

November 14, 2025

TO: Commissioners Gilbertson, Herzog, Jeske, Redmann, and President Zimmerman

FROM: Kevin Klipfel, Executive Director *(VK)*

SUBJECT: November 20, 2025 Park Board Meeting Packet and Overview

Commissioners:

Enclosed you will find the overview and packet of information for the Park Board meeting on November 20, 2025 at 5:15 pm at the Tom Baker Meeting Room.

- Item 1.** Call Meeting to Order and Roll Call
- Item 2.** Pledge of Allegiance
- Item 3.** Approve Agenda
- Item 4.** Featured Partners and Programs – BisMarket
Lindsay Junge, Operations Manager with BisMarket, will appear before the Board.
- Item 5.** Consideration of Request to Continue Management of Burleigh County Parks
Included in the packet you will find a proposed agreement for consideration. Burleigh County Commissioner Wayne Munson will appear before the Board.
- Item 6.** Disposition of Bids
- Sanitary Sewer System in Sertoma Park – Please see the attached memo from Susan Hazelett with Apex Engineering Group
 - Riverwood Golf Course Concessions – Facilities and Programs Director Mike Wald has provided a summary of the bids and proposed agreement for your consideration.
- Item 7.** Consideration of Human Resource Policy and Procedure Handbook Updates
Administrative Services Manager Julie Fornshell will review the proposed updates for this handbook for consideration.
- Item 8.** Consent Agenda
A variety of items have been placed in a consent agenda. A consent agenda can be approved with one motion, or an item or items can be removed for additional discussion and separate action. Staff recommends approval of the following items:

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- Consideration of October 16, 2025 Board Meeting Minutes-The minutes are included for your review.
- Consider Accepting Land Donation from Silbernagel Family/Silver Ranch 18, LLP-Included in the packet is a letter from Silbernagel Family/Silver Ranch 18, LLP asking the Park District to accept a donation of lot 27, block 3, Silver Ranch Fifth Addition (approximately 5.85 acres). The letter outlines how the land would be developed and used, and the maps provide details of the location.
- Consideration of SuperSlide Extension Addendum-The SuperSlide owners have provided a letter confirming their intention to continue their agreement to operate the SuperSlide Amusement Park within Sertoma Park for years six through ten. The proposed operation addendum is also included for your review and approval.
- Request Authorization to Select Consultants for 2026 Projects-Please see the memo in the packet regarding this request.
- Request Board Authorization to Call for Portable Toilet Bids-Operations Director David Mayer has provided a memo requesting authorization to call for bids.
- Consideration to Approve Consultant for General Sibley Park Day Use Area Road Project Consultant-Included in your packet is the consultant selection agreement with KLJ for this project. The Park District has received funding of up to \$300,00 from the Special Road Fund program to assist with this project, and the Park District needs to match 40% of the total project funds. It has been budgeted for 2026, and the proposed project will provide an asphalt overlay of the existing roadways, parking and boat ramp area within the day use portion of General Sibley Park.

Item 9. Approval of Bills

Individuals or organizations who wish to appear before the Board on an existing agenda item will also make the request in writing or emailed, delivered to the Bismarck Parks and Recreation District office by 12:00 noon, 2 days prior to the regular monthly meeting of the Board of Park Commissioners.

Next Regular Board Meeting: December 18, 2025 at 5:15 pm in the Tom Baker Meeting Room

November 12, 2025

TO: Commissioners Gilbertson, Herzog, Redmann, Jeske and President Zimmerman

FROM: Kevin Klipfel, Executive Director (142)

RE: Burleigh County Parks Management Agreement

Commissioners:

Burleigh County Commissioner Wayne Munson has requested to appear before the Park Board to renew the agreement between Bismarck Parks and Recreation District and Burleigh County for the Park District to manage Burleigh County Parks. The new agreement, if approved, would run from January 1, 2026 – December 31, 2035.

A draft agreement is included for your review. Changes to the original agreement which are included in this proposed agreement are as follows:

1. The dates of the agreement were adjusted accordingly.
2. The addition of Driscoll Sibley Park to the management agreement. The attachment was updated to reflect this also.
3. The original agreement also included an addendum to further clarify the various parcel ID numbers which were not included in the original agreement. This proposed agreement has this information listed correctly.
4. The fees remain the same.

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Agreement for the Maintenance, Operations, and Management Of Specified Burleigh County Parks

This agreement is made between Burleigh County Board of Park Commissioners, whose address is 221 N 5th St, Bismarck, ND 58501, hereinafter "County", and the Park District of the city of Bismarck, North Dakota, whose address is 400 East Front Avenue, Bismarck, ND, 58504, hereinafter "Park District".

Whereas, the County is interested in obtaining maintenance, operation, management, planning and development services for specified Burleigh County parks and the Missouri Valley Complex hereinafter known as "County Parks"; and

Whereas, Park District is in a position to provide maintenance, operation, management, planning and development services for County Parks; and

Whereas the specified County Parks shall be:

- Boat Ramps:
 - Steckel Park – Near Wilton & the north Burleigh county line
 - Kneifel Boat Ramp – near Misty Waters
 - Kimball Bottoms – "The Desert"
 - MacLean Bottoms – the "Rifle Range"
- Park Areas:
 - Swenson Park – Hwy. 1804 at Apple Creek below the University of Mary
 - Driscoll Sibley Park – 2 miles west of Driscoll
- Missouri Valley Complex (Fairgrounds), Bismarck Expressway and Highway 10, less the following real property:
- Parcel ID: 1990-001-700 in Lot Sixteen (16), Block One (1), Missouri Valley Complex Addition to the City of Bismarck, Burleigh County, North Dakota, (Buckstop Junction) and
- Parcel ID: 1990-001-000 in Lot One (1), Block One (1), Missouri Valley Complex Addition to the City of Bismarck, Burleigh County, North Dakota, (Burleigh County Detention Center) and
- Parcel ID: 1990-001-500 in Lot Three (3), Block One (1), Missouri Valley Complex Addition to the City of Bismarck, Burleigh County, North Dakota, (DOT) and
- Parcel ID: 1990-001-600 in Lot Six (6), Block One (1), Missouri Valley Complex Addition to the City of Bismarck, Burleigh County, North Dakota, (City of Bismarck Waste Water Utility).

See Exhibit A for park locations

Now, therefore, in consideration of the premises, it is agreed as follows:

1. **Scope of Services:** The County Park Board and Park District agree that Park District, through its designated and employed staff (hereinafter staff), shall furnish services to and for the benefit of the County by providing management and operational services for County Parks as defined in this agreement. Included in the scope of services would be the development and implementation of plans which may include operational plans, master plans and strategic planning in accordance with the terms and conditions of this agreement. County agrees to cover all costs of the services of any third party who may be contracted to develop a master plan for county parks. Park District assumes the obligation to provide such services through its staff consistent with the terms of this agreement in compliance of established professional standards. In furtherance, but not in limitation of the scope of services designated herein, such duties, obligations and responsibilities shall include the following:
 - a. Park District shall require its staff providing services under the provisions of this agreement to comply with any and all policies and procedures which are developed through the joint efforts of the parties relating to and concerning the provision of operational services for County Parks and the implementation of any developed and approved plans for future development of the areas as directed by and in coordination with the County.
 - b. Park District shall be solely responsible for the selection, retention, supervision and compensation of all designated Park District employees or staff engaged by the Park District required to fulfill the obligations and duties imposed by this agreement.
 - c. The costs associated with Park District employees who are primarily assigned to County Parks (all wages, benefits and insurances) shall be included in the monthly statement of expenses to the County and reimbursed to Park District by the County.
 - d. Park District shall be responsible for:
 - i. Maintaining County Parks within the accepted practices of grounds maintenance to include mowing, weed control, forestry services, public safety, cleaning of toilets, boat ramp maintenance, and other facilities including permanent and temporary structures and shelters;
 - ii. Providing knowledgeable and professionally trained staff;
 - iii. Keeping buildings and structures in good repair and upkeep to include painting and cleaning;
 - iv. Establishing garbage systems and hauling of refuse for proper disposal;
 - v. Developing of fees and budget (personnel, utilities, supplies, repairs and maintenance, contract services, equipment and capital improvements) for

approval by the County in accordance with an agreed-upon timeline and budget process;

- vi. Overseeing and planning of marketing and promotional efforts of County Parks and programs and public information related to management and operations of County Parks;
 - vii. Developing and overseeing capital improvement projects, master plan, and non-engineered construction management, with a 5% management fee based upon actual construction costs, subject to the County's approval and funding of such projects;
 - viii. Preparing a capital improvement and equipment schedule that would be developed and reviewed during the annual budget process;
 - ix. Managing the bidding process, and current and future leases, contracts and rental agreements of County Parks. The Park District will provide recommendations to the County on current contracts, leases and rental agreements for the County's consideration and final approval;
 - x. Collecting all fees, donations, contributions and other revenues generated from the use and for the benefit of the County and County Parks.
 - xi. External revenue generation from sponsorships, grants, donations, etc., including grant administration.
 - xii. Other duties as agreed upon by the parties to this agreement.
2. **Communication:** Park District shall designate its Executive Director, or other designee as the primary contact to work with a County Board member or members as designated by the County. Park District's Executive Director or designee shall attend all meetings of the Burleigh County Park Board, and other meetings as needed. Regular communications shall occur between the County and Park District regarding status of County Parks, plans, maintenance activities, and other issues of mutual interest. On-going communications shall occur regarding planning. Park District shall work cooperatively with the County in master planning existing sites and planning for the development of new properties and facilities. Park District will oversee the request for proposals for master plan and assess a five percent (5%) fee for this supervision. County will cover all costs of the master plan development.
3. **Existing Agreements.** This contract shall replace all existing oral agreements, leases, and memorandums of agreement and contracts between the County and Park District related to the County Parks covered by this agreement. Parties acknowledge that this agreement does not replace or alter other agreements between the County and Park District concerning other properties or subject matters.
4. **Funding.** The County is responsible for funding the annual approved operation, maintenance and capital improvement budgets for County Parks.

In the event of an emergency or if a need for an enhancement arises that was not planned for in the budget, Park District has the right to appear before the County Park Board for funds directly related to the emergency or enhancement.

Park District shall submit an annual work plan and budget to the County Park Board and County Commission to be approved during each organization's annual budgeting process. The general concepts of the work plan and budget must be approved in theory prior to August 15th of each year with the final budget approval in September of the same year.

5. **Compensation.** The County shall pay Park District a management fee of 25% based upon actual gross operating expenses for administrative services provided under this contract, excluding all capital improvements and planning projects as set forth in Section 1(d. vii) of this agreement.
6. **Reimbursement.** Park District shall submit a monthly statement of expenses incurred. County shall remit payment within 60 days. Park District will provide an annual statement of revenues generated for the operation of County Parks to the County. Park District will submit a check for these revenues to the County within 30 days of the year's end. All expense items are subject to limitations as set forth as a part of the County's normal budgeting process.
7. **Relationship of Parties:** This agreement shall not be construed to create any form of any employment relationship between the County and Park District, or any person designated by Park District under the provisions of this agreement. It is the intention of the parties to this agreement to maintain separate and distinct organizations, and Park District, through its designated employees shall at all times be acting as an independent contractor in providing services to and for the benefit of County Parks. Park District shall be responsible to control and supervise all of its employees and to pay compensation to or for the employees of all wages, salaries, taxes, withholding payments, fees, as well as other benefits or compensation to any pension or retirement plans. Park District shall not claim that the County is responsible for the payment of any of the foregoing payments, withholdings, contributions, or taxes in relationship to its designated employees.

