

# Board Agenda

## Diversion Board of Authority

December 14, 2023 @ 3:30 p.m. CST

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

1. Call to Order
  - a. Roll Call of Members
2. Approve minutes from November 16, 2023  
[Attachment 00.01] (Pg. 3)
3. Approve Order of Agenda

### CONSENT AGENDA – APPROVE THE FOLLOWING:

- a. Finance Report [Attachment 01.00] (Pg. 7)
- b. Voucher Approval [Attachment 02.00] (Pg. 31)
- c. DA Board Approval Contract Actions [Attachment 03.00] (Pg. 47)
  - i. Program Advisory Services Agreement TO 2, Amendment 1  
[Attachment 03.01] (Pg. 50)
  - ii. WP-38C Master Agreement for Construction Services – Gordon Construction  
[Attachment 03.02] (Pg. 53)
  - iii. WP-38C Master Agreement for Construction Services – Hough Inc.  
[Attachment 03.03] (Pg. 55)
  - iv. WP-38C Master Agreement for Construction Services – Industrial Builders  
[Attachment 03.04] (Pg. 57)
  - v. WP-38C Master Agreement for Construction Services – Schmidt & Sons  
[Attachment 03.05] (Pg. 59)
  - vi. WP-52B Change Order 1 – Schmidt & Sons  
[Attachment 03.06] (Pg. 61)
- d. MOUs and Agreements [Attachment 04.00] (Pg. 63)
  - i. Clay County & MFDA MOU [Attachment 04.01] (Pg. 65)
  - ii. Cass County & MFDA Forest Mitigation Agreement [Attachment 04.02] (Pg. 105)
  - iii. Fosse & MFDA Bridge Removal Agreement [Attachment 04.03] (Pg. 190)

REGULAR AGENDA:

4. Executive Director Report  
[Attachment 05.00] (Pg. 198)
  5. General Counsel Update
  6. Construction Project Updates
    - a. USACE Project Update  
[Attachment 06.00] (Pg. 202)
    - b. SWDCAI Project Update  
[Attachment 07.00] (Pg. 204)
    - c. Project Safety Update  
[Attachment 08.00] (Pg. 205)
    - d. Drone Footage Video
  7. Communications Team Update
  8. Land Management Update
    - a. Property Acquisition Status Report  
[Attachment 09.00] (Pg. 206)
  9. Finance Update
    - a. 2024 Version 3 Cash Budget  
[Attachment 10.00] (Pg. 212)
  10. Other Business
    - a. City of Fargo South University Floodwall Repair
  11. Next Meeting:     January 4, 2024 – Special Board Meeting  
                          January 25, 2024 – Regular Board Meeting
  12. Adjournment
- 

## MEDIA AND PUBLIC PARTICIPATION INFORMATION

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

- View the Meeting on Fargo TV or at [www.TVFargo.com](http://www.TVFargo.com)
- View the Meeting on the City of Fargo's Facebook or Twitter feed.
- View the Meeting at [FMDiversion.com/Meeting](http://FMDiversion.com/Meeting)
- View the Meeting at [Twitter.com/FMDiversion](http://Twitter.com/FMDiversion)



# Metro Flood Diversion Authority Board of Authority Meeting Minutes

3:30 PM – November 16, 2023  
City of Fargo Commission Chambers

A regular meeting of the Metro Flood Diversion Authority Board of Authority was held on November 16, 2023. The following members were present: Dr. Tim Mahoney, Mayor, City of Fargo; Bernie Dardis, Mayor, City of West Fargo; Shelly Carlson, Mayor, City of Moorhead; Chad Peterson, Cass County Commissioner; David Ebinger, Clay County Commissioner; Kevin Campbell, Clay County Commissioner; Mary Scherling, Cass County Commissioner; Tony Grindberg, Cass County Commissioner; Rodger Olson, Cass County Joint Water Resource District and Larry Seljevold, Moorhead City Council.

Member(s) absent: Chuck Hendrickson, Moorhead City Council; Dave Piepkorn, Fargo City Commissioner and John Strand, Fargo City Commissioner.

1. **CALL TO ORDER**  
Mayor Mahoney called the meeting to order at 3:31 PM. Roll call was taken, and a quorum was present.
  2. **APPROVE MINUTES FROM THE OCTOBER 2023 MEETING**  
**MOTION PASSED**  
Mr. Campbell moved to approve the minutes from the October 2023 meeting and Mr. Ebinger seconded the motion. On a voice vote, the motion carried.
  3. **APPROVE ORDER OF THE AGENDA**  
**MOTION PASSED**  
Mrs. Scherling moved to approve the order of the agenda and Mr. Ebinger seconded the motion. On a voice vote, the motion carried.
- CONSENT AGENDA**  
**MOTION PASSED**  
Mr. Ebinger moved to approve the Consent Agenda and Mr. Grindberg seconded the motion. On a roll call vote, the motion carried.
4. **EXECUTIVE DIRECTOR REPORT**  
Mr. Paulsen provided the following updates:  
Happenings  
Presentations & Events:
    - DIS turnover celebration
    - 3 presentations and a project tour for MN ASFPM Conference
    - Presentations to groups from Norman County High School and Horace High School
    - American Council of Engineering Companies of ND presentation

5. GENERAL COUNSEL UPDATE  
Mr. Shockley did not have an update to report.

6. CONSTRUCTION PROJECT UPDATES

a. USACE Project Update

Ms. Williams provided the following USACE update:

**1 Diversion Inlet Structure (DIS) – Construction**

Structure includes 3-50 ft. wide Tainter gates. Construction is 99% complete. Construction completion date is currently estimated to be in December 2023 due issues related to the gate machinery.

Schedule for remaining primary features:

2023: Complete operating machinery corrections.

2024: Turf established.

**2 Wild Rice River Structure (WRRS) – Construction**

Structure includes 2-40 ft. wide Tainter gates. Construction is 91% complete. The construction completion date is 3 December 2023. Completing construction of eastern earthen dam. Remaining schedule:

2023: Dam embankment, seeding.

2024: Turf established.

**3 I-29 Raise – Construction**

Includes approximately 4 miles of interstate raise between County Roads 16 and 18. Construction is 94% complete. Traffic was switched to all new lanes on 1 November. Current construction completion date is 1 January 2024.

**4 Red River Structure (RRS) - Construction**

Structure includes 3-50 ft. wide Tainter gates. Construction is 42% complete. Construction completion date is 19 March 2026. Placing concrete for abutments, piers, approach and retaining walls, dentated end sills, and stilling basins. Completion date is 19 March 2026.

**5 Drain 27 Wetland Mitigation Project Plantings - Construction**

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

**6 Drayton Dam Mitigation Project Design - Construction**

Construction is 99% complete. All placement in the river is complete. Willow plantings in 2024 during low water conditions. Construction completion is 20 November 2023.

**7 Southern Embankment – Reach SE-2A - Construction**

Construction is 68% complete. Embankment construction shutting down for the winter, with 1/3 built to full height and remaining to elevation 918. Scheduled completion date is 30 September 2024.

**8 Southern Embankment Design – All remaining reaches are being designed.**

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

SE-2B: BCOES reviews complete ..... Contract award: January 2024

SE-3: 95% review starts March 2024 ..... Contract award: January 2025

SE-4: 95% review starts Jan 2024 ..... Contract award: May 2024

SE-5: 95% review starts Jan 2024 ..... Contract award: January 2025

OHB Reach 43B: BCOES review complete ..... Contract award: March 2024

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**

- CR-22 (Bypass)
- Raymond Township South Drain Inlet
- Channel Reach 9
- CR-14 (Surcharge Embankments – off alignment)

**30 to 60 Day Outlook**

- Main channel excavation (will continue throughout the Winter months – in reaches already started)

**Misc. Updates**

- Diversion Outlet – boulder weir placement is now under-way
- BNSF - Prosper shoofly is now active, Hillsboro shoofly track installation is under-way
- CR-4/31 Crossing – pile driving is now under-way
- Maple River Aqueduct – foundation work continues, nearing first concrete placement
- SWDCAI Map Legend – updated to reflect additional progress as features become functional and completed (work in progress for future months)

c. Project Safety Update

Mr. Bakkegard reiterated the safety statistics for the period September 1-30, 2023. Current stats will resume again in January.

d. Drone Footage Video

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

7. COMMUNICATIONS UPDATE

Ms. Willson provided the following Communications update:

Videos:

- Faces of the Diversion: Greg Yavicoli, ASN Constructors
- Animation: Preparations for winter excavation

**Media Relations+:**

- Engineering News Record piece published
- Widespread coverage of DIS turnover
- Chamber Advertorial expected November/December Bridge

**Coming Soon:**

- 2023 Year in Review pieces

8. LAND MANAGEMENT UPDATE

a. Property Acquisition Status Report

Ms. Smith provided the following property acquisition status report:

- 92.2% completion in the Construction Footprint
- 45.9% completion in the UMA Footprint
- 80.3% of the parcels in the Southern Embankment have been acquired
- 45.9% of the parcels in the Upstream Mitigation Area have been acquired
- 72.8% of the Environmental Easements have been signed
- 97.6% of the parcels in the Stormwater Diversion Channel have been acquired
- 97.4% of the Oxbow-Hickson-Bakke levee
- 100% MFDA constructed in-town levees and the Drayton Dam mitigation is completed

Key Activities:

- Continue negotiating settlement agreements for existing eminent domain actions
- In the last month, successfully closed 23 parcels (8 MN, 15 ND) / 11 landowners (4 MN, 7 ND)
- 17 parcels / 4 landowners are scheduled to close in November
- Sent Last Written Offer letters to 51 landowners in MN and received acceptance from 4 landowners so far
- On November 6, 2023, the Horace City Council voted unanimously to withdraw their purchase of the BNSF rail corridor, CCJWRD and MFDA properties
- First preference letters related to the sale of 2 sets of Excess Lands were mailed to the Member Entities in accordance with the MFDA's Policy on the Disposition and Management of Comprehensive Lands

9. FINANCE UPDATE

Finance Report

Mayor Dardis reported that the bills payable totaled \$3,004,240, and the current net position is \$199,983,872. Mayor Dardis also reported that all three of the contracting actions that were presented were unanimously approved.

10. OTHER BUSINESS

City of Fargo South University Floodwall Repair

Mr. Paulsen introduced the resolution that was approved by the finance committee and board in January 2022, outlining the procedure for requesting that the City of Fargo undertake development of comprehensive project in-kind work elements and authorize the reimbursement of such development costs and expenses.

MOTION PASSED

Mayor Dardis moved to continue going forward with the design of the floodwall repair, to be paid by the City of Fargo contingencies, not to exceed \$165,000. Mr. Campbell seconded the motion and on a roll call vote, the motion carried.

MOTION PASSED

Mr. Campbell moved not to table item 10 a (the above-referenced resolution) but to defer it back to the finance committee for further discussion and evaluation. Mrs. Scherling seconded the motion and on a roll call vote, the motion carried.

11. NEXT MEETING

The next meeting will be December 14, 2023.

12. ADJOURNMENT

Mrs. Scherling moved to adjourn, and Mr. Ebinger seconded the motion. The meeting adjourned at 4:40 PM.



**FM Metropolitan Area Flood Risk Management Project**  
**Statement of Net Position**  
**November 30, 2023**

	<b>FM Diversion Project Fund</b>	<b>Budget Fund</b>	<b>Grand Total</b>
<b>Assets</b>			
Cash	\$ 180,955,454	\$ 198,584	\$ 181,154,037
Cash Horace 3.01 MIT	4,301,867	-	4,301,867
Cash BRRWD	8,422,893	-	8,422,893
Cash Held In Trust at BND			
Excess Revenue Fund	218,085	-	218,085
Temp Debt Obligation Fund	577,484	-	577,484
Authority Loan Fund	71,445	-	71,445
P3 Reserve Fund	16,129,157	-	16,129,157
SRF Loan Reserve Fund	2,291,711	-	2,291,711
Revenue Fund	1,188	-	1,188
Prepaid Expense	4,973,687	-	4,973,687
<b>Total assets</b>	<b>217,942,970</b>	<b>198,584</b>	<b>218,141,554</b>
<b>Liabilities</b>			
Vouchers payable	-	-	-
Retainage payable	70,142	-	70,142
Rent Deposit	13,750	-	13,750
Deferred Revenue	11,500	-	11,500
<b>Total liabilities</b>	<b>95,392</b>	<b>-</b>	<b>95,392</b>
<b>NET POSITION</b>	<b>\$ 217,847,579</b>	<b>\$ 198,584</b>	<b>\$ 218,046,162</b>



**Summary Of Expenses**  
**EXP-2023-11**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
770-7910-429.11-00	11/30/2023	332175	Cass County Government	\$88,589.59	DIVERSION WAGES	V00106	EXECUTIVE DIRECTOR
<b>Full Time Staff / Salaries</b>				<b>\$88,589.59</b>			
770-7910-429.20-01	11/30/2023	332175	Cass County Government	\$7,656.00	DIVERSION WAGES	V00106	EXECUTIVE DIRECTOR
<b>Employee Benefits / Health Insurance</b>				<b>\$7,656.00</b>			
770-7910-429.20-03	11/30/2023	332175	Cass County Government	\$200.00	DIVERSION WAGES	V00106	EXECUTIVE DIRECTOR
<b>Employee Benefits / Dental Insurance</b>				<b>\$200.00</b>			
770-7910-429.20-06	11/30/2023	332175	Cass County Government	\$36.50	DIVERSION WAGES	V00106	EXECUTIVE DIRECTOR
<b>Employee Benefits / Vision Insurance</b>				<b>\$36.50</b>			
770-7910-429.21-01	11/30/2023	332175	Cass County Government	\$3,011.71	DIVERSION WAGES	V00106	EXECUTIVE DIRECTOR
<b>Employee Benefits / Social Security</b>				<b>\$3,011.71</b>			
770-7910-429.21-02	11/30/2023	332175	Cass County Government	\$1,253.16	DIVERSION WAGES	V00106	EXECUTIVE DIRECTOR
<b>Employee Benefits / Medicare</b>				<b>\$1,253.16</b>			
770-7910-429.22-07	11/30/2023	332175	Cass County Government	\$10,861.08	DIVERSION WAGES	V00106	EXECUTIVE DIRECTOR
<b>Pension Benefits / Retirement</b>				<b>\$10,861.08</b>			
770-7910-429.33-37	11/9/2023	331788	HighRoad Partners, LLC	\$700.00	NOV HR PARTNER FEES	V09701	HR SERVICES
<b>Other Services / HR Services</b>				<b>\$700.00</b>			
770-7910-429.34-15	11/9/2023	331815	Marco Technologies	\$686.20	DIVERSION IT SERVICES	V10301	SERVICE AGREEMENT - IT
	11/22/2023	332115	Marco Technologies	\$2,042.84	DIVERSION IT SERVICES	V10301	SERVICE AGREEMENT - IT
	11/30/2023	332188	CONSOLIDATED COMMUNI	\$470.00	ACCT 701-150-0113/0	V00106	EXECUTIVE DIRECTOR
<b>Technical Services / Computer Services</b>				<b>\$3,199.04</b>			
770-7910-429.38-99	11/30/2023	332175	Cass County Government	\$220.60	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
<b>Other Services / Other Services</b>				<b>\$220.60</b>			
770-7910-429.43-50	11/30/2023	332175	Cass County Government	\$493.37	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
<b>Repair and Maintenance / Maintenance Service Contract</b>				<b>\$493.37</b>			
770-7910-429.53-20	11/30/2023	332175	Cass County Government	\$1,908.60	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
<b>Communications / Cellular Phone Service</b>				<b>\$1,908.60</b>			

Data Through Date: Friday, November 24, 2023

**Summary Of Expenses**  
**EXP-2023-11**

**Tuesday, December 5, 2023**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
770-7910-429.56-60	11/30/2023	332175	Cass County Government	\$1,713.36	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
<b>In State Travel / In State Travel Expenses</b>				<b>\$1,713.36</b>			
770-7910-429.57-60	11/30/2023	332175	Cass County Government	\$7,107.79	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
<b>Out of State Travel / Out of State Travel Exp</b>				<b>\$7,107.79</b>			
770-7910-429.59-20	11/30/2023	332175	Cass County Government	\$309.45	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
<b>Education / Seminar &amp; Conf. Instate</b>				<b>\$309.45</b>			
770-7910-429.59-21	11/30/2023	332175	Cass County Government	\$395.00	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
<b>Education / Seminar &amp; Conf. Outstate</b>				<b>\$395.00</b>			
770-7910-429.61-10	11/30/2023	332175	Cass County Government	\$508.58	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
<b>General Supplies / Office Supplies</b>				<b>\$508.58</b>			
770-7910-429.68-30	11/30/2023	332175	Cass County Government	\$1,264.36	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
<b>Miscellaneous / Meeting Incidentals</b>				<b>\$1,264.36</b>			
<b>770 Subtotal</b>				<b>\$129,428.19</b>			
790-0000-206.10-00	11/30/2023	332216	INDUSTRIAL BUILDERS INC	\$44,453.83	Pay retainage	V06005	PROPERTY REMOVALS - WP38A
<b>Retainage</b>				<b>\$44,453.83</b>			
790-7910-429.33-25	12/5/2023	1075	OHNSTAD TWICHELL PC	\$122,618.23	Ohnstad Twichell PC	V00102	General & Admin. WIK
<b>Other Services / Legal Services</b>				<b>\$122,618.23</b>			
790-7910-429.34-20	11/16/2023	331979	Neon Loon Communications, LL	\$16,054.96	COMMUNICATIONS SUPPORT	V09601	COMMUNICATIONS SUPPORT
<b>Technical Services / Marketing / Public Relat.</b>				<b>\$16,054.96</b>			
790-7910-429.34-56	11/24/2023	ES112300	City of Fargo	\$16,974.00	FISCAL AGENT FEE - 11/23	V05902	MONTHLY FISCAL AGENT FEE
<b>Technical Services / FMDA Fiscal Agent Fees</b>				<b>\$16,974.00</b>			
790-7910-429.38-68	11/16/2023	331940	GA Group, PC	\$4,000.00	NOV CONTRACT SERVICES	V07601	2021 GOVERNMENT RELATIONS
<b>Other Services / Lobbyist</b>				<b>\$4,000.00</b>			
790-7910-429.42-05	11/16/2023	331896	Ambassador, Inc.	\$925.00	DIVERSION OFFICE CLEANING	V10501	JANITORIAL SERVICES
<b>Cleaning Services / Custodial Services</b>				<b>\$925.00</b>			

**Summary Of Expenses**  
**EXP-2023-11**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7910-429.54-40	11/30/2023	332200	FORUM COMMUNICATIONS	\$1,750.00	DIVERSION ADS	V11501	MARKETING SERVICES
<b>Advertising / Other Advertising</b>				<b>\$1,750.00</b>			
790-7915-429.33-05	11/2/2023	331558	AECOM	\$10,107.50	CULTURAL RESOURCES INVEST	V01004	SEAI CULTURAL RES INVEST
	11/22/2023	332090	HOUSTON-MOORE GROUP L	\$231,200.73	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
	11/22/2023	332090	HOUSTON-MOORE GROUP L	\$87,287.17	DIVERSION PROJECT	V01634	H&H MITIG. & PERMIT SUPPO
	11/30/2023	332163	AECOM	\$771.50	CULTURAL RESOURCES INVEST	V01004	SEAI CULTURAL RES INVEST
<b>Other Services / Engineering Services</b>				<b>\$329,366.90</b>			
790-7920-429.33-05	11/22/2023	332090	HOUSTON-MOORE GROUP L	\$56,905.76	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
	11/22/2023	332090	HOUSTON-MOORE GROUP L	\$17,008.00	DIVERSION PROJECT	V01634	H&H MITIG. & PERMIT SUPPO
<b>Other Services / Engineering Services</b>				<b>\$73,913.76</b>			
790-7920-429.33-79	11/22/2023	332065	CH2M Hill Engineers Inc	\$587,257.37	PROGRAM MGMT	V00211	CH2M HILL-6/2019-12/2021
	11/22/2023	332065	CH2M Hill Engineers Inc	\$754,269.24	SUPPORT SERVICES	V00212	P3 PROCUREMENT SUPPORT
<b>Other Services / Construction Management</b>				<b>\$1,341,526.61</b>			
790-7930-429.33-05	11/16/2023	331892	ADVANCED ENGINEERING I	\$210,836.47	DIVERSION PROJECT	V00302	PROGRAM MGMT SERVICES
	11/22/2023	332044	ADVANCED ENGINEERING I	\$188,033.49	DIVERSION PROJECT	V00302	PROGRAM MGMT SERVICES
	11/22/2023	332090	HOUSTON-MOORE GROUP L	\$22,976.54	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
	11/22/2023	332090	HOUSTON-MOORE GROUP L	\$15,299.50	DIVERSION PROJECT	V01634	H&H MITIG. & PERMIT SUPPO
	11/30/2023	332184	HDR Engineering, Inc.	\$20,672.86	HDR ENGINEERING IC	V01201	Cass Joint Water ROE
	11/30/2023	332184	MOORE ENGINEERING INC	\$1,600.00	MOORE ENGINEERING, INC.	V01201	Cass Joint Water ROE
	11/30/2023	332184	Prosource Technologies, Inc	\$22,053.07	PROSOURCE TECHNOLOGIES,	V01201	Cass Joint Water ROE
	11/30/2023	332184	Prosource Technologies, Inc	\$11,348.95	PROSOURCE TECHNOLOGIES	V01201	Cass Joint Water ROE
	11/30/2023	332184	SRF Consulting Group	\$36,660.39	SRF CONSULTING GROUP, INC	V01201	Cass Joint Water ROE
	11/30/2023	332184	ULTEIG ENGINEERS INC	\$20,233.00	ULTEIG ENGINEERS, INC.	V01201	Cass Joint Water ROE
<b>Other Services / Engineering Services</b>				<b>\$549,714.27</b>			
790-7930-429.33-25	11/30/2023	332184	Larkin Hoffman Attorneys	\$25,107.48	LARKIN HOFFMAN ATTORNEYS	V01201	Cass Joint Water ROE
	11/30/2023	332184	OHNSTAD TWICHELL PC	\$385.00	OHNSTAD TWICHELL, P.C.	V01203	Cass Joint Water OHB
	11/30/2023	332184	OHNSTAD TWICHELL PC	\$226,349.55	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
<b>Other Services / Legal Services</b>				<b>\$251,842.03</b>			

**Summary Of Expenses**  
**EXP-2023-11**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7930-429.33-32	11/30/2023	332184	CROWN APPRAISALS	\$55,500.00	CROWN APPRAISALS, INC.	V01201	Cass Joint Water ROE
<b>Other Services / Appraisal Services</b>				<b>\$55,500.00</b>			
790-7930-429.33-79	11/22/2023	332065	CH2M Hill Engineers Inc	\$35,435.78	PROPERTY ACQUISITION	V00210	CH2M HILL-LAND ACQUISITON
<b>Other Services / Construction Management</b>				<b>\$35,435.78</b>			
790-7930-429.38-95	11/9/2023	331802	JT LAWN SERVICE LLC	\$22,984.00	MOWING & WEED CONTROL	V10401	MOWING/WEED CONTROL MGM
<b>Other Services / Mowing Services</b>				<b>\$22,984.00</b>			
790-7930-429.38-99	11/30/2023	332184	ALL AMERICAN PLUMBING	\$1,828.00	ALL AMERICAN PLUMBING	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	CURTS LOCK & KEY SERVIC	\$132.99	CURTS LOCK AND KEY SERVIC	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	Title Company	\$50.00	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
<b>Other Services / Other Services</b>				<b>\$2,010.99</b>			
790-7930-429.52-70	11/16/2023	332022	Watts and Associates, Inc.	\$8,057.85	CROP LOSS PROGRAM	V06901	CROP INSURANCE DEVELOPMN
<b>Insurance / Crop Insurance</b>				<b>\$8,057.85</b>			
790-7930-429.61-50	11/30/2023	332184	CASS COUNTY JOINT WATE	\$126.66	CASS COUNTY JOINT WRD	V01201	Cass Joint Water ROE
<b>General Supplies / Postage</b>				<b>\$126.66</b>			
790-7930-429.62-51	11/30/2023	332173	Cass County Electric Cooperativ	\$113.00	ACCT #1184422-DIVERSION	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	Cass County Electric Cooperativ	\$418.99	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
<b>Energy / Electricity</b>				<b>\$531.99</b>			
790-7930-429.67-12	11/30/2023	332184	2014 - ODEGAARD 4	\$29,995.93	BRETT & HEIDI ODEGAARD	V01701	ND LAND PURCH-OUT OF TOWN
<b>Relocation / Commercial Buildings</b>				<b>\$29,995.93</b>			
790-7930-429.68-10	11/30/2023	332184	CASS COUNTY JOINT WATE	\$17.25	CASS COUNTY JOINT WRD	V01201	Cass Joint Water ROE
<b>Miscellaneous / Miscellaneous</b>				<b>\$17.25</b>			

**Summary Of Expenses**  
**EXP-2023-11**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7930-429.71-30	11/30/2023	332170	BNSF RAILWAY CO	\$652,516.00	DIVERSION PURCHASE	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	0698N - GLEN LIBBRECHT	(\$104,933.11)	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	0945N - MARILYN G LIBBRE	(\$104,933.11)	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	8919N - CASS COUNTY JOIN	\$1,009,801.95	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	9286N - DANIEL SCOTT FLAT	(\$80,815.00)	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	9741N - MARILYN G LIBBRE	(\$104,933.13)	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	9743N - DANIEL SCOTT FLAT	(\$80,815.00)	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	9756N - GLEN LIBBRECHT	(\$104,933.13)	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	9757N - GLEN LIBBRECHT	(\$104,933.13)	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	9758N - GLEN LIBBRECHT	(\$104,933.13)	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	9759N - LIBBRECHT 1	(\$104,933.13)	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	9760N - MARILYN G LIBBRE	(\$104,933.13)	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/28/2023	ES112300	0698N - GLEN LIBBRECHT	\$104,933.11	RECLASS LAND SALE PROCEED	V01701	ND LAND PURCH-OUT OF TOWN
	11/28/2023	ES112300	0945N - MARILYN G LIBBRE	\$104,933.11	RECLASS LAND SALE PROCEED	V01701	ND LAND PURCH-OUT OF TOWN
	11/28/2023	ES112300	9286N - DANIEL SCOTT FLAT	\$80,815.00	RECLASS LAND SALE PROCEED	V01701	ND LAND PURCH-OUT OF TOWN
	11/28/2023	ES112300	9741N - MARILYN G LIBBRE	\$104,933.13	RECLASS LAND SALE PROCEED	V01701	ND LAND PURCH-OUT OF TOWN
	11/28/2023	ES112300	9743N - DANIEL SCOTT FLAT	\$80,815.00	RECLASS LAND SALE PROCEED	V01701	ND LAND PURCH-OUT OF TOWN
	11/28/2023	ES112300	9756N - GLEN LIBBRECHT	\$104,933.13	RECLASS LAND SALE PROCEED	V01701	ND LAND PURCH-OUT OF TOWN
	11/28/2023	ES112300	9757N - GLEN LIBBRECHT	\$104,933.13	RECLASS LAND SALE PROCEED	V01701	ND LAND PURCH-OUT OF TOWN
	11/28/2023	ES112300	9758N - GLEN LIBBRECHT	\$104,933.13	RECLASS LAND SALE PROCEED	V01701	ND LAND PURCH-OUT OF TOWN
	11/28/2023	ES112300	9759N - LIBBRECHT 1	\$104,933.13	RECLASS LAND SALE PROCEED	V01701	ND LAND PURCH-OUT OF TOWN
	11/28/2023	ES112300	9760N - MARILYN G LIBBRE	\$104,933.13	RECLASS LAND SALE PROCEED	V01701	ND LAND PURCH-OUT OF TOWN
<b>Land / Land Purchases</b>				<b>\$1,662,317.95</b>			

**Summary Of Expenses**  
**EXP-2023-11**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7930-429.71-31	11/16/2023	331908	BNSF RAILWAY CO	\$1,301,119.00	CONST & MAINT AGREEMENT	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	0850 - RICHARD 2	\$286,525.75	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	1901 - RICHARD 2	\$286,525.75	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	1902 - RICHARD 2	\$286,525.75	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	1952 - RICHARD 2	\$286,525.75	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	5014N - ORTON T PERHUS	\$10,922.00	KELLY & DEBRA PERHUS	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	5015N - ORTON T PERHUS	\$10,922.00	KELLY & DEBRA PERHUS	V01701	ND LAND PURCH-OUT OF TOWN
	11/30/2023	332184	7225 - KLC HOLDINGS	\$15,115.00	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
<b>Land / Easements</b>				<b>\$2,484,181.00</b>			
790-7930-429.73-20	11/30/2023	332216	INDUSTRIAL BUILDERS INC	\$71,142.92	PROPERTY STRUCTURE MITIGA	V06005	PROPERTY REMOVALS - WP38A
<b>Infrastructure / Site Improvements</b>				<b>\$71,142.92</b>			
790-7931-429.33-05	11/9/2023	331735	Prosource Technologies, Inc	\$18,319.37	PROSOURCE TECHNOLOGIES	V06201	MCCJPA - MN ROE
	11/9/2023	331735	SRF Consulting Group	\$68,318.83	SRF CONSULTING GROUP	V06201	MCCJPA - MN ROE
	11/30/2023	332187	Prosource Technologies, Inc	\$21,270.64	PROSOURCE TECHNOLOGIES	V06201	MCCJPA - MN ROE
<b>Other Services / Engineering Services</b>				<b>\$107,908.84</b>			
790-7931-429.33-25	11/9/2023	331735	OHNSTAD TWICHELL PC	\$76,928.47	OHNSTAD TWICHELL	V06201	MCCJPA - MN ROE
<b>Other Services / Legal Services</b>				<b>\$76,928.47</b>			
790-7931-429.33-32	11/9/2023	331735	COMPASS LAND CONSULTA	\$5,000.00	SEWALL FORESTRY	V06201	MCCJPA - MN ROE
	11/9/2023	331735	CROWN APPRAISALS	\$23,500.00	CROWN APPRAISALS, INC.	V06201	MCCJPA - MN ROE
<b>Other Services / Appraisal Services</b>				<b>\$28,500.00</b>			
790-7931-429.52-10	11/9/2023	331735	DAWSON INSURANCE AGEN	\$3,632.16	MARSH & MCLENNAN	V02301	MN LAND PURCHASES
<b>Insurance / Property Insurance</b>				<b>\$3,632.16</b>			
790-7931-429.54-10	11/9/2023	331735	BARNESVILLE RECORD-RE	\$36.00	BARNESVILLE RECORD REVIEW	V06201	MCCJPA - MN ROE
	11/30/2023	332187	BARNESVILLE RECORD-RE	\$36.00	BARNESVILLE RECORD REVIEW	V06201	MCCJPA - MN ROE
<b>Advertising / Legal Publications</b>				<b>\$72.00</b>			
790-7931-429.62-51	11/9/2023	331735	RED RIVER VALLEY COOPE	\$51.94	RED RIVER VALLEY COOP	V02301	MN LAND PURCHASES
	11/30/2023	332187	RED RIVER VALLEY COOPE	\$51.94	RED RIVER VALLEY COOP	V02301	MN LAND PURCHASES
<b>Energy / Electricity</b>				<b>\$103.88</b>			

**Summary Of Expenses**  
**EXP-2023-11**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7931-429.71-31	11/9/2023	331735	8790 - ISRAELSON/FRANK O	\$17,153.00	THE TITLE CO	V02301	MN LAND PURCHASES
	11/30/2023	332187	1274X - ROBERT AND PAUL	\$140,219.61	THE TITLE CO	V02301	MN LAND PURCHASES
	11/30/2023	332187	1288X - ROBERT AND PAUL	\$140,219.61	THE TITLE CO	V02301	MN LAND PURCHASES
	11/30/2023	332187	1290X - ROBERT AND PAUL	\$140,219.61	THE TITLE CO	V02301	MN LAND PURCHASES
	11/30/2023	332187	1633X - ELA LAND TRUST	\$210,709.34	THE TITLE CO	V02301	MN LAND PURCHASES
	11/30/2023	332187	1837 - KLEIN 2	\$140,219.60	THE TITLE CO	V02301	MN LAND PURCHASES
	11/30/2023	332187	1878X - ROBERT & PAUL KL	\$140,219.61	THE TITLE CO	V02301	MN LAND PURCHASES
<b>Land / Easements</b>				<b>\$928,960.38</b>			
790-7940-429.33-06	11/16/2023	331911	BRAUN INTERTEC CORP	\$3,620.50	MATERIAL TESTING	V00407	TASK ORDER #5
<b>Other Services / Quality Testing</b>				<b>\$3,620.50</b>			
790-7950-429.33-05	11/22/2023	332090	HOUSTON-MOORE GROUP L	\$2,788.00	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
	11/30/2023	332245	MOORE ENGINEERING INC	\$4,715.00	REIMB MOORE ENGINEERING	V08801	RUSH RIVER-DRAIN EXPENSE
	11/16/2023	ES112300	City of Fargo	\$750.75	City of Fargo	V05405	LEVEE/FLOODWALL - BELMONT
	11/16/2023	ES112300	KLJ ENGINEERING, LLC	\$201.60	KLJ ENGINEERING, LLC	V05434	FM24A-S UNIV WALL REP
	11/16/2023	ES112300	KLJ ENGINEERING, LLC	\$244.50	KLJ ENGINEERING, LLC	V05434	FM24A-S UNIV WALL REP
	11/16/2023	ES112300	KLJ ENGINEERING, LLC	\$438.95	KLJ ENGINEERING, LLC	V05434	FM24A-S UNIV WALL REP
	11/16/2023	ES112300	KLJ ENGINEERING, LLC	\$9,694.40	KLJ ENGINEERING, LLC	V05434	FM24A-S UNIV WALL REP
	11/16/2023	ES112300	KLJ ENGINEERING, LLC	\$747.25	KLJ ENGINEERING, LLC	V05434	FM24A-S UNIV WALL REP
	11/16/2023	ES112300	APEX Engineering Group Inc	\$18,164.00	APEX ENGINEERING GROUP	V05432	STORM LIFT IMPR #27
	11/16/2023	ES112300	APEX Engineering Group Inc	\$25,316.00	APEX ENGINEERING GROUP	V05432	STORM LIFT IMPR #27
	11/16/2023	ES112300	APEX Engineering Group Inc	\$21,574.00	APEX ENGINEERING GROUP	V05432	STORM LIFT IMPR #27
	11/16/2023	ES112300	APEX Engineering Group Inc	\$17,612.00	APEX ENGINEERING GROUP	V05432	STORM LIFT IMPR #27
	11/16/2023	ES112300	APEX Engineering Group Inc	\$9,715.00	APEX ENGINEERING GROUP	V05432	STORM LIFT IMPR #27
	11/16/2023	ES112300	APEX Engineering Group Inc	\$12,935.00	APEX ENGINEERING GROUP	V05432	STORM LIFT IMPR #27
	11/16/2023	ES112300	APEX Engineering Group Inc	\$25,126.30	APEX ENGINEERING GROUP	V05432	STORM LIFT IMPR #27
<b>Other Services / Engineering Services</b>				<b>\$150,022.75</b>			
790-7950-429.33-06	11/16/2023	331911	BRAUN INTERTEC CORP	\$1,009.00	MATERIAL TESTING	V00404	TESTING - NUSTAR PIPELINE
	11/16/2023	331911	BRAUN INTERTEC CORP	\$74,082.50	MATERIALS TESTING	V00406	TASK ORDER #4
<b>Other Services / Quality Testing</b>				<b>\$75,091.50</b>			

**Summary Of Expenses**  
**EXP-2023-11**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7950-429.33-32	11/16/2023	ES112300	Tinjum Appraisal Company, Inc.	\$2,500.00	TINJUM APPRAISAL COMPANY	V05405	LEVEE/FLOODWALL - BELMONT
<b>Other Services / Appraisal Services</b>				<b>\$2,500.00</b>			
790-7950-429.38-99	11/30/2023	332212	HARWOOD TOWNSHIP	\$10,550.00	REIMB NORTHERN STATES EXC	V09002	HARWOOD TWP MOU
<b>Other Services / Other Services</b>				<b>\$10,550.00</b>			
790-7950-429.41-05	11/9/2023	331731	Cass Rural Water	\$104.44	ACCT #18789 -DIVERSION	V05006	DIVERSION INLET UTILITY
<b>Utility Services / Water and Sewer</b>				<b>\$104.44</b>			
790-7950-429.57-60	11/16/2023	ES112300	Timothy Mahoney	\$1,086.40	P CARD BMO	V05417	FLOOD ADMINISTRATION
	11/16/2023	ES112300	Timothy Mahoney	\$76.05	P CARD BMO	V05417	FLOOD ADMINISTRATION
<b>Out of State Travel / Out of State Travel Exp</b>				<b>\$1,162.45</b>			
790-7950-429.73-52	11/16/2023	ES112300	Excavating Inc - Fargo	\$72,912.50	EXCAVATING INC - FARGO	V05426	RR EROSION-UNIV & 52ND AV
<b>Infrastructure / Flood Control</b>				<b>\$72,912.50</b>			
790-7950-429.73-62	11/16/2023	ES112300	City of Fargo	\$45,245.00	City of Fargo	V05405	LEVEE/FLOODWALL - BELMONT
<b>Infrastructure / Water Infrastructure</b>				<b>\$45,245.00</b>			
790-7950-429.73-70	11/9/2023	331846	NUSTAR PIPELINE OPERATI	\$7,819.76	PIPELINE RELOCATION	V06301	CHANNEL UTILITY RELOCATN
	11/30/2023	332185	Cass Rural Water	\$2,872.36	4608 124 AVE S-DISCONNECT	V05011	WP38B WATER DISCONNECTS
<b>Infrastructure / Utilities</b>				<b>\$10,692.12</b>			
790-7952-429.33-05	11/22/2023	332090	HOUSTON-MOORE GROUP L	\$17,750.75	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
<b>Other Services / Engineering Services</b>				<b>\$17,750.75</b>			
790-7959-429.38-99	11/16/2023	ES112300	Parsons Electric	\$225.00	PARSONS ELECTRIC	V05430	STORM LIFT IMPROVMNTS #15
<b>Other Services / Other Services</b>				<b>\$225.00</b>			
790-7959-429.73-52	11/16/2023	ES112300	Key Contracting Inc	\$1,422,289.71	KEY CONTRACTING INC - Pay	V05406	DRAIN 27 LIFT STATION #56
	11/16/2023	ES112300	Rick Electric Inc	\$77,377.50	RICK ELECTRIC INC - Pay App	V05406	DRAIN 27 LIFT STATION #56
	11/16/2023	ES112300	Key Contracting Inc	\$1,056,400.00	KEY CONTRACTING INC	V05431	STORM LIFT IMPR #47 & #48
<b>Infrastructure / Flood Control</b>				<b>\$2,556,067.21</b>			



Data Through Date: Friday, November 24, 2023

**Summary Of Expenses**  
**EXP-2023-11**

**Tuesday, December 5, 2023**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7990-429.33-05	11/22/2023	332090	HOUSTON-MOORE GROUP L	\$68,261.59	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
	11/30/2023	332169	BNSF RAILWAY CO	\$15,142.38	PRELIM ENGINEERING	V11101	PRELIMINARY ENGINEERING
	11/30/2023	332184	MOORE ENGINEERING INC	\$1,700.00	MOORE ENGINEERING, INC.	V01201	Cass Joint Water ROE
<b>Other Services / Engineering Services</b>				<b>\$85,103.97</b>			
790-7990-429.33-25	12/5/2023	1075	OHNSTAD TWICHELL PC	\$33,077.40	Ohnstad Twichell PC	V00102	General & Admin. WIK
<b>Other Services / Legal Services</b>				<b>\$33,077.40</b>			
790-7990-429.34-57	11/30/2023	28080	BANK OF NORTH DAKOTA	\$16,974.00	BND TRUSTEE FEE 11/2023	V08502	MONTHLY TRUSTEE FEE
<b>Technical Services / FMDA Trustee Fees BND</b>				<b>\$16,974.00</b>			
790-7998-555.90-81	11/24/2023	ES112300	Diversion Admin Budget Transfe	\$0.00	ANNUAL ADMIN BDGT TRF-OCT	VADMIN	Diversion Administration
<b>FMDA Admin. Budget Fund</b>				<b>\$0.00</b>			
<b>790 Subtotal</b>			<b>\$11,352,647.23</b>				

<b>Total Amount Invoiced this period:</b>	<b>\$11,482,075.42</b>	
	<b>\$44,453.83</b>	<b>Less Paid Retainage</b>
	<b>\$11,437,621.59</b>	<b>Total Less Paid Retainage</b>

Data Through Date: Friday, November 24, 2023

*Cumulative Vendor Payments Since Inception (Paid Only)*

<b>Vendor Name</b>	<b>Approved Contract/Invoiced Amount</b>	<b>Liquidated</b>	<b>Outstanding Encumbrance</b>	<b>Purpose</b>
LAND PURCHASE	\$352,728,792.40	\$352,728,792.40	\$0.00	Land Purchase
CH2M HILL ENGINEERS INC	\$152,240,026.12	\$112,078,523.40	\$40,161,502.72	Project & Construction Management
HOUSTON-MOORE GROUP LLC	\$94,530,504.39	\$70,447,615.50	\$24,082,888.89	Engineering Services
INDUSTRIAL BUILDERS INC	\$62,176,159.47	\$62,176,159.47	\$0.00	2nd St N Pump Station Project and 2nd St Floodwall, South of Pu
ARMY CORP OF ENGINEERS	\$53,159,000.00	\$53,159,000.00	\$0.00	Local Share
NORTH DAKOTA PUBLIC FINANCE AUTHORIT	\$36,764,780.00	\$36,764,780.00	\$0.00	Debt Service
RICHLAND-WILKIN JPA	\$35,000,000.00	\$35,000,000.00	\$0.00	Economic Impact Relief Fund
OHNSTAD TWICHELL PC	\$21,201,495.85	\$21,201,495.85	\$0.00	Legal Services
KEY CONTRACTING INC	\$19,267,463.40	\$19,267,463.40	\$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	\$11,532,833.17	\$2,846,342.83	Lands Management and Public Outreach
WELLS FARGO	\$11,607,080.05	\$11,607,080.05	\$0.00	Debt Service
DORSEY & WHITNEY LLP	\$11,166,442.49	\$11,166,442.49	\$0.00	Legal Services
DAKOTA UNDERGROUND	\$11,141,625.69	\$11,141,625.69	\$0.00	Utility Relocation
LANDSCAPES UNLIMITED	\$11,007,612.78	\$11,007,612.78	\$0.00	Golf Course Construction - Oxbow Country Club
OKEEFE, OBRIAN, LYSON & FOSS LTD	\$9,962,512.68	\$9,962,512.68	\$0.00	FLDBUY - COF Flood Home Buyouts
CITY OF FARGO	\$7,698,510.19	\$7,692,871.44	\$5,638.75	Utility Relocation, Accounting Svcs, Interest on Deficit Funds
MOORE ENGINEERING INC	\$6,700,975.96	\$6,135,449.21	\$565,526.75	Engineering Services
ASHURST LLP	\$6,352,853.01	\$6,352,853.01	\$0.00	PPP Legal Counsel
CASS RURAL WATER	\$6,108,749.21	\$5,414,580.85	\$694,168.36	Utilities and Utility Relocation
SRF CONSULTING GROUP	\$6,065,866.44	\$2,980,230.25	\$3,085,636.19	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	\$5,003,678.20	\$373,321.80	P3 Financial Advisory Services
BRAUN INTERTEC CORP	\$4,846,833.00	\$1,606,705.02	\$3,240,127.98	Materials Testing
HOUSTON ENGINEERING INC	\$4,823,537.17	\$4,823,537.17	\$0.00	Engineering Services
PROSOURCE TECHNOLOGIES, INC	\$4,298,291.71	\$3,273,632.29	\$1,024,659.42	Land Acquisition Services

Data Through Date: Friday, November 24, 2023

*Cumulative Vendor Payments Since Inception (Paid Only)*

<b>Vendor Name</b>	<b>Approved Contract/Invoiced Amount</b>	<b>Liquidated</b>	<b>Outstanding Encumbrance</b>	<b>Purpose</b>
CASS COUNTY GOVERNMENT	\$3,854,984.49	\$3,854,984.49	\$0.00	Gravel on County Rd 17 Bypass
CENTURYLINK COMMUNICATIONS	\$3,730,366.73	\$3,600,193.71	\$130,173.02	Utility Relocation
RED RIVER VALLEY ALLIANCE LLC	\$3,695,113.30	\$3,695,113.30	\$0.00	P3 Developer payments
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
BNSF RAILWAY CO	\$3,602,991.40	\$3,581,295.20	\$21,696.20	Permits for In-Town Levee Projects
RED RIVER VALLEY & WESTERN RAILROAD C	\$3,589,388.46	\$3,589,388.46	\$0.00	Railroad Facilities and the Rail Property
CHS INC.	\$3,049,153.37	\$3,049,153.37	\$0.00	Purchase Agreement (DB-1011)
PLENARY AMERICAS USA LTD	\$3,000,000.00	\$3,000,000.00	\$0.00	Stipend Payment for P3 RFP
SELLIN BROS INC	\$2,814,909.59	\$2,814,909.59	\$0.00	Riverwood Flood Risk Project - Construction
SCHMIDT AND SONS INC.	\$2,670,080.50	\$2,432,275.23	\$237,805.27	Residential Demolition in Oxbow
MINNESOTA DNR	\$2,636,755.60	\$2,617,681.40	\$19,074.20	EIS Scoping and Permit Application
CASS COUNTY ELECTRIC COOPERATIVE	\$2,615,059.49	\$1,785,295.48	\$829,764.01	Electrical Services
HDR ENGINEERING, INC.	\$2,478,606.52	\$1,828,642.32	\$649,964.20	Engineering Services
CROWN APPRAISALS	\$2,433,230.00	\$2,104,530.00	\$328,700.00	Flowage Easements Valuation and Appraisal Services
OXBOW, CITY OF	\$2,383,317.16	\$2,383,317.16	\$0.00	OXBOW MOU - LAND ADVANCE
LANDWEHR CONSTRUCTION INC	\$2,304,622.16	\$2,304,622.16	\$0.00	In-Town and WP-43 Demolition Contracts
HOUGH INC	\$2,088,832.83	\$2,088,832.83	\$0.00	Construction WP-42F.2 and Oxbow River Intake & Pumping Syst
PROGRAM ADVISOR SERVICES, LLC	\$2,006,282.87	\$1,882,692.22	\$123,590.65	Program Consulting Services
URS CORPORATION	\$1,805,670.90	\$1,805,670.90	\$0.00	Cultural Resources Investigations
ACONEX (NORTH AMERICA) INC	\$1,670,793.92	\$1,207,471.01	\$463,322.91	Electronic Data Mgmt and Record Storage System
CASS COUNTY JOINT WATER RESOURCE DI	\$1,618,952.19	\$1,618,952.19	\$0.00	O/H/B Ring Levee, DPAC, Postage, Miscellaneous
ULTEIG ENGINEERS INC	\$1,611,901.59	\$1,478,634.59	\$133,267.00	Land Acquisition Services
REINER CONTRACTING INC	\$1,599,646.21	\$1,599,646.21	\$0.00	El Zagal Flood Risk Management
WAGNER CONSTRUCTION INC.	\$1,476,462.45	\$0.00	\$1,476,462.45	Utility Relocation
AECOM	\$1,401,419.14	\$967,939.97	\$433,479.17	Cultural Resources Investigations
CASS COUNTY TREASURER	\$1,366,146.82	\$1,366,146.82	\$0.00	Property Taxes

Data Through Date: Friday, November 24, 2023

*Cumulative Vendor Payments Since Inception (Paid Only)*

<b>Vendor Name</b>	<b>Approved Contract/Invoiced Amount</b>	<b>Liquidated</b>	<b>Outstanding Encumbrance</b>	<b>Purpose</b>
UNITED STATES GEOLOGICAL SURVEY	\$1,332,840.00	\$411,210.00	\$921,630.00	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
XCEL ENERGY-FARGO	\$1,258,890.89	\$1,258,890.89	\$0.00	Utility Relocation
US BANK	\$1,205,546.13	\$1,205,546.13	\$0.00	Loan Advance Debt Service Payments
CONSOLIDATED COMMUNICATIONS	\$1,079,717.97	\$1,079,717.97	\$0.00	Utility Relocation
KPH, INC.	\$1,025,640.12	\$1,025,640.12	\$0.00	WP-43D5 Construction
MINNKOTA POWER COOPERATIVE	\$940,269.48	\$565,269.48	\$375,000.00	Utility Relocation
CLERK OF DISTRICT COURT	\$939,044.32	\$939,044.32	\$0.00	FLDBUY - COF Flood Home Buyouts
CITY OF HORACE	\$913,078.00	\$913,078.00	\$0.00	Infrastructure Fund
TERRACON CONSULTING ENGINEERS	\$887,718.41	\$887,718.41	\$0.00	Materials Testing
SPRINT COMMUNICATIONS COMPANY L.P.	\$812,034.58	\$812,034.58	\$0.00	Fiber Optic Relocation
LARKIN HOFFMAN ATTORNEYS	\$805,690.26	\$805,690.26	\$0.00	Legal Services
COMPASS LAND CONSULTANTS, INC	\$804,820.00	\$632,389.43	\$172,430.57	Property Appraisal Services
BORDER STATES PAVING, INC	\$757,932.54	\$146,785.66	\$611,146.88	Street repairs
CC STEEL, LLC	\$742,873.86	\$742,873.86	\$0.00	Lift Station Improvements
MASTER CONSTRUCTION CO INC	\$739,364.30	\$739,364.30	\$0.00	Flood Mitigation - Royal Oaks Area - Construction
UNITED STATES ENVIRONMENTAL PROTECTI	\$736,686.35	\$736,686.35	\$0.00	WIFIA LOAN APPLCATION FEE
DAKOTA CARRIER NETWORK	\$727,348.58	\$727,348.58	\$0.00	Utility Relocation
ERIK R JOHNSON & ASSOCIATES	\$686,572.23	\$686,572.23	\$0.00	Legal Services
PATCHIN MESSNER VALUATION COUNSELORS	\$637,712.50	\$483,446.25	\$154,266.25	Property Appraisal Services
METROPOLITAN COUNCIL OF GOVERNMENTS	\$637,390.01	\$637,390.01	\$0.00	Digital Aerial Photography
NEON LOON COMMUNICATIONS, LLC	\$635,958.00	\$294,001.83	\$341,956.17	Communications Support
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
BANK OF NORTH DAKOTA	\$565,832.83	\$565,832.83	\$0.00	Legal review fees
LINNCO, INC.	\$534,003.11	\$534,003.11	\$0.00	House Demo and Removal
MIDCONTINENT COMMUNICATIONS	\$527,490.41	\$527,490.41	\$0.00	Utility Relocation

