



THE REGULAR MONTHLY MEETING OF THE BOARD OF COMMISSIONERS OF THE PARK DISTRICT OF THE CITY OF FARGO WILL BE HELD ON **TUESDAY, MARCH 12, 2024 AT 5:30 P.M.** IN THE BOARD ROOM OF THE PARK DISTRICT OFFICES AT 701 MAIN AVENUE, FARGO, WITH PRESIDENT JOE DEUTSCH, PRESIDING. **Please note:** This is an in-person event and streamed virtual. Members of the public and media can view the live meeting at www.fargoparks.com/news/park-board-meeting-march-agenda-2024

- A. Call to Order
- B. Approve Order of Agenda

Consent Agenda - approve the following:

- a. Minutes - February 13, 2024
- b. February Bills
- c. Consideration of Fargo-Moorhead Trailbuilders Request for Trail Extension.
- d. Bid award to Precision Fence in the amount of \$32,910.00 for the North Softball Complex Fencing Project; and bid award to American Security and Gate Company in the amount of \$41,785.00 for the South Maintenance Fencing Project.
- e. Amendment No. 2 to Restaurant Lease for Edgewood Golf Course.
- f. Bid award to Master Construction Company, Inc. in the amount of \$556,757.00 for Concrete Project A; and bid award to Master Construction Inc. in the amount of \$711,297.50 for Concrete Project B.
- g. Updated Valley Senior Services Transit Drug and Alcohol Testing Policy.

Regular Agenda

- 1. Recognition of Audience/Public Comments
- 2. Director's Report
- 3. Department Update - Food & Beverage
- 4. Board to consider for approval purchase agreement for the sale of Robert D. Johnson Recreation Center to Cass County; Broc Lietz, presenter.
- 5. Adjourn

Individuals who wish to attend Park Board meetings but need special arrangements or would like to address the Board, please contact the Fargo Park District office at 499-6060 by noon on the Monday before the Board Meeting.

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS
OF THE FARGO PARK DISTRICT OF FEBRUARY 13, 2024**

The regular monthly meeting of the Board of Commissioners of the Park District of the City of Fargo was held on Tuesday, February 13, 2024, at 5:30 p.m. at the Fargo Park District office at 701 Main Avenue, Fargo, North Dakota and via Restream. Present at the meeting were Commissioners Aaron Hill, Jerry Rostad and Vicki Dawson. Also present were: Dave Bietz, Susan Faus, Carolyn Boutain, Broc Lietz, and Jeffrey Gunkelman.

Approval of Agenda

Commissioner Vicki Dawson moved and Commissioner Jerry Rostad seconded a motion to approve the agenda. Upon call of the roll, the motion passed unanimously.

Approval of Amended Consent Agenda

Commissioner Jerry Rostad moved and Commissioner Vicki Dawson seconded a motion to approve the following actions on the consent agenda:

- (a) The minutes from January 9, 2024 meeting;
- (b) The January 2024 bills;
- (c) Memorandum of Understanding Agreement with City of Fargo for Easements and Restoration of Parking Surface at Trollwood Park.
- (d) Permission to bid Forest River and Orchard Glen Trail Project.
- (e) Award bid in the amount of \$450,000.00 to Dakota Playground for 2024 Playground Replacement Projects.
- (f) Award bid in the amount of \$91,300.00 to Associated Pool Builders for the Rgoer G. Gress Northside Pool Project.
- (g) Permission to apply for the following Grant opportunities – 2024 Garrison Diversion Conservancy District Grant and an Outdoor Recreation Legacy Partnership Grant
- (h) Updates to Alcohol Beverage Policy for Schedules A & B.
- (i) Audit Engagement Letter with Eide Bailly for 2023.
- (j) Employment Agreement for Executive Director.

Upon call of the roll, the motion passed unanimously.

Public Comments

Members of the public were afforded the opportunity to discuss issues with the Board.

Director's Report

Susan Faus and Dave Bietz presented this matter and provided an informational update to the Board on the respective departments. No action was taken on this matter.

Kiwanis Club of Fargo Presentation

Kara Baeth Dukart presented to the Board on Kiwanis Club of Fargo and its relationship with the Park District.

Approval Authorizing Administration to Pursue the Sale of the Depot

Broc Lietz presented this matter. It was noted that because the Depot is considered a historical building, the Park District needs to follow North Dakota Century Code regarding historical buildings and work with the North Dakota State Historical Society as to the sale of the building. It was noted that the next steps will be to work directly with the North Dakota State Historical Society to learn more about possible restrictions or limitations on the sale of the building that would need to be incorporated into the sale of the Building before moving forward with actually marketing the Depot for sale.

Commissioner Jerry Rostad moved and Commissioner Vicki Dawson seconded a motion to approve authorizing administration to pursue the sale of the Depot as presented to the Board. Upon call of the roll, the motion was approved unanimously.

At the conclusion of the above agenda items, a motion to adjourn was made and seconded, and upon unanimous consent the meeting adjourned at approximately 6:05 p.m.

Jeff Gunkelman, Kennelly Business Law, Clerk



MEMORANDUM

DATE: March 6, 2024

TO: Fargo Park Board Commissioners

FROM: Tony Schmitt, Park Director

RE: Consent Agenda Item (c) - Consideration of Fargo-Moorhead Trailbuilders Request for Trail Extension

Staff has been in discussions with Fargo-Moorhead Trailbuilders to construct and maintain an approximately seven-mile single-track trail extension on primarily City of Fargo owned property.

The property that the trail extension will be on, if approved by the board and the City of Fargo would essentially include from the Forum Tower on 40th Avenue South to Lemke Park on 32nd Avenue South, behind the levee along South River Road and Hackberry Street for a single-track trail segment. See attached License Agreement.

It was recommended at the February 28, 2024, Budget/Facilities Committee Meeting to bring this to the full board on the Consent Agenda for consideration and approval.

If you should have any questions, please feel free to contact me prior to the meeting.

Thank you.

Sample Motion: I make a motion to approve the License Agreement between the City of Fargo and the Fargo Park District of the City of Fargo, as presented.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the “Agreement”), made and entered into effective the ___ day of _____, 2024, between **THE CITY OF FARGO**, a municipal corporation, whose post office address is 225 4th Street North, Fargo, North Dakota, 58102 (“City”) and **THE PARK DISTRICT OF THE CITY OF FARGO**, a park district under the laws of the State of North Dakota, whose address is 701 Main Avenue, Fargo, North Dakota 58103 (“Park District”).

WHEREAS, City owns the property described in paragraph 1 below (the “Property”); and

WHEREAS, Park District is the owner of or has access to land adjacent or connecting to the Property; and

WHEREAS, Park District desires to use the Property for public recreation and, with the assistance of Fargo Moorhead Trailbuilders (“FMT”), to develop a single-track biking trail to enhance Park District facilities for the citizens of and the visitors to the Fargo area; and

WHEREAS, City and Park District wish to enter into this Agreement to allow for the use by Park District of the Property under the terms and conditions hereinafter stated.

In consideration of the mutual promises herein contained, the parties agree as follows:

1. Grant of License - Description of Premises. City hereby grants to Park District a license to occupy and use, subject to all of the terms and conditions hereof, the Property described in Exhibit A attached hereto and incorporated by reference herein and located in the Northeast Quarter (NE¼) of Section Thirty-six (36), Township One Hundred Thirty-nine North (T139N), Range Forty-Nine West (R49W) of the Fifth Principal Meridian, Cass County, North Dakota.

2. Limitation to Described Purpose. The Property may be occupied and used by Park District for a single-track biking trail. No permanent structures shall be construed on the Property by the Park District, nor shall any trees be removed, but the Property may be improved as a bike trail. This license constitutes a surface license only.

3. Use of Property and Prohibited Activities. Park District accepts the Property "AS IS". Park District may improve the Property consistent with the terms of paragraph 4 below and the attached Exhibit B. Accordingly, City shall not be responsible for any repairs of any kind, and if the Property should become unusable because of flooding or other natural phenomena, Park District's sole remedy is to remove its improvements and vacate the Property. Park District shall maintain the Property directly adjacent (10' either side of the trail) to any trail, while it is utilizing the same under this Agreement. Such maintenance shall include all grass mowing, weed treatment (as required), removal of hazardous trees or deadfall, as well as maintenance of bike trails and related temporary improvements, if any. Subject to the provisions of paragraph 4 below and Exhibit B attached hereto and incorporated by reference herein, Park District agrees not to further alter the Property in any manner without the prior written permission of City, which permission shall not be unreasonably withheld.

4. Construction. Park District is solely responsible to develop the specifications, to procure bids, site preparation for the construction of the bike trail, the bidding process and, ultimately, the construction of the bike trail and all other site improvements. Notwithstanding the above, City acknowledges that the Park District has or will enter into a separate agreement with FMT, whose volunteers will assist in the construction and maintenance of the bike trails.

A proposed design and any additional construction information are contained on Exhibit B attached hereto.

5. Period of License/Termination. The term of this Agreement shall be through November 1, 2033, subject to City having a right to terminate the Agreement at any time (on notice to Park District) if (1) the Property is to be permanently altered for flood protection purposes by the City of Fargo; (2) the City determines the Property is necessary for a public purpose other than flood control; and (3) if Park District fails to maintain the installation and required maintenance is not completed within six (6) months following notice from City.. Unless otherwise terminated, this Agreement will continue thereafter “at will” with either party having a right to terminate the same on not less than sixty (60) days’ written notice the other. Upon termination of the license, Park District shall, at its sole cost and expense, restore the surface of the Property to its original condition.

6. Payment. Park District shall pay the sum of Ten and no/100 Dollars (\$10.00) for the initial lease term, the receipt of which is hereby acknowledged. Thereafter, the license fee is \$1.00 per year. Park District shall not be required to pay Fargo any other monies for the utilization of the property provided.

7. Indemnification. Park District agrees to indemnify and hold City harmless from and against any and all claims arising from the Park District’s use of the Property and from any activity or work done on the Property by the Park District, FMT or others for purposes of constructing or maintaining the bike trail contemplated to be placed on the Property by the Park District. The indemnification and hold harmless shall include any claims made by employees of the Park District, contractors and its employees and members of the general public using the bike trail once constructed. The Park District’s indemnification includes any and all costs, attorneys’ fees, expenses and liabilities occurring and arising out of the use of the Property for Park District purposes. Park

District, as a material part of the consideration to City, hereby assumes all risk of damage to property or injury to persons in, upon or about the property from any cause arising out of Park District's development of the bike trail.

8. Assignment. This Agreement is personal to Park District and is not transferable. Notwithstanding the above, Park District may enter into agreements with FMT or other trail bike groups to assist in the construction and maintenance of bike trails on the Property.

9. Addresses and Notices. Any notice mailed, addressed to Park District's Executive Director at the address set forth above, or delivered to Park District's Executive Director at such address shall be notice hereunder by City. Any notice mailed, delivered to City's Director of Operations at the address set forth above. Either party may designate a different representative or address at any time.

10. Binding Effect. This Agreement shall be binding upon the parties hereto and their successors and assigns.

IN WITNESS WHEREOF, parties have executed this License Agreement at Fargo, North Dakota, the day and year first above written.

CITY OF FARGO, North Dakota, a North Dakota
Municipal Corporation

By: _____
Dr. Tim Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

THE PARK DISTRICT OF THE CITY OF FARGO

By: _____
Dr. Joe Deutsch, President

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

On this __ day of _____, 2024, before me a Notary Public in and for said county and state, personally appeared Dr. Tim Mahoney, to me known to be the Mayor of THE CITY OF FARGO, a municipal corporation, and who executed the within and foregoing instrument and acknowledged to me that said organization executed the same.

(S E A L)

Notary Public
Cass County, North Dakota
My Commission Expires: _____

STATE OF NORTH DAKOTA)
)ss.
COUNTY OF CASS)

On this __ day of _____, 2024, before me a Notary Public in and for said county and state, personally appeared Dr. Joe Deutsch, to me known to be the President of THE PARK DISTRICT OF THE CITY OF FARGO, a park district under the laws of the State of North Dakota, who executed the within and foregoing instrument and acknowledged to me that said organization executed the same.

