

Board Agenda



Diversion Board of Authority

December 18, 2025 @ 3:30 p.m. CST

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

1. Call to Order
 - a. Roll Call of Members
2. Approve minutes from November 20, 2025
[Attachment 01.00] (Pg. 3)
3. Approve Order of Agenda
4. **CONSENT AGENDA – APPROVE THE FOLLOWING:**
 - a. Finance Report [Attachment 02.00] (Pg. 8)
 - b. Voucher Approval [Attachment 03.00] (Pg. 28)
 - c. MOUs and Agreements [Attachment 04.00] (Pg. 49)
 - i. Cass County & MFDA Mobility Improvement MOU [Attachment 04.01] (Pg. 51)
 - d. DA Board Approval Contracting Actions [Attachment 05.00] (Pg. 76)
 - i. Houston Moore Group New MSA [Attachment 05.01] (Pg. 78)
 - ii. Watts & Associates Services Agreement Amendment 1 [Attachment 05.02] (Pg. 80)
 - e. Sale of Excess Land Recommendations
 - i. OINs 9576, 9577, 9578 & 9579 Oxbow/Hickson Elevator Site [Attachment 06.01] (Pg. 83)
 - ii. OINs 1665, 1792, 1793 & 1802 Heartland Seed-Anderson-Buth Site [Attachment 06.02] (Pg. 94)
 - f. Forest Mitigation Sites Deed Restriction [Attachment 07.00] (Pg. 102)

REGULAR AGENDA:

5. Executive Director Update
 - a. Water Topics Overview Committee Update
 - b. 2025 Year in Review Video
6. General Counsel Update
 - a. Resolution for the Amended and Restated ICE Advance Agreement

[Attachment 08.00] (Pg. 112)

- b. Metro Flood Diversion Authority Resolution Approving and Authorizing Execution of the Definitive Settlement Agreement and the Amended and Restated Project Agreement [Attachment 09.00] (Pg. 143)

- i. Definitive Settlement Agreement [Attachment 09.01] (Pg. 147)

- ii. Amended and Restated Project Agreement [Attachment 09.02] (Pg. 230)

7. Project Updates

- a. USACE Project Update [Attachment 10.00] (Pg. 268)
- b. SWDCAI Project Update [Attachment 11.00] (Pg. 270)
- c. Project Safety Update [Attachment 12.00] (Pg. 271)
- d. P3 Monthly Update [Attachment 13.00] (Pg. 272)
- e. Monthly Drone Footage Video

8. Communications Team Update

9. Land Management Update

- a. Property Acquisition Status Report [Attachment 14.00] (Pg. 311)

10. Finance Update

- a. 2026 Final Cash Budget
[Attachment 15.00] (Pg. 318)
- b. Sales Tax Update
[Attachment 16.00] (Pg. 319)

11. Other Business

- a. Mark Your Calendar – 1889 Event: October 22, 2026

12. Public Comment – 15 minutes maximum. Each speaker is limited to three minutes.

13. Next Meetings: January 8, 2026 Annual Meeting and January 22, 2026 Regular Meeting

14. Adjournment

MEDIA AND PUBLIC PARTICIPATION INFORMATION

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

- View the Meeting on Fargo TV or at www.TVFargo.com
- View the Meeting on the City of Fargo's Facebook or YouTube

Metro Flood Diversion Authority Board of Authority

Meeting Minutes

3:30 PM – November 20, 2025

City of Fargo Commission Chambers

A regular meeting of the Metro Flood Diversion Authority Board of Authority was held on November 20, 2025. The following members were present: Bernie Dardis, Mayor, City of West Fargo; Dr. Tim Mahoney, Mayor, City of Fargo; Chuck Hendrickson, Moorhead City Council; David Ebinger, Clay County Commissioner; Tony Grindberg, Cass County Commissioner; Rick Steen, Cass County Joint Water Resource District; Kevin Campbell, Clay County Commissioner; Shelly Carlson, Mayor, City of Moorhead; Dave Piepkorn, Fargo City Commissioner; Lisa Borgen, Moorhead City Council; Duane Breitling, Cass County Commissioner and Jim Kapitan, Cass County Commissioner.

Member(s) absent: Denise Kolpack, Fargo City Commissioner.

1. CALL TO ORDER

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

2. APPROVE THE MINUTES FROM OCTOBER 2025 MEETING

MOTION PASSED

Mayor Carlson moved to approve the minutes from the October 2025 meeting and Mayor Dardis seconded the motion. On a voice vote, the motion carried.

3. APPROVE THE ORDER OF THE AGENDA

MOTION PASSED

Mr. Piepkorn moved to approve the order of the agenda as presented and Ms. Borgen seconded the motion. On a voice vote, the motion carried.

4. APPROVE THE CONSENT AGENDA

MOTION PASSED

Mayor Carlson moved to approve the consent agenda as presented and Mr. Breitling seconded the motion. On a roll call vote, the motion carried.

5. EXECUTIVE DIRECTOR UPDATE

Mr. Benson reported that the letter of response regarding the Southern Embankment closure was mailed to the USACE. The letter states that the MFDA is asking them to execute the option in their SE-3 contract.

The Minnesota Senate Bonding Bill Committee went on a tour after their meeting at the Hjemkomst. They toured the Project on the southeast side of Moorhead and Highway 81, to view the Red River Structure.

A team continues to work on the O&M plan and the overall strategy that will be implemented going forward. The plan will be the focus of the December Planning Committee meeting.

6. GENERAL COUNSEL UPDATE

Mr. Shockley did not have an update to report.

7. PROJECT UPDATES

a. USACE Project Update

Ms. Williams provided the following USACE update:

1 Diversion Inlet Structure (DIS) – Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 99% complete. Completion date is 28 Oct 2025. Training held 19 June. Final inspections upcoming. Turnover to Sponsors for OMRRR likely delayed into 2026.

2 Wild Rice River Structure (WRRS) – Construction

Structure includes 2-40 ft. wide Tainter gates. Construction is 99% complete. Completion date is 28 November 2025. Final inspections and training upcoming. Turnover to Sponsors for OMRRR likely delayed into 2026.

3 Red River Structure (RRS) - Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 91% complete. Construction completion date is 30 April 2026. Embankment construction ongoing across the Red River channel.

4 Southern Embankment – Reach SE-2A - Construction

Construction is 76% complete but continues to be behind schedule. Scheduled completion date of 13 October 2024 was not met. Revised schedule and completion date pending.

5 Drain 27 Wetland Mitigation Project Plantings - Construction

Native plantings 5-year contract for wetland establishment. Completion date is 1 December 2027.

Contractor replanted areas disturbed by adjacent producers.

6 FY2024 Contract Awards - Construction

OHB Ring Levee: 98% complete. Prefinal inspections being held. Contract completion date is 10 November 2025.

Reach SE-1B: 55% complete. CR16/17 roundabout opened 7 Nov. Contract completion date is 13 March 2026.

Reach SE-2B: 76% complete. Embankment construction and TRM installation ongoing. CR16 crossing complete. Contract completion date is 23 October 2026.

Forest Mitigation #1: Planting/maintenance ongoing. Contract completion date is 31 Dec 2028.

Reach SE-4: 26% complete. Embankment and road raise construction continues. Contract completion date is 30 September 2026.

7 FY2025 Contract Awards - Construction

SE-3: 33% complete. Embankment construction and utility install ongoing. Contract completion date is 11 September 2026.

SE-5: 37% complete. Contractor won't complete Wolverton Creek crossing this year – 180th Ave S. will be closed at the creek location through winter. Contract completion date is 8 September 2026.

Forest Mitigation #2: Planting/maintenance ongoing. Contract completion date is 31 Dec 2029.

8 I-29 Raise – Operations and Maintenance (OMRRR)

Turnover to MFDA occurred on 20 December and preparation of O&M documents is ongoing.

9 Drayton Dam Mitigation Project Design - Operations and Maintenance (OMRRR)

Turnover to MFDA for O&M occurred on 28 Nov 2023. OMRRR manual coordination continues.

b. SWDCAI Project Update

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

Open to Traffic

- CR-81
- BNSF Prosper

- I-29 & I-94
- SE-1B

Opening to Traffic

- CR-22
- 38th St. W
- CR-16/17

30 to 60 Day Outlook

- Channel Reaches 3 thru 6
- Maple River Aqueduct

Misc. Updates

- BNSF KO
- Authority Administration Building

c. Project Safety Update

Mr. Bakkegard provided the safety update for the period October 1, to October 31, 2025. He reported that there were two minor recordable incidents from discomfort that resulted in medical visits for assessments. Overall, it was a good month and there were no other incidents to report.

d. P3 Monthly Update

Mr. Bakkegard highlighted the Project Controls section in the November P3 monthly update.

PROJECT CONTROLS

Schedule

The Developer submitted the thirty-sixth Project Status Schedule (PSSU) update on October 15, 2025, for the month of September 2025 (01-Oct-25 Data Date). The submittal was accepted for review. To create the PSSU, the Developer reported making approximately 1,984 changes from the PSSU 2025 August submitted on September 15, 2025, including new and deleted activities, changes to logic and relationships between activities, activity description changes, calendar changes, WBS modification and activity duration modifications. The Project Substantial Completion Date in this PSSU is October 1, 2026, which matches the baseline date. The approved PBS Project Substantial Completion Date (Scheduled Project Substantial Completion Date) is October 1, 2026.

PBS3-R2 has been accepted contingent upon all the stated conditions being satisfied in the SOP. Informal comments for schedule concerns have been drafted in the form of a letter and was provided to the Developer on August 22, 2025 (FMAD-TRN-014140).

Invoicing and Payment

BNSF has submitted 134 invoices through the month of October totaling \$12,053,992.50. These have been forwarded to the Developer for payment for work performed by BNSF and its subcontractors at the Prosper, Hillsboro and KO locations. 116 of the 134 were paid for a total of \$11,564,667.33. The unpaid amount falls within the 60-day turnaround period. The BNSF Construction and Maintenance Agreement (C&M Agreement) between the Authority and BNSF is considered a "Third Party Agreement" as administered under Section 11 of the Project Agreement. Therefore, the invoices received by the Authority are transmitted to the Developer for payment directly to BNSF within 60 days of the invoice date according to Section 7 of the C&M agreement. Future invoices received will be handled in a like manner. There are no overdue amounts as of the end of July.

Payments to RRVA

July 3, 2025, marked execution of the settlement agreement Statement of Principles (SoP) between the Developer and the Authority. The SoP allows the Developer to submit and request advance payment invoices for relative Pay Units provided the works for the specific Interim Completion Element(s) be

substantially complete with 120 days of each advance payment request. The table below has been updated to reflect payments made to the Developer under this agreement. Section 22 of the SoP also allows for payments to the Developer regarding settling outstanding claims.

Additional Milestone Payments (AMP) for the BNSF shoofly installations at the Hillsboro, Prosper and KO locations were made in March 2025.

The report can be viewed in their entirety on the website at www.fmdiversion.gov. Please reach out to Mr. Barthel if you have any questions regarding the report.

e. Monthly Drone Video

A video highlighting the progress that has been achieved in November 2025 was viewed.

8. COMMUNICATIONS TEAM UPDATE

Ms. Wieser Willson provided the following communications update:

Newsletter:

- Faces of the Diversion: Jason Benson and Luke Chenery
- The Diversion Current: Leadership

Outreach:

- Senate Capitol Investment tour
- St. Paul/Governor visit

Media Relations:

- October construction update
- Eminent domain update
- Bond Buyer

9. LAND MANAGEMENT UPDATE

a. Property Acquisition Status Report

Mr. Fisher provided the following property acquisition status report:

- 98.4% completion in the Construction Footprint
- 63.3% completion in the UMA Footprint
- 95.3% of the parcels in the Southern Embankment have been acquired
- 63.3% of the parcels in the Upstream Mitigation Area have been acquired
- 79.1% of the Environmental Easements have been signed
- 100.0% completed: Stormwater Diversion Channel; Oxbow-Hickson-Bakke levee; in-town levees and the Drayton Dam mitigation

Key Activities:

- Continued negotiating settlement agreements for existing eminent domain actions
 - Completed three eminent domain trials in Cass County
 - Negotiated many settlements since completing the first trial
 - 9 pending settlement offers with property owners
- In the last month, successfully closed 3 parcels / 3 owners in the UMA and Sheyenne Benching areas of the Project
- 10 parcels / 6 owners are scheduled to close in November
- Continuing the process of disposing of Excess Lands
 - 49 parcels / 781.74 acres have been approved as Excess Lands
 - 9 parcels / 51.62 acres are moving through the Policy
 - 40 parcels / 730.12 acres have been sold or pending closing
- 20,343 acres of flowage easements have been acquired and 6,747 acres are outstanding

10. FINANCE UPDATE

Mayor Dardis reported that the Finance Committee approved bills in the amount of \$796,792, and the net cash position is \$274,896,300. The MURA and ROE were approved as well as the three contracting actions that were presented.

a. 2026 Draft Cash Budget Version 3

Mr. Barthel presented the DRAFT 2026 cash budget and reported that the milestone payment line item has been updated and there has been an increase in MOUs based on the lack of funds spent in 2025 which were rolled into 2026 commitments. Mr. Barthel reported that we are still waiting for the final lands projections based on the properties that are pending closeout.

The sales tax revenues will remain at the 2025 level for the 2026 projection, \$66,000,000, as the tax receipts from the City of Fargo and Cass County have shown minimal growth in 2025.

Mr. Barthel is anticipating that the final version will be complete and presented to the board at the December meeting.

The total FY2026 DRAFT Version 3 is \$996,942,997.

11. OTHER BUSINESS

There was no other business to discuss.

12. PUBLIC COMMENT

There were no public comments.

13. NEXT MEETING

The next meeting will be on December 18, 2025.

14. ADJOURNMENT

The meeting adjourned at 4:05 PM.

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FM Metropolitan Area Flood Risk Management Project
Fiscal Accountability Report Design Phase
As of 11/30/25

	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	27,426,214	429,300,951		-	-	-	-	-	-	429,300,951
Cass County	238,074,113	20,605,468	20,077,388	21,720,075	21,906,084	13,994,970	338,615,200		-	-	-	-	-	-	338,615,200
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	13,930,939	33,265,408		-	-	-	-	-	-	33,265,408
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	821,751	5,932,513		-	-	-	-	-	-	5,932,513
Asset Sales	1,235,569	1,802,265	1,348,132	4,125,699	518,843	2,267,562	11,298,072		-	-	-	-	-	-	11,298,072
Interest Income	4,790,772	1,011,554	1,377,312	7,208,616	11,822,032	8,928,907	36,681,353		-	-	-	-	-	-	36,681,353
Miscellaneous	4,886	7,336	1,987	70,350	76,997	2,341	213,847	3,320,850	1,665,282	1,532,788	6,518,920	-	-	-	7,326,767
Total Revenues	750,986,254	137,683,563	193,689,120	214,617,631	222,071,198	141,463,756	1,660,511,521	3,320,850	1,665,282	1,532,788	6,518,920	-	-	-	1,667,030,441
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	3,654,550	23,699,625	3,249,868	1,462,847	1,109,578	5,822,294	-	-	-	29,521,919
7915 WIK - Project Design	36,316,433	2,261,337	2,491,982	4,347,833	4,375,148	4,051,526	53,844,258	-	-	-	-	-	-	-	53,844,258
7920 WIK - Project Management	70,718,325	13,629,756	14,935,064	14,936,935	16,269,917	13,112,129	143,602,125	-	-	-	-	-	-	-	143,602,125
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	19,815,389	516,741,916	-	-	-	-	-	-	-	516,741,916
7931 LERRDS - Minnesota	4,982,754	3,832,050	5,722,668	5,714,157	21,930,147	4,370,242	46,552,018	-	-	-	-	-	-	-	46,552,018
7940 WIK Mitigation - North Dakota	1,022,658	35,279,546	57,777	1,039,229	166,142	127,658	37,693,010	-	-	-	-	-	-	-	37,693,010
7941 WIK Mitigation - Minnesota	-	112,271	357,080	933,799	586,522	3,356,570	5,346,242	-	-	-	-	-	-	-	5,346,242
7950 Construction - North Dakota	104,100,296	25,488,649	17,899,069	17,767,981	34,006,877	105,136,591	304,399,462	-	-	-	-	-	-	-	304,399,462
7951 Construction - Minnesota	-	-	210,000	669,048	182,594	92,078	1,153,719	-	-	-	-	-	-	-	1,153,719
7952 Construction - O/H/B	33,612,243	2,070,541	646,144	118,976	628,480	72,822	37,149,207	-	-	-	-	-	-	-	37,149,207
7955 Construction Management	11,598,799	180,481	137,041	1,062	5,322	55,513	11,978,218	-	-	-	-	-	-	-	11,978,218
7959 SRF Construction	-	-	5,936,985	7,781,266	16,519,945	5,042,056	35,280,252	-	-	-	-	-	-	-	35,280,252
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	13,943,114	107,164,365	-	-	-	-	-	-	-	107,164,365
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	173,820,837	1,379,780,456	3,249,868	1,462,847	1,109,578	5,822,294	-	-	-	1,385,602,750
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	1,512,500	6,467,066		-	-	-			-	6,467,066
Total Other Financing Sources (Uses)	-	659,566	1,250,000	1,395,000	1,650,000	1,512,500	6,467,066		-	-	-			-	6,467,066

FM Metropolitan Area Flood Risk Management Project
Statement of Net Position
November 30, 2025

	FM Diversion Project Fund	Budget Fund	Risk Sharing Fund	Grand Total
Assets				
Cash	\$ 227,792,844	\$ 696,626	\$ 10,000,000	\$ 238,489,470
Cash Horace 3.01 MIT	4,556,000	-		4,556,000
Cash BRRWD	9,259,474	-		9,259,474
Cash Held In Trust at BND				
Excess Revenue Fund	731,081	-	-	731,081
Temp Debt Obligation Fund	1,034,294	-	-	1,034,294
Authority Loan Fund	168,615	-		168,615
P3 Reserve Fund	16,793,482	-	-	16,793,482
SRF Loan Reserve Fund	2,379,457			2,379,457
Revenue Fund	3,902			3,902
Prepaid Expense	2,270,319	-	-	2,270,319
Refundable Deposit	50,000			50,000
Total assets	265,039,468	696,626	10,000,000	275,736,094
Liabilities				
Vouchers payable	641,051	-	-	641,051
Retainage payable	121,163	-	-	121,163
Rent Deposit	13,250	-	-	13,250
Total liabilities	775,463	-	-	775,463
NET POSITION	\$ 264,264,004	\$ 696,626	\$ 10,000,000	\$ 274,960,631

Summary Of Expenses
EXP-2025-11

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
770-7910-429.11-00	26/11/2025	349474	Cass County Government	\$77,378.46	DIVERSION PAYROLL	V00106	EXECUTIVE DIRECTOR
Full Time Staff / Salaries				\$77,378.46			
770-7910-429.20-01	26/11/2025	349474	Cass County Government	\$12,194.68	DIVERSION PAYROLL	V00106	EXECUTIVE DIRECTOR
Employee Benefits / Health Insurance				\$12,194.68			
770-7910-429.20-03	26/11/2025	349474	Cass County Government	\$200.00	DIVERSION PAYROLL	V00106	EXECUTIVE DIRECTOR
Employee Benefits / Dental Insurance				\$200.00			
770-7910-429.20-06	26/11/2025	349474	Cass County Government	\$43.80	DIVERSION PAYROLL	V00106	EXECUTIVE DIRECTOR
Employee Benefits / Vision Insurance				\$43.80			
770-7910-429.21-01	26/11/2025	349474	Cass County Government	\$3,489.55	DIVERSION PAYROLL	V00106	EXECUTIVE DIRECTOR
Employee Benefits / Social Security				\$3,489.55			
770-7910-429.21-02	26/11/2025	349474	Cass County Government	\$1,074.01	DIVERSION PAYROLL	V00106	EXECUTIVE DIRECTOR
Employee Benefits / Medicare				\$1,074.01			
770-7910-429.22-07	26/11/2025	349474	Cass County Government	\$10,154.29	DIVERSION PAYROLL	V00106	EXECUTIVE DIRECTOR
Pension Benefits / Retirement				\$10,154.29			
770-7910-429.33-37	20/11/2025	349332	HighRoad Partners, LLC	\$600.00	HR PARTNER	V09701	HR SERVICES
Other Services / HR Services				\$600.00			
770-7910-429.34-15	20/11/2025	349389	Network Center Inc.	\$2,303.04	DIVERSION IT SERVICES	V13801	IT SERVICE AGREEMENT
	26/11/2025	349482	CONSOLIDATED COMMUNI	\$500.00	ACCT #701-150-0113/0	V00106	EXECUTIVE DIRECTOR
	26/11/2025	349560	Network Center Inc.	\$673.76	DIVERSION IT SERVICES	V13801	IT SERVICE AGREEMENT
Technical Services / Computer Services				\$3,476.80			
770-7910-429.43-50	26/11/2025	349474	Cass County Government	\$357.90	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
Repair and Maintenance / Maintenance Service Contract				\$357.90			
770-7910-429.53-20	26/11/2025	349474	Cass County Government	\$380.74	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
Communications / Cellular Phone Service				\$380.74			
770-7910-429.56-60	26/11/2025	349474	Cass County Government	\$2,370.40	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
In State Travel / In State Travel Expenses				\$2,370.40			

Summary Of Expenses
EXP-2025-11

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
770-7910-429.59-20	26/11/2025	349474	Cass County Government	\$50.00	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
Education / Seminar & Conf. Instate				\$50.00			
770-7910-429.61-10	26/11/2025	349474	Cass County Government	\$134.00	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
General Supplies / Office Supplies				\$134.00			
770-7910-429.68-30	26/11/2025	349474	Cass County Government	\$679.96	DIVERSION EXPENSES	V00106	EXECUTIVE DIRECTOR
Miscellaneous / Meeting Incidentals				\$679.96			
770 Subtotal				\$112,584.59			
790-7910-429.33-25	26/11/2025	349496	DORSEY & WHITNEY LLP	\$414.00	LEGAL SERVICES	V00101	Dorsey Whitney Legal
	26/11/2025	349566	OHNSTAD TWICHELL PC	\$90,062.85	DIVERSION LEGAL SERVICES	V00102	General & Admin. WIK
Other Services / Legal Services				\$90,476.85			
790-7910-429.34-20	26/11/2025	349559	Neon Loon Communications, LL	\$11,897.50	COMMUNICATION SUPPORT	V09601	COMMUNICATIONS SUPPORT
Technical Services / Marketing / Public Relat.				\$11,897.50			
790-7910-429.34-56	24/11/2025	EK11250	City of Fargo	\$18,007.50	FISCAL AGENT FEE - 11/25	V05902	MONTHLY FISCAL AGENT FEE
Technical Services / FMDA Fiscal Agent Fees				\$18,007.50			
790-7910-429.42-05	13/11/2025	349087	Ambassador, Inc.	\$925.00	DVERSION CLEANING	V10501	JANITORIAL SERVICES
Cleaning Services / Custodial Services				\$925.00			
790-7915-429.33-05	06/11/2025	348907	AECOM	\$77,767.38	CULTURAL RESOURCES INVEST	V01004	SEAI CULTURAL RES INVEST
	26/11/2025	349521	HOUSTON-MOORE GROUP L	\$154,542.66	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
	26/11/2025	349521	HOUSTON-MOORE GROUP L	\$276,178.46	DIVERSION PROJECT	V01634	H&H MITIG. & PERMIT SUPPO
Other Services / Engineering Services				\$508,488.50			
790-7920-429.33-05	26/11/2025	349521	HOUSTON-MOORE GROUP L	\$78,996.00	DIVERSION PROJECT	V01634	H&H MITIG. & PERMIT SUPPO
	26/11/2025	349521	HOUSTON-MOORE GROUP L	\$36,563.78	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
Other Services / Engineering Services				\$115,559.78			
790-7920-429.33-79	06/11/2025	348938	CH2M Hill Engineers Inc	\$483,821.42	PROGRAM MGMT	V00211	CH2M HILL-6/2019-12/2021
	06/11/2025	348938	CH2M Hill Engineers Inc	\$723,319.42	SUPPORT SERVICES	V00212	P3 PROCUREMENT SUPPORT
Other Services / Construction Management				\$1,207,140.84			

Summary Of Expenses
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Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7930-429.33-05	26/11/2025	349457	ADVANCED ENGINEERING I	\$164,599.69	DIVERSION PROJECT	V00302	PROGRAM MGMT SERVICES
	26/11/2025	349521	HOUSTON-MOORE GROUP L	\$97,310.40	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
	26/11/2025	349521	HOUSTON-MOORE GROUP L	\$877.00	DIVERSION PROJECT	V01634	H&H MITIG. & PERMIT SUPPO
Other Services / Engineering Services				\$262,787.09			
790-7930-429.33-25	26/11/2025	349540	Larkin Hoffman Attorneys	\$1,275.00	DIVERSION SERVICES	V14801	LEGAL SERVICES
Other Services / Legal Services				\$1,275.00			
790-7930-429.33-47	20/11/2025	349421	Jodi Smith	\$4,485.00	OCT CONSULTING	V13701	LAND ACQUISITION CONSULTIN
Other Services / Consulting Services				\$4,485.00			
790-7930-429.33-79	06/11/2025	348938	CH2M Hill Engineers Inc	\$1,611.58	PROPERTY ACQUISITION	V00210	CH2M HILL-LAND ACQUISITON
Other Services / Construction Management				\$1,611.58			
790-7930-429.38-95	26/11/2025	349533	JT LAWN SERVICE LLC	\$52,409.00	MOWING	V10401	MOWING/WEED CONTROL MGM
	26/11/2025	349533	JT LAWN SERVICE LLC	\$39,012.00	WEED CONTROL	V10401	MOWING/WEED CONTROL MGM
Other Services / Mowing Services				\$91,421.00			
790-7930-429.62-51	26/11/2025	349472	Cass County Electric Cooperativ	\$113.00	ACCT #1184422 DIVERSION	V01701	ND LAND PURCH-OUT OF TOWN
Energy / Electricity				\$113.00			
790-7931-429.71-30	20/11/2025	EK11250	1879N - MOORHEAD CLAY C	\$500.00	RECLASS DIVERSION LAND	V02301	MN LAND PURCHASES
Land / Land Purchases				\$500.00			
790-7931-429.73-20	06/11/2025	349052	Schmidt and Sons Inc.	\$74,322.50	PROPERTY STRUCTURE MITIGA	V03828	TO54-WP38C-OIN 1315
Infrastructure / Site Improvements				\$74,322.50			
790-7940-429.33-06	06/11/2025	348926	BRAUN INTERTEC CORP	\$6,117.50	MATERIALS TESTING	V00407	TASK ORDER #5
	26/11/2025	349466	BRAUN INTERTEC CORP	\$14,348.40	MATERIALS TESTING	V00407	TASK ORDER #5
Other Services / Quality Testing				\$20,465.90			
790-7940-429.34-50	07/11/2025	JH102500	City of Horace	\$29.27	OCT 25 DIVIDEND/ADMIN FEE	V11602	HORACE-ESCROW PFM FEES
Technical Services / Investment Management Svc				\$29.27			
790-7941-429.34-50	07/11/2025	JH102500	BUFFALO-RED RIVER WATE	\$42.28	OCT 25 INT/ADMIN FEES	V08304	BRRWD-ESCROW PFM FEES
Technical Services / Investment Management Svc				\$42.28			

Summary Of Expenses
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09 December 2025

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7941-429.38-99	13/11/2025	349101	MOORE ENGINEERING INC	\$9,300.00	MPCA PERMITS	V10102	LAGOON
Other Services / Other Services				\$9,300.00			
790-7950-429.33-05	20/11/2025	349422	MOORE ENGINEERING INC	\$5,811.25	REIMB MOORE ENGINEERING	V12201	SE CASS WRD MOU
	26/11/2025	349521	HOUSTON-MOORE GROUP L	\$62.00	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
	26/11/2025	349582	MOORE ENGINEERING INC	\$32,605.75	REIMB MOORE ENGINEERING	V08801	RUSH RIVER-DRAIN EXPENSE
Other Services / Engineering Services				\$38,479.00			
790-7950-429.33-06	06/11/2025	348926	BRAUN INTERTEC CORP	\$2,738.50	MATERIALS TESTING	V00405	ENVIRO. CONSULTING SERV
	26/11/2025	349466	BRAUN INTERTEC CORP	\$612.00	MATERIALS TESTING	V00405	ENVIRO. CONSULTING SERV
	26/11/2025	349466	BRAUN INTERTEC CORP	\$279,541.05	MATERIALS TESTING	V00406	TASK ORDER #4
Other Services / Quality Testing				\$282,891.55			
790-7950-429.33-25	20/11/2025	349422	OHNSTAD TWICHELL PC	\$3,011.50	REIMB OHNSTAD TWICHELL	V12201	SE CASS WRD MOU
	26/11/2025	349582	OHNSTAD TWICHELL PC	\$2,401.00	REIMB OHNSTAD TWICHELL	V08801	RUSH RIVER-DRAIN EXPENSE
Other Services / Legal Services				\$5,412.50			
790-7950-429.73-59	26/11/2025	349478	CLAY COUNTY AUDITOR	\$579,037.10	ACCT #90 SELLIN BROS	V08303	COMSTOCK HIGHWAY 2
Infrastructure / Street & Roadway System				\$579,037.10			
790-7950-429.73-70	13/11/2025	349098	Cass County Electric Cooperativ	\$34,038.28	AID TO CONSTRUCTION	V04729	TO27-SHEYENNE BENCH OH LN
	13/11/2025	349103	Cogent Communications	\$60,737.61	SPRINT FIBER RELOCATION	V15201	TO2-FIBER RELOCATE CR81
	13/11/2025	349230	XCEL ENERGY-FARGO	\$730,000.00	DIVERSION-SAUVAGEAU FARMS	V07706	TO03-SERVICES TO SAUVAGEA
	20/11/2025	349287	Cass County Electric Cooperativ	\$13,401.30	OXBOW S LINE RETIREMENT	V04730	TO28-OXBOW SOUTH-LN RETIR
	20/11/2025	349288	Cass Rural Water	\$5,276.51	CASS RURAL WATER TO #9	V05016	TO 9 - WP38C DISCONNECTS
	26/11/2025	349473	Cass County Electric Cooperativ	\$193,605.15	AID TO CONSTRUCTION	V04718	TO16 - OHB TO SE3
	26/11/2025	349473	Cass County Electric Cooperativ	\$83,505.84	AID TO CONST-FINAL	V04725	TO23-UPSTRM MIT ELECTRICAL
	26/11/2025	349475	Cass Rural Water	\$65,133.47	RELOCATE LINES	V05024	TO16-RELOCATE SHEYENNE BE
	26/11/2025	349598	XCEL ENERGY-FARGO	\$28,099.42	LINE MODIFICATION	V07704	TO1-MONTICELLO-BISON TRAN
Infrastructure / Utilities				\$1,213,797.58			
790-7952-429.33-05	26/11/2025	349521	HOUSTON-MOORE GROUP L	\$2,896.50	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
Other Services / Engineering Services				\$2,896.50			

Summary Of Expenses
EXP-2025-11

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7955-429.33-05	26/11/2025	349521	HOUSTON-MOORE GROUP L	\$2,714.00	DIVERSION PROJECT	V02827	IN TOWN LEVY MAINTENANCE
Other Services / Engineering Services				\$2,714.00			
790-7990-429.33-05	26/11/2025	349521	HOUSTON-MOORE GROUP L	\$52,463.60	DIVERSION PROJECT	V01633	DESIGN & CONST. SUPPORT
Other Services / Engineering Services				\$52,463.60			
790-7990-429.33-25	20/11/2025	349423	Swanson & Warcup	\$360.00	DIVERSION SERVICES	V14501	LEGAL SERVICES
	26/11/2025	349566	OHNSTAD TWICHELL PC	\$50,156.80	DIVERSION LEGAL SERVICES	V00102	General & Admin. WIK
Other Services / Legal Services				\$50,516.80			
790-7990-429.33-47	20/11/2025	349407	Program Advisor Services, LLC	\$28,016.00	PROGRAM CONSULTING SERV	V05801	CONSULTING SERVICES
Other Services / Consulting Services				\$28,016.00			
790-7990-429.34-57	26/11/2025	29077	BANK OF NORTH DAKOTA	\$18,007.50	BND TRUSTEE FEE 11/2025	V08502	MONTHLY TRUSTEE FEE
Technical Services / FMDA Trustee Fees BND				\$18,007.50			
790-7990-429.34-59	20/11/2025	349413	Allegro Construction Services L	\$9,030.60	DRB CHAIR JOSEPH ALLEGRO	V11403	DISPUTE RESOLUTION BOARDS
Technical Services / Outside Consultant				\$9,030.60			
790-7990-429.80-90	07/11/2025	EK11250	UNITED STATES ENVIRONM	\$32,600.00	RECORD WIFIA SERVICING	V06103	WIFIA CONST SERVICING FEE
Debt Service / WIFIA Servicing Fees				\$32,600.00			
790-7990-520.80-20	07/11/2025	EK11250	CASS COUNTY JOINT WATE	\$3,105,000.00	TO RECORD CCJWRD BOND	V01208	CCJWRD SERIES 2024A BONDS
Debt Service / Interest On Bonds				\$3,105,000.00			
790-7998-555.90-81	24/11/2025	EK11250	Diversion Admin Budget Transfe	\$0.00	ANNUAL ADMIN BDGT TRF-NOV	VADMIN	Diversion Administration
FMDA Admin. Budget Fund				\$0.00			
790 Subtotal				\$7,839,711.32			

Total Amount Invoiced this period: **\$7,952,295.91**

\$0.00 Less Paid Retainage

\$7,952,295.91 Total Less Paid Retainage

Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
LAND PURCHASE	\$440,042,919.27	\$440,042,919.27	\$0.00	Land Purchase
CH2M HILL ENGINEERS INC	\$169,823,404.31	\$142,700,633.97	\$27,122,770.34	Project & Construction Management
RED RIVER VALLEY ALLIANCE LLC	\$124,832,431.06	\$124,832,431.06	\$0.00	P3 Developer payments
HOUSTON-MOORE GROUP LLC	\$100,127,631.93	\$85,402,628.52	\$14,725,003.41	Engineering Services
INDUSTRIAL BUILDERS INC	\$67,584,314.76	\$67,346,539.76	\$237,775.00	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	\$38,140,511.67	\$38,140,511.67	\$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	\$28,839,052.93	\$28,839,052.93	\$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	\$15,252,720.33	\$793,376.92	Lands Management and Public Outreach
DORSEY & WHITNEY LLP	\$14,025,894.82	\$14,025,894.82	\$0.00	Legal Services
CASS COUNTY JOINT WATER RESOURCE DI	\$12,021,503.76	\$12,021,503.76	\$0.00	O/H/B Ring Levee, DPAC, Postage, Miscellaneous
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
MOORE ENGINEERING INC	\$9,348,046.79	\$7,858,259.85	\$1,489,786.94	Engineering Services
CITY OF FARGO	\$8,971,520.36	\$8,965,881.61	\$5,638.75	Utility Relocation, Accounting Svcs, Interest on Deficit Funds
HOUSTON ENGINEERING INC	\$7,632,081.38	\$7,632,081.38	\$0.00	Engineering Services
CASS RURAL WATER	\$7,433,190.71	\$7,286,371.79	\$146,818.92	Utilities and Utility Relocation
CASS COUNTY GOVERNMENT	\$6,559,853.48	\$6,559,853.48	\$0.00	Gravel on County Rd 17 Bypass
SCHMIDT AND SONS INC.	\$6,470,954.98	\$5,870,975.48	\$599,979.50	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	\$4,020,515.59	\$2,321,191.84	Engineering Services

Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
CASS COUNTY ELECTRIC COOPERATIVE	\$5,972,770.32	\$4,672,544.70	\$1,300,225.62	Electrical Services
NUSTAR PIPELINE OPERATING PARTNERSHIP	\$5,867,251.62	\$5,867,251.62	\$0.00	Utility Relocation
BRAUN INTERTEC CORP	\$5,725,185.56	\$4,129,148.36	\$1,596,037.20	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	\$5,087,828.40	\$289,171.60	P3 Financial Advisory Services
SELLIN BROS INC	\$4,487,126.94	\$4,487,126.94	\$0.00	Riverwood Flood Risk Project - Construction
XCEL ENERGY-FARGO	\$4,004,762.30	\$3,685,910.36	\$318,851.94	Utility Relocation
PROSOURCE TECHNOLOGIES, INC	\$3,873,908.66	\$3,557,364.40	\$316,544.26	Land Acquisition Services
CENTURYLINK COMMUNICATIONS	\$3,743,515.79	\$3,710,251.68	\$33,264.11	Utility Relocation
RILEY BROS	\$3,656,841.67	\$3,656,841.67	\$0.00	Construction - OHB Ring Levee & WP-28A
BNSF RAILWAY CO	\$3,598,713.80	\$3,598,713.80	\$0.00	Permits for In-Town Levee Projects
RED RIVER VALLEY & WESTERN RAILROAD C	\$3,589,388.46	\$3,589,388.46	\$0.00	Railroad Facilities and the Rail Property
AON RISK SERVICES CENTRAL INC	\$3,508,446.49	\$3,429,509.99	\$78,936.50	Risk Advisory Services P3 Pre-Award
CROWN APPRAISALS	\$3,212,730.00	\$2,713,630.00	\$499,100.00	Flowage Easements Valuation and Appraisal Services
CLAY COUNTY AUDITOR	\$3,178,100.59	\$3,178,100.59	\$0.00	Property Taxes - MN
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	\$2,869,264.39	\$108,718.48	Program Consulting Services
MAGELLAN PIPELINE	\$2,852,375.85	\$2,852,375.85	\$0.00	Utility Relocation
HDR ENGINEERING, INC.	\$2,671,901.12	\$2,219,925.70	\$451,975.42	Engineering Services
MINNESOTA DNR	\$2,636,755.60	\$2,617,681.40	\$19,074.20	EIS Scoping and Permit Application
HOUGH INC	\$2,498,256.83	\$2,280,719.33	\$217,537.50	Construction WP-42F.2 and Oxbow River Intake & Pumping Syst
MASTER CONSTRUCTION CO INC	\$2,490,751.67	\$2,490,751.67	\$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
ACONEX (NORTH AMERICA) INC	\$2,194,655.43	\$2,039,939.46	\$154,715.97	Electronic Data Mgmt and Record Storage System

Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
URS CORPORATION	\$1,805,670.90	\$1,805,670.90	\$0.00	Cultural Resources Investigations
AECOM	\$1,692,603.43	\$1,494,659.86	\$197,943.57	Cultural Resources Investigations
BANK OF NORTH DAKOTA	\$1,683,316.49	\$1,683,316.49	\$0.00	Legal review fees
REINER CONTRACTING INC	\$1,599,646.21	\$1,599,646.21	\$0.00	El Zagal Flood Risk Management
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
LARKIN HOFFMAN ATTORNEYS	\$1,457,527.82	\$1,457,527.82	\$0.00	Legal Services
WAGNER CONSTRUCTION INC.	\$1,417,840.62	\$1,417,840.62	\$0.00	Utility Relocation
UNITED STATES GEOLOGICAL SURVEY	\$1,343,840.00	\$887,465.00	\$456,375.00	Water Level Discharge Collection & Stage Gage Installation
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	\$1,091,092.17	\$1,091,092.17	\$0.00	Utility Relocation
CITY OF HORACE	\$1,080,071.06	\$1,080,071.06	\$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	\$912,828.11	\$21,527.66	House Demo and Removal
TERRACON CONSULTING ENGINEERS	\$890,924.41	\$890,924.41	\$0.00	Materials Testing
JT LAWN SERVICE LLC	\$853,285.10	\$673,600.00	\$179,685.10	Mowing and weed control
SBA COMMUNICATIONS	\$851,648.91	\$851,648.91	\$0.00	Utility Relocation
UNITED STATES ENVIRONMENTAL PROTECTI	\$831,686.35	\$831,686.35	\$0.00	WIFIA LOAN APPLCATION FEE
SPRINT COMMUNICATIONS COMPANY L.P.	\$812,034.58	\$812,034.58	\$0.00	Fiber Optic Relocation
BORDER STATES PAVING, INC	\$762,980.64	\$762,980.64	\$0.00	Street repairs
RED RIVER VALLEY COOPERATIVE ASSOC	\$759,075.26	\$691,535.26	\$67,540.00	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
PATCHIN MESSNER VALUATION COUNSELOR	\$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

Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
C THREE MEDIA, LLC	\$685,639.35	\$575,843.16	\$109,796.19	Videography Services
APEX ENGINEERING GROUP INC	\$685,072.82	\$685,072.82	\$0.00	Engineering
NORTHERN IMPROVEMENT COMPANY	\$682,385.59	\$682,385.59	\$0.00	CR-17 asphalt paving
NEON LOON COMMUNICATIONS, LLC	\$666,006.80	\$596,696.87	\$69,309.93	Communications Support
COMPASS LAND CONSULTANTS, INC	\$643,189.43	\$643,189.43	\$0.00	Property Appraisal Services
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	\$484,553.78	\$484,553.78	\$0.00	Retention Projects - Engineering Services
WATTS AND ASSOCIATES, INC.	\$460,000.00	\$461,174.80	(\$1,174.80)	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
DAWSON INSURANCE AGENCY	\$419,411.78	\$419,411.78	\$0.00	Property Insurance - Home Buyouts
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
COMSTOCK CONSTRUCTION	\$358,400.00	\$0.00	\$358,400.00	Maple River Benching Project
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

Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
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
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
PLEASANT TOWNSHIP	\$276,716.74	\$276,716.74	\$0.00	Building Permit Application
FUSION AUTOMATION INC.	\$269,698.82	\$269,698.82	\$0.00	Electrical
702 COMMUNICATIONS	\$266,892.07	\$266,892.07	\$0.00	Utility Relocation
MLGC	\$255,160.03	\$142,052.49	\$113,107.54	Utility Relocation
CDM SMITH INC.	\$255,000.00	\$5,563.38	\$249,436.62	Financial Dispute Resolution Board
FORUM COMMUNICATIONS	\$249,720.98	\$249,720.98	\$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. SCEPANIAC, INC.	\$226,235.21	\$226,235.21	\$0.00	ROADWAY RESHAPING & AGGREGATE SURFACING
SERKLAND LAW FIRM	\$214,212.21	\$214,212.21	\$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

Cumulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
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	\$151,894.32	\$151,894.32	\$0.00	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
DAILY NEWS	\$143,075.16	\$143,075.16	\$0.00	Advertising Services
CHAPMAN AND CUTLER	\$140,000.00	\$140,000.00	\$0.00	Legal Services
QUANTUM SPATIAL, INC.	\$139,061.35	\$139,061.35	\$0.00	Digital Aerial Photography
MARCO TECHNOLOGIES	\$135,554.72	\$127,714.41	\$7,840.31	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
COGENT COMMUNICATIONS	\$121,475.21	\$60,737.61	\$60,737.60	Fiber Optic Relocation
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
158 Vendors	Report Totals: \$1,440,890,787.71	\$1,380,982,020.33	\$59,908,767.38	

Data Through Date: 28 November 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
BIOGEO	431	267	131	92%	33	\$1,673,857
BIOGEO	300	266	1	89%	33	\$900,422
HC	131	1	130	100%	0	\$773,435
CHANNEL	720	500	217	100%	3	\$99,122,854
DA_MOB_HORACE	4	2	0	50%	2	\$0
ENV	1	0	0	0%	1	\$0
HC	272	55	217	100%	0	\$3,568,166
LAP01	109	109	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
DOWNSTREAM	7	0	7	100%	0	\$0
HC	7	0	7	100%	0	\$0
Habitat Improvem	23	15	8	100%	0	\$297,131
ENV	5	5	0	100%	0	\$0
Habitat_Shey	10	10	0	100%	0	\$297,131
HC	8	0	8	100%	0	\$0
MOBILITY	123	0	1	1%	122	\$0
DA_MOB37_MN	51	0	0	0%	51	\$0
DA_MOB37_ND	19	0	0	0%	19	\$0
DA_MOB38TH	52	0	0	0%	52	\$0
HC	1	0	1	100%	0	\$0

Data Through Date: 28 November 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
SEAILAND	536	474	52	98%	10	\$102,342,715
DRAIN 27	43	43	0	100%	0	\$23,877,374
HC	60	8	52	100%	0	\$458,806
LEGACY	138	138	0	100%	0	\$24,523,991
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	\$10,733,166
SE-5	24	21	0	88%	3	\$974,121
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	\$445,069
WP43B	5	5	0	100%	0	\$3,082,500
Sheyenne Mitigatio	10	1	0	10%	9	\$3,000
SheyMit	10	1	0	10%	9	\$3,000
WP36	2	2	0	100%	0	\$2,750
WRDAM	2	2	0	100%	0	\$2,750
WP38	1,052	466	376	80%	210	\$140,929,406
HC	380	4	376	100%	0	\$1,283,123
LEGACY	5	5	0	100%	0	\$457,563
UMA	581	450	0	77%	131	\$139,057,067
UMA-C	59	4	0	7%	55	\$38,567
UMA-W	14	3	0	21%	11	\$93,086
UMA-W2	13	0	0	0%	13	\$0
WP40	18	8	10	100%	0	\$48,923
DRAYTON	7	7	0	100%	0	\$48,923
HC	10	0	10	100%	0	\$0
LEGACY	1	1	0	100%	0	\$0
WP42	66	49	4	80%	13	\$37,850,061
HC	4	0	4	100%	0	\$0
LEGACY	6	6	0	100%	0	\$18,014,935
WP42	56	43	0	77%	13	\$19,835,126

Data Through Date: 28 November 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
WP43	267	121	146	100%	0	\$80,370,769
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
Totals	3,255	1,903	952	88%	400	\$462,641,466

FM Metropolitan Area Flood Risk Management Project
Lands Expense - Life To Date
As of November 30, 2025

Property Address	Purchase Date	Purchase Price	Earnest Deposit	Relocation Assistance	Sale Proceeds	Total
Commercial Relocations - Fargo		16,099,989.70	-	16,300,462.10	(1,100.00)	32,399,351.80
Home Buyouts - Fargo		3,044,054.89	-	521,417.80	-	3,565,472.69
Home Buyouts - Moorhead		495,809.91	-	84,060.80	(8,440.00)	571,430.71
Home Buyouts - Oxbow		29,678,181.97	-	17,142,531.46	(368,167.87)	46,452,545.56
Home Buyouts - Hickson		1,031,674.37	-	120,422.18	-	1,152,096.55
Home Buyouts - Horace		7,604,598.67	-	595,320.88	-	8,199,919.55
Home Buyouts - Argusville		215,030.91	-	6,912.57	-	221,943.48
Easements - Fargo		504,716.00	-	-	-	504,716.00
Easements - Hickson		500.00	-	-	-	500.00
Easements - Oxbow		55,500.00	-	-	-	55,500.00
Easements - Diversion Inlet Control Structure		4,302,787.22	-	-	(67,650.00)	4,235,137.22
Easements - Piezometer		259,765.00	-	-	-	259,765.00
Easements - Minnesota		1,542,370.79	-	-	-	1,542,370.79
Farmland Purchases		326,495,210.53	-	5,109,571.44	(21,438,976.36)	183,430,865.49

FM Metropolitan Area Flood Risk Management Project
Lands Expense - Life To Date
As of November 30, 2025

Property Address	Purchase Date	Purchase Price	Earnest Deposit	Relocation Assistance	Sale Proceeds	Total
Land Purchases		191,235,892.94	-	2,563,701.41	(10,395,728.86)	183,430,865.49
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				
Lots 5, 7, and 8, Block 2 of River Shore Subdivision a part of Government Lots 5, 6, and 7 of Section 7, Township 137 North, Range 48 West, Cass County, North Dakota	9/4/2025	1,205,677.74				
That part of Auditor's Lot No. 1 of the Southwest Quarter of Section 36, Township 138 North, Range 50 West of the Fifth Principal Meridian, Cass County, North Dakota	10/30/2025	24,800.00				
S1/2 N1/2 OF NE1/4, Sec 16, 137N, 49W, Cass County, ND	10/30/2025	99,500.00				
		391,330,189.96	-	39,880,699.23	(21,884,334.23)	409,326,554.96
				Property Management Expense		12,082,920.16
				Grand Total	\$	421,409,475.12

FM Metropolitan Area Flood Risk Management Project
In-Town Levee Work
as of November 30, 2025

Vcode #	Vendor Name	Descriptions	Contract Amount	Amount Paid
V02801	Industrial Builders	WP42.A2 - 2nd Street North Pump Station	\$ 8,696,548.46	\$ 8,696,548.46
V02802	Terracon Consulting	WP-42 (In Town Levees) Materials Testing	\$ 884,070.41	\$ 884,070.41
V02803	Consolidated Communications	2nd Street Utility Relocation	\$ 1,178,781.73	\$ 1,178,781.73
V02804	702 Communications	2nd Street Utility Relocation	\$ 266,892.07	\$ 266,892.07
V02805	ICS	WP-42A.1/A.3 - 4th St Pump Station & Gatewell and 2nd St Floodwall S	\$ 18,365,229.13	\$ 18,365,229.13
V02806	HMG	WP42 - Services During Construction	\$ 6,513,429.90	\$ 6,513,429.90
V02807	CCJWRD	In-Town Levee Work	\$ 3,756,545.64	\$ 3,756,545.64
V02808	City of Fargo	Relocation of fiber optic along 2nd Street North	\$ 397,906.52	\$ 397,906.52
V02809	AT & T	2nd Street Utility Relocation	\$ 586,269.60	\$ 586,269.60
V02811	Xcel Energy	2nd Street & 4th Street Utility Relocations	\$ 769,791.73	\$ 769,791.73
V02812	Industrial Builders	WP-42F.1S - 2nd Street North Floodwall, South of Pump Station	\$ 16,720,591.15	\$ 16,720,591.15
V02813	Landwehr Construction	Park East Apartments Demolition	\$ 1,169,651.74	\$ 1,169,651.74
V02814	Primoris Aevenia	2nd Street Utility Relocation	\$ 16,230.00	\$ 16,230.00
V02815	Centurylink Communications	2nd Street Utility Relocation	\$ 2,660,937.92	\$ 2,660,937.92
V02816	Landwehr Construction	WP-42C.1 - In-Town Levees 2nd Street/Downtown Area Demo	\$ 907,999.08	\$ 907,999.08
V02817	Reiner Contracting, Inc	WP-42H.2 - El Zagal Area Flood Risk Management	\$ 1,599,646.21	\$ 1,599,646.21
V02818	Industrial Builders	WP-42I.1 - Mickelson Levee Extension	\$ 738,880.50	\$ 738,880.50
V02819	Industrial Builders	WP42F.1N - 2nd Street North	\$ 13,362,906.82	\$ 13,362,906.82
V02820	CH2M Hill	WP42 - Construction Management Services	\$ 851,775.30	\$ 851,775.30
V02821	Hough Incorporated	WP42F.2 - 2nd Street South	\$ 1,639,524.33	\$ 1,639,524.33
V02822	City of Fargo	COF - 2016 O&M on Lifts	\$ 406,921.54	\$ 406,921.54
V02823	Hoffman & McNamara	WP-42G General Landscaping and Planting	\$ 491,334.67	\$ 491,334.67
V02824	City of Fargo	COF – In-Town Flood Protection Debt Payments	\$ 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>

State Revolving Fund (SRF) Status Report
As of 11/30/2025

Total Authorized	\$	51,634,000.00
Funds Received to Date	\$	33,265,414.16
Available Balance Remaining	\$	18,368,585.84

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	\$ 2,561,871.66	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	1-JUN 2025 through 30-JUN 2025	\$ 1,361,370.25	05-Sep-25
16	1-Sept 2025 through 30-Sept 2025	\$ 98,376.78	27-Oct-25
17	1-Oct 2025 through 31-Oct 2025	\$ 1,515,889.39	17-Nov-25
		\$ 34,879,680.33	

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	\$ 2,539,299.19	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	\$ 2,561,871.66	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
15	1-JUN 2025 through 30-JUN 2025	\$ 1,361,370.25	18-Sep-25
Total		\$ 33,265,414.16	

Finance Committee Bills from December 2025

Vendor	Description		
City of Fargo	Reimburse complementary in-town flood projects	\$	1,857,907.26
Cass County Joint Water Resource District	Diversion bills – Request #136 CCJWRD	\$	1,315,348.24
City of Fargo	Reimburse complementary in-town flood projects	\$	903,140.18
Rush River Water Resource District	Reimburse engineering and construction costs related to MOU	\$	228,219.95
Clay County	Diversion bills – Request #60 MCCJPA	\$	190,959.60
Ohnstad Twichell, P.C.	Legal services rendered through November 21, 2025	\$	123,649.60
Southeast Cass Water Resource District	Reimburse legal and engineering costs related to MOU	\$	22,991.45
Cass County	Reimburse misc expenses from Diversion Authority office	\$	10,342.99
City of Christine	Reimburse legal costs related to MOU	\$	5,556.61
Maple River Water Resource District	Reimburse legal and engineering costs related to MOU	\$	4,944.50
Mapleton Township	Reimburse road maintenance costs related to MOU	\$	4,258.70
City of Comstock	Reimburse legal costs related to MOU	\$	2,069.50
Swanson & Warcup	Legal services rendered through November 24, 2025	\$	1,350.00
Total Bills Received through December 10, 2025		\$	<u>4,670,738.58</u>



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

December 8, 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 #50 for reimbursement of invoices paid totaling \$1,857,907.26. These costs are for work on complementary in-town flood protection projects for costs paid in November 2025.

Project Narrative, this request:

Project Number	Project Description	Amount
FLDBUY	Flood Buyouts - Property Acquisition Expense	2,040.00
FM15J	Belmont Flood Risk Management Project	23,181.25
FM21A	Red River Erosion Protection & Bank Stabilization	38,557.48
NR23A	Storm Lift Rehab - #47 & 48	484,649.60
NR24A	Storm Lift Rehab - #27	1,157,537.83
NR25D	Storm Lift Rehab - #41 & 42	151,941.10
	Total Expense for Period	\$1,857,907.26

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
November 1, 2025 - November 30, 2025

Project Number	AP Project Description	Account Number	Description	AP Transaction Amount	Payment Number	AP Invoice Number	Payment Date	Vendor Name	Posting Accounting Perio	Bookmarked Invoice
FLDBUY	FLOOD ACQUISITION	46035305103325	DANIEL & EDNA HOLM	265.00	349584	327633	11/26/2025	SERKLAND LAW FIRM	11 2025	6
FLDBUY	FLOOD ACQUISITION	46035305103325	CURTIS & DEBORAH KESSELR	1,775.00	349584	327632	11/26/2025	SERKLAND LAW FIRM	11 2025	6
460-3530-510.33-25 - Total				2,040.00						
FLDBUY - Total				2,040.00						
FM15J0	FLOOD MIT-Belmont Park	46035305103305	FLOOD MITIGATION	17,763.75	349133	1200732453	11/13/2025	HDR ENGINEERING INC	11 2025	1
FM15J0	FLOOD MIT-Belmont Park	46035305103305	FLOOD MITIGATION	5,417.50	349133	1200747924	11/13/2025	HDR ENGINEERING INC	11 2025	1
460-3530-510.33-05 - Total				23,181.25						
FM15J0 - Total				23,181.25						
FM21A2	FLOOD MIT-RR Erosion SUnv	46000002062000	Retainage and Retainage R	21,882.48	349663	FM21A2 #8 098	12/04/2025	EXCAVATING INC - FARGO	11 2025	7
460-0000-206.20-00 - Total				21,882.48						
FM21A2	FLOOD MIT-RR Erosion SUnv	46035305107320	Change Order 3	3,850.00	349663	FM21A2 #8 004	12/04/2025	EXCAVATING INC - FARGO	11 2025	7
460-3530-510.73-20 - Total				3,850.00						
FM21A2	FLOOD MIT-RR Erosion SUnv	46035305107358	Change Order 3	8,550.00	349663	FM21A2 #8 001	12/04/2025	EXCAVATING INC - FARGO	11 2025	7
460-3530-510.73-58 - Total				8,550.00						
FM21A2	FLOOD MIT-RR Erosion SUnv	46035305107366	Change Order 3	2,075.00	349663	FM21A2 #8 003	12/04/2025	EXCAVATING INC - FARGO	11 2025	7
460-3530-510.73-66 - Total				2,075.00						
FM21A2	FLOOD MIT-RR Erosion SUnv	46035305107369	Change Order 3	2,200.00	349663	FM21A2 #8 002	12/04/2025	EXCAVATING INC - FARGO	11 2025	7
460-3530-510.73-69 - Total				2,200.00						
FM21A2 - Total				38,557.48						
NR23A2	STRM LFT RHAB DR 27 /38 S	46000002062000	Retainage and Retainage R	482,519.68	349534	NR23A2 #11 036	11/26/2025	KEY CONTRACTING INC	11 2025	5
460-0000-206.20-00 - Total				482,519.68						
NR23A2	STRM LFT RHAB DR 27 /38 S	46035305107369	Miscellaneous	2,129.92	349534	NR23A2 #11 001	11/26/2025	KEY CONTRACTING INC	11 2025	5
460-3530-510.73-69 - Total				2,129.92						
NR23A2 - Total				484,649.60						
NR24A0	STRM LFT RHAB	46035305103305	ENG SERVICE	22,668.15	349270	22130	11/20/2025	APEX ENGINEERING GROUP INC	11 2025	3
NR24A0	STRM LFT RHAB	46035305103305	ENG SERVICES	28,504.90	349270	22457	11/20/2025	APEX ENGINEERING GROUP INC	11 2025	3
460-3530-510.33-05 - Total				51,173.05						
NR24A0 - Total				51,173.05						
NR24A1	STRM LFT RHAB-#27	46000002062000	Retainage and Retainage R	-58,229.72	349693	NR24A1 #10 102	12/04/2025	KEY CONTRACTING INC	11 2025	10
460-0000-206.20-00 - Total				-58,229.72						
NR24A1	STRM LFT RHAB-#27	46035305107356	Paving	10,140.00	349693	NR24A1 #10 038	12/04/2025	KEY CONTRACTING INC	11 2025	10
460-3530-510.73-56 - Total				10,140.00						
NR24A1	STRM LFT RHAB-#27	46035305107358	Storm Sewer	730,100.00	349693	NR24A1 #10 031	12/04/2025	KEY CONTRACTING INC	11 2025	10
NR24A1	STRM LFT RHAB-#27	46035305107358	Electrical	150,000.00	349693	NR24A1 #10 033	12/04/2025	KEY CONTRACTING INC	11 2025	10
460-3530-510.73-58 - Total				880,100.00						
NR24A1	STRM LFT RHAB-#27	46035305107359	Flood Mitigation	3,144.00	349693	NR24A1 #10 037	12/04/2025	KEY CONTRACTING INC	11 2025	10
NR24A1	STRM LFT RHAB-#27	46035305107359	Paving	87,295.00	349693	NR24A1 #10 044	12/04/2025	KEY CONTRACTING INC	11 2025	10
460-3530-510.73-59 - Total				90,439.00						
NR24A1	STRM LFT RHAB-#27	46035305107361	Miscellaneous	1,100.00	349693	NR24A1 #10 032	12/04/2025	KEY CONTRACTING INC	11 2025	10
460-3530-510.73-61 - Total				1,100.00						
NR24A1	STRM LFT RHAB-#27	46035305107366	Miscellaneous	2,766.50	349693	NR24A1 #10 040	12/04/2025	KEY CONTRACTING INC	11 2025	10
NR24A1	STRM LFT RHAB-#27	46035305107366	Storm Sewer	19,872.00	349693	NR24A1 #10 041	12/04/2025	KEY CONTRACTING INC	11 2025	10
NR24A1	STRM LFT RHAB-#27	46035305107366	Flood Mitigation	12,150.00	349693	NR24A1 #10 043	12/04/2025	KEY CONTRACTING INC	11 2025	10
460-3530-510.73-66 - Total				34,788.50						
NR24A1	STRM LFT RHAB-#27	46035305107368	Paving	12,212.00	349693	NR24A1 #10 034	12/04/2025	KEY CONTRACTING INC	11 2025	10
460-3530-510.73-68 - Total				12,212.00						
NR24A1	STRM LFT RHAB-#27	46035305107369	Paving	82,600.00	349693	NR24A1 #10 035	12/04/2025	KEY CONTRACTING INC	11 2025	10
NR24A1	STRM LFT RHAB-#27	46035305107369	Flood Mitigation	7,315.00	349693	NR24A1 #10 036	12/04/2025	KEY CONTRACTING INC	11 2025	10
NR24A1	STRM LFT RHAB-#27	46035305107369	Storm Sewer	44,800.00	349693	NR24A1 #10 039	12/04/2025	KEY CONTRACTING INC	11 2025	10
NR24A1	STRM LFT RHAB-#27	46035305107369	Miscellaneous	1,100.00	349693	NR24A1 #10 042	12/04/2025	KEY CONTRACTING INC	11 2025	10
460-3530-510.73-69 - Total				135,815.00						
NR24A1 - Total				1,106,364.78						
NR25D0	STRM LFT RHAB-#41 & 42	46035305103305	Construction	30,515.80	349681	NR25D0 #7 066	12/04/2025	HOUSTON ENGINEERING INC	11 2025	8
460-3530-510.33-05 - Total				30,515.80						
NR25D0 - Total				30,515.80						
NR25D2	STRM LFT RHAB-#41 & 42	46000002062000	Retainage and Retainage R	-5,589.90	349477	NR25D2 #2 038	11/26/2025	CC STEEL, LLC	11 2025	4
460-0000-206.20-00 - Total				-5,589.90						
NR25D2	STRM LFT RHAB-#41 & 42	46035305107358	Lift Station #42 (5th Str	83,090.00	349477	NR25D2 #2 007	11/26/2025	CC STEEL, LLC	11 2025	4
460-3530-510.73-58 - Total				83,090.00						
NR25D2	STRM LFT RHAB-#41 & 42	46035305107359	Lift Station #42 (5th Str	4,200.00	349477	NR25D2 #2 011	11/26/2025	CC STEEL, LLC	11 2025	4
460-3530-510.73-59 - Total				4,200.00						
NR25D2	STRM LFT RHAB-#41 & 42	46035305107361	Lift Station #42 (5th Str	1,650.00	349477	NR25D2 #2 010	11/26/2025	CC STEEL, LLC	11 2025	4
460-3530-510.73-61 - Total				1,650.00						

NR25D2	STRM LFT RHAB-#41 & 42	46035305107366	Lift Station #42 (5th Str	22,638.00	349477	NR25D2 #2 009	11/26/2025	CC STEEL, LLC	11	2025	4
460-3530-510.73-66 - Total				22,638.00							
NR25D2	STRM LFT RHAB-#41 & 42	46035305107369	Lift Station #42 (5th Str	220.00	349477	NR25D2 #2 008	11/26/2025	CC STEEL, LLC	11	2025	4
460-3530-510.73-69 - Total				220.00							
NR25D2 - Total				106,208.10							
NR25D3	STRM LFT RHAB-#41 & 42	46000002062000	Retainage and Retainage R	-328.28	349139	NR25D3 #1 022	11/13/2025	JDP ELECTRIC INC	11	2025	2
NR25D3	STRM LFT RHAB-#41 & 42	46000002062000	Retainage and Retainage R	-98.48	349686	NR25D3 #2 110	12/04/2025	JDP ELECTRIC INC	11	2025	9
460-0000-206.20-00 - Total				-426.76							
NR25D3	STRM LFT RHAB-#41 & 42	46035305107358	Lift Station #42 Electric	6,565.60	349139	NR25D3 #1 018	11/13/2025	JDP ELECTRIC INC	11	2025	2
NR25D3	STRM LFT RHAB-#41 & 42	46035305107358	Lift Station #42 Electric	1,969.68	349686	NR25D3 #2 068	12/04/2025	JDP ELECTRIC INC	11	2025	9
460-3530-510.73-58 - Total				8,535.28							
NR25D3	STRM LFT RHAB-#41 & 42	46035305107399	Adjustments	4,624.70	349139	NR25D3 #1 023	11/13/2025	JDP ELECTRIC INC	11	2025	2
NR25D3	STRM LFT RHAB-#41 & 42	46035305107399	Adjustments	2,483.98	349686	NR25D3 #2 116	12/04/2025	JDP ELECTRIC INC	11	2025	9
460-3530-510.73-99 - Total				7,108.68							
NR25D3 - Total				15,217.20							
Overall - Total				1,857,907.26							



SENT VIA EMAIL

**Cass County
Joint Water
Resource
District**

Ken Loughheed
Chairman
Leonard, North
Dakota

Keith Weston
Manager
Gardner, North Dakota

Gerald Melvin
Manager
Fargo, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Rick Steen
Manager
Fargo, North Dakota

Melissa Hinkemeyer
Director, Secretary

Amy Hepper
Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

701-298-2381
FAX 701-298-2397
wrld@casscountynd.gov
casscountynd.gov

December 10, 2025

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

Greetings:

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

Enclosed please find copies of bills totaling \$1,315,348.24 regarding the above-mentioned projects. The breakdown is as follows:

Metro Flood Diversion	\$1,316,872.68
Oxbow-Hickson-Bakke Ring Levee	(\$ 1,524.11)

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

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

Thank you.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT

Melissa Hinkemeyer

Melissa Hinkemeyer
Director

OVERFLOW DIVERSION RIGHT OF ENTRY/LAND ACQUISITION COST SHARE INVOICES							12/3/2025
Invoice Paid	Invoice Date	Invoice No.	Project No.	Amount	Vendor	Description	
	11/21/2025	283166		(269,830.72)	The Title Company	Settler's Settlement Statement OIN 1899 Land Sale	
	9/23/2025	271247B		(68,181.86)	The Title Company	Interest Payment on RIMP loan OIN 1979	
	10/10/2025	281825		(1,058,454.50)	The Title Company	Settler's Settlement Statement OIN 2366Y, 2367Y, 8852Y, 561Y Excess Land Sale Less Farm Lease (Nygren) Land sale	
	10/10/2025	282522		(29,383.50)	The Title Company	Settler's Settlement Statement OIN 1926 Land Sale	
	10/10/2025	281825B		(641,807.76)	The Title Company	Settler's Settlement Statement OIN 2368Y land sale	
	10/10/2025	282940		(944.22)	The Title Company	Settler's Settlement Statement OIN 2361 overage on Attourney fees reimbursed	
	10/10/2025	282941		(538.89)	The Title Company	Settler's Settlement Statement OIN 1964 overage on Attourney fees reimbursed	
10/10/2025	9/30/2025	207205		12,394.50	Ohnstad Twichell, PC	Diversion Right of Way Acquisition	
10/10/2025	9/30/2025	207208		42,828.42	Ohnstad Twichell, PC	Upstream Mitigation Area	
10/10/2025	9/30/2025	207243		32.00	Ohnstad Twichell, PC	Western Tie Back	
10/10/2025	9/30/2025	207244		2,000.00	Ohnstad Twichell, PC	FM Div-Sheyenne Benching Project	
10/30/2025	10/22/2025	206532	25170	153.00	Ohnstad Twichell, PC	2025 Consolidated Action	
10/30/2025	10/22/2025	206534	22093	6,259.50	Ohnstad Twichell, PC	Anderson, Stanley D & Terri Rae (OIN 1896 & 2052) Eminent Domain Action	
10/30/2025	10/22/2025	206535	22094	12,812.00	Ohnstad Twichell, PC	Brakke, Michael D. ET ALL (OIN 1964) Eminent Domain Action	
10/30/2025	10/22/2025	206536	22095	469.00	Ohnstad Twichell, PC	MKRM Trust, ET AL (OIN 1197) Eminent Domain Action	
10/30/2025	10/22/2025	206537	22096	948.00	Ohnstad Twichell, PC	Askegaard, Patricia N. (OIN 2051) Eminent Domain Action	
10/30/2025	10/22/2025	206538	22097	2,355.50	Ohnstad Twichell, PC	Cossette, Donald Robet ED OIN 2361	
10/30/2025	10/22/2025	206539	22098	1,114.00	Ohnstad Twichell, PC	Brakke Michael & Laurie OIN 845	
10/30/2025	10/22/2025	206540	22099	67.00	Ohnstad Twichell, PC	Brakke Family OIN 1938, 1977, 1978 ED	
10/30/2025	10/22/2025	206541	22100	4,634.89	Ohnstad Twichell, PC	Cossette, Lawrence Wayne (OIN 1946) Eminent Domain Action	
10/30/2025	10/22/2025	206542	22101	167.50	Ohnstad Twichell, PC	Askegaarde Robert, R. (OIN 1950, 1963, 1966) Eminent Domian Action	
10/30/2025	10/22/2025	206543	22102	26,263.75	Ohnstad Twichell, PC	Brakke, Paul E. (OIN 1974 & 1976) Eminent Domain Action	
10/30/2025	10/22/2025	206546	22103	2,579.50	Ohnstad Twichell, PC	Erickson, Jeff & Jaye (OIN 2025) Eminent Domian Action	
10/30/2025	10/22/2025	206547	22104	167.50	Ohnstad Twichell, PC	Evert, Charles & Ruth (OIN 1895 & 1991) ED	
10/30/2025	10/22/2025	206548	22105	1,557.50	Ohnstad Twichell, PC	Cossette, Marjorie Ann (OIN 1947 & 1948) Eminent Domain Action	
10/30/2025	10/22/2025	206550	22106	1,189.00	Ohnstad Twichell, PC	Duchscherer, Brian & Kelly OIN 9416 & 1885) ED	
10/30/2025	10/22/2025	206551	22107	7,772.00	Ohnstad Twichell, PC	2023 Consolidated ED Actions	
10/30/2025	10/22/2025	206552	22108	820.50	Ohnstad Twichell, PC	Turner, Scott & Vicki OIN 5028 ED	
10/30/2025	10/22/2025	206553	23148	67.00	Ohnstad Twichell, PC	Brakke, Steve & Colleen OIN 1920, 1933, 1934 & 1939 ED	
10/30/2025	10/22/2025	206554	23150	2,043.50	Ohnstad Twichell, PC	Boyer, Stuart & Pat (OIN 1967, 1967) Eminent Domain Action	
10/30/2025	10/22/2025	206555	23151	67.00	Ohnstad Twichell, PC	Richard, George & Sharon /Richard, Leo & Shirley (OINs 1903, 1905, 1907, 1908, 1910, 1914, 1957 & 1960) ED	
10/30/2025	10/22/2025	206556	23154	633.50	Ohnstad Twichell, PC	Rupp, Tyler & Kim (OINs 9231, 9232) Eminent Domain Action	
10/30/2025	10/22/2025	206557	24160	3,382.48	Ohnstad Twichell, PC	Aaland Law Open Records Regeust	
10/30/2025	10/22/2025	206558	24163	2,610.00	Ohnstad Twichell, PC	Cose, Paul & Margaret (OIN 2044, 2045) Eminent Domain Action	
10/30/2025	10/22/2025	206559	24164	1,909.50	Ohnstad Twichell, PC	Carlson, Aaron & Katie J. ED OIN 2040, 2184	
10/30/2025	10/22/2025	206560	24165	97.50	Ohnstad Twichell, PC	Luecke, John (Leonard) & Kathleen J. (OIN 2046,2047, 2183) Eminent Domain Action	
10/30/2025	10/9/2025	206561	25169	3,787.50	Ohnstad Twichell, PC	Sheyenne Benching Project	
11/21/2025	10/27/2025	208487		14,487.00	Ohnstad Twichell, PC	Diversion ROW Acquisition	
11/21/2025	10/28/2025	208483		3,430.00	Ohnstad Twichell, PC	Diversion Authority Agreement - Drains	
11/21/2025	10/29/2025	208488		27,985.32	Ohnstad Twichell, PC	Upstream Mitigation Area	
11/21/2025	10/30/2025	208481		3,738.00	Ohnstad Twichell, PC	FM Diversion - Sheyenne Benching Project	
10/10/2025	10/2/2025	864199	38810.00012	920.00	Larkin Hoffman	Hanson Flowage Easement Acquisition	
10/10/2025	10/2/2025	864198	38810.00004	4,120.00	Larkin Hoffman	Richland/Cass Cos./Application for Permit to Enter Land	
10/10/2025	10/2/2025	864200	38810.00020	80.00	Larkin Hoffman	Kopp, Alan & June Flowage Easement Acquisition	
10/10/2025	10/2/2025	864203	38810.00056	200.00	Larkin Hoffman	Ron & Melissa Heesch ED	
10/10/2025	10/2/2025	864202	38810.00044	5,080.00	Larkin Hoffman	Timothy & Sharon Schultz ED	
10/10/2025	10/2/2025	864201	38810.00028	11,680.00	Larkin Hoffman	Alm, Melvin (John) and Ricky Flowage Easement Acquisition	
10/10/2025	10/2/2025	864204	38810.00063	2,840.00	Larkin Hoffman	Hayes ED	
10/10/2025	10/2/2025	864205	38810.00065	474.00	Larkin Hoffman	Colehour/The Quinland Farm (OIN 2031-33; 2035; 0866-67 and 8063)	
11/21/2025	11/10/2025	866021	38810.00012	320.00	Larkin Hoffman	Hanson Flowage Easement Acquisition	
11/21/2025	11/10/2025	866020	38810.00004	6,800.00	Larkin Hoffman	Richland/Cass Cos./Application for Permit to Enter Land	
11/21/2025	11/10/2025	866025	38810.00002	160.00	Larkin Hoffman	Kopp, Alan & June Flowage Easement Acquisition	
11/21/2025	11/10/2025	866304	38810.00056	720.00	Larkin Hoffman	Ron & Melissa Heesch ED	
11/21/2025	11/10/2025	866030	38810.00028	3,280.00	Larkin Hoffman	Alm, Melvin (John) and Ricky Flowage Easement Acquisition	
11/21/2025	11/10/2025	866035	38810.00063	2,200.00	Larkin Hoffman	Hayes ED	
11/21/2025	11/10/2025	866036	38810.00065	671.50	Larkin Hoffman	Colehour/The Quinland Farm (OIN 2031-33; 2035; 0866-67 and 8063)	
11/21/2025	11/10/2025	866023	38810.00016	200.00	Larkin Hoffman	Israelson, Gary and Nancy Flowage Easement Acquisition	
11/21/2025	11/10/2025	866031	38810.00029	320.00	Larkin Hoffman	Christianson, Charlie/Shirley/Douglas/Darlene Flowage Easement Acquisition	



FINANCE OFFICE

225 4th Street North

Fargo, ND 58102

Phone: (701) 241-1333

E-Mail: Finance@FargoND.gov

www.FargoND.gov

November 13, 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 #49 for reimbursement of invoices paid totaling \$903,140.18. These costs are for work on complementary in-town flood protection projects for costs paid in October 2025.

