

Let's Play!

March 10, 2023

TO: Commissioners Jeske, Jordan, Odell, Zimmerman, and President Gilbertson

FROM: Kevin Klipfel, Executive Director (KL)

SUBJECT: March 16, 2023 Park Board Meeting Packet and Overview

Commissioners:

Enclosed you will find the packet of information and overview for the Park Board meeting on March 16, 2023 at 5:15 pm at the Tom Baker Meeting room.

Item 1. Call Meeting to Order and Roll Call

Item 2. Approve Agenda

Item 3. Featured Partners and Programs

- Sleepy Hollow Theatre & Arts Park – Bill Sorensen will address the Board.
- Bismarck Parks and Recreation District's Tennis Programs – Facility Specialist Katrina Hanenberg will appear before the Board.

Item 4. Bismarck Riverfront Idea Update – Aaron Barth and Jake Axtman will appear before the Board to review this idea.

Item 5. Disposition of Bids

- Joann Hetzel Memorial 4-H Building Playground – Brett Gurholt with AGL will present these bids. The information is included in your packet.
- Sam McQuade Sr. Playground Replacement – Brett Gurholt will also review the information in your packet.
- Cottonwood Softball Complex Umpire Building – Jeff Feist with EAPC will review the information in your packet.
- Sertoma Playground – Operations Director David Mayer will review the information in your packet.
- Marian Park – Operations Director David Mayer will review these bids.
- Hay Creek Retaining Wall – The Park District has a companion agreement with the City of Bismarck for this retaining wall, and we have been working with a consultant along with the ND Department of Transportation to bid this project. The NDDOT opened the bids, and the bid amounts were significantly higher than anticipated (engineers estimate of probable cost was \$457,500 and the bid amount was \$1,382,363). Staff recommends not accepting the bid award, and will continue to work with the consultant on alternate options for this project.

A nationally accredited park and recreation agency.

Our Vision

Be the leader and premier provider of public parks, programs, facilities and leisure services.

Our Mission

Work with the community to provide residents and visitors the highest quality park, program, facility and event experience.

Core Purpose

Provide affordable, accessible, and sustainable public park and recreation services.

Our Values

Accountability
Collaboration
Community

Diversity
Integrity
Professionalism

Item 6. Request to Add First Western Bank and Trust as a Designated Depository
Please see the memo and information provided in your packet.

Item 7. Consent Agenda
A variety of items have been placed on the 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 February 16 and 27, 2023 Board Meeting Minutes – The minutes are included for your consideration.
- Consideration of Part-Time Employee Benefits for Use of Programs and Facilities – Please see the memo provided by Facilities and Programs Director Mike Wald.
- Consideration of Professional Consultant Selection, Agreement and Authorization to Call for Bids on the Sheila Schafer Junior Links Relocation – Please see the information provided by Finance Director Kathy Feist.
- Request Authorization for the Consultant Selection Process and to Call for Bids for the General Sibley Drain Field Replacement Project – Operations Director David Mayer has provided information in your packet.
- Consideration to Dispose of Items Through City Auction – Please see the memo provided by Operations Director David Mayer.

Item 8. Approval of Bills

Item 9. Executive Session Under the Authority of NDCC §§ 44-04-19.1 and 44-04-19.2 for Attorney Consultation with the Board's Attorney and to Discuss Contract Negotiation for Sale Hay Creek Lots 1-8
Legal Counsel John Ward will review the process, and the Board can then proceed with an executive session.

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

Next Regular Board Meeting: April 20, 2023 at 5:15 pm in the Tom Baker Meeting Room

The Missouri River is Bismarck's Greatest Asset.

The Missouri River is Bismarck's Greatest
Opportunity.

THE BISMARCK RIVERFRONT IDEA.

NORTH
Dakota
Be Legendary.™



Bismarck

agl
AGL LANDSCAPE
ARCHITECTS

HOUSTON
engineering, inc.

CSL

THE BISMARCK RIVERFRONT IDEA.

PROJECT BACKGROUND

In early 2022, several local partners, including the Fort Abraham Lincoln Foundation, applied for and were awarded a planning grant from the North Dakota Department of Commerce, Tourism Division. The grant award was combined with a 10% local match from the City of Bismarck. The purpose of the grant was to explore ways to bolster tourism in Bismarck along the Missouri River. Tourism is North Dakota's third largest industry, bringing nearly 22 million visitors to the state each year and contributing \$3 billion in visitor spending to the state's economy. The vision for this masterplan is to bolster the state and local economy through tourism, while improving the Missouri River's appeal to both locals and visitors alike.



THE BISMARCK RIVERFRONT IDEA.

MISSION STATEMENT:

The Bismarck Riverfront Idea imagines a more accessible, inclusive, and marketable riverfront that is an engine for the tourism industry, a tool for regional workforce attraction / retention, and an indelible part of our culture, identity, and quality of life.

NORTHERN STUDY LIMITS – MISTY WATERS



2/28/2023

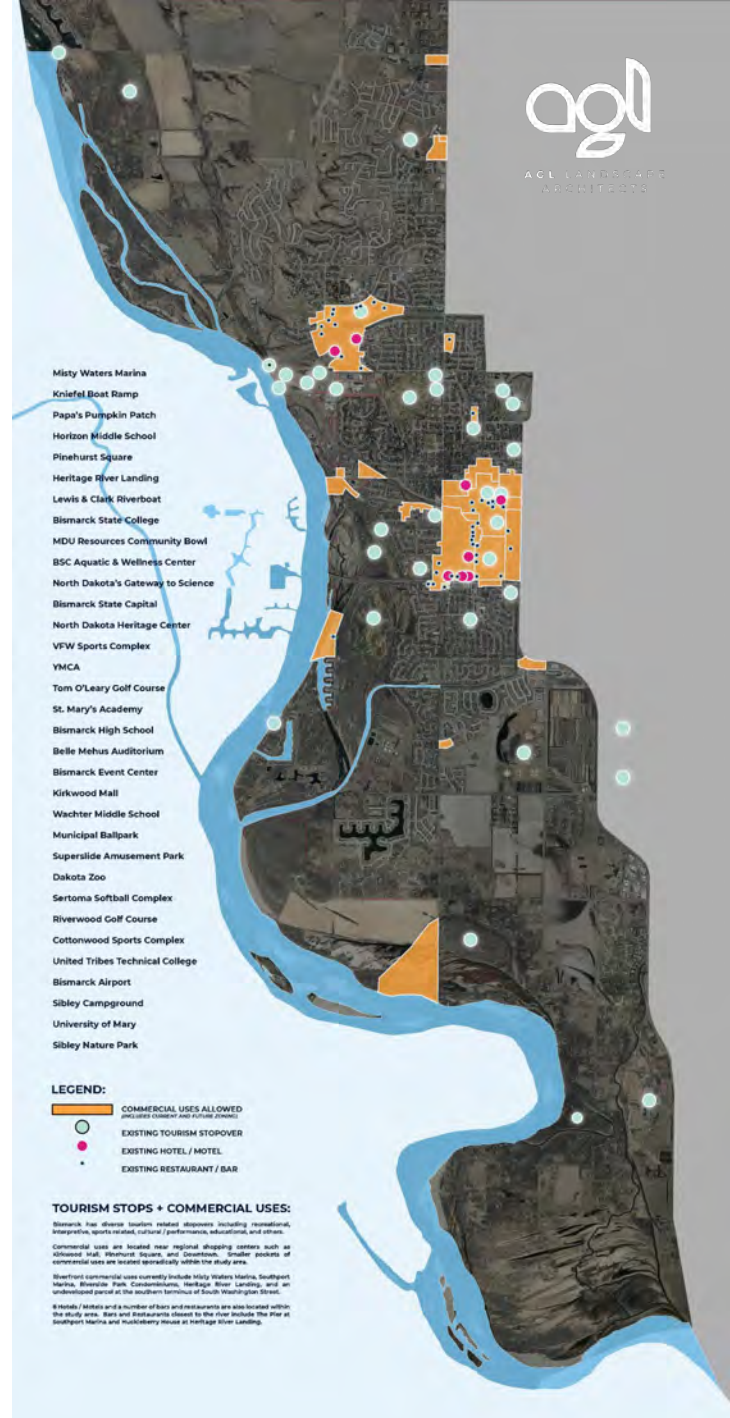
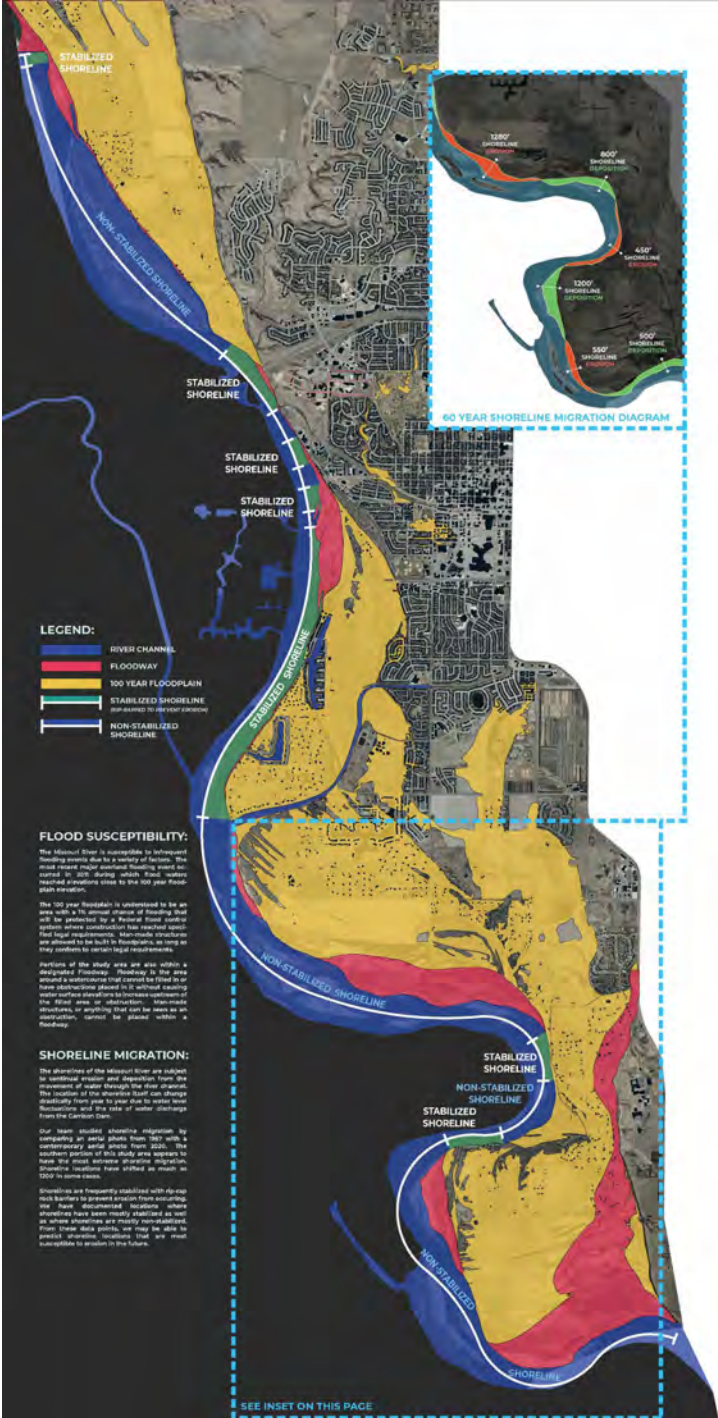
The Bismarck Riverfront Idea.

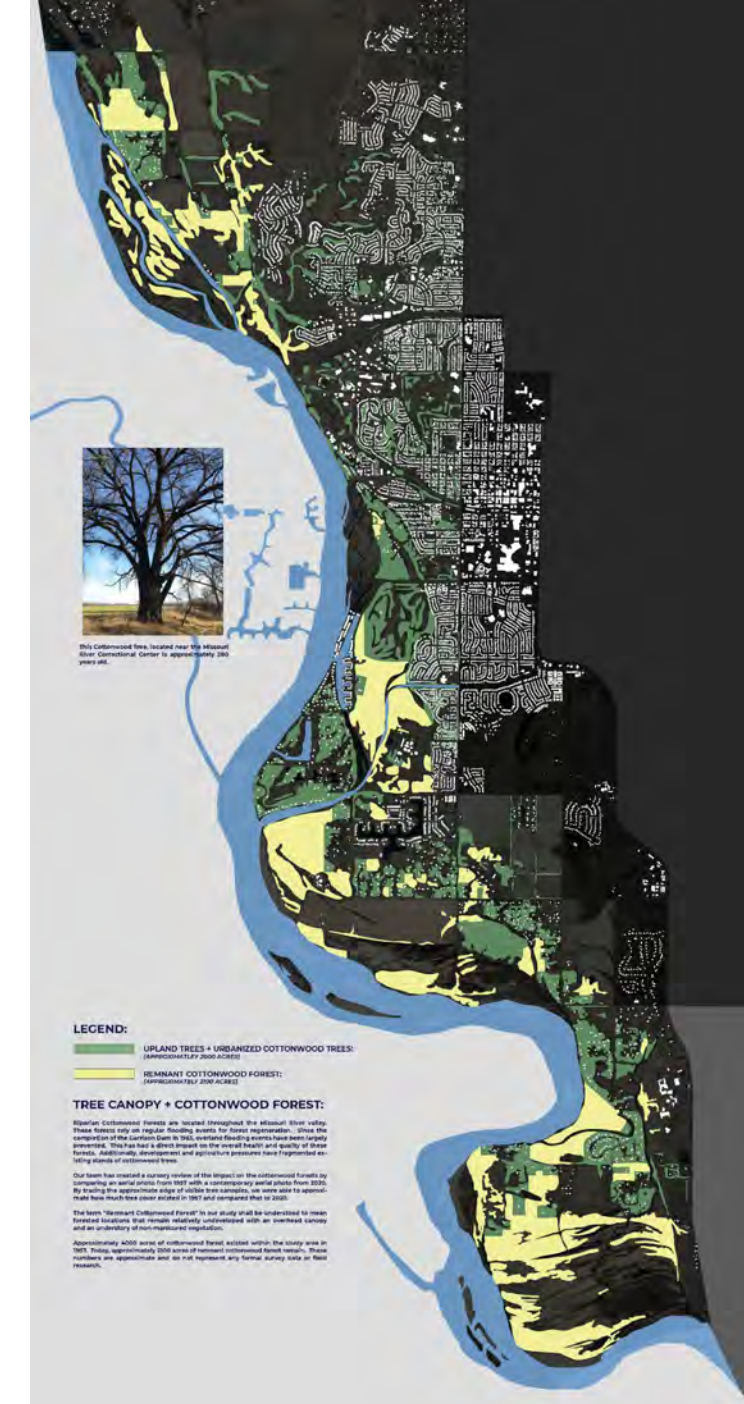
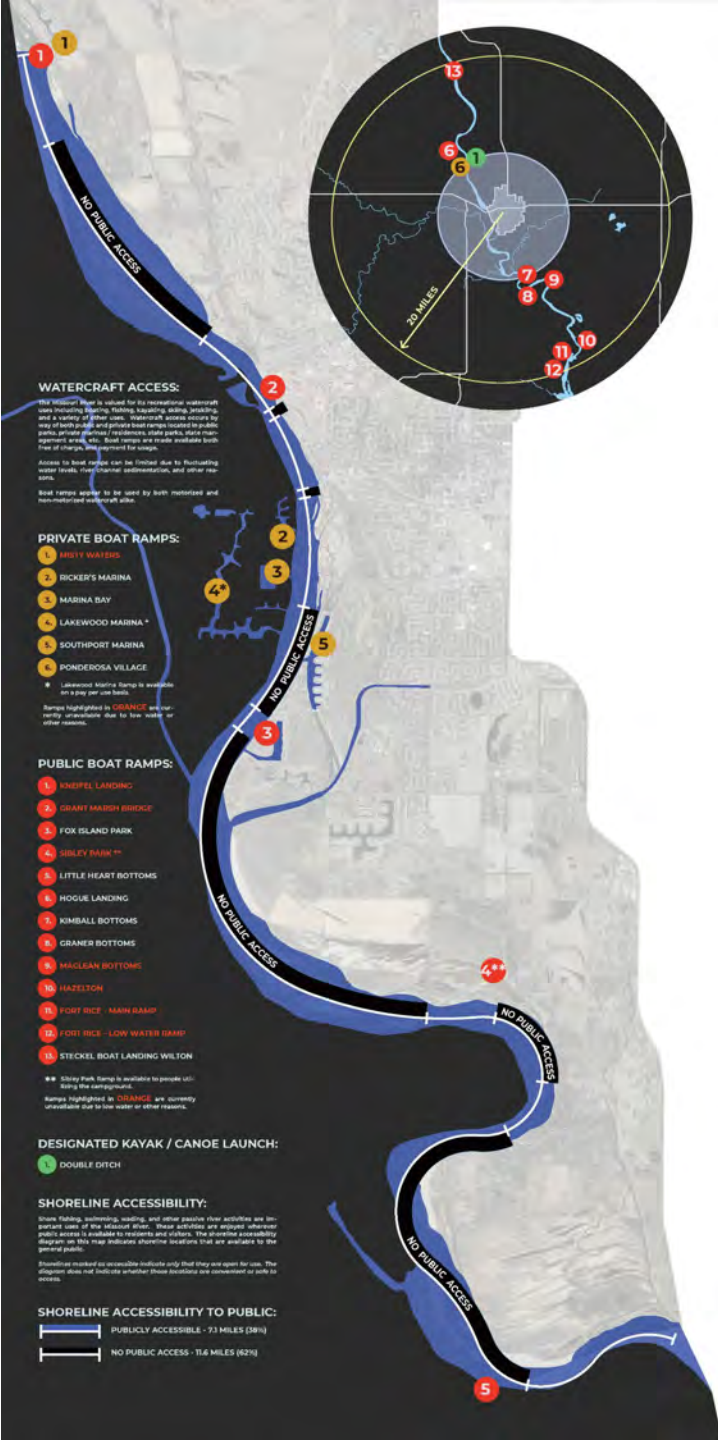
SOUTHERN STUDY LIMITS – APPLE CREEK CONFLUENCE