Data Through Date: Friday, November 24, 2023

*Cumulative Vendor Payments Since Inception (Paid Only)*

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
RED RIVER BASIN COMMISSION	\$501,000.00	\$501,000.00	\$0.00	Retention Projects - Engineering Services
HOFFMAN & MCNAMARA CO.	\$491,334.67	\$491,334.67	\$0.00	General Landscaping and Planting (WP-42G)
BUFFALO-RED RIVER WATERSHED DISTRICT	\$473,287.89	\$473,287.89	\$0.00	Retention Projects - Engineering Services
RED RIVER VALLEY COOPERATIVE ASSOC	\$450,718.87	\$450,718.87	\$0.00	Electricity - Home Buyouts
ROBERT TRENT JONES	\$440,431.73	\$440,431.73	\$0.00	Oxbow MOU - Golf Course Consulting Agreement
LTP ENTERPRISES INC.	\$438,600.00	\$0.00	\$438,600.00	Test Holes and Test Well Drilling
CLAY COUNTY AUDITOR	\$426,760.03	\$426,760.03	\$0.00	Property Taxes - MN
C THREE MEDIA, LLC	\$394,063.70	\$276,745.42	\$117,318.28	Videography Services
MBA	\$380,636.36	\$380,636.36	\$0.00	Golf course and pump house - Oxbow Country Club
RICK ELECTRIC INC	\$371,207.00	\$371,207.00	\$0.00	Riverwood Flood Risk Project - Electrical
BEAVER CREEK ARCHAEOLOGY	\$369,370.25	\$369,370.25	\$0.00	Engineering Services
NDSU BUSINESS OFFICE-BOX 6050	\$356,145.00	\$356,145.00	\$0.00	Ag Risk Study Services
WATTS AND ASSOCIATES, INC.	\$350,000.00	\$317,149.27	\$32,850.73	Crop insurance product development services
MVM CONTRACTING	\$339,448.03	\$339,448.03	\$0.00	Fiber Relocation
SWANSON HEALTH PRODUCTS, INC.	\$337,059.00	\$337,059.00	\$0.00	FM1471 - Storm Lift Stations #55 and #56 - Drain 27
INTEGRA REALTY RESOURCES	\$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
JR FERCHE INC.	\$315,315.30	\$0.00	\$315,315.30	Water System Improvements
FEDERAL STEEL SUPPLY, INC.	\$307,378.00	\$307,378.00	\$0.00	OHB - 42 inch steel pipe
DIRT DYNAMICS	\$301,332.37	\$301,332.37	\$0.00	HD18A1 - Oakcreek, Copperfield & Univerisy - Demo
GARY KILLEBREW	\$279,500.00	\$279,500.00	\$0.00	Project Manager Services - Oxbow Country Club
TURMAN & LANG	\$277,139.55	\$277,139.55	\$0.00	Legal Services
MOODYS INVESTORS SERVICE, INC.	\$274,375.00	\$274,375.00	\$0.00	WIFIA loan fees
702 COMMUNICATIONS	\$266,892.07	\$266,892.07	\$0.00	Utility Relocation
FORUM COMMUNICATIONS	\$248,913.75	\$245,413.75	\$3,500.00	Advertising Services
PR FOR GOOD, INC	\$242,482.28	\$242,482.28	\$0.00	Communications Support Services
FREDRIKSON & BYRON, PA	\$241,881.28	\$241,881.28	\$0.00	Lobbying Services

Data Through Date: Friday, November 24, 2023

*Cumulative Vendor Payments Since Inception (Paid Only)*

<b>Vendor Name</b>	<b>Approved Contract/Invoiced Amount</b>	<b>Liquidated</b>	<b>Outstanding Encumbrance</b>	<b>Purpose</b>
NORTHERN IMPROVEMENT COMPANY	\$235,531.95	\$235,531.95	\$0.00	CR-17 asphalt paving
MICHAEL H KLEIN	\$234,965.25	\$83,046.10	\$151,919.15	Communications Support
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. SCEPANIAC, INC.	\$226,235.21	\$226,235.21	\$0.00	ROADWAY RESHAPING & AGGREGATE SURFACING
PLEASANT TOWNSHIP	\$208,207.85	\$208,207.85	\$0.00	Building Permit Application
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
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
GA GROUP, PC	\$156,229.32	\$152,229.32	\$4,000.00	Government Relations
PFM PUBLIC FINANCIAL MANAGEMENT	\$146,460.00	\$146,460.00	\$0.00	Financial Advisor
S&P GLOBAL RATINGS	\$145,625.00	\$145,625.00	\$0.00	Ratings Evaluation Service
DAILY NEWS	\$143,075.16	\$143,075.16	\$0.00	Advertising Services
CHAPMAN AND CUTLER	\$140,000.00	\$140,000.00	\$0.00	Legal Services
QUANTUM SPATIAL, INC.	\$139,061.35	\$139,061.35	\$0.00	Digital Aerial Photography
JT LAWN SERVICE LLC	\$137,044.00	\$137,044.00	\$0.00	Mowing and weed control
EIDE BAILLY LLP	\$131,643.25	\$104,420.75	\$27,222.50	Audit Services
MARCO TECHNOLOGIES	\$125,554.72	\$62,063.31	\$63,491.41	IT Services
SENTRY SECURITY, INC.	\$121,212.85	\$121,212.85	\$0.00	Security Services

Data Through Date: Friday, November 24, 2023

*Cumulative Vendor Payments Since Inception (Paid Only)*

<b>Vendor Name</b>	<b>Approved Contract/Invoiced Amount</b>	<b>Liquidated</b>	<b>Outstanding Encumbrance</b>	<b>Purpose</b>
AFFINITEXT INC	\$118,630.00	\$68,168.13	\$50,461.87	Document Management Services
ENVENTIS	\$115,685.62	\$115,685.62	\$0.00	Utility Relocation
GE BOCK REAL ESTATE, LLC	\$112,590.00	\$112,590.00	\$0.00	Property Appraisal Services
OXBOW COUNTRY CLUB	\$110,391.68	\$110,391.68	\$0.00	Golf Course - Oxbow
JORGE PAGAN	\$109,500.00	\$109,500.00	\$0.00	Appraisal services
TINJUM APPRAISAL COMPANY, INC.	\$108,500.00	\$108,500.00	\$0.00	Property Appraisal Services
MAPLETON TOWNSHIP	\$108,030.00	\$108,030.00	\$0.00	Lost tax revenue and attorney fees
DAVID CLARDY	\$105,215.05	\$105,215.05	\$0.00	Home buyouts - easement

143 Vendors

Report Totals:

**\$1,098,555,906.40**

**\$1,012,684,571.77**

**\$85,871,334.63**

Data Through Date: Friday, November 24, 2023

## Parcel (OIN) Physical Location Summary

Project / Physical Location	Parcels	Acquired / Sold	Cancelled OIN's (HC)	PCT Acquired / Cancelled	Remaining OIN's	Cost To Date
<b>BIOGEO</b>	<b>423</b>	<b>212</b>	<b>131</b>	<b>81%</b>	<b>80</b>	<b>\$1,097,231</b>
BIOGEO	293	211	2	73%	80	\$325,546
HC	130	1	129	100%	0	\$771,685
<b>CHANNEL</b>	<b>706</b>	<b>499</b>	<b>206</b>	<b>100%</b>	<b>1</b>	<b>\$99,046,102</b>
ENV	1	0	0	0%	1	\$0
HC	237	31	206	100%	0	\$3,559,111
LAP01	130	130	0	100%	0	\$8,026,504
LAP02	99	99	0	100%	0	\$13,564,816
LAP03	82	82	0	100%	0	\$22,753,167
LEGACY	156	156	0	100%	0	\$51,141,254
SheyMit	1	1	0	100%	0	\$1,250
<b>Habitat Improve</b>	<b>22</b>	<b>6</b>	<b>0</b>	<b>27%</b>	<b>16</b>	<b>\$2,000</b>
ENV	5	5	0	100%	0	\$0
Habitat_Shey	17	1	0	6%	16	\$2,000
<b>MOBILITY</b>	<b>123</b>	<b>0</b>	<b>1</b>	<b>1%</b>	<b>122</b>	<b>\$0</b>
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
<b>NA</b>	<b>7</b>	<b>0</b>	<b>7</b>	<b>100%</b>	<b>0</b>	<b>\$0</b>
HC	7	0	7	100%	0	\$0
<b>SEAILAND</b>	<b>452</b>	<b>383</b>	<b>35</b>	<b>92%</b>	<b>34</b>	<b>\$80,967,323</b>
DRAIN 27	39	39	0	100%	0	\$20,565,082
HC	40	5	35	100%	0	\$458,806
LEGACY	100	100	0	100%	0	\$20,419,331
SE_I29	10	10	0	100%	0	\$4,383,360
SE-1	43	42	0	98%	1	\$6,526,631
SE-2A	13	13	0	100%	0	\$3,914,646
SE-2B	74	69	0	93%	5	\$10,065,578
SE-3	9	9	0	100%	0	\$1,009,802
SE-4	45	29	0	64%	16	\$3,803,789
SE-5	21	10	0	48%	11	\$562,628
SE-INLET	9	9	0	100%	0	\$2,952,107
SE-RRCS	37	37	0	100%	0	\$6,305,062
SE-WRCS	10	10	0	100%	0	\$0
UMA	2	1	0	50%	1	\$500



## METRO FLOOD DIVERSION AUTHORITY

Tuesday, December 5, 2023

Data Through Date: Friday, November 24, 2023

## Parcel (OIN) Physical Location Summary

Project / Physical Location	Parcels	Acquired / Sold	Cancelled OIN's (HC)	PCT Acquired / Cancelled	Remaining OIN's	Cost To Date
<b>Sheyenne Mitigatio</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0%</b>	<b>3</b>	<b>\$1,750</b>
SheyMit	3	0	0	0%	3	\$1,750
<b>WP36</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0%</b>	<b>2</b>	<b>\$2,750</b>
WRDAM	2	0	0	0%	2	\$2,750
<b>WP38</b>	<b>1,024</b>	<b>286</b>	<b>352</b>	<b>62%</b>	<b>386</b>	<b>\$76,503,530</b>
BIOGEO	2	2	0	100%	0	\$4,500
HC	356	4	352	100%	0	\$1,283,123
LEGACY	3	3	0	100%	0	\$750
UMA	557	272	0	49%	285	\$75,194,471
UMA-C	67	5	0	7%	62	\$20,685
UMA-W	39	0	0	0%	39	\$0
<b>WP40</b>	<b>18</b>	<b>8</b>	<b>10</b>	<b>100%</b>	<b>0</b>	<b>\$48,923</b>
DRAYTON	7	7	0	100%	0	\$48,923
HC	10	0	10	100%	0	\$0
LEGACY	1	1	0	100%	0	\$0
<b>WP42</b>	<b>66</b>	<b>50</b>	<b>3</b>	<b>80%</b>	<b>13</b>	<b>\$37,850,061</b>
HC	4	1	3	100%	0	\$0
LEGACY	6	6	0	100%	0	\$18,014,935
WP42	56	43	0	77%	13	\$19,835,126
<b>WP43</b>	<b>268</b>	<b>121</b>	<b>147</b>	<b>100%</b>	<b>0</b>	<b>\$79,807,670</b>
Non-OIN Hard Land Cost	0	0	0	0%	0	\$22,598,547
HC	148	1	147	100%	0	\$500
LEGACY	5	5	0	100%	0	\$2,422,914
WP43A	1	1	0	100%	0	\$0
WP43B	6	6	0	100%	0	\$1,927,138
WP43C	74	74	0	100%	0	\$45,142,769
WP43D	20	20	0	100%	0	\$6,452,831
WP43D5	5	5	0	100%	0	\$1,175,055
WP43G	9	9	0	100%	0	\$87,915
<b>Totals</b>	<b>3,114</b>	<b>1,565</b>	<b>892</b>	<b>79%</b>	<b>657</b>	<b>\$375,327,339</b>

**FM Metropolitan Area Flood Risk Management Project**  
**Lands Expense - Life To Date**  
**As of November 30, 2023**

Property Address	Purchase Date	Purchase Price	Earnest Deposit	Relocation Assistance	Sale Proceeds	Total
<b>Commercial Relocations - Fargo</b>		16,099,989.70	-	16,300,462.10	(1,100.00)	32,399,351.80
<b>Home Buyouts - Fargo</b>		3,044,054.89	-	521,417.80	-	3,565,472.69
<b>Home Buyouts - Moorhead</b>		495,809.91	-	84,060.80	(8,440.00)	571,430.71
<b>Home Buyouts - Oxbow</b>		29,678,181.97	-	17,142,531.46	(368,167.87)	46,452,545.56
<b>Home Buyouts - Hickson</b>		1,031,674.37	-	120,422.18	-	1,152,096.55
<b>Home Buyouts - Horace</b>		7,604,598.67	-	595,320.88	-	8,199,919.55
<b>Home Buyouts - Argusville</b>		215,030.91	-	6,912.57	-	221,943.48
<b>Easements - Fargo</b>		504,716.00	-	-	-	504,716.00
<b>Easements - Hickson</b>		500.00	-	-	-	500.00
<b>Easements - Oxbow</b>		55,500.00	-	-	-	55,500.00
<b>Easements - Diversion Inlet Control Structure</b>		4,234,581.90	-	-	-	4,234,581.90
<b>Easements - Piezometer</b>		259,765.00	-	-	-	259,765.00
<b>Easements - Minesota</b>		1,542,370.79	-	-	-	1,542,370.79
<b>Farmland Purchases</b>		300,634,765.70	-	5,109,571.44	(18,602,518.67)	159,967,282.44

**FM Metropolitan Area Flood Risk Management Project  
Lands Expense - Life To Date  
As of November 30, 2023**

Property Address	Purchase Date	Purchase Price	Earnest Deposit	Relocation Assistance	Sale Proceeds	Total
<b>Land Purchases</b>		166,425,963.36	-	2,563,701.41	(9,049,382.33)	159,967,282.44
Auditor's Lot 1 of the Southwest Quarter (SW1/4) in Section 8, Township 137 North of Range 49 West, of the Fifth Principal Meridian, said tract is also described as follows: Beginning at the Southwest section corner of said Section 8; thence North 0°00'00" East on the west section line of said Section 8 for a distance of 152.50 feet; thence South 89°56'56" East, parallel with the south section line of said Section 8 for a distance of 720 feet; thence South 00°00'00" East, parallel with West section line of said Section 8 for a distance of 152.50 feet; to the South section line of said Section 8; thence North 89°56'56" West on the south section line of said Section 8 for a distance of 720 feet to the point of beginning.	6/29/2023	153,390.50				
N1/2 SE1/4 Sec 29 137N 48W, Holy Cross Twp, Clay County, MN	8/3/2023	372,653.83				
Auditors Lot 4 of the SW Quarter Section 34, in Township 138 North of Range 49 West of the Fifth Principal Meridian, Cass County North Dakota	8/31/2023	4,045,125.04				
All that part of the fractional N% of Section 31, Township 137 North, Range 48 West of the 5" P.M., Clay County, Minnesota,	8/31/2023	2,203,072.86				
The W1/2SW1/4 of Section 33, Township 138 North, Range 49 West of the Fifth Principle Meridian, Cass County, North Dakota	10/26/2023	53,576.00				
Part of NE1/4 SE1/4 24-136-49 Richland County	10/26/2023	20,685.00				
		<u>365,401,539.81</u>	-	39,880,699.23	(18,980,226.54)	<u>386,302,012.50</u>
				<b>Property Management Expense</b>		5,785,916.03
				<b>Grand Total</b>	<b>\$</b>	<b><u>392,087,928.53</u></b>

**FM Metropolitan Area Flood Risk Management Project  
In-Town Levee Work  
as of November 30, 2023**

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

**Legacy Bond Fund Balance Report**  
**As of 11/30/2023**

**Total Authorized \$ 435,500,000.00**

**Current Allocation \$ 435,500,000.00**

**Available funds remaining \$ 358,772,461.04**

<b>Funds Requested</b>				
	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>Total</b>
<b>January</b>	\$ -	\$ 2,942,906.60	\$ 9,981,188.76	\$ 12,924,095.36
<b>February</b>	\$ -	\$ 4,564,036.17	\$ 8,921,227.42	\$ 13,485,263.59
<b>March</b>	\$ -	\$ 5,302,899.35	\$ 17,730,945.56	\$ 23,033,844.91
<b>April</b>	\$ -	\$ 1,472,504.37	\$ 11,046,323.21	\$ 12,518,827.58
<b>May</b>	\$ -	\$ 1,450,140.38	\$ 4,548,883.57	\$ 5,999,023.95
<b>June</b>	\$ -	\$ 4,423,864.76	\$ 14,466,204.50	\$ 18,890,069.26
<b>July</b>	\$ -	\$ 2,663,992.40	\$ 3,974,515.98	\$ 6,638,508.38
<b>August</b>	\$ 5,059,974.19	\$ 13,491,974.29	\$ 13,633,750.92	\$ 32,185,699.40
<b>September</b>	\$ 2,970,327.95	\$ 8,406,666.33	\$ 965,586.18	\$ 12,342,580.46
<b>October</b>	\$ 6,089,707.34	\$ 4,618,116.80		\$ 10,707,824.14
<b>November</b>	\$ 6,415,461.09	\$ 11,768,061.46		\$ 18,183,522.55
<b>December</b>	\$ 6,854,966.95	\$ 17,496,559.97		\$ 24,351,526.92
<b>Total</b>	\$ 27,390,437.51	\$ 78,601,722.88	\$ 85,268,626.10	\$ 191,260,786.49

<b>Funds Received</b>				
<b>May 2022</b>	\$ 27,390,437.51			\$ 27,390,437.51
<b>Jul 2022</b>		\$ 12,809,842.12		\$ 12,809,842.12
<b>Sep 2022</b>		\$ 7,346,509.51		\$ 7,346,509.51
<b>Dec 2022</b>		\$ 29,180,749.82		\$ 29,180,749.82
<b>Jan 2023</b>			\$ 29,264,621.43	\$ 29,264,621.43
<b>Apr 2023</b>			\$ 18,902,416.18	\$ 18,902,416.18
<b>Aug 2023</b>			\$ 47,792,356.84	\$ 47,792,356.84
<b>Nov 2023</b>			\$ 18,573,853.08	\$ 18,573,853.08
				\$ -
<b>Total</b>	\$ 27,390,437.51	\$ 49,337,101.45	\$ 114,533,247.53	\$ 191,260,786.49

**State Revolving Fund (SRF) Status Report**  
**As of 11/30/2023**

<b>Total Authorized</b>	<b>\$</b>	<b>51,634,000.00</b>
<b>Funds Received to Date</b>	<b>\$</b>	<b>9,589,378.08</b>
<b>Available Balance Remaining</b>	<b>\$</b>	<b>42,044,621.92</b>

<b>Funds Requested</b>			
<b>Draw Request Number</b>	<b>Period Covered</b>	<b>Amount</b>	<b>Date Submitted</b>
<b>1</b>	12-Aug through 17-Oct-2022	\$ 1,272,651.90	19-Dec-22
<b>2</b>	09-Dec through 16-Dec-2022	\$ 2,125,033.67	17-Jan-23
<b>3</b>	03-Feb through 10-Feb-2023	\$ 2,539,289.51	03-Apr-23
<b>4</b>	11-Feb through 30-Apr. 2023	\$ 1,571,027.21	25-Jul-23
<b>5</b>	11-July through 28-Sept. 2023	\$ 2,052,271.94	24-Oct-23
<b>Total</b>		<b>\$ 9,560,274.23</b>	

<b>Funds Received</b>			
<b>Draw Request Number</b>	<b>Period Covered</b>	<b>Amount</b>	<b>Date Received</b>
<b>1</b>	12-Aug through 17-Oct-2022	\$ 1,272,651.90	23-Dec-22
<b>2</b>	09-Dec through 16-Dec-2022	\$ 2,125,033.67	10-Feb-23
<b>3</b>	03-Feb through 10-Feb-2023	\$ 2,539,298.51	21-Apr-23
<b>4</b>	11-Feb through 30-Apr. 2023	\$ 1,600,122.00	21-Aug-23
<b>5</b>	11-July through 28-Sept. 2023	\$ 2,052,272.00	08-Nov-23
<b>Total</b>		<b>\$ 9,589,378.08</b>	

## Finance Committee Bills from December 2023

Vendor	Description		
Cass County Joint Water Resource District	Diversion bills – Request #115 CCJWRD	\$	7,710,717.97
City of Fargo	Reimburse complementary in-town flood projects	\$	1,102,217.12
Clay County	Diversion bills – Request #36 MCCJPA	\$	201,843.97
Ohnstad Twichell, P.C.	Legal services rendered through November 21, 2023	\$	123,540.10
Cass County	Reimburse misc expenses from Diversion Authority office	\$	11,543.97
Rush River Water Resource District	Reimburse engineering services related to MOU	\$	9,253.47
Southeast Cass Water Resource District	Reimburse engineering services related to MOU	\$	8,375.80
Maple River Water Resource District	Reimburse engineering services related to MOU	\$	2,142.59
City of Christine	Reimburse legal services related to MOU	\$	1,760.00
Total Bills Received through December 6, 2023		\$	<u>9,171,394.99</u>



Cass County  
Joint Water  
Resource  
District

SENT VIA EMAIL

December 4, 2023

Rodger Olson  
Chairman  
Leonard, North Dakota

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

Ken Lougheed  
Manager  
Gardner, North Dakota

Greetings:

Keith Weston  
Manager  
Fargo, North Dakota

RE: Metro Flood Diversion Project

Jacob Gust  
Manager  
Fargo, North Dakota

Enclosed please find copies of bills totaling \$7,710,717.97 regarding the above referenced projects.

Rick Steen  
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.

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT

Carol Harbeke Lewis  
Secretary-Treasurer

Enclosures

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrđ@casscountynđ.gov](mailto:wrđ@casscountynđ.gov)  
[casscountynđ.gov](http://casscountynđ.gov)



METRO FLOOD DIVERSION RIGHT OF ENTRY/LAND ACQUISITION COST SHARE INVOICES							11/30/2023
Invoice Paid	Invoice Date	Invoice No.	Project No.	Amount	Vendor	Description	
				41.08	Cass County Joint WRD	Flowage Easement letters postage	
				16.74	Cass County Joint WRD	Diversion related postage	
				11.25	Cass County Joint WRD	Diversion related copies	
11/17/2023	10/30/2023	191961	90007	495.00	Ohnstad Twichell, P.C.	Legal-Basin Project 2009	
11/17/2023	10/30/2023	191965	130007	25,568.84	Ohnstad Twichell, P.C.	Legal-Diversion Right of Way Acquisition	
11/17/2023	10/30/2023	191966	160007	2,047.50	Ohnstad Twichell, P.C.	Legal-Diversion Authority Agreement-Drains	
11/17/2023	10/30/2023	191967	160007	159.57	Ohnstad Twichell, P.C.	Legal-Channel Phase I	
11/17/2023	10/30/2023	191967	160007	99.23	Ohnstad Twichell, P.C.	Legal-Channel Phase II	
11/17/2023	10/30/2023	191969	160007	4,835.50	Ohnstad Twichell, P.C.	Legal Channel Phase III	
11/17/2023	10/30/2023	191970	170007	31,879.08	Ohnstad Twichell, P.C.	Legal-Upstream Mitigation Area	
11/17/2023	10/30/2023	191971	187007	5,968.00	Ohnstad Twichell, P.C.	Legal-Diversion - Southern Embankment	
11/17/2023	10/30/2023	191972	197007	686.00	Ohnstad Twichell, P.C.	Legal-Right of Way - Wild Rice Structure	
11/17/2023	10/30/2023	191973	197007	126.00	Ohnstad Twichell, P.C.	Legal-Western Tie Back	
11/17/2023	10/30/2023	191974	207007	334.00	Ohnstad Twichell, P.C.	Legal-Wetland Mitigation Drain 27	
11/17/2023	10/30/2023	191975	237007	252.00	Ohnstad Twichell, P.C.	Legal-FM Diversion MLGC Dispute	
11/29/2023	11/13/2023	192260	207007	2,142.00	Ohnstad Twichell, P.C.	Gust (OIN 952) QTED	
11/29/2023	11/13/2023	192261	207007	815.50	Ohnstad Twichell, P.C.	Brandt RLT (OIN 9348) QTED	
11/29/2023	11/13/2023	192262	207007	469.00	Ohnstad Twichell, P.C.	Wanzek Estate (OIN 8672-8675/9747) QTED	
11/29/2023	11/13/2023	192263	207007	2,912.00	Ohnstad Twichell, P.C.	Libbrecht (OIN 698/9756-9759) QTED	
11/29/2023	11/13/2023	192264	207007	220.50	Ohnstad Twichell, P.C.	Brodshaug RLT (OIN 5008/1930/1932/1940-1941/8517-8518) QT	
11/29/2023	11/13/2023	192265	217007	7,532.00	Ohnstad Twichell, P.C.	Coster RET (OIN 9736-9737) QTED	
11/29/2023	11/13/2023	192266	227007	142.50	Ohnstad Twichell, P.C.	Ricker (OIN 872-875) ED	
11/29/2023	11/13/2023	192267	227007	363.00	Ohnstad Twichell, P.C.	Varriano (OIN 1130) ED	
11/29/2023	11/13/2023	192268	227007	300.00	Ohnstad Twichell, P.C.	Anderson (OIN 1896/2052) ED	
11/29/2023	11/13/2023	192269	227007	615.00	Ohnstad Twichell, P.C.	Brakke (OIN 1964) ED	
11/29/2023	11/13/2023	192270	227007	48.00	Ohnstad Twichell, P.C.	MKRM Trust (OIN 1997) ED	
11/29/2023	11/13/2023	192271	227007	48.00	Ohnstad Twichell, P.C.	Askegaard (OIN 2051) ED	
11/29/2023	11/13/2023	192272	227007	142.50	Ohnstad Twichell, P.C.	Cossette (OIN 2361) ED	
11/29/2023	11/13/2023	192273	227007	913.50	Ohnstad Twichell, P.C.	Emden Partners (OIN 836/232/5613) ED	
11/29/2023	11/13/2023	192274	227007	205.50	Ohnstad Twichell, P.C.	Brakke (OIN 845) ED	
11/29/2023	11/13/2023	192275	227007	1,857.96	Ohnstad Twichell, P.C.	Storvick (OIN 860/2005) ED	
11/29/2023	11/13/2023	192276	227007	220.50	Ohnstad Twichell, P.C.	Brakke Family (OIN 1938/1977-1978) ED	
11/29/2023	11/13/2023	192277	227007	205.50	Ohnstad Twichell, P.C.	Cossette (OIN 1946) ED	
11/29/2023	11/13/2023	192278	227007	630.00	Ohnstad Twichell, P.C.	Hamilton (OIN 1949/1956/5036) ED	
11/29/2023	11/13/2023	192279	227007	237.00	Ohnstad Twichell, P.C.	Askegaard (OIN 1950/1963/1966) ED	
11/29/2023	11/13/2023	192280	227007	111.00	Ohnstad Twichell, P.C.	Brakke (OIN 1974/1976) ED	
11/29/2023	11/13/2023	192281	227007	237.00	Ohnstad Twichell, P.C.	Hertsgaard Family LLLP (OIN 2042) ED	
11/29/2023	11/13/2023	192282	227007	394.50	Ohnstad Twichell, P.C.	Braaten (OIN 5032) ED	
11/29/2023	11/13/2023	192283	237007	142.50	Ohnstad Twichell, P.C.	Erickson (OIN 2025) ED	
11/29/2023	11/13/2023	192284	237007	94.50	Ohnstad Twichell, P.C.	Eleanor Brandt Trust (OIN 1922/1927) ED	
11/29/2023	11/13/2023	192285	237007	111.00	Ohnstad Twichell, P.C.	Norberg (OIN 5023) ED	
11/29/2023	11/13/2023	192286	237007	552.00	Ohnstad Twichell, P.C.	Trottier (OIN 1958) ED	
11/29/2023	11/13/2023	192287	237007	205.50	Ohnstad Twichell, P.C.	Hanson (OIN 1898) ED	
11/29/2023	11/13/2023	192288	237007	977.82	Ohnstad Twichell, P.C.	Evert (OIN 1895/1991) ED	
11/29/2023	11/13/2023	192289	237007	309.36	Ohnstad Twichell, P.C.	Loffelmacher (OIN 831) ED	
11/29/2023	11/13/2023	192290	237007	237.00	Ohnstad Twichell, P.C.	JRD Campbell Family Investment LLP (OIN 9404) ED	
11/29/2023	11/13/2023	192291	237007	237.00	Ohnstad Twichell, P.C.	KLF LLP (OIN 9347) ED	
11/29/2023	11/13/2023	192292	237007	2,236.50	Ohnstad Twichell, P.C.	Cossette/Aarestad (OIN 1075) ED	
11/29/2023	11/13/2023	192293	237007	48.00	Ohnstad Twichell, P.C.	Bellemare (OIN 1080-1081) ED	
11/29/2023	11/13/2023	192294	237007	441.00	Ohnstad Twichell, P.C.	KLC Holdings LLC (OIN 7225) ED	
11/29/2023	11/13/2023	192295	237007	341.58	Ohnstad Twichell, P.C.	Christenson (OIN 7002) ED	
11/29/2023	11/13/2023	192296	237007	142.50	Ohnstad Twichell, P.C.	Ihle (OIN 1959) ED	
11/29/2023	11/13/2023	192297	237007	2,345.00	Ohnstad Twichell, P.C.	Richard Farm Enterprises (OIN 1095) ED	
11/29/2023	11/13/2023	192298	237007	174.00	Ohnstad Twichell, P.C.	Johnson (OIN 9423) ED	
11/29/2023	11/13/2023	192299	237007	945.00	Ohnstad Twichell, P.C.	Brakken (OIN 1173N) ED	
11/29/2023	11/13/2023	192300	237007	30,950.40	Ohnstad Twichell, P.C.	2023 Consolidated ED Actions	
11/29/2023	11/10/2023	829942	38810.00028	395.00	Larkin Hoffman Attorneys	Legal-Alm Flowage Easement	
11/29/2023	11/10/2023	829945	38810.00035	2,639.75	Larkin Hoffman Attorneys	Legal-Anderson, Patrick and Lori Propp	

Invoice Paid	Invoice Date	Invoice No.		Project No.	Amount	Vendor	Description
11/29/2023	11/10/2023	829937		38810.00021	671.50	Larkin Hoffman Attorneys	Legal-Anderson, Pearl B Trust Flowage Easement
11/29/2023	11/10/2023	829929		38810.00003	24.25	Larkin Hoffman Attorneys	Legal-V Anderson, Prairie Scale Systems
11/29/2023	11/10/2023	829934		38810.00014	118.50	Larkin Hoffman Attorneys	Legal-Brungard/Nelson Flowage Easement
11/29/2023	11/10/2023	829931		38810.00007	197.50	Larkin Hoffman Attorneys	Legal-CCJT v Daniel Flaten
11/29/2023	11/10/2023	839933		38810.00012	237.00	Larkin Hoffman Attorneys	Legal-Hanson Flowage Easement
11/29/2023	11/10/2023	829943		38810.00003	1,329.25	Larkin Hoffman Attorneys	Legal-Israelson, Dall
11/29/2023	11/10/2023	829944		38810.00033	2,544.50	Larkin Hoffman Attorneys	Legal-Johnson, Corey and Amy
11/29/2023	11/10/2023	829935		38810.00017	1,386.35	Larkin Hoffman Attorneys	Legal-Johnson, Larry & Jane Flowage Easement
11/29/2023	11/10/2023	829936		38810.00019	2,877.50	Larkin Hoffman Attorneys	Legal-Klein Flowage Easement
11/29/2023	11/10/2023	829947		38810.00041	1,264.00	Larkin Hoffman Attorneys	Legal-Knudsen, Kenneth and Melanie
11/29/2023	11/10/2023	829938		38810.00022	158.00	Larkin Hoffman Attorneys	Legal-Nelson Trusts Flowage Easement
11/29/2023	11/10/2023	829939		38810.00025	79.00	Larkin Hoffman Attorneys	Legal-Olson Leif and Danelle Flowage Easement
11/29/2023	11/10/2023	829940		38810.00026	158.00	Larkin Hoffman Attorneys	Legal-Patrick, Chad Flowage Easement
11/29/2023	11/10/2023	829932		38810.00011	948.60	Larkin Hoffman Attorneys	Legal-Kelley and Debra Perhus (OIN 5014/5015)
11/29/2023	11/10/2023	829930		38810.00004	4,030.00	Larkin Hoffman Attorneys	Legal-Richland/Cass Cos/apps for Permit to Enter Land
11/29/2023	11/10/2023	829948		38810.00045	1,725.15	Larkin Hoffman Attorneys	Legal-Becca Saunders
11/29/2023	11/10/2023	829946		38810.0004	2,449.25	Larkin Hoffman Attorneys	Legal-Ryan and Jennifer Skoog
11/29/2023	11/10/2023	829941		38810.00027	697.00	Larkin Hoffman Attorneys	Legal-Speten, Kenneth and Karen Flowage Easement
11/29/2023	11/10/2023	829949		38810.00049	2,054.00	Larkin Hoffman Attorneys	Legal-Allan and Mary Swenson
11/17/2023	10/30/2023	35616		19706	400.00	Moore Engineering, Inc.	Engineering - MOU
11/17/2023	10/30/2023	35617		19706	3,632.50	Moore Engineering, Inc.	Engineering - Task 2-P3 Legal Drain Inlet Technical Reviews
11/17/2023	10/31/2023	2413		3283-00	10,708.10	ProSource Technologies, LLC	TO 2 Project mgmt and ROW Services
11/29/2023	10/31/2023	13783.00-42			27,735.96	SRF Consulting Group, Inc.	Project mgmt, ROW Services and relocation services
11/17/2023	10/19/2023	21923-AI			1,687.50	Patchin Messner Valuation Counselors	Task Order 6, Amendment 3 - OIN 1545 appraisal
11/17/2023	11/17/2023				1,252,891.00	The Title Company	Cossette/Aarestad/Cossette property purchase
11/17/2023	11/17/2023				17,140.00	The Title Company	Nelson Family Partnership flowage easement
11/17/2023	11/17/2023				4,251,600.19	The Title Company	Nipstad Farms flowage easement
11/17/2023	11/17/2023				1,828,575.00	The Title Company	Nipstad Farms RIMP Loan
11/17/2023	11/17/2023				73,064.40	The Title Company	Smith property exchange
11/17/2023	11/17/2023				75,475.00	The Title Company	Estate of Janet Wanzek property exchange
11/17/2023	11/17/2023				1,765.00	Dakota Hills Electric	RIMP Loan estimates
11/17/2023	11/17/2023				1,355.00	Eric Score	relocation reimbursement OIN 8385
11/17/2023	11/17/2023	24224			2,416.00	Legacy Plumbing LLC	well line repair 3703 124th Ave S Horace
11/17/2023	11/17/2023	24224			2,261.00	Legacy Plumbing LLC	additional repair 3703 124th Ave S Horace
11/17/2023	10/25/2023				48.40	Walter Rasmussen	rent refund OIN 1120
11/29/2023	11/14/2023	1160310			21.07	Cass County Electric Cooperative	Service to 3703 124 Av S
11/29/2023	11/14/2023	1132241			48.94	Cass County Electric Cooperative	Service to 5251 174 1/2 AV SE
11/29/2023	11/14/2023	1125474			135.90	Cass County Electric Cooperative	Service to 12004 57 ST S
				<b>Total</b>	<b>7,710,717.97</b>		

**OXBOW-HICKSON-BAKKE RING LEVEE INVOICES**

Invoice Paid	Invoice Date	Invoice No.	Purchase Order No.	Project No.	Amount	Vendor	Description
				<b>Total</b>	<b>0.00</b>		
				<b>Grand Total</b>	<b>7,710,717.97</b>		



**FINANCE OFFICE**  
 225 4<sup>th</sup> Street North  
 Fargo, ND 58102  
 Phone: (701) 241-1333  
 E-Mail: [Finance@FargoND.gov](mailto:Finance@FargoND.gov)  
[www.FargoND.gov](http://www.FargoND.gov)

November 21, 2023

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 #27 for reimbursement invoices paid totaling \$1,102,217.12. These costs are for work on complementary in-town flood protection projects for costs paid in October 2023.

**Project Narrative, this request:**

Project Number	Project Description	Amount
FLDADM	Flood Administration Expense	627.67
FM1471	Drain 27 Lift Station #56 Flood Risk Management	34,641.97
FM15F	Harwood, Hackberry, & River Drive - Flood Risk	3,577.38
FM15J	Belmont Flood Risk Management Project	6,950.59
FM19B	Royal Oaks Area - Flood Risk Management	1,182.50
FM19C	Woodcrest Drive Area - Flood Risk Management	503,047.42
FM19F	Oak Grove Area - Flood Risk Management	322.50
FM21A	Red River Erosion Protection & Bank Stabilization	416,804.55
FM22B	Geotechnical Design - Flood Mitigation	12,693.67
NR23A	Storm Lift Rehab - #27 & 38	59,626.12
NR24B	Storm Lift Rehab - #11 & 57	62,742.75
<b>Total Expense for Period</b>		<b>\$1,102,217.12</b>

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 Schedule of Complementary In-Town Flood Protection Costs October 1, 2023 - October 31, 2023

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
FLDADM	FLOOD ADMINISTRATION	46035305105760	MARIOTT COPLEY PLACE	627.67	1072	10/15-10/27/23	11/05/2023	P CARD BMO	10	2023	1
460-3530-510.57-60 - Total				627.67							
FLDADM - Total				627.67							
FM1471	FLOOD MIT-Dr 27 42st-I29	46035305103305	DRAIN 27	34,641.97	330961	67242	10/05/2023	HOUSTON ENGINEERING INC	10	2023	3
460-3530-510.33-05 - Total				34,641.97							
FM1471 - Total				34,641.97							
FM15F0	FLOOD RISK-Harwd Hack Rvr	46035305103305	FINAL LEVEE DESIGN/LOMR	3,024.00	331615	67677	11/02/2023	HOUSTON ENGINEERING INC	10	2023	11
460-3530-510.33-05 - Total				3,024.00							
FM15F0 - Total				3,024.00							
FM15F3	FLOOD RISK-Harwd Hack Rvr	46035305103306	BRAUN INTERTEC CORP	553.38	1072	10/15-10/27/23	11/05/2023	P CARD BMO	10	2023	2
460-3530-510.33-06 - Total				553.38							
FM15F3 - Total				553.38							
FM15J5	FLOOD MIT-Belmnt Prk/Intk	46035305103305	FEMA LOCAL SHARE REQ	6,587.95	ES10230007	ES10230007	10/13/2023	City of Fargo	10	2023	13
460-3530-510.33-05 - Total				6,587.95							
FM15J5 - Total				6,587.95							
FM15J6	FLOOD MIT-Belmont Park	46035305103332	FLOOD MITIGATION BELMONT	362.64	331356	13448.03-5	10/19/2023	SRF CONSULTING GROUP, INC	10	2023	9
460-3530-510.33-32 - Total				362.64							
FM15J6 - Total				362.64							
FM19B0	FLOOD MIT-Royal Oaks Dr	46035305103305	ROYAL OAKS FLOOD MITIGATI	1,182.50	331615	67670	11/02/2023	HOUSTON ENGINEERING INC	10	2023	11
460-3530-510.33-05 - Total				1,182.50							
FM19B0 - Total				1,182.50							
FM19C0	FLOOD MIT-Woodcrest	46035305103305	WOODCREST FLOOD MITIGATIO	55,497.86	331615	67671	11/02/2023	HOUSTON ENGINEERING INC	10	2023	11
460-3530-510.33-05 - Total				55,497.86							
FM19C0 - Total				55,497.86							
FM19C1	FLOOD MIT-Woodcrest Dr N	4600002062000	Retainage and Retainage R	-24,233.51	331617	FM19C1 #12 041	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
460-0000-206.20-00 - Total				-24,233.51							
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305103899	3 SIGNS	41.61	331025	408423	10/05/2023	SIGN SOLUTIONS USA, LLC(PO BOX 1408	10	2023	4
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305103899	ACCT#F-51-4341057-3 STORM	92.03	331203	847925348	10/12/2023	XCEL ENERGY	10	2023	8
460-3530-510.38-99 - Total				133.64							
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107356	Phase 2 Paving	1,206.00	331617	FM19C1 #12 014	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
460-3530-510.73-56 - Total				1,206.00							
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107358	Phase 1 Storm Sewer	15,477.00	331617	FM19C1 #12 002	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
460-3530-510.73-58 - Total				15,477.00							
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107359	Phase 1 Paving	56,142.92	331617	FM19C1 #12 007	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107359	Phase 2 Flood Control	35,440.70	331617	FM19C1 #12 013	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
460-3530-510.73-59 - Total				91,583.62							
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107360	Change Order 1	1,050.00	331617	FM19C1 #12 012	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
460-3530-510.73-60 - Total				1,050.00							
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107366	Change Order 4	3,940.00	331617	FM19C1 #12 003	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107366	Phase 1 Miscellaneous	20,170.00	331617	FM19C1 #12 004	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107366	Phase 2 Flood Control	6,047.50	331617	FM19C1 #12 005	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107366	Phase 2 Miscellaneous	222,247.00	331617	FM19C1 #12 006	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
460-3530-510.73-66 - Total				252,404.50							
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107369	Phase 2 Flood Control	2,724.15	331617	FM19C1 #12 008	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107369	Phase 2 Flood Mitigation	2,392.50	331617	FM19C1 #12 009	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107369	Phase 2 Flood Mitigation	8,610.25	331617	FM19C1 #12 010	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107369	Phase 2 Miscellaneous	1,300.00	331617	FM19C1 #12 011	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107369	Phase 1 Flood Mitigation	2,444.40	331617	FM19C1 #12 015	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107369	Phase 1 Flood Mitigation	1,614.00	331617	FM19C1 #12 016	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107369	Phase 1 Flood Mitigation	2,763.75	331617	FM19C1 #12 017	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107369	Phase 1 Miscellaneous	101,100.00	331617	FM19C1 #12 018	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
460-3530-510.73-69 - Total				122,949.05							
FM19C1	FLOOD MIT-Woodcrest Dr N	46035305107399	Adjustments	-13,020.74	331617	FM19C1 #12 046	11/02/2023	INDUSTRIAL BUILDERS INC	10	2023	12
460-3530-510.73-99 - Total				-13,020.74							
FM19C1 - Total				447,549.56							
FM19F0	FLOOD MIT-Oak Grove Area	46035305103305	OAK GROVE FLOOD MITIGATIO	322.50	331615	67672	11/02/2023	HOUSTON ENGINEERING INC	10	2023	11
460-3530-510.33-05 - Total				322.50							
FM19F0 - Total				322.50							
FM21A0	FLOOD MIT-RR Erosion SUnv	46035305103305	RED RIVER EROSION PROTECT	28,682.00	331615	67675	11/02/2023	HOUSTON ENGINEERING INC	10	2023	11
460-3530-510.33-05 - Total				28,682.00							
FM21A0 - Total				28,682.00							
FM21A2	FLOOD MIT-RR Erosion SUnv	4600002062000	Retainage and Retainage R	-20,418.05	331088	FM21A2 #2 067	10/12/2023	EXCAVATING INC - FARGO	10	2023	5
460-0000-206.20-00 - Total				-20,418.05							
FM21A2	FLOOD MIT-RR Erosion SUnv	46035305103899	SIGNAGE	179.67	331186	406649	10/12/2023	SIGN SOLUTIONS USA, LLC(PO BOX 1408	10	2023	7
460-3530-510.38-99 - Total				179.67							
FM21A2	FLOOD MIT-RR Erosion SUnv	46035305107358	Grading	271,005.02	331088	FM21A2 #2 009	10/12/2023	EXCAVATING INC - FARGO	10	2023	5
460-3530-510.73-58 - Total				271,005.02							
FM21A2	FLOOD MIT-RR Erosion SUnv	46035305107359	Grading	124,481.16	331088	FM21A2 #2 010	10/12/2023	EXCAVATING INC - FARGO	10	2023	5
460-3530-510.73-59 - Total				124,481.16							

FM21A2	FLOOD MIT-RR Erosion SUnv	46035305107361	Miscellaneous	1,014.75	331088	FM21A2 #2 012	10/12/2023	EXCAVATING INC - FARGO	10	2023	5
460-3530-510.73-61 - Total				1,014.75							
FM21A2	FLOOD MIT-RR Erosion SUnv	46035305107369	Miscellaneous	11,860.00	331088	FM21A2 #2 011	10/12/2023	EXCAVATING INC - FARGO	10	2023	5
460-3530-510.73-69 - Total				11,860.00							
FM21A2 - Total				388,122.55							
FM22B1	FLOOD MIT-Geo Tech Design	46000002062000	Retainage and Retainage R	11,416.23	331581	FM22B1 #9 040	11/02/2023	CC STEEL, LLC	10	2023	10
460-0000-206.20-00 - Total				11,416.23							
FM22B1	FLOOD MIT-Geo Tech Design	46035305103899	XCEL ENERGY: ENGINEERING	17.44	331203	847925348	10/12/2023	XCEL ENERGY	10	2023	8
460-3530-510.38-99 - Total				17.44							
FM22B1	FLOOD MIT-Geo Tech Design	46035305107369	Site #1: Lift Station #15	1,260.00	331581	FM22B1 #9 001	11/02/2023	CC STEEL, LLC	10	2023	10
460-3530-510.73-69 - Total				1,260.00							
FM22B1 - Total				12,693.67							
NR23A0	STRM LFT RHAB DR 27 /38 S	46035305103305	STRM SWR LS #47&48	59,626.12	331615	67676	11/02/2023	HOUSTON ENGINEERING INC	10	2023	11
460-3530-510.33-05 - Total				59,626.12							
NR23A0 - Total				59,626.12							
NR24B0	STRM LFT RHAB-#11 & 57	46035305103305	STORM LIFT STN #11&#57	62,742.75	331104	67241	10/12/2023	HOUSTON ENGINEERING INC	10	2023	6
460-3530-510.33-05 - Total				62,742.75							
NR24B0 - Total				62,742.75							
Overall - Total				1,102,217.12							
Nov 8, 2023					1			11:53:59 AM			



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

---

December 5, 2023  
Diversion Authority  
P.O. Box 2806  
Fargo, ND 58108-2806

RE: Metro Flood Diversion Project

Greetings:

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

Metro Flood Diversion	\$201,843.97
-----------------------	--------------

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 12<sup>th</sup> Ave S  
PO Box 280  
Moorhead, MN 56560

## FM Diversion MCCJPA invoices

## Processed

	Invoice		Invoice		Date			Reimb
Vendor	Date		Amount	Invoice #	Approved	Date Paid	Check #	Request
ProSource Technologies	11/6/23	Prof svc thru 10/28/23	\$25,118.54	2412	11/14/23	11/22/23	563036	12/5/2023
Barnesville Record Review	10/16/23	JPA mtg 10/16/23	\$36.00	10032	11/21/23	11/29/23	563116	12/5/2023
Ohnstad Twichell	11/3/23	enviro monitoring	\$15.91	192096	11/3/23	11/22/23	563035	12/5/2023
Ohnstad Twichell	11/3/23	Upstream mitigation	\$49,927.05	192097	11/3/23	11/22/23	563035	12/5/2023
Ohnstad Twichell	11/3/23	Southern embankment	\$19,522.44	192098	11/3/23	11/22/23	563035	12/5/2023
Ohnstad Twichell	11/3/23	general 2023	\$21,000.94	192099	11/3/23	11/22/23	563035	12/5/2023
Ohnstad Twichell	11/3/23	eminent domain	\$11,312.70	192100	11/3/23	11/22/23	563035	12/5/2023
Ohnstad Twichell	11/3/23	eminent domain	\$5,502.90	192101	11/3/23	11/22/23	563035	12/5/2023
The Title Co	11/17/23	Flowage easement OIN 7100 & 710	\$24,384.00		11/17/23	11/17/23	907021	12/5/2023
The Title Co	11/17/23	Easement OIN 1832	\$12,430.87		11/17/23	11/17/23	907020	12/5/2023
SRF Consulting Group	10/31/23	Prof svcs thru 10/31/23	\$32,540.68	13820.00-37	11/21/23	11/29/23	563140	12/5/2023
Red River Valley Coop	11/2/23	svc 13689 3rd st s	\$51.94		11/21/23	11/29/23	563139	12/5/2023

\$201,843.97

**OHNSTAD TWICHELL, P.C.**  
**Attorneys at Law**

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

15-1395

JTS Invoice # 192552

Flood Diversion Board  
 Bond Counsel Work - PPP

Date: November 29, 2023

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

<b>PROFESSIONAL SERVICES RENDERED</b>			
	<b>Hours</b>	<b>Rate</b>	<b>Totals</b>
JTS	123.5	\$387.00	\$47,794.50
CMM	8.9	\$387.00	\$3,444.30
LDA	7.3	\$387.00	\$2,825.10
KJS	88.3	\$387.00	\$34,172.10
TJL	0.7	\$387.00	\$270.90
JRS	1.5	\$330.00	\$495.00
KJM	4.7	\$320.00	\$1,504.00
DCP	0.6	\$340.00	\$204.00
TJF	8.2	\$240.00	\$1,968.00
MAN	2.1	\$265.00	\$556.50
AJR	30.2	\$215.00	\$6,493.00
MRH	1.4	\$195.00	\$273.00
<b>Total Fees:</b>	<b>277.4</b>		<b>\$100,000.40</b>
Westlaw			\$36.70
Prof Service Fee Gwendolyn			\$23,125.00
Travel/Mileage			\$328.00
Recording Fees			\$50.00
<b>Total Expenses:</b>			<b>\$23,539.70</b>
<b>Grand Total</b>			<b>\$123,540.10</b>

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

OHNSTAD TWICHELL, P.C.

COST ADVANCES BY US FOR YOUR ACCOUNT, FOR WHICH WE HAVE NOT

WEST FARGO, NORTH DAKOTA 58078

BEEN BILLED, WILL APPEAR ON YOUR NEXT STATEMENT.



## Page 2 of 2

## PROFESSIONAL SERVICES RENDERED

15-1395 JTS Invoice # 192552 Flood Diversion Board		Bond Counsel Work - P3
FILE NUMBER	MATTER DESCRIPTION	INVOICE - TOTAL FEES
151395-1	General Topics	\$25,248.10
151395-4	Public Finance Issues	\$236.50
151395-5	Consultant Contract Review/Development	\$2,059.70
151395-9	Environmental Permitting Issues/NEPA	\$77.40
151395-12	USACE Interface/Questions	\$1,251.00
151395-13	Third Party Utility MOU's	\$25,087.20
151395-17	EPA WIFIA Loan	\$116.10
151395-23	PRAM	\$236.50
151395-24	P3 Implementation	\$36,444.30
	P3 Contract Administration (\$87,688.01 paid by DA)	
151395-26	Appraisal Review	\$851.40
151395-27	UMA/Utility Review	\$8,043.90
151395-28	CCJWRD Temporary RIB 2024A	\$193.50
151395-29	Deed Restrictions	\$154.80
<b>TOTAL</b>		<b>\$100,000.40</b>



**INVOICE: INV006755**

Date 12/05/2023  
 Invoice account 198

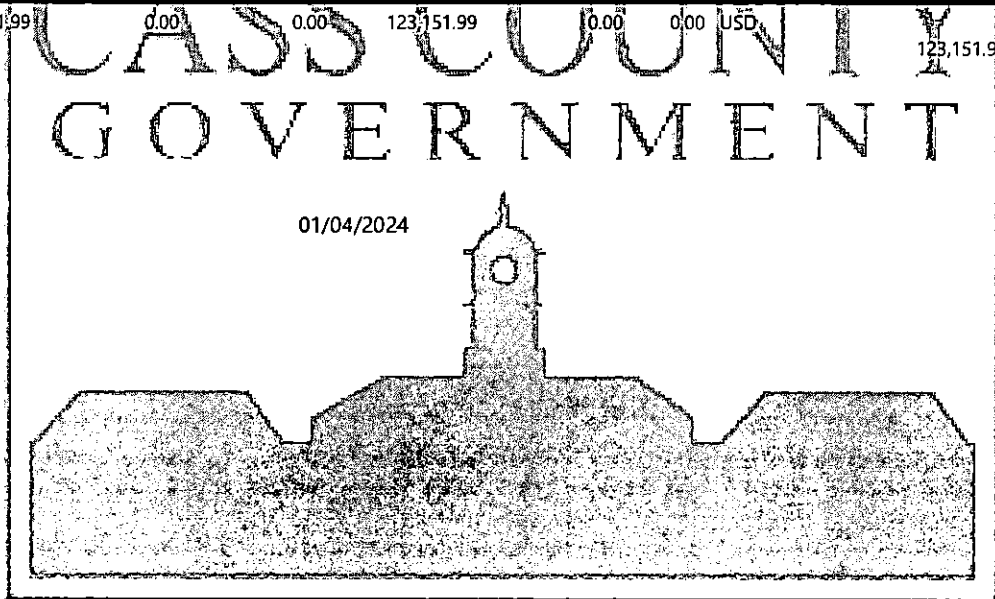
CITY OF FARGO  
 PO BOX 2083  
 FARGO, ND 58107-2083

Description	Quantity	Unit price	Amount
FM DIVERSION PAYROLL EXPENSES	1.00	111,608.02	111,608.02
<b>FM DIVERSION MISC EXPENSES</b>	1.00	11,543.97	<b>11,543.97</b>

Sales subtotal amount	Total discount	Total charges	Net amount	Sales tax	Round-off	Currency	Total
123,151.99	0.00	0.00	123,151.99	0.00	0.00	USD	123,151.99

Due date

01/04/2024



Please detach and send this copy with remittance.