Project Narrative, this request:

Project Number	Project Description	Amount
FLDBUY	Flood Buyouts - Property Acquisition Expense	6,455.00
FM1471	Drain 27 Lift Station #56 Flood Risk Management	1,784.25
FM15F	Harwood, Hackberry, & River Drive - Flood Risk	1,244.25
FM21A	Red River Erosion Protection & Bank Stabilization	5,208.00
NR23A	Storm Lift Rehab - #47 & 48	20,510.49
NR24A	Storm Lift Rehab - #27	690,134.15
NR24B	Storm Lift Rehab - #11 & 57	77,899.44
NR25D	Storm Lift Rehab - #41 & 42	99,904.60
	Total Expense for Period	\$903,140.18

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
October 1, 2025 - October 31, 2025

Project Number	AP Project Description	Account Number	Description	AP Transaction Amount	Payment Number	AP Invoice Number	Payment Date	Vendor Name	AP Accounting Period Month	AP Accounting Period Year	Bookmarked Invoice
F.LDBUY	FLOOD ACQUISITION	46035305103325	CITY OF FARGO V EDNA HOLM	985.00	348874	326919	10/30/2025	SERKLAND LAW FIRM	10	2025	5
F.LDBUY	FLOOD ACQUISITION	46035305103325	COF V CURTIS & DEBORAH KE	4,515.00	348874	326918	10/30/2025	SERKLAND LAW FIRM	10	2025	5
F.LDBUY	FLOOD ACQUISITION	46035305103325	CITY OF FARGO V JOYCE COL	955.00	348874	326917	10/30/2025	SERKLAND LAW FIRM	10	2025	5
460-3530-\$10.33-25 - Total				6,455.00							
F.LDBUY - Total				6,455.00							
FM1471	FLOOD MIT-Dr 27 42st-I29	46035305103305	FLOOD MITIGATION	1,784.25	348827	78671	10/30/2025	HOUSTON ENGINEERING INC	10	2025	4
460-3530-\$10.33-05 - Total				1,784.25							
FM1471 - Total				1,784.25							
FM15F0	FLOOD RISK-Harwd Hack Rvr	46035305103305	ENG SERVICES	1,244.25	348827	78683	10/30/2025	HOUSTON ENGINEERING INC	10	2025	4
460-3530-\$10.33-05 - Total				1,244.25							
FM15F0 - Total				1,244.25							
FM21A0	FLOOD MIT-RR Erosion SUnv	46035305103305	ENG SERVICES	5,208.00	348827	78682	10/30/2025	HOUSTON ENGINEERING INC	10	2025	4
460-3530-\$10.33-05 - Total				5,208.00							
FM21A0 - Total				5,208.00							
NR23A3	STRM LFT RHAB DR 27 /38 S	46000002062000	Retainage and Retainage R	14,194.68	348657	NR23A3 #7 094	10/23/2025	FUSION AUTOMATION INC.	10	2025	3
460-0000-206.20-00 - Total				14,194.68							
NR23A3	STRM LFT RHAB DR 27 /38 S	46035305107358	Lift Station #48 Electric	2,897.01	348657	NR23A3 #7 001	10/23/2025	FUSION AUTOMATION INC.	10	2025	3
460-3530-\$10.73-58 - Total				2,897.01							
NR23A3	STRM LFT RHAB DR 27 /38 S	46035305107360	Electrical	3,418.80	348657	NR23A3 #7 002	10/23/2025	FUSION AUTOMATION INC.	10	2025	3
460-3530-\$10.73-60 - Total				3,418.80							
NR23A3 - Total				20,510.49							
NR24A1	STRM LFT RHAB-#27	46000002062000	Retainage and Retainage R	-36,322.85	348252	NR24A1 #9 090	10/09/2025	KEY CONTRACTING INC	10	2025	1
460-0000-206.20-00 - Total				-36,322.85							
NR24A1	STRM LFT RHAB-#27	46035305107352	Flood Mitigation	3,728.00	348252	NR24A1 #9 056	10/09/2025	KEY CONTRACTING INC	10	2025	1
460-3530-\$10.73-52 - Total				3,728.00							
NR24A1	STRM LFT RHAB-#27	46035305107356	Paving	10,584.00	348252	NR24A1 #9 054	10/09/2025	KEY CONTRACTING INC	10	2025	1
460-3530-\$10.73-56 - Total				10,584.00							
NR24A1	STRM LFT RHAB-#27	46035305107358	Storm Sewer	652,185.00	348252	NR24A1 #9 050	10/09/2025	KEY CONTRACTING INC	10	2025	1
460-3530-\$10.73-58 - Total				652,185.00							
NR24A1	STRM LFT RHAB-#27	46035305107359	Flood Mitigation	10,304.00	348252	NR24A1 #9 052	10/09/2025	KEY CONTRACTING INC	10	2025	1
NR24A1	STRM LFT RHAB-#27	46035305107359	Paving	15,168.00	348252	NR24A1 #9 053	10/09/2025	KEY CONTRACTING INC	10	2025	1
460-3530-\$10.73-59 - Total				25,472.00							
NR24A1	STRM LFT RHAB-#27	46035305107361	Miscellaneous	4,400.00	348252	NR24A1 #9 057	10/09/2025	KEY CONTRACTING INC	10	2025	1
460-3530-\$10.73-61 - Total				4,400.00							
NR24A1	STRM LFT RHAB-#27	46035305107366	Flood Mitigation	26,238.00	348252	NR24A1 #9 051	10/09/2025	KEY CONTRACTING INC	10	2025	1
460-3530-\$10.73-66 - Total				26,238.00							
NR24A1	STRM LFT RHAB-#27	46035305107369	Miscellaneous	3,850.00	348252	NR24A1 #9 055	10/09/2025	KEY CONTRACTING INC	10	2025	1
460-3530-\$10.73-69 - Total				3,850.00							
NR24A1 - Total				690,134.15							
NR24B0	STRM LFT RHAB-#11 & 57	46035305103305	SERVICES FOR STORM SEWER	19,953.65	348827	78666	10/30/2025	HOUSTON ENGINEERING INC	10	2025	4
460-3530-\$10.33-05 - Total				19,953.65							
NR24B0 - Total				19,953.65							
NR24B2	STRM LFT RHAB-#11 & 57	46000002062000	Retainage and Retainage R	49,645.79	348997	NR24B2 #10 077	11/06/2025	KEY CONTRACTING INC	10	2025	7
460-0000-206.20-00 - Total				49,645.79							
NR24B2 - Total				49,645.79							
NR24B3	STRM LFT RHAB-#11 & 57	46000002062000	Retainage and Retainage R	8,300.00	349062	NR24B3 #5 074	11/06/2025	SUN ELECTRIC INC	10	2025	8
460-0000-206.20-00 - Total				8,300.00							
NR24B3 - Total				8,300.00							
NR25D0	STRM LFT RHAB-#41 & 42	46035305103305	Construction	28,949.10	348984	NR25D0 #6 002	11/06/2025	HOUSTON ENGINEERING INC	10	2025	6
460-3530-\$10.33-05 - Total				28,949.10							
NR25D0 - Total				28,949.10							
NR25D2	STRM LFT RHAB-#41 & 42	46000002062000	Retainage and Retainage R	-3,734.50	348617	NR25D2 #1 107	10/23/2025	CC STEEL, LLC	10	2025	2
460-0000-206.20-00 - Total				-3,734.50							
NR25D2	STRM LFT RHAB-#41 & 42	46035305107320	Lift Station #42 (5th Str	1,530.00	348617	NR25D2 #1 092	10/23/2025	CC STEEL, LLC	10	2025	2
460-3530-\$10.73-20 - Total				1,530.00							
NR25D2	STRM LFT RHAB-#41 & 42	46035305107358	Lift Station #42 (5th Str	35,610.00	348617	NR25D2 #1 088	10/23/2025	CC STEEL, LLC	10	2025	2
460-3530-\$10.73-58 - Total				35,610.00							
NR25D2	STRM LFT RHAB-#41 & 42	46035305107359	Lift Station #42 (5th Str	4,200.00	348617	NR25D2 #1 090	10/23/2025	CC STEEL, LLC	10	2025	2
460-3530-\$10.73-59 - Total				4,200.00							
NR25D2	STRM LFT RHAB-#41 & 42	46035305107361	Lift Station #42 (5th Str	1,650.00	348617	NR25D2 #1 093	10/23/2025	CC STEEL, LLC	10	2025	2
460-3530-\$10.73-61 - Total				1,650.00							
NR25D2	STRM LFT RHAB-#41 & 42	46035305107366	Lift Station #42 (5th Str	1,700.00	348617	NR25D2 #1 089	10/23/2025	CC STEEL, LLC	10	2025	2
460-3530-\$10.73-66 - Total				1,700.00							
NR25D2	STRM LFT RHAB-#41 & 42	46035305107369	Lift Station #42 (5th Str	30,000.00	348617	NR25D2 #1 091	10/23/2025	CC STEEL, LLC	10	2025	2
460-3530-\$10.73-69 - Total				30,000.00							
NR25D2 - Total				70,955.50							
Overall - Total				903,140.18							



Rush River
Water Resource
District

SENT VIA EMAIL

William A. Hejl
Chairman
Amenia, North Dakota

November 21, 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 \$228,219.95 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, Secretary

Amy Hepper
Treasurer

Enclosure

1201 Main Avenue West
West Fargo, ND 58078-1301

701-298-2381
FAX 701-298-2397
wrld@casscountynynd.gov
www.casscountynynd.gov



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

December 9, 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. Also included is credit for MCCJPA rent received by Clay County. All requests were approved or authorized by the Diversion Authority. The current invoice/expense reimbursement request is as follows:

Metro Flood Diversion Expense	\$191,459.60
Rent Received credit	<u>\$ -500.00</u>
Total Reimbursement Request	\$190,959.60

We respectfully request 100% reimbursement as per the Joint Powers Agreement.

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

Sincerely,

Lori J. Johnson
Clay County Auditor

Enclosures

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

FM Diversion MCCJPA invoices

Processed

	Invoice		Invoice		Date			Reimb
Vendor	Date		Amount	Invoice #	Approved	Date Paid	Check #	Request
BCSS, LLC		land rent 3348 180th Ave S	-\$500.00	150865		11/10/25	150865	12/9/2025
New Century Press	10/13/25	meeting notice	\$7.43	2025-558300	11/3/25	11/19/25	572110	12/9/2025
Crown Appraisals, Inc.	11/4/25	prof svc oin 1250,1257	\$23,000.00	5274	11/7/25	11/19/25	127686	12/9/2025
The Title Co		oin 1324 hitt easement	\$102,749.85			11/21/25	907852	12/9/2025
SRF Consulting Group	10/31/25	prof svc thru 10/31/25	\$8,182.00	13820.00-61	11/19/25	11/26/25	572280	12/9/2025
New Century Press	11/7/25	meeting notice	\$9.29	2025-561324	11/25/25	12/3/25	572360	12/9/2025
Red River Valley Coop	11/4/25	svc 818 170th Ave S	\$88.93		11/25/25	12/3/25	572366	12/9/2025
ProSource	2/28/25	prof svc thru 3/1/25	\$1,482.00	4852	11/20/25	12/17/25	TBD	12/9/2025
ProSource	9/30/24	prof svc thru 9/28/24	\$10,510.90	4167	11/20/25	12/17/25	TBD	12/9/2025
ProSource	11/30/24	prof svc thru 11/30/24	\$3,428.00	4452	11/20/25	12/17/25	TBD	12/9/2025
ProSource	12/31/24	prof svc thru 12/28/24	\$2,964.00	4582	11/20/25	12/17/25	TBD	12/9/2025
ProSource	1/31/25	prof svc thru 1/1/25	\$2,052.00	4745	11/20/25	12/17/25	TBD	12/9/2025
Brad & Wendy Buth	11/20/25	relocation reimbursement	\$36,985.20		11/25/25	12/17/25	TBD	12/9/2025

\$190,959.60

Attorneys at Law

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

15-1395 (JTS) Invoice # 0028/209331

Flood Diversion Board

Bond Counsel Work - PPP

Date: December 10, 2025

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

PROFESSIONAL SERVICES RENDERED			
	Hours	Rate	Totals
JTS	176.1	\$416.00	\$73,257.60
LDA	6.7	\$410.00	\$2,747.00
KJS	41.8	\$410.00	\$17,138.00
MWM	0.3	\$410.00	\$123.00
JRS	5.0	\$385.00	\$1,925.00
TJF	11.1	\$300.00	\$3,330.00
ASM	40.7	\$270.00	\$10,989.00
JS	9.8	\$270.00	\$2,548.00
AJR	12.2	\$270.00	\$3,294.00
CRR	8.2	\$235.00	\$1,927.00
Total Fees:	311.9		\$117,278.60
NDRIN			\$96.00
Prof Services			\$6,250.00
Recording Fees			\$25.00
Total Expenses:			\$6,371.00
Grand Total			\$123,649.60

		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	\$385.00
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
JS	Joshua R. Schell, 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

PROFESSIONAL SERVICES RENDERED

15-1395 JTS Invoice # 0028/209331 Flood Diversion Board		Bond Counsel Work - P3
FILE NUMBER	MATTER DESCRIPTION	INVOICE - TOTAL FEES
151395-1	General Topics	\$34,542.60
151395-2	Executive Director	\$343.00
151395-4	Public Finance Issues	\$124.80
151395-5	Consultant Contract Review/Development	\$2,798.00
151395-8	MNDNR Permit Issues	\$945.00
151395-9	Environmental Permitting Issues/NEPA	\$624.00
151395-12	USACE Interface/Questions	\$386.80
151395-13	Third Party Utility MOU's	\$27,360.20
151395-17	EPA WIFIA Loan	\$249.60
151395-23	PRAM	\$1,297.80
151395-24	P3 Implementation	\$45,158.00
151395-27	UMA/Utility Review	\$820.00
151395-30	Dispute Review Board Matters	\$1,705.60
151395-31	2027 Definitive Refunding Improvement Bond	\$166.40
151395-32	2027 Subord Sales Tax Bond	\$756.80
TOTAL		\$117,278.60



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

November 21, 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 \$22,991.45 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, Secretary

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
casscountynnd.gov

**INVOICE: INV012468**

Date 12/03/2025
Invoice account 198

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

Description	Quantity	Unit price	Amount
DIVERSION-PAYROLL	1.00	108,608.59	108,608.59
DIVERSION- MISCELLANEOUS	1.00	10,342.99	10,342.99

Sales subtotal amount	Total discount	Total charges	Net amount	Sales tax	Round-off	Currency	Total
118,951.58	0.00	0.00	118,951.58	0.00	0.00	USD	118,951.58

Due date

01/02/2026

Please detach and send this copy with remittance.

MAKE CHECKInvoice: **INV012468**

Name: CITY OF FARGO

PAYABLE TO:

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

Date: 12/03/2025

Account #: 198

Total: 118,951.58**Due date**

01/02/2026

City of Christine - SUMMARY OF INVOICING**Reimbursement Request #20****November 26, 2025**

<u>Vendor</u>	<u>Invoice Date</u>	<u>Invoice #</u>	<u>Invoice Amount</u>
Swanson & Warcup	9/30/2025	3703	\$328.56
Swanson & Warcup	10/31/2025	3775	\$428.05
Total Swanson & Warcup			\$756.61
Lies, Bullis & Hatting	9/23/2025	71289	\$1,960.00
Lies, Bullis & Hatting	10/21/2025	71476	\$2,780.00
Lies, Bullis & Hatting	11/21/2025	71701	\$60.00
Total Lies, Bullis & Hatting			\$4,800.00
Total Invoiced This Reimbursement Request			\$5,556.61



Maple River
Water Resource
District

SENT VIA EMAIL

November 18, 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 invoices totaling \$4,944.50 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, Secretary

Amy Hepper
Treasurer

Enclosure

1201 Main Avenue West
West Fargo, ND 58078-1301

701-298-2381
FAX 701-298-2397
wrld@casscountynynd.gov
www.casscountynynd.gov

Mapleton Township

Bruce Bollinger clerk

12/3/2025

3764 164th Ave SE

Mapleton, ND 58059

Invoice to

Metro Flood Diversion Authority

Class 5 gravel material applied, ground work to remove weeds/roots and blade work done on approximately $\frac{3}{4}$ of a mile in length on 32nd Ave West in Mapleton township immediately west of the new Red River diversion bridge. Work was performed to get the road back in shape for traffic after being closed for the past 2 years during bridge construction.

Total \$4,258.70

City of Comstock, MN - SUMMARY OF INVOICING

Comstock Lagoon Project

Reimbursement Request

#19

December 9, 2025

<u>Vendor</u>	<u>Invoice Date</u>	<u>Invoice #</u>	<u>Invoice Amount</u>
Total Moore Engineering, Inc.			\$0.00
Pemberton Law, P.L.L.P.	10/31/2025	20247056-000	\$2,069.50 (Statement #9)
Total Pemberton Law, P.L.L.P.			\$2,069.50
Total Invoiced This Reimbursement Request			\$2,069.50



1397 Library Circle, Suite 202
Grand Forks, ND 58201

INVOICE

Invoice #: 3840
Date: 11-30-2025
Due On: 01-02-2026

Metro Flood Diversion Authority (DRB)

Matter Name: Metro Flood Diversion Authority (DRB)

Fees

Date	Atty	Description	Quantity	Rate	Total
11-05-25	HDS	[REDACTED]	0.20	450.00	\$90.00
11-12-25	HDS	[REDACTED]	0.20	450.00	\$90.00
11-14-25	HDS	[REDACTED]	0.10	450.00	\$45.00
11-15-25	HDS	[REDACTED]	0.10	450.00	\$45.00
11-17-25	HDS	[REDACTED]	0.40	450.00	\$180.00
11-17-25	HDS	[REDACTED]	0.20	450.00	\$90.00
11-18-25	HDS	[REDACTED]	0.60	450.00	\$270.00
11-19-25	HDS	[REDACTED]	0.40	450.00	\$180.00
11-20-25	HDS	[REDACTED]	0.20	450.00	\$90.00
11-23-25	HDS	[REDACTED]	0.30	450.00	\$135.00
11-24-25	HDS	[REDACTED]	0.30	450.00	\$135.00

Fees Subtotal: \$1,350.00



Diversion Board of Authority Meeting

December 19, 2025

MOU and Agreement Actions for Consideration

John Shockley

MFDA MOUs & Agreements



MOU Parties	Project	MOU or Agreement Cost and Summary
MFDA & Cass County	Mobility Improvements MOU	This MOU defines the roles and responsibilities of the Metro Flood Diversion Authority and Cass County for mobility improvements that the Authority is requesting that Cass County, as a member entity, complete. In particular, this MOU includes improvements to 38th Street West and 32nd Avenue West, roads expected to experience increased traffic as a result of the Comprehensive Project. Cass County will be responsible for designing and constructing the mobility improvements in accordance with standards set forth in the MOU. The Authority will review development of the mobility improvements and will reimburse Cass County for costs incurred for the mobility improvements.

MEMORANDUM OF UNDERSTANDING

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

Dated as of _____, 2025

Relating to:

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

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

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MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (hereinafter the “MOU”) is made and entered into this _____ day of _____, 2025 (the “Effective Date”), by and between METRO FLOOD DIVERSION AUTHORITY, a political subdivision of the State of North Dakota (the “Authority”), and CASS COUNTY, NORTH DAKOTA, a political subdivision of the State of North Dakota (the “County”).

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

WHEREAS, due to the construction of the Comprehensive Project, the Authority and the County anticipate that traffic will increase on certain roads that are adjacent to or near the storm water diversion channel and associated infrastructure (“SWDCAI”) element of the Comprehensive Project; and

WHEREAS, as a result, the Authority and the County desire to construct improvements on those roads under the County’s jurisdiction that will experience higher volumes of traffic; and

WHEREAS, the Authority may additionally request the County to construct improvements on roads under the jurisdiction of a township that have been identified within a memorandum of understanding between the Authority and a township to receive a mobility improvement; and

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

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

ARTICLE I. DEFINITIONS AND INTERPRETATION

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

“Applicable Law” means, collectively, the Constitutions of the United States and of the State of North Dakota, all common law and principles of equity, and all Federal, State, and local laws including, without limitation, all environmental laws, statutes, treaties, codes, acts, rules, regulations, guidelines, ordinances, resolutions, orders, judgments, decrees, injunctions, and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any governmental authority charged with enforcement, interpretation, or administration, all governmental approvals, and all administrative orders, awards, directed duties, requests, licenses, certificates, authorizations, and permits of, and agreements with, any governmental authority, and with respect to any Person, the articles of incorporation, bylaws, or other

organizational or governing documents, in each case whether or not having the force of law, that are applicable now or are applicable at any time to the Authority, the County, or the work described herein.

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

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

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

“Authority Responsibility” means (i) the Authority’s financial contribution to a Mobility Improvement in its entirety if constructed pursuant to the Reconstruction Standards or (ii) the Authority’s financial contribution to that portion of a Mobility Improvement meeting the Reconstruction Standards in the event that the County elects to construct a Mobility Improvement to standards higher than those set forth herein, as further described in Section 4.01.

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

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

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

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

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

“County” means Cass County, North Dakota, a political subdivision of the State of North Dakota.

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

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

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

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

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

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

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

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

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

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

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

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

“Impacted Roads” means 38th Street West, 32nd Avenue West, and 40th Street Southeast in the locations where the Mobility Improvements will be constructed.

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

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

“Mobility Improvement” means the improvement of 38th Street West from County Road 40 to 32nd Avenue West/40th Street Southeast and the improvement of 32nd Avenue West/40th Street Southeast from County Road 15 to the western edge of the SWDCAI into a Two-Lane Township Gravel Section, as shown on Exhibit A.

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

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

“PMC” means the Program Management Consultant.

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

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

“State” means the State of North Dakota.

“SWDCAI” means the approximately thirty (30) mile, 20,000 cubic feet per second (cfs) channel and associated features, including the outlet, river and drain inlets, road bridges, railroad bridges, aqueducts, and recreational features, to be constructed as part of the Comprehensive Project.

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

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

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

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

Section 1.02 TERMS GENERALLY. The definition of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and neuter forms. The words “include,” “includes,” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.”

Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument, or other document herein shall be construed as referring to such agreement, instrument, or other document as from time to time amended, supplemented, or otherwise modified (subject to any restrictions on such amendments, supplements, or modifications as set forth herein), (b) any reference herein to any person shall be construed to include such person's permitted successors and assigns, (c) the words "herein," "hereof," and "hereunder," and words of similar import, shall be construed to refer to this MOU in its entirety and not to any particular provision hereof, (d) all references herein to articles, sections, exhibits, and schedules shall be construed to refer to articles and sections of, and exhibits and schedules to, this MOU, and (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts, and contract rights.

ARTICLE II. INITIAL DEVELOPMENT

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

Section 2.02 DEVELOPMENT PLAN SUMMARY SHEET.

(a) As set forth in the preceding section, the County will prepare, and update as described herein, a Development Plan Summary Sheet for each Mobility Improvement outlining the Authority Responsibility. The Development Plan Summary Sheet, as included in Exhibit C, will include at least the following:

(1) The County's approach for procuring additional professional services for the Mobility Improvement, e.g., competitive procurement or use of an existing professional services contract, which may include a professional services contract already entered by the Authority for preliminary engineering or engineering services;

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

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

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

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

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

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

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

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

(b) If the County executes a professional services contract, including but not limited to ones for engineering services; construction management and inspections services; a construction contract; or amendments or Change Orders of the same, the County will update the Development Plan Summary Sheet with the name of the professional services or construction firm, the firms subcontracted to the professional services or construction firm, and the contracted values. The County will provide the updated Development Plan Summary Sheet to the Authority within fifteen (15) Business Days of the execution of the contract for professional services, of construction commencement, or of amendment or Change Order of the same, as applicable.

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

ARTICLE III. CAPITAL IMPROVEMENT PLAN

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

Section 3.02 BUDGET ADJUSTMENTS.

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

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

ARTICLE IV. DESIGN

Section 4.01 GENERALLY. The County is responsible for designing the Mobility Improvements and may utilize its own Engineering Consultants or in-house Engineering Staff for the design of each Mobility Improvement. The County will design the following Mobility Improvements in accordance with the following Reconstruction Standards:

- (1) 38th Street West – Two-Lane Township Gravel Section
- (2) 32nd Avenue West – Two-Lane Township Gravel Section
- (3) 40th Street Southeast – Two-Lane Township Gravel Section

The County may choose, solely within its discretion, to construct the Mobility Improvements to a standard higher than described in this document; provided, however, the intent of this MOU is to establish the level of responsibility of the Authority related to these improvements (the "Authority Responsibility"). The completed designs for any Mobility Improvement will be the property of both the Authority and the County.

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

Section 4.03 AUTHORITY REVIEW. The County will provide to the Authority, for concurrence, a Preliminary Design and a Final Design for each Mobility Improvement, concurrent with when these plans are distributed by the Engineering Consultant, if applicable, for review and

comment by the County. The County can proceed with the development of the Mobility Improvement provided the Authority does not object to the plans and specifications within ten (10) Business Days of being provided the Final Design. The Authority's review of a Preliminary Design and a Final Design is limited to the extent that a design meets the Reconstruction Standards set forth herein; the Authority will not review a design for any higher standards selected by the County, within its discretion, pursuant to Section 4.01.

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

Section 4.05 LAND ACQUISITION. The County will be responsible for acquiring any property interests necessary for designing and constructing the Mobility Improvements. The Authority will be responsible for all costs and expenses associated with acquiring up to one hundred (100) total feet of right-of-way width for each Mobility Improvement. If the County desires to acquire a width of right-of-way that is greater than one hundred (100) for a Mobility Improvement, then the County will be responsible for all costs and expenses associated with the excess right-of-way.

ARTICLE V. BIDDING AND CONTRACTS

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

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

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

Section 5.04 CONTRACT AWARD LIMITATION. The County will not proceed with the award of a construction contract if the Total Project Budget Amount, when considering the construction bids and updated costs for elements of the Estimated Total Project Cost, exceeds the approved Total Project Budget Amount unless the newly calculated Total Project Budget Amount is approved and the Development Plan Summary Sheet is amended. The Executive Director or his/her designee may approve an increase in the Total Project Budget Amount for a Mobility Improvement of up to and including \$200,000. The Diversion Authority must approve an increase in the Total Project Budget Amount for a Mobility Improvement greater than \$200,000. The

Diversion Authority Board will approve or disapprove of the budget increase within forty-five (45) calendar days of notice from the County.

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

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

ARTICLE VI. CONSTRUCTION

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

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

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

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

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

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

ARTICLE VII. OWNERSHIP AND MAINTENANCE

Section 7.01 IMPACTED ROADS. The County will maintain ownership of the future impacted County road locations referenced in Exhibit A, as well as the Mobility Improvements constructed thereon.

Section 7.02 MAINTENANCE. The County will be responsible for maintaining the future impacted County road locations referenced in Exhibit A that have been improved, including those portions improved with the Mobility Improvements, and will not seek reimbursement for any maintenance costs incurred from normal usage.

ARTICLE VIII. FUTURE CHANGES OR ADDITIONS

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

ARTICLE IX. PROFESSIONAL SERVICES CONTRACTS

Section 9.01 WIFIA REQUIREMENTS. To comply with WIFIA requirements, all professional services contracts must require the Contractor to (i) complete and submit the certification and disclosure forms in Appendix A and Appendix B to 40 CFR Part 34 pertaining to federal lobbying restrictions; (ii) comply with the federal non-discrimination requirements set forth in Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act of 1972, and 40 CFR Part 7; and (iii) certify the Contractor is not federally debarred. The County will provide copies of all executed certifications and/or documents received by the County in accordance with this subsection to the Authority unless the Authority already has these certifications on file from the Engineering Consultant.

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

ARTICLE X. INSURANCE AND LIABILITY

Section 10.01 INSURANCE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE XI. REIMBURSEMENT OF COSTS

Section 11.01 MOBILITY IMPROVEMENTS. The Authority will reimburse the County for salaries, services, and/or related costs and expenses for the construction of the Mobility Improvements based on the bids received from the County for the work allocated to the Authority Responsibility.. The County will review and adjust the Development Plan Summary Form as necessary to match the construction bid amounts.

Section 11.02 OTHER PROJECT FUNDING. The County will cooperate with the Authority if the Authority pursues alternative funding sources for the Mobility Improvements.

ARTICLE XII. TERM AND TERMINATION

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

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

ARTICLE XIII. DISPUTE RESOLUTION

Section 13.01 INTENT AND PROCEDURE. The Parties will cooperate and use their best efforts to ensure that the various provisions of this MOU are fulfilled. The Parties agree to act in Good Faith to undertake resolution of disputes in an equitable and timely manner and in accordance with the provisions of this MOU. If disputes cannot be resolved informally by the Parties, the following procedure will be used.

Section 13.02 MEDIATION. If there is a failure between the Parties to resolve a dispute on their own, the Parties will first attempt to mediate the dispute. The Parties will agree upon a single mediator or, if an agreement cannot be reached within ten (10) calendar days, the mediator shall be selected by the American Arbitration Association (“AAA”) in accordance with its Commercial Industry Mediation Rules and Procedures then in effect. Any mediator selected by mutual agreement of the Parties or through the AAA selection process must have no current or on-going relationship with either Party. The Parties agree that only one (1) mediator shall be selected as the AAA mediator, if applicable, and the Parties will each pay fifty percent (50%) of any costs for mediation services.

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

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

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

ARTICLE XIV. MISCELLANEOUS

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

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

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

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

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

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

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

Section 14.07 NOTICE.

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

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

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

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

1201 Main Avenue West
West Fargo, North Dakota, 58078

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

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

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

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

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

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

(Remainder of page intentionally left blank.)

Signature Page for the Metro Flood Diversion Authority

The governing body of the Metro Flood Diversion Authority approved this MOU on the ____ day of _____, 2025.

METRO FLOOD DIVERSION
AUTHORITY

By: _____
Tony Grindberg, Chair

By: _____
Jason Benson, Executive Director

ATTEST:

Dawn Lindblom, Secretary

Signature Page for Cass County, North Dakota

The governing body of Cass County, North Dakota, approved this MOU on the ____ day of _____, 2025.

CASS COUNTY, NORTH DAKOTA

By: _____
Tony Grindberg, Chair of the Board of
County Commissioners

ATTEST:

Sarah Heinle, Finance Director

Exhibit A
Mobility Improvements

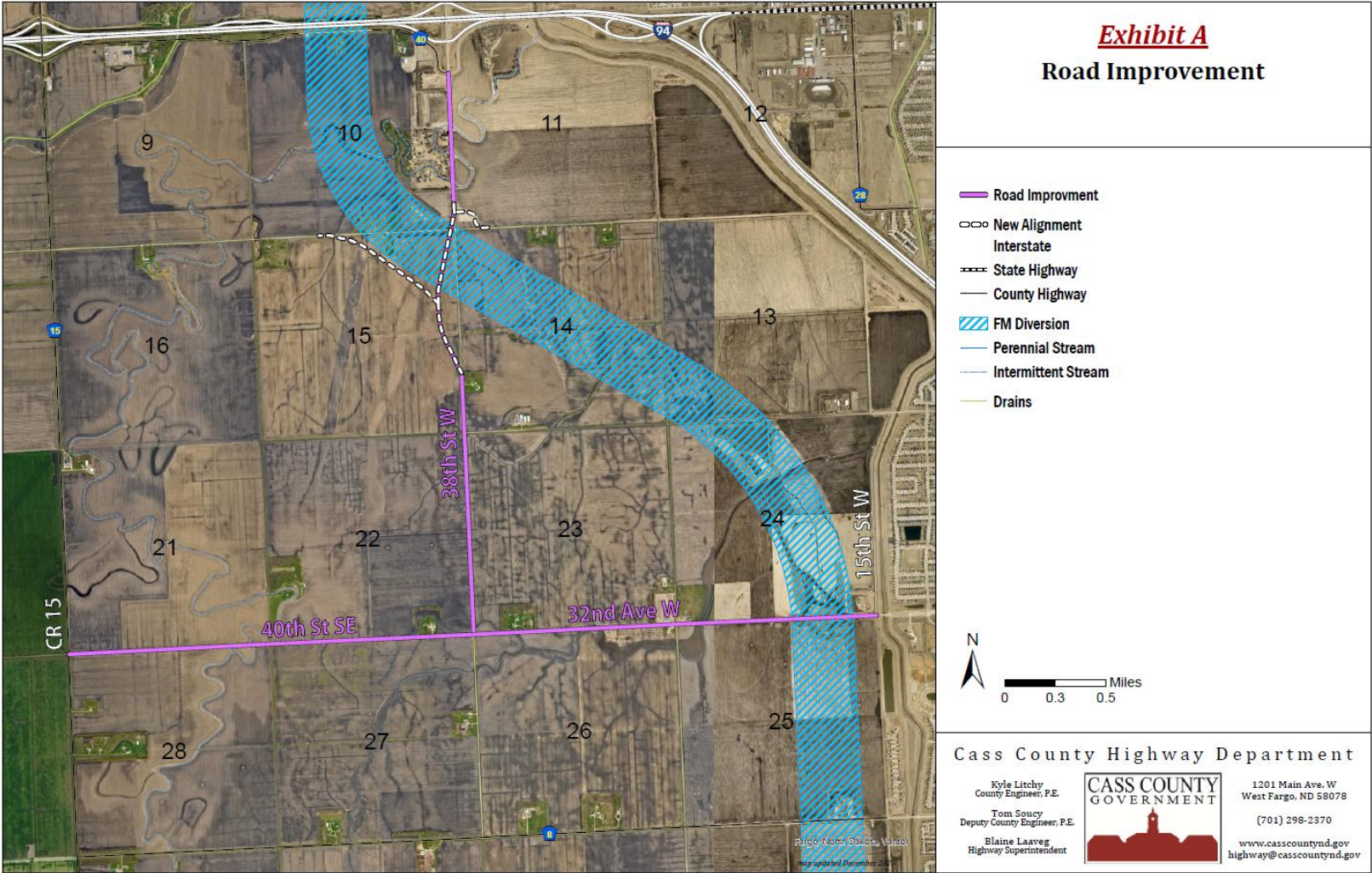


Exhibit B

Reconstruction Standards

Typical Section	Design Speed	Right of Way	Graded Roadbed	Gravel Surface	Asphalt	Turn Lanes	Minimum Section Thickness	Access Controls	Bike/Ped Facilities
Two-Lane Township Gravel Section	55 mph	100 feet	28 feet	24 feet	N/A	No	4 inches gravel	¼ mile spacing	Not applicable

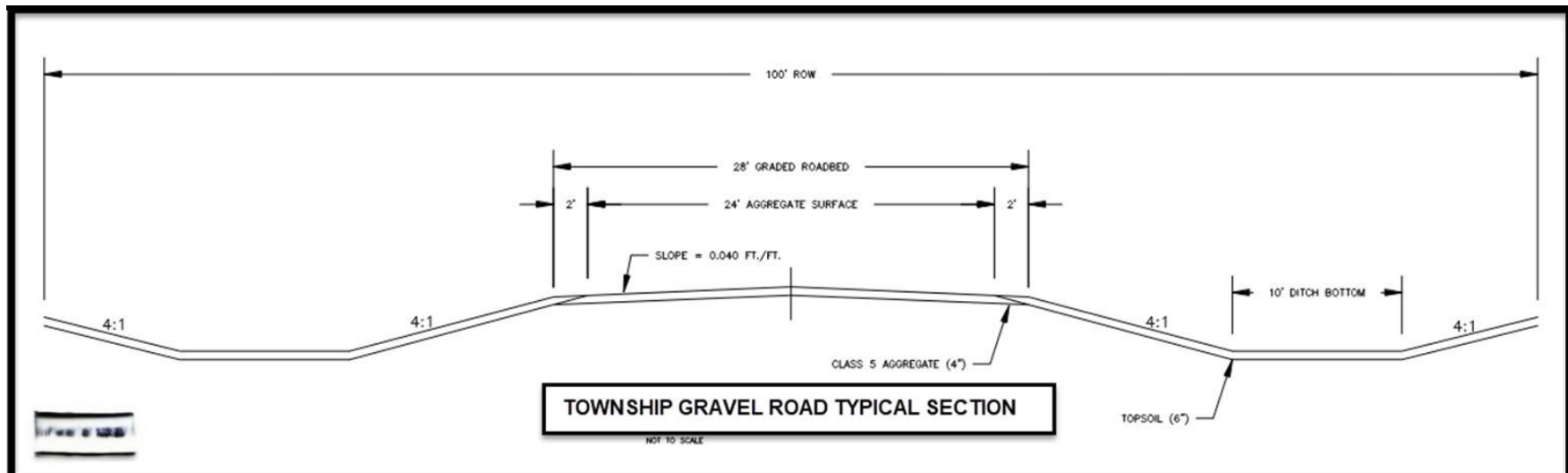


Exhibit C

Development Plan Summary Sheet

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



**METRO
FLOOD
DIVERSION
AUTHORITY**

Development Plan Summary Sheet

Contract Number _____

Project Name _____

Member Entity _____

Date Submitted: _____ Member Entity Contact _____

Design Services

Approach: ☐ Competitive ☐ Existing Firm: _____ Contract value: _____

Subconsultants

Services

Estimated Cost for Design Professional Services (A)

\$ _____

Start of Design: _____

Design Completion: _____

Property Acquisition

Estimated Cost for Property Acquisition (B)

\$ _____

Estimated Cost for Property Acquisition Services (C)

\$ _____

Start of Property Acquisition: _____

Acquisition Complete: _____

Property Acquisition Needed by: _____

Construction

Estimated Cost for Construction (D)

\$ _____

Start of Construction: _____

Construction Complete: _____

Construction Services

Approach: ☐ Competitive ☐ Existing Firm: _____ Contract value: _____

Subconsultants

Services

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

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

\$ _____

CONTINGENCY (10%)

\$ _____

FY20 _____ TOTAL PROJECT BUDGET AMOUNT:

\$ _____

☐

Compliant with (Member entity)

Compliant with WIFIA requirements.

procurement and/or purchasing procedures.



Development Plan Summary Sheet for Construction

Contract Number _____

Project Name _____

Member Entity _____

Date Submitted: _____ Member Entity Contact _____

Construction

Contractor _____

Contract Value \$ _____

Change Order __: _____

Change Order __: _____

Change Order __: _____

Change Order __: _____

Subconsultants

Services

Start of Construction: _____

Construction Complete: _____

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



METRO
FLOOD
DIVERSION
AUTHORITY

Diversion Board of Authority Meeting

December 18, 2025

Contracting Actions

DA Board Approval Contract Actions

(ACTION)



Description	Company	Budget/Estimate (\$)
Master Services Agreement (MSA) – New Master Services Agreement for Consulting Services from January 1, 2026, through December 31, 2030. The new MSA is required as the existing MSA expires on December 31, 2025.	Houston-Moore Group, LLC	\$0.00
Services Agreement (SA) – Amendment 1 – Amend the Services Agreement to extend the period of performance to December 31, 2028. This amendment also adds the scope of work and associated fee for the continued development of the Crop Insurance Program.	Watts and Associates, Inc	\$237,307.44

Executive Director

Contracting Recommendation



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

Houston-Moore Group, LLC Master Services Agreement (MSA) 2026-2030 Consulting Services	\$0.00
<ul style="list-style-type: none"> New Master Service Agreement 2026 to 2030 	

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

3 Reason why it is required:

Houston-Moore Group, LLC (HMG) entered into an agreement with the Metro Flood Diversion Authority to provide engineering services for the FM Diversion Project. Detailed scope of services, work schedule, and cost budget will be mutually agreed upon in writing and set forth in Task Orders issued by the Diversion Authority under the MSA or through the Diversion Authority's designated Project Consultant.

