



THE REGULAR MONTHLY MEETING OF THE BOARD OF COMMISSIONERS OF THE PARK DISTRICT OF THE CITY OF FARGO WILL BE HELD ON **TUESDAY, APRIL 8, 2025, AT 5:30 P.M.** IN THE BOARD ROOM AT THE FARGO PARKS SPORTS CENTER AT 6100 38th STREET SOUTH, FARGO, WITH PRESIDENT AARON HILL, PRESIDING. **Please note:** This is an in-person event and streamed virtually. Members of the public and media can view the live meeting at [www.fargoparks.com/news/park-board-meeting-april-agenda-2025](http://www.fargoparks.com/news/park-board-meeting-april-agenda-2025)

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

**Consent Agenda** – approve the following:

- a. Minutes – 03/11/2025
  - b. March Bills
  - c. Approve and award bid for Mickelson Field #4 Sports Field Lighting
  - d. Approve and award bid for Anderson Softball Complex Dugout Replacement
  - e. Approve and award bid for Tharaldson Little League Metal Shade Shelter Replacement
  - f. Approve Selkirk Developers Agreement
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### **Regular Agenda**

- 1. Recognition of Audience/Public Comments
- 2. Director's Report
- 3. Board to consider approval for the Memo of Understanding with Fargo Post 2 Baseball Club-to repair the backstop wall at Jack Williams Stadium; Dave Bietz, presenter
- 4. Board to Consider Amendment to Payment in Lieu Agreement pertaining to J&O Real Estate LLC; Dave Bietz, presenter
- 5. Other
- 6. Adjourn

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS  
OF THE FARGO PARK DISTRICT OF MARCH 11, 2025**

The regular monthly meeting of the Board of Commissioners of the Park District of the City of Fargo was held on Tuesday, March 11, 2025, at 5:30 p.m. at the Fargo Park District office at 6100 38<sup>th</sup> Street South, Fargo, North Dakota and via Restream. Present at the meeting were Commissioners Aaron Hill, Joe Deutsch, Zoé Absey, Jerry Rostad and Vicki Dawson. Also present were: Susan Faus, Dave Bietz and attorney Jeff Gunkelman.

**Approval of Agenda**

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

**Approval of Consent Agenda**

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

- (a) The minutes the February 11, 2025 meeting;
- (b) The February 2025 bills; and
- (c) Award the 2025 Concrete Pavements Improvements to Earthwork Services for a base bid of \$1,200,419.00, Alternate No. 1 - \$76,000 (add), Alternate No. 2 - \$15,840.00 (add), Alternate No. 3 - \$41,600.00 (add), and Alternate No. 4 - \$4,540.00 (deduct), for a total amount of \$1,329,699.20.
- (d) Rejection of the Rose Creek Driving Range Net Replacement Bids;
- (e) Bidding of the 2025 Courts Plus Siding Project;
- (f) Award the Pepsi Soccer Complex Siding Project to Fargo Siding in the amount of \$42,750.00;
- (g) Award the Davies Recreational Pool Resurfacing Project to Associated Pool Builders in the amount of \$175,200.00; and add alternate of drain grate replacements - \$10,000.00, for a total amount of \$185,200.00.
- (h) Award the Option A Bid from Swanston Equipment for the purchase of the tracked skid steer in the amount of \$76,711.57; Award the Option B Bid from Swanston Equipment for the purchase of the articulating loader in the amount of \$48,397.36; Awarding of the Bid from Sanitation Products in the amount of \$141,408 for the purchase of the Cab Over Truck w/8CY Rear Load Trash Compactor;
- (i) Approval of Supplement No. 4 to Ground Lease with City of Fargo relating to the Ed Clapp Building;
- (j) Approval of Operational Expectation – Asset Protection (OE)-5.

Upon call of the roll, the motion passed unanimously.

**Public Comments**

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

**Director's Report**

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

### **Approval of 2025 adjusted Aquatic Fees**

Susan Faus and Kevin Boe presented to the Board on this matter. Susan Faus noted that the Park District did not make any major adjustments to the aquatic fees in the last 5 years despite increased costs associated with aquatics. Susan Faus noted that the Park District attempts to balance charging fees to the actual users of facilities with using taxpayer money to pay for operations of facilities. Susan Faus noted that the Park District heard the complaints and concerns of the citizens over the 2025 aquatics fees and the took that feedback into consideration in making the proposed changes. Kevin Boe noted that the Park District used the community feedback to adjust the rates of the facilities as outlined in the new fee structure. Kevin Boe noted that the Park District does not limit the number of scholarship recipients for pool passes.

Commissioner Rostad stated he appreciates the community voicing their opinion that the Park District and Commissioners listened and responded to their concerns. Commissioner Absey stated the Park District should continue to seek out information from the public. Commissioner Hill thanked the Park District staff for their efforts to rework the fee structure for aquatics.

Commissioner Jerry Rostad moved and Commissioner Zoé Absey seconded a motion to approve 2025 Adjusted Aquatic Fees, as presented. Upon call of the roll, the motion passed unanimously.

### **Approval of Madelyn's Meadows Developers Agreement**

Dave Bietz presented to the Board on this matter. It was noted that as part of Madelyn's Meadows development in south Fargo, the developer wishes to include a park featuring a recreational trail, open green space, a picnic shelter, park benches, and a playground. As part of the Park District moving forward with constructing the Park the proposed Developers Agreement needs to be entered into between the Park District and the Developer.

Commissioner Jerry Rostad moved and Commissioner Zoé Absey seconded a motion to approve the Madelyn's Meadows Developers Agreement, as presented. Upon call of the roll, the motion passed unanimously.

### **Approval Resolution Creating Park Improvement District No. 2025-1 for Madelyn's Meadows**

Broc Lietz presented to the Board on this matter. It was noted that a number of resolutions would be approved as part of this agenda item with the purpose of creating a special improvement district within the development. It was noted that the development includes 230 lots and that the average special assessments to the lots would range from \$1,900 to \$3,900, depending on lot size. It was noted that the average lot would be assessed \$210 per year for the park construction. It was noted that the City of Fargo will mail a letter to every lot owner with an estimate of special assessments for their particular lot.

Commissioner Jerry Rostad moved and Commissioner Vicki Dawson seconded a motion to approve all Declarations and Resolutions for the creation of Park Improvement District No. 2025-1 for Madelyn's Meadows, as presented. Upon call of the roll, the motion passed unanimously.

### **Approval of Permission to Bid Madelyn's Meadows Park**

Dave Bietz presented to the Board on this matter. It was noted that the Park District is requesting to publicly bid Madelyn's Meadows Park, which would be split into two projections: Park Improvements and Playground equipment.

