be shared with stakeholder groups for distribution on their websites, newsletters, or social media channels.
- 3. Public Input Meetings
 - a. Coordinate two (2) rounds of public input meetings with BMMPO. Each round of meeting will include one (1) meeting, centrally located within the overall study area. The round 1 meeting will consist of informing the public about the Study's purpose and gaining input on issues and needs. The round 2 meeting will consist of gaining feedback on a range of system options and recommendations to be integrated into the station siting alternatives.
 - b. Attend up to two (2) pop up events in coordination with other ongoing community events to attract insight from the larger community. These events are likely to occur earlier in the planning process.
- 4. Website, Social Media, and Community Engagement
 - a. Develop a project website to be hosted Social Pinpoint to inform the public on Study developments.

- b. Develop and administer online survey and interactive mapping exercises.
 - c. Post public meeting materials on project website and provide opportunities for comment via the website. All deliverables, including PDFs, web pages, interactive features, and multimedia content, shall conform to WCAG 2.1 Level AA success criteria.
 - d. Work with the BMMPO to develop newspaper advertisements, press releases, geo-targeted social media ads/posts, information for area newsletters, and flyers/handout material with the inclusion of a QR code linking to the project website.
 - e. Create social media graphics, content, and post a schedule for public to attend in-person meetings or provide virtual input.
5. Deliverables:
- a. PIP
 - b. Website
 - c. Stakeholder Coordination Presentations (2)
 - d. Public Input Meetings (2)
 - e. Pop up events (2)
 - f. Promotional Material

Task 5: Draft and Final Report

- 1. KLJ and DEA will develop a draft report and allow for a 45-day comment period for the SRC and BMMPO cognizant members. The Draft report will be inclusive of earlier project deliverables identified in Tasks 2-4.
 - 2. KLJ and DEA will integrate and resolve comments received from SRC and BMMPO into a draft final report to be advertised and made available to the public for a minimum of 15-days prior to the final presentations.
 - 3. Present findings of the Study to Bismarck City Commission, Lincoln City Council, Mandan City Commission, Burleigh County Commission, Morton County Commission, TAC, and MPO Policy Board. KLJ and DEA will be in attendance virtually.
 - 4. KLJ will finalize report once all comments on the draft report are addressed, final presentations are complete, and the report has been approved by the BMMPO TAC and Policy Board. An electronic copy of the final report will be delivered to the BMMPO project manager.
5. Deliverables:
- a. Draft Report
 - b. Final Draft Report
 - c. Final Presentations (7)
 - d. Final Report

Project Schedule:

- 1. Services are anticipated to be provided from August 2026 to August 2027.

Fee = \$225,000.00

KLJ Project Name:	
KLJ Project Number:	2613-10798

Project Budget



Job Classification:		Project Assistant III	Project Controls Specialist II	Senior Project Manager	Senior Planner	Associate Planner	Senior Project Manager	Engineer	Associate Engineer	Government Relations Specialist III	Sr Public Engagement Strategist	Graphic Design Specialist	Graphic Design Specialist	Graphic Design Specialist	DIRECT LABOR Subtotal	Subconsultant Bill	KLJ's % Markup Subconsultant's Name	Subconsultant Fee	DIRECT EXPENSE ²	Bal to: Lump Sum or Agreed Fee	TASK TOTAL
Task Code	Description	Lorenz-Perry, Erika A	Woehl, Megan	McNames, Cassie L	Kline, Wade E	Oberding, Greg	Krogstad, Brad J	Barchenger, Emily A	Heustis, Mason	Johnson, Denae	Olson, Jamie	Cornett, Stacie N	Zohari, Avi	Severt, Brian							
P	Proposal														\$ -			\$ -			\$ -
															\$ -			\$ -			\$ -
															\$ -			\$ -			\$ -
															\$ -	\$ -		\$ -	\$ -	\$ -	\$ -
1	Project Management (2026 rates)	\$ 44.00	\$ 45.00	\$ 90.00	\$ 73.00	\$ 36.00	\$ 90.00	\$ 59.00	\$ 52.00	\$ 52.00	\$ 49.00	\$ 41.00	\$ 41.00	\$ 41.00	\$ 808.00			\$ -		\$ (54.45)	\$ 753.55
	Contract Administration	2	4	6											\$ 360.00			\$ -			\$ 360.00
	Invoices			4											\$ 834.00			\$ -			\$ 834.00
	Progress Reports			6							6				\$ -			\$ -			\$ -
	QMP														\$ -			\$ -			\$ -
	Schedule			2											\$ 180.00			\$ -			\$ 180.00
	Meetings														\$ -			\$ -			\$ -
	Kick-Off Meeting (in-person)			8	2			2			2				\$ 1,082.00			\$ -			\$ 1,082.00
	Monthly TAC/Board Meetings (Virtual)										6				\$ 294.00			\$ -			\$ 294.00
	Monthly Team Coordination Meetings			4	4			4			4				\$ 1,084.00			\$ -			\$ 1,084.00
	SRC Meetings (3, Jamie, Cassie Virtual)			6							12				\$ 1,128.00			\$ -			\$ 1,128.00
		2	4	36	6			6			30				\$ 5,770.00	\$ -		\$ -	\$ -	\$ (54.45)	\$ 5,715.55
1	Project Management (2027 rates)	\$ 46.20	\$ 47.25	\$ 94.50	\$ 76.65	\$ 37.80	\$ 94.50	\$ 61.95	\$ 54.60	\$ 54.60	\$ 51.45	\$ 43.05	\$ 43.05	\$ 43.05	\$ 283.50			\$ -			\$ 283.50
	Contract			3											\$ 283.50			\$ -			\$ 283.50
	Invoices			3											\$ 875.70			\$ -			\$ 875.70
	Progress Reports			6							6				\$ -			\$ -			\$ -
	QMP														\$ -			\$ -			\$ -
	DEA														\$ -			\$ -			\$ -
	Schedule			2											\$ 189.00			\$ -			\$ 189.00
	Meetings														\$ -			\$ -			\$ -
	Monthly TAC/Board Meetings (Virtual)										6				\$ 308.70			\$ -			\$ 308.70
	Monthly Team Coordination Meetings			10	10			10			10				\$ 2,845.50			\$ -			\$ 2,845.50
	SRC Meetings (3, Jamie, Cassie Virtual)			6							12				\$ 1,184.40			\$ -			\$ 1,184.40
				30	10			10			34				\$ 5,970.30	\$ -		\$ -	\$ -	\$ -	\$ 5,970.30
2	Existing Conditions	\$ 44.00	\$ 45.00	\$ 90.00	\$ 73.00	\$ 36.00	\$ 90.00	\$ 59.00	\$ 52.00	\$ 52.00	\$ 49.00	\$ 41.00	\$ 41.00	\$ 41.00	\$ 180.00			\$ -			\$ 180.00
	Desktop Analysis			2											\$ 722.00			\$ -			\$ 722.00
	Data Collection				2	16									\$ 722.00			\$ -			\$ 722.00
	Review of Existing Reports				2	16									\$ 985.00			\$ -			\$ 985.00
	Existing Conditions Memorandum				1	8	1	2	8						\$ 180.00			\$ -			\$ 180.00
	System Planning Principles/Requirements			2											\$ 2,789.00	\$ -		\$ -	\$ -	\$ -	\$ 2,789.00
				4	5	40	1	2	8						\$ -			\$ -	\$ -	\$ -	\$ -
3	Alternatives Development and Screening (2026 Rates)	\$ 44.00	\$ 45.00	\$ 90.00	\$ 73.00	\$ 36.00	\$ 90.00	\$ 59.00	\$ 52.00	\$ 52.00	\$ 49.00	\$ 41.00	\$ 41.00	\$ 41.00	\$ 180.00			\$ -			\$ 180.00
	Station Program			2											\$ 326.00			\$ -			\$ 326.00
	Local Codes/Ordinances						1	4							\$ 624.00			\$ -			\$ 624.00
	Station Program Memorandum						1	2	8						\$ -			\$ -			\$ -
	Evaluation of Station Siting Alternatives														\$ 938.00			\$ -			\$ 938.00
	Candidate Sites			2	2	12	2								\$ 614.00			\$ -			\$ 614.00
	Station Siting Alternatives Memo			2	2	8									\$ -			\$ -			\$ -
	DEA														\$ -			\$ -			\$ -
	Operation Concept Development														\$ -			\$ -			\$ -
	Cost Estimates							4	8						\$ 652.00			\$ -			\$ 652.00
	Funding Research				2					8					\$ 562.00			\$ -			\$ 562.00
	Concept Plans						2	8	24				24		\$ 2,884.00			\$ -			\$ 2,884.00
	Aerial Photogrammetry			6	6	2	2	2	24	8				8	\$ 518.00			\$ -			\$ 518.00
						22	6	20	40	8					\$ 7,298.00	\$ -		\$ -	\$ -	\$ -	\$ 7,298.00
4	Engagement (2026 rates)	\$ 44.00	\$ 45.00	\$ 90.00	\$ 73.00	\$ 36.00	\$ 90.00	\$ 59.00	\$ 52.00	\$ 52.00	\$ 49.00	\$ 41.00	\$ 41.00	\$ 41.00	\$ 392.00			\$ -			\$ 392.00
	Public Involvement Plan										8				\$ 720.00			\$ -			\$ 720.00
	Stakeholder Outreach										8	8			\$ 1,112.00			\$ -			\$ 1,112.00
	Public Input Meetings										16	8			\$ 2,324.00			\$ -			\$ 2,324.00
	Website, Social Media & Community Engagement										32	16			\$ 4,448.00	\$ -		\$ -	\$ -	\$ -	\$ 4,448.00
											64	32			\$ -			\$ -	\$ -	\$ -	\$ -
4	Engagement (2027 rates)	\$ 46.20	\$ 47.25	\$ 94.50	\$ 76.65	\$ 37.80	\$ 94.50	\$ 61.95	\$ 54.60	\$ 54.60	\$ 51.45	\$ 43.05	\$ 43.05	\$ 43.05	\$ -			\$ -			\$ -
	Public Involvement Plan										8				\$ 756.00			\$ -			\$ 756.00
	Stakeholder Outreach										8	8			\$ 1,167.60			\$ -			\$ 1,167.60
	Public Input Meetings										16	8			\$ 1,579.20			\$ -			\$ 1,579.20
	Website, Social Media & Community Engagement										24	8			\$ 3,502.80	\$ -		\$ -	\$ -	\$ -	\$ 3,502.80
											48	24			\$ -			\$ -	\$ -	\$ -	\$ -
5	Draft and Final Report (2027 rates)	\$ 46.20	\$ 47.25	\$ 94.50	\$ 76.65	\$ 37.80	\$ 94.50	\$ 61.95	\$ 54.60	\$ 54.60	\$ 51.45	\$ 43.05	\$ 43.05	\$ 43.05	\$ 2,744.70			\$ -			\$ 2,744.70
	Draft Report			8	2	32		4			4	4			\$ 1,146.60			\$ -			\$ 1,146.60
	Final Report			2	2	8		2			4	4			\$ 2,351.20			\$ -			\$ 2,351.20
	Final Presentations (Virtual)			22											\$ -			\$ -			\$ -
				32	4	40		6			8	12			\$ 6,142.50	\$ -		\$ -	\$ -	\$ -	\$ 6,142.50
6	Subs														\$ -	\$ 15,513.73	Ubl	\$ 15,513.73			\$ 15,513.73
	Ubl														\$ -	\$ 95,780.00	DEA	\$ 95,780.00			\$ 95,780.00
	DEA														\$ -			\$ -			\$ -
															\$ -	\$ 111,293.73		\$ 111,293.73	\$ -	\$ -	\$ 111,293.73
2			4	108	31	102	7	44	48	8	184	68	24	8	638						
															\$ 35,920.60			\$ 111,293.73	\$ -	\$ (54.45)	\$ 147,159.88

¹ Includes Meals and Lodging : Used for planning purposes only.

² Includes equipment, rental/subscriptions, mileage... etc.