4 Background and discussion:

CH2M, now Jacobs, has served as the Program Management Consultant (PMC) to the OWNER since November of 2011, with primary responsibilities to plan and implement the Fargo-Moorhead Area Diversion Project (the PROJECT). As such, the OWNER and CONSULTANT have agreed to enter into a Task Order focused on managing and reporting on the various aspects of the PROJECT. The PMC reports directly to the Executive Director.

In accordance with Section 6 of the Master Professional Services Agreement by and between the Metro Flood Diversion Authority (the "Authority") and Houston-Moore Group, LLC (the "Consultant") dated January 1, 2026 (the "Agreement"), the Authority and the Consultant agree to the above services.

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

Table 1 - Summary of Contracting History and Current Contract Action

Original Agreement or Amendment	Contract Change \$	Original or Revised Contract \$	Agreement Execution Date	Project Completion	Comments
MSA	0.00	0.00	1/1/2026	12/31/2030	Budget is given to specific Task Orders that fall under this MSA with HMG.

5 Financial considerations:

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

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

Table 3 – Summary of Annual Budget Allocation – Per Year

Year	Cost Account Code	Estimated Cost (\$)	Budget Allocated (\$)	Actual paid to date (\$)	Budget Remaining (\$_)	Comments
MSA	SW-1160 TO-101	0.00	0.00	0.00	0.00	Budget is given to specific Task Orders and cost account codes that fall under this MSA with HMG.
MSA	SW-1165 TO-102	0.00	0.00	0.00	0.00	Budget is given to specific Task Orders and cost account codes that fall under this MSA with HMG.
Totals		0.00	0.00	0.00	0.00	

6 Attachments:

- Master Services Agreement

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: 12/8/2025

Executive Director

Contracting Recommendation



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

Watts and Associates, Inc Services Agreement - Amendment 1-R1 Crop Insurance Product Development Services	\$237,307.44
<ul style="list-style-type: none"> • Scope of services and fee for development of the Crop Insurance Program to be completed in 2026. • Extend Period of Performance to December 31, 2028. 	

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

3 Reason why it is required:

The Owner and Watts and Associates, Inc (WA) is to enter into a Services Agreement to provide crop insurance product development services for the Metro Flood Diversion Authority.

The amendment defines the scope of services and associated fees for developing the Crop Insurance Program, scheduled for completion in 2026, and extends the performance period through December 31, 2028.

4 Background and discussion:

CH2M, now Jacobs, has served as the Program Management Consultant (PMC) to the OWNER since November of 2011, with primary responsibilities to plan and implement the Fargo-Moorhead Area Diversion Project (the PROJECT). As such, the OWNER and CONSULTANT have agreed to enter into a Task Order focused on managing and reporting on the various aspects of the PROJECT. The PMC reports directly to the Executive Director.

In accordance with Section 1 of the Services Agreement Amendment 1 by and between the Metro Flood Diversion Authority (the “Authority”) and Watts and Associates, Inc (the “Consultant”) dated January 1, 2026 (the “Agreement”), the Authority and the Consultant agree to the above services.

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

Table 1 - Summary of Contracting History and Current Contract Action

Original Agreement or Amendment	Contract Change \$	Original or Revised Contract \$	Agreement Execution Date	Project Completion	Comments
SA-A0	0.00	485,000.00	4/23/2020	8/31/2025	Crop Insurance
SA-A1	237,307.44	722,307.44	1/1/2026	12/31/2028	Additional budget for 2026

5 Financial considerations:

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

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

Table 2 – Estimated Project Budget December 2025 to December 2025

Line Item	Description	Qty	Unit	Price
0001	Crop Insurance Arbitration (FFP)	1	EA	36,233.48
0002	Stakeholder Communications Procedures (FFP)	1	EA	15,999.17
0003	Crop Adjuster Compensation (FFP)	1	EA	18,699.64
0004	Loss Coverage Decision Tree (FFP)	1	EA	22,616.25
0005	Cover Crop Integration with MPCl (FFP)	1	EA	23,632.45
0006	Federal Crop Insurance Stakeholder education (FFP)	1	EA	61,661.79
0007	Legal Impact Analysis of MPCl Interaction (FFP)	1	EA	37,918.29
0008	Sugar Beet Impact Analysis and Allocation of Acres (FFP)	1	EA	13,92.38
0009	Travel (T & M) one Trip/4 Travelers	1	EA	7,484.00
TOTAL				237,307.44

Table 3 – Summary of Annual Budget Allocation – Per Year

Year	Cost Account Code	Estimated Cost (\$)	Budget Allocated (\$)	Actual paid to date (\$)	Budget Remaining (\$)	Comments
2022-2025	SW-1170	485,000.00	485,000.00	461,174.80	23,825.20	Remaining budget carried forward
2026	SW-1170	237,307.44	237,307.44	0.00	237,307.44	Initial Budget for 2026
2027	SW-1170	TBD	TBD	0.00	TBD	
2028	SW-1170	TBD	TBD	0.00	TBD	
Totals		722,307.44	722,307.44	461,174.80	261,132.64	

6 Attachments:

- Services Agreement Amendment 1

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

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

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

Approved by: Jason Benson, Executive Director

Date: 12/11/2025

Memorandum



To: Metro Flood Diversion Authority Lands Committee

From: Jason Benson, Executive Director

Cc: John Shockley, MFDA Legal Counsel

Date: December 17, 2025

Re: OINs 9576, 9577, 9578, and 9579 (9576-9579) Excess Land Recommendation

RECOMMENDATION/ACTIONS NEEDED:

Approve OINs 9576-9579 (10.01 acres) to begin the process to dispose of the Excess Land per the Policy on the Disposition and Management of Comprehensive Project Lands.

Background/Key Points:

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

This property is impacted by a utility easement related to the storm sewer that has been installed. As part of this sale this existing easement will need to be retained to allow access to maintain the storm sewer.

ATTACHMENTS:

- Excess Lands Recommendation – OINs 9576-9579



Memorandum

TO: Jason Benson, Executive Director

FROM: Justin Fisher, Director of Lands and Compliance

DATE: December 3, 2025

RE: Excess Lands Recommendation – OINs 9576, 9577, 9578, and 9579

1. Introduction

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

This Memorandum serves as a recommendation for the Executive Director to declare OINs 9576, 9577, 9578, and 9579 as Excess Land.

2. Pertinent Facts Regarding OINs 9576, 9577, 9578, and 9579

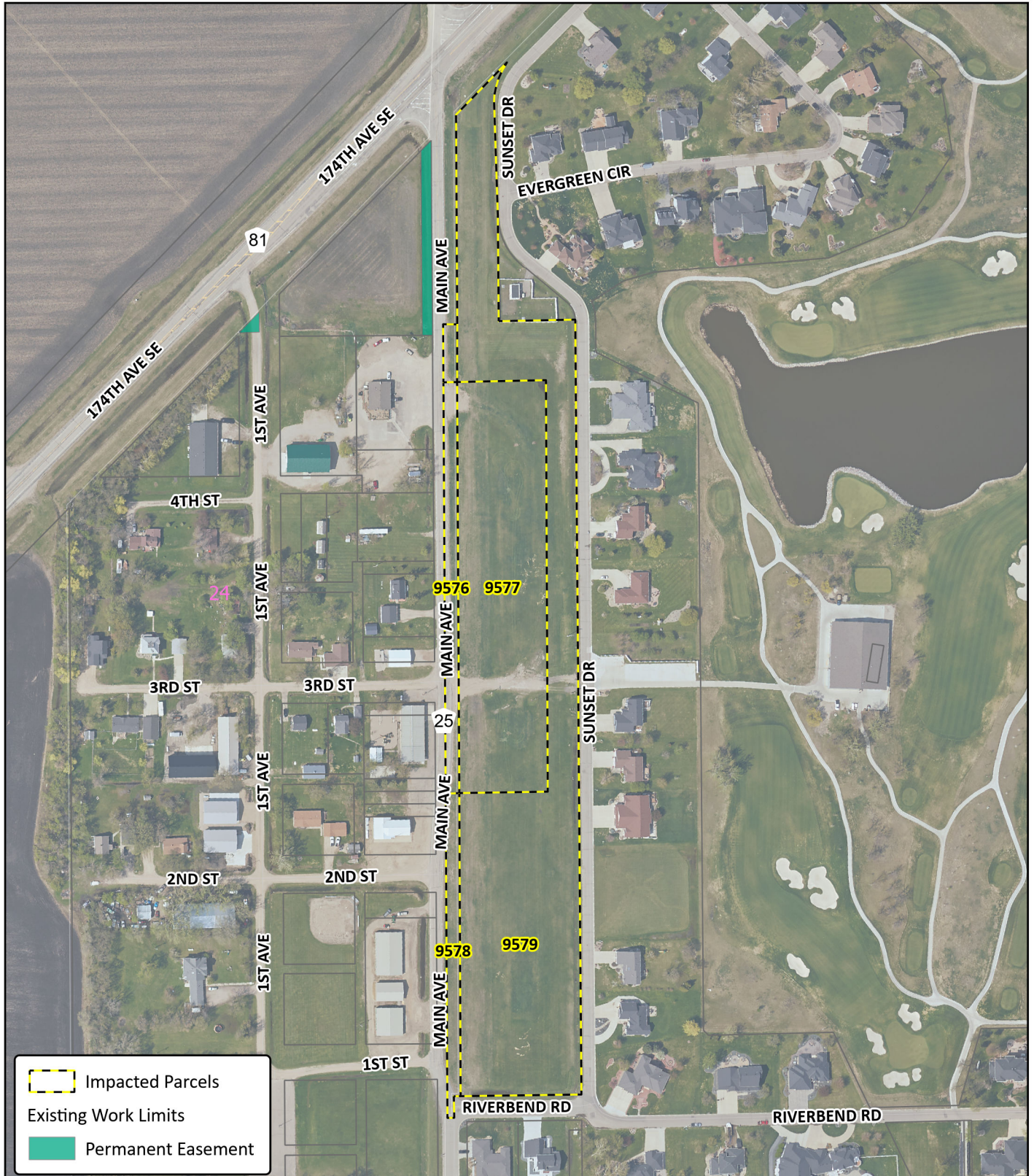
Description of Parcel(s)	See Exhibit A for a map showing the parcels recommended as excess land.
Legal Description	See Exhibit B for legal description for the parcels recommended as excess land.
Asset Parcel(s) Size	OIN 9576 – 0.50 acres OIN 9577 – 3.24 acres OIN 9578 – 0.44 acres OIN 9579 – 5.83 acres <div style="text-align: right;">Total = 10.01</div>

Narrative Description of Parcel(s)	OINs 9576, 9577, 9578, and 9579 are located in Oxbow, North Dakota right between Main Avenue and Sunset Drive.
Purchase Date	December of 2024 for both owners.
Purchase Price	OINs 9576 and 9577 = \$447,600 OINs 9578 and 9579 = \$724,800 Total = \$1,172,400
Proposed Sale Price	\$1,000,000 Based on \$100,000/acre for developable land
Former Owners	OINs 9576 and 9577 = Orten Brodshaug OINs 9578 and 9579 = Hickson Grain Company
Adjacent Owners	These parcels are surrounded by roughly 24 residential sites.
Property Management Approach	These properties have been maintained through a weed control and mowing contract with JT Lawn Services since 2022. Reaching an overall maintenance cost of roughly \$50,000.
Property Taxes	Property taxes are exempt on all four parcels.
Relation to Construction	These parcels are located in Oxbow and are not impacted by construction of the Comprehensive Project. The former owners desired a full-take buyout of their property when they were approached about storm sewer improvements that were taking place and affecting their land. The area impacted by the storm sewer continues to have an existing utility easement that will need to carry over as part of this sale. A visual of this easement is shown in Exhibit C.
Right of First Refusal	The prior landowners are not entitled to a ROFO.

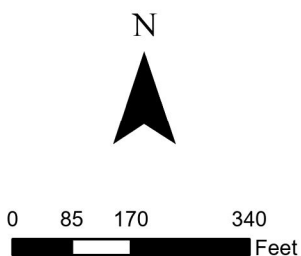
3. Conclusion and Recommendation

Based on the pertinent facts presented above, it is recommended to declare OINs 9576, 9577, 9578, and 9579 as “Excess Land” and proceed with the process outlined in the Policy. If you agree with this recommendation, please sign the attached declaration form for our records (Exhibit D).

Exhibit A: Map Exhibit of Parcel Recommended as Excess Lands



Information depicted may include data unverified by AE25. Any reliance upon such data is at the user's own risk. AE25 does not warrant this map or its features are either spatially or temporally accurate.
 Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | Edited by: cwickenheiser, AE25, LLC | C:\Data\Projects\GIS Projects\FM Area Diversion\012 Lands Program\Property Acquisition\Project Wide\Individual Property Maps.aprx | Individual Layout Not Data Driven



Locator Map Not to Scale

OINs: 9576, 9577, 9578, 9579
Owner: CASS COUNTY JOINT WATER
RESOURCE DISTRICT
Parcel ID: 57-0000-10356-090,
78-0000-10356-030, 57-0000-10356-080
78-0000-10356-040

Cass County, ND
FM AREA DIVERSION
 Date: 10/1/2025



Exhibit B: Legal Description for Parcel Recommended as Excess Lands

The following legal descriptions are from the Cass County Interactive WebMap.

OIN 9576

24-137-49 THE S 812' OF N 932' OF THE FOLL DESC TRACT OF LAND: PT NE1/4 DESC AS FOLL: COMM AT INTERS OF THE W LN OF E RAILROAD ST IN TOWNSITE OF HICKSON, & THE S LN OF NE1/4 OF SEC 24 BEING THE PT OF BEG; THN N ON & ALG THE W LN OF SD E RR ST FOR A DIS

OIN 9577

24-137-49 3.728 AC THAT PART OF THE FORMER CHIC/MILW/STPAUL PACIFIC RR CO'S 200' WIDE R/W LOC IN THE PLAT OF HICKSON & SIT IN THE N1/2 OF SEC 24 DESC AS FOLL: COMM AT SW COR OF NE1/4 OF SEC 24 THN S 88DG53'57"" W (ASSM BRG) ALG THE SLY L

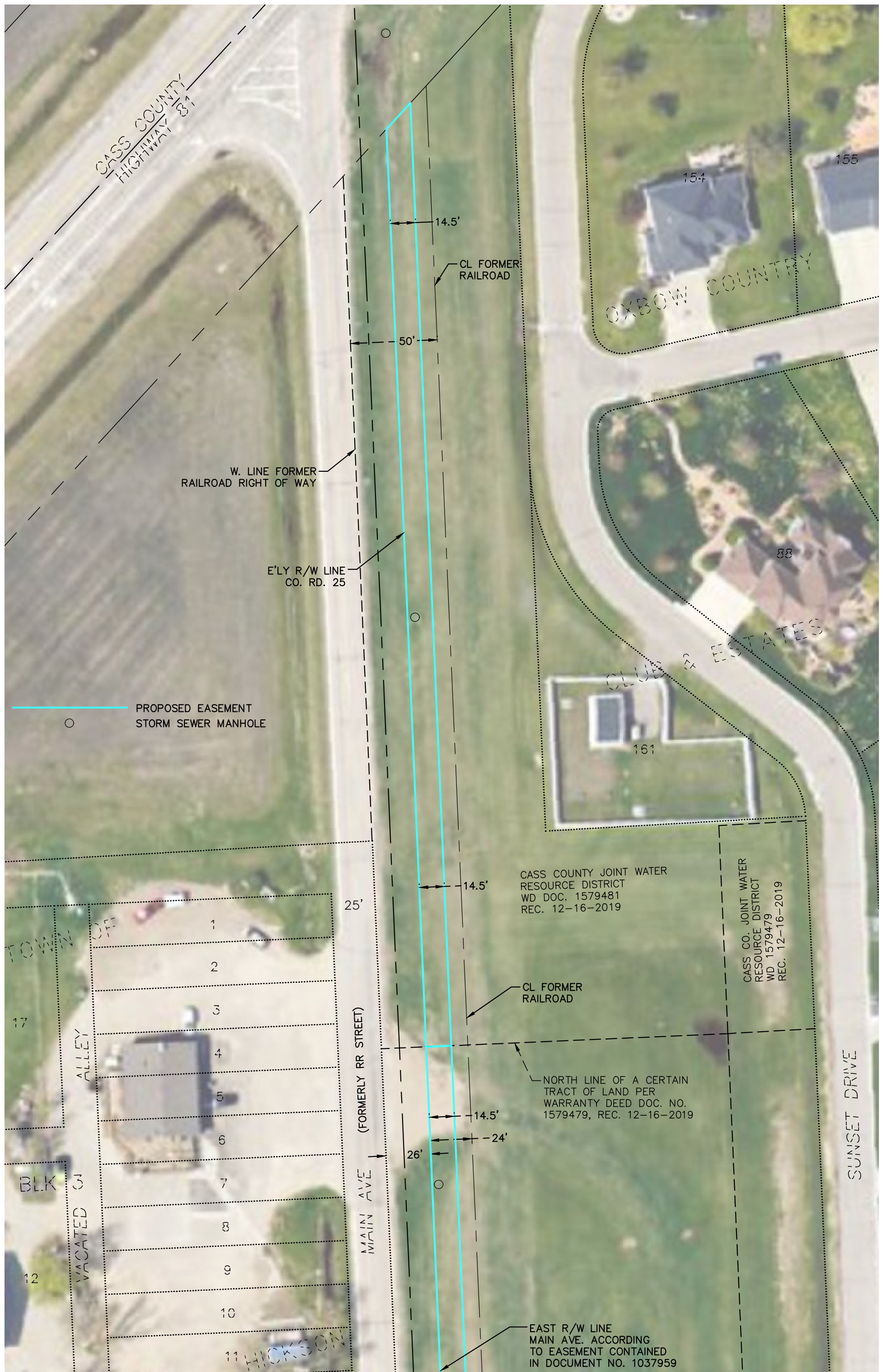
OIN 9578

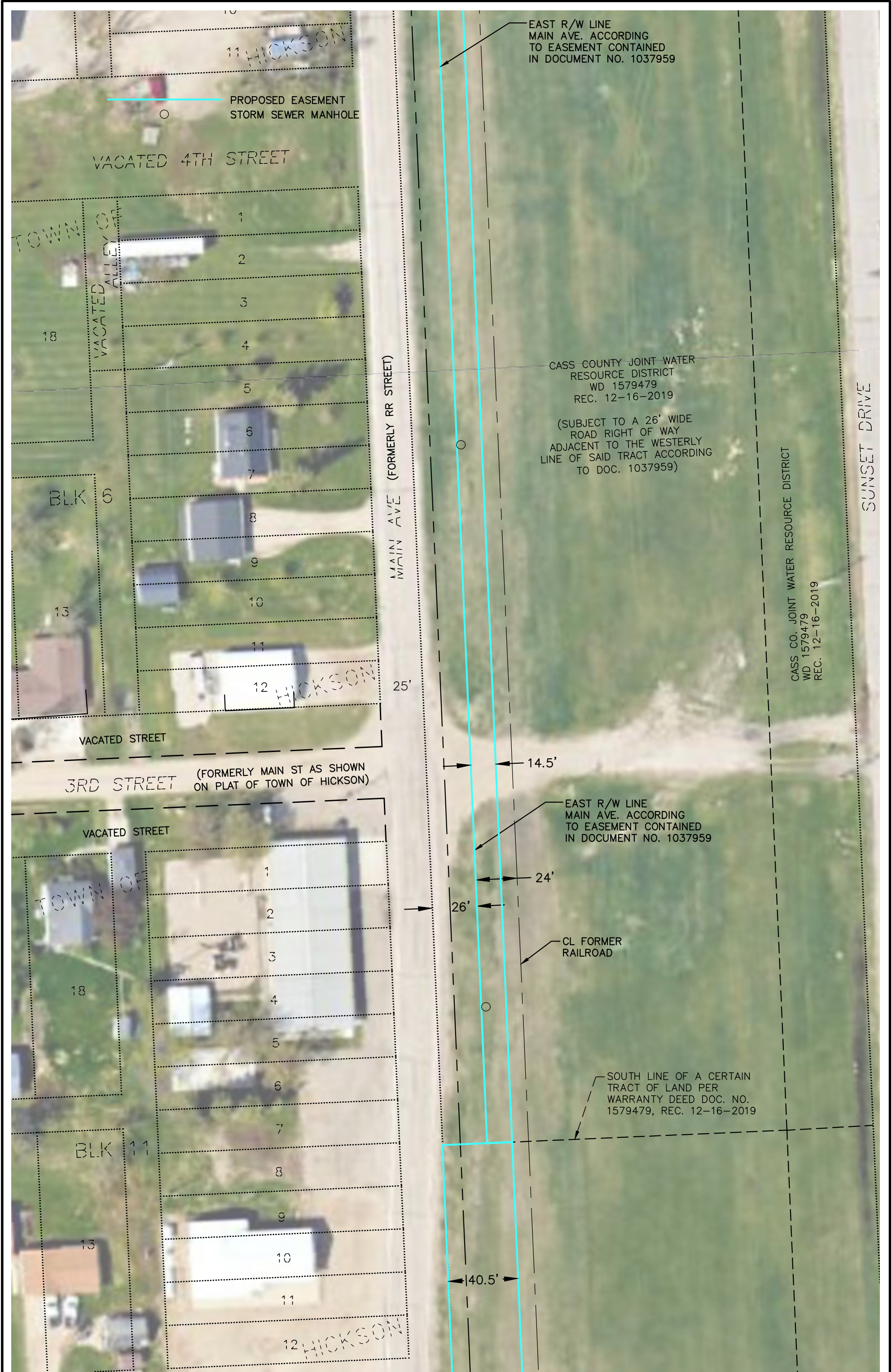
24-137-49 PT NE1/4 THE N 120' & N 598.14' OF S 868.14' OF THE FOLL DESC TRACT OF LAND: COMM AT THE INTERS OF THE W LN OF E RAILROAD ST IN TOWNSITE OF HICKSON & THE S LN OF NE1/4 OF SEC 24 BEING THE PT OF BEG; THN N ON & ALG THE W LN OF SD E RAILROAD ST

OIN 9579

24-137-49 3.15 AC ALL THAT PT OF CHIC/MILW/ST PAUL & PAC RR CO'S 100' WIDE R/W SD R/W BEING 50' WIDE ON EITHER SIDE OF GRANTOR'S MAIN TRK CNTRLN AS FMLY LD IN ON OVER & ACROS THAT PT OF N 1/2 OF SEC 24 LYING SLY OF SLY LN OF US HWY #81 AS

Exhibit C: Exhibit of Storm Sewer Easement





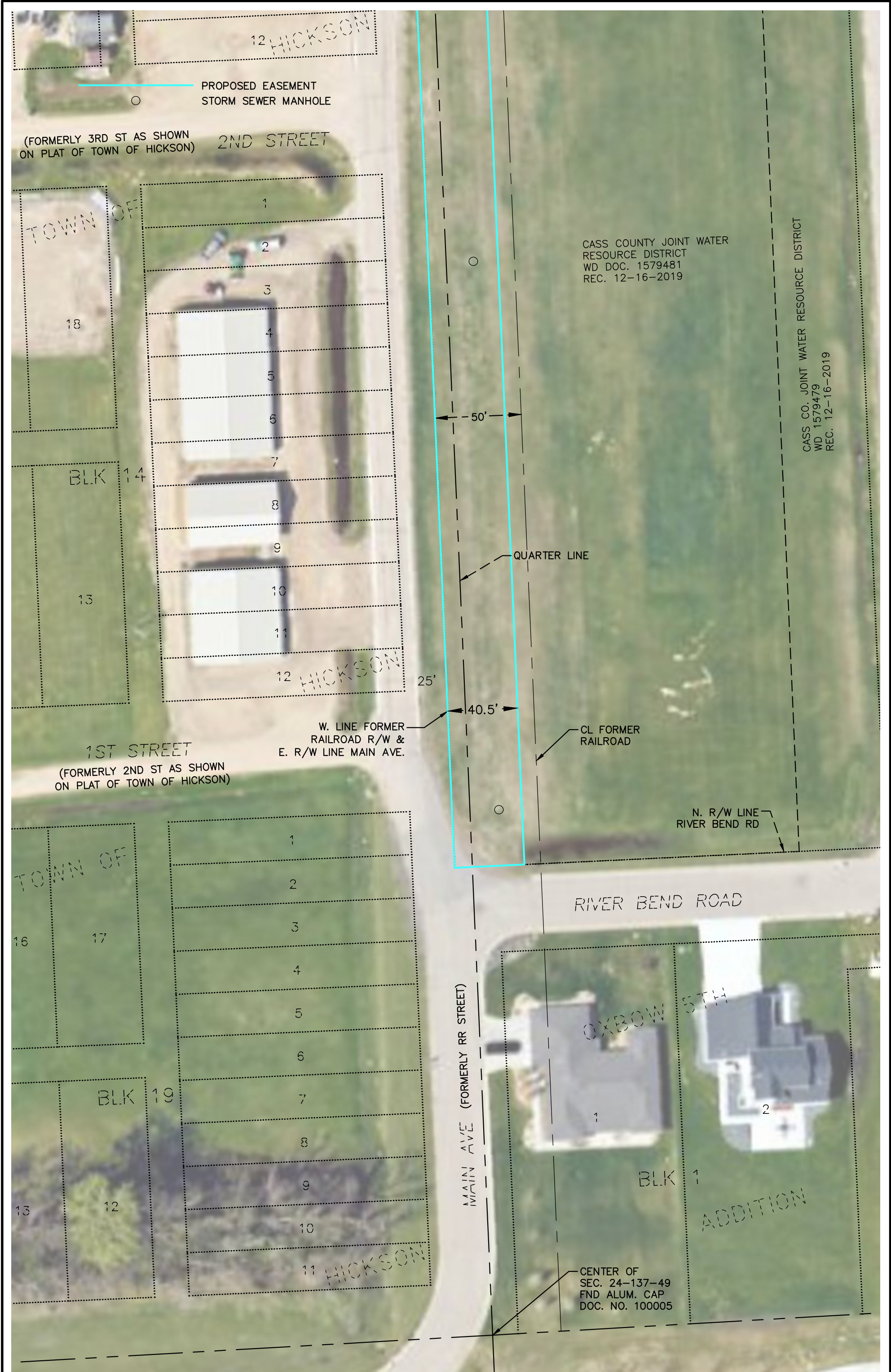



Exhibit D: Declaration of Excess Land Form

I hereby declare that OINs 9576, 9577, 9578, and 9579 as noted in Exhibit A (the parcel) is deemed Excess Land and authorize the disposal of the parcel in accordance with the Policy on the Disposition and Management of Comprehensive Project Lands.



Jason Benson
Executive Director

12/03/2025

Date

Memorandum



To: Metro Flood Diversion Authority Lands Committee
From: Jason Benson, Executive Director
Cc: John Shockley, MFDA Legal Counsel
Date: December 17, 2025
Re: OINs 1665, 1802, 1792, and 1793 Excess Land Recommendation

RECOMMENDATION/ACTIONS NEEDED:

Approve OINs 1665, 1802, 1792, and 1793 (22.37 acres) to begin the process to dispose of the Excess Land per the Policy on the Disposition and Management of Comprehensive Project Lands.

Background/Key Points:

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

ATTACHMENTS:

- Excess Lands Recommendation – OINs 1665, 1802, 1792, and 1793



Memorandum

TO: Jason Benson, Executive Director

FROM: Justin Fisher, Director of Lands and Compliance

DATE: October 13, 2025

RE: Excess Lands Recommendation – OINs 1665, 1792, 1793, and 1802, subject to a Flowage Easement

1. Introduction

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

This Memorandum serves as a recommendation for the Executive Director to declare OINs 1665, 1792, 1793, and 1802 as Excess Land and begin the process to dispose of these properties following the Policy. Note that these parcels are in the Upstream Mitigation Area (UMA) and therefore the Authority (via the Moorhead Clay County Joint Powers Authority (MCCJPA)) shall reserve a flowage easement on these parcels as part of the sale.

2. Pertinent Facts Regarding OINs 1665, 1792, 1793, and 1802

Description of Parcel(s)	See Exhibit A for a map showing the parcels recommended as excess land.
Legal Description	See Exhibit B for legal descriptions for the parcels recommended as excess land.
Asset Parcel(s) Size	OIN 1665: 2.35 acres OIN 1792: 5.86 acres OIN 1793: 9.64 acres

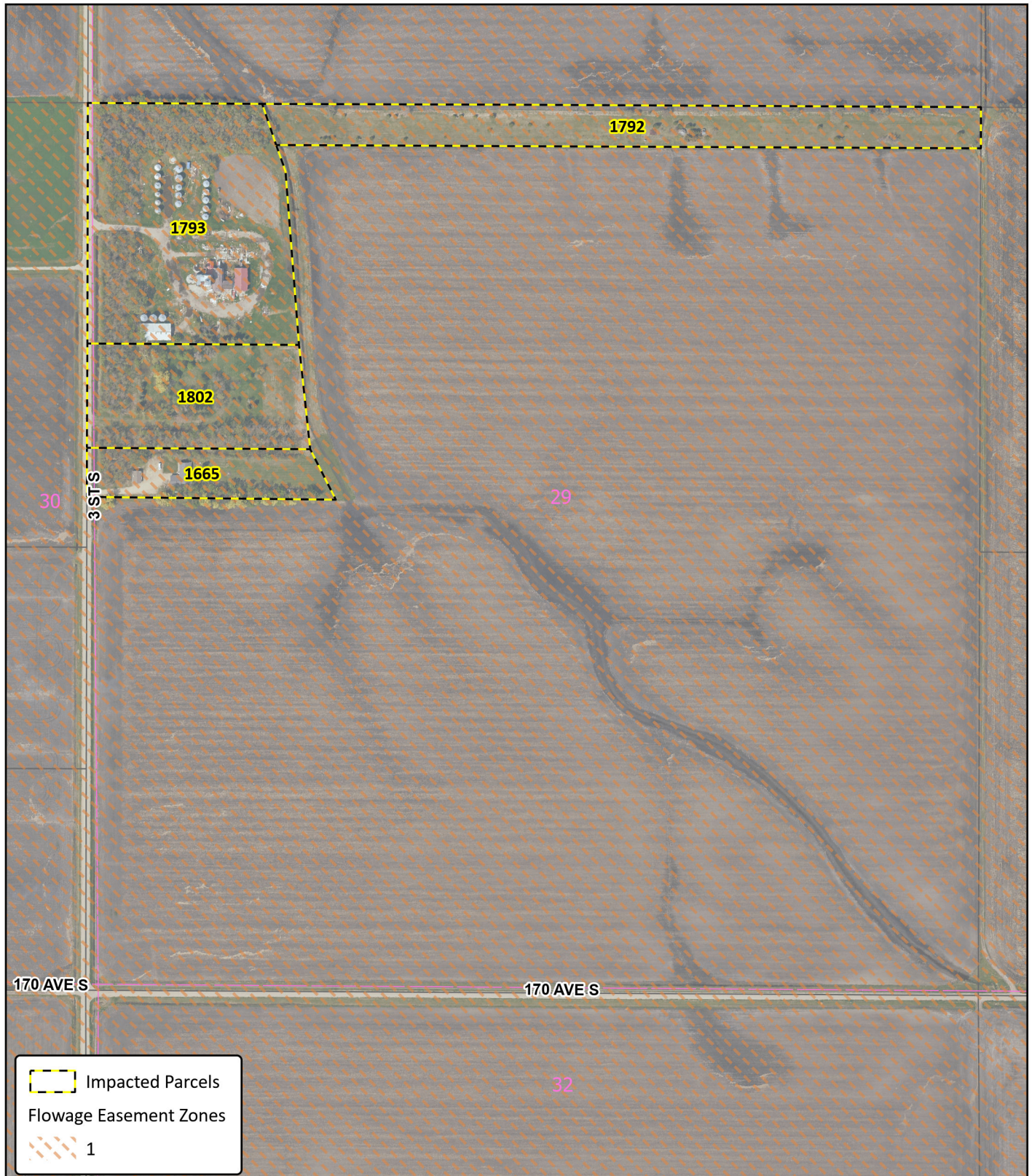
	<p>OIN 1802: 4.52 acres</p> <p>TOTAL = 22.37</p>
Narrative Description of Parcel(s)	OINs 1665, 1792, 1793, and 1802 are located west of Southern Embankment Reach 4 (SE-4) in the UMA Mitigation Zone 1, in Section 29 of Holy Cross Twp. These parcels have access from 3 rd Street South.
Purchase Date	<p>OIN 1665: July 27, 2023</p> <p>OIN 1792: December 14, 2023</p> <p>OIN 1793: October 6, 2022</p> <p>OIN 1802: March 21, 2017</p>
Purchase Price	<p>OIN 1665: \$2,100,000 *for all of OINs 1635 & 1665</p> <p>OIN 1792: \$202,200</p> <p>OIN 1793: \$1,517,500</p> <p>OIN 1802: \$214,000</p>
Proposed Sale Price	<p>\$111,000</p> <p>*Based on a \$5,000/acre rate for the sale of all four (4) parcels</p>
Former Owner	<p>OIN 1665: David Dobis and Morgan Buth</p> <p>OIN 1792: Jean Anderson Trustee</p> <p>OIN 1793: Thomas & Laurie Livdahl</p> <p>OIN 1802: Robert & Judith Anderson</p>
Adjacent Owners	<p>OIN 1665: Richard Willem (OIN 1794) / Larry & Judith Ness (OIN 1796)</p> <p>OIN 1792: Larry & Judith Ness (OIN 1796) / Richard Willem (1861X1) / Blessingsbe (1783X) / Larry & Aj Dahlstrom Trust (1791X)</p> <p>OIN 1793: Richard Willem (OIN 1794 & 1861X1) / Larry & Judith Ness (OIN 1796)</p> <p>OIN 1802: Richard Willem (OIN 1794) / Larry & Judith Ness (OIN 1796)</p>
Property Management Approach	<p>OIN 1665: This parcel has not had any property management needed to date but efforts will start if not disposed of in a timely fashion.</p> <p>OIN 1792: There has been no property management to date.</p> <p>OIN 1793: Haying Agreement with the Livdahls</p> <p>OIN 1802: Mowing and Weed Control with JT Lawn Service</p>
Property Taxes	<p>OIN 1665: \$3,184 in 2024</p> <p>OIN 1792: \$496 in 2024</p> <p>OIN 1793: \$1,770 in 2024</p> <p>OIN 1802: \$77.76 in 2024</p>
Relation to Construction	<p>The Comprehensive Project does not have any construction impacts on these parcels.</p> <p>OINs 1665, 1792, 1793, and 1802 are fully encumbered by a Flowage Easement and the Prior Owners did not wish to retain the underlying land. A gazebo still remains on the site but is under contract to be removed in the near future.</p>

	Notice of this sale will not be sent until the Project has confirmed the gazebo has been removed. The Project wishes to sell these parcels as one with a Flowage Easement retained.
Right of First Refusal	OIN 1665: No OIN 1792: No OIN 1793: No OIN 1802: No

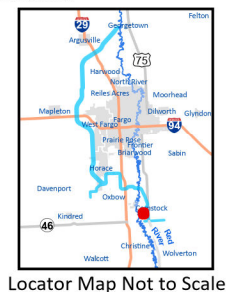
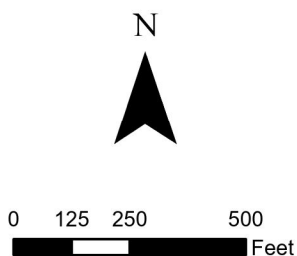
3. Conclusion and Recommendation

Based on the pertinent facts presented above, it is recommended to declare OINs 1665, 1792, 1793, and 1802 as “Excess Land” and proceed with the process outlined in the Policy. If you agree with this recommendation, please sign the attached declaration form for our records (Exhibit C).

Exhibit A: Map Exhibit of Parcel Recommended as Excess Lands



Information depicted may include data unverified by AE2S. Any reliance upon such data is at the user's own risk. AE2S does not warrant this map or its features are either spatially or temporally accurate.
 Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | Edited by: cwickenheiser, AE2S, LLC | C:\Data\Projects\GIS Projects\FM Area Diversion\012 Lands Program\Property Acquisition\Project Wide\Individual Property Maps.aprx | Individual Layout Not Data Driven



OINs: 1665, 1792, 1793, 1802
Owner: MCCJPA
Parcel IDs: 15.029.3002, 15.029.3004,
15.029.3003, 15.029.3001

Clay County, MN

FM AREA DIVERSION

Date: 10/1/2025



Exhibit B: Legal Description for Parcel Recommended as Excess Lands

OIN 1665 – From Title Opinion dated May 9, 2023

That part of the SW¼ of Section 29, in Township 137 North of Range 48 West of the 5th P.M., Clay County, Minnesota, described as follows: From the Southwest corner, existing iron monument, of said Section 29 bear North 00°00'00" East (assumed bearing) along the West line of said Section 29 for a distance of 1,465.56 feet to the point of beginning; thence North 00°00'00" East along said West Section line for a distance of 145.40 feet; thence North 90°00'00" East for a distance of 659.15 feet; thence South 27°13'50" East for a distance of 167.93 feet; thence North 89°41'42" West for a distance of 736.00 feet, more or less, to the point of beginning.