Commissioner Jerry Rostad moved and Commissioner Zoé Absey seconded a motion to approve to publicly bid the Madelyn's Meadows Park Improvement Project and Madelyn's Meadows Playground Project, as presented. Upon call of the roll, the motion passed unanimously.

### **Approval of 2025 Playground Replacement Projects**

Tony Schmitt presented to the Board on this matter. It was noted that the Park District received four bids for the playground replacement projects at Fox Run Park, Rheault Farm, and Tharaldson Little League Complex. It was noted that all three parks will go through a public comment period where the public will get to decide between two designs and three-color schemes. It was noted that bidder My Turn Playsystems will use Burke Equipment as the manufacturer of the park features, and that Burke has introduced several inclusive features for children with disabilities.

Commissioner Vicki Dawson moved and Commissioner Zoé Absey seconded a motion to approve the award of bids to My Turn Playsystems for Bid Schedule No.1 Fox Run Park - \$200,000.00, for Bid Schedule No. 2a Rheault Farm with Turf - \$300,000.00, and for Bid Schedule No. 3 Tharaldson Little League Complex - \$200,000.00, as presented. Upon call of the roll, the motion passed unanimously.

### **Governance Committee Update**

Commissioner Aaron Hill presented to the Board and provided an update on the Governance Committee from its February meeting. No action was taken on this matter.

### **Planning Committee Update**

Commissioner Vicki Dawson presented to the Board and provided an update on the Planning Committee from its February meeting. No action was taken on this matter.

At the conclusion of the above agenda items, a motion to adjourn was made and seconded, and upon unanimous consent the meeting adjourned at approximately 6:30 p.m.

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Jeff Gunkelman, Kennelly Business Law, Clerk



## MEMORANDUM

DATE: April 8, 2025

TO: Fargo Park Board Members

FROM: Tony Schmitt, Park Director

RE: Agenda Item (c)- Approve and award bid for Mickelson Field #4 Sports Field Lighting

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Bids for the Mickelson Field #4 Sports Field Lighting Projects were received and opened on March 6, 2025, at 2:00 P.M. Attached to this memo is the letter of recommendation and bid tabulation from MBN Engineering.

Three (3) virtual bids received and publicly opened for the Mickelson Field #4 Sports Lighting Replacement: (1) Sun Electric, Inc. with a bid amount of \$188,000.00, (2) Parsons Electric with a bid amount of \$229,825.00, and (3) Strata Corporation with a bid amount of \$347,800.00.

Upon review of the bids, staff recommend awarding the bid to Sun Electric, Inc. for the total amount of \$188,000.00. The bids met all specifications, is the lowest bid and within our 2025 budget for this project of \$300,000.

This item was considered at the March 19, 2025 Planning Committee meeting and given a recommendation to be placed on the consent agenda for consideration for approval.

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

Thank you.

SAMPLE MOTION: I make a motion to award the bid to Sun Electric, Inc. for Mickelson Field #4 Sports Field Lighting, as presented.



March 6, 2025

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

Subject: Fargo Park District  
Mickelson Field Sports Lighting  
Fargo, North Dakota  
MBN Project No. 20-289

On March 6, 2025, the Fargo Park District received and publicly opened three (3) virtual bids for the Mickelson Field #4 Sports Lighting Replacement. It is our recommendation that the Fargo Park District award the contract to Sun Electric, Inc. for the total amount of **\$188,000.00**.

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 "Troy Magnell", written over a horizontal line.

Troy Magnell, LC  
Electrical Designer

enclosure

Mickelson Field #4 Sports Lighting Replacement (#9529232)  
Owner: Fargo Park District  
Solicitor: MBN Engineering, Inc.  
03/06/2025 02:00 PM CST

Section Title	Line Item	Item Code	Item Description	UofM	Quantity	Engineer Estimate Price	Sun Electric, Inc. Price	Parsons Electric Price	Strata Corporation Price
Base Bid	1	E1	All work for sports lighting replacement.	LS	1	\$275,000.00	\$188,000.00	\$229,825.00	\$347,800.00



## MEMORANDUM

DATE: April 8, 2025

TO: Fargo Park Board Commissioners

FROM: Tony Schmitt, Park Director

RE: Consent Agenda Item (d) – Approve and award bid for Anderson Softball Complex Dugout Replacement

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Bids for the Anderson Softball Complex Dugout Replacement Project were received and opened on March 10, 2025, at 1:00 p.m. at the Park District Office. Attached to this memo is the bid tabulation.

We received bids from Newman Quality Fences in the amount of \$75,646, Dakota Fence in the amount of \$65,280, and American Security and Gate Company in the amount of \$64,500. Staff recommends accepting the bid from American Security and Gate Company for the bid amount of \$64,500. The bid met all specifications, it is the lowest bid, and is within the budgeted amount of \$85,000 for this project.

If you have any questions, do not hesitate to contact me prior to the meeting.

Thank you.

SAMPLE MOTION: I make a motion to award the bid to American Security and Gate Company for the Anderson Softball Complex Dugout Replacement Project, as presented.



**Fargo Park District**

**Anderson Softball Complex Dugout Replacement Project**

**Bid Opening: 1:00 PM, Monday, March 10, 2025**

**Fargo Parks Sports Center**

<b><u>BIDDER</u></b>	<b><u>TOTAL BID PRICE</u></b>	<b><u>ESTIMATED COMPLETION DATE</u></b>
Newman Quality Fences	\$75,646.00	05 – 02 - 2025
Dakota Fence	\$65,280.00	05 – 02-2025
American Gate and Security Company	\$64,500.00	05 – 02 - 2025



## MEMORANDUM

DATE: April 8, 2025

TO: Fargo Park Board Commissioners

FROM: Tony Schmitt, Park Director

RE: Consent Agenda Item (e) – Approve and award bid for Tharaldson Little League Metal Shade Shelter Replacement

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Bids for the Tharaldson Little League Metal Shade Shelter Replacement Project were received and opened on March 10, 2025, at 1:15 p.m. at the Park District Office. Attached to this memo is the bid tabulation.

We received bids from Park and Play USA in the amount of \$59,324.60, WRD Dakota LLC in the amount of \$69,612, and My Turn Playsystems in the amount of \$82,700. Staff recommends accepting the bid from Park and Play USA for the bid amount of \$59,324.60. The bid met all specifications and is the lowest bid. The budgeted amount for this project is \$50,000 in 2025.

If you have any questions, do not hesitate to contact me prior to the meeting.

Thank you.

SAMPLE MOTION: I make a motion to award the bid to Park and Play USA for the Tharaldson Little League Metal Shade Shelter Replacement Project, as presented.



