

**POLICIES & PROCEDURES TO DEVELOP SUBDIVISIONS  
CITY OF BISMARCK  
May 2013**

**Timelines**

A petition for public improvements will not be approved prior to the recording of the plat and annexation of the parcel. Applications for platting, annexation, zoning, and recording are available in the Planning Division of the Community Development Department, and meetings regarding applications are scheduled by the Planning Division. Petitions for public improvements are submitted to the Engineering Department.

Petitions for public improvements must be received by July 1, or there will be a high probability that the pavement will not be constructed that fall. If the site requires public bids for water or sanitary sewer (trunk lines or multiple owners) or storm sewer, the petitions for public improvements should be received before June 1. (Street grades with water and sewer plans and specifications must be submitted and approved to allow time for water and sewer to be constructed by early September so the curb and gutter and pavement construction may be completed before inclement weather in the fall prevents further work.) Should oversized mains or drainage facilities require public bid, that work must be coordinated with the Engineering Department, and such work will require receipt of prepayments and will likely require Developer's water and sewer to be constructed by mid August. Prior to the advertisement for the improvements by the CITY, CITY funding must be allocated, easements or rights-of-way acquired, and permits from federal, state, county, township, or railroad must be received. Shop drawings for precast concrete manholes and inlets or other products as needed must be submitted after the 3-Way Agreement plans are accepted by the CITY. Allow several days for shop drawing review by the CITY and whatever additional time is needed for the production and delivery of the products.

**Petition for Public Improvements**

The Landowner or Agent (Developer) must submit a signed and dated petition for water, sanitary sewer, and street improvements (includes curb and gutter, paving, and street lighting) showing all lots or parcels to be serviced and all rights-of-way or easements necessary to contain those improvements. At intersecting streets, each side of a corner lot shall be petitioned for all public improvements. Drainage improvements do not require a petition; however, the Developer must inform the CITY if intending to do all or portions of the work via the 3-Way Agreement process.

- A Developer may have any qualified public improvement done by petitioning for a 3-Way Agreement. See petition forms on [www.bismarcknd.gov/engineering/documents](http://www.bismarcknd.gov/engineering/documents).

- A Developer may petition the CITY to hold a public bid for any improvement provided they agree to make appropriate prepayment (see Development Costs Policy below). Since prepayments are required prior to bidding, costs are approximate. If the prepayment received is more than the final cost, a refund will be issued. If the prepayment received is less than the final cost, a bill for the additional amount owed will be sent to the Developer. If payment is not received within 30 days, all business with the CITY will be suspended.

When there are multiple owners, the CITY may discourage development if at least 50% of the owners do not join in the petition and agree to make any prepayments. Those not agreeing to prepay would then be assessed their proportionate share of the costs if the Board of City Commissioners approves the establishment of a special assessment district. Water, sanitary sewer, drainage, curb and gutter, driveways, sidewalks, paving, street lighting, trunk mains, or oversized mains must be publicly bid before the CITY is allowed by ND Century Code to make payment to a contractor. Therefore, the Developer may not receive a bid via 3-Way Agreement and ask for the CITY to pay oversizing costs. See petition forms at [www.bismarcknd.gov/engineering/documents](http://www.bismarcknd.gov/engineering/documents).

- When a special request for non-standard design improvements is made and subsequently approved by the CITY, the increased cost shall be the Developer's sole responsibility and shall be prepaid in conjunction with the prepayment required under the Development Costs Policy (see below). The request must be accompanied with a cost estimate and details of differences. Items considered non-standard are post top lights, mountable curbs, colored concrete, and landscape islands.

### **3-Way Agreement Procedures**

The Developer must hire a professional engineer registered in North Dakota to prepare plans and specifications for improvements based on approved plat, grading, drainage, and sewer and water master plans. Plans and specifications with master plan must be submitted for City Engineering Department review at least three (3) weeks prior to the date an agreement is desired to be executed. If the street grades are complex, they should be submitted an additional one (1) week earlier for approval. Grade design shall follow CITY policy for shelf and slope needs at intersections. Computer Aided Drafting plans shall state on each plan sheet, where elevations are shown, the vertical datum used such as NGVD29 or NAVD88. The CITY will bill the Developer for actual labor plus 75% overhead and expense costs to review plans and observe construction. The plan review fee will be charged at 2% of the anticipated construction cost, or \$200.00 per 2'x3' or \$100.00 per 11"x17" plan sheet (not including cover sheet), whichever is less. This fee shall be submitted with the plans. CITY review is expected to be completed within (four) 4 weeks of submittal or each resubmittal.

