

Board Agenda - Revised



Diversion Board of Authority

August 24, 2023 @ 3:30 p.m. CST

This meeting will be in-person at Fargo City Hall Commission Chambers (225 4th St N, Fargo, ND 58102) and online.

1. Call to Order
 - a. Roll Call of Members
2. Approve minutes from July 24, 2023
[Attachment 00.01] (Pg. 3)
3. Approve Order of Agenda

CONSENT AGENDA – APPROVE THE FOLLOWING:

- a. Finance Report [Attachment 01.00] (Pg. 7)
- b. Voucher Approval [Attachment 02.00] (Pg. 27)
- c. 2023 Cash Budget Change Request [Attachment 03.00] (Pg. 39)
 - i. BCR – 017 for ACR-008 CRWUD 10-inch line under the SWDCAI [Attachment 03.01] (Pg. 41)
- d. DA Board Approval Contract Actions – None for Approval
- e. MOUs and Agreements [Attachment 04.00] (Pg. 42)
 - i. Cass Rural Water & MFDA SWDCAI MOU, Amendment 1 [Attachment 04.01] (Pg. 45)
 - ii. Cass County & MFDA 37-Foot Improvements MOU [Attachment 04.02] (Pg. 49)
 - iii. Cass County & MFDA Upstream Mitigation Area MOU [Attachment 04.03] (Pg. 75)
 - iv. Eagle Township Road Raise Agreements [Attachment 04.04] (Pg. 104)
 1. Eagle Township & MFDA 54th Street SE Road Raise Agreement [Attachment 04.05] (Pg. 111)
 2. Eagle Township & MFDA 174th Avenue SE Road Raise Agreement [Attachment 04.06] (Pg. 124)
 3. Eagle Township & MFDA 175th Avenue SE Road Raise Agreement [Attachment 04.07] (Pg. 137)

REGULAR AGENDA:

4. Executive Director Report
[Attachment 05.00] (Pg. 148)

5. General Counsel Update
 6. Construction Project Updates
 - a. USACE Project Update
[Attachment 06.00] (Pg. 150)
 - b. SWDCAI Project Update
[Attachment 07.00] (Pg. 152)
 - c. Drone Footage Video
 7. Communications Team Update
 8. Land Management Update
 - a. Property Acquisition Status Report
[Attachment 08.00] (Pg. 153)
 9. Finance Update
 - a. WP47C Recommendation to Award Bid
[Attachment 09.00] (Pg. 159)
 - b. WP47D Recommendation to Award Bid
[Attachment 10.00] (Pg. 162)
 - c. WP47E Recommendation to Award Bid
[Attachment 11.00] (Pg. 165)
 - d. Lands Budget Update
[Attachment 12.00] (Pg. 168)
 - e. RIMP Loan Budget Change Request
[Attachment 13.00] (Pg. 170)
 - f. Program Budget Variable Review
 10. Other Business
 - a. MFDA and City of Fargo SE-1B Borrow Site Agreement
[Attachment 14.00] (Pg. 173)
 11. Next Meeting: September 28, 2023
 12. Adjournment
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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](https://twitter.com/FMDiversion)



Metro Flood Diversion Authority Board of Authority Meeting Minutes

3:30 P.M. – July 27, 2023

City of Fargo Commission Chambers

A regular meeting of the Metro Flood Diversion Authority Board of Authority was held on July 27, 2023. The following members were present: Dr. Tim Mahoney, Mayor, City of Fargo; Bernie Dardis, Mayor, City of West Fargo; Shelly Carlson, Mayor, City of Moorhead; Chuck Hendrickson, Moorhead City Council; David Ebinger, Clay County Commissioner; John Strand, Fargo City Commissioner; Kevin Campbell, Clay County Commissioner; Mary Scherling, Cass County Commissioner; Tony Grindberg, Cass County Commissioner; Rodger Olson, Cass County Joint Water Resource District and Larry Seljevold, Moorhead City Council.

Member(s) absent: Chad Peterson, Cass County Commissioner and Dave Piepkorn, Fargo City Commissioner.

1. CALL TO ORDER

Mr. Campbell called the meeting to order at 3:30 PM. Roll call was taken, and a quorum was present.

2. APPROVE MINUTES FROM THE JUNE 2023 MEETING

MOTION PASSED

Mr. Grindberg moved to approve the minutes from the June 2023 meeting and Mayor Dardis seconded the motion. On a voice vote, the motion carried.

3. APPROVE ORDER OF AGENDA

MOTION PASSED

Mr. Hendrickson moved to approve the order of the agenda and Mr. Ebinger seconded the motion. On a voice vote, the motion carried.

CONSENT AGENDA

MOTION PASSED

Mayor Dardis moved to approve the Consent Agenda and Mr. Ebinger seconded the motion. On a roll call vote, the motion carried.

4. EXECUTIVE DIRECTOR REPORT

Mr. Nicholson provided the following updates:

Happenings

- Joel delivered testimony on the project to the U.S. Senate Committee on Environment and Public Works July 20
- Quarterly P3 meetings held with North American Construction Group hosting
- Preparing for USACE to turn DIS over to the MFDA in October

5. GENERAL COUNSEL UPDATE

Mr. Shockley did not have an update to report.

6. CONSTRUCTION PROJECT UPDATES

a. USACE Project Update

Ms. Williams provided the following USACE update:

1 Diversion Inlet Structure (DIS) – Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 95% complete. Construction completion date of 7 June 2023 delayed into August due to PT bar fix modification. Painting, riprap placement, seeding and addressing punchlist items ongoing. Schedule for remaining primary features:

2023: Complete operating machinery install, seeding.

2024: Turf established.

2 Wild Rice River Structure (WRRS) – Construction

Structure includes 2-40 ft. wide Tainter gates. Construction is 91% complete and remains on schedule.

The construction completion date is 3 December 2023. Constructing earthen dam/stability berm across old Wild Rice River channel and east dam bridge deck. Remaining schedule:

2023: Control building, dam embankment, seeding.

2024: Turf established.

3 I-29 Raise – Construction

Includes approximately 4 miles of interstate raise between County Roads 16 and 18. Construction is 78% complete. Borrow ditch bridges nearing completion. Traffic switch to new SB lanes pending.

Paving of the mainline raise to be complete Summer 2023.

4 Southern Embankment – Reach SE-1 (Western Tieback) - Construction

Construction was completed 10 November 2022. Partial turnover to the Diversion Authority for Operations and Maintenance occurred on 29 December 2022. O&M Manual will be provided for review late-July.

5 Red River Structure (RRS) - Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 24% complete. Construction completion date is 19 March 2026. Placement of stilling basin slabs nearly complete and prep for abutment placements ongoing.

6 Drain 27 Wetland Mitigation Project - Construction

Construction was completed 2 December 2022. Native plantings 5-year service contract was awarded 17 May 2023, with a completion date of 1 December 2027.

7 Drayton Dam Mitigation Project Design - Construction

Construction is 59% complete. Removal of the existing dam is ongoing. Construction completion is 30 September 2023.

8 Southern Embankment – Reach SE-2A - Construction

Construction is 27% complete. Contractor is making good progress; 112th Avenue permanently closed. Scheduled completion date is 30 September 2024.

9 Southern Embankment Design – All remaining reaches are being designed.

SE-1B: BCOES review Aug 2023 Contract award: February 2024

SE-2B: BCOES review complete 9 June 2023 Contract award: April 2024

SE-3: 65% review starts Aug 2023 Contract award: January 2025

SE-4: 65% review starts Aug 2023 Contract award: May 2024

SE-5: 65% review starts Aug 2023 Contract award: January 2025

OHB Reach 43B: 95% review starts July 2023 Contract award: February 2024

b. SWDCAI Project Update

Mr. Fuchs provided an update of the construction map that shows current work in progress, 30 and 60 day projected progress:

Design & Submittal Review Progress:

- Design Review Cycles, > 1,500 ea to date
- RFC Designs, 98 ea to date
 - 61 ea - Utility
 - 37 ea - Other

Construction Look Ahead:

- New Features Under Construction
 - Diversion Outlet
 - BNSF Hillsboro Subdivision
 - BNSF Prosper Subdivision
- 30 to 60 Day Outlook
 - Channel Reaches 4 thru 8
 - Drain 29 Inlet
 - Berlin and Raymond Township Drain Inlets
 - Drain 14C Inlet
 - CR-20, CR-10, 38th St and 52nd Ave Crossings

c. Drone Footage Video

A drone video highlighting the progress that has been achieved since June was viewed.

7. COMMUNICATIONS UPDATE

Ms. Willson provided the following Communications update:

Released Videos:

- Faces of the Diversion: crane operator
- Animated number comparisons
- July drone footage

New Visual Assets:

- Aerial imagery
- WRRS photography
- NACG capability photos
- Updated tour handout

8. LAND MANAGEMENT UPDATE

a. Property Acquisition Status Report

Ms. Smith provided the following property acquisition status report:

- 92.5% completion in the Construction Footprint
- 40.6% completion in the UMA Footprint
- 73.4% of the parcels in the Southern Embankment have been acquired
- 40.6% of the parcels in the Upstream Mitigation Area have been acquired
- 72.6% of the Environmental Easements have been signed
- 92.8% of the parcels in the Stormwater Diversion Channel have been acquired
- 97.4% of the Oxbow-Hickson-Bakke levee
- 100% MFDA constructed in-town levees and the Drayton Dam mitigation is completed

Key Activities:

- Continue negotiating settlement agreements for existing eminent domain actions
- In the last month, successfully closed 3 parcels / 2 landowners
- In the last month, agreement signed on 4 parcels / 3 landowners
- Batch #9 next steps letters and eminent domain filing authorization requested from CCJWRD for 11 property owners
- Focused on coordinating completion of appraisals for remaining property needs in UMA and Southern Embankment – focused on MN properties first, then ND
- Completed farmland leases for 2023

9. FINANCE UPDATE

Finance Report

Mayor Dardis reported that the current net position is \$175,032,376, the FY 2023 budget is \$233,798,782 and \$71,305,014 is the FY 2023 costs to date. A cash budget change request was approved to cover the AON insurance premium that was not anticipated to be due this year. Mayor Dardis also reported that the Cass County SWDCAI MOU was approved and the bid for WP47A was rejected.

MOTION PASSED

Mayor Dardis moved to reject the bid received for WP47A and Mr. Grindberg seconded the motion. On a roll call vote, the motion carried.

10. OTHER BUSINESS

There was no other business to report.

11. NEXT MEETING

The next meeting will be August 24, 2023.

12. ADJOURNMENT

The meeting adjourned at 3:58 PM.

FM Metropolitan Area Flood Risk Management Project
Statement of Net Position
July 31, 2023

	FM Diversion Project Fund	Budget Fund	Grand Total
Assets			
Cash	\$ 140,555,315	\$ 336,326	\$ 140,891,640
Cash Horace 3.01 MIT	4,454,618	-	4,454,618
Cash BRRWD	8,314,801	-	8,314,801
Cash Held In Trust at BND			
Excess Revenue Fund	219,110	-	219,110
Temp Debt Obligation Fund	288,791	-	288,791
Authority Loan Fund	65,755	-	65,755
P3 Reserve Fund	16,129,157	-	16,129,157
SRF Loan Reserve Fund	2,287,078	-	2,287,078
Revenue Fund	409	-	409
Prepaid Expense	523,862	-	523,862
Total assets	172,838,895	336,326	173,175,220
Liabilities			
Vouchers payable	465,488	-	465,488
Retainage payable	191,411	-	191,411
Rent Deposit	15,987	-	15,987
Deferred Revenue	11,500	-	11,500
Total liabilities	684,386	-	684,386
NET POSITION	\$ 172,154,509	\$ 336,326	\$ 172,490,834

Data Through Date: Friday, July 28, 2023

Summary Of Expenses
EXP-2023-07

Tuesday, August 15, 2023

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
770-7910-429.33-37	7/13/2023	328924	HighRoad Partners, LLC	\$700.00	JULY HR PARTNER FEES	V09701	HR SERVICES
Other Services / HR Services				\$700.00			
770-7910-429.34-15	7/13/2023	328952	Marco Technologies	\$2,577.72	DIVERSION IT SERVICES	V10301	SERVICE AGREEMENT - IT
	7/27/2023	329231	CONSOLIDATED COMMUNI	\$470.00	ACCT #701-150-0113/0	V00106	EXECUTIVE DIRECTOR
Technical Services / Computer Services				\$3,047.72			
770 Subtotal				\$3,747.72			
790-7910-429.33-20	7/13/2023	328883	EIDE BAILLY LLP	\$13,000.00	DIVERSION AUDIT SERVICES	V06404	2022 AUDIT
Other Services / Accounting Services				\$13,000.00			
790-7910-429.33-25	8/5/2023	1043	OHNSTAD TWICHELL PC	\$78,626.10	Ohnstad Twichell PC	V00102	General & Admin. WIK
Other Services / Legal Services				\$78,626.10			
790-7910-429.34-20	7/13/2023	328862	C THREE MEDIA, LLC	\$15,007.74	DIVERSION VIDEOGRAPHY SER	V08601	VIDEOGRAPHY
	7/13/2023	328862	C THREE MEDIA, LLC	\$1,930.07	VIDEOGRAPHY SERVICES	V08601	VIDEOGRAPHY
	7/20/2023	329150	Neon Loon Communications, LL	\$11,835.15	COMMUNICATIONS SUPPORT	V09601	COMMUNICATIONS SUPPORT
	7/27/2023	329222	C THREE MEDIA, LLC	\$7,489.17	VIDEOGRAPHY SERVICES	V08601	VIDEOGRAPHY
	7/27/2023	329284	Michael H Klein	\$675.00	COMMUNICATIONS SUPPORT	V07201	COMMUNICATION CONSULTING
Technical Services / Marketing / Public Relat.				\$36,937.13			
790-7910-429.34-40	7/13/2023	328897	Flint Group	\$900.00	DIVERSION WEBSITE DESIGN	V10201	WEBSITE DESIGN
Technical Services / Web Site Develop/Maintain				\$900.00			
790-7910-429.34-56	7/24/2023	ES07230	City of Fargo	\$16,974.00	FISCAL AGENT FEE - 07/23	V05902	MONTHLY FISCAL AGENT FEE
Technical Services / FMDA Fiscal Agent Fees				\$16,974.00			
790-7910-429.38-68	7/13/2023	328904	GA Group, PC	\$4,000.00	GOVT RELATIONS COUNSEL	V07601	2021 GOVERNMENT RELATIONS
Other Services / Lobbyist				\$4,000.00			
790-7910-429.42-05	7/20/2023	329049	Ambassador, Inc.	\$925.00	JULY DIVERSION CLEANING	V10501	JANITORIAL SERVICES
Cleaning Services / Custodial Services				\$925.00			
790-7910-429.54-40	7/27/2023	329259	FORUM COMMUNICATIONS	\$1,750.00	DIVERSION ADS	V11501	MARKETING SERVICES
Advertising / Other Advertising				\$1,750.00			

Summary Of Expenses
EXP-2023-07

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7915-429.33-05	7/13/2023	328845	AECOM	\$47,538.85	CULTURAL RESOURCES INVEST	V01004	SEAI CULTURAL RES INVEST
	7/13/2023	328926	HOUSTON-MOORE GROUP L	\$269,122.43	PROJECT MANAGEMENT	V01633	DESIGN & CONST. SUPPORT
	7/13/2023	328926	HOUSTON-MOORE GROUP L	\$143,108.69	PROJECT MANAGEMENT	V01634	H&H MITIG. & PERMIT SUPPO
Other Services / Engineering Services				\$459,769.97			
790-7920-429.33-05	7/13/2023	328926	HOUSTON-MOORE GROUP L	\$54,170.53	PROJECT MANAGEMENT	V01633	DESIGN & CONST. SUPPORT
	7/13/2023	328926	HOUSTON-MOORE GROUP L	\$21,347.00	PROJECT MANAGEMENT	V01634	H&H MITIG. & PERMIT SUPPO
Other Services / Engineering Services				\$75,517.53			
790-7920-429.33-79	7/13/2023	328867	CH2M Hill Engineers Inc	\$497,948.69	PROGRAM MGMT & SERVICES	V00211	CH2M HILL-6/2019-12/2021
	7/13/2023	328867	CH2M Hill Engineers Inc	\$550,215.32	SUPPORT SERVICES	V00212	P3 PROCUREMENT SUPPORT
Other Services / Construction Management				\$1,048,164.01			
790-7930-429.33-05	7/13/2023	328926	HOUSTON-MOORE GROUP L	\$19,419.86	PROJECT MANAGEMENT	V01633	DESIGN & CONST. SUPPORT
	7/13/2023	328926	HOUSTON-MOORE GROUP L	\$23,805.85	PROJECT MANAGEMENT	V01634	H&H MITIG. & PERMIT SUPPO
	7/27/2023	329208	ADVANCED ENGINEERING I	\$199,951.17	DIVERSION PROJECT	V00302	PROGRAM MGMT SERVICES
Other Services / Engineering Services				\$243,176.88			
790-7930-429.33-79	7/13/2023	328867	CH2M Hill Engineers Inc	\$37,139.74	PROPERTY ACQUISITION MGMT	V00210	CH2M HILL-LAND ACQUISITON
Other Services / Construction Management				\$37,139.74			
790-7930-429.38-95	7/13/2023	328937	JT LAWN SERVICE LLC	\$11,450.00	MOWING & WEED CONTROL	V10401	MOWING/WEED CONTROL MGM
Other Services / Mowing Services				\$11,450.00			
790-7930-429.52-70	7/20/2023	329201	Watts and Associates, Inc.	\$1,902.78	CROP LOSS PROGRAM	V06901	CROP INSURANCE DEVELOPMN
Insurance / Crop Insurance				\$1,902.78			
790-7930-429.62-51	7/27/2023	329226	Cass County Electric Cooperativ	\$113.00	ACCT #1184422 DIVERSION	V01701	ND LAND PURCH-OUT OF TOWN
Energy / Electricity				\$113.00			
790-7930-429.68-22	7/13/2023	328918	HARWOOD TOWNSHIP	\$2,364.00	LOST TAX REVENUE-DIVERSIO	V09001	LOST TAX REVENUE
Miscellaneous / Lost Tax Revenue				\$2,364.00			
790-7930-429.73-20	7/13/2023	328995	Schmidt and Sons Inc.	\$46,703.40	DIVERSION-PROPERTY STRUCT	V03805	WP50F-STRUCTURE MITIGATIO
	7/13/2023	328995	Schmidt and Sons Inc.	\$96,250.00	DIVERSION-PROP STRUCTURE	V03806	WP-50G PROP STRUCT MITIG
Infrastructure / Site Improvements				\$142,953.40			

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Summary Of Expenses
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Tuesday, August 15, 2023

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7931-429.33-05	8/3/2023	329406	Prosource Technologies, Inc	\$18,297.50	PROSOURCE TECHNOLOGIES	V06201	MCCJPA - MN ROE
	8/3/2023	329406	SRF Consulting Group	\$17,752.80	SRF CONSULTNG GROUP	V06201	MCCJPA - MN ROE
Other Services / Engineering Services				\$36,050.30			
790-7931-429.33-25	8/3/2023	329406	Minnesota Office of Administrati	\$147.00	STATE OF MINNESOTA	V06201	MCCJPA - MN ROE
	8/3/2023	329406	Minnesota Office of Administrati	\$49.00	STATE OF MINNESTOA	V06201	MCCJPA - MN ROE
Other Services / Legal Services				\$196.00			
790-7931-429.33-32	8/3/2023	329406	CROWN APPRAISALS	\$56,500.00	CROWN APPRAISALS, INC.	V06201	MCCJPA - MN ROE
Other Services / Appraisal Services				\$56,500.00			
790-7931-429.54-10	8/3/2023	329406	BARNESVILLE RECORD-RE	\$36.00	BARNESVILLE RECORD REVIEW	V06201	MCCJPA - MN ROE
Advertising / Legal Publications				\$36.00			
790-7931-429.62-51	8/3/2023	329406	RED RIVER VALLEY COOPE	\$51.94	RED RIVER VALLEY COOP	V02301	MN LAND PURCHASES
Energy / Electricity				\$51.94			
790-7931-429.71-31	8/3/2023	329406	1791N - MOORHEAD CLAY C	\$372,653.83	THE TITLE CO.	V02301	MN LAND PURCHASES
Land / Easements				\$372,653.83			
790-7931-429.73-20	7/13/2023	328995	Schmidt and Sons Inc.	\$12,960.00	DIVERSION-PROPERTY STRUCT	V03805	WP50F-STRUCTURE MITIGATIO
Infrastructure / Site Improvements				\$12,960.00			
790-7940-429.33-06	7/20/2023	329061	BRAUN INTERTEC CORP	\$8,653.42	MATERIALS TESTING	V00407	TASK ORDER #5
Other Services / Quality Testing				\$8,653.42			
790-7940-429.38-73	7/6/2023	328779	City of Horace	\$446,192.00	INFRASTRUCTURE FUND #1	V11601	HORACE 3.01 MIT
	7/6/2023	328779	City of Horace	\$255,648.00	INFRASTRUCTURE FUND #2	V11601	HORACE 3.01 MIT
Other Services / Economic Relief Fund				\$701,840.00			
790-7941-429.33-05	7/13/2023	328868	CLAY COUNTY AUDITOR	\$39,373.56	HIGHWAY RECONSTRUCTION	V08303	COMSTOCK HIGHWAY 2
Other Services / Engineering Services				\$39,373.56			
790-7941-429.73-59	7/13/2023	328868	CLAY COUNTY AUDITOR	\$196,475.13	HIGHWAY RECONSTRUCTION	V08303	COMSTOCK HIGHWAY 2
Infrastructure / Street & Roadway System				\$196,475.13			

Data Through Date: Friday, July 28, 2023

Summary Of Expenses
EXP-2023-07

Tuesday, August 15, 2023

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7950-429.33-05	7/13/2023	328926	HOUSTON-MOORE GROUP L	\$8,089.73	PROJECT MANAGEMENT	V01633	DESIGN & CONST. SUPPORT
	7/11/2023	ES07230	HOUSTON ENGINEERING IN	\$40,929.59	HOUSTON ENGINEERING INC	V05401	DEMOLITION/LEVEE-HARWOOD
	7/11/2023	ES07230	HOUSTON ENGINEERING IN	\$10,677.32	HOUSTON ENGINEERING INC	V05426	RR EROSION-UNIV & 52ND AV
	7/11/2023	ES07230	HOUSTON ENGINEERING IN	\$1,085.00	HOUSTON ENGINEERING INC	V05422	FLOOD MIT - NORTH SIDE
	7/11/2023	ES07230	HOUSTON ENGINEERING IN	\$29,025.25	HOUSTON ENGINEERING INC	V05419	STORM LIFT STATION #24
	7/11/2023	ES07230	HOUSTON ENGINEERING IN	\$928.00	HOUSTON ENGINEERING INC	V05410	FLOOD MIT-ELM CIRCLE AREA
	7/11/2023	ES07230	HOUSTON ENGINEERING IN	\$542.50	HOUSTON ENGINEERING INC	V05409	FLOOD MIT-WOODCREST DRIVE
	7/11/2023	ES07230	HOUSTON ENGINEERING IN	\$542.50	HOUSTON ENGINEERING INC	V05407	FLOOD MIT-RIVERWOOD ADDT
	7/11/2023	ES07230	HOUSTON ENGINEERING IN	\$3,786.00	HOUSTON ENGINEERING INC	V05408	FLOOD MIT-ROYAL OAKS AREA
Other Services / Engineering Services				\$95,605.89			
790-7950-429.33-06	7/20/2023	329061	BRAUN INTERTEC CORP	\$30,589.00	MATERIALS TESTING/OBSERVA	V00406	TASK ORDER #4
Other Services / Quality Testing				\$30,589.00			
790-7950-429.38-99	7/11/2023	ES07230	XCEL ENERGY-FARGO	\$141.33	XCEL ENERGY	V05409	FLOOD MIT-WOODCREST DRIVE
	7/11/2023	ES07230	XCEL ENERGY-FARGO	\$17.09	XCEL ENERGY	V05430	STORM LIFT IMPROVMNTS #15
Other Services / Other Services				\$158.42			
790-7950-429.80-12	7/11/2023	ES07230	City of Fargo	(\$2,918.63)	Cash receipt	V05418	FLOOD ACQUISITIONS
Debt Service / Special Assessment Princ.				(\$2,918.63)			
790-7951-429.73-70	7/13/2023	328990	RED RIVER VALLEY COOPE	\$37,874.32	NESS WO 18094	V10703	S EMBANK RE SE4-WO18094
	7/13/2023	328990	RED RIVER VALLEY COOPE	\$6,507.08	BYE WO 18092	V10704	S EMBANK SE4 - WO18092
	7/13/2023	328990	RED RIVER VALLEY COOPE	\$69,041.16	WALSTAD WO 18085	V10705	S EMBANK REACH SE4-WO1808
Infrastructure / Utilities				\$113,422.56			
790-7952-429.33-05	7/13/2023	328926	HOUSTON-MOORE GROUP L	\$10,781.33	PROJECT MANAGEMENT	V01633	DESIGN & CONST. SUPPORT
Other Services / Engineering Services				\$10,781.33			
790-7959-429.38-99	7/11/2023	ES07230	City of Fargo	\$89.54	P CARD BMO	V05431	STORM LIFT IMPR #47 & #48
	7/11/2023	ES07230	RED RIVER TITLE SERVICES	\$230.00	RED RIVER TITLE SERVICES	V05431	STORM LIFT IMPR #47 & #48
	7/11/2023	ES07230	Simplifile LC	\$23.25	SIMPLIFILE LC	V05431	STORM LIFT IMPR #47 & #48
Other Services / Other Services				\$342.79			

Data Through Date: Friday, July 28, 2023

Summary Of Expenses
EXP-2023-07

Tuesday, August 15, 2023

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7959-429.73-52	7/11/2023	ES07230	Rick Electric Inc	\$13,528.00	RICK ELECTRIC INC	V05406	DRAIN 27 LIFT STATION #56
Infrastructure / Flood Control				\$13,528.00			
790-7990-429.33-05	7/13/2023	328857	BNSF RAILWAY CO	\$1,096.98	ENG SERVICE AGREEMENT	V11101	PRELIMINARY ENGINEERING
	7/13/2023	328926	HOUSTON-MOORE GROUP L	\$45,973.10	PROJECT MANAGEMENT	V01633	DESIGN & CONST. SUPPORT
Other Services / Engineering Services				\$47,070.08			
790-7990-429.33-25	8/5/2023	1043	OHNSTAD TWICHELL PC	\$27,096.35	Ohnstad Twichell PC	V00102	General & Admin. WIK
Other Services / Legal Services				\$27,096.35			
790-7990-429.33-47	7/27/2023	329323	Program Advisor Services, LLC	\$37,344.00	PROGRAM CONSULTING	V05801	CONSULTING SERVICES
Other Services / Consulting Services				\$37,344.00			
790-7990-429.34-57	7/31/2023	17311	BANK OF NORTH DAKOTA	\$16,974.00	BND TRUSTEE FEE - 07/2023	V08502	MONTHLY TRUSTEE FEE
Technical Services / FMDA Trustee Fees BND				\$16,974.00			
790-7990-520.80-10	7/27/2023	ES07230	North Dakota Public Finance Au	\$4,161,000.00	6.1.2023 CFP DEBT PMT	V02824	COF - CFP BOND PAYMENTS
Debt Service / Bond Principal				\$4,161,000.00			
790-7990-520.80-20	7/27/2023	ES07230	North Dakota Public Finance Au	\$1,112,045.00	6.1.2023 CFP DEBT PMT	V02824	COF - CFP BOND PAYMENTS
Debt Service / Interest On Bonds				\$1,112,045.00			
790-7990-520.80-32	7/27/2023	ES07230	North Dakota Public Finance Au	\$300.00	6.1.2023 CFP DEBT PMT	V02824	COF - CFP BOND PAYMENTS
Debt Service / Paying Agent & Trustee				\$300.00			
790-7998-555.90-81	7/24/2023	ES07230	Diversion Admin Budget Transfe	\$0.00	ANNUAL ADMIN BDGT TRF-JUL	VADMIN	Diversion Administration
FMDA Admin. Budget Fund				\$0.00			
790 Subtotal				\$9,263,792.51			

Total Amount Invoiced this period:	\$9,267,540.23	
	\$0.00	Less Paid Retainage
	\$9,267,540.23	Total Less Paid Retainage

Data Through Date: Friday, July 28, 2023

Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
LAND PURCHASE	\$322,510,853.96	\$322,510,853.96	\$0.00	Land Purchase
CH2M HILL ENGINEERS INC	\$152,240,026.12	\$106,964,322.36	\$45,275,703.76	Project & Construction Management
HOUSTON-MOORE GROUP LLC	\$94,360,504.39	\$68,239,928.70	\$26,120,575.69	Engineering Services
INDUSTRIAL BUILDERS INC	\$61,948,238.33	\$61,390,334.64	\$557,903.69	2nd St N Pump Station Project and 2nd St Floodwall, South of Pu
ARMY CORP OF ENGINEERS	\$53,159,000.00	\$53,159,000.00	\$0.00	Local Share
NORTH DAKOTA PUBLIC FINANCE AUTHORIT	\$36,764,780.00	\$36,764,780.00	\$0.00	Debt Service
RICHLAND-WILKIN JPA	\$35,000,000.00	\$35,000,000.00	\$0.00	Economic Impact Relief Fund
OHNSTAD TWICHELL PC	\$19,902,693.47	\$19,902,693.47	\$0.00	Legal Services
MEYER CONTRACTING	\$19,244,280.80	\$19,244,280.80	\$0.00	WP-43CD and Gatewell - PVD & Surcharge Installation
INDUSTRIAL CONTRACT SERVICES INC	\$18,419,743.64	\$18,419,743.64	\$0.00	4th St Pump Station and 2nd Street Floodwall
KEY CONTRACTING INC	\$15,060,753.41	\$15,060,753.41	\$0.00	FM1413 - Oakcreek and Copperfield Court Levee
ADVANCED ENGINEERING INC	\$14,379,176.00	\$10,794,081.07	\$3,585,094.93	Lands Management and Public Outreach
WELLS FARGO	\$11,607,080.05	\$11,607,080.05	\$0.00	Debt Service
DORSEY & WHITNEY LLP	\$11,166,442.49	\$11,166,442.49	\$0.00	Legal Services
DAKOTA UNDERGROUND	\$11,141,625.69	\$11,141,625.69	\$0.00	Utility Relocation
LANDSCAPES UNLIMITED	\$11,007,612.78	\$11,007,612.78	\$0.00	Golf Course Construction - Oxbow Country Club
OKEEFE, OBRIAN, LYSON & FOSS LTD	\$9,962,512.68	\$9,962,512.68	\$0.00	FLDBUY - COF Flood Home Buyouts
CITY OF FARGO	\$7,290,158.86	\$7,284,520.11	\$5,638.75	Utility Relocation, Accounting Svcs, Interest on Deficit Funds
MOORE ENGINEERING INC	\$6,637,437.89	\$5,956,623.22	\$680,814.67	Engineering Services
ASHURST LLP	\$6,352,853.01	\$6,352,853.01	\$0.00	PPP Legal Counsel
SRF CONSULTING GROUP	\$6,065,866.44	\$2,657,938.18	\$3,407,928.26	Engineering Services
NUSTAR PIPELINE OPERATING PARTNERSHIP	\$5,836,208.35	\$5,819,359.23	\$16,849.12	Utility Relocation
AON RISK SERVICES CENTRAL INC	\$5,778,765.42	\$5,699,828.92	\$78,936.50	Risk Advisory Services P3 Pre-Award
ERNST & YOUNG	\$5,377,000.00	\$5,003,678.20	\$373,321.80	P3 Financial Advisory Services
CASS RURAL WATER	\$5,365,129.47	\$5,270,313.52	\$94,815.95	Utilities and Utility Relocation
BRAUN INTERTEC CORP	\$4,840,107.75	\$1,308,015.99	\$3,532,091.76	Materials Testing
HOUSTON ENGINEERING INC	\$4,484,868.16	\$4,484,868.16	\$0.00	Engineering Services

Data Through Date: Friday, July 28, 2023

Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
PROSOURCE TECHNOLOGIES, INC	\$4,298,291.71	\$3,121,288.22	\$1,177,003.49	Land Acquisition Services
RILEY BROS	\$3,656,841.67	\$3,656,841.67	\$0.00	Construction - OHB Ring Levee & WP-28A
MAGELLAN PIPELINE	\$3,607,000.00	\$2,852,375.85	\$754,624.15	Utility Relocation
CENTURYLINK COMMUNICATIONS	\$3,598,480.71	\$3,598,480.61	\$0.10	Utility Relocation
RED RIVER VALLEY & WESTERN RAILROAD C	\$3,589,388.46	\$3,589,388.46	\$0.00	Railroad Facilities and the Rail Property
CASS COUNTY GOVERNMENT	\$3,265,373.90	\$3,265,373.90	\$0.00	Gravel on County Rd 17 Bypass
CHS INC.	\$3,049,153.37	\$3,049,153.37	\$0.00	Purchase Agreement (DB-1011)
PLENARY AMERICAS USA LTD	\$3,000,000.00	\$3,000,000.00	\$0.00	Stipend Payment for P3 RFP
SELLIN BROS INC	\$2,814,909.59	\$2,814,909.59	\$0.00	Riverwood Flood Risk Project - Construction
MINNESOTA DNR	\$2,636,755.60	\$2,617,681.40	\$19,074.20	EIS Scoping and Permit Application
CROWN APPRAISALS	\$2,415,230.00	\$1,801,530.00	\$613,700.00	Flowage Easements Valuation and Appraisal Services
OXBOW, CITY OF	\$2,383,317.16	\$2,383,317.16	\$0.00	OXBOW MOU - LAND ADVANCE
LANDWEHR CONSTRUCTION INC	\$2,304,622.16	\$2,304,622.16	\$0.00	In-Town and WP-43 Demolition Contracts
SCHMIDT AND SONS INC.	\$2,283,070.60	\$1,958,417.76	\$324,652.84	Residential Demolition in Oxbow
CASS COUNTY ELECTRIC COOPERATIVE	\$2,258,037.44	\$1,473,874.94	\$784,162.50	Electrical Services
HDR ENGINEERING, INC.	\$2,192,783.68	\$1,672,248.21	\$520,535.47	Engineering Services
HOUGH INC	\$2,088,832.83	\$2,088,832.83	\$0.00	Construction WP-42F.2 and Oxbow River Intake & Pumping Syst
PROGRAM ADVISOR SERVICES, LLC	\$2,006,282.87	\$1,736,890.00	\$269,392.87	Program Consulting Services
URS CORPORATION	\$1,805,670.90	\$1,805,670.90	\$0.00	Cultural Resources Investigations
ULTEIG ENGINEERS INC	\$1,744,157.63	\$1,414,130.59	\$330,027.04	Land Acquisition Services
ACONEX (NORTH AMERICA) INC	\$1,670,793.92	\$1,207,471.01	\$463,322.91	Electronic Data Mgmt and Record Storage System
CASS COUNTY JOINT WATER RESOURCE DI	\$1,618,356.76	\$1,618,356.76	\$0.00	O/H/B Ring Levee, DPAC, Postage, Miscellaneous
REINER CONTRACTING INC	\$1,599,646.21	\$1,599,646.21	\$0.00	El Zagal Flood Risk Management
BNSF RAILWAY CO	\$1,597,425.00	\$1,556,034.76	\$41,390.24	Permits for In-Town Levee Projects
CASS COUNTY TREASURER	\$1,366,146.82	\$1,366,146.82	\$0.00	Property Taxes
UNITED STATES GEOLOGICAL SURVEY	\$1,332,840.00	\$281,365.00	\$1,051,475.00	Water Level Discharge Collection & Stage Gage Installation
AECOM	\$1,283,995.14	\$921,615.47	\$362,379.67	Cultural Resources Investigations

Data Through Date: Friday, July 28, 2023

Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
XCEL ENERGY-FARGO	\$1,251,192.49	\$1,204,592.49	\$46,600.00	Utility Relocation
US BANK	\$1,205,546.13	\$1,205,546.13	\$0.00	Loan Advance Debt Service Payments
CONSOLIDATED COMMUNICATIONS	\$1,077,837.97	\$1,077,837.97	\$0.00	Utility Relocation
KPH, INC.	\$1,025,640.12	\$1,025,640.12	\$0.00	WP-43D5 Construction
CLERK OF DISTRICT COURT	\$939,044.32	\$939,044.32	\$0.00	FLDBUY - COF Flood Home Buyouts
TERRACON CONSULTING ENGINEERS	\$887,718.41	\$887,718.41	\$0.00	Materials Testing
MINNKOTA POWER COOPERATIVE	\$840,269.48	\$565,269.48	\$275,000.00	Utility Relocation
COMPASS LAND CONSULTANTS, INC	\$804,820.00	\$627,389.43	\$177,430.57	Property Appraisal Services
MASTER CONSTRUCTION CO INC	\$739,364.30	\$739,364.30	\$0.00	Flood Mitigation - Royal Oaks Area - Construction
UNITED STATES ENVIRONMENTAL PROTECTI	\$736,686.35	\$736,686.35	\$0.00	WIFIA LOAN APPLCATION FEE
DAKOTA CARRIER NETWORK	\$727,348.58	\$727,348.58	\$0.00	Utility Relocation
CC STEEL, LLC	\$706,676.65	\$706,676.65	\$0.00	Lift Station Improvements
CITY OF HORACE	\$701,840.00	\$701,840.00	\$0.00	Infrastructure Fund
RED RIVER VALLEY ALLIANCE LLC	\$695,113.30	\$695,113.30	\$0.00	P3 Developer payments
ERIK R JOHNSON & ASSOCIATES	\$686,572.23	\$686,572.23	\$0.00	Legal Services
LARKIN HOFFMAN ATTORNEYS	\$684,192.78	\$684,192.78	\$0.00	Legal Services
PATCHIN MESSNER VALUATION COUNSELORS	\$675,025.00	\$418,433.75	\$256,591.25	Property Appraisal Services
METROPOLITAN COUNCIL OF GOVERNMENTS	\$637,390.01	\$637,390.01	\$0.00	Digital Aerial Photography
DUCKS UNLIMITED	\$587,180.00	\$587,180.00	\$0.00	Wetland Mitigation Credits
AT&T	\$586,269.60	\$586,269.60	\$0.00	Utility Relocation
LINNCO, INC.	\$534,003.11	\$534,003.11	\$0.00	House Demo and Removal
MIDCONTINENT COMMUNICATIONS	\$527,490.41	\$527,490.41	\$0.00	Utility Relocation
RED RIVER BASIN COMMISSION	\$501,000.00	\$501,000.00	\$0.00	Retention Projects - Engineering Services
HOFFMAN & MCNAMARA CO.	\$491,334.67	\$491,334.67	\$0.00	General Landscaping and Planting (WP-42G)
BUFFALO-RED RIVER WATERSHED DISTRICT	\$473,287.89	\$473,287.89	\$0.00	Retention Projects - Engineering Services
C THREE MEDIA, LLC	\$461,510.00	\$249,560.61	\$211,949.39	Videography Services
RED RIVER VALLEY COOPERATIVE ASSOC	\$450,511.11	\$450,511.11	\$0.00	Electricity - Home Buyouts

Data Through Date: Friday, July 28, 2023

Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
BANK OF NORTH DAKOTA	\$443,545.09	\$443,545.09	\$0.00	Legal review fees
ROBERT TRENT JONES	\$440,431.73	\$440,431.73	\$0.00	Oxbow MOU - Golf Course Consulting Agreement
NEON LOON COMMUNICATIONS, LLC	\$437,065.00	\$236,672.25	\$200,392.75	Communications Support
CLAY COUNTY AUDITOR	\$426,760.03	\$426,760.03	\$0.00	Property Taxes - MN
MBA	\$380,636.36	\$380,636.36	\$0.00	Golf course and pump house - Oxbow Country Club
BEAVER CREEK ARCHAEOLOGY	\$369,370.25	\$369,370.25	\$0.00	Engineering Services
NDSU BUSINESS OFFICE-BOX 6050	\$356,145.00	\$356,145.00	\$0.00	Ag Risk Study Services
WATTS AND ASSOCIATES, INC.	\$350,000.00	\$296,538.61	\$53,461.39	Crop insurance product development services
MVM CONTRACTING	\$339,448.03	\$339,448.03	\$0.00	Fiber Relocation
SWANSON HEALTH PRODUCTS, INC.	\$337,059.00	\$337,059.00	\$0.00	FM1471 - Storm Lift Stations #55 and #56 - Drain 27
INTEGRA REALTY RESOURCES	\$330,300.00	\$257,750.00	\$72,550.00	Property Appraisal Services
DFI BRIDGE CORPORATION	\$316,211.21	\$316,211.21	\$0.00	Bridge Construction - Oxbow Country Club
FEDERAL STEEL SUPPLY, INC.	\$307,378.00	\$307,378.00	\$0.00	OHB - 42 inch steel pipe
DIRT DYNAMICS	\$301,332.37	\$301,332.37	\$0.00	HD18A1 - Oakcreek, Copperfield & Univerisy - Demo
GARY KILLEBREW	\$279,500.00	\$279,500.00	\$0.00	Project Manager Services - Oxbow Country Club
TURMAN & LANG	\$277,139.55	\$277,139.55	\$0.00	Legal Services
MOODYS INVESTORS SERVICE, INC.	\$274,375.00	\$274,375.00	\$0.00	WIFIA loan fees
702 COMMUNICATIONS	\$266,892.07	\$266,892.07	\$0.00	Utility Relocation
SPRINT COMMUNICATIONS COMPANY L.P.	\$256,409.37	\$256,409.37	\$0.00	Fiber Optic Relocation for WP-43CD
FORUM COMMUNICATIONS	\$247,805.67	\$237,305.67	\$10,500.00	Advertising Services
PR FOR GOOD, INC	\$242,482.28	\$242,482.28	\$0.00	Communications Support Services
FREDRIKSON & BYRON, PA	\$241,881.28	\$241,881.28	\$0.00	Lobbying Services
NORTHERN IMPROVEMENT COMPANY	\$235,531.95	\$235,531.95	\$0.00	CR-17 asphalt paving
GRAY PANNELL & WOODWARD LLP	\$231,300.68	\$231,300.68	\$0.00	Legal Services
RICK ELECTRIC INC	\$229,799.50	\$229,799.50	\$0.00	Riverwood Flood Risk Project - Electrical
WILLIAM D. SCEPANIAC, INC.	\$226,235.21	\$226,235.21	\$0.00	ROADWAY RESHAPING & AGGREGATE SURFACING
PLEASANT TOWNSHIP	\$208,207.85	\$208,207.85	\$0.00	Building Permit Application