(S E A L)

Notary Public
Cass County, North Dakota
My Commission Expires: _____

EXHBIT A

Property Description

DOCUMENT NO.*	ADDRESS
1319638	3926 River Drive S
1319128	3920 River Drive S
1319574	3914 River Drive S
1538301	3908 River Drive S
1392703	3902 River Drive S
1520604	3842 River Drive S
1408852	3838 River Drive S
1395364	3832 River Drive S
1391979	3830 River Drive S
1400867	3820 River Drive S
1426173	3808 River Drive S
1433772	3802 River Drive S
1497997	3738 River Drive S
1491915	3732 River Drive S
1385581	3726 River Drive S
1392161	3720 River Drive S
1494590	3714 River Drive S
1395767	3702 River Drive S
1627663	3680 River Drive S
1395764	3676 River Drive S
1401952	3674 River Drive S
1401853	3668 River Drive S
1387097	3662 River Drive S
1385371	3656 River Drive S
1387411	3650 River Drive S
1386479	3644 River Drive S
1395765	3638 River Drive S
1276070	3632 River Drive S
1276867	3626 River Drive S
1284761	3618 River Drive S
1280413	3610 River Drive S
1288470	3602 River Drive S
1389947	3538 River Drive S
1388943	3532 River Drive S
1396544	3524 River Drive S
1395042	3518 River Drive S

1391981	3512 River Drive S
1392539	3506 River Drive S
1450740	3504 River Drive S
1407089	802 Hackberry Drive S
1524744	726 Hackberry Drive S
1395766	720 Hackberry Drive S
1662141	714 Hackberry Drive S
1413740	702 Hackberry Drive S
1406385	626 Hackberry Drive S
1504222	618 Hackberry Drive S
1384072	610 Hackberry Drive S
1518918	602 Hackberry Drive S
1396169	520 Hackberry Drive S

EXHIBIT B

Planned Improvements, Preliminary Design and
Location of Bike Trail





MEMORANDUM

DATE: March 6, 2024

TO: Fargo Park Board Commissioners

FROM: Tony Schmitt, Park Director

RE: Consent Agenda Item (d) - Bid award to Precision Fence in the amount of \$32,910.00 for the North Softball Complex Fencing Project; and bid award to American Security Gate and Company in the amount of \$41,785.00 for the South Maintenance Shop Fencing Project

Project Bids for the 2024 Park District Fencing Projects were received and opened February 8, 2024, at 1:00 P.M., at the Park District Office. Attached to this memo is the bid tab.

Four (4) bids were received: (1) Precision Fence, North Softball Complex Fencing Project with a bid of \$32,910.00 and South Maintenance Fencing Project with a bid amount of \$62,259.00; (2) Newman Signs, Inc., dba Newman Quality Fences, North Softball Complex Fencing Project with a bid of \$34,289.00 and South Maintenance Fencing Project with a bid of \$51,296.00; (3) American Security and Gate Company, North Softball Complex Fencing Project with a bid of \$20,887.00 and South Maintenance Fencing Project with a bid amount of \$41,785.00; and (4) Dakota Fence, North Softball Complex Fencing Project with a bid of \$34,297.00 and South Maintenance Fencing Project with a bid of \$63,689.00. American Security and Gate Company did not meet specifications on their bid for the North Softball Complex Fencing.

Staff recommends accepting the bid from Precision Fence for the North Softball Complex Fencing Project, for a bid amount of \$32,910.00; and accepting the bid from American Security and Gate Company for the South Maintenance Fencing Project, for a bid amount of \$41,785.00. The bids met all specifications, are the lowest bids, and are within our budget.

It was recommended at the February 28, 2024, Budget/Facilities Committee Meeting to bring this to the full board on the Consent Agenda for consideration and approval.

If you should have any questions, please feel free to contact me prior to the meeting. Thank you.

Sample Motion: I make a motion to award the bid to Precision Fence for the North Softball Complex Fencing Project; and award the bid to American Security Gate and Company for the South Maintenance Shop Fencing Project.

Fargo Park District
2024 Park District Fencing Projects
 Bid Opening: 1:00 pm, Thursday, February, 2024

	Item 1	Item 2			
	North Softball Complex	South Maintenance Shop	Acknowledge Addendum No. 1	Total Bid Price	Completion Date, if Different Than Spec
Bidder					
Precision Fence	\$32,910.00	\$62,259.00		\$95,169.00	
Newman Signs, Inc., dba Newman Quality Fences	\$34,289.00	\$51,296.00		\$85,585.00	
American Security & Gate Company	*\$20,887.00	\$41,785.00	X	\$62,672.00	
Dakota Fence	\$34,297.00	\$63,689.00	X	\$97,986.00	
* Bid did not meet specifications					



MEMORANDUM

DATE: March 6, 2024

TO: Fargo Park Board Commissioners

FROM: Carolyn Boutain, Community Relations Director

RE: Consent Agenda Item (e) - Amendment No. 2 to Restaurant Lease for Edgewood Golf Course

Spirit Properties is the current restaurant tenant at Edgewood Golf Course. They started leasing the restaurant March 10, 2020. Keith Stensgard and Dave Glessner are completing their third renewal of the lease on March 31, 2024. They have the option of a fourth renewal following that. They would like to continue this coming golf season with an updated amendment to their lease. Attached is a copy of the amendment.

The amendment to the lease is the request to have the restaurant closed November 1-March 31. In the four years of operation, the restaurant has struggled in the off-season. They would like to build up the business but to do that they are asking for relief from the cost of utilities December 2023-March 2024 and November 2024-March 2025. They plan to be closed during the off-season and not offer regular business hours. During that time, they would still maintain access to the restaurant for cleaning and repairs. If they would have need for the space for events during the off-season, they asked that they be responsible to pay 7 % of gross sales. They would cater from their downtown location at Sidestreet Grille & Pub.

The amendment reflects the following changes:

- 1) Defining ownership of the cart shed that was built jointly in 2023,
- 2) Remove cleaning responsibilities for the coat closet that is now an office,
- 3) Update the hours of operation during the golf season to Monday-Saturday, 9:00am-10:00pm and Sunday, 9:00am to 9:00pm,
- 4) Define responsibilities during the off-season November 1-March 31

Following the 2024 golf season, staff and tenant will meet to discuss a new lease moving forward.

It was recommended at the Budget/Facilities Committee Meeting on February 28, 2024 to bring this to the full board on the Consent Agenda for consideration and approval.

Thank you!

Sample Motion: I make the motion to approve Amendment No. 2 to Restaurant Lease for Edgewood Golf Course, as presented.

Susan Faus, Executive Director
PARK COMMISSIONERS – Vicki Dawson * Joe Deutsch * Aaron Hill * Dawn Morgan * Jerry Rostad
Clerk – Jeff Gunkelman

AMENDMENT NO. 2 TO LEASE

THIS AMENDMENT NO. 2 TO LEASE is made and entered into this _____ day of _____, 2024, by and between, **PARK DISTRICT OF THE CITY OF FARGO**, 701 Main Avenue, Fargo, ND 58103 (“Landlord”), and **SPIRIT PROPERTIES, INC.**, a North Dakota corporation whose address is 3518 Interstate Blvd., P.O. Box 1029, Fargo, North Dakota 58107 (“Tenant”) and **KEITH STENSGARD**, an individual whose post office address is P.O. Box 1725, Fargo, North Dakota 58107, **KEVIN J. HALL**, an individual whose post office address is 810 4th Ave. S., #161, Moorhead, Minnesota 56560, and **DAVID GLESSNER**, an individual whose post office address is 4952 38th Ave. S., Fargo, North Dakota 58104, (“Guarantors”).

WHEREAS, the Landlord and the Tenant entered into a lease dated March 10, 2020 (“Lease”) wherein the Landlord leased to the Tenant a portion of the Clubhouse at Edgewood Golf Course for the purposes of the Tenant operating a food and beverage service to accommodate the golfing patrons of Edgewood Golf Course, as well as the general public;

WHEREAS, Landlord and Tenant wish to clarify and further define their responsibilities with respect to information technology and internet services at the Leased Premises; and

WHEREAS, the parties desire to amend the Lease and to memorialize said amendment.

NOW, THEREFORE, IN CONSIDERATION of the Lease, the above recitals and further available consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. All terms and conditions of the March 10, 2020 Lease and the June 9, 2020 Amendment No. 1 to Lease, shall remain in full force and effect except as otherwise amended, qualified or explained herein.
2. Landlord and Tenant agree that the Tenant desires to exercise the fourth renewal of their existing lease for the calendar year 2024. The Tenant will be open during the golf season, approximately April 1-October 31, 2024. The Tenant does not intend to be open in the off season.
3. Landlord and Tenant agree that the Tenant will not be responsible for the utilities in the building for December 2023-March 2024 and November 2024-March 2025. Landlord will bill the Tenant using each utilities billing cycle. Bills will not be pro-rated based on the first and last day of the month. Payment for utilities during the golf season will remain as stated in the original lease.
4. Landlord will allow the Tenant to use the cart shed that was built jointly in 2023 without additional rent. The Tenant will retain ownership of the shed for as long as Tenant leases the Leased Premises. Upon termination or expiration of the lease between Landlord and Tenant, ownership of the shed shall be transferred to the Park District. Tenant is responsible for the maintenance and upkeep of the shed during the duration of the lease. Tenant is responsible for insuring the shed and its contents.

5. Tenant, is not responsible for the cleaning or maintenance of the coat closet that is now used as an office by the pro shop.
6. Tenant agrees to update the minimum hours that the restaurant is open to Monday-Saturday, 9:00am-10:00pm and Sunday, 9:00am to 9:00pm.
7. Landlord and Tenant agree that during the golf offseason Tenant will continue to have access to the Leased Premises to check on Leased Premises and Tenant's possessions, and to book events in the Leased Premises. Should Tenant host events on the Leased Premises during the golf offseason shall pay rent in the amount of 7% of the gross sales for events held during the golf offseason. Gross Sales is defined in the Lease.
8. Landlord and Tenant agree that during the offseason, the Tenant will have first right of refusal to cater food and beverage for reservations booked by the Park District in the Chalet.

This Amendment shall be binding upon it successors and assigns of the parties hereto.

[SIGNATURES FOLLOW]

[Signature page to Amendment No. 2 to Lease – Fargo Park District and Spirit Properties, Inc.]

IN WITNESS WHEREOF, the parties have executed this Amendment the day and year first above written.

LANDLORD:

PARK DISTRICT OF THE CITY OF FARGO

By: _____
Susan Faus, Executive Director

TENANT:

SPIRIT PROPERTIES, INC.

By: _____
Kevin J. Hall, President

GUARANTORS:

Keith Stensgard

Kevin J. Hall

David Glessner



MEMORANDUM

DATE: March 6, 2024

TO: Fargo Park Board Commissioners

FROM: Tyler Kirchner, Project Manager

RE: Consent Agenda Item (f) - Bid award to Master Construction Company, Inc., in the amount of \$556,757.00 for Concrete Project A; and bid award to Master Construction, Inc., in the amount of \$711,297.50 for Concrete Project B

Bids for the 2024 Concrete Projects were received and opened February 15, 2024, at 2:00 P.M., at the Park District Office. Attached to this memo are letters of recommendations, bid tabs, and site plans from Houston Engineering, Inc.

Project A includes Brunsdale Park NE and Brunsdale Park SW, Oak Grove Park, and Brandt Parking. Six bids were received: (1) Master Construction Company, Inc. with a bid of \$556,757.00; (2) Northern Improvement Company with a bid of \$692,415.85; (3) Earthwork Services, Inc. with a bid amount of \$724,069.95; (4) Key Contracting, Inc. with a bid of \$737,645.00; (5) Roers Construction Joint Venture, LLC with a bid of \$751,456.00; and (6) All Finish Concrete, Inc. with a bid of \$762,019.00.

Project B includes Longfellow Park and Add-Alternate, Pepsi Soccer Complex, and Tharaldson Little League Complex. Six bids were received: (1) Master Construction Company, Inc. with a bid of \$711,297.50; (2) Northern Improvement Company with a bid of \$843,652.60; (3) Earthwork Services, Inc. with a bid of \$853,451.50; (4) Roers Construction Joint Venture, LLC with a bid of \$884,772.00; (5) All Finish Concrete, Inc. with a bid of \$1,033,359.00; and (6) Key Contracting, Inc. with a bid of \$1,067,204.00.

Upon review and scoring of the bids, staff and our engineer recommends awarding the contract for Project A to Master Construction Company, Inc. with a bid of \$556,757.00. The Engineer's Estimate for Project A is \$745,376.00. Staff and our engineer recommend awarding the contract for Project B to Master Construction Company, Inc., with a bid of \$711,297.50. The Engineer's Estimate for Project B is \$1,013,584.50. The bids met all specifications and are well within our concrete budget of \$1,500,000.00, along with funds awarded in the amount of \$534,694.00 from the State of North Dakota Park System Renovation Grant.

