



Board Agenda - Revised

Diversion Board of Authority

July 25, 2024 @ 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 June 27, 2024
[Attachment 00.01] (Pg. 3)
3. Approve Order of Agenda
4. **CONSENT AGENDA – APPROVE THE FOLLOWING:**
 - a. Finance Report [Attachment 01.00] (Pg. 9)
 - b. Voucher Approval [Attachment 02.00] (Pg. 32)
 - c. MOUs and Agreements [Attachment 03.00] (Pg. 48)
 - i. Cap X Transmission Line & MFDA MURA [Attachment 03.01] (Pg. 50)
 - d. DA Board Approval Contract Actions [Attachment 04.00] (Pg. 110)
 - i. Cap X Transmission Line TO 1, Amendment 0 [Attachment 04.01] (Pg. 112)

REGULAR AGENDA:

5. Co-Executive Director Update
 - a. Executive Director Search Process Update
 - i. Review & Approve MFDA Executive Director Position Description
[Attachment 05.00] (Pg. 114)
 - ii. Approve MFDA Executive Director Search Process Schedule of Events
[Attachment 06.00] (Pg. 118)
 - b. Approve a Request for Proposals (RFP) for an MFDA Classification & Compensation Study
[Attachment 07.00] (Pg. 120)
6. General Counsel Update
 - a. Resolution to take immediate action to prevent the unauthorized disclosure of confidential and privileged records, data, and statements by the former Executive Director
[Attachment 08.00] (Pg. 125)
7. Construction Project Updates

- a. USACE Project Update
[Attachment 09.00] (Pg. 144)
 - b. SWDCAI Project Update
[Attachment 10.00] (Pg. 146)
 - c. Project Safety Update
[Attachment 11.00] (Pg. 147)
 - d. Drone Footage Video
8. Communications Team Update
 9. Land Management Update
 - a. Property Acquisition Status Report
[Attachment 12.00] (Pg. 148)
 - b. OIN 7249 Excess Land Recommendation
[Attachment 13.00] (Pg. 154)
 - c. OINs 7247 & 7248 Excess Land Recommendation
[Attachment 14.00] (Pg. 156)
 - d. OINs 7234A & 7234B Variance to Excess Lands Policy
[Attachment 15.00] (Pg. 158)
 - e. OIN 858 Sales of Excess Land Recommendation
[Attachment 16.00] (Pg. 162)
 10. Finance Update
 11. Other Business.
 12. Next Meeting: August 22, 2024
 13. 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



Metro Flood Diversion Authority Board of Authority Meeting Minutes

3:30 PM – June 27, 2024

City of Fargo Commission Chambers

A regular meeting of the Metro Flood Diversion Authority Board of Authority was held on June 27, 2024. The following members were present: Shelly Carlson, Mayor, City of Moorhead; Bernie Dardis, Mayor, City of West Fargo; Dr. Tim Mahoney, Mayor, City of Fargo; Chad Peterson, Cass County Commissioner; Chuck Hendrickson, Moorhead City Council; Dave Piepkorn, Fargo City Commissioner; David Ebinger, Clay County Commissioner; Kevin Campbell, Clay County Commissioner; Mary Scherling, Cass County Commissioner; Tony Grindberg, Cass County Commissioner; Larry Seljevold, Moorhead City Council and Rodger Olson, Cass County Joint Water Resource District.

Member(s) absent: John Strand, Fargo City Commissioner.

1. CALL TO ORDER

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

2. APPROVE MINUTES FROM THE MAY 23, 2024, MEETING

MOTION PASSED

Mrs. Scherling moved to approve the minutes from the May 23, 2024, meeting and Mr. Peterson seconded the motion. On a voice vote, the motion carried.

3. APPROVE ORDER OF THE AGENDA

MOTION PASSED

Mayor Mahoney moved to amend the agenda, moving items 9. a., b., and c., to item 5. Mr. Ebinger seconded the motion and on a voice vote, the motion carried.

4. APPROVE CONSENT AGENDA

MOTION PASSED

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

5. LAND MANAGEMENT UPDATE

a. Property Acquisition Status Report

Ms. Smith provided the following property acquisition status report:

- 96.3% completion in the Construction Footprint
- 49.6% completion in the UMA Footprint
- 90.3% of the parcels in the Southern Embankment have been acquired
- 49.6% of the parcels in the Upstream Mitigation Area have been acquired
- 75.0% of the Environmental Easements have been signed
- 100.0% 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.
- The final two Diversion Channel parcels have closed and been acquired.
- In the last month, successfully closed 3 parcels / 2 landowner groups associated with SE-2B, which finalized acquisitions for SE-2B.
- In the last month, successfully closed 4 parcels / 2 owners in the UMA.
- Starting the release of temporary construction easements for SE-1.
- The USACE bid and awarded a forest mitigation contract. Due to a subsequent bid protest, a stop work order was required and issued. USACE and the MFDA staff discussed the resultant lack of weed control on associated parcels and determined that the most expeditious remedy was to handle it under the MFDA's existing mowing and weed control contract.

b. OINs 9191Y1 and 9741Y EXCESS LAND RECOMMENDATIONS

Ms. Smith introduced the above-referenced OINs and asked for approval to sell the parcels per the Excess Lands Policy.

OIN 9191Y1: 66.9 acres (surveyed), this parcel will be subject to a 3.43-acre TCE. The USACE has required that the TCE shall remain in place through December 31, 2029; however, MFDA anticipates they may be completed and the TCE may be released prior to that date. It is assumed that the TCE for I-29 will be released prior to the sale of this excess land. OIN 9191Y1 is immediately east of I29, south of the Wild Rice River, and north of the Southern Embankment Reach 3 (SE-3) portion of the Comprehensive Project.

OIN 9741Y: is located on 38th St W on the west side of the Diversion Channel Area associated with the Comprehensive Project. This parcel (the full parent parcel) is impacted by the Diversion Channel portion of the Comprehensive Project. The prior owner chose to retain the unimpacted land north of the Diversion Channel but sold the small southerly remnant (9741Y) to the Authority. This remnant piece is outside of the Diversion Channel work limits and is not needed for the construction or operation of the Comprehensive Project.

MOTION PASSED

Mr. Grindberg moved to declare OINs 9191Y1 and 9741Y as excess land and to proceed with the disposal of these parcels per the Excess Land Policy. Mrs. Scherling seconded the motion and on a roll call vote, the motion carried.

c. OIN 7234B EXCESS LAND UPDATE - DISCUSSION ONLY

OIN 7234B: this parcel is a stretch of abandoned railroad property between Center Avenue and Park Drive in Horace, ND. This parcel was previously owned and maintained by BNSF. The parcel is located east of the Diversion Channel within Horace and is not impacted by construction of the Comprehensive Project. This rail corridor was purchased from BNSF to alleviate the need to raise the rail line that crosses the Diversion Channel. Instead, it was decided that the entire corridor be taken out of operation.

There was discussion regarding this parcel at the CCJWRD and Land Management meetings, suggesting that this parcel may be an exception to the Excess Land Policy. The recommendation at the Land Management meeting was for staff to draft an exception and bring it to the Board in July or August for approval. Approval would allow us to go directly to public sale via auction or a commercial realtor.

6. CO-EXECUTIVE DIRECTORS UPDATE

a. MFDA Human Resources Transition Plan Update

Mr. Wilson provided an update on the MFDA transition plan to the Cass County employee manual. Part of the transition plan is to establish a step and grade compensation matrix for the MFDA staff; this would be accomplished by submitting an RFP and selecting a professional resource for assistance.

MOTION PASSED

Mr. Peterson moved to authorize the co-executive directors to conduct an RFP process to create a compensation matrix for the MFDA. In addition, the Board of Authority approves the transition plan for the MFDA organization and staff, as presented. Mrs. Scherling seconded the motion and on a roll call vote, the motion carried.

2024 COLAs

One MFDA employee has received their COLA for 2024; the following motion is to ensure that the five remaining employees will also receive COLAs on their anniversary dates. In 2025, the COLAs and performance increases will be managed via the compensation matrix.

MOTION PASSED

Mr. Peterson moved to provide the 3.2% COLA to the employees on their anniversary dates in 2024 and in 2025 employees will follow the Cass County employee manual process. Mr. Ebinger seconded the motion and on a roll call vote, the motion carried.

b. Executive Director Next Steps

Mr. Redlinger provided the following executive director position description update for approval:

Roles and responsibilities:

- Strategically lead, problem-solve and coordinate and the efforts of a diverse group of employees, contractors, consultants, and partner agencies to complete construction of the Fargo Moorhead Flood Diversion Project.
- Upon construction completion successfully transition to an efficient and reliable operations and maintenance phase, ensuring all permitting and compliance requirements are met in a systematic, orderly, and well-planned manner.
- Development of Annual Budget and monitoring of Budget performance throughout the year.
- Educate, inform, and be responsive to policy direction provided by a 13 member-appointed Board of Directors.
- Ensure compliance with the Joint Powers Authority (JPA) creating the Metro Flood Diversion Authority and the Project Agreement directing the construction and operation of the Diversion Channel by the P3 Contractor.

Core Competencies:

- A skilled communicator who is accessible, responsive to and receptive to input from employees, board members and a wide range of stakeholders.
- A demonstratable work history of developing employee talent.
- A strategic-thinker able to develop and execute a long-term vision to transition various consultant-delivered services to more efficient employee-delivered services.

Experience:

- Extensive leadership and public administration experience.
- Project management experience with a strong track record coordinating financial, legal and engineering components.
- Extensive experience working with contracted engineering consultant services. The ideal candidate will have experience ending complex contracted consulting services at the conclusion of a project.
- The successful candidate will have a demonstrated mastery of their field and a work history of increasingly complex and demanding projects.

Minimum Qualifications:

- 10-15 years local public sector or related leadership experience.
- Preferred Master of Public Administration

MOTION PASSED

Mayor Mahoney moved for the co-executive directors to initiate a compensation RFP to establish a solid salary matrix for the executive director position. Additionally, they will come back to the BOA on July 25 for any final feedback or comments. The position will then be advertised in August and September with the intent to conduct interviews this fall. Mr. Ebinger seconded the motion and on a roll call vote, the motion carried.

7. GENERAL COUNSEL UPDATE

a. Resolution Amending the Appointment of Members to the Diversion Board and Land Management Committees of the MFDA

Mr. Shockley provided an overview and summary outlining the above-referenced resolution:

MOTION PASSED

Mr. Grindberg moved to approve the resolution as presented and Mrs. Scherling seconded the motion. On a roll call vote, with Mr. Piepkorn voting ‘nay’, the motion passed.

8. 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 99% complete. Construction completion date will be revised pending outcome of modifications to the gate machinery design. Schedule for remaining work: 2024: Complete operating machinery corrections; turf established.

2 Wild Rice River Structure (WRRS) – Construction

Structure includes 2-40 ft. wide Tainter gates. Construction is 97% complete. Construction completion date will be revised pending outcome of modifications to the gate machinery design. Schedule for remaining work: 2024: Complete operating machinery corrections; resolve punch list items; turf established.

3 I-29 Raise – Construction

Includes approximately 4 miles of interstate raise between County Roads 16 and 18. Construction is 99% complete. Final inspection held 3 January 2024; turf establishment to be extended to 26 July 2024. Planning for O&M documents and turnover is ongoing.

4 Red River Structure (RRS) - Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 57% complete. Construction completion date is 19 March 2026. Placing concrete and fabrication of gates 2 and 3 continues. Tainter gate #1 delivery is complete and assembly on site is ongoing.

5 Drain 27 Wetland Mitigation Project Plantings - Construction

Native plantings 5-year contract awarded 17 May 2023. Remaining seeding is in progress. Completion date for wetland establishment is 1 December 2027.

6 Drayton Dam Mitigation Project Design - Construction

Construction is complete. Turnover to MFDA for O&M occurred on 28 Nov 2023. Willow plantings partially completed; remaining requires low water conditions.

7 Southern Embankment – Reach SE-2A - Construction

Construction is 69% complete. Contractor mobilizing but weather has hindered commencing work. Scheduled completion date is 13 October 2024.

8 FY2024 Contract Awards:

OHB Ring Levee: Awarded 22 February. Contract completion date is 31 August 2025.

Reach SE-1B: Awarded 27 February. Contract completion date is 13 March 2026.

Reach SE-2B: Awarded 11 March. Contract completion date is 30 October 2025.

Forest Mitigation: Bid protest is delaying contract work.

Reach SE-4: Contract awarded 28 May 2024 to PWS, Inc., Brooklyn Park, MN.

9 Southern Embankment Design: Remaining Reaches:

SE-3: Final review starts 10 June 2024 Contract award: January 2025

SE-5: 95% review starts 10 July 2024 Contract award: January 2025

10 Supplemental Environmental Assessment – Diversion Channel

Issued to disclose updated designs and impacts. FONSI signed and the final SEA was posted 6 May

b. SWDCAI Project Update

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

New Features Under Construction

- SE-2B

30- to 60-Day Outlook

- Lower Rush River Inlet
- Channel Reach 10
- Channel Reach 11
- Drain 21C Inlet
- Drain 50 Inlet
- SE-4

Misc. Highlights

- Channel Excavation
- Permanent Seeding
- BNSF Hillsboro
- I-94

c. Project Safety Update

Mr. Bakkegard provided the safety update for the period May 1, 2024, to May 31, 2024, and reported that it was a good month with only two minor incidents.

d. Drone Footage Video

A drone video highlighting the progress that has been achieved since May 2024 was viewed.

9. COMMUNICATIONS UPDATE

Ms. Willson provided the following Communications update:

Outreach Products

Award: 1st place at NFPW national contest for "MFDA Funding & Financing 101" video

Faces of the Diversion: Capt. Kyle Volk released in June

Construction Update Videos: Current Event videos on SE-2B and the stormwater diversion channel

Media Relations:

May Construction Update release

ASN: I-94 detours

10. FINANCE UPDATE

Finance Report

Mayor Dardis reported that the bills payable through June 18, 2024, totaled \$3,757,532, and the net position is \$268,302,987. Mayor Dardis also reported that the 2023 audit was completed by Eide Bailly and the MFDA received a clean report.

11. OTHER BUSINESS

There was no other business to discuss.

12. NEXT MEETING

The next meeting will be July 25, 2024.

13. ADJOURNMENT

Mr. Peterson moved to adjourn, and Mr. Ebinger seconded the motion. The meeting adjourned at 4:33 PM.

FM Metropolitan Area Flood Risk Management Project
Statement of Net Position
June 30, 2024

	FM Diversion Project Fund	Budget Fund	Grand Total
Assets			
Cash	\$ 247,586,112	\$ 392,444	\$ 247,978,556
Cash Horace 3.01 MIT	4,358,346	-	4,358,346
Cash BRRWD	8,682,153	-	8,682,153
Cash Held In Trust at BND			
Excess Revenue Fund	689,050	-	689,050
Temp Debt Obligation Fund	2,384,338	-	2,384,338
Authority Loan Fund	101,645	-	101,645
P3 Reserve Fund	16,133,951	-	16,133,951
SRF Loan Reserve Fund	2,289,468	-	2,289,468
Revenue Fund	1,842	-	1,842
Prepaid Expense	4,633,885	-	4,633,885
Refundable Deposit	50,000	-	50,000
Total assets	286,910,790	392,444	287,303,234
Liabilities			
Vouchers payable	543,372	97,769	641,141
Retainage payable	138,488	-	138,488
Rent Deposit	18,750	-	18,750
Deferred Revenue	5,500	-	5,500
Total liabilities	706,111	97,769	803,879
NET POSITION	\$ 286,204,679	\$ 294,675	\$ 286,499,354

Summary Of Expenses
EXP-2024-06

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
770-7910-429.11-00	7/3/2024	336984	Cass County Government	\$72,608.33	DIVERSION PAYROLL	V00106	EXECUTIVE DIRECTOR
Full Time Staff / Salaries				\$72,608.33			
770-7910-429.20-01	7/3/2024	336984	Cass County Government	\$7,352.00	DIVERSION PAYROLL	V00106	EXECUTIVE DIRECTOR
Employee Benefits / Health Insurance				\$7,352.00			
770-7910-429.20-03	7/3/2024	336984	Cass County Government	\$160.00	DIVERSION PAYROLL	V00106	EXECUTIVE DIRECTOR
Employee Benefits / Dental Insurance				\$160.00			
770-7910-429.20-06	7/3/2024	336984	Cass County Government	\$29.20	DIVERSION PAYROLL	V00106	EXECUTIVE DIRECTOR
Employee Benefits / Vision Insurance				\$29.20			
770-7910-429.21-01	7/3/2024	336984	Cass County Government	\$4,378.36	DIVERSION PAYROLL	V00106	EXECUTIVE DIRECTOR
Employee Benefits / Social Security				\$4,378.36			
770-7910-429.21-02	7/3/2024	336984	Cass County Government	\$1,023.97	DIVERSION PAYROLL	V00106	EXECUTIVE DIRECTOR
Employee Benefits / Medicare				\$1,023.97			
770-7910-429.22-07	7/3/2024	336984	Cass County Government	\$9,374.32	DIVERSION PAYROLL	V00106	EXECUTIVE DIRECTOR
Pension Benefits / Retirement				\$9,374.32			
770-7910-429.33-37	6/13/2024	336537	HighRoad Partners, LLC	\$600.00	DIVERSION HR SERVICES	V09701	HR SERVICES
Other Services / HR Services				\$600.00			
770-7910-429.34-15	6/6/2024	336401	Marco Technologies	\$686.20	DIVERSION IT SERVICES	V10301	SERVICE AGREEMENT - IT
	6/27/2024	336818	CONSOLIDATED COMMUNI	\$470.00	DIVERSION INTERNET	V00106	EXECUTIVE DIRECTOR
	6/27/2024	336897	Marco Technologies	\$2,042.84	DIVERSION IT SERVICES	V10301	SERVICE AGREEMENT - IT
Technical Services / Computer Services				\$3,199.04			
770-7910-429.53-20	7/3/2024	336984	Cass County Government	\$708.95	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
Communications / Cellular Phone Service				\$708.95			
770-7910-429.56-60	7/3/2024	336984	Cass County Government	\$1,308.49	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
In State Travel / In State Travel Expenses				\$1,308.49			
770-7910-429.61-10	7/3/2024	336984	Cass County Government	\$144.08	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
General Supplies / Office Supplies				\$144.08			

Data Through Date: Friday, June 28, 2024

Summary Of Expenses
EXP-2024-06

Thursday, July 11, 2024

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
770-7910-429.68-30	7/3/2024	336984	Cass County Government	\$596.85	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
Miscellaneous / Meeting Incidentals				\$596.85			
770-7910-429.74-12	7/3/2024	336984	Cass County Government	\$84.23	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
Capital Outlay / Computer Software				\$84.23			
770 Subtotal				\$101,567.82			
790-7910-429.33-25	7/5/2024	1110	OHNSTAD TWICHELL PC	\$103,405.90	AFP Ohnstad Twichell P	V00102	General & Admin. WIK
	6/27/2024	336800	Ankura Consulting Group LLC	\$48,107.50	APR DIVERSION SERVICES	V12801	SCHEDULING EXPERTISE
	6/27/2024	336829	DORSEY & WHITNEY LLP	\$330,972.82	DIVERSION LEGAL SERVICES	V00101	Dorsey Whitney Legal
	7/3/2024	336965	Ankura Consulting Group LLC	\$134,382.50	SCHEDULING SERVICES	V12801	SCHEDULING EXPERTISE
Other Services / Legal Services				\$616,868.72			
790-7910-429.34-20	7/3/2024	336980	C THREE MEDIA, LLC	\$13,979.97	VIDEOGRAPHY SERVICES	V08601	VIDEOGRAPHY
	7/3/2024	337059	Neon Loon Communications, LL	\$10,654.50	COMMUNICATIONS SUPPORT	V09601	COMMUNICATIONS SUPPORT
Technical Services / Marketing / Public Relat.				\$24,634.47			
790-7910-429.34-40	6/27/2024	336845	Flint Group	\$450.00	WEBSITE DESIGN	V10201	WEBSITE DESIGN
Technical Services / Web Site Develop/Maintain				\$450.00			
790-7910-429.34-56	6/24/2024	ES06240	City of Fargo	\$17,483.00	FISCAL AGENT FEE - 06/24	V05902	MONTHLY FISCAL AGENT FEE
Technical Services / FMDA Fiscal Agent Fees				\$17,483.00			
790-7910-429.38-68	6/6/2024	336351	GA Group, PC	\$4,000.00	APRIL COUNSEL SERVICES	V07601	2021 GOVERNMENT RELATIONS
	6/6/2024	336351	GA Group, PC	\$4,000.00	MARCH COUNSEL SERVICES	V07601	2021 GOVERNMENT RELATIONS
	6/6/2024	336351	GA Group, PC	\$4,000.00	MAY COUNSEL SERVICES	V07601	2021 GOVERNMENT RELATIONS
	6/27/2024	336848	GA Group, PC	\$4,000.00	GOVT RELATIONS COUNSEL	V07601	2021 GOVERNMENT RELATIONS
Other Services / Lobbyist				\$16,000.00			
790-7910-429.42-05	6/27/2024	336796	Ambassador, Inc.	\$925.00	DIVERSION CLEANING	V10501	JANITORIAL SERVICES
Cleaning Services / Custodial Services				\$925.00			

Data Through Date: Friday, June 28, 2024

Summary Of Expenses
EXP-2024-06

Thursday, July 11, 2024

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7915-429.33-05	6/27/2024	336865	HOUSTON-MOORE GROUP L	\$191,941.55	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
	6/27/2024	336865	HOUSTON-MOORE GROUP L	\$105,303.55	DIVERSION PROJECT	V01634	H&H MITIG. & PERMIT SUPPO
	7/3/2024	336961	AECOM	\$37,811.19	CULTURAL RESOURCES INVEST	V01004	SEAI CULTURAL RES INVEST
Other Services / Engineering Services				\$335,056.29			
790-7920-429.33-05	6/27/2024	336865	HOUSTON-MOORE GROUP L	\$49,359.42	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
	6/27/2024	336865	HOUSTON-MOORE GROUP L	\$39,813.34	DIVERSION PROJECT	V01634	H&H MITIG. & PERMIT SUPPO
Other Services / Engineering Services				\$89,172.76			
790-7920-429.33-79	6/13/2024	336494	CH2M Hill Engineers Inc	\$456,534.29	PROGRAM MGMT	V00211	CH2M HILL-6/2019-12/2021
	6/13/2024	336494	CH2M Hill Engineers Inc	\$725,113.63	SUPPORT SERVICES	V00212	P3 PROCUREMENT SUPPORT
Other Services / Construction Management				\$1,181,647.92			
790-7930-429.33-05	6/6/2024	336320	MOORE ENGINEERING INC	\$23,136.42	REIMB MOORE ENGINEERING	V10601	CITY OF CHRISTINE MOU
	6/27/2024	336795	ADVANCED ENGINEERING I	\$169,509.31	DIVERSION PROJECT	V00302	PROGRAM MGMT SERVICES
	6/27/2024	336865	HOUSTON-MOORE GROUP L	\$24,533.41	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
	6/27/2024	336865	HOUSTON-MOORE GROUP L	\$23,807.55	DIVERSION PROJECT	V01634	H&H MITIG. & PERMIT SUPPO
	7/3/2024	336989	HDR Engineering, Inc.	\$15,727.50	HDR ENGINEERING INC	V01201	Cass Joint Water ROE
	7/3/2024	336989	Prosource Technologies, Inc	\$12,834.67	PROSOURCE TECHNOLOGIES	V01201	Cass Joint Water ROE
	7/3/2024	336989	SRF Consulting Group	\$28,544.98	SRF CONSULTING GROUP	V01201	Cass Joint Water ROE
Other Services / Engineering Services				\$298,093.84			
790-7930-429.33-25	6/27/2024	336816	LIES, BULLIS & HATTING, P	\$2,780.00	REIMB LIES, BULLIS & HATT	V10601	CITY OF CHRISTINE MOU
	6/27/2024	336816	Swanson & Warcup	\$632.50	REIMB SWANSON & WARCUP	V10601	CITY OF CHRISTINE MOU
	7/3/2024	336989	OHNSTAD TWICHELL PC	\$99,925.13	OHNSTAD TWICHELL	V01201	Cass Joint Water ROE
Other Services / Legal Services				\$103,337.63			
790-7930-429.33-32	7/3/2024	336989	CROWN APPRAISALS	\$52,500.00	CROWN APPRAISALS	V01201	Cass Joint Water ROE
Other Services / Appraisal Services				\$52,500.00			
790-7930-429.33-79	6/13/2024	336494	CH2M Hill Engineers Inc	\$27,678.35	PROPRTY ACQUISITION	V00210	CH2M HILL-LAND ACQUISITON
Other Services / Construction Management				\$27,678.35			
790-7930-429.38-95	7/3/2024	337036	JT LAWN SERVICE LLC	\$23,999.00	MOWING & WEED CONTROL	V10401	MOWING/WEED CONTROL MGM
Other Services / Mowing Services				\$23,999.00			

Data Through Date: Friday, June 28, 2024

Summary Of Expenses
EXP-2024-06

Thursday, July 11, 2024

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7930-429.38-99	7/3/2024	336989	Building & Grounds Managemen	\$400.00	BUILDINGS & GROUNDS	V01701	ND LAND PURCH-OUT OF TOWN
	7/3/2024	336989	L & L Tree Service LLC	\$17,000.00	L&L'S TREE SERVICE	V01701	ND LAND PURCH-OUT OF TOWN
	7/3/2024	336989	Title Company	\$250.00	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
Other Services / Other Services				\$17,650.00			
790-7930-429.52-70	6/27/2024	336952	Watts and Associates, Inc.	\$2,323.28	INSURANCE PRODUCT DEVEL	V06901	CROP INSURANCE DEVELOPMN
Insurance / Crop Insurance				\$2,323.28			
790-7930-429.62-51	7/3/2024	336982	Cass County Electric Cooperativ	\$113.00	ACCT #1184422 DIVERSION	V01701	ND LAND PURCH-OUT OF TOWN
	7/3/2024	336989	Cass County Electric Cooperativ	\$250.30	CASS COUNTY ELECTRIC	V01701	ND LAND PURCH-OUT OF TOWN
Energy / Electricity				\$363.30			
790-7930-429.67-11	7/3/2024	336989	0233Y1 - CASS COUNTY JOIN	\$100.00	METRO FLOOD DIVERSION	V01701	ND LAND PURCH-OUT OF TOWN
	7/3/2024	336989	1088Y - CASS COUNTY JOIN	\$200.00	METRO FLOOD DIVERSION	V01701	ND LAND PURCH-OUT OF TOWN
Relocation / Residential Buildings				\$300.00			
790-7930-429.67-12	7/3/2024	336989	1916 - RICHARD 1	\$22,372.00	CASS COUNTY JOINT WATER	V01701	ND LAND PURCH-OUT OF TOWN
Relocation / Commercial Buildings				\$22,372.00			
790-7930-429.71-30	7/3/2024	336989	0837 - HANSON 1	(\$180.00)	CASS COUNTY	V01701	ND LAND PURCH-OUT OF TOWN
	7/3/2024	336989	5024Y - CASS COUNTY JOIN	(\$28,164.49)	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	7/3/2024	336989	5278Y - CASS COUNTY JOIN	(\$11,045.24)	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	6/25/2024	ES06240	0837 - HANSON 1	\$180.00	RECLASS DIVERSION LAND	V01701	ND LAND PURCH-OUT OF TOWN
	6/25/2024	ES06240	5024Y - CASS COUNTY JOIN	\$28,164.49	RECLASS DIVERSION LAND	V01701	ND LAND PURCH-OUT OF TOWN
	6/25/2024	ES06240	5278Y - CASS COUNTY JOIN	\$11,045.24	RECLASS DIVERSION LAND	V01701	ND LAND PURCH-OUT OF TOWN
Land / Land Purchases				\$0.00			
790-7930-429.71-31	7/3/2024	336989	8781 - BRUNGARD, KIRK	\$13,845.00	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
Land / Easements				\$13,845.00			

Summary Of Expenses
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Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7941-429.33-05	6/6/2024	336312	BUFFALO-RED RIVER WATE	\$90.61	12/24/23-5/13/24 EXPENSES	V10801	GEORGETOWN-LEVEE CERTIFI
	6/6/2024	336312	BUFFALO-RED RIVER WATE	\$1,289.81	12/24/23-5/13/24 EXPENSES	V10901	WOLVERTON-FLOOD CONTROL
	6/6/2024	336312	HOUSTON ENGINEERING IN	\$79,760.89	12/24/23-5/13/24 EXPENSES	V10801	GEORGETOWN-LEVEE CERTIFI
	6/6/2024	336312	HOUSTON ENGINEERING IN	\$145,767.05	12/24/23-5/13/24 EXPENSES	V10901	WOLVERTON-FLOOD CONTROL
	6/6/2024	336312	Natwick Appraisals	\$5,500.00	12/24/23-5/13/24 EXPENSES	V10801	GEORGETOWN-LEVEE CERTIFI
Other Services / Engineering Services				\$232,408.36			
790-7950-429.33-05	6/20/2024	336714	MOORE ENGINEERING INC	\$646.25	REIMB MOORE ENGINEERING	V08901	MAPLE RIVER-DRAIN EXPENSE
	6/20/2024	336745	MOORE ENGINEERING INC	\$8,253.75	REIMB MORRE ENGINEERING	V08801	RUSH RIVER-DRAIN EXPENSE
	6/27/2024	336865	HOUSTON-MOORE GROUP L	\$4,674.25	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
	7/3/2024	337089	MOORE ENGINEERING INC	\$357.50	REIMB MOORE ENGINEERING	V12201	SE CASS WRD MOU
	6/28/2024	ES06240	City of Fargo	(\$750.75)	City of Fargo	V05405	LEVEE/FLOODWALL - BELMONT
	6/28/2024	ES06240	HOUSTON ENGINEERING IN	\$2,186.25	HOUSTON ENGINEERING INC	V05408	FLOOD MIT-ROYAL OAKS AREA
	6/28/2024	ES06240	HOUSTON ENGINEERING IN	\$8,467.85	HOUSTON ENGINEERING INC	V05409	FLOOD MIT-WOODCREST DRIVE
	6/28/2024	ES06240	HOUSTON ENGINEERING IN	\$7,924.16	HOUSTON ENGINEERING INC	V05426	RR EROSION-UNIV & 52ND AV
	6/28/2024	ES06240	KLJ ENGINEERING, LLC	\$25,568.15	KLJ ENGINEERING, LLC	V05434	FM24A-S UNIV WALL REP
	7/3/2024	ES06240	City of Fargo	\$563.64	City of Fargo	V05405	LEVEE/FLOODWALL - BELMONT
	7/3/2024	ES06240	HOUSTON ENGINEERING IN	\$228.00	HOUSTON ENGINEERING INC	V05408	FLOOD MIT-ROYAL OAKS AREA
	7/3/2024	ES06240	HOUSTON ENGINEERING IN	\$6,901.19	HOUSTON ENGINEERING INC	V05426	RR EROSION-UNIV & 52ND AV
Other Services / Engineering Services				\$65,020.24			
790-7950-429.33-06	7/3/2024	336977	BRAUN INTERTEC CORP	\$46,462.00	MATERIALS TESTING	V00406	TASK ORDER #4
Other Services / Quality Testing				\$46,462.00			
790-7950-429.33-32	6/28/2024	ES06240	SRF Consulting Group	\$1,437.45	SRF CONSULTING GROUP, INC	V05405	LEVEE/FLOODWALL - BELMONT
	7/3/2024	ES06240	SRF Consulting Group	\$842.83	SRF CONSULTING GROUP, INC	V05405	LEVEE/FLOODWALL - BELMONT
Other Services / Appraisal Services				\$2,280.28			
790-7950-429.38-99	6/28/2024	ES06240	Simplifile LC	\$23.25	SIMPLIFILE LC	V05418	FLOOD ACQUISITIONS
	7/3/2024	ES06240	BNSF RAILWAY CO	(\$600.00)	BNSF RAILWAY COMPANY	V05422	FLOOD MIT - NORTH SIDE
Other Services / Other Services				(\$576.75)			
790-7950-429.41-05	6/6/2024	336317	Cass Rural Water	\$27.00	ACCT #18789 DIVERSION	V05006	DIVERSION INLET UTILITY
Utility Services / Water and Sewer				\$27.00			

