

# Finance Committee Agenda

## Diversion Authority Finance Committee

September 24, 2025 @4:00pm CST

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

1. Call to Order
  - a. Roll call of Members
2. Approve minutes from August 27, 2025  
[Attachment 01.00] (Pg. 3)
3. Approve Order of Agenda
4. Approval of Bills  
[Attachment 02.00] (Pg. 6)
5. Finance Report  
[Attachment 03.00] (Pg. 20 )
6. Cash Budget Report  
[Attachment 04.00] (Pg. 42)
7. Resolution to Assume Planning, Design and Construction of the Sheyenne River Mitigation Project [Attachment 05.00] (Pg. 49)
8. MOUs and Agreements  
[Attachment 06.00] (Pg. 56)
  - a. AP Wireless & MFDA MURA [Attachment 06.01] (Pg. 58)
  - b. AP Wireless & MFDA Defense Agreement [Attachment 06.02] (Pg. 90)
  - c. Cenex & MFDA Mutual Confidentiality Agreement [Attachment 06.03] (Pg. 100)
9. Budget Change Request 022 for Sheyenne River Mitigation Project  
[Attachment 07.00] (Pg. 105)
10. DA Board Approval Contracting Actions  
[Attachment 08.00] (Pg. 106)
  - a. WP-41A Maple River Benching Project Award [Attachment 08.01] (Pg. 108)
  - b. HMG Task Order 101 Amendment 15 [Attachment 08.02] (Pg. 111)
11. Other Business
  - a. 2026 Draft Cash Budget – Version 1  
[Attachment 09.00] (Pg. 115)
12. Next Meeting: October 22, 2025



### 13. Adjournment

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## **MEDIA AND PUBLIC PARTICIPATION INFORMATION**

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

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



# Metro Flood Diversion Authority Finance Committee Meeting Minutes

**4:00 PM – August 27, 2025**

**City of Fargo Commission Chambers**

A regular meeting of the Metro Flood Diversion Authority Finance Committee was held on August 27, 2025. Members present: Dr. Tim Mahoney, Mayor, City of Fargo; Bernie Dardis, Mayor, City of West Fargo; Dave Piepkorn, Fargo City Commissioner; Susan Thompson, Finance Director, City of Fargo; Lori Johnson, Clay County Auditor/Treasurer; Mike Redlinger, Administrator, City of Fargo; Rick Steen, Cass County Joint Water Resource District; Jim Kapitan, Cass County Commissioner; Shelly Carlson, Mayor, City of Moorhead and Mike Rietz, Assistant City Manager, City of Moorhead.

Member(s) absent: Robert Wilson, Interim Cass County Finance Director and Tony Grindberg, Cass County Commissioner.

**1. CALL TO ORDER**

Mayor Dardis called the meeting to order at 4:01 PM. Roll call was taken, and a quorum was present.

**2. APPROVE THE MINUTES FROM THE JULY 2025 MEETING**

**MOTION PASSED**

Mayor Mahoney moved to approve the minutes from the July 2025 meeting and Mr. Piepkorn seconded the motion. On a voice vote, the motion carried.

**3. APPROVE THE ORDER OF THE AGENDA**

**MOTION PASSED**

Mayor Mahoney moved to approve the order of the agenda and Ms. Thompson seconded the motion. On a voice vote, the motion carried.

**4. APPROVAL OF BILLS**

Ms. Thompson reported that the bills payable through August 20, 2025, total \$1,887,247, and are payable to the usual vendors, with Cass County Joint Water Resource District being the largest at \$1,629,626.

**MOTION PASSED**

Mayor Mahoney moved to approve the bills as presented and Mr. Redlinger seconded the motion. On a roll call vote, the motion carried.

**5. FINANCIAL REPORT**

Ms. Thompson reported the total assets as of July 31, 2025, are \$321,005,212; liabilities total \$765,739, and the grand total net position is \$320,239,474.

**MOTION PASSED**

Mr. Piepkorn moved to approve the financial report as presented and Mayor Mahoney seconded the motion. On a voice vote, the motion carried.



**6. CASH BUDGET REPORT**

Mr. Benson reported that the Legacy Funds are winding down and it is anticipated that the first WIFIA draw will begin in September. Milestone payments to the developer in 2025 total \$31,975,191, and it is expected that an additional \$10,000,000, will be paid within the next few months. The contingency fund has been increased by \$20,000,000, to accommodate the Statement of Principles payment parameters to the Developer.

**7. MOUs AND AGREEMENTS**

Mr. Shockley provided an overview and summary of the following Agreement:

**a. MnDOT & MFDA Joint Powers Agreement**

This JPA defines the roles and responsibilities of the Metro Flood Diversion Authority and the Minnesota Department of Transportation for MnDOT facilities and real property interests that are impacted by the Comprehensive Project. In particular, the JPA covers the SEAI crossing of Highway 75 and discusses cleanup and repairs to real property interests held by MnDOT following Comprehensive Project operation. The Authority is responsible for designing, constructing, operating, and maintaining the SEAI crossing. The Authority will reimburse MnDOT for costs incurred during development of the SEAI crossing and for considering reimbursement requests from MnDOT for cleanup and repairs resulting from Comprehensive Project operation.

**MOTION PASSED**

**Mayor Mahoney moved to approve the Agreement as presented and Ms. Thompson seconded the motion. On a roll call vote, the motion carried.**

**8. DA BOARD APPROVAL CONTRACTING ACTIONS**

Mr. Barthel provided an overview and summary of the following contracting actions:

**a. Service Agreement, Amendment 0 – JT Lawn Services & Landscaping, LLC - \$10,000**

Snow Removal Services 2025-2026 – perform snow removal services on Metro Flood Diversion Authority owned properties on an on-call basis. The hourly rate remains the same as the 2024-2025 season.

**b. Task Order 04, Amendment 6 – P3 Observation and Testing Services – Braun Intertec - \$402,880**

This amendment is for construction material testing of Reaches 7, 10 and 11.

**c. Task Order 101, Amendment 14 – Design and Construction Support – Houston-Moore Group, Inc. - \$1,905,000**

This increase reflects increases in both 2025 and 2026 budgets due to design and construction delays in Subtasks 1.0, 2.3, 3.1 4.3 and 5.1. It also includes a slight decrease in 2025 and 2026 budgets for Subtask 4.1 as a result from less than anticipated support for the P3 Design Review and Comment.

**d. Task Order 25, Amendment 0 – Cass County Electric Cooperative, Inc., \$1,470,055**

Reconnect relocated substation – reconnect electric lines to the relocated Oxbow substation located near County Road 14 and I-29.

**e. Service Agreement 2024, Amendment 1 – C Three Media (\$17,595)**

Videography Services – this amendment closes the 2024-2025 services agreement. A new services agreement was approved for 2025-2026. The remaining balance will be returned to the project.

**MOTION PASSED**

**Mayor Mahoney moved to approve all the contracting actions as presented and Mr. Piepkorn seconded the motion. On a roll call vote, the motion carried.**



**9. OTHER BUSINESS**

**a. 2024 Financial Statement Audit Presentation**

Mr. Papenfuss provided the 2024 financial audit report that was conducted by Eide Bailly. Mr. Papenfuss reported that the overall results were very positive and there were no issues that need attention or corrective action.

Eide Bailly rendered the following opinion:

*We have audited the financial statements of the governmental activities and the major fund of the Metro Flood Diversion Authority ("the Authority"), as of and for the year ended December 31, 2024, and the related notes to the financial statements, which collectively comprise the Authority's basic financial statements as listed in the table of contents.*

*In our opinion, the accompanying financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and the major fund of the Metro Flood Diversion Authority as of December 31, 2024, and the respective changes in financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America.*

**10. NEXT MEETING**

The next meeting will be on September 24, 2025.

**11. ADJOURNMENT**

The meeting adjourned at 4:24 PM.



## Finance Committee Bills from September 2025

Vendor	Description		
Ohnstad Twichell, P.C.	Legal services rendered through August 20, 2025	\$	152,409.22
City of Fargo	Reimburse complementary in-town flood projects	\$	101,029.32
Clay County	Diversion bills – Request #57 MCCJPA	\$	30,511.80
Southeast Cass Water Resource District	Reimburse engineering costs related to MOU	\$	24,761.25
Rush River Wate Resource District	Reimburse legal and engineering costs related to MOU	\$	20,609.75
Pleasant Township	Reimburse gravel costs related to MOU	\$	9,029.75
Maple River Water Resource District	Reimburse engineering costs related to MOU	\$	5,106.25
Maple River Water Resource District	Reimburse engineering costs related to MOU	\$	4,458.75
Jodi Smith	Consulting costs August 2025	\$	3,900.00
Cass County	Reimburse misc expenses from Diversion Authority office	\$	1,297.27
Total Bills Received through September 16, 2025		\$	<u>353,113.36</u>



**Attorneys at Law**

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

15-1395 (JTS) Invoice # 0007/205491

Flood Diversion Board  
Bond Counsel Work - PPP

Date: September 11, 2025

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

PROFESSIONAL SERVICES RENDERED			
	Hours	Rate	Totals
JTS	191.6	\$416.00	\$79,705.60
CMM	0.8	\$410.00	\$328.00
LDA	7.2	\$410.00	\$2,952.00
KJS	29.9	\$410.00	\$12,259.00
DCP	1.5	\$410.00	\$615.00
KJM	13.3	\$385.00	\$5,120.50
TJF	11.7	\$300.00	\$3,510.00
ASM	54.0	\$270.00	\$14,580.00
KGB	1.3	\$190.00	\$247.00
AJR	31.6	\$270.00	\$8,532.00
CRR	18.6	\$235.00	\$4,371.00
LDS	0.7	\$235.00	\$164.50
<b>Total Fees:</b>	<b>362.2</b>		<b>\$132,384.60</b>
Postage			\$49.62
Prof Service Fee Gwendolyn			\$19,750.00
Recording Fees			\$225.00
<b>Total Expenses:</b>			<b>\$20,024.62</b>
<b>Grand Total</b>			<b>\$152,409.22</b>

		Rates
JTS	John T. Shockley, Partner, Supervising Attorney	\$416.00
CMM	Christopher M. McShane, Partner	\$410.00
ADC	Andrew D. Cook, Partner	\$410.00
SNW	Sarah M. Wear, Partner	\$410.00
LDA	Lukas D. Andrud, Partner	\$410.00
KJS	Katie J. Schmidt, Partner	\$410.00
MWM	Marshall W. McCullough, Partner	\$410.00
TJL	Tyler J. Leverington, Partner	\$410.00
LWC	Lukas W. Croaker, Partner	\$410.00
BTB	Brent T. Boeddeker, Partner	\$410.00
DCP	David C. Piper, Partner	\$410.00
JRS	J.R. Strom, Partner	\$410.00
ABG	Alexander B. Gruchala, Associate	\$375.00
KJM	Kathryn J. McNamara, Associate	\$385.00
SJH	Stephen J. Hilfer, Associate	\$340.00
TJF	Tiffany J. Findlay, Associate	\$300.00
MAN	Morgan A. Nyquist, Associate	\$300.00
CRM	Cassandra R. Molivigny, Associate	\$270.00
RAK	Roman A. Knudsvig, Associate	\$270.00
ASM	Avi S. Mann, Associate	\$270.00
CA	Camila Almonacid, Law Clerk	\$190.00
KGB	Keigan G. Bannerman, Law Clerk	\$190.00
CAS	Carol A. Stillwell, Paralegal	\$270.00
AJR	Andrea J. Roman, Paralegal	\$270.00
CRR	Christie R. Rust, Paralegal	\$235.00
TWS	Tim W. Steuber, Paralegal	\$235.00
MRH	Meghan R. Hockert, Paralegal	\$235.00
DLR	Dena L. Ranum, Paralegal	\$190.00
ATW	Amy T. White, Paralegal	\$220.00
LDS	Lynne D. Spaeth, Paralegal	\$235.00
DMS	Dawn M. Schaefer, Legal Administrative Assistant	\$160.00

**OHNSTAD TWICHELL, P.C.**

WEST FARGO, NORTH DAKOTA 58078

COST ADVANCES BY US FOR YOUR ACCOUNT, FOR WHICH WE HAVE NOT  
BEEN BILLED, WILL APPEAR ON YOUR NEXT STATEMENT.



## Page 2 of 2

## PROFESSIONAL SERVICES RENDERED

15-1395 JTS Invoice # 0007/205491 Flood Diversion Board		Bond Counsel Work - P3
FILE NUMBER	MATTER DESCRIPTION	INVOICE - TOTAL FEES
151395-1	General Topics	\$40,699.40
151395-4	Public Finance Issues	\$124.80
151395-5	Consultant Contract Review/Development	\$844.40
151395-9	Environmental Permitting Issues/NEPA	
151395-12	USACE Interface/Questions	\$943.00
151395-13	Third Party Utility MOU's	\$27,782.20
151395-17	EPA WIFIA Loan	\$2,292.20
151395-23	PRAM	\$533.30
151395-24	P3 Implementation	\$55,391.50
151395-25	2024 Temporary Bond	\$124.80
151395-27	UMA/Utility Review	\$861.00
151395-30	Dispute Review Board Matters	\$1,248.00
151395-31	2027 Definitive Refunding Improvement Bond	\$1,540.00
<b>TOTAL</b>		<b>\$132,384.60</b>

\*exp only



**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)

September 11, 2025

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 #47. These costs are for work on complementary in-town flood protection projects for costs paid in August 2025. However, the City entered into a cost-sharing MOU with the Fargo Park District for a portion of NR24B. The credit remaining used on this request was \$121,769.85; resulting in \$101,029.32 to be reimbursed by the Diversion Authority.

Project Narrative, this request:

Project Number	Project Description	Amount
BR24C1	WM Rep St RCN	73,379.03
FLDBUY	Flood Buyouts - Property Acquisition Expense	2,204.15
FM21A	Red River Erosion Protection & Bank Stabilization	496.00
FM24A	South University Wall Rep	121,737.49
NR25D	Storm Lift Rehab - #41 & 42	24,982.50
	<b>Total Expense for Period</b>	<b>\$222,799.17</b>
NR24B	Remaining Credit for Cost Sharing MOU with Fargo Park District	-121,769.85
	<b>Amount to be Reimbursed by the Diversion</b>	<b>101,029.32</b>

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

Sincerely,

Wyatt Papenfuss  
Finance Manager



City of Fargo, North Dakota  
Schedule of Complementary In-Town Flood Protection Costs  
August 1, 2025 - August 31, 2025

Project Number	AP Project Description	Account Number	Description	AP Transaction Amount	Payment Number	AP Invoice Number	Payment Date	Vendor Name	Counting Period	Accounting Period	Bookmarked Invoice
BR24C1	WM REP ST RCN-woodcrest	46000002062000	REINAINAGE & RETAINAGE REL	30,512.52	347175	PAY EST #18	08/28/2025	OLD REPUBLIC SURETY COMPANY	8	2025	4
460-0000-206.20-00 - Total				30,512.52							
BR24C1	WM REP ST RCN-woodcrest	46035305107320	CHANGE ORDER 1	2,079.00	347175	PAY EST #18	08/28/2025	OLD REPUBLIC SURETY COMPANY	8	2025	4
BR24C1	WM REP ST RCN-woodcrest	46035305107320	FLOOD MITIGATION	1,650.00	347175	PAY EST #18	08/28/2025	OLD REPUBLIC SURETY COMPANY	8	2025	4
460-3530-510.73-20 - Total				3,729.00							
BR24C1	WM REP ST RCN-woodcrest	46035305107352	FLOOD MITIGATION	450.00	347175	PAY EST #18	08/28/2025	OLD REPUBLIC SURETY COMPANY	8	2025	4
460-3530-510.73-52 - Total				450.00							
BR24C1	WM REP ST RCN-woodcrest	46035305107358	CHANGE ORDER 1	17,555.70	347175	PAY EST #18	08/28/2025	OLD REPUBLIC SURETY COMPANY	8	2025	4
460-3530-510.73-58 - Total				17,555.70							
BR24C1	WM REP ST RCN-woodcrest	46035305107359	FLOOD MITIGATION	6,374.00	347175	PAY EST #18	08/28/2025	OLD REPUBLIC SURETY COMPANY	8	2025	4
460-3530-510.73-59 - Total				6,374.00							
BR24C1	WM REP ST RCN-woodcrest	46035305107366	FLOOD MITIGATION	6,100.00	347175	PAY EST #18	08/28/2025	OLD REPUBLIC SURETY COMPANY	8	2025	4
460-3530-510.73-66 - Total				6,100.00							
BR24C1	WM REP ST RCN-woodcrest	46035305107369	FLOOD MITIGATION	2,617.45	347175	PAY EST #18	08/28/2025	OLD REPUBLIC SURETY COMPANY	8	2025	4
BR24C1	WM REP ST RCN-woodcrest	46035305107369	MISC	6,040.36	347175	PAY EST #18	08/28/2025	OLD REPUBLIC SURETY COMPANY	8	2025	4
460-3530-510.73-69 - Total				8,657.81							
BR24C1 - Total				73,379.03							
FLDBUY	FLOOD ACQUISITION	46035305103325	KESSELRING JOINT TRUST	25.00	347200	32561	08/28/2025	SERKLAND LAW FIRM	8	2025	5
FLDBUY	FLOOD ACQUISITION	46035305103325	JOYCE COLE TRUST	1,194.15	347200	325620	08/28/2025	SERKLAND LAW FIRM	8	2025	5
FLDBUY	FLOOD ACQUISITION	46035305103325	EDNA HOLM	985.00	347200	325622	08/28/2025	SERKLAND LAW FIRM	8	2025	5
460-3530-510.33-25 - Total				2,204.15							
FLDBUY - Total				2,204.15							
FM21A0	FLOOD MIT-RR Erosion Sunv	46035305103305	ENGINEERING SERVICES	496.00	346950	77495	08/21/2025	HOUSTON ENGINEERING INC	8	2025	2
460-3530-510.33-05 - Total				496.00							
FM21A0 - Total				496.00							
FM24A0	FLOOD MIT-S Univ wall rep	46035305103305	FM-24-A0 #2	651.60	347138	3202	08/28/2025	KLJ ENGINEERING, LLC	8	2025	3
460-3530-510.33-05 - Total				651.60							
FM24A0 - Total				651.60							
FM24A1	FLOOD MIT-S Univ wall rep	46000002062000	Retainage and Retainage R	123,285.89	346809	FM24A1 #10 085	08/14/2025	INDUSTRIAL BUILDERS INC	8	2025	1
460-0000-206.20-00 - Total				123,285.89							
FM24A1	FLOOD MIT-S Univ wall rep	46035305107356	Paving	-2,200.00	346809	FM24A1 #10 065	08/14/2025	INDUSTRIAL BUILDERS INC	8	2025	1
460-3530-510.73-56 - Total				-2,200.00							
FM24A1 - Total				121,085.89							
NR25D0	STRM LFT RHAB-#41 & 42	46035305103305	Construction	18,269.25	347293	NR25D0 #5 044	09/04/2025	HOUSTON ENGINEERING INC	8	2025	6
NR25D0	STRM LFT RHAB-#41 & 42	46035305103305	Project Development	6,713.25	347293	NR25D0 #5 052	09/04/2025	HOUSTON ENGINEERING INC	8	2025	6
460-3530-510.33-05 - Total				24,982.50							
NR25D0 - Total				24,982.50							
Overall - Total				222,799.17							

Sep 10, 2025

1

9:20:45 AM





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

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September 16, 2025  
Diversion Authority  
P.O. Box 2806  
Fargo, ND 58108-2806

RE: Metro Flood Diversion Project

Greetings:

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

Metro Flood Diversion Expense	\$30,511.80
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We respectfully request 100% reimbursement as per the Joint Powers Agreement.

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

Sincerely,

Lori J. Johnson  
Clay County Auditor

Enclosures

Clay County Government Center  
3510 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
Forum Communications	7/31/25	certified letters & postage	\$58.20	10072028	8/25/25	8/27/25	571106	9/16/2025
SRF Consulting Group	7/31/25	Prof svc thru 7/31/25	\$10,105.87	13820.00-58	8/25/25	8/27/25	571131	9/16/2025
Marsh & McLennan	9/3/25	mccjpa ins	\$5,102.54	24914	9/8/25	9/10/25	126766	9/16/2025
Marsh & McLennan	9/3/25	mccjpa ins	\$1,132.41	24912	9/8/25	9/10/25	126766	9/16/2025
Ohnstad Twichell	9/2/25	Upstream mitigation	\$7,049.64	205471	9/8/25	9/10/25	571294	9/16/2025
Ohnstad Twichell	9/2/25	eminent domain wilkin	\$2,136.50	205474	9/8/25	9/10/25	571294	9/16/2025
Ohnstad Twichell	9/2/25	eminent domain clay	\$205.00	205473	9/8/25	9/10/25	571294	9/16/2025
Ohnstad Twichell	9/2/25	general	\$1,059.50	205475	9/8/25	9/10/25	571294	9/16/2025
New Century Press	8/15/25	meeting notice	\$7.43	2025-551827	9/12/25	9/17/25	571360	9/16/2025
SRF Consulting Group	8/31/25	prof svc thru 8/31/25	\$3,654.71	13820-00-59	9/15/25	9/17/25	571379	9/16/2025

\$30,511.80





Southeast Cass  
Water Resource  
District

**SENT VIA EMAIL**

Keith Weston  
Chairman  
Fargo, North Dakota

Dave Branson  
Manager  
Fargo, North Dakota

Rick Steen  
Manager  
Fargo, North Dakota

September 3, 2025

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

Greetings:

RE: Metro Flood Diversion Project

Enclosed please find a copy of invoices totaling \$24,761.25 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

*Melissa Hinkemeyer*

Melissa Hinkemeyer  
Director

Enclosure

Melissa Hinkemeyer  
Director, Secretary

Amy Hepper  
Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

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





Rush River  
Water Resource  
District

**SENT VIA EMAIL**

William A. Hejl  
Chairman  
Amenia, North Dakota

September 03, 2025

Dick Sundberg  
Manager  
Harwood, North Dakota

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

Jacob Gust  
Manager  
Fargo, North Dakota

Greetings:

RE: Metro Flood Diversion Project

Enclosed please find a copy of invoices totaling \$20,609.75 regarding the Metro Flood Diversion Project.

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

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

Sincerely,

RUSH RIVER WATER RESOURCE DISTRICT

*Melissa Hinkemeyer*

Melissa Hinkemeyer  
Director, Secretary

Melissa Hinkemeyer  
Director

Amy Hepper  
Treasurer

Enclosure

1201 Main Avenue West  
West Fargo, ND 58078-1301

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



# Invoice

Pleasant Township  
305 7th ST  
Hickson, ND 58047

[illegible]





Maple River  
Water Resource  
District

**SENT VIA EMAIL**

August 22, 2025

Gerald Melvin  
Chairman  
Buffalo, North Dakota

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

Chad Miller  
Manager  
Buffalo, North Dakota

Greetings:

Dallas Hoffmann  
Manager  
Wheatland, North Dakota

RE: Maple River WRD Reimbursements

Enclosed please find a copy of an invoice totaling \$5,106.25 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

*Melissa Hinkemeyer*

Melissa Hinkemeyer  
Director, Secretary

Melissa Hinkemeyer  
Director

Amy Hepper  
Treasurer

Enclosure

1201 Main Avenue West  
West Fargo, ND 58078-1301

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





Maple River  
Water Resource  
District

SENT VIA EMAIL

July 17, 2025

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 \$4,458.75 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

*Melissa Hinkemeyer*

Melissa Hinkemeyer  
Director

Enclosure

Melissa Hinkemeyer  
Director, Secretary

1201 Main Avenue West  
West Fargo, ND 58078-1301

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



# INVOICE

DATE:  
09/01/2025

TO:

Jodi Smith  
2404 Langer Way  
Bismarck, ND 58504  
jodiasmith@me.com  
970-302-0773

INVOICE #  
7

	JOB	PAYMENT TERMS	DUE DATE
Jodi Smith	MFDA Consulting	Due on receipt	09/30/2025

DATE	DESCRIPTION	UNIT PRICE	LINE TOTAL
August	August MFDA Consulting 30 Hours	\$130/HR	\$3,900
		SUBTOTAL	\$3,900
		SALES TAX	0
		TOTAL	\$3,900

MAKE ALL CHECKS PAYABLE TO JODI SMITH  
Thank you for your business!





