



County Administrator

Keith Berndt

MEMO

TO: Cass County Board of Commissioners

FROM: Keith Berndt
Cass County Administrator

DATE: August 25, 2014

SUBJECT: MOU with Audubon Society

Commissioners:

As you are aware discussions are underway with the Fargo Park District to turn county-owned property in Heritage Hills, Orchard Glen and Forest River over to the Park District.

The Fargo Park District is working with Audubon Dakota to do some native grass restoration at a number of Fargo park land locations and would like to complete some of this work in Heritage Hills. The Park District has proposed entering into a Memorandum of Understanding to allow this to occur. I recommend approval.

SUGGESTED MOTION:

Authorize the chairman to sign the enclosed MOU between Cass County, the Fargo Park District and Audubon Dakota.

WORDENHMY DOCUMENTS\KEITH\MEMO-FARGO PARK DISTRICT & AUDUBON SOCIETY.DOCX

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MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into by Cass County and the National Audubon Society, Inc. through Audubon Dakota (“Audubon”), in contemplation of restoration and management of Orchard Glen, Forest River, and Heritage Hills, land tracts owned by Cass County along the Red River of the North, as birding and wildlife habitat.

1. Audubon is a tax-exempt organization described in Section 501(c)(3) of the Internal Revenue Code. The mission of Audubon is to conserve and restore natural ecosystems, focusing on birds, other wildlife, and their habitats for the benefit of humanity and Earth’s biological diversity. Audubon’s address in Fargo, ND is 118 Broadway N. Suite 512, Fargo, North Dakota, 58102.
2. Orchard Glen, Forest River, and Heritage are three former residential communities along the Red River of the North south of Fargo along University Avenue. Attached hereto as Exhibit “A” is an aerial view of the three communities and the surrounding area. Cass County, in conjunction with the Fargo Parks District, is seeking to coordinate the reestablishment and management of native vegetation to this area. Any use of the County owned land by Audubon must be coordinated with Cass County and the Fargo Parks District.
3. Audubon acknowledges that this land is under the direction and control of Cass County at the current time, although future ownership of the land may belong to the Fargo Parks District. Cass County, within its sole discretion, depending on possible changing uses of that land area, programming, and other developments in the future, may require a change in management objectives and protocols. Cass County agrees to cooperate with Audubon with regard to any change in management if possible. It is emphasized that Cass County itself is solely in control of the uses of this land. If drastic changes in management were to occur, Audubon shall have no obligation hereunder for the relocation or removal of any Audubon installations (as defined below).
4. Birding and wildlife viewing is the observation of birds and wildlife and is a passive recreational activity done with a naked eye, through the use of binoculars or similar visual enhancement devices or listening to bird sounds. To promote birding and wildlife viewing, Audubon uses designated areas for bird monitoring, environmental education, and competitions. Birding and wildlife viewing contemplates the use of sound equipment, photography, videography, and possible remote bird watching through remote camera installations. Audubon is concerned about the impact of birding and wildlife viewing on natural habitat and viewing etiquette is strongly promoted.
5. Audubon has been in contact with Prairie Restorations, Inc. and has already received expense bids for the restoration of these sites and will be working with the Fargo Parks District to finance the restoration aspect of the project. Audubon will use reasonable efforts to raise such funds and/or procure contracted or voluntary labor as may be necessary to effect the Audubon installations. Cass County, the Fargo Parks District, and Audubon will coordinate the scheduling of construction and other installations and intend to have about 75% of the

improvements installed (foliage and any other facilities) within five (5) years of the date of the MOU.

6. The detailed plans for any Audubon installations shall be subject to the approval of Cass County, which approval will not be unreasonably withheld. Audubon agrees not to commence the construction of any Audubon installations until it has procured the written consent of Cass County designated staff person(s) with regard to the plans for the site and such installation.
7. Audubon will develop programs, activities, and events which may include, but not be limited to, environmental education programs, volunteer training, seminars and workshops, native plant demonstrations, habitat restoration projects, and wildlife monitoring. Audubon will coordinate its programs and engagement with Cass County and the Fargo Parks District to ensure appropriate use of the land and the facilities.
8. The Fargo Parks District will be responsible to maintain the area currently owned by Cass County. Audubon is responsible for monitoring/maintaining foliage and habitat installed by Audubon for a period of time until established, but not to exceed three years.

