

February 13, 2026

TO: Commissioners Gilbertson, Herzog, Jeske, Redmann, and President Zimmerman
FROM: Kevin Klipfel, Executive Director 
SUBJECT: February 19, 2026 Park Board Meeting Packet and Overview

Commissioners:

Enclosed you will find the packet of information and overview for the Park Board meeting on February 19, 2026 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.** Golden Citizen Awards
Sergeant Elliot Carvell with the Burleigh County Sheriff's Office will appear before the Board to present BPRD employees David Robinson and Seth Johnson with the Golden Citizen Award. The two employees will also be at the meeting.
- Item 5.** Featured Partners and Programs
- Bismarck Figure Skating Club - Kristin Wilhelm, President, will appear before the Board.
 - Bismarck Hockey Boosters - Mikayla Jablonski Jahner, Executive Director, will appear before the Board.
- Item 6.** Disposition of Bids – Operations Director David Mayer will review the memos found in the Board packet.
- Tom O'Leary Tennis Court Half-Court Replacement
 - Tom O'Leary Tennis Court Resurfacing
 - Walt Neuens Vault Toilet and Sertoma Park Storage Shed
- Item 7.** Matching Grant Recommendations
Commissioner Jeske will review the round one matching grant recommendations for the Board's consideration. The recommendations are included in the Board packet.
- Item 8.** Request to Appear Regarding the Garrison Diversion Conservancy District – A memo requesting the Board's direction is found in the packet.

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Item 9.

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:

- Consideration of January 15, 2026 Board Meeting Minutes – The minutes are included for your consideration.
- Request to Dispose of Obsolete Records (Two Requests) – Two memos are provided for your consideration to dispose of records.
- Correction of Portable Toilet Servicing Bid – Please see the memo provided by Operations Director David Mayer.
- Consideration of Consultant Agreements and Request Approval to Call for Bids – The consultant agreements are provided for your consideration along with approval to call for bids.
 - Custer Park Performance Stage Replacement Project – AGL Landscape Architects
 - Century Avenue to Sunrise Park Trail – This agreement with KLJ will be provided to you by Wednesday, February 18th.
- Request Board Authorization to Apply for Grants – Memos have been provided for your consideration.
 - Community Development Block Grant
 - Destination Development Grant

Item 10.

Approval of Bills

Item 11.

Consideration of Executive Director Applicants and Possible Executive Session

The Board must pass a motion to go into executive session if you wish to discuss confidential applications. The Park Board has the authority to go into executive session for this purpose pursuant to NDCC 44-04-18.27.

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.

Strategic Planning Session: February 23, 2026 at 4:00 pm at the Hillside Aquatic Complex
Community Room

Next Regular Board Meeting: March 19, 2026 at 5:15 pm in the Tom Baker Meeting Room

Let's Play!

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

FROM: David Mayer, Operations Director *DM*

DATE: February 12, 2026

RE: 2026 Tom O'Leary Tennis Half Court Replacement Approval

Upon review of the bids received on February 11th, staff are recommending awarding this project to Brandoz Concrete for a bid amount of \$55,487.50

Bid Summary:

| Vendor | Bid |
|--------------------------------|--------------------|
| Brandoz Concrete, Inc | \$55,487.50 |
| Capital City Construction, Inc | \$70,700.00 |
| Strata Corporation | \$138,658.00 |

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Let's Play!

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

FROM: David Mayer, Operations Director *DM*

DATE: February 12, 2026

RE: 2026 Tom O'Leary Tennis Court Resurfacing Approval

Upon review of the bids received on February 11th, staff recommends awarding this project to JB Surfaces, Inc. for a bid amount of \$61,787.00

Bid Summary:

| Vendor | Bid |
|--------------------------|--------------------|
| JB Surfaces, Inc. | \$61,787.00 |
| Koch's Courts | \$82,880.00 |

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Let's Play!

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

FROM: David Mayer, Operations Director *DM*

DATE: February 11, 2026

RE: 2026 Vault Toilet and Storage Shed Bid Approval

This bid is one project that contains two items – a vault toilet and a storage shed. Upon review of the bids received on February 11th, staff recommends awarding these items to Boom Concrete, Inc. Staff also recommends including all optional add-on items for a total bid price of \$55,645.25.

Vault Toilet

| Vendor | Model | Bid |
|---------------------------|-----------------------|--------------------|
| Boom Concrete, Inc | Clovermist DVT | \$30,722.25 |
| Boom Concrete, Inc | add-on options | \$3,588.00 |
| Naastad Brothers, Inc | Clovermist DVT | \$56,650.00 |
| Naastad Brothers, Inc | Add-on options | \$3,950.00 |

Storage Shed:

| Vendor | Model | Bid |
|---------------------------|-----------------------------------|--------------------|
| Boom Concrete, Inc | Boom Concrete Storage Shed | \$20,585.00 |
| Boom Concrete, Inc | add-on options | \$750.00 |
| Naastad Brothers, Inc | Boom Concrete Wood Shed | \$38,500.00 |
| Naastad Brothers, Inc | Add-on options | \$825.00 |

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Let's Play!

DATE: February 11, 2026

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

FROM: Mike Wald, Facilities and Programs Director 

RE: 2026 Matching Grant Program Round One Funding Recommendations

The Matching Grant review committee consisting of Commissioners Herzog, Jeske, Executive Director Klipfel, and I will meet with the nine grant applicants on February 10 to review their project applications. I would like to thank Commissioners Herzog and Jeske along with Executive Director Klipfel for their participation in this process. We continue to have great interest in this program and appreciate the support, cooperation and passion from the different groups and organizations to partner together to improve the recreational opportunities in our community. We had requests from nine groups totaling \$76,574.66.

The Matching Grant budget for 2026 is \$125,000. A summary of applications is attached along with a copy of the Matching Grant Application.

Commissioner Jeske will provide an overview of the committee recommendations for the Board's consideration.

Please contact me if you have any questions.

BISMARCK PARKS AND RECREATION DISTRICT
MATCHING GRANT APPLICATIONS
 Round One, February 2026

| No. | Applicant | Project Title | Project Description | Assistance Requested | Applicant's Contribution | Total Estimated Cost | Proposed Funding Recommended |
|-----|--------------------------------------|---|---|----------------------|--------------------------|----------------------|------------------------------|
| 1. | BPS – Will Moore Elementary School | Will-Moore Elementary Playground | Removal of existing playground; installation of multiple new playground structures includes climbing, play panels, slides and transfer platform. | \$25,000.00 | \$135,000.00 | \$160,000.00 | \$25,000.00 |
| 2. | BPS – Solheim Elementary School | Solheim Elementary Playground | Replace existing metal basketball systems on playground | \$8,000.00 | \$16,000.00 | \$24,000.00 | \$8,000.00 |
| 3. | Bismarck Rotary Club | Bismarck Rotary Arboretum | Maintenance and improvements to the Bismarck Rotary Arboretum's walking path/trail including grading, adding aggregate surfacing, green-treated timber replacement and other minor items as needed. | \$2,500.00 | \$2,500.00 | \$5,000.00 | \$2,500.00 |
| 4. | Bismarck Mandan Lacrosse Association | Collapsible Goals | More collapsible goals for ease transportation and use in dome and arenas. Goalie equipment and canopy for shelter. | \$875.00 | \$880.00 | \$1,755.00 | \$875.00 |
| 5. | Nishu Bowmen Archery Complex | Range Maintenance | Replace layers on the public used ranges of the Rinehart layered walls used on the complex and in the facility. | \$5,040.00 | \$5,040.00 | \$10,080.00 | \$5,040.00 |
| 6. | Theo Arts School | New Table & Shelves | New tables and shelves for studio | \$3,500.00 | \$3,500.00 | \$7,000.00 | \$3,500.00 |
| 7. | Aquastorm Swim Club | Turn Master Pro Swim Wall | Add Turn Master removable walls for more lane space in BSC AWC | \$2,247.66 | \$2,247.66 | \$4,495.32 | \$2,247.66 |
| 8. | Bismarck Horse Club | BHC Horse Barn Door Improvement and Wash rack | Replace east doors; add wash rack to south side of building with concrete pad with tie rail | \$4,412.00 | \$4,412.00 | \$8,824.00 | \$4,412.00 |

BISMARCK PARKS AND RECREATION DISTRICT
MATCHING GRANT APPLICATIONS
 Round One, February 2026

| No. | Applicant | Project Title | Project Description | Assistance Requested | Applicant's Contribution | Total Estimated Cost | Proposed Funding Recommended |
|-----|----------------------------|------------------------------|--|----------------------|--------------------------|----------------------|------------------------------|
| 9. | Satchel Paige Statue - BRC | Satchel Paige Statue Project | Installation of life-size bronze statue of Satchel Paige at Municipal Ballpark | \$25,000.00 | \$75,000.00 | \$100,000.00 | \$25,000.00 |
| | TOTAL | | | \$76,574.66 | \$244,579.66 | \$321,154.32 | \$76,574.66 |



**BISMARCK PARKS AND
RECREATION DISTRICT**
Est. 1927

www.BisParks.org

Matching Grant Application 2026

FACILITIES • GROUNDS • EQUIPMENT



PURPOSE

The purpose of the **Matching Grant Program** is to encourage associations, organizations, clubs, or individuals to sponsor a project in a Bismarck Parks and Recreation District (BPRD) facility or park for the advancement of recreation opportunities in Bismarck.

INITIAL PROJECT REVIEW: Prior to submission and deadline, **Mike Wald, Facilities and Programs Director, must be contacted at 222-6455 to conduct an initial project review to make sure project meets minimum specifications.**

RECOGNITION OF MATCHING GRANT: The approved projects shall have a recognition plaque, dedication, or some other recognition signifying the project is part of the BPRD Matching Grant Program.

ADMINISTRATION AND ACCOUNTING: Administration and accounting procedures will be determined by agreement with approved parties. All approved projects on BPRD property must follow BPRD purchasing guidelines, local ordinances, and state laws. Upon completion of the projects on BPRD property, BPRD will assume ownership of the improvement or equipment, unless other arrangements are agreed upon.

