Diversion Board of Authority

January 3, 2022 @ 3:15 p.m. CST
This meeting will be held virtual only.

1. Call to Order
    a. Roll Call of Members
2. Approve Order of Agenda

CONSENT AGENDA – NOTHING TO REPORT

REGULAR AGENDA:

3. Finance Update
    a. DA Board Approval MOU and Agreement Actions [Attachment 01.00] (Pg. 2)
        i. Western Area Power Administration MOU for DCAI [Attachment 01.01] (Pg. 5)
4. Next Meeting: January 27, 2022
5. Adjournment

MEDIA AND PUBLIC PARTICIPATION INFORMATION

There are multiple ways to attend or watch this public meeting.

- View the Meeting on Fargo TV or at www.TVFargo.com
- View the Meeting on the City of Fargo's Facebook or Twitter feed.
- View the Meeting at FMDiversion.com/Meeting
- View the Meeting at Twitter.com/FMDiversion

METRO FLOOD DIVERSION AUTHORITY

Diversion Authority Board Meeting

January 3, 2022

MOU and Agreement Actions for Consideration

John Shockley

DA Memorandum of Understanding (Action)

MOU Parties	Project	MOU Cost and Summary
The US Department of Energy Western Area Power Administration (WAPA) and MFDA	DCAI	The purpose of this MOU is to ensure a coordinated, time-efficient, and cost-effective process for completing the utility relocation project and coordination of operations and maintenance activities after completion of the project. The MOU includes property interests, right of site access, required reports, design and construction, payment of costs, third party relationships and future rights and responsibilities. The utility relocation project is included in the P3 Developers Agreement.

DA Utility Relocation Agreements (Action)

Agreement Parties	Project	Agreement Cost and Summary
Nothing to report.		

MEMORANDUM OF UNDERSTANDING

By and Between

METRO FLOOD DIVERSION AUTHORITY

And

THE UNITED STATES, DEPARTMENT OF ENERGY,

WESTERN AREA POWER ADMINISTRATION

Dated as of January 3, 2022

Relating to:

Diversion Channel and Associated Infrastructure for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project

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

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MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this 3rd day of January, 2022, by and between the Metro Flood Diversion Authority, a North Dakota political subdivision, whose post office address is P.O. Box 2806, Fargo, ND 58108-2806, and the United States of America, Department of Energy, Western Area Power Administration (United States), whose address is 2900 4th Avenue North, Billings, MT 59101 (hereinafter referred to as the "Utility"). This Memorandum of Understanding shall become effective on the date of execution by all parties (hereinafter referred to as the "Effective Date"), and subject to prior termination and as otherwise provided herein, shall survive completion of the Utility Relocation Project.

RECITALS

WHEREAS, the Metro Flood Diversion Authority is entering into a Public-Private Partnership agreement for the construction of the Diversion Channel and Associated Infrastructure; and

WHEREAS, the Utility has real property interests (hereinafter referred to as "Prior Property Interests") within the area generally described in Article III of this Memorandum of Understanding and further described in Exhibits 1 through 11; and

WHEREAS, it will be necessary for certain of Utility's facilities within its Prior Property Interests to be relocated, protected, removed, or adjusted (hereinafter referred to as the "Utility Relocation Project") by the Utility in coordination with construction of the Project; and

WHEREAS, the Utility and Metro Flood Diversion Authority or P3 Developer desire to set forth in writing their mutual understandings and to define the terms and conditions, and each party's rights and obligations in connection with the Utility Relocation Project; and

WHEREAS, this Memorandum of Understanding is only intended to bind the Parties in regard to the portion of the Comprehensive Project north of the Southern Embankment and shall have no implications for or binding power in regard to the Parties' work, efforts, or relations in the Southern Embankment. The Parties' interactions with one another in the Southern Embankment shall be governed by a separate agreement between the Parties.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby state as follows:

ARTICLE I.
DEFINITIONS AND INTERPRETATION

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

"Best Efforts" means acting in **Good Faith** and in accordance with generally accepted electric utility practices and using reasonable due diligence to undertake all actions contemplated by this **Memorandum of Understanding**, in accordance with applicable federal and state laws,

regulations, and rules; however, the obligation to use **Best Efforts** does not mean a duty to take action that would be in violation of applicable federal or state law.

"Betterment" means any upgrading of **Utility** facilities or infrastructure in the course of any **Utility Adjustment** that is not attributable to construction of the **Project** and is made solely for the benefit of and at the election of **Utility**. The following are not considered **Betterments**: (a) any upgrading required for accommodation of the **Project**, including as a result of the design and construction of the **Diversion Channel Line of Protection**; (b) replacement devices or materials of equivalent standards, though not identical; (c) replacement of devices or materials no longer regularly manufactured with an equivalent or next higher grade or size; (d) any upgrading required by applicable law, regulation, or industry standard; (e) replacement devices or materials that are used for reasons of economy (including non-stocked items that may be uneconomical to purchase); (f) any upgrading required by **Utility**'s applicable standards relating to **Utility Adjustments**; and (g) any discretionary decision by **Utility** that is contemplated within a particular standard described in clause (f) above.

"Business Day(s)" means any day that is not a Saturday, a Sunday, or a public holiday under Federal law.

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

"Comprehensive Project" means construction of a diversion channel through North Dakota that is designed to convey twenty thousand (20,000) cubic feet per second at the one percent (1%) chance or 100-year event and is approximately thirty (30) miles long, tie-back embankments, a staging area, a diversion inlet structure, a 6-mile connecting channel, a control structure on each of the Red and Wild Rice Rivers, an aqueduct hydraulic structure on each of the Maple and Sheyenne Rivers, a drop structure of each of the Rush and Lower Rush Rivers, four (4) railroad bridges, various road bridges, in-town levees, community ring levees, and environmental mitigation, as generally described in the Final Feasibility Report and Environmental Impact Statement, Fargo-Moorhead Metropolitan Area Flood Risk Management, dated July 2011 and approved by the Chief of Engineers on December 19, 2011, as amended by the Supplemental Environment Assessment, Fargo-Moorhead Metropolitan Area Flood Risk Management Project, dated September 2013 and approved by the District Engineer, St. Paul District, on September 19, 2013 and the Final Supplemental Environmental Assessment #2, Fargo Moorhead Metropolitan Area Flood Risk Management Project, dated February 2019 and approved by the District Engineer, St. Paul District on February 28, 2019.

"Construction Documents Submittal" means the design submittal described in Article VI of this **Memorandum of Understanding**.

"Diversion Channel Line of Protection" means inflow design flood line of protection.

"Excavated Material Berm" or **"EMB"** means a berm constructed from materials that have been excavated from within the **Project Property**.

"Good Faith" means observance of reasonable electric utility standards of fair dealing.

"LFC" means the low-flow channel constructed in the bottom section of the diversion channel from the diversion outlet to the diversion inlet structure designed to convey low flows.

"Member Entities" means those entities—the City of Moorhead, the City of Fargo, Clay County, Cass County, and CCJWRD—signing the Joint Powers Agreement Dated as of June 1, 2016, establishing and continuing a joint powers entity called the **Metro Flood Diversion Authority**.

"Memorandum of Understanding" means this **Memorandum of Understanding** by and between the **Metro Flood Diversion Authority** and **Utility**.

"Metro Flood Diversion Authority" means the political subdivision created by the Joint Powers Agreement, effective June 1, 2016, by and between 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 and vested with the powers therein.

"Operating Period" means the period following completion of all design and construction requirements for **Project Substantial Completion** of the **SWDCAI**, plus one (1) day and ending on the first October 1st to occur following the 29th anniversary of **Project Substantial Completion** of the **SWDCAI.**

"Other Approvals" means all approvals and permits legally required to complete approved **Utility Adjustment Work**, including, but not limited to, construction permits and permits from the applicable water resource district.

"P3 Developer" means Red River Valley Alliance, LLC, which entered into the Project Agreement with the **Metro Flood Diversion Authority** to design, finance, build, operate, and maintain the SWDCAI.

"Parties" means the entities executing this **Memorandum of Understanding**, specifically, the **Metro Flood Diversion Authority** and the **Utility**.

"Prior Property Interest(s)" means any existing facilities or real property (including the facilities affixed to such real property) owned by the **Utility** as of the date of execution of this Memorandum of Understanding that the **Metro Flood Diversion Authority** or **P3 Developer** deems necessary to **Relocate** after consultation with and consideration of input from the **Utility**.

"Project" means the design, construction, finance, operations, and maintenance of the **SWDCAI**.

"Project Agreement" means a Public-Private Partnership Agreement as authorized by Chapter 48-02.1 of the North Dakota Century Code, by and between the **Metro Flood Diversion Authority**, or one or more member entities authorized by the **Metro Flood Diversion Authority**, and the **P3 Developer** for design, construction, financing, operation, and maintenance of the **Project**.

"Project Property" means real property interests acquired for the **Project**, including, but not limited to, land, rights-of-way, easements, licenses, and leases.

"Project Operation" means operation of the Red River Control Structure or the Wild Rice River Control Structure to restrict flow of water into the protected area east of the **Diversion Channel Line of Protection**.

"Project Substantial Completion" means the completion of all substantial completion conditions as outlined in the **Project Agreement** for the substantial completion of the **SWDCAI**.

"Relocate," "Relocated," or **"Relocation"** means providing a functionally equivalent facility to the owner of a utility, highway, railroad (excluding railroad bridges and approaches thereto required for construction of the **Comprehensive Project**), or public facility when such action is authorized in accordance with applicable legal principles of just compensation; or providing a functionally equivalent facility when such action is specifically provided for, and is identified as a **Relocation** in the authorizing legislation for the **Project** or any report referenced therein. Providing a functionally equivalent facility may take the form of alteration, lowering, or rising, or replacement and attendant demolition of the affected facility or part thereof.

"Responsible Party" means the entity, either the **Utility** or **P3 Developer**, responsible for all or a portion of the work on the **Utility Relocation Project**.

"Shop Drawings and Samples" means shop drawings, laying drawings, erection drawings, fabrication drawings, product information, catalog information, samples, mock-ups, plans, test procedures and results, descriptions of services, descriptions of specific means and methods and related documentation.

"Site" means the physical location at which any **Utility Adjustment Construction Work** is being done, has been done, or will be done.

"Southern Embankment and Associated Infrastructure" or **"SEAI"** means the infrastructure consisting of the Diversion Inlet, Wild Rice River and Red River Control Structure, associated road raises, earthen embankment, and western tie-back levee.

"SWDCAI" means the Storm Water Diversion Channel and Associated Infrastructure, portion of the **Comprehensive Project**, which is being procured by the **Metro Flood Diversion Authority** and includes, but is not limited to, the thirty (30) mile channel, outlet, river and drain inlets, road bridges, railroad bridges, aqueducts, utility relocations, and recreational features.

"USACE" means the United States Army Corps of Engineers.

"Utility Relocation Project" means the process of acquiring **Project Property**, acquisition and **Relocation** of any facilities within **Utility's Prior Property Interests** or to newly acquired real property, and/or all other steps necessary, as determined by the **Metro Flood Diversion Authority** or **P3 Developer**, to prepare the **Project Property** for construction of the **Project**.

"Utility Adjustment" means each **Relocation** (temporary or permanent), abandonment, protection in place, adjustment in place, removal (of previously abandoned utilities as well as of

newly abandoned utilities), replacement, reinstallation, or modification of existing utilities necessary to accommodate construction, operation, maintenance, or use of the **Project**. The **Utility Adjustment Work** for each crossing of the **Project** right-of-way by a utility that crosses the **Project** right-of-way more than once will be considered a separate **Utility Adjustment**. For any utility installed longitudinally within the **Project** right-of-way, the **Utility Adjustment Work** for each continuous segment of that utility located within the **Project** right-of-way will be considered a separate **Utility Adjustment**.

"Utility Adjustment Completion" means that the **Utility Adjustment Construction Work** for a **Utility Adjustment** is sufficiently complete in the opinion of the **Metro Flood Diversion Authority** and the **Utility**.

"Utility Adjustment Construction Work" means all **Utility Adjustment Work** related to construction.

"Utility Adjustment Design Work" means all **Utility Adjustment Work** related to design.

"Utility Adjustment Work" means all efforts and costs necessary to accomplish the required **Utility Adjustments**, including all coordination, **Utility Adjustment Design Work**, design review, permitting, **Utility Adjustment Construction Work**, and inspection and maintenance of records, whether provided by the **Metro Flood Diversion Authority** or the **Utility**.

"Utility Completion Acceptance" means agreement by the **Metro Flood Diversion Authority** and the **Utility** that the **Responsible Party** has completed its portion of the **Utility Adjustment Construction Work** in accordance with the approved **Construction Documents Submittal** and approved changes during construction for a **Utility Adjustment**.

"Water Resource District Infrastructure" means any infrastructure or property right of any kind owned by or attributable to the Maple River Water Resource District, Southeast Cass Water Resource District, Rush River Water Resource District, North Cass Water Resource District, or the Cass County Joint Water Resource District.

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 **Memorandum of Understanding** 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 **Memorandum of Understanding**.

Section 1.03 SURVIVAL OF TERMS. The terms of this **Memorandum** shall survive through the Operating Period and for successive ten-year terms until a **Party** hereto terminates this **Memorandum of Understanding** with at least one-year notice to the other **Party**. The provisions of Article IX shall bind the **Parties** for as long as **Utility** has property within the **Project Property**.

Section 1.04 INTENT TO ASSIGN. **Utility** acknowledges the intent to and authorizes **Metro Flood Diversion Authority** to assign certain rights and obligations under this **Memorandum of Understanding** to the **P3 Developer**, in accordance with Section 8.01.

ARTICLE II.
PURPOSE OF MEMORANDUM OF UNDERSTANDING

Section 2.01 PURPOSE. The purpose of this **Memorandum of Understanding** is to ensure a coordinated, time-efficient, and cost-effective process for completing the **Utility Relocation Project** and coordination of the operations and maintenance activities after completion of the **Utility Relocation Project**.

Section 2.02 COORDINATION BETWEEN ENGINEERS AND CONTRACTORS. The **Parties** and the **P3 Developer** are likely to employ the use of professional engineers in the analysis, design, and completion of designs, plans, and contractors in the construction of **Utility Adjustment Work**. Engineers and contractors employed by the **Parties** and the **P3 Developer** shall maintain open lines of communication, coordinate, and collaborate with engineers and contractors employed by the other **Party** or the **P3 Developer**.

Section 2.03 COORDINATION WITH USACE. **Utility** shall not communicate directly with **USACE** regarding any aspect of the **Comprehensive Project,** or any other subject-matter referenced in, related to, or arising from this **Memorandum of Understanding**, without the prior written authorization of the **Metro Flood Diversion Authority**.