It was recommended at the February 28, 2024, Budget/Facilities Committee Meeting to bring this to the full board on the Consent Agenda for consideration and approval.

If you should have any questions, please feel free to contact me prior to the meeting.

Thank you.

Sample Motion: I make a motion to award Master Construction, Inc, the bid for Concrete Project A and Master Construction., Inc., the bid for Concrete Project B, as presented.



February 19, 2024

Tyler Kirchner
 Fargo Park District
 701 Main Avenue
 Fargo, ND 58102

**Subject: Fargo Park District
 2024 Park Pavement Improvement Project A
 Fargo, North Dakota
 HEI Project No. 6053-0034**

Mr. Kirchner:

We have completed our review of the bids for construction of the 2024 Park Pavement Improvements Project A. Please find attached the bid tabulation for the six sealed bids that were submitted, opened, and read publicly on February 15, 2024. All bids included a valid class A contractor’s license, a 5% bid bond, and acknowledgement of the single addendum; therefore, all bids were opened.

The lowest three bids were evaluated for conformance with the bidding requirements as listed in the Instructions to Bidders and Bid Form. All bids received are summarized in the following table:

Contractor	Total Bid	Amount Greater than low bid
Master Construction Company, Inc. ND Contractor License No. 1942	\$556,757.00	\$ -
Northern Improvement Company ND Contractor License No. 13	\$692,415.85	\$135,658.85
Earthwork Services, Inc. ND Contractor License No. 46948	\$724,069.95	\$167,312.95
Key Contracting, Inc. ND Contractor License No. 32478	\$737,645.00	\$180,888.00
Roers Construction Joint Venture, LLC ND Contractor License No. 42385	\$751,456.00	\$194,699.00
All Finish Concrete, Inc. ND Contractor License No. 40695	\$762,019.00	\$205,262.00
ENGINEER’S OPCC	\$745,376.00	

Master Construction Company, Inc.

- 1) No irregularities were noted in the Bid Bond, Power of Attorney, Acknowledgement of Principal, or Acknowledgement of Surety.
- 2) A valid ND Contractor’s License was submitted.
- 3) The Bid Form was included and was properly executed, including acknowledgement of the single Addendum. There were no mathematical errors noted.

Northern Improvement Company

- 1) No irregularities were noted in the Bid Bond, Power of Attorney, Corporate Acknowledgement, or Acknowledgement of Surety.
- 2) A valid ND Contractor's License was submitted.
- 3) The Bid Form was included and was properly executed, including acknowledgement of the single Addendum. There were no mathematical errors noted.

Earthwork Services, Inc.

- 1) No irregularities were noted in the Bid Bond, Power of Attorney, Acknowledgement of Principal, or Acknowledgement of Surety.
- 2) A valid ND Contractor's License was submitted.
- 3) The Bid Form was included and was properly executed, including acknowledgement of the single Addendum. There were no mathematical errors noted.

Based on our bid review, and in accordance with the Instructions to Bidders, Master Construction Company, Inc. of Fargo, ND submitted the lowest responsive bid. HEI recommends that the Park District award the contract to Master Construction Company, Inc. for the bid price of \$556,757.00. After concurrence of the contract award by the Park District of the City of Fargo, Houston Engineering, Inc. will provide a completed Notice of Award and submit it to the Contractor with the proper attachments (performance bond, payment bond, insurance forms, etc).

The Notice to Proceed will be discussed at the preconstruction conference, and issuance will be contingent upon the satisfactory completion and submission of the contract documents by the Contractor and the Park District's legal counsel review.

If you have any questions or require additional information, please contact me at (701) 237-5065 or by e-mail at mlove@houstoneng.com.

Sincerely,

HOUSTON ENGINEERING, INC.



Michael Love, PE
Project Manager

Attachment

Bid Tabulation

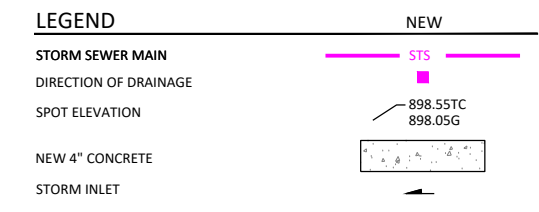
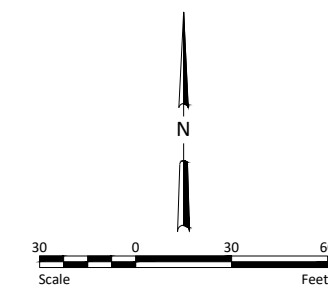
Fargo Park District 2024 Park Pavement Improvements Project A

HEI Project No. 6053-0034

Bids Opened 2/15/24

				Engineer's Estimate		Master Construction Company, Inc ND Contractor License No. 1942		Northern Improvement Company ND Contractor License No. 13		Earthwork Services, Inc ND Contractor License No. 46948		Key Contracting, Inc. ND Contractor License No. 32478		Roers Construction JV LLC ND Contractor License No. 42385		All Finish Concrete, Inc. ND Contractor License No. 40695	
NO.	Item	Unit	Qty	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total
General																	
1	Mobilization	LS	1	\$100,000.00	\$100,000.00	\$35,000.00	\$35,000.00	\$67,250.00	\$67,250.00	\$88,700.00	\$88,700.00	\$60,000.00	\$60,000.00	\$31,940.00	\$31,940.00	\$82,000.00	\$82,000.00
2	Erosion Control	LS	1	\$3,500.00	\$3,500.00	\$4,000.00	\$4,000.00	\$11,855.00	\$11,855.00	\$12,000.00	\$12,000.00	\$24,600.00	\$24,600.00	\$12,000.00	\$12,000.00	\$14,000.00	\$14,000.00
				Subtotal	\$103,500.00	Subtotal	\$39,000.00	Subtotal	\$79,105.00	Subtotal	\$100,700.00	Subtotal	\$84,600.00	Subtotal	\$43,940.00	Subtotal	\$96,000.00
Brunsdale NE																	
1	Asphalt Removal	SY	1388	\$20.50	\$28,454.00	\$7.00	\$9,716.00	\$13.00	\$18,044.00	\$10.00	\$13,880.00	\$14.00	\$19,432.00	\$15.00	\$20,820.00	\$32.00	\$44,416.00
2	Concrete Removal	SY	30	\$26.00	\$780.00	\$7.00	\$210.00	\$30.00	\$900.00	\$10.00	\$300.00	\$33.00	\$990.00	\$15.00	\$450.00	\$52.00	\$1,560.00
3	Curb & Gutter Removal	LF	28	\$18.50	\$518.00	\$10.00	\$280.00	\$23.00	\$644.00	\$10.00	\$280.00	\$45.00	\$1,260.00	\$75.00	\$2,100.00	\$11.00	\$308.00
4	Adjust Casting -All Types	EA	2	\$1,000.00	\$2,000.00	\$725.00	\$1,450.00	\$450.00	\$900.00	\$430.00	\$860.00	\$800.00	\$1,600.00	\$463.00	\$926.00	\$220.00	\$440.00
5	Earthwork	LS	1	\$10,000.00	\$10,000.00	\$5,000.00	\$5,000.00	\$10,975.00	\$10,975.00	\$28,940.00	\$28,940.00	\$24,000.00	\$24,000.00	\$30,223.00	\$30,223.00	\$7,500.00	\$7,500.00
7	4" Class 5 Aggregate Base	SY	965	\$10.50	\$10,132.50	\$9.50	\$9,167.50	\$9.45	\$9,119.25	\$5.50	\$5,307.50	\$9.00	\$8,685.00	\$8.00	\$7,720.00	\$9.00	\$8,685.00
8	Concrete Sidewalk - 4" Thick	SY	965	\$90.00	\$86,850.00	\$72.00	\$69,480.00	\$86.00	\$82,990.00	\$68.50	\$66,102.50	\$72.00	\$69,480.00	\$56.00	\$54,040.00	\$70.00	\$67,550.00
9	12" HDPE Storm Sewer	LF	105	\$45.00	\$4,725.00	\$100.00	\$10,500.00	\$60.00	\$6,300.00	\$80.00	\$8,400.00	\$110.00	\$11,550.00	\$86.00	\$9,030.00	\$56.00	\$5,880.00
10	18" PVC Inlet	EA	1	\$2,000.00	\$2,000.00	\$2,800.00	\$2,800.00	\$3,195.00	\$3,195.00	\$3,520.00	\$3,520.00	\$650.00	\$650.00	\$3,800.00	\$3,800.00	\$550.00	\$550.00
11	Turf Seeding and Hydromulch	SY	955	\$3.50	\$3,342.50	\$6.00	\$5,730.00	\$5.25	\$5,013.75	\$5.50	\$5,252.50	\$4.00	\$3,820.00	\$11.00	\$10,505.00	\$8.00	\$7,640.00
				Subtotal	\$148,802.00	Subtotal	\$114,333.50	Subtotal	\$138,081.00	Subtotal	\$132,842.50	Subtotal	\$141,467.00	Subtotal	\$139,614.00	Subtotal	\$144,529.00
Brunsdale SW																	
1	Earthwork	LS	1	\$5,000.00	\$5,000.00	\$2,500.00	\$2,500.00	\$4,000.00	\$4,000.00	\$7,560.00	\$7,560.00	\$6,500.00	\$6,500.00	\$7,208.00	\$7,208.00	\$5,000.00	\$5,000.00
2	Dugout	EA	4	\$7,500.00	\$30,000.00	\$18,000.00	\$72,000.00	\$12,565.00	\$50,260.00	\$12,180.00	\$48,720.00	\$5,500.00	\$22,000.00	\$25,000.00	\$100,000.00	\$20,000.00	\$80,000.00
3	Dugout Benches	EA	4	\$2,500.00	\$10,000.00	\$1,500.00	\$6,000.00	\$1,405.00	\$5,620.00	\$1,485.00	\$5,940.00	\$1,700.00	\$6,800.00	\$5,000.00	\$20,000.00	\$1,500.00	\$6,000.00
4	4" Class 5 Aggregate Base	SY	111	\$10.50	\$1,165.50	\$9.50	\$1,054.50	\$25.00	\$2,775.00	\$5.50	\$610.50	\$12.00	\$1,332.00	\$8.00	\$888.00	\$9.00	\$999.00
5	Concrete Sidewalk - 4" Thick	SY	111	\$100.00	\$11,100.00	\$75.00	\$8,325.00	\$150.00	\$16,650.00	\$68.50	\$7,603.50	\$84.00	\$9,324.00	\$99.00	\$10,989.00	\$77.00	\$8,547.00
6	Turf Seeding and Hydromulch	SY	210	\$5.00	\$1,050.00	\$17.00	\$3,570.00	\$16.80	\$3,528.00	\$17.60	\$3,696.00	\$8.00	\$1,680.00	\$15.00	\$3,150.00	\$18.00	\$3,780.00
				Subtotal	\$58,315.50	Subtotal	\$93,449.50	Subtotal	\$82,833.00	Subtotal	\$74,130.00	Subtotal	\$47,636.00	Subtotal	\$142,235.00	Subtotal	\$104,326.00
Oak Grove																	
1	Gravel Removal	SY	777	\$10.00	\$7,770.00	\$5.00	\$3,885.00	\$7.50	\$5,827.50	\$2.50	\$1,942.50	\$10.00	\$7,770.00	\$15.00	\$11,655.00	\$18.00	\$13,986.00
2	Asphalt Removal	SY	3205	\$18.50	\$59,292.50	\$5.00	\$16,025.00	\$12.00	\$38,460.00	\$12.40	\$39,742.00	\$14.00	\$44,870.00	\$15.00	\$48,075.00	\$32.00	\$102,560.00
3	Concrete Removal	SY	114	\$26.00	\$2,964.00	\$5.00	\$570.00	\$40.00	\$4,560.00	\$12.40	\$1,413.60	\$27.00	\$3,078.00	\$15.00	\$1,710.00	\$52.00	\$5,928.00
4	Earthwork	LS	1	\$15,000.00	\$15,000.00	\$2,500.00	\$2,500.00	\$21,000.00	\$21,000.00	\$39,584.00	\$39,584.00	\$70,000.00	\$70,000.00	\$33,209.00	\$33,209.00	\$6,000.00	\$6,000.00
5	4" Class 5 Aggregate Base	SY	1,698	\$10.50	\$17,829.00	\$9.00	\$15,282.00	\$8.90	\$15,112.20	\$5.70	\$9,678.60	\$9.00	\$15,282.00	\$9.00	\$15,282.00	\$9.00	\$15,282.00
6	Concrete Sidewalk - 4" Thick	SY	1,698	\$100.00	\$169,800.00	\$72.00	\$122,256.00	\$86.00	\$146,028.00	\$80.25	\$136,264.50	\$72.00	\$122,256.00	\$77.00	\$130,746.00	\$70.00	\$118,860.00
7	Turf Seeding and Hydromulch	SY	4670	\$2.00	\$9,340.00	\$2.30	\$10,741.00	\$2.10	\$9,807.00	\$2.20	\$10,274.00	\$2.00	\$9,340.00	\$10.00	\$46,700.00	\$4.00	\$18,680.00
8	Remove & Salvage Gate	EA	1	\$1,500.00	\$1,500.00	\$5,500.00	\$5,500.00	\$1,485.00	\$1,485.00	\$5,055.00	\$5,055.00	\$2,500.00	\$2,500.00	\$310.00	\$310.00	\$5,200.00	\$5,200.00
				Subtotal	\$283,495.50	Subtotal	\$176,759.00	Subtotal	\$242,279.70	Subtotal	\$243,954.20	Subtotal	\$275,096.00	Subtotal	\$287,687.00	Subtotal	\$286,496.00
Brandt Parking																	
1	Concrete Removal	SY	27	\$26.00	\$702.00	\$20.00	\$540.00	\$30.00	\$810.00	\$10.00	\$270.00	\$30.00	\$810.00	\$15.00	\$405.00	\$52.00	\$1,404.00
2	Curb & Gutter Removal	LF	32	\$30.00	\$960.00	\$20.00	\$640.00	\$24.00	\$768.00	\$15.00	\$480.00	\$55.00	\$1,760.00	\$75.00	\$2,400.00	\$11.00	\$352.00
3	Adjust Casting -All Types	EA	1	\$1,000.00	\$1,000.00	\$400.00	\$400.00	\$450.00	\$450.00	\$430.00	\$430.00	\$1,000.00	\$1,000.00	\$310.00	\$310.00	\$220.00	\$220.00
4	Earthwork	LS	1	\$15,000.00	\$15,000.00	\$10,000.00	\$10,000.00	\$14,850.00	\$14,850.00	\$38,054.00	\$38,054.00	\$35,000.00	\$35,000.00	\$8,389.00	\$8,389.00	\$9,000.00	\$9,000.00
5	Geotextile Fabric	SY	1,229	\$3.50	\$4,301.50	\$3.00	\$3,687.00	\$3.85	\$4,731.65	\$3.50	\$4,301.50	\$6.00	\$7,374.00	\$5.00	\$6,145.00	\$2.00	\$2,458.00
6	6" Class 5 Aggregate Base	SY	1,229	\$10.50	\$12,904.50	\$12.00	\$14,748.00	\$10.50	\$12,904.50	\$7.50	\$9,217.50	\$16.00	\$19,664.00	\$9.00	\$11,061.00	\$9.00	\$11,061.00
7	24" Standard Curb & Gutter	LF	265	\$40.00	\$10,600.00	\$49.00	\$12,985.00	\$39.00	\$10,335.00	\$86.00	\$22,790.00	\$48.00	\$12,720.00	\$75.00	\$19,875.00	\$44.00	\$11,660.00
8	30" Mountable Curb & Gutter	LF	76	\$40.00	\$3,040.00	\$49.00	\$3,724.00	\$45.00	\$3,420.00	\$86.00	\$6,536.00	\$54.00	\$4,104.00	\$75.00	\$5,700.00	\$50.00	\$3,800.00
9	Concrete Sidewalk - 4" Thick	SY	118	\$80.00	\$9,440.00	\$72.00	\$8,496.00	\$86.00	\$10,148.00	\$134.00	\$15,812.00	\$72.00	\$8,496.00	\$60.00	\$7,080.00	\$77.00	\$9,086.00
10	12" HDPE Storm Sewer	LF	38	\$45.00	\$1,710.00	\$100.00	\$3,800.00	\$70.00	\$2,660.00	\$113.00	\$4,294.00	\$200.00	\$7,600.00	\$120.00	\$4,560.00	\$56.00	\$2,128.00
11	Type 'A' Inlet	EA	1	\$3,500.00	\$3,500.00	\$2,700.00	\$2,700.00	\$3,750.00	\$3,750.00	\$3,190.00	\$3,190.00	\$4,500.00	\$4,500.00	\$3,365.00	\$3,365.00	\$550.00	\$550.00
12	Turf Seeding and Hydromulch	SY	450	\$4.00	\$1,800.00	\$9.00	\$4,050.00	\$8.40	\$3,780.00	\$9.00	\$4,050.00	\$10.00	\$4,500.00	\$12.00	\$5,400.00	\$8.80	\$3,960.00
13	5" Concrete Pavement	SY	831	\$95.00	\$78,945.00	\$75.00	\$62,325.00	\$90.00	\$74,790.00	\$69.75	\$57,962.25	\$90.00	\$74,790.00	\$70.00	\$58,170.00	\$83.00	\$68,973.00
14	7" Concrete Pavement	SY	64	\$115.00	\$7,360.00	\$80.00	\$5,120.00	\$105.00	\$6,720.00	\$79.00	\$5,056.00	\$102.00	\$6,528.00	\$80.00	\$5,120.00	\$94.00	\$6,016.00
				Subtotal	\$151,263.00	Subtotal	\$133,215.00	Subtotal	\$150,117.15	Subtotal	\$172,443.25	Subtotal	\$188,846.00	Subtotal	\$137,980.00	Subtotal	\$130,668.00
				Total	\$745,376.00	Total	\$556,757.00	Total	\$692,415.85	Total	\$724,069.95	Total	\$737,645.00	Total	\$751,456.00	Total	\$762,019.00

