



Engineering Department

DATE: May 14, 2024

FROM: Gabe Schell, City Engineer

ITEM: Elk Ridge Third Addition MOU

REQUEST:

Consider approval of a Memorandum of Understanding with Bismarck Parks and Recreation District and Bismarck North Developers LLC., regarding Elk Ridge Third Addition.

BACKGROUND INFORMATION:

The City of Bismarck owns and operates a sanitary sewer lift station in Eagle Crest Addition in northwest Bismarck addressed as 1406 Eagle Crest Loop. The City's long term goal is to decommission this lift station and extend a gravity sewer main from Eagle Crest Loop to Marsh Hawk Dr within Elk Ridge Third Addition. The Developer of Elk Ridge Third Addition would be willing to incorporate the construction of the necessary embankment that will connect the future gravity sewer main between Eagle Crest Loop and Marsh Hawk Dr as part of their overall development grading.

This MOU would allow the City to recognize the value of the embankment construction and apply a credit against the utility capital charges the Developer will owe. The MOU also commits Bismarck Parks and Recreation District, as the owner some of the property between Eagle Crest Loop and Marsh Hawk Dr, to grant easements to the City and the Developer to construct this embankment initially and in the future, grant sanitary sewer easements to the City at such time the decommissioning of the lift station commences.

Bismarck Parks and Recreation District would consider this at their May 16, 2024, meeting.

RECOMMENDED CITY COMMISSION ACTION:

Approve the Memorandum of Understanding with Bismarck Parks and Recreation District and Bismarck North Developers LLC regarding Elk Ridge Third Addition contingent on those parties' concurrence.

STAFF CONTACT INFORMATION:

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

ATTACHMENTS:

1. Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

Park District of the City of Bismarck, a park district under the laws of the State of North Dakota, 400 East Front Avenue, Bismarck, North Dakota 58504 ("**Parks**"), the City of Bismarck, a municipal corporation under the laws of the State of North Dakota, 221 North 5th Street, Bismarck, North Dakota 58501 ("**City**"), and Bismarck North Developers LLC, 555 Hwy 1804 NE, Bismarck, ND 58503 ("**Developer**") agree as follows:

Whereas, City is the owner of the Eagle Crest sanitary sewer lift station located on Lot 31, Block 1 Eagle Crest Addition, and desires to decommission the lift station at a future date and discharge the sanitary sewer through a gravity sewer main to be constructed upon Lot 31, Block 1 Eagle Crest Addition; Lot 20, Block 1 Eagle Crest Addition; and Lots 48 and 50, Block 3 Elk Ridge Third Addition to a proposed manhole located on Marsh Hawk Drive; and

Whereas, Parks is the owner of Lot 20, Block 1 Eagle Crest Addition and will be the owner of Lots 48 and 50, Block 3 Elk Ridge Third Addition through their acceptance of donated land Developer approved at the June 17, 2021 Board of Park Commissioners meeting; and

Whereas, Developer desires to construct municipal infrastructure to serve Elk Ridge Third Addition and would be subject to Utility Capital Charges (UCC) imposed by the City; and

Whereas, Developer has privately bid and awarded an earthwork grading project that will construct an embankment for the future sanitary sewer main, including the installation of a storm sewer and appurtenances to remove local drainage behind the embankment and connect to an existing storm sewer located within an existing stormwater and drainage easement to City on Lot 20, Block 1 Eagle Crest Addition and Lot 50, Block 3, Elk Ridge Third Addition; and

Whereas, it is in the public interest to coordinate efforts between the political subdivisions serving the community.

Therefore, be it resolved Developer agrees to construct an embankment and storm sewer as shown on the attached exhibit; and

City agrees to apply credit to the UCC for the petitioned property in Elk Ridge Third Addition based on the contracted cost to install the embankment and storm sewer as shown in the attached exhibit in addition to other credits applied to the UCC related to other eligible improvements as part of the City's normal course of business; and

Parks agrees to grant temporary construction easements to the City and Developer within Lot 20, Block 1 Eagle Crest Addition to construct the embankment and storm sewer as shown in the attached exhibit; grant stormwater and drainage easements to the City within Lot 20, Block 1 Eagle Crest Addition for maintenance of the improvements; and when the sewer lift station on Lot 31, Block 1, Eagle Crest Addition is decommissioned, Parks will grant sanitary sewer easements and temporary construction easements across Lot 20, Block 1 Eagle Crest Addition.

Effective Agreement and Assignment. This Agreement shall become effective and shall be binding upon the parties only after it has been executed by all the parties. This Agreement may not be assigned without the consent of the parties.

Entire Agreement; Modification. This Agreement constitutes the entire and complete agreement between the parties and supersedes any prior oral or written agreements between the parties with respect to the property. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions set forth herein, and that no modification of this Agreement and no waiver of any of its terms and conditions shall be effective unless in writing and duly executed by the parties.

