

FACILITIES COMMITTEE MEETING
Wednesday, April 24, 2024; 11:00 a.m.
Fargo Park District Board Room
701 Main Avenue, Fargo

Board Committee Members:
Joe Deutsch, Aaron Hill and Dawn Morgan

AGENDA

1. Review Amendment No. 4 to Development Agreement with Sanford; Susan Faus and Tyler Kirchner, presenters.
2. Review Lease Agreement with Sanford at Fargo Parks Sports Center; Susan Faus and Kali Mork, presenters.
3. Consideration of request from Fargo Area Sports for proposed Bennett Park field improvements; Tony Schmitt, Alex Sumner, and Reggie Jackson, presenters.
4. Review of Lease Agreement for Bus Barn located at Yunker Farm; Kevin Boe, presenter.
5. Review bids for Anderson Softball Lighting Replacement; Tyler Kirchner, presenter.
6. Review bids for Orchard Glen and Forest River Trail Improvements; Tyler Kirchner, presenter.
7. Consideration to utilize reserve funds for drain pit repair project at Sports Arena; Tony Schmitt, presenter.
8. Review Amendment No. 1 to Payment in Lieu of Park Agreement for CC's First Addition; Tyler Kirchner, presenter.
9. Other

Next Fargo Park Board Meeting: May 14, 2024; 5:30 p.m.
Next Facilities Committee Meeting: May 29, 2024; 11:00 a.m.



MEMORANDUM

DATE: April 17, 2024

TO: Fargo Park Board Facilities Committee

FROM: Susan Faus, Executive Director

RE: Agenda Item No. 1 – Review Amendment No. 4 to Development Agreement with Sanford

The parties previously entered into a Development Agreement and Amendments to Development Agreement for the construction of a first-class community recreation facility. The parties wish to add clarity regarding signage and advertising under the Agreement. The parties mutually agree to amend the agreement as provided in the Third Amendment dated April 11, 2023. A draft of the Fourth Amendment to the Development Agreement with Sanford is attached.

We are asking the Committee to review Amendment No. 4 and move the consideration for approval to the full board.

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

Thank you.

FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT

THIS FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT (the “**Fourth Amendment**”) is made and entered into effective May __, 2024, by and between **SANFORD NORTH**, a North Dakota nonprofit corporation (“**Sanford**”), and **PARK DISTRICT OF THE CITY OF FARGO**, a North Dakota park district (“**Park District**”). The Park District and Sanford may individually be referred to as a “**Party**,” and collectively as the “**Parties**.”

RECITALS

- A. The Parties have previously entered into a Development Agreement and Amendments to Development Agreement for the construction of a first-class community recreation facility (collectively the “Agreement”);
- B. The Parties wish to add clarity regarding signage and advertising under the Agreement; and
- C. Accordingly, the Parties mutually agree to amend the agreement as provided in this Third Amendment.

AMENDMENT

1. **Section V(2)**. The following is added as Section V(2):

2. In recognition of the Sanford Contribution, the Park District shall provide private, exclusive access to Sanford and its invitees to the building in all recreational areas for one day per year (the “**Sanford Day**”), subject to the following conditions: (1) The Sanford Day shall run from 3:00 p.m. until 8:00 p.m., or such other hours as the parties may agree; (2) The Sanford Day shall be held in either January or February, unless the parties otherwise agree, on a date of the parties’ mutual choosing; (3) Sanford shall purchase all food and beverages from the Park District for the Sanford Day; (4) Sanford shall cover the cost of all cleaning following the Sanford Day; (5) Sanford shall cover the cost of any additional Park District personnel required by and requested by Sanford for the Sanford Day; and (6) Sanford shall cover any additional costs necessary for the Sanford Day not contemplated by this Section.

2. **Article VI**. Article VI is superseded and replaced in its entirety by the following:

VI. SIGNAGE

1. **General**. In recognition of the Sanford Contribution, the Park District has elected to grant Sanford certain signage and naming recognition consistent with this Article.
 - a. The Park District may affix and include similar signage to that granted to Sanford in this Article identifying its ownership and/or contributions to the Project.

- b. The Park District shall have the discretion to negotiate agreements with other donors to the Project with associated signage, in and on the building (i.e. xxx Recreation Center) or subsidiary portions of the building (i.e., the turf, courts, etc.). Any such recognition must be approved by both the Park District and Sanford, which approvals shall not be unreasonably withheld. The Park District agrees that under no circumstances will any permanent and affixed signage be permitted in the building, on the Building Site, or anywhere on the Project Land, which advertises, promotes, or otherwise identifies any provider of health care, therapy, fitness, or wellness services, other than Sanford for the length of time described in Sections VI(2)b, VI(3)c, VI(3)d, VI(4)b, and VI(5)b.

2. Project Land. The Park District has elected to and shall name the Project Land, to include any contiguous real property now or later owned by the Park District or Sanford and added to the existing Project Land for the sports complex project, the “Sanford Sports Complex.” To the extent possible within either or both parties’ reasonable control, any future contiguous land which may be acquired by either party to expand the sports complex project shall be considered as part of the Project Land and use the “Sanford Sports Complex” name.
 - a. As part of this recognition, the Park District shall publicize any events held on or about the Project Land (including in the building) as being held “at the Sanford Sports Complex” or similar phrasing, with the Sanford Sports Complex logo to be used in all print and digital marketing. Further, the Park District shall require any third-parties holding events on or about the Project Land (including the building) to adhere to this same requirement, and the Park District will make reasonable efforts to enforce this requirement.
 - b. Subject to the approval of all applicable governmental entities, and applicable covenants, conditions, and restrictions, Sanford and the Park District shall be permitted to place and maintain signage of design and placement acceptable to both parties, on all freestanding marquee signs. This recognition shall also be reflected as such on all advertisements, and all other physical and digital marketing and materials.
 - c. Attached hereto as Exhibit “E-1” are general renderings of the locations of freestanding marquee sign, monument signs and mockups of each and locations of the signs which the parties agree represent the intentions of the recognition granted to Sanford under this Section.
 - d. The naming and signage recognition conferred under this Section shall be extended for the lesser of (1) 100 years; or (2) as long as Sanford or Sanford’s successor(s) remains in operation. At the conclusion of the naming recognition as provided in this section, the Park District, at its sole expense, shall be allowed to remove all signage and display of Sanford from the Project Land.

3. Exterior Signage. Subject to the approval of all applicable governmental entities, and applicable covenants, conditions, and restrictions, Sanford and the Park District shall be permitted to place and maintain signage of design and placement acceptable to both parties, on the exterior fascia of the building. Sanford and the Park District shall be entitled to signage on all sides of the building facing driveways or streets offering ingress and egress to the building, and on the side of the building facing Interstate 29.

- a. The Park District may elect to similarly recognize a separate donor on the exterior of the building (i.e. XXX Recreation Center) as the naming partner to the building.
 - b. Attached hereto as Exhibit “E-2” are general renderings of the locations of the exterior signs and mockups of the exterior signs which the parties agree represent the intentions of the parties under this Section.
 - c. The signage recognition under this section shall be extended to Sanford for the greater of (1) 25 years; or (2) as long as Sanford leases the Sanford Space or similar space from the Park District in the building or on the Complex. At the conclusion of the naming recognition as provided in this Section, the Park District, at its sole expense, shall be allowed to remove all signage and display of Sanford on the exterior fascia of the building.
 - d. The naming recognition for Sanford Sports conferred under this section shall be extended for the greater of (1) 20 years; or (2) as long as Sanford leases the Sanford Space or similar space from the Park District in the building or on the Complex. At the conclusion of the naming recognition as provided in this Section, the Park District, at its sole expense, shall be allowed to remove all signage and display of Sanford on the exterior fascia of the building.
4. Interior Sanford Signage. Sanford shall be permitted to place and maintain signage of design and placement acceptable to both parties on the donor wall, in turf, courts, and ice. The Parties shall collaborate as to the placement, prominence, and design of such additional signage. Sanford recognizes that certain portions of the building that it will rent for athletic, training, or recreation activity shall have designated title or naming sponsors and that the Sanford’s signage rights under this Section may not be of equal or greater prominence to such designated title or naming sponsor. Sanford shall be entitled to signage of comparable size to Sanford’s signage placed in other portions of the building (excluding the Sanford Space), in size and style substantially similar to that depicted on Exhibit E-3.
- a. Attached hereto as Exhibit “E-3” are general renderings of the interior signs and mockups of the interior signs in the areas of the building which the parties agree represent the intentions of the parties under this Section.

- b. The naming recognition conferred under this Section shall be extended for the greater of (1) 25 years; or (2) as long as Sanford or Sanford's successor(s) remains in operation. At the conclusion of the naming recognition as provided in this section, the Park District, at its sole expense, shall be allowed to remove all signage and display of Sanford signage.
5. Interior Sanford Sports Signage. Sanford shall have exclusive control over all signage in the Sanford Space. Sanford shall also be entitled to signage inside areas of the building in areas where Sanford rents from the Park District for athletic, training, or recreation activity. The Parties shall collaborate as to the placement, prominence, and design of such additional signage. Sanford recognizes that certain portions of the building that it will rent for athletic, training, or recreation activity shall have designated title or naming sponsors and that the Sanford and Sanford Sport's signage rights under this Section may not be of equal or greater prominence to such designated title or naming sponsor. In the event any such title or naming sponsor elects to have no signage placed, or signage that is smaller than that used by Sanford throughout the rest of the building, Sanford shall be entitled to signage of comparable size to Sanford's signage placed in other portions of the building (excluding the Sanford Space).
 - a. Attached hereto as Exhibit "E-4" are general renderings of the locations of the interior signage and mockups of the interior signs which the parties agree represent the intentions of the parties under this Section.
 - b. The naming recognition conferred under this section shall be extended for the greater of (1) 20 years; or (2) as long as Sanford leases the Sanford Space or similar space from the Park District in the building or on the Complex. At the conclusion of the naming recognition as provided in this Section, the Park District, at its sole expense, shall be allowed to remove all signage and display of Sanford Sports signage.
6. Signage Costs. The costs of all Sanford signage under Sections VI(2), VI(3), and VI(4) shall be included in the Sanford Contribution. The cost of all Sanford Sports signage under Section VI(5) shall be Sanford's responsibility apart from the Sanford Contribution. All other signage in and on the Building, and on the remaining Project Land, shall be the Park District's responsibility, understanding that the Park District may arrange for such payment by third-parties.
7. Additional Terms.
 - a. Above and beyond reasonable maintenance, should Sanford change its name or logo, or desire to update its signage under this Article, Sanford shall pay at its sole cost and expense for such changes. In the event Sanford changes its name for any reason, the name "Sanford Sports Complex", as specified in Section VI, shall be changed accordingly to reflect Sanford's new name.

The Recitals shall be given full force in any interpretation of this Amendment. Except as modified by this Fourth Amendment to the Development Agreement, the terms and conditions of the Agreement remain in full force and effect.

PARK DISTRICT OF THE CITY OF FARGO

By: _____
Its: President

By: _____
Its: Clerk

SANFORD NORTH

By: _____
Its: _____

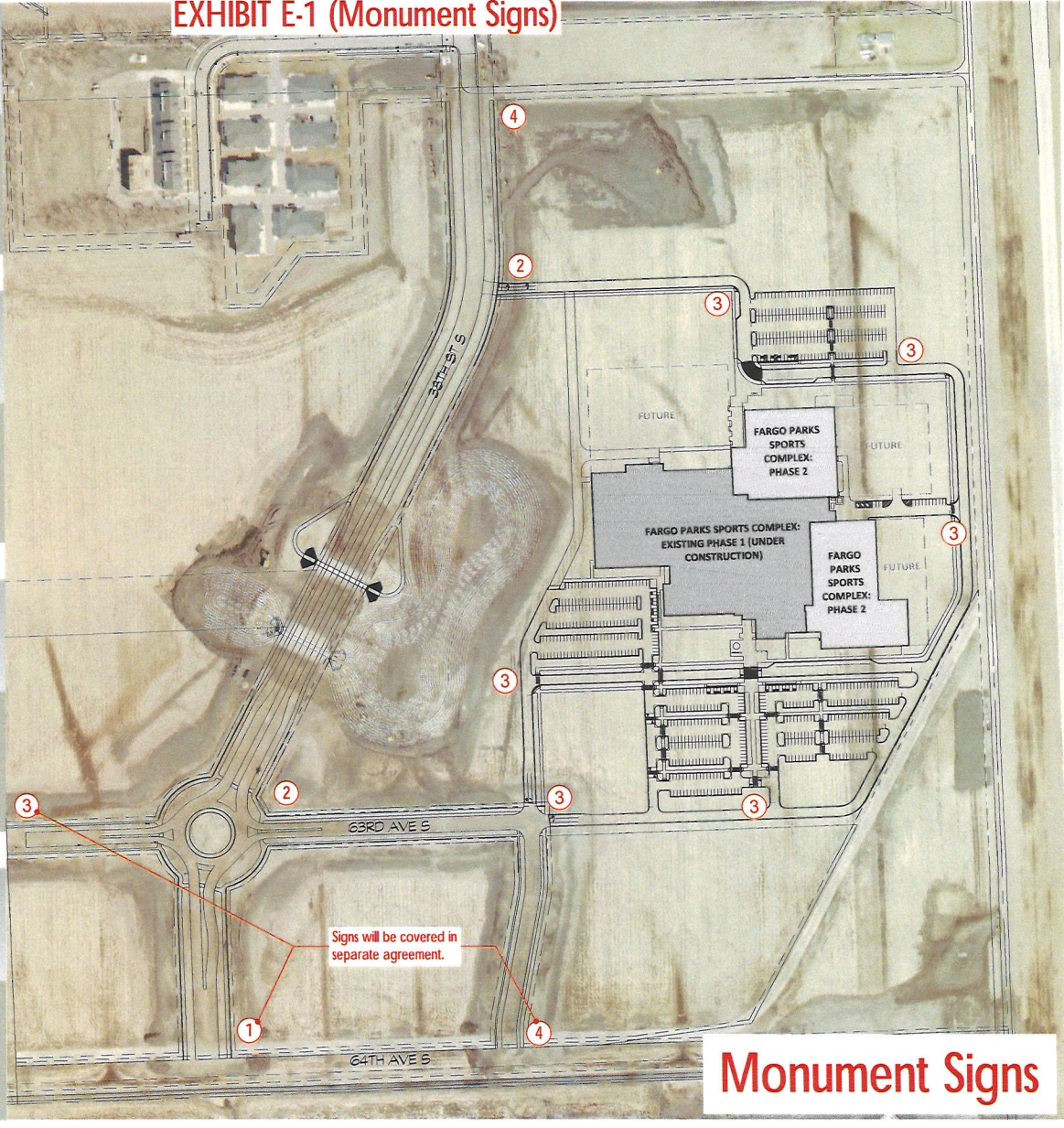
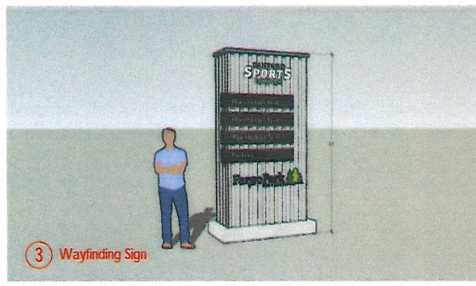
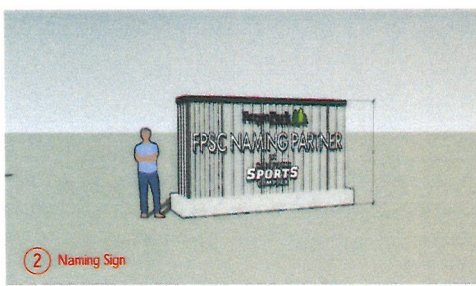
EXHIBIT E-1
Naming Recognition Signage