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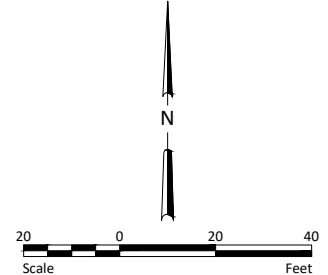


- PAVING NOTES:**
1. ALL WORK DONE IN THE RIGHT OF WAY SHALL CONFORM TO THE CITY OF FARGO STANDARD SPECIFICATIONS.
 2. ALL CURB RAMPS SHALL HAVE DETECTABLE WARNING PANELS INSTALLED.
 3. ALL MANHOLES AND STORM SEWER INLETS LOCATED IN THE PAVEMENT SHALL HAVE CONCRETE COLLARS INSTALLED PER THE DETAILS.
 4. ALL PVC STORM SEWER SHALL BE ASTM D3034 SDR35 PVC, UNLESS OTHERWISE NOTED.
 5. ALL HDPE STORM SEWER SHALL BE DUAL WALL CORRUGATED PIPE WITH WATERTIGHT JOINTS CONFORMING TO ASTM F2648 SUCH AS ADS N-12 OR APPROVED EQUIVALENT.
 6. EXCAVATION OR OTHER WORK IN THE RIGHT OF WAY SHALL REQUIRE A TRAFFIC CONTROL PLAN THAT MEETS ALL MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) REQUIREMENTS. THIS PLAN IS REQUIRED BEFORE ANY PERMITS TO WORK IN THE RIGHT OF WAY WILL BE ISSUED.

By	
Date	
Revision	
No.	
2024 PAVEMENT PROJECTS FARGO PARKS DISTRICT FARGO, NORTH DAKOTA PAVING PLAN	
Drawn By	RLA
Checked By	BTP
Date	1-26-24
Scale	As Shown
Project No.	6053-0034
SHEET	1.4



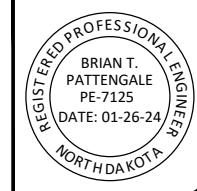
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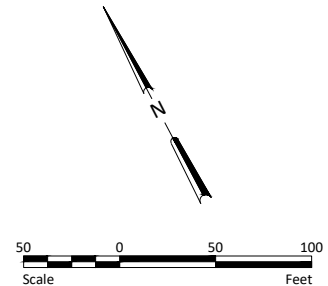
LEGEND	
SPOT ELEVATION	NEW 898.55TC 898.05G
NEW 4" CONCRETE	
DIRECTION OF DRAINAGE	

- NOTES:**
1. ALL DISTURBED AREAS NOT PAVED SHALL BE COVERED WITH 6" TOPSOIL, SEED & HYDROMULCH.
 2. CONTRACTOR SHALL BLEND EDGE OF CONCRETE DUGOUTS TO EXISTING GRADE WITH TOPSOIL AS NEEDED.
 3. DUGOUT BID ITEM SHALL INCLUDE ALL FENCING, POSTS, FOUNDATIONS, ROOFING, AND INCIDENTALS REQUIRED TO CONSTRUCT THE DUG OUTS AS SHOWN IN THE DETAIL.

By	
Date	
Revision	
No.	
2024 PAVEMENT PROJECTS FARGO PARKS DISTRICT FARGO, NORTH DAKOTA SITE PLAN	
Drawn By	RLA
Checked By	BTP
Date	1-26-24
Scale	As Shown
Project No.	6053-0034
SHEET	2.2



H:\JBN\6053\6053_0034 2024 Pavement Project\CAD\PLANS\Oak Grove Trail\6053_0034 PAVING_DISC GOLF PADS.dwg-PAVING 1-1/26/2024 4:21 PM-(battengale)



LEGEND		NEW
SPOT ELEVATION		898.55TC 898.05G
NEW 4" CONCRETE		
DIRECTION OF DRAINAGE		

- PAVING NOTES:**
1. ALL WORK DONE IN THE RIGHT OF WAY SHALL CONFORM TO THE CITY OF FARGO STANDARD SPECIFICATIONS.
 2. EXCAVATION OR OTHER WORK IN THE RIGHT OF WAY SHALL REQUIRE A TRAFFIC CONTROL PLAN THAT MEETS ALL MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) REQUIREMENTS. THIS PLAN IS REQUIRED BEFORE ANY PERMITS TO WORK IN THE RIGHT OF WAY WILL BE ISSUED.
 3. CONTRACTOR SHALL REMOVED EXISTING TEE BOXES
 4. CONTRACTOR SHALL VERIFY IN THE FIELD WITH FARGO PARKS STAFF FINAL LOCATION OF TEE BOXES.
 5. CONTRACTOR SHALL PROTECT TEE BOXES AFTER CONCRETE PLACEMENT WITH SAFETY FENCE A MINIMUM OF 3 DAYS TO ENSURE NO FOOT TRAFFIC ON THE CONCRETE



2024 PAVEMENT PROJECTS FARGO PARKS DISTRICT FARGO, NORTH DAKOTA		Revision	Date	By
PAVING PLAN - DISC GOLF PADS		No.		
		Drawn By	RLA	
		Checked By	BTP	
		Date	1-26-24	
		Scale		
		As Shown		
		Project No.	6053-0034	
		SHEET	3.9	



February 19, 2024

Tyler Kirchner
 Fargo Park District
 701 Main Avenue
 Fargo, ND 58102

**Subject: Fargo Park District
 2024 Park Pavement Improvement Project B
 Fargo, North Dakota
 HEI Project No. 6053-0034**

Mr. Kirchner:

We have completed our review of the bids for construction of the 2024 Park Pavement Improvements Project B. Please find attached the bid tabulation for the six sealed bids that were submitted, opened, and read publicly on February 15, 2024. All bids included a valid class A contractor’s license, a 5% bid bond, and acknowledgement of the single addendum; therefore, all bids were opened.

The lowest three bids were evaluated for conformance with the bidding requirements as listed in the Instructions to Bidders and Bid Form. All bids received are summarized in the following table:

Contractor	Total Bid	Amount Greater than low bid
Master Construction Company, Inc. ND Contractor License No. 1942	\$711,297.50	\$ -
Northern Improvement Company ND Contractor License No. 13	\$843,652.60	\$132,355.10
Earthwork Services, Inc. ND Contractor License No. 46948	\$853,451.50	\$142,154.00
Roers Construction Joint Venture, LLC ND Contractor License No. 42385	\$884,722.00	\$173,424.50
All Finish Concrete, Inc. ND Contractor License No. 40695	\$1,033,359.00	\$322,061.50
Key Contracting, Inc. ND Contractor License No. 32478	\$1,067,204.00	\$355,906.50
ENGINEER’S OPCC	\$1,013,584.50	

Master Construction Company, Inc.