WHO CAN APPLY: Associations, organizations, clubs, or individuals in the BPRD who are interested in applying for a grant to sponsor a project may apply. Projects must be facility improvements and may include the purchase of recreation equipment.

SCHOOL DISTRICT PROPERTY: Projects on school district property must have a letter of support from the school district's buildings and grounds supervisor and school principal.

APPLICATION OBTAINED AT: BPRD Office, 400 East Front Avenue Bismarck, ND 58504. Applications will be available after January 1 of each year.

APPLICATION DEADLINES: Application deadlines for 2026 are 5:00 pm on February 2 (Round 1) and June 1 (Round 2).

FUNDS AVAILABLE: The Board of Park Commissioners shall determine how much, if any, will be available each budget year for matching funds and may change or make exceptions to the amount at any time. \$125,000 has been budgeted for 2026.

APPLICATION REVIEW/INTERVIEW: After the deadline, a committee of staff and Commissioners will review all applications, conduct a short interview with applicants, and make recommendations to the Board of Park Commissioners at the February 19 and June 18 Park Board meetings.

APPLICATION APPROVAL/DENIAL: Letters will be sent to all applicants, indicating the approval or denial of grant money. For those approved, an agreement will be sent to the successful project sponsors, which states the provisions of the grant funds.

- FUNDING:** Projects will be funded at no more than 50 percent of the total estimated cost, or up to a maximum of **\$25,000**, whichever is less. The Matching Grant Program provides a dollar-for-dollar match. The program does not consider matching funds for projects with in-kind expenses. The Board of Park Commissioners, at its discretion, may approve matching funds of over **\$25,000**.
- PROJECT SPONSOR CERTIFICATION:** The project sponsor must certify that they have the necessary funds for their share of the total estimated project's cost.
- GREATEST CONSIDERATION:** Projects that will receive the greatest consideration are as follows:
- Projects that fit into the BPRD's strategic plan, mission and vision.
 - Projects that serve a wide variety of people or large number of people, rather than to projects serving a limited group.
 - Projects that can be used throughout the year – more than one season.
 - Projects that have a developmental plan approved or reviewed by BPRD.
 - Projects that are on BPRD property.
 - Playground projects must comply with current playground standards and guidelines. Playgrounds that include a ramp with an accessible route will receive the highest consideration.
- NO CONSIDERATION:** Projects that will **NOT** receive consideration for funding:
- Projects on private property as fixed improvements that aren't open to the public.
 - Personnel, operations, consultants.
 - Projects that have begun before grant approval.
 - Projects that use in-kind expenses as a match for grant application.
 - No clothing or uniforms.
- PROJECT COMPLETION:** The approved projects must be completed in the year they are awarded, unless approved by BPRD Facilities and Programs Director.

2026 MATCHING GRANT APPLICATION

APPLICATION DEADLINE: 5:00 PM ON FEBRUARY 2 AND JUNE 1

COMPLETE AND RETURN TO:

Bismarck Parks and Recreation District • Attn: Mike Wald
400 E. Front Ave. • Bismarck, ND 58504 • (701) 222-6455
mwald@bisparks.org

1. DATE OF APPLICATION: _____

2. APPLICANT: _____

CONTACT PERSON: _____ IF SCHOOL, PRINCIPAL'S NAME: _____

ADDRESS: _____ CITY: _____

STATE: _____ Zip: _____ TELEPHONE NUMBER: (H) _____ (C) _____

EMAIL ADDRESS: _____

3. PROJECT TITLE: _____

4. ESTIMATED PROJECT START DATE: _____ COMPLETION DATE: _____

5. DESCRIPTION OF PROPOSED PROJECT (INCLUDE LOCATION AND SITE MAPS WHERE APPLICABLE):

6. JUSTIFICATION FOR PROJECT:

7. ESTIMATED NUMBER OF PEOPLE BENEFITED: _____

8. ESTIMATED AGE CATEGORIES BENEFITED: _____

9. TOTAL ESTIMATED PROJECT COST (INCLUDE ANY PRICE QUOTES OR COST ESTIMATES RECEIVED):

10. AMOUNT OF ASSISTANCE REQUESTED: _____

11. AMOUNT OF APPLICANT'S CONTRIBUTION: _____

12. OTHER SOURCES OF ASSISTANCE (NAME, TYPE, AMOUNT):

13. BY SIGNING OR TYPING MY NAME BELOW, I HEREBY CERTIFY THAT FUNDS IN THE AMOUNT OF \$ _____
(AT LEAST 50 PERCENT OF TOTAL ESTIMATED COSTS) ARE AVAILABLE FOR THE ABOVE STATED PROJECT.

SIGNATURE: _____

TITLE: _____

DATE: _____

PROJECT COST ESTIMATES

Attach any written cost estimates received from vendors or contractors, etc.

| PROJECT ITEM | UNITS | ESTIMATED COST |
|--------------|---------------|----------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| | TOTAL: | _____ |

APPLICATION CHECKLIST

- Initial project review with Facilities and Programs Director?
- Application completed?
- Project sponsor certification of funds available?

SCHOOL PROJECTS:

- Letter of approval from BPS Buildings and Grounds?
- Letter of approval from school principal?



Let's Play!

February 10, 2026

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

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

RE: Request to Appear

Commissioners:

The Garrison Diversion Conservancy District (GDCCD) will be holding a hearing on Tuesday, March 24, 2026 to consider the request of Burleigh County to withdraw from the GDCCD. Bismarck Parks and Recreation District have applied for and received grant funding for a number of projects through this program. BPRD has been asked to present information at the Board hearing about the benefits the grant program has provided to those served by BPRD. I respectfully request Board approval to represent BPRD at the hearing.

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DRAFT
MINUTES OF THE BOARD OF PARK COMMISSIONERS
January 15, 2026

The Board of Park Commissioners held their regular meeting on January 15, 2026 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 Gilbertson, Herzog, Jeske and Redmann were present.

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

Dr. Dan Leingang with BSC appeared before the Board to provide an update on the Bavendick Center construction project. Recreation Specialist Spencer Aune reviewed the upcoming Flurry Fest calendar of events.

City Engineer Gabe Schell provided an update on the South Bismarck Flood Control Project for the Board.

Commissioner Herzog moved to approve the bid provided by Spiffy Biffs for servicing portable toilets from February 2026-December 2027. Commissioner Jeske seconded the motion, and the voting went as follows: Ayes: Commissioners Gilbertson, Herzog, Jeske, Redmann, and President Zimmerman. The nays being none, the motion carried.

Facilities and Programs Director Mike Wald reviewed some changes for the Board's consideration due to maintenance equipment approved at the December 2025 meeting not meeting minimum specifications. Commissioner Jeske moved the following:

- Reject the Van Wall Equipment bids for the fairway mower and bunker rake totaling \$125,150.
- Accept the bid from MTI for one fairway mower in the amount of \$103,729.86.
- Accept the bid from Turfwerks for one bunker rake in the amount of \$30,350.00.

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

President Zimmerman reviewed the following consent agenda:

- Consideration of December 18 and December 22, 2025 Board meeting minutes.
- Designation of bank depositories.
- Select consultant for Century Avenue to Sunrise Park Trail.
- Request Board authorization to call for bids for VFW Sports Center/Tom O'Leary Golf Course concessions.
- Consideration of consultant agreements for 2026 projects and approval to call for bids.

- Municipal Country Club Restroom - Endeavor North Design PLLC
- McDowell Dam Shower Building – Bartlett and West
- Paul H. Wachter Aquatic Complex Pool Mechanical Updates - Prairie Engineering, P.C.

Commissioner Gilbertson moved to approve the consent agenda with the exception of the bank depositories item as requested by Commissioner Jeske. Commissioner Redmann seconded the motion, and the voting went as follows: Ayes: Commissioners Gilbertson, Herzog, Jeske, Redmann, and President Zimmerman. The nays being none, the motion carried.

The Board discussed the bank depository item, and Commissioner Jeske stated that she would abstain from voting. Commissioner Gilbertson moved to approve the bank depositories as presented. Commissioner Herzog seconded the motion, and the voting went as follows: Ayes: Commissioners Gilbertson, Herzog, Redmann, and President Zimmerman. Abstain: Commissioner Jeske. The nays being none, the motion carried.

Commissioner Gilbertson moved to approve bills for payment with checks 408374 to 408380, and 220508 to 220681 along with bank drafts DFT001661 to DFT001668, EFTs 3702 to 3739, and direct deposits 94804 to 95659. Commissioner Jeske seconded the motion, and the voting went as follows: Ayes: Commissioners Gilbertson, Herzog, Jeske, Redmann, and President Zimmerman. The nays being none, the motion carried.

The next regular meeting will be held February 19, 2026 at 5:15 pm in the Tom Baker Meeting Room. The meeting was adjourned at 6:16 pm.

Memo

To: Park Board Commissioners and Kevin Klipfel, Executive Director
From: Kathy Feist, Finance Director *KF*
Date: February 10, 2026
Re: Record Disposal Request

In accordance with the Bismarck Parks and Recreation District's record retention policy "Any destruction of Bismarck Parks and Recreation records must receive approval of the Board of Park Commissioners and will follow the timetable listed in the following schedule." A detailed listing of the retention schedule is found in the BPRD Accounting Policy and Procedure Handbook which has been provided in your "Board Operating Handbook."

Attached is a Schedule of Obsolete Records that lists records within the timetable for destruction as established in the record retention schedule. A total of 42 boxes and four files are presented for your consideration. If approved, the records will be destroyed by a commercial shredder.

Recommended Board action is to approve disposal of the records listed on the attached Schedule of Obsolete Records.