EXHIBIT E-2
Additional Exterior Signage

EXHIBIT E-3
Additional Interior Signage

EXHIBIT E-4
Sanford Space Signage

EXHIBIT E-1 (Monument Signs)

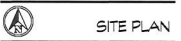


Monument Signs



WWW.FARGOPARKS.COM

FARGO PARKS SPORTS COMPLEX



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Jul. 24, 2023

07/24/23 12:41:28 PM C:\Users\kcherv\OneDrive\Fargo Parks District\Operations - Design and Construction\Fargo Sports Complex\Developers Agreement\Further Agreement\Developer Agreement7-24-23.dwg

EXHIBIT E-2 (Exterior Signage)

FARGO PARKS
SPORTS CENTER

SIGN 1 - FPSC
SCALE: 1/8" = 1'-0"

FARGO PARKS SPORTS CENTER

SIGN 2 - FPSC
SCALE: 1/8" = 1'-0"

Fargo Park
DISTRICT

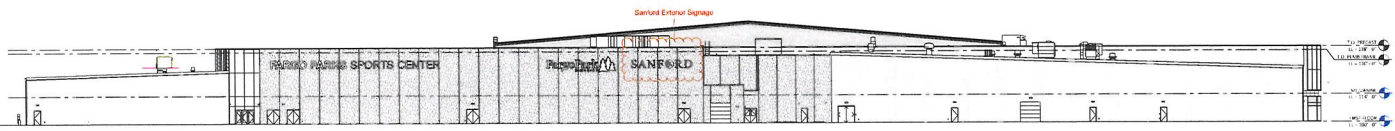
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SCALE: 1/8" = 1'-0"

SANFORD

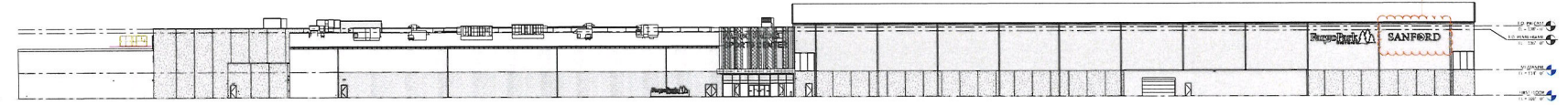
SIGN 4 - SANFORD
SCALE: 1/8" = 1'-0"

SANFORD
SPORTS

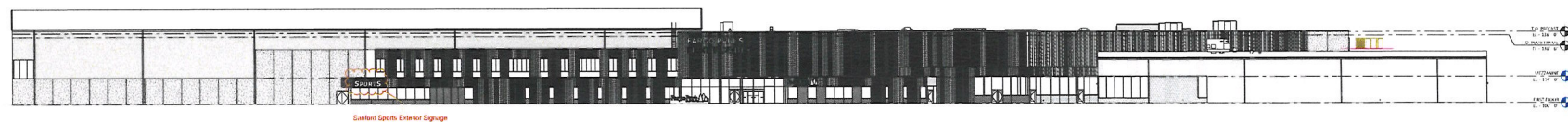
SIGN 5 - SANFORD SPORTS
SCALE: 1/8" = 1'-0"



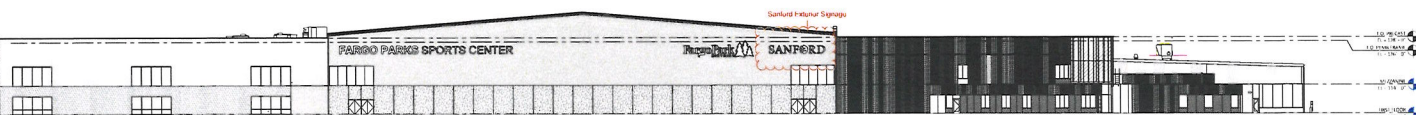
7D EAST ELEVATION
SCALE: 1/8" = 1'-0"



7C NORTH ELEVATION
SCALE: 1/8" = 1'-0"



7B SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



7A WEST ELEVATION
SCALE: 1/8" = 1'-0"

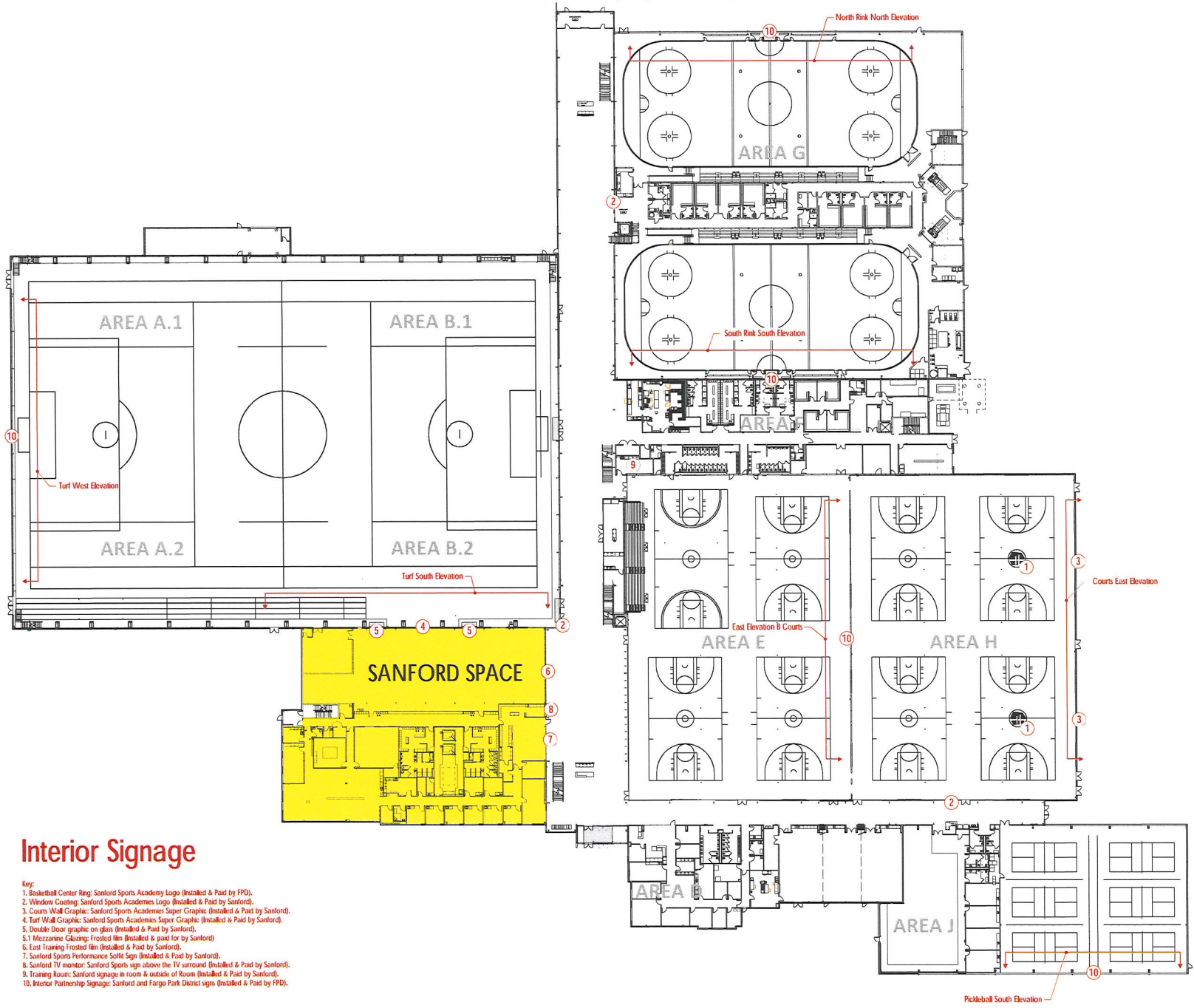
FARGO PARK DISTRICT

SIGN 3 - FPD TREES
SCALE: 1/8" = 1'-0"

Exterior Signage

EXHIBIT E-3 (Interior Signage - Sheet 1)

REVISION SCHEDULE		
NO.	DESCRIPTION	DATE



Interior Signage

- Key:**
1. Basketball Center Ring: Sanford Sports Academy Logo (Installed & Paid by FPD).
 2. Window Coating: Sanford Sports Academies Logo (Installed & Paid by Sanford).
 3. Courts Wall Graphic: Sanford Sports Academies Super Graphic (Installed & Paid by Sanford).
 4. Turf Wall Graphic: Sanford Sports Academies Super Graphic (Installed & Paid by Sanford).
 5. Double Door graphic on glass (Installed & Paid by Sanford).
 - 5.1. Mezzanine Ceiling: Frosted film (Installed & paid for by Sanford)
 6. East Traning Frosted film (Installed & Paid by Sanford).
 7. Sanford Sports Performance Solite Sign (Installed & Paid by Sanford).
 8. Sanford TV monitor: Sanford Sports sign above the TV surround (Installed & Paid by Sanford).
 9. Training Rooms: Sanford signage in room & outside of room (Installed & Paid by Sanford).
 10. Interior Partnership Signage: Sanford and Fargo Park District signs (Installed & Paid by FPD).

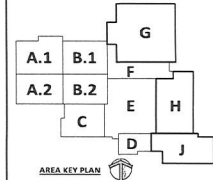
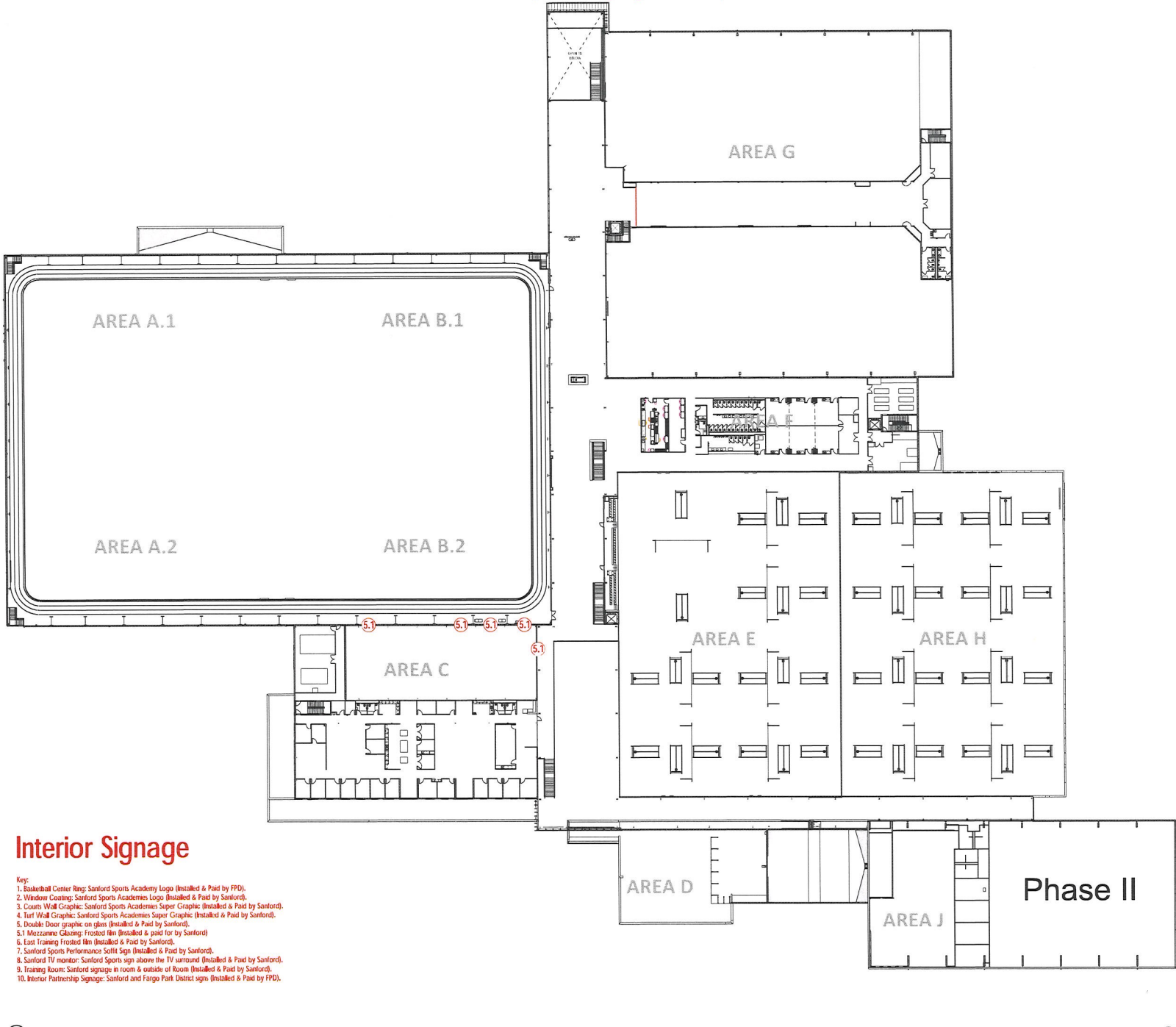


EXHIBIT E-3 (Interior Signage - Sheet 2)



Interior Signage

- Key:**
1. Basketball Center Ring: Sanford Sports Academy Logo (Installed & Paid by FPD).
 2. Window Coating: Sanford Sports Academies Logo (Installed & Paid by Sanford).
 3. Courts Wall Graphic: Sanford Sports Academies Super Graphic (Installed & Paid by Sanford).
 4. Turf Wall Graphic: Sanford Sports Academies Super Graphic (Installed & Paid by Sanford).
 5. Double Door graphic on glass (Installed & Paid by Sanford).
 - 5.1 Mezzanine Cabana: Frosted film (Installed & paid for by Sanford)
 6. East Framing Frosted film (Installed & Paid by Sanford).
 7. Sanford Sports Performance Solite Sign (Installed & Paid by Sanford).
 8. Sanford TV monitor: Sanford Sports sign above the TV surround (Installed & Paid by Sanford).
 9. Training Rooms: Sanford signage in room & outside of room (Installed & Paid by Sanford).
 10. Interior Partnership Signage: Sanford and Fargo Park District signs (Installed & Paid by FPD).