1792 – From Title Opinion dated January 23, 2024

That part of the SW¼ of Section 29, Township 137, Range 48, described as follows, to wit: From the Southwest corner, existing iron monument, of Section 29, Township 137, Range 48 West of the 5th P.M., Clay County, Minnesota, bear North 00°00'00" East (assumed bearing) along the West line of said Section 29 for a distance of 2,637.13 feet, more or less, to an existing iron monument, the Northwest corner of said SW¼; thence South 89°49'46" East along the North line of said SW¼ for a distance of 509.18 feet to an existing iron monument, the Point of Beginning of the tract of land herein described; thence South 89°49'46" East along the North line of said SW¼ for a distance of 2,119.84 feet to an iron monument, the Northeast corner of said SW¼; thence South 00°01'59" East along the East line of said SW¼ for a distance of 121.65 feet to an iron monument; thence North 89°49'46" West along a line that is parallel with the North line of said SW¼ for a distance of 2,077.15 feet; thence North 19°19'21" West for a distance of 129.09 feet, more or less, to the Point of Beginning.

1793 – From Title Opinion dated April 5, 2022


That part of the NW¼SW¼ of Section 29, Township 137, Range 48, Clay County, Minnesota, described as follows: From the Southwest corner existing iron monument, of Section 29, Township 137, Range 48, bear North 00°00'00" East (assumed bearing) along the West line of Section 29 for a distance of 1918.43 feet to an existing monument, the Point of Beginning of the tract of land herein described; thence North 90°00'00" East for a distance of 623.89 feet to an existing iron monument; thence North 04°53'21" West for a distance of 517.78 feet to an iron monument; thence North 19°19'21" West for a distance of 213.31 feet, more or less, to a point on the North line of said SW¼ in said Section 29; thence North 89°49'46" West along said North line for a distance of 509.18 feet, more or less, to an existing iron monument, the Northwest corner of said SW¼; thence South 00°00'00" West along the West line of said Section 29 for a distance of 718.70 feet, more or less to the Point of Beginning.

1802 – From Title Opinion dated April 28, 2017

That part of the Southwest Quarter of Section Twenty-nine, in Township One Hundred Thirty-seven North of Range Forty-eight West of the Fifth Principal Meridian, situate in the County of Clay and the State of Minnesota, described as follows: From the Southwest Corner, existing iron monument, of Section Twenty-nine, Township One Hundred Thirty-seven North of Range Forty-eight West of the Fifth Principal Meridian, Clay County, Minnesota, bear North 00°00'00" East (assumed bearing) along the West line of said Section Twenty-nine for a distance of 1610.96 feet to an iron monument, the point of beginning of the tract of land herein described; thence North 00°00'00" East along said West section line for a distance of 307.47 feet to an iron monument; thence North 90°00'00" East for a distance of 623.89 feet to an iron monument; thence South 06°32'34" East for a distance of 309.49 feet to an iron monument; thence North 90°00'00" West for a distance of 659.15 feet, more or less, to the point of beginning; subject to road and utilities easements along the West line and any other easements of record.

Exhibit C: Declaration of Excess Land Form

I hereby declare that OINs 1665, 1792, 1793, and 1802 as noted in Exhibit A (the parcel) is deemed Excess Land and authorize the disposal of the parcel in accordance with the Policy on the Disposition and Management of Comprehensive Project Lands.

A handwritten signature in black ink, appearing to read "Jason P. Benson", is written over a horizontal line.

Jason Benson
Executive Director

10/14/2025

Date

Memorandum



To: Metro Flood Diversion Authority Lands Committee

From: John Shockley, Legal Counsel

Cc: Jason Benson, Executive Director
Justin Fisher, Director of Lands and Compliance

Date: December 17, 2025

Re: Forest Mitigation Deed Restriction

RECOMMENDATION/ACTIONS NEEDED:

The MFDA Board consents to the attached Deed and Use Restrictions for the Forest Mitigation site parcels that were purchased for the FM Area Diversion Project.

Background/Key Points:

The primary environmental documents, Project Partnership Agreement, state and federal permits issued for the FM Area Diversion Project (the "Project") require that the Project acquire, develop forested area and maintain forest mitigation area as part of the part of the environmental mitigation features of the Project. The lands team in cooperation with the United States Army Corps of Engineers (USACE) have identified several parcels that will be set aside and utilized as forest mitigation sites. One of the conditions of establishing a parcel as a forest mitigation site is to record a perpetual deed restriction on Forest Mitigation sites restricting the use of the parcel to forest mitigation and related maintenance activities which must be performed in accordance with applicable environmental permits and implementing plans (including the Adaptive Management Plan). The attached forest mitigation deed restriction has been developed in cooperation with the USACE.

The Cass County Joint Water Resource District (CCJWRD), Moorhead-Clay County Joint Powers Authority (MCCJPA) and Cass County will be asked to considering Deed and Use Restrictions on parcels that were purchased for the FM Area Diversion Project at their respective Board and Commission meetings in January 2026. The parcels are intended to be used as forest mitigation sites and the Deed Restrictions will provide long term site protection. This information is being provided to the Lands Committee for informational purposes and for a recommendation to coordinate with the Member Entities to execute and record the attached Forest Mitigation Deed Restriction.

ATTACHMENTS:

- CCJWRD Deed Restriction
- MCCJPA Deed Restriction
- Cass County Deed Restriction

COVENANT OF DEDICATION

Cass County Joint Water Resource District, a Member Entity of the METRO FLOOD DIVERSION AUTHORITY, now stipulates to the following statements of fact, and further agrees to restrict the use and title of the realty described in **Attachment 1** to this document (hereinafter referred to as the “Land”) in accordance with the terms and conditions set forth herein.

STIPULATIONS OF FACT

1. That Cass County Joint Water Resource District, a Member Entity of the METRO FLOOD DIVERSION AUTHORITY, is the owner in fee of the real estate described in **Attachment 1**.
2. That the METRO FLOOD DIVERSION AUTHORITY received Department of the Army permit number NWO-2013-1723-BIS, which permitted the discharge of fill material into wetlands and required as a special condition that forest mitigation sites have long term site protection; and that as required by said permit and as consideration for said permit, the METRO FLOOD DIVERSION AUTHORITY and/or its Member Entities will dedicate the realty described in Attachment 1 for perpetual use as a conservancy area in accordance with the terms and conditions of this document and the above-mentioned permit.
3. That the above-mentioned dedication shall consist of the execution of this document by all parties necessary to restrict the use and title of the land; and that this document shall be recorded in the Office of the Register of Deeds for Cass County, North Dakota.
4. That upon receipt of a certified copy of this document, as recorded in the Office of the County Register of Deeds for Cass County, North Dakota, the METRO FLOOD DIVERSION AUTHORITY will submit the document to the District Engineer of the Omaha District of the U.S. Army Corps of Engineers in partial satisfaction of Special Condition K of permit number NWO-2013-1723-BIS to the METRO FLOOD DIVERSION AUTHORITY.
5. That the terms and conditions of this Covenant of Dedication shall, as of the date of execution of this document, bind the METRO FLOOD DIVERSION AUTHORITY and its Member Entities to the extent of its legal and/or equitable interest in the land; and that this Covenant shall run with the land and be binding on the METRO FLOOD DIVERSION AUTHORITY, its Member Entities, and their successors and assigns forever.
6. That the terms and conditions of this Covenant shall be both implicitly and explicitly included in any transfer, conveyance, or encumbrance of the Land or any part thereof, and that any instrument of transfer, conveyance, or encumbrance affecting all or any part of the Land shall set forth the terms and conditions of this document either by reference to this document or set forth in full text.

DEED AND USE RESTRICTIONS

Cass County Joint Water Resource District, a Member Entity of the METRO FLOOD DIVERSION AUTHORITY, hereby warrants that it is the owner in fee of the realty described in **Attachment 1**; and that the Land is hereby dedicated in perpetuity for use as a conservancy area.

Cass County Joint Water Resource District hereby agrees to restrict the use and title of the Land as follows:

1. There shall be no construction or placement of structures or mobile homes, billboards, or other advertising material or other structures, whether temporary or permanent, on the land. Public information signs and/or fences installed and maintained by the METRO FLOOD DIVERSION AUTHORITY and/or its Member Entities, their employees, contractors, and/or agents, are permitted.
2. There shall be no filling, draining, excavating, dredging, dumping, mining, drilling or removal of topsoil, loam, peat, sand, gravel, rock, minerals, or other materials, or any other alteration of the topography, unless for maintenance purposes specified in the Fargo-Moorhead Metropolitan Area Flood Risk Management Adaptive Management and Mitigation Plan (AMMP).
3. There shall be no building of roads or paths for vehicle or pedestrian travel or any change in the topography of the land. Existing roads or paths may not be improved, widened, or extended.
4. The use of motorized vehicles shall only be allowed for authorized personnel to complete monitoring and maintenance activities.
5. There shall be no removal, destruction, or cutting of trees or plants; grazing of animals, farming, mowing, planting, plowing, tilling of soil, or any other agricultural activity or vegetative alterations unless otherwise specified in the AMMP. Any other management activities are only acceptable upon the written approval from the U.S. Army Corps of Engineers.
6. There shall be no modification of the hydrology in any way or by any means, including pumping, draining, ditching, diking, impounding, or diverting surface or ground water into or out of the Land, unless otherwise stated in the AMMP.
7. This Covenant of Dedication may be changed, modified, or revoked only upon written approval of the District Engineer of the Omaha District of the U.S. Army Corps of Engineers. To be effective, such approval must be witnessed, authenticated, and recorded pursuant to the laws of the State of North Dakota.
8. Subject to North Dakota law, this Covenant is made in perpetuity and shall run with the land such that the present owner and its heirs and assigns forever shall be bound by the terms and conditions set forth herein.

(Remainder of this page intentionally left blank.)

CASS COUNTY JOINT WATER RESOURCE
DISTRICT

By: _____
_____,
Chair of the Board of Managers

ATTEST:

By: _____
_____,
Secretary of the Board of Managers

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

 This record was acknowledged before me this _____ day of _____, 20_____,
by _____ and _____, the
Chair and the Secretary of the Board of Managers, respectively, of the Cass County Joint Water Resource
District, a North Dakota political subdivision and Member Entity of the METRO FLOOD DIVERSION
AUTHORITY.

(stamp)

Notary Public

THE LEGAL DESCRIPTIONS USED
HEREIN OBTAINED FROM
PREVIOUSLY RECORDED DOCUMENTS

THIS DOCUMENT DRAFTED BY:
John T. Shockley
Ohnstad Twichell, P.C.
444 Sheyenne St, Suite 102
West Fargo, ND 58078
(701) 282-3249

COVENANT OF DEDICATION

Moorhead-Clay County Joint Powers Authority, a Member Entity of the METRO FLOOD DIVERSION AUTHORITY, now stipulates to the following statements of fact, and further agrees to restrict the use and title of the realty described in **Attachment 1** to this document (hereinafter referred to as the “Land”) in accordance with the terms and conditions set forth herein.

STIPULATIONS OF FACT

1. That Moorhead-Clay County Joint Powers Authority (“MCCJPA”), a Member Entity of the METRO FLOOD DIVERSION AUTHORITY, is the owner in fee of the real estate described in **Attachment 1**.
2. That the METRO FLOOD DIVERSION AUTHORITY received Department of the Army permit number NWO-2013-1723-BIS, which permitted the discharge of fill material into wetlands and required as a special condition that forest mitigation sites have long term site protection; and that as required by said permit and as consideration for said permit, the METRO FLOOD DIVERSION AUTHORITY and/or its Member Entities will dedicate the realty described in Attachment 1 for perpetual use as a conservancy area in accordance with the terms and conditions of this document and the above-mentioned permit.
3. That the above-mentioned dedication shall consist of the execution of this document by all parties necessary to restrict the use and title of the land; and that this document shall be recorded in the Office of the Register of Deeds for Clay County, Minnesota.
4. That upon receipt of a certified copy of this document, as recorded in the Office of the County Register of Deeds for Clay County, Minnesota, the METRO FLOOD DIVERSION AUTHORITY will submit the document to the District Engineer of the Omaha District of the U.S. Army Corps of Engineers in partial satisfaction of Special Condition K of permit number NWO-2013-1723-BIS to the METRO FLOOD DIVERSION AUTHORITY.
5. That the terms and conditions of this Covenant of Dedication shall, as of the date of execution of this document, bind the METRO FLOOD DIVERSION AUTHORITY and its Member Entities to the extent of its legal and/or equitable interest in the land; and that this Covenant shall run with the land and be binding on the METRO FLOOD DIVERSION AUTHORITY, its Member Entities, and their successors and assigns forever.
6. That the terms and conditions of this Covenant shall be both implicitly and explicitly included in any transfer, conveyance, or encumbrance of the Land or any part thereof, and that any instrument of transfer, conveyance, or encumbrance affecting all or any part of the Land shall set forth the terms and conditions of this document either by reference to this document or set forth in full text.

DEED AND USE RESTRICTIONS

MCCJPA, a Member Entity of the METRO FLOOD DIVERSION AUTHORITY, hereby warrants that it is the owner in fee of the realty described in **Attachment 1**; and that the Land is hereby dedicated in perpetuity for use as a conservancy area.

MCCJPA hereby agrees to restrict the use and title of the Land as follows:

1. There shall be no construction or placement of structures or mobile homes, billboards, or other advertising material or other structures, whether temporary or permanent, on the land. Public information signs and/or fences installed and maintained by the METRO FLOOD DIVERSION AUTHORITY and/or its Member Entities, their employees, contractors, and/or agents, are permitted.
2. There shall be no filling, draining, excavating, dredging, dumping, mining, drilling or removal of topsoil, loam, peat, sand, gravel, rock, minerals, or other materials, or any other alteration of the topography, unless for maintenance purposes specified in the Fargo-Moorhead Metropolitan Area Flood Risk Management Adaptive Management and Mitigation Plan (AMMP).
3. There shall be no building of roads or paths for vehicle or pedestrian travel or any change in the topography of the land. Existing roads or paths may not be improved, widened, or extended.
4. The use of motorized vehicles shall only be allowed for authorized personnel to complete monitoring and maintenance activities.
5. There shall be no removal, destruction, or cutting of trees or plants; grazing of animals, farming, mowing, planting, plowing, tilling of soil, or any other agricultural activity or vegetative alterations unless otherwise specified in the AMMP. Any other management activities are only acceptable upon the written approval from the U.S. Army Corps of Engineers.
6. There shall be no modification of the hydrology in any way or by any means, including pumping, draining, ditching, diking, impounding, or diverting surface or ground water into or out of the Land, unless otherwise stated in the AMMP.
7. This Covenant of Dedication may be changed, modified, or revoked only upon written approval of the District Engineer of the Omaha District of the U.S. Army Corps of Engineers. To be effective, such approval must be witnessed, authenticated, and recorded pursuant to the laws of the State of Minnesota.
8. Subject to Minnesota law, this Covenant is made in perpetuity and shall run with the land such that the present owner and its heirs and assigns forever shall be bound by the terms and conditions set forth herein.

(Remainder of this page intentionally left blank.)

MOORHEAD-CLAY COUNTY JOINT
POWERS AUTHORITY

By: _____
_____, Chair

ATTEST:

By: _____
_____, Secretary

STATE OF MINNESOTA)
) ss.
COUNTY OF CLAY)

 This instrument was acknowledged before me this _____ day of _____, 20_____,
by _____ and _____, the
Chair and the Secretary, respectively, of the Moorhead-Clay County Joint Powers Authority, a Minnesota
political subdivision and Member Entity of the METRO FLOOD DIVERSION AUTHORITY.
(stamp)

Notary Public
My commission expires:

THE LEGAL DESCRIPTIONS USED
HEREIN OBTAINED FROM PREVIOUSLY
RECORDED DOCUMENTS

THIS DOCUMENT DRAFTED BY:
John T. Shockley
Ohnstad Twichell, P.C.
444 Sheyenne St, Suite 102
West Fargo, ND 58078
(701) 282-3249

COVENANT OF DEDICATION

Cass County, a Member Entity of the METRO FLOOD DIVERSION AUTHORITY, now stipulates to the following statements of fact, and further agrees to restrict the use and title of the realty described in **Attachment 1** to this document (hereinafter referred to as the “Land”) in accordance with the terms and conditions set forth herein.

STIPULATIONS OF FACT

1. That Cass County, a Member Entity of the METRO FLOOD DIVERSION AUTHORITY, is the owner in fee of the real estate described in **Attachment 1**.
2. That the METRO FLOOD DIVERSION AUTHORITY received Department of the Army permit number NWO-2013-1723-BIS, which permitted the discharge of fill material into wetlands and required as a special condition that forest mitigation sites have long term site protection; and that as required by said permit and as consideration for said permit, the METRO FLOOD DIVERSION AUTHORITY and/or its Member Entities will dedicate the realty described in Attachment 1 for perpetual use as a conservancy area in accordance with the terms and conditions of this document and the above-mentioned permit.
3. That the above-mentioned dedication shall consist of the execution of this document by all parties necessary to restrict the use and title of the land; and that this document shall be recorded in the Office of the Register of Deeds for Cass County, North Dakota.
4. That upon receipt of a certified copy of this document, as recorded in the Office of the County Register of Deeds for Cass County, North Dakota, the METRO FLOOD DIVERSION AUTHORITY will submit the document to the District Engineer of the Omaha District of the U.S. Army Corps of Engineers in partial satisfaction of Special Condition K of permit number NWO-2013-1723-BIS to the METRO FLOOD DIVERSION AUTHORITY.
5. That the terms and conditions of this Covenant of Dedication shall, as of the date of execution of this document, bind the METRO FLOOD DIVERSION AUTHORITY and its Member Entities to the extent of its legal and/or equitable interest in the land; and that this Covenant shall run with the land and be binding on the METRO FLOOD DIVERSION AUTHORITY, its Member Entities, and their successors and assigns forever.
6. That the terms and conditions of this Covenant shall be both implicitly and explicitly included in any transfer, conveyance, or encumbrance of the Land or any part thereof, and that any instrument of transfer, conveyance, or encumbrance affecting all or any part of the Land shall set forth the terms and conditions of this document either by reference to this document or set forth in full text.

DEED AND USE RESTRICTIONS

Cass County, a Member Entity of the METRO FLOOD DIVERSION AUTHORITY, hereby warrants that it is the owner in fee of the realty described in **Attachment 1**; and that the Land is hereby dedicated in perpetuity for use as a conservancy area.

Cass County hereby agrees to restrict the use and title of the Land as follows:

1. There shall be no construction or placement of structures or mobile homes, billboards, or other advertising material or other structures, whether temporary or permanent, on the land. Public information signs and/or fences installed and maintained by the METRO FLOOD DIVERSION AUTHORITY and/or its Member Entities, their employees, contractors, and/or agents, are permitted.
2. There shall be no filling, draining, excavating, dredging, dumping, mining, drilling or removal of topsoil, loam, peat, sand, gravel, rock, minerals, or other materials, or any other alteration of the topography, unless for maintenance purposes specified in the Fargo-Moorhead Metropolitan Area Flood Risk Management Adaptive Management and Mitigation Plan (AMMP).
3. There shall be no building of roads or paths for vehicle or pedestrian travel or any change in the topography of the land. Existing roads or paths may not be improved, widened, or extended.
4. The use of motorized vehicles shall only be allowed for authorized personnel to complete monitoring and maintenance activities.
5. There shall be no removal, destruction, or cutting of trees or plants; grazing of animals, farming, mowing, planting, plowing, tilling of soil, or any other agricultural activity or vegetative alterations unless otherwise specified in the AMMP. Any other management activities are only acceptable upon the written approval from the U.S. Army Corps of Engineers.
6. There shall be no modification of the hydrology in any way or by any means, including pumping, draining, ditching, diking, impounding, or diverting surface or ground water into or out of the Land, unless otherwise stated in the AMMP.
7. This Covenant of Dedication may be changed, modified, or revoked only upon written approval of the District Engineer of the Omaha District of the U.S. Army Corps of Engineers. To be effective, such approval must be witnessed, authenticated, and recorded pursuant to the laws of the State of North Dakota.
8. Subject to North Dakota law, this Covenant is made in perpetuity and shall run with the land such that the present owner and its heirs and assigns forever shall be bound by the terms and conditions set forth herein.

(Remainder of this page intentionally left blank.)

CASS COUNTY

By: _____
_____, Chair

ATTEST:

By: _____
_____, County Auditor

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

This record was acknowledged before me this _____ day of _____, 20_____,
by _____ and _____, the
Chair of the Board of County Commissioners and the County Auditor, respectively, of Cass County, a North
Dakota political subdivision and Member Entity of the METRO FLOOD DIVERSION AUTHORITY.

(stamp)

Notary Public

THE LEGAL DESCRIPTIONS USED
HEREIN OBTAINED FROM
PREVIOUSLY RECORDED DOCUMENTS

THIS DOCUMENT DRAFTED BY:

John T. Shockley
Ohnstad Twichell, P.C.
444 Sheyenne St, Suite 102
West Fargo, ND 58078
(701) 282-3249

Member _____ introduced the following resolution and moved its adoption:

**METRO FLOOD DIVERSION AUTHORITY
RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF
AMENDED AND RESTATED ICE ADVANCE AGREEMENT**

WHEREAS, the Metro Flood Diversion Authority (the “Authority”) and Red River Valley Alliance, LLC, (the “Developer”) previously entered into the Project Agreement, dated August 19, 2021 (as amended from time to time, the “Project Agreement”); and

WHEREAS, the Developer and ASN Constructors (the “D&C Contractor”) also entered into a Design and Construction Contract, dated as of August 19, 2021 (as amended from time to time, the “D&C Contract”); and

WHEREAS, in connection with the settlement of all disputes and claims between the Parties, the Parties are anticipating the future execution of certain additional Implementing Agreements, including a Settlement Agreement, an Amended and Restated Project Agreement, an Amended and Restated D&C Contract, a Tolling Agreement, and the ICE Advance Agreement (collectively, the “Additional Agreements”), pursuant to the Binding Statement of Principles dated as of July 3, 2025 (the “Statement of Principles”); and

WHEREAS, pursuant to the Statement of Principles, the Parties agreed to proceed in Good Faith to negotiate and execute the Additional Agreements, including the ICE Advance Agreement, dated July 3, 2025 (“Original ICE Advance Agreement”); and

WHEREAS, pursuant to the ICE Advance Agreement, the Developer may submit Notices of Certification issued by the Developer, certifying that certain individual Pay Units are Qualified Pay Units as defined herein, for partial early payment, subject to the maximum aggregate payment limitations set forth herein; and

WHEREAS, following execution of the Original ICE Advance Agreement, the Parties identified a discrepancy between the stated Maximum Advance Payment Account Value and the intended aggregate amount of Advance Payments available for disbursement thereunder; and

WHEREAS, the Parties now desire to amend and restate the Original ICE Advance Agreement in its entirety in order to clarify that the Maximum Advance Payment Account Value represents ninety million dollars (\$90,000,000) or eighty percent (80%) of the Revolving Pay Unit Submission Limit of one hundred twelve million five hundred thousand dollars (\$112,500,000) to ensure the Pay Unit submission process continues to progress seamlessly, together with other conforming and clarifying revisions; and

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

1. The Diversion Authority Board hereby approves the AMENDED AND RESTATED INTERIM COMPLETION ELEMENT (ICE) ADVANCE AGREEMENT as presented at this meeting and which is attached hereto as **Exhibit A**.

2. The Diversion Authority Board hereby authorizes its Executive Director and Chair to execute the AMENDED AND RESTATED ICE ADVANCE AGREEMENT.
3. This Resolution shall take effect immediately upon adoption.

Adopted: December 18, 2025

METRO FLOOD DIVERSION
AUTHORITY

Tony Grindberg, Chair

ATTEST:

Dawn Lindblom, Secretary

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

The following were absent and not voting: _____. The following voted against the same: none. A majority of the Members having voted aye, the resolution was declared duly passed and adopted.

AMENDED AND RESTATED ICE ADVANCE AGREEMENT

By and Between

METRO FLOOD DIVERSION AUTHORITY

and

RED RIVER VALLEY ALLIANCE, LLC

and

ASN CONSTRUCTORS

Dated as of December 18, 2025

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- EXHIBIT I – DEVELOPER CERTIFICATE OF PAY UNIT COMPLETION

ICE ADVANCE AGREEMENT

This Amended and Restated Interim Completion Element Advance Agreement (this “ICE Advance Agreement”) is entered into as of December 18, 2025 (the “ICE Agreement Effective Date”), by and among the Metro Flood Diversion Authority, a North Dakota political subdivision (the “Authority”), Red River Valley Alliance, LLC, a Delaware limited liability company (the “Developer”) and ASN Constructors, an unincorporated joint venture (the “D&C Contractor”). The Authority, the Developer and the D&C Contractor are each referred to herein individually as a “Party,” and collectively as the “Parties.” Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Project Agreement.

WHEREAS, the Authority and Developer previously entered into the Project Agreement, dated August 19, 2021 (as amended from time to time, the “Project Agreement”); and

WHEREAS, the Developer and the D&C Contractor also entered into a Design and Construction Contract, dated as of August 19, 2021 (as amended from time to time, the “D&C Contract”); and

WHEREAS, in connection with the settlement of all disputes and claims between the Parties, the Parties are anticipating the future execution of certain additional Implementing Agreements, including a Settlement Agreement, an Amended and Restated Project Agreement, an Amended and Restated D&C Contract, a Tolling Agreement, and the ICE Advance Agreement (collectively, the “Additional Agreements”), pursuant to the Binding Statement of Principles dated as of July 3, 2025 (the “Statement of Principles”); and

WHEREAS, pursuant to the Statement of Principles, the Parties agreed to proceed in Good Faith to negotiate and execute the Additional Agreements, including the ICE Advance Agreement, dated July 3, 2025 (“Original ICE Advance Agreement”); and

WHEREAS, pursuant to the ICE Advance Agreement, the Developer may submit Notices of Certification issued by the Developer, certifying that certain individual Pay Units are Qualified Pay Units as defined herein, for partial early payment, subject to the maximum aggregate payment limitations set forth herein; and

WHEREAS, following execution of the Original ICE Advance Agreement, the Parties identified a discrepancy between the stated Maximum Advance Payment Account Value and the intended aggregate amount of Advance Payments available for disbursement thereunder; and

WHEREAS, the Parties now desire to amend and restate the Original ICE Advance Agreement in its entirety in order to clarify that the Maximum Advance Payment Account Value represents ninety million dollars (\$90,000,000) or eighty percent (80%) of the Revolving Pay Unit Submission Limit of one hundred twelve million five hundred thousand dollars (\$112,500,000) to ensure the Pay Unit submission process continues to progress seamlessly, together with other conforming and clarifying revisions;

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

1. RELATIONSHIP OF THE PARTIES. Nothing in the Project Agreement creates any contractual relationship between the Authority and any contractor, including the D&C Contractor. This ICE Advance Agreement does not create a contractual relationship between or among the Parties, except for the limited agreement expressly set forth herein. This ICE Advance Agreement does not impose any obligation or liability upon any Party, except for the limited agreement expressly set forth herein. The Developer and the D&C Contractor agree that this ICE Advance Agreement does not impose any obligation or other liability upon any Authority-Related Entity, including its Member Entities, to any contractor, including the D&C Contractor, or any of its employees. The Developer shall exercise any permissive right set forth in this ICE Advance Agreement, if requested by the D&C Contractor. If the Developer exercises a permissive right under this ICE Advance Agreement, whether or not at the request of the D&C Contractor, the D&C Contractor shall provide all information and documentation requested by the Developer in order to allow the Developer to exercise such right.
2. DEFINITIONS. All capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Project Agreement or in this ICE Advance Agreement and as defined in this Section, unless a different meaning clearly applies from the context.

“Advanced Payment” shall equal the Qualified Percentage of the applicable Additional Milestone Payment.

“Excess Submission Value” shall mean the remainder value of Pay Units submitted by the Developer for Advance Payment through the provisions of this ICE Advance Agreement which results in the total aggregate value of total Pay Units submitted by the Developer exceeding the Maximum Advance Payment Account Value, while remaining below the Revolving Pay Unit Submission Limit.

“Maximum Advance Payment Account Value” shall mean eighty percent (80%) of the Revolving Pay Unit Submission Limit or ninety million dollars (\$90,000,000).

“Qualified Pay Units” means a Pay Unit for which the Developer has submitted both (i) the sixty (60) day notice as set forth in Section 16.1(a) of the Project Agreement for all Buildable Unites within the Pay Unit; and (ii) a certificate, in substantially the same form as **Exhibit I** to this ICE Advance Agreement, by the Developer confirming that the Construction Work excluding Punch List items with respect to such Pay Unit is reasonably expected to be completed in accordance with PSSU (based upon PBS3-R2) within one hundred twenty (120) days of the submission of the sixty day notice pursuant to Section 16.1(a) of the Project Agreement.

“Qualified Percentage” shall mean eighty percent (80%) of the value of an Additional Milestone Payment submitted for advance payment under this ICE Advance Agreement.

“Remaining Percentage” shall mean twenty percent (20%) of the value of an Additional Milestone Payment submitted for advance payment under this ICE Advance Agreement.

“Revolving Pay Unit Submission Limit” shall mean the maximum aggregate of Pay Units for which the Developer may request Advance Payment for at any one time during the term of this ICE Advance Agreement, which shall be one hundred twelve million five hundred thousand dollars (\$112,500,000).

3. CONFLICT WITH THE PROJECT AGREEMENT. If there is any conflict between the terms and conditions of this ICE Advance Agreement and the terms and conditions of the Project Agreement, the terms and conditions of the Project Agreement shall prevail. The Project Agreement, including any amendments thereto, is incorporated by reference herein.
4. TERM. This ICE Advance Agreement shall become effective on the ICE Agreement Effective Date and shall terminate upon the occurrence of Substantial Completion or the termination of the Project Agreement, whichever event occurs first.
5. PROCEDURE FOR DEVELOPER TO REQUEST ADVANCED PAYMENT. On the first Business Day following the first (1st) and fifteenth (15th) day of each and every Month of this ICE Advance Agreement, the Developer may submit to the Authority a list of Qualified Pay Units for which it requests Advanced Payment. As part of the list of Qualified Pay Units, the Developer bears the burden of demonstrating that each Pay Unit is a Qualified Pay Unit and will submit any and all information requested by the Authority to support its request. At a minimum, the Developer, or the D&C Contractor on behalf of the Developer, must provide the following:
 - (i) The Pay Unit for which Advanced Payment is requested;
 - (ii) A certificate indicating the Developer will provide the applicable Certificate of the Interim Completion in accordance with the Project Agreement;
 - (iii) Written certification by the D&C Contractor to the Authority and the Developer that currently no amounts due and payable to any Contractor or Supplier remain unpaid with respect to the Work performed prior to the date of the request for Advance Payment with respect to the Qualified Pay Units as to which such Advance Payment is requested;
 - (iv) Written certification by the D&C Contractor to the Authority and the Developer that the Work performed prior to the date of the request for Advance Payment with respect to the Qualified Pay Units as to which such Advance Payment is requested is free and clear of any liens or claims; and
 - (v) Copies of contingent lien waivers, in form and substance reasonably satisfactory to the Authority, from each Contractor with a Contract of five hundred thousand dollars (\$500,000) or more in value, individually or in aggregate, as necessary to support the Developer's certification required by Section 23.3(a)(iv) of the Project Agreement or, if the Developer is unable to obtain all such waivers, a letter of credit or bond, in form and substance reasonably satisfactory to the Authority, to protect the Authority and the Project from any liens and claims arising out of or in connection with the performance of the Work performed prior to the date for which Advanced Payment is requested with respect to the Qualified Pay Units as to which such Advance Payment is requested.
6. PAY UNITS SUBMISSION LIMITATION. The Revolving Pay Unit Submission Limit pursuant to this ICE Advance Agreement shall be limited to one hundred twelve million five hundred thousand dollars (\$112,500,000). The Parties intend to create a revolving Advanced Payment mechanism for which the Developer may submit Qualified Pay Units equal to the Revolving Pay Unit Submission Limit, one hundred twelve million five hundred thousand dollars

- (\$112,500,000), on a revolving basis with the Excess Submission Value not being eligible for Advance Payment until the Series B Invoice for Pay Units within the Maximum Advance Payment Account Value has received Advance Payment. For clarity, the Revolving Pay Unit Submission Limit reflects the total aggregate value of the Pay Units submitted by the Developer for Advance Payment under this ICE Advance Agreement, however the value of Advance Payments that the Developer is eligible for, with respect to submitted Pay Units at any one time during the term of this ICE Advance Agreement shall not exceed the Maximum Advance Payment Account Value (\$90,000,000), and Pay Units within the Excess Submission Value shall become eligible for Advance Payment as the preceding Pay Units are closed out. Once the Remaining Value of the Pay Unit has been released in accordance with Section 9 (Remaining Value of Pay Unit) of this ICE Advance Agreement, the Developer may submit another Qualified Pay Unit for Advance Payment provided that the total value of all Qualified Pay Units submitted for Advanced Payment does not exceed the Revolving Pay Unit Submission Limit.
7. PROCESSING OF DEVELOPER REQUESTS FOR ADVANCE PAYMENT. The Authority will review each request for Advance Payment by the Developer and will notify the Developer within five (5) Business Days if the Developer has submitted all the documentation required by this ICE Advance Agreement to receive Advance Payment and set forth in **Exhibits A through I** attached hereto (collectively, the “Required Submittals”). At any time after the Developer submits a request for Advance Payment, the Developer may submit an invoice (a “Series A Invoice”) to the Authority for payment of the Qualified Percentage of the applicable Additional Milestone Payment associated with the Qualified Pay Unit, identifying the Invoice as Pay Unit [●] Series A and identifying that Advance Payment is sought pursuant to the terms and conditions of this ICE Advance Agreement.
 8. PAYMENT OF ADVANCED PAYMENT. Subject to Section 5, 6, and 7 of this ICE Advance Agreement, the Authority will pay the Developer the Advance Payment within fifteen (15) Business Days of the submission of the Series A Invoice.
 9. REMAINING VALUE OF PAY UNIT. The Remaining Percentage of Qualified Pay Units shall be retained until (i) the Developer achieves Interim Completion of the Qualified Pay Unit in accordance with Section 16.1 of the Project Agreement; and (ii) the Developer satisfies all of the requirements (to the extent not previously met in connection with a submittal for an Advance Payment) for payment of the applicable Additional Milestone Payment in accordance with Section 23.2 of the Project Agreement, which is referred to herein as the “Remaining Percentage” of the Additional Milestone Payment Associated with the Qualified Pay Unit. Payment of the Remaining Percentage of the Qualified Pay Unit will be made in accordance with Section 23 of the Project Agreement if (i) the Developer complies with the Project Agreement sections set forth above and (ii) submits the invoice (a “Series B Invoice”) for the applicable Additional Milestone Payment associated with the Qualified Pay Unit, identifying the Invoice as Pay Unit [●] Series B and identifying that Advance Payment was made pursuant to the terms and conditions of this ICE Advance Agreement and that the remaining balanced is equal to the Remaining Percentage of the Qualified Pay Unit.
 10. NO MAJOR DEFECTS. The Developer shall not submit to the Authority any Qualified Pay Unit for Advanced Payment that contains any Work having a Major Defect. If, after submittal by the Developer to the Authority of any Qualified Pay Unit for Advanced Payment, the Authority provides written notice to the Developer that, in the reasonable judgment of the

Authority, any Work with respect to such Pay Unit contains a Major Defect that cannot be rectified prior to the date which is sixty (60) days after payment of the Advance Payment, the matter shall be referred to the Six Principals Team as described in the Statement of Principles for resolution and, if determined to be necessary, corrective action by the Developer, and the Developer shall be required to remove such Qualified Pay Unit from consideration for Advance Payment.

11. LEGAL REVIEW. The Parties have reviewed this ICE Advance Agreement and have had the opportunity to consult with their legal counsel regarding the terms and conditions set forth herein.
12. ACKNOWLEDGEMENT. Each of the Parties affirms and acknowledges that it has fully read this ICE Advance Agreement, appreciates, and understands the words, terms, conditions, and provisions of this ICE Advance Agreement and is fully satisfied with the same. Each Party affirms and acknowledges that it has been, or has had the opportunity to be, represented by legal counsel of its choice.
13. AUTHORIZED REPRESENTATIVES.
 - A. The Parties hereby designate the following individuals as their initial representatives, respectively, to administer this ICE Advance Agreement on their behalf:
 - (1) Authority Representative: Its Director of Engineering
 - (2) Developer Representative: Its Project Manager
 - (3) D&C Contractor Representative: Its Project Manager
 - B. The representatives shall be reasonably available to each other during the term of this ICE Advance Agreement and shall have the authority to issue instructions and other communications on behalf of the Party or Parties, respectively, and shall be the recipients of notices and other written communications from the other Parties pursuant to this ICE Advance Agreement, except as otherwise provided in this ICE Advance Agreement. However, such representatives shall not have the authority to make decisions or give instructions binding upon the Authority, the Developer, or the D&C Contractor, except to the extent expressly authorized by the Authority, the Developer, or the D&C Contractor, as the case may be, in writing.
 - C. In the event the Authority, the Developer, or the D&C Contractor designates a different representative, it will give the other Party written notice of the identity of and contact information for the new representative.
14. NOTICES. All notices under this ICE Advance Agreement shall be given in the same manner as set forth in the Project Agreement.
15. PROHIBITION OF ASSIGNMENT. The Prohibition of Assignment provisions of the Project Agreement shall govern this ICE Advance Agreement as fully set forth in Section 52 of the Project Agreement.

