



**FACILITIES COMMITTEE MEETING**  
**Wednesday, April 27, 2022; 8:00 a.m.**  
Fargo Park District Board Room  
701 Main Avenue, Fargo

**Board Committee Members:**  
***Vicki Dawson & Dawn Morgan***

**AGENDA**

1. Review bids for pickleball courts expansion at Brunsdale Park; Dave Bietz, presenter.
2. Review bids for 2022 Playground Improvements; Dave Bietz, presenter.
3. Discuss consideration of approving bids for 2022 Concrete and Asphalt Improvements at May 10 Board Meeting; Dave Bietz, presenter.
4. Review Memo of Understanding with Audubon Dakota regarding Southwest Regional Lake area and Urban Plains Park; Dave Bietz, presenter.
5. Other

***Next Fargo Park Board Meeting: May 10, 2022; 5:30 p.m.***  
***Next Facilities Committee Meeting: May 25, 2022; 8:00 a.m.***



## MEMORANDUM

DATE: April 20, 2022

TO: Fargo Park Board Facilities Committee

FROM: Dave Bietz, Parks Director

RE: Agenda Item No. 1 - Review bids for pickleball courts expansion at Brunsdale Park

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The Brunsdale Pickleball Court bids were received and opened on Thursday, April 14<sup>th</sup>, 2022, 2:00 pm, at the Park District Office. Attached to this memo is the bid tab, a letter of recommendation from our engineers as well as a site plan and engineer's estimate.

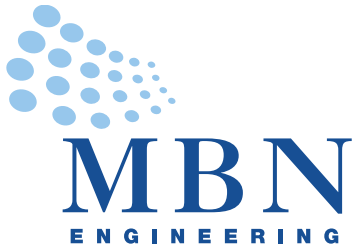
This bid was to add three more courts to the northside of the existing pickleball courts at Brunsdale Park. Four contractors bid on this project with the low bid coming from Master Construction in the amount of \$251,500. This includes accepting the two alternates of adding Forta concrete to the mix to improve durability as well as resurfacing the entire complex.

Funds for this project have been budgeted in our 2022 capital budget as well as combining dollars reserved in our capital account for this project. The engineer's estimate was for \$308,310.

Staff recommends moving the result of this bid to the full board for consideration of approval at the May 10<sup>th</sup> Park Board Meeting.

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

Thank you.



April 14, 2022

Dave Bietz  
Director of Operations  
Fargo Park District  
701 Main Avenue  
Fargo, ND 58102

Subject: Fargo Park District  
Brunsdale Park Pickleball Courts  
Fargo, North Dakota  
MBN Project No. 22-031

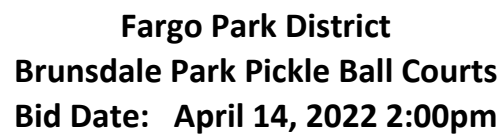
On April 14, 2022, the Fargo Park District received and publicly opened four (4) bids for the Brunsdale Park Pickleball Courts. It is our recommendation that the Fargo Park District award the contract to Master Construction Co. Inc. for the Base Bid, Alternate No. 1, and Alternate No. 2 for the combined total of \$251,500.