**MAKE CHECK PAYABLE TO:**

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

Invoice: INV006755

Date: 12/05/2023

Total: 123,151.99

Name: CITY OF FARGO

Account #: 198

Due date 01/04/2024



Rush River  
Water Resource  
District

**SENT VIA EMAIL**

December 4, 2023

William A. Hejl  
Chairman  
Amenia, North Dakota

Dick Sundberg  
Manager  
Harwood, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

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

Greetings:

RE: Metro Flood Diversion Project

Enclosed please a copy of invoices totaling \$9,253.47 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

A handwritten signature in blue ink, appearing to read "Carol Harbeke Lewis".

Carol Harbeke Lewis  
Secretary-Treasurer

Carol Harbeke Lewis  
Secretary-Treasurer

Enclosure

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrд@casscountynд.gov](mailto:wrд@casscountynд.gov)  
[www.casscountynд.gov](http://www.casscountynд.gov)



Southeast Cass  
Water Resource  
District

**SENT VIA EMAIL**

December 4, 2023

Keith Weston  
Chairman  
Fargo, North Dakota

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

Dave Branson  
Manager  
Fargo, North Dakota

Greetings:

RE: Metro Flood Diversion Project

Rick Steen  
Manager  
Fargo, North Dakota

Enclosed please find a copy of invoices totaling \$8,375.80 regarding the above referenced project.

At this time, we respectfully request 100% reimbursement per the *Memorandum of Understanding* between the Metro Flood Diversion Authority and Southeast Cass Water Resource District dated February 25, 2021.

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

Sincerely,

SOUTHEAST CASS WATER RESOURCE DISTRICT

A handwritten signature in blue ink that reads "Carol Harbeke Lewis".

Carol Harbeke Lewis  
Secretary-Treasurer

Carol Harbeke Lewis  
Secretary-Treasurer

Enclosure

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrđ@casscountynđ.gov](mailto:wrđ@casscountynđ.gov)  
[casscountynđ.gov](http://casscountynđ.gov)



Maple River  
Water Resource  
District

SENT VIA EMAIL

November 20, 2023

Rodger Olson  
Chairman  
Leonard, North Dakota

Gerald Melvin  
Manager  
Buffalo, North Dakota

Chad Miller  
Manager  
Buffalo, North Dakota

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

Greetings:

RE: Maple River WRD Reimbursements

Enclosed please find a copy of an invoice totaling \$2,142.59 regarding the Metro Flood Diversion project.

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

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

Sincerely,

MAPLE RIVER WATER RESOURCE DISTRICT

A handwritten signature in blue ink that reads "Carol Harbeke Lewis".

Carol Harbeke Lewis  
Secretary-Treasurer

Enclosure

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrд@casscountynд.gov](mailto:wrд@casscountynд.gov)  
[www.casscountynд.gov](http://www.casscountynд.gov)

12/1/2023

**City of Christine - SUMMARY OF INVOICING****Reimbursement Request #11****December 1, 2023**

<u>Vendor</u>	<u>Invoice Date</u>	<u>Invoice #</u>	<u>Invoice Amount</u>
Swanson & Warcup	9/30/2023	1325	\$1,292.50
Swanson & Warcup	10/31/2023	1440	\$467.50
<b>Total Swanson &amp; Warcup</b>			<b>\$1,760.00</b>
Lies, Bullis & Hatting			
Lies, Bullis & Hatting			
<b>Total Lies, Bullis &amp; Hatting</b>			<b>\$0.00</b>
Moore Engineering, Inc.	9/28/2023	35266	\$17,073.82
Moore Engineering, Inc.	10/30/2023	35660	\$20,590.00
Moore Engineering, Inc.	11/28/2023	36076	\$38,174.32
<b>Total Moore Engineering, Inc.</b>			<b>\$75,838.14</b>
<b>Total Invoiced This Reimbursement Request</b>			<b>\$77,598.14</b>



METRO  
FLOOD  
DIVERSION  
AUTHORITY

# Diversion Authority Board Meeting

DECEMBER 14, 2023

Contracting Actions

Joel Paulsen, Executive Director

# DA Board Approval Contract Actions

## (ACTION)



Description	Company	Budget/ Estimate (\$)
Task Order 02, Amendment 1 – Consulting Services – The amendment extends the period of performance to December 31, 2024, and adds budget for fiscal year 2024.	Program Advisor Services	\$504,700.00
New Master Agreement for Construction Services (MACS) – WP38C Property Mitigation On-Call Services – The agreement will mitigate property structure in the Upstream Mitigation Area as part of the overall delivery. The MACS contract will speed up the property handover process to the Contractor, reduces project completion time, and eliminates the need external bidding for future work packages. The MACS will remain in effect for approximately 3 years and 6 months from the effective date through June 30, 2027.	Gordon Construction	\$0.00
New Master Agreement for Construction Services (MACS) – WP38C Property Mitigation On-Call Services – The agreement will mitigate property structure in the Upstream Mitigation Area as part of the overall delivery. The MACS contract will speed up the property handover process to the Contractor, reduces project completion time, and eliminates the need external bidding for future work packages. The MACS will remain in effect for approximately 3 years and 6 months from the effective date through June 30, 2027.	Hough, Inc	\$0.00



# DA Board Approval Contract Actions

## (ACTION)



Description	Company	Budget/ Estimate (\$)
<p>New Master Agreement for Construction Services (MACS) – WP38C Property Mitigation On-Call Services – The agreement will mitigate property structure in the Upstream Mitigation Area as part of the overall delivery. The MACS contract will speed up the property handover process to the Contractor, reduces project completion time, and eliminates the need external bidding for future work packages. The MACS will remain in effect for approximately 3 years and 6 months from the effective date through June 30, 2027.</p>	Industrial Builders, Inc	\$0.00
<p>New Master Agreement for Construction Services (MACS) – WP38C Property Mitigation On-Call Services – The agreement will mitigate property structure in the Upstream Mitigation Area as part of the overall delivery. The MACS contract will speed up the property handover process to the Contractor, reduces project completion time, and eliminates the need external bidding for future work packages. The MACS will remain in effect for approximately 3 years and 6 months from the effective date through June 30, 2027.</p>	Schmidt and Sons, Inc	\$0.00
<p>Change Order 01 – WP52B AAB Fill – OIN 12 &amp; 13 was used for waste material from the UASCE Drain 27 project. The intent was to use this material for the AAB building pad however the material was found unsuitable. OINs 12 and 13 needed to be cleaned up so 25,000CY of topsoil was hauled, spread, and graded to prevent weed issues and help with long term maintenance.</p>	Schmidt and Sons, Inc	\$75,000.00

# Executive Director Contracting Recommendation



## 1 Recommendation for action:

The 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 Services Agreements (MSA) and submit them to the Deputy Executive Directors and the Executive Director. Deputy Executive Directors will provide comments which will be consolidated in one form by the PMC and provided to the Director of Engineering. The Director of Engineering shall review the comments and provide recommendations to the Executive Director for review. The Executive Director shall thereafter submit the Task Order and Task Order Amendments along with the recommendation to the Finance Committee for review. The Finance Committee will submit its recommendation to the Diversion Authority Board for review and approval.

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

Program Advisor Services, LLC	
TO02 Amendment 1	\$504,700.00
Consulting Services	
<ul style="list-style-type: none"> <li>• Provide 2024 Budget.</li> <li>• Extend completion date to December 31, 2024</li> </ul>	

## 3 Reason why it is required

Program Advisor Services, LLC (PAS) entered into an agreement with the Metro Flood Diversion Authority to provide recommendations on the development, procurement, and implementation of the FM Area Diversion Project ("Project"). PAS will provide knowledge, advice, recommendations, and opinions pertaining to aspects of the Project within the Consultants expertise. The Consultant will attend meetings or otherwise participate in the governmental or quasi-governmental forums as directed by the Owner.

This task order provides the budget for the 2024 fiscal for basic consulting services and travel expenses.

## 4 Background and discussion

CH2M, now Jacobs, has served as the Program Management Consultant (PMC) to the OWNER since November of 2011, with primary responsibilities to plan and implement the Fargo-Moorhead Area Diversion Project (the PROJECT). As such, the OWNER and CONSULTANT 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 Executive Director.

In accordance with Section 5 of the Master Professional Services Agreement by and between the Metro Flood Diversion Authority (the "Authority") and Neon Loon Communications, LLC (the "Consultant") dated January 1, 2023 (the "Agreement"), the Authority and the Consultant agree to the above services.

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	Contract Change \$	Original or Revised Contract \$	Agreement Execution Date	Project Completion	Comments
TO02-A0	0.00	539,000.00	1/01/2023	12/31/2023	Budget for 2023 fiscal year
TO02-A1	504,700.00	1,043,700.00	1/01/2024	12/31/2024	Consulting services for FY 2024
Totals		1,043,700.00			

Table 2 – Summary of Subtasks Budgets

Subtask No.	Title	Current Budget (\$)	Change (\$)	Revised Budget (\$)
A	Basic Consulting Service	490,000.00	504,700.00	994,700.00
B	Travel Expenses	49,000.00	0.00	49,000.00
	Estimated Fees:	539,000.00	504,700.00	1,043,700.00

**5 Financial considerations:**

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

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

Table 3 – Summary of Annual Budget Allocation – Per Year

Year	Cost Account Code	Estimated Cost (\$)	Budget Allocated (\$)	Actual paid to date (\$)	Budget Remaining (\$_)	Comments
2023	SW-1150	539,000.00	539,000.00	405,882.35	133,117.65	
2024	SW-1150	504,700.00	600,000.00	0.00	600,000.00	
Totals		1,043,700.00	1,139,000.00	405,882.35	733,177.65	

## 6 Attachments:

- Task Order 02 Amendment 1

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

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

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

Approved by: Joel Paulsen, Executive Director

Date: 11/27/2023

# Executive Director Contracting Recommendation



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

Gordon Construction Master Agreement for Construction Services WP38C Property Structure Mitigation On-Call Services	\$0.00
<ul style="list-style-type: none"> <li>• New Master Agreement for Construction Services effective January 1, 2024 through June 30, 2027.</li> </ul>	

## 1 Recommendation for action:

The 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 Agreement for Construction Services (MACS) and submit them to the 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 Executive Director for review and action.

## 3 Reason why it is required

Property Structures need to be mitigated in the Upstream Mitigation Area as part of the overall project delivery. The new MACS contract will speed up the property handover process to the Contractor, reduce project completion times for mitigation. It will also eliminate future Work Package external bidding process and time associated with this process. This will streamline delivery. The MACS will remain in effect for approximately three years and six months from the effective date through June 30, 2027.

## 4 Background and discussion

In accordance with Paragraph 5 of the Master Agreement for Construction Services between the Metro Flood Diversion Authority (“OWNER”) and Gordon Construction (“CONTACTOR”) dated January 1, 2024 (“AGREEMENT”), the Owner and Contractor agree to the above services.

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
MACS	0.00	0.00	1/01/2024	6/30/2027	Budget given in specific task orders that fall under this MACS with Gordon Construction

5 Financial considerations:

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

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
MACS	N/A	0.00	0.00	0.00	0.00	Budget given in specific task orders that fall under this MACS with Gordon Construction
Totals		0.00	0.00	0.00	0.00	

6 Attachments:

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

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

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

Approved by: Joel Paulsen, Executive Director

Date: 12/4/2023

# Executive Director Contracting Recommendation



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

<p>Hough, Inc Master Agreement for Construction Services WP38C Property Structure Mitigation On-Call Services</p>	<p>\$0.00</p>
<ul style="list-style-type: none"> <li>• New Master Agreement for Construction Services effective January 1, 2024 through June 30, 2027.</li> </ul>	

## 1 Recommendation for action:

The 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 Agreement for Construction Services (MACS) and submit them to the 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 Executive Director for review and action.

## 3 Reason why it is required

Property Structures need to be mitigated in the Upstream Mitigation Area as part of the overall project delivery. The new MACS contract will speed up the property handover process to the Contractor, reduce project completion times for mitigation. It will also eliminate future Work Package external bidding process and time associated with this process. This will streamline delivery. The MACS will remain in effect for approximately three years and six months from the effective date through June 30, 2027.

## 4 Background and discussion

In accordance with Paragraph 5 of the Master Agreement for Construction Services between the Metro Flood Diversion Authority (“OWNER”) and Hough Inc (“CONTACTOR”) dated January 1, 2024 (“AGREEMENT”), the Owner and Contractor agree to the above services.

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
MACS	0.00	0.00	1/01/2024	6/30/2027	Budget given in specific task orders that fall under this MACS with Hough Inc

5 Financial considerations:

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

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
MACS	N/A	0.00	0.00	0.00	0.00	Budget given in specific task orders that fall under this MACS with Hough Inc
Totals		0.00	0.00	0.00	0.00	

6 Attachments:

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

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

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

Approved by: Joel Paulsen, Executive Director

Date: 12/4/2023



# Executive Director Contracting Recommendation



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

Industrial Builders, Inc Master Agreement for Construction Services Property Mitigation Services	\$0.00
<ul style="list-style-type: none"> <li>• New Master Agreement for Construction Services effective January 1, 2024 through June 30, 2027.</li> </ul>	

## 1 Recommendation for action:

The 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 Agreement for Construction Services (MACS) and submit them to the 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 Executive Director for review and action.

## 3 Reason why it is required

Industrial Builders, Inc is contracted with the Metro Flood Diversion Authority to perform Property Mitigation Services in accordance with the specifications set for in Exhibit A – Specifications, Exhibit B – Standard General Conditions and Exhibit C – Supplementary Conditions of the attached Ma the MACS will remain in effect for approximately three years and six months from the effective date through June 30, 2027.

## 4 Background and discussion

In accordance with Paragraph 5 of the Master Agreement for Construction Services between the Metro Flood Diversion Authority (“OWNER”) and Industrial Builders, Inc (“CONTACTOR”) dated January 1, 2024 (“AGREEMENT”), the Owner and Contractor agree to the above services.

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
MACS	0.00	0.00	1/01/2024	6/30/2027	Budget given in specific task orders that fall under this MACS with Industrial Builders Inc

5 Financial considerations:

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

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
MACS	N/A	0.00	0.00	0.00	0.00	Budget given in specific task orders that fall under this MACS with Industrial Builders Inc
Totals		0.00	0.00	0.00	0.00	

6 Attachments:

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

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

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

Approved by: Joel Paulsen, Executive Director

Date: 12/4/2023

# Executive Director Contracting Recommendation



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

Schmidt and Sons, Inc Master Agreement for Construction Services WP38C Property Structure Mitigation On-Call Services	\$0.00
<ul style="list-style-type: none"> <li>• New Master Agreement for Construction Services effective January 1, 2024 through June 30, 2027.</li> </ul>	

## 1 Recommendation for action:

The 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 Agreement for Construction Services (MACS) and submit them to the 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 Executive Director for review and action.

## 3 Reason why it is required

Property Structures need to be mitigated in the Upstream Mitigation Area as part of the overall project delivery. The new MACS contract will speed up the property handover process to the Contractor, reduce project completion times for mitigation. It will also eliminate future Work Package external bidding process and time associated with this process. This will streamline delivery. The MACS will remain in effect for approximately three years and six months from the effective date through June 30, 2027.

## 4 Background and discussion

In accordance with Paragraph 5 of the Master Agreement for Construction Services between the Metro Flood Diversion Authority (“OWNER”) and Schmidt and Sons, Inc (“CONTACTOR”) dated January 1, 2024 (“AGREEMENT”), the Owner and Contractor agree to the above services.

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
MACS	0.00	0.00	1/01/2024	6/30/2027	Budget given in specific task orders that fall under this MACS with Schmidt and Sons, Inc

5 Financial considerations:

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

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
MACS	N/A	0.00	0.00	0.00	0.00	Budget given in specific task orders that fall under this MACS with Schmidt and Sons Inc
Totals		0.00	0.00	0.00	0.00	

6 Attachments:

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

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

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

Approved by: Joel Paulsen, Executive Director

Date: 12/4/2023

# Executive Director Contracting Recommendation



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

<p>Schmidt and Sons, Inc Change Order 01 WP52B – AAB Site Fill</p>	<p>\$75,000.00</p>
<ul style="list-style-type: none"> <li>• Final Grade OINs 12 &amp; 13 and Haul, Spread, Grade up to 25,000 CY of topsoil from stockpiles on OIN 12</li> <li>• Extend final completion date to December 10, 2023</li> </ul>	

## 1 Recommendation for action:

The 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 Change Orders less than \$50,000.00 and submit them to the 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 Executive Director for review and action.

## 3 Reason why it is required

OINs 12 & 13 were utilized by the USACE Drain 27 project as a waste site for excavated materials out of that project. The intent was to utilize the waste material in the AAB building pad and so no final grading and topsoil was performed on OINs 12 & 13 until after the excavated materials were hauled off. However, the material was found to be unsuitable for building the pad and the OINs need to be cleaned up, final graded and topsoiled to prevent weed issues and to help with long term maintenance. This work will ensure that OINs 12 & 13 can be properly maintained.

## 4 Background and discussion

The Diversion Authority awarded WP52B AAB Site Fill contract to Schmidt and Sons, Inc (Contractor). The Effective date of the contract was June 23, 20023. Since the start of construction, the Contractor and Owner have submitted no other change orders

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
Contract	0.00	380,000.00	6/23/2023	9/15/2023	Contract Award
Change Order 01	0.00	75,000.00	6/23/2023	9/15/2023	25,000 CY of topsoil
Total		455,000.00			

**5 Financial considerations:**

The Budget Cost Proposal is attached or in the Change Order document.

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

Year	Cost account code	Estimated Cost (\$)	Budget Allocated (\$)	Actual Paid to date (\$)	Budget Remaining (\$)	Comments
2023	CN-4010	455,000.00	455,000.00	380,000.00	75,000.00	Actual cost through Oct-2023.
Totals		455,000.00				

**6 Attachments:**

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

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

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

Approved by: Joel Paulsen, Executive Director

Date: 12/6/2023



# Diversion Authority Board Meeting

DECEMBER 14, 2023

MOU and Agreement Actions for Consideration  
John Shockley

# MFDA MOUs & Agreements (Action)

MOU Parties	Project	MOU or Agreement Cost and Summary
Clay County & MFDA	SEAI, UMA, and Clara Cemetery	This MOU describes the roles and responsibilities of Clay County and the Authority for the SEAI and for the Clara Cemetery levee. The Authority is securing the necessary interests from Clay County for the design and construction of the SEAI by the USACE and for the design and construction of the Clara Cemetery levee by the Authority. The Authority will reimburse Clay County for expenses incurred under the MOU. The MOU additionally sets forth the roles and responsibilities of the parties for pre- and post-operation of the Comprehensive Project. The Authority will reimburse Clay County for repairs and clean-up work resulting from Comprehensive Project operation.
Cass County & MFDA	Forest Mitigation Agreement	This agreement describes the roles and responsibilities of Cass County and the Authority for forest mitigation in conjunction with the Comprehensive Project. The Authority is securing the necessary interests from Cass County for monitoring and managing new tree plantings on property owned by Cass County in accordance with the AMMP and the Forest Mitigation Plan of the Section 404 permit.
Mickeal and Bonnie Fosse & MFDA	Railroad Bridge Removal over the Sheyenne River	This agreement describes the roles and responsibilities of Mickeal and Bonnie Fosse and the Authority for the removal of a railroad bridge on the Fosses' property. As part of the abandonment of the Red River Valley & Western line for the Comprehensive Project, the Authority assumed the responsibility of removing the railroad bridge over the Sheyenne River that existed on the line. The Fosses subsequently purchased the railroad right-of-way and corresponding bridge from BNSF. The Authority will be responsible for accessing the Fosses' property to remove the railroad bridge and to remediate any regulated substances as required by the North Dakota Department of Environmental Quality.



---

**MEMORANDUM OF UNDERSTANDING**

**BY AND BETWEEN  
METRO FLOOD DIVERSION AUTHORITY  
AND  
CLAY COUNTY, MINNESOTA**

**Dated as of \_\_\_\_\_, 2023**

**Relating to:**

**A Memorandum of Understanding outlining the respective roles and responsibilities of the Parties in regard to the impacts resulting from construction and operation of the Southern Embankment and Associated Infrastructure and Upstream Mitigation Area of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project.**

---

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

## TABLE OF CONTENTS

<b>ARTICLE I</b> .....	<b>2</b>
<b>DEFINITIONS AND INTERPRETATION</b> .....	<b>2</b>
<b>SECTION 1.01</b> DEFINITIONS .....	2
<b>SECTION 1.02</b> TERMS GENERALLY .....	7
<b>ARTICLE II</b> .....	<b>7</b>
<b>INTENT</b> .....	<b>7</b>
<b>SECTION 2.01</b> INTENT .....	7
<b>ARTICLE III</b> .....	<b>8</b>
<b>DESIGN</b> .....	<b>8</b>
<b>SECTION 3.01</b> INTENT .....	8
<b>SECTION 3.02</b> USACE RESPONSIBILITY .....	8
<b>SECTION 3.03</b> AUTHORITY RESPONSIBILITY .....	8
<b>SECTION 3.04</b> FINANCING .....	8
<b>SECTION 3.05</b> RELEASE .....	8
<b>SECTION 3.06</b> FACILITIES .....	8
<b>ARTICLE IV</b> .....	<b>8</b>
<b>PRELIMINARY PLANNING AND ENGINEERING ACTIVITIES</b> .....	<b>8</b>
<b>SECTION 4.01</b> INTENT .....	9
<b>SECTION 4.02</b> SITE TESTING .....	9
<b>SECTION 4.03</b> MITIGATION .....	9
<b>SECTION 4.04</b> ENVIRONMENTAL REVIEW .....	9
<b>SECTION 4.05</b> UTILITY RELOCATION .....	9
<b>SECTION 4.06</b> PERMITS AND APPROVALS .....	9
<b>SECTION 4.07</b> PLATTING .....	9
<b>ARTICLE V</b> .....	<b>9</b>
<b>PROPERTY INTEREST ACQUISITION</b> .....	<b>9</b>
<b>SECTION 5.01</b> ACQUISITION .....	9
<b>SECTION 5.02</b> ROAD ROW .....	10
<b>SECTION 5.03</b> TRANSFERS OF RIGHTS, PRIVILEGES, AND INTERESTS .....	12
<b>ARTICLE VI</b> .....	<b>12</b>
<b>CONSTRUCTION</b> .....	<b>12</b>
<b>SECTION 6.01</b> INTENT .....	12
<b>SECTION 6.02</b> USACE RESPONSIBILITY .....	12
<b>SECTION 6.03</b> AUTHORITY RESPONSIBILITY .....	12
<b>SECTION 6.04</b> WORK ZONE TRAFFIC CONTROL .....	12
<b>SECTION 6.05</b> BYPASSES AND DETOURS .....	12
<b>SECTION 6.06</b> MATERIAL CHANGES OR MODIFICATIONS .....	12
<b>SECTION 6.07</b> COORDINATION OF PARTIES .....	13

**SECTION 6.08** CONSTRUCTION SCHEDULE..... 13  
**SECTION 6.09** MAINTENANCE DURING CONSTRUCTION..... 13  
**SECTION 6.10** REVIEW ..... 13  
**SECTION 6.11** PRE-FINAL INSPECTION..... 14  
**SECTION 6.12** FINAL INSPECTION..... 14  
**SECTION 6.13** TURN BACK AND TURNOVER ..... 14  
**SECTION 6.14** AS-BUILT DRAWINGS..... 15  
**SECTION 6.15** WARRANTY ..... 15  
**ARTICLE VII.....15**  
**OPERATION AND MAINTENANCE .....15**  
**SECTION 7.01** COUNTY RESPONSIBILITY ..... 15  
**SECTION 7.02** TOWNSHIP RESPONSIBILITY ..... 15  
**SECTION 7.03** VEGETATION FREE ZONE ..... 15  
**SECTION 7.04** ARMORED ROAD SECTIONS ..... 15  
**ARTICLE VIII.....15**  
**FUTURE CHANGES OR ADDITIONS.....15**  
**SECTION 8.01** SEAI CROSSINGS..... 15  
**SECTION 8.02** SEAI AND OTHER PROJECT COMPONENTS ..... 16  
**SECTION 8.03** COUNTY ROAD 50 AND CULVERT IMPROVEMENTS ..... 16  
**SECTION 8.04** COUNTY ROAD 59 AND LEVEE PORTION OF CLARA CEMETERY IMPROVEMENTS .... 17  
**ARTICLE IX.....17**  
**COMPREHENSIVE PROJECT OPERATION AND CLEAN-UP.....17**  
**SECTION 9.01** ROADS ..... 17  
**SECTION 9.02** POINT OF CONTACT ..... 17  
**SECTION 9.03** NOTICE OF COMPREHENSIVE PROJECT OPERATION..... 18  
**SECTION 9.04** CLOSING COUNTY ROADS..... 18  
**SECTION 9.05** CESSATION OF COMPREHENSIVE PROJECT OPERATION..... 18  
**SECTION 9.06** ROAD REOPENING ..... 18  
**SECTION 9.07** ROAD REPAIRS AND CLEAN-UP WORK ..... 18  
**ARTICLE X.....19**  
**GEORGETOWN AND COMSTOCK PROJECTS .....19**  
**SECTION 10.01** GEORGETOWN PROJECT ..... 19  
**SECTION 10.02** COMSTOCK PROJECTS ..... 19  
**ARTICLE XI.....20**  
**INSURANCE AND LIABILITY .....20**  
**SECTION 11.01** INDEMNIFICATION ..... 20  
**ARTICLE XII.....20**  
**REIMBURSEMENT OF COSTS.....20**  
**SECTION 12.01** REIMBURSABLE COSTS ..... 20  
**ARTICLE XIII.....20**

**INVOICING AND AUDIT .....20**

**SECTION 13.01** COUNTY INVOICES ..... 20

**SECTION 13.02** AUDIT AND DISPUTE ..... 21

**SECTION 13.03** FINAL ACCOUNTING..... 21

**SECTION 13.04** AUTHORITY INVOICES..... 21

**ARTICLE XIV..... 21**

**TERM AND TERMINATION ..... 21**

**SECTION 14.01** TERM ..... 21

**SECTION 14.02** TERMINATION..... 21

**SECTION 14.03** EFFECTS OF TERMINATION..... 22

**ARTICLE XV. .... 22**

**DISPUTE RESOLUTION ..... 22**

**SECTION 15.01** INTENT AND PROCEDURE ..... 22

**SECTION 15.02** MEDIATION ..... 22

**SECTION 15.03** LITIGATION IF DISPUTE NOT RESOLVED ..... 22

**SECTION 15.04** LITIGATION; VENUE ..... 22

**SECTION 15.05** WAIVER OF JURY TRIAL..... 23

**ARTICLE XVI..... 23**

**THIRD PARTY BENEFICIARY ..... 23**

**SECTION 16.01** USACE..... 23

**ARTICLE XVII. .... 23**

**MISCELLANEOUS ..... 23**

**SECTION 17.01** COMPLETE AGREEMENT ..... 23

**SECTION 17.02** COUNTERPARTS..... 23

**SECTION 17.03** AMENDMENTS ..... 23

**SECTION 17.04** SEVERABILITY AND SAVINGS CLAUSE..... 23

**SECTION 17.05** FORCE MAJEURE ..... 23

**SECTION 17.06** AUTHORIZED REPRESENTATIVES ..... 24

**SECTION 17.07** NOTICE ..... 24

**SECTION 17.08** GOVERNING LAW ..... 25

**SECTION 17.09** CONFLICT WITH MOU REGARDING OTHER COMPREHENSIVE PROJECT WORK ..... 25

**SECTION 17.10** FEDERAL LOBBYING RESTRICTIONS ..... 25

**SECTION 17.11** DEBARMENT AND SUSPENSION..... 25

**SECTION 17.12** CIVIL RIGHTS OBLIGATIONS ..... 25

**SECTION 17.13** CONFLICT WITH JOINT POWERS AGREEMENT ..... 26

**SECTION 17.14** ELECTRONIC SIGNATURES ..... 26

**SIGNATURE PAGES ..... S-1 THROUGH S-2**

- EXHIBIT A – PROJECT IMPACTS MAP
- EXHIBIT B – PROPERTY INTEREST GRANTS
- EXHIBIT C – FEDERAL CERTIFICATION FORMS
- EXHIBIT D – CLARA CEMETERY IMPROVEMENTS MAP

## MEMORANDUM OF UNDERSTANDING

**THIS MEMORANDUM OF UNDERSTANDING** (the “MOU”) is made and entered this \_\_\_\_ day of \_\_\_\_\_, 2023 (the “Effective Date”), by and between METRO FLOOD DIVERSION AUTHORITY, a political subdivision of the State of North Dakota, and CLAY COUNTY, MINNESOTA, a political subdivision of the State of Minnesota.

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

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

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

**WHEREAS**, pursuant to the PPA, USACE will be responsible for completing the Southern Embankment and Associated Infrastructure (hereinafter the “SEAI”), which includes the southern embankment in its entirety; the Diversion Inlet Structure; the gated structures on the Red River and the Wild Rice River; road and railroad raises associated with the SEAI; and all mitigation features which are not the responsibility of the Non-Federal Sponsors; and

**WHEREAS**, the City of Fargo, North Dakota, the City of Moorhead, Minnesota, Cass County, North Dakota, Clay County, Minnesota, and the Cass County Joint Water Resource District, North Dakota, formed the Authority by entering into a Joint Powers Agreement, dated June 1, 2016 (the “JPA”); and

**WHEREAS**, the Authority was created to undertake and fulfill the Non-Federal Sponsors’ legal obligations under the PPA; and

**WHEREAS**, USACE will construct elements of the SEAI, namely Reaches SE-4 and SE-5 and the embankment associated with the Red River Structure, in the County; and

**WHEREAS**, USACE will also construct the Mobility Improvements, the SEAI Crossings, the Culvert Improvements, and the Township Crossings; and

**WHEREAS**, the Authority and the County desire to enter into this MOU to define their respective roles and responsibilities for the design, construction, operation, and maintenance of the Elements and for Comprehensive Project Operation.

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

**ARTICLE I.  
DEFINITIONS AND INTERPRETATION**

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

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

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

**“Authority Representative”** means the individual set forth in Section 17.06.

**“Best Efforts”** means acting in Good Faith, in accordance with generally accepted commercial practices, and using reasonable due diligence to undertake all action contemplated by this Agreement in accordance with Applicable Law.

**“BRRWD”** means the Buffalo-Red River Watershed District, a watershed district in the Red River Basin.

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

**“Cemetery Board”** means the Clara Cemetery Board, the entity responsible for the Clara Cemetery.

**“Clara Cemetery Improvements”** means a levee constructed on the east and west sides of County Road 59 to provide flood protection for the Clara Cemetery, as well as driveway access from County Road 59 over the east side of the levee into Clara Cemetery.

**“Comprehensive Project”** means the Fargo-Moorhead Metropolitan Area Flood Risk Management Project authorized by Section 7002(2) of the Water Resources Reform and

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

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

**“Comstock”** means the City of Comstock, a Minnesota political subdivision.

**“Comstock Projects”** means the (i) road repair or replacement project, as described in the Settlement Agreement, that is intended to repair or replace County Highway 2 within the city limits of Comstock and (ii) a flood control project, as described in the Settlement Agreement, that is intended to protect Comstock against any adverse flood impacts of the Comprehensive Project. The Comstock Projects are not part of the Comprehensive Project.

**“Construction Site”** means the site defined by a construction contract to be utilized by a contractor for the construction of the applicable element of the Comprehensive Project.

**“County”** means Clay County, Minnesota, a political subdivision of the State of Minnesota.

**“County Engineer”** means the Clay County Engineer.

**“County Representative”** means the individual set forth in Section 17.06.

**“Culvert Improvements”** means the replacement of culverts underlying County Road 50, including at Wolverton Creek, in Reach SE-5, as determined by USACE, the Authority, and the County during the design of Reach SE-5.

**“Diversion Inlet Structure”** means the hydraulic control structure being constructed by USACE at the confluence of Cass County Road 16 and Cass County Road 17.

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

**“Element”** means Reach SE-4, Reach SE-5 (including the Culvert Improvements), the Mobility Improvement, an SEAI Crossing, or a Township Crossing, as the context requires, and whenever a reference in this MOU is made to Elements, **“Elements”** means Reaches SE-4 and SE-5, the Mobility Improvement, the SEAI Crossings, and the Township Crossings.

**“Environmental Law”** means any Federal, State, or local law, regulation, code, rule, ordinance, order, judgment, decree, injunction, or common law relating in any way to human health, occupational safety, natural resources, plant or animal life, or the environment, including without limitation, principles of common law and equity, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable State or local law.

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

**“Extraordinary Maintenance”** means any repairs or maintenance that is required for the Road ROW outside of Routine Maintenance.

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

**“Final Design Submittal”** means a design has reached ninety-five percent (95%), as determined by the designing party.

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

**“GAAP”** means accounting principles generally accepted in the United States as set forth in the opinions and pronouncements of the Accounting Principles Board, or in such other statements by such other entity as may be in general use by significant segments of the accounting profession as in effect on the date hereof.

**“Georgetown Project”** means a flood control project, as described in the Settlement Agreement, that is intended to protect the City of Georgetown, Minnesota, against any adverse flood impacts of the Comprehensive Project. The Georgetown Project is not part of the Comprehensive Project.

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

**“Hazardous Materials”** means any hazardous, toxic, radioactive, or infectious substance, material, or waste as defined, listed, or regulated under any Environmental Law.

**“Intermediate Design”** means a design has reached sixty-five percent (65%) completion, as determined by the designing party.

**“Joint Powers Agreement”** means the agreement entered by and between the City of Moorhead, Minnesota; the City of Fargo, North Dakota; Clay County, Minnesota; Cass County,



North Dakota; and the Cass County Joint Water Resource District, dated as of June 1, 2016, to create the Authority.

**“Material Modification”** means a change or modification affecting the operation or performance of an Element.

**“Mobility Improvement”** means the rerouting and reconstruction of 130th Avenue South to connect County Road 59 on the north side of the SEAI, as shown on Exhibit A.

**“Party”** means the Authority or the County, as the context may require, and its respective legal representatives, successors, and permitted assigns, and wherever a reference in this MOU is made to any Parties hereto, **“Parties”** means the Authority and the County, collectively, and their respective legal representatives, successors, and permitted assigns.

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

**“Point of Contact”** means the individual described in Section 9.02.

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

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

**“Preliminary Design”** means a preliminary design for an Element, as designed to an extent determined by the designing party.

**“Project Limits”** means the permanent property interests necessary for the SEAI, as currently projected on Exhibit A.

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

**“Reach SE-4”** means that portion of the Southern Embankment and Associated Infrastructure that will be constructed between the Red River Control Structure and County Road 50.

**“Reach SE-5”** means that portion of the Southern Embankment and Associated Infrastructure that will be constructed on the footprint of County Road 50, running from approximately U.S. Highway 75 to the east of 40th Street South. The County shares jurisdiction of County Road 50 with Wilkin County.

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

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

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

**“Road ROW”** means roads and road rights-of-way currently operated and maintained by a township.

**“Routine Maintenance”** means as defined in Section 5.02(e).

**“SEAI Crossing”** means crossings of the SEAI of County Road 59 and County Highway 2 in the approximate locations shown on Exhibit A.

**“Settlement Agreement”** means the Settlement Agreement by and between the Authority, the Richland-Wilkin Joint Powers Authority, the Buffalo-Red River Watershed District, the City of Wolverton, Minnesota, and the City of Comstock, Minnesota, dated as of February 1, 2021.

**“Southern Embankment and Associated Infrastructure”** or **“SEAI”** means the Diversion Inlet Structure, the Red River Structure, the Wild Rice River Structure, and the southern embankment in its entirety (including Reaches SE-4 and SE-5), as more fully described in the PPA.

**“State”** means the State of Minnesota.

**“Storm Water Diversion Channel and Associated Infrastructure”** or **“SWDCAI”** means the approximately thirty (30) mile, 20,000 cubic feet per second (cfs) during a 100-year event channel and associate 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.

**“Substantial Completion”** means the time at which (i) the work performed under the construction contract between USACE and its contractor for an Element has progressed to the point of being substantially completed or (ii) the work performed under the construction contract between the Authority and its contractor for the Clara Cemetery Improvements has progressed to the point of being substantially completed, as defined by such contracts.

**“Township Crossings”** means crossings of the SEAI at 140th Avenue South and at 150th Avenue South in the approximate locations shown on Exhibit A.

**“Turnover”** means the date, as defined by the applicable construction contract, on which the contracting entity provides control of a Construction Site to the contractor to commence construction thereon. The equivalent term in a USACE construction contract is “notice to proceed.”

“**Uniform Act**” means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

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

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

“**Utility Relocation**” means each relocation (temporary or permanent), abandonment, protection in place, adjust in place, removal, replacement, reinstallation, and/or modification of the existing utilities necessary to accommodate construction, operation, maintenance, and/or use of the SEAI.

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

“**Wild Rice River Structure**” means the hydraulic gated structure on the Wild Rice River to be procured by USACE.

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

## **ARTICLE II. INTENT**

### **Section 2.01** INTENT.

(a) Pursuant to the terms of the PPA and the Joint Powers Agreement, the Authority is responsible for obtaining the real property interests and authorizations necessary for construction, operation, and maintenance of the SEAI, which will be designed and constructed by USACE, and for Comprehensive Project Operation. As a result, the Parties desire to enter into this MOU to

address the Parties' respective rights and obligations relating to the design, construction, operation, and maintenance of the SEAI and to Comprehensive Project Operation.

(b) The Parties additionally desire to enter into this MOU to set forth their respective rights and obligations relating to the design, construction, operation, and maintenance of the Clara Cemetery Improvements, which are part of the Comprehensive Project but separate from the SEAI.

### **ARTICLE III. DESIGN**

**Section 3.01** INTENT. For the Elements, the Parties intend that the Authority will be the lead agency for coordination with USACE for design. The Parties understand and agree that the SEAI and the components described herein that are a part of the SEAI must comply with USACE rules and regulations to the extent that such rules and regulations are applicable. The Parties agree that the Authority, with input from the County and the Cemetery Board as set forth herein, will be responsible for designing the Clara Cemetery Improvements.

**Section 3.02** USACE RESPONSIBILITY. USACE is responsible for designing the Elements. The Authority will submit a Preliminary Design, an Intermediate Design, and a Final Design of each Element to the County Engineer for review and comment. The County Engineer will review and provide any comments on designs to the Authority within twenty-eight (28) calendar days of receipt. The County Engineer is encouraged to work with the Wilkin County Engineer during design reviews for those Elements with shared jurisdiction.

**Section 3.03** AUTHORITY RESPONSIBILITY. The Authority is responsible for designing the Clara Cemetery Improvements and will submit a Preliminary Design, an Intermediate Design, and a Final Design of each improvement to the County Engineer and the Cemetery Board for review and comment. The County Engineer will review and provide comments on design within twenty-eight (28) calendar days of receipt. The County Engineer is encouraged to work with the Cemetery Board during design reviews.

**Section 3.04** FINANCING. The County will not be responsible for any costs or expenses associated with the design of the Elements or of the Clara Cemetery Improvements. The County may seek reimbursement from the Authority for design reviews as set forth in this MOU.

**Section 3.05** RELEASE. Review by the County of any designs will not be deemed to mean the plans and specifications or construction will be structurally sound and appropriate or that the plans and specifications meet Applicable Law.

**Section 3.06** FACILITIES. The County agrees that the relocation, arrangement, and/or alteration associated with the SEAI Crossings and Culvert Improvements to be accomplished under this MOU will provide the County with facilities equal in service as to those in existence on the Effective Date of this MOU.

### **ARTICLE IV. PRELIMINARY PLANNING AND ENGINEERING ACTIVITIES**

**Section 4.01** INTENT. For the Elements, the Parties intend that the Authority will be the lead agency for coordination with USACE for planning and engineering activities. The Parties understand and agree that the SEAI and the components described herein that are a part of the SEAI must comply with USACE rules and regulations to the extent that such rules and regulations are applicable. The Parties agree that the Authority will complete all planning and engineering activities for the Clara Cemetery Improvements.

**Section 4.02** SITE TESTING. The Authority will ensure all preliminary engineering activities for the Elements and for the Clara Cemetery Improvements, including: (a) technical studies and analyses; (b) geotechnical, seismic, flooding, and biological investigations; (c) right-of-way mapping, surveying, and appraisals; (d) utility subsurface investigations and mapping; and (e) archeological, paleontological, and cultural investigations are completed.

**Section 4.03** MITIGATION. The Authority is responsible for the investigation, remediation, and removal of all Hazardous Materials necessary to complete construction of the Elements and the Clara Cemetery Improvements.

**Section 4.04** ENVIRONMENTAL REVIEW. The Authority will coordinate with USACE to ensure that all applicable Environmental Laws are followed and that the Comprehensive Project receives all necessary environmental clearances.

**Section 4.05** UTILITY RELOCATION. The Authority is responsible for coordinating and/or performing Utility Relocations for the Elements and for the Clara Cemetery Improvements and will be responsible for costs incurred for these relocations.

**Section 4.06** PERMITS AND APPROVALS. The Authority is responsible for securing any necessary permits and/or approvals for construction of the Elements and of the Clara Cemetery Improvements. From the County, the Authority must secure a utility permit and a floodplain permit, and except as otherwise specifically set forth herein, the County will not require additional permits and/or approvals from its governing body. The Authority must also obey and abide by all Applicable Law.

**Section 4.07** PLATTING. The Authority intends to plat the Project Limits and will file the necessary documentation with the County as required under Applicable Law. The County will review such documentation in Good Faith and will use its Best Efforts to work with the Authority in the platting process. The Authority will utilize platting to define the Project Limits, which are currently projected on Exhibit A.

## **ARTICLE V. PROPERTY INTEREST ACQUISITION**

**Section 5.01** ACQUISITION. Except as set forth herein, the Authority will, at its sole cost and expense, obtain all easements, rights-of-way, or other interests in real property necessary for the construction, relocation, and/or alteration of the Elements and of the Clara Cemetery Improvements. In the event the Authority is unable to acquire any easement, right-of-way, or other interest in the County pertaining to a roadway improvement contained within an Element or the Clara Cemetery Improvements, following a Good Faith attempt, the Authority will notify the

County, and the County will be responsible for acquiring such easement, right-of-way, or other interest. Following the acquisition of such, the County may seek reimbursement from the Authority as set forth in Article XIII for the acquisition.

**Section 5.02 ROAD ROW.**

(a) *Acquisition.* Road ROW in Minnesota, and the authority to construct the Elements upon, over, and across such Road ROW, will be acquired through the following means:

(1) The Authority will request (i) that the County designate the Road ROW as part of the County highway system, pursuant to Minn. Stat. § 163.11, based on the design of the Comprehensive Project and (ii) that the County vacate the Road ROW, pursuant to Minn. Stat. § 163.11, at an applicable time for the construction of the Comprehensive Project. The current projected Project Limits of the Elements, and the corresponding impacted Road ROW, are included in Exhibit A.

(2) Upon making its requests to the County, the Authority will notify all landowners, by certified mail, within a minimum distance of one thousand (1,000) feet of the Road ROW.

(3) The County will set a time and place for a hearing on the requests, and at least thirty (30) days prior to the date of the hearing, it will provide notice to all landowners within a minimum distance of one thousand (1,000) feet of the Road ROW of the time and place set for the hearing.

(4) The County will hold a public hearing on the requests at the time and place set, and if appropriate following the hearing, it will (i) adopt a resolution granting the Authority's request and designating the Road ROW as part of the County highway system and (ii) adopt a resolution granting the Authority's request to vacate the Road ROW at an applicable time for the construction of the Comprehensive Project.

(b) *Control.* Prior to the USACE construction contractor closing a Road ROW to traffic, the County will have control of the Road ROW and will have the authority to make day-to-day decisions about the operation of the Road ROW. This authority includes the ability to temporarily close a Road ROW as needed in the discretion of the County unless the Road ROW is used or needed as access by the USACE construction contractor. If the County decides to temporarily close a Road ROW, it will be responsible for placing barriers and will confirm with the Authority that the USACE construction contractor does not require use of the road.

(c) *Public Use of Road ROW and Platting.* The Parties intend that although the Authority may have authorization to request vacation of the Road ROW for the Comprehensive Project, the Road ROW will remain open for public use until the notices, as described in the following section, are received and the County vacates the Road ROW for construction. Following the USACE construction contractor closing a Road ROW to traffic, the Authority will use its Best Efforts to plat the Project Limits as applicable fee simple is acquired.

(d) *Maintenance and Notice of Construction.* The County is responsible for performing all Routine Maintenance and Extraordinary Maintenance on the ROW until the USACE construction contractor closes the Road ROW to traffic. The Parties will work with USACE to get as much notice as possible regarding the scheduled date for the road closure. Upon receipt of this notice, the County will provide notification that the vacation of the Road ROW will be going into effect, and the Authority, in conjunction with the County, will post signs stating the dates of the Road ROW vacation and will coordinate with USACE for traffic control signage. The Authority will work with USACE for USACE to include in its construction contract that the contractor is responsible for securing the vacated Road ROW to limit public travel on the Road ROW. The Authority will also work with USACE for USACE to include in its construction contract any required temporary or permanent traffic control signage.

(e) *Maintenance Requirements.* The County will perform, or ensure the performance of, the following maintenance tasks on the Road ROW until the USACE construction contractor closes a Road ROW to traffic (collectively, "Routine Maintenance"):

- (1) The Road ROW will be graded twice a calendar month.
- (2) A 3-inch minimum thickness of gravel will be maintained.
- (3) The graded cross slopes across each lane will match its existing range of two percent (2%) to four percent (4%). If the current infield slope is not within that range, it will be upgraded to the two percent (2%) to four percent (4%) range.
- (4) Class 1 or Class 5 gravel will be placed for any aggregate needs.

The County may seek reimbursement from the Authority, as set forth herein, for costs and expenses incurred for Routine Maintenance and Extraordinary Maintenance; provided, however, the County must seek prior written approval from the Authority before performing Extraordinary Maintenance that exceeds \$5,000. The County may engage an applicable township to perform Routine Maintenance. Reimbursement for such work may be submitted by either the County or the township.

(f) *Maintenance Insurance and Indemnification.* Notwithstanding anything herein to the contrary, the Authority will not indemnify the County for grossly negligent or willful misconduct committed by the Person engaged by the County to perform maintenance. In lieu of such indemnification, the County must include in its maintenance contract that the contractor shall procure and maintain commercial general liability in the amount of \$3,000,000 and must name the County and the Authority as additional insureds under such policy.

(g) *Road ROW Obliteration.* Following construction of the Comprehensive Project, if there remains any portion of the Road ROW that will no longer be utilized as a road, the Parties will obliterate such portion of the Road ROW. Timing of each obliteration will be agreed upon by the Parties. The Authority will be responsible for all costs and expenses associated with obliteration and will be responsible for hiring a contractor for the obliteration work. The Authority will indemnify the County for all obliteration work done on the Road ROW.

**Section 5.03** TRANSFERS OF RIGHTS, PRIVILEGES, AND INTERESTS.

(a) The property interests held by the County in the locations where USACE will construct the SEAI Crossings, Reach SE-5, and the Clara Cemetery Improvements are outlined on the maps attached as Exhibit B. The County will convey to the Authority the rights or privileges outlined in the table affixed in Exhibit B to construct the SEAI Crossings, Reach SE-5, and the Clara Cemetery Improvements on or across the County's property. Although the current plan is that the majority of County Road 50 will not be reconstructed for Reach SE-5, the road must remain as currently constructed to maintain flood control for the Comprehensive Project. The Parties intend that any property interests acquired by the Authority will result in County Road 50 maintaining its current dimensions.

(b) The Authority will convey to the County the necessary easements or rights-of-way needed to operate and maintain the SEAI Crossings upon the completion of such improvements.

(c) The Authority will acquire or receive and convey the property interests for the Mobility Improvement and the Township Crossings as set forth in the memorandum of understanding between the Authority and Holy Cross Township for such elements.

**ARTICLE VI.  
CONSTRUCTION**

**Section 6.01** INTENT. For the Elements, the Parties intend that the Authority will be the lead agency for coordination with USACE for construction. The Parties understand and agree that the SEAI and the components described herein that are a part of the SEAI must comply with USACE rules and regulations to the extent that such rules and regulations are applicable. The Parties agree that the Authority will be responsible for construction of the Clara Cemetery Improvements.

**Section 6.02** USACE RESPONSIBILITY. USACE will be constructing the Elements. Construction will occur based upon the Final Design, except as otherwise provided in Section 6.06.

**Section 6.03** AUTHORITY RESPONSIBILITY. The Authority will be constructing the Clara Cemetery Improvements. Construction will occur based upon the Final Design, except as otherwise provided in Section 6.06.

**Section 6.04** WORK ZONE TRAFFIC CONTROL. The Authority will coordinate with USACE to include in the USACE construction contract any replacement of appropriate work zone traffic control signals during construction of the Elements, as necessary. The Authority will be responsible for replacing appropriate work zone traffic control signals during construction of the Clara Cemetery Improvements, as necessary.

**Section 6.05** BYPASSES AND DETOURS. USACE will not construct bypasses for County Highway 2 or for County Roads 50 or 59 during construction. Formal detours will be identified for County Highway 2, County Road 50, and County Road 59, however.

**Section 6.06** MATERIAL CHANGES OR MODIFICATIONS.



(a) Any Material Modification during construction to a Final Design for an Element will be subject to review and comment by the County. The County will review any proposed Material Modification within fourteen (14) calendar days of receipt or on a truncated time period, as required by the Authority or USACE, in the event of a critical or emergency change. The County reserves the ability to request additional information relating to any proposed Material Modification, including but not limited to specifications for the modified material and information on how the specifications were determined, from either the Authority or USACE, and its 14-day review period will not commence until the receipt of such requested information.

(b) Any Material Modification during construction to Final Design for the Clara Cemetery Improvements will be subject to review and comment by the County. The County will review any proposed Material Modification within fourteen (14) calendar days of receipt or on a truncated time period, as required by the Authority, in the event of a critical or emergency change. The County reserves the ability to request additional information relating to any proposed Material Modification, including but not limited to specifications for the modified material and information on how the specifications were determined, from the Authority, and its 14-day review period will not commence until the receipt of such requested information.

**Section 6.07** COORDINATION OF PARTIES. The County will coordinate and work through the Authority and USACE on any and all questions that develop during construction of the Elements and will coordinate and work with the Authority on any and all questions that develop during construction of the Clara Cemetery Improvements. The County agrees and acknowledges that it cannot direct any contractors performing work on the Elements or on the Clara Cemetery Improvements.

**Section 6.08** CONSTRUCTION SCHEDULE. To facilitate scheduling for construction of the Elements, the Authority will coordinate with USACE to provide the County with a proposed construction schedule and with monthly construction schedule updates. For the Clara Cemetery Improvements, the Authority will provide the County with a proposed construction schedule and with monthly construction schedule updates.

**Section 6.09** MAINTENANCE DURING CONSTRUCTION. The construction contractors for both the Elements and the Clara Cemetery Improvements will be responsible for securing permits along haul routes. In the event the County believes maintenance of haul routes is necessary and not being performed as required by any permit issued to a construction contractor, it will notify the Authority Representative, and the Authority will coordinate the maintenance, which may include, if agreed upon, the County performing the maintenance and seeking reimbursement from the Authority.

**Section 6.10** REVIEW.

(a) The Authority will coordinate with USACE to allow for worksite control rules that permit and facilitate reasonable access to the County for the Elements for the reasonable review of work. The presence or absence of a County inspector does not relieve the Authority from any requirement in this MOU, nor is an inspector authorized to change any term or condition of the MOU. The County agrees that during any review contemplated under this section that its staff

will follow USACE construction safety practices when visiting a Construction Site (e.g., register at field office and wear personal safety equipment). The County understands that its staff cannot direct the construction contractor, and any conversations with the construction contractor must occur in the presence of USACE construction staff.