16. GOVERNING LAW, VENUE, WAIVER OF JURY TRIAL. This ICE Advance Agreement will be construed and enforced in accordance with the Project Agreement's Governing Law and Venue provisions as fully set forth in Section 56 of the Project Agreement.
17. SEVERABILITY. If any court of competent jurisdiction finds any provision or part of this ICE Advance Agreement to be invalid, illegal, or unenforceable, that portion will be deemed severed from this ICE Advance Agreement, and all remaining terms and provisions of this ICE Advance Agreement will remain binding and enforceable.
18. GOVERNMENTAL IMMUNITY. The Authority does not waive any governmental immunity or limitations of liability by entering into this ICE Advance Agreement and specifically retains all immunities and defenses as set forth in N.D.C.C. § 32-12.1-03 and/or Minn. Stat. § 466.04 and all other applicable law. Nothing herein shall be deemed a waiver of governmental immunity by the Authority of the limits of the liability set forth in N.D.C.C. § 32-12.1-03 and/or Minn. Stat. § 466.04. Designations of venue, choice of law, enforcement actions, and similar provisions should not be construed as a waiver of governmental immunity.
19. HEADINGS. Headings in this ICE Advance Agreement are for convenience only and shall not be used to interpret or construe its provisions.
20. COSTS AND ATTORNEYS' FEES. Each Party to this ICE Advance Agreement agrees that each shall bear its own costs and attorney's fees incurred in connection with the above referenced claims, including, without limitation, those incurred through the preparation and Effective of this binding and enforceable Statement of Principles, and further stipulate and agree that no Party shall be designated or considered a prevailing party for purposes of any award of attorney's fees and/or costs under any statute or otherwise.
21. AUTHORIZATION. The representatives of the Parties signing this ICE Advance Agreement each represent and acknowledge that they have each been duly authorized by the governing body of their respective entity to execute this binding and enforceable ICE Advance Agreement.
22. AMENDMENT. This ICE Advance Agreement may only be amended in a written instrument executed by all of the parties.
23. NO THIRD-PARTY BENEFICIARIES. Nothing in this ICE Advance Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this ICE Advance Agreement on any person or entity other than the Parties.
24. ELECTRONIC SIGNATURES; COUNTERPARTS. This ICE Advance Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by email delivery of a ".pdf" format data file, including but not limited to a signature delivered through a provider such as DocuSign®, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with same force and effect as if such facsimile or ".pdf" signature page was an original thereof.

[Signatures appear on the following pages.]

Agreed to and accepted this 28th day of December, 2025.

AUTHORITY:

METRO FLOOD DIVERSION AUTHORITY

By: _____
Tony Grindberg, Chair

By: _____
Jason Benson, Executive Director

[Signatures continued on the following pages.]

Agreed to and accepted this ____ day of December, 2025.

DEVELOPER:

RED RIVER VALLEY ALLIANCE, LLC

By: _____
Luke Chenery, Developer Representative

[Signatures continued on the following page.]

Agreed to and accepted this ____ day of December, 2025.

ASN CONSTRUCTORS by its joint venture partners:

D&C CONTRACTOR:

ASN CONSTRUCTORS by its joint venture partners:

ACCIONA CONSTRUCTION USA, CORP

By: _____
Antonio Muñoz Garrido, North America Managing Director Construction, Acciona Construction
USA Corp. Representative

SHIKUN & BINUI- AMERICA INC

By: _____
James P. McNelis, CEO, Shikun & Binui USA Construction Representative

By: _____
Amir Zion, CFO, Shikun & Binui USA Construction Representative

NACG NORTH DAKOTA, INC.

By: _____
Jordan Slator, Chief Legal Officer, NACG North Dakota, Inc. Representative

[Remainder of page intentionally left blank.]

EXHIBIT A – FORM – ADVANCED PAYMENT REQUEST FOR PAY UNIT

**REQUEST OF
RED RIVER VALLEY ALLIANCE, LLC
(the “Developer”)**

TO: Metro Flood Diversion Authority (the “**Authority**”)

RE: Project Agreement, dated as of August 19, 2021, between the Authority and the Developer with respect to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project - Diversion Channel and Associated Infrastructure (the “**Project Agreement**”) and ICE Advance Agreement, dated as of [●], (the “**ICE Advance Agreement**”)

AND RE: Advanced Payment of ICEXX-XXXXXX – Pay Unit XX

DATED: XXXX XX, 2025

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Project Agreement.

The undersigned, being authorized signatories of the Developer and, as such, being familiar with the Developer’s affairs and records and being duly authorized by the Developer to deliver this request, hereby requests for and on behalf of the Developer and without incurring personal liability, that:

The Pay Unit for which Advanced Payment is Requested

The Pay Unit for which Advanced Payment is requested is ICEXX-XXXXXX – Pay Unit XX.

[signature page follows]

**RED RIVER VALLEY ALLIANCE,
LLC**

Name:

Title:

Name:

Title:

EXHIBIT B – DEVELOPER CERTIFICATE OF INTERIM COMPLETION

**CERTIFICATE OF
RED RIVER VALLEY ALLIANCE, LLC**

SCHEDULE A (the “Developer”)

TO: Metro Flood Diversion Authority (the “**Authority**”)

RE: Project Agreement, dated as of August 19, 2021, between the Authority and the Developer with respect to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project - Diversion Channel and Associated Infrastructure (the “**Project Agreement**”) and ICE Advance Agreement, dated as of [●], (the “**ICE Advance Agreement**”)

AND RE: Advanced Payment of ICExx-xxxxxx – Pay Unit xx

DATED: xxxx xx, 2025

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Project Agreement.

The undersigned, being authorized signatories of the Developer and, as such, being familiar with the Developer’s affairs and records and being duly authorized by the Developer to deliver this certificate, hereby certify for and on behalf of the Developer and without incurring personal liability, that:

Delivery of the applicable Certificate of the Interim Completion

The Developer will provide the applicable Certificate of the Interim Completion in accordance with the Project Agreement.

[signature page follows]

**RED RIVER VALLEY ALLIANCE,
LLC**

Name:

Title:

Name:

Title:

EXHIBIT C – D&C CONTRACTOR CERTIFICATE OF NO DUE AMOUNT

**CERTIFICATE OF
ASN constructors**

(the “**D&C Contractor**”)

TO: Metro Flood Diversion Authority (the “**Authority**”) and RED RIVER VALLEY ALLIANCE, LLC (the “**Developer**”)

RE: Design and Construction Contract, dated as of August 19, 2021, between the D&C Contractor and the Developer with respect to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project - Diversion Channel and Associated Infrastructure (the “**Contract**”) and ICE Advance Agreement, dated as of [●], (the “**ICE Advance Agreement**”)

AND RE: Pay Unit XX, Pay Unit XX,...

DATED: Month DD, YYYY

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Design & Construction Contract and the ICE Advance Agreement.

The undersigned, being authorized signatories of the D&C Contractor and, as such, being familiar with the D&C Contractor’s affairs and records and being duly authorized by the D&C Contractor to deliver this certificate, hereby certify for and on behalf of the D&C Contractor and without incurring personal liability, that:

No amounts due and payable to any Contractor or Supplier remain unpaid with respect to the Work performed prior to the date of the request for Advance Payment with respect to Pay Units XX, XX and XX.

[signature page follows]

ASN CONSTRUCTORS

Name:

Title:

Name:

Title:

EXHIBIT D – D&C CONTRACTOR CERTIFICATE OF NO DUE AMOUNT

**CERTIFICATE OF
ASN Constructors
(the “D&C Contractor”)**

TO: Metro Flood Diversion Authority (the “**Authority**”) and RED RIVER VALLEY ALLIANCE, LLC (the “**Developer**”)

RE: Design and Construction Contract, dated as of August 19, 2021, between the D&C Contractor and the Developer with respect to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project - Diversion Channel and Associated Infrastructure (the “**Contract**”) and ICE Advance Agreement, dated as of [●], (the “**ICE Advance Agreement**”)

AND RE: Pay Unit XX, Pay Unit XX,...

DATED: Month DD, YYYY

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Design & Construction Contract and the ICE Advance Agreement.

The undersigned, being authorized signatories of the D&C Contractor and, as such, being familiar with the D&C Contractor’s affairs and records and being duly authorized by the D&C Contractor to deliver this certificate, hereby certify for and on behalf of the D&C Contractor and without incurring personal liability, that:

The Work performed prior to the date of the request for Advance Payment with respect to the Pay Units XX, XX and XX is free and clear of any liens or claims.

[signature page follows]

ASN CONSTRUCTORS

Name:

Title:

Name:

Title:

**EXHIBIT E – D&C CONTRACTOR LIEN WAIVER AND RELEASE FOR ADVANCED
PAYMENT**

ICE ADVANCE PAYMENTS WITH RESPECT TO QUALIFIED PAY UNIT COMPLETION

This form shall be completed by the D&C Contractor ("ASN Constructors" or "ASN") in accordance with the Project Agreement in order for the Developer to meet the conditions required for Advanced Payments with respect to Buildable Unit Number(s) **[PLACE BUILDABLE UNIT NUMBERS HERE]** which are considered Qualified Pay Units under the ICE Advance Agreement.

This lien waiver and release of lien is given by the Releasing Party identified below in connection with all provided labor, material, equipment, or other items of work which have been provided on or before the Effective Date set out below by the Releasing Party for use on or incorporation into the Fargo Flood Diversion Project (the "Project"). The Project is comprised of a series of Buildable Units comprised of the parcel numbers listed in Attachment A and includes the Buildable Unit(s) identified above.

**D&C CONTRACTOR - LIEN WAIVER AND RELEASE OF LIEN FOR ADVANCE PAYMENTS WITH RESPECT TO
QUALIFIED PAY UNIT COMPLETION**

STATE OF NORTH DAKOTA)
) ss.
CASS COUNTY)

TO: All Parties Having an Interest in the Following Buildable Unit:

BUILDABLE UNIT NUMBER(S): **[PLACE BUILDABLE UNIT NUMBERS HERE]**

Location: Parcel numbers are listed in Attachment A.

EFFECTIVE DATE: _____

WHEREAS, _____ (herein the "**Undersigned**"), is the authorized agent for
ASN Constructors, the "**Releasing Party**";

AND WHEREAS, the Releasing Party provided labor, material, equipment, or other items of work for incorporation into, or improvements of, the Buildable Unit;

AND WHEREAS, the Releasing Party is the D&C Contractor hired by the Developer, Red River Valley Alliance (RRVA), for the Project;

AND WHEREAS, ASN Constructors has determined that Additional Milestones with respect to Buildable Unit(s) are sufficiently completed in order for the Developer to meet the conditions required for Advanced Payments with respect to Qualified Buildable Unit completion in accordance with the D&C Contract and the ICE Advance Agreement.

NOW THEREFORE:

- (1) All terms used in this Lien Waiver and Release of Lien will have the definition ascribed to such terms in the Project Agreement and the ICE Advance Agreement.
- (2) **FOR GOOD AND VALUABLE CONSIDERATION,** the Releasing Party does hereby **WAIVE, RELEASE, AND FOREVER DISCHARGE** any and all liens, claims, or rights of liens on or against the premises/location described above for and on account of Work Performed and labor, equipment, and/or materials supplied at or in connection with construction or improvement of the premises/location described above by the Releasing Party on or before the Effective Date.
- (3) The Releasing Party represents that it has been paid for all work performed and labor, equipment, and/or materials supplied at the above-described premises/location on or before the Effective Date. Furthermore, the Releasing Party warrants and represents that it has paid all material suppliers, equipment dealers, and/or subcontractors for any and all labor, materials, and services due and owing on the Buildable Unit(s) on or before the Effective Date.
- (4) The Undersigned on behalf of the Releasing Party, does hereby waive and release any liens or claims the Releasing Party may have against the Developer, the Authority, Cass County Joint Water Resource District, the State of North

Dakota, and/or the Project, including but not limited to, bond rights, lien rights, and stop notice rights arising from the Releasing Party's provision of any and all labor, services, material and equipment on or before the Effective Date in relation to the identified Buildable Unit(s) above.

- (5) The Undersigned on behalf of the Releasing Party, its officers, directors, agents and employees, both past and present, successors and assigns, hereby releases and discharges the Developer, the Authority, Cass County Joint Water Resource District, the State of North Dakota, and/or or the Project in relation to the identified Buildable Unit(s) above, from any and all claims arising from or relating to, debts, damages liens, causes of action, suits, liabilities, controversies, obligations, and demands, whether in law, equity, contract or tort, which the Releasing Party may have arising out of or in connection with Work provided on or before the Effective Date in relation to the identified Buildable Unit(s) above.
- (6) The Releasing Party shall provide a D & C Contractor Waiver and Release of Lien for Additional Milestone Payment with respect to Buildable Unit Completion when the Buildable Unit in accordance with the Project Agreement when the Buildable Units achieve a Certificate of Interim Completion.

I, THE UNDERSIGNED, AS AUTHORIZED AGENT FOR THE RELEASING PARTY, DO CERTIFY THE FOREGOING TO BE TRUE AND CORRECT STATEMENTS, AND DO SO UNDER RISK OF PENALTY OR PERJURY SHOULD THE FOREGOING NOT BE TRUE AND CORRECT STATEMENTS.

BY (SIGNATURE):

PRINT NAME: |.....|

TITLE: |.....|

DATE: |.....|

STATE OF |.....|)
COUNTY OF |.....|) ss.

This record was acknowledged before me on |.....|, 20|...|, by |.....|, the
|.....| title), of and on behalf of ASN Constructors, a North Dakota Contractor.

Notary Public

Encl: Attachment A – Buildable Units (21 Pages)

**EXHIBIT F – SUBCONTRACTOR LIEN WAIVER AND RELEASE FOR ADVANCED
PAYMENT**

ICE ADVANCE PAYMENTS WITH RESPECT TO QUALIFIED PAY UNIT COMPLETION

This form shall be completed by Subcontractor and submitted to the D&C Contractor ("ASN Constructors" or "ASN" in accordance with the Project Agreement in order for the Developer to meet the conditions required for Advanced Payments with respect to Buildable Unit Number(s) **[PLACE BUILDABLE UNIT NUMBERS HERE]** which are considered Qualified Pay Units under the ICE Advance Agreement.

This lien waiver and release of lien is given by the Releasing Party identified below in connection with all provided labor, material, equipment, or other items of work which have been provided on or before the Effective Date set out below by the Releasing Party for use on or incorporation into the Fargo Flood Diversion Project (the "Project"). The Project is comprised of a series of Buildable Units comprised of the parcel numbers listed in Attachment A and includes the Buildable Unit(s) identified above.

**SUBCONTRACTOR - LIEN WAIVER AND RELEASE OF LIEN FOR ADVANCE PAYMENTS WITH RESPECT TO
QUALIFIED PAY UNIT COMPLETION**

STATE OF NORTH DAKOTA)
) ss.
CASS COUNTY)

TO: All Parties Having an Interest in the Following Buildable Unit(s):

BUILDABLE UNIT NUMBER(S): **[PLACE BUILDABLE UNIT NUMBERS HERE]**

Location: Parcel numbers are listed in Attachment A.

EFFECTIVE DATE: _____ |

WHEREAS, [_____] (herein the "**Undersigned**"), is the authorized agent
for [_____] the "**Releasing Party**";

AND WHEREAS, the Releasing Party provided labor, material, equipment, or other items of work for incorporation into, or improvements of, the Buildable Unit;

AND WHEREAS, ASN Constructors is the D&C Contractor hired by the Developer, Red River Valley Alliance (RRVA).

AND WHEREAS, the Releasing Party is performing Work for ASN Constructors on the Project.

AND WHEREAS, ASN Constructors has determined that Additional Milestones with respect to Buildable Unit(s) are sufficiently completed in order for the Developer to meet the conditions required for Advanced Payments with respect to Qualified Buildable Unit completion in accordance with the D&C Contract and the ICE Advance Agreement.

NOW THEREFORE:

- (1) All terms used in this Lien Waiver and Release of Lien will have the definition ascribed to such terms in the Project Agreement and the ICE Advance Agreement.
- (2) FOR GOOD AND VALUABLE CONSIDERATION, the Releasing Party does hereby WAIVE, RELEASE, AND FOREVER DISCHARGE any and all liens, claims, or rights of liens on or against the premises/location described above for and on account of Work Performed and labor, equipment, and/or materials supplied at or in connection with construction or improvement of the premises/location described above by the Releasing Party on or before the Effective Date.
- (3) The Releasing Party represents that it has been paid for all work performed and labor, equipment, and/or materials supplied at the above-described premises/location on or before the Effective Date. Furthermore, the Releasing Party warrants and represents that it has paid all material suppliers, equipment dealers, and/or sub-tier subcontractors for any and all labor, materials, and services due and owing on the Buildable Unit(s) on or before the Effective Date.
- (4) The Undersigned on behalf of the Releasing Party, does hereby waive and release any liens or claims the Releasing Party may have against ASN Constructors, the Developer, the Authority, Cass County Joint Water Resource District,

the State of North Dakota, and/or the Project, including but not limited to, bond rights, lien rights, and stop notice rights arising from the Releasing Party's provision of any and all labor, services, material and equipment on or before the Effective Date in relation to the identified Buildable Unit(s) above.

- (5) The Undersigned on behalf of the Releasing Party, its officers, directors, agents and employees, both past and present, successors and assigns, hereby releases and discharges ASN Constructors, the Developer, the Authority, Cass County Joint Water Resource District, the State of North Dakota, and/or or the Project in relation to the identified Buildable Unit(s) above, from any and all claims arising from or relating to, debts, damages liens, causes of action, suits, liabilities, controversies, obligations, and demands, whether in law, equity, contract or tort, which the Releasing Party may have arising out of or in connection with Work provided on or before the Effective Date in relation to the identified Buildable Unit(s) above.
- (6) The Releasing Party shall provide a Subcontractor-Lien Waiver and Release of Lien for Additional Milestone Payment with respect to Buildable Unit Completion when the Buildable Unit in accordance with the Project Agreement when the Buildable Units achieve a Certificate of Interim Completion.

I, THE UNDERSIGNED, AS AUTHORIZED AGENT FOR THE RELEASING PARTY, DO CERTIFY THE FOREGOING TO BE TRUE AND CORRECT STATEMENTS, AND DO SO UNDER RISK OF PENALTY OR PERJURY SHOULD THE FOREGOING NOT BE TRUE AND CORRECT STATEMENTS.

BY (SIGNATURE):

PRINT NAME: |.....|

TITLE: |.....|

DATE: |.....|

STATE OF |.....|)
COUNTY OF |.....|) ss.

This record was acknowledged before me on |.....|, 20|.....|, by |.....|, the
|.....| title), of and on behalf of the entity defined above as the Releasing Party.

Notary Public

Encl: Attachment A – Buildable Units (21 Pages)

**EXHIBIT G – SUB-TIER SUBCONTRACTOR LIEN WAIVER AND RELEASE FOR
ADVANCED PAYMENT**

ICE ADVANCE PAYMENTS WITH RESPECT TO QUALIFIED PAY UNIT COMPLETION

Subcontractor shall ensure that this form is completed and obtained from each sub-subcontractor of the Subcontractor for Work completed in order to meet the conditions required for Advanced Payment with respect to Buildable Unit Number(s) **[PLACE BUILDABLE UNIT NUMBERS HERE]** which are considered Qualified Pay Units under the ICE Advance Agreement. This completed form shall be submitted by Subcontractor to the D&C Contractor ("ASN Constructors" or "ASN") in accordance with the Project Agreement and ICE Advance Agreement, along with Subcontractor's completed Final Lien Waiver and Release of Lien for Advanced Payments with respect to Qualified Buildable Unit completion.

This lien waiver and release of lien is given by the Releasing Party identified below in connection with all provided labor, material, equipment, or other items of work which have been provided on or before the Effective Date set out below by the Releasing Party for use on or incorporation into the Fargo Flood Diversion Project (the "Project"). The Project is comprised of a series of Buildable Units comprised of the parcel numbers listed in Attachment A and includes the Buildable Unit(s) identified above.

**SUB-TIER SUBCONTRACTOR - LIEN WAIVER AND RELEASE OF LIEN FOR ADVANCED PAYMENTS WITH
RESPECT TO QUALIFIED PAY UNIT COMPLETION**

STATE OF NORTH DAKOTA)
) ss.
CASS COUNTY)

TO: All Parties Having an Interest in the Following Buildable Unit:

BUILDABLE UNIT NUMBER(S): **[PLACE BUILDABLE UNIT NUMBERS HERE]**

Location: Parcel numbers are listed in Attachment A.

EFFECTIVE DATE: _____

WHEREAS, _____ (herein the "**Undersigned**"), is the authorized agent for
_____ the "**Releasing Party**";

AND WHEREAS, the Releasing Party provided labor, material, equipment, or other items of work for incorporation into, or improvements of, the Buildable Unit;

AND WHEREAS, ASN Constructors is D&C Contractor hired by the Developer, Red River Valley Alliance (RRVA).

AND WHEREAS, _____ the "**Subcontractor**") is performing Work for ASN Constructors on the Project.

AND WHEREAS, the Releasing Party is performing Work for Subcontractor and/or ASN Constructors on the Project.

AND WHEREAS, ASN Constructors has determined that Advanced Payment with respect to Qualified Buildable Unit(s) are sufficiently completed in order for the Developer to meet the conditions required for Advanced Payment with respect to Qualified Buildable Unit completion in accordance with the D&C Contract and ICE Advance Agreement.

NOW THEREFORE:

- (1) All terms used in this Lien Waiver and Release of Lien will have the definition ascribed to such terms in the Project Agreement and the ICE Advanced Agreement.
- (2) FOR GOOD AND VALUABLE CONSIDERATION, the Releasing Party does hereby WAIVE, RELEASE AND FOREVER DISCHARGE any and all liens, claims or rights of liens on or against the premises/location described above for and on account of Work Performed and labor, equipment and/or materials supplied at or in connection with construction or improvement of the premises/location described above by the Releasing Party on or before the Effective Date.
- (3) The Releasing Party represents that it has been paid for all work performed and labor, equipment, and/or materials supplied at the above-described premises/location on or before the Effective Date. Furthermore, the Releasing Party warrants and represents that it has paid all material suppliers, equipment dealers, and/or sub-tier subcontractors for any and all labor, materials, and services due and owing on the Buildable Unit(s) on or before the Effective Date.

- (4) The Undersigned on behalf of the Releasing Party, does hereby waive and release any liens or claims the Releasing Party may have against the Subcontractor, ASN Constructors, the Developer, the Authority, Cass County Joint Water Resource District, the State of North Dakota, and/or the Project, including but not limited to, bond rights, lien rights, and stop notice rights arising from the Releasing Party's provision of any and all labor, services, material and equipment on or before the Effective Date in relation to the identified Buildable Unit(s) above.
- (5) The Undersigned on behalf of the Releasing Party, its officers, directors, agents and employees, both past and present, successors and assigns, hereby releases and discharges the Subcontractor, ASN Constructors, the Developer, the Authority, Cass County Joint Water Resource District, the State of North Dakota, and/or the Project in relation to the identified Buildable Unit(s) above, from any and all claims arising from or relating to, debts, damages liens, causes of action, suits, liabilities, controversies, obligations, and demands, whether in law, equity, contract or tort, which the Releasing Party may have had, might now have arising out of or in connection with Work provided on or before the Effective Date in relation to the identified Buildable Unit(s) above.
- (6) The Releasing Party shall provide a Sub-Tier Contractor-Lien Waiver and Release of Lien for Additional Milestone Payment with respect to Buildable Unit Completion when the Buildable Unit in accordance with the Project Agreement when the Buildable Units achieve a Certificate of Interim Completion.

I, THE UNDERSIGNED, AS AUTHORIZED AGENT FOR THE RELEASING PARTY, DO CERTIFY THE FOREGOING TO BE TRUE AND CORRECT STATEMENTS, AND DO SO UNDER RISK OF PENALTY OR PERJURY SHOULD THE FOREGOING NOT BE TRUE AND CORRECT STATEMENTS.

BY (SIGNATURE):

PRINT NAME:

TITLE:

DATE: _____

STATE OF (.....))
) ss.
COUNTY OF (.....))

This record was acknowledged before me on _____, 20_____, by _____, the _____ (title), of and on behalf of the entity defined above as the Releasing Party.

Notary Public

Encl: Attachment A – Buildable Units (21 Pages)

EXHIBIT H – SUPPLIER LIEN WAIVER AND RELEASE FOR ADVANCED PAYMENT

ICE ADVANCE PAYMENTS WITH RESPECT TO QUALIFIED PAY UNIT COMPLETION

This form shall be completed by Supplier and submitted to the D&C Contractor (“ASN Constructors” or “ASN”) in accordance with the Project Agreement in order for the Developer to meet the conditions required for Advanced Payments with respect to Buildable Unit Number(s) **[PLACE BUILDABLE UNIT NUMBERS HERE]** which are considered Qualified Pay Units under the ICE Advance Agreement.

This lien waiver and release of lien is given by the Releasing Party identified below in connection with all materials, equipment or supplies (collectively, the “Materials”) which have been provided on or before the Effective Date set out below by the Releasing Party for use on or incorporation into the Fargo Flood Diversion Project (the “Project”). The Project is comprised of a series of Buildable Units comprised of the parcel numbers listed in Attachment A and includes the Buildable Unit(s) identified above.

SUPPLIER - LIEN WAIVER AND RELEASE OF LIEN FOR ADVANCE PAYMENTS WITH RESPECT TO QUALIFIED PAY UNIT COMPLETION

STATE OF NORTH DAKOTA)
) ss.
CASS COUNTY)

TO: All Parties Having an Interest in the Following Buildable Unit:

BUILDABLE UNIT NUMBER(S): **[PLACE BUILDABLE UNIT NUMBERS HERE]**

Location: Parcel numbers are listed in Attachment A.

EFFECTIVE DATE: _____

WHEREAS, _____ (herein the “**Undersigned**”), is the authorized agent
for _____ the “**Releasing Party**”;

AND WHEREAS, the Releasing Party provided materials, equipment or supplies for incorporation into, or improvements of, the Project.

AND WHEREAS, ASN Constructors is the D&C Contractor hired by the Developer, Red River Valley Alliance (RRVA).

AND WHEREAS, the Releasing Party has supplied ASN Constructors with materials, equipment or supplies for incorporation into, or improvements of, the Project.

AND WHEREAS, ASN Constructors has determined that with respect to Buildable Unit(s) are sufficiently completed in order for the Developer to meet the conditions required for Advanced Payments with respect to Qualified Buildable Unit completion in accordance with the D&C Contract and ICE Advance Agreement.

NOW THEREFORE:

- (1) All terms used in this Lien Waiver and Release of Lien will have the definition ascribed to such terms in the Project Agreement and the ICE Advance Agreement.
- (2) FOR GOOD AND VALUABLE CONSIDERATION, the Releasing Party does hereby WAIVE, RELEASE, AND FOREVER DISCHARGE any and all liens, claims, or rights of liens on or against the premises/location described above for and on account of materials, equipment or supplies provided at or in connection with construction or improvement of the premises/location and Buildable Unit described above, including the Buildable Unit(s) identified in Attachment A by the Releasing Party on or before the Effective Date.
- (3) The Releasing Party represents that it has been paid for all materials, equipment or supplies provided at the premises/location and Buildable Unit described above, including the Buildable Unit(s) identified in Attachment A, on or before the Effective Date. Furthermore, the Releasing Party warrants and represents that it has paid all material suppliers, equipment dealers, and/or sub-tier Suppliers for any and all materials, equipment or supplies provided on or before the Effective Date at or in connection with construction or improvement of the premises/location and Buildable Unit described above, including the Buildable Unit(s) identified in Attachment A.
- (4) The Undersigned on behalf of the Releasing Party, does hereby waive and release any liens or claims the Releasing Party may have against ASN Constructors, the Developer, the Authority, Cass County Joint Water Resource District,

the State of North Dakota, and/or the Project, including but not limited to, bond rights, lien rights, and stop notice rights arising from the Releasing Party's provision of any and all materials, equipment or supplies provided on or before the Effective Date at or in connection with construction or improvement of the premises/location and Buildable Unit described above, including the Buildable Unit(s) identified in Attachment A.

- (5) The Undersigned on behalf of the Releasing Party, its officers, directors, agents and employees, both past and present, successors and assigns, hereby releases and discharges ASN Constructors, the Developer, the Authority, Cass County Joint Water Resource District, the State of North Dakota, and/or or the Project in relation to the premises/location and Buildable Unit described above, including the Buildable Unit(s) identified in Attachment A, above, from any and all claims arising from or relating to, debts, damages liens, causes of action, suits, liabilities, controversies, obligations, and demands, whether in law, equity, contract or tort, which the Releasing Party may have arising out of or in connection with the provision, on or before the Effective Date, of any and all materials, equipment or supplies to the premises/location and Buildable Unit described above and the Buildable Unit(s) identified in Attachment A.
- (6) The Releasing Party shall provide a Supplier-Lien Waiver and Release of Lien for Additional Milestone Payment with respect to Buildable Unit Completion when the Buildable Unit in accordance with the Project Agreement when the Buildable Units achieve a Certificate of Interim Completion.

I, THE UNDERSIGNED, AS AUTHORIZED AGENT FOR THE RELEASING PARTY, DO CERTIFY THE FOREGOING TO BE TRUE AND CORRECT STATEMENTS, AND DO SO UNDER RISK OF PENALTY OR PERJURY SHOULD THE FOREGOING NOT BE TRUE AND CORRECT STATEMENTS.

BY (SIGNATURE):

PRINT NAME: |.....|

TITLE: |.....|

DATE: |.....|

STATE OF |.....|)
COUNTY OF |.....|) ss.

This record was acknowledged before me on |.....|, 20|.....|, by |.....|, the
|.....| title), of and on behalf of the entity defined above as the Releasing Party.

Notary Public

Encl: Attachment A – Buildable Units (21 pages)

EXHIBIT I – DEVELOPER CERTIFICATE OF PAY UNIT COMPLETION

**CERTIFICATE OF
RED RIVER VALLEY ALLIANCE, LLC
(the “Developer”)**

TO: Metro Flood Diversion Authority (the “**Authority**”)

RE: Project Agreement, dated as of August 19, 2021, between the Authority and the Developer with respect to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project - Diversion Channel and Associated Infrastructure (the “**Project Agreement**”) and ICE Advance Agreement, dated as of [●], (the “**ICE Advance Agreement**”)

AND RE: Advanced Payment of ICExx-xxxxxxx – Pay Unit xx

DATED: xxxx xx, 2025

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Project Agreement.

The undersigned, being authorized signatories of the Developer and, as such, being familiar with the Developer’s affairs and records and being duly authorized by the Developer to deliver this certificate, hereby certify for and on behalf of the Developer and without incurring personal liability, that:

The Construction Work excluding Punch List items with respect to Pay Unit xx, is reasonably expected to be completed in accordance with PSSU Month Year (based upon PBS3-R2) within one hundred twenty (120) days of the submission of the sixty day notice of the corresponding Interim Completion Element.

[signature page follows]

RED RIVER VALLEY ALLIANCE, LLC

Name:

Title:

Name:

Title:

Member _____ introduced the following resolution and moved its adoption:

**METRO FLOOD DIVERSION AUTHORITY RESOLUTION APPROVING AND
AUTHORIZING EXECUTION OF THE DEFINITIVE SETTLEMENT AGREEMENT
AND THE AMENDED AND RESTATED PROJECT AGREEMENT**

WHEREAS, the Metro Flood Diversion Authority (the “Authority”) and Red River Valley Alliance, LLC, (the “Developer”) previously entered into the Project Agreement, dated August 19, 2021 (as amended from time to time, the “Project Agreement”); and

WHEREAS, in connection with the settlement of all disputes and claims between the Parties, the Parties are anticipating the future execution of certain additional Implementing Agreements, including a Settlement Agreement, an Amended and Restated Project Agreement, an Amended and Restated D&C Contract, a Tolling Agreement, and the ICE Advance Agreement (collectively, the “Additional Agreements”), pursuant to the Binding Statement of Principles dated as of July 3, 2025 (the “Statement of Principles”); and

WHEREAS, the Statement of Principles contemplated the negotiation and execution of amended and restated versions of the Project Agreement, the Technical Requirements (Exhibit 5 to the Project Agreement), and the D&C Contract, in order to incorporate agreed-upon schedule modifications, clarify project delivery expectations, and implement certain terms and mechanisms described in the Statement of Principles; and

WHEREAS, as of the date hereof, the revised Project Schedule has been formally adopted and incorporated into the Amended and Restated Project Agreement and the Amended and Restated D&C Contract, and the Parties have fulfilled their obligations under the Statement of Principles to negotiate, finalize, and execute the Implementing Agreements; and

WHEREAS, the Parties now desire to enter into the Definitive Settlement Agreement as contemplated in the Statement of Principles, to expand upon the terms of the Statement of Principles.

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

1. The Diversion Authority Board hereby approves the DEFINITIVE SETTLEMENT AGREEMENT as presented at this meeting and which is attached hereto as **Exhibit A**.
2. The Diversion Authority Board hereby authorizes its Executive Director and Chair to execute the DEFINITIVE SETTLEMENT AGREEMENT.
3. The Diversion Authority Board hereby approves the AMENDED AND RESTATED PROJECT AGREEMENT as presented at this meeting and which is attached hereto as **Exhibit B**.
4. The Diversion Authority Board hereby authorizes its Executive Director and Chair to execute the AMENDED AND RESTATED PROJECT AGREEMENT.
5. This Resolution shall take effect immediately upon adoption.

Adopted: December 18, 2025

METRO FLOOD DIVERSION
AUTHORITY

Tony Grindberg, Chair

ATTEST:

Dawn Lindblom, Secretary

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

The following were absent and not voting: _____. The following voted against the same: none. A majority of the Members having voted aye, the resolution was declared duly passed and adopted.

EXHIBIT A

EXHIBIT B

DEFINITIVE SETTLEMENT AGREEMENT

By and Among

METRO FLOOD DIVERSION AUTHORITY

and

RED RIVER VALLEY ALLIANCE, LLC

and

ASN CONSTRUCTORS

Dated as of December 18, 2025

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DEFINITIVE SETTLEMENT AGREEMENT

THIS DEFINITIVE SETTLEMENT AGREEMENT (the “Settlement Agreement”) is made and entered into this 18th day of December, 2025 (the “Effective Date”), by and among the Metro Flood Diversion Authority (the “Authority”), Red River Valley Alliance, LLC (the “Developer”), and ASN Constructors, an unincorporated joint venture consisting of Acciona Construction USA Corp., NACG North Dakota, Inc., and Shikun & Binui - America Inc., (the “D&C Contractor”), (collectively the “Parties”). The Authority and the Developer entered into the Project Agreement for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project – Diversion Channel and Associated Infrastructure, dated August 19, 2021 (the “Project Agreement”). The Developer and the D&C Contractor entered into the Design and Construction Contract for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project – Diversion Channel and Associated Infrastructure, dated August 19, 2021 (the “D&C Contract”). The Authority, the Developer, and the D&C Contractor are herein each referred to as a “Party” and collectively referred to as the “Parties.” Nothing in the Project Agreement creates any contractual relationship between the Authority and any contractor, including the D&C Contractor. This Settlement Agreement does not create a contractual relationship between or among the Parties, except for the limited agreement expressly set forth herein. Except as provided in this Settlement Agreement, the Developer and the D&C Contractor agree that this Settlement Agreement does not impose any obligation or other liability upon any Authority-Related Entity, including its Member Entities, to any contractor, including the D&C Contractor, or any of its employees.

RECITALS

WHEREAS, the Parties have conducted extensive negotiations to resolve all claims, disputes, and other matters between the Authority and the Developer arising under the Project Agreement and between the Developer and D&C Contractor under the D&C Contract and in connection with the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the “Project”), including those identified or asserted by the Parties through July 3, 2025;

WHEREAS, on July 3, 2025, the Parties entered into a binding and enforceable Binding Statement of Principles (the “Statement of Principles”), which set forth the framework for a global settlement of such claims, disputes, and other matters, and further provided for the establishment of executive and project-level coordination teams, the implementation of tolling and dismissal mechanisms, the advancement of Interim Completion Element funding, the creation of a risk sharing mechanism, and commitments to enhanced partnering and future dispute avoidance;

WHEREAS, the Statement of Principles contemplated the negotiation and execution of amended and restated versions of the Project Agreement, the Technical Requirements (Exhibit 5 to the Project Agreement), and the D&C Contract, in order to incorporate agreed-upon schedule modifications, clarify project delivery expectations, and implement certain terms and mechanisms described in the Statement of Principles;

WHEREAS, on November 14, 2025, the Lenders provided the consents required under Exhibit C to the Statement of Principles, including with respect to the amendment and restatement of the D&C Contract, and the amendment and restatement of the Project Agreement and Technical Requirements;

WHEREAS, on December 19, 2025, the Authority and the Developer plan to execute the Amended and Restated Project Agreement, including an amended and restated version of the Technical Requirements;

WHEREAS, on December 19, 2025, the Developer and the D&C Contractor plan to execute the Amended and Restated D&C Contract including an amended and restated version of the Technical Requirements;

WHEREAS, as of the date hereof, the revised Project Schedule has been formally adopted and incorporated into the Amended and Restated Project Agreement and the Amended and Restated D&C Contract, and the Parties have fulfilled their obligations under the Statement of Principles to negotiate, finalize, and execute the Implementing Agreements;

WHEREAS, the Parties now desire to enter into this Settlement Agreement as contemplated in the Statement of Principles, to expand upon the terms of the Statement of Principles;

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

ARTICLE I. DEFINITIONS AND INTERPRETATION

Section 1.01 DEFINITIONS. All capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Project Agreement, this Settlement Agreement, or as defined in this Article I (Definitions and Interpretation), unless a different meaning clearly applies from the context.

“AAB” means the Authority Administrative Building to be constructed by the D&C Contractor in accordance with the Project Agreement and ACR025-2025.

“ACR025-2025” means Authority Change Request No. 025-2025, as referenced in Exhibit D to the Statement of Principles, clarifying the requirements for the Authority Administrative Building.

“Action” means any claim, Compensation Event, Relief Event, demand, suit, litigation, proceeding, arbitration, or any other legal or administrative process or proceeding, whether civil, criminal, judicial, quasi-judicial, or administrative, and whether at law or in equity, commenced or threatened, relating to the subject matter of this Settlement Agreement or the Statement of Principles and in which any Party is or may be involved, including matters involving set-offs, Compensation Events, or disputes before any court, tribunal, or regulatory body.

“Amended & Restated Agreements” means, collectively, the Amended and Restated Project Agreement, Technical Requirements, and the Amended and Restated D&C Contract.

“Amended & Restated D&C Contract” means the amended and restated D&C Contract entered into between the Developer and the D&C Contractor, which was subject to Lender Consent in accordance with the Finance Documents.

