

FLOOD DIVERSION AUTHORITY
FINANCE COMMITTEE
AGENDA FOR WEDNESDAY, JULY 13, 2016

Fargo City Commission Chambers
2:30 PM

1. Call to order
2. Approval of the minutes from the previous meeting Item No. 2
3. Approval of bills Item No. 3
4. Financial update
 - a. Financial reports (Costin) Item No. 4a
 - b. Oxbow lot sales report Item No. 4b
5. Short term financing (Costin and John Shockley)
6. Cash account (Costin) Item No. 6
7. Land Acquisition Directives (Eric Dodds)
 - a. Phase 1A Item No. 7a
 - b. Phase 1B Item No. 7b
8. Aconex (document management system) contract extension Item No. 8
9. P3 Request for Qualifications (John Shockley)
 - a. RFQ Procedures and Protocols Item No. 9a
 - b. RFQ Resolution Item No. 9b
10. Other business
11. Next meeting—August 10, 2016
12. Adjournment

cc: Local Media
Flood Diversion Board of Authority
CH2M
AE2S

**FLOOD DIVERSION FINANCE COMMITTEE
JUNE 8, 2016—2:30 PM**

1. MEETING TO ORDER

A meeting of the Flood Diversion Finance Committee was held on Wednesday, June 8, 2016, at 2:30 PM in the Fargo City Commission Chambers, Fargo City Hall, with the following present: Cass County Administrator Keith Berndt; Cass County Joint Water Resource District Chairman Mark Brodshaug; Fargo Finance Director Kent Costin; Cass County Auditor Mike Montplaisir; Moorhead City Council Member Nancy Otto; Cass County Commissioner Rick Steen; Cass County Commission Representative Darrell Vanyo; Moorhead Finance Director Wanda Wagner; and Fargo City Commissioner Mike Williams. Clay County Auditor/Treasurer Lori Johnson and Fargo City Mayor Tim Mahoney were absent.

Eric Dodds, AE2S, was also present.

2. APPROVAL OF MINUTES FROM PREVIOUS MEETING

MOTION, passed

Mr. Steen moved and Mr. Williams seconded to approve the minutes from the May 11, 2016, meeting as presented. Motion carried.

3. APPROVAL OF BILLS

Mr. Costin said the Cass County Joint Water Resource District (CCJWRD) bill is the largest bill for the month. It includes \$2.1 million of previously approved buyouts in Oxbow and three eminent domain transactions totaling over \$1 million.

Mr. Costin said bills for transactions completed under approved contracts do not need to be reviewed and approved by this committee on an individual basis. The Ashurst bill falls into this category and was erroneously included on the bill listing.

Mr. Steen asked what the budgeted amount for Ashurst is. Mr. Costin said about \$1.9 million has been approved for the current period. John Shockley from Ohnstad Twichell communicates with Ashurst to provide and monitor task orders for the Diversion Authority and assists with reviewing the billing.

MOTION, passed

Mr. Costin moved and Ms. Otto seconded to approve the bills in the amount of \$3,888,608.54, which does not include the amount erroneously included for Ashurst LLP, and to forward them to the Flood Diversion Board of Authority. On roll call vote, the motion carried unanimously.

4. FINANCIAL UPDATE

Mr. Costin reviewed the financial statements for May. About \$37.6 million has been expended from the FY 2016 budget, and the total disbursed for the project to date is \$216,365,570. The land acquisition line item is now over \$98 million and expenditures will rise as construction increases.

Mr. Williams asked if there is a projection for land acquisition expenses for the overall project. Mr. Berndt said there is a budget amount for each year of the recently updated

\$2.1 billion project budget.

Mr. Steen asked what constitutes an outstanding encumbrance as listed on the financial reports. Mr. Costin said once a contract or purchase is approved, it may be listed as an encumbrance until the time it is paid. Mr. Steen asked if outstanding encumbrances must be expended during the current fiscal year. Mr. Montplaisir said they do not as some approved projects are so large that they may span multiple years.

Mr. Costin said the Cumulative Vendor Payments Since Inception Report shows every dollar spent on the project to date. Mr. Costin has received very positive feedback on this report as it shows full transparency of project expenditures.

Mr. Steen asked if project expenditures to date are included in the \$2.1 billion project cost. Mr. Montplaisir said everything contracted to date is included in the project cost.

Mr. Berndt left for the remainder of the meeting.

5. **SHORT TERM FINANCING**

Mr. Montplaisir said as outlined in the distributed memo and spreadsheet, a small group has been investigating supplementing the current \$100 million temporary financing from U.S. Bank with another \$100 million to finance diversion activities and the required Army Corps of Engineers payment expected to be paid later this year. The group approached U.S. Bank, but the lender was unable to meet the minimum needs of the current funding request.

The group then met with Wells Fargo, which was able to provide a very competitive proposal, including \$100 million to retire the U.S. Bank loan, plus an additional \$100 million required for current funding needs. Mr. Montplaisir said it is likely that the county would take out the first \$100 million loan, and the city would take out the second half of the loan, either in two \$50 million installments or in a single transaction.

Ms. Wagner asked for an explanation of the trust account line item under “Terms” for the Wells Fargo proposal. Mr. Montplaisir said if the sales tax extension did not pass, the trust account would hold sales tax revenues to be used only for repayment of the loan debt. Mr. Costin said this term will hopefully be negotiated out of the agreement.

MOTION, passed

Mr. Williams moved and Mr. Steen seconded to authorize that negotiations continue with Wells Fargo for a proposal for two \$100 million loans with a closing date of August 1, 2016, contingent on the removal of the trust account term. The proposal will be then be presented for final approval. On roll call vote, the motion carried unanimously.

6. **OXBOW LOT SALES**

Mr. Brodshaug said the Oxbow Lot Sales spreadsheet outlines available and sold lots in Oxbow and provides a measure of predictability for the timing and amount of lot sales to be reimbursed to the Diversion Authority.

Mr. Brodshaug said 100% of the proceeds go to the Diversion Authority for the sale of buyout lots, and 75% of the proceeds go to the Diversion Authority for the sale of non-

buyout and unassigned lots. “Unassigned Lots” designates lots that have been set aside for those in the staging area who may wish to move to Oxbow and for the relocation of 10 bought-out houses, as designated by a yet to be determined contractor. Over time, as the number of lots to be used for those purposes is determined, the rest of the unassigned lots will be released.

Mr. Steen asked who has the authority to release the unassigned lots. Mr. Brodshaug said the Diversion Authority does.

Mr. Costin said the unassigned lots are listed at their appraised value. The market value will most likely be higher, which will result in more funds coming back to the Diversion Authority than outlined in the spreadsheet.

7. PROPERTY ACQUISITION, One property approved for acquisition

Mr. Dodds said the Fargo City Commission voted to enter into an agreement between Mid-America Steel, and the Diversion Authority and CCJWRD. As the summary outlines, the Diversion Authority, via CCJWRD, will pay \$5.8 million for the purchase of the existing Mid-America Steel parking lot. In return, immediate access to the parking lot for the construction of the 2nd Street Floodwall will be granted.

Mr. Brodshaug said CCJWRD will own the parking lot north of NP Avenue, and the city will own everything south of NP Avenue. Mid-America will continue to lease the facility at its current site until an alternate site is complete and ready to take over production. Per the recently approved Joint Powers Agreement, once construction is complete the entirety of the property will be owned by the city.

Mr. Vanyo said while he supports the acquisition, it appears that the Diversion Authority will contribute approximately one quarter of the purchase price of the transaction, but the residual value and potential revenue will eventually go to the city.

MOTION, passed

Mr. Williams moved and Mr. Vanyo seconded to authorize the Cass County Joint Water Resource District to execute an Entry and Construction Agreement to allow for immediate access to the Mid-America Steel property for construction of the floodwall project as presented. On roll call vote, the motion carried unanimously.

AMENDED MOTION, passed

Mr. Williams moved and Ms. Otto seconded to authorize the Cass County Joint Water Resource District to execute a Purchase Agreement in the amount of \$5,800,000 as administrative settlement for the Mid-America Steel parking lot. Discussion: Mr. Steen asked if language should be added to the motion to evaluate the residual value of the property going forward. Mr. Williams and Ms. Otto agreed to amend the original motion to include the continued evaluation of the residual value of the property for further discussion at a later date. Mr. Brodshaug said it was his understanding that as the city is assuming all of the risk in the agreement, they should ultimately reap the potential rewards. There is also a question in how the residual

value will be tracked and for how long. Mr. Steen said his concern is if the city sees a large profit relatively quickly once the property is entirely in its possession. On roll call vote, the motion carried unanimously.

8. UPCOMING MEETING SCHEDULE

The next regularly scheduled meeting will be held on July 13th, at 2:30 PM.

9. ADJOURNMENT

MOTION, passed

On motion by Mr. Vanyo, seconded by Ms. Otto and all in favor, the meeting was adjourned at 3:33 PM.

Minutes prepared by Brielle Edwards, HR Assistant

Finance Committee Bills for July 2016

Vendor	Description	Amount
Cass County Joint Water Resource District	Reimburse Diversion bills	\$ 2,609,981.31
Erik R. Johnson & Associates, Ltd.	General Legal Matters through May 25, 2016	\$ 8,167.10
Dorsey & Whitney LLP	Legal Services Rendered through May 31, 2016	\$ 83,452.34
Ohnstad Twichell, P.C.	Bond counsel work; PPP Research	\$ 60,540.78
Ohnstad Twichell, P.C.	4th Street Pump Station Litigation through June 21	\$ 1,450.00
Springsted	Professional Services through April 30, 2016	\$ 24,136.77
		<hr/>
Total Bills Received in June		<hr/> <u>\$ 2,787,728.30</u>



Cass County
Joint Water
Resource
District

July 5, 2016

Diversion Authority
P.O. Box 2806
Fargo, ND 58108-2806

Mark Brodshaug
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Dan Jacobson
Manager
West Fargo, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Greetings:

RE: Metro Flood Diversion Project
In-Town Levees Project
Diversion Project Assessment Committee (DPAC)
Oxbow-Hickson-Bakke Ring Levee Project

Enclosed please find copies of bills totaling \$2,609,981.31 regarding the above referenced projects. The breakdown is as follows:

Metro Flood Diversion	\$ 45,266.89
In-Town Levees	965,131.18
DPAC	6,812.12
Oxbow-Hickson-Bakke Ring Levee	1,435,171.12
Oxbow Golf and Country Club	157,600.00

At this time, we respectfully request 100% reimbursement as per the Joint Powers Agreement between the City of Fargo, Cass County and Cass County Joint Water Resource District dated June 1, 2015.

If you have any questions, please feel free to contact us. Thank you.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT

Carol Harbeke Lewis
Secretary-Treasurer

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

Enclosures

701-298-2381
FAX 701-298-2397
wrđ@casscountynđ.gov
casscountynđ.gov

METRO FLOOD DIVERSION RIGHT OF ENTRY/LAND ACQUISITION COST SHARE INVOICES

Updated 7/5/16

Invoice Paid	Invoice Date	Invoice No.	Project No.	Amount	Vendor	Description
6/9/2016	5/25/2016	142698	160007	99.00	Ohnstad Twichell, P.C.	Eminent Domain on Inlet parcel - Sauvageau
6/9/2016	5/25/2016	142699	160007	351.00	Ohnstad Twichell, P.C.	Eminent Domain on Inlet parcel - Cossette
6/9/2016	5/25/2016	142700	160007	342.00	Ohnstad Twichell, P.C.	Eminent Domain on Inlet parcel - Uistad
6/9/2016	5/25/2016	142780	130007	16,969.89	Ohnstad Twichell, P.C.	Legal-Diversion ROW Acquisition
6/9/2016	5/25/2016	142782	90007	6,264.00	Ohnstad Twichell, P.C.	Legal-DA JPA, open records, MnDNR
6/9/2016	5/25/2016	142696	160007	18,059.00	Ohnstad Twichell, P.C.	Legal-Inlet Right of Entry
6/23/2016	6/7/2016	691306	38810	66.00	Larkin Hoffman Attorneys	Legal-Stefonowicz
6/23/2016	6/7/2016	691307	38810	3,116.00	Larkin Hoffman Attorneys	Legal-Stefonowicz - Sauvageau property

Total 45,266.89

IN-TOWN LEVEES INVOICES

Invoice Paid	Invoice Date	Invoice No.	Project No.	Amount	Vendor	Description
6/9/2016	6/6/2016	902799		2.00	Dawson Insurance	Liability insurance added to properties
06/23/16	06/20/16	381069369	479407	249,500.00	CH2MHill	Construction Management services (99.8% In-Town)
06/23/16	06/20/16	381069370	479407	250,000.00	CH2MHill	Construction Management services (100% In-Town)
6/9/2016	5/17/2016	1288	2002	25,519.26	Houston-Moore Group	Negotiation and acquisition services
6/9/2016	5/17/2016	1289	2002	31,265.13	Houston-Moore Group	Negotiation and acquisition services
6/9/2016	5/22/2016	381066419	479407	141,199.81	CH2MHill	Land Management Services - (78%)
6/23/2016	6/2/2016	1310	2002	55,537.17	Houston-Moore Group	Negotiation and acquisition services, project mgmt
6/23/2016	6/2/2016	1311	2002	91,558.58	Houston-Moore Group	Negotiation and acquisition services, project mgmt
6/23/2016	6/2/2016	1312	2002	62,607.93	Houston-Moore Group	Negotiation and acquisition services, project mgmt
6/23/2016	6/2/2016	1313	2002	29,492.06	Houston-Moore Group	Negotiation and acquisition services, project mgmt
6/23/2016	6/8/2016	1325	2002	28,449.24	Houston-Moore Group	Negotiation and acquisition services, project mgmt

Total 965,131.18

DIVERSION PROJECT ASSESSMENT DISTRICT (DPAC) INVOICES

Invoice Paid	Invoice Date	Invoice No.	Project No.	Amount	Vendor	Description
6/9/2016	5/25/2016	142658	120007	180.00	Ohnstad Twichell, P.C.	Legal - Garaas' reply brief
6/9/2016	5/25/2016	142672	150007	6,632.12	Ohnstad Twichell, P.C.	Legal - Garaas appeal

Total 6,812.12

OXBOW-HICKSON-BAKKE RING LEVEE INVOICES

Invoice Paid	Invoice Date	Invoice No.	Purchase Order No.	Project No.	Amount	Vendor	Description
6/9/2016	6/6/2016	902799			6.00	Dawson Insurance	Liability insurance added to properties
6/9/2016	5/27/2016	142781		140007	11,691.18	Ohnstad Twichell, P.C.	Legal-ROW
06/23/16	06/20/16	381069369		479407	500.00	CH2MHill	Construction Management services (.2% OHB - see In-Town Le
6/9/2016	5/30/2016	5		14809-5	256,933.39	Riley Bros. Construction	Construction on OHB Ring Levee
6/6/2016	6/6/2016				382,634.10	The Title Company	Purchase Andel property
6/6/2016	6/6/2016				629,541.18	The Title Company	Replacement property - Andel
6/9/2016	6/6/2016				1,398.00	Joseph and Jolene Sauvageau	final relocation costs
6/23/2016	6/21/2016				4,500.00	The Apartment Movers	moving costs for Pearson
6/23/2016	6/14/2016			12 invoices	647.34	Cass County Electric Cooperative	Service to various addresses
6/9/2016	5/22/2016	381066419		479407	39,825.59	CH2MHill	Land Management Services - (22%) see In-Town Levee
6/23/2016	6/9/2016	58237		R12.00049	8,849.48	Ulteig Engineers	Land Management Services, land acquisition
6/23/2016	10/31/2015	17055		2830-00	1,932.25	ProSource Technologies, LLC	Reimbursable expenses
6/23/2016	11/30/2015	17060		2830-00	28,983.42	ProSource Technologies, LLC	Project Mgmt, acquisition, relocation
6/23/2016	12/31/2015	17061		2830-00	26,584.11	ProSource Technologies, LLC	Project Mgmt, acquisition, relocation
6/23/2016	1/31/2016	17066		2830-00	2,480.41	ProSource Technologies, LLC	Reimbursable expenses
6/23/2016	2/29/2016	17065		2830-00	469.73	ProSource Technologies, LLC	Reimbursable expenses
6/23/2016	3/31/2016	17056		2830-00	35,633.31	ProSource Technologies, LLC	Project Mgmt, acquisition, relocation
6/9/2016	5/28/2016	5257			1,381.86	Sentry Security, Inc.	Security patrol services
6/23/2016	6/11/2016	5286			1,179.77	Sentry Security, Inc.	Security patrol services

Total 1,435,171.12

OXBOW GOLF AND COUNTRY CLUB INVOICES

Invoice Paid	Invoice Date	Invoice No.	Project No.	Amount	Vendor	Description
6/7/2016	6/23/2016	13	1470	91,240.00	Oxbow Golf and Country Club	Reimbursement for construction and architectural services
6/10/2016	6/23/2016	14	1470	66,360.00	Oxbow Golf and Country Club	Reimbursement for construction and architectural services

Total 157,600.00

Grand Total 2,609,981.31

Erik R. Johnson & Associates, Ltd.
Attorneys at Law

STATEMENT OF ACCOUNT FOR PROFESSIONAL SERVICES

City of Fargo-Auditor's Office
Attn: Kent Costin
200 North Third Street
Fargo, ND 58102

May 25, 2016
Invoice No. 2437

RE: Metro Flood Project-General Legal Matters

For Legal Services Rendered Through May 25, 2016

INVOICE TOTAL

Total for Current Legal Fees	\$8,167.10
Total for Current Disbursements and Service Charges	\$
Total for Current Invoice	\$8,167.10

Summary of Account

*Prior Balance Due	\$
Total Amount Due	\$8,167.10

*If payment has been submitted for prior balance due, please disregard.

We appreciate your business.

505 Broadway Street North • Suite 206 • Fargo, ND 58102
Phone: (701) 280-1901 • • • Fax: (701) 280-1902



MINNEAPOLIS OFFICE
612-340-2600

(Tax Identification No. 41-0223337)

RECEIVED
BY _____ DATE 6-27-16

STATEMENT OF ACCOUNT FOR PROFESSIONAL SERVICES

Fargo-Moorhead Flood Diversion Bd of Authority
c/o Erik R. Johnson & Associates, Ltd.
Attn: Erik Johnson
505 Broadway, Suite 206
Fargo, ND 58102

June 23, 2016
Invoice No. 3286286

Client-Matter No.: 491379-00001
Red River Diversion Project

For Legal Services Rendered Through May 31, 2016

INVOICE TOTAL

Total For Current Legal Fees	\$83,291.50
Total For Current Disbursements and Service Charges	\$160.84
Total For Current Invoice	\$83,452.34

For your convenience, please remit payment to the address below or we offer the option of remitting payment electronically by wire transfer. If you have any questions regarding this information, please contact the lawyer you are working with on this project or Dorsey's Accounts Receivable Department at 1-800-861-0760. Thank you.

Mailing Instructions:
Dorsey & Whitney LLP
P.O. Box 1680
Minneapolis, MN 55480-1680

Wire Instructions:
U.S. Bank National Association
800 Nicollet Mall
Minneapolis, MN 55402

ABA Routing Number: 09100022
Account Number: 1602-3010-8500
Swift Code: USBKUS44IMT

Please make reference to the invoice number

Service charges are based on rates established by Dorsey & Whitney. A schedule of those rates has been provided and is available upon request. Disbursements and service charges, which either have not been received or processed, will appear on a later statement.

ALL INVOICES ARE DUE 30 DAYS FROM DATE OF INVOICE UNLESS OTHERWISE EXPRESSLY AGREED BY DORSEY & WHITNEY



Office of the City Attorney

City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

July 1, 2016

Kent Costin
Finance Director
City of Fargo
200 North Third Street
Fargo, ND 58102

Re: Red River Diversion Project

Dear Kent:

I am enclosing a Summary Invoice dated June 23, 2016 from the Dorsey & Whitney Firm in Minneapolis for their professional services rendered through May 31, 2016 on the Red River Diversion Project. If you have any questions, please feel free to contact me. Please remit payment directly to Dorsey Whitney.

Sincerely,

A handwritten signature in black ink, appearing to be "ERJ", written over a horizontal line.

Erik R. Johnson

ERJ/lmw
Enclosure
cc: Bruce Grubb



**OHNSTAD TWICHELL, P.C.
ATTORNEYS AT LAW**

901 13TH AVENUE EAST, P.O. BOX 458
WEST FARGO, ND 58078-0458
(701) 282-3249

15-1395 JTS Invoice # 143356
Flood Diversion Board
Bond Counsel Work – PPP

16-0559 RGH Invoice #143144
Metro Flood Diversion Authority
4th Street Pump Station Litigation

To: Flood Diversion Board
PO Box 2806
Fargo, ND 58108-2806

DATE: June 29, 2016

AMOUNT REMITTED \$ _____

Please detach. Return upper portion with your payment.
Payments received after the statement date will be reflected on next month's statement. Thank you.

PROFESSIONAL SERVICES RENDERED

15-1395 JTS Invoice #143356 Flood Diversion Board Bond Counsel Work – PPP Research 1

Attorney	Hours	Rate	Fees
JTS	104.70	\$290.00	\$30,363.00
CMM	3.40	\$290.00	\$986.00
LDA	.40	\$290.00	\$116.00
KJB	75.60	\$225.00	\$17,010.00
TJL	12	\$175.00	\$2,100.00
AJM	75.30	\$125.00	\$9,412.50
Total	271.40		\$59,987.50
Expenses:			
Westlaw Research			\$ 500.00
AT & T Conference Calls			\$32.29
Printing Costs			\$20.99
Grand Total			\$60,540.78

* Drafting of documents and work streams related to financing, P3, and joint powers agreements.

	Hourly Rate
JTS - John T. Shockley, Partner, Supervising Attorney	\$290.00
CMM - Christopher M. McShane, Partner	\$290.00
LDA, Lucas D. Andrud, Partner	\$290.00
RGH, Robert G. Hoy, Partner	\$290.00
KJB - Katie J. Bertsch, Associate	\$225.00
TJL – Tyler J. Leverington, Associate	\$175.00
AJM - Andrea J. Murphy, Paralegal	\$125.00

16-0559 RGH Invoice # 143114 Metro Flood Diversion Authority 4th Street Pump Station Litigation

Attorney	Hours	Rate	Fees
RGH	5	\$290.00	\$1,450.00
Grand Total	5		\$1,450.00



Springsted Incorporated
 380 Jackson Street, Suite 300
 Saint Paul, MN 55101-4705

Tel: 651-223-3000
 Fax: 651-223-3002
 www.springsted.com

Fargo Moorhead Diversion Authority
 Box 2806
 211 Ninth Street South
 Fargo, ND 58108

July 07, 2016
 Project No: 012265.100
 Invoice No: 2

For Professional Services through April 30, 2016
 Re: Financial Feasibility Analysis (Progress Billing)

Professional Personnel

	Hours	Rate	Amount	
Principal, Senior Officer	78.35	260.00	20,371.00	
Officer, Project Manager	13.65	215.00	2,934.75	
Senior Associate	3.50	160.00	560.00	
Totals	95.50		23,865.75	
Total Labor				23,865.75

Travel			271.02	
			271.02	271.02

Total this Invoice \$24,136.77

I declare under penalty of law that this account is just and correct and that no part of it has been paid.

SPRINGSTED Incorporated

BY

BONNIE C. MATSON

Payment is due on receipt of this billing. After 30 days, interest will be charged on any balance at a rate of 1% per month.

**FM Diversion Authority
Fiscal Accountability Report Design Phase (Fund 790)
As of 6/30/2016**

	2011	2012	2013	2014	2015	2016	Cumulative Totals
Revenues							
City of Fargo	443,138	7,652,681	7,072,961	19,373,131	28,310,373	10,337,013	73,189,297
Cass County	443,138	7,652,681	7,072,961	19,373,131	28,310,373	9,295,442	72,147,726
State Water Commission	-	-	3,782,215	602,918	31,056,740	20,396,484	55,838,357
Other Agencies	98,475	1,700,595	1,571,769	4,305,140	6,291,194	2,015,321	15,982,494
City of Oxbow MOU Repayment	-	-	-	-	-	4,389,174	4,389,174
Reimbursements	-	-	-	-	-	16,631	16,631
Lease/Rental Payments	-	-	17,358	154,180	180,341	253,306	605,185
Asset Sales	-	-	-	616,774	315,892	175,190	1,107,856
Miscellaneous	-	-	1,705	626	427	-	2,758
Total Revenues	984,750	17,005,957	19,518,970	44,425,900	94,465,339	46,878,561	223,279,478
Expenditures							
7905 Army Corp Payments	-	-	875,000	1,050,000	2,725,000	2,279,000	6,929,000
7910 WIK - Administration	107,301	331,321	77,614	169,019	282,227	127,350	1,094,831
7915 WIK - Project Design	149,632	5,366,147	3,220,859	9,118,723	4,660,226	1,585,903	24,101,490
7920 WIK - Project Management	679,037	7,223,650	4,695,477	3,579,339	4,500,955	2,356,772	23,035,231
7925 WIK - Recreation	-	163,223	-	-	-	-	163,223
7930 LERRDS - North Dakota	48,664	3,843,620	2,763,404	17,013,358	55,948,209	22,753,826	102,371,080
7931 LERRDS - Minnesota	-	27,996	289,387	13,068	32,452	273,195	636,097
7940 WIK Mitigation - North Dakota	-	-	-	587,180	-	-	587,180
7941 WIK Mitigation - Minnesota	-	-	-	-	-	-	-
7950 Construction - North Dakota	-	-	-	1,738,638	19,269,055	14,174,339	35,182,032
7951 Construction - Minnesota	-	-	-	-	-	-	-
7952 Construction - O/H/B	-	-	-	11,282,504	5,044,001	568,029	16,894,534
7955 Construction Management	-	-	-	556,209	2,867,422	1,899,442	5,323,073
7990 Project Financing	-	50,000	70,000	216,376	566,600	1,756,975	2,659,951
7995 Project Eligible - Off Formula Costs	-	-	-	-	-	-	-
7999 Non Federal Participating Costs	116	-	-	-	-	-	116
0000 Advance to City of Oxbow	-	-	7,527,231	630	-	-	7,527,861
Total Expenditures	984,750	17,005,957	19,518,970	45,325,044	95,896,147	47,774,830	226,505,699

FM Diversion Authority
FY 2016 Summary Budget Report (In Thousands)
As of June 30, 2016

	FY 2016 Approved Budget	Current Month	Fiscal Year To Date	% Expended	Outstanding Encumbrances	Remaining Budget Balance
Revenue Sources						
City of Fargo	39,375	2,901	10,337			29,038
Cass County	39,375	2,288	9,295			30,080
State of ND - 50% Match	40,100	2,101	16,256			23,844
State of ND - 100% Match	109,900	404	4,141			105,759
State of Minnesota	-	-	-			-
Other Agencies	8,750	504	2,015			6,735
City of Oxbow MOU Repayments	-	1,495	4,389			(4,389)
Financing Proceeds	-	-	-			-
Reimbursements	-	-	17			(17)
Sale of Assets	-	-	175			(175)
Property Income	-	-	253			(253)
Miscellaneous	-	-	-			-
Total Revenue Sources	237,500	9,693	46,878			190,622
Funds Appropriated						
Army Corp Local Share	-	-	2,279		-	(2,279)
Management Oversight	11,340	1,359	4,384	39%	10,580	(3,624)
Technical Activities	7,500	167	1,586	21%	3,166	2,748
Land Acquisitions	109,900	3,519	23,027	21%	36,107	50,766
Construction	105,000	4,639	14,742	14%	38,973	51,285
Mitigation	2,200	-	-	0%	366	1,834
Other Costs	1,560	456	1,757	113%	2,619	(2,816)
Total Appropriations	237,500	10,140	47,775	20%	91,811	97,914