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Summary Of Expenses
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Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7950-429.54-10	6/28/2024	ES06240	FORUM COMMUNICATIONS	\$246.24	P CARD BMO	V05434	FM24A-S UNIV WALL REP
Advertising / Legal Publications				\$246.24			
790-7950-429.73-52	6/25/2024	ES06240	Red River Valley Alliance LLC	\$128,400.00	RECORD WIRE PAYMENT TO	V11401	P3 DEVELOPER PAYMENTS
	6/25/2024	ES06240	Red River Valley Alliance LLC	\$1,182,755.00	RECORD WIRE PAYMENT TO	V11401	P3 DEVELOPER PAYMENTS
Infrastructure / Flood Control				\$1,311,155.00			
790-7950-429.73-62	7/3/2024	ES06240	City of Fargo	\$43,721.65	City of Fargo	V05405	LEVEE/FLOODWALL - BELMONT
Infrastructure / Water Infrastructure				\$43,721.65			
790-7950-429.73-70	6/13/2024	336631	Wagner Construction Inc.	\$584,288.00	UTILITY RELOCATION	V11901	WP47E AGREEMENT
Infrastructure / Utilities				\$584,288.00			
790-7950-429.74-10	6/28/2024	ES06240	City of Fargo	(\$1,974.76)	City of Fargo	V05405	LEVEE/FLOODWALL - BELMONT
Capital Outlay / Machinery & Equipment				(\$1,974.76)			
790-7950-429.80-12	6/28/2024	ES06240	CASS COUNTY TREASURER	\$12,309.23	City of Fargo	V05420	FLOOD BUYOUTS - SPECIALS
Debt Service / Special Assessment Princ.				\$12,309.23			
790-7950-429.80-16	6/28/2024	ES06240	CASS COUNTY TREASURER	\$2,804.83	City of Fargo	V05420	FLOOD BUYOUTS - SPECIALS
Debt Service / Specials - BID				\$2,804.83			
790-7952-429.33-05	6/27/2024	336865	HOUSTON-MOORE GROUP L	\$21,121.25	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
Other Services / Engineering Services				\$21,121.25			
790-7959-429.33-05	6/28/2024	ES06240	HOUSTON ENGINEERING IN	\$29,505.95	HOUSTON ENGINEERING INC	V05431	STORM LIFT IMPR #47 & #48
	6/28/2024	ES06240	HOUSTON ENGINEERING IN	\$41,084.25	HOUSTON ENGINEERING INC	V05433	NR24B - LIFT STAT 11 & 57
	7/3/2024	ES06240	HOUSTON ENGINEERING IN	\$6,288.35	HOUSTON ENGINEERING INC	V05409	FLOOD MIT-WOODCREST DRIVE
	7/3/2024	ES06240	HOUSTON ENGINEERING IN	\$35,179.97	HOUSTON ENGINEERING INC	V05431	STORM LIFT IMPR #47 & #48
	7/3/2024	ES06240	HOUSTON ENGINEERING IN	\$30,773.50	HOUSTON ENGINEERING INC	V05433	NR24B - LIFT STAT 11 & 57
Other Services / Engineering Services				\$142,832.02			
790-7959-429.38-99	6/28/2024	ES06240	City of Fargo	\$89.35	P CARD BMO	V05432	STORM LIFT IMPR #27
	6/28/2024	ES06240	Simplifile LC	\$115.50	SIMPLIFILE LC	V05432	STORM LIFT IMPR #27
Other Services / Other Services				\$204.85			

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Summary Of Expenses
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Thursday, July 11, 2024

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7959-429.54-10	6/28/2024	ES06240	FORUM COMMUNICATIONS	\$405.84	P CARD BMO	V05432	STORM LIFT IMPR #27
Advertising / Legal Publications				\$405.84			
790-7959-429.68-10	6/28/2024	ES06240	XCEL ENERGY-FARGO	\$8,004.80	XCEL ENERGY	V05433	NR24B - LIFT STAT 11 & 57
Miscellaneous / Miscellaneous				\$8,004.80			
790-7959-429.73-52	6/28/2024	ES06240	Key Contracting Inc	\$998,587.65	KEY CONTRACTING INC	V05431	STORM LIFT IMPR #47 & #48
	6/28/2024	ES06240	MASTER CONSTRUCTION C	\$205,147.75	MASTER CONSTRUCTION CO IN	V05435	WM REP ST RCN-WOODCREST
	7/3/2024	ES06240	Key Contracting Inc	\$757,655.40	KEY CONTRACTING INC	V05431	STORM LIFT IMPR #47 & #48
	7/3/2024	ES06240	MASTER CONSTRUCTION C	\$449,043.35	MASTER CONSTRUCTION CO IN	V05435	WM REP ST RCN-WOODCREST
Infrastructure / Flood Control				\$2,410,434.15			
790-7990-429.33-05	6/27/2024	336865	HOUSTON-MOORE GROUP L	\$65,174.88	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
	7/3/2024	336974	BNSF RAILWAY CO	\$5,052.60	PRELIMINARY ENGINEERING	V11101	PRELIMINARY ENGINEERING
Other Services / Engineering Services				\$70,227.48			
790-7990-429.33-25	7/5/2024	1110	OHNSTAD TWICHELL PC	\$35,423.36	AFP Ohnstad Twichell P	V00102	General & Admin. WIK
Other Services / Legal Services				\$35,423.36			
790-7990-429.33-47	6/13/2024	336601	Program Advisor Services, LLC	\$54,400.00	PROGRAM CONSULTING SERV	V05801	CONSULTING SERVICES
	7/3/2024	337074	Program Advisor Services, LLC	\$46,000.00	CONSULTING SERVICES	V05801	CONSULTING SERVICES
Other Services / Consulting Services				\$100,400.00			
790-7990-429.34-57	6/28/2024	15346	BANK OF NORTH DAKOTA	\$17,483.00	BND TRUSTEE FEE 06/24	V08502	MONTHLY TRUSTEE FEE
Technical Services / FMDA Trustee Fees BND				\$17,483.00			
790-7998-555.90-81	6/24/2024	ES06240	Diversion Admin Budget Transfe	\$0.00	ANNUAL ADMIN BDGT TRF-JUN	VADMIN	Diversion Administration
FMDA Admin. Budget Fund				\$0.00			
790 Subtotal				\$7,949,408.63			

Total Amount Invoiced this period: **\$8,050,976.45**
\$0.00 Less Paid Retainage

\$8,050,976.45 Total Less Paid Retainage

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Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
LAND PURCHASE	\$387,541,549.97	\$387,541,549.97	\$0.00	Land Purchase
CH2M HILL ENGINEERS INC	\$153,344,991.12	\$120,389,540.76	\$32,955,450.36	Project & Construction Management
HOUSTON-MOORE GROUP LLC	\$94,554,195.48	\$74,074,162.77	\$20,480,032.71	Engineering Services
INDUSTRIAL BUILDERS INC	\$63,509,402.56	\$62,857,057.56	\$652,345.00	2nd St N Pump Station Project and 2nd St Floodwall, South of Pu
ARMY CORP OF ENGINEERS	\$53,183,800.00	\$53,183,800.00	\$0.00	Local Share
NORTH DAKOTA PUBLIC FINANCE AUTHORIT	\$37,785,300.00	\$37,785,300.00	\$0.00	Debt Service
RICHLAND-WILKIN JPA	\$35,000,000.00	\$35,000,000.00	\$0.00	Economic Impact Relief Fund
OHNSTAD TWICHELL PC	\$23,533,734.59	\$23,533,734.59	\$0.00	Legal Services
KEY CONTRACTING INC	\$22,071,521.46	\$22,071,521.46	\$0.00	FM1413 - Oakcreek and Copperfield Court Levee
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
ADVANCED ENGINEERING INC	\$14,379,176.00	\$12,757,933.35	\$1,621,242.65	Lands Management and Public Outreach
DORSEY & WHITNEY LLP	\$12,046,886.55	\$12,046,886.55	\$0.00	Legal Services
WELLS FARGO	\$11,607,080.05	\$11,607,080.05	\$0.00	Debt Service
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	\$7,922,779.86	\$7,917,141.11	\$5,638.75	Utility Relocation, Accounting Svcs, Interest on Deficit Funds
MOORE ENGINEERING INC	\$7,823,986.85	\$6,429,170.02	\$1,394,816.83	Engineering Services
ASHURST LLP	\$6,352,853.01	\$6,352,853.01	\$0.00	PPP Legal Counsel
SRF CONSULTING GROUP	\$6,334,009.36	\$3,310,319.08	\$3,023,690.28	Engineering Services
CASS RURAL WATER	\$6,286,473.51	\$6,220,300.35	\$66,173.16	Utilities and Utility Relocation
HOUSTON ENGINEERING INC	\$5,991,548.14	\$5,991,548.14	\$0.00	Engineering Services
NUSTAR PIPELINE OPERATING PARTNERSHIP	\$5,884,100.74	\$5,867,251.62	\$16,849.12	Utility Relocation
ERNST & YOUNG	\$5,377,000.00	\$5,017,370.30	\$359,629.70	P3 Financial Advisory Services
RED RIVER VALLEY ALLIANCE LLC	\$5,087,713.86	\$5,087,713.86	\$0.00	P3 Developer payments
BRAUN INTERTEC CORP	\$4,774,098.26	\$2,101,751.16	\$2,672,347.10	Materials Testing

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Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
CASS COUNTY GOVERNMENT	\$4,681,231.67	\$4,681,231.67	\$0.00	Gravel on County Rd 17 Bypass
SELLIN BROS INC	\$4,564,757.24	\$2,814,909.59	\$1,749,847.65	Riverwood Flood Risk Project - Construction
PROSOURCE TECHNOLOGIES, INC	\$3,873,908.66	\$3,451,209.10	\$422,699.56	Land Acquisition Services
CENTURYLINK COMMUNICATIONS	\$3,735,501.33	\$3,605,328.31	\$130,173.02	Utility Relocation
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
RED RIVER VALLEY & WESTERN RAILROAD C	\$3,589,388.46	\$3,589,388.46	\$0.00	Railroad Facilities and the Rail Property
BNSF RAILWAY CO	\$3,585,747.80	\$3,585,747.80	\$0.00	Permits for In-Town Levee Projects
SCHMIDT AND SONS INC.	\$3,214,339.25	\$2,920,822.83	\$293,516.42	Residential Demolition in Oxbow
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
CROWN APPRAISALS	\$2,851,230.00	\$2,275,530.00	\$575,700.00	Flowage Easements Valuation and Appraisal Services
MINNESOTA DNR	\$2,636,755.60	\$2,617,681.40	\$19,074.20	EIS Scoping and Permit Application
CASS COUNTY ELECTRIC COOPERATIVE	\$2,632,544.45	\$2,183,053.07	\$449,491.38	Electrical Services
HDR ENGINEERING, INC.	\$2,574,791.12	\$1,951,217.37	\$623,573.75	Engineering Services
PROGRAM ADVISOR SERVICES, LLC	\$2,510,982.87	\$2,250,863.90	\$260,118.97	Program Consulting 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
HOUGH INC	\$2,088,832.83	\$2,088,832.83	\$0.00	Construction WP-42F.2 and Oxbow River Intake & Pumping Syst
CASS COUNTY JOINT WATER RESOURCE DI	\$2,051,172.83	\$2,051,172.83	\$0.00	O/H/B Ring Levee, DPAC, Postage, Miscellaneous
EXCAVATING INC - FARGO	\$2,018,659.41	\$2,018,659.41	\$0.00	Excavation and Utilities
ACONEX (NORTH AMERICA) INC	\$2,010,595.97	\$1,547,273.06	\$463,322.91	Electronic Data Mgmt and Record Storage System
URS CORPORATION	\$1,805,670.90	\$1,805,670.90	\$0.00	Cultural Resources Investigations
XCEL ENERGY-FARGO	\$1,710,125.99	\$1,314,125.99	\$396,000.00	Utility Relocation
REINER CONTRACTING INC	\$1,599,646.21	\$1,599,646.21	\$0.00	El Zagal Flood Risk Management
ULTEIG ENGINEERS INC	\$1,540,037.09	\$1,491,659.09	\$48,378.00	Land Acquisition Services
CASS COUNTY TREASURER	\$1,479,317.64	\$1,479,317.64	\$0.00	Property Taxes

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Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
WAGNER CONSTRUCTION INC.	\$1,476,462.45	\$1,354,316.50	\$122,145.95	Utility Relocation
AECOM	\$1,401,419.14	\$1,071,837.54	\$329,581.60	Cultural Resources Investigations
MASTER CONSTRUCTION CO INC	\$1,393,555.40	\$1,393,555.40	\$0.00	Flood Mitigation - Royal Oaks Area - Construction
UNITED STATES GEOLOGICAL SURVEY	\$1,332,840.00	\$546,145.00	\$786,695.00	Water Level Discharge Collection & Stage Gage Installation
AON RISK SERVICES CENTRAL INC	\$1,328,940.33	\$1,250,003.83	\$78,936.50	Risk Advisory Services P3 Pre-Award
MINNKOTA POWER COOPERATIVE	\$1,256,371.90	\$565,269.48	\$691,102.42	Utility Relocation
US BANK	\$1,205,546.13	\$1,205,546.13	\$0.00	Loan Advance Debt Service Payments
CONSOLIDATED COMMUNICATIONS	\$1,083,018.57	\$1,083,018.57	\$0.00	Utility Relocation
KPH, INC.	\$1,025,640.12	\$1,025,640.12	\$0.00	WP-43D5 Construction
CITY OF HORACE	\$990,496.15	\$990,496.15	\$0.00	Infrastructure Fund
CLERK OF DISTRICT COURT	\$939,044.32	\$939,044.32	\$0.00	FLDBUY - COF Flood Home Buyouts
LARKIN HOFFMAN ATTORNEYS	\$923,298.01	\$923,298.01	\$0.00	Legal Services
TERRACON CONSULTING ENGINEERS	\$887,718.41	\$887,718.41	\$0.00	Materials Testing
SBA COMMUNICATIONS	\$851,648.91	\$851,648.91	\$0.00	Utility Relocation
SPRINT COMMUNICATIONS COMPANY L.P.	\$812,034.58	\$812,034.58	\$0.00	Fiber Optic Relocation
COMPASS LAND CONSULTANTS, INC	\$804,820.00	\$635,689.43	\$169,130.57	Property Appraisal Services
BANK OF NORTH DAKOTA	\$781,922.58	\$781,922.58	\$0.00	Legal review fees
UNITED STATES ENVIRONMENTAL PROTECTI	\$767,386.35	\$767,386.35	\$0.00	WIFIA LOAN APPLCATION FEE
BORDER STATES PAVING, INC	\$762,980.64	\$762,980.64	\$0.00	Street repairs
CC STEEL, LLC	\$755,550.09	\$755,550.09	\$0.00	Lift Station Improvements
DAKOTA CARRIER NETWORK	\$727,348.58	\$727,348.58	\$0.00	Utility Relocation
ERIK R JOHNSON & ASSOCIATES	\$686,572.23	\$686,572.23	\$0.00	Legal Services
PATCHIN MESSNER VALUATION COUNSELORS	\$641,462.50	\$490,383.75	\$151,078.75	Property Appraisal Services
METROPOLITAN COUNCIL OF GOVERNMENTS	\$637,390.01	\$637,390.01	\$0.00	Digital Aerial Photography
NEON LOON COMMUNICATIONS, LLC	\$636,719.00	\$378,491.03	\$258,227.97	Communications Support
CLAY COUNTY AUDITOR	\$622,754.50	\$622,754.50	\$0.00	Property Taxes - MN
NDSU BUSINESS OFFICE-BOX 6050	\$606,145.00	\$570,626.84	\$35,518.16	Ag Risk Study Services

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Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
LTP ENTERPRISES INC.	\$595,512.00	\$69,775.00	\$525,737.00	Test Holes and Test Well Drilling
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
LINCO, INC.	\$534,003.11	\$534,003.11	\$0.00	House Demo and Removal
MIDCONTINENT COMMUNICATIONS	\$531,170.41	\$527,490.41	\$3,680.00	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)
JT LAWN SERVICE LLC	\$479,693.50	\$161,043.00	\$318,650.50	Mowing and weed control
BUFFALO-RED RIVER WATERSHED DISTRICT	\$475,413.32	\$475,413.32	\$0.00	Retention Projects - Engineering Services
RICK ELECTRIC INC	\$455,200.00	\$455,200.00	\$0.00	Riverwood Flood Risk Project - Electrical
RED RIVER VALLEY COOPERATIVE ASSOC	\$451,191.99	\$451,191.99	\$0.00	Electricity - Home Buyouts
ROBERT TRENT JONES	\$440,431.73	\$440,431.73	\$0.00	Oxbow MOU - Golf Course Consulting Agreement
WATTS AND ASSOCIATES, INC.	\$400,000.00	\$386,961.87	\$13,038.13	Crop insurance product development services
BEAVER CREEK ARCHAEOLOGY	\$396,970.25	\$369,370.25	\$27,600.00	Engineering Services
C THREE MEDIA, LLC	\$394,063.70	\$368,103.38	\$25,960.32	Videography Services
MBA	\$380,636.36	\$380,636.36	\$0.00	Golf course and pump house - Oxbow Country Club
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	\$320,750.00	\$260,725.00	\$60,025.00	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
JR FERCHE INC.	\$277,004.58	\$277,004.58	\$0.00	Water System Improvements
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

Data Through Date: Friday, June 28, 2024

Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
FORUM COMMUNICATIONS	\$249,587.21	\$249,587.21	\$0.00	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
PLEASANT TOWNSHIP	\$238,722.25	\$238,722.25	\$0.00	Building Permit Application
NORTHERN IMPROVEMENT COMPANY	\$235,531.95	\$235,531.95	\$0.00	CR-17 asphalt paving
DAWSON INSURANCE AGENCY	\$232,155.45	\$232,155.45	\$0.00	Property Insurance - Home Buyouts
GRAY PANNELL & WOODWARD LLP	\$231,300.68	\$231,300.68	\$0.00	Legal Services
APEX ENGINEERING GROUP INC	\$227,256.79	\$227,256.79	\$0.00	Engineering
WILLIAM D. SCEPANIAK, INC.	\$226,235.21	\$226,235.21	\$0.00	ROADWAY RESHAPING & AGGREGATE SURFACING
GA GROUP, PC	\$204,229.32	\$180,229.32	\$24,000.00	Government Relations
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
EXECUTIVE MANAGEMENT SYSTEMS, INC.	\$196,763.96	\$196,763.96	\$0.00	Executive Coaching
SERKLAND LAW FIRM	\$189,803.71	\$189,803.71	\$0.00	Legal services
ANKURA CONSULTING GROUP LLC	\$182,490.00	\$182,490.00	\$0.00	Scheduling Services
KLJ ENGINEERING, LLC	\$181,810.40	\$181,810.40	\$0.00	Lift Station Improvements
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
RED RIVER COMMUNICATIONS	\$160,943.20	\$0.00	\$160,943.20	Fiber Relocation
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
EIDE BAILLY LLP	\$139,270.75	\$120,220.75	\$19,050.00	Audit Services

Data Through Date: Friday, June 28, 2024

Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
QUANTUM SPATIAL, INC.	\$139,061.35	\$139,061.35	\$0.00	Digital Aerial Photography
FUGRO USA LAND, INC.	\$130,396.52	\$130,396.52	\$0.00	Digital Aerial Photography
MARCO TECHNOLOGIES	\$125,554.72	\$81,971.09	\$43,583.63	IT Services
SENTRY SECURITY, INC.	\$121,212.85	\$121,212.85	\$0.00	Security Services
AFFINITEXT INC	\$118,630.00	\$74,413.20	\$44,216.80	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
TINJUM APPRAISAL COMPANY, INC.	\$112,100.00	\$112,100.00	\$0.00	Property Appraisal Services
OXBOW COUNTRY CLUB	\$110,391.68	\$110,391.68	\$0.00	Golf Course - Oxbow
JORGE PAGAN	\$109,500.00	\$109,500.00	\$0.00	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

147 Vendors

Report Totals:

\$1,157,891,661.03

\$1,084,476,289.08

\$73,415,371.95

Data Through Date: Friday, June 28, 2024

Parcel (OIN) Physical Location Summary

Project / Physical Location	Parcels	Acquired / Sold	Cancelled OIN's (HC)	PCT Acquired / Cancelled	Remaining OIN's	Cost To Date
	9	0	0	0%	9	\$0
UMA-W2	9	0	0	0%	9	\$0
BIOGEO	430	261	131	91%	38	\$1,515,551
BIOGEO	299	260	1	87%	38	\$742,116
HC	131	1	130	100%	0	\$773,435
CHANNEL	720	486	232	100%	2	\$98,977,859
ENV	1	0	0	0%	1	\$0
HC	264	32	231	100%	1	\$3,561,966
LAP01	116	116	0	100%	0	\$7,872,311
LAP02	95	95	0	100%	0	\$13,522,797
LAP03	85	85	0	100%	0	\$22,878,282
LEGACY	157	156	1	100%	0	\$51,141,254
SE-1B	1	1	0	100%	0	\$0
SheyMit	1	1	0	100%	0	\$1,250
DOWNSTREAM	7	0	7	100%	0	\$0
HC	7	0	7	100%	0	\$0
Habitat Improve	22	6	0	27%	16	\$2,000
ENV	5	5	0	100%	0	\$0
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

METRO FLOOD DIVERSION AUTHORITY

Thursday, July 11, 2024

Data Through Date: Friday, June 28, 2024

Parcel (OIN) Physical Location Summary

Project / Physical Location	Parcels	Acquired / Sold	Cancelled OIN's (HC)	PCT Acquired / Cancelled	Remaining OIN's	Cost To Date
SEAILAND	526	453	57	97%	16	\$96,305,629
DRAIN 27	41	41	0	100%	0	\$22,657,154
HC	60	3	57	100%	0	\$458,806
LEGACY	136	136	0	100%	0	\$23,231,467
SE_I29	10	10	0	100%	0	\$4,383,360
SE-1	20	20	0	100%	0	\$6,259,028
SE-1B	2	2	0	100%	0	\$0
SE-2A	13	13	0	100%	0	\$3,968,287
SE-2B	83	81	0	98%	2	\$10,041,524
SE-3	12	12	0	100%	0	\$1,009,802
SE-4	70	59	0	84%	11	\$11,445,809
SE-5	24	21	0	88%	3	\$1,406,309
SE-INLET	8	8	0	100%	0	\$2,952,107
SE-RRCS	37	37	0	100%	0	\$8,053,018
SE-WRCS	10	10	0	100%	0	\$438,958
Sheyenne Mitigatio	3	1	0	33%	2	\$1,750
SheyMit	3	1	0	33%	2	\$1,750
WP36	2	2	0	100%	0	\$2,750
WRDAM	2	2	0	100%	0	\$2,750
WP38	1,032	337	378	69%	317	\$95,627,904
HC	379	3	376	100%	0	\$1,283,123
LEGACY	3	3	0	100%	0	\$750
UMA	575	330	0	57%	245	\$94,326,877
UMA-C	58	0	2	3%	56	\$0
UMA-W	14	1	0	7%	13	\$17,153
UMA-W2	3	0	0	0%	3	\$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	49	4	80%	13	\$37,850,061
HC	4	0	4	100%	0	\$0
LEGACY	6	6	0	100%	0	\$18,014,935
WP42	56	43	0	77%	13	\$19,835,126

Data Through Date: Friday, June 28, 2024

Parcel (OIN) Physical Location Summary

Project / Physical Location	Parcels	Acquired / Sold	Cancelled OIN's (HC)	PCT Acquired / Cancelled	Remaining OIN's	Cost To Date
WP43	268	121	147	100%	0	\$79,807,670
Non-OIN Hard Land Cost	0	0	0	0%	0	\$22,598,547
HC	148	1	147	100%	0	\$500
LEGACY	6	6	0	100%	0	\$3,589,519
WP43A	1	1	0	100%	0	\$0
WP43B	11	11	0	100%	0	\$1,942,138
WP43C	74	74	0	100%	0	\$45,142,769
WP43D	14	14	0	100%	0	\$5,271,226
WP43D5	5	5	0	100%	0	\$1,175,055
WP43G	9	9	0	100%	0	\$87,915
Totals	3,226	1,724	967	83%	535	\$410,140,097

FM Metropolitan Area Flood Risk Management Project
Lands Expense - Life To Date
As of June 30, 2024

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		7,604,598.67	-	595,320.88	-	8,199,919.55
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		312,462,228.04	-	5,109,571.44	(19,272,658.99)	170,487,795.77

**FM Metropolitan Area Flood Risk Management Project
Lands Expense - Life To Date
As of June 30, 2024**

Property Address	Purchase Date	Purchase Price	Earnest Deposit	Relocation Assistance	Sale Proceeds	Total
Land Purchases		177,281,546.85	-	2,563,701.41	(9,384,452.49)	170,487,795.77
Part of SW 1/4 29-137-48 Clay County MN	2/8/2024	221,165.40				
Part of the SW 1/4 SE1/4 34-137-48 Clay County MN	2/29/2024	210,070.00				
SW 1/4 Sec 5-137N-48W Holy Cross Clay County MN	4/11/2024	225,877.76				
Part of the South Half of the Northeast Quarter of Section 29, Township 137 North, Range 48 West of the 5th Principal Meridian, Clay County, Minnesota	4/11/2024	391,183.71				
31 137N 48W, Holy Cross Twp, Clay County, MN	5/2/2024	408,266.15				
NE1/4 Section 12, Pleasant Township, Cass County, ND	5/2/2024	1,082,367.99				
Government Lot One, of Section Thirteen, Township One Hundred Forty North of Range Forty-nine West of the Fifth Principal Meridian, situated in the County of Clay and the State of Minnesota	5/30/2024	302,260.08				
		<u>377,229,002.15</u>	-	39,880,699.23	(19,650,366.86)	<u>397,459,334.52</u>
				Property Management Expense		6,345,625.95
				Grand Total	\$	<u><u>403,804,960.47</u></u>

**FM Metropolitan Area Flood Risk Management Project
In-Town Levee Work
as of June 30, 2024**

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	\$ 406,921.54	\$ 406,921.54
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	\$ 30,283,715.00	\$ 30,283,715.00
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
			\$ 181,371,867.72	\$ 180,154,428.21

**Legacy Bond Fund Balance Report
As of 06/30/2024**

Total Authorized \$ 435,500,000.00

Current Allocation \$ 435,500,000.00

Available funds remaining \$ 151,316,488.74

Funds Requested					
	2021	2022	2023	2024	Total
January	\$ -	\$ 2,942,906.60	\$ 9,981,188.76	\$ 6,088,699.53	\$ 19,012,794.89
February	\$ -	\$ 4,564,036.17	\$ 8,921,227.42	\$ 9,838,208.63	\$ 23,323,472.22
March	\$ -	\$ 5,302,899.35	\$ 17,730,945.56	\$ 14,687,498.12	\$ 37,721,343.03
April	\$ -	\$ 1,472,504.37	\$ 11,046,323.21	\$ 5,988,392.71	\$ 18,507,220.29
May	\$ -	\$ 1,450,140.38	\$ 4,548,883.57	\$ 12,454,283.82	\$ 18,453,307.77
June	\$ -	\$ 4,423,864.76	\$ 14,466,204.50	\$ -	\$ 18,890,069.26
July	\$ -	\$ 2,663,992.40	\$ 3,974,515.98	\$ -	\$ 6,638,508.38
August	\$ 5,059,974.19	\$ 13,491,974.29	\$ 13,633,750.92	\$ -	\$ 32,185,699.40
September	\$ 2,970,327.95	\$ 8,406,666.33	\$ 965,586.18	\$ -	\$ 12,342,580.46
October	\$ 6,089,707.34	\$ 4,618,116.80	\$ 23,248,333.49	\$ -	\$ 33,956,157.63
November	\$ 6,415,461.09	\$ 11,768,061.46	\$ 8,921,783.21	\$ -	\$ 27,105,305.76
December	\$ 6,854,966.95	\$ 17,496,559.97	\$ 11,695,525.26	\$ -	\$ 36,047,052.18
Total	\$ 27,390,437.51	\$ 78,601,722.88	\$ 129,134,268.06	\$ 49,057,082.81	\$ 284,183,511.26

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
Aug 2023			\$ 47,792,356.84		\$ 47,792,356.84
Nov 2023			\$ 18,573,853.08		\$ 18,573,853.08
Feb 2024				\$ 43,865,641.96	\$ 43,865,641.96
May 2024				\$ 30,614,406.28	\$ 30,614,406.28
Jun 2024				\$ 18,442,676.53	\$ 18,442,676.53
				\$ -	\$ -
Total	\$ 27,390,437.51	\$ 49,337,101.45	\$ 114,533,247.53	\$ 92,922,724.77	\$ 284,183,511.26

State Revolving Fund (SRF) Status Report
As of 06/30/2024

Total Authorized	\$	51,634,000.00
Funds Received to Date	\$	13,432,926.69
Available Balance Remaining	\$	38,201,073.31

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	\$ 1,600,121.65	25-Jul-23
5	11-July through 28-Sept. 2023	\$ 2,052,271.94	24-Oct-23
6	11-July through 28-Sept. 2023	\$ 2,731,423.54	07-Feb-24
7	1-Nov 2023 through 31-Jan. 2024	\$ 1,112,125.48	23-May-24
Total		\$ 13,432,926.69	

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	11-Feb through 30-Apr. 2023	\$ 1,600,121.65	21-Aug-23
5	11-July through 28-Sept. 2023	\$ 2,052,271.94	08-Nov-23
6	11-July through 28-Sept. 2023	\$ 2,731,423.54	22-Feb-24
7	1-Nov 2023 through 31-Jan. 2024	\$ 1,112,125.48	06-Jun-24
Total		\$ 13,432,926.69	

Finance Committee Bills from July 2024

Vendor	Description		
Cass County Joint Water Resource District	Diversion bills – Request #122 CCJWRD	\$	16,951,581.58
City of Fargo	Reimburse complementary in-town flood projects	\$	1,226,425.83
Clay County	Diversion bills – Request #43 MCCJPA	\$	597,606.54
Dorsey & Whitney	Legal services rendered through June 30, 2024	\$	257,262.59
Ohnstad Twichell, P.C.	Legal services rendered through June 21, 2024	\$	125,518.09
FTI Consulting	Consultant services rendered through May 31, 2024	\$	14,380.00
Dorsey & Whitney	Legal services rendered through June 30, 2024	\$	8,985.50
City of Comstock	Reimburse legal services related to MOU	\$	5,397.62
Rush River Water Resource District	Reimburse engineering services related to MOU	\$	3,948.75
Cass County	Reimburse misc expenses from Diversion Authority office	\$	3,191.66
Total Bills Received through July 17, 2024		\$	<u>19,194,298.16</u>



SENT VIA EMAIL

**Cass County
Joint Water
Resource
District**

July 10, 2024

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

Rodger Olson
Chairman
Leonard, North
Dakota

Greetings:

Ken Lougheed
Manager
Gardner, North Dakota

RE: Metro Flood Diversion Project

Keith Weston
Manager
Fargo, North Dakota

Enclosed please find copies of bills totaling \$16,951,581.58 regarding the above referenced project.

Jacob Gust
Manager
Fargo, North Dakota

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.