The CITY review of plans and specifications is intended for the benefit of the CITY only and not for the benefit of any other person or entity. Review and approval of plans or specifications by the CITY does not act to approve any mistakes or deviations from

CITY specifications or relieve the engineer or Developer from responsibility for errors or omissions in plans or specifications.

The Developer must provide digital CAD files in dwg format and NAD83 State plane coordinates with 1986 adjustments when submitting professional engineer stamped Mylars for the City Engineer's signature. The digital files must be the complete file for use by the City Engineering Department to do as-constructed drawings later.

The Engineering Department requires five (5) days to review a 3-Way Agreement after all of the documents listed below have been received. See 3-Way Agreement form in [www.bismarcknd.gov/engineering/documents](http://www.bismarcknd.gov/engineering/documents).

- Mylar Plans and Specifications with City Engineer stamp (and digital plans).
- Contractor Bid showing unit prices.
- Change Orders between contractor and developer, if any.
- Payment and Performance Bonds - naming developer and CITY.
- Certificate of Insurance - naming developer and CITY as additional insured, showing project number in description of operations.
- Letter of Credit or Escrow Account from a financial institution indicating the Developer has set aside the amount of contract plus 5% only in the name of the developer and not the City. Examples are available and can be provided upon request. Letter of credit expiration date shall be minimum of 2 months beyond contractor completion date. City will not receive or hold funds for security when contracts are for \$10,000 or over. Small contracts (less than \$10,000.00) in lieu of escrow provide certified check for contract plus 5% to be held by CITY as security. This is not to pay contractor and will be returned when contractor and City Engineer services are paid.
- Any other document required.

Any reviews requested prior to plat recordation and annexation will be considered on a case-by-case basis. Reviews of improvements for lands already annexed are a priority.

Once a 3-Way Agreement is approved, construction of improvements may begin, provided that:

A waste site for topsoil, excess soil, and rock is provided.

Erosion control plan and notice of intent are submitted to ND Department of Health. See [www.bismarcknd.gov/departments/publicworks/stormwater/constructionsiteandErosioncontrol](http://www.bismarcknd.gov/departments/publicworks/stormwater/constructionsiteandErosioncontrol).

- a) Streets are graded to CITY standards, certified by a RLS or PE. See attached standard detail 200-1. If an underground contractor begins and the grading is incomplete, work will be suspended until grading is completed.

- b) Rural approaches with culverts as needed are installed or are a requirement of the 3-Way Agreement.
- c) Erosion control measures are in place for any disturbed lands or are a requirement of the 3-Way Agreement.
- d) ND State Department of Health has approved water and sewer plans.
- e) Shop drawings are approved by the Engineering Department.
- f) Developer's land surveyor has staked an appropriate mainline segment and any service lines requested by the contractor and submitted grade (cut/fill) sheets to the CITY to review and mark. All grade sheets must show a location check to a property pin.

The CITY will observe the construction of the improvements for the benefit of the CITY and not for the benefit of the Developer or the contractor. The CITY will not instruct or supervise the contractor or the work. The Developer is responsible to assure the contractor is in compliance with contract documents. The CITY will inform the Developer when partial and final payments are due the contractor based on written requests for payment from the contractor via Developer's consultant. The CITY does not measure or keep record of quantities or costs including change orders, therefore does not guarantee their accuracy.

- i) Developers must perform post underground construction grading also. All developments shall be responsible to grade the street right of way to the attached Standard and Detail 200-1, revised 4-2013. The rough grading section must be certified by a surveyor or engineer to be complete prior to underground work being allowed to begin. The final grading section must be certified by a surveyor or engineer to be complete prior to street improvement contract allowed to begin. When one side or portion of parcels is not owned by petitioners, the City may utilize our public grading contract.