Equipment		Car/Standard Vehicle(Mile)	Survey/Field Vehicle(Mile)														Equipment Subtotal
Task Code	Description																
P	Proposal	\$ 1.04	\$ 1.04														\$ -
																	\$ -
																	\$ -
																	\$ -
1	Project Management (2026 rates)	\$ 1.04	\$ 1.04														
	Kick-off Meeting	400															\$ 416.00
																	\$ -
																	\$ -
		400															\$ 416.00
2	Existing Conditions	\$ 1.04	\$ 1.04														\$ -
																	\$ -
																	\$ -
																	\$ -
3	Alternatives Development and Screening (2026 Rates)	\$ 1.04	\$ 1.04														\$ -
	Aerial Photogrammetry	30															\$ 31.20
																	\$ -
																	\$ -
		30															\$ 31.20
4	Engagement (2026 rates)	\$ 1.04	\$ 1.04														\$ -
	Public Input Meetings	100															\$ 104.00

Summary of Costs:		NDDOT w/ Mileage	
Direct Labor			\$ 35,920.60
Indirect Costs -	184.76%		\$ 66,366.90
Subtotal			\$ 102,287.50
On bill rate	Fixed Fee -	10.00%	\$ 10,228.75
Raw labor cost	COF -	1.93%	\$ 693.27
Direct Expenses			\$ -
Reimbursables			\$ 551.20
Subconsultants			\$ 111,293.73
Balance to Lump Sum or Agreed Fee			\$ (54.45)
Tero/Taxes & Fees	Percentage -		\$ -
Total Estimated Engineering Costs			\$ 225,000.00

Reimbursable Notation:

KLJ Project Name:

KLJ Project Number: 2613-10798

Project Budget



Job Classification:		Project Assistant III	Project Controls Specialist II	Senior Project Manager	Senior Planner	Associate Planner	Senior Project Manager	Engineer	Associate Engineer	Government Relations Specialist III	Sr Public Engagement Strategist	Graphic Design Specialist	Graphic Design Specialist	Graphic Design Specialist	DIRECT LABOR Subtotal	Subconsultant Bill	KLJ's % Markup Subconsultant's Name	Subconsultant Fee	DIRECT EXPENSE ²	Bal to: Lump Sum or Agreed Fee	TASK TOTAL
Task Code	Description	Lorenz-Perry, Erika A	Woehl, Megan	McNames, Cassie L	Kline, Wade E	Olberding, Greg	Krogstad, Brad J	Barchenger, Emily A	Heustis, Mason	Johnson, Denae	Olson, Jamie	Cornett, Stacie N	Zohari, Avi	Severt, Brian							
		100															\$ -				
																	\$ 104.00				
5	Draft and Final Report (2027 rates)	\$ 1.04	\$ 1.04														\$ -				
																	\$ -				
																	\$ -				
																	\$ -				
																	\$ -				
6	Subs																\$ -				
																	\$ -				
																	\$ -				
																	\$ -				
																	\$ -				
530																	530				
																	\$ 551.20				

Proposed Sub-Consultant Request

North Dakota Department of Transportation, Environmental & Transportation Services
SFN 60232 (9-2016)

Sub-Consultant firms that have been contacted and agree to be listed on a Prime Consultants Project Proposal for work with NDDOT must submit original form and one copy to be attached to the Prime Consultants Proposal. This form is used for informational purposes only.

NDDOT Project Number N/A	NDDOT Project Control Number N/A	Prime Consultant Company Name KLJ Engineering LLC	
Company Name David Evans and Associates, Inc.	Owner David Evans and Associates, Inc.		
Address 676B Woodland Square Loop SE Suite 301E	City Lacey	State WA	Zip Code 98503
Company Telephone Number 360-705-2185	Fax Number NA	Email Address Jeff.Schultz@deainc.com	

Type of Work to be Subcontracted

☐	Appraisals	☐	Environmental	☒	Planning	☐	Structural Design
☐	Architecture	☐	Geotechnical	☐	Public Involvement	☐	Survey
☐	Bridge Inspection	☐	Materials Testing	☐	Roadway Design	☐	Traffic Operations
☐	Construction Engineering	☒	Partnering Facilitation	☐	Soil Contamination	☐	Wetlands Delineation
☐	Cultural Resources	☐	Photogrammetry	☐	Steel Fabrication	☒	Other
							Landscape Architecture, Rail Coordination

The undersigned declares that all statements listed above are true.

Firm David Evans and Associates, Inc.
Print Name Jeffrey T. Schultz
Title Transit and Rail Planning Group Leader/Senior Associate

Signature 	Date 04/30/2026
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Is Firm Currently NDDOT Certified as a DBE?	☐ Yes	☒ No
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Proposed Sub-Consultant Request

North Dakota Department of Transportation, Environmental & Transportation Services
SFN 60232

Sub-Consultant firms that have been contacted and agree to be listed on a Prime Consultants Project Proposal for work with NDDOT must submit original form and one copy to be attached to the Prime Consultants Proposal. This form is used for informational purposes only.

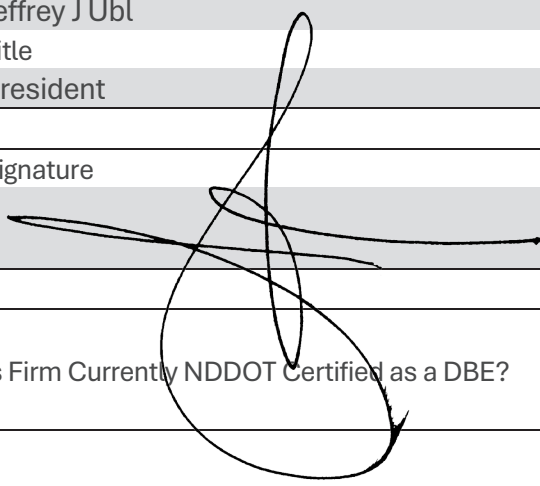
NDDOT Project Number N/A	NDDOT Project Control Number N/A	Prime Consultant Company Name KLJ Engineering LLC		
Company Name Übl Design Group	Owner Jeffrey J. Übl			
Address 210 South 12 th Street		City Bismarck	State ND	Zip Code 58504
Company Telephone Number 701-751-4555	Fax Number 701-751-4556	Email Address jeff@ubldesign.com		

Type of Work to be Subcontracted

☐	Appraisals	☐	Environmental	☐	Planning	☐	Structural Design
☒	Architecture	☐	Geotechnical	☐	Public Involvement	☐	Survey
☐	Bridge Inspection	☐	Materials Testing	☐	Roadway Design	☐	Traffic Operations
☐	Construction Engineering	☐	Partnering Facilitation	☐	Soil Contamination	☐	Wetlands Delineation
☐	Cultural Resources	☐	Photogrammetry	☐	Steel Fabrication	☐	Other

The undersigned declares that all statements listed above are true.

Firm Übl Design Group, P.C.
Print Name Jeffrey J Übl
Title President

Signature 	Date 05/15/2026
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Is Firm Currently NDDOT Certified as a DBE?	☐ Yes	☒ No
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GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

1. It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180,
2. To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
 - a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:
 1. Debarred
 2. Suspended
 3. Proposed for debarment
 4. Declared ineligible
 5. Voluntarily excluded
 6. Disqualified
 - b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
 1. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
 2. Violation of any Federal or State antitrust statute, or
 3. Proposed for debarment commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property
 - c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,
 - d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
 - e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,
 - f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
 1. Equals or exceeds \$25,000,
 2. Is for audit services, or
 3. Requires the consent of a Federal official, and
 - g. It will require that each covered lower tier contractor and subcontractor:
 1. Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
 2. Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
 - a. Debarred from participation in its federally funded Project,
 - b. Suspended from participation in its federally funded Project,
 - c. Proposed for debarment from participation in its federally funded Project,
 - d. Declared ineligible to participate in its federally funded Project,
 - e. Voluntarily excluded from participation in its federally funded Project, or
 - f. Disqualified from participation in its federally funded Project, and
3. It will provide a written explanation as indicated on a page attached in FTA's TrAMS-Web or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

Certification

Contractor KLJ Engineering LLC
 Signature of Authorized Official  Date 5 / 15 / 2026
 Name and Title of Contractor's Authorized Official Mark Anderson, PE – Sr. VP Public Works and Transportation

Federal Certifications

CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, Mark Anderson; Senior Vice-President, hereby certify (Name and title of official)

On behalf of KLJ Engineering, LLC that: (Name of Bidder/Company Name)

- No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

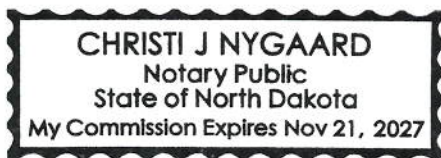
The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.

Name of Bidder/Company Name Type KLJ Engineering, LLC

or print name Mark Anderson

Signature of Authorized representative *Mark Anderson* Date 5/12/2026

Signature of notary and SEAL *Christi J Nygaard*



State, Federal and Local Clauses

State Clauses

**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 Nondiscrimination 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 **\$500,000 per person and \$2,000,000 per occurrence**. The minimum limits of liability required of the State are **\$500,000 per person and \$2,000,000 per occurrence**.
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

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

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

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

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are \$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 6-25



Federal Clauses

Required Federal Contract Provisions

COMPLIANCE REVIEW NOTE:

The federal contract provisions contained in this document were reviewed for compliance with applicable regulations as of November 6, 2025. While every effort has been made to ensure alignment with current federal requirements, users are advised that regulatory changes may occur. This document reflects the standards in effect at the time of review and does not constitute a commitment to update contract provisions retroactively unless required by law or funding agency directive.

BUY AMERICA REQUIREMENTS

23 CFR 635.410

- (a) The provisions of this section shall prevail and be given precedence over any requirements of this subpart which are contrary to this section. However, nothing in this section shall be construed to be contrary to the requirements of § 635.409(a) of this subpart.
- (b) No Federal-aid highway construction project is to be authorized for advertisement or otherwise authorized to proceed unless at least one of the following requirements is met:
 - (1) The project either: (i) Includes no permanently incorporated steel or iron materials, or (ii) if steel or iron materials are to be used, all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes which protect or enhance the value of the material to which the coating is applied.
 - (2) The State has standard contract provisions that require the use of domestic materials and products, including steel and iron materials, to the same or greater extent as the provisions set forth in this section.
 - (3) The State elects to include alternate bid provisions for foreign and domestic steel and iron materials which comply with the following requirements. Any procedure for obtaining alternate bids based on furnishing foreign steel and iron materials which is acceptable to the Division Administrator may be used. The contract provisions must (i) require all bidders to submit a bid based on furnishing domestic steel and iron materials, and (ii) clearly state that the contract will be awarded to the bidder who submits the lowest total bid based on furnishing domestic steel and iron materials unless such total bid exceeds the lowest total bid based on furnishing foreign steel and iron materials by more than 25 percent.
 - (4) When steel and iron materials are used in a project, the requirements of this section do not prevent a minimal use of foreign steel and iron materials, if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project.
- (c) (1) A State may request a waiver of the provisions of this section if;
 - (i) The application of those provisions would be inconsistent with the public interest; or
 - (ii) Steel and iron materials/products are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality.
- (2) A request for waiver, accompanied by supporting information, must be submitted in writing to the Regional Federal Highway Administrator (RFHWA) through the FHWA Division Administrator. A request must be submitted sufficiently in advance of the need for the waiver in order to allow time for proper review and action on the request. The RFHWA will have approval authority on the request.
- (3) Requests for waivers may be made for specific projects, or for certain materials or products in specific geographic areas, or for combinations of both, depending on the circumstances.
- (4) The denial of the request by the RFHWA may be appealed by the State to the Federal Highway Administrator (Administrator), whose action on the request shall be considered administratively final.

- (5) A request for a waiver which involves nationwide public interest or availability issues or more than one FHWA region may be submitted by the RFHWA to the Administrator for action.
- (6) A request for waiver and an appeal from a denial of a request must include facts and justification to support the granting of the waiver. The FHWA response to a request or appeal will be in writing and made available to the public upon request. Any request for a nationwide waiver and FHWA's action on such a request may be published in the Federal Register for public comment.
- (7) In determining whether the waivers described in paragraph (c)(1) of this section will be granted, the FHWA will consider all appropriate factors including, but not limited to, cost, administrative burden, and delay that would be imposed if the provision were not waived.
- (d) Standard State and Federal-aid contract procedures may be used to assure compliance with the requirements of this section.

EQUAL EMPLOYMENT OPPORTUNITY CLAUSE

41 CFR 60-1.4(b) and 2 CFR Part 200 Appendix II (C)

41 CFR 60-1.4(a)

- (a) *Government contracts.* Except as otherwise provided, each contracting agency shall include the following equal opportunity clause contained in section 202 of the order in each of its Government contracts (and modifications thereof if not included in the original contract):

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government

contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- (7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

* * * * *

- (c) *Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.*
- (d) *Incorporation by reference. The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Deputy Assistant Secretary may designate.*
- (e) *Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.*
- (f) *Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.*

2 CFR Part 200 Appendix II (C)

- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

USDOT DISADVANTAGED BUSINESS ENTERPRISE PROGRAM REQUIREMENTS

49 CFR 26

- (a) Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance:

The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by DOT, 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 recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

- (b) Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-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 the recipient deems appropriate.

SANCTIONS AND PENALTIES FOR BREACH OF CONTRACT

2 CFR Part 200 Appendix II (A)

- (A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

TERMINATION FOR CAUSE AND CONVENIENCE – 2 CFR PART 200 APPENDIX II (B)

- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

CFR Part 200 Appendix II (F)

- (F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

DEBARMENT AND SUSPENSION

2 CFR Part 200 Appendix II (I)

- (I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

BYRD ANTI-LOBBYING AMENDMENT -

2 CFR Part 200 Appendix II (J)

Appendix D

- (J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Local Clauses

Providing Goods and Services to the City When City is Buying with Federal Funds

Contract Provisions

The following is a list of contract or award provisions a vendor or contractor must sign based on the contract amount.