FM Diversion Authority
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Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-7910-429.33-20	6/30/2016	JB06160016	CITY OF FARGO	1,200.00	CHARGE COF TIME - 6/16	V00102	General & Admin. WIK
Total WIK - General & Admin. - Accounting Services				1,200.00			
790-7915-429.33-05	6/1/2016	268401	HOUSTON-MOORE GROUP LLC	567.84	RECREATION USE PLAN	V01607	RECREATION/USE MASTER PLN
	6/1/2016	268401	HOUSTON-MOORE GROUP LLC	6,415.50	UTILITIES DESIGN	V01616	PERMIT SUBMITTAL PREP
	6/22/2016	268931	HOUSTON-MOORE GROUP LLC	6,786.15	USED MASTER PLAN & DESIGN	V01607	RECREATION/USE MASTER PLN
	6/22/2016	268931	HOUSTON-MOORE GROUP LLC	2,893.51	WORK IN KIND	V01608	WORK-IN-KIND (WIK)
	6/22/2016	268931	HOUSTON-MOORE GROUP LLC	23,751.50	HYDROLOGY&HYDRALIC REMODE	V01609	HYDROLOGY/HYDRAULIC MODEL
	6/22/2016	268931	HOUSTON-MOORE GROUP LLC	73,559.03	LEVEE DESIGN & SUPPORT	V01613	LEVEE DESIGN & SUPPORT
	6/22/2016	268931	HOUSTON-MOORE GROUP LLC	640.00	DEVELOP DRAFT OP PLANS	V01615	DRAFT OPERATIONS PLAN
	6/22/2016	268931	HOUSTON-MOORE GROUP LLC	1,959.25	SUBMITTAL PREP & SERVICES	V01616	PERMIT SUBMITTAL PREP
	6/29/2016	269102	HOUSTON-MOORE GROUP LLC	6,097.13	WORK IN KIND	V01608	WORK-IN-KIND (WIK)
	6/29/2016	269102	HOUSTON-MOORE GROUP LLC	41,557.75	HYDRAULIC/HYDROLOGIC MODE	V01609	HYDROLOGY/HYDRAULIC MODEL
	6/29/2016	269102	HOUSTON-MOORE GROUP LLC	2,878.00	PERMIT SUBMITTAL	V01616	PERMIT SUBMITTAL PREP
Total WIK - Project Design - Engineering Services				167,105.66			
790-7920-429.33-05	6/1/2016	268401	HOUSTON-MOORE GROUP LLC	48,269.43	DIVERSION PROJECT MGMT	V01601	HMG - PROJECT MANAGEMENT
	6/22/2016	268931	HOUSTON-MOORE GROUP LLC	60,584.40	DIVERSION PROJECT MGMT	V01601	HMG - PROJECT MANAGEMENT
Total WIK Construction Mgmt. - Engineering Services				108,853.83			
790-7920-429.33-79	6/29/2016	269072	CH2M HILL ENGINEERS INC	700,000.00	MGMT-TECHNICAL OUTREACH	V00206	CH2M HILL-2.27-11.25.16
Total WIK Construction Mgmt. - Construction Management				700,000.00			
790-7930-429.33-05	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	40,233.00	PROSOURCE TECHNOLOGIES, L	V01203	Cass Joint Water OHB
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	5,544.82	PROSOURCE TECHNOLOGIES, L	V01203	Cass Joint Water OHB
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	8,886.90	PROSOURCE TECHNOLOGIES, L	V01203	Cass Joint Water OHB
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	39,453.20	PROSOURCE TECHNOLOGIES, L	V01203	Cass Joint Water OHB
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	18,295.00	PROSOURCE TECHNOLOGIES, L	V01203	Cass Joint Water OHB
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	4,480.75	ULTEIG ENGINEERS	V01203	Cass Joint Water OHB
	6/1/2016	268401	HOUSTON-MOORE GROUP LLC	7,273.50	UTILITIES DESIGN	V01610	UTILITIES DESIGN
	6/1/2016	268401	HOUSTON-MOORE GROUP LLC	13,899.58	DESIGN OF WORK PACKAGE	V01618	WP28 - CR-16/CR-17 BRIDGE
	6/22/2016	268931	HOUSTON-MOORE GROUP LLC	7,171.50	UTILITIES DESIGN	V01610	UTILITIES DESIGN
	6/22/2016	268931	HOUSTON-MOORE GROUP LLC	73,101.53	DESIGN OF WORK PACKAGE 28	V01618	WP28 - CR-16/CR-17 BRIDGE
	6/29/2016	269102	HOUSTON-MOORE GROUP LLC	9,812.50	UTILITY DESIGN	V01610	UTILITIES DESIGN
	6/29/2016	269102	HOUSTON-MOORE GROUP LLC	14,155.00	BRIDGE CHANNEL	V01618	WP28 - CR-16/CR-17 BRIDGE
Total LERRDS - North Dakota - Engineering Services				242,307.28			

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Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description	
790-7930-429.33-25	7/5/2016	560	P CARD BMO	81,598.19	DORSEY WHITNEY LLP	V00101	Dorsey Whitney Legal	
	6/9/2016	558	P CARD BMO	50,281.25	DORSEY WHITNEY LLP	V00101	Dorsey Whitney Legal	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	6,380.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	6,920.01	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	29,381.32	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	21,626.50	OHNSTAD TWICHELL, P.C.	V01203	Cass Joint Water OHB	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	6,402.38	OHNSTAD TWICHELL, P.C.	V01202	Cass Joint Water DPAC	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	3,914.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	725.00	OHNSTAD TWICHELL, P.C.	V02807	CASS JOINT WATER IN-TOWN	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	66.00	LARKIN HOFFMAN ATTORNEYS	V01201	Cass Joint Water ROE	
	6/29/2016	269083	ERIK R JOHNSON & ASSOCIATES	224.40	LERRDS LEGAL MATTERS	V00103	General & Admin. LERRDS	
	Total LERRDS - North Dakota - Legal Services				207,519.05			
	790-7930-429.33-79	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	161,245.66	CH2MHILL	V02807	CASS JOINT WATER IN-TOWN
6/15/2016		268723	CASS COUNTY JOINT WATER RESOURCE DI	45,479.54	CH2MHILL	V01203	Cass Joint Water OHB	
Total LERRDS - North Dakota - Construction Management				206,725.20				
790-7930-429.38-61	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	1,372.14	SENTRY SECURITY, INC.	V01203	Cass Joint Water OHB	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	1,271.97	SENTRY SECURITY, INC.	V01203	Cass Joint Water OHB	
Total LERRDS - North Dakota - Security Services				2,644.11				
790-7930-429.38-99	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	165.00	LANEY'S INC.	V01701	ND LAND PURCH-OUT OF TOWN	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	442.00	LANEY'S INC.	V01701	ND LAND PURCH-OUT OF TOWN	
Total LERRDS - North Dakota - Other Services				607.00				
790-7930-429.62-51	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	51.47	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	132.15	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	416.49	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	32.01	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	170.88	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	24.46	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	101.43	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	31.80	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	26.70	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	47.23	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	27.98	CASS COUNTY ELECTRIC COOP	V01702	ND LAND PURCHASE-HARDSHIP	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	78.37	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN	
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	34.46	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN	

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Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	2,347.30	DIVERSIFIED ADJUSTMENT	V01703	ND LAND PURCH - IN TOWN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	18.85	XCEL ENERGY	V01703	ND LAND PURCH - IN TOWN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	42.43	XCEL ENERGY	V01703	ND LAND PURCH - IN TOWN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	4.65	XCEL ENERGY	V01703	ND LAND PURCH - IN TOWN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	5.65	XCEL ENERGY	V01703	ND LAND PURCH - IN TOWN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	5.65	XCEL ENERGY	V01703	ND LAND PURCH - IN TOWN
Total LERRDS - North Dakota - Electricity				3,599.96			
790-7930-429.67-11	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	185,620.00	THE TITLE COMPANY	V02411	OXBOW MOU-RESIDENT RLCTN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	556,822.28	THE TITLE COMPANY	V02411	OXBOW MOU-RESIDENT RLCTN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	1,332.15	ERIN & ELIZABETH LAVENUTA	V01703	ND LAND PURCH - IN TOWN
Total LERRDS - North Dakota - Residential Buildings				743,774.43			
790-7930-429.67-12	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	127,084.85	OXBOW GOLF AND COUNTRY CL	V01204	Cass Joint Water OCC
Total LERRDS - North Dakota - Commercial Buildings				127,084.85			
790-7930-429.71-30	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	160,000.00	TODD E. DEBATES	V01701	ND LAND PURCH-OUT OF TOWN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	40,000.00	TODD E. DEBATES	V01701	ND LAND PURCH-OUT OF TOWN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	133,000.00	CHAD AND HEIDI MCQUILLAN	V01701	ND LAND PURCH-OUT OF TOWN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	64,243.00	CHAD AND HEIDI MCQUILLAN	V01701	ND LAND PURCH-OUT OF TOWN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	329,895.97	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	222,030.00	TERRIE L. ROMINE	V01702	ND LAND PURCHASE-HARDSHIP
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	23,568.00	SIGNATURE LANDSCAPES	V01701	ND LAND PURCH-OUT OF TOWN
Total LERRDS - North Dakota - Land Purchases				972,736.97			
790-7930-429.71-31	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	476,040.00	CASS COUNTY CLERK OF DIST	V01701	ND LAND PURCH-OUT OF TOWN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	268,020.00	CASS COUNTY CLERK OF DIST	V01701	ND LAND PURCH-OUT OF TOWN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	250,440.00	CASS COUNTY CLERK OF DIST	V01701	ND LAND PURCH-OUT OF TOWN
Total LERRDS - North Dakota - Easements				994,500.00			
790-7930-429.73-20	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	7,590.00	AMERICAN ENTERPRISES, INC	V01701	ND LAND PURCH-OUT OF TOWN
Total LERRDS - North Dakota - Site Improvements				7,590.00			
790-7950-429.38-99	6/22/2016	CR0023332	BNSF	(775.00)	PERMIT #16-54711 CANCELLED	V02819	2ND ST N FLOODWALL
Total ND Construction - Other Services				(775.00)			
790-7950-429.73-20	6/15/2016	268793	LANDWEHR CONSTRUCTION INC	579,289.07	DEMO-H JOHNSON/SHAKEYS	V02816	DOWNTOWN AREA DEMOLITION
Total ND Construction - Site Improvements				579,289.07			

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790-7950-429.73-52	6/15/2016	268838	REINER CONTRACTING INC	404,246.95	EL ZAGAL PHASE 2	V02817	EL ZAGEL - PHASE 2
	6/15/2016	268757	INDUSTRIAL BUILDERS INC	2,009,545.68	2 ST N FLOODWALL	V02812	2ND ST NORTH FLOODWALL
	6/22/2016	268932	INDUSTRIAL BUILDERS INC	115,220.00	MICKELSON LEVEE EXTENSION	V02818	MICKELSON LEVEE EXTENSION
	6/22/2016	268932	INDUSTRIAL BUILDERS INC	1,119,991.35	FLOOD CONTROL 2 ST N	V02819	2ND ST N FLOODWALL
	6/22/2016	268933	INDUSTRIAL CONTRACT SERVICES INC	246,487.48	PUMP STATION & FLOODWALL	V02805	PUMP STATION & FLOODWALL
Total ND Construction - Flood Control				3,895,491.46			
790-7950-429.73-70	6/22/2016	268885	AT & T	165,201.86	UTILITY RELOCATION	V02809	AT&T WP42 UTILITY RELOCT
Total ND Construction - Utilities				165,201.86			
790-7952-429.73-20	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	9,967.80	OXBOW GOLF AND COUNTRY CL	V01204	Cass Joint Water OCC
Total O/H/B Construction - Site Improvements				9,967.80			
790-7955-429.33-05	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	206,196.57	HOUSTON-MOORE GROUP	V01203	Cass Joint Water OHB
	6/1/2016	268401	HOUSTON-MOORE GROUP LLC	32,552.39	SERVICES DURING CONST	V02806	CONSTRUCTION SVCS WP42
	6/29/2016	269102	HOUSTON-MOORE GROUP LLC	45,743.13	SERVICES DURING CONSTUCTI	V02806	CONSTRUCTION SVCS WP42
Total Construction Management - Engineering Services				284,492.09			
790-7955-429.33-06	6/8/2016	268645	TERRACON CONSULTING ENGINEERS	4,293.30	MATERIALS TESTING	V02802	WP-42 MATERIALS TESTING
Total Construction Management - Quality Testing				4,293.30			
790-7955-429.33-79	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	128,570.00	CH2MHILL	V02807	CASS JOINT WATER IN-TOWN
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	1,430.00	CH2MHILL	V01203	Cass Joint Water OHB
	6/15/2016	268723	CASS COUNTY JOINT WATER RESOURCE DI	130,000.00	CH2MHILL	V02807	CASS JOINT WATER IN-TOWN
Total Construction Management - Construction Management				260,000.00			
790-7990-429.33-05	6/1/2016	268401	HOUSTON-MOORE GROUP LLC	28,437.95	DOCUMENT PREPARATION SUPP	V01619	PPP DOCUMENT PREP SUPPRT
	6/1/2016	268401	HOUSTON-MOORE GROUP LLC	3,312.40	DOCUMENT PREPARATION SUPP	V01619	PPP DOCUMENT PREP SUPPRT
	6/22/2016	268931	HOUSTON-MOORE GROUP LLC	9,765.56	DOCUMENT PREP SUPPORT	V01619	PPP DOCUMENT PREP SUPPRT
	6/29/2016	269102	HOUSTON-MOORE GROUP LLC	6,067.90	DOCUMENT PREPARATION	V01619	PPP DOCUMENT PREP SUPPRT
Total Project Financing - Engineering Services				47,583.81			
790-7990-429.33-25	6/9/2016	558	P CARD BMO	79,427.60	OHNSTAD TWICHELL PC	V00102	General & Admin. WIK
Total Project Financing - Legal Services				79,427.60			

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Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-7990-429.34-55	6/8/2016	268579	JP MORGAN CHASE-LOCKBOX PROCESSING	142,333.23	FINANCIAL ADVISER SERV	V03301	PPP FINANCL ADVISORY SVCS
	6/15/2016	268784	JP MORGAN CHASE-LOCKBOX PROCESSING	150,116.68	FINANCIAL ADVISORY SERVIC	V03301	PPP FINANCL ADVISORY SVCS
Total Project Financing - Financial Advisor				292,449.91			
790-7990-520.80-20	6/1/2016	JB06160001	CITY OF FARGO	36,458.34	US BANK INTEREST PAYMENT	V02902	\$50M FARGO USBANK ADVANCE
Total Project Financing - Interest On Bonds				36,458.34			
Total Disbursed for Period				10,140,128.58			

FM Diversion Authority
Cumulative Vendor Payments Since Inception
As of June 30, 2016

Vendor Name	Approved Contract/Invoice Amount	Liquidated	Outstanding Encumbrance	Purpose
CASS COUNTY JOINT WATER RESOUR	\$ 140,651,147.00	\$ 100,041,785.33	\$ 40,609,361.67	Land Purchases, O/H/B Ring Levee, DPAC, & ROE
INDUSTRIAL BUILDERS INC	39,305,282.36	16,007,102.97	23,298,179.39	2nd St North Pump Station Project and 2nd Street Floodwall
HOUSTON-MOORE GROUP LLC	33,471,917.10	26,481,346.69	6,990,570.41	Engineering Services
CH2M HILL ENGINEERS INC	25,985,819.01	19,365,819.01	6,620,000.00	Project & Construction Management
INDUSTRIAL CONTRACT SERVICES I	17,364,063.63	14,438,522.28	2,925,541.35	4th St Pump Station and 2nd Street Floodwall
OXBOW, CITY OF	15,239,944.56	14,425,798.67	814,145.89	City of Oxbow - MOU
ARMY CORP OF ENGINEERS	6,929,000.00	6,929,000.00	-	Local Share
COMMERCIAL TITLE LLC	3,869,541.00	3,869,541.00	-	Oxbow MOU - Advance for Land Purchase
TITLE COMPANY	3,641,500.00	3,641,500.00	-	Oxbow MOU - Advance for Land Purchase
DORSEY & WHITNEY LLP	3,060,608.51	3,060,608.51	-	Legal Services
CENTURYLINK COMMUNICATIONS	2,660,937.92	74,195.92	2,586,742.00	Utility Relocation
MINNESOTA DNR	2,325,472.35	2,325,472.35	-	EIS Scoping
LANDWEHR CONSTRUCTION INC	2,064,267.31	1,892,058.81	172,208.50	In-Town Demolition Contracts
ASHURST LLP	1,979,133.70	497,153.39	1,481,980.31	PPP Legal Counsel
URS CORPORATION	1,922,118.42	1,610,454.93	311,663.49	Engineering Services
CONSOLIDATED COMMUNICATIONS	1,731,312.00	917,332.42	813,979.58	Utility Relocation
KENNELLY & OKEEFFE	1,729,310.56	1,729,310.56	-	Home Buyouts
REINER CONTRACTING INC	1,542,795.94	653,149.57	889,646.37	EI Zagal Flood Risk Management
JP MORGAN CHASE-LOCKBOX PROCES	1,527,000.00	533,971.00	993,029.00	Financial Advisor
HOUGH INCORPORATED	1,448,373.17	-	1,448,373.17	2nd Street South Flood Control
XCEL ENERGY	925,076.69	190,530.93	734,545.76	Utility Relocation
MOORE ENGINEERING INC	662,468.17	662,468.17	-	Engineering Services
US BANK	626,849.03	626,849.03	-	Loan Advance Debt Service Payments
TERRACON CONSULTING ENGINEERS	607,500.00	380,880.34	226,619.66	Materials Testing
DUCKS UNLIMITED	587,180.00	587,180.00	-	Wetland Mitigation Credits
HOUSTON ENGINEERING INC	576,669.57	576,669.57	-	Engineering Services
AT & T	569,404.44	569,404.44	-	Utility Relocation
RED RIVER BASIN COMMISSION	500,000.00	500,000.00	-	Retention Projects - Engineering Services
NORTHERN TITLE CO	484,016.00	484,016.00	-	Land Purchases
ERIK R JOHNSON & ASSOCIATES	476,298.71	468,131.61	8,167.10	Legal Services

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Cumulative Vendor Payments Since Inception
As of June 30, 2016**

Vendor Name	Approved Contract/Invoice Amount	Liquidated	Outstanding Encumbrance	Purpose
CITY OF FARGO	458,870.59	444,150.59	14,720.00	Digital Imagery Project, Utility Relocation, Accounting Svcs, and US Bank Loan Advance DS Payments
CASS COUNTY TREASURER	446,632.45	446,632.45	-	Property Taxes and US Bank Loan Advance DS Payments
702 COMMUNICATIONS	326,243.91	266,892.07	59,351.84	Utility Relocation
OHNSTAD TWICHELL PC	313,131.07	313,131.07	-	ROE and Bonding Legal Fees
BUFFALO-RED RIVER WATERSHED DI	220,768.00	-	220,768.00	Retention Projects - Engineering Services
ROBERT TRENT JONES	200,000.00	200,000.00	-	Oxbow MOU - Golf Course Consulting Agreement
CABLE ONE (FARGO)	148,511.37	-	148,511.37	Utility Relocation
PFM PUBLIC FINANCIAL MANAGEMEN	146,460.00	146,460.00	-	Financial Advisor
BOIS DE SIOUX WATERSHED DISTRI	145,380.00	-	145,380.00	Retention Projects - Engineering Services
NDSU BUSINESS OFFICE-BOX 6050	135,167.00	135,167.00	-	Ag Risk Study Services
ENVENTIS	115,685.62	115,685.62	-	Utility Relocation
BEAVER CREEK ARCHAEOLOGY	111,000.00	70,438.32	40,561.68	Engineering Services
FREDRIKSON & BYRON, PA	105,000.00	59,500.00	45,500.00	Lobbying Services
UNITED STATES GEOLOGICAL SURVE	104,600.00	104,600.00	-	Water Level Discharge Collection
PROSOURCE TECHNOLOGIES, INC	100,000.00	8,324.94	91,675.06	Vibrating Wire Piezometer Equipment
ULTEIG ENGINEERS INC	100,000.00	-	100,000.00	Engineering Services
BRAUN INTERTEC CORP	90,210.00	77,629.00	12,581.00	Quality Testing
EL ZAGAL TEMPLE HOLDING CO	68,040.72	68,040.72	-	Easement Purchase for El Zagal Levee
GRAY PANNELL & WOODWARD LLP	66,300.68	66,300.68	-	Legal Services
NIXON PEABODY LLC	60,000.00	60,000.00	-	Legal Services
IN SITU ENGINEERING	54,800.00	47,973.00	6,827.00	Quality Testing
ADVANCED ENGINEERING INC	50,000.00	50,000.00	-	Public Outreach
US GEOLOGICAL SURVEY	46,920.00	46,920.00	-	Stage Gage Installation
CLAY COUNTY AUDITOR	34,180.71	34,180.71	-	Property Tax, Home Buyout Demo
GEEKON INC	33,815.36	33,815.36	-	Vibrating Wire Piezometer Equipment
COLDWELL BANKER	33,066.02	33,066.02	-	Property Management Services
WARNER & CO	24,875.00	24,875.00	-	General Liability Insurance
PRIMORIS AEVENIA INC	16,230.00	16,230.00	-	Utility Relocation
SPRINGSTED INCORPORATED	16,184.00	16,184.00	-	Financial Advisor
INNOVATIVE ABSTRACT & TITLE CO	15,921.53	15,921.53	-	Oxbow MOU - Advance for Land Purchase

**FM Diversion Authority
Cumulative Vendor Payments Since Inception
As of June 30, 2016**

Vendor Name	Approved Contract/Invoice Amount	Liquidated	Outstanding Encumbrance	Purpose
MOORHEAD, CITY OF	15,062.90	15,062.90	-	ROE Legal Fees
BRIGGS & MORGAN PA	12,727.56	12,727.56	-	Legal Services
ND WATER USERS ASSOCIATN	10,000.00	10,000.00	-	Membership Dues
ONE	3,575.00	3,575.00	-	Utility Relocation
MCKINZIE METRO APPRAISAL	3,200.00	3,200.00	-	Appraisal Services
BNSF RAILWAY CO	2,925.00	2,925.00	-	Permits for In-Town Levee Projects
FORUM COMMUNICATIONS (LEGALS)	2,224.20	2,224.20	-	Advertising Services
DAWSON INSURANCE AGENCY	1,867.81	1,867.81	-	Property Insurance - Home Buyouts
FORUM COMMUNICATIONS (ADVERT)	1,743.77	1,743.77	-	Advertising Services
NORTH DAKOTA TELEPHONE CO	1,697.00	1,697.00	-	Communication
SEIGEL COMMUNICATIONS SERVICE	1,490.00	1,490.00	-	Public Outreach
RED RIVER TITLE SERVICES INC	1,305.00	1,305.00	-	Abstract Updates
HUBER, STEVE	1,056.43	1,056.43	-	Home Buyouts
DEPT OF NATURAL RESOUR	1,000.00	1,000.00	-	DNR Dam Safety Permit Application Fee
TRIO ENVIRONMENTAL CONSULTING	747.60	747.60	-	Asbestos and LBP Testing - Home Buyouts
RED RIVER VALLEY COOPERATIVE A	536.96	536.96	-	Electricity - Home Buyouts
FERRELLGAS	496.00	496.00	-	Propane - Home Buyouts
BROKERAGE PRINTING	473.33	473.33	-	Custom Printed Forms
KOCHMANN, CARTER	315.00	315.00	-	Lawn Mowing Services
GALLAGHER BENEFIT SERVICES INC	250.00	250.00	-	Job Description Review
DONS PLUMBING	240.00	240.00	-	Winterize - Home Buyouts
CURTS LOCK & KEY SERVICE INC	138.10	138.10	-	Service Call - Home Buyouts
GOOGLE LOVEINTHEOVEN	116.00	116.00	-	Meeting Incidentals
FEDERAL EXPRESS CORPORATION	71.89	71.89	-	Postage
CASS COUNTY RECORDER	68.00	68.00	-	Oxbow MOU - Advance for Land Purchase
Grand Total	\$ 318,316,328.73	\$ 226,505,699.13	\$ 91,810,629.60	

**FM Diversion Authority
In-Town Levee Work
as of June 30, 2016**

Vcode #	Vendor Name	Descriptions	Contract Amount	Amount Paid
V02801	Industrial Builders	WP42.A2 - 2nd Street North Pump Station	\$ 8,720,218.99	\$ 8,374,614.31
V02802	Terracon Consulting	WP-42 (In Town Levees) Materials Testing	607,500.00	380,880.34
V02803	Consolidated Communications	2nd Street Utility Relocation	1,846,997.62	1,033,018.04
V02804	702 Communications	2nd Street Utility Relocation	326,243.91	266,892.07
V02805	ICS	WP-42A.1/A.3 - 4th St Pump Station & Gatewell and 2nd St Floodwall S	17,364,663.63	14,439,122.28
V02806	HMG	WP42 - Services During Construction	4,932,000.00	2,088,290.28
V02807	CCJWRD	In-Town Levee Work	3,217,885.95	3,217,885.95
V02808	City of Fargo	Relocation of fiber optic along 2nd Street North	38,002.05	38,002.05
V02809	AT & T	2nd Street Utility Relocation	731,770.60	569,404.44
V02810	Cable One	2nd Street Utility Relocation	148,511.37	-
V02811	Xcel Energy	2nd Street & 4th Street Utility Relocations	925,076.69	190,530.93
V02812	Industrial Builders	WP-42F.1S - 2nd Street North Floodwall, South of Pump Station	16,890,454.32	6,397,277.31
V02813	Landwehr Construction	Park East Apartments Demolition	1,177,151.74	1,169,651.74
V02814	Primoris Aevenia	2nd Street Utility Relocation	16,230.00	16,230.00
V02815	Centurylink Communications	2nd Street Utility Relocation	2,660,937.92	74,195.92
V02816	Landwehr Construction	WP-42C.1 - In-Town Levees 2nd Street/Downtown Area Demo	887,115.57	722,407.07
V02817	Reiner Contracting, Inc	WP-42H.2 - El Zagal Area Flood Risk Management	1,542,795.94	653,149.57
V02818	Industrial Builders	WP-42I.1 - Mickelson Levee Extension	724,910.00	115,220.00
V02819	Industrial Builders	WP42F.1N - 2nd Street North	12,972,024.05	1,122,316.35
V02820	CH2M Hill	WP42 - Construction Management Services	1,020,000.00	-
V02821	Hough Incorporated	WP42F.2 - 2nd Street South	1,448,373.17	-
V01703	Various	In-Town Property Purchases	38,880,893.13	30,329,356.16
			<u>\$ 117,079,756.65</u>	<u>\$ 71,198,444.81</u>