Section 2.04 COMPLIANCE WITH FEDERAL LAWS AND REGULATIONS. **Utility** is a Federal Agency and is required to comply with all federal laws and regulations (including, but not limited to, the Anti-Deficiency Act (ADA) and the Federal Tort Claims Act (FTCA)). Any section or part of a section of this **Memorandum of Understanding** that fails to comply with federal law or regulation cannot be enforced and must be severed as outlined in Section 13.11.

ARTICLE III.
REAL PROPERTY INTERESTS

Section 3.01 INTENT. It is the intent of the **Parties** hereto that all **Prior Property Interests** shall be identified herein. Specifically, **Prior Property Interests** shall be detailed in the table contained in Section 3.02 and further documented in the Exhibits to this **Memorandum of Understanding**.

Section 3.02 UTILITY'S PRIOR PROPERTY INTERESTS. The **Prior Property Interests** subject to the terms and conditions of this **Memorandum of Understanding** are documented in Exhibits 1 through 11, attached hereto and described in the table below:

Exhibit No.	Section	Township	Range	Type	Preliminary Diversion Channel Station (approx.)	Right of Way Document
1	36	141	50	115 kV OH Transmission	505+73 Crossing	Book U-2, pg. 20 - 23
2	36	141	50	115 kV OH Transmission	505+73 Crossing	Book W-2, pg. 120 - 123
3	36	141	50	115 kV OH Transmission	471+00 Longitudinal	Book T-2, pg. 489 - 492
4	25	141	50	115 kV OH Transmission	460+00 Longitudinal	Book T-2, pg. 477 - 480
5	25	141	50	115 kV OH Transmission	440+00 Longitudinal	Book T-2, pg. 485 - 488
6	24	141	50	115 kV OH Transmission	410+00 Longitudinal	Book T-2, pg. 481 - 484
7	2	140	50	115 kV OH Transmission	524+00 Longitudinal	Book U-2, pg. 16 - 19
8	13	139	50	115 kV OH Transmission	1048+00 Crossing	Book T-2, pg. 70 - 73
9	24	139	50	115 kV OH Transmission	1048+00 Crossing	Book T-2, pg. 224 - 228
10	25	139	50	230 kV OH Transmission	1136+00 Crossing	Book W-2, pg. 601 - 604
11	25	139	50	230 kV OH Transmission	1136+00 Crossing	Book X-2, pg. 228-231

Section 3.03 UTILITY'S RIGHTS PURSUANT TO PRIOR PROPERTY INTERESTS. **Metro Flood Diversion Authority** acknowledges and agrees that the **Prior Property Interests** include easements to operate electric transmission lines. **Metro Flood Diversion Authority** acknowledges and agrees that **Utility's** rights under such easements include, but are not limited to, (1) the right to construct, operate, and maintain an electric transmission line, with all poles, cross arms, cables, wires, guys, supports, fixtures, devices, and communication appurtenances used or useful in the operation of said line, (2) the right to enter upon the easement premises, survey, construct, maintain, operate, control, and use the transmission line, and to remove objects interfering therewith, and (3) the rights necessary to access **Utility's** facilities.

Section 3.04 COOPERATION IN PLATTING. **Metro Flood Diversion Authority** intends to plat right-of-way acquired for or in connection with the **Project**. **Utility** shall reasonably cooperate with **Metro Flood Diversion Authority's** platting efforts if requested to do so by **Metro Flood Diversion Authority**.

ARTICLE IV.
RIGHT OF SITE ACCESS

Section 4.01 RIGHT OF SITE ACCESS. To ensure the **Metro Flood Diversion Authority** is able to proceed with construction of the **Project** in a timely and efficient manner, as well as to properly monitor and ensure proper completion of the **Utility Relocation Project**, the **Utility** shall, to the extent the **Metro Flood Diversion Authority** needs a grant and to the extent the **Utility** has the authority to issue such grant, grant the **Metro Flood Diversion Authority** right-of-way in, on, over, and across any and all **Sites** as well as the right to access, enter, and inspect any **Site**.

Section 4.02 NON-REVOCABLE RIGHT OF THE METRO FLOOD DIVERSION AUTHORITY. Nothing herein shall be construed as limiting or providing for the termination of the rights described herein as it pertains to the **Metro Flood Diversion Authority**.

Section 4.03 DELAY FOR SAFETY PURPOSES. If the **Metro Flood Diversion Authority** attempts to exercise the rights described in this Article, but doing so would pose a safety hazard, the **Metro Flood Diversion Authority** shall be kept from accessing, entering, or inspecting the **Site** in question, only for as long as is reasonably required to make the **Site** safe for access, entry, and inspection.

Section 4.04 DUTY TO TAKE CARE. If the **Metro Flood Diversion Authority** accesses a **Site**, it shall take protective safety measures as follows:

(a) Abide by and comply with all applicable Federal, State, and local laws and safety codes.

(b) Maintain at least thirteen (13) feet of clearance based on maximum sag from any of the **Utility's** transmission line conductors to the closest object.

(c) Before allowing people or equipment capable of contacting or approaching transmission line conductors within less than thirteen (13) feet, the **Metro Flood Diversion Authority** or its authorized representative agrees to obtain from the **Utility** "Special Work Permit" and to work under the limits and conditions of the safe working area defined therein. **Utility** shall use its **Best Efforts** to consider and either approve or reject any request for a Special Work Permit within ten (10) days. Any rejection shall be accompanied by an explanation and guidance regarding changes that may result in approval. **Utility** shall not unreasonably withhold approval of a request for a Special Work Permit.

ARTICLE V.
REQUIRED REPORTS

Section 5.01 REQUIRED REPORTS. The **Utility** shall produce any reports, analysis, or other information and materials within its possession and the scope of utility infrastructure until

such time as the **Utility Relocation Project** is complete, as is requested by the **Metro Flood Diversion Authority**.

Section 5.02 SCOPE OF REQUESTS. In responding to a request made under this Article, the **Utility** has no obligation to provide confidential information. Requests shall be limited in scope as described in Section 5.01.

ARTICLE VI.
DESIGN AND CONSTRUCTION

Section 6.01 INTENT. The **Parties** agree that it is the intent of this **Memorandum of Understanding** that design, construction, completion, and operation of the **Project** will not adversely impact **Utility's** operations to an extent greater than is reasonably necessary to ensure timely completion of the **Utility Relocation Project**, the **Project**, and operation and maintenance of the **SWDCAI**. Accordingly, **Metro Flood Diversion Authority** agrees not to unreasonably interfere with the use and enjoyment of **Utility's** land rights.

Section 6.02 UTILITY ADJUSTMENT DESIGN WORK. The **Utility** shall be responsible for the **Utility Adjustment Design Work**, which shall meet the following design standards and requirements:

(a) New transmission structures located within the **Project Property** shall be steel poles with concrete footings. Maximum span between steel poles shall be 1,350 feet. For emergency replacement of steel structures, Utility may install temporary wood pole structures and guy wires with a maximum span of 900 feet.

(b) Towers or tower foundations may not be located within fifteen (15) feet of the **Diversion Channel Line of Protection**.

(c) Guy wires and anchors to support the towers may not be located within fifteen (15) feet of the **Diversion Channel Line of Protection**.

(d) Meet or exceed the minimum height requirement of the National Electric Safety Code (NESC) for transmission line conductors above finished grade. Locate the transmission lines so as to not interfere with the integrity and or operation of the Diversion Channel or the **Diversion Channel Line of Protection**.

(e) Abandoned facilities will be removed, pursuant to easements, as applicable. Abandoned facilities are transmission structures, transmission lines, and associated equipment in the delivery of power that is no longer needed for the intended purposes.

Section 6.03 *OMITTED*.

Section 6.04 SURVEY AND GEOTECHNICAL INVESTIGATION. The **Metro Flood Diversion Authority** will provide survey data and perform field survey work and geotechnical investigations reasonably requested by the **Utility** for **Utility Relocation Project** purposes.

Section 6.05 PROPOSALS AND PLANS. The following proposals and plans shall be submitted for each **Utility Adjustment**.

(a) The **Metro Flood Diversion Authority** shall, at a time of its choosing, provide the **Utility** written notice of the technical specifications for the diversion channel, including any setback distances for transmission structures from the channel centerline, and minimum conductor elevations, in accordance with Section 6.02. Within thirty (30) days of said written notice, the **Utility** shall submit proposed tower locations and conductor elevations for review, comment and/or approval by the **Metro Flood Diversion Authority**.

(b) Following approval of the tower locations and conductor elevations, the **Metro Flood Diversion Authority** will survey/stake the structures and perform the geotechnical investigations as outlined in Section 6.04.

(c) Following the receipt of the geotechnical investigations, the **Utility** shall develop a **Construction Document Submittal** for the completion of the **Utility Relocation Project** for review and approval by the **Metro Flood Diversion Authority**. The **Construction Document Submittal** shall include a complete cost estimate and a schedule with work breakdown structure that identifies utility outages and other critical dates. Upon approval by the **Metro Flood Diversion Authority** of the **Construction Document Submittal** the **Utility** shall sign the applicable contents of the **Construction Documents Submittal**.

(d) The tower locations and conductor elevations approved by the **Metro Flood Diversion Authority** will form a clear space across and above the channel that will not be impinged upon by modification to existing facilities or new construction without notice to the **Metro Flood Diversion Authority**. Any such modifications or new construction shall be subject to all restrictions and requirements contained in this **Memorandum of Understanding**, and shall require prior written agreement of the **Parties**, which shall not be unreasonably withheld by either **Party**. Such prior written agreement will not be required where emergency maintenance of **Utility's** facilities is required.

Section 6.06 REVIEW. The **Metro Flood Diversion Authority** shall review each submittal and provide comments and/or approval.

(a) The **Metro Flood Diversion Authority's** review of submittals shall be restricted to a determination of whether the submittal complies with the specifications and requirements set forth in this **Memorandum of Understanding** and to ensure compliance with the approved tower locations and conductor heights.

(b) The **Metro Flood Diversion Authority** shall complete its review and provide comments on submittals within twenty (20) **Business Days** of the date on which the **Metro Flood Diversion Authority** receives a full and complete submittal. Should the **Metro Flood Diversion Authority** determine that a submittal is not in compliance with the terms and specifications provided in this **Memorandum of Understanding**, and the **Utility** resubmits a previously submitted submittal, the **Metro Flood Diversion Authority** shall review the submittal and respond within ten (10) **Business Days**. The **Metro Flood Diversion Authority's** review of the re-submittal shall be limited to the portions of the initial submittal deemed insufficient as well as any other portions of the submittal that have been amended or added since the initial submission.

Section 6.07 REQUIREMENT OF APPROVAL. No **Utility Adjustment Construction Work** shall begin until the **Metro Flood Diversion Authority** approves the **Construction Document Submittal** and cost estimate as described in Article VII.

Section 6.08 OTHER APPROVALS. Each **Party** shall be responsible for applying for and obtaining, or having its agents apply for and obtain, any applicable **Other Approvals** necessary to complete the **Utility Adjustment Construction Work** for which it is responsible under Section 6.09.

Section 6.09 UTILITY ADJUSTMENT CONSTRUCTION WORK. The **Utility Adjustment Construction Work** shall be undertaken as follows:

(a) The **Metro Flood Diversion Authority** shall be responsible for the **Site** preparation and construction of tower foundations. Should the **Metro Flood Diversion Authority** elect to hire a subcontractor to complete **Utility Adjustment Construction Work** on the tower foundations, the **Metro Flood Diversion Authority** shall provide the **Utility** with written notice of the subcontractor's identity no less than thirty (30) days prior to the subcontractor's initiation of **Utility Adjustment Construction Work**. If, within fifteen (15) days of the **Utility's** receipt of said written notice, the **Utility** has not approved of or rejected use of the subcontractor in question, the selection of the subcontractor shall be deemed approved. The **Utility** shall provide the **Metro Flood Diversion Authority** with a detailed plan describing the tower foundations and any required **Site** preparation work to be completed by the **Metro Flood Diversion Authority**, the extent to which the **Utility Adjustment Construction Work** will interface with the **Utility's** portion of the **Utility Adjustment Construction Work**, as well as logistical considerations and a timeline for completion of each **Party's** share of the **Utility Adjustment Construction Work**. Furthermore, the **Utility** shall provide the necessary bolt cages for construction of tower foundations. Construction of the tower foundations must meet **Utility's** construction standards. **Metro Flood Diversion Authority** shall inform **Utility** prior to the start of construction. **Utility** may provide an on-site construction inspector, at the reasonable expense of **Metro Flood Diversion Authority,** subject to approval as required by Article VII of this **Memorandum of Understanding**. Tower foundation construction must be inspected and approved by **Utility**, which approval must be provided within ten (10) calendar days of notice of completion of a tower foundation. Any tower foundation not inspected within ten (10) calendar days shall be deemed approved.

(b) The **Metro Flood Diversion Authority** shall be responsible for the removal of abandoned steel lattice tower foundations.

(c) The **Utility** shall be responsible for the performance of all other **Utility Adjustment Construction Work**, including removal of abandoned portions of existing facilities or lines owned by the **Utility** within the **Project Property** not otherwise provided for herein.

Section 6.10 SHOP DRAWING AND SAMPLE SUBMITTALS. The **Metro Flood Diversion Authority,** to the extent required, shall submit **Shop Drawings and Samples** detailing the **Utility Adjustment Construction Work** to be performed by the **Metro Flood Diversion Authority**. The

Utility shall review and approve the **Shop Drawings and Samples** in the same manner and on the same timeline as described in Section 6.06.

Section 6.11 ADDITIONAL RIGHT OF WAY.

(a) Should the **Utility** require additional right-of-way to complete the **Utility Relocation Project**, the **Utility** shall notify the **Metro Flood Diversion Authority** as soon as reasonably possible after discovering said need. To enable **Relocation,** the **Metro Flood Diversion Authority** shall be solely responsible for conveying permanent transmission line easements to **Utility** at no cost to **Utility**, which shall include, if necessary, acquiring any underlying real property in fee simple from the underlying landowner, CCJWRD. The **Metro Flood Diversion Authority** shall be responsible for writing the legal descriptions for any and all easements transferred to the **Utility**. Conveyances of easements to the **Utility** shall be in a form acceptable to the **Utility**. The **Utility** shall be responsible for the acquisition of any additional easements needed to accommodate betterments.