(b) The Authority will provide reasonable worksite access to the County for the Clara Cemetery Improvements for reasonable inspection and review of work. The presence or absence of a County inspector does not relieve the Authority from any requirement in this MOU, nor is an inspector authorized to change any term or condition of the MOU. The County agrees that during any review or inspection contemplated under this section that its staff will follow contractor construction safety practices when visiting a Construction Site (e.g., register at field office and wear personal safety equipment).

**Section 6.11 PRE-FINAL INSPECTION.** The Authority will provide the County with written notice of any anticipated Substantial Completion of an Element or of the Clara Cemetery Improvements at least fifteen (15) calendar days prior to the anticipated date for Substantial Completion. Within ten (10) calendar days of the anticipated date for Substantial Completion, the Parties, and USACE if it is an Element, will conduct at least one (1) joint pre-final inspection of the Element or of the Clara Cemetery Improvements to verify the contract requirements have been met, the completed construction meets the Final Design and any Material Modification made pursuant to Section 6.06, and that the flood risk management certification requirements are met. If the County finds the construction is not in accordance with the Final Design or any Material Modification, the County will notify the Authority to develop a written punch list of items not constructed in accordance with the Final Design or approved Material Modifications. The Authority will coordinate with USACE regarding resolution of any punch list items for issues with Elements.

**Section 6.12 FINAL INSPECTION.** Following the pre-final inspection and resolution of any punch list items, the County will conduct a final inspection of the Element and of the Clara Cemetery Improvements to determine whether the work meets the Final Design and any Material Modification made pursuant to Section 6.06. If the County finds the construction has been completed in accordance with the Final Design or any approved Material Modification, the County will provide a certificate of completion to the Authority.

**Section 6.13 TURN BACK AND TURNOVER.** Following close-out of a USACE contract for the SEAI Crossings, USACE will turn back control of the applicable road to the Authority, who in turn will transfer control to the County. Following close-out of a USACE contract for Reaches SE-4 and SE-5, USACE will turn over control of the flood control elements and County Road 50 to the Authority, who in turn will transfer control of County Road 50 to the County and Wilkin County. The Authority will turn over control of the Mobility Improvement and the Township Crossings to Holy Cross Township as set forth in the memorandum of understanding between the Authority and Holy Cross Township. For the Clara Cemetery Improvements, the Authority will turn over control of those improvements constructed on County property to the County and will turn over control of those improvements constructed on property owned by the Cemetery Board to the Cemetery Board.

**Section 6.14 AS-BUILT DRAWINGS.** The Authority will coordinate with USACE to provide as-built drawings of the Elements to the County and will provide as-built drawings of the Clara Cemetery Improvements to the County.

**Section 6.15 WARRANTY.** USACE may include a standard Federal Acquisition Regulation clause 52.246-21 Warranty of Construction in its construction contract. The clause includes a 1-year warranty provision. In the event the Authority and/or the County identifies a deficiency in workmanship or defective product or material, the Authority will notify USACE. For the Clara Cemetery Improvements, at turn back, the Authority will transfer any warranties provided by the construction contractor to the County and the Cemetery Board, and the County and the Cemetery Board, as applicable, will thereafter work with the construction contractor on any warranty issues.

## **ARTICLE VII. OPERATION AND MAINTENANCE**

**Section 7.01 COUNTY RESPONSIBILITY.** Following transfer of the SEAI Crossings, County Road 50, and its respective Clara Cemetery Improvements to the County, the County will have full control of all items on County-owned property interests, excluding only the SEAI and its components and the levee portion of the Clara Cemetery Improvements, and will have full maintenance responsibilities.<sup>1</sup> The Authority will have full maintenance responsibilities of Reaches SE-4 and SE-5, excluding County Road 50 and the Culvert Improvements, and of the levee portion of the Clara Cemetery Improvements.

**Section 7.02 TOWNSHIP RESPONSIBILITY.** The Authority and/or Holy Cross Township will be responsible for maintaining the Township Crossings and the Mobility Improvement in accordance with the memorandum of understanding entered between the Authority and Holy Cross Township for the Comprehensive Project.

**Section 7.03 VEGETATION FREE ZONE.** The Authority will perform maintenance to meet any vegetation free zone requirements imposed for the Comprehensive Project, and the County will perform maintenance for any County purposes. The Authority will reimburse the County if the County incurs expenses for maintenance performed to meet any vegetation free zone requirements imposed for the Comprehensive Project.

**Section 7.04 ARMORED ROAD SECTIONS.** The County may additionally seek reimbursement from the Authority, as set forth in herein, for additional maintenance expenses incurred by the County for performing maintenance on armored sections constructed for Reach SE-5 within County Road 50.

## **ARTICLE VIII. FUTURE CHANGES OR ADDITIONS**

**Section 8.01 SEAI CROSSINGS.**

---

<sup>1</sup>Although the County and Wilkin County have shared jurisdiction over County Road 50, they have separately agreed that the County will be solely responsible for performing maintenance on County Road 50.

(a) The County retains the ability, at its sole cost and expense, to adjust or alter the SEAI Crossings to the extent such may be accomplished without adversely affecting, changing, or altering the SEAI, upon separate written approval by the Authority and USACE. USACE's written approval may be through the issuance of a Section 408 permit or successor USACE permitting regime. For purposes of this MOU, the Parties understand and agree that alteration of the SEAI will result if the County has to perform work more than one (1) foot below the top of the subgrade of the SEAI Crossing.

(b) If it becomes necessary or desirable to change, alter, widen, or reconstruct the SEAI to accommodate a County-initiated project, the cost of such work, if approved by the Authority and USACE, including any cost incidental to alteration of the SEAI Crossing or flood control facility, including the SEAI, made necessary by any such changes, will be the expense of the County. The County will perform any hydraulic modeling associated with any proposed changes.

**Section 8.02 SEAI AND OTHER PROJECT COMPONENTS.**

(a) The Authority retains the ability, at its sole cost and expense, to adjust or alter the SEAI or other elements of the Comprehensive Project to the extent such may be accomplished without adversely affecting, changing, or altering County Road 50, a Culvert Improvement, or an SEAI Crossing.

(b) If it becomes necessary or desirable to change, alter, widen, or reconstruct County Road 50, a Culvert Improvement, or an SEAI Crossing to accommodate the SEAI or other elements of the Comprehensive Project, the cost of such work, if approved by the County and USACE, including any incidental costs made necessary by such changes, will be the expense of the Authority.

**Section 8.03 COUNTY ROAD 50 AND CULVERT IMPROVEMENTS.**

(a) The County retains, at its sole cost and expense, the ability to perform normal operation and maintenance activities on County Road 50, such as grading and surface replacement provided such activities do not alter the design elevations of Reach SE-5 by more or less than three (3) inches.

(b) The County retains the ability, at its sole cost and expense, to perform any construction activities that involve excavation of the Reach SE-5 embankment section along County Road 50, including on the Culvert Improvements, or to adjust or alter the overall roadway section on County Road 50 upon separate written approval by the Authority and USACE. USACE's written approval will be through the issuance of a Section 408 permit or successor USACE permitting regime.

(c) In the event there is a need to excavate the Reach SE-5 embankment section along County Road 50, the County may, after securing approval for the work pursuant to the preceding subsection, perform such work without a temporary levee if the work is performed outside the normal flood season. Any replacement section of the Reach SE-5 embankment along County Road

50 must be reconstructed in accordance with the specifications required of other embankment or armored sections of Reach SE-5, as applicable.

(d) If it becomes necessary or desirable to change, alter, widen, or reconstruct the SEAI to accommodate a County-initiated project, the cost of such work, if approved by the Authority and USACE, including any cost incidental to alteration of a flood control facility, including the SEAI, made necessary by any such changes, will be the expense of the County.

**Section 8.04 COUNTY ROAD 59 AND LEVEE PORTION OF CLARA CEMETERY IMPROVEMENTS.**

(a) The County retains the ability, at its sole cost and expense, to perform normal operation and maintenance activities, such as grading and surface replacement provided such activities do not alter the design elevations of the levee portion of the Clara Cemetery Improvements by more or less than three (3) inches.

(b) The County retains the ability, at its sole cost and expense, to perform any construction activities that involve excavation of levee sections along County Road 59 or to adjust or alter the overall roadway section on County Road 59 upon separate written approval by the Authority and USACE. USACE's written approval will be through the issuance of a Section 408 permit or successors USACE permitting regime.

(c) In the event there is a need to excavate the levee section along County Road 59, the County may, after securing approval for the work pursuant to the preceding subsection, perform such work without a temporary levee if the work is performed outside the normal flood season. Any replacement section of the levee along County Road 59 must be reconstructed in accordance with the specifications required of the levee.

(d) If it becomes necessary or desirable to change, alter, widen, or reconstruct the levee to accommodate a County-initiated project, the cost of such work, if approved by the Authority and USACE, including any cost incidental to alteration of a flood control facility made necessary by any such changes, will be the expense of the County.

**ARTICLE IX.  
COMPREHENSIVE PROJECT OPERATION AND CLEAN-UP**

**Section 9.01 ROADS.** The County holds real property interests in the UMA that authorize it to operate and maintain County roads. The following County roads may be subject to temporary and periodic flooding in the event of Comprehensive Project Operation: County Highway 2 and County Road 59. The County authorizes the Authority to flood its roads and structures temporarily and periodically in accordance with the terms and conditions of this MOU.

**Section 9.02 POINT OF CONTACT.** Prior to substantial completion of the Comprehensive Project, the Authority will designate a Point of Contact for the County and inform the County Representative. The intended purpose of the Point of Contact is to facilitate the flow of information between the County and the Authority both prior to and following Comprehensive Project Operation.

**Section 9.03** NOTICE OF COMPREHENSIVE PROJECT OPERATION.

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

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

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

**Section 9.04** CLOSING COUNTY ROADS. The County will be responsible for placing barriers and appropriate signage on County roads closed for Comprehensive Project Operation. An Authority representative may accompany the County while placing the barriers and signage. The County will notify the Point of Contact once a County road has been closed, and the Point of Contact will update the Authority website to show the closure.

**Section 9.05** CESSATION OF COMPREHENSIVE PROJECT OPERATION. Once the Authority has an estimated date of Comprehensive Project Operation cessation, the Point of Contact will notify the County Engineer, the County Representative, the County Sheriff, and the County Emergency Manager. The Point of Contact will again notify these individuals when cessation of Comprehensive Project Operation occurs.

**Section 9.06** ROAD REOPENING. As floodwaters recede out of the UMA, the Point of Contact and the County Engineer will work together to identify when County roads can reopen. Prior to reopening, the Point of Contact and the County Engineer will complete an inspection of each County road to identify and document any damage that may have been caused by Comprehensive Project Operation. If an emergency repair or clean-up work is identified, the Point of Contact and the County Engineer will work together as quickly as possible to have the County complete the work and to be reimbursed for such work. The County will be responsible for removing all barriers and signage placed to reopen roads when appropriate.

**Section 9.07** ROAD REPAIRS AND CLEAN-UP WORK.

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

(b) The Parties agree and acknowledge that if an item for Comprehensive Project Operation is not addressed in this MOU, then the Parties will follow the provisions of the PRAM.

## **ARTICLE X. GEORGETOWN AND COMSTOCK PROJECTS**

**Section 10.01** GEORGETOWN PROJECT. As described in the Settlement Agreement, the Authority and BRRWD are cooperating and working in Good Faith to implement the Georgetown Project. The Authority is responsible for providing initial and annual funds to BRRWD to design, construct, operate, and maintain the Georgetown Project. As of the Effective Date, the Parties anticipate that the construction of the Georgetown Project may impact County Highway 34 and County Road 100. The County agrees and acknowledges that it will work with BRRWD, as necessary, for the implementation of the Georgetown Project. Any funding that the Authority would provide for the Georgetown Project, including any impacts to the County's infrastructure, will be coordinated between the Authority and BRRWD, with the County coordinating with BRRWD.

### **Section 10.02** COMSTOCK PROJECTS.

(a) As described in the Settlement Agreement, the Authority and Comstock are cooperating and working in Good Faith to implement the Comstock Projects.

(b) The flood control project is currently unnecessary, so the Parties are unaware of whether it will impact any County infrastructure. In the event the flood control project is pursued, the County agrees and acknowledges, however, that it will work with Comstock, as necessary, for the implementation of the flood control project. Any funding that the Authority would provide for the flood control project, including any impacts to the County's infrastructure, will be coordinated between the Authority and Comstock, with the County coordinating with Comstock.

(c) The Settlement Agreement provides that the Authority will coordinate with the County to provide additional funds to assist with the County Highway 2 repair or replacement project. Additionally, the Authority is responsible for coordinating with the County to determine if the road project can be constructed using storm sewers rather than rural section ditches. The County will be responsible for designing the road project, including determining whether the use

of storm sewers is appropriate. The County will remit thirty percent (30%), sixty percent (60%), and ninety-five percent (95%) designs to the Authority for review and comment. The County will seek reimbursement from the Authority for funds expended on the road project by remitting an invoice to the Authority in accordance with Article XIII.

**ARTICLE XI.  
INSURANCE AND LIABILITY**

**Section 11.01 INDEMNIFICATION.** As set forth in the Joint Powers Agreement, the Authority, to the fullest extent authorized by law, shall at all times hereinafter, defend and indemnify the County for any liability claims arising from Authority activities or operations, decisions of the Authority, or arising out of or regarding the Comprehensive Project. The indemnity and hold harmless provision shall not be deemed as a waiver by the Authority of the limits of liability set forth in N.D.C.C. § 32-12.1-03, as amended from time to time, or a waiver of any available immunities or defenses. Nothing herein shall be construed to provide insurance coverage or indemnification to any officer, employee, or volunteer of the County for any act or omission for which the officer, employee, or volunteer is guilty of malfeasance in office, willful neglect of duty, or bad faith. In the event the County seeks indemnification, it will abide by section 15.07 of the JPA to first apply available and/or applicable insurance proceeds against such claim.

**ARTICLE XII.  
REIMBURSEMENT OF COSTS**

**Section 12.01 REIMBURSABLE COSTS.** When funds are, or become, available, the Authority will reimburse the County for salaries, services, and/or related costs and expenses as expressly provided in this MOU. Reimbursable costs are salaries, services, fees, and related costs and expenses paid by the County to any person, consultant, contractor, or firm for time spent performing any task required or identified under this MOU when supported by adequate records. Salaries, services, and related costs and expenses paid to the County's employees, officers, agents, or representatives may not be reimbursed.

**ARTICLE XIII.  
INVOICING AND AUDIT**

**Section 13.01 COUNTY INVOICES.**

(a) As necessary hereunder, the County will submit hard copy invoices to the Authority at the Authority's main office, and invoices will be processed by the Authority for the following month. The County will also submit copies of the invoices to the Authority electronically at [APInvoicesFMDiv@jacobs.com](mailto:APInvoicesFMDiv@jacobs.com), copied to [paulsenj@fmdiversion.gov](mailto:paulsenj@fmdiversion.gov). Each invoice should include the identification of the County, a description of the activity included in the invoice, and the address where payment should be remitted.

(b) After the Authority receives the County's invoice, the Authority will either process the invoice for payment or give the County specific reasons, in writing, within fifteen (15) Business Days of receipt why part or all of the Authority's payment is being withheld and what actions the County must take to receive the withheld amount.



(c) In the event of disputed billing, only the disputed portion will be withheld from payment, and the Authority will pay the undisputed portion. The Authority will exercise reasonableness in disputing any bill or portion thereof. Interest will accrue on any disputed portion of the billing determined to be due and owing to the County.

(d) Payment does not imply acceptance of services or that the invoice is accurate. In the event an error is identified following payment, the County will credit any payment in error from any payment that is due or that may become due to the County under this MOU.

(e) The Authority will be charged interest at the rate of one-half percent (1/2%) per month, or the maximum percent permitted by Applicable Law if lesser, on all past due amounts starting thirty (30) calendar days after receipt of invoice. Payments will first be credited to interest and then to principal.

**Section 13.02** AUDIT AND DISPUTE. All original timecards, payrolls, material records, and other accounts for all charges and expenditures for which reimbursement will be claimed by the County from the Authority will be available at all reasonable times to allow the Authority to check and audit the invoices submitted by the County. The ability of the Authority to audit the County's invoice will extend for a period of three (3) years from the date final payment has been received by the County. Any overpayment or underpayment discovered during the audit will be treated as a dispute under Article XV.

**Section 13.03** FINAL ACCOUNTING. The County will provide one (1) final and complete billing of all incurred costs within one (1) year following completion of the Clara Cemetery Improvements, the Elements, the Mobility Improvements, the SEAI Crossings, and the Township Crossings. The Authority may in Good Faith, after conducting a final audit, make adjustments to the amount of compensation due to the County under this MOU.

**Section 13.04** AUTHORITY INVOICES. As necessary hereunder, the Authority will submit monthly properly certified invoices for reimbursable costs to the County. Such invoices will be due and payable in full to the Authority within thirty (30) calendar days of their dated date. If payment is not timely made, the Authority reserves the right to apply a one percent (1%) monthly finance charge to the invoice.

**ARTICLE XIV.  
TERM AND TERMINATION**

**Section 14.01** TERM. This MOU will have an original term of ten (10) years from the Effective Date (the "Original Term") and shall automatically renew for subsequent renewal terms of ten (10) years (a "Subsequent Renewal Term") unless terminated in accordance with this MOU.

**Section 14.02** TERMINATION. A Party may terminate performance of work during the Original Term or any Subsequent Renewal Term in whole or in part after providing at least three hundred sixty-five (365) calendar days' advanced written notice to the other Party.

**Section 14.03** EFFECTS OF TERMINATION. Upon receipt of a notice of termination, except as directed by the other Party, the Parties shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amount due under this clause:

(a) Place no further contracts or orders, except as necessary to complete the continued portion of the MOU.

(b) With approval or ratification of the Authority Representative, settle all outstanding liabilities and termination settlement proposals arising from the termination of contracts or responsibilities as proposed in this MOU, the cost of which would be reimbursable in whole or in part, under this MOU. Approval or ratification will be final for purposes of this Section.

(c) Transfer title if not already transferred.

(d) Complete performance of the work not terminated.

(e) Take any action that may be necessary, or that the Authority Representative may direct, for the protection and preservation of the property related to this MOU that is in the possession of the County and in which the Authority has or may acquire an interest.

## **ARTICLE XV. DISPUTE RESOLUTION**

**Section 15.01** INTENT AND PROCEDURE. The Parties will cooperate and use their Best Efforts to ensure that the various provisions of this MOU are fulfilled. The Parties agree to act in Good Faith to undertake resolution of disputes in an equitable and timely manner and in accordance with the provisions of this MOU. If disputes cannot be resolved informally by the Parties, the following procedure will be used.

**Section 15.02** MEDIATION. If there is a failure between the Parties to resolve a dispute on their own, the Parties will first attempt to mediate the dispute. The Parties will agree upon a single mediator or, if an agreement cannot be reached within ten (10) calendar days, the mediator shall be selected by the American Arbitration Association (“AAA”) in accordance with its Commercial Industry Mediation Rules and Procedures then in effect. Any mediator selected by mutual agreement of the Parties or through the AAA selection process must have no current or ongoing relationship with either Party. The Parties agree that only one (1) mediator shall be selected as the AAA mediator, and the Parties will each pay fifty percent (50%) of any costs for mediation services.

**Section 15.03** LITIGATION IF DISPUTE NOT RESOLVED. If the dispute is not resolved within forty-five (45) calendar days after the selection of the mediator pursuant to the preceding section, the Parties may litigate the matter.

**Section 15.04** LITIGATION; VENUE. All litigation between the Parties arising out of or pertaining to this MOU or its breach will be filed, heard, and decided in the District Court of Cass County, North Dakota, which will have exclusive jurisdiction and venue.

**Section 15.05** WAIVER OF JURY TRIAL. THE PARTIES HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS THAT ANY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION, PROCEEDING, COUNTERCLAIM, OR DEFENSE BASED ON THIS MOU, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS MOU, OR WITH RESPECT TO ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF ANY PARTY HERETO RELATING TO THIS MOU. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ALL PARTIES ENTERING INTO THIS MOU. THIS PROVISION APPLIES ONLY TO SUITS BETWEEN THE PARTIES AND DOES NOT APPLY TO THIRD PARTY CLAIMS OR SUITS.

**ARTICLE XVI.  
THIRD PARTY BENEFICIARY**

**Section 16.01** USACE. The Authority and the County specifically agree, acknowledge, and covenant that portions of the County's property or right-of-way will be used by USACE in order to construct, operate, and maintain the SEAI, SEAI Crossings, and the Culvert Improvements.

**ARTICLE XVII.  
MISCELLANEOUS**

**Section 17.01** COMPLETE AGREEMENT. This MOU contains the entire and exclusive understanding of the Parties with respect to the subject matter thereof and supersedes all prior agreements, understandings, statements, representations, and negotiations, in each case oral or written, between the Parties with respect to their subject matter.

**Section 17.02** COUNTERPARTS. This instrument may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

**Section 17.03** AMENDMENTS. This MOU may be amended only by written instrument duly executed by the Parties or their respective successors or assigns, except to the extent expressly provided otherwise in this MOU.

**Section 17.04** SEVERABILITY AND SAVINGS CLAUSE. Each provision, section, sentence, clause, phrase, and word of this MOU is intended to be severable. If any provision, section, sentence, clause, phrase, or word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity will not affect the validity of the remainder of this MOU.

**Section 17.05** FORCE MAJEURE. No Party will be liable to another Party during any period in which its performance is delayed or prevented, in whole or in part, by circumstances beyond its reasonable control. Circumstances include, but are not limited to, the following: act of God (e.g., flood, earthquake, wind), fire, war, act of a public enemy or terrorist, act of sabotage, strike or other labor dispute, riot, misadventure of the sea, inability to secure materials and/or transportation, or a restriction imposed by legislation, an order, or a rule or regulation of a

governmental entity. If such a circumstance occurs, the Party claiming the delay must undertake reasonable action to notify the other Party of the same.

**Section 17.06 AUTHORIZED REPRESENTATIVES.** The Authority and the County hereby designate the following individuals as their initial authorized representatives, respectively, to administer this MOU on their respective behalf:

- (a) Authority Representative: Kris Bakkegard, Director of Engineering
- (b) County Representative: Justin Sorum, County Engineer

**Section 17.07 NOTICE.**

(a) All notices under this MOU will be in writing and: (i) delivered personally; (ii) sent by certified mail, return receipt requested; (iii) sent by a recognized overnight mail or courier service, with delivery receipt requested; or (iv) sent by email communication followed by a hard copy, to the following addresses.

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

Jacobs  
4784 Amber Valley Parkway South  
Suite 200  
Fargo, North Dakota 58104

and

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

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

Clay County Highway Department  
2951 41½ Street South  
Moorhead, Minnesota 56560

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

**Section 17.08** GOVERNING LAW. This MOU will be construed in accordance with and be governed by the laws of the State of North Dakota. This section, however, is to be interpreted to only apply to this MOU itself, and the Parties do not intend that North Dakota law shall apply to interpretations of Federal or State statutes, regulations, or permit conditions. Issues that are not governed by this section include, but are not limited to, the construction and application of State and local permitting standards in the State, constitutional and statutory requirements in the State with regard to eminent domain, and Federal FEMA and USACE requirements and regulations.

**Section 17.09** CONFLICT WITH MOU REGARDING OTHER COMPREHENSIVE PROJECT WORK. Nothing in this MOU is intended to supersede, amend, or otherwise modify any other memorandum of understanding or agreement entered by and between the Authority and the County for work regarding other aspects of the Comprehensive Project.

**Section 17.10** FEDERAL LOBBYING RESTRICTIONS. Recipients of federal financial assistance may not pay any person for influencing or attempting to influence any officer or employee of a federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress with respect to the award, continuation, renewal, amendment, or modification of a federal grant, loan, or contract. These requirements are implemented for the United States Environmental Protection Agency (“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 prohibition. On or prior to the Effective Date, the County will complete and submit to the Authority the certification and disclosure forms in Appendix A and Appendix B to 40 CFR Part 23, which are attached within Exhibit C to this MOU. In the event the Authority solicits assistance from the County to complete an element of the Comprehensive Project and funds made available to the Authority by the Water Infrastructure Finance and Innovation Act are utilized to finance such element, the County will also require all subcontractors and suppliers of any tiers 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 17.11** DEBARMENT AND SUSPENSION. In the event the Authority solicits assistance from the County to complete an element of the Comprehensive Project and funds made available to the Authority by the Water Infrastructure Finance and Innovation Act are utilized to finance such element, the County certifies it will not knowingly enter into a contract with anyone who is ineligible under 40 CFR Part 32 to participate in the Comprehensive Project. Suspension and debarment information can be accessed at <http://www.sam.gov>. The County represents and warrants that it has or will include a term or conditions requiring compliance with this provision in all of its subcontracts under this MOU. On or prior to the Effective Date, the County will complete and submit to the Authority the federal certification form regarding debarment and suspension, which is attached within Exhibit C to this MOU.

**Section 17.12** CIVIL RIGHTS OBLIGATIONS. In the event the Authority solicits assistance from the County to complete an element of the Comprehensive Project and funds made available to the Authority by the Water Infrastructure Finance and Innovation Act are utilized to finance such element, the County will comply with the following, federal non-discrimination requirements:

- (a) Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP).
- (b) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities.
- (c) The Age Discrimination Act of 1975, which prohibits age discrimination.
- (d) Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex.
- (e) 40 CFR Part 7, as it relates to the foregoing.
- (f) Executive Order No. 11246.

On or prior to the Effective Date, the County will complete and submit to the Authority the federal certification form regarding civil rights, which is attached within Exhibit C to this MOU.

**Section 17.13** CONFLICT WITH JOINT POWERS AGREEMENT. Nothing in this MOU is intended to conflict with the provisions of the Joint Powers Agreement. In the event there is a conflict, the provisions of the Joint Powers Agreement will control.

**Section 17.14** ELECTRONIC SIGNATURES. The Parties agree that an electronic signature to this Agreement shall be valid as an original signature of the Party and shall bind the signatories of this Agreement.

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

*(Remainder of page intentionally left blank.)*

*Signature Page for the Metro Flood Diversion Authority*

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

METRO FLOOD DIVERSION  
AUTHORITY

By: \_\_\_\_\_  
Dr. Timothy J. Mahoney, Chair

By: \_\_\_\_\_  
Joel Paulsen, Executive Director

ATTEST:

\_\_\_\_\_  
Dawn Lindblom, Secretary

*Signature Page for Clay County, Minnesota*

The governing body of Clay County, Minnesota, approved this MOU on the 21<sup>st</sup> day of November, 2023.

CLAY COUNTY, MINNESOTA

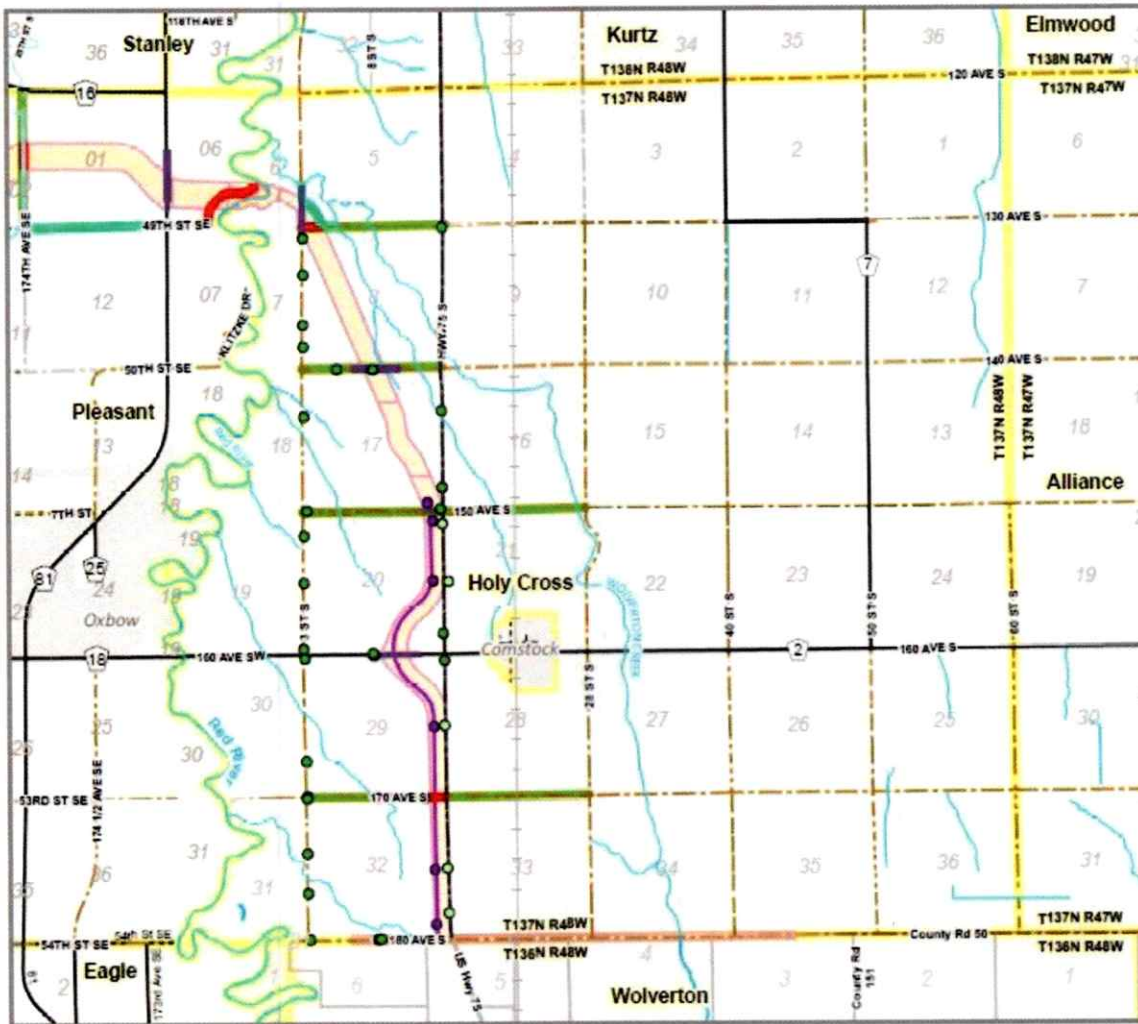
By: Frank Gross  
Frank Gross, Chair of the Board of  
County Commissioners

ATTEST:

Stephen Larson  
Stephen Larson, County Administrator

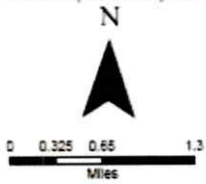


## EXHIBIT A PROJECT IMPACTS MAP



Legend			
	Inlet Structures		Township Road Closures
	Drain Crossings		Township Road Can Remain Open
	Channel/SE Crossings		Mobility Improvements
	Southern Embankment		Other Agency Roadway Improvements
	New Field Access Point		Railroad
	Field Access Removed		Township - Trail/Grass
	Existing Field Access Point		Township - Unimproved
			Township - Dirt
			Township - Gravel
			Township - Paved
			Field Access West of Channel
			County Road - Gravel
			County Road - Paved
			State or US Highway
			Interstate
			Township Boundary

Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use. All parcel acreages and legal descriptions shown hereon are based on County GIS data. Final acreages and legal descriptions to be determined by boundary survey. Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | Produced By: records - AE2S, Inc. | C:\Data\Projects\GIS\Projects\FM Area Diversion\012 Lands Program\Property Acquisition\Project Wide\Overall LA Maps\MOU byTownship 9 x11.mxd



### Clay County

FM Area Diversion  
Map Date: 8/8/2023



**EXHIBIT B  
PROPERTY INTEREST GRANTS**

<i>Location</i>	<i>County Property Interest</i>	<i>Grant to Authority</i>
County Highway 2	Statutory right-of-way/Easement	Permit
County Road 50	Statutory right-of-way/Easement	Permit
County Road 59	Statutory right-of-way/Easement	Permit

**EXHIBIT C  
FEDERAL CERIFICATION FORMS**

**CERTIFICATION REGARDING FEDERAL LOBBYING**

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

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

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

Company/  
Entity Name: Clay County

Signed: Frank Gross

Its: Board Chair

Date: 11/21/2023

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

**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.

Official Business Name Clay County

Date: 11/21/2023

By: Frank Gross, Board Chair  
Name and Title of Authorized Representative

Frank Gross  
Signature of Authorized Representative

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

### 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 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.

**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.

Frank Gross  
Signature of Authorized Official

Board Chair  
Title

Frank Gross  
Print Name

Clay County  
Name of Institution or Agency

11/21/2023  
Date

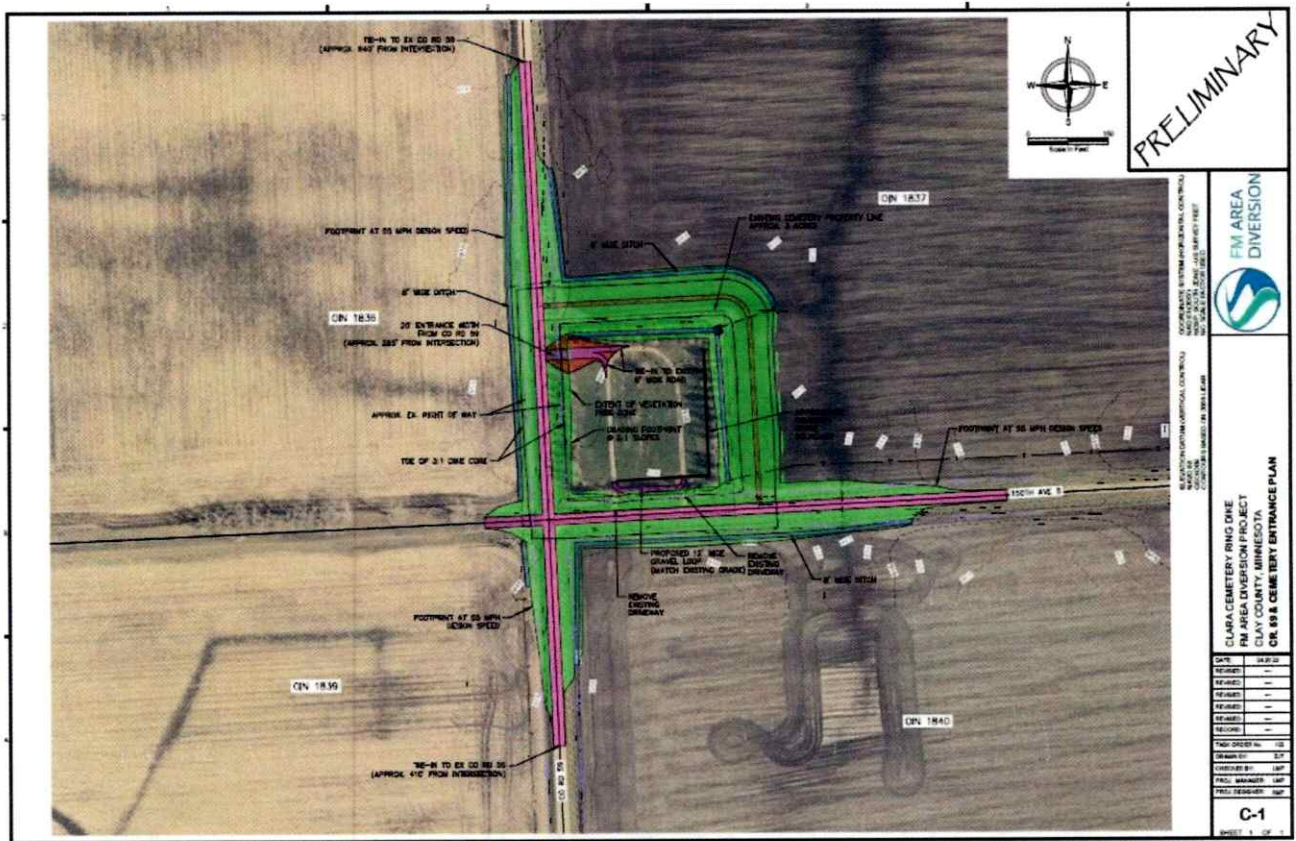
807 11<sup>th</sup> St. N.  
Street

Moorhead, MN 56560  
City, State, Zip Code

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

frank.gross@claycountymn.gov  
Office Email Address

### EXHIBIT D CLARA CEMETERY IMPROVEMENTS MAP



**PRELIMINARY**



PROJECT: CEMETERY IMPROVEMENTS, CLARA CEMETERY, WASHINGTON COUNTY, MINNESOTA  
 DRAWN BY: JACOB J. HANSEN  
 CHECKED BY: JACOB J. HANSEN  
 DATE: 09/21/22

**CLARA CEMETERY 55 MPH ONE WAY ROUNDABOUT PROJECT**  
**WASHINGTON COUNTY, MINNESOTA**  
**CR 68 & CEMETERY ENTRANCE PLAN**

SHEET 4 OF 7  
**C-1**



---

# **FOREST MITIGATION AGREEMENT**

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

**Dated as of \_\_\_\_\_, 2023**

**Relating to:**

**A Forest Mitigation Agreement setting forth the roles and responsibilities of the Parties for forest compensatory mitigation related to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project.**

---

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

## TABLE OF CONTENTS

<b>ARTICLE I. DEFINITIONS AND INTERPRETATION .....</b>	<b>2</b>
<b>SECTION 1.01 DEFINITIONS .....</b>	<b>2</b>
<b>SECTION 1.02 INTERPRETATION .....</b>	<b>4</b>
<b>ARTICLE II. INTENT .....</b>	<b>4</b>
<b>SECTION 2.01 FOREST MITIGATION REQUIREMENTS .....</b>	<b>4</b>
<b>SECTION 2.02 SUBJECT TO CHANGE .....</b>	<b>4</b>
<b>ARTICLE III. DESIGN AND PLANTING .....</b>	<b>5</b>
<b>SECTION 3.01 DESIGN AND DESIGN STRATEGIES .....</b>	<b>5</b>
<b>SECTION 3.02 SITE PREPARATION .....</b>	<b>5</b>
<b>SECTION 3.03 MONITORING .....</b>	<b>5</b>
<b>ARTICLE IV. MONITORING AND MANAGEMENT .....</b>	<b>5</b>
<b>SECTION 4.01 POST-PLANTING MONITORING .....</b>	<b>5</b>
<b>SECTION 4.02 PERFORMANCE STANDARDS .....</b>	<b>5</b>
<b>SECTION 4.03 COUNTY RESTRICTIONS .....</b>	<b>6</b>
<b>ARTICLE V. INDEMNIFICATION .....</b>	<b>6</b>
<b>SECTION 5.01 INDEMNIFICATION.....</b>	<b>6</b>
<b>ARTICLE VI. TERM AND TERMINATION .....</b>	<b>6</b>
<b>SECTION 6.01 TERM.....</b>	<b>6</b>
<b>SECTION 6.02 TERMINATION .....</b>	<b>6</b>
<b>ARTICLE VII. DISPUTE RESOLUTION .....</b>	<b>6</b>
<b>SECTION 7.01 INTENT AND PROCEDURE .....</b>	<b>7</b>
<b>SECTION 7.02 MEDIATION.....</b>	<b>7</b>
<b>SECTION 7.03 LITIGATION.....</b>	<b>7</b>
<b>SECTION 7.04 VENUE.....</b>	<b>7</b>
<b>SECTION 7.05 WAIVER OF JURY TRIAL .....</b>	<b>7</b>
<b>ARTICLE VIII. MISCELLANEOUS.....</b>	<b>7</b>
<b>SECTION 8.01 COMPLETE AGREEMENT.....</b>	<b>7</b>
<b>SECTION 8.02 COUNTERPARTS.....</b>	<b>7</b>
<b>SECTION 8.03 AMENDMENTS .....</b>	<b>7</b>
<b>SECTION 8.04 SEVERABILITY AND SAVINGS CLAUSE.....</b>	<b>8</b>
<b>SECTION 8.05 FORCE MAJEURE.....</b>	<b>8</b>
<b>SECTION 8.06 AUTHORIZED REPRESENTATIVES.....</b>	<b>8</b>
<b>SECTION 8.07 NOTICE.....</b>	<b>8</b>
<b>SECTION 8.08 GOVERNING LAW .....</b>	<b>9</b>
<b>SECTION 8.09 CONFLICT WITH OTHER MOU .....</b>	<b>9</b>
<b>SECTION 8.10 CONFLICT WITH JOINT POWERS AGREEMENT.....</b>	<b>9</b>
<b>SECTION 8.11 ELECTRONIC SIGNATURES.....</b>	<b>9</b>
<b>Signature Pages .....</b>	<b>S-1 through S-2</b>

**EXHIBIT A – County Parcel List**

**EXHIBIT B – Current Version of the AMMP**

**EXHIBIT C – Current Version of the Forest Mitigation Plan**

**EXHIBIT D – Draft Conservation Easement**

## FOREST MITIGATION AGREEMENT

**THIS FOREST MITIGATION AGREEMENT** (the “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023 (the “Effective Date”), by and between METRO FLOOD DIVERSION AUTHORITY, a political subdivision of the State of North Dakota, and CASS COUNTY, NORTH DAKOTA, a political subdivision and home rule county of the State of North Dakota.

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

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

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

WHEREAS, for the portion of the Comprehensive Project for which the Non-Federal Sponsors are responsible, USACE completed numerous environmental assessments and issued a permit in accordance with Section 404 of the Clean Water Act (the “Section 404 Permit”); and

WHEREAS, the Section 404 Permit requires the Non-Federal Sponsors to complete forest compensatory mitigation as a result of impacts, and the requirements for such forest compensatory mitigation are set forth in the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, Forest Mitigation Plan (the “Forest Mitigation Plan”), created by USACE; and

WHEREAS, following the design and planting of the forest mitigation sites, the Non-Federal Sponsors are further required to provide on-going adaptive management and mitigation in accordance with the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, Adaptive Management and Mitigation Plan (the “AMMP”), to monitor potential impacts over time; and

WHEREAS, the Non-Federal Sponsors assigned their responsibilities under the Section 404 Permit and for on-going adaptive management and mitigation to the Authority by entering into the Joint Powers Agreement; and

WHEREAS, certain parcels owned by the County were identified as locations in the Forest Mitigation Plan where forest mitigation could occur; and

WHEREAS, consequently, the Authority and the County now desire to enter into this Agreement to set forth their respective roles and responsibilities for current and on-going forest mitigation and monitoring.

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

**ARTICLE I.  
DEFINITIONS AND INTERPRETATION**

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

“**AMMP**” means the Fargo-Moorhead Metropolitan Area Flood Risk Management Project Draft Adaptive Management and Mitigation Plan, authored by USACE, which will be periodically updated and amended and incorporated herein.

“**Applicable Law**” means, collectively, the Constitutions of the United States and of the State, all common law and principles of equity, and all Federal, State, and local laws including, without limitation, all environmental laws, statutes, treaties, codes, acts, rules, regulations, guidelines, ordinances, resolutions, orders, judgments, decrees, injunctions, and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any governmental authority charged with the enforcement, interpretation, or administration thereof, all governmental approvals, and all administrative orders, awards, directed duties, requests, licenses, certificates, authorizations, and permits of, and agreements with, any governmental authority, and, with respect to any Person, the articles of incorporation, bylaws, or other organizational or governing documents of such Person, in each case whether or not having the force of law, that are applicable now or are applicable at any time hereafter to the Authority, the County, the AMMP, the Section 404 Permit, or the Forest Mitigation Plan.

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

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

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

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

“**Comprehensive Project**” means the Fargo-Moorhead Metropolitan Area Flood Risk Management Project authorized by Section 7002(2) of the Water Resources Reform and Development Act of 2014, as generally described in the Final Feasibility Report and Environmental Impact Statement, Fargo Moorhead Metropolitan Area Flood Risk Management,

dated July 2011 and approved in accordance with the Chief's Report, as amended by the Supplemental Environmental Assessment, Fargo-Moorhead Metropolitan Area Flood Risk Management Project, dated September 2013 and approved by the U.S. Army Engineer, St. Paul, on September 19, 2013, and as amended by the Second Supplemental Environmental Assessment dated August 27, 2018 (2018 SEA), and the Engineering Documentation Report, Fargo-Moorhead Metropolitan Area Flood Risk Management Project, ND and MN, Modifications Through February 2019.

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

**“County Parcels”** means the parcels of real property that are owned by the County and identified on Exhibit A where the Authority will perform forest mitigation in accordance with the terms and conditions of this Agreement for the Comprehensive Project.

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

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

**“Forest Mitigation Plan”** means Fargo-Moorhead Metropolitan Area Flood Risk Management Project Forest Mitigation Plan, authored by USACE, which will be periodically updated and amended and incorporated herein.

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

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

**“Non-Federal Sponsors”** means the City of Fargo, North Dakota; the City of Moorhead, Minnesota; and the Authority collectively.

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

**“Party”** means either the Authority or the County, depending on the context, and its respective successors and assigns, and if a reference is made herein to Parties, **“Parties”** means the Authority and the County collectively and their respective successors and assigns.

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

**“PPA”** means the Project Partnership Agreement, dated July 11, 2016, between the Non-Federal Sponsors and USACE for the construction, operation, and maintenance of the Comprehensive Project

“**Section 404 Permit**” means Department of the Army Permit, Permit No. NOW-2013-1723-BJS, issued by the Omaha District, North Dakota Regulatory Office, of USACE to the Authority in accordance with Section 404 of the Clean Water Act or 33 U.S.C. § 1344.

“**State**” means the State of North Dakota.

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

**Section 1.02 INTERPRETATION.** The definition of terms in this Agreement will apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun will include the corresponding masculine, feminine, and neuter forms. The words “include,” “includes,” and “including” will be deemed to be followed by the phrase “without limitation.” Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument, or other document in the Agreement will be construed as referring to the agreement, instrument, or other document as amended, supplemented, or otherwise modified (subject to any restrictions in amendments, supplements, or modifications in the Agreement); (b) any reference in the Agreement to any person will be construed to include the person’s permitted successors and assigns; (c) all references in the Agreement to articles, sections, exhibits, and schedules will be construed to refer to articles and sections of, and exhibits and schedules to, this Agreement; and (e) the word “assets” and “property” will be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts, and contract rights.

## **ARTICLE II. INTENT**

**Section 2.01 FOREST MITIGATION REQUIREMENTS.** The Parties agree and acknowledge that the construction of the Comprehensive Project will result in impacts to forested areas, and as a result, USACE is requiring that the Authority complete forest mitigation in accordance with the Section 404 Permit, the Forest Mitigation Plan, and the AMMP. Following the evaluation of parcels, the County Parcels have been identified as forest mitigation sites, and the County hereby authorizes the Authority to utilize the County Parcels in accordance with the terms and conditions set forth herein for mitigation and adaptive management. The County will execute and record a conservation easement substantially in the form attached hereto as Exhibit D to allow the Authority access to and use of the County Parcels for the purposes set forth in said easement. The bounds of any conservation easement will not come within one hundred (100) feet of the centerline of a County road to provide a buffer zone for future maintenance or expansion on the County road.

**Section 2.02 SUBJECT TO CHANGE.** The Parties agree and acknowledge that the Section 404 Permit, the Forest Mitigation Plan, and the AMMP may be subject to change per discretion of USACE. In the event the Authority becomes aware of any potential change in any of the above-described documents, the Authority will notify the County in writing. The Authority and the County will thereafter negotiate in Good Faith to determine whether any amendments to this Agreement are warranted.

### **ARTICLE III. DESIGN AND PLANTING**

**Section 3.01** DESIGN AND DESIGN STRATEGIES. The Parties agree that each of the County Parcels has undergone an evaluation to determine a forest planting strategy based on opportunity, need, and streambank condition. Planting strategies are generally described in the Forest Mitigation Plan, and the planting strategy or strategies for each County Parcel is included in Exhibit A. The Authority will utilize the respective planting strategy or strategies assigned to each County Parcel, as well as other requirements of the Forest Mitigation Plan, to design how forest mitigation will occur on each site. The Authority will remit a design for each County Parcel to the County Representative for review and approval. The County Representative will respond to the Authority within fourteen (14) calendar days of receipt of a design. If the County Representative does not approve of a design, he or she will provide a written explanation to the Authority outlining the reasons for rejection. The Authority will review the explanation and respond to the County Representative, reworking the design as necessary. The County Representative will review resubmitted work within seven (7) calendar days of receipt. If the County Representative does not respond to the Authority during the above-provided review periods, then the design will be deemed approved by the County.

**Section 3.02** SITE PREPARATION. The Authority will complete site preparation on each County Parcel in accordance with the Forest Mitigation Plan. Site preparation may include such actions as clearing and grubbing the identified tree planting area, properly disposing of significant woody debris, treating the site with glyphosate, discing the site to expose mineral soil, and treating the site with an approved pre-emergent herbicide. The Authority will provide reasonable notification to the County prior to conducting any site preparation, which the Parties agree may occur for several years prior to planting.

**Section 3.03** MONITORING. The Authority will conduct annual forest monitoring surveys on each County Parcel in accordance with the Forest Mitigation Plan.

### **ARTICLE IV. MONITORING AND MANAGEMENT**

**Section 4.01** POST-PLANTING MONITORING. The Authority will perform maintenance and monitoring of the mitigation sites following planting to determine the condition of the habitat types and the overall effectiveness of the mitigation. The Authority will monitor each County Parcel in accordance with the requirements of the AMMP and the Forest Mitigation Plan for five (5) years and then every five (5) years until the objectives of the Forest Mitigation Plan have been fully obtained. If the tree survival rates are less than the Forest Mitigation Plan objectives, then activities may include tree replanting, clearing and grubbing with tree replanting, and treatment with glyphosate and/or pre-emergent herbicide.

**Section 4.02** PERFORMANCE STANDARDS. The goal of continuing to monitor the mitigation sites is to ensure that the sites provide the area and quantity needed to offset the loss of forest habitat through footprint impacts. Consequently, the Parties acknowledge that the AMMP and the Forest Mitigation Plan set forth performance standards that the Authority must meet. This may entail that the Authority replant sites and control invasive, noxious, and/or non-native species,



clear and grub with tree planting, and treat with glyphosate and/or pre-emergent herbicide. The Authority will provide the necessary reports regarding its monitoring in accordance with the AMMP and the Forest Mitigation Plan.

**Section 4.03** COUNTY RESTRICTIONS. The County agrees to not interfere with the Authority’s activities on the County Parcels as set forth in this Agreement, to prevent any activity or use of the County Parcels that is inconsistent with the purpose of this Agreement, and to require the restoration of areas or features that may be damaged by any inconsistent activity or use. In the event that the County transfers its interest in the County Parcels to any other individual or entity, it will notify the individual or entity of the conservation easement on the County Parcel.

**ARTICLE V.  
INDEMNIFICATION**

**Section 5.01** INDEMNIFICATION. As set forth in the Joint Powers Agreement, the Authority, to the fullest extent authorized by law, shall at all times hereafter, defend and indemnify the County for any liability claims arising from Authority activities or operations, decisions of the Authority, or arising out of or regarding the Comprehensive Project. The Parties agree that the Authority’s use of the County Parcels for the activities set forth herein falls within the scope of the indemnification provisions of the Joint Powers Agreement, and, as a result, the Authority will indemnify the County from any and all claims, suits, debts, damages, costs, charges and expenses, including court costs and attorney’s fees, and legal fees or disbursements paid or incurred, and against all liability, losses, and damages of any nature whatsoever arising out of the forest mitigation and monitoring activities set forth herein. The indemnity and hold harmless provision, however, shall not be deemed as a waiver by the Authority of the limits of liability set forth in N.D.C.C. § 32-12.1-03, as amended from time to time, or a waiver of any available immunities or defenses. Nothing herein shall be construed to provide insurance coverage or indemnification to any officer, employee, or volunteer of the County for any act or omission for which the officer, employee, or volunteer is guilty of malfeasance in office, willful neglect of duty, or bad faith.

**ARTICLE VI.  
TERM AND TERMINATION**

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

**Section 6.02** TERMINATION. The Parties may mutually agree to terminate this Agreement prior to the expiration of the Original Term or a Subsequent Renewal Term; provided, however, the Conservation Easement will remain in place following the termination of this Agreement.

**ARTICLE VII.  
DISPUTE RESOLUTION**

**Section 7.01** INTENT AND PROCEDURE. The Parties will cooperate and use their Best Efforts to ensure that the various provisions of this Agreement are fulfilled. The Parties agree to act in Good Faith to undertake resolution of disputes in an equitable and timely manner and in accordance with the provisions of this Agreement. If disputes cannot be resolved informally by the Parties, the following procedure will be used.