FM Diversion Authority
Lands Expense - Life To Date
As of June 30, 2016

Property Address	Purchase Date	Purchase Price	Earnest Deposit	Tax Payment	Relocation Assistance	Property Management Expense	Property Management Income	Sale Proceeds	Total
Commercial Relocations - Fargo									
Park East Apartments - 1 2nd St S	6/23/2015	9,002,442.20	-	94,832.78	1,367,581.09	74,283.50	(2,166.32)	-	10,536,973.25
Howard Johnson - 301 3rd Ave N	11/2/2015	3,266,079.60	-	-	3,271,847.09	35,438.80	-	(1,100.00)	6,572,265.49
Fargo Public School District - 419 3rd St N	3/16/2016	1,903,475.78	-	-	7,550,036.23	-	(23.00)	-	9,453,489.01
Home Buyouts - Fargo									
1322 Elm St N	11/19/2014	347,270.27	-	2,981.20	47,168.14	2,595.24	-	-	400,014.85
1326 Elm St N	12/23/2014	230,196.41	-	-	8,001.02	297.09	-	-	238,494.52
1341 N Oak St	1/29/2015	309,888.24	-	3,153.40	78,889.24	64.79	-	-	391,995.67
1330 Elm St N	2/12/2015	229,982.44	-	651.52	62,362.63	775.28	-	-	293,771.87
18 North Terrace N	4/2/2015	129,698.25	-	829.15	44,688.72	383.94	-	-	175,600.06
1318 Elm St N	5/29/2015	229,012.67	-	1,289.52	55,452.01	50.00	-	-	285,804.20
724 North River Road	6/8/2015	204,457.83	-	1,547.60	35,615.30	109.35	-	(10,000.00)	231,730.08
1333 Oak Street N	6/24/2015	238,513.23	-	1,627.75	4,033.00	50.00	-	-	244,223.98
26 North Terrace N	9/11/2015	138,619.58	-	1,737.30	12,620.00	118.50	-	-	153,095.38
16 North Terrace N	9/24/2015	227,987.50	-	2,072.31	96,717.14	202.29	-	-	326,979.24
24 North Terrace N	11/25/2015	182,437.38	-	1,606.21	29,269.60	234.63	-	-	213,547.82
1314 Elm Street N	12/18/2015	225,800.09	-	-	21,525.00	161.43	-	-	247,486.52
12 North Terrace N	2/9/2016	10,191.00	-	-	-	-	-	-	10,191.00
1313 Elm Street N		350,000.00	-	-	3,360.00	-	-	-	353,360.00
Home Buyouts - Moorhead									
387 170th Ave SW	11/1/2013	281,809.91	-	2,354.00	-	34,073.72	-	(8,440.00)	309,797.63
16678 3rd St S		-	192,600.00	-	80,210.80	-	-	-	272,810.80
Home Buyouts - Oxbow									
105 Oxbow Drive	11/28/2012	216,651.85	-	4,993.72	-	13,695.77	(18,680.72)	(181,249.54)	35,411.08
744 Riverbend Rd	12/3/2012	343,828.30	-	14,276.50	2,435.00	39,536.48	(37,617.16)	-	362,459.12
121 Oxbow Drive	7/31/2013	378,781.20	-	1,581.52	-	19,519.02	-	(186,918.33)	212,963.41
333 Schnell Drive	9/20/2013	104,087.79	-	4,302.38	-	30,137.65	-	-	138,527.82
346 Schnell Drive	2/13/2014	512,970.73	-	6,638.91	7,200.00	13,915.79	(18,000.00)	-	522,725.43
345 Schnell Drive	10/24/2014	478,702.98	-	6,453.35	6,869.44	35,219.98	-	-	527,245.75
336 Schnell Drive	1/29/2015	310,888.51	-	2,376.26	185,620.00	335.55	(2,759.00)	-	496,461.32
5059 Makenzie Circle	5/21/2015	2,698,226.97	-	5,095.25	10,549.70	7,864.31	(3,850.00)	-	2,717,886.23
357 Schnell Dr / 760 River Bend Rd	6/18/2015	466,720.80	-	6,643.74	176,524.79	1,085.96	-	-	650,975.29
349 Schnell Dr / 761 River Bend Rd	6/26/2015	306,725.20	-	2,234.53	309,992.53	1,085.92	-	-	620,038.18
748 Riverbend Rd / 755 River Bend Rd	9/1/2015	480,784.30	-	4,002.89	205,699.82	181.53	-	-	690,668.54
361 Schnell Dr / 764 River Bend Rd	9/2/2015	490,091.32	-	3,554.24	267,757.65	1,860.11	-	-	763,263.32
752 Riverbend Rd / 768 River Bend Rd	9/4/2015	469,078.13	-	7,007.30	507,103.56	1,171.40	-	-	984,360.39
353 Schnell Dr / 772 River Bend Rd	9/11/2015	494,342.87	-	2,818.16	312,212.95	1,676.63	-	-	811,050.61
SE 1/4-23-137-49 & NW 1/4 SW 1/4 24-137-49 - Heitman	9/30/2015	1,328,151.00	-	1,710.55	-	36.67	(17,966.31)	-	1,311,931.91
350 Schnell Dr / 769 River Bend Rd	12/15/2015	491,024.01	-	-	279,237.35	-	-	-	770,261.36
365 Schnell Drive	1/7/2016	125,077.88	-	-	-	-	-	-	125,077.88
852 Riverbend Rd	1/11/2016	1,222,608.19	-	-	10,891.60	1,167.47	-	-	1,234,667.26
334 Schnell Dr / 751 River Bend Rd	1/15/2016	321,089.77	-	-	284,349.88	352.07	-	-	605,791.72
749 Riverbend Rd / 433 Trent Jones Dr	2/1/2016	598,885.43	-	-	469,875.64	562.77	-	-	1,069,323.84

**FM Diversion Authority
Lands Expense - Life To Date
As of June 30, 2016**

Property Address	Purchase Date	Purchase Price	Earnest Deposit	Tax Payment	Relocation Assistance	Property Management Expense	Property Management Income	Sale Proceeds	Total
Farmland Purchases									
SE 1/4 11-140-50 (Raymond Twp) - Ueland	1/20/2014	959,840.00	-	-	-	-	(46,683.63)	-	913,156.37
2 Tracts in the E 1/2-2-137-49 - Sorby/Maier	1/24/2014	1,636,230.00	-	-	-	-	(88,361.76)	-	1,547,868.24
3 Tracts NW1/4 1-140-50, NW1/4 11-140-50, & S1/2 25-141-50 - Rust	2/18/2014	3,458,980.70	-	-	-	-	(189,269.99)	-	3,269,710.71
11-140-50 NE1/4 (Raymond Twp) - Diekrager	4/15/2014	991,128.19	-	-	-	-	(53,008.60)	-	938,119.59
NW 1/4 36-141-50 - Monson	5/7/2014	943,560.05	-	-	-	-	(43,571.18)	-	899,988.87
W 1/2 SE 1/4 SW 1/4 & SW 1/4 SW 1/4 2-137-49 - Gorder	5/13/2014	321,386.00	-	-	-	-	(12,594.20)	-	308,791.80
SW 1/4-11-140-50 - Hogle	7/21/2014	989,706.03	-	2,566.59	-	-	(3,725.49)	-	988,547.13
NW 1/4 14-140-50 - Hogle	10/23/2014	948,782.22	-	5,327.10	-	-	(48,808.67)	-	905,300.65
SW 1/4 2-140-50 - Rust	10/29/2014	955,901.00	-	-	-	-	(24,573.95)	-	931,327.05
2-140-50 S 1/2 of NW 1/4 & Lot 4A - Pile	3/4/2015	594,108.00	-	-	-	-	-	-	594,108.00
Fercho Family Farms,	3/25/2015	464,600.00	-	-	-	-	-	-	464,600.00
W 1/2 NW 1/4 2-141-49 - Heiden	4/24/2015	433,409.00	-	-	-	-	(6,510.69)	-	426,898.31
(Raymond Twp) - Henke	6/17/2015	1,196,215.00	-	-	-	-	(12,452.23)	-	1,183,762.77
Land Purchases									
Hayden Heights Land, West Fargo ND	10/12/2012	484,016.00	-	223,505.56	-	-	-	(730,148.14)	(22,626.58)
Lot 4, Block 4, ND R-2 Urban Renewal Addition, Fargo ND - Professional Associates	5/14/2015	39,900.00	-	-	-	-	-	-	39,900.00
BNSF Railway Company		-	27,000.00	-	-	-	-	-	27,000.00
Total		46,571,888.32	6,477,079.25	424,161.52	16,985,820.23	320,242.24	(630,622.90)	(1,117,856.01)	69,030,712.65

**FM Diversion Authority
State Water Commission Funds Reimbursement Worksheet
Fargo Flood Control Project Costs - HB1020 & SB2020**

Time Period for This Request: June 1 - June 30, 2016

Drawdown Request No: 30	
Requested Amount:	\$ 2,504,195
Total Funds Expended This Period:	\$ 4,604,795
Total Funds Requested at 100% Match	403,596
Remaining Funds Requested at 50% Match	4,201,199
SB 2020 Matching Requirements	50%
Total Funds Requested at 50% Match	2,100,599
Total Funds Requested:	\$ 2,504,195

STATE AID SUMMARY:		
Summary of State Funds Appropriated		
Appropriations from 2009 Legislative Session	\$	45,000,000
Appropriations from 2011 Legislative Session		30,000,000
Appropriations from 2013 Legislative Session		100,000,000
Appropriations from 2015 Legislative Session		69,000,000
Appropriations to be funded in 2017 Legislative Session - Available 7/1/2017	51,500,000	
Appropriations to be funded in 2019 Legislative Session - Available 7/1/2019	51,500,000	
Appropriations to be funded in 2021 Legislative Session - Available 7/1/2021	51,500,000	
Appropriations to be funded in 2023 Legislative Session - Available 7/1/2023	51,500,000	
Total State Funds	206,000,000	244,000,000
Less: Payment #1 through #35 - City of Fargo		(55,510,209)
Less: Payment #1 - Cass County		(136,039)
Less: Payment #1 through #20 - FM Diversion Authority		(28,862,208)
Less: Payment #21 - FM Diversion Authority		(2,580,786)
Less: Payment #22 - FM Diversion Authority		(3,998,879)
Less: Payment #23 - FM Diversion Authority		(1,985,040)
Less: Payment #24 - FM Diversion Authority		(2,752,283)
Less: Payment #25 - FM Diversion Authority - Revised		(4,983,200)
Less: Payment #26 - FM Diversion Authority		(1,021,657)
Less: Payment #27 - FM Diversion Authority		(4,940,909)
Less: Payment #28 - FM Diversion Authority		(2,209,200)
Less: Costs Moved from Fargo Flood Control (Diversion) to Interior Flood Control		20,301,855
Less: Payment #29 - FM Diversion Authority		(2,900,000)
Less: Payment #30 - FM Diversion Authority		(2,504,195)
Total Funds Reimbursed		(94,082,751)
Total State Fund Balances Remaining	\$	149,917,249

FM Diversion Authority
 State Water Commission Funds Reimbursement Worksheet
 Fargo Flood Control Project Costs - HB1020 & SB2020

LOCAL MATCHING FUNDS SUMMARY:	
Matching Funds Expended To Date - City of Fargo	\$ 47,629,069
Matching Funds Expended To Date - Cass County	291,500
Matching Funds Expended To Date - FM Diversion Authority	11,456,306
Total Matching Funds Expended To Date	59,376,875
Less: Match Used on Payment #1 through #35 - City of Fargo	(41,506,620)
Less: Match used on Payment #1 - Cass County	(136,039)
Less: Match Used on Payment #1 - FM Diversion Authority	(18,600)
Less: Match Used on Payment #2 - FM Diversion Authority	(66,888)
Less: Match Used on Payment #6 - FM Diversion Authority	(238,241)
Less: Match Used on Payment #8 - FM Diversion Authority	(346,664)
Less: Match Used on Payment #11 - FM Diversion Authority	(470,398)
Less: Match Used on Payment #12 - FM Diversion Authority	(237,286)
Less: Match Used on Payment #16 - FM Diversion Authority	(3,018,978)
Less: Match Used on Payment #17 - FM Diversion Authority	(1,374,624)
Less: Match Used on Payment #20 - FM Diversion Authority	(1,427,344)
Less: Match Used on Payment #22 - FM Diversion Authority	(116,437)
Less: Match Used on Payment #23 - FM Diversion Authority	(487,124)
Less: Match Used on Payment #24 - FM Diversion Authority	(1,688,474)
Less: Match Used on Payment #26 - FM Diversion Authority	(445,642)
Less: Match Used on Payment #28 - FM Diversion Authority	(1,116,010)
Less: Match Used on Payment #30 - FM Diversion Authority	(403,596)
Balance of Local Matching Funds Available	\$ 6,277,910

Oxbow Lot Sales

Last Update: 7/6/2016

Non-Buyout Lot Sales (Proceed Split 75/25)	Lot	Block	Addition	Address	Sale Price	Closed	Closing Date	Deposit	OJDA Share (25%)	Net Sale Proceeds	DA Share (75%)
	2	1	Oxbow 4th Addition	331 Trent Jones Drive	\$156,000.00	Yes	4/8/2016		\$38,956.25	\$155,825.00	\$116,868.75
	6	3	Oxbow 2nd Addition	779 River Bend Road	\$123,150.00	Yes	4/11/2016		\$30,718.75	\$122,875.00	\$92,156.25
	18	3	Oxbow 2nd Addition	754 River Bend Road	\$109,000.00	Yes	4/29/2016		\$27,208.75	\$108,835.00	\$81,626.25
	35	3	Oxbow 2nd Addition	425 Trent Jones Drive	\$119,000.00	Yes	4/29/2016		\$29,708.75	\$118,835.00	\$89,126.25
	20	1	Oxbow 3rd Addition	246 South Schnell Drive	\$160,000.00	Yes	4/29/2016		\$39,946.88	\$159,787.50	\$119,840.62
	21	1	Oxbow 3rd Addition	250 South Schnell Drive	\$160,000.00	Yes	4/29/2016		\$39,946.88	\$159,787.50	\$119,840.62
	49	3	Oxbow 2nd Addition	418 Trent Jones Drive	\$152,000.00	Yes	5/20/2016		\$37,905.00	\$151,620.00	\$113,715.00
	2	1	Oxbow 3rd Addition	784 River Bend Road	\$211,001.00	Yes	6/2/2016		\$52,655.30	\$210,621.20	\$157,965.90
	36	3	Oxbow 2nd Addition	429 Trent Jones Drive	\$111,000.00	No	7/12/2016	\$22,200.00	\$0.00		\$0.00
	23	2	Oxbow 2nd Addition	233 South Schnell Drive	\$65,000.00	No	7/29/2016	\$13,000.00	\$0.00		\$0.00
	17	3	Oxbow 2nd Addition	756 River Bend Road	\$99,000.00	No	8/31/2016	\$9,900.00	\$0.00		\$0.00
	11	3	Oxbow 2nd Addition	780 River Bend Road	\$144,000.00	No	8/31/2016	\$14,400.00	\$0.00		\$0.00
								\$0.00		\$0.00	
12	Lots			\$1,609,151.00			\$59,500.00	\$297,046.56	\$1,188,186.20	\$891,139.64	

Buyout Lot Sales (100% Diversion Authority Proceed)	Lot	Block	Addition	Address	Sale Price	Closed	Closing Date				DA Share (100%)
	8	3	Oxbow 2nd Addition	787 River Bend Road	\$174,000.00	Yes					\$174,000.00
	6	1	Oxbow 4th Addition	353 Trent Jones Drive	\$124,000.00	Yes					\$124,000.00
	9	1	Oxbow 3rd Addition	442 Trent Jones Drive	\$139,000.00	Yes					\$139,000.00
	7	1	Oxbow 3rd Addition	449 Trent Jones Drive	\$163,000.00	Yes					\$163,000.00
	15	3	Oxbow 2nd Addition	764 River Bend Road	\$111,000.00	Yes					\$111,000.00
	48	3	Oxbow 2nd Addition	422 Trent Jones Drive	\$170,000.00	No					\$0.00
	50	3	Oxbow 2nd Addition	414 Trent Jones Drive	\$158,000.00	No					\$0.00
	1	1	Oxbow 3rd Addition	788 River Bend Road	\$205,000.00	No					\$0.00
	7	3	Oxbow 2nd Addition	783 River Bend Road	\$160,000.00	Yes					\$160,000.00
	16	3	Oxbow 2nd Addition	760 River Bend Road	\$114,000.00	Yes					\$114,000.00
	47	3	Oxbow 2nd Addition	426 Trent Jones Drive	\$141,000.00	Yes					\$141,000.00
	3	1	Oxbow 4th Addition	335 Trent Jones Drive	\$133,000.00	Yes					\$133,000.00
	31	3	Oxbow 2nd Addition	409 Trent Jones Drive	\$136,000.00	Yes					\$136,000.00
	45	3	Oxbow 2nd Addition	434 Trent Jones Drive	\$114,000.00	No					\$0.00
	13	3	Oxbow 2nd Addition	772 River Bend Road	\$134,000.00	Yes					\$134,000.00
	3	3	Oxbow 2nd Addition	761 River Bend Road	\$104,000.00	Yes					\$104,000.00
	5	3	Oxbow 2nd Addition	775 River Bend Road	\$115,000.00	Yes					\$115,000.00
	33	3	Oxbow 2nd Addition	417 Trent Jones Drive	\$130,000.00	Yes					\$130,000.00
	4	1	Oxbow 4th Addition	343 Trent Jones Drive	\$143,000.00	Yes					\$143,000.00
	14	3	Oxbow 2nd Addition	768 River Bend Road	\$143,000.00	Yes					\$143,000.00
	4	3	Oxbow 2nd Addition	769 River Bend Road	\$101,000.00	Yes					\$101,000.00
	5	1	Oxbow 4th Addition	347 Trent Jones Drive	\$150,000.00	Yes					\$150,000.00
32	3	Oxbow 2nd Addition	413 Trent Jones Drive	\$133,000.00	Yes					\$133,000.00	
1	3	Oxbow 2nd Addition	751 River Bend Road	\$114,000.00	Yes					\$114,000.00	
4	1	Oxbow 3rd Addition	437 Trent Jones Drive	\$95,000.00	Yes					\$95,000.00	
1	1	Oxbow 4th Addition	325 Trent Jones Drive	\$160,000.00	Yes					\$160,000.00	
12	3	Oxbow 2nd Addition	776 River Bend Road	\$131,000.00	Yes					\$131,000.00	

Oxbow Lot Sales

6	1	Oxbow 3rd Addition	445 Trent Jones Drive	\$160,000.00	No					\$0.00
7	1	Oxbow 4th Addition	359 Trent Jones Drive	\$131,000.00	No					\$0.00
10	1	Oxbow 3rd Addition	438 Trent Jones Drive	\$108,000.00	Yes					\$108,000.00
2	3	Oxbow 2nd Addition	755 River Bend Road	\$100,000.00	Yes					\$100,000.00
8	1	Oxbow 3rd Addition	446 Trent Jones Drive	\$149,000.00	Yes					\$149,000.00
37	3	Oxbow 2nd Addition	433 Trent Jones Drive	\$104,000.00	Yes					\$104,000.00
22	1	Oxbow 3rd Addition	254 South Schnell Drive	\$150,000.00	Yes					\$150,000.00
51	3	Oxbow 2nd Addition	410 Trent Jones Drive	\$148,000.00	Yes					\$148,000.00
34	3	Oxbow 2nd Addition	421 Trent Jones Drive	\$117,000.00	Yes					\$117,000.00
5	1	Oxbow 3rd Addition	441 Trent Jones Drive	\$107,000.00	Yes					\$107,000.00
37	Lots			\$4,969,000.00						\$4,031,000.00

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Address</u>	<u>Appraisal Price</u>
1	2	Oxbow 3rd Addition	102 Westview Lane	\$105,000.00
33	2	Oxbow 2nd Addition	103 Westview Lane	\$78,000.00
2	2	Oxbow 3rd Addition	106 Westview Lane	\$58,000.00
32	2	Oxbow 2nd Addition	107 Westview Lane	\$62,000.00
3	2	Oxbow 3rd Addition	110 Westview Lane	\$52,000.00
31	2	Oxbow 2nd Addition	111 Westview Lane	\$58,000.00
4	2	Oxbow 3rd Addition	114 Westview Lane	\$52,000.00
30	2	Oxbow 2nd Addition	115 Westview Lane	\$64,000.00
1	3	Oxbow 3rd Addition	119 Westview Lane	\$90,000.00
5	2	Oxbow 3rd Addition	120 Westview Lane	\$52,000.00
2	3	Oxbow 3rd Addition	123 Westview Lane	\$100,000.00
6	2	Oxbow 3rd Addition	124 Westview Lane	\$52,000.00
3	3	Oxbow 3rd Addition	127 Westview Lane	\$158,000.00
7	2	Oxbow 3rd Addition	128 Westview Lane	\$63,000.00
8	2	Oxbow 3rd Addition	132 Westview Lane	\$63,000.00
3	2	Oxbow 6th Addition	213 South Schnell Drive	\$69,000.00
2	1	Oxbow 6th Addition	214 South Schnell Drive	\$114,000.00
2	2	Oxbow 6th Addition	217 South Schnell Drive	\$72,000.00
3	1	Oxbow 6th Addition	218 South Schnell Drive	\$94,000.00
4	3	Oxbow 3rd Addition	221 South Schnell Drive	\$113,000.00
4	1	Oxbow 6th Addition	222 South Schnell Drive	\$85,000.00
5	3	Oxbow 3rd Addition	225 South Schnell Drive	\$95,000.00
5	1	Oxbow 6th Addition	226 South Schnell Drive	\$85,000.00
24	2	Oxbow 2nd Addition	229 South Schnell Drive	\$65,000.00
6	1	Oxbow 6th Addition	232 South Schnell Drive	\$84,000.00
22	2	Oxbow 2nd Addition	237 South Schnell Drive	\$78,000.00
7	1	Oxbow 6th Addition	238 South Schnell Drive	\$125,000.00
21	2	Oxbow 2nd Addition	241 South Schnell Drive	\$75,000.00
8	1	Oxbow 6th Addition	242 South Schnell Drive	\$150,000.00
20	2	Oxbow 2nd Addition	245 South Schnell Drive	\$75,000.00
19	2	Oxbow 2nd Addition	249 South Schnell Drive	\$102,000.00
18	2	Oxbow 2nd Addition	253 South Schnell Drive	\$73,000.00

Unassigned Lots

Oxbow Lot Sales

17	2	Oxbow 2nd Addition	257 South Schnell Drive	\$59,000.00
16	2	Oxbow 2nd Addition	261 South Schnell Drive	\$76,000.00
2	2	Oxbow 2nd Addition	304 Trent Jones Drive	\$76,000.00
3	2	Oxbow 2nd Addition	308 Trent Jones Drive	\$75,000.00
4	2	Oxbow 2nd Addition	312 Trent Jones Drive	\$75,000.00
5	2	Oxbow 2nd Addition	316 Trent Jones Drive	\$70,000.00
6	2	Oxbow 2nd Addition	320 Trent Jones Drive	\$64,000.00
7	2	Oxbow 2nd Addition	324 Trent Jones Drive	\$69,000.00
8	2	Oxbow 2nd Addition	328 Trent Jones Drive	\$87,000.00
9	2	Oxbow 2nd Addition	332 Trent Jones Drive	\$89,000.00
10	2	Oxbow 2nd Addition	336 Trent Jones Drive	\$102,000.00
11	2	Oxbow 2nd Addition	340 Trent Jones Drive	\$87,000.00
12	2	Oxbow 2nd Addition	344 Trent Jones Drive	\$80,000.00
13	2	Oxbow 2nd Addition	348 Trent Jones Drive	\$84,000.00
14	2	Oxbow 2nd Addition	352 Trent Jones Drive	\$98,000.00
15	2	Oxbow 2nd Addition	356 Trent Jones Drive	\$73,000.00
46	3	Oxbow 2nd Addition	430 Trent Jones Drive	\$113,000.00
49	Lots			\$4,038,000.00

Total Lot Values (98 Lots)	\$10,616,151.00
Diversion Authority Share to Date	\$4,922,139.64
Cash Advance to Oxbow	\$375,000.00
Amount Reimbursed to Diversion Authority to Date	\$4,389,173.74
Remaining to be Reimbursed to Date	\$157,965.90



July 1, 2016

To: Diversion Board of Authority Finance Committee

From: Michael Montplaisir, Finance Committee Chairperson

Re: Accounting for Diversion Funds

One of the difficulties in understanding the current financial condition of the Diversion Authority is the separate Diversion related cash funds at both the city and the county, neither of which show up in the Diversion Fund at the city.

Currently, the City of Fargo pays the bills out of the Diversion Fund, then bills the state, city, and county for their respective shares at the end of the month. With the signing of the PPA and the start of more activity later this year, funds could be combined in order to make the accounting easier and to provide better information to the Diversion Board of Authority.

Kent Costin and I have discussed depositing our respective monthly sales tax receipts into the Diversion Fund at the city. In the case of the county, it would be 91% of monthly collections. The county has \$32 million on hand for the Diversion Project; those funds plus the city funds could be the beginning cash balance of the combined account. The county would retain \$4 million that has been set aside for county projects outside the diversion channel. Later this year the city and the county will borrow additional funds to pay off the temporary financing we currently have and to provide funds for continuing work on the Diversion Project. The dollars borrowed for the continuing work could also be deposited in the Diversion Fund.

The advantage of the cash account would be clear reporting to the Diversion Authority of the cash balances, receivables from the state, and sales tax and other program revenues into the Diversion Fund on a monthly basis. Handling the cash this way would also relieve the city of having to front dollars for at least the county's share of the project each month.

This is currently a discussion item; action by the county and city commissions would be necessary for the county and city to make this method of cash handling possible.



FARGO-MOORHEAD AREA DIVERSION PROJECT

LAND ACQUISITION DIRECTIVE (LAD) LAD-00007 REV-1A
DATE: 7/13/2016

AQUIRING ENTITY: Cass County Joint Water Resource Districts (CCJWRD)

WORK PACKAGE: Diversion Channel – Phase 1A

The following property acquisitions are recommended and directed.