(b) In the event **Utility** requires conveyance of an easement over land that is not owned by CCJWRD, **Metro Flood Diversion Authority** shall use its **Best Efforts** to acquire any necessary real property interests and will convey permanent transmission line easements to the **Utility** to enable **Relocation**, at no cost to **Utility**. If **Metro Flood Diversion Authority** determines it is unlikely to successfully acquire any particular real property for conveyance of permanent transmission line easements to **Utility**, or it becomes unpracticable, or is no longer cost or time efficient to acquire such additional real property in light of the then current status or schedule associated with the **Project**, **Metro Flood Diversion Authority** shall give **Utility** notice of such determination as soon as reasonably possible. Following such notice, **Utility** and **Metro Flood Diversion Authority** shall coordinate in the development of a new **Relocation** design as soon as reasonably possible.

(c) Any transmission line easement transferred to the **Utility** under this Section 6.11 shall, at a minimum, grant **Utility** a permanent right-of-way for electric power and transmission purposes containing at least the same rights granted by the instruments identified in Section 3.02, including the unimpeded right of access and entry to the easement area and the right to locate, survey, construct, reconstruct, operate, maintain, repair, rebuild, upgrade, remove, permit the attachment of wires of others, and patrol transmission lines consisting of poles or structures and appurtenances thereto, supporting conductors of one or more electric circuits of any voltage, as well as appurtenances for communication facilities. Such grant shall also include the right of the **Utility** to remove objects deemed by the **Utility** to unreasonably interfere with the safe operation and maintenance of the transmission line after consultation with the **Metro Flood Diversion Authority**. Such grants shall be subject to the restrictions and obligations contained in this **Memorandum of Understanding**.

(d) In the event the Project blocks, displaces, or materially interferes with **Utility**'s access to any **Prior Property Interests** or any of its existing or **Relocated** facilities, the **Metro Flood Diversion Authority** will acquire and agrees to grant **Utility** permanent access necessary for reasonable, overground vehicular or pedestrian access to its easements and facilities. Such access shall be subject to the restrictions and notice requirements provided by this **Memorandum of Understanding**.

Section 6.12 ADJUSTMENTS TO THE PROJECT. Should the planned route of the **SWDCAI** change in a material manner, the **Utility** and **Metro Flood Diversion Authority** shall immediately interface to adjust plans for the **Utility Relocation Project** as necessary.

Section 6.13 ADJUSTMENT TO THE UTILITY ADJUSTMENT WORK. Any changes or modifications to the **Construction Documents Submittal** during construction that materially affect the performance or construction of the **Utility Adjustment Work** will be subject to written approval by the **Party** not performing that portion of the **Utility Adjustment Construction Work**. The **Party** performing that portion of the **Utility Adjustment Construction Work** will submit the proposed changes or modifications to the other **Party** for review and approval. The reviewing **Party** will provide approval or a written explanation of its specific objections to the changes or modifications within twenty (20) **Business Days** of receipt of the proposed changes or modifications.

Section 6.14 INSPECTION. The **Utility** shall have a right to inspect all **Utility Adjustment Construction Work**. The **Utility** retains the right of its inspectors to oversee quality and assure adherence to the **Utility's** construction standards for all aspects of transmission line foundation construction. The **Metro Flood Diversion Authority** shall provide the **Utility** with any quality control or other tests performed as part of construction of the tower foundation. The **Metro Flood Diversion Authority** shall have concurrent rights of inspection.

Section 6.15 UTILITY ADJUSTMENT COMPLETION. The **Responsible Party** will provide the other **Party** written notice of any anticipated **Utility Adjustment Completion** for the **Responsible Party's** portion of the **Utility Adjustment Construction Work** at least sixty (60) calendar days and fifteen (15) **Business Days** prior to the anticipated date for **Utility Adjustment Completion**. Within ten (10) calendar days of the anticipated date for **Utility Adjustment Completion,** the **Utility** and the **Metro Flood Diversion Authority** will conduct a final inspection of the **Responsible Party's** portion of **Utility Adjustment Construction Work** to determine whether the **Utility Adjustment** meets the final design and any material changes or modifications made per Sections 6.12 and 6.13. If the non-**Responsible Party** finds the construction is not in conformance with the **Construction Documents Submittal** or any approved material changes or modifications, the non-**Responsible Party** will notify the **Responsible Party** of such fact and the **Responsible Party** shall correct such nonconformance in the **Utility Adjustment Construction Work** and re-notify for inspection. Once the **Utility** finds a **Utility Adjustment** has reached **Utility Adjustment Completion**, the **Utility** shall provide a certificate of **Utility Completion Acceptance**.

Section 6.16 DOCUMENTATION. The **Metro Flood Diversion Authority** shall coordinate with the **Utility** to document the **Utility Adjustment Construction Work**. Documentation shall include information sufficient to permit the **P3 Developer** to perform its reporting requirements.

Section 6.17 DAMAGE. The **Utility** shall be responsible for the correction of any damage to the **SWDCAI** which resulted from the actions or omissions of the **Utility**. **Metro Flood Diversion Authority** shall be liable for any damage to **Utility's** facilities which resulted from the actions or omissions of **Metro Flood Diversion Authority** or the **P3 Developer**.

ARTICLE VII.
PAYMENT OF COSTS

Section 7.01 GENERALLY. The **Metro Flood Diversion Authority** shall pay all reasonable and actual costs, including labor expenses, of the **Utility Relocation Project** approved pursuant to Section 7.02.

Section 7.02 SUBMITTAL OF COST ESTIMATE. The **Utility** shall submit a cost estimate for any cost or expense arising directly from this **Memorandum of Understanding,** which **Utility** requests to have funded by **Metro Flood Diversion Authority,** to the **Metro Flood Diversion Authority** for review and, if appropriate, approval.

Section 7.03 PAYMENT OF COSTS. Upon written request by the **Utility**, the **Metro Flood Diversion Authority** shall advance to the **Utility** funds necessary to pay for all costs and expenses approved pursuant to Section 7.02. **Utility** shall be under no obligation to perform work under this **Memorandum of Understanding** until such funds are received from **Metro Flood Diversion Authority**.

Section 7.04 WHEN COSTS ARE PROJECTED TO EXCEED INITIAL PAYMENT. Actual cost accounting shall be utilized by the **Utility**. The **Utility** shall keep detailed records of actual costs of the **Utility Relocation Project**. If costs are projected to exceed the amount of advanced funds, the **Utility** may inform the **Metro Flood Diversion Authority** of the additional cost and provide a written revised estimate, together with a bill for collection, for the difference. The **Metro Flood Diversion Authority** shall then pay the **Utility** the additional amount within thirty (30) days thereafter. If, upon completion or termination of the **Utility Relocation Project**, costs incurred by the **Utility** are less than the sum of the payments made to the **Utility** by the **Metro Flood Diversion Authority**, the **Utility** shall refund the remaining funds to the **Metro Flood Diversion Authority**, without interest as soon as the necessary vouchers can be processed.

Section 7.05 BETTERMENTS. Betterments shall not be installed as part of the **Utility Relocation Project**, unless agreed upon otherwise in a written agreement executed by the **Parties** hereto. The cost of betterments, if any, shall be borne by **Utility** and shall not impact **Utility Relocation Project** or **Project** schedule.

ARTICLE VIII.
THIRD-PARTY RELATIONSHIPS

Section 8.01 P3 DEVELOPER. The **Metro Flood Diversion Authority** and **Utility** specifically agree, acknowledge, and covenant that the **P3 Developer** selected to build the **SWDCAI** under the **Project Agreement** is an intended third-party beneficiary, and may be assigned any of the rights or obligations placed with the **Metro Flood Diversion Authority** in this **Memorandum of Understanding. Metro Flood Diversion Authority** shall incorporate by reference this **Memorandum of Understanding** into the **Project Agreement** between the **Metro Flood Diversion Authority** and **P3 Developer**. The **Metro Flood Diversion Authority** and **Utility** further agree, acknowledge, and covenant that **P3 Developer** may enforce the terms and conditions of the **Memorandum of Understanding**, including, but not limited to, securing a federal court judgment against the **Utility** to perform its obligations under this **Memorandum of Understanding**. The **P3 Developer** shall have all other rights available to it or the **Metro Flood**

Diversion Authority at law or in equity, and all of the rights and remedies provided hereunder are deemed cumulative and not exclusive of any right or remedies. The **Metro Flood Diversion Authority** may assign any right, responsibility, or obligation placed upon it herein to the **P3 Developer**. **Metro Flood Diversion Authority** shall provide advance, written notice to **Utility** of any assignment to **P3 Developer** made pursuant to this Section, including the scope of such assignment. Assignments by **Metro Flood Diversion Authority** to parties other than **P3 Developer** are not authorized, and such assignments cannot be made without the express written consent of **Utility.** This Section shall be interpreted in accordance with applicable federal law governing assignment of contracts in which the United States is a party.

ARTICLE IX.
FUTURE RIGHTS AND RESPONSIBILITIES

Section 9.01 USE OF PRIOR PROPERTY INTERESTS. **Utility's** utilization of its **Prior Property Interests**, **Relocated** facilities, or new property interests acquired pursuant to Section 6.11 shall be subject to the requirements, restrictions, and obligations contained in this Section 9.01 of this **Memorandum of Understanding**. The requirements of this Section apply only to those portions of **Utility's Prior Property Interests**, **Relocated** facilities, or newly acquired property interests lying within the **Project Property** or on, above, or below **Project Property** and shall survive so long as the **Utility** has real property interests or facilities located within, on, above, or below **Project Property.**

(a) Maintenance of Utility Property. Following completion of the **Utility Relocation Project**, the **Utility** shall be responsible for all maintenance of **Utility** property and associated infrastructure. The **Metro Flood Diversion Authority** shall maintain the vegetative cover within the **Project Property**. There shall remain "woody species-free" zones under **Utility** transmission lines. The clearance required for such zones is seventy-five (75) feet for 115kV lines and one hundred twenty-five (125) feet for 230 kV lines. Woody species include any tree, shrub, or bush.

(b) Post-Construction Access. **Metro Flood Diversion Authority** shall provide to **Utility** 24-hour contact information. Following completion of the **Utility Relocation Project**, the **Utility** shall provide the **Metro Flood Diversion Authority** with seven (7) days written notice of any planned maintenance it intends to do within the **Project Property**. In the event of an emergency threatening the health, safety, or well-being of one or more people which requires Utility to access the **Project Property**, **Utility** should provide the **Metro Flood Diversion Authority** notice of the emergency and **Utility's** accessing of the **Project Property** as soon as reasonably possible, and in no event more than two (2) hours after the initiation of emergency maintenance, via the 24-hour contact information provided by the **Metro Flood Diversion Authority**. During **Project Operation**, access to the **SWDCAI** and **IDF Line of Protection** will be prohibited without the prior approval of the **Metro Flood Diversion Authority** in its sole discretion.

(c) Approval for Ground Disturbing Maintenance or Repairs. The **Utility** must obtain written approval from the **Metro Flood Diversion Authority** for any and all plans for maintenance or repair that requires the ground within the **Project Property** to be disturbed. Such notice is not required for maintenance activities occurring at least fifteen (15) feet East of the **Diversion Channel Line of Protection** or the east EMB or the top of the eastern

slope of the **SWDCAI** (whichever is the more easterly); or at least fifteen (15) feet west of the west EMB or the top of the western slope of the **SWDCAI** (whichever is more westerly) and does not interfere with the integrity and or operation of the **SWDCAI** or the **Diversion Channel Line of Protection**.

(d) Clean Up. The **Utility** shall ensure that after any maintenance or repairs to **Utility** Property, the ground within the **Project Property** is returned to the state in which it existed prior to the maintenance or repair that caused the ground within the **Project Property** to be disturbed.

(e) Access. The **Metro Flood Diversion Authority** shall have unrestricted access in, over, and across **Utility** easements or rights of way on, over, or under **Project Property**, excluding times when **Utility** is actively performing maintenance, repair and/or replacement of its facilities.

(f) Damage to the SWDCAI. Should **Utility** property malfunction, deconstruct, or otherwise cause damage to the **SWDCAI**, the **Utility** shall take immediate action to stop on-going damage to the **SWDCAI** and repair all damage that occurs.

(g) Abandonment. Should the **Utility** abandon, remove or deem abandoned a utility line within its easement and fail to replace the line within three (3) years of removal, the **Utility** shall issue a quitclaim deed to the landowner.

Section 9.02 OMITTED.

Section 9.03 RECORD KEEPING. The **Utility** shall maintain or cause to be maintained a complete set of records detailing all costs it incurs in the **Utility Relocation Project**, in accordance with federal law and the laws of North Dakota, as applicable.

Section 9.04 MAINTENANCE AND OWNERSHIP OF UTILITY PROPERTY. Following completion of the **Utility Relocation Project**, the **Utility** shall own all associated personal property and shall be responsible for all maintenance of **Utility** property and associated infrastructure.

ARTICLE X.
DISPUTES WITH CONTRACTORS AND OTHER THIRD PARTIES

Section 10.01 COORDINATION. The **Parties** shall coordinate with respect to any dispute with third parties. Such coordination shall include any potential or ongoing litigation to the extent allowed by law.

ARTICLE XI.
DISPUTES BETWEEN UTILITY AND METRO FLOOD DIVERSION AUTHORITY

Section 11.01 INTENT AND PROCEDURE. The **Utility** and **Metro Flood Diversion Authority** shall cooperate and use their **Best Efforts** to ensure that the provisions of this **Memorandum of Understanding** are fulfilled. The **Parties** agree to act in **Good Faith** to undertake resolution of disputes in an equitable and timely manner and in accordance with the provisions of this **Memorandum of Understanding**. If disputes cannot be resolved informally by

the **Parties** or under other, situation-specific dispute resolution mechanisms contained herein, the following procedure shall be used.

Section 11.02 MEDIATION. If there is a failure between the **Parties** to resolve a dispute on their own, the **Parties** shall first attempt to mediate the dispute. The **Parties** shall agree upon a single mediator or, if they cannot agree, shall select a mediator through a process whereby the **Utility** and **Metro Flood Diversion Authority** each provide the name of two mediators, and alternately strike names until one remains. The **Metro Flood Diversion Authority** shall strike the first name, followed by the **Utility**, in that recurring order until one name remains.

Section 11.03 LITIGATION IF DISPUTE NOT RESOLVED. If the dispute is not resolved within thirty (30) days after the end of mediation proceedings, the **Parties** may litigate the matter in United States District Court.

Section 11.04 LEGAL FEES. Each **Party** will be responsible for their own attorneys' fees in connection with a dispute under this Article.