8A 0007 OVERALL MEZZANINE FLOOR PLAN

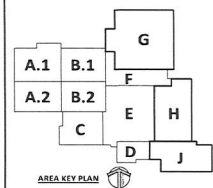
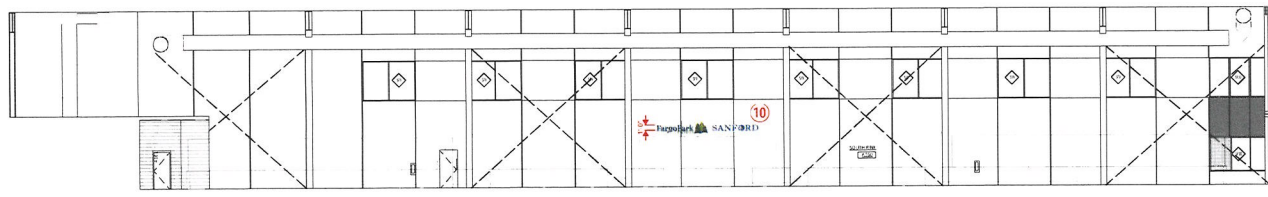
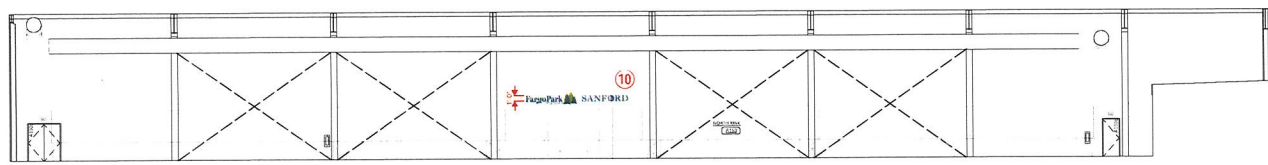


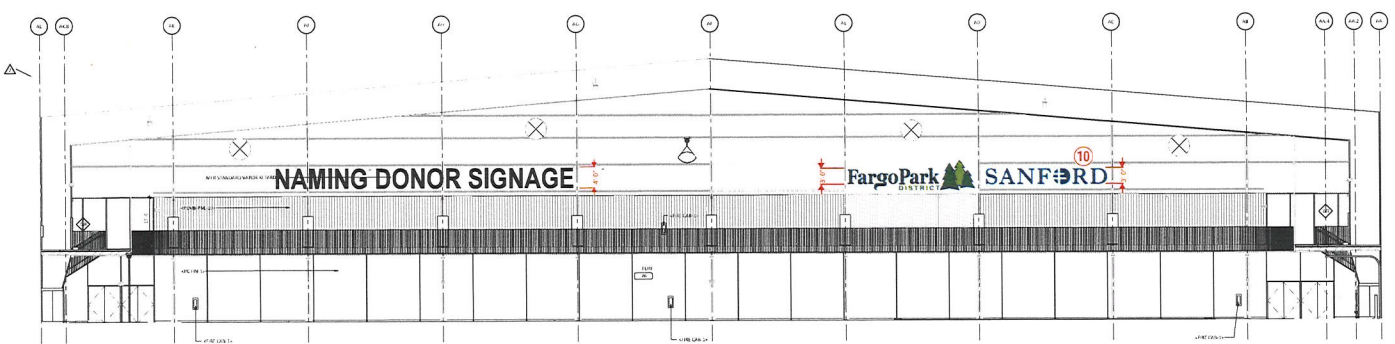
EXHIBIT E-3 (Interior Signage - Sheet 3)



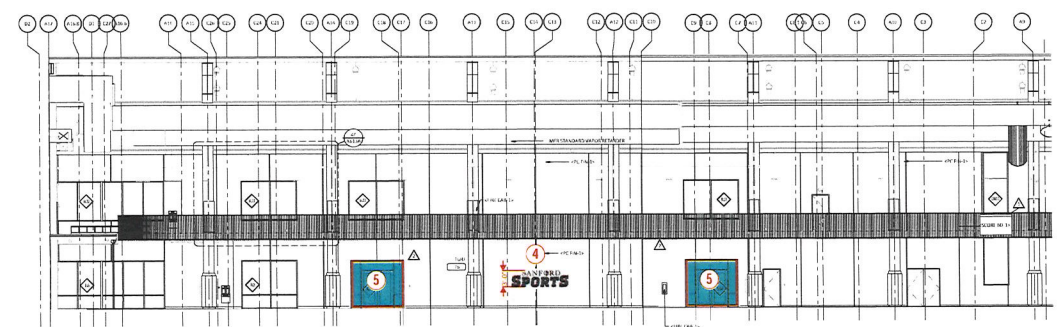
8B SOUTH RINK - SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



8A NORTH RINK - NORTH ELEVATION
SCALE: 1/8" = 1'-0"



8B TURF - OVERALL WEST ELEVATION
SCALE: 1/8" = 1'-0"



8C TURF - SOUTH A ELEV. Copy 1
SCALE: 1/8" = 1'-0"

Interior Signage

- Key:
1. Basketball Center Ring: Sanford Sports Academy Logo (Installed & Paid by FPD).
 2. Window Cladding: Sanford Sports Academies Logo (Installed & Paid by Sanford).
 3. Courts Wall Graphics: Sanford Sports Academies Super Graphic (Installed & Paid by Sanford).
 4. Turf Wall Graphic: Sanford Sports Academies Super Graphic (Installed & Paid by Sanford).
 5. Double Door graphic on glass (Installed & Paid by Sanford).
 - 5.1 Mezzanine Cladding: Frosted film (Installed & paid for by Sanford)
 6. East Training Frosted film (Installed & Paid by Sanford).
 7. Sanford Sports Performance Soffit Sign (Installed & Paid by Sanford).
 8. Sanford TV monitor: Sanford Sports sign above the TV surround (Installed & Paid by Sanford).
 9. Training Room: Sanford signage in room & outside of Room (Installed & Paid by Sanford).
 10. Interior Partnership Signage: Sanford and Fargo Park District signs (Installed & Paid by FPD).

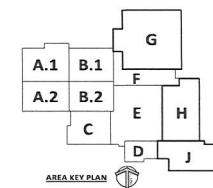
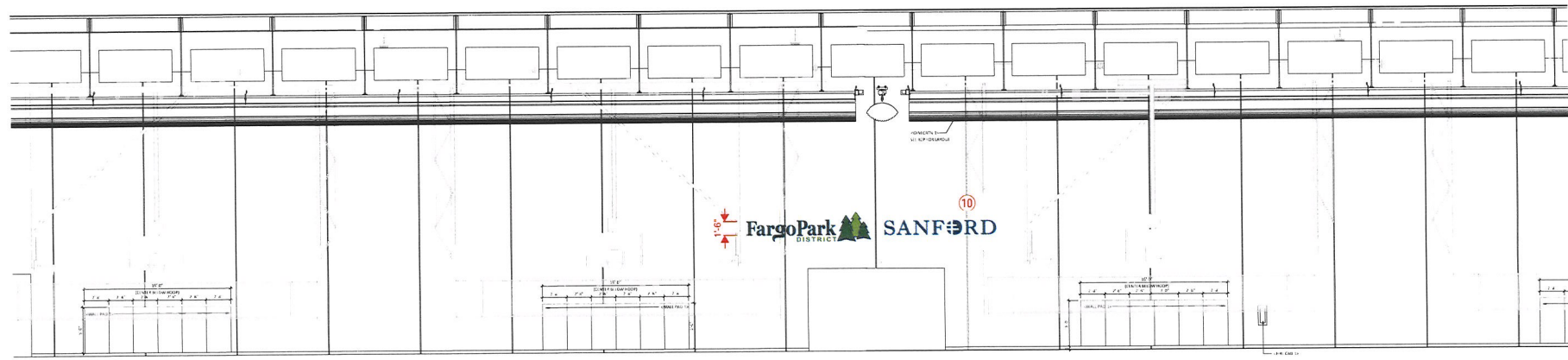
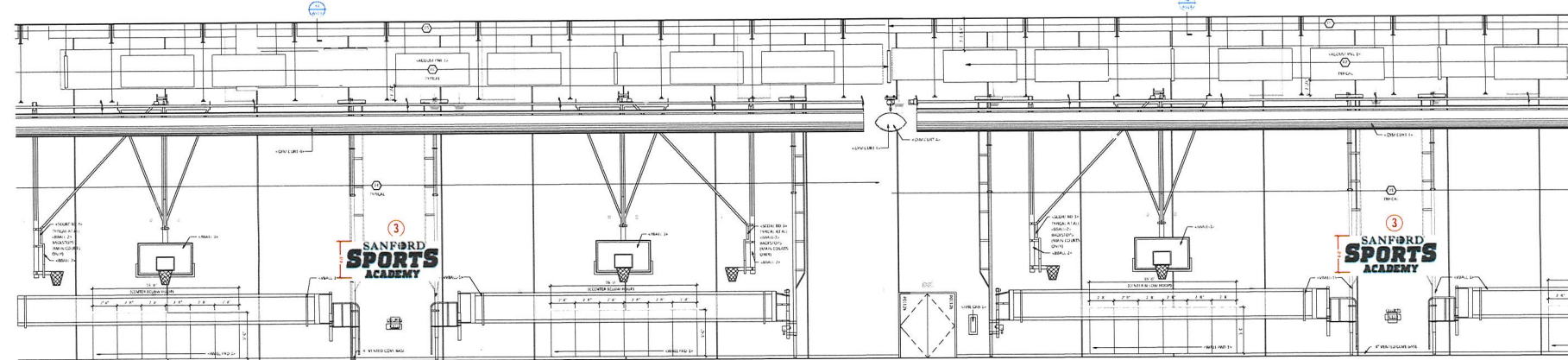


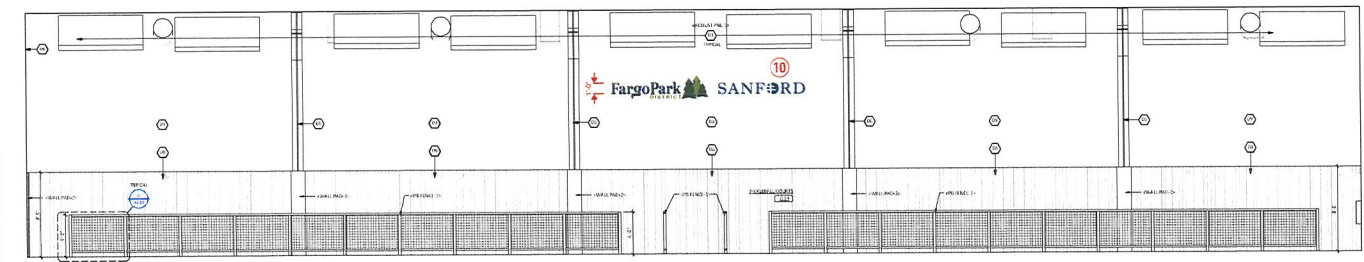
EXHIBIT E-3 (Interior Signage - Sheet 4)



BC EAST ELEV. B - COURTS
DATE 14.10.10



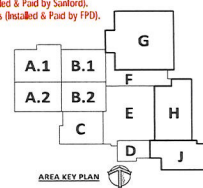
SA EAST ELEV. A - COURTS
DATE 10.10.10



BB SOUTH ELEVATION - PICKLEBALL
DATE 10.10.10

Interior Signage

- Key:
1. Basketball Center Ring: Sanford Sports Academy Logo (Installed & Paid by FPDI).
 2. Window Coating: Sanford Sports Academies Logo (Installed & Paid by Sanford).
 3. Courts Wall Graphic: Sanford Sports Academies Super Graphic (Installed & Paid by Sanford).
 4. Tart Wall Graphic: Sanford Sports Academies Super Graphic (Installed & Paid by Sanford).
 5. Double Door Graphic: on glass (Installed & Paid by Sanford).
 - 5.1 Mozzarella Cladding: Frosted film (Installed & Paid for by Sanford)
 6. East Training Frosted film (Installed & Paid by Sanford).
 7. Sanford Sports Performance Soffit Sign (Installed & Paid by Sanford).
 8. Sanford TV monitor: Sanford Sports sign above the TV surround (Installed & Paid by Sanford).
 9. Training Room: Sanford signage in room & outside of Room (Installed & Paid by Sanford).
 10. Interior Partnership Signage: Sanford and Fargo Park District signs (Installed & Paid by FPDI).





MEMORANDUM

DATE: April 17, 2024

TO: Fargo Park Board Facilities Committee

FROM: Kali Mork, Fargo Parks Sports Center Director

RE: Agenda Item No. 2 – Review Draft Lease Agreement with Sanford at Fargo Parks Sports Center

Since August of 2023, staff have been collaborating with representatives from Sanford on the development of Sanford's lease agreement for the Fargo Parks Sports Center. The lease covers spaces Sanford wishes to occupy or utilize. These spaces include the Sanford Sports area, use of one quadrant of turf and use of two hardwood courts.

Throughout the process, staff have worked to:

- Ensure the lease aligns with the Park District's role as a community organization and thus secures the public's access and ability to utilize the facility while also respecting the established partnership with Sanford
- Account for any lease related items agreed upon in the developers' agreement
- Honor the original terms of the partnership discussed during the conceptualization phase of the Sports Center

Key points to the draft lease agreement include the following:

- 20-year lease with a mechanism for two (2) additional 5-year option terms
 - Annual rent for the Sanford area as a pro rata portion of a variety of expenses based on a formula of square footages and shared common spaces
- Agreement for Sanford to utilize additional spaces within the facility
 - Turf (one quadrant): \$150,000 in rent annually
 - Hardwood Courts (two): \$100,000 per court in rent annually
- The Park District maintains its rights as owner to utilize the turf quadrant and courts for its purposes and rentals as needed

Staff is asking the Committee to review the lease and recommend moving this to the full board for consideration and approval. Staff is working on a few minor verbiage updates and will have a final version for consideration ahead of the facilities committee meeting. If you should have any questions, please feel free to contact me prior to the meeting.

Thank you.

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

LEASE AGREEMENT

This Lease Agreement (the “**Lease**”) is entered into by and between the Park District of the City of Fargo (the “**Park District**”) and **Sanford North** (“**Sanford**”). The Park District and Sanford are at times individually referred to in this Lease as a “**Party**” and collectively as the “**Parties.**”

RECITALS

A. The Park District is a North Dakota park district which is constructing a sports and recreation complex in Fargo, North Dakota, branded as the “Sanford Sports Complex”, with assistance from Sanford as specified in the Development Agreement between the parties (the “**Complex**”). The Complex is approximately 91.5 acres and, will include a building for indoor athletics (the “**Building**”), parking lots, and other outdoor amenities.

B. Sanford is a North Dakota non-profit corporation which operates, among other things, a dedicated fitness and athletic performance training center currently branded as “Sanford Sports Performance”, certain athletic sports academies, branded as “Sanford Sports Academies”, and other community wellness programs (collectively, “**Sanford Sports**”).

C. Located in the Building is space which will be used exclusively by Sanford to house Sanford Sports and support its programming and activities. The portion of the Building exclusively used by Sanford for Sanford Sports, and the other turf and court access being leased by Sanford under this Lease, shall be collectively referred to as the “**Premises.**” When the exclusive space, designated as Sanford POWER on Exhibit “A”, is specifically referenced, it shall be identified as the “**Sanford Space**”.

D. Sanford will lease the Sanford Space on a full-time, exclusive basis.

E. The “Premises,” as this term is used in this Lease, also includes Sanford’s rights to parking areas of the Complex, but no such parking areas are specifically designated for Sanford’s sole use. Sanford’s rights in and to the parking areas will be joint with other tenants and general public users of the Building.

F. The Park District desires to lease to Sanford, and Sanford desires to rent from the Park District, the Premises, under the terms and conditions of this Lease.

NOW, THEREFORE, in consideration of the mutual promises and conditions set forth, the Park District and Sanford agree as follows:

SECTION 1 PREMISES

1.1 Premises. The Park District owns good and marketable title to the Premises and has the power and authority to enter into and perform this Lease.

1.2 Agreement to Lease. The Park District leases to Sanford and Sanford leases from the Park District, the Premises upon the terms set forth in this Lease.

1.3 Condition of Premises. Sanford will accept the Premises in its “as-is” condition and acknowledges the Premises is habitable and fit for Sanford’s intended use and purposes.

SECTION 2 TERM

2.1 Initial Term. The initial term of this Lease will be 20 years (the “**Initial Term**”), commencing upon the date the Park District receives the certificate of occupancy for the Building, and the Park District relinquishes exclusive access to the Sanford Space to Sanford (the “**Commencement Date**”). The parties agree to memorialize the Commencement date by executing the attached Commencement Date Memorandum at Exhibit “B.”

2.2 Option to Renew. Sanford shall have the unilateral option to renew this Lease for up to two additional 5-year terms (each an “**Option Term**”) upon the conditions set forth in this Lease, by written notice given to the Park District at least 180 days prior to the expiration of the Initial Term and, if the first option is exercised, the first Option Term. This option right shall not be extinguished or affected by any prior notice of non-renewal delivered by the Park District to Sanford.

2.3 Automatic Renewal Terms. Subject to Section 2.2, this Lease will automatically renew for a one-year term (“**Renewal Term**”) upon the conditions set forth in this Lease, unless either party gives written notice of intent to terminate at least 120 days prior to the end of the Initial Term or the end of the first or second Option Terms, as applicable. Thereafter, this Lease will automatically renew for successive one-year Renewal Terms, each a Renewal Term, upon the same terms as set forth above, unless either party gives notice of termination no less than 120 days prior to the expiration of the then-current Term. The Initial Term, any Option Terms, and any Renewal Terms are collectively referred to in this Lease as the “**Term**”.