**Section 7.02** MEDIATION. If there is a failure between the Parties to resolve a dispute on their own, the Parties will first attempt to mediate the dispute. The Parties will agree upon a single mediator or, if an agreement cannot be reached within ten (10) calendar days, the mediator shall be selected by the American Arbitration Association (“AAA”) in accordance with its Commercial Industry Mediation Rules and Procedures then in effect.

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

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

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

## **ARTICLE VIII. MISCELLANEOUS**

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

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

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

**Section 8.04 SEVERABILITY AND SAVINGS CLAUSE.** Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, or word hereof is held by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity will not affect the validity of the remainder of this Agreement.

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

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

- (a) Authority Representative: Jodi Smith, Director of Lands
- (b) County Representative: Jason Benson, County Engineer

**Section 8.07 NOTICE.**

(a) All notices under the Agreement will be in writing and: (i) delivered personally; (ii) sent by certified mail, return receipt requested; (iii) sent by a recognized overnight mail or courier service, with delivery receipt requested; or (iv) sent by email communication followed by a hard copy, to the following addresses.

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

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

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

1201 Main Avenue West  
West Fargo, North Dakota 58078

(d) Notices will be deemed received when actually received in the office of the addressee (or by the addressee if personally delivered) or when delivery is refused, as shown on the receipt of the U.S. Postal Service, private courier, or other person making the delivery.

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

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

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

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

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

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

*(Remainder of page intentionally left blank.)*

*Signature Page for the Metro Flood Diversion Authority*

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

METRO FLOOD DIVERSION  
AUTHORITY

By: \_\_\_\_\_  
Dr. Timothy J. Mahoney, Chair

By: \_\_\_\_\_  
Joel Paulsen, Executive Director

ATTEST:

By: \_\_\_\_\_  
Dawn Lindblom, Secretary

*Signature Page for Cass County, North Dakota*

The governing body of Cass County, North Dakota, approved this Agreement on the \_\_\_\_ day of \_\_\_\_\_, 2023.

CASS COUNTY, NORTH DAKOTA

By: \_\_\_\_\_  
Chad M. Peterson, Chairman of the  
Board of County Commissioners

ATTEST:

\_\_\_\_\_  
Brandy Madrigga, Finance Director

**EXHIBIT A****County Parcel List**

<i>Parcel PIN</i>	<i>Parcel OIN</i>
57-0000-10206-020	9409
57-0000-10208-010	810
57-0000-10208-020	811
57-0400-00010-000	9432
57-0400-00020-000	9439
57-0400-00060-000	9997
57-0400-00070-000	9996
57-0400-00170-000	9428
57-0400-00180-000	9429
57-0400-00190-000	9430
57-0400-00200-000	9437
57-0600-00060-000	9424
64-0000-02281-010	1060
64-0000-02370-010	5244
64-0000-02371-000	7245

**EXHIBIT B**

**Current Version of AMMP**

*(See the following pages.)*



**EXHIBIT C**

**Current Version of Forest Mitigation Plan**

*(See the following pages.)*

**EXHIBIT D**

**Draft Conservation Easement**

**PERMANENT CONSERVATION EASEMENT**

THIS EASEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the Metro Flood Diversion Authority, a political subdivision of the State of North Dakota with a mailing address of 4784 Amber Valley Parkway South, Suite 100, Fargo, North Dakota 58104 (the “Authority”), and Cass County, North Dakota, a political subdivision of the State of North Dakota, with a mailing address of 1201 Main Avenue West, West Fargo, North Dakota 58078 (the “Landowner”), who together agree as follows:

**RECITALS**

A. The Authority, a permanent joint powers entity, is the non-federal sponsor responsible for delivering the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the “Comprehensive Project”); and

B. The United States Army Corps of Engineers (“USACE”) granted a permit to the Authority under Section 404 of the Clean Water Act (the “Section 404 Permit”) for those portions of the Comprehensive Project that are the responsibility of the non-federal sponsors; and

C. The Section 404 Permit requires the Authority to undertake forest compensatory mitigation and adaptive monitoring and mitigation (the “Project”) due to impacts resulting from those portions of the Comprehensive Project that are the responsibility of the non-federal sponsors; and

D. The Landowner owns certain real property necessary for the Project and agrees to convey a Permanent Easement to the Authority upon, in, on, under, over, across, and through the property described below, all subject to the terms and conditions contained in this Easement.

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

**AGREEMENT**

1. Permanent Easement Property. The Landowner grants and conveys to the Authority a Permanent Easement, including the easement rights described in this Permanent Easement, upon, over, in, on, under, across, and through the following real property in Cass County, North Dakota:

[PROPERTY DESCRIPTION]

(the “Permanent Easement Property”).

2. Permanent Easement. Under this Permanent Easement, the Landowner grants to the Authority, its officers, employees, agents, representatives, and contractors, a permanent and perpetual easement in, on, over, under, across, and through the Easement Property for the following purposes: constructing, cleaning, inspecting, reconstructing, restoring, modifying, managing, maintaining, repairing, and improving the Project; excavating, piling, storing, depositing, spoiling, spreading, and removing excavated dirt, soil, clay, silt, gravel, rock, or other materials; moving, storing, and removing equipment, materials, and supplies; planting trees, shrubs, and other vegetation; removing trees, underbrush, noxious weeds, obstructions, and any other vegetation, structures, or obstacles from the Easement Property; and the right to perform any other work necessary and incident to the construction, cleaning, inspecting, reconstructing, restoring, modifying, managing, maintaining, repairing, or improvement of the Project, together with all necessary and reasonable rights of ingress and egress to and from the Easement Property. Additionally, the Landowner grants to the Authority, its officers, employees, agents, representatives, and contractors the ability to prevent any future development, construction, or use that would negatively impair or interfere with the Project. The Authority is not responsible for pre-existing environmental contamination or liabilities.

3. Consideration. The Landowner specifically acknowledges the consideration received by the Landowner represents full and final consideration to the Landowner as compensation or damages regarding the Permanent Easement Property, any of the Landowner’s remaining property, or the Project, and that the Landowner is not entitled to any further payments, tax reductions, or damages under any state or federal statute, constitutional provision, rule, or regulation, or other legal authority.

4. Easement Runs With the Permanent Easement Property. This Permanent Easement, and all covenants, terms, conditions, provisions, and undertakings created under this Permanent Easement, are perpetual and will run with the Permanent Easement Property, and will be binding upon the Landowner’s heirs, successors, and assigns.

5. Structures and Personal Property. Any buildings, structures, fixtures, personal property, or other items remaining on the Permanent Easement Property will automatically become the Authority’s property upon execution of this Permanent Easement, without the need for any bill of sale or any other written instrument or agreement. The Authority may then remove any buildings, structures, personal property, or other items from the Permanent Easement Property, at its sole discretion and at its sole cost.

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

7. Landowner’s Use of Permanent Easement Property.

A. The Landowner has the right and privilege to use the Permanent Easement Property at any time, in any manner, and for any purpose that is not inconsistent with the Authority's rights and privileges under this Permanent Easement. The Landowner will not use, or permit use of, the Permanent Easement Property in any manner that disrupts or interferes with the Authority's use of the Permanent Easement Property, the Authority's rights and privileges under this Permanent Easement, or with the Project. The Landowner will promptly cease any activities and remove any structures or obstructions that interfere with the Authority's use of the Permanent Easement Property, the Authority's rights and privileges under this Permanent Easement, or with the Project, when directed by the Authority, at the Landowner's sole cost. The Landowner will repair or replace any of any of the Authority's structures, trees, vegetation, right of way, or any other property owned by the Authority damaged by the Landowner or the Landowner's agents or as a result of the Landowner's use or the Landowner's agent's use of the Permanent Easement Property, at the Landowner's sole cost.

B. For purposes of this section and for the sake of clarity, the following is a non-exhaustive list of uses that are inconsistent with the Authority's rights and privileges under this Permanent Easement:

- (1) Constructing or placing structures or mobile homes, fences, signs, billboards, or other advertising material, or other structures, whether temporary or permanent;
- (2) Filling, draining, excavating, mining, drilling, or removing topsoil, loam, peat, sand, gravel, rock, minerals, or other materials;
- (3) Building of roads or paths for vehicular or pedestrian travel or any change in the topography of the land;
- (4) Removing, destructing, or cutting of trees or plants;
- (5) Spraying with biocides, insecticides, or pesticides;
- (6) Grazing of animals, farming, tilling of soil, or any other agricultural activity; and
- (7) Operating all-terrain vehicles or any other type of motorized vehicle.

8. Encumbrances. The Landowner will not encumber the Permanent Easement Property or enroll the Permanent Easement Property in any program that would be contrary to, or would in any way disrupt or interfere with, the Authority's use of the Permanent Easement Property, the Authority's rights and privileges under this Permanent Easement, or the Project.

9. Waiver of Warranties. The parties specifically agree neither the Landowner nor any of its agents or representatives have made any representations or warranties in any way regarding the Project; the Landowner's ability to use the Permanent Easement Property following

construction of the Project; or the Landowner's ability to enroll the Permanent Easement Property in any federal program.

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

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

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

13. Entire Agreement. This Permanent Easement, together with any amendments, and the Forest Mitigation Agreement, dated \_\_\_\_\_, entered between the parties (the "Agreement"), contains the entire agreement between the parties regarding the matters described in this Permanent Easement, and this Permanent Easement and the Agreement supersede all other previous oral or written agreements between the parties regarding the Project.

14. Modifications. Any modifications or amendments of this Permanent Easement must be in writing and signed by the Landowner and the Authority and must be recorded in the Cass County Recorder's Office.

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

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

*(Signatures appear on the following pages.)*

IN WITNESS WHEREOF, the Landowner executed this Permanent Easement on the date written above:

**LANDOWNER:**

Cass County, North Dakota

\_\_\_\_\_  
Chad M. Peterson, President of the Board of  
County Commissioners

**ATTEST:**

\_\_\_\_\_  
Brandy Madrigga, Finance Director

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

On this \_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public, in and for said County and State, personally appeared Chad M. Peterson and Brandy Madrigga, to me known to be the President of the Board of County Commissioners and Finance Director, respectively, of Cass County, North Dakota, and who executed the foregoing instrument, and acknowledged to me that they executed the same on behalf of Cass County, North Dakota.

\_\_\_\_\_  
Notary Public, State of North Dakota  
My Commission Expires:

(SEAL)

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

METRO FLOOD DIVERSION  
AUTHORITY

\_\_\_\_\_  
Dr. Timothy J. Mahoney, Chair

\_\_\_\_\_  
Joel Paulsen, Executive Director

ATTEST:

\_\_\_\_\_  
Dawn Lindblom, Secretary

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

On this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, before me, a Notary Public, in and for said County and State, personally appeared Dr. Timohty J. Mahoney, Joel Paulsen, and Dawn Lindblom, to me known to be the Chair, Executive Director, and Secretary, respectively, of the Metro Flood Diversion Authority, and who executed the foregoing instrument, and acknowledged to me that they executed the same on behalf of the Metro Flood Diversion Authority.

\_\_\_\_\_  
Notary Public, State of North Dakota  
My Commission Expires:

(SEAL)

**DRAFT**  
**Fargo-Moorhead Metropolitan Area Flood Risk Management Project**  
**Forest Mitigation Plan**



*Oxbow Country Club Mitigation, Fall 2021*

**April 2023**



(This page left intentionally blank)

DRAFT

# Fargo-Moorhead Metropolitan Area Flood Risk Management Project

## Forest Mitigation Plan

### Contents

1. Background.....	1
2. Document Purpose .....	1
3. Determination of Mitigation Needs & Objectives.....	1
4. Forest Planting Strategies .....	2
4.1 Bank Stabilization.....	2
4.2 Floodplain Forest .....	3
4.3 Oak Savanna .....	3
5. Site Preparation / Initial Work .....	4
6. Forest Mitigation Site Selection .....	5
6.1 Baseline Information .....	5
6.2 Description of Potential Forest Mitigation Sites .....	6
6.3 Site Summary .....	13
7. Monitoring & Management.....	16
7.1 Monitoring Requirements.....	16
7.2 Monitoring Reports.....	16
7.3 Performance Standards.....	17
7.3.1 Bank Stabilization.....	17
7.3.2 Floodplain Forest .....	18
7.3.3 Oak Savannah.....	18
7.3.4 Invasive Species.....	19
7.4 Long-term Management Plan .....	19
7.5 Adaptive Management Plan.....	19
7.6 Site Protection Instrument .....	19
7.7 Financial Assurance.....	19

# Fargo-Moorhead Metropolitan Area Flood Risk Management Project

## Forest Mitigation Plan

April 2023

### 1. Background

The US Army Corps of Engineers (Corps) Civil Works Program mitigates for all significant resources adversely affected by Corps projects. For the Fargo Moorhead Metropolitan Area Flood Risk Management Project (FMM Project) this includes impacts to riparian, floodplain, and upland forest areas.

The current Project design is expected to result in approximately 148.7 acres of forest impacts. These impacted forest areas are composed of mostly floodplain forests, shelterbelts, and wooded groves near building sites.

### 2. Document Purpose

This document addresses the mitigation requirements for all forest impacts associated with the construction of the FMM Project. The document identifies forest mitigation sites, planting strategies, monitoring requirements, performance standards, and long-term management goals. The Fargo-Moorhead Metropolitan Area Flood Risk Management Project Forest Mitigation Plan (FMM Forest Mitigation Plan) is a living document and will be updated if additional forest impacts due to the Project occur, or if additional opportunities for forest mitigation arise. Changes to the FMM Forest Mitigation Plan would require consensus recommendation from the Forest Management Team and the Adaptive Management Team, using the process described in the Adaptive Management and Mitigation Plan (AMMP) for the Project.

### 3. Determination of Mitigation Needs & Objectives

As described in the AMMP, some forested areas would need to be cleared for construction of the Project. Forested areas impacted by construction of Project features total 148.7 acres for the current design. The Feasibility Report and Environmental Impact Statement (EIS) outlined a habitat evaluation process for existing floodplain forest in the Project area, which identified a habitat suitability factor of 0.51. This suitability factor is assumed to not have changed as no major changes have occurred in the area related to forest composition or structure that would result in appreciable alteration of that suitability factor. Thus, 0.51 is applied to the acres impacted to identify the habitat units for lost forest habitat and the targeted amount for mitigation.

In terms of habitat conditions over the next 50 years, woodland extent, structure, and composition is assumed to remain fairly similar to existing conditions. While habitat value for individual species may change over time as natural setback/succession processes occur on

these established tracts, the overall habitat value for the riparian woodland community would remain essentially the same and be rated as fair with a HSI of 0.51.

The assumed HSI for an established floodplain forest is 0.51. It is also assumed that it could take a full 50 years for a created forest to reach its full functioning level. Over a 50-year planning horizon (the standard for the Corps planning activities), assuming a starting HSI of 0 and an ending HSI of 0.51, would amount to an average HSI value of 0.25. Thus, approximately 303.2 acres of floodplain forest habitat would be needed to generate the 75.8 Habitat Units of mitigation needed to offset the 148.7 acres of forest impacts.

FMM Project impacts will occur in both North Dakota and Minnesota. Mitigation in each state will be proportional to the number of impacts resulting from construction. A summary of forest impacts and the required mitigation can be found in the following table (Table 1).

Table 1. Forest Impacts and Mitigation Needs

Impact	Footprint Area Lost (ac)		Existing Habitat Quality Score	Habitat Units Lost		Created Forest Habitat Quality Score	Mitigation Needs (ac)	
	ND	MN		ND	MN		ND	MN
Forest	132.8	15.9	0.51	67.7	8.1	0.25	270.8	32.4
<b>Total</b>	<b>148.7</b>		<b>0.51</b>	<b>75.8</b>		<b>0.25</b>	<b>303.2</b>	

It is uncertain what portion of the forests identified could be classified as forested wetland; however, all forest impacts would be mitigated for by converting former building sites and farm fields adjacent to rivers into forested habitat; utilizing three primary strategies: planting of floodplain forest community with a combination of bare-root and container tree stock; planting and seeding Oak-Savanna habitat; and utilizing willow, cottonwood, and sumac for streambank stabilization. Each planting strategy is detailed below.

## 4. Forest Planting Strategies

Three distinct types of reforestation strategies were developed to address the variability in the project sites. Some sites currently have streambank erosion issues that could be stabilized by planting species that develop dense root systems, some sites have elevations suitable for floodplain forest reforestation, and other sites have elevations that lend themselves to recreating Oak Savanna habitat. Planting will be adapted to the topography at each site but minor grading and earth moving may occur to enhance plantings or to provide adequate drainage. These strategies or prescriptions were developed site by site to suit each location individually, based on opportunity, need, and streambank condition.

### 4.1 Bank Stabilization

Bank stabilization along the streambanks shall be accomplished with a combination of live stake plantings and riparian tree plantings along with an herbaceous seed mix for stabilization. Live stakes are utilized best closer to the water, as the live stakes need contact with the water table for success. Live stake species can consist of willow (*Salix spp.*), red-osier dogwood (*Cornus*

*sericea*) and eastern cottonwood (*Populus deltoides*). Farther away from the waterline, and closer to the habitat transition zone, planting bare-root seedlings of peachleaf willow (*Salix amygdaloides*), sandbar willow (*Salix interior*), Smooth sumac (*Rhus glabra*), and plains cottonwood (*Populus deltoides monilifera*) will be utilized.

The live stake work shall consist of inserting live, woody, rootable plant cuttings into streambanks and encouraging their growth as described in the Live Stakes Construction guidelines (Appendix B). When properly utilized, the binding root mass of the mature shrubs and/or trees will ultimately stabilize and reinforce the soil. If any riverbanks slopes are degraded beyond a moderate slope of 4:1, excavation and grading dirt work should first be considered to repair the bank back to an acceptable slope. Immediately following the completion of any dirt work, disturbed area will be stabilized and seeded with an appropriate vegetation mix, such as MN BWSR riparian S&W 34-262 (Appendix A).

#### 4.2 Floodplain Forest

Planting the sites with bare-root seedlings and container trees has been found to be the most effective way to restore floodplain forest in this region. The work would include woody debris removal, disking, herbicide treatment, and planting bare-root seedlings of plains cottonwood (*Populus deltoides monilifera*), peachleaf willow (*Salix amygdaloides*), boxelder (*Acer negundo*), hackberry (*Celtis occidentalis*), quaking aspen (*Populus tremuloides*), silver maple (*Acer saccharinum*), black walnut (*Juglans nigra*) and American basswood (*Tilia americana*). Hard mast species would involve planting bur oak (*Quercus macrocarpa*) container trees. Container and bare root seedlings should be planted at a rate of 550 trees per acre with a 9x9 spacing. Rows should follow the contour of the terrain, if the site is flat rows should meander in a way that looks natural. Up to 20% of the site should also include native shrub species interspersed throughout each site from the following list of species: chokecherry (*Prunus virginiana*), redosier dogwood (*Cornus stolonifera*), American hazelnut (*Corylus americana*), juneberry (*Amelanchier alnifolia*), American plum (*Prunus americana*), smooth sumac (*Rhus glabra*), pin cherry (*Prunus pensylvanica*), common snowberry (*Symphoricarpos albus*), American cranberrybush (*Viburnum trilobum*).

Monitoring would be conducted, and additional seedlings would be planted if the tree density targets are not attained. No one species shall make up more than 20% of the initial planting stock.

#### 4.3 Oak Savanna

The Oak Savanna sites will consist of bur oak (*Quercus macrocarpa*) container and bare root seedlings planted at a minimum rate of 300 trees per acre with a 6x6 spacing in several dense aggregates and individual trees interspersed throughout the site. Tree cover should be at least 10 percent but no more than 50 percent cover of any field. Inclusion of bur oak bare root stock planting is encouraged to buffer for mortality of planted trees and increase the chance of successful mitigation. This will allow for some parts of the savanna to be more open (greater spacing or “openings”) than other parts and create a more natural appearance.

Due to the openness that defines oak savannas, the grasses and other herbaceous vegetation are a critical component to a successful site. Open areas will be planted utilizing the Woodland Edge South & West seed mix (Appendix A) at the minimum rates prescribed.

## 5. Site Preparation / Initial Work

The following initial work should be considered for all site preparation work:

1. Delineate tree planting areas:
  - a. For Floodplain Forest, tree and shrub planting areas need to cover at least 80 percent of total area. The remaining 20 percent of the mitigation area would be seeded with native forbs and grasses germinated from locally grown propagules. These areas of local vegetation would be interspersed between the tree planting areas.
  - b. For Oak Savannah, tree planting areas should be in clusters to cover between 10 and 50 percent of total site area. The remaining area would be seeded with the Woodland Edge South & West seed mix.
2. Clear and grub the identified tree planting area and properly dispose of significant woody debris if necessary.
3. Treat the site with glyphosate after spring green-up and again in early fall to clear the site of any competing vegetation.
4. If soil prep is needed, disc the site to expose mineral soil and treat with an approved pre-emergent herbicide if disking in the spring. If a fallow period is expected, incorporation of an annual cover crop of annual oats (*Avena sativa*) or winter wheat (*Triticum aestivum*) will be planted on exposed soil to aid in stabilization and weed suppression until a target species planting occurs.
5. Plant each respective planting zone with their respective bare-root seedlings and bur oak container trees. Bare-root seedlings will be planted using a planting machine in meandering rows to better imitate a natural forest. Container seedlings will be planted by hand in the same rows as the bare root seedlings. All bur oak trees planted will require grow-tubes and a support stake large enough to keep the tree upright immediately following planting.
6. Assuming good growth, spot spraying an approved and appropriate herbicide in the fall after the seedlings go dormant to help ensure that there would be minimal weed problems during the following growing season trees in the second growing season if necessary.
7. If the bare-root seedlings are not successful per performance standards listed in this document, re-plant seedlings and install grow-tubes and a support stake large enough to keep the tree upright immediately after planting.
8. If bur oak container trees are not successful performance standards listed in this document, re-plant container tubes and install grow-tubes and support stakes large enough to keep the tree upright immediately after planting.
9. If necessary, removal of grow tubes and support stakes when the tree exceeds tube height and tree can self-support without the tree tube for upright growth.

10. Monitoring areas seeded with herbaceous vegetation will be completed annually, for up to five years, following the performance standards presented in this document.
11. If necessary, utilization of prescribed burning, as appropriate, can be used as management tool once full site establishment is complete.

## **6. Forest Mitigation Site Selection**

Forest mitigation sites will be located in the Red River of the North watershed, the same watershed where the impacts will occur. Input from partnering agencies and the non-federal sponsors have helped to develop criteria to aid in site selection. Site selection is prioritized by lands that have been acquired by the non-federal sponsors, sites that would result in large contiguous blocks of forest, sites adjacent to rivers and streams, sites where wetland hydrology could be restored or improved, and sites that are adjacent to other forested or natural areas. Lands that become inaccessible or difficult to utilize due to the construction of Project features will also be given additional consideration.

The Oxbow-Hickson-Bakke (OHB) Site was identified in the Forest Mitigation Plan dated April 2016. Since then, the OHB Site has been planted and an additional site immediately to the north, known as the Oxbow Country Club Restoration Project (WP43.G) has also been constructed. The OHB Site and Oxbow Country Club Restoration will result in 13 and 63 acres of new forest, respectively in North Dakota.

The identified sites and their reforestation prescriptions below are designed to fulfill the remaining required forested acreage. Sites considered for forest planting are assigned a site number for identification purposes. Sites are evaluated for adequacy for forest mitigation by the Forest Management Team. Sites that receive a favorable consensus rating from the group are added to the Forest Mitigation Plan, while others are removed from consideration.

### **6.1 Baseline Information**

Numerous sites have been identified for potential forest mitigation throughout the project area. The sites are located along rivers and are often connecting existing forested riparian areas. The majority of the sites are currently used in the production of agricultural row crops or were once building sites. Unless specifically called out otherwise, all agricultural fields would continue to be planted with row crops until trees are planted to suppress weeds and undesirable vegetation from establishing. All buildings, foundations, and debris would be removed from the mitigation sites. Sites with undesirable vegetation would be treated with broad-spectrum herbicide, such as glyphosate, to clear the area prior to planting with trees and other natural vegetation.

## 6.2 Description of Potential Forest Mitigation Sites

Corresponding imagery of each site can be found in the attached map book, FMM Forest Mitigation Mapbook (Appendix D), located at the end of this document.

### **OHB Site:**

The OHB (Oxbow-Hickson-Bakke) Site is located adjacent to the Red River of the North, south of the City of Oxbow in Cass County, North Dakota. The site is located east of the recently constructed oxbow levee and adjacent to an existing floodplain forest. The site encompasses approximately 13 acres and is located on the unprotected side of the Oxbow Hickson Bakke Levee. The site was in use for agricultural row crops from at least 1990 until 2014 when a levee was constructed immediately west of the site and agricultural activities ceased. The site is bordered on the east and north by a floodplain forest adjacent to the Red River of the North and to the west by the recently constructed levee. The site is comprised of two soil types. The most abundant is Sinai silty clay (I475B) which is described as being found on 0-6% slopes. The major component (80%) is listed as Sinai, which is a well-drained, non-hydric, clayey soil. The second most abundant soil is Cashel silty clay (I293B), which is found in 0-6% slopes and occasionally flooded. The major soil component (80%) is Cashel, a loamy overflow that is non-hydric, but somewhat poorly drained.

Agricultural production ceased on this parcel and it began regenerating naturally from propagules provided by the adjacent floodplain forest. The majority of the seedlings were box elder (*Acer negundo*). The site was planted in 2016 with inner plant bare root stock or potted stock to provide additional diversity. Species of the initial planting included 5 native species (potted stock): Silver maple (*Acer saccharinum*), bur oak (*Quercus macrocarpa*), Eastern cottonwood (*Populus deltoids*), hackberry (*Celtis occidentalis*), and redosier dogwood (*Cornus sericea*).

### **Oxbow Country Club Site:**

This site is located immediately adjacent to the Red River of the North and measures approximately 63 acres. A large portion of this site is located within the 10-year flood inundation boundary. It is primarily comprised of Cashel silty clay (I293B), which is found in 0-6% slopes and occasionally flooded. The major soil component (80%) is Cashel, a loamy overflow that is non-hydric, but somewhat poorly drained. The remaining portion of the site is comprised of Wahpeton silty clay (I451D), which is found on 1-15% slopes and occasionally flooded. The major components are listed as Wahpeton (35%), which is a moderately well drained, non-hydric clayey soil, and Cashel (25%), a somewhat poorly drained, non-hydric loamy overflow soil.

The total area of tree planting which shall be considered Floodplain Forest is just over 63 acres, and includes the following species: Cottonwood, Green Ash, Hackberry, Bur Oak, American elm, Silver maple, American basswood, and Quaking Aspen, as described in the OHB Ring Levee Wetland Mitigation Plan WP43.G. This site was planted in 2022 with 57.38 acres of bare-root seedlings and 5.68 acres of experimental direct seeding. Both are intended to provide 300 individuals per acre after the first year of establishment. On the higher ground in the center of the site bare-root seedlings were planted amongst existing trees. Tree and shrub planting was



not allowed within 20 feet from the toe of the levee to allow for the minimum 15-foot Vegetation-Free Zone. Other areas on the site are intended to provide wetland mitigation and were planted with wetland seed mixes.

**Site 1 – OIN 1222:**

This site is located immediately adjacent to the Red River of the North and measures approximately 12.9 acres. It is currently in agricultural production and a cursory review of aerial imagery shows agriculture use for at least the last 30 years. The majority of this site, approximately 80% is located within the 10-year flood inundation boundary. It is comprised entirely of Cashel silty clay (I293B), which is found in 0-6% slopes and occasionally flooded. The major soil component (80%) is Cashel, a loamy overflow that is non-hydric, but somewhat poorly drained. This is a high priority site for floodplain forest re-establishment, and after reforestation, would expand existing riparian buffer habitat in the Red River system. This site would be reforested using the Floodplain Forest strategy (green polygon) across the entire site. June 2022 Site Visit notes described the site as currently in agricultural production with soybeans the present crop. Ash, Elm, Box Elder, Willow, and a few scattered Bur Oaks were observed in the surrounding forested area. Some reed canary grass was observed around the south and southwestern perimeter that would need to be addressed should this site be utilized.

**Site 5 - OIN 922:**

This site is located adjacent to the Maple River and measures approximately 2.8 acres. A cursory review of aerial imagery shows that this site has been in agricultural production for at least several decades. The portion of the site identified for bank stabilization falls within the 10-year flood inundation boundary, and the majority of the site is comprised of Wahpeton silty clay (I248A), which is described as being found on 0-2% slopes and occasionally flooded. The major component (70%) is listed as Wahpeton, which is a moderately well drained, non-hydric clayey soil. The site does show a swale with Fargo silty clay (I235A), that is typically depressional in 0-1% slopes, with Fargo being its major component (75%). Fargo is described as a clayey, poorly drained, hydric soil. Although this is a smaller property, it would provide additional riparian buffer benefits to the Maple River. This site would be planted similar to Site 6 in which the sloped areas adjacent to the river would be planted using the Bank Stabilization strategy (orange polygon, approx. 0.5 acres) and transition into Floodplain Forest strategy (green polygon, approx. 2.2 acres) as the elevation rises, farther from the river.

**Site 6 – OIN 923Y:**

This site is located adjacent to the Maple River and measures approximately 21.3 acres. A cursory review of aerial imagery shows that this site has been in agricultural production for at least several decades. The majority of the site is comprised of Wahpeton silty clay (I248A), which is described as being found on 0-2% slopes and occasionally flooded. The major component (70%) is listed as Wahpeton, which is a moderately well drained, non-hydric clayey soil. The northern portion of the site shows Fargo silty clay (I229A), found on 0-1% slopes, with Fargo being its major component (80%). Fargo is described as a clayey, poorly drained, hydric soil. This is a larger site and would provide much needed riparian buffer benefits to the Maple River. The entire site would be planted with the Floodplain Forest strategy (green polygon).

**Site 10:**

This site is located immediately adjacent to the Red River of the North and measures approximately 14.8 acres. The majority of the site is comprised of Cashel silty clay (I293B), which is found in 0-6% slopes and occasionally flooded. The major soil component (80%) is Cashel, a loamy overflow that is non-hydric, but somewhat poorly drained. This site is adjacent to a public park, with an established disk golf course on a portion of it. The Oak Savanna strategy (blue polygon) would be utilized on this site, as that habitat type lends itself well to public recreation of green space. Walking trails with interpretive signage could be incorporated for public outreach, explaining the FMM Project and its associated mitigation measures to the general public.

**Site 18 – OIN 1060:**

This site is a former building site/flood buyout property, located adjacent to the Wild Rice River and measures approximately 3.1 acres. The southern half of this site falls within the 10-year flood inundation boundary, and the majority of the site is comprised of Wahpeton silty clay (I451D), which is described as being found on 1-15% slopes and occasionally flooded. The major components are listed as Wahpeton (35%), which is a moderately well drained, non-hydric clayey soil, and Cashel (25%), a somewhat poorly drained, non-hydric loamy overflow soil. Although this is a smaller property, it would provide additional riparian buffer benefits to the Wild Rice River. The sloped areas adjacent to the river would be planted using the Bank Stabilization strategy (orange polygon, approx. 0.21 acres) and transition into Floodplain Forest strategy (green polygon, approx. 2.9 acres) as the elevation rises, farther from the river, all the way up to the private home levee/berm located on the west side of this parcel.

**Site 19 – OIN 5244, OIN 7245:**

This is a former building site/flood buyout property, located adjacent to the Wild Rice River and measures approximately 4.4 acres. The majority of the site is comprised of Wahpeton silty clay (I451D), which is described as being found on 1-15% slopes and occasionally flooded. The major components are listed as Wahpeton (35%), which is a moderately well drained, non-hydric clayey soil, and Cashel (25%), a somewhat poorly drained, non-hydric loamy overflow soil. On the western edge of the property, there are Fargo-Hegne (I238A) silty clay soils mapped, which are typically found on 0-1% slopes. Major component is Fargo (50%), which is described as a poorly drained, hydric, clayey soil. Although this is a smaller property, it would provide additional riparian buffer benefits to the Wild Rice River. The sloped areas adjacent to the river would be planted using the Bank Stabilization strategy (orange polygon, approx. 0.5 acres) and transition into both the Floodplain Forest strategy (green polygon, approx. 2.5 acres), and the Oak Savanna strategy (blue polygon, approx. 1.4 acres) farther from the river.

**Site 20 – OIN 815Y:**

This site is located immediately adjacent to the Wild Rice River and measures approximately 9.6 acres. There are significant erosional issues on the northern end along the river, and the site contains an abandoned oxbow. The vast majority of the site, approximately 90% lies within the 10-year flood inundation boundary, and the entire site is comprised of Wahpeton silty clay

(I451D), which is described as being found on 1-15% slopes and occasionally flooded. The major components are listed as Wahpeton (35%), which is a moderately well drained, non-hydric clayey soil, and Cashel (25%), a somewhat poorly drained, non-hydric loamy overflow soil. Although this is a smaller property, it would provide additional riparian buffer benefits to the Wild Rice River and would allow for the erosional issues onsite to be addressed. The sloped areas adjacent to the river would be planted using the Bank Stabilization strategy (orange polygon, approx. 1.7 acres) and transition into Floodplain Forest strategy (green polygon, approx. 7.9 acres) farther from the river.

**Site 22 – OIN 250:**

This site is located immediately adjacent to the Red River of the North, measures approximately 8 acres, and is situated adjacent to the future Red River Structure. It contains a former building site and a large area that is currently in agricultural production. Much of the northern half of the site lies within the 10-year flood inundation boundary. This site is comprised of three primary soil types, with the majority of the site comprised of Wahpeton silty clay (I248A), which is described as being found on 0-2% slopes and occasionally flooded. The major component (70%) is listed as Wahpeton, which is a moderately well drained, non-hydric, clayey soil. Smaller portions of the site are mapped as Wahpeton silty clay (I248C), which is occasionally flooded and found on 6-9% slopes. The major component (80%) is Wahpeton, described as a clayey, moderately well drained, non-hydric soil. The northern portion of the site is comprised of Cashel silty clay (I293B), which is found in 0-6% slopes and occasionally flooded. The major soil component (80%) is Cashel, a loamy overflow that is non-hydric, but somewhat poorly drained. This is a high priority site for floodplain forest re-establishment, and after reforestation, would expand existing riparian buffer habitat in the Red River system. This site would be reforested using the Floodplain Forest strategy (green polygon) across the entire site.

**Site 25 – OIN 809, 810, 811:**

This site is a former building site that is located immediately adjacent to the Red River of the North and measures approximately 6.6 acres. There are significant erosional issues on the northern end along the river, and more than half of the site falls within the 10-year flood inundation boundary. The site is comprised of four primary soil types, with the majority being mapped as Wahpeton silty clay (I451D), which is described as being found on 1-15% slopes and occasionally flooded. The major components are listed as Wahpeton (35%), which is a moderately well drained, non-hydric clayey soil, and Cashel (25%), a somewhat poorly drained, non-hydric loamy overflow soil. The second most abundant soil type is Cashel silty clay (I293B), which is found in 0-6% slopes and occasionally flooded. The major soil component (80%) is Cashel, a loamy overflow that is non-hydric, but somewhat poorly drained. Third most abundant is Wahpeton silty clay (I248A), which is described as being found on 0-2% slopes and occasionally flooded. The major component (70%) is listed as Wahpeton, which is a moderately well drained, non-hydric, clayey soil. Finally, the least abundant soil type is Fargo silty clay (I235A), that is typically depressional in 0-1% slopes, with Fargo being its major component (75%). Fargo is described as a clayey, poorly drained, hydric soil. Although this is a smaller property, it would provide additional riparian buffer benefits to the Red River system and would allow for the erosional issues onsite to be addressed. The sloped areas adjacent to the river

would be planted using the Bank Stabilization strategy (orange polygon, approx. 0.3 acres) and transition into Floodplain Forest strategy (green polygon, approx. 6.3 acres) farther from the riverbanks for the remainder of the site. There is a dike between the former building site and the riverbank. The dike would be breached or removed to prevent water from ponding.

**Site 32 – OIN 1990:**

This site is located immediately adjacent to the Red River of the North, measures approximately 23.1 acres and has old oxbows located onsite. It contains a former building site, and a portion of western side of the property is currently in agricultural production. This site is located directly adjacent to the existing mitigation efforts at the aforementioned OHB mitigation site.

Approximately half of this site falls within the 10-year flood inundation boundary. This site is comprised of three primary soil types, with the majority of the site comprised of Wahpeton silty clay (I248A), which is described as being found on 0-2% slopes and occasionally flooded. The major component (70%) is listed as Wahpeton, which is a moderately well drained, non-hydric, clayey soil. Smaller portions of the site are mapped as Wahpeton silty clay (I451D), which is described as being found on 1-15% slopes and occasionally flooded. The major components are listed as Wahpeton (35%), which is a moderately well drained, non-hydric clayey soil, and Cashel (25%), a somewhat poorly drained, non-hydric loamy overflow soil. The north-eastern portion of the site is comprised of Cashel silty clay (I293B), which is found in 0-6% slopes and occasionally flooded. The major soil component (80%) is Cashel, a loamy overflow that is non-hydric, but somewhat poorly drained. After planting, this site would expand existing riparian buffer habitat in the Red River system. The steeper sloped areas adjacent to the river would be planted using the Bank Stabilization strategy (orange polygon, approx. 0.6 acres) and transition into Floodplain Forest (green polygon, approx. 22.5 acres) for the remainder of the site. Some invasive buckthorn was observed onsite in the June 2022 site visit notes.

**Site 33 – OIN 1990:**

This site is located near the Red River of the North and measures approximately 3.4 acres. It is currently in agricultural production, and a cursory review of aerial imagery shows agriculture use for at least the last 30 years. The majority of this site, approximately 80% lies within the 10-year flood inundation boundary, and the entire site is comprised entirely of Wahpeton silty clay (I248A), which is described as being found on 0-2% slopes and occasionally flooded. The major component (70%) is listed as Wahpeton, which is a moderately well drained, non-hydric, clayey soil. Although smaller in size, this is a high priority site for forest re-establishment, and after reforestation, would expand existing riparian buffer habitat in the Red River system. This site would be reforested using the Floodplain Forest strategy (green polygon) across the entire site. Invasive buckthorn was observed onsite in June 2022 and would be removed during planting.

**Site 34 – OIN 1992:**

This site is a former building site that is located immediately adjacent to the Red River of the North and measures approximately 3.3 acres. There are significant erosional issues on the eastern edge of the site along the river. The site is comprised of three primary soil types, with the majority being mapped as Wahpeton silty clay (I451D), which is described as being found on 1-15% slopes and occasionally flooded. The major components are listed as Wahpeton

(35%), which is a moderately well drained, non-hydric clayey soil, and Cashel (25%), a somewhat poorly drained, non-hydric loamy overflow soil. The second most abundant soil type is Cashel silty clay (I293B), which is found in 0-6% slopes and occasionally flooded. The major soil component (80%) is Cashel, a loamy overflow that is non-hydric, but somewhat poorly drained. Third most abundant is Sinai silty clay (I475B) which is described as being found on 0-6% slopes. The major component (80%) is listed as Sinai, which is a well-drained, non-hydric, clayey soil. Although this is a smaller property, it would provide additional riparian buffer benefits to the Red River system and would allow for the erosional issues onsite to be addressed. The sloped areas adjacent to the river would be planted using the Bank Stabilization strategy (orange polygon, approx. 0.5 acres) and transition into Floodplain Forest strategy (green polygon, approx. 2.8 acres) on the higher elevations, farther from the river.

**Site 35 – OIN 8527:**

This site also consists of former building sites that are located immediately adjacent to the Red River of the North, and it measures approximately 3.2 acres total, and there are significant erosional issues on the western edge along the river. The site is comprised of three primary soil types, with the majority being mapped as Aazdahl clay loam (I734A), which is found on 0-2% slopes. The major components are listed as Aazdahl (85%), which is a moderately well drained, non-hydric loamy soil. The second most abundant soil type is Zell silt loam (I150B), which is found in 2-6% slopes. The major soil components are Zell (55%), a non-hydric, well drained, thin loamy soil. Third most abundant is Cashel silty clay (I293B), which is found in 0-6% slopes and occasionally flooded. The major soil component (80%) is Cashel, a loamy overflow that is non-hydric, but somewhat poorly drained. Although this is a smaller property, it would provide additional riparian buffer benefits to the Red River system and would allow for the erosional issues onsite to be addressed. The sloped areas adjacent to the river would be planted using the Bank Stabilization strategy (orange polygon, approx. 0.3 acres) and transition into Floodplain Forest strategy (green polygon, approx. 2.9 acres) on the higher elevations, farther from the river.

**Site 36 – OIN 1251, 1237:**

This site is located immediately adjacent to the Red River of the North, measures approximately 6.4 acres and has significant erosional issues along the river. It contains a former building site, and a large portion of the property is currently in agricultural production. The majority of the site is mapped as Bearden silt loam (I467A) which is found on 0-2% slopes. The major component is listed as Bearden (70%), which is a somewhat poorly drained, non-hydric limy sub-irrigated soil. The other portion of the site, nearer to the river, is Wahpeton-Cashel silty clay (I416D), which is found on 1-15% slopes, and occasionally flooded. The major soil components are Wahpeton (40%), a moderately well drained, non-hydric clayey soil and Cashel (25%), a non-hydric loamy overflow that is somewhat poorly drained. Reforestation of this site would provide additional riparian buffer benefits to the Red River system and would allow for the erosional issues onsite to be addressed. The sloped areas adjacent to the river would be planted using the Bank Stabilization strategy (orange polygon, approx. 2.2 acres) and transition into Floodplain Forest strategy (green polygon, approx. 4.3 acres) on the higher elevations, farther from the river.

**Site 38 – OIN 1893, 9420, 9422, 9462, 9670, 9671:**

This larger site is an abandoned tree nursery located immediately adjacent to the Red River of the North that measures approximately 38.3 acres in size, and there are some erosional issues in multiple locations along the river. Much of the site along the river falls within the 10-year flood inundation boundary. The site is comprised of three primary soil types, with the majority being mapped as Fargo silty clay (I229A), found on 0-1% slopes, with Fargo being its major component (80%). Fargo is described as a clayey, poorly drained, hydric soil. The second most abundant soil type is Cashel silty clay (I293B), which is found in 0-6% slopes and occasionally flooded. The major soil component (80%) is Cashel, a loamy overflow that is non-hydric, but somewhat poorly drained. Third most abundant, found primarily along the riverbank is mapped as Wahpeton silty clay (I451D), which is described as being found on 1-15% slopes and occasionally flooded. The major components are listed as Wahpeton (35%), which is a moderately well drained, non-hydric clayey soil, and Cashel (25%), a somewhat poorly drained, non-hydric loamy overflow soil. This is a unique site that has some trees already in place, but with additional plantings, the site would increase riparian buffer benefits to the Red River system and would allow for the erosional issues onsite to be addressed. The sloped areas adjacent to the river would be supplemented with the Bank Stabilization strategy (orange polygon, approx. 0.8 acres) and transition into Floodplain Forest strategy (green polygon, approx. 37.5 acres) on the higher elevations, farther from the river. There is a plant species list of remaining trees on the nursery property (Appendix C), of which several species of Lilac (highlighted yellow in Appendix C) have been identified as potentially harmful due to their invasive nature and would need to be removed or girdled in place at the time of planting. Existing fencing and concrete driveway/entrance would also require removal.

**Site 39 – OIN 1200**

This site is located immediately adjacent to the Sheyenne River and measures approximately 0.34 acres. There are significant erosional issues on the western end along the river. The entire site lies outside of the 10-year flood inundation boundary, and the majority of the site is comprised of Fairdale silt loam (I480A), which is described as being a clayey substratum found on 0-3% slopes and rarely flooded. The major components are listed as Fairdale (78%), which is a moderately well drained, non-hydric loamy overflow, and LaDelle (10%), a moderately well drained, non-hydric loamy soil. Although this is a smaller property, it would provide additional riparian buffer benefits to the Sheyenne River and would allow for the erosional issues onsite to be addressed. The sloped areas adjacent to the river would be planted using the Bank Stabilization strategy (orange polygon, approx. 0.2 acres) and transition into Floodplain Forest strategy (green polygon, approx. 0.13 acres) farther from the river.

**Site 41 – OIN 1885, 9416**

This site is a former homesite/flood buyout property, located adjacent to the Red River of the North and measures approximately 8 acres. Much of the eastern side of the site falls within the 10-year flood inundation boundary, and the majority of the site is comprised of Wahpeton silty clay (I248A), which is described as being found on 0-2% slopes and occasionally flooded. The major component (70%) is listed as Wahpeton, which is a moderately well drained, non-hydric,

clayey soil. Along the river, the mapped soil is listed as Wahpeton silty clay (I451D), which is described as being found on 1-15% slopes and occasionally flooded. The major components are listed as Wahpeton (35%), which is a moderately well drained, non-hydric clayey soil, and Cashel (25%), a somewhat poorly drained, non-hydric loamy overflow soil. This property would provide additional riparian buffer benefits to the Red River system. The sloped areas adjacent to the river would be planted using the Bank Stabilization strategy (orange polygon, approx. 0.1 acres) and transition into Floodplain Forest strategy (green polygon, approx. 7.9 acres) farther from the river for the remainder of the site.

**Site 42 – OIN 876, 1885, 9416, 9424, 9425, 9428, 9429, 9430, 9437:**

This is a conglomerate of former building sites/flood buyout properties, located adjacent to the Red River of the North and measures approximately 22.9 acres. Approximately half of this site falls within the 10-year flood inundation boundary, and the majority of the site is comprised of Wahpeton silty clay (I451D), which is described as being found on 1-15% slopes and occasionally flooded. The major components are listed as Wahpeton (35%), which is a moderately well drained, non-hydric clayey soil, and Cashel (25%), a somewhat poorly drained, non-hydric loamy overflow soil. In the northern portion of the property, there is Cashel silty clay (I293B), which is found in 0-6% slopes and occasionally flooded. The major soil component (80%) is Cashel, a loamy overflow that is non-hydric, but somewhat poorly drained. This parcel would provide additional riparian buffer benefits to the Red River system. The entire site will be planted using the Floodplain Forest strategy (green polygon).

**Site 43 – OIN 249 and 251:**

This site is located adjacent to the Red River of the North and measures approximately 18.9 acres. Only a narrow portion of the site falls within the 10-year flood inundation boundary, and the majority of the site is comprised of Wahpeton silty clay (I248A), which is described as being found on 0-2% slopes and occasionally flooded. The major component (70%) is listed as Wahpeton, which is a moderately well drained, non-hydric, clayey soil. The second most abundant soil type is Wahpeton silty (I248B) which is described as being found on 2-6% slopes and occasionally flooded. The major component (80%) is listed as Wahpeton, which is a moderately well drained, non-hydric, clayey soil. The third most abundant soil type is found along the southern portion of the site and is mapped as Fluvaquents (I16F). It is described as a frequently flooded hapludolls complex, found on 0-30% slopes, very poorly drained and hydric. The entirety of this site will be planted using the Oak Savanna strategy (blue polygon).

### **6.3 Site Summary**

As stated above, project impacts will occur in both North Dakota and Minnesota. Mitigation in each state will be proportional to the number of impacts resulting from construction. A summary of forest impacts and the required mitigation can be found in Table 1 above and show a total need of 270.8 acres in North Dakota, and 32.4 acres needed in Minnesota.

The OHB Site and Oxbow Country Club Restoration sites result in 13 and 63.1 acres of new forest, respectively in North Dakota. The tree plantings at these two sites were designed to fulfill a portion of the forested acreage needed, leaving an additional 194.7 acres in North Dakota.

The list of sites that have been chosen or are being considered for forest mitigation can be found below in Table 2. Additional properties suitable for forest planting will be evaluated as opportunities become available. Properties will be added and deleted from the list as the FMM Project construction progresses and properties are acquired.

Table 2. Summary of Forest Mitigation Sites

Site	Location	Total Acreage	State	Planting Strategy / Description / Notes
OHB	46.676445°N, -96.799998°W	13	ND	Bare-root seedlings were planted at a density of 300 individuals per acre.
Oxbow Country Club	46.670714°N, -96.798521°W	63.1	ND	Floodplain Forest bare-root seedlings were planted for 57.4 acres of the site and 5.7 acres were planted using direct seeding.
1	47.074170°N, -96.822399°W	12.9	ND	Floodplain Forest strategy for entire site. Currently in agricultural production.
5	46.930548°N, -96.965535°W	2.8	ND	Bank Stabilization strategy within approximately 40 yards of waterline (approx. 0.5 acre), transitioning to Floodplain Forest strategy for the remainder of the site (Approx. 2.2 acres). Majority of site is currently in agricultural production.
6	46.929561°N, -96.951558°W	21.3	ND	Floodplain Forest strategy for entire site. Majority of site is currently in agricultural production.
10	46.807957°N, -96.799153°W	14.8	ND	Oak Savanna strategy for entire site. Site is currently used as a disc golf course for public park. Incorporate trails and Outreach/Interpretive signage along trail to explain Project and mitigation efforts.
18	46.7759112°N, -96.804254°W	3.1	ND	Bank Stabilization strategy along slopes along the waterline where there are no trees along the bank in two locations (Approx. 0.2-acre total), transitioning to Floodplain Forest strategy for the remainder of the site (Approx. 2.9 acres). Site is a former building site / buyout, planting to occur all the way up to the neighboring private home levee on western border.
19	46.745041°N, -96.818052°W	4.4	ND	Bank Stabilization strategy along slopes within approximately 25 yards of waterline (approx. 0.5 acres), transitioning to Floodplain Forest (approx. 2.5 acres) and Oak Savanna strategy for the remainder of the site (approx. 1.4 acres).
20	46.710796°N, -96.833877°W	9.6	ND	Bank Stabilization strategy along slopes within approximately 25 yards of waterline (approx. 1.7 acres), transitioning to Floodplain Forest strategy for the remainder of the site (approx. 7.9 acres). Majority of site is currently in agricultural production.
22	46.703627°N, -96.786604°W	8.0	MN	Floodplain Forest strategy for entire site. Currently, majority of site in agricultural production, small portion is former building site.
25	46.701329°N, -96.789257°W	6.6	ND	Bank Stabilization strategy along slopes closer to waterline (approx. 0.3 acre, transitioning to Floodplain Forest strategy for the remainder of the



				site (Approx. 6.3 acres). Site is former building site located on Red River.
32	46.658115°N, -96.802156°W	23.1	ND	Bank Stabilization strategy along slopes closer to waterline on east end of parcel (Approx. 0.6 acre, transitioning to Floodplain Forest strategy for the remainder of the site (approx. 22.5 acres).
33	46.656163°N, -96.801739°W	3.4	ND	Floodplain Forest strategy for entire site. Site is currently in agricultural production.
34	46.653697°N, -96.799988°W	3.5	ND	Bank Stabilization strategy along slopes closer to waterline (Approx. 0.5 acre, transitioning to Floodplain Forest strategy for the remainder of the site (Approx. 2.8 acres). Site is former building site.
35	46.627644°N, -96.784524°W	3.2	MN	Bank Stabilization strategy along slopes closer to waterline (approx. 0.3 acre), transitioning to Floodplain Forest strategy for the remainder of the site (approx. 2.9 acres). Site is former building site.
36	46.625582°N, -96.778056°W	6.4	MN	Bank Stabilization strategy along slopes closer to waterline (Approx. 2.2 acre), transitioning to Floodplain Forest strategy for the remainder of the site (Approx. 4.3 acres). Site is former building site.
38	46.681169°N, -96.797228°W	38.3	ND	Bank Stabilization strategy along slopes closer to waterline (approx. 0.8 acres), transitioning to Floodplain Forest strategy for the remainder of the site (approx. 37.5 acres). Site is former tree nursery; several existing trees will need girdled or removed to avoid invasive spread (see site notes above in Baseline Information section).
39	46.732008°N, -96.932153°W	0.34	ND	Bank Stabilization strategy along slopes closer to waterline (approx. 0.21 acres), transitioning to Floodplain Forest strategy for the remainder of the site (approx. 0.13).
41	46.687607°N, -96.789970°W	8.0	ND	Bank Stabilization strategy along slopes closer to waterline (approx. 0.12 acres), transitioning to Floodplain Forest strategy for the remainder of the site (approx. 7.9 acres).
42	46.691986°N, -96.788151°W	22.9	ND	Floodplain Forest strategy for the entire site.
43	46.703003°N, -96.783600°W	18.9	MN	Oak Savannah strategy for the entire site.