Further, it is understood that this management relationship is between the County and Park District and Park District has no other responsibility to report management duties or operations, including budget and capital projects, or represent on behalf of the County unless so approved by the County or agreed to by Park District.

8. **Severability.** The unenforceability or invalidity of any provision of this contract shall not render any other provisions of this contract unenforceable or invalid.
9. **Governing Law.** This contract is to be governed by and construed according to the State of North Dakota as well as applicable federal and local and federal laws, ordinances, rules and regulations.

10. **Insurance.** County and Park District shall maintain in full force and effect during the term of this agreement, at their own expense, general liability coverage. For Park District, this includes liability coverage for any of its employees, contractors or subcontractors designated to provide services under the terms of this agreement and shall name the County as an additional insured.
11. **Indemnification and Hold Harmless.** Each party to this agreement shall be responsible for the claims, losses, damages and expenses, which may arise out of the negligent or wrongful acts or omissions of that party or that party's agents, employees, or representatives acting in the scope of their duties in this contract. Each party to this agreement agrees to inform the other in the event such party is notified of an investigation or claim arising out of the services of managing County Parks under the terms and conditions of this contract and shall provide reasonable access to the information involving such investigation or claim. Each party shall further notify the other party of the disposition of any such investigation or claim.
12. **Contract Term.** This agreement is for a period effective on the date signed by the last party to sign the agreement through December 31, 2035.
13. **Termination of Agreement.** The County or Park District may unilaterally terminate this agreement upon written notice to the other party 90 days prior to the budget deadline in September of any given year. In the case that the agreement is terminated, it is understood that the termination of the agreement shall be effective on December 31 of that same year. Each party shall submit final billing statements and checks within 30 days of termination date. Either party may terminate this agreement for cause due to breach of agreement. Such termination shall be preceded by a sixty (60) day written notice to the breaching party. If the breaching party fails to remedy the breach within 60 days of receipt of notice, the non-breaching party shall have the right to terminate the agreement at the end of 60 days.
14. **Law Enforcement Authority.** Park District shall contact the following Law Enforcement Authorities when the need arises:
- Missouri Valley Complex – The City of Bismarck Police Department

The Burleigh County Sheriff's Department shall be contacted for the following:

- Steckel Park/Boat Ramp
- Kneifel Boat Ramp
- Kimball Bottoms "The Desert"
- MacLean Bottoms "The Rifle Range"
- Driscoll Sibley Park

State law will be enforced as stated in the North Dakota Century Code by the Burleigh County Sheriff's Department.

17. **Attorney's Fees and Costs.** Each party shall pay their own attorney's fees and costs.

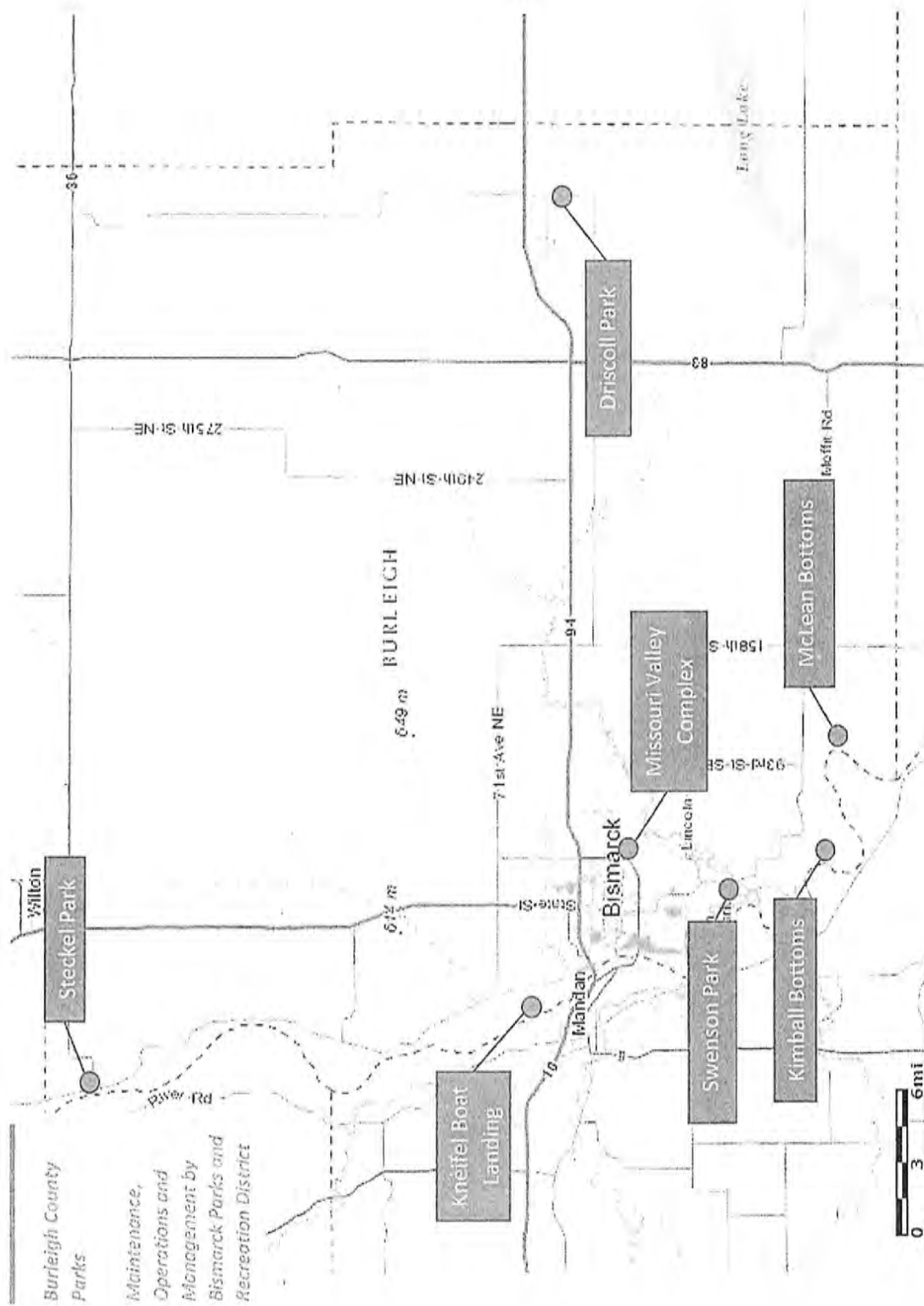
IN WITNESS WHEREOF, the parties have executed this contract as of the day, month and year written below, and each party hereby acknowledges that it has the full right and authority to enter into this contract and bind the respective party to the terms stated herein.

Mark Zimmerman, President
Bismarck Parks and Recreation District
Park Board

Date

Brian Bittner, Chairperson
Burleigh County
County Commission

Date





Water | Transportation | Municipal | Facilities

701.323.3950
600 South 2nd Street – Suite 145
Bismarck, ND 58504

November 12, 2025

Mr. Kevin Klipfel – Executive Director
Bismarck Parks and Recreation
400 E Front Ave.
Bismarck, ND 58504

**Re: Sertoma Park Restroom Improvements
Bismarck Parks and Recreation District
Bismarck, North Dakota**

Dear Mr. Klipfel:

The bid opening was November 12, 2025. No bids were received. During the advertising period, several questions were received from contractors, but no contractor submitted a bid. At this time, it is unknown why no bids were received. Apex will work with District personnel to discover why no bids were received and explore various alternatives for moving this project forward.

If you have any questions regarding this matter, please feel free to call me at 701-224.3101.

Sincerely,

Susan Hazelett, PE
Apex Engineering Group, Inc.

Cc: File

Let's Play!

DATE: November 12, 2025

TO: Commissioners Gilbertson, Herzog, Jeske, Redmann, and President Zimmerman
Kevin Klipfel, Executive Director

FROM: Mike Wald, Facilities and Programs Director 

RE: Riverwood Golf Course Concession Bids

We opened three bids for Riverwood Golf Course concessions on September 23, 2025. The bids were from MK Events, Bismarck Food Service, and Dirty Bean LLC-Classic Rock Cafe. We interviewed the top two, the Bismarck Food Service and the Dirty Bean LLC-Classic Rock Café on November 6, 2025 to discuss their plans to service the golf course. The minimum sales percentage for food and beverage sales (excluding vending machines and alcoholic beverages) after local and state sales tax was set at 15% . Dirty Bean LLC-Classic Rock Café bid 23% and Bismarck Food Service bid 22.2%. The minimum rent payment for the bid was \$8,800. Dirty Bean LLC-Classic Rock Café submitted an amount of \$28,500 each year and Bismarck Food Service submitted an amount of \$27,000 each year (see attached page for details).

After reviewing the rent and sales percentages and interviewing the two vendors, staff recommends the Board accept the bid provided by Dirty Bean LLC-Classic Rock Café for the 2026 and 2027 golf seasons along with the proposed agreement which is included in the packet. If you have any questions, please feel free to contact me.

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Bid Summary
Concession Operations
Tuesday, September 23, 2025 at 2:00 p.m.
Riverwood Golf Course

Vendor	Minimum <u>15%</u> % Offered	Monthly Rent Minimum		Monthly Rent Proposed		Can Meet Insurance Requirements
		Month	2026,2027	2026	2027	
Dirty Bean LLC- Classic Rock Cafe	23%	May	\$1,250.00	\$1,500.00	\$1,500.00	yes
		June	\$2,100.00	\$3,000.00	\$3,000.00	
		July	\$2,100.00	\$8,000.00	\$8,000.00	
		August	\$2,100.00	\$8,000.00	\$8,000.00	
		September	\$1,250.00	\$8,000.00	\$8,000.00	
TOTAL			\$8,800.00	\$28,500.00	\$28,500.00	

Vendor	Minimum 15% % Offered	Monthly Rent Minimum		Monthly Rent Proposed		Can Meet Insurance Requirements
		Month	2026,2027	2026	2027	
Bismarck Food Service	22.2%	May	\$1,250.00	\$2,000.00	\$2,000.00	yes
		June	\$2,100.00	\$6,000.00	\$6,000.00	
		July	\$2,100.00	\$6,000.00	\$6,000.00	
		August	\$2,100.00	\$6,000.00	\$6,000.00	
		September	\$1,250.00	\$7,000.00	\$7,000.00	
TOTAL			\$8,800.00	\$27,000.00	\$27,000.00	

Vendor	Minimum 15% % Offered	Monthly Rent Minimum		Monthly Rent Proposed		Can Meet Insurance Requirements
		Month	2026,2027	2026	2027	
MK Events	15%	May	\$1,250.00	\$1,250.00	\$1,500.00	yes
		June	\$2,100.00	\$2,100.00	\$2,100.00	
		July	\$2,100.00	\$2,100.00	\$2,100.00	
		August	\$2,100.00	\$2,100.00	\$2,100.00	
		September	\$1,250.00	\$1,250.00	\$1,250.00	
TOTAL			\$8,800.00	\$8,800.00	\$8,800.00	