SECTION 3 RENT

3.1 Frequency. Rent due from Sanford to the Park District for the Sanford Space as described in Section 3.2 below, shall be paid in monthly installments based on the Park District’s reasonable estimate of the annual Direct Costs constituting Sanford’s Rent, as described in Section

3.2, made at the beginning of this Lease and each calendar year. At the end of each calendar year, the Park District shall certify and furnish a statement of Sanford's pro rata portion of all Direct Costs. If, at the end of any calendar year, the amount paid by Sanford is greater than its share as shown on such statement, the excess shall be credited against the next Rent payments due under this Lease or returned in cash to Sanford if the Term then expires. If, at the end of any calendar year, the amount paid by Sanford is less than Sanford's share as shown on such statement, the deficiency shall be payable with the next monthly Rent payment due under this Lease.

In the event this Lease terminates on a date other than the last day of a lease year, Sanford will be responsible for Sanford's Direct Costs for the portion of such lease year prior to the date the Lease terminated. Such amount will be calculated by (i) calculating Sanford's Direct Costs for the entire lease year, (ii) dividing such amount by the total number of days in such lease year, and then (iii) multiplying the quotient thereof by number of days in such lease year through the date upon which the Lease terminated.

3.2 Initial Term. Sanford's annual rent for the Sanford Space for the Initial Term shall be equal to its Direct Costs of operation. "**Direct Costs**" shall be computed as Sanford's pro rata portion (as described below) of the costs associated with operating the Building, if not separately metered for the Sanford Space, such as heating, cooling, gas, electrical service, operational expenses associated with common areas, utilities for the parking lot, maintenance and cleaning of the common areas, the maintenance, repair, and regular improvements to the mechanical, plumbing, electrical, and life safety (i.e. boilers, chillers, air handlers, fire alarms, fire sprinkler systems, etc.) systems supporting the Building, snow removal, yard care, garbage, and other miscellaneous cleaning, and property and liability insurance affecting the Building and Complex. Notwithstanding the foregoing, all costs of operating the indoor turf portion of the Building shall be the Park District's responsibility alone, including but not limited to heating, cooling, electricity, and maintenance, and calculation of Sanford's pro rata portion of Direct Costs will not include these costs. Sanford's use of the indoor turf and courts is leased separately, as reflected on Exhibit "C". Additionally, any costs for utilities or other services for the Premises which are separately metered to and/or paid by Sanford shall not be included in the Direct Costs. By way of example only, if electricity to the Sanford Space is separately metered to and paid by Sanford, the Direct Costs shall not include a pro rata portion of electricity costs for the Building but shall include Sanford's pro rata share of the total square feet of the common areas in the Building used by Sanford.

Sanford's pro rata portion shall be calculated by the following formula:

$$\left(\frac{\text{Square feet of the Sanford Space}}{\text{Total gross square feet of the Building}} \right) \times \text{Common Area Multiplier}$$

The Common Area Multiplier is calculated as follows:

$$\left(\frac{\text{Total Square feet of Common Areas in the Building Used by Sanford}}{\text{the Total gross square feet of the Building}} \right) + 1.00$$

The parties understand and acknowledge that the total gross square feet of the Building, Total Square feet of Common Areas in the Building Used by Sanford, and the Common Area Multiplier may vary during the term of this Lease as the result of possible future additions or expansion to the Building. The parties shall recalculate Sanford's pro rata portion of the Direct Costs in the event of such additions or expansions, and amend this Lease in writing to reflect the same.

Sanford's annual rent for its use of the portion of the Premises not identified as the Sanford Space is described on the attached Exhibit "C".

3.3 Option and Renewal Terms. Rent for any Option Term, if exercised, or for the first Renewal Term if an Option Term is not exercised, shall be calculated on a square footage basis at fair market value. In the event the Parties cannot agree as to fair market value, the parties shall select an appraiser, broker, or other real estate professional of their mutual choosing to establish fair market value for the Premises, such valuation being binding for the Option Term or first Renewal Term, as applicable. If the Parties cannot agree on appraiser, broker, or other real estate professional, each party shall select their own appraiser, broker, or other real estate professional to establish the fair market value for the Premises. The Rent shall be the average of the two fair market values, provided that if the difference between the values is greater than 10%, then the two appraisers, brokers, or other real estate professionals, shall appoint a third appraiser, broker, or other real estate professional to establish an independent fair market value for the Premises. The rent shall then be the average of the two fair market values which are closest in value to one another, provided that if one of the fair market values equals the average of the other two fair market values, that appraised value shall be the fair market value. This same process shall be repeated for the second Option Term, if exercised. Annual rent for any subsequent Renewal Term shall be established at a 3% increase over the Rent for the then-current term. For the sake of clarity:

- a. Option Term 1 – Rent is fair market value as determined in this Section. Rent shall annually increase by 2% during Option Term 1.
- b. Option Term 2 – Rent is fair market value as determined in this Section Rent shall annually increase by 2% during Option Term 2.
- c. Renewal Term 1 – If no Option Term is exercised, Rent is fair market value as determined in this Section. If an Option Term is exercised, Rent is 2% above Rent for final Option Term.
- d. Subsequent Renewal Terms – 2% above Rent for previous Renewal Term.

SECTION 4 USE OF PREMISES AND EXCLUSIVITY

4.1 Use of Premises. The Sanford Space will be used by Sanford to house Sanford Sports and the Premises generally will be used by Sanford for activities and uses which support Sanford

Sports. Any different use by Sanford will require the prior written consent of the Park District, which consent shall not be unreasonably withheld.

4.2 Legal Compliance. Sanford will conduct on the Premises all activities in full compliance with all applicable local, state, and federal ordinances, laws, statutes, and regulations. Sanford will be solely liable for any violations of any of the foregoing, except where such violations are not a result of the Sanford's activities (i.e. building code violations by the Park District). To the extent required, Sanford will be solely responsible for obtaining (and all associated costs and expenses) any and all permits and approvals necessary for Sanford's use of and operations upon the Premises, except where such permits and approvals are not a result of Sanford's use or operations upon the Premises.

4.3 Exclusivity. The parties understand and agree that Sanford has made a substantial financial and operational investment in the Complex through the Development Agreement and this Lease. In addition to those benefits stated in the Development Agreement, Sanford shall receive exclusive benefits in usage and programming in recognition of its investments in the project:

- (a) Sanford shall have exclusive use of the Sanford Space at all times;
- (b) Sanford shall have exclusive use of the other spaces in the Building and Complex, as specified on Exhibit "C";
- (c) Sanford shall have a right of first refusal to provide any and all medical services at the current Sanford rates in or about the Complex, including for medical and training coverage for games, activities, and other events. Notwithstanding, this provision does not apply to any team or organization that has a contract for medical services with a specific medical provider. Such team or organization is permitted to use to their contracted medical provider only to provide services to that team or organization during games held in or about the Complex, and the contracted medical provider shall not provide any other services in or about the Complex. As provided in Section 12, in the event Sanford declines to provide requested medical coverage on a given occasion, such refusal shall not invalidate or otherwise infringe upon the right of first refusal granted in this subsection for any other needed and/or requested medical services or coverage.
- (d) The Park District shall not sell advertising or signage, or knowingly lease any space for any activities or programming operated by, or advertising and/or publicly promoting, a Health Care Organization other than Sanford and its affiliates. A "Health Care Organization" shall be defined as any business, charity, organization, or other enterprise engaged in the operation of (i) a medical hospital; (ii) a healthcare clinic (iii) sports medicine clinics; (iv) physical therapy and rehabilitation clinics; (v) orthopedic clinics; and (vi) primary care clinics, which shall be defined as ambulatory clinics serving the areas of pediatrics, family medicine, internal medicine, and/or obstetrics

and gynecology. The Park District shall make reasonable efforts to ensure third-party organizations that lease any space comply with the terms of this provision, however, the Park District shall not be considered in breach of this Lease for any breach of this provision by third-party organizations.

- (e) The Park District shall not lease any space for activities or programming in the Building and/or Complex to any third-party which is in direct competition with programming offered by Sanford Sports in the Building and/or Complex. For clarity, the term “programming” in this Section applies to training academies, skills camps, recurring training programs, recurring strength & conditioning programs, and does not apply to game rentals, tournaments or other competitions, recreational practices and/or recreational training sessions for organizations that regularly compete against other organizations or individuals. Sanford recognizes that the Building and the Complex are to be operated for the benefit of the public and that terms of this provision shall be interpreted narrowly, so as to provide the most opportunities for other organizations and individuals to use the Building and the Complex, while recognizing Sanford’s substantial investment in the Building and Complex. By way of example, Fargo Youth Hockey Association, AAU Basketball, Tri-City Soccer, Red River Infinity and other similar organizations which solely or primarily function to provide teams for competition versus dedicated athletic training, are not considered to be in direct competition with Sanford Sports, and such organizations will be permitted to lease courts and/or turf from the Park District.

The Parties shall collaborate annually to prepare a list in good faith of organizations which are considered direct competitors to Sanford Sports, and which shall not be permitted to lease space in the Building and/or Complex in accordance with this Section. It is expressly agreed that any third-party not listed shall be permitted to lease space in the Building and/or Complex. The Parties may collaborate to amend the list on less than an annual basis if needed to add or remove a listed party. To the extent the Parties disagree whether an organization is considered a direct competitor to Sanford Sports Performance or Academies, the Park District shall have final authority on whether such organization is permitted to lease space in the Building and/or Complex. In the event the Park District exercises the final authority identified in the preceding sentence, the Park District agrees it will not lease Sanford’s turf or court space, and to the extent reasonably practicable, will not lease any turf or court space directly adjacent to Sanford’s turf and court space, to such organization.

SECTION 5 TAXES AND ASSESSMENTS

5.1 Taxes. Sanford will pay all taxes assessed against the Complex, its underlying real property, and contained personal property, that result from Sanford's occupation of the Premises, it being understood that the balance of the Complex should be tax-exempt because of the Park District's ownership and use.

5.2 Special Assessments. Sanford shall pay a prorated share of special assessments assessed against the Complex consistent with the formula described in Section 3.2, it being understood that special assessments are taxed against the Complex despite the Park District's ownership and use.

SECTION 6 MAINTENANCE AND REPAIR OF PREMISES

6.1 Maintenance and Repair. The Park District shall be responsible for providing all labor and equipment necessary to operate the Building, as identified as part of the Direct Costs in Section 3.2. Sanford shall be responsible to pay for its pro rata portion of the Direct Costs as described in Section 3.2. If the Park District provides staff to carry out any of the maintenance and repair, the Park District will do so in accordance with its standard for maintenance and repair of similar facilities.

Sanford shall be responsible for providing all labor and equipment necessary to maintain, repair, clean, provide supplies for, and provide regular maintenance for the Sanford Space. Sanford shall be responsible for providing all labor and equipment necessary to repair any damage to the Building outside of the Sanford Space caused by Sanford's use of the Building, including but not limited to the turf, courts, or common areas, normal wear and tear excepted. Sanford shall be responsible for the removal of all biohazard materials associated with the operations of Sanford's activities.

6.2 Additional Improvements and Alterations. Neither Party shall be responsible for the costs of additional improvements to the Complex without the written consent of each Party, it being understood that additional improvements and alterations to the Sanford Space will be paid for by Sanford but will be subject to the written consent and approval of the Park District, which approval shall not be unreasonably withheld. Trade fixtures, equipment, and other personal property that are installed in or brought upon the Premises by Sanford will remain Sanford's property and may be removed by Sanford at any time during the Term, provided that Sanford promptly repairs all damage resulting from the installation or removal of such trade fixtures, equipment and other personal property.

6.3 Utilities. The Park District shall be responsible for arranging for the appropriate utilities to service the Complex, including the Sanford Space, to include water, electricity and natural gas. The Park District shall be responsible for providing telephone, internet and similar services to the Building, but not including the Sanford Space, as the provision of such services to the Sanford Space will be Sanford's responsibility. To the extent reasonably available, the Park District and

Sanford will coordinate providing the wiring throughout the Building so that the materials and installation will be common throughout the entire Building.

SECTION 7 INSURANCE

7.1 Casualty Insurance. The Park District will purchase and maintain insurance on the Complex, including the Building, site improvements and underlying real property, in an amount not less than their full replacement cost from time to time, providing protection against any peril included within the classification of fire and extended coverage, together with insurance against vandalism and malicious mischief.

7.2 Improvements Furnished by Sanford; Personal Property. Sanford will be responsible for casualty insurance covering the items comprising Sanford's leasehold improvements, trade fixtures, equipment and personal property from time to time in, on or upon the Premises. The Park District's insurance obligations in Section 7.1 shall not include coverage for the items specified in this Section 7.2.

7.3 Liability Insurance. Sanford will purchase and maintain in force a policy of commercial general liability insurance covering the Premises and all operations of Sanford in or about the Premises for bodily injury and property damage liability for limits of liability not less than: (a) \$1,000,000.00 for each occurrence (combined single limit for bodily injury and property damage); (b) \$1,000,000.00 for personal injury liability; (c) \$1,000,000.00 aggregate for products-completed operations; and (d) \$1,000,000.00 general aggregate.

7.4 Waiver of Subrogation. Notwithstanding anything in this Lease to the contrary and to the extent permitted by their respective insurers, the Park District and Sanford mutually waive any right of subrogation and release and discharge each other from all claims and liabilities arising from or caused by any hazard covered by insurance required to be carried under this Lease; provided, however, this waiver will not be applicable to the portion of any damage that is not reimbursable because of the deductible in the insurance coverage. All policies of property insurance required to be carried by either party for the Complex or the Premises, or personal property or fixtures in the Complex or the Premises must include a clause or endorsement denying to the insurer rights by way of subrogation against the other party to the extent rights have been waived by the insured before the occurrence of injury or loss.

SECTION 8 DESTRUCTION OF PREMISES

8.1 Partial Destruction. In the event of partial destruction of or damage to the Premises which prevents the conducting of normal business operations but which is reasonably repairable within 180 days after its occurrence, this Lease will not terminate, but the Rent will abate during the time of such business interference. In the event the partial destruction is reasonably repairable within 180 days, the Park District must repair all damage within 180 days of its occurrence, unless prevented from doing

so by acts of God, elements, public enemy, strikes, riots, insurrection, government regulations, city ordinances, labor, material or transportation shortages, or other causes beyond the Park District's reasonable control. In the event the Park District and Sanford contemplated that repairs could be completed within the 180 days and the Park District has diligently proceeded with causing the repairs to be completed, if not completed within 240 days after the occurrence, Sanford may terminate the Lease with 30 days' written notice.

8.2 Total Destruction. In the event of destruction or damage to the Premises, including the parking area, so that Sanford is not able to conduct its business on the Premises and which destruction or damage cannot be reasonably repaired within 180 days, this Lease may be terminated at the option of either the Park District or Sanford. Termination will be effected by written notice of one Party to the other, within 30 days after the event of destruction or damage. Sanford will surrender possession within 90 days after the date of the notice, and each party will be released from all future obligations under this Lease. In the event neither Party elects to terminate this Lease, the Park District must rebuild or repair the Premises to substantially the same form and nature of the Premises prior to the destruction or damage (not to include Sanford' installed fixtures, improvements and personal property), at the sole cost of the Park District, and all Rent will abate during the time of any business interference. In the event the Park District elects to terminate this Lease under this Section 8.2, but later rebuilds or repairs the damage such that the Premises could once again be used for Sanford's purposes (as determined in Sanford's sole discretion), the Park District shall offer Sanford a new lease for the rebuilt or repaired Premises on the same terms for the time remaining in the Lease Term, less the time period in which Sanford was not able to use the Premises. Sanford shall be free to accept or reject the new lease offer in its sole discretion.