Attachment: Schedule of Obsolete Records

OBSOLETE RECORDS
2/19/2026

| Box Id | Area | Year | Contents | Ret Pd | Date In | Date Out |
|--------|---------------------|--------------|---|-----------|------------|-----------|
| 304 | Administration | 2000 - 2001 | Recreation Registration Forms 8/1/00 - 5/14/01 | 24 Years | 12/31/2001 | 1/1/2026 |
| 305 | Administration | 2000 | Recreation Registration Forms 00 - 01 Winter | 24 Years | 12/31/2001 | 1/1/2026 |
| 306 | Administration | 2001 | Recreation Registration Forms Spring 2001 | 24 Years | 12/31/2001 | 1/1/2026 |
| 307 | Administration | 2001 | Recreation Registration Forms Spring/Summer 2001 | 24 Years | 12/31/2001 | 1/1/2026 |
| 308 | Administration | 2001 | Recreation Registration Forms Fall 2001 | 24 Years | 12/31/2001 | 1/1/2026 |
| 1117 | Accounts Payable | Multiple | Used PO Books 1001-1025 less 1002,1007,1008,1009,1025 | 7 Years | 2/15/2019 | 2/15/2026 |
| 1118 | Accounts Payable | Multiple | Used PO Books 1026-1050 less 1030,1033,1037,1045,1047 | 7 Years | 2/15/2019 | 2/15/2026 |
| 1119 | Accounts Payable | Multiple | Used PO Books 1051-1075 less 1047,1066 | 7 Years | 2/15/2019 | 2/15/2026 |
| 1120 | Accounts Payable | Multiple | Used PO Books 1076-1100 less 1079,1087 | 7 Years | 2/15/2019 | 2/15/2026 |
| 1121 | Accounts Payable | Multiple | Used PO Books 1101-1125 less 1110,1122 | 7 Years | 2/15/2019 | 2/15/2026 |
| 1122 | Accounts Payable | Multiple | Used PO Books 1126-1150 less 1133,1149 | 7 Years | 2/15/2019 | 2/15/2026 |
| 1123 | Accounts Payable | Multiple | Used PO Books 1151-1175 less 1155,1156,1158,1174 | 7 Years | 2/15/2019 | 2/15/2026 |
| 1124 | Accounts Payable | Multiple | Used PO Books 307,505,704,728,758,763,776,798,825,834,844,875,888,89 8,916,938,974,983,1002 | 7 Years | 2/15/2019 | 2/15/2026 |
| 1156 | Administration | 2018 & Prior | Old W-9's | 7 Years | 2/15/2019 | 2/15/2026 |
| 1157 | Administration | Multiple | 2011-14 Risk Management Information, 2015 Training sign-in sheets, 2016 Invoices, 2014 & 2016 Donations to BPRD, 2012-2014 Training and Safety Concerns | 7 Years | 2/15/2019 | 2/15/2026 |
| 1244 | Accounts Receivable | 2020 | Cash Receipts Golf (July - December) | 4 years | 3/1/2022 | 2/15/2026 |
| 1245 | Accounts Receivable | 2020 | Cash Receipts Golf (January - June) | 4 years | 3/1/2022 | 2/15/2026 |
| 1246 | Accounts Receivable | 2019-2020 | Admin Credit Card Receipts, Deposit Slips | 4 years | 3/1/2022 | 2/15/2026 |
| 1247 | Accounts Receivable | 2020 | Credit Card Receipts Facilities (Jan - Dec) | 4 years | 3/1/2022 | 2/15/2026 |
| 1248 | Accounts Receivable | 2020 | Cash Receipts AWC, CRFC (Jan - Dec) | 4 years | 3/1/2022 | 2/15/2026 |
| 1249 | Accounts Receivable | 2020 | Cash Receipts Sibley, CIC, McDowell Dam | 4 years | 3/1/2022 | 2/15/2026 |
| 1250 | Accounts Receivable | 2020 | Cash Receipts Admin/Concessions(Aug - Oct),Admin (Nov - Dec) Pool Receipts (June, July, Aug) | 4 years | 3/1/2022 | 2/15/2026 |
| 1251 | Accounts Receivable | 2020 | Cash Receipts Admin (Jan - March), Admin/Concessions (April - July) | 4 years | 3/1/2022 | 2/15/2026 |
| 1252 | Accounts Receivable | 2020 | McDowell Dam Daily Rentals | 4 years | 3/1/2022 | 2/15/2026 |
| 1255 | Accounts Receivable | 2018-2020 | 2018 Golf Season Pass Forms (front desk),2019 Golf Season Pass Forms, 2019 Swim Coupon Book Forms, 2020 Golf Season Pass Forms, 2020 Bucket of Balls, 2020 Batting Cage, 2020 Green Fee Passes (Mandan) | 4 years | 3/1/2022 | 2/15/2026 |
| 1256 | Accounts Payable | 2019 | Vendor Files A-B | 4 years | 3/1/2022 | 2/15/2026 |
| 1257 | Accounts Payable | 2019 | Vendor Files C-D (D1 of 2 - Da) | 4 years | 3/1/2022 | 2/15/2026 |
| 1258 | Accounts Payable | 2019 | Vendor Files D-G (D2 of 2) | 4 years | 3/1/2022 | 2/15/2026 |
| 1259 | Accounts Payable | 2019 | Vendor Files H-M (M1 of 2 - Mo) | 4 years | 3/1/2022 | 2/15/2026 |
| 1260 | Accounts Payable | 2019 | Vendor Files M-O (M2 of 2) | 4 years | 3/1/2022 | 2/15/2026 |
| 1261 | Accounts Payable | 2019 | Vendor Files P-S | 4 years | 3/1/2022 | 2/15/2026 |
| 1262 | Accounts Payable | 2019 | Vendor Files T-U | 4 years | 3/1/2022 | 2/15/2026 |
| 1263 | Accounts Payable | 2019 | Vendor Files V-Z | 4 years | 3/1/2022 | 2/15/2026 |
| 1264 | Accounts Payable | 2019 | Vendor Files One Card (July - Dec) | 4 years | 3/1/2022 | 2/15/2026 |
| 1265 | Accounts Payable | 2019 | Vendor Files One Card (Jan - June) | 4 years | 3/1/2022 | 2/15/2026 |
| 1266 | Accounts Payable | 2019 | Vendor Files Refunds | 4 years | 3/1/2022 | 2/15/2026 |
| 1209 | Payroll | 2018-2019 | Timesheets 11/24/18 - 2/1/19 | 5 years | 4/1/2021 | 2/15/2026 |
| 1210 | Payroll | 2019 | Timesheets 2/2/19 - 4/12/19 | 5 years | 4/1/2021 | 2/15/2026 |
| 1211 | Payroll | 2019 | Timesheets 4/13/19 - 6/7/19 | 5 years | 4/1/2021 | 2/15/2026 |
| 1212 | Payroll | 2019 | Timesheets 6/8/19 - 7/19/19 | 5 years | 4/1/2021 | 2/15/2026 |
| 1213 | Payroll | 2019 | Timesheets 7/20/19 - 9/13/19 | 5 years | 4/1/2021 | 2/15/2026 |
| 1214 | Payroll | 2019 | Timesheets 9/14/19 - 11/22/19 | 5 years | 4/1/2021 | 2/15/2026 |
| | Payroll | 2020 | W-2's Employer Copies | 5 Years | 1/31/2021 | 1/31/2026 |
| | Accounts Payable | 2024 | Voided PO's | CY + 1 yr | 1/31/2025 | 1/31/2026 |
| | Administration | 2024 | Application Information Tracking Forms | CY + 1 yr | 1/31/2025 | 1/31/2026 |
| | Administration | 2020-2022 | Job Applications for PT non-hired individuals 2020-2022, Job Applications for FT positions 2021-2022 | 3 years | 1/31/2021 | 1/31/2026 |



**BISMARCK PARKS AND
RECREATION DISTRICT**
Est. 1927

Date: February 12, 2026

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

From: Mike Wald, Facilities and Programs Director 
RaNae Jochim, Recreation Manager 

RE: Record Disposal Request

In accordance with Bismarck Parks and Recreation District's record retention policy, "Any destruction of Bismarck Parks and Recreation records must receive approval of the Board of Park Commissioners and will follow the timetable listed in the following schedule." A detailed listing of the retention schedule is found in the BPRD Accounting Policy and Procedure Handbook which has been provided in your Board Operating Handbook.

We are requesting permission to dispose of the following records:

| | |
|-----------|---|
| 2011-2012 | BLAST, Activity Center and Safety Village |
| 2022 | Adult Volleyball Rosters |
| 2012-2022 | Adult Softball Rosters |

A total of twelve boxes are presented for your consideration. The records will be destroyed by a commercial shredder upon approval.

Thank you for your consideration of this request.

Let's Play!

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

From: David Mayer, Operations Director *DM*

Date: February 2, 2026

Subject: 2026 Portable Toilet Bids Correction

Commissioners and Executive Director Klipfel:

Upon review of the bid that was submitted we noticed an error to the estimated basic cost for the ADA unit. The service rate is \$94 and the estimated basic cost was listed as \$64, however it should have been \$94.

| Spiffy Biffs | Unit Type | Rental | Service Rate | Est. Basic Cost | Additional Service | Anti-freeze | Damage Waiver | Fuel Charge |
|---------------------|------------|----------|--------------|-----------------|----------------------------|-------------|---------------|-------------|
| | Regular | included | 64.00 | 64.00 | 16.00 | \$7.50 | Included | n/a |
| | ADA | included | 94.00 | 94.00 | 23.50 | \$7.50 | included | n/a |
| | Temp Units | | | \$16.00 | Delivery & pickup included | | | |

A nationally accredited park and recreation agency.

AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN

LANDSCAPE ARCHITECT AND CLIENT

THIS AGREEMENT CONSISTS OF 3 PAGES.

AGL Project No. 034122025



Preliminary Provisions

Effective Date of Agreement

This Agreement is made as of **1/15/2026**, between the Client and Landscape Architect for the Landscape Architectural Services as provided herein. This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located unless designated otherwise.