**\*Acreages listed in table are subject to change based on real estate acquisition. Will be updated as needed.**

Table 3. Summary of Potential Forest Mitigation Acreage by State

	North Dakota	Minnesota
Bank Stabilization	5.4 acres	2.5 acres
Oak Savanna	16.3 acres	18.9 acres
Floodplain Forest	229.3 acres	15.2 acres
<b>State Totals</b>	250.9 acres	36.6 acres
<b>Grand Total</b>	287.5 acres	

**\*Acreages listed in table are subject to change based on real estate acquisition. Will be updated as needed.**

## **7. Monitoring & Management**

Monitoring and adaptive management are the responsibility of the Non-Federal Sponsors per the Project Partnership Agreement (PPA), dated 11 July 2016 and amended 19 March 2019. After initial construction the mitigation sites will be monitored to assess the success in restoring and creating forest mitigation. Periodic mowing, burning, and spot treating with herbicide will be required to control the establishment of non-desirable species and increase the successful establishment of planted species (Appendix G). Once seeded, it is anticipated that native species will take approximately three to five years to become established under favorable growing conditions.

Other adaptive management measures may be employed to address vegetative or hydrologic concerns identified during and after the initial establishment period. Maintenance needs will be identified as part of the annual monitoring conducted to determine compliance with the mitigation performance standards for the site and as part of the periodic inspections conducted in accordance with the operation and maintenance plan for the project.

### **7.1 Monitoring Requirements**

Monitoring shall be performed at years one, three, six, and ten after the initial planting to gage performance and provide adaptive management through planting and maintenance practices, as necessary. Monitoring will include a seedling survival check during the first full growing season after planting, an annual invasive species checks to year five in the form of a percent cover survey, and seedling surveys to determine tree density and diversity at years one, three, six, and ten (Appendix E). Seedling surveys of a 0.01-acre circular plot will consist of identifying all woody stems to species and measuring their heights (Appendix E). Plots will be placed randomly across the mitigation property with a 66 foot buffer around each point to avoid overlap. Each survey year plots will be re-randomized in order to ensure greater coverage of the sites. After year ten, tree survival and composition will be monitored every five years thereafter using the forest inventory protocol provided in Appendix E to determine basal area and trees per acre and percent canopy cover until it can be demonstrated that the value of the forest habitat lost has been replaced through mitigation (see Attachment 6 of the EIS for an example of habitat quantification). The monitoring results will be compiled, interpreted, and described in monitoring reports that will be shared with the FMM Forest Resource Group to provide management recommendations using the process defined in the AMMP. The Non-Federal Sponsors would be responsible for providing this justification and receiving approval from the Adaptive Management Team (AMT).

### **7.2 Monitoring Reports**

Monitoring reports shall be concise and effectively provide the information necessary to assess the status of the forest mitigation projects. Monitoring shall commence the first full growing season following completion of construction (construction includes earth moving, excavation and other physical work as well as planting and seeding). The first monitoring report shall be submitted on or before December 31<sup>st</sup> of the first monitoring year. This report shall include

information about invasive species, seedling survival following planting, seedling density, and diversity of herbaceous and woody species. Subsequent mandatory reports shall include the same information except for seedling survival information and be submitted on or before December 31<sup>st</sup> for years two, three, six, and ten (total of five reports). Additional reports will be required every five years until the functional value of the forest mitigation can demonstrate that it has replaced that of the forest impacted by the FMM Project.

Monitoring reports shall contain the following information and any additional information necessary to evaluate the performance of the reforestation site:

1. Name of party responsible for conducting the monitoring and the date(s) the inspection was conducted.
2. A brief paragraph describing the mitigation acreage and type of resources authorized to compensate for the impacts.
3. Written description of the location of the compensatory mitigation project including information to locate the site perimeter(s), and coordinates of the mitigation site (expressed as latitude, longitude, UTM's, state plane coordinate system, etc.)
4. Dates the compensatory mitigation project commenced and/or was completed.
5. Short statement on whether the performance standards are being met.
6. Summary data, including percent cover of invasive species, species diversity of herbaceous and woody species, and seedling densities.
7. Mandatory set points for photos to provide visual documentation of changes and growth over time.
8. Maps showing the location of the reforestation site relative to other landscape features, habitat types, locations of photographic reference points, transects, sampling data points, and/or other features pertinent to the mitigation plan.
9. A summary of the amounts and type of habitat restored, enhanced, and created at the site.
10. Dates of any recent corrective or maintenance activities conducted since the previous report submission.
11. Specific recommendations for any additional corrective or remedial actions.

### **7.3 Performance Standards**

The results of monitoring will be compared to the performance standards to evaluate the effectiveness of the mitigation and determine if additional planting or maintenance measures are necessary.

Performance standards are survivorship and functionally based, whereas each forest strategy must develop into a representative community that is sufficient in density and diversity to provide the intended habitat function.

#### **7.3.1 Bank Stabilization**

Bank stabilization sites must meet 80% survivorship of woody vegetation at the end of the monitoring period and provide adequate ground coverage to hold stream banks from further

erosion during high water events. By year three, ground coverage should meet or exceed 80% with new plantings and volunteer woody vegetation growth. If more than 20% open ground is observed, an interventional stake planting may be needed.

Herbaceous native vegetation will be planted to provide initial stabilization while the woody vegetation establishes. Long-term maintenance or monitoring of herbaceous vegetation is not required for bank stabilization. Invasive species will be maintained as described in Section 7.3.4.

### 7.3.2 Floodplain Forest

Floodplain forest sites must provide increasingly higher quality riparian buffer and corridor habitat as natural succession of these sites occurs over time. To achieve this, sites must have high enough survivorship of planted seedlings following year one to meet the minimum number of stems required for full stocking (Appendix F). If survivorship of seedlings is not great enough to meet this standard, then a combination of natural regeneration and planted seedlings shall be used to meet the minimum number of stems required. If minimum stocking requirements cannot be met through a combination of planted and naturally regenerated seedlings, then supplemental planting shall occur to meet the stocking requirements.

Herbaceous native vegetation will be planted to prevent invasive or noxious weeds from establishing between tree plantings. Long-term maintenance and monitoring of herbaceous vegetation is not required for the floodplain forest. Invasive species will be maintained as described in Section 7.3.4.

### 7.3.3 Oak Savannah

Oak Savannah sites must meet the target of bur oak survivability that will provide 10-50% total canopy cover at maturity. To meet this target, stocking standards shall be met in the interim to increase the likelihood that there will be adequate canopy cover in the future (Appendix F). If stocking goes below the desired trees per acre then supplemental planting with bare root stock shall be considered in order to meet the desired canopy cover at maturity.

Grassland areas within the Oak Savannah will be measured with interim and final vegetation standards as shown in Table 4 below. Interim vegetation standards are intended to keep vegetation establishment on track to meet the final vegetation standards. The interim vegetation standards shall be met no later than year 3 for Interim Standard 1 and year 4 for Interim Standard 2. Invasive species will be maintained as described in Section 7.3.4.

Table 4. Oak Savannah grassland vegetation performance standards.

<b>VEGETATION PERFORMANCE STANDARDS</b>			
<b>Performance Standard</b>	<b>Interim 1</b>	<b>Interim 2</b>	<b>Final</b>
<b>Relative Areal Cover</b>	≥50% NNI; <50% InNN <sup>1</sup>	≥70% NNI; <30% InNN <sup>2</sup>	≥80% NNI; <20% InNN

Perennial Species Composition of NNI	8 <sup>≥1</sup>	12 <sup>≥1</sup>	15 <sup>≥1</sup>
Maximum Allowance for Unvegetated Areas	≤5%/acre <sup>1</sup>	≤2%/acre <sup>2</sup>	≤2%/acre
<sup>1</sup> For ≥1 consecutive growing seasons <sup>2</sup> For ≥2 growing season after Interim 1 is met NNI = native, non-invasive InNN = invasive, non-native			

#### 7.3.4 Invasive Species

Any mitigation areas one-quarter acre in size or larger that have greater than 50 percent areal cover of invasive, non-native (InNN) species must be treated (e.g., herbicide) and/or cleared (e.g., disked) and then planted with native seed, live stakes, or seedlings, appropriate to the planting strategy.

### 7.4 Long-term Management Plan

As part of the Federal FMM Project the forest mitigation sites will be turned over to the non-federal sponsors (the Metro Flood Diversion Authority, Fargo, ND, and Moorhead, MN) once construction of the project is completed. The non-federal sponsors would then assume responsibility for maintenance and management of the mitigation sites in accordance with the Project Partnership Agreement.

### 7.5 Adaptive Management Plan

An adaptive management plan for compensatory mitigation sites was initially prepared by the U.S. Army Corps of Engineers, St. Paul District as part of the Final Feasibility Report and Environmental Impact Statement for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, dated July 2011. The AMMP was provided as Attachment 6 to that report. The AMMP is a living document, was updated in Supplemental Environmental Assessments, and will continue to undergo alterations per the process provide in the AMMP. The AMMP includes corrective actions that can be taken in the event that mitigation sites do not meet the performance standards listed previously.

### 7.6 Site Protection Instrument

The sites identified as potential options for forest mitigation are either planned for acquisition or are currently owned by one of the local governments that collectively make up the non-federal sponsors. A conservation easement or other protective mechanism will be established for each mitigation site. The mechanism will prohibit incompatible uses at the site including plowing, grading, mining, and other actions that would directly or indirectly reduce the quality and quantity of forest at each site.

### 7.7 Financial Assurance

A financial assurance is not proposed for these mitigation sites since it is part of a federal project undertaken by the U.S. Army Corps of Engineers. The Corps will ensure that the mitigation sites are constructed in accordance with the AMMP and the Forest Mitigation Plan and that the sites meet the established performance standards.

## Appendix A

### Seed Mixes



### Woodland Edge South & West

36-211

Common Name	Scientific Name	Rate (kg/ha)	Rate (lb/ac)	% of Mix (% by wt)	Seeds/ sq ft
big bluestem	<i>Andropogon gerardii</i>	1.12	1.00	2.90%	3.68
side-oats grama	<i>Bouteloua curtipendula</i>	1.12	1.00	2.89%	2.20
kalm's brome	<i>Bromus kalmii</i>	1.68	1.50	4.34%	4.40
nodding wild rye	<i>Elymus canadensis</i>	1.40	1.25	3.61%	2.38
bottlebrush grass	<i>Elymus hystrix</i>	0.36	0.32	0.91%	0.88
slender wheatgrass	<i>Elymus trachycaulus</i>	1.40	1.25	3.64%	3.18
switchgrass	<i>Panicum virgatum</i>	0.07	0.06	0.17%	0.30
little bluestem	<i>Schizachyrium scoparium</i>	0.69	0.62	1.79%	3.40
Indian grass	<i>Sorghastrum nutans</i>	1.12	1.00	2.89%	4.40
	<b>Total Grasses</b>	<b>8.97</b>	<b>8.00</b>	<b>23.14%</b>	<b>24.82</b>
common yarrow	<i>Achillea millefolium</i>	0.03	0.03	0.09%	2.00
blue giant hyssop	<i>Agastache foeniculum</i>	0.11	0.10	0.28%	3.20
white snakeroot	<i>Ageratina altissima</i>	0.03	0.03	0.09%	1.70
white prairie clover	<i>Dalea candida</i>	0.19	0.17	0.50%	1.20
Canada tick trefoil	<i>Desmodium canadense</i>	0.16	0.14	0.42%	0.29
ox-eye	<i>Heliopsis helianthoides</i>	0.15	0.13	0.38%	0.30
wild bergamot	<i>Monarda fistulosa</i>	0.07	0.06	0.18%	1.60
stiff goldenrod	<i>Oligoneuron rigidum</i>	0.07	0.06	0.17%	0.90
Clayton's sweet cicely	<i>Osmorhiza claytonii</i>	0.07	0.06	0.17%	0.06
smooth wild rose	<i>Rosa blanda</i>	0.07	0.06	0.17%	0.06
black-eyed susan	<i>Rudbeckia hirta</i>	0.20	0.18	0.52%	6.10
Lance-leaved Figwort	<i>Scrophularia lanceolata</i>	0.06	0.05	0.14%	3.20
zigzag goldenrod	<i>Solidago flexicaulis</i>	0.02	0.02	0.05%	0.50
showy goldenrod	<i>Solidago speciosa</i>	0.07	0.06	0.18%	1.80
smooth aster	<i>Symphyotrichum laeve</i>	0.07	0.06	0.19%	1.30
American vetch	<i>Vicia americana</i>	0.20	0.18	0.52%	0.14
golden alexanders	<i>Zizia aurea</i>	0.12	0.11	0.33%	0.46
	<b>Total Forbs</b>	<b>1.68</b>	<b>1.50</b>	<b>4.38%</b>	<b>24.80</b>
Oats	<i>Avena sativa</i>	28.02	25.00	72.48%	11.14
	<b>Total Cover Crop</b>	<b>28.02</b>	<b>25.00</b>	<b>72.48%</b>	<b>11.14</b>
	<b>Totals:</b>	<b>38.67</b>	<b>34.50</b>	<b>100.00%</b>	<b>60.75</b>
<b>Purpose:</b>	Partly shaded grassland planting for native roadsides, reclamation, etc.				
<b>Planting Area:</b>	Tallgrass Aspen Parklands, Prairie Parkland, and Eastern Broadleaf Forest Provinces. Mn/DOT Districts 2(west), 3B, 4, Metro, 6, 7 & 8.				

# Riparian S&W 34-262

Updated: 2022

This mix has been designed for riparian areas along rivers, streams and other waterbodies in the southern and western parts of Minnesota with areas of moist soils and potential flooding during part of the growing season and full to partial sun where land is being converted from other uses such as agriculture or non-native grasses to riparian plants.



Partners also include stakeholder collaboration among Non-profits, Seed vendors, SWCD, Tribal Governments, Consultants, County and Cities. (see stakeholder list on [website](#) )

Common Name	Scientific Name	Rate (lb/ac)	% of Mix (by weight)	% by Seed	Seeds/sq ft
big bluestem	<i>Andropogon gerardii</i>	2.18	6.71%	4.50%	8.00
American slough grass	<i>Beckmannia syzigachne</i>	0.65	2.01%	6.75%	12.00
bluejoint	<i>Calamagrostis canadensis</i>	0.02	0.06%	1.12%	2.00
riverbank wild rye	<i>Elymus riparius</i>	0.28	0.87%	0.17%	0.30
downy wild rye	<i>Elymus villosus</i>	0.25	0.76%	0.28%	0.50
Virginia wild rye	<i>Elymus virginicus</i>	1.30	4.00%	1.12%	2.00
tall manna grass	<i>Glyceria grandis</i>	0.12	0.36%	3.54%	3.00
fowl manna grass	<i>Glyceria striata</i>	0.08	0.23%	1.41%	2.50
rice cut grass	<i>Leersia oryzoides</i>	0.08	0.25%	0.56%	1.00
fowl bluegrass	<i>Poa palustris</i>	0.25	0.77%	6.75%	12.00
prairie cordgrass	<i>Spartina pectinata</i>	0.17	0.51%	0.22%	0.40
	<b>Grasses Subtotal</b>	<b>5.38</b>	<b>16.53%</b>	<b>26.42%</b>	<b>43.70</b>
porcupine sedge	<i>Carex hystericina</i>	0.09	0.28%	0.56%	1.00
pointed broom sedge	<i>Carex scoparia</i>	0.13	0.40%	2.25%	4.00
awl-fruited sedge	<i>Carex stipata</i>	0.03	0.10%	0.22%	0.40
tussock sedge	<i>Carex stricta</i>	0.01	0.02%	0.06%	0.10
fox sedge	<i>Carex vulpinoidea</i>	0.11	0.34%	2.25%	4.00
marsh spikerush	<i>Eleocharis palustris</i>	0.02	0.05%	0.17%	0.30

path rush	<i>Juncus tenuis</i>	0.02	0.07%	4.50%	8.00
dark green bulrush	<i>Scirpus atrovirens</i>	0.12	0.36%	11.24%	20.00
woolgrass	<i>Scirpus cyperinus</i>	0.05	0.15%	16.86%	30.00
	<b>Sedges &amp; Rushes Subtotal</b>	<b>0.58</b>	<b>1.77%</b>	<b>38.11%</b>	<b>67.80</b>
Canada anemone	<i>Anemone canadensis</i>	0.03	0.10%	0.06%	0.10
marsh milkweed	<i>Asclepias incarnata</i>	0.26	0.79%	0.25%	0.45
nodding bur marigold	<i>Bidens cernua</i>	0.05	0.16%	0.22%	0.40
common marsh marigold	<i>Caltha palustris</i>	0.01	0.02%	0.03%	0.05
common boneset	<i>Eupatorium perfoliatum</i>	0.03	0.10%	1.12%	2.00
grass-leaved goldenrod	<i>Euthamia graminifolia</i>	0.01	0.04%	0.84%	1.50
spotted Joe pye weed	<i>Eutrochium maculatum</i>	0.09	0.27%	1.69%	3.00
autumn sneezeweed	<i>Helenium autumnale</i>	0.10	0.32%	2.81%	5.00
giant sunflower	<i>Helianthus giganteus</i>	0.03	0.08%	0.06%	0.10
Blue lobelia	<i>Lobelia siphilitica</i>	0.04	0.13%	4.50%	8.00
Winged Loosestrife	<i>Lythrum alatum</i>	0.00	0.01%	0.17%	0.30
blue monkey flower	<i>Mimulus ringens</i>	0.02	0.07%	11.24%	20.00
swamp lousewort	<i>Pedicularis lanceolata</i>	0.03	0.11%	0.28%	0.50
obedient plant	<i>Physostegia virginiana</i>	0.02	0.08%	0.06%	0.10
Virginia mountain mint	<i>Pycnanthemum virginianum</i>	0.02	0.08%	1.12%	2.00
tall coneflower	<i>Rudbeckia laciniata</i>	0.10	0.30%	0.28%	0.50
cup plant	<i>Silphium perfoliatum</i>	0.19	0.60%	0.06%	0.10
Riddell's goldenrod	<i>Solidago riddellii</i>	0.01	0.05%	0.28%	0.50
eastern panicled aster	<i>Symphyotrichum lanceolatum</i>	0.03	0.08%	0.84%	1.50
New England aster	<i>Symphyotrichum novae-angliae</i>	0.03	0.10%	0.45%	0.80
tall meadow-rue	<i>Thalictrum dasycarpum</i>	0.02	0.07%	0.03%	0.06
blue vervain	<i>Verbena hastata</i>	0.09	0.27%	1.69%	3.00
bunched ironweed	<i>Vernonia fasciculata</i>	0.06	0.17%	0.28%	0.50
Culver's root	<i>Veronicastrum virginicum</i>	0.01	0.04%	2.25%	4.00
golden alexanders	<i>Zizia aurea</i>	0.20	0.61%	0.45%	0.80
	<b>Forbs Subtotal</b>	<b>1.48</b>	<b>4.65%</b>	<b>31.06%</b>	<b>55.26</b>



Oats	<i>Avena sativa</i>	25.00	77.07%	6.26%	11.14
<b>Cover Crop Subtotal</b>		<b>25.00</b>	<b>77.07%</b>	<b>6.26%</b>	<b>11.14</b>
<b>Total</b>		<b>32.44</b>	<b>100.0%</b>	<b>101.9%</b>	<b>177.90</b>

## Seed Mix Enhancements or Substitutions

List of Additional Species to Add Diversity or for Substitutions

The numbers (1-9) are species ranges that relate to the MN Ecological Subsections.

### Riparian South & West

Updated 10-01-2022

Grasses:

Scientific Name	Common Name	Recommended Seeds per Square Foot
<i>Bromus pubescens</i>	Hairy Wood Chess	2
<i>Calamagrostis canadensis</i>	Bluejoint	3
<i>Calamagrostis stricta</i> (2,5,8,9)	Narrow Reedgrass	2
<i>Elymus villosus</i>	Downy Wild Rye	3
<i>Glyceria canadensis</i> (1,2,5,6)	Rattlesnake Grass	3
<i>Leersia virginica</i> (6-9)	White Grass	2
<i>Muhlenbergia racemosa</i>	Marsh Muhly Grass	2

Forbs:

Scientific Name	Common Name	Recommended Seeds per Square Foot
<i>Ageratina altissima</i> (4,6-8)	White Snakeroot	2
<i>Amorpha fruticosa</i> (3-9)	Indigo Bush	1
<i>Chelone glabra</i> (1,3,5-8)	White Turtlehead	2
<i>Cicuta maculata</i>	Spotted Water Hemlock	1
<i>Galium boreale</i>	Northern Bedstraw	2
<i>Gentiana andrewsii</i> (3-9)	Bottle Gentian	3
<i>Helianthus grosseserratus</i> (3,4,7-9)	Sawtooth Sunflower	.5
<i>Impatiens pallida</i> (5-8)	Pale Touch-Me-Not	1
<i>Lobelia cardinalis</i>	Cardinal Flower	3
<i>Lobelia spicata</i>	Rough-spiked Lobelia	3
<i>Lysimachia ciliata</i>	Fringed Loosestrife	2
<i>Mentha arvensis</i> (1-9)	Wild Mint	4
<i>Physostegia virginiana</i>	Obedient Plant	2
<i>Salix bebbiana</i> (1-9)	Bebb's Willow	1
<i>Salix discolor</i> (1-9)	Pussy Willow	1

<i>Add Salix petiolaris (1-9)</i>	Meadow Willow	1
<i>Scrophularia lanceolata (1,5-9)</i>	Lance-leaved Figwort	1
<i>Silphium perfoliatum (7,8,9)</i>	Cup Plant	1
<i>Teucrium canadense (1,4,6-9)</i>	Germander	1
<i>Veronicastrum virginicum(3-9)</i>	Culver's Root	3

Sedges:

Scientific Name	Common Name	Recommended Seeds per Square Foot
<i>Carex bebbii</i>	Bebb's Sedge	.5
<i>Carex brevoir</i>	Short Sedge	.5
<i>Carex emoryi</i>	Emory's Sedge	.5
<i>Carex haydenii</i>	Hayden's Sedge	.5
<i>Carex pellita</i>	Wooly Sedge	.5
<i>Juncus dudleyi</i>	Dudley's Rush	10
<i>Juncus effusus (1,2,5-7)</i>	Soft Rush	10

## Riparian South and West 34-261 Seed Mix Guidance

**Seed mix name:** Riparian South and West 34-262  
(Previously 34-261)

**Geographic area:** Southern and Western  
Minnesota

**Year of development:**2009

**Year/s of update:**

**Status** (Standard or Pilot mix): Standard

**Primary and Secondary Functions:**

*Primary* – Wildlife habitat, restoration of wetland functions, and water management

*Secondary* – Carbon Sequestration, emission reductions, pollinator habitat, songbird habitat

**Similar State Mixes:** Riparian Northeast 34-362, Wet Meadow Northeast 34-372, Wet Meadow South and West 34-272

**Compatible NRCS Practice Standards:** NA

**Compatible Minnesota CRP Practices:** NA

**Suitable Site Conditions:** Riparian areas along rivers, streams and other waterbodies in the southern and western parts of Minnesota with areas of moist soils and potential flooding during part of the growing season and full to partial sun where land is being converted from other uses such as agriculture or non-native grasses to riparian plants.

**How to Modify for Site Conditions and Goals:** This mix includes a list of additional species that can be considered to add species diversity. Site conditions such as sunlight, soils, hydrology and existing vegetation along with functional goals for the project such as carbon sequestration, pollinator habitat,



and benefit to bird species can all have an influence on species selection and the modification of seed mixes. Additional plant species can also be added from containerized plants. It is also common that seed substitutions ([see list](#)) are used for wetland seed mixes when other species are not available.

**Site Preparation:** Primary goals for site preparation tend to focus on controlling weed species and providing ideal growing conditions for seed or plants to be installed. Site preparation methods vary depending on past uses of the site and the weed species that are present. The protection of microorganism populations and native seedbanks, preventing soil erosion, and managing weed establishment are all considerations during the site preparation process. In most cases, non-herbicide methods are preferred over herbicide intensive methods to protect aquatic organisms and soil microfauna, but herbicides may be the most efficient method of controlling some invasive perennial species. It is common for many conservation plantings to transition from corn or soybean production. Fields that are in agriculture often have control of most weeds. Another consideration is that several chemicals being used for weed control, along with herbicides (for herbicide-resistant crops) act as pre-emergents or post-emergents (designed to inhibit germination) and can be a problem for native vegetation establishment from seed. Investigate prior chemical use and labels to help define probability of having chemical carryover that could/should be addressed by using temporary cover crops to allow time for chemicals to break down. If a site is in perennial weeds such as smooth brome, quack grass or bluegrass and cannot be put into agricultural production for one or two seasons intensive site preparation may be needed. Herbicide application is often recommended, as tilling alone may re-suspend the rhizomes, allowing them to continue growing. For species such as reed canary grass and giant reed grass, cropping with chemicals that break down quickly, or combinations of mowing, herbicide application, prescribed burning, and tilling (or possibly additional herbicide application) may be needed. The [Minnesota Wetland Restoration Guide](#) provides detailed management recommendations for a wide range of species.

#### **Seeding Dates:**

Wetland seed mixes are most often installed in the fall after October 15<sup>th</sup> as a dormant seeding as most sedges, rushes and forbs need a winter to break their seed dormancy and start growing. It is also common to wait until shortly before snowfall to prevent the loss of seed from wind, birds and rodents. Snow seeding is conducted during early or late winter when there is less than four inches of snow, and on sunny days when seed can move to the soil surface. This technique has been successful for a wide variety of species types. Refer to the Minnesota Wetland Restoration Guide for more information about snow seeding. Riparian seed can also be installed in the spring once soil temperatures reach 50 degrees Fahrenheit until June 30<sup>th</sup> but only a portion of the seed mix will germinate that first year. If a project will be constructed in the spring/early summer or will have flowing or fluctuating water levels it may be better to seed later in the spring after water levels stabilize.

#### **Seedbed preparation**

Methods that are used to prepare a seedbed can vary depending on the type of seeding equipment to be used. If a traditional native seed drill will be used, a smooth, firm seedbed is required. Soybean fields generally are sufficiently prepared for a native seed drill, but sites that were recently tilled will require additional soil treatment such as harrowing and rolling to prepare an adequate seedbed and prevent seed from being buried too deep. Broadcast seeding can be conducted on soybean or corn fields, or fields that have been disked, as long as the soil is allowed to settle before seeding. Some practitioners have found that broadcast seeding on a smooth surface (not tilled or disked) leads to the establishment of higher diversity. It is important that the soil surface is not too hard packed, so cultipacking or light harrowing of crop fields before broadcast seeding may be needed. Seed can be lost on smooth surfaces, so it is recommended to seed into temporary cover crops or to roll sites after seeding.

### ***Temporary Cover Crops and Mulch***

The use of short-lived temporary cover crops help stabilize project sites and minimize the need for additional mulch in preparation of planting native seed mixes. They can also provide time to observe weed problems, and to allow for proper weed control before fall seeding. Temporary cover crops such as oats or winter wheat (the two species most commonly used) should be mowed to 10-12 inches before seeds mature (or harvested upon maturity) to prevent re-seeding. Slough grass (*Beckmannia syzigachne*) is a common cover crop for wet areas. Annual rye grass was commonly used but is generally avoided now due to its ability to inhibit germination of native species. Other cover crops typically used in agricultural fields, such as buckwheat, pennycress, and radishes, can help stabilize soil, build soil quality, or provide weed competition as part of restoration projects. Also see [NRCS Agronomy Technical Note 31](#).

### **Seeding Methods**

A variety of seeding equipment is used for riparian areas including broadcast seeders, traditional native seed drills, no-till drills, Brillion seeders and Trillion seeders. Broadcast seeders are most often used for seeding areas of moist soils as most of the seed is very small and needs to be near the soil surface to germinate. Brillion type seeders can also work well as they drop seed on the surface and then use a roller to ensure seed to soil contact. Specialized native seed drills can handle a wide variety of seed (fluffy, smooth, large and small) and low seeding rates so they are also an option for wetland seeding if they are calibrated correctly.

### **Management Methods–**

#### *Establishment Mowing*

Establishment mowing may be beneficial for wet meadow plantings if the site conditions are not too wet for the equipment. Pressure from annual and biennial weeds is generally less with increased soil saturation and water depth. For smaller projects, brush cutters, string trimmers, or hand equipment can be used to target weeds and work around native plants. See the Minnesota Wetland Restoration Guide appendix: <http://bwsr.state.mn.us/restoration/resources/documents/appendix-6a-3mowing.pdf> Mowing at least twice the first season and once the second season with a flail mower or stalk chopper (to prevent smothering plants) is often helpful to decrease competition and to provide sufficient sunlight for seedlings. Weeds should be mowed to between five and eight inches before seed is allowed to set (usually as weeds reach 12-14 inches). Mowing height should be raised as native plants establish. The timing and frequency of mowing should be planned to allow sufficient light to reach native plant seedlings and preventing weed seed production. Sites with low weed competition due to sandy soils or other factors may not need mowing.

#### *Prescribed Burning*

Prescribed burning can be beneficial for some wet meadow plantings, particularly if burning was part of the historic plant community for the project. Burning can remove thatch, control invading woody and invasive plants, stimulate seed germination and new plant growth, and increase diversity in plantings. In some cases, the disturbance and increased nutrients from a burn can stimulate reed canary grass germination, so this should be considered when the species is a risk for a project. Burning is typically initiated after the third or fourth years of establishment, after native vegetation is reaching maturity. Burning is commonly conducted every three to five years. Fall and spring burns should be alternated periodically to simulate natural variation. Burn plans are needed to define the details of how the burn will be conducted, who will be involved and for contingency planning. In many cases, permits are also required. It is recommended to only burn one-half or less of a project site at a time if they are large (over 50 acres), or don't have any adjacent refuge such as other conservation lands adjacent to the site for wildlife species. Partial burns and burns that are patchy may also benefit pollinator populations if timed correctly (when pollinators are not actively foraging or pollinators have pupated and are mobile).

#### *Spot Treatment of Weeds*

Problematic perennial weeds that cannot be managed effectively with other methods may require spot treatment with herbicide for sufficient control. Examples include reed canarygrass, quack grass, purple loosestrife, Canada thistle, and Kentucky bluegrass. In some cases, herbicide treatment is not conducted during the first or second year of establishment to avoid impact to seedlings, but it may be important to control some weeds before they have a chance to spread. A common practice for Canada thistle control involves clipping seedheads while they are in the bud stage (usually early June) and conducting herbicide application with a broad-leaf specific herbicide in the fall (mid to late October). This timing limits the application of herbicide while pollinators are active. Grass-specific herbicides are used to control reed canarygrass in wet meadow restorations, particularly on sites dominated by forbs and sedges that will not be affected. Grass-specific herbicides are most effective on young reed canary plants (6-12 inches tall) than on mature plants. There is some evidence that using surfactants along with herbicides and disking prior to application may improve effectiveness. It should be noted that grass specific herbicides are not aquatically certified and should not be used near open water. When using a broad-spectrum herbicide it is important that an aquatic safe form of glyphosate and surfactant be used near open water. When using herbicides, labels must be followed, certified applicators must conduct the treatment and Personal Protective Equipment (PPE) must be used according to label instructions. Minimize herbicide first year/spot spray year 2. Unless significant problem weeds show up.

**What to Expect in Year 1:** During year one of growth many native grasses, sedges, rushes and flowers will remain about one to three inches tall. Agricultural weeds such as ragweed, barnyard grass and foxtail barley may be common but not necessarily a cause for alarm. The mowing will play an important role to keep weeds managed so the native plant seedlings receive sufficient water and sunlight. The planting may have a somewhat weedy appearance this first year.

(IMAGE)

**What to Expect in Year 2:** During year two the native grasses and flowers may reach their mature height and some of them may flower. Mowing will still play a key role in managing weeds and allowing seedlings to grow.

(IMAGE)

**What to Expect in Year 3 and Beyond:** By the end of year three most of the native plants will be nearing maturity and should flower. There may be some species that are slow to establish and may not show up for several years.

### **Problem Solving**

*Poor Establishment After Year 1* – It is often difficult to determine if a seeding is successful during the first year as establishment may vary depending on weather conditions and some species may be slow to establish. It is typically best to wait until the second year to conduct any corrective actions.

*Poor Establishment After Year 2* – If native plant seedlings are not establishing about every one to two feet it may be necessary to inter-seed some species into the planting.

*High Annual and Biennial Weed Competition* – Typically, annual and biennial weed competition is not a big problem in wet meadow plantings as they are short lived and as long as mowing is conducted before seed is set they should not add additional seed into the planting.

*High Perennial Weed Competition* – Dense establishment of perennial species can be a problem as it can prevent the establishment of forbs. Herbicide application may be needed to manage perennial weeds.

*Low Forb Diversity After Year 3* – If grasses and sedges are establishing successfully but there is a lack of forbs it is recommended to conduct inter-seeding of additional forbs in late fall. See the [Xerces Society guide](#) for additional information about inter-seeding wildflowers.

## Appendix B

### MGWC 2.4: LIVE STAKES

*Rigid engineering technique for bank stabilization*

#### DESCRIPTION

The work should consist of inserting live, woody, rootable plant cuttings into streambanks and encouraging their growth. When properly utilized, the binding root mass of the mature shrubs and/or trees will ultimately stabilize and reinforce the soil.

#### EFFECTIVE USES & LIMITATIONS

Live staking is an economical method when local supplies of woody cuttings are readily available since the implementation of this measure requires minimal labor. When utilized effectively, live stakes can:

- act to trap soil particles in sediment laden water resulting from the erosion of adjacent land;
- slow water velocities, trap sediment, and control erosion when organized in clustered arrays along the sides of gullies;
- repair small earth slips and slumps which are frequently wet;
- help control shallow mass movement when placed in rows across slopes; and
- promote bank stabilization, especially when used in conjunction with one of the following Rosgen stream types: B3, B4, B5, B6, C1, C2, C3, C4, C5, C6, DA, E3, E4, E5, and E6.

Live staking is a *preventative* measure and should be employed before severe erosion problems occur. Additionally, in order to be effective, live stakes should be:

- planted only on streams with low to moderate flow fluctuations,
- established in the original bank soil on moderate slopes of 4:1(h:v) or less,
- planted where appropriate lighting exists, and
- used jointly with other restoration techniques especially on slopes with high erosion rates and incidents of mass wasting

#### MATERIAL SPECIFICATIONS

When choosing and preparing woody material for live stakes, the following guidelines should be followed:

- Live stakes should be cut from fresh, green, healthy, dormant parent plants which are adapted to the site conditions whenever possible. Commonly used woody plants for this measure include willow, poplar, and alder since they are versatile and have high growth rates with shrubby habits, fibrous root systems, and high transpiration rates, especially when in leaf. A partial listing of woody plants recommended by the United States Department of Agriculture's Soil Conservation Service is presented in [Table 2.4](#).
- Live stakes should have a diameter between 0.75 and 1.5 inches (2 to 4 centimeters) and should be long enough to reach below the groundwater table so that a strong root system can quickly develop. At least 1 foot (0.3 meters) should be exposed to sunlight. Live woody posts with diameters up to 10 inches (0.25 meters) and lengths ranging from 4 to 6 feet (1.2 to 1.8 meters) may also be used at the discretion of the project manager.
- Live stakes should be kept covered and moist at all times and should be placed in cold storage if more than a few hours elapse between the cutting and replanting times

## MGWC 2.4: LIVE STAKES

Approximate Cost (\$1999): \$1 to \$4 per stake
--

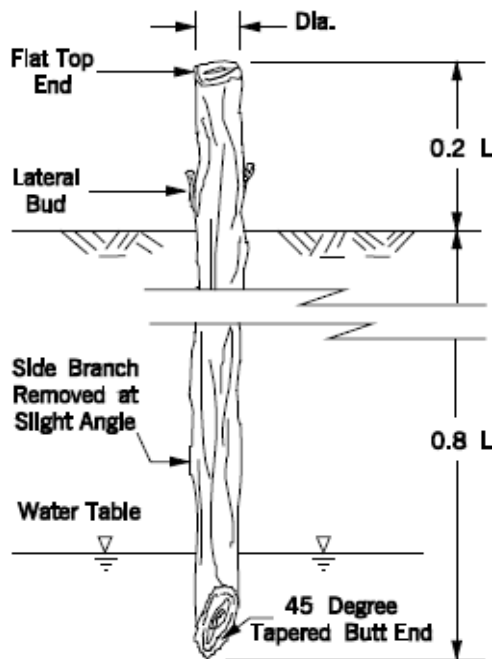
### INSTALLATION GUIDELINES

Live stake installation should proceed as follows (refer to [Detail 2.4](#)):

1. Live stake rooting areas should be soaked in barrels of water for 24 to 48 hours just prior to installation.
2. While keeping the bark of the live stakes intact, the side branches should be cleanly removed, the basal ends angled for easy insertion, and the tops cut square.
3. The cuttings should be implanted with the angled basal end down and buds oriented up at a minimum angle of 10 degrees to the horizontal so that rooting will not be restricted. All stakes should be positioned above the normal baseflow level. Project planners may need to study an aptly chosen vegetated reference reach for further guidance when installing live stakes.
  - In soft soils, the stakes can be inserted perpendicularly into the slope using a dead blow hammer; in hard soils, however, a steel rod should be employed to create a pilot hole before the stakes are planted.
  - Twenty percent of the live stake, and a minimum of two lateral buds, should be exposed above the slope so that green, leafy shoots will readily grow.
  - Split or otherwise damaged stakes should be discarded.
4. After the stakes have been inserted into the ground, soil should be tamped firmly around their bases to encourage root growth.
5. Successive stakes should be arranged in a triangular configuration and spaced a distance of 2 to 3 feet (0.6 to 0.9 meters) apart, allowing for a typical density of 2 to 4 cuttings per square yard (0.8 square meters). Willow posts require additional room for growth and propagation and should be planted at 3 to 5-foot (1 to 1.5-meter) intervals. When inserted in arrays, the stakes should be spaced 12 to 18 inches (30 to 46 centimeters) apart to form chevron-like rows that point downstream.
6. Unstable slope toes should be reinforced against scouring and undercutting using live fascines or rock fill to give the live stakes the best opportunity to root and grow.

## Maryland's Guidelines To Waterway Construction DETAIL 2.4: LIVE STAKES

Adapted From USDA-SCS (1994)

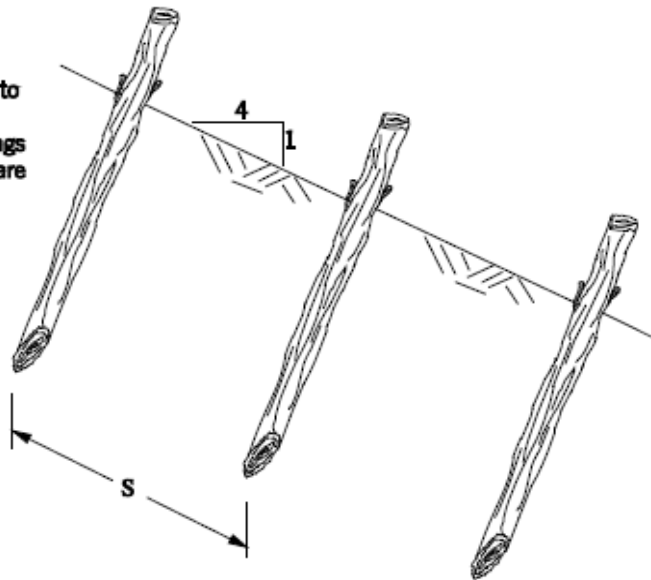


### DETAIL

Live stout stakes should be long enough to reach below the groundwater table. (Generally, a length of 2 to 3 feet, or 0.6 to 0.9 meters, is sufficient.) Additionally, the stakes should have a diameter in the range of 0.75 to 1.5 inches (2 to 4 centimeters).

### SECTION VIEW

Live stout stakes shall be spaced 2 to 3 feet (0.6 to 0.9 meters) apart to give a density of 2 to 4 cuttings per square yard (0.8 square meters).





## Appendix C

### JDC Tree Farm Inc Tree Nursery Inventory

Tree Description	End Count
Alder	1
American Linden	2
Amur Chokecherry	1
Austrian Pine	27
Autumn Blaze Maple	26
Autumn Brilliance Serviceberry	12
Black Hills Spruce	165
Boulevard Linden	26
Bur Oak	8
Cathedral Elm	28
Colorado Blue Spruce	75
Dolgo Crab Apple	14
Dolgo Crab Apple Top Worked	3
Dwarf Korean Lilac	11
Fat Albert Spruce	68
Flame Amur Maple Clump	28
Frontyard Linden	35
Greenspire Linden	43
Hackberry	24
Harvest Gold Linden	12
Hot Wings Tatarian Maple	12
Hotwings Tatarian Maple	9
Imperial Honey Locust	11
Japanese Tree Lilac	7
Japanese Tree Lilac Clump	20
Japanese Tree Lilac Single	3
Kentucky Coffee Tree	3
Larch	1
Littleleaf Linden	2
Matador Maple	1
Norlin Linden	4
Northern Blaze Ash	19
Northern Pin Oak	1
Northern Red Oak	3
Northfire Red Maple	1
Norway Spruce	61
Ohio Buckeye	3
Paper Birch Clump	2
Paper Birch Single Stem	1
Patmore Ash	109
Pioneer Elm	6
Ponderosa Pine	38
Prairie Cascade Weeping Willow	10
Prairie Radiance Winterberry	1

P:\Paul Bunyan Tree Service\Inventory\Spade Division Inventory\PNB Tree In  
Tree Inventory Summary 03-09-21

### JDC Tree Farm Inc Tree Nursery Inventory

Tree Description	End Count
Prairie Reflection Laurel Leaf Willow	34
Prairie Spire Ash	6
Prairiefire Crab Apple	3
Quaking Aspen	13
Red Barron Crab Apple	14
Red Splendor Crab Apple	42
Redmond Linden	35
Royalty Crab Apple	5
Scotch Pine	2
Shamrock Linden	1
Showy Mountain Ash	11
Sienna Glen Clump	1
Sienna Glen Maple	29
Skyline Honey Locust	20
Spring Snow Crab Apple	36
Swamp White Oak	13
Thornless Cockspur Hawthorne	8
Thunderchild Crab Apple	43
Triumph Elm	8
St. Croix Elm	1
Marilee Crabapple	2
<b>Grand Total</b>	<b>1,264</b>

P:\Paul Bunyan Tree Service\Inventory\Spade Division Inventory\PNB Tree In  
Tree Inventory Summary 03-09-21

FMM Forest Mitigation Mapbook

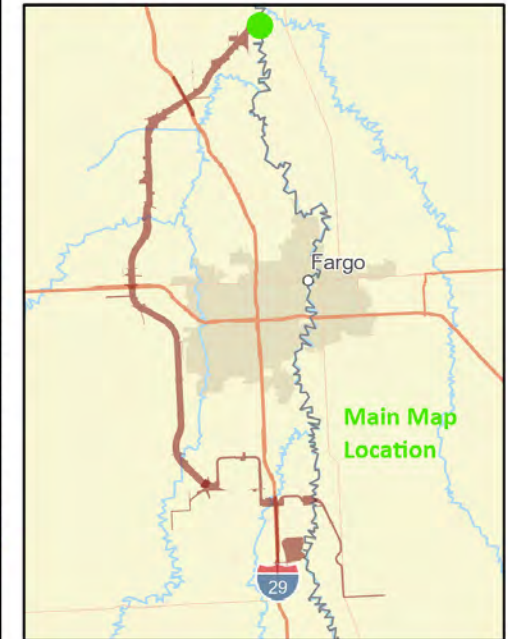
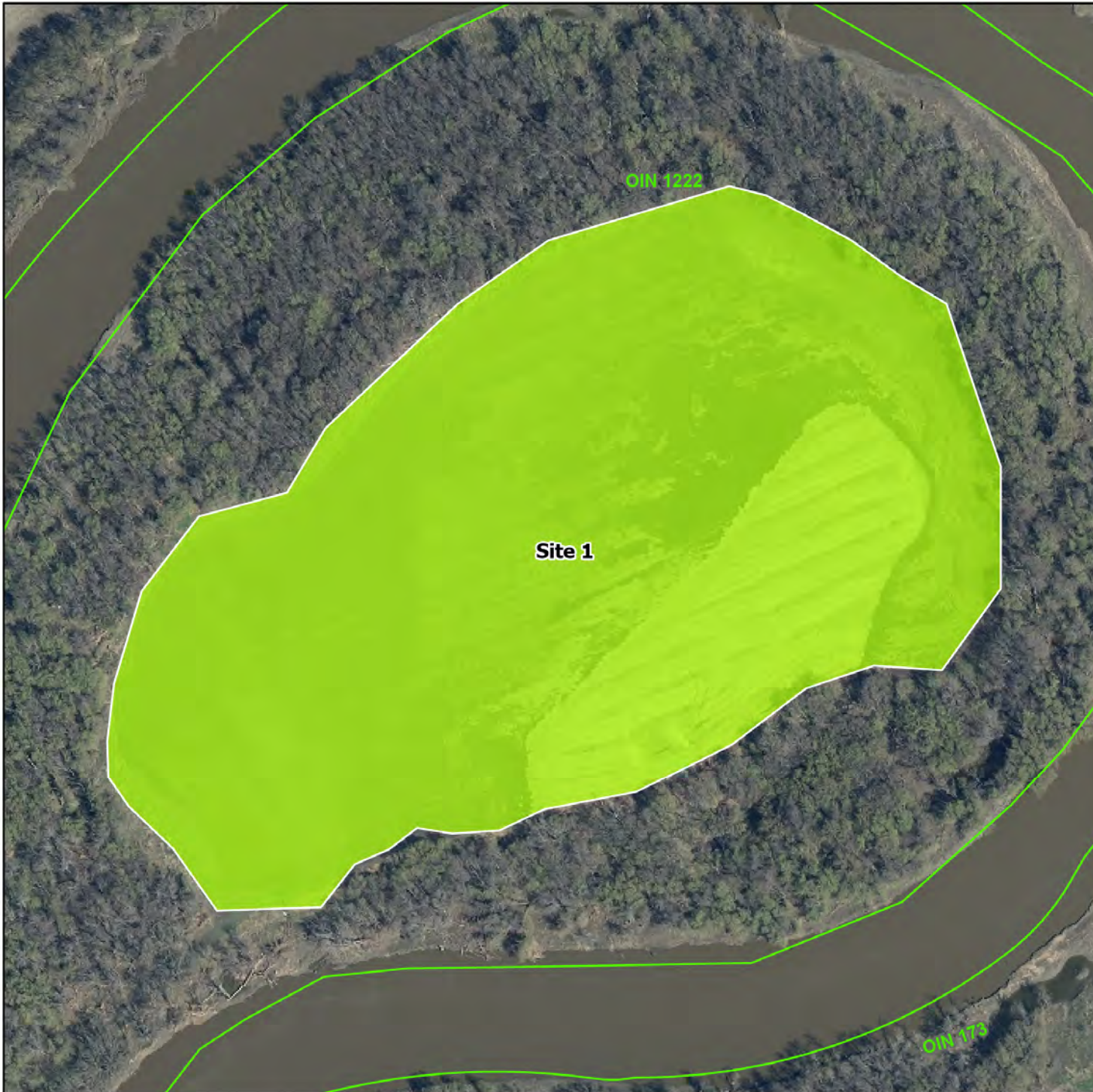


St. Paul District  
GIS CENTER

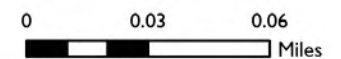
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 1

Areas identified for forest mitigation  
opportunities



- Parcel Boundaries
- Diversion / Embankment Alignment
- Floodplain Forest



Base Image: City of Fargo Imagery (2020)



St. Paul District  
GIS CENTER

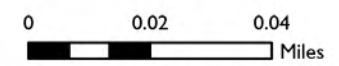
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 5

Areas identified for forest mitigation opportunities



-  Parcel Boundaries
-  Diversion / Embankment Alignment
-  Floodplain Forest
-  Bank Stabilization
-  Oak Savanna



Base Image: City of Fargo Imagery (2020)



St. Paul District  
GIS CENTER

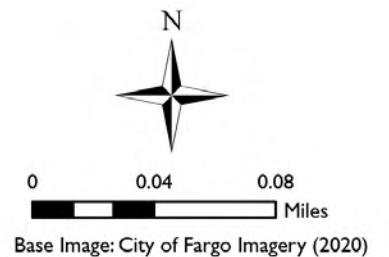
US Army Corps  
of Engineers ®

# FMM FOREST MITIGATION APPENDIX - SITE 6

Areas identified for forest mitigation  
opportunities



- Parcel Boundaries
- Diversion / Embankment Alignment
- Floodplain Forest







St. Paul District  
GIS CENTER

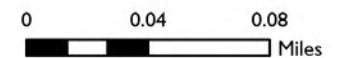
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 10

Areas identified for forest mitigation  
opportunities



-  Diversion / Embankment Alignment
-  Oak Savanna



Base Image: City of Fargo Imagery (2020)



St. Paul District  
GIS CENTER

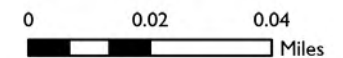
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 18

Areas identified for forest mitigation  
opportunities



- Parcel Boundaries
- Diversion / Embankment Alignment
- Floodplain Forest
- Bank Stabilization



Base Image: City of Fargo Imagery (2020)

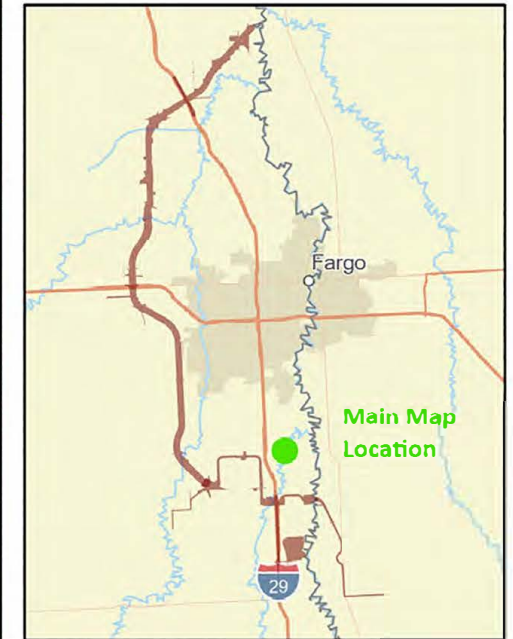


St. Paul District  
GIS CENTER

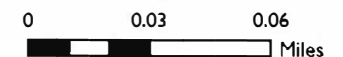
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 19

Areas identified for forest mitigation  
opportunities



- Parcel Boundaries
- Diversion / Embankment Alignment
- Floodplain Forest
- Bank Stabilization
- Oak Savanna



Base Image: City of Fargo Imagery (2020)



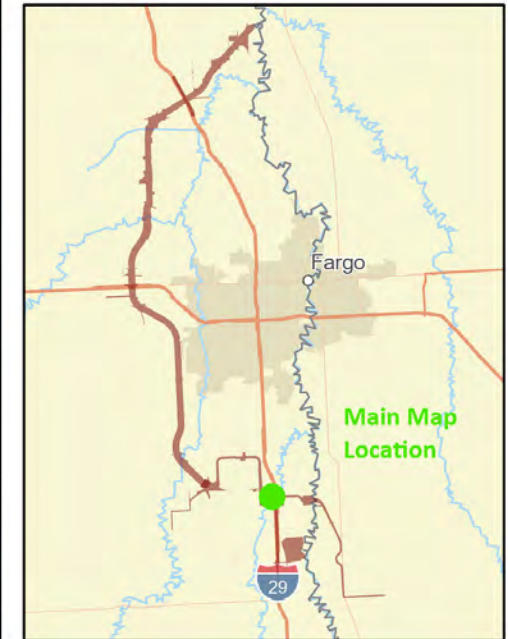


St. Paul District  
GIS CENTER

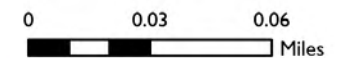
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 20