- If contract is > \$250,000, it must contain legal remedies for breach of contract
- If contract is > \$10,000, it must contain termination for cause and convenience
- If construction contract, it must contain Equal Employment Opportunity
- If construction contract and > \$2,000, it must include Davis-Bacon Act
- If contract is > \$100,000 and includes mechanics or laborers, it must include Contract Work Hours and Safety Standards Act
- If contract is a funding agreement for experimental, developmental, or research, it must include Rights to Inventions Made
- If contract is > \$150,000, it must contain the Clean Air Act and Federal Water Pollution Control Act
- If contract is > \$25,000, it must contain Suspension and Debarment
- If contract is > \$100,000, it must contain Byrd Anti-Lobbying
- If State or political subdivision of State and contract is > \$10,000, it must contain recovered materials in provision
- All Subawards must include provision of Prohibition of Certain telecommunication and video surveillance services or equipment
- All contracts, subawards and purchase orders must include of indicating domestic preferences for procurements.
- If Contract is \$25,000 and over, it must include provision of Waste Fraud and Abuse notification to Federal government 2 C.F.R. §§180.220 and 31 U.S.C. § 3729

An example of contract language for each provision is listed below.

VIOLATION AND BREACH OF CONTRACT

Rights and Remedies of the Grantor

The Grantor shall have the following rights in the event that the Grantor deems the Subrecipient guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as Grantor for and at the expense of the Subrecipient, either directly or through other Subrecipients;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

For purposes of this Contract, breach shall include.

Rights and Remedies of Subrecipient

Inasmuch as the Subrecipient can be adequately compensated by money damages for any breach of this Contract, which may be committed by the Grantor, the Subrecipient expressly agrees that no default, act or omission of the Grantor shall constitute a material breach of this Contract, entitling Subrecipient to cancel or rescind the Contract (unless the Grantor directs Subrecipient to do so) or to suspend or abandon performance.

Providing Goods and Services to the City When City is Buying with Federal Funds

Remedies

Substantial failure of the Subrecipient to complete the Project in accordance with the terms of this Contract will be a default of this Contract. In the event of a default, the Grantor will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Subrecipient recognizes that in the event of a breach of this Contract by the Subrecipient before the Grantor takes action contemplated herein, the Grantor will provide the Subrecipient with sixty (60) days written notice that the Grantor considers that such a breach has occurred and will provide the Subrecipient a reasonable period of time to respond and to take necessary corrective action.

Disputes

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by an authorized representative of Grantor. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Subrecipient mails or otherwise furnishes a written appeal to the Grantor's authorized representative. In connection with any such appeal, the Subrecipient shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Grantor's authorized representative shall be binding upon the Subrecipient and the Subrecipient shall abide by the decision.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the Grantor's direction or decisions made thereof.

Performance during Dispute

Unless otherwise directed by Grantor, Subrecipient shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies

Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Grantor and the Subrecipient arising out of or relating to this Contract or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Grantor is located.

Providing Goods and Services to the City When City is Buying with Federal Funds

Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Grantor or Subrecipient shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

TERMINATION

a. Termination by Mutual Agreement

This Grant may be terminated by mutual consent of both parties executed in writing.

b. Termination for Lack of Funding or Authority

GRANTOR by written notice to Subrecipient may terminate the whole or any part of this Agreement under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.
- 3) If any license, permit, or certificate required by law or rule, or by the terms of this Agreement, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Agreement under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

c. Termination for Cause

GRANTOR may terminate this Agreement effective upon delivery of written notice to Subrecipient, or any later date stated in the notice:

- 1) If Subrecipient fails to provide services required by this Agreement within the time specified or any extension agreed to by GRANTOR; or
- 2) If Subrecipient fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms.

The rights and remedies of GRANTOR provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this **Agreement**.

Providing Goods and Services to the City When City is Buying with Federal Funds

DAVIS-BACON ACT

Davis-Bacon Act, as amended ([40 U.S.C. 3141-3148](#)).

When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ([40 U.S.C. 3141-3144](#), and [3146-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

CONTRACT WORK HOURS AND SAFETY STANDARDS

Contract Work Hours and Safety Standards Act ([40 U.S.C. 3701-3708](#)).

Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with [40 U.S.C. 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)). Under [40 U.S.C. 3702](#) of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of [40 U.S.C. 3704](#) are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

RIGHTS TO INVENTIONS MADE UNDER CONTRACT OR AGREEMENT - 2 CFR Part 200 Appendix II (F)

Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Providing Goods and Services to the City

When City is Buying with Federal Funds

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Subrecipient agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to Federal awarding agency and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

Clean Air Act

The Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

The Subrecipient agrees to report each violation to the Grantor and understands and agrees that the Grantor will, in turn, report each violation as required to assure notification to the Grantor, Federal Emergency Management Grantor, and the appropriate Environmental Protection Grantor Regional Office. (3) The Subrecipient agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by Federal awarding agency.

Federal Water Pollution Control Act

The Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

The Subrecipient agrees to report each violation to the Grantor and understands and agrees that the Grantor will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

The Subrecipient agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by Federal awarding agency."

DEBARMENT/SUSPENSION

Either language can be added to the agreement, or the entity can sign a certification.

Language added to agreement:

By signing this grant, Subrecipient certifies that neither Subrecipient, Subcontractor, nor their principals, are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions with State or Federal Government by and Department or Grantor of the State or Federal Government.

Or certification to be signed:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

Subrecipient Covered Transactions:

1. The prospective subrecipient of the Grantee certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

2. Where the Grantee's subrecipient is unable to certify to the above statement, the prospective subrecipient shall attach an explanation to this form.

SUBRECIPIENT:

Name of Company

Providing Goods and Services to the City When City is Buying with Federal Funds

Street Address

City, State, Zip

Federal Employer Identification Number (FEIN)

Data Universal Number System (DUNS) or Unique Entity Identifier (UEI)

By: _____
Signature Date

Subrecipient Name

Grantee Agreement Number

BYRD ANTI-LOBBYING AMENDMENT - 2 CFR Part 200 Appendix II (J)

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

RESTRICTIONS FOR LOBBYING

Either language can be added to the agreement, or the entity can sign a certification.

Language added to agreement:

Subrecipient assures that:

No federal funds from this agreement will be paid by for on behalf of Subrecipient, to any person for influencing or attempting to influence an officer or employee of any Grantor, a Member of Congress in connection with the awarding of any federal contract; the making of any federal grant, the making of any federal loan, the entering of any cooperative agreement; or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If any grant funds other than federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Grantor, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, Subrecipient agrees to complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

Subrecipient shall require that the language of the Subrecipient Assurances in this Attachment be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall comply with these Subrecipient Assurances.

Public Law No.104-208, Section 503 expressly prohibits the use of appropriated funds for indirect or "grassroots" lobbying efforts that are designed to support or defeat legislation pending before state legislatures. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress or any state legislative

Providing Goods and Services to the City When City is Buying with Federal Funds

body itself.

Governmental entities are prohibited by law from lobbying. Activities designed to influence action in regard to a particular piece of pending state or federal legislation are considered lobbying. That includes lobbying for or against pending legislation, as well as indirect or "grass roots" lobbying efforts that are directed at inducing the public to contact their elected representatives to urge support of, or opposition to, pending legislation.

The North Dakota attorney general has determined that governmental entities may provide the public with neutral factual information but may not, without express legislative authority, expend public funds for the purpose of influencing the result of an election issue, including initiated measures.

No part of any funding may be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence election issues or pending legislation.

Or certification to be signed:

CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, _____, hereby certify (Name and title of official)

On behalf of _____ that: (Name of Company Name)

No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.

Name of Bidder/Company Name _____

Type or print name _____

Providing Goods and Services to the City When City is Buying with Federal Funds

Signature of Authorized representative _____ Date ____/____/____

Signature of notary and SEAL _____

PROCUREMENT OF RECOVERED MATERIALS

In the performance of this contract, the Subrecipient shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—

Competitively within a timeframe providing for compliance with the contract performance schedule.

Meeting contract performance requirements; or

At a reasonable price.

Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site,

<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

PROHIBITION ON CERTAIN TELECOMMUNICATION AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

The Subrecipient agrees to comply with 2 CFR 200.216 and is prohibited to obligate or spend grant funds (to include direct and indirect expenditures as well as cost share and program) to: Procure or obtain.

Extend or renew a contract to procure or obtain; or

Enter into contract (or extend or renew contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Pub. L. 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

Telecommunications or video surveillance services provided by such entities or using such equipment.

Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise, connected to the government of a covered foreign country.

BUY AMERICA REQUIREMENTS AND DOMESTIC PREFERENCES FOR PROCUREMENT

The Subrecipient agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in Federal awarding agency funded projects are produced in the United States, unless a waiver has been granted by Federal awarding agency or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. §5323(u) and 49 C.F.R. § 661.11. Domestic preferences for procurements The bidder

Providing Goods and Services to the City

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or offeror must submit to the Grantor the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

Build America Buy America (BABA). The Build America, Buy America Act was enacted as part of the infrastructure Investment Jobs Act (IIJA). Pub L.117-58. The Act establishes a domestic content procurement preference. Section 70912 defines projects to include “the construction, alteration, maintenance, or repair of Infrastructure in United States” and includes within the definition of infrastructure those items traditionally included along with buildings and real property. Any funds obligated by the grantee to the subrecipient are covered under the Build America, Buy America (BABA) provisions of the Act, 41 U.S.C. 8301 note.

WASTE, FRAUD, OR ABUSE - NOTIFICATION TO FEDERAL AWARDING AGENCY

If a current or prospective legal matter that may affect the Federal Government emerges, the Subrecipient must promptly notify the Federal awarding agency in which the Subrecipient is located. The Subrecipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its sub agreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220. (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason. (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements. (3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the Federal awarding agency, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from the Federal awarding agency. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this 18 Agreement or another agreement between the Subrecipient and Federal awarding agency, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Subrecipient.



Administration Department

DATE: August 11, 2026

FROM: Douglas Wiles, Assistant City Administrator

ITEM: Application for a new Class C-2 Hotel or Motel License

REQUEST:

Public hearing on an application for a Class C-2 Hotel or Motel alcohol license by Jassi Bismarck 29 Corporation (dba) LaQuinta Inn & Suites at 2240 North 12th Street.

BACKGROUND INFORMATION:

Jassi Bismarck 29 Corporation (dba) LaQuinta Inn & Suites is applying for a class C-2 Hotel or Motel Alcoholic Beverages license at 2240 North 12th Street.

Class C-2. To a hotel or motel that provides at least forty-five rooms for transient guests, to provide on-sale or complementary alcoholic beverages to registered customers and their guests in their rooms or in a common room designated for that purpose. The value of the alcoholic beverages sold shall not exceed the value of the alcoholic beverages given to or otherwise provided to registered customers and their guests. Any alcoholic beverage sold or provided under this license shall not be mixed or dispensed in the direct view of a minor.

RECOMMENDED CITY COMMISSION ACTION:

Hold a public hearing on the Class C-2 Hotel or Motel alcohol license by Jassi Bismarck 29 Corporation (dba) LaQuinta Inn & Suites at 2240 North 12th Street and approve as presented.

STAFF CONTACT INFORMATION:

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

ATTACHMENTS:

1. LaQuinta Application



APPLICATION FOR RETAIL ALCOHOL BEVERAGE LICENSE

Phone: 701-355-1300 • Fax: 701-221-6470 • TDD 711
221 N 5th St • Bismarck, ND 58501
LAST REVISED: 4/17/2026

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

License Type:		☒ New Application	☐ Renewal	☐ Transfer	☐ Relocation
Class A: Nationally Organized Fraternal Order or Club ☐ \$3,725	Class B-1: Operator of the Beverage Concession at the Airport Terminal Building ☐ \$675	Class B-2: Concession at the Bismarck Municipal Country Club ☐ \$675	Class B-3: Commercial passenger vessels on the Missouri River ☐ \$675	Class B-4: Sale of Beer & Wine at the Bismarck Event Center ☐ \$675	
Class B-5: Sale of Alcoholic Beverages at Bismarck Parks & Recreation Locations ☐ \$675	Class B-6: Commercial Airline ☐ \$675	Class C-1: Hotel or Motel Full Service ☐ \$3,825	Class C-2: Hotel or Motel ☒ \$1,025	Class D: Sale at Retail of Alcoholic Beverages ☐ \$4,125	
Class E: Sale at Retail of Beer Only ☐ \$825	Class F-1: Restaurant - Alcoholic Beverages ☐ \$3,525	Class F-2: Restaurant - Beer & Wine Only ☐ \$1,125	Class G: Catered Retail Alcoholic Beverages ☐ \$675	Class H-1: Domestic Winery ☐ \$825	
Class H-2: Domestic Brewery ☐ \$825	Class H-3: Domestic Distillery ☐ \$825	Class I-1: Senior Living Community ☐ \$375	Class I-2: Complimentary ☐ \$375		

All Class F-1, F-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.

