



Engineering Department

DATE: October 5, 2021
FROM: Gabe Schell, City Engineer
ITEM: Partial Release Storm Sewer and Drainage Easement

REQUEST:

Request approval to a Partial Release of a Storm Sewer and Drainage Easement in Lot 1, Block 1, Northern Plains Commerce Centre Addition.

Please place this item on the October 12, 2021 City Commission meeting agenda.

BACKGROUND INFORMATION:

The City of Bismarck was granted a storm sewer and drainage easement across part of Lot 1, Block 1, Northern Plains Commerce Centre Addition. A revised minor subdivision final plat known as the Northern Plains Commerce Centre Second Addition was approved by the City Commission on June 12, 2018, with the condition that the underlying easement be released and a replacement easement be shown on the Northern Plains Commerce Centre Second Addition. The partial release of the existing storm sewer and drainage easement (recorded as document # 798452) and dedication of the easement shown on the Northern Plains Commerce Centre Second Addition plat would fulfill these conditions and would be recorded prior to the recordation of the plat.

The original easement and the area to be released are enclosed.

RECOMMENDED CITY COMMISSION ACTION:

Approve Partial Release of Storm Sewer and Drainage easement on part of Lot 1, Block 1, Northern Plains Commerce Centre Addition.

STAFF CONTACT INFORMATION:

Gabe Schell, PE | City Engineer, 355-1505 or gshell@bismarcknd.gov

PARTIAL RELEASE OF EASEMENT

This PARTIAL RELEASE OF EASEMENT is executed by the City of Bismarck, Bismarck, ND whose post office address is PO Box 5503, Bismarck, ND 58506-5503:

WHEREAS, the City of Bismarck is the owner of an easement by virtue of a Permanent Storm Sewer and Drainage Easement from the City of Bismarck to the City of Bismarck dated November 12, 2013, filed with the Burleigh County Recorder as Document #798452 over a portion of Lot 1, Block 1, Northern Plains Commerce Centre Addition, and whereas, the City of Bismarck desires to release a portion of that easement:

A parcel of land lying in Lot 1, Block 1, Northern Plains Commerce Centre Addition, Bismarck, Burleigh County, North Dakota, more particularly described as follows:

Beginning at the Southeast corner of Lot 3, Block 2, Sykes Addition; thence South 89 degrees 32 minutes 14 seconds East, a distance of 107.89 feet; thence South 00 degrees 13 minutes 05 seconds West, a distance of 63.41 feet to the point of beginning; thence South 89 degrees 51 minutes 10 seconds East, a distance of 1213.31 feet; thence North 00 degrees 00 minutes 00 seconds East, a distance of 342.00 feet; thence South 89 degrees 51 minutes 10 seconds East, a distance of 20.00 feet; thence South 00 degrees 00 minutes 00 seconds East, a distance of 342.00 feet; thence South 89 degrees 51 minutes 10 seconds East, a distance of 321.29 feet; thence South 00 degrees 23 minutes 25 seconds West, a distance of 28.00 feet; thence North 89 degrees 51 minutes 10 seconds West, a distance of 128.98 feet; thence South 50 degrees 55 minutes 52 seconds East, a distance of 281.05 feet; thence South 39 degrees 04 minutes 08 seconds West, a distance of 20.00 feet; thence North 50 degrees 55 minutes 52 seconds West, a distance of 273.98 feet; thence North 89 degrees 51 minutes 10 seconds West, a distance of 503.63 feet; thence South 87 degrees 23 minutes 56 seconds West, a distance of 500.54 feet; thence North 89 degrees 51 minutes 10 seconds West, a distance of 414.96 feet; thence North 00 degrees 13 minutes 34 seconds East, a distance of 72.00 feet; to the point of beginning. Said parcel contains 100,314 SF or 2.30 acres more or less.

Now, Therefore the City of Bismarck, in consideration of the sum of One Dollar (\$1.00) and the dedication of a replacement Storm Sewer and Drainage Easement in the Northern Plain Commence Centre Second Addition to the City of Bismarck and other valuable consideration paid to the City of Bismarck, the receipt of which is hereby acknowledged, hereby completely and irrevocably releases and extinguishes the above described Storm Sewer and Drainage Easement in its entirety for itself and for its successors and assigns and thereby relinquishes any and all interest in the Permanent Storm Sewer and Drainage Easement created by the above described instrument.