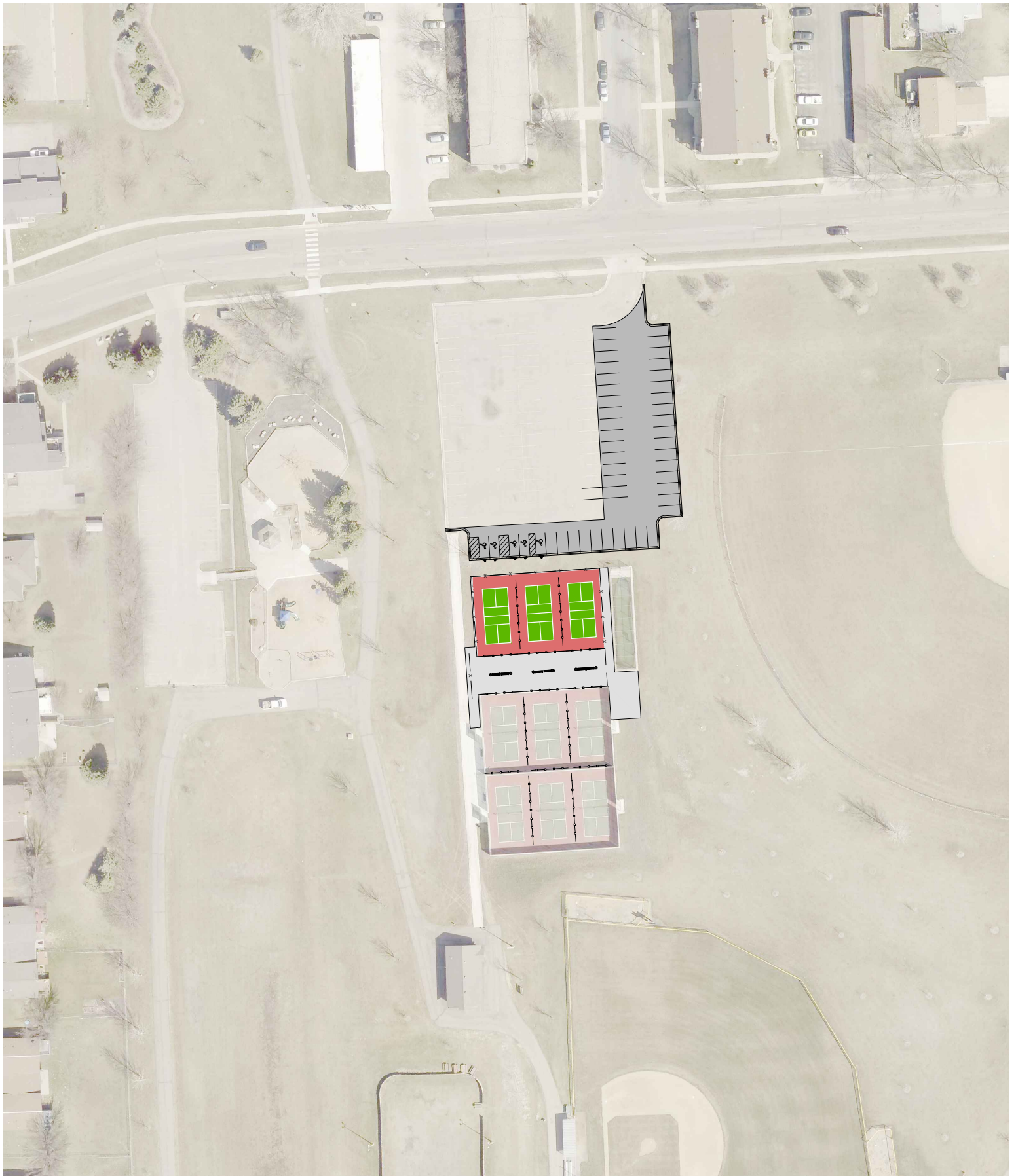
Enclosed is one (1) copy of the bid tabulation for your use. If you have any questions, please contact me at 701-478-6336.

Sincerely,

Joshua M. Magelky, P.E.  
Civil Engineer

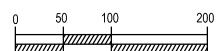
enclosure

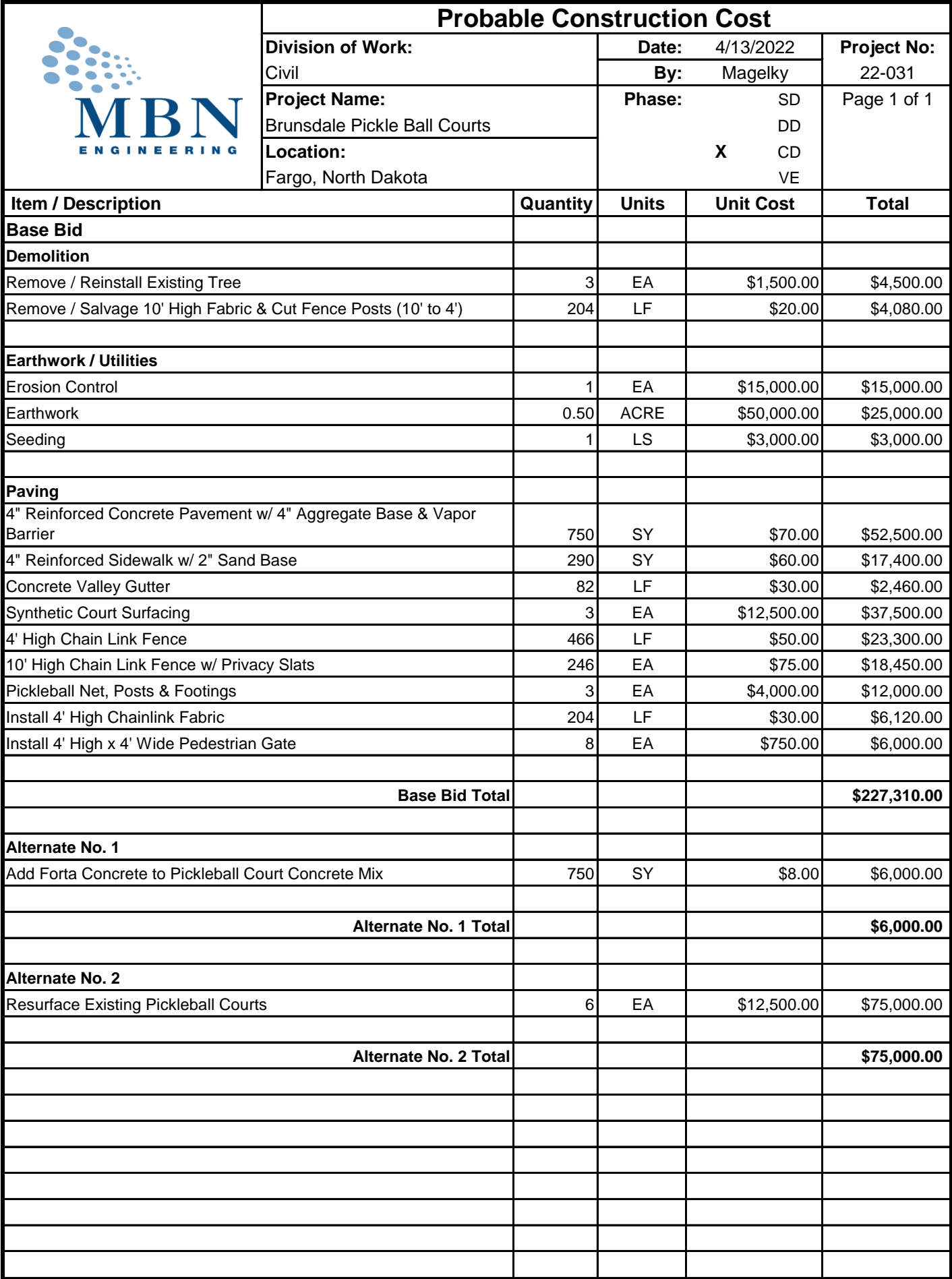
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## BRUNSDALE PICKELBALL EXPANSION