Data Through Date: Friday, July 28, 2023

Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
AMERICAN ENTERPRISES, INC.	\$200,281.00	\$200,281.00	\$0.00	Construction/Demolition
CITY OF OXBOW MOU	\$200,000.00	\$200,000.00	\$0.00	Oxbow Park Relocation MOU Amendment
DAWSON INSURANCE AGENCY	\$198,596.18	\$198,596.18	\$0.00	Property Insurance - Home Buyouts
EXECUTIVE MANAGEMENT SYSTEMS, INC.	\$196,763.96	\$196,763.96	\$0.00	Executive Coaching
MICHAEL H KLEIN	\$189,965.25	\$79,371.10	\$110,594.15	Communications Support
SERKLAND LAW FIRM	\$189,733.21	\$189,733.21	\$0.00	Legal services
MAPLETON, CITY OF	\$179,605.00	\$87,870.22	\$91,734.78	Prelim Engineering Services
SPRINGSTED INCORPORATED	\$178,010.15	\$178,010.15	\$0.00	Financial Advisor
KADRMAS LEE & JACKSON, INC.	\$176,164.00	\$176,164.00	\$0.00	Engineering Services
MUNICIPAL AIRPORT AUTHORITY	\$166,981.00	\$166,981.00	\$0.00	Easement for Airport
SOIL BORINGS	\$166,232.50	\$166,232.50	\$0.00	Soil Borings
GA GROUP, PC	\$156,229.32	\$136,229.32	\$20,000.00	Government Relations
PFM PUBLIC FINANCIAL MANAGEMENT	\$146,460.00	\$146,460.00	\$0.00	Financial Advisor
S&P GLOBAL RATINGS	\$145,625.00	\$145,625.00	\$0.00	Ratings Evaluation Service
DAILY NEWS	\$143,075.16	\$143,075.16	\$0.00	Advertising Services
CHAPMAN AND CUTLER	\$140,000.00	\$140,000.00	\$0.00	Legal Services
QUANTUM SPATIAL, INC.	\$139,061.35	\$139,061.35	\$0.00	Digital Aerial Photography
EIDE BAILLY LLP	\$131,643.25	\$94,643.25	\$37,000.00	Audit Services
JT LAWN SERVICE LLC	\$121,790.44	\$62,289.00	\$59,501.44	Mowing and weed control
SENTRY SECURITY, INC.	\$121,212.85	\$121,212.85	\$0.00	Security Services
AFFINITEXT INC	\$118,630.00	\$68,168.13	\$50,461.87	Document Management Services
ENVENTIS	\$115,685.62	\$115,685.62	\$0.00	Utility Relocation
GE BOCK REAL ESTATE, LLC	\$112,590.00	\$112,590.00	\$0.00	Property Appraisal Services
OXBOW COUNTRY CLUB	\$110,391.68	\$110,391.68	\$0.00	Golf Course - Oxbow
TINJUM APPRAISAL COMPANY, INC.	\$108,050.00	\$99,450.00	\$8,600.00	Property Appraisal Services
MAPLETON TOWNSHIP	\$108,030.00	\$108,030.00	\$0.00	Lost tax revenue and attorney fees
DAVID CLARDY	\$105,215.05	\$105,215.05	\$0.00	Home buyouts - easement

Data Through Date: Friday, July 28, 2023

Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
JORGE PAGAN	\$103,500.00	\$103,500.00	\$0.00	Appraisal services
136 Vendors	Report Totals: \$1,053,528,752.65	\$961,404,969.70	\$92,123,782.95	

METRO FLOOD DIVERSION AUTHORITY

Tuesday, August 15, 2023

Data Through Date: Friday, July 28, 2023

Parcel (OIN) Physical Location Summary

Project / Physical Location	Parcels	Acquired / Sold	Cancelled OIN's (HC)	PCT Acquired / Cancelled	Remaining OIN's	Cost To Date
BIOGEO	423	212	131	81%	80	\$1,097,231
BIOGEO	293	211	2	73%	80	\$325,546
HC	130	1	129	100%	0	\$771,685
CHANNEL	705	497	206	100%	2	\$100,687,477
ENV	1	0	0	0%	1	\$0
HC	227	21	206	100%	0	\$3,559,111
LAP01	134	134	0	100%	0	\$7,940,780
LAP02	102	101	0	99%	1	\$13,564,816
LAP03	84	84	0	100%	0	\$24,480,267
LEGACY	156	156	0	100%	0	\$51,141,254
SheyMit	1	1	0	100%	0	\$1,250
Habitat Improve	17	1	0	6%	16	\$2,000
Habitat_Shey	17	1	0	6%	16	\$2,000
MOBILITY	123	0	1	1%	122	\$0
DA_MOB37_MN	51	0	0	0%	51	\$0
DA_MOB37_ND	19	0	0	0%	19	\$0
DA_MOB38TH	52	0	0	0%	52	\$0
HC	1	0	1	100%	0	\$0
NA	7	0	7	100%	0	\$0
HC	7	0	7	100%	0	\$0
SEAILAND	403	323	34	89%	46	\$67,920,482
DRAIN 27	39	39	0	100%	0	\$14,298,047
HC	39	5	34	100%	0	\$458,806
LEGACY	80	80	0	100%	0	\$13,734,686
SE_I29	10	10	0	100%	0	\$4,363,860
SE-1	43	42	0	98%	1	\$6,504,787
SE-2A	13	13	0	100%	0	\$3,369,529
SE-2B	60	53	0	88%	7	\$12,055,659
SE-3	7	6	0	86%	1	\$25,000
SE-4	40	21	0	53%	19	\$3,849,688
SE-5	16	0	0	0%	16	\$2,750
SE-INLET	9	9	0	100%	0	\$2,952,107
SE-RRCS	37	37	0	100%	0	\$6,305,062
SE-WRCS	8	8	0	100%	0	\$0
UMA	2	0	0	0%	2	\$500

METRO FLOOD DIVERSION AUTHORITY

Tuesday, August 15, 2023

Data Through Date: Friday, July 28, 2023

Parcel (OIN) Physical Location Summary

Project / Physical Location	Parcels	Acquired / Sold	Cancelled OIN's (HC)	PCT Acquired / Cancelled	Remaining OIN's	Cost To Date
Sheyenne Mitigatio	3	0	0	0%	3	\$1,750
SheyMit	3	0	0	0%	3	\$1,750
WP36	2	0	0	0%	2	\$2,750
WRDAM	2	0	0	0%	2	\$2,750
WP38	1,024	235	352	57%	437	\$57,706,057
BIOGEO	2	2	0	100%	0	\$4,500
HC	356	4	352	100%	0	\$1,283,123
LEGACY	3	3	0	100%	0	\$750
UMA	571	226	0	40%	345	\$56,417,683
UMA-C	53	0	0	0%	53	\$0
UMA-W	39	0	0	0%	39	\$0
WP40	18	8	10	100%	0	\$48,923
DRAYTON	7	7	0	100%	0	\$48,923
HC	10	0	10	100%	0	\$0
LEGACY	1	1	0	100%	0	\$0
WP42	66	50	3	80%	13	\$37,850,061
HC	4	1	3	100%	0	\$0
LEGACY	6	6	0	100%	0	\$18,014,935
WP42	56	43	0	77%	13	\$19,835,126
WP43	267	120	147	100%	0	\$79,792,670
Non-OIN Hard Land Cost	0	0	0	0%	0	\$22,598,547
HC	147	1	146	100%	0	\$500
LEGACY	4	4	0	100%	0	\$2,422,914
WP43A	1	1	0	100%	0	\$0
WP43B	6	6	0	100%	0	\$1,927,138
WP43C	74	74	0	100%	0	\$45,142,769
WP43D	21	20	1	100%	0	\$6,437,831
WP43D5	5	5	0	100%	0	\$1,175,055
WP43G	9	9	0	100%	0	\$87,915
Totals	3,058	1,446	891	76%	721	\$345,109,401

FM Metropolitan Area Flood Risk Management Project
Lands Expense - Life To Date
As of July 31, 2023

Property Address	Purchase Date	Purchase Price	Earnest Deposit	Relocation Assistance	Sale Proceeds	Total
Commercial Relocations - Fargo		16,099,989.70	-	16,300,462.10	(1,100.00)	32,399,351.80
Home Buyouts - Fargo		3,044,054.89	-	521,417.80	-	3,565,472.69
Home Buyouts - Moorhead		495,809.91	-	84,060.80	(8,440.00)	571,430.71
Home Buyouts - Oxbow		29,678,181.97	-	17,142,531.46	(368,167.87)	46,452,545.56
Home Buyouts - Hickson		1,031,674.37	-	120,422.18	-	1,152,096.55
Home Buyouts - Horace		7,603,598.67	-	595,320.88	-	8,198,919.55
Home Buyouts - Argusville		215,030.91	-	6,912.57	-	221,943.48
Easements - Fargo		504,716.00	-	-	-	504,716.00
Easements - Hickson		500.00	-	-	-	500.00
Easements - Oxbow		55,500.00	-	-	-	55,500.00
Easements - Diversion Inlet Control Structure		4,234,581.90	-	-	-	4,234,581.90
Easements - Piezometer		259,765.00	-	-	-	259,765.00
Easements - Minesota		1,542,370.79	-	-	-	1,542,370.79
Farmland Purchases		276,829,660.26	-	5,109,571.44	(13,146,128.67)	142,038,557.32

**FM Metropolitan Area Flood Risk Management Project
Lands Expense - Life To Date
As of July 31, 2023**

Property Address	Purchase Date	Purchase Price	Earnest Deposit	Relocation Assistance	Sale Proceeds	Total
Land Purchases		145,769,043.24	-	2,563,701.41	(6,321,187.33)	142,038,557.32
<p>That part of the West Half of the Northwest Quarter of Section 27, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows: Commencing at the northwest corner of said Section 27; thence South 01°47'29" East, along the westerly line of said Northwest Quarter, for a distance of 100.00 feet to a point of intersection with the southerly line of the North 100.00 feet of said Northwest Quarter, and the true point of beginning; thence North 88°00'52" East, along the southerly line of the North 100.00 feet of said Northwest Quarter, for a distance of 102.21 feet; thence South 06°07'58" East for a distance of 789.44 feet; thence South 00°00'00" East for a distance of 315.92 feet; thence North 87°45'53" East for a distance of 1175.17 feet to a point of intersection with the easterly line of the West Half of said Northwest Quarter; thence South 01°48'55" East, along the easterly line of the West Half of said Northwest Quarter, for a distance of 1449.85 feet to the southeast corner of the West Half of said Northwest Quarter; thence South 87°56'58" West, along the southerly line of said Northwest Quarter for a distance of 1327.85 feet to the southwest corner of said Northwest Quarter; thence North 01°47'29" West, along the westerly line of said Northwest Quarter, for a distance of 2549.34 feet to the true point of beginning. Excepting therefrom the West 20.00 feet of the South 30.00 feet of the Southwest Quarter of said Northwest Quarter.</p>						
	6/29/2023	1,512,465.50				
<p>Auditor's Lot 1 of the Southwest Quarter (SW 1/4) in Section 8, Township 137 North of Range 49 West, of the Fifth Principal Meridian, said tract is also described as follows: Beginning at the Southwest section corner of said Section 8; thence North 0°00'00" East on the west section line of said Section 8 for a distance of 152.50 feet; thence South 89°56'56" East, parallel with the south section line of said Section 8 for a distance of 720 feet; thence South 00°00'00" East, parallel with West section line of said Section 8 for a distance of 152.50 feet; to the South section line of said Section 8; thence North 89°56'56" West on the south section line of said Section 8 for a distance of 720 feet to the point of beginning.</p>						
	6/29/2023	151,777.60				
N1/2 SE1/4 Sec 29 137N 48W, Holy Cross Twp, Clay County, MN	8/3/2023	372,653.83				
		341,595,434.37	-	39,880,699.23	(13,523,836.54)	367,952,297.06
				Property Management Expense		5,087,869.62
				Grand Total	\$	373,040,166.68

**FM Metropolitan Area Flood Risk Management Project
In-Town Levee Work
as of July 31, 2023**

Vcode #	Vendor Name	Descriptions	Contract Amount	Amount Paid
V02801	Industrial Builders	WP42.A2 - 2nd Street North Pump Station	\$ 8,696,548.46	\$ 8,696,548.46
V02802	Terracon Consulting	WP-42 (In Town Levees) Materials Testing	\$ 884,070.41	\$ 884,070.41
V02803	Consolidated Communications	2nd Street Utility Relocation	\$ 1,178,781.73	\$ 1,178,781.73
V02804	702 Communications	2nd Street Utility Relocation	\$ 266,892.07	\$ 266,892.07
V02805	ICS	WP-42A.1/A.3 - 4th St Pump Station & Gatewell and 2nd St Floodwall S	\$ 18,365,229.13	\$ 18,365,229.13
V02806	HMG	WP42 - Services During Construction	\$ 6,513,429.90	\$ 6,513,429.90
V02807	CCJWRD	In-Town Levee Work	\$ 3,756,545.64	\$ 3,756,545.64
V02808	City of Fargo	Relocation of fiber optic along 2nd Street North	\$ 397,906.52	\$ 397,906.52
V02809	AT & T	2nd Street Utility Relocation	\$ 586,269.60	\$ 586,269.60
V02811	Xcel Energy	2nd Street & 4th Street Utility Relocations	\$ 769,791.73	\$ 769,791.73
V02812	Industrial Builders	WP-42F.1S - 2nd Street North Floodwall, South of Pump Station	\$ 16,720,591.15	\$ 16,720,591.15
V02813	Landwehr Construction	Park East Apartments Demolition	\$ 1,169,651.74	\$ 1,169,651.74
V02814	Primoris Aevenia	2nd Street Utility Relocation	\$ 16,230.00	\$ 16,230.00
V02815	Centurylink Communications	2nd Street Utility Relocation	\$ 2,660,937.92	\$ 2,660,937.92
V02816	Landwehr Construction	WP-42C.1 - In-Town Levees 2nd Street/Downtown Area Demo	\$ 907,999.08	\$ 907,999.08
V02817	Reiner Contracting, Inc	WP-42H.2 - El Zagal Area Flood Risk Management	\$ 1,599,646.21	\$ 1,599,646.21
V02818	Industrial Builders	WP-42I.1 - Mickelson Levee Extension	\$ 738,880.50	\$ 738,880.50
V02819	Industrial Builders	WP42F.1N - 2nd Street North	\$ 13,362,906.82	\$ 13,362,906.82
V02820	CH2M Hill	WP42 - Construction Management Services	\$ 851,775.30	\$ 851,775.30
V02821	Hough Incorporated	WP42F.2 - 2nd Street South	\$ 1,639,524.33	\$ 1,639,524.33
V02822	City of Fargo	COF - 2016 O&M on Lifts	\$ 323,023.74	\$ 323,023.74
V02823	Hoffman & McNamara	WP-42G General Landscaping and Planting	\$ 491,334.67	\$ 491,334.67
V02824	City of Fargo	COF – In-Town Flood Protection Debt Payments	\$ 29,263,195.00	\$ 29,263,195.00
V01703	Various	In-Town Property Purchases	\$ 21,176,116.94	\$ 19,958,677.43
V02825	Industrial Builders	WP-42E - 2nd Street South and Main Avenue Flood Mitigation	\$ 8,632,103.73	\$ 8,632,103.73
V02826	City of Fargo	In-Town Levee Maintenance	\$ 8,823.82	\$ 8,823.82
V054XX	City of Fargo	In-Town Complementary Work - Reimbursements	\$ 39,289,243.78	\$ 39,289,243.78
			\$ 180,267,449.92	\$ 179,050,010.41

Legacy Bond Fund Balance Report
As of 07/31/2023

Total Authorized \$ 435,500,000.00

Current Allocation \$ 219,000,000.00

Available funds remaining \$ 142,272,461.04

Funds Requested				
	2021	2022	2023	Total
January	\$ -	\$ 2,942,906.60	\$ 9,981,188.76	\$ 12,924,095.36
February	\$ -	\$ 4,564,036.17	\$ 8,921,227.42	\$ 13,485,263.59
March	\$ -	\$ 5,302,899.35	\$ 17,730,945.56	\$ 23,033,844.91
April	\$ -	\$ 1,472,504.37	\$ 11,046,323.21	\$ 12,518,827.58
May	\$ -	\$ 1,450,140.38	\$ 4,548,883.57	\$ 5,999,023.95
June	\$ -	\$ 4,423,864.76	\$ 14,466,204.50	\$ 18,890,069.26
July	\$ -	\$ 2,663,992.40		\$ 2,663,992.40
August	\$ 5,059,974.19	\$ 13,491,974.29		\$ 18,551,948.48
September	\$ 2,970,327.95	\$ 8,406,666.33		\$ 11,376,994.28
October	\$ 6,089,707.34	\$ 4,618,116.80		\$ 10,707,824.14
November	\$ 6,415,461.09	\$ 11,768,061.46		\$ 18,183,522.55
December	\$ 6,854,966.95	\$ 17,496,559.97		\$ 24,351,526.92
Total	\$ 27,390,437.51	\$ 78,601,722.88	\$ 66,694,773.02	\$ 172,686,933.41

Funds Received				
May 2022	\$ 27,390,437.51			\$ 27,390,437.51
Jul 2022		\$ 12,809,842.12		\$ 12,809,842.12
Sep 2022		\$ 7,346,509.51		\$ 7,346,509.51
Dec 2022		\$ 29,180,749.82		\$ 29,180,749.82
Jan 2023			\$ 29,264,621.43	\$ 29,264,621.43
Apr 2023			\$ 18,902,416.18	\$ 18,902,416.18
			\$ -	\$ -
			\$ -	\$ -
Total	\$ 27,390,437.51	\$ 49,337,101.45	\$ 48,167,037.61	\$ 124,894,576.57

State Revolving Fund (SRF) Status Report
As of 07/31/2023

Total Authorized	\$	51,634,000.00
Funds Received to Date	\$	5,936,984.08
Available Balance Remaining	\$	45,697,015.92

Funds Requested			
Draw Request Number	Period Covered	Amount	Date Submitted
1	12-Aug through 17-Oct-2022	\$ 1,272,651.90	19-Dec-22
2	09-Dec through 16-Dec-2022	\$ 2,125,033.67	17-Jan-23
3	03-Feb through 10-Feb-2023	\$ 2,539,298.51	03-Apr-23
4	11-Feb through 30-Apr. 2023	\$ 1,571,027.21	25-Jul-23
Total		\$ 7,508,011.29	

Funds Received			
Draw Request Number	Period Covered	Amount	Date Received
1	12-Aug through 17-Oct-2022	\$ 1,272,651.90	23-Dec-22
2	09-Dec through 16-Dec-2022	\$ 2,125,033.67	10-Feb-23
3	03-Feb through 10-Feb-2023	\$ 2,539,298.51	21-Apr-23
4			
Total		\$ 5,936,984.08	

Finance Committee Bills from August 2023

Vendor	Description		
Cass County Joint Water Resource District	Diversion bills – Request #111 CCJWRD	\$	7,219,358.58
Clay County	Diversion bills – Request #32 MCCJPA	\$	2,328,182.49
Ohnstad Twichell, P.C.	Legal services rendered through July 21, 2023	\$	122,808.70
NuStar Pipeline	Reimburse utility relocation costs related to MOU	\$	40,072.63
Cass County	Reimburse misc expenses from Diversion Authority office	\$	8,743.08
City of Christine	Reimburse legal services related to MOU	\$	4,969.50
Total Bills Received through August 15, 2023		\$	<u>9,724,134.98</u>



Cass County
Joint Water
Resource
District

SENT VIA EMAIL

August 1, 2023

Rodger Olson
Chairman
Leonard, North Dakota

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

Ken Lougheed
Manager
Gardner, North Dakota

Greetings:

Keith Weston
Manager
Fargo, North Dakota

RE: Metro Flood Diversion Project
Oxbow-Hickson-Bakke Ring Levee Project

Jacob Gust
Manager
Fargo, North Dakota

Enclosed please find copies of bills totaling \$7,219,358.58 regarding the above referenced projects. The breakdown is as follows:

Rick Steen
Manager
Fargo, North Dakota

Metro Flood Diversion	\$7,183,755.58
Oxbow-Hickson-Bakke Ring Levee	35,603.00

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT

Carol Harbeke Lewis
Secretary-Treasurer

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

Enclosures

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

METRO FLOOD DIVERSION RIGHT OF ENTRY/LAND ACQUISITION COST SHARE INVOICES							8/1/2023
Invoice Paid	Invoice Date	Invoice No.	Project No.	Amount	Vendor	Description	
				41.06	Cass County Joint WRD	Postage on Diversion-related mailings	
				31.00	Cass County Joint WRD	Copies	
				101.30	Cass County Joint WRD	Postage on Flowage Easement letters	
7/2/2023	6/17/2023	Y93E24243		10.36	UPS	Diversion mailing	
7/14/2023	6/29/2023	189711	130007	18,802.80	Ohnstad Twichell, P.C.	Legal-Diversion Right of Way Acquisition	
7/14/2023	6/29/2023	189713	160007	574.00	Ohnstad Twichell, P.C.	Legal-Basin Project 2009-Inlet Structure	
7/14/2023	6/29/2023	189714	160007	585.00	Ohnstad Twichell, P.C.	Legal-Diversion Authority Agreement-Drains	
7/14/2023	6/29/2023	189715	160007	70.00	Ohnstad Twichell, P.C.	Legal-Channel Phase I	
7/14/2023	6/29/2023	189716	160007	1,058.00	Ohnstad Twichell, P.C.	Legal-Channel Phase II	
7/14/2023	6/29/2023	189717	160007	2,177.50	Ohnstad Twichell, P.C.	Legal-Channel Phase III	
7/14/2023	6/29/2023	189718	170007	41,974.22	Ohnstad Twichell, P.C.	Legal-Upstream Mitigation Area	
7/14/2023	6/29/2023	189719	187007	1,889.50	Ohnstad Twichell, P.C.	Legal-Diversion - Southern Embankment	
7/14/2023	6/29/2023	189720	197007	84.00	Ohnstad Twichell, P.C.	Legal-Western Tie Back	
7/14/2023	6/29/2023	189721	207007	308.00	Ohnstad Twichell, P.C.	Legal-I-29 Grade Raise	
7/14/2023	6/29/2023	189722	207007	448.00	Ohnstad Twichell, P.C.	Legal-Wetland Mitigation Drain 27	
7/14/2023	6/27/2023	34031	19706	1,200.00	Moore Engineering, Inc.	Engineering - MOU	
7/14/2023	6/27/2023	34032	19706	4,711.25	Moore Engineering, Inc.	Engineering - Task 2-P3 Legal Drain Inlet Technical Reviews	
7/14/2023	6/15/2023	ARIV1012555	R12.00049	12,014.50	Ulteig Engineers, Inc.	Task Order 2 - Proj Mgmt, ROW and relocation Services	
7/14/2023	5/31/2023	1606	3283-00	13,824.70	ProSource Technologies LLC	TO 2, Proj mgmt, Acquisition and relocation services	
7/14/2023	2/28/2023	4883		20,500.00	Crown Appraisals, Inc.	Task Order 6 Amendment 3 appraisals	
7/14/2023	4/28/2023	4912		2,500.00	Crown Appraisals, Inc.	Task Order 6 Amendment 3 appraisals	
7/14/2023	6/29/2023	23-4		6,550.00	Tinjum Appraisal Company, Inc.	Remaining due OIN 1885/9416 and OIN 9258	
7/14/2023	7/14/2023			4,045,125.04	The Title Company	Schultz property purchase	
7/14/2023	7/14/2023			2,000,310.00	The Title Company	Sauvageau Irrevocable Trust Flowage Easement	
7/14/2023	7/14/2023			640,855.00	The Title Company	Hiatt Flowage Easement	
7/14/2023	6/28/2023			55,287.60	Brett and Heidi Odegaard	Moving reimbursement for OIN 2014	
7/14/2023	6/30/2023			38,133.00	Terry and Kristi Sauvageau	moving reimbursement for OIN 1112/1113	
7/20/2023	7/13/2023			45,364.15	Schiele Enterprises Inc	Moving costs for OIN 8385	
7/20/2023	7/13/2023			2,700.32	Eric Score	Moving costs for OIN 8385	
7/14/2023	7/7/2023	266469B		50.00	The Title Company	Draw 3 Longtine RIMP Loan	
7/14/2023	7/14/2023			24,180.00	The Title Company	Jinadasa Flowage Easement	
7/18/2023				59.75	The Title Company	Witness closing fee for Sauvageau closing	
7/28/2023	7/11/2023	189889	207007	3,965.50	Ohnstad Twichell, P.C.	Legal-Gust (OIN 952) QTED	
7/28/2023	7/11/2023	189890	207007	2,551.50	Ohnstad Twichell, P.C.	Legal-Brandt RLT (OIN 9348) QTED	
7/28/2023	7/11/2023	189891	207007	210.00	Ohnstad Twichell, P.C.	Legal-Janet Wanzek Estate (OIN 8672-8675, 9747) QTED	
7/28/2023	7/11/2023	189892	207007	2,775.50	Ohnstad Twichell, P.C.	Legal-Libbrecht, Glen (OIN 698/9756-9759) QTED	
7/28/2023	7/11/2023	189893	207007	315.00	Ohnstad Twichell, P.C.	Legal-Brodshaug RLT (OIN 5008/1930/1932/1940-1941/8517-8518) QT	
7/28/2023	7/11/2023	189894	207007	25.00	Ohnstad Twichell, P.C.	Legal-Samuelson RLT (OIN 1181/1182) QTED	
7/28/2023	7/11/2023	189895	217007	346.50	Ohnstad Twichell, P.C.	Legal-Coster RET (OIN 9736-9737) QTED	
7/28/2023	7/11/2023	189896	217007	351.75	Ohnstad Twichell, P.C.	Legal-Richard Farms (OIN 1087/1093/1095/5002) QTED	
7/28/2023	7/11/2023	189897	227007	187.11	Ohnstad Twichell, P.C.	Legal-Ricker (OIN 872-876) ED	
7/28/2023	7/11/2023	189898	227007	418.98	Ohnstad Twichell, P.C.	Legal-Varriano (OIN 1130) ED	
7/28/2023	7/11/2023	189899	227007	325.62	Ohnstad Twichell, P.C.	Legal-Anderson (OIN 1896/2052) ED	
7/28/2023	7/11/2023	189900	227007	386.01	Ohnstad Twichell, P.C.	Legal-Brakke (OIN 1964) ED	
7/28/2023	7/11/2023	189901	227007	170.10	Ohnstad Twichell, P.C.	Legal-MKRM Trust (OIN 1997) ED	
7/28/2023	7/11/2023	189902	227007	414.81	Ohnstad Twichell, P.C.	Legal-Askegaard (OIN 2051) ED	
7/28/2023	7/11/2023	189903	227007	160.38	Ohnstad Twichell, P.C.	Legal-Cossette (OIN 2361) ED	
7/28/2023	7/11/2023	189904	227007	126.00	Ohnstad Twichell, P.C.	Legal-Emden Partners (OIN 836/232/5013) ED	
7/28/2023	7/11/2023	189905	227007	274.59	Ohnstad Twichell, P.C.	Legal-Brakke (OIN 845) ED	
7/28/2023	7/11/2023	189906	227007	294.03	Ohnstad Twichell, P.C.	Legal-Brakke Family (OIN 1938/1977/1978) ED	
7/28/2023	7/11/2023	189907	227007	286.38	Ohnstad Twichell, P.C.	Legal-Cossette (OIN 1946) ED	
7/28/2023	7/11/2023	189908	227007	191.97	Ohnstad Twichell, P.C.	Legal-Askegaard (OIN 1950/1963/1966) ED	
7/28/2023	7/11/2023	189909	227007	298.53	Ohnstad Twichell, P.C.	Legal-Brakke (OIN 1974/1976) ED	
7/28/2023	7/11/2023	189910	227007	170.10	Ohnstad Twichell, P.C.	Legal-Hertsgaard Family LLLP (OIN 2042) ED	
7/28/2023	7/11/2023	189911	237007	543.96	Ohnstad Twichell, P.C.	Legal-Erickson, Jeff (OIN 2025) ED	
7/28/2023	7/11/2023	189912	237007	1,082.00	Ohnstad Twichell, P.C.	Legal-K-F Farm Partnership (OIN 1996X/2001) ED	
7/28/2023	7/11/2023	189913	237007	385.83	Ohnstad Twichell, P.C.	Legal-Norberg (OIN 5023) ED	
7/28/2023	7/11/2023	189914	237007	283.95	Ohnstad Twichell, P.C.	Legal-Trottier (OIN 1958) ED	
7/28/2023	7/11/2023	189915	237007	94.50	Ohnstad Twichell, P.C.	Legal-Hanson, Ryan (OIN 1898) ED	

Invoice Paid	Invoice Date	Invoice No.	Project No.	Amount	Vendor	Description	
7/28/2023	7/11/2023	189916	237007	35.00	Ohnstad Twichell, P.C.	Legal-Loffelmacher (OIN 831) ED	
7/28/2023	7/11/2023	189917	237007	291.24	Ohnstad Twichell, P.C.	Legal-JRD Campbell Family Investment LLP (OIN 9404) ED	
7/28/2023	7/11/2023	189918	237007	291.24	Ohnstad Twichell, P.C.	Legal-KLF LLP (OIN 9347) ED	
7/28/2023	7/11/2023	189919	237007	126.00	Ohnstad Twichell, P.C.	Legal-Cossettes (OIN 1075) ED	
7/28/2023	7/11/2023	189920	237007	663.03	Ohnstad Twichell, P.C.	Legal-Bellemare (OIN 1080/1081) ED	
7/28/2023	7/11/2023	189921	237007	347.13	Ohnstad Twichell, P.C.	Legal-Ihle, Peter (OIN 1949) ED	
7/28/2023	7/11/2023	189922	237007	545.67	Ohnstad Twichell, P.C.	Legal-Johnson, Ted (OIN 9423) ED	
7/28/2023	7/11/2023	189923	237007	220.50	Ohnstad Twichell, P.C.	Legal-Brakken (OIN 1173N) ED	
7/28/2023	7/12/2023	823995	38810.00028	237.00	Larkin Hoffman Attorneys	Legal-Alm Flowage Easement	
7/28/2023	7/12/2023	824006	38810.00013	418.25	Larkin Hoffman Attorneys	Legal-Berg Flowage Easement	
7/28/2023	7/12/2023	824005	38810.00014	1,112.25	Larkin Hoffman Attorneys	Legal-Brungard/Nelson Flowage Easement	
7/28/2023	7/12/2023	823994	38810.00029	237.00	Larkin Hoffman Attorneys	Legal-Christianson Flowage Easement	
7/28/2023	7/12/2023	824008	38810.00007	1,896.00	Larkin Hoffman Attorneys	Legal-CCJT v Daniel Flaten	
7/28/2023	7/12/2023	823993	38810.0003	1,210.25	Larkin Hoffman Attorneys	Legal-HAJ Johnson Farm Properties Flowage Easement	
7/28/2023	7/12/2023	824007	38810.00012	158.00	Larkin Hoffman Attorneys	Legal-Hanson Flowage Easement	
7/28/2023	7/12/2023	824003	38810.00016	24.25	Larkin Hoffman Attorneys	Legal-Israelson, Gary and Nancy Flowage Easement	
7/28/2023	7/12/2023	824004	38810.00015	1,009.00	Larkin Hoffman Attorneys	Legal-Israelson Land Partnership LLLP Flowage Easement	
7/28/2023	7/12/2023	824002	38810.00018	1,349.25	Larkin Hoffman Attorneys	Legal-Kalinowski, Mathew and Stephanie Flowage Easement	
7/28/2023	7/12/2023	824001	38810.0002	60.00	Larkin Hoffman Attorneys	Legal-Kopp, Alan and June Flowage Easement	
7/28/2023	7/12/2023	823992	38810.00031	237.00	Larkin Hoffman Attorneys	Legal-CCJT v Larry and Susan Richard	
7/28/2023	7/12/2023	823999	38810.00023	164.25	Larkin Hoffman Attorneys	Legal-Nelson, Jeff and Char Flowage Easement	
7/28/2023	7/12/2023	824000	38810.00022	1,698.50	Larkin Hoffman Attorneys	Legal-Nelson Trusts Flowage Easement	
7/28/2023	7/12/2023	823998	38810.00024	2,184.25	Larkin Hoffman Attorneys	Legal-Ness Family Trust Flowage Easement	
7/28/2023	7/12/2023	823997	38810.00025	1,387.75	Larkin Hoffman Attorneys	Legal-Olson Leif and Danelle Flowage Easement	
7/28/2023	7/12/2023	823996	38810.00026	629.50	Larkin Hoffman Attorneys	Legal-Patrick Flowage Easement	
7/28/2023	7/12/2023	823991	38810.00043	790.00	Larkin Hoffman Attorneys	Legal-Penny Cirks	
7/28/2023	7/12/2023	824009	38810.00004	8,396.50	Larkin Hoffman Attorneys	Legal-Richland/Cass Cos/apps for Permit to Enter Land	
7/28/2023	7/12/2023	824011	38810.00001	15,128.50	Larkin Hoffman Attorneys	Legal-Acquisition of Property from Terry and Kristi Sauvageau	
7/28/2023	7/17/2023	1200540276		36,067.99	HDR Engineering Inc	TO 1 Property Acquisition Services	
7/28/2023	6/30/2023	13783.00-38		50,620.36	SRF Consulting Group, Inc.	Project mgmt, ROW Services and relocation services	
7/28/2023	7/13/2023	ARIV1013963	R12.00049.002	9,460.00	Ulteig Engineers, Inc.	Task Order 2 - Proj Mgmt, ROW and relocation Services	
7/28/2023	7/5/2023	1736	3283-00	11,899.09	ProSource Technologies LLC	Task Order 2 - Proj Mgmt, ROW and relocation Services	
7/28/2023	5/31/2023	4926		7,000.00	Crown Appraisals, Inc.	Task Order 6 Amendment 2 appraisal	
7/28/2023	7/5/2023	4937		10,000.00	Crown Appraisals, Inc.	Task Order 6 Amendment 3 appraisals	
7/28/2023	7/8/2023	2342		8,750.00	Karen Klein Mediation LLC	Mediation Terry and Kristi Sauvageau	
7/28/2023	6/26/2023	9431		500.00	Summerville Electric Inc	quote for RIMP Loan	
7/28/2023	7/14/2023			2,350.00	Claudia Mueller	Moving costs reimb for OIN 839	
7/28/2023	7/17/2023			7,399.65	Terry and Kristi Sauvageau	moving costs for OIN 1112/1113	
7/28/2023	7/21/2023			400.00	Eric Score	deposit return on OIN 8385	
7/28/2023	7/17/2023	264407		200.00	The Title Company	Set up Fee and draw 1 on Odegaard RIMP Loan	
7/28/2023	7/14/2023	1132078		45.17	Cass County Electric Cooperative	Service to 4701 124 Av S	
7/28/2023	7/14/2023	113241		60.36	Cass County Electric Cooperative	Service to 5251 174 1/2 AV SE	
			Total	7,183,755.58			
OXBOW-HICKSON-BAKKE RING LEVEE INVOICES							
Invoice Paid	Invoice Date	Invoice No.	Purchase Order No.	Project No.	Amount	Vendor	Description
7/14/2023	6/29/2023	189712		140007	1,103.00	Ohnstad Twichell, P.C.	legal-OHB Levee project
7/14/2023					19,500.00	Ray Kvalvog	temporary construction easement
7/14/2023					15,000.00	Ethan and Callie Sip	temporary construction easement
				Total	35,603.00		
				Grand Total	7,219,358.58		



COUNTY AUDITOR
LORI J. JOHNSON
Office Telephone (218) 299-5006

August 10, 2023
Diversion Authority
P.O. Box 2806
Fargo, ND 58108-2806

RE: Metro Flood Diversion Project

Greetings:

Attached to this email, please find a spreadsheet summary of invoices/expense and all documentation for invoices paid by Clay County for the FM Flood Diversion project. All requests were approved or authorized by the Diversion Authority. Current invoice/expense reimbursement request total is as follows:

Metro Flood Diversion	\$2,328,182.49
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We respectfully request 100% reimbursement as per the Joint Powers Agreement.