SUMMARY OF PROPERTY NEEDS:	
Work Package	Diversion Channel Phase 1A
Land Agent Firm	Ulteig
Total Number of Parcels	42
Fee Title Acres	1,133 acres
Temporary Construction Easement Acres	485 acres
Number of Residential Properties	-
Number of Farmsteads	1
Property Acquisition Budget	\$10,655,500
Completion Schedule	November 2017

ATTACHMENTS:

- Phase 1A – Ulteig Parcels Map

Recommended by: Eric C. Dodds

Program Management Consultant / AE2S

Program Manager

Signature

Date

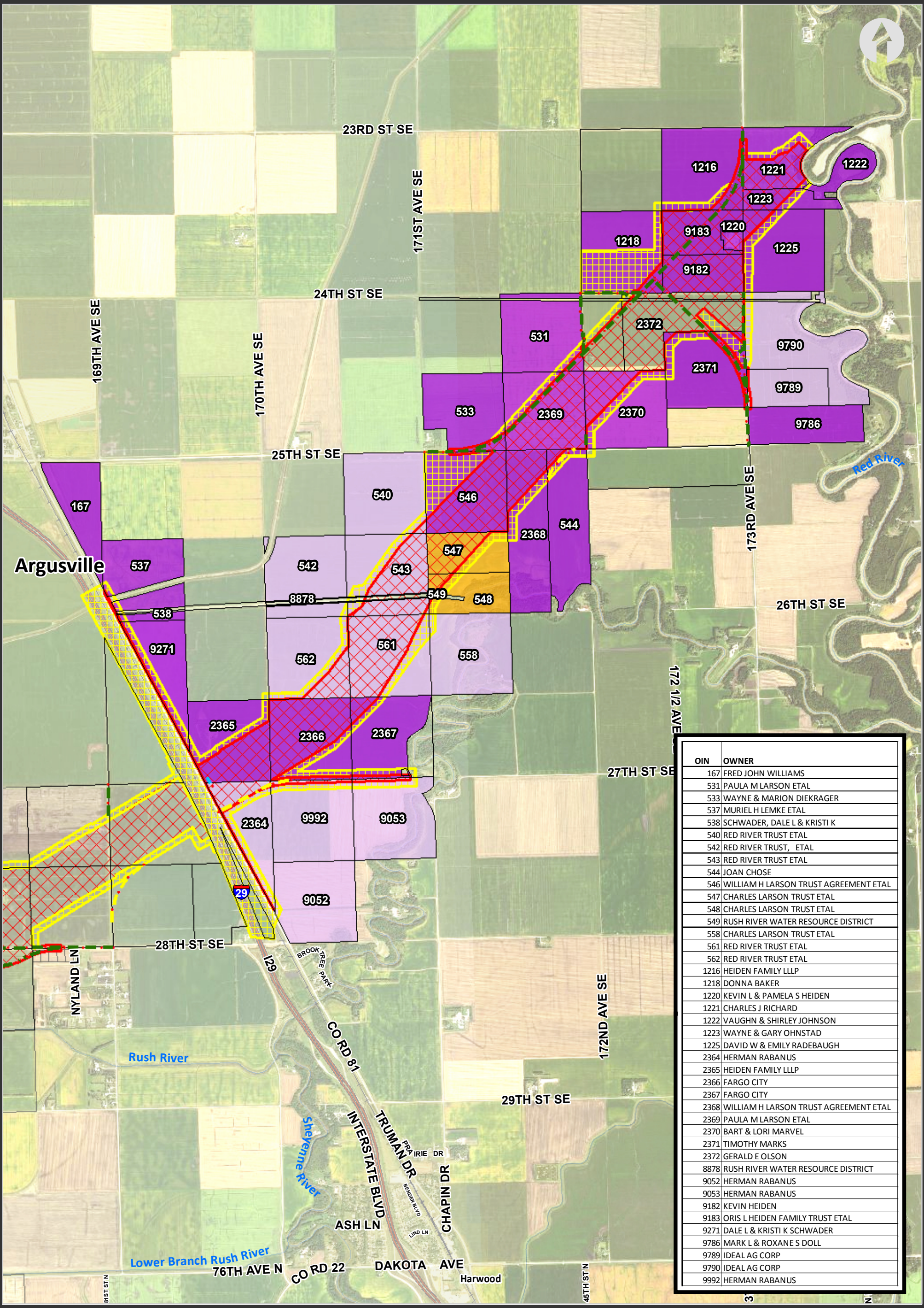
Directed by:

Diversion Authority Finance Committee

Title

Signature

Date



OIN	OWNER
167	FRED JOHN WILLIAMS
531	PAULA M LARSON ETAL
533	WAYNE & MARION DIEKRAGER
537	MURIEL H LEMKE ETAL
538	SCHWADER, DALE L & KRISTI K
540	RED RIVER TRUST ETAL
542	RED RIVER TRUST, ETAL
543	RED RIVER TRUST ETAL
544	JOAN CHOSE
546	WILLIAM H LARSON TRUST AGREEMENT ETAL
547	CHARLES LARSON TRUST ETAL
548	CHARLES LARSON TRUST ETAL
549	RUSH RIVER WATER RESOURCE DISTRICT
558	CHARLES LARSON TRUST ETAL
561	RED RIVER TRUST ETAL
562	RED RIVER TRUST ETAL
1216	HEIDEN FAMILY LLLP
1218	DONNA BAKER
1220	KEVIN L & PAMELA S HEIDEN
1221	CHARLES J RICHARD
1222	VAUGHN & SHIRLEY JOHNSON
1223	WAYNE & GARY OHNSTAD
1225	DAVID W & EMILY RADEBAUGH
2364	HERMAN RABANUS
2365	HEIDEN FAMILY LLLP
2366	FARGO CITY
2367	FARGO CITY
2368	WILLIAM H LARSON TRUST AGREEMENT ETAL
2369	PAULA M LARSON ETAL
2370	BART & LORI MARVEL
2371	TIMOTHY MARKS
2372	GERALD E OLSON
8878	RUSH RIVER WATER RESOURCE DISTRICT
9052	HERMAN RABANUS
9053	HERMAN RABANUS
9182	KEVIN HEIDEN
9183	ORIS L HEIDEN FAMILY TRUST ETAL
9271	DALE L & KRISTI K SCHWADER
9786	MARK L & ROXANE S DOLL
9789	IDEAL AG CORP
9790	IDEAL AG CORP
9992	HERMAN RABANUS



METRO DIVERSION LAND ACQUISITION
PHASE 1 - ULTEIG PARCELS

PARCEL STATUS AS OF 6/16/2016

0 1/4 1 1 1/2 2
 Mi

Parcel Status

- LAP01 Parcels
- ROE Sent
- ROE Granted
- In Negotiation
- Acquired

Work Limits

- Fee Title
- Temp. Cons.

Transportation Improvements

- Accessibility Improvement
- Connect to Severed Parcels
- Construction Detour
- Diversion Crossing
- Mobility Improvement



FARGO-MOORHEAD AREA DIVERSION PROJECT

LAND ACQUISITION DIRECTIVE (LAD) LAD-00007 REV-1B

DATE: 7/13/2016

AQUIRING ENTITY: Cass County Joint Water Resource Districts (CCJWRD)

WORK PACKAGE: Diversion Channel – Phase 1B

The following property acquisitions are recommended and directed.

SUMMARY OF PROPERTY NEEDS:	
Work Package	Diversion Channel Phase 1B
Land Agent Firm	HMG (SRF)
Total Number of Parcels	37
Fee Title Acres	1,245 acres
Temporary Construction Easement Acres	342 acres
Number of Residential Properties	2
Number of Farmsteads	-
Property Acquisition Budget	\$14,657,900
Completion Schedule	November 2017

ATTACHMENTS:

- Phase 1B – SRF Parcels Map

Recommended by: Eric C. Dodds Program Manager
Program Management Consultant / AE2S

 Signature

 Date

Directed by: Diversion Authority Finance Committee Title

 Signature

 Date



Argusville

Harwood

OIN	OWNER
221	J MARIE SMITH LIVING TRUST
222	J MARIE SMITH LIVING TRUST
223	J MARIE SMITH LIVING TRUST
509	WILLIAMS FARMS
513	Edward and Jean Olson
566	LARRY R & LEONE M ROTH
571	NELLIE M SCHOENBERG
573	NELLIE M SCHOENBERG
574	NELLIE M SCHOENBERG
590	WILLIAMS FARMS
903	STUART W JOHNSON
904	ERVIN J & MILDRED L FITTERER
905	HAI Johnson Farm Properties
915	HEIDEN FAMILY LLLP
920	HEIDEN FAMILY LLP
921	HEIDEN FAMILY LLLP
924	HEIDEN FAMILY LLLP
925	HEIDEN FAMILY LLLP
935	STUART & LAURIE L JOHNSON
952	PATSY G GUST LIVING TRUST ETAL
1187	M SHANE & PAMELA J SMITH
1190	JOANNE I KNUTSON
1191	MICKEAL FOSSE
1192	JOANNE I KNUTSON
1193	MICKEAL FOSSE
1195	MARK THORSON
1197	KENNETH W HATLESTAD
1198	BUSTERS FARMS LLLP
1199	JON D & JULIE B LARSON
1200	BRUCE C THUE LIVING TRUST ETAL
1201	MARY K ADAMS
1202	DAVID T & ANNETTE R DELANEY
2362	LLOYD AMUNDSON ETAL
2363	MAXINE E NELSON TRUST
9263	LANNIE D RUNCK
9268	LLOYD AMUNDSON ETAL
9999	JOANNE I KNUTSON

Argusville

Horace

Frontier



METRO DIVERSION LAND ACQUISITION PHASE 1 - SRF PARCELS

PARCEL STATUS AS OF 6/20/2016



Parcel Status

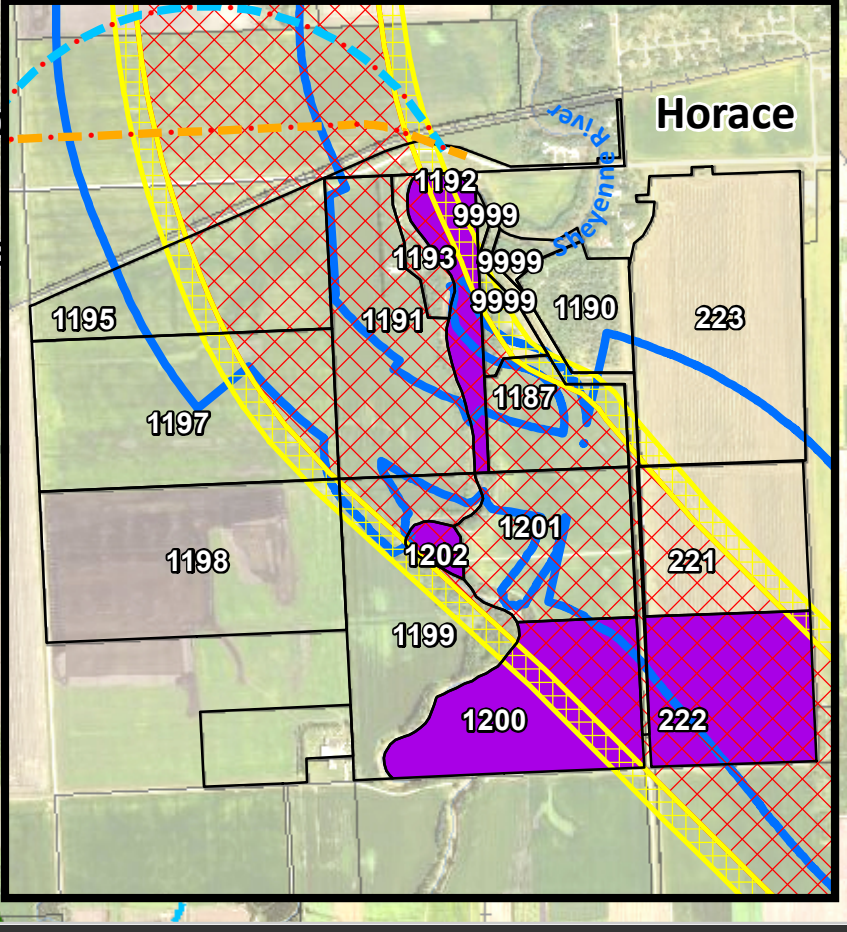
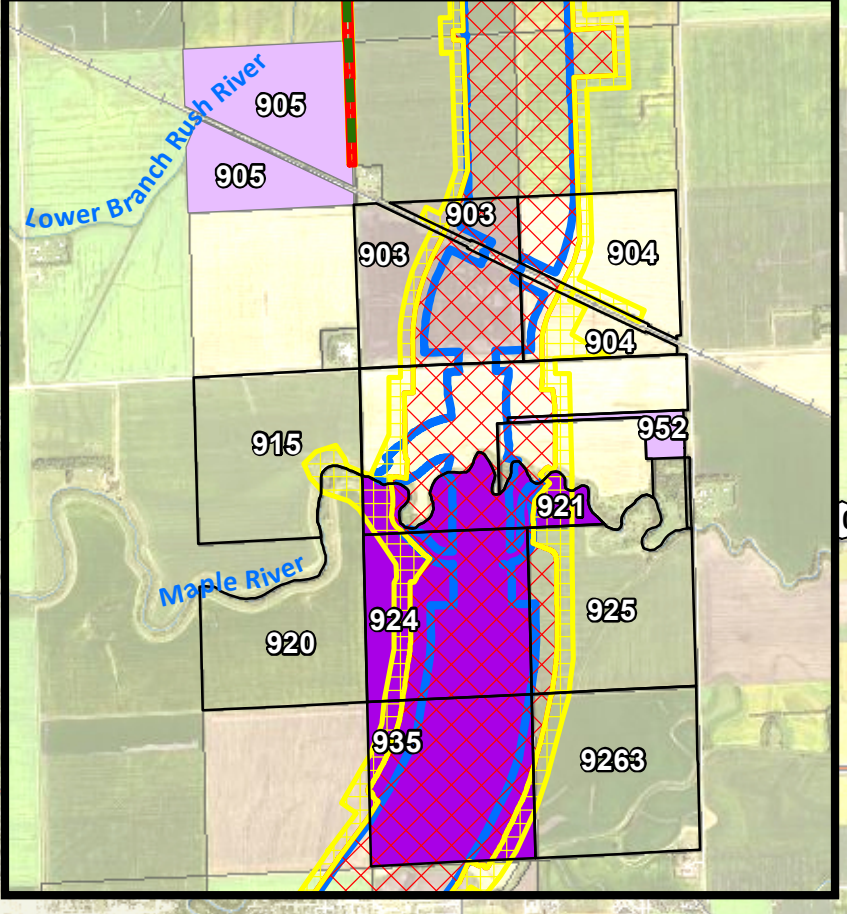
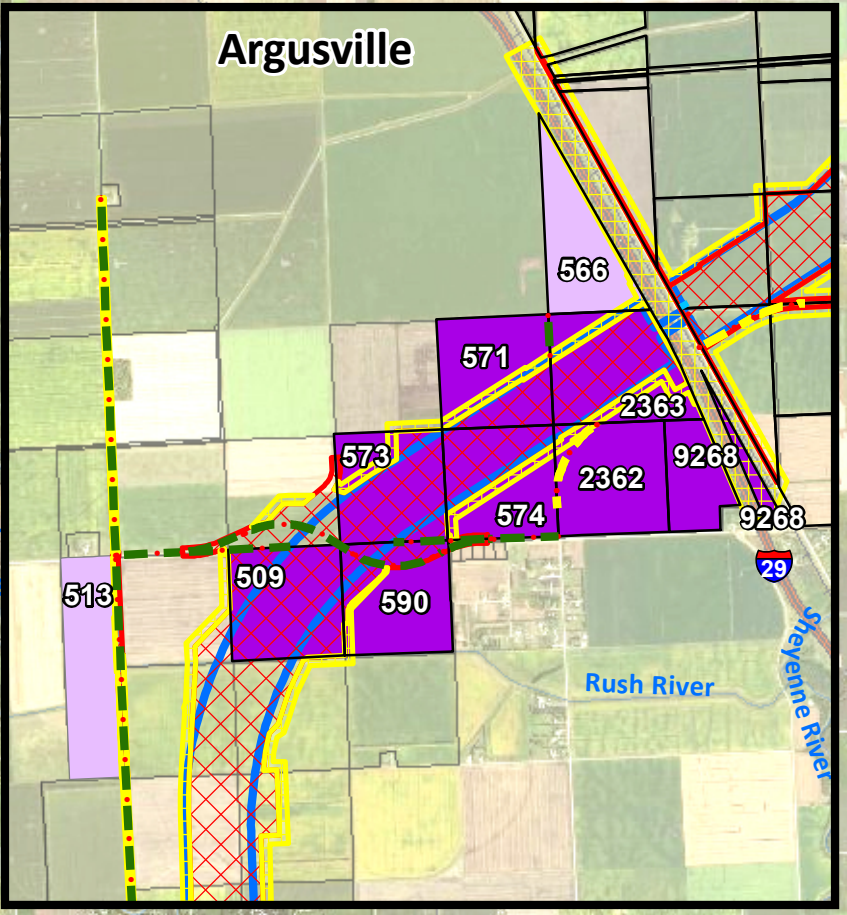
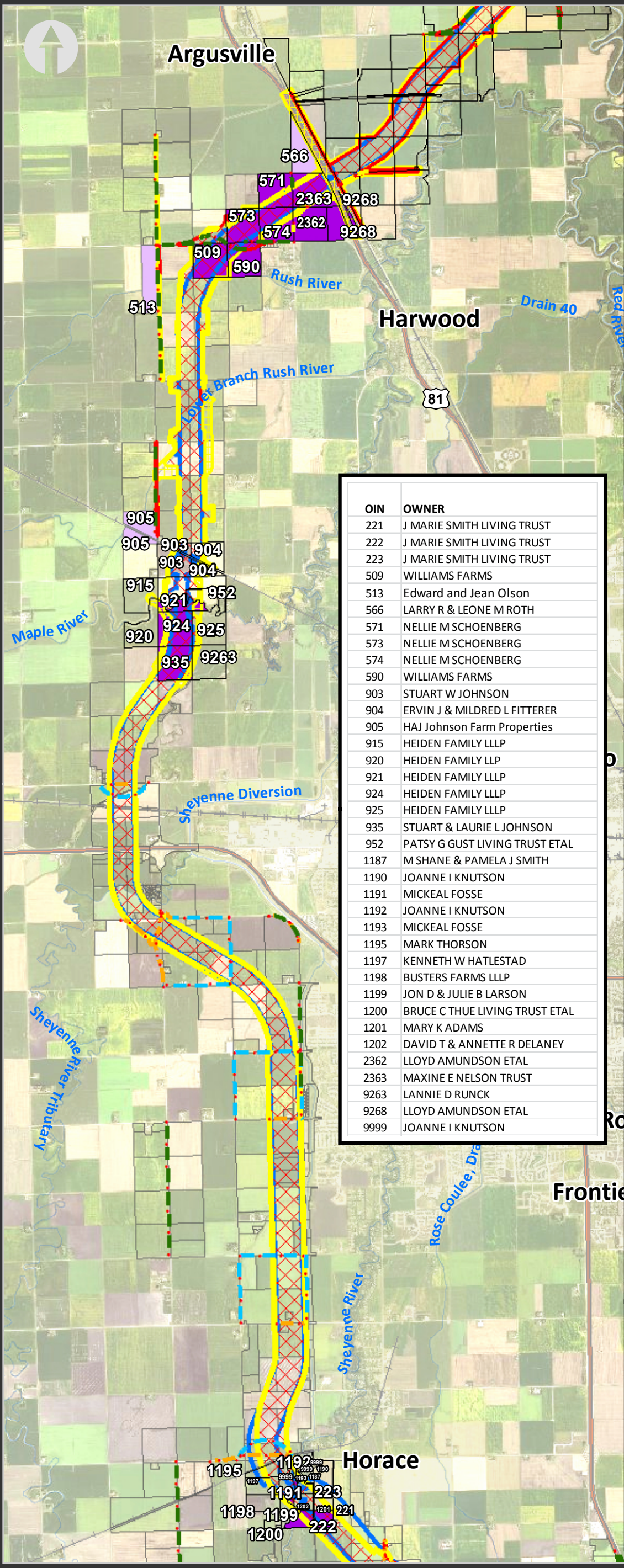
- ROE Sent
- ROE Granted
- In Negotiation
- Acquired

Work Limits

- Fee Title
- Temp. Cons.
- Channel Footprint

Transportation Improvements

- Accessibility Improvement
- Connect to Severed Parcels
- Construction Detour
- Diversion Crossing
- Mobility Improvement





Revised
6/22/16

Technical Advisory Group Recommendation

Meeting Date: 6/16/2016

RECOMMENDATION FOR ACTION:

The Technical Advisory Group has reviewed and recommend approval of the following Contract Action(s).

SUMMARY OF CONTRACTING ACTION:

The Owner’s Representative has reviewed and recommends the following Contract Action(s):

List description of Contract Action(s):

Aconex

Service Agreement and Phase 2 Services Order

\$1,322,146

- Eight year Services Agreement and Service Order for Multi-party platform use on the F-M Flood Diversion Program during design, pre-construction, and construction

Summary of Contracting History and Current Contract Action:

Original Agreement or Amendment	Budget (\$) Change	Previous Project Cost	Revised Project Cost	Agreement Execution Date	Project Completion	Comments
Original Agreement	\$1,322,146	0.00	\$1,322,146	23-Jun-16	23-Jun-24	Aconex multi-party document control platform

BACKGROUND:

The Program Management Consultant (PMC) is tasked with implementing an Electronic Data Management System to manage the program record for the FM Metro Flood Diversion Project (Project). During the winter of 2015/2016 the PMC identified several barriers to effective management of the program record and identified Aconex as an efficient and cost effective tool for management. In February 2016 the Diversion Authority (DA) provided concurrence with the PMC’s recommendation to implement Aconex for program record management in a two phase approach.

The PMC has operated under a Phase 1 service order with Aconex to configure Aconex for utilization on the Project with a focus on construction project document processes. A Phase 1 Findings Report documents the scope of those services and measures the successful configuration and implementation of this tool for multiple construction projects. The PMC recommends that the DA continue with the Phase 2 service order with Aconex as the document management tool for the Project based on the results of the evaluation and the following key points:

- Aconex has been adopted by the construction contractors and other project participants and been demonstrated as an effective tool managing construction RFI’s, construction submittals, and invoices.
- The attached Cumulative Project Activity Report demonstrates that participants are accepting and utilizing the tool.
- Utilization of the tool has significantly reduced the level of effort for RFI, submittal, and invoice review by automating the communication in the review process and gives an auditable record with data generated by the automated process to facilitate robust tracking and reporting.

- Demonstrated effectiveness of tool in bid and tender which will support the Public Private Partnership (P3) procurement
- The PMC has invested time in configuration and training, and to develop system guides that unite project management, contract management, deliverables management, in a way that improves our ability to measure and report contract compliance verification and therefore to ensure the scope required for successful delivery is being performed.
- The agreement terms and conditions have been reviewed by the DA’s legal counsel. **Counsel identified and negotiated changes to the duration of the agreement (changed from duration of project to duration of service agreement (8 years), and cancellation of services (services can be cancelled if project is cancelled).**

Additional work will be performed by the PMC during Phase 2 implementation to configure the tool for the P3 contract, and for construction and non-construction related processes. The current schedule for full implementation identifies the following processes or document types to address through configuration:

- Meeting Minutes
- Construction Progress Reports
- Procurement
- Change Management
- Construction Quality Documentation
- Survey Data
- Correspondence Processing
- Design Submittal Review
- Safety Documentation
- Schedule Management and Reporting
- Cost Management and Reporting
- System Administration
- On-Boarding

It is anticipated that the configuration effort by the PMC for the above mentioned items will be complete by October 2016, and that task completion will include preparation of process flow charts, workflow process in Aconex if applicable, a review matrix by project for each process, written procedure, internal PMC and external reports for administration and contract compliance, and training to project participants.

DISCUSSION:

This agreement provides the Aconex document management platform service for a period of 8-years to the DA. This includes a local copy of the program record on a server owned by the DA.

Budget Detail:

Task Number	Activity ID	Total (\$)	Amendment
Years 1 and 2	SW-1150	306,856	Original Contract
Years 3 and 4	SW-1150	306,856	
Years 5 and 6	SW-1150	354,217	
Years 7 and 8	SW-1150	354,217	
Total		1,322,146	

The PMC recommends this cost proposal for 8-years of service for a total commitment of \$1,322,146. This change amount of \$306,856 is **not** included in the FY-2016 FMDA budget.

ATTACHMENT(S):

- Aconex Terms of Service Agreement (revised June 22, 2016)
- Service Order – Phase 2
- Cumulative Project Activity Report

Submitted by:

 John Glatzmaier, P.E.
 CH2M
 Project Manager
 Metro Flood Diversion Project

 June 22, 2016
 Date

 Keith Berndt, Cass County Administrator
 Concur: June 22, 2016* Non-Concur: _____

 April Walker, Fargo City Engineer
 Concur: _____ Non-Concur: _____

 Mark Bittner, Fargo Director of Engineering
 Concur: June 22, 2016* Non-Concur: _____

 Jason Benson, Cass County Engineer
 Concur: _____ Non-Concur: _____

 David Overbo, Clay County Engineer
 Concur: _____ Non-Concur: _____

 Robert Zimmerman, Moorhead City Engineer
 Concur: June 22, 2016* Non-Concur: _____

 Nathan Boerboom, Diversion Authority Project
 Manager
 Concur: June 22, 2016* Non-Concur: _____

** Per the TAG meeting discussion on June 21, 2016, present members concurred with the recommendation to approve pending completion of legal counsel review. Legal counsel review of the agreement terms and conditions was completed on June 22, 2016.*

ACONEX TERMS OF SERVICE AGREEMENT

(AMERICAS)

This Master Services Agreement is entered into as of the Effective Date 24 June 2016 by and between Aconex (North America) Inc. 250 Montgomery Street, 10th Floor, San Francisco, CA 94104 and the Metro Flood Diversion Authority 211 Ninth Street South, Box 2806, Fargo, ND 58108, and this Agreement will be applicable only for the Services Order for the Fargo Moorhead Flood Diversion Program – Phase 2.

All users of Aconex's cloud-based, collaborative project management and document management software platform and associated services (as more particularly described below, collectively, the "Services") must review and accept this Terms of Service Agreement ("Agreement") prior to using such Services. As more particularly specified in this Agreement, users of the Services are divided into two categories, Paying Organizations and Non-Paying Organizations. A "Paying Organization" is an individual or entity that has executed an Aconex Services Order (defined below) and is responsible for paying fees to Aconex for use of the Services. A "Non-Paying Organization" is an individual or entity that has been invited by a Paying Organization to use the Services in connection with a collaborative project. Some provisions of this Agreement apply only to Paying Organizations, some provisions apply only to Non-Paying Organizations. As a result, this Agreement has been separated into two parts that contain those provisions applicable to Paying Organizations and those applicable to Non-Paying Organizations. If you are unsure whether you or your organization is a Paying or Non-Paying Organization, or you have other questions about this Agreement, please contact Aconex's Legal Department by either calling 1-888-5-ACONEX within North America or by sending an email addressed to legal@aconex.com (worldwide), prior to using the Services. You and the organization you are representing (hereinafter collectively, "you" or "Client") may not use the Services without first accepting this Agreement. Your organization's acceptance will be deemed to occur on the earlier of the following events: (a) if your organization is a Paying Organization, upon its execution of the applicable Services Order, (b) your clicking the online "Accept" button below, or (c) your organization's use of the Services. You should print or otherwise save a copy of this Agreement for your records.

Irrespective of whether an Aconex customer is a Paying Organization or a Non-Paying Organization, Aconex's policy is to provide equal rights and protections with respect to the data that is uploaded or stored by such customer in connection with their use of the Services.

As more particularly described below, the following protections are provided by Aconex to Paying Organizations and Non-Paying Organizations alike:

- Ownership rights do not change when data is uploaded and stored on Aconex-controlled systems.
- Aconex will, in all cases, provide at least 14 days' notice before terminating the Services of a Non-Paying Organization, to allow the individual or organization to preserve continuity of access to the Services, such as to enable the Non-Paying Organization to become a Paying Organization, or by allowing an organization to purchase data archive services or a copy of their data from Aconex.
- Upon termination of the Services, Aconex will retain an organization's data for a minimum of 12 calendar months from the date of termination ("Retention Period"). During the Retention Period, the individual or organization may purchase data archive services or a copy of their data from Aconex.
- Aconex will use commercially reasonable efforts to limit Platform Downtime to less than sixty-six (66) minutes during either Business Hours or After Hours (each defined below).

The following provisions operate differently depending on whether Client is a Paying Organization or a Non-Paying Organization. As more particularly defined below, Client is a Paying Organization in connection with a particular Project when it has executed an Aconex Services Order in connection with that Project, or has otherwise committed to paying fees to Aconex for the Services delivered in connection with that Project. Please note that a particular organization may be a Paying Organization on one project, and a Non-Paying Organization on another.

PROVISIONS APPLICABLE TO PAYING ORGANIZATIONS

1. DEFINITIONS

The capitalized terms set forth below shall have the following meanings for the purposes of this Agreement:

1.1. "Acceptable Use Policy" means the Aconex Acceptable Use Policy applicable to the Services, which is available for review and download on the Platform login page and the Aconex corporate web site.