When improvements are constructed under a 3-Way Agreement, and the conditions of the 3-Way Agreement are complete and accepted by the CITY, and the contractor and subcontractors have been paid, the CITY will assume operation and maintenance of the improvement, subject to warranties and unknown deficiencies, and may begin allowing connections to the system.

When the Developer petitions to install and/or construct curb and gutter and pavement with a 3-Way Agreement, any regional storm water fees or water and sanitary sewer trunk line fees must be received before the CITY will enter into the 3-Way Agreement for the street improvements.

**Development Costs Policy**

By signing a petition for public improvements, the Developer agrees to abide by the terms of the Development Costs Policy. This policy identifies the amounts that are required to be prepaid and the methods of prepayment that are acceptable.

For purposes of applying the Development Costs Policy, the following definitions apply:

*Developer: any individual or entity signing a petition for public improvements who is then responsible for meeting the applicable prepayment requirements of the Development Costs Policy. In situations where one individual or entity signs a petition as the agent representing multiple property owners, the CITY will accept one cash/check prepayment or one CD for the full amount of the prepayment rather than separate cash/check prepayments or CDs from each owner. If the property owners wish to remit separate cash/check prepayments or CDs, each owner must sign a petition identifying the lots they own.*

*Prepayment: payment in the form of cash or check.*

*Built on: a building permit has been obtained and the 1st inspection approving the foundation and a check of the drain tile has been completed.*

*Sold to other builders or private individuals: properties sold to an individual or entity whose ownership is not substantially the same as the Developer. A property will only be considered sold after a deed transferring ownership has been filed with and recorded by the Burleigh County Recorder.*

**Prepaid by Developer**

- Grading
- Basic sewer and water <sup>1</sup>
- Curb and gutter <sup>3</sup>
- Trunk line utility charges <sup>4</sup>
- Regional storm water charge <sup>5</sup>
- Local Storm Water Design<sup>6</sup>

**Special Assessed by CITY**

- Street <sup>2</sup>
- Sidewalk
- Driveway
- Street lights
- Storm sewer <sup>6</sup>
- Trunk line utility charges<sup>4</sup>

<sup>1</sup> Basic sewer and water includes the lateral mains and the service line stubouts. Lateral mains are defined as 8” water and sewer in residential zones and 12” water and 10” sewer in other zones such as commercial. Mains larger than these are designated as trunk or oversize mains.

<sup>2</sup> 40% of cost must be prepaid for lots not zoned R5, R10, RM, or RT Residential.

<sup>3</sup> Curb and gutter may be 3-way contracted with a licensed and bonded contractor approved by the City Engineer.

- 4 Based on each R5 zoned parcel, and in increments of 10,000 SF for other zoned parcels, the first \$500.00 of trunk line utility charges are to be prepaid, and the remainder are to be assessed.
- 5 For new development the Developer will be required to prepay a regional storm water charge of \$0.005/SF for residential lots and \$0.01/SF for commercial property. These charges will be held by the CITY and used to partially offset special assessments for regional storm water facilities to serve these properties.
- 6 Developer is responsible for local storm water design costs such as consultant engineer to prepare plans, specifications, and estimate of costs.

In lieu of cash or check, the prepaid curb and gutter and utility trunk line charges may be satisfied with a bank Certificate of Deposit (CD) in the CITY's name and possession for 100% of the prepayment amount. The security will be held until the lots are built on by the Developer, sold to other builders or private individuals, or cashed for nonpayment of yearly special assessment installments. If the CD option is chosen by the Developer, the utility trunk line charges and curb and gutter costs will be assessed to the parcel. A portion of the CD principal may be returned to the owner on the CD maturity date based upon the status of building permits and/or number of lots sold. If lot sales occur during the week prior to the CD maturity date, notice must be provided to the Special Assessment Analyst no later than 1 day before the maturity date or funds relating to those sales will not be released to the Developer until the next maturity date. At such time that the amount required to be held in a CD is determined to be less than \$5,000, the entire CD principal will be returned to the Developer.

If the prepayment requirements are satisfied using cash instead of a CD, the cash prepayment for utility trunk line charges and curb and gutter will reduce the cost of the corresponding special assessment and refunds will not be issued.