Areas identified for forest mitigation  
opportunities



-  Parcel Boundaries
-  Diversion / Embankment Alignment
-  Floodplain Forest
-  Bank Stabilization



Base Image: City of Fargo Imagery (2020)



St. Paul District  
GIS CENTER

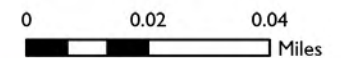
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 22

Areas identified for forest mitigation  
opportunities



-  Parcel Boundaries
-  Diversion / Embankment Alignment
-  Floodplain Forest
-  Oak Savanna



Base Image: City of Fargo Imagery (2020)

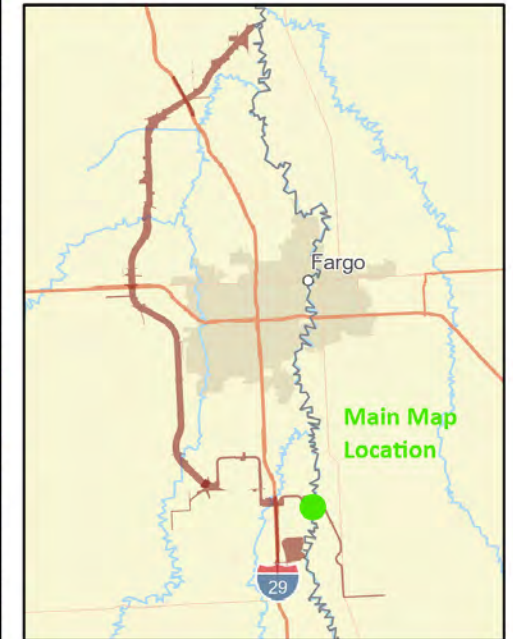






St. Paul District  
GIS CENTER

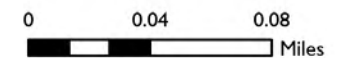
US Army Corps  
of Engineers®

## FMM FOREST MITIGATION APPENDIX - SITE 25

Areas identified for forest mitigation  
opportunities



-  Parcel Boundaries
-  Diversion / Embankment Alignment
-  Floodplain Forest
-  Bank Stabilization



Base Image: City of Fargo Imagery (2020)

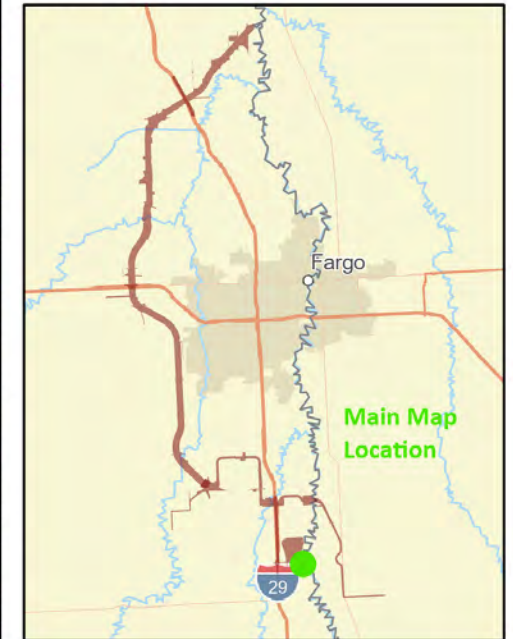






St. Paul District  
GIS CENTER

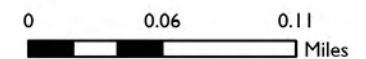
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 32

Areas identified for forest mitigation opportunities



-  Parcel Boundaries
-  Diversion / Embankment Alignment
-  Floodplain Forest
-  Bank Stabilization



Base Image: City of Fargo Imagery (2020)



St. Paul District  
GIS CENTER

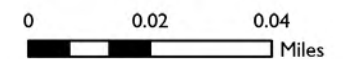
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 33

Areas identified for forest mitigation  
opportunities



- Parcel Boundaries
- Diversion / Embankment Alignment
- Floodplain Forest



Base Image: City of Fargo Imagery (2020)

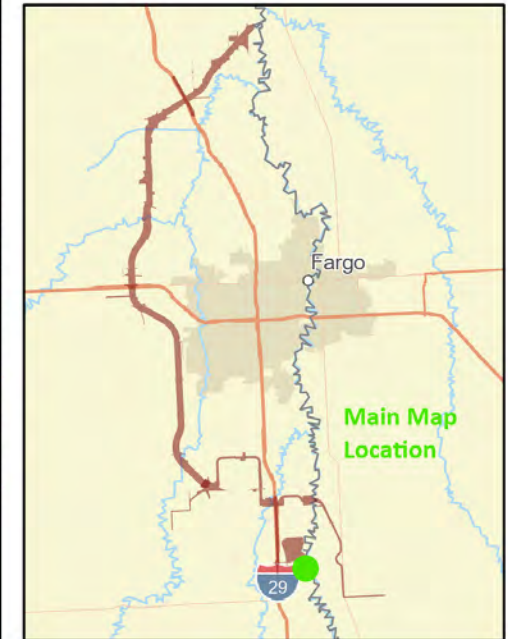


St. Paul District  
GIS CENTER

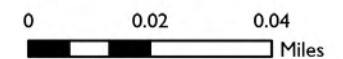
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 34

Areas identified for forest mitigation  
opportunities



- Parcel Boundaries
- Diversion / Embankment Alignment
- Floodplain Forest
- Bank Stabilization



Base Image: City of Fargo Imagery (2020)

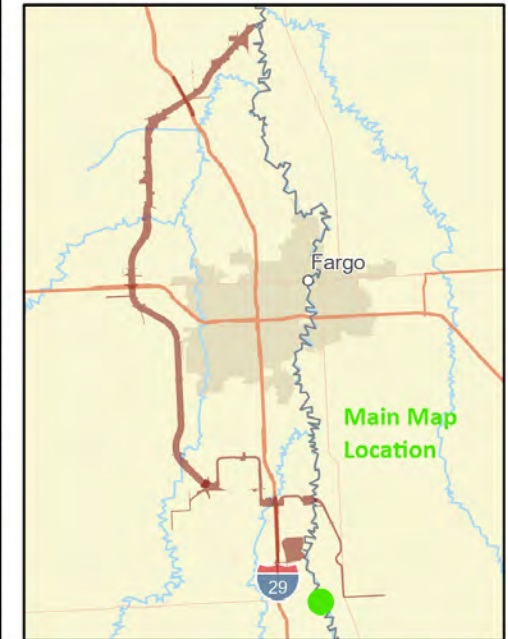
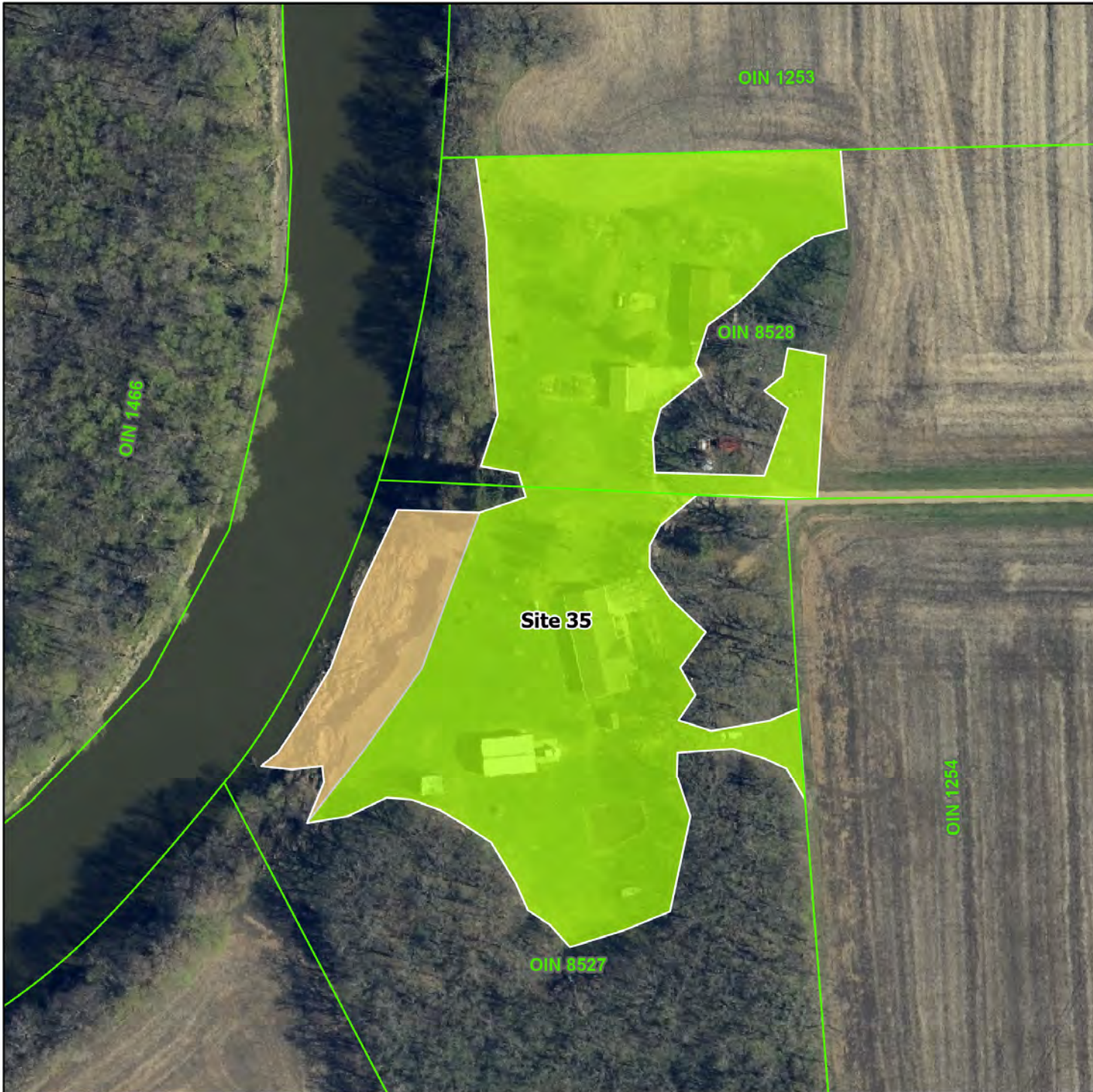


St. Paul District  
GIS CENTER

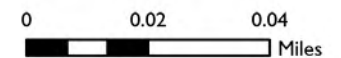
US Army Corps  
of Engineers ®

# FMM FOREST MITIGATION APPENDIX - SITE 35

Areas identified for forest mitigation  
opportunities



-  Parcel Boundaries
-  Diversion / Embankment Alignment
-  Floodplain Forest
-  Bank Stabilization



Base Image: City of Fargo Imagery (2020)



St. Paul District  
GIS CENTER

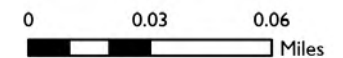
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 36

Areas identified for forest mitigation  
opportunities



-  Parcel Boundaries
-  Diversion / Embankment Alignment
-  Floodplain Forest
-  Bank Stabilization



Base Image: City of Fargo Imagery (2020)



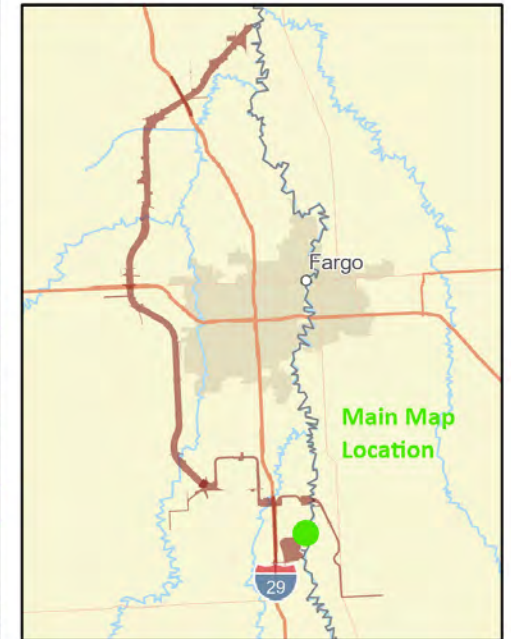


St. Paul District  
GIS CENTER

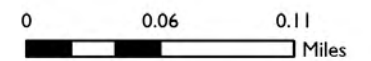
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 38

Areas identified for forest mitigation  
opportunities



- Parcel Boundaries
- Diversion / Embankment Alignment
- Floodplain Forest
- Bank Stabilization



Base Image: City of Fargo Imagery (2020)







St. Paul District  
GIS CENTER

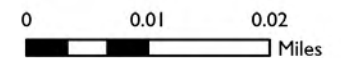
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 39

Areas identified for forest mitigation  
opportunities



-  Parcel Boundaries
-  Diversion / Embankment Alignment
-  Floodplain Forest
-  Bank Stabilization



Base Image: City of Fargo Imagery (2020)

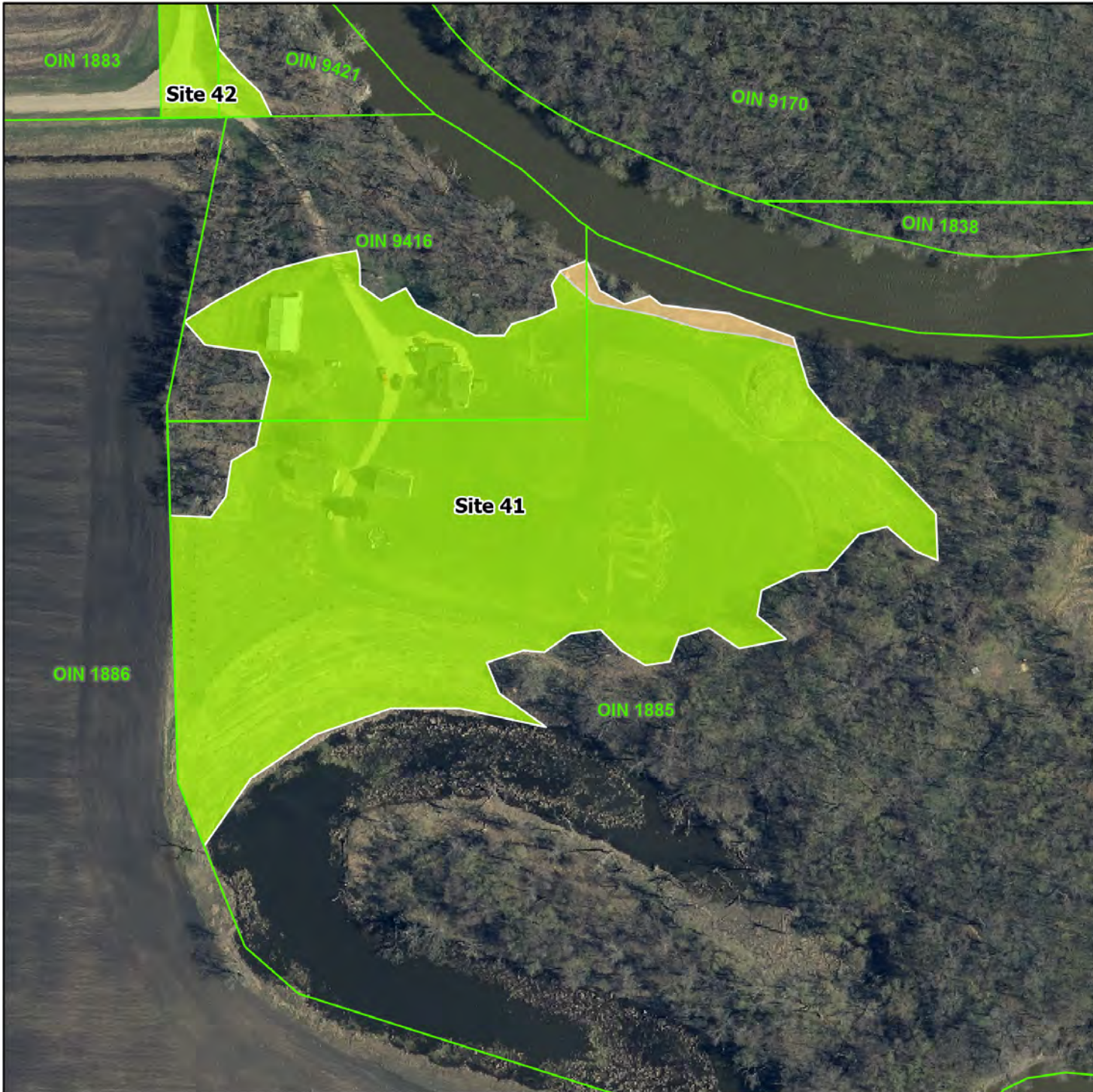


St. Paul District  
GIS CENTER

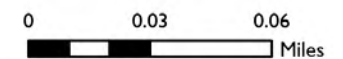
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 41

Areas identified for forest mitigation opportunities



-  Parcel Boundaries
-  Diversion / Embankment Alignment
-  Floodplain Forest
-  Bank Stabilization



Base Image: City of Fargo Imagery (2020)



St. Paul District  
GIS CENTER

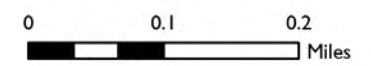
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 42

Areas identified for forest mitigation opportunities



- Parcel Boundaries
- Diversion / Embankment Alignment
- Floodplain Forest
- Bank Stabilization



Base Image: City of Fargo Imagery (2020)

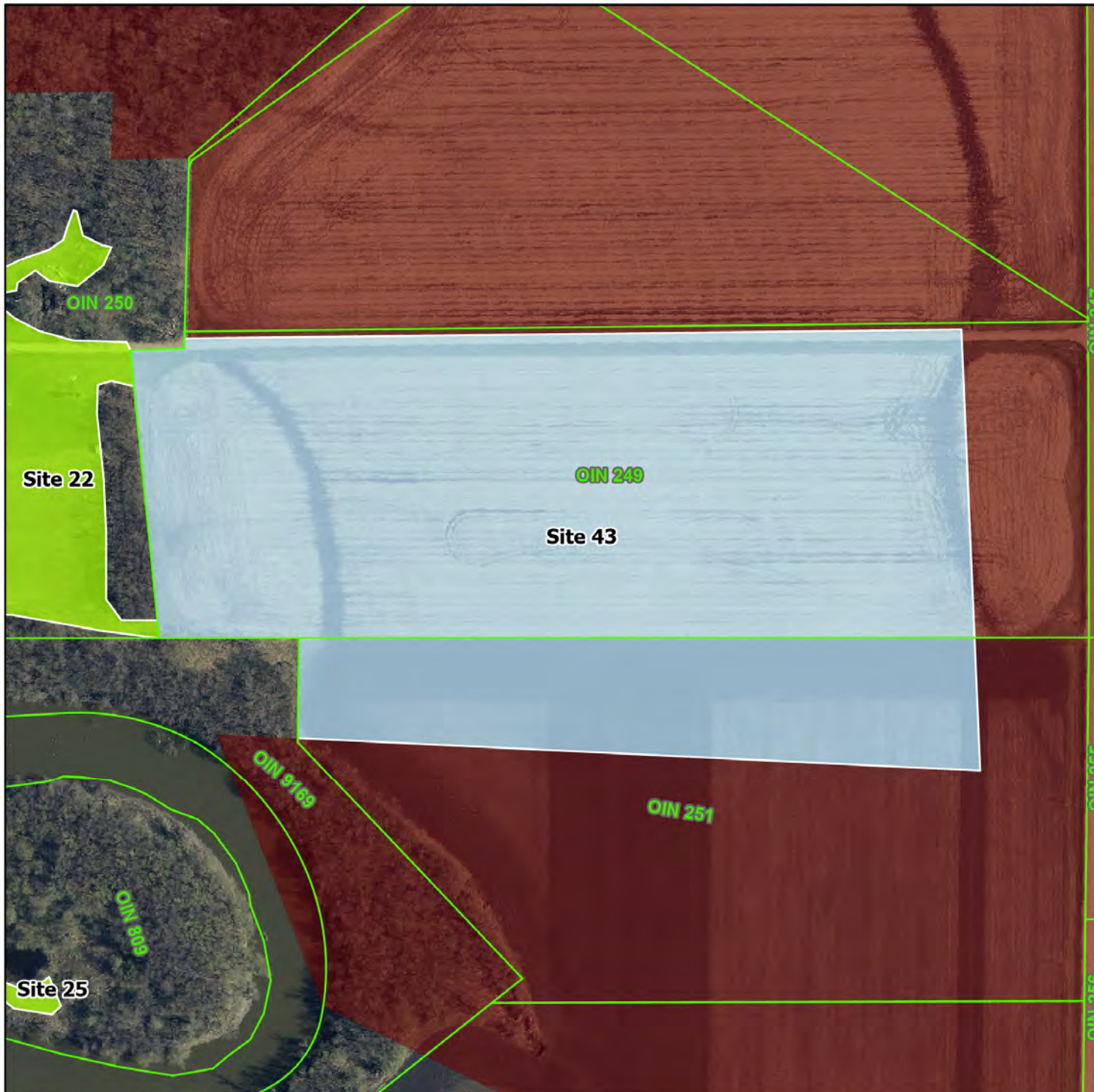






St. Paul District  
GIS CENTER

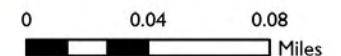
US Army Corps  
of Engineers®

# FMM FOREST MITIGATION APPENDIX - SITE 43

Areas identified for forest mitigation opportunities



-  Parcel Boundaries
-  Diversion / Embankment Alignment
-  Floodplain Forest
-  Oak Savanna



Base Image: City of Fargo Imagery (2020)

## Appendix E

### Survey Protocols

#### Plot Density

The number of survey plots will be dependent on the size of the site. Smaller sites have a higher density to adequately be able to assess the site. Conditions of larger sites can be generalized with less plots per acre. The following table should be used to determine the number of plots required. Plots will be placed randomly across the mitigation property with a 66 foot buffer around each point to avoid overlap. Each survey year plots will be re-randomized in order to ensure greater coverage of the sites.

Size of Site	Number of Plots
under 1 acre	3
1 to 5 acres	6
5 to 20 acres	1 plot per acre
20+ acres	1 plot per acre up to 20 and then 1 plot for every 5 acres after that (ex. 45 acre planting would be 23 plots)

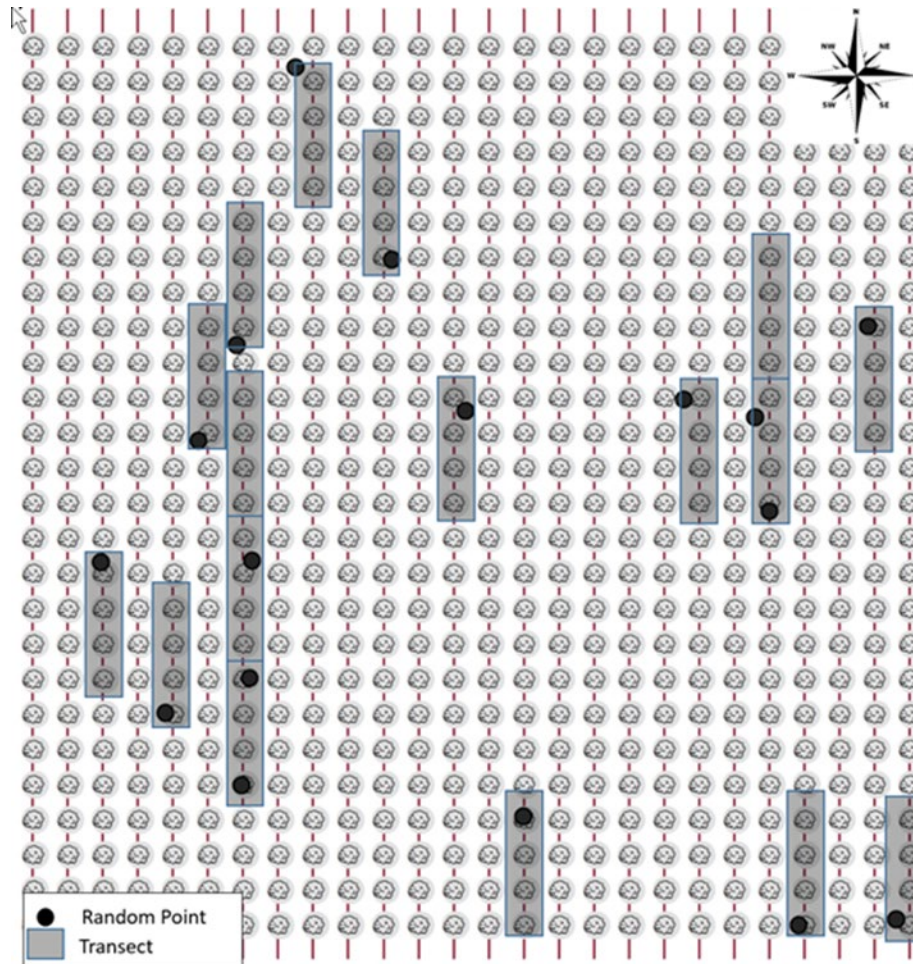
#### Seedling Survival:

Step 1: In the field, determine the orientation of the planting rows that will be sampled and sample the entire planting based on this orientation. Rows may be north-south, east-west or at other bearings. Based on the selected orientation, identify the random point nearest to the extreme corner of the planting (e.g., for a north-south planting, this would be the point closest to the northwest corner) as the first transect point. Navigate to that point, but do not worry about being exactly on the point.

Step 2: Once at the point, locate the nearest planted tree. The nearest planted tree will be the first tree measured in the transect. A quick determination of the closest tree is all that is needed. Record the species, what type of stock, whether it is dead or alive, its height and whether it is planted snugly in the ground.

Step 3: Once data has been collected on the first tree, continue sampling along the transect in the direction of travel, until the total number of trees per transect have been surveyed, as described in the figure below. The orientation of travel should remain the same as determined in Step 1, however, you may travel in either of the two cardinal directions to complete transects (i.e., in a north-south planting, transects may be completed either going north or going south, but should not be completed in an east to west orientation). It is very important to stop at each point along a transect based on the spacing of the planting and make a record of no trees in planting locations that are empty. Diagram A1 in Appendix A provides a visual representation of transect layout.

Step 4 Once the final tree has been surveyed in the transect, proceed to the nearest random point at which a transect has not been completed. Follow Steps 2 and 3 to complete the next and all subsequent transects.

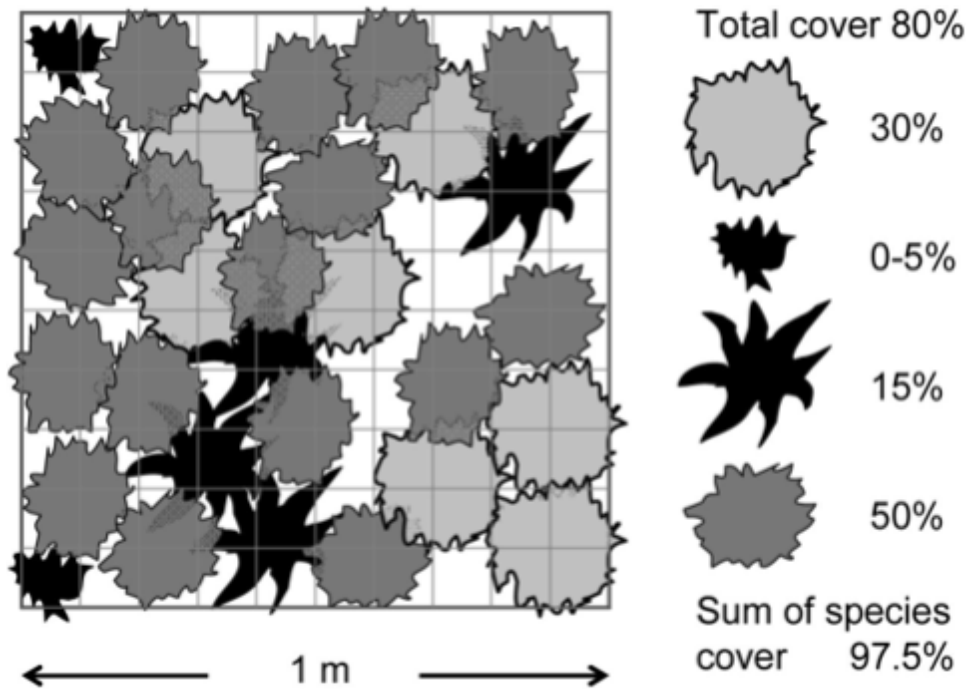


Percent cover surveys:

The amount of area a specific species takes up in a set space. A specific species cannot exceed 100% cover of an area, but a specific area can have greater than 100% cover of all species combined.

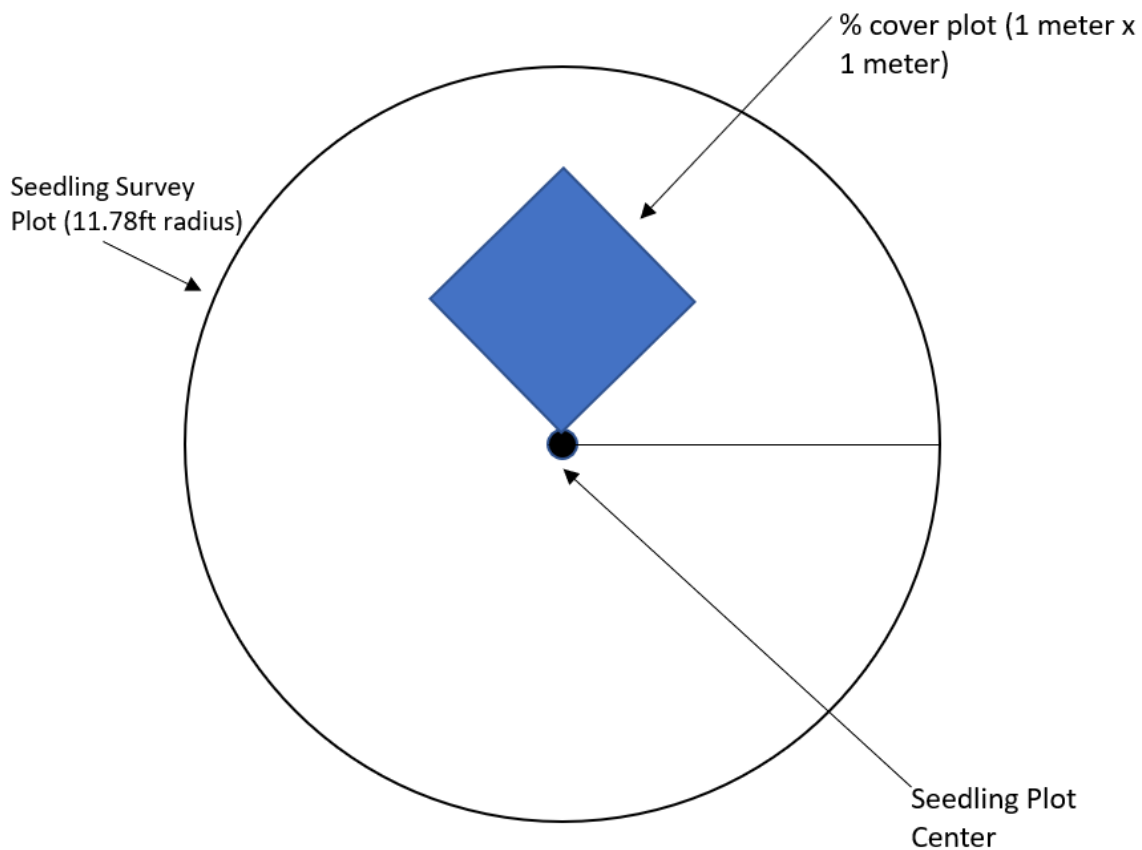
Using a 1 meter squared quadrat place it on the ground over your sampling point.

Start by identifying the species that are present within the plot and determine whether they are invasive. Once all invasive species have been identified and recorded start to determine the percent area that the species takes up within the plot, use the figure below as an example. Every species receives its own percent cover calculation.



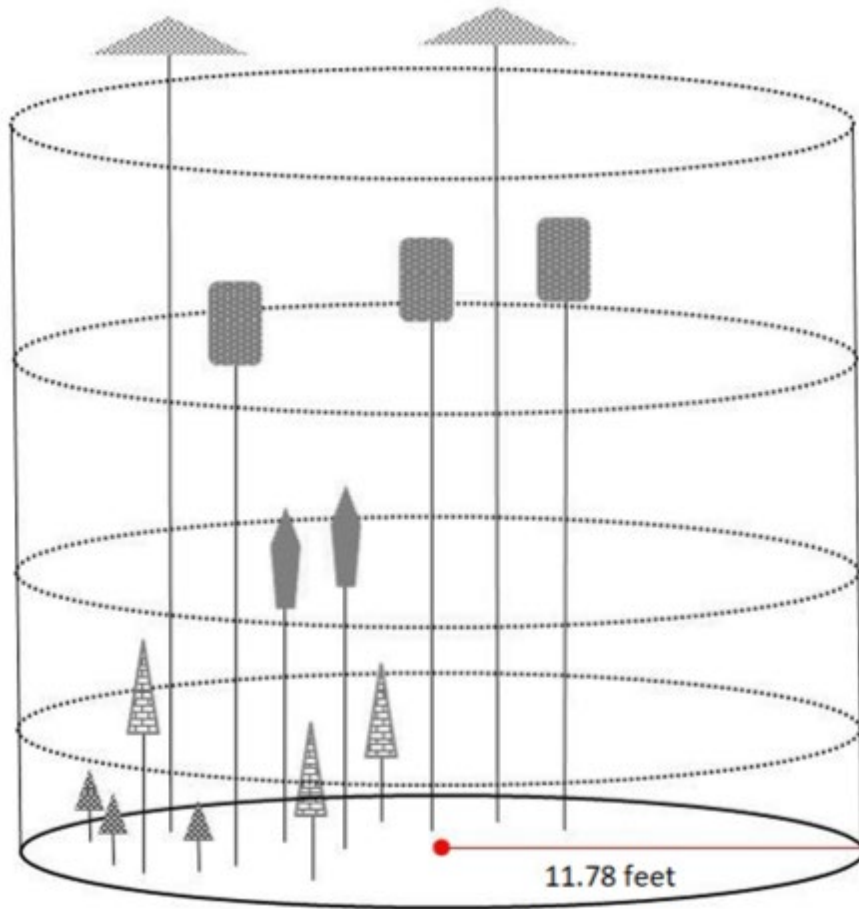
In years that include both percent cover surveys and seedling surveys, plots will be nested within one another as shown in the diagram below. In years when percent cover surveys are the only ones performed, percent cover survey plots will be placed at random as described in section 7.1 Monitoring Requirements.





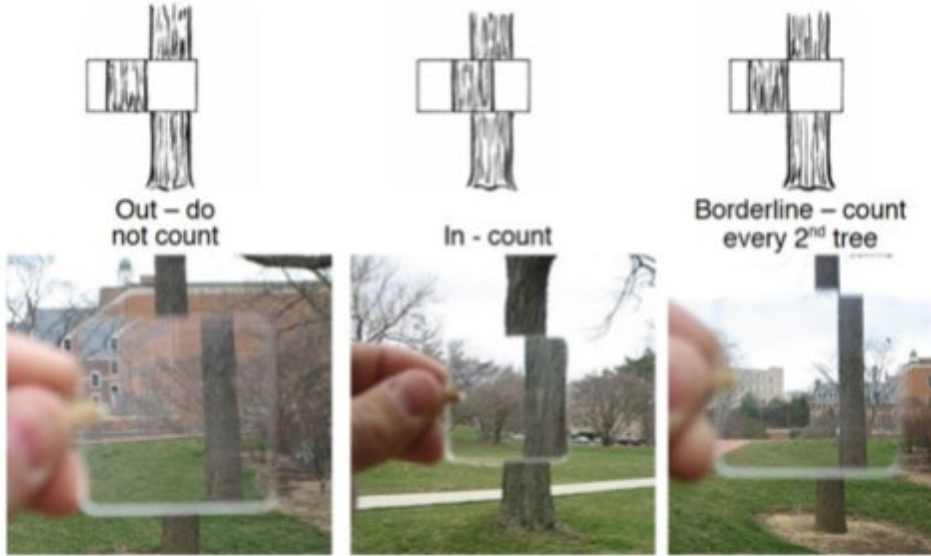
Seedling Survey:

Using a circular 0.01 acre plot, establish a plot perimeter and plot center. This is best done using a string, chain or rope that is cut to the length of the radius of the plot circle (11.78 feet). Once plot center is established begin identifying all woody stems in the plot and identify them to species and record their heights. When all seedlings are identified and measured multiple the total tally by 100 to determine the number of stems per acre.



Forest Inventory Survey:

Using a 10 factor prism center it over the center of your plot. Identify the first tree that you will count. Record whether that tree is in or out, if the tree is “in” determine the species that it is and record it. If the tree is “out” do not record it and move to the next tree. An “out” tree will not overlap within the prism. An “in” tree will have some overlap within the prism (see the figure). Following the recording of that tree continue spinning the prism over plot center tallying trees in or out as you go. When all trees in the plot have been sampled, then add up the total number of trees counted and multiply by 10 to calculate the total basal area of the plot.



Canopy cover will be determined through means of ocular estimation in increments of 10 percent for trees in coverage area over a 0.01 ac plot (11.78 ft. radius) centered at the prism plot center. Canopy cover is estimated as the percent of the sky that is covered by tree leaves and branches when looking up through the canopy. For trees per acre, below is a screenshot of the methods to calculate trees per acre from a BAF 10 prism plot.

Calculating Trees Per Acre from BAF 10 Variable Radius Plots

Trees per plot

$$TPA_{plot} = \sum_{i=1}^t \frac{1}{\pi \cdot (dbh_t \times 2.75)^2 / 43560} \text{ where } t = \text{each individual tree within a plot}$$

Or

$$TPA_{plot} = \sum_{i=1}^t \frac{10}{0.005454 \cdot (dbh_t)^2} \text{ where } t = \text{each individual tree within a plot}$$

Trees per stand (or other summary level)

$$TPA_{stand} = TPA_{plot} / n \text{ where } n = \text{the number of plots in the stand}$$

TABLE 10-8 Derivation of the Basal Area Factor of 10 Sq Ft Per Acre for Point Sampling

Tree dbh, in. (1)	Imaginary plot radius, ft (2)	Imaginary plot size, acres (3)	Trees per acre,* no. of stems (4)	Basal area per tree, sq ft (5)	Basal area per acre, sq ft (6)
4	11.00	0.0087	114.94	0.087	10
6	16.50	0.0196	51.02	0.196	10
8	22.00	0.0349	28.65	0.349	10
10	27.50	0.0545	18.35	0.545	10
12	33.00	0.0785	12.74	0.785	10
14	38.50	0.1069	9.35	1.069	10
16	44.00	0.1396	7.16	1.396	10
18	49.50	0.1767	5.66	1.767	10
20	55.00	0.2182	4.58	2.182	10
22	60.50	0.2640	3.79	2.640	10
24	66.00	0.3142	3.18	3.142	10
26	71.50	0.3687	2.71	3.687	10
28	77.00	0.4276	2.34	4.276	10
30	82.50	0.4909	2.04	4.909	10
32	88.00	0.5585	1.79	5.585	10
34	93.50	0.6305	1.59	6.305	10
36	99.00	0.7069	1.41	7.069	10
Method of calculation	dbh × 2.75	$\frac{\pi r^2}{43,560}$	$\frac{1.03}{\text{plot size}}$	0.0054547 <sup>2</sup>	column 4 × 5

\* Exact value for number of trees per acre may vary slightly, depending upon number of decimal places expressed for imaginary plot size.

```
Python: 1/((math.pi*(!TR_DIA!*2.75)**2/43560))
Excel: =ROUND(1/(PI()*(!TR_DIA*2.75)^2/43560),2)
```

## Appendix F

### Stocking Guidelines

<b>Floodplain Forest Stocking Benchmarks</b>	
<b>Year Since Planting</b>	<b>1</b>
Total trees per acre natural and planted >6 inches tall	>1200 trees per acre
Total Shrubs per acre natural and planting >6 inches tall	>200 stems per acre
Planted trees >12 inches tall	>400 trees per acre
<b>Year Since Planting</b>	<b>3</b>
Total trees per acre natural and planted >24 inches tall	>900 trees per acre
Total shrubs per acre natural and planted >12 inches tall	>150 stems per acre
Planted trees >36 inches tall	>300 trees per acre
<b>Year Since Planting</b>	<b>6</b>
Total trees per acre natural and planted >54 inches tall	>500 trees per acre
Total shrubs per acre natural and planted >36 inches tall	>75 stems per acre
Planted trees >60 inches tall	>200 trees per acre
<b>Year Since Planting</b>	<b>10</b>
Total trees per acre > 2 inches at DBH	>300 trees per acre

<b>Oak Savannah Benchmarks</b>	
<b>Year Since Planting</b>	<b>1</b>
Total trees per acres of planted seedlings >24 inches tall	>300 trees per acre
Total trees per acre of containerized trees >48 inches tall	>240 trees per acre
<b>Year Since Planting</b>	<b>3</b>
Total trees per acres of planted seedlings >48 inches tall	>260 trees per acre
Total trees per acre of containerized trees >60 inches tall	>200 trees per acre
<b>Year Since Planting</b>	<b>6</b>
Total Trees per acre of planted seedlings >60 inches tall	>240 trees per acre
Total trees per acre of containerized trees >80 inches tall	>170 trees per acre
<b>Year Since Planting</b>	<b>10</b>
Total trees per acres >3 inches at DBH	>170 trees per acre

## Appendix G

### Monitoring Period Tasks

Monitoring Year	All Sites				Flood Plain Forest Sites		Oak Savanna Sites	
	Inspect site for invasive species encroachment	Inspect site for land encroachments (herbicide drift, agricultural tillage, neighboring landowner encroachments, etc.)	Planting survival surveys	Check Trees Per Acre/ stem densities on sites (counting planted and natural seedlings) using either seedling surveys or overstory inventory surveys	Check species Diversity (planted and natural)	% cover surveys for herbaceous species	Conduct canopy cover surveys to ensure site is on track	% cover surveys for herbaceous species
Annually to year 5	x	x						
Year 1			x	x		x		x
Year 3				x		x		x
Year 6	x	x		x	x	x	x	x
Year 10	x	x		x	x	x	x	x
Year 15 and every 5 thereafter	x	x		x			x	

**AGREEMENT FOR ENTRY, DECONSTRUCTION, REMOVAL, AND REMEDIATION**

THIS AGREEMENT FOR ENTRY, DECONSTRUCTION, REMOVAL, AND REMEDIATION (this "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2023, by the Metro Flood Diversion Authority, whose post office address is 4784 Amber Valley Parkway South, Suite 100, Fargo, North Dakota 58104 (the "Authority"); and Mickeal and Bonnie Fosse, whose post office address is 16889 46th Street Southeast, Horace, North Dakota 58047 (the "Fosses").

**WHEREAS**, the United States Army Corps of Engineers (the "Corps") and the Authority entered into a Project Partnership Agreement on July 11, 2016, and amended on March 19, 2019, for construction of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the "Comprehensive Project"); and

**WHEREAS**, the Comprehensive Project generally consists of a large earthen embankment that will pool floodwater in the southern part of the project area and a large storm water diversion channel ("SWDCAI") that will reroute the floodwater around the project area; and

**WHEREAS**, the BNSF Railway Company ("BNSF") owned right-of-way in the project area for the Comprehensive Project (the "Railroad ROW"), which was operated by the Red River Valley & Western Railroad Company ("RRVW"); and

**WHEREAS**, to acquire the real property necessary for the Comprehensive Project, the Authority worked with BNSF and RRVW to secure their interests in the real property and to have the Railroad ROW abandoned by the Surface Transportation Board ("STB"); and

**WHEREAS**, STB, as part of its abandonment order, identified a rail bridge that existed on the Railroad ROW over the Sheyenne River (the "Railroad Bridge"), in the location depicted on Exhibit A, and ballast on the Railroad ROW (the "Railroad Ballast") that needed to be removed as a part of the abandonment; and

**WHEREAS**, the Authority assumed the responsibility of removal of the Railroad Bridge and the Railroad Ballast as part of the abandonment, with oversight provided by the North Dakota Public Service Commission ("NDPSC") as set forth in N.D.C.C. Chapter 49-09; and

**WHEREAS**, also as part of the Authority's negotiations with BNSF and RRVW, the Authority assumed the responsibility for working with the North Dakota Department of Environmental Quality ("NDDEQ") to identify any regulated substances, as defined by N.D.C.C. Chapter 23.1-10 ("Regulated Substances"), in the Railroad ROW and remove them therefrom, if required by NDDEQ, through a voluntary response action; and

**WHEREAS**, following the abandonment of the Railroad ROW, BNSF acted in accordance with the requirements of N.D.C.C. § 49-09-04.2 to sell the Railroad ROW to priority purchasers, including the Fosses; and

**WHEREAS**, the Fosses purchased, in part, that portion of the Railroad ROW that contains the Railroad Bridge and Railroad Ballast; and

**WHEREAS**, the Authority and the Fosses now desire to enter into this Agreement to authorize the Authority access to the Fosses' property to allow for the removal of the Railroad Bridge and Railroad Ballast and to allow the Authority to work with NDDEQ to identify any Regulated Substances and to conduct a voluntary response action, if required by NDDEQ, in accordance with N.D.C.C. § 23.1-10-15 to remediate any Regulated Substances.

**NOW, THEREFORE**, in consideration of the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

1. **The Property.** The Fosses do hereby grant and release to the Authority the right to enter upon and to have the right of access to the below described real property (i) for the location, deconstruction, and removal of the Railroad Bridge, Railroad Ballast, and other related appurtenances and (ii) for the investigation, location, minimization, containment, elimination, remediation, mitigation, monitoring, and cleaning up of Regulated Substances, as required by the NDDEQ, from the Property (as defined herein). The Fosses hereby grant the Authority ingress and egress in, on, over, across, and through real property located in Cass County, North Dakota, described as follows:

That part of the South Half of the Southeast Quarter of Section 24, Township 138 North, Range 50 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Southeast Quarter; thence North 87 degrees 50 minutes 55 seconds East along the south line of said Southeast Quarter a distance of 22.10 feet to the southerly right-of-way line of the Red River Valley & Western Railroad; thence North 66 degrees 29 minutes 50 seconds East along said southerly right-of-way line a distance of 451.61 feet; thence easterly 588.02 feet along said southerly right-of-way line, and along a tangential curve, concave southerly, having a radius of 2,815.00 feet and a central angle of 11 degrees 58 minutes 06 seconds; thence North 78 degrees 27 minutes 56 seconds East along said southerly right-of-way line a distance of 156.97 feet to the most northerly corner of that certain tract of land described in Document #1626855, and labeled therein as "PARCEL 1", being on file and of record in the Cass County Recorder's office, the point of beginning; thence continuing North 78 degrees 27 minutes 56 seconds East along said southerly right-of-way line a distance of 1,426.53 feet; thence North 11 degrees 32 minutes 04 seconds West a distance of 100.00 feet to the southwesterly corner of that certain tract of land described in Document #722783, being on file and of record in the Cass County Recorder's office, said corner also being on the northerly right-of-way line of said Red River Valley & Western Railroad; thence South 78 degrees 27 minutes 56 seconds West along said northerly right-of-way line a distance of 1,568.04 feet to the most southerly corner of that certain tract of land described in Document #1639701, being on file and of

record in the Cass County Recorder's office; thence South 66 degrees 17 minutes 13 seconds East a distance of 173.28 feet to the point of beginning.

The above-described tract contains 3.44 acres, and is subject to all easements, restrictions, reservations, and rights-of-way recorded and unrecorded.

(referred to throughout as the "Property").

2. **Right of Entry, Deconstruction, Removal, and Remediation.** Under this Agreement, the Fosses grant to the Authority and the Authority's officers, employees, agents, representatives, and contractors, the following rights upon, over, in, under, across, and through the Property for the following purposes: ingress and egress to and from the Property; deconstructing and removing the Railroad Bridge and Railroad Ballast; investigating, minimizing, containing, eliminating, remediating, mitigating, monitoring, and cleaning up of Regulated Substances from the Property as required by NDDEQ; removing trees, underbrush, obstructions, and any other vegetation, structures, or obstacles from the Property; moving, storing, and removing equipment, materials, and supplies; excavating, piling, storing, depositing, spoiling, spreading, and removing excavated dirt, soil, clay, silt, and other materials on or from the Property; any other work necessary to the deconstruction and removal of the Railroad Bridge and the Railroad Ballast; and any other work necessary to the investigation, minimization, containment, elimination, remediation, mitigation, monitoring, and cleaning up of Regulated Substances as required by NDDEQ. The Authority will provide the Fosses at least thirty (30) calendar days' prior notice before entering the Property, and it will notify the Fosses when all work on the Property is complete. The Authority is not responsible for pre-existing environmental contamination or liabilities on the Property aside from those responsibilities assumed under this Agreement.

3. **STB, NDPSC, and NDDEQ.**

A. The Authority is responsible for deconstructing and removing the Railroad Bridge and Railroad Ballast in accordance with any requirements of the STB and the NDPSC. The Fosses will not contact the STB or the NDPSC regarding the Railroad Bridge or Railroad Ballast. In the event the STB or NDPSC contacts the Fosses regarding the same, the Fosses will direct the STB or NDPSC, as applicable, to contact the Authority.

B. The Authority is responsible for working with NDDEQ to identify any Regulated Substances on the Property and, if required by NDDEQ, for remediating the identified Regulated Substances in accordance with NDDEQ requirements. The Fosses will not contact NDDEQ regarding the Regulated Substances, and in the event NDDEQ contacts the Fosses regarding the Regulated Substances, the Fosses will direct NDDEQ to contact the authority.

C. The Authority will inform the Fosses whether remediation of Released Substances is required by NDDEQ and will provide the Fosses with copies of any decisions or orders issued by NDDEQ regarding Released Substances on the Property. The Fosses acknowledge that NDDEQ may not require present day remediation of Regulated Substances but, instead, may require remediation only upon disturbance of the Regulated



Substances at some future date by, for example, development of the Property. The Fosses agree and acknowledge that they will be responsible for any remediation required by the NDDEQ, or a successor entity, at that time, and that it will not be the responsibility of the Authority to remediate such Regulated Substances.

4. **Restoration.** In the event the Authority damages the Property while exercising its rights or privileges authorized under this Agreement, the Authority will repair and restore the Property to a condition substantially similar to its condition existing prior to the Authority's access to the Property, taking into consideration the nature of work being performed. Further, the Authority will rough grade and seed to grass the Property immediately surrounding the Railroad Bridge and where the Railroad Ballast was located.

5. **No Compensation.** The Authority will not remit any funds to the Fosses for the rights and privileges that the Fosses are granting to the Authority under this Agreement.

6. **Termination.** This Agreement shall terminate upon the restoration of the Property following the latter of the successful deconstruction and removal of the Railroad Bridge and the Railroad Ballast or the Authority's completion of investigation for and remediation of, if required by NDDEQ, Released Substances.

7. **Runs with the Land.** This Agreement and all covenants, terms, conditions, provisions, and undertakings created under this Agreement shall run with the Property and will be binding upon the Fosses' heirs, successors, and assigns.

8. **Taxes.** The Fosses are solely responsible for all taxes and special assessments or assessments for special improvements due, levied, or assessed regarding the Property for all past, present, and future years. The Authority will not be responsible for payment of any real estate taxes or special assessments regarding the Property.

9. **Fosses' Use of the Property.** The Fosses have the right and privilege to use the Property at any time, in any manner, and for any purpose that is not inconsistent with the Authority's rights and privileges under this Agreement. The Fosses will not use, or permit use of, the Property in any manner that disrupts or interferes with the use of the Property by the Authority or the contractors performing the work described herein. The Fosses will promptly cease any activities and remove any structures or obstructions that interfere with the Authority's use of the Property or the Authority's rights and privileges under this Agreement at the Fosses' own cost. The Fosses will repair or replace any of the Authority's structures, facilities, right-of-way, or any other property owned by the Authority damaged by the Fosses or as a result of the Fosses' use of the Property, at the Fosses' sole cost.