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

Sincerely,

Lori J. Johnson
Clay County Auditor

Enclosures

Clay County Government Center
3510 12th Ave S
PO Box 280
Moorhead, MN 56560

FM Diversion MCCJPA invoices

Processed

	Invoice		Invoice		Date			Reimb
Vendor	Date		Amount	Invoice #	Approved	Date Paid	Check #	Request
Barnesville Record Review	6/12/23	JPA mtg 6/12	\$48.00	6171	7/26/23	8/2/23	561696	8/10/2023
Brad & Wendy Buth		refund lease payment	\$1,237.50			8/9/23	114710	8/10/2023
Crown Appraisals, Inc.	7/5/23	prof svcs	\$22,500.00	4938	7/24/23	8/2/23	114633	8/10/2023
Crown Appraisals, Inc.	7/5/23	prof svcs	\$9,000.00	4927	7/24/23	8/2/23	114633	8/10/2023
Ohnstad Twichell	7/13/23	enviro monitoring	\$207.00	189934	7/24/23	8/2/23	561722	8/10/2023
Ohnstad Twichell	7/13/23	Upstream mitigation	\$34,348.00	189935	7/24/23	8/2/23	561722	8/10/2023
Ohnstad Twichell	7/13/23	Southern embankment	\$8,965.50	189936	7/24/23	8/2/23	561722	8/10/2023
Ohnstad Twichell	7/13/23	general 2023	\$7,319.90	189941	7/24/23	8/2/23	561722	8/10/2023
Ohnstad Twichell	7/13/23	relocation appeal kragerud	\$270.90	189937	7/24/23	8/2/23	561722	8/10/2023
Ohnstad Twichell	7/13/23	relocation appeal dubois & buth	\$543.90	189938	7/24/23	8/2/23	561722	8/10/2023
Ohnstad Twichell	7/13/23	relocation appeal buth	\$446.40	189939	7/24/23	8/2/23	561722	8/10/2023
Ohnstad Twichell	7/13/23	relocation appeal leech	\$270.90	189940	7/24/23	8/2/23	561722	8/10/2023
ProSource Technologies		prof svc thru 7/1/23	\$13,432.99	1783		7/26/23	561638	8/10/2023
Red River Valley Coop		svc 13689 3rd st s	\$51.94			7/12/23	561385	8/10/2023
SRF Consulting Group		prof svc thru 6/30/23	\$26,466.70	13820.00-33		7/26/23	561644	8/10/2023
The Title Co.		closing oin 1635,1655 buth	\$2,203,072.86			7/28/23	906893	8/10/2023

\$2,328,182.49

OHNSTAD TWICHELL, P.C.
Attorneys at Law

P.O Box 458
 West Fargo, ND 58078-0458
 701-282-3249

15-1395 JTS Invoice # 190458

Flood Diversion Board
 Bond Counsel Work - PPP

Date: August 11, 2023

To: Flood Diversion Board
 P.O Box 2806
 Fargo, ND 58108-2806

PROFESSIONAL SERVICES RENDERED			
	Hours	Rate	Totals
JTS	87.5	\$387.00	\$33,862.50
CMM	20.6	\$387.00	\$7,972.20
LDA	8.0	\$387.00	\$3,096.00
KJS	71.3	\$387.00	\$27,593.10
TJL	5.1	\$387.00	\$1,973.70
ABG	1.4	\$340.00	\$476.00
JRS	7.3	\$330.00	\$2,409.00
KJM	43.6	\$320.00	\$13,952.00
DCP	21.4	\$340.00	\$7,276.00
SJH	0.3	\$265.00	\$79.50
TJF	11.7	\$240.00	\$2,808.00
AJR	8.6	\$215.00	\$1,849.00
KK	4.3	\$195.00	\$838.50
TWS	11.1	\$200.00	\$2,220.00
MRH	3.4	\$195.00	\$663.00
KMM	2.4	\$100.00	\$240.00
Total Fees:	308.0		\$107,308.50
Monthly Credit Card Processing Fee			\$3,118.81
Abstracting Fees			\$650.00
NDRIN			\$70.00
Photocopies			\$138.60
Prof Service Fee Gwendolyn			\$10,250.00
Travel/Mileage			\$917.29
Copy Fee			\$2.00
Recording Fees			\$46.00
Filing Fee			\$300.00
Search Fee			\$7.50
Total Expenses:			\$15,500.20
Grand Total			\$122,808.70

	Rates
JTS John T. Shockley, Partner, Supervising Attorney	\$387.00
CMM Christopher M. McShane, Partner	\$387.00
ADC Andrew D. Cook, Partner	\$387.00
SNW Sarah M. Wear, Partner	\$387.00
LDA Lukas D. Andrud, Partner	\$387.00
RGH Robert G. Hoy, Partner	\$387.00
KJS Katie J. Schmidt, Partner	\$387.00
MWM Marshall W. McCullough, Partner	\$387.00
TJL Tyler J. Leverington, Partner	\$387.00
LWC Lukas W. Croaker, Partner	\$387.00
BTB Brent T. Boeddeker, Partner	\$387.00
JRS J.R. Strom, Associate	\$330.00
KJM Kathryn J. McNamara, Associate	\$320.00
LRC Leah R. Carlson, Associate	\$340.00
DCP David C. Piper, Associate	\$340.00
JAM Jenna A. McPherson, Associate	\$290.00
SJH Stephen J. Hilfer, Associate	\$265.00
TJF Tiffany J. Findlay, Associate	\$240.00
TJH Tatiana J. Hackman, Associate	\$240.00
KKW Katherine K. Wong, Associate	\$240.00
CAS Carol A. Stillwell, Paralegal	\$215.00
AJR Andrea J. Roman, Paralegal	\$215.00
CRD Christie R. Dettling, Paralegal	\$195.00
KK Kiara J. Klinkhammer, Paralegal	\$195.00
TWS Tim W. Steuber, Paralegal	\$200.00
MRH Meghan R. Hockert, Paralegal	\$195.00
ATW Amy T. White, Paralegal	\$195.00
CEB Claire E. Bruland, Paralegal	\$145.00
DLR Dena L. Ranum, Legal Administrative Assistant	\$170.00
KMM Karla M. Maertens, Legal Administrative Assistant	\$100.00

PROFESSIONAL SERVICES RENDERED

15-1395 JTS Invoice # 190458		Flood Diversion Board	Bond Counsel Work - PPP
FILE NUMBER	MATTER DESCRIPTION	INVOICE - TOTAL FEES	
151395-1	General Topics (Includes General Governance Questions, Notices, etc.)	\$30,268.30	
151395-5	Consultant Contract Review/Development	\$473.00	
151395-9	Environmental Permitting Issues/NEPA		
151395-11	Legislative Interface/Lobbying Support	\$77.40	
151395-12	USACE Interface/Questions	\$7,777.80	
151395-13	Third Party Utility MOU's	\$38,352.10	
151395-17	EPA WIFIA Loan	\$1,773.40	
151395-24	P3 Implementation	\$22,334.20	
151395-26	Appraisal Review	\$2,902.50	
151395-27	UMA/Utility Review	\$3,349.80	
TOTAL		\$107,308.50	

*exp only



NUSTAR PIPELINE OPERATING PARTNERSHIP, LP
 19003 IH-10 West
 SAN ANTONIO, TEXAS 78257

Date: 8/15/2023 Final Invoice
Terms: Net 30 Work 10/1/22 through 7/31/23

Invoice Number: CA_2023048
Code: AR Project

BILL TO: Metro Flood Diversion Authority
 207 4th Street, Suite A
 Fargo, North Dakota 58102

REMIT TO: NuStar Pipeline Operating Partnership, LP
 19003 IH-10 West
 San Antonio, TX 78257

Attn: Kris Bakkegard
bakkegardK@fmdiversion.gov
david.dillmann@sam.biz
APinvoicesFMDiv@ch2m.com

Or WIRE TRANSFER: Wells Fargo Bank N.A.
 ABA 121000248/ Swift WFBIUS6S
 NuStar Logistics, L.P.
 Acct. 4128966215

Description: CE_0002412 Fargo Diversion Channel Pipeline Relocation

Relocate two miles of 10" pipeline on the Jamestown to Moorehead segment to accomodate the future flood control channel being built by the Diversion Authority West of Fargo, ND.

Project Costs 10/1/22 through 7/31/23

Engineering	\$801.00
Permits/Consulting	\$374.00
Pipe, Valves, Fittings	\$38,897.63

Project Costs 10/1/22 through 7/31/23 **\$40,072.63**

Total due FINAL **\$40,072.63**

Previous Invoices

Billing #1 June 5, 2020	59,526.69
Billing #2 July 27, 2020	58,705.33
Billing #3 Sept. 25, 2020	192,961.15
Billing #4 Nov. 11, 2020	131,650.88
Billing #5 Sept 30, 2022	5,376,515.18

Please include a copy of the invoice with remittance.

Questions or Inquires regarding this invoice please call Carrie Mask at 210-918-5209

GL: Project #: CE_0002412 Non-customer	Date: 08/15/2023	Authorized by: <i>Carrie Mask</i>
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Postg Date	Per	Year	Cost element descr.	Purch.Doc.	WBS element	Inv No	Vendor	Inv Amt	Accr Tax	Total
11/3/2022	11	2022	Engineering	4501517019	CE_0002412.2D	1200472937	HDR ENGINEERING INC	801.00	-	801.00
10/5/2022	10	2022	Permits / Consulting	4501516814	CE_0002412.8D		152861 SWCA INCORPORATED	153.00	-	153.00
11/3/2022	11	2022	Permits / Consulting	4501516814	CE_0002412.8D		155060 SWCA INCORPORATED	221.00	-	221.00
3/14/2023	3	2023	Pipe, Valves, Fittings	4501546133	CE_0002412.11M		9606 NEW FRONTIER TECHNOLOGIES LLC	15,752.50	-	15,752.50
7/26/2023	7	2023	Pipe, Valves, Fittings	4501546133	CE_0002412.11C		9804 NEW FRONTIER TECHNOLOGIES LLC	21,890.99	-	21,890.99
7/26/2023	7	2023	Pipe, Valves, Fittings	4501549568	CE_0002412.11M		7121 MIDSTREAM VALVE PARTNERS LLC	1,254.14	-	1,254.14

Row Labels	Sum of Total	Final Total	40,072.63
Engineering	801.00		
Permits / Consulting	374.00		
Pipe, Valves, Fittings	38,897.63		
Grand Total	40,072.63		



INVOICE: INV002986

Date 08/08/2023
 Invoice account 198

CITY OF FARGO
 PO BOX 2083
 FARGO, ND 58107-2083

Description	Quantity	Unit price	Amount
FM DIVERSION PAYROLL EXPENSES	1.00	111,946.02	111,946.02
FM DIVERSION MISC EXPENSES	1.00	8,743.08	8,743.08

Sales subtotal amount	Total discount	Total charges	Net amount	Sales tax	Round-off	Currency	Total
120,689.10	0.00	0.00	120,689.10	0.00	0.00	USD	120,689.10

Due date 09/07/2023



Please detach and send this copy with remittance.

MAKE CHECK

PAYABLE TO:

Cass County Government
 211 9th Street South
 P.O Box 2806
 Fargo, ND 58108-2806

Invoice: **INV002986**

Date: 08/08/2023

Total: 120,689.10

Name: CITY OF FARGO

Account #: 198

Due date 09/07/2023

7/19/2023

City of Christine - SUMMARY OF INVOICING
Reimbursement Request #9
July 19, 2023

<u>Vendor</u>	<u>Invoice Date</u>	<u>Invoice #</u>	<u>Invoice Amount</u>
Swanson & Warcup	5/31/2023	10075	\$2,872.50
Swanson & Warcup	6/30/2023	10154	\$2,097.00
Total Swanson & Warcup			\$4,969.50
Lies, Bullis & Hatting			
Total Lies, Bullis & Hatting			\$0.00
Moore Engineering, Inc.	5/25/2023	33587	\$53,815.20
Moore Engineering, Inc.	6/27/2023	34018	\$17,858.75
Total Moore Engineering, Inc.			\$71,673.95
Total Invoiced This Reimbursement Request			\$76,643.45



Diversion Board of Authority Meeting

August 24, 2023

Budget Change Requests

Joel Paulsen

Budget Change Request

ACONEXWP46-CH2-FA-RFC-00001 Document Control No. WP46-CH2-FA-RFC-00001	Originator: D. Brown
Budget Change No. 017	Date: 17-August 2023
Title: Authority Change Request 008 (ACR-008) CRW 10" line	
Project: FM-Diversion	

The purpose of this form is for budget management by requesting approval to transfer program contingency budget to the current fiscal year; or make budget transfers within the fiscal year budget; or both.

Request Description:

This Budget Change Request (BCR) enables budget transfer from Work Package 43 OHB remaining levee construction now being performed by the USACE to Work Package 46 (WP-46) utility relocations and the P3 account. The WP-43 levee has a budget of \$15,161,522 which will be transferred to Work Package 46 and a portion of which (\$1,246,760.06) will be transferred to the P3 FY2023 budget. This is necessary in order to complete work defined under Authority Change Request 008 (ACR-008) which involves additional scope described as: "Design and construct a new water line crossing within the Project ROW perpendicular to and in the vicinity of centerline Sta. 1519+00 from Project ROW boundary to Project ROW boundary. This line shall be sized to connect to a new 10-inch PVC water line to be constructed by Cass Rural Water each direction outside the Project ROW".

Request Justification:

The Cass Rural Water (CRW) MOU scope of work technically falls under WP-46, however, due to the timing of work being performed in proximity of station 1519+00 by the Developer, it is necessary to include the CRW scope as described above. Payment will be made in two installments: Milestone 1 (Design) \$64,005.06 upon submission of RFC Documents and, Milestone 2 (Construction) \$1,182,755.00 following completion of the construction for a total payment of \$1,246,760.06. The FY2023 cash budget will be increased using reallocated program budget according from \$233,798,782 to \$235,045,542.

General Impacts:			Additional Information: This budget change request will require the creation of a new cost account DB-1010A to enable the transaction between the FMDA and the Developer to be kept separate from milestone payments and contingency accounts.
Authority Board Approval Required? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Contract Types <input type="checkbox"/> LS <input type="checkbox"/> TM <input checked="" type="checkbox"/> MOU <input checked="" type="checkbox"/> Task Order <input type="checkbox"/> N/A	Request Type <input type="checkbox"/> Project Initialization <input checked="" type="checkbox"/> Project Change <input type="checkbox"/> Contingency Release	
Change Impacts To: Scope/Technical <input type="checkbox"/> Direction <input checked="" type="checkbox"/> Schedule <input type="checkbox"/> Budget <input checked="" type="checkbox"/> Subcontract <input type="checkbox"/>			

Budget Request and Status					
	Program Budget			FY 2023 Budget	
	Cost Account	Amount		Cost Account	Amount
Current Authorization (SOURCE)	CN-6810 CN-4010	\$40,034,762 \$14,029,143		CN-4010 DB-1010A	\$2,237,270 \$0.00
Current Request (Net Change)	CN-6810 CN-4010	(\$15,161,522) \$15,161,522		CN-4010 DB-1010A	(\$1,246,760) \$1,246,760
Budget after Change	CN-6810 CN-4010	\$24,873,240 \$29,190,665		CN-4010 DB-1010A	\$990,510 \$1,246,760

Authorization Level	Approval / Concurrence	NOTE: Approval will be documented via ACONEX Workflow; or during Finance and Authority Board meetings		
5	Client – Joel Paulsen			
4	Program Manager			
3	Project Controls			
2	Contracts Manager			
1	Originator			



Diversion Board of Authority Meeting

August 24, 2023

MOU and Agreement Actions for Consideration
John Shockley

MFDA MOUs & Agreements (Action)

MOU Parties	Project	MOU or Agreement Cost and Summary
CRW & MFDA MOU – Amendment 1	SWDCAI	<p>This is Amendment 1 to the Cass Rural Water & MFDA MOU for the SWDCAI. The purpose of Amendment 1 addresses three (3) waterline relocation revisions that were not addressed in the original MOU.</p> <ol style="list-style-type: none"> 1. The location of a new 4" waterline that per the MOU is to be constructed from 37th St SE to 38th St SE. The line was originally to be adjacent to the east ROW of 166th Ave SE and is now proposed to be constructed adjacent to the west channel ROW. This is to accommodate a future Ducks Unlimited wildlife habitat south of Drain 14C. The preliminary cost estimate for the additional design and construction is approximately \$125,000. 2. Extension of the 6" waterline along the south side of I-94 from west of the channel to the west side of Drain 14. This approximately 2,000 LF of waterline replaces an exiting 1.5" line and was not in the original scope or work in the MOU. The preliminary cost estimate from the Developer for this work is \$483,000. 3. The 6-inch waterline that was originally to be placed under I-94 within the Project ROW is now proposed to be placed under the highway at a point 200 feet east of Drain 14. The preliminary cost estimate for design and construction is \$300,000.
Cass County & MFDA MOU for 37-Foot Improvements	37-Foot Projects	<p>The Cass County 37-foot Improvement MOU sets forth the roles and responsibilities for raises to County Road 31 on the north side of Fargo/Moorhead that will allow the road to remain passable during comprehensive project operation. Pursuant to the terms of the MOU, the County will be responsible for designing, bidding, and constructing the road raises, with oversight and approval from the Authority. The County will require its contractor to secure insurance for the work and to indemnify the Authority. The Authority is responsible for reimbursing the County for all salaries, services, and/or related costs and expenses for surveying, land acquisition, design, construction, construction material, utilities, and inspections for the road raises.</p>

MFDA MOUs & Agreements (Action)

MOU Parties	Project	MOU or Agreement Cost and Summary
Cass County & MFDA Upstream Mitigation Area MOU	UMA	<p>The Cass County UMA MOU describes coordination between the County and the Authority for the UMA prior to, during, and following comprehensive project operation. It outlines flowage easements granted by the County to allow for flooding on County-owned parcels during operation and sets forth the process the County and the Authority will follow to coordinate road closures and repairs and/or clean-ups following project operation. The Authority is responsible for reimbursing the County for repairs and/or clean-ups resulting from comprehensive project operation, following the review of quotes or bids for the work prior to completion.</p>
Eagle Township & MFDA Road Raise Agreements for 54 th Street, 174 th Avenue SE and 175 th Avenue SE	UMA	<p>The Eagle Township road raise agreements set forth the roles and responsibilities of the Township and the Authority for road raises to 54th Street SE, 174th Avenue SE, and 175th Avenue SE. The roads will be raised to allow them to remain passable until and through a 100-year flood event. Pursuant to the terms of the agreements, the Township is responsible for acquiring the property interests necessary for the road raises, and the Authority is designing, bidding, and constructing the road raises. The Authority will require its contractor to secure insurance for the work and to indemnify the Township. The Authority is responsible for reimbursing the Township for property acquisition, design reviews, and for spreading gravel on the road raises following completion, in addition to paying for design and construction. These estimated cost for all three (3) road raises is \$1,020,000.</p>

Amendment (First) to 2021 Memorandum of Understanding

This Amendment to the 2021 Memorandum of Understanding is entered into by the Metro Flood Diversion Authority (“Authority”), a North Dakota political subdivision, and Cass Rural Water Users District (“Cass Rural Water”), a North Dakota political subdivision.

Whereas, the Authority and Cass Rural Water entered into a Memorandum of Understanding dated as of November 18, 2021 (“MOU”), relating to a diversion channel and associated infrastructure for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project.

Whereas, pursuant to Section 13.10 (“Modifications”) of the MOU, the Authority and Cass Rural Water wish to amend the MOU’s Section 13.01(a) to account for the Authority’s change of address and the MOU’s Exhibit 51 to account for adjustments in the scope of work.

Therefore, in consideration of the mutual benefit to the Authority and Cass Rural Water and other valuable consideration, the sufficiency of which is acknowledged, the Authority and Cass Rural Water agree as follows:

1. Subsection “a” of Section 13.01 of the MOU is amended to state:
 - 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.
4784 Amber Valley Pkwy, Ste. 200
Fargo, North Dakota 58104

and

Metro Flood Diversion Authority
Attention: Executive Director
4784 Amber Valley Pkwy, Ste. 100
Fargo, North Dakota 58104

2. The MOU's Exhibit 51 is amended and replaced with the Exhibit 51 that is attached to this Amendment.
3. This Amendment 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 each party and delivered to the other party.
4. This Amendment is incorporated into a made a part of the MOU for all effects and purposes. Except as specifically set forth in this Amendment, all other terms and conditions of the MOU are hereby ratified and confirmed and remain in full force and effect.

IN WITNESS WHEREOF, the Authority and Cass Rural Water executed this Amendment and the dates set forth below.

METRO FLOOD DIVERSION AUTHORITY

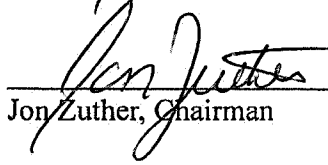
Dated: _____, 2023

BY: _____
Dr. Timothy J. Mahoney, Chair

BY: _____
Joel Paulsen, Executive Director

CASS RURAL WATER USERS DISTRICT

Dated: July 27, 2023

BY: 
Jon Zuther, Chairman

BY: 
Barry Bowman, Secretary/Treasurer

**EXHIBIT 51 (AMENDED)
UTILITY ADJUSTMENT SCOPE OF WORK**

Diversion Channel Station	Existing Crossing Type	Replace / Consolidate / Retire
55+00	1.5" line	Retire and remove
84+03	3" line	Replace with 6" line
153+81	1.5" line	Replace with 2" line
204+16	2" line	Retire and remove
304+98	1.5" line	Retire and remove, and connect building from 8" line at ST 309+20
309+20	6" line	Replace with 8" line
570+25	1.5" line	Replace with 2" line
677+85	1.5" line	Replace with 2" line
679+23	8" Line	Replace
679+32	12" line	Replace
851+00	8" line	Replace with 10" line
900+00	1.5" & 8" lines	Cap existing 1.5" line 5 feet east of the Utility's connection at its Account No. 102-030-0032 (the ND DOT weigh station west of I-94 Exit 342) and at the 8" main along 38 th St W.
905+00	1.5" & 8" lines	Retire and remove existing 1.5" line on south side of I-94 from the 8" main along 38 th St W. to a point 200 feet west of Drain 14. Replace with a 6" line from the 8" main along 38 th St W. to a point 200 feet west of Drain 14. Also install new 6" fused PVC line with appropriately sized steel casing pipe under I-94 200 feet east of Drain 14 to connect new 6" line on south side of I-94 to 1.5" line on north side of I-94.
962+00	1.5", 8" line	Retire and remove the existing 1.5" line from the 6" main at Reservoir Site D east of DA ROW to a point immediately west of the DA ROW. Connect the existing 1.5" line on the west side of DA ROW to a new 4" line in Utility's new easements immediately adjacent to the west channel ROW and running approximately 5,500 feet north to the new 6" PVC water main on the south side of 37 th St SE (I-94 frontage road). This new 4" line will cross under proposed Drain 14C.
978+00	6" line	Replace with 8" line
1119+00	6" line	Replace with 8" line
1171+00	6" line	Retire and remove
1198+00	8" line	Replace with 10" line
1331+00	6" Line	Replace with 8" line
1508+00	3" line	Retire and remove

MEMORANDUM OF UNDERSTANDING

**BY AND BETWEEN
METRO FLOOD DIVERSION AUTHORITY
AND
CASS COUNTY, NORTH DAKOTA**

Dated as of _____, 2023

Relating to:

A Memorandum of Understanding outlining respective roles and responsibilities for the design and construction of Road Raises in conjunction with the Fargo-Moorhead Metropolitan Area Flood Risk Management Project.

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

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SIGNATURE PAGESS-1 THROUGH S-2

- EXHIBIT A – PROJECT IMPACTS MAP**
- EXHIBIT B – IMPACTED ROADS**
- EXHIBIT C – RECONSTRUCTION STANDARDS**
- EXHIBIT D – DEVELOPMENT PLAN SUMMARY SHEET**

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (hereinafter the “MOU”) is made and entered into this ____ day of _____, 2023 (the “Effective Date”), by and between METRO FLOOD DIVERSION AUTHORITY, a political subdivision of the State of North Dakota (the “Authority”), and CASS COUNTY, NORTH DAKOTA, a political subdivision and home rule county of the State of North Dakota (the “County”).

WHEREAS, the Authority is the local entity responsible for delivering the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the “Comprehensive Project”); and

WHEREAS, when the Comprehensive Project is operating, the Authority will allow a flow of thirty-seven (37) feet of floodwater to pass through the USGS gage at Fargo, between the Cities of Fargo and Moorhead (hereinafter the “In-town Water”); and

WHEREAS, the County has jurisdiction over roads north of Fargo that may be inundated by the In-town Water during operation of the Comprehensive Project; and

WHEREAS, due to potential impacts from operation of the Comprehensive Project, road raises need to be constructed on those segments of the County’s roads identified on Exhibit B that may be impacted (the “Impacted Roads”); and

WHEREAS, the Authority and the County now desire to enter into this MOU to set forth their respective roles and responsibilities for the Road Raises.

NOW THEREFORE, in consideration of the mutual covenants made herein and for other valuable consideration, the receipt of which is hereby acknowledged, the Authority and the County agree as follows:

ARTICLE I. DEFINITIONS AND INTERPRETATION

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

“100-Year Flood Event” means the flood event that has a one percent (1%) chance of being met or exceeded in any year. The 100-Year Flood Event is used to establish the regulatory floodplain boundary for the Comprehensive Project. The regulatory floodplain boundary will be updated when the Comprehensive Project is completed within an area referred to as the Revision Reach.

“Applicable Law” means, collectively, the Constitutions of the United States and of the State of North Dakota, all common law and principles of equity, and all Federal, State, and local laws including, without limitation, all environmental laws, statutes, treaties, codes, acts, rules, regulations, guidelines, ordinances, resolutions, orders, judgments, decrees, injunctions, and administrative or judicial precedents or authorities, including the interpretation or administration

thereof by any governmental authority charged with enforcement, interpretation, or administration, all governmental approvals, and all administrative orders, awards, directed duties, requests, licenses, certificates, authorizations, and permits of, and agreements with, any governmental authority and, with respect to any Person, the articles of incorporation, bylaws, or other organizational or governing documents, in each case whether or not having the force of law, that are applicable now or are applicable at any time to the Authority, the County, or the work described herein.

“Assignment” means the transfer and acceptance of the roles and responsibilities of a Party under this MOU to a third party.

“Authority” means the Metro Flood Diversion Authority, a political subdivision of the State of North Dakota.

“Authority Representative” means the individual identified in Section 14.06.

“Business Day” means any day that is not a Saturday, a Sunday, or a federal public holiday.

“Capital Improvement Plan” means the plan of the County for capital infrastructure improvements, including any Road Raises, to be completed within the jurisdiction of the County during the County’s subsequent fiscal year.

“Change Order” means a document that is signed by a Contractor and the County and authorizes an addition, deletion, or revision in the work or an adjustment in the contract price or contract times, or other revisions to the contract, issued on or after the effective date of the contract.

“Comprehensive Project” means the Fargo-Moorhead Metropolitan Area Flood Risk Management Project authorized by Section 7002(2) of the Water Resources Reform and Development Act of 2014, as generally described in the Final Feasibility Report and Environmental Impact Statement, Fargo Moorhead Metropolitan Area Flood Risk Management, dated July 2011 and approved in accordance with the Chief’s Report, as amended by the Supplemental Environmental Assessment, Fargo-Moorhead Metropolitan Area Flood Risk Management Project, dated September 2013 and approved by the U.S. Army Engineer, St. Paul, on September 19, 2013, and as amended by the Second Supplemental Environmental Assessment dated August 27, 2018 (2018 SEA), and the Engineering Documentation Report, Fargo-Moorhead Metropolitan Area Flood Risk Management Project, ND and MN, Modifications Through February 2019.

“Comprehensive Project Operation” means operation by the Authority of the Red River Control Structure or the Wild Rice River Control Structure to restrict flow into the Fargo-Moorhead metropolitan area.

“Contractor” means the individual or entity with which the County has contracted for performance of the work.

“County” means Cass County, North Dakota, a political subdivision and home rule county of the State of North Dakota.

“County Representative” means the individual identified in Section 14.06.

“Development Plan Summary Sheet” means as defined in Section 2.02 hereof.

“Diversion Authority Board” means the governing body of the Authority.

“Effective Date” means the date on which both Parties have executed this MOU.

“Engineering Consultant” means any engineering firm hired by the County to serve as the County’s engineer of record.

“Engineering Staff” means a County employee who has been designated as the County’s engineer.

“Estimated Total Project Cost” means an estimate of all costs attributed to the design and construction of the Road Raise including surveying, geotechnical investigations, utility relocations, mapping, property acquisition, legal and administrative services, design, construction, construction management, and construction inspections.

“Executive Director” means the chief administrative officer of the Authority as set forth in the Joint Powers Agreement.

“FEMA” means the Federal Emergency Management Agency.

“Final Design” means the design has reached ninety-five percent (95%) completion as determined by the County.

“Finance Committee” means a committee of the Authority created for the purpose of providing policy recommendations regarding the management of the financial aspects of the Authority and financial expenditures of the Comprehensive Project.

“Fiscal Year” means one year beginning on January 1 and ending December 31 of each and every year of the Joint Powers Agreement.

“Good Faith” means the observance of reasonable commercial standards of fair dealing in a given trade or business.

“Impacted Roads” means those specific segments of roads under the jurisdiction of the County, as identified in Exhibit B, that will be raised in accordance with this MOU.

“In-town Water” means thirty-seven (37) feet of floodwater that will be allowed to pass through the USGS gage at Fargo, between the Cities of Fargo and Moorhead, while the Comprehensive Project operates.

“Joint Powers Agreement” means the agreement entered into by and between the City of Moorhead, Minnesota; the City of Fargo, North Dakota; Clay County, Minnesota; Cass County, North Dakota; and the Cass County Joint Water Resource District, dated as of June 1, 2016, to create the Authority.

“Member Entities” means the City of Fargo, North Dakota; Cass County, North Dakota; the City of Moorhead, Minnesota; Clay County, Minnesota; and the Cass County Joint Water Resource District.

“Party” means the Authority or the County, as the context may require, and its respective legal representatives, successors, and permitted assigns.

“Person” means an individual, a general or limited partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization, or a governmental authority.

“PMC” means the Program Management Consultant.

“Preliminary Design” means a design that has reached thirty-five percent (35%) completion as determined by the County.

“Reconstruction Standards” means the standards set forth in Exhibit C attached to this MOU.

“Revision Reach” means the Revision Reach defined in the USACE/FEMA Coordination Plan as, “The extent of the revision is defined by an effective tie-in at the upstream and downstream limits for each flooding source. An effective tie-in is obtained when the revised base flood elevations from the post-project conditions are within 0.5 feet of the pre-project conditions model at both the upstream and downstream limits.”

“Road Raises” means the raising of the road profile of an Impacted Road in accordance with the technical specifications identified herein.

“Road Raise Standard” means the centerline of the Impacted Roadway is raised to be at least six (6) inches higher than the water surface elevation during a 100-Year Flood Event.

“State” means the State of North Dakota.

“TAG” means the Technical Advisory Group of the Authority.

“Total Project Budget Amount” means a budget of all costs attributed to the design and construction of a Road Raise including surveying, geotechnical investigations, utility relocations, mapping, property acquisition, legal and administrative services, design, construction, construction management, construction materials, and construction inspections, as set forth on a Development Plan Summary Sheet. The Total Project Budget Amount includes contingency.

“USACE” means the United States Army Corps of Engineers.

“WIFIA” means the Water Infrastructure Finance and Innovation Act program, as administered by the U.S. Environmental Protection Agency.

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 as set forth herein), (b) any reference herein to any person shall be construed to include such 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 MOU in its entirety and not to any particular provision hereof, (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 MOU, and (e) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts, and contract rights.

ARTICLE II. INITIAL DEVELOPMENT

Section 2.01 ESTIMATED TOTAL PROJECT COST. Following the Effective Date, the County will develop an Estimated Total Project Cost for each of the Road Raises. The Estimated Total Project Cost will be developed through the completion of a Development Plan Summary Sheet, described in the following section. The County will present the Estimated Total Project Cost and the Development Plan Summary Sheet to the Executive Director for review. Following his/her review, the Executive Director will then seek review and approval of the Estimated Total Project Cost and Development Plan Summary Sheet from the Diversion Authority Board. Once this Estimated Total Project Cost is accepted by the Diversion Authority Board, unless specifically set forth herein, the County will not seek additional budget approvals from the Diversion Authority Board.

Section 2.02 DEVELOPMENT PLAN SUMMARY SHEET.

(a) As set forth in the preceding section, the County will prepare, and update as described herein, a Development Plan Summary Sheet for each Road Raise. The Development Plan Summary Sheet, as included in Exhibit D, will include at least the following:

(1) The County’s approach for procuring professional services for the design of the Road Raise, e.g., competitive procurement or use of an existing professional services contract;

(2) The estimated cost and schedule for design professional services, including any surveying, geotechnical investigations, mapping, and legal and administration services required for the design (Line Item (A) from the Development Plan Summary Sheet);

(3) The estimated cost and schedule for property acquisition and property acquisition services (Line Items (B) + (C) from the Development Plan Summary Sheet);

(4) The estimated cost and schedule for construction (Line Item (D) from the Development Plan Summary Sheet);

(5) The estimated cost for construction professional services, including construction contract management, engineering, and inspection services, surveying, site inspections, and testing required during construction (Line Item (E) from the Development Plan Summary Sheet);

(6) Estimated Total Project Cost, which includes the total of the items in subsections (2), (3), (4), and (5);

(7) Identification and compliance with the County's adopted procurement and/or purchasing procedures;

(8) A mutually approved contingency (10%), which is based on the Estimated Total Project Cost, is applied to each Road Raise; and

(9) The Total Budget Amount, which includes the total of the items in subsections (6) and (8).

(b) Once the County has executed a professional services contract, including for construction management and inspections services; a construction contract; or amendments or Change Orders of the same, the County will update the Development Plan Summary Sheet with the name of the professional services or construction firm, the firms subcontracted to the professional services or construction firm, and the contracted values. The County will provide the updated Development Plan Summary Sheet to the Authority within fifteen (15) Business Days of the execution of the contract for professional services, of construction commencement, or of amendment or Change Order of the same, as applicable.

Section 2.03 SCOPE. The scope of the Road Raises is set forth in this MOU, and any change in that scope must be approved by the Diversion Authority Board. The County will proceed with the development of the Road Raises in accordance with the Development Plan Summary Sheets and the Joint Powers Agreement. Approval for reimbursement to the County will not be delayed provided work on the Road Raises coincides with the approved scope of such projects. The County will exercise Good Faith to ensure scope consistency.

**ARTICLE III.
CAPITAL IMPROVEMENT PLAN**

Section 3.01 ANNUAL ASSESSMENT. On an annual basis, prior to the County seeking official approval from its governing body of the annual Capital Improvement Plan, the County and the Authority's Director of Engineering or his/her designee will mutually review and update the plan for Road Raises to be developed in the new Fiscal Year. Updates for each Road Raise will be set forth on a revised Development Plan Summary Sheet.

Section 3.02 BUDGET ADJUSTMENTS.

(a) Following the updates described in the preceding section, if the budget for the cost of a Road Raise exceeds the initial Estimated Total Project Cost determined in accordance with Section 2.01, then the County and the Authority's Director of Engineering or his/her designee will present the updates to the Road Raise to the Finance Committee and Diversion Authority Board for review and approval. Following approval of the updates to each Road Raise, the Authority will incorporate the updated Estimated Total Project Cost for the Road Raise into the annual Authority budget for the new Fiscal Year until all Road Raises have been constructed.

(b) Following the updates described in the preceding section, if the budget for the cost of a Road Raise does not exceed the initial Estimated Total Project Cost, then the Authority will incorporate the initial Estimated Total Project Cost for the Road Raise into the annual Authority budget for the new Fiscal Year for approval by the Diversion Authority Board. The Executive Director will present the updated plan for the Road Raise to the Diversion Authority Board in conjunction with the annual Authority budget until all Road Raises have been constructed.

**ARTICLE IV.
DESIGN**

Section 4.01 GENERALLY. The County is responsible for designing the Road Raises and may utilize its own Engineering Consultants or in-house Engineering Staff for the design of each Road Raise. The County will design the Road Raises in accordance with the Road Raise Standard and the Reconstruction Standards. The completed designs for any Road Raise will be the property of both the Authority and the County.

Section 4.02 DESIGN REPORTS. The County will provide the Authority with a biannual progress report for each Road Raise, outlining the design status. The County will provide a copy of such biannual progress report to the PMC. The biannual progress report will also provide a cost to date and estimated completion costs. Any project costs that may be approaching the Estimated Total Project Cost plus contingency provided in the Development Plan Summary Sheet will be flagged for further discussion and possible budget amendment.

Section 4.03 AUTHORITY REVIEW. The County will provide to the Authority, for concurrence, a Preliminary Design and a Final Design for each Road Raise, concurrent with when these plans are distributed by the Engineering Consultant, if applicable, for review and comment by the County. The County can proceed with the development of the Road Raise provided the Authority does not object to the plans and specifications within ten (10) Business Days of being provided the Final Design.

Section 4.04 ENGINEERING SERVICES. All engineering services procured by the County for a Road Raise must be provided by a professional engineer licensed in the State of North Dakota.

ARTICLE V. BIDDING AND CONTRACTS

Section 5.01 BIDDING. The County will let bids for the Road Raises in accordance with the Joint Powers Agreement, WIFIA requirements, Chapter 48-01.2 of the North Dakota Century Code, and any other applicable state procurement and/or bidding laws.

Section 5.02 REVIEW. General Counsel for the Authority will review all bid documents prior to release to ensure compliance with WIFIA and other laws and agreements applicable to the Road Raises.

Section 5.03 CONTRACT FORM. Contracts for Road Raises will identify the County as the owner under the contract and will contain provisions as required by the Joint Powers Agreement, applicable WIFIA requirements, and applicable state law, as appropriate. The form of the contract must be approved by the Executive Director and the Cass County Joint Water Resource District if funds generated by special assessments levied and collected by the Cass County Joint Water Resource District will be utilized for payment on the contract or reimbursement to the County.

Section 5.04 CONTRACT AWARD LIMITATION. The County will not proceed with the award of a construction contract if the Total Project Budget Amount, when considering the construction bids and updated costs for elements of the Estimated Total Project Cost, exceeds the approved Total Project Budget Amount unless the newly calculated Total Project Budget Amount is approved and the Development Plan Summary Sheet is amended. The Executive Director or his/her designee may approve an increase in the Total Project Budget Amount for a Road Raise of up to and including \$200,000. The Diversion Authority must approve an increase in the Total Project Budget Amount for a Road Raise greater than \$200,000. The Diversion Authority Board will make a Good Faith effort to approve or disapprove of the budget increase within forty-five (45) calendar days of notice from the County.

Section 5.05 APPROVAL. The County will approve all contracts for Road Raises at a public meeting and by resolution of its governing body. Additionally, the County will supply electronic copies of all public bidding documents and contracts for Road Raises in accordance with the provisions of the Joint Powers Agreement.

Section 5.06 DISPUTES. The County and the Authority will coordinate with respect to any disputes with contractors for Road Raises in accordance with the Joint Powers Agreement.

ARTICLE VI. CONSTRUCTION

Section 6.01 GENERALLY. The County will construct the Road Raises in accordance with the Joint Powers Agreement and all related documents.

Section 6.02 CONSTRUCTION REPORTS. The County will provide the Authority with a biannual progress report for each Road Raise, outlining the construction status. The County will provide a copy of such biannual progress report to the PMC. The biannual progress report will also provide a cost to date and estimated completion costs. Any project costs that may be approaching the Estimated Total Project Cost plus contingency provided in the Development Plan Summary Sheet will be flagged for further discussion and possible budget amendment.

Section 6.03 PAY REQUESTS AND CHANGE ORDERS. Pay requests and Change Orders relating to contracts for Road Raises will be reviewed and approved by the County provided the Total Project Budget Amount, when considering the amount of the proposed pay request or Change Order, exceeds the approved Total Project Budget Amount unless the newly calculated Total Project Budget Amount is approved. If the approved Total Project Budget Amount is exceeded by the proposed pay request or Change Order, the County will submit a request for the Executive Director's approval to exceed the approved Total Project Budget Amount. The request must state the amount by which the approved Total Project Budget Amount is exceeded and justification for the increase. The Authority will respond to the County within ten (10) Business Days of receipt of request. The Authority will not unreasonably withhold approval of a Change Order if the Authority determines that it is within the scope of the Road Raise.

Section 6.04 CLOSE OUT. Close out of a Road Raise will occur in accordance with section 12.16 of the Joint Powers Agreement.

Section 6.05 ACCESS. The County will permit and facilitate reasonable access to the PMC and TAG for reasonable inspection and monitoring of the Road Raises and will cooperate fully with the PMC and TAG. Inspections may only be made upon reasonable notice to the County, during business hours, and the PMC and TAG must comply with the County's site safety requirements. In an emergency, the PMC and TAG may access the site as needed and provide notice as soon as reasonably possible to the County.

Section 6.06 AS-BUILT DRAWINGS. Within ninety (90) calendar days following the completion of construction of a Road Raise, the County will provide final as-built drawings in electronic format to the Secretary of the Authority and to the PMC.

ARTICLE VII. OWNERSHIP AND MAINTENANCE

Section 7.01 IMPACTED ROADS. The County will maintain ownership of County roads that are impacted and/or raised according to this MOU.

Section 7.02 MAINTENANCE. The County will be responsible for maintaining County roads that have been improved with Road Raises. The Parties acknowledge and agree that maintenance and/or repairs necessary as a result of Comprehensive Project Operation will be handled in accordance with the Property Rights Acquisition and Mitigation Plan (PRAM) and any subsequent procedures adopted by the Authority or any agreements between the Authority and the County with respect to Comprehensive Project Operation.

**ARTICLE VIII.
FUTURE CHANGES OR ADDITIONS**

Section 8.01 FUTURE CHANGES. The County may make future changes to the Impacted Roads in its sole discretion, assuming all risks of how future Comprehensive Project operation may affect the Impacted Roads following alteration.

**ARTICLE IX.
PROFESSIONAL SERVICES CONTRACTS**

Section 9.01 WIFIA REQUIREMENTS. To comply with WIFIA requirements, all professional services contracts must require the Contractor to (i) complete and submit the certification and disclosure forms in Appendix A and Appendix B to 40 CFR Part 34 pertaining to federal lobbying restrictions; (ii) comply with the federal non-discrimination requirements set forth in Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act of 1972, 40 CFR Part 7, and Executive Order No. 11246; and (iii) certify the Contractor is not federally debarred. The County will provide copies of all executed certifications and/or documents received by the County in accordance with this subsection to the Authority unless the Authority already has these certifications on file from the Engineering Consultant.

Section 9.02 ASSIGNMENT. All professional services contracts, subsequent to the Effective Date, will not preclude Assignment. Assignment may only occur, however, through written consent of the Contractor and the County. The County additionally agrees to seek consent of the Contractor for Assignment to the Authority, when necessary and appropriate.

**ARTICLE X.
INSURANCE AND LIABILITY**

Section 10.01 INSURANCE.

(a) The County will require its Contractor, prior to commencing construction, to secure and keep in force during the term of construction the following insurance coverages for not less than the following amounts:

(1) Commercial general liability insurance (including completed operations, contractual, and products coverage) with minimum liability limits of \$1,000,000 per person and \$2,000,000 per occurrence.

(2) Automobile liability (any auto, including owned, non-owned, and hired) with minimum liability limits of \$500,000 per person and \$2,000,000 per occurrence.

(3) Excess or umbrella liability insurance with minimum liability limits of \$1,000,000 and \$2,000,000 aggregate.

(4) Workers compensation insurance in compliance with all applicable statutory requirements.

(b) The above-listed insurance coverages will meet the following additional requirements:

(1) Any deductible or self-insured retention amount or other similar obligation under the policies will be the Contractor's sole responsibility.

(2) The policies must be from insurers rated "A-" or better by A.M. Best Company, Inc.