Client

Bismarck Parks and Recreation District

400 E. Front Ave., Bismarck, ND 58504

Kevin Klipfel, Executive Director

Landscape Architect

AGL Landscape Architects, P.C.

400 E. Broadway, Suite 308

Bismarck, ND 58501

Project

Custer Park – Performance Stage Replacement Project

Project Location: Bismarck, North Dakota

Landscape Architect's Compensation

Client agrees to pay Landscape Architect as Compensation for the Scope of Services performed under this agreement as follows:

Estimated Fees for Services: **\$14,500**

Type: **Lump Sum + Expenses**

Design Phases to be Completed:

Type: **See Exhibit 'A' - Scope of Services**

Summary of Attachments to this Agreement

- A. Exhibit 'A' – Landscape Architect's Scope of Services
- B. Exhibit 'B' – Project Area Map
- C. Exhibit 'C' – Landscape Architect's Schedule of Reimbursable Expenses and Hourly Rates

**AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
LANDSCAPE ARCHITECT AND CLIENT**

THIS AGREEMENT CONSISTS OF 3 PAGES.

AGL Project No. 034122025



Article 1 – Landscape Architectural Services

1.1 Standard of Care

The Landscape Architectural Services shall be performed with care and diligence in accordance with the professional standards applicable at the time and in the location of the Project and appropriate for a project of the nature and scope of this Project.

1.2 Scope of Services

Landscape Architectural Services to be provided under this Agreement are:

Refer to Attached Exhibit 'A' – Landscape Architect's Scope of Services

1.3 Supplemental Services

Supplemental Services are in addition to the basic Scope of Services and, when requested in writing by the Client, shall entitle the Landscape Architect to additional compensation beyond the Compensation stated above. Supplemental Services under this Agreement expressly include but are not limited to:

- a. Services resulting from significant changes in the general scope, extent, or character of the Project or its design including, but not limited to, changes in size, complexity, Owner's schedule, or character of construction or method of financing; and revising previously accepted studies, reports, design drawings, 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 Landscape Architect's control.
- b. Applications for permits or regulatory approvals, unless expressly noted.
- c. Preparation of Bid Alternates
- d. Furnishing Services of independent consultants, other than listed in basic services, if any.
- e. Preparing record or as-built drawings
- f. Services in connection with change orders requested by Owner.
- g. Out-of-town travel, other than visits to the site agreed upon as part of the basic scope of services.
- h. Assistance with bid protests, rebidding, or negotiating the construction contract.
- i. Services in connection with partial utilization of the work by owner prior to substantial completion
- j. Additional or extended services during construction of the Work made necessary by (a) emergencies or acts of God endangering the Work, (b) the discovery of unknown subsurface conditions, (c) work damaged by fire or other cause during construction, (d) a significant amount of Defective Work, (e) acceleration of the progress schedule involving services beyond normal working hours, and (f) default by Contractor.
- k. Evaluating an unreasonable number of claims submitted by Contractor or others in connection with the Work.
- l. Services or consultations after completion of the Construction Phase, such as excessive inspections during any correction period and reporting observed discrepancies under guarantees called for in the Construction Contract for the Work (except as agreed to under Basic Services).
- m. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, or other legal or administrative proceeding involving the Project to which Landscape Architect has not been made a party.
- n. Additional services in connection with the Work, including services which are to be furnished by Owner and services not otherwise provided for in this Agreement.
- o. Services during the Construction Phase rendered after the original date for completion of the Work, established in the construction documents.
- p. Reviewing a Shop Drawing more than three times, as a result of repeated inadequate submissions by Contractor.
- q. Conformance to Owner's or Contractor's safety programs provided to Landscape Architect after effective date that exceed those normally required of landscape architectural personnel for similar sites.

1.4 Changes to Approved Services

Revisions to drawings or other documents shall constitute Supplemental Services when made necessary because of Client-requested changes to previously approved drawings or other documents, or because Client changes to previous Project budget parameters or Project requirements.

1.5 Schedule of Performance

Landscape Architect shall perform the services within a reasonable time.

Article 2 – Client's Responsibilities

2.1 Information

The Client shall provide data about the site and other information on which the design is to be based as well as Client's budget parameters for the Project. The Landscape Architect shall be entitled to rely on the accuracy and completeness of information provided by the Client.

2.2 Budget

The Landscape Architect shall reasonably strive to propose designs and prepare documents consistent with the Client's budget parameters. If provided by the Landscape Architect as a part of the Scope of Services, opinions of probable construction costs are based on the Landscape Architect's familiarity with the landscape construction industry and are provided only to assist the Client's budget planning. Such opinions shall not be construed to provide a guarantee or warranty that the actual construction costs will be within the Project budget parameters at the time construction bids are solicited or construction contracts negotiated.

2.3 Approvals

The Client's decisions, approvals, reviews, and responses shall be communicated to the Landscape Architect in a timely manner so as not to delay the performance of the Landscape Architectural Services.

2.4 Project Permit and Review Fees

The Client shall pay all fees required to secure jurisdictional or regulatory approvals for the Project.

Article 3 – Ownership of Documents

The Landscape Architect shall be deemed the author and owner of all documents and deliverables developed pursuant to this Agreement and provided to the Client by the Landscape Architect (collectively, the "Design Materials"). Subject to payment by the Client of all fees and Reimbursable Expenses owed to the Landscape Architect, the Landscape Architect grants to the Client an irrevocable, non-exclusive license to reproduce the Design Materials solely for the construction of the Project and for information and reference with respect to the use of the Project.

**AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
LANDSCAPE ARCHITECT AND CLIENT**

THIS AGREEMENT CONSISTS OF 3 PAGES.

AGL Project No. 034122025



Article 4 – Landscape Architect Compensation

4.1 Compensation for the Landscape Architectural Services performed under this Agreement shall be as indicated in the Preliminary Provisions plus Reimbursable Expenses as defined below. Supplemental Services, when requested in writing by the Client, shall require additional compensation to be determined on an hourly basis or based on a negotiated fee.

4.2 Reimbursable Expenses are expenditures made by the Landscape Architect, its employees, and consultants in the interest of the Project plus an administrative fee of 20%. Reimbursable Expenses include but are not limited to travel expenses, costs of reproduction of documents, postage, services of professional consultants which cannot be quantified at the time of contracting, and other, similar, direct Project-related expenditures.

4.3 Monthly payments to the Landscape Architect shall be based on (1) the percentage or phases of the Scope of Services completed and shall include payments for (2) Supplemental Services performed, (3) Reimbursable Expenses incurred, and (4) any project related subconsultant expenses or fees times a factor. Payment for services does not include any agency review fees, submittal fees, filing fees, permit fees, or other such fees. Client will pay all such fees directly.

4.4 Payments are due and payable 30 days from the date of the Landscape Architect's invoice. Invoiced amounts unpaid 30 days after the invoice date shall be deemed overdue and shall accrue 1.5% simple interest per month. At the Landscape Architect's option, overdue payments may be grounds for termination or suspension of services.

4.5 If through no fault of the Landscape Architect, the Scope of Services to be provided under this Agreement has not been completed within six months of the initial notice to proceed, the compensation for services rendered after that time period shall be equitably adjusted.

Article 5 – Not Used

Article 6 – Dispute Resolution

6.1 If a dispute arises out of or relates to this Agreement, the parties shall endeavor to resolve their differences first through direct discussions. If the dispute has not been settled within 14 days of the initial discussions, the parties shall submit the dispute to mediation, the cost of which shall be shared equally by the parties.

6.2 Nothing in these provisions shall limit rights or remedies not expressly waived under applicable lien laws.

Article 7 – Termination

7.1 This Agreement may be terminated by either party on seven (7) days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination, provided the defaulting party has not cured or in good faith diligently commenced to cure the breach during the 7-day notice period.

Article 8 – Other Terms and Conditions

8.1 Assignment

Neither party shall assign their interest in this Agreement without the express written consent of the other, except as to the assignment of proceeds.

8.2 Governing Law

The law in effect at the Landscape Architect's principal place of business shall govern this Agreement.

8.3 Complete Agreement

This Agreement represents the entire understanding between the Client and the Landscape Architect and supersedes all prior negotiations, representations, or agreements, whether written or oral with respect to its subject matter. The person(s) signing this Agreement on behalf of the parties hereby individually warrant that they have full legal power to execute this Agreement on behalf of the respective parties and to bind and obligate the parties with respect to all provisions contained herein. This Agreement may be amended only in a writing signed by both the Client and the Landscape Architect.

Landscape Architect

Date

Client

Date

Exhibit 'A' – Landscape Architect's Scope of Services – Custer Park Stage Replacement Project

Article 1 of the Agreement is supplemented to include the following agreement of the parties. Architect shall provide Basic Services as set forth below.

Schematic Design (SD) Phase Services – Completed by BPRD Staff

Design Development (DD) Phase Services

- a. Obtain Survey Services indicating existing conditions of project area and spot elevations of top and bottom of stage and adjacent ground elevations for grading and restoration of disturbed areas.
- b. Develop up to one (1) concept alternative for stage layout and materials / finishes options for Owner's input and feedback
- c. Prepare a preliminary cost opinion of construction costs for the removal and replacement of the stage area.
- d. Facilitate a meeting with owner's team to review alternatives.

Construction Documents (CD) Phase Services

- a. Based on the BPRD selected design alternatives, AGL will prepare a set of plans and specifications for the purpose of bidding and construction.
- b. The following services and plans will be prepared and will serve as the construction documents for the project:
 1. Existing Conditions and Removals Plan
 2. Stage Layout and Materials Plan
 3. Construction Details

Bidding Phase Services

- a. Prepare Advertisement for Bids, to be advertised for a period not less than 14-days.
- b. Distribute plans and specifications electronically to prospective bidders and local building exchange(s).
- c. Answer questions and issue addenda to clarify or correct construction documents.
- d. Attend and assist BPRD in opening bids, prepare bid tabulation, and prepare a recommendation of award.
- e. Attend Park Board Meeting to present the disposition of bids and answer questions from Park Board Commissioners.