Notwithstanding the above, Cass County and the Parks District agree to use their best efforts to keep the area free and clear of debris during its normal and customary maintenance of the grounds, including drainage areas. Audubon acknowledges that any installations are being placed in a public area that is there for the benefit of the entire public and a neat and presentable appearance is in the best interests of the citizens of Fargo.

9. Other than the signage that may be placed at the agreed-upon locations as provided in management plans, no additional signage will be placed at the sites or in the area. It is understood by Audubon that there will be no utilities provided to the area without the express written consent of Cass County.
10. If the Audubon installations are not maintained or repaired in the ordinary course and they fall into disrepair, Cass County, in its sole discretion, may request Audubon to affect the necessary repairs or remove the Audubon installations, including signage. The notice shall be given to Marshall Johnson or so such a person as Audubon would otherwise direct in the future. Audubon will have not less than 15 days to commence to make the repairs or remove the installations. It is expected that Audubon will proceed in an expeditious manner to complete the repairs or provide the maintenance required or, alternatively, remove the installations. If neither is commenced within the 15 day cure period or Audubon fails to thereafter proceed in an expeditious manner, Cass County, in its sole discretion, may remove the Audubon installations. If removed, Audubon shall be responsible for bringing the property back to a condition that is substantially in conformance to what it was prior to the Audubon installations or reimburse Cass County the reasonable cost for such service.
11. Cass County shall be held harmless for any claims that would arise for personal injury or property damage that may occur at the land adjoining the three sites resulting from any action

or failure to act on the part of Audubon or breach of its obligations under this Memorandum of Understanding.

This Memorandum of Understanding is entered into this ___ day of _____, 2014.

CASS COUNTY

By: _____

Its: _____

NATIONAL AUDUBON SOCIETY, INC.