All Class C-2 license holders shall file with the application for license renewal a report verifying that the value of the alcoholic beverages sold did not exceed the value of the alcoholic beverages given to or otherwise provided to registered customers and their guests.

Location Information:

Legal Business Name: <u>Jassi Bismarck 29 corporation</u>		Date of Incorporation: <u>11/19/2025</u>	State Business ID Number: <u>41-2678978</u>
Doing Business As (DBA) Name, if Applicable: <u>Laquinza inn & suites</u>		If out of state corporation, is corporation registered in North Dakota? ☒ Yes ☐ No	
Location Address: <u>2240 N 12th St</u>	City: <u>Bismarck</u>	State: <u>ND</u>	Zip: <u>58501</u>
		Phone Number: <u>701-751-3313</u>	
Name and Title of Person Completing Form (must be the person listed in ownership information or manager): 			

Contact Information (Where correspondence is to be sent):

Primary Contact: <u>Amrisha Patel</u>		Phone Number:	Email Address:
Mailing Address:		City: <u>Bismarck</u>	State: <u>ND</u>
		Zip: <u>58501</u>	

Manager's Name: <u>SINGH HARMEET JAWANDA</u>		Date of Birth: <u>1/1968</u>	Percentage of Ownership:
Driver's License Number:	State Issued: <u>MONTANA</u>	Gender: <u>MALE</u>	Race:
Home Address:	City: <u>GLENDALE</u>	State: <u>MONTANA</u>	Zip: <u>59330</u>
Occupation:	Phone Number:	Title:	Email Address:

List all officers or directors of corporation or partners and percentage of ownership:

Name: Amrinish Patel		Date of Birth: 11/9/72	Percentage of Ownership: 100%
Driver's License Number:	State Issued: Illinois	Gender: M	Race:
Home Address:	City: Schaumburg	State: IL	Zip: 60194
Occupation:	Phone Number:	Title: owner	Email Address:

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

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

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

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

06/10/2026
Date

Amrisha Patel

Print Name / Title of Officer

Liquor License Transfers (only use if license is being transferred):

The Class _____ license owned by me is transferred to Applicant upon successful application.

Business Name

Applicant Business Name

Original License Holder Name Printed

Transfer Applicant Name Printed

Original License Holder Signature

Transfer Applicant Signature

State of

Subscribed and sworn to before me this _____

County of

day of _____

Notary Public

My Commission Expires

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.

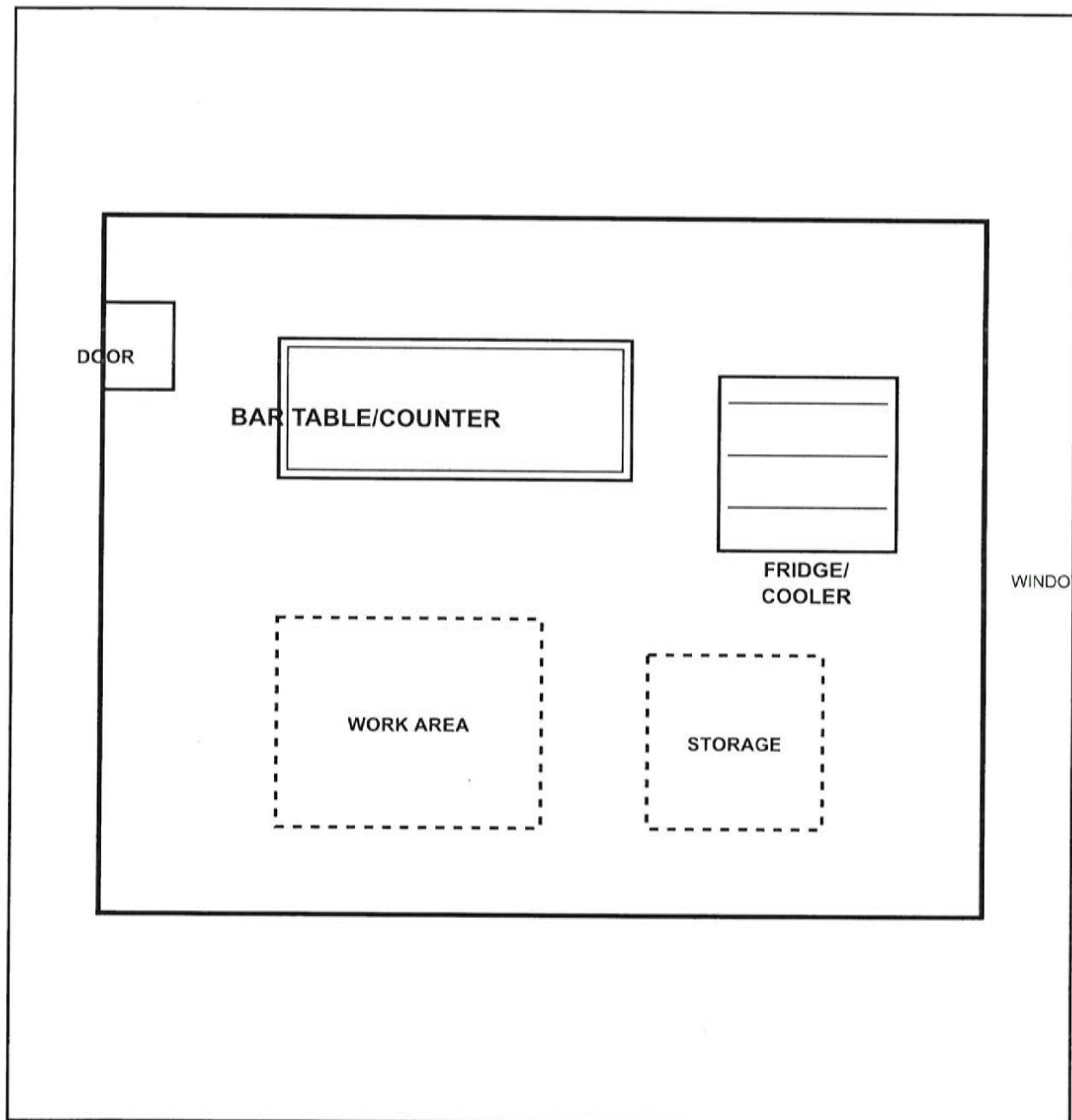
Site Diagram

Agency Name: _____

North



SITE DIAGRAM - BAR & COOLER LAYOUT



Legend:

- Solid Lines: Fixed structures and equipment
- - - Dashed Lines: Work and storage areas



Legal Department

DATE: August 11, 2026

FROM: Julie Mees, City Attorney

ITEM: Ordinance 6674

REQUEST:

Public hearing on Ordinance 6674 to amend Sections 2-05-01, 2-05-02, and 6-09-04 of the City of Bismarck Code of Ordinances relating to Term of Office, Duties and Powers, and Fee Assessments for Funding Crime Victim and Witness Program.

BACKGROUND INFORMATION:

North Dakota Century Code Section 27-01-10 requires a municipal judge to assess a fee for funding crime victim and witness programs. The fee is not to exceed 25 dollars and is to be imposed on a defendant who pleads guilty to or is convicted of violating a municipal ordinance for which the maximum penalty that may be imposed under the ordinance for the violation includes imprisonment, unless the defendant is indigent and unable to pay the fee. As required by this statute, the City has previously enacted Ordinances 2-05-02 Duties and Powers and 6-09-04 Fee Assessments for Funding Crime Victim and Witness Programs. The change to Ordinance 2-05-02 is to correct the citation format to the Century Code. The change to 6-09-04 is to amend the language to mirror N.D.C.C. Section 27-01-10 and Ordinance 2-05-02. It also strikes references to violations of specific ordinances. One of the listed ordinances has been repealed.

The City does not have a victim and witness program. In April, the City Commission approved a Memorandum of Understanding with Burleigh County in which the City Attorney's Office may request victim and witness services from the Burleigh County State's Attorney's Office for victims or witnesses who request such services. The Burleigh County State's Attorney's Office Victim/Witness Program provides direct services to victims and witnesses of crime, as contemplated by the Century Code. The fees required by the Century Code and assessed by the municipal court are deposited into the City's general fund and paid to the Victim/Witness Program annually.

The amendment to Section 2-05-01 Term of Office refines the language used.

RECOMMENDED CITY COMMISSION ACTION:

Hold the public hearing on Ordinance 6674 and approve as presented.

STAFF CONTACT INFORMATION:

Julie Mees, City Attorney, 701-355-1340, jmees@bismarcknd.gov

ATTACHMENTS:

1. Ord 6674

**CITY OF BISMARCK
ORDINANCE NO. 6674**

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

AN ORDINANCE TO AMEND SECTIONS 2-05-01, 2-05-02, AND 6-09-04 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.), AS AMENDED, RELATING TO TERM OF OFFICE, DUTIES AND POWERS, AND FEES ASSESSMENTS FOR FUNDING CRIME VICTIM AND WITNESS PROGRAMS

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

Section 1. Amend. Section 2-05-01 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Term of Office is hereby amended to read as follows:

2-05-01. Term of Office. The municipal judge shall hold office for a term of four years from and after his election, and until a successor is elected and qualified.

Section 2. Amend. Section 2-05-02 of the Code of Ordinances of the City of Bismarck, North Dakota relating to Duties and Powers is hereby amended to read as follows:

2-05-02. Duties and Powers. The judge has the power to perform all duties prescribed by state law, specifically N.D.C.C. Chapter 40-18, ~~NDCC~~, and the ordinances of the city. The judge has the authority to impose any fee, fine, court cost, impact fee or other charge authorized by state law, by a fee schedule approved by the City Commission or imposed by ordinances of the city. The judge may impose a fee of twenty-five dollars (\$25) as part of a sentence imposed on a defendant who pleads guilty to or is convicted of violating a city ordinance for which the maximum penalty that may be imposed under the ordinance for the violation includes imprisonment. All fees paid to the municipal court under this section shall be deposited in the general fund monthly for annual allocation by the board of city commissioners to victim and witness advocacy programs whose primary function is to provide direct services to victims and witnesses of crime or to the statewide automated victim information and notification system, as provided for under N.D.C.C. Chapter 12.1-34, ~~NDCC~~.

Section 3. Amend. Section 6-09-04 of the Code of Ordinances of the City of Bismarck, North Dakota relating to Fee Assessments for Funding Crime Victim and Witness Program is hereby amended to read as follows:

6-09-04. Fee Assessments for Funding Crime Victim and Witness Programs. The municipal judge may assess a fee of not more than twenty-five (~~25~~) dollars (\$25) as part of a sentence imposed on a defendant who pleads guilty to or is convicted of violating a city ordinance for which the maximum penalty that may be imposed under the ordinance for the violation includes imprisonment ~~a violation of Section 6-02-07, 6-03-01, 6-03-02, 6-03-03, 6-05-01, 6-05-02, 6-05-03, 6-05-06, 6-05-07, 6-05-08~~ or a charge of aiding, accomplice or attempt of these offenses. The fee assessed under this section is in addition to any fine, penalty, costs, or administrative fee prescribed by law. The municipal judge may assess the fee when sentence is imposed or when sentence is suspended or imposition of sentence is deferred, unless the defendant is indigent and unable to pay the fee. All fees paid to the municipal court under this section, or under City Ordinance ~~Section 2-05-02~~ shall be deposited in the general fund monthly for annual allocation by the board of city commissioners to private, non-profit domestic violence or sexual assault programs, to victim and witness advocacy programs whose primary function is to provide direct services to victims and witnesses of crime or to the statewide automated victim information and notification system, as provided for under Chapter N.D.C.C. 12.1-34, NDCC.

(Reference: NDCC 27-01-10)

(Chapter Source: Home Rule Charter for City of Bismarck)

(Ord. 4655, 12-20-94; Ord. 6313, 03-13-18)

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect upon final passage, and adoption.



Legal Department

DATE: August 11, 2026

FROM: Julie Mees, City Attorney

ITEM: Ordinance 6678

REQUEST:

Public hearing on Ordinance 6678 to amend sections 5-01-01, 5-01-06, 5-01-07, 5-01-13, and 5-03-05, of the City of Bismarck Code of Ordinances Relating to Alcoholic Beverages and Civic Center Exception, and Repeal 5-01-20 Relating to Enclosed Booths and Access to Licensed Premises and 5-10-01 Relating to Sunday Opening of Grocery Stores.