Construction Administration (CA) Phase Services

- a. Facilitate a pre-construction conference with Owner / Contractor(s) to discuss scope of improvements, schedule, and contractor coordination items.
- b. Visit the site to observe construction progress and provide Owner additional assurance of contractor's general conformance to plans and specifications. Includes Three (3) Visits to the Site.
- c. Review Contractor's Request for Payment and provide recommendations to Owner on payment based on percentage completion of items on invoice / application.
- d. Perform Substantial and Final Completion Review with Owner and Contractor. Prepare punchlist of items to be completed prior to final payment.

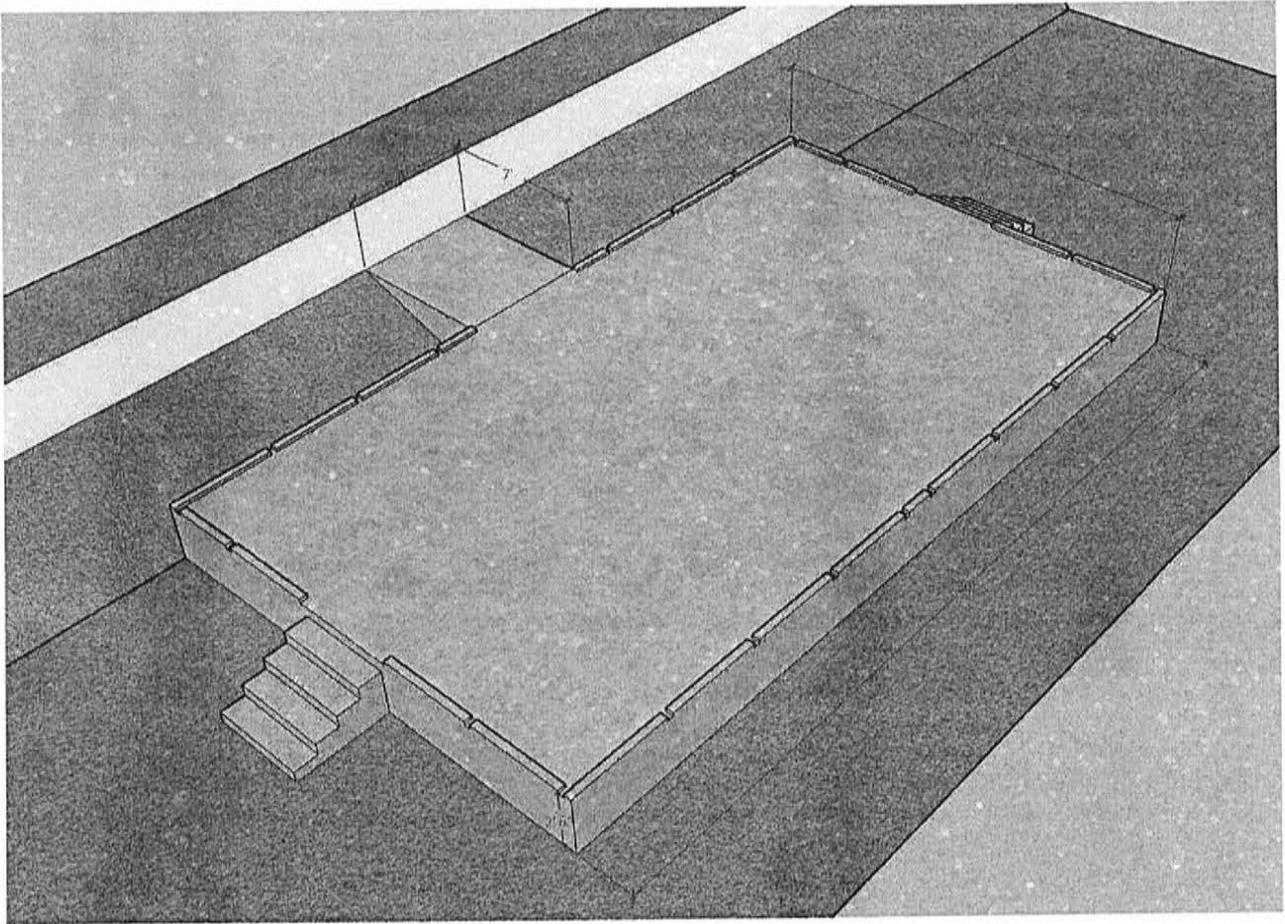
Exhibit 'A' – Landscape Architect's Scope of Services – Custer Park Stage Replacement Project

Services and Compensation Not Included

- a. Due to no additional parking or building structures being proposed, submittal documents and services related to the City of Bismarck Site Plan Review and Stormwater and Floodplain Management Reporting are not anticipated to be included as part of the above services and therefore no compensation is included. If indeed these services are deemed to be necessary by the City of Bismarck, they will be added by amendment to the agreement for professional services.
- b. Costs for public advertisement of the bids (Bismarck Tribune) to be paid directly by BPRD.
- c. Electrical Engineering for power and receptacles to the stage.

Exhibit 'B' – Project Area Map





This is **Exhibit C, Landscape Architect's Schedule of Reimbursable Expenses and Hourly Rates**, referred to in and part of the Short Form of Agreement between Owner and Landscape Architect for Professional Services.

Landscape Architect's Estimated Reimbursable Expenses

A. Schedule of Reimbursable Expenses

1. Printing and Reproduction Costs: \$300
2. Vehicle Mileage: Per Current Federal Rates per Mile

B. Standard Hourly Rates:

1. Standard Hourly Rates are set forth in this Exhibit C and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates are subject to annual review and adjustment.

C. Schedule of Hourly Rates:

Hourly rates for services performed on or after the Effective Date are:

| | |
|--------------------------------|--------------|
| Landscape Architect I: | <u>\$110</u> |
| Landscape Architect II: | <u>\$140</u> |
| Principal Landscape Architect: | <u>\$160</u> |

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

KLJ Project #: 2604-10628

THIS IS AN AGREEMENT effective as of February 19, 2026 (“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: Sunrise - East Century Trail Connecting Link (“Project”).

Engineer’s services under this Agreement are generally identified as follows: **Preliminary Design, Bidding, Final Design, and Construction Observation and Administration, and Construction Survey** (“Services”).

See Exhibit A – Engineer’s Services for a scope of work.

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 2/19/26 to 12/15/27.*** The compensation amounts stipulated in Paragraph 2.02 is conditioned on a period of services not exceeding 12/31/2027.
- 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 \$179,500.00.

- a. Preliminary Design Phase: \$ 20,000.00
- b. Final Design Phase: \$ 44,500.00
- c. Bidding Phase: \$ 5,500.00
- d. Construction Phase: \$ 109,500.00

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. Engineer assumes, and hereby expressly disclaims, any fiduciary responsibilities or duties to the Owner or to any third parties in connection with its services provided pursuant to this Agreement.
- J. 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.
- K. 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.
- L. 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.
- M. This Agreement is to be governed by the law of the state in which the Project is located.

- N. 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.
- O. 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.

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.

Definitions

- B. *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.
- C. *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.

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

Engineer: KLJ Engineering LLC

By: _____

By: _____

Print name: Kevin Klipfel

Print name: _____

Title: Executive Director

Title: _____

Date Signed: _____

Date Signed: _____

Firm's Certificate No. (if required): 061-C

State of: ND

Address for Owner's receipt of notices:

400 E Front Ave

Bismarck, ND 58504

Phone: 701-221-6837

Email: kklipfel@bisparks.org

Address for Engineer's receipt of notices:

KLJ Engineering LLC

400 East Broadway Ave., Ste. 600

Bismarck ND 58501

Legal Notices to: legal@kljeng.com

This is **EXHIBIT A**, consisting of 18 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated February 19, 2026.

Engineer's Services

Sunrise East Century Trail Connecting Link – Bismarck, ND – 2604-10628

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

PART 1 – BASIC SERVICES

Project Location:

The property (Property) for which Engineer's services are being provided is an approximately 858 linear foot corridor located within the north East Century Avenue right of way, and Lots 24 & 25, Block 7, Sattler's Sunrise 6th Addition (Sunrise Park), Bismarck, ND.

Project Understanding:

KLJ (Engineer) has been selected by Bismarck Parks and Recreation District (BPRD or Owner) to provide Survey, Civil Engineering, and Environmental & Cultural services to design a new shared use path to connect the existing shared use path within Sunrise Park to the newly constructed shared use path along the north side of East Century Ave.

The proposed trail connecting link (Project) will be 10-foot wide 4" thick unreinforced concrete surfaced shared use path. Trail construction will cross the existing drainage way located approximately 200-feet east of the existing concrete trail connection in Sunrise Park and approximately 475' north of the E Century Ave crossing. After crossing the drainage way, the trail will be constructed within an existing pedestrian path easement on Lot 24, Block 7 Sattler's Sunrise 6th Addition and extend south to the north side of the existing concrete surfaced trail along the north side of East Century Ave. An additional culvert will be required across the trail at the base of the East Century Ave embankment slope to convey runoff from the property located east of the trail west into the existing drainage way. Refer to **Exhibit A.1** for the conceptual trail alignment.

Portions of the topographic survey, wetland delineation, USACE wetland Jurisdictional Determination valid until March 14, 2029, and Class III Cultural Resource Study for the Project were previously completed by the Engineer as part of the East Century Avenue Roadway Improvements constructed by the City of Bismarck.

It is assumed that a CATEX by Definition (CED) and one Solicitation of Views (SOV) mailing to the City of Bismarck will be accepted by NDDOT and FWHA for environmental documentation, and preparation and attendance of a public input meeting, issuance of additional SOV letters, and preparation of a Programmatic Categorical Exclusion (PCE) or Documented CATEX (DCE) will not be required.

