

4. At Engineer's request, the Owner shall furnish within seven (7) days or in the shortest timeframe possible, detailed layouts showing connections, clearances, sizes, and other information on equipment designed, specified or furnished by Others.

Q. Deliverables

1. Each parking lot: Construction Drawings and appropriate details for the above tasks identified in this Phase.
2. **Frances Leach High Prairie Arts and Science Center:** City of Bismarck SM04 and Stormwater Management Waiver Request.
3. **Sertoma at Clem Kelley Athletic Complex (West):** City of Bismarck SM04, Stormwater Management Waiver Request, and Floodplain Development Permit application.
4. **Clem Kelley Athletic Complex (East):** City of Bismarck SM04, Stormwater Management Waiver Request, and Floodplain Development Permit application.
5. **Sons of Norway Park:** City of Bismarck SM04 and Stormwater Management Waiver Request and Landscape Waiver Request for street trees and perimeter parking lot landscaping.
6. **Bismarck Municipal Country Club (East):** City of Bismarck SM04, Stormwater Management Waiver Request, Landscape Waiver Request for street trees and perimeter parking lot landscaping.
7. **Bismarck Municipal Country Club (West):** City of Bismarck SM04 and Stormwater Management Waiver Request.
8. **VFW/Tom O'Leary Golf Course:** City of Bismarck SM04 and Stormwater Management Plan.
9. **Pioneer Park:** City of Bismarck SM04, Stormwater Management Waiver Request, and Floodplain Development Permit application.
10. **Century Avenue Bridge Trailhead:** City of Bismarck SM04 and Stormwater Management Waiver Request.
11. **Dakota Zoo / Sertoma Park Shelter 8:** City of Bismarck SM04, Stormwater Management Plan, and Floodplain Development Permit application.
12. One (1) combined project manual containing Technical Specifications and EJCDC front-end procedural documents with separate bid schedules for each parking lot.
13. Each Parking Lot: Updated Engineer's Opinion of Probable Construction Cost

R. Other Items to be Noted

1. Owner shall provide the Engineer any restrictions to Constructor working hours, availability of the Site, or project phasing to be included in the plan notes.
2. Plan Notes/Special Provisions and bid forms will require Constructor(s) to provide all required materials testing.

3. Engineer's fee does not include submittal, review, recording, permit, system development, or other fees. These fees are to be paid by Owner.
 4. Scope does not include drafting, reviewing, obtaining, or recording any easements, common use agreements, or developers agreements unless specifically stated above.
 5. Engineer assumes that no major revisions will be made to the site plan after the Owner acceptance of the Preliminary Design documents.
 6. The number of prime construction contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is one (1).
- S. Engineer's services under the Final Design phase will be considered complete on the date when the above deliverables have been submitted to the review agency for approval.

A1.05 Bidding Phase

- A. After acceptance by Owner of the construction documents and the most recent opinion of probable construction cost as determined in the Final Design Phase, and upon authorization by Owner to proceed, Engineer shall:
1. Assist Owner in advertising for and obtaining bids or proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences, if any, and receive and process Constructor deposits or charges for the bidding documents.
 - a. It is assumed that the Owner will issue one legal notice for all ten (10) parking lots which will be advertised for three consecutive weeks.
 2. Issue up to one (1) addendum for each parking lot to clarify, correct, or change the bidding documents.
 3. Provide information or assistance needed by Constructor(s) in the course of bidding the components of project included in the Engineer's design.
 4. Consult with Owner as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective Constructors for those portions of the Work as to which such acceptability is required by the bidding documents.
 5. If bidding documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by bidders.
 6. Attend the Bid opening, prepare Bid tabulation sheets, and assist Owner in evaluating Bids or proposals and in assembling and awarding contracts for the Work.
 7. Attend one (1) Bismarck Parks and Recreation District Board meeting to present the bid results.
 8. Bidding services shall be provided for the project to be awarded to one (1) Constructor.

9. Any services provided by Engineer to re-bid one or more of the parking lots will be considered Additional Services.
- B. The Bidding Phase will be considered complete upon award of contract or commencement of the Construction Phase.