2/28/2023

The Bismarck Riverfront Idea.





MULTI-MODAL TRAIL NETWORK CONCLUSIONS

INVENTORY & ANALYSIS CONCLUSIONS

- *There are 19 boat ramps within a 20 mile radius of Bismarck.*
- *62% of the shoreline within the study area is not accessible to the general public as it is either privately owned or publicly owned with access restrictions.*
- *The riverfront trail system from Southport Marina to Pioneer Park is the most heavily trafficked trail stretch in Bismarck.*
- *Since the construction of the Garrison Dam in 1957, approximately 48% of the cottonwood forest within the study area has been urbanized or removed.*
- *Stretches of shoreline within the study area have eroded inward or migrated outward as much as 1200' within the last 60 years.*
- *Tourism brings 22 million visitors to the state each year contributing \$3 billion in visitor spending to the state's economy.*
- *The Missouri River is central to the Northern Plains National Heritage Area and 36 natural, cultural, historic and scenic points of interest.*



RIVERFRONT COMMUNITIES - MASTERPLAN AND INFRASTRUCTURE COMPARISON														
CITY	BISMARCK	BILLINGS	DES MOINES	ST. CLOUD	OMAHA	SIOUX CITY	MOORHEAD	SIOUX FALLS	LA CROSSE	DUBUQUE	OWENSBURG	RENO	STILLWATER	WINNIPEG
STATE	ND	MT	IA	MN	NE	IA	MN	SD	WI	IA	KY	NV	MN	CAN
POPULATION	73,000	109,000	215,000	68,000	478,000	82,000	43,000	180,000	51,000	58,000	60,000	250,000	20,000	750,000
RIVERFRONT MASTERPLAN	NONE	PLANNED	PLANNED	PLANNED	STARTED	STARTED	STARTED	STARTED	STARTED	DEVELOPED	DEVELOPED	DEVELOPED	DEVELOPED	DEVELOPED
Restaurants														
Retail Options														
Hotels														
Attractions														
Park Space														
Event Space														
Concert Venue														
Water Adventure														
Riverwalk														
Boat Ramp														
Fishing Space														
Art Installations														
Sports / Recreation														
Children's Activities														
Nightlife														
Spas														
Winter Activation														
TOTAL SCORE	27	44	61	50	60	57	51	60	67	61	57	61	48	60



KEY	
	DOES NOT FULFILL CATEGORY
	POORLY FULFILLS CATEGORY
	SOMEWHAT FULFILLS CATEGORY
	FULFILLS CATEGORY
	GREATLY FULFILLS CATEGORY



Your Feedback...

"Poetry that is integrated into the walking trails"

"Creative solutions to funding should be explored, including federal and state matching grants for community development."

"The river is a vital part of our community and providing access and opportunities for citizens and visitors should be a priority."

"Having permanent fixtures in place that allow access to the river for these differing activities separate from the busy and sometimes dangerous boat ramps, would increase usage."

"A closer relationship with the river and its water, especially for those who can't afford to live there or to own a boat is needed"

"Changing rooms, a fishing dock, a beach with lounge chairs and umbrellas or shady arbors. A designated 'sand box' area with a safe water source for kids to create in"

"I can envision mixed-use development along side public use areas such as a public marina, perhaps beach area. An outdoor amphitheater of sorts (wouldn't need to be fancy) would be incredible to increase uses so concerts could be held here, watch parties of certain sporting events/movies (Bison football games)"

"Any project that contributes to the community's quality of life and/or helps differentiate Bismarck - Mandan from other communities will benefit the business community as those projects will help attract / retain talent and likely generate tax base."

"I'm concerned about habitat fragmentation due to increased housing and business development"

"Over developing the riverfront further for commercial use will ruin the appeal it creates now."

"With unique events, ice skating or sledding options with amenities we have an opportunity to embrace winter better"

"WHAT IS YOUR MEASUREMENT OF SUCCESS FOR THIS MASTER PLAN? A reliable, practical document that will deliberately guide the appropriate public enhancements throughout the river corridor adjacent to Bismarck. I do not believe the document should be a gateway for private development pressures that would further limit public access to the waterfront, create new subdivisions that could become liabilities in the future due to flooding or changing river conditions."

"You shouldn't have to own property to utilize the river"

"I believe a fully activated riverfront has an immense opportunity to differentiate Bismarck from other communities in the area."

"What if we had a public patio adjoining a dock with one or more restaurant and/or cafe spaces?"

"Visitor-serving institutions currently lacking in the community or region. I think particularly of a children's museum and a botanic garden"

"I think a Great River Legacy Trail loop connecting Bismarck/Mandan to historic sites North to Washburn could become a destination"

"There is just something so cool about the idea of the ballpark being the downtown gateway to the river if you will. How could we turn the ballpark / Kiwanis Park into a destination and then families walk down scenic pathways as they approach Sertoma and some sort of outdoor shopping center, the amusement park, the Zoo, an outdoor amphitheater that could be heard from land and boats, etc. Could we add some restaurants or year round family entertainment businesses in land around ballpark?"

"Historically correct Indigenous stories along with Contemporary Native Art"

"A nature trail that includes ecology/ environmental art"

"Would love to see a stage that could host performing arts and musical events."

"Better connections between the river and downtown"

"My husband and I have always felt that the river has been very unutilized. So much potential that NEEDS to be explored!"

"Our offerings in the winter are limited but interest is high. (Just look at Igloo dining popularity at paddle trap)"

Bismarck Riverfront Revitalization Plan

Your Feedback...

"The river is a natural draw for various forms of development. However, it is a flooding source and can cause significant damage to property and potentially pose safety risks as well."

"This project could serve as an opportunity for locals to get much-needed fresh air and sunshine, and would also attract more potential customers to any retail or restaurant spaces"

"true designated kayak launch points within the city"

"I think the river front should be tastefully developed for community use and not commercialized further."

"Piers for fishing, kayak launch points, safe passages down embankments to access traditional swimming areas, would all be heavily utilized"

"My hope is that the riverfront can be accessible to all (i.e. public beach) not just those with monetary benefits and that it can be a space for arts and culture to be celebrated."

"I would suggest that year round opportunities be considered as Bismarck is a winter city."

"Parks that are located directly on the waterfront containing shelters, grills and tables would also be a major plus"

"Let's create one or more memorable landmarks and authentic experiences that will attract more people to Bismarck."

"Bismarck could partner with UTTC and local tribal members to provide more experiences: events at Ward Looking Village or Double Ditch, weekend art event and sales, restaurants or food trucks offering traditional foods."

"Trails, amphitheater, green space, increased access to river, future ropes course or other tourism draw"

"I'd love to see an outdoor venue for live music or performance - based entertainment. This could host many different programs and events year-round that celebrates local culture. I also think there's opportunity to support cold weather programming along the Bismarck riverfront (Curling, Hockey, ice fishing, Holiday lights, etc.)"

"we will go to where the Riverboat is docked because it is literally the only waterfront park in either city"

"There is a need for better access for all the different activities that take place in the river. Boating, swimming, fishing, and kayaking all are a daily part of the life of the river however only boating is accounted for save a small 'pier' for fishing off Fox Island"

"Its good the way it is."

"I believe a fully activated riverfront has an immense opportunity to differentiate Bismarck from other communities in the area. This could help with talent acquisition/retention, community pride & growth, and overall resident happiness."

"Access to sunshine in winter. Maybe a conservatory or greenhouse structure?"

"The best parts of the Missouri River are those areas where natural habitat is preserved, the views remain unaltered by human development, and the sounds of nature are the only distractions to the serenity so many people are seeking in today's world."

"This plan should be linked to Bismarck's comprehensive plan in process, and vice versa"

"Retail Store / Outdoor Store could look into providing rentals (bikes, kayaks) to be used along/on the river"

"guided tours and special events by the river could be excellent opportunities"

"Continued development is challenging for that area due to topography and general river erosion."

"a discussion regarding the river should not take place without the involvement of Mandan"

Bismarck Riverfront Revitalization Plan

IMPACTFUL STAKEHOLDER COMMENTS

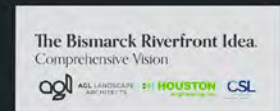
- *"The beauty of the Missouri River is on par with that of the Badlands."*
- *"The river is part of our region's culture and heritage."*
- *"You shouldn't have to own a boat to enjoy the river."*
- *"Kayaking has become increasingly popular on the Missouri River."*
- *"I wish there were more family-friendly events by the river."*
- *"Do visitors to Bismarck realize we are a river city?"*
- *"Signage that directs people to the riverfront would be helpful."*
- *"It is difficult to get down to the riverfront trail by bicycle."*
- *"This event (Music on the Missouri) was great! Does this happen every week?"*
- *"We cannot build public infrastructure like an amphitheater without a plan for programming it."*
- *"Our trail systems are incredible. We should continue to expand upon what we already have."*



RIVERFRONT MASTERPLAN OBJECTIVES

- OBJECTIVE 1** Diversify river access options.
- OBJECTIVE 2** Preserve natural character of the river.
- OBJECTIVE 3** Preserve and improve pedestrian access routes to the Riverfront Trail System.
- OBJECTIVE 4** Encourage the development of additional Riverfront commercial uses in select locations.
- OBJECTIVE 5** Develop infrastructure for increased public use that can generate revenue while minimize taxpayer burden.
- OBJECTIVE 6** Engage local arts, culture, and heritage related stakeholders to make the riverfront a more active, vibrant, and indelible part of the community's identity.





COMPREHENSIVE VISION



The Bismarck Riverfront Idea.



2/28/2023

The Bismarck Riverfront Idea.

GAME CHANGER NUMBER 1:

RIVERFRONT FESTIVAL GROUNDS

2/28/2023

The Bismarck Riverfront Idea.



POTENTIAL PROJECT LOCATION



2/28/2023

The Bismarck Riverfront Idea.