## Fargo Park District

### Tharaldson Little League Complex Metal Shade Shelter Replacement Project

**Bid Opening: 1:15 PM, Monday, March 10, 2025**

**Fargo Parks Sports Center**

<b><u>BIDDER</u></b>	<b><u>TOTAL BID PRICE</u></b>	<b><u>ESTIMATED COMPLETION DATE</u></b>
Park & Play USA	\$59,324.60	September 2025 (16 Week Lead Time)
WRD Dakota, LLC	\$69,612.00	June 2025
My Turn Playsystems	\$82,570.00	July 2025 (12 Week Lead Time)



## MEMORANDUM

DATE: April 8, 2025

TO: Fargo Park Board Members

FROM: Dave Bietz, Deputy Director of Operations

RE: Consent Agenda Item (f) – Approve Selkirk Developers Agreement

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Fargo Park District staff have been collaborating with the developers of Selkirk Development on a 96-acre parcel located at 66<sup>th</sup> Avenue South and Selkirk Drive South. As part of the project, the developer wishes to include a park featuring a recreation trail, open prairie green space, a picnic shelter, park benches, and a playground. A total of 6.75 acres has been designated for this park.

Presented along with this memo is a copy of the Developer's Agreement. The agreement has been reviewed by legal counsel. The agreement provides for the park to be developed through a special assessment district that would be created by the Fargo Park District over the approximately 97 acres. The total cost of the park to be assessed is estimated at \$665,508.81. A proposed design is shown on Exhibit B of the agreement.

At this time, preliminary plans are to start the construction of the park in Summer of 2026 or 2027.

This item was considered at the March 19, 2025 Planning Committee meeting with a recommendation to be placed on the consent agenda and considered for approval.

If you have any questions, do not hesitate to contact me prior to the meeting.

Thank you

SAMPLE MOTION: I make a motion to approve the developers agreement for Selkirk development as presented.

## **PARK DEVELOPMENT AGREEMENT**

### Selkirk Place

This Park Development Agreement (the "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between NICD, LLC (name of developer), whose post office address is 3280 Veterans Blvd S Ste 30 , Fargo, ND ("Developer"), and the **PARK DISTRICT OF THE CITY OF FARGO**, a park district under the laws of the State of North Dakota, 3100 38<sup>th</sup> Street South, Fargo, North Dakota 58104 ("Park District").

### Preliminary Statements

Developer is the owner of a ±96 acres, more or less, tract of real property located in the City of Fargo, Cass County, North Dakota (the "Developer Property"), specifically described below and delineated on the plat/survey attached as Exhibit "A".

Developer is in the process of planning a residential and recreational development on the Developer Property in which the Developer desires to include and dedicate a park of approximately 6.75 acres on the Developer Property as generally shown in Exhibit "A", (the "Park Area"). Developer's focus is to create a community with its own character and to provide recreational development and recreational amenities for the support of the community and to promote ease of access in and around the community. The Developer intends to develop the area at execution of this agreement.

Park District desires to establish an additional park in south Fargo and is willing to work with and assist the Developer in the design of 6.75 acre tract (the "Park Area"), affect the construction of park amenities and manage the Park Area, all pursuant to the terms and conditions of this Agreement and the rules and regulations established by the Board of Park Commissioners from time to time.

The Park Area will play a vital role in this development by not only providing recreational amenities for this community and the surrounding area, but also to provide the necessary connections through the development to other areas in south Fargo. To the extent appropriate and possible, trails will ultimately connect to current and future Park District parks.

### Agreement

NOW, THEREFORE, in consideration of the above preliminary statements, the terms, and conditions of this Agreement, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Scope of Agreement. This Agreement shall not constitute a partnership or a joint venture by and between the Developer and Park District. Neither party has a right or obligation to bind the other party to any course of action or commitment as it

relates to the development of the Developer Property, including the Park Area that is described herein. Each of the parties is an independent contractor and although they will coordinate their efforts to develop the Park Area, maybe to include elements of design, access, and amenities, neither party is assuming any obligation of the other party.

2. Conveyances. On the date of closing, as herein described, Developer shall cause to be transferred and conveyed to Park District approximately 6.75 acres that constitutes the Park Area, in the general location as shown on the site plan attached as Exhibit "A". The parties acknowledge that the approved plat shall dedicate the Park Area to public use. The 6.75 acre parcel shall be conveyed to the Park District by Warranty Deed, free and clear of all liens and encumbrances including, but not limited to current real estate taxes and installments of special assessments, subject to the Park District assuming and agreeing to pay that portion of the special assessments not yet certified for collection, calculated in accordance with the provisions of paragraph 5 below.

Developer will provide the Park District an abstract of title to the Park Area no later than ten (10) days prior to closing. Closing date will be at substantial completion of General Park Amenities.

3. Developer and Park District Obligations. Developer and Park District acknowledge that they will be responsible for the following amenities to be located on the Developer Property and the Park Area:
  - a. General Park Amenities per Exhibit "B" will be installed by the Developer or City of Fargo and included with the street improvement assessment assessed against the Developer Property. Included in the Developer's or the City's responsibility will be the construction and maintenance of any detention ponds required by engineers or governmental authority. If Developer or City of Fargo fails to install General Park Amenities per Exhibit "B", then this agreement is null and void.
  - b. Specific Park Amenities per Exhibit "B" will be installed by the Park District through a Park District improvement assessment assessed against the Developer Property as shown in Exhibit "E". Individual estimated cost amenities will be per Exhibit "D". The maximum cost does not include any carrying cost if the Developer requests the assessment to be deferred. If the Developer requests the assessments to be deferred the actual cost of carrying the deferred assessment will be added to the estimated not to exceed maximum.

- c. The following table breaks down the land dedication for the Development Property:

Plat Description	Plat Area (Acres)	Park Dedication (Acres)
Selkirk Place 2 <sup>nd</sup> Add.	19.28	1.54
Selkirk Place 3 <sup>rd</sup> Add.	30.89	2.47
Selkirk Future Phases	46.25	3.70
Subtotal	96.41	7.71
Provided Dedication to Date		5.90
Remaining Dedication		1.81

The Developer has the right to forgo the park land dedication in Selkirk future phases and cover the remaining balance in the form of Payment in Lieu. The remaining land dedication balance will be paid at a rate of \$1.50 per SF. The remaining Payment in Lieu balance will be paid to Park District proportionally upon filing of Selkirk future phase plats.