- 1) No irregularities were noted in the Bid Bond, Power of Attorney, Acknowledgement of Principal, or Acknowledgement of Surety.
- 2) A valid ND Contractor’s License was submitted.
- 3) The Bid Form was included and was properly executed, including acknowledgement of the single Addendum. There were no mathematical errors noted.

Northern Improvement Company

- 1) No irregularities were noted in the Bid Bond, Power of Attorney, Corporate Acknowledgement, or Acknowledgement of Surety.
- 2) A valid ND Contractor's License was submitted.
- 3) The Bid Form was included and was properly executed, including acknowledgement of the single Addendum. There were no mathematical errors noted.

Earthwork Services, Inc.

- 1) No irregularities were noted in the Bid Bond, Power of Attorney, Acknowledgement of Principal, or Acknowledgement of Surety.
- 2) A valid ND Contractor's License was submitted.
- 3) The Bid Form was included and was properly executed, including acknowledgement of the single Addendum. There were no mathematical errors noted.

Based on our bid review, and in accordance with the Instructions to Bidders, Master Construction Company, Inc. of Fargo, ND submitted the lowest responsive bid. HEI recommends that the Park District award the contract to Master Construction Company, Inc. for the bid price of \$711,297.50. After concurrence of the contract award by the Park District of the City of Fargo, Houston Engineering, Inc. will provide a completed Notice of Award and submit it to the Contractor with the proper attachments (performance bond, payment bond, insurance forms, etc).

The Notice to Proceed will be discussed at the preconstruction conference, and issuance will be contingent upon the satisfactory completion and submission of the contract documents by the Contractor and the Park District's legal counsel review.

If you have any questions or require additional information, please contact me at (701) 237-5065 or by e-mail at mlove@houstoneng.com.

Sincerely,

HOUSTON ENGINEERING, INC.



Michael Love, PE
Project Manager

Attachment

Bid Tabulation

Fargo Park District 2024 Park Pavement Improvements Project B

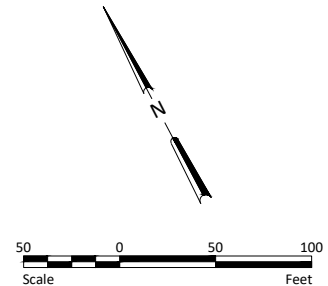
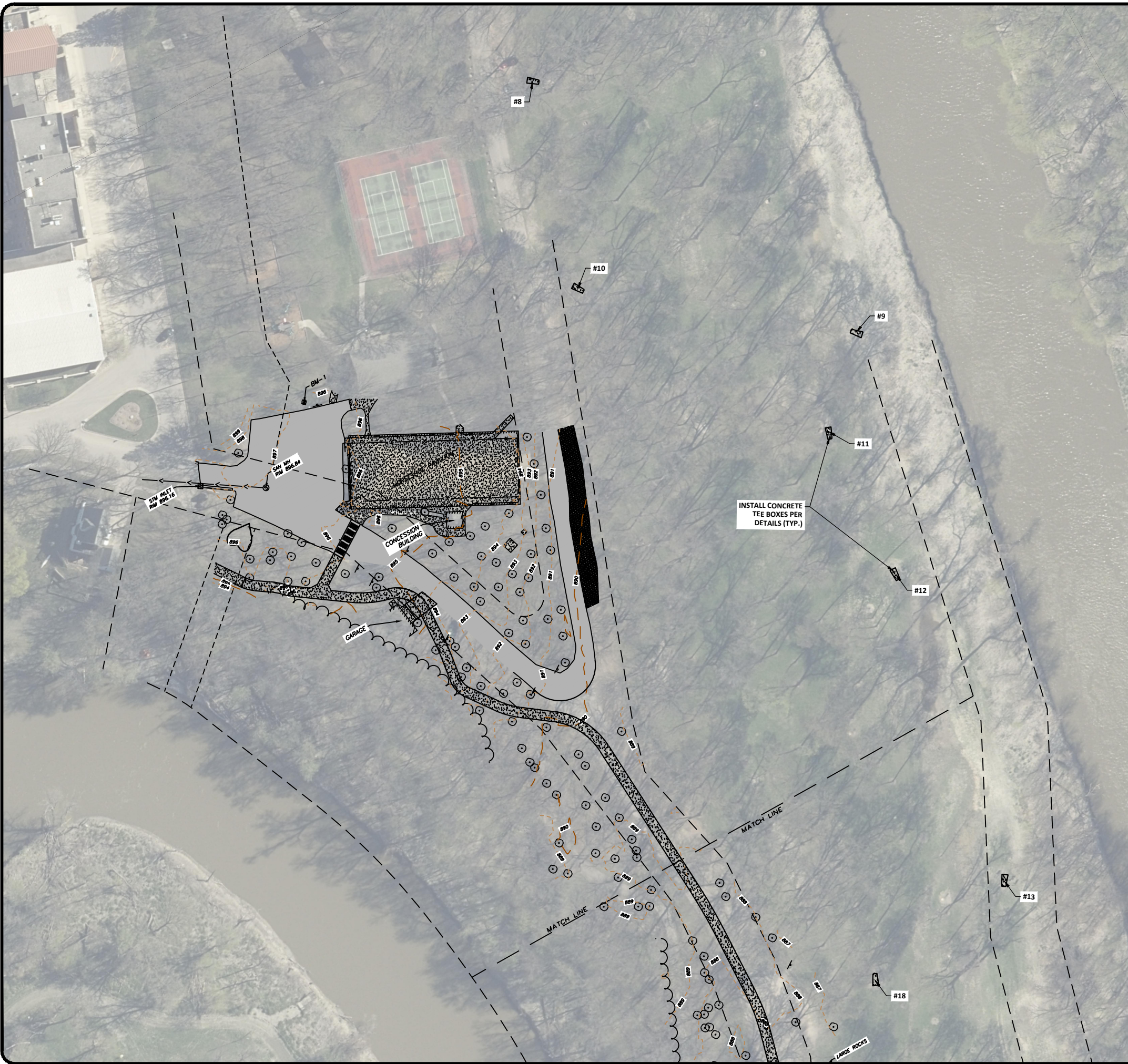
HEI Project No. 6053-0034