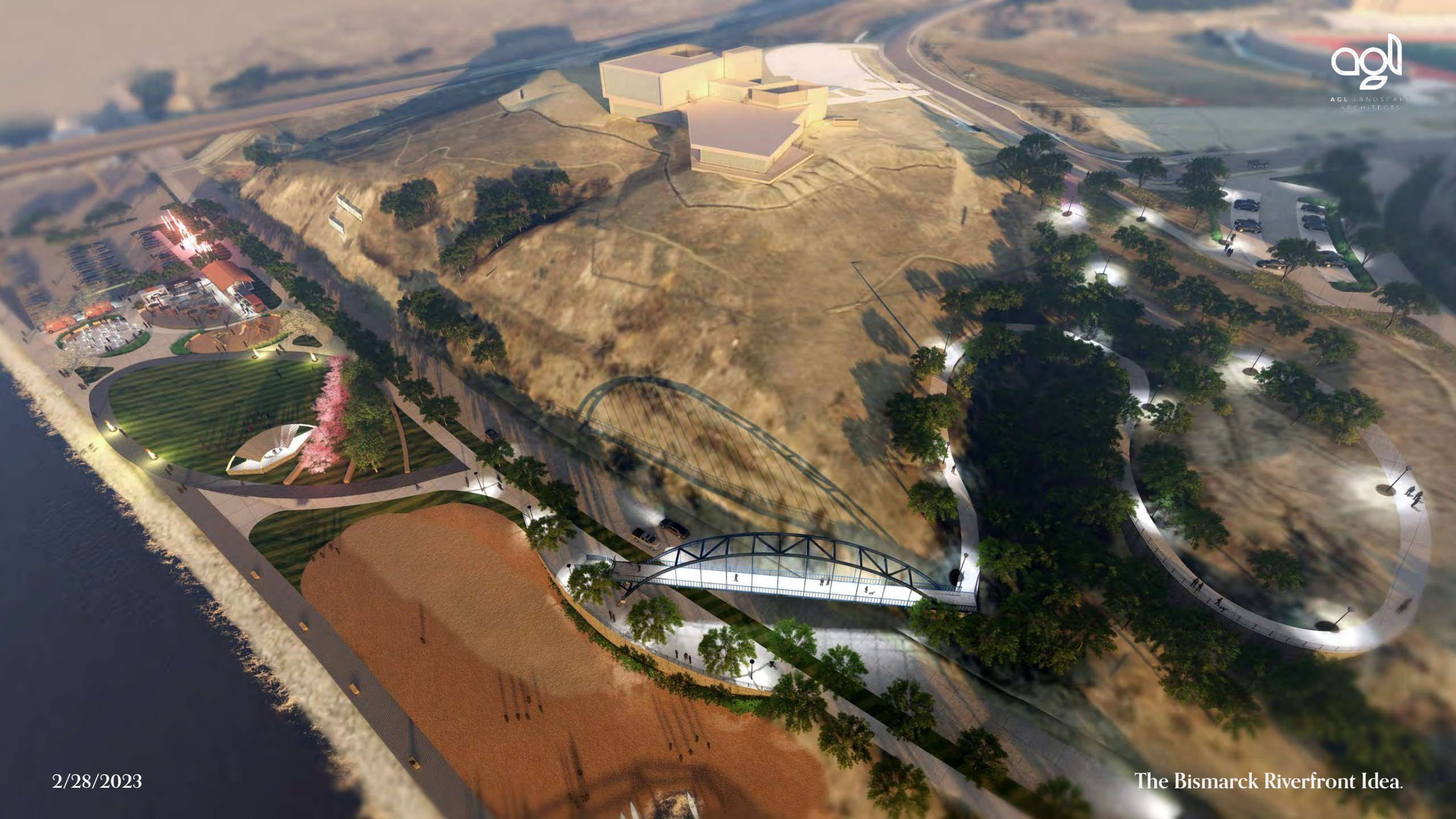
THE RIVER DISTRICT
BISMARCK

THE RIVER DISTRICT
BISMARCK



THE RIVER DISTRICT BISMARCK







Festival Grounds: Annual Usage, Cost and Benefit

Preliminary Project Cost



\$10m to \$12m

Events



~110 events per year

Economic Output



\$393k in net new economic impacts

Fiscal/Tax Impact



\$19.2k in net new tax generation

Financial Operations



Modest Annual Profit of ~\$30,000

Visitors



~120,000 visitors per year

Food & Beverage



~\$1.3m in gross revenue*

Quality of Life



Quality of life enhancement for maintaining and attracting talent to Bismarck

*includes revenue at restaurants, food trucks, and community room catering

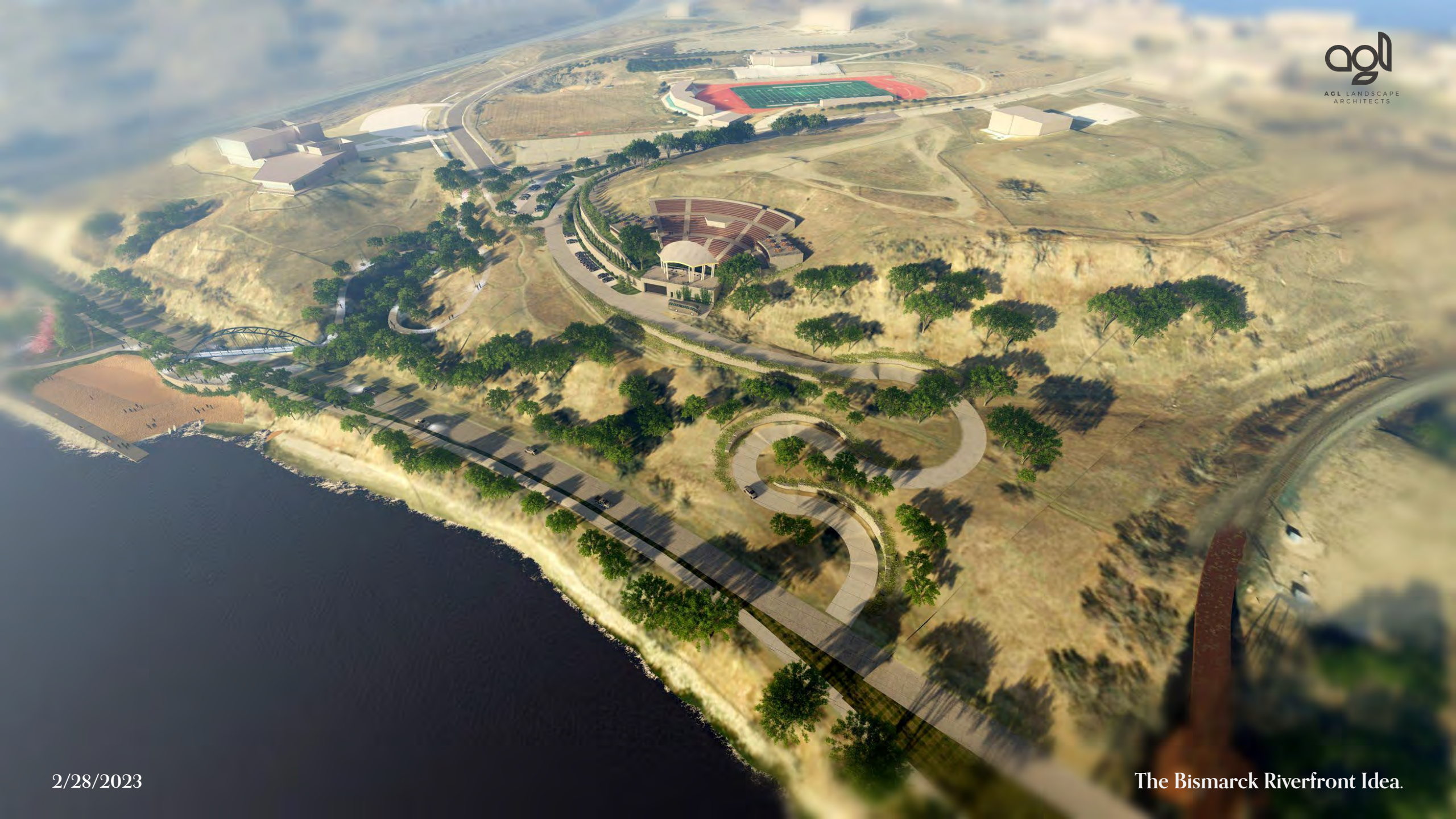
GAME CHANGER NUMBER 2:

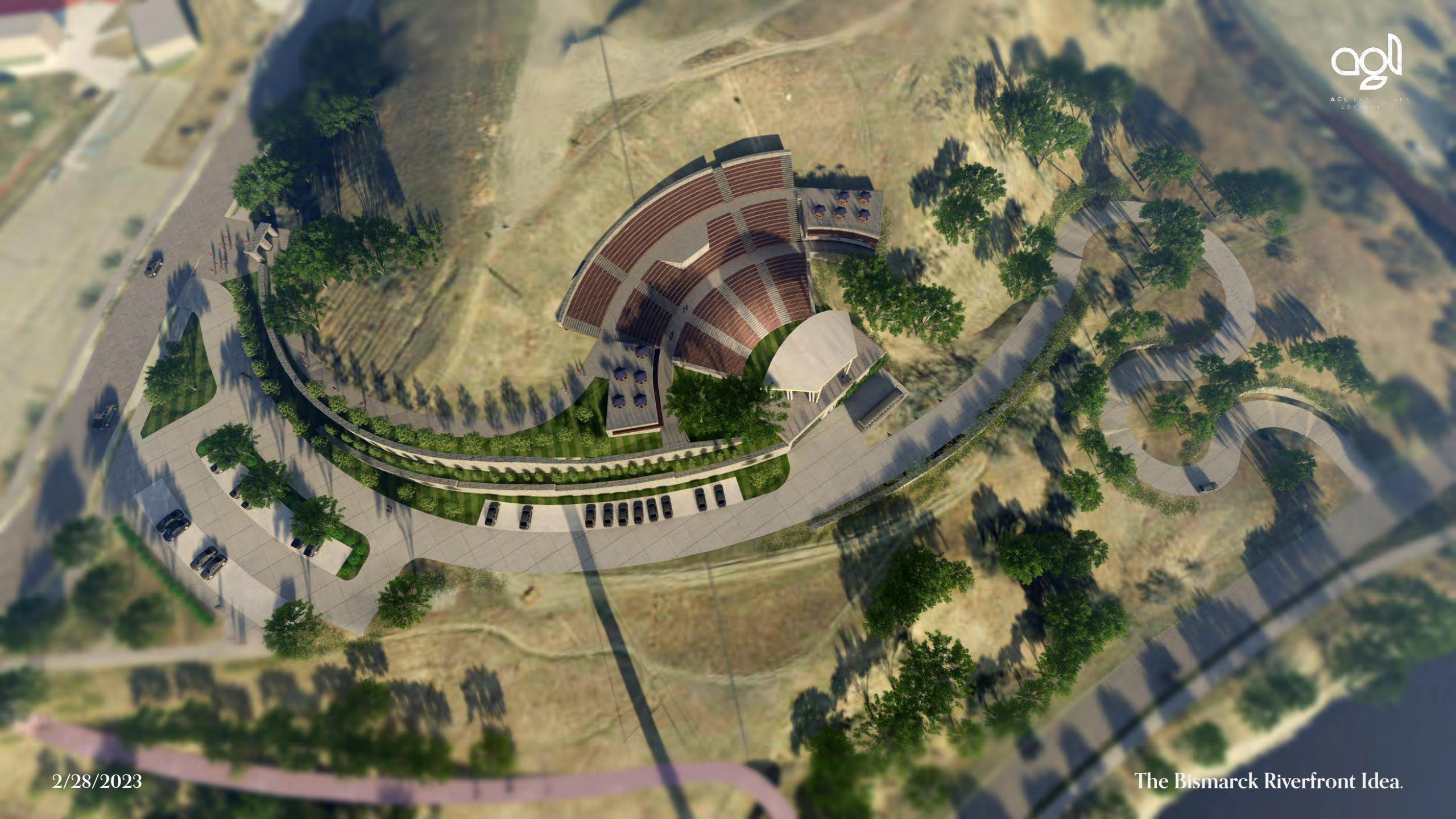
RIVERFRONT AMPHITHEATER

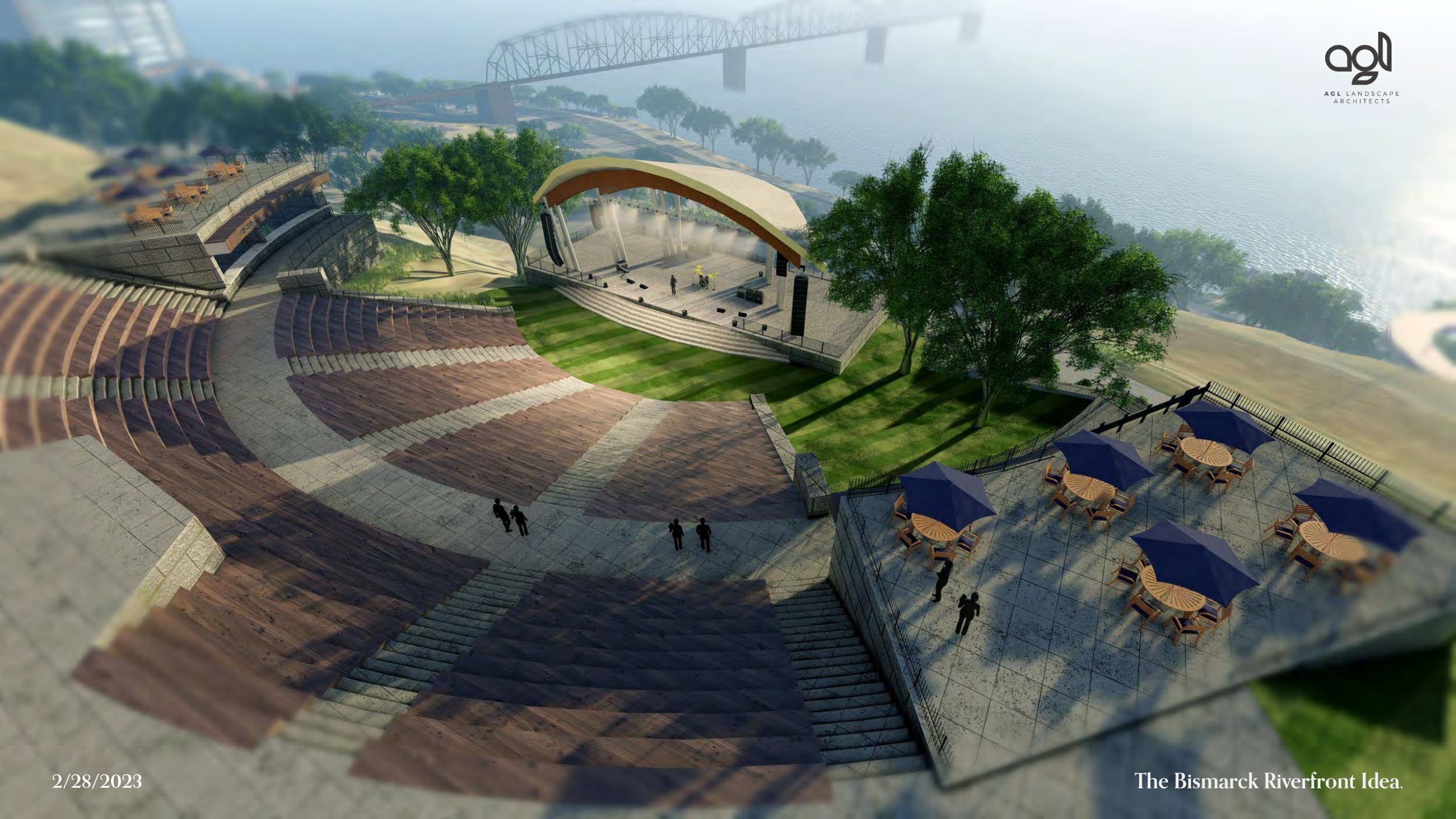


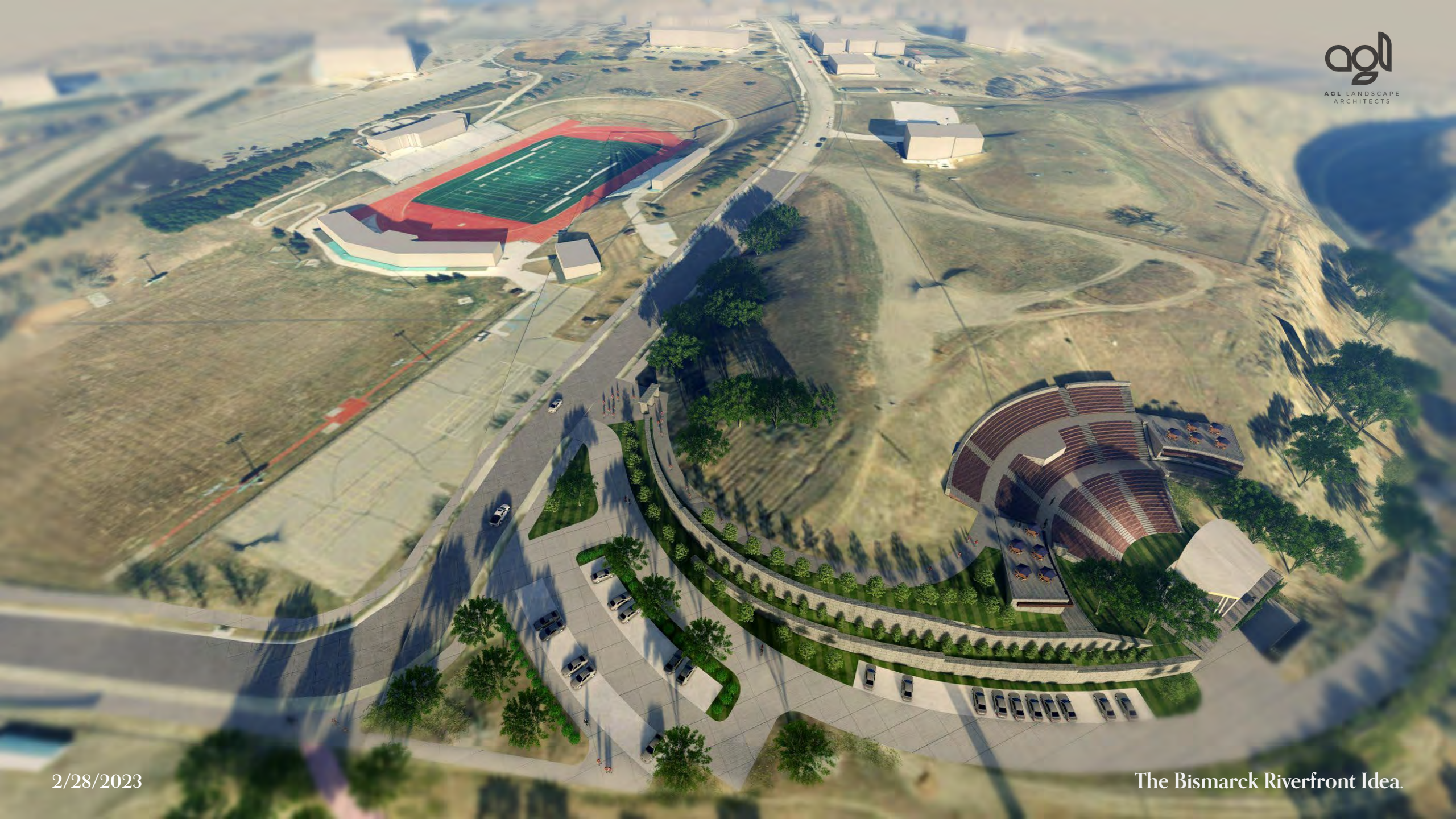
POTENTIAL PROJECT LOCATION











Amphitheater: Cost and Benefit

DRAFT COPY

Preliminary Project Cost



\$10.0m to \$12.0m

Financial Operations



Modest Annual
Profit of ~\$100,000

Summary of Annual Economic Impacts



EVENTS
42



ATTENDEES
79,900



HOTEL RM. NIGHTS
3,900



DIRECT
SPENDING

\$4.2M

+

INDIRECT/
INDUCED
SPENDING

\$2.8M

=

ECONOMIC
OUTPUT

\$7.0M



PERSONAL
INCOME

\$2.8M



EMPLOYMENT
(PEAK YEAR JOBS)

89



TOTAL TAX
REVENUE

\$328K

GAME CHANGER NUMBER 3:

RIVERFRONT BOUTIQUE HOTEL



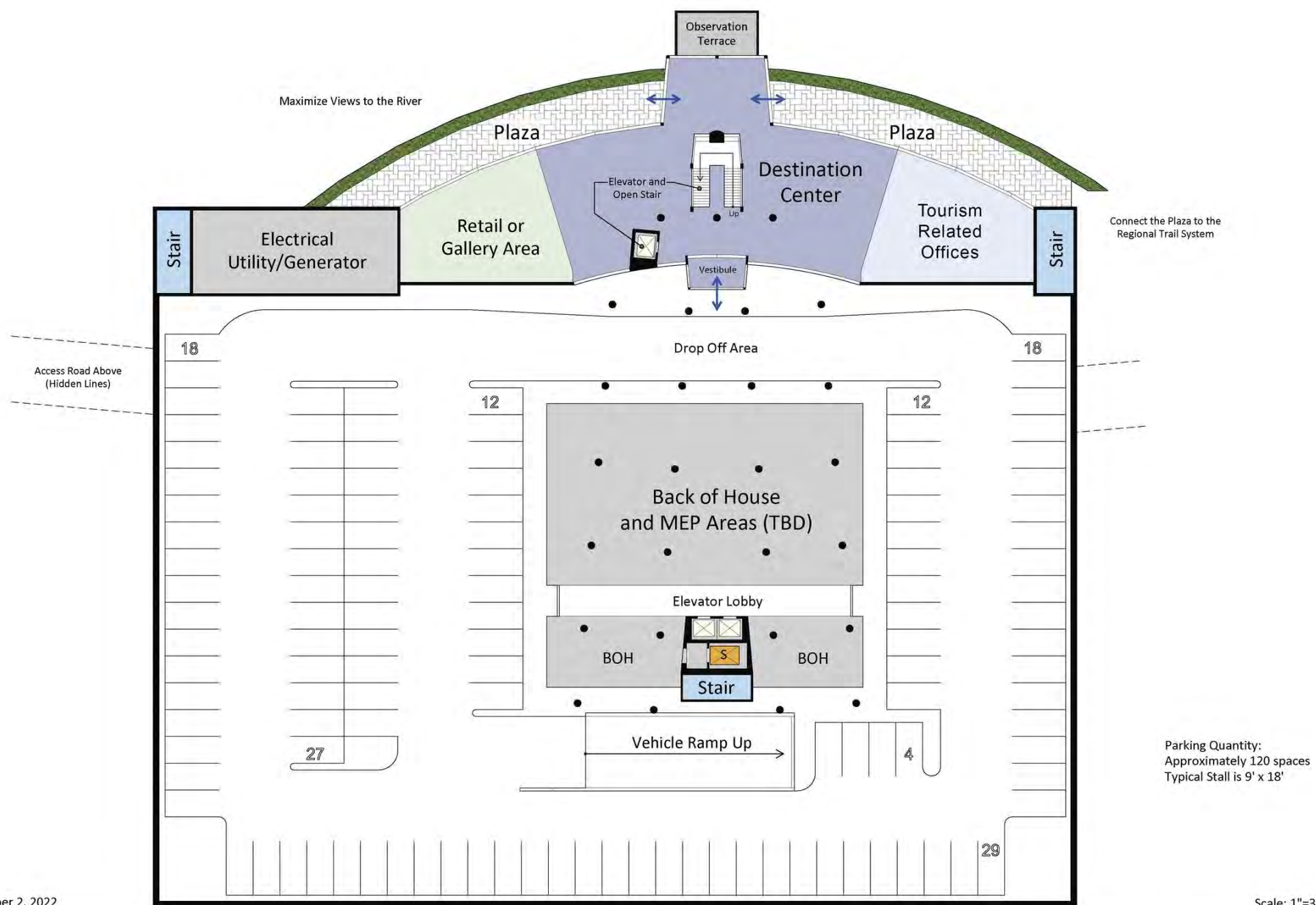
POTENTIAL PROJECT LOCATION









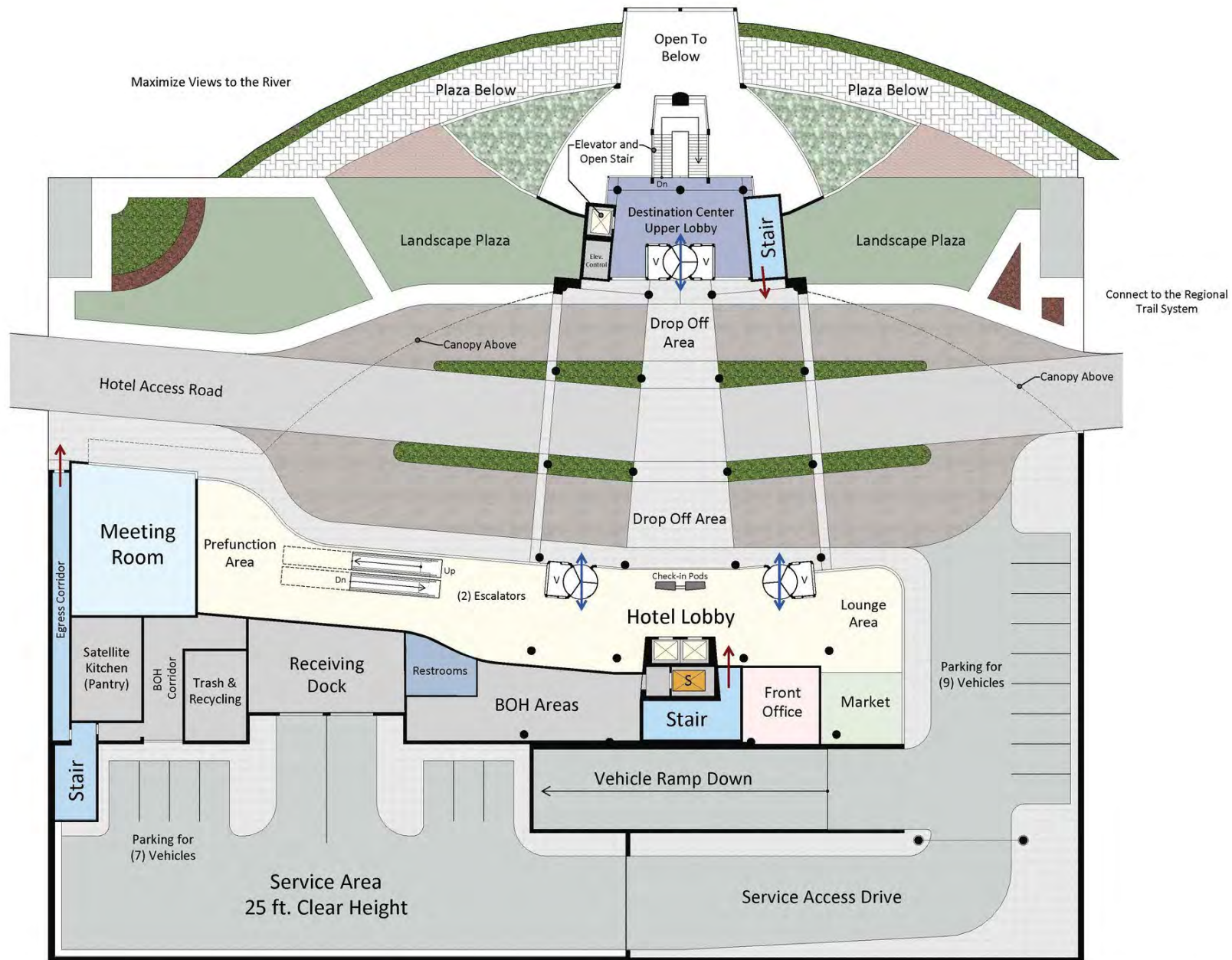


November 2, 2022

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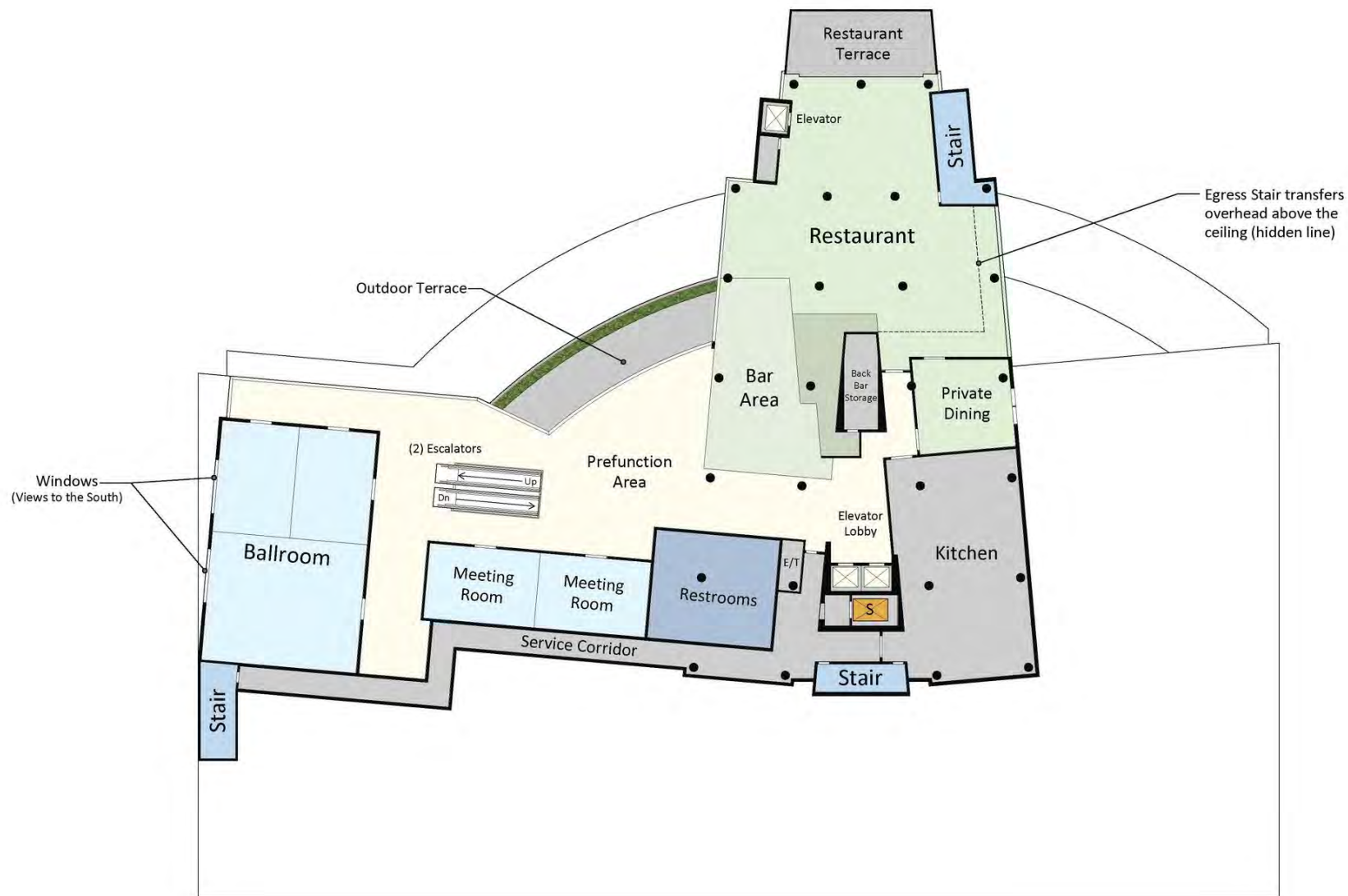
Proposed Riverfront Hotel
Bismarck, ND