8.3 Insurance Proceeds. All insurance proceeds received as a result of a partial or total destruction of the Premises will be the sole property of the Park District, except to the extent such proceeds relate directly to the fixtures and leasehold improvements which belong to Sanford and which Sanford has a right to remove at the expiration of the term of this Lease, in which case such proceeds will belong to Sanford.

SECTION 9 INDEMNIFICATION

9.1 By Sanford. Sanford will indemnify, defend and hold harmless the Park District, the Park District's employees, agents, contractors, licensees and invitees ("**Park District Indemnified Parties**") from and against all actions, claims, demands, costs, damages or expense of any kind on account thereof, including reasonable attorneys' fees, that are brought or made against any Park District Indemnified Party, or which any Park District Indemnified Party may pay or incur, by Sanford's failure to perform its obligations under this Lease, Sanford's negligence or intentional misconduct, or from activities occurring on or in the Sanford Space and other parts of the Complex when being exclusively used by Sanford. This indemnity obligation will survive the termination of this Lease.

9.2 By the Park District. The Park District will indemnify, defend and hold harmless Sanford, Sanford's employees, agents, contractors, licensees and invitees ("**Sanford Indemnified Parties**") from and against all actions, claims, demands, costs, damages or expenses of any kind on account thereof, including reasonable attorneys' fees, which may be brought or made against any Sanford Indemnified Party, or which any Sanford Indemnified Party may pay or incur, by reason of the Park District's failure to perform its obligations under this Lease, the Park District's negligence or intentional misconduct, and activities occurring outside the Sanford Space, but in the Building or Complex. When Sanford is exclusively using a portion of the Building or Complex, the Park District's indemnification obligation under this Section shall not extend to the location being used by Sanford during the time of Sanford's exclusive use. This indemnity obligation will survive the termination of this Lease.

SECTION 10 DEFAULT

10.1 Events of Default by Sanford. The occurrence of any of the following will constitute a default by Sanford of this Lease:

- (a) Sanford fails to pay rent 60 days beyond when due;
- (b) Sanford fails to timely observe or perform Sanford's other covenants or obligations in this Lease within 60 days following receipt by Sanford of a written notice specifying the matters then in default, provided that additional time reasonably required to cure the matters in default will be allowed so long as Sanford is diligently pursuing all actions required to cure the matters for which a default is claimed; or
- (c) Sanford files or has filed against it a petition in bankruptcy or insolvency, or for appointment of a receiver or trustee, or if Sanford makes an assignment for the benefit of creditors, and such adjudication, appointment, assignment, petition, execution or attachment will not be set aside, vacated, discharged or bonded within 60 days after the determination, issuance or filing of such petition.

10.2 Remedies of the Park District. Upon the occurrence of any default under Section 10.1 and so long as the default continues, the Park District may exercise one or more of the following remedies, as the Park District may lawfully elect to:

- (a) demand that Sanford pay all amounts then due from Sanford and for other amounts which may arise from Sanford's failure to return possession of the Premises as provided in this Lease; and
- (b) by notice in writing, terminate this Lease, whereupon all rights of Sanford's use of the Premises will terminate. The foregoing remedies are cumulative, and any or all may be

exercised instead of or in addition to each other or any other remedies at law, in equity, or under statute.

10.3 Events of Default the Park District. The occurrence of any of the following will constitute a default by the Park District of this Lease:

(a) The Park District fails to pay any amounts payable to Sanford under this Lease, which failure continues for a period of 60 days following the receipt by the Park District of a written notice of such failure;

(b) The Park District fails to timely observe or perform the Park District's other covenants or obligations in this Lease within 60 days following receipt by the Park District of a written notice specifying the matters then in default, provided that additional time reasonably required to cure the matters in default will be allowed so long as the Park District is diligently pursuing all actions required to cure the matters for which a default is claimed.

10.4 Remedies of Sanford. Upon the occurrence of any default under Section 10.3 and so long as the default continues, Sanford may exercise one or more of the following remedies, as Sanford may lawfully elect to:

(a) demand that the Park District pay all amounts then due from the Park District; and

(b) by notice in writing, terminate this Lease, whereupon all obligations of Sanford under this Lease will terminate. The foregoing remedies are cumulative, and any or all may be exercised instead of or in addition to each other or any other remedies at law, in equity, or under statute.

SECTION 11 THE PARK DISTRICT'S ENTRY ON PREMISES

11.1 Entry Rights. The Park District shall have the right to enter the Premises for the purpose of inspecting the same or of making repairs, additions or alterations, provided that consent is previously received from Sanford, which will not be unreasonably withheld. Such entry shall be accomplished in a non-obtrusive manner so as to limit dust, noise, and other disturbance to Sanford. For any significant repairs, additions, or alterations, the Park District shall reasonably schedule with Sanford in advance to avoid disruption to Sanford and its business. In the event of an emergency situation on or about the Premises, the Park District will have the right to enter upon the Premises at any time, including outside business hours, without prior notice to Sanford.

**SECTION 12
WAIVER**

12.1 No Waiver. The waiver by the Park District or Sanford of any breach of any term, covenant or condition of this Lease will not be deemed to be a waiver of any past, present or future breach of the same or any other term, covenant or condition of this Lease.

**SECTION 13
NOTICES**

13.1 Notices. Any notice or demand required to be given under this Lease will be deemed given and delivered on the date when addressed as follows and (i) personally delivered; (ii) deposited with the United States Postal Service, registered or certified mail, postage prepaid and properly addressed, return receipt requested; or (iii) sent via a recognized over-night courier service, provided that proof of delivery is obtained, to:

If to Landlord: Park District of City of Fargo
 Attn: Executive Director
 6100 38th St. South
 Suite A
 Fargo, ND 58104

If to Tenant: Sanford North
 Attn: Legal Department
 801 Broadway N
 P.O. Box 2010
 Fargo, ND 58122-0001

Either party may change its above address or facsimile number by notice in writing delivered to the other party in accordance with the provisions of this Section.

**SECTION 14
SURRENDER OF PREMISES**

Upon the expiration or earlier termination of this Lease, Sanford will surrender possession of the Premises to the Park District and remove or cause to be removed from the Premises all debris, furniture, equipment, business and trade fixtures, movable partitions and other items of personal property owned by Sanford, and all similar items of any other persons claiming under Sanford, and Sanford will, before expiration or termination, repair all damage to the Premises resulting from this removal. Any improvements to the Premises by the Park District will become the sole property of the Park District upon expiration or termination of this Lease; it being the intent of the Parties that Sanford will remove from the Premises only Sanford's movable personal property.

SECTION 15 MISCELLANEOUS

15.1 Assignment and Subletting. Sanford may not transfer, assign or sublet this Lease or Sanford's interest in and to the Premises, including but not limited to Sanford's rights to usage of the Turf and Courts as outlined on Exhibit "C", or otherwise transfer this Lease without the prior written consent of the Park District, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Sanford may assign this Lease to a Sanford wholly owned parent, subsidiary, or affiliate. However, Sanford shall not be released from any of its financial obligations under this Lease without a written release by the Park District, which shall be given or denied at the Park District's sole discretion. The Park District may not assign and transfer this Lease and its interest in the Premises, without the prior written consent of Sanford, which consent shall not be unreasonably withheld.

15.2 Severability. If any term or provision of this Lease is determined by a court of competent jurisdiction to be invalid or unenforceable and such term does not substantially change the intent of the parties as described in the Development Agreement, the remainder of this Lease will not be affected thereby and each term and provision of this Lease will be valid and enforceable to the fullest extent permitted by law.

15.3 Binding Effect. The covenants, agreements and obligations in this Lease will extend to, bind, and inure to the benefit of the Parties and their respective successors and assigns, as those parties may come into being under the terms of this Lease or by operation of law.

15.4 Relationship to Development Agreement. This Lease is a companion agreement to that certain Development Agreement pertaining to the construction and development of the Complex. The Development Agreement and this Lease shall be construed together to exclusively govern the relationship between the Parties as to all matters pertaining to the acquisition, construction, and use of the Complex.

15.5 Governing Law; Venue. This Lease will be governed by and construed in accordance with the laws of the State of North Dakota. Any case or controversy shall be venued in the state or federal courts encompassing Fargo, North Dakota.

15.6 Force Majeure. Whenever a period of time is provided in this Lease for either party to do or perform any act or thing, that party will not be liable or responsible for any delays, and applicable periods for performance will be extended accordingly, due to strikes, lockouts, riots, acts of God, shortages of labor or materials, national emergency, epidemic or pandemic, acts of public enemy, governmental restrictions, laws or regulations, or any other cause or causes, whether similar or dissimilar to those enumerated, beyond its reasonable control.

15.7 No Relationship. Nothing contained herein may be deemed or construed by anyone as creating the relationship of principal and agent or of partnership or of joint venture between the Parties.

15.8 Headings. The headings of the several sections contained in this Lease are for convenience only and do not define, limit, or construe the contents of such sections.

15.9 Recitals. The Recitals are substantive and shall be incorporated in, and given full force and effect in any interpretation of, this Lease.

[signature page to follow]

LANDLORD:

Park District of City of Fargo

By _____

Its _____

Date _____

TENANT:

Sanford North

By _____

Its _____

Date _____

Exhibit A

Sanford's exclusive "Sanford Space" in the Premises is depicted as the yellow area marked "POWER." This Exhibit may be updated by the Parties with a final depiction of the Complex design as it becomes available.

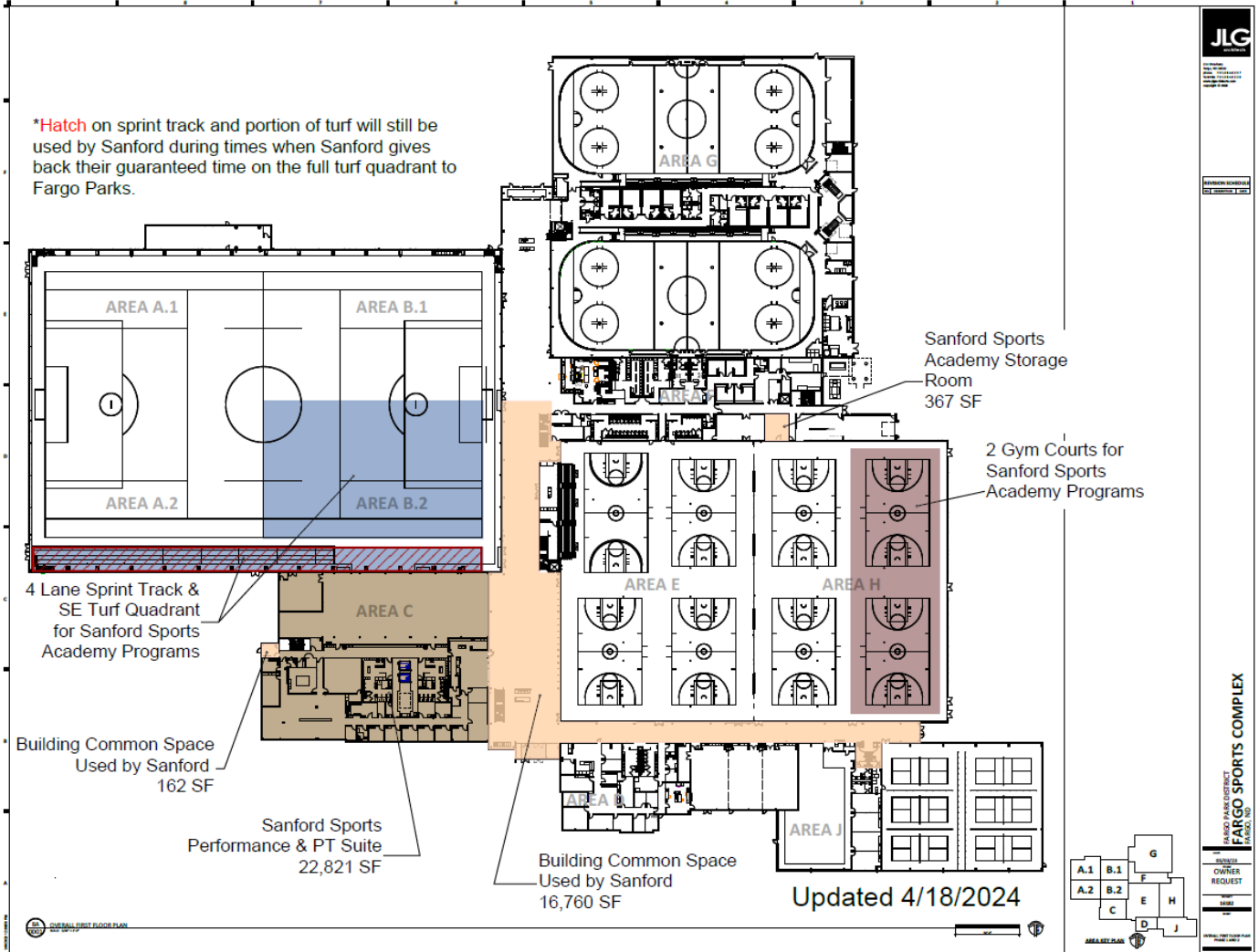


Exhibit B

Commencement Date Memorandum

THIS COMMENCEMENT DATE MEMORANDUM is entered into effective as of _____, 2024, by and between the Park District of the City of Fargo (the “**Park District**”) and Sanford North (“**Sanford**”).

The Park District and Sanford are parties to that certain Lease Agreement (the “**Lease**”), with respect to certain portions of the sports and recreation complex, branded as the “Sanford Sports Complex.” In accordance with Section 2.1 of the Lease, the parties acknowledge and agree that the Commencement Date of the Lease is _____, **2024**.

The Park District and Sanford acknowledge and agree that until Phase 2 completion, the following are accurate square footages as of the Commencement Date:

Square footage of the Building: 250,373 sf.

Square footage of Sanford Space: 22,821 sf.

Square footage of Common Areas used by Sanford: 17,289 sf

CAM Multiplier: 1.0691

Sanford’s Pro Rata Share of Direct Costs: 0.0974 or 9.74%

The Park District and Sanford acknowledge and agree that after Phase 2 completion, the following are accurate square footages as of the Commencement Date:

Square footage of the Building: 392,892 sf.

Square footage of Sanford Space: 22,821 sf.

Square footage of Common Areas used by Sanford: 17,289 sf

CAM Multiplier: 1.044

Sanford’s Pro Rata Share of Direct Costs: 0.0606 or 6.06%

[signature page follows]

LANDLORD:

Park District of City of Fargo

By _____

Its _____

Date _____

TENANT:

Sanford North

By _____

Its _____

Date _____

Exhibit C

Additional Complex Access and Use Requirements in Building

These Access and Use Requirements (collectively, the “Requirements”) are part of the Premises as defined in the Lease, but do not include the Sanford Space. The Parties may agree to mutually amend at any time in writing. Unless earlier amended, these Requirements shall remain in place for the duration of the Lease Term.

1. TURF USE: Sanford shall have the exclusive right to use portions of the turf as follows. For clarity, all references to Sanford’s exclusive “turf” space shall include the adjacent sprint track and extended turf strip, as identified in the diagonal red hatched space on Exhibit “A”:
 - Sanford’s dedicated space shall be 25% of the total size of the turf.
 - Sanford’s dedicated turf space shall be adjacent to the turf-level track and shall include use of the turf-level track.
 - The exclusive times for Sanford to use the dedicated turf space (52 weeks/yr) shall be their standard posted operating hours as of the Commencement Date, which are currently:
 - September - March (*School Hours - About Labor Day to around Memorial Day; varies depending on the calendar)
 - Monday-Thursday: 5:30 a.m. - 9:00 p.m.
 - Friday: 5:30 a.m. - 8:00 p.m.
 - Saturday: 7:00 a.m. - 12:00 noon
 - Sunday: Closed
 - June - August (*Summer Hours - About Memorial Day to around Labor Day; varies depending on the calendar)
 - Monday-Thursday: 5:30 a.m. - 8:00 p.m.
 - Friday: 5:30 a.m. - 7:00 p.m.
 - Saturday: Closed
 - Sunday: Closed
 - Sanford shall have the right to extend its standard posted operating hours by providing the Park District 30 days’ notice. If the Park District has already leased any portion of Sanford’s turf space prior to receiving notice of extended hours under this Section, the parties will collaborate in good faith to find alternative space for Sanford to the greatest extent possible, and to minimize disruptions for either party and their respective operations. Extension of Sanford’s operating hours may not exceed the following times without prior written approval by the Park District:
 - September - March (*School Hours - About Labor Day to around Memorial Day; varies depending on the calendar)
 - Monday-Thursday: 5:30 a.m. - 10:00 p.m.
 - Friday: 5:30 a.m. - 10:00 p.m.