(3) All policies will name the Contractor as the insured and the Authority and the County as additional insured parties.

(4) The Contractor's policies will be primary and noncontributory regarding any other insurance available to the Authority and the County.

(5) The Contractor's policies must each contain a "waiver of subrogation" that waives any right to recover any of the Contractor's insurance companies might have against the Authority or the County.

(6) The Contractor's policies will contain a provision that the policies and any endorsements may not be cancelled or modified without thirty (30) calendar days' prior written notice to the Authority and the County.

(7) The Contractor's policies, either in the policies or in the endorsements, will each contain a provision that the Contractor's insolvency or bankruptcy will not release the insurer from payment under the policy, even when the Contractor's insolvency or bankruptcy prevents the Contractor from meeting the retention limit under the policy.

(8) The Contractor's policies, either in the policies or in the endorsements, will contain cross liability/severability of interests to ensure that all additional insured parties are covered as if they were all separately covered.

(9) The Contractor's policies, either in the policies or in the endorsements, must contain a provision that the legal defense provided to the Authority and the County will be free of any conflicts of interest, even if retention of separate legal counsel is necessary.

(10) The Contractor's policies will not limit in any way the Contractor's duties to defend, indemnify, and hold harmless the Authority and the County and those parties' officers, employees, agents, consultants, subcontractors, and representatives, as set forth herein.

(c) Before commencing work, the County will require the Contractor to deliver copies of the insurance policies and endorsements required under this MOU to the County, and the Contractor will provide all requisite evidence that the insurance required under this MOU is in full force and effect.

(d) The County will require the Contractor to release, defend, indemnify, protect, and hold harmless the Authority, the County, and their officers, agents, representatives, employees, or contractors, and such duties include anything in excess of the minimum insurance requirements described above and anything not otherwise covered or insured. The Authority's receipt of any certificates, policies, or endorsements required under this MOU will not in any way affect the Contractor's duties and obligations to maintain the insurance required under this MOU. The County must require all of the Contractor's subcontractors to purchase and maintain the same insurance with the same conditions and terms required of the Contractor under this MOU.

ARTICLE XI. REIMBURSEMENT

Section 11.01 REIMBURSABLE COSTS. The Authority will reimburse the County for all salaries, services, and/or related costs and expenses for surveying, land acquisition, design, construction, construction material, utilities, and inspections for the Road Raises highlighted in Exhibit A. The County will submit pay requests to the Authority to receive reimbursement throughout the course of development of the Road Raises. The Authority will reimburse the County within sixty (60) calendar days of the submission of a pay request.

Section 11.02 OTHER PROJECT FUNDING. The County and the Authority will cooperate in Good Faith if either entity pursues additional funding sources for the Road Raises. If either entity is successful in securing alternative funding sources for the Road Raises, the Authority will pay one hundred percent (100%) of the local cost share.

ARTICLE XII. TERM AND TERMINATION

Section 12.01 TERM. This MOU will commence on the Effective Date and will terminate upon the completion of construction of the Comprehensive Project.

Section 12.02 TERMINATION. The Parties may mutually agree in writing to terminate this MOU prior to the end of the term described in Section 12.01.

ARTICLE XIII. DISPUTE RESOLUTION

Section 13.01 INTENT AND PROCEDURE. The Parties will cooperate and use their best efforts to ensure that the various provisions of this MOU 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 MOU. If disputes cannot be resolved informally by the Parties, the following procedure will be used.

Section 13.02 MEDIATION. If there is a failure between the Parties to resolve a dispute on their own, the Parties will first attempt to mediate the dispute. The Parties will agree upon a single mediator or, if an agreement cannot be reached within ten (10) calendar days, the mediator shall be selected by the American Arbitration Association ("AAA") in accordance with its Commercial Industry Mediation Rules and Procedures then in effect. Any mediator selected by

mutual agreement of the Parties or through the AAA selection process must have no current or on-going relationship with either Party. The Parties agree that only one (1) mediator shall be selected as the AAA mediator, and the Parties will each pay fifty percent (50%) of any costs for mediation services.

Section 13.03 LITIGATION IF DISPUTE NOT RESOLVED. If the dispute is not resolved within forty-five (45) calendar days after the selection of the mediator pursuant to the preceding section, the Parties may litigate the matter.

Section 13.04 LITIGATION; VENUE. All litigation between the Parties arising out of or pertaining to this MOU or its breach will be filed, heard, and decided in the District Court of Cass County, North Dakota, which will have exclusive jurisdiction and venue.

Section 13.05 WAIVER OF JURY TRIAL. The Parties hereby knowingly, irrevocably, voluntarily, and intentionally waive any rights that any may have to a trial by jury with respect to any action, proceeding, counterclaim, or defense based on this MOU, or arising out of, under, or in any connection with this MOU, or with respect to any course of conduct, course of dealing, statements (whether oral or written), or actions of any party hereto relating to this MOU. This provision is a material inducement for all Parties entering into this MOU. This provision applies only to suits between the Parties and does not apply to third party claims or suits.

ARTICLE XIV. MISCELLANEOUS

Section 14.01 COMPLETE AGREEMENT. This MOU contains the entire and exclusive understanding of the Parties with respect to the subject matter thereof and supersedes all prior agreements, understandings, statements, representations, and negotiations, in each case oral or written, between the Parties with respect to their subject matter.

Section 14.02 COUNTERPARTS. This instrument may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

Section 14.03 AMENDMENTS. This MOU may be amended only by written instrument duly executed by the Parties or their respective successors or assigns, except to the extent expressly provided otherwise in this MOU.

Section 14.04 SEVERABILITY AND SAVINGS CLAUSE. Each provision, section, sentence, clause, phrase, and word of this MOU is intended to be severable. If any provision, section, sentence, clause, phrase, or word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity will not affect the validity of the remainder of this MOU.

Section 14.05 FORCE MAJEURE. Neither the Authority nor the County will be liable to the other during any period in which its performance is delayed or prevented, in whole or in part, by any of the following circumstances: war, civil war, invasion, violent act of foreign enemy, or

armed conflict; nuclear, chemical, or biological contamination; ionizing radiation; or any act of terrorism.

Section 14.06 AUTHORIZED REPRESENTATIVES. Each of the Authority and the County hereby designates the following individual as its initial authorized representative, respectively, to administer this MOU on its respective behalf:

- (a) Authority Representative: Kris Bakkegard, Director of Engineering
- (b) County Representative: Jason Benson, Cass County Engineer

Section 14.07 NOTICE.

(a) All notices under the MOU 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 requested; or (iv) sent by email communication followed by a hard copy, to the following addresses.

(b) All notices to the Authority will be marked as regarding the Road Raises and will be delivered to the following address or as otherwise directed by the Authority Representative:

4784 Amber Valley Parkway South, Suite 100
Fargo, North Dakota 58104

(c) All notices to the County will be marked as regarding the Road Raises and will be delivered to the following address or as otherwise directed by the County Representative:

1201 Main Avenue West
West Fargo, North Dakota 58078

(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 received after 5:00 p.m. Central Time will be deemed received on the first Business Day following delivery.

Section 14.08 GOVERNING LAW. This MOU will be governed by and construed in accordance with the laws of the State of North Dakota.

Section 14.09 CONFLICT WITH OTHER MOU. Nothing in this MOU is intended to supersede, amend, or otherwise modify any other memorandum of understanding or agreement entered by and between the Authority and the County for work regarding other aspects of the Comprehensive Project.

Section 14.10 JOINT POWERS AGREEMENT. Nothing in this MOU is intended to conflict with the terms and conditions of the Joint Powers Agreement; rather, the terms and conditions set forth herein are intended to supplement the Joint Powers Agreement. In the event the terms and

conditions described in this MOU conflict with the Joint Powers Agreement, the Joint Powers Agreement will control.

Section 14.11 ELECTRONIC SIGNATURES. The Authority and the County agree that an electronic signature to this MOU shall be valid as an original signature of the Authority or the County and shall be effective to bind the signatories of this MOU.

IN WITNESS WHEREOF, the Authority and the County caused this MOU to be executed.

(Remainder of page intentionally left blank.)

Signature Page for the Metro Flood Diversion Authority

The Governing Body of the Metro Flood Diversion Authority approved this MOU on the ____ day of _____, 2023.

**METRO FLOOD DIVERSION
AUTHORITY**

By: _____
Dr. Timothy J. Mahoney, Chair

By: _____
Joel Paulsen, Executive Director

ATTEST:

Dawn Lindblom, Secretary

Signature Page for the Cass County, North Dakota

The Governing Body of Cass County, North Dakota, approved this MOU on the ____ day of _____, 2023.

CASS COUNTY, NORTH DAKOTA

By: _____
Chad Peterson, Chair of the Board of
County Commissioners

ATTEST:

Brandy Madrigga, Finance Director

Exhibit A

Project Impacts Map

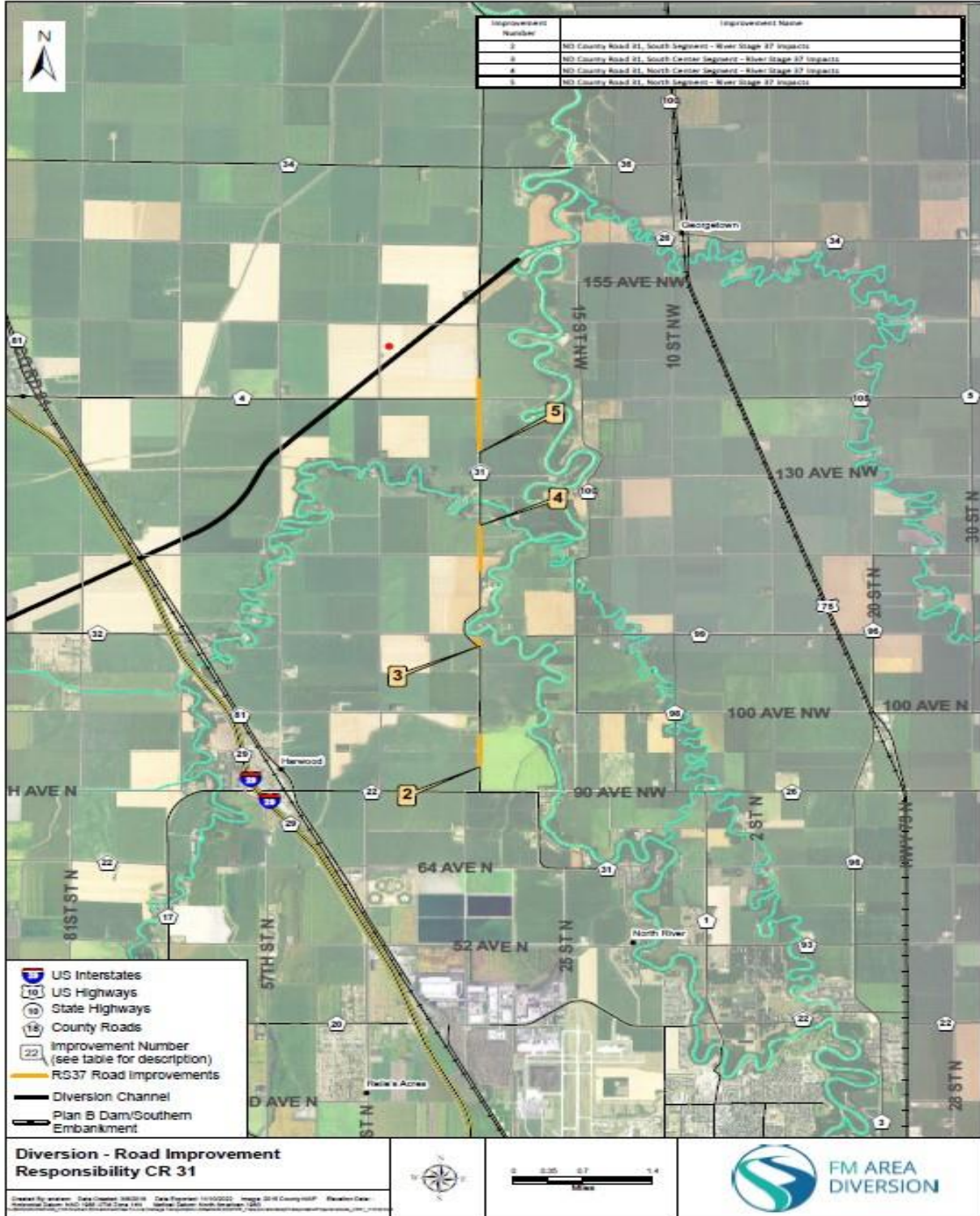


Exhibit B**Impacted Roads**

County Road	Impacted Road Segment – Lat/Long Coordinates (Start)	Impacted Road Segment – Lat/Long Coordinates (End)	Linear Length (Miles)
31 – South Segment (Imp. #2)	-96.837017; 46.9832667	-96.837069; 46.9892306	0.45
31 – South Central Segment (Imp. #3)	-96.837378; 47.003864	-96.840111; 47.005936	0.15
31 – North Central Segment (Imp. #4)	-96.837067; 47.017375	-96.8371; 47.0266306	0.6
31 – North Segment (Imp. #5)	-96.8370917; 47.03855	-96.8375111; 47.0636667	2.5

Exhibit C

Reconstruction Standards

Typical Section	Design Speed	Right of Way	Graded Roadbed	Gravel Surface	Turn Lanes	Minimum Section Thickness	Access Controls	Bike/Ped Facilities
County Gravel Cross Section	55 mph	150 feet	36 feet	28 feet	No	6 inches gravel	¼ mile spacing	Not applicable

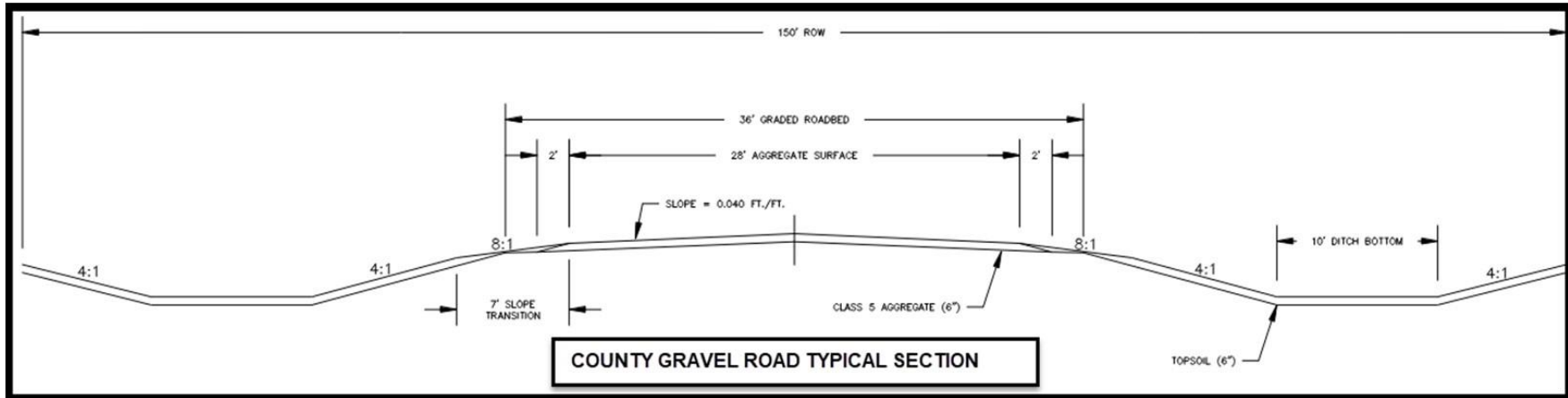


Exhibit D

Development Plan Summary Sheet

(Please see the following two (2) pages.)



Development Plan Summary Sheet

Contract Number _____
 Project Name _____
 Member Entity _____
 Date Submitted: _____ Member Entity Contact _____

Design Services

Approach: Competitive Existing Firm: _____ Contract value: _____

Subconsultants

Services

Estimated Cost for Design Professional Services (A) \$ _____

Start of Design: _____

Design Completion: _____

Property Acquisition

Estimated Cost for Property Acquisition (B) \$ _____

Estimated Cost for Property Acquisition Services (C) \$ _____

Start of Property Acquisition: _____

Acquisition Complete: _____

Property Acquisition Needed by: _____

Construction

Estimated Cost for Construction (D) \$ _____

Start of Construction: _____

Construction Complete: _____

Construction Services

Approach: Competitive Existing Firm: _____ Contract value: _____

Subconsultants

Services

Estimated Cost for Construction Professional Services (E) \$ _____

ESTIMATED TOTAL PROJECT COST (A+B+C+D+E) \$ _____

CONTINGENCY (10%) \$ _____

FY20__ TOTAL PROJECT BUDGET AMOUNT: \$ _____

Compliant with (Member entity) procurement and/or purchasing procedures.

Compliant with WIFIA requirements.



Development Plan Summary Sheet for Construction

Contract Number _____

Project Name _____

Member Entity _____

Date Submitted: _____ Member Entity Contact _____

Construction

Contractor _____

Contract Value \$ _____

Change Order __: _____

Change Order __: _____

Change Order __: _____

Change Order __: _____

Subconsultants

Services

Start of Construction: _____

Construction Complete: _____

FY20__ TOTAL PROJECT BUDGET AMOUNT: \$ _____
____ Compliant with (Member entity) _____ procurement and/or purchasing procedures.
____ Compliant with WIFIA requirements.

MEMORANDUM OF UNDERSTANDING

**BY AND BETWEEN
METRO FLOOD DIVERSION AUTHORITY
AND
CASS COUNTY, NORTH DAKOTA**

Dated as of _____, 2023

Relating to:

A Memorandum of Understanding outlining respective roles and responsibilities of the Parties for the Upstream Mitigation Area of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project.

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

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EXHIBIT B – LIST AND MAP OF COUNTY-OWNED UMA PARCELS

EXHIBIT C – TEMPLATE FLOWAGE EASEMENT

EXHIBIT D – POTENTIAL COUNTY ROAD CLOSURE POINTS

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (the “MOU”) is made and entered into this ____ day of _____, 2023 (the “Effective Date”), by and between METRO FLOOD DIVERSION AUTHORITY, a political subdivision of the State of North Dakota, and CASS COUNTY, NORTH DAKOTA, a political subdivision and home rule county of the State of North Dakota.

WHEREAS, construction of the locally preferred plan for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the “Comprehensive Project”) at the Fargo, North Dakota, and Moorhead, Minnesota, metropolitan area was authorized by Section 7002(2) of the Water Resources Reform and Development Act of 2014, Public Law 113-121; and

WHEREAS, the Authority, the City of Fargo, North Dakota, and the City of Moorhead, Minnesota, are the Non-Federal Sponsors for the Comprehensive Project and entered into a Project Partnership Agreement (the “PPA”) on July 11, 2016, with the United States Army Corps of Engineers (“USACE”) for the construction, operation, and maintenance of the Comprehensive Project; and

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

WHEREAS, pursuant to the PPA, USACE will be responsible for completing the Diversion Inlet Structure; the connecting channel; the Red River Structure and the Wild Rice River Structure; an earthen embankment; the western tie-back levee (collectively, the “Southern Embankment and Associated Infrastructure” or “SEAI”); construction of road raises associated with the UMA; and all mitigation features that are not the responsibility of the Non-Federal Sponsors; and

WHEREAS, pursuant to the PPA, the Non-Federal Sponsors will be responsible for an approximately 30-mile 20,000 cubic feet per second storm water diversion channel and associated features; the channel outlet; the Rush and Lower Rush hydraulic structures; the Maple River aqueduct; the Sheyenne River aqueduct; the inflow design flood levee; associated railroad bridges (collectively, the “Storm Water Diversion Channel and Associated Infrastructure” or “SWDCAI”); the in-town levees and the Oxbow-Hickson-Bakke levee; recreation features; environmental mitigation features located within the SWDCAI; and applicable pre- and post-monitoring and adaptive management for the Comprehensive Project; and

WHEREAS, when functional, the Comprehensive Project will cause the inundation of property south of the SEAI in the UMA; and

WHEREAS, the County is a fee owner and/or holder of certain rights-of-way which may be impacted by the inundation caused by Comprehensive Project Operation; and

WHEREAS, as a result, the Authority and the County desire to enter into this MOU to set forth their respective roles and responsibilities regarding Comprehensive Project Operation and for the County to grant necessary property interests to allow for Comprehensive Project Operation.

NOW THEREFORE, in consideration of the mutual covenants made herein and for other valuable consideration, the receipt of which is hereby acknowledged, the Authority and the County agree as follows:

**ARTICLE I.
DEFINITIONS AND INTERPRETATION**

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

“Applicable Law” means, collectively, the Constitutions of the United States and of the State, all common law and principles of equity, and all Federal, State, and local laws including, without limitation, all environmental laws, statutes, treaties, codes, acts, rules, regulations, guidelines, ordinances, resolutions, orders, judgments, decrees, injunctions, and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any governmental authority charged with the enforcement, interpretation, or administration thereof, all governmental approvals, and all administrative orders, awards, directed duties, requests, licenses, certificates, authorizations, and permits of, and agreements with, any governmental authority, and, with respect to any Person, the articles of incorporation, bylaws, or other organizational or governing documents of such Person, in each case whether or not having the force of law, that are applicable now or are applicable at any time hereafter to the Authority, the County, or the UMA.

“Authority” means the Metro Flood Diversion Authority, a political subdivision of the State of North Dakota and a permanent joint powers entity formed through the Joint Powers Agreement to provide the Fargo-Moorhead metropolitan area with permanent and comprehensive flood protection.

“Authority Representative” means the individual identified in Section 8.06.

“Best Efforts” means that a Party will act in Good Faith, act in accordance with generally accepted commercial practices, and use reasonable due diligence to undertake all action contemplated by this MOU, in accordance with Applicable Law.

“Business Day” means any day that is not a Saturday, a Sunday, or a federal public holiday.

“Comprehensive Project” means the Fargo-Moorhead Metropolitan Area Flood Risk Management Project authorized by Section 7002(2) of the Water Resources Reform and Development Act of 2014, as generally described in the Final Feasibility Report and Environmental Impact Statement, Fargo Moorhead Metropolitan Area Flood Risk Management, dated July 2011 and approved in accordance with the Chief’s Report, as amended by the Supplemental Environmental Assessment, Fargo-Moorhead Metropolitan Area Flood Risk Management Project, dated September 2013 and approved by the U.S. Army Engineer, St. Paul, on September 19, 2013, and as amended by the Second Supplemental Environmental Assessment dated August 27, 2018 (2018 SEA), and the Engineering Documentation Report, Fargo-Moorhead

Metropolitan Area Flood Risk Management Project, ND and MN, Modifications Through February 2019.

“Comprehensive Project Operation” means operation by the Authority of the Red River Structure or the Wild Rice River Structure to restrict flow into the Fargo-Moorhead Metropolitan Area.

“County” means Cass County, North Dakota, a political subdivision and home rule county of the State of North Dakota.

“County Representative” means the individual identified in Section 8.06.

“Diversion Inlet Structure” means the hydraulic control structure that controls the flow of water entering the SWDCAI north of the SEAI.

“Fargo-Moorhead Metropolitan Area” means Fargo, North Dakota; Moorhead, Minnesota; and surrounding communities and is further defined by the United States Census Bureau as comprising all of Cass County, North Dakota, and Clay County, Minnesota, which includes the Cities of Dilworth, Minnesota, and West Fargo, North Dakota, and numerous other towns and developments from which commuters travel daily for work, education, and regular activities.

“Flood Forecast” means a forecast published by the National Weather Service showing future estimated water heights of the Red River at the Red River Gage or of the Wild Rice River.

“Good Faith” means the observance of reasonable commercial standards of fair dealing in a given trade or business.

“Joint Powers Agreement” means the agreement entered into by and between the City of Moorhead, Minnesota; the City of Fargo, North Dakota; Clay County, Minnesota; Cass County, North Dakota; and the Cass County Joint Water Resource District, dated as of June 1, 2016, to create the Authority.

“Original Term” means the original term of this MOU as described in Section 6.01.

“Person” means an individual, a general or limited partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization, or a governmental authority.

“Point of Contact” means the individual described in Section 4.01.

“PPA” means the Project Partnership Agreement, dated June 11, 2016, by and between the Department of the Army and the City of Fargo, North Dakota, the City of Moorhead, Minnesota, and the Metro Flood Diversion Authority for construction of the Comprehensive Project, and any amendments thereto.

“PRAM” means the Property Rights Acquisition and Mitigation Plan of the Authority.

“Protected Area” means, generally, the area north of the SEAI and east of the SWDCAI, including the communities of Moorhead, Minnesota; Frontier, North Dakota; Horace, North Dakota; Fargo, North Dakota; West Fargo, North Dakota; Reile’s Acres, North Dakota; and Harwood, North Dakota.

“Red River” means the Red River of the North.

“Red River Gage” means U.S. Geological Study Gage 05054000 located on the Red River of the North at Fargo, North Dakota.

“Red River Structure” means the hydraulic control structure to be procured by USACE designed to control and/or meter the flow of the Red River through the Protected Area.

“Southern Embankment and Associated Infrastructure” or **“SEAI”** means the SEAI portion of the Comprehensive Project, consisting of the Diversion Inlet Structure, Wild Rice River Structure, Red River Structure, associated road raises, an earthen embankment, and western tie-back levee.

“State” means the State of North Dakota.

“Storm Water Diversion Channel and Associated Infrastructure” or **“SWDCAI”** means the diversion channel and associated infrastructure located on the North Dakota side of the Red River, which conveys flows of twenty thousand (20,000) cubic feet per second during a one hundred (100) year flood event. The diversion channel consists of six (6) channel segments up to three hundred (300) feet wide, approximately thirty (30) feet deep, thirty (30) miles in length, with three (3) railroad bridges, four (4) two-lane interstate bridges, and up to eleven (11) county highway bridges crossing the diversion channel and two (2) aqueduct hydraulic structures to convey the normal flow of the Sheyenne and Maple Rivers over the diversion channel to preserve fish crossings, in addition to ten (10) local stormwater drain inlets.

“Subsequent Renewal Term” means a renewal of the term of this MOU as described in Section 6.01.

“Upstream Mitigation Area” or **“UMA”** means the area where the Authority is required to obtain property rights for the temporary storage of floodwaters during Comprehensive Project Operation.

“USACE” means the United States Army Corps of Engineers.

“Wild Rice River” means the river so called and located in North Dakota.

“Wild Rice River Structure” means the control structure for the Wild Rice River located southeast of the City of Horace, North Dakota.

Section 1.02 TERMS GENERALLY. The definition of terms in this MOU will apply equally to the singular and plural forms of the terms defined. Whenever the context may require,

any pronoun will include the corresponding masculine, feminine, and neuter forms. The words “include,” “includes,” and “including” will be deemed to be followed by the phrase “without limitation.” Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument, or other document in the MOU will be construed as referring to the agreement, instrument, or other document as amended, supplemented, or otherwise modified (subject to any restrictions on amendments, supplements, or modifications in the MOU); (b) any reference in the MOU to any person will be construed to include the person’s permitted successors and assigns; (c) all references in the MOU to articles, sections, exhibits, and schedules will be construed to refer to articles and sections of, and exhibits and schedules to, this MOU; and (e) the words “asset” and “property” will be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts, and contract rights.

**ARTICLE II.
INTENT**

Section 2.01 INTENT. Pursuant to the terms of the PPA and the Joint Powers Agreement, the Authority is responsible for obtaining the real property interests and authorizations necessary for the construction, operation, and maintenance of the Comprehensive Project, including those in the UMA. The County is the owner of real property interests in the UMA that may be impacted by Comprehensive Project Operation. Accordingly, the Parties desire to enter this MOU to address impacts to interests held by the County prior to, during, and following Comprehensive Project Operation. The Parties agree and acknowledge that if an item is not addressed in this MOU, then the Parties will follow the provisions of the PRAM.

**ARTICLE III.
COUNTY PROPERTY INTERESTS**

Section 3.01 REAL PROPERTY PARCELS. The County owns real property parcels in the UMA that may be subject to temporary and periodic flooding in the event of Comprehensive Project Operation. A list of the parcels owned by the County in the UMA is included on Exhibit B. For each of those parcels, the County will grant a flowage easement, substantially in the form attached hereto as Exhibit C, to the Authority.

Section 3.02 ROADWAYS. The County additionally holds property interests in the UMA that authorize them to operate and maintain County roads. The following County roads may be subject to temporary and periodic flooding in the event of Comprehensive Project Operation:

- (a) County Road 16
- (b) County Road 17
- (c) County Road 18
- (d) County Road 36
- (e) County Road 81

The County authorizes the Authority to flood its roads temporarily and periodically in accordance with the terms and conditions of this MOU.

**ARTICLE IV.
COMPREHENSIVE PROJECT OPERATION**

Section 4.01 POINT OF CONTACT. Prior to substantial completion of the Comprehensive Project, the Authority will designate a Point of Contact for the County and inform the County Representative. The intended purpose of the Point of Contact is to facilitate the flow of information between the County and the Authority both prior to and following Comprehensive Project Operation.

Section 4.02 NOTICE OF COMPREHENSIVE PROJECT OPERATION.

(a) The Point of Contact will be responsible for continually monitoring Flood Forecasts. When a Flood Forecast includes a prediction of a ten percent (10%) or greater chance of the Red River reaching at least thirty-seven (37) feet at the Red River Gage, the Point of Contact will contact the County Representative and let him know of the potential of Comprehensive Project Operation.

(b) Once the Authority makes the decision that Comprehensive Project Operation will occur, the Point of Contact will inform the County Engineer as soon as possible. As part of this communication, the Point of Contact will communicate the County roads that are anticipated to be affected by Comprehensive Project Operation. The Point of Contact and the County Engineer will then arrive at a plan on which County roads to close when and where. Following the discussion with the County Engineer, the Point of Contact will advise the County Representative, the County Sheriff, and the County Emergency Manager on the plan for County road closures. The Point of Contact will continue to engage with the County Engineer, the County Representative, the County Sheriff, and the County Emergency Manager on road closures throughout Comprehensive Project Operation to ensure there is clear communication on which County roads may be impacted.

(c) The Point of Contact will post the anticipated County road closures on the Authority website and will update the post as necessary.

Section 4.03 CLOSING COUNTY ROADS. The County will be responsible for placing barriers and appropriate signage on County roads closed for Comprehensive Project Operation. An Authority representative may accompany the County while placing the barriers and signage. The County will notify the Point of Contact once a County road has been closed, and the Point of Contact will update the Authority website to show the closure.

**ARTICLE V.
POST-COMPREHENSIVE PROJECT OPERATION**

Section 5.01 CESSATION OF COMPREHENSIVE PROJECT OPERATION. Once the Authority has an estimated date of Comprehensive Project Operation cessation, the Point of Contact will notify the County Engineer, the County Representative, the County Sheriff, and the County

Emergency Manager. The Point of Contact will again notify these individuals when cessation of Comprehensive Project Operation occurs.

Section 5.02 ROAD REOPENING. As floodwaters recede out of the UMA, the Point of Contact and the County Engineer will work together to identify when County roads can reopen. Prior to reopening, the Point of Contact and the County Engineer will complete an inspection of each County road to identify and document any damage that may have been caused by Comprehensive Project Operation. If an emergency repair or clean-up is identified, the Point of Contact and the County Engineer will work together as quickly as possible to have the County complete the work and to be reimbursed for such work. The County will be responsible for removing all barriers and signage placed to reopen roads when appropriate.

Section 5.03 ROAD AND PARCEL REPAIRS AND CLEAN-UPS. Following the identification of non-emergency repairs or clean-up work for County roads and repairs or clean-up work on other parcels owned by the County, the County Engineer will put together a quote for the County to complete such repairs or clean-up work or will solicit bids from third parties, in conformance with Applicable Law, to complete the repairs or clean-up work. The County Engineer will submit the County quote or third-party bid results to the Point of Contact for review by the Authority for reasonableness. The Authority will approve the quote, request additional information from the County, or deny the quote. If a quote is denied, the County may recreate or resolicit a quote, as applicable, and resubmit the quote for Authority review. The County will notify the Point of Contact when repair or clean-up work commences and is complete. The Point of Contact will then confirm the work was completed in accordance with the quote and submit a request to the Authority to reimburse the County. The Authority will use its Best Efforts to reimburse the County within thirty (30) calendar days of receiving the request.

**ARTICLE VI.
TERM AND TERMINATION**

Section 6.01 TERM. This MOU will have an original term of ten (10) years from the Effective Date (the “Original Term”) and shall automatically renew for subsequent renewal terms of ten (10) years (a “Subsequent Renewal Term”) unless terminated in accordance with this MOU.

Section 6.02 TERMINATION. The Parties may mutually agree to terminate this MOU prior to the expiration of the Original Term or a Subsequent Renewal Term.

**ARTICLE VII.
DISPUTE RESOLUTION**

Section 7.01 INTENT AND PROCEDURE. The Parties will cooperate and use their Best Efforts to ensure that the various provisions of this MOU 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 MOU. If disputes cannot be resolved informally by the Parties, the following procedure will be used.

Section 7.02 MEDIATION. If there is a failure between the Parties to resolve a dispute on their own, the Parties will first attempt to mediate the dispute. The Parties will agree upon a

single mediator or, if an agreement cannot be reached within ten (10) calendar days, the mediator shall be selected by the American Arbitration Association (“AAA”) in accordance with its Commercial Industry Mediation Rules and Procedures then in effect. Any mediator selected by mutual agreement of the Parties or through the AAA selection process must have no current or on-going relationship with either Party. The Parties agree that only one (1) mediator shall be selected as the AAA mediator, and the Parties will each pay fifty percent (50%) of any costs for mediation services.

Section 7.03 LITIGATION IF DISPUTE NOT RESOLVED. If the dispute is not resolved within forty-five (45) calendar days after the selection of the mediator pursuant to the preceding section, the Parties may litigate the matter.

Section 7.04 VENUE. All litigation between the Parties arising out of or pertaining to this MOU or its breach will be filed, heard, and decided in the District Court of Cass County, North Dakota, which will have exclusive jurisdiction and venue.

Section 7.05 WAIVER OF JURY TRIAL. THE PARTIES HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS THAT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION, PROCEEDING, COUNTERCLAIM, OR DEFENSE BASED ON THIS MOU, OR ARISING OUT OF, UNDER, OR IN ANY CONNECTION WITH THIS MOU, OR WITH RESPECT TO ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF ANY PARTY HERETO RELATING TO THIS MOU. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ALL PARTIES ENTERING INTO THIS MOU. THIS PROVISION APPLIES ONLY TO SUITS BETWEEN THE PARTIES AND DOES NOT APPLY TO THIRD PARTY CLAIMS OR SUITS.

ARTICLE VIII. MISCELLANEOUS

Section 8.01 COMPLETE AGREEMENT. This MOU contains the entire and exclusive understanding of the Parties with respect to the subject matter thereof and supersedes all prior agreements, understandings, statements, representations, and negotiations, in each case oral or written, between the Parties with respect to their subject matter.

Section 8.02 COUNTERPARTS. This instrument may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

Section 8.03 AMENDMENTS. This MOU may be amended only by written instrument duly executed by the Parties or their respective successors or assigns, except to the extent expressly provided otherwise in this MOU.

Section 8.04 SEVERABILITY AND SAVINGS CLAUSE. Each provision, section, sentence, clause, phrase, and word of this MOU is intended to be severable. If any provision, section, sentence, clause, phrase, or word hereof is held by a court of competent jurisdiction to be illegal

or invalid for any reason whatsoever, such illegality or invalidity will not affect the validity of the remainder of this MOU.

Section 8.05 FORCE MAJEURE. No Party will be liable to another Party during any period in which its performance is delayed or prevented, in whole or in part, by circumstances beyond its reasonable control. Circumstances include, but are not limited to, the following: act of God (e.g., flood, earthquake, wind), fire, war, act of a public enemy or terrorist, act of sabotage, strike or other labor dispute, riot, misadventure of the sea, inability to secure materials and/or transportation, or a restriction imposed by legislation, an order, or a rule or regulation of a governmental entity. If such a circumstance occurs, the Party claiming the delay must undertake reasonable action to notify the other Parties of the same.

Section 8.06 AUTHORIZED REPRESENTATIVES. The Authority and the County hereby designate the following individuals as their initial authorized representatives, respectively, to administer this MOU on their respective behalf:

- (a) Authority Representative: Kris Bakkegard, Director of Engineering
- (b) County Representative: Jason Benson, Cass County Engineer

Section 8.07 NOTICE.

(a) All notices under the MOU 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 email communication followed by a hard copy, to the following addresses.

(b) All notices to the Authority will be marked as regarding the UMA and will be delivered to the following address or as otherwise directed by the Authority Representative:

4784 Amber Valley Parkway South, Suite 100
Fargo, North Dakota 58104

(c) All notices to the County will be marked as regarding the UMA and will be delivered to the following address or as otherwise directed by the County Representative:

1201 Main Avenue West
West Fargo, North Dakota 58078

(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 received after 5:00 p.m. Central Time will be deemed received on the first Business Day following delivery.

Section 8.08 GOVERNING LAW. This MOU will be governed by and construed in accordance with the laws of the State of North Dakota.

Section 8.09 CONFLICT WITH MOU REGARDING OTHER COMPREHENSIVE PROJECT WORK. Nothing in this MOU is intended to supersede, amend, or otherwise modify any other memorandum of understanding or agreement entered by and between the Authority and the County for work regarding other aspects of the Comprehensive Project.

Section 8.10 CONFLICT WITH JOINT POWERS AGREEMENT. Nothing in this MOU is intended to conflict with the provisions of the Joint Powers Agreement. In the event there is a conflict, the provisions of the Joint Powers Agreement will control.

Section 8.11 ELECTRONIC SIGNATURES. The Authority and the County agree that an electronic signature to this MOU shall be valid as an original signature of the Authority or the County and shall be effective to bind the signatories of this MOU.

IN WITNESS WHEREOF, the Authority and the County caused this MOU to be executed.

(Remainder of page intentionally left blank.)

Signature Page for Metro Flood Diversion Authority

The governing body of the Metro Flood Diversion Authority approved this MOU on the ____ day of _____, 2023.

**METRO FLOOD DIVERSION
AUTHORITY**

By: _____
Dr. Timothy J. Mahoney, Chair

By: _____
Joel Paulsen, Executive Director

ATTEST:

By: _____
Dawn Lindblom, Secretary

Signature Page for Cass County, North Dakota

The governing body of Cass County, North Dakota, approved this MOU on the ____ day of _____, 2023.