BACKGROUND INFORMATION:

This ordinance continues the City's ongoing effort to update the Code of Ordinances by clarifying ordinance language and removing unnecessary or outdated provisions. Ordinance 5-10-01 relating to the Sunday Opening of Grocery Stores was based on N.D.C.C. § 12.1-30-03, which was repealed in 2019.

RECOMMENDED CITY COMMISSION ACTION:

Hold public hearing on Ordinance 6678 and approve as presented.

STAFF CONTACT INFORMATION:

Julie Mees, City Attorney, 701-355-1340, jmees@bismarcknd.gov

ATTACHMENTS:

1. Ordinance 6678

CITY OF BISMARCK
ORDINANCE NO. 6678

First Reading

Second Reading

Final Passage and Adoption

AN ORDINANCE TO AMEND SECTIONS 5-01-01, 5-01-06, 5-01-07, 5-01-13, 5-03-05, OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 REV.), AS AMENDED, RELATING TO ALCOHOLIC BEVERAGES AND CIVIC CENTER EXCEPTION, AND REPEAL 5-01-20 RELATING TO ENCLOSED BOOTHS AND ACCESS TO LICENSED PREMISES AND 5-10-01 RELATING TO SUNDAY OPENING OF GROCERY STORES.

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

Section 1. Amend. Section 5-01-01 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Definitions, Alcoholic Beverages, is hereby amended to read as follows:

5-01-01. Definitions. For purposes of this chapter the following words and phrases have the meanings respectively ascribed herein:

* * * * *

~~4. "Growler" means a glass bottle not to exceed 64 ounces that is filled with beer by a licensee or an employee of a licensee with beer from a keg. The sale of growlers, in compliance with this Chapter, is authorized only for class D, E and O licensees approved to sell alcoholic beverages both on sale and off sale. The filling of growlers by means of tapped keg shall not constitute the breaking of a package as defined in this Chapter. Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler or produced by the licensee pursuant to applicable laws. Only professionally sanitized and sealed Growlers may be filled and made available for retail sale. The sale of a filled growler shall be considered off sale. A growler with a broken seal shall be considered an open container for the purposes of City Ordinance 6-07-07.~~

~~54. "Licensed premises" means the premises on which alcoholic beverages are normally sold or dispensed and shall be delineated by diagram or blueprint which shall be included with the license application or the license renewal application. Licensed premises includes all areas where alcoholic beverages are routinely stored, displayed, opened or mixed, and all lounges, bars and restaurants where alcoholic beverages are dispensed. Meeting rooms, banquet rooms, the Event Center arena, or other rooms not part of the licensed premises may be~~

~~leased and designated by groups or individuals for events such as receptions, banquets, Event Center events, or similar events at which alcoholic beverages may be consumed provided that the licensee does not open, mix or dispense alcoholic beverages in those areas not licensed.~~

~~65.~~ "Licensee" means the person to whom a license has been issued under the provisions of this chapter.

~~76.~~ "Liquor" means any alcoholic beverage other than beer.

~~87.~~ "Lodge" or "club" means any corporation or association organized for civic, fraternal, social or business purposes, or for the promotion of sports, which has at least 200 members at the time a license is applied for pursuant to this chapter, and was in existence at the time of the adoption of the Liquor Control Act of the state. For the purposes of this section, the date of the adoption of the Liquor Control Act of the state shall be November 3, 1936.

~~98.~~ "Off-sale" means the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold. A licensee with an off-sale license only, however, may periodically provide complimentary samples of alcoholic beverages for promotional purposes, to be consumed on the premises. Whenever any alcoholic beverages or food are served to be consumed "on premises," the licensee shall comply with all ordinances relating to the service of food.

~~109.~~ "On-sale" means the sale of alcoholic beverages for consumption only on the premises where sold except that nothing in this section shall prohibit any person from taking and consuming a lawfully purchased on-sale alcoholic beverage from one licensed premises to another licensed premises located contiguously in the same building

~~110.~~ "Packages" and "original package" means any container or receptacle holding alcoholic beverages which is corked or sealed by the manufacturer and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser.

~~121.~~ "Person" means persons, partnerships, other unincorporated associations and corporations.

~~1312.~~ "Sale" means any transfer, exchange, or barter in any manner or by any means whatsoever for a consideration, and includes all sales made by any person, whether principal proprietor, agent, servant or employee.

~~1413.~~ "Sell at retail" or "sale at retail" means a sale to a consumer for use or consumption and not for the purpose of resale in any form.

~~1514.~~ "Transfer" means any assignment, sale, exchange or other conveyance of any license issued pursuant to the provisions of this chapter. A transfer is deemed to have occurred upon the assignment, sale, exchange or other conveyance of fifty percent or more of the interest in a partnership or stock in a corporation, whether such assignment, sale, exchange or other conveyance

occurred in one single transaction or multiple transactions. However, the term "transfer" does not apply to the following described conveyances:

* * * * *

e. When an individual licensee transfers a license to a blood relative of the first degree, as defined by the North Dakota Century Code, or to a grandchild of the individual licensee if the grandchild's parents are deceased. For purposes of this subsection only, conveyance of shares of stock in a corporate licensee ~~are~~ is not a "transfer" if the person seeking to convey shares of stock owns at least a majority of the outstanding shares of stock in the corporation.

* * * * *

~~46~~15. "Wholesaler" means any person engaged in the sale and distribution of liquor or beer at wholesale to persons holding a retail license for the sale and distribution of alcohol and alcoholic beverages within the state or in interstate commerce.

~~47~~16. "Wine" means the alcoholic beverage obtained by fermentation of agricultural products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four percent alcohol by volume.

Section 2. Amend. Section 5-01-04 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Classes of Retail Licenses, is hereby amended to read as follows:

5-01-04. Classes of Retail Licenses.

2. Licenses for the retail sale of alcoholic beverages ~~liquor or the retail sale of beer~~ are divided into the following classes for the purpose of determining the number of licenses to be issued and outstanding:

* * * * *

b. Class B. All Class B licenses authorize the licensee to sell on-sale.

1. Class B-1. To the operator of the beverage concession at the airport terminal building. The license may not be transferred and must be held only by the operator who has been awarded the concession, and be held only for the period of the operator's concession and shall terminate with the termination of the concession contract or lease. ~~The license fees therefor shall be paid to the airport fund. A Class "B" license shall authorize the licensee to sell "on-sale".~~

* * * * *

3. Class B-3. Food and beverage licenses for liquor, wine and beer for commercial passenger vessels on the Missouri River, not engaged in interstate commerce, subject to the following restrictions and conditions:

* * * * *

(e) ~~Gross sales of alcoholic beverages may not be greater than 45 percent of total gross sales of and alcoholic beverages.~~

(f) The vessel and its operations comply with state law regarding minors in licensed premises as listed in North Dakota Century Code Title 5.

* * * * *

c. Class C. A Class C license authorizes the licensee to sell on-sale only, however, this restriction does not preclude customary room service to registered guests of the licensee.

1. Class C-1. To a hotel or motel that provides at least one hundred rooms for transient guests with continuous service and dining facilities with a seating capacity of at least fifty seats as a part of the hotel or motel operations and a full menu normally provided by a restaurant, and maintained and open seven days a week. The fifty seats for dining facilities are in addition to seating facilities for customers for the liquor facilities. ~~A Class "C" license authorizes the licensee to sell "on-sale" only, however, this restriction does not preclude customary room service to registered guests of the licensee.~~

* * * * *

d. Class D. To any applicant for the sale at retail of alcoholic beverages other than applicants in other classifications. The total number of Class D licenses issued in any year may not exceed twenty-four, 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 D licenses or Class D licenses revoked or not renewed may be issued only pursuant to ~~section~~ Section 5-01-06. ~~A Class D licensee that does not have an "on-sale" location may be issued an event permit under Section 5-01-13 to sell alcoholic beverages "on-sale" at locations as designated in the permit.~~

f. 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.

Class F-2 - Beer and wine only.

* * * * *

(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~~ Section 5-01-09.

* * * * *

g. Class G. A license to sell catered alcoholic beverages on-sale only, may be issued subject to the following conditions:

* * * * *

(3) Gross sales of alcoholic beverages may not be greater than 45 percent of the total gross sales of food and alcoholic beverages. All Class 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~~ 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.

* * * * *

i. Class I.

1. Class I-1. To an applicant for the sale of "on-sale" only beer, wine and liquor, subject to the following conditions:

(d) Once a license has been established at a particular location, the license may not be transferred to another location.
~~The licensee may not sponsor or permit public dances or public dancing at a time when alcoholic beverages are being dispensed or consumed. Minors cannot have view of the location where alcoholic beverages are dispensed.~~

Section 3. Amend. Section 5-01-06 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to License Application, is hereby amended to read as follows:

5-01-06. License Application.

1. Applications for licenses issued pursuant to this chapter must be submitted on an application form provided by the city, ~~under oath~~, and set forth all information as may be required to determine qualifications. Applications not completed in full as required or not accompanied by the required fee must be rejected.

* * * * *

3. Applications to renew a license for a second or subsequent year and required annual license fee, which shall be refunded if the application is not approved, must be filed with the office of city administration no later than July December 1. An application fee is not required for applications for a second or subsequent year.

* * * * *

5. If an application for a license renewal is not filed and approved prior to ~~August~~ December 1, the licensee must cease business after July December 31, and may apply for a new license, if available, pursuant to this section.

Section 4. Amend. Section 5-01-07 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Hearing to Approve License Application and Site Location, is hereby amended to read as follows:

5-01-07. Hearing to Approve License Application and Site Location.

* * * * *

4. A holder of a liquor license may not rent or lease the use of the license to any other party. A holder of a liquor license may not operate more than one entity under a single license except when specifically allowed by the license unless:

* * * * *

~~A licensee may not rent or lease the use of the license to any other party.~~

* * * * *

Section 4. Amend. Section 5-01-13 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Event Permits to Sell at Designated Locations, is hereby amended to read as follows:

5-01-13. Event Permits to Sell at Designated Locations.

1. Pursuant to N.D.C.C. 5-02-01.1, the City Administrator, acting under the authority of the Board of City Commissioners, may by an event permit authorize a licensee to engage in the "on-sale" of alcoholic beverages at events on licensed premises designated by the permit. ~~Except for events at the Bismarck Event Center, the~~ The permit shall not be valid for a period of greater than seven consecutive days. The City Administrator may issue up to 14 permits from one application if the application covers a reoccurring event for consecutive days at one location. ~~For events at the Event Center conducted by the City's liquor vendor, the City Administrator may issue one permit for multiple events for up to one month. For the purposes of this section, the Event Center shall include the Arena, the Exhibit Hall and the Belle Mehus Auditorium.~~

a. An event permit authorizes a qualified licensee to engage in the sale of alcoholic beverages at a non-recurring or one-time event. The event must be held for the purpose of celebrating, commemorating, or

promoting a specific occasion or cause. The ~~vent~~ event must be ~~district~~ distinct from the licensee's regular business operations and held at a location other than the licensee's regular business premises. Events must have a defined purpose, date(s), and host. Events shall not be ~~uses~~ used to serve as a recurring or continuous alcohol outlet.

* * * * *

Section 5. Repeal. Section 5-01-20 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Enclosed Booths and Access to Licensed Premises, is hereby repealed:

~~5-01-20. Enclosed Booths and Access to Licensed Premises. A non-sale licensee may not construct, place or maintain in any closed booth, and all booths within licensed premises must be open and readily accessible, and a booth may not have any screen, curtain, partition or blind or obstruction of any kind preventing a clear view into the booth from the main room or aisle of the licensed premises.~~

Section 6. Amend. Section 5-03-05 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Civic Center Exception, is hereby amended to read as follows:

5-03-05. Civic Event Center Exception. The provisions of this chapter relating to permits and fees for shows, circuses and carnivals do not apply to the Event Center~~civic center~~.

Section 7. Repeal. Section 5-01-20 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Sunday Opening of Grocery Stores, is hereby repealed:

~~5-10-01. Sunday Opening of Grocery Stores. Pursuant to N.D.C.C. 12.1-30-03(30), food stores shall be allowed to have not more than one hundred employees working in the store at one time on a Sunday.
(Ord. 4277, 7-25-89)~~

Section 8. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 9. Effective Date. This ordinance shall take effect upon final passage and adoption.



Planning Department

DATE: August 11, 2026

FROM: Daniel Nairn, Planning Department Director

ITEM: Tree Top Addition First Replat, Block 1, Part of Lots 1-2 – Easement Release

REQUEST:

Public hearing on the release of the access, watermain, sanitary sewer, stormwater, drainage, and utility easement on Lot 1 less the South 5 feet and all of Lot 2, Block 1, Tree Top Addition First Replat

BACKGROUND INFORMATION:

Hansonmn, LLC. is requesting release of an access, watermain, sanitary sewer, stormwater, drainage, and utility easement on Lot 1 less the South 5 feet and all of Lot 2, Block 1, Tree Top Addition First Replat.