A1.06 Construction Phase - Surveying

- A. Upon written approval of the site plans from the City and upon authorization from Owner, Engineer shall provide construction surveys and staking to enable Constructor to perform its work. Constructor 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:

1. *Construction Surveying*

a. Baselines and Benchmarks

- 1) As appropriate, establish baselines, benchmarks, and machine controls for locating the Work which in Engineer's judgment are necessary to enable Constructor to proceed.

b. Removals

- 1) Stake location of removals
- 2) Number of Visits to Site:
 - a) Frances Leach High Prairie Arts and Science Center: Two (2)
 - b) Sertoma at Clem Kelley Athletic Complex (West): One (1)
 - c) Clem Kelley Athletic Complex (East): Two (2)
 - d) Sons of Norway Park: Zero (0)
 - e) Bismarck Municipal Country Club (East): One (1)
 - f) Bismarck Municipal Country Club (West): One (1)
 - g) VFW/Tom O'Leary Golf Course: Two (2)
 - h) Pioneer Park: One (1)
 - i) Century Avenue Bridge Trailhead: One (1)
 - j) Dakota Zoo and Sertoma Park Shelter 8: One (1)

b. Grade Staking (*Not Included*)

- 1) Number of Site Visits: Zero (0)
- 2) It is assumed that the Constructor will utilize GPS guided construction equipment.
- 3) Rough grade and blue top staking of aggregate base course prior to paving is not included.

c. Curb & Gutter, Edge of Pavement, sidewalk, and trail staking

- 1) Stake every 25 feet at 3-foot offset from back of curb or edge of pavement
- 2) Number of Site Visits:
 - a) Frances Leach High Prairie Arts and Science Center: Two (2)
 - b) Sertoma at Clem Kelley Athletic Complex (West): One (1)
 - c) Clem Kelley Athletic Complex (East): One (1)

- d) Sons of Norway Park: Zero (0)
 - e) Bismarck Municipal Country Club (East): Two (2)
 - f) Bismarck Municipal Country Club (West): One (1)
 - g) VFW/Tom O'Leary Golf Course: Two (2)
 - h) Pioneer Park: One (1)
 - i) Century Avenue Bridge Trailhead: One (1)
 - j) Dakota Zoo and Sertoma Park Shelter 8: Two (2)
- d. Detention pond grades & culverts
- 1) One (1) trip to stake detention rough pond grades
 - 2) One (1) trip to stake detention final pond grades
 - 3) One (1) trip to stake culverts
 - 4) Number of Site Visits:
 - a) VFW/Tom O'Leary Golf Course: Three (3)
 - b) Pioneer Park: One (1)
 - c) Dakota Zoo: Three (3)
- e. Light Pole Staking
- 1) Stake each light pole and junction box
 - 2) Number of Visits to Site:
 - a) VFW/Tom O'Leary Golf Course: One (1)
- f. Fencing Staking
- 1) Stake fence corners and gates
 - 2) Number of Visits to Site:
 - a) Frances Leach High Prairie Arts and Science Center: One (1)
 - b) VFW/Tom O'Leary Golf Course: One (1)
 - c) Dakota Zoo and Sertoma Park Shelter 8: One (1)
- g. Landscape Staking
- 1) Stake location of trees
 - 2) Irrigation system component staking is not included
 - 3) Number of Visits to Site:
 - a) Frances Leach High Prairie Arts and Science Center: One (1)
 - b) Sertoma at Clem Kelley Athletic Complex (West): One (1)
 - c) Clem Kelley Athletic Complex (East): One (1)
 - d) Sons of Norway Park: Zero (0)
 - e) Bismarck Municipal Country Club (East): One (1)
 - f) Bismarck Municipal Country Club (West): One (1)
 - g) VFW/Tom O'Leary Golf Course: Zero (0)
 - h) Pioneer Park: One (1)
 - i) Century Avenue Bridge Trailhead: One (1)
 - j) Dakota Zoo and Sertoma Park Shelter 8: One (1)
- h. Signage and Striping Staking
- 1) Stake sign locations and parking lot striping locations
 - 2) Number of Visits to Site:
 - a) Frances Leach High Prairie Arts and Science Center: Two (2)