Concession Stand Agreement for Riverwood Golf Course

1. **Parties:** The parties to the agreement are the Park District of the city of Bismarck, North Dakota (herein after Park District), Bismarck, North Dakota, and Dirty Bean LLC, DBA Classic Rock Café Kitchen, (herein after Concessionaire), Bismarck, North Dakota.
2. **Purpose of this Agreement:** This agreement will establish basic guidelines for the Concessionaire to manage a concession stand in the Riverwood Golf Shop. The Concessionaire will manage the concession stand in cooperation with the current exclusive soft drink agreement between the Park District and its exclusive soft drink provider.
3. **Length of Agreement:** The Concessionaire will manage the concession stand operation at said location April 1 - October 31 in years 2026 and 2027 with an option to add one additional year (2028). The request to extend the agreement must be made in writing to the Park District's Facilities and Programs Director no later than October 1, 2027 for Board action to follow at a later date. The Park District or the Concessionaire may terminate this agreement upon 90-days written notice by either party.
4. **Concession Location:** Riverwood Golf Shop, 725 Riverwood Drive, Bismarck, ND 58504.
5. **Concessions:** A permanent concession stand will be available for use by the Concessionaire in the Riverwood Golf Shop to operate said business. All food, soft drink, beer, box wine and novelty drink sales will be part of concessions operation within the golf shop, on the course, and for special events held on the course.
6. **Concession Operation:** The Concessionaire shall be responsible for the total operation of the concession stand at said location to include staffing, stocking and selling of concession supplies, and cleaning of concession stand and concession seating area. The concession operation will include all selling of food and beverages to include sale of beer, box wine and novelty drink sales (no glass containers) will be provided by concessionaire.
7. **Concession Golf Carts:** The Park District will provide two golf concession carts with coolers for sale of concessions on the Riverwood Golf Course. The Park District will provide maintenance and fuel. Any damage caused by the Concessionaire's staff will be the responsibility of the Concessionaire.
8. **General Hours and Days of Operation:** Hours will be set by mutual agreement with golf course management. The concession schedule may change due to the golf schedule. Changes to the concession hours will be cleared through the Golf Operations Manager.
9. **Vending Machines:** The Park District will have sole control of vending machines at Riverwood Golf Shop.
10. **Alcoholic Beverages:** Beer, box wine and novelty drink sales (no glass containers) at Riverwood will be provided by the concessionaire.

11. **Exclusive Provider:** The Park District has a contract with a vendor to provide supplies of soda, juice, and water products in Park District facilities. Concessionaire must comply with the Park District's soft drink supply agreement. Concessionaire must purchase beverages through the local exclusive soft drink supplier. This agreement does not allow the use of any pre-mix or post-mix soda dispensing system.
12. **Concession Fee:** The Concessionaire will pay the Park District 23% of gross sales on food and beverage concessions (excluding vending machines and alcoholic beverages) after local and state sales tax in addition to a monthly rental fee. The monthly rental fee will begin in May and is as follows:

Monthly rental fee	2026	2027
May 2026 and 2027	\$1,500	\$1,500
June 2026 and 2027	\$3,000	\$3,000
July 2026 and 2027	\$8,000	\$8,000
August 2026 and 2027	\$8,000	\$8,000
September 2026 and 2027	\$8,000	\$8,000

13. **Payment Schedule:** The concession payment is payable to the Park District on the 10th of each month along with a detailed statement of receipts listing food and beverage separately. Alcoholic beverage sales must be listed separately.

A processing fee (currently 3.3075%, subject to change) will be added to any payments made with a credit card. Processing fees can be avoided by making payment by cash or paper check.

Payment Election: Initial option below that will be applicable to the term of this agreement.

- ☐ Credit card payments – agreement fee plus processing fee
☐ Cash or paper check payment – agreement fee

14. **Concession Stand Area Clean Up:** The Concessionaire will be responsible for cleanliness and order of concession stand and counter, as well as general cleaning of tables in Riverwood Golf Shop, and any outdoor tables. The Park District will provide garbage cans and removal from premises.
15. **Utilities:** The Park District will pay utility costs for concession stand and vending machines.
16. **Concession Employees:** The Concessionaire shall provide adequate supervision of its concession employees with employees dressed in a standard concession uniform or identifiable shirt. All staff must be employees of the concessionaire. The Park District Golf Operations Manager and Golf Shop Supervisors will be allowed to direct concession employees if customers aren't being served properly or area isn't clean.
17. **Concession Menu:** The concession menu must be presented to the Executive Director of Parks and Recreation along with prices prior to opening a concession stand. The Executive Director must approve any changes to the menu in writing.

18. **Keys:** The Park District will not provide any keys to the Concessionaire for Riverwood Golf Shop, as the Golf Shop will be open when the concession stand is open.
19. **Concession Equipment:** Equipment owned by the Park District will be the responsibility of the Park District for major repairs and the Concessionaire will be responsible for their equipment. The Concessionaire will be responsible for the general maintenance and cleaning of all equipment in the concession stand.
20. **Ordinances and Rules:** The Concessionaire shall comply with all ordinances and rules enacted by the Park District and state and local laws concerning the Riverwood Golf Shop and Course (see Exhibit A for current Park District ordinances).
21. **Property Damage:** The Concessionaire agrees to pay, in addition to the regular concession fee, any other costs for any damages sustained to the concession stand or grounds which is a direct result of the Concessionaire employees or volunteers.
22. **Comprehensive General Liability Insurance:** Concessionaire, at its own expense, shall secure and keep in force a comprehensive general liability insurance policy in the amount of \$1,000,000 per person and \$2,000,000 per occurrence and name the Park District as an additional insured. The policy shall contain product liability. The policy shall require the insurance company to notify the Park District in writing prior to any cancellations. Concessionaire shall annually provide the Park District with a certificate of insurance.
23. **Liquor Liability:** The Concessionaire shall maintain in force liquor liability (dram shop) insurance with an occurrence limit of not less than \$1,000,000 and name the Park District as an additional insured. Coverage must be evidenced by a certificate of insurance prior to the start of the contract and annually thereafter.
24. **Property Insurance:** Concessionaire may purchase renter's insurance for its property. Concessionaire understands that its property is not insured under any of Park District's insurance policies.
25. **Building Insurance:** The Park District will insure the buildings and contents owned by the Park District.
26. **Improvements:** Concessionaire agrees to provide, at its own cost, all improvements to the premises necessary for the operation of the concession stand. All improvements and attractions shall be in compliance with plans and specifications provided by Concessionaire and must receive prior written approval of the Park District.

Title to all non-removable improvements or fixtures shall vest in the Park District upon completion of the improvements; however, Concessionaire shall maintain, repair, and provide insurance on all improvements throughout the term of this agreement.
27. **Workforce Safety and Insurance:** The amount required by state law.
28. **Indemnification and Hold Harmless:** The Concessionaire agrees that it will fully indemnify and hold harmless the Park District from all claims, actions, causes of actions,

lawsuits, etc. which may arise as a result of the Concessionaire's management and operation of the concession operation at the facility. This indemnification and hold harmless agreement includes, but is not limited to, an agreement to indemnify and hold the Park District harmless for all costs, expenses, damages, economic and non-economic losses as defined under North Dakota law, including attorney's fees, and any other consequences which may arise as a result of the Concessionaire's management and operation of the concession operation at the facility. It is expressly understood that Concessionaire shall be responsible for full indemnification to the Park District and will hold the Park District harmless from any and all such claims.

29. **Default:** The occurrence of any of the following shall constitute a default by Concessionaire:

- a). Abandonment and vacation of the premises during the contract year.
- b). Failure to perform any other provisions of this agreement, if the failure to perform is not cured within 10 days after notice has been given Concessionaire. If the default cannot reasonably be cured within 10 days, Concessionaire shall not be in default of this agreement if Concessionaire commences to cure the default within the 10-day period and diligently and in good faith continues to cure the default.
- c). Failure to maintain insurance coverage as required by the agreement shall be cause for the immediate termination of the agreement.
- d). Concessionaire files a petition in bankruptcy or insolvency or for reorganization under the bankruptcy laws.
- e). Involuntary proceedings are instituted against Concessionaire under any bankruptcy act.
- f). Concessionaire fails to pay any rent when due and does not make the delinquent payment within five days after receipt of notice from the District.
- g). Failure to maintain all required licenses and permits.

30. **Remedies:** In the event of default, the Park District shall give a written notice of default to Concessionaire. Concessionaire shall have ten days after the receipt of such notice to cure said default. No such notice shall be deemed a forfeiture or termination of this agreement unless the Park District so elects in the notice. In the event Concessionaire does not cure the said default within the allowed ten-day period, the Park District shall have the following remedies. These remedies are not exclusive; they are in addition to any remedies now or later allowed by law:

- a.) The Park District can continue this agreement in full force and effect, and the agreement will continue in effect as long as the Park District does not specifically elect in writing to terminate this agreement on account of Concessionaire's default.
- b.) The Park District can terminate Concessionaire's right to possession of the premises at any time. No act by the Park District other than giving notice to Concessionaire shall terminate this agreement.
- c.) The Park District, at any time after Concessionaire commits default, can cure the default at Concessionaire's cost. If the Park District at any time, by reason of Concessionaire's default, pays any sum or does any act that requires the payment of any sum, the sum paid by the Park District shall be immediately due from Concessionaire to the Park District at the time the sum is paid, and if paid at a later date shall bear interest at the rate of 18% per annum from the date the sum is paid by the Park District until the Park District is reimbursed by Concessionaire. The sum together with interest on it shall be additional rent.

- d.) In the event of default the Park District shall be entitled to recover for all amounts, including attorney's fees expended by the Park District on account of such default.
31. **Notice:** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first class mail. Any notice, demand, consent, approval, or communication that either desires or is required to give to the other party shall be addressed to the other part at the address set forth in the signature blocks at the end of this agreement. Either party may change its address by notifying the other party of the change of address in writing.
32. **Permits/Licenses:** Concessionaire shall secure the proper permits and licenses from local and state government to operate concession stands that sell food, soft drinks, beer and wine, and provide copies to the Park District at contract signing and annually thereafter.
33. **Non-Discrimination Policy:** The Concessionaire shall not discriminate against any applicant for employment, employee, or patron of the premises because of discrimination on the basis of race, color, national origin, age, religion, sex, physical or mental disability, or status with respect to marriage or public assistance.
34. **Taxes:** The Concessionaire will be responsible for City and State sales taxes on all concession sales. The Concessionaire will also be responsible for the City of Bismarck real estate taxes allocated to the concession stands, pro-rated for the number of months of operation by the Concessionaire.
35. **Signage:** The Concessionaire must provide signage at the concession stand identifying the Concessionaire as the operator of the stands. Suggested language is as follows: "The concession and food service is operated under contract with Dirty Bean LLC – DBA Classic Rock Café Kitchen."