A special assessment district will be created and prepayments will be calculated. All prepayments, whether cash or CD, are required to be remitted to the City no later than noon, five days prior to the receipt of bids. If prepayments are not received by this deadline, the affected unit will be deleted from the district and the Developer will be billed for their share of advertising costs and engineering fees incurred to date on the project. A new district will only be created after delinquent prepayments are received.

### **Public Bid Procedures**

For Engineering Department designed improvements requiring a public bid, the petitioner should allow about three (3) months from petition acceptance to award of bids. The special assessment district will not be created for a minimum of two (2) weeks after the plat or parcels are recorded and annexed. The special assessment district generally takes six (6) weeks from advertisement to public hearing at a Board of City Commissioners meeting. The CITY may not create a separate assessment district for a small project; however, the CITY may bundle with other areas to have a combined

district. The CITY may advertise the first street improvement district in late March for award of bids in early May if several areas are ready with platting and water and sewer. The next advertisement may be a month later depending on petitions and other submittals received. The CITY requires about one (1) month to schedule the designers and produce the bid documents. It may take more time for sewer and water improvements and less for street improvements. Should an area require storm sewer improvements, the street improvements could be delayed approximately a month. Where the street grades are designed and the plan and profile base sheets are produced digitally by the Developer's engineer, the time frame can be minimized.

If the CITY workload is such that designs cannot be accomplished in a reasonable time, the Developer may hire a consulting engineer, whose costs would not be a part of the assessment, or the CITY could hire a consulting engineer in accordance with our approved engineering selection policy. Large projects require oral interviews and a selection committee. For smaller projects, engineers can be selected by interest and practicality. For example, the same consultant who developed the water and sewer plans for the Developer may be the practical choice to design the street improvement. Whether a large or small project, the selected consultant must submit a scope of work and agreement for approval by the City Commission based on negotiated prices and time of completion.

For developments that require drainage facilities which have been requested to be a public bid, any design information necessary for the CITY to complete the design of inlet and inlet lead, pipe sizing, channel, rip-rap, and pond design must be submitted one (1) month prior to advertisement date.

### **Erosion Control**

Storm water management reports must be submitted with a plat. Should the Developer be different from the plat submitter, it does not relieve the Developer from providing all of the storm water management needs and erosion control measures specified in the approved storm water management report.

Wind erosion can impact neighboring properties. When dust blows to an extent to impact others, measures shall be taken to mitigate the dust from blowing and depositing and to clean up any area impacted.

Should the Developer fail to correct any erosion impacts immediately, the CITY reserves the right to make corrections and bill the Developer and/or to not allow any more aggravating construction activities such as grading, water and sewer excavation, etc. to continue.

### **Late Season Construction**

When the curb and gutter are placed under public or private bid but weather or other circumstances prevent pavement construction until the following year, the Developer must agree by written notification to one of the following:

1. The Developer will protect the curb and gutter with stabilized gravel base or a blended mixture up to 60% recycled asphalt and 40% stabilized gravel with maximum 1½" size. If any soft areas occur, the Developer is responsible to remove the base, prepare subgrade, and relay this base the following spring.
2. If the Developer chooses to not place gravel to protect the curb and gutter and plans to use the unimproved roadway, then the Developer shall be responsible for any damages to curb and gutter and/or dirt tracking, and will install new or keep the existing road closed signs up so the general public does not enter until the pavement is constructed. There will be no occupied buildings allowed in this case.

The CITY will not maintain the closed, unimproved street. All snow plowing or other maintenance will be the sole responsibility of the Developer. However, if the Developer places gravel, the CITY will maintain the gravel street until it is unable to hold loads at which time it may then be closed.

3. When only a partial depth pavement is placed, the Developer is responsible to repair any damaged pavement section, valley gutters or curb and gutters during the next construction season. The CITY may place load restrictions on these streets during the spring load restriction period. The posted weight limit will be GVW 20,000 lbs., or as determined by the Traffic Engineer.

### **Building Permits**

Per city ordinance, a building permit may not be approved until the City Engineer certifies that grading, water mains, and sanitary sewer mains are in place or a certified check or bond is received for those improvements. The estimated value of improvements must be submitted for approval by the City Engineer. Certification for partial improvement will be considered.