CASS COUNTY, NORTH DAKOTA

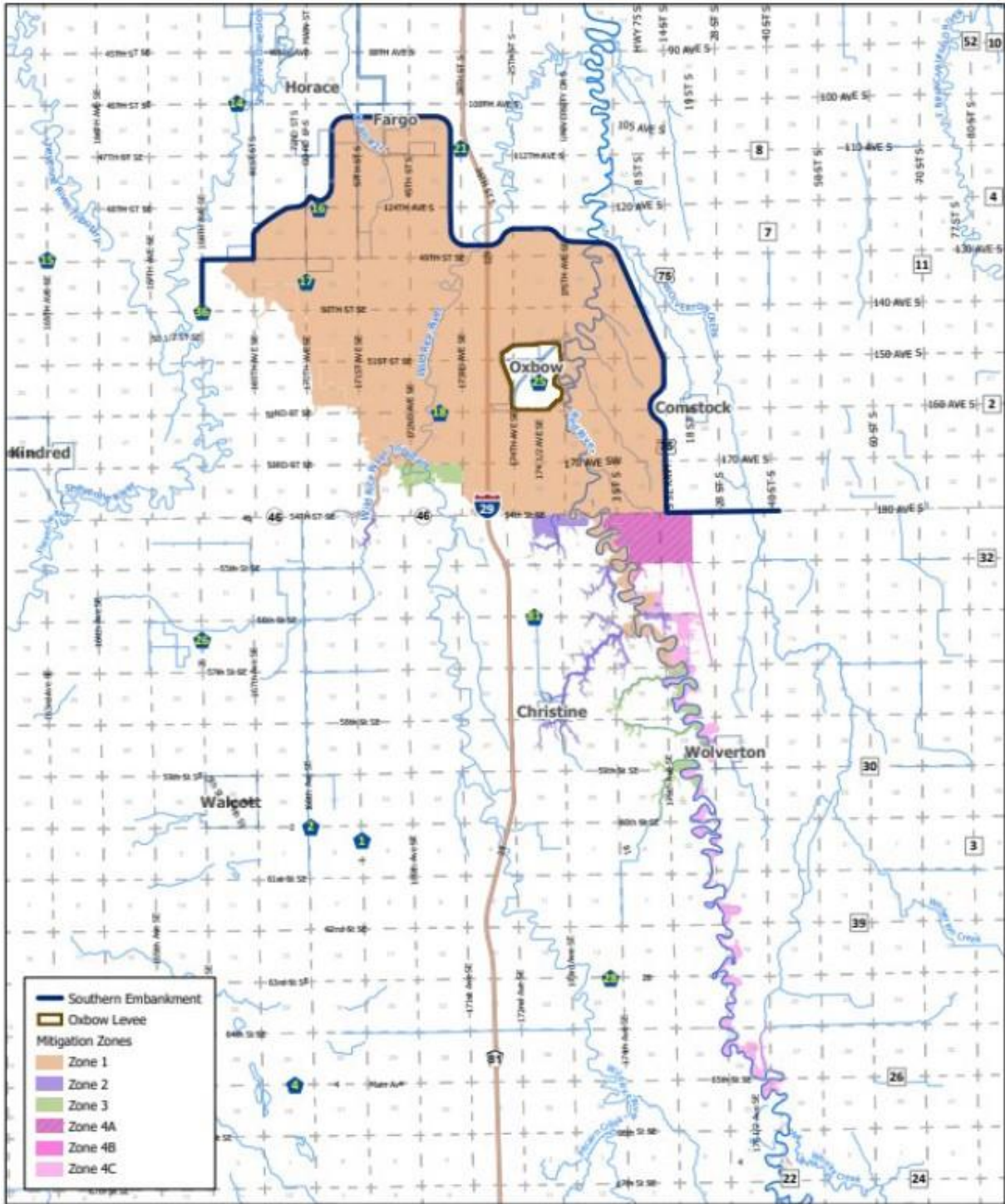
By: _____
Chad Peterson, Chair of the Board of
County Commissioners

ATTEST:

By: _____
Brandy Madrigga, Finance Director

Exhibit A

UMA MAP



Information depicted may include data provided by A2Z. Any reliance upon such data is at the user's own risk. A2Z does not warrant the accuracy of the information or other content or its timeliness or accuracy. Produced by: Hexagon, A2Z, Inc. 1 C:\Data\Projects\0205 Projects\04 Area Division\04 UMA\04 UMA.aprx 10/8/2022 with Filepage Extension Zones 8 x 11

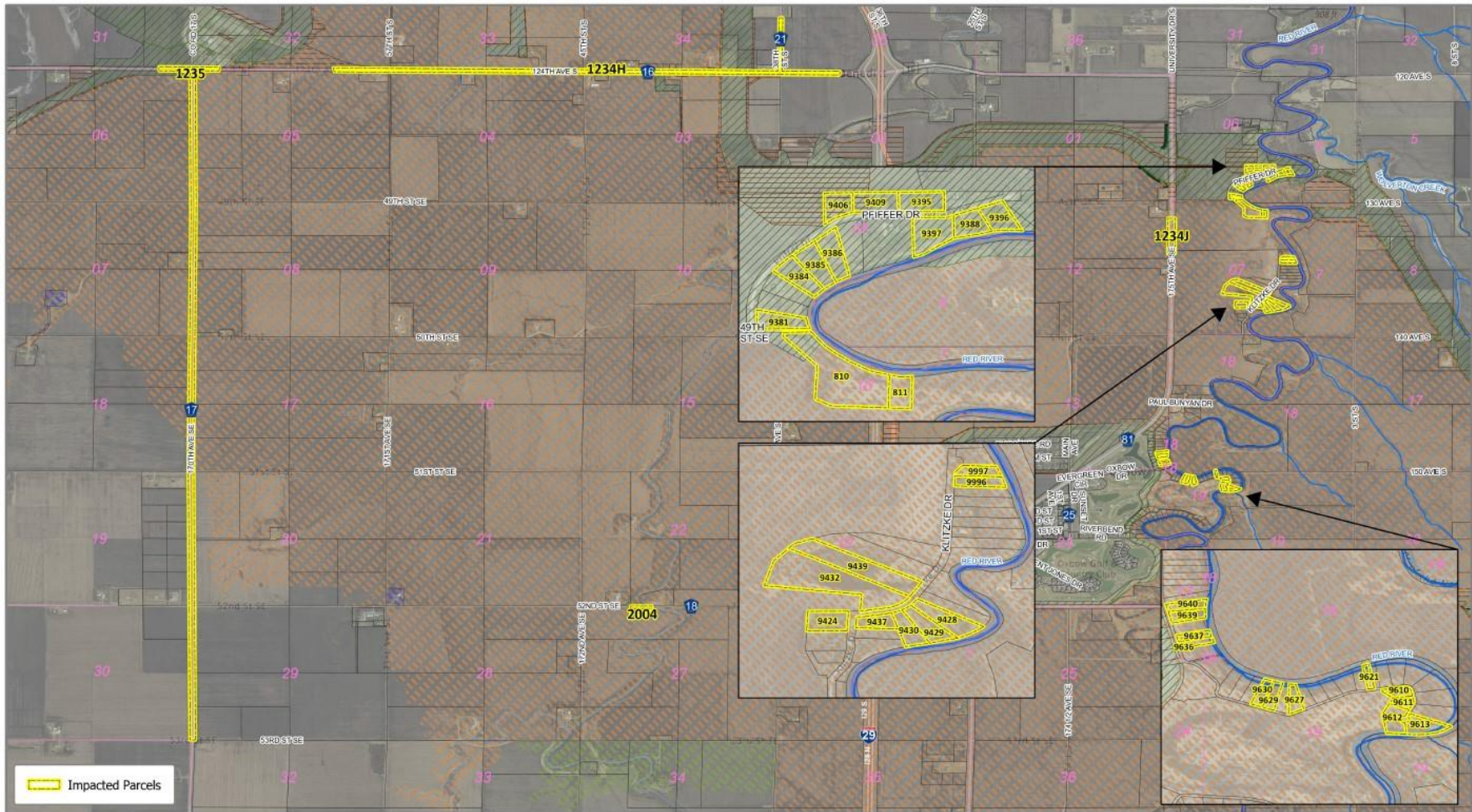
Upstream Mitigation Area

FM AREA DIVERSION PROJECT
Map Date: 2/8/2022



Exhibit B**LIST AND MAP OF COUNTY-OWNED UMA PARCELS**

OIN	Parcel No.
810	57-0000-10208-010
811	57-0000-10208-020
1234H	Deeded ROW
1234J	Deeded ROW
1235	Deeded ROW
2004	57-0000-10371-010
9381	57-0500-00010-000
9384	57-0500-00040-000
9385	57-0500-00050-000
9386	57-0500-00060-000
9388	57-0000-10206-080
9395	57-0000-10206-060
9396	57-0000-10206-050
9397	57-0000-10206-090
9406	57-0000-10207-020
9409	57-0000-10206-020
9424	57-0600-00060-000
9428	57-0400-00170-000
9429	57-0400-00180-000
9430	57-0400-00190-000
9432	57-0400-00010-000
9437	57-0400-00200-000
9439	57-0400-00020-000
9610	78-0010-00750-000
9611	78-0010-00740-000
9612	78-0010-00720-010
9613	78-0010-00710-000
9621	78-0010-00640-010
9627	78-0010-00580-000
9629	78-0010-00560-000
9630	78-0010-00550-000
9636	78-0010-00500-000
9637	78-0010-00501-000
9639	78-0010-00480-000
9640	78-0010-00475-000
9996	57-0400-00070-000
9997	57-0400-00060-000



CASS COUNTY OWNED PARCELS IMPACTED BY COMPREHENSIVE PROJECT OPERATION
Cass County, ND
Map Date: 8/15/2023



*Cass County Joint Water Resource District
Flowage Easement – Cass County
OIN ____ – Parcel No. ____*

Exhibit C

TEMPLATE FLOWAGE EASEMENT

FLOWAGE EASEMENT

THIS EASEMENT is made this ____ day of _____, 20__, by the **Cass County, North Dakota**, a North Dakota political subdivision, whose post office address is **211 9th Street South, Fargo, North Dakota 58103** (“Grantor”); and **Cass County Joint Water Resource District**, a North Dakota political subdivision, whose post office address is **1201 Main Avenue West, West Fargo, North Dakota 58078**, and its successors and assigns (“Grantee”).

RECITALS

A. Grantee is a member of the METRO FLOOD DIVERSION BOARD OF AUTHORITY, a joint powers entity consisting of Clay County, Minnesota; City of Moorhead, Minnesota; Cass County, North Dakota; City of Fargo, North Dakota; and the Cass County Joint Water Resource District (the “Metro Flood Diversion Authority”).

B. The FARGO-MOORHEAD METROPOLITAN AREA FLOOD RISK MANAGEMENT PROJECT is a federally authorized project pursuant to Section 7002(2) of the Water Resources Reform and Development Act of 2014 (the “Project”) and is a flood risk management project, sponsored by the United States Army Corps of Engineers (the “Corps”) and the Metro Flood Diversion Authority, which includes a diversion channel and appurtenant staging and storage areas to reduce flood damages and risks in the region and to provide permanent flood protection in and around the Fargo-Moorhead metropolitan area.

C. Grantor owns certain real property in the vicinity of the Project, more specifically described below, in an area that may be subject to temporary and periodic flooding as a result of the Project.

D. Grantor has agreed to convey to Grantee a permanent easement, as more specifically described below, to permit Grantee to periodically flood portions of Grantor’s property as well as granting certain access, and compliance inspection rights to Grantee subject to the terms and conditions contained in this Easement.

In consideration of \$10.00, the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

AGREEMENT

The Easement Property. Grantor grants and conveys to Grantee a permanent easement in, on, over, through, and across the following real property in **Cass County, North Dakota**:

*Cass County Joint Water Resource District
Flowage Easement – Cass County
OIN ____ – Parcel No. ____*

See legal description in Exhibit “A”

The property described above is the “Easement Property.”

Under this Easement, Grantor grants to Grantee, its officers, employees, agents, representatives, contractors, and subcontractors the perpetual right, power, privilege and easement to occasionally overflow, flood, and submerge the Easement Property in connection with the Project as well as actions necessary to enforce compliance with this Easement. Additionally, Grantor hereby grants to Grantee all right, title, and interest in and to the structures and improvements now situated on the Easement Property:

excepting fencing, drain tile, and drain tile related appurtenances;

and that no excavation shall be conducted, and no fill placed on land within Mitigation Zone 1, and the established FEMA floodway without approval by Grantee as to the location and method of excavation and/or placement of fill and verification that the fill will not impact Project operation.

The easement rights in and to the Easement Property are taken subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the property owners, their heirs and assigns, all such rights and privileges as may be used and enjoyed without interfering with the Project for the purposes authorized by Congress or abridging the rights and easement hereby acquired; provided further that any use of the land shall be subject to Federal and State laws with respect to pollution.

Additionally under this Easement, Grantor grants to Grantee, its officers, employees, agents, representatives, contractors, and subcontractors, and the United States, the following rights related to the Project regarding the Easement Property: ingress and egress in, on, over, across, and through the Easement Property; removing flood-related debris deposited on the Easement Property due to operation of the Project upon Grantor’s request; removing structures, obstructions, and any other obstacles from the Easement Property; conducting compliance inspections; conducting environmental assessments, including habitat and fish and wildlife studies and surveys as required by the State of North Dakota; and necessary and reasonable rights of ingress and egress to and from the Easement Property subject to the provisions regarding crop damages in Section 6(B) below. Grantee shall notify Grantor prior to exercising the access provisions associated with this Agreement.

Easement Runs with the Easement Property. This Easement, and all covenants, terms, conditions, provisions, and undertakings created under this Easement, are permanent and perpetual (or the longest period allowed by law, now or at any time in the future), and will run with the Easement Property, and will be binding upon Grantor’s heirs, successors, and assigns.

*Cass County Joint Water Resource District
Flowage Easement – Cass County
OIN _____ – Parcel No. _____*

Removal of Unapproved Structures. Grantor must remove all unapproved structures on the Easement Property on or before this date. Any unapproved structures remaining on the Easement Property after this date, will automatically become Grantee’s property, without the need for any bill of sale or any other written instrument or agreement; Grantee may then remove any unapproved structures from the Easement Property, at its sole discretion and at its sole cost. All approved existing structures that need not be removed are shown on attached Exhibit “B.”

Grantor Covenants. Grantor warrants that Grantor is the fee simple owner of the Easement Property; that Grantor has the right to execute this Easement and to make the promises, covenants, and representations contained in this Easement; that this Easement does not violate any mortgage or other interest held by any third party regarding the Easement Property, or any portion of the Easement Property; that there are no outstanding unpaid bills incurred for labor, materials, or services regarding the Easement Property, or any portion of the Easement Property; and that there are no recorded or unrecorded liens, security interests, or any outstanding, pending, or threatened suits, judgments, executions, bankruptcies, or other proceedings pending or of record that would in any manner impact title to the Easement Property, or any portion of the Easement Property. Grantor will release, hold harmless, defend, and indemnify Grantee and its officers, agents, representatives, employees, and contractors from and against any and all claims, damages, injuries, or costs arising out of or in any way related to any title defects regarding the Easement Property.

Taxes. Grantor is solely responsible for all taxes and special assessments or assessments for special improvements due, levied, or assessed regarding the Easement Property for all past, present, and future years. Grantee will not be responsible for payment of any real estate taxes or special assessments regarding the Easement Property.

Use of the Easement Property.

Grantor’s Use. Subject to the provisions of this Easement, Grantor has the right and privilege to use the Easement Property at any time, in any manner, and for production of growing crops, pasture, and other farm/agricultural-related activities and hunting, including the right to post the Easement Property at Grantor’s sole discretion to restrict public hunting rights. Notwithstanding the foregoing or any provision of this Easement to the contrary, the parties expressly agree, the construction, operation, and/or maintenance of any concentrated animal feeding operation, confined animal feeding operation, or feedlot (collectively “CAFO”), as defined under applicable local, State and/or Federal laws, rules, and regulations, is prohibited in and upon the Easement Property. Grantor will promptly cease any activities and remove any structures or obstructions that interfere with Grantee’s use of the Easement Property, Grantee’s rights and privileges under this Easement, or with the Project, when directed by Grantee. Grantor understands and recognizes any use of the Easement Property is at Grantor’s sole risk, and with the exception of payments Grantor or Grantor’s tenant (if applicable) may be eligible for under the Growing Season Supplemental Crop Loss Program or the Prevent Plant Crop Insurance Program established and implemented by the Metro Flood Diversion

*Cass County Joint Water Resource District
Flowage Easement – Cass County
OIN _____ – Parcel No. _____*

Page 4

Authority, that Grantee is not responsible for any damages to growing crops or for interference with any other of Grantor's uses of the Easement Property as a result of any inundation or any of Grantee's other rights and privileges regarding the Easement Property. The parties further agree that with respect to any portion of the Easement Property not currently certified for agricultural production in the certified organic marketplace as of the date of this Easement, neither the Growing Season Supplemental Crop Loss Program nor the Prevent Plant Crop Insurance Program established and implemented by the Metro Flood Diversion Authority, shall provide coverage for lost organic certification of all or any portion of the Easement Property or loss in premium payments of certified organic agricultural products over similar conventionally produced agricultural products, as a result of any inundation or any of Grantee's other rights and privileges regarding the Easement Property.

Grantee's Entry. If Grantee enters upon the Easement Property for purposes of conducting compliance inspections or removal of flood related debris deposited on the Easement Property permitted under this Agreement, following the conclusion of any such activities, Grantee will return the Easement Property as nearly as practicable to its previous condition, taking into consideration the nature of the work being performed; for example, Grantee will remove any dirt piles or equipment from the Easement Property that might unreasonably interfere with Grantor's permitted uses of the Easement Property. Grantee's ingress and egress rights to the Easement Property will be by the least intrusive means reasonable. Additionally, Grantee will reimburse Grantor for reasonable crop damages resulting from Grantee's physical entrance upon the Easement Property for purposes of conducting such activities. Such reasonable crop damages shall be calculated based on the area disturbed, actual production history, Grantor's yields the year of the damages, and current crop prices at the time of the crop damages. The crop damage payments under this Section 6(B) shall not be duplicative of the payments described in Section 6(A) above. For purposes of illustration, if Grantee enters onto the Easement Property to conduct a survey on June 1 and damages a portion of the crop growing on the Easement Property, and subsequently on July 15 a major rain event necessitates operation of the Project inundating and damaging the crop growing on the entire Easement Property, the payments Grantor would be eligible for under the Growing Season Supplemental Crop Loss Program described above, would be reduced by the amount Grantor receives as payment for crop damages caused by the survey.

Encumbrances. Subject to the provisions below regarding the leasing or mortgaging of the Easement Property, Grantor will not encumber the Easement Property or any portion of the Easement Property or enroll the Easement Property or any portion of the Easement Property in any farm or other federal program that would be contrary to, or would in any way disrupt or interfere with, Grantee's use of the Easement Property, Grantee's rights and privileges under this Easement, or with the Project without first obtaining Grantee's consent. However, Grantor may rent or lease the Easement Property, at Grantor's sole discretion without first obtaining Grantee's consent. If

*Cass County Joint Water Resource District
Flowage Easement – Cass County
OIN _____ – Parcel No. _____*

Grantor rents or leases the Easement Property, any lessee's rights and uses are subject to this Easement, including the use restrictions described above; Grantor will be fully responsible to Grantee for Grantor's obligations under this Easement, including for any violations by any lessee. Additionally, Grantor may mortgage the Easement Property, at Grantor's sole discretion without first obtaining Grantee's consent so long as any mortgage is subordinate to this Easement.

Waiver of Warranties. Except as set forth in this Easement, the parties specifically agree neither Grantee nor any of its agents or representatives have made any representations or warranties in any way regarding the Project; Grantor's ability to use the Easement Property following construction of the Project; the potential frequency of inundation of the Easement Property; Grantor's ability to enroll the Easement Property in any federal program; or Grantor's ability to obtain any farm insurance regarding the Easement Property other than the Growing Season Supplemental Crop Loss Program or the Prevent Plant Crop Insurance Program which Grantor may be eligible for as set forth in Section 6(A) above.

Maintenance. Grantee's easement rights include the right, at its discretion and if necessary for purposes of proper operation and maintenance of the Project, to remove trees, underbrush, obstructions, and any other vegetation, structures, or obstacles from the Easement Property. However, Grantor is solely responsible, at Grantor's sole expense and discretion, for maintaining the Easement Property, including grass cutting and weed control. Neither Grantor nor Grantee will store, cause, or permit any spillage, leakage, or discharge of fertilizers, herbicides, fungicides, and pesticides on the Easement Property (in excess of normal applications for farming purposes). Further, in no event will either party cause or permit any spillage, leakage, or discharge of any hazardous substance onto the Easement Property including, but not limited to, spillage of petroleum products or vehicle fuels, gasoline, kerosene, or other products used for the purpose of generating power, lubrication, illumination, heating, or cleaning. If either party causes or permits any spillage, leakage, or discharge of any such hazardous substance onto the Easement Property, that party shall be solely responsible for any damages arising out of such spillage, leakage, or discharge of any such hazardous substance onto the Easement Property to the extent required by law.

Alternative Dispute Resolution Board. The Metro Flood Diversion Authority has created an Alternative Dispute Resolution Board to provide property owners an informal, administrative forum to bring claims related to Project operation for damages occurring outside the scope of the terms, conditions, obligations, and rights provided for under this Easement. Without limiting the easement rights granted herein, the parties agree that by executing this Easement, Grantor is not waiving claims for actual damages due to flooding caused by operation of the Project to any other real property owned by Grantor, and any improvements thereon. However, in the event of such damages, the parties agree to attempt in good faith to resolve such damages through the Alternative Dispute Resolution Board, as provided in the Project Property Rights Acquisition and Mitigation Plan, prior to commencing litigation with respect to such damages. A copy of the Project Property Rights Acquisition and Mitigation Plan is available from Grantee. Nothing herein shall prevent Grantor from bringing such claims in District Court.

*Cass County Joint Water Resource District
Flowage Easement – Cass County
OIN ____ – Parcel No. ____*

Forbearance or Waiver. The failure or delay of Grantee to insist on the timely performance of any of the terms of this Easement, or the waiver of any particular breach of any of the terms of this Easement, at any time, will not be construed as a continuing waiver of those terms or any subsequent breach, and all terms will continue and remain in full force and effect as if no forbearance or waiver had occurred.

Governing Law. This Agreement will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Agreement will be venued in State District Court in Cass County, North Dakota, and the parties waive any objection to venue or personal jurisdiction.

Severability. If any court of competent jurisdiction finds any provision or part of this Easement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Easement, and all remaining terms and provisions of this Easement will remain binding and enforceable.

Entire Agreement. This Easement constitutes the entire agreement between the parties regarding the matters described in this Easement, and this Easement supersedes all other previous oral or written agreements between the parties.

Modifications. Any modifications or amendments of this Easement must be in writing and signed by Grantor and Grantee and must be recorded with the Cass County Recorder's office.

Representation. The parties, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this Easement, and agree they have not been influenced by any representations or statements made by any other parties.

Headings. Headings in this Easement are for convenience only and will not be used to interpret or construe its provisions.

(Signatures to appear on the following pages.)

*Cass County Joint Water Resource District
Flowage Easement – Cass County
OIN ____ – Parcel No. ____*

IN WITNESS WHEREOF, Grantor executed this Easement on the date written above.

**GRANTOR:
CASS COUNTY, NORTH DAKOTA**

_____, Chair of the Board of
County Commissioners

ATTEST:

_____, Finance Director

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

On this ____ day of _____, 20__, before me, a Notary Public, in and for said County and State, personally appeared _____ and _____, to me known to be the Chair of the Board of County Commissioners and Finance Director of Cass County, a North Dakota political subdivision, and that they executed the foregoing instrument, and acknowledged to me that they executed the same on behalf of said corporation.

Notary Public, State of _____
My Commission Expires:

(SEAL)

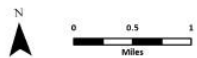
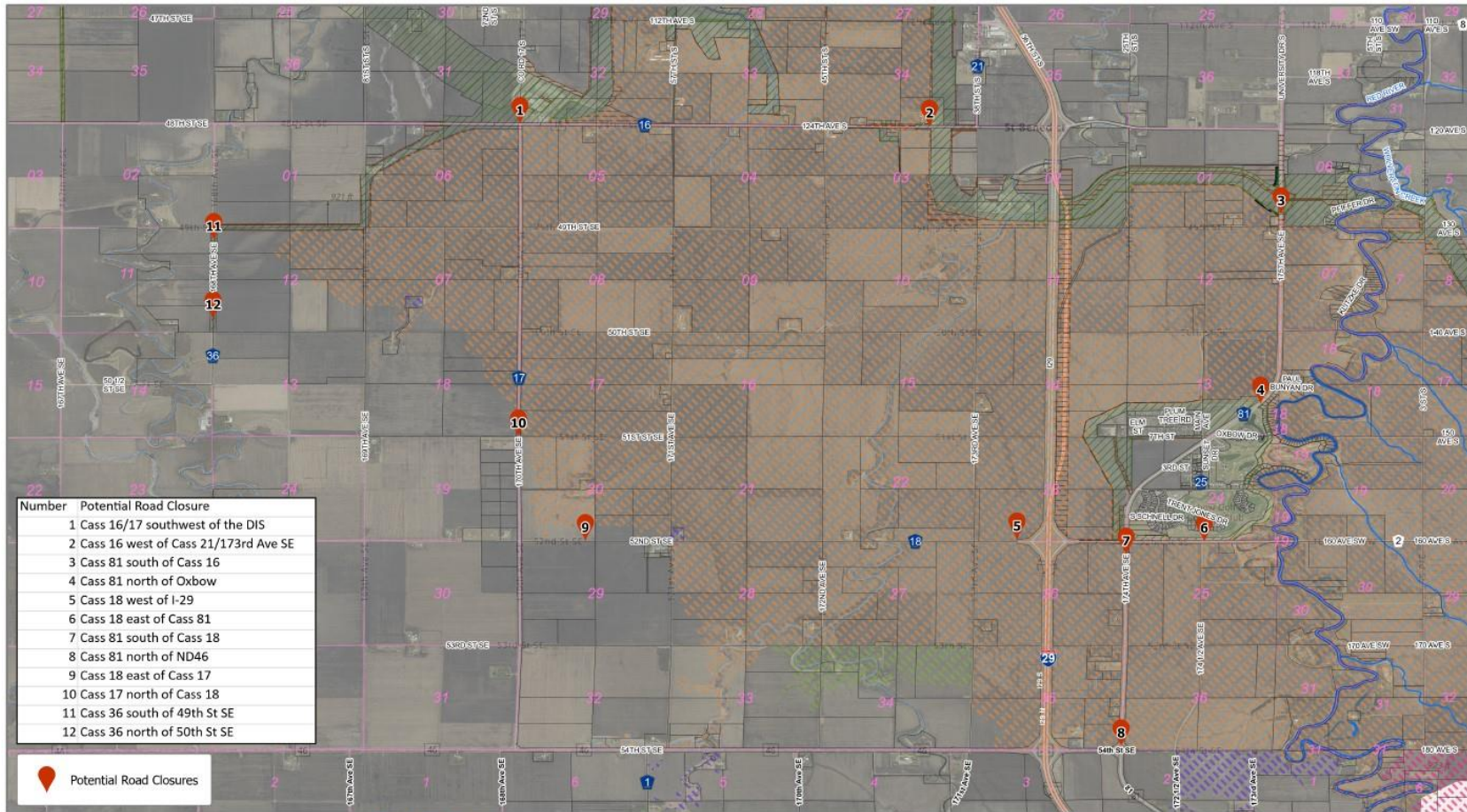
EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT "B"
APPROVED EXISTING STRUCTURES

Exhibit D

POTENTIAL COUNTY ROAD CLOSURE POINTS



POTENTIAL COUNTY ROAD CLOSURES

Cass County, ND
Map Date: 8/16/2023



Road Raise Agreement Approval Memo



AUGUST 15, 2023

1. Introduction

The Metro Flood Diversion Authority (MFDA) requested and received approval from the U.S. Army Corps of Engineers (USACE) in April 2023 to raise short sections of township roads in the upstream mitigation area (UMA). Raising the road segments will improve access to existing residential properties. After approval from USACE, the MFDA staff and consultants approached Eagle Township representatives with a draft agreement allowing the MFDA to construct the road raises on Eagle Township jurisdiction. In August 2023, Eagle Township approved the agreements, which are now ready for MFDA board approval.

The Eagle Township road-raise agreements set forth the roles and responsibilities of the township and the MFDA for road raises to 54th Street SE, 174th Avenue SE, and 175th Avenue SE. The roads will be raised to allow them to remain passable until and through a 100-year flood event. Pursuant to the terms of the agreements, the township is responsible for acquiring the property interests necessary for the road raises, and the MFDA is designing, bidding, and constructing the road raises. The MFDA will require its contractor to secure insurance for the work and to indemnify the township. The MFDA is responsible for reimbursing the township for property acquisition, design reviews, and for spreading gravel on the road raises following completion, in addition to paying for design and construction. The estimated cost for all three (3) road raises is \$1,020,000.

1.1 Road Mitigation Background

During comprehensive project operations, roadways in the UMA may be impacted and become impassable. To mitigate the risk of water on a roadway and the subsequent loss of a public right-of-way, the MFDA committed to working with local roadway authorities (city, county, or township), as necessary, to manage risks to the public.

Roads in the UMA will generally be closed during times of high water; however, the MFDA, along with local officials, understand the need for emergency personnel to reach their destination for life-safety purposes and, as such, the MFDA believes that a few select roads should be raised to provide vehicular access to existing residential properties. The MFDA will assist local roadway authorities to place barricades and warning signs on roads that have water on them and advise the county sheriff to monitor the roads. On gravel or minimum maintenance roads that potentially have washout conditions, the MFDA will work with local roadway authorities to completely close the road to prevent serious injury or fatality. Road closure maps will be updated continuously during times of flooding and posted on the MFDA website.

1.2 Criteria Used to Determine Road Raise Candidates

Per the Property Rights Acquisition and Mitigation (PRAM) Plan, vehicular access means when roads or private driveways have no more than one (1) foot of water during the 100-year flood event. Vehicular access is required for residential structures for life-safety purposes.

Proposed candidates must meet all the items identified in the guidelines below to be considered for a roadway or driveway raise. Note that some properties have neither a road nor a driveway that meet the definition of vehicular access.

Each of the following criteria must be met when identifying road or driveway raise candidates:

- The road or driveway must provide vehicular access to a structure site that meets the mitigation requirements included in the flowage easement.
- The road or driveway must provide an access route to a non-abandoned, existing residential structure site(s). The access route does not need to be the fastest or shortest route under comprehensive project conditions, as the impacts are expected to be periodic and temporary.
- The roadway or driveway must be impacted by the comprehensive project at the 100-year flood event level.
- The inundation must be one (1) foot or more over the crown of the road at a 100-year flood event.
- Road and driveway raises cannot be in Zone 1, and those will not be approved.
- The road or driveway raise cannot adversely impact comprehensive project operations.

1.3 Road Raise Candidates

Following the criteria outlined above, MFDA staff and consultants identified three road segments in Eagle Township of Richland County that qualify for a road raise. A summary of the road raise segments is presented in Table 1 below and the attached map exhibits. Analysis of the road raise candidates is summarized as follows.

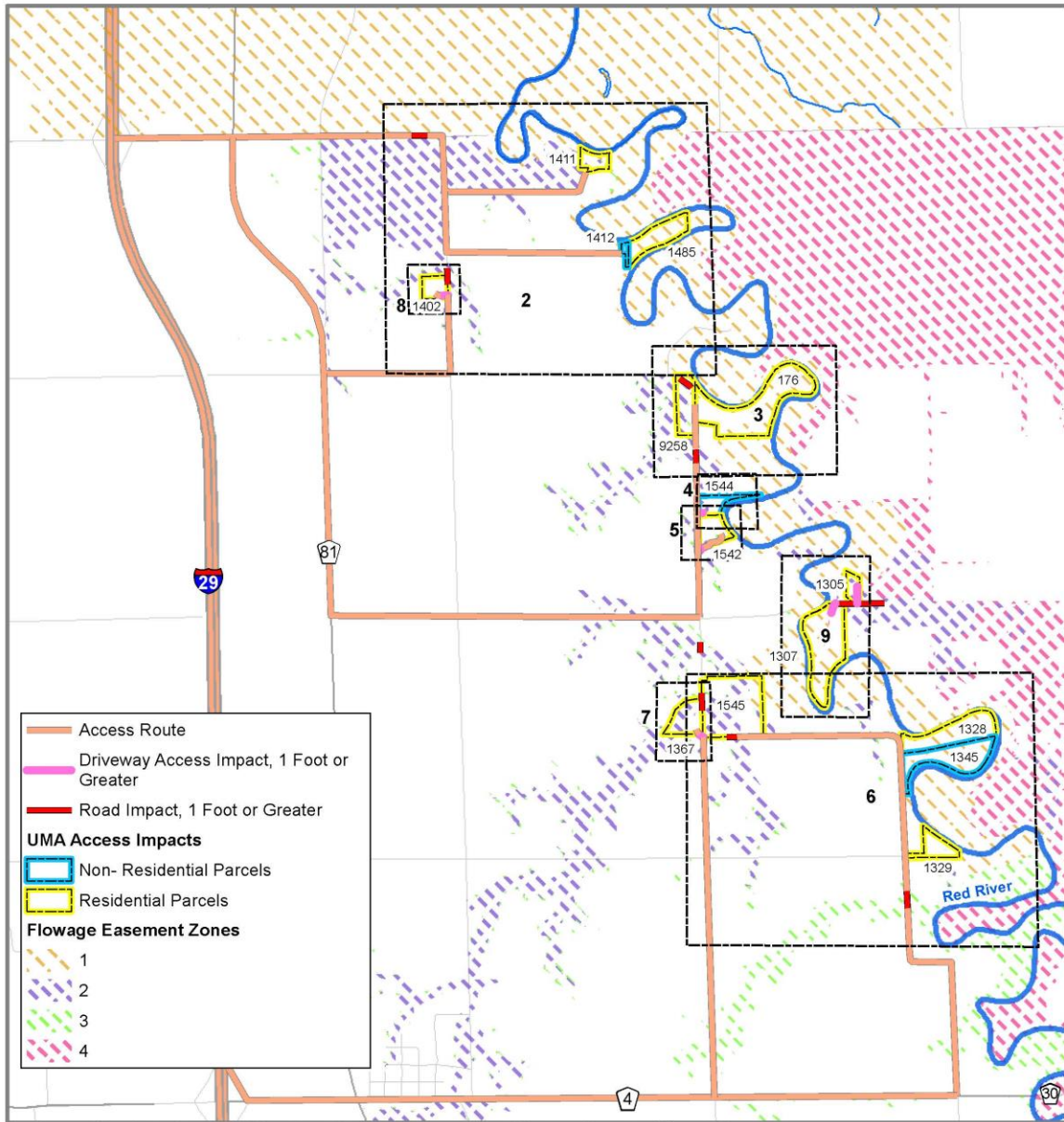
- **54th Street SE** is in Federal Mitigation Zone 2. It will provide vehicular access to OINs 1411, 1412, and 1485. The preliminary construction cost estimate for this road raise is \$315,000.
- **174th Avenue SE** is in Federal Mitigation Zone 2. It will provide vehicular access to OINs 176 and 9258. The preliminary construction cost estimate for this road raise is \$358,000.
- **175th Avenue SE** is in Mitigation Zone 3 and will provide vehicular access to OINs 1328, 1329, 1345, and 1545. Given that this road raise candidate is in Mitigation Zone 3, it is not subject to USACE review or approval but was identified in the memo to USACE for awareness. The preliminary construction cost estimate for this road raise is \$347,000.

1.4 Requested Action

Approve the road raise agreements with Eagle Township, which will allow the MFDA to complete construction of the road raise segments outlined in this memo.

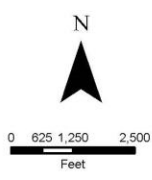
Table 1 – Comprehensive Project Upstream Mitigation Area Road Raise Candidates

#	Road Impacted	Mitigation Zone	Provides Vehicular Access To (OINs)	Existing Elevation	Proposed Elevation	Height (ft)	Road Raise Length (ft)	Existing Culverts	Proposed Culverts	Model Geometry	Candidate for USACE Approval
1	54th St SE (Eagle Township)	Border of 1 & 2	1411, 1412, 1485	917.4	922.2	4.8	670	1-10'x5' RCB	1-10'x5' RCB	CHRSC134	Yes, proposed road raise is on the border of Zones 1& 2
2	174th Ave SE (Eagle Township)	2 & 3	176, 9258	920.0	923.5	3.5	440	1-24" CMP	2-8'x6' RCB	CHRSC127	Yes, proposed road raise is in Zone 2
3	175th Ave SE (Eagle Township)	3	1328, 1329, 1345, 1545	920.7	925.5	4.8	580	2-42" CMP	3-72" CMP	LS264829 2	N/A, proposed road raise is in Zone 3



— Access Route
— Driveway Access Impact, 1 Foot or Greater
— Road Impact, 1 Foot or Greater
UMA Access Impacts
 Non- Residential Parcels
 Residential Parcels
Flowage Easement Zones
 1
 2
 3
 4

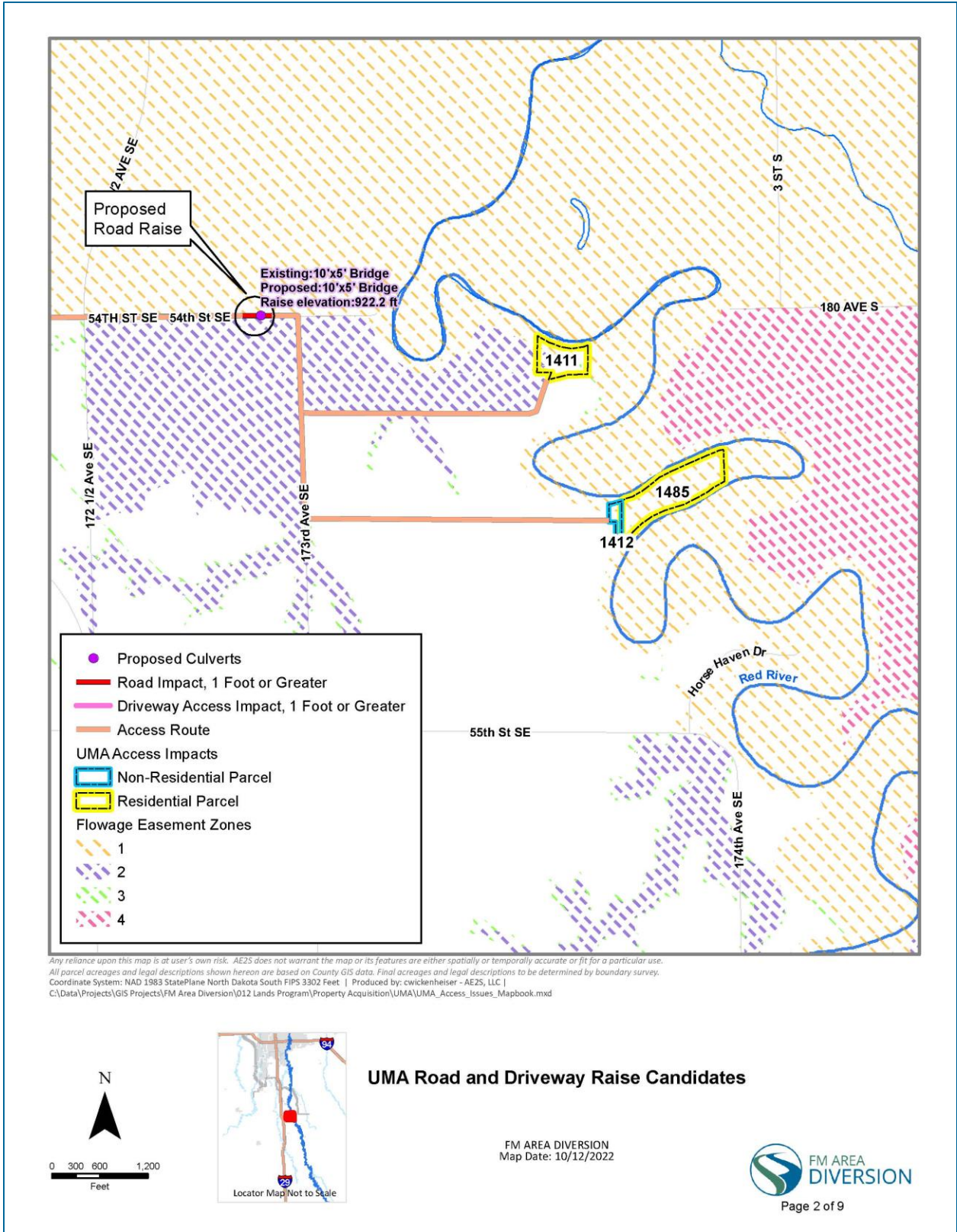
Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use. All parcel acreages and legal descriptions shown hereon are based on County GIS data. Final acreages and legal descriptions to be determined by boundary survey. Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | Produced by: cwickenheiser - AE2S, LLC | C:\Data\Projects\GIS Projects\FM Area Diversion\012 Lands Program\Property Acquisition\UMA\UMA_Access_Issues_Mapbook_Index.mxd

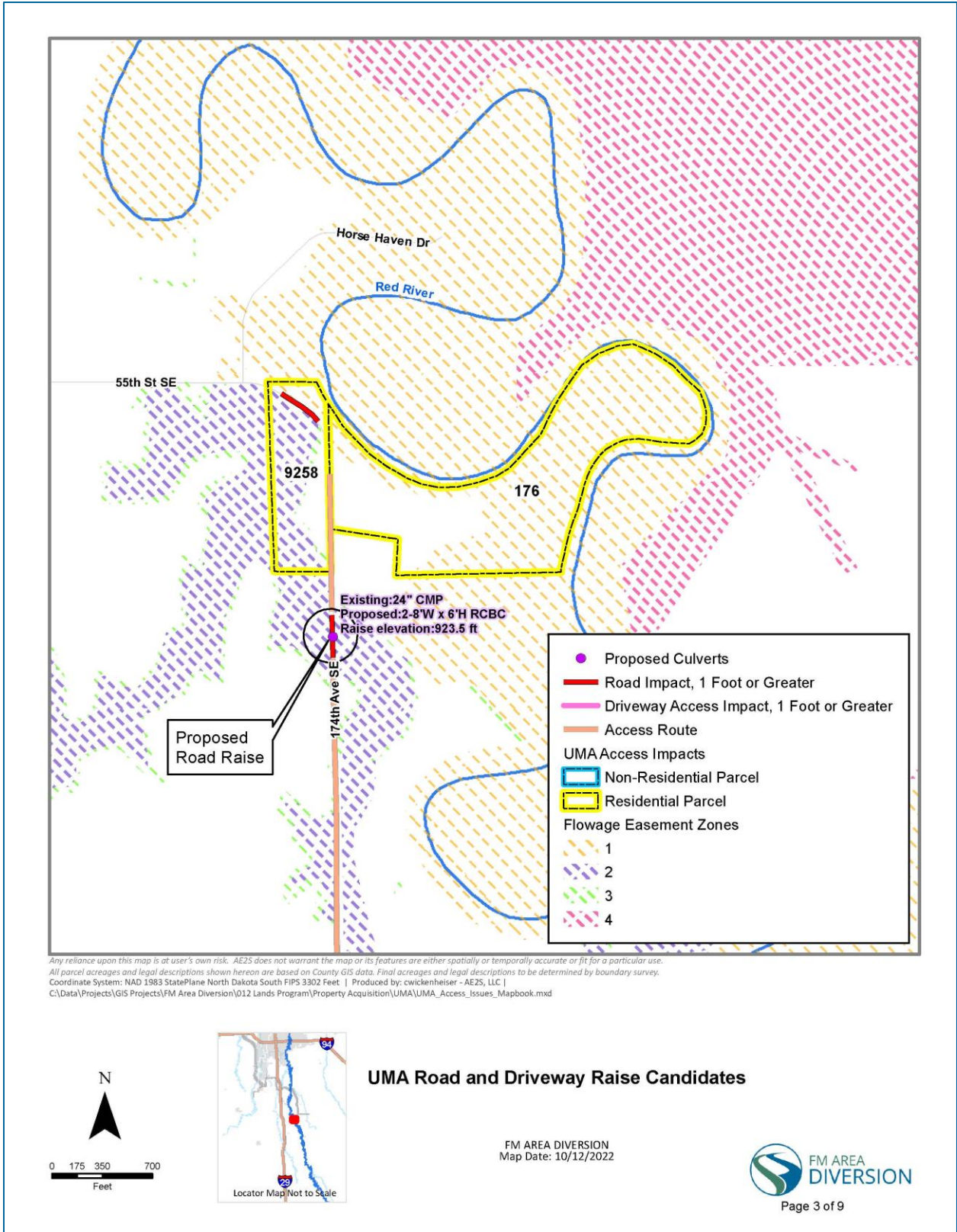


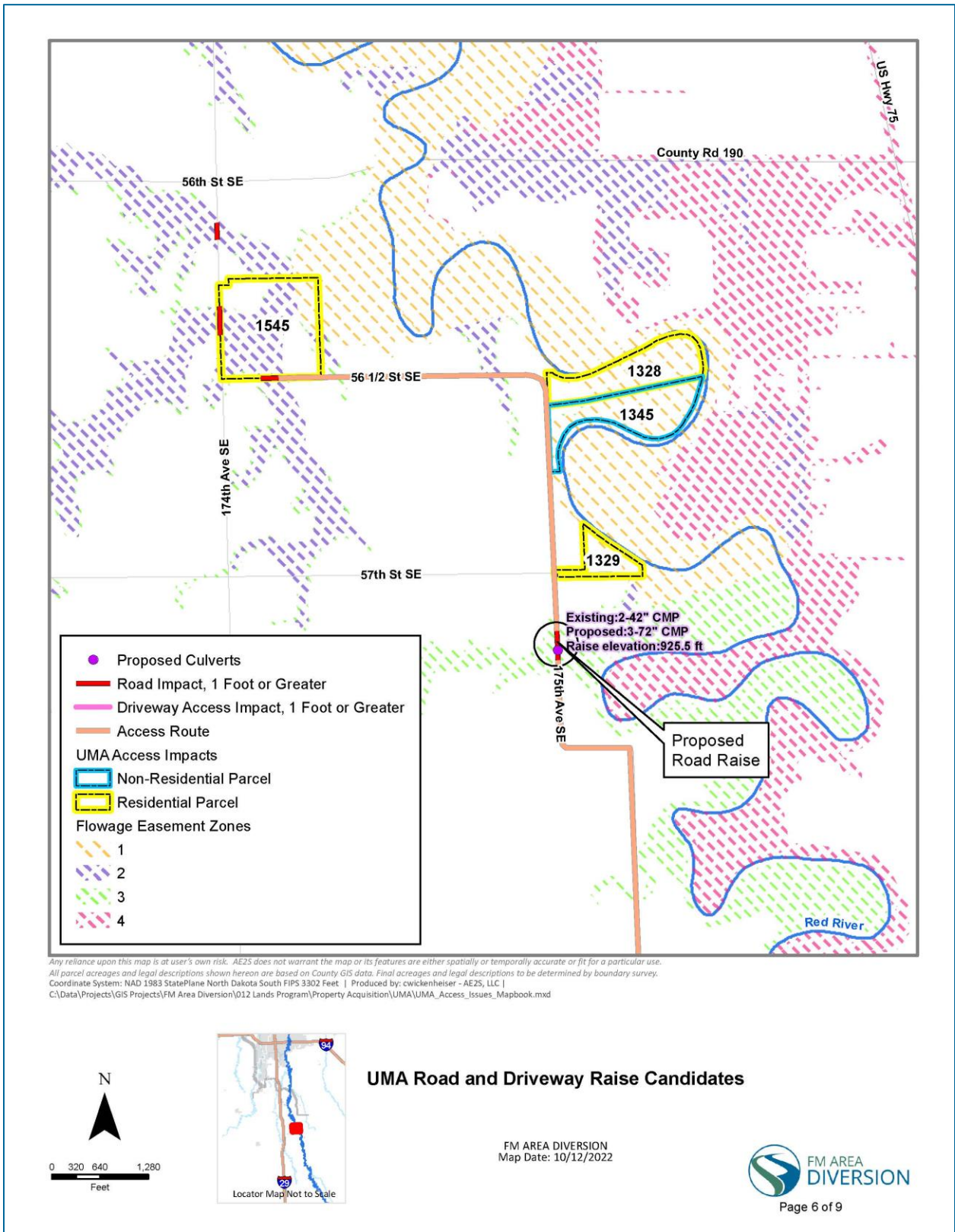
UMA Road and Driveway Raise Candidates

FM AREA DIVERSION
Map Date: 10/12/2022

Page 1 of 9







**AUTHORIZATION TO PERFORM ROAD RAISE
(54TH STREET SOUTHEAST)**

THIS AUTHORIZATION TO PERFORM ROAD RAISE (the “Authorization”) is made and entered into this _____ day of _____, 2023 (the “Effective Date”), by and between the Metro Flood Diversion Authority, a North Dakota political subdivision (the “Authority”), and Eagle Township, a North Dakota political subdivision (the “Township”).