DATE: _____

BY: _____

Mark Zimmerman, President
Board of Park Commissioners
400 East Front Avenue
Bismarck, ND 58504

DATE: _____

BY: _____

Brad Feldman
Dirty Bean, LLC – DBA Classic Rock Café Kitchen
6806 Woodrow Ct.
Bismarck, ND 58504

Ordinances of the Park District of the City of Bismarck
Approved by the Board of Park Commissioners on December 15, 2011
Revised June 18, 2015 and December 21, 2023

WHEREAS, the Park District of the City of Bismarck is a municipal subdivision organized pursuant to chapter 40-49 of the North Dakota Century Code ("N.D.C.C."); and

WHEREAS, Section 40-49-13, N.D.C.C., provides for the exercise of the powers of the Board of Park Commissioners by ordinance; and

WHEREAS, the Park District of the City of Bismarck has heretofore from time to time enacted ordinances pursuant to law and desires to amend and restate such ordinances.

NOW, THEREFORE, Be it enacted by the Board of Park Commissioners of the Park District of the City of Bismarck:

1. Authority

These ordinances are enacted pursuant to section 40-49-12, N.D.C.C., and shall be known and cited as the ordinances of the Park District of the City of Bismarck.

2. Existence of the Park District

The Park District of the City of Bismarck ("Park District") has been created in accordance with the laws of the State of North Dakota. The Park District includes all of the park territory within the City of Bismarck and such other areas as may be incorporated in the city limits in the future, and such other areas that have been acquired by the Park District or are managed by the Park District and areas that are acquired by or managed by the Park District in the future.

3. Repeal

All ordinances previously adopted by the Park District (Section 25-16 through 25-141, Appendix A of Code of Ordinances, City of Bismarck) are hereby repealed as of the date of enactment of these revised ordinances; however, such prior ordinances shall apply to any acts or offenses committed prior to the repeal.

4. Scope

The provisions hereof are enacted for the regulation of the use and care of the parks and trees of the Park District of the city by the public, and nothing herein contained shall operate to restrain or hinder the park commission of the Park District, or the individual members thereof, or the employees of such commission, in the performance of their official duties.

5. Disposition of offenses

A criminal or non-criminal offense as set forth in the City Code of the City of Bismarck shall be punished pursuant to City Code as determined by the municipal court. Any violations of the North Dakota Century Code shall be dealt with in the district courts of North Dakota pursuant to the laws of North Dakota. Any violations of Park District ordinances shall be punished by a fine not more than five-hundred dollars (\$500.00) pursuant to the maximum penalty set forth in section 40-49-12(3), N.D.C.C. The municipal court of the City of Bismarck shall have jurisdiction over all Park District ordinance violations.

6. Enforcement

The Police Department of the City of Bismarck is hereby authorized to enter onto and to enforce all of the Park District ordinances, all offenses and provisions as set forth in Title 3, Animal Control and Protection, and Title 6, Criminal Offenses, of the City of Bismarck Code of Ordinances, and state statutes in the parks under the operation and control of the Park District in the city. The Burleigh County Sheriff is hereby authorized to enter onto and to enforce all of the Park District ordinances and state statutes in the parks under the operation and control of the Park District that are located in Burleigh County outside the city limits. Park District employees or agents of the Park District are authorized to enforce violations of Park District ordinances.

7. Meetings of the Board

The Board of Park Commissioners shall meet the third Thursday of every month at 5:15 p.m. in the City/County Building at 221 North 5th Street, Bismarck, unless some other time or place shall be specifically fixed by the board.

8. Operation of vehicles

- (1) In addition to the provisions of this ordinance, Title 12, Traffic Ordinances, of the City of Bismarck Code of Ordinances, as amended, shall apply to all Park District property.
- (2) No person shall operate any motorized vehicle on any area within the parks other than the roads, driveways or parking lots provided for such purposes. The prohibitions of this subsection do not apply to medical mobility

devices, or vehicles used by peace officers, emergency personnel, maintenance personnel or special event personnel in the performance of their official duties.

9. Prohibited Acts

- (1) All offenses and provisions as set forth in Title 3, Animal Control and Protection, and Title 6, Criminal Offenses, of the City of Bismarck Code of Ordinances, as amended, shall apply to all Park District property.
- (2) It shall be unlawful for any person using parks under the operation and control of the Park District to perform any of the following acts:
 - a. Use of glass beverage containers or to break any glass object.
 - b. Consume or possess alcoholic beverages without first obtaining a beverage permit from the Park District.
 - c. Ride or lead horses except in the Horse Arena or other designated or approved area.
 - d. Build any fire for any purposes, except in such places as may be designated by the Park District.
 - e. Posting of posters and advertisements.
 - f. Maintain any refreshment stand, offer any article of any character for sale, or conduct any business for profit on Park District property without obtaining a permit from the Park District.
 - g. Knowingly carry or discharge any dangerous or concealed weapon, or any firearms, gun, air rifle, slingshot or other similar weapon at a school or school-sponsored event on school property or a publicly owned or operated building except for (1) the use of bow and arrow within a designated archery range or with a Special Herd Reduction Deer bow license or a special turkey bow license issued by the North Dakota Game and Fish Department in Bismarck and a trespass permit issued by the Bismarck Chief of Police or (2) the use of approved equipment, such as BB guns, in Park District approved classes. The exemptions identified in section 62.1-02-05(2), N.D.C.C. apply to this subsection.
 - h. Permit any animal to run at large. Dogs must be leashed except in the leash-free area of a dog park.
 - i. Fail to promptly clean up and dispose of the excrement of an animal for which you are responsible that is deposited upon park property.
 - j. Hunting, trapping or killing of animals or birds, except for the use of bow and arrow within a designated area with a Special Herd Reduction Deer Bow license or a special turkey bow license issued by the North Dakota Game and Fish Department in Bismarck and a trespass permit issued by the Bismarck Chief of Police.
 - k. Camp overnight in any parks except parks designated for overnight camping with a valid permit.
 - l. Enter upon any portion of a park which is temporarily or permanently closed to the public.
 - m. Bring in or dump, deposit or leave waste, garbage, refuse or other trash, except in proper receptacles where provided.
 - n. Deposit snow in any city park.
 - o. Violate posted or printed rules of the Park District.

10. Park Trees

The ordinances in Title 13, Trees and Vegetation, of the City of Bismarck Code of Ordinances, as amended, shall apply to all Park District property.

Approved by the Board of Park Commissioners: December 21, 2023

Published in The Bismarck Tribune: December 28, 2023

Effective: December 31, 2023

November 10, 2025

TO: Commissioners Gilbertson, Herzog, Jeske, Redmann and President Zimmerman
Kevin Klipfel, Executive Director

FROM: Julie Fornshell, Administrative Services Manager *JF*

RE: Proposed Human Resource Policy and Procedure Handbook Updates

Commissioners and Executive Director Klipfel:

The Human Resource Policy and Procedure Handbook has been reviewed by Executive Director Klipfel and Executive Team members, and the attached pages show the proposed changes.

Page 1: Clean up the language to reflect the handbook's development date with the most recent approval date.

Page 2: Update the vision, mission and core values.

Page 20: Contains information about the seasonal/part-time employee benefits card which was implemented in 2023.

Page 23-25: Removing the word District as the handbook is for District employees.

Page 67: Fixed formatting of the page.

Staff respectfully request the Board's approval of the proposed changes. Please let me know if there are any questions.

This Human Resource Policy and Procedure Handbook was approved September 13, 2007 with the most recent revision approved *~~revisions approved November 18, 2010, November 17, 2011, April 19, 2012, January 17, 2013, September 10, 2015, June 16, 2016, November 16, 2017, May 18, 2019, and November 19, 2020, June 16, 2022, and November 16, 2023~~ by the Bismarck Parks and Recreation District Board of Park Commissioners and supersedes, overrides and nullifies all previous versions of the handbook.

This handbook is not intended to create a contract between the District and its employees or to change the status of employees from employment at will. The policies and procedures described in this handbook are not conditions of employment and do not create a contract between the District and its employees. The District and its employees have an employment relationship which is known as “employment at will.” This means that either the District or an individual employee has the right to terminate the employment relationship at any time, for any reason, or for no reason at all, with or without advance notice.

INTRODUCTION AND PURPOSE

Bismarck Parks and Recreation District, a political subdivision of the state of North Dakota, was organized in 1927. The District is governed by a five member elected board from the boundaries of the District, which are Bismarck's city limits. The greatest strength of the Park District is its employees. The employees implement and oversee the daily operations and programming of the District.

The Board of Park Commissioners and Park District staff strive to meet the vision and mission of the Bismarck Parks and Recreation District. The vision of the Bismarck Parks and Recreation District is: **"Provide the highest quality"** ~~Be the leader and premier provider of public parks, programs, facilities and leisure services."~~ The mission of the Bismarck Parks and Recreation District is: **"Collaborate"** ~~Work with the community to provide residents and visitors the highest quality park, program, facility and event~~ **experience.**

In addition, the six core values that both the Board members and management staff have in common are:

Accountability
Collaboration
Community
Diversity**Inclusion**
Integrity
Professionalism

PURPOSE

The purpose of the Bismarck Parks and Recreation District Human Resource Policy and Procedure Handbook is to provide a resource for full and part-time employees as to the general and specific policies and procedures of the Bismarck Parks and Recreation District (the "District"). The Handbook shall serve as a guide and reference for employees to utilize during their tenure with the District. **It is not intended to create a contract between the District and its employees or to change the status of employees from employment at will.**

The policies and procedures described in this handbook are not conditions of employment and do not create a contract between the District and its employees. The District and its employees have an employment relationship which is known as "employment at will." This means that either the District or an individual employee has the right to terminate the employment relationship at any time, for any reason, or for no reason at all, with or without advance notice.

Updated February 2018
Updated May 2019

PART-TIME EMPLOYEE BENEFITS

1. Unemployment:
Payable under the reimbursement provisions of the North Dakota Unemployment Compensation Law.
2. Social Security:
Percentage of wages as determined by federal law.
3. Medicare:
Percentage of wages as determined by federal law.
4. Worker's Compensation:
Eligible employees will receive benefits from Workforce Safety and Insurance as defined in the North Dakota Century Code.
5. Program and Facility Use:
Employee receives free use of District facilities and programs in the area of his/her employment only. Employee also receives a seasonal/part-time employee benefits card which provides the person free access to designated facilities.
6. Mileage reimbursement for designated positions.

USE OF DISTRICT VEHICLES

1. No employees are authorized to use District vehicles except during working hours or special assignment. District vehicles are not for personal use. Written authorization must be given by an appropriate supervisor for use of District vehicle for special assignment.
2. All District-employees driving a District vehicle must have a valid driver's license with them at all times.
3. Improper or unauthorized use of District vehicles or equipment will result in disciplinary action.
4. All District-employees are required to wear a seatbelt while driving or riding in a District vehicle or within their own vehicle while being used for District business.
5. Only two (2) people are allowed within District trucks and personal trucks being used for District business, except that three persons are allowed with a bench seat providing seat belts are available for all three.
6. No District-employee shall haul workers in a pickup box, nor shall any person ride in a pickup box.
7. Employees are prohibited from taking and/or using any District supplies, materials or equipment for their own use or personal gain.
8. Employees are to refrain from using a cell phone while driving a District vehicle. Employees are not required to answer a cell phone call while driving and if they choose to do so, they are encouraged to safely move to the side of the road before conversing.
9. Employees are not allowed to text or send other electronic messages while driving a District vehicle. Additionally, employees must maintain control of the District vehicle and not operate the vehicle while distracted.