- b) Sertoma at Clem Kelley Athletic Complex (West): One (1)
 - c) Clem Kelley Athletic Complex (East): Two (2)
 - d) Sons of Norway Park: One (1)
 - e) Bismarck Municipal Country Club (East): One (1)
 - f) Bismarck Municipal Country Club (West): One (1)
 - g) VFW/Tom O'Leary Golf Course: Two (2)
 - h) Pioneer Park: One (1)
 - i) Century Avenue Bridge Trailhead: One (1)
 - j) Dakota Zoo and Sertoma Park Shelter 8: One (1)
- i. 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 per Site 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.
- j. Irrigation System As-Built plans
- 1) Irrigation As-Built Survey
 - a) Survey installed locations of irrigation system components including heads, valve boxes, controllers, and underground fittings before they're backfilled.
 - b) Number of Visits to Site:
 - 1. Frances Leach High Prairie Arts and Science Center: Two (2)
 - 2. Sertoma at Clem Kelley Athletic Complex (West): One (1)
 - 3. Clem Kelley Athletic Complex (East): One (1)
 - 4. Sons of Norway Park: Zero (0)
 - 5. Bismarck Municipal Country Club (East): One (1)
 - 6. Bismarck Municipal Country Club (West): One (1)
 - 7. VFW/Tom O'Leary Golf Course: One (1)
 - 8. Pioneer Park: Zero (0)
 - 9. Century Avenue Bridge Trailhead: Zero (0)
 - 10. Dakota Zoo and Sertoma Park Shelter 8: Two (2)
 - 2) Prepare a basemap in PDF format for Constructor's use in preparing irrigation system as-built drawings. Basemap will include surveyed irrigation system components, an aerial photograph, and the proposed and existing linework shown in the site plans.

A1.02 Construction Phase - Observation and Administration

- A. After acceptance by Owner of the bidding phase documents:
- B. Owner shall:
 - 1. Provide a copy of the most recent bidding documents, bid tabulations, negotiated proposals and Contract Documents, including Change Orders and Construction Change Directives for the Engineer's use in the construction coordination of the Project.

C. Engineer shall provide:

1. *General Administration of Construction Contract*: Consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer as assigned in the Construction Contract shall not be modified, except as Engineer may otherwise agree in writing. Owner's instructions to Constructor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Constructor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.
2. *Selecting Independent Testing Laboratory*: To be provided by Constructor.
3. *Preconstruction Meeting*: Attend up to one (1) preconstruction meeting in-person with the Owner and Constructor.
4. *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.
5. *Establish Benchmarks*: As appropriate for each parking lot, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Constructor to proceed.
 - 1) Number of Visits to each parking lot: One (1)
6. *Electronic Grading Files*: For each parking lot addition or full depth replacement, provide construction plan data in electronic file format for the Work which in Engineer's judgement may be necessary to enable Constructor to proceed.
 - a. Prepare one (1) electronic data release agreement with the Constructor.
 - 1) One Agreement with the Constructor for each parking lot is included. Fees for additional Agreements will be invoiced separately to Constructor or Owner.
 - b. Compile and transmit electronic data files to Constructor for each parking lot which will include:
 - 1) Up to four (4) electronic files in .xml or .dwg format, as appropriate for the Work, and requested by the Constructor.
 - 2) All four files for each parking lot will be transmitted to Constructor together, at one time.
 - c. Preparation of additional electronic grading files and/or execution of additional electronic data release agreements can be provided as an Additional Service.
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 forty-one (41) one-hour long weekly construction progress meeting(s) in-person or via teleconference. It is assumed progress meetings will recess for an approximately 3-month period after 2026 construction shutdown and before 2027 construction startup.

- b. Site Visits for observation of construction:
- 1) **Frances Leach High Prairie Arts and Science Center**
 - a) Number of Visits to Site: Two (2) 8-hour visits and Twelve (12) 1-hour visits
 - 2) **Sertoma at Clem Kelley Athletic Complex (West)**
 - a) Number of Visits to Site: Two (2) 8-hour visits and Nine (9) 1-hour visits
 - 3) **Clem Kelley Athletic Complex (East)**
 - a) Number of Visits to Site: Two (2) 8-hour visits and Twelve (12) 1-hour visits
 - 4) **Sons of Norway Park**
 - a) Number of Visits to Site: Two (2) 4-hour visits and Eight (8) 1-hour visits
 - 5) **Bismarck Municipal Country Club (East)**
 - a) Number of Visits to Site: One (1) 8-hour visit and Twelve (12) 1-hour visits
 - 6) **Bismarck Municipal Country Club (West)**
 - a) Number of Visits to Site: One (1) 8-hour visit and Nine (9) 1-hour visits
 - 7) **VFW/Tom O'Leary Golf Course**
 - a) Number of Visits to Site: Two (2) 8-hour visits and Sixteen (16) 1-hour visits
 - 8) **Pioneer Park**
 - a) Number of Visits to Site: One (1) 8-hour visit, one (1) 4-hour visit, and Seven (7) 1-hour visits
 - 9) **Century Ave Bridge Trailhead)**
 - a) Number of Visits to Site: Two (2) 4-hour visits and Nine (9) 1-hour visits
 - 10) **Dakota Zoo / Sertoma Park Shelter 8**
 - a) Number of Visits to Site: Two (2) 8-hour visits and Eleven (11) 1-hour visits
- c. Meetings and visits to the Site may be made concurrently and will be conducted at intervals appropriate to the various stages of construction, to observe as an experienced and qualified design professional the progress of Constructor's executed Work or to attend construction meetings. Such visits and observations by Engineer are not intended to be exhaustive or to extend to every aspect of Constructor's Work in progress or to involve detailed inspections of Constructor's Work in progress beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment. Based on information obtained during such visits, observations or meetings, Engineer will determine in general if the Work is proceeding in accordance with the Contract Documents, and Engineer shall keep Owner informed of the progress of the Work. When the number of site visits or meetings listed above is exceeded the Engineer shall conduct site visits or attend meetings requested by the Owner as an Additional Service.
- d. The purpose of Engineer's visits to the Site will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that Constructor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the