**INVOICE: INV012069**

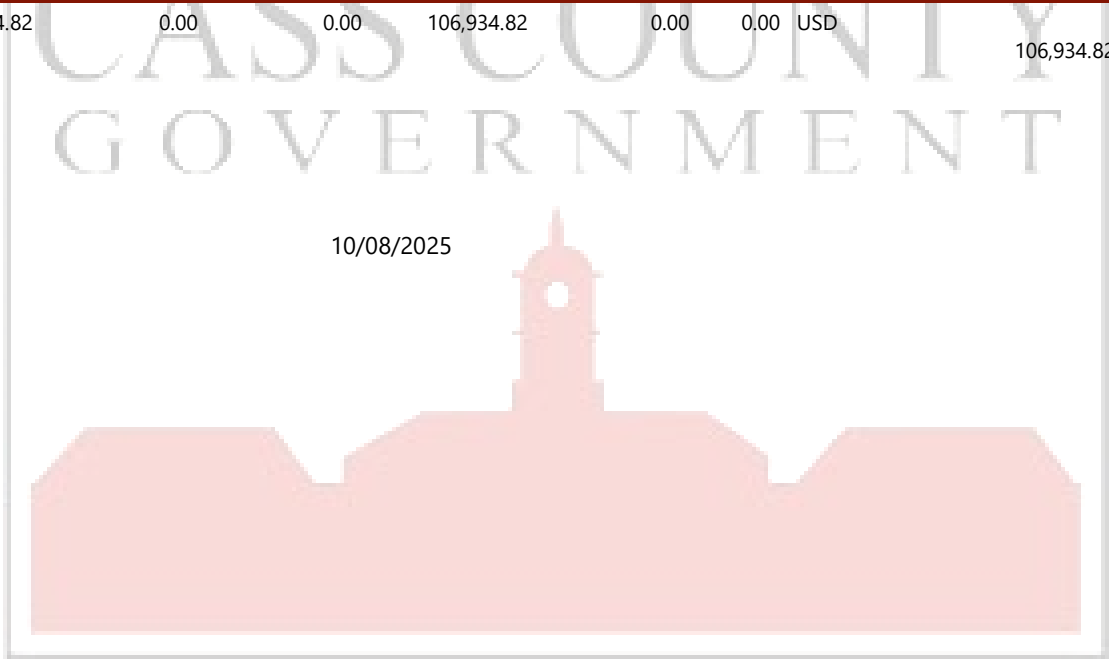
Date09/08/2025  
Invoice account198

CITY OF FARGO  
PO BOX 49  
Fargo, ND

Description	Quantity	Unit price	Amount
DIVERSION- PAYROLL AUGUST 2025	1.00	105,637.55	105,637.55
DIVERSION- MISC EXPENSES	1.00	1,297.27	1,297.27

Sales subtotal amount	Total discount	Total charges	Net amount	Sales tax	Round-off	Currency	Total
106,934.82	0.00	0.00	106,934.82	0.00	0.00	USD	106,934.82

Due date10/08/2025



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:INV012069

Date: 09/08/2025

**Total:** 106,934.82

Name: CITY OF FARGO

Account #: 198

**Due date**10/08/2025



	790: FM Diversion Project Fund							770: Budget Fund				773: Excess Capital Fund			
	2011-2020	2021	2022	2023	2024	2025	Total	2021-2023	2024	2025	Total	2024	2025	Total	Grand Total
Revenues															
City of Fargo	229,263,214	39,900,525	41,606,950	43,281,539	43,640,465	20,134,598	417,827,292		-	-	-	-	-	-	417,827,292
Cass County	238,074,113	20,605,468	20,077,388	21,720,075	21,906,084	10,161,446	332,544,575		-	-	-	-	-	-	332,544,575
State Water Commission	270,967,976	44,928,872	21,249,909				337,146,758		-	-	-	-	-	-	337,146,758
State of ND - Legacy Fund	-	-	105,992,160	129,134,268	134,294,754	66,078,817	435,500,000		-	-	-	-	-	-	435,500,000
State of ND - SRF	-	-	1,272,652	8,316,726	9,745,091	12,569,584	31,904,053		-	-	-	-	-	-	31,904,053
Cass County Joint Water Resource District		28,630,991					28,630,991		-	-	-	-	-	-	28,630,991
Other Agencies	706,805	-					706,805		-	-	-	-	-	-	706,805
City of Oxbow MOU Repayment	2,822,634	122,038					2,944,671		-	-	-	-	-	-	2,944,671
Reimbursements	168,602	52,055	18,930	15,735	19,631		274,953		-	-	-	-	-	-	274,953
Lease/Rental Payments	2,951,681	622,459	743,700	744,622	47,300	815,251	5,925,013		-	-	-	-	-	-	5,925,013
Asset Sales	1,235,569	1,802,265	1,348,132	4,125,699	518,843	990,327	10,020,837		-	-	-	-	-	-	10,020,837
Interest Income	4,790,772	1,011,554	1,377,312	7,208,616	11,807,311	8,007,685	34,203,249		-	-	-	-	-	-	34,203,249
Miscellaneous	4,886	7,336	1,987	70,350	76,997	2,341	163,898	3,320,850	1,665,282	1,113,787	6,099,919	-	-	-	6,263,817
Total Revenues	750,986,254	137,683,563	193,689,120	214,617,631	222,056,477	118,760,050	1,637,793,094	3,320,850	1,665,282	1,113,787	6,099,919	-	-	-	1,643,893,013
Expenditures															
7905 Army Corp Payments	53,159,000	-	-	24,800	-	990,600	54,174,400	-	-	-	-	-	-	-	54,174,400
7910 WIK - Administration	6,125,744	2,650,150	1,994,938	3,221,009	6,053,234	3,195,390	23,240,465	3,249,868	1,462,847	662,947	5,375,663	-	-	-	28,616,128
7915 WIK - Project Design	36,316,433	2,261,337	2,491,982	4,347,833	4,375,148	2,213,046	52,005,779	-	-	-	-	-	-	-	52,005,779
7920 WIK - Project Management	70,718,325	13,629,756	14,935,064	14,936,935	16,269,917	8,689,760	139,179,757	-	-	-	-	-	-	-	139,179,757
7925 WIK - Recreation	278,223	-	-	-	-	-	278,223	-	-	-	-	-	-	-	278,223
7930 LERRDS - North Dakota	275,657,728	42,321,398	53,946,968	73,284,991	51,715,442	13,989,786	510,916,313	-	-	-	-	-	-	-	510,916,313
7931 LERRDS - Minnesota	4,982,754	3,832,050	5,722,668	5,714,157	21,930,147	4,055,037	46,236,813	-	-	-	-	-	-	-	46,236,813
7940 WIK Mitigation - North Dakota	1,022,658	35,279,546	57,777	1,039,229	166,142	77,731	37,643,083	-	-	-	-	-	-	-	37,643,083
7941 WIK Mitigation - Minnesota	-	112,271	357,080	933,799	586,522	577,147	2,566,819	-	-	-	-	-	-	-	2,566,819
7950 Construction - North Dakota	104,100,296	25,488,649	17,899,069	17,767,981	34,006,877	87,028,749	286,291,620	-	-	-	-	-	-	-	286,291,620
7951 Construction - Minnesota	-	-	210,000	669,048	182,594	66,940	1,128,582	-	-	-	-	-	-	-	1,128,582
7952 Construction - O/H/B	33,612,243	2,070,541	646,144	118,976	628,480	36,223	37,112,608	-	-	-	-	-	-	-	37,112,608
7955 Construction Management	11,598,799	180,481	137,041	1,062	5,322	8,776	11,931,481	-	-	-	-	-	-	-	11,931,481
7959 SRF Construction	-	-	5,936,985	7,781,266	16,519,945	3,427,805	33,666,001	-	-	-	-	-	-	-	33,666,001
7980 Operations & Maintenance	190,811	2,971	138,066	83,898	85,983		501,729	-	-	-	-	-	-	-	501,729
7990 Project Financing	48,092,864	14,236,187	9,053,457	9,422,840	12,415,903	9,827,456	103,048,707	-	-	-	-	-	-	-	103,048,707
7995 Project Eligible - Off Formula Costs	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
7999 Non Federal Participating Costs	221,686	-	-	-	-	-	221,686	-	-	-	-	-	-	-	221,686
Total Expenditures	646,077,564	142,065,337	113,527,239	139,347,823	164,941,656	134,184,447	1,340,144,066	3,249,868	1,462,847	662,947	5,375,663	-	-	-	1,345,519,728
Other Financing Sources (Uses)															
Transfers From Other Diversion Funds	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Transfers to Other Diversion Funds	-	659,566	1,250,000	1,395,000	1,650,000	1,100,000	6,054,566	-	-	-	-	-	-	-	6,054,566
Total Other Financing Sources (Uses)	-	659,566	1,250,000	1,395,000	1,650,000	1,100,000	6,054,566	-	-	-	-	-	-	-	6,054,566



**FM Metropolitan Area Flood Risk Management Project**  
**Statement of Net Position**  
**August 31, 2025**

	<b>FM Diversion Project Fund</b>	<b>Budget Fund</b>	<b>Grand Total</b>
<b>Assets</b>			
Cash	\$ 253,584,356	\$ 724,256	\$ 254,308,612
Cash Horace 3.01 MIT	4,524,672	-	4,524,672
Cash BRRWD	9,195,769	-	9,195,769
Cash Held In Trust at BND			
Excess Revenue Fund	725,998	-	725,998
Temp Debt Obligation Fund	2,586,028	-	2,586,028
Authority Loan Fund	297,485	-	297,485
P3 Reserve Fund	16,793,482	-	16,793,482
SRF Loan Reserve Fund	2,379,455		2,379,455
Revenue Fund	3,896		3,896
Prepaid Expense	2,270,319	-	2,270,319
Refundable Deposit	50,000		50,000
<b>Total assets</b>	<b>292,411,460</b>	<b>724,256</b>	<b>293,135,716</b>
<b>Liabilities</b>			
Vouchers payable	662,277	-	662,277
Retainage payable	130,464	-	130,464
Rent Deposit	24,250	-	24,250
<b>Total liabilities</b>	<b>816,991</b>	<b>-</b>	<b>816,991</b>
 <b>NET POSITION</b>	 <b>\$ 291,594,469</b>	 <b>\$ 724,256</b>	 <b>\$ 292,318,725</b>



Summary Of Expenses  
EXP-2025-08

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
770-7910-429.33-37	21/08/2025	346949	HighRoad Partners, LLC	\$600.00	DIVERSION HR SERVICES	V09701	HR SERVICES
Other Services / HR Services				\$600.00			
770-7910-429.34-15	28/08/2025	347090	CONSOLIDATED COMMUNI	\$470.00	ACCT #701-150-0113/0	V00106	EXECUTIVE DIRECTOR
	28/08/2025	347153	Marco Technologies	\$736.00	SRV AGRMNT IT SRVS UPDATE	V10301	SERVICE AGREEMENT - IT
	28/08/2025	347165	Network Center Inc.	\$938.75	IT SRVS AGREEMENT	V13801	IT SERVICE AGREEMENT
Technical Services / Computer Services				\$2,144.75			
770 Subtotal				\$2,744.75			
790-0000-206.10-00	14/08/2025	346827	Linnco, Inc.	\$773.75	Retainage	V14001	TO11-OIN 1093X-5002
	14/08/2025	346865	Schmidt and Sons Inc.	\$8,000.00	Retainage	V03819	TO12-WP38C-OIN 9347
Retainage				\$8,773.75			
790-7910-429.33-25	28/08/2025	347101	DORSEY & WHITNEY LLP	\$16,644.98	LEGAL SRVS JULY 2025	V00101	Dorsey Whitney Legal
Other Services / Legal Services				\$16,644.98			
790-7910-429.34-20	14/08/2025	346751	C THREE MEDIA, LLC	\$4,957.06	VIDEOGRAPHY SERVICES	V08601	VIDEOGRAPHY
	28/08/2025	347164	Neon Loon Communications, LL	\$8,313.75	COMMUNICATIONS SUPPORT	V09601	COMMUNICATIONS SUPPORT
Technical Services / Marketing / Public Relat.				\$13,270.81			
790-7910-429.34-56	25/08/2025	EK08250	City of Fargo	\$18,007.50	FISCAL AGENT FEE - 08/25	V05902	MONTHLY FISCAL AGENT FEE
Technical Services / FMDA Fiscal Agent Fees				\$18,007.50			
790-7910-429.42-05	21/08/2025	346897	Ambassador, Inc.	\$925.00	DIVERSION OFFICE CLEANING	V10501	JANITORIAL SERVICES
Cleaning Services / Custodial Services				\$925.00			
790-7910-429.43-50	07/08/2025	346657	ACONEX (North America) INC	\$154,303.47	ACONEX SRV AGRMNT UPDATE	V01401	8 Year Service Agreement
Repair and Maintenance / Maintenance Service Contract				\$154,303.47			
790-7915-429.33-05	07/08/2025	346603	HOUSTON-MOORE GROUP L	\$228,570.27	MAY 2025 DIV. PROJECTS	V01634	H&H MITIG. & PERMIT SUPPO
	21/08/2025	346951	HOUSTON-MOORE GROUP L	\$205,778.20	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
Other Services / Engineering Services				\$434,348.47			
790-7915-429.38-99	21/08/2025	347025	UNITED STATES GEOLOGIC	\$68,795.00	WATER QUALITY MONITORING	V02203	WATER QUALITY MONITORING
Other Services / Other Services				\$68,795.00			



Summary Of Expenses  
EXP-2025-08

16 September 2025

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7920-429.33-05	07/08/2025	346603	HOUSTON-MOORE GROUP L	\$53,740.25	MAY 2025 DIV. PROJECTS	V01634	H&H MITIG. & PERMIT SUPPO
	21/08/2025	346951	HOUSTON-MOORE GROUP L	\$43,647.64	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
Other Services / Engineering Services				\$97,387.89			
790-7920-429.33-79	28/08/2025	347085	CH2M Hill Engineers Inc	\$461,348.94	PROGRAM MGMT	V00211	CH2M HILL-6/2019-12/2021
	28/08/2025	347085	CH2M Hill Engineers Inc	\$895,375.73	SUPPORT SERVICES	V00212	P3 PROCUREMENT SUPPORT
Other Services / Construction Management				\$1,356,724.67			
790-7930-429.33-05	07/08/2025	346603	HOUSTON-MOORE GROUP L	\$3,382.50	MAY 2025 DIV. PROJECTS	V01634	H&H MITIG. & PERMIT SUPPO
	21/08/2025	346891	ADVANCED ENGINEERING I	\$125,450.26	DIVERSION PROJECT	V00302	PROGRAM MGMT SERVICES
	21/08/2025	346951	HOUSTON-MOORE GROUP L	\$112,548.50	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
Other Services / Engineering Services				\$241,381.26			
790-7930-429.33-47	21/08/2025	347013	Jodi Smith	\$12,000.00	JULY MRDA CONSULTING	V13701	LAND ACQUISITION CONSULTIN
Other Services / Consulting Services				\$12,000.00			
790-7930-429.33-79	28/08/2025	347085	CH2M Hill Engineers Inc	\$4,497.89	PROPERTY ACQUISITION	V00210	CH2M HILL-LAND ACQUISITON
Other Services / Construction Management				\$4,497.89			
790-7930-429.52-70	21/08/2025	347032	Watts and Associates, Inc.	\$19,056.68	CROP INS DEVELOPMENT SERV	V06901	CROP INSURANCE DEVELOPMN
Insurance / Crop Insurance				\$19,056.68			
790-7930-429.62-51	21/08/2025	346908	Cass County Electric Cooperativ	\$113.00	ACCT #1184422 ENERGY	V01701	ND LAND PURCH-OUT OF TOWN
Energy / Electricity				\$113.00			
790-7930-429.71-30	27/08/2025	EK08250	5214Y - CASS COUNTY JOIN	\$7,227.00	RECLASS DIVERSION LAND	V01701	ND LAND PURCH-OUT OF TOWN
Land / Land Purchases				\$7,227.00			



Summary Of Expenses  
EXP-2025-08

16 September 2025

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7930-429.73-20	07/08/2025	346606	INDUSTRIAL BUILDERS INC	\$139,600.00	WP-38C PROP. MITIG. #36	V06011	TO06 - WP38C OIN 1112
	14/08/2025	346865	Schmidt and Sons Inc.	\$17,155.00	PROP STRUCTURE MITIGATION	V03819	TO12-WP38C-OIN 9347
	21/08/2025	346952	INDUSTRIAL BUILDERS INC	\$23,305.00	PROPERTY MITIGATION	V06013	TO8 - WP38C OIN 818X 820
	21/08/2025	346952	INDUSTRIAL BUILDERS INC	\$8,570.00	PROPERTY MITIGATION	V06010	TO36-WP38C OIN 1898
	21/08/2025	347010	Schmidt and Sons Inc.	\$29,825.00	PROPERTY MITIGATION	V03818	TO04-WP38C-OIN 1665
	21/08/2025	347010	Schmidt and Sons Inc.	\$84,200.00	PROPERTY MITIGATION	V03820	TO 07 - OIN 2010
	21/08/2025	347010	Schmidt and Sons Inc.	\$246,164.00	PROPERTY MITIGATION	V03825	TO35-WP38C-OIN1236
	21/08/2025	347010	Schmidt and Sons Inc.	\$91,494.00	BALLAST REMOVAL	V03827	TO46-WP38C-BALLAST REMOVE
	28/08/2025	347129	HOUGH INC	\$191,886.50	PROPERTY MITIGATION	V13601	TO23-WP38C OIN 840
Infrastructure / Site Improvements				\$832,199.50			
790-7930-429.73-70	14/08/2025	346827	Linnco, Inc.	\$42,925.00	PROP STRUCTURE MITIGATION	V14001	TO11-OIN 1093X-5002
Infrastructure / Utilities				\$42,925.00			
790-7931-429.71-30	27/08/2025	EK08250	1879N - MOORHEAD CLAY C	\$1,000.00	RECLASS DIVERSION LAND	V02301	MN LAND PURCHASES
Land / Land Purchases				\$1,000.00			
790-7940-429.33-06	28/08/2025	347075	BRAUN INTERTEC CORP	\$11,116.50	TESTING SRVS	V00407	TASK ORDER #5
Other Services / Quality Testing				\$11,116.50			
790-7940-429.34-50	05/09/2025	JH082500	City of Horace	\$29.18	AUG 25 DIVIDEND/ADMIN FEE	V11602	HORACE-ESCROW PFM FEES
Technical Services / Investment Management Svc				\$29.18			
790-7941-429.34-50	05/09/2025	JH082500	BUFFALO-RED RIVER WATE	\$42.10	AUG 25 INT/ADMIN FEES	V08304	BRRWD-ESCROW PFM FEES
Technical Services / Investment Management Svc				\$42.10			
790-7950-429.33-05	21/08/2025	346951	HOUSTON-MOORE GROUP L	\$13,325.20	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
	04/09/2025	347357	MOORE ENGINEERING INC	\$2,936.25	RRWRD REQ#24 MEI INV	V08801	RUSH RIVER-DRAIN EXPENSE
	04/09/2025	347357	MOORE ENGINEERING INC	\$2,746.80	RRWRD REQ# 24 MEI	V08801	RUSH RIVER-DRAIN EXPENSE
	04/09/2025	347357	MOORE ENGINEERING INC	\$9,133.00	RRWRD REQ# 24 MEI INV	V08801	RUSH RIVER-DRAIN EXPENSE
Other Services / Engineering Services				\$28,141.25			
790-7950-429.33-06	28/08/2025	347075	BRAUN INTERTEC CORP	\$16,027.50	BNSF RAILROAD ENV. SRVS	V00405	ENVIRO. CONSULTING SERV
Other Services / Quality Testing				\$16,027.50			



Summary Of Expenses  
EXP-2025-08

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7950-429.41-05	07/08/2025	346569	Cass Rural Water	\$33.43	CRW DIV. INLET JUNE	V05006	DIVERSION INLET UTILITY
	28/08/2025	347083	Cass Rural Water	\$30.11	CRW DIVERSION INLET JULY	V05006	DIVERSION INLET UTILITY
Utility Services / Water and Sewer				\$63.54			
790-7950-429.73-52	06/08/2025	EK08250	Red River Valley Alliance LLC	\$29,781,551.20	WIRE PMT FOR MILESTONE	V11402	MILESTONE PAYMENTS
	18/08/2025	EK08250	Red River Valley Alliance LLC	\$22,323,604.80	RECORD WIRE MILESTONE PMT	V11402	MILESTONE PAYMENTS
	18/08/2025	EK08250	Red River Valley Alliance LLC	\$7,211,620.80	RECORD WIRE MILSTONE PMT	V11402	MILESTONE PAYMENTS
Infrastructure / Flood Control				\$59,316,776.80			
790-7950-429.73-70	21/08/2025	346909	Cass Rural Water	\$38,087.49	WATER TO 15 N PLEASANT	V05022	TO15 - N. PLEASANT CEMETERY
	21/08/2025	347035	XCEL ENERGY-FARGO	\$39,557.66	UTILITY LINE RELOCATION	V07704	TO1-MONTICELLO-BISON TRAN
	28/08/2025	347083	Cass Rural Water	\$5,276.51	CASS RURAL WATER TO #9	V05016	TO 9 - WP38C DISCONNECTS
Infrastructure / Utilities				\$82,921.66			
790-7952-429.33-05	21/08/2025	346951	HOUSTON-MOORE GROUP L	\$11,481.50	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
Other Services / Engineering Services				\$11,481.50			
790-7955-429.33-05	21/08/2025	346951	HOUSTON-MOORE GROUP L	\$247.50	DIVERSION PROJECT	V02827	IN TOWN LEVY MAINTENANCE
Other Services / Engineering Services				\$247.50			
790-7990-429.33-05	21/08/2025	346951	HOUSTON-MOORE GROUP L	\$57,690.58	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
Other Services / Engineering Services				\$57,690.58			
790-7990-429.33-25	04/09/2025	347365	Swanson & Warcup	\$3,690.00	PROF. SRVS SWANSON & WARC	V14501	LEGAL SERVICES
Other Services / Legal Services				\$3,690.00			
790-7990-429.34-57	28/08/2025	20947	BANK OF NORTH DAKOTA	\$18,007.50	BND TRUSTEE FEE 7/2025	V08502	MONTHLY TRUSTEE FEE
Technical Services / FMDA Trustee Fees BND				\$18,007.50			
790-7990-429.34-59	04/09/2025	347341	P3 Collaborative LLC, Christoph	\$5,170.00	CHRIS KANE TDRB	V14301	TECHNICAL DISPUTE BOARD
Technical Services / Outside Consultant				\$5,170.00			
790-7998-555.90-81	25/08/2025	EK08250	Diversion Admin Budget Transfe	\$0.00	ANNUAL ADMIN BDGT TRF-AUG	VADMIN	Diversion Administration
FMDA Admin. Budget Fund				\$0.00			
790 Subtotal				\$62,880,987.48			



Summary Of Expenses

EXP-2025-08

16 September 2025

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
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Total Amount Invoiced this period:	\$62,883,732.23	
	\$8,773.75	Less Paid Retainage
	\$62,874,958.48	Total Less Paid Retainage



Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
LAND PURCHASE	\$437,654,446.12	\$437,654,446.12	\$0.00	Land Purchase
CH2M HILL ENGINEERS INC	\$169,823,404.31	\$138,746,008.54	\$31,077,395.77	Project & Construction Management
RED RIVER VALLEY ALLIANCE LLC	\$109,699,531.26	\$109,699,531.26	\$0.00	P3 Developer payments
HOUSTON-MOORE GROUP LLC	\$98,627,631.93	\$82,048,958.13	\$16,578,673.80	Engineering Services
INDUSTRIAL BUILDERS INC	\$67,419,354.76	\$66,837,270.26	\$582,084.50	2nd St N Pump Station Project and 2nd St Floodwall, South of Pu
ARMY CORP OF ENGINEERS	\$54,174,400.00	\$54,174,400.00	\$0.00	Local Share
NORTH DAKOTA PUBLIC FINANCE AUTHORIT	\$49,551,760.00	\$49,551,760.00	\$0.00	Debt Service
KEY CONTRACTING INC	\$36,679,385.73	\$36,679,385.73	\$0.00	Flood Protection Services
RICHLAND-WILKIN JPA	\$35,000,000.00	\$35,000,000.00	\$0.00	Economic Impact Relief Fund
OHNSTAD TWICHELL PC	\$27,688,265.33	\$27,688,265.33	\$0.00	Legal Services
MEYER CONTRACTING	\$19,244,280.80	\$19,244,280.80	\$0.00	WP-43CD and Gatewell - PVD & Surcharge Installation
INDUSTRIAL CONTRACT SERVICES INC	\$18,419,743.64	\$18,419,743.64	\$0.00	4th St Pump Station and 2nd Street Floodwall
ADVANCED ENGINEERING INC	\$16,046,097.25	\$14,916,763.89	\$1,129,333.36	Lands Management and Public Outreach
DORSEY & WHITNEY LLP	\$14,024,635.82	\$14,024,635.82	\$0.00	Legal Services
WELLS FARGO	\$11,607,080.05	\$11,607,080.05	\$0.00	Debt Service
DAKOTA UNDERGROUND	\$11,141,625.69	\$11,141,625.69	\$0.00	Utility Relocation
LANDSCAPES UNLIMITED	\$11,007,612.78	\$11,007,612.78	\$0.00	Golf Course Construction - Oxbow Country Club
OKEEFE, OBRIAN, LYSON & FOSS LTD	\$9,962,512.68	\$9,962,512.68	\$0.00	FLDBUY - COF Flood Home Buyouts
CITY OF FARGO	\$8,917,497.86	\$8,911,859.11	\$5,638.75	Utility Relocation, Accounting Svcs, Interest on Deficit Funds
CASS COUNTY JOINT WATER RESOURCE DI	\$8,916,503.76	\$8,916,503.76	\$0.00	O/H/B Ring Levee, DPAC, Postage, Miscellaneous
MOORE ENGINEERING INC	\$8,676,259.49	\$6,995,332.55	\$1,680,926.94	Engineering Services
HOUSTON ENGINEERING INC	\$7,566,664.49	\$7,566,664.49	\$0.00	Engineering Services
CASS RURAL WATER	\$7,268,494.07	\$7,189,851.10	\$78,642.97	Utilities and Utility Relocation
SCHMIDT AND SONS INC.	\$6,416,254.98	\$5,602,888.43	\$813,366.55	Residential Demolition in Oxbow
ASHURST LLP	\$6,352,853.01	\$6,352,853.01	\$0.00	PPP Legal Counsel
SRF CONSULTING GROUP	\$6,341,707.43	\$3,917,475.72	\$2,424,231.71	Engineering Services
CASS COUNTY GOVERNMENT	\$6,128,721.30	\$6,128,721.30	\$0.00	Gravel on County Rd 17 Bypass
NUSTAR PIPELINE OPERATING PARTNERSHIP	\$5,867,251.62	\$5,867,251.62	\$0.00	Utility Relocation



*Cumulative Vendor Payments Since Inception (Paid Only)*

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
BRAUN INTERTEC CORP	\$5,717,050.56	\$3,314,063.76	\$2,402,986.80	Materials Testing
MINNKOTA POWER COOPERATIVE	\$5,536,919.68	\$1,698,465.67	\$3,838,454.01	Utility Relocation
ERNST & YOUNG	\$5,377,000.00	\$5,082,525.00	\$294,475.00	P3 Financial Advisory Services
SELLIN BROS INC	\$4,487,126.94	\$4,487,126.94	\$0.00	Riverwood Flood Risk Project - Construction
CASS COUNTY ELECTRIC COOPERATIVE	\$4,384,479.49	\$3,589,610.05	\$794,869.44	Electrical Services
XCEL ENERGY-FARGO	\$4,004,762.30	\$2,920,153.30	\$1,084,609.00	Utility Relocation
PROSOURCE TECHNOLOGIES, INC	\$3,873,908.66	\$3,557,364.40	\$316,544.26	Land Acquisition Services
CENTURYLINK COMMUNICATIONS	\$3,710,251.78	\$3,710,251.68	\$0.10	Utility Relocation
RILEY BROS	\$3,656,841.67	\$3,656,841.67	\$0.00	Construction - OHB Ring Levee & WP-28A
RED RIVER VALLEY & WESTERN RAILROAD C	\$3,589,388.46	\$3,589,388.46	\$0.00	Railroad Facilities and the Rail Property
BNSF RAILWAY CO	\$3,585,747.80	\$3,585,747.80	\$0.00	Permits for In-Town Levee Projects
AON RISK SERVICES CENTRAL INC	\$3,508,446.49	\$3,429,509.99	\$78,936.50	Risk Advisory Services P3 Pre-Award
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
PROGRAM ADVISOR SERVICES, LLC	\$2,977,982.87	\$2,734,540.39	\$243,442.48	Program Consulting Services
CROWN APPRAISALS	\$2,972,730.00	\$2,623,030.00	\$349,700.00	Flowage Easements Valuation and Appraisal Services
MAGELLAN PIPELINE	\$2,852,375.85	\$2,852,375.85	\$0.00	Utility Relocation
HDR ENGINEERING, INC.	\$2,671,901.12	\$2,205,444.45	\$466,456.67	Engineering Services
MINNESOTA DNR	\$2,636,755.60	\$2,617,681.40	\$19,074.20	EIS Scoping and Permit Application
MASTER CONSTRUCTION CO INC	\$2,417,372.64	\$2,417,372.64	\$0.00	Flood Mitigation - Royal Oaks Area - Construction
OXBOW, CITY OF	\$2,383,317.16	\$2,383,317.16	\$0.00	OXBOW MOU - LAND ADVANCE
EXCAVATING INC - FARGO	\$2,328,298.24	\$2,328,298.24	\$0.00	Excavation and Utilities
LANDWEHR CONSTRUCTION INC	\$2,304,622.16	\$2,304,622.16	\$0.00	In-Town and WP-43 Demolition Contracts
HOUGH INC	\$2,299,556.83	\$2,280,719.33	\$18,837.50	Construction WP-42F.2 and Oxbow River Intake & Pumping Syst
ACONEX (NORTH AMERICA) INC	\$2,194,655.43	\$2,039,939.46	\$154,715.97	Electronic Data Mgmt and Record Storage System
URS CORPORATION	\$1,805,670.90	\$1,805,670.90	\$0.00	Cultural Resources Investigations
AECOM	\$1,692,603.43	\$1,380,755.41	\$311,848.02	Cultural Resources Investigations
REINER CONTRACTING INC	\$1,599,646.21	\$1,599,646.21	\$0.00	El Zagal Flood Risk Management



Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
CASS COUNTY TREASURER	\$1,582,695.56	\$1,582,695.56	\$0.00	Property Taxes
ULTEIG ENGINEERS INC	\$1,540,037.09	\$1,493,586.09	\$46,451.00	Land Acquisition Services
WAGNER CONSTRUCTION INC.	\$1,417,840.62	\$1,417,840.62	\$0.00	Utility Relocation
BANK OF NORTH DAKOTA	\$1,358,289.35	\$1,358,289.35	\$0.00	Legal review fees
UNITED STATES GEOLOGICAL SURVEY	\$1,343,840.00	\$887,465.00	\$456,375.00	Water Level Discharge Collection & Stage Gage Installation
LARKIN HOFFMAN ATTORNEYS	\$1,306,394.56	\$1,306,394.56	\$0.00	Legal Services
US BANK	\$1,205,546.13	\$1,205,546.13	\$0.00	Loan Advance Debt Service Payments
ANKURA CONSULTING GROUP LLC	\$1,157,597.56	\$1,157,597.56	\$0.00	Scheduling Services
CONSOLIDATED COMMUNICATIONS	\$1,089,609.17	\$1,089,609.17	\$0.00	Utility Relocation
CITY OF HORACE	\$1,080,012.56	\$1,080,012.56	\$0.00	Infrastructure Fund
KPH, INC.	\$1,025,640.12	\$1,025,640.12	\$0.00	WP-43D5 Construction
CLERK OF DISTRICT COURT	\$939,044.32	\$939,044.32	\$0.00	FLDBUY - COF Flood Home Buyouts
LINNCO, INC.	\$934,355.77	\$792,403.11	\$141,952.66	House Demo and Removal
TERRACON CONSULTING ENGINEERS	\$890,924.41	\$890,924.41	\$0.00	Materials Testing
SBA COMMUNICATIONS	\$851,648.91	\$851,648.91	\$0.00	Utility Relocation
JT LAWN SERVICE LLC	\$843,285.10	\$479,477.00	\$363,808.10	Mowing and weed control
SPRINT COMMUNICATIONS COMPANY L.P.	\$812,034.58	\$812,034.58	\$0.00	Fiber Optic Relocation
COMPASS LAND CONSULTANTS, INC	\$804,820.00	\$643,189.43	\$161,630.57	Property Appraisal Services
UNITED STATES ENVIRONMENTAL PROTECTI	\$799,086.35	\$799,086.35	\$0.00	WIFIA LOAN APPLCATION FEE
BORDER STATES PAVING, INC	\$762,980.64	\$762,980.64	\$0.00	Street repairs
RED RIVER VALLEY COOPERATIVE ASSOC	\$759,075.26	\$666,397.62	\$92,677.64	Electricity - Home Buyouts
CC STEEL, LLC	\$755,550.09	\$755,550.09	\$0.00	Lift Station Improvements
DAKOTA CARRIER NETWORK	\$727,348.58	\$727,348.58	\$0.00	Utility Relocation
CLAY COUNTY AUDITOR	\$704,233.05	\$704,233.05	\$0.00	Property Taxes - MN
PATCHIN MESSNER VALUATION COUNSELORS	\$687,462.50	\$526,383.75	\$161,078.75	Property Appraisal Services
ERIK R JOHNSON & ASSOCIATES	\$686,572.23	\$686,572.23	\$0.00	Legal Services
C THREE MEDIA, LLC	\$685,639.35	\$528,636.41	\$157,002.94	Videography Services
NORTHERN IMPROVEMENT COMPANY	\$682,385.59	\$682,385.59	\$0.00	CR-17 asphalt paving



*Cumulative Vendor Payments Since Inception (Paid Only)*

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
APEX ENGINEERING GROUP INC	\$670,280.12	\$670,280.12	\$0.00	Engineering
NEON LOON COMMUNICATIONS, LLC	\$666,006.80	\$566,678.12	\$99,328.68	Communications Support
METROPOLITAN COUNCIL OF GOVERNMENTS	\$637,390.01	\$637,390.01	\$0.00	Digital Aerial Photography
NDSU BUSINESS OFFICE-BOX 6050	\$606,145.00	\$606,145.00	\$0.00	Ag Risk Study Services
LTP ENTERPRISES INC.	\$605,472.00	\$605,472.00	\$0.00	Test Holes and Test Well Drilling
DUCKS UNLIMITED	\$587,180.00	\$587,180.00	\$0.00	Wetland Mitigation Credits
AT&T	\$586,269.60	\$586,269.60	\$0.00	Utility Relocation
RJ ZAVORAL & SONS INC.	\$579,297.51	\$0.00	\$579,297.51	Raymond Township Mobility Improvements
MIDCONTINENT COMMUNICATIONS	\$566,425.77	\$531,170.41	\$35,255.36	Utility Relocation
RED RIVER BASIN COMMISSION	\$501,000.00	\$501,000.00	\$0.00	Retention Projects - Engineering Services
HOFFMAN & MCNAMARA CO.	\$491,334.67	\$491,334.67	\$0.00	General Landscaping and Planting (WP-42G)
BUFFALO-RED RIVER WATERSHED DISTRICT	\$484,469.31	\$484,469.31	\$0.00	Retention Projects - Engineering Services
WATTS AND ASSOCIATES, INC.	\$460,000.00	\$441,646.84	\$18,353.16	Crop insurance product development services
RICK ELECTRIC INC	\$455,200.00	\$455,200.00	\$0.00	Riverwood Flood Risk Project - Electrical
TINJUM APPRAISAL COMPANY, INC.	\$443,600.00	\$252,600.00	\$191,000.00	Property Appraisal Services
ROBERT TRENT JONES	\$440,431.73	\$440,431.73	\$0.00	Oxbow MOU - Golf Course Consulting Agreement
BEAVER CREEK ARCHAEOLOGY	\$396,970.25	\$396,970.25	\$0.00	Engineering Services
MOODYS INVESTORS SERVICE, INC.	\$382,375.00	\$382,375.00	\$0.00	WIFIA loan fees
MBA	\$380,636.36	\$380,636.36	\$0.00	Golf course and pump house - Oxbow Country Club
DAWSON INSURANCE AGENCY	\$362,065.41	\$362,065.41	\$0.00	Property Insurance - Home Buyouts
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
KLJ ENGINEERING, LLC	\$314,693.05	\$314,693.05	\$0.00	Lift Station 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



Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
TURMAN & LANG	\$277,139.55	\$277,139.55	\$0.00	Legal Services
JR FERCHE INC.	\$277,004.58	\$277,004.58	\$0.00	Water System Improvements
FUSION AUTOMATION INC.	\$269,698.82	\$269,698.82	\$0.00	Electrical
PLEASANT TOWNSHIP	\$267,686.99	\$267,686.99	\$0.00	Building Permit Application
702 COMMUNICATIONS	\$266,892.07	\$266,892.07	\$0.00	Utility Relocation
CDM SMITH INC.	\$255,000.00	\$5,514.38	\$249,485.62	Financial Dispute Resolution Board
FORUM COMMUNICATIONS	\$249,662.78	\$249,662.78	\$0.00	Advertising Services
PR FOR GOOD, INC	\$242,482.28	\$242,482.28	\$0.00	Communications Support Services
FREDRIKSON & BYRON, PA	\$241,881.28	\$241,881.28	\$0.00	Lobbying Services
GRAY PANNELL & WOODWARD LLP	\$231,300.68	\$231,300.68	\$0.00	Legal Services
GA GROUP, PC	\$228,229.32	\$228,229.32	\$0.00	Government Relations
WILLIAM D. SCEPANIAK, INC.	\$226,235.21	\$226,235.21	\$0.00	ROADWAY RESHAPING & AGGREGATE SURFACING
SERKLAND LAW FIRM	\$210,428.06	\$210,428.06	\$0.00	Legal services
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
HOLY CROSS TOWNSHIP	\$188,000.00	\$188,000.00	\$0.00	MOU payments
RED RIVER COMMUNICATIONS	\$181,365.42	\$181,365.42	\$0.00	Fiber Relocation
MAPLETON, CITY OF	\$179,605.00	\$97,082.13	\$82,522.87	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
LANDVEST, INC.	\$160,000.00	\$0.00	\$160,000.00	Appraisal services
EIDE BAILLY LLP	\$156,171.00	\$151,894.32	\$4,276.68	Audit Services
SUN ELECTRIC INC.	\$148,238.00	\$148,238.00	\$0.00	Lift Station Electrical Services
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



Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
DAILY NEWS	\$143,075.16	\$143,075.16	\$0.00	Advertising Services
MLGC	\$142,052.49	\$142,052.49	\$0.00	Utility Relocation
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
MARCO TECHNOLOGIES	\$135,554.72	\$126,242.41	\$9,312.31	IT Services
FUGRO USA LAND, INC.	\$130,396.52	\$130,396.52	\$0.00	Digital Aerial Photography
BALLARD SPAHR	\$121,500.00	\$121,500.00	\$0.00	Fiscal Agent
SENTRY SECURITY, INC.	\$121,212.85	\$121,212.85	\$0.00	Security Services
AFFINITEXT INC	\$118,630.00	\$80,966.26	\$37,663.74	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
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
WARREN TOWNSHIP	\$101,604.72	\$101,604.72	\$0.00	SEEDING, ROAD REPAIR, DUST CONTROL

156 Vendors      Report Totals:    \$1,408,883,451.26    \$1,341,030,709.37    \$67,852,741.89



### 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>431</b>	<b>267</b>	<b>131</b>	<b>92%</b>	<b>33</b>	<b>\$1,673,857</b>
BIOGEO	300	266	1	89%	33	\$900,422
HC	131	1	130	100%	0	\$773,435
<b>CHANNEL</b>	<b>720</b>	<b>500</b>	<b>217</b>	<b>100%</b>	<b>3</b>	<b>\$99,122,854</b>
DA_MOB_HORACE	4	2	0	50%	2	\$0
ENV	1	0	0	0%	1	\$0
HC	267	50	217	100%	0	\$3,568,166
LAP01	114	114	0	100%	0	\$7,872,311
LAP02	96	96	0	100%	0	\$13,519,297
LAP03	81	81	0	100%	0	\$23,021,827
LEGACY	157	157	0	100%	0	\$51,141,254
<b>DOWNSTREAM</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>Habitat Improvem</b>	<b>23</b>	<b>10</b>	<b>8</b>	<b>78%</b>	<b>5</b>	<b>\$119,984</b>
ENV	5	5	0	100%	0	\$0
Habitat_Shey	10	5	0	50%	5	\$119,984
HC	8	0	8	100%	0	\$0
<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



Data Through Date: 29 August 2025

**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>SEAILAND</b>	<b>536</b>	<b>474</b>	<b>52</b>	<b>98%</b>	<b>10</b>	<b>\$102,217,204</b>
DRAIN 27	43	43	0	100%	0	\$23,877,374
HC	60	8	52	100%	0	\$466,033
LEGACY	138	138	0	100%	0	\$24,413,660
SE_I29	6	6	0	100%	0	\$2,990,158
SE-1	20	20	0	100%	0	\$6,259,028
SE-1B	6	6	0	100%	0	\$4,276
SE-2A	11	11	0	100%	0	\$3,978,681
SE-2B	84	84	0	100%	0	\$13,278,000
SE-3	14	14	0	100%	0	\$1,078,007
SE-4	70	63	0	90%	7	\$10,716,370
SE-5	24	21	0	88%	3	\$974,621
SE-INLET	8	8	0	100%	0	\$2,952,107
SE-RRCS	37	37	0	100%	0	\$7,707,431
SE-WRCS	10	10	0	100%	0	\$438,958
WP43B	5	5	0	100%	0	\$3,082,500
<b>Sheyenne Mitigatio</b>	<b>10</b>	<b>1</b>	<b>0</b>	<b>10%</b>	<b>9</b>	<b>\$3,000</b>
SheyMit	10	1	0	10%	9	\$3,000
<b>WP36</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>100%</b>	<b>0</b>	<b>\$2,750</b>
WRDAM	2	2	0	100%	0	\$2,750
<b>WP38</b>	<b>1,050</b>	<b>452</b>	<b>376</b>	<b>79%</b>	<b>222</b>	<b>\$138,843,591</b>
HC	380	4	376	100%	0	\$1,283,123
LEGACY	5	5	0	100%	0	\$457,563
UMA	579	438	0	76%	141	\$137,009,819
UMA-C	59	2	0	3%	57	\$0
UMA-W	14	3	0	21%	11	\$93,086
UMA-W2	13	0	0	0%	13	\$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>49</b>	<b>4</b>	<b>80%</b>	<b>13</b>	<b>\$37,850,061</b>
HC	4	0	4	100%	0	\$0
LEGACY	6	6	0	100%	0	\$18,014,935
WP42	56	43	0	77%	13	\$19,835,126



### 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>WP43</b>	<b>267</b>	<b>121</b>	<b>146</b>	<b>100%</b>	<b>0</b>	<b>\$80,370,769</b>
Non-OIN Hard Land Cost	0	0	0	0%	0	\$22,598,547
HC	147	1	146	100%	0	\$500
LEGACY	6	6	0	100%	0	\$3,589,519
WP43A	1	1	0	100%	0	\$0
WP43B	11	11	0	100%	0	\$2,505,237
WP43C	74	74	0	100%	0	\$45,142,769
WP43D	14	14	0	100%	0	\$5,271,226
WP43D5	5	5	0	100%	0	\$1,175,055
WP43G	9	9	0	100%	0	\$87,915
<b>Totals</b>	<b>3,253</b>	<b>1,884</b>	<b>952</b>	<b>87%</b>	<b>417</b>	<b>\$460,252,993</b>



**FM Metropolitan Area Flood Risk Management Project**  
**Lands Expense - Life To Date**  
**As of August 31, 2025**

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>		4,302,787.22	-	-	-	4,302,787.22
<b>Easements - Piezometer</b>		259,765.00	-	-	-	259,765.00
<b>Easements - Minnesota</b>		1,542,370.79	-	-	-	1,542,370.79
<b>Farmland Purchases</b>		325,163,482.79	-	5,109,571.44	(19,798,339.89)	182,939,584.22



**FM Metropolitan Area Flood Risk Management Project**  
**Lands Expense - Life To Date**  
**As of August 31, 2025**

Property Address	Purchase Date	Purchase Price	Earnest Deposit	Relocation Assistance	Sale Proceeds	Total
<b>Land Purchases</b>		189,904,165.20	-	2,563,701.41	(9,555,282.39)	182,939,584.22
That part of the Northwest Quarter of Section 16, Township 137 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota	1/30/2025	718,704.29				
That part of the NE 1/4 of Section 5 in Township 137 North of Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota	1/30/2025	431,999.39				
Part of the Southeast quarter (SE1/4) of Section 26, Township 137 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota	4/24/2025	1,275,344.43				
A certain tract of land situated in the Southwest Quarter (SW1/4) of Section 34 Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows: Commencing at a point which is 926 feet East of the Southwest corner of the Southwest Quarter of Section 34, and which point is the true point of beginning of the tract hereinafter described; thence North and parallel to the West section line of Section 34 a distance of 445 feet; thence East and parallel to the South section line of Section 34 a distance of 587 feet; thence South and parallel to the West section line of Section 34 a distance of 445 feet, more or less, to the South section line of Section 34; thence West and along the South section line a distance of 587 feet, more or less, to the point of beginning.	4/24/2025	1,000.00				
		389,998,462.22	-	39,880,699.23	(20,176,047.76)	409,703,113.69
				<b>Property Management Expense</b>		10,943,874.57
				<b>Grand Total</b>	<b>\$</b>	<b>420,646,988.26</b>



**FM Metropolitan Area Flood Risk Management Project**  
**In-Town Levee Work**  
**as of August 31, 2025**

<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	\$ 406,921.54	\$ 406,921.54
V02823	Hoffman & McNamara	WP-42G General Landscaping and Planting	\$ 491,334.67	\$ 491,334.67
V02824	City of Fargo	COF – In-Town Flood Protection Debt Payments	\$ 42,050,175.00	\$ 42,050,175.00
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
			<u>\$ 193,138,327.72</u>	<u>\$ 191,920,888.21</u>



Legacy Bond Fund Balance Report  
As of 08/31/2025

Total Authorized \$ 435,500,000.00

Current Allocation \$ 435,500,000.00

Available funds remaining \$ -

Funds Requested						
	2021	2022	2023	2024	2025	Total
January	\$ -	\$ 2,942,906.60	\$ 9,981,188.76	\$ 6,088,699.53	\$ 7,591,501.50	\$ 26,604,296.39
February	\$ -	\$ 4,564,036.17	\$ 8,921,227.42	\$ 9,838,208.63	\$ 5,372,470.13	\$ 28,695,942.35
March	\$ -	\$ 5,302,899.35	\$ 17,730,945.56	\$ 14,687,498.12	\$ 17,503,738.94	\$ 55,225,081.97
April	\$ -	\$ 1,472,504.37	\$ 11,046,323.21	\$ 5,988,392.71	\$ 7,896,954.93	\$ 26,404,175.22
May	\$ -	\$ 1,450,140.38	\$ 4,548,883.57	\$ 12,454,283.82	\$ 6,424,778.04	\$ 24,878,085.81
June	\$ -	\$ 4,423,864.76	\$ 14,466,204.50	\$ 5,422,661.00	\$ 6,699,273.15	\$ 31,012,003.41
July	\$ -	\$ 2,663,992.40	\$ 3,974,515.98	\$ 21,445,843.31	\$ 24,006,527.81	\$ 52,090,879.50
August	\$ 5,059,974.19	\$ 13,491,974.29	\$ 13,633,750.92	\$ 8,503,630.42		\$ 40,689,329.82
September	\$ 2,970,327.95	\$ 8,406,666.33	\$ 965,586.18	\$ 6,578,118.55		\$ 18,920,699.01
October	\$ 6,089,707.34	\$ 4,618,116.80	\$ 23,248,333.49	\$ 9,048,118.93		\$ 43,004,276.56
November	\$ 6,415,461.09	\$ 11,768,061.46	\$ 8,921,783.21	\$ 13,053,267.13		\$ 40,158,572.89
December	\$ 6,854,966.95	\$ 17,496,559.97	\$ 11,695,525.26	\$ 11,769,604.90		\$ 47,816,657.08
Total	\$ 27,390,437.51	\$ 78,601,722.88	\$ 129,134,268.06	\$ 124,878,327.05	\$ 75,495,244.50	\$ 435,500,000.00

Funds Received						
May 2022	\$ 27,390,437.51					\$ 27,390,437.51
Jul 2022		\$ 12,809,842.12				\$ 12,809,842.12
Sep 2022		\$ 7,346,509.51				\$ 7,346,509.51
Dec 2022		\$ 29,180,749.82				\$ 29,180,749.82
Jan 2023			\$ 29,264,621.43			\$ 29,264,621.43
Apr 2023			\$ 18,902,416.18			\$ 18,902,416.18
Aug 2023			\$ 47,792,356.84			\$ 47,792,356.84
Nov 2023			\$ 18,573,853.08			\$ 18,573,853.08
Feb 2024				\$ 43,865,641.96		\$ 43,865,641.96
May 2024				\$ 30,614,406.28		\$ 30,614,406.28
Jun 2024				\$ 18,442,676.53		\$ 18,442,676.53
Aug 2024				\$ 20,891,430.30		\$ 20,891,430.30
Sep 2024				\$ 10,260,000.00		\$ 10,260,000.00
Oct 2024				\$ 10,798,822.98		\$ 10,798,822.98
Dec 2024				\$ 9,048,118.93		\$ 9,048,118.93
Dec 2024				\$ 13,053,267.13		\$ 13,053,267.13
Jan 2025				\$ 11,769,605.10		\$ 11,769,605.10
Mar 2025				\$ 7,385,444.15		\$ 7,385,444.15
Mar 2025				\$ 206,057.35		\$ 206,057.35
Apr 2025				\$ 5,372,470.13		\$ 5,372,470.13
Apr 2025				\$ 17,503,738.94		\$ 17,503,738.94
May 2025				\$ 7,896,954.93		\$ 7,896,954.93
Jun 2025				\$ 6,424,778.04		\$ 6,424,778.04
Jul 2025				\$ 6,699,272.95		\$ 6,699,272.95
Aug 2025				\$ 24,006,527.81		\$ 24,006,527.81
						\$ -
Total	\$ 27,390,437.51	\$ 49,337,101.45	\$ 114,533,247.53	\$ 156,974,364.11	\$ 87,264,849.40	\$ 435,500,000.00



State Revolving Fund (SRF) Status Report  
As of 08/31/2025

Total Authorized	\$	51,634,000.00
Funds Received to Date	\$	31,904,053.23
Available Balance Remaining	\$	19,729,946.77

Funds Requested			
Draw Request Number	Period Covered	Amount	Date Submitted
1	12-Aug through 17-Oct-2022	\$ 1,272,651.90	19-Dec-22
2	09-Dec through 16-Dec-2022	\$ 2,125,033.67	17-Jan-23
3	03-Feb through 10-Feb-2023	\$ 2,539,298.51	03-Apr-23
4	11-Feb through 30-Apr. 2023	\$ 1,600,122.00	25-Jul-23
5	11-July through 28-Sept. 2023	\$ 2,052,271.94	24-Oct-23
6	11-July through 28-Sept. 2023	\$ 2,731,423.54	07-Feb-24
7	1-Nov 2023 through 31-Jan. 2024	\$ 1,112,125.48	23-May-24
8	1-Jan 2024 through 31-May 2024	\$ 2,561,881.66	25-Jul-24
9	1-June 2024 through 30-June 2024	\$ 1,217,202.33	26-Aug-24
10	1-July 2024 through 31-July 2024	\$ 187,381.78	26-Sep-24
11	1-July 2024 through 31-July 2024	\$ 1,935,077.29	26-Sep-24
12	1-July 2024 through 31-July 2024	\$ 6,413,118.48	20-Dec-24
13	1-Nov 2024 through 31-Dec 2024	\$ 2,273,331.00	25-Feb-25
14	1-Nov 2024 through 31-May 2025	\$ 3,883,134.33	16-Jul-25
15			
		\$ 31,904,053.91	

Funds Received			
Draw Request Number	Period Covered	Amount	Date Received
1	12-Aug through 17-Oct-2022	\$ 1,272,651.90	23-Dec-22
2	09-Dec through 16-Dec-2022	\$ 2,125,033.67	10-Feb-23
3	03-Feb through 10-Feb-2023	\$ 2,539,298.51	21-Apr-23
4	11-Feb through 30-Apr. 2023	\$ 1,600,121.65	21-Aug-23
5	11-July through 28-Sept. 2023	\$ 2,052,271.94	08-Nov-23
6	11-July through 28-Sept. 2023	\$ 2,731,423.54	22-Feb-24
7	1-Nov 2023 through 31-Jan. 2024	\$ 1,112,125.48	06-Jun-24
8	1-Jan 2024 through 31-May 2024	\$ 2,561,881.66	26-Aug-24
9	1-June 2024 through 30-June 2024	\$ 1,217,202.33	25-Sep-24
10	1-July 2024 through 31-July 2024	\$ 187,381.78	14-Oct-24
11	1-July 2024 through 31-July 2024	\$ 1,935,077.29	07-Nov-24
12	1-July 2024 through 31-July 2024	\$ 6,413,118.48	21-Jan-25
13	1-Nov 2024 through 31-Dec 2024	\$ 2,273,331.00	02-Jul-25
14	1-Nov 2024 through 31-May 2025	\$ 3,883,134.00	11-Aug-25
Total		\$ 31,904,053.23	



City of Fargo  
Comparative Sales Tax Analysis of All Sales Tax Revenue - ACCRUAL BASIS  
PB: SS/KAC (prior to 2022)

7/22/2025			94% to MFDA 6% to County				at 2% Sales Tax		62.5% MFDA (1.25% tax)		37.5% COF (.75%) tax COF		MFDA - ANNUAL	
Pymt Date	month collected		Amount	County Collections	County Growth %			Amount	City Collections	City Growth %				
				10,810,049.09	-1.4%	10,161,446	648,603		32,215,357.38	-3.1%	20,134,598	12,080,759	30,296,045	
8/21/2025	Jun-25	Cass County	2,270,466.69				City of Fargo	6,430,316.85						
7/22/2025	May-25	Cass County	2,053,576.19				City of Fargo	5,994,905.70						
6/20/2025	Apr-25	Cass County	1,616,213.54				City of Fargo	4,805,564.00						
5/21/2025	Mar-25	Cass County	1,698,986.33				City of Fargo	5,424,656.49						
4/23/2025	Feb-25	Cass County	1,477,568.31				City of Fargo	4,523,059.23						
3/21/2025	Jan-25	Cass County	1,693,238.03				City of Fargo	5,036,855.11						
2/21/2025	Dec-24	Cass County	2,207,030.88	23,304,345.12	0.9%	21,906,084	1,398,261	City of Fargo	6,626,714.99	69,824,744.71	0.8%	43,640,465	26,184,279	65,546,550
1/21/2025	Nov-24	Cass County	2,281,112.22					City of Fargo	6,540,733.39					
12/20/2024	Oct-24	Cass County	1,764,529.62					City of Fargo	5,342,358.63					
11/22/2024	Sept-24	Cass County	2,257,740.11					City of Fargo	6,622,406.84					
10/21/2024	Aug-24	Cass County	2,088,361.27					City of Fargo	6,284,633.45					
9/21/2024	July-24	Cass County	1,746,626.42					City of Fargo	5,168,111.30					
8/21/2024	June-24	Cass County	2,659,707.17					City of Fargo	7,859,913.01					
7/22/2024	May-24	Cass County	1,348,902.41					City of Fargo	4,252,926.43					
6/24/2024	Apr-24	Cass County	1,759,660.73					City of Fargo	5,404,517.72					
5/21/2024	Mar-24	Cass County	2,276,388.27					City of Fargo	6,980,911.25					
4/22/2024	Feb-24	Cass County	1,023,591.77					City of Fargo	3,163,097.74					
3/21/2024	Jan-24	Cass County	1,890,694.25					City of Fargo	5,578,419.96					
2/22/2024	Dec-24	Cass County	2,781,114.42	23,106,462.71	8.2%	21,720,075	1,386,388	City of Fargo	8,158,464.07	69,250,461.96	4.0%	43,281,539	25,968,923	65,001,614
1/22/2024	Nov-24	Cass County	1,559,305.60					City of Fargo	4,709,032.00					
12/20/2023	Oct-24	Cass County	1,916,009.28					City of Fargo	5,684,255.33					
11/22/2023	Sep-24	Cass County	2,480,655.78					City of Fargo	7,615,211.78					
10/21/2023	Aug-24	Cass County	1,509,750.17					City of Fargo	4,530,239.98					
9/20/2023	Jul-24	Cass County	2,012,131.70					City of Fargo	6,030,106.74					
8/20/2023	Jun-24	Cass County	2,337,746.99					City of Fargo	6,739,403.04					
7/21/2023	May-24	Cass County	1,873,134.11					City of Fargo	5,735,919.99					
6/21/2023	Apr-24	Cass County	2,076,304.07					City of Fargo	6,368,293.95					
5/21/2023	Mar-24	Cass County	1,528,002.65					City of Fargo	4,619,852.76					
4/22/2023	Feb-24	Cass County	1,455,198.19					City of Fargo	4,544,116.43					
3/19/2023	Jan-24	Cass County	1,577,109.75					City of Fargo	4,515,565.89					
2/22/2023	Dec-22	Cass County	2,331,087.61	21,358,922.89	-2.6%	20,077,388	1,281,535	City of Fargo	7,015,548.33	66,571,120.26	4.3%	41,606,950	24,964,170	61,684,338
1/24/2023	Nov-22	Cass County	1,892,168.21					City of Fargo	5,746,351.94					
12/21/2022	Oct-22	Cass County	1,904,586.17					City of Fargo	5,637,286.90					
11/22/2022	Sep-22	Cass County	1,828,464.08					City of Fargo	5,282,124.95					
10/21/2022	Aug-22	Cass County	1,905,477.39					City of Fargo	5,697,578.75					
9/20/2022	Jul-22	Cass County	2,321,971.24					City of Fargo	7,149,286.78					
8/20/2022	Jun-22	Cass County	1,816,911.33					City of Fargo	5,066,525.72					
7/21/2022	May-22	Cass County	1,811,968.57					City of Fargo	5,388,350.10					
6/21/2022	Apr-22	Cass County	1,971,576.35					City of Fargo	6,059,165.61					
5/21/2022	Mar-22	Cass County	1,526,674.55					City of Fargo	4,461,738.30					
4/22/2022	Feb-22	Cass County	613,842.16					City of Fargo	4,850,989.43					
3/19/2022	Jan-22	Cass County	1,434,195.23					City of Fargo	4,216,173.45					
2/22/2022	Dec-21	Cass County	2,471,070.77	21,920,710.74	31.1%	20,605,468	1,315,243	City of Fargo	7,455,248.61	63,840,810.53	29.9%	39,900,507	23,940,304	60,505,975
1/25/2022	Nov-21	Cass County	1,587,312.19					City of Fargo	4,653,877.92					
12/21/2021	Oct-21	Cass County	2,245,078.73					City of Fargo	6,847,607.38					
11/22/2021	Sep-21	Cass County	1,578,911.41					City of Fargo	4,305,274.70					
10/21/2021	Aug-21	Cass County	1,846,222.17					City of Fargo	4,948,174.14					
9/20/2021	Jul-21	Cass County	1,941,367.18					City of Fargo	5,563,279.08					
8/20/2021	Jun-21	Cass County	1,928,026.98					City of Fargo	5,794,768.26					
7/21/2021	May-21	Cass County	2,134,078.28					City of Fargo	6,292,906.78					
6/21/2021	Apr-21	Cass County	1,247,864.18					City of Fargo	3,423,096.66					
5/21/2021	Mar-21	Cass County	1,924,292.66					City of Fargo	5,462,536.61					
4/22/2021	Feb-21	Cass County	1,588,269.26					City of Fargo	4,766,421.14					
3/19/2021	Jan-21	Cass County	1,428,216.93					City of Fargo	4,327,619.25					
2/22/2021	Dec-20	Cass County	1,445,794.87	16,719,327.13	0.3%	15,716,168	1,003,160	City of Fargo	4,232,187.56	49,146,842.57	-5.0%	30,716,777	18,430,066	46,432,944
1/25/2021	Nov-20	Cass County	1,587,940.99					City of Fargo	4,492,863.04					
12/21/2020	Oct-20	Cass County	1,630,976.65					City of Fargo	4,999,947.66					
11/23/2020	Sep-20	Cass County	1,396,321.95					City of Fargo	3,952,605.63					
10/21/2020	Aug-20	Cass County	1,694,006.82					City of Fargo	4,276,558.28					
9/22/2020	Jul-20	Cass County	1,467,915.93					City of Fargo	4,382,459.17					
8/21/2020	Jun-20	Cass County	1,605,095.72											