“Amended & Restated Project Agreement” means the amended and restated Project Agreement entered into between the Authority and the Developer, a copy of which is attached hereto as **Exhibit A**, and which was subject to Lender Consent in accordance with the Statement of Principles and Finance Documents.

“Authority” means the Metro Flood Diversion Authority, a permanent and perpetual North Dakota political subdivision created by the Joint Powers Agreement dated June 1, 2016.

“BNSF Bridges” shall mean the following structures: BU X73 - BNSF Hillsboro crossing, BU X83 - BNSF Prosper crossing and BU X93 - BNSF K.O. crossing.

“Certificate of Accuracy Regarding the Revised Schedule” means the certificate in the form attached as Exhibit E to the Statement of Principles, duly completed and notarized by the Developer and the D&C Contractor in connection with submission of the Revised Construction Schedule.

“Court of Competent Jurisdiction” means any state or federal court located in the State of North Dakota having subject matter jurisdiction over the dispute.

“Developer” means Red River Valley Alliance LLC, a Delaware limited liability company, together with its permitted successors and assigns, in its capacity as the private development entity under the Project Agreement.

“Effective Date” means December 18, 2025.

“Governing Body” means the body that performs the legislative and governmental functions of a political subdivision, including, but not limited to, a board, council, or commission.

“ICE Advance Agreement” means the ICE Advance Agreement entered into on July 3, 2025, by and between the Authority and the Developer.

“Implementing Agreements” means collectively the ICE Advance Agreement, the Tolling Agreement, this Settlement Agreement, and the Amended and Restated Agreements.

“Lender Consent” means the consent required from the Developer’s lenders prior to (i) the Authority and the Developer approving and adopting the Amended and Restated Project Agreement, (ii) the Developer and the D&C Contractor approving and adopting the Amended and Restated D&C Contract, and (iii) the effectiveness of the Revised Construction Schedule and the Credit Days for the Authority provisions in the Statement of Principles and the Amended and Restated Agreements.

“Monthly Performance Report” means the monthly performance report required under the Project Agreement, in the format accepted by the Authority in Monthly Performance Report No. 45 for June 2025, submitted under Aconex Transmittal Number RRVA_LL-TRN-013084 and enclosing file RRVA-AD-RPT-00048-01_M Perf Report-Jun25.

“Objected NCPs” means the 5,835 Noncompliance Points objected to by the Developer and not assessed by the Authority, as set forth in **Schedule D** (Objected Noncompliance Points) to this Settlement Agreement.

“Other Resolved Matters” means the matters set forth in **Schedule B** of this Settlement Agreement.

“Partnering Facilitator” means the qualified and competent third-party facilitator mutually selected by the Parties pursuant to Section 10.01 of this Settlement Agreement.

“Partnering Framework” means the collaborative process contemplated in Section 8 of the Statement of Principles and implemented pursuant to Section 10.01 of this Settlement Agreement.

“Potential Third Party Claims” means the utility relocation worker injury which occurred on or about November 13, 2024, and any claims and/or actions that the U.S. Environmental Protection Agency may have or raise regarding the Developer’s and/or the D&C Contractor’s compliance with Exhibit 31 of the Project Agreement.

“Principals Team” means the senior-level staff representatives of the Parties identified in Section 9.01 of this Settlement Agreement.

“Project Final Completion” has the meaning given in the Project Agreement.

“Referred DRB Matters” means any disputes, claims, Compensation Events, Relief Events, Change Requests, Directive Letters, or similar contested matters that have been or may be referred to the TDRB or FDRB pursuant to Section 54.4 of the Project Agreement following the Statement of Principles Effective Date and prior to the Settlement Date.

“Released Claims” means all of the claims, disputes, Compensation Events, Relief Events, Change Requests, Directive Letters, and Commercial Claims set forth in **Schedule A**.

“Revised Construction Schedule” means the proposed PBS, referred to as PBS-3R2, with a data date of May 1, 2025, submitted by the Developer July 3, 2025, accompanied by a completed and notarized copy of the Certificate of Accuracy Regarding the Revised Schedule set forth in Exhibit E to the Statement of Principles, formally accepted by the Authority as of the Statement of Principles Effective Date.

“Risk Sharing Dispute” means any material disagreement between the Developer and the Authority relating to the interpretation, application, or implementation of the Project Agreement, D&C Contract, a Compensation Event, Relief Event, Directive Letter, Change Request, or any other matter concerning the design, construction, or performance of the Project, which the Developer elects to refer to the Principals Team under Article VI of this Settlement Agreement.

“Risk Sharing Fund” means the fund contemplated in Article VI of this Settlement Agreement.

“Risk Sharing Mechanism” means the alternative dispute resolution process set forth in Article VI of this Settlement Agreement.

“Risk Sharing Notice” means the written notice delivered by the Developer to the Authority pursuant to Section 6.02 of this Settlement Agreement, stating the general nature of a Risk Sharing Dispute and the Developer’s intent to refer the matter to the Principals Team for resolution under the Risk Sharing Mechanism.

“Settlement Agreement” means this Definitive Settlement Agreement as set forth in the recitals.

“Settlement Amount” means the amount described in Section 4.01 of this Settlement Agreement.

“Settlement Date” means the date this Settlement Agreement is executed by all Parties.

“SOP” means the Statement of Principles.

“Statement of Principles” means the Binding Statement of Principles entered into by and among the Parties on July 3, 2025.

“Statement of Principles Effective Date” means July 3, 2025.

“TDRB” means the Technical Dispute Review Board.

“Tolling Agreement” means the Tolling Agreement entered into by the Parties on July 3, 2025.

“Tolling Period” shall have the same meaning as given to it in the Tolling Agreement.

“Tolled Claims” shall have the same meaning as given to it in the Tolling Agreement.

Section 1.02 INTERPRETATION.

(a) The headings of articles and sections are provided for convenience of reference only and will not affect the construction, meaning, or interpretation of this Settlement Agreement. Any and all exhibits and schedules to this Settlement Agreement are hereby incorporated by reference. The definition of terms herein shall apply equally to the singular and plural forms of the defined terms.

(b) This Settlement Agreement is not to be interpreted or construed against the interests of a Party merely because that Party proposed this Settlement Agreement or some provision of it or because that Party relies on a provision of this Settlement Agreement to protect itself. The Parties acknowledge and agree that this Settlement Agreement has been prepared jointly by the Parties and has been the subject of arm’s length and careful negotiation, that each Party has been given the opportunity to independently review this Settlement Agreement with legal counsel, and that each Party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions of this Settlement Agreement. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Settlement Agreement, this Settlement Agreement will not be interpreted or construed against the Party preparing it simply as a consequence of preparing it.

Section 1.03 INCORPORATION BY REFERENCE. The Amended and Restated Project Agreement, the Statement of Principles (including all exhibits and schedules thereto), and the Tolling Agreement are hereby incorporated into and made a part of this Settlement Agreement by reference as if fully set forth herein, except to the extent expressly amended, superseded, or modified by this Settlement Agreement. In the event of any conflict between the terms of this

Settlement Agreement and any of the foregoing documents incorporated, the terms of this Settlement Agreement shall control solely with respect to the subject matter herein.

ARTICLE II. EFFECTIVENESS AND CONDITIONS

Section 2.01 EFFECTIVE UPON EXECUTION. This Settlement Agreement shall become effective upon execution by all Parties. The Parties acknowledge that all preconditions to the finalization of the settlement and termination of the Statement of Principles, as contemplated in Section 1 (Statement of Principles Effective Date; Sequence and Execution) and Section 3 (Definitions) of the Statement of Principles have been satisfied, including:

- (a) execution of the Amended and Restated Project Agreement;
- (b) execution of the Amended and Restated D&C Contract; and
- (c) receipt of all required Lender Consents pursuant to Exhibit C (Elements of Agreements Requiring Lender Consent) to the Statement of Principles.

Accordingly, this Settlement Agreement constitutes the final Implementing Agreement contemplated by Section 4 of the Statement of Principles, and the Statement of Principles shall terminate upon the execution of this Settlement Agreement. Notwithstanding the foregoing, the Parties acknowledge and agree that certain terms, conditions, or obligations set forth in the Statement of Principles may be referenced herein for purposes of context or clarification, without such reference giving rise to, or reinstating, any obligation under the Statement of Principles.

Section 2.02 AMENDED AND RESTATED PROJECT AGREEMENT, AND SCHEDULE. The Parties acknowledge and agree that the Amended and Restated Project Agreement, attached as **Exhibit A** to this Settlement Agreement, has been executed by the Authority and the Developer and supersedes any conflicting language in the prior Project Agreement and Technical Requirements. Additionally, all Authority Change Requests (“ACRs”) and Developer Change Requests (“DCRs”) included in Schedule A have been incorporated by reference into the Amended and Restated Project Agreement and shall have the same superseding effect mentioned above. The Parties further acknowledge that the Revised Construction Schedule (PBS-3R2), with a data date of May 1, 2025, submitted by the Developer on July 3, 2025, and accompanied by a completed and notarized copy of the Certificate of Accuracy Regarding the Revised Schedule, as set forth in Exhibit E to the Statement of Principles, was formally accepted by the Authority as of the Statement of Principles Effective Date.

ARTICLE III. MUTUAL RELEASES AND DISMISSAL OF CLAIMS

Section 3.01 MUTUAL RELEASES.

(a) By the Authority. Upon the Statement of Principles Effective Date, the Authority agreed for itself, its Board of Authority, Member Entities, officers, assigns, employees, agents, predecessors, heirs, executors, and administrators, successors, subsidiary entities, former entities, attorneys, and any others claiming under or through them, both past and present, to release and forever discharge the other Parties, and each of the other Parties’ Boards of Directors, Member

Entities, officers, shareholders, assigns, employees, agents, predecessors, successors, heirs, executors, and administrators, subsidiary entities, former entities, attorneys, and all others acting by, through, under, or in concert with the other, and each of them, from any and all manner of action or actions, cause or causes of action, in law or in equity, suits, debts, liens, contracts (express, implied in fact, or implied by law), agreements, promises, liabilities, claims, set offs, rights, and claims for indemnity and/or contribution, refunds, overpayments, demands, damages, losses, costs, or expenses, of any nature whatsoever, which each now has or may hereafter have by reason of any of the Released Claims described in **Schedule A** from the beginning of time, including, without limiting the generality of the foregoing, any matters, claims, Actions and/or Disputes that have or might have or should have been in any way raised, by complaint, cross-complaint, dispute resolution under the procedures set forth in Article 54 of the Project Agreement, or otherwise, in each case, existing on or which after reasonable due diligence should have been known by an experienced owner, commercial construction manager, project manager, or developer between the Authority and the Developer or the Authority and the D&C Contractor as of the Statement of Principles Effective Date. Notwithstanding the foregoing, or any other provisions of this Settlement Agreement, this Settlement Agreement shall not affect, discharge, or release any claims, known or unknown, which arise under this Settlement Agreement, whether presently existing or subsequently accruing, with respect to any claim or dispute that is not a Released Claim as set forth in **Schedule A**. Except as set out in this Section 3.01 (Mutual Releases), this Settlement Agreement shall not affect, discharge, or release, the Potential Third Party Claims, and any claims that arise from or relate to the rights or obligations of the Parties under the Project Agreement or the D&C Contract occurring after the Statement of Principles Effective Date or the Settlement Date, whichever date occurs last.

(b) By the Developer and D&C Contractor. Upon the Statement of Principles Effective Date, the Developer and the D&C Contractor agreed for themselves, their respective Boards of Directors, Member Entities, officers, shareholders, assigns, employees, agents, predecessors, heirs, executors, and administrators, successors, subsidiary entities, former entities, attorneys, and any others claiming under or through them, both past and present, to release and forever discharge the Authority, and its Board of Authority, its Member Entities, officers, assigns, employees, agents, predecessors, successors, heirs, executors, and administrators, subsidiary entities, former entities, attorneys, and all others acting by, through, under, or in concert with the other, and each of them, from any and all manner of action or actions, cause or causes of action, in law or in equity, suits, debts, liens, contracts (express, implied in fact, or implied by law), agreements, promises, liabilities, claims, set offs, rights, and claims for indemnity and/or contribution, refunds, overpayments, demands, damages, losses, costs, or expenses, of any nature whatsoever, which each now has or may hereafter have by reason of any of the Released Claims described in **Schedule A** from the beginning of time, including, without limiting the generality of the foregoing, any matters, claims, Actions and/or Disputes that have or might have or should have been in any way raised, by complaint, cross-complaint, dispute resolution under the procedures set forth in Article 54 of the Project Agreement, or otherwise, in each case, existing on or which after reasonable due diligence should have been known by an experienced owner, commercial construction manager, project manager, or developer between the Authority and the Developer or the Authority and the D&C Contractor as of the Statement of Principles Effective Date. Notwithstanding the foregoing, or any other provisions of this Settlement Agreement, this Settlement Agreement shall not affect, discharge, or release any claims, known or unknown, which arise under this Settlement Agreement, whether presently existing or subsequently accruing, with respect to any claim or dispute that is not a Released Claim as set forth in **Schedule A**. Except as

set out in this Section 3.01 (Mutual Releases and Dismissal), this Settlement Agreement shall not affect, discharge, or release, the Potential Third Party Claims, and any claims that arise from or relate to the rights or obligations of the Parties under the Project Agreement or the D&C Contract occurring after the Statement of Principles Effective Date or the Settlement Date, whichever date occurs last.

Section 3.02 WITHDRAWAL OF MATTERS SUBMITTED TO THE TDRB. On July 14, 2025, the Authority and the Developer jointly submitted a formal letter, attached hereto as **Exhibit B**, withdrawing with prejudice all Referred DRB Matters submitted to the TDRB prior to the Statement of Principles Effective Date. No Party shall reassert or revive any such Referred DRB Matter in any forum, and any attempt to do so shall be barred as a matter of contract and release

Section 3.03 DISPUTE REVIEW BOARD FORMATION DELAYS. The Parties acknowledge and agree that the formation and initial operations of the TDRB were delayed relative to the timelines contemplated in Section 54 and Exhibit 21 of the Project Agreement, due in part to the recruitment of members for each board and issues related to the issuance of North Dakota Attorney General Opinion 2025-O-02. As of the Settlement Date, the TDRB has been duly formed in accordance with the Project Agreement. The Parties further acknowledge and agree that, as set forth in Section 3.01 (Mutual Releases) of this Settlement Agreement, the Authority and the Developer have waived and released any claims against one another relating to the timing or process of establishing the TDRB or the Financial Dispute Review Board (“FDRB”), in each case to the extent such claims existed as of the Statement of Principles Effective Date. The Parties shall continue to act in Good Faith to cause the FDRB to be fully established and functioning in accordance with the requirements of Section 54 and Exhibit 21 of the Project Agreement.

ARTICLE IV. SETTLEMENT AND PAYMENT TERMS

Section 4.01 SETTLEMENT PAYMENT BY AUTHORITY. In full and final settlement of all Released Claims, as identified in **Schedule A**, and in consideration for all of the other agreements and undertakings of the Developer set forth herein, the Authority has made and shall continue to make installment payments equaling a total of fifty-seven million dollars (\$57,000,000) to the Developer. The installment payments made by the Authority as of the Statement of Principles Effective Date and those installment payments which are pending as of the Settlement Date are as follows:

1. Ten Million Dollars (\$10,000,000), thirty (30) days after the Statement of Principles Effective Date (the “Initial Payment”). The Parties agree and acknowledge that the Authority has made this payment.
2. Ten Million Dollars (\$10,000,000), thirty (30) days after all of the Noncompliance Events set forth in Schedules C and D are formally rectified and closed in accordance with the Project Agreement. The Parties agree and acknowledge that the Authority has made this payment.
3. Seven Million Dollars (\$7,000,000), thirty (30) days after the issuance by the Developer of a Design Certificate and Construction Certificate for Buildable Units S09, and O00 for the Rush River Inlet and the Diversion Outlet Structure.

4. Five Million Dollars (\$5,000,000), thirty (30) days after the issuance by the Developer of a Design Certificate and Construction Certificate for Buildable Units CR1, CR2, CR3, CR4, CM1, CM2, CM3, CM4, CM5, CS1, CS2, CS3, CS4 and CS5 for Local Drainage.
5. Five Million Dollars (\$5,000,000), thirty (30) days after the issuance by the Developer of a Design Certificate and Construction Certificate for Buildable Units A51, A52, and A53 for the Maple River Aqueduct.
6. Five Million Dollars (\$5,000,000), thirty (30) days after the issuance by the Developer of a Design Certificate and Construction Certificate for Buildable Unit A56 for the Sheyenne River Aqueduct.
7. Five Million Dollars (\$5,000,000), thirty (30) days after the issuance by the Developer of a Design Certificate and Construction Certificate for Buildable Units M35, Y35, G35 and R36 for the NDDOT Bridges.
8. Five Million Dollars (\$5,000,000), thirty (30) days after the issuance by the Developer of a Design Certificate and Construction Certificate for Buildable Units X71, X73, X75, X81, X83, X85, X91, X93 and X95 for the BNSF Bridges.
9. Five Million Dollars (\$5,000,000), thirty (30) days after the issuance by the Developer of a Design Certificate and Construction Certificate for Buildable Units M11, G11, Z11, M12, Y12, G12, M13, G13, Z13, R14, R15, R17, R61, R62, and R73 for the Cass County Bridges.

The Parties agree that other than the Initial Payment, the timing of the above-described payments are contingent upon and occur after the applicable activity is completed and the Developer submits an invoice referencing this Settlement Agreement as applicable. Each invoice submitted by the Developer pursuant to this Section 4.01 shall identify the milestone achieved and include reasonable supporting documentation.

Nothing in this Section 4.01 shall limit a Party's rights to enforce this Settlement Agreement, or any other Implementing Agreement, nor shall it bar any claim that is not a Released Claim, nor any claim for which the factual and legal basis arises solely from events occurring after the Statement of Principles Effective Date and that is unrelated to the Released Claims.

ARTICLE V. IMPLEMENTATION OF OTHER RESOLVED MATTERS

Section 5.01 RESOLUTION OF OTHER RESOLVED MATTERS. The Parties acknowledge and agree that the matters described in **Schedule B** to this Settlement Agreement (the "Other Resolved Matters") were the subject of past correspondence, discussions, or proposals between one or more Parties and have been resolved as of the Statement of Principles Effective Date in accordance with Section 24 (Resolution of Other Matters) of the Statement of Principles. The Parties agree to implement the solutions for each matter as set forth in the Action Plan column of **Schedule B**. Each Action Plan reflects the agreed approach by the Developer and the D&C Contractor to achieve the corresponding Outcome described in **Schedule B**. The Principals Team shall be responsible for overseeing the implementation of the Action Plans, addressing any

necessary deviations due to changing project conditions, and ensuring that the final outcomes remain materially consistent with those described in **Schedule B**. Any modification to an Action Plan shall require the unanimous agreement of the Principals Team. A matter listed in **Schedule B** shall be deemed resolved only upon the unanimous determination of the Principals Team. Upon such determination, all related claims held by any Party are deemed released pursuant to Section 3.01 (Mutual Releases) of this Settlement Agreement, and no Party shall assert, raise, or reassert any claim, dispute, or entitlement relating to that matter in any forum. The resolution of the Other Resolved Matters as set forth in this Section and **Schedule B** is final and binding and is intended to promote efficient project delivery and reduce the risk of future disputes.

Section 5.02 AUTHORITY ADMINISTRATIVE BUILDING (AAB). The D&C Contractor shall construct the AAB in accordance with the Project Agreement, as clarified by ACR025-2025. The Authority shall not incur any additional costs, fees, or charges associated with the AAB, except for changes in scope agreed to after the Statement of Principles Effective Date in a properly executed Authority Change Order, Developer Change Order, and/or Directive Letter.

Section 5.03 EPOXY COATED REBAR (ECR). Upon the Statement of Principles Effective Date, any and all Disputes, Compensation Events, and Claims (past, present, and future) regarding the Epoxy Coated Rebar, including the Dispute-related CE 023, were withdrawn and released. The D&C Contractor agrees that prior to the Project Substantial Completion Date, it will apply a Texcote treatment in accordance with the manufacturer's specifications (the "Specifications") to any and all exposed, reinforced concrete surfaces to 1'-0" below finished grade where the concrete does not have epoxy-coated reinforcing steel. After application of the initial coat, the Developer shall monitor the performance of the initial coat and shall apply one (1) additional coat not less than fifteen (15) years after the Project Substantial Completion Date, and one (1) additional coat shall be applied during the Handback Period. However, with regard to BNSF Bridges, the D&C Contractor agrees that prior to the Project Substantial Completion Date, it will apply a Texcote treatment in accordance with the manufacturer's specifications (the "Specifications") to any and all exposed, reinforced concrete surfaces to 1'-0" below finished grade for the BNSF Bridges, however, the D&C Contractor and/or the Developer will not apply any additional Texcote treatment to the BNSF Bridges after the Project Substantial Completion Date.

ARTICLE VI. RISK SHARING FUND

Section 6.01 RISK SHARING FUND OPERATION. The Authority has established a segregated fund in the amount of ten million dollars (\$10,000,000) (the "Risk Sharing Fund"), to be held and administered in accordance with the terms of this Settlement Agreement. The Risk Sharing Fund shall be controlled jointly by the Principals Team and may be used solely for the resolution of Risk Sharing Disputes referred to the Principals Team by the Developer pursuant to the process set forth in this Article VI. No portion of the Risk Sharing Fund shall be used except upon agreement of the Principals Team or as otherwise provided in this Article VI. Any amount remaining in the Risk Sharing Fund on the date the Operating Period commences shall be paid to the Developer upon: (i) issuance of the Project Substantial Completion Certificate under the Project Agreement, and (ii) issuance of an invoice by the Developer. No further action or documentation shall be required to authorize payment of such remaining funds to the Developer.

Section 6.02 RISK SHARING NOTICE AND DISPOSITION. For purposes of invoking the Risk Sharing mechanism, the Developer shall have the sole and exclusive discretion to classify a disagreement, issue, or contested matter with the Authority as a “Risk Sharing Dispute.” A Risk Sharing Dispute may relate to the interpretation or application of the Project Agreement, the D&C Contract, a Compensation Event, Relief Event, Directive Letter, Change Request, or any other matter concerning the design, construction, or performance of the Project. If the Developer elects to pursue the Risk Sharing process, it shall deliver a written notice (a “Risk Sharing Notice”) to the Authority, which shall: (i) describe the Risk Sharing Dispute in general terms; and (ii) confirm the Developer’s intent to refer the matter to the Principals Team for resolution in accordance with this Article VI. The Risk Sharing Mechanism provides an alternative means of resolving disputes and does not limit the Developer’s rights to pursue resolution under Section 54 (Dispute Resolution) of the Project Agreement. However, if a Risk Sharing Dispute is resolved through the Risk Sharing process with the mutual agreement of the Parties via the Principals Team, such resolution shall be final and binding. The Developer shall be barred from asserting any further claims, initiating any Dispute Resolution procedure under Article 54 of the Project Agreement, or pursuing any legal or equitable remedies based on the same underlying facts, contractual grounds, or relief sought.

Section 6.03 PRINCIPALS TEAM AND RISK SHARING MECHANISM. Upon receipt of a Risk Sharing Notice, the Principals Team shall convene a meeting within ten (10) Business Days to confer in Good Faith on the Risk Sharing Dispute. The Principals Team shall endeavor to resolve the matter collaboratively and efficiently and may request additional documentation, analysis, or presentations as necessary. If the Risk Sharing Dispute is not resolved to the mutual satisfaction of the Developer and the Authority within thirty (30) days after delivery of the Risk Sharing Notice, either Party may initiate formal proceedings under the Dispute Resolution procedures set forth in Article 54 of the Project Agreement. If the Risk Sharing Dispute is resolved by the Principals Team, such remedy shall be implemented without use of the Risk Sharing Fund. If the Dispute is resolved through formal dispute resolution procedures and a Party prevails, the prevailing Party shall be paid its award from the Risk Sharing Fund. The Risk Sharing Fund shall be deemed exhausted and of no further effect if its balance is reduced to zero. At that point, the provisions of this Article VI shall no longer be operative. Nothing in this Article shall preclude the Developer from bypassing the Risk Sharing process entirely and initiating formal Dispute Resolution procedures under the Project Agreement, in its sole discretion.

ARTICLE VII. DISPUTE RESOLUTION AND REMEDIES

Section 7.01 GOOD FAITH EFFORTS TO RESOLVE DISPUTES. In the event that any Party alleges a breach of this Settlement Agreement, the alleging Party shall provide written notice describing the alleged breach in reasonable detail to the allegedly breaching Party or Parties. Upon receipt of such notice, the Parties shall engage in a Good Faith effort to meet and confer in a timely manner to resolve the dispute. The allegedly breaching Party shall be afforded not less than twenty (20) Business Days from the date of receipt of the written notice to cure or otherwise address the alleged breach. In the event such efforts are unsuccessful, the Parties shall participate in voluntary mediation before initiating any litigation.

Section 7.02 REMEDIES. The Parties acknowledge and agree that a breach or threatened breach of the covenants, agreements, and obligations under this Settlement Agreement would cause irreparable harm for which damages at law would be an inadequate remedy. In recognition

of such irreparable harm, each Party shall be entitled, subject to and in accordance with the dispute resolution procedures set forth in this Article VII, to seek and obtain injunctive relief against any actual or threatened violation of this Settlement Agreement, in addition to any other remedies or relief available at law or in equity. Such injunctive relief may be granted without the necessity of posting any bond or other security. In any action or proceeding brought to enforce this Settlement Agreement, including to enjoin actual or threatened violations, the prevailing Party shall be entitled to recover from the non-prevailing Party its reasonable attorneys' fees, costs, and expenses incurred in such enforcement, in addition to any actual damages sustained.

Section 7.03 DISPUTE RESOLUTION. Unless otherwise expressly stated in this Settlement Agreement, any dispute arising under or in connection with this Settlement Agreement that is not resolved pursuant to Section 7.01 (Good Faith Efforts to Resolve Disputes), and is not referred to the Risk Sharing Mechanism by the Developer as set forth in Section 6.02 (Risk Sharing Notice and Disposition), shall be resolved in accordance with the formal Dispute Resolution Process provided in Section 54 of the Project Agreement, as amended. All other disputes under this Settlement Agreement, including disputes limited to the interpretation or enforcement of its releases, payment obligations, or other terms, shall be subject to the procedures set forth in Section 7.01 and, if unresolved, may be pursued in any court of competent jurisdiction. For avoidance of doubt, nothing in this Section precludes any Party from seeking emergency or interim injunctive relief where appropriate under Section 7.02.

ARTICLE VIII.

NONCOMPLIANCE EVENTS AND RECTIFICATION

Section 8.01 TREATMENT OF NONCOMPLIANCE EVENTS. As reflected in **Schedule C** (Authority Assessed NCPs) and **Schedule D** (Objected NCPs) to this Settlement Agreement:

(a) The Parties acknowledge and agree that, as of the Statement of Principles Effective Date, the total number of Noncompliance Points assessed by the Authority under Section 22.4 of the Project Agreement and objected to by the Developer (the "Authority Assessed NCPs") was 482. These Authority Assessed NCPs have been cured or otherwise resolved by the Developer and shall remain recorded as 482 Noncompliance Points. However, the Authority Assessed NCPs shall not be taken into account for: (i) calculating the Noncompliance Increased Monitoring Trigger (Project Agreement Section 22.7); (ii) triggering a Noncompliance Developer Default (Project Agreement Section 22.8); (iii) determining Deductions under Section 22.9 of the Project Agreement or Exhibits 14 or 15 thereto.

(b) The Parties further acknowledge and agree that the total number Objected NCPs was 5,835. Of these, 110 Noncompliance Points (the "Assessed Noncompliance Points") shall be assessed against the Developer. However, the Objected NCPs and the Assessed Noncompliance Points shall not be taken into account for: (i) calculating the Noncompliance Increased Monitoring Trigger (Project Agreement Section 22.7); (ii) triggering a Noncompliance Developer Default (Project Agreement Section 22.8); (iii) determining Deductions under Section 22.9 of the Project Agreement or Exhibits 14 or 15 thereto; or any other purpose.

(c) The Developer irrevocably waives and releases any right to challenge or dispute the validity of the Authority Assessed NCPs or the Assessed Noncompliance Points and agrees not to initiate any Action, Compensation Event Claim, or Relief Event Claim arising from or relating to such items.

Section 8.02 NONCONFORMANCE RECTIFICATION PROCESS. As set forth in **Schedule E** (Process to Rectify Noncompliance Events) of this Settlement Agreement, the Developer and the D&C Contractor shall implement the Proposed Corrections, if any, to the Noncompliance Events. These Proposed Corrections shall be executed in accordance with the Project Agreement, and the Authority shall be deemed to have provided “no comment” to such Proposed Corrections to enable the Developer to proceed with timely rectification of the relevant Nonconformances consistent with the Project Agreement. The Authority expressly reserves the right to assess Noncompliance Points and issue Noncompliance Reports for any Noncompliance Events arising after the Statement of Principles Effective Date, subject to applicable cure periods, procedures, and Good Faith obligations under the Project Agreement. Nothing in this Article shall impair or limit that right. The Developer agrees to cooperate in Good Faith with the Authority to resolve any future Noncompliance Events consistent with the Project Agreement and the dispute resolution and partnering framework set forth in this Settlement Agreement.

Section 8.03 MONTHLY PERFORMANCE REPORTS. As reflected in **Schedule F** (Historical NCP Baseline) of this Settlement Agreement, the Parties agree as follows: (i) the Authority shall be deemed to have provided “no comment” to all Monthly Performance Reports submitted by the Developer prior to the Statement of Principles Effective Date; (ii) the Historical NCP Baseline is attached hereto as **Schedule F**, and (iii) the Parties further agree that Monthly Performance Report No. 45 for June 2025, submitted under Aconex Transmittal Number RRVA_LL-TRN-013084 and enclosing file RRVA-AD-RPT-00048-01_M Perf Report-Jun25, is accepted as the format for future Monthly Performance Reports. Future reports shall be submitted in this agreed format and reviewed in accordance with the Project Agreement.

Section 8.04 FINALITY AND RESERVATION OF RIGHTS. The Parties agree that resolution of the Noncompliance Points described in this Article VIII, including the waiver and irrevocable acceptance by the Developer of the Authority Assessed NCPs and Section 8.01(a), shall not be deemed an admission of fault or liability by any Party. This Article VIII and the associated Schedules do not impair, waive, or limit: (i) the Authority’s ability to enforce future performance obligations under the Project Agreement; or (ii) the Developer’s and D&C Contractor’s rights under the Project Agreement with respect to future Noncompliance Events. The Parties reaffirm that all Noncompliance obligations and rights arising after the Statement of Principles Effective Date shall be governed solely by the Project Agreement, as amended, and the schedules referenced in this Settlement Agreement.

ARTICLE IX. PRINCIPALS TEAM AND COMPLETION TEAMS

Section 9.01 PRINCIPALS TEAM. The Parties reaffirm the continuation of the Principals Team, originally established pursuant to Section 6 of the Statement of Principles, as a high-level executive forum to facilitate collaborative resolution of project-wide issues, promote partnering, and provide coordinated oversight of settlement implementation. The Principals Team shall consist of:

- (a) **For the Authority:**
 - (i) Its Executive Director
 - (ii) Its General Counsel
 - (iii) Its Deputy Executive Director

(b) For the Developer and D&C Contractor

- (i) Julio G. Ruiz Cabrero – D&C Contractor Representative
- (ii) Lucas Lahitou – Developer Representative
- (iii) Greg Johnson – Legal Counsel, D&C Contractor

The Principals Team shall meet regularly from the Effective Date through Project Final Completion. Special meetings may be convened by any Party upon five (5) Business Days’ written notice. Meetings may occur in-person, by videoconference, or through any mutually agreed format. Each Party agrees to participate in Good Faith and with the objective of collaboratively resolving project-level matters. The Principals Team shall oversee: (i) implementation of the Other Resolved Matters set forth in **Schedule B** and, pursuant to Section 5.01 (Resolution of Other Resolved Matters), make the unanimous determination of when any such matter is deemed resolved; (ii) the execution and ongoing oversight of the Risk Sharing Mechanism pursuant to Section 7 of this Settlement Agreement; (iii) the coordination and review of amendments to the Technical Requirements contemplated in Schedule E to the Statement of Principles, including Sections 2.2.6.1(6) and 2.5.1.3(4); and (iv) evaluation and recommendation of any future amendments to streamline Interim Completion processes and other coordination obligations. The Principals Team shall have no independent authority delegated by the Governing Body of the Authority and is acknowledged to be a staff-based coordination forum exempt from the North Dakota Open Meetings Law.

Section 9.02 INTERIM COMPLETION AND PUNCH-LIST RESOLUTION TEAM. The Parties reaffirm the continuation of the Interim Completion and Punch List Resolution Team (the “Interim Team”) in accordance with Section 7(a) of the Statement of Principles to facilitate coordination related to Interim Completion Conditions under the Project Agreement and the ICE Advance Agreement. The Interim Team shall consist of four (4) members:

(a) Authority Representatives:

- (i) Andrew Dobson
- (ii) Tom Fuchs – Senior Construction Manager

(b) Developer Representative:

- (i) Luke Chenery – Chief Executive Officer

(c) D&C Contractor Representative:

- (i) Pablo Fernandez Rodero – Deputy Project Manager

The Interim Team started meeting biweekly from the Statement of Principles Effective Date and will continue until Project Substantial Completion. Its responsibilities include: (i) coordinating and confirming rectification of Punch List items in accordance with the Project Agreement; (ii) facilitating dispute mitigation relating to unresolved items; (iii) addressing time-sensitive delivery matters related to Interim Completion Elements; (iv) discussing the agenda items identified in Schedule H of the Statement of Principles, including temporary arrangements, operational contingencies, and submittal process challenges under the ICE Advance Agreement; and (v) any additional items deemed necessary in relation to each Interim Completion Element.

Section 9.03 SUBSTANTIAL COMPLETION TEAM. The Parties reaffirm the continuation of the Substantial Completion Team to coordinate and monitor all activities necessary to achieve Project Substantial Completion. The Substantial Completion Team shall consist of four (4) members:

(a) **Authority Representatives:**

- (i) Andrew Dobson
- (ii) Kris Bakkegard – Director of Engineering

(b) **Developer Representative:**

- (i) Luke Chenery – Chief Executive Officer

(c) **D&C Contractor Representative:**

- (i) Pablo Fernandez Rodero – Deputy Project Manager

The Substantial Completion Team shall: (i) continue to meet monthly from the Effective Date, increasing to biweekly six months prior to the Scheduled Project Substantial Completion Date; (ii) oversee coordination of Substantial Completion Conditions and associated performance metrics under the Project Agreement; (iii) address project integration challenges in a collaborative and timely manner; and (iv) promote interparty transparency and rapid problem-solving during the final phase of construction.

ARTICLE X. PARTNERING

Section 10.01 PARTNERING FRAMEWORK AND COLLABORATIVE COMMITMENTS. The Parties reaffirm their shared commitment to a culture of Good Faith collaboration, transparency, and open communication throughout the implementation of this Settlement Agreement. The Parties have agreed to mutually select a competent and qualified facilitator to guide the partnering process. The Parties shall, within ten (10) Business Days of the Effective Date, mutually agree upon and appoint a qualified and competent facilitator to guide the partnering process. The partnering process is intended to foster a more effective communication structure among the staff, consultants, and representatives of the Parties. To that end, the Parties agree to: (i) convene an initial partnering session promptly following the Settlement Date, with participation from appropriate representatives of all Parties; (ii) establish communication structures to encourage early identification and cooperative resolution of potential disputes or issues; and (iii) support and reinforce the efforts of the Principals Team, Interim Team, and Substantial Completion Team to promote efficient, dispute-minimized project delivery aligned with the objectives of this Settlement Agreement and the Project Agreement.

ARTICLE XI. REPRESENTATIONS, WARRANTIES, AND CERTIFICATIONS

Section 11.01 REPRESENTATIONS, WARRANTIES, AND CERTIFICATIONS OF THE PARTIES. Each Party represents and warrants, as of the Settlement Date, as follows:

(a) Such Party has full power and authority to execute and deliver this Settlement Agreement and to perform its obligations hereunder. All requisite actions, authorizations, or approvals of its governing body or organizational leadership necessary for such execution and performance have been duly taken;

(b) This Settlement Agreement constitutes a valid and binding obligation of such Party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, and similar laws affecting creditors' rights generally and to general principles of equity; and

(c) The execution, delivery, and performance of this Settlement Agreement by such Party does not and will not:

- (i) violate any applicable law or regulation, or
- (ii) conflict with or result in a breach of any material agreement or instrument to which such Party is bound, including, as applicable, the Project Agreement or the D&C Contract.

(d) Such Party reaffirms the validity of the representations, warranties, and certifications made in Sections 5 (Parties Warranties and Representations) and 23 (Certification of No Withheld Claims) of the Statement of Principles as of the Statement of Principles Effective Date and acknowledges that such representations were material inducements for the other Parties' execution of this Settlement Agreement.

Section 11.02 BARRED CLAIMS. The Parties acknowledge that each Party represented, warranted, certified, and/or acknowledged the following as of the Statement of Principles Effective Date:

(a) The Parties represented and warranted that:

- (i) There were no known pending Actions, claims, disputes, demands, or defenses, whether or not formally asserted, between or among the Authority, the Developer, and the D&C Contractor other than those identified and resolved in the Statement of Principles, including those listed in **Schedule A** (Released Claims); and
- (ii) Following reasonable due diligence, there existed no known basis for any additional claims, Compensation Events, defenses to performance, or other disputes which should have been known by an experienced owner, construction manager, or contractor acting with reasonable diligence under the circumstances.

(b) Each Party also:

- (i) Represented, warranted, and certified that they had not withheld or failed to disclose, and would not knowingly withhold or fail to disclose, any claim, demand, cause of action, or basis for relief that it possessed or believed it might possess against another Party, to the extent such claim arose from, was related to, or could have been asserted under, the Project Agreement, the D&C

Contract, or any act, omission, event, or circumstance occurring before the Statement of Principles Effective Date;

- (ii) Further represented and warranted that it had conducted a full and complete due diligence review of its records, personnel, and leadership in Good Faith and with the intent to identify and resolve all outstanding matters prior to the Statement of Principles Effective Date; and
- (iii) Expressly acknowledged that these representations, warranties, and certifications were a material inducement for the execution of the Statement of Principles and this Settlement Agreement.

