

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING ("Agreement") is made and entered into on this 3rd day of August, 2026, by and between **DICKINSON PARKS AND RECREATION DISTRICT** ("District") and the **CITY OF DICKINSON** ("City").

WHEREAS, the City is authorized to enter into contracts pursuant to N.D.C.C. § 40-05.1-06;

WHEREAS, the District is authorized to enter into contracts pursuant to N.D.C.C. § 40-49-04;

WHEREAS, the City owns certain equipment that may periodically be available for use by the District;

WHEREAS, the Parties now wish to memorialize the District's permitted use of certain City-owned equipment and set forth the obligations of each Party; and

NOW, THEREFORE, in consideration of the mutual terms, covenants, promises, and conditions set forth herein, it is agreed by and between the City and the District as follows:

1. Purpose. The purpose of this Agreement is to establish the terms under which the City may allow the District to use designated City-owned equipment for official District purposes.

2. Term. This Agreement shall be effective on August 3rd, 2026, and shall continue until December 31st, 2046, unless terminated in writing prior to the expiration of the initial term or any renewal term by mutual agreement of the Parties, or terminated by either Party in accordance with Section 11 (Termination) of this Agreement.

3. City Equipment. This Agreement applies to all City-owned equipment approved by the City for District use ("City Equipment"). City retains ownership to all City Equipment.

4. Use. City Equipment may be used only for official District business, by an authorized District operator, and in accordance with this Agreement, applicable law, manufacturer requirements, insurance requirements, written District policies, and written City policies provided to District.

5. Authorized Operators. The District shall ensure that each District operator of City Equipment is a District employee, holds a valid license appropriate for the equipment, has received training reasonably necessary to operate the equipment safely, and meets applicable legal and insurer requirements. The District shall not knowingly permit a District operator to operate City Equipment while impaired, unlicensed, medically unable to drive safely, or otherwise ineligible to operate the equipment. The District will be responsible for supervising and directing its employees while they operate City Equipment.

6. Condition of City Equipment. The City will ensure the City Equipment is properly registered, reasonably maintained, and reasonably believed to be safe for its intended use. The City shall be responsible for scheduled maintenance, manufacturer recalls, registration, ordinary

wear and tear, preexisting damage, mechanical failure not caused by District use, and any other known defects. The City shall disclose any known material operating limitations or safety concerns to District prior to District use.

7. Requested Use of City Equipment. The District's Executive Director or designated supervisors may contact the City's Administrator or designated supervisors to request use of City Equipment. The City's Administrator or designated supervisors may approve, deny, condition, or revoke a request based on equipment availability, operational needs, or any other reasonable considerations. City approval shall not be unreasonably withheld.

8. Costs for Use of City Equipment. The District shall be responsible for expenses directly resulting from its use of City Equipment including fuel, parking, traffic or parking citations, and any extraordinary cleaning required. The City shall remain responsible for all normal ownership and maintenance expenses.

9. No Third Party Rights. This Agreement is entered into for the sole benefit of the City and the District. It shall confer no benefits or rights, direct or indirect, on any third person. No person or entity other than the parties themselves may rely upon or enforce any provision of this Agreement. The decision to assert or waive any provision of this Agreement is solely that of each Party.

10. Compliance with Law. The Parties to this Agreement shall comply with all applicable federal, state, and local laws, rules, and regulations in carrying out the terms and conditions of this Agreement. Each Party shall be responsible for complying with all relevant safety laws and regulations and for taking all necessary safety precautions during the term of this Agreement.

11. Termination. Either Party may terminate this Agreement, with or without cause, by giving the other Party 90 days prior written notice of termination.

12. Force Majeure. Neither Party will be held responsible for delay or default caused by fire, riot, terrorism, pandemic, acts of God, or war if the event was not foreseeable through the exercise of reasonable diligence by the affected Party, the event is beyond the Party's reasonable control, and the affected Party gives notice to the other Party promptly upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default.

13. Indemnification. The City and District each agree assume its own liability for any and all claims of any nature including all costs, expenses, and attorneys' fees which may in any manner result from or arise out of this Agreement.

14. Insurance. At its sole expense, the City shall procure and maintain insurance covering City Equipment. Such insurance shall remain in full force and effect for the duration of this Agreement. Any and all claims, losses, damages, liabilities, costs, or expenses arising out of or relating to the activities performed under this Agreement shall be submitted to and governed by the City's insurance policy.

If City Equipment is damaged while it is in the District's possession, custody, or control pursuant to this Agreement, the District shall be responsible for the applicable insurance deductible for repair or replacement of the City Equipment.

The District shall promptly report any damage or potential claim and shall cooperate with the City and insurer in the investigation of the claim.

15. Notice. All notices or other communications required under this Agreement must be given by registered or certified mail and are complete on the date postmarked when addressed to the Parties at the following addresses, or by email complete on the date sent:

TO CITY:

City Administrator
City of Dickinson
38 1st St. W
Dickinson, ND 58601
Dustin.dassinger@dickinsongov.com

TO DISTRICT:

Executive Director
Dickinson Parks and Recreation District
2004 Fairway St.
Dickinson, ND 58601
brae@dickinsonparks.org

16. Independent Entity. None of the provisions of this Agreement create nor shall be deemed or construed to create any relationship between the Parties hereto other than that of independent entities contracting with each other for the purposes outlined in this Agreement. Neither of the Parties, nor any of their respective elected officials, directors, or employees, shall be construed to be the agent, employee, or representative of the other.

17. Assignment. Neither Party may assign nor otherwise transfer or delegate any right or duty without the other Party's express written consent.

18. Merger and Modification. This Agreement constitutes the entire agreement between the Parties. There are no understandings, agreements, or representations, oral or written, not specified within this Agreement. This Agreement may not be modified, supplemented, or amended, in any manner, except by written agreement signed by both Parties.

19. Severability. If any term of this Agreement is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms is unaffected and, if

possible, the rights and obligations of the Parties are to be construed and enforced as if this Agreement did not contain the illegal or unenforceable term.

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

21. Effectiveness of Contract. This Agreement is not effective until fully executed by both Parties. If no start date is specified, the most recent date of the signatures of the Parties shall be deemed the Effective Date.

CITY OF DICKINSON

By: _____

Scott Decker

Mayor, City of Dickinson

Date: _____

**DICKINSON PARKS AND RECREATION
DISTRICT**

By: Tim Daniel

Tim Daniel

President, Park District

Date: 8-3-2026

ATTEST:

City Clerk