# Diversion Authority Finance Committee Meeting

September 24, 2025

**Cash Budget Report – August 2025**



# Annual Revenue Status

Revenue Sources	2025 Approved Budget (Thousands)	Current Month (Thousands)	Fiscal Year To Date (Thousands)
City of Fargo Sales Tax	\$44,250	\$4,019	\$28,364
Cass County Sales Tax	\$22,250	\$2,134	\$14,380
State of ND - Legacy Bond Fund Draws	\$87,265	\$24,007	\$87,265
State of ND - SRF	\$15,000	\$3,883	\$12,569
Financing Proceeds	\$7,500	\$899	\$9,724
WIFIA Draws	\$234,000	\$0	\$0
Reimbursements	\$25	\$0	\$0
Sales of Assets	\$1,000	\$7	\$990
Property Income	\$500	\$3	\$822
Miscellaneous	\$100	\$0	\$0
BRRWD Escrow Account	\$2,000	\$0	\$0
Horace Infrastructure Escrow Account	\$4,435	\$0	\$0
MIT Inter-Fund Transfers	\$0	\$140	\$975
Cash on Hand	\$29,231	\$0	\$0
<b>Total Revenue Sources</b>	<b>\$447,556</b>	<b>\$35,092</b>	<b>\$155,089</b>



# Overall Status – Level 1 Summary

Data Through Date: 29 August 2025

Schedule Budget Categories (Non-Federal Work)	OVERALL PROGRAM FINANCIAL PLAN (\$MM)			CURRENT FISCAL YEAR		
	Program EAC	Actual Cost to Date	Program ETC	FY 2025 Budget	FY 2025 Cost	FY Remaining
CHANNEL / P3	\$96.4	\$76.9	\$19.5	\$12,588,000	\$8,823,094	\$3,764,906
MILESTONE PAYMENTS TO THE DEVELOPER	\$867.0	\$92.5	\$774.5	\$233,655,150	\$91,291,967	\$142,363,183
OTHER MITIGATION / CONSTRUCTION	\$39.5	\$36.7	\$2.8	\$0	\$0	\$0
ND / MN RIVER STAGE 37' PROJECTS	\$213.3	\$185.0	\$28.3	\$26,500,000	\$8,590,826	\$17,909,174
LANDS AND IMPACTED PROPERTY MITIGATION	\$571.7	\$527.4	\$44.3	\$54,387,500	\$19,735,683	\$34,651,817
ENGINEERING & DESIGN FEES	\$98.5	\$70.6	\$27.9	\$9,680,000	\$5,711,107	\$3,968,893
PROG. MANAGEMENT/LEGAL/FINANCIAL/PROCUREMENT	\$165.4	\$129.5	\$35.9	\$17,926,000	\$8,447,936	\$9,478,064
DA CONSTRUCTION CONTINGENCY	\$163.9	\$19.5	\$144.4	\$20,444,850	\$10,353,210	\$10,091,640
3RD PARTY MOU MITIGATION	\$153.4	\$82.5	\$70.9	\$59,309,189	\$4,813,287	\$54,495,902
NET CURRENT INTEREST / FINANCING FEES PAID	\$75.7	\$62.3	\$13.4	\$6,540,000	\$5,671,378	\$868,622
P3 RESERVE FUND	\$16.1	\$0.0	\$16.1	\$0	\$0	\$0
WIFIA/ SRF DSRA FUNDING	\$15.1	\$0.0	\$15.1	\$0	\$0	\$0
DA PAYMENT TO USACE	\$70.7	\$53.2	\$17.5	\$0	\$0	\$0
DA O&M (PRE-SC)	\$14.9	\$0.5	\$14.4	\$325,000	\$126,488	\$198,512
DEBT TRANSFERS TOTAL	\$330.3	\$8.9	\$171.1	\$6,200,000	\$3,105,000	\$3,095,000
<b>Report Totals</b>	<b>\$2,892.0</b>	<b>\$1,345.5</b>	<b>\$1,396.2</b>	<b>\$447,555,689</b>	<b>\$166,669,978</b>	<b>\$280,885,711</b>



# Overall Status – Level 2 Detail

Data Through Date: 29 August 2025

Schedule Budget Categories (Non-Federal Work)	Program Level (Millions)			Fiscal Year		
	Financial Plan	Cost to Date	Balance Remaining	FY Budget 2025	Cost to Date	Balance Remaining
<b>Program Execution</b>						
Channel / P3	\$96.40	\$76.90	\$19.50	\$12,588,000	\$8,823,094	\$3,764,906
Management, Legal, Financial, Procurement P3	\$96.40	\$76.90	\$19.50	\$12,588,000	\$8,823,094	\$3,764,906
Milestone Payments to the Developer	\$867.05	\$92.54	\$774.51	\$233,655,150	\$91,291,967	\$142,363,183
Milestone Payments to the Developer	\$865.80	\$91.29	\$774.51	\$233,655,150	\$91,291,967	\$142,363,183
Non-Contingency Change Events	\$1.25	\$1.25	\$0.00	\$0	\$0	\$0
Other Mitigation / Construction	\$39.51	\$36.67	\$2.84	\$0	\$0	\$0
WP-26 Diversion Inlet	\$0.07	\$0.07	\$0.00	\$0	\$0	\$0
WP-27 Red River - West Embankment	\$0.00	\$0.00	\$0.00	\$0	\$0	\$0
WP-28 - Cass County Road 16 and 17 Bridge	\$1.90	\$1.62	\$0.28	\$0	\$0	\$0
WP-29 Red River - East Embankment	\$0.00	\$0.00	\$0.00	\$0	\$0	\$0
WP-30 Wild Rice River Control Structure	\$0.00	\$0.00	\$0.00	\$0	\$0	\$0
WP-31 I-29 Grade Raise	\$3.20	\$2.86	\$0.34	\$0	\$0	\$0
WP-35 Red River Control Structure	\$0.00	\$0.00	\$0.00	\$0	\$0	\$0
WP-43 Oxbow-Hickson-Bakke	\$31.04	\$28.95	\$2.09	\$0	\$0	\$0
WP-50 Phase II Demo	\$3.30	\$3.18	\$0.12	\$0	\$0	\$0
ND / MN River Stage 37' Projects	\$213.30	\$185.03	\$28.27	\$26,500,000	\$8,590,826	\$17,909,174
WP-42 In-Town Levees	\$91.00	\$90.48	\$0.52	\$0	\$0	\$0
Fargo- River Stage 37' Projects	\$107.30	\$94.55	\$12.75	\$26,500,000	\$8,590,826	\$17,909,174
Clay County - River Stage 37' Projects	\$6.00	\$0.00	\$6.00	\$0	\$0	\$0
Cass County - River stage 37' Projects	\$9.00	\$0.00	\$9.00	\$0	\$0	\$0
Lands and Impacted Property Mitigation	\$571.70	\$527.38	\$44.32	\$54,387,500	\$19,735,683	\$34,651,817
Management, Legal, Financial, Procurement Lands	\$69.55	\$53.24	\$16.31	\$6,150,000	\$3,052,418	\$3,097,582
Diversion Channel & Assoc. Infrastructure	\$100.62	\$99.24	\$1.39	\$0	(\$3,500)	\$3,500
Southern Embankment & Assoc. Infrastructure	\$71.68	\$61.01	\$10.67	\$12,000,000	\$19,620	\$11,980,380
Mitigation & Assoc. Infrastructure	\$106.01	\$104.24	\$1.78	\$211,000	\$22,967	\$188,033
WP-38 Upstream Staging	\$184.84	\$171.64	\$13.20	\$36,026,500	\$16,644,178	\$19,382,322
In-Town Flood Protection	\$39.00	\$38.02	\$0.98	\$0	\$0	\$0



# Overall Status – Level 2 Detail

Data Through Date: 29 August 2025

Schedule Budget Categories (Non-Federal Work)	Program Level (Millions)			Fiscal Year		
	Financial Plan	Cost to Date	Balance Remaining	FY Budget 2025	Cost to Date	Balance Remaining
<b>Non-Construction</b>						
Engineering & Design Fees	\$98.50	\$70.60	\$27.90	\$9,680,000	\$5,711,107	\$3,968,893
Management, Legal, Financial, Procurement	\$39.47	\$31.16	\$8.31	\$8,650,000	\$5,226,564	\$3,423,436
Work-In-Kind Programs (WIK) Studies	\$17.13	\$15.09	\$2.04	\$675,000	\$251,017	\$423,983
Indicative Design	\$7.19	\$7.13	\$0.06	\$0	\$0	\$0
Land, Easements, ROW, Relocation & Disposal Areas	\$0.47	\$0.46	\$0.01	\$0	\$0	\$0
Permitting	\$7.84	\$5.20	\$2.65	\$5,000	\$0	\$5,000
Certification	\$0.05	\$0.00	\$0.05	\$0	\$0	\$0
FMDA Detention Funding	\$3.00	\$0.72	\$2.28	\$0	\$0	\$0
Other Mitigation Projects	\$23.35	\$10.84	\$12.51	\$350,000	\$233,527	\$116,473
Prog. Management/Legal/Financial/Procurement	\$165.43	\$129.53	\$35.90	\$17,926,000	\$8,447,936	\$9,478,064
Program Management Costs	\$103.23	\$80.90	\$22.33	\$8,124,000	\$5,647,556	\$2,476,444
Diversion Authority Operations	\$11.47	\$6.37	\$5.10	\$1,702,000	\$783,750	\$918,250
Program Financial Services	\$6.52	\$3.39	\$3.13	\$200,000	\$213	\$199,787
DA Legal Services	\$20.35	\$20.33	\$0.02	\$2,500,000	\$784,126	\$1,715,874
CCJWRD Legal Services	\$16.86	\$12.69	\$4.17	\$4,690,000	\$937,942	\$3,752,058
Outreach Costs	\$7.00	\$5.86	\$1.14	\$710,000	\$294,348	\$415,652
DA Construction Contingency	\$163.90	\$19.50	\$144.40	\$20,444,850	\$10,353,210	\$10,091,640
System Wide and P3 Comp Events Contingency	\$95.90	\$17.16	\$78.74	\$20,344,850	\$10,344,850	\$10,000,000
Diversion Channel & Assoc. Infrastructure (MOU's & Utilities) Contingency	\$17.60	\$0.00	\$17.60	\$0	\$0	\$0
Other Mitigation Projects Contingency	\$2.00	\$0.00	\$2.00	\$0	\$0	\$0
In-Town Flood Protection Contingency	\$6.80	\$2.34	\$4.46	\$100,000	\$8,360	\$91,640
Land Acquisition Contingency	\$41.60	\$0.00	\$41.60	\$0	\$0	\$0



# Overall Status – Level 2 Detail

Data Through Date: 29 August 2025

Schedule Budget Categories (Non-Federal Work)	Program Level (Millions)			Fiscal Year		
	Financial Plan	Cost to Date	Balance Remaining	FY Budget 2025	Cost to Date	Balance Remaining
<b>Stakeholder Coordination</b>						
3rd Party MOU Mitigation	\$153.41	\$82.53	\$70.89	\$59,309,189	\$4,813,287	\$54,495,902
Channel - Utility Relocations & Other Mitigation	\$28.71	\$19.67	\$9.04	\$125,000	\$71,021	\$53,979
WP-40 Drayton Dam Mitigation	\$0.00	\$0.00	\$0.00	\$0	\$0	\$0
WP-41 Future Stream Mitigation - Surrounding Counties	\$36.00	\$35.37	\$0.63	\$450,000	\$0	\$450,000
WP-46 SEAI / UMA Utility Relos	\$27.94	\$17.30	\$10.65	\$14,699,403	\$3,776,946	\$10,922,457
WP-47 Contracted Utility Relocations	\$9.39	\$4.03	\$5.36	\$5,685,000	\$0	\$5,685,000
WP-52 Township & City MOU Agreements	\$51.37	\$6.17	\$45.20	\$38,349,786	\$965,320	\$37,384,466
<b>Financing</b>						
Net Current Interest / Financing Fees Paid	\$75.70	\$62.27	\$13.43	\$6,540,000	\$5,671,378	\$868,622
Net Current Interest / Financing Fees Paid	\$75.70	\$62.27	\$13.43	\$6,540,000	\$5,671,378	\$868,622
P3 Reserve Fund	\$16.10	\$0.00	\$16.10	\$0	\$0	\$0
P3 Reserve Fund	\$16.10	\$0.00	\$16.10	\$0	\$0	\$0
WIFIA/ SRF DSRA Funding	\$15.10	\$0.00	\$15.10	\$0	\$0	\$0
WIFIA/ SRF DSRA Funding	\$15.10	\$0.00	\$15.10	\$0	\$0	\$0
DA Payment to USACE	\$70.70	\$53.16	\$17.54	\$0	\$0	\$0
DA Payment to USACE	\$70.70	\$53.16	\$17.54	\$0	\$0	\$0
DA O&M (pre-SC)	\$14.90	\$0.53	\$14.37	\$325,000	\$126,488	\$198,512
DA O&M (pre-SC)	\$14.90	\$0.53	\$14.37	\$325,000	\$126,488	\$198,512
Debt Transfers Total	\$330.30	\$8.90	\$171.10	\$6,200,000	\$3,105,000	\$3,095,000
Debt Transfers Total WF	\$150.30	\$0.00	\$0.00	\$0	\$0	\$0
Debt Transfers Total TRIBR	\$180.00	\$8.90	\$171.10	\$6,200,000	\$3,105,000	\$3,095,000
<b>Report Totals</b>	<b>\$2,892.00</b>	<b>\$1,345.53</b>	<b>\$1,396.17</b>	<b>\$447,555,689</b>	<b>\$166,669,978</b>	<b>\$280,885,711</b>



# Diversion Authority Operations – Budget Summary

Expense Category	FY2025 Budget	Cost to Date	Remaining Budget
Salary	\$1,154,188	\$622,463	\$531,725
Benefits	\$326,612	\$195,831	\$130,781
Office	\$82,200	\$43,246	\$38,954
Other	\$87,000	\$32,350	\$54,650
Totals *	\$1,650,000	\$893,889	\$756,111

\* Includes pending costs



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**RESOLUTION AUTHORIZING THE METRO FLOOD DIVERSION AUTHORITY TO  
ASSUME PLANNING, DESIGN, AND CONSTRUCTION OF THE SHEYENNE RIVER  
MITIGATION PROJECT (SRMP) AND AUTHORIZING THE EXECUTIVE  
DIRECTOR AND GENERAL COUNSEL TO NEGOTIATE AN AMENDMENT TO THE  
PROJECT PARTNERSHIP AGREEMENT (PPA) BETWEEN THE DEPARTMENT OF  
THE ARMY AND THE CITY OF FARGO, NORTH DAKOTA, THE CITY OF  
MOORHEAD, MINNESOTA, AND THE METRO FLOOD DIVERSION AUTHORITY**

of the

**METRO FLOOD DIVERSION AUTHORITY**

Adopted on September 25, 2025

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Drafted by:  
John T. Shockley  
Ohnstad Twichell, P.C.  
P.O. Box 458  
West Fargo, North Dakota 58078



Member \_\_\_\_\_ introduced the following resolution and moved for its adoption:

**RESOLUTION AUTHORIZING THE METRO FLOOD DIVERSION AUTHORITY TO ASSUME PLANNING, DESIGN AND CONSTRUCTION OF THE SHEYENNE RIVER MITIGATION PROJECT (SRMP) AND AUTHORIZING THE EXECUTIVE DIRECTOR AND GENERAL COUNSEL TO NEGOTIATE AN AMENDMENT TO THE PROJECT PARTNERSHIP AGREEMENT (PPA) BETWEEN THE DEPARTMENT OF THE ARMY AND THE CITY OF FARGO, NORTH DAKOTA, THE CITY OF MOORHEAD, MINNESOTA, AND THE METRO FLOOD DIVERSION AUTHORITY**

**WHEREAS**, the Metro Flood Diversion Authority (the “Diversion Authority”) was established by five member entities through the execution of the Joint Powers Agreement (the “JPA”) dated June 1, 2016 for the purpose of executing the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the “Project”); and

**WHEREAS**, pursuant to section 4.03 of the JPA, the Diversion Authority is responsible for coordinating the design, planning, and construction of the Non-Federal Work, as defined by the Project Partnership Agreement, dated July 11, 2016, and amended March 19, 2019 (the “PPA”), entered into by and between the City of Moorhead, the City of Fargo, the Diversion Authority (together, the “Non-Federal Sponsors”) and the Department of the Army; and

**WHEREAS**, the United States Army Corps of Engineers (the “USACE”) is the military engineering branch of the Department of the Army and is responsible for the design, planning, and construction of the Federal Work portion of the Project, as defined by the PPA; and

**WHEREAS**, the Project is well underway and is on schedule to meet the goal of having an operable Project by spring of 2027, however, there are still many environmental and mitigation projects to be completed; and

**WHEREAS**, the Project will reduce water in four streams downstream of the western boundary of the Diversion Channel, including Sheyenne, Maple, Lower Rush, and Rush river reaches; and

**WHEREAS**, the Sheyenne River Mitigation Project (SRMP) has been identified to mitigate impacts to riverine aquatic habitat that will occur in these downstream river reaches; in accordance with both NEPA documentation and the Minnesota Department of Natural Resources permit 2018-0819, the mitigation habitat acreage must be located in North Dakota for impacts in North Dakota; and

**WHEREAS**, USACE collaborated with North Dakota Department of Game and Fish, Minnesota Department of Natural Resources, U.S. Fish and Wildlife Service, and U.S. Environmental Protection Agency in 2021 to develop the SRMP – a summary of which is contained in **Exhibit A**, attached hereto; and



**WHEREAS**, USACE identified the SRMP because (a) the river reach is located near the project impacts, and within the Project area; (b) the Sheyenne River is the largest tributary to the Red River in North Dakota, and provides valuable habitat to many species; and (c) most of the land needed to implement the SRMP is owned by local agencies, including Southeast Cass Water Resource District; and

**WHEREAS**, Section I.C. of the PPA provides:

The term “Non-Federal Work” means that portion of the Project consisting of an approximately 30 mile 20,000 cubic feet per second (cfs) diversion channel and associated features; the channel outlet; the Rush and Lower Rush River hydraulic structures; the Maple River aqueduct; the Sheyenne River aqueduct; the inflow design flood levee; associated railroad bridges; the in-town levees and the Oxbow-Hickson-Bakke levee; recreation features; environmental mitigation features located within the diversion channel and associated structures for the diversion channel; and applicable pre- and post-monitoring and adaptive management for the Project.

and

**WHEREAS**, Section I.D. of the PPA provides:

The term “Federal Work” means that portion of the Project consisting of the diversion inlet structure; the approximately 6 mile connecting channel; the control structures on the Red River and Wild Rice River; the southern embankment; the overflow embankment; construction of road and railroad raises associated with the staging area; and all mitigation features not included in the Non-Federal Work.

and

**WHEREAS**, in correspondence and discussions with USACE, it has been determined that an amendment to the PPA will be necessary in order for the Diversion Authority to take control of the SRMP; and

**WHEREAS**, the Diversion Authority Board desires to empower its Executive Director and General Counsel with the authority to negotiate an amendment to the PPA, subject to final approval by the Diversion Authority Board, that will allow the Diversion Authority the ability to legally take over the design, planning, construction, and construction costs of the SRMP.

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

1. **Request to Assume Responsibility of the Sheyenne River Mitigation Project (SRMP)**. The Diversion Authority Board hereby authorizes the Executive Director to submit a formal request to the USACE for the Diversion Authority to assume design, planning, construction, and construction costs of the SRMP.



2. **Amendment to PPA.** The Diversion Authority Board hereby authorizes its Executive Director and General Counsel to take necessary actions in negotiating an amendment to the PPA with the U.S. Department of the Army in order to accomplish the directives of this Resolution; the Diversion Authority Board shall have final approval of any amendment to the PPA, which will be undertaken by a resolution of the Diversion Authority Board.

3. **Design and Planning Activities for the Sheyenne River Mitigation Project (SRMP).** The Diversion Authority Board in accordance with North Dakota procurement law and the Authority procurement/contracting procedures hereby authorizes its Executive Director to engage the necessary staff and consultant(s) to complete design and planning activities ahead of the construction of the SRMP.

Dated: September 25, 2025

**METRO FLOOD DIVERSION  
AUTHORITY**

APPROVED:

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Tony Grindberg, Chair

ATTEST:

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Dawn Lindblom, Secretary

The motion for the adoption of the foregoing resolution was duly seconded by Member \_\_\_\_\_ and upon roll call vote, the following Members voted in favor thereof: \_\_\_\_\_. The following were absent and not voting: \_\_\_\_\_. The following voted against the same: \_\_\_\_\_. A majority of the Members having voted aye, the resolution was declared duly passed and adopted.



## **EXHIBIT A**

### **SUMMARY OF THE PROPOSED SHEYENNE RIVER MITIGATION PROJECT**

**Summarized from Attachment A of the 2024 AMMP  
March 19, 2024**

#### **Executive Summary**

The Sheyenne River Mitigation Project has been developed to mitigate loss of aquatic habitat downstream of the western Diversion Channel boundary along the Sheyenne, Maple, Lower Rush, and Rush river reaches. Aquatic connectivity improvements have been developed by the USACE and North Dakota natural resources agencies to improve connectivity along the Sheyenne River, including removal or modification of: (1) a weir structure, culvert, and baffle at the upstream junction of the Horace-to-West Fargo Diversion Channel with the Sheyenne River; (2) a weir structure at the upstream junction of the West Fargo Diversion Channel with the Sheyenne River; (3) a gated structure and a gated structure with a pumping station along the Sheyenne River; (4) a low-head dam along the Sheyenne River adjacent to a railroad bridge; and (5) an oxbow cutoff along the Sheyenne River. If the Sheyenne River Mitigation Project cannot be fully implemented, the U.S. Army Corps of Engineers (USACE) and the Metro Flood Diversion Authority will need to identify comparable compensatory mitigation habitat.

#### **Purpose of the Sheyenne River Mitigation Project**

The Fargo-Moorhead Area Diversion Project will reduce water in four streams downstream of the western boundary of the Diversion Channel, including Sheyenne, Maple, Lower Rush, and Rush river reaches. The Sheyenne River Mitigation Project has been identified to mitigate the adverse impacts to riverine aquatic habitat that will occur in these downstream river reaches. In accordance with both NEPA documentation and the Minnesota Department of Natural Resources permit 2018-0819, the mitigation habitat acreage must be located in North Dakota for impacts in North Dakota.

The U.S. Army Corps of Engineers (USACE) worked with North Dakota Department of Game and Fish, Minnesota Department of Natural Resources, U.S. Fish and Wildlife Service, and U.S. Environmental Protection Agency in 2021 to develop the Sheyenne River Mitigation Project. This project was initially identified by the North Dakota Department of Game and Fish to improve habitat and connectivity along the lower Sheyenne River. Construction of the previous Sheyenne River Flood Control Project in the 1990s had substantially reduced aquatic connectivity. The USACE identified this project because:

- The river reach is located near the project impacts, and within the Fargo-Moorhead Area Diversion Project area.
- The Sheyenne River is the largest tributary to the Red River in North Dakota, and provides valuable habitat to many species.
- Most of the land needed to implement the Sheyenne River Mitigation Project is owned by local agencies, including Southeast Cass Water Resource District.



## Overview of Proposed Sheyenne River Mitigation Project Improvements

The Sheyenne River Mitigation Project improvements include:

- **Horace-to-West Fargo Diversion Channel:** A weir structure across the Sheyenne River and the adjacent culvert and baffle structure at upstream end of the channel.
- **West Fargo Diversion Channel:** A weir structure across the river at upstream end of the channel, gated structure on the river just upstream of I-94, and gated structure and pumping station on the river near 12th Avenue. The improvements will address bank instabilities, poor water quality, sediment and debris in fish passage structures, excessive light and velocities to support fish passage, and inability to move from channel to Sheyenne River.
- **Low-Head Dam across Sheyenne River:** Modify or replace a low-head dam adjacent to a railroad bridge north of Main Avenue West in West Fargo. The current dam does not appear to pass some fish during non-flood stages.
- **Oxbow Cutoff along Sheyenne River:** Reconnecting the isolated oxbow east of Sheyenne Street/Highway 17.
- **Existing Bridge Crossings and Box Culvert Crossings:** Modify some of these crossings to promote fish passage.