Floor Plan - Lower Level (P1)



November 2, 2022

Scale: 1"=30'-0"



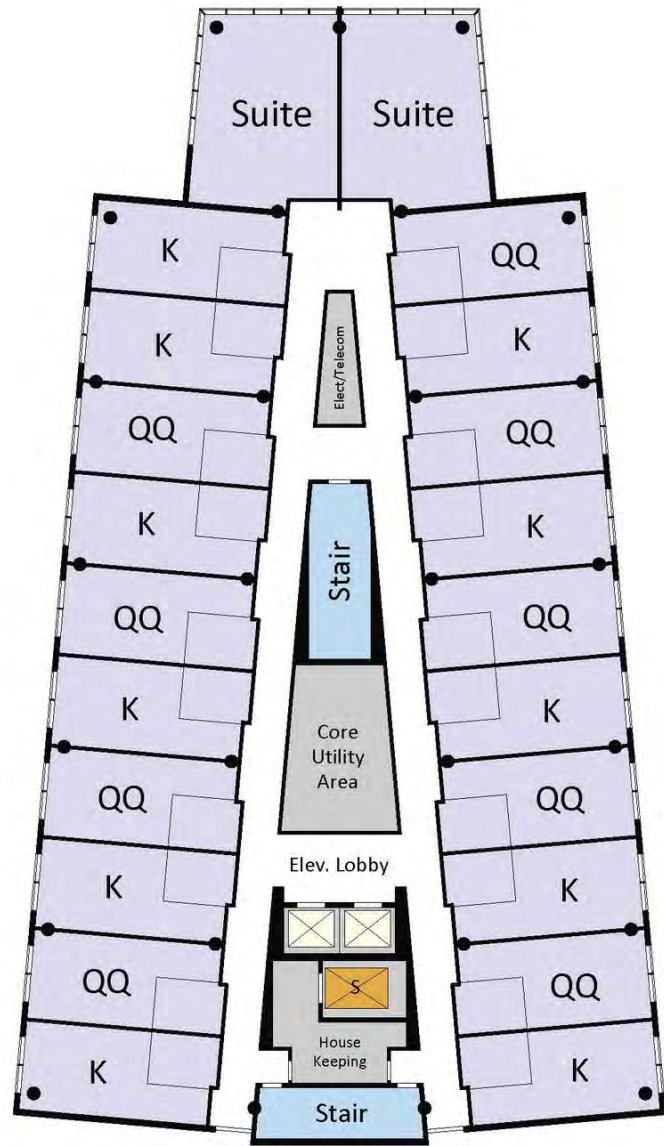
November 2, 2022

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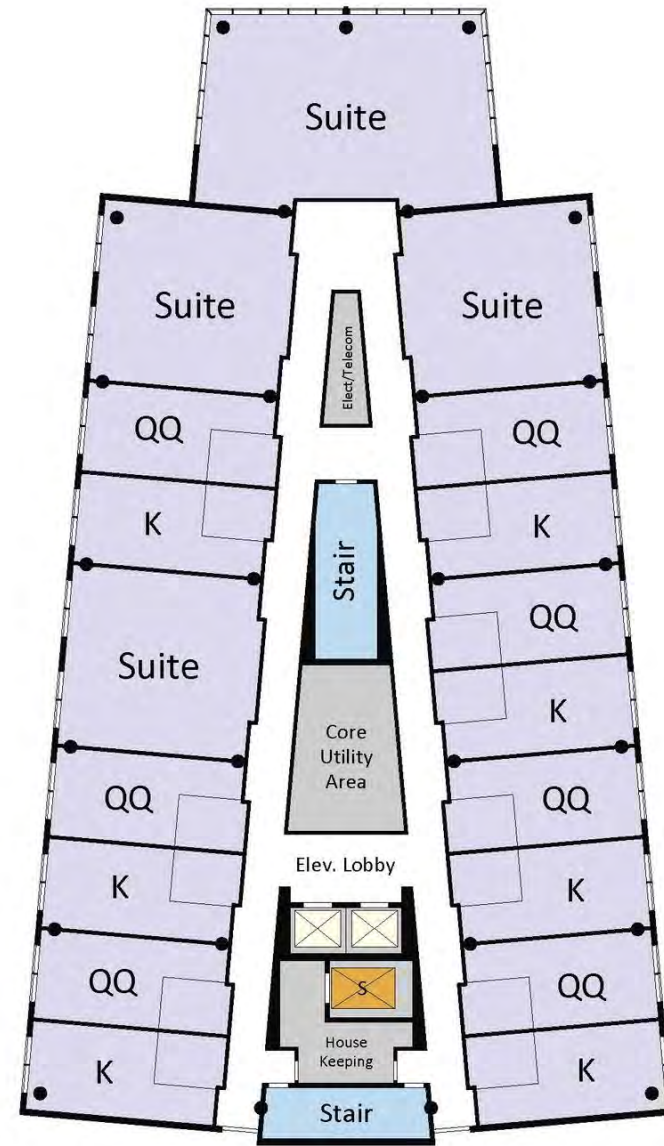


Proposed Riverfront Hotel
Bismarck, ND

2nd Floor Plan



Levels 3-7 (Typical)



Level 8

All Guestrooms
have Views to
the River



Destination Hotel: Cost and Benefit

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Preliminary Project Cost



\$45m to \$55m

Financial Operations



Annual Profit of
\$3.0m to \$5.0m

Summary of Annual Economic Impacts (Mature Year of Operations)



EVENTS
197



ATTENDEES
32,500



HOTEL RM. NIGHTS
26,800



DIRECT
SPENDING

\$10.7M

+

INDIRECT/
INDUCED
SPENDING

\$7.3M

=

ECONOMIC
OUTPUT

\$17.9M



PERSONAL
INCOME

\$7.3M



EMPLOYMENT
(PEAK YEAR JOBS)




211



TOTAL TAX
REVENUE

\$927K

Cost/Benefit Overview: Key Metrics

		 Amphitheater	 Destination Hotel	 Festival Grounds
Characteristics	Description	3,000- to 4,000-capacity multipurpose outdoor event center	138-room, upscale hotel on Riverfront with event space	Mixed-use riverfront green space with food and special events
	Owner	Public	Private	Public
	Operator	Private	Private	Public
	Footprint Size	65,000sf	45,000sf	150,000sf
Activity	Attendance	79,910	57,909	121,176
	Room Nights	3,911	28,954	0
Operations	Revenues	\$1,482,456	\$8,176,000	\$100,652
	Expenses	\$1,298,470	\$4,642,000	\$67,500
	Profit/(Loss)	\$145,033	\$3,534,000	\$33,152
Costs	Capital Cost	\$10,000,000	\$51,647,000	\$10,000,000
	Est. % Paid by Public Sector	80%	20% to 25%	100%
	Est. Cost Paid by Public Sector	\$8,000,000	\$10,300,000 to \$12,900,000	\$10,000,000
Economic Impact	Direct Spending	\$4,163,374	\$10,657,033	\$234,799
	Total Economic Output	\$7,004,842	\$17,947,368	\$393,254
	Wages/Earnings	\$2,828,588	\$7,324,987	\$163,863
	Jobs	89	211	6
Fiscal Impact	Total Tax Generation	\$328,363	\$926,553	\$19,203
Other Elements	Quality of Life Impact (1 to 10)	8	6	10
	Synergies with Other Concepts (1 to 10)	7	8	10

NEXT STEPS

- City Commission accepts report - February 2023
- City Commission approves release of website to stakeholders + general public - February 2023
- City Commission signs letter of support for grant writing related to riverfront public infrastructure - February 2023
- Fort Abraham Lincoln Foundation identifies potential funding sources - February to April 2023
- City Commission formally adopts masterplan - April 2023
- Fort Abraham Lincoln Foundation finalizes funding strategy - June 2023
- Grant Writing & Funding Awards - April to December 2023
- Construction Begins for Phase 1 - Spring 2024

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The Missouri River is Bismarck's Greatest
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THE BISMARCK RIVERFRONT IDEA.

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Dakota
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Bismarck

agl
AGL LANDSCAPE
ARCHITECTS

HOUSTON
engineering, inc.

CSL



March 7, 2023

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

Re: Summary of Bid Opening for: Joann Hetzel Memorial 4-H Building Playground

Kevin,

Bids for the Joann Hetzel Memorial 4-H Building Playground were opened at 2pm on March 1, 2023 at the Bismarck Parks and Recreation District Offices.

Two (2) bids were received and checked for mathematical errors or discrepancies. We did find and correct one (1) mathematical error on Earthwork Services bid as shown on the attached tabulation. Based on the bids received and the mathematical correction noted, Northwest Contracting, Inc. is the low bidder with a bid total of **\$165,325.75**

Based on the bid opening results, we recommend that the Board of Park Commissioners consider and accept the bid from Northwest Contracting, Inc.

A summary of the bid opening is attached to this letter for more information.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, reading 'Brett Gurholt'. The signature is fluid and cursive, with the first name 'Brett' and last name 'Gurholt' clearly distinguishable.

AGL Landscape Architects, P.C.

Brett Gurholt, PLA
Project Manager

Attachments: Summary of Bid Opening – Joann Hetzel Memorial 4-H Building Playground



BID OPENING SUMMARY
Joann Hetzel Memorial 4-H Building Playground
Bismarck Parks & Recreation District

Bid Opening: March 1, 2023 - 2:00 PM (CST)

Bidders	Bid Bond	Contractor's License	Addenda Acknowledged (2 Posted)	Base Bid
Northwest Contracting, Inc.	x	x	x	\$165,325.75
Earthwork Services, Inc.	x	x	x	* \$201,532.90
Landscape Architect's Opinion of Cost:				\$169,736.25

* Highlighted items indicate corrected mathematical errors to the bid



March 3, 2023

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

Re: Summary of Bid Opening for: Sam McQuade Softball Complex Playground Replacement Project

Kevin,

Bids for the Sam McQuade Softball Complex Playground Replacement Project were opened at 2pm on March 1, 2023 at the Bismarck Parks and Recreation District Offices.

Two (2) bids were received and checked for mathematical errors or discrepancies. Based on the bids received, Northwest Contracting, Inc. is the low bidder with a bid total of **\$141,118.50** for base bid and **\$62,669.80** for alternate #1 (Poured in Place Surfacing) for a project total of **\$203,788.30**.

Based on the bid opening results, we recommend that the Board of Park Commissioners consider and accept the bid from Northwest Contracting, Inc.

A summary of the bid opening is attached to this letter for more information.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads 'Brett Gurholt'. The signature is fluid and cursive, with the first and last names being clearly legible.

AGL Landscape Architects, P.C.

Brett Gurholt, PLA

Project Manager

Attachments: Summary of Bid Opening – Joann Hetzel Memorial 4H Building Playground

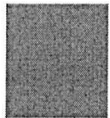


BID OPENING SUMMARY

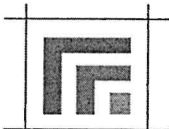
Sam McQuade Softball Complex Playground Replacement Project
Bismarck Parks & Recreation District

Bid Opening: March 1, 2023 - 2:00 PM (CST)

Bidders	Bid Bond	Contractor's License	Addenda Acknowledged (3 Posted)	Base Bid	Alternate #1 Pip Surfacing	Alternate #2 Synthetic Turf Surfacing
Northwest Contracting, Inc.	x	x	x	\$141,118.50	\$62,669.80	\$62,602.00
Earthwork Services	x	x	x	\$179,812.50	\$62,489.00	\$68,308.50
Landscape Architect's Opinion of Cost:				\$141,872.00	\$41,132.00	\$43,505.00



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EAPC

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116 W Main Avenue, Suite A, Bismarck, ND 58501 | TELE 701.258.3116

March 8, 2023

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

RE: BPRD Cottonwood South Softball Complex Umpire Building

#20226620

Bids for the Cottonwood South Softball Complex Umpire Building Project were received on November 8 at 2:00pm. Bids were accepted for Multiple Prime bids or a Single Prime bid.

Bids were received from three General Contractors, Five Electrical Contractors and two Single Prime Bidders for the project.

The low bidder was the single Prime Bid by Northwest Contracting:

Nothwest Contracting – Single Prime Bid

Base Bid:

\$163,200.00

In review of the bids, I recommend that you accept the single prime - Base Bid in the amount of \$163,200.00 from Nothwest Contracting.

Thanks,

Jeffery L. Feist, AIA
EAPC Architects Engineers

Attachment: Bid Tabulation



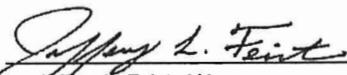
116 W Main Ave, Suite A
Bismarck, ND 585001
(701) 258-3116

BID TABULATION FORM

PROJECT: BPRD Cottonwood South Softball Complex Umpire Building
LOCATION: Bismarck, ND
PROJ. NO: 20226620
BID DATE: Wednesday, March 8, 2023
BID TIME: 2:00 p.m. local time

	LICENSE NO.	BID SECURITY	ADDENDUMS # 1, 2 & E-1	BASE BID
General Contractor				
Ironsides Construction	46537	✓	✓	\$ 149,300.00
Northwest Contracting	21302	✓	✓	\$ 144,700.00
Roers Construction	42385	✓	✓	\$ 151,850.00
Electrical Contractor				
Jesse Braun Electric	52874	✓	✓	\$ 19,990.00
Ideal Power Solutions	45575	✓	✓	\$ 38,000.00
RBB Electric, Inc.	29615	✓	✓	\$ 23,700.00
Skeels Electric	545	✓	✓	\$ 28,445.00
Voyager Electric	44104	✓	✓	\$ 27,452.00
Combined Bid				
Northwest Contracting	21302	✓	✓	\$ 163,200.00
Roers Construction	42385	✓	✓	\$ 187,720.00

The undersigned certifies this Bid Tabulation.

Signed: 
Jeffery L. Feist, AIA

TO: Commissioners Odell, Jeske, Zimmerman, Jordan and President Gilbertson
Kevin Klipfel, Executive Director of Parks and Recreation

FROM: David Mayer *DM*
Operations Director

DATE: March 8, 2023

RE: Playground Bid- Sertoma Shelter 5

Commissioners and Executive Director Klipfel:

Bids were opened on March 1, 2023 at 2pm for the play equipment, installation, and surfacing for the playground at Sertoma Park, shelter 5. We received one bid from My Turn Playsystems in the amount of \$49,465 for Burke playground equipment and installation and \$5,500 for the installation of the engineered wood fiber.