Rick Steen
Manager
Fargo, North Dakota

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

Thank you.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT

Melissa Hinkemeyer
Director, Secretary

1201 Main Avenue West
West Fargo, ND 58078-1301

Leilei Bao

**Leilei Bao
Treasurer**

701-298-2381
FAX 701-298-2397
wrд@casscountynд.gov
casscountynд.gov

Enclosures

METRO FLOOD DIVERSION RIGHT OF ENTRY/LAND ACQUISITION COST SHARE INVOICES							7/8/2024
Invoice Paid	Invoice Date	Invoice No.	Project No.	Amount	Vendor	Description	
				-9,935.00	The Title Company	Refund from The Title Company - The Brakken Irrevocable Living Trust Agreement	
				-88,260.00	Cass County Joint WRD	Excess Land purchase OIN 730Y2	
	6/28/2024			70.21	Cass County Joint WRD	Miscellaneous Diversion related postage	
6/17/2024	6/4/2024	196440	90007	611.00	Ohnstad Twichell, PC	Basin Project 2009	
6/17/2024	6/4/2024	196450	247007	14,322.50	Ohnstad Twichell, PC	Aaland Law Open Records Requests	
6/17/2024	6/4/2024	196441	130007	14,222.50	Ohnstad Twichell, PC	Diversion Right of Way Acquisition	
6/17/2024	6/4/2024	196442	160007	2,330.50	Ohnstad Twichell, PC	Channel Phase III	
6/17/2024	6/4/2024	196443	170007	34,532.11	Ohnstad Twichell, PC	Upstream Mitigation Area	
6/17/2024	6/4/2024	196444	187007	1,308.00	Ohnstad Twichell, PC	Diversion - Southern Embankment	
6/17/2024	6/4/2024	196445	197007	775.50	Ohnstad Twichell, PC	Right of Way - Wild Rice Structure	
6/17/2024	6/4/2024	196446	197007	1,177.50	Ohnstad Twichell, PC	Western Tie Back	
6/17/2024	6/4/2024	196447	207007	906.00	Ohnstad Twichell, PC	Wetland Mitigation Drain 27	
6/17/2024	6/4/2024	196448	237007	1,137.50	Ohnstad Twichell, PC	RFM Diverson - MLGC Dispute	
6/17/2024	6/4/2024	196449	247007	102.59	Ohnstad Twichell, PC	1099 Preparation - 2023 Acquisitions	
6/24/2024	6/7/2024	196508	187007	280.00	Ohnstad Twichell, PC	BIO/GEO Easements	
6/24/2024	6/7/2024	196509	207007	747.50	Ohnstad Twichell, PC	Larry A. Brandy Revocable Living Trust (OIN 9348) Quick Take Eminent Domain Action	
6/24/2024	6/7/2024	196510	207007	2,089.00	Ohnstad Twichell, PC	Orten B. and Sandra A Brodshaug RLT Agreement (OIN 5008 1930 1932 1940 1941 8517 8518) Quick Take	
6/24/2024	6/7/2024	196511	217007	357.50	Ohnstad Twichell, PC	Charles F. Coster Real Estate Trust (OIN 9736 9737) Quick Take Eminent Domain Action	
6/24/2024	6/7/2024	196512	227007	2,892.50	Ohnstad Twichell, PC	Ricker, Allen M & Diane M (OIN 872 873 874 875) Eminent Domain Action	
6/24/2024	6/7/2024	196513	227007	2,878.00	Ohnstad Twichell, PC	Varriano, Hogn & Cynthia (OIN 1130) Eminent Domain Action	
6/24/2024	6/7/2024	196514	227007	233.50	Ohnstad Twichell, PC	Emden Partners LLP (Oin 836 232 & 56013) Eminent Domain Action	
6/24/2024	6/7/2024	196515	227007	990.00	Ohnstad Twichell, PC	Hamilton, Dale & Whittaker, Roxane D. (OIN 1949 1956 & 5036) Eminent Domain Action	
6/24/2024	6/7/2024	196517	237007	18.50	Ohnstad Twichell, PC	Eleanor Brandt Trust (OIN 1922 1927) Eminent Domain Action	
6/24/2024	6/7/2024	196518	237007	2,340.00	Ohnstad Twichell, PC	Norberg, Cindy (OIN 5023) Eminent Domain Action	
6/24/2024	6/7/2024	196519	237007	1,555.00	Ohnstad Twichell, PC	Rick Bellemare & Ronald Bellemare (OIN 1080 1081) Eminent Domain Action	
6/24/2024	6/7/2024	196520	237007	325.00	Ohnstad Twichell, PC	Christenson, Brendan and Daniel (OIN 7002) Eminent Domain Action	
6/24/2024	6/7/2024	196521	237007	4,290.00	Ohnstad Twichell, PC	Johnson, Ted A. & Mary M. (OIN 9423) Eminent Domain Action	
6/24/2024	6/7/2024	196522	237007	780.00	Ohnstad Twichell, PC	Brakken (OIN 1173N) Eminent Domain Action	
6/24/2024	6/7/2024	196523	237007	506.00	Ohnstad Twichell, PC	Cossette, Marjorie Ann (OIN 1947 1948) Eminent Domain Action	
6/24/2024	6/7/2024	196524	237007	878.50	Ohnstad Twichell, PC	Mathison, Rodney & Cherie (OIN 1891) Eminent Domain Action	
6/24/2024	6/7/2024	196525	237007	325.00	Ohnstad Twichell, PC	Redlin, Gary & Patricia (OIN 2002) Eminent Domain Action	
6/24/2024	6/7/2024	196526	237007	5,121.00	Ohnstad Twichell, PC	Duchscherer, Brain & Kelly (OIN 9416 1885) Eminent Domain Action	
6/24/2024	6/7/2024	196527	237007	827.50	Ohnstad Twichell, PC	Johnson, Nancy Raie and Justin A (OIN 2039 2041) Eminent Domain Action	
6/24/2024	6/7/2024	196528	237007	17,807.19	Ohnstad Twichell, PC	2023 Consolidated ED Actions	
6/24/2024	6/7/2024	196529	237007	632.50	Ohnstad Twichell, PC	Boyer, Stuart & Pat (OIN 1967 1968) Eminent Domain Action	
6/24/2024	6/7/2024	196530	237007	65.00	Ohnstad Twichell, PC	Richard, George & Sharon/Richard, Leo & Shirley (OINS 1903 et al.) Eminent Domain Action	
6/24/2024	6/7/2024	196531	247007	5,058.16	Ohnstad Twichell, PC	Compson, Terry Eminent Domain	
6/24/2024	6/7/2024	196532	247007	1,468.00	Ohnstad Twichell, PC	Moe, Gail J (OIN 1953) Eminent Domain Action	
6/24/2024	5/3/2024	838257	38810.00012	6,860.92	Larkin Hoffman	Hanson Flowage Easement Acquisition	
6/24/2024	5/3/2024	838259	38810.00017	553.00	Larkin Hoffman	Johnson, Larry and Jane Flowage Easement Acquisition	
6/24/2024	5/3/2024	838266	38810.00041	460.80	Larkin Hoffman	Kenneth C. and Melanie M Knudsen	
6/24/2024	5/3/2024	838267	38810.00045	4,068.50	Larkin Hoffman	Becca Saunders	
6/24/2024	5/3/2024	838268	38810.00006	286.20	Larkin Hoffman	High Plains Properties	
6/24/2024	5/3/2024	838256	38810.00004	4,187.00	Larkin Hoffman	Richalrd/Cass Cos./Applications for Permit to Enter Land	
6/24/2024	5/3/2024	838258	38810.00014	197.50	Larkin Hoffman	Brungard/Nelson Flowage Easement Acquisition	
6/24/2024	5/3/2024	838260	38810.00019	5,498.15	Larkin Hoffman	Klein, Robert and Julie (husband and wife) and Paul Flowage Easement Acquisition	
6/24/2024	5/3/2024	838261	38810.00020	1,353.50	Larkin Hoffman	Kopp, Alan and June Flowage Easement Acquisition	
6/24/2024	5/3/2024	838262	38810.00024	79.00	Larkin Hoffman	Ness Family Trust Flowage Easement Acquisition	
6/24/2024	5/3/2024	838263	38810.00027	632.00	Larkin Hoffman	Speten, Kenneth and Karen Flowage Easement Acquisition	
6/24/2024	5/3/2024	838264	38810.00028	1,066.50	Larkin Hoffman	Alm, Melvin (John) and Ricky Flowage Easement Acquisition	
6/24/2024	5/3/2024	838265	38810.00032	237.00	Larkin Hoffman	Dall Israelson	
6/28/2024	6/4/2024	839699	38810.00012	908.50	Larkin Hoffman	Hanson Flowage Easement Acquisition	
6/28/2024	6/4/2024	839698	38810.00004	9,215.50	Larkin Hoffman	Richalrd/Cass Cos./Applications for Permit to Enter Land	
6/28/2024	6/4/2024	839700	38810.00020	750.50	Larkin Hoffman	Kopp, Alan and June Flowage Easement Acquisition	
6/28/2024	6/4/2024	839701	38810.00027	79.00	Larkin Hoffman	Speten, Kenneth and Karen Flowage Easement Acquisition	
6/28/2024	6/4/2024	839702	38810.00028	19,552.50	Larkin Hoffman	Alm, Melvin (John) and Ricky Flowage Easement Acquisition	
6/28/2024	6/4/2024	839703	38810.00033	197.50	Larkin Hoffman	Corey and Amy Johnson	
6/28/2024	6/4/2024	839704	38810.00049	323.25	Larkin Hoffman	Allan and Mary Swenson	
6/28/2024	6/4/2024	839705	38810.00053	1,067.50	Larkin Hoffman	Granholt Family Farm LLLP	
6/28/2024	6/4/2024	839706	38810.00059	592.50	Larkin Hoffman	Michael and Darla Rufer	
6/28/2024	6/4/2024	839707	38810.00063	987.50	Larkin Hoffman	Hayes	
6/24/2024	5/30/2024	38722	19706	525.00	Moore Engineering, Inc.	Task 2 Development of Design Guidance for P3	
6/28/2024	6/12/2024	1200627648		10,555.77	HDR Engineering Inc	CCJWRD TO2 Property Acquisition Services	

6/17/2024	6/6/2024	13783-0290			76,952.00	SRFConsulting Group	Glass Impressions LLC (OIN 1093) Relocation Reimbursement
6/17/2024	5/31/2024	13783.00-49			12,244.69	SRFConsulting Group	Task Order No. 1 - Amendments 1,2&3
6/27/2024	6/27/2024				14,984.55	Brett & Heidi Odegaard	Brett & Heidi (OIN 2014) Odegaard Relocation Reimbursement
6/28/2024	6/28/2024	274902			12,951,281.92	The Title Company	Brodshaug Cass County Farms, LLP Flowage Easement (OINS 8517 et al.)
6/17/2024	6/14/2024	274723			2,002,906.79	The Title Company	The Estate of Rosella Y Bellemare
6/17/2024	6/14/2024	274726			1,653,155.22	The Title Company	John and Cynthia Varriano W1/2 Auditors Lot 5, SW 1/4 34-138-49
6/17/2024	6/14/2024	264804			143,545.00	The Title Company	Coster, Charles Exchange of OIN 9736N & 9737N for OIN 720Y 724Y 726Y 728Y 729Y 730Y & 1166Y
6/24/2024	5/28/2024	270391E			50.00	The Title Company	RIMP Loan 6 G Farms
6/17/2024	3/20/2024	ARIV1030502	R12.00049		378.00	Ulteig Operations LLC	02 Task Order 2
6/28/2024	6/14/2024				49.07	Cass County Electric Cooperative	Service to 5251 174 1/2 AV SE Home (OIN 1992)
6/28/2024	6/14/2024				32.99	Cass County Electric Cooperative	Service to 1701 14 ST S Pasture Pump
					Total	16,951,581.58	

OXBOW-HICKSON-BAKKE RING LEVEE INVOICES

Invoice Paid	Invoice Date	Invoice No.	Purchase Order No.	Project No.	Amount	Vendor	Description
					Total		
					Grand Total	16,951,581.58	



FINANCE OFFICE
225 4th Street North
Fargo, ND 58102
Phone: (701) 241-1333
E-Mail: Finance@FargoND.gov
www.FargoND.gov

July 11, 2024

Metro Flood Diversion Board of Authority
PO Box 2806
Fargo, ND 58108-2806

Dear Metro Flood Diversion Board of Authority,

The City of Fargo is submitting request #34 for reimbursement invoices paid totaling \$1,226,425.83. These costs are for work on complementary in-town flood protection projects for costs paid in June 2024.

Project Narrative, this request:

Project Number	Project Description	Amount
BR24C1	WM Rep St RCN	49,151.24
FM1471	Drain 27 Lift Station #56 Flood Risk Management	1,636.11
FM15J	Belmont Flood Risk Management Project	387.15
FM24A	South University Wall Rep	8,836.35
NR23A	Storm Lift Rehab - #27 & 38	866,119.98
NR24B	Storm Lift Rehab - #11 & 57	300,295.00
Total Expense for Period		\$1,226,425.83

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

Sincerely,

Susan Thompson
Director of Finance, City of Fargo

City of Fargo, North Dakota

entary In-Town Flood Protection Costs

June 1, 2024 - June 30, 2024

Project Number	AP Project Description	Account Number	Description	AP Transaction Amount	Payment Number	AP Invoice Number	Payment Date	Vendor Name	AP Accounting Period Month	AP Accounting Period Year	Bookmarked Invoice
BR24C1	WM REP ST RCN-woodcrest	46000002062000	Retainage and Retainage R	-1,855.35	336574	BR24C1 #4 043	06/13/2024	MASTER CONSTRUCTION CO INC	6	2024	3
BR24C1	WM REP ST RCN-woodcrest	46000002062000	Retainage and Retainage R	-731.56	336716	BR24C1 #5 023	06/20/2024	MASTER CONSTRUCTION CO INC	6	2024	6
460-0000-206.20-00 - Total				-2,586.91							
BR24C1	WM REP ST RCN-woodcrest	46035305107358	Flood Mitigation	37,107.00	336574	BR24C1 #4 021	06/13/2024	MASTER CONSTRUCTION CO INC	6	2024	3
BR24C1	WM REP ST RCN-woodcrest	46035305107358	Flood Mitigation	14,631.15	336716	BR24C1 #5 014	06/20/2024	MASTER CONSTRUCTION CO INC	6	2024	6
460-3530-510.73-58 - Total				51,738.15							
BR24C1 - Total				49,151.24							
FM1471	FLOOD MIT-Dr 27 42st-I29	46035305103305	DRAIN 27	1,636.11	336542	70842	06/13/2024	HOUSTON ENGINEERING INC	6	2024	2
460-3530-510.33-05 - Total				1,636.11							
FM1471 - Total				1,636.11							
FM15J6	FLOOD MIT-Belmont Park	46035305103332	FLOOD MITIGATION-BELMONT	387.15	336620	13448.03-10	06/13/2024	SRF CONSULTING GROUP, INC	6	2024	4
460-3530-510.33-32 - Total				387.15							
FM15J6 - Total				387.15							
FM24A0	FLOOD MIT-S Univ wall rep	46035305103305	UNIV DR FLOODWALL REPAIR	135.50	336386	10207434	06/06/2024	KLJ ENGINEERING, LLC	6	2024	1
FM24A0	FLOOD MIT-S Univ wall rep	46035305103305	UNIV DR FLOODWALL REPAIR	8,700.85	336386	10207435	06/06/2024	KLJ ENGINEERING, LLC	6	2024	1
460-3530-510.33-05 - Total				8,836.35							
FM24A0 - Total				8,836.35							
NR23A2	STRM LFT RHAB DR 27 /38 S	46000002062000	Retainage and Retainage R	-40,533.25	337038	NR23A2 #6 036	07/03/2024	KEY CONTRACTING INC	6	2024	9
460-0000-206.20-00 - Total				-40,533.25							
NR23A2	STRM LFT RHAB DR 27 /38 S	46035305107358	Lift Station #47	340,000.00	337038	NR23A2 #6 006	07/03/2024	KEY CONTRACTING INC	6	2024	9
NR23A2	STRM LFT RHAB DR 27 /38 S	46035305107358	Lift Station #48	436,500.00	337038	NR23A2 #6 007	07/03/2024	KEY CONTRACTING INC	6	2024	9
NR23A2	STRM LFT RHAB DR 27 /38 S	46035305107358	Storm Sewer	34,165.00	337038	NR23A2 #6 008	07/03/2024	KEY CONTRACTING INC	6	2024	9
460-3530-510.73-58 - Total				810,665.00							
NR23A2 - Total				770,131.75							
NR23A3	STRM LFT RHAB DR 27 /38 S	46000002062000	Retainage and Retainage R	-7,829.40	336695	NR23A3 #2 020	06/20/2024	FUSION AUTOMATION INC.	6	2024	5
NR23A3	STRM LFT RHAB DR 27 /38 S	46000002062000	Retainage and Retainage R	-2,835.96	337016	NR23A3 #3 037	07/03/2024	FUSION AUTOMATION INC.	6	2024	8
460-0000-206.20-00 - Total				-10,665.36							
NR23A3	STRM LFT RHAB DR 27 /38 S	46035305107358	Lift Station #47 Electric	63,809.00	336695	NR23A3 #2 009	06/20/2024	FUSION AUTOMATION INC.	6	2024	5
NR23A3	STRM LFT RHAB DR 27 /38 S	46035305107358	Lift Station #48 Electric	14,485.03	336695	NR23A3 #2 010	06/20/2024	FUSION AUTOMATION INC.	6	2024	5
NR23A3	STRM LFT RHAB DR 27 /38 S	46035305107358	Lift Station #47 Electric	28,359.56	337016	NR23A3 #3 009	07/03/2024	FUSION AUTOMATION INC.	6	2024	8
460-3530-510.73-58 - Total				106,653.59							
NR23A3 - Total				95,988.23							
NR24B2	STRM LFT RHAB-#11 & 57	46000002062000	Retainage and Retainage R	-15,805.00	337038	NR24B2 #1 039	07/03/2024	KEY CONTRACTING INC	6	2024	9
460-0000-206.20-00 - Total				-15,805.00							
NR24B2	STRM LFT RHAB-#11 & 57	46035305107358	Storm Sewer	125,000.00	337038	NR24B2 #1 019	07/03/2024	KEY CONTRACTING INC	6	2024	9
460-3530-510.73-58 - Total				125,000.00							
NR24B2	STRM LFT RHAB-#11 & 57	46035305107359	Paving	1,200.00	337038	NR24B2 #1 018	07/03/2024	KEY CONTRACTING INC	6	2024	9
460-3530-510.73-59 - Total				1,200.00							
NR24B2	STRM LFT RHAB-#11 & 57	46035305107361	Miscellaneous	4,125.00	337038	NR24B2 #1 017	07/03/2024	KEY CONTRACTING INC	6	2024	9
460-3530-510.73-61 - Total				4,125.00							
NR24B2	STRM LFT RHAB-#11 & 57	46035305107362	Water Main	63,150.00	337038	NR24B2 #1 020	07/03/2024	KEY CONTRACTING INC	6	2024	9
460-3530-510.73-62 - Total				63,150.00							
NR24B2	STRM LFT RHAB-#11 & 57	46035305107369	Miscellaneous	122,625.00	337038	NR24B2 #1 016	07/03/2024	KEY CONTRACTING INC	6	2024	9
460-3530-510.73-69 - Total				122,625.00							
NR24B2 - Total				300,295.00							
Overall - Total				1,226,425.83							



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

July 17, 2024
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 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	\$597,606.54
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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

FM Diversion MCCJPA invoices					Processed			
Vendor	Invoice Date	Invoice Description	Invoice Amount	Invoice #	Date Approved	Date Paid	Check #	Reimb Request
Ohnstad Twichell	6/10/24	general 2024	\$6,384.79	196560	6/17/24	6/26/24	565749	
Ohnstad Twichell	6/10/24	eminent domain clay	\$2,450.28	196558	6/17/24	6/26/24	565749	
Ohnstad Twichell	6/10/24	Southern embankment	\$4,645.00	196557	6/17/24	6/26/24	565749	
Ohnstad Twichell	6/10/24	eminent domain wilkin	\$296.70	196559	6/17/24	6/26/24	565749	
Ohnstad Twichell	6/10/24	Upstream mitigation	\$19,467.27	196556	6/17/24	6/26/24	565749	
Ohnstad Twichell	6/10/24	aaland open records requests	\$3,160.50	196561	6/17/24	6/26/24	565749	
Crown Appraisals, Inc.	5/31/24	OIN 8793 flowage easement report	\$5,500.00	5060	6/27/24	7/3/24	119846	
The Title Co.	6/27/24	OIN 1254,1263,7202 vogeler/thiseth	\$180,301.00		6/27/24	6/27/24	907271	
The Title Co.	7/10/24	OIN 1305 closing	\$375,401.00		7/1/24	7/9/24	TBD	

\$597,606.54



MINNEAPOLIS OFFICE
612-340-2600

(Tax Identification No. 41-0223337)

STATEMENT OF ACCOUNT FOR PROFESSIONAL SERVICES

Metro Flood Diversion Authority
4784 Amber Valley Pkwy
Suite 100
Fargo, ND 58104

July 15, 2024
Invoice Number 3991741

Client-Matter No.: 491379-00004
Provide advice on potential construction litigation claims

For Legal Services Rendered Through June 30, 2024

INVOICE TOTAL

Total For Current Legal Fees	\$254,396.50
Total For Current Disbursement and Service Charges	\$2,866.09
Total Due This Invoice	\$257,262.59

Payment Methods

ACH/Wire (Preferred Method)

Beneficiary Bank	U.S. Bank National Association 800 Nicollet Mall Minneapolis, MN 55402
ABA Routing Number	091000022
Account Number	1047-8339-8282
Swift Code	USBKUS44IMT

Check

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

Online Options

Contact our Billing team for first time access credentials at onlinepayments@dorsey.com

Payment site:
[Dorsey Login \(e-billexpress.com\)](https://dorsey.com/billing)

Please make reference to the invoice number – send remittance to remittance@dorsey.com

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

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

Questions regarding this invoice? Please contact your Dorsey attorney or Accounts Receivable @ ARhelpdesk@dorsey.com or 612-492-5278.

OHNSTAD TWICHELL, P.C.

Attorneys at Law
 P.O. Box 458
 West Fargo, ND 58078-0458
 (701) 282-3249

15-1395 (JTS) Invoice # 197076

Flood Diversion Board
 Bond Counsel Work - PPP

Date: July 9, 2024

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

PROFESSIONAL SERVICES RENDERED			
	Hours	Rate	Totals
JTS	144.6	\$398.00	\$57,550.80
KJS	33.9	\$398.00	\$13,492.20
TJL	0.5	\$398.00	\$199.00
LWC	0.7	\$398.00	\$278.60
DCP	3.4	\$398.00	\$1,353.20
KJM	47.6	\$345.00	\$16,422.00
TJF	5.5	\$265.00	\$1,457.50
AJR	38.3	\$235.00	\$9,000.50
TWS	0.4	\$225.00	\$90.00
LDS	21.3	\$225.00	\$4,792.50
PCD	2.6	\$160.00	\$416.00
Total Fees:	298.8		\$105,052.30
Monthly Credit Card Processing Fee			\$4,095.46
Photocopies			\$425.00
Prof Service Fees			\$975.00
Prof Service Fee Gwendolyn			\$14,500.00
Meals			\$470.33
Total Expenses:			\$20,465.79
Grand Total			\$125,518.09

		Rates
JTS	John T. Shockley, Partner, Supervising Attorney	\$398.00
CMM	Christopher M. McShane, Partner	\$398.00
ADC	Andrew D. Cook, Partner	\$398.00
SNW	Sarah M. Wear, Partner	\$398.00
LDA	Lukas D. Andrud, Partner	\$398.00
KJS	Katie J. Schmidt, Partner	\$398.00
MWM	Marshall W. McCullough, Partner	\$398.00
TJL	Tyler J. Leverington, Partner	\$398.00
LWC	Lukas W. Croaker, Partner	\$398.00
BTB	Brent T. Boeddeker, Partner	\$398.00
DCP	David C. Piper, Partner	\$398.00
ABG	Alexander B. Gruchala, Associate	\$365.00
JRS	J.R. Strom, Associate	\$350.00
KJM	Kathryn J. McNamara, Associate	\$345.00
JAM	Jenna A. McPherson, Associate	\$310.00
SJH	Stephen J. Hilfer, Associate	\$325.00
TJF	Tiffany J. Findlay, Associate	\$265.00
MAN	Morgan A. Nyquist, Associate	\$280.00
BMK	Brittney M. Kelley, Associate	\$310.00
CAS	Carol A. Stillwell, Paralegal	\$235.00
AJR	Andrea J. Roman, Paralegal	\$235.00
CRR	Christie R. Rust, Paralegal	\$225.00
TWS	Tim W. Steuber, Paralegal	\$225.00
MRH	Meghan R. Hockert, Paralegal	\$225.00
DLR	Dena L. Ranum, Paralegal	\$180.00
ATW	Amy T. White, Paralegal	\$205.00
LDS	Lynne D. Spaeth, Paralegal	\$225.00
PCD	Philip C. Dowdell, Legal Project Coordinator	\$160.00

PROFESSIONAL SERVICES RENDERED

15-1395 JTS Invoice # 197076 Flood Diversion Board		Bond Counsel Work - P3
FILE NUMBER	MATTER DESCRIPTION	INVOICE - TOTAL FEES
151395-1	General Topics	\$22,828.00
151395-4	Public Finance Issues	\$282.00
151395-5	Consultant Contract Review/Development	\$1,792.50
151395-9	Environmental Permitting Issues/NEPA	\$557.20
151395-12	USACE Interface/Questions	\$1,472.60
151395-13	Third Party Utility MOU's	\$25,399.40
151395-17	EPA WIFIA Loan	\$1,905.20
151395-23	PRAM	\$138.00
151395-24	P3 Implementation	\$35,413.10
151395-27	UMA/Utility Review	\$6,428.00
151395-28	CCJWRD Temporary RIB 2024A	\$1,632.50
151395-30	Dispute Review Board Matters	\$7,203.80
TOTAL		\$105,052.30



Invoice Remittance

Caroline Sweeney
Director Knowledge Management & Inn
Metro Flood Project Diversion Authority
50 S 6th Street, Suite 1500
Minneapolis, MN 55402
United States
sweeney.caroline@dorsey.com

June 28, 2024
Invoice No. 100100070455
Job No. 500001.3121
Terms Due Upon Receipt
Currency USD

RE: Dorsey- Metro Flood

Current Invoice Period: Charges posted through May 31, 2024

Amount Due Current Invoice \$14,380.00

Please reference invoice number in your remittance.

Check Payments To:

**FTI Consulting Technology LLC
P.O. Box 418005
Boston, MA 02241-8005
United States**

Courier Delivery Only To:

**Bank of America ML
Lockbox Services
Lockbox 418005
MA5-527-02-07
2 Morrissey Blvd.
Dorchester, MA 02125-8005**

ACH Payments To:

**FTI Consulting Technology LLC
Bank of America, N.A.
San Francisco, CA 94109
Account # 002001801422
ABA # 052001633**

Wire Payment To:

**FTI Consulting Technology LLC
Bank of America, N.A.
New York, NY 10038
Account # 002001801422
ABA # 026009593
SWIFT (USD): BOFAUS3N
SWIFT (other currencies): BOFAUS6S**



MINNEAPOLIS OFFICE
612-340-2600

(Tax Identification No. 41-0223337)

STATEMENT OF ACCOUNT FOR PROFESSIONAL SERVICES

Metro Flood Diversion Authority
4784 Amber Valley Pkwy
Suite 100
Fargo, ND 58104

July 15, 2024
Invoice Number 3991716

Client-Matter No.: 491379-00006
Employment advice

For Legal Services Rendered Through June 30, 2024

INVOICE TOTAL

Total For Current Legal Fees	\$8,985.50
Total Due This Invoice	\$8,985.50

Payment Methods

ACH/Wire (Preferred Method)

Beneficiary Bank	U.S. Bank National Association
	800 Nicollet Mall
	Minneapolis, MN 55402
ABA Routing Number	091000022
Account Number	1047-8339-8282
Swift Code	USBKUS44IMT

Check

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

Online Options

Contact our Billing team for first time access credentials at onlinepayments@dorsey.com

Payment site:
[Dorsey Login \(e-billexpress.com\)](https://dorsey.com/billing)

Please make reference to the invoice number – send remittance to remittance@dorsey.com

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

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

Questions regarding this invoice? Please contact your Dorsey attorney or Accounts Receivable @ ARhelpdesk@dorsey.com or 612-492-5278.

7/8/2024

City of Comstock, MN - SUMMARY OF INVOICING
Comstock Lagoon Project
Reimbursement Request #16
July 8, 2024

<u>Vendor</u>	<u>Invoice Date</u>	<u>Invoice #</u>	<u>Invoice Amount</u>
Moore Engineering, Inc.	3/26/2024	37709	\$19,331.11
Total Moore Engineering, Inc.			\$19,331.11
Pemberton Law, P.L.L.P.	4/30/2024	20247056-000M	\$5,397.62
Total Pemberton Law, P.L.L.P.			\$5,397.62
Total Invoiced This Reimbursement Request			\$24,728.73



Rush River
Water Resource
District

SENT VIA EMAIL

William A. Hejl
Chairman
Amenia, North Dakota

June 24, 2024

Dick Sundberg
Manager
Harwood, North Dakota

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

Jacob Gust
Manager
Fargo, North Dakota

Greetings:

RE: Metro Flood Diversion Project

Enclosed please find a copy of invoices totaling \$3,948.75 regarding the Metro Flood Diversion Project.

At this time, we respectfully request 100% reimbursement per the Memorandum of Understanding between Metro Flood Diversion Authority and Rush River Water Resource District dated December 21, 2020.

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

Sincerely,

RUSH RIVER WATER RESOURCE DISTRICT

Leilei Bao

Leilei Bao
Treasurer

Enclosure

Melissa Hinkemeyer
Director, Secretary

1201 Main Avenue West
West Fargo, ND 58078-1301

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



INVOICE: INV011025

Date 07/15/2024
 Invoice account 198

CITY OF FARGO
 PO BOX 49
 Fargo, ND

Description	Quantity	Unit price	Amount
FM DIVERSION MISC	1.00	3,191.66	3,191.66
FM DIVERSION PAYROLL	1.00	93,835.14	93,835.14

Sales subtotal amount	Total discount	Total charges	Net amount	Sales tax	Round-off	Currency	Total
97,026.80	0.00	0.00	97,026.80	0.00	0.00	USD	97,026.80

Due date 08/14/2024



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: **INV011025**

Date: 07/15/2024

Total: 97,026.80

Name: CITY OF FARGO

Account #: 198

Due date 08/14/2024



Diversion Board of Authority Meeting

July 25, 2024

MOU and Agreement Actions for Consideration
John Shockley

MFDA MOUs & Agreements (Action)



MOU Parties	Project	MOU or Agreement Cost and Summary
The Owners of the Monticello-Bison Transmission Project (Cap X) & MFDA MURA	SEAI & UMA	The purpose of this Master Utility Relocation Agreement (MURA) is to ensure a coordinated, time-efficient, and cost-effective process for completing the Utility Relocation Project, for coordinating operations and maintenance activities after completion of the Utility Relocation Project, and for the development of individual Task Orders issued in conjunction with, and subject to, the terms and conditions of the Agreement. The MURA also incorporates the scope and costs associated with the previously executed Preliminary Engineering Services Agreement (PESA) into future Task Orders executed under this MURA.

EXECUTION VERSION

MASTER UTILITY RELOCATION AGREEMENT

By and Between

METRO FLOOD DIVERSION AUTHORITY

and

**THE OWNERS OF THE MONTICELLO-BISON TRANSMISSION PROJECT
(Referred to herein as the “Utilities”)**

Execution Date: Determined by the Execution Page Signatures

Effective Date: The Effective Date of the First Executed and Delivered Task Order

PURPOSE

This Master Utility Relocation Agreement is entered into in connection with the Comprehensive Project relating to the Southern Embankment and Associated Infrastructure and Upstream Mitigation Area of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project.

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EXECUTION VERSION**MASTER UTILITY RELOCATION AGREEMENT**

This **MASTER UTILITY RELOCATION AGREEMENT** (this “**Agreement**”) is made and entered into as of the date of last affixed signature of the Parties (the “**Execution Date**”) to be effective as of the date determined pursuant to **Section 12.01(a)** (Effective Date), by and between the Metro Flood Diversion Authority, a political subdivision of the State of North Dakota created by the Joint Powers Agreement (defined herein) (the “**Authority**”), and Great River Energy, a cooperative organized and existing under the laws of the State of Minnesota; Allete, Inc., a corporation organized and existing under the laws of the State of Minnesota d/b/a Minnesota Power; Northern States Power Company, a corporation organized and existing under the laws of the State of Minnesota, d/b/a Xcel Energy; Otter Tail Power Company, a corporation organized and existing under the laws of the State of Minnesota; and Western Minnesota Municipal Power Agency, a municipal corporation and political subdivision of the State of Minnesota (collectively, the “**Utilities**”). The Authority and the Utilities are sometimes referred to herein individually as “**Party**” and collectively as the “**Parties**.”

RECITALS

A. Construction of the locally preferred plan for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, as further defined in **Section 1.01** (Definitions) (the “**Comprehensive Project**”) in 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.

B. The Authority, the City of Fargo, North Dakota, and the City of Moorhead, Minnesota, among others, are entities providing the Non-Federal Project Costs (each a “**Non-Federal Sponsor**”) for the Comprehensive Project pursuant to that certain Joint Powers Agreement dated as of June 1, 2016, by and between the Member Entities, as such may be amended from time to time, which created and continued the Authority (the “**Joint Powers Agreement**”).

C. The Non-Federal Sponsors entered into a Project Partnership Agreement on July 11, 2016, as amended on March 19, 2019, and as may be amended from time to time, with the United States Army Corps of Engineers (“**USACE**”) for the construction, operation, and maintenance of the Comprehensive Project (“**PPA**”). The PPA sets forth a split delivery method for the Comprehensive Project, establishing the respective responsibilities of both the Non-Federal Sponsors and USACE. The Authority was created to undertake and fulfill the Non-Federal Sponsors’ obligations under the PPA.

D. Pursuant to the PPA, the Non-Federal Sponsors will be responsible for completing the upstream mitigation area (the “**Upstream Mitigation Area**”) as set forth in **Exhibit A** (Map of Upstream Mitigation Area), the area where the Authority is required to obtain property rights as mitigation for the temporary storage of floodwaters during Comprehensive Project operations; and all mitigation features that are not the responsibility of USACE.

E. Pursuant to **Article II** of the **PPA**, the Non-Federal Sponsors shall be responsible for all real property interests and relocations required for construction, operation, and maintenance of the Comprehensive Project.

EXECUTION VERSION

F. **“Project”** means the design, construction, finance, operations, and maintenance of the Southern Embankment and the Upstream Mitigation Area, including the Utility Relocation Project described and defined below.

G. The Utilities have existing personal and real property interests (hereinafter referred to as **“Utilities Property Interests”**) within the area generally described in **Article III** (Real Property Interests) and further described in **Section 3.02** (Acquisition of Utilities Property Interests) and **Exhibit B** (Utilities Property Interests) that the Authority has deemed necessary to Relocate. Legal descriptions of applicable Utilities Property Interests are set forth in the Encroachment Agreement.

H. The Utilities own and operate as tenants-in-common the 345 kV transmission line and associated personal property and real property facilities (**“Transmission Line”**) of the CapX 2020 Monticello-Bison Transmission Project (the **“CapX Fargo Project”**), segments of which will or may be impacted by the construction of the Comprehensive Project and, consequently, the Transmission Line may require relocation, abandonment, protection in place, removal, replacement, reinstallation, or modifications that constitute Utility Adjustments as defined in **Section 1.01** (Definitions).

I. It will be necessary for the Utilities Property Interests to be relocated, protected, removed, or adjusted (hereinafter referred to as the **“Utility Relocation Project”**) by the Utilities in coordination with construction of the Project. The Utility Relocation Project also means the process of acquiring Project Property (by the Authority), Relocating any Utilities Property Interests (by the Utilities), all Utility Adjustments including Utility Adjustment Design Work, Utility Adjustment Construction Work, and all other steps necessary, as reasonably determined by the Authority with the concurrence of the Utilities, to prepare the Project Property for construction of the Utility Relocation Project.

J. The Parties have entered into that certain Preliminary Engineering Services Agreement, dated effective February 22, 2024, if and as amended in the future, that sets forth the respective roles and responsibilities of the Parties with respect to preliminary evaluation and studies relating to the Southern Embankment (the **“Preliminary Engineering Services Agreement”**). The Preliminary Engineering Services Agreement is incorporated by reference herein and will terminate, subject to its survival provisions, upon completion of the Work (as defined in the Preliminary Engineering Services Agreement) described therein; **provided, however**, that the Utility Cost Estimate as set forth in **Exhibit A** of the **Preliminary Engineering Services Agreement** shall become incorporated to the Costs that are set forth in **Exhibit B** of the **Task Order(s)** as defined herein and as described in this Agreement.

K. The Parties have entered into that certain Encroachment Agreement, dated effective March 28, 2024, and as may be amended by the Parties after such date, that sets forth, among other things, the respective roles and responsibilities of the Parties with respect to encroachment rights granted by the Utilities to the Authority for access to OIN 1630N and OIN 1650N within the Utilities electric line easement area (the **“Encroachment Agreement”**).

L. The Authority and the Utilities desire to enter into this Agreement to set forth the further understandings and agreements with respect to the Utility Relocation Project.

EXECUTION VERSION

M. This Agreement is intended to bind the Parties solely with respect to that portion of the Comprehensive Project south of the storm water diversion channel and associated infrastructure (the “**Storm Water Diversion Channel**”), as such is further defined in **Section 1.01** (Definitions). Nothing in this Agreement addresses any relationship among and between the Parties in any capacity with respect to the Storm Water Diversion Channel.

AGREEMENT

In consideration of the foregoing Recitals, each of which is deemed an essential term of this Agreement and incorporated by reference herein, the mutual covenants set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

ARTICLE I
DEFINITIONS, CERTAIN INTERPRETATIONS, AND UTILITIES AUTHORIZED
REPRESENTATIVE.

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

“**Age Discrimination Act of 1975**” means the Age Discrimination Act of 1975 (42 U.S.C. Sections 6101-6107).