### Next Steps

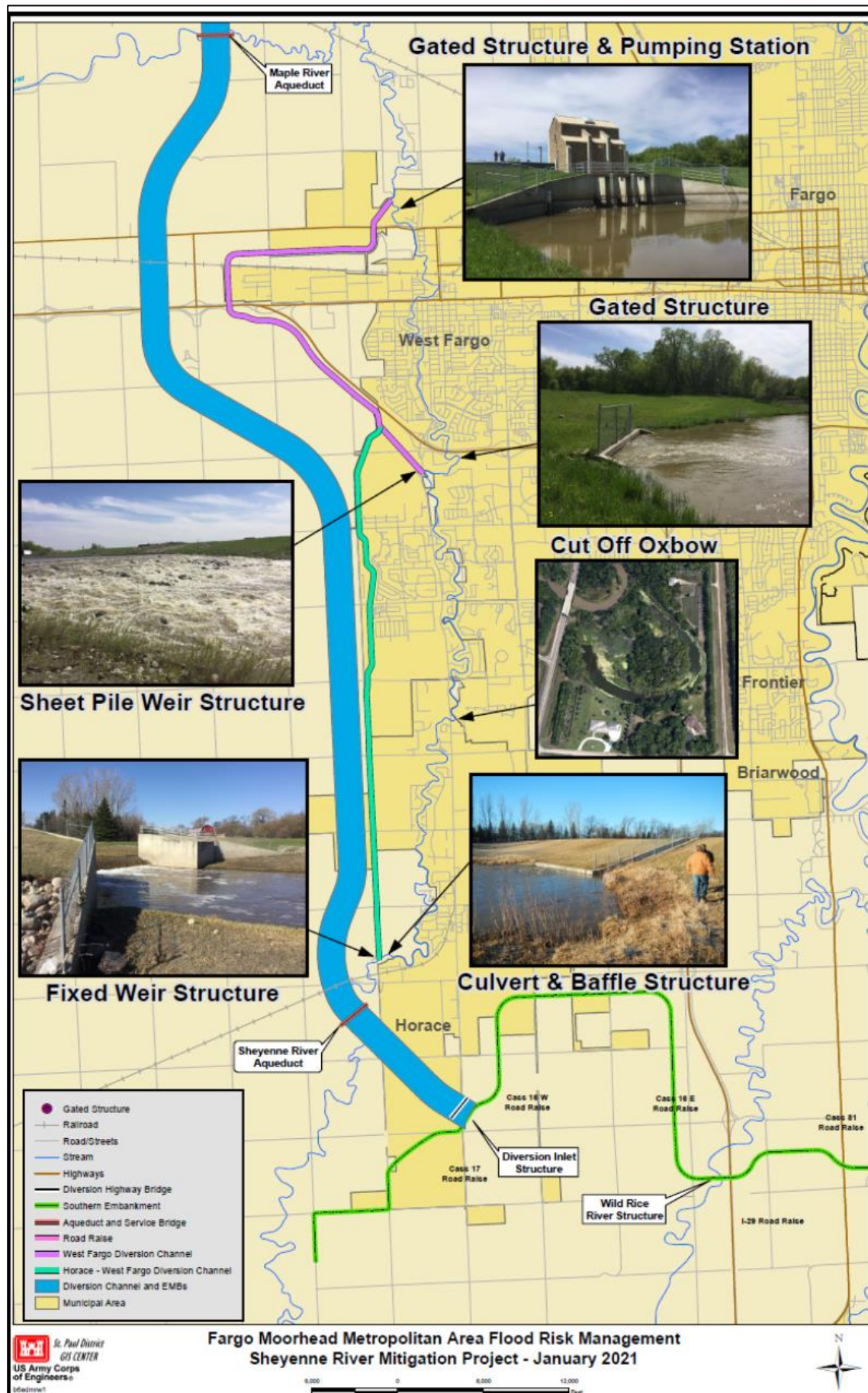
Prior to implementation, the USACE will analyze the plan and reasonable alternatives in a document posted for public review pursuant to the National Environmental Policy Act, as well as considerations for Clean Water Act, Endangered Species Act, National Historic Preservation Act and other statutes. The action would consider needs for CWA 404 and 401 Water Quality Certification, and necessary permits from the North Dakota State Water Commission.

The Adaptive Management and Mitigation Plan (AMMP) for the Fargo-Moorhead Area Diversion Project includes the Sheyenne River Mitigation Project components to remove instream structural and restore connectivity in the Sheyenne River and existing diversion channels; and to restore flows through the historic oxbow.

The Sheyenne River Mitigation Project cannot be constructed until the Fargo-Moorhead Area Diversion Project construction is complete and operational and levee certification is achieved to maintain flood protection in Fargo and West Fargo.

Because the Sheyenne River Mitigation Project is required to mitigate impacts of the Fargo-Moorhead Area Diversion Project, the USACE policy requires measurements to demonstrate, to the extent practical, that habitat losses have been fully mitigated before operation. However, this cannot occur because construction of the Sheyenne River Mitigation Project cannot start until the Fargo-Moorhead Diversion Project is complete. Therefore, the USACE has proposed an agreement with the natural resource agencies in North Dakota that the proposed Sheyenne River Mitigation Project will adequately offset the losses of aquatic habitat in North Dakota.









# Diversion Authority Finance Committee Meeting

September 24, 2025

**MOU and Agreement Actions for Consideration**

John Shockley



# MFDA MOUs & Agreements



MOU Parties	Project	MOU or Agreement Cost and Summary
AP Wireless & MFDA MURA	SEAI & UMA	This MURA defines the roles and responsibilities of the Metro Flood Diversion Authority (MFDA) and AP Wireless Investments I, LLC (Utility) as it relates to the Utility's real property interests that are impacted by the Comprehensive Project. In particular this MURA addresses the Utility Adjustment that will occur for the Utility's cell tower that is located in the Upstream Mitigation Area. The Utility Adjustment consists of the protecting the cell tower in its existing location with a ring levee. The MFDA will design, construct and fund the Utility Adjustment project which is anticipated for construction in 2026.
AP Wireless & MFDA Defense Agreement	SEAI & UMA	The Authority and AP Wireless Investments I, LLC, will enter into a Master Utility Relocation Agreement setting forth terms and conditions of a project to protect certain utility infrastructure. The parties desire to enter into this separate Defense Agreement whereby the Authority has agreed to defend the Utility against actions, lawsuits, or claims that arise from the Authority's (or a member entity) use of eminent domain, if necessary, to acquire real property interests for the Comprehensive Project.
Cenex (CHS) & MFDA Mutual Confidentiality Agreement	Sheyenne River Mitigation Project (SRMP)	CHS and the Authority desire to engage in discussions regarding a potential business transaction relating to mapping of CHS facilities within the Sheyenne River Mitigation Project area during which the MFDA may receive Confidential Information from CHS. The Parties enter into this Agreement to limit disclosure of such Confidential Information.



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**MASTER UTILITY RELOCATION AGREEMENT**

**By and Between**

**METRO FLOOD DIVERSION AUTHORITY**

**and**

**AP WIRELESS INVESTMENTS I, LLC**

**Dated as of September 25, 2025**

**Relating to:**

**Utility Relocation in the Southern Embankment and Associated Infrastructure and the  
Upstream Mitigation Area  
for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project**

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



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## MASTER UTILITY RELOCATION AGREEMENT

**THIS MASTER UTILITY RELOCATION AGREEMENT** (the “**Agreement**”) is made and entered into this 25<sup>th</sup> day of September, 2025 (the “**Effective Date**”), by and between the Metro Flood Diversion Authority, a North Dakota political subdivision, whose post office address is 4787 Amber Valley Parkway S., Suite 100, Fargo, ND 58104 (the “**Authority**”), and AP Wireless Investments I, LLC, a Delaware limited liability company, whose post office address is 4250 Executive Square, Suite 900, La Jolla, CA 92037 (the “**Utility**”) (collectively, the Authority and Utility are referred to as the “**Parties**”).

### RECITALS

**WHEREAS**, construction of the locally preferred plan for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, as further defined in **Section 1.01** (Definitions) (the “**Comprehensive Project**”) in the Fargo, North Dakota, and Moorhead, Minnesota, Metropolitan Area was authorized by Section 7002(2) of the Water Resources Reform and Development Act of 2014, Public Law 113-121; and

**WHEREAS**, the Authority, the City of Fargo, North Dakota, and the City of Moorhead, Minnesota, are the Non-Federal Sponsors for the Comprehensive Project and entered into a Project Partnership Agreement on July 11, 2016, and amended as of March 19, 2019, with the United States Army Corps of Engineers (“**USACE**”) for the construction, operation, and maintenance of the Comprehensive Project; and

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

**WHEREAS**, the Authority was created to undertake and fulfill the Non-Federal Sponsors’ obligations under the Project Partnership Agreement; and

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

**WHEREAS**, pursuant to Article II of the Project Partnership Agreement, the Non-Federal Sponsors are responsible for all real property interests and relocations required for construction, operation, and maintenance of the Comprehensive Project; and

**WHEREAS**, the Utility has real property interests (hereinafter referred to as “**Prior Property Interests**”) within the area generally described in **Exhibit B** of this Agreement that the Authority has deemed necessary to Relocate; and

**WHEREAS**, it will be necessary for the Prior Property Interests to be relocated, protected, removed, or adjusted (hereinafter referred to as the “**Utility Relocation Project**”) in coordination with the construction of the Comprehensive Project; and

**WHEREAS**, the Utility has agreed to consider the protections and adjustments as an option to avoid having their property rights taken by eminent domain; and



**WHEREAS**, the Cass County Joint Water Resource District, a Member Entity of the Authority, must acquire a flowage easement within the area where the Utility has real property interests and it is necessary for the Utility Infrastructure to be protected by a berm to conform with the requirements of the flowage easement; and

**WHEREAS**, the Authority and the Utility desire to set forth in writing their mutual understandings and to define the terms and conditions and each Party's rights and obligations in connection with the Utility Relocation Project; and

**WHEREAS**, this Agreement is only intended to bind the Parties regarding the portion of the Comprehensive Project south of the storm water diversion channel (the "**Storm Water Diversion Channel and Associated Infrastructure**") and shall have no implications for or binding power regarding the Parties' work, efforts, or relations in the Storm Water Diversion Channel and Associated Infrastructure. The Parties' interactions with one another in the Storm Water Diversion Channel and Associated Infrastructure shall be governed by a separate agreement between the Parties.

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

## **ARTICLE I. DEFINITIONS AND INTERPRETATION**

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

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

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

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

**"ATC"** means American Tower Corporation, the operator of the telecommunication tower located within the Utility Interest.

**"Best Efforts"** means acting in Good Faith and in accordance with generally accepted commercial practices and using reasonable due diligence to undertake all action contemplated by this Agreement, in accordance with applicable federal and state laws, regulations, and rules; however, the obligation to use Best Efforts does not mean a duty to take action that would be in violation of applicable federal or state law.

**"Business Day(s)"** means any day that is not a Saturday, a Sunday, or a public holiday under the laws of North Dakota.

**"Cass County"** means Cass County, North Dakota.

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



**“Certificate of Comprehensive Project Substantial Completion”** means a written certificate issued by the Director of Engineering indicating that the Comprehensive Project has been completed and no elements remain to be completed.

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

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

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

**“Executive Director”** means the chief administrative officer of the Authority.

**“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.

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

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

**“Contractors”** means any and all parties hired by the Authority to design, prepare, build, and or undertake any other action to effectuate the Utility Adjustment Construction Work.

**“Copeland (Anti-Kickback) Act”** means the Copeland Act (18 U.S.C. 874 and 40 U.S.C. 3145).

**“Costs”** means all costs, expenses, and fees of whatever nature and kind, excluding internal costs that would have been incurred by the Utility regardless of the existence of the Comprehensive Project.

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

**“Diversion Inlet Structure”** means the hydraulic control structure to control the flow of water entering the Storm Water Diversion Channel and Associated Infrastructure north of the Southern Embankment and Associated Infrastructure as detailed in the document entitled the “FMM Diversion Inlet Structure Red River of the North River Basin Fargo, ND.”

**“Director of Engineering”** means the individual or his/her designee who is officially appointed by the Executive Director as the Director of Engineering for the Authority.

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

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



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

**“Fargo-Moorhead Metropolitan Area Flood Risk Management Project”** has the same definition as “Comprehensive Project.”

**“Fargo-Moorhead Metropolitan Area Southern Embankment – MFR-023, Utility Guidelines and References”** or **“MFR-023”** means the Fargo-Moorhead Metropolitan Area Southern Embankment – MFR-023, Utility Guidelines and References drafted by the USACE for the relocation of components in the Southern Embankment and Associated Infrastructure.

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

**“Final Feasibility Report and Environmental Impact Statement”** means the Final Feasibility Report and Environmental Impact Statement, Fargo-Moorhead Metropolitan Area Flood Risk Management Project, dated July 2011 and approved by the Chief of Engineers on December 19, 2011, as amended by the Supplemental Environmental Assessment, Fargo-Moorhead Metropolitan Area Flood Risk Management Project, dated September 2013 and approved by the District Engineer, St. Paul District on September 19, 2013, as amended by the Final Supplemental Environmental Assessment #2, Modifications to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, dated February 2019, approved by the District Engineer, St. Paul District on February 28, 2019, and which may be further amended by future supplemental environmental assessments.

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

**“Joint Powers Agreement”** means the Joint Powers Agreement, dated June 1, 2016, by and between the Member Entities, as amended from time to time, which created and continued the Authority.

**“Member Entities”** shall mean Moorhead, Minnesota; Fargo, North Dakota; Clay County, Minnesota; Cass County, North Dakota; and the Cass County Joint Water Resource District.

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

**“Non-Federal Sponsors”** means the entities providing the Non-Federal Project Costs for the Comprehensive Project, which includes Fargo, North Dakota; Moorhead, Minnesota; and the Authority created pursuant to the Joint Powers Agreement.

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

**“Prior Property Interest(s)”** means any property interest(s) owned by the Utility that the Authority deems necessary to Relocate.

**“Project”** means the design, construction, finance, operations, and maintenance of the Southern Embankment and Associated Infrastructure and the Upstream Mitigation Area.



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

**“Project Partnership Agreement”** means the Project Partnership Agreement executed 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 Fargo-Moorhead Metropolitan Area Flood Risk Management Project, dated July 11, 2016.

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

**“Protected Area”** means generally the area north of the Southern Embankment and Associated Infrastructure and east of the Project including the communities of Moorhead, Minnesota, Frontier, North Dakota, Horace, North Dakota, Fargo, North Dakota, West Fargo, North Dakota, Reile’s Acres, North Dakota, and Harwood, North Dakota.

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

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

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

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

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

**“Southern Embankment and Associated Infrastructure”** consisting of the Diversion Inlet Structure, Wild Rice Structure, and Red River Structure, associated road raises, and earthen dam embankment reaches.

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

**“Substantial Completion Date of the Comprehensive Project”** means the date on which the Director of Engineering issues a Certificate of Comprehensive Project Substantial Completion.

**“Task Order”** means a document executed by the Authority and Utility, including any amendments, stating the scope of services, times for performance of services, compensation, and any other relevant information for a specific project.



**“Undisclosed Prior Property Interests”** means Prior Property Interests not disclosed in **Exhibit B** to this Agreement.

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

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

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

**“Utility”** means AP Wireless Investments I, LLC.

**“Utility Adjustment”** means the protection, removal, or adjustment of the Prior Property Interests generally described in **Exhibit B**, where it is necessary for the Utility Infrastructure to be protected by a berm designed and constructed by the Authority to conform with the requirements of a flowage easement to accommodate the construction, maintenance, or use of the Project.

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

**“Utility Adjustment Construction Work”** means all Utility Adjustment Work related to construction.

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

**“Utility Interest”** means the property rights granted to the Utility in that certain Easement and Assignment Agreement dated April 20<sup>th</sup>, 2011, and recorded in the Cass County Public Records as Instrument No. 1323406.

**“Utility Relocation Project”** means the process of acquiring Project Property, Relocating any Prior Property Interests, and all other steps necessary, as determined by the Authority, to prepare the Project Property for construction of the Project.

**“Water Resources Reform and Development Act”** means the Water Resources Reform and Development Act of 2014, Public Law 113-121.

**“Wild Rice River”** means the river of the same name located in the State of North Dakota.

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



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

**Section 1.03** SURVIVAL OF TERMS. The terms of this Agreement shall survive through the Substantial Completion Date of the Comprehensive Project and for successive ten-year terms until one of the Parties hereto terminates this Agreement as provided for herein.

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

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

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

**Section 2.03** COORDINATION WITH USACE. The Utility shall not communicate directly with the USACE regarding any aspect of the Comprehensive Project or any other subject matter referenced in, related to, or arising from this Agreement without prior written notice to the Authority.

## **ARTICLE III. REAL PROPERTY INTERESTS**

**Section 3.01** INTENT. It is the intent of the Parties hereto that all Prior Property Interests shall be identified herein. Specifically, Prior Property Interests shall be documented in **Exhibit B** to this Agreement.

**Section 3.02** ACQUISITION OF PRIOR PROPERTY INTERESTS. The Prior Property Interests to be Relocated pursuant to the terms and conditions of this Agreement include, but are not limited to, the Prior Property Interests documented in **Exhibit B**.

**Section 3.03** UNDISCLOSED PRIOR PROPERTY INTERESTS. If the Authority, for any reason, determines Undisclosed Prior Property Interests should be Relocated, such Relocation shall occur pursuant to the terms of this Agreement.



**Section 3.04** COOPERATION IN PLATTING. The Authority intends to plat right-of-way acquired for Project purposes. Utility shall reasonably cooperate, within its Utility Interest, with said platting efforts if requested to do so by the Authority.

#### **ARTICLE IV. RIGHT OF SITE ACCESS**

**Section 4.01** RIGHT OF SITE ACCESS. To ensure the Authority is able to proceed with construction of the Utility Relocation Project in a timely and efficient manner, as well as to properly monitor and ensure completion of the Utility Relocation Project, the Authority shall have a right-of-way in, on, over, and across any and all Sites within the Utility Interest as well as the right to access, enter, and inspect any Site within the Utility Interest with reasonable notice. However, if any portion of the construction shall obstruct, impede, and or delay the day-to-day business of the Utility or ATC, the Authority shall provide seven (7) days' notice to the Utility and ATC.

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

**Section 4.03** NO NOTICE REQUIRED. No notice shall be required for the Authority to exercise the rights described in this Article.

**Section 4.04** DELAY FOR SAFETY PURPOSES. If the Authority attempts to exercise the rights described in this Article, but doing so would pose a safety hazard, the Authority shall be kept from accessing, entering, or inspecting the Site in question only for as long as is reasonably required to make the Site safety for access, entry, and inspection, as determined by the Party desiring to access, enter, and inspect the Site.

**Section 4.05** FAILURE TO ALLOW ACCESS, ENTRY, AND INSPECTION. Should any Party having authority to access, enter, and inspect a Site be denied access for more than twenty-four (24) hours, other than when the same Party deems such a delay appropriate under **Section 4.04**, and such failure results in a dispute due to the unreasonable delay of Utility Adjustment Construction Work, the Parties shall follow the dispute resolution process pursuant to **Article X** of this Agreement.

#### **ARTICLE V. REQUIRED REPORTS**

**Section 5.01** REQUIRED REPORTS. The Authority shall prepare any reports, analyses, plans, cost estimates, or other information and materials within the scope identified in a Task Order pertaining to the utility infrastructure, the Utility Relocation Project, or the Project.

**Section 5.02** DEADLINES. All reports, analyses, plans, cost estimates, and other information and materials shall be provided to the Utility before the expiration of a reasonable deadline determined by the Authority and/or identified in a Task Order pertaining to the Utility infrastructure, the Utility Relocation Project, or the Project. The Utility shall have a period of ten (10) business days from receipt to review and approve reports, analyses, plans, cost estimates, and other information and materials provided by the Authority pertaining to the Utility infrastructure, Utility Relocation Project, or the Project.

**Section 5.03** FAILURE TO TIMELY PRODUCE. Should the Authority fail to produce any reports, analyses, plans, cost estimates, or other information and materials and such failure results in a dispute due



to the unreasonable delay of Utility Adjustment Construction Work, the Parties shall follow the dispute resolution process pursuant to Article X of this Agreement.

## **ARTICLE VI. PERFORMANCE AND CONSTRUCTION**

**Section 6.01** UTILITY ADJUSTMENT DESIGN WORK. The Authority shall be responsible for the completion of all Utility Adjustment Design Work, subject to Utility review and approval, as set forth in Section 5.02 of this Agreement. The Authority shall complete all Utility Adjustment Design Work before the reasonable deadline determined by the Authority and/or identified in a Task Order pertaining to the Utility infrastructure, the Utility Relocation Project, or the Project.

**Section 6.02** UTILITY ADJUSTMENT CONSTRUCTION WORK. The Authority shall be responsible for the completion of all Utility Adjustment Construction Work. The Authority shall complete all Utility Adjustment Construction Work prior to the reasonable deadline determined by the Authority and/or identified in a Task Order pertaining to the Utility Relocation Project. The Authority shall meet the requirements of federal law in regard to any Work contracted out to third parties.

**Section 6.03** ADDITIONAL RIGHT-OF-WAY OUTSIDE THE PROJECT FOOTPRINT. The Authority has reviewed the potential Utility Adjustment Construction Work and, based upon information disclosed by the Utility, represents that it does not have any reason to think that such work shall require additional right-of-way. Regardless, should additional right-of-way be required to complete the Utility Relocation Project, the Utility shall notify the Authority of said needs as soon as reasonably possible after discovering the need. The Authority shall use its Best Efforts to acquire the necessary right-of-way but shall not be responsible for any damages related to time delays associated with the acquisition of additional right-of-way needed to accommodate betterments.

**Section 6.04** COORDINATION FOR UTILITY ADJUSTMENT IN THE UPSTREAM MITIGATION AREA. All Utility Adjustment Work in the Upstream Mitigation Area shall be designed, constructed, and completed in accordance with federal, state, and local regulations and guidelines. In the event Utility Adjustment Work shall be completed in the Upstream Mitigation Area, the Authority will work in conjunction with the Utility, in Good Faith, to design and submit a Utility Adjustment plan for the Utility to review, comment, and approve as set forth in Section 5.02 of this Agreement.

**Section 6.05** ADJUSTMENTS TO THE PROJECT. Should the planned route for the Southern Embankment and Associated Infrastructure change in a material manner, the Utility and the Authority shall immediately interface to adjust plans for the Utility Relocation Project, as necessary.

**Section 6.06** INSPECTION. The Authority shall be responsible for inspection of all Utility Adjustment Construction Work.

**Section 6.07** UTILITY COMPLETION. Within ten (10) Business Days of the anticipated date for Utility Adjustment Completion, the Utility and the Authority will schedule a final inspection, whereby the Parties shall be responsible for holding an inspection to determine whether the Utility Adjustment is sufficiently complete in the opinion of the Authority and the Utility or any material changes or modifications are necessary.

**Section 6.08** THIRD PARTY CONTRACTORS. Should the Authority engage any third-party contractor to fulfill, contribute to, or otherwise act in regard to an obligation assigned to the Authority in this Agreement, the Authority shall abide by all restrictions and requirements provided for in Article XII and as provided in the federal lobbying restrictions which are attached as Exhibit C to this Agreement.



**Section 6.09** INVOICING REQUIREMENTS. All invoices provided to the Authority pursuant to or arising from this Agreement shall comply with invoicing requirements provided in the Authority invoicing requirements which is as attached as **Exhibit D** to this Agreement.

## **ARTICLE VII. PAYMENT OF COSTS**

**Section 7.01** NECESSITY TO KEEP COSTS LOW. The Utility and the Authority each recognize the need to minimize the cost of the Utility Relocation Project, while seeking to maintain the same quality of service to the Utility's customer. The Utility and the Authority shall be diligent in keeping costs as low as reasonably possible.

**Section 7.02** GENERALLY. The Authority shall pay all reasonable costs of the Utility Relocation Project and actually incurred, whether those costs are incurred by the Utility or the Authority, excluding the Utility's internal costs.

**Section 7.03** REPORTING OF COSTS. The Authority shall retain a detailed, itemized report of the costs and expenses of the Utility Relocation Project.

## **ARTICLE VIII. FUTURE RIGHTS AND RESPONSIBILITIES**

**Section 8.01** RIGHT OF WAY. Should the Authority deem it necessary for the purpose of the Utility Relocation Project, the Authority shall grant the Utility a right-of-way below, above, and across the Project Footprint so the Utility can properly maintain its facilities in the right-of-way, subject to the following restrictions and obligations:

- a. Coordination with USACE. In the event the Utility deems it necessary to perform Utility Adjustment Work, within the right-of-way, beyond operation and maintenance for the Utility Relocation Project, Utility shall be responsible for coordination with the USACE to obtain appropriate review and approval.
- b. Maintenance of Utility Property. Following completion of the Utility Relocation Project, the Utility, and or its affiliates, shall be responsible for all routine maintenance of Utility property and associated infrastructure, including mowing and weed control. The Authority shall be responsible for routine inspections and all repairs of the Utility Relocation Project needed to maintain the integrity of the berm.
- c. Metro Flood Diversion Authority Access. In the event that Utility property malfunctions, destructs, or otherwise begins to cause on-going damage to the Southern Embankment and Associated Infrastructure and/or the Upstream Mitigation Area, the Authority shall have the authority to access the damage-causing Utility property and take any action necessary to stop on-going damage to the Southern Embankment and Associated Infrastructure and/or the Upstream Mitigation Area.
- d. Access. The Authority shall have unrestricted access in, over, and across the right-of-way; however, in no way shall the Authority access and or use of the right-of-way unreasonably impede and or infringe on the Utility's use of the Property.



**Section 8.02** USE OF EXISTING EASEMENT. In the event Utility property is Relocated within the Utility's currently existing easement or right-of-way, the Utility shall be bound to exercise its rights under said easement, subject to the requirements and obligations contained in this Article. The requirements of this Article shall survive so long as the Utility has property located within the Project Footprint.

**Section 8.03** RECORD KEEPING. The Authority shall maintain or cause to be maintained (by way of contract and enforcement of such contract) a complete set of records detailing all costs it incurs in the Utility Relocation Project, in accordance with the recordkeeping and audit requirements of this Agreement and the laws of the State of North Dakota.

**Section 8.04** FUTURE PERMITS. Should the Utility file a formal permit application with the Authority, pertaining to the Utility line Relocated pursuant to this Agreement, with the Authority after the Effective Date, the Authority shall grant, at no cost to the Utility, the permit application so long as the permit application meets all reasonable requirements listed in the instructions to said permit application and the proposed crossing would not unreasonably risk harm to the Southern Embankment and Associated Infrastructure or the Upstream Mitigation Area or interfere with other facilities already contained within the Project Footprint, as determined by the Authority. In addition to the permit application granted by the Authority, the Utility shall be responsible for obtaining all other permits necessary and required by the USACE. Should an existing Utility line be modified in the future, the Authority, in its sole discretion, shall determine whether the modification is allowable under a previously existing permit or whether the modification is significant enough in its nature or effect to require the Utility to apply for a new permit.

## **ARTICLE IX. DISPUTES WITH CONTRACTORS AND OTHER THIRD PARTIES**

**Section 9.01** COORDINATION. The Parties shall coordinate with respect to any dispute with third parties. Such coordination shall include any potential or ongoing litigation.

## **ARTICLE X. DISPUTES AMONG THE UTILITY AND AUTHORITY**

**Section 10.01** INTENT AND PROCEDURE. The Utility and the Authority shall use their Best Efforts to ensure that the 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 or under other, situation-specific dispute resolution mechanisms contained herein, the following procedure shall be used.

**Section 10.02** PROCEDURE TO COMMENCE DISPUTE RESOLUTION PROCESS. The Parties agree that in the event of an alleged breach of any of the terms of this Agreement, the Parties making such allegation shall, except as provided in **Section 12.01** (Notices) of this Agreement, provide thirty (30) days' written notice to the other Party of the alleged breach. The written notice shall contain reasonable description of the underlying facts and an explanation of why the Party providing notice believe those facts constitute a breach. Following transmittal of the notice, the Party alleged to have caused the breach shall be given a reasonable time (as provided in **Section 10.03** (Time to Correct)) of this Agreement, not less than ten (10) days to correct or remedy the alleged breach, to meet and confer with the other Party, and/or to participate in mediation with the other Party prior to initiating any litigation, arbitration, or any administrative proceeding, unless the alleged breach has the potential to cause immediate and irreparable harm, in which case the Party alleging the harm may initiate litigation prior to complying with the provisions of this **Section 10.02** as applicable.