1702 27TH AVE S  
FARGO, ND 58103







## MEMORANDUM

DATE: April 20, 2022

TO: Fargo Park Board Facilities Committee

FROM: Dave Bietz, Parks Director

RE: Agenda Item No. 2 - Review bids for 2022 Playground Improvements

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The 2022 Playground Improvement bids were received and opened on Thursday, April 14th, 2022, 2:00pm, at the Park District Office. Attached to this memo is the bid tab, a letter of recommendation from our engineers as well as an engineer's estimate.

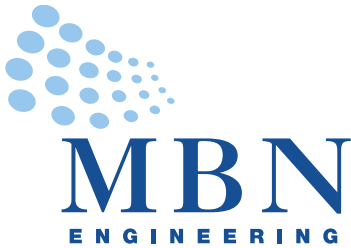
This project is to upgrade the playground equipment at Westgate Park and Willow Park. We had three contractors submit bids and the low bid was received from MY Turn Playsystems. The amount of their bid was \$252,687. This includes accepting their bid for base bid as well as accepting alternates #1 and #3, which is the demolition of the existing playgrounds.

Funds for this project are budgeted annually in our playground replacement budget. The engineer's estimate for this project was \$275,336.80, which included permitting and engineering fees.

Staff recommends moving the result of this bid to the full board for consideration of approval at the May 10<sup>th</sup> Park Board Meeting.

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

Thank you.



April 14, 2022

Dave Bietz  
Director of Operations  
Fargo Park District  
701 Main Avenue  
Fargo, ND 58102

Subject: Fargo Park District  
2022 Playground Improvements  
Fargo, North Dakota  
MBN Project No. 22-030

On April 14, 2022, the Fargo Park District received and publicly opened three (3) bids for the 2022 Playground Improvements project. It is our recommendation that the Fargo Park District award the contract to My Turn Playsystems for the Base Bid, Alternate No. 1, and Alternate No. 3 for the combined total of \$252,687.00

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 "J. Magelky", written over a light blue circular stamp.