Dated this ____ day of October, 2021.

Attest: _____
Keith Hunke
City Administrator

Steve Bakken, President,
Bismarck City Commission

STATE OF NORTH DAKOTA)
)ss
COUNTY OF BURLEIGH)

On this ____ day of October, 2021, before me personally appeared Steve Bakken and Keith Hunke, known to me to be the persons who are described in, and who executed the within and foregoing instrument and who severally acknowledged to me that they executed the same.

(SEAL)

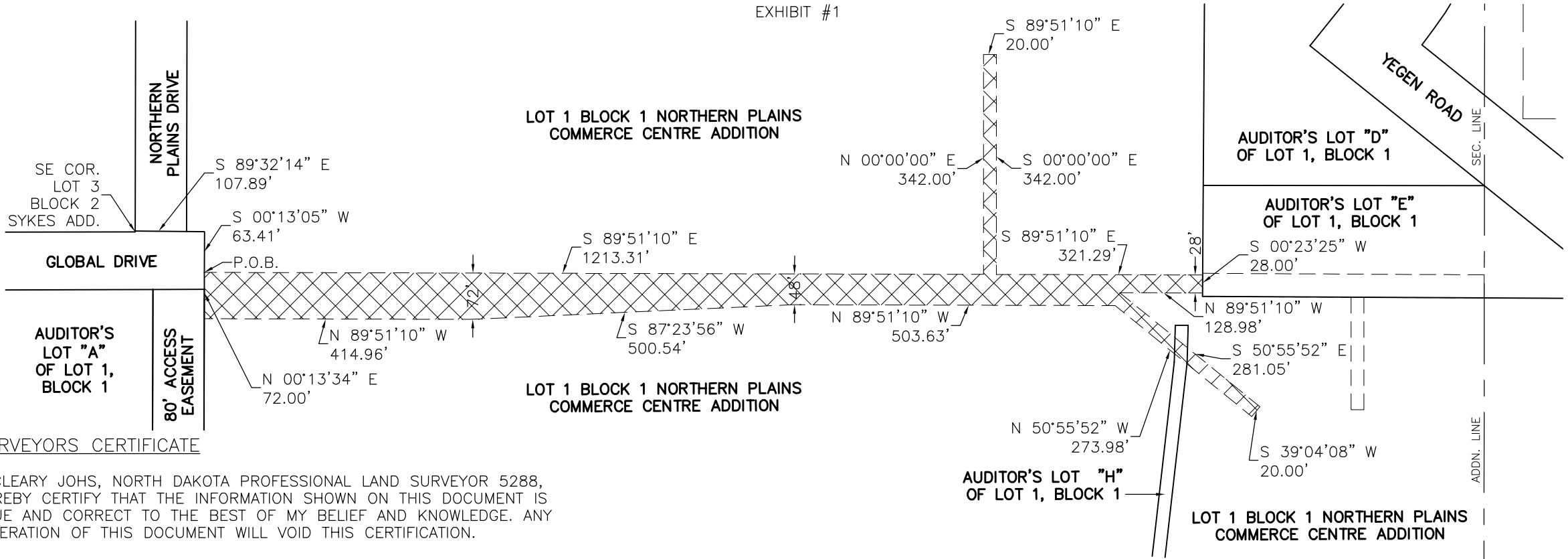
Notary Public, Burleigh County,
North Dakota.

The legal description was prepared by Cleary Johs, PLS, Box 5503, Bismarck, North Dakota, 58506-5503 or obtained from a previously recorded instrument.

PARTIAL RELEASE OF STORM SEWER & DRAINAGE EASEMENT

LOT 1, BLOCK 1, NORTHERN PLAINS COMMERCE CENTRE ADDITION,
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA
OCTOBER 4, 2021

OWNERS:
CITY OF BISMARCK, ND
EXHIBIT #1



SURVEYORS CERTIFICATE

I, CLEARY JOHS, NORTH DAKOTA PROFESSIONAL LAND SURVEYOR 5288, HEREBY CERTIFY THAT THE INFORMATION SHOWN ON THIS DOCUMENT IS TRUE AND CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE. ANY ALTERATION OF THIS DOCUMENT WILL VOID THIS CERTIFICATION.