Bids Opened 2/15/24

				Engineer's Estimate		Master Construction Company, Inc ND Contractor License No. 1942		Northern Improvement Company ND Contractor License No. 13		Earthwork Services, Inc ND Contractor License No. 46948		Roers Construction JV LLC ND Contractor License No. 42385		All Finish Concrete, Inc. ND Contractor License No. 40695		Key Contracting, Inc. ND Contractor License No. 32478	
NO.	Item	Unit	Qty	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total
General																	
1	Mobilization	LS	1	\$100,000.00	\$100,000.00	\$22,000.00	\$22,000.00	\$51,900.00	\$51,900.00	\$74,500.00	\$74,500.00	\$40,590.00	\$40,590.00	\$93,800.00	\$93,800.00	\$65,000.00	\$65,000.00
2	Erosion Control	LS	1	\$3,500.00	\$3,500.00	\$4,100.00	\$4,100.00	\$3,000.00	\$3,000.00	\$10,000.00	\$10,000.00	\$12,000.00	\$12,000.00	\$13,000.00	\$13,000.00	\$19,500.00	\$19,500.00
				Subtotal	\$103,500.00	Subtotal	\$26,100.00	Subtotal	\$54,900.00	Subtotal	\$84,500.00	Subtotal	\$52,590.00	Subtotal	\$106,800.00	Subtotal	\$84,500.00
Longfellow																	
1	Asphalt Removal	SY	3432	\$15.50	\$53,196.00	\$6.00	\$20,592.00	\$6.30	\$21,621.60	\$10.00	\$34,320.00	\$13.00	\$44,616.00	\$32.00	\$109,824.00	\$20.00	\$68,640.00
2	Concrete Removal	SY	195	\$26.00	\$5,070.00	\$7.00	\$1,365.00	\$28.00	\$5,460.00	\$10.00	\$1,950.00	\$13.00	\$2,535.00	\$52.00	\$10,140.00	\$40.00	\$7,800.00
3	Adjust Casting -All Types	EA	2	\$1,000.00	\$2,000.00	\$300.00	\$600.00	\$365.00	\$730.00	\$430.00	\$860.00	\$461.00	\$922.00	\$220.00	\$440.00	\$1,200.00	\$2,400.00
4	Earthwork	LS	1	\$12,000.00	\$12,000.00	\$10,000.00	\$10,000.00	\$41,350.00	\$41,350.00	\$37,041.00	\$37,041.00	\$72,941.00	\$72,941.00	\$14,000.00	\$14,000.00	\$38,000.00	\$38,000.00
5	4" Class 5 Aggregate Base	SY	2,698	\$10.50	\$28,329.00	\$9.50	\$25,631.00	\$15.00	\$40,470.00	\$5.00	\$13,490.00	\$8.00	\$21,584.00	\$8.50	\$22,933.00	\$20.00	\$53,960.00
7	Concrete Sidewalk - 4" Thick	SY	2,698	\$95.00	\$256,310.00	\$72.00	\$194,256.00	\$68.00	\$183,464.00	\$73.00	\$196,954.00	\$56.00	\$151,088.00	\$71.00	\$191,558.00	\$72.00	\$194,256.00
8	10" PVC Storm Sewer	LF	56	\$42.00	\$2,352.00	\$100.00	\$5,600.00	\$125.00	\$7,000.00	\$108.00	\$6,048.00	\$116.00	\$6,496.00	\$50.00	\$2,800.00	\$200.00	\$11,200.00
9	18" PVC Inlet	EA	1	\$1,500.00	\$1,500.00	\$2,500.00	\$2,500.00	\$4,300.00	\$4,300.00	\$3,520.00	\$3,520.00	\$3,780.00	\$3,780.00	\$2,750.00	\$2,750.00	\$2,000.00	\$2,000.00
10	Turf Seeding and Hydromulch	SY	500	\$3.00	\$1,500.00	\$13.00	\$6,500.00	\$12.00	\$6,000.00	\$8.80	\$4,400.00	\$14.50	\$7,250.00	\$9.00	\$4,500.00	\$10.00	\$5,000.00
				Subtotal	\$362,257.00	Subtotal	\$267,044.00	Subtotal	\$310,395.60	Subtotal	\$298,583.00	Subtotal	\$311,212.00	Subtotal	\$358,945.00	Subtotal	\$383,256.00
Longfellow - Add Alternate																	
1	Asphalt Removal	SY	690	\$15.50	\$10,695.00	\$6.00	\$4,140.00	\$7.50	\$5,175.00	\$10.00	\$6,900.00	\$13.00	\$8,970.00	\$32.00	\$22,080.00	\$12.00	\$8,280.00
2	Earthwork	LS	1	\$5,500.00	\$5,500.00	\$2,000.00	\$2,000.00	\$7,900.00	\$7,900.00	\$8,895.00	\$8,895.00	\$25,613.00	\$25,613.00	\$12,000.00	\$12,000.00	\$6,500.00	\$6,500.00
3	4" Class 5 Aggregate Base	SY	561	\$10.50	\$5,890.50	\$9.50	\$5,329.50	\$19.00	\$10,659.00	\$5.50	\$3,085.50	\$8.00	\$4,488.00	\$8.50	\$4,768.50	\$12.00	\$6,732.00
4	Concrete Sidewalk - 4" Thick	SY	561	\$95.00	\$53,295.00	\$72.00	\$40,392.00	\$78.00	\$43,758.00	\$74.00	\$41,514.00	\$56.00	\$31,416.00	\$77.00	\$43,197.00	\$72.00	\$40,392.00
5	Turf Seeding and Hydromulch	SY	800	\$3.00	\$2,400.00	\$7.00	\$5,600.00	\$6.00	\$4,800.00	\$6.60	\$5,280.00	\$7.25	\$5,800.00	\$7.00	\$5,600.00	\$4.00	\$3,200.00
				Subtotal	\$77,780.50	Subtotal	\$57,461.50	Subtotal	\$72,292.00	Subtotal	\$65,674.50	Subtotal	\$76,287.00	Subtotal	\$87,645.50	Subtotal	\$65,104.00
Pepsi																	
1	Remove Playground Edging	LF	225	\$10.00	\$2,250.00	\$10.00	\$2,250.00	\$8.65	\$1,946.25	\$10.00	\$2,250.00	\$15.00	\$3,375.00	\$11.00	\$2,475.00	\$21.00	\$4,725.00
2	Concrete Removal	SY	6	\$100.00	\$600.00	\$100.00	\$600.00	\$45.00	\$270.00	\$50.00	\$300.00	\$13.00	\$78.00	\$52.00	\$312.00	\$80.00	\$480.00
3	Adjust Casting -All Types	EA	1	\$1,000.00	\$1,000.00	\$300.00	\$300.00	\$500.00	\$500.00	\$430.00	\$430.00	\$461.00	\$461.00	\$220.00	\$220.00	\$1,000.00	\$1,000.00
4	Earthwork	LS	1	\$5,500.00	\$5,500.00	\$5,000.00	\$5,000.00	\$16,900.00	\$16,900.00	\$8,010.00	\$8,010.00	\$20,821.00	\$20,821.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00
5	4" Class 5 Aggregate Base	SY	142	\$10.50	\$1,491.00	\$10.00	\$1,420.00	\$26.00	\$3,692.00	\$5.50	\$781.00	\$8.00	\$1,136.00	\$9.00	\$1,278.00	\$15.00	\$2,130.00
6	Concrete Sidewalk - 4" Thick	SY	142	\$85.00	\$12,070.00	\$75.00	\$10,650.00	\$114.50	\$16,259.00	\$77.00	\$10,934.00	\$56.00	\$7,952.00	\$132.00	\$18,744.00	\$108.00	\$15,336.00
7	Thickened Edge Concrete	LF	239	\$25.00	\$5,975.00	\$30.00	\$7,170.00	\$15.00	\$3,585.00	\$160.00	\$38,240.00	\$50.00	\$11,950.00	\$33.00	\$7,887.00	\$35.00	\$8,365.00
8	6" PVC Cleanout	EA	1	\$750.00	\$750.00	\$1,000.00	\$1,000.00	\$1,300.00	\$1,300.00	\$1,595.00	\$1,595.00	\$1,715.00	\$1,715.00	\$1,100.00	\$1,100.00	\$1,200.00	\$1,200.00
9	6" PVC 45° Bend	EA	1	\$250.00	\$250.00	\$100.00	\$100.00	\$250.00	\$250.00	\$165.00	\$165.00	\$177.00	\$177.00	\$1,100.00	\$1,100.00	\$120.00	\$120.00
10	6" x12" PVC WYE	EA	1	\$250.00	\$250.00	\$250.00	\$250.00	\$2,600.00	\$2,600.00	\$1,650.00	\$1,650.00	\$1,775.00	\$1,775.00	\$1,100.00	\$1,100.00	\$1,900.00	\$1,900.00
11	6" PVC Storm Sewer	LF	30	\$35.00	\$1,050.00	\$100.00	\$3,000.00	\$110.00	\$3,300.00	\$60.00	\$1,800.00	\$64.00	\$1,920.00	\$44.00	\$1,320.00	\$115.00	\$3,450.00
12	Turf Seeding and Hydromulch	SY	353	\$5.00	\$1,765.00	\$7.00	\$2,471.00	\$7.50	\$2,647.50	\$11.00	\$3,883.00	\$8.00	\$2,824.00	\$11.00	\$3,883.00	\$12.00	\$4,236.00
				Subtotal	\$32,951.00	Subtotal	\$34,211.00	Subtotal	\$53,249.75	Subtotal	\$70,038.00	Subtotal	\$54,184.00	Subtotal	\$49,419.00	Subtotal	\$52,942.00
Theraldson																	
1	Asphalt Removal	SY	3464	\$18.00	\$62,352.00	\$6.00	\$20,784.00	\$5.00	\$17,320.00	\$10.00	\$34,640.00	\$13.00	\$45,032.00	\$33.00	\$114,312.00	\$20.00	\$69,280.00
2	Concrete Removal	SY	304	\$26.00	\$7,904.00	\$6.00	\$1,824.00	\$18.00	\$5,472.00	\$10.00	\$3,040.00	\$13.00	\$3,952.00	\$52.00	\$15,808.00	\$35.00	\$10,640.00
3	Curb & Gutter Removal	LF	17	\$18.50	\$314.50	\$20.00	\$340.00	\$55.00	\$935.00	\$30.00	\$510.00	\$15.00	\$255.00	\$11.00	\$187.00	\$100.00	\$1,700.00
4	Earthwork	LS	1	\$12,000.00	\$12,000.00	\$5,000.00	\$5,000.00	\$34,600.00	\$34,600.00	\$16,964.00	\$16,964.00	\$104,322.00	\$104,322.00	\$10,000.00	\$10,000.00	\$55,000.00	\$55,000.00
5	Adjust Casting -All Types	EA	5	\$1,000.00	\$5,000.00	\$250.00	\$1,250.00	\$365.00	\$1,825.00	\$430.00	\$2,150.00	\$461.00	\$2,305.00	\$220.00	\$1,100.00	\$1,500.00	\$7,500.00
6	Subgrade Preparation	SY	31	\$25.00	\$775.00	\$10.00	\$310.00	\$3.00	\$93.00	\$10.00	\$310.00	\$6.00	\$186.00	\$2.00	\$62.00	\$15.00	\$465.00
7	Geotextile Fabric	SY	31	\$3.50	\$108.50	\$5.00	\$155.00	\$3.75	\$116.25	\$10.00	\$310.00	\$5.00	\$155.00	\$1.50	\$46.50	\$12.00	\$372.00
8	6" Class 5 Aggregate Base	SY	31	\$50.00	\$1,550.00	\$12.00	\$372.00	\$30.00	\$930.00	\$13.00	\$403.00	\$9.00	\$279.00	\$10.00	\$310.00	\$35.00	\$1,085.00
9	4" Class 5 Aggregate Base	SY	3,584	\$10.50	\$37,632.00	\$9.50	\$34,048.00	\$8.75	\$31,360.00	\$5.50	\$19,712.00	\$8.00	\$28,672.00	\$8.50	\$30,464.00	\$20.00	\$71,680.00
10	Concrete Sidewalk - 4" Thick	SY	3,584	\$85.00	\$304,640.00	\$72.00	\$258,048.00	\$71.00	\$254,464.00	\$70.00	\$250,880.00	\$56.00	\$200,704.00	\$70.00	\$250,880.00	\$72.00	\$258,048.00
11	Turf Seeding and Hydromulch	SY	110	\$10.00	\$1,100.00	\$17.00	\$1,870.00	\$18.00	\$1,980.00	\$22.00	\$2,420.00	\$20.00	\$2,200.00	\$22.00	\$2,420.00	\$14.00	\$1,540.00
12	7" Concrete Pavement	SY	31	\$120.00	\$3,720.00	\$80.00	\$2,480.00	\$120.00	\$3,720.00	\$107.00	\$3,317.00	\$77.00	\$2,387.00	\$160.00	\$4,960.00	\$132.00	\$4,092.00
				Subtotal	\$437,096.00	Subtotal	\$326,481.00	Subtotal	\$352,815.25	Subtotal	\$334,656.00	Subtotal	\$390,449.00	Subtotal	\$430,549.50	Subtotal	\$481,402.00
				Total	\$1,013,584.50	Total	\$711,297.50	Total	\$843,652.60	Total	\$853,451.50	Total	\$884,722.00	Total	\$1,033,359.00	Total	\$1,067,204.00

RED TEXT INDICATES DEVIATION FROM SUBMITTED BID SHEET

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LEGEND

SPOT ELEVATION	NEW 898.55TC 898.05G
NEW 4" CONCRETE	
DIRECTION OF DRAINAGE	

NOTES:

1. ALL WORK DONE IN THE RIGHT OF WAY SHALL CONFORM TO THE CITY OF FARGO STANDARD SPECIFICATIONS.
2. EXCAVATION OR OTHER WORK IN THE RIGHT OF WAY SHALL REQUIRE A TRAFFIC CONTROL PLAN THAT MEETS ALL MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) REQUIREMENTS. THIS PLAN IS REQUIRED BEFORE ANY PERMITS TO WORK IN THE RIGHT OF WAY WILL BE ISSUED.
3. CONTRACTOR SHALL REMOVE EXISTING TEE BOXES
4. CONTRACTOR SHALL VERIFY IN THE FIELD WITH FARGO PARKS STAFF FINAL LOCATION OF TEE BOXES.
5. CONTRACTOR SHALL PROTECT TEE BOXES AFTER CONCRETE PLACEMENT WITH SAFETY FENCE A MINIMUM OF 3 DAYS TO ENSURE NO FOOT TRAFFIC ON THE CONCRETE.

By	
Date	
Revision	
No.	
2024 PAVEMENT PROJECTS FARGO PARKS DISTRICT FARGO, NORTH DAKOTA <hr/> PAVING PLAN - DISC GOLF PADS	
Drawn By	RLA
Checked By	BTP
Date	1-26-24
Scale	As Shown
Project No.	6053-0034
SHEET	3.10



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LEGEND

	NEW
SPOT ELEVATION	898.55TC 898.05G
NEW 4" CONCRETE	
DIRECTION OF DRAINAGE	

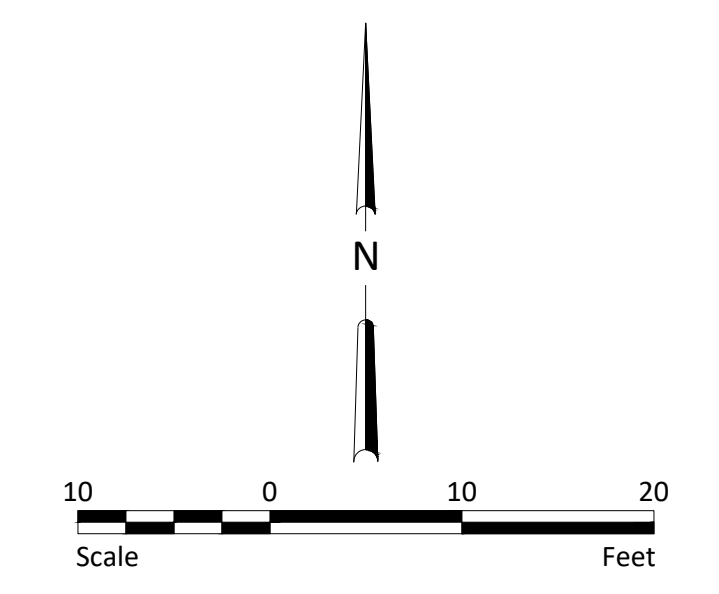
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2024 PAVEMENT PROJECTS FARGO PARKS DISTRICT FARGO, NORTH DAKOTA		PAVING PLAN - DISC GOLF PADS	
Drawn By	RLA	Checked By	BTP
Date	1-26-24	Scale	As Shown
Project No.	6053-0034	SHEET	3.11
Revision	No.	Date	By

H:\JBN\6000\6053\6053_0034\2024 Pavement Project\CAD\PLANS\Brandt Crossing Parking Lot\6053_0034 PAVING.dwg-Layout-1-1/26/2024 4:22 PM-(bpattingale)



LEGEND		NEW
STORM SEWER MAIN	— STS —	
STORM INLET	■	
SPOT ELEVATION	898.55TC 898.05G	
STANDARD CURB & GUTTER	=====	
MOUNTABLE CURB & GUTTER	=====	
NEW 4" CONCRETE	[Yellow hatched box]	
NEW 5" CONCRETE	[Green hatched box]	
NEW 7" CONCRETE	[Blue hatched box]	
2' TOPSOIL REPLACEMENT	[Diagonal hatched box]	
THICKENED EDGE SIDEWALK	-----	
DIRECTION OF DRAINAGE	→	

PAVING NOTES:

1. ALL WORK DONE IN THE RIGHT OF WAY SHALL CONFORM TO THE CITY OF FARGO STANDARD SPECIFICATIONS.
2. ALL HANDICAPPED STALLS SHALL HAVE SIGNING INSTALLED PER DETAIL.
3. HANDICAPPED STALLS SHALL BE STRIPED PER DETAIL.
4. SLOPE IN HANDICAP LOADING/UNLOADING ZONES SHALL NOT EXCEED 2% CROSS SLOPE AND ON ANY HANDICAP ACCESSIBLE ROUTE SHALL NOT EXCEED 2%.
5. ALL CURB RAMPS SHALL HAVE DETECTABLE WARNING PANELS INSTALLED.
6. ALL MANHOLES AND STORM SEWER INLETS LOCATED IN THE PAVEMENT SHALL HAVE CONCRETE COLLARS INSTALLED PER THE DETAILS.
7. ALL PVC STORM SEWER SHALL BE ASTM D3034 SDR35 PVC, UNLESS OTHERWISE NOTED.
8. ALL HDPE STORM SEWER SHALL BE DUAL WALL CORRUGATED PIPE WITH WATERTIGHT JOINTS CONFORMING TO ASTM F2648 SUCH AS ADS N-12 OR APPROVED EQUIVALENT.
9. EXCAVATION OR OTHER WORK IN THE RIGHT OF WAY SHALL REQUIRE A TRAFFIC CONTROL PLAN THAT MEETS ALL MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) REQUIREMENTS. THIS PLAN IS REQUIRED BEFORE ANY PERMITS TO WORK IN THE RIGHT OF WAY WILL BE ISSUED.