- 1.2. "Aconex"** means the Aconex-affiliated entity specified on the Services Order or if none, Aconex (North America) Inc., a company incorporated in the State of New York, and, unless expressly included in the Agreement, excludes any Aconex Affiliates.
- 1.3. "Aconex Affiliate"** means (a) Aconex Limited (ABN 49 091 376 091), a company incorporated in Australia; (b) any entity controlling or controlled by Aconex Limited; and (c) any entity under common control with Aconex Limited, for so long as such common control continues to exist, where control means ownership either directly or indirectly of not less than 50% of the voting shares.
- 1.4. "Client"** means CH2M HILL, INC. While CH2M Hill, Inc. is the entity entering into this Agreement, the intent of the parties is that future Services Orders entered into by the Client or its business units, groups, divisions, subsidiaries, joint ventures and affiliates, and all of the business units, groups, divisions, subsidiary, joint ventures, and affiliates of its parent company, CH2M HILL Companies, Ltd. will be subject to these terms and conditions.
- 1.5. "Client Affiliate"** means any entity that directly or indirectly controls, is under common control, or is controlled by Client. For purposes hereof, "control" shall mean, with respect to any entity, the legal, beneficial, or equitable ownership directly or indirectly, of greater than fifty percent (50%) of the voting securities or other equity interest, or such lesser percentage that is the maximum allowed to be owned by a foreign corporation in a particular jurisdiction.
- 1.6. "Aconex Reseller"** means an entity authorized by Aconex to market, sell, offer or deliver some or all of the Services.
- 1.7. "Business Day"** means a day that is not a Saturday, Sunday or holiday observed by Aconex in the United States.
- 1.8. "Client Data"** means data related to a Project that the Paying Organization uploads to or transmits via the Platform and includes first level metadata (such as the time, date, distribution parties relating to a specific document or item of correspondence on any Hosted Platform) but excludes secondary metadata (such as the structure of database tables within the Platform code and folder structures established on the Platform).
- 1.9. "Confidential Information"** means any non-public information disclosed by either Party to the other Party in writing pursuant to this Agreement, which is designated as "confidential" or "proprietary" (or with a similar legend), or that is disclosed orally and confirmed in writing as confidential within a reasonable time. Even if not so marked, the Parties agree that Client Data, any non-public components of the Platform and Services, and the terms of this Agreement (including, without limitation, any Services Order) are Confidential Information.
- 1.10. "Data Archive"** means the Optional Services Aconex offers relating to the continued preservation and access to Client Data following termination of a Project or termination of Services, as described in Sections 3.2.1 and 3.2.2.
- 1.11. "Effective Date"** means the earlier of the date the Paying Organization accepts this Agreement or the date stipulated in the Services Order.
- 1.12. "Fees"** means the amounts(s) payable by a Paying Organization to Aconex pursuant to this Agreement for all the Paying Organization's and all Non-Paying Organizations' access to and use of the Services with respect to a Project, as specified in the applicable Services Order and this Agreement. Fees may be payable on a one time basis (e.g., implementation fees for configuring and deploying the Services or a lump sum payable in advance use of the Services) or on a recurring basis (e.g., monthly or other periodic fees for use of the Services), or any other basis agreed upon in writing by Aconex and the Paying Organization.
- 1.13. "Force Majeure Event"** means any forces of nature, disruptions to the internet infrastructure, public bandwidth shortages, industrial action, acts of terrorism, protests, riots, civil commotion, fire, explosion, flood, epidemics, lock-outs, strikes and action or inaction by a government agency (including any quasi-government agency) which causes a Party to be prevented or delayed in performing its obligations.
- 1.14. "Gross Negligence"** means a grossly negligent act or omission that arises due to a wilful and reckless disregard of an obvious risk by the negligent party in circumstances where the relevant act or omission is clearly a substantial departure from the standard of care that would ordinarily be expected from a skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances as the negligent person
- 1.15. "Intellectual Property Rights"** means patents, copyrights, trademarks, trade secrets, and all other proprietary rights recognized in any jurisdiction worldwide, and all applications and registrations therefore.
- 1.16. "Materials"** means all manuals, data, documents, and information that are prepared, written, made accessible, provided or developed by Aconex or its licensors in connection with the Services, including help desk and technical support documentation.

1.17. "Monthly Fee" means the monthly Fee(s) for Services as specified in any Services Order. If (a) the Fees for any Services are partly or fully payable up front, or (b) the Fee(s) for any Services are partly or fully payable on a periodic basis other than monthly, then in both cases Monthly Fee means the amount calculated by dividing the total Fees by the number of months covered by the Services Order.

1.18. "Non-Paying Organization" means any organization that is invited and/or authorized by the Paying Organization to use the Services with respect to a Project by the Paying Organization, has accepted this Agreement and is not required under a Services Order to pay Aconex or an Aconex Reseller for access to and use of the Services.

1.19. "Optional Services" means the services specified in Section 3.2.

1.20. "Party" means either Aconex or the Paying Organization as the context dictates, and "Parties" means Aconex and the Paying Organization, as the context dictates.

1.21. "Paying Organization" means the entity specified as the contracting party (other than Aconex) in a Services Order, or if no Services Order was executed, the entity delivering a purchase order for Services, as described in Section 18.12.

1.22. "Platform" means the object code version of the computer software application(s) owned by or licensed to Aconex that is made available by Aconex or its agents to Paying and Non-Paying Organizations in connection with this Agreement, together with any associated Materials. The Platform also includes any upgrades, improvements, bug fixes, new versions and/or derivative works of such software or Materials.

1.23. "Platform License" means each license to access and use the Platform granted to the Paying Organization under this Agreement.

1.24. "Price List" means Aconex's standard price list for Services provided directly to its customers, as may be changed from time to time at Aconex's discretion and which is available from Aconex.

1.25. "Privacy Policy" means the Aconex Privacy Policy, which is applicable to data received by Aconex from Aconex customers and users of its web sites, and which is available for review and download on the Platform login page and the Aconex corporate web site.

1.26. "Project" means the collaborative project identified by the Paying Organization in the Services Order, subject to the scope and/or any other limitations specified in such Services Order

1.27. "PST" means Pacific Standard Time.

1.28. "Services Order" means an Aconex-approved order form with respect to a Project that is executed by Aconex or an Aconex Reseller and a Paying Organization that relates to the provision of the Platform and Services by Aconex or its agents to the Paying Organization and all Non-Paying Organizations under this Agreement. Each Services Order is incorporated into this Agreement by this reference. Notwithstanding the foregoing, the Services Order may also form a separate agreement between a Paying Organization and an Aconex Reseller, e.g., with respect to payment terms, etc. ("Extraneous Terms"). Extraneous Terms are not incorporated into this Agreement.

1.29. "Services" means the Platform and the associated services described in Section 3.

1.30. "Wilful Misconduct" means:

(a) an act or omission by a Party or any of its Personnel which is carried out intentionally or in wanton or reckless disregard, which act or omission the Party or its Personnel executing or authorising such act or omission, knew or ought reasonably to have known:

(i) was wrongful; or

(ii) failed to meet the standard of care which a reasonable person in the position of that Party or its Personnel would have exercised,

and which would be likely have harmful consequences for the other Party, but does not mean any innocent act, omission, mistake or error of judgement, by a Party or any of its Personnel acting in good faith.

2. TERM

~~The term will be for the duration Unless otherwise specified in a Services Order, the term of Services applicable to a Project will be tied to the duration of the Project.~~ The term of Services applicable to a Project commences upon the Paying Organization's execution of the Services Order ~~or equivalent commitment delivered in the manner specified in Section 18.12.~~

Unless terminated earlier by either Party as permitted under this Agreement, the Service term applicable to a Project will expire ~~upon the earlier of the completion or termination of the Project, or~~ in accordance with the terms of the Services Order. Notwithstanding the foregoing, in the event that Client purchases online data archive Services described in Section 3.2.1, then the term of this Agreement shall be extended for the duration of Client's receipt of such Services.

3. SERVICES

3.1. Standard Services and Delivery Schedule. In consideration of the Paying Organization's timely payment of all applicable Fees and compliance with the terms and conditions of this Agreement, Aconex will, during the applicable service term, provide the Paying Organization and all Non-Paying Organizations with those of the following Services ("Standard Services") as are specified in the Services Order, pursuant to the terms and conditions of this Agreement. Optional Services may also be requested from Aconex, which if accepted by Aconex, will be subject to the payment of additional Fees and may be subject to a separate Services Order, at Aconex's option. Aconex will use commercially reasonable efforts to provide the Services according to any schedule agreed in the Services Order.

3.1.1. Platform License. A non-exclusive, non-transferable, restricted Platform License for the term specified in Section 2, to access and use the functionality available within the modules of the Platform expressly included in the Services Order (subject to any restrictions specified in the Services Order) solely in support of the Project, within the scope specified in the Services Order, and in accordance with and subject to any specifications set forth in the Materials.

3.1.2. Hosting Services. Making the Platform available for use via the public Internet, including unlimited data transmission by the Paying Organization and all Non-Paying Organizations to and from the Platform (subject to limitations set out in the Acceptable Use Policy), and unlimited storage of Client Data related to the Project during the applicable term of Services.

3.1.3. Implementation Services. One or more group sessions with key stakeholders (designated by the Paying Organization, acting reasonably and taking into account Aconex's suggestions) who have primary responsibility for the success of the Project, or their designees, to define critical parameters for use of the Services, resulting in the preparation of a "Project Instruction" document which summarizes how the Paying Organization and all Non-Paying Organizations should use the Platform with respect to the Project, and includes guidelines for establishing appropriate Project processes such as document numbering conventions and version control rules.

3.1.4. Training Services. The provision of one-to-many training modules delivered over the Internet or at a designated site, which site must be approved by Aconex in advance. In the event that Client requests that training be provided at a designated site (other than Aconex's offices) and Aconex agrees, the Paying Organization will reimburse Aconex for its reasonable travel and living expenses actually incurred in delivering such training. All travel and living expenses will need to be listed on the Aconex Service Order and CH2M will provide an approved purchase order prior to training services being provided.

3.1.5. Maintenance and Support Services. Email and telephone help desk support provided to designated Paying Organization personnel, to assist the Paying Organization's end users to access and use the Platform on a 24/7 basis, provided in English and any other languages specified in the Services Order. Also included is access to a web-based support center (English only) and maintenance updates and improvements to the Platform.

3.2. Optional Services.

3.2.1. Online Data Archive. Following completion of a Project or termination of Services applicable to a Project, provided that such termination was not attributable to the Paying Organization's material breach, the Paying Organization may purchase a Platform License to access the Platform and use the functionality available on the Platform with respect to a Project in the manner specified in Section 3.1.1, except that the Paying Organization may not: (1) instruct Aconex to grant Non-Paying Organizations access to the Platform with respect to such data; (2) add new users; (3) share, transmit or send such data to other organizations; or (4) use the Platform to collaborate with users outside of the Paying Organization's organization, with respect to such Project.

3.2.2. Offline Data Archive. Following completion of a Project or termination of Services applicable to a Project, provided that such termination was not attributable to the Paying Organization's material breach, the Paying Organization may purchase a copy of the Client Data from the Project specified on the Services Order, on a digital media and in a format that may be viewed using the software applications that created the files that make up the Client Data.

3.2.3. Fax line. Installation and configuration of an inbound and outbound fax capability.

3.2.4. Local Copy Services. A restricted license to use the Aconex local copy utility (Local Copy) for one nominated Paying Organization user. For the duration of the Project, Local Copy will incrementally transmit a copy of the Paying Organization's Client Data to an accessible network location designated by the Paying Organization.

3.2.5. Other Services. Any products or services, other than the Services specified in this Section, that Aconex makes available to its customers for a fee.

3.3. Cancelling Services Provided that it has complied with Section 6 (Fees) at the date of cancellation, the Paying Organization may cancel the Services specified in a Services Order at any time upon 90 days' prior written notice to Aconex in the event that, for reasons outside of the Paying Organization's control, the project is permanently cancelled, which notice must be delivered to Aconex within the first 90 days of the initiation of such Services in which case the Paying Organization will be responsible for payment of fees invoiced prior to the effective date of cancellation.

3.3.3.4. The Paying Organization's Responsibilities

3.3.1-3.4.1. Confidentiality of Username and Password. The Paying Organization is responsible for maintaining the confidentiality of the access credentials (e.g., username and password) used by it and/or its end users to access the Services and agrees that it will not share access credentials among users or disclose those credentials to any third party.

3.3.2-3.4.2. Use of Data. The Paying Organization acknowledges that by transmitting and receiving data to and from the Platform, the Paying Organization is making information available for the use of the other authorized users of the Platform that are participating in the Project ("Project Participants") and the retraction of such information may negatively affect those Project Participants. Aconex may, as a condition to complying with any request to retract or delete data from the Platform, require the Paying Organization to comply with Aconex's reasonable risk mitigation requirements.

3.3.3-3.4.3. Other Obligations. The Paying Organization understands and acknowledges that Aconex's ability to provide the Services is dependent on the Paying Organization and each Non-Paying Organization undertaking any agreed or necessary obligations required to facilitate the delivery of the Services. The Paying Organization acknowledges that failure to perform any such obligations may result in a failure to receive Services, which shall not relieve the Paying Organization of any obligation to pay Fees.

4. CLIENT DATA

4.1. Ownership. The Paying Organization retains all of its right, title and interest in and to its Client Data, and ownership of such Client Data shall not be transferred to Aconex under this Agreement.

4.2. Right to Use. The Paying Organization grants Aconex a nonexclusive license to use Client Data to deliver Services to authorized users of the Platform, solely in connection with the Project. The Paying Organization further grants Aconex a nonexclusive, worldwide, perpetual license to use Platform usage data (such as, by way of example and not by way of limitation, numbers of documents uploaded) in an aggregated form that does not identify individual persons or organizations, in order to compile statistics regarding use of the Services and/or to improve the Services.

4.3. Data Archives. Upon termination of the Services, Aconex will retain the Paying Organization's data for a minimum of 12 calendar months from the date of termination ("Retention Period"). Provided that the termination of Services is not attributable to the Paying Organization's material breach, the Paying Organization may, during the Retention Period, purchase Data Archive services, subject to its payment of fees to Aconex at the rates specified in the Services Order (or if no rates are specified in the Services Order, the fees specified in the Price List). Aconex will not be liable for any damages of any kind in connection with its decision to not retain Client Data after the expiration of the Retention Period.

4.4. Warranty regarding Client Data and Use of the Services. The Paying Organization warrants that (a) it has appropriate and sufficient rights in Client Data, and (b) neither Aconex's use, processing and/or storage of Client Data in accordance with this Agreement nor the Paying Organization's use of Client Data as contemplated hereunder will violate applicable laws or this Agreement. Aconex is not obligated to screen Client Data, although Aconex reserves the right to screen Client Data and to suspend access to Client Data without warning that Aconex reasonably considers may breach this Agreement or any applicable law. Aconex will notify the Paying Organization as soon as practicable if Aconex suspends access to any Client Data and will restore access to such Client Data as soon as, in Aconex's reasonable opinion, doing so would not place Aconex at risk of loss or damage. Aconex is not liable for any damage or loss caused by Aconex's decision to suspend access to Client Data. The Paying Organization is entirely responsible for the content and delivery of Client Data, including without limitation, the accuracy, usefulness, timeliness and completeness of Client Data. The Paying Organization is responsible for ensuring Client Data is correctly addressed and on-time and does not represent a breach of any obligations to a third party or of law.

5. PLATFORM SERVICE CREDITS

The credits specified in the table below are, to the extent permitted by law, the Paying Organization's sole and exclusive remedy with respect to any unavailability of the Platform. Aconex will meet or exceed an availability service level of 99.85%.

Business Hours		After Hours	
Between 9:00 am and 5:00 pm (PST or Relevant Location) Monday to Saturday during a calendar month.		Between 5:00 pm and 9:00 am (PST or Relevant Location) Monday to Saturday and 00:00 to 24:00 on Sundays during a calendar month.	
Downtime During Business Hours ("DBH") (minutes)	Credit as a % of the Relevant Monthly Fee	Downtime After Hours ("DAH") (minutes)	Credit as a % of the Relevant Monthly Fee
Less than 66	0%	Less than 66	0%
66 to 668	2%	66 to 668	0%
669 to 1337	5%	669 to 1337	0%
1338 to 4463	8%	1338 to 4463	2%
4464 or greater	12%	4464 or greater	5%

Downtime shall be calculated on a calendar month basis, in accordance with the following 2 formulae:

$$DBH = TDBH - E$$

$$DAH = TDAH - E$$

Relevant Location' means the relevant location of the Platform, if the Services Order specifies a location other than the United States.

The following additional terms and conditions apply to this Section: Downtime: Aconex will test the Platform to assess uptime every 3 minutes. "Downtime" means the period beginning at the time the Platform does not give a valid response to 2 consecutive Aconex tests and continues until the Platform returns a valid response. TDBH: "TDBH" means total Downtime during Business Hours in a calendar month; TDAH: "TDAH" means total Downtime After Hours in a calendar month; E: "E" means excusable downtime which includes all of the following: (i) Downtime of an aggregate total of 30 minutes in any two-week period necessary to conduct regular software and hardware updates to the Platform, including bug fixes and patches; (ii) Downtime which is out of Aconex's control due to a Force Majeure Event and the first 30 minutes of any emergency, and; (iii) Downtime required as a result of a critical security breach. Any credit available to a Paying Organization under this Section will be calculated as a proportion of the Monthly Fee and be applied against the Fees payable for the month following the month in which the triggering Downtime occurred. The Paying Organization must claim any credit by sending notice of the same to Aconex within 10 Business Days of the end of the calendar month in which the Downtime occurred. Aconex is not required to provide a credit for Downtime claims that are not presented in writing within the time limit specified above. In the event that Fees are not payable by the Paying Organization, Aconex will provide an equivalent credit note.

6. FEES, PAYMENT TERMS AND INSPECTION

6.1. Fees. The Paying Organization shall pay Fees to Aconex for use of the Services in accordance with the following terms of payment: (a) in advance, and in accordance with any payment schedule contained in the Services Order or as otherwise specified in Section 18.12; (b) by the means and to the bank account stipulated on the invoice; (c) within 60 calendar days of the date CH2M receives Aconex's non-disputed invoice. Except as expressly specified in a Services Order, all Fees shall be non-refundable. All invoices to be sent to the "bill to" email address or physical address on the purchase order provided to Aconex by the Paying Organization.

6.2. Disputed Invoices. If the Paying Organization in good faith disputes the whole or any portion of the amount claimed in an invoice submitted by Aconex, Aconex will cancel the original invoice and re-issue a new invoice for the undisputed amount. . If it is resolved that some or all of the amount in dispute ought properly to have been paid, then Aconex will re-issue a second invoice for the disputed amount for payment by the Paying Organization.

6.3. Change in Scope or Law. Without prejudice to any other rights Aconex may have in the circumstances, if the Paying Organization is, in Aconex's reasonable discretion, using the Services outside of the scope identified in a Services Order, or outside the Scope of the Project, or if the scope of a Project materially increases, or there is a change in the law that materially affects Aconex's cost of delivering the Services, Aconex may charge the Paying Organization additional Fees for use of the Services, which additional Fees shall be proportional to the additional scope of use or increased cost, as determined in Aconex's sole reasonable judgment. If the Paying Organization objects to such increased Fees, then Aconex may at its discretion, either (a) require the Paying Organization to discontinue any excess or prohibited use of the Services, or (b) terminate all Services specified under this Agreement on not less than 30 days' written notice to the Paying Organization. Any and all services provided to CH2M must be approved and a valid purchase order provided to Aconex before any additional services are performed.

6.4. Taxes. (a) Aconex will bear and pay all applicable taxes of any country, including any political subdivision of any of them, if the tax is based on or measured by Aconex's gross receipts or net income, or payment of which is required to maintain a legal existence or a general right to transact business within the taxing jurisdiction, or based on Aconex's payroll or personal property used or consumed in the provision of the Services (b) Paying Organization agrees to pay all other taxes,

including without limitation any value added tax and sales and use tax (including any gross receipts tax imposed similar to a sales and use tax, including withholding tax) imposed by any foreign, national, state or local taxing authority with respect to Aconex's delivery or Paying Organization's or Non-Paying Organizations' receipt of the Services and or the payment of Fees under this Agreement. If Aconex is required to collect any value added tax or sales and use tax on behalf of any taxing jurisdiction, Aconex will provide to the Paying Organization invoices which separately state and clearly indicate the amount of tax, and the Paying Organization will remit any such tax to Aconex. The parties will cooperate in good faith to minimize such tax to the extent legally permissible.

6.5. Currency. Unless otherwise specified in the Services Order, all amounts specified to be paid under this Agreement shall be in US Dollars.

7. INSPECTION.

On reasonable notice and not more than once annually, the Paying Organization will allow an independent third party selected by Aconex and reasonably acceptable to the Paying Organization to verify that it is using the Platform solely in connection with the Project, and is not otherwise using the Service in a manner that violates this Agreement (each, an "Inspection"). The Paying Organization shall reasonably cooperate with each Inspection and shall provide access to relevant documentation and records, for the purpose of confirming its compliance with the terms of this Agreement. Any information disclosed by the Paying Organization in connection with an Inspection shall be Confidential Information, except to the limited extent necessary for Aconex to enforce its rights under this Agreement.

8. ACCEPTABLE USE OF SERVICES

The Paying Organization and its end users shall use the Services solely in accordance with this Agreement, all applicable laws and the Acceptable Use Policy. Aconex may modify the Acceptable Use Policy at its sole discretion and such modifications shall be effective upon their publication on the Platform or Aconex's web site. If there is any conflict between the Acceptable Use Policy and this Agreement, then the Acceptable Use Policy shall take precedence.

9. CONFIDENTIALITY

9.1. Obligation. Both Parties acknowledge that Confidential Information disclosed by either Party pursuant to this Agreement may constitute valuable trade secrets of the disclosing Party. Each Party agrees to use the other Party's Confidential Information solely in accordance with the provisions of this Agreement and not to disclose, or permit to be disclosed, either directly or indirectly, such Confidential Information to any third party, without the disclosing Party's prior written consent. Each Party shall use strict measures to protect the secrecy and avoid disclosure or unauthorized use of the other Party's Confidential Information. Each Party shall exercise the same degree of care to prevent disclosure of the other Party's Confidential Information as it takes to preserve and safeguard its own Confidential Information, but in any event, no less than a reasonable degree of care. For clarity, confidential information shall include all Personal Data and all Client Data.

9.2. Exceptions. Notwithstanding the foregoing, neither Party will be in breach of this provision in circumstances where: (a) the Party is legally compelled to disclose the other Party's Confidential Information; (b) the information is already in the public domain through no fault of the receiving Party; (c) the information is in the disclosing Party's possession without a duty of confidentiality at the date of disclosure; (d) information has been independently developed by the recipient without benefit of the disclosing Party's Confidential Information; (e) the disclosing Party discloses the terms of this Agreement to its professional advisors, financiers, prospective financiers or partners or agents; or (e) where Aconex identifies the Paying Organization as a Platform customer. Aconex may communicate the existence of this Agreement as required under the rules of the Australian Securities Exchange. Nothing shall prevent the Paying Client from disclosing the terms or pricing under this Agreement to any governmental authority and/or its respective agent(s) (e.g., the Defence Contract Audit Agency) as required by law or regulation or pursuant to any client audit. Subject to the foregoing, the recipient may disclose the confidential information on a need-to-know basis to the recipient's Consultants, agents, auditors, and affiliates (collectively, the "Recipient Parties") who agree to maintain its confidential nature in a manner no less restrictive than contained herein and provided that recipient agrees to be responsible for a breach of confidentiality by any of the Recipient Parties. If either Party receives a subpoena or other validly issued administrative or judicial demand requiring it to disclose disclosing Party's confidential information, recipient shall, unless prohibited by law, provide prompt written notice to disclosing Party of such demand in order to permit it to seek a protective order. So long as recipient gives notice as provided herein, recipient shall be entitled to comply with such demand to the extent required by law, subject to any protective order or the like that may have been entered in the matter

10. DATA STORAGE AND PRIVACY

10.1. Use of Client PII. In the course of receiving the Services under this Agreement, the Paying Organization may disclose to Aconex personally identifiable information about the Paying Organization's employees, directors, officers, customers or suppliers, and/or other users of the Services (collectively "Client PII"). Aconex may also otherwise be provided with access to Client PII in the course of delivering the Services. The Paying Organization is responsible for confirming that its disclosure and/or provision of Client PII to Aconex, and Aconex's possession, storage and/or use of such Client PII in the manner contemplated under this Agreement is permissible under all applicable data processing laws and regulations. Without prejudice to the foregoing, the Paying Organization acknowledges that Aconex may process Client PII for purposes connected with this

Agreement, to conduct its business relationship with the Paying Organization and for the relevant and limited purposes specified in the Privacy Policy. Aconex will act only as a data processor and will not re-use or re-disclose Client PII for unrelated purposes. Aconex will use commercially reasonable efforts to protect Client PII from loss, destruction or unauthorized use or access, utilizing technical, physical and administrative security measures consistent with industry standards. The Paying Organization shall obtain the consent of each individual to whom such Client PII relates prior to disclosing such information to Aconex, and such consent shall include adequate authorization for Aconex and Aconex Affiliates to process, use and disclose such Client PII in the manner contemplated under the Agreement.

10.2. Transfer and Storage of Client Data. Due to the global nature of its business, Aconex may, for the purposes contemplated under this Agreement, transfer or store Client Data (including, without limitation, Client PII) in and to any country in which Aconex operates, subject to its compliance with applicable laws and this Agreement. The Paying Organization agrees to such transfer in its own right and on behalf of those individuals and entities from whom it collected such Client Data and/or Client PII.

10.3. Location of Client Data. Aconex will store Client Data in the United States, unless the Services Order specifies another location. Nothing in this Section prevents Aconex from changing the location for storing Client Data within the United States. If the Project Services Order (or other similar document) specifies a Platform instance in another country for storage of Client Data, Client Data will be stored in that country, subject to data being stored on the disaster recovery site in Australia.

10.4. User Communications. Aconex reserves the right to communicate with end users of the Services regarding matters relating to system usage, administration and support.

11. INTELLECTUAL PROPERTY RIGHTS

Aconex and its licensors own all right, title and interest in and to the Platform and Services, including all Intellectual Property Rights therein and thereto, and any Materials or software or other inventions that may be developed or discovered by Aconex in connection with the Services. Except for the Platform License, no transfer of any Intellectual Property Rights will occur in connection with this Agreement. Notwithstanding anything to the contrary in this Agreement, Aconex has and retains the exclusive right to own, use and disclose, in the course of its business, all feedback provided by the Paying Organization with respect to the Services and Platform.

12. SUSPENSION OF SERVICES

Without affecting any other rights and obligations available to Aconex under this Agreement or at law or equity (including a right of termination and a right to claim damages), Aconex may suspend the Platform License and delivery of any or all of the Services if the Paying Organization continues to fail to pay any overdue amounts owed to Aconex under this Agreement, following receipt of written notice from Aconex of such delinquency. In the event that Services are suspended under this Section, then, as a condition of reinstating such Services, Aconex may require the Paying Organization to pay a reconnection fee and/or require the payment of all future Fees in advance. Aconex is required to provide written notification if Paying Organization is delinquent of payment prior to suspension of services for non-payment.

13. LIMITED WARRANTY AND DISCLAIMERS

13.1. Limited Warranty. Aconex warrants to the Paying Organization that it will use reasonable professional skill and care, consistent with industry standards, in providing all Services. Aconex's sole liability and the Paying Organization's sole and exclusive remedy for any breach of the warranty specified in this Section will be for Aconex to re-perform such Services.