ARTICLE XII.
USE OF EMINENT DOMAIN

Section 12.01 EMINENT DOMAIN. Nothing in this **Memorandum of Understanding** shall be construed as limiting or expanding the **Metro Flood Diversion Authority's**, or one of its member entities', ability to exercise its powers of eminent domain.

ARTICLE XIII.
MISCELLANEOUS

Section 13.01 NOTICE. All notices under the **Memorandum of Understanding** will be in writing and: (i) delivered personally; (ii) sent by certified mail, return receipt requested; (iii) sent by a recognized overnight mail or courier service, with delivery receipt requested; or (iv) sent by facsimile or email communication followed by a hard copy and with receipt confirmed by telephone or return receipt (in the case of email communication), to the following addresses:

(a) All notices to the **Metro Flood Diversion Authority**, including **Project** correspondence, submittals, and samples will be marked as regarding the **Project** and will be delivered to the following address or as otherwise directed by the **Metro Flood Diversion Authority's** authorized representative:

Jacobs Engineering Group, Inc.
64 4th Street N, Suite 300
Fargo, North Dakota 58102

(b) All legal notices to the **Metro Flood Diversion Authority**, in addition to being provided to the **Metro Flood Diversion Authority's** representative as provided above, will also be provided to the Executive Director at the following address or as otherwise directed by the **Metro Flood Diversion Authority's** representative:

Metro Flood Diversion Authority
Attention: Executive Director

207 4th Street N, Suite A
Fargo, North Dakota 58102

And

APInvoicesFMDiv@jacobs.com
PaulsenJ@FMDiversion.gov

(c) All notices to the **Utility** will be marked as regarding the **Project** and will be delivered to the following address or as otherwise directed by the **Utility's** authorized representative:

Western Area Power Administration
Attn: State Manager
P. O. Box 1173
Bismarck, ND 58502-1173

(d) Notices will be deemed received when actually received in the office of the addressee (or by the addressee if personally delivered) or when delivery is refused, as shown on the receipt of the U.S. Postal Service, private courier, or other person making the delivery. Notwithstanding the foregoing, notices sent by facsimile after 4:00 p.m. Central Time and all other notices received after 5:00 p.m. Central Time will be deemed received on the first **Business Day** following delivery.

Section 13.02 WORKERS' COMPENSATION. Each **Party** shall be responsible for injuries or deaths of its own personnel. Each **Party** will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing assistance pursuant to this **Memorandum of Understanding**.

Section 13.03 RELATIONSHIPS CREATED. The **Parties** agree this **Memorandum of Understanding** does not create any agency, partnership, joint venture, or any other relationship between the **Parties** and that **Utility** is solely responsible for its own actions or omissions.

Section 13.04 CONFLICT. In the event of a conflict between this **Memorandum of Understanding** and any other agreement, this **Memorandum of Understanding** shall control and govern the relocation of **Utility** infrastructure, lines, and property for purposes of the **SWDCAI**, but not the relocation of **Utility** infrastructure, lines, and property for purposes of the **SEAI**.

Section 13.05 ELECTRONIC SIGNATURES. The parties acknowledge and agree that this **Memorandum of Understanding** may be executed by electronic signature, which shall be considered an original signature for all purposes and shall have the same force and effect as an original signature.

Section 13.06 FEDERAL LOBBYING RESTRICTIONS. Recipients of federal financial assistance may not pay any person for influencing or attempting to influence any officer or employee of a federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress with respect to the award, continuation, renewal, amendment, or modification of a federal grant, loan, or contract. These requirements are implemented for US EPA in 40 CFR Part 34, which also describes types of activities, such as legislative liaison

activities and professional and technical services, which are not subject to this prohibition. Upon execution of this **Memorandum of Understanding**, **Utility** shall complete and submit to the **Metro Flood Diversion Authority** the certification regarding federal lobbying form attached as an Exhibit hereto. Utility shall also require all subcontractors and suppliers of any tier awarded a subcontract over $100,000 to similarly complete and submit the certification and disclosure forms pursuant to the process set forth in 40 CFR 34.110.

Section 13.07 DEBARMENT AND SUSPENSION. **Utility** certifies that it will not knowingly enter into a contract with anyone who is ineligible under federal regulations to participate in the Project. Suspension and debarment information can be accessed at http://www.sam.gov. **Utility** represents and warrants that it has or will include a term or conditions requiring compliance with this provision in all of its subcontracts under this **Memorandum of Understanding**.

Section 13.08 CIVIL RIGHTS OBLIGATIONS. **Utility** shall comply with the following, federal non-discrimination requirements:

(a) Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP);

(b) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities;

(c) The Age Discrimination Act of 1975, which prohibits age discrimination;

(d) Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex;

(e) 40 CFR Part 7, as it relates to the foregoing; and

(f) Executive Order No. 11246.

Upon execution of this **Memorandum of Understanding**, **Utility** shall complete and submit to the **Metro Flood Diversion Authority** the Civil Rights Certificate attached as an Exhibit hereto.

Section 13.09 AMERICAN IRON AND STEEL. The **Utility** acknowledges to and for the benefit of the **Metro Flood Diversion Authority** and the United States Environmental Protection Agency ("EPA"), that it understands the goods and services under this **Memorandum of Understanding** are being funded with monies made available by the Water Infrastructure Finance and Innovation Act program of the EPA that has statutory requirements commonly known as "American Iron and Steel" that requires all of the iron and steel products used in the P**roject** to be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the **Utility** pursuant to this **Memorandum of Understanding**. **Utility** hereby represents, warrants and covenants to and for the benefit of the **Metro Flood Diversion Authority** and the EPA that (a) the **Utility** has reviewed and understands the American Iron and Steel Requirement; (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved; and (c) the **Utility** will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be

requested by the **Metro Flood Diversion Authority** or the EPA. While the **Utility** has no direct contractual privity with the EPA, as a lender to the **Metro Flood Diversion Authority** for the funding of its project, the **Metro Flood Diversion Authority** and the **Utility** agree that the EPA is a third-party beneficiary and neither this paragraph (nor any other provision of this **Memorandum of Understanding** necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the EPA. Upon execution of this **Memorandum of Understanding**, **Utility** shall complete and submit to the **Metro Flood Diversion Authority** the American Iron and Steel Certificate attached as an Exhibit hereto.

Section 13.10 GOVERNING LAW. This **Memorandum of Understanding** shall be controlled by federal law or the laws of the State of North Dakota, as applicable. Any action brought as a result of any claim, demand, or cause of action arising under the terms of this **Memorandum of Understanding** shall be venued in Federal District Court in Cass County in the State of North Dakota.

Section 13.11 SEVERABILITY. Each provision, section, sentence, clause, phrase, and word of this **Memorandum of Understanding** is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a federal court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this **Memorandum of Understanding**.

Section 13.12 MODIFICATIONS. Any modifications or amendments to this **Memorandum** must be in writing and signed by the **Parties**.

Section 13.13 BINDING EFFECT. This **Memorandum of Understanding** shall be binding upon and inure to the benefit of the **Parties** and their respective personal representatives, successors, and assigns, including the **P3 Developer**.

Section 13.14 REPRESENTATION. The **Parties**, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this **Memorandum of Understanding**, and agree they have not been influenced by any representations or statements made by any other **Parties**.

Section 13.15 HEADINGS. Headings in this **Memorandum of Understanding** are for convenience only and will not be used to interpret or construe its provisions.

Section 13.16 COUNTERPARTS. This **Memorandum of Understanding** may be executed in counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement and shall become effective when one or more counterparts have been signed by the **Parties** and delivered to the other **Party**.

Section 13.17 REPRESENTATION OF AUTHORITY. Each **Party** signing this **Memorandum of Understanding** represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this **Memorandum of Understanding** and that the **Memorandum of Understanding** is a valid and legal agreement binding on such **Party** and enforceable in accordance with its terms.

Section 13.18 TERMINATION. This **Memorandum of Understanding** may be terminated by mutual agreement of the **Parties** or as otherwise provided herein.

ARTICLE XIV.
FEDERAL REQUIREMENTS

Section 14.01 APPLICABILITY OF THIS ARTICLE. The provisions of this Article shall be controlling and supersede other provisions of this **Memorandum of Understanding** only to the extent the same is mandatory under federal law.

Section 14.02 CONTINGENCIES. Where activities provided for in this **Memorandum of Understanding** extend beyond the current fiscal year, continued expenditures by the United States are contingent upon Congress making the necessary appropriations required for the continued performance of the United States' obligations under this **Memorandum of Understanding**. In case such appropriation is not made, the **Metro Flood Diversion Authority** hereby releases the United States from its contractual obligations and from all liability due to the failure of Congress to make such appropriation. In order to receive and expend funds advanced from the **Metro Flood Diversion Authority** necessary for the continued performance of the obligations of the United States under this **Memorandum of Understanding**, additional authorizations may be required. In the case that such authorizations are not received, the **Metro Flood Diversion Authority** hereby releases the United States from those contractual obligations and from all liability due to the lack of such authorization.

Section 14.03 COVENANT AGAINST CONTINGENT FEES. The **Metro Flood Diversion Authority** warrants that no person or selling agency has been employed or retained to solicit or secure this **Memorandum of Understanding** upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the **Metro Flood Diversion Authority** for the purpose of securing business. For breach or violation of this warranty, the **Utility** shall have the right to annul this **Memorandum of Understanding** without liability or in its discretion to deduct from the **Memorandum of Understanding** price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

Section 14.04 WORK HOURS AND SAFETY STANDARDS. This **Memorandum of Understanding**, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C. § 329, as amended or supplemented, is subject to the provisions of the Act, 40 U.S.C. §§ 327-334, as amended or supplemented, and to regulations promulgated by the Secretary of Labor pursuant to the Act.

Section 14.05 EQUAL OPPORTUNITY EMPLOYMENT PRACTICES. Section 202 of Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), as amended or supplemented, which provides, among other things, that the **Metro Flood Diversion Authority** will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, is incorporated herein by reference the same as if the specific language had been written into this **Memorandum of Understanding**, except that Indian Tribes and tribal organizations may apply Indian preference to the extent permitted by federal law.

Section 14.06 USE OF CONVICT LABOR. The **Metro Flood Diversion Authority** agrees not to employ any person undergoing sentence of imprisonment in performing this **Memorandum**

of Understanding except as provided by 18 U.S.C. § 3622(c), as amended or supplemented, and Executive Order No. 11755, 39 Fed. Reg. 779 (1973), as amended or supplemented.

Section 14.07 LIABILITY. The **Metro Flood Diversion Authority** hereby agrees to indemnify and hold harmless the United States, its employees, agents, or contractors from any loss or damage and from any liability on account of personal injury, death, or property damage, or claims for personal injury, death, or property damage of any nature whatsoever and by whomsoever made arising out of the **Metro Flood Diversion Authority**, its employees', agents', or subcontractors' construction, operation, maintenance, or replacement activities under this **Memorandum of Understanding**. Nothing herein shall be deemed a waiver by the **Metro Flood Diversion Authority** of the limits of liability set forth in N.D.C.C. § 32-12.1-03 or a waiver of any available immunities or defenses. The **Metro Flood Diversion Authority**'s obligation to hold and save the United States harmless shall be limited by the limitations on liability set forth in N.D.C.C. § 32-12.1-03 as amended from time to time. The United States is liable only for negligence on the part of its officers and employees in accordance with the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 1346(c), 2401(b), 2402, 2671, 2672, 2674-2680, as amended or supplemented.

(Signatures appear on the following pages.)

IN WITNESS WHEREOF, the Parties executed this Memorandum of Understanding on the date first written above.

METRO FLOOD DIVERSION AUTHORITY

BY: _____
Michelle (Shelly) A. Carlson, Chair

BY: _____
Joel Paulsen, Executive Director

WESTERN AREA POWER ADMINISTRATION

BY: _____

Lloyd A. Linke
Senior Vice President and
Upper Great Plains Regional Manager
Western Area Power Administration
2900 4th Avenue North, Sixth Floor
Billings, MT 59101

EXHIBITS 1 - 11

RIGHT-OF-WAY DOCUMENTS FOR UTILITY'S PRIOR PROPERTY INTERESTS

BOOK 4-2 PAGE 20

1876

R645-2
(1-53)

Contract Symbol No. 14-06-600-1876

Parcel No. S-20 A

EXHIBIT 1

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Fargo-Grand Forks Transmission Line

Contract and Grant of Easement

THIS CONTRACT, made this 16th day of May, 19 56, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, hereinafter referred to as United States, and A. N. Hedlund, also known as Albert N. Hedlund, and Olga E. Hedlund, his wife, hereinafter collectively referred to as Vendor:

WITNESSETH:

The following grant and the following mutual covenants by and between the parties:

1. For the consideration hereinafter expressed Vendor does hereby grant unto the United States, its successors and assigns, the right, privilege and easement to construct, operate and maintain an electric transmission line, with all poles, cross arms, cables, wires, guys, supports, fixtures and devices, used or useful in the operation of said line, through, over and across the following-described land situated in the County of Cass, State of North Dakota, to-wit:

East Half of the Southwest Quarter ($E\frac{1}{2}SW\frac{1}{4}$), Section Thirty-six (36), Township One Hundred Forty-one (141) North, Range Fifty (50) West, Fifth (5th) Principal Meridian.

Checked for Engineering Data 4-26-56

Engineer G. B. Dambly

R645-2(Sheet2)
(1-53)

Parcel No. S-20 A

The center line of the route of said line of poles and wires to be erected across said lands shall be as follows:

Beginning at a point on the East line of the SW¼, of Sec. 36, T. 141 N., R. 50 W., 5th P.M. 1317.7 feet North and 2653.7 feet West from the Southeast Corner of said Sec. 36, thence N.40°02'W. 1736 feet, thence N.0°19'E. 2 feet to a point on the North line of the SW¼, of said Sec. 36, 2648.9 feet South and 1537.2 feet East from the Northwest Corner of said Sec. 36.

2. Said transmission line and every part thereof shall, where it crosses Vendor's land, be confined to lands within 37.5 feet left of, and 37.5 feet right of the hereinabove described center line, except that the United States shall have the right and privilege of placing and maintaining guys and anchorages at greater distances from said center line where reasonably necessary to support said transmission line.

3. The grant of easement herein contained shall include the right to enter upon said premises, survey, construct, maintain, operate, control and use said transmission line and to remove objects interfering therewith, and the right to permit the attachment of wires of others. Vendor reserves the right to cultivate, use and occupy said premises for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger any of the equipment of the United States or the use thereof. In case of permanent abandonment of said right-of-way, the title and interest herein granted shall end, cease and determine. The United States shall use due care in the construction and maintainance of said transmission line.