Joshua M. Magelky, P.E.  
Civil Engineer

enclosure

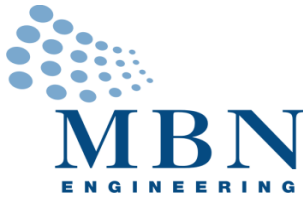




**Fargo Park District**  
**2022 Playground Improvements**  
**MBN Project #22-030**  
**Bid Date: April 14, 2022**

CONTRACTOR / BID BOND / ADDENDUMS			My Turn Playsystems		Safety First Playground Maintenance		Dakota Playground	
Willow Park Playground	Quantity	Units	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
Basketball Standard	1	EA	\$5,760.00	\$5,760.00	\$3,500.00	\$3,500.00	\$4,118.00	\$4,118.00
2-5 Yr Playground Equipment	1	LS	\$33,450.00	\$33,450.00	\$32,600.00	\$32,600.00	\$33,214.00	\$33,214.00
5-12 Yr Playground Equipment	1	LS	\$38,225.00	\$38,225.00	\$45,700.00	\$45,700.00	\$42,587.00	\$42,587.00
Single Post Swing Bay	3	EA	\$3,323.00	\$9,969.00	\$2,500.00	\$7,500.00	\$2,460.00	\$7,380.00
Ropeventure Sky5	1	LS	\$13,400.00	\$13,400.00	\$18,000.00	\$18,000.00	\$23,485.00	\$23,485.00
Spinetic w/o Speed Limiter	1	LS	\$6,690.00	\$6,690.00	\$7,300.00	\$7,300.00	\$5,480.00	\$5,480.00
Comet I	1	LS	\$1,988.00	\$1,988.00	\$3,900.00	\$3,900.00	\$1,790.00	\$1,790.00
Comet II	1	LS	\$2,620.00	\$2,620.00	\$3,900.00	\$3,900.00	\$1,790.00	\$1,790.00
Rubber Mat	8	EA	\$150.00	\$1,200.00	\$175.00	\$1,400.00	\$165.00	\$1,320.00
Engineered Wood Fibers	319	CY	\$34.00	\$10,846.00	\$42.00	\$13,398.00	\$36.00	\$11,484.00
Pea Rock	60	CY	\$79.00	\$4,740.00	\$88.00	\$5,280.00	\$84.00	\$5,040.00
Playground Bench	4	EA	\$820.00	\$3,280.00	\$950.00	\$3,800.00	\$820.00	\$3,280.00
<b>Willow Park Playground Total</b>				<b>\$132,168.00</b>		<b>\$146,278.00</b>		<b>\$140,968.00</b>
Westgate Park Playground	Quantity	Units	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
2-5 Yr Playground Equipment	1	LS	\$33,450.00	\$33,450.00	\$32,600.00	\$32,600.00	\$33,214.00	\$33,214.00
5-12 Yr Playground Equipment	1	LS	\$38,225.00	\$38,225.00	\$45,700.00	\$45,700.00	\$42,587.00	\$42,587.00
Single Post Swing Bay	2	EA	\$3,323.00	\$6,646.00	\$2,500.00	\$5,000.00	\$2,460.00	\$4,920.00
Comet II	1	EA	\$2,620.00	\$2,620.00	\$3,900.00	\$3,900.00	\$1,790.00	\$1,790.00
Rubber Mat	8	EA	\$150.00	\$1,200.00	\$175.00	\$1,400.00	\$165.00	\$1,320.00
Engineered Wood Fibers	207	CY	\$34.00	\$7,038.00	\$42.00	\$8,694.00	\$36.00	\$7,452.00
Pea Rock	40	CY	\$79.00	\$3,160.00	\$88.00	\$3,520.00	\$84.00	\$3,360.00
Playground Bench	3	EA	\$820.00	\$2,460.00	\$950.00	\$2,850.00	\$820.00	\$2,460.00
<b>Westgate Park Playground Total</b>				<b>\$94,799.00</b>		<b>\$103,664.00</b>		<b>\$97,103.00</b>
<b>Base Bid Grand Total (\$)</b>				<b>\$226,967.00</b>		<b>\$249,942.00</b>		<b>\$238,071.00</b>

Willow Park Playground	Quantity	Units	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
Alternate #1 Demolition By Contractor	1	LS	\$16,960.00	\$16,960.00	\$22,000.00	\$22,000.00	No Bid	No Bid
Alternate # 2 Plinkoball	1	EA				\$1,750.00		\$9,145.00
Westgate Park Playground	Quantity	Units	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
Alternate #3 Demolition By Contractor	1	LS	\$8,760.00	\$8,760.00	\$15,000.00	\$15,000.00	No Bid	No Bid