10. **Encumbrances.** The Fosses will not encumber the Property or enroll the Property in any federal program that would be contrary to, or would in any way disrupt or interfere with, the Authority's use of the Property or the Authority's rights and privileges under this Agreement. The Fosses may mortgage the Property, at the Fosses' sole discretion and without first obtaining the Authority's consent so long as such mortgage is subordinated to this Agreement. If the Fosses rent or lease the Property, any lessee's rights and uses are subject to this Agreement, including the

use restrictions described above. The Fosses will be fully responsible to the Authority for the Fosses' obligations under this Agreement, including for any violations by any lessee.

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

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

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

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

15. **Modifications.** Any modifications or amendments of this Agreement must be in writing and signed by both the Fosses and the Authority.

16. **Binding Effect.** The covenants, terms, conditions, provisions, and undertakings in this Agreement, or in any amendment, will be binding upon the parties' successors and assigns.

17. **Cooperation.** The parties agree to cooperate fully, to execute any and all additional documents, and to take any and all additional actions that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement and to accomplish the purposes of this Agreement.

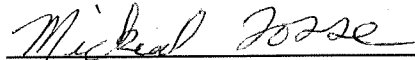
18. **Representation.** The parties, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this Agreement and agree they have not been influenced by any representations or statements made by any other parties.

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

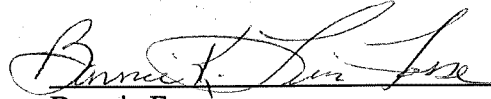
*(Signatures appear on the following pages.)*

IN WITNESS WHEREOF, the parties executed this Agreement on the date written above.

MICKEAL AND BONNIE FOSSE



Mickeal Fosse



Bonnie Fosse

METRO FLOOD DIVERSION  
AUTHORITY

\_\_\_\_\_  
Timothy J. Mahoney, Chairman

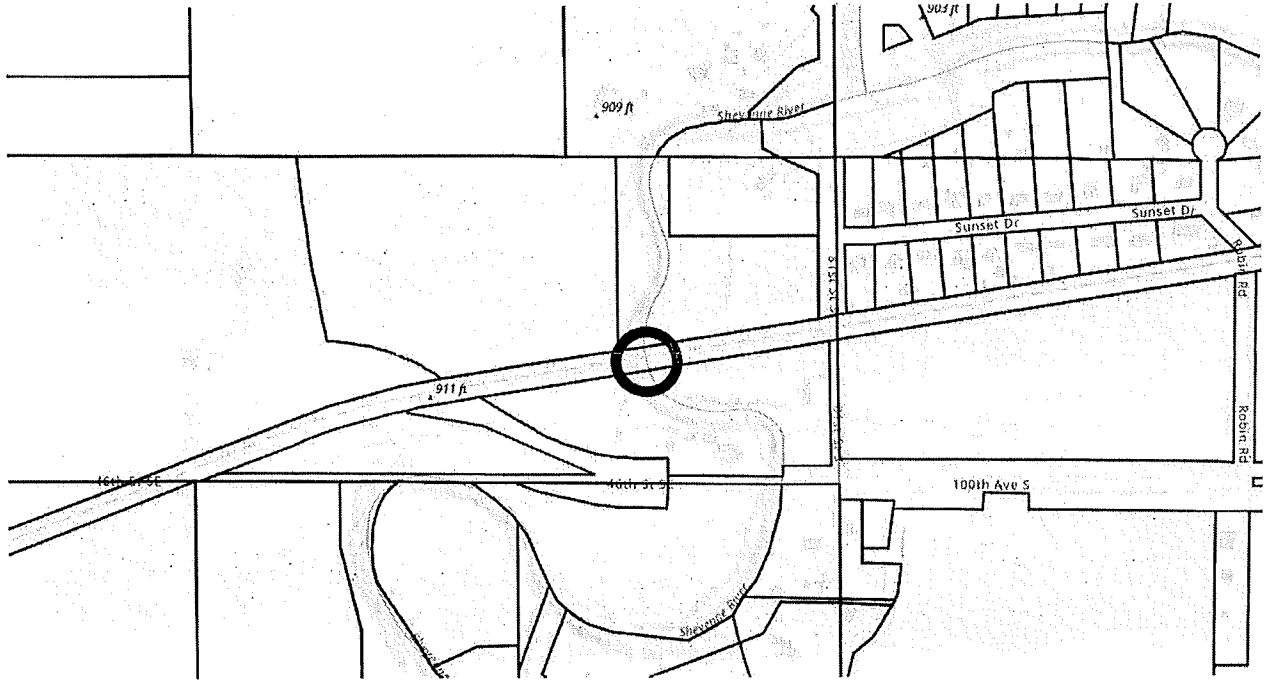
\_\_\_\_\_  
Joel Paulsen, Executive Director

ATTEST:

\_\_\_\_\_  
Dawn Lindblom, Secretary

### Exhibit A

### Railroad Bridge Maps



**Bonnie Fosse**  
**cowgirlbiker58@gmail.com**

---

**From:** Bonnie Fosse cowgirlbiker58@gmail.com  
**Sent:** Thu, 9 Feb 2023 12:59:04 -0700  
**To:** yld-foothillslibrary-bw@printspots.com  
**Subject:** Fosse Bridge Agmt - Execution Version.pdf



METRO  
FLOOD  
DIVERSION  
AUTHORITY

# Diversion Authority Board Meeting

DECEMBER 14, 2023

**Executive Director Report**

Joel Paulsen, Executive Director

# Happenings

## Presentations & Events:

- ND Land Surveyors Conference Fall Education Seminar
- 60th Annual Joint North Dakota Water Convention and Irrigation Workshop

## Coming Soon:

- O&M meetings with member entities in January 2024

## 2023 Recap



9

Arranged Tours



30

Formal Presentations/  
Speaking Engagements



2

Major Awards



JOEL PAULSEN

EXECUTIVE DIRECTOR



# 2023 YEAR IN REVIEW



**\$18 Billion of Property Mapped in Protected Area**



**485 Acres of Native Species Planted at Drain 27 Wetland Mitigation Project**



**18 Utility Companies Relocating 42 Miles of Lines Along the Channel**

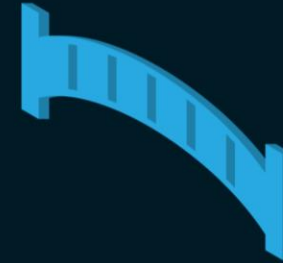


**101.1% Growth in ASN Constructors' Employees**

**13 Started the ASN Constructors Apprenticeship Program**



**8,990 Cubic Yards of Concrete Poured for Maple River Aqueduct and Diversion Inlet**



**6 Channel Crossings Under Construction**



**7 City of Fargo Stormwater Lift Station Reconstruction Projects**



Diversion Inlet Structure - 100%



Red River Structure - 42%



Southern Embankment Reach 1A - 100%



City of Moorhead In-Town Work - 79%



Drayton Dam Mitigation Project - 100%



Wild Rice River Structure - 100%



I-29 Grade Raise - 100%



Southern Embankment Reach 2A - 68%



City of Fargo In-Town Work - 85%



Oxbow Wetland Mitigation - 100%



US Army Corps of Engineers®  
St. Paul District

# FARGO MOORHEAD DIVERSION PROJECT

# MONTHLY UPDATE

6 Dec 2023

## 1 Diversion Inlet Structure (DIS) – Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 99% complete. Construction completion date is currently estimated to be after December 2023 due issues related to the gate machinery.

Schedule for remaining work:

2023: Complete operating machinery corrections.

2024: Turf established.

## 2 Wild Rice River Structure (WRRS) – Construction

Structure includes 2-40 ft. wide Tainter gates. Construction is 92% complete. The construction completion date of 3 December 2023 was not met due to work remaining. Construction of eastern earthen dam embankment is complete. Remaining schedule:

2023: Punch list items and repairs.

2024: Turf established.

## 3 I-29 Raise – Construction

Includes approximately 4 miles of interstate raise between County Roads 16 and 18. Construction is 96% complete. Traffic was switched to all new lanes on 1 November. Current construction completion date is 1 January 2024; turf established 30 June 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 47% complete. Construction completion date is 19 March 2026. Placing concrete for abutments, piers, approach and retaining walls, dentated end sills, and stilling basins. Completion date is 19 March 2026.

## 5 Drain 27 Wetland Mitigation Project Plantings - Construction

Native plantings 5-year contract awarded 17 May 2023. Remaining seeding to occur Spring 2024. Completion date 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 in 2024 during low water conditions.

## 7 Southern Embankment – Reach SE-2A - Construction

Construction is 68% complete. Embankment construction shut down for the winter, with 1/3 built to full height and remaining to elevation 918. Scheduled completion date is 30 September 2024.

## 8 Southern Embankment Design – All remaining reaches are being designed.

SE-1B: Design is complete..... Contract award: February 2024

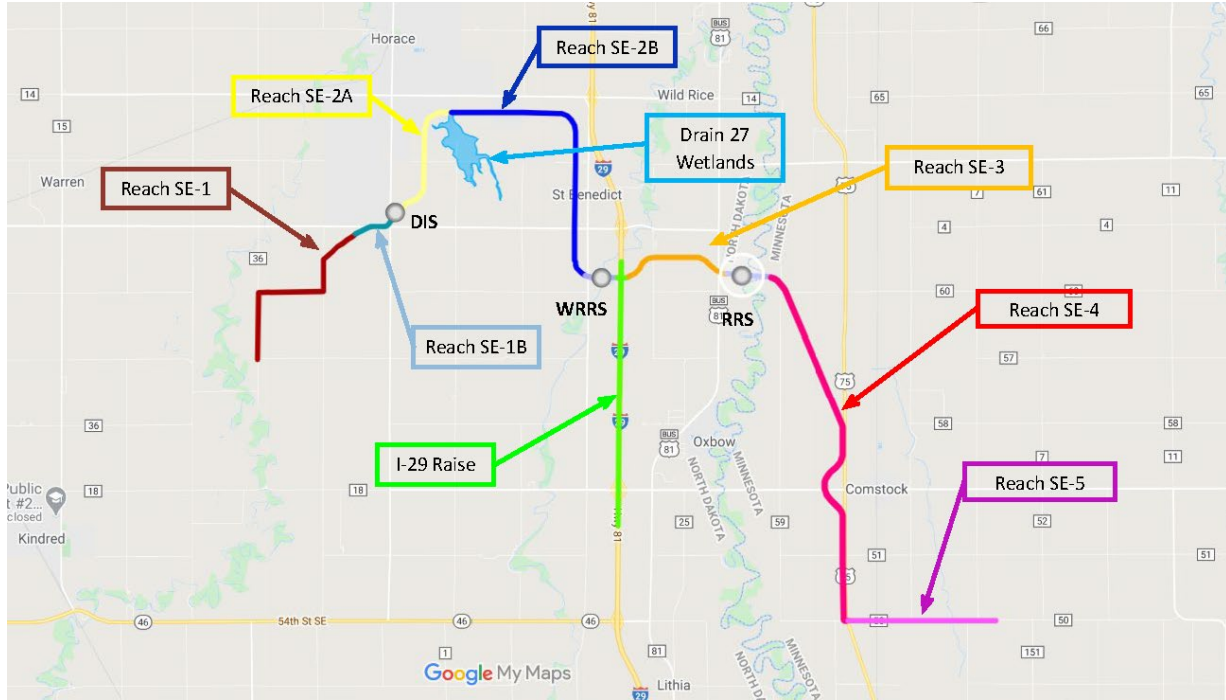
SE-2B: Design is complete ..... Contract award: January 2024

SE-3: 95% review starts March 2024 ..... Contract award: January 2025

SE-4: 95% review starts Jan 2024 ..... Contract award: May 2024

SE-5: 95% review starts Jan 2024 ..... Contract award: January 2025

OHB Reach 43B: Design is complete ..... Contract award: March 2024



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

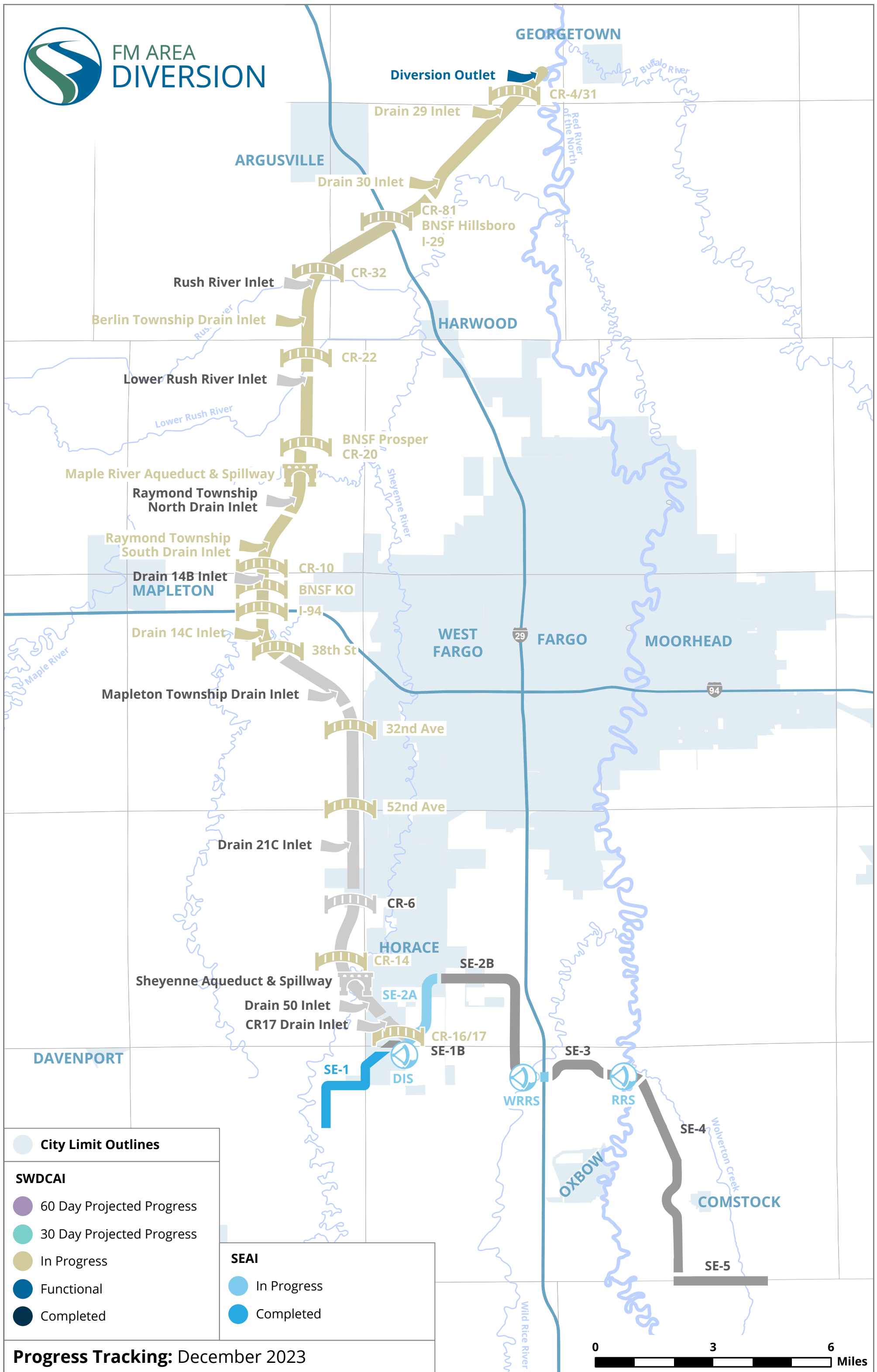
DIS = Diversion Inlet Control Structure

WRRS = Wild Rice River Control Structure

RRS = Red River Control Structure



# FM AREA DIVERSION



**City Limit Outlines**

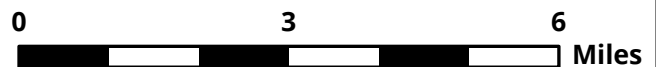
**SWDCAI**

- 60 Day Projected Progress
- 30 Day Projected Progress
- In Progress
- Functional
- Completed

**SEAI**

- In Progress
- Completed

**Progress Tracking: December 2023**

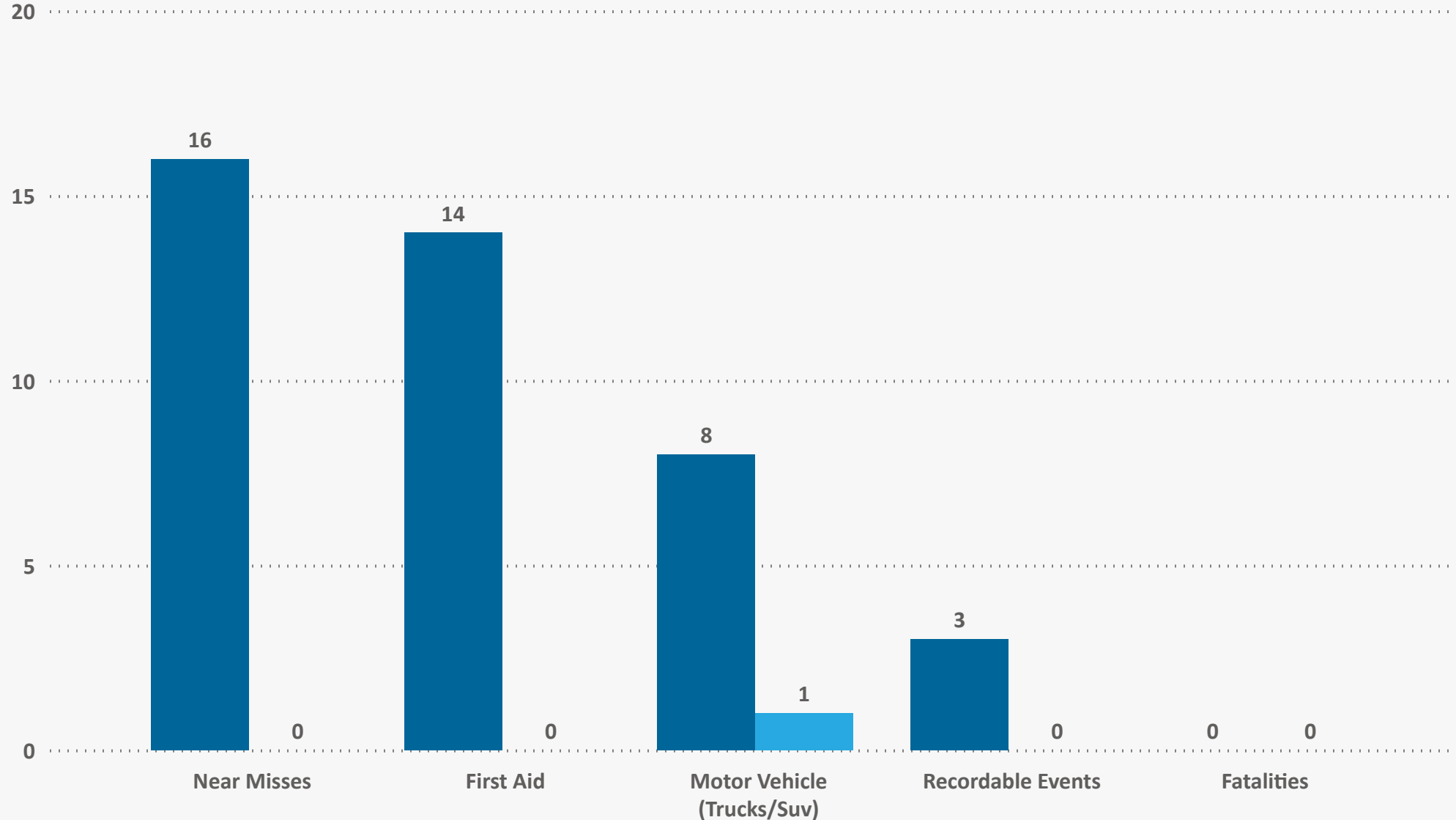


# FM Area Diversion Safety Statistics - October 2023

Current Reporting Period: October 1- October 31

## Developer Led Projects

● Sum of to Date ● Sum of Current Reporting Period



## City of Fargo Led Projects

Sum of Current Reporting Period Sum to Date

0

Incidents

1

Incident

## Authority Led Projects

Sum of Current Reporting Period Sum to Date

0

Incidents

0

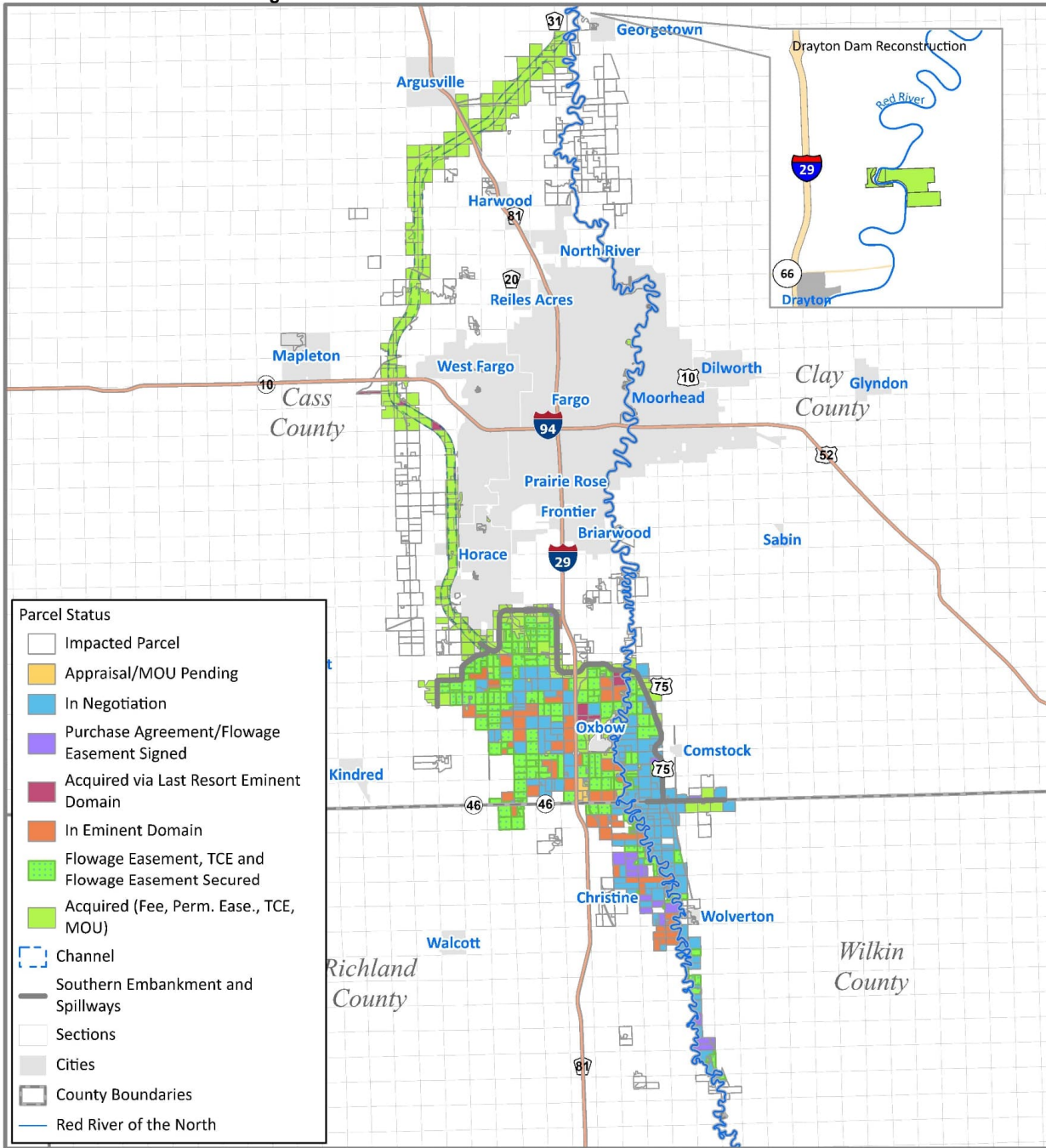
Incidents



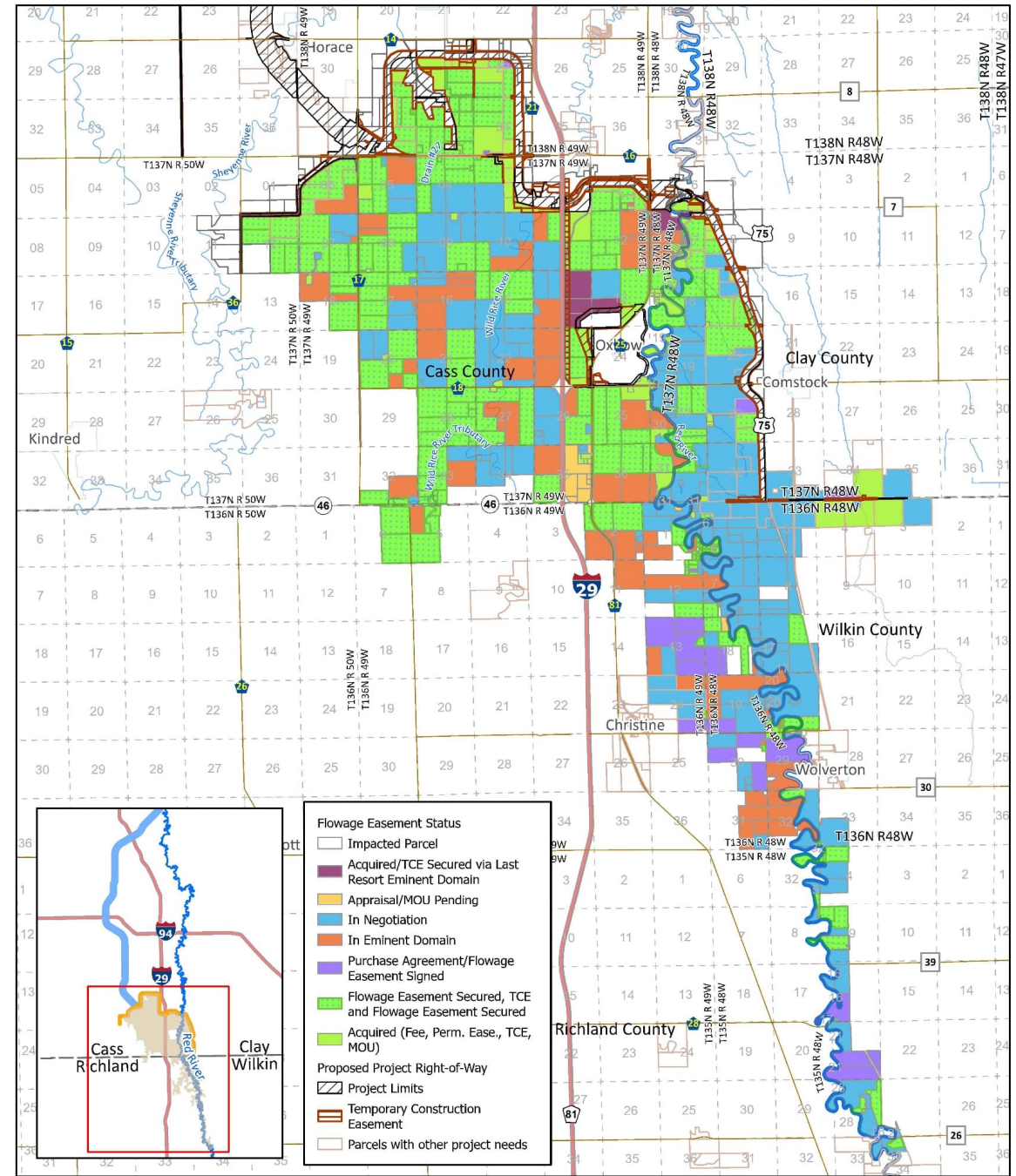
METRO  
FLOOD  
DIVERSION  
AUTHORITY

December 2023





Information depicted may include data unverified by AE25. Any reliance upon such data is at the user's own risk. AE25 does not warrant this map or its features are either spatially or temporally accurate.  
 C:\Data\Projects\GIS Projects\FM Area Diversion\FMDiversionParcelStatus.aprx, Layout: PropertyAcquisitionStatusReport\_8x11



Information depicted may include data unverified by AE25. Any reliance upon such data is at the user's own risk. AE25 does not warrant this map or its features are either spatially or temporally accurate.  
 Edited by hrecords | C:\Data\Projects\GIS Projects\FM Area Diversion\FMDiversionParcelStatus.aprx | Layout: UMA Status\_Flowage Easement\_8x11

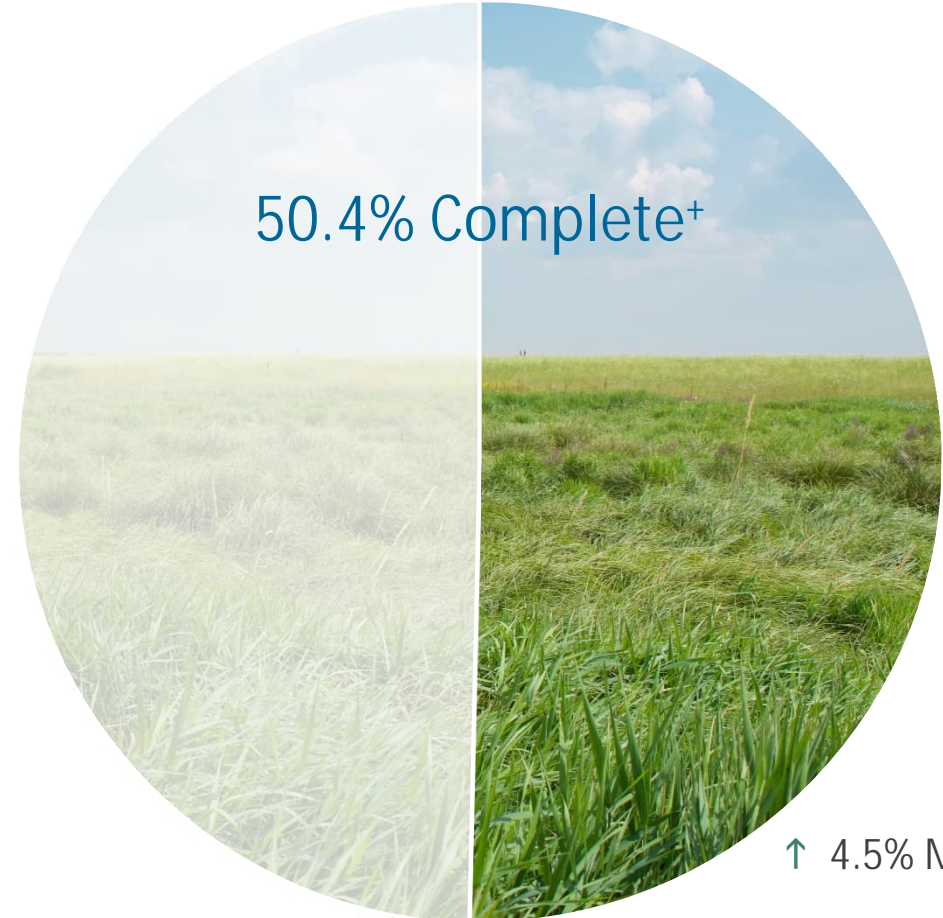
# Property Acquisition Progress

## Construction Footprint\*



↑ 0.5% MoM

## UMA Footprint\*\*



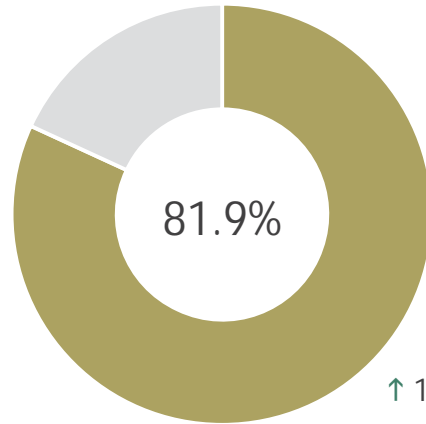
↑ 4.5% MoM

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

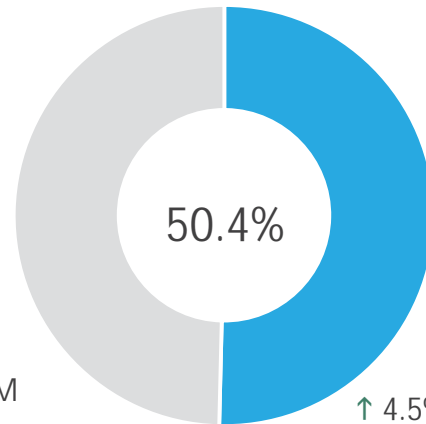
\*\* Does not include parcels affected by or within Christine or Wolverton ring levees  
As of December 5, 2023



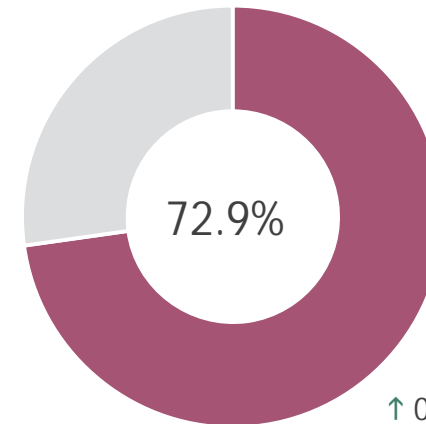
# Property Acquisition Progress by Location



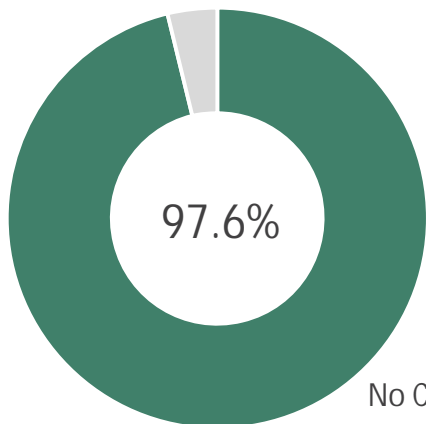
Southern Embankment & Associated Infrastructure



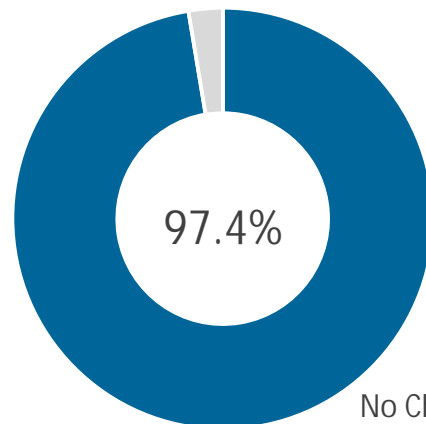
Upstream Mitigation Area



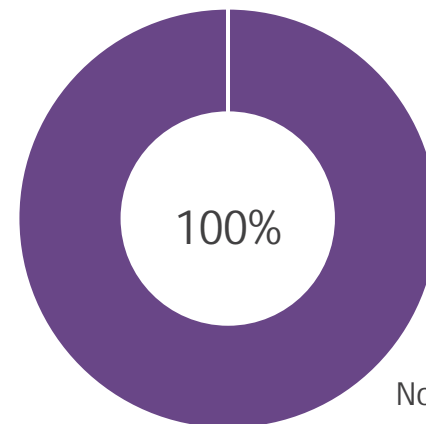
Environmental Monitoring Easements



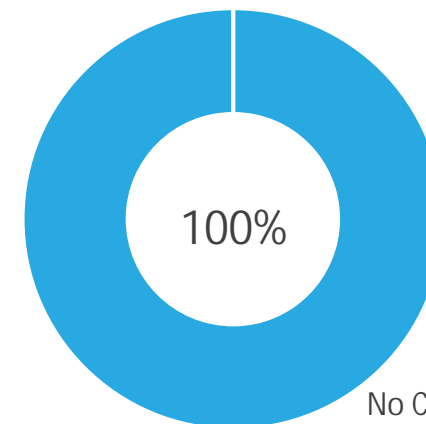
Stormwater Diversion Channel



Oxbow-Hickson-Bakke



MFDA-Constructed In-Town Levees

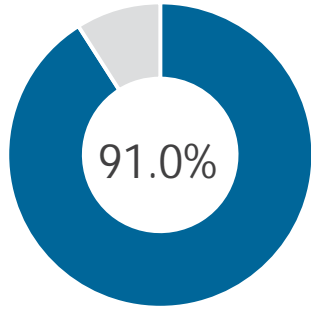


Drayton Dam Mitigation

As of December 5, 2023

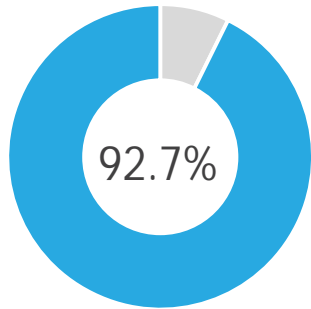
# Landowner Overview

## Construction Footprint\*



300 Owner Groups  
263 in ND & 36 in MN<sup>+</sup>  
273 settlements achieved  
20 ongoing negotiations  
7 in litigation

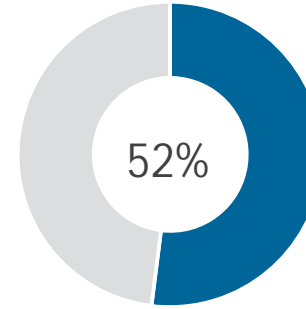
91.0% of owner groups have settled



574 Parcels  
532 settlements achieved  
26 ongoing negotiations  
16 in litigation

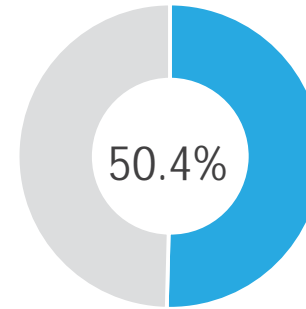
92.7% of parcels have been acquired

## UMA Footprint\*\*



252 Owner Groups  
186 in ND & 67 in MN<sup>+</sup>  
131 settlements achieved  
72 ongoing negotiations  
49 in litigation

52% of owner groups have settled



566 Parcels  
285 settlements achieved  
197 ongoing negotiations  
84 in litigation

50.4% of parcels have been acquired

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

<sup>+</sup> Some owner groups have property in both states

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

# Property Acquisition Status Report

## Key Activities:

- Continue negotiating settlement agreements for existing eminent domain actions
- In the last month, successfully closed 10 parcels / 1 landowner  
*(note, another 10 parcels were closed in November, but we're awaiting final paperwork)*
- 5 parcels / 4 landowners are scheduled to close in December
- The Last Written Offer deadline passed for properties in MN with 8 landowners accepting the offers so far
- Second preference letters related to the sale of Excess Lands along SE-1 will be mailed in early December to the former owners of the property, in accordance with the MFDA's Policy on the Disposition and Management of Comprehensive Lands

**METRO FLOOD DIVERSION AUTHORITY**

Schedule Budget Categories	Program Estimate At Completion (EAC) (2022\$)	Program Actual Cost thru Sept-2023	Balance Remaining	FY 2023 Budget	FY 2023 Actual Cost through September	FY 2023 Estimate at Completion (EAC)	FY2024 Cash Budget Version 3
<b>Channel / P3</b>	<b>\$ 96,400,001</b>	<b>\$ 52,521,300</b>	<b>\$ 43,878,701</b>	<b>\$ 9,770,911</b>	<b>\$ 6,293,043</b>	<b>\$ 9,758,398</b>	<b>\$ 14,528,000</b>
Management, Legal, Financial, Procurement	\$ 96,400,001	\$ 52,521,300	\$ 43,878,701	\$ 9,770,911	\$ 6,293,043	\$ 9,758,398	\$ 14,528,000
<b>Milestone Payments to the Developer</b>	<b>\$ 867,046,760</b>	<b>\$ -</b>	<b>\$ 867,046,760</b>	<b>\$ 22,621,985</b>	<b>\$ -</b>	<b>\$ 7,621,985</b>	<b>\$ 35,000,000</b>
Payments to the Developer	\$ 867,046,760	\$ -	\$ 867,046,760	\$ 22,621,985	\$ -	\$ 7,621,985	\$ 35,000,000
<b>Other Mitigation / Construction</b>	<b>\$ 39,508,477</b>	<b>\$ 35,859,674</b>	<b>\$ 3,648,803</b>	<b>\$ 1,842,000</b>	<b>\$ 696,695</b>	<b>\$ 1,811,394</b>	<b>\$ 800,000</b>
WP-43 Oxbow-Hickson-Bakke	\$ 31,038,478	\$ 28,476,042	\$ 2,562,437	\$ 932,000	\$ 2,648	\$ 932,000	\$ 800,000
WP-28 - Cass County Road 16 and 17 Bridge	\$ 1,900,000	\$ 1,621,370	\$ 278,630	\$ -	\$ -	\$ -	\$ -
WP-26 Diversion Inlet	\$ 70,000	\$ 65,026	\$ 4,974	\$ -	\$ -	\$ -	\$ -
WP-27 Red River - West Embankment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
WP-29 Red River - East Embankment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
WP-30 Wild Rice River Control Structure	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
WP-31 I-29 Grade Raise	\$ 3,200,000	\$ 2,856,265	\$ 343,734	\$ -	\$ -	\$ -	\$ -
WP-35 Red River Control Structure	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
WP-50 Phase II Demo	\$ 3,300,000	\$ 2,840,971	\$ 459,029	\$ 910,000	\$ 694,047	\$ 879,394	\$ -
<b>ND / MN River Stage 37' Projects</b>	<b>\$ 213,300,000</b>	<b>\$ 156,208,885</b>	<b>\$ 57,091,116</b>	<b>\$ 19,506,000</b>	<b>\$ 9,459,673</b>	<b>\$ 20,711,523</b>	<b>\$ 28,700,000</b>
WP-42 In-Town Levees	\$ 91,000,000	\$ 90,479,952	\$ 520,049	\$ 6,000	\$ 4,150	\$ 6,000	\$ -
Fargo- River Stage 37' Projects	\$ 107,300,000	\$ 65,728,933	\$ 41,571,067	\$ 19,500,000	\$ 9,455,523	\$ 20,705,523	\$ 28,700,000
Clay County - River Stage 37' Projects	\$ 6,000,000	\$ -	\$ 6,000,000	\$ -	\$ -	\$ -	\$ -
Cass County - River stage 37' Projects	\$ 9,000,000	\$ -	\$ 9,000,000	\$ -	\$ -	\$ -	\$ -
<b>Lands and Impacted Property Mitigation</b>	<b>\$ 571,699,999</b>	<b>\$ 407,525,969</b>	<b>\$ 164,174,031</b>	<b>\$ 84,381,770</b>	<b>\$ 43,596,057</b>	<b>\$ 77,999,570</b>	<b>\$ 64,000,000</b>
Management, Legal, Financial, Procurement	\$ 87,200,000	\$ 43,283,788	\$ 43,916,212	\$ 7,241,570	\$ 4,728,999	\$ 7,413,802	\$ 7,250,000
Diversion Channel & Assoc. Infrastructure	\$ 140,000,000	\$ 99,826,290	\$ 40,173,711	\$ 10,000,000	\$ (1,167,589)	\$ (167,589)	\$ 100,000
Southern Embankment & Assoc. Infrastructure	\$ 57,500,000	\$ 47,926,477	\$ 9,573,523	\$ 19,325,000	\$ 15,703,153	\$ 19,827,611	\$ 14,050,000
Mitigation & Assoc. Infrastructure (OHB)	\$ 108,200,000	\$ 107,926,894	\$ 273,106	\$ 3,100,000	\$ 2,625,822	\$ 2,700,572	\$ 100,000
WP-38 Upstream Staging	\$ 139,799,999	\$ 70,539,862	\$ 69,260,138	\$ 44,715,200	\$ 21,705,673	\$ 48,225,175	\$ 42,500,000
In-Town Flood Protection	\$ 39,000,000	\$ 38,022,658	\$ 977,342	\$ -	\$ -	\$ -	\$ -
<b>Non-Construction Costs</b>	<b>\$ 263,930,000</b>	<b>\$ 161,410,041</b>	<b>\$ 102,519,958</b>	<b>\$ 32,069,600</b>	<b>\$ 15,554,984</b>	<b>\$ 27,712,770</b>	<b>\$ 28,106,050</b>
Engineering & Design Fees	\$ 98,500,000	\$ 56,649,146	\$ 41,850,854	\$ 10,702,400	\$ 5,536,529	\$ 10,702,090	\$ 8,315,850
Management, Legal, Financial, Procurement	\$ 37,467,145	\$ 18,417,155	\$ 19,049,990	\$ 8,506,550	\$ 5,018,215	\$ 8,506,550	\$ 7,550,000
Work-In-Kind Programs (WIK) Studies	\$ 17,130,931	\$ 14,635,382	\$ 2,495,550	\$ 410,000	\$ 258,624	\$ 400,000	\$ 280,000
Indicative Design	\$ 7,185,225	\$ 7,126,537	\$ 58,688	\$ -	\$ -	\$ -	\$ -
Land, Easements, ROW, Relocation & Disposal Areas	\$ 468,330	\$ 456,330	\$ 12,000	\$ -	\$ -	\$ -	\$ -
Permitting	\$ 7,844,690	\$ 5,178,806	\$ 2,665,884	\$ 85,850	\$ -	\$ 35,850	\$ 35,850
Certification	\$ 2,050,000	\$ -	\$ 2,050,000	\$ -	\$ -	\$ -	\$ -
FMDA Detention Funding	\$ 3,000,000	\$ 721,568	\$ 2,278,432	\$ -	\$ -	\$ -	\$ -
Other Mitigation Projects	\$ 23,353,680	\$ 10,113,370	\$ 13,240,310	\$ 1,700,000	\$ 259,690	\$ 1,759,690	\$ 450,000
Prog. Management/Legal/Financial/Procurement	\$ 165,430,000	\$ 104,760,895	\$ 60,669,105	\$ 21,367,200	\$ 10,018,455	\$ 17,010,680	\$ 19,790,200
Program Management Costs	\$ 103,231,668	\$ 65,421,203	\$ 37,810,465	\$ 13,774,200	\$ 6,068,057	\$ 8,928,750	\$ 9,632,200
Diversion Authority Operations	\$ 11,468,333	\$ 3,607,378	\$ 7,860,955	\$ 1,395,000	\$ 1,120,007	\$ 1,720,007	\$ 1,650,000
Program Financial Services	\$ 6,520,000	\$ 3,314,082	\$ 3,205,917	\$ 300,000	\$ 23,783	\$ 153,783	\$ 165,000
DA Legal Services	\$ 20,350,000	\$ 17,882,507	\$ 2,467,492	\$ 1,500,000	\$ 699,559	\$ 1,500,000	\$ 3,500,000
CCJWRD Legal Services	\$ 16,860,000	\$ 9,724,216	\$ 7,135,784	\$ 3,750,000	\$ 1,494,282	\$ 3,846,343	\$ 3,900,000
Outreach Costs	\$ 7,000,000	\$ 4,811,508	\$ 2,188,492	\$ 648,000	\$ 612,768	\$ 861,797	\$ 943,000
<b>DA Construction Contingency</b>	<b>\$ 163,900,000</b>	<b>\$ 695,113</b>	<b>\$ 163,204,887</b>	<b>\$ 695,113</b>	<b>\$ 695,113</b>	<b>\$ 695,113</b>	<b>\$ -</b>
System Wide Contingency and P3 Comp Events	\$ 17,600,000	\$ -	\$ 17,600,000	\$ -	\$ -	\$ -	\$ -
Diversion Channel & Assoc. Infrastructure (MOU's & Utilities)	\$ 95,900,000	\$ 695,113	\$ 95,204,887	\$ 695,113	\$ 695,113	\$ 695,113	\$ -
Southern Embankment & Assoc. Infrastructure	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other Mitigation Projects	\$ 2,000,000	\$ -	\$ 2,000,000	\$ -	\$ -	\$ -	\$ -
In-Town Flood Protection	\$ 6,800,000	\$ -	\$ 6,800,000	\$ -	\$ -	\$ -	\$ -
Land Acquisition	\$ 41,600,000	\$ -	\$ 41,600,000	\$ -	\$ -	\$ -	\$ -
<b>3rd Party MOU Mitigation</b>	<b>\$ 153,414,762</b>	<b>\$ 63,528,065</b>	<b>\$ 89,886,697</b>	<b>\$ 56,834,163</b>	<b>\$ 15,022,385</b>	<b>\$ 26,786,092</b>	<b>\$ 31,225,077</b>
Channel - Utility Relocations & Other Mitigations	\$ 35,100,000	\$ 16,749,452	\$ 18,350,548	\$ 21,720,628	\$ 7,167,334	\$ 12,496,124	\$ -
WP-40 Drayton Dam Mitigation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
WP-41 Richland/Wilkin County JPA (During Construction)	\$ 36,000,000	\$ 35,367,605	\$ 632,395	\$ -	\$ -	\$ -	\$ -
WP-46 SEAI / UMA Utility Relos	\$ 27,943,905	\$ 9,447,984	\$ 18,495,921	\$ 14,428,231	\$ 6,746,665	\$ 10,123,170	\$ 10,112,722
WP-47 Contracted Utility Relocations	\$ -	\$ -	\$ -	\$ 1,600,000	\$ -	\$ 990,052	\$ 2,444,925
WP-52 Township & City MOU Agreements	\$ 54,370,858	\$ 1,963,024	\$ 52,407,833	\$ 19,085,304	\$ 1,108,386	\$ 3,176,746	\$ 18,667,430
<b>Net Current Interest / Financing Fees Paid</b>	<b>\$ 75,700,000</b>	<b>\$ 48,940,132</b>	<b>\$ 26,759,868</b>	<b>\$ 6,300,000</b>	<b>\$ 5,281,387</b>	<b>\$ 6,338,742</b>	<b>\$ 6,300,000</b>
<b>P3 Reserve Fund</b>	<b>\$ 16,100,000</b>	<b>\$ -</b>	<b>\$ 16,100,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>WIFIA/ SRF DSRA Funding</b>	<b>\$ 15,100,000</b>	<b>\$ -</b>	<b>\$ 15,100,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>DA Payment to USACE</b>	<b>\$ 70,700,000</b>	<b>\$ 53,159,000</b>	<b>\$ 17,541,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>DA O&amp;M (pre-SC)</b>	<b>\$ 14,900,000</b>	<b>\$ 323,456</b>	<b>\$ 14,576,544</b>	<b>\$ 160,000</b>	<b>\$ 138,330</b>	<b>\$ 160,177</b>	<b>\$ 200,000</b>
<b>Debt Service Total</b>	<b>\$ 330,300,000</b>	<b>\$ 1,603,200</b>	<b>\$ 178,396,800</b>	<b>\$ 864,000</b>	<b>\$ 432,000</b>	<b>\$ 864,000</b>	<b>\$ 864,000</b>
Well Fargo Loan Repayment	\$ 150,300,000	See Note Below	\$ -	\$ -	\$ -	\$ -	\$ -
Temporary Refunding Improvement Bonds Repayment	\$ 180,000,000	\$ 1,603,200	\$ 178,396,800	\$ 864,000	\$ 432,000	\$ 864,000	\$ 864,000
<b>A</b>	<b>\$ 2,892,000,000</b>	<b>\$ 981,774,834</b>	<b>\$ 1,759,925,165</b>	<b>\$ 235,045,542</b>	<b>\$ 97,169,669</b>	<b>\$ 180,459,764</b>	<b>\$ 209,723,127</b>

A-B \$ 1,910,225,165  
 C-(A-B) \$ (150,300,000) Wells Fargo Pay off using TRIBS Loan - thus no actual cost incurred

Funding Sources	FY2024 Budget
Fargo Sales Tax	\$ 44,000,000
Cass County Sales Tax	\$ 22,000,000
Legacy	\$ 112,299,967
SRF	\$ 15,000,000
Reimburements	\$ 25,000
Lease/Rental Payments	\$ 500,000
Asset Sales	\$ 1,000,000
Investment Income	\$ 7,500,000
Miscellaneous	\$ 100,000
Draws from Horace Infrastructure Escrow account	\$ 4,298,160
Draws from BRRWD Escrow account	\$ 3,000,000
<b>Total Sources</b>	<b>\$ 209,723,127</b>