- Saturday: 7:00 a.m. - 2:00 p.m.
 - Sunday: Closed
 - June - August (*Summer Hours - About Memorial Day to around Labor Day; varies depending on the calendar)
 - Monday-Thursday: 5:30 a.m. - 10:00 p.m.
 - Friday: 5:30 a.m. - 10:00 p.m.
 - Saturday: 7:00 a.m. - 2:00 p.m.
 - Sunday: Closed
- **Rent for the dedicated turf use shall start at \$150,000 per year, payable in 12 monthly installments of \$12,500.00.**
 - Rent for the dedicated turf shall increase annually by the lesser of (i) 3% or (ii) the increase in the rental rate to the public, if any.
- Subject to availability, Sanford may rent additional turf space for its operations from time to time (not including tournaments or special events which shall follow the Park District's standard rental agreements). Additional turf space may be rented by Sanford at the rate of 80% of the then going market rate for turf rentals that the Park District charges other users.
- Sanford shall not assign, sublease, or allow other entities to use its designated turf space during its exclusive times or outside of its exclusive times, except as part of any ongoing training programs conducted as part of Sanford Sports operations.

2. COURT USE: Sanford shall have the right to use 2 full basketball courts as follows:

- The exclusive time for Sanford to use the dedicated courts including the basketball and volleyball standards associated with those courts shall be their standard posted operating hours as of the Commencement Date, which are currently::
 - June - November:
 - Monday - Friday: 8:00 a.m. 10:00 p.m.
 - Saturday & Sunday: 9:00 a.m. – 6:00 p.m.
 - December - March
 - Monday - Friday: 6:00 a.m. – 8:00 p.m.
 - Saturday & Sunday: 9:00 a.m. – 2:00 p.m.
 - April - May
 - Monday - Friday: 10:00 a.m. – 8:00 p.m.
 - Saturday & Sunday: 9:00 a.m. – 5:00 pm
- Sanford shall have the right to extend its standard posted operating hours by providing the Park District 30 days' notice. If the Park District has already leased any portion of Sanford's court space prior to receiving notice of extended hours under this Section, the parties will collaborate in good faith to find alternative space for Sanford to the greatest extent possible, and to minimize disruptions for either party and their respective operations. Extension of Sanford's operating hours may not exceed the following times without prior written approval by the Park District:
 - June - November:

- Monday - Friday: 8:00 a.m. 10:00 p.m.
 - Saturday & Sunday: 9:00 a.m. – 6:00 p.m.
 - December - March
 - Monday - Friday: 6:00 a.m. – 10:00 p.m.
 - Saturday & Sunday: 9:00 a.m. – 4:00 p.m.
 - April - May
 - Monday - Friday: 10:00 a.m. – 10:00 p.m.
 - Saturday & Sunday: 9:00 a.m. – 6:00 pm
 - **Rent for the use of these dedicated courts is \$100,000 per court per year for total rent of \$200,000 per year, payable in 12 monthly installments of \$16,666.66.**
 - Rent for the dedicated court shall increase annually by the lesser of (i) 3% or (ii) the increase in the rental rate to the public, if any.
 - Subject to availability, Sanford may rent additional court space for its operations from time to time (not including tournaments or special events which shall follow the Park District’s standard rental agreements). Additional courts may be rented by Sanford at the rate of 80% of the then going market rate for court rentals that the Park District charges other users.
 - Sanford shall not assign, sublease, or allow other entities to use its designated court space during its exclusive times or outside of its exclusive times, except as part of any ongoing training programs conducted as part of Sanford Sports operations.
 - The Parties acknowledge and agree that until Phase 2 completion, Sanford will only have the right to use and shall only be charged for one dedicated court.
3. **UNUSED TURF/COURT SPACE.** The parties will communicate and collaborate on an ongoing basis about expected turf and court usage, and will make every effort to keep one another apprised of their expected use. If Sanford believes it will not use its turf or court spaces for a particular date or dates, it will communicate this to the Park District with as much advance notice as reasonably possible. The Park District shall be entitled to lease this unused Sanford space to third-parties. If a third-party does lease this unused space, Sanford shall be given a credit towards its usual Rent for the time period leased to the third-party at the rate of \$26/hr, which shall increase with any Rent increases at the same percentage calculated in this Section. If the unused space is not leased to any third-party, Sanford shall pay its usual Rent for the subject time. The parties shall reconcile such rent credits quarterly.
- a. For clarity, in the event the Park District leases Sanford’s unused turf space to a third-party, Sanford shall still be entitled to exclusive use of the adjacent sprint track and extended turf strip, as identified in the diagonal red hatched space on Exhibit “A”:
4. **EVENT SCHEDULING:** Notwithstanding the above, the Park District shall have the right to use Sanford’s dedicated turf and/or court space for event purposes, The Park District shall provide Sanford with at least 90 days’ notice of events which the Park District believes will require the use of Sanford’s dedicated turf and/or court space. The Park District shall provide

Sanford with at least 60 days' notice of the final determination of if the dedicated turf and/or court is required. The Park District shall not be limited in the amount of Friday/Saturday/Sunday events that it can schedule requiring use of the Sanford dedicated turf and/or court space.

Each calendar year, the Park District shall be entitled to 8 Friday/Saturday/Sunday events to utilize Sanford's dedicated turf space and a separately counted 8 Friday/Saturday/Sunday events to utilize Sanford's dedicated courts without any credit to Sanford. After the 8 events for each turf and court space, Sanford shall be given a credit of its usual Rent for the time period leased to a third party that would have otherwise fallen within Sanford's exclusive use times. This credit shall be at the rate commensurate with the hourly credits listed in Sections 1 and 2 for leasing of the space to third parties. Tournaments or events hosted by Sanford and its affiliates shall be excluded from the count of Friday/Saturday/Sunday events utilizing their dedicated spaces.

5. SANFORD'S USE OF DEDICATED TURF AND COURTS. Sanford shall provide its own equipment to operate its activities. Sanford's designated times for use of its designated turf space and courts shall be inclusive of set up and take down. Sanford shall remove all of Sanford's equipment from the designated turf and courts daily.
6. SANFORD'S OPERATIONS DURING NON-PARK DISTRICT HOURS. Should Sanford's use of the Premises be conducted outside of normal Park District operating hours of the Building, the Park District shall staff the front desk of the Building during the non-Park District operating hours of the Building with a Park District employee. Sanford shall reimburse the Park District for all employee expenses incurred by the Park District for staffing the front desk for the benefit of Sanford during non-Park District operating hours of the Building.



MEMORANDUM

DATE: April 17, 2024

TO: Fargo Park Board Facilities Committee

FROM: Tony Schmitt, Park Director

RE: Agenda Item No. 3 – Consideration of request from Fargo Area Sports for proposed Bennett Park field improvements

Fargo Area Sports is asking for consideration of proposed Bennett Park field improvements. Included is an overview of the planned improvements, along with the associated costs. Alex Sumner with Fargo Area Sports and Reggie Jackson with Shanley High School will be attending the meeting to discuss their proposal.

We are asking the Committee to review Fargo Area Sports proposal and move the consideration for approval to the full board.

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

Thank you.



Monday, April 15, 2024

Dear Fargo Park District Facilities Committee,

Fargo Area Sports and Shanley Athletics would like to partner on a field renovation project with the approval of the Fargo Park District. The field, in plan, is located near Bennett Elementary on the skin field just east of the school. The proposed project would include:

- Enclosed fencing with foul poles
- Bleachers
- Scoreboard
- Infield repair

The request would be Fargo Area Sports and Shanley Athletics cover costs close to \$100,000 with requesting the Fargo Park District repairing the home plate area and adding sod around the lip of the outfield to align with field requirements through NFHS.

Thank you for considering this request and helping provide a good experience for girls in our community.

Sincerely,

Alex Sumner
President/CEO, Fargo Area Sports
701-232-9225
alex@fargoareasports.com



200.0'





MEMORANDUM

DATE: April 9, 2024

TO: Fargo Park Board Facilities Committee

FROM: Keivn Boe, Recreation Director

RE: Agenda Item No. 4 – Review of Lease Agreement for Bus Barn located at Yunker Farm

The Bus Barn located at 1120 32nd Ave North (Yunker Farm) has a lease dated September 28th, 1988, with an organization called American Legion Gilbert C Grafton Post No. 2, this organization was a combination of the American Legion and Fargo Post 2 Baseball.

Staff has been meeting with representatives of the American Legion Group and Fargo Post 2 Baseball to develop new leases for the Bus Barn. The two organizations are working in a different capacity and there is a need and desire from all organizations to have separate leases.

In the packet is the original lease (September 28th, 1988) with American Legion Gilbert C Grafton Post No. 2 and the proposed leases with American Legion Group and Fargo Post 2 Baseball. The only difference in the proposed leases are the organizations legal names.

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

Thank you.

L E A S E

THIS LEASE, made and entered into this ____day of _____, 2024, by and between **The Park District of the City of Fargo**, whose address is 701 Main Avenue, Fargo, North Dakota ("Landlord") and **Gilbert C. Grafton Post No. 2, The American Legion**, Fargo, North Dakota, herein called "Tenant."

For and in consideration of the rentals herein reserved and the conditions, covenants and agreements herein contained, to be kept, observed and performed by Tenant, Landlord does hereby lease and rent to Tenant the building and premises described on the attached Exhibit "A," for and during a term of approximately 64 years, from and after the date first written above, and terminating on September 1, 2088.

In consideration of the Tenant paying for the construction of the building located on the leased premises, no rental payments shall be due from the Tenants to the Landlord during the term of this Lease.

This Lease is made upon the following terms, conditions and covenants:

1. **This Lease supersedes and replaces the current lease agreement between the City of Fargo d/b/a The Parks Department and American Legion Gilbert C. Grafton Post No. 2 dated September 28, 1988. All terms of the September 28, 1988 lease are hereby declared null and void. Tenant is no longer associated with Fargo Post 2 Baseball.**
2. PROPERTY. The leased premises are hereby depicted on the attached Exhibit "A". The leased premises are to enable the Tenant to conduct therein its business of repairing bikes. However, the Tenant shall be authorized to use the leased premises in any way it deems fit, provided it does not interfere with Landlord's use of a portion of the building, in any way breach the covenants and agreements contained in this Lease, or an any way be in violation of any law or ordinance of the State of North Dakota and the City of Fargo.
3. QUIET POSSESSION. Landlord covenants that Tenant on performing the covenants and agreements herein contained and agreed to be performed on the part of Tenant, Tenant shall at all times during the term, peaceably and quietly have, hold and enjoy the leased premises.
4. COMPLIANCE WITH LAWS. Tenant shall comply with all covenants, conditions and restrictions of record and all applicable laws, ordinances and regulations of duly constituted governmental bodies now or hereafter in any manner affecting the leased premises or the appurtenances thereto. Tenant shall defend and hold Landlord financially harmless from the consequences of any violations of such laws, ordinances or regulations.
5. REPRESENTATIONS BY TENANT. Tenant shall take possession of said premises under this Lease, as presently constituted, and the taking of possession of said premises by the Tenant shall be conclusive evidence that said premises and the equipment, plumbing, drains, fixtures and appliances were, when possession was so taken, in all respects in satisfactory and acceptable condition and that nothing further is required of the Landlord to make them conform to the terms and requirements of this Lease suitable for the

occupancy of such Tenant, except as they may agree in writing.

6. ASSIGNMENT AND SUBLETTING. Tenant shall not sublet the leased premises, or any part thereof, and will not assign this Lease, or any interest therein, or permit it to be transferred by operation of law or otherwise without the written consent of the Landlord. In the event of such assignment or transfer, the transferee or sublessee shall assume all the obligations of this Lease or any renewal thereof imposed on the Tenant, provided that such assignment or subletting does not release the Tenant herein from the covenants and obligations hereof and Tenant shall continue to be bound by all of the terms and conditions hereof.
7. REPAIRS AND MAINTENANCE. Landlord will provide nominal maintenance and or repairs which cost less than \$500 within the leased premises. Cost that exceeds \$500, will be paid by each party in relation to Exhibit A. Any repair that exceeds the \$500 threshold will be administered and ordered by the Park District to ensure licensed contractors are utilized when necessary.

Tenant shall keep the leased premises and improvements thereon in good repair and good sanitary condition during the term of this Lease. Landlord shall be required to make any repairs or alterations to the structural components of the building, including the walls and roof. Landlord shall at all times have access to said premises for the purpose of examining the same and making at Landlord's election, reasonable and necessary repairs thereon for the protection or preservation thereof.

It shall be the Landlord's responsibility to maintain the property and the building in which the leased premises is located. This shall include but not be limited to the maintenance of the structure and the grounds, landscaping the grounds, constructing and maintaining a parking area that will at least be surfaced with gravel, constructing and maintaining the roadway to the leased premises from 32nd Avenue North, snow removal, and all other items of like nature.

8. UTILITIES. Tenant shall furnish all electricity, water, heat, and any and all other utilities used by Tenant at said premises at Tenant's expense. Landlord shall have no obligation or liability for any such expenses or expense of similar nature.
9. NUISANCE AND INJURY TO PREMISES. Tenant shall not deface, injure or mar said premises or overload the floors and shall not do or permit to be done thereon, or in the passages, alleys, areas, stairways, or on the sidewalks or streets adjacent thereto, anything that will amount to or create a nuisance.
10. ALTERATIONS. Tenant shall have the right to make such alterations to the interior of the leased premises as it may desire to properly conduct Tenant's business on said premises and shall not make any structural alterations except by and with the consent of the Landlord.
11. IMPROVEMENTS. All improvements and additions to the leased premises shall adhere thereto and become the property of the Landlord with the exception of such additions as

are usually classed as furniture, fixtures and operating equipment. Said furniture, fixtures, and operating equipment are to remain the property of Tenant and may be removed by Tenant at or prior to the expiration of this Lease or a renewal thereof. Tenant shall repair any damage to the leased premises which is caused. by any such removal.

12. SIGNS AND EQUIPMENT OF TENANT. Tenant may, with Landlord's approval, install in or about the leased premises such signs and equipment as may be necessary for the operation of its business, all in accordance with applicable laws, ordinances and regulations of duly constituted public authorities. Landlord may, at the termination of this Lease, require the removal by Tenant, at Tenant's expense, of any such signs and equipment. Tenant shall be responsible for any damage resulting from such removal. Any property of Tenant not removed from the leased premises within thirty (30) days following the termination of this Lease shall, at the option of the Landlord, be deemed abandoned by Tenant and become the property of the Landlord.

13. LANDLORD NOT LIABLE. Landlord, and Landlord's agents or employees, shall not be liable to Tenant for any damage to or loss of personal property in the leased premises unless such damage or loss is the result of the negligence of the Landlord, or Landlord's agents or employees, and under no circumstances shall be liable to Tenant for any such damage or loss, whether or not the result of their negligence, to the extent Tenant is compensated therefor by Tenant's insurance.