RECITALS

A. The Authority is the local entity responsible for delivering the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the “Comprehensive Project”).

B. One component of the Comprehensive Project is the upstream mitigation area (“UMA”), where flood water will be periodically and temporarily stored behind the southern embankment and associated infrastructure.

C. The Township has jurisdiction over roads within the UMA, certain segments of which may be impacted when the Comprehensive Project is operated.

D. Due to the potential impacts from operation of the Comprehensive Project, the Authority desires to construct a road raise on a segment of the Township’s road identified herein that may be impacted.

E. The Township authorizes the Authority, subject to the terms and conditions of this Authorization, to perform such road raise.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Authorization, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Impacted Road. Subject to the terms in this Authorization, the Township authorizes the Authority to construct a road raise on the following portion of 54th Street Southeast, which is under the Township’s jurisdiction:

See Legal Description of Impacted Road in Exhibit A.

The road portion described above is the “Impacted Road,” and the Impacted Road is depicted in the map attached as Exhibit B.

2. Technical Requirements. The Authority will design and construct the road raise on the Impacted Road in accordance with the technical requirements set forth in attached Exhibit C. These technical requirements will allow the Impacted Road to remain passable until and through a 100-year flood event.

3. Design and Construction. The Authority will be responsible for designing the road raise in accordance with the technical requirements. The Authority will share designs with the Township for review and comment and will reimburse the Township for reasonable engineering fees incurred for such review. The Township must submit copies of engineering invoices to the Authority prior to reimbursement. Additionally, the Authority will be responsible for bidding the project and entering into and administering a contract for the road raise in accordance with applicable state and local laws. The Authority will keep the Township apprised of the bidding and construction schedule for the road raise and will be responsible for temporarily closing the Impacted Road, as necessary, for construction. The Township may inspect a construction site, must follow any and all on-site safety requirements of the construction contractor, and will have no authority to direct a construction contractor or alter the terms of this Authorization with a construction contractor.

4. Land Acquisition. The Township will be responsible for acquiring all real property interests necessary for the road raise. The Township must acquire such interests through voluntary purchase agreements with landowners. Prior to agreeing to an acquisition, the Township must consult and receive authorization from the Authority. The Authority will reimburse the Township for reasonable costs and expenses incurred for land acquisition following submission by the Township of copies of invoices and purchase agreements.

5. Maintenance During Construction. The construction contractor will be responsible for maintaining haul routes used during construction. In the event the Township believes maintenance is not being performed or is being underperformed, it will notify the Authority, and the Authority will coordinate maintenance, which may include, if agreed upon, the Township performing the maintenance and seeking reimbursement from the Authority.

6. Road Raise Completion. The Authority will notify the Township upon substantial completion of the road raise and allow the Township to accompany the Authority for any final inspections to ensure the road raise was constructed in accordance with the technical requirements set forth in this Authorization.

7. Graveling and Turnover. Following the completion of the road raise but prior to turning the Impacted Road back over to the Township, the Authority will spread a minimum of four (4) inches of Class 13 or Class 5 gravel on the Impacted Road, as desired by the Township. The Authority will then turn over the Impacted Road to the Township and provide the Township with a set of as-built drawings. The Authority will warrant the construction of the road raise for a period of five (5) years from the date of turnover and will transfer any extended warranties from the contractors to the Township. The Authority will not be responsible for any maintenance or reconstruction of the road raise or the Impacted Road following the 5-year period; notwithstanding, however, the Authority will be responsible (i) for fulfilling its obligations set forth in the Post-Operation Public Lands Repair and Clean-up Plan for the Impacted Road and (ii) for repairing the Impacted Road from impacts resulting from flood events up to and including a 100-year flood, including hydraulic impacts resulting from the construction of the City of Christine ring levee project. The Authority's commitment to repair the Impacted Road resulting from impacts caused by the City of Christine ring levee project is based upon the proposed alignment of the ring levee,

dated February 9, 2023, attached hereto as Exhibit D. The final design and construction of the City of Christine ring levee project is the responsibility of the City of Christine, not the Authority. The parties agree and acknowledge that the City of Christine's final alignment may vary from the preliminary alignment. In the event changes are made to the alignment, the Authority will notify the Township, and the parties will negotiate in good faith on the Authority's obligation to remedy impacts.

8. Insurance and Indemnification. The Authority will require its construction contractor to secure insurance for the road raise that is commonly obtained for such projects in accordance with industry standards. The Authority will require its construction contractor to name the Township as an additional insured on all insurance policies. Additionally, with the exception of damages caused by the Township's sole negligence, the Authority will require its construction contractor to release, hold harmless, defend, and indemnify the Township, its officers, employees, agents, representatives, contractors, and consultants, from any and all costs, liability, losses, damages, expenses, claims, demands, actions, judgments, and executions; all claims, damages, actions, causes of action, claims for relief for damages (compensatory, exemplary, or otherwise), or injury as a result of or arising out of the contractor's entry upon or use of the Impacted Road; any act or omission of the contractor; any accident, injury, or damage to person or property as a result of or arising out of the contractor's entry or use of the Impacted Road; or any failure by the contractor to comply with any requirements of a governmental authority. The duties to release, hold harmless, defend, and indemnify include any act or omission of the contractor as well as any of the contractor's officers, employees, agents, representatives, consultants, subcontractors, material suppliers, representatives, licensees, or invitees, or any person or entity directly or indirectly employed by any of them regarding the road raise or Impacted Road. The indemnity obligations include any costs, expenses, and attorneys' fees incurred in establishing the indemnification provided in this Authorization.

9. Future Improvements. The Township may make future changes to the Impacted Road in its sole discretion, assuming all risks of how future Comprehensive Project operation may affect the Impacted Road following alteration.

10. Term. This Authorization will commence on the Effective Date and will terminate upon the completion of construction of the Comprehensive Project.

11. Waiver. The waiver of any particular breach of any of the terms of this Authorization, at any time, will not be construed as a continuing waiver of those terms or any subsequent breach, and all terms will continue and remain in full force and effect as if no waiver had occurred.

12. Assignment. Neither party will assign this Authorization without the express written consent of the other party.

13. Governing Law. This Authorization will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Authorization will be venued in State District Court in Cass County, North Dakota, and the parties waive any objection to venue or personal jurisdiction.

14. Severability. If any court of competent jurisdiction finds any provision or part of this Authorization is invalid, illegal, or unenforceable, that portion will be deemed severed from this Authorization, and all remaining terms and provisions of this Authorization will remain binding and enforceable.

15. Entire Agreement. This Authorization, together with any amendments, constitutes the entire agreement between the parties regarding the matters described in this Authorization, and this Authorization supersedes all other previous oral or written agreements between the parties regarding such matters.

16. Modifications. Any modifications or amendments of this Authorization must be in writing and signed by the parties.

17. Headings. Headings in this Authorization are for convenience only and will not be used to interpret or construe its provisions.

18. Attorney's Fees. The Authority will reimburse the Township for reasonable attorney's fees in negotiating the terms of this Authorization. The Township must submit copies of legal invoices to the Authority prior to reimbursement.

19. Electronic Signatures. The Authority and the Township agree that an electronic signature to this Authorization shall be valid as an original signature of the Authority or the Township and shall be effective to bind the signatories of this Authorization.

(Signatures appear on the following pages.)

IN WITNESS WHEREOF, the parties caused this Authorization to be executed.

METRO FLOOD DIVERSION
AUTHORITY

By: _____
Dr. Timothy J. Mahoney, Chair

By: _____
Joel Paulsen, Executive Director

ATTEST:

Dawn Lindblom, Secretary

EAGLE TOWNSHIP

By: _____
James Hohertz, Chair

ATTEST:

Roxanne Morken, Clerk/Treasurer

Exhibit A

Legal Description of Impacted Road

OIN 1473

That part of Government Lot 1, Section 2, Township 136 North, Range 49 West of the Fifth Principal Meridian, Richland County, North Dakota, described as follows:

A strip of land 70.00 feet wide, lying southerly of and being coincident with the following described line:

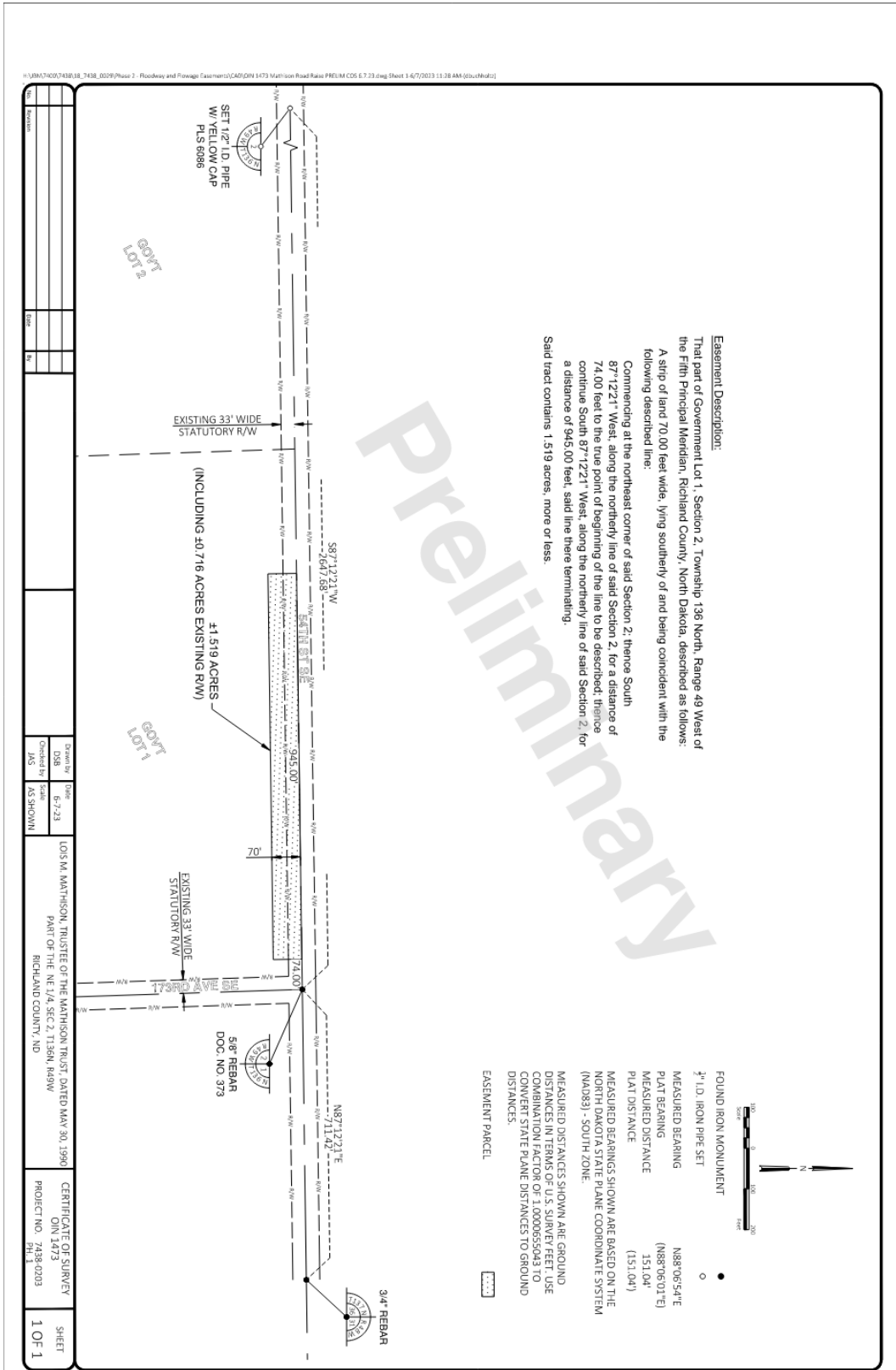
Commencing at the northeast corner of said Section 2; thence South 87°12'21" West, along the northerly line of said Section 2, for a distance of 74.00 feet to the true point of beginning of the line to be described; thence continue South 87°12'21" West, along the northerly line of said Section 2, for a distance of 945.00 feet, said line there terminating.

Said tract contains 1.519 acres, more or less.

I hereby certify that the above description was prepared by me on _____ and that I am a duly registered land surveyor under the laws of the state of North Dakota.

James A. Schlieman
North Dakota License No. LS-6086

Modification in any way of the foregoing description terminates liability of the Surveyor.



OIN 2052

That part of the Southeast Quarter of Section 36, Township 137 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A strip of land 70.00 feet wide, lying northerly of and being coincident with the following described line:

Commencing at the southeast corner of said Southeast Quarter; thence South 87°12'21" West, along the southerly line of said Southeast Quarter, for a distance of 785.45 feet to the true point of beginning of the line to be described; thence continue South 87°12'21" West, along the southerly line of said Southeast Quarter, for a distance of 945.00 feet, said line there terminating.

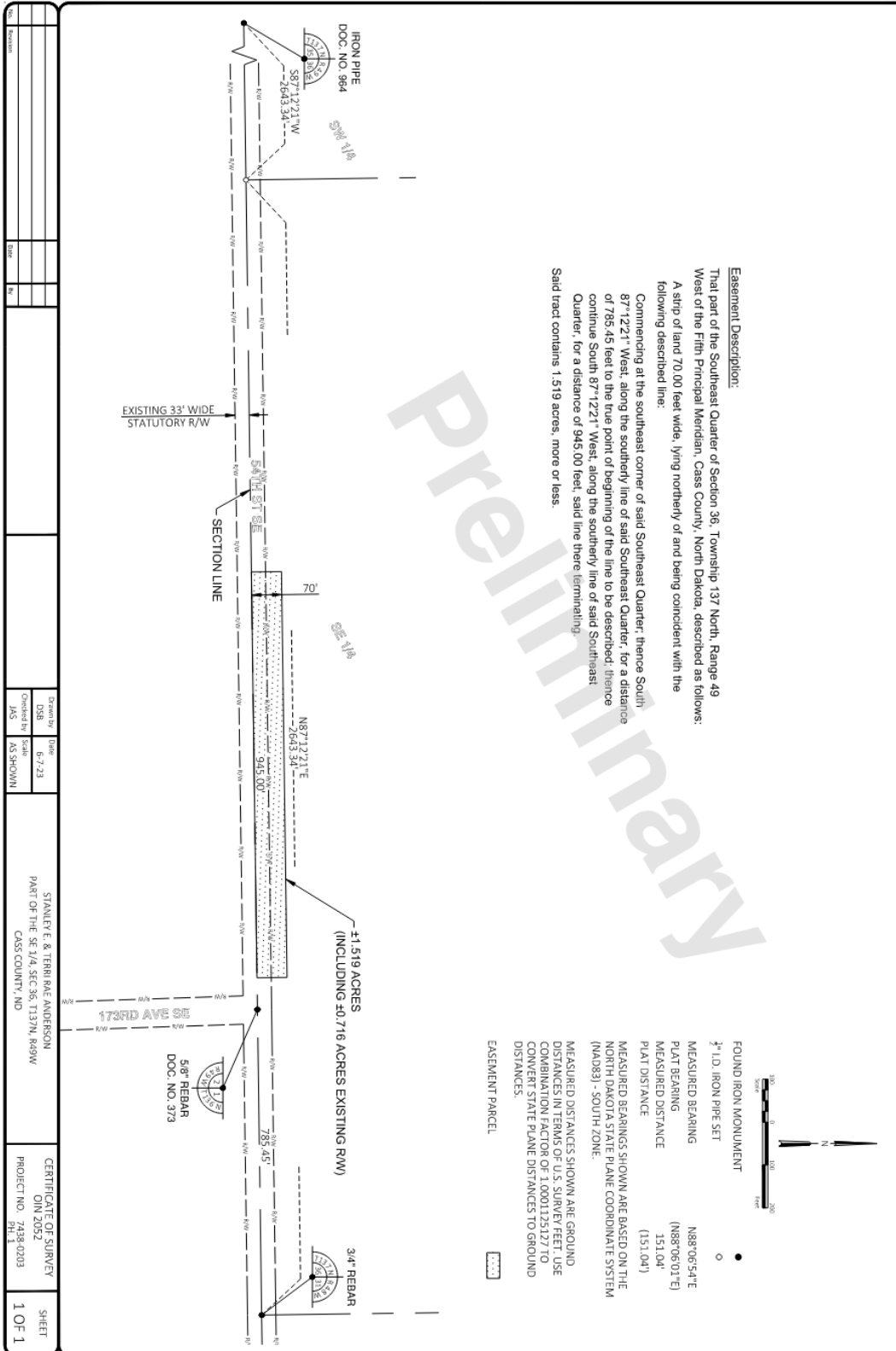
Said tract contains 1.519 acres, more or less.

I hereby certify that the above description was prepared by me on _____ and that I am a duly registered land surveyor under the laws of the state of North Dakota.

James A. Schlieman
North Dakota License No. LS-6086

Modification in any way of the foregoing description terminates liability of the Surveyor.

\\JMS\7400\7438.18_7438_0029\Phase 2 - Floodway and Flowage Easement\CAD\DWG\2023 Anderson Road R/W RFL\RA-005 6.7.23 (Cass County).dwg\$Sheet 1-6/7/2023 11:06 AM (6/24/2023)



Preliminary

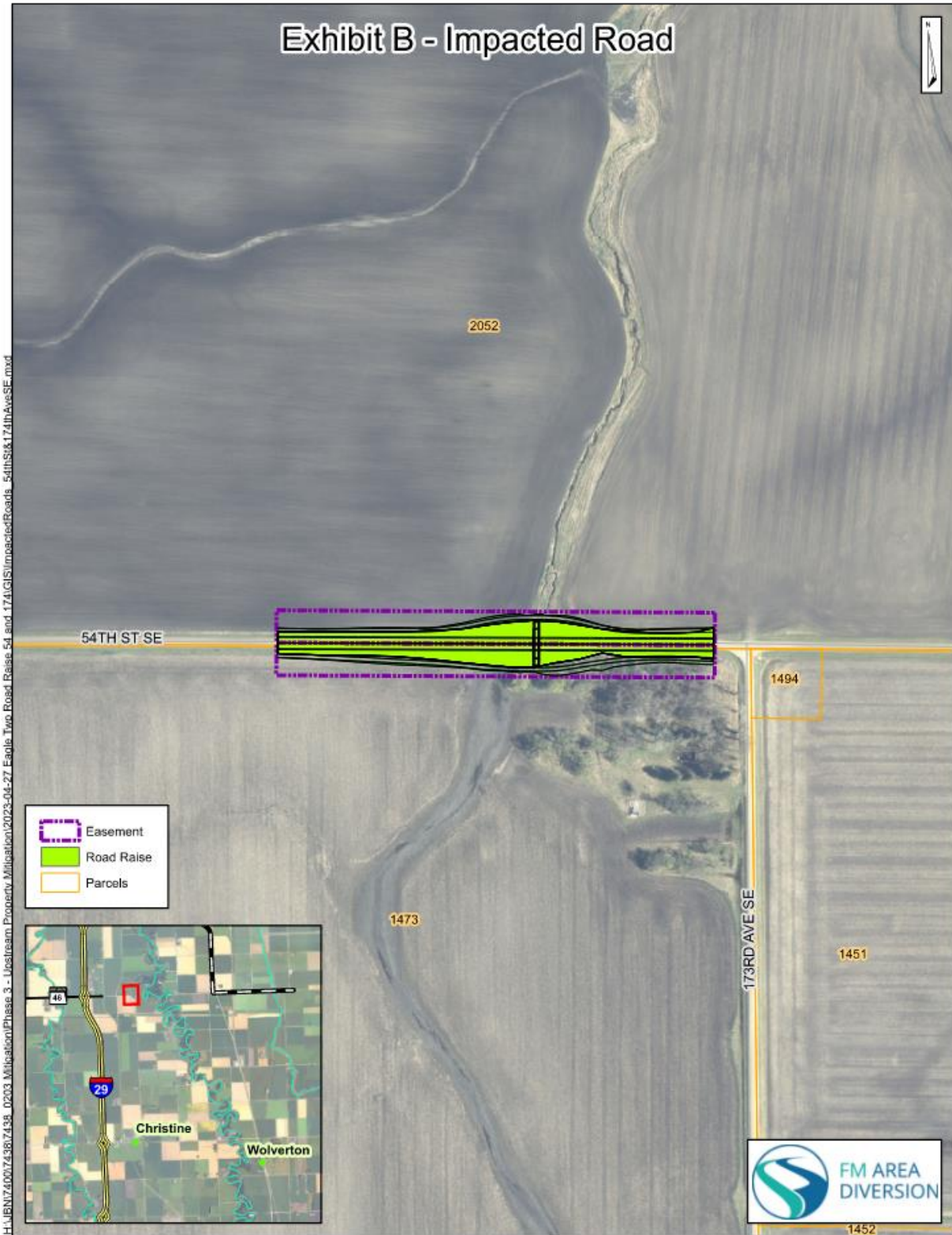


Exhibit C

Technical Requirements

The 54th Street Southeast grade raise will be designed and constructed to generally match the existing township roadway, while ensuring it meets current NDDOT standards. The horizontal and vertical geometry will be designed to meet a design speed of fifty-five (55) miles per hour (mph) as defined in Chapter 3 of the NDDOT Design Manual. The roadway will be designed with a 4-inch thick aggregate Class 13 surface. The roadway will be twenty-four (24) feet wide, consisting of two (2) 12-foot wide driving lanes with a four percent (4%) cross slope on each lane. Ditch inslopes will be constructed at a 4H:1V slope to the clear zone as defined by Chapter 3 of the NDDOT Design Manual. Beyond the clear zone, the inslopes may be broken to 3H:1V if necessary. Ditches paralleling the roadway will be reconstructed with an 8-foot wide bottom and 3H:1V backslopes to meet the adjacent field. Other elements of the roadway, including but not limited to, culverts, topsoil, seeding, erosion control, and traffic control will be designed according to the NDDOT Design Manual. Construction of the project elements will follow the 2022 edition of the NDDOT Standard Specifications for Road and Bridge Construction, as amended with the latest supplemental specifications published at the time of bid letting.

**AUTHORIZATION TO PERFORM ROAD RAISE
(174TH AVENUE SOUTHEAST)**

THIS AUTHORIZATION TO PERFORM ROAD RAISE (the “Authorization”) is made and entered into this _____ day of _____, 2023 (the “Effective Date”), by and between the Metro Flood Diversion Authority, a North Dakota political subdivision (the “Authority”), and Eagle Township, a North Dakota political subdivision (the “Township”).

RECITALS

A. The Authority is the local entity responsible for delivering the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the “Comprehensive Project”).

B. One component of the Comprehensive Project is the upstream mitigation area (“UMA”), where flood water will be periodically and temporarily stored behind the southern embankment and associated infrastructure.

C. The Township has jurisdiction over roads within the UMA, certain segments of which may be impacted when the Comprehensive Project is operated.

D. Due to the potential impacts from operation of the Comprehensive Project, the Authority desires to construct a road raise on a segment of the Township’s road identified herein that may be impacted.

E. The Township authorizes the Authority, subject to the terms and conditions of this Authorization, to perform such road raise.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Authorization, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Impacted Road. Subject to the terms in this Authorization, the Township authorizes the Authority to construct a road raise on the following portion of 174th Avenue Southeast, which is under the Township’s jurisdiction:

See Legal Description of Impacted Road in Exhibit A.

The road portion described above is the “Impacted Road,” and the Impacted Road is depicted in the map attached as Exhibit B.

2. Technical Requirements. The Authority will design and construct the road raise on the Impacted Road in accordance with the technical requirements set forth in attached Exhibit C. These technical requirements will allow the Impacted Road to remain passable until and through a 100-year flood event.

3. Design and Construction. The Authority will be responsible for designing the road raise in accordance with the technical requirements. The Authority will share designs with the Township for review and comment and will reimburse the Township for reasonable engineering fees incurred for such review. The Township must submit copies of engineering invoices to the Authority prior to reimbursement. Additionally, the Authority will be responsible for bidding the project and entering into and administering a contract for the road raise in accordance with applicable state and local laws. The Authority will keep the Township apprised of the bidding and construction schedule for the road raise and will be responsible for temporarily closing the Impacted Road, as necessary, for construction. The Township may inspect a construction site, must follow any and all on-site safety requirements of the construction contractor, and will have no authority to direct a construction contractor or alter the terms of this Authorization with a construction contractor.

4. Land Acquisition. The Township will be responsible for acquiring all real property interests necessary for the road raise. The Township must acquire such interests through voluntary purchase agreements with landowners. Prior to agreeing to an acquisition, the Township must consult and receive authorization from the Authority. The Authority will reimburse the Township for reasonable costs and expenses incurred for land acquisition following submission by the Township of copies of invoices and purchase agreements.

5. Maintenance During Construction. The construction contractor will be responsible for maintaining haul routes used during construction. In the event the Township believes maintenance is not being performed or is being underperformed, it will notify the Authority, and the Authority will coordinate maintenance, which may include, if agreed upon, the Township performing the maintenance and seeking reimbursement from the Authority.

6. Road Raise Completion. The Authority will notify the Township upon substantial completion of the road raise and allow the Township to accompany the Authority for any final inspections to ensure the road raise was constructed in accordance with the technical requirements set forth in this Authorization.

7. Graveling and Turnover. Following the completion of the road raise but prior to turning the Impacted Road back over to the Township, the Authority will spread a minimum of four (4) inches of Class 13 or Class 5 gravel on the Impacted Road, as desired by the Township. The Authority will then turn over the Impacted Road to the Township and provide the Township with a set of as-built drawings. The Authority will warrant the construction of the road raise for a period of five (5) years from the date of turnover and will transfer any extended warranties from the contractors to the Township. The Authority will not be responsible for any maintenance or reconstruction of the road raise or the Impacted Road following the 5-year period; notwithstanding, however, the Authority will be responsible (i) for fulfilling its obligations set forth in the Post-Operation Public Lands Repair and Clean-up Plan for the Impacted Road and (ii) for repairing the Impacted Road from impacts resulting from flood events up to and including a 100-year flood, including hydraulic impacts resulting from the construction of the City of Christine ring levee project. The Authority's commitment to repair the Impacted Road resulting from impacts caused by the City of Christine ring levee project is based upon the proposed alignment of the ring levee,

dated February 9, 2023, attached hereto as Exhibit D. The final design and construction of the City of Christine ring levee project is the responsibility of the City of Christine, not the Authority. The parties agree and acknowledge that the City of Christine's final alignment may vary from the preliminary alignment. In the event changes are made to the alignment, the Authority will notify the Township, and the parties will negotiate in good faith on the Authority's obligation to remedy impacts.

8. Insurance and Indemnification. The Authority will require its construction contractor to secure insurance for the road raise that is commonly obtained for such projects in accordance with industry standards. The Authority will require its construction contractor to name the Township as an additional insured on all insurance policies. Additionally, with the exception of damages caused by the Township's sole negligence, the Authority will require its construction contractor to release, hold harmless, defend, and indemnify the Township, its officers, employees, agents, representatives, contractors, and consultants, from any and all costs, liability, losses, damages, expenses, claims, demands, actions, judgments, and executions; all claims, damages, actions, causes of action, claims for relief for damages (compensatory, exemplary, or otherwise), or injury as a result of or arising out of the contractor's entry upon or use of the Impacted Road; any act or omission of the contractor; any accident, injury, or damage to person or property as a result of or arising out of the contractor's entry or use of the Impacted Road; or any failure by the contractor to comply with any requirements of a governmental authority. The duties to release, hold harmless, defend, and indemnify include any act or omission of the contractor as well as any of the contractor's officers, employees, agents, representatives, consultants, subcontractors, material suppliers, representatives, licensees, or invitees, or any person or entity directly or indirectly employed by any of them regarding the road raise or Impacted Road. The indemnity obligations include any costs, expenses, and attorneys' fees incurred in establishing the indemnification provided in this Authorization.

9. Future Improvements. The Township may make future changes to the Impacted Road in its sole discretion, assuming all risks of how future Comprehensive Project operation may affect the Impacted Road following alteration.

10. Term. This Authorization will commence on the Effective Date and will terminate upon the completion of construction of the Comprehensive Project.

11. Waiver. The waiver of any particular breach of any of the terms of this Authorization, at any time, will not be construed as a continuing waiver of those terms or any subsequent breach, and all terms will continue and remain in full force and effect as if no waiver had occurred.

12. Assignment. Neither party will assign this Authorization without the express written consent of the other party.

13. Governing Law. This Authorization will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Authorization will be venued in State District Court in Cass County, North Dakota, and the parties waive any objection to venue or personal jurisdiction.

14. Severability. If any court of competent jurisdiction finds any provision or part of this Authorization is invalid, illegal, or unenforceable, that portion will be deemed severed from this Authorization, and all remaining terms and provisions of this Authorization will remain binding and enforceable.

15. Entire Agreement. This Authorization, together with any amendments, constitutes the entire agreement between the parties regarding the matters described in this Authorization, and this Authorization supersedes all other previous oral or written agreements between the parties regarding such matters.

16. Modifications. Any modifications or amendments of this Authorization must be in writing and signed by the parties.

17. Headings. Headings in this Authorization are for convenience only and will not be used to interpret or construe its provisions.

18. Attorney's Fees. The Authority will reimburse the Township for reasonable attorney's fees in negotiating the terms of this Authorization. The Township must submit copies of legal invoices to the Authority prior to reimbursement.

19. Electronic Signatures. The Authority and the Township agree that an electronic signature to this Authorization shall be valid as an original signature of the Authority or the Township and shall be effective to bind the signatories of this Authorization.

(Signatures appear on the following pages.)

IN WITNESS WHEREOF, the parties caused this Authorization to be executed.

METRO FLOOD DIVERSION
AUTHORITY

By: _____
Dr. Timothy J. Mahoney, Chair

By: _____
Joel Paulsen, Executive Director

ATTEST:

Dawn Lindblom, Secretary

EAGLE TOWNSHIP

By: _____
James Hohertz, Chair

ATTEST:

Roxanne Morken, Clerk/Treasurer

Exhibit A

Legal Description of Impacted Road

OIN 1584

That part of the Southeast Quarter of the Northeast Quarter of Section 12, Township 136 North, Range 49 West of the Fifth Principal Meridian, Richland County, North Dakota, described as follows:

A strip of land 70.00 feet wide, lying westerly of and being coincident with the following described line:

Commencing at the southeast corner of said Northeast Quarter; thence North 03°12'06" West, along the easterly line of said Northeast Quarter, for a distance of 540.00 feet to the true point of beginning of the line to be described; thence continue North 03°12'06" West, along the easterly line of said Northeast Quarter, for a distance of 665.00 feet, said line there terminating.

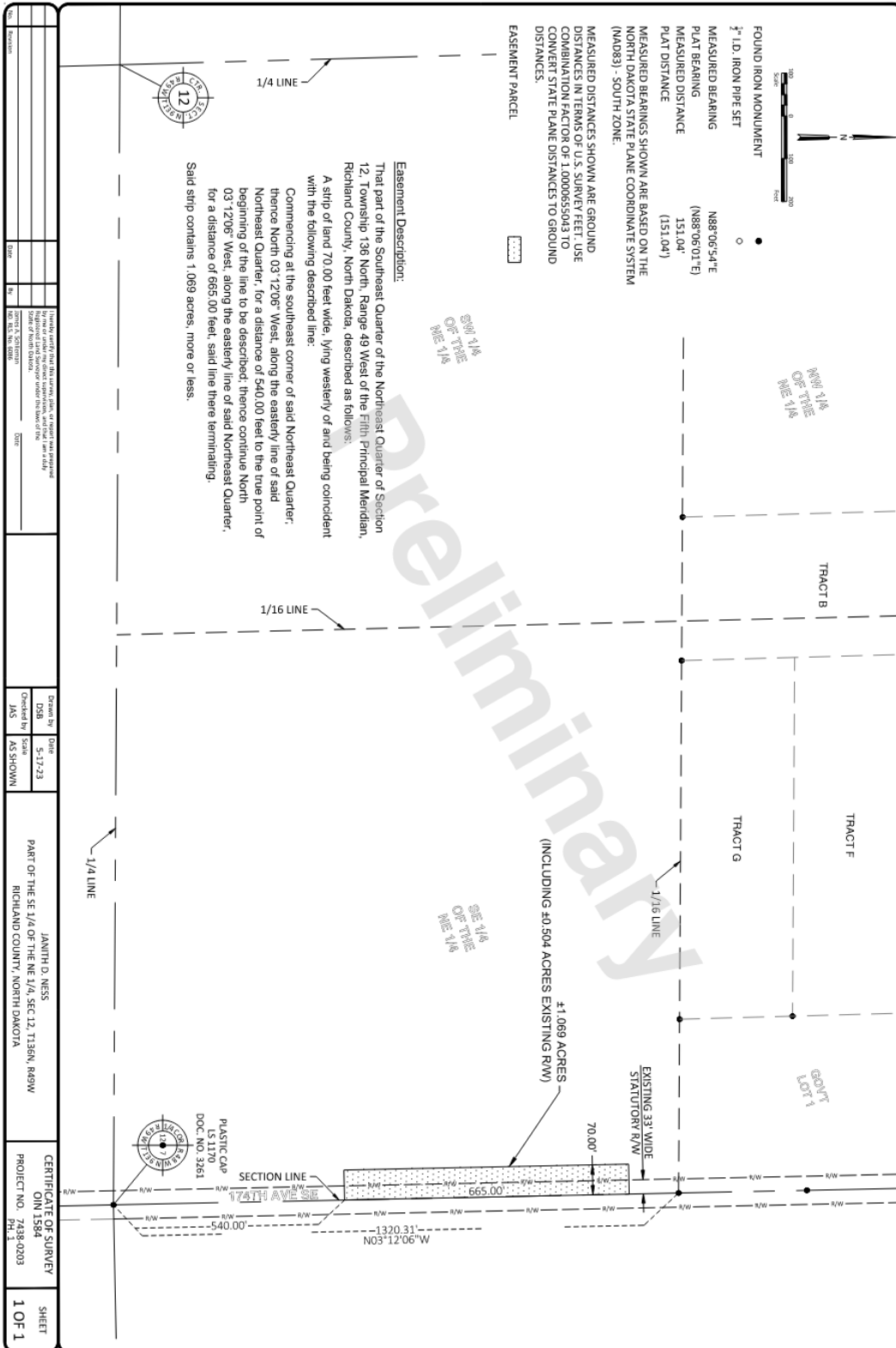
Said strip contains 1.069 acres, more or less.

I hereby certify that the above description was prepared by me on _____ and that I am a duly registered land surveyor under the laws of the state of North Dakota.

James A. Schlieman
North Dakota License No. LS-6086

Modification in any way of the foregoing description terminates liability of the Surveyor.