Board Packet 2022-01-03 Page 36 of 83

R645-2
(Sheet 3)
(1-53)

4. The grant of easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, other electrical transmission lines and telegraph and telephone lines covering any part of the above-described land.

5. As complete consideration for the above grant of easement, the United States agrees to pay Vendor the sum of Five Hundred Twenty and 00 Dollars ($ 520.00).

a/s A.N.H.

5. (a) The United States agrees to pay for all crop damage caused by and during the construction of said power line, said crop damage to be estimated by a qualified Bureau of Reclamation employee. On the date of execution and delivery of this conveyance there is _____

(fill in "no" or kind of crop and acreage)

crop on the land described herein.

6. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

Reviewed & Passed
Date 6-14-56
Off. of Field Sol.
Ray P. Allen
For the Field Sol.

UNITED STATES OF AMERICA

By Charles G. Anderson
Acting Regional Director

R. N. Hedlund

Aga E. Hedlund

(Vendor)

STATE OF North Dakota)
COUNTY OF Cass) SS ACKNOWLEDGMENT

On this 16th day of May in the Year 1956

before me, a Notary Public, personally appeared
A. N. Hedlund also known as Albert N. Hedlund, & Olga E. Hedlund, his wife,

known to me to be the Persons

who executed the within instrument, and acknowledged to me that

They executed the same.

John Rivers
Notary Public for Cass Co. N. D.
Residing at Fargo, N. D.
My Commission expires

(SEAL)

DOCUMENT NO. 330606

FEES {Recording 2.00 chg
{Aud. Transfer

STATE OF NORTH DAKOTA } ss.
COUNTY OF CASS
REGISTER'S OFFICE

I hereby certify that the above instrument was filed in this office for record on the 25 day of June A. D. 1956 at 1:05 o'clock P. M. and was duly recorded in Book 21-2 of Miscellaneous on Page 20

REGISTER OF DEEDS
By Edna Warner Deputy

BOOK 21-2 PAGE 23

Chg C. C. A. Co. and Return to
Cass Co Abstract Co

BOOK N-2 PAGE 120

R645-2
(1-53)

Contract Symbol No. 14-06-600-2074

Parcel No. S-20

EXHIBIT 2

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Fargo-Grand Forks Transmission Line

Contract and Grant of Easement

THIS CONTRACT, made this 17th day of May, 19 56, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, hereinafter referred to as United States, and Board of University and School Lands for the State of North Dakota; and Clarence Krogh and Doris Krogh, his wife, hereinafter collectively referred to as Vendor:

WITNESSETH:

The following grant and the following mutual covenants by and between the parties:

1. For the consideration hereinafter expressed Vendor does hereby grant unto the United States, its successors and assigns, the right, privilege and easement to construct, operate and maintain an electric transmission line, with all poles, cross arms, cables, wires, guys, supports, fixtures and devices, used or useful in the operation of said line, through, over and across the following-described land situated in the County of Cass, State of North Dakota, to-wit:

South Half of the Southeast Quarter (S½SE¼), Northwest Quarter of the Southeast Quarter (NW¼SE¼), Section Thirty-six (36), Township One Hundred Forty-one (141) North, Range Fifty (50) West, Fifth (5th) Principal Meridian.

Checked for Engineering Data 4-26-56

Engineer A. B. Dambly

R645-2(Sheet2)
(1-53)

Parcel No. S-20

The center line of the route of said line of poles and wires to be erected across said lands shall be as follows:

Beginning at a point on the South line of Sec. 36, T. 141 N., R. 50 W., 5th P.M. 1546.7 feet Westerly from the Southeast Corner of said Sec. 36, thence N.40°02'W. 1721 feet to a point on the West line of the SE¼, of said Sec. 36, 1317.7 feet North and 2653.7 feet West from the Southeast Corner of said Sec. 36.

2. Said transmission line and every part thereof shall, where it crosses Vendor's land, be confined to lands within 37.5 feet left of, and 37.5 feet right of the hereinabove described center line, except that the United States shall have the right and privilege of placing and maintaining guys and anchorages at greater distances from said center line where reasonably necessary to support said transmission line.

3. The grant of easement herein contained shall include the right to enter upon said premises, survey, construct, maintain, operate, control and use said transmission line and to remove objects interfering therewith, and the right to permit the attachment of wires of others. Vendor reserves the right to cultivate, use and occupy said premises for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger any of the equipment of the United States or the use thereof. In case of permanent abandonment of said right-of-way, the title and interest herein granted shall end, cease and determine. The United States shall use due care in the construction and maintainance of said transmission line.

BOOK M-2 PAGE 122

R645-2
(Sheet 3)
(1-53)

4. The grant of easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, other electrical transmission lines and telegraph and telephone lines covering any part of the above-described land.

5. As complete consideration for the above grant of easement, the United States agrees to pay Vendor the sum of One Hundred Seventy-five and no/100 Dollars ($ 175.00).

5. (a) The United States agrees to pay for all crop damage caused by and during the construction of said power line, said crop damage to be estimated by a qualified Bureau of Reclamation employee. On the date of execution and delivery of this conveyance there is _____

_____
(fill in "no" or kind of crop and acreage)

crop on the land described herein.

6. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

UNITED STATES OF AMERICA

By _____
Acting Regional Director

Reviewed & Passed
Date 11-27-53
Off. of Field Sol.
For the Field Sol.

Clarence Krogh

Doris Krogh

BOARD OF UNIVERSITY AND SCHOOL LANDS
FOR THE STATE OF NORTH DAKOTA

_____
(Vendor)
State Land Commissioner

STATE OF No Dak)
) SS ACKNOWLEDGMENT
COUNTY OF Cass)

On this 12th day of May in the Year 1932,
before me, a Notary Public, personally appeared Clarence
Krogh and Doris Krogh his w.f.,
known to me to be the persons
who executed the within instrument, and acknowledged to me that
they executed the same.

John Oliver
Notary Public for Cass Co. N. D.
Residing at Fargo, N. D.
My Commission expires FEB. 21, 1959

JOHN OLIVER NOTARY (SEAL) PUBLIC STATE OF NORTH DAKOTA

Filed for record on the 10 day of December A.D. 1956, at 10 40 o'clock A.M.
DOCUMENT No. 334270
A. Friedman REGISTER OF DEEDS.

A C K N O W L E D G M E N T

STATE OF NORTH DAKOTA)
) SS.
County of Burleigh)

On this 16th day of November in the year
One thousand nine hundred and Fifty-Six, before me
JOHN H. BOWERS, a Notary Public
in and for the State of North Dakota, personally appeared
ANTON J. SCHMIDT
known to me to be the Secretary and Commissioner of the Board of
University and School Lands for the State of North Dakota that is
described in and that executed the within instrument and acknowledged to
me that the said Secretary and Commissioner of the Board of University
and School Lands for the State of North Dakota executed the same.

Notary Public for the State of North Dakota
Residing at
My commission expires

JOHN H. BOWERS (SEAL) NOTARY PUBLIC STATE OF NORTH DAKOTA

JOHN H. BOWERS
Notary Public, Burleigh Co., N. DAK.
My Commission Expires OCT. 1, 1961.

BOOK N-2 PAGE 23

EXHIBIT 3

R645-2
(1-53)

Contract Symbol No. [illegible]

Parcel No. S-22

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Fargo-Grand Forks Transmission Line

Contract and Grant of Easement

THIS CONTRACT, made this **16th** day of **May**, 19**56**, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, hereinafter referred to as United States, and **Victor G. Monson and Agnes N. Monson, his wife**, hereinafter collectively referred to as Vendor:

WITNESSETH:

The following grant and the following mutual covenants by and between the parties:

1. For the consideration hereinafter expressed Vendor does hereby grant unto the United States, its successors and assigns, the right, privilege and easement to construct, operate and maintain an electric transmission line, with all poles, cross arms, cables, wires, guys, supports, fixtures and devices, used or useful in the operation of said line, through, over and across the following-described land situated in the County of **Cass**, State of **North Dakota**, to-wit:

East Half of the Northwest Quarter ($E\frac{1}{2}NW\frac{1}{4}$), Section Thirty-six (36), Township One Hundred Forty-one (141) North, Range Fifty (50) West, Fifth (5th) Principal Meridian.

Checked for Engineering Data 4-26-56

Engineer C. S. Dambly

BOOK T-2 PAGE 489

Board Packet 2022-01-03 Page 43 of 83

R645-2(Sheet2)
(1-53)

Parcel No. S-22

The center line of the route of said line of poles and wires to be erected across said lands shall be as follows:

Beginning at a point on the South line of the NW¼, of Sec. 36, T. 141 N., R. 50 W., 5th P.M., 2648.9 feet South and 1537.2 feet East from the Northwest Corner of said Sec. 36, thence N.0°19'E. 2649 feet to a point on the North line of said Sec. 36, 1551.8 feet Easterly from the Northwest Corner of said Sec. 36.

2. Said transmission line and every part thereof shall, where it crosses Vendor's land, be confined to lands within 37.5 feet left of, and 37.5 feet right of the hereinabove described center line, except that the United States shall have the right and privilege of placing and maintaining guys and anchorages at greater distances from said center line where reasonably necessary to support said transmission line.

3. The grant of easement herein contained shall include the right to enter upon said premises, survey, construct, maintain, operate, control and use said transmission line and to remove objects interfering therewith, and the right to permit the attachment of wires of others. Vendor reserves the right to cultivate, use and occupy said premises for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger any of the equipment of the United States or the use thereof. In case of permanent abandonment of said right-of-way, the title and interest herein granted shall end, cease and determine. The United States shall use due care in the construction and maintainance of said transmission line.

B645-2
(Sheet 2)
(1-53)

4. The grant of easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, other electrical transmission lines and telegraph and telephone lines covering any part of the above-described land.

5. As complete consideration for the above grant of easement, the United States agrees to pay Vendor the sum of Two Hundred Thirty-five and no/100 Dollars ($ 235.00).

5. (a) The United States agrees to pay for all crop damage caused by and during the construction of said power line, said crop damage to be estimated by a qualified Bureau of Reclamation employee. On the date of execution and delivery of this conveyance there is _____

_____
(fill in "no" or kind of crop and acreage)

crop on the land described herein.

6. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

Reviewed & Passed
Date 5-28-56
Off. of Field Sol.
Joy P. Allen
For the Field Sol.

UNITED STATES OF AMERICA

By F. M. Clinton
Regional Director

x Victor Q. Monson

x Mrs Agnes N. Monson

_____

_____

_____
(Vendor)

Board Packet 2022-01-03 Page 45 of 83

STATE OF North Dakota)
COUNTY OF Cass) SS ACKNOWLEDGMENT

On this 16th day of May in the Year 1956

before me, a Notary Public, personally appeared

Victor G. Monson & Mrs. Agnes N. Monson, his wife

known to me to be the persons

who executed the within instrument, and acknowledged to me that

They executed the same.

JOHN OLIVER NOTARY PUBLIC (SEAL) STATE OF NORTH DAKOTA

John Oliver
Notary Public for Cass Co. N.D.
Residing at Fargo, N. D.
My Commission expires Feb. 21, 1959

DOCUMENT NO. 330240

FEES { Recording 2.00 dg.
Aud. Transfer ____

STATE OF NORTH DAKOTA } ss.
COUNTY OF CASS
REGISTER'S OFFICE

I hereby certify that the above instrument was filed in this office for record on the 1st day of June A. D. 1956, at 10:37 o'clock A.M. and was duly recorded in Book T-2 of Misc. Page 489

A. G. Thorsgaard
REGISTER OF DEEDS
Edna Warner Deputy

Chg. C. C. A. Co. and Return to

EXHIBIT
4

R645-2
(1-53)

Contract Symbol No. [illegible]

Parcel No. S-23

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Fargo-Grand Forks Transmission Line

Contract and Grant of Easement

THIS CONTRACT, made this 2nd day of May, 1956, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, hereinafter referred to as United States, and Stanley Cockerill and Flora Cockerill, his wife, hereinafter collectively referred to as Vendor:

WITNESSETH:

The following grant and the following mutual covenants by and between the parties:

1. For the consideration hereinafter expressed Vendor does hereby grant unto the United States, its successors and assigns, the right, privilege and easement to construct, operate and maintain an electric transmission line, with all poles, cross arms, cables, wires, guys, supports, fixtures and devices, used or useful in the operation of said line, through, over and across the following-described land situated in the County of Cass, State of North Dakota, to-wit:

East Half of the Southwest Quarter ($E\frac{1}{2}SW\frac{1}{4}$), Section Twenty-five (25), Township One Hundred Forty-one (141) North, Range Fifty (50) West, Fifth (5th) Principal Meridian.

Checked for Engineering Data 4-27-56

Engineer A. S. Dambly

BOOK T-2 PAGE 477

Board Packet 2022-01-03 Page 47 of 83

R645-2(Sheet2)
(1-53)

Parcel No. S-23

The center line of the route of said line of poles and wires to be erected across said lands shall be as follows:

Beginning at a point on the South line of Sec. 25, T. 141 N., R. 50 W., 5th P.M. 1551.8 feet easterly from the Southwest Corner of said Sec. 25, thence N.0°19'E. 2647.5 feet to a point on the North line of the SW¼, of said Sec. 25, 1554.2 feet easterly from the West Quarter Corner of said Sec. 25.

2. Said transmission line and every part thereof shall, where it crosses Vendor's land, be confined to lands within 37.5 feet left of, and 37.5 feet right of the hereinabove described center line, except that the United States shall have the right and privilege of placing and maintaining guys and anchorages at greater distances from said center line where reasonably necessary to support said transmission line.

3. The grant of easement herein contained shall include the right to enter upon said premises, survey, construct, maintain, operate, control and use said transmission line and to remove objects interfering therewith, and the right to permit the attachment of wires of others. Vendor reserves the right to cultivate, use and occupy said premises for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger any of the equipment of the United States or the use thereof. In case of permanent abandonment of said right-of-way, the title and interest herein granted shall end, cease and determine. The United States shall use due care in the construction and maintainance of said transmission line.

B645-2
(Sheet
(1-53)

4. The grant of easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, other electrical transmission lines and telegraph and telephone lines covering any part of the above-described land.

5. As complete consideration for the above grant of easement, the United States agrees to pay Vendor the sum of Three Hundred Ten and no/100 Dollars ($ 310.00).

5. (a) The United States agrees to pay for all crop damage caused by and during the construction of said power line, said crop damage to be estimated by a qualified Bureau of Reclamation employee. On the date of execution and delivery of this conveyance there is _____

(fill in "no" or kind of crop and acreage)

crop on the land described herein.

6. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

UNITED STATES OF AMERICA

By F. M. Clinton
Regional Director

Reviewed & Passed
Date 5-28-56
Off. of Field Sol.
Troy D. Allen
For the Field Sol.

Stanley Cockerell

Aldred Cockerill

(Vendor)

BOOK T-2 PAGE 480

STATE OF N. Dak.)
) SS ACKNOWLEDGMENT
COUNTY OF Cass)

On this 2nd day of May in the Year 1956,
before me, a Notary Public, personally appeared Stanley
Cockerill + Flora Cockerill Wife,
known to me to be the persons
who executed the within instrument, and acknowledged to me that
they executed the same.

MARK M. DERRIG NOTARY PUBLIC (SEAL) CASS COUNTY, N. DAK.

Mark M Derrig
Notary Public for State of N.D.
Residing at Mapleton. N.D.
My Commission expires Nov. 22nd 1961

DOCUMENT NO. 330237

FEES Recording 2.00 chg
And Transfer

STATE OF NORTH DAKOTA } ss.
COUNTY OF CASS
REGISTER'S OFFICE
I hereby certify that the above instrument was filed in this office for record on the 11 day of June A. D. 1956 at 10:30 o'clock A.M. and was duly recorded in Book T-2 of Mtgs. Page 477
Register of Deeds
By Edna Warner Deputy

spw
Chg. C. C. A. Co. ~~and return to~~

EXHIBIT 5

R645-2
(1-53)

Contract Symbol No. [illegible]

Parcel No. S-25

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Fargo-Grand Forks Transmission Line

Contract and Grant of Easement

THIS CONTRACT, made this 10th day of May, 1956, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, hereinafter referred to as United States, and Gordon Langseth, also known as Gordon A. Langseth, and Ione T. Langseth, his wife, hereinafter collectively referred to as Vendor:

WITNESSETH:

The following grant and the following mutual covenants by and between the parties:

1. For the consideration hereinafter expressed Vendor does hereby grant unto the United States, its successors and assigns, the right, privilege and easement to construct, operate and maintain an electric transmission line, with all poles, cross arms, cables, wires, guys, supports, fixtures and devices, used or useful in the operation of said line, through, over and across the following-described land situated in the County of Cass, State of North Dakota, to-wit:

East Half of the Northwest Quarter ($E\frac{1}{2}NW\frac{1}{4}$), Section Twenty-five (25), Township One Hundred Forty-one (141) North, Range Fifty (50) West, Fifth (5th) Principal Meridian.

Checked for Engineering Data 4-27-56

Engineer G. S. Gambly

BOOK T-2 PAGE 485

R645-2(Sheet2)
(1-53)

Parcel No. S-25

The center line of the route of said line of poles and wires to be erected across said lands shall be as follows:

Beginning at a point on the South line of the NW¼, of Sec. 25, T. 141 N., R. 50 W., 5th P.M. 1554.2 feet easterly from the West Quarter Corner of said Sec. 25, thence N.0°19'E. 2647.5 feet to a point on the North line of said Sec. 25, 1556.6 feet easterly from the Northwest Corner of said Sec. 25.

2. Said transmission line and every part thereof shall, where it crosses Vendor's land, be confined to lands within 37.5 feet left of, and 37.5 feet right of the hereinabove described center line, except that the United States shall have the right and privilege of placing and maintaining guys and anchorages at greater distances from said center line where reasonably necessary to support said transmission line.

3. The grant of easement herein contained shall include the right to enter upon said premises, survey, construct, maintain, operate, control and use said transmission line and to remove objects interfering therewith, and the right to permit the attachment of wires of others. Vendor reserves the right to cultivate, use and occupy said premises for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger any of the equipment of the United States or the use thereof. In case of permanent abandonment of said right-of-way, the title and interest herein granted shall end, cease and determine. The United States shall use due care in the construction and maintainance of said transmission line.

B645-2
(Sheet 2)
(1-53)

4. The grant of easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, other electrical transmission lines and telegraph and telephone lines covering any part of the above-described land.

5. As complete consideration for the above grant of easement, the United States agrees to pay Vendor the sum of Three Hundred Ten and no/100 Dollars ($ 310.00).

5. (a) The United States agrees to pay for all crop damage caused by and during the construction of said power line, said crop damage to be estimated by a qualified Bureau of Reclamation employee. On the date of execution and delivery of this conveyance there is _____

_____
(fill in "no" or kind of crop and acreage)

crop on the land described herein.

6. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

UNITED STATES OF AMERICA

By E. J. Judah
Acting Regional Director

Reviewed & Passed
Date 5-28-56
Off. of Field Sol.
Jay V. Allen
For the Field Sol.

× Lindon Langseth

× Lindon Langseth

(Vendor)

BOOK T-2 PAGE 487

BOOK T-2 PAGE 488

STATE OF N. Dak)
COUNTY OF Cass) SS ACKNOWLEDGMENT

On this 10 day of May in the Year 1956,

before me, a Notary Public, personally appeared Gordon Langseth also known as Gordon A. Langseth, & Mrs Jane P. Langseth, his wife

known to me to be the persons

who executed the within instrument, and acknowledged to me that

they executed the same.

Notary Public for Cass Co N/Dak
Residing at Prosper N/D
My Commission expires 5/6-58

(SEAL) NOTARY PUBLIC STATE OF NORTH DAKOTA

DOCUMENT NO. 330239

FEES Recording 2.00 chg.

STATE OF NORTH DAKOTA } ss.
COUNTY OF CASS
REGISTER'S OFFICE

I hereby certify that the above instrument was filed in this office for record on the 11 day of June A. D. 1956, at 10:36 o'clock A. M. and was duly recorded in Book T-2 of Misc. Page 485.

Register of Deeds
By Edna Warner Deputy

1911
Chg. C. C. A. Co. ~~and Return to~~

EXHIBIT
6

R645-2
(1-53)

Contract Symbol No. 14-06-600-1833

Parcel No. S-26

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Fargo-Grand Forks Transmission Line
Contract and Grant of Easement

THIS CONTRACT, made this 2nd day of May, 1956, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, hereinafter referred to as United States, and Albin C. Olson and Edith Alice Olson, his wife, Walter S. Olson and Ruth B. Olson, his wife, hereinafter collectively referred to as Vendor:

WITNESSETH:

The following grant and the following mutual covenants by and between the parties:

1. For the consideration hereinafter expressed Vendor does hereby grant unto the United States, its successors and assigns, the right, privilege and easement to construct, operate and maintain an electric transmission line, with all poles, cross arms, cables, wires, guys, supports, fixtures and devices, used or useful in the operation of said line, through, over and across the following-described land situated in the County of **Cass**, State of **North Dakota**, to-wit:

East Half of the Southwest Quarter ($E\frac{1}{2}SW\frac{1}{4}$), Section Twenty-four (24), Township One Hundred Forty-one (141) North, Range Fifty (50) West, Fifth (5th) Principal Meridian.

Checked for Engineering Date 4-27-56
Engineer A. S. Dunbly

BOOK T-2 PAGE 481

Board Packet 2022-01-03 Page 55 of 83

R645-2(Sheet2)
(1-53)

Parcel No. S-26

The center line of the route of said line of poles and wires to be erected across said lands shall be as follows:

Beginning at a point on the South line of Sec. 24, T. 141 N., R. 50 W., 5th P.M. 1556.6 feet easterly from the Southwest Corner of said Sec. 24, thence N.0°19'E. 2646.8 feet to a point on the North line of the SW¼, of said Sec. 24, 1562 feet easterly from the West Quarter Corner of said Sec. 24.

2. Said transmission line and every part thereof shall, where it crosses Vendor's land, be confined to lands within 37.5 feet left of, and 37.5 feet right of the hereinabove described center line, except that the United States shall have the right and privilege of placing and maintaining guys and anchorages at greater distances from said center line where reasonably necessary to support said transmission line.

3. The grant of easement herein contained shall include the right to enter upon said premises, survey, construct, maintain, operate, control and use said transmission line and to remove objects interfering therewith, and the right to permit the attachment of wires of others. Vendor reserves the right to cultivate, use and occupy said premises for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger any of the equipment of the United States or the use thereof. In case of permanent abandonment of said right-of-way, the title and interest herein granted shall end, cease and determine. The United States shall use due care in the construction and maintainance of said transmission line.

Board Packet 2022-01-03 Page 56 of 83

4. The grant of easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, other electrical transmission lines and telegraph and telephone lines covering any part of the above-described land.

5. As complete consideration for the above grant of easement, the United States agrees to pay Vendor the sum of Three Hundred Forty and no/100 Dollars ($340.00).

5. (a) The United States agrees to pay for all crop damage caused by and during the construction of said power line, said crop damage to be estimated by a qualified Bureau of Reclamation employee. On the date of execution and delivery of this conveyance there is _____

_____
(fill in "no" or kind of crop and acreage)

crop on the land described herein.

6. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

UNITED STATES OF AMERICA

By E. J. Judah
Acting Regional Director

Reviewed & Passed
Date 5-28-53
Off. of Field Sol.
For the Field Sol.

Alvin A. Alson

Alice Alson

Walter Alson

Ruth B. Alson

_____
(Vendor)

BOOK T-2 PAGE 484

STATE OF North Dakota)
) SS ACKNOWLEDGMENT
COUNTY OF Cass)

On this 2nd day of May in the Year 1956,
before me, a Notary Public, personally appeared Hilbert C. Olson and
Ruth Alice Olson his wife & Walter J. Olson and Ruth B. Olson his wife.
known to me to be the persons
who executed the within instrument, and acknowledged to me that
they executed the same.

Ethel Oliver
Notary Public for Cass Co. No. Dak.
Residing at Fargo, N.D.
My Commission expires ~~FEB. 21, 1959~~

ETHEL OLIVER NOTARY PUBLIC CASS COUNTY, NORTH DAKOTA (SEAL)

DOCUMENT NO. 330238

FEES [Recording 2.00 chg.
[Aud. Transfer ____

STATE OF NORTH DAKOTA } ss.
COUNTY OF CASS
REGISTER'S OFFICE

I hereby certify that the above instrument was filed in this office for record on the 11 day of June A. D. 1956, at 10:35 o'clock AM. and was duly recorded in Book T-2 of Deeds, Page 481

Register of Deeds
By Edna M. Warner Deputy

Chg. C. C. A. Co. and return to

Board Packet 2022-01-03 Page 58 of 83

R645-2
(1-53)

Contract Symbol No. 14-06-600-1875

Parcel No. S-19

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Fargo-Grand Forks Transmission Line

Contract and Grant of Easement

EXHIBIT 7

THIS CONTRACT, made this 17th day of May, 1956, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, hereinafter referred to as United States, and

Mrs. Laura M. Krogh, a widow,

hereinafter collectively referred to as Vendor:

WITNESSETH:

The following grant and the following mutual covenants by and between the parties:

1. For the consideration hereinafter expressed Vendor does hereby grant unto the United States, its successors and assigns, the right, privilege and easement to construct, operate and maintain an electric transmission line, with all poles, cross arms, cables, wires, guys, supports, fixtures and devices, used or useful in the operation of said line, through, over and across the following-described land situated in the County of Cass, State of North Dakota, to-wit:

East Half of the Northeast Quarter ($E\frac{1}{2}NE\frac{1}{4}$), Section Two (2), Township One Hundred Forty (140) North, Range Fifty (50) West, Fifth (5th) Principal Meridian.

Checked for Engineering Data 4-27-56

Engineer A. S. Dambly

R645-2(Sheet2)
(1-53)

Parcel No. S-19

The center line of the route of said line of poles and wires to be erected across said lands shall be as follows:

Beginning at a point on the East line of Sec. 2, T. 140 N., R. 50 W., 5th P.M. 1174.6 feet southerly from the Northeast Corner of said Sec. 2, thence N.40°02'W. 1536.5 feet to a point on the North line of said Sec. 2, 1001.7 feet westerly from the Northeast Corner of said Sec. 2.

2. Said transmission line and every part thereof shall, where it crosses Vendor's land, be confined to lands within 37.5 feet left of, and 37.5 feet right of the hereinabove described center line, except that the United States shall have the right and privilege of placing and maintaining guys and anchorages at greater distances from said center line where reasonably necessary to support said transmission line.

3. The grant of easement herein contained shall include the right to enter upon said premises, survey, construct, maintain, operate, control and use said transmission line and to remove objects interfering therewith, and the right to permit the attachment of wires of others. Vendor reserves the right to cultivate, use and occupy said premises for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger any of the equipment of the United States or the use thereof. In case of permanent abandonment of said right-of-way, the title and interest herein granted shall end, cease and determine. The United States shall use due care in the construction and maintainance of said transmission line.

Board Packet 2022-01-03 Page 60 of 83

R645-2
(Sheet 2)
(1-53)

4. The grant of easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, other electrical transmission lines and telegraph and telephone lines covering any part of the above-described land.

5. As complete consideration for the above grant of easement, the United States agrees to pay Vendor the sum of Two Hundred Fifty and no/100 Dollars ($ 250.00).

5. (a) The United States agrees to pay for all crop damage caused by and during the construction of said power line, said crop damage to be estimated by a qualified Bureau of Reclamation employee. On the date of execution and delivery of this conveyance there is _____

_____
(fill in "no" or kind of crop and acreage)

crop on the land described herein.

6. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

Reviewed & Passed
Date 6-14-56
Off. of Field Sol.
Joy F. Allen
For the Field Sol.

UNITED STATES OF AMERICA

By Charles G. Anderson
Acting Regional Director

x Mrs Laura M. Krogh

_____

_____

_____

_____
(Vendor)

STATE OF _____)
) SS ACKNOWLEDGMENT
COUNTY OF _____)

On this ____ day of _____ in the Year 19__,

before me, a Notary Public, personally appeared _____

_____,

known to me to be the _____

who executed the within instrument, and acknowledged to me that

_____ executed the same.

Notary Public for Cass Co. No. Dak
Residing at Fargo, N. D.
My Commission expires FEB. 21, 1959

(SEAL)

DOCUMENT NO. 330605

FEES { Recording 2.00 chg.
Aud. Transfer ____

STATE OF NORTH DAKOTA } ss
COUNTY OF CASS
REGISTER'S OFFICE

I hereby certify that the above instrument was filed in this office for record on the 25 day of June A.D. 195 6, at 1:04 o'clock P M. and was duly recorded in Book 21-2 of Misc. Page 16

REGISTER OF DEEDS
Edna Palmer Deputy

Chg C. C. A. Co. and Return

Cass County Abstract Co

BOOK 21-2 PAGE 19

BOOK T-2 PAGE 70

EXHIBIT 8

)-2
53)

13-139-50

Contract Symbol No. 14-06-600-1776

Parcel No. S-3

WAPA

W1/2 - SW1/4

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Fargo-Grand Forks Transmission Line

Contract and Grant of Easement

THIS CONTRACT, made this **9th** day of **March**, 19**56**, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, hereinafter referred to as United States, and **Mary Coster, a widow**, hereinafter collectively referred to as Vendor:

WITNESSETH:

The following grant and the following mutual covenants by and between the parties:

1. For the consideration hereinafter expressed Vendor does hereby grant unto the United States, its successors and assigns, the right, privilege and easement to construct, operate and maintain an electric transmission line, with all poles, cross arms, cables, wires, guys, supports, fixtures and devices, used or useful in the operation of said line, through, over and across the following-described land situated in the County of **Cass**, State of **North Dakota**, to-wit:

West Half of the Southwest Quarter ($W\frac{1}{2}SW\frac{1}{4}$), Section Thirteen (13), Township One Hundred Thirty-nine (139) North, Range Fifty (50) West, Fifth (5th) Principal Meridian.