To cross the existing drainage way, it is assumed that two (2) parallel 60" diameter culverts will be required as recommended in the 2018 Silver Ranch Stormwater Masterplan prepared by AE2S for the East Century Avenue crossing. The trail surface should be constructed approximately 4' above the top of culverts to convey the 100-year, 24-hour storm event without overtopping the trail.

Jurisdictional wetlands delineated for the East Century Ave Roadway Improvements extend north through the proposed crossing. The City of Bismarck obtained a USACE 404 permit for the E Century Ave crossing and

mitigated wetland disturbance by purchasing wetland credits from Ducks Unlimited. However, the proposed trail crossing was not included in the 404 permit or mitigation credits purchased by the city.

Installation of the proposed trail culverts will cause permanent impacts to the delineated jurisdictional wetlands and a USACE 404 permit to be obtained prior to submitting the draft environmental documentation (CED) to NDDOT. It is assumed that USACE will issue a 404 permit approximately 60 days after submission of the application. It is assumed that wetland disturbance will be approximately 0.10-acres and mitigation credits will be purchased from Ducks Unlimited.

It is assumed that NDSHPO will require a new literature review and Class I Cultural Resource Report, but the Class III Cultural Resources Report prepared for the E Century Ave project will be acceptable and a new Class III Report will not be required.

It is assumed that limited additional topographic survey will be required to verify the existing trail elevations at the south connection point at E Century Ave.

The proposed trail will cross an existing NuStar pipeline and easement. It is assumed that Nustar will allow installation of culverts and rip-rap within the existing easement but will not allow soil cut or removal over the existing pipeline.

Engineer will participate in the preconstruction conference, participate in construction progress meetings, provide updates to the Owner regarding progress and upcoming work as described herein. The Engineer will perform the construction engineering work including staking, onsite construction observation, quantity measurements, preparation of progressive and final contract payments, and computation of final pay quantities. Construction observation shall include observation of the Constructor's work, verify that the Constructor is in general conformance with the contract, the Project plans, and specifications. Contract administration utilizing NDDOT Construction Automated Records System (CARS), including shop drawing review, daily diaries of construction activities, haul sheets, pay quantities, pay estimates, progress reports, stockpile/invoice items, construction equipment and personnel, contract adjustments, Project documents, record keeping, and filing, etc., will be provided by the Engineer.

Engineer will provide construction engineers and technicians (RPRs) to verify the Constructor is in conformance with the contract documents as the Constructor's work proceeds. Observation will be provided full-time during construction.

It is assumed that construction observation services will be performed 5-days a week for 12-weeks during 2027 construction season in accordance with the schedule below.

Engineer will facilitate walk-throughs and prepare punch lists for the Final Completion inspection. Final records will include verifying quantities for accuracy, completing necessary final document forms, preparing and delivering final documents to NDDOT, preparing and delivering culvert as-built drawings to the City of Bismarck, and preparing post-construction drawings and certifications required by the approved Section 404 permit.

The Project will be primarily funded by a NDDOT Transportation Alternatives Program (TAP) Grant for the 2027 Fiscal Year.

Project Schedule:

Topographic Survey: Three weeks from Agreement execution (approx. 2/20/26 – 3/13/26)

Preliminary Design

Concept Development: Three weeks from completion of topographic survey (approx. 3/13/26 – 4/1/26)

USACE 404 permit: Sixty (60) days after submittal (approx. 4/10/26 – 6/9/26)

Draft Catex (CED) Submittal: 6/19/26

Final Catex (CED) Submittal: 7/17/26

PS&E documents and Submittal: Twenty-one (21) weeks from acceptance of concept development (approx. 4/6/26 – 8/14/26)

NDDOT PS&E Review: Approximately four weeks (approx. 8/14/26 – 8/28/26)

Final Design:

Final Plans: Approximately six weeks from completion of PS&E Review (approx. 8/28/26 – 9/11/26)

NDDOT Final Review: Approximately ten weeks (approx. 9/11/26 – 10/28/26)

Bidding: By NDDOT (approx. 10/29/26 - 11/20/26) - Bid Opening 11/20/26

Park Board Award of Bid: (approx. 12/17/26)

Construction: Approximately 12 weeks during 2027 (approx. 6/1/27 – 8/21/27)

Parties:

Owner – Bismarck Parks and Recreation District

Engineer – KLJ Engineering LLC

Constructor - TBD - Shall be synonymous with Contractor in this document

Engineer shall provide Basic Services as set forth below.

A1.01 Study and Report Phase (Not Included)

A1.02 Preliminary Design Phase

A. Owner shall:

1. Provide current title report and supporting documents.
2. Furnish the services of geotechnical consultants/engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluation of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and recommendations on pavement sections, slope stability, drain fields, ground water elevations, percolation rates, retaining walls, utility trenches, and other construction considerations appropriate for the site, based on geotechnical sampling for design. The Engineer assumes no responsibility for assumptions made regarding the services of the geotechnical consultant/engineer or lack of a geotechnical evaluation.
3. Furnish the services of an environmental and/or abatement companies to determine, specify, and mediate any contaminated soils or hazardous materials, if necessary.
4. Provide a copy of the budget for cost of the Work for the Engineer's use in the design and coordination of the Project.

B. Engineer shall:

1. Visit the Site to observe the Project site conditions.
2. Topographic Survey
 - a. Provide topographic field survey of recent E Century Ave improvements within the Project area.
3. Concept Development
 - a. Prepare one (1) trail concept plan.
 - b. Furnish the trail concept plan to the Owner for review and attend one (1) meeting with the Owner or other external parties to discuss the trail concept plan.
 - c. Revise the trail concept plan once per comments from Owner.
 - d. It is assumed that the Project will not include any significant change to the existing streets and roadways or shared use paths.
4. Concept Estimate
 - a. Prepare one (1) preliminary opinion of probable construction cost based on the trail concept plan.
5. Preliminary Utility Coordination.
 - a. Contact utility providers to determine if existing underground utilities will be impacted by the Project.
6. Prepare a USACE Nationwide 404 Permit
 - a. Identify and quantify areas of temporary and permanent wetland impacts for the trail crossing through delineated wetlands.
 - b. Prepare a US Army Corps of Engineers (USACE) Nationwide 404 Permit Application for impacts to USACE jurisdictional wetlands on the proposed property that will remain under 0.5 acres. The 404 Permit Application will be submitted to the USACE by the Engineer for issuance of a permit.
 - c. Engineer's fee does not include any Legal testimony; A USFWS Right-of-Way or Conditional Use Permit for impacts to wetland basins under easement; Biological, botanical, or threatened and endangered species; National Environmental Policy Act (NEPA) documentation; development of wetland mitigation plans; or Mitigation site monitoring.
 - d. Engineer's fee does not include any meetings with the USACE or design changes required by the review agency.

- e. Upon completion of construction, the Engineer will survey the constructed improvements within the delineated wetlands to verify that work was completed in accordance with the approved permit, and prepare a USACE Compliance Certification form for the Owner to sign and submit to USACE.

7. Compliance with the Endangered Species Act (ESA)

- a. A letter report will be prepared to document compliance with the ESA. The letter report will determine whether the Project will affect endangered species. The USACE 404 permit application will include a review through the USFWS's IPaC (Information for Planning and Consultation) system and completion of determination keys. Formal consultation with USFWS is not included.

8. Cultural Resource Study

a. Class I Literature Review

- 1) A Class I Literature Review of the North Dakota State Historic Preservation Office (NDSHPO) site and manuscript files will be prepared. Data collected from this review will provide an overview of previously conducted cultural resource work within the Project area, including all previously recorded site locations. If required, shape files may be provided to the Historical Society or other parties in order to facilitate development of the Project so as to avoid unnecessary impacts to previously documented cultural resources.

b. Class III Inventory and Report *(Not Included)*

- 9. Revise the Preliminary Design Phase documents, and any other Preliminary Design Phase deliverables in response to Owner's comments and furnish to Owner the revised Preliminary Design Phase documents, and any other deliverables.

- C. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered the revised Preliminary Design Phase documents and any other Preliminary Design Phase deliverables to the Owner and delivered the CED Checklist SFN 18878 to NDDOT and Owner.

A1.03 Entitlements Phase (Not Included)

A1.04 Final Design Phase

- A. After acceptance by NDDOT and Owner of the Preliminary Design Phase documents, and any other Preliminary Design Phase deliverables, subject to any Owner-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon authorization from Owner, Engineer shall:
 - 1. Prepare documents for Plan Spec and Estimate (PS&E) submittal to NDDOT consisting of final design criteria, preliminary drawings and plan notes, and opinion of probable construction cost.
 - a. Drawings will be prepared using NDDOT 11"x 17" plan format and generally include the following general types of work.

- 1) Section 1: Title Sheet
 - 2) Section 2: Table of Contents
 - 3) Section 4: Scope of Work
 - 4) Section 6: Construction Notes
 - 5) Section 8: Estimate of Quantities
 - 6) Section 10: Basis of Estimate
 - 7) Section 20: General Details
 - 8) Section 30: Typical Sections
 - 9) Section 40: Existing Conditions & Removals
 - 10) Section 50: Culverts
 - 11) Section 60: Plan and Profile
 - 12) Section 76 & 77: Permanent & Temporary Erosion Control
 - 13) Section 81: Survey Data Layouts
 - 14) Section 100: Work Zone Traffic Control
 - 15) Section 110 Signing
 - 16) Section 200: Cross Sections
- b. Construction details will consist of NDDOT Standard Construction Drawings unless noted otherwise in the plan drawings.
 - c. Specifications will be NDDOT Standard Specifications for Road and Bridge Construction, current edition, as supplemented with plan notes.
2. Deliver Preliminary PS&E submittal documents to Owner and NDDOT.
 3. Revise PS&E submittal documents based on comments provided by NDDOT to prepare final drawings and plan notes, and final opinion of probable construction cost indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
 4. Storm Water Design and Memorandum
 - a. Design one (1) culvert across the proposed trail along the north embankment slope of E Century Ave to convey the 100-year, 24-hour storm event flows from areas east of the trail into the drainage way to the west without overtopping the trail.
 - b. It is assumed that the drainage way crossing will consist of two (2) parallel 60" diameter culverts as recommended in the 2018 Silver Ranch Stormwater Master Plan prepared by AE2S for the East Century Avenue crossing. As identified in the Master plan, the trail surface should be constructed approximately 4' above the top of culverts to convey the 100-year, 24-hour storm event without overtopping the trail. Hydraulic analysis of the drainage way crossing is not included but available as an Additional Service if required.