“**Agreement**” has the meaning set forth in the Preamble to this Agreement.

“**Applicable Energy Regulations**” means the rules, Orders, regulations, practices, procedures and protocols established in compliance with Applicable Law by applicable Transmission Providers (such as the Midwest Independent Transmission System Operator, Inc.), electric reliability organizations (such as the North American Electric Reliability Corporation and the Midwest Reliability Organization) and comparable Persons that are applicable to the Utilities.

“**Applicable Law**” means: (i) any and all laws (including all statutory enactments and common law), ordinances, constitutions, regulations, treaties, rules, codes, standards, governmental approvals, requirements and orders that (a) have been adopted, enacted, implemented, promulgated, ordered, issued, entered or deemed applicable by or under the authority of any governmental body having jurisdiction over a specified person or entity (or the properties of such person or entity) and (b) are applicable to the subject matter of this Agreement or the performance of the obligations of the Parties under this Agreement; and (ii) Applicable Energy Regulations.

“**Authority**” has the meaning set forth in the Preamble to this Agreement.

“**Best Reasonable Efforts**” means acting in accordance with generally accepted commercial practices and using reasonable due diligence to undertake the actions required by this Agreement, in accordance with Applicable Law; **provided, however,** the obligation to use Best Reasonable Efforts does not mean a duty to take any more than reasonable action that would be taken by a reasonable and prudent person or entity in the circumstances, considering all relevant factors, including cost of performance or omission.

EXECUTION VERSION

“**Business Day(s)**” means any day that is not a Saturday, a Sunday, or a public holiday under the laws of the state of Minnesota.

“**CapX Fargo Project**” has the meaning set forth in the Recitals.

“**CapX Fargo Project Design**” has the meaning set forth in **Section 7.01** (Utility Adjustment Preliminary Engineering and Utility Adjustment Design Work).

“**Cass County**” means Cass County, North Dakota.

“**Cass County District**” means the Cass County Joint Water Resource District, a political subdivision of the state of North Dakota.

“**CFR**” means the Code of Federal Regulations.

“**Civil Rights Act of 1964**” means the Civil Rights Act of 1964 (Pub.L. 88-352, 78 Stat. 241, enacted July 2, 1964).

“**Clay County**” means Clay County, Minnesota.

“**Co-Executive Director**” means a Chief Administrative Officer of the Metro Flood Diversion Authority.

“**Comprehensive Project**” has the meaning set forth in the Recitals and further 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.

“**Congress**” means the Congress of the United States of America.

“**Construction Aids**” means all tangible equipment (including construction equipment and machinery), tools, supplies, utilities, support services, field office equipment, structures, apparatus, protective fencing, and other goods and items that are required to construct, commission or test the Transmission Line, but which are not incorporated into the Transmission Line, for the Utility Relocation Project.

“**Consumables**” means items such as compressed chemicals, oils, lubricants, cleaning supplies, gaskets, valve packing, light bulbs, and comparable items which, by normal industry practices, are considered consumables and are replaced on a regular basis, required for cleaning, preparing or placing the Transmission Line for the Utility Relocation Project in service.

EXECUTION VERSION

“**Contract Work Hours and Safety Standards Act**” means the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 et seq.).

“**Costs**” means all costs, expenses, and fees of whatever nature and kind, incurred by the Utilities in connection with the Utility Adjustment Work performed in connection with the Utility Relocation Project, including Internal Reimbursable Costs, Third Party Costs, and the Costs of Equipment, Materials, and Construction Aids. The term Costs also includes the Costs budgeted as set forth in the Utility Cost Estimate in **Exhibit A** to the **Preliminary Engineering Services Agreement**.

“**Davis-Bacon Act**” means the Davis-Bacon Act of 1931 (40 U.S.C. 3141 et seq.).

“**Diversion Inlet Structure**” means the gated control structure that controls the flow of water entering the Storm Water Diversion Channel from the Upstream Mitigation Area.

“**Effective Date**” has the meaning set forth in **Section 12.01(a)** (Effective Date).

“**Encroachment Agreement**” has the meaning set forth in the Recitals.

“**Equipment**” means any product that: (i) is to be incorporated into the Transmission Line for the Utility relocation Project; (ii) is an assembly of operational or non-operational parts, whether motorized or manually operated; (iii) requires service connections such as wiring; and (iv) is not defined as Materials.

“**Execution Date**” has the meaning set forth in the Preamble to this Agreement.

“**Executive Order No. 11246**” means Executive Order No. 11246, dated September 24, 1965.

“**Fargo-Moorhead Metropolitan Area**” means Fargo, North Dakota, Moorhead, Minnesota, and surrounding communities; it 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, West Fargo, North Dakota, and numerous other towns and developments from which commuters travel daily for work, education, and regular activities.

“**Federal Water Pollution Control Act Amendments of 1972**” means the Federal Water Pollution Control Act Amendments of 1972 (Pub.L. 92-500, 86 Stat. 816, enacted October 18, 1972).

“**Final Design Submittal**” means the design submittal described in Article VII (Performance and Construction) and in particular **Section 7.06(b)** (Final Design Submittal).

“**Good Reason**” has the meaning set forth in **Section 12.02(c)** (Termination of Agreement by the Utilities for Good Reason).

“**Internal Reimbursable Costs**” has the meaning set forth in **Section 8.03(a)** (Internal Reimbursable Costs).

“**Joint Powers Agreement**” has the meaning set forth in the Recitals.

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“Materials” means any products, supplies or materials that are, or are to be, incorporated into the Transmission Line for the Utility Relocation Project, whether or not substantially shaped, cut, worked, mixed, finished, refined or otherwise fabricated or processed. The term **“Materials”** is intended to include any item that is to be incorporated into the Transmission Line which is not an item of Equipment or a Consumable.

“Member Entities” shall mean the City of Moorhead, Minnesota, the City of Fargo, North Dakota, Clay County, Minnesota, Cass County, North Dakota, and the Cass County District.

“MFR-023” has the meaning set forth in **Section 7.04** (Technical Specifications).

“Non-Federal Project Costs” means the local cost share of the total cost of the Comprehensive Project not provided by the United States Government.

“Non-Federal Sponsors” has the meaning set forth in the Recitals.

“Party” or **“Parties”** has the meaning set forth in the Preamble to this Agreement.

“Post Construction Submittal” means the design submittal described in Article VII (Performance and Construction).

“PPA” has the meaning set forth in the Recitals.

“Preliminary Design Submittal” means the design submittal described in **Section 7.06(a)** (Preliminary Design Submittal).

“Preliminary Engineering Services Agreement” has the meaning set forth in the Recitals.

“Preliminary Utility Adjustment Work” has the meaning set forth in **Section 7.01(a)** (Preliminary Utility Adjustment Work).

“Project” has the meaning set forth in the Recitals.

“Project Footprint” means the physical area within which the Southern Embankment and the Upstream Mitigation Area will be contained.

“Project Property” means real property acquired by the Authority for the Project, including, but not limited to, land, rights-of-way, easements, licenses, and leases.

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

“Red River Structure” means the hydraulic control structure located within the Southern Embankment designed to control and/or meter the flow of the Red River.

“Rehabilitation Act of 1973” means the Rehabilitation Act of 1973 (Pub.L. 93-112, 87 Stat. 355, enacted September 26, 1973).

“Relocate” means providing a functionally equivalent facility to the owner of a utility, cemetery, highway, railroad (excluding railroad bridges and approaches thereto required for construction of

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the Comprehensive Project), or public facility when such action is authorized in accordance with applicable legal principles of just compensation; or providing a functionally equivalent facility when such action is specifically provided for, and is identified as a Relocation in the authorizing legislation for the Project or any report referenced therein. Providing a functionally equivalent facility may take the form of alteration, lowering, rising, or replacement and attendant demolition of the affected facility or part thereof.

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

“Site” or **“Sites”** means the physical location at which any Utility Adjustment Construction Work is being done, has been done, or will be done as part of the Utility Relocation Project.

“Southern Embankment” means that portion of the Comprehensive Project that consists of the Diversion Inlet Structure, Wild Rice River Structure and Red River Structure, associated road raises, and earthen dam embankment reaches, including all associated infrastructure thereof.

“Storm Water Diversion Channel” has the meaning set forth in the Recitals and further means the approximately thirty (30) mile, 20,000 cubic feet per second (cfs) channel and associated features, including the outlet, river and drain inlets, road bridges, railroad bridges, aqueducts, and recreational features, to be constructed as part of the Comprehensive Project.

“Task Order” or **“Task Orders”** means a document executed by the Authority and Utilities, including any amendments, stating the scope of services, times for performance of services, compensation, and any other relevant information for a specific project. All Task Orders are an integral part of this Agreement, particularly with respect to Task Orders for the Utility Adjustment Work for the Utility Relocation Project.

“Term” has the meaning set forth in **Section 12.01(b)** (Term).

“Third Party Costs” has the meaning set forth in **Section 8.03(b)** (Third Party Costs).

“Transmission Line” has the meaning set forth in the Recitals.

“Undisclosed Utilities Property Interests” mean Utilities Property Interests not disclosed in **Section 3.02** (Acquisition of Utilities Property Interests).

“Upstream Mitigation Area” has the meaning set forth in the Recitals.

“U.S. EPA” means the United States Environmental Protection Agency.

“USACE” has the meaning set forth in the Recitals.

“Utilities Property Interests” has the meaning set forth in the Recitals.

“Utility” or **“Utilities”** has the meaning set forth in the Preamble to this Agreement.

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“Utility Adjustment” means each Relocation (temporary or permanent), abandonment, protection in place, removal (of previously abandoned utilities as well as of newly abandoned utilities), replacement, reinstallation, or modification of the existing Transmission Line utilities of the CapX Fargo Project necessary to accommodate construction, operation, maintenance or use of the Project. The Utility Adjustment Work for each crossing of the Project right-of-way by a utility that crosses the Project right-of-way more than once will be considered a separate Utility Adjustment. For any utility installed longitudinally within the Project right-of-way, the Utility Adjustment Work for each continuous segment of that utility located within the Project right-of-way will be considered a separate Utility Adjustment.

“Utility Adjustment Completion” means that the Utility Adjustment Construction Work for a Utility Adjustment is sufficiently complete in the opinion of the Authority and the Utility.

“Utility Adjustment Construction Work” means all Utility Adjustment Work related to construction. Utility Adjustment Construction Work is not authorized to commence until the Authority Approval described in **Section 7.07** (Authority Approval of Final Design Submittal).

“Utility Adjustment Design Work” means (i) the design, as applicable, required for compliance with MFR-023 as set forth in **Exhibit C** (Utility Guidelines for the Southern Embankment (MFR-023)), and (ii) the CapX Fargo Project Design.

“Utility Adjustment Work” means all efforts and Costs necessary to accomplish the required Utility Adjustments, including (i) all Preliminary Utility Adjustment Work, Utility Adjustment Design Work, Utility Adjustment Construction Work, including all coordination, design review, permitting, inspection, and maintenance of records, whether provided by the Authority or by the Utilities, and (ii) the Costs incurred under the Preliminary Engineering Services Agreement, as and if amended.

“Utility Relocation Project” has the meaning set forth in the Recitals.

“Utility Representative” has the meaning set forth in **Section 1.03** (Utilities Authorized Representative).

“Wild Rice River” means the Wild Rice River, a tributary of the Red River of the North.

“Wild Rice River Structure” means the hydraulic control structure located within the Southern Embankment designed to control and/or meter the flow of the Wild Rice River.

Section 1.02. Certain Interpretations and 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 (i) any definition of or reference to any Agreement, instrument, or other document herein shall be construed as referring to such Agreement, instrument, or other document as from time to time amended, supplemented, or otherwise modified (subject to any restrictions on such amendments, supplements, or modifications set forth herein), (ii) any reference herein to any person shall be construed to include

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any person's permitted successors and assigns, (iii) the words "this Agreement," "herein," "hereof," and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (iv) all references herein to articles, sections, exhibits, schedules, Task Orders, shall be construed to refer to articles and sections of, and exhibits, schedules, and Task Orders to, this Agreement, and (iv) documents and instruments referred to in this Agreement or incorporated by reference to this Agreement, shall be deemed incorporated by reference herein.

Section 1.03. Utilities Authorized Representative. The Utilities hereby authorize and approve Northern States Power Company, a Minnesota corporation, to function as their collective representative for purposes of this Agreement and as an authorized agent of the Utilities to execute, deliver, and bind the Utilities with respect to all Task Orders (the "**Utility Representative**"). The Utility Representative will function on behalf of the Utilities for all matters arising under this Agreement, including coordination and authorization of all Utility Adjustment Work, invoicing for the payment of Utility Adjustment Work, interacting with the Authority and its representatives, coordinating the transmission of documents and correspondence to and from the Authority, and the transmittal and collection of such documents and correspondence to and from the Utilities to transmit back to the Authority. The Utilities retain the right to name a separate individual as their representative upon written notice to the Authority.

ARTICLE II**PURPOSE OF MASTER UTILITY RELOCATION AGREEMENT.**

Section 2.01. Purpose. The purpose of this Agreement is to ensure a coordinated, time-efficient, and cost-effective process for completing the Utility Relocation Project, for coordinating operations and maintenance activities after completion of the Utility Relocation Project, and for the development of individual Task Orders issued in conjunction with, and subject to, the terms and conditions of this Agreement.

Section 2.02. Coordination Between Engineers. The Authority and Utilities are likely to employ the use of professional engineers in the analysis, design, and completion of designs, plans, and completion of work. Engineers employed by the Parties shall maintain open lines of communication, coordinate, and collaborate with engineers employed by other parties described herein.

Section 2.03. Coordination with USACE. The Utilities shall not communicate directly with USACE regarding any aspect of the Comprehensive Project, or any other subject-matter referenced in, related to, or arising from this Agreement, without the prior written authorization of the Authority, except for requirements set forth or referenced in this Agreement or any document referenced by this Agreement to coordinate with USACE, including (i) **Section 2.02** (Coordination Between Engineers), (ii) **Article VII** (Performance and Construction), in particular **Section 7.06** (Proposals and Plans), (iii) **Section 9.01(a)** (Coordination with USACE), and (iv) **Section 9.04** (Future Permits).

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ARTICLE III
REAL AND PERSONAL PROPERTY INTERESTS.

Section 3.01. Intent. It is the intent of the Parties hereto that all Utilities Property Interests shall be identified herein. Specifically, Utilities Property Interests shall be detailed in the table contained in **Section 3.02** (Acquisition of Utilities Property Interests) and further documented in **Exhibit B** (Utilities Property Interests).

Section 3.02. Acquisition of Utilities Property Interests. The Utilities Property Interests to be Relocated pursuant to the terms and conditions of this Agreement include, but are not limited to, the Utilities Property Interests documented in **Exhibit B** (Utilities Property Interests) and described in the table below:

Location (Section – Township – Range)	Location	Exiting Crossing Type/ Info/ Structure Numbers	Right-of-Way Document	State	Coordination of Impacts
12-137-50	SE-1 (Upstream Mitigation Area)	E/W OH 345 KV Transmission Line 141 & 142	1376620 & 1376630	ND	SE-1 construction work is complete. No impacts to the Utility were determined. The Cass County District owns the property that intersects with the Utility’s electric line easement. The Authority will maintain property with mowing and weed control services. No additional Utility Adjustment Work is anticipated in SE-1 under this Agreement.
14-137-49	I-29	E/W OH 345 KV Transmission Line 0955-177 & 0955-178		ND	I-29 construction work is complete. The Utility will complete a technical analysis to ensure minimum clearance requirements are met between the I-29 road raise and existing Utility infrastructure. The initial review indicates adequate clearance. If Utility Adjustment is required as a result of the analysis, it shall be addressed as a separate Task Order under this Agreement.

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Location (Section – Township – Range)	Location	Existing Crossing Type/ Info/ Structure Numbers	Right-of- Way Document	State	Coordination of Impacts
17-137-48	SE-4	E/W OH 345 KV Transmission Line 0955-193 & 0955-194	765109 & 708979	MN	SE-4 construction will begin in 2024. The Authority and Utility entered into the Encroachment Agreement for the Authority to conduct Preliminary Utility Adjustment Work for the Comprehensive Project. A Preliminary Engineering Services Agreement is in place for the Utility to analyze the scope and fee for a Task Order under this Agreement for a Utility Adjustment. Initial review indicates Utility Adjustment will be needed to obtain adequate clearance between SE-4 and the Utility infrastructure.
Various	Upstream Mitigation Area	E/W OH 345 KV Transmission Line		MN & ND	The Authority, through the Cass County District, will acquire flowage easements in the Upstream Mitigation Area to allow for the temporary storage of additional flood waters during operation of the Comprehensive Project. The Utility has reviewed hydraulic modeling results for the additional depth and duration floodwater storage in the Upstream Mitigation Area. Hydraulic modeling results indicate that there is no impact on Utility infrastructure or its easement within the Upstream Mitigation Area due to the temporary storage of flood water and flowage easements.

Section 3.03. Undisclosed Utilities Property Interests. The Utilities Property Interests that have been identified for Utility Adjustment Work as set forth in **Section 3.02** (Acquisition of Utilities Property Interests) have been mutually agreed to by the Authority and the Utilities. If there is a discovery of Undisclosed Utilities Property Interests by either the Authority or the Utilities after the Effective Date, the Authority and the Utilities will cooperate to amend this Agreement and any Task Orders to incorporate the Undisclosed Utilities Property Interests that require Utility Adjustment Work to this Agreement and such Task Orders as may be necessary to

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properly perform the work required for the Utility Relocation Project and required for Utility Adjustment Completion.

Section 3.04. Discovery of Undisclosed Utilities Property Interests. Undisclosed Utilities Property Interests identified for Relocation prior to request for submission of the first submittal required by **Article VII** (Performance and Construction) shall be Relocated through the same process as if the Undisclosed Utilities Property Interests were disclosed herein.

Section 3.05. Authority Responsibility. The Authority shall bear the Costs of Relocating all Undisclosed Utilities Property Interests. The Costs attributable to such relocation will be added to the existing or amended budgets set forth in the Task Orders.

Section 3.06. Cooperation in Platting. The Authority intends to plat right-of-way acquired for Project purposes. Utilities shall reasonably cooperate with said platting efforts if requested to do so by the Authority.

ARTICLE IV
[INTENTIONALLY OMITTED].

ARTICLE V
RIGHT OF SITE ACCESS.

Section 5.01. Authority Site Access to Utilities Property Interests. Upon reasonable advance notice to the Utilities Representative, the Authority will be provided worksite access to the Utilities Property Interests where Utility Adjustment Construction Work is performed by the Utilities. The Authority agrees that its access will be restricted in that its representatives will follow the Utilities site and construction safety practices when performing any review of the Utility Adjustment Construction Work. Such reviews by the Authority shall not be for the purpose of determining the manner or means of performance of the Utility Adjustment Construction Work by the Utilities but rather for the sole purposes of (i) determining whether the Authority is able to proceed with construction of its Project in a timely and efficient manner, and (ii) monitoring the progress of the Utility Adjustment Construction Work to determine the stage of completion of such work and to estimate the completion date of the Utility Relocation Project. The Authority's right of access shall be determined by this **Section 5.01** and its encroachment rights set forth in the Encroachment Agreement.

Section 5.02. Access Restriction for Health and Safety Purposes. If granting the Authority access rights hereunder poses a safety hazard in the sole determination of the Utilities, the Authority will be restricted from its access, entry, or inspection of the Site of the Utility Relocation Project. This restriction access will be imposed only for the period of time as reasonably required to mitigate or eliminate the safety hazard.

Section 5.03. Failure to Allow Access, Entry, and Inspection. Should any Party having authority to access, enter, and inspect a Site be denied access for more than twenty-four (24) hours, other than when the same Party deems such a delay appropriate under **Section 5.04** (Delay for Safety Purposes), and such failure results in the unreasonable delay of Utility Adjustment

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Construction Work, the Parties shall follow the dispute resolution process pursuant to **Article XI** (Disputes Among the Utility and the Metro Flood Diversion Authority).

ARTICLE VI
TASK ORDERS AND REQUIRED REPORTS.

Section 6.01. Task Orders. All work performed with respect to the Utility Relocation Project, including Utility Adjustment Design Work and Utility Adjustment Construction Work will be performed in accordance with Task Orders that are entered into after the Effective Date between the Authority and the Utilities. The form of Task Order is set forth as **Exhibit D** (Form of Task Order) and shall be used as a general guideline for the Utilities submission of Task Orders to the Authority for review and approval. All executed Task Orders will become an integral part of this Agreement and enforceable in accordance with this Agreement and the terms of the applicable Task Order.

Section 6.02. Utility Submitted Reports.

(a) **Utility Submittals.** The Utilities shall prepare reports, analysis, plans, cost estimates, or other information and materials within the scope identified in a Task Order pertaining to the Utility infrastructure or the Utility Relocation Project, as reasonably requested by the Authority.

(b) **Deadlines.** All reports, analysis, plans, cost estimates, and other information and materials requested by the Authority shall be provided before the expiration of a reasonable deadline determined by the provisions of in a Task Order pertaining to the Utility infrastructure and the Utility Relocation Project.

(c) **Failure to Timely Produce.** Should the Utilities fail to produce any reports, analysis, plans, cost estimates, or other information and materials requested of them by the Authority, and such failure results in the unreasonable delay of Utility Adjustment Construction Work, the Parties shall follow the dispute resolution process pursuant to **Article XI** (Disputes Among the Utility and the Metro Flood Diversion Authority). The sole remedy for the failure to timely produce shall be equitable remedies and no assessed fees or penalties.

ARTICLE VII
PERFORMANCE AND CONSTRUCTION.

Section 7.01. Utility Adjustment Preliminary Engineering and Utility Adjustment Design Work. The Utilities shall be responsible for the completion of the (i) preliminary utility adjustment Work as defined under the Preliminary Engineering Services Agreement, and (ii) Utility Adjustment Design Work.

(a) **Preliminary Utility Adjustment Work.** The preliminary utility adjustment work (the “**Preliminary Utility Adjustment Work**”) includes all work performed by the Utilities pursuant to the Preliminary Engineering Services Agreement and this Agreement, whether performed by Utility staff or by Utility contractors, consultants, outside counsel, or other agents, including but not limited to, onsite visits, geological evaluation,

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preliminary engineering services, performance studies, pole and foundation optimization analysis and study, fiber optic overhead ground wire studies, insulation performance studies, Transmission Line clearance studies, transient recovery voltage – time domain analysis, underground analysis and studies, maintenance clearances paralleling studies, feasibility assessments, reactive compensation study reports, public outreach, permitting and re-permitting with applicable authorities for certificates, routes, and other approvals, governmental relations and meetings, development of cost estimates for construction (whether by way of demolition, relocation, abandonment, protection in place, removal, replacement, reinstallation, or modifications of the Transmission Line), and reviewing and/or providing comments on layouts or other designs, plans, and/or documents in connection with the Utility Adjustments and coordination with the Authority and its representatives for the Comprehensive Project.

(b) **Utility Adjustment Design Work.** The Utility Adjustment Design Work includes the CapX Fargo Project (i) Project Plan, (ii) Design, and (iii) CapX Design Criteria, each of which is incorporated by reference herein and as may be adjusted by the Task Order(s) (the “**CapX Fargo Project Design**”). To the extent that the CapX Fargo Project Design included as Utility Adjustment Design Work requires compliance with MFR-023, the Utilities will adjust the CapX Fargo Project Design to conform with the requirements of MFR-023, but only to the extent necessary for such compliance. The Utilities shall make Best Reasonable Efforts to complete all Utility Adjustment Design Work prior to reasonable deadline identified in a Task Order pertaining to the Utility infrastructure, the Utility Relocation Project, or the Project, provided to Utilities by the Authority.

Section 7.02. Utility Adjustment Construction Work. The Utility Adjustment Construction Work will be informed by the following:

(i) The Utilities shall (A) be responsible for the completion of all Utility Adjustment Construction Work, and (B) complete all Utility Adjustment Construction Work prior to the reasonable milestone completion date provided to the Utilities by the Authority.

(ii) If a portion of the Utility Adjustment Construction Work is outside of the Project Property, the Utilities shall be responsible for that portion of the Utility Adjustment Construction Work. The Utilities shall meet the requirements of Applicable Law with respect to any Work contracted to third parties.

Section 7.03. Additional Right-of-Way Outside the Project Footprint. If the Utilities require additional right-of-way rights to complete the Utility Relocation Project, the Utilities will notify the Authority of the additional need within reasonable time after determining the requirement. The Authority will use its Best Reasonable Efforts to acquire the necessary right-of-way and neither the Authority nor the Utilities will be responsible for any damages related to time delays associated with the acquisition of such additional right-of-way. In the event the Utility Relocation Project directly or indirectly requires the Utilities to acquire additional property interests, instead of the acquisition of the additional property interests by the Authority, the Utilities shall consult with the Authority prior to determining the price at which the Utilities will

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offer to purchase such property interests. The Utilities will only offer to purchase additional property interests at a price consented to by the Authority, which consent will not be unreasonably withheld, delayed, or conditioned.

Section 7.04. Technical Specifications. The Utility Relocation Project will be designed in accordance with the Fargo-Moorhead Metropolitan Area Southern Embankment – MFR-023, Utility Guidelines for the Southern Embankment and References (“**MFR-023**”) as set forth in **Exhibit C** (Utility Guidelines for the Southern Embankment (MFR-023)), but only to the extent required for compliance with such guidelines. The requirements set forth in MFR-023 will apply only to Utility Adjustment Work within the Southern Embankment. All Utility Adjustment Work in the Upstream Mitigation Area will be conducted in accordance with **Section 7.05** (Coordination for Utility Adjustment in the Upstream Mitigation Area).

Section 7.05. Coordination for Utility Adjustment in the Upstream Mitigation Area. All Utility Adjustment Work in the Upstream Mitigation Area will be designed, constructed, and completed in accordance with Applicable Law. If Utility Adjustment Work is to be completed in the Upstream Mitigation Area, the Utilities will coordinate and cooperate with the Authority to design and submit a Utility Adjustment plan for approval by the Authority, and such approval will not be unreasonably withheld, delayed, or conditioned.

Section 7.06. Proposals and Plans. Anytime following execution of this Agreement, the Utilities may submit to the Authority, for each Utility Adjustment, a Preliminary Design Submittal, a Final Design Submittal, and a Post Construction Submittal for review, comment, and approval by the Authority as defined and at the specific timelines specified in MFR-023. Approval by the Authority shall not be unreasonably withheld, delayed, or conditioned.

(a) **Preliminary Design Submittal.** The Utilities shall complete a Preliminary Design Submittal to a minimum of approximately thirty-five percent (35%) level of design completion and define the basis of design for all aspects of each Utility Adjustment of the Utility Relocation Project. The Preliminary Design Submittal shall include calculations demonstrating that the proposed configuration meets and satisfies the technical requirements contained herein. The Preliminary Design Submittal shall also provide sufficient detail to demonstrate compliance with all design and construction requirements as described in MFR-023. The Preliminary Design Submittal shall include, at a minimum, sketches and/or relocation plans, text defining the general proposed plan, and a scoping estimate of the Cost of Utility Adjustment Construction Work.

(b) **Final Design Submittal.** The Utilities shall complete a Final Design Submittal including, but not limited to, fully developed design and relocation plan, drawings, specifications, and all other supporting information, design documentation, etc. The Final Design Submittal shall also contain complete applicable technical specifications. In addition to the aforementioned information, the Final Design Submittal shall include drawings and a final estimate of the Cost of Utility Adjustment Construction Work. The Final Design Submittal shall be utilized to develop individual Task Orders for consideration and approval by the Authority prior to completion of the Utility Adjustment Work.

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(c) **Post Construction Submittal.** The Utilities, in coordination with the Non-Federal Sponsors shall complete and provide a Post Construction Submittal. The Utilities acknowledge and agree that Post Construction Submittals shall be conducted in accordance with the MFR-023, to the extent applicable to the Utility Relocation Project. The Post Construction Submittal shall include:

(i) **As-Built Drawings:** Submit as-built drawings for the complete Transmission Line relocation.

(ii) **As-built surveys.**

(d) **Review.** The Authority shall complete a full review of each submittal and provide comments and/or approval.

(i) The Authority's review of submittals shall be restricted to a determination of whether the submittal complies with the specifications and requirements set forth in this Agreement.

(ii) The Authority shall complete a full review and provide comments on submittals within twenty (20) Business Days of the date on which the Authority receives a full and complete submittal. Should the Authority determine that a submittal is not in compliance with the terms and specifications provided in this Agreement, and the Utilities resubmit a previously submitted submittal, the Authority shall review the submittal and respond within ten (10) Business Days. The Authority's review of the re-submittal shall be limited to the portions of the initial submittal deemed insufficient as well as any other portions of the submittal which have been amended or added since the initial submission. In the event that the Authority does not provide comments within the period prescribed by this Agreement, the Utilities shall provide written notice of the failure to respond. If the Authority does not respond within five (5) Business Days of receiving written notification, the submittal shall be deemed approved.

Section 7.07. Authority Approval of Final Design Submittal. No Utility Adjustment Construction Work may begin until the Authority approves the Task Order containing the Final Design Submittal.

Section 7.08. Shop Drawing and Sample Submittals. The Utilities shall submit Shop Drawings and Samples in accordance with **Section 7.06(a)** (Preliminary Design Submittal) and **Section 7.06(b)** (Final Design Submittal), in each case that detail the Utility Adjustment Construction Work to be performed by the Utilities on the Utility Relocation Project within the Project Footprint. The Authority shall review the Shop Drawings and Samples in accordance with the procedure and timelines in **Section 7.06** (Proposals and Plans) for the review of Submittals.

Section 7.09. Adjustments to the Project. Should the planned route of the Southern Embankment change in a material manner, the Utilities and the Authority shall promptly interface with the Authority to adjust plans for the Utility Relocation Project, as necessary. The Authority will provide all such planned route changes to the Southern Embankment to the Utilities in writing specifying the effect of a planned route change with respect to matters effecting the Utilities,

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including the Utility Relocation Project, the Utility Adjustment Design Work, and the Utility Adjustment Completion dates and potential additional Costs.

Section 7.10. Adjustments to the Utility Adjustment Work. Any changes or modifications to the Final Design Submittal during construction that materially affect the performance or construction of the Utility Adjustment Work will be subject to written approval by the Authority. The Utilities will submit the proposed changes or modifications to the Authority for review and approval. Approval by the Authority shall not be unreasonably withheld, delayed, or conditioned. The Authority shall review the submittals in accordance with procedure and timelines in **Section 7.06** (Proposals and Plans). The Transmission Line not required to be moved prior to the adjustment of the Final Design Submittal, which need to be Relocated after changes are made to the Final Design Submittal shall not be treated as Undisclosed Utilities Property Interests. The Parties acknowledge and agree that the foregoing may require either amendment of or a new Task Order to incorporate any such changes or modifications and the Authority and the Utilities will cooperate in generation and approval of any such Task Order.

Section 7.11. Inspection. The Utilities shall be responsible for inspection of all Utility Adjustment Construction Work.

Section 7.12. Utility Completion. Within ten (10) Business Days of the anticipated date for Utility Adjustment Completion, the Utilities and the Authority will schedule a final inspection, whereby the Utilities shall be responsible for holding an inspection of the Utilities' portion of Utility Adjustment Construction Work to determine whether the Utility Adjustment meets the Post Construction Submittal and any material changes or modifications made per **Section 7.09** (Adjustments to the Project) and **Section 7.10** (Adjustments to the Utility Adjustment Work). If the Authority finds the construction is not in conformance with the Post Construction Submittal or any approved material changes or modifications, the Authority will notify the Utilities of such fact and the Utilities will correct such nonconformance in the Utility Adjustment Construction Work and re-notify for inspection. Once the Authority finds a Utility Adjustment has reached Utility Adjustment Completion, the Authority will provide a certificate of Utility Completion Acceptance.

Section 7.13. Third Party Contractors. Should the Utilities engage any third-party contractor to fulfill, contribute to, or otherwise act with respect to an obligation assigned to Utility in this Agreement, the Utilities shall abide by all restrictions and requirements provided for in **Article XIV** (Miscellaneous) and as provided in the federal lobbying restrictions which is attached as **Exhibit E** (Form of Federal Certifications).

ARTICLE VIII
PAYMENT OF COSTS.

Section 8.01. Necessity to Keep Costs Low. The Utilities and the Authority each recognize the need to minimize the Cost of the Utility Relocation Project, while seeking to maintain the same quality of service to the Utilities' customers. The Utilities and the Authority shall be diligent in containing Costs and working within the budgetary constraints of the Task Orders.

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Section 8.02. Generally. The Authority shall pay all reasonable Costs incurred by the Utilities for Utility Adjustment Work associated with the Utility Relocation Project that have been approved pursuant to budgets established under Task Orders and performed under **Article VII** (Performance and Construction).

Section 8.03. Reimbursable Costs and Budget. The Authority will reimburse the Utilities for all Costs the Utilities incur in performing the Utility Adjustment Work, which will also include the Cost amounts incurred pursuant to the Preliminary Engineering Services Agreement. The budget for such Utility Adjustment Work will be included in applicable Task Orders, which are an integral part of this Agreement. The Costs of Utility Adjustment Work will include (i) the work described in **Section 7.01(a)** (Preliminary Utility Adjustment Work), (ii) all other Utility Adjustment Work, including labor, supplies, and materials and direct and indirect labor or contractor additives, including Internal Reimbursable Costs, (iii) Third Party Costs, and (iv) taxes, such as applicable sales and use taxes, business and occupation taxes, and similar taxes.

(a) **Internal Reimbursable Costs.** The Cost of internal Utility staff will include “**Internal Reimbursable Costs**” which means, individually and collectively, (i) direct labor or contractor additives (fully-loaded, including salary, wages, and benefits), (ii) reasonable allocations of general administrative overhead and support costs, (iii) out-of-pocket costs and expenses that are reasonably incurred by the applicable Utility, and (iv) external legal costs and expenses.