## Probable Construction Cost

**Division of Work:**

Civil

**Date:** 4/13/2022

**By:** Eukel

**Project No:**

22-030

**Project Name:**

2022 FPD Playground Improvements

**Phase:**

SD

DD

**X**

CD

VE

Page 1 of 2

**Location:**

Fargo, North Dakota

Item / Description	Quantity	Units	Unit Cost	Total
<b>Base Bid</b>				
<b>Willow Park</b>				
Construction Entrance	1	EA	\$2,500.00	\$2,500.00
Mobilization	1	LS	\$1,500.00	\$1,500.00
Basketball Standard	1	EA	\$3,000.00	\$3,000.00
New 2-5 Yr Playground	1	EA	\$35,000.00	\$35,000.00
New 5-12 Yr Playground	1	EA	\$56,000.00	\$56,000.00
Arch Swing	3	EA	\$1,000.00	\$3,000.00
Toddler Swing	1	EA	\$500.00	\$500.00
Plinkoball Drop Shot	1	EA	\$2,500.00	\$2,500.00
Comet Spinner	2	EA	\$500.00	\$1,000.00
Spinetic w/o Speed Limiter	1	EA	\$1,000.00	\$1,000.00
Ropeventure Sky5	1	EA	\$18,500.00	\$18,500.00
New Pea Rock	60	CY	\$80.00	\$4,800.00
New Engineered Wood Fibers (40% Shrinkage)	319	CY	\$40.00	\$12,760.00
Playground Bench	4	EA	\$750.00	\$3,000.00
Rubber Mats	8	EA	\$250.00	\$2,000.00
<b>Willow Park Total</b>				<b>\$147,060.00</b>
<b>Westgate Park</b>				
Construction Entrance	1	EA	\$2,500.00	\$2,500.00
Mobilization	1	LS	\$1,500.00	\$1,500.00
New 2-5 Yr Playground	1	EA	\$35,000.00	\$35,000.00
New 5-12 Yr Playground	1	EA	\$56,000.00	\$56,000.00
Arch Swing	2	EA	\$1,000.00	\$2,000.00
Toddler Swing	1	EA	\$500.00	\$500.00
Comet Spinner	2	EA	\$500.00	\$1,000.00
New Pea Rock	40	CY	\$100.00	\$4,000.00
New Engineered Wood Fibers (40% Shrinkage)	207	CY	\$40.00	\$8,280.00
Rubber Mats	8	EA	\$250.00	\$2,000.00
<b>Westgate Park Total</b>				<b>\$112,780.00</b>
<b>Base Bid Subtotal</b>				<b>\$259,840.00</b>
Engineering Fee				\$8,500.00
2% Construction Contingency				\$5,196.80
Plan Review and Permit Fee				\$1,800.00
<b>Base Bid Grand Total</b>				<b>\$275,336.80</b>





## MEMORANDUM

DATE: April 20, 2022

TO: Fargo Park Board Facilities Committee

FROM: Dave Bietz, Parks Director

RE: Agenda Item No. 3 - Discuss consideration of approving bids for Concrete and Asphalt Improvements at May 10 Board Meeting

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Staff have been working with our engineers on a timeline for the 2022 Concrete and Asphalt Improvements. The current meeting timeline is as follows:

May 5<sup>th</sup> Bid Opening

May 25<sup>th</sup>, Consideration at Facilities Committee Meeting

June 14<sup>th</sup>, Consideration and potential approval at June Park Board Meeting

Several contractors have asked our engineers if there is any way to allow more time for this project as they don't feel there is enough time to get these projects completed this fall. Staffing is cited as the reason why the contractors don't feel they can complete this work in the time allotted. One of the options to allow more time for the project could be to open bids on the 5<sup>th</sup> of May as planned and then bring the results of that bid to the May 10<sup>th</sup> Board meeting for consideration. This step would allow for a savings of one month and allow construction to begin sooner. Another option being explored is allowing the project to run into the next construction season. Allowing this flexibility could result in more favorable bids at the time of bid opening.

Staff is asking for the ability to have the results of the bid opening to be brought directly before the Commission at the May 10<sup>th</sup> Park Board Meeting for consideration. We would then also entertain allowing the project to run into the next construction cycle depending on the amount of work that can be achieved in the 2022 construction season.

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

Thank you.

Dave Leker, Executive Director  
PARK COMMISSIONERS – Vicki Dawson \* Joe Deutsch \* Stacey Griggs \* Dawn Morgan \* Jerry Rostad  
CLERK – Dave Leker



## MEMORANDUM

DATE: April 20, 2022

TO: Fargo Park Board Facilities Committee

FROM: Dave Bietz, Parks Director

RE: Agenda Item No. 4 - Review Memo of Understanding with Audubon Dakota regarding the Southwest Regional Lake area and Urban Plains Park

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This Memo of Understanding (MOU) is an agreement between the Fargo Park District and Audubon Dakota. The agreement allows enrollment of certain property into the Urban Woods and Prairies Initiative. The property is the area around the Southwest Regional Lake and portions of Urban Plains Park.

The Urban Woods and Prairies Initiative is a program that began in 2014. The program integrates native landscapes back into urban landscapes by restoring wetlands, grasslands, and riparian woodland areas in an urban landscape, primarily focused on enhancing habitat for target bird species and increasing flood resiliency and water quality. The Park District has partnered with Audubon Dakota on several sites across the district totaling over 400 acres.

Staff recommends moving this Memo of Understanding to the full board for consideration of approval at the May 10<sup>th</sup> Park Board Meeting.

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

Thank you.

## MEMORANDUM OF UNDERSTANDING

**THIS MEMORANDUM OF UNDERSTANDING** (“MOU,” or “Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2022 (hereinafter referred to as the “Effective Date”), by and between the Fargo Park District, a municipal corporation and political subdivision of the State of North Dakota (hereinafter referred to as the “Park District”), and National Audubon Society, Inc. d/b/a Audubon Dakota, whose post office address is 3002 Fiechtner Dr, Suite A, Fargo, North Dakota 58103 (hereinafter referred to as “Audubon”).