We recommend accepting the bid submitted by My Turn Playsystems for play equipment and installation and engineered wood fiber surfacing for the total combined bid price of \$54,965.

Cc: Wendy Anderson-Berg, Park Planner

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Our Mission

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Core Purpose


Provide affordable, accessible, and sustainable public park and recreation services.

Our Values

Accountability	Diversity
Collaboration	Integrity
Community	Professionalism

Let's Play!

TO: Commissioners Odell, Jeske, Zimmerman, Jordan and President Gilbertson
Kevin Klipfel, Executive Director of Parks and Recreation

FROM: David Mayer 
Operations Director

DATE: March 8, 2023

RE: Park Improvements Bid- Marian Park

Commissioners and Executive Director Klipfel:

Bids were opened on March 1, 2023 for the park improvements at Marian Park. We received one bid from a local contractor. Northwest Contracting Inc. supplied a total bid price of \$127,200. Bid summary is shown below.

This project is budgeted for through a combination of the BPRD Construction Fund and a CDBG grant. We recommend accepting the total project bid submitted by Northwest Contracting in the amount of \$127,200. If approved, we anticipate this project will move forward this summer. Thank you for your time and consideration of this matter.

cc: Kathy Feist, Finance Director, Wendy Anderson-Berg, Park Planner

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Memo

To: Park Board Commissioners and Kevin Klipfel, Executive Director

From: Kathy Feist, Finance Director *KF*

Date: March 8, 2023

Re: Designation of Depositories

NDCC section 21-04-13 requires the governing board to designate depositories of public funds in January of each even-numbered year. Financial institutions can be added as approved designated depository at any point during the year after providing the required documentation. The Board has previously approved seven financial institutions as designated depositories.

We have received the required information from an additional financial institution. Requested board action is to approve First Western Bank and Trust as a designated depository.

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FIRST WESTERN
BANK & TRUST

You can bank on us

P.O. Box 1090 • Minot, ND 58702-1090 • 701-852-3711

March 2, 2023

Bismarck Park and Recreation District

Attn: Kathy Feist

400 East Front Ave

Bismarck ND 58504

Dear Mrs. Feist

We would like to submit to you a request to become a designated depository with the Bismarck Park and Recreation District. Attached you will find our 2021 annual report as well as our 2022 call report. Thank you for your consideration and we look forward to hearing back from you.

Sincerely

Joe Kittell

First Western Bank and Trust

Business Development Officer

MINUTES OF THE BOARD OF PARK COMMISSIONERS
February 16, 2023

The Board of Park Commissioners held their regular meeting on February 16, 2023 in the Tom Baker meeting room of the City/County Building. President Gilbertson called the meeting to order at 5:15 pm. Commissioners Jeske, Jordan, Odell and Zimmerman were present.

Commissioner Jordan moved approval of the agenda as presented. Commissioner Jeske seconded the motion, and the voting went as follows: Ayes: Commissioners Jeske, Jordan, Odell, Zimmerman, and President Gilbertson. The nays being none, the motion carried.

Bismarck's Assistant City Administrator Jason Tomanek and Deputy Chief Jason Stugelmeyer appeared before the Board as the Featured Partners and Programs. Jason Tomanek reviewed Bismarck's 150th celebration in 2022 and Deputy Chief Stugelmeyer discussed the relationship between the Bismarck Police Department and Bismarck Parks and Recreation District.

John Klein from Apex Engineering reviewed the bids received for the Municipal Ballpark parking lot light project. Commissioner Zimmerman moved to accept the apparent low bid of \$42,625 from Skeels Electric Company. Commissioner Odell seconded the motion, and the voting went as follows: Ayes: Commissioners Jeske, Jordan, Odell, Zimmerman, and President Gilbertson. The nays being none, the motion carried.

John Klein also reviewed the bids received for the Eagles Park electrical expansion project. Commissioner Jordan moved to accept the apparent low bid and alternate E1 from Skeels Electric Company for a total of \$48,57. Commissioner Jeske seconded the motion, and the voting went as follows: Ayes: Commissioners Jeske, Jordan, Odell, Zimmerman, and President Gilbertson. The nays being none, the motion carried.

Facilities and Programs Director Mike Wald reviewed the bids received for the concessions operations at Riverwood Golf Course and VFW Sports Center/Tom O'Leary Golf Course. Commissioner Jeske moved to accept the bids submitted by Bismarck Sports Group Food Services for both locations as well as the corresponding agreements. Commissioner Zimmerman seconded the motion, and the voting went as follows: Ayes: Commissioners Jeske, Jordan, Odell, Zimmerman, and President Gilbertson. The nays being none, the motion carried.

John Lundby from Colliers International presented the results of the general obligation park facilities bond sale, series 2023. The bond rate was very favorable at 3.52%. Commissioner Jeske moved to approve the resolution authorizing the issuance and sale of general obligation park facilities bonds, series 2023. Commissioner Odell seconded the motion, and the voting went as follows: Ayes: Commissioners Jeske, Jordan, Odell, Zimmerman, and President Gilbertson. The nays being none, the motion carried.

Mike Berg with Apex Engineering reviewed three easements for the city of Bismarck's sanitary sewer project through Pebble Creek Golf Course and outlined the project. Commissioner Zimmerman moved to approve the easements presented for this project. Commissioner Jordan

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

Kate Herzog, Chris Geiss and Perry Andrisen from the Dakota Junior Golf Association (DJGA) appeared before the Board to review a plan to relocate the Sheila Schafer Junior Links to Pebble Creek Golf Course. If approved by the Board, DJGA will contribute \$200,000 to the project. Commissioner Jordan moved approval to move forward with the project as presented, go through the consultant selection process and develop the final plan and bid documents. Commissioner Zimmerman seconded the motion, and the voting went as follows: Ayes: Commissioners Jeske, Jordan, Odell, Zimmerman, and President Gilbertson. The nays being none, the motion carried.

Commissioner Zimmerman moved to approve the following round one Matching Grants:

Applicant	Project Title	Proposed Funding Recommended
Bismarck Fastrax	ProStart gate system and resurfacing project	21,601.00
Bismarck Gymnastics Academy	Replacement mats for uneven bars and balance beams	3,500.00
Bareknuckle Baseball LLC/Bismarck Larks	Bismarck Municipal Ballpark group seating	11,375.00
Bismarck Mandan Lacrosse Association	Protective gear and high school goalie nets	\$692.50
Bismarck Rotary Club	Bismarck Rotary Arboretum	2,500.00
Bismarck Youth Baseball, Inc	Scheels Complex temporary fencing project	4,999.88
Capital Curling Club	Updated video system	14,482.96
Dakota Jr. Golf Association	Expansion of Toptracer Range at Fore Season Center	3,474.00
Missouri River Baseball Club	Portable youth pitching mounds	3,500.00
Total:		\$66,125.34

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

Commissioner Odell moved approval to dispose of the following obsolete records as requested:

Box Id	Area	Year	Contents	Ret Pd	Date In	Date Out
879	Administration	2004-11,2012	2004-2011 Used gift cert,deposit books,receipt books; 2012 invoices, 2012 gift cert given out by BPRD	7 Years	10/1/14	10/1/2022
899	Accounts Payable	2006-2012	Used PO's	7 Years	10/1/14	10/1/2022
900	Accounts Payable		(268,348,459,461,446,553,557,619,620,621,638	7 Years	10/1/14	10/1/2022
901	Accounts Payable		Used PO's (650-675)	7 Years	10/1/14	10/1/2022
902	Accounts Payable		Used PO's (676-700)	7 Years	10/1/14	10/1/2022
903	Accounts Payable		Used PO's (701-725)	7 Years	10/1/14	10/1/2022
904	Accounts Payable		Used PO's (726-750)	7 Years	10/1/14	10/1/2022
905	Accounts Payable		Used PO's (751-775)	7 Years	10/1/14	10/1/2022
930	Accounts Payable	2015	Used PO's (776-800)	7 Years	10/1/14	10/1/2022
931	Accounts Payable	2015	Used PO Books 801-825	7 Years	10/1/15	10/1/2022
932	Accounts Payable	2015	Used PO Books 826-850,596,616,739	7 Years	10/1/15	10/1/2022
933	Accounts Payable	2015	Used PO Books 851-875	7 Years	10/1/15	10/1/2022
950	Administration	2013	Used PO Books 876-900	7 Years	10/1/15	10/1/2022
996	Administration	2012-2015	Direct Deposit Reports, Month-End Completion Reports,Tax Collections,Voice Checks,McDowell Dam Billings,Jan-Dec Bank Reconciliation	7 Years	10/1/15	10/1/2022
1106	Accounts Payable	2016	2013-15: Gift Certificated donated by BPRD,2013-15: Invoices, 2015 BRC Contributions, 2013 Cell Phone Documentation, 2010-12 Volunteer Applications	6 Years	2/15/2017	2/15/2023
1107	Accounts Payable	2016	Vendor Files A - BSN + 2015 Ameripride	4 Years	2/15/2019	2/15/2023
1108	Accounts Payable	2016	Vendor Files BU - DAG	4 Years	2/15/2019	2/15/2023
1109	Accounts Payable	2016	Vendor Files DAKOTA - F	4 Years	2/15/2019	2/15/2023
1110	Accounts Payable	2016	Vendor Files G - L	4 Years	2/15/2019	2/15/2023
1111	Accounts Payable	2016	Vendor Files M	4 Years	2/15/2019	2/15/2023
1112	Accounts Payable	2016	Vendor Files N - R	4 Years	2/15/2019	2/15/2023
1113	Accounts Payable	2016	Vendor Files S - T	4 Years	2/15/2019	2/15/2023
1114	Accounts Payable	2016	Vendor Files U - Z	4 Years	2/15/2019	2/15/2023
1115	Accounts Payable	2016	Vendor Files Refunds	4 Years	2/15/2019	2/15/2023
1116	Accounts Payable	2016	Vendor Files ONE CARD - Jan - Jun	4 Years	2/15/2019	2/15/2023
1137	Accounts Payable	2016	Vendor Files ONE CARD - Jul - Dec	4 Years	2/15/2019	2/15/2023
1138	Accounts Payable	2017	Cash Receipts - Golf - Jan - Jun	4 Years	2/15/2019	2/15/2023
1139	Accounts Payable	2017	Cash Receipts - Golf - Jul - Dec	4 Years	2/15/2019	2/15/2023
1140	Accounts Payable	2017	Cash Receipts - AWC - CRFC	4 Years	2/15/2019	2/15/2023
1141	Accounts Payable	2017	Cash Receipts - Admin - Jan - Jun	4 Years	2/15/2019	2/15/2023
1142	Accounts Payable	2017	Cash Receipts - Admin - Jul - Dec	4 Years	2/15/2019	2/15/2023
1144	Accounts Payable	2017-18	Cash Receipts - Sibley, McDowell, Schaumburg, Pools	4 Years	2/15/2019	2/15/2023
1145	Accounts Payable	2018	Admin Credit Card Receipts, Deposit Slips	4 Years	2/15/2019	2/15/2023
1146	Accounts Payable	2018	McDowell Dam Daily Rentals	4 Years	2/15/2019	2/15/2023
1147	Accounts Payable	2018	Credit Card Receipts - Golf (Aug)	4 Years	2/15/2019	2/15/2023
1148	Accounts Payable	2018	Credit Card Receipts - (July)	4 Years	2/15/2019	2/15/2023
1149	Accounts Payable	2018	Golf Season Passes - excluding front desk	4 Years	2/15/2019	2/15/2023
1150	Accounts Payable	2018	Credit Card Receipts - Pools, AWC, CRFC (Aug-Dec), Golf (Sep-Dec)	4 Years	2/15/2019	2/15/2023
1151	Accounts Payable	2010-2018	Credit Card Receipts - Golf (Jun)	4 Years	2/15/2019	2/15/2023
1152	Accounts Payable	2018	Used deposit tickets, used gift certificate books	4 Years	2/15/2019	2/15/2023
1153	Accounts Payable	2018	Credit Card Receipts Golf (Dec 17 - Jun 18), Pools, CRFC, AWC (Apr-Jun)	4 Years	2/15/2019	2/15/2023
1062	Payroll	2016	Credit Card Receipts - Golf (May)	4 Years	2/15/2019	2/15/2023
1063	Payroll	2016	Time Sheets 12/24/15 - 01/22/16	5 Years	3/1/2018	3/1/2023
1064	Payroll	2016	Time Sheets 02/05/16 - 03/04/16	5 Years	3/1/2018	3/1/2023
1065	Payroll	2016	Time Sheets 03/18/16 - 04/15/16	5 Years	3/1/2018	3/1/2023
1066	Payroll	2016	Time Sheets 04/26/16 - 06/10/16	5 Years	3/1/2018	3/1/2023
1067	Payroll	2016	Time Sheets 06/24/16 - 07/08/16	5 Years	3/1/2018	3/1/2023
1068	Payroll	2016	Time Sheets 07/22/16 - 08/05/16	5 Years	3/1/2018	3/1/2023
1069	Payroll	2016	Time Sheets 8/19/16 - 9/16/16	5 Years	3/1/2018	3/1/2023
1070	Payroll	2016	Time Sheets 09/30/16 - 10/28/16	5 Years	3/1/2018	3/1/2023
1098	Payroll	2015	Time Sheets 11/10/16 - 12/09/16	5 Years	3/1/2018	3/1/2023
1099	Payroll	Multiple	Time Sheets 11/13/15 - 12/11/15	5 Years	3/1/2018	3/1/2023
	Payroll	2017	Leave Records Jan 2017, Jan - Dec 2014, Jan - Dec 2015	5 Years	3/1/2018	3/1/2023
	Accounts Payable	2020, 2021	W-2's Employer Copies	5 Years	1/31/2018	1/31/2023
	Accounts Payable	2020, 2021	Voided PO's	CY + 1 yr	1/31/2021	1/31/2023

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

Commissioner Jordan moved approval of the following consent agenda:

- Consideration of January 19, 2023 Board meeting minutes.
- Consideration to amend December 15, 2022 Park Board meeting minutes to reflect the proper title of three documents.
- Consideration of companion agreement with city of Bismarck on the Hay Creek retaining wall project.
- Request Board authorization to apply for the following grants:
 - AARP Flagship Grant for BCycle program
 - Garrison Diversion Matching Recreation Grant for Sertoma playground
 - Reeves Foundation Expanded Effects Grant
 - Kubota Hometown Proud Community Grant

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

Commissioner Zimmerman moved to approve the bills for payment with checks 407661 to 407670 and 211294 to 211489 along with bank drafts DFT001208 to DFT001219, EFTs 2231 to 2266 and direct deposits 58133 to 58939. Commissioner Jordan seconded the motion, and the voting went as follows: Ayes: Commissioners Jeske, Jordan, Odell, Zimmerman, and President Gilbertson. The nays being none, the motion carried.