(b) **Third Party Costs.** “**Third Party Costs**” means all reasonably incurred fees, costs, liabilities, claims, expenses and amounts for equipment, materials or services provided in connection with the Utility Adjustment Work, including costs and expenses of consultants, due diligence investigations, technical analysis and studies, and the development and preparation of permit applications, application fees, filing fees, and any fees, charges or costs imposed by a governmental authority in connection with the Utility Adjustment Work.

Section 8.04. Invoicing by Utility Representative. After the Effective Date, the Utility Representative will invoice the Authority for the Costs authorized by the Task Order(s) approved by the Authority.

(a) **Prior Expenditures and Initial Invoice.** Within sixty (60) days following the Effective Date, the Utility Representative will provide an accounting of the Costs incurred by the Utilities and submit invoices to the Authority for such expenditures incurred, but not invoiced or paid, under the Preliminary Engineering Services Agreement prior to the Effective Date (the “**Initial Invoice**”). The Authority will have sixty (60) days to remit payment to the Utility Representative, subject to any good faith items of dispute in accordance with **Section 8.04(c)** (Effect of Disputed Utility Costs and Expenses).

(b) **Payment of Undisputed Monthly Invoices.** The Utility Representative will not later than the forty-fifth (45th) day after the end of each month during and following the term of this Agreement present the Authority with an invoice for the previous month’s Costs incurred by the Utilities for Utility Adjustment Work, along with supporting information as required under this Agreement. Not later than sixty (60) days after the

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submission date of the invoice, a payment will be made by the Authority to the Utility Representative in the amount invoiced for the undisputed Costs billed on the invoice. The Authority has the right to dispute in good faith the items of Costs included on any invoice in accordance with **Section 8.04(c)** with respect to such Costs.

(c) **Effect of Disputed Utility Costs and Expenses.** If Costs incurred by the Utilities and invoiced by the Utility Representative are disputed by the Authority, the Utility Representative will be paid by the Authority the undisputed amount of the invoice, and the disputed amount will not be remitted until the dispute is resolved. By way of clarification, undisputed invoiced amounts will be paid when otherwise due. Any amounts disputed by the Authority will be specified in a writing to the Utility Representative in accordance with **Section 8.04(e)** (Authority Processing of Utility Invoices). The Parties will work in good faith to resolve all disputed invoices and to arrive at a payment amount consistent with the Utility Adjustment Work to be reimbursed hereunder within thirty (30) days after the objection raised by the Authority. Once resolved, the Authority will remit the agreed upon disputed amount to be paid within ten (10) Business Days of such resolution.

(d) **Completion of the Utility Adjustment Work.** Upon completion of the Utility Adjustment Work, the Utility Representative will provide a final invoice to the Authority. The Authority will pay the final invoice within sixty (60) calendar days of the date of the final invoice.

(e) **Authority Processing of Utility Invoices.** After the Authority receives the invoice from the Utility Representative, the Authority will process the invoice for payment and, if there is a disputed amount (or amounts), give the Utility Representative written notice of dispute and the specific reasons of dispute within fifteen (15) business days. The notice will specify the reason for asserting a disputed amount and what actions the Utility Representative needs to complete to receive the disputed withheld amount.

(f) **Invoicing Requirements.** All invoices provided to the Authority pursuant to or arising from this Agreement shall comply with invoicing requirements provided in the Authority invoicing requirements which is as attached as **Exhibit F** (Authority Invoicing Requirements).

(g) **Effect of Payment.** Payment does not imply acceptance of Utility Adjustment Work or that the invoice rendered is accurate. In the event an error is identified and verified by each of the Authority and the Utility Representative following the receipt of payment, the Utility Representative will credit any payment in error from any payment that is due or that may become due to the Utilities under this Agreement or return the overpayment to the Authority within thirty (30) calendar days of the identification and verification of such error.

Section 8.05. Betterments. In no situation shall any Party other than the Utilities be responsible for Costs of betterments of the Transmission Line installed during the Utility Relocation Project.

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Section 8.06. Record Keeping. The Utilities shall maintain or cause to be maintained (by way of contract and enforcement of such contract) a complete set of records detailing all Costs it incurs in the Utility Relocation Project, in accordance with the recordkeeping and audit requirements of this Agreement and Applicable Law.

ARTICLE IX
FUTURE RIGHTS AND RESPONSIBILITIES.

Section 9.01. Utilities Right-of-Way. The Authority grants to the Utilities an irrevocable and perpetual right-of-way over the Project Footprint for the purposes of (i) planning and constructing the Utility Relocation Project, and (ii) allowing the Utilities to properly maintain and upgrade, or otherwise engage in activities consistent with good utility practice and Applicable Energy Regulations, the Utilities Property Interests as now existing or may hereafter exist, subject to the following restrictions and obligations:

(a) **Coordination with USACE.** If the Utilities deem it necessary to perform any work with respect to its Utilities Property Interests after completion of the Utility Relocation Project, and such work is beyond the scope of operation and maintenance for the Utility Relocation Project, the Utilities will coordinate with USACE to obtain access to Authority land interests for which it does not already have a right-of-way or easement. If approval is required by USACE, such approval shall not be unreasonably withheld, delayed, or conditioned, provided that USACE must comply with its regulatory agency responsibilities when reviewing such request.

(b) **Maintenance of Utility Property.** Following completion of the Utility Relocation Project, the Utilities will be responsible for all operation and maintenance of the Utilities Property Interests that are the subject of this Agreement and all Task Orders. Any abandonment of property or grant of control to the Authority by the Utilities shall be operated and maintained by the Authority or its designated representatives. The Parties acknowledge and agree that the applicable Task Order sets forth the abandonment plan for all Utilities Property Interests located within the work limits of the Southern Embankment and the Upstream Mitigation Area. The Utilities acknowledge and agree that all maintenance of the Utilities Property Interests that are affected by this Agreement and any Task Orders will conform to the requirements of MFR-023. The foregoing requirements shall be narrowly construed and applied to the Utilities only to the extent that its Utilities Property Interests are the subject of this Agreement.

(c) **Post Construction Control.** Following completion of the Utility Relocation Project, the Authority acknowledges and agrees that the Utilities have the sole ownership, authority, and control over maintenance and other post-construction activities with respect to the operations of the Utilities Transmission Lines, including the Utility Adjustment made in accordance with the Utility relocation Project.

(d) **Approval for Ground Disturbing Maintenance or Repairs.** The Utilities must submit and obtain approval for any and all plans for maintenance or repair that requires the ground within the Project Footprint to be disturbed, from the Authority. Approval by the Authority shall not be unreasonably withheld, delayed, or conditioned.

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

(f) Metro Flood Diversion Authority Access. If the Transmission Line malfunctions, destructs, or otherwise begins to cause on-going damage to either or both of the Southern Embankment or the Upstream Mitigation Area, the Authority shall immediately advise the Utility Representative in writing and the Utilities will promptly make Reasonable Best Efforts to mitigate any present or future damage to such areas. The Authority shall not have the right or power to access the purported damage-causing Utilities' property or take any action with respect thereto.

(g) Authority Access. The Authority right to encroach on the property of the Utilities is limited to that set forth in the Encroachment Agreement.

Section 9.02. Use of Existing Easement. The Parties acknowledge that the Utility Relocation Project will Relocate certain Utilities Property Interests within the Utilities' existing easements. The Utilities shall be bound to exercise their rights under said easement, subject to the requirements and obligations contained in this **Article IX**. The requirements of this **Article IX** shall survive so long as the Utilities have Utilities Property Interests located within the Project Footprint.

Section 9.03. Future Permits. Should the Utilities file a formal permit application with the Authority, pertaining to the Utilities Relocated pursuant to this Agreement, with the Authority after the Effective Date, the Authority shall grant, at no cost to the Utilities, the permit application so long as the permit application meets all reasonable requirements listed in the instructions to said permit application and the proposed crossing would not unreasonably risk harm to the Southern Embankment or the Upstream Mitigation Area or interfere with other facilities already contained within the Project Footprint, as determined by the Authority. In addition to the permit application granted by the Authority, Utility shall be responsible for obtaining all other permits necessary and required by USACE. Should an existing Transmission Line be modified in the future, the Authority, in its sole discretion, shall determine whether the modification is allowable under a previously existing permit or whether the modification is significant enough in its nature or effect to require the Utilities to apply for a new permit.

ARTICLE X**DISPUTES WITH CONTRACTORS AND OTHER THIRD PARTIES.**

Section 10.01. Coordination. The Parties shall coordinate with respect to any dispute with third parties. Such coordination shall include any potential or ongoing litigation.

ARTICLE XI**DISPUTES AMONG THE UTILITY AND THE METRO FLOOD DIVERSION AUTHORITY.**

Section 11.01. Intent and Procedure. The Utilities and the Authority shall use their Best Reasonable Efforts to ensure that the provisions of this Agreement are fulfilled. The Parties agree

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to undertake resolution of disputes in an equitable and timely manner and in accordance with the provisions of this Agreement. If disputes cannot be resolved informally by the Parties or under other, situation-specific dispute resolution mechanisms contained herein, the following procedure shall be used.

Section 11.02. Procedure to Commence Dispute Resolution Process. The Parties agree that in the event of an alleged breach of any of the terms of this Agreement, the Parties making such allegation shall, except as provided in **Section 14.01** (Notice), provide thirty (30) days written notice to the other Party of the alleged breach; **provided, however**, the foregoing shall not apply to equitable remedies described in **Section 14.23** (Equitable Remedies). The written notice shall contain reasonable description of the underlying facts and an explanation of why the Party providing notice believe those facts constitute a breach. Following transmittal of the notice, the Party alleged to have caused the breach shall be given a reasonable time (as provided in **Section 11.03** (Time to Correct)), not less than ten (10) days to correct or remedy the alleged breach, to meet and confer with the other Party, and/or to participate in mediation with the other Party prior to initiating any litigation or any required administrative proceeding, unless the alleged breach has the potential to cause immediate and irreparable harm, in which case the Party alleging the harm may initiate litigation when seeking equitable remedies as provided in **Section 14.23** (Equitable Remedies) and no compliance with the notice and process provisions of this **Section 11.02**, including the procedures set forth in **Section 11.01** (Intent and Procedure) and this **Section 11.02**, as applicable.

Section 11.03. Time to Correct. The reasonableness of the time afforded to the Party alleged to have breached this Agreement pursuant to **Section 11.02** (Procedure to Commence Dispute Resolution Process) to cure the alleged breach and engage in dispute resolution processes shall be determined by considering the circumstances, including the potential harm, injury, or damages that are or may result from the alleged breach and the extent to which the harm, injury, or damages may worsen with the passage of time.

Section 11.04. Mediation. If there is a failure between the Parties to resolve a dispute on their own, the Parties shall first attempt to mediate the dispute. The Parties shall agree upon a single mediator or, if they cannot agree, shall obtain a list of court-appointed mediators from the Hennepin County, Minnesota District Court Administrator, and select a mediator by alternately striking names until one remains. The Authority shall strike the first name, followed by the Utilities, in that recurring order until one name remains.

Section 11.05. Arbitration. [INTENTIONALLY OMITTED.]

Section 11.06. Right of Setoff. [INTENTIONALLY OMITTED.]

Section 11.07. Litigation if Dispute not Resolved. Subject to the right to initiate equitable proceedings in accordance with this **Article XI** and **Section 14.23** (Equitable Remedies), if a dispute between the Authority and the Utilities is not resolved by the conclusion of mediation proceedings, the Parties may litigate the matter.

Section 11.08. Legal Fees. Each Party will be responsible for their own attorney's fees in connection with a dispute under this **Article XI**.

ARTICLE XII
TERM AND TERMINATION.

Section 12.01. Term of Agreement.

(a) Effective Date. This Agreement is executed and delivered as of the Execution Date; **provided, however,** this Agreement will not be in full force and effect, and Utility Adjustment Construction Work will not commence until the Authority and the Utilities execute, deliver, and affix an effective date to the first Task Order applicable to the Utility Relocation Project that is the subject matter of this Agreement (the “**Effective Date**”).

(b) Term. Unless earlier terminated pursuant to the terms of **Section 12.02** (Termination) below, once the Effective Date is established and this Agreement is in full force and effect, this Agreement will remain in full force and effect until Utility Adjustment Completion (the “**Term**”).

Section 12.02. Termination. Prior to the expiration of the Term, this Agreement may be terminated only as follows:

(a) Voluntary Termination of this Agreement. This Agreement may be terminated at any time for any reason or no reason by the mutual written agreement of the Parties to terminate this Agreement.

(b) Termination by the Authority for Convenience. The Authority will have, at any time during the Term, the right to terminate this Agreement without cause, upon not less than ninety (90) days’ notice to the Utilities if: (i) the Authority elects to suspend the Project or the Utility Relocation Project for more than one hundred eighty (180) days; (ii) the Authority elects to adopt a wind-up plan to terminate the Project or the utility Relocation Project; or (iii) the Authority elects to exercise its powers of eminent domain; **provided, however,** that the Authority will not have the right to terminate this Agreement, including the Task Orders associated herewith, upon the substantial completion of Utility Adjustment Construction Work and commencement of demolition of existing Transmission Line property constituting Utilities Property Interests.

Nothing in this Agreement shall be construed as limiting the Authority’s, or its Member Entities’, ability to exercise its powers of eminent domain.

(c) Termination of Agreement by the Utilities for Good Reason. The Utilities may terminate this Agreement for Good Reason upon not less than ninety (90) days’ prior written notice to the Authority. “**Good Reason**” means:

(i) except as provided in **clause (ii)** below, suspension by the Authority of all or nearly all Utility Adjustment Construction Work for one hundred eighty (180) consecutive days through no act or fault of the Utilities;

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(ii) suspension of all or nearly all Utility Adjustment Construction Work by court or regulatory order or matters of emergency for one hundred eighty (180) days, for any reason through no act or fault of the Utilities; or

(iii) failure or refusal of the Authority to provide reasonable approvals and assistance through which the Utility Adjustment Construction Work must be authorized to proceed and such failure to approve results in a material adverse effect on the Utility Adjustment Construction Work; **provided, however,** such failure or refusal will not constitute Good Reason unless and until the Authority has failed to cure such default within thirty (30) days after delivery of a notice from the Utilities, or, in the case of a curable default which cannot be cured with thirty (30) days, has failed to initiate, within such thirty (30) days, actions reasonably likely to cure such default and to diligently pursue such cure to completion within ninety (90) days after such notice concerning such default.

Section 12.03. Effect of Termination.

(a) **Duties Upon Termination.** If this Agreement is terminated under **Section 12.02** (Termination), the Utilities, subject to the contrary provisions of a court or regulatory order, will promptly complete its wind-up duties and responsibilities hereunder, including the timely compilation and transmittal of reports and timely submittal of billings to the Authority.

(b) **Wind-Up and Cooperation Following Termination as a Result of a Project Termination Decision.** Upon termination of this Agreement pursuant to a termination event, the Authority will promptly and cooperatively assist the Utilities, at the request of the Utilities, with the process of winding-up the Utilities Relocation Project, including notification of appropriate governmental bodies and other third parties, termination of outstanding construction agreements, and termination of other engagements. The Authority and the Utilities will use commercially reasonable efforts to cooperate and complete the wind-up process as expeditiously as possible.

(c) **Costs of Wind-Up.** Costs incurred in connection with termination and wind-up will be deemed Utility Relocation Project Costs that are subject to the invoice process and the funding and payment requirements of this Agreement.

(d) **Termination Payment.** If termination of this Agreement occurs pursuant to **Sections 12.02(a)** (Voluntary Termination of this Agreement), **12.02(b)** (Termination by Authority for Convenience), or **12.02(c)** (Termination of this Agreement by the Utilities for Good Reason), the Utilities will be entitled, in addition to all other amounts due hereunder, regardless of the reason for termination, to payment of all Costs incurred as a consequence of termination and wind-up, including, the Costs reasonably incurred by the Utilities to demobilize its Utilities Relocation Project construction and demolition operations. The Cost of demobilization will include relocation and severance costs incurred with respect to the Utilities employees and Third Party Costs for which the Utilities are contractually or legally obligated to pay.

EXECUTION VERSION**ARTICLE XIII
SURVIVAL.**

Section 13.01. Survival of Terms. If this Agreement terminates for any reason, the provisions of the Recitals and **Articles I** (Definitions, Certain Interpretations, and Utilities Authorized Representative), **III** (Real and Personal Property Interests), **VIII** (Payment of Costs), **X** (Disputes with Contractors and other Third Parties), **XI** (Disputes Among the Utility and the Metro Flood Diversion Authority), **XII** (Term and Termination), **XIII** (Survival), and **XIV** (Miscellaneous) of this Agreement will survive the termination of this Agreement to the extent of the applicable statute of limitations provided under Minnesota law; **provided, however**, that the provisions of **Article IX** (Future Rights and Responsibilities) will survive until all rights and obligations arising from such **Article IX** have been exercised or satisfied. All Exhibits to this Agreement shall survive termination to the extent necessary to implement the provisions of this Agreement that also survive termination.

**ARTICLE XIV
MISCELLANEOUS.****Section 14.01. Notice.**

(a) **Notices Generally.** All notices, requests or other communications required or permitted under this Agreement will be in writing and will be deemed “given”: (i) if delivered in person or by courier, upon receipt by the intended recipient or upon the date of delivery (as confirmed by, if delivered by courier, the records of such courier); (ii) if mailed, upon the date of delivery as shown by the return receipt therefor; or (iii) if delivered by a nationally recognized mail delivery service, upon the date of delivery. Notices must be sent to the addresses of the persons set forth on **Exhibit G** (Notices). Notwithstanding the foregoing, notices of default must be delivered in accordance with clause (i) and by any other means described in clauses (ii)-(iii) above.

(b) **Informal Communications.** Informal communications of a routine nature may be given in such manner as the Parties deem appropriate.

(c) **Designation of Different Addresses and Persons.** A Party may, at any time, by written notice to each other Party, designate different or additional entities or individuals or different addresses for giving of notices, demands or requests to it under this Agreement.

Section 14.02. Assignment. No Party to this Agreement may transfer any interest in whole or in part of this Agreement except as specifically authorized herein, and any such assignment that is made in violation of this **Section 14.02** will be void ab initio, and will be of no legal effect whatsoever. Each Party shall only be permitted to transfer or assign rights or obligations under this Agreement by giving thirty (30) days’ advance written notice pursuant to **Section 14.01** (Notice) to the other Party or Parties, as applicable, of its intent to transfer or assign. Any assignment in compliance with this Agreement shall be binding upon and inure to the benefit of the Parties hereto and the assignee, and their respective successors and assigns.

Section 14.03. Workers’ Compensation. Each Party shall be responsible for injuries or deaths of its own personnel. Each Party will maintain workers’ compensation insurance or self-

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insurance coverage, covering its own personnel while they are providing assistance pursuant to this Agreement. Notwithstanding any other provision of this Agreement, each Party waives the right to pursue a legal action against one of the other Parties for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries are caused wholly or partially by the negligence of any other Party or its officers, employees, or volunteers.

Section 14.04. Insurance. The Utilities shall list the Authority as additional insureds on any insurance policy obtained in connection with the Utility Relocation Project. No Utility Adjustment Work may be done until a certificate of insurance listing the aforementioned entities as additional insureds is produced. An additional insured shall be given notice at least thirty (30) days before an insurance policy on which it is an additional insured is canceled or allowed to expire. In the event that the policy is terminated for any reason and notice has not been previously given to the additional insureds, the formerly insured shall give notice to the additional insureds as soon as is reasonably possible. The Utilities shall not be monetarily or otherwise liable to the Authority for improperly given or omitted notice.

Section 14.05. Indemnification. [INTENTIONALLY OMITTED.]

Section 14.06. Relationships Created. The Parties agree this Agreement does not create any agency, partnership, joint venture, or any other such relationship between and among the Parties. Each of the Authority and each Utility is solely responsible for its own actions and omissions.

Section 14.07. Governing Law and Venue; Waiver of Jury Trial.

(a) **Governing Law and Venue.** This Agreement will be governed by, and construed and enforced in accordance with, the internal laws of the state of Minnesota, exclusive of conflicts of law provisions of any jurisdiction and the principles of comity. The Parties agree and consent that any proceeding seeking to enforce any provision of this Agreement will be instituted and adjudicated solely and exclusively in any state or federal court of competent jurisdiction located in Hennepin County or Ramsey County in the state of Minnesota. Each Party agrees that each such court will have personal jurisdiction over it with respect to such proceeding, and waives any objections it may have, and expressly consents, to such personal jurisdiction.

(b) **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 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 ENTITIES ENTERING INTO THIS AGREEMENT. THIS PROVISION APPLIES ONLY TO SUITS BETWEEN THE UTILITIES AND THE AUTHORITY ARISING OUT OF OR RELATED TO THIS AGREEMENT AND DOES NOT APPLY TO THIRD-PARTY CLAIMS OR SUITS BY

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OR ON BEHALF OF THE PARTIES FOR PROJECT PROPERTY ACQUISITION AND/OR CONSTRUCTION CONTRACT CLAIMS AND DEFENSES.

Section 14.08. Entire Agreement. This Agreement, its Exhibits, any applicable Task Orders, the Preliminary Engineering Services Agreement, and the Encroachment Agreement constitute the entire agreement between the Parties regarding the subject matter thereof, and supersede any prior understandings, oral or written agreements, representations and warranties, and any course of conduct and dealings between the Parties with respect to the subject matter of this Agreement.

Section 14.09. Severability. If any one or more of the provisions contained in this Agreement, or the application thereof to any Party or to circumstances that may arise hereunder, will for any reason be held to be invalid, illegal, or unenforceable in any respect, the remainder of this Agreement will not be affected thereby and will be enforced to the greatest extent permitted by Applicable Law.

Section 14.10. Amendment/Modification. In order to be valid and effective, any modifications or amendments to this Agreement must be in writing and signed and delivered by all Parties.

Section 14.11. Binding Effect. This Agreement will become effective and binding upon its execution and delivery by all of the Parties. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective authorized successors and assigns.

Section 14.12. Counsel Representation. The Parties, having been represented by counsel and have read the contents of this Agreement.

Section 14.13. Headings. The headings of the articles, sections, and subsections of this Agreement are intended for the convenience of the Parties only and will in no way be held to explain, modify, construe, limit, amplify, or aid in the interpretation of the provisions hereof.

Section 14.14. Counterparts. This Agreement may be executed in two (2) or more counterparts, and it will not be necessary that the signatures of all Parties be contained on any one (1) counterpart thereof. Each counterpart will be deemed an original, but all of which together will constitute one (1) and the same instrument. The executed counterparts may be delivered by electronic means and the receiving Party may rely on the receipt of such executed counterpart as if the original had been received.

Section 14.15. Representation of Authority. Each Party signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement and that the Agreement is a valid and legal Agreement binding on such Party and enforceable in accordance with its terms.

Section 14.16. Remedies Cumulative. Any remedies specified in this Agreement shall be in addition to any and all other remedies and causes of action which may be available to the Utilities under Applicable Law or in equity, or both. Remedies will be cumulative and not exclusive.

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Section 14.17. Electronic Signatures. The Parties agree that an electronic signature to this Agreement shall be valid as an original signature of the Party and shall be effective to bind the signatories of this Agreement.

Section 14.18. Federal Lobbying Restrictions. Recipients of federal financial assistance may not pay any person for influencing or attempting to influence any officer or employee of a federal agency, member of Congress, an officer or employee of Congress, or any employee of a member of Congress with respect to the award, continuation, renewal, amendment, or modification of a federal grant, loan, or contract. These requirements are implemented for U.S. EPA in 40 CFR Part 34, which also describes types of activities, such as legislative liaison activities and professional and technical services, which are not subject to this prohibition. Upon award of this contract, Utility shall complete and submit to the Authority the certification and disclosure forms in Appendix A and Appendix B to 40 CFR Part 34, which are attached as **Exhibit E** (Form of Federal Certifications). Utility shall also require all subcontractors and suppliers of any tier awarded a subcontract over \$100,000 to similarly complete and submit the certification and disclosure forms pursuant to the process set forth in 40 CFR 34.110.

Section 14.19. Debarment and Suspension. Utilities certify that they will not knowingly enter into a contract with anyone who is ineligible under the 40 CFR Part 32 to participate in the Project. Suspension and debarment information can be accessed at <http://www.sam.gov>. Utilities represent and warrant that it has or will include a term or conditions requiring compliance with this provision in all of its subcontracts under this Agreement. Upon award of this contract, Utilities shall complete and submit to the Authority, the federal certification form regarding debarment and suspension, which is attached as **Exhibit E** (Form of Federal Certifications).

Section 14.20. Davis-Bacon Act and Other Labor Applicable Law. Utilities shall comply with the following federal labor Applicable Laws:

(i) Davis-Bacon Act, which requires the payment of prevailing wage rates to all laborers and mechanics on construction projects in excess of \$2,000. Utility and the Authority acknowledge and agree that the Davis-Bacon Act shall apply if the Authority is performing Utility Adjustment Construction Work. Utility and the Authority acknowledge and agree that the Davis-Bacon Act shall not apply if any party other than the Authority is performing Utility Adjustment Construction Work.

(ii) The Contract Work Hours and Safety Standards Act, which requires time and one-half pay for overtime hours worked in excess of forty hours in any workweek.

(iii) The Copeland Act (Anti-Kickback Act), which prohibits employers from inducing an employee to give up any part of compensation to which he or she is entitled.

Section 14.21. Civil Rights Obligations. Utilities shall comply with the following, federal non-discrimination Applicable Laws:

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- (i) Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including Limited English Proficiency (“LEP”).
- (ii) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities.
- (iii) The Age Discrimination Act of 1975, which prohibits age discrimination.
- (iv) Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex.
- (v) 40 CFR Part 7, as it relates to the foregoing.
- (vi) Executive Order No. 11246.

Section 14.22. Certification. Utilities shall complete and submit to the Authority, the federal certification form regarding civil rights, which is attached as **Exhibit E** (Form of Federal Certifications).

Section 14.23. Equitable Remedies. Remedies specified pursuant to the terms of this Agreement shall not be exclusive, and may include remedies at law and in equity. The Parties agree that irreparable damage would occur if any of the provisions of this Agreement are not performed, or were threatened not to be performed, in accordance with their specific terms or are otherwise breached or threatened to be breached. Accordingly, the Parties agree that a Party shall be entitled to equitable remedies, including injunctive relief to prevent breaches or further breaches of this Agreement and specific performance to enforce specifically the provisions hereof, in any court of the United States or any state having jurisdiction, this being in addition to any other remedy to which such Party may be entitled at law and in equity. The moving Party seeking an equitable remedy may do so without the necessity of posting bond.

Section 14.24. No Rights or Benefits to Third-Parties. The Parties do not create rights in or grant remedies to any third-party as an intended or incidental beneficiary of this Agreement or create any duty to or standard of care on behalf of any third-party by any covenant, obligation, or undertaking established herein. There will be no incidental third-party beneficiaries to this Agreement and, by way of clarification and not of limitation, no governmental authority, customer, or member of a Party or customer of a Party’s member is an intended or incidental third-party beneficiary hereof.

Section 14.25. Waivers. The terms of this Agreement may be waived and will be binding only upon execution and delivery of a writing signed by the Party to be charged with such waiver. Any such waiver will be effective for the specific purpose for which it was given, and no waiver of any breach or condition of this Agreement will be deemed to be a waiver of any subsequent breach or other condition whether of like or different nature.

[SIGNATURE PAGES FOLLOW]

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IN WITNESS WHEREOF, the governing body of the Metro Flood Diversion Authority has caused this Agreement to be duly executed and delivered by its duly authorized officers as of the Execution Date to be effective as of the Effective Date.

METRO FLOOD DIVERSION AUTHORITY

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

Date: _____

By: _____
Michael Redlinger, Co-Executive Director

Date: _____

By: _____
Robert Wilson, Co-Executive Director

Date: _____

ATTEST:

Dawn Lindblom, Secretary

Date: _____

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IN WITNESS WHEREOF, the Utilities have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the Execution Date to be effective as of the Effective Date.

UTILITIES:

GREAT RIVER ENERGY

OTTER TAIL POWER COMPANY

By _____
Priti Patel

By _____
Timothy J. Rogelstad

Its: VP & Chief Transmission Officer

Its: President

Date: _____

Date: _____

ALLETE, INC., d/b/a MINNESOTA POWER

NORTHERN STATES POWER COMPANY, a Minnesota corporation

By _____
Daniel Gunderson

By _____
Ryan Long

Its: VP Transmission & Distribution

Its: President, NSPM

Date: _____

Date: _____

WESTERN MINNESOTA MUNICIPAL POWER AGENCY

By _____
Terry Wolf

Its: Second Assistant Secretary

Date: _____

EXECUTION VERSION

EXHIBIT A

MAP OF UPSTREAM MITIGATION AREA

EXECUTION VERSION

EXHIBIT B

UTILITIES PROPERTY INTERESTS

EXECUTION VERSION

EXHIBIT C

UTILITY GUIDELINES FOR THE SOUTHERN EMBANKMENT (MFR-023)

EXECUTION VERSION

EXHIBIT D
FORM OF TASK ORDER

[CONTINUED ON NEXT PAGE]



Northern States Power Company, a Minnesota Corporation (“NSPM”)

As the Utilities Representative and authorized agent for the Utilities

Task Order [XX] - Amendment [X]

In accordance with the Master Utilities Relocation Agreement between **Metro Flood Diversion Authority** (“Owner”) and the Utilities, dated as of the Execution Date set forth therein (this “Agreement”), Owner and the Utilities agree as follows:

The Parties agree that in the event of a conflict between prior versions of this Task Order No. [XX] and this Agreement, the terms and conditions in this Agreement shall prevail, provided however, nothing herein shall preclude the Utility Representative from invoicing for work authorized under prior versions of this Task Order and performed prior to effective date of this Agreement, even to the extent such prior work was revised by this Agreement. All other terms and conditions shall remain the same and are hereby ratified and affirmed by the Parties.

1. Background Data

- a) Effective Date of Task Order: [Date]
- b) Authority: Metro Flood Diversion Authority
- c) Vendor: [Name]
- d) Specific Project (title): [Title]
- e) Specific Project (description): [Description 1 line]

2. Services

The services to be provided by the Vendor under this Task Order are as follows (Further details in Exhibit A):

Design and Construction Support:

3. Authority Responsibilities

The Authority has those responsibilities set forth in the Agreement.

4. Additional Services

Additional services that may be authorized or necessary under this task order are: None

5. Task Order Schedule

In addition to any schedule provisions in the Agreement or elsewhere, the Parties shall meet the following schedule:

<u>Service</u>	<u>Estimated Completion Time</u>
[Description]	[Date]

6. Payments

- a) The Budget Cost Proposal is in Exhibit B.
- b) Owner shall pay the Utilities for services rendered as follows:
 - i) Compensation for services in Subtasks shall be on a Time and Material basis in accordance with the Standard Hourly Rates of the Agreement.
- c) The Utility Representative will notify Owner when 80 percent of the subtask budget is expended.
- d) The Utility Representative will submit an amendment for additional compensation when 90 percent of subtask budget is expended or confirm to Owner that this Task Order can be completed for the remaining budget.
- e) The Utility Representative will not perform work beyond 100 percent of a subtask budget without Owner's written authorization.
- f) The terms of payment are set forth in this Agreement.

7. Consultants retained as of the Effective Date of the Task Order

- a) [Details]

8. Other Modifications to the Agreement and Exhibits

Exhibit A – Specific services for each subtask.

Exhibit B – Budget Cost Proposal

9. Attachments

None.

10. Other Documents Incorporated by Reference

None.

11. Terms and Conditions

Execution of this Task Order by Owner and the Utility Representative on behalf of the Utilities shall make it subject to the terms and conditions of this Agreement (as modified above). The Utilities are authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

In the event of a conflict between the terms and conditions of this Task Order and this Agreement, the terms and conditions of this Agreement shall prevail.

The Owner and the Utilities acknowledge and agree that this Task Order may be executed by electronic signature, which shall be considered an original signature for all purposes and shall have the same force and effect as an original signature.

EXECUTION VERSION

The Effective Date of this Task Order is (date).

AUTHORITY:

Metro Flood Diversion Authority

Date: _____

UTILITIES:

Great River Energy, a cooperative organized and existing under the laws of the State of Minnesota; Allete, Inc., a corporation organized and existing under the laws of the State of Minnesota d/b/a Minnesota Power; Northern States Power Company, a corporation organized and existing under the laws of the State of Minnesota, d/b/a Xcel Energy; Otter Tail Power Company, a corporation organized and existing under the laws of the State of Minnesota; and Western Minnesota Municipal Power Agency, a municipal corporation and political subdivision of the State of Minnesota.

By: Northern States Power Company, a Minnesota corporation, as the Utility Representative and authorized agent for the Utilities

By: _____

Its: _____

Date: _____

Exhibit A. Specific Services for Each Subtask

EXECUTION VERSION

Exhibit B - Budget Cost Proposal

EXHIBIT E

FORMS OF FEDERAL CERTIFICATIONS

1. Exhibit E-1 Certification Regarding Federal Lobbying
2. Exhibit E-2 Certification Regarding Debarment, Suspension, and Other Responsibility Matters
3. Exhibit E-3 Assurance of Compliance – Civil Rights Certificate

EXHIBIT E-1

CERTIFICATION REGARDING FEDERAL LOBBYING

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in any award documents for any of its subcontractors at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subcontractors shall certify and disclose accordingly.

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

Company/ Entity Name: _____

Signed: _____

Its: _____

Date: _____

PLEASE RETURN TO:
Metro Flood Diversion Authority
P.O. Box 2806
Fargo, ND 58108-2806

EXHIBIT E-2

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND OTHER RESPONSIBILITY MATTERS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON PAGE 2)

- (1) The official representative of the party contracting with the Metro Flood Diversion Authority certifies to the best of its knowledge and belief that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application had one or more public transactions, including contracts (Federal, State, or local) terminated for cause or default.
 - (e) Are not presently debarred, suspended, declared ineligible or voluntarily excluded from performing work for the State of North Dakota, the State of Minnesota, the Metro Flood Diversion Authority or any of its Member Entities.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this proposal.
- (3) The Official signing this certificate has been and is duly authorized to sign this certificate on behalf of the entity or entities which intend to enter into a contract with the Metro Flood Diversion Authority.