EMPLOYER PROVIDED VEHICLES

1. The District has authorized certain positions to use District vehicles for commuting between home and work.
2. Use of employer provided vehicles is limited to work purposes and commuting purposes only to and from work. Meetings after regular working hours are considered part of work.
3. The District has elected to use the Internal Revenue Service commuting rule. This non-cash wage is computed and added to the employee's biweekly payroll check. All required federal and state income taxes are deducted from the total vehicle value. The per day valuation will exclude annual leave, holiday or sick leave taken. Any required adjustments will be made at the end of the year.
4. Due to use of this valuation method, employees using employer provided vehicles are not required to keep a mileage log.
5. All District-employees driving a District vehicle must have a valid driver's license with them at all times.
6. All District-employees are required to wear a seatbelt while driving or riding in a District vehicle.
7. Employees are not allowed to text or send other electronic messages while driving a District vehicle. Additionally, employees must maintain control of the District vehicle and not operate the vehicle while distracted.

Updated May 2019
Updated November 2023

EMPLOYEE PROVIDED VEHICLE

1. The District may provide, at its discretion, a flat monthly rate for employees in certain classifications. If not provided a flat monthly rate, the employee will log daily mileage on District reimbursement form and submit to the main office upon the conclusion of each month for reimbursement. (SEE ATTACHMENT F)
2. Daily mileage must exclude any commuting miles. Commuting miles are the miles between an employee's residence and their regular work location.
3. Reimbursement Rate: The District will pay the current IRS allowance for work-related travel when an employee utilizes ed his/her personal vehicle.
4. Employees are to refrain from using a cell phone while driving a vehicle for District purposes. Employees are not required to answer a cell phone call while driving and if they choose to do so, they are encouraged to safely move to the side of the road before conversing.
5. All ~~District~~ employees driving an employee provided vehicle must have a valid driver's license with them at all times.
6. All ~~District~~ employees are required to wear a seatbelt while driving or riding in a vehicle for District business.
7. Employees are not allowed to text or send other electronic messages while driving a vehicle for District purposes. Additionally, employees must maintain control of the vehicle and not operate the vehicle while distracted.

COMPUTER USE AND SOCIAL MEDIA POLICY

Usage of District computers by employees is for work-related purposes. This policy is to inform you that the District may monitor computer use and may need to release electronic information pursuant to open records laws. Employees should have no expectation of privacy when using the District's electronic or other equipment. Monitoring and searching of computers will be limited to job-related reasons for search or surveillance policies. The purpose of these policies is to protect employee safety and security and, in addition, to protect District assets and liabilities. See also paragraph 6 of the Personal Conduct policy, as it pertains to computer usage.

Employees must keep confidential and financial information secure. It is required that any outside computer that connects to the network has firewall and anti-virus software installed and up to date. It is required that PCI Data Security Standard requirements be met as applicable.

Social media provides an opportunity to communicate and to express yourself in a public forum. Such communication can have negative impacts on the District, your coworkers and your work reputation. This policy is to assist you in making responsible decisions in using social media.

During work time, do not use personal social media unless it is work related and part of your job duties as authorized by your supervisor.

Be careful not to represent or give the impression of speaking on behalf of the District when speaking on your own behalf. When posting online content related to the District, make it clear that you are not speaking on behalf of the District.

Do not reveal confidential or proprietary information concerning the District.

Adhere to other provisions of the Human Resource Policy and Procedure Handbook. The same principles found in these policies apply to your activities online. Do not post obscenities, slurs, discriminatory remarks, harassments, and personal attacks that can damage the reputation of the District, employees, or District users.

Avoid using statements, photographs, video or audio that reasonably could be viewed as malicious, obscene, threatening or intimidating, that disparage others, or that might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law or District policy.

DRAFT

MINUTES OF THE BOARD OF PARK COMMISSIONERS

October 16, 2025

The Board of Park Commissioners held their regular meeting on October 16, 2025 in the Tom Baker meeting room of the City/County Building. President Zimmerman called the meeting to order at 5:15 pm. The pledge of allegiance was said. Commissioners Herzog, Jeske and Redmann were present. Commissioner Gilbertson was absent.

Commissioner Jeske moved to approve the agenda as presented. Commissioner Redmann seconded the motion, and the voting went as follows: Ayes: Commissioners Herzog, Jeske, Redmann, and President Zimmerman. The nays being none, the motion carried.

Bismarck Arts & Galleries Association Executive Director Cherise Pfaff appeared before the board as the featured partner and program.

Lauren Oster from the Bismarck Community Development Department provided an update on the Bismarck Arts and Culture Master Plan.

Jeff Ubl with Ubl Design Group informed the Board that no bids were received for the World War Memorial Building roof replacement project. The plans are to re-bid the project at the beginning of 2026.

Commissioner Redmann moved approval to call for bids on the BPRD Administrative Office lobby renovation. Commissioner Jeske seconded the motion, and the voting went as follows: Ayes: Commissioners Herzog, Jeske, Redmann, and President Zimmerman. The nays being none, the motion carried.

Commissioner Jeske moved to approve the following consent agenda:

- Consideration of September 11, 2025 Board meeting minutes
- Consideration of 2026 Matching Grant application
- Consideration of agreements
 - Bismarck Gymnastics Academy use agreement
 - Park Development Agreement for Silver Ranch 3 and 4
- Request Board authorization to apply for the following grants
 - Emerald Ash Borer Mitigation
 - USTA Northern Tennis Grant
- Request Board authorization to call for the following bids
 - 2026 maintenance equipment
 - 2026 fertilizer
- Request Board authorization to apply for Bank of North Dakota Infrastructure Loan
- Request Board authorization to select consultant and call for bids on the General Sibley Park day use area road project

Commissioner Redmann seconded the motion, and the voting went as follows: Ayes: Commissioners Herzog, Jeske, Redmann, and President Zimmerman. The nays being none, the motion carried.

Commissioner Redmann moved to approve bills for payment with checks 408332 to 408344 and 219789 to 220017 along with bank drafts DFT001614 to DFT001628, EFTs 3567 to 3608 and direct deposits 91561 to 92979. Commissioner Jeske seconded the motion, and the voting went as follows: Ayes: Commissioners Herzog, Redmann, Jeske and President Zimmerman. The nays being none, the motion carried.

The full-time and full-time seasonal employee luncheon will be November 18, 2025 at 11:30 am at the Municipal Country Club. The next regular Board meeting will be held November 20, 2025 at 5:15 pm in the Tom Baker Meeting Room.

The meeting was adjourned at 5:50 pm.

Let's Play!

TO: Commissioners Gilbertson, Herzog, Jeske, Redmann and President Zimmerman
Kevin Klipfel, Executive Director

FROM: David Mayer, Operations Director 

DATE: November 13, 2025

RE: Authorization to Accept Land Donation

Commissioners and Executive Director Klipfel:

Please see the attached information from the Silbernagel family to donate Lot 27, Block 3 of the Silver Ranch 5th Addition. The majority of the lot will be encumbered by a storm water pond for a new development but will be graded to allow for the construction of a future shared use path extension for the neighborhood.

Staff recommends acceptance of the donation.

A nationally accredited park and recreation agency.

November 5th, 2025

Kevin Klipfel
Bismarck Parks and Recreation District
400 East Front Avenue
Bismarck, ND 58504

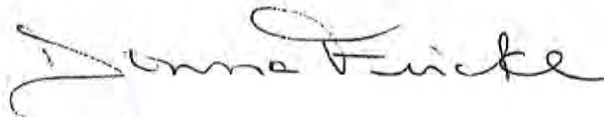
RE: Dedication of Real Property
Silver Ranch 5th Addition

Mr Klipfel and Bismarck Parks and Recreation Board,

The Silbernagel Family/Silver Ranch 18, LLLP, owners of real property in Section 18, Township 139 North, Burleigh County, North Dakota would like to donate Lot 27, Block 3, Silver Ranch Fifth Addition, to the Bismarck Parks and Recreation District. This area is approximately 5.85 acres (254,750 SF) that will be determined by the final recorded and approved plat.

The donation is intended for the use of walking trails, parks and watershed drainage in such a manner as to be determined in conjunction with the developer, Bismarck Parks and Recreation District and the property owners.

Sincerely,



Nadeane Silbernagel, Donna Fricke, Joan Millner
Karen Silbernagel Danley, and Dave Silbernagel
Silbernagel Family/Silver Ranch Family Development

1117 N 3rd
Bismarck ND 58501

dnf
Silverranch60@gmail.com
701.391.3918

BEING PART OF THE SOUTH 1/2
OF SECTION 16, TOWNSHIP 19 NORTH, RANGE 79 WEST
OF THE FIFTH PRINCIPAL MERIDIAN

[illegible][illegible]

BEING PART OF THE SOUTH 1/2
OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 79 WEST
OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



PLATE OF BEHAVIOR
IN SOUTHERN PLATE, SOUTHERN ZONE, 17
CITY DISTRICT

COORDINATE PLATE
SYSTEM
NORTH SOUTHERN PLATE, SOUTHERN ZONE
NAD 83 SOUTHERN ZONE
ADJUSTMENT OF 2011
UNITS ARE INTERNATIONAL FEET

BEHAVIOR AND DISTANCE MAY VARY FROM
THE HOLD PLATE DUE TO DIFFERENT MEASURES
OF MEASUREMENTS

SWENSON, HAGEN & COMPANY P.C.
100 East Avenue
Bismarck, North Dakota 58504
Manager: manager@shc.com
Phone (701) 222-2300
Fax (701) 222-2600

Services:
Title-Tag
Land Planning
Construction
Leasing & Site Design
Construction Management



Page 2 of 4

SILVER RANCH FIFTH ADDITION

BEING PART OF THE SOUTH 1/2
OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 79 WEST
OF THE FIFTH PRINCIPAL MERIDIAN
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



MONUMENT TO BE SET
MONUMENT IN PLACE



SILVER RANCH FIFTH ADDITION

BEING PART OF THE SOUTH 1/2
OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 79 WEST
OF THE FIFTH PRINCIPAL MERIDIAN
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA





October 19, 2025

Kevin Klipfel
400 E. Front Ave.
Bismarck, North Dakota 58504

Dear Kevin Klipfel,

We are writing to formally confirm that Super Slide LLP intends to continue our contractual agreement for years six through ten. At this time, we do not propose any changes to the existing terms and conditions of the contract.

We value our ongoing partnership and look forward to continuing our successful collaboration in the years ahead.

Thank you for your continued support.

Sincerely,
Richard Fleckenstein, Nicole Schumaker, & Brandi Bonnet
Super Slide LLP





SUPER SLIDE, LLP ADDENDUM

Bismarck Parks and Recreation District and Super Slide, LLP agree to continue to the current operating agreement of Super Slide, LLP, an amusement park at Riverside Park Road, Sertoma Park.

The term of the addendum will be January 1, 2026 – December 31, 2030.

Super Slide shall pay to the Park District as rent for the premises a sum of 8% on all gross sales up to \$10,000 and 12% on gross revenue over \$10,000 in each calendar year.