The project is located in north Bismarck, south of 57th Avenue NE, west of Highway 83 NE, on the north side of Canada Avenue.

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.

RECOMMENDED CITY COMMISSION ACTION:

Approve the release of the access, watermain, sanitary sewer, stormwater, drainage, and utility easement on Lot 1 less the South 5 feet and all of Lot 2, Block 1, Tree Top Addition First Replat.

STAFF CONTACT INFORMATION:

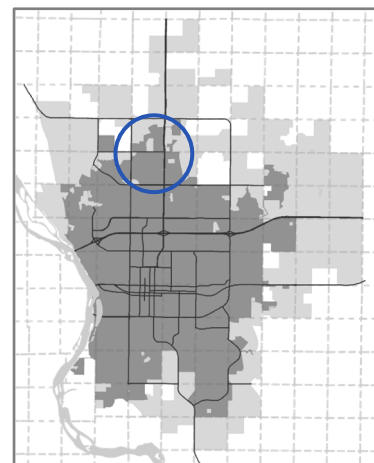
Daniel Nairn, Planning Department Director, 701-355-1854, dnairn@bismarcknd.gov
Lauren Oster, Planner, 701-355-1846, laoster@bismarcknd.gov

ATTACHMENTS:

1. Staff Report

Project Summary

<i>Title:</i>	Tree Top Addition First Replat, Block 1, Part of Lots 1-2
<i>Status:</i>	City Commission - Public Hearing
<i>Property Owner(s):</i>	Hansonmn LLC
<i>Project Contact:</i>	Jason Petryszyn, PE, Swenson Hagen & Co.
<i>Project Location:</i>	In north Bismarck, south of 57th Avenue NE, west of Highway 83 NE, on the north side of Canada Avenue
<i>Project Size:</i>	2.55 acres, more or less
<i>Applicant Request:</i>	Release easement to facilitate building expansion
<i>Staff Recommendation:</i>	Approve



Project Narrative

Hansonmn LLC is requesting release of an access, watermain, sanitary sewer, stormwater, drainage, and utility easement on Lot 1 less the South 5 feet and all of Lot 2, Block 1, Tree Top Addition First Replat.

The easement was granted with the plat of Tree Top Addition First Replat, which was recorded November 29, 2021.

A lot modification request to combine Lot 1 less the South 5 feet and Lot 2 was approved on July 8, 2026.

Public Engagement

Release of any easement, other than franchise utility easements, requires a public hearing by City policy. Owners of adjacent properties have been notified of the public hearing to be held on this request.

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

All written comments received by staff prior to the public hearing will be distributed to the City Commission and summarized by staff during the oral presentation.

(continued)

Project Context

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



The property has been identified as Destination Mixed Use (DMU) in the Future Land Use Plan. The DMU areas are the major commercial and employment centers that serve the entire regional trade area of Bismarck as well as visitors. Implementation goals of this plan as they relate to easement releases are referenced in review standards below.

Adjacent uses include single- and two-family residential to the west, an office building to the southeast, stormwater and drainage facilities to the south, and retail to the north and east across Highway 83 NE.

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.

The easement proposed for release is no longer needed for the purpose for which it was dedicated ([Goal C10-b](#), [Goal C11](#))

Yes. The City Engineer has affirmed that the utility easement proposed for release is not necessary for City services and operations. Public utility providers with facilities or operations in the area have affirmed in writing that the easement, or part thereof, proposed for release is not necessary to their present or planned service.

Release of the proposed access easement would not render any property inaccessible, and it would not significantly inhibit vehicular or pedestrian circulation throughout the area

The City Engineer has affirmed that the proposed release of this stormwater and drainage easement will not negatively affect the quantity or quality of water runoff through this area, and that the sanitary sewer and water easement proposed for release is not necessary for City water or sewer services and operations.

Proper administrative procedures related to the request are being followed

Yes. The proposed easement is subject to a public hearing and notification requirements,

(continued)

according to the City's Easement Release policy. A public hearing has been scheduled for this requested easement release, and all notice requirements have been met, as documented in this report above.

The public health, safety and general welfare will not be adversely impacted by the proposed release of a non-access line ([Goal S10-a](#))

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

Staff Recommendation

Based on the above findings, staff recommends approval of the release of the access, watermain, sanitary sewer, stormwater, drainage, and utility easement on Lot 1 less the South 5 feet and all of Lot 2, Block 1, Tree Top Addition First Replat.

Attachments

1. Draft Resolution
2. Release Exhibit
3. Utility Consent Forms

Staff report prepared by: Lauren Oster, Planner

701-355-1846 | laoster@bismarcknd.gov

**RESOLUTION OF
THE BISMARCK BOARD OF CITY COMMISSIONERS**

**RELEASE OF ACCESS, WATER, SANITARY SEWER, STORMWATER, DRAINAGE, &
UTILITY EASEMENT
IN TREE TOP ADDITION FIRST REPLAT (PLMD2026-012)**

WHEREAS, the owners of property described as Lot 1 less the South 5 feet and all of Lot 2, Block 1, Tree Top Addition First Replat, adjoining and contiguous to a platted access, water, sanitary sewer, stormwater, drainage, and utility easement, have heretofore joined in petition requesting that said access, water, sanitary sewer, stormwater, drainage, and utility easement be released, verified by oath of at least one petitioner and accompanied by a plat of said easement to be released, having set forth the facts and reason for said release; and

WHEREAS, said platted easement is shown on the plat of Tree Top Addition First Replat, which was recorded on November 29, 2021; and

WHEREAS, the City Engineer has determined that the access, water, sanitary sewer, stormwater, drainage, and utility easement proposed for release is no longer necessary to provide access, water, sanitary sewer, stormwater, drainage, and utility services to the area; and

WHEREAS, the utility service providers for which the easement was granted have filed consent with the City of Bismarck.

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that the petition to release access, water, sanitary sewer, stormwater, drainage, and utility easement described as:

The northerly portion of the 26' access, watermain, sanitary sewer, stormwater, drainage & utility easement of Lot 1 less the South 5' and all of Lot 2, Block 1, Tree Top Addition First Replat in the City of Bismarck, Burleigh County, North Dakota, more specifically described as follows:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SAID LOT 1 AND THE SOUTH LINE OF THE 45' STORMWATER, DRAINAGE & ACCESS EASEMENT OF SAID TREE TOP ADDITION FIRST REPLAT; THENCE SOUTH 89 DEGREES 29 MINUTES 41 SECONDS EAST, ON SAID SOUTH LINE, A DISTANCE OF 13.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 05 SECONDS WEST, ON THE BOUNDARY OF SAID 26' ACCESS, WATERMAIN, SANITARY SEWER, STORMWATER, DRAINAGE, & UTILITY EASEMENT, A DISTANCE OF 73.29 FEET; THENCE SOUTHERLY AND TO THE LEFT, CONTINUING ON SAID BOUNDARY, ON A 28.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 43.98 FEET; THENCE SOUTH 89 DEGREES 57 MINUTES 55 SECONDS EAST, CONTINUING ON SAID BOUNDARY, A DISTANCE OF 12.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 05 SECONDS WEST, CONTINUING ON SAID BOUNDARY, A DISTANCE OF 5.00 FEET TO A LINE THAT IS AN EASTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 5' OF SAID LOT 1; THENCE NORTH 89 DEGREES 57 MINUTES 55

SECONDS WEST, ON SAID NORTH LINE AND ITS EASTERLY EXTENSION, A DISTANCE OF 66.00 FEET TO THE BOUNDARY OF SAID EASEMENT; THENCE NORTH 00 DEGREES 02 MINUTES 05 SECONDS EAST, ON SAID BOUNDARY, A DISTANCE OF 106.50 FEET; THENCE SOUTH 89 DEGREES 29 MINUTES 41 SECONDS EAST, CONTINUING ON SAID BOUNDARY, A DISTANCE OF 13.00 FEET TO THE POINT OF BEGINNING

in the City of Bismarck, Burleigh County, North Dakota

is in all things allowed and granted.

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

Adopted this 11th Day of August 2026.

CERTIFICATE

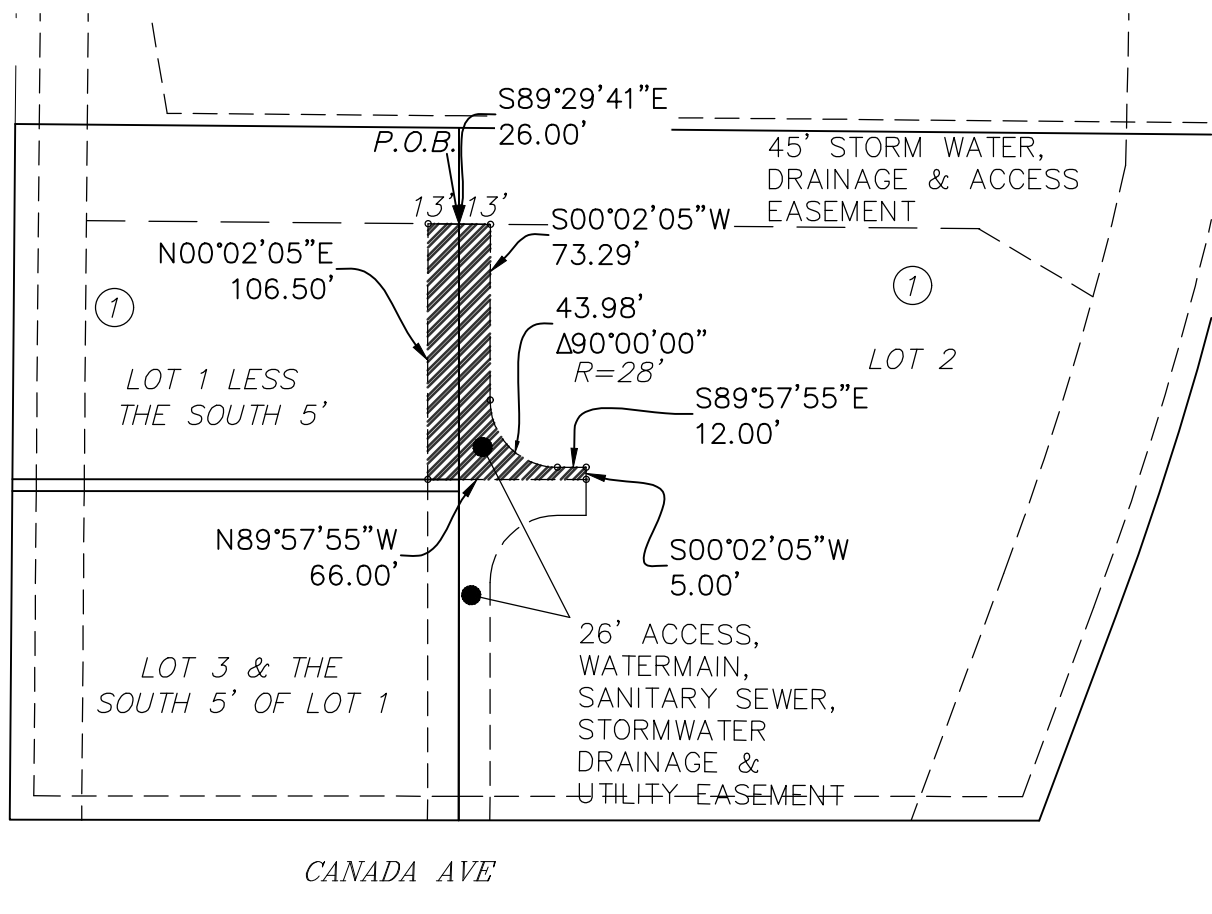
I, Jason Tomanek, do hereby certify that I am the duly appointed, qualified City Administrator of the City of Bismarck, North Dakota, and that the foregoing is a full, true and correct copy of a resolution adopted at a legally convened meeting of the Board of City Commissioners held on this August 11, 2026.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota.