[SIGNATURE PAGE FOLLOWS]

EXECUTION VERSION

Official Business Name:

By: _____
Name and Title of Authorized
Representative

Signature of Authorized Representative

Date: _____

PLEASE RETURN TO:
Metro Flood Diversion Authority
P.O. Box 2806
Fargo, ND 58108-2806

EXECUTION VERSION**INSTRUCTIONS FOR CERTIFICATION**

1. By signing and submitting this certification, the prospective contracting party is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective contracting party shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Metro Flood Diversion Authority's (the "Authority") determination whether to enter into this transaction. However, failure of the prospective contracting party to furnish a certification or an explanation shall disqualify such person from entering into contracts with the Authority.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the Authority determined to enter into a contract with the prospective contracting party. In order to qualify for participation in the U.S. EPA WIFIA program the Authority is required to obtain this certification. If it is later determined that the prospective contracting party knowingly rendered an erroneous certification, in addition to other remedies available to both the Authority and the Federal Government, the Authority may terminate this transaction for cause or default.
4. The prospective contracting party shall provide immediate written notice to the Authority to which this Certificate is submitted if at any time the prospective contracting party learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Authority for assistance in obtaining a copy of those regulations (13 CFR Part 145).
6. The prospective contracting party agrees by submitting this certification that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Authority.
7. The prospective contracting party further agrees by submitting this certification that it will require a "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions," from all sub-contractors without

EXECUTION VERSION

modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A contracting party in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A contracting party may decide the method and frequency by which it determines the ineligibility of its principals.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a contracting party is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a contracting party in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Authority may terminate this transaction for cause or default.

EXHIBIT E-3

ASSURANCE OF COMPLIANCE – CIVIL RIGHTS CERTIFICATE

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

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

The undersigned assures that it will comply with:

1. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, or national origin including limited English proficiency (LEP);
2. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against persons with disabilities;
3. The Age Discrimination Act of 1975, as amended, which prohibits age discrimination;
4. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex;
5. 40 CFR Part 7, as it relates to the foregoing; and
6. Executive Order No. 11246. The undersigned understands that this Assurance is binding on the undersigned, its successors, transferees, and assignees at any time during which federal financial assistance is provided to the Project.

The undersigned will ensure that all contractors, subcontractors, or others with whom it arranges to provide services or benefits are not discriminating in violation of items 1-6. Otherwise, the contracts for services can be terminated for cause and the undersigned can be declared ineligible to contract for the Project.

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

Signature of Authorized Official

Title

Print Name

Name of Institution or Agency

Date

Street

EXECUTION VERSION

PLEASE RETURN TO:
Metro Flood Diversion Authority
P.O. Box 2806
Fargo, ND 58108-2806

City, State, Zip Code

Email Address

EXHIBIT F**AUTHORITY INVOICING REQUIREMENTS**

In addition to the covenants of the Authority and the Utilities pursuant to **Section 8.04** (Invoicing by Utility Representative), which are incorporated by reference herein, the Utilities will provide the following with respect to invoices submitted by the Utility Representative:

The invoices submitted by the Utility Representative on behalf of the Utilities must be detailed and precise, meaning that invoices must clearly indicate costs and expenses for the billing period month and include at least the following information:

- (i) Utility Representative name and address;
- (ii) Each Utility's federal employer identification number;
- (iii) Each invoice will have a unique invoice number;
- (iv) The billing period for which the invoice is rendered;
- (v) Description of Work performed and the costs and expenses incurred in connection with the Work during the billing period;
- (vi) With respect to salary and labor charged, the position name, billing rate, and hours worked by each person involved in the activity charged;
- (vii) The total amount of the costs and expenses billed for the invoice;
- (viii) Total amount of costs and expenses billed by the Utility Representative to date, including the preceding invoices rendered prior to the current billing; and
- (ix) Remittance method for the payment of invoices, with applicable information provided for either electronic or paper delivery of payments.

The Utility Representative will submit copies of the invoice to:

Bakkegardk@FMDiversion.gov and APInvoicesFMDiv@jacobs.com

EXHIBIT G

NOTICES

IF TO THE AUTHORITY:

**METRO FLOOD DIVERSION
AUTHORITY, a political subdivision of the
state of North Dakota
4784 AMBER VALLEY PARKWAY
SOUTH, SUITE 100
FARGO, NORTH DAKOTA 581041
ATTENTION: EXECUTIVE DIRECTOR**

WITH MANDATORY COPIES TO:

**JACOBS ENGINEERING GROUP, INC.
64 4TH STREET NORTH, SUITE 300
FARGO, NORTH DAKOTA 58102**

**OHNSTAD TWICHELL PC
444 SHEYENNE STREET, SUITE 102
WEST FARGO, NORTH DAKOTA 58078
ATTENTION: KATHRYN J. MCNAMARA**

IF TO THE UTILITIES:

IF TO GREAT RIVER ENERGY:

**GREAT RIVER ENERGY
12300 ELM CREEK BOULEVARD
MAPLE GROVE, MINNESOTA 55369-
4718
ATTENTION: PRITI PATEL; VP &
CHIEF TRANSMISSION OFFICER**

WITH A MANDATORY COPY TO:

**GREAT RIVER ENERGY
12300 ELM CREEK BOULEVARD
MAPLE GROVE, MINNESOTA 55369-
4718
ATTENTION: GENERAL COUNSEL**

IF TO MINNESOTA POWER:

**MINNESOTA POWER
30 WEST SUPERIOR STREET
DULUTH, MINNESOTA 55802
ATTENTION: CHIEF OPERATING
OFFICER**

WITH A MANDATORY COPY TO:

**MINNESOTA POWER
GENERAL COUNSEL
30 WEST SUPERIOR STREET
DULUTH, MINNESOTA 55802**

[CONTINUED ON NEXT PAGE]

EXECUTION VERSION

**IF TO WESTERN MINNESOTA
MUNICIPAL POWER AGENCY:**

WESTERN MINNESOTA MUNICIPAL
POWER AGENCY
129 2ND STREET NW
ORTONVILLE, MINNESOTA 56278
ATTENTION: SCOTT HAIN

WITH A MANDATORY COPY TO:

MISSOURI RIVER ENERGY SERVICES
3724 WEST AVERA DRIVE
P.O. BOX 88920
SIOUX FALLS, SD 57109-8920
ATTENTION: TERRY J. WOLF

IF TO OTTER TAIL POWER COMPANY:

OTTER TAIL POWER COMPANY
215 S. CASCADE ST.
P.O. BOX 496
FERGUS FALLS, MINNESOTA 56538-
0496
ATTENTION: VICE PRESIDENT,
ASSET MANAGEMENT

WITH A MANDATORY COPY TO:

ASSOCIATE GENERAL COUNSEL
OTTER TAIL POWER COMPANY
215 S. CASCADE ST.
P.O. BOX 496
FERGUS FALLS, MINNESOTA 56538-
0496

**IF TO NORTHERN STATES POWER
COMPANY:**

NORTHERN STATES POWER
COMPANY, A MINNESOTA
CORPORATION
414 NICOLLET MALL, 414-6
MINNEAPOLIS, MINNESOTA 55401
ATTENTION: SANDRA JOHNSON,
VICE PRESIDENT TRANSMISSION

WITH A MANDATORY COPY TO:

NORTHERN STATES POWER
COMPANY, A MINNESOTA
CORPORATION
401 NICOLLET MALL, 08
MINNEAPOLIS, MINNESOTA 55401
ATTENTION: GENERAL COUNSEL



METRO
FLOOD
DIVERSION
AUTHORITY

Diversion Board of Authority Meeting

July 25, 2024

Contracting Actions

DA Board Approval Contract Actions

(ACTION)



Description	Company	Budget/ Estimate (\$)
<p>Task Order 01, Amendment 0 – Utility Relocation – This is a new task order to relocate the 345kV overhead transmission line. This task order includes engineering design, legal fees, materials, and construction costs associated with the relocation of the transmission line and two new structures to obtain the required clearance over the southern embankment reach SE-4.</p>	<p>Monticello-Bison Transmission Project (CapX 2020)</p>	<p>\$1,897,429</p>

Co-Executive Director Contracting Recommendation



The PMC has prepared the following Contract Action(s):

Monticello-Bison Transmission Project (CapX2020) Task Order 01 Amendment 0 345kV Line Modification	\$1,897,429.00
<ul style="list-style-type: none"> • Line modification to CapX overhead 345kV transmission line. 	

1 Recommendation for action:

The Co-Deputy Executive Director has reviewed and recommended approval of the following Contract Action(s).

2 Summary of Contracting action:

Per the contract review and approval procedures that were adopted by the Metro Flood Diversion Authority on November 10, 2016, and amended December 16, 2021, the Owner's Program Management Consultant (PMC) or Engineer of Record (EOR) is directed to prepare task orders and task order amendments for existing Master Utility Relocation Agreements (MURA) and submit them to the Co-Deputy Executive Director and Member Entity Technical Representative (METR) for review. The METR will provide comments to the PMC who will combine the comments for the Director of Engineering. The Director of Engineering (DOR) will review and provide recommendations to the Co-Deputy Executive Director for review and action.

3 Reason why it is required

This task order is for modifying CapX overhead 345kV transmission line to meet new clearance requirements above the SE-4 flood diversion embankment. Project scope is for replacement of structure 193 and 194 with 160 foot steel tangent structure, utilizing existing designs, 15 feet east of the original structures. New structures will raise Line 0955 conductor to meet the CAPX2020 criteria for clearance of 34'. Construction work is to be completed and line re-energized by April 30, 2025.

The budget breakout for spending of this work is as follows:

- \$396,000 being transferred from PESA to Task Order 01 – already approved with anticipated spend in 2024.
- An additional \$104,000 being approved as part of Task Order 01 – bringing the total anticipated spend in 2024 to \$500,000.
- \$1,397,429 to be approved as part of Task Order 01 – anticipated spend in 2025.

4 Background and discussion

CH2M, now Jacobs, has served as the Program Consultants (PMC) to the OWNER since November of 2011, with primary responsibilities to plan and implement the PM Area Diversion (the PROJECT). As such, the OWNER and CONSULTANTS have agreed to enter into a Task Order focused on managing and

reporting on the various aspects of the PROJECT. The PMC reports directly to the Co-Deputy Executive Director.

In accordance with Article II of the Master Utility Relocation Agreement ("Agreement"), between the Metro Flood Diversion Authority ("OWNER") and Monticello-Bison Transmission Project, ("CapX2020"), the Authority and CapX2020 agree to the above:

See the table below for a summary of this task order’s contracting history, including this amendment.

Table 1 - Summary of Contracting History and Current Contract Action

Original Agreement or Amendment	Budget Change \$	Original or Revised Budget \$	Agreement Execution Date	Project Completion	Comments
TO01-A0	1,897,429.00	1,897,429.00	7/11/2024	4/30/2025	345kV Line modification

5 Financial considerations:

The Budget Cost Proposal is attached or in the Task Order.

Cost account code is required for accounting purposes to match the invoicing in Source for the Diversion Authority to reconcile.

Table 2 - Summary of Annual Budget Allocation – Per Year

Original Agreement or Amendment	Cost account code	Estimated Cost (\$)	Budget Allocated (\$)	Actual Paid to date (\$)	Budget Remaining (\$)	Comments
2024	CN-4010	500,000.00	500,000.00	0.00	500,000.00	PESA Funds are rolled into TO-1
2025	CN-4010	1,397,429.00	1,397,429.00	0.00	1,397,429.00	

6 Attachments:

- Task Order 01 Amendment 0

The PMC prepared this contracting action and feels the information is accurate, complete, and ready for Co-Deputy Executive Director review.

Recommendation: Kris Bakkegard, Director of Engineering recommends approval of this contract.

The Co-Deputy Executive Director has approved in Workflow and granted permission to add his name to the document.

Approved by: Michael Redlinger, Co-Deputy Executive Director

Date: 7/15/2024

Memorandum



To: Chair Carlson & Members of the Metro Flood Diversion Board of Authority
From: Co-Executive Directors Robert Wilson & Michael Redlinger
Date: July 17, 2024
Re: Approve MFDA Executive Director Position Description

Scheduled for consideration at the July 25th Board of Authority meeting is the updated Executive Director position description. This updated description reflects board member, staff and consultant input received over the past two months.

Upon approval this position description will be used as part of the recruitment, screening and selection process for the next Executive Director search scheduled to begin shortly.

Recommended Action: Approve updated Executive Director position description.

Job Description



JOB TITLE: Executive Director

APPROVED BY: Diversion Authority Board on _____.

The Executive Director is the chief administrative officer (CAO) of the Metro Flood Diversion Authority (MFDA), reporting directly and responsible to the Diversion Authority (DA) Board for the efficient and effective day-to-day administration and leadership of the FM Metro Area Flood Control Diversion Project (Project).

The MFDA is a political subdivision of the State of North Dakota and operates as a joint-powers entity.¹ The MFDA consists of the following Member Entities: the City of Fargo (ND); the City of Moorhead (MN); Cass County (ND); Clay County (MN); and the Cass County Joint Water Resource District (ND). The Board of Authority serves as the governing body of the MFDA; its members are appointed from the Member Entities' governing bodies, and the DA Board also includes one (1) member from the West Fargo City Commission.

ROLES AND RESPONSIBILITIES

The Executive Director performs and is responsible for a wide range of duties and tasks as described in the MFDA Joint Powers Agreement. These responsibilities, and others include, but are not limited to, the following:

- Overall management of all affairs and functions of the Project under the jurisdiction of the Diversion Authority Board.
- Supervision of all MFDA administration and related functions as directed by the DA Board, including all systems related to personnel, budget, purchasing, management, communications, and planning.
- MFDA purchases, including procurement of services as directed by the DA Board and pursuant to purchasing regulations established by the DA Board.
- Administration of various agreements and contracts approved and entered into by the DA Board.
- Attendance at DA Board meetings, including recommendations to the DA Board for the adoption of measures necessary efficiently administer the MFDA's affairs
- Informs and educates the DA Board on all aspects of the Project, serving as an informed ombudsman for the Project.
- Strategically lead, problem-solve and coordinate the efforts of a diverse group of employees, contractors, consultants, and partner agencies to complete construction of the Fargo Moorhead Flood Diversion Project.

¹ The MFDA was created by the Joint Powers Agreement, which sets forth the duties and responsibilities of the Executive Director. See Article XIV of the Joint Powers Agreement, available at fmdiversion.com.

- Upon construction completion, successfully transition the Project to an efficient and reliable operations and maintenance phase, ensuring all permitting and compliance requirements are met in a systematic, orderly, and well-planned manner.
- Development of an annual budget that is responsive to the desired policy outcomes of the DA Board
- Monitoring of Project financial performance throughout the year.
- Educate, inform, and be responsive to policy direction provided by the DA Board.
- Ensure compliance and enforcement of the Joint Powers Agreement (JPA) creating the Metro Flood Diversion Authority; the Project Agreement directing the construction and operation of the Diversion Channel by the P3 Contractor; resolutions of the DA Board; and other legal agreements between member entities.
- Serve as the MFDA's ambassador and champion the MFDA in public and stakeholder meetings and events.
- Serve as public information officer for the MFDA and primary spokesperson for project activities with the media, public, and stakeholders.
- Organize and direct all aspects of the government relations; advocate for the project with local, state, and federal staff and elected officials; serve as the MFDA's legislative liaison with local, state, and federal officials.
- Perform such other management and administrative duties as directed from time to time by the DA Board.
- Manage and direct the Program Management Consultant and other consultant resources.
- Develop and implement administrative procedures for the MFDA as directed by the DA Board.

CORE COMPETENCIES

- A skilled communicator who is accessible, responsive, and receptive to input from employees, board members, and a wide range of stakeholders.
- A demonstrable work history of developing employee talent.
- A strategic-thinker able to develop and execute a long-term vision to transition various consultant-delivered services to more efficient employee-delivered services.
- Strong and effective interpersonal skills.
- Data analysis, project design, and project management skills.
- Demonstrated ability to maintain focus on critical project issues and make effective decisions to move the project forward.
- Identify expertise and innovative solutions necessary to administer project tasks; lead a diverse team of consultants, contractors, entity staff, and implement the project.
- Commitment to completing projects for the public good on time and on budget.
- Ability to translate strategic plans into detailed goals and objectives. Capable of big picture thinking while executing project detail.
- Strong collaboration and negotiation skills coupled with resiliency, persistence, and patience.

EXPERIENCE

- Extensive leadership and public administration experience.
- Project management experience with a strong track record of coordinating financial, legal, and engineering components.

- Extensive experience working with contracted engineering consultant services. The ideal candidate will have experience ending complex contracted consulting services at the conclusion of a project.
- Demonstrated mastery of candidate's field and a work history of increasingly complex and demanding projects.
- Experience with public speaking, presentations, and media relations.
- Experience with multi-jurisdictional stakeholder briefings and involvement.
- Experience implementing projects under the policy direction of a Board of Directors or elected officials using a mixed team of consultants and entity staff.

MINIMUM QUALIFICATIONS

- 10-15 years local public sector or related leadership experience.
- Preferred Masters of Public Administration.

Closing Date: _____.

The FM Diversion Authority is an Equal Opportunity and At Will Employer.

Memorandum



To: Chair Carlson & Members of the Metro Flood Diversion Board of Authority

From: Co-Executive Directors Robert Wilson & Michael Redlinger

Date: July 25, 2024

Re: Approve MFDA Executive Director Search Process Schedule of Events

Upon approval of the MFDA Executive Director position description, the Co-Executive Directors propose a schedule of events for the advertising, recruitment, candidate screening, and appointment of the next Executive Director for the Metro Flood Diversion Authority.

The proposed schedule of events is intended to provide sufficient time for the Cass County Human Resources Department and the Co-Executive Directors to comprehensively advertise the position and perform screening and due diligence activities prior to presenting candidates for interview consideration to the Board of Authority.

The Co-Executive Directors will provide regular updates and a detailed analysis throughout the various phases of the search process.

Proposed Executive Director Search Process Schedule of Events

Search Process Activity	Dates
Approve Executive Director Position Description	July 25, 2024
Position Advertising & Recruitment	July 26, 2024 – September 6, 2024
Applicant Screening & Identification of Preferred Candidates <ul style="list-style-type: none"> • Background Check • Leadership Assessment • Writing and/or Presentation Exercise • Other Due Diligence Activities 	September 9, 2024 – September 20, 2024
Confidential/Non-Public Candidate Interviews per N.D.C.C.	September 30, 2024 – October 4, 2024

Identification of Public Finalist Candidate(s) per N.D.C.C.; Additional Background Screening & Due Diligence of Preferred Candidate(s); & Conditional Offer of Employment	October 7, 2024 – October 18, 2024
Appointment of Preferred Candidate	October 24, 2024 Board of Authority Meeting
Executive Director Start of Employment	TBD - December 1, 2024 – January 15, 2025

Recommended Action: Approve the proposed schedule of events for the Executive Director search process and authorize the Co-Executive Directors to proceed with the search process in accordance with the approved schedule.

Attachment: Executive Director Position Description

Memorandum



To: Chair Carlson & Members of the Metro Flood Diversion Board of Authority
From: Co-Executive Directors Robert Wilson & Michael Redlinger
Date: July 25, 2024
Re: Approve a Request for Proposals (RFP) for an MFDA Classification & Compensation Study

Attached for your consideration and approval is a Request for Proposals (RFP) for consultant services to conduct a Classification & Compensation Study for the Metro Flood Diversion Authority organizational structure. The purpose of this RFP and study will be to evaluate and recommend a compensation model for the MFDA organization and its employees that will be utilized by the new Executive Director. A key objective of this study is to analyze the current compensation approach within the organization and recommend a new structure that is consistent and predictable for future compensation decision-making.

Recommended Action: Approve the proposed MFDA Classification & Compensation Study Request for Proposals (RFP) and authorize the Co-Executive Directors to proceed with the RFP process.

Attachment: MFDA Classification & Compensation Study RFP



Request for Proposals (RFP)

Professional Consultant Services for:
A Classification & Compensation Study

Proposals Due: August 30, 2024 by 4:30 p.m. CDT

To the attention of:

Michael Redlinger
Co-Executive Director, Metro Flood Diversion Authority
City Administrator, City of Fargo
Fargo City Hall
City Administrator's Office
225 4th St. N.
Fargo, ND 58102

Email: MRedlinger@FargoND.gov

INTRODUCTION & STATEMENT OF PURPOSE:

The Metro Flood Diversion Authority (MFDA) is issuing a Request for Proposals (RFP) for qualified consultants to conduct a comprehensive classification and compensation study and analysis for the MFDA organization. The MFDA currently employs 6.0 full time equivalent positions (FTEs) in six unique job classifications.

SCOPE OF SERVICES:

The scope of work presented below is representative, although not exhaustive, of tasks intended to be assigned by the MFDA to the consultant. These tasks include:

- Evaluate the present salary structure of the MFDA as compared to the specific job market in the Upper Midwest for comparable positions in the public sector.
- Review all current job classifications, confirm and recommend changes to the hierarchical order of jobs using the evaluation system proposed by the consultant.
- Establish appropriate benchmarking standards and conduct salary surveys as required for similar positions as required, with an emphasis on local government, water management district, and/or other relevant public works projects.
- Identify potential pay compression issues between incumbent positions and provide potential solutions.
- Analyze and recommend changes to the present compensation matrix and structure to meet the market analysis. This recommendation may include recommendations for individual positions as well.

THE PROPOSAL:

- A. Responses must provide complete information as outlined in the RFP. An electronic or mailed copy of the proposal shall be submitted by **4:30 p.m. CDT on August 30, 2024**. The proposal should reference “Metro Flood Diversion Authority Classification & Compensation Study” and be sent to one of the following addresses:

U.S. Mail: Michael Redlinger
Co-Executive Director, Metro Flood Diversion Authority
City Administrator, City of Fargo
Fargo City Hall
City Administrator’s Office
City of Fargo
225 4th St. N.
Fargo, ND 58102

Email: MRedlinger@FargoND.gov

- B. The MFDA will not reimburse any expenses incurred by the consultant submitting a response, including but not limited to expenses associated with the preparation and submission of the response and attendance at interviews.
- C. The MFDA reserves the right to accept one, accept more than one, or reject any and all proposals; to request additional information from any or all Proposers; and to suggest modifications to the terms and conditions offered by a Proposer.

Proposal Content

Proposals must contain the following elements:

- A. *Title Page*** which contains the name of the proposing consultant, its address, telephone number, name of the contact person, and the date of submittal.
- B. *Consultant Profile*** that contains the consultant's organizational history and credentials, including:
 - Personnel whom will be assigned to the project and a description of their responsibilities, experience and relevant qualifications.
 - The experience of the consultant in providing previous classification and compensation studies for local units of government.
- C. *A Comprehensive Response to the MFDA's Requested Scope of Services***, including:
 - A clear understanding of the RFP and requested services.
 - An overview of the consultant's approach to meeting the goals, performance expectations, and desired outcomes of the MFDA Board.
- D. *Rates, Fees and Charges***

Proposals must provide a complete description of the rate, fee, and charge structure proposed for the services.
- E. *Attachments***
 - The resumes or CVs of the personnel to be assigned to the project.
 - A draft engagement letter and/or service agreement.

EVALUATION AND SELECTION PROCESS:

The MFDA Co-Executive Directors will review all submitted proposals pursuant to the RFP and may choose to conduct in-person or telephone interviews. After this initial screening process, the Co-Executive Directors will make a recommendation (or recommendations) to the Metro Flood Diversion Board of Authority. At its discretion, the MFDA Board may or may not conduct additional interviews with respondents.

At the conclusion of the process, the MFDA Board intends to enter into a professional services agreement with a preferred consultant. Based upon a review of the proposals and any other evaluation as may be necessary, the Co-Executive Directors will request that the MFDA Board approve the selection of the consultant determined to be the most responsive and responsible. Approval of the recommendation and authorization of a professional services agreement is at the sole discretion of the MFDA Board.

SCHEDULE:

Approval of RFP	July 25, 2024
Distribute/Advertise RFP	July 26, 2024 – August 23, 2024
RFP Due Date	DUE August 30, 2024 by 4:30 p.m.*
Interviews (<i>to be determined/scheduled</i>)	September 2024
MFDA Board Approval of Professional Service Agreement(s)	September 26, 2024

**Proposals received after August 30, 2024 by 4:30 p.m. CDT will be considered non-responsive and rejected.*

Member _____ introduced the following resolution and moved its adoption:

ADMINISTRATIVE RESOLUTION TO TAKE IMMEDIATE ACTION TO PREVENT THE UNAUTHORIZED DISCLOSURE OF CONFIDENTIAL AND PRIVILEGED RECORDS, DATA, AND STATEMENTS BY THE FORMER EXECUTIVE DIRECTOR

WHEREAS, during his tenure as a Diversion Authority Board member and as Executive Director, Mr. Joel Paulsen was involved in numerous discussions/meetings with both general and litigation counsel for the Metro Flood Diversion Authority (the “Authority”) regarding, *inter alia*, litigation and negotiation strategies related to the acquisition of the necessary property rights for the Diversion Project, P3 procurement, P3 strategy, negotiations with the Developer, P3 litigation, financing, and Diversion Project permitting and related litigation; and

WHEREAS, Mr. Paulsen, both as a Board Member and as the Executive Director, was involved in numerous executive sessions regarding, *inter alia*, litigation and negotiation strategies related to the acquisition of the necessary property rights for the Diversion Project, P3 procurement, P3 strategy, negotiations with the Developer, P3 litigation, and Diversion Project permitting and related litigation; and

WHEREAS, on April 9, 2024, Mr. Paulsen resigned from the position of Executive Director; and

WHEREAS, on April 11, 2024, Mr. Paulsen’s resignation was accepted by the Diversion Authority Board; and

WHEREAS, following Mr. Paulsen’s resignation, the Authority discovered that Mr. Paulsen had disclosed confidential and attorney-client privileged communications to the Developer concerning ongoing claims and disputes between the Authority and the Developer on the Project; and

WHEREAS, the Authority further discovered that Mr. Paulsen acted beyond the scope of his authority in the context of settlement negotiations with the Developer (a copy of this correspondence is attached as **Exhibit A**); and

WHEREAS, the Authority also discovered that, during his tenure as Executive Director, Mr. Paulsen sought to use his position for personal financial gain and launch a new consulting business specializing in P3 projects with employees of the Developer and D&C Contractor (a copy of this correspondence is attached as **Exhibit B**); and

WHEREAS, Mr. Paulsen took these actions in violation of the terms of his employment-related agreements with the Authority; and

WHEREAS, Mr. Paulsen’s actions also violate numerous North Dakota and federal statutes, including statutes prohibiting the disclosure of trade secrets, see N.D.C.C. § 47-25.1-01-04 and the federal Defend Trade Secrets Act, Pub. L. 114-153, and statutes establishing a fiduciary duty of loyalty that Mr. Paulsen owes to the Authority, see N.D.C.C. § 34-02-14; and

WHEREAS, Co-Deputy Executive Director Robert Wilson sent to Mr. Joel Paulsen and his attorney a letter dated July 10, 2024, advising him of the requirements to maintain confidential and privileged information (a copy of the letter is attached as **Exhibit C**); and

WHEREAS, in the matter of *Cass County Joint Water Resource District v. Robert R. Askegaard, et al.*, Case No. 09-2023-CV-00109, in District Court in Cass County, North Dakota, Mr. Paulsen was recently disclosed as an expert witness who:

“will provide testimony as to all matters for which he acquired knowledge as a civil engineer serving as a director on the Board of Directors for the Metro Flood Diversion Authority, as a Member of the Governor Task Force on the FM Diversion Project, and as the executive director of the Metro Flood Diversion Authority from 2019 to 2024.” See Paragraph 4 of **Exhibit D**; and

WHEREAS, N.D.C.C. § 12.1-13-01, provides:

A person is guilty of a class C felony if, in knowing violation of a statutory duty imposed on him as a public servant, he discloses any confidential information which he has acquired as a public servant. “Confidential information” means information made available to the government under a governmental assurance of confidence as provided by statute; and

WHEREAS, the Diversion Authority Board is the governing board for the Authority and is the only board/entity that has the authority to determine whether to waive the Authority’s rights regarding the disclosure of confidential information and attorney-client communications; and

WHEREAS, Mr. Paulsen, whether as an individual, a former Board Member, or the former Executive Director, lacks any authority to waive rights held by the Authority; and

WHEREAS, it is in the public’s interest to take immediate action to protect the interests of the taxpayers and the Authority by moving to prevent the unauthorized disclosure of confidential and privileged information by Mr. Paulsen.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Metro Flood Diversion Authority:

1. The Metro Flood Diversion Authority does not waive its attorney-client privileges under Rule 502 of the North Dakota Rules of Evidence, Rule 502 of the Minnesota Rule of Evidence and Rule 502 of the Federal Rules of Evidence regarding any and all of the discussions, materials, and work product the Diversion Authority Board, the former Executive Director, and staff have had, shared, or produced with both general and litigation counsel for the Authority regarding, *inter alia*, litigation strategies related to the acquisition of the necessary property rights for the Diversion Project, P3 procurement, P3 strategy, negotiations with the Developer, P3 litigation, and Diversion Project permitting and related litigation, from the beginning of the Project. This section is to be broadly applied and includes any and all attorney-client communications and work product.

2. The Authority objects to any disclosure of any and all confidential information and authorizes its Co-Deputy Executive Directors and its general and litigation counsel to take whatever action is necessary to protect this privilege up to, and including, referral of any violation of N.D.C.C. § 12.1-13-01 to the Cass County States Attorney’s office.
3. The Diversion Authority Board *does not* waive its right to maintain the confidentiality and privilege associated with any and all Closed Executive Sessions in which Mr. Paulsen participated as either a Board Member or as Executive Director. This section is to be broadly applied and includes any and all Closed Executive Sessions that he may have participated in, whether in person, by phone, or via electronic means.
4. The Diversion Authority Board authorizes its general and litigation counsel to immediately submit a cease and desist letter to Mr. Joel Paulsen’s attorney objecting to disclosure of any confidential information and reserving any rights the Authority may have to commence a civil action regarding any disclosure of confidential information or other violation of law or employment-related agreements by Mr. Paulsen and to seek any monetary damages and attorney fees that arise from the actions of Mr. Joel Paulsen in disclosing said information.
5. This Resolution shall take effect immediately upon adoption.

Dated: July 25, 2024

APPROVED:

Michelle (Shelly) A. Carlson, Chair

ATTEST:

Dawn Lindblom, Secretary

The motion for adoption of the foregoing resolution was duly seconded by Member _____, and upon roll call vote, the following voted in favor thereof: _____.

The following members were absent and not voting: _____. The following members voted against the same: _____. A majority of the members having voted aye, the resolution was declared duly passed and adopted.

Exhibit A

From: +19172970400 Peter McKenna
To: +17017814758 Joel Paulsen (owner)

Confirming letter was sent to MFDA at 9:00am this morning

Participant	Delivered	Read	Played
+17017814758 Joel Paulsen		3/8/2024 9:51:09 AM(UTC-6)	

Status: Read

3/8/2024 9:19:37 AM(UTC-6)

Source Info:
Joels Ipad/mobile/Library/SMS/sms.db : 0x117392E (Table: message, handle; Size: 25128960 bytes)

From: +17017814758 Joel Paulsen (owner)
To: +19172970400 Peter McKenna

Received.

Participant	Delivered	Read	Played
+19172970400 Peter McKenna			

Status: Sent

3/8/2024 10:15:03 AM(UTC-6)

Source Info:
Joels Ipad/mobile/Library/SMS/sms.db : 0x11731EB (Table: message, handle; Size: 25128960 bytes)

From: +17017814758 Joel Paulsen (owner)
To: +19172970400 Peter McKenna

Peter, I just have to tell you how assured I am with Greg Yavicoli. We meet up and had drinks and he's a real asset both for the Authority and for you.

Participant	Delivered	Read	Played
+19172970400 Peter McKenna			

Status: Sent

3/8/2024 5:55:39 PM(UTC-6)

Source Info:
Joels Ipad/mobile/Library/SMS/sms.db : 0x1176FAF (Table: message, handle; Size: 25128960 bytes)

From: +17017814758 Joel Paulsen (owner)
To: +19172970400 Peter McKenna

If you can make the cost escalation issue buried I can make the rebar and Dobson issue go away.

Participant	Delivered	Read	Played
+19172970400 Peter McKenna			

Status: Sent

3/8/2024 5:57:38 PM(UTC-6)

Source Info:
Joels Ipad/mobile/Library/SMS/sms.db : 0x1176CB0 (Table: message, handle; Size: 25128960 bytes)

From: +17017814758 Joel Paulsen (owner)
 To: +19172970400 Peter McKenna

If there is anything else I can help with let me know.

Participant	Delivered	Read	Played
+19172970400 Peter McKenna			

Status: Sent

3/8/2024 5:58:38 PM(UTC-6)

Source Info:
Joels Ipad/mobile/Library/SMS/sms.db : 0x1176A29 (Table: message, handle; Size: 25128960 bytes)

From: +19172970400 Peter McKenna
 To: +17017814758 Joel Paulsen (owner)

Hey Joel, I'm in the car driving home can't really answer you yet but it all sounds good. Thanks for the kind words about Greg. Talk to you very soon.

Participant	Delivered	Read	Played
+17017814758 Joel Paulsen		3/8/2024 5:59:39 PM(UTC-6)	

Status: Read

3/8/2024 5:59:39 PM(UTC-6)

Source Info:
Joels Ipad/mobile/Library/SMS/sms.db : 0x11767B1 (Table: message, handle; Size: 25128960 bytes)

From: +17017814758 Joel Paulsen (owner)
 To: +19172970400 Peter McKenna

Liked "Hey Joel, I'm in the car driving home can't really..."