- d. The Developer shall be responsible for all storm water requirements as may be designed by engineers or governmental authority.
- e. In accordance with Park District Ordinance Developer and any property owner Developer sells lots to, shall not cause or allow water from any downspout, sump, or similar device to be directly or indirectly deposited on Park Property.
- f. The Developer shall be responsible for the installation of sidewalks on both sides of each public street per the requirements of governmental authority.
- g. The Developer shall be responsible for providing lighting on all streets as required by appropriate governmental authority and to allow the installation of lighting on park trails or in the Park Area as the Park District deems reasonable and appropriate to provide a well-lit Park Area at times that the Park District determines is appropriate. In the event the Park district deems lighting to be placed on the property, the cost of installing lighting in the Park Area will be paid by the Park District. Utility charges for the operation of lighting in the Park Area will be paid by the Park District.
- h. The Park District will not have any responsibility for trees and other landscaping to be planted outside the Park Area. Boulevard trees within

Right of Way fronting the Park District property shall be installed with the municipal improvement district.

- i. Park District, at its sole cost and expense, will purchase and plant/install trees, in line with current Park standards, to be included in the Park Area which shall be part of the Park Area construction. Park District will work together with Developer to develop planting plan. Final quantity and placement of trees will be at the discretion of the Park District.
- j. Signage, in such form and location as the Developer and the Park District shall mutually determine, shall be placed at various locations within the Developer Property and designate the location and access to the Park Area. The cost of such signage will be paid by the Park District.
- k. The Developer shall provide the necessary easements for utilities for the Park Area.
- l. The Developer, at its sole cost and expense, shall provide the following, with regard to the Park Area:
  - i. Prepare a complete boundary survey of the Park Area showing all rights-of-way, easements and any other physical burdens that may encumber the Park Area and, which survey shall show the location of trails leading to the Park Area. The Developer shall cause the Park Area to be staked so that it can be later identified by the Park District.
  - ii. The Developer will provide the Park District with copies of such tests, investigations and reports which may have been requested by the Developer including, but not limited to, any soil boring tests and/or results of environmental testing. Soil borings and other tests, if any, required for the construction of the Specific Park Amenities shall be part of park construction to be paid by the Developer. Should such test disclose that the Park Area cannot support the intended park development or if there are environmentally hazardous conditions on the Developer Property and/or Park Area, the Park District will not be required to close and accept the portion of the Developer Property to be included in the Park Area.
  - iii. To the best of its ability, the Developer shall provide the Park District with safe access to the Park Area and such areas leading to the Park Area.



4. Park Area Design. The Park District shall develop a design for the park and trails to be constructed in the Park Area. The Developer acknowledges that the Park District will have concerns pertaining to the access, safety and programming that are consistent with the Park District's mission, rules, and regulations. Developer and Park District agree design fees for Specific Park Amenities per Exhibit "B" will be paid by Developer. Developer shall engage a Park District approved Engineering Firm. The Park District will have the final say on the design of the Park Area. Fees paid by the Developer for Specific Park Amenities shall be credited to the Developer's future dedication and/or cash in lieu contribution requirements as detailed above.
5. Non-Park Area Specials. The parties acknowledge and the Developer agrees, for the purposes of special assessments, the Park Area will be assessed at 60 feet of street front footage or not to exceed 7,500 square feet.
6. Maintenance. In entering into this Agreement, the Park District contemplates it will maintain the Park Area within its normal park maintenance program and consistent with its other parks within the Fargo area. The Park District will be generally responsible for future maintenance of the Park Area, the trails leading to the Park Area and the equipment and other Specific Park Amenities in the Park Area. If the Developer and the Park District agree to coordinate access to other trails/parks or provide other amenities, any such other amenities agreed to by and between the Park District and the Developer may require a joint maintenance agreement.
7. Construction. The construction of the General Park Amenities as shown on Exhibit "B" are intended to be completed by July 1, 2026. If the General Park Amenities are constructed by July 1, 2026, then construction of the Specific Park Amenities as shown on Exhibit "B" will be completed by November 31, 2026. If General Park Amenities are not constructed by July 1, 2026, then Park District has right to extend completion date beyond November 31, 2026.
8. Open Records. It is specifically understood and agreed in this regard that Park District is a public body under North Dakota law and thus, is subject to the open records and open meeting laws.
9. Naming Rights. Park shall be named Clay Hector Park.
10. General Provisions.
  - a. This Agreement, together with the other surveys, plans and specifications that have been reviewed by the parties or later to be provided pursuant to this Agreement and the attachments hereto, contain the entire agreement among

the parties respecting the matters herein set forth and superseded all prior discussion with respect to such matters. Notwithstanding the above, the parties acknowledge that this is a work in progress and the development of the final design for the Park Area will be part of this Agreement.

- b. This Agreement shall be binding upon the inure to the benefit of all the parties and their respective successors and assigns.
- c. This Agreement shall be construed and enforced in accordance with the laws of the State of North Dakota.
- d. This Agreement may be modified only by a written document signed by all parties. A purported oral modification shall not be effective.
- e. The Developer shall hold the Park District harmless for any claim or injury to a person or property arising out of, or in the course of, its construction, design, and plan of the Park Area. In like manner, the Park District, once it acquires the Park Area and assumes maintenance responsibility, will hold the Developer harmless for claims arising out of its negligence in maintaining the Park Area.

DEVELOPER

NICD, LLC

PARK DISTRICT:

THE PARK DISTRICT OF THE  
CITY OF FARGO

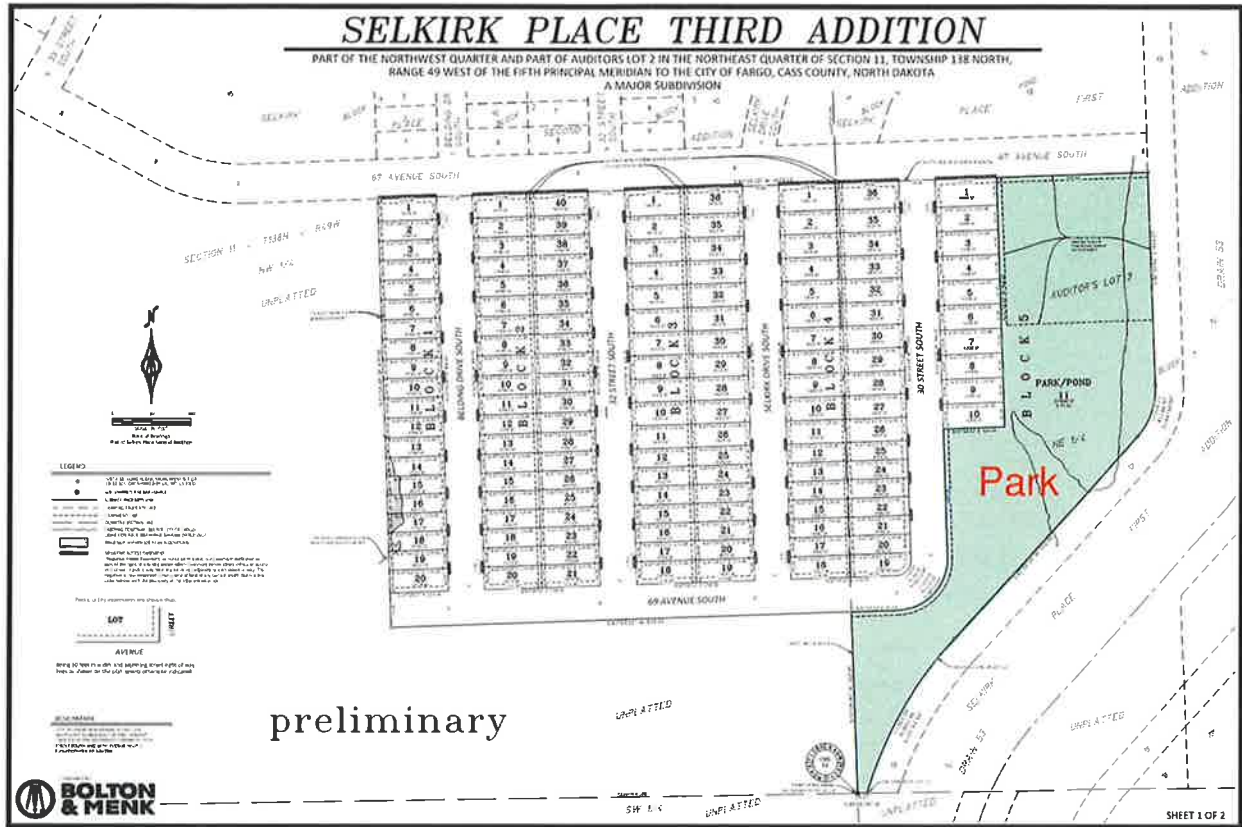
By [Signature]  
Its VP

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its President

By \_\_\_\_\_  
Its Clerk

# EXHIBIT "A"



## EXHIBIT "B"

### Schedule of Park Amenities

#### General Park Amenities – to be paid by Developer or City of Fargo

Streets  
 Curb and Gutter  
 Street Sidewalk  
 Storm Sewer  
 Storm Sewer Detention/Retention Ponds  
 North/South 10' Concrete Trail  
 Natural Trails  
 Park Grading  
 Park Native Seeding

#### Specific Park Amenities – to be paid by special assessment to entire development

Playground system for 2-5 & 5-12 ages  
 Concrete Playground Border  
 Concrete Sidewalks  
 20' x 20' Park Shelter  
 Grill Pad  
 Two (2) Park Signs  
 Trees/Landscaping (in Park Area)







EXHIBIT "E"  
Assessment Area

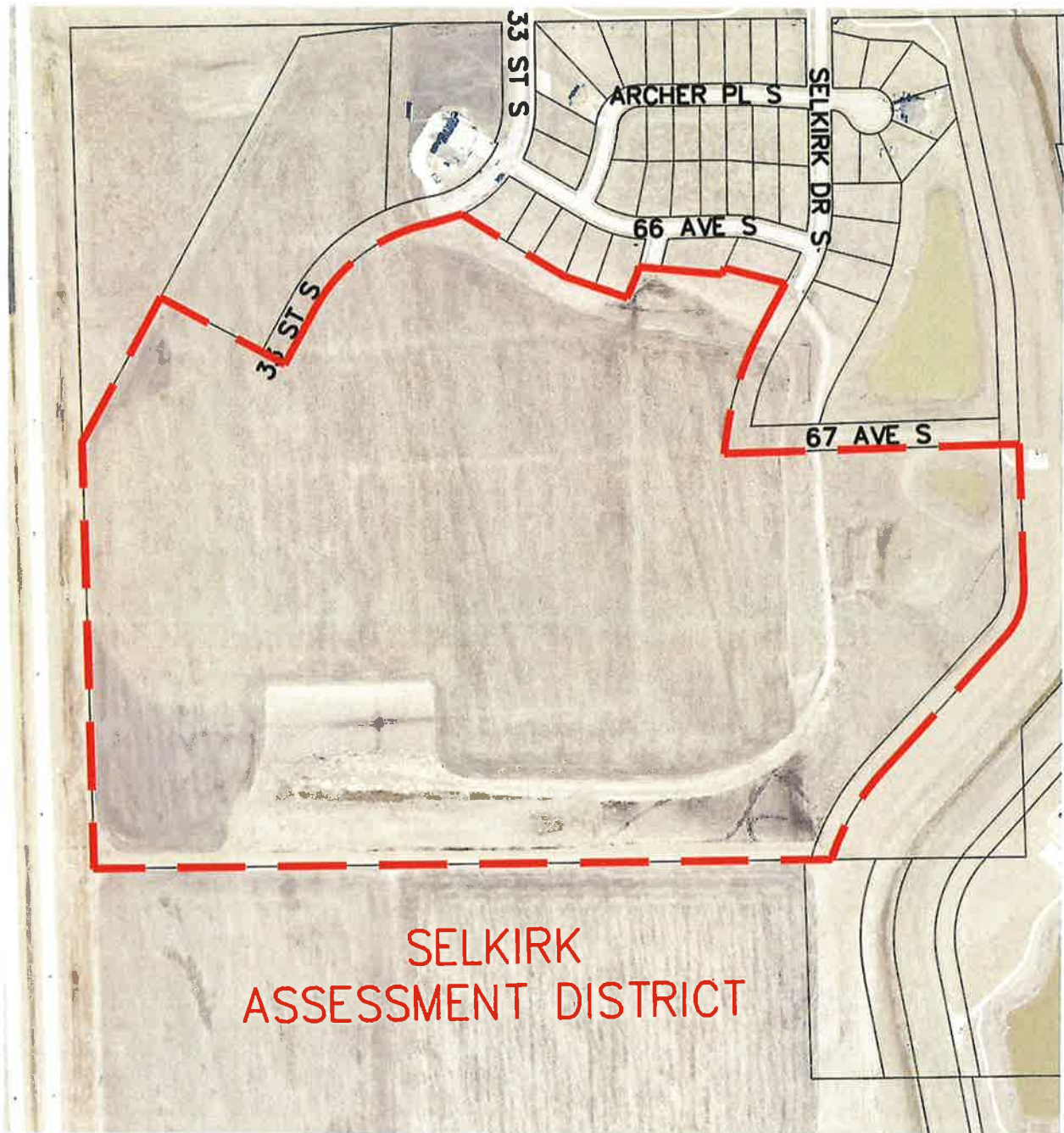




EXHIBIT "F"  
Letter of Support



March 10, 2025

**Re: Clay Hector Park (Selkirk) – Letter of Support**

Dear Park Board,


As the developer of Selkirk 2nd Addition, current owner of the 3rd Addition, and future phases, we would like to formally express our support for the planned park improvements on Lot 10, Block 5, Selkirk 3rd Addition. The proposed park will serve the entire Selkirk neighborhood and provide a critical connection to the existing trail system.