Jason Tomanek
City Administrator
Bismarck, North Dakota

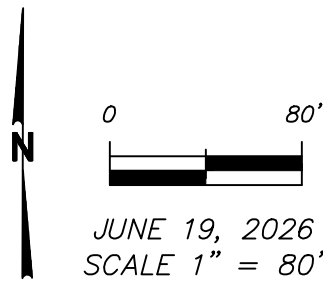
Date

EASEMENT RELEASE EXHIBIT



THE NORTHERLY PORTION OF THE 26' ACCESS, WATERMAIN, SANITARY SEWER, STORMWATER, DRAINAGE & UTILITY EASEMENT OF LOT 1 LESS THE SOUTH 5' AND ALL OF LOT 2 BLOCK 1 OF TREE TOP ADDITION FIRST REPLAT, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, MORE SPECIFICALLY DESCRIBED AS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SAID LOT 1 AND THE SOUTH LINE OF THE 45' STORMWATER, DRAINAGE & ACCESS EASEMENT OF SAID TREE TOP ADDITION FIRST REPLAT; THENCE SOUTH 89 DEGREES 29 MINUTES 41 SECONDS EAST, ON SAID SOUTH LINE, A DISTANCE OF 13.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 05 SECONDS WEST, ON THE BOUNDARY OF SAID 26' ACCESS, WATERMAIN, SANITARY SEWER, STORMWATER, DRAINAGE & UTILITY EASEMENT, A DISTANCE OF 73.29 FEET; THENCE SOUTHERLY AND TO THE LEFT, CONTINUING ON SAID BOUNDARY, ON A 28.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 43.98 FEET; THENCE SOUTH 89 DEGREES 57 MINUTES 55 SECONDS EAST, CONTINUING ON SAID BOUNDARY, A DISTANCE OF 12.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 05 SECONDS WEST, CONTINUING ON SAID BOUNDARY, A DISTANCE OF 5.00 FEET TO A LINE THAT IS AN EASTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 5' OF SAID LOT 1; THENCE NORTH 89 DEGREES 57 MINUTES 55 SECONDS WEST, ON SAID NORTH LINE AND ITS EASTERLY EXTENSION, A DISTANCE OF 66.00 FEET TO THE BOUNDARY OF SAID EASEMENT; THENCE NORTH 00 DEGREES 02 MINUTES 05 SECONDS EAST, ON SAID BOUNDARY, A DISTANCE OF 106.50 FEET; THENCE SOUTH 89 DEGREES 29 MINUTES 41 SECONDS EAST, CONTINUING ON SAID BOUNDARY, A DISTANCE OF 13.00 FEET TO THE POINT OF BEGINNING.





SWENSON, HAGEN & COMPANY P.C.
3002 Airway Avenue
Bismarck, North Dakota 58504
sheng@swensonhagen.com
Phone (701) 223-2600
Fax (701) 223-2606
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management



SWENSON, HAGEN & CO. P.C.

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

June 26, 2026

Midcontinent Communications
Randy Heaton
719 Memorial Highway
Bismarck, ND 58504

Re: Lots 1-2 Block 1 of Tree Top Addition First Replat

Dear Randy,

HansonMN, LLC wishes to release the portion shown on the attached exhibit and replaced with new easements following installed lines.

If you agree with this easement release, please sign your consent below and return to the office of Swenson, Hagen & Co. within the next 10 business days. Also, please sign the City of Bismarck Utility Consent Form and return.

Sincerely,

Landon Niemiller
Land Development Planner

LN;lm

I, Randy Heaton, a representative of Midcontinent Communications, hereby consent to the proposed vacation of the above described utility easement.

Midcontinent Communications



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

Last Revised: 1/11/2023

UTILITY CONSENT FORM

Consent Provided for:

- ☐ Right-of-Way Vacation
- ☒ Easement Release
- ☐ Encroachment within Easement (e.g. sign)

Name of Utility Service Provider:	
Legal Description of area proposed for release/vacation:	THE NORTH 106.26 FEET OF THE 26' ACCESS, WATERMAIN, SANITARY SEWER, STORMWATER, DRAINAGE & UTILITY EASEMENT OF LOTS 1 & 2 BLOCK 1 OF TREE TOP ADDITION FIRST REPLAT, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA,

- ☒ An exhibit of the above-described area is attached to this form

Conditions Required (if any):	
-------------------------------	--

I, Randy Heaton, a representative of the above-noted utility provider, hereby consent to the action described herein with the understanding that all noted conditions would be met.

Randy Heaton
(Signature)

6-26-2024
(Date)

Use Instructions:

This form must be completed, signed, and attached to any petition to release or vacate rights held by the utility service provider, or to any request for an encroachment within an easement without altering said easement. In the case of a general utility easement or public right-of-way, a separate form should be used for each entity providing utility services to the area within which the proposed vacation/release is located.



SWENSON, HAGEN & CO. P.C.

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

June 26, 2026

Mr. Greg Owen
Capital Electric Cooperative
PO Box 730
Bismarck, ND 58502-0730

Re: Lots 1-2 Block 1 of Tree Top Addition First Replat

Dear Greg,

HansonMN, LLC wishes to release the portion shown on the attached exhibit and replaced with new easements following installed lines.

If you agree with this easement release, please sign your consent below and return to the office of Swenson, Hagen & Co. within the next 10 business days. Also, please sign the City of Bismarck Utility Consent Form and return.

Sincerely,

Landon Niemiller
Land Development Planner

LN;lm

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

Capital Electric Cooperative



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

Last Revised: 1/11/2023

UTILITY CONSENT FORM

Consent Provided for:

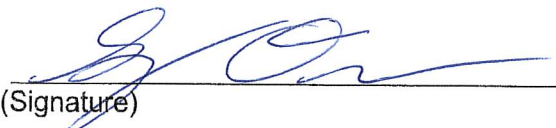
- ☐ Right-of-Way Vacation
- ☒ Easement Release
- ☐ Encroachment within Easement (e.g. sign)

Name of Utility Service Provider:	
Legal Description of area proposed for release/vacation:	THE NORTH 106.26 FEET OF THE 26' ACCESS, WATERMAIN, SANITARY SEWER, STORMWATER, DRAINAGE & UTILITY EASEMENT OF LOTS 1 & 2 BLOCK 1 OF TREE TOP ADDITION FIRST REPLAT, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA,

- ☒ An exhibit of the above-described area is attached to this form

Conditions Required (if any):	<i>Electrical service lines currently located within north 45' storm water + Access Easement will be relocated, if requested, at requester's expense.</i>
-------------------------------	---

I, Greg Owen, a representative of the above-noted utility provider, hereby consent to the action described herein with the understanding that all noted conditions would be met.


(Signature)

6/29/2026
(Date)

Use Instructions:

This form must be completed, signed, and attached to any petition to release or vacate rights held by the utility service provider, or to any request for an encroachment within an easement without altering said easement. In the case of a general utility easement or public right-of-way, a separate form should be used for each entity providing utility services to the area within which the proposed vacation/release is located.



SWENSON, HAGEN & CO. P.C.

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

July 2, 2026

Montana-Dakota Utilities
Shelley Vetter
400 North 4th Street
Bismarck, ND 58501

Re: Lots 1-2 Block 1 of Tree Top Addition First Replat

Dear Shelley,

HansonMN, LLC Authority wishes to release the portion shown on the attached exhibit and replaced with new easements following installed lines.

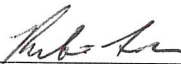
If you agree with this easement release, please sign your consent below and return to the office of Swenson, Hagen & Co. within the next 10 business days. Also, please sign the City of Bismarck Utility Consent Form and return.

Sincerely,

Landon Niemiller
Land Development Planner

LN;lm

I, Robert Frank, a representative of Montana-Dakota Utilities, hereby consent to the proposed vacation of the above described utility easement.



Montana-Dakota Utilities



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

Last Revised: 1/11/2023

UTILITY CONSENT FORM

Consent Provided for:

- ☐ Right-of-Way Vacation
- ☒ Easement Release
- ☐ Encroachment within Easement (e.g. sign)

Name of Utility Service Provider:	
Legal Description of area proposed for release/vacation:	see attached description

- ☒ An exhibit of the above-described area is attached to this form

Conditions Required (if any):	
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I, ROBERT FRANK, a representative of the above-noted utility provider, hereby consent to the action described herein with the understanding that all noted conditions would be met.


(Signature)

7/9/2024
(Date)

Use Instructions:

This form must be completed, signed, and attached to any petition to release or vacate rights held by the utility service provider, or to any request for an encroachment within an easement without altering said easement. In the case of a general utility easement or public right-of-way, a separate form should be used for each entity providing utility services to the area within which the proposed vacation/release is located.



July 16, 2026

Swenson, Hagen & Company P.C.
ATTN: Lisa Macdonald
3002 Airway Avenue
Bismark, North Dakota 58504

No Reservations/No Objection

SUBJECT: Vacation of Portions of the 13' Wide Access, Watermain, Sanitary Sewer, Stormwater Drainage, and Utility Easements on Lots 1 and 2, Block 1 of Tree Top Addition First Replat

APN: 1501-001-001; 1501-001-050

To Whom It May Concern:

QWEST CORPORATION, d/b/a CENTURYLINK QC ("CenturyLink") has reviewed the request for the subject vacation and has determined that it has no objections with respect to the areas proposed for vacation as shown and/or described on Exhibit "A", said Exhibit "A" attached hereto and incorporated by this reference.

It is the intent and understanding of CenturyLink that this Vacation shall not reduce our rights to any other existing easement or rights we have on this site or in the area.

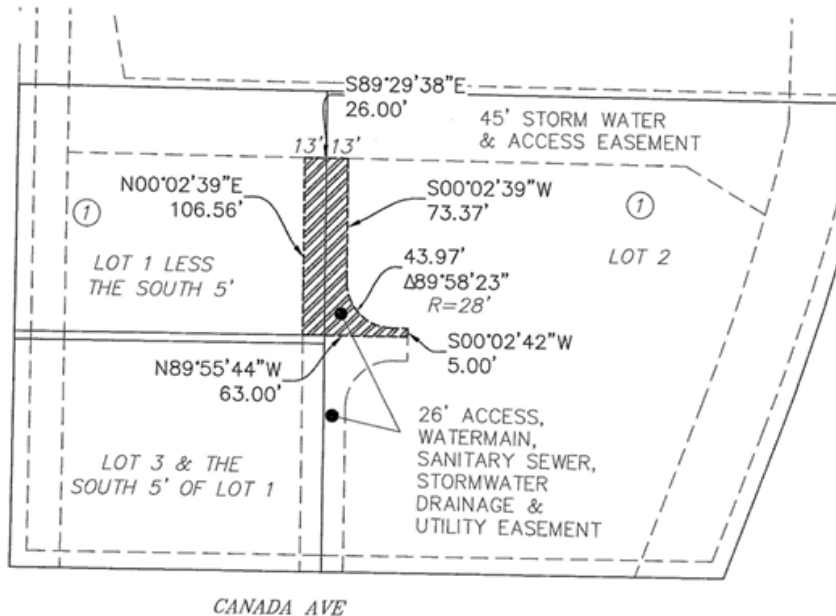
This vacation response is submitted WITH THE STIPULATION that if CenturyLink facilities are found and/or damaged within the vacated area as described, the Applicant will bear the cost of relocation and repair of said facilities. If you have any questions, please contact Cloey Kranock at (585)307-3877, Cloey.Kranock@Lumen.com], or nre.easement@lumen.com.

Sincerely yours,

Cloey Kranock
Network Infrastructure Services
Lumen
P870538

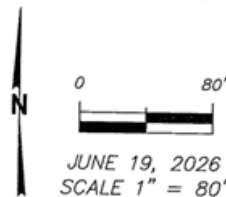
Exhibit A

EASEMENT RELEASE EXHIBIT



RELEASE THE NORTH 106.26 FEET OF THE 26' ACCESS, WATERMAIN, SANITARY SEWER, STORMWATER, DRAINAGE & UTILITY EASEMENT OF LOTS 1 & 2 BLOCK 1 OF TREE TOP ADDITION FIRST REPLAT, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, MORE SPECIFICALLY DESCRIBED AS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SAID LOT 1 AND THE SOUTH LINE OF THE 45' STORMWATER & DRAINAGE EASEMENT OF SAID TREE TOP ADDITION FIRST REPLAT; THENCE SOUTH 89 DEGREES 29 MINUTES 38 SECONDS EAST, ON SAID SOUTH LINE, A DISTANCE OF 13.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 39 SECONDS WEST, ON THE BOUNDARY OF SAID 26' ACCESS, WATERMAIN, SANITARY SEWER, STORMWATER, DRAINAGE & UTILITY EASEMENT, A DISTANCE OF 73.37 FEET; THENCE SOUTHERLY AND TO THE LEFT, CONTINUING ON SAID BOUNDARY, ON A 28.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 43.97 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 42 SECONDS WEST, CONTINUING ON SAID BOUNDARY, A DISTANCE OF 5.00 FEET TO A LINE THAT IS AN EASTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 5' OF SAID LOT 1; THENCE NORTH 89 DEGREES 55 MINUTES 44 SECONDS WEST, ON SAID NORTH LINE AND ITS EASTERLY EXTENSION, A DISTANCE OF 63.00 FEET TO THE BOUNDARY OF SAID EASEMENT; THENCE NORTH 00 DEGREES 02 MINUTES 39 SECONDS EAST, ON SAID BOUNDARY, A DISTANCE OF 106.56 FEET; THENCE SOUTH 89 DEGREES 29 MINUTES 38 SECONDS EAST, CONTINUING ON SAID BOUNDARY, A DISTANCE OF 13.00 FEET TO THE POINT OF BEGINNING.



SWENSON, HAGEN & COMPANY P.C.