The next regular Board meeting will be held March 16, 2023 at 5:15 pm in the Tom Baker Meeting Room. A strategic planning session will be held at February 27, 2023 at 4:00 pm at the Sertoma Club Community Center. The meeting was adjourned at 6:43 pm.

MINUTES OF THE BOARD OF PARK COMMISSIONERS
February 27, 2023

The Board of Park Commissioners held a strategic planning session on February 27, 2023 at the Sertoma Club Community Center. President Gilbertson called the meeting to order at 4:00 pm. Commissioners Jordan, Odell and Zimmerman were present.

Commissioner Zimmerman moved approval of the agenda as presented. Commissioner Jordan seconded the motion, and the voting went as follows: Ayes: Commissioners Jordan, Odell, Zimmerman, and President Gilbertson. The nays being none, the motion carried.

Executive Director Klipfel introduced Karel Sovak who facilitated the session, and Commissioner Jeske arrived.

The next regular Board meeting will be held March 16, 2023 at 5:15 pm in the Tom Baker Meeting Room. The meeting was adjourned at 5:44 pm.

Let's Play!

Date: March 3, 2023

To: Commissioners Jeske, Jordan, Odell, Zimmerman, and President Gilbertson

From: Mike Wald, Facilities and Programs Director 

Re: Part-Time Staff Benefits

We have been investigating options to provide our part-time staff with an additional benefit for working for Bismarck Parks and Recreation District. We would like to recommend offering a punch card to our part-time staff with the following:

Punch Card

- Each part-time staff would get one punch card which will contain the following activities.
 - 3 – Large buckets of range balls at Riverwood or Pebble Creek
 - 3 – Rounds of golf at Tom O'Leary or Pebble Creek
 - 3 – Daily visits to AWC or CRFC
 - 3 – Daily visits to an outdoor pool
 - 1 – Outdoor shelter reservation

Lifeguard Certification Class Reimbursement

- Lifeguards would be eligible to be reimbursed for their lifeguard course fee of \$250.00 (or the fee for the lifeguard course up to \$250.00) after the lifeguard has worked 250 hours for the Bismarck Parks and Recreation District. The employee will have one year to complete the hours to get reimbursed.

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Memo

To: Park Board Commissioners and Kevin Klipfel, Executive Director
From: Kathy Feist, Finance Director *ky*
Date: March 8, 2023
Re: Consultant – Sheila Schafer Junior Links relocation to Pebble Creek Golf Course

The consultant selection committees reviewed the list of consultants approved by the board. The committee selected KLJ Engineering for relocating the Sheila Schafer Junior Links at Pebble Creek Golf Course. The professional services agreement is included in your agenda packet for review and approval.

Requested Board action is to approve the selected professional consultant as recommended by the selection committee, approve the enclosed professional services agreements with KLJ Engineering, and call for bids for this project.

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

KLJ Project Number: 2104-01800.3

THIS IS AN AGREEMENT effective as of March 16, 2023 ("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: Pebble Creek Junior Links ("Project").

Engineer's services under this Agreement are generally identified as follows: Topographic Survey, Final Design, Bidding Services, and Construction Observation and Administration ("Services"). See Exhibit A – Engineer's Services for a complete 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 3/16/2023 to 11/9/2023. The compensation amounts stipulated in Paragraph 2.02 is conditioned on a period of service not exceeding 12/31/2023.**
- 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 \$57,400.00.

- | | |
|--|--------------|
| a. Topographic Survey: | \$ 4,500.00 |
| b. Preliminary Design Phase: | Not Included |
| c. Final Design Phase: | \$ 30,400.00 |
| d. Bidding Phase | \$ 5,100.00 |
| e. Construction Observation & Administration | \$ 17,400.00 |

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

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

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

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

3.01 *Termination*

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

1. For cause,

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

- b. By Engineer:

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

- 2) upon seven days written notice if the Engineer's Services are delayed for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 5.01.I.
 - c. Engineer shall have no liability to Owner on account of a termination for cause by Engineer.
 - d. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
2. For convenience, by Owner effective upon Engineer's receipt of written notice from Owner.
- B. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all Services and Additional Services performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective date of termination in connection with providing the Services and Additional Services, and Engineer's consultants' charges, if any.

4.01 Successors, Assigns, and Beneficiaries

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

5.01 General Considerations

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties or guarantees, express or implied, under this Agreement or otherwise in connection with Consultant's services. Notwithstanding any other representations made elsewhere in this Agreement or in the execution of the Project, this Standard of Care shall not be modified. Subject to the foregoing Standard of Care, Engineer and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- B. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor to comply with laws and regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- C. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform its work.
- D. Engineer's opinions (if any) of probable construction cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by Engineer. If Owner requires greater assurance as to probable construction cost, then Owner agrees to obtain an independent cost estimate.
- E. Engineer shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents other than those made by Engineer or its consultants.
- F. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all Services and Additional Services relating to preparation of the documents and subject to the following limitations:
 - 1. Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;

2. any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants;
 3. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and
 4. such limited license to Owner shall not create any rights in third parties.
- G. Owner and Engineer may transmit, and shall accept, Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- H. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$100,000 or the total amount of compensation received by Engineer, whichever is greater.
- I. Neither Party shall be considered to be in default of this Agreement if delays in or failure of performance are due to forces beyond the reasonable control of the nonperforming Party, the effect of which the nonperforming Party could not avoid by the exercise of reasonable diligence. Such forces include, but are not limited to: fire, acts of God, flood, earthquake, storm, lightning, tornados, epidemic, war, riot, civil disturbance, sabotage, strike, work slowdown, or other labor disturbances, judicial restraint, action or inaction of any Government entity in either its sovereign or contractual capacity, quarantine restrictions, freight embargoes, delays in long lead time items and severe weather. Any changes to the terms of this agreement impacted by a Force Majeure event shall be documented in an Amendment to the Agreement.
- J. The parties acknowledge that Engineer's Services do not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an unknown or undisclosed Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of Services on the portion of the Project affected thereby until such portion of the Project is no longer affected, or terminate this Agreement for cause if it is not practical to continue providing Services.
- K. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.
- L. This Agreement is to be governed by the law of the state in which the Project is located.

- M. Engineer's Services and Additional Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements; or (4) providing legal advice or representation.
- N. Engineer shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

6.01 *Total Agreement*

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

7.01 *Definitions*

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

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

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

Owner: Bismarck Parks and Recreation District

Engineer: KLJ Engineering LLC

By: _____

By: _____

Print name: Kevin Klipfel

Print name: _____

Title: Executive Director

Title: _____

Date Signed: _____

Date Signed: _____

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

061-C

State of: ND

Address for Owner's receipt of notices:

Bismarck Parks and Recreation District

400 E Front Ave

Bismarck, ND 58504

Address for Engineer's receipt of notices:

KLJ Engineering LLC

4585 Coleman Street

Bismarck ND 58503

Legal Notices to: legal@kljeng.com

This is **EXHIBIT A**, consisting of 15 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated March 16, 2023.

KLJ Project #2104-01800.3

Engineer's Services

Pebble Creek Junior Links – Bismarck, ND

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

PART 1 – BASIC SERVICES

Project Location:

The site (Site) for which Engineer's services are being provided is a portion of the approximately 98.27-acre Pebble Creek Golf Course (Property) which is described as Lot 1, Block 1, Pebble Creek Golf Course Addition and Lot 1, Block 1, Pebble Creek Golf Course Second Addition. The Property address is 2025 E Century Ave. The Site will be located north of the existing driving range and within the west half of Pebble Creek Golf Course Holes #1 and #9 consisting of approximately 4.5 acres. See Exhibit A.1.

Project Understanding:

To accommodate the potential VFW Ice Arena expansion, the existing Sheila Schafer Junior Links at Tom O'Leary Golf Course must be relocated. The property described above has been identified as the Site for relocation. It is assumed that the new Junior Links course will include up to six golf holes varying in length between 40 and 125 yards as shown on the preliminary design concept (Exhibit A.1). The layout of the junior links will utilize existing greens and fairways where possible. The layout will not include bridges, bunkers, new water hazards, and will not involve filling or mitigation of any existing wetlands. Erosion control measures will be installed to protect the existing wetlands adjacent to the construction limits. The new layout will utilize existing cart paths and maintenance paths where possible. The reconstruction of a short portion of the existing cart path along the south side of existing Hole #9 may be required. The new greens and tee boxes will be designed as "push-up" style greens built on topsoil fill and seeded. The existing irrigation system will be modified to irrigate the new fairways, tee boxes, and greens. Benches and garbage cans may be installed near several or all the tee boxes.

Project Schedule:

Topographic Survey: Six weeks from executed Agreement (approx. 3/16/23 – 4/28/23)

Preliminary Design: Previously Completed. See attached Exhibit A.1

Final Design: Thirteen weeks from executed Agreement (approx. 3/16/23 – 6/20/23)

City Review & Revisions: Assumed not necessary.

Bidding: Four weeks from acceptance of Final Design (approx. 6/20/23 – 7/20/23)

Construction: 14 weeks from completion of Bidding (approx. 8/7/23 – 11/9/23)

Parties:

Owner – Bismarck Parks and Recreation District

Engineer – KLJ Engineering LLC

Contractor - TBD

Engineer shall provide Basic Services as set forth below.

A1.01 Study and Report Phase (Not Included)

A1.02 Topographic Survey Phase

A. Owner shall:

1. Provide current title report and supporting documents.

B. Engineer shall provide:

1. Topographic Survey

- a. Provide topographic field survey to locate utilities, and surface features such as fences, trees, sidewalks, trails, and existing golf course features in the project limits.
- b. Identify and map existing recorded easements and rights-of-way on the property found within the Owner provided title work. The Owner assumes all risk of ownership discrepancies and conflicts with easements or encumbrances not included in the title work to be provided by the Owner.
- c. Identify utilities on base map based on information provided by utility owners and located by ND One Call.
- d. A boundary survey will not be provided.
- e. Prepare base map of existing conditions of proposed development site.

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

A1.03 Preliminary Design Phase (Previously Completed – Refer to Exhibit A.1)

A1.04 Entitlements (Platting) Phase (Not Included)

A1.05 Final Design Phase

- A. After acceptance by Owner of the Preliminary Design Phase documents and any other deliverables and indication of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, and upon authorization from Owner, Engineer shall provide:

- B. Junior Links Grading and Layout

1. Develop site existing conditions and removals plan
2. Develop site grading design
 - a. Grading plans including green and tee box elevations and spot elevations and slopes to indicate general construction grading requirements and drainage flow.

- b. A rough grading electronic surface will be created to indicate general grading construction. However, detailed fine grading of greens and tee boxes will be determined in the field by the Engineer.
 - 3. Develop Junior Links Layout
 - a. Provide design layout and details per the Project Understanding above.
- C. Utility Design (Not Included)
- D. Stormwater Design
 - 1. It is assumed that a City of Bismarck SM04 storm water scoping sheet and a Stormwater Management Plan are not required for this project.
 - 2. If necessary, Engineer will design a stormwater collection system to drain low areas of the new junior links to the existing ponds.
 - 3. Scope does not include post-construction or as-constructed stormwater analysis or certification.
- E. Irrigation System
 - 1. Irrigation design is not included services. Engineer's plans will identify areas to be seeded and irrigated. Contractor to provide design and product data for irrigation system for Engineer's review and approval through the shop drawing process.
 - 2. The Engineer will meet with the Owner's golf course superintendent familiar with the existing irrigation system to develop a concept for the modifications to the irrigation system. Acceptable products for the new system will be identified by the Owner's golf course superintendent and included in the Engineer's specifications.
 - a. Engineer assumes existing irrigation system and water source has adequate capacity and pressure.
 - 1) Scope of services does not include hydraulic analysis or water modeling to determine flow capacity in the existing City water system or existing irrigation system.
 - 2) Flow and pressure testing is not included.
 - b. It is assumed that the existing system has adequate water meter and backflow prevention systems.
- F. Site Lighting Plan (*Not Included*)
- G. Structural Design (*Not Included*)
- H. Retaining Wall Design (*Not Included*)
- I. Fencing Plan (*Not Included*)

J. Erosion Control Plan

1. Prepare erosion control plan for the site per applicable governing (City) requirements.

K. Permitting *(Not Included)*

1. The following permits will likely be necessary for this construction project. The Engineer's services do not include applying for or obtaining these permits. The Engineer will refer the Owner or Contractor to the appropriate section(s) of the design plans, if applicable, to aid the Owner or Contractor in the permit applications.
 - a. North Dakota Department of Health North Dakota Pollutant Discharge Elimination System (NDPDES) Construction Erosion Control Permit.
 - 1) The Owner or Contractor shall be responsible for completing the Notice of Intent (NOI) and developing the Stormwater Pollution Prevention Plan (SWPPP) as required by the Federal, State and local government. It is the responsibility of the Owner/Contractor to ensure compliance and to modify the SWPPP for actual schedule and construction methods.
 - b. City Permits
 - 1) The Owner or Contractor shall obtain the necessary permits which may include, but are not limited to:
 - a) Traffic, Grading, Excavation, Erosion and Sediment Control, Concrete, Right-of-Way, Approach, Street Tree, Water, Sewer, Building, Fire Sprinkler, Plumbing, Lawn Sprinkler, Water Meter, etc.
 - 2) City shall bill permit fees directly to the Owner or Contractor.
 - c. It is assumed that no 100-year floodplains, jurisdictional wetlands, endangered species, or cultural resources are located on the site and services regarding these permits are not included. If the Owner is aware of the need for such permits the Engineer can complete this work as an Additional Service.

L. Specifications

1. Technical specifications will be prepared for the project for the items included under Engineer's Services.
2. Procedural and contractual forms (front end documents) will be prepared using EJCDC format documents.

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

N. Engineer's Opinion of Probable Construction Cost

1. Provide one (1) Opinion of Probable Cost at the end of the Final Design Phase
2. Opinions of probable cost shall only be for the materials covered by the Engineer's design.

3. Revisions to the engineer's opinion of probable cost in excess of the amounts stated herein shall be completed as an Additional Service.

O. Review Agency (City) Coordination

1. The Engineer will serve as main contact between Owner and the City for coordination of this Project.
2. It is assumed that the City of Bismarck's Site Plan Approval process is not required for this Project.

P. Owner Coordination (Meetings)

1. It is assumed that the Engineer will host or attend up to a total of four (4) one-hour meetings with the Owner or other external parties during the final design phase. The Engineer will attend those meetings deemed appropriate for their scope of services either in person or through a telephone or video conference.
2. The Engineer will be available to attend additional meetings as an Additional Service.
3. Engineer shall provide copies of drawings, reports, specifications and other necessary information to the Owner in either PDF or paper copy format.