13.2. Disclaimers. THE PAYING ORGANIZATION ASSUMES ALL RESPONSIBILITY FOR ITS SELECTION OF THE PLATFORM TO ACHIEVE ITS INTENDED RESULTS, FOR THE USE OF AND RESULTS OBTAINED FROM THE PLATFORM, AND FOR TAKING APPROPRIATE MEASURES TO PREVENT LOSS OF DATA. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 13.1 ABOVE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ACONEX DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, QUALITY AND FITNESS FOR A PARTICULAR PURPOSE. ACONEX DOES NOT WARRANT THAT THE SERVICES WILL BE ERROR-FREE OR THAT THE SERVICES WILL BE AVAILABLE WITHOUT INTERRUPTION. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

14. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY LAW, ACONEX WILL NOT BE LIABLE FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, CONSEQUENTIAL LOSS, OR OTHER DAMAGES (INCLUDING LOSS OF PROFIT, INTEREST, REVENUE, BUSINESS, GOODWILL, SAVINGS OR ANTICIPATED PROFIT OR ANY LOSS OF OR DAMAGE TO ANY CLIENT DATA, OR LOSS OF OR INTERRUPTION TO CLIENT'S BUSINESS), IN EACH CASE ARISING OUT OF OR IN ANY WAY CONNECTED TO THE PROVISION OF THE PLATFORM OR THE SERVICES INCLUDING, WITHOUT LIMITATION, LOSS OR DAMAGE CAUSED BY A COMPUTER VIRUS OR OTHER MALWARE, AND IN EACH CASE REGARDLESS OF WHETHER ACONEX WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. REGARDLESS OF WHETHER A CLAIM ARISES IN CONTRACT, TORT OR OTHER, UNDER NO CIRCUMSTANCES WILL ACONEX'S (INCLUDING ITS OFFICERS, EMPLOYEES, CONTRACTORS, AFFILIATES AND AGENTS): ACONEX'S AGGREGATE

LIABILITY IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL AMOUNT OF FEES PAID BY THE PAYING ORGANIZATION TO ACONEX UNDER THIS AGREEMENT THROUGH THE DATE THE CLAIM AROSE. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE. THE LIMITATION OF LIABILITY IN THIS CLAUSE DOES NOT APPLY TO ANY LIABILITY OF ACONEX FOR OR IN RESPECT OF ANY GROSS NEGLIGENCE OR WILFUL MISCONDUCT BY ACONEX OR DISCLOSURE OF CONFIDENTIAL INFORMATION AS COVERED IN THE AGREEMENT

15. INDEMNITIES

15.1. Aconex Indemnity.

15.1.1. Obligation. Aconex shall defend, indemnify and hold the Paying Organization harmless from and against damages, costs, liabilities, and expenses, including reasonable attorney's fees, incurred in connection with any third party claim alleging that the Platform or Services, when used within the scope of this agreement, infringes any third party's IP rights. Aconex shall pay any final judgments awarded or settlements entered into to resolve such claim, action or proceeding; provided that the Paying Organization provides Aconex with: (i) prompt written notice of such claim; (ii) sole control over the defense and settlement of such claim; and (iii) all necessary information and assistance (at Aconex's reasonable expense) to defend and/or settle such claim. The Paying Organization may participate in the defense of a claim asserted hereunder after Aconex has assumed the defense or settlement, provided that the Paying Organization shall bear any legal fees and expenses or other costs it incurs in so participating. Aconex shall not be liable for any costs or expenses incurred by the Paying Organization when acting without Aconex's prior written authorization. Aconex may not settle or compromise any claim under this Section that requires the Paying Organization to admit liability or pay any money without the Paying Organization's prior written consent, which consent shall not be unreasonably withheld or delayed.

15.1.2. Limit on Indemnity. Notwithstanding the foregoing, Aconex will have no liability for infringement claims arising from: (i) combination of the Services with other software or products not provided by Aconex, if the infringement would not have occurred if the Services had not been so combined; (ii) any modification of the Services, in whole or in part, by anyone other than Aconex, if the infringement would not have occurred but for such modification; or (iii) use by the Paying Organization of any specified release of the Platform after Aconex notifies the Paying Organization that continued use may subject the Paying Organization to such claim of infringement, provided Aconex provides the Paying Organization with a replacement release.

15.1.3. Replacement Services. If any portion of the Services is held, or in Aconex's opinion is likely to be held, to infringe or misappropriate a third party's Intellectual Property Rights, or use of the Services is otherwise enjoined, then Aconex may at its sole option and expense, within a commercially reasonable period of time: (i) procure for the Paying Organization the right to continue using the Services; (ii) replace the Services with a non-infringing solution without material decrease in functionality; or (iii) in the event that neither of the foregoing is reasonably practicable in Aconex's judgment, terminate the Platform License and/or this Agreement and refund any Fees pre-paid by the Paying Organization with respect to future delivery of the terminated portion of the Services.

15.1.4. Entire Liability. THIS SECTION STATES THE ENTIRE LIABILITY AND OBLIGATION OF ACONEX, AND THE SOLE AND EXCLUSIVE REMEDY OF THE PAYING ORGANIZATION, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS WITH RESPECT TO THE PAYING ORGANIZATION'S USE OF THE SERVICES

15.2. Paying Organization Indemnity. The Paying Organization shall defend or at its option settle any third party claim, action or proceeding brought against Aconex, any Aconex Affiliate alleging that (a) the Paying Organization has breached any law or regulation in its use of the Services, Client Data, or Client PII, or (b) the Paying Organization has misused any Client Data or Client PII or infringed any third party's Intellectual Property Rights in its use of the Client Data or Client PII, and the Paying Organization shall pay any final judgments awarded or settlements entered into to resolve such claim, action or proceeding; provided that Aconex provides the Paying Organization with: (i) prompt written notice of such claim; (ii) sole control over the defense and settlement of such claim; and (iii) all necessary information and assistance (at the Paying Organization's reasonable expense) to defend and/or settle such claim. Aconex may participate in the defense of a claim asserted hereunder after the Paying Organization has assumed the defense or settlement, provided that Aconex shall bear any legal fees and expenses or other costs it incurs in so participating. The Paying Organization shall not be liable for any costs or expenses incurred by Aconex when acting without the Paying Organization's prior written authorization. the Paying Organization may not settle or compromise any claim under this Section that requires Aconex to admit liability or pay any money without Aconex's prior written consent, which consent shall not be unreasonably withheld or delayed.

16. TERMINATION

16.1. Termination for Material Breach. Either Party may terminate this Agreement in the event that the other party commits a material breach of this Agreement and where such breach is capable of remedy, fails to remedy the breach within 30 days of receiving written notice from the other Party. Aconex may also immediately terminate this Agreement if the Paying Organization's access to the Services has been suspended under Section 12 (Suspension of Services) and the Paying Organization has not, in Aconex's sole judgment made a reasonable attempt to promptly resolve the basis for such suspension. Without prejudice to the foregoing, the parties agree a failure by the Paying Organization to pay Fees when due constitutes a material breach of this Agreement.

16.2. Termination for Insolvency. Either party may terminate this Agreement by notice in writing if: (a) the other party is unable to pay its debts as and when they become due or becomes, threatens or resolves to become or is in jeopardy of becoming insolvent or subject to an order, proceedings or resolution for liquidation or dissolution (unless for the purposes of amalgamation or reconstruction,) or entering into a compromise or arrangement with, or assignment for the benefit of any of its members or creditors; or (b) the other party, being a partnership, dissolves, threatens or resolves to dissolve or is in jeopardy of dissolving; .

16.3. Effect of Termination. On termination of this Agreement: (a) the Paying Organization will pay to Aconex all outstanding amounts under the Agreement; (b) the Paying Organization's Platform License shall automatically terminate and the Paying Organization shall immediately cease using the Platform; and (c) the Paying Organization shall return any Materials and Aconex Confidential Information to Aconex or comply with Aconex's instructions for the destruction of such Materials and Confidential Information. At Aconex's request, the Paying Organization will provide written confirmation certifying that all Materials and Aconex Confidential Information in its possession have been returned or destroyed. The termination of this Agreement shall not relieve the Paying Organization of its obligation to pay any Fees or other amounts owed to Aconex under this Agreement prior to the date of such termination.

16.1. Survival. Sections 3.4.2, 4, 6.1, 6.4, 7, 9, 10, 11, 13.2, 14, 15, 16.3, 16.4, 17, 18 and 19 of this Agreement shall survive termination, howsoever occurring.

17. GOVERNING LAW AND DISPUTE RESOLUTION

17.1. Governing Law and Jurisdiction. This Agreement is governed by the laws of the State of New York, without regard to its conflict of law principles and the Parties submit to the exclusive jurisdiction of the state and federal courts located in the District of New York, and any court that may hear appeals from any of those courts, for any proceedings initiated or pursued in connection with this Agreement, and waive any right they may have to claim that those courts are an inconvenient forum.

17.2. Injunctive Relief. Notwithstanding the foregoing, if either Party breaches, or threatens to breach the provisions of this Agreement concerning Confidential Information or Intellectual Property Rights, each Party agrees that the non breaching Party may have no adequate remedy at law and is therefore entitled to seek immediate injunctive and other equitable relief, without bond and without the necessity of showing actual monetary damages, in any court having jurisdiction.

17.3. Dispute Resolution.

17.3.1. Negotiation. If any dispute arises between the Parties in respect of this Agreement, or any related document, a Party must: (a) issue a written notice to the other Party notifying them of the existence of a dispute; and (b) use good faith efforts to resolve the dispute through negotiation.

17.3.2. Escalation. In the event that negotiations pursuant to Section 17.3.1 do not resolve the dispute within 15 Business Days (or such longer period as may be agreed between the Parties), the dispute will be referred to the respective chief executive officers (or their nominees – external counsel excluded) of each Party for good faith negotiations.

17.3.3. Filing of Actions. Neither Party may file an action to resolve a dispute prior to 20 Business Days (or such other period as may be agreed between the Parties) after an escalation pursuant to Section 17.3.2.

17.4. Legal Expenses. If any proceeding is brought by either Party to enforce or interpret any provision of this Agreement, the substantially prevailing Party in such proceeding shall be entitled to recover, in addition to all other relief arising out of this Agreement, such Party's reasonable attorneys' and other experts' fees and expenses.

18. MISCELLANEOUS

18.1. Force Majeure. With the exception of any payment obligations, neither Party will be liable for any delay or failure to perform its obligations pursuant to this Agreement to the extent such delay is due to a Force Majeure Event. With the exception of payment obligations, to the extent a delay or failure of a Party to perform its obligations is caused or anticipated due to a Force Majeure Event, the performance of that Party's obligations will be suspended and neither Party will be liable to the other Party for a failure to perform its obligations as a result of a Force Majeure Event. If a delay or failure by a Party to perform its obligations due to a Force Majeure Event exceeds 3 calendar months, either Party may immediately terminate the Agreement without cause upon written notice to the other Party.

18.2. No Reliance on Representations. The Paying Organization has not relied on any representation, undertaking, statement or understanding which has not been stated expressly in this Agreement or upon any descriptions, illustrations or specifications contained in any document including marketing materials produced by Aconex.

18.3. Independent Contractors. The Parties are independent contractors. Aconex is not a party to any transactions a Paying Organization enters into with a Non-Paying Organization using the Platform or Services. Under this Agreement, Aconex and its personnel will never be employees, agents or partners of the Paying Organization, and are not engaged in a joint

venture with the Paying Organization. Aconex shall have no liability arising out of any transaction or dealings conducted between the Paying Organization and Non-Paying Organizations or any other third parties through use of the Services.

18.4. Assignment. The Paying Organization may not assign this Agreement or delegate any of its obligations unless written into the Aconex Service Order as an option, hereunder without Aconex's prior written consent. Any attempted assignment in violation of this provision will be null and void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties and their permitted successors and assigns.

18.5. Novation. Provided there are no outstanding Fees, the Paying Organization may novate this Agreement (including payment of Fees) at any time to a third party, subject to Aconex's prior written approval (not to be unreasonably withheld).

18.6. Waiver. Any right of either Party under this Agreement may only be waived in writing, signed by the Party giving the waiver, and no other conduct of a Party (including a failure to exercise, or delay in exercising, the right) shall operate as a waiver of the right or otherwise prevent the exercise of the right.

18.7. Modification. The provisions of this Agreement will not be varied, except by express written instrument that makes explicit reference to this Agreement and is executed by authorized representatives of each of the Parties. Notwithstanding the foregoing, Aconex reserves the right to modify the Services and/or the terms and conditions of this Agreement at any time, but such modifications shall apply to Services Orders executed after the effective date of the change. Aconex will notify the Paying Organization of such modifications, either via email, the Platform, or in a manner deemed commercially reasonable by Aconex.

18.8. Severability. If any provision or part provision of this Agreement is held invalid, unenforceable or illegal by any court or tribunal for any reason, the remainder of this Agreement will remain otherwise in full force apart from such provisions or part provisions which will be deemed deleted or modified to the minimum extent necessary to remove the invalidity, unenforceability or illegality.

18.9. Client Reference. Neither party may issue any press release regarding the Paying Organization's use of the Platform without the prior written consent of the other party (not to be unreasonably withheld, delayed or conditioned).

18.10. United States Export Controls. The Services (including the Platform) use software and technology that may be subject to United States export control laws. The Paying Organization shall not, directly or indirectly, export or re-export, or knowingly permit the export or re-export of the Services or any technical information related to the Services to any country for which such export or re-export is restricted by any applicable U.S. regulation or statute, without the prior written consent, if required, of the U.S. government entity that has jurisdiction over such export or re-export. Aconex and its licensors make no representation that the Services are appropriate or available for use in locations outside of the United States. If the Paying Organization uses the Services from outside of the U.S., the Paying Organization is solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries. The Paying Organization's failure to comply with this Section shall be a material breach incapable of remedy.

18.11. No Third Party Beneficiaries. No provisions of this Agreement are intended or shall be construed to confer upon or give to any person or entity any rights, remedies or other benefits as a third party beneficiary. Without limiting the generality of the foregoing, Non-Paying Organizations may not enforce the rights granted to Paying Organizations under this Agreement and vice versa, under any circumstances.

18.12. Entire Agreement. The documents comprising this Agreement contain the entire agreement between the Parties concerning its subject matter. If the Paying Organization does not execute a Services Order, but instead issues a purchase order to Aconex or an Aconex Reseller, that purchase order will constitute a binding commitment by the Paying Organization to purchase the Services specified in it, on the terms and conditions set forth in this Agreement. Accordingly, Aconex's commencement or execution of work pursuant to the purchase order will establish a contract for the supply and purchase of the Services under this Agreement, and any additional and/or conflicting terms or conditions in the Paying Organization's purchase order shall be inapplicable.

19. NOTICES

19.1. Method of Communication. Any notice or consent delivered by either Party under this Agreement shall only be effective if it is: (a) in writing, sent by or on behalf of and at the express instruction of the Party giving it; (b) addressed in accordance with Section 19.3 to the Party to whom it is to be given; and (c) either: (i) sent via overnight delivery service (e.g., FedEx or UPS), or (ii) sent by fax and the machine from which it is sent produces a report that states that it was sent in full and the recipient does not alert the sender to the fact that fax was not received in a legible form by the close of business the next Business Day; (iii) in the case of notices from Aconex to the Paying Organization, sent via the Platform; or (iv) sent by email communication with confirmation of receipt.

19.2. Deemed Delivery. A notice, consent or other communication that complies with this Section is deemed given and received: (a) if it is delivered or sent by fax: (i) by 5:00 PM (local time in the place of receipt) on a Business Day – on that day; or (ii) after 5:00 PM (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the next Business Day; (b) if it is sent by mail: (i) within the United States – four Business Days after posting; or (ii) to or from a

place outside of the United States – seven Business Days after posting; and (iii) if it is sent via the Platform – by 5:00 PM the next Business Day (local time in the place of receipt).

19.3. **Addresses.** Any notices from Aconex to the Paying Organization under this Agreement shall be addressed to the Paying Organization representative identified below. , if such information is not specified, the Paying Organization's representative will be the organization administrator as recorded in the Paying Organization's Services account, and the Paying Organizations' contact details will be the contact details recorded in the Paying Organization's Services account. Any notices from the Paying Organization to Aconex under this Agreement shall be addressed as follows:

Aconex (North America), Inc.
Attn: General Counsel
250 Montgomery Street
10th Floor
San Francisco, CA 94104

CH2M HILL, Inc
Attn: Donald Seward
9191 South Jamaica Street
Englewood, CO 80112-5946

20. HUMAN TRAFFICKING & WORKER WELFARE

20.1. This clause shall apply if Aconex is organized under the laws of the United States of America or is performing work for the Paying Organization pursuant to a prime contract funded by the government of the United States of America. The parties agree to comply with the applicable provisions of National Security Presidential Directive/NSPD-22, the applicable provisions of 22 U.S.C. 7104 as amended by the Trafficking Victims Protection Reauthorization Act of 2003 (Pub. L. 108-193), the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109-164), the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Public Law 110-457), the Trafficking Victims Protection Reauthorization Act of 2013 (Title XII of the Violence Against Women Reauthorization Act of 2013) (Public Law 113-4) and all applicable implementing regulations with regard to the U.S. Government's "zero tolerance" policy against human trafficking.

20.2. This clause shall apply if Aconex is not organized under the laws of the United States of America. Aconex agrees to strictly comply with all applicable laws, rules and regulations to which compliance is required by any lawful jurisdiction governing the trafficking of persons including the recruitment, harboring, transportation, provision or obtaining of a person for labor or services through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.

20.3. If Aconex provides workers to the Paying Organization who are housed within labor facilities or other such Aconex provided housing, then Aconex shall comply with all governing laws and regulations regarding worker living conditions and standards. Aconex shall grant the Paying Organization access to such Aconex facilities for periodic assessments of worker living conditions and allow the Paying Organization to question Aconex's employees associated with the performance of this Agreement regarding worker welfare issues. The Paying Organization may terminate this Agreement for default if in the reasonable opinion of the Paying Organization, it is proven that Aconex has failed to comply with any governing laws or regulations.

20.4. Aconex further agrees that this clause 20 Human Trafficking & Worker Welfare shall be incorporated into any purchase order. Any actual or reasonable suspicion of violation of the provisions of this clause 20 by Aconex shall be advised to the Paying Organization without delay and may result in termination for default at the Paying Organization's reasonable discretion.

21. SUSTAINABILITY

Aconex shall be supportive of furnishing services, materials, products, processes, and business practices that are protective of the natural environment and resources. If established elsewhere within this Agreement, requirements for specific deliverables, reports, licenses, certifications, plans and other documentation required to confirm Aconex's achievement of sustainability performance metrics shall be submitted to the Paying Organization based upon the established schedule.

22. SUPPLY CHAIN ETHICS AND BUSINESS CONDUCT PRINCIPLES

Acceptance by Aconex of this Agreement constitutes agreement that those who work on the Paying Organization's projects at any tier shall conduct business legally, ethically and in compliance with the Principles set forth in the Paying Organization's Our Supply Chain Ethics and Business Conduct Principles to include where applicable, the Supplement for U.S. Government Work, both of which are available at

23. COMPLIANT WITH ALL APPLICABLE LAWS REGARDING BRIBERY AND CORRUPT PRACTICES

Aconex shall not violate the United States Foreign Corrupt Practices Act ("FCPA"), the UK Bribery Act ("UKBA") or any other applicable laws regarding bribery or other corrupt practices. Aconex warrants that none of its employees, officers, or principals is an official or representative of any government, or is a candidate for such position. In conformity with the FCPA, UKBA and the Paying Organization's established corporate policies regarding business practices, Aconex further represents and warrants that it and its employees, agents, and representatives shall not directly or indirectly make any offer, payment, promise to pay, or authorize the giving of anything of value for the purpose of influencing an act or decision of an official of any government or candidate for such an office, or any other person, including a decision not to act, or inducing such a person to use his influence to affect any government act or decision of a government or any other business decision in connection with the Paying Organization's or its clients' business. Aconex further agrees that the provisions of this clause shall be incorporated into any Purchase Order for provision of services to the Paying Organization. Any actual or reasonable suspicion of violation of the provisions of this clause by or on behalf of Aconex shall be advised to the Paying Organization without delay, and may result in termination for default at the Paying Organization's reasonable discretion.

24. CONFLICTS OF INTEREST

24.1. Aconex warrants that, to the best of its knowledge and belief, there are no relevant facts or circumstances which could give rise to a potential or actual personal or organizational conflict of interest by Aconex, Aconex's employees, sub-suppliers, or contingent staffing in performing work under the Agreement. A Conflict of Interest means that because of other activities or relationships with other persons or entities, a person is unable or potentially unable to render impartial assistance or advice in the performance of the work, or the person's objectivity in performing the work is or might be otherwise impaired.

24.2. Prior to commencing any work, Aconex agrees to notify the Paying Organization immediately if, to the best of its knowledge and belief, a potential or actual conflict of interest exists.

24.3. Aconex agrees that if a potential or actual organizational and or personal conflict of interest is identified during performance, Aconex will immediately notify the Paying Organization in writing to Paying Organization.

24.4. In accordance with other provisions within this Agreement, the Paying Organization may terminate this Agreement, in whole or in part, if an actual organizational or personal conflict of interest exists during the term.

25. Insurance

This Article shall apply to only Work performed by Aconex at a Paying Organization facility or job site. Before commencing services and as a condition of payment, Aconex will purchase and maintain from the effective date of this Agreement through a period of at least two (2) years after the expiration of this Agreement the following minimum insurance limits and coverages underwritten with a minimum A.M. Best Guide rating of A VII or other rating reasonably acceptable to the Paying Organization, and Aconex will furnish the Paying Organization with original certificates of insurance meeting the limits of coverages specified in this Article:

- o Worker's Compensation insurance in the statutory amount and Employer's Liability insurance in an amount not less than \$1,000,000 per accident and disease for all employees engaged in the services. If any employees are located in OH, Stop Gap coverage in an amount not less than \$1,000,000 per accident and disease shall also be evidenced.
- o Commercial Automobile Liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, non-owned, or hired vehicles, in an amount not less than \$1,000,000 combined single limits.
- o Commercial General Liability insurance, products/completed operations and contractual liability covering claims for injuries to members of the public or damage to property of others arising out of any covered act or omission of Aconex or of any of its employees, agents, or lower-tier suppliers, in an amount not less than \$1,000,000 per occurrence and in the aggregate.

Insurance coverage in (b) and (c) above will name the Paying Organization as additional insured, for the Paying Organization. Such insurance will be the primary and non-contributory coverage to the Paying Organization.

Certificates of insurance shall state that the insurance carrier will give the Paying Organization thirty (30) days written notice of any cancellation, non-renewal, or reduction of coverage or limits.

PROVISIONS APPLICABLE TO NON-PAYING ORGANIZATIONS

1. DEFINITIONS

The capitalized terms set forth below shall have the following meanings for the purposes of this Agreement:

1.1 "Acceptable Use Policy" means the Aconex Acceptable Use Policy applicable to the Services, which is available for review and download on the Platform login page and the Aconex corporate web site.

1.2 "Aconex" means Aconex (North America) Inc., a company incorporated in the State of New York, and, unless expressly included in the Agreement, excludes any Aconex Affiliates.

1.3 "Aconex Affiliate" means (a) Aconex Limited (ABN 49 091 376 091), a company incorporated in Australia; (b) any entity controlling or controlled by Aconex Limited; and (c) any entity under common control with Aconex Limited, for so long as such common control continues to exist, where control means ownership either directly or indirectly of not less than 50% of the voting shares.

1.4 "Business Day" means a day that is not a Saturday, Sunday or holiday observed by Aconex in the United States.

1.5 "Client Data" means data related to a Project that the Non-Paying Organization uploads to or transmits via the Platform and includes first level metadata (such as the time, date, distribution parties relating to a specific document or item of correspondence on any Hosted Platform) but excludes secondary metadata (such as the structure of database tables within the Platform code and folder structures established on the Platform).

1.6 "Confidential Information" means any non-public information disclosed by either Party to the other Party in writing pursuant to this Agreement, which is designated as "confidential" or "proprietary" (or with a similar legend), or that is disclosed orally and confirmed in writing as confidential within a reasonable time. Even if not so marked, the Parties agree that Client Data, any non-public components of the Platform and Services, and the terms of this Agreement (including, without limitation, Services Order) are Confidential Information.

1.7 "Data Archive" means the Optional Services Aconex offers relating to the continued preservation and access to Client Data following termination of a Project or termination of Services.

1.8 "Effective Date" means the date the Non-Paying Organization accepts this Agreement.

1.9 "Force Majeure Event" means any forces of nature, disruptions to the internet infrastructure, public bandwidth shortages, industrial action, acts of terrorism, protests, riots, civil commotion, fire, explosion, flood, epidemics, lock-outs, strikes and action or inaction by a government agency (including any quasi-government agency) which causes a Party to be prevented or delayed in performing its obligations.

1.10 "Intellectual Property Rights" means patents, copyrights, trademarks, trade secrets, and all other proprietary rights recognized in any jurisdiction worldwide, and all applications and registrations therefore.

1.11 "Materials" means all manuals, data, documents, and information that are prepared, written, made accessible, provided or developed by Aconex or its licensors in connection with the Services, including help desk and technical support documentation.

1.12 "Monthly Fees" means the monthly Fee(s) for Service(s) as specified in the Services Order. If (a) the Fee(s) for any Service(s) are partly or fully payable up front, or (b) the Fee(s) for any Service(s) are partly or fully payable on a periodic basis other than monthly, then in both cases Monthly Fee means the amount calculated by dividing the total Fees by the number of months covered by the Services Order.

1.13 "Non-Paying Organization" means any organization that is invited and authorized to use the Services with respect to a Project by the Paying Organization, has accepted this Agreement and is not required under a Services Order to pay Aconex or an Aconex Reseller for access to and use of the Services.

1.14 "Optional Services" means discretionary, paid Services (including Data Archives) which, if purchased, will be subject to a Services Order.

1.15 "Party" means either Aconex or the Non-Paying Organization as the context dictates, and "Parties" means Aconex and the Non-Paying Organization, as the context dictates.

1.16 "Paying Organization" means the entity specified as the contracting party (other than Aconex) in a Services Order, that is responsible for paying fees to Aconex for all Non-Paying Organizations' use of the Services, and that has the discretion with respect to all Non-Paying Organizations' right to access and use the Platform and/or Services under this Agreement.

1.17 "Platform" means the object code version of the computer software application(s) owned by or licensed to Aconex

that is made available by Aconex or its agents to the Non-Paying Organizations in connection with this Agreement, together with any associated Materials. The Platform also includes any upgrades, improvements, bug fixes, new versions and/or derivative works of such software or Materials.

1.18 "Platform License" means each license to access and use the Platform granted to the Non-Paying Organization under this Agreement.

1.19 "Privacy Policy" means the Aconex Privacy Policy, which is applicable to data received by Aconex from Aconex customers and users of its web sites, and which is available for review and download on the Platform login page and the Aconex corporate web site.

1.20 "Project" means the collaborative project identified by the Paying Organization in the Paying Organization's Services Order, subject to any Project-scope limitations specified in such Services Order

1.21 "PST" means Pacific Standard Time.

1.22 "Services Order" means an agreement between Aconex or an Aconex Reseller and a Paying Organization with respect to a Project.

1.23 "Services" means the Platform and the associated services described in Section 3.

2. TERM

Unless terminated earlier by Aconex, the term of Services applicable to a Project will be tied to the duration of the Project, commencing once the Non-Paying Organization has been provided with access to the Platform and expiring on the earlier of the date the Project has been completed or terminated, 14 days after Aconex receives Paying Organization's request to remove the Non-Paying Organization's access rights to the Services or upon the Non-Paying Organization's request.

3. SERVICES

3.1. STANDARD SERVICES AND DELIVERY SCHEDULE. Subject to the Non-Paying Organization's compliance with the terms and conditions of this Agreement, Aconex will, during the applicable service term, provide the Non-Paying Organization with the Services specified in this Section 3.1, pursuant to the terms and conditions of this Agreement. Optional Services may also be requested from Aconex, which if accepted by Aconex, will be subject to the payment of additional fees and execution of a separate agreement.