CLEARY JOHS, NDPLS 5288
CITY OF BISMARCK
221 N. 5TH STREET
BISMARCK, ND 58501



PROPOSED EASEMENT RELEASE
(GRANTED BY DOC. NO. 798452)



PARTIAL EASEMENT RELEASE

EXHIBIT NO. 1

BISMARCK, N.D.

DATE: 10/4/2021



STORM SEWER AND DRAINAGE EASEMENT

This indenture, made this 12th day of November, 2013, between the **City of Bismarck**, a municipal corporation, whose post office address is P.O. Box 5503, Bismarck, North Dakota 58506-5503, Grantor, and the **City of Bismarck**, a municipal corporation, whose post office address is P.O. Box 5503, Bismarck, North Dakota 58506-5503, Grantee.

1. 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, Grantors grant to Grantee, its successors and assigns, an exclusive and to construct, operate, maintain, and repair public utility facilities including storm water and drainage under or upon the real property hereinafter described, together with the right to remove trees, brush, undergrowth, and other obstructions interfering with the location, construction, and maintenance of said utility. Grantee shall have the right to ingress and egress across real property of Grantor for the purpose herein granted.

2. This Easement is, except for right of access, limited to:

Parcel No. 1

A tract of land lying in Lot 1, Block 1, Northern Plains Commerce Centre Addition, Bismarck, North Dakota, more particularly described as follows:

Commencing at the southeast corner of Lot 3, Block 2, Sykes Addition; thence S 89° 32' 14" E a distance of 107.89 feet; thence S 01° 13' 05" W a distance of 63.41 feet to the point of beginning; thence S 89° 51' 10" E a distance of 1213.31 feet; thence N 0° 00' 00" E a distance of 342.00 feet; thence S 89° 51' 10" E a distance of 20.00 feet; thence S 0° 00' 00" W a distance of 342.00 feet; thence S 89° 51' 10" E a distance of 321.29 feet; thence N 0° 20' 34" E a distance of 2.53 feet; thence S 89° 41' 38" E a distance of 438.19 feet to the East line of said addition; thence S 0° 22' 53" W along the East line of said addition a distance of 36.00 feet; thence N 89° 41' 38" W a distance of 187.10 feet; thence S 0° 00' 00" E a distance of 174.76 feet; thence N 90° 00' 00" W a distance of 20.00 feet; thence N 0° 00' 00" E a distance of 174.87 feet; thence N 89° 41' 38" W a

distance of 231.07 feet; thence N 0° 20' 34" E a distance of 5.47 feet; thence N 89° 51' 10" W a distance of 128.98 feet; thence S 50° 55' 52" E distance of 281.05 feet; thence S 39° 04' 08 W a distance of 20.00 feet; thence N 50° 55' 52" W a distance of 273.98 feet; thence N 89° 51' 10" W a distance of 503.63 feet; thence S 87° 23' 56" W a distance of 500.54 feet, thence N 89° 51' 10" W a distance of 414.96 feet; thence N 0° 13' 05" E a distance of 72.00 feet to the point of beginning.

Said tract contains 119,588 SF or 2.75 acres, more or less.

3. Grantee shall, after completing the above-described construction or installation, or after the exercise of any rights granted by this easement, restore the lands to as near their original condition as reasonably possible and remove all debris, spoils, and equipment resulting from or used in connection with the construction or installation or access to the lands. Grantee agrees to pay for damage to fences and growing crops arising from construction, operation, or maintenance.

4. Grantors agree to not erect or permit any structure or obstruction other than fences or driveways, change the ground elevation, or perform any act that interferes with Grantee's rights under this easement, except with the written consent of Grantee.

5. The term of this easement herein reserved is ninety-nine (99) years, beginning upon execution in 2013 and ending in 2112.

6. The Party of the First Part hereby reserves title to and any interest in any and all archeological and paleontological materials, whether located on or below the surface of said land.

Dated this 12th day of November, 2013.