This park will feature xeriscape natural prairie landscaping and a meandering man-made channel stream. A 10-foot-wide concrete trail will run the length of the park along the existing levee, connecting to the existing end of the trail just south of 64th Avenue South. Natural gravel trails will extend off the main path and run parallel to the channel. In addition, a playground is planned immediately adjacent to 31st Street South, providing an accessible and convenient amenity for neighborhood families.

With that in mind, we respectfully request that any assessments for the park improvements be applied across the entire Selkirk neighborhood.

Please let me know if you have any questions or need additional information.

Sincerely,



Jonathan Youness, PE  
EagleRidge Development



## MEMORANDUM

DATE: April 8, 2025

TO: Fargo Park Board Members

FROM: Dave Bietz, Deputy Director of Operations

RE: Agenda Item No. 3 – Review Memo of Understanding with Fargo Post 2 Baseball Club to repair the backstop wall at Jack Williams

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The Park District and Fargo Post 2 Baseball Club plan to enter a Memorandum of Understanding (MOU) to repair the backstop wall and add new stadium seating. In October 2024, Ryan Such from Post 2 requested assistance to fix the failing backstop wall, outdated seating, and concrete walkways.

Staff began working on solutions, and this MOU outlines each entity's responsibilities.

The Park District will handle the design, bidding, and construction of the backstop wall, making necessary modifications for new seating, and repairing any field damage caused by the construction. This includes drainage, irrigation, turf, agrilime, and walkways.

Post 2 will cover the costs of removing current seating behind the backstop wall and purchasing and installing new stadium seats.

Both parties aim to minimize facility programming impacts, targeting substantial project completion by October 15, 2025.

Though unbudgeted, due to potential wall failure and rising costs if the wall is not repaired, staff recommend using reserve funds for the project. Approval of this MOU is requested to allow staff to begin securing bids. Once bids are procured, the bids will again be brought before the planning committee and the board for consideration.

This item was considered at the March 19, 2025 Planning Committee meeting with a recommendation to be moved on to the Board for consideration of approval.

For questions, please contact me before the meeting.

Thank you.

SAMPLE MOTION: I move to accept the MOU with Post 2 as presented and direct staff to secure bids for this project.





12 AVE NE

ELM ST N

1143

1139

1135

1131

1125

1121

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## MEMORANDUM

DATE: April 8, 2025

TO: Fargo Park Board Commissioners

FROM: Dave Bietz, Deputy Director of Operations

RE: Agenda Item No. 4 - Board to Consider Amendment to Payment in Lieu Agreement pertaining to J&O Real Estate

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On April 11, 2020, The Fargo Park District received an offer from EPIC Companies as part of the Request for Proposals (RFP) for the sale of Anderson Park, see attached letter. Through this process, the district accepted this offer for \$6 million, which included 4+ acres of guaranteed green space, and would require no involvement by the Park District for maintenance or programming as part of the offer.

On January 12, 2021, the Fargo Park District closed on the sale of the Anderson property and received payment of \$5,751,692.91, which is the \$6 million purchase price, less applicable closing costs. The Park District is financially whole based on the sale price; however, consideration for the 4-acre guarantee remains in question. The Park District has a covenant on the 4-acres as agreed to in the original purchase agreement dated October 8, 2020.

Developers have approached local banks which hold mortgages on the EOLA Development on the former Anderson property to inquire about purchasing the mortgages. Developers are aware of the 4-acre commitment to the Fargo Park District, and in some cases have withdrawn interest based on that requirement of the former sale. As we review the development and dedication of the park space, it is not a desirable public space and has the appearance of a private park to the development.

On December 10, 2024, J&O Real Estate LLC presented a cash in lieu offer to the Park District on the 4-acres in consideration of removing the covenant. At that time, the board did approve the agreement. In that agreement, J&O Real Estate LLC was given an inspection period of 120 days to allow them to work with lenders and the City of Fargo. J&O Real Estate LLC continues to do this work but is requesting an extension to the original agreement. They are now requesting to have the inspection period extended to May 15, 2025.

The attached Amendment to the Payment in Lieu Agreement is included within your packet, also included is the original cash in lieu agreement that was approved in December of 2024. The amendment has been reviewed by our legal counsel and staff is recommends granting this extension.

If you have any questions, do not hesitate to contact me prior to the meeting.

Thank you.

SAMPLE MOTION: I make a motion to approve the amendment to the payment in Lieu Agreement with J&O Real Estate LLC, as presented.

**AMENDMENT**  
**TO**  
**PAYMENT IN LIEU AGREEMENT**

**THIS AMENDMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2025, by and between the **PARK DISTRICT OF THE CITY OF FARGO** (the “District”) and **J & O REAL ESTATE, LLC**, or its assigns (“J & O”).

**WHEREAS**, the District and J & O entered into that certain Payment In Lieu Agreement dated December 10, 2024, relating to certain properties located within EOLA Addition and EOLA Second Addition and the Declaration of Land Use Restrictive Covenants recorded as document no. 1619482 (the “Payment In Lieu Agreement”); and

**WHEREAS**, the parties desire to amend the Payment In Lieu Agreement in accordance with the terms and conditions of this Amendment.

**NOW, THEREFORE**, for good and valuable consideration, the receipt, sufficiency, and adequacy of which are hereby acknowledged by the parties, the parties agree as follows:

1. The Inspection Period defined in Section 4 of the Payment In Lieu Agreement is hereby extended to terminate on May 15, 2025.
2. Except as specifically amended herein, the terms and conditions of the Purchase Agreement shall remain in full force and effect.

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

DISTRICT:

Park District of the City of Fargo

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

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

J & O:

J & O Real Estate, LLC

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

Brent C. Olson, Secretary/Treasurer

## PAYMENT IN LIEU AGREEMENT

**THIS AGREEMENT** is entered into this 10th day of December, 2024 (the "Effective Date"), by and between the **PARK DISTRICT OF THE CITY OF FARGO**, a North Dakota political subdivision, whose post office address is 6100 38<sup>th</sup> Street South, Fargo, North Dakota 58104, (the "District") and **J & O REAL ESTATE, LLC**, or its assigns, whose post office address is 73 Broadway, Fargo, North Dakota 58102, ("J & O"), and is made upon the following terms and conditions.