**WHEREAS**, Audubon is a tax-exempt organization, as described in section 501(c)(3) of the Internal Revenue Code, whose mission is to protect birds and the places they need, today and tomorrow; and

**WHEREAS**, Audubon is interested in preserving and enhancing the habitat for birds and other wildlife within certain “riparian zones,” such as those found along the Red River, while at the same time providing vegetation that is beneficial in terms of water storage, filtration, purification, and flood mitigation, and also providing an aesthetically pleasing nature area for local residents; and all of these goals are in line with the Park District’s goals; and

**WHEREAS**, Audubon desires to work with the Park District on a project called the Urban Woods and Prairies Initiative (the “Initiative”), the purpose of which is to make improvements to certain parcels of property, or habitat management sites, in order to achieve the above-described goals; and

**WHEREAS**, the Park District is agreeable to working with Audubon on the Initiative to achieve said goals, subject to the terms and conditions set forth in this MOU.

**WHEREAS**, in furtherance of the Initiative, Audubon will create and implement habitat management plan on land owned or controlled by the Park District; and

**WHEREAS**, the Park District will conduct necessary site preparations and grant Audubon access to the property for Audubon to implement a habitat management plan and conduct other activities in furtherance of the Initiative; and

**WHEREAS**, the Park District will endeavor to preserve and maintain the areas restored under this MOU for at least 20 years.

**NOW THEREFORE**, in consideration of the parties’ mutual covenants contained in this MOU, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the Park District and Audubon hereby agree:

1. **Exhibits**. The following exhibit is attached hereto and by reference made a part of this Agreement:

**Exhibit A** – Depiction and Area/Legal Description of Designated Habitat

Restoration Site(s).

2. **Habitat Restoration Site.** The Park District owns a certain parcel of real property located within the boundaries of Cass County, North Dakota, as depicted in the attached Exhibit A. This land shall be designated as a “Habitat Restoration Site.” A legal description of said Habitat Restoration Site is attached hereto in Exhibit A.

3. **Site Plans.** Audubon shall, in consultation with the Park District, prepare a restoration site plan for the Habitat Restoration Site (“Site Plan”). The Site Plan will include detailed descriptions of proposed enhancements, restorations, and improvements for the site, including as appropriate: plans to plant, enhance, or preserve vegetation; install or build fences or other structures; install or construct landscaping; enhance or restore the natural habitats of birds and other wildlife; implement water retention, filtration, purification, and flood control measures; stabilize banks and slopes and reduce erosion; and any other plans intended to create an aesthetically pleasing and ecologically beneficial area. The Site Plan should also describe any necessary preparations (“Site Preparations”) that must be performed by the Park District before the Site Plan may be implemented, including without limitation, any required herbicide applications, mowing, or disking.

4. **Funding.** Audubon is a non-profit conservation organization. Audubon’s obligation to implement and complete the Site Plan improvements is conditioned upon its receipt of sufficient funding.

5. **Approval by Park District.** The Site Plan must be approved in writing by the Park District before Audubon commences implementation. If the Park District reasonably withholds approval of the Site Plan, and Audubon is unable to modify the Site Plan in such a way as to earn the Park District’s approval, this MOU shall terminate and the parties shall be released from any obligations hereunder.

6. **Site Preparations.** Upon approval of the Site Plan submitted by Audubon and approved by the Park District, the Park District shall commence, as soon as weather conditions will allow, with the necessary Site Preparations, before Audubon begins implementing the Site Plan improvements. Site Preparations must be completed in accordance with the Site Plan and to Audubon’s reasonable satisfaction within one year after the date when the Park District issued its written consent and approval of the Site Plan.

7. **Enhancement Period.** A five year “Enhancement Period” shall commence upon Audubon’s acceptance of the Park District’s completion of the Site Preparations. During the Enhancement Period, Audubon shall, at its own cost and expense, but subject to adequate funding, complete the preservations, enhancements, and improvements described in the approved Site Plan for the Habitat Restoration Site.

- a. **Site Access.** The Park District grants Audubon a license to access and enter the Habitat Restoration Site for the purpose of implementing and maintaining the Site Plan.

- b. **Extension.** If the five-year Enhancement Period becomes an insufficient amount of time to implement the proposed improvements, due to unforeseen or unavoidable circumstances such as flood, drought, delay or unavailability of supplies, government restrictions, etc., the parties may agree in writing to extend the Enhancement Period.
- c. **Failure to Implement Site Plans; Damage to Improvements.** If Audubon fails to complete the preservations, restorations, and improvements described in the approved Site Plan within the Enhancement Period (as extended), the Park District may terminate this MOU, in which event Audubon will remove any of its equipment and other personal property from the Habitat Restoration Site. If the Park District performs unauthorized management or otherwise damages the restoration or improvement, the Park District shall be responsible to either restore the restorations or to pay for all expenses required for Audubon to rectify the damage.

8. **Ongoing Site Management.** After completion of the Site Plan improvements, Audubon shall deliver to the Park District a long-term habitat management plan or guidance on habitat management. Such plan will recommend appropriate management tools and schedules to maintain the restored native habitat. The Park District will resume the exclusive control of the Habitat Restoration Site and agrees to use its best efforts to maintain the improvements made by Audubon for 20 or more years in accordance with the long-term management plan or guidance. Audubon intends to continue to advise the Park District on proper habitat management after the completion of restoration. As resources permit, Audubon will also endeavor to work with the Park District to sponsor outdoor education programming or research at the Habitat Restoration Site. The Park District retains the option to add amenities to the sites that are in general conformance with and enhance the site plans.