A processing fee (currently 3.3075%, subject to change) will be added to any payments made with a credit card. Processing fees can be avoided by making payment by cash or paper check.

Payment Election: Initial option below that will be applicable to the term of this agreement.

- ☐ Credit card payments – rental fee plus processing fee
- ☐ Cash or paper check payment – rental fee

Richard Fleckenstein
SuperSlide, LLP

Date

Mark Zimmerman, President
Board of Park Commissioners

Date

Updated Ordinances

Ordinances of the Park District of the City of Bismarck
Approved by the Board of Park Commissioners on December 15, 2011
Revised June 18, 2015 and December 21, 2023

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WHEREAS, Section 40-49-13, N.D.C.C., provides for the exercise of the powers of the Board of Park Commissioners by ordinance; and

WHEREAS, the Park District of the City of Bismarck has heretofore from time to time enacted ordinances pursuant to law and desires to amend and restate such ordinances.

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4. Scope

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- (2) It shall be unlawful for any person using parks under the operation and control of the Park District to perform any of the following acts:
 - a. Use of glass beverage containers or to break any glass object.
 - b. Consume or possess alcoholic beverages without first obtaining a beverage permit from the Park District.
 - c. Ride or lead horses except in the Horse Arena or other designated or approved area.
 - d. Build any fire for any purposes, except in such places as may be designated by the Park District.
 - e. Posting of posters and advertisements.
 - f. Maintain any refreshment stand, offer any article of any character for sale, or conduct any business for profit on Park District property without obtaining a permit from the Park District.
 - g. Knowingly carry or discharge any dangerous or concealed weapon, or any firearms, gun, air rifle, slingshot or other similar weapon at a school or school-sponsored event on school property or a publicly owned or operated building except for (1) the use of bow and arrow within a designated archery range or with a Special Herd Reduction Deer bow license or a special turkey bow license issued by the North Dakota Game and Fish Department in Bismarck and a trespass permit issued by the Bismarck Chief of Police or (2) the use of approved equipment, such as BB guns, in Park District approved classes. The exemptions identified in section 62.1-02-05(2), N.D.C.C. apply to this subsection.
 - h. Permit any animal to run at large. Dogs must be leashed except in the leash-free area of a dog park.
 - i. Fail to promptly clean up and dispose of the excrement of an animal for which you are responsible that is deposited upon park property.
 - j. Hunting, trapping or killing of animals or birds, except for the use of bow and arrow within a designated area with a Special Herd Reduction Deer Bow license or a special turkey bow license issued by the North Dakota Game and Fish Department in Bismarck and a trespass permit issued by the Bismarck Chief of Police.
 - k. Camp overnight in any parks except parks designated for overnight camping with a valid permit.
 - l. Enter upon any portion of a park which is temporarily or permanently closed to the public.
 - m. Bring in or dump, deposit or leave waste, garbage, refuse or other trash, except in proper receptacles where provided.
 - n. Deposit snow in any city park.
 - o. Violate posted or printed rules of the Park District.

10. Park Trees

The ordinances in Title 13, Trees and Vegetation, of the City of Bismarck Code of Ordinances, as amended, shall apply to all Park District property.

Approved by the Board of Park Commissioners: December 21, 2023

Published in The Bismarck Tribune: December 28, 2023

Effective: December 31, 2023

November 5, 2025

TO: Commissioners Gilbertson, Herzog, Jeske, Redmann, and President Zimmerman
Kevin Klipfel, Executive Director

FROM: David Mayer, Operations Director 
Mike Wald, Facilities and Programs Director 

SUBJECT: Request to Select Consultants for 2026 Projects

Commissioners and Executive Director Klipfel:

Staff is requesting authorization to select consultants for a variety of projects that are included in the 2026 budget. The projects are as follows:

Park Operations Division

- Park Shop Concrete
- Custer Park Stage
- Municipal Country Club Restroom
- Municipal Ballpark Safety Netting
- McDowell Dam Shower Building

Facilities and Programs Division

- Paul H. Wachter Aquatic Complex Pool Mechanical Updates
- BSC Aquatic and Wellness Center Timing System
- Schaumberg Arena Refrigeration System Replacement
- Schaumberg Arena Bleachers
- VFW Sports Center Boilers
- Tom O'Leary Golf Course Cart Paths, Phase II

All Areas

- Various Parking Lot Projects

Once consultants are selected, the agreements will be brought to the Board for review and approval. Please let me know if you have any questions.

Let's Play!

TO: Commissioners Gilbertson, Herzog, Jeske, Redmann, and President Zimmerman
Kevin Klipfel, Executive Director

FROM: David Mayer, Operations Director *DM*

DATE: November 11, 2025

RE: Request Board Authorization to Call for Bids

Staff is requesting authorization to call for bids for portable toilets. They are used throughout the park district at for the convenience of park users at a variety of parks and facilities.

A nationally accredited park and recreation agency.

**SHORT FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES**

KLJ Project #: 2514-11024

THIS IS AN AGREEMENT effective as of November 20, 2025 ("Effective Date") between Bismarck Parks and Recreation District ("Owner") and KLJ Engineering LLC ("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows: General Sibley Park Roadway Improvements ("Project").

Engineer's services under this Agreement are generally identified as follows: **Topographic Survey, Preliminary Design, Final Design, Bidding, Construction Observation and Administration** ("Services").
See Exhibit A for full scope of engineering services.

Owner and Engineer further agree as follows:

1.01 Basic Agreement and Period of Service

- A. Engineer shall provide or furnish the Services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above ("Additional Services").
- B. Engineer shall complete its Services within the following specific time period: **Approximately 11/20/2025 to 11/6/2026. The compensation amounts stipulated in Paragraph 2.02 is conditioned on a period of service not exceeding 12/30/2026.**
- C. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's Services is impaired, or Engineer's Services are delayed or suspended, then the time for completion of Engineer's Services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.

2.01 Payment Procedures

- A. **Invoices:** Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for Services, Additional Services, and expenses within 30 days after receipt of Engineer's invoice, then (1) the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and (2) in addition Engineer may, after giving seven days written notice to Owner, suspend Services under this Agreement until Engineer has been paid in full all amounts due for Services, Additional Services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.

- B. *Payment:* As compensation for Engineer providing or furnishing Services and Additional Services, Owner shall pay Engineer as set forth in Paragraphs 2.01, 2.02 (Services), and 2.03 (Additional Services). If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

2.02 *Basis of Payment—Lump Sum*

- A. Owner shall pay Engineer for Services as follows:

1. A Lump Sum amount of \$84,900.00.

- | | |
|--|--------------|
| a. Topographic Survey: | \$ 7,700.00 |
| b. Preliminary Design: | \$ 6,500.00 |
| c. Final Design: | \$ 38,900.00 |
| d. Bidding: | \$ 6,800.00 |
| e. Construction Observation & Administration | \$ 25,000.00 |

2. In addition to the Lump Sum amount, reimbursement for the following expenses: [None]

3. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered but shall not exceed the total Lump Sum amount unless approved in writing by the Owner.

- B. The portion of the compensation amount billed monthly for Engineer's Services will be based upon Engineer's estimate of the percentage of the total Services actually completed during the billing period.

- 2.03 *Additional Services:* For Additional Services, Owner shall pay Engineer an amount equal to the cumulative hours charged in providing the Additional Services by each class of Engineer's employees, times standard hourly rates for each applicable billing class; plus reimbursement of expenses incurred in connection with providing the Additional Services and Engineer's consultants' charges, if any.

3.01 *Termination*

- A. The obligation to continue performance under this Agreement may be terminated:

1. For cause,

- a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.

- b. By Engineer:

- 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

- 2) upon seven days written notice if the Engineer's Services are delayed for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 5.01.I.
- c. Engineer shall have no liability to Owner on account of a termination for cause by Engineer.
- d. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon Engineer's receipt of written notice from Owner.

- B. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all Services and Additional Services performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective date of termination in connection with providing the Services and Additional Services, and Engineer's consultants' charges, if any.

4.01 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 4.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

5.01 *General Considerations*

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties or guarantees, express or implied, under this Agreement or otherwise in connection

with Consultant's services. Notwithstanding any other representations made elsewhere in this Agreement or in the execution of the Project, this Standard of Care shall not be modified. Subject to the foregoing Standard of Care, Engineer and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

- B. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor to comply with laws and regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- C. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform its work.
- D. Engineer's opinions (if any) of probable construction cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by Engineer. If Owner requires greater assurance as to probable construction cost, then Owner agrees to obtain an independent cost estimate.
- E. Engineer shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents other than those made by Engineer or its consultants.
- F. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all Services and Additional Services relating to preparation of the documents and subject to the following limitations:
 - 1. Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
 - 2. any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants;
 - 3. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including

attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and

4. such limited license to Owner shall not create any rights in third parties.
- G. Owner and Engineer may transmit, and shall accept, Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- H. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$100,000 or the total amount of compensation received by Engineer, whichever is greater.
- I. Neither Party shall be considered to be in default of this Agreement if delays in or failure of performance are due to forces beyond the reasonable control of the nonperforming Party, the effect of which the nonperforming Party could not avoid by the exercise of reasonable diligence. Such forces include, but are not limited to: fire, acts of God, flood, earthquake, storm, lightning, tornados, epidemic, war, riot, civil disturbance, sabotage, strike, work slowdown, or other labor disturbances, judicial restraint, action or inaction of any Government entity in either its sovereign or contractual capacity, quarantine restrictions, freight embargoes, delays in long lead time items and severe weather. Any changes to the terms of this agreement impacted by a Force Majeure event shall be documented in an Amendment to the Agreement.
- J. The parties acknowledge that Engineer's Services do not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an unknown or undisclosed Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of Services on the portion of the Project affected thereby until such portion of the Project is no longer affected, or terminate this Agreement for cause if it is not practical to continue providing Services.
- K. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.
- L. This Agreement is to be governed by the law of the state in which the Project is located.
- M. Engineer's Services and Additional Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements; or (4) providing legal advice or representation.

- N. Engineer shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.
- O. The Engineer accepts no fiduciary duties or responsibilities on behalf of Owner.

6.01 *Total Agreement*

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

7.01 *Definitions*

- A. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and consultants), performing or supporting construction activities relating to the Project, including but not limited to contractors, subcontractors, suppliers, Owner's work forces, utility companies, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
- B. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

8.01 *Attachments: Exhibit A – Engineer's Services*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: Bismarck Parks and Recreation District

By: _____

Print name: Mark Zimmerman

Title: Park Board President

Date Signed: _____

Engineer: KLJ Engineering LLC

By: _____

Print name: _____

Title: _____

Date Signed: _____

Engineer License or Firm's Certificate No. (if required):

061-C

State of: ND

Address for Owner's receipt of notices:

Bismarck Parks and Recreation District

400 E Front Avenue

Bismarck, ND 58504

Address for Engineer's receipt of notices:

KLJ Engineering LLC

400 East Broadway Avenue, Suite 600

Bismarck ND 58501

Legal Notices to: legal@kljeng.com

This is **EXHIBIT A**, consisting of 15 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated November 20, 2025.