**Whereas**, in 2020, the District solicited requests for proposals in conjunction with the proposed sale of certain real property owned by the District in the County of Cass, State of North Dakota, which is more particularly described on **Exhibit A** attached hereto and incorporated herein (the "Development Property"); and

**Whereas**, the request for proposal eventually selected by the District included a requirement that the purchaser would execute and record a declaration of land use restrictive covenants in order to create certain covenants running with the land for the purpose of restricting the use of four (4) contiguous acres of the Development Property as a park open to public use which parcel is more particularly described on **Exhibit B** attached hereto and incorporated herein (the "Park"); and

**Whereas**, on or about January 12, 2021, the District sold the Development Property to EOLA Landholdings, LLC ("EOLA") as evidenced by the Warranty Deed dated January 12, 2021, recorded January 14, 2021, as document no. 1619481, and in conjunction therewith EOLA executed and recorded a Declaration of Land Use Restrictive Covenants dated January 12, 2021, recorded January 14, 2021, as document no. 1619482 (the "Declaration") covering the Park; and

**Whereas**, the Plat of EOLA Addition, a replat of Lot 4, Block 1, of Anderson Park Second Addition was recorded May 25, 2021, as document no. 1633478; and

**Whereas**, the Plat of EOLA Second Addition, a replat of Lots 1-5, Block 2, of EOLA Addition was recorded October 18, 2023, as document no. 1699824; and

**Whereas**, after some limited development on the Development Property, the remaining proposed development of the Development Property, including the Park, appeared unlikely to occur because several entities associated with EOLA filed for bankruptcy and certain approvals were not obtained from the City of Fargo; and

**Whereas**, J & O has entered into, and intends to enter into certain purchase agreements to purchase various lots in EOLA Addition and EOLA Second Addition, including such lots that will include all of, or a significant portion of the Park (the "Purchase Agreements"); and

**Whereas**, the development of the Park as initially contemplated by the EOLA development plan is no longer feasible; and

**Whereas**, J & O desires to proceed with the purchase and development of the lots in EOLA Addition and EOLA Second Addition, however, in order to do so, J & O requests that the District release the Declaration, and the District has agreed to release the Declaration in exchange for a payment in lieu of park dedication to be made by J & O in accordance with the terms and conditions of this Agreement.

**Now, therefore**, for good and valuable consideration, the receipt, sufficiency, and adequacy of which are hereby acknowledged by the parties, the parties agree as follows:

1. Release of Declaration. On the Date of Closing, the District agrees to execute and record a release of the Declaration, which release shall wholly and unconditionally release the Declaration and shall be in such form as is acceptable to J & O (the "Release").
2. Payment in Lieu. J & O agrees to pay the District the sum of Two Hundred Fifty-six Thousand Five Hundred Dollars (\$256,500.00) for the release of the Declaration and as payment in lieu of park dedication, which payment shall be payable by cashier's check, wire, or other certified means (the "Payment") by J & O to the District on the Date of Closing. The Payment shall be in lieu of any dedication of land or additional payment in lieu of park dedication relating to any property purchased by J & O in EOLA Addition or EOLA Second Addition, whether or not such property is later assigned, leased, transferred, or sold by J & O. In consideration of the Payment, the District hereby unconditionally and irrevocably waives any rights or claims, by policy, ordinance, statute or otherwise, to impose or require any dedication of land or additional payment in lieu of park dedication relating to any property purchased or to be purchased by J & O in EOLA Addition or EOLA Second Addition, whether or not any such property is later assigned, leased, transferred, or sold by J & O.
3. Date, Time and Place of Closing. The date, time, and place for the closing of the transaction contemplated by this Agreement shall be on or before ten (10) days after the expiration of the Inspection Period (as defined below) at Northern Title, 201 5<sup>th</sup> Street North, Suite 1700, Fargo, North Dakota. The date on which closing shall occur shall be referred to as the "Date of Closing." The Date of Closing is declared to be of the essence of this Agreement.
4. Inspection Period; Rights of Cancellation. For a period of one hundred twenty (120) days commencing with the Effective Date (the "Inspection Period"), J & O may terminate and cancel this Agreement for any reason, in J & O's sole discretion, by giving the District written notice to terminate and cancel this Agreement prior to the expiration of the Inspection Period, whereupon the parties shall thereupon be relieved of any and all further responsibility hereunder and neither party shall have any further obligation on behalf of the other; provided, however, the District and J & O shall execute a mutually-acceptable cancellation of this Agreement and provide it to Northern Title.
5. Conditions. J & O's obligation to consummate the transaction contemplated by this Agreement is expressly conditioned upon the following, each of which constitutes a condition precedent to J & O's obligations hereunder which, if not performed or determined to be acceptable to J & O on or before the Date of Closing, shall permit J & O, at its sole option, to



declare this Agreement null and void and of no further force and effect by written notice to the District deposited in the United States mail, postage prepared, or personally delivered to the District, at any time on or before the Date of Closing, whereupon neither the District nor J & O shall have any further obligations hereunder to the other (provided that J & O shall have the right to waive any one or all of said conditions).

- 5.1 The District shall have complied with and performed all covenants, agreements and conditions on its part to be performed under this Agreement within the time herein provided for such performance.
- 5.2 The District's representations, warranties and agreements contained herein are and shall be true and correct as of the date hereof and as of the Date of Closing in all material respects.
- 5.3 J & O shall have closed on the transactions contemplated by the Purchase Agreements on or simultaneously with the closing of the transaction contemplated by this Agreement.

6. District's Warranties.

- 6.1 The District warrants that it has the right, power, legal capacity, and authority to enter into, and perform the District's obligations under this Agreement, and no approvals or consents of any persons or entities other than the District are necessary. The person(s) executing this Agreement on behalf of the District has been duly authorized to execute this Agreement on behalf of the District. This Agreement constitutes the valid and binding obligation of the District, enforceable against the District in accordance with its terms.
- 6.2 The District warrants that the execution, delivery and performance of this Agreement and the consummation by the District of the transaction contemplated hereby will not (a) violate any law or any order of any court or any federal, state or municipal department, commission, board, bureau, regulatory authority, or agency or other government instrumentality with proper jurisdiction binding against the District; (b) result in a breach or default under any contract or other binding commitment of the District or any provision of the corporate documents of the District; or (c) require any consent or approval or any vote that has not been taken or given, or as the Date of Closing shall not have been taken or given.
- 6.3 The District has the full and unconditional right to release the Declaration as provided for herein, and upon executing and recording the Release, the Declaration shall be wholly and unconditionally released.

The District's representations and warranties set forth in this Section 6 above shall be true and correct as of the Date of Closing with the same force and effect as if remade by the District in

a separate certificate at that time. The District's representations and warranties set forth in this Section 6 shall survive the Closing.