Q. Deliverables

1. Construction drawings and appropriate details for the above tasks identified in this Phase.
2. Technical Specifications
3. Engineer's Opinion of Probable Construction Cost

R. Other Items to be Noted

1. Owner will be responsible for securing designs of electrical, gas, telecommunication and any other utilities not described as part of Engineer's services. If the designs and associated AutoCAD files of these utilities are provided to the Engineer, they will be shown on the Engineer's plans, if requested.
2. The Owner shall furnish the services of geotechnical consultants/engineers, which may include but are not limited to test borings, test pits, determinations of soil nitrogen, phosphorus, potassium, pH, soluble salt, organic matter, and iron values, percolation tests, evaluation of hazardous materials, ground corrosion tests and resistivity tests, including necessary operations for anticipating soil and subsoil conditions, with written reports and recommendations on slope stability, ground water elevations, percolation rates, utility trenches, soil amendments, and other construction considerations appropriate for the site, based on geotechnical sampling for design. Coordination with the geotechnical engineer and/or preparation of exhibits or other documents for use by the Owner in obtaining the services of a geotechnical consultant may be performed by the Engineer as an Additional Service. The Engineer assumes no responsibility for assumptions made regarding the services of the geotechnical consultant/engineer or lack of a geotechnical evaluation.

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, obtaining, or recording any easements or common use agreements unless specifically stated above.
 5. Owner shall provide the Engineer any restrictions to Contractor working hours, availability of the Site, or project phasing to be included in the plan notes.
 6. Plan Notes and bid forms will require Contractor(s) to provide all required materials testing.
 7. 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 Owner for approval.

A1.06 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.
 2. Issue up to one (1) addendum as appropriate to clarify, correct, or change the bidding documents.
 3. Provide information or assistance needed by Owner in the course of any negotiations with prospective contractors.
 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. Attend the Bid opening, prepare Bid tabulation sheets, and assist Owner in evaluating Bids or proposals and in assembling and awarding contracts for the Work.
 7. Attend one (1) Park Board meeting to present the bid results.
 8. Bidding services shall be provided for the project to be awarded to one (1) contractor.
 9. Any services provided by Engineer to re-bid or value engineer the Project will be considered Additional Services.

- B. The Bidding Phase will be considered complete upon award of contract, commencement of the Construction Phase, or upon cessation of negotiations with prospective contractors.

A1.07 Construction Phase - Surveying (Not Included)

- A. Construction staking shall be provided by the Contractor.

A1.08 Construction Phase - Observation

- 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 Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor 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 Contractor.
 - 3. *Preconstruction Meeting:* Attend up to one (1) preconstruction meeting in-person with the Owner and Contractor.
 - 4. *Schedules:* Receive, review, and determine the acceptability of schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
 - 5. *Establish Benchmarks:* Establish up to five (5) benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
 - 1) Number of Visits to Site: One (1)
 - 6. *Electronic Grading Files:* Provide construction plan data in electronic file format for the Work which in Engineer's judgement may be necessary to enable Contractor to proceed.
 - a. Prepare one (1) electronic data release agreement with the Contractor.
 - 1) One Agreement with one Contractor is included. Fees for additional Agreements will be invoiced separately to Contractor or Owner.
 - b. Compile and transmit electronic data files to Contractor which will include:

- 1) Up to four (4) electronic files in .xml or .dwg format, as appropriate for the Work, and requested at one time by one Contractor.
 - 2) All four files will be transmitted to Contractor 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 Contractor's Work while it is in progress:
- a. Construction Meetings: Attend up to thirteen (13) one-hour long construction progress meeting(s) in-person or via teleconference.
 - b. Site Visits for observation of construction: Make up to thirteen (13) one-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 Contractor'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 Contractor's Work in progress or to involve detailed inspections of Contractor'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 Contractor 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 Contractor's Work in progress, supervise, direct, or have control over Contractor's Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to Contractor's Work, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor'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 Contractor'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, as appropriate, and prepare change orders and work change directives as required. Major changes to the design requested by the Owner or Contractor and approved by the Owner will be completed as Additional Services. The assumed number of each are quantified below:

- a. Clarifications, Interpretations, or RFI's: Six (6)
 - b. Field Orders or Work Change Directives: Zero (0)
 - c. Change Orders: One (1)
9. *Shop Drawings and Samples*: Review and take appropriate action in respect to Shop Drawings and Samples and other data which Contractor 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 incident thereto.
 10. *Substitutes and "or-equal"*: Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, 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 Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Engineer shall be entitled to rely on the results of such tests.
 12. *Disagreements between Owner and Contractor*: Render decisions on all duly submitted issues relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Contractor's Work; review each duly submitted Claim by Owner or Contractor, 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 Contractor 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 Contractor 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, Contractor'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 Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe Contractor's Work. In the case of unit price work, Engineer's recommendations of payment will include final determinations of quantities and classifications of Contractor'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 Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor'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 Contractor'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 Contractor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor'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 Contractor 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 Contractor that might affect the amount that should be paid.
- c. It is assumed that the Engineer will complete up to five (5) applications for payment to be submitted to the Owner monthly.

15. *Contractor'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 Contractor in accordance with the Contract Documents to obtain final payment. The extent of such review of record documents shall be to check that Contractor has submitted all pages.

16. *Final Notice of Acceptability of the Work:* Conduct one (1) visit to prepare Contractor's punch list and conduct one (1) final visit to determine if the completed Work of Contractor is acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a "Final Review and Acceptance" that the Work is acceptable (subject to the provisions of "Applications for Payment") to the best of Engineer's knowledge, information, and belief and based on the extent of the services provided by Engineer under this Agreement.
- D. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the 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 Contractors. If the Project involves more prime contracts than indicated in Final Design Phase, then Construction Phase services may be rendered at different times in respect to the separate contracts as an Additional Service. 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 Contractor as set forth in the Construction Contract.
- E. *Limitation of Responsibilities:* Engineer shall not be responsible for the acts or omissions of any Contractor, 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 Contractor's Work, during the Construction Phase or otherwise. Engineer shall not be responsible for the failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

A1.09 *Post-Construction Phase (Not Included)*

PART 2 – ADDITIONAL SERVICES

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

- A. If authorized by Owner, Engineer shall furnish or obtain from others Additional Services of the types listed below. Engineer shall proceed with such Additional Services with the understanding that the Engineer will be paid hourly for such services at the Engineer's standard hourly rates unless an agreement has been reached between the parties for other methods of payment. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice from Owner.
1. Services in addition to those defined under Basic Services including but not limited to: boundary surveys, study and report phase services, marketing exhibits, environmental or wetland studies, cultural/archeological studies, traffic impact analysis, permitting, permit application materials, requests for zoning change or any deviation or variance from local standards or zoning regulations, or any entitlements services such as lot modifications, platting, easements, etc.
 2. Design services in addition to those defined under Basic Services including but not limited to: street or parking improvements, water or sanitary sewer or services, lighting, fencing, landscape plantings, stormwater treatment or sediment removal systems, stormwater management plans or studies, structural design including but not limited to foundations and retaining walls, mechanical engineering services or pumping systems, geotechnical engineering or services to aid in the completion of their recommendations, or design of offsite improvements.

3. Preparation for, and attendance at, a public presentation, meeting or hearing other than specified under Basic Services.
4. Preparation or revision of construction documents or design changes after the final design phase or during construction.
5. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
6. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
7. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, character of construction, method of financing, or Owner's schedule or coordination causing unreasonable delay in the orderly and sequential progress of the Engineer's services; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
8. Redesign or rebidding services requested to meet the Owner's construction budget after approval of the Final Design phase of the Project.
9. Services resulting from Owner's or Contractor's request to modify previously approved deliverables or to evaluate additional alternative solutions beyond those agreed to under Basic Services.
10. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
11. Services resulting from conflicting direction from the Owner or from multiple representatives of the Owner.
12. Services provided beyond the dates specified in the Engineer's original schedule.
13. Services required to provide copies of drawings, reports, specifications and other necessary information to the Owner and other consultants in a format other than PDF or paper copy.
14. Providing renderings, models or electronic grading files or releases for Owner's or Contractor's use, for Owner's use, including services in support of building information modeling or civil integrated management, other than specified under Basic Services.
15. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of financial feasibility

studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting Owner in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed or furnished by Owner.

16. Furnishing services of Consultants for other than provided under Basic Services.
17. Providing data or services that were to be provided by the Owner.
18. Services attributable to more prime construction contractors than specified under Basic Services.
19. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, 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; 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 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 all Addenda and any amendments negotiated by Owner.
24. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.
25. Modifying final approved design or digital files as may be required for Owner's or Contractor's use during construction.
26. Preparing Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor, 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.

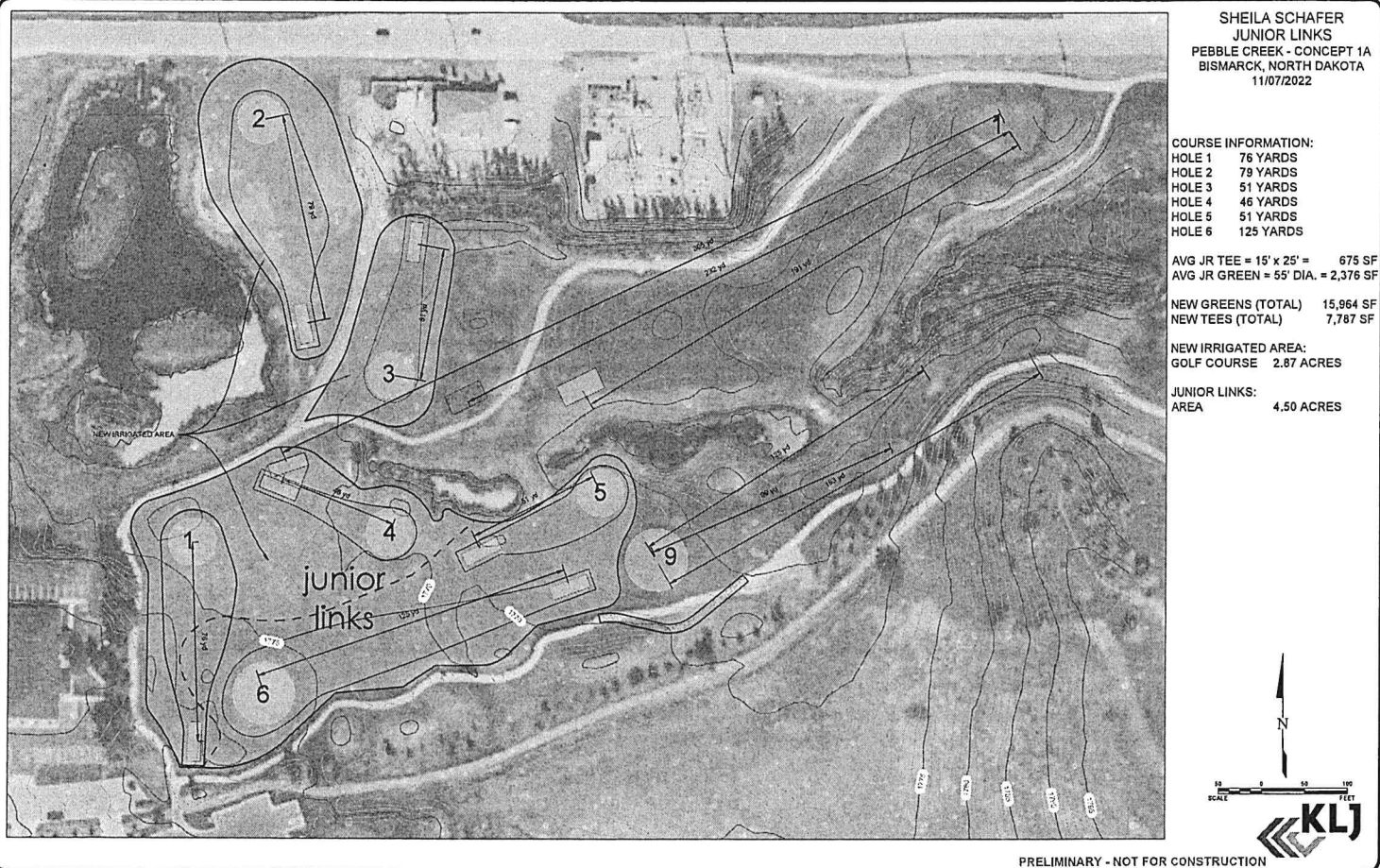
28. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed.
29. Preparation of operation, maintenance, or staffing manuals.
30. Protracted 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 Contractor in any litigation, arbitration, claim, dispute resolution, or other legal or administrative proceeding involving the Project.
34. Providing construction surveys and staking to enable Contractor to perform its work; any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys (except as agreed to under Basic Services).
35. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
36. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
37. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

A2.02 Additional Services Not Requiring Owner's Authorization

- A. Engineer shall advise Owner that the Engineer is performing or furnishing the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance authorization from Owner. Engineer shall proceed with such Additional Services with the understanding that the Engineer will be paid hourly for such services at the Engineer's standard hourly rates unless an agreement has been reached between the parties for other methods of payment. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice from Owner.
 1. Attending meetings requested by Owner or Contractor 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 Contractor.

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 Contractor.
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 Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.
8. Services during the Construction Phase rendered after the original date for completion of the Work referred to in this Agreement.
9. Reviewing a Shop Drawing more than two (2) times, as a result of repeated inadequate submissions by Contractor.
10. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor'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.

EXHIBIT A.1



Let's Play!

To: Commissioners Odell, Jeske, Zimmerman, Jordan and President Gilbertson
Kevin Klipfel, Executive Director

From: David Mayer, Operations Director *DM*

Date: March 8, 2023

Subject: Request Authorization to Select a Consultant

Commissioners and Executive Director Klipfel:

Staff is requesting Board authorization to select a consultant for the replacement of a drain field at General Sibley Park and Campground.

Thank you for your consideration of this request. Please let me know if you have any questions.

A nationally accredited park and recreation agency.

Our Vision

Be the leader and premier provider of public parks, programs, facilities and leisure services.

Our Mission

Work with the community to provide residents and visitors the highest quality park, program, facility and event experience.

Core Purpose

Provide affordable, accessible, and sustainable public park and recreation services.

Our Values

Accountability	Diversity
Collaboration	Integrity
Community	Professionalism

Let's Play!

To: Commissioners Odell, Jeske, Zimmerman, Jordan and President Gilbertson
Kevin Klipfel, Executive Director

From: David Mayer, Operations Director *DM*

Date: March 7, 2023

Re: Request to Dispose of Surplus Equipment

Commissioners and Executive Director Klipfel:

In recent years we have been able to replace some of our well used equipment with newer models. Below is the current list of equipment we are requesting authorization to dispose of. If approved, we plan to make the items available on the City of Bismarck auction scheduled in May 2023.

Please consider the following:

1. 17 Inch Tires (4) - These tires were factory specification tires that were removed and replaced at the time of vehicle delivery as they did not provide enough traction for park use.



2. 1989 Dodge D-250
 - a. Asset #1807
 - b. Parts can no longer be obtained to repair.
 - c. Transmission is out
 - d. 103,513 miles



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3. Chain Link Fencing

- a. 4 ft tall, roughly 600ft among several rolls