- c. Prepare a Storm Water Memorandum to the City Engineer that documents design rationale for the proposed culverts.
 - d. Scope does not include City of Bismarck SM04 storm water scoping sheet application, preparation of a Stormwater Management Plan (SWMP), design or analysis of offsite drainage systems, drain tile, stormwater detention or water quality treatment, or post-construction or as-constructed stormwater analysis or certification.
 - 5. Sanitary Sewer Modification
 - a. Design includes adjustment to one (1) existing City of Bismarck sanitary sewer manhole which will consist of raising the existing access cover to accommodate the proposed trail grade.
 - 6. Utility Coordination
 - a. It is assumed that the Nustar pipeline is the only utility that will be impacted by the Project. A total of one (1) utility coordination meeting is included for the private utility companies (NuStar). The utility coordination meeting will review conflicts and discuss relocation and/or plans for adjusting the utility. It is assumed that there are no utilities that will conduct potholing.
 - 7. Prepare certification letters to NDDOT or the City of Bismarck for utilities, right-of-way, railroad, and compliance with design standards.
 - 8. Furnish for review by Owner, its legal counsel, and other advisors, a copy of the final drawings, opinion of probable construction cost, certification letters, and any other Final Design Phase deliverables and review them with Owner. Within seven (7) days of receipt, Owner shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions.
 - 9. Revise the final drawings, opinion of probable construction cost, certification letters, and any other Final Design Phase deliverables in accordance with comments and instructions from the Owner and/or NDDOT and submit the final copy of such documents to Owner.
 - 10. Furnish the Owner approved final drawings, opinion of probable construction costs, certification letters, and any other Final Design Phase deliverable to NDDOT.
- B. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is one (1). If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.
- C. 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, obtaining, or recording any easements or common use agreements unless specifically stated above.

3. Engineer assumes that no major revisions will be made to the plans after the Owner acceptance of the Preliminary Design Phase documents.
- D. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to the Owner and NDDOT the final drawings, final opinion of probable construction cost, certification letters, and any other Final Design Phase deliverables.

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/NDDOT by providing bid documents to be used in obtaining bids or proposals for the Work.
 2. Provide information or assistance needed by Constructor(s) in the course of bidding the components of the Project included in the Engineer's design.
 3. Issue up to one (1) addendum as appropriate to clarify, correct, or change the bidding documents.
 4. Consult with Owner as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors 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. Assist Owner in evaluating Bids or proposals and in assembling and awarding contracts for the Work.
 7. Bidding Phase services shall be provided for the Project to be awarded to one (1) contractor.
 8. The Bidding Phase will be considered complete upon award of contract, commencement of the Construction Phase, or upon cessation of negotiations with prospective contractors.

A1.06 Construction Phase – Surveying

- A. Upon acceptance by Owner of the bidding phase documents and upon authorization from Owner and Constructor, Engineer shall provide construction surveys and staking to enable Constructor to perform its work. Constructor or Owner will be responsible for all construction surveys not listed below; staking requests in addition to the specific items listed below or in excess of Engineer's budgeted number of mobilizations will be provided as Additional Services. Re-staking of previously completed work due to no fault of Engineer will be provided as Additional Services. The following construction surveying services shall be provided:
- B. Engineer's scope is based on 6 mobilizations to the Project site for a 2-person crew at 4-hours per site visit and associated office time for preparing staking data and quality control. The following construction surveying services shall be provided:

1. *Construction Surveying*

- a. Benchmarks
 - 1) Number of Site Visits: One (1)
 - 2) Establish benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
- b. Edge of Concrete staking
 - 1) Number of Site Visits: Two (2)
 - 2) Stake every 25 feet at 3-foot offset from edge of concrete
- c. Culverts
 - 1) Number of Site Visits: One (1)
 - 2) Stake end of culvert end sections with up to four (4) offsets per culvert for up to three (3) culverts.
- d. Sanitary Sewer Manhole Adjustment
 - 1) Number of Site Visits: One (1)
 - 2) Stake one (1) elevation of manhole rim adjustment
- e. Signage Staking
 - 1) Number of Visits to Site: One (1)
 - 2) Stake trail sign locations
- f. Electronic Grading Files
 - 1) Prepare one (1) electronic data release agreement with the Constructor.
 - 2) Compile and transmit electronic data files once to Constructor which will include:
 - a) One transmittal of up to four (4) electronic files in .xml or .dwg format, as appropriate for the work, and requested by the Constructor.
 - 3) Preparation of additional electronic grading files and/or execution of additional electronic data release agreements can be provided as an Additional Service.
- g. It is assumed that Contractor will utilize GPS to establish stripping limits, perimeter erosion controls, grade staking, and blue tops.
 - 1) Contractor will be responsible for staking of these items.

A1.07 Construction Phase – Administration/Observation

- A. After acceptance by Owner of the Bidding phase documents:
- B. Owner shall:
 - 1. Provide the services of an independent testing laboratory to perform materials testing during construction. Engineer will assist Owner to solicit and procure an independent testing laboratory, but a separate contract will be executed between the Owner and the independent testing laboratory.

C. Engineer shall provide:

1. *Project Management and Coordination*: The Engineer's Project Manager will manage the Engineer's portion of the Project and provide overall coordination of the work to be completed by its personnel including but not limited to managing work assignments, internal meetings, invoicing, project budget management, and project schedule management. Engineer will coordinate with the Constructor's project manager and the Owner.
2. *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.
3. *Resident Project Representative (RPR)*: Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Constructor's work. Duties, responsibilities, and authority of the RPR are as set forth in **Exhibit D**. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in **Exhibit D**.
4. *Selecting Independent Testing Laboratory*: Assist Owner to select an independent testing laboratory to perform construction materials testing.
 - a. Prepare a Request for Proposal (RFP) letter and solicit to up to three (3) independent testing laboratories.
 - b. Review proposals received from independent testing laboratories and provide a letter to Owner with recommendation for award to the proposal which best suits Owner's interest.
 - c. Proposals will be directed to the Owner and a separate Contract will be executed between the Owner and the independent testing laboratory.
5. *Schedules*: Receive, review, and determine the acceptability of schedules that Constructor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
6. *Preconstruction Meeting*: Attend up to one (1) preconstruction meeting in-person with the Owner, Constructor, and NDDOT.
7. *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 twelve (12) one-hour long construction progress meeting(s) in-person or via teleconference.
 - b. Engineer (not RPR) Site Visits for observation of construction: Make up to twelve (12) visits.

- c. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, 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 incidental 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.
8. *Clarifications and Interpretations; Requests for Information; Field Orders; Work Change Directives; Change Orders:* Issue clarifications and interpretations of the Contract Documents. 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: Four (4)
 - b. Field Orders or Work Change Directives: Zero (0)
 - c. Change Orders: One (1)
9. *Shop Drawings and Samples:* Review and take 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.

10. *Construction Automated Records System (CARS) Entry*: Maintain project records in the NDDOT CARS system. These items may include requests to sublet, schedules, shop drawings, material test reports, material certifications, project and inspection diaries, haul sheets, pay quantities, pay estimates, progress reports, change orders, stockpile/invoice items, construction status, contract adjustment, labor and payroll compliance, and final checklist.
11. *Labor Compliance Interviews and Payroll Certification*: Perform interviews of Contractor and Sub-Contractor employees as directed by NDDOT guidelines and audit payroll documentation as directed by NDDOT guidelines.
12. *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".
13. *Inspections and Tests*: Require such special inspections or tests of Constructor's work as deemed reasonably necessary, and receive and review 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.
14. *Disagreements between Owner and Constructor*: Render decisions on all 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.
15. *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.
16. *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 four (4) applications for payment to be submitted to the Owner monthly.
17. *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.
18. *As Built Drawings and Wetland Certification:*
- a. Provide field survey of the culvert improvements following completion of construction. Includes one (1) site visit by a 2-person survey crew.
 - b. Review annotated record documents assembled by Constructor, if any.

- c. Provide Record Drawings of the culverts following completion of construction.
 - d. Provide field survey of constructed improvements within the delineated wetlands. Using survey data, prepare an as-constructed drawing to verify that the work was completed in accordance with the requirements stated in the USACE permit for the Project. Prepare a USACE Compliance Certification form for the Owner to sign and be submitted to USACE within 30-days following completion of culvert installation, earthwork, seeding, and erosion control installation within the delineated wetlands.
19. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first 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 Constructors. 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.
20. *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

B2.01 Additional Services Requiring Owner's/Architect's Authorization

- A. If requested or authorized by the 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 including but not limited to: study and report phase services, boundary survey, marketing exhibits or graphical renderings, Class III 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, special use permits, or any entitlements services such as lot modifications, platting, easements, ALTA surveys, etc., other than provided under Basic Services.
 - 2. Design services including but not limited to: buildings, parking lots, watermain or services, sanitary sewer or services, electrical engineering, lighting, fencing, landscape, stormwater reports, stormwater detention, stormwater treatment or sediment removal systems,

structural design of retaining walls, mechanical engineering services or pumping systems, geotechnical engineering, or design of offsite improvements other than provided under Basic Services.

3. Preparation for, and attendance at, a public presentation, meeting or hearing other than provided under Basic Services.
4. 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.
5. 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.
6. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer or its 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.
7. Services associated with advertisement for bids, quotes, or proposals, attendance of bid openings, tabulation of bids, analysis of suitability of any Constructor, etc., other than provided under Basic Services.
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 provided 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 Architect and 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, Constructor, or NDDOT in a format other than PDF or paper copy.