**Section 10.03** TIME TO CORRECT. The reasonableness of the time afforded to the Party alleged to have breached this Agreement pursuant to **Section 10.03** of this Agreement to cure the alleged breach and engage in dispute resolution processes shall be determined by considering the circumstances, including the potential harm, injury, or damages that are or may result from the alleged breach and the extent to which the harm, injury, or damages may worsen with the passage of time.

**Section 10.04** MEDIATION. If there is a failure between the Parties to resolve a dispute on their own, the Parties shall first attempt to mediate the dispute. The Parties shall agree upon a single mediator or, if they cannot agree, shall obtain a list of court-appointed mediators from the Cass County District Court Administrator, and select a mediator by alternately striking names until one remains. The Authority shall strike the first name, followed by the Utility, in that recurring order until one name remains.

**Section 10.05** RIGHT OF SETOFF. If there is a failure between the Parties to resolve a dispute on their own, and the Parties have attempted to utilize the dispute resolution process pursuant to Article XI of this Agreement, and such dispute, including but not limited to those identified in **Sections 4.05** and **5.03** results in the unreasonable delay of the Utility Relocation Project, the Authority is hereby authorized, to the fullest extent permitted by law to setoff, and may apply any and all deposits at any time held and owing to or for the credit of any Party to this Agreement against any and all obligations existing under this Agreement.

**Section 10.06** LITIGATION IF DISPUTE NOT RESOLVED. If the dispute is not resolved within thirty (30) days after the end of mediation proceedings, the Parties may litigate the matter.

**Section 10.07** LEGAL FEES. Each Party will be responsible for its own attorney's fees in connection with a dispute under this Article.

**Section 10.08** WAIVER OF JURY TRIAL. THE PARTIES HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS THAT ANY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION, PROCEEDING, COUNTERCLAIM, OR DEFENSE BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER, OR IN ANY CONNECTION WITH THIS AGREEMENT, OR WITH RESPECT TO ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF ANY PARTY HERETO RELATING TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ALL MEMBER ENTITIES ENTERING INTO THIS AGREEMENT. THIS PROVISION APPLIES ONLY TO SUITS BETWEEN THE UTILITY AND THE AUTHORITY ARISING OUT OF OR RELATED TO THIS AGREEMENT AND DOES NOT APPLY TO THIRD-PARTY CLAIMS OR SUITS BY OR ON BEHALF OF THE PARTIES FOR PROJECT PROPERTY ACQUISITION AND/OR CONSTRUCTION CONTRACT CLAIMS AND DEFENSES.

## **ARTICLE XI. USE OF EMINENT DOMAIN**

**Section 11.01** EMINENT DOMAIN. Nothing in this Agreement shall be construed as limiting the Authority, or its Member Entities' ability to exercise its powers of eminent domain.

**Section 11.02** NULLIFICATION BY EMINENT DOMAIN. Should the Authority initiate eminent domain proceedings to accomplish the goals of the Utility Relocation Project, the terms of the Agreement shall be null and void at the option of the Authority.

**Section 11.03** NULLIFICATION AFTER COSTS INCURRED. Should the terms of this Agreement be nullified under **Section 11.02**, the Utility shall, within thirty (30) days of being served with notice of the



eminent domain proceeding, submit a report of its costs to the Authority in the same manner it would have submitted a report of costs pursuant to **Article VII** had the Utility Relocation Project been completed.

## **ARTICLE XII. MISCELLANEOUS**

**Section 12.01** NOTICE. All notices under the Agreement will be in writing and: (a) delivered personally; (b) sent by certified mail, return receipt requested; (c) sent by a recognized overnight mail or courier service, with delivery receipt requested; or (d) sent by facsimile or email communication followed by a hard copy and with receipt confirmed by telephone or return receipt (in the case of email communication), to the following addresses:

- a. All notices to the Authority, including Project correspondence, submittals, and samples, will be marked as regarding the Project and will be delivered to the following address or as otherwise directed by the Authority's authorized representative:

Jacobs Engineering Group, Inc.  
64 4<sup>th</sup> Street North, Suite 300  
Fargo, North Dakota 58102

- b. All legal notices to the Authority, in addition to being provided to the Authority's representative as provided above, will also be provided to the Co-Executive Directors at the following address or as otherwise directed by the Authority's representative:

Metro Flood Diversion Authority  
Attn: Executive Director  
4787 Amber Valley Parkway, Suite 100  
Fargo, ND 58104

and

APInvoicesFMDiv@jacobs.com  
bakkegardk@fmdiversion.gov

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

AP Wireless Investments I, LLC  
Attn: Asset Management  
4250 Executive Square, Suite 900  
La Jolla, CA 92037

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



**Section 12.02** ASSIGNMENT. Neither Party may transfer or assign this Agreement, nor any rights or obligations under this Agreement, without the express written consent of the other Party. Each Party shall only be permitted to transfer or assign rights or obligations under this Agreement by giving thirty (30) days' written notice pursuant to **Section 12.01** to the other Party of its intent to transfer or assign.

**Section 12.03** WORKERS' COMPENSATION. Each Party shall be responsible for injuries or deaths of its own personnel. Each Party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing assistance pursuant to this Agreement. Notwithstanding any other provision of this Agreement, each Party waives the right to pursue a legal action against one of the other Parties for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries are caused wholly or partially by the negligence of any other Party or its officers, employees, or volunteers.

**Section 12.04** INDEMNIFICATION. The Utility shall indemnify, defend, and hold harmless the Authority, its Member Entities, and directors, officers, employees, and agents against any and all allegations, claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including attorney's fees), which arise out of, relate to or result from any act or omission of the Utility or failure of Utility's facilities or property related to this Agreement.

**Section 12.05** RELATIONSHIPS CREATED. The Parties agree this Agreement does not create any agency, partnership, joint venture, or any other relationship between the Parties and that the Utility is solely responsible for its own actions or omissions.

**Section 12.06** GOVERNING LAW. This Agreement shall be controlled by the laws of the State of North Dakota. Any action brought as a result of any claim, demand, or cause of action arising under the terms of this Agreement shall be venued in Cass County in the State of North Dakota, and the Parties waive any objection to personal jurisdiction.

**Section 12.07** CONFLICT. In the event of a conflict between the Parties pertaining to the terms and conditions of this Agreement, this Agreement shall control and govern the relocation of Utility infrastructure, lines, and property for purposes of the Southern Embankment and Associated Infrastructure and the Upstream Mitigation Area but not the relocation of Utility infrastructure, lines, and property for purposes of the Storm Water Diversion Channel and Associated Infrastructure.

**Section 12.08** SEVERABILITY. Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

**Section 12.09** MODIFICATIONS. Any modifications or amendments to this Agreement must be in writing and signed by both Parties to this Agreement.

**Section 12.10** BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective personal representatives, successors, and assigns.

**Section 12.11** 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.

**Section 12.12** HEADINGS. Headings in this Agreement are for convenience only and will not be used to interpret or construe its provisions.



**Section 12.13** COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Party.

**Section 12.14** REPRESENTATION OF AUTHORITY. Each Party signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

**Section 12.15** FEES. The fees provided for herein shall not be interpreted or deemed to be the Authority's sole source of recovery for damages in any way arising from or related to Utility's delay, actions, or failure to act. The Authority shall have all remedies available to it at law in addition to any fees paid to the Authority by Utility pursuant to this Agreement.

**Section 12.16** ELECTRONIC SIGNATURES. The Parties acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered an original signature for all purposes and shall have the same force and effect as an original signature.

**Section 12.17** FEDERAL LOBBYING RESTRICTIONS. Recipients of federal financial assistance may not pay any person for influencing or attempting to influence any officer or employee of a federal agency, member of Congress, an officer or employee of Congress, or any employee of a member of Congress with respect to the award, continuation, renewal, amendment, or modification of a federal grant, loan, or contract. These requirements are implemented for U.S. EPA in 40 CFR Part 34, which also describes types of activities, such as legislative liaison activities and professional and technical services, which are not subject to this prohibition. Upon award of this contract, Utility shall complete and submit to the Authority the certification and disclosure forms in Appendix A and Appendix B to 40 CFR Part 34, which are attached as **Exhibit C** to this Agreement. Utility shall also require all subcontractors and suppliers of any tier awarded a subcontract over \$100,000 to similarly complete and submit the certification and disclosure forms pursuant to the process set forth in 40 CFR 34.110.

**Section 12.18** DEBARMENT AND SUSPENSION. Utility certifies that it will not knowingly enter into a contract with anyone who is ineligible under the 40 CFR Part 32 to participate in the Project. Suspension and debarment information can be accessed at <http://www.sam.gov>. Utility represents and warrants that it has or will include a term or conditions requiring compliance with this provision in all of its subcontracts under this Agreement. Upon award of this contract, Utility shall complete and submit to the Authority, the federal certification form regarding debarment and suspension, which is attached as **Exhibit C** to this Agreement.

**Section 12.19** DAVIS-BACON ACT AND OTHER LABOR LAWS. Utility shall comply with the following federal labor requirements:

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



- b. The Contract Work Hours and Safety Standards Act, which requires time and one-half pay for overtime hours worked in excess of forty hours in any workweek.
- c. The Copeland Act (Anti-Kickback Act), which prohibits employers from inducing an employee to give up any part of compensation to which he or she is entitled.

**Section 12.20** CIVIL RIGHTS OBLIGATIONS. The Utility shall comply with the following, federal nondiscrimination 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.

**Section 12.21** CERTIFICATION. Utility shall complete and submit to the Authority, the federal certification form regarding civil rights, which is attached as **Exhibit C** to this Agreement.

**Section 12.22** TERMINATION. The Authority may terminate this Agreement at any time and for any reason with thirty (30) calendar days’ written notice to the Utility.

*(Signatures appear on the following pages.)*



IN WITNESS WHEREOF, the Parties executed this Agreement on the date first written above.

AUTHORITY:

Metro Flood Diversion Authority

---

Jason Benson, Executive Director

---

Tony Grindberg, Chair

ATTEST:

---

Dawn Lindblom, Secretary



UTILITY:

AP Wireless Investments I, LLC

By: \_\_\_\_\_  
Daniel Hasselman

Its: Co-Ceo \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Its: \_\_\_\_\_



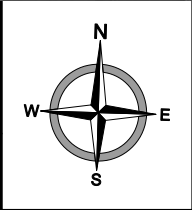
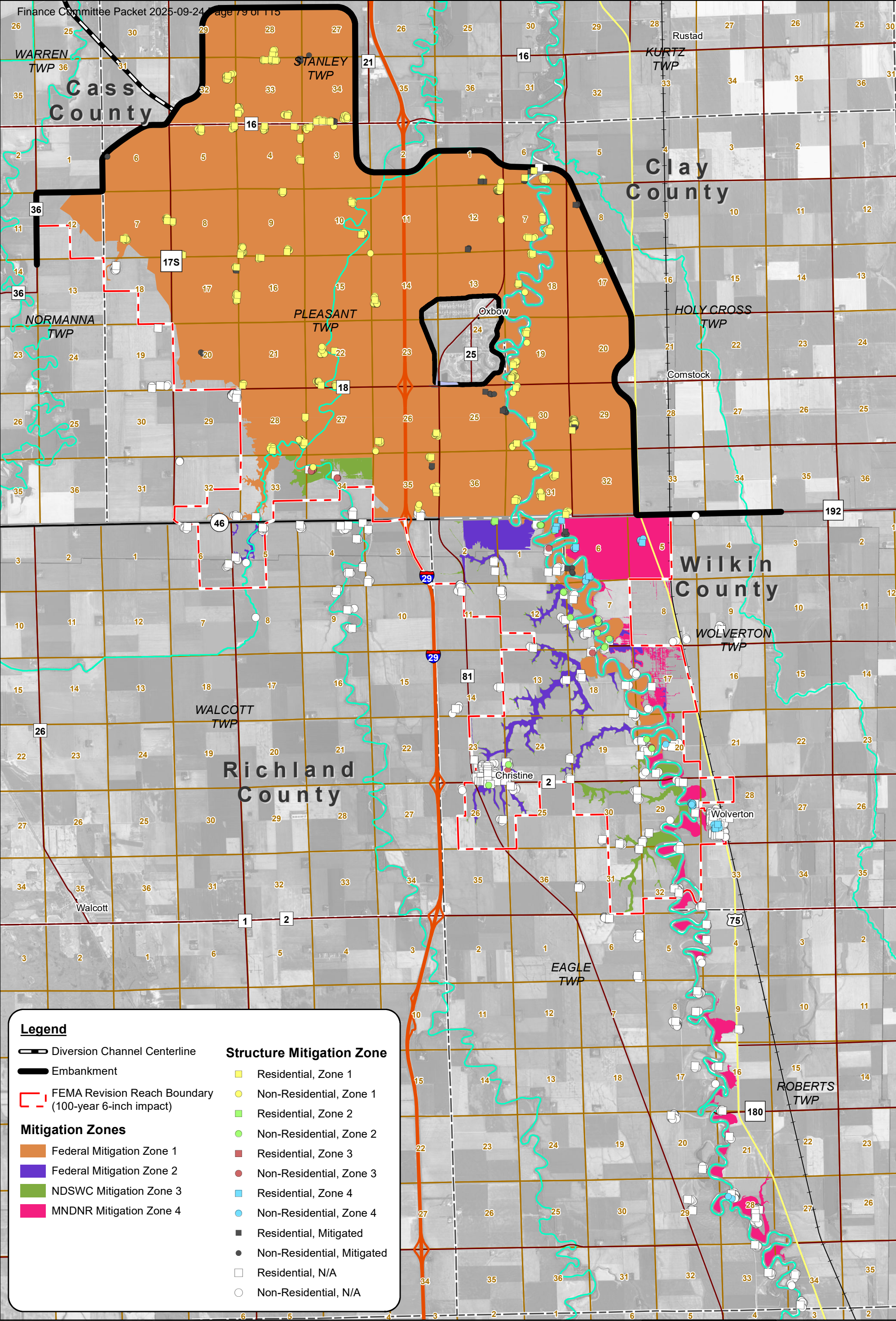
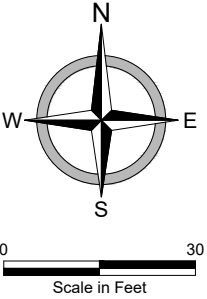


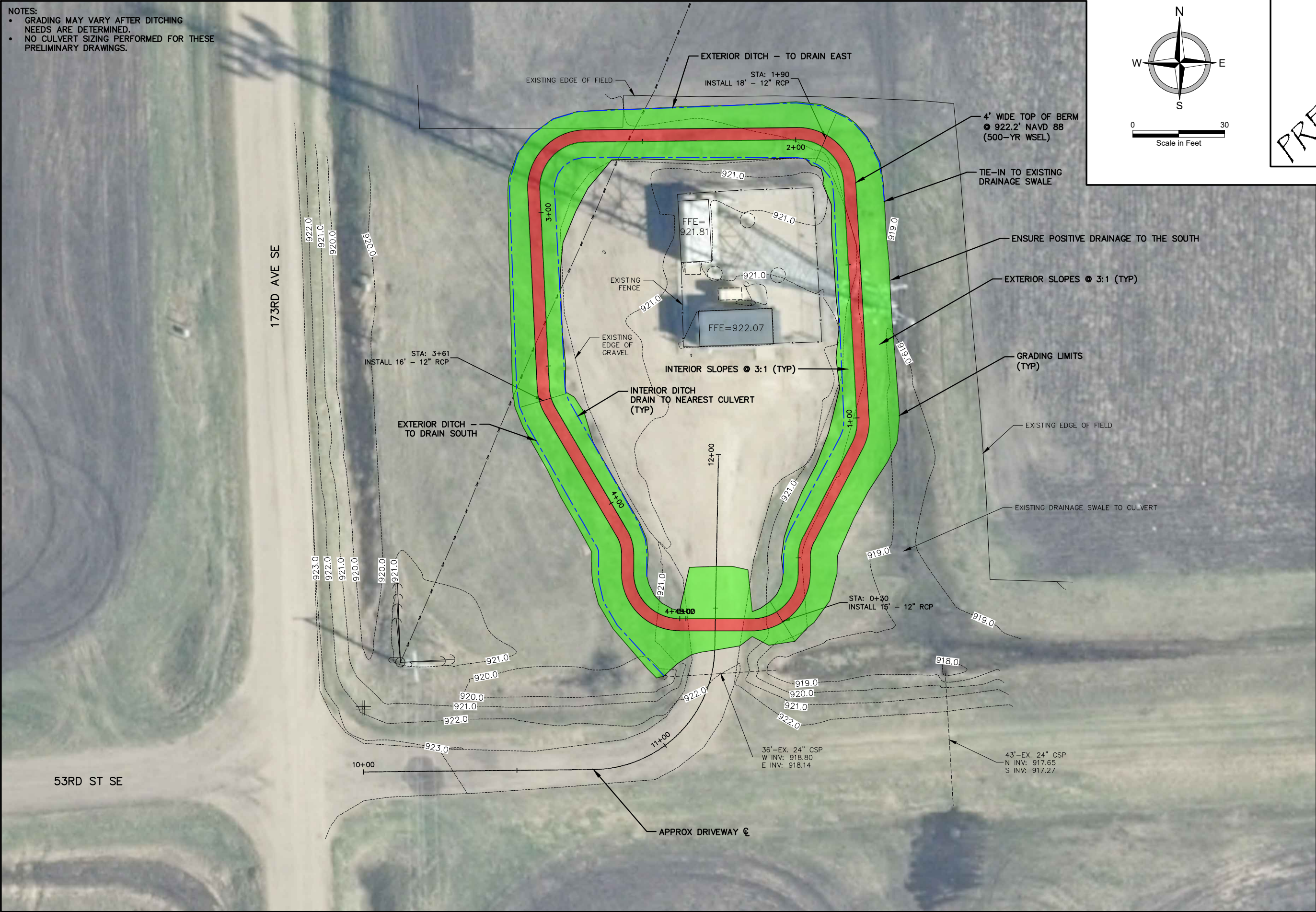


Exhibit B

- NOTES:
- GRADING MAY VARY AFTER DITCHING NEEDS ARE DETERMINED.
  - NO CULVERT SIZING PERFORMED FOR THESE PRELIMINARY DRAWINGS.



PRELIMINARY



GIN 9231 BERM  
FM AREA DIVERSION PROJECT  
CASS COUNTY, NORTH DAKOTA  
SITE LAYOUT

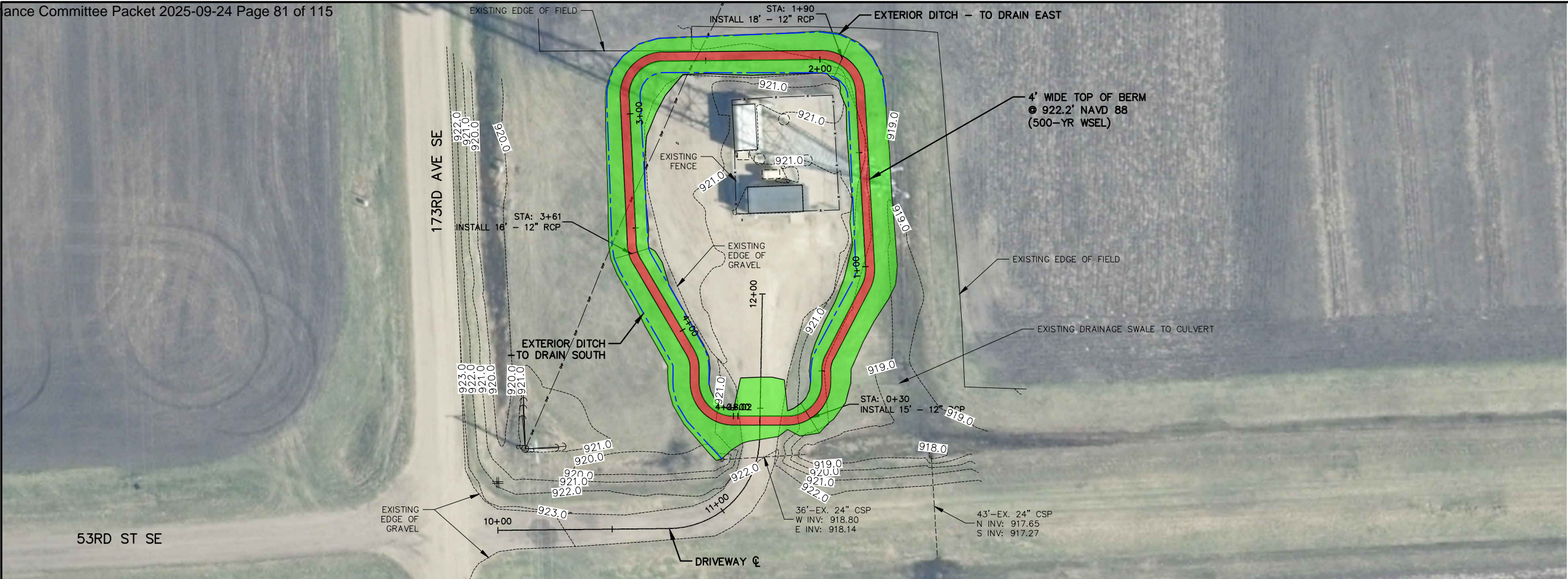
COORDINATE SYSTEM (HORIZONTAL CONTROL)  
NAD 83 (2007)  
NDSP - SOUTH ZONE - US SURVEY FEET  
NO SCALE FACTOR USED

ELEVATION DATUM (VERTICAL CONTROL)  
NAVD 88  
GEOID12B

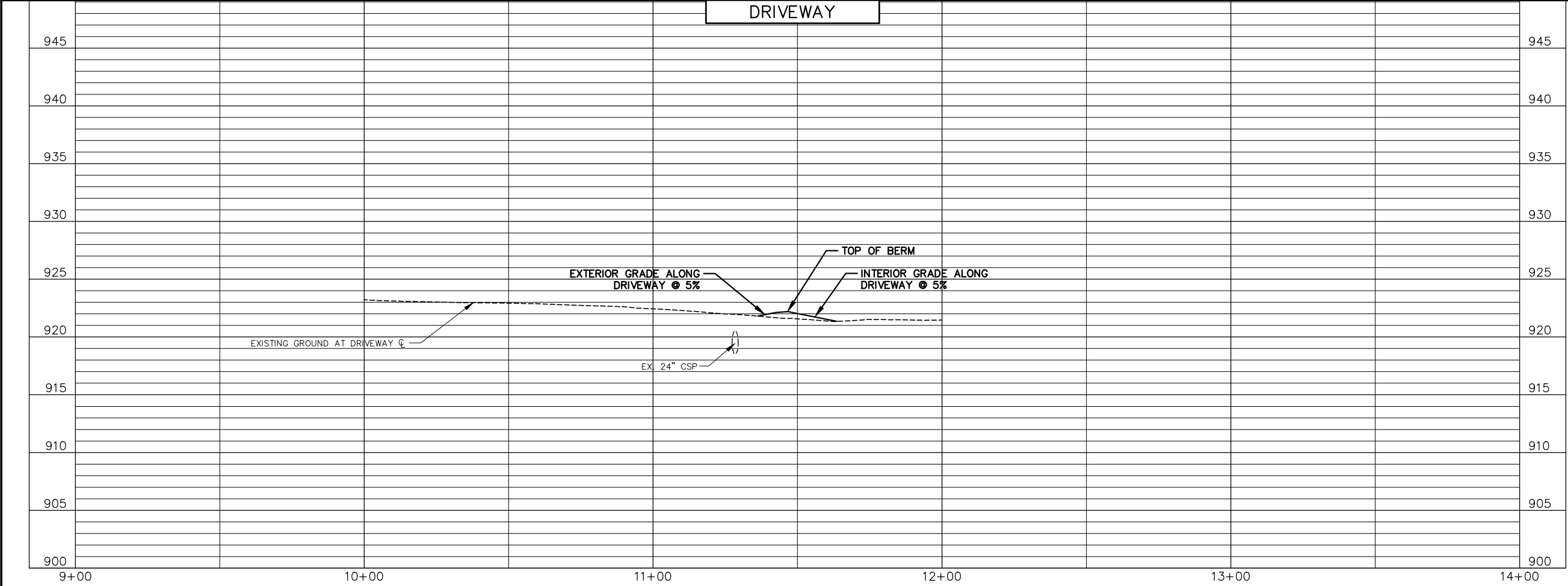
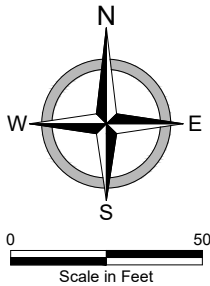
DATE:	04.06.22
REVISED:	---
REVISED:	---
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REVISED:	---
REVISED:	---
RECORD:	---
PROJECT No.	101
MANAGER:	LMP
DESIGNER:	ZJT
DRAFTER:	ZJT
REVIEWER:	---



FILE LOCATION: R:\Projects\1000\219000\21990\CIVIL\DESIGN\OIN 9231\OIN9231.dwg



PRELIMINARY



COORDINATE SYSTEM (HORIZONTAL CONTROL)  
NAD 83 (2007)  
NDSP - SOUTH ZONE - US SURVEY FEET  
NO SCALE FACTOR USED

ELEVATION DATUM (VERTICAL CONTROL)  
NAVD 88  
GEOID12B

GIN 9231 BERM  
FM AREA DIVERSION PROJECT  
CASS COUNTY, NORTH DAKOTA  
DRIVEWAY PLAN & PROFILE

DATE:	04.06.22
REVISED:	---
REVISED:	---
REVISED:	---
REVISED:	---
REVISED:	---
RECORD:	---
TASK ORDER NO.	101
MANAGER:	LMP
DESIGNER:	ZJT
DRAFTER:	ZJT
REVIEWER:	---



## Exhibit C

### **FEDERAL CERTIFICATION FORMS CERTIFICATION REGARDING FEDERAL LOBBYING**

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

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

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

Company/  
Entity Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

PLEASE RETURN TO:  
Metro Flood Diversion Authority  
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 \_\_\_\_\_



Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name and Title of Authorized  
Representative

\_\_\_\_\_  
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, AND 40 CFR PART 7

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

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 1-5. Otherwise, the contracts for services can be terminated for cause and the undersigned can be declared ineligible to contract for the Project.

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

---

Signature of Authorized Official

---

Title

---

Print Name

---

Name of Institution or Agency

---

Date

---

Street



---

City, State, Zip Code

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

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Office Email Address



**AUTHORITY INVOICING REQUIREMENTS**

Utility will submit copies of the invoice to:

[Bakkegardk@FMDiversion.gov](mailto:Bakkegardk@FMDiversion.gov) and [APInvoicesFMDiv@jacobs.com](mailto:APInvoicesFMDiv@jacobs.com)

Utility's invoices must be detailed and precise. Utility's invoices must clearly indicate fees and expenses for the current billing period month and include at least the following information:

- i. Utility's name and address;
- ii. Utility's federal employer identification number;
- iii. Unique invoice number;
- iv. Billing period;
- v. Description of each activity performed for each day in which services were performed;
- vi. Work order number associated with each activity;
- vii. Name, billing rate, and hours worked by each person involved in each activity;
- viii. Total amount of fees and costs "billed to date," including the preceding months;
- ix. Preferred remittance address, if different from the address on the invoice's coversheet;  
and
- x. All of the work performed during that billing period.