Contract Documents. Engineer shall not, during such visits or as a result of such observations of Constructor's Work in progress, supervise, direct, or have control over Constructor's Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Constructor, for security or safety at the Site, for safety precautions and programs incident to Constructor's Work, nor for any failure of Constructor to comply with Laws and Regulations applicable to Constructor's furnishing and performing the Work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work in accordance with the Contract Documents.

8. *Clarifications and Interpretations; Requests for Information; Field Orders; Work Change Directives; Change Orders:* Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Constructor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Subject to any limitations in the Contract Documents, Engineer may issue field orders authorizing minor variations in the Work from the requirements of the Contract Documents. Recommend change orders and work change directives to Owner, and prepare change orders and work change directives. Major changes to the design requested by the Owner or Constructor and approved by the Owner will be completed as Additional Services. The assumed number of each are quantified below:
 - a. Clarifications, Interpretations, or RFI's: Forty (40)
 - b. Field Orders or Work Change Directives: Zero (0)
 - c. Change Orders: Ten (10) and one (1) balancing change order for the project upon completion of construction.
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. *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".
11. *Inspections and Tests:* Require such special inspections or tests of Constructor's work as deemed 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.
12. *Disagreements between Owner and Constructor:* Render decisions on duly submitted issues relating to the acceptability of Constructor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of

Constructor's Work; review each duly submitted Claim by Owner or Constructor, and either deny such Claim in whole or in part, approve such Claim, or decline to resolve such Claim if Engineer in its discretion concludes that to do so would be inappropriate. In rendering such decisions, Engineer shall be fair and not show partiality to Owner or Constructor and shall not be liable in connection with any decision rendered in good faith in such capacity.

13. *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.
14. *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 seventeen (17) applications for payment for the project to be submitted to the Owner monthly.
- 15. *Constructor's Completion Documents:* Receive and review schedules, guarantees, bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as provided under "Shop Drawings and Samples", and transmit the annotated record documents which are to be assembled by Constructor in accordance with the Contract Documents to obtain final payment. The extent of such review of record documents shall be to check that Constructor has submitted all pages.
- 16. *Final Notice of Acceptability of the Work:* Conduct one (1) visit to each project Site to prepare Constructor's punch list and conduct one (1) final visit to each project Site 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. Subsequent visits to the project Site to determine if punch list items are complete will be completed as Additional Services.
- D. *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. The Engineer shall be entitled to an equitable increase in compensation if the Project involves more than one (1) prime contracts as indicated in Final Design Phase, or if Construction Phase services are required after the original date for completion and readiness for final payment of construction as set forth in the Construction Contract.
- E. *Limitation of Responsibilities:* Engineer shall not be responsible for the acts or omissions of any Constructor, Subcontractor or Supplier, or other individuals or entities performing or furnishing any of the Work, for safety or security at the Site, or for safety precautions and programs incident to Constructor's Work, during the Construction Phase or otherwise. Engineer shall not be responsible for the failure of any Constructor to perform or furnish the Work in accordance with the Contract Documents.

A1.03 Post-Construction Phase

- A. After acceptance by Owner of the Construction Phase, Engineer shall:
 - 1. **Dakota Zoo / Sertoma Park Shelter 8:**
 - a. Provide field survey of the detention pond and storm sewer construction following completion of construction.
 - b. Prepare and provide Record Drawings of detention pond top and bottom and storm sewer or culverts using redline plans provided by Constructor and field survey of the constructed stormwater improvements.
 - c. Prepare City of Bismarck basis of design form (SM-06), and post-construction certification report (SM-07).