<p>2024 PAVEMENT PROJECTS FARGO PARKS DISTRICT FARGO, NORTH DAKOTA</p>	<p>PAVING PLAN</p>
<p>HOUSTON engineering, inc.</p>	<p>Drawn By RLA</p> <p>Checked By BTP</p> <p>Date 1-26-24</p> <p>Scale As Shown</p> <p>Project No. 6053-0034</p> <p>SHEET 4.4</p>
<p>REGISTERED PROFESSIONAL ENGINEER BRIAN T. PATTENGALE PE-7125 DATE: 01-26-24</p>	<p>By _____</p> <p>Date _____</p> <p>Revision _____</p> <p>No. _____</p>



MEMORANDUM

DATE: February 29, 2024

TO: Fargo Park Board Commissioners

FROM: Cindy Girdner, Transit Manager – Valley Senior Services

RE: Consent Agenda Item (g) - Updated Valley Senior Services Transit Drug and Alcohol Testing Policy

At the February 28th Budget/Facilities Committee meeting I presented information regarding an update to the Valley Senior Services (VSS) Drug and Alcohol Testing Policy. The North Dakota Department of Transportation is requiring Valley Senior Services to update this Drug and Alcohol Testing Policy due to new oral swab testing availability.

I am asking for approval of the updated VSS Transit Drug and Alcohol Testing Policy as submitted.

It was recommended at the Budget/Facilities Committee Meeting to bring this to the full board on the Consent Agenda for consideration and approval.

Thank you.

Sample Motion: I make a motion to approve the updated Valley Senior Services Transit Drug and Alcohol Testing Policy as submitted.

DRUG AND ALCOHOL TESTING POLICY
Valley Senior Services
Adopted as of: 01/22/2024

A. PURPOSE

- 1) The Valley Senior Services provides public transit and paratransit services for the residents of Fargo/West Fargo/Moorhead/Dilworth and Cass, Traill, Steele, Richland, Ransom, Sargent, and rural Grand Forks Counties. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, Valley Senior Services declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
- 2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. Covered employees shall abide by the terms of this policy statement as a condition of employment. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates drug and alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of specimens for drug and alcohol testing.
- 3) Any provisions set forth in this policy that are included under the sole authority of Valley Senior Services and are not provided under the authority of the above named Federal regulations are underlined. Tests conducted under the sole authority of Valley Senior Services will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

B. APPLICABILITY

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties. See Attachment A for a list of employees and the authority under which they are included.

A safety-sensitive function is operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, persons controlling the dispatch or movement of revenue service vehicles and any transit employee who operates a non-revenue service vehicle that requires a Commercial Driver's License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL or receive remuneration for service in excess of actual expense.

C. DEFINITIONS

Accident: An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Adulterated specimen: A specimen that has been altered, as evidence by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration: Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

Aliquot: A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

Alternate specimen: An authorized specimen, other than the type of specimen previously collected or attempted to be collected.

Canceled Test: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

Collection Site: A place selected by the employer where employees present themselves for the purpose of providing a specimen for a drug test.

Confirmatory Drug Test: A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify a specific drug or drug metabolite.

Confirmatory Validity Test: A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Covered Employee Under FTA Authority: An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

Cutoff: The analytical value (e.g., drug or drug metabolite concentration) used as the decision point to determine a result (e.g., negative, positive, adulterated, invalid, or substituted) or the need for further testing.

Designated Employer Representative (DER): An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

DOT, The Department, DOT Agency: These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the

Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

Dilute specimen: A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling damage: Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Employee: Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under 49 CFR Part 40, the term employee has the same meaning as the term "donor" as found on CCF and related guidance materials produced by the Department of Health and Human Services.

Evidential Breath Testing Device (EBT): A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

Initial Drug Test: The first test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test: The first test used to determine if a specimen is adulterated, diluted, substituted, or invalid.

Invalid Result: The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Laboratory: Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of HHS or, in the case of foreign laboratories, a laboratory approved for participation by DOT under 49 CFR Part 40.

Limit of Detection (LOD): The lowest concentration at which analyte (e.g., drug or drug metabolite) can be identified.

Limit of Quantification (LOQ): For quantitative assays, the lowest concentration at which the identity and concentration of the analyte (e.g., drug or drug metabolite) can be accurately established.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

Negative Dilute: A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

Negative result: The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug, or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

Non-negative specimen: A specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), or invalid.

Oral Fluid Specimen: A specimen that is collected from an employee's oral cavity and is a combination of physiological fluids produced primarily by the salivary glands. An oral fluid specimen is considered to be a direct observation collection for all purposes of 49 CFR Part 40, as amended.

Oxidizing Adulterant: A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites or affects the reagents in either the initial or confirmatory drug test.

Performing (a safety-sensitive function): A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive result: The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

Primary specimen: In drug testing, the specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of specimen validity testing. The primary specimen is the portion of the donor's subdivided specimen designated as the primary ("A") specimen by the collector to distinguish it from the split ("B") specimen, as defined in 49 CFR Part 40, as amended.

Prohibited drug: Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine as specified in 49 CFR Part 40, as amended.

Reconfirmed: The result reported for a split (Bottle B) specimen when the second HHS-certified laboratory corroborates the original result reported for the primary (Bottle A) specimen.

Rejected for Testing: The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Revenue Service Vehicles: All transit vehicles that are used for passenger transportation service.

Safety-sensitive functions: Employee duties identified as:

- (1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.
- (2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- (3) Maintaining a revenue service vehicle or equipment used in revenue service.
- (4) Controlling dispatch or movement of a revenue service vehicle and
- (5) Carrying a firearm for security purposes.

Specimen: Fluid, breath, or other material collected from an employee at the collection site for the purpose of a drug or alcohol test.

Specimen Bottle: The bottle that, after being sealed and labeled according to the procedures in 49 CFR Part 40, is used to hold a primary ("A") or split ("B") specimen during the transportation to the laboratory. In the context of oral fluid testing, it may be referred to as a "vial," "tube," or "bottle."

Split Specimen: In drug testing, the specimen that is sent to a first laboratory. and stored with its original seal intact, and which is transported to a second laboratory for retesting at the employee's request following MRO verification of the primary specimen as positive, adulterated or substituted.

Split Specimen Collection: A collection in which the single specimen collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted specimen: An employee's specimen not consistent with a normal human specimen, as determined by HHS (e.g., a urine specimen, with creatinine and specific gravity values that are so diminished, or so divergent that they are not consistent with normal human urine).

Test Refusal: The following are considered a refusal to test if the employee:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
- (2) Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine collection in a drug test, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of specimen without a valid medical explanation.
- (6) Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine collection.

- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.
- (14) As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

Undiluted (neat) oral fluid: An oral fluid specimen to which no other solid or liquid has been added. For example: A collection device that uses a diluent (or other component, process, or method that modifies the volume of the testable specimen) must collect at least 1 mL of undiluted (neat) oral fluid.

Urine specimen: Urine collected from an employee at the collection site for the purpose of a drug test.

Vehicle: A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

Verified negative test: A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use at or above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

Verified positive test: A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use at or above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity testing: The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the specimen, if the specimen was diluted, or if the specimen was altered.

D. EDUCATION AND TRAINING

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR

Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

E. PROHIBITED SUBSTANCES

- 1) Prohibited substances addressed by this policy include the following.
 - a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1308.11 through 1308.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. It is important to note that the use of marijuana in any circumstances remains completely prohibited for any safety-sensitive employee subject to drug testing under USDOT regulations. The use of marijuana in any circumstance (including under state recreational and/or medical marijuana laws) by a safety-sensitive employee is a violation of this policy and a violation of the USDOT regulation 49 CFR Part 40, as amended.

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a Valley Senior Services supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.
- c. Alcohol: The use of beverages containing alcohol (including mouthwash, medication, food, candy) or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited.

F. PROHIBITED CONDUCT

- 1) Illegal use of the drugs listed in this policy and as defined in 49 CFR Part 40, as amended is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty if they have used a prohibited drug as defined in 49 CFR Part 40, as amended.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.
- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.
 - a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the

employee to be removed from the performance of safety-sensitive duties until:

- i. The employee's alcohol concentration measures less than 0.02; or
 - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.
- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
 - 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
 - 7) Valley Senior Services, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.
 - 8) Consistent with the Drug-free Workplace Act of 1988, all Valley Senior Services employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

G. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the Valley Senior Services management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in of this policy.

H. TESTING REQUIREMENTS

- 1) Drug testing and alcohol testing will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in this policy, and return to duty/follow-up.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be

performed just before, during, or after the performance of a safety-sensitive job function. Under Valley Senior Services authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.

All covered employees will be subject to drug testing and alcohol testing as a condition of ongoing employment with Valley Senior Services. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in this policy.

I. DRUG TESTING PROCEDURES

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- 2) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine and/or oral fluid specimen will be collected as described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary specimen. For those specimens that are not negative, a confirmatory test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the confirmatory test are at or above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of

the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to Valley Senior Services. If a legitimate explanation is found, the MRO will report the test result as negative.

- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Valley Senior Services will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however Valley Senior Services will seek reimbursement for the split sample test from the employee.
- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.
- 7) Observed collections
 - a. Consistent with 49 CFR Part 40, as amended, collection under direct observation with no advance notice will occur if:
 - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Valley Senior Services that there was not an adequate medical explanation for the result;

- ii. The MRO reports to Valley Senior Services that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).
- iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- v. The temperature on the original urine specimen was out of range (See §40.65(b)(5)) ;
- vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with (See §40.65(c)(1)).
- vii. All follow-up-tests; or
- viii. All return-to-duty tests

Urine collections that are required to be directly observed will be conducted by a person of the same gender as the donor as required by 49 CFR Part 40.67.

J. ALCOHOL TESTING PROCEDURES

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an alcohol concentration of 0.02 or

greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

- 2) A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) Valley Senior Services affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. PRE-EMPLOYMENT TESTING

- 1) All applicants for covered transit positions shall undergo drug testing prior to performance of a safety-sensitive function.
 - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.

- b. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.
- c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
- d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with this policy.
- e. If a pre-employment test is canceled, Valley Senior Services will require the applicant to take and pass another pre-employment drug test.
- f. In instances where a FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
- g. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- h. Applicants are required (even if ultimately not hired) to provide *Valley Senior Services* with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. *Valley Senior Services* is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer

within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide Valley Senior Services proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

L. REASONABLE SUSPICION TESTING

- 1) All Valley Senior Services FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under Valley Senior Services' authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.
- 2) Valley Seniors Services shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in this policy.
- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the Valley Senior Services.
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol

or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with this policy. Valley Senior Services shall place the employee on administrative leave in accordance with the provisions set forth under this policy. Testing in this circumstance would be performed under the direct authority of the Valley Senior Services. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority.** However, self-referral does not exempt the covered employee from testing under Federal authority as specified in this policy or the associated consequences.

M. POST-ACCIDENT TESTING

- 1) **FATAL ACCIDENTS** – A covered employee will be required to undergo drug and alcohol testing if they are involved in an accident with a transit vehicle, whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.
- 2) **NON-FATAL ACCIDENTS** – A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:
 - a. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
 - b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test.

The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that Valley Senior Services is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), Valley Senior Services may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

N. RANDOM TESTING

- 1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Individuals who may be covered under company authority will be selected from a pool of non-DOT-covered individuals.

- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>.
- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under Valley Senior Services authority.
- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under Valley Senior Services' authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

O. RETURN-TO-DUTY TESTING

Valley Senior Services will terminate the employment of any employee that tests positive or refuses a test as specified in this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-

duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety. The SAP will determine whether the employee returning to duty will require a return-to-duty drug test, alcohol test, or both.

P. FOLLOW-UP TESTING

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

Q. RESULT OF DRUG/ALCOHOL TEST

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be immediately removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAP) for assessment, and will be terminated.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in

termination and referral to a list of USDOT qualified SAPs. A test refusal is defined as any of the following circumstances:

- a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
 - b. Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
 - c. Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
 - d. In the case of a directly-observed or monitored urine collection in a drug test, fail to permit monitoring or observation of your provision of a specimen.
 - e. Fail to provide a sufficient quantity of specimen without a valid medical explanation.
 - f. Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
 - g. Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
 - h. Fail to cooperate with any part of the testing process.
 - i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine collection.
 - j. Possess or wear a prosthetic or other device used to tamper with the collection process.
 - k. Admit to the adulteration or substitution of a specimen to the collector or MRO.
 - l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
 - m. Fail to remain readily available following an accident.
 - n. As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
- 4) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder or the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NONDOT alcohol test with a result of less than 0.02 BAC.
- 5) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:

- a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return-to-work agreement;
 - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from Valley Senior Services employment.
 - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in this policy; however, all follow-up testing performed as part of a return-to-work agreement required under this policy is under the sole authority of Valley Senior Services and will be performed using non-DOT testing forms.
 - c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. **All tests conducted as part of the return-to-work agreement will be conducted under company authority and will be performed using non-DOT testing forms.**
 - d. **A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in this policy.**
 - e. Periodic unannounced follow-up drug/alcohol testing conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in this policy.
 - f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with Valley Senior Services.
 - g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- 6) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

R. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

S. PROPER APPLICATION OF THE POLICY

Valley Senior Services is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

T. INFORMATION DISCLOSURE

- 1) Drug/alcohol testing records shall be maintained by the Valley Senior Services Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.
- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need-to-know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision

maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.

- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Valley Senior Services or the employee.
- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken.
- 11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the *Fargo Park Board (Authority)* on

_____ Date

President, Fargo Park Board

Attachment A

Job Title Job Duties Testing Authority

Attachment B Contacts

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual.

[Valley Senior Services] Drug and Alcohol Program Manager

Name: Paul W. Grindeland

Title: Transit Manager - DER

Address: 2801 32nd Ave So. Fargo, ND 58102

Telephone Number: 701 293-1440



MEMORANDUM

DATE: March 4, 2024

TO: Fargo Park Board Commissioners

FROM: Kevin Boe, Recreation Director

RE: Agenda Item No. 3 – Department Update – Food and Beverage

For the March Board Meeting, the Food and Beverage Department will share information on their department and give an update on their winter concession schedule and an update on their upcoming concession schedule for spring and summer.

Please contact me with questions.

Thank you.



MEMORANDUM

DATE: March 5, 2024

TO: Fargo Park Board Commissioners

FROM: Broc Lietz, Finance Director

RE: Agenda Item No. 4 – Board to consider for approval purchase agreement for the sale of Robert D. Johnson Recreation Center to Cass County

At the regular board meeting on November 14, 2023, Park Board Commissioners unanimously approved the resolution approving the sale of the Robert D. Johnson Recreation Center to Cass County for \$825,000. Action at that meeting was an agreement in principle presented from Cass County. In the months since, the administration has been collaborating with staff from Cass County and legal counsel from both parties to finalize a purchase agreement.

Today we present you with a Real Estate Purchase Agreement for your consideration. The Cass County Commission unanimously approved the purchase agreement on February 5, 2024. Below is a summary of the agreement:

- **Purchase Price:** \$825,000.00
- **Closing Date:** February 28, 2024, or as soon as mutually agreed upon by the parties.
- **Fees/Costs:** Seller is responsible for fees and expenses incurred in providing an updated abstract; Buyer is responsible for all other fees and expenses incurred to close. Each party is responsible for their own attorney's fees.
- **Real Estate Taxes and Specials:** Seller shall be responsible for all taxes/specials for 2023, Buyer will be responsible for taxes/specials for 2024 and beyond.
- **Possession:** Buyer takes possession at closing. Seller assigns all leases to Buyer at closing. Seller shall be allowed to continue to operate as it is currently on the property, without obstruction and without rent through June 30, 2024.

If you have any questions prior to the meeting, please feel free to reach out to me for further discussion.

Sample Motion: I move to approve the purchase agreement for the sale of the Robert D. Johnson Recreation Center to Cass County as presented.

Susan Faus, Executive Director
PARK COMMISSIONERS – Vicki Dawson * Joe Deutsch * Aaron Hill * Dawn Morgan * Jerry Rostad
Clerk-Jeff Gunkelman

REAL ESTATE PURCHASE AGREEMENT

This Agreement is entered into on February ____, 2024, by and between, **The Park District of the City of Fargo**, a municipal subdivision and park district under Chapter 40-49 N.D.C.C., whose address is 701 Main Avenue, Fargo, North Dakota (“Seller”), and **County of Cass, in the State of North Dakota**, a municipal corporation, whose address is PO Box 2806, Fargo, North Dakota 58108-2806 (collectively “Buyer”), who agree as follows:

1. **Purchase**. Seller agrees to sell, and Buyer agrees to buy, the following described real property (the “Property”) located in **Cass County**, North Dakota:

Lots 1, 2, 3, 11 and 12, Block 27 of the Original Townsite of Fargo, Cass County, North Dakota.

2. **Closing Date**. The closing shall occur at Kennelly Business Law on February 28, 2024 (the “Closing Date”), or as soon as mutually agreed upon by the parties.

3. **Purchase Price**. Buyers agree to pay Seller as and for the purchase price of the Property the sum of \$825,000.00. The Purchase Price shall be due and owing in certified funds on the Closing Date.

4. **At Closing**. On the Closing Date and upon receipt of the Purchase Price, Seller shall execute, acknowledge and deliver title to Buyer in the form of a Warranty Deed.

5. **Fees and Costs**. Seller will be responsible for the fees and expenses incurred in providing an updated abstract of title to Buyer, *providing clear and marketable title*, and recording of releases and satisfactions. Buyer will be responsible for all other fees and expense incurred to close this transaction, including any title opinion fees, title insurance premium, and recording costs. **Each party** shall be responsible for their own attorney’s fees.

6. **Real Estate Taxes and Special Assessments**. Seller shall be responsible for all real estate taxes and special assessments for the year 2023. Buyer shall be responsible for all 2024 and subsequent real estate taxes and special assessments. Buyer shall assume all special assessments which have not been certified for collection on the Closing Date.

7. **Representations and Warranties of Seller**. Seller hereby warrants and represents:

- a. Seller is the sole owner of the Property and has full power, authority and right to execute, deliver and perform this Agreement. Attached this Agreement as Exhibit “A” is the Resolution Approving the Sale of the Property by the Seller’s Board of Commissioners.
- b. Seller states there are no existing or pending claims, lawsuits, proceedings or other legal, quasi-legal, or administrative challenges concerning the Property or the ownership, operation or any condition thereon, and no such claim, lawsuit, proceeding or challenge is threatened by any person or entity.

- c. To the best of Seller's knowledge, Seller warrants no environmental defects, or any hazardous materials exist with or on the Property, except as otherwise fully disclosed to Buyers in writing prior to Closing.
- d. Sellers Representations and Warranties contained herein shall survive Closing.

8. **Title**. Seller warrants that title to the Property at the Closing Date will be subject only to the following exceptions:

- a. Covenants, conditions, restrictions, declarations and easements of record, if any;
- b. Building, zoning and subdivision laws and regulations; and
- c. The leases attached as Exhibit "A" to this Agreement.

9. **Contingencies**. The obligation of Buyer to close hereunder is contingent upon and satisfaction or waiver by Buyer of each of the following conditions on or before the Closing Date:

- a. **Representations**. The representations and warranties of Seller contained in this Agreement will be true and complete now and, on the Closing Date;
- b. **Title**. Title to the Property shall have been found acceptable by Buyer, or been made acceptable, in accordance with the requirements and terms of Paragraph 8;

If any of the foregoing contingencies have not been satisfied or waived by Buyer on or before the Closing Date, then Buyer may terminate this Agreement, at Buyer's option, by written notice to that effect to Seller, in which event this Agreement shall terminate and be of no further force and effect. All the conditions set forth above are for the sole and exclusive benefit of Buyer, and Buyer shall have the unilateral right to waive any conditions by notice to Seller.

10. **Additional Terms and Conditions**. The purchase of the Property shall be subject to the following additional terms and conditions:

- a. **No Diminishing or Encumbering Title**. Seller agrees not to convey, mortgage or do any act to diminish or encumber the title to the Property while this Agreement remains in force.
- b. **No Broker**. No real estate broker or agent has been engaged or hired by either party to this Agreement and no commission or any other compensation is owed to any real estate broker or agent, notwithstanding any attorney's fees which may be owed by either party in preparation of this Agreement.

- c. Possession. Seller shall deliver possession of Property to Buyer at the Closing Date. Seller shall assign all leases to Buyer at the Closing Date. However, Seller shall be allowed to continue to operate as it currently operates on the Property, without obstruction from Buyer, until June 30, 2024. Seller shall be considered a tenant of the Property from the Closing Date through June 30, 2024, but shall not be obligated to pay rent to Buyer during that time.

11. **Administration and Construction.** This Agreement shall be administered and construed in accordance with the following provisions:

- a. Time. Time is of the essence of this Agreement. Any reference in this Agreement to time periods of less than six (6) days shall in the computation of such time exclude Saturdays, Sundays and legal holidays. Any reference in this Agreement to time periods of six (6) days or greater shall in the computation of such time include Saturdays, Sundays and legal holidays. Any time period provided in this Agreement which shall end on a Saturday, Sunday or legal holiday shall extend to 5:00 p.m. on the next full business day.
- b. Notices. All notices or other communication provided for in this Agreement shall be given in writing by registered or certified mail which, unless otherwise designated by a party, shall be addressed to the addresses shown in Paragraph 1 of this Agreement. As to registered mail, notice shall be deemed served when properly addressed and duly accepted for mailing as registered mail in a branch of the United States Postal Service. As to certified mail, notice shall be deemed served when duly deposited in a United States Postal Service mailbox or at a branch of the United States Postal Service.
- c. Captions. The captions on the paragraphs and subparagraphs of this Agreement are inserted only for the purpose of convenient reference. The captions shall not be used to construe or interpret the Agreement nor to prescribe the scope or intent of the Agreement.
- d. Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect its other provisions. The Agreement shall be construed in all respects as if such invalid or unenforceable provision was omitted.
- e. Entire Agreement. This Agreement constitutes the complete and entire understanding of the parties concerning the conveyance of their Property. Neither party shall be bound by or be liable for any statements, warranties, guarantees, or representations not set forth in this Agreement which may

have been made by any broker, agent, employee or other person representing or purporting to represent a party to this Agreement.

- f. Modification. No change or modification of this Agreement shall be valid unless it is in writing and signed by all the parties to this Agreement.
- g. Survival. The provisions of this Agreement shall survive the closing and shall continue to bind the parties bound by this Agreement.
- h. Recordation. This Agreement shall not be recorded.
- i. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be considered as an original of the Agreement. All executed counterparts shall constitute, and shall have the force and effect, of one and the same document, and shall be binding upon those who execute the Agreement, regardless of whether all parties execute the same document.
- j. Persons Bound by this Agreement. This Agreement shall be binding upon the parties and their successors in interest. The rights and obligations of any party to this Agreement may be exercised or satisfied by that party's legal representative.
- k. Covenants to Run with Property. All covenants, terms and conditions in this Agreement shall run with the Property.
- l. Governing Law. The provisions of this Agreement shall be governed by the laws of the State of North Dakota.

//// The Remainder of this page has intentionally been left blank ////

IN WITNESS OF ITS TERMS AND CONDITIONS, the parties have executed this Agreement.

Dated: January _____, 2024.

SELLER:

Park District of the City of Fargo, a municipal subdivision and park district under Chapter 40-49 N.D.C.C.

By: Susan Faus
Its: Executive Director

Dated: January _____, 2024.

BUYER:

County of Cass, in the State of North Dakota, a municipal corporation

By: _____
Chairman of Cass County Commission