Participant	Delivered	Read	Played
+19172970400 Peter McKenna			

Status: Sent

3/8/2024 6:00:00 PM(UTC-6)

Source Info:
Joels Ipad/mobile/Library/SMS/sms.db : 0x117641B (Table: message, handle; Size: 25128960 bytes)

From: +17017814758 Joel Paulsen (owner)
 To: +19172970400 Peter McKenna

This would allow us to close on the settlement agreement and move forward. If the tolling agreement expires, I fear we are all in trouble.

Participant	Delivered	Read	Played
+19172970400 Peter McKenna			

Status: Sent

3/8/2024 6:21:46 PM(UTC-6)

Source Info:
Joels Ipad/mobile/Library/SMS/sms.db : 0x117B4B7 (Table: message, handle; Size: 25128960 bytes)

From: +17017814758 Joel Paulsen (owner)
To: +19172970400 Peter McKenna

I know you feel like we are close to a deal. I think we both are working with many difficult people on both our sides. It seems the cost escalation issue is preventing what would be a good agreement for both of us.

The only official word we received was from Javier today asking for an indefinite extension of the tolling agreement. We can't agree to that as our board only authorized us to extend to the 11th. However, if we are close, both John and I could provide a small extension as we discussed today and ask forgiveness from our board. But we will certainly need a final proposal by the next board meeting at the very latest (March 28th) I do appreciate all you have done Peter, I am still hopeful we can get past this and focus on the construction.

Participant	Delivered	Read	Played
+19172970400 Peter McKenna			

Status: Sent

3/11/2024 8:13:51 PM(UTC-5)

Source Info:
Joels Ipad/mobile/Library/SMS/sms.db : 0x1193FAF (Table: message, handle; Size: 25128960 bytes)

From: +19172970400 Peter McKenna
To: +17017814758 Joel Paulsen (owner)

Hey Joel. Do you have a few minutes for a phone call?

Participant	Delivered	Read	Played
+17017814758 Joel Paulsen		4/8/2024 9:36:31 AM(UTC-5)	

Status: Read

4/8/2024 9:36:21 AM(UTC-5)

Source Info:
Joels Ipad/mobile/Library/SMS/sms.db : 0x13C2C95 (Table: message, handle; Size: 25128960 bytes)

From: +17017814758 Joel Paulsen (owner)
To: +19172970400 Peter McKenna

Yes, give me a call

Participant	Delivered	Read	Played
+19172970400 Peter McKenna			

Status: Sent

4/8/2024 9:36:43 AM(UTC-5)

Source Info:
Joels Ipad/mobile/Library/SMS/sms.db : 0x13C2A63 (Table: message, handle; Size: 25128960 bytes)

Exhibit B

From	To	Body	Status	Timestamp: Date	Timestamp: Time
+17017814758 Joel Paulsen	+17014125136 Dylan Brown	Been hearing good things on your work! You a stud!	Sent	1/5/2022	1/5/2022 7:46:48 PM(UTC-6)
+17014125136 Dylan Brown	+17017814758 Joel Paulsen (owner)	Don't believe everything you hear 🤔🤔	Read	1/5/2022	1/5/2022 7:53:54 PM(UTC-6)
+17014125136 Dylan Brown	+17017814758 Joel Paulsen (owner)	Who is telling you this	Read	1/5/2022	1/5/2022 7:54:01 PM(UTC-6)
+17017814758 Joel Paulsen	+17014125136 Dylan Brown	Coming from multiple sources within the DA! 🤔	Sent	1/5/2022	1/5/2022 7:55:32 PM(UTC-6)
+17014125136 Dylan Brown	+17017814758 Joel Paulsen (owner)	Well hot damn!! Glad to hear they are happy. Is it David?	Read	1/5/2022	1/5/2022 8:59:15 PM(UTC-6)
+17017814758 Joel Paulsen	+17014125136 Dylan Brown	Yeah, Kris told me some good news as well.	Sent	1/5/2022	1/5/2022 9:04:01 PM(UTC-6)
+17014125136 Dylan Brown	+17017814758 Joel Paulsen (owner)	Good news?!?! Am I getting a raise!\$?! Haha	Read	1/5/2022	1/5/2022 9:27:59 PM(UTC-6)
+17017814758 Joel Paulsen	+17014125136 Dylan Brown	Not for me to influence but, take it up with ASN! Oh yeah, your a contract employee...🤔	Sent	1/5/2022	1/5/2022 9:30:49 PM(UTC-6)
+17014125136 Dylan Brown	+17017814758 Joel Paulsen (owner)	Yeah not in a good spot...	Read	1/5/2022	1/5/2022 9:31:16 PM(UTC-6)
+17017814758 Joel Paulsen	+17014125136 Dylan Brown	So change it. After this project we are going global. Look out for you, not a company. Guys like you make change, companies don't, big money in change. I got plans son!	Sent	1/5/2022	1/5/2022 9:33:32 PM(UTC-6)
+17014125136 Dylan Brown	+17017814758 Joel Paulsen (owner)	Appreciate the comments, I tend to agree. So there could be a change someday. And keep me in tune with your plans!!!	Read	1/5/2022	1/5/2022 9:34:59 PM(UTC-6)

From	To	Body	Status	Timestamp: Date	Timestamp: Time
+17017814758 Joel Paulsen	+17014125136 Dylan Brown	Dude, your a core of my plan. We need good, reliable people with American P3 experience. Politics, finance, and communications along with a track record of success will be a money printing machine..	Sent	1/5/2022	1/5/2022 9:38:01 PM(UTC-6)
+17014125136 Dylan Brown	+17017814758 Joel Paulsen (owner)	Hells yeah sounds fun that's for sure! Really loving the big project world	Read	1/5/2022	1/5/2022 9:41:58 PM(UTC-6)
+17017814758 Joel Paulsen	+17014125136 Dylan Brown	Yeah me too, I always dreamed of working on the big projects in ASCE magazine and now we are! This was what I always wanted to do! No offense Red Lake Falls, but this is my passion!	Sent	1/5/2022	1/5/2022 9:43:52 PM(UTC-6)
+17017814758 Joel Paulsen	+17014125136 Dylan Brown	So Confidence is a must if I share something with you. I mean, guys may come and burn your house down if you talk, not sure but certainly a possibility...	Sent	1/5/2022	1/5/2022 9:46:29 PM(UTC-6)
+17017814758 Joel Paulsen	+17014125136 Dylan Brown	Pinkie swear?	Sent	1/5/2022	1/5/2022 9:47:47 PM(UTC-6)
+17014125136 Dylan Brown	+17017814758 Joel Paulsen (owner)		Read	1/5/2022	1/5/2022 9:55:26 PM(UTC-6)
+17017814758 Joel Paulsen	+17014125136 Dylan Brown	So...Boston has reached out and I have had multiple presentations and phone calls with them. Other projects have as well but the Boston and the New York projects are the most feasible in my mind. Boston is a 30 billion and the NY is much more. This is our future Dylan...Houston, Galveston and San Diego have also been in contact.	Sent	1/5/2022	1/5/2022 9:59:08 PM(UTC-6)

From	To	Body	Status	Timestamp: Date	Timestamp: Time
+17017814758 Joel Paulsen	+17014125136 Dylan Brown	Don't tell Stantec a thing!!! You pinkie promised...	Sent	1/5/2022	1/5/2022 10:00:38 PM(UTC-6)
+17014125136 Dylan Brown	+17017814758 Joel Paulsen (owner)	Oh I certainly won't be saying anything to them don't worry!!	Read	1/5/2022	1/5/2022 10:02:12 PM(UTC-6)
+17017814758 Joel Paulsen	+17014125136 Dylan Brown	Liked "Oh I certainly won't be saying anything to them don't worry!! "	Sent	1/5/2022	1/5/2022 10:02:37 PM(UTC-6)
+17014125136 Dylan Brown	+17017814758 Joel Paulsen (owner)	Hey I'm in Arizona for the week but I could do drinks sometime next week?!	Read	3/21/2022	3/21/2022 4:17:50 PM(UTC-5)
+17017814758 Joel Paulsen	+17014125136 Dylan Brown	Ok! Sounds good! Have a good vacation.	Sent	3/21/2022	3/21/2022 4:49:11 PM(UTC-5)

EXHIBIT C



July 10, 2024

VIA ELECTRONIC MAIL

Mr. Joel Paulsen
C/O Mr. Tim O’Keeffe
Partner
O’Keeffe O’Brien Lyson Attorneys

Dear Joel,

I write to remind you of the obligations that you continue to owe the Metro Flood Diversion Authority (the “Authority”) following the separation of your employment with the Authority.

As the former executive director for the Authority, you owe contractual and legal duties to keep private and not to disclose to third parties any proprietary, trade-secret, confidential, privileged, or other non-public information learned through your employment with the Authority. This duty extends to, but is not limited to, information protected from disclosure by attorney-client privilege (which privilege is held by the Authority, not by you), as well as information related to the Authority’s legal strategy and settlement deliberations. You are not authorized to disclose any information described in this paragraph to any third party.

The Cass County Employee Handbook issued on January 1, 2019 (the “Employee Handbook”) (which, pursuant to Section 3.01 of the Interim Memorandum of Understanding dated August 22, 2019 between the Authority and Cass County, governed your employment with the Authority) prohibits you from disclosing the Authority’s confidential information without approval of the Authority. For example, Section 110 of the Employee Handbook (“Confidentiality and Non-Disclosure”) provides that confidential information obtained by you in connection with your employment with the Authority “is to remain confidential and protected from disclosure until such time as we specifically declare such information to be no longer confidential, except as required or provided by law.”

Federal and state law also prohibit you from disclosing the Authority’s privileged, confidential, and trade-secret information. For example, North Dakota law prohibits the disclosure or use of the Authority’s trade secrets, and violation of this statute carries penalties including injunctive relief, monetary damages, and payment of the Authority’s attorneys’ fees. N.D.C.C. § 47-25.1-01-04; *see also* federal Defend Trade Secrets Act, Pub. L. 114-153. Any such disclosure of information entrusted to you by the Authority because of your position would also violate the fiduciary duty of loyalty that you owed to the Authority. *See also* N.D.C.C. § 34-02-14.



We appreciate you taking the appropriate caution to ensure that the Authority's proprietary, trade-secret, confidential, privileged, and other non-public information is not improperly disclosed to third parties. The Authority reserves all rights available to it in this regard. Please let me know if you have any questions regarding this letter or your continuing obligations to the Authority.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. W. Wilson".

Robert W. Wilson

EXHIBIT D

IN DISTRICT COURT, COUNTY OF CASS, STATE OF NORTH DAKOTA

Cass County Joint Water Resource District,
a North Dakota Political Subdivision,

Plaintiff,

vs.

Robert R. Askegaard, and all other persons
unknown claiming an estate or interest in or
lien or encumbrance upon the real property
described in the Complaint, whether as heirs,
legatees, devisees, personal representatives,
creditors or otherwise

Defendants.

Civ. No. 09-2023-CV-00109
Cass County Consolidated
Eminent Domain Cases

**ALL CONSOLIDATED DEFENDANTS’
RULE 16 AND RULE 26
SUPPLEMENTAL DISCLOSURE
OF WITNESS AND EXPERT
WITNESSES**

[¶1] All consolidated Defendants, by and through Cash H. Aaland and Al Baker, their attorneys of record, pursuant to the Court’s December 12, 2023, Revised Rule 16 Order for Consolidated Actions and Rule 26(b)(4) make the following supplemental disclosure.

[¶2] Defendants may call Joel Paulsen, 933 41st Avenue South, Moorhead, Minnesota as a witness who may testify on behalf of Defendants.

[¶3] Joel Paulsen is a civil engineer, former Moorhead City Council Person, former Director of the Metro Flood Diversion Authority, Member of the Governor Task Force on the FM Diversion Project, and executive director of the Metro Flood Diversion Authority from 2019 to 2024.

[¶4] Mr. Paulsen will provide testimony as to all matters for which he acquired knowledge as a civil engineer serving as a director on the Board of Directors for the Metro Flood Diversion Authority, as a Member of the Governor Task Force on the FM Diversion Project, and as the executive director of the Metro Flood Diversion Authority from 2019 to 2024.

[¶5] To the extent that Mr. Paulsen’s testimony will include opinions involving technical, scientific or specialized knowledge typically associated with an expert witness, Defendants reaffirm the notice and disclosure of Joel Paulsen as an expert witness that was provided to Plaintiff’s counsel on May 7, 2024, during the deposition of Joel Paulsen held in the above referenced matter. (Deposition of Joel Paulsen, May 7, 2024, page 95 and 96).

[¶6] In addition to the above described testimony, Plaintiff can expect testimony from Mr. Paulsen consistent with what he provided during his deposition and the attached Declaration of Joel Paulsen.

[¶7] Dated: June 28, 2024.

Attorneys for all consolidated Defendants

/s/ Cash H. Aaland
Cash H. Aaland (ND ID 04686)
Aaland Law Office, Ltd.
415 11th St. S.; P.O. Box 1817
Fargo, ND 58107-1817
Telephone: 701-232-7944
officemanager@aalandlaw.com

/s/ Alan Baker
Alan Baker (ND ID 04122)
415 11th St. S.; P.O. Box 1780
Fargo, ND 58107/1780
Telephone: 701-630-1846
al@elawpros.com

IN DISTRICT COURT, COUNTY OF CASS, STATE OF NORTH DAKOTA

Cass County Joint Water Resource District,
a North Dakota Political Subdivision,

Plaintiff,

vs.

Robert R. Askegaard, and all other persons
unknown claiming an estate or interest in or
lien or encumbrance upon the real property
described in the Complaint, whether as heirs,
legatees, devisees, personal representatives,
creditors or otherwise,

Defendants.

Civ. No. 09-2023-CV-00109
Cass County Consolidated
Eminent Domain Cases

DECLARATION OF JOEL PAULSEN

[¶ 1] I, Joel Paulsen, under penalty of perjury hereby state as follows:

[¶ 2] I graduated from NDSU with a bachelor's degree in civil engineering in 2004. Following graduation, from 2004 until 2019, I was employed as a civil engineer working with water resources engineering, including water infrastructure projects and drainage systems in the Red River Valley, northwestern Minnesota and eastern North Dakota.

[¶ 3] As part of my employment, I worked with various water resource districts and municipalities in the Red River Valley. This work included designing and constructing floodwalls, levees and diversion projects, hydrology and the modeling of water impacts, which I did for the Grafton, North Dakota flood water diversion project.

[¶ 4] Modeling refers to the use of a computer model to determine the impacts of a proposed water infrastructure project to predict where flooding is going to occur, where water is going to move and how fast. The design of water infrastructure projects rely heavily on computer modeling to predict the movement of water and the flood impacts of a particular project.

[¶ 5] My work as an engineer led me to study federal flood plain regulations, flood plain management practice and to become a Certified Flood Plain Manager. I performed flood plain management duties for various jurisdictions in the Red River Valley.

[¶ 6] I was employed as a manager of operations for a global engineering firm, Stantec, when, in 2019, I was selected as the executive director of the Metro Flood Diversion Authority.

[¶ 7] My knowledge of the Metro Flood Diversion Project predates my employment as executive director. In 2016, I ran and was elected to the Moorhead City Council. In my capacity as a Moorhead City Councilperson, I served as a Director on the Metro Flood Diversion Authority Board of Directors and participated in decisions regarding the design and construction of the project.

[¶ 8] Following the 2016 decision of the Minnesota DNR denying the FM Diversion Authority a permit to construct the project, and the subsequent federal court injunction halting project construction, Governor Dayton and Governor Burgum convened a task force to examine different alternatives, options, designs and impacts to find a way forward for the diversion project. I was selected by Governor Dayton to serve and did serve on that governor's task force.

[¶ 9] I was employed as executive director of the Metro Flood Diversion Authority from 2019 until April of this year. My responsibilities included supervising all aspects of the design, construction and future operation of the FM diversion project, to include the acquisition of property for the construction and mitigation of the project.

[¶ 10] From my experience as executive director of the project, as a former Moorhead City Councilperson representing Moorhead as a Director of the Metro Flood Diversion Authority and as a member of the Governor's task force, I know the following facts to be true:

[¶ 11] The Army Corps' preferred plan to protect the FM Metropolitan Area was a smaller river diversion that protected approximately 30 square miles, the impact for which did not require a high hazard dam and upstream staging. That plan, known as the National Economic Development (NED) Plan, was considered by the Army Corps to be the most effective and efficient solution to provide flood protection for the FM Metropolitan Area. The cost of that plan was used to determine the federal cost contribution for the construction of the diversion project. The Army Corps' preferred plan did not include protection for Fargo's tier 1 and tier 2 future development areas. Those future development areas are predominately rural agricultural lands located mostly in the regulatory flood plain.

[¶ 12] Commercial or economic development of lands included in the FEMA or regulatory flood plain must comply with strict regulatory requirements that make those lands considerably more costly to develop and insure than lands located outside the regulatory flood plain.

[¶ 13] The local sponsors of FM Project rejected the Army Corps' preferred plan and instead chose a much larger diversion project on the North Dakota side of the river, currently referred to as Plan B, to protect approximately 80 square miles that included flood protection of Fargo's designated future development areas, and the removal of most of those areas from the regulatory flood plain.

[¶ 14] The purpose of the dam along the southern project area is to reduce the amount of downstream flood impacts that will be caused by the larger locally preferred project. The decision to protect 80 square miles around the FM Metropolitan area, over the 30 square miles protected by the Army Corps' preferred plan, will result in significant downstream impacts that would not have occurred but for expansion of the project.

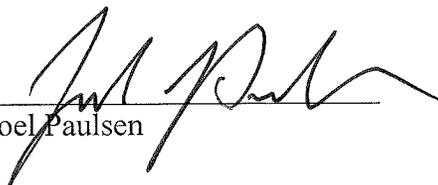
[¶ 15] The planned dam and upstream staging area function to transfer the impacts that would have occurred downstream of the project, to the staging area south of the dam and to mitigate those impacts by timing or staging the release of those waters.

[¶ 16] There is a direct relationship between the number of acres required to store water behind the dam and the amount of floodplain or water storage removed from flooding by Plan B. The more acres removed from flooding in the area protected by the project, the more acres are required to store those waters south of the proposed dam. The larger the area protected by the project, the larger the flooded area south of the dam must be to compensate for the water that would have been stored in the flood plain surrounding the City of Fargo, but is removed from flooding by the project.

[¶ 17] The City of West Fargo is protected by its own U.S. Army Corp river diversion project completed in the 1990s. The cities of Moorhead and Fargo have generally completed permanent protection to a river level of 42 feet or more. Consequently, the impacts of flood protecting the existing developed areas of the cities in the FM Metropolitan area, or 30 square miles, as proposed by the Army Corps' preferred plan, are significantly less than the impacts caused by the current plan.

[¶ 18] I declare, under penalty of perjury of the law of North Dakota, that the foregoing is true and correct.

Signed on this 19th day of June, 2024, at Fargo, County of Cass, State of North Dakota,
United States.


Joel Paulsen



US Army Corps of Engineers®
St. Paul District

FARGO MOORHEAD DIVERSION PROJECT

MONTHLY UPDATE

17 July 2024

1 Diversion Inlet Structure (DIS) – Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 99% complete. Construction completion date will be revised pending outcome of modifications to the gate machinery design. Schedule for remaining work: 2024: Complete operating machinery corrections. 2025: Training and commissioning.

2 Wild Rice River Structure (WRRS) – Construction

Structure includes 2-40 ft. wide Tainter gates. Construction is 98% complete. Construction completion date will be revised pending outcome of modifications to the gate machinery design. Schedule for remaining work: 2024: Complete operating machinery corrections; resolve punchlist items. 2025: Training and commissioning.

3 I-29 Raise – Construction

Includes approximately 4 miles of interstate raise between County Roads 16 and 18. Construction is 99% complete. Final inspection held 3 January 2024; turf establishment inspection pending. Planning for O&M documents and turnover is ongoing.

4 Red River Structure (RRS) - Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 58% complete. Construction completion date is 19 March 2026. Install of east and west embankment preloads ongoing. Tainter gate #1 rotation on 18 July.

5 Drain 27 Wetland Mitigation Project Plantings - Construction

Native plantings 5-year contract awarded 17 May 2023. Remaining seeding is in progress. Completion date for wetland establishment is 1 December 2027.

6 Drayton Dam Mitigation Project Design - Construction

Construction is complete. Turnover to MFDA for O&M occurred on 28 Nov 2023. Willow plantings partially completed; remaining requires low water conditions.

7 Southern Embankment – Reach SE-2A - Construction

Construction is 69% complete. Contractor mobilization to complete work is pending. Scheduled completion date is 13 October 2024.

8 FY2024 Contract Awards:

OHB Ring Levee: Awarded 22 February. Inspection trench and earthwork activities ongoing. Contract completion date is 31 August 2025.

Reach SE-1B: Awarded 27 February. Stripping, hauling, road subgrade work ongoing. Contract completion date is 13 March 2026.

Reach SE-2B: Awarded 11 March. Stripping, inspection trench, embankment placement ongoing. Contract completion date is 30 October 2025.

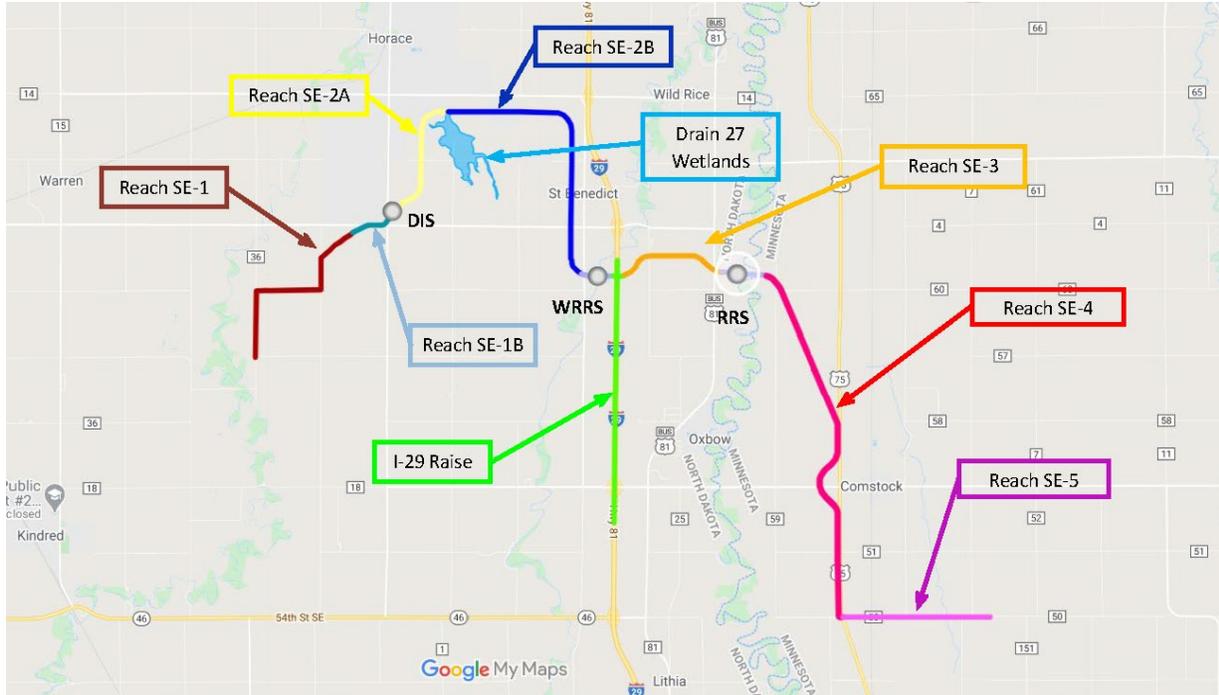
Forest Mitigation: Bid protest is delaying contract work.

Reach SE-4: Contract awarded 28 May 2024 to PWS, Inc., Brooklyn Park, MN. Schedule of pre-con meeting pending.

9 Southern Embankment Design: Remaining Reaches:

SE-3: Final reviews underway..... Contract award: January 2025

SE-5: final reviews underway..... Contract award: January 2025



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

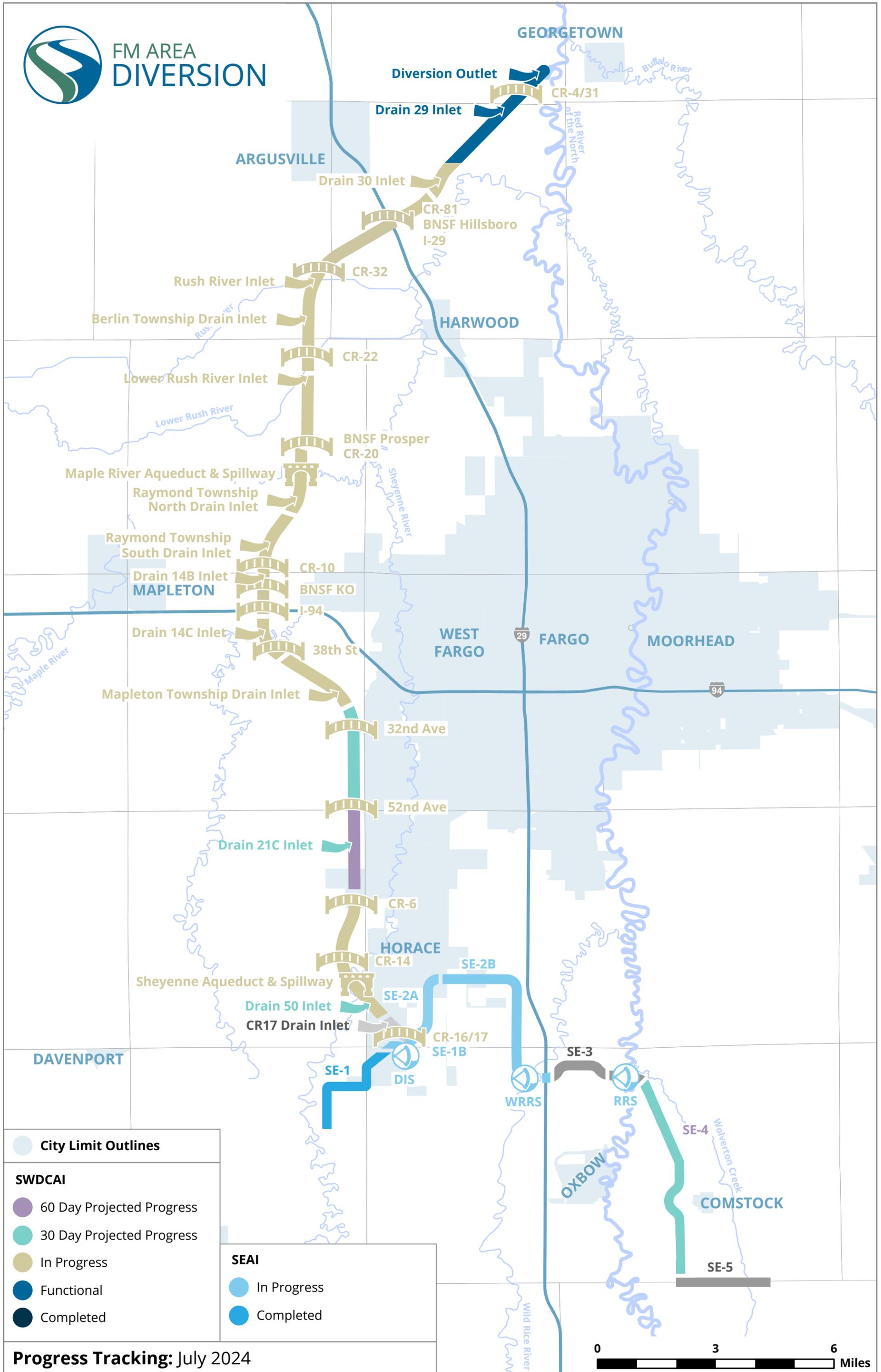
DIS = Diversion Inlet Control Structure

WRRS = Wild Rice River Control Structure

RRS = Red River Control Structure



FM AREA DIVERSION



	City Limit Outlines
SWDCAI	
	60 Day Projected Progress
	30 Day Projected Progress
	In Progress
	Functional
	Completed
SEAI	
	In Progress
	Completed

Progress Tracking: July 2024

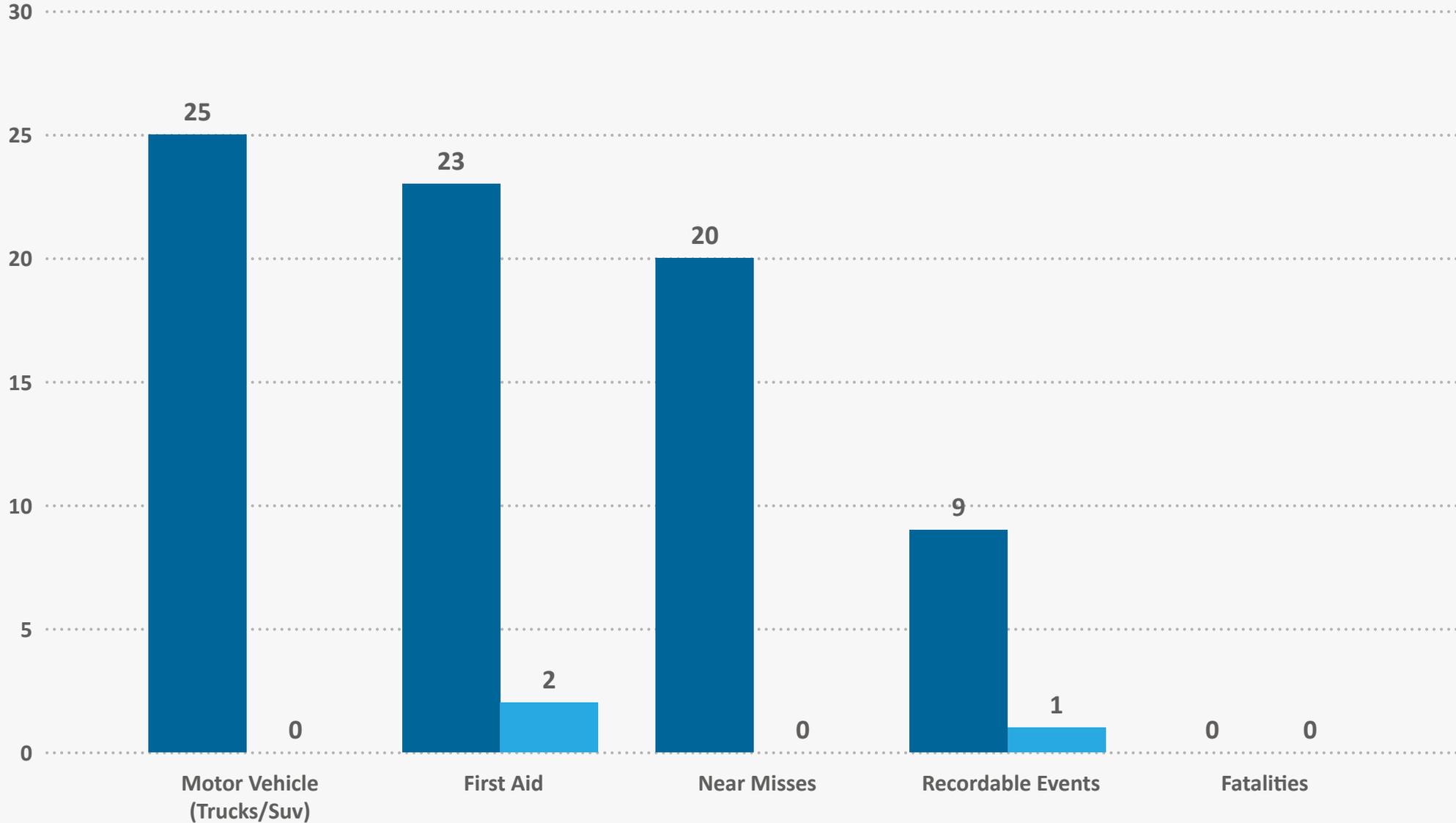


FM Area Diversion Safety Statistics - June 2024

Current Reporting Period: June 1 - June 30

Developer Led Projects

● Sum to Date ● Sum of Current Reporting Period



City of Fargo Led Projects

Sum of Current Reporting Period	Sum to Date
0	1
Incidents	Incident

Authority Led Projects

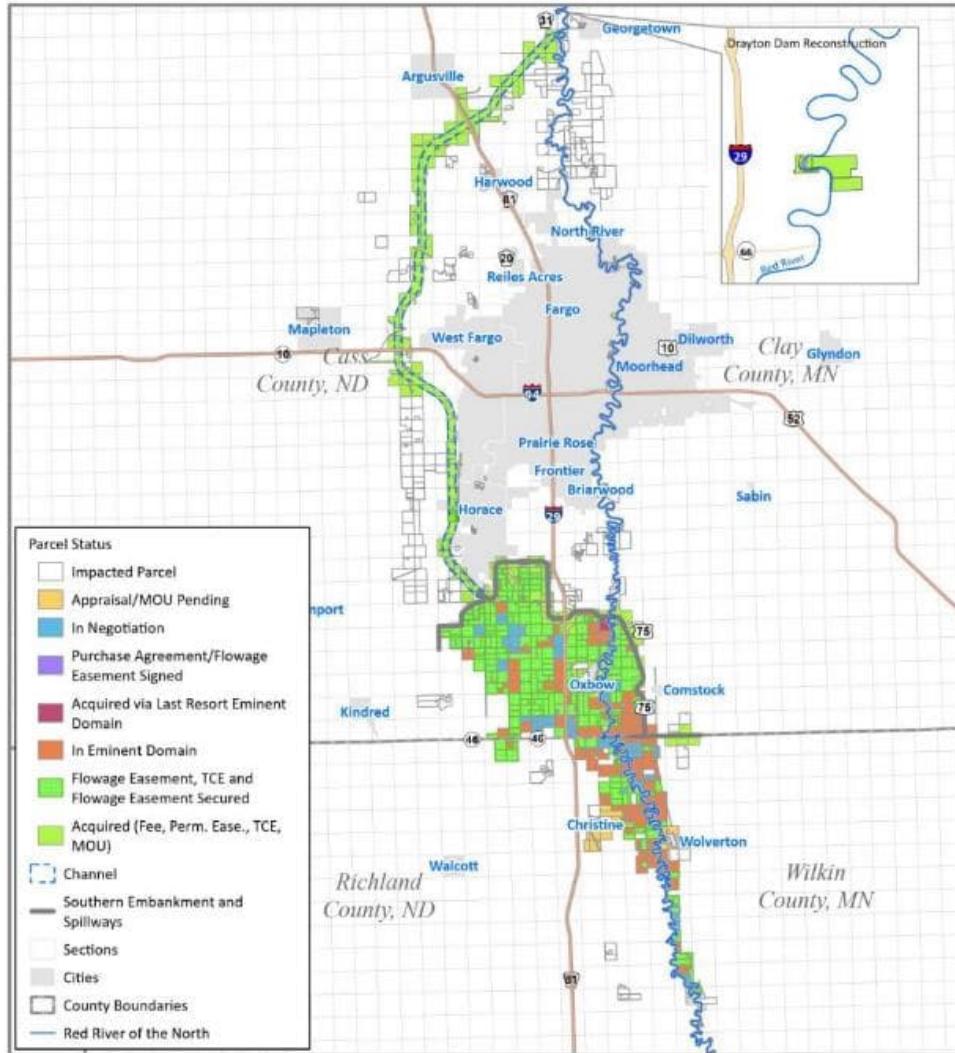
Sum of Current Reporting Period	Sum to Date
0	1
Incidents	Incident