9. **Flooding Situations.** The parties understand that the Habitat Restoration Site is located within a floodplain and is therefore subject to occasional and unpredictable flooding outside of the parties' control. As a result, the parties agree to work cooperatively in flooding situations, by allowing for reasonable extensions of the deadlines contemplated in this MOU and working together to return to the status quo that existed before the flooding subject to the availability of sufficient funds to finance repairs. In the event that the Habitat Restoration Site is flooded, neither party shall be held liable to the other party for any loss or damage incurred as a result of the flood. Once the Enhancement Period has ended and the Park District has undertaken to maintain the improvements made to the Habitat Restoration Site, the Park District will use reasonable efforts to repair any minor damage to the improvements resulting from a flood, so long as sufficient Park District funds are available to finance such minor repairs, but in no event shall the Park District be obligated to repair or replace improvements that have incurred substantial damage as the result of a flood.

10. **Marketing and Signage.** As part of its overall marketing and publicity effort for the Initiative, Audubon shall prepare signage and printed informational materials. Subject to approval of the Park District, Audubon will install informational signage at the Habitat Restoration Site and distribute printed information on the Initiative.



11. **Utility Services.** No utilities may be provided for or connected to the Habitat Restoration Site without the express written consent of the Park District.

12. **Indemnification.** Audubon agrees to indemnify and hold harmless the Park District and any of its officers, employees, contractors, consultants, representatives, agents, and assigns from and against any and all liability, damages, penalties, judgments, or claims of whatever nature arising from injury to persons or property resulting from the negligent acts or omissions of Audubon, Audubon contractors', successors', or assigns' in connection with their use of the Habitat Restoration Site in furtherance of the Initiative, and Audubon shall, at Audubon's own cost and expense, defend any and all suits or actions (just or unjust) which may be brought against the Park District or in which the Park District may be joined with other parties upon any such above-mentioned matter or claims. The Park District agrees to indemnify and hold harmless Audubon and any of its officers, employees, directors, contractors, consultants, representatives, agents, and assigns from and against any and all liability, damages, penalties, judgments, or claims of whatever nature arising from injury to persons or property resulting from the negligent acts or omissions of the Park District, its employees, commissioners, or contractors in connection with the Habitat Restoration Site and Audubon's use thereof, and the Park District shall, at its own cost and expense, defend any and all suits or actions (just or unjust) which may be brought against Audubon or in which Audubon may be joined with other parties upon any such above-mentioned matter or claims. These mutual agreements to indemnify and hold harmless will include indemnity against all costs, expenses, and liabilities, including any attorney fees, reasonably incurred in or in connection with any such claims or proceedings brought thereof. This section will survive the termination of this MOU and any subsequent agreements of the parties contemplated herein.

13. **Assignment.** Neither party may transfer or assign this MOU, nor any rights or obligations under this MOU, without the express written consent of the other party.

14. **Amendments.** No amendment, modification, or waiver of any condition, provision, or term of this MOU will be valid or of any effect unless made in a writing signed by the party or parties to be bound, or a duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification, or waiver. Any waiver by any party of any default of another party will not affect or impair any right arising from any subsequent default. Except as expressly and specifically stated otherwise, nothing herein will limit the remedies and rights of the parties thereto under and pursuant to this MOU.

15. **Governing Law.** This MOU will be controlled by the laws of the State of North Dakota. Any action brought as a result of any claim, demand, or cause of action arising under the terms of this MOU must be brought in an appropriate venue in the State of North Dakota.

16. **Merger Clause.** This MOU constitutes the entire agreement by and between the parties, and any other prior representations or agreements are deemed merged herein, and those not specified herein do not represent any agreements, promises, covenants, or representations on the part of either party hereto.

17. **Severability Clause.** Each provision, section, sentence, clause, phrase, and word of this MOU is intended to be severable. If any provision, section, sentence, clause, phrase, or

word hereof is held by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity will not affect the legality or validity of the remainder of this MOU.

18. **Grammatical Construction.** Whenever the singular number is used herein, the same will include the plural where appropriate, and the words of any gender will include any other genders where appropriate.

19. **Agreement Binding on Successors.** This MOU will be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, successors, and assigns.

20. **Headings.** Headings in this MOU are for convenience only and will not be used to interpret or construe its provisions.