Engineer's Services

General Sibley Park Roadway Improvements – Bismarck, ND – 2514-11024

The Agreement is supplemented to include the following agreement of the parties.

PART 1 – BASIC SERVICES

Project Location:

The property for which Engineer's services are being provided is approximately a 13 acre portion of the 373-acre General Sibley Park & Campground and is described as the 1.3-mile-long day use park road south of the campground that leads to the boat ramp. See **Exhibit A.1**.

Project Understanding:

KLJ has been selected to complete design for the General Sibley Park Roadway Improvements (Project). The project will provide an asphalt overlay of the existing roadway, parking, and boat ramp area within the Day Use portion of the General Sibley Park and Campground. The current roadway, which is also used as a paved trail year-round, is in poor condition. The roadway is cracked and deteriorating causing the roadway to be less accessible. The project has received a 60% match up to \$300,000 in funds from the NDDOT's Special Road Fund program to provide a 2" asphalt overlay of the entire project area. The project will also include the addition of topsoil along both sides of the roadway averaging about a 4' width to transition the 2" of grade raise. The topsoiled area will be seeded. There will also be several areas that require concrete transitions from the raised asphalt grade to the adjacent concrete sidewalks and ramps. After the asphalt overlay is completed the parking lots and directional roadway arrows will be restriped.

The scope of work assumes that the City of Bismarck will not require site plan review. It is assumed that they will require a floodplain development permit application be submitted. The scope of work also assumes that no NDDOT or federal specifications, requirements, or processes will have to be followed to produce the plans and administer the construction.

Project Schedule:

Topographic Survey: Three weeks from Agreement execution (approx. 11/20/25 – 12/12/25)

Preliminary Design: Four weeks from Agreement execution (approx. 11/20/25 – 12/19/25)

Final Design: Six weeks from acceptance of Preliminary Design (approx. 1/5/26 – 2/17/26)

Bidding: Three weeks from acceptance of Final Design (approx. 2/17/26 – 3/10/26)

Park Board Meeting: 3/19/26

Construction: Nine weeks from during the late summer/fall 2026 (approx. 9/8/26 – 11/5/26)

Parties:

Owner – Bismarck Parks and Recreation District

Engineer – KLJ Engineering LLC

Constructor - TBD - Shall be synonymous with Construction Manager at Risk (CMAR) or Contractor in this document

Engineer shall provide Basic Services as set forth below.

A1.01 Study/Permitting and Report Phase (Not Included)

A1.02 Topographic Survey Phase

A. Owner shall:

1. Provide current title report and supporting documents.

B. Engineer shall provide:

1. Topographic Survey

- a. Provide topographic field survey to locate edge of pavement roadways and parking areas, adjacent sidewalks and concrete, pavement striping, gravel boat ramp area, and clearly marked utilities.
- b. Identify and map existing recorded easements and rights-of-way on the property found within the Owner provided title work. The Owner assumes all risk of ownership discrepancies and conflicts with easements or encumbrances not included in the title work to be provided by the Owner or lack of identification of easements and encumbrances if title work is not provided.
- c. Identify utilities on base map based on information provided by the Owner, utility owners and located by ND One Call.
- d. Prepare base map of existing conditions of proposed development site.
- e. Engineer assumes that site will not be covered in snow at the time of the field survey.

- C. Engineer's services under the Topographic Survey Phase will be considered complete on the date when the topographic survey basemap has been delivered to Owner.

A1.02 Preliminary Design Phase

A. Owner shall:

1. Furnish the services of geotechnical consultants/engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, evaluation of hazardous materials, including necessary operations for anticipating subsoil conditions, with written reports and recommendations on pavement sections, slope stability, ground water elevations, and construction considerations appropriate for the site, based on geotechnical sampling for design. Coordination with the geotechnical engineer and/or preparation of exhibits or other documents for use by the Owner in obtaining the services of a geotechnical consultant may be performed by the Engineer as an Additional Service. The Engineer assumes no responsibility for assumptions made regarding the services of the geotechnical consultant/engineer or lack of a geotechnical evaluation.
2. Furnish the services of an environmental and/or abatement companies to determine, specify, and mediate any contaminated soils or hazardous materials, if necessary.

3. Provide a copy of the budget for the cost of the Work for the Engineer's use in the design and coordination of the project.
- B. Engineer shall:
1. Consult with Owner to define and clarify Owner's requirements for the Project and available data.
- C. Concept Development
1. Prepare one (1) conceptual drawing(s) of the proposed site depicting locations of the roadway and parking overlay areas and transitions.
 2. Furnish to the Owner the conceptual site plan(s) for review.
 3. Attend up to one (1) meeting(s) with Owner or other external parties.
 4. Revise the conceptual site plan once per comments from Owner.
 5. Prepare a preliminary Engineer's Opinion of Probable Construction Cost
- D. Marketing Exhibit or Graphical Renderings *(Not Included)*
- E. Engineer's services under the Preliminary Design Phase will be considered complete on the date when the revised conceptual site plan has been delivered to Owner.

A1.03 Entitlements Phase *(Not Included)*

A1.04 Final Design Phase

- A. After acceptance by Owner of the Preliminary Design Phase documents and any other deliverables and indication of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, and upon authorization from Owner, Engineer shall provide:
- B. Detailed Site Design
1. Develop site existing conditions and removals plan
 2. Develop site grading design
 - a. Grading plans will be included only for the transitions to concrete and for the paving of the current gravel roadway to the boat ramp.
 3. Develop Site Layout
 - a. Roadway/access/parking overlay limits
 - b. Parking striping layout
 - c. Concrete transition locations

- d. Construction details and typical sections for the work described above.
- C. Utility Design (Not Included)
- D. Stormwater Management Plan & Design (Not Included)
- E. Landscape Plan (Not Included)
 - 1. Topsoiled areas will be seeded with a non-irrigated seed mix.
- F. Site Lighting Plan *(Not Included)*
- G. Structural or Retaining Wall Design *(Not Included)*
- H. Fencing Plan (Not Included)
- I. Erosion Control Plan
 - 1. Prepare erosion control plan for the site.
- J. Permitting
 - 1. The following permits will likely be necessary for this construction project. The Engineer's services do not include applying for or obtaining these permits, other than the Floodplain Development Permit. The Engineer will refer the Owner or Constructor to the appropriate section(s) of the design plans, if applicable, to aid the Owner or Constructor in the permit applications.
 - a. North Dakota Department of Environmental Quality North Dakota Pollutant Discharge Elimination System (NDPDES) Construction Erosion Control Permit.
 - 1) The Owner or Constructor shall be responsible for completing the Notice of Intent (NOI) and developing the Stormwater Pollution Prevention Plan (SWPPP) as required by the Federal, State and local government. It is the responsibility of the Owner/Constructor to ensure compliance and to modify the SWPPP for actual schedule and construction methods.
 - b. City Permits
 - 1) The Owner or Constructor shall obtain the necessary permits which may include, but are not limited to:
 - a) Traffic, Grading, Excavation, Erosion and Sediment Control, Concrete, Right-of-Way, Approach, Street Tree, Water, Sewer, Building, Fire Sprinkler, Plumbing, Lawn Sprinkler, Water Meter, etc.
 - 2) City shall bill permit fees directly to the Owner or Constructor.
 - c. City of Bismarck Floodplain Development Permit
 - 1) Engineer shall submit the application signed by the Owner to the City of Bismarck for review and approval.

- d. It is assumed that no wetlands, endangered species, or cultural resources are located on the site and services regarding these permits are not included. If the Owner is aware of the need for such permits the Engineer can complete this work as an Additional Service.

K. Specifications

1. Technical specifications will be prepared for the project using the CSI Master Format specifications generated using SpecLink.
2. Procedural and contractual forms (front end documents) will be prepared using EJCDC format documents.

L. Traffic Study or Analysis *(Not Included)*

M. Engineer's Opinion of Probable Construction Cost

1. Provide one (1) updated Opinion of Probable Cost at the end of the Final Design Phase
2. Opinions of cost shall only be for the materials covered by the Engineer's design.
3. Revisions to the engineer's opinion of cost in excess of the amounts stated herein shall be completed as an Additional Service.

N. Review Agency (City) Coordination

1. The Engineer shall coordinate with the City of Bismarck on the Floodplain Development Permit Application.
2. It is assumed that the Engineer will not be required to submit a site plan or stormwater plan to the City of Bismarck for review.
3. It is assumed that the Engineer will not be required to follow the NDDOT or federal specifications, requirements, or processes for the project.

O. Owner Coordination

1. It is assumed that the Engineer will host or attend up to a total of two (2) one-hour meetings with the Owner or other external parties during the final design phase. The Engineer will attend those meetings deemed appropriate for their scope of services either in person or through a telephone or video conference.
2. The Engineer will be available to attend additional meetings as an Additional Service.
3. Engineer shall provide copies of drawings, reports, specifications and other necessary information to the Owner and Constructor or other parties in PDF or paper copy format.

P. Deliverables

1. Construction drawings and appropriate details for the above tasks identified in this Phase.

2. Project Manual containing EJCDC front end documents and technical specifications
3. Updated Engineer's Opinion of Probable Construction Cost
4. Floodplain Development Permit Application

Q. Other Items to be Noted

1. Engineer's fee does not include submittal, review, recording, permit, system development, or other fees. These fees are to be paid by Owner.
 2. Scope does not include drafting, reviewing, obtaining, or recording any easements, common use agreements, or developers agreements unless specifically stated above.
 3. Engineer assumes that no major revisions will be made to the site concept after the Owner acceptance of the Preliminary Design documents.
 4. Owner shall provide the Engineer any restrictions to Constructor working hours, availability of the Site, or project phasing to be included in the plan notes.
 5. Plan Notes and bid forms will require Constructor(s) to provide all required materials testing.
 6. The number of prime construction contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is one (1).
- R. Engineer's services under the Final Design phase will be considered complete on the date when the above deliverables have been submitted to the review agency for approval.

A1.05 Bidding Phase

- A. After acceptance by Owner of the construction documents and the most recent opinion of probable construction cost as determined in the Final Design Phase, and upon authorization by Owner to proceed, Engineer shall:
1. Assist Owner in advertising for and obtaining bids or proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences, if any, and receive and process Constructor deposits or charges for the bidding documents.
 2. Issue up to one (1) addendum as appropriate to clarify, correct, or change the bidding documents.
 3. Provide information or assistance needed by Constructor(s) in the course of bidding the components of project included in the Engineer's design.
 4. Consult with Owner as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective Constructors for those portions of the Work as to which such acceptability is required by the bidding documents.

5. If bidding documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by bidders.
 6. If necessary, attend the Bid opening, prepare Bid tabulation sheets, and assist Owner in evaluating Bids or proposals and in assembling and awarding contracts for the Work.
 7. Attend one (1) Park board meeting to present the bids.
 8. Bidding services shall be provided for the project to be awarded to one (1) Constructor.
 9. Any services provided by Engineer to re-bid will be considered Additional Services.
- B. The Bidding Phase will be considered complete upon award of contract, commencement of the Construction Phase.