14. Providing renderings or models for Owner's or Constructor's use, including services in support of building information modeling or civil integrated management, other than provided 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 or Constructor.
18. Services attributable to more prime Constructors than provided 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; or revising and supplementing Record Drawings other than provided under Basic Services.
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 more extensive services required to enable Engineer to issue notices or certifications requested by Owner or Constructor.
35. Extensive services required during any correction period, or with respect to monitoring Constructor's compliance with warranties and guarantees called for in the Construction Contract other than provided under Basic Services.
36. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

B2.02 Additional Services Not Requiring Owner's Authorization

- A. Engineer shall advise Owner in advance that Engineer will immediately commence to perform or furnish 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.
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.

SUNRISE EAST CENTURY TRAIL CONNECTING LINK

CONCEPTUAL LAYOUT

2/19/2026

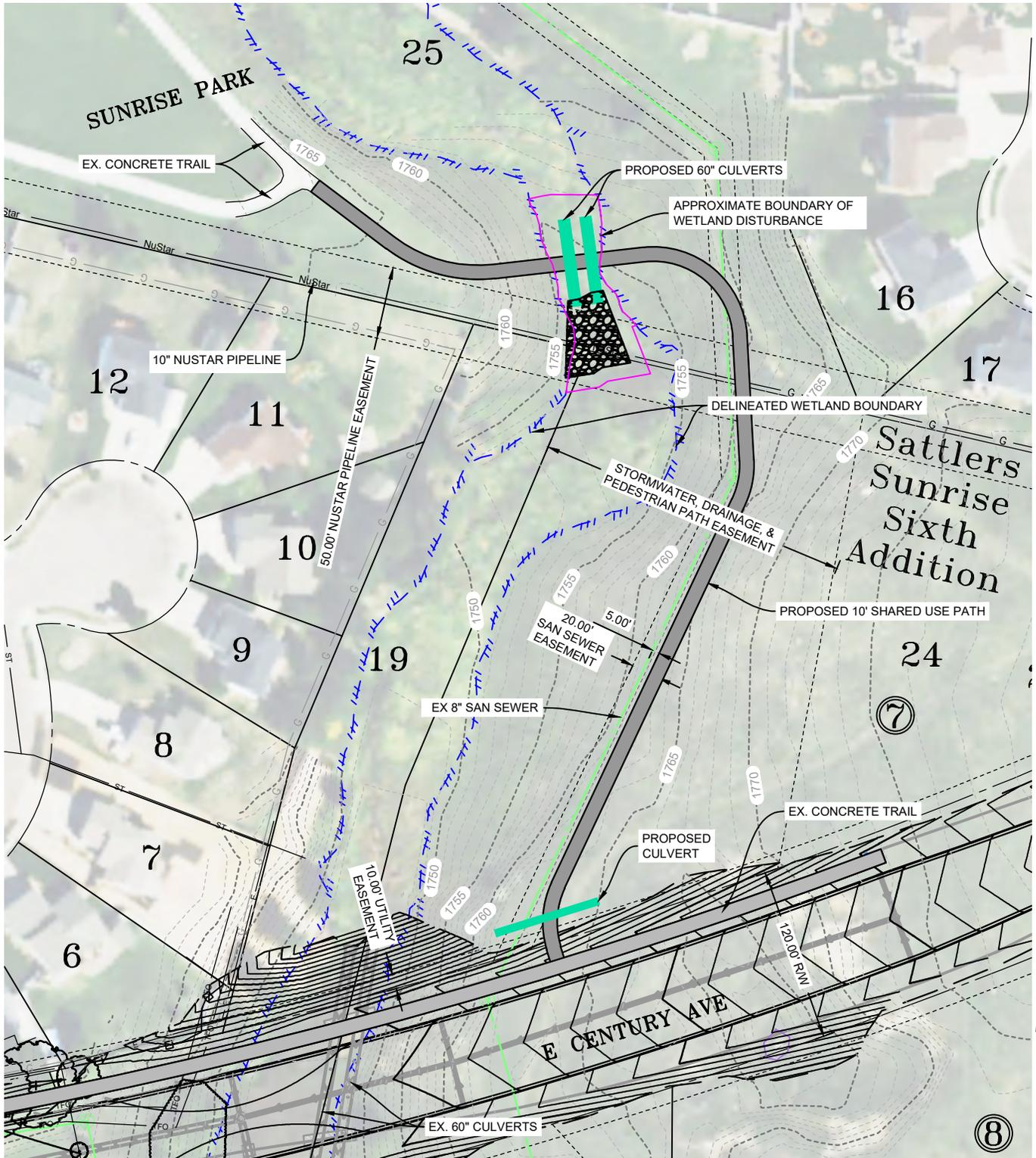


EXHIBIT A.1



PRELIMINARY - NOT FOR CONSTRUCTION

This is **EXHIBIT D**, consisting of 4 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated February 19, 2026.

**Duties, Responsibilities, and Limitations of Authority of Resident Project Representative
Sunrise East Century Trail Connecting Link – Bismarck, ND – 2604-10628**

Article 1 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 1 - SERVICES OF ENGINEER

D1.01 Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative (“RPR”) to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree.
- B. Through RPR's observations of Constructor’s work in progress and field checks of materials and equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, during such RPR field checks or as a result of such RPR observations of Constructor’s work in progress, supervise, direct, or have control over Constructor’s Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor’s work in progress, or for any failure of a constructor to comply with Laws and Regulations applicable to such Constructor’s performing and furnishing of its work. The Engineer (including RPR) neither guarantee the performances of any constructor nor assumes responsibility for Constructor’s failure to furnish and perform the Work in accordance with the Contract Documents. In addition, the specific terms set forth in Paragraph A1.07 of Exhibit A to the Agreement are applicable.
- C. The duties and responsibilities of the RPR are as follows:
 - 1. *General:* RPR is Engineer’s representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR’s actions. RPR’s dealings in matters pertaining to the Constructor’s work in progress shall in general be with Engineer and Constructor. RPR’s dealings with Subcontractors shall only be through or with the full knowledge and approval of Constructor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 - 2. *Project Initiation:* Construction staff will review construction plans, set up the record keeping system, and create a staffing work plan.
 - 3. *Schedules:* Review the progress schedule, schedule of Shop Drawing submittals prepared by Constructor and consult with Engineer concerning acceptability.
 - 4. *Conferences and Meetings:* Attend meetings with Constructor as directed by the Engineer, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

5. *Liaison:*
 - a. Serve as Engineer's liaison with Constructor. Working principally through Constructor's authorized representative or designee, assist in providing information regarding the intent of the Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Constructor when Constructor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. *Interpretation of Contract Documents:* Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Constructor clarifications and interpretations as issued by Engineer.
7. *Shop Drawings:*
 - a. Record date of receipt and approval of Shop Drawings.
 - b. Advise Engineer and Constructor of the commencement of any portion of the Work requiring a Shop Drawing submittal for which RPR believes that the submittal has not been approved by Engineer.
8. *Modifications:* Consider and evaluate Constructor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Constructor in writing (ie., Field Order, Work Change Directive, or Change Order) decisions as issued by Engineer.
9. *Review of Work and Rejection of Defective Work:*
 - a. Conduct on-Site observations of Constructor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to Engineer whenever RPR believes that any part of Constructor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection, or approval.
10. *Inspections and Tests:*
 - a. Consult with Engineer in advance of scheduled inspections and tests.
 - b. Review test results required by the Contract Documents.

- c. Observe, record, and report to Engineer appropriate details relative to the test procedures.

11. *Records:*

- a. Maintain orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all change orders, field orders, work change directives, addenda, additional Drawings issued subsequent to the execution of the Construction Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Constructor, and other Project-related documents.
- b. Record data relative to questions of change orders, field orders, work change directives, or changed conditions, daily activities, decisions, observations in general, materials test reports, site photographs, and specific observations in more detail as in the case of observing test procedures.
- c. Maintain records for use in preparing Project documentation and Record Drawings.
- d. Upon completion of the Work, furnish RPR Project documentation to Engineer.

12. *Payment Requests:* Review applications for payment with Constructor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. *Certificates:* During the course of the Work, verify that materials and other items required by the Contract Documents to be constructed and furnished by Constructor are applicable to the items actually installed and in accordance with the Contract Documents. Deliver documentation of verification to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

14. *Completion:*

- a. Participate in visits to the Project to determine Substantial Completion, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.
- b. Participate in a final visit to the Project in the company of Engineer, Owner, and Constructor, and prepare a final list of items to be completed and deficiencies to be remedied.
- c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of Final Review and Acceptance.

D. Resident Project Representative shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Constructor, Subcontractors or Suppliers.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Constructor's work.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Constructor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept shop drawing or sample submittals from anyone other than Constructor.
8. Authorize Owner to occupy the Project in whole or in part.

Let's Play!

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

FROM: David Mayer, Operations Director 

DATE: February 12, 2026

RE: Request Authorization to Submit for Community Development Block Grant (CDBG)

Staff is requesting Board authorization to submit a project to the City of Bismarck CDBG Program. The planned project would be to construct and provide fully accessible raised garden beds for the BPRD community garden program. Staff is planning to locate the new beds on the north end of the current gardens in Tatley-Eagles Park.

A nationally accredited park and recreation agency.

February 10, 2026

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

FROM: Kevin Klipfel, Executive Director 

SUBJECT: Request to Apply for North Dakota Destination Development Grant

Commissioners:

Staff propose Bismarck Parks and Recreation District applies for a grant through the Tourism Destination Development Grant Program through the North Dakota Department of Commerce to support the Phase 3 Master Plan for the Bismarck Municipal Ballpark. A volunteer committee is currently raising funds through the Bismarck Recreation Council "Beyond the Bases" Capital Campaign to support this project.

Staff request authorization to submit the above grant application.