After the Authority receives Utility's invoice, the Authority will either process the invoice for payment or give Utility specific reasons, in writing within fifteen (15) business days, why part of all of the Authority's payment is being withheld and what actions Utility must take to receive the withheld amount. In the event of disputed billing, only the disputed portion will be withheld from payment and the Authority shall pay the undisputed portion. Payment does not imply acceptance of services or that the invoice is accurate. In the event an error is identified following the receipt of payment, Utility must credit any payment in error from any payment that is due or that may become due to Utility under this Agreement or return the overpayment to the Authority within thirty (30) calendar days of the identification of the error.

And any other information referenced within this Agreement.



## DEFENSE AGREEMENT

**THIS DEFENSE AGREEMENT** (the “Agreement”) is made and entered into this 25<sup>th</sup> day of September, 2025, by and between the Metro Flood Diversion Authority, a North Dakota political subdivision, whose post office address is 4787 Amber Valley Parkway S., Suite 100, Fargo, ND 58104 (the “Authority”), and AP Wireless Investments I, LLC, a Delaware limited liability company, whose post office address is 4250 Executive Square, Suite 900, La Jolla, California 92037 (the “Utility”) (collectively, the Authority and the Utility are referred to as the “Parties”).

## RECITALS

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

**WHEREAS**, the Authority, the City of Fargo, North Dakota, and the City of Moorhead, Minnesota, are the Non-Federal Sponsors (“NFS”) for the Comprehensive Project and entered into a Project Partnership Agreement (“PPA”) on July 11, 2016, and amended March 19, 2019, 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 NFS and USACE; and

**WHEREAS**, the Authority was created to undertake and fulfill the NFS’ obligations under the PPA; and

**WHEREAS**, pursuant to the PPA, the NFS are responsible for completing the Upstream Mitigation Area (“UMA”), the area where the Authority is required to obtain property rights as mitigation for the temporary storage of floodwaters during Comprehensive Project operations, and all mitigation features that are not the responsibility of the USACE; and

**WHEREAS**, pursuant to Article II of the PPA, the NFS shall be responsible for all real property interests and relocations required for the construction, operation, and maintenance of the Comprehensive Project; and

**WHEREAS**, Kenneth and Lucille Sundet (the “Sundets”) owned certain real property located at 5280 173<sup>rd</sup> Avenue S.E., Hickson, ND 58407, located in Cass County, North Dakota, described as follows:

The West 832 feet of the S ½ of the SW ¼ of Section 26, in Township 137 North of Range 49 West of the Fifth Principal Meridian, situate in the County of Cass and the State of North Dakota.



AND BEING a portion of the same property conveyed to Kenneth Sundet from Grant C. Sundet and Nora L. Sundet, husband and wife by Warranty Deed dated November 20, 1967 and recorded December 08, 1967 in Deed Book 329, page 456.

Tax Parcel No. 57-0000-10368-000.

(the “Property”); and

**WHEREAS**, the Sundets transferred the Property to Tyler J. Rupp by warranty deed described in the instrument recorded as Document No. 1332363 on September 20, 2011, at 4:07 p.m. in the office of the County Recorder of Cass County, North Dakota; and

**WHEREAS**, the Sundets granted AP Wireless Infrastructure Partners LLC, an exclusive communication easement for the transmission and reception of wireless communication and related activities in the instrument recorded as Document No. 1323406 on May 17, 2011, at 3:47 p.m. in the office of the County Recorder of Cass County, North Dakota (the “Easement and Assignment Agreement”), on the Property, described as follows:

That portion of the Property on which any Facilities exist on the date of this [Easement and Assignment] Agreement together with the portion of the Property leased by Site Owner, which is comprised of approximately 160,000 sq. ft ... and is more particularly described as follows:

The South 400.00 Feet of the West 400.00 Feet of the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 26, T137N, R49W of the Fifth Principal Meridian, Cass County, North Dakota.

(the “Communication Easement”); and

**WHEREAS**, in the Easement and Assignment Agreement, the Sundets also granted AP Wireless Infrastructure Partners LLC, a non-exclusive access and utility easement for ingress and egress to the Communication Easement, on the Property, described in relevant part, as follows:

All rights of ingress and egress across the Property... to and from the Communication Easement... providing access to a publicly dedicated roadway, including but not limited to 53<sup>rd</sup> Street S.E. (hereinafter the “Access Easement”), along with the right to use said Access Easement for the development, repair, maintenance and removal of utilities providing service to the Communication Easement and the Facilities... and any related activities and uses.

All rights for the development, repair, maintenance and removal of utilities providing service to the Communication Easement and the Facilities... and any related activities and uses in, along, under and over the Access Easement... (“Utility Easement”).



(the “Access and Utility Easement”) (collectively, the Communication Easement and Access Utility Easement are referred to as the “Easements”); and

**WHEREAS**, AP Wireless Infrastructure Partners LLC, entered into an Assignment of Easement, dated December 1, 2012, assigning rights under the Easement and Assignment Agreement to the Utility described in the instrument recorded as Document No. 1384307 on April 18, 2023, at 2:29 p.m. in the office of the County Recorder of Cass County, North Dakota (the “Assignment of Easement”); and

**WHEREAS**, Section 3 of the Easement and Assignment Agreement states, “APWIP shall have the unrestricted right to lease, license, transfer or assign, in whole or in part, or permit the use of the Easements and/or its rights under this Agreement, by any third parties including communication service providers or tower owners and operators, and any lessee or licensee under the Existing Agreements and the affiliates, agents, contractors, invitees and employees of APWIP and/or APWIP’s present or future lessees or licensees (collectively, “Customers”).”

**WHEREAS**, the Utility leases space in the Easement to American Tower Corporation (“ATC”) to operate and maintain a cellular tower (the “Utility Infrastructure”) on the Property; and

**WHEREAS**, the District must acquire a flowage easement on the Property and it is necessary for the Utility Infrastructure to be protected by a berm (the “Utility Relocation Project”) to conform with the requirements of the flowage easement; and

**WHEREAS**, the Parties entered into the MASTER UTILITY RELOCATION AGREEMENT, dated September 25, 2025, attached hereto as **Exhibit A**, to set forth their mutual understandings and to define the terms and conditions of each Party’s rights and obligations in connection with the Utility Relocation Project; and

**WHEREAS**, this Agreement is entered into with the mutual understanding that the Cass County Joint Water Resource District (the “District”) will complete the necessary steps to acquire the underlying property rights necessary for the Comprehensive Project; and

**WHEREAS**, the District is a member entity of the Authority and has legal authority under N.D.C.C. § 61-16.1-09, N.D.C.C. Ch. 32-15 and Article I, §16, of the North Dakota Constitution to utilize eminent domain, if necessary, to acquire the real property interests necessary to create, construct, operate, and maintain flood control and protection projects; and

**WHEREAS**, the Parties desire to enter into a separate agreement whereby the Authority will defend the Utility against actions, lawsuits, or claims that arise out of, relate to, or result from the Authority’s utilization of eminent domain to acquire the real property interests in, on, over, across, and through various properties in the UMA for the Comprehensive Project; and



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

1. **The Parties and the Litigation.** The District is in the process of acquiring a flowage easement on the Property for the temporary storage of flood waters during the Comprehensive Project operation. The Parties agree and acknowledge that the Utility may become a party to an action, lawsuit, or claim resulting from the District's obligation to acquire a flowage easement on the Property (the "Litigation"). The District is represented by the law firm of Ohnstad Twichell, P.C. ("Ohnstad Twichell"). The Utility is represented by the Vogel Law Firm ("Vogel").

2. **The Agreement.** The Parties agree to enter into this Agreement to safeguard the confidentiality of certain attorney-client and attorney work-product privileged information which may be disclosed by and to one or more of the Parties. Privileged work-product information, including, without limitation, all verbal information, including all information disclosed during meetings and interviews, all documents, written materials, and any other tangible items, and all attorney-client privileged information is hereinafter called "Litigation Material".

The Parties will follow the procedures set forth below with respect to Litigation Material produced or disclosed in the Litigation.

- a. **Non-Waiver of Privileges.** Litigation Material has been or may be disclosed (intentionally or unintentionally) between the Parties in the course of the Litigation. It is understood and agreed that neither the attorney-client nor attorney work-product privilege, nor any other privilege, has been or will be waived or destroyed with respect to any such information as disclosed between persons included by this Agreement in the privilege.
- b. **Duty to Defend.** In the event the Utility, its officers, employees, or agents are made a party to any action, lawsuit, or other claims arising from the District's obligation to obtain a flowage easement on the Property for the Comprehensive Project and upon demand by the Utility, the Authority shall defend the Utility, at the Authority's cost or at the Authority's option, to reimburse the Utility for its costs of defense in such matters. The obligation to defend extends through final judgment, including exhaustion of any appeals.

Notwithstanding the foregoing, the Utility may, in its sole discretion and at the expense of the Utility, engage its own attorneys and other professionals to defend or assist if the Utility determines that the defense as conducted by the Authority is not proceeding or being conducted in a satisfactory manner or that a conflict of interest exists between any of the parties represented by the Utility's counsel in such action or proceeding.

The Parties agree that it is in their mutual best interests to cooperate with each other and to share information protected by the attorney-client privilege and by the work-product doctrine in order to mutually deal with and defend against the claims that have been or may be asserted in the Litigation. To further their common interests, Parties have exchanged or intend to exchange Litigation Material among themselves, as deemed appropriate.



- c. **Persons Included in Attorney-Client and Attorney Work-Product Privilege.** Attorney-client and attorney work-product privileged information shall not be disclosed to any persons other than to:

- (i) (a) Ohnstad Twichell, the Parties, and their agents (b) paralegal, and clerical staff of Ohnstad Twichell who assist in the Litigation; (c) employees of Ohnstad Twichell or parties who have direct responsibility for assisting such counsel in the preparation and trial of the action; (d) insurance companies providing a defense/coverage to parties and agents of such insurance companies; and (e) consultants and experts and their staff who are engaged by individual counsel in the Litigation; and
  - (ii) (a) Vogel Law Firm, the Parties, and their agents (b) paralegal, and clerical staff of Vogel Law Firm who assist in the Litigation; (c) employees of Vogel Law Firm or parties who have direct responsibility for assisting such counsel in the preparation and trial of the action; (d) insurance companies provided a defense/coverage to parties an agents of such insurance companies; and (e) consultants and experts and their staff who are engaged by individual counsel in the Litigation.
- d. **No Duty to Indemnify.** The Authority (including its member entities) shall not, under any circumstance, be obligated to indemnify and hold harmless the Utility, its directors, officers, employees, and agents against any and all allegations, claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including attorney's fees), which arise out of, relate to or result from any act or omission of the Authority related to this Agreement.

3. **Confidentiality.** Parties agree to maintain the confidentiality of all Litigation Materials. Except as may be required by court order or permitted by agreement, no one will disclose Litigation Materials to any person or entity other than those persons enumerated above in connection with the Litigation. Parties agree they shall use Litigation Materials solely in connection with the Litigation and for no other purpose.

In the event that any one of the Parties receives a request, including a subpoena, for the production of Litigation Materials, the Party will take appropriate steps to oppose production of the requested Litigation Materials.

4. **Authority to Parties.** This Agreement shall not create any agency or similar relationship between the Parties. No individual counsel shall have authority to waive any applicable privilege or doctrine on behalf of each other.

5. **General Intent of Agreement.** The general intent of this Agreement is to allow the free sharing of broadly defined attorney-client privileged materials and attorney work-product materials between Parties without waiving any privilege that may attach to the Litigation Materials. Even though Litigation Materials may be shared under this Agreement, those materials shall have the same protection and privilege just as if the materials had not been shared. Parties acknowledge they have common and mutual interests in the Litigation, and this Agreement is executed to further the Parties' goals in the Litigation.



6. **Notice.** All notices under the Agreement will be in writing and: (a) delivered personally; (b) sent by certified mail, return receipt requested; (c) sent by a recognized overnight mail or courier service, with delivery receipt requested; or (d) sent by facsimile or email communication followed by a hard copy and with receipt confirmed by telephone or return receipt (in the case of email communication), to the following addresses:

If to the Authority: Metro Flood Diversion Authority  
Attn: Executive Director  
4787 Amber Valley Parkway, Suite 100  
Fargo, ND 58104

[APInvoices@FMDiv@jacobs.com](mailto:APInvoices@FMDiv@jacobs.com)  
[bakkegardk@fmdiversion.gov](mailto:bakkegardk@fmdiversion.gov)

If to the Utility: AP Wireless Investments I, LLC  
Attn: Legal Department, L357287  
4250 Executive Square, Suite 900  
La Jolla, CA 92037

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.

7. **Entire Agreement.** This Agreement constitutes the entire and complete agreement between the Parties and supersedes any prior oral or written agreements between the parties with respect to the matters contained herein. It is expressly agreed that there are no verbal understandings or agreements that in any way change the terms, covenants, and conditions set forth herein, and that no modification of this Agreement and no waiver of any of its terms and conditions will be effective unless in writing and duly executed by the Parties.

8. **Amendments.** No amendment, modification, or waiver of any condition, provision, or term will be valid or of any effect unless made in writing signed by the party or parties to be bound, or a duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification, or waiver.

9. **No Forbearance.** The failure or delay of any Party to insist on the performance of any of the terms of this Agreement, or the waiver of any breach of any of the terms of this Agreement, will not be construed as a waiver of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not affect the validity of this Agreement, or the right to enforce each and every term of this Agreement.

10. **Remedies.** Except as expressly and specifically stated otherwise, nothing herein will limit the remedies and rights of the Parties under and pursuant to this Agreement.



11. **Binding Effect.** All covenants, agreements, warranties, and provisions of this Agreement will be binding upon and inure to the benefit of the Parties and their respective representatives, successors, and assigns.

12. **Governing Law.** This Agreement has been made and entered into under the laws of the State of North Dakota, and said laws will control its interpretation. 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. **Rules of Construction.** The Parties acknowledge that they have had the opportunity to review this Agreement, and that they have an equal bargaining position in this transaction. No rule of construction that would cause any ambiguity in any provision to be construed against the drafter of this document will be operative against any Party to this Agreement.

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

15. **Severability.** In the event that any term, part, or provision of this Agreement is held to be invalid or unenforceable, all other terms, parts, and provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable term, part, or provision severed from the remainder of this Agreement.

16. **Execution in Counterparts; Electronic Signatures.** This Agreement may be executed in two or more counterparts, each of which together will be deemed an original, but all of which together will constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a “.pdf” format data file, such signature will create a valid and binding obligation of the Party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or “.pdf” signature page was an original thereof.

*(Remainder of page intentionally left blank.)*



IN WITNESS WHEREOF, the Parties executed this Agreement on the date first written above.

AUTHORITY:

Metro Flood Diversion Authority

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Jason Benson, Executive Director

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Tony Grindberg, Chair

ATTEST:

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Dawn Lindblom, Secretary



UTILITY:

AP Wireless Investments I, LLC

By: \_\_\_\_\_  
Daniel J. Hasselman

Its: Co-CEO \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Its: \_\_\_\_\_



**Exhibit A –**  
**MASTER UTILITY RELOCATION AGREEMENT**  
**(RESERVED FOR FUTURE USE.)**



## **MUTUAL CONFIDENTIALITY AGREEMENT**

This Mutual Confidentiality Agreement (“Agreement”) is entered into on \_\_\_\_\_, 2025 (“Effective Date”) by and between **CHS Inc.**, a Minnesota cooperative corporation, 5500 Cenex Drive, Inver Grove Heights, Minnesota 55077 (“**CHS**”) and the Metro Flood Diversion Authority, a North Dakota political subdivision, having a place of business at 4784 Amber Valley Parkway S., Suite 100, Fargo, North Dakota 58104 (“**Authority**”) CHS and the Authority are individually referred to herein as “Party”, and collectively as “Parties”.

### **RECITALS**

CHS and the Authority desire to engage in discussions regarding a potential business transaction relating to mapping of CHS facilities within the Sheyenne River/Diversion removal/modification project area. (the “Proposed Transaction”) during which a Party (the “Receiving Party”) may receive Confidential Information (as hereinafter defined) of the other Party (the “Disclosing Party”). The Parties enter into this Agreement to limit disclosure of such Confidential Information.

### **AGREEMENT**

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

#### **1. Definition of Confidential Information**

“Confidential Information” shall mean all documentation (including, without limitation, documentation exchanged in negotiations with respect to the Proposed Transactions), containing information regarding the business, operations, financial condition or prospects of the Disclosing Party, regardless of whether the information is presented orally, in writing, electronically or otherwise, and shall specifically include, without limitation: (a) information regarding the supply, production, purchase, sale, marketing, storage, transportation, and distribution of products and commodities, trading and asset positions, projects undertaken and completed, financial projections and results, patent applications, know-how and other intellectual property, plans, and finances, asset locations, customers, suppliers, and business partners of the Disclosing Party or any of its Affiliates (as hereinafter defined); (b) any memorandum, notes, analysis, summary, report, or other document, record, or material prepared by or for the Receiving Party that contains, reflects, interprets, or is based upon any Confidential Information; and (c) the existence of this Agreement, the fact that Confidential Information has been made available to the Receiving Party, and the fact that discussions or negotiations are taking place with respect to a possible transaction between the Parties.

“Affiliate” means, with respect to any Person (as hereinafter defined), any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, such Person. For purposes of this definition, “control,” “controlled by” and “under common control with,” as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting securities, by contract, or otherwise. “Person” means any individual, partnership, corporation, limited liability company, association, joint stock company, trustee or trust, joint venture, unincorporated organization or any other business entity or association or any government authority.

Confidential Information may include trade secrets. “Trade Secret” means information that (a) is not known or available to the public and is used by the Party directly for business (b) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (c) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Any Trade Secret information that is shared with



the Receiving Party shall be marked as “Trade Secret” in order to be subject to the non-disclosure protections set forth in Sections 2 and 4.

Confidential Information shall not include information that: (a) is in the public domain prior to disclosure by Disclosing Party; (b) becomes part of the public domain, by publication or otherwise, other than as a result of breach of this Agreement by the Receiving Party; (c) is in the Receiving Party's possession prior to disclosure by the Disclosing Party, other than as a result of breach of this Agreement by the Receiving Party; (d) is independently developed by an employee or contractor of the Receiving Party without the use or benefit of the Confidential Information; or (e) was or hereafter is made available to the Receiving Party by any third party who is not known by the Receiving Party to be under an obligation to the Disclosing Party not to disclose the information.

## **2. Use of Confidential Information, Non-Disclosure**

Subject to the North Dakota Open Records Law, the Receiving Party agrees that it will only use the Confidential Information in connection with its or its Representatives, as defined herein, evaluation of the Proposed Transaction. Receiving Party may disclose Confidential Information to any third-party Representatives who have a need to view the Confidential Information for purposes of advising the Receiving Party with respect to the Proposed Transaction. Upon receipt of any Confidential Information, Representatives become subject to the terms and conditions and this Agreement as a Receiving Party. Beyond the foregoing, the Receiving Party will not disclose, or permit to be disclosed, any Confidential Information to any other third-party without the Disclosing Party's prior written consent. Receiving Party will protect the Confidential Information from unauthorized use, disclosure, or dissemination by using the same degree of care as it uses to safeguard its own confidential or proprietary information of a like nature, but no less than a reasonable degree of care.

Representative means Receiving Party's officers, directors, and employees who (1) have a need to know the Confidential Information (2) are informed by Receiving Party of the confidential nature of the Confidential Information, and (3) are subject to the confidentiality obligations to Disclosing Party as described in this section.

## **3. Required Disclosure**

If any Confidential Information is required to be disclosed pursuant to an order of a court, the North Dakota Open Records Law, state or federal law, code or regulation, Receiving Party will give Disclosing Party notice thereof and will use its reasonable best efforts to cooperate with Disclosing Party in resisting or limiting such disclosure.

## **4. Term**

The period for disclosure under this Agreement is one (1) year from the Effective Date. The obligations imposed by this Agreement, including but not limited to non-disclosure and non-use, shall endure for three (3) years from the Effective Date. To the extent a Party discloses a Trade Secret, the confidentiality obligations shall endure indefinitely, or until such a time that the information is no longer a Trade Secret as defined by the Uniform Trade Secret Act.

## **5. Ownership of Intellectual Property**

Except as expressly provided herein, no license or right is granted hereby to the Receiving Party, by implication or otherwise, with respect to or under any intellectual property or other proprietary rights of the Disclosing Party with respect to the Confidential Information.



**6. Remedies**

Each Party agrees that irreparable injury may result to a Party or its Affiliates if the other Party (or any of its Affiliates or Representatives) breaches any term hereof and that money damages would not be a sufficient remedy therefor. Each Party therefore agrees that if it engages, causes, or permits any other person to engage in any act in breach of any term hereof, the other Party will be entitled, in addition to all other remedies, damages and relief available under applicable law, to seek an injunction prohibiting the breaching Party (or such other person) from engaging in any such act or specifically enforcing this Agreement. In the event a court of competent jurisdiction issues such an injunction, the breaching Party shall be liable to the other Party for attorneys' fees and any damages arising out of such breach. Notwithstanding the foregoing, in no event will either Party be liable under this Agreement for punitive or exemplary damages.

**7. No Representations of Disclosing Party**

Neither Party makes any representation or warranty, express or implied, as to the accuracy or completeness of any of the Disclosing Party's Confidential Information, and neither Party nor their respective officers, employees, agents, or representatives will have any liability to the Receiving Party relating to or resulting from the use of any Confidential Information or any inaccuracies or errors therein or omissions therefrom. Only those representations and warranties (if any) that are included in any final definitive written agreement that provides for the consummation of a negotiated transaction between the Parties and is validly executed on behalf of the Parties will have legal effect.

**8. Return of Information**

Subject to the following paragraph, upon request of Disclosing Party, Receiving Party will promptly deliver to Disclosing Party all of the Disclosing Party's Confidential Information (and all copies thereof) obtained or possessed by Receiving Party or its Affiliates. However, in lieu of delivering to the Disclosing Party any Confidential Information that is in written or other tangible form, Receiving Party may destroy such materials and provide to the Disclosing Party a written confirmation of their destruction. Notwithstanding the return or destruction of the Confidential Information, Receiving Party will continue to be bound by its confidentiality obligations and other obligations under this Agreement.

Receiving Party may retain one copy of the Confidential Information in a locked and limited access file during the period of non-use and non-disclosure obligations described in Sections 2 and 4 herein, and for the applicable statute of limitations period thereafter, for the sole purpose of determining Receiving Party's compliance with this Agreement. Notwithstanding the foregoing, Receiving Party will not be obligated to erase Confidential Information contained in an archived computer system backup made in accordance with its security and/or disaster recovery procedures or document retention policy, provided that such archived copy will (a) be erased or destroyed in the ordinary course of Receiving Party's data processing procedures and (b) remain fully subject to the obligations of confidentiality stated herein.

**9. Notices**

All notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a "Notice") shall be made in writing and addressed to the other Party at the addresses set forth on the first page and signature page of this Agreement (or to such other address that a Party may designate from time to time in accordance with this section). Each Party shall deliver all Notices by one of the following means: (a) personal delivery, (b) nationally recognized overnight courier (all fees prepaid), (c) e-mail, (d) facsimile (with confirmation of transmission), (e) registered mail (postage prepaid), or (f) certified mail (return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt by the receiving party and (b) if the party giving the Notice has complied with the requirements of this Section.



**10. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware (notwithstanding conflict of laws) and the Parties hereby submit to jurisdiction and venue in courts of Delaware for purposes of interpretation, validity, and enforcement of the terms of this Agreement.

**11. Assignment**

This Agreement shall not be assigned by either Party without the prior written consent of the other Party. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their permitted successors and assigns.

**12. Severability**

If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Failure to enforce any provisions of this Agreement shall not constitute a waiver of any of the terms and conditions hereof.

**13. Entire Agreement**

This Agreement constitutes the entire agreement of the Parties regarding the subject matter contained herein and supersedes all prior and contemporaneous agreements, understandings, representations, and warranties, both written and oral, regarding such subject matter.

**14. Amendment**

No amendment, modification, or waiver of the terms of this Agreement shall be binding unless placed in writing and duly executed by the Parties' authorized representatives.

**15. No Other Obligation**

This Agreement does not create a relationship of agency, partnership, joint venture, or license between the Parties. This Agreement does not obligate either of the Parties to enter into the Proposed Transaction or to make any purchase from or sell anything to the other Party, nor does it obligate any Party to enter into any possible joint venture. Either Party may at any time, at its sole discretion, with or without cause, terminate discussions and negotiations with the other Party in connection with the Proposed Transaction or otherwise.

**16. Acknowledgments**

Disclosing Party acknowledges that Receiving Party may now or in the future, (i) have or be engaged in the use, commercialization, or development of information, products, concepts, systems, services, or techniques that are similar to the Confidential Information or the products, concepts, systems, services, or techniques of Disclosing Party or its affiliates, or (ii) be engaged in other activities that compete with the business of Disclosing Party or its Affiliates. Nothing in this Agreement is intended to prevent or restrict Receiving Party from pursuing such use, commercialization, development, or other activities that are similar to or compete with that of Disclosing Party or its Affiliates.

The Parties acknowledge that this Agreement is not intended to and does not limit each Party's ability to engage in same or similar relationships, discussions, commercial transactions, or exchanges of information with third parties.



**17. Counterparts**

This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will be deemed to be one and the same agreement. The signed Agreement or counterparts may be delivered or stored electronically as a photocopy (such as in .pdf format) or by third-party electronic signing service (e.g., DocuSign or AdobeSign) and such copies delivered or stored electronically will be enforceable and have the same legal effect as original documents.

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the Effective Date.

**CHS Inc.**

**Metro Flood Diversion Authority**

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

E-mail: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_



# Budget Change Request

Document Control No. SWMLFC-CH2-FA-RFC-00013	Originator: D. Brown
Budget Change No. 022	Date: 9/15/2025
Title: Add 53 million to Program Budget for SRMP	
Project: FM-Diversion	

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

### Request Description:

**This budget change request adds 53 million dollars to the Program Budget. Funds will be transferred from the USACE budget in a future PPA amendment to the MFDA Program Budget and allocated under work package 41 Future Stream Mitigations to fund the Sheyenne River Mitigation Project (SRMP)**  
**The Program budget will increase from 2.892 billion to 2.945 billion.**

### Request Justification:

The Sheyenne River Mitigation Project has been developed to mitigate loss of aquatic habitat per the SEIS and NEPA. The project is required to mitigate impacts of the Fargo-Moorhead Area Diversion Project and cannot be constructed until the Shyenenne Aqueduct and the SWDCAI construction is complete and operational to maintain flood protection in Fargo and West Fargo. The USACE was scheduled to perform the work however, it has been agreed to shift the scope and budgeted funds from the USACE portion to the Diversion Authority.