A1.06 Construction Phase - Surveying (Not Included)

A1.07 Construction Phase – Observation & Administration

- A. After acceptance by Owner of the bidding or negotiating phase documents:
- B. Owner shall:
1. Provide a copy of the most recent bidding documents, bid tabulations, negotiated proposals and Contract Documents, including, Change Orders and Construction Change Directives for the Engineer's use in the construction coordination of the Project.
- C. Engineer shall provide:
1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer as assigned in the Construction Contract shall not be modified, except as Engineer may otherwise agree in writing. Owner's instructions to Constructor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Constructor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.
 2. *Selecting Independent Testing Laboratory:* To be provided by Constructor.
 3. *Preconstruction Meeting:* Attend up to one (1) preconstruction meeting in-person with the Owner and Constructor.
 4. *Visits to Site Observation of Construction and Construction Meetings:* In connection with observations of Constructor's Work while it is in progress:
 - a. Construction Meetings: Attend up to nine (9) one-hour long construction progress meeting(s) in-person or via teleconference.
 - b. Site Visits for observation of construction: Make up to nine (9) one-hour visits and be onsite full time during asphalt paving (assumed 30 hours).

- c. Meetings and visits to the Site may be made concurrently and will be conducted at intervals appropriate to the various stages of construction, to observe as an experienced and qualified design professional the progress of Constructor's executed Work or to attend construction meetings. Such visits and observations by Engineer are not intended to be exhaustive or to extend to every aspect of Constructor's Work in progress or to involve detailed inspections of Constructor's Work in progress beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment. Based on information obtained during such visits, observations or meetings, Engineer will determine in general if the Work is proceeding in accordance with the Contract Documents, and Engineer shall keep Owner informed of the progress of the Work. When the number of site visits or meetings listed above is exceeded the Engineer shall conduct site visits or attend meetings requested by the Owner as an Additional Service.
 - d. The purpose of Engineer's visits to the Site will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that Constructor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Engineer shall not, during such visits or as a result of such observations of Constructor's Work in progress, supervise, direct, or have control over Constructor's Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Constructor, for security or safety at the Site, for safety precautions and programs incident to Constructor's Work, nor for any failure of Constructor to comply with Laws and Regulations applicable to Constructor's furnishing and performing the Work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work in accordance with the Contract Documents.
5. *Clarifications and Interpretations; Requests for Information; Field Orders; Work Change Directives; Change Orders:* Issue clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Constructor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Subject to any limitations in the Contract Documents, Engineer may issue field orders authorizing minor variations in the Work from the requirements of the Contract Documents. Recommend change orders and work change directives to Owner, and prepare change orders and work change directives. Major changes to the design requested by the Owner or Constructor and approved by the Owner will be completed as Additional Services. The assumed number of each are quantified below:
- a. Clarifications, Interpretations, or RFI's: Six (6)
 - b. Field Orders or Work Change Directives: Zero (0)
 - c. Change Orders: One (1) plus a balancing change order at the end of the project.

6. *Shop Drawings and Samples:* Review and take appropriate action in respect to Shop Drawings and Samples and other data which Constructor is required to submit, up to two (2) times, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incidental thereto.
7. *Substitutes and "or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Constructor, but subject to the provisions of this Exhibit under "Additional Services Not Requiring Owner's Authorization".
8. *Inspections and Tests:* Require such special inspections or tests of Constructor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Engineer shall be entitled to rely on the results of such tests.
9. *Disagreements between Owner and Constructor:* Render decisions on duly submitted issues relating to the acceptability of Constructor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Constructor's Work; review each duly submitted Claim by Owner or Constructor, and either deny such Claim in whole or in part, approve such Claim, or decline to resolve such Claim if Engineer in its discretion concludes that to do so would be inappropriate. In rendering such decisions, Engineer shall be fair and not show partiality to Owner or Constructor and shall not be liable in connection with any decision rendered in good faith in such capacity.
10. *Defective Work:* Make recommendation to Owner to Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work (a) is defective under the standards set forth in the Contract Documents, (b) will not produce a completed Project that conforms to the Contract Documents, or (c) will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
11. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
 - a. Determine the amounts that Engineer recommends Constructor be paid. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Constructor's Work has progressed to the point indicated, the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Constructor's being entitled to such payment appear to have

been fulfilled in so far as it is Engineer's responsibility to observe Constructor's Work. In the case of unit price work, Engineer's recommendations of payment will include final determinations of quantities and classifications of Constructor's Work (subject to any subsequent adjustments allowed by the Contract Documents).

- b. By recommending any payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Constructor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Constructor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents. Neither Engineer's review of Constructor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control Constructor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Constructor's compliance with Laws and Regulations applicable to Constructor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Constructor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, materials, or equipment has passed to Owner free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between Owner and Constructor that might affect the amount that should be paid.
 - c. It is assumed that the Engineer will complete up to three (3) applications for payment to be submitted to the Owner monthly.
12. *Constructor's Completion Documents:* Receive and review schedules, guarantees, bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as provided under "*Shop Drawings and Samples*", and transmit the annotated record documents which are to be assembled by Constructor in accordance with the Contract Documents to obtain final payment. The extent of such review of record documents shall be to check that Constructor has submitted all documents.
13. *Final Notice of Acceptability of the Work:* Conduct one (1) visit to prepare Constructor's punch list and conduct one (1) final visit to determine if the completed Work of Constructor is acceptable so that Engineer may recommend, in writing, final payment to Constructor. Accompanying the recommendation for final payment, Engineer shall also provide a "Final Review and Acceptance" that the Work is acceptable (subject to the provisions of "*Applications for Payment*") to the best of Engineer's knowledge, information, and belief and based on the extent of the services provided by Engineer under this Agreement.
- D. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the Construction Contract for the Project or any part thereof for which the Engineer provided services and will terminate upon written recommendation by Owner for final payment to Constructor. If the Project involves more than one prime contract as indicated in Final Design Phase, then Construction Phase services may be rendered at different times in respect to the separate contracts. Engineer shall be entitled to an equitable increase in compensation if Construction Phase services are required after the original date for completion and readiness for final payment of

Constructor as set forth in the Construction Contract, or if the number of prime contracts exceeds the specified number in the Final Design Phase.

- E. *Limitation of Responsibilities:* Engineer shall not be responsible for the acts or omissions of any Constructor, Subcontractor or Supplier, or other individuals or entities performing or furnishing any of the Work, for safety or security at the Site, or for safety precautions and programs incident to Constructor's Work, during the Construction Phase or otherwise. Engineer shall not be responsible for the failure of any Constructor to perform or furnish the Work in accordance with the Contract Documents.

A1.08 *Post-Construction Phase (Not Included)*

PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Authorization*

- A. If requested or authorized by Owner, Engineer shall furnish or obtain from others Additional Services of the types listed below. Engineer shall proceed with such Additional Services with the understanding that the Engineer will be paid hourly for such services at the Engineer's standard hourly rates unless an agreement has been reached between the parties for other methods of payment. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice from Owner.
1. Services in addition to those defined under Basic Services including but not limited to: study and report phase services, marketing exhibits or graphical renderings, environmental studies, cultural/archeological studies, traffic impact analysis, permitting, permit application materials, requests for zoning change or any deviation or variance from local standards or zoning regulations, or any entitlements services such as lot modifications, platting, easements, etc.
 2. Design services in addition to those defined under Basic Services including but not limited to: utilities, lighting, fencing, landscape, stormwater scoping sheet, stormwater management plan or waiver request, stormwater treatment or sediment removal systems, structural design including but not limited to foundations and retaining walls, mechanical engineering services or pumping systems, geotechnical engineering or services to aid in the completion of their recommendations, or design of offsite improvements.
 3. Preparation for, and attendance at, a public presentation, meeting or hearing other than specified under Basic Services.
 4. Preparation or revision of construction documents or design changes after the final design phase or during construction.
 5. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

6. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
7. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, character of construction, method of financing, or Owner's schedule or coordination causing unreasonable delay in the orderly and sequential progress of the Engineer's services; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
8. Redesign or rebidding services requested to meet the Owner's construction budget after approval of the Final Design phase of the Project.
9. Services resulting from Owner's or Constructor's request to modify previously approved deliverables or to evaluate additional alternative solutions beyond those agreed to under Basic Services.
10. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
11. Services resulting from conflicting direction from the Owner or from multiple representatives of the Owner.
12. Services provided beyond the dates specified in the Engineer's original schedule.
13. Services required to provide copies of drawings, reports, specifications and other necessary information to the Owner and other consultants in a format other than PDF or paper copy or to other consultants in a format other than PDF or paper copy.
14. Providing renderings, models or electronic grading files or releases for Owner's or Constructor's use, including services in support of building information modeling or civil integrated management, other than specified under Basic Services.
15. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of financial feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting Owner in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed or furnished by Owner.
16. Furnishing services of Consultants for other than provided under Basic Services.
17. Providing data or services that were to be provided by the Owner, Constructor, or others.

18. Services attributable to more prime construction Constructors than specified under Basic Services.
19. Services to arrange for performance of construction services for Owner by Constructors other than the principal prime Constructor, and administering Owner's contract for such services.
20. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner or Constructor; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
21. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents) or Construction Contract Documents for alternate bids or cost estimates requested by Owner or Constructor for the Work or a portion thereof other than provided under Basic Services.
22. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services or making revisions to drawings for "or equal" items or bid negotiations.
23. Preparing conformed Construction Contract Documents that incorporate and integrate the content of Addenda and any amendments negotiated by Owner and Constructor.
24. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Constructor.
25. Modifying final approved design or digital files as may be required for Owner's or Constructor's use during construction.
26. Preparing Record Drawings showing appropriate record information based on Project annotated record documents received from Constructor, and furnishing such Record Drawings to Owner other than provided under Basic Services.
27. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources.
28. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Constructor, Owner, utility companies, and other sources.
29. Preparation of operation, maintenance, or staffing manuals.
30. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
31. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.

32. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
33. Preparing to serve or serving as a consultant or witness for Owner or Constructor in any litigation, arbitration, claim, dispute resolution, or other legal or administrative proceeding involving the Project.
34. Providing construction surveys and staking to enable Constructor to perform its work; any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys (except as agreed to under Basic Services).
35. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner or Constructor.
36. Services required during any correction period, or with respect to monitoring Constructor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
37. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

A2.02 Additional Services Not Requiring Owner's Authorization

- A. Engineer shall advise Owner that the Engineer is performing or furnishing the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance authorization from Owner. Engineer shall proceed with such Additional Services with the understanding that the Engineer will be paid hourly for such services at the Engineer's standard hourly rates unless an agreement has been reached between the parties for other methods of payment. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice from Owner.
 1. Attending meetings requested by Owner or Constructor in addition to those specified as Basic Services.
 2. Services in connection with work change directives and change orders to reflect changes requested by Owner or Constructor.
 3. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; services after beginning the Bidding Phase of the Construction Documents in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.
 4. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
 5. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God

endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Constructor.

6. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work by Owner prior to Substantial Completion.
7. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Constructor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.
8. Services during the Construction Phase rendered after the original date for completion of the Work referred to in this Agreement.
9. Reviewing a Shop Drawing more than two (2) times, as a result of repeated inadequate submissions by Constructor.
10. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Constructor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, state, or local safety authorities for similar construction sites.

SITE PLAN

GENERAL SIBLEY PARK DISMARCH, ND