Checked for Engineering Data 2-27-56

Engineer C. S. Dawley

R645-2(Sheet2)
(1-53)

Parcel No. S-3

The center line of the route of said line of poles and wires to be erected across said lands shall be as follows:

Beginning at a point on the South line of the SW¼ of Sec. 13, T. 139 N., R. 50 W., 5th P.M. 659.5 feet Easterly from the Southwest Corner of said Sec. 13, thence N.0°45'E. 2556 feet to a point on the North line of the Southwest Quarter of said Sec. 13, 697 feet Easterly from the West Quarter Corner of said Sec. 13.

2. Said transmission line and every part thereof shall, where it crosses Vendor's land, be confined to lands within 37.5 feet left of, and 37.5 feet right of the hereinabove described center line, except that the United States shall have the right and privilege of placing and maintaining guys and anchorages at greater distances from said center line where reasonably necessary to support said transmission line.

3. The grant of easement herein contained shall include the right to enter upon said premises, survey, construct, maintain, operate, control and use said transmission line and to remove objects interfering therewith, and the right to permit the attachment of wires of others. Vendor reserves the right to cultivate, use and occupy said premises for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger any of the equipment of the United States or the use thereof. In case of permanent abandonment of said right-of-way, the title and interest herein granted shall end, cease and determine. The United States shall use due care in the construction and maintainance of said transmission line.

B645-2
(Sheet 2)
(1-53)

4. The grant of easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, other electrical transmission lines and telegraph and telephone lines covering any part of the above-described land.

5. As complete consideration for the above grant of easement, the United States agrees to pay Vendor the sum of **Three Hundred Ten and no/100 Dollars --** ($310.00).

5. (a) The United States agrees to pay for all crop damage caused by and during the construction of said power line, said crop damage to be estimated by a qualified Bureau of Reclamation employee. On the date of execution and delivery of this conveyance there is _____

(fill in "no" or kind of crop and acreage)

crop on the land described herein.

6. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

Reviewed & Passed
Date 9-3-56
Off. of Field Sol.
Foy P. Allen
For the Field Sol.

UNITED STATES OF AMERICA

By F. M. Clinton
Regional Director

X Mary Costes

(Vendor)

STATE OF No. Dak)
) SS
COUNTY OF Cass)

ACKNOWLEDGMENT

On this 9th day of March. in the Year 1956, before me, a Notary Public, personally appeared Mary Coster A. Widow;

known to me to be the Person

who executed the within instrument, and acknowledged to me that She executed the same.

(SEAL)

Notary Public for
Residing at
My Commission expires

Notary Public, CASS COUNTY, N. DAK.
My commission expires JAN. 3, 1959.

DOCUMENT NO. 395528

FEES { Recording 2.00 cy.
{ Aud. Transfer

STATE OF NORTH DAKOTA, } ss.
COUNTY OF CASS.
REGISTER'S OFFICE

I hereby certify that the above instrument was filed in this office for record on the 10 day of May A. D. 1956, at 2:00 o'clock P. M., and was duly recorded in Book T-2 of Miscl., Page 70

H. J. Friedman
REGISTER OF DEEDS.

By Deputy.

BOOK T-2 PAGE 73

R645-20
(2-55)

Chg C. C. A. Co. and Return to

ASS COUNTY ABSTRACT CO.
FARGO, N. D.

 BOOK T-2 PAGE 224

EXHIBIT 9

-2
53)

Contract Symbol No. 14-06-600-1802

Parcel No. S-2

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Fargo-Grand Forks Transmission Line

Contract and Grant of Easement

THIS CONTRACT, made this 17th day of April, 19 56, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, hereinafter referred to as United States, and Ellen Braasten and Olga Osborn, both single women, hereinafter collectively referred to as Vendor:

WITNESSETH:

The following grant and the following mutual covenants by and between the parties:

1. For the consideration hereinafter expressed Vendor does hereby grant unto the United States, its successors and assigns, the right, privilege and easement to construct, operate and maintain an electric transmission line, with all poles, cross arms, cables, wires, guys, supports, fixtures and devices, used or useful in the operation of said line, through, over and across the following-described land situated in the County of Cass, State of North Dakota, to-wit:

West Half of the Northwest Quarter, ($W\frac{1}{2}NW\frac{1}{4}$), Section Twenty-four (24), Township One Hundred Thirty-nine (139) North, Range Fifty (50) West, Fifth (5th) Principal Meridian.

Checked for Engineering Data 2-27-56

Engineer A. S. Dandlo

Parcel No. S-2

The center line of the route of said line of poles and wires to be erected across said lands shall be as follows:

Beginning at a point on the South line of the NW¼, of Sec. 24, T. 139 N., R. 50 W., 5th P.M. 628 feet Easterly from the West Quarter Corner of said Sec. 24, thence N.0°45'E., 2639 feet to a point on the North line of the Northwest Quarter of said Sec. 24, 659.5 feet Easterly from the Northwest Corner of said Sec. 24.

2. Said transmission line and every part thereof shall, where it crosses Vendor's land, be confined to lands within 37.5 feet left of, and 37.5 feet right of the hereinabove described center line, except that the United States shall have the right and privilege of placing and maintaining guys and anchorages at greater distances from said center line where reasonably necessary to support said transmission line.

3. The grant of easement herein contained shall include the right to enter upon said premises, survey, construct, maintain, operate, control and use said transmission line and to remove objects interfering therewith, and the right to permit the attachment of wires of others. Vendor reserves the right to cultivate, use and occupy said premises for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger any of the equipment of the United States or the use thereof. In case of permanent abandonment of said right-of-way, the title and interest herein granted shall end, cease and determine. The United States shall use due care in the construction and maintainance of said transmission line.

BOOK 7-2 PAGE 226

R645-2 (Sheet 3) (1-53)

4. The grant of easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, other electrical transmission lines and telegraph and telephone lines covering any part of the above-described land.

5. As complete consideration for the above grant of easement, the United States agrees to pay Vendor the sum of Four hundred ---------- ($400.00) WRM (~~$100.00~~).

O.O. E.B.

5. (a) The United States agrees to pay for all crop damage caused by and during the construction of said power line, said crop damage to be estimated by a qualified Bureau of Reclamation employee. On the date of execution and delivery of this conveyance there is none. E.B.
(fill in "no" or kind of crop and acreage)
crop on the land described herein.

6. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

UNITED STATES OF AMERICA

By John R. Walker
Acting Regional Director

Reviewed & Passed
Date 5-7-56
Off. of Field Sol.
Roy P. Allen
For the Field Sol.

Ellen Braasten
Olga Osborn

(Vendor)

STATE OF CONNECTICUT)
) SS. ACKNOWLEDGEMENT
COUNTY OF Fairfield)

On this 23rd day of April in the year 1956,

before me, _____, personally appeared

Ellen Braasten and Olga Osborn, both single women

known to me (~~or proved to me on the oath of~~ _____)

to be the person(s) whose name(s) ~~xx~~ (are) subscribed to the within instrument,

and acknowledged that ~~xxxxxxxxx~~ they) executed the same.

LOUIS G. SOLDERSTROM NOTARY PUBLIC NORWALK, CONN.

Louis G Soderstrom
Notary Public for the State of Connecticut
Residing at Norwalk, Connecticut
My commission expires April 1, 1957

DOCUMENT NO. 329727

FEES (Recording 2.00 chg.
Auto. Transfer _____

STATE OF NORTH DAKOTA }ss.
COUNTY OF CASS
REGISTER'S OFFICE

I hereby certify that the above instrument was filed in this office for record on the 16 day of May A.D. 1956 at 10:55 o'clock A.M. and was duly recorded in Book T-2 Page 224 of Mortgages.

REGISTER OF DEEDS
By Adna Warner Deputy

BOOK T-2 PAGE 227

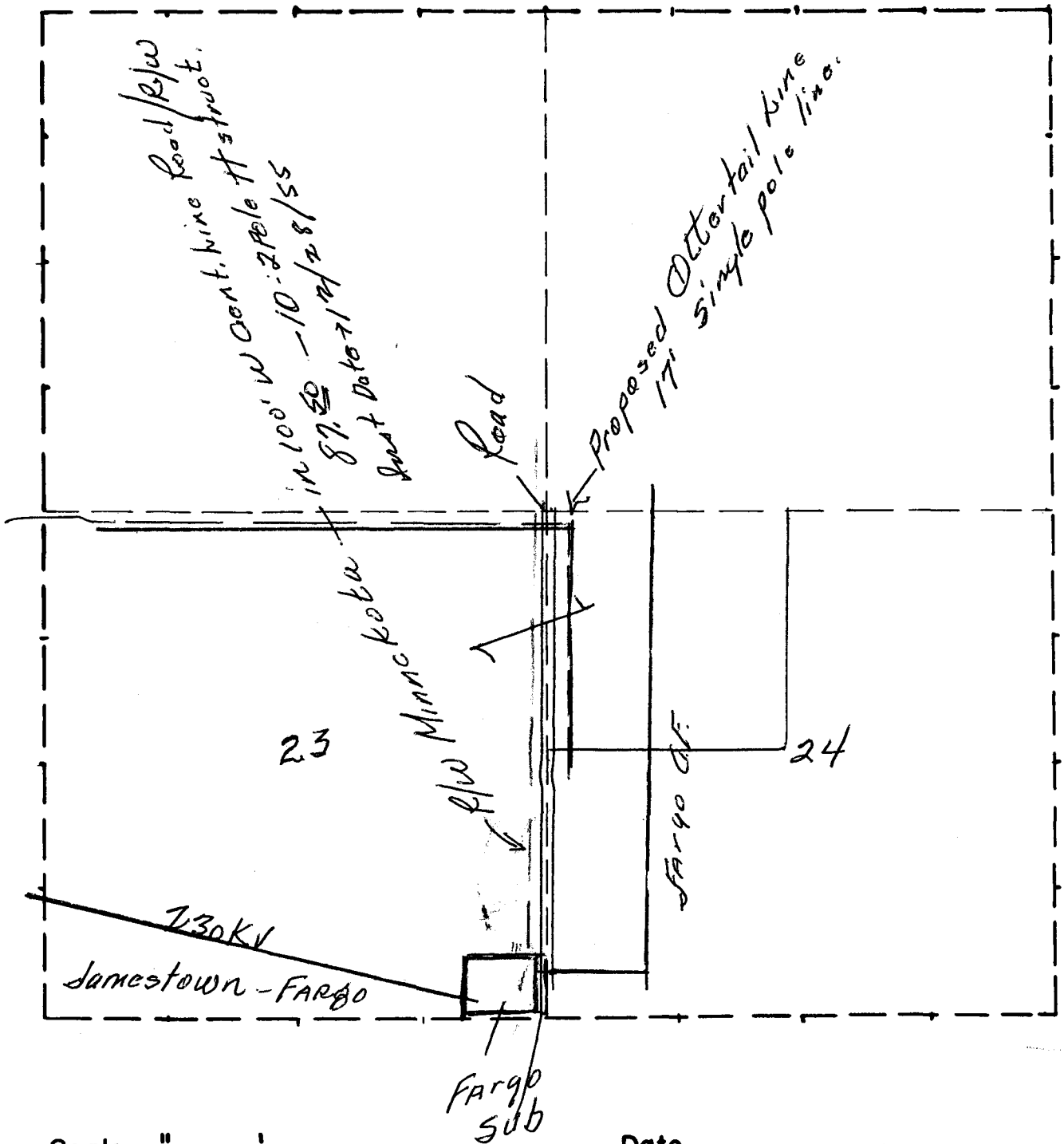
Chg to Rec
Rec'd Release

LA(11-53)

LAND PLAT

PARCEL NO_____ VENDOR _____

T.____N., R. ____,____P.M., Sec.__ _____ SHEET __ OF__



Scale__" = ____'

Date _____

Drawn By _____
Engineer

Board Packet 2022-01-03 Page 71 of 83

R645-2
(1-53)

WAPA

Contract Symbol No. 14-06-600-2171

Parcel No. T-3

EXHIBIT 10

25-139-50

NE¼ & SE¼

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Fargo-Granite Falls Transmission Line
Contract and Grant of Easement

THIS CONTRACT, made this 14th day of February, 1957, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, hereinafter referred to as United States, and Emil W. Hartman & Alta Hartman, his wife, Fargo, North Dakota, hereinafter collectively referred to as Vendor:

WITNESSETH:

The following grant and the following mutual covenants by and between the parties:

1. For the consideration hereinafter expressed Vendor does hereby grant unto the United States, its successors and assigns, the right, privilege and easement to construct, operate and maintain an electric transmission line, with all poles, cross arms, cables, wires, ~~guys~~, supports, fixtures and devices, used or useful in the operation of said line, through, over and across the following-described land situated in the County of Cass, State of North Dakota, to-wit:

Northeast Quarter of the Southeast Quarter ($NE\frac{1}{4}SE\frac{1}{4}$), Section Twenty-five (25), Township One Hundred Thirty-nine (139) North, Range Fifty (50) West, Fifth (5th) Principal Meridian.

Checked for Engineering Data 12-27-56

Engineer A. S. Dambly

BOOK W-2 PAGE 601

R645-2(Sheet2)
(1-53)

Parcel No. T-3

The center line of the route of said line of poles and wires to be erected across said lands shall be as follows:

Beginning at a point on the North line of the SE¼, of Sec. 25, T. 139 N., R. 50 W., 5th P.M., 38.8 feet westerly from the East Quarter Corner of said Sec. 25; thence S.58°26'E., 45.4 feet to a point on the East line of said Sec. 25, 2619.1 feet northerly from the Southeast Corner of said Sec. 25.