IN WITNESS WHEREOF, the parties executed this MOU on the Effective Date:

FARGO PARK DISTRICT

By:\_\_\_\_\_

Its:\_\_\_\_\_

NATIONAL AUDUBON SOCIETY  
(AUDUBON DAKOTA)

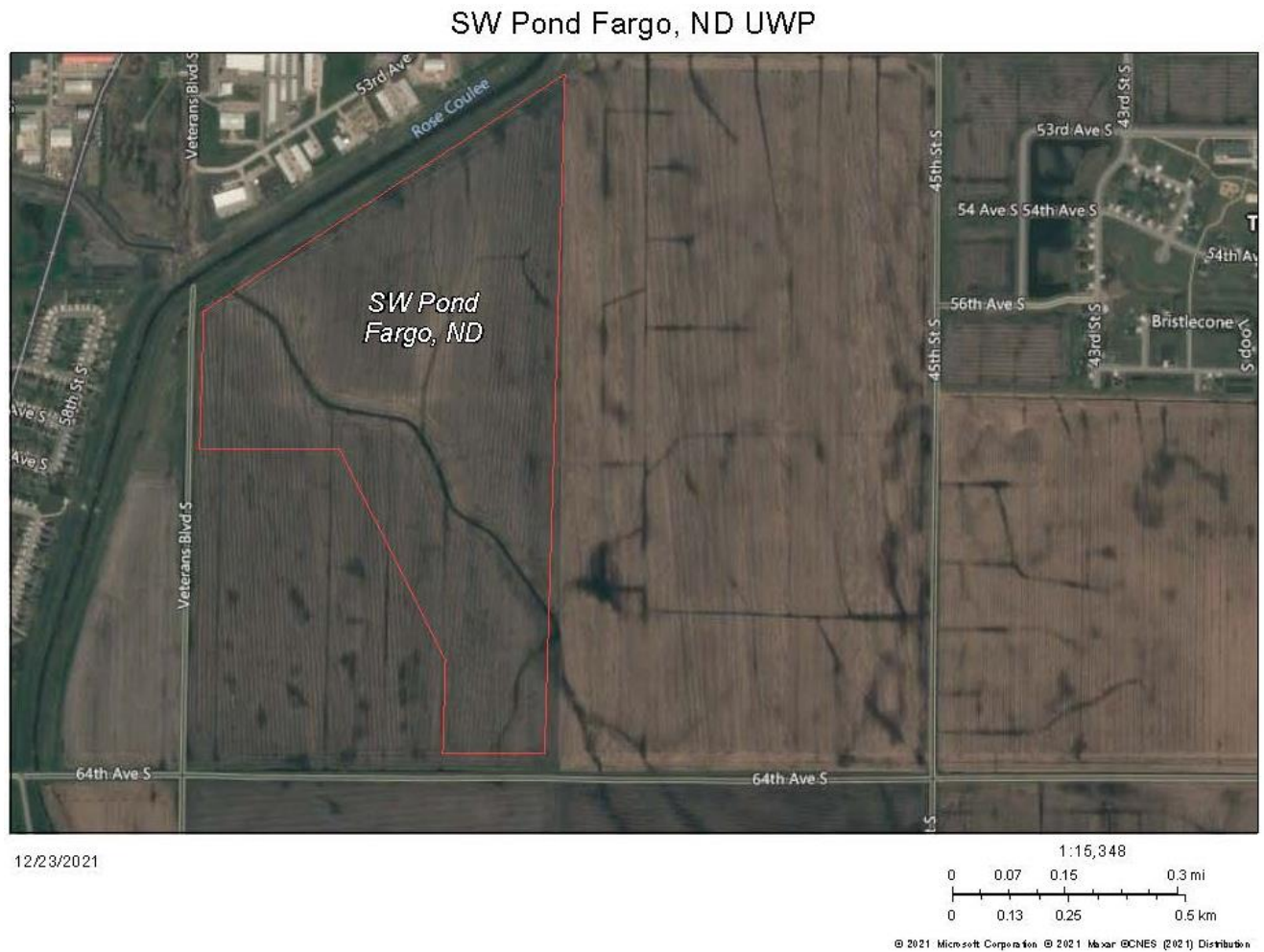
By:\_\_\_\_\_

Its:\_\_\_\_\_

**Exhibit A – Depiction and Area/Legal Description of Designated Habitat Restoration Site(s).**

**SW Pond**

160 acres located at an area within Fargo, ND legally described as 4-138-49 and 4-138-49



## Urban Plains

Approximately 18,933 square feet along the perimeter of an area within Fargo, ND legally described as SPL/FR 25-0000-02060-000 "PLATTED FROM 01-3502-00150-000 & 01-3500-04916-000 (7/28/2006 BV-1, P-86) \*8/11/06 SPL/FR 01-3505-00150-000 & 01-6500-04916-000 "3/14/07 SPL/FR 01-8010-00260-000 \*REPLATTED LTS 5-9, BLK 6 & LTS 5-12, BLK 7 URBAN PLAINS BY BRANDT 1ST ADON & LT 7, BLK 1, URBAN PLAINS REC FACILITY ADON (6/4/2007, B-WI, P-45)