Landlord shall not be liable for any damages caused by or growing out of any breakage, leakage or getting out of order of pipes, closets or plumbing within the leased premises unless such damage is due to the negligence of the Landlord, or Landlord's employees or agents. Landlord shall not be liable for any damages caused by or growing out of any defect in said building or in the leased premises or caused by or growing out of fire, rain, wind or other causes.

14. CONDEMNATION. If the leased premises or any part thereof or any part of the improvements of which they form a part shall be taken or destroyed by action of public authority, and shall substantially interfere with Tenant's use of the premises, this Lease shall thereupon terminate.

15. DESTRUCTION OF PREMISES. In case of damage to the leased premises by fire or other action of the elements, Landlord, at Landlord's discretion, upon notice to the Tenant, may decide to repair or not repair the same. In the event that the damage is such that the Landlord shall decide not to repair or rebuild said premises, this Agreement shall cease. If Landlord shall decide to repair the same, the Landlord shall proceed expeditiously to accomplish the construction of the new facility and, providing the Landlord does so, the Tenant shall not be entitled to any damages resulting from its inability to occupy the premises because of the destruction.

16. INSURANCE. Landlord shall cause to be carried fire and extended coverage insurance upon the Premises for its full insurable value.

Tenant, at its own expense, shall keep in force public liability insurance with limits of at least \$2,000,000 of excess umbrella liability coverage for persons injured or killed, and for property damage, with the Landlord named as an additional insured. Copies of insurance policies or certificates of insurance shall be delivered to Landlord, if requested by Landlord. All policies shall require the insurance company to notify Landlord in writing at least twenty (20) days prior to any cancellation of the insurance and that no act or omission of others shall avoid coverage as to Landlord (so long as the aforementioned is available in the applicable market).

Tenant shall be solely responsible for insuring against loss to all its personal property, contents, and Tenant-installed improvements or fixtures on the Premises.

17. DEFAULT. In the event that Tenant defaults in any of the terms and conditions of this Lease, Landlord may terminate the same as provided under the laws of the State of North Dakota. In the event Landlord defaults in any of the terms and conditions of this Lease, Tenant may terminate the same as provided under the laws of the State of North Dakota.
18. WAIVER OF SUBROGATION. Each party hereto hereby waives all claims for recovery from the other party for any loss or damage to any of its property insured under valid and collectible insurance policies to the extent of any recovery collectible under such insurance, subject to the limitation that this waiver shall apply only when permitted by the applicable policy of insurance.
19. BINDING EFFECT. This Agreement and all covenants, obligations and conditions hereof shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.

IN TESTIMONY WHEREOF, the parties hereto have set their hands the day and year first above written.

Landlord:
Park District of the City of Fargo

Tenant:
**Gilbert C. Grafton Post No. 2, The
American Legion**

By: Susan Faus
Its: Executive Director

By:
Its:

Exhibit A



L E A S E

THIS LEASE, made and entered into this ____ day of _____, 2024, by and between **The Park District of the City of Fargo**, whose address is 701 Main Avenue, Fargo, North Dakota (“Landlord”) and **Fargo Post 2 Baseball**, Fargo, North Dakota (“Tenant”).

For and in consideration of the rentals herein reserved and the conditions, covenants and agreements herein contained, to be kept, observed and performed by Tenant, Landlord does hereby lease and rent to Tenant the building and premises described on the attached Exhibit "A," for and during a term of approximately 64 years, from and after the date first written above, and terminating on September 1, 2088.

In consideration of the Tenant paying for the construction of the building located on the leased premises, no rental payments shall be due from the Tenants to the Landlord during the term of this Lease.

This Lease is made upon the following terms, conditions and covenants:

1. **This Lease supersedes and replaces the current lease agreement between the City of Fargo d/b/a The Parks Department and American Legion Gilbert C. Grafton Post No. 2 dated September 28, 1988. All terms of the September 28, 1988 lease are hereby declared null and void. Tenant is no longer associated with American Legion Gilbert C. Grafton Post No. 2.**
2. PROPERTY. The leased premises are hereby depicted on the attached Exhibit “A”. The leased premises are to enable the Tenant to conduct therein its business storing vehicles. However, the Tenant shall be authorized to use the leased premises in any way it deems fit, provided it does not interfere with Landlord's use of a portion of the building, in any way breach the covenants and agreements contained in this Lease, or an any way be in violation of any law or ordinance of the State of North Dakota and the City of Fargo.
3. QUIET POSSESSION. Landlord covenants that Tenant on performing the covenants and agreements herein contained and agreed to be performed on the part of Tenant, Tenant shall at all times during the term, peaceably and quietly have, hold and enjoy the leased premises.
4. COMPLIANCE WITH LAWS. Tenant shall comply with all covenants, conditions and restrictions of record and all applicable laws, ordinances and regulations of duly constituted governmental bodies now or hereafter in any manner affecting the leased premises or the appurtenances thereto. Tenant shall defend and hold Landlord financially harmless from the consequences of any violations of such laws, ordinances or regulations.
5. REPRESENTATIONS BY TENANT. Tenant shall take possession of said premises under this Lease, as presently constituted, and the taking of possession of said premises by the Tenant shall be conclusive evidence that said premises and the equipment, plumbing, drains, fixtures and appliances were, when possession was so taken, in all respects in satisfactory and acceptable condition and that nothing further is required of the Landlord

to make them conform to the terms and requirements of this Lease suitable for the occupancy of such Tenant, except as they may agree in writing.

6. ASSIGNMENT AND SUBLETTING. Tenant shall not sublet the leased premises, or any part thereof, and will not assign this Lease, or any interest therein, or permit it to be transferred by operation of law or otherwise without the written consent of the Landlord. In the event of such assignment or transfer, the transferee or sublessee shall assume all the obligations of this Lease or any renewal thereof imposed on the Tenant, provided that such assignment or subletting does not release the Tenant herein from the covenants and obligations hereof and Tenant shall continue to be bound by all of the terms and conditions hereof.
7. REPAIRS AND MAINTENANCE. Landlord will provide nominal maintenance and or repairs which cost less than \$500 within the leased premises. Cost that exceeds \$500, will be paid by each party in relation to Exhibit A. Any repair that exceeds the \$500 threshold will be administered and ordered by the Park District to ensure licensed contractors are utilized when necessary.

Tenant shall keep the leased premises and improvements thereon in good repair and good sanitary condition during the term of this Lease. Landlord shall be required to make any repairs or alterations to the structural components of the building, including the walls and roof. Landlord shall at all times have access to said premises for the purpose of examining the same and making at Landlord's election, reasonable and necessary repairs thereon for the protection or preservation thereof.

It shall be the Landlord's responsibility to maintain the property and the building in which the leased premises is located. This shall include but not be limited to the maintenance of the structure and the grounds, landscaping the grounds, constructing and maintaining a parking area that will at least be surfaced with gravel, constructing and maintaining the roadway to the leased premises from 32nd Avenue North, snow removal, and all other items of like nature.

8. UTILITIES. Tenant shall furnish all electricity, water, heat, and any and all other utilities used by Tenant at said premises at Tenant's expense. Landlord shall have no obligation or liability for any such expenses or expense of similar nature.
9. NUISANCE AND INJURY TO PREMISES. Tenant shall not deface, injure or mar said premises or overload the floors and shall not do or permit to be done thereon, or in the passages, alleys, areas, stairways, or on the sidewalks or streets adjacent thereto, anything that will amount to or create a nuisance.
10. ALTERATIONS. Tenant shall have the right to make such alterations to the interior of the leased premises as it may desire to properly conduct Tenant's business on said premises and shall not make any structural alterations except by and with the consent of the Landlord.

11. IMPROVEMENTS. All improvements and additions to the leased premises shall adhere thereto and become the property of the Landlord with the exception of such additions as are usually classed as furniture, fixtures and operating equipment. Said furniture, fixtures, and operating equipment are to remain the property of Tenant and may be removed by Tenant at or prior to the expiration of this Lease or a renewal thereof. Tenant shall repair any damage to the leased premises which is caused. by any such removal.
12. SIGNS AND EQUIPMENT OF TENANT. Tenant may, with Landlord's approval, install in or about the leased premises such signs and equipment as may be necessary for the operation of its business, all in accordance with applicable laws, ordinances and regulations of duly constituted public authorities. Landlord may, at the termination of this Lease, require the removal by Tenant, at Tenant's expense, of any such signs and equipment. Tenant shall be responsible for any damage resulting from such removal. Any property of Tenant not removed from the leased premises within thirty (30) days following the termination of this Lease shall, at the option of the Landlord, be deemed abandoned by Tenant and become the property of the Landlord.
13. LANDLORD NOT LIABLE. Landlord, and Landlord's agents or employees, shall not be liable to Tenant for any damage to or loss of personal property in the leased premises unless such damage or loss is the result of the negligence of the Landlord, or Landlord's agents or employees, and under no circumstances shall be liable to Tenant for any such damage or loss, whether or not the result of their negligence, to the extent Tenant is compensated therefor by Tenant's insurance.

Landlord shall not be liable for any damages caused by or growing out of any breakage, leakage or getting out of order of pipes, closets or plumbing within the leased premises unless such damage is due to the negligence of the Landlord, or Landlord's employees or agents. Landlord shall not be liable for any damages caused by or growing out of any defect in said building or in the leased premises or caused by or growing out of fire, rain, wind or other causes.
14. CONDEMNATION. If the leased premises or any part thereof or any part of the improvements of which they form a part shall be taken or destroyed by action of public authority, and shall substantially interfere with Tenant's use of the premises, this Lease shall thereupon terminate.
15. DESTRUCTION OF PREMISES. In case of damage to the leased premises by fire or other action of the elements, Landlord, at Landlord's discretion, upon notice to the Tenant, may decide to repair or not repair the same. In the event that the damage is such that the Landlord shall decide not to repair or rebuild said premises, this Agreement shall cease. If Landlord shall decide to repair the same, the Landlord shall proceed expeditiously to accomplish the construction of the new facility and, providing the Landlord does so, the Tenant shall not be entitled to any damages resulting from its inability to occupy the premises because of the destruction.
16. INSURANCE. Landlord shall cause to be carried fire and extended coverage insurance

upon the Premises for its full insurable value.

Tenant, at its own expense, shall keep in force public liability insurance with limits of at least \$2,000,000 of excess umbrella liability coverage for persons injured or killed, and for property damage, with the Landlord named as an additional insured. Copies of insurance policies or certificates of insurance shall be delivered to Landlord, if requested by Landlord. All policies shall require the insurance company to notify Landlord in writing at least twenty (20) days prior to any cancellation of the insurance and that no act or omission of others shall avoid coverage as to Landlord (so long as the aforementioned is available in the applicable market).

Tenant shall be solely responsible for insuring against loss to all its personal property, contents, and Tenant-installed improvements or fixtures on the Premises.

17. DEFAULT. In the event that Tenant defaults in any of the terms and conditions of this Lease, Landlord may terminate the same as provided under the laws of the State of North Dakota. In the event Landlord defaults in any of the terms and conditions of this Lease, Tenant may terminate the same as provided under the laws of the State of North Dakota.
18. WAIVER OF SUBROGATION. Each party hereto hereby waives all claims for recovery from the other party for any loss or damage to any of its property insured under valid and collectible insurance policies to the extent of any recovery collectible under such insurance, subject to the limitation that this waiver shall apply only when permitted by the applicable policy of insurance.
19. BINDING EFFECT. This Agreement and all covenants, obligations and conditions hereof shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.

IN TESTIMONY WHEREOF, the parties hereto have set their hands the day and year first above written.

Landlord:
Park District of the City of Fargo

Tenant:
Fargo Post 2 Baseball Club

By: Susan Faus
Its: Executive Director

By:
Its:

Exhibit A



L E A S E

COPY

THIS LEASE, made and entered into this 28th day of September, 1988, by and between THE CITY OF FARGO, d/b/a THE PARKS DEPARTMENT, of 701 Main Avenue, Fargo, North Dakota, herein called "Landlord," and AMERICAN LEGION GILBERT C. GRAFTON POST NO. 2, Fargo, North Dakota, herein called "Tenant."

For and in consideration of the rentals herein reserved and the conditions, covenants and agreements herein contained, to be kept, observed and performed by Tenant, Landlord does hereby lease and rent to Tenant the building and premises described on the attached Exhibit "A," for and during a term of 99 years, from and after October 1, 1988, and terminating on September 30, 2088.

In consideration of the Tenant paying for the construction of the building located on the leased premises, no rental payments shall be due from Tenant to Landlord during the term of this Lease.

This Lease is made upon the following terms, conditions and covenants:

1. QUIET POSSESSION. Landlord covenants that Tenant on performing the covenants and agreements herein contained and agreed to be performed on the part of Tenant, Tenant shall at all times during the term, peaceably and quietly have, hold and enjoy the leased premises.
2. PROPERTY. The leased premises are let to Tenant to enable the Tenant to conduct therein its business of operating a storage area for the Tenant's buses and a warehouse area. However, the Tenant shall be authorized to use the leased premises in any way it deems fit, provided it does not interfere with Landlord's use of a portion of the building or in any way breach the covenants and agreements contained in this Lease.
3. COMPLIANCE WITH LAWS. Tenant shall comply with all covenants, conditions and restrictions of record and all applicable laws, ordinances and regulations of duly constituted governmental bodies now or hereafter in any manner affecting the leased premises or the appurtenances thereto. Tenant shall defend and hold Landlord financially harmless from the consequences of any violations of such laws, ordinances or regulations.
4. REPRESENTATIONS BY TENANT. Tenant shall take possession of said premises under this Lease, as presently constituted, and the taking of possession of said premises by the Tenant shall be conclusive evidence that said premises and the equipment, plumbing, drains, fixtures and appliances were,

when possession was so taken, in all respects in satisfactory and acceptable condition and that nothing further is required of the Landlord to make them conform to the terms and requirements of this Lease suitable for the occupancy of such Tenant, except as they may agree in writing.

5. ASSIGNMENT AND SUBLETTING. Tenant shall not sublet the leased premises, or any part thereof, and will not assign this Lease, or any interest therein, or permit it to be transferred by operation of law or otherwise without the written consent of the Landlord. In the event of such assignment or transfer, the transferee or sublessee shall assume all the obligations of this Lease or any renewal thereof imposed on the Tenant, provided that such assignment or subletting does not release the Tenant herein from the covenants and obligations hereof and Tenant shall continue to be bound by all of the terms and conditions hereof.

6. REPAIRS AND MAINTENANCE. Tenant shall keep the leased premises and improvements thereon in good repair and good sanitary condition during the term of this Lease. Landlord shall be required to make any repairs or alterations to the structural components of the building, including the walls and roof. Landlord shall at all times have access to said premises for the purpose of examining the same and making at Landlord's election, reasonable and necessary repairs thereon for the protection or preservation thereof.

It shall be the Landlord's responsibility to maintain the property and the building in which the leased premises is located. This shall include but not be limited to the maintenance of the structure and the grounds, landscaping the grounds, constructing and maintaining a parking area that will at least be surfaced with gravel, constructing and maintaining the roadway to the leased premises from 32nd Avenue North, snow removal, and all other items of like nature.

7. UTILITIES. Tenant shall furnish all electricity, water, heat, and any and all other utilities used by Tenant at said premises at Tenant's expense. Landlord shall have no obligation or liability for any such expenses or expense of similar nature.

8. NUISANCE AND INJURY TO PREMISES. Tenant shall not deface, injure or mar said premises or overload the floors and shall not do or permit to be done thereon, or in the passages, alleys, areas, stairways, or on the sidewalks or streets adjacent thereto, anything that will amount to or create a nuisance.

9. ALTERATIONS. Tenant shall have the right to make such alterations to the interior of the leased premises as it may desire to properly conduct Tenant's business on said premises and shall not make any structural alterations except by

and with the consent of the Landlord.