\\USM\74007438\18_7438_0039\Phase 2 - Floodway and Flowage Easements\CAD\ON 1584 Hess Road Raise PRELUM C05 5.17.23.dwg 3/4/7/2023 11:26 AM-(dbusholtz)



DATE	BY	REVISION

DATE	BY	REVISION

DATE	BY	REVISION

JANITH D. NESS
 PART OF THE SE 1/4 OF THE NE 1/4, SEC.12, T136N, R49W
 RICHLAND COUNTY, NORTH DAKOTA

CERTIFICATE OF SURVEY
 ON 1584
 PROJECT NO. 7438-0203
 PH. 1

SHEET
 1 OF 1

OIN 1585

That part of Government Lot 3, Section 7, Township 136 North, Range 48 West of the Fifth Principal Meridian, Richland County, North Dakota, described as follows:

A strip of land 70.00 feet wide, lying easterly of and being coincident with the following described line:

Commencing at the southwest corner of said Government Lot 3; thence North 03°12'06" West, along the westerly line of said Government Lot 3, for a distance of 540.00 feet to the true point of beginning of the line to be described; thence continue North 03°12'06" West, along the westerly line of said Government Lot 3, for a distance of 665.00 feet, said line there terminating.

Said strip contains 1.069 acres, more or less.

I hereby certify that the above description was prepared by me on _____ and that I am a duly registered land surveyor under the laws of the state of North Dakota.

James A. Schlieman
North Dakota License No. LS-6086

Modification in any way of the foregoing description terminates liability of the Surveyor.

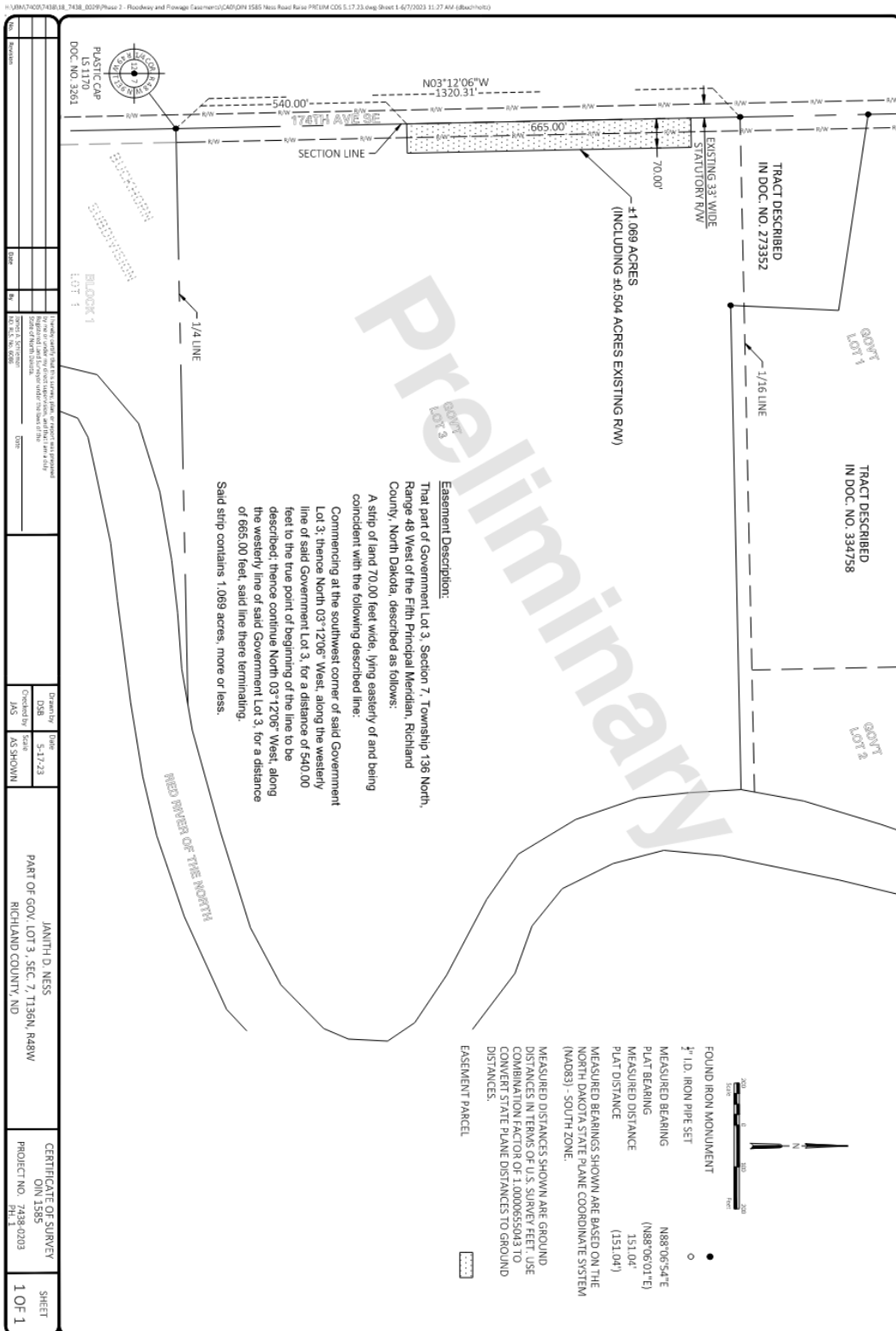




Exhibit C

Technical Requirements

The 174th Avenue Southeast grade raise will be designed and constructed to generally match the existing township roadway, while ensuring it meets current NDDOT standards. The horizontal and vertical geometry will be designed to meet a design speed of fifty-five (55) miles per hour (mph) as defined in Chapter 3 of the NDDOT Design Manual. The roadway will be designed with a 4-inch thick aggregate Class 13 surface. The roadway will be twenty-four (24) feet wide, consisting of two (2) 12-foot wide driving lanes with a four percent (4%) cross slope on each lane. Ditch inslopes will be constructed at a 4H:1V slope to the clear zone as defined by Chapter 3 of the NDDOT Design Manual. Beyond the clear zone, the inslopes may be broken to 3H:1V if necessary. Ditches paralleling the roadway will be reconstructed with an 8-foot wide bottom and 3H:1V backslopes to meet the adjacent field. Other elements of the roadway, including but not limited to, culverts, topsoil, seeding, erosion control, and traffic control will be designed according to the NDDOT Design Manual. Construction of the project elements will follow the 2022 edition of the NDDOT Standard Specifications for Road and Bridge Construction, as amended with the latest supplemental specifications published at the time of bid letting.

**AUTHORIZATION TO PERFORM ROAD RAISE
(175TH AVENUE SOUTHEAST)**

THIS AUTHORIZATION TO PERFORM ROAD RAISE (the “Authorization”) is made and entered into this _____ day of _____, 2023 (the “Effective Date”), by and between the Metro Flood Diversion Authority, a North Dakota political subdivision (the “Authority”), and Eagle Township, a North Dakota political subdivision (the “Township”).

RECITALS

A. The Authority is the local entity responsible for delivering the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the “Comprehensive Project”).

B. One component of the Comprehensive Project is the upstream mitigation area (“UMA”), where flood water will be periodically and temporarily stored behind the southern embankment and associated infrastructure.

C. The Township has jurisdiction over roads within the UMA, certain segments of which may be impacted when the Comprehensive Project is operated.

D. Due to the potential impacts from operation of the Comprehensive Project, the Authority desires to construct a road raise on a segment of the Township’s road identified herein that may be impacted.

E. The Township authorizes the Authority, subject to the terms and conditions of this Authorization, to perform such road raise.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Authorization, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Impacted Road. Subject to the terms in this Authorization, the Township authorizes the Authority to construct a road raise on the following portion of 175th Avenue Southeast, which is under the Township’s jurisdiction:

See Legal Description of Impacted Road in Exhibit A.

The road portion described above is the “Impacted Road,” and the Impacted Road is depicted in the map attached as Exhibit B.

2. Technical Requirements. The Authority will design and construct the road raise on the Impacted Road in accordance with the technical requirements set forth in attached Exhibit C. These technical requirements will allow the Impacted Road to remain passable until and through a 100-year flood event.

3. Design and Construction. The Authority will be responsible for designing the road raise in accordance with the technical requirements. The Authority will share designs with the Township for review and comment and will reimburse the Township for reasonable engineering fees incurred for such review. The Township must submit copies of engineering invoices to the Authority prior to reimbursement. Additionally, the Authority will be responsible for bidding the project and entering into and administering a contract for the road raise in accordance with applicable state and local laws. The Authority will keep the Township apprised of the bidding and construction schedule for the road raise and will be responsible for temporarily closing the Impacted Road, as necessary, for construction. The Township may inspect a construction site, must follow any and all on-site safety requirements of the construction contractor, and will have no authority to direct a construction contractor or alter the terms of this Authorization with a construction contractor.

4. Land Acquisition. The Township will be responsible for acquiring all real property interests necessary for the road raise. The Township must acquire such interests through voluntary purchase agreements with landowners. Prior to agreeing to an acquisition, the Township must consult and receive authorization from the Authority. The Authority will reimburse the Township for reasonable costs and expenses incurred for land acquisition following submission by the Township of copies of invoices and purchase agreements.

5. Maintenance During Construction. The construction contractor will be responsible for maintaining haul routes used during construction. In the event the Township believes maintenance is not being performed or is being underperformed, it will notify the Authority, and the Authority will coordinate maintenance, which may include, if agreed upon, the Township performing the maintenance and seeking reimbursement from the Authority.

6. Road Raise Completion. The Authority will notify the Township upon substantial completion of the road raise and allow the Township to accompany the Authority for any final inspections to ensure the road raise was constructed in accordance with the technical requirements set forth in this Authorization.

7. Graveling and Turnover. Following the completion of the road raise but prior to turning the Impacted Road back over to the Township, the Authority will spread a minimum of four (4) inches of Class 13 or Class 5 gravel on the Impacted Road, as desired by the Township. The Authority will then turn over the Impacted Road to the Township and provide the Township with a set of as-built drawings. The Authority will warrant the construction of the road raise for a period of five (5) years from the date of turnover and will transfer any extended warranties from the contractors to the Township. The Authority will not be responsible for any maintenance or reconstruction of the road raise or the Impacted Road following the 5-year period; notwithstanding, however, the Authority will be responsible (i) for fulfilling its obligations set forth in the Post-Operation Public Lands Repair and Clean-up Plan for the Impacted Road and (ii) for repairing the Impacted Road from impacts resulting from flood events up to and including a 100-year flood, including hydraulic impacts resulting from the construction of the City of Christine ring levee project. The Authority's commitment to repair the Impacted Road resulting from impacts caused by the City of Christine ring levee project is based upon the proposed alignment of the ring levee,

dated February 9, 2023, attached hereto as Exhibit D. The final design and construction of the City of Christine ring levee project is the responsibility of the City of Christine, not the Authority. The parties agree and acknowledge that the City of Christine's final alignment may vary from the preliminary alignment. In the event changes are made to the alignment, the Authority will notify the Township, and the parties will negotiate in good faith on the Authority's obligation to remedy impacts.

8. Insurance and Indemnification. The Authority will require its construction contractor to secure insurance for the road raise that is commonly obtained for such projects in accordance with industry standards. The Authority will require its construction contractor to name the Township as an additional insured on all insurance policies. Additionally, with the exception of damages caused by the Township's sole negligence, the Authority will require its construction contractor to release, hold harmless, defend, and indemnify the Township, its officers, employees, agents, representatives, contractors, and consultants, from any and all costs, liability, losses, damages, expenses, claims, demands, actions, judgments, and executions; all claims, damages, actions, causes of action, claims for relief for damages (compensatory, exemplary, or otherwise), or injury as a result of or arising out of the contractor's entry upon or use of the Impacted Road; any act or omission of the contractor; any accident, injury, or damage to person or property as a result of or arising out of the contractor's entry or use of the Impacted Road; or any failure by the contractor to comply with any requirements of a governmental authority. The duties to release, hold harmless, defend, and indemnify include any act or omission of the contractor as well as any of the contractor's officers, employees, agents, representatives, consultants, subcontractors, material suppliers, representatives, licensees, or invitees, or any person or entity directly or indirectly employed by any of them regarding the road raise or Impacted Road. The indemnity obligations include any costs, expenses, and attorney's fees incurred in establishing the indemnification provided in this Authorization.

9. Future Improvements. The Township may make future changes to the Impacted Road in its sole discretion, assuming all risks of how future Comprehensive Project operation may affect the Impacted Road following alteration.

10. Term. This Authorization will commence on the Effective Date and will terminate upon the completion of construction of the Comprehensive Project.

11. Waiver. The waiver of any particular breach of any of the terms of this Authorization, at any time, will not be construed as a continuing waiver of those terms or any subsequent breach, and all terms will continue and remain in full force and effect as if no waiver had occurred.

12. Assignment. Neither party will assign this Authorization without the express written consent of the other party.

13. Governing Law. This Authorization will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Authorization will be venued in State District Court in Cass County, North Dakota, and the parties waive any objection to venue or personal jurisdiction.

14. Severability. If any court of competent jurisdiction finds any provision or part of this Authorization is invalid, illegal, or unenforceable, that portion will be deemed severed from this Authorization, and all remaining terms and provisions of this Authorization will remain binding and enforceable.

15. Entire Agreement. This Authorization, together with any amendments, constitutes the entire agreement between the parties regarding the matters described in this Authorization, and this Authorization supersedes all other previous oral or written agreements between the parties regarding such matters.

16. Modifications. Any modifications or amendments of this Authorization must be in writing and signed by the parties.

17. Headings. Headings in this Authorization are for convenience only and will not be used to interpret or construe its provisions.

18. Attorney's Fees. The Authority will reimburse the Township for reasonable attorney's fees in negotiating the terms of this Authorization. The Township must submit copies of legal invoices to the Authority prior to reimbursement.

19. Electronic Signatures. The Authority and the Township agree that an electronic signature to this Authorization shall be valid as an original signature of the Authority or the Township and shall be effective to bind the signatories of this Authorization.

(Signatures appear on the following page.)

IN WITNESS WHEREOF, the parties caused this Authorization to be executed.

METRO FLOOD DIVERSION
AUTHORITY

By: _____
Dr. Timothy J. Mahoney, Chair

By: _____
Joel Paulsen, Executive Director

ATTEST:

Dawn Lindblom, Secretary

EAGLE TOWNSHIP

By: _____
James Hohertz, Chair

ATTEST:

Roxanne Morken, Clerk/Treasurer

Exhibit A

Legal Description of Impacted Road

That part of Government Lot 1 in Section 19, Township 136 North, Range 48 West of the Fifth Principal Meridian, Richland County, North Dakota, being two 42.00 foot wide strips of land which line between lines drawn 33.00 feet and 75.00 feet easterly of and 33.00 feet and 75.00 feet westerly of, as measured at a right angle to and parallel with a line described as follows:

Commencing at a found iron monument which designates the northeast corner of said Section 19; thence South 87 degrees 16 minutes 48 seconds West on an assumed bearing along the north line of said Government Lot 1 for a distance of 939.74 feet to its intersection with the northerly extension of the centerline of an existing tract according to a Right of Way Deed recorded November 27, 1948 in Book 77 of Deeds, Page 608, on file and of record in the office of the Recorder, said County; thence South 04 degrees 05 minutes 30 seconds East along the centerline of said tract and the northerly extension thereof for a distance of 580.00 feet to the point of beginning of said line; thence continuing South 04 degrees 05 minutes 30 seconds East along said centerline for a distance of 713.00 feet and said line there terminates. The sidelines of said 42.00 foot wide strips of land are to be terminated at lines drawn perpendicular to the point of beginning and the point of termination.

Said tract contains a combined 1.37 acres, more or less, and is subject to all easements, reservations, restrictions, and rights-of-ways of record, if any.

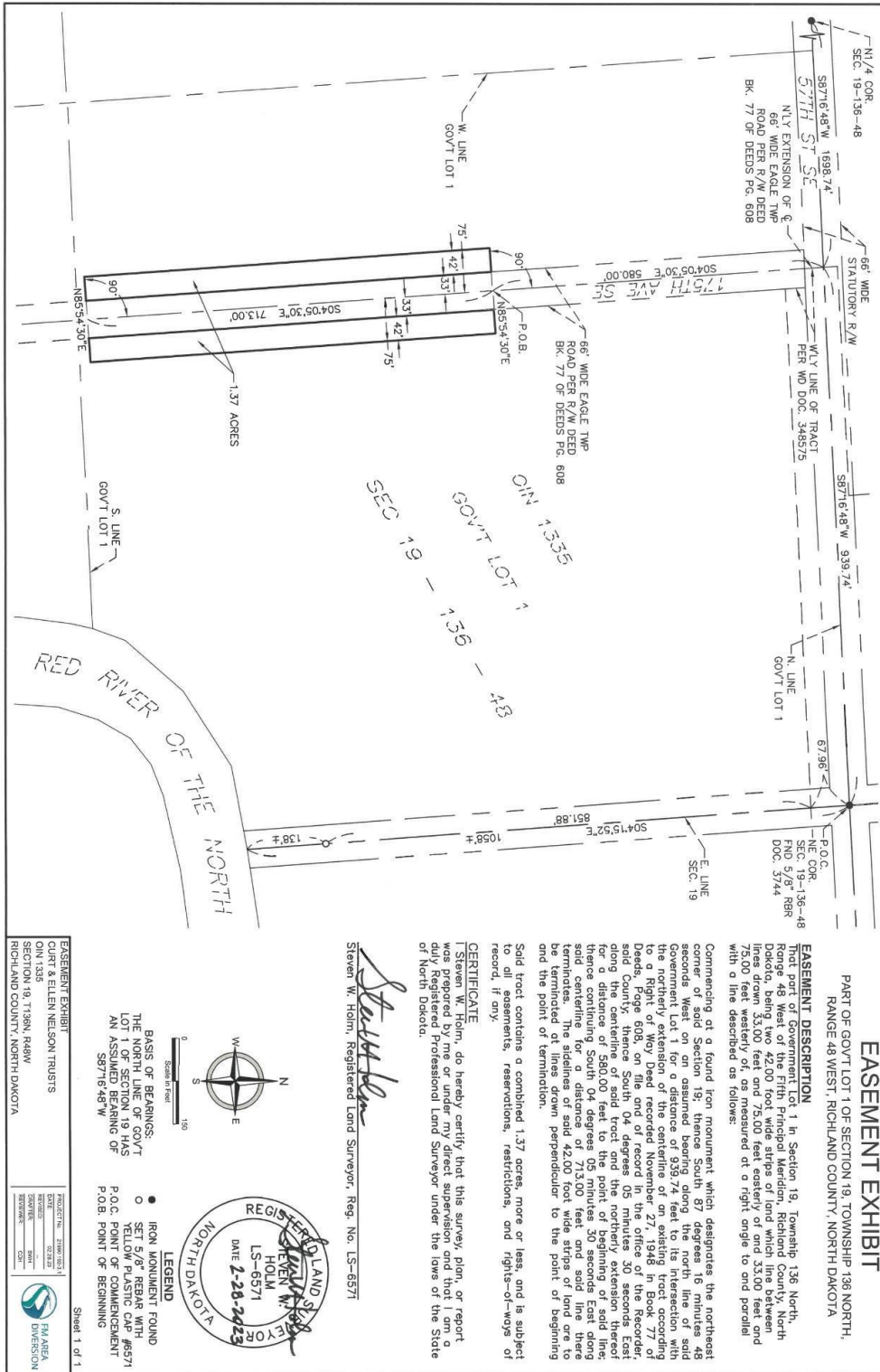
I hereby certify that the above description was prepared by me on _____ and that I am a duly registered land surveyor under the laws of the state of North Dakota.

Steven W. Holm
North Dakota License No. LS-6571

Modification in any way of the foregoing description terminates liability of the Surveyor.

Exhibit A – continued

FILE LOCATION: R:\Projects\2000020300\20395\SURVEY\DRAWINGS\FLOWAGE EASEMENT 20395-930\Richland County Flowage Easement Drawings\01N 1335\ROAD RAISE IN DIV 1335\01N 1335 EAGLE TWP ROAD RAISE 2-27-23.dwg



EASEMENT EXHIBIT

PART OF GOVT LOT 1 OF SECTION 19, TOWNSHIP 136 NORTH, RANGE 48 WEST, RICHLAND COUNTY, NORTH DAKOTA

EASEMENT DESCRIPTION

Tract East of Government Lot 1 in Section 19, Township 136 North, Range 48 West of the Fifth Principal Meridian, Richland County, North Dakota, being two 42.00 foot wide strips of land which line between lines drawn 33.00 feet and 75.00 feet easterly of and 33.00 feet and 75.00 feet westerly of, as measured at a right angle to and parallel with a line described as follows:

Commencing at a found iron monument which designates the northeast corner of said Section 19; thence South 87 degrees 16 minutes 48 seconds West on an assumed bearing along the north line of said Government Lot 1 for a distance of 939.74 feet to its intersection with the north line of said Section 19; thence North 87 degrees 16 minutes 48 seconds East along the centerline of said tract and the northerly extension thereof for a distance of 380.00 feet to the point of beginning of said easement; thence South 04 degrees 05 minutes 30 seconds East along the centerline of said tract for a distance of 713.00 feet to a solid centerline for a distance of 713.00 feet; and said line there to be terminated at lines drawn perpendicular to the point of beginning and the point of termination.

Said tract contains a combined 1.37 acres, more or less, and is subject to all easements, reservations, restrictions, and rights-of-ways of record, if any.

CERTIFICATE

I, Steven W. Holm, do hereby certify that this survey plan, or report, was prepared by me or under my direct supervision and that I am a duly Registered Professional Land Surveyor under the laws of the State of North Dakota.

Steven W. Holm, Registered Land Surveyor, Reg. No. LS-6571

LEGEND

- IRON MONUMENT FOUND
- SET 5/8\"/>

THE NORTH LINE OF GOVT LOT 1 OF SECTION 19 HAS AN ASSUMED BEARING OF S87°16'48\"/>

EASEMENT EXHIBIT
 CURRI & ELLEN NELSON TRUSTS
 SECTION 19, T136N, R48W
 RICHLAND COUNTY, NORTH DAKOTA

PROJECT NO. 200020301
 DATE 08/23/23
 SHEET 1 OF 1
 DIVISION FIA AREA



Exhibit C

Technical Requirements

The 175th Avenue Southeast grade raise will be designed and constructed to generally match the existing township roadway, while ensuring it meets current NDDOT standards. The horizontal and vertical geometry will be designed to meet a design speed of fifty-five (55) miles per hour (mph) as defined in Chapter 3 of the NDDOT Design Manual. The roadway will be designed with a 4-inch thick aggregate Class 13 surface. The roadway will be twenty-four (24) feet wide, consisting of two (2) 12-foot wide driving lanes with a four percent (4%) cross slope on each lane. Ditch inslopes will be constructed at a 4H:1V slope to the clear zone as defined by Chapter 3 of the NDDOT Design Manual. Beyond the clear zone, the inslopes may be broken to 3H:1V if necessary. Ditches paralleling the roadway will be reconstructed with an 8-foot wide bottom and 3H:1V backslopes to meet the adjacent field. Other elements of the roadway, including but not limited to, culverts, topsoil, seeding, erosion control, and traffic control will be designed according to the NDDOT Design Manual. Construction of the project elements will follow the 2022 edition of the NDDOT Standard Specifications for Road and Bridge Construction, as amended with the latest supplemental specifications published at the time of bid letting.



METRO
FLOOD
DIVERSION
AUTHORITY

Diversion Authority Board Meeting

AUGUST 24, 2023

Executive Director Report

Joel Paulsen, Executive Director

Happenings

Presentations made to community and state groups:

- Broadband Association of ND on Aug. 15
- Fargo Rotary Club on Aug. 16
- ND Trades on Aug. 17
- American Association of Civil Engineers, ND Chapter, will take part in a presentation and tour Aug. 25



Sen. Tina Smith toured the project
Aug. 16



US Army Corps
of Engineers®
St. Paul District

FARGO MOORHEAD DIVERSION PROJECT

MONTHLY UPDATE

14 August 2023

1 Diversion Inlet Structure (DIS) – Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 96% complete. Construction completion date is currently estimated to be in September 2023 due ongoing punch list items and installation of gate machinery. Painting, riprap placement, seeding and addressing punch list items ongoing.

Schedule for remaining primary features:

2023: Complete operating machinery install, seeding.

2024: Turf established.

2 Wild Rice River Structure (WRRS) – Construction

Structure includes 2-40 ft. wide Tainter gates. Construction is 95% complete and remains on schedule. The construction completion date is 3 December 2023. Constructing eastern earthen dam and bridge deck, painting gates, and completing gage well. Remaining schedule:

2023: Control building, dam embankment, seeding.

2024: Turf established.

3 I-29 Raise – Construction

Includes approximately 4 miles of interstate raise between County Roads 16 and 18. Construction is 84% complete. Borrow ditch bridges are complete. Traffic was switched to the new SB lanes on 4 August; paving of the NB continues. Current construction completion date is 1 January 2024.

4 Southern Embankment – Reach SE-1 (Western Tieback) - Construction

Construction was completed 10 November 2022. Partial turnover to the Diversion Authority for Operations and Maintenance occurred on 29 December 2022. O&M Manual was provided for review 9 August 2023.

5 Red River Structure (RRS) - Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 29% complete. Construction completion date is 19 March 2026. Concrete placement of stilling basin slabs is complete. Placement for approach wall foundations and abutments ongoing. Pile driving for retaining walls ongoing.

6 Drain 27 Wetland Mitigation Project Plantings - Construction

Native plantings 5-year contract awarded 17 May 2023. Completion date is 1 December 2027.

7 Drayton Dam Mitigation Project Design - Construction

Construction is 73% complete. Placement of the rock-arch rapids is ongoing. Construction completion is 30 September 2023.

8 Southern Embankment – Reach SE-2A - Construction

Construction is 65% complete. Inspection trench and embankment foundations complete. 112th Avenue permanently closed and removed. Scheduled completion date is 30 September 2024.

9 Southern Embankment Design – All remaining reaches are being designed.

SE-1B: BCOES review Aug 2023..... Contract award: February 2024

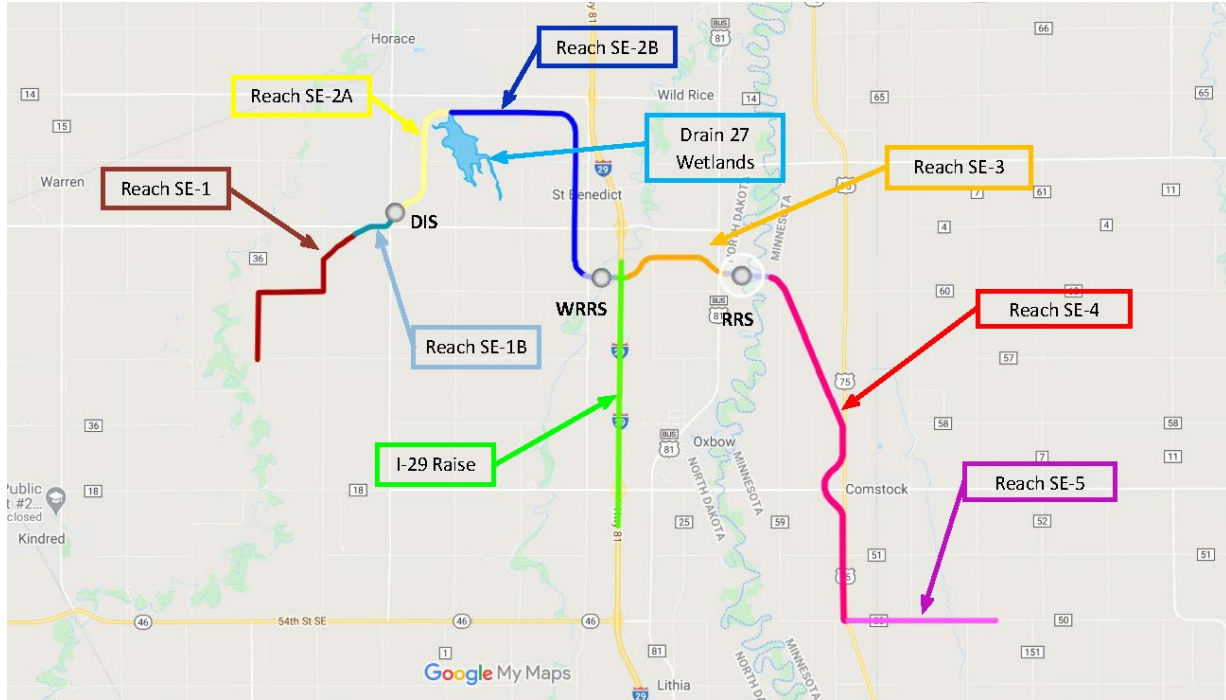
SE-2B: BCOES review complete 9 June 2023..... Contract award: April 2024

SE-3: 65% review starts Aug 2023 Contract award: January 2025

SE-4: 65% review starts Aug 2023 Contract award: May 2024

SE-5: 65% review starts Aug 2023 Contract award: January 2025

OHB Reach 43B: 95% review starts July 2023 Contract award: February 2024



Fargo-Moorhead Metro FRM – Federal Work/Southern Embankment and Control Structures

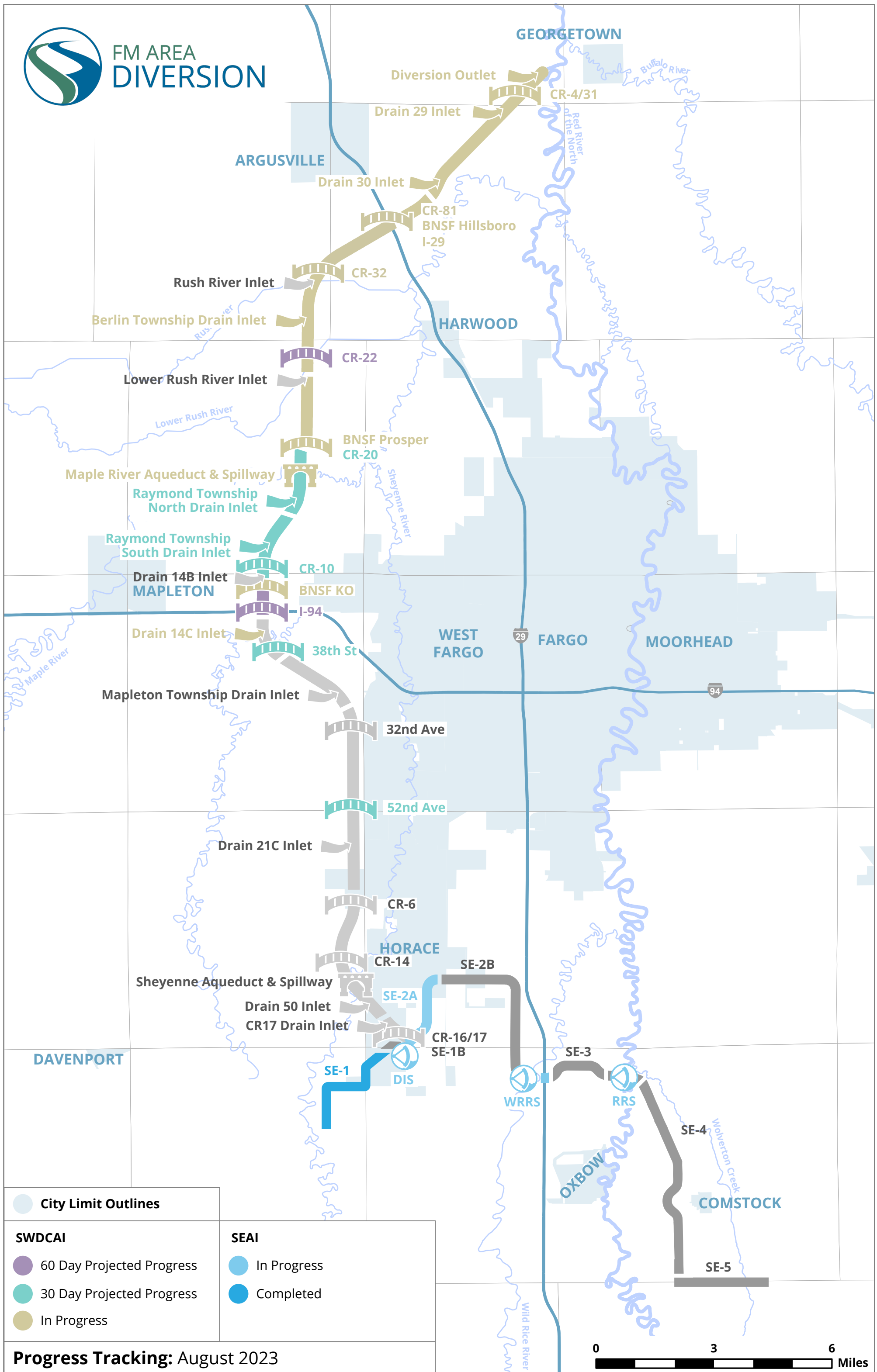
DIS = Diversion Inlet Control Structure

WRRS = Wild Rice River Control Structure

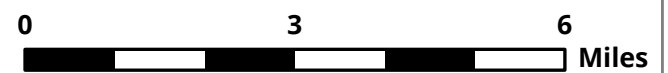
RRS = Red River Control Structure



FM AREA DIVERSION



Progress Tracking: August 2023



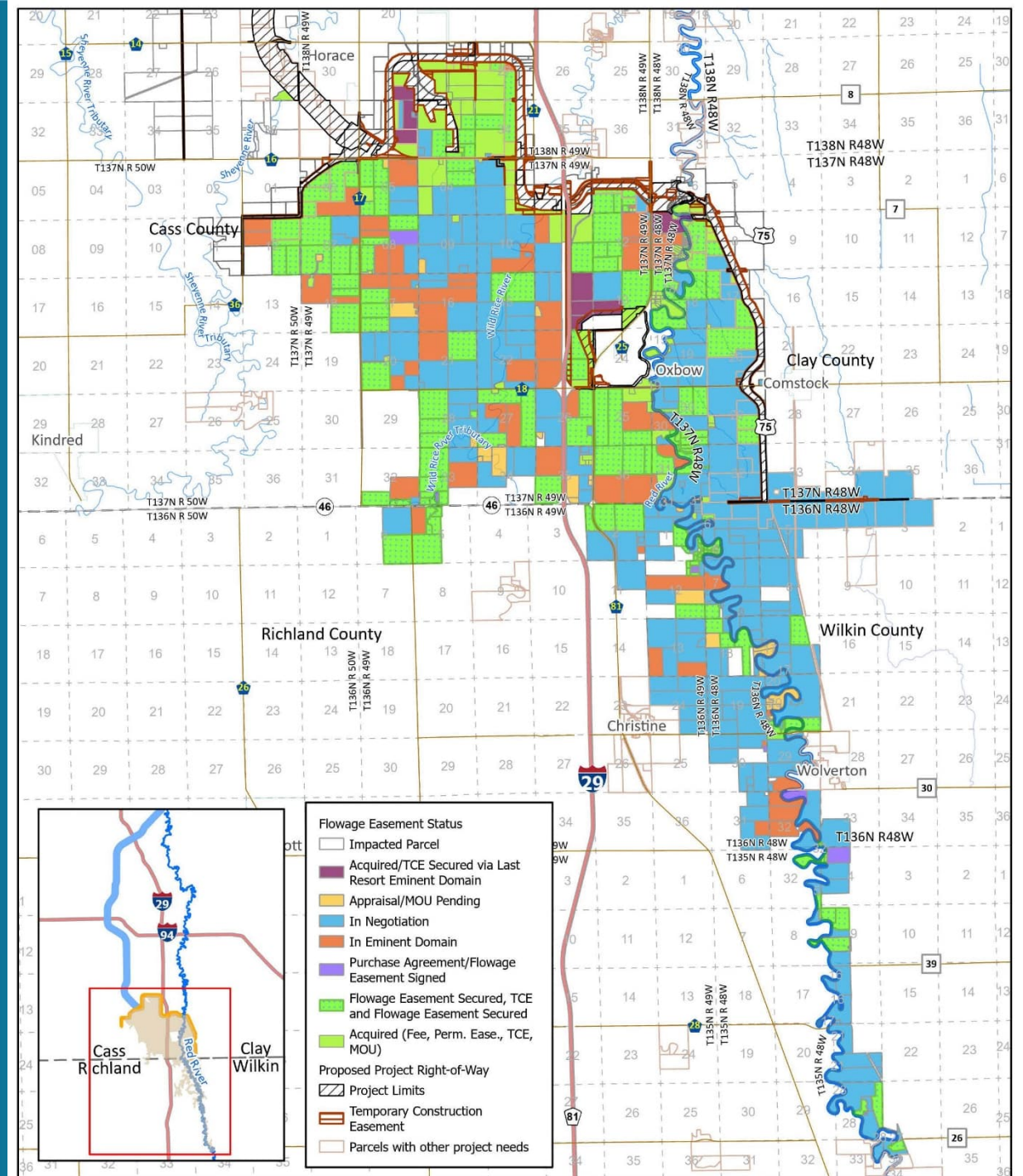
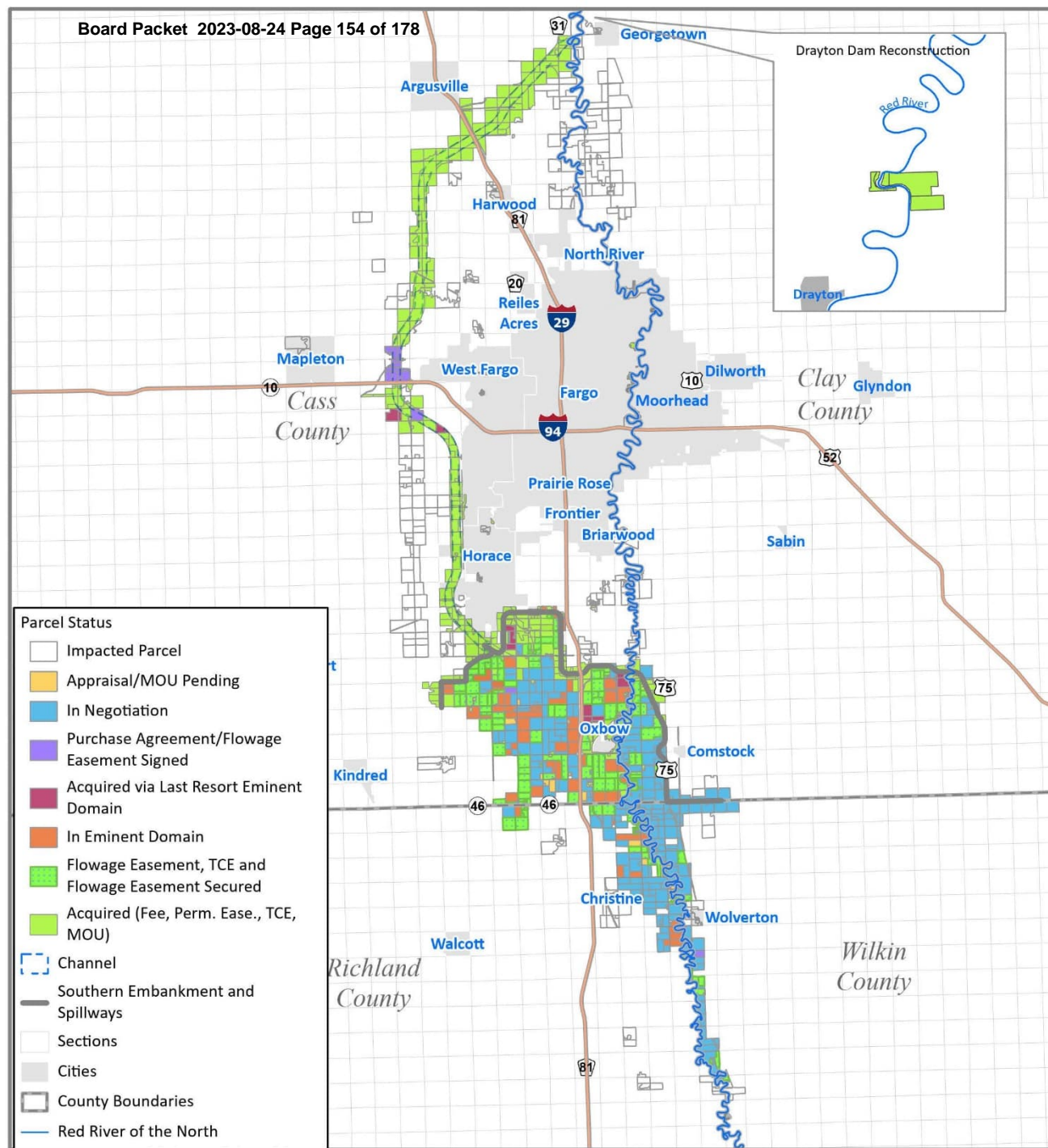