Binding Effect. All covenants, agreements, warranties, and provisions of this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors, and assigns. When used herein, the singular shall include the plural, the plural shall include the singular.

Controlling Law. This Agreement has been made and entered into under the laws of the state of North Dakota and said laws shall control its interpretation.

Time of Essence. Time is of the essence as to all dates and time periods set forth in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written below.

PARKS:

Park District of the City of Bismarck

Dated this _____ day of _____, 2024.

ATTEST:

CITY OF BISMARCK, NORTH DAKOTA

Kevin Klipfel
Executive Director

Michael Gilbertson, President
Board of Park Commissioners

CITY:

City of Bismarck

Dated this _____ day of _____, 2024.

ATTEST:

CITY OF BISMARCK, NORTH DAKOTA

Jason Tomanek
City Administrator

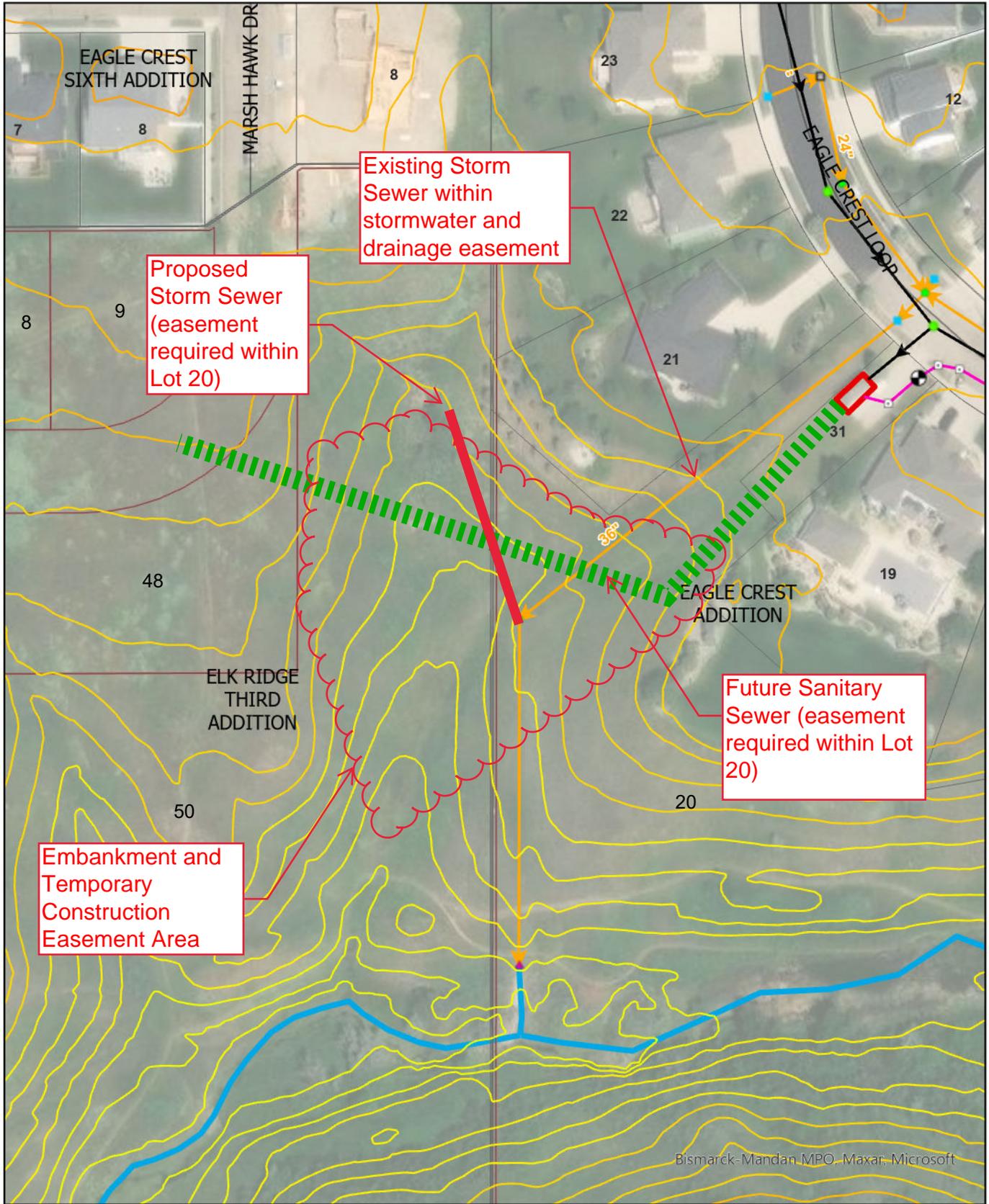
Michael T. Schmitz, President
Board of City Commissioners

DEVELOPER:

Bismarck North Developers, LLC

Dated this _____ day of _____, 2024.

Ron Knutson
President, Bismarck North Developers, LLC



This data is for representation only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.



Date: 4/23/2024