2001 Airway Avenue
Bismarck, North Dakota 58504
shc@swensonhagen.com
Phone (701) 255-3000
Fax (701) 255-3000



Public Works Utility Operations

DATE: August 11, 2026

FROM: Michael Mart, Public Works Utility Operations Director

ITEM: Water Treatment Plant Expansion Update

REQUEST:

Consider the request to receive an update on the Water Treatment Plant Expansion Project and approve funding sources.

BACKGROUND INFORMATION:

The Water Treatment Plant Expansion Project was established as part of the 2022 Water Treatment Plant Master Plan received by the Commission on March 15, 2022. In May 2022, the City Commission approved the request to pursue grant funding from the State Water Commission for water infrastructure. As part of the 2023-2025 North Dakota State Legislative Session, the City of Bismarck was awarded \$50M towards the Expansion Project. The City elected to utilize a Construction Manager At Risk (CMAR) for this project due to the complexities and multi-year, multi-phased approach of construction to obtain the most cost-effective options for the expansion. At this time, Utility Operations is asking the Commission for approval to apply for and accept if awarded an SRF Loan to secure funding for the City's portion of the project, while continuing to pursue grant funding opportunities from the North Dakota State Water Commission.

RECOMMENDED CITY COMMISSION ACTION:

Approve the SRF loan application for the Water Treatment Plant Expansion Project and acceptance if awarded, along with continued approval to apply for additional funding from the North Dakota State Water Commission for grant funding opportunities.

STAFF CONTACT INFORMATION:

Michael Mart, Public Works Utility Operations Director, 701-355-1704, mmart@bismarcknd.gov

ATTACHMENTS:

1. Bismarck WTP Funding Update



Regional Water Treatment Plant

Expansion Program Update

Bismarck is committed to providing every resident and visitor with clean, safe drinking water that supports an exceptional quality of life.

The Bismarck Water Treatment Plant (WTP) was originally constructed in the 1920s, and portions of that original infrastructure remain in use today. Over the years, the plant has undergone major upgrades in the 1950s, 1970s, 1990s, and 2016 to expand the plant's intake and production capacity in response to community growth. Bismarck is the second-largest city in North Dakota, with a population of approximately 77,800. The WTP currently serves about 89,500 people. The latest expansion is designed to accommodate 20 years of growth for Bismarck, Lincoln, and surrounding rural areas. Historically, Bismarck has grown at an average rate of 1.4% per year, with projections indicating a potential population of 120,000 by 2045. The current expansion project ensures the community can continue to grow without limiting development.



LEGEND:

- 1 - Existing 30 MGD Lime Softening & Media Filtration Plant
- 2 - Existing Pretreatment (Superpulsator & Sand Diversion Basin) Building
- 3 - 10 MGD Ultrafiltration and Reverse Osmosis Membrane Addition
- 4 - Sludge Processing Plant

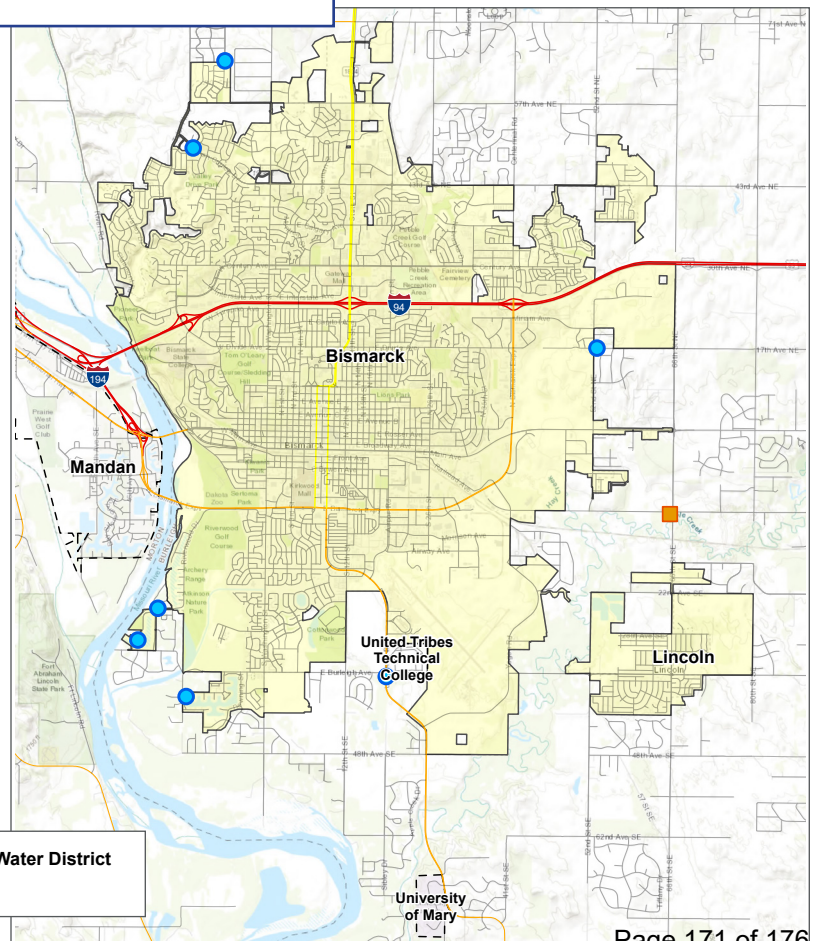
Regional System

As a key regional hub for south central North Dakota, the City has long-standing partnerships with the rural water systems, communities, and educational institutions in the surrounding area to provide critical water supply benefits to the State.

Bismarck and South Central Regional Water District have several interconnections within their systems that allow key distribution of water during peaking events, operational flexibility and redundancy, and development and use changes.

Bismarck supplies treated water to the City of Lincoln, the University of Mary, and United Tribes Technical College, allowing each of them to operate their own distribution systems without the cost and complexity of running an independent treatment facility.

These partnerships are critical not just for Bismarck's long-term planning but for the resilience and development of Lincoln, South Central, and the other regional entities that rely on Bismarck as an essential part of their economic and community infrastructure.



- Connection to South Central Regional Water District
- Connection to City of Lincoln

Current Status

The Bismarck Water Treatment Plant (WTP) Expansion Program is currently in the process of constructing improvements to the existing lime softening plant and under engineering design for the membrane filtration addition. Design of the membrane filtration addition is progressing toward an anticipated construction start in 2027 and completion in 2030, subject to final funding amounts.

Since the 68th Legislative Session, in which the City was appropriated \$50 million, the City project team has:

- Awarded Construction Manager at Risk (CMAR) contract — PKG Contracting, Inc.
- Completed design, and construction is underway for key facility improvements, including:
 - Media Filter Control Valve UPS Replacement - **Complete**
 - High Lift Pumping Improvements (Pumps and Variable Frequency Drive [VFD] Replacement)
 - SCADA Network Improvements
 - Horizontal Collector Well (HCW) Improvements — HVAC Equipment Replacement, VFD Replacement
 - Media Filters 1 through 6 Piping Replacement - **Complete**
- Reached 60 percent engineering design milestone for the 10 MGD membrane filtration addition
- Commenced procurement of 10 MGD Ultrafiltration and Reverse Osmosis Membrane Systems

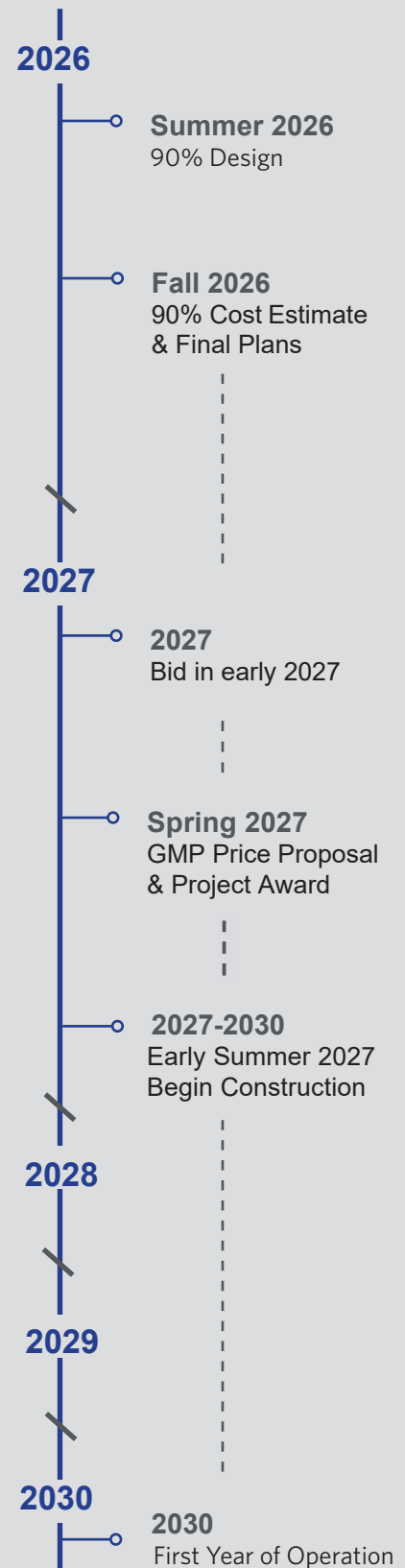
Program Funding

The City of Bismarck's Water Treatment Plant has evolved significantly over the past 100 years, building on its original 1924 construction to become the regional water supply facility it is today. Much of this progress has been made possible through substantial local investment, complemented by long-standing funding partnerships with the State.

Securing funding from multiple sources allows the City to optimize financial resources. In addition to seeking grant funding, utilizing DWSRF funds to balance project costs is being reviewed. Currently, the ND State Water Commission is reevaluating their cost-share program and future grant funding is not guaranteed.

Future Outlook

The City's Engineering and CMAR team anticipates the following final design, construction, and commissioning schedule for the WTP Expansion:





Finance Department

DATE: August 11, 2026

FROM: Ryan Skor, Finance Director

ITEM: 2025 Annual Comprehensive Financial Report

REQUEST:

Consider the request from the Finance Department to accept the 2025 Audit Results and the 2025 Annual Comprehensive Financial Report.

BACKGROUND INFORMATION:

The staff of the Finance Department's Fiscal Services Division completed the 2025 Annual Comprehensive Financial Report (ACFR) and Schedule of Expenditures of Federal Awards (SEFA). Both reports have been audited by the City's independent audit firm, Eide Bailly, LLP. These reports represent a reliable financial picture as of December 31, 2025, of the City's financial status, including assets, liabilities, and other balances, and operating activity.

Eide Bailly, LLP, issued unmodified audit opinions related to the City's financial statements and federal awards.

Similar to prior years, the Finance Department has submitted the ACFR to Government Finance Officers Association (GFOA) for review with the potential of receiving the GFOA Award for Excellence in Financial Reporting. The City has been fortunate enough to receive this award annually up to this point. The GFOA has reviewers that perform an additional review after the report is completed and provide comments to the Finance Department staff on any areas of concern or improvement.

The 2025 Annual Comprehensive Financial Report and 2025 Schedule of Expenditures of Federal Awards are both posted on the City's website.

<https://www.bismarcknd.gov/1873/Financial-Reports>

RECOMMENDED CITY COMMISSION ACTION:

Accept the 2025 annual audit results and the Annual Comprehensive Financial Report.

STAFF CONTACT INFORMATION:

Ryan Skor, Finance Director, 701-355-1601, rskor@bismarcknd.gov

ATTACHMENTS:

None



Administration Department

DATE: August 11, 2026

FROM: Jason Tomanek, City Administrator

ITEM: Special Legislative Session

REQUEST:

Consider the request by Commissioner Connelly to discuss the upcoming September 2, 2026 special legislative session and the topic of kratom.

BACKGROUND INFORMATION:

Commissioner Connelly requested to discuss the upcoming special legislative session scheduled to begin September 2, 2026 and the topic of kratom.

RECOMMENDED CITY COMMISSION ACTION:

Discuss the topic and direct City staff on appropriate actions or next steps.

STAFF CONTACT INFORMATION:

Jason Tomanek, City Administrator, 701-355-1300, jtomanek@bismarcknd.gov

ATTACHMENTS:

None



Administration Department

DATE: August 11, 2026

FROM: Jason Tomanek, City Administrator

ITEM: Non-Disclosure Agreements

REQUEST:

Consider the request by Commissioner Connelly to discuss non-disclosure agreements relating to City of Bismarck staff and North Dakota open records laws.

BACKGROUND INFORMATION:

Commissioner Connelly requested to discuss the relationship between non-disclosure agreements, North Dakota open records laws, and City of Bismarck staff.

RECOMMENDED CITY COMMISSION ACTION:

Discuss the topic and direct staff on appropriate next steps or actions, if any.

STAFF CONTACT INFORMATION:

Jason Tomanek, City Administrator, 701-355-1300, jtomanek@bismarcknd.gov

ATTACHMENTS:

None