By: _____

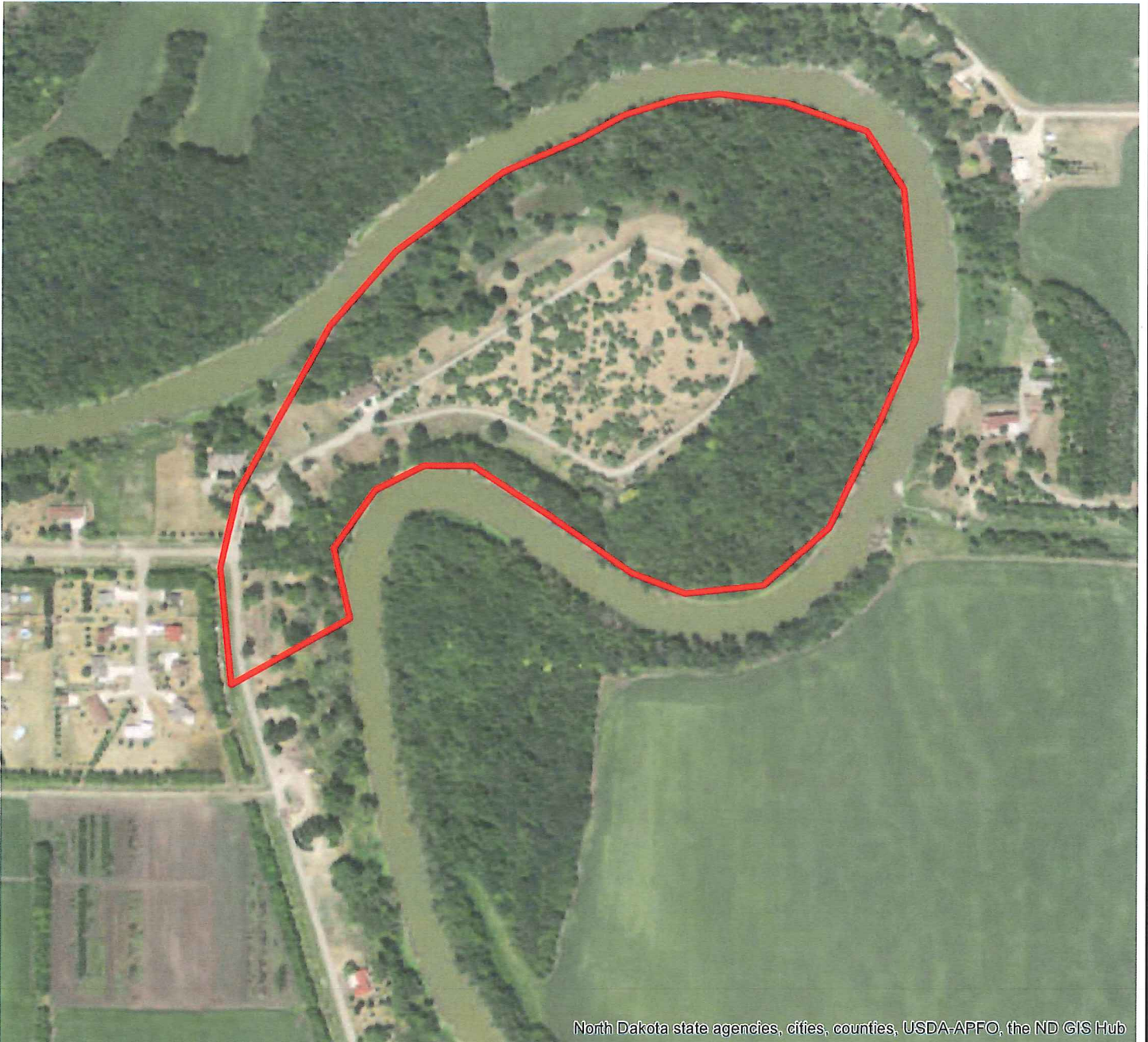
Its: _____

FARGO PARKS DISTRICT

By: _____

Its: _____

Orchard Glen




North Dakota state agencies, cities, counties, USDA-APFO, the ND GIS Hub

Legend

 Boundary



 Miles
0 0.0425 0.085 0.17 0.255 0.34

Target Bird Species: Bobolink, Wood Duck, Canada Goose, Mallard, Rose-breasted Grosbeak, Northern Flicker, and Red-headed Woodpecker

Target Vegetation Species: Little Bluestem, Big Bluestem, Indian Grass, Side Oats Grama, Purple Prairie Clover, and Leadplant



Forest River



North Dakota state agencies, cities, counties, USDA-APFO, the ND GIS Hub

Legend

-  Wetland Restoration
-  Boundary



1:9,054

0 0.095 0.19 0.285 0.38 Miles

Target Bird Species: Wood Duck, Canada Goose, Mallard, Marbled Godwit, Pied-billed Grebe, Red-headed Woodpecker, and Field Sparrow

Target Vegetation Species: Little Bluestem, Big Bluestem, Indian Grass, Side Oats Grama, Tall Blazing Star, and Common Milkweed

*Note: All houses have been moved from project area.

Heritage Hills




North Dakota state agencies, cities, counties, USDA-APFO, the ND GIS Hub

Legend

 Boundary



1:5,727

 Miles
0 0.03 0.06 0.12 0.18 0.24

Target Bird Species: Bobolink, Western Meadowlark, Upland Sandpiper, Grasshopper Sparrow, Wood Duck, Canada Goose, and Mallard

Target Vegetation Species: Little Bluestem, Big Bluestem, Indian Grass, Switch Grass, Green Needlegrass, and Yarrow

*Note: All houses have been moved from the project area.



Audubon

Prepared by Ben Williams 8/21/14