John Warford
President, Board City Commissioners

Attest: 

W. C. Wocken
City Administrator

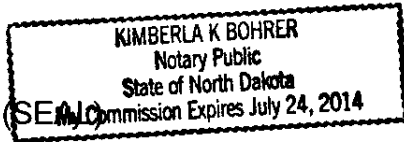
STATE OF NORTH DAKOTA)
)
) SS
COUNTY OF BURLEIGH)

On this 12th day of November, 2013, before me personally appeared John Warford, President of Board of City Commissioners, and W. C. Wocken, City Administrator, known to me to be the persons who are described in, and who executed the within and



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Burleigh County

foregoing instrument and who severally acknowledged to me that they executed the same.



Kimberla K Bohrer
Notary Public
My commission expires: _____

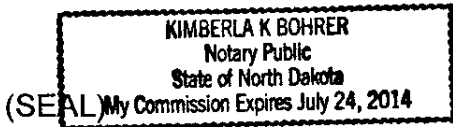
Acceptance of dedicated lands by the **City of Bismarck**:

John Warford
John Warford
President, Board City Commissioners

Attest: W. C. Wocken
W. C. Wocken
City Administrator

STATE OF NORTH DAKOTA)
) SS
COUNTY OF BURLEIGH)

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My commission expires: _____

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Burleigh County Recorder



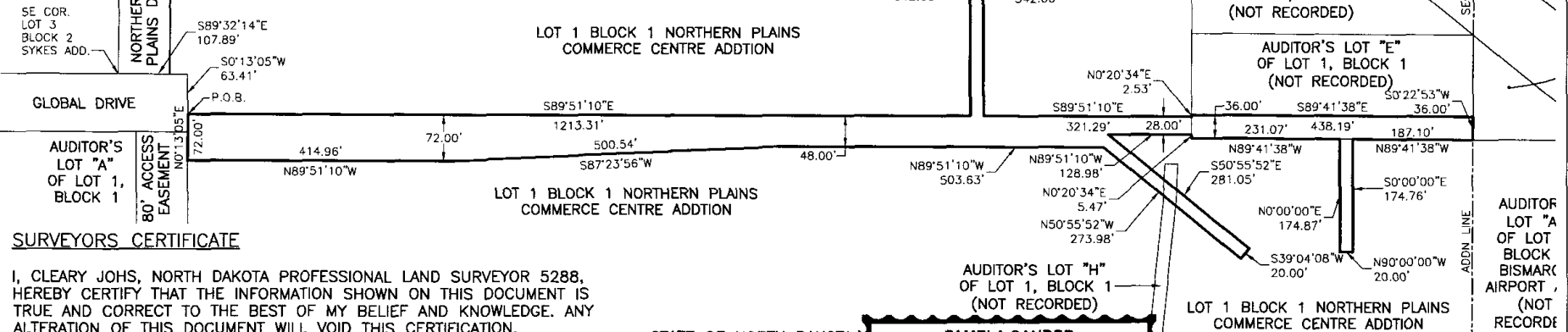
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PARCEL No. 1

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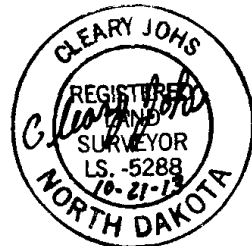
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Cleary Johs
 CLEARY JOHS, NDPLS 5288
 CITY OF BISMARCK
 221 N. 5TH STREET
 BISMARCK, ND 58501

STATE OF NORTH DAKOTA)
) SS)
 COUNTY OF BURLEIGH)
))
 ON THIS 21st OF NOV My Commission Expires Feb. 2, 2016
 PERSONALLY APPEARED Cleary Johs, KNOWN TO ME TO
 BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE
 FOREGOING SURVEYOR'S CERTIFICATE AND HE
 ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

Pamela Sander
 PAMELA SANDER, NOTARY PUBLIC
 BURLEIGH COUNTY, NORTH DAKOTA
 MY COMMISSION EXPIRES FEBRUARY 2, 2016

STORM WATER & DRAINAGE EASEMENT

LOT 1, BLOCK 1, NORTHERN PLAINS COMMERCE CENTRE ADDITION BISMARCK, NORTH DAKOTA NOVEMBER, 2013

OWNERS: CITY OF BISMARCK, ND

Bismarck Engineering Department

EASEMENT

PARCEL 1

BISMARCK, N.D. DATE: 10/21/2013

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 Burleigh County

ESMT
 CITY OF BISMARCK ADMINISTRATION

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Burleigh County

Dalbie Krokus