7. J & O's Warranties. J & O warrants that it has full right, power and authority to execute, deliver and carry out the provisions of this Agreement.
8. Closing Documents. Subject to performance by J & O and the District of their respective obligations hereunder, at the time and place set for closing, the District and J & O shall deliver to each other the following:
  - 8.1 The District in consideration of the agreements of J & O, agrees to execute and deliver to J & O the Release.
  - 8.2 J & O shall deliver funds, via cashier's check, wire, or other certified means to the District in the amount of the Payment.
  - 8.3 The District and J & O shall also sign such other documents reasonably necessary to close the transaction contemplated by this Agreement.
9. Fees. The District will be responsible for the fees incurred for the preparation and recording of Release. J & O will be responsible for any closing fee payable to Northern Title. Each party shall pay its own attorneys, consultants and advisors, except as otherwise provided in this Agreement. Any other expense shall be paid by the party incurring the expense.
10. Brokerage Fees. Each party hereto warrants that it has not incurred any real estate brokerage fees, finders' fees, or any other fees to any third party in connection with this Agreement. In the event that any third party institutes legal action in an effort to recover such fees, the parties shall jointly defend such action. If a judgment is obtained against the parties jointly, the party responsible for breach of this warranty shall reimburse the other for the latter's attorneys' fees, court costs, expenses, and share of the judgment.
11. Default. In the event that any of the District's representations or warranties contained in this Agreement are untrue or if the District shall have defaulted in the performance of any of the covenants or agreements contained herein which are to be performed by the District for any reason, J & O may, at its option: (a) terminate this Agreement by giving written notice of termination to the District and receive a full and immediate refund of the earnest money; or (b) seek to enforce specific performance of this Agreement; provided, however, J & O must commence any action for specific performance within sixty (60) days after the Date of Closing.
12. Assignment. J & O may, without the District's consent, assign this Agreement, and J & O's rights, duties, and obligations hereunder at any time prior to or contemporaneously with the closing.

13. Miscellaneous. This Agreement shall be binding upon and inure to the benefit of the parties, their successors, and assigns. The headings used herein are for convenience only and do not constitute a part of this Agreement. No waiver of any part of this Agreement shall be construed to be a waiver of any other part nor shall one waiver stop either party from subsequently requiring performance. **TIME IS OF THE ESSENCE OF EACH AND EVERY PART OF THIS AGREEMENT.**
14. Attorney's Fees. If either the District or J & O files any action or brings any proceeding against the other arising out of this Agreement, or is made a party to any action or proceeding brought by a third party arising out of this Agreement, then as between the District and J & O, the prevailing party in any such action or proceeding, including appellate proceedings, shall be entitled to recover, as an element of its costs of suit and not as damages, reasonable attorneys' fees to be fixed by the court. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to attorneys' fees.
15. Amendment, Modification, or Waiver. No amendment, modification, or waiver of any condition, provisions, or term shall be valid or of any effect unless made in 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 shall not affect or impair any right arising from any subsequent default. Except as expressly and specifically stated otherwise, nothing herein shall limit the remedies and rights of the parties hereto under and pursuant to this Agreement.
16. Severable Provisions. Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.
17. Entire Agreement. This Agreement contains the entire agreement between the parties and no prior oral agreement or representation shall be enforced unless incorporated herein in writing.
18. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event of any ambiguity or question of intent or interpretation arising, this Agreement shall be construed as drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.
19. Execution. This Agreement may be executed by the parties in separate counterparts and delivered by e-mail in .pdf format, by facsimile and/or by printed document, each separately executed counterpart of which shall be considered as an original of this Agreement and shall be afforded the same force and effect as a duly signed original and each of which shall be binding upon the parties hereto, even if an executed counterpart is delivered only by e-mail in .pdf format or by facsimile.


20. Governing Law. This Agreement shall be construed in accordance with the laws of the State of North Dakota.

[remainder of page intentionally left blank]

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


DISTRICT:

Park District of the City of Fargo

By:   
Its: President

J & O:

J & O Real Estate, LLC

By:   
Brent C. Olson, Secretary/Treasurer

**Exhibit A**  
[Development Property]

Lot Four (4), Block One (1), Anderson Park Second Addition to the City of Fargo, according to the recorded plat thereof on file and of record in the office of the County Recorder of Cass County, North Dakota less the following:

Commencing at the northwest corner of said Lot 4; thence South 02 degrees 28 minutes 18 seconds East, on the east right-of-way line of 45<sup>th</sup> Street South a distance of 164.51 feet to the point of beginning; thence North 87 degrees 31 minutes 42 seconds East a distance of 839.96 feet to the east line of said Lot 4; thence South 02 degrees 28 minutes 18 seconds East, along said east line, 73.00 feet; thence South 87 degrees 31 minutes 42 seconds West a distance of 839.96 feet to said east right-of-way line; thence North 02 degrees 28 minutes 18 seconds West, on said east right-of-way, 73.00 feet to the point of beginning.

**Exhibit B**  
**[Park]**

That part of Lot Four (4), Block One (1), Anderson Park Second Addition to the City of Fargo, according to the recorded plat thereof on file and of record in the office of the County Recorder of Cass County, North Dakota, described as follows:

Commencing at the northwest corner of said Lot 4; thence on an assumed bearing of South 02 degrees 28 minutes 18 seconds East on the east right-of-way line of 45<sup>th</sup> Street South a distance of 237.51 feet, thence North 87 degrees 31 minutes 42 seconds East, 399.00 feet to the point of beginning; thence South 02 degrees 28 minutes 18 seconds East a distance of 108.00 feet; thence South 87 degrees 31 minutes 42 seconds West a distance of 160.00 feet; thence South 02 degrees 28 minutes 18 seconds East a distance of 175.00 feet; thence South 87 degrees 31 minutes 41 seconds West a distance of 130.27 feet; thence South 02 degrees 28 minutes 18 seconds East a distance of 130.61 feet; thence North 88 degrees 04 minutes 18 seconds East a distance of 576.26 feet; thence North 02 degrees 28 minutes 18 seconds West a distance of 113.94 feet; thence North 87 degrees 31 minutes 42 seconds East a distance of 155.01 feet to the east line of said lot; thence North 02 degrees 28 minutes 18 seconds West on said east line a distance of 37.14 feet; thence South 87 degrees 31 minutes 42 seconds West a distance of 155.01 feet; thence North 02 degrees 28 minutes 18 seconds West a distance of 160.00 feet; thence South 87 degrees 31 minutes 42 seconds West a distance of 160.00 feet; thence North 02 degrees 28 minutes 18 seconds West a distance of 108.00 feet; thence South 87 degrees 31 minutes 42 seconds West a distance of 125.96 feet to the point of beginning.