<b>General Impacts:</b>			Additional Information:																										
<b>Authority Board Approval Required?</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Contract Types</b> <input type="checkbox"/> LS <input type="checkbox"/> TM <input checked="" type="checkbox"/> MOU <input type="checkbox"/> Task Order <input type="checkbox"/> N/A	<b>Request Type</b> <input type="checkbox"/> Project Initialization <input checked="" type="checkbox"/> Project Change <input type="checkbox"/> Contingency Release																											
<b>Change Impacts To:</b> Scope/Technical <input checked="" type="checkbox"/> Direction <input checked="" type="checkbox"/> Schedule <input type="checkbox"/> Budget <input checked="" type="checkbox"/> Subcontract <input type="checkbox"/>																													
<p align="center"><b><u>Budget Request Summary</u></b></p> <table> <tr> <td><b>Budget Increase:</b></td> <td>Added Scope: \$53,000,000</td> <td>Over Runs: \$0</td> </tr> <tr> <td><b>Budget Decrease:</b></td> <td>Deferred Scope \$0</td> <td>Deleted Scope \$0</td> </tr> <tr> <td><b>Internal Transfers:</b></td> <td>From: Cost Account</td> <td>To: Cost Account</td> </tr> </table>			<b>Budget Increase:</b>	Added Scope: \$53,000,000	Over Runs: \$0	<b>Budget Decrease:</b>	Deferred Scope \$0	Deleted Scope \$0	<b>Internal Transfers:</b>	From: Cost Account	To: Cost Account	<table border="1"> <tr> <th align="center" colspan="3">Budget Request and Status</th> </tr> <tr> <th></th> <th>Cost Account</th> <th>Amount</th> </tr> <tr> <td>Current Authorization (SOURCE)</td> <td>All</td> <td>2.892 billion</td> </tr> <tr> <td>Current Request (Net Change)</td> <td>53 million</td> <td></td> </tr> <tr> <td>Budget after Change</td> <td></td> <td>2.945 billion</td> </tr> </table>			Budget Request and Status				Cost Account	Amount	Current Authorization (SOURCE)	All	2.892 billion	Current Request (Net Change)	53 million		Budget after Change		2.945 billion
<b>Budget Increase:</b>	Added Scope: \$53,000,000	Over Runs: \$0																											
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Authorization Level	Approval / Concurrence	NOTE: Approval will be documented via ACONEX Workflow; or during Finance and Authority Board meetings		
5	Client – Authority Exec. Director			
4	Program Manager P.B.			
3	Project Controls M.T.			
2	Contracts Manager I.J			
1	Originator D.B			





# Diversion Authority Finance Committee Meeting

September 24, 2025

**Contracting Actions**



# DA Board Approval Contract Actions

**(ACTION)**



Description	Company	Budget/ Estimate (\$)
WP41A – Maple River Benching Project – Recommendation of Award	Comstock Construction, Inc	\$358,400.00
Task Order 101, Amendment 15 – Design and Construction Support – Budget and Scope of Work for preliminary design and permitting support for the Sheyenne River Mitigation Project.	Houston-Moore Group, Inc	\$1,500,000.00





4784 Amber Valley Parkway South,  
Suite 200  
Fargo, ND 58104  
[www.jacobs.com](http://www.jacobs.com)

September 11, 2025

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

Project Name: Maple River Benching Project  
Project Number: WP-41A

Subject: **Work Package 41A Maple River Benching Project  
Recommendation of Award**

Dear Metro Flood Diversion Authority,

The contract for Work Package 41A Maple River Benching Project, Cass County, North Dakota was publicly advertised, and Three (3) bids were received at the virtual public bid opening on September 11, 2025, at 1:00pm.

The bids were from:

- |   |                |
|---|----------------|
| 1. Comstock Construction, Inc, in the amount of | \$358,400.00   |
| 2. Industrial Builders Inc, in the amount of    | \$910,690.00   |
| 3. Sellin Brothers, Inc, in the amount of       | \$1,240,221.50 |

The Engineers Estimate for the project was **\$906,895.00**

Jacobs (PMC), HMG LLC (EOR), and the Authority's Legal counsel have reviewed and evaluated the bid documents and recommend the Metro Flood Diversion Authority award the contract for WP41A to **Comstock Construction, Inc** in the amount of **\$358,400.00** as the lowest responsive bidder. Enclosed is the Bid Tabulation Assessment.

Please contact me at [ian.joynes@jacobs.com](mailto:ian.joynes@jacobs.com) if you have any questions regarding this recommendation.

Yours sincerely

**Ian Joynes, BEng CEng FICE, Construction Contracts Manager**



Copies to:

Kris Bakkegard  
Bob Zimmerman  
Matt Stamness  
Nathan Boerboom  
Kyle Litchy  
Justin Sorum



**Bid Tabulation Assessment**

OPINION OF PROBABLE CONSTRUCTION COST  
 MAPLE RIVER BENCHING  
 METRO FLOOD DIVERSION AUTHORITY  
 CASS COUNTY, NORTH DAKOTA

Bid Submission: SEPTEMBER 11, 2025

No.	ITEM	QUANTITY	UNIT	Engineers Estimate		Comstock Construction		Industrial Builders		Sellin Brothers	
				UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1.	MOBILIZATION	1	LS	\$ 50,000.00	\$ 50,000.00	\$ 37,427.60	\$ 37,427.60	\$ 180,000.00	\$ 180,000.00	\$ 121,000.00	\$ 121,000.00
2.	COMMON EXCAVATION	8120	CY	\$ 65.00	\$ 527,800.00	\$ 19.00	\$154,280.00	\$ 20.00	\$ 162,400.00	\$ 76.00	\$ 617,120.00
3.	COMMON EXCAVATION - EQUIPMENT PAD	630	CY	\$ 65.00	\$ 40,950.00	\$ 13.00	\$ 8,190.00	\$ 12.00	\$ 7,560.00	\$ 76.00	\$ 47,880.00
4.	TOE-WOOD DEBRIS	761	CY	\$ 110.00	\$ 83,710.00	\$ 119.20	\$ 90,711.20	\$ 350.00	\$ 266,350.00	\$ 310.00	\$ 235,910.00
5.	SOD MAT	176	CY	\$ 70.00	\$ 12,320.00	\$ 9.20	\$ 1,619.20	\$ 350.00	\$ 61,600.00	\$ 390.00	\$ 68,640.00
6.	SEEDING AND MULCHING - NORTHWEST TALLGRASS ROADSIDE	2.5	AC	\$ 10,000.00	\$ 25,000.00	\$ 3,986.40	\$ 9,966.00	\$ 4,000.00	\$ 10,000.00	\$ 4,025.00	\$ 10,062.50
8.	SEEDING AND MULCHING - CLASS III	9	AC	\$ 2,000.00	\$ 18,000.00	\$ 1,243.00	\$ 11,187.00	\$ 1,400.00	\$ 12,600.00	\$ 1,260.00	\$ 11,340.00
9.	SEEDING MAINTENANCE - YEAR 2 MOWING	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 5,720.00	\$ 5,720.00	\$ 5,400.00	\$ 5,400.00	\$ 5,810.00	\$ 5,810.00
10.	SEEDING MAINTENANCE - YEAR 2 SPOT HERBICIDE TREATMENT	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 3,300.00	\$ 3,300.00	\$ 3,200.00	\$ 3,200.00	\$ 3,350.00	\$ 3,350.00
12.	SEEDING MAINTENANCE - YEAR 3 MOWING	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 5,720.00	\$ 5,720.00	\$ 5,400.00	\$ 5,400.00	\$ 5,800.00	\$ 5,800.00
13.	SEEDING MAINTENANCE - YEAR 3 SPOT HERBICIDE TREATMENT	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 3,300.00	\$ 3,300.00	\$ 3,200.00	\$ 3,200.00	\$ 3,350.00	\$ 3,350.00
15.	CULVERTED FIELD ENTRANCE	1	LS	\$ 30,000.00	\$ 30,000.00	\$ 6,846.00	\$ 6,846.00	\$ 11,180.00	\$ 11,180.00	\$ 22,000.00	\$ 22,000.00
16.	REMOVE CULVERTED FIELD ENTRANCE	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 2,019.00	\$ 2,019.00	\$ 4,000.00	\$ 4,000.00	\$ 20,000.00	\$ 20,000.00
17.	STABILIZED CONSTRUCTION ACCESS	1	EA	\$ 5,000.00	\$ 5,000.00	\$ 2,217.00	\$ 2,217.00	\$ 4,000.00	\$ 4,000.00	\$ 40,000.00	\$ 40,000.00
18.	SILT FENCE - UNSUPPORTED	2480	LF	\$ 5.00	\$ 12,400.00	\$ 4.70	\$ 11,656.00	\$ 5.00	\$ 12,400.00	\$ 4.75	\$ 11,780.00
19.	FLOATING SILT CURTAIN	80	LF	\$ 20.00	\$ 1,600.00	\$ 5.50	\$ 440.00	\$ 6.00	\$ 480.00	\$ 5.25	\$ 420.00
20.	12-INCH FIBER ROLL	23	LF	\$ 5.00	\$ 115.00	\$ 33.00	\$ 759.00	\$ 40.00	\$ 920.00	\$ 33.00	\$ 759.00
21.	SITE CLEANUP	1	LS	\$ 50,000.00	\$ 50,000.00	\$ 3,042.00	\$ 3,042.00	\$ 160,000.00	\$ 160,000.00	\$ 15,000.00	\$ 15,000.00
					<b>\$906,895.00</b>		<b>\$358,400.00</b>		<b>\$910,690.00</b>		<b>\$1,240,221.50</b>



# Executive Director

## Contracting Recommendation



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

<b>Houston-Moore Group, Inc</b> <b>TO101 Amendment 15</b> <b>Design and Construction Support</b>	<b>\$1,500,000.00</b>
<ul style="list-style-type: none"> <li>• Budget and Scope of work for preliminary design and permitting support for the Sheyenne Mitigation Project</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 Services Agreements (MSA) 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

This amendment is for budget and scope increase for the Sheyenne Mitigation project for 2025 and 2026.

- Subtask 6.3 – Sheyenne Mitigation Support
  - Increase 2025 budget for preliminary design and permitting support in 2025 is \$500,000.00 and in 2026 is \$1,000,000.00

### 4 Background and discussion

Houston-Moore Group, LLC (HMG) has an MSA with the Metro Flood Diversion Authority to provide Engineering services for the Project.

This task order covers the scope of work for HMG from September 1, 2021, to December 31, 2026.

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
TO101-A0	0.00	1,010,000.00	9/1/2021	12/31/2021	Original Scope and budget
TO101-A1	15,070,210.00	16,080,210.00	9/1/2021	12/31/2026	Update scope and budget
TO101-A2	(16,558.93)	16,063,651.07	9/1/2021	12/31/2026	Update subtask budget
TO101-A3	0.00	16,063,651.07	9/1/2021	12/31/2026	Update subtasks
TO101-A4	2,580,000.00	18,643,651.07	9/1/2021	12/31/2026	New scope and budget and update subtasks
TO101-A5	0.00	18,643,651.07	9/1/2021	12/31/2026	
TO101-A6	2,861,391.49	21,505,042.56	9/1/2021	12/31/2026	See “reason” section
TO101-A7	1,775,000.00	23,280,042.56	9/1/2021	12/31/2026	New subtask 2.6, 6.1 and 6.2 added
TO101-A8	170,000.00	23,450,042.56	9/1/2021	12/31/2026	Additional work related to mobility improvements and SE-4
TO101-A9	0.00	23,450,042.56	9/1/2021	12/31/2026	Reallocate subtask budgets
TO101-A10	(134,693.79)	23,315,348.77	9/1/2021	12/31/2026	Balance 2023 budget and reallocate budgets between subtasks.
TO101-A11	0.00	23,315,348.77	9/1/2021	12/31/2026	Balance 2024 budget and reallocate budgets between subtasks.
TO101-A12	0.00	23,315,348.77	9/1/2021	12/31/2026	Amend subtask budgets
TO101-A13	(6,553.01)	23,308,795.76	9/1/2021	12/31/2026	Balance 2024 budget with actuals and adjust 2025 and 2026 budgets.
TO101-A14	1,905,000.00	25,213,795.76	9/1/2021	12/31/2026	Increase in budgets to reflect change in scope of work.
TO101-A15	1,500,000.00	26,713,795.76	9/1/2021	12/31/2026	Sheyenne Mitigation preliminary design



**Table 2 – Budget by Subtasks**

Ref	No.	Title	Activity ID	Current Budget (\$)	Change	Revised Budget (\$)
Subtask	1.0	Project Management, Controls and insurance	SW-1160	3,898,902.66	0.00	3,898,902.66
Subtask	2.1	In-Town Levees (WP-42)	SW-1160	379,880.69	0.00	379,880.69
Subtask	2.2	OHB Projects (WP-43)	SW-1160	548,186.40	0.00	548,186.40
Subtask	2.3	Property Structure Mitigation (WP-50 and WP 38)	SW-1160	4,645,708.04	0.00	4,645,708.04
Subtask	2.4	Facility Plans for Clean Water SRF Loan App	SW-1160	116,936.75	0.00	116,936.75
Subtask	2.5	Cass Rural Water District Mitigation	SW-1160	1,808,939.53	0.00	1,808,939.53
Subtask	2.6	Road Construction Mitigation (WP52)	SW-1160	83,642.19	0.00	83,642.19
Subtask	3.1	I-29 Grade Raise	SW-1160	992,267.19	0.00	992,267.19
Subtask	3.2	Reach SE-1B (CR16/17)	SW-1160	312,012.98	0.00	312,012.98
Subtask	3.3	Reach SE-2B (45 <sup>th</sup> ST and CR 16)	SW-1160	519,396.01	0.00	519,396.01
Subtask	3.4	Reach SE-3 (CR 81)	SW-1160	640,410.57	0.00	640,410.57
Subtask	3.5	Support for local drainage, transportation and utilities	SW-1160	2,947,576.54	0.00	2,947,576.54
Subtask	3.6	USACE Reviews	SW-1160	425,553.44	0.00	425,553.44
Subtask	3.7	Reach SE-4 (3 <sup>rd</sup> St, 140 <sup>th</sup> Ave, CR 2)	SW-1160	636,498.99	0.00	636,498.99
Subtask	3.8	Reach SE-5 (180 <sup>th</sup> Ave, Hwy 75 and BNSF)	SW-1160	77,825.19	0.00	77,825.19
Subtask	3.9	MFDA Utility Relocations (WP47)	SW-1160	1,059,044.83	0.00	1,059,044.83
Subtask	4.1	P3 Design Review and Comment	SW-1160	2,056,628.90	0.00	2,056,628.90
Subtask	4.2	P3 Construction Support	SW-1160	1,228,707.68	0.00	1,228,707.68
Subtask	4.3	DCAI design and Construction	SW-1160	94,977.75	0.00	94,977.75
Subtask	5.1	Mobility Improvements in Cass County (38 <sup>th</sup> St S, 52 <sup>nd</sup> Ave S, 32 <sup>nd</sup> Ave)	SW-1160	1,232,527.60	0.00	1,232,527.60
Subtask	6.1	Sheyenne River Aqueduct Mitigation	SW-1160	1,012,763.38	0.00	1,012,763.38
Subtask	6.2	Maple River Aqueduct Mitigation	SW-1160	495,408.45	0.00	495,408.45
Subtask	6.3	Sheyenne Mitigation Project	XXXX	0.00	1,500,000.00	1,500,000.00



<b>Totals</b>				<b>25,213,795.76</b>	<b>1,500,000.00</b>	<b>26,713,795.76</b>
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## 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**

Original Agreement or Amendment	Cost account code	Estimated Cost (\$)	Budget Allocated (\$)	Actual Paid to date (\$)	Budget Remaining (\$)	Comments
2021	SW-1160	598,323.53	598,323.53	598,323.53	0.00	2021 paid
2022	SW-1160	3,206,924.03	3,206,924.03	3,069,883.00	1,897,457.21	Remaining budget returned to program
2023	SW-1160	4,967,340.21	4,967,340.21	4,634,583.00	332,757.21	Remaining budget returned to program
2024	SW-1160	4,511,207.99	4,511,207.99	\$4,157,156.41	354,051.58	Remaining budget returned to program
2025	SW-1160	6,910,000.00	6,910,000.00	\$2,388,727.00	4,521,273.00	Actual paid through June-2025
2026	SW-1160	6,520,000.00	6,520,000.00	0	6,520,000.00	
<b>Totals</b>		<b>26,713,795.76</b>	<b>26,713,795.76</b>	<b>\$14,848,672.94</b>	<b>13,625,539.00</b>	Remaining budget accounts for 2025 – 2026 only.

## 6 Attachments:

- Task Order 101 Amendment 15

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:** Jason Benson, Executive Director

**Date:** 9/17/2025



Schedule Budget Categories	Program Estimate At Completion (EAC) (2022\$)	Program Actual Cost thru July- 2025	Balance Remaining	Current FY 2025 Budget	FY2024 Actual Cost through July- 2025	Balance Remaining	DRAFT FY2026 Cash Budget Version 1
Channel / P3	\$ 96,400,001	\$ 75,986,764	\$ 20,413,236	\$ 12,588,000	\$ 7,907,384	\$ 4,680,616	\$ 11,891,500
Management, Legal, Financial, Procurement	\$ 96,400,001	\$ 75,986,764	\$ 20,413,236	\$ 12,588,000	\$ 7,907,384	\$ 4,680,616	\$ 11,891,500
Milestone Payments to the Developer	\$ 867,046,760	\$ 33,221,951	\$ 833,824,809	\$ 233,655,150	\$ 31,975,191	\$ 201,679,959	\$ 730,039,775
Payments to the Developer	\$ 867,046,760	\$ 33,221,951	\$ 833,824,809	\$ 233,655,150	\$ 31,975,191	\$ 201,679,959	\$ 730,039,775
Other Mitigation / Construction	\$ 37,446,233	\$ 36,670,683	\$ 775,551	\$ -	\$ -	\$ -	\$ 710,000
WP-43 Oxbow-Hickson-Bakke	\$ 28,976,326	\$ 28,947,695	\$ 28,631	\$ -	\$ -	\$ -	\$ -
WP-28 - Cass County Road 16 and 17 Bridge	\$ 1,637,635	\$ 1,621,370	\$ 16,265	\$ -	\$ -	\$ -	\$ -
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	\$ 3,462,273	\$ 2,856,265	\$ 606,007	\$ -	\$ -	\$ -	\$ 710,000
WP-35 Red River Control Structure	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
WP-50 Phase II Demo	\$ 3,300,000	\$ 3,180,326	\$ 119,674	\$ -	\$ -	\$ -	\$ -
ND / MN River Stage 37' Projects	\$ 213,300,001	\$ 185,030,899	\$ 28,269,103	\$ 26,500,000	\$ 8,590,826	\$ 17,909,174	\$ 17,400,000
WP-42 In-Town Levees	\$ 91,000,000	\$ 90,479,952	\$ 520,049	\$ -	\$ -	\$ -	\$ -
Fargo- River Stage 37' Projects	\$ 107,300,001	\$ 94,550,947	\$ 12,749,054	\$ 26,500,000	\$ 8,590,826	\$ 17,909,174	\$ 15,000,000
Clay County - River Stage 37' Projects	\$ 6,000,000	\$ -	\$ 6,000,000	\$ -	\$ -	\$ -	\$ 2,400,000
Cass County - River stage 37' Projects	\$ 9,000,000	\$ -	\$ 9,000,000	\$ -	\$ -	\$ -	\$ -
Lands and Impacted Property Mitigation	\$ 571,700,001	\$ 526,301,604	\$ 45,398,397	\$ 54,387,499	\$ 18,660,005	\$ 35,727,494	\$ 27,096,465
Management, Legal, Financial, Procurement	\$ 69,551,513	\$ 53,053,683	\$ 16,497,830	\$ 6,149,999	\$ 2,865,481	\$ 3,284,519	\$ 6,925,000
Diversion Channel & Assoc. Infrastructure	\$ 100,622,664	\$ 99,235,502	\$ 1,387,163	\$ -	\$ (3,500)	\$ 3,500	\$ -
Southern Embankment & Assoc. Infrastructure	\$ 71,677,523	\$ 60,998,031	\$ 10,679,492	\$ 12,000,000	\$ 11,393	\$ 11,988,607	\$ 6,100,000
Mitigation & Assoc. Infrastructure (OHB)	\$ 106,011,994	\$ 104,236,151	\$ 1,775,844	\$ 211,000	\$ 22,967	\$ 188,033	\$ 201,000
WP-38 Upstream Staging	\$ 184,836,305	\$ 170,755,579	\$ 14,080,726	\$ 36,026,500	\$ 15,763,664	\$ 20,262,836	\$ 13,870,465
In-Town Flood Protection	\$ 39,000,000	\$ 38,022,658	\$ 977,342	\$ -	\$ -	\$ -	\$ -
Non-Construction Costs	\$ 263,929,999	\$ 198,655,714	\$ 65,274,285	\$ 27,606,000	\$ 12,685,904	\$ 14,920,096	\$ 26,733,400
Engineering & Design Fees	\$ 98,500,000	\$ 69,796,288	\$ 28,703,712	\$ 9,680,000	\$ 4,911,900	\$ 4,768,100	\$ 9,900,000
Management, Legal, Financial, Procurement	\$ 39,467,145	\$ 30,428,836	\$ 9,038,309	\$ 8,650,000	\$ 4,496,152	\$ 4,153,848	\$ 9,520,000
Work-In-Kind Programs (WIK) Studies	\$ 17,130,931	\$ 15,093,383	\$ 2,037,548	\$ 675,000	\$ 251,017	\$ 423,983	\$ 75,000
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	\$ 5,198,806	\$ 2,645,884	\$ 5,000	\$ -	\$ 5,000	\$ 5,000
Certification	\$ 50,000	\$ -	\$ 50,000	\$ -	\$ -	\$ -	\$ -
FMDA Detention Funding	\$ 3,000,000	\$ 721,568	\$ 2,278,432	\$ -	\$ -	\$ -	\$ -
Other Mitigation Projects	\$ 23,353,680	\$ 10,770,830	\$ 12,582,850	\$ 350,000	\$ 164,732	\$ 185,268	\$ 300,000
Prog. Management/Legal/Financial/Procurement	\$ 165,429,999	\$ 128,859,426	\$ 36,570,573	\$ 17,926,000	\$ 7,774,003	\$ 10,151,997	\$ 16,833,400
Program Management Costs	\$ 103,245,658	\$ 80,502,839	\$ 22,742,820	\$ 8,176,000	\$ 5,050,821	\$ 3,125,179	\$ 8,097,000
Diversion Authority Operations	\$ 11,454,341	\$ 6,109,580	\$ 5,344,761	\$ 1,650,000	\$ 727,632	\$ 922,368	\$ 1,650,000
Program Financial Services	\$ 6,520,000	\$ 3,391,139	\$ 3,128,860	\$ 200,000	\$ 58	\$ 199,942	\$ 400
DA Legal Services	\$ 20,350,000	\$ 20,327,598	\$ 22,403	\$ 2,500,000	\$ 784,126	\$ 1,715,874	\$ 2,525,000
CCJWRD Legal Services	\$ 16,860,000	\$ 12,689,517	\$ 4,170,483	\$ 4,690,000	\$ 937,942	\$ 3,752,058	\$ 4,000,000
Outreach Costs	\$ 7,000,000	\$ 5,838,753	\$ 1,161,247	\$ 710,000	\$ 273,423	\$ 436,577	\$ 561,000
DA Construction Contingency	\$ 163,900,000	\$ 19,503,236	\$ 144,396,764	\$ 20,444,850	\$ 10,353,210	\$ 10,091,640	\$ 51,015,000
Diversion Channel & Assoc. Infrastructure (MOU's & Utilities)	\$ 17,600,000	\$ -	\$ 17,600,000	\$ -	\$ -	\$ -	\$ -
System Wide Contingency and P3 Comp Events	\$ 95,900,000	\$ 17,160,804	\$ 78,739,196	\$ 20,344,850	\$ 10,344,850	\$ 10,000,000	\$ 50,975,000
Southern Embankment & Assoc. Infrastructure	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other Mitigation Projects	\$ 2,000,000	\$ -	\$ 2,000,000	\$ -	\$ -	\$ -	\$ -
In-Town Flood Protection	\$ 6,800,000	\$ 2,342,432	\$ 4,457,568	\$ 100,000	\$ 8,360	\$ 91,640	\$ 40,000
Land Acquisition	\$ 41,600,000	\$ -	\$ 41,600,000	\$ -	\$ -	\$ -	\$ -
3rd Party MOU Mitigation	\$ 155,477,006	\$ 82,432,397	\$ 73,044,609	\$ 59,309,189	\$ 4,719,614	\$ 54,589,575	\$ 51,207,003
Channel - Utility Relocations & Other Mitigations	\$ 28,713,189	\$ 19,654,016	\$ 9,059,173	\$ 125,000	\$ 54,993	\$ 70,007	\$ 50,000
WP-40 Drayton Dam Mitigation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
WP-41 Richland/Wilkin County JPA (During Construction)	\$ 36,000,000	\$ 35,367,605	\$ 632,395	\$ 450,000	\$ -	\$ 450,000	\$ 375,000
WP-46 SEAI / UMA Utility Relos	\$ 27,943,996	\$ 17,218,119	\$ 10,725,877	\$ 14,699,403	\$ 3,699,301	\$ 11,000,102	\$ 6,851,700
WP-47 Contracted Utility Relocations	\$ 11,448,964	\$ 4,025,469	\$ 7,423,495	\$ 5,685,000	\$ -	\$ 5,685,000	\$ 7,524,517
WP-52 Township & City MOU Agreements	\$ 51,370,858	\$ 6,167,188	\$ 45,203,670	\$ 38,349,786	\$ 965,320	\$ 37,384,466	\$ 36,405,786
Net Current Interest / Financing Fees Paid	\$ 75,700,000	\$ 62,265,530	\$ 13,434,470	\$ 6,540,000	\$ 5,671,378	\$ 868,622	\$ 6,525,000
P3 Reserve Fund	\$ 16,100,000	\$ -	\$ 16,100,000	\$ -	\$ -	\$ -	\$ -
WIFIA/ SRF DSRA Funding	\$ 15,100,000	\$ -	\$ 15,100,000	\$ -	\$ -	\$ -	\$ -
DA Payment to USACE	\$ 70,700,000	\$ 53,159,000	\$ 17,541,000	\$ -	\$ -	\$ -	\$ -
Operations & Maintenance - MFDA Property	\$ 4,904,654	\$ 534,350	\$ 4,370,303	\$ 325,000	\$ 126,425	\$ 198,575	\$ 321,000
Operations & Maintenance - SEAI / OHB / Other Infrastructure	\$ 9,995,346	\$ -	\$ 9,995,346	\$ -	\$ -	\$ -	\$ 3,750,000
Debt Service Total	\$ 330,300,000	\$ 8,897,363	\$ 171,102,637	\$ 6,200,000	\$ 3,105,000	\$ 3,095,000	\$ 6,200,000
Well Fargo Loan Repayment	\$ 150,300,000	See Note Below	\$ -	\$ -	\$ -	\$ -	
Temporary Refunding Improvement Bonds Repayment	\$ 180,000,000	\$ 8,897,363	\$ 171,102,637	\$ 6,200,000	\$ 3,105,000	\$ 3,095,000	\$ 6,200,000
A		B	C				
Grand Totals	\$ 2,892,000,000	\$ 1,282,659,490	\$ 1,459,040,510	\$ 447,555,689	\$ 103,794,936	\$ 343,760,753	\$ 931,239,143

A-B \$ 1,609,340,510  
C-(A-B) \$ (150,300,000) Wells Fargo Pay off using TRIBS Loan - thus no actual cost incurred

Funding Sources	FY2026 Budget
Fargo Sales Tax	\$ 44,000,000
Cass County Sales Tax	\$ 22,750,000
Temporary Sales Tax Bonds	\$ 220,000,000
Cash On Hand	\$ 185,422,245
Legacy	\$ -
SRF	\$ 15,000,000
WIFIA Draws	\$ 428,383,198
Reimbursements	\$ 25,000
Farm Lease & Rental Property Payments	\$ 550,000
Asset Sales	\$ 1,000,000
Investment Income	\$ 7,500,000
Miscellaneous	\$ 100,000
Draws from Horace Infrastructure Escrow account	\$ 4,508,700
Draws from BRRWD Escrow account	\$ 2,000,000
Total Sources	\$ 931,239,143
Final - FY2026 Budget	\$ 931,239,143