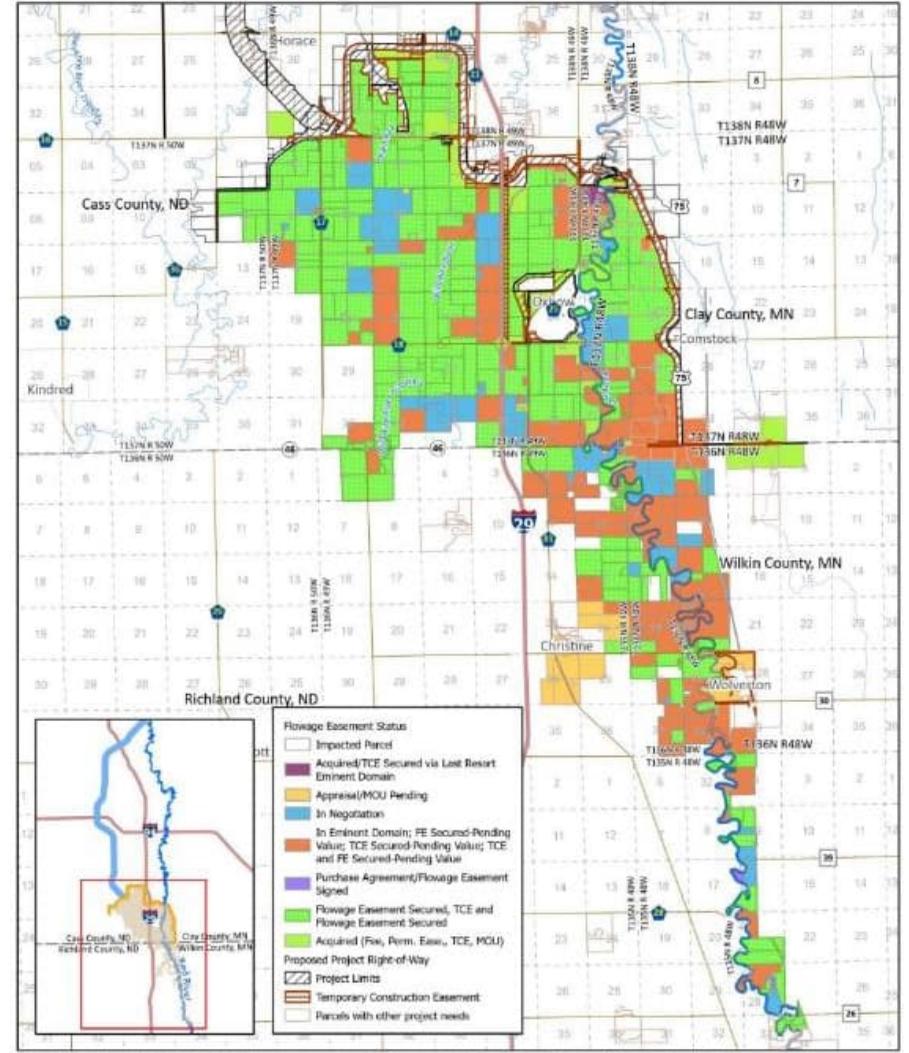
METRO
FLOOD
DIVERSION
AUTHORITY

July 2024





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Information displayed may include some content by AZ2S. Any reliance upon such data is at the user's own risk. AZ2S does not warrant this map or its features are either spatially or temporally accurate. Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 5002 Feet | Edited by: /transmittal/IC/2024/Projects/585/Projects/FM/AS/Division/FM/Division/ParcelStatus.aprx | LMA/Status/Flowage Easement_Rx11

Property Acquisition Progress

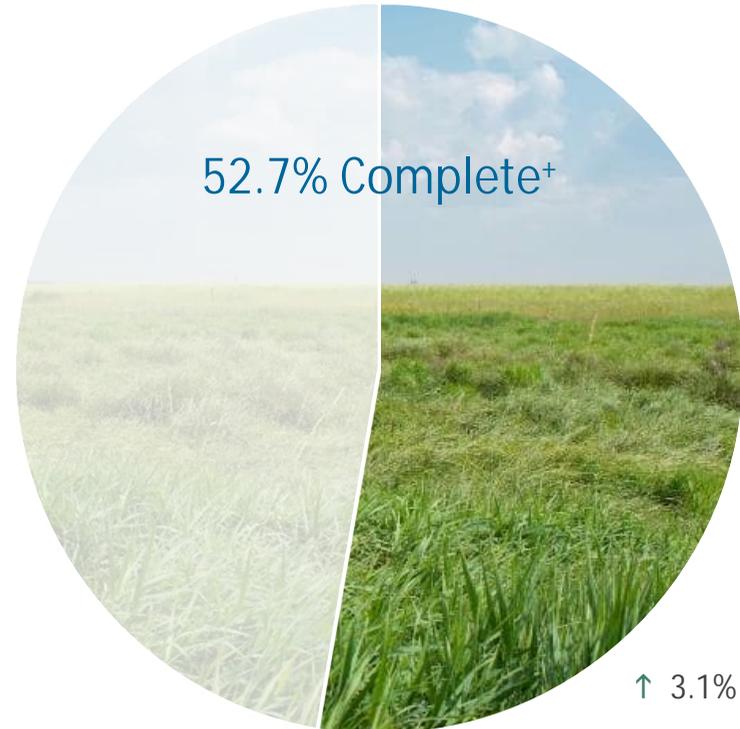


Construction Footprint*



↑ 0.7% MoM

UMA Footprint**

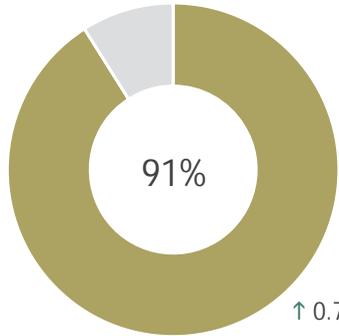


↑ 3.1% MoM

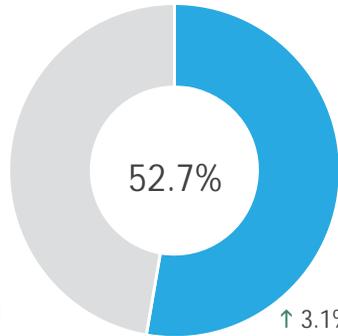
* Includes SWDCAI, SEAI, In-Town, Oxbow and Drayton

** Includes parcels for Christine and Wolverton
As of July 16, 2024

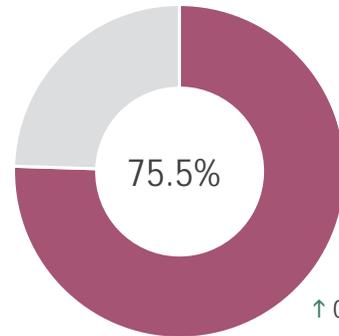
Property Acquisition Progress by Location



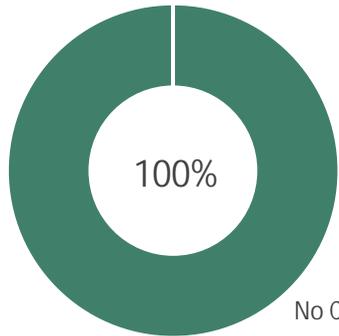
Southern Embankment & Associated Infrastructure



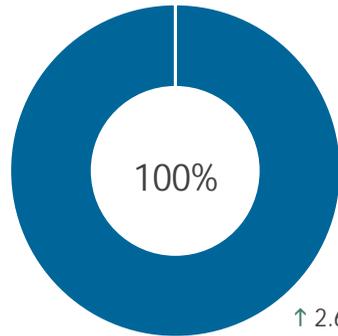
Upstream Mitigation Area



Environmental Monitoring Easements



Stormwater Diversion Channel



Oxbow-Hickson-Bakke

Drayton Dam and In-Town Levees 100% completed

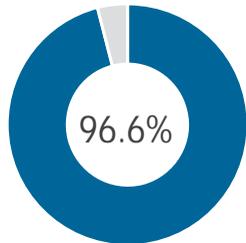
As of July 16, 2024

Landowner Overview

Construction Footprint*



Landowners

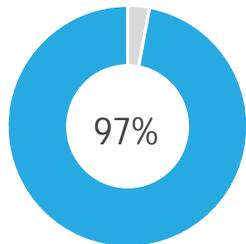


297 Owner Groups
263 in ND & 35 in MN⁺
287 settlements achieved
0 ongoing negotiations
12 in litigation

96.6% of owner groups have settled



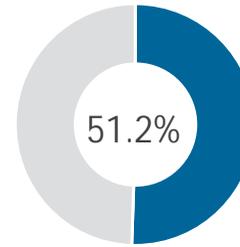
Parcels



575 Parcels
558 settlements achieved
0 ongoing negotiations
17 in litigation

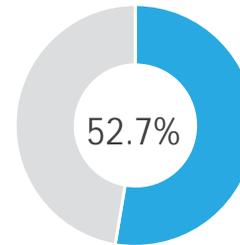
97% of parcels have been acquired

UMA Footprint**



295 Owner Groups
223 in ND & 74 in MN⁺
151 settlements achieved
79 ongoing negotiations
69 in litigation

51.2% of owner groups have settled



643 Parcels
339 settlements achieved
153 ongoing negotiations
151 in litigation

52.7% of parcels have been acquired

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

⁺ Some owner groups have property in both states

** Includes Christine and Wolverton parcels

Property Acquisition Status Report



Key Activities:

- Continue negotiating settlement agreements for existing eminent domain actions
- In the last month, successfully closed 28 parcels / 3 owners
 - 19 parcels in the UMA
 - 3 parcels for I-29
 - 3 parcels for SE-2B
 - 3 parcels for OHB
- Completed the real estate certification for SE-2B
- Obtained final right-of-entry for surveying needs in Christine
- Retained appraisers for the Sheyenne River Benching Project and Christine flowage easements
- For Minnesota properties, vacate dates for owners of occupied structures
 - Deadline in Clay County = April 1st, 2025
 - Deadline in Wilkin County = June 1st, 2025

Memorandum



To: Metro Flood Diversion Authority Lands Committee
From: Jodi Smith, Director of Lands and Compliance
Date: 07/24/2024
Re: OIN 7249 Approach for Selling of Excess Lands

RECOMMENDATION/ACTIONS NEEDED:

Approve the recommended approach for splitting and selling OIN 7249 to the Adjacent Owners

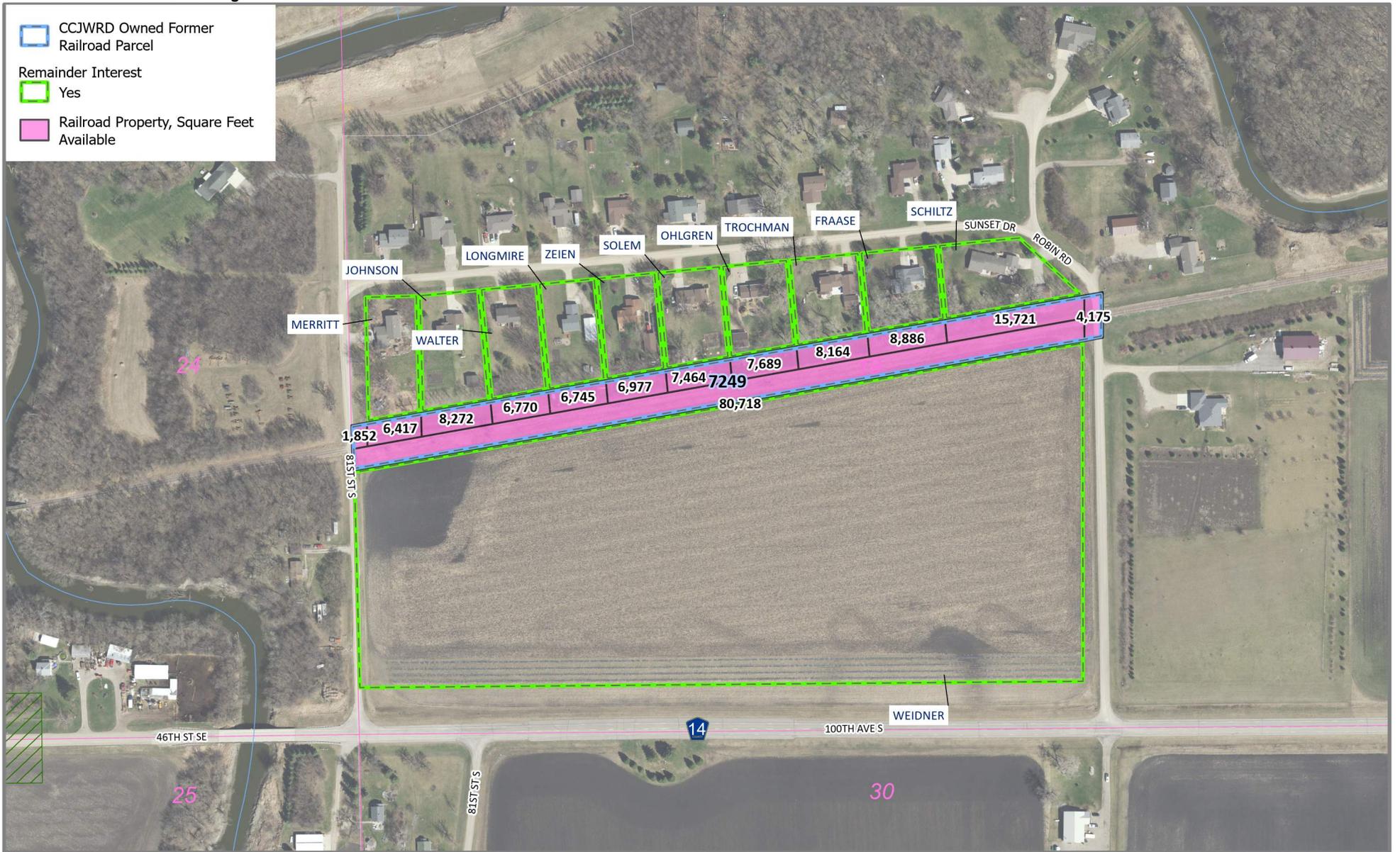
BACKGROUND:

The Metro Flood Diversion Authority (MFDA) Co-Executive Directors recommended that OIN 7249 be declared as Excess Land on April 17th, 2024. The MFDA Land Management Committee, Cass County Joint Water Resources District (CCJWRD) Board, and MFDA Board approved the recommendation on April 24th and 25th, 2024. Since that approval, staff have been working to notify the appropriate parties as outlined in the Policy of the Disposition and Management of Comprehensive Project Lands (Policy). With no interest from the Member Entities or Prior Owner, we notified the Adjacent Owners, as noted in section 5.4 of the Policy. To date we have received an intent to purchase from all notified parties and we have prepared a map exhibit depicting our recommended approach for splitting and selling OIN 7249 to the Adjacent Owners. Please see the attached map depicting our recommended approach for splitting and selling OIN 7249 to the Adjacent Owners and showing the area of each portion based on GIS acreage. Upon approval of this recommendation, staff will complete the surveying, platting, and closing of OIN 7249. Additionally, we have received interest from one property owner to purchase all of the 7249 corridor.

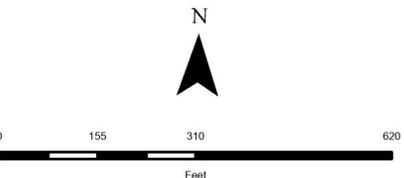
ATTACHMENTS:

- Map exhibit depicting the recommendation for splitting and selling OIN 7249 to the Adjacent Owners.

- CCJWRD Owned Former Railroad Parcel
- Remainder Interest
- Yes
- Railroad Property, Square Feet Available



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 | Edited by: cwickenheiser | C:\Data\Projects\GIS Projects\FM Area Diversion\012 Lands Program\Property Acquisition\DCA\Horace Railroad\HoraceRailroad.aprx | Horace Railroad_AdjacentOwners_OINs



Railroad Corridor near Horace, ND Adjacent Owners, Adjacent Square Feet OIN 7249

FM AREA DIVERSION
Map Date: 7/8/2024



Memorandum



To: Metro Flood Diversion Authority Lands Committee
From: Jodi Smith, Director of Lands and Compliance
Date: July 24th, 2024
Re: OINs 7247 and 7248 Approach for Selling of Excess Lands

RECOMMENDATION/ACTIONS NEEDED:

Approve the recommended approach for splitting and selling OINs 7247 and 7248 to the Adjacent Owners

BACKGROUND:

The Metro Flood Diversion Authority (MFDA) Co-Executive Directors recommended that OINs 7247 and 7248 be declared as Excess Land on April 17th, 2024. The MFDA Land Management Committee, Cass County Joint Water Resources District (CCJWRD) Board, and MFDA Board approved the recommendation on April 24th and 25th, 2024. Since that approval, staff have been working to notify the appropriate parties as outlined in the Policy of the Disposition and Management of Comprehensive Project Lands (Policy). With no interest from the Member Entities or Prior Owner, we notified the Adjacent Owners, as noted in section 5.4 of the Policy. To date we have received an intent to purchase from all notified parties. Additionally, we have received interest from one property owner to purchase all of 7248 and the entire 7247 corridor.

Please see the attached map depicting our recommended approach for splitting and selling OINs 7247 and 7248 to the Adjacent Owners and showing the area of each portion based on GIS acreage. Upon approval of this recommendation, staff will complete the surveying, platting, and closing of OINs 7247 and 7248.

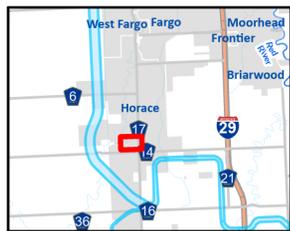
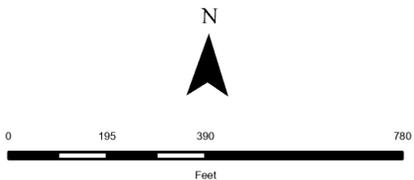
ATTACHMENTS:

- Map exhibit depicting the recommendation for splitting and selling OINs 7247 and 7248 to the Adjacent Owners.

- CCJWRD Owned Former Railroad Parcel
- Remainder Interest
- Yes
- Railroad Property, Square Feet Available



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 | Edited by: cwickenheiser | C:\Data\Projects\GIS Projects\FM Area Diversion\012 Lands Program\Property Acquisition\DCA\Horace Railroad\HoraceRailroad.aprx | Horace Railroad_AdjacentOwners_OINs



Railroad Corridor near Horace, ND Adjacent Owners, Adjacent Square Feet OINs 7247 7248

FM AREA DIVERSION
Map Date: 7/8/2024



Memorandum



To: Metro Flood Diversion Authority Lands Committee
From: Jodi Smith, Director of Lands and Compliance
Cc: Co-Executive Directors
Date: 07/24/2024
Re: Excess Lands Policy Variance for the Disposal of OINs 7234A & 7234B

RECOMMENDATION/ACTIONS REQUESTED:

Approve a variance to the Policy of Disposition and Management of Comprehensive Project Lands (Policy) to allow for public sale of OINs 7234A and 7234B.

BACKGROUND:

The MFDA Land Management Committee, at its June 28th meeting recommended development of a variance to the Policy of Disposition and Management of Comprehensive Project Lands (Policy) to use a public sale for disposal of specific parcels associated with the old elevator and abandoned railroad corridor in Horace, ND. This variance to the Policy means that the potential sale will bypass the sequential notification to the Member Entities, Prior Owners, and Adjacent Owners, and start with a public sale.

The specific variance to the Policy would include bypassing the steps from the Policy presented below in underlined text.

5. MANNER OF DISPOSAL OF EXCESS LAND

5.1 The purchaser of Excess Land will be responsible for closing costs, as well as any necessary costs, subdivision costs, rezoning fees, and other costs to complete the sale or exchange.

5.2 Preference to Member Entities:

5.2.1 The Authority will give first preference of the sale of Excess Land to Member Entities. Upon the Authority's determination that Excess Land should be sold, it will first give written notice of intent to sell to the Member Entities, subject to any conditions in the original acquisition of the Excess Land. Should a Member Entity desire to retain the Excess Land for purposes consistent with its policies and procedures, it shall, within thirty (30) calendar days of receiving the notice of intent, provide written notice to the Authority of its intent to acquire the Excess Land. The Authority will transfer all obligations of the ownership and management of the Excess Land to the purchasing Member Entity upon receipt of funds equal to or greater than Market Value in accordance with standard real property sale procedures.

5.3 Preference to Prior Landowner: Section 5.3 will only apply to Excess Land located outside of the geographical boundaries and extraterritorial zoning jurisdiction of the City of Fargo and the City of Moorhead.

5.3.1 The Authority or Member Entity will give second preference to the Prior Landowner. To carry out this principle, the Member Entity who owns the Excess Land will, subject to any conditions in the original acquisition of the Excess Land, provide the Prior Landowner with a notice of intent to sell the Excess Land at Market Value and ask the Prior Landowner to provide written notice of their commitment to acquire the Excess Land at Market Value within thirty (30) calendar days from the date of the notice.

5.3.2 If there are multiple parties that make up the Prior Landowner and those parties do not want to collectively repurchase the Excess Land at the Market Value, priority shall be given to the Prior Landowner party that within the 30-day period offers to acquire the land for the highest purchase price at or above the Market Value.

5.3.3 If the Prior Landowner does not commit to acquire the Excess Land in the allotted timeframe, the Member Entity will offer the Excess Land to the Adjacent Landowner.

5.4 Preference to Adjacent Landowner: Section 5.4 will only apply to Excess Land located outside of the geographical boundaries and extraterritorial zoning jurisdiction of the City of Fargo and the City of Moorhead.

5.4.1 The Authority, or Member Entity will give the third preference of the sale of Excess Land to the Adjacent Landowners. To carry out this principle, the Member Entity who owns the Excess Land will, subject to any conditions in the original acquisition of the Excess Land, provide the Adjacent Landowners with a notice of intent to sell the Excess Land at Market Value and ask the Adjacent Landowners to provide written notice of their interest in acquiring the Excess Land at the Market Value within thirty (30) calendar days from the date of the notice.

5.4.2 If there are multiple interested Adjacent Landowners, priority shall be given to the Adjacent Landowner that, within the 30-day period, offers to acquire the land for the highest purchase price above the Market Value.

5.4.3 If no Adjacent Landowners submit interest in acquiring the Excess Land in the allotted timeframe, the Member Entity will sell the Excess Land at a Public Sale.

5.5 Public Sale:

5.5.1. Public Sale will be subject to a reserve price that is calculated based on current Market value. If the Excess Land cannot be sold for Market Value, the Executive Director will make a recommendation of the Authority to adjust the

Market Value, sell the Excess Land at the most favorable offer received, or postpone the sale to a later date.

ATTACHMENTS:

- Map exhibit of OIN 7234A and 7234B

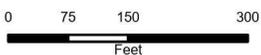


 Impacted Parcel

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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 | Edited by: cwickenheiser | C:\Data\Projects\GIS Projects\FM Area Division\012 Lands Program\Property Acquisition\DCA\Horace Railroad\HoraceRailroad.aprx | Horace RR Parcel Exhibit A



**OIN: 7234A and 7234B
CCJWRD
Cass County, ND**

FM AREA DIVERSION
Map Date: 6/25/2024



Memorandum



To: Metro Flood Diversion Authority Lands Committee
From: Michael Redlinger, Co-Director
Robert Wilson, Co-Director
Cc: John Shockley, MFDA Legal Counsel
Date: July 25, 2024
Re: OIN 858 Excess Land

RECOMMENDATION/ACTIONS NEEDED:

Approve OIN 858 (11.79 acres), subject to a flowage easement, to begin the process to dispose of the excess Land per the Policy on the Disposition and Management of Comprehensive Project Lands.

BACKGROUND/KEY POINTS:

Excess land was purchased in the upstream mitigation area. The former owner desired a full-take buyout of the property. The former buildings on the parcel have been demoed and the site has been restored.

Per the Policy, the Co-Executive Director has declared these lands as Excess Land.

ATTACHMENTS:

- Memo – Excess Lands Recommendation – OIN 858



Memorandum

TO: Robert Wilson & Michael Redlinger

FROM: Jodi A. Smith

DATE: July 10, 2024

RE: Excess Lands Recommendation – OIN 858, subject to Flowage Easement

1. Introduction

The Metro Flood Diversion Authority (Authority) adopted the Policy on the Disposition and Management of Comprehensive Project Lands (Policy) in March 2021. Per the Policy Preamble, the Authority will periodically review its inventory of real property to determine if its land ownership exceeds its foreseeable needs for the Fargo-Moorhead Area Flood Diversion Project (Comprehensive Project). Land that is no longer needed, not expected to be needed in the future for the Comprehensive Project and declared “Excess Land” by the Co-Executive Directors may be made available for sale, lease, or exchange in accordance with this Policy.

This Memorandum serves as a recommendation for the Co-Executive Directors to declare OIN 858 as Excess Land and begin the process to dispose of the property following the Policy.

2. Pertinent Facts Regarding OIN 858

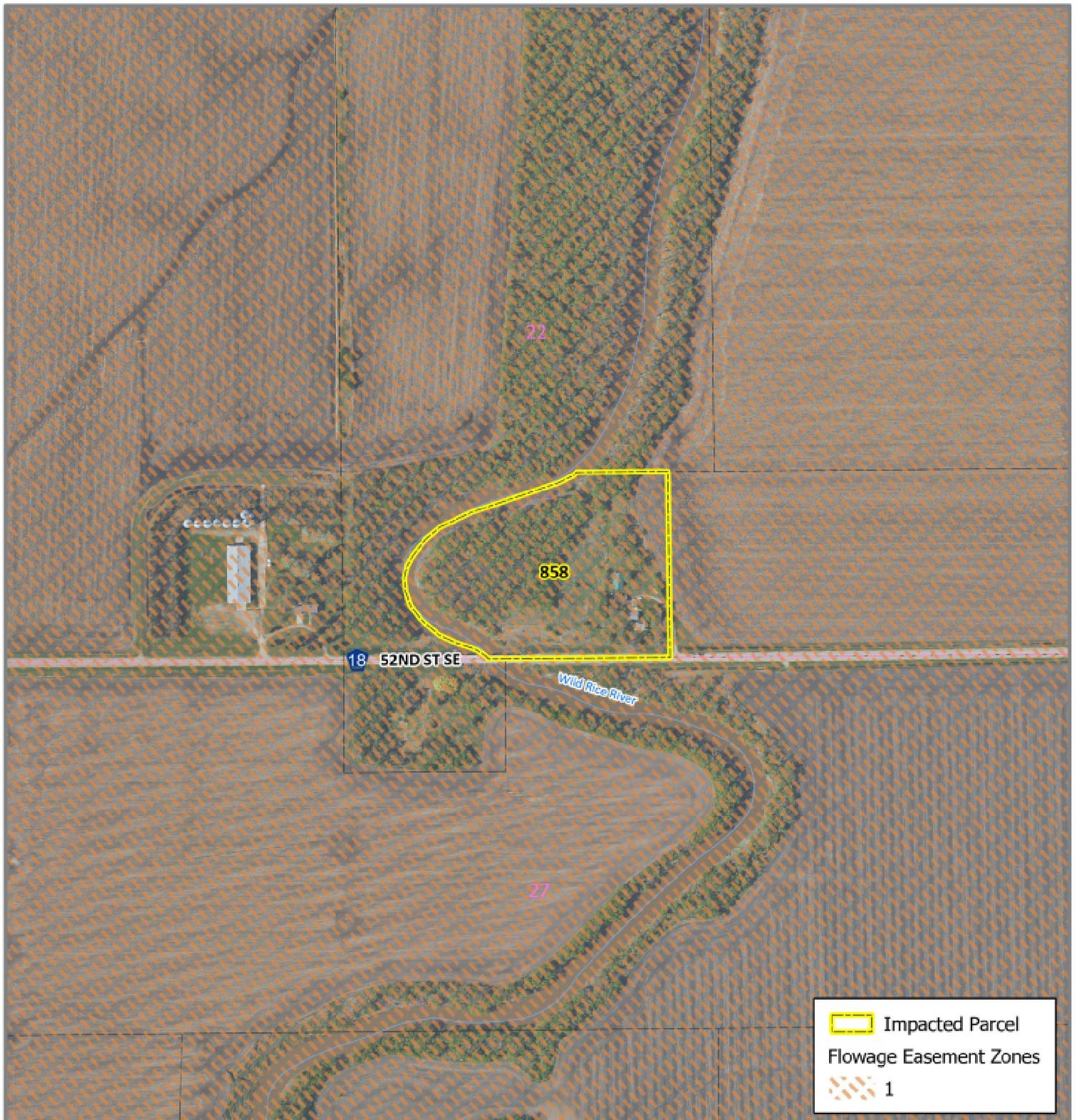
Description of Parcel(s)	See Exhibit A for a map showing the parcel recommended as excess land.
Legal Description	See Exhibit B for legal description for the parcel recommended as excess land.
Asset Parcel(s) Size	11.79 acres

Narrative Description of Parcel(s)	<p>OIN 858 is located on the north side of Cass County Road 18 (52nd Street SE) approximately one mile west of I-29 in the Upstream Mitigation Area associated with the Comprehensive Project.</p> <p>New owner will need to seek access easement from neighboring property owner or seek approval from the County to install a new field approach.</p>
Purchase Date	August 4, 2022
Purchase Price	\$522,000, inclusive of a home, detached garage, and storage building, which have been removed from the parcel.
Proposed Sale Price	<p>\$65,000</p> <p>Based on \$5,500/acre for flowage easement encumbered recreational land.</p>
Former Owner	LeLonnie & William Graham
Adjacent Owners	<p>OIN 857 & 1973 – Brodshaug Cass County Farms LLLP</p> <p>OIN 859 – Irene Backlund</p>
Property Management Approach	This parcel has been maintained through a haying agreement with Schmidt and Sons since 2023.
Property Taxes	The 2023 property taxes were \$2,419.95
Relation to Construction	This parcel is in the UMA, and not impacted by construction of the Comprehensive Project. The former owner desired a full-take buyout of the property. The former buildings on the parcel have been removed from the site, and the site has been restored. Any future sale will need to reserve a flowage easement on the parcel to ensure no future development.
Right of First Refusal	The prior landowner is not entitled to a ROFO.

3. Conclusion and Recommendation

Based on the pertinent facts presented above, it is recommended to declare OIN 858 as “Excess Land” and proceed with the process outlined in the Policy. If you agree with this recommendation, please sign the attached declaration form for our records (Exhibit C).

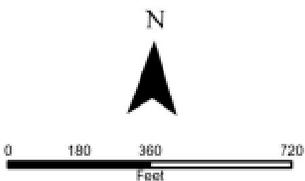
Exhibit A: Map Exhibit of Parcel Recommended as Excess Lands



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 | Edited by: cwickenheiser | C:\Data\Projects\GIS Projects\FM Area Diversion\012 Lands Program\Property Acquisition\Project Wide\Individual Property Maps - General Inquiry\ArcPro General Individual Layout.aprx | IndividualLayout



OIN: 858
CASS COUNTY JOINT WATER RESOURCE DISTRICT
 Parcel ID: 57-0000-10350-017
 Cass County, ND

FM AREA DIVERSION
 Map Date: 7/10/2024



Exhibit B: Legal Description for Parcel Recommended as Excess Lands

The following legal description is from the O & E Report dated June 28, 2021.

Legal Description:

That part of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, Township 137 North of Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:
Commencing at the Southeast corner of the Southwest Quarter of said Section 22; thence West along the South line of said Section 22 a distance of 10 rods to the point of beginning; thence North parallel to the West line of said Section 22, 40 rods; thence West parallel to the South line of said Section 22 to the center of the Wild Rice River; thence left upstream along the center line of the Wild Rice River to a point of intersection with the South line of said Section 22; thence along the South line of said Section 22 to the point of beginning.

Exhibit C: Declaration of Excess Land Form

I hereby declare that OIN 858 as noted in Exhibit A (the parcel) is deemed Excess Land and authorize the disposal of the parcel in accordance with the Policy on the Disposition and Management of Comprehensive Project Lands.

**Robert W.
Wilson**

 Digitally signed by Robert
W. Wilson
Date: 2024.07.15 14:08:31
-05'00'

Robert Wilson
Co-Executive Director

07/10/2024

Date

**Michael J.
Redlinger**

 Digitally signed by Michael J. Redlinger
Date: 2024.07.15 13:59:01 -05'00'

Michael Redlinger
Co-Executive Director

07/10/2024

Date