METRO
FLOOD
DIVERSION
AUTHORITY

August 2023

MFDA





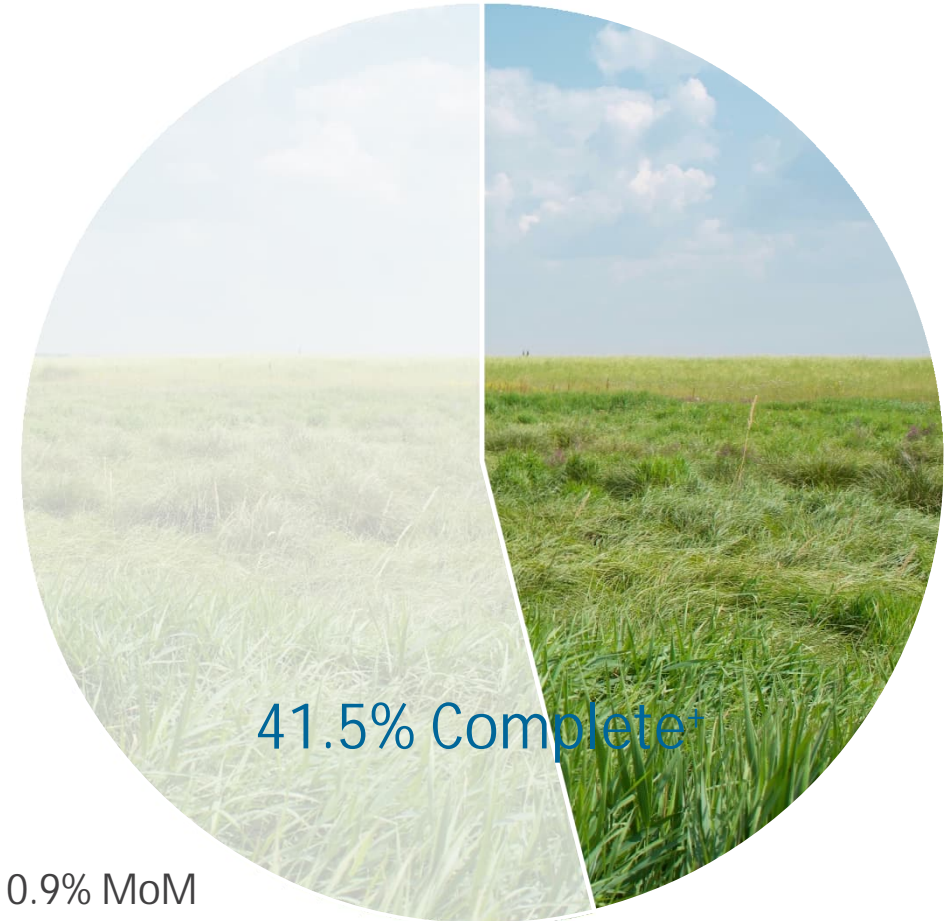
Property Acquisition Progress

Construction Footprint*



* Includes SWDCAI, SEAI, In-Town, Oxbow and Drayton

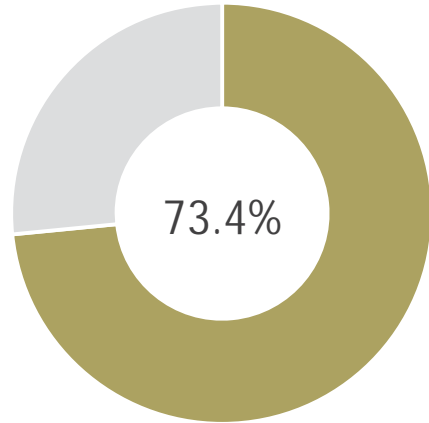
UMA Footprint**



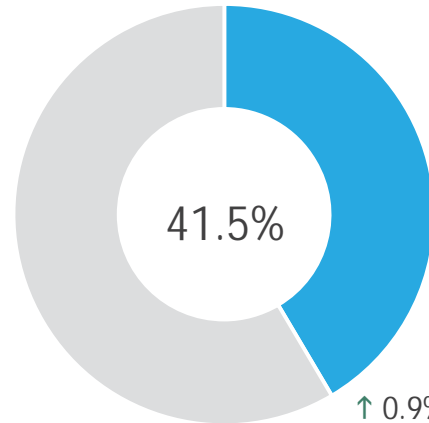
↑ 0.9% MoM

** Does not include parcels affected by or within Christine or Wolverton ring levees
As of August 14, 2023

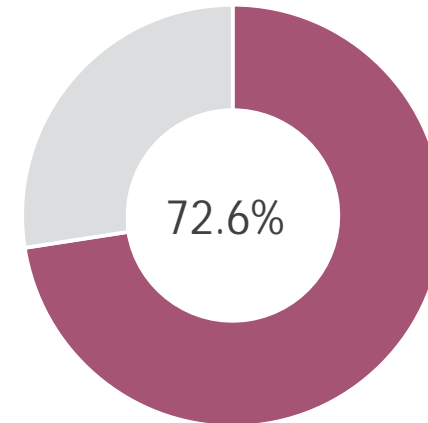
Property Acquisition Progress by Location



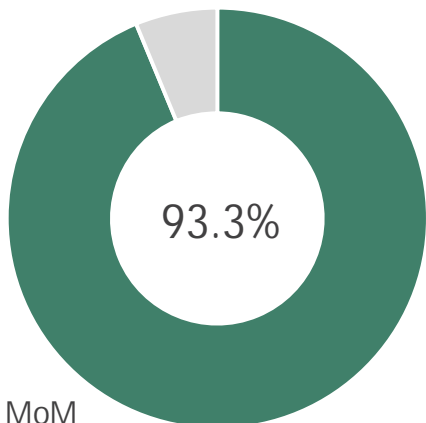
Southern Embankment & Associated Infrastructure



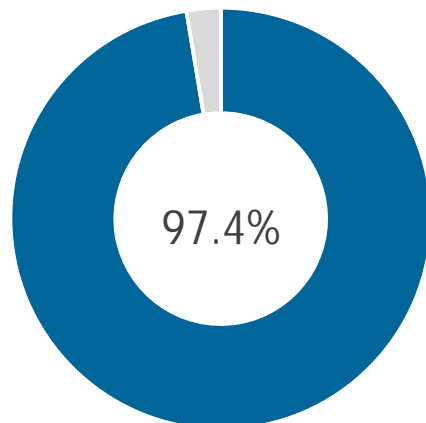
Upstream Mitigation Area



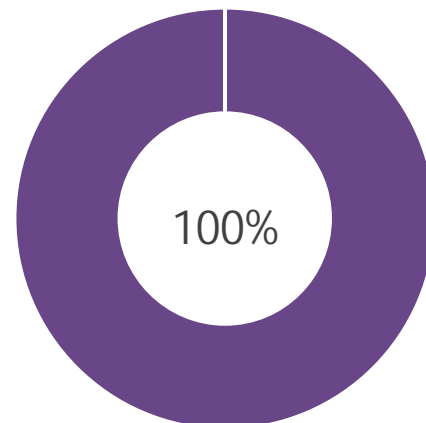
Environmental Monitoring Easements



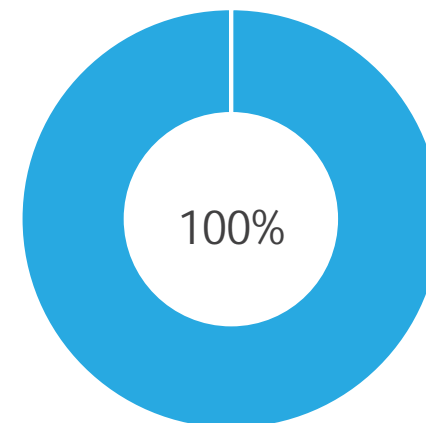
Stormwater Diversion Channel



Oxbow-Hickson-Bakke



MFDA-Constructed In-Town Levees

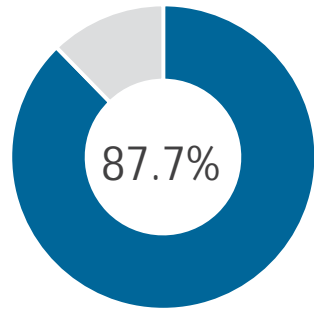


Drayton Dam Mitigation

As of August 14, 2023

Landowner Overview

Construction Footprint*

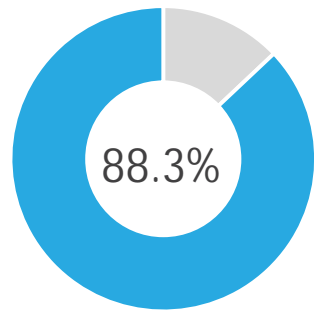


309 Owner Groups
 271 settlements achieved
 24 ongoing negotiations
 14 in litigation

87.7% of owner groups have settled



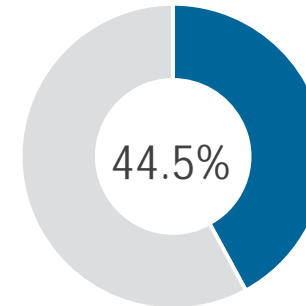
Parcels



574 Parcels
 507 settlements achieved
 38 ongoing negotiations
 29 in litigation

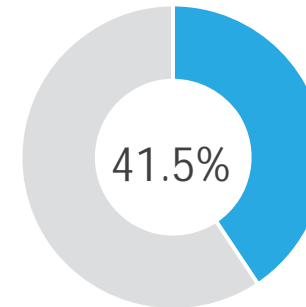
88.3% of parcels have been acquired

UMA Footprint**



263 Owner Groups
 189 in ND & 68 in MN
 117 settlements achieved
 102 ongoing negotiations
 44 in litigation

45.7% of owner groups have settled



569 Parcels
 236 settlements achieved
 265 ongoing negotiations
 68 in litigation

41.5% of parcels have been acquired

* Includes SWDCAI, SEAI, In-Town, Oxbow and Drayton

** Does not include parcels affected by or within Christine or Wolverton ring levees

Property Acquisition Status Report

Key Activities:

- Continue negotiating settlement agreements for existing eminent domain actions
- In the last month, successfully closed 8 parcels / 6 landowners
- In the last month, agreement signed on 2 parcels / 2 landowners
- Recently approved settlement agreements for approximately 30 parcels
- Completed appraisals in MN
(except for parcels immediately surrounding the planned Wolverton ring levee)
- Resumed focus on completion of appraisals for remaining property needs in ND UMA



4784 Amber Valley Parkway South,
Suite 200
Fargo, ND 58104
www.jacobs.com

August 14, 2023

Attention Joel Paulsen, Executive Director
Metro Flood Diversion Authority
4784 Amber Valley Parkway South, Suite 100
Fargo, ND 58104

Project Name: FM Area Diversion
Project Number: WP47C

Subject: **Work Package 47C Test Holes and Wells
Recommendation of Award**

Dear Metro Flood Diversion Authority,

The contract for Test Holes and Wells in Cass County, North Dakota was publicly advertised and five (5) bids were received at the virtual public bid opening on August 10, 2023, at 1:00pm.

The bids were from:

- | | |
|---|----------------|
| 1. Lako Drilling, Inc, in the amount of | \$785,943.00 |
| 2. LTP Enterprises Inc, in the amount of | \$438,600.00 |
| 3. Steffl Drilling & Pump Inc, in the amount of | \$1,026,150.00 |
| 4. Thien Well Company Inc, in the amount of | \$928,125.00 |
| 5. Traut Companies in the amount of | \$808,578.20 |

The Engineers Estimate for the project was \$595,850.00

Jacobs (PMC), HMG LLC (EOR), and the Authority's Legal counsel have reviewed and evaluated the bid documents and recommend the Metro Flood Diversion Authority award the contract for WP47C to LTP Enterprises Inc in the amount of \$438,600.00 as the lowest responsive bidder. Enclosed is the Bid Tabulation Assessment.

Please contact me at ian.joynes@jacobs.com if you have any questions regarding this recommendation.

Yours sincerely

Ian Joynes, BEng CEng FICE, Construction Contracts Manager

Copies to:

Kris Bakkegard
Bob Zimmerman
Matt Stamness
Nathan Boerboom
Jason Benson
Justin Sorum

Bid Tabulation Assessment

Project: WP47C- Testing Holes and Wells

Bid Opening August 10, 2023 1:00pm

Part 1 - Test Hole Drilling				Engineers Estimate		Lako Drilling		LTP Enterprises Inc.		Steffl Drilling & Pump Inc.		Thien Well Company Inc.		Traut Companies	
No.	ITEM	QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1.	Phase 1 Mobilisation	1	LS	\$ 18,000.00	\$ 18,000.00	\$ 4,616.00	\$ 4,616.00	\$ 8,500.00	\$ 8,500.00	\$ 45,000.00	\$ 45,000.00	\$ 10,000.00	\$ 10,000.00	\$ 13,860.00	\$ 13,860.00
2.	Test Hole Drilling	2,400	LF	\$ 20.00	\$ 48,000.00	\$ 30.00	\$ 72,000.00	\$ 18.00	\$ 43,200.00	\$ 50.00	\$ 120,000.00	\$ 50.00	\$ 120,000.00	\$ 60.00	\$ 144,000.00
3.	Test Hole Sealing/Abandonment	8	EA	\$ 250.00	\$ 2,000.00	\$ 2,542.00	\$ 20,336.00	\$ 875.00	\$ 7,000.00	\$ 3,000.00	\$ 24,000.00	\$ 5,000.00	\$ 40,000.00	\$ 5,100.00	\$ 40,800.00
Part 1 - Total Estimated Bid				\$ 68,000.00		\$ 96,952.00		\$ 58,700.00		\$ 189,000.00		\$ 170,000.00		\$ 198,660.00	

Part 2 - Well Construction				Engineers Estimate		Lako Drilling		LTP Enterprises Inc.		Steffl Drilling & Pump Inc.		Thien Well Company Inc.		Traut Companies	
No.	ITEM	QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
4.	Phase 2 Mobilisation	1	LS	\$ 37,000.00	\$ 37,000.00	\$ 32,600.00	\$ 32,600.00	\$ 8,500.00	\$ 8,500.00	\$ 50,000.00	\$ 50,000.00	\$ 35,000.00	\$ 35,000.00	\$ 55,550.00	\$ 55,550.00
5.	Production Well Drilling	1,250	LF	\$ 60.00	\$ 75,000.00	\$ 144.00	\$ 180,000.00	\$ 48.00	\$ 60,000.00	\$ 150.00	\$ 187,500.00	\$ 200.00	\$ 250,000.00	\$ 115.00	\$ 143,750.00
6.	Production Well Casing - 12" PVC	1,000	LF	\$ 150.00	\$ 150,000.00	\$ 109.00	\$ 109,000.00	\$ 85.00	\$ 85,000.00	\$ 150.00	\$ 150,000.00	\$ 125.00	\$ 125,000.00	\$ 90.00	\$ 90,000.00
7.	Production Well Screens - 12" St. Steel	250	LF	\$ 300.00	\$ 75,000.00	\$ 446.00	\$ 111,500.00	\$ 410.00	\$ 102,500.00	\$ 500.00	\$ 125,000.00	\$ 425.00	\$ 106,250.00	\$ 395.00	\$ 98,750.00
8.	Plumbness and Alignment Testing	5	EA	\$ 300.00	\$ 1,500.00	\$ 2,100.00	\$ 10,500.00	\$ 900.00	\$ 4,500.00	\$ 2,000.00	\$ 10,000.00	\$ 1,500.00	\$ 7,500.00	\$ 1,000.00	\$ 5,000.00
9.	Monitoring Well Drilling	460	LF	\$ 50.00	\$ 23,000.00	\$ 28.00	\$ 12,880.00	\$ 18.00	\$ 8,280.00	\$ 55.00	\$ 25,300.00	\$ 50.00	\$ 23,000.00	\$ 57.39	\$ 26,399.40
10.	Monitoring Well Casing - 2" PVC	420	LF	\$ 50.00	\$ 21,000.00	\$ 12.50	\$ 5,250.00	\$ 9.50	\$ 3,990.00	\$ 80.00	\$ 33,600.00	\$ 20.00	\$ 8,400.00	\$ 37.14	\$ 15,598.80
11.	Monitoring Well Screens - 2" St. Steel	40	LF	\$ 120.00	\$ 4,800.00	\$ 187.00	\$ 7,480.00	\$ 87.00	\$ 3,480.00	\$ 200.00	\$ 8,000.00	\$ 150.00	\$ 6,000.00	\$ 90.00	\$ 3,600.00
12.	Production Well Development	125	HR	\$ 350.00	\$ 43,750.00	\$ 548.00	\$ 68,500.00	\$ 300.00	\$ 37,500.00	\$ 450.00	\$ 56,250.00	\$ 395.00	\$ 49,375.00	\$ 550.00	\$ 68,750.00
13.	Monitoring Well Development	2	HR	\$ 350.00	\$ 700.00	\$ 823.00	\$ 1,646.00	\$ 300.00	\$ 600.00	\$ 450.00	\$ 900.00	\$ 1,000.00	\$ 2,000.00	\$ 400.00	\$ 800.00
14.	Well Disinfection	5	EA	\$ 500.00	\$ 2,500.00	\$ 3,057.00	\$ 15,285.00	\$ 250.00	\$ 1,250.00	\$ 3,000.00	\$ 15,000.00	\$ 1,000.00	\$ 5,000.00	\$ 700.00	\$ 3,500.00
15.	Test Pump equipment	5	EA	\$ 4,000.00	\$ 20,000.00	\$ 4,070.00	\$ 20,350.00	\$ 4,800.00	\$ 24,000.00	\$ 15,000.00	\$ 75,000.00	\$ 5,000.00	\$ 25,000.00	\$ 4,500.00	\$ 22,500.00
16.	Pumping Test	216	HR	\$ 225.00	\$ 48,600.00	\$ 300.00	\$ 64,800.00	\$ 175.00	\$ 37,800.00	\$ 350.00	\$ 75,600.00	\$ 350.00	\$ 75,600.00	\$ 295.00	\$ 63,720.00
17.	Drill Cutting and Drilling Fluids Disposal	1	LS	\$ 25,000.00	\$ 25,000.00	\$ 49,200.00	\$ 49,200.00	\$ 2,500.00	\$ 2,500.00	\$ 25,000.00	\$ 25,000.00	\$ 40,000.00	\$ 40,000.00	\$ 12,000.00	\$ 12,000.00
Part 2 - Total Estimated Bid				\$ 527,850.00		\$ 688,991.00		\$ 379,900.00		\$ 837,150.00		\$ 758,125.00		\$ 609,918.20	
TOTAL BID (Part 1 + Part 2)				\$ 595,850.00		\$ 785,943.00		\$ 438,600.00		\$ 1,026,150.00		\$ 928,125.00		\$ 808,578.20	



4784 Amber Valley Parkway South,
Suite 200
Fargo, ND 58104
www.jacobs.com

August 14, 2023

Attention Joel Paulsen, Executive Director
Metro Flood Diversion Authority
4784 Amber Valley Parkway South, Suite 100
Fargo, ND 58104

Project Name: FM Area Diversion
Project Number: WP47D

Subject: **Work Package 47D Utility Relocation – Water System Improvements
Recommendation of Award**

Dear Metro Flood Diversion Authority,

The contract for Utility Relocation – Water System Improvements in Cass County, North Dakota was publicly advertised and four (4) bids were received at the virtual public bid opening on August 11, 2023, at 1:00pm.

The bids were from:

- | | |
|---|--------------|
| 1. Border States Paving Inc, in the amount of | \$455,329.18 |
| 2. J R Ferche Inc, in the amount of | \$315,515.30 |
| 3. Sellin Brothers Inc, in the amount of | \$432,959.20 |
| 4. Wagner Construction Inc, in the amount of | \$600,789.25 |

The Engineers Estimate for the project was \$410,000.00

Jacobs (PMC), HMG LLC (EOR), and the Authority's Legal counsel have reviewed and evaluated the bid documents and recommend the Metro Flood Diversion Authority award the contract for WP47D to J R Ferche Inc in the amount of \$315,515.30 as the lowest responsive bidder. Enclosed is the Bid Tabulation Assessment.

Please contact me at ian.joynes@jacobs.com if you have any questions regarding this recommendation.

Yours sincerely

Ian Joynes, BEng CEng FICE, Construction Contracts Manager

Copies to:

Kris Bakkegard
Bob Zimmerman
Matt Stamness
Nathan Boerboom
Jason Benson
Justin Sorum

Bid Tabulation Assessment

Project: WP47D- Utility Relocation - Water System Improvements

Bid Opening August 11, 2023 1:00pm

				Engineers Estimate		Border States Paving Inc.		J R Ferche Inc.		Sellin Brothers Inc.		Wagner Construction Inc.	
No.	ITEM	QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1.	Mobilization	1	LS	\$ 61,000.00	\$ 61,000.00	\$ 50,000.00	\$ 50,000.00	\$ 35,000.00	\$ 35,000.00	\$ 49,500.00	\$ 49,500.00	\$ 105,000.00	\$ 105,000.00
2.	Traffic Control	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 30,000.00	\$ 30,000.00	\$ 5,000.00	\$ 5,000.00	\$ 2,500.00	\$ 2,500.00	\$ 3,500.00	\$ 3,500.00
3.	Stormwater Management	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,500.00	\$ 3,500.00	\$ 500.00	\$ 500.00
4.	Unsuitable Material Excavation	100	CY	\$ 50.00	\$ 5,000.00	\$ 125.00	\$ 12,500.00	\$ 40.00	\$ 4,000.00	\$ 14.00	\$ 1,400.00	\$ 63.00	\$ 6,300.00
5.	Imported Borrow Type 52	100	CY	\$ 100.00	\$ 10,000.00	\$ 200.00	\$ 20,000.00	\$ 60.00	\$ 6,000.00	\$ 25.00	\$ 2,500.00	\$ 55.00	\$ 5,500.00
6.	Seeding Class II	510	SY	\$ 5.00	\$ 2,550.00	\$ 3.00	\$ 1,530.00	\$ 4.00	\$ 2,040.00	\$ 1.10	\$ 561.00	\$ 4.00	\$ 2,040.00
7.	Hydraulic Mulch	510	SY	\$ 5.00	\$ 2,550.00	\$ 3.00	\$ 1,530.00	\$ 4.00	\$ 2,040.00	\$ 1.10	\$ 561.00	\$ 4.00	\$ 2,040.00
8.	Straw Mulch	22,301	SY	\$ 1.00	\$ 22,301.00	\$ 0.30	\$ 6,690.30	\$ 0.30	\$ 6,690.30	\$ 0.20	\$ 4,460.20	\$ 0.25	\$ 5,575.25
9.	Fiber Rolls 12"	4,188	LF	\$ 3.00	\$ 12,564.00	\$ 5.26	\$ 22,028.88	\$ 5.00	\$ 20,940.00	\$ 4.00	\$ 16,752.00	\$ 4.00	\$ 16,752.00
10.	Water Main - 8"	2,007	LF	\$ 120.00	\$ 240,840.00	\$ 150.00	\$ 301,050.00	\$ 115.00	\$ 230,805.00	\$ 175.00	\$ 351,225.00	\$ 226.00	\$ 453,582.00
				Engineers Estimate		Border States Paving Inc.		J R Ferche Inc.		Sellin Brothers Inc.		Wagner Construction Inc.	
Construction Subtotal					\$371,805.00		\$455,329.18		\$315,515.30		\$432,959.20		\$600,789.25
Contingency (10%)					\$37,180.50		N/A		N/A		N/A		N/A
CONSTRUCTION TOTAL					\$410,000.00		\$455,329.18		\$315,515.30		\$432,959.20		\$600,789.25



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August 14, 2023

Attention Joel Paulsen, Executive Director
Metro Flood Diversion Authority
4784 Amber Valley Parkway South, Suite 100
Fargo, ND 58104

Project Name: FM Area Diversion
Project Number: WP47E

Subject: **Work Package 47E Utility Relocation
Recommendation of Award**

Dear Metro Flood Diversion Authority,

The contract for Utility Relocation in Cass County, North Dakota was publicly advertised and one (1) bid was received at the virtual public bid opening on August 11, 2023, at 1:30pm.

The bids were from:

1. Wagner Construction, Inc, in the amount of \$1,447,837.45

The Engineers Estimate for the project was \$1,490,000.00

Jacobs (PMC), HMG LLC (EOR), and the Authority's Legal counsel have reviewed and evaluated the bid documents and recommend the Metro Flood Diversion Authority award the contract for WP47E to Wagner Construction, Inc in the amount of \$1,447,837.45 as the responsive bidder. Enclosed is the Bid Tabulation Assessment.

Please contact me at ian.joynes@jacobs.com if you have any questions regarding this recommendation.

Yours sincerely

A handwritten signature in black ink, appearing to read "I. Joynes".

Ian Joynes, BEng CEng FICE, Construction Contracts Manager

Copies to:

Kris Bakkegard
Bob Zimmerman
Matt Stamness
Nathan Boerboom
Jason Benson
Justin Sorum

Bid Tabulation Assessment

Project: WP47E- Utility Relocation

Bid Opening August 11, 2023 1:30pm

				Engineers Estimate		Wagner Construction Inc.	
No.	Part 1 - Test Hole Drilling	QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1.	Mobilization	1	LS	\$ 176,000.00	\$ 176,000.00	\$ 250,000.00	\$ 250,000.00
2.	Traffic Control	1	LS	\$ 25,000.00	\$ 25,000.00	\$ 10,000.00	\$ 10,000.00
3.	Stormwater Management	1	LS	\$ 30,000.00	\$ 30,000.00	\$ 10,000.00	\$ 10,000.00
4.	Agregate Surfacing CI13	93	TON	\$ 100.00	\$ 9,300.00	\$ 45.00	\$ 4,185.00
5.	Unsuitable Material Excavation	100	CY	\$ 50.00	\$ 5,000.00	\$ 62.00	\$ 6,200.00
6.	Imported Borrow Type S2	100	CY	\$ 100.00	\$ 10,000.00	\$ 55.00	\$ 5,500.00
7.	Seeding Class II	14,191	SY	\$ 5.00	\$ 70,955.00	\$ 3.00	\$ 42,573.00
8.	Hydraulic Mulch	14,191	SY	\$ 5.00	\$ 70,955.00	\$ 3.00	\$ 42,573.00
9.	Straw Mulch	54,603	SY	\$ 1.00	\$ 54,603.00	\$ 0.15	\$ 8,190.45
10.	Fiber Rolls 12in	9,572	LF	\$ 3.00	\$ 28,716.00	\$ 4.00	\$ 38,288.00
11.	CLSM Encasement	307	CY	\$ 500.00	\$ 153,500.00	\$ 839.00	\$ 257,573.00
12.	Utility Conduit 6"	2,530	LF	\$ 75.00	\$ 189,750.00	\$ 89.00	\$ 225,170.00
13.	Utility Conduit 4"	3,320	LF	\$ 70.00	\$ 232,400.00	\$ 77.00	\$ 255,640.00
14.	Utility Conduit 2"	2,925	LF	\$ 60.00	\$ 175,500.00	\$ 66.00	\$ 193,050.00
15.	Utility Conduit 1 1/4"	1,465	LF	\$ 44.00	\$ 64,460.00	\$ 63.00	\$ 92,295.00
16.	Utility Conduit x" Expansion Joint	24	EA	\$ 1,500.00	\$ 36,000.00	\$ 200.00	\$ 4,800.00
17.	Conduit Seal	18	EA	\$ 1,000.00	\$ 18,000.00	\$ 100.00	\$ 1,800.00
				Engineers Estimate		Wagner Construction Inc.	
Construction Subtotal					\$1,350,139.00		\$1,447,837.45
Contingency (10%)					\$135,013.90		N/A
CONSTRUCTION TOTAL					\$1,490,000.00		\$1,447,837.45



METRO
FLOOD
DIVERSION
AUTHORITY

Diversion Board of Authority Meeting

August 24, 2023

Lands Budget Update
Jodi Smith

Lands Budget Update



Schedule Budget Categories	Cost to Date thru June 2023	ETC	EAC	Program Financial Plan	Delta EAC - Prog Budget
Lands and Impacted Property Mitigation	394,972,637	133,372,134	528,847,307	571,700,000	(42,852,693)
Management, Legal, Financial, Procurement	41,665,598	34,969,005	77,137,139	87,200,000	(10,062,861)
DIVERSION CHANNEL AND ASSOCIATED INFRA	100,688,565	14,793,047	115,481,612	140,000,000	(24,518,389)
DCAI - Phase 1 Land Acquisition Costs	27,687,238	4,000,000	31,687,238	39,511,016	(7,823,778)
DCAI - Phase 2 Land Acquisition Costs	37,469,838	5,000,000	42,469,838	59,164,448	(16,694,611)
DCAI - Phase 3 Land Acquisition Costs	35,531,489	5,793,047	41,324,536	41,324,536	-
SOUTHERN EMBANKMENT AND ASSOCIATED	43,489,198	4,430,668	47,919,866	57,500,000	(9,580,134)
SEAI - Reaches 4 & 5 OINs	1,731,603	1,440,383	3,171,986	3,171,986	-
SEAI --Reaches SE-1, 2A, 2B, 3	30,096,992	715,398	30,812,390	30,812,390	-
SEAI --Land for Control Structures	6,475,849	1,000,000	7,475,849	17,055,983	(9,580,134)
SEAI - I-29 Road Raise	5,184,754	1,274,887	6,459,641	6,459,641	-
MITIGATION AND ASSOCIATED INFRASTRUCTU	107,823,586	1,670,680	109,494,266	108,200,000	1,294,266
Land Acquisition Cost (WP43 OHB all Subpackage	86,337,011	148,880	86,485,891	87,798,283	(1,312,392)
WP-38 Upstream Staging (Mitigation Area)	63,283,032	76,531,392	139,814,424	139,800,000	14,424
WP38 - Flowage Easement (New Package UMA_F	63,281,282	(1,233,450)	62,047,832	62,035,158	12,674
WP38 - Structure Acquisitions / Demo	1,750	77,764,842	77,766,592	77,764,842	1,750
IN-TOWN FLOOD PROTECTION	38,022,658	977,342	39,000,000	39,000,000	-

Rural Impact Mitigation Program

RIMP Executive Summary



AUGUST 23, 2022

The following executive summary provides an overview of the current status of the Rural Impact Mitigation Program (RIMP), the previous actions by the Metro Flood Diversion Authority Board (Board), and requested actions by the Board to continue use of the RIMP.

OVERVIEW

The need for the RIMP was identified in late 2019. Relocation benefits required by the Uniform Relocation Act (the "URA") (and its state-level equivalents) are different for residential properties and business properties. Residential properties are eligible under the URA for the costs to acquire a substitute property, up to a certain amount. There is no similar URA benefit for commercial properties. The differences between treatment of residential and commercial properties under the URA created challenges in negotiating with the owners of active farmsteads and rural businesses. Since these active farmsteads and rural businesses were each unique, the RIMP was developed. The RIMP is a 10-year forgivable loan for active farmsteads and rural businesses being displaced by the Comprehensive Project. The RIMP is a voluntary program being implemented by the Cass County Joint Water Resource District (CCJWRD) in North Dakota and the Moorhead Clay Count Joint Powers Agreement (MCCJPA) in Minnesota but is funded by the Metro Flood Diversion Authority (MFDA).

BOARD HISTORY

The RIMP process was brought to the Land Management Committee, the Finance Committee, and the Board in May of 2020.

- A. Land Management Committee May 27, 2020:
 - a. An overview of the Farmstead Reestablishment Program also called the RIMP was presented to the Committee and received positive feedback from Committee members.
 - b. The Committee approved it unanimously.
- B. Finance Committee May 27, 2020:
 - a. An overview of the Farmstead Reestablishment Program also called the RIMP was presented to the Committee and received mixed feedback from Committee members.
 - b. The RIMP was estimated to be \$5-10 million in cost and there were two properties identified over the next 6 months.
 - c. Committee Chair was not comfortable with this cost range and suggested a phased approach
 - d. Committee approved to move forward on a phased approach for the two parcels identified with a cap of \$5 million.

- C. Metro Flood Diversion Authority Board May 28, 2020:
 - a. An overview of the Farmstead Reestablishment Program also called the RIMP was presented to the Board and received mixed feedback from Board members.
 - b. The Board approved to move forward on a phased approach for the two parcels identified with a cap of \$5 million.
- D. Metro Flood Diversion Authority Board April 29, 2022
 - a. An overview of the Farmstead Reestablishment Program also called the RIMP was presented to the Board.
 - b. The Board approved \$10 million additional funding to RIMP.

PRAM

The RIMP was then included in Version 5 of the Property Rights Acquisition and Mitigation Plan that was approved by the state of North Dakota.

SETTLEMENT

Section 25 of the Settlement Agreement between the Metro Flood Diversion Authority and the Richland-Wilkin Joint Powers Authority, Buffalo-Red Watershed District, City of Wolverton, and City of Comstock includes the requirement for the RIMP.

TO DATE

The CCJWRD has approved 11 RIMP loans for 10 different qualifying business locations totaling approximately \$10.8 million in value for businesses along the SWDCAI.

FUTURE USE OF THIS PROGRAM

As the land agents are engaging with property owners in the UMA and during the recent financial re-baselining of the entire Program, the Director of Lands and the Land Program Management team reviewed the RIMP and identified a total of approximately 20 farmsteads and rural businesses, including the three that have been offered a RIMP loan, that are eligible for RIMP with a total cost of approximately \$20 million. Additionally, this team is developing a reporting mechanism for the CCJWRD, MCCJPA, and the Finance Committee.

BUDGET

Funding for the 2022 \$10M increase for RIMP was anticipated in the 2022 Lands budget and was approved in the 2022 Cash Budget pending this phased approval. The increase of \$5M is within the Program Budget, which was re-baselined in 2022, and has been included in the latest version of the Financial Plan.

RIMP Loan Status and Forecast Tracker - Aug 2023					
OIN	Mortgagee / Owner	Obligated / Approved	Offered	Estimate / Potential	Assume NO RIMP
220	Verden Anderson - Prairie Scale	\$ 2,064,800			
220	Verden Anderson - Prairie Storage	\$ 516,200			
9754	Schmitz & Brennan LLC	\$ 43,000			
8385	Score Brothers	\$ 614,970			
2014	Odegaard	\$ 1,316,541			
1093	Richard - 6G Farms	\$ 2,383,759			
1899	Longtine	\$ 291,050			
1112/1113	Sauvageau	\$ 692,407			
818/1916	Richard - Larry & Susan	\$ 1,025,140			
2016	Nipstad	\$ 1,828,240			
1939	Brakke		\$ 1,452,170		
1893	JDC Babes		\$ 201,460		
8386	Westby		\$ 438,623		
1826	Ness			\$1,010,365	
1914	Richard - George & Sharon			\$ 1,500,000	
9993	BJM Land			\$ 750,000	
1912	Duval			\$ 800,000	
2002	Redlin			\$ 600,000	
1356	Granholt			\$ 90,000	
7102	Ihland			\$ 90,000	
856/1972/840	Brodshaug				\$ 3,070,000
	8 potential applicants				\$ 2,870,000
	Totals	\$ 10,776,107	\$ 2,092,253	\$ 4,840,365	\$ 5,940,000
				\$ 17,708,725	

ACTION

Since the RIMP was approved at the Finance Committee and Board in a phased approach in 2020, the Finance Committee and Board would need to approve additional funding for this next phase of the RIMP.

PROPOSED MOTION

In order to meet the obligations of the MFDA by continuing the RIMP, and to make a concerted effort to assist in relocation and re-establishing farmsteads and rural businesses directly impacted by the Comprehensive Project, I move to approve the next phase of the RIMP and allocate an additional \$5 million to the RIMP for a total of \$20 million.

INDEMNITY AGREEMENT

THIS INDEMNITY AGREEMENT (the “Agreement”) is entered into this ____ day of _____, 2023, by and between the Metro Flood Diversion Authority, a political subdivision of the State of North Dakota (the “Authority”), and the City of Fargo, North Dakota, a political subdivision of the State of North Dakota (the “City”).

WHEREAS, the City, along with the City of Moorhead, Minnesota; Clay County, Minnesota; Cass County, North Dakota; and the Cass County Joint Water Resource District established and continued the Authority by entering into the Joint Powers Agreement on June 1, 2016, to facilitate the development of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the “Comprehensive Project”); and

WHEREAS, among other things, the Joint Powers Agreement identified the Authority’s powers and authorities, authorized the Authority to delegate tasks to its member entities, and provided indemnify protection for its member entities and for the other non-federal sponsors; and

WHEREAS, the City, the City of Moorhead, and the Authority are the non-federal sponsors of the Comprehensive Project and entered into a Project Partnership Agreement with the United States Army Corps of Engineers (“USACE”) to deliver the Comprehensive Project; and

WHEREAS, according to the terms of the Project Partnership Agreement, the Authority is responsible for acquiring the necessary real property interests to construct and operate the Comprehensive Project; and

WHEREAS, for purposes of developing and proceeding with Reach SE-1B of the Comprehensive Project, a component being constructed by USACE, USACE has identified property interests that are needed in a parcel of land, identified on Exhibit A, that is owned by the City (the “Property”); and

WHEREAS, the City and the Authority agree USACE will be allowed to use the Property for purposes of constructing SE-1B (“USACE Access”), and the Authority will certify to USACE that a member of the Authority has the property rights necessary to allow USACE to use the Property for purposes of constructing SE-1B; and

WHEREAS, the City and the Authority wish to enter into this Agreement to clarify and provide the specific indemnity protection that the Authority will provide to the City for work on the Property to complete Reach SE-1B.

NOW THEREFORE, in consideration of the mutual covenants made herein and for other valuable consideration, the receipt of which is hereby acknowledged, the Authority and the City agree as follows:

Section 1.01 INTENT. The parties understand and recognize that the interests requested in the Property by USACE are related to the Comprehensive Project and the Authority’s obligation to secure real property interests to facilitate the Comprehensive Project. The parties additionally understand and recognize that USACE’s use of the Property for the Comprehensive Project could

result in liability exposure to the City due to the City's ownership of the Property. The parties wish to clarify the indemnity protection afforded the City under the Joint Powers Agreement.

Section 1.02 INDEMNIFICATION.

(a) Member Entities. With regard to indemnity of member entities of the Authority, the Joint Powers Agreement provides, in relevant part:

The Metro Flood Diversion Authority agrees to defend and indemnify the Member Entities and the individual Diversion Authority Board Members for any liability claims arising from the Metro Flood Diversion Authority activities or operations, decisions of the Metro Flood Diversion Authority, or arising out of or regarding the Project.

(b) Non-Federal Sponsors. With regard to indemnity of non-federal sponsors of the Comprehensive Project, the Joint Powers Agreement provides, in relevant part:

The Metro Flood Diversion Authority shall, to the fullest extent authorized by law, at all times hereafter, indemnify and hold the City of Moorhead and the City of Fargo, and each of them, harmless against any and all claims, suits, debts, damages, costs, charges and expenses, including court costs and attorney's fees, and legal fees or disbursements paid or incurred, and against all liability, losses, and damages of any nature whatsoever, to any person who makes or asserts a claim against the Non-Federal Sponsors, or any of them, for any reason related to the Project including, without limitation, any obligation owed to the USACE as a result of the relationship, contractual or otherwise, between the USACE and the Non-Federal Sponsors.

(c) The parties agree the City's grant of property interests to USACE for the USACE Access falls within the scope of the above-provided indemnification provisions of the Joint Powers Agreement, and, as a result, the Authority will indemnify the City from any and all claims, suits, debts, damages, costs, charges and expenses, including court costs and attorney's fees, and legal fees or disbursements paid or incurred, and against all liability, losses, and damages of any nature whatsoever arising out of USACE Access to the Property.

Section 1.03 ASSIGNMENT. Neither party may transfer or assign this Agreement, or any rights or obligations under this Agreement, without the express written consent of the other party.

Section 1.04 WAIVER OF JURY TRIAL. THE PARTIES HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS THAT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION, PROCEEDING, COUNTERCLAIM, OR DEFENSE BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER, OR IN ANY CONNECTION WITH THIS AGREEMENT, OR WITH RESPECT TO ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF ANY PARTY HERETO RELATING TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ALL PARTIES ENTERING INTO THIS AGREEMENT. THIS PROVISION APPLIES ONLY TO

SUITS BETWEEN THE PARTIES AND DOES NOT APPLY TO THIRD PARTY CLAIMS OR SUITS.

Section 1.05 AMENDMENTS. Any modifications or amendments to this Agreement must be in writing and signed by all parties.

Section 1.06 INTERPRETATION. This Agreement will be construed as if it has been prepared by all parties.

Section 1.07 GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the State of North Dakota.

Section 1.08 ELECTRONIC SIGNATURES. The Authority and the City agree that an electronic signature to this Agreement shall be valid as an original signature of the Authority or the City and shall be effective to bind the signatories of this Agreement.

IN WITNESS WHEREOF, the Authority and the City caused this Agreement to be executed.

(Remainder of page intentionally left blank.)

Signature Page for the Metro Flood Diversion Authority

The governing body of the Metro Flood Diversion Authority approved this Agreement on the ____ day of _____, 2023.

METRO FLOOD DIVERSION
AUTHORITY

By: _____
Dr. Timothy J. Mahoney, Chair

By: _____
Joel Paulsen, Executive Director

ATTEST:

Dawn Lindblom, Secretary

Signature Page for the City of Fargo, North Dakota

The governing body of the City of Fargo, North Dakota, approved this Agreement on the ____ day of _____, 2023.

CITY OF FARGO, NORTH DAKOTA

By: _____
Dr. Timothy J. Mahoney, Mayor

ATTEST:

Steven Sprague, City Auditor

Exhibit A

PROPERTY MAP