3.1.1. Platform License. A non-exclusive, non-transferable, restricted Platform License for the term specified in Section 2, to access and use the functionality within the modules of the Platform expressly included in the relevant Services Order (subject to any restrictions specified in the relevant Services Order) solely in support of the Project, within the scope specified in the relevant Services Order, and in accordance with and subject to any specifications set forth in the Materials.

3.1.2. Hosting Services. Making the Platform available for use via the public Internet, including unlimited data transmission by the Non-Paying Organization to and from the Platform (subject to applicable limitations set out in the Acceptable Use Policy), and unlimited storage of Client Data related to the Project, during the applicable term of Services.

3.1.3. Maintenance and Support Services. Email and telephone help desk support provided to designated Non-Paying Organization personnel, to assist the Non-Paying Organization's end users to access and use the Platform, on a 24/7 basis, provided in English and any other languages specified in the Services Order. Also included is access to a web-based support center (English only) and maintenance updates and improvements to the Platform.

3.1.4. Training Services. The provision of one-to-many training modules delivered over the Internet or at a designated site, which site must be approved by Aconex in advance. In the event that Client requests that training be provided at a designated site (other than Aconex's offices) and Aconex agrees, the Non-Paying Organization will reimburse Aconex for its reasonable travel and living expenses actually incurred in delivering such training.

3.2. CANCELLING SERVICES

The Non-Paying Organization may cancel the Services at any time by written notice to Aconex.

3.3. CLIENT RESPONSIBILITIES

3.3.1. Confidentiality of Username and Password. The Non-Paying Organization is responsible for maintaining the confidentiality of the access credentials (e.g., username and password) used by it and/or its end users to access the Services and agrees that it will not share access credentials among users or disclose those credentials to any third party.

3.3.2. Use of Data. The Non-Paying Organization acknowledges that by transmitting and receiving data to and from the Platform, the Non-Paying Organization is making information available for the use of the other authorized users of the Platform that are participating in the Project ("Project Participants") and the retraction of such information may therefore negatively affect those Project Participants. Aconex may, as a condition to complying with any the Non-Paying Organization request to retract or delete data from the Platform, require the Non-Paying Organization to comply with Aconex's reasonable risk mitigation requirements.

3.3.3. Other Obligations. The Non-Paying Organization understands and acknowledges that Aconex's ability to provide the Services is dependent on the Non-Paying Organization undertaking any agreed obligations (or such reasonable obligations as may be advised to the Non-Paying Organization by Aconex). The Non-Paying Organization acknowledges that failure to perform any such obligations may result in a failure to receive Services.

4. CLIENT DATA

4.1. Ownership. The Non-Paying Organization retains all of its right, title and interest in and to Client Data, and ownership of Client Data shall not be transferred to Aconex under this Agreement.

4.2. Right to Use. The Non-Paying Organization grants Aconex a nonexclusive license to use Client Data to deliver Services to authorized users of the Platform, solely in connection with the Project. The Non-Paying Organization further grants Aconex a nonexclusive, worldwide, perpetual license to use Platform usage data (such as, by way of example and not by way of limitation, numbers of documents uploaded) in an aggregated form that does not identify individual persons or organizations, in order to compile statistics regarding use of the Services and/or to improve the Services.

4.3. Retention. Provided that the termination of Services is not attributable to the Non-Paying Organization's material breach, the Non-Paying Organization may, during the Retention Period, purchase a Data Archive, subject to its payment of fees to Aconex at the rates specified in the Price List. Aconex will not be liable for any damages of any kind in connection with its decision to not retain Client Data after the expiration of the Retention Period.

4.4. Warranty regarding Client Data and Use of the Services. The Non-Paying Organization warrants that (a) it has appropriate and sufficient rights in Client Data, and (b) neither Aconex's use, processing and/or storage of Client Data in accordance with this Agreement nor the Non-Paying Organization's use of Client Data as contemplated hereunder will violate applicable laws or this Agreement. Aconex is not obligated to screen Client Data, although Aconex reserves the right to screen Client Data and to suspend access to Client Data without warning that Aconex reasonably considers may breach this Agreement or any applicable law. Aconex will notify the Non-Paying Organization as soon as practicable if Aconex suspends access to any Client Data and will restore access to such Client Data as soon as, in Aconex's reasonable opinion, doing so would not place Aconex at risk of loss or damage. Aconex is not liable for any damage or loss caused by Aconex's decision to suspend access to Client Data. The Non-Paying Organization is entirely responsible for the content and delivery of Client Data, including without limitation, the accuracy, usefulness, timeliness and completeness of Client Data. The Non-Paying Organization is responsible for ensuring Client Data is correctly addressed and on-time and does not represent a breach of any obligations to a third party or of law.

5. FEES AND INSPECTION

5.1. Fees. The Non-Paying Organization has no obligation to pay any Fees in connection with the Services for as long as it remains a Non-Paying Organization. Where the Non-Paying Organization wishes to become a Paying Organization (for example in order to purchase an optional service), then the Non-Paying Organization will be required to enter into a separate agreement with Aconex for the relevant services.

5.2. Inspection. On reasonable notice and not more than once annually, the Non-Paying Organization will allow an independent third party selected by Aconex and reasonably acceptable to the Non-Paying Organization to verify that it is using the Platform solely in connection with the Project, and is not otherwise using the Service in a manner that violates this Agreement (each, an "Inspection"). The Non-Paying Organization shall reasonably cooperate with each Inspection and shall provide access to relevant documentation and records, for the purpose of confirming its compliance with the terms of this Agreement. Any information disclosed by the Non-Paying Organization in connection with an Inspection shall be Confidential Information, except to the limited extent necessary for Aconex to enforce its rights under this Agreement.

6. ACCEPTABLE USE OF SERVICES

The Non-Paying Organization and its end users shall use the Services solely in accordance with this Agreement, all applicable laws and the Acceptable Use Policy. Aconex may modify the Acceptable Use Policy at its sole discretion and such modifications shall be effective upon their publication on the Platform or Aconex's web site. If there is any conflict between the Acceptable Use Policy and this Agreement, then the Acceptable Use Policy shall take precedence.

7. CONFIDENTIALITY

7.1. Obligation. Both Parties acknowledge that Confidential Information disclosed by either Party pursuant to this

Agreement may constitute valuable trade secrets of the disclosing Party. Each Party agrees to use the other Party's Confidential Information solely in accordance with the provisions of this Agreement and not to disclose, or permit to be disclosed, either directly or indirectly, such Confidential Information to any third party, without the disclosing Party's prior written consent. Each Party shall use strict measures to protect the secrecy and avoid disclosure or unauthorized use of the other Party's Confidential Information. Each Party shall exercise the same degree of care to prevent disclosure of the other Party's Confidential Information as it takes to preserve and safeguard its own Confidential Information, but in any event, no less than a reasonable degree of care.

7.2. Exceptions. Notwithstanding the foregoing, neither Party will be in breach of this provision in circumstances where the Party is legally compelled to disclose the other Party's Confidential Information or where the information is already in the public domain through no fault of the receiving Party, or is in the disclosing Party's possession without a duty of confidentiality at the date of disclosure, or where the disclosing Party discloses the terms of this Agreement to its professional advisors, financiers, prospective financiers or partners or agents, or where Aconex identifies the Non-Paying Organization as a Platform customer.

8. DATA STORAGE AND PRIVACY

8.1. Use of Client PII. In the course of receiving the Services under this Agreement, the Non-Paying Organization may disclose to Aconex personally identifiable information about the Non-Paying Organization's employees, directors, officers, customers or suppliers, and/or other users of the Services (collectively "Client PII"). Aconex may also otherwise be provided with access to Client PII in the course of delivering the Services. The Non-Paying Organization is responsible for confirming that its disclosure and/or provision of Client PII to Aconex, and Aconex's possession, storage and/or use of such Client PII in the manner contemplated under this Agreement is permissible under all applicable data processing laws and regulations. Without prejudice to the foregoing, the Non-Paying Organization acknowledges that Aconex may process Client PII for purposes connected with this Agreement, to conduct its business relationship with the Non-Paying Organization and for the relevant and limited purposes specified in the Privacy Policy. Aconex will act only as a data processor and will not re-use or re-disclose Client PII for unrelated purposes. Aconex will use commercially reasonable efforts to protect Client PII from loss, destruction or unauthorized use or access, utilizing technical, physical and administrative security measures consistent with industry standards. The Non-Paying Organization shall obtain the consent of each individual to whom such Client PII relates prior to disclosing such information to Aconex, and such consent shall include adequate authorization for Aconex and Aconex Affiliates to process, use and disclose such Client PII in the manner contemplated under the Agreement.

8.2. Transfer and Storage of Client Data. Due to the global nature of its business, Aconex may, for the purposes contemplated under this Agreement, transfer or store Client Data (including, without limitation, Client PII) in and to any country in which Aconex operates, subject to its compliance with applicable laws and this Agreement. The Non-Paying Organization agrees to such transfer in its own right and on behalf of those individuals and entities from whom it collected such Client Data and/or Client PII.

8.3. User Communications. Aconex reserves the right to communicate with end users of the Services regarding matters relating to system usage, administration and support.

9. INTELLECTUAL PROPERTY RIGHTS

Aconex and its licensors own all right, title and interest in and to the Platform and Services, including all Intellectual Property Rights therein and thereto, and any Materials or software or other inventions that may be developed or discovered by Aconex in connection with the Services. Except for the Platform License, no transfer of any Intellectual Property Rights will occur in connection with this Agreement. Notwithstanding anything to the contrary in this Agreement, Aconex has and retains the exclusive right to own, use and disclose, in the course of its business, all feedback provided by the Non-Paying Organization with respect to the Services and Platform.

10. SUSPENSION OF SERVICES

The Non-Paying Organization's Platform License and/or right to receive the Services may, at Aconex's sole discretion be suspended, if Paying Organization fails to pay Aconex any fees applicable to the Services under a Services Order when due.

11. LIMITED WARRANTY AND DISCLAIMERS

11.1. Limited Warranty. Aconex warrants to the Non-Paying Organization that it will use reasonable professional skill and care, consistent with industry standards, in providing all Services. Aconex's sole liability and the Non-Paying Organization's sole and exclusive remedy for any breach of the warranty specified in this Section will be for Aconex to re-perform such Services.

11.2. Disclaimers. THE NON-PAYING ORGANIZATION ASSUMES ALL RESPONSIBILITY FOR ITS SELECTION OF THE PLATFORM TO ACHIEVE ITS INTENDED RESULTS, FOR THE USE OF AND RESULTS OBTAINED FROM THE PLATFORM, AND FOR TAKING APPROPRIATE MEASURES TO PREVENT LOSS OF DATA. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 11.1 ABOVE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ACONEX DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF

MERCHANTABILITY, NON-INFRINGEMENT, QUALITY AND FITNESS FOR A PARTICULAR PURPOSE. ACONEX DOES NOT WARRANT THAT THE SERVICES WILL BE ERROR-FREE OR THAT THE SERVICES WILL BE AVAILABLE WITHOUT INTERRUPTION. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

12. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY LAW, ACONEX WILL NOT BE LIABLE FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, CONSEQUENTIAL LOSS, OR OTHER DAMAGES (INCLUDING LOSS OF PROFIT, INTEREST, REVENUE, BUSINESS, GOODWILL, SAVINGS OR ANTICIPATED PROFIT OR ANY LOSS OF OR DAMAGE TO ANY CLIENT DATA, OR LOSS OF OR INTERRUPTION TO THE NON-PAYING ORGANISATION'S BUSINESS), IN EACH CASE ARISING OUT OF OR IN ANY WAY CONNECTED TO THE PROVISION OF THE PLATFORM OR THE SERVICES INCLUDING, WITHOUT LIMITATION, LOSS OR DAMAGE CAUSED BY A COMPUTER VIRUS OR OTHER MALWARE OR ANY UNAVAILABILITY OF THE PLATFORM OR THE SERVICES, AND IN EACH CASE REGARDLESS OF WHETHER ACONEX WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. REGARDLESS OF WHETHER A CLAIM ARISES IN CONTRACT, TORT OR OTHER, UNDER NO CIRCUMSTANCES WILL ACONEX'S (INCLUDING ITS OFFICERS, EMPLOYEES, CONTRACTORS, AFFILIATES AND AGENTS): (A) LIABILITY IN ANY MONTH BE GREATER THAN U.S. \$1,000; AND (B) ACONEX'S AGGREGATE LIABILITY IN CONNECTION WITH THIS AGREEMENT EXCEED U.S. \$5,000. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

13. INDEMNITIES

13.1. Aconex Indemnity.

13.1.1. Obligation. Aconex shall defend or at its option settle any third party claim, action or proceeding brought against the Non-Paying Organization alleging that the Platform as delivered to the Non-Paying Organization and used as authorized in this Agreement, infringes any Intellectual Property Right of a third party and Aconex shall pay any final judgments awarded or settlements entered into to resolve such claim, action or proceeding; provided that the Non-Paying Organization provides Aconex with: (i) prompt written notice of such claim; (ii) sole control over the defense and settlement of such claim; and (iii) all necessary information and assistance (at Aconex's reasonable expense) to defend and/or settle such claim. The Non-Paying Organization may participate in the defense of a claim asserted hereunder after Aconex has assumed the defense or settlement, provided that the Non-Paying Organization shall bear any legal fees and expenses or other costs it incurs in so participating. Aconex shall not be liable for any costs or expenses incurred by the Non-Paying Organization when acting without Aconex's prior written authorization. Aconex may not settle or compromise any claim under this Section that requires the Non-Paying Organization to admit liability or pay any money without the Non-Paying Organization's prior written consent, which consent shall not be unreasonably withheld or delayed.

13.1.2. Limit on Indemnity. Notwithstanding the foregoing, Aconex will have no liability for infringement claims arising from: (i) combination of the Services with other software or products not provided by Aconex, if the infringement would not have occurred if the Services had not been so combined; (ii) any modification of the Services, in whole or in part, by anyone other than Aconex, if the infringement would not have occurred but for such modification; or (iii) use by the Non-Paying Organization of any specified release of the Platform after Aconex notifies the Non-Paying Organization that continued use may subject the Non-Paying Organization to such claim of infringement, provided Aconex provides the Non-Paying Organization with a replacement release.

13.1.3. Replacement Services. If any portion of the Services is held, or in Aconex's opinion is likely to be held, to infringe or misappropriate a third party's Intellectual Property Rights, or use of the Services is otherwise enjoined, then Aconex may at its sole option and expense, within a commercially reasonable period of time: (i) procure for the Non-Paying Organization the right to continue using the Services; (ii) replace the Services with a non-infringing solution; or (iii) terminate the Non-Paying Organization's Platform License and/or this Agreement.

13.1.4. Entire Liability. THIS SECTION STATES THE ENTIRE LIABILITY AND OBLIGATION OF ACONEX, AND THE SOLE AND EXCLUSIVE REMEDY OF THE NON-PAYING ORGANIZATION, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS WITH RESPECT TO THE NON-PAYING ORGANIZATION'S USE OF THE SERVICES.

13.2. Non-Paying Organization Indemnity. The Non-Paying Organization shall defend or at its option settle any third party claim, action or proceeding brought against Aconex, any Aconex Affiliate alleging that (a) the Non-Paying Organization has breached any law or regulation in its use of the Services, Client Data, or Client PII, or (b) the Non-Paying Organization has misused any Client Data or Client PII or infringed any third party's Intellectual Property Rights in its use of the Client Data or Client PII, and the Non-Paying Organization shall pay any final judgments awarded or settlements entered into to resolve such claim, action or proceeding; provided that Aconex provides the Non-Paying Organization with: (i) prompt written notice of such claim; (ii) sole control over the defense and settlement of such claim; and (iii) all necessary information and assistance (at the Non-Paying Organization's reasonable expense) to defend and/or settle such claim. Aconex may participate in the defense of a claim asserted hereunder after the Non-Paying Organization has assumed the defense or settlement, provided that Aconex shall bear any legal fees and expenses or other costs it incurs in so participating. The Non-Paying Organization shall not be liable for any costs or expenses incurred by Aconex when acting without the Non-Paying Organization's prior written authorization. The Non-Paying Organization may not settle or compromise any claim under this Section that requires Aconex to admit liability or pay any money without Aconex's prior written consent, which consent shall not be unreasonably withheld or delayed.

14. TERMINATION

14.1. Termination for Breach. Either Party may terminate this Agreement in the event that the other party commits a material breach of this Agreement and where such breach is capable of remedy, fails to remedy the breach within 30 days of receiving written notice from the other Party. Aconex may also terminate this Agreement on not less than 14 days' notice to the Non-Paying Organization if Paying Organization's right to receive the Services under this Agreement has been terminated.

14.2. Termination for Insolvency. Aconex may terminate this Agreement immediately by notice in writing if: (a) the Non-Paying Organization is unable to pay its debts as and when they become due or becomes, threatens or resolves to become or is in jeopardy of becoming insolvent or subject to an order, proceedings or resolution for liquidation or dissolution (unless for the purposes of amalgamation or reconstruction,) or entering into a compromise or arrangement with, or assignment for the benefit of any of its members or creditors; (b) the Non-Paying Organization, being a partnership, dissolves, threatens or resolves to dissolve or is in jeopardy of dissolving; (c) the Non-Paying Organization, being a natural person, dies; or (d) there is a change of control of the Non-Paying Organization.

14.3. Effect of Termination. On termination of this Agreement, the Non-Paying Organization's Platform License shall automatically terminate and the Non-Paying Organization shall immediately cease using the Platform. The Non-Paying Organization shall also return any Materials and Aconex Confidential Information to Aconex or comply with Aconex's instructions for the destruction of such Materials and Confidential Information. At Aconex's request, the Non-Paying Organization will provide written confirmation certifying that all Materials and Aconex Confidential Information in its possession have been returned or destroyed.

14.4. Survival. Sections 1, 3.3, 4, 5.2, 7, 8, 9, 11.2, 12, 13, 14.3, 14.4, 15 and 16 shall survive termination of this Agreement, howsoever occurring.

15. GOVERNING LAW AND DISPUTE RESOLUTION

15.1. Governing Law and Jurisdiction. This Agreement is governed by the laws of the State of California, without regard to its conflict of law principles, and the Parties submit to the exclusive jurisdiction of the state and federal courts located in the Northern District of California, and any court that may hear appeals from any of those courts, for any proceedings initiated or pursued in connection with this Agreement, and waive any right they may have to claim that those courts are an inconvenient forum.

15.2. Injunctive Relief. Notwithstanding the foregoing, if either Party breaches, or threatens to breach the provisions of this Agreement concerning Confidential Information or Intellectual Property Rights, each Party agrees that the non breaching Party may have no adequate remedy at law and is therefore entitled to seek immediate injunctive and other equitable relief, without bond and without the necessity of showing actual monetary damages, in any court having jurisdiction.

15.3. Dispute Resolution.

15.3.1. Negotiation. If any dispute arises between the Parties in respect of this Agreement, or any related document, a Party must: (a) issue a written notice to the other Party notifying them of the existence of a dispute; and (b) use good faith efforts to resolve the dispute through negotiation.

15.3.2. Escalation. In the event that negotiations pursuant to Section 15.2.1 do not resolve the dispute within 15 Business Days (or such longer period as may be agreed between the Parties), the dispute will be referred to the respective chief executive officers (or their nominees – external counsel excluded) of each Party for good faith negotiations.

15.3.3. Filing of Actions. Neither Party may file an action to resolve a dispute prior to 20 Business Days (or such other period as may be agreed between the Parties) after an escalation pursuant to Section 15.2.2.

15.4. Legal Expenses. If any proceeding is brought by either Party to enforce or interpret any provision of this Agreement, the substantially prevailing Party in such proceeding shall be entitled to recover, in addition to all other relief arising out of this Agreement, such Party's reasonable attorneys' and other experts' fees and expenses.

16. MISCELLANEOUS

16.1. Force Majeure. With the exception of any payment obligations, neither Party will be liable for any delay or failure to perform its obligations pursuant to this Agreement to the extent such delay is due to a Force Majeure Event. With the exception of payment obligations, to the extent a delay or failure of a Party to perform its obligations is caused or anticipated due to a Force Majeure Event, the performance of that Party's obligations will be suspended and neither Party will be liable to the other Party for a failure to perform its obligations as a result of a Force Majeure Event. If a delay or failure by a Party to perform its obligations due to a Force Majeure Event exceeds 3 calendar months, either Party may immediately terminate the Agreement without cause upon written notice to the other Party.

16.2. No Reliance on Representations. The Non-Paying Organization has not relied on any representation, undertaking,

statement or understanding which has not been stated expressly in this Agreement or upon any descriptions, illustrations or specifications contained in any document including marketing materials produced by Aconex.

16.3. Entire Agreement. The documents comprising this Agreement contain the entire agreement between the Parties concerning its subject matter.

16.4. Independent Contractors. The Parties are independent contractors. Aconex is not a party to any transactions the Non-Paying Organizations enter into with one another using the Platform or Services. Under this Agreement, Aconex and its personnel will never be employees, agents or partners of the Non-Paying Organization, and are not engaged in a joint venture with the Non-Paying Organization. Aconex shall have no liability arising out of any transaction or dealings conducted between the Non-Paying Organization and the Paying Organization and/or third parties through use of the Services.

16.5. Assignment. The Non-Paying Organization may not assign this Agreement or delegate any of its obligations hereunder without Aconex's prior written consent. Any attempted assignment in violation of this provision will be null and void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties and their permitted successors and assigns.

16.6. Waiver. Any right of either Party under this Agreement may only be waived in writing, signed by the Party giving the waiver, and no other conduct of a Party (including a failure to exercise, or delay in exercising, the right) shall operate as a waiver of the right or otherwise prevent the exercise of the right.

16.7. Modification. The provisions of this Agreement will not be varied, except by express written instrument that makes explicit reference to this Agreement and is executed by authorized representatives of each of the Parties. Notwithstanding the foregoing, Aconex reserves the right to modify the Services and/or the terms and conditions of this Agreement at any time, but such modifications shall apply to Services Orders executed after the effective date of the change. Aconex will notify the Non-Paying Organization of such modifications, either via email, the Platform, or in a manner deemed commercially reasonable by Aconex.

16.8. Severability. If any provision or part provision of this Agreement is held invalid, unenforceable or illegal by any court or tribunal for any reason, the remainder of this Agreement will remain otherwise in full force apart from such provisions or part provisions which will be deemed deleted or modified to the minimum extent necessary to remove the invalidity, unenforceability or illegality.

16.9. Client Reference. Aconex may not issue any press release regarding the Non-Paying Organization's use of the Platform without the prior written consent of the Non-Paying Organization (not to be unreasonably withheld, delayed or conditioned). However, Aconex may use the Non-Paying Organization's name and logo in marketing materials and refer to the fact that the Non-Paying Organization is a client of Aconex in its annual report, list of references or presentations to actual or potential clients without the Non-Paying Organization's specific consent.

16.10. United States Export Controls. The Services (including the Platform) use software and technology that may be subject to United States export control laws. The Non-Paying Organization shall not, directly or indirectly, export or re-export, or knowingly permit the export or re-export of the Services or any technical information related to the Services to any country for which such export or re-export is restricted by any applicable U.S. regulation or statute, without the prior written consent, if required, of the U.S. government entity that has jurisdiction over such export or re-export. Aconex and its licensors make no representation that the Services are appropriate or available for use in locations outside of the United States. If the Non-Paying Organization uses the Services from outside of the U.S., the Non-Paying Organization is solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries. The Non-Paying Organization's failure to comply with this Section shall be a material breach incapable of remedy.

16.11. No Third Party Beneficiaries. No provisions of this Agreement are intended or shall be construed to confer upon or give to any person or entity any rights, remedies or other benefits as a third party beneficiary. Without limiting the generality of the foregoing, Non-Paying Organizations may not enforce the rights granted to Paying Organizations under this Agreement and vice versa, under any circumstances.

17. NOTICES

17.1. Method of Communication. Any notice or consent delivered by either Party under this Agreement shall only be effective if it is: (a) in writing, sent by or on behalf of and at the express instruction of the Party giving it; (b) addressed in accordance with Section 17.3 to the Party to whom it is to be given; and (c) either: (i) sent via overnight delivery service (e.g., FedEx or UPS), or (ii) sent by fax and the machine from which it is sent produces a report that states that it was sent in full and the recipient does not alert the sender to the fact that fax was not received in a legible form by the close of business the next Business Day; or (iii) in the case of notices from Aconex to the Non-Paying Organization, sent via the Platform.

17.2. Deemed Delivery. A notice, consent or other communication that complies with this Section is deemed given and received: (a) if it is delivered or sent by fax: (i) by 5:00 PM (local time in the place of receipt) on a Business Day – on that day; or (ii) after 5:00 PM (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the

next Business Day; (b) if it is sent by mail: (i) within the United States – four Business Days after posting; or (ii) to or from a place outside of the United States – seven Business Days after posting; and (iii) if it is sent via the Platform – by 5:00 PM the next Business Day (local time in the place of receipt).