2. Said transmission line and every part thereof shall, where it crosses Vendor's land, be confined to lands within 62.5 feet left of, and 62.5 feet right of the hereinabove described center line, except that the United States shall have the right and privilege of placing and maintaining guys and anchorages at greater distances from said center line where reasonably necessary to support said transmission line.

3. The grant of easement herein contained shall include the right to enter upon said premises, survey, construct, maintain, operate, control and use said transmission line and to remove objects interfering therewith, and the right to permit the attachment of wires of others. Vendor reserves the right to cultivate, use and occupy said premises for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger any of the equipment of the United States or the use thereof. In case of permanent abandonment of said right-of-way, the title and interest herein granted shall end, cease and determine. The United States shall use due care in the construction and maintainance of said transmission line.

R645-2
(Sheet 3)
(1-53)

4. The grant of easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, other electrical transmission lines and telegraph and telephone lines covering any part of the above-described land.

5. As complete consideration for the above grant of easement, the United States agrees to pay Vendor the sum of twenty five dollars _____ ($25.00 _____).

5. (a) The United States agrees to pay for all crop damage caused by and during the construction of said power line, said crop damage to be estimated by a qualified Bureau of Reclamation employee. On the date of execution and delivery of this conveyance there is _____

_____
(fill in "no" or kind of crop and acreage)

crop on the land described herein.

6. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

Funds encumbered/~~obligated~~
by Projects Office letter
2/13/57 Date — $2500.00 Amount

Wayne W Whiteaanack
Acting Chief, Regional Land Acquisition Branch

Reviewed by Passed
Date 2-21-57
Off. of Field Sol.
For the Field Sol.

UNITED STATES OF AMERICA
By L W Bartsch
Acting Regional Director
Emil W Hartman
Alta Hartman

_____
_____
_____
(Vendor)

BOOK W-2-3- PAGE 603

BOOK W-2 PAGE 604

STATE OF No Dak)
) SS ACKNOWLEDGMENT
COUNTY OF Cass)

On this 14 day of Feb in the Year 1957,

before me, a Notary Public, personally appeared

Emil H. Hartman & Alta Hartman his wife

known to me to be the parties in & who

who executed the within instrument, and acknowledged to me that

they executed the same.

A. C. Kennedy
Notary Public for Cass Co
Residing at Fargo No Dak
My Commission expires Feb-3-1962

(SEAL)

A. C. KENNEDY
NOTARY PUBLIC
STATE OF NORTH DAKOTA

867538

DOCUMENT NO. 335768

FEES { Recording 2.00 chg.
Aud. Transfer

STATE OF NORTH DAKOTA } ss.
COUNTY OF CASS

REGISTER'S OFFICE

I hereby certify that the above instrument was filed in this office for record on the 8 day of March A. D. 1957, at 1 01 o'clock P M. and was duly recorded in Book W-2 of Deeds Page 601

Register of Deeds

By Edna Kramer Deputy

Chgd Rec

BASS COUNTY ABSTRACT CO.
BOX [illegible] N. D.

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EXHIBIT 11

R645-2
(1-53)

25-139-50

Contract Symbol No. 14-06-600-2221

Parcel No. T-2

of WAPA

North 1/2 NE1/4 / NW1/4

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Fargo-Granite Falls Transmission Line
Contract and Grant of Easement

THIS CONTRACT, made this ~~February~~ 13th. day of February, 1952, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, hereinafter referred to as United States, and Frank Parsley and Clara E. Parsley, his wife, of Mapleton North Dak., hereinafter collectively referred to as Vendor:

WITNESSETH:

The following grant and the following mutual covenants by and between the parties:

1. For the consideration hereinafter expressed Vendor does hereby grant unto the United States, its successors and assigns, the right, privilege and easement to construct, operate and maintain an electric transmission line, with all poles, cross arms, cables, wires, guys, supports, fixtures and devices, used or useful in the operation of said line, through, over and across the following-described land situated in the County of Cass, State of North Dakota, to-wit:

North Half ($N\frac{1}{2}$), Section Twenty-five (25), Township One Hundred Thirty-nine (139) North, Range Fifty (50) West, Fifth (5th) Principal Meridian.

Checked for Engineering Data 12-27-52

Engineer G. S. Dambly

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R645-2(Sheet2)
(1-53)

Parcel No. T-2

The center line of the route of said line of poles and wires to be erected across said lands shall be as follows:

Beginning at a point on the North line of Sec. 25, T. 139 N., R. 50 W., 5th P.M., 749.9 feet easterly from the Northwest corner of said Sec. 25; thence S.71°14'E., 329.2 feet; thence S.58°26'E., 4885.7 feet to a point on the South line of the N½, of said Sec. 25, 38.8 feet westerly from the East Quarter corner of said Sec. 25.

2. Said transmission line and every part thereof shall, where it crosses Vendor's land, be confined to lands within 62.5 feet left of, and 62.5 feet right of the hereinabove described center line, except that the United States shall have the right and privilege of placing and maintaining guys and anchorages at greater distances from said center line where reasonably necessary to support said transmission line.

3. The grant of easement herein contained shall include the right to enter upon said premises, survey, construct, maintain, operate, control and use said transmission line and to remove objects interfering therewith, and the right to permit the attachment of wires of others. Vendor reserves the right to cultivate, use and occupy said premises for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger any of the equipment of the United States or the use thereof. In case of permanent abandonment of said right-of-way, the title and interest herein granted shall end, cease and determine. The United States shall use due care in the construction and maintainance of said transmission line.

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(Sheet 3)
(1-53)

4. The grant of easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, other electrical transmission lines and telegraph and telephone lines covering any part of the above-described land.

5. As complete consideration for the above grant of easement, the United States agrees to pay Vendor the sum of one thousand eight hundred fifty dollars ($ 1,850.00).

5. (a) The United States agrees to pay for all crop damage caused by and during the construction of said power line, said crop damage to be estimated by a qualified Bureau of Reclamation employee. On the date of execution and delivery of this conveyance there is _____

_____
(fill in "no" or kind of crop and acreage)

crop on the land described herein.

6. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

Reviewed & Passed
Date 3-27-57
Off. of Field Sol.
For the Field Sol.

UNITED STATES OF AMERICA

By _____
Acting Regional Director

Funds encumbered/~~obligated~~
by Projects Office letter
2-13-57 $1850.00
Date Amount

Wayne Whitcomack
Acting Chief, Regional Land Acquisition Branch

Frank Parsley

Clara E. Parsley

_____

_____

_____
(Vendor)

STATE OF NORTH DAKOTA)
) SS ACKNOWLEDGMENT
COUNTY OF CASS)

On this 13th day of February in the Year 19 57,

before me, a Notary Public, personally appeared

Frank Parsley and Clara E. Parsley, his wife,

known to me to be the persons

who executed the within instrument, and acknowledged to me that

they executed the same.

Elmear Perkins
Notary Public for
Residing at
My Commission expires Dec. 14, 1961

(SEAL)

ELMEAR PERKINS,
Notary Public, CASS COUNTY, N. DAK.
My commission expires DEC. 14, 1961.

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(4-56)

DOCUMENT NO. 336474

FEES { Recording 2.00 chg
Aud. Transfer

STATE OF NORTH DAKOTA } ss.
COUNTY OF CASS
REGISTER'S OFFICE

I hereby certify that the above instrument was filed in this office for record on the 17 day of April A. D. 1957, at 1:37 o'clock P. M. and was duly recorded in Book 2-2 of Miscellaneous on Page 231

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REGISTER OF DEEDS
By Edna Kramer Deputy

Elmer & Rtn
Cass Abstract Co

EXHIBIT 12

PROJECT MAP

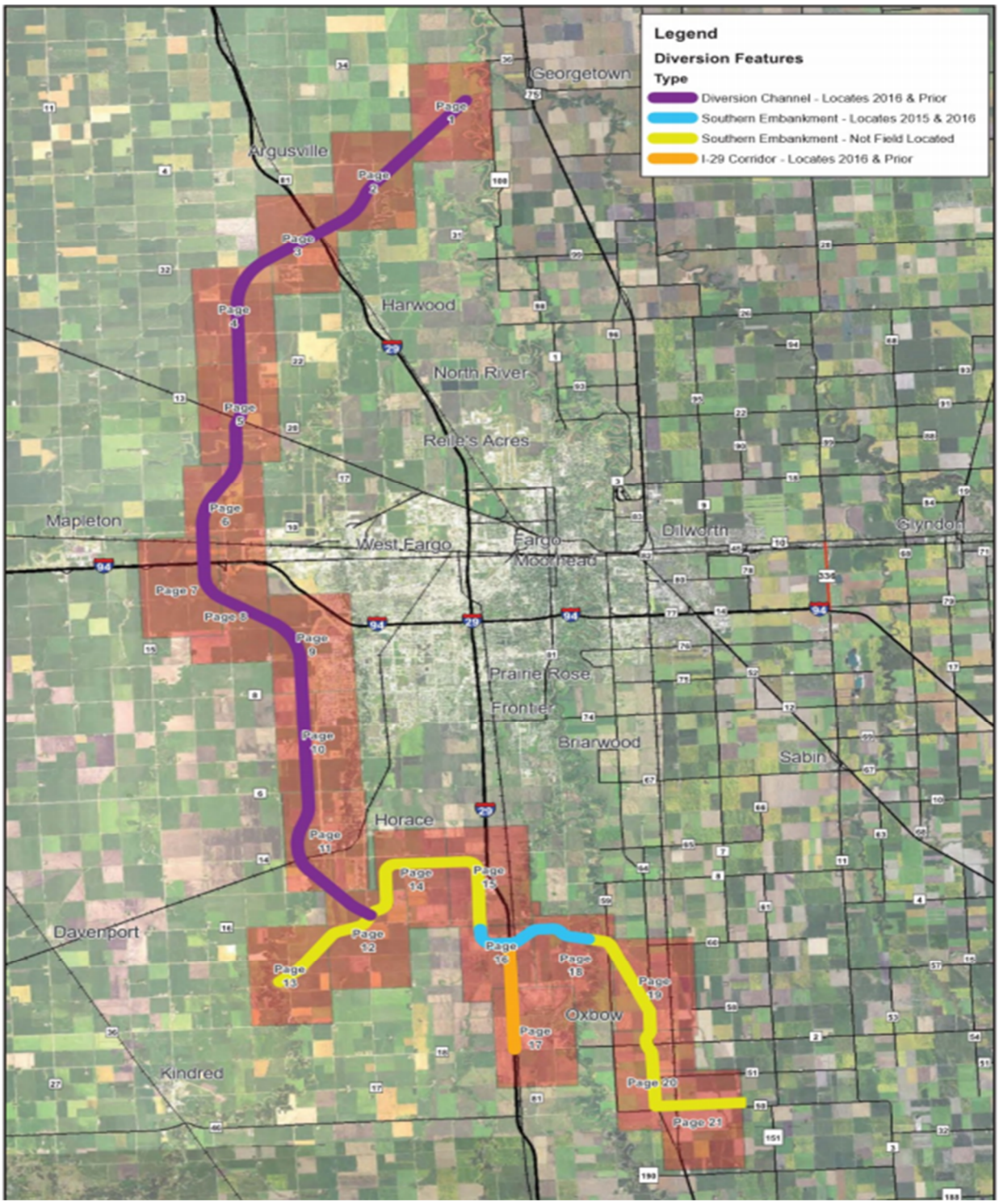

EXHIBIT 13

FEDERAL CERTIFICATION FORMS

CERTIFICATION REGARDING FEDERAL LOBBYING

The undersigned certifies to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in any award documents for any of its subcontractors at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into a contract with the Authority. By executing this certificate, the undersigned agrees and acknowledges that he/she has been duly authorized to execute this certificate.

Company/
Entity Name: _____

Signed: _____

Its: _____

Date: _____

PLEASE RETURN TO:

Metro Flood Diversion Authority
207 4th St. N, Suite A
Fargo, ND 58102

ASSURANCE OF COMPLIANCE – CIVIL RIGHTS CERTIFICATE

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, SECTION 504 OF THE REHABILITATION ACT OF 1973, THE AGE DISCRIMINATION ACT OF 1975, SECTION 13 OF THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972, 40 CFR PART 7, AND EXECUTIVE ORDER NO. 11246

The undersigned provides this assurance for the purpose of entering into a contract with the Metro Flood Diversion Authority (Authority) related to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (Project), which is receiving federal financial assistance. Specifically, the US EPA WIFIA Program requires this assurance of all contractors and subcontractors providing services for the Project.

The undersigned assures that it will comply with:

1. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, or national origin including limited English proficiency (LEP);
2. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against persons with disabilities;
3. The Age Discrimination Act of 1975, as amended, which prohibits age discrimination;
4. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex;
5. 40 CFR Part 7, as it relates to the foregoing; and
6. Executive Order No. 11246.

The undersigned understands that this Assurance is binding on the undersigned, its successors, transferees, and assignees at any time during which federal financial assistance is provided to the Project. The undersigned will ensure that all contractors, subcontractors, or others with whom it arranges to provide services or benefits are not discriminating in violation of items 1-6. Otherwise, the contracts for services can be terminated for cause and the undersigned can be declared ineligible to contract for the Project.

By signing this form, the undersigned is agreeing to the above provisions and that he/she is duly authorized to execute this form.

Signature of Authorized Official	Title
Print Name	Name of Institution or Agency
Date	Street
	City, State, Zip Code

PLEASE RETURN TO:

Metro Flood Diversion Authority
207 4th St. N, Suite A
Fargo, ND 58102

Office Email Address

American Iron and Steel (AIS) Certification

The following information is provided as a sample letter of certification for AIS compliance. Documentation must be provided on company letterhead.

Date
[Diversion Authority]

Subject: American Iron and Steel Certification for Project No. _____
Authority Work Package No. _____

To: [Authority Representative]

I, [company representative], certify and warrant that the following products and/or materials shipped/provided to Project No. _____ are in full compliance with the American Iron and Steel requirement as mandated in EPA's Water Infrastructure Finance and Innovation Act (WIFIA) Program.

Item, Products and/or Materials:

1. _____

2. _____

3. _____

Such process took place at the following location:

I understand and agree that EPA is a third party beneficiary to this certification and that I am duly authorized to give this certification on behalf of [Company Name]. If any of the above compliance statements change while providing material to this project, we will immediately notify the prime contractor and the engineer.

Signed [company representative]

PLEASE RETURN TO:
Metro Flood Diversion Authority
207 4th St. N, Suite A
Fargo, ND 58102