10. IMPROVEMENTS. - All improvements and additions to the leased premises shall adhere thereto and become the property of the Landlord with the exception of such additions as are usually classed as furniture, fixtures and operating equipment. Said furniture, fixtures, and operating equipment are to remain the property of Tenant and may be removed by Tenant at or prior to the expiration of this Lease or a renewal thereof. Tenant shall repair any damage to the leased premises which is caused by any such removal.
11. SIGNS AND EQUIPMENT OF TENANT. Tenant may, with Landlord's approval, install in or about the leased premises such signs and equipment as may be necessary for the operation of its business, all in accordance with applicable laws, ordinances and regulations of duly constituted public authorities. Landlord may, at the termination of this Lease, require the removal by Tenant, at Tenant's expense, of any such signs and equipment. Tenant shall be responsible for any damage resulting from such removal. Any property of Tenant not removed from the leased premises within thirty (30) days following the termination of this Lease shall, at the option of the Landlord, be deemed abandoned by Tenant and become the property of the Landlord.
12. LANDLORD NOT LIABLE.
- (A) Landlord, and Landlord's agents or employees, shall not be liable to Tenant for any damage to or loss of personal property in the leased premises unless such damage or loss is the result of the negligence of the Landlord, or Landlord's agents or employees, and under no circumstances shall be liable to Tenant for any such damage or loss, whether or not the result of their negligence, to the extent Tenant is compensated therefor by Tenant's insurance.
- (B) Landlord shall not be liable for any damages caused by or growing out of any breakage, leakage or getting out of order of pipes, closets or plumbing within the leased premises unless such damage is due to the negligence of the Landlord, or Landlord's employees or agents. Landlord shall not be liable for any damages caused by or growing out of any defect in said building or in the leased premises or caused by or growing out of fire, rain, wind or other causes.
13. CONDEMNATION. If the leased premises or any part thereof or any part of the improvements of which they form a part shall be taken or destroyed by action of public authority, and shall substantially interfere with Tenant's use of the premises, this Lease shall thereupon terminate and Landlord shall reimburse Tenant for its payment of the construction of the building in an amount equal to the following:

14. DESTRUCTION OF PREMISES. In case of damage to the leased premises by fire or other action of the elements, Landlord, at Landlord's discretion, upon notice to the Tenant, may decide to repair or not repair the same. In the event that the damage is such that the Landlord shall decide not to repair or rebuild said premises, this Agreement shall cease and Landlord shall pay to the Tenant an amount calculated pursuant to the formula described in paragraph 13 above. If Landlord shall decide to repair the same, the Landlord shall proceed expeditiously to accomplish the construction of the new facility and, providing the Landlord does so, the Tenant shall not be entitled to any damages resulting from its inability to occupy the premises because of the destruction.
15. INSURANCE. Tenant shall provide Tenant's own insurance coverage for public liability, damages, costs or expenses arising from the negligence of the Tenant. Tenant shall provide Tenant's own insurance for fire, wind and other extended coverages for the insuring of the property on said premises belonging to Tenant.
- The Landlord shall be required to provide insurance for fire, wind and other extended coverages for the building in which the leased premises is located.
16. DEFAULT. In the event that Tenant defaults in any of the terms and conditions of this Lease, Landlord may terminate the same as provided under the laws of the State of North Dakota. In the event Landlord defaults in any of the terms and conditions of this Lease, Tenant may terminate the same as provided under the laws of the State of North Dakota.
17. WAIVER OF SUBROGATION. Each party hereto hereby waives all claims for recovery from the other party for any loss or damage to any of its property insured under valid and collectible insurance policies to the extent of any recovery collectible under such insurance, subject to the limitation that this waiver shall apply only when permitted by the applicable policy of insurance.
18. BINDING EFFECT. This Agreement and all covenants, obligations and conditions hereof shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.

IN TESTIMONY WHEREOF, the parties hereto have set their hands the day and year first above written.

THE CITY OF FARGO, d/b/a THE PARKS DEPARTMENT

By James L. How
Its BOARD PRESIDENT

(CORPORATE SEAL)
If Applicable

By Robert A. Johnson
Its Sup. of Parks

LANDLORD

AMERICAN LEGION GILBERT C. GRAFTON
POST NO. 2

By: Edward J. Murphy
Its Commander

TENANT

GBS3/A3:LE
88/09/16



MEMORANDUM

DATE: April 17, 2024

TO: Fargo Park Board Facilities Committee

FROM: Tyler Kirchner, Project Manager

RE: Agenda Item No. 5 – Review bids for the Anderson Softball Complex Field Lighting Upgrade

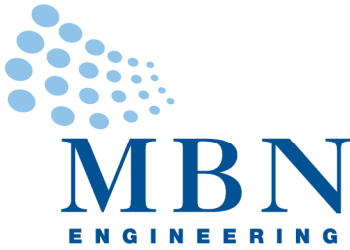
Bids for the Anderson Softball Complex field lighting upgrade were received and opened March 21, 2024, at 11:30 A.M., at the Park District Office. Attached to this memo is a letter of recommendation from MBN Engineering. Inc., and the bid tab.

We received bids from Vinco, Inc.; PEC Solutions of the Dakotas d/b/a Parson Electric; Sun Electric, Inc.; and Superior Electric of Fargo, LLC. Staff recommends accepting the bid from Vinco, Inc. with a bid of \$528,735.00. The bid met all specifications and was the lowest bid. We had \$590,000 budgeted for this project. The funds are included within the 2024 budget.

We are asking the Committee to review the bids and move the consideration for approval to the full board.

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

Thank you.



April 8, 2024

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

Subject: Fargo Park District
Anderson Field Lighting Upgrade
Fargo, North Dakota
MBN Project No. 24-012

On March 21, 2024, the Fargo Park District received and publicly opened four (4) bids for the Anderson Field Lighting Upgrade project. It is our recommendation that the Fargo Park District award the contract to Vinco, Inc. for the base bid total of **\$528,735.00**.

Enclosed is one (1) copy of the bid tabulation for your use. If you have any questions, please contact me at 701-478-6336.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael A. Berger".

Michael A. Berger, P.E.
Electrical Engineer

enclosure

MBN ENGINEERING, INC. | Mechanical | Electrical | Civil | Transmission | www.mbnengr.com

FARGO OFFICE 503 7th Street North, Suite 200 • Fargo, ND 58102 • Phone: 701-478-6336

CEDAR RAPIDS OFFICE 1661 Boyson Square Drive, Suite 200A • Hiawatha, IA 52233 • Phone: 701-478-6336

BISMARCK OFFICE 418 Rosser Avenue East, Suite 204 • Bismarck, ND 58501 • Phone: 701-478-6336



MEMORANDUM

DATE: April 17, 2024

TO: Fargo Park Board Facilities Committee

FROM: Tyler Kirchner, Project Manager

RE: Agenda Item No. 6 – Review bids for the Orchard Glen & Forest River Trail Improvements

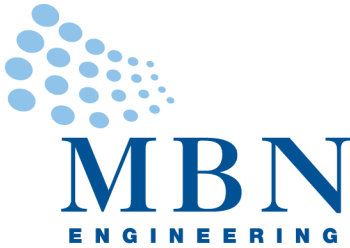
Bids for the Orchard Glen & Forest River Trail Improvements were received and opened March 21, 2024, at 11:00 A.M., at the Park District Office. Attached to this memo is a letter of recommendation from MBN Engineering, Inc., and the bid tab.

We received bids from Civil Specialties, Inc.; Earthwork Services, Inc.; Industrial Builders, Inc.; and Master Construction Co., Inc. Staff recommends accepting the bid from Civil Specialties, Inc. with a bid of \$136,210.00. The bid met all specifications and is the lowest bid. The project estimated cost is \$207,938.37. Funds for this project are budgeted in 2024 and from the Recreational Trails Program (RTP) Grant.

We are asking the Committee to review the bids and move the consideration for approval to the full board.

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

Thank you.



March 26, 2024

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

Subject: Fargo Park District
Orchard Glen & Forest River Trail Improvements
Fargo, North Dakota
MBN Project No. 23-295

On March 21, 2024, the Fargo Park District received and publicly opened four (4) bids for the Orchard Glen & Forest River Trail Improvements project. It is our recommendation that the Fargo Park District award the contract to Civil Specialties, Inc. for the combined total of **\$136,210.00**.

Enclosed is one (1) copy of the bid tabulation for your use. If you have any questions, please contact me at 701-478-6336.

Sincerely,

A handwritten signature in blue ink, appearing to read "T. Eukel", written over a light blue grid background.

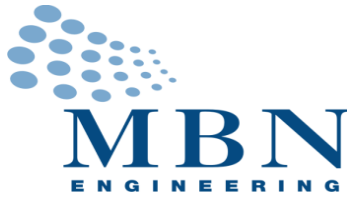
Tony Eukel, P.E.
Civil Engineer

enclosure



The Park District of the City of Fargo Orchard Glen & Forest River Trail Improvements
Bid Date: March 21, 2024 @ 11:00 am

Company	Contractor's License	Bid Bond	Total Bid
Civil Specialties, Inc.	X	X	\$136,210.00
Industrial Builders	X	X	\$182,690.00
Earthwork Services	X	X	\$168,916.20
Master Construction	X	X	\$237,390.00
J.D. Kraemer	No	n/a	n/a



FARGO PARK DISTRICT
ORCHARD GLEN & FOREST RIVER TRAIL IMPROVEMENTS
BID FORM SECTION 00 41 00
MBN PROJECT #23-295
BID DATE: MARCH 21, 2024
TIME: 11:00AM

Contractor			Civil Specialties, Inc.		Industrial Builders		Earthwork Services		Master Construction		J.D. Kraemer - Disqualified	
Description	Quantity	Units	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
ORCHARD GLEN												
Temporary Signage / Traffic Control	1	LS	\$700.00	\$700.00	\$1,390.00	\$1,390.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00		
Topsoil Strip, Excavation, Export (New Trail)	240	CY	\$47.00	\$11,280.00	\$40.00	\$9,600.00	\$40.00	\$9,600.00	\$40.00	\$9,600.00		
Subgrade Preparation	2,120	SY	\$0.85	\$1,802.00	\$2.00	\$4,240.00	\$3.00	\$6,360.00	\$5.00	\$10,600.00		
1" Crusher Fines (Existing Trail Resurfacing)	4,900	LF	\$5.25	\$25,725.00	\$6.00	\$29,400.00	\$3.56	\$17,444.00	\$5.00	\$24,500.00		
4" Crusher Fines (New Trail)	3,180	LF	\$7.50	\$23,850.00	\$9.00	\$28,620.00	\$8.33	\$26,489.40	\$20.00	\$63,600.00		
Woven Geotextile Fabric	2,120	SY	\$1.75	\$3,710.00	\$4.00	\$8,480.00	\$3.00	\$6,360.00	\$4.00	\$8,480.00		
Mobilization	1	LS	\$5,000.00	\$5,000.00	\$14,765.00	\$14,765.00	\$20,000.00	\$20,000.00	\$10,000.00	\$10,000.00		
Orchard Glen Total			\$72,067.00		\$96,495.00		\$89,253.40		\$129,780.00			
FOREST RIVER												
Temporary Signage / Traffic Control	1	LS	\$700.00	\$700.00	\$1,390.00	\$1,390.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00		
Topsoil Strip, Excavation, Export (New Trail)	160	CY	\$47.00	\$7,520.00	\$40.00	\$6,400.00	\$40.00	\$6,400.00	\$40.00	\$6,400.00		
10" CSP Flared End Section	4	EA	\$215.00	\$860.00	\$220.00	\$880.00	\$493.00	\$1,972.00	\$350.00	\$1,400.00		
10" CSP Storm Sewer	32	LF	\$89.50	\$2,864.00	\$40.00	\$1,280.00	\$50.00	\$1,600.00	\$75.00	\$2,400.00		
Bio-roll	10	LF	\$6.00	\$60.00	\$10.00	\$100.00	\$30.00	\$300.00	\$50.00	\$500.00		
Subgrade Preparation	1,440	SY	\$0.85	\$1,224.00	\$2.00	\$2,880.00	\$3.00	\$4,320.00	\$5.00	\$7,200.00		
1" Crusher Fines (Existing Trail Resurfacing)	5,550	LF	\$4.90	\$27,195.00	\$6.00	\$33,300.00	\$3.56	\$19,758.00	\$5.00	\$27,750.00		
4" Crusher Fines (New Trail)	2,160	LF	\$7.50	\$16,200.00	\$9.00	\$19,440.00	\$8.33	\$17,992.80	\$20.00	\$43,200.00		
Woven Geotextile Fabric	1,440	SY	\$1.75	\$2,520.00	\$4.00	\$5,760.00	\$3.00	\$4,320.00	\$4.00	\$5,760.00		
Mobilization	1	LS	\$5,000.00	\$5,000.00	\$14,765.00	\$14,765.00	\$20,000.00	\$20,000.00	\$10,000.00	\$10,000.00		
Forest River Total			\$64,143.00		\$86,195.00		\$79,662.80		\$107,610.00			
TOTAL CONSTRUCTION (\$)			\$136,210.00		\$182,690.00		\$168,916.20		\$237,390.00		N/A	
Description	Units	Unit Cost		Unit Cost		Unit Cost		Unit Cost		Unit Cost		
Unit Cost												
Tree Protection Fence (All Sites)	LF	\$20.00		\$20.00		\$12.00		\$250.00				



MEMORANDUM

DATE: April 17, 2024

TO: Fargo Park Board Facilities Committee

FROM: Tony Schmitt, Park Director

RE: Agenda Item No. 7 – Consideration to utilize reserve funds for a drain pit repair project at Sports Arena

Staff is requesting consideration to utilize reserve funds for the ice resurfacer drain pit repair at the Sports Arena that we did not have budgeted. The estimated cost for the repair project is around \$60,000.00. The main drainpipe failed late in the ice season and needs to be considered for repair to get the pit to drain properly again prior to the next ice season.

If approved, staff would plan to bid this project and bring back the actual repair costs for the commission to consider.

We are asking the Committee to move the consideration for approval to the full board.

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

Thank you.



MEMORANDUM

DATE: April 17, 2024

TO: Fargo Park Board Facilities Committee

FROM: Tyler Kirchner, Project Manager

RE: Agenda Item No. 8 – Review Amendment No. 1 to Payment in Lieu of Park Agreement for CC's First Addition

The park district and KCL Holding, LLC, entered into a Payment in Lieu of Park Agreement on November 27, 2023. The parties desire to amend said Payment in Lieu of Park Agreement to recognize that the name of the subject Addition has been changed from CC's First Addition to Alex's Frist Addition. All other terms and conditions of the Payment in Lieu of Park Agreement dated November 27, 2023, remain in full force and effect.

We are asking the Committee to review Amendment No. 1 and move the consideration for approval to the full board.

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

Thank you.

FIRST AMENDMENT PAYMENT IN LIEU OF PARK AGREEMENT
CC’S FIRST ADDITION

This First Amendment Park Development Agreement (the “Agreement”) is made and entered into this ____ day of _____, 2024 by and between KLC Holding LLC, whose post office address is 4609 33RD AVE S STE 400, Fargo, ND (“Developer”), and the **PARK DISTRICT OF THE CITY OF FARGO**, a park district under the laws of the State of North Dakota, 701 Main Avenue, Fargo, North Dakota 58103 (“Park District”).

The Parties entered into a Payment In Lieu of Park Agreement on November 27, 2023. The parties desire to Amend said Payment In Lieu of Park Agreement to recognize that name of the subject Addition has been changed from CC’s First Addition to Alex’s First Addition.

All other terms and conditions of the Payment In Lieu of Park Agreement dated November 27, 2023, remain in full force and effect.

DEVELOPER
KLC Holding LLC

PARK DISTRICT:
THE PARK DISTRICT OF THE
CITY OF FARGO

By _____
Its _____

By _____
Its President

By _____
Its Clerk