17.3. Addresses. Any notices from Aconex to the Non-Paying Organization under this Agreement shall be addressed to the Non-Paying Organization representative identified in the Non-Paying Organization's Services account, and the Non-Paying Organizations' contact details will be the contact details recorded in the Non-Paying Organization's Services account. Any notices from the Non-Paying Organization to Aconex under this Agreement shall be addressed as follows:

Aconex (North America), Inc.
Attn: General Counsel
1111 Bayhill Drive
Suite 480
San Bruno, CA 94066

SIGNED for and on behalf of ACONEX (NORTH AMERICA) INC (Registration No. F060728000165) by its authorised representative:

Signature:

Print name:

Position:

Date:

in the presence of

Signature of witness:

Name of witness:

Occupation:

SIGNED for and on behalf of CH2M HILL INC (Registration No. 84 123 0545) by its authorised representative:

Signature:

Print name:

Position:

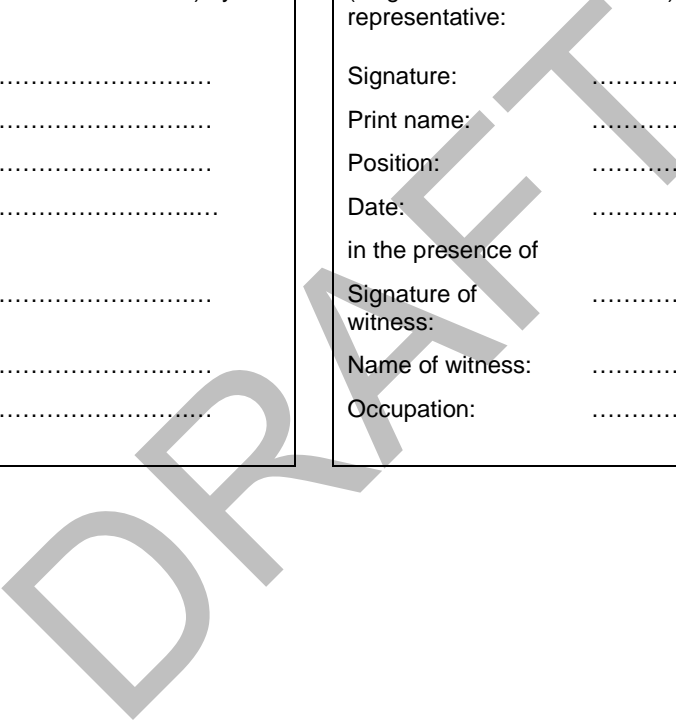
Date:

in the presence of

Signature of witness:

Name of witness:

Occupation:



Aconex Services Order



Aconex Date created: 19 May 2016
 Aconex entity: Aconex (North America) Inc Representative: Ryan Marinero

Engagement information
 Company name: Metro Flood Diversion Authority
 Address: 211 Ninth Street South, Box 2806, Fargo, ND, United States of America, 58108
 Contact name: Donna Reese (Donna.Reese@CH2M.com)
 Engagement scope: Fargo Moorhead Flood Diversion Program - Phase 2
Multi-party use of the Aconex Platform and services on the Fargo Moorhead Flood Diversion Program located in North Dakota during the design, pre-construction and part of the construction phase with \$1.5B of program cost.
All Services will cease on the end date noted below.
 Geographic scope: Fargo, ND
 Start date: 24 Jun 2016 End date: 23 Jun 2024
 Client ref number: Not required
 Billing contact: Daryl Vanyo Email: APIInvoicesFMDiv@ch2m.com
 Exclusions and Client Responsibilities:

Fee Information

Invoice schedule: (excl taxes)	Description	Units	Frequency	Unit price USD	Total USD
	Years 1-2 service fee	1.00	Invoiced once on 24 June 2016	306,856	306,856
	Years 3-4 service fee	1.00	Invoiced once on 24 June 2018	306,856	306,856
	Years 5-6 service fee	1.00	Invoiced once on 24 June 2020	354,217	354,217
	Years 7-8 service fee	1.00	Invoiced once on 24 June 2022	354,217	354,217
TOTAL FEE:				USD	1,322,146

Services
 Services summary: • **Tasks and standard Dashboard, Mail, Documents, Project Directory, Mobile, Connected BIM and Aconex reports (Pre-authored, standard reports)**
 • **Workflows and Tenders**
 • **Local Copy incremental Archive (for one (1) Client organisation system project)**
 • **Field includes: 10 inspectors, Unlimited users / Unlimited issues / Max. 2 org capture / Checklists**
 • **Support, Hosting and Maintenance**
 • **Training locations included (Fargo, ND with travel and expenses reimbursed to Aconex)**

Authorization to proceed:

Client	Signature: _____	Name (printed): _____
		Title: _____
		Date: _____

Aconex	Signature: _____	Name (printed): _____
		Title: _____
		Date: _____

Notes

- | | |
|----------------------|---|
| Terms and Conditions | 1 The Client must advise Aconex immediately if there are any changes to the details set out above. |
| | 2 All Aconex services will be delivered on the terms and conditions of the Master Agreement attached. Any additions or amendments to the Terms of Service Agreement must be accepted in writing by an authorized officer of both parties. |
| | 3 Any licensed software supplied by Aconex in connection with any of the Services including Local Copy, Digital & Smart Manuals and Smart Manuals Dynamic & Mobile is provided in accordance with the licence agreement accompanying the software. |
| | 4 Training in locations where Aconex does not have a client service presence may attract additional charges. |
| | 5 All pricing excludes sales, services, business and withholding taxes, bank charges, and similar. |
| | 6 Sales proposals and related materials do not form part of this Services Order. |
| | 7 The Fees in this program have been discounted given the the level of complexity of this program being low (i.e. earthwork and other heavy civil items) and are offered provided the parties execute this Services Order on or before 24 June 2016. Execution after this date will require a revised pricing model. |
| | 8 The Fees in this Agreement are considered commercial in confidence and deemed Confidential Information. The Client agrees not to disclose details of the Fees to any third party. Disclosure is considered a breach of confidentiality under this Agreement. |
| | 9 This Agreement covers a 96 month program which has a total program cost of \$1.5B. If the Client wishes to extend this Agreement for an additional term, Aconex and the Client will mutually agree on the applicable extension rate prior to the end of the Agreement, with such rate based on the scope for the period of extension. |

Project Details

Project ID	Project Name	Client
1207961465	Fargo Moorhead Area Diversion Program	Diversion Board of Authority

Project Data

	2016 Feb	2016 Mar	2016 Apr	2016 May
Total Orgs	02	06	08	16
Active Org	02	03	05	09
Members	09	47	72	103
Guests	00	00	00	00
Mail Sent	01	06	106	1,087
Mail Received	04	54	224	1,931
Mail Attachment (MB)	0.00	7.26	23.89	30.10
Docs Transmitted	00	02	72	1,618
Docs Registered	00	07	1,431	8,737
Docs Owned	00	05	1,358	6,928
Workflow Transmittals	00	00	59	998
Supplier Docs Transmittal	00	00	00	00
Volume of Docs Data (GB)	0.00	0.00	8.01	29.93
Data Volume	0.00	0.01	8.05	30.32

Project Trend Analysis

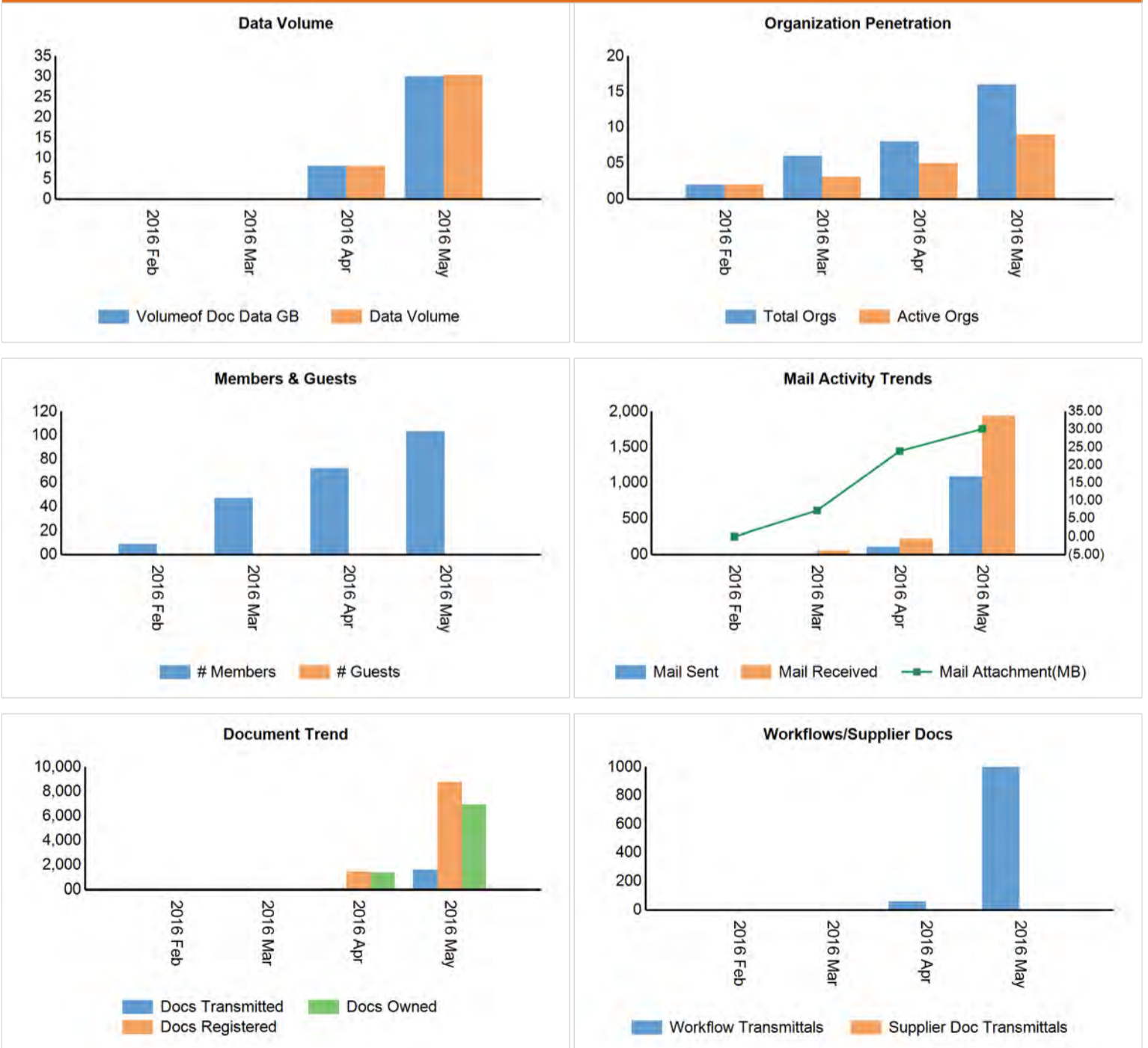


EXHIBIT A

**PROCEDURES AND PROTOCOLS
FOR THE
REQUEST FOR QUALIFICATIONS PHASE
OF THE P3 PROCUREMENT**

by

**the Metro Flood
Diversion Authority**

Dated as of July 14, 2016

Relating to:

**Public-Private Partnership for
Development and Construction of the
Diversion Channel and Associated Infrastructure
of the Fargo-Moorhead Metropolitan
Area Flood Risk Management Project**

This instrument was drafted by:
Ohnstad Twichell, P.C.
John T. Shockley
P.O. Box 458
West Fargo, North Dakota 58078

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**ARTICLE I.
DEFINITIONS AND INTERPRETATION**

Section 1.01 DEFINITIONS. All capitalized terms used and not otherwise defined herein shall have the meanings given to them in this Procedure and as defined in this section unless a different meaning clearly applies from the context.

“CCJWRD” means the Cass County Joint Water Resource District, a political subdivision of the State of North Dakota, its successors and assigns.

“Diversion Authority Board” means the Governing Body of the Metro Flood Diversion Authority.

“Drafters” means those individuals who will be responsible for drafting the RFQ.

“Evaluation Criteria” means the criteria that will be used by the Evaluation Team to evaluate and rank the SOQs.

“Evaluation Team” means the team that evaluates and scores the SOQs using the Evaluation Criteria.

“Executive Director” means the Chief Administrative Officer of the Metro Flood Diversion Authority as set forth in Article XIV of the Joint Powers Agreement.

“Final Draft” means the draft of the RFQ which will be considered by the Authority for adoption and dissemination.

“Governing Body” means the body which performs the legislative and governmental functions of a political subdivision, including but not limited to, a board, council, or commission. For example, the Cass County Commission, the Clay County Commission, the Moorhead City Council and the Fargo City Commission are the Governing Body of each of said entities, as the board for the CCJWRD is the Governing Body for that entity.

“Joint Powers Agreement” means the agreement dated June 1, 2016, which was entered by and between the City of Moorhead, Minnesota, the City of Fargo, North Dakota, Clay County, Minnesota, Cass County, North Dakota, and the Cass County Joint Water Resource District, in order to cooperate in the construction phase of the Project.

“Member Entities” shall mean the City of Moorhead, Minnesota, the City of Fargo, North Dakota, Clay County, Minnesota, Cass County, North Dakota, and the Cass County Joint Water Resource District. The term Member Entity does not include the City of West Fargo, North Dakota, Wilkin County, Minnesota, or Richland County, North Dakota.

“Metro Flood Diversion Authority” means the permanent joint powers entity formed through the Joint Powers Agreement by the Member Entities to provide the Fargo-Moorhead Metropolitan Area with permanent and comprehensive flood protection.

“Preliminary Drafts” means those records or papers that are created and used by Drafters in the process of creating the Final Draft.

“Procedure” means this Procedure and Protocols for the Request for Qualifications Phase of the P3 Procurement.

“Project” means the Fargo-Moorhead Metropolitan Area Flood Risk Management Project.

“Proposer” means any consortium, company, team, or joint venture that submits or intends to submit an SOQ in response to the RFQ.

“P3” means a public-private partnership as outlined by North Dakota Century Code Chapter 48-02.1.

“RFQ” or “Request for Qualifications” means the solicitation that is issued by the Metro Flood Diversion Authority to Proposers which will outline Statement of Qualifications requirements.

“Resolution” means the resolution adopted by the Metro Flood Diversion Authority authorizing issuance of the RFQ.

“Short List” means the list of Proposers selected by the Evaluation Team based on evaluation and ranking of SOQs to submit a proposal in response to the Request for Proposals.

“SOQ Submission Location” means the location identified in the FRQ where SOQs will be submitted.

“SOQ” or “Statement of Qualifications” means the qualifications package submitted to the Metro Flood Diversion Authority by a Proposer in response to the RFQ.

Section 1.02 TERMS GENERALLY. The definition of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and neuter forms. The words “include,” “includes,” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument, or other document herein shall be construed as referring to such agreement, instrument, or other document as from time to time amended, supplemented, or otherwise modified (subject to any restrictions on such amendments, supplements, or modifications set forth herein), (b) any reference herein to any person shall be construed to include any person’s permitted successors and assigns, (c) the words “herein,” “hereof,” and “hereunder,” and words of similar import, shall be construed to refer to this Procedure in its entirety and not to any particular provision hereof, and (d) all references herein to articles, sections, exhibits, and schedules shall be construed to refer to articles and sections of, and exhibits and schedules to, this Procedure.

**ARTICLE II.
DRAFTING**

Section 2.01 RFQ DRAFT PREPARATION. The Drafters of the RFQ will consist of a diversified group of individuals representing the Metro Flood Diversion Authority, who possess financial, legal, project management, and engineering backgrounds. During the drafting phase of the RFQ, Drafters may solicit, in their sole discretion, information and assistance from other disciplines and outside consultants or advisors. Drafters of the RFQ will include engineering, legal, financial, risk management, and project management professionals. The Drafters have full discretion to include, in addition to the specific provisions provided in this Procedure, other provisions which are believed to be appropriate to include in the RFQ.

Section 2.02 FINAL DRAFT. The Final Draft of the RFQ must be clearly marked as final and will be transmitted to the Executive Director for dissemination to and review by the Metro Flood Diversion Authority, the Diversion Authority Board, and the Member Entities.

**ARTICLE III.
ADOPTION**

Section 3.01 REVIEW AND RESOLUTION. The Metro Flood Diversion Authority will review the RFQ following receipt and review of the Final Draft to determine whether to adopt the Resolution. Voting by the Diversion Authority Board on the Resolution will occur in accordance with Article V of the Joint Powers Agreement.

Section 3.02 CCJWRD ADOPTION. The Metro Flood Diversion Authority's adoption of the Resolution is contingent upon a resolution by the CCJWRD authorizing issuance of the RFQ. Accordingly, the Metro Flood Diversion Authority will not adopt the Resolution until after the CCJWRD has adopted a separate resolution authorizing issuance of the RFQ.

**ARTICLE IV.
POSTING AND PUBLICATION**

Section 4.01 POSTING AND PUBLICATION. Following adoption of the Resolution, the Metro Flood Diversion Authority will post the RFQ on its website, www.fmdiversion.com, and will also publish official notice that the RFQ is available in the *The Forum* (the official newspaper of the Diversion Authority) and in a trade publication, electronic plan service, builders exchange, or other industry recognized method of general circulation among contractors within both the State of North Dakota and the United States, once each week for three (3) consecutive weeks, with the first publication being at least twenty-one (21) days before date upon which SOQs are required to be submitted.

**ARTICLE V.
EVALUATION TEAM**

Section 5.01 DUTIES AND RESPONSIBILITIES. The Evaluation Team will be responsible for developing Evaluation Criteria; reviewing and responding to comments, clarifications, or

questions submitted by Proposers during the RFQ; meeting with Proposers; reviewing, evaluating, and scoring SOQs in accordance with Evaluation Criteria; and, preparing and recommending a Short List of Proposers to the Metro Flood Diversion Authority.

Section 5.02 COMPOSITION. The Evaluation Team will consist of a diversified group of individuals possessing financial, technical, and engineering backgrounds. Members of the Evaluation Team may include professionals from the Member Entities' engineering, financial, administrative, and program management teams. Each Member Entity will select one (1) technical staff member or consultant to join the Evaluation Team. Members of the Member Entities' Governing Bodies will not participate as part of the Evaluation Team. The Evaluation Team may request advice from the Metro Flood Diversion Authority's technical, financial, legal, engineering, and project management consultants and/or advisors.

Section 5.03 COMMUNICATION WITH METRO FLOOD DIVERSION AUTHORITY. Once all SOQs have been submitted and the Evaluation Team begins evaluating the SOQs, the Evaluation Team shall not discuss SOQs or the evaluation process with the Metro Flood Diversion Authority, the Diversion Authority Board Members, Governing Body Members of the Member Entities, or public officials of Member Entities.

Section 5.04 NO CONTACT WITH PROPOSER BY GOVERNING BODY MEMBERS. Members of the Governing Bodies of the Member Entities and Diversion Board Authority Members shall not have contact with any Proposer.

ARTICLE VI. SUBMISSION OF STATEMENTS OF QUALIFICATIONS

Section 6.01 QUESTIONS AND CLARIFICATIONS. Proposers may submit written comments, questions, or requests for clarification relating to the RFQ to the Evaluation Team. The Evaluation Team, in its sole discretion, will define how questions and clarifications may be submitted, a submission deadline date, and how the Evaluation Team will respond to questions and clarifications.

Section 6.02 SOQ SUBMISSION LOCATION. The Drafters, in their sole discretion, will select the SOQ Submission Location and determine the hours of submission.

Section 6.03 SUBMISSIONS. The Drafters, in their sole discretion, will determine the format for SOQs, organization of SOQs, assemblage of SOQs, and how submissions of the SOQs will occur.

Section 6.04 DEADLINE FOR SUBMISSIONS. The Drafters will set the deadline for submission of SOQs.

Section 6.05 LATE SUBMISSIONS. Any SOQ submissions which are made after the deadline for submissions will be considered late. Late SOQ submissions will be considered non-responsive, will remain unopened, and will be excluded from further consideration.

**ARTICLE VII.
EVALUATION CRITERIA**

Section 7.01 DRAFTING. The Evaluation Team will be responsible for drafting Evaluation Criteria. During drafting, the Evaluation Team, in its sole discretion, may seek information and assistance from outside technical, financial, legal, engineering, and project management consultants or advisors.

Section 7.02 EVALUATION CRITERIA CONSIDERATIONS. The Evaluation Team, in its sole discretion, will develop specific criteria to assess each Proposer's management, technical, and financial qualifications and capabilities and any other criteria that the Evaluation Team deems applicable. The Evaluation Team will assign a maximum number of points which a Proposer can obtain for management, technical, and financial qualifications and capabilities and for any other considerations deemed applicable by the Evaluation Team.

**ARTICLE VIII.
EVALUATION OF STATEMENTS OF QUALIFICATIONS**

Section 8.01 OUTSIDE CONSULTANTS AND ADVISORS. The Evaluation Team may solicit, in its sole discretion, information and assistance from outside consultants and advisors during the evaluation process.

Section 8.02 SUBMISSIONS. The Evaluation Team may, in its sole discretion, terminate evaluations of SOQs received at any time, reject any and all SOQs received at any time, disqualify Proposers, waive deficiencies in an SOQ, accept and review a non-conforming SOQ, permit clarifications or additional information to be submitted with respect to an SOQ, require confirmation of information submitted in an SOQ, require additional information concerning an SOQ, require additional evidence of qualifications to perform the work described in the RFQ, or reserve any other rights that it deems appropriate.

Section 8.03 SCORING BASED ON EVALUATION CRITERIA. The Proposers will be ranked based upon the scores received during the evaluation pursuant to the Evaluation Criteria, with the highest-ranked Proposer receiving the most points.

Section 8.04 EVALUATION TEAM CONTACT. At any time during the SOQ evaluation process, the Evaluation Team or its outside consultants or advisors may, within the Evaluation Team's sole discretion, (a) submit written questions or requests for clarifications to the Proposer regarding its SOQ or related matters, (b) contact references included in the SOQ, or (c) visit facilities and clients associated with any Proposer that are included in the SOQ. The Evaluation Team may also require that all or a limited number of Proposers participate in interviews.

**ARTICLE IX.
SHORT LIST**

Section 9.01 SHORT LIST OF PROPOSERS. The Short List will consist of the three (3) or four (4) Proposers who received the highest scores during the evaluation by the Evaluation Team.

Section 9.02 TRANSMISSION TO METRO FLOOD DIVERSION AUTHORITY. Once the Evaluation Team has compiled the scores for all Proposers and short listed three (3) or four (4) Proposers, the Evaluation Team will transmit the results of its evaluation and the Short List to the Executive Director for transmission to the Metro Flood Diversion Authority, its members, and the Metro Flood Diversion Authority Members.

Section 9.03 CCJWRD REVIEW AND APPROVAL. The CCJWRD will concur with the Short List prior to the Metro Flood Diversion Authority's approval of the Short List.

Section 9.04 METRO FLOOD DIVERSION AUTHORITY REVIEW AND APPROVAL. The Metro Flood Diversion Authority, upon receiving the Short List, will review the Short List, make findings and conclusions, and designate Proposers as Short Listed and eligible for the Request for Proposals selection phase. The Metro Flood Diversion Authority has the final authority to determine, in its best interests, which Proposers will comprise the Short List.

ARTICLE X. PROTEST PROCEDURES

Section 10.01 PROTEST. Any Proposer submitting an SOQ may protest the Authority's Short List by submitting through certified mail or hand delivery such protest setting forth the basis thereof in writing.

Section 10.02 TIMING. In order to receive consideration, protests must be submitted to the Executive Director no later than five (5) calendar days after the Metro Flood Diversion Authority announces the Short List. The written protest must be received by the Executive Director no later than 5:00 p.m. Central Time on the fifth (5th) calendar day. In the event the fifth (5th) day falls on a weekend or an official holiday, the five-day period expires at 5:00 p.m. Central Time on the next regular business day.

Section 10.03 CONTENTS. A protest should contain, at a minimum, the following:

- (a) Name and address of the protester, including telephone and facsimile numbers and email address;
- (b) A statement concerning the protester's interest in the RFQ process;
- (c) An executive summary of the basis of the protest, not to exceed two (2) pages;
- (d) A detailed statement of the basis for the protest, including any supportive documents and information; and
- (e) The relief requested and the reason therefore.

Section 10.04 REVIEW. The Executive Director will review the protest and supportive documents and issue a written decision within five (5) business days of receipt of the protest. The Executive Director, in its sole discretion, however, may take any action or make any request deemed necessary in order to investigate the protest, including extending the time to issue a decision in order to obtain all evidence and other pertinent information. Once the Executive Director makes a written recommendation, it will provide a copy of such to the protester.

Section 10.05 DIVERSION AUTHORITY BOARD DECISION. Upon receipt of the recommendation(s) of the Executive Director, the Diversion Authority Board may request additional information and/or evidence regarding the matter. The Diversion Authority Board will make findings, conclusions, and a decision regarding the protest. The Diversion Authority Board has the final authority to determine whether to accept or reject the protest. Once the Diversion Authority Board makes its decision, it will provide a copy of such decision to the protester.

Section 10.06 APPEAL. Appeals of review decisions may be taken in accordance with North Dakota Century Code Chapter 28-34.

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Member _____ introduced the following resolution and moved its adoption:

RESOLUTION ESTABLISHING PROCEDURES AND PROTOCOLS FOR THE REQUEST FOR QUALIFICATIONS PHASE OF THE P3 PROCUREMENT AND APPROVING, ISSUING AND AUTHORIZING PUBLICATION OF THE REQUEST FOR QUALIFICATIONS TO DESIGN, BUILD, FINANCE, OPERATE AND MAINTAIN THE DIVERSION CHANNEL AND ASSOCIATED INFRASTRUCTURE WORK PACKAGE OF THE FARGO-MOORHEAD METROPOLITAN AREA FLOOD RISK MANAGEMENT PROJECT

WHEREAS, the City of Moorhead, a political subdivision of the State of Minnesota; the City of Fargo, a political subdivision of the State of North Dakota; Clay County, a political subdivision of the State of Minnesota; Cass County, a political subdivision of the State of North Dakota; and Cass County Joint Water Resource District, a political subdivision of the State of North Dakota entered into a Joint Powers Agreement for the creation and ongoing operation of the Metro Flood Diversion Authority; and

WHEREAS, the Joint Powers Agreement provides for the cooperative administration of a project, specifically the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the “Project”); and

WHEREAS, pursuant to Section 7.01 of the Joint Powers Agreement, the Metro Flood Diversion Authority is empowered to provide for a P3 procurement process for Project Elements located within North Dakota; and

WHEREAS, construction of the Project was authorized by the United States Congress as part of the Water Resources Reform and Development Act of 2014, Public Law 113-121; and

WHEREAS, the Non-Federal Sponsors of the Project, which are the Metro Flood Diversion Authority, the City of Fargo, and the City of Moorhead, have entered into a Project Partnership Agreement (“PPA”), dated July 11, 2016, with the United States Army Corps of Engineers (“USACE”) for the Project; and

WHEREAS, the PPA sets forth a split delivery model for the Project, establishing the respective responsibilities of both the Non-Federal Sponsors and USACE; and

WHEREAS, pursuant to the PPA, the USACE will be responsible for completing the diversion inlet structure; the approximately six (6) mile connecting channel; the control structures on the Red River of the North and the Wild Rice River; the southern embankment; the overflow embankment; construction of road and railroad raises associated with the staging area; and all mitigation features that are not the responsibility of the Non-Federal Sponsors (“Federal Work”); and

WHEREAS, the Metro Flood Diversion Authority is the entity responsible for the Non-Federal Sponsors’ obligations under the PPA; and

WHEREAS, pursuant to the PPA, part of the Metro Flood Diversion Authority's responsibility will be to design, construct, manage, operate, and maintain thirty (30) miles of channel and associated features; the channel outlet; two (2) aqueducts; two (2) hydraulic structures; various local drainage inlets; various levees; four (4) railroad bridges; four (4) interstate bridges; ten (10) county road bridges, as well as associated environmental mitigation and recreational features (the "Diversion Channel and Associated Infrastructure" or the "DCAI"); and

WHEREAS, Congress has passed, and the President has signed, a 2016 appropriations bill that includes USACE funding for construction of the Project; and

WHEREAS, to facilitate the design, construction, management, and financing of the DCAI, the Metro Flood Diversion Authority approved on September 2, 2015, a Notice of Intent to develop a Public-Private Partnership ("P3") pursuant to North Dakota Century Code Chapter 48-02.1; and

WHEREAS, North Dakota Century Code Chapter 48-02.1 gives the Metro Flood Diversion Authority broad discretion to enter into a P3; and

WHEREAS, the initial step to procure a P3 is to engage in a Request for Qualifications ("RFQ"); and

WHEREAS, the qualifications of proposers will be evaluated and scored by an evaluation team ("Evaluation Team") in accordance with developed evaluation criteria ("Evaluation Criteria"); and

WHEREAS, once the Evaluation Team has completed reviewing and scoring the qualifications, it will recommend three (3) or four (4) short-listed proposers to the Metro Flood Diversion Authority to review; and

WHEREAS, the Metro Flood Diversion Authority will review the short-listed proposers, make findings and conclusions, and designate the short list ("Short List") as eligible for the RFP phase of the P3 procurement;

NOW THEREFORE, BE IT RESOLVED, the Metro Flood Diversion Authority adopts the procedures and protocols outlined in Exhibit A attached hereto to utilize in the RFQ phase of the procurement of a P3 for the DCAI, further, the Metro Flood Diversion Authority approves, issues and authorizes the publication of the Request for Qualifications to Design, Build, Finance, Operate and Maintain the Diversion Channel and Associated Infrastructure Work Package of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project attached hereto as Exhibit B.

Dated: July 14, 2016

APPROVED:

Darrell Vanyo, Chair

ATTEST:

Bruce Grubb, Deputy Executive Director

ATTEST:

Keith Berndt, Deputy Executive Director

CONCURRENCE

Pursuant to and in accordance with North Dakota Century Code § 61-16.1-24, the Cass County Joint Water Resource District hereby approves and adopts the procedures and protocols outlined in Exhibit A, attached hereto, to utilize in the RFQ phase of the procurement of a P3 for the DCAI, and the Cass County Joint Water Resource District hereby approves, issues and authorizes the publication of the Request for Qualifications to Design, Build, Finance, Operate and Maintain the Diversion Channel and Associated Infrastructure Work Package of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project attached hereto as Exhibit B.

Dated: July 14, 2016

APPROVED:

Mark Brodshaug, Chairman

ATTEST:

Carol Harbeke Lewis, Secretary-Treasurer