Accordingly, any claim or dispute for which the legal or factual basis arose prior to the Statement of Principles Effective Date, and which was not specifically preserved in the Statement of Principles, whether or not listed in **Schedule A** or otherwise referenced herein, is hereby deemed fully released and is barred. No such claim may be asserted in any forum, whether before a tribunal, court of law or equity, arbitration panel, or through any dispute resolution process under this Settlement Agreement or the Project Agreement.

For clarity, and consistent with Section 4.01 of this Settlement Agreement, this bar shall not apply to claims that arise solely from facts or events occurring after the Statement of Principles Effective Date and are unrelated to the Released Claims.

Section 11.03 NO ADMISSION OF LIABILITY. This Settlement Agreement is the product of a compromise and settlement among the Parties and shall not be construed as, nor deemed to be, an admission of liability, wrongdoing, or responsibility by any Party with respect to any claim, dispute, cause of action, or matter referenced in the Statement of Principles or this Settlement Agreement, including but not limited to the Released Claims and Other Resolved Matters. Except as provided by Federal Rule of Evidence 408 and North Dakota Rule of Evidence 408, neither this Settlement Agreement nor the Statement of Principles, nor any of the negotiations, drafts, discussions, or conduct related thereto, shall be admissible as evidence.

Section 11.04 TOLLING OF CLAIMS. The Parties acknowledge and agree that, as set forth in Sections 1(b), 3, and 21 of the Statement of Principles and in Section 3 (Effective Date and Term) of the Tolling Agreement, and as further described in Section 2.02 the Settlement Date, constitutes the SOP Termination Date and therefore terminates the Tolling Period and the Tolling Agreement in accordance with the definitions and provisions set forth in those instruments. The Tolling Agreement tolled the assertion, prosecution, or referral of any Tolloed Claims, defined in the Tolling Agreement to include: (a) all claims, Compensation Events, Relief Events, Directive Letters, Change Requests, and disputes arising as of the Statement of Principles Effective Date; and (b) all such claims arising during the Tolling Period.

(a) As of the Settlement Date, all Tolloed Claims identified for dismissal in Statement of Principles and **Schedule A**, shall be dismissed with prejudice pursuant to Section 3.01.

(b) All Tolloed Claims for which the factual or legal basis arose after the Statement of Principles Effective Date and were subject to tolling under the Tolling Agreement shall no longer be tolled following the Settlement Date. Nothing in this Section shall preclude such claims from

being resolved through this Settlement Agreement by mutual agreement, consistent with Section 4.01 hereof.

(c) Any Tolloed Claim for which the factual or legal basis arose prior to the Statement of Principles Effective Date and which was not expressly preserved in the Statement of Principles shall be deemed released and barred in accordance with Section 11.02 (Barred Claims) of this Settlement Agreement, notwithstanding that such claim was tolled under the Tolling Agreement.

For clarity, this Section 11.04 confirms that the Tolling Period provided under the Statement of Principles and the Tolling Agreement has now concluded and clarifies the final disposition of all categories of Tolloed Claims under this Settlement Agreement. Nothing in this Settlement Agreement shall revive any claim or defense that was released pursuant to the Statement of Principles or this Settlement Agreement or alter the finality of the dismissal of any Referred DRB Matter.

ARTICLE XII. GENERAL PROVISIONS

Section 12.01 CHOICE OF LAW. This Settlement Agreement shall be construed and enforced in accordance with the substantive laws of the State of North Dakota, and such law shall apply to all disputes, interpretations, and enforcement proceedings arising under this Settlement Agreement or the Implementing Agreements, unless otherwise expressly provided herein.

Section 12.02 VENUE. The Parties designate the District Court of the State of North Dakota in Cass County (within the East Central Judicial District) as the proper and exclusive venue for any dispute, suit, action, or proceeding directly arising out of or relating to this Settlement Agreement or any Implementing Agreement.

Section 12.03 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 SETTLEMENT AGREEMENT, OR ARISING OUT OF, UNDER OR IN ANY CONNECTION WITH THIS SETTLEMENT 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 SETTLEMENT AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ALL PARTIES ENTERING INTO THIS SETTLEMENT AGREEMENT. THIS PROVISION APPLIES ONLY TO SUITS BETWEEN THE PARTIES ARISING OUT OF OR RELATED TO THIS SETTLEMENT 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.

Section 12.04 ACKNOWLEDGMENT. Each of the Parties affirms and acknowledges that it has fully read, appreciates, and understands the words, terms, conditions, and provisions of this Settlement Agreement and is fully satisfied with the same. Each Party affirms and acknowledges that it has been, or has had the opportunity to be, represented by legal counsel of its choice.

Section 12.05 AUTHORIZATION TO EXECUTE THIS SETTLEMENT AGREEMENT. The representatives of the Parties signing this Settlement Agreement each represent that they have been duly authorized by the governing body of their respective entity to execute this Settlement Agreement on its behalf.

Section 12.06 PROHIBITION ON ASSIGNMENT. No Party to this Settlement Agreement may transfer or assign this Settlement Agreement or any of the Party's rights or obligations unless it obtains the express written consent of all the Parties. Any attempted transfer or assignment made in violation of this Section 12.06 shall be void as a matter of law.

Section 12.07 GOVERNMENTAL IMMUNITY. Nothing in this Settlement Agreement shall be construed to waive, limit, or otherwise modify any governmental immunities or limitations of liability available to the Authority under applicable law, including but not limited to N.D.C.C. § 32-12.1-03 and Minn. Stat. § 466.04. The Authority expressly retains all immunities, defenses, and limitations provided under state law. Any provisions in this Settlement Agreement relating to venue, jurisdiction, or enforcement shall not be construed as a waiver of such immunities or defenses.

Section 12.08 HEADINGS. The headings in this Settlement Agreement are for convenience only and shall not be used to interpret or construe the terms, provisions, or intent of this Settlement Agreement.

Section 12.09 AMENDMENT. This Settlement Agreement may only be amended in a written instrument executed by all of the Parties or as provided for in this Settlement Agreement.

Section 12.10 SEVERABILITY. If any provision of this Settlement Agreement is found by a court of competent jurisdiction to be invalid, illegal, or unenforceable, that provision shall be deemed severed, and the remaining provisions shall remain in full force and effect and shall be construed so as to best effectuate the original intent of the Parties.

Section 12.11 ENTIRE AGREEMENT. This Settlement Agreement, together with its Exhibits and Schedules, and the Statement of Principles (including its Exhibits and Schedules), constitutes the entire agreement between the Parties with respect to the subject matter herein and supersedes all prior and contemporaneous oral or written agreements and understandings. The Parties agree and intend that this Settlement Agreement is a distinct and independent agreement from the Project Agreement and that, except as expressly provided herein, it does not amend or modify the Project Agreement.

Section 12.12 SURVIVAL. The provisions of this Settlement Agreement that by their nature are intended to survive termination or expiration shall so survive, including but not limited to provisions relating to mutual releases, payments, dispute resolution, choice of law, and venue. The provisions of the Statement of Principles that were made irrevocably effective as of the Statement of Principles Effective Date shall likewise survive and continue in full force and effect in accordance with their terms, unless expressly addressed herein or in the Amended and Restated Agreements.

Section 12.13 AUTHORIZED REPRESENTATIVES.

(a) The Parties hereby designate the following individuals as their initial representatives, respectively, to administer this Settlement Agreement on their behalf:

- (i) Authority Representative: Its Director of Engineering
- (ii) Developer Representative: Its Project Manager
- (iii) D&C Contractor Representative: Its: Project Manager

(b) The representatives shall be reasonably available to each other during the term of this Settlement Agreement and shall have the authority to issue instructions and other communications on behalf of the Party or Parties, respectively, and shall be the recipients of notices and other written communications from the other Parties pursuant to this Settlement Agreement, except as otherwise provided in this Settlement Agreement. However, such representatives shall not have the authority to make decisions or give instructions binding upon the Authority, the Developer, and the D&C Contractor, except to the extent expressly authorized by the Authority, the Developer, and the D&C Contractor, as the case may be, in writing.

(c) In the event the Authority, the Developer, or the D&C Contractor designates a different representative, it shall give the other Parties written notice of the identity of and contact information for the new representative.

Section 12.14 NOTICES. All notices and communications required or permitted under this Settlement Agreement shall be given in accordance with the notice provisions set forth in the Project Agreement. Such notices shall be deemed effective as provided therein.

Section 12.15 COSTS AND ATTORNEYS' FEES. Each Party shall bear its own costs, expenses, and attorneys' fees incurred in connection with the preparation, negotiation, and execution of this Settlement Agreement and any matter arising hereunder, and no Party shall be deemed a prevailing party for purposes of costs or fee shifting unless expressly stated otherwise in this Settlement Agreement or an order of a court of competent jurisdiction.

Section 12.16 COUNTERPARTS AND ELECTRONIC SIGNATURES. This Settlement Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by email delivery of a ".pdf" format data file, including but not limited to a signature delivered through a provider such as DocuSign®, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

(Signatures appear on the following pages.)

IN WITNESS WHEREOF, the Parties caused this Settlement Agreement to be executed.

Signature Page for the Metro Flood Diversion Authority

The Governing Body of the Metro Flood Diversion Authority approved this Settlement Agreement on _____.

Authority:

Metro Flood Diversion Authority

Tony Grindberg, Chair

Jason Benson, Executive Director

Signature Page for Red River Valley Alliance, LLC. (the “Developer”)

The duly authorized representative(s) of Red River Valley Alliance, LLC, approved this Settlement Agreement on _____.

DEVELOPER:

Red River Valley Alliance, LLC.

Luke Chenery
Developer Representative

Signature Page for ASN Constructors (the “D&C Contractor”)

The duly authorized representative(s) of ASN Constructors approved this Settlement Agreement on _____.

D&C Contractor:

ASN Constructors by its joint venture partners:

Acciona Construction USA, CORP

Carlos Planelles, President and CEO,
Acciona Construction, USA Corp.
Representative

Shikun & Binui – America, Inc.

James P. McNelis, CEO, Shikun & Binui
USA Construction Representative

Amir Zion, CFO, Shikun & Binui USA
Construction Representative

NACG North Dakota, Inc.

Jordan Slator, Chief Legal Officer, NACG
North Dakota, Inc. Representative

EXHIBIT A – AMENDED AND RESTATED AGREEMENTS

EXHIBIT B - LETTER TO DRB WITHDRAWING CLAIMS



July 14, 2025

Joseph Allegro
Chair, Technical Dispute Review
Board
Allegro Construction Services, LLC

Christopher Kane
Wing Member, Technical
Dispute Review Board
P3 Collaborative, LLC

Randall F. Hafer
Wing Member, Technical Dispute
Review Board
Hafer Dispute Resolution, LLC

Re: Parties' Resolution of Referred Claims

Dear Mr. Allegro, Mr. Kane, and Mr. Hafer:

The Metro Flood Diversion Authority ("Authority"), Red River Valley Alliance, LLC ("Developer"), and ASN Constructors ("D&C Contractor") (collectively, the "Parties") write to inform the Technical Dispute Review Board ("TDRB") that, effective as of July 3, 2025, the Parties executed an agreement entitled the Binding Statement of Principles ("Statement of Principles") to resolve all disputes that had been formally referred to the TDRB prior July 3, 2025.

Pursuant to the Statement of Principles:

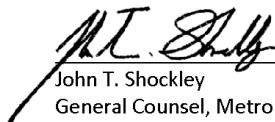
1. The Parties have reached a full and final settlement of all existing claims, including all claims submitted to the TDRB as of July 3, 2025. According to the records of the Parties, the following matters have been referred to the TDRB:
 - (a) The Epoxy Coated Rebar dispute regarding the interpretation of Section 3.8.2.5(17) of the Technical Requirements, submitted to the DRB by the Developer on May 15, 2024, via correspondence with Aconex transmittal number RRVA-AD-LET-00419-00;
 - (b) CE 014 – 404 Modified Permit Delay Impacts, submitted to the DRB by the Developer on July 31, 2024, via correspondence with Aconex transmittal number RRVA-AD-LET-00525-00;
 - (c) CE 015 – Failure of a Third Party (BNSF) to Comply with Third Party MOU Delay Impacts, submitted to the DRB by the Developer on June 25, 2024, via correspondence with Aconex transmittal number RRVA-AD-LET-00482-00;
 - (d) CE 016 – Undisclosed Hazardous Environmental Conditions in Reach 09, the Developer requested the submittal of the matter to the DRB on April 9, 2025, via correspondence with Aconex transmittal number RRVA-AD-LET-00743-00;
 - (e) CE 018 – Failure of a Third Party (BNSF) to Comply with Third Party MOU Delay Impacts, the Developer requested the submittal of the matter to the DRB on June 25, 2024, via correspondence with Aconex transmittal number RRVA-AD-LET-00482-00;
 - (f) CE 023 – Epoxy Coated Rebar Delays, the Developer requested the submittal of the matter to the DRB on June 5, 2025, via correspondence with Aconex transmittal number RRVA-AD-LET-00812-00;
 - (g) CE 024 – Authority Administration Building (AAB) Material at the AAB Site, the Developer requested the submittal of the matter to the DRB on April 18, 2025, via correspondence with Aconex transmittal number RRVA-AD-LET-00756-00;



- (h) CE 026 – Hazardous Environmental Conditions Reach 13, the Developer requested the submittal of the matter to the DRB on June 20, 2025, via correspondence with Aconex transmittal number RRVA-AD-LET-00822-00;
 - (i) Noncompliance Points Assessed for RRVA_LLC-NCR-00207 and RRVA_LLC-NCR-00222, the Developer requested the submittal of the matter to the DRB on May 8, 2025, via correspondence with Aconex transmittal number RRVA-AD-LET-00775-00;
 - (j) Notice of Interim Completion Package for Legal Drain 29, the Developer requested the submittal of the matter to the DRB on April 18, 2025, via correspondence with Aconex transmittal number RRVA-AD-LET-00757-00 under the expedited dispute resolution procedures; and
 - (k) Notice of Interim Completion Package for Legal Drain 30, the Developer requested the submittal of the matter to the DRB on May 9, 2025, via correspondence with Aconex transmittal number RRVA-AD-LET-00783-00 under the expedited dispute resolution procedures.
2. The Parties hereby withdraw the submittal of each of the above-described matters with prejudice.
3. The Parties have also entered into a Tolling Agreement to toll all claims, Compensation Events, Relief Events, Directive Letters, Change Requests, and disputes arising: (a) as of July 3, 2025 (the "Tolling Agreement Effective Date"), and (b) during the Tolling Period, which runs for forty-five (45) calendar days from that date (i.e., through August 17, 2025) to allow the Parties to finalize any amendments to the Project Agreement and Technical Requirements.

The Parties respectfully request that the TDRB take notice of this development and pause any further activity related to the referred claims (a) through (k) unless otherwise directed by the Parties. The Parties believe this notice is sufficient, but will submit any additional documentation required by the TDRB to effectuate the withdrawal or dismissal of the referred claims. Should you have any questions or require clarification regarding the implementation of the settlement and tolling provisions, please do not hesitate to contact the undersigned representatives of the Parties.

Sincerely,


John T. Shockley
General Counsel, Metro Flood Diversion Authority


Christopher M. Caparelli
Counsel to Red River Valley Alliance, LLC

cc: Howard Swanson
Jason Benson
Luke Chenery

SCHEDULE A – RELEASED CLAIMS

1. **Compensation Events and Relief Events:** Upon the Statement of Principles Effective Date, the Authority, the Developer and the D&C Contractor intend to release the following Compensation Events and Relief Events in accordance with the terms set out in the Statement of Principles, as may be amended or modified by this Settlement Agreement:

- a. “Compensation Events”:

CE 001 – Century Link MOU Amendments;
CE 002 – Cass Rural Water MOU Betterment;
CE 003 – City of Mapleton MOU Amendments;
CE 004 – Drain 14 Design and Construction Amendments Due to Others;
CE 005 – I-94 NDDOT Bridge Work Interference;
CE 006 – Cass County – Change from Kansas Corral Rail to Texas Corral Rail;
CE 007-01 – Compensatory Wetland Mitigation
CE 007-02 – Fish Passage-Maple River Aqueduct Spillway Design and Operation Changes;
CE 008 – Berlin Township MOU Amendments;
CE 009 – NDDOT MOU Amendments, Expansion Joints;
CE 010 – Material Flood Event Sheyenne River on Gol Road Near Kindred;
CE 011 – BNSF Delays Hillsboro;
CE 012 – BNSF Delays Prosper;
CE 013 – BNSF Delays KO;
CE 014 – 404 Modified Permit Delay Impacts;
CE 015 – Failure of a Third Party (BNSF) to Comply with Third Party MOU Delay Impacts;
CE 016 – Undisclosed Hazardous Environmental Conditions in Reach 09;
CE 017 – Undisclosed Hazardous Environmental Conditions at KO & Prosper;
CE 018 – Failure of a Third Party (BNSF) to Comply with Third Party MOU Delay Impacts;
CE 019 – Additional Riprap Requirement due to Hydraulic analysis of DIS;
CE 020 – Updates PA Exhibit 4 Project Land;
CE 021 – Directive Letter DL003-2024 - Attachment 3-14 to the Technical Requirements;
CE 022 – Rush Riverbank Excavation - 404 Permit Delay;
CE 023 – Epoxy Coated Rebar Delays;
CE 024 – Authority Administration Building (AAB) Material at the AAB Site;
CE 025 – Obstructions uncovered at Hillsboro mainline location;
CE 026 – Hazardous Environmental Conditions Reach 13;
CE 027 – Issuance of NCRs by MFDA;
CE 028 – Undisclosed Hazardous Environmental Conditions - CR8;
CE 029 – Drain 14C Mapleton Drain 9;
CE 030 – Obstructions uncovered in Reach 9;
CE 031 – Authority Failure to Use Reasonable Efforts Pursuant to Article 54; and
CE 032 – Qualifying Change in Law.
CE 033 – Certificates of Interim Completion

- b. “Relief Events”:

RE 001 – Non-Material Flood Event – Maple River near Mapleton April 2023; and
RE 002 – Non-Material Flood Event – Sheyenne River near Harwood April 2023.

2. Developer Change Requests.

- a. **Resolved Developer Change Requests.** Upon satisfaction of the conditions set out in Section 13 (Mutual Releases) of the Statement of Principles, the Authority, the Developer and the D&C Contractor shall release the other Parties from any claims associated with the following Developer Change Requests in accordance with the terms of the Statement of Principles and resolve the following Developer Change Requests as follows:
1. **DCR 2022-001** - Deletion of Preliminary Design Report Submission for Diversion Channel BUs. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-001 was executed on January 11, 2023 (RRVA_LL TRN-000457).
 2. **DCR 2022-002-01** - Change Definition of Days: Part 1. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-002-01 was executed on October 25, 2022 (RRVA_LL TRN-001684).
 3. **DCR 2022-002-02** - Change Definition of Days: Part 2. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-002-02 was executed on December 14, 2022 (RRVA_LL-TRN-002225).
 4. **DCR 2022-004** - Amendment to Re-Submitting to Submit Next Step Buildable Units. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-004 was executed on or about September 27, 2022 (RRVA_LL-TRN-001392).
 5. **DCR 2022-005** - Amendment to Combine PDF drawing file for Submittals. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-005 was executed on or about September 27, 2022 (RRVA_LL-TRN-001394).
 6. **DCR 2022-006** - Change Cass County Review Period for Specific Buildable Units Reports and Submittals. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-006 was executed on September 27, 2022 (RRVA_LL-TRN-001395).
 7. **DCR 2022-007** - Deletion of Demolition Buildable Units Reports. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-007 was executed on September 27, 2022 (RRVA_LL-TRN-001402).
 8. **DCR 2022-008** - Change Location of Maintenance Road/Trail on the left EMB. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-008 was executed on September 27, 2022 (RRVA_LL-TRN-001404).
 9. **DCR 2022-009** - Maple River Aqueduct Spillway Design and Operational Changes. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-009 was executed on December 8, 2022 (RRVA_LL-TRN-001506).
 10. **DCR 2022-010** - Changing Dead End Termination Types for Local Roads at Diversion Channel. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-010 was executed on May 23, 2023 (RRVA_LL-TRN-003922).

11. **DCR 2022-011** - Amend Number of Individuals for Cultural Resource/ Archaeological Monitoring. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-011 was executed on September 27, 2022 (RRVA_LL-TRN-001398).
12. **DCR 2022-013** - Amendment for the Expansion Joint Details of NDDOT. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-013 was executed on February 17, 2023 (RRVA_LL-TRN-002796).
13. **DCR 2022-014** - Project Office. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-014 was executed on September 27, 2022 (RRVA_LL-TRN-001230).
14. **DCR 2022-015** - Amendment in Submitting Native Files before RFC Documents. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-015 was executed on October 25, 2022 (RRVA_LL-TRN-001682).
15. **DCR 2022-016** - Amendment O&M QMP Implementation. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-016 was executed on September 7, 2022 (RRVA_LL-TRN-001230).
16. **DCR 2022-018** - Amendment to Design Quality Management Plan Technical Requirements. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-018 was executed on November 10, 2022 (RRVA_LL-TRN-001846).
17. **DCR 2022-019** - SWPP NPDES. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-019 was executed on October 25, 2022 (RRVA_LL-TRN-001681).
18. **DCR 2022-020** - Exhibit 5, Technical Requirements, Volume 4, Wetlands. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-020 was executed on December 15, 2022 (RRVA_LL-TRN-002240).
19. **DCR 2022-021** - Proposed Edits on TR 2.10.1 (Executive Council Meetings). The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-021 was executed on March 20, 2023 (RRVA_LL-TRN-003092).
20. **DCR 2022-022** - Local Drainage Freeboard Variance. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-022 was executed on November 28, 2022 (RRVA_LL-TRN-002021).
21. **DCR 2022-024** - Key Personnel Project Information Officer and Land Manager. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-024 was executed on February 2, 2023 (RRVA_LL-TRN-002640).
22. **DCR 2022-025** - "Seed Mixes" – Attachment 3-20 Non-Woodland Wetland Vegetation Zone Species. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-025 was executed on September 27, 2023 (RRVA_LL-TRN-005568).

23. **DCR 2022-028** - Key Personnel Developer's Project Quality Monitor. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-028 was executed on February 7, 2023 (RRVA_LL-TRN-002691).
24. **DCR 2023-029** - Design Deliverables Schedule and Electronic Deliverables Tracking Log Submissions. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-029 was executed on March 30, 2023 (RRVA_LL-TRN-003109).
25. **DCR 2023-030** - BNSF Review Delays. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2022-028 was executed on March 20, 2023 (RRVA_LL-TRN-003093).
26. **DCR 2023-031** - Section 3.3.4.4.3(1) – Open Cut Backfill to 85% Compaction. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2023-031 was executed on April 24, 2023 (RRVA_LL-TRN-000241).
27. **DCR 2023-033** - Section 2.5.5(5) – RFC Documents – Electronic and hard copies to Authority & AHJ. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2023-033 was executed on May 15, 2023 (RRVA_LL-TRN-0003782).
28. **DCR 2023-034** - Dispute Resolution Board – Exhibit – Part 1 Clause 2.2. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2023-034 was executed on March 28, 2023 (RRVA-LL-TRN-003184).
29. **DCR 2023-035** - Volume 3, Section 2.11.10.2 SWPPP NPDES, (2) & (4). The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2023-035 was executed on June 8, 2023 (RRVA_LL-TRN-0004160).
30. **DCR2023-041** - TR Attachment 4-1 Performance and Measurement Table. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2023-041 was executed on October 18, 2024.
31. **DCR 2024-045** - Amendment to Section 3.7.2.1.2 of the Technical Requirements - NDDOT Ramp Closures. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2023-045 was executed by the Authority and the Developer on March 27, 2024 (transmittal No. RRVA_LL-TRN-007596).
32. **DCR 2024-050** - Amendment to Project Agreement, TR Section 2.6.3(6) Shop Drawings signed by the Buildable Unit construction manager. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2023-050 was executed by the Authority and the Developer.
33. **DCR 2024-051** - Amendment to Project Agreement, Exhibit 5 Technical Requirements, Volume 3, Section 2.2.4.5 Quarterly As-Built Drawing Update. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2023-051 was executed by the Authority and the Developer.
34. **DCR 2024-053** - Amendment to TR Language Volume 3 - Sections 2.5.7(2), 3.5.1.3 (1) (2) and (3) - Aqueduct Gate Considerations in H&H Model. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2023-053 was executed by the Authority and the Developer.

35. **DCR 2024-055** - Amendment to Project Agreement Exhibit 1 Definitions, Technical Requirements Section 2.2.2, Technical Requirements Section 2.4.3 (40), Technical Requirements Section 2.5.7, Technical Requirements Section 2.7.1.7, Project Agreement Section 16.1, Exhibit 12 Part 1 Section 1, Exhibit 14 Section 2. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2024-055 was executed by the Authority and the Developer.
 36. **DCR 2025-056** - Amendment to Project Agreement Exhibit 1 Definitions - Interim Completion Element. The Parties agree and acknowledge that a Developer Change Order in respect of DCR 2025-056 was executed by the Authority and the Developer.
- b. **Withdrawn or Rejected Developer Change Requests.** Upon satisfaction of the conditions set out in Section 13 (Mutual Releases) of the Statement of Principles, the Authority, the Developer and the D&C Contractor shall release the other Parties from any claims associated with the following withdrawn or rejected Developer Change Requests in accordance with the terms of the Statement of Principles.
1. **DCR 2022-003** - Change the Calculation Methodology of Designing Sizes of Ripraps from NDDOT Design Manual, Chapter V to FHWA HEC-23. Section 3.3.3.2 (2) of Volume 3, Project Agreement Exhibit 5, Technical Requirements.
 2. **DCR 2022-012** - ITP Submittal Requirement from R&C to FIO. Section 2.4.3(15)(e) of Volume 3, Project Agreement Exhibit 5, Technical Requirements.
 3. **DCR 2022-017** - Amendment in Considering Temporary Flow Provisions of Rush River and Lower Rush River.
 4. **DCR 2022-023** - Combination of Local Drainage with Diversion Channel Buildable Units.
 5. **DCR 2022-026** - Cultural Resources OIN 936.
 6. **DCR 2022-027** - Amendment to Project Agreement, Exhibit 5 Technical Requirements - BNSF Comments Raised in the Design Review Process.
 7. **DCR 2023-032** - Amendment to Project Agreement, Exhibit 5 Technical Requirements, Volume 3, Section 3.3.4.4.5(2) – Grouting.
 8. **DCR 2023-037** - Amendment to Project Agreement, Exhibit 5 Technical Requirements, Section 3.3.1 (“Transitions for Legal Drains”).
 9. **DCR 2023-038** - Amendment to Project Agreement – Exhibit 1 (Definitions) “Response Time for Nonconformances” and “Noncompliance Rectification Date” .
 10. **DCR 2023-039** - Amendment to Project Agreement, Volume 1, Article 7, Section 7.3(b), Section 7.4(b) and add two (2) new Definitions to Exhibit 1 - “Approved with Comments” and “Approved with comments – Work may proceed”.
 11. **DCR 2023-040** - Amendment to Project Agreement – Exhibit 1 (Definitions) “Noncompliance Start Date and Time”.

12. **DCR 2023-042** - Amendment of the Technical Requirements Volume 3 - Section 4.4.3.2(2)(b)(ii), 4.4.3.11(2)(a), 4.4.3.11(2)(a)(i), and 4.4.3.11(2)(a)(v).
13. **DCR 2023-043** - Deletion of Dead-End Termination Reach 8 and Reach 14 Buildable Unit Reports.
14. **DCR 2023-044** - Amendment to Section 3.5.1.3 (1) of the Technical Requirements - H&H Model.
15. **DCR 2024-046** - Interim Completion Element - Amendment to Project Agreement, Exhibit 1 Definitions, Section 23.3. “Additional Milestone Payment” and the Exhibit 14, Section 2: “Additional Milestone Payments with respect to Pay Unit Completion.
16. **DCR 2024-047** - Amendment to Project Agreement, Exhibit 5 Technical Requirements, Volume 3, Section 2.2.4.5 Quarterly As-Built Drawing Update.
17. **DCR 2024-048** - Amendment to Project Agreement, Exhibit 5 Technical Requirements, Volume 3 - Section 3.5.1.3 (2) (d) - Aqueduct Gate Considerations in H&H Model.
18. **DCR 2024-049** - Amendment to Project Agreement, Exhibit 5 Technical Requirements, Volume 3 - Section 3.3.3.2(1)(k), 3.3.3.3, 3.3.3.4(24) - Cass County Ditch Depth.
19. **DCR 2024-052** - Amendment to Project Agreement, Exhibit 5 Technical Requirements, Volume 3 - Section 3.5.1.3 (1) of TRs - H&H Model.
20. **DCR 2024-054** - Amendment to Project Agreement, Exhibit 5 Technical Requirements, Volume 3, Section 3.3.4.4.5(6) - F01 & P01 Abandonment under Right EMB – Reach 1.
21. **DCR 2025-057** - Amendment to Project Agreement, Exhibit 5 Technical Requirements, Volume 3, Section 3.3.1.13 - Local Drainage.

3. Authority Change Requests.

- a. **Resolved Authority Change Requests.** Upon satisfaction of the conditions set out in Section 13 (Mutual Releases) of the Statement of Principles, the Authority, the Developer and the D&C Contractor will resolve the following Authority Change Requests as set out below:
 1. **ACR001-2022** – Use of 38th Street W between I-94 and CR10. The Parties agree and acknowledge that ACR001-2022 was executed on September 21, 2022 (RRVA_LLC-TRN-000885).
 2. **ACR002-2022** – Cass County – Change from Kansas Corral Rail to Texas Corral Rail. The Parties agree and acknowledge that ACR002-2022 was executed on November 18, 2022 (RRVA_LLC-TRN-001342).
 3. **ACR003-2022** – Amendments to Attachment 3-25 between the Setting Date and the MOU execution dates. The Parties agree that as of the Statement of Principles Effective Date an Authority Change Order is deemed to have been executed by the Authority and the Developer in respect of ACR003-2022 (FMAD-TRN-006557) and that no additional payment beyond the Settlement Amount set out in Section 22 of the Statement of Principles will be due to the Developer.

4. **ACR004-2022** – EAP Utilization Plan. The Parties agree and acknowledge that ACR004-2022 was executed on September 8, 2022 (RRVA_LL-TRN-000800).
5. **ACR006-2022** – Cass County Drain 14C. The Parties agree that ACR006-2022 was executed on August 12, 2024 (RRVA_LL-TRN-009210).
6. **ACR007-2022** – NDDOT Conduits. The Parties agree and acknowledge that ACR007-2022 was executed on August 23, 2022 (RRVA_LL-TRN-003397).
7. **ACR008-2022** – CCRW connection of waterline from Res B to Res C. The Parties agree and acknowledge that ACR008-2022 was executed on August 8, 2022 (RRVA_LL-TRN-004933).
8. **ACR010-2022** – Acceleration of Tree Felling from the Project Limits. The Parties agree that as of the Statement of Principles Effective Date an Authority Change Order is deemed to have been executed by the Authority and the Developer in respect of ACR010-2022 (FMAD-TRN-002514) and that no additional payment beyond the Settlement Amount set out in Section 22 of the Statement of Principles will be due to the Developer.
9. **ACR011-2023** – MLGC FOC Installation in Mapleton Township. The Parties agree that ACR011-2023 was executed on August 29, 2024 (RRVA_LL-TRN-009412).
10. **ACR012-2023** – Correction to Technical Requirements Section 3.10.3.1 (10) and (14). The Parties agree and acknowledge that ACR012-2023 was executed on or about February 6, 2023 (RRVA_LL-TRN-002671).
11. **ACR013-2023** – 37th Street SE west of the Diversion Channel. The Parties agree that as of the Statement of Principles Effective Date an Authority Change Order is deemed to have been executed by the Authority and the Developer in respect of ACR013-2023 (FMAD-TRN-002876) and that no additional payment beyond the Settlement Amount set out in Section 22 of the Statement of Principles will be due to the Developer.
12. **ACR014-2023** – Relocation of CRWUD waterline. The Parties agree that as of the Statement of Principles Effective Date an Authority Change Order is deemed to have been executed by the Authority and the Developer in respect of ACR014-2023 (FMAD-TRN-006556) and that no additional payment beyond the Settlement Amount set out in Section 22 of the Statement of Principles will be due to the Developer.
13. **ACR016-2023** – Design Modifications to the Sheyenne River Aqueduct. The Parties agree that ACR016-2023 was executed on November 1, 2024 (RRVA_LL-RTRANSMIT-000750).
14. **ACR017-2023** – River Inlets and Drain Inlets. The Parties agree and acknowledge that ACR017-2023 was executed on October 18, 2023 (RRVA_LL-RTRANSMIT-000446).
15. **ACR018-2023** – County Road 10 connection to 166th Avenue. The Parties agree that as of the Statement of Principles Effective Date an Authority Change Order is deemed to have been executed by the Authority and the Developer in respect of ACR018-2023 (FMAD-TRN-006208) and that no additional payment beyond the Settlement Amount set out in Section 22 of the Statement of Principles will be due to the Developer.

16. **ACR019-2023** – 38th Street NW connection to the Maintenance Road/Trail. The Parties agree that as of the Statement of Principles Effective Date an Authority Change Order is deemed to have been executed by the Authority and the Developer in respect of ACR019-2023 (FMAD-TRN-006313) and that no additional payment beyond the Settlement Amount set out in Section 22 of the Statement of Principles will be due to the Developer.
17. **ACR020-2023** – Updates to Project Agreement, Exhibit 4 (Project Land). The Parties agree that pursuant to Section 31.9 (c) of the Project Agreement “Upon receipt of a Directive Letter, the Developer shall implement and perform the Extra Work as directed by the Authority and may claim a Compensation Event in accordance with Article 27 (Compensation Events).” No Authority Change Order is required to be issued to the Developer. Refer to Directive Letters below.
18. **ACR021-2023** – Attachment 3-14 to Technical Requirements. The Parties agree that pursuant to Section 31.9 (c) of the Project Agreement “Upon receipt of a Directive Letter, the Developer shall implement and perform the Extra Work as directed by the Authority and may claim a Compensation Event in accordance with Article 27 (Compensation Events).” No Authority Change Order is required to be issued to the Developer. Refer to Directive Letters below.
19. **ACR022-2023** – Design Modifications to the Maple River Aqueduct. The Parties agree that ACR022-2023 was executed on November 1, 2024 (RRVA_LLC-RTRANSMIT-000750).
20. **ACR023-2024** – 38th Street West Interim Connection. The Parties agree that ACR023-2024 was executed on September 10, 2024 (RRVA_LLC-RTRANSMIT-000707).
21. **ACR025-2025** - AAB Modifications. The Parties agree that as of the Statement of Principles Effective Date an Authority Change Order is deemed to have been executed by the Authority and the Developer in respect of ACR025-2025 (FMAD-TRN-012884) and that no additional payment beyond the Settlement Amount set out in Section 22 of the Statement of Principles will be due to the Developer.
- b. **Withdrawn Authority Change Requests.** Upon satisfaction of the conditions set out in Section 13 (Mutual Releases) of the Statement of Principles, the Authority, the Developer and the D&C Contractor shall release the other Parties from any claims associated with the following withdrawn Authority Change Requests in accordance with the terms of the Statement of Principles:
 1. **ACR005-2022** – Amend TR Section 2.2.6.1(2) to include re-baselining PBS for Compensation Events and approved Change Orders. The Parties agree that the Authority withdrew ACR005-2022 on November 28, 2022 (FMAD-TRN-002211).
 2. **ACR009-2022** – Township Mobility Improvements. The Parties agree that the Authority withdrew ACR009-2022 on March 23, 2023 (FMAD-TRN-003438).
 3. **ACR015-2023** – Deletion of requirement to establish and maintain Woodland Species (Att 3-21 Woodland Species). The Parties agree that the Authority withdrew ACR015-2023 on February 7, 2024 (FMAD-TRN-007652).
 4. **ACR024-2025** – Road connection in Harwood Township. The Parties agree that as of the Statement of Principles Effective Date ACR024-2025 is deemed to have been withdrawn by the Authority.

4. **Directive Letters.** Upon satisfaction of the conditions set out in Section 13 (Mutual Releases) of the Statement of Principles, the Authority, the Developer and the D&C Contractor will release the other Parties from any claims associated with Directive Letters DL2022-001, DL002-2024 and DL003-2024.
5. **“Commercial Claims”:** Upon satisfaction of the conditions set out in Section 13 (Mutual Releases) of the Statement of Principles, the Authority, the Developer and the D&C Contractor will release the other Parties from any claims arising from the issues and circumstances described in the correspondence and other items listed below:
 1. RRVA_LL-TRN-005243 – Activity ID Duration used in Schedules;
 2. RRVA_LL-TRN-005244 – Riding Data Date Activities in the PSSU;
 3. RRVA_LL-TRN-005246 – Request for Review of the PSSU;
 4. RRVA_LL-TRN-005245 – Comments and Applicability of Constraints in the PSSU;
 5. RRVA_LL-TRN-005520 – Authority Declining Weekly Planning Meeting Invite;
 6. RRVA_LL-TRN-005521 – Compliance Comments Referring to use of Language in Project Status Schedule Update Narrative;
 7. RRVA_LL-TRN-005524 – Submission of a recovery schedule as an R&C Submittal R0.1;
 8. RRVA_LL-TRN-003028 – Notice of Delay due to USACE failing to approve a Necessary Section 404 Permit Modification by March 1, 2023;
 9. RRVA-AD-LET-00098-00 – Notice of Delay and Costs due to new requirements imposed by USACE (Velocities & Erosion) 2023;
 10. RRVA_LL-TRN-003029 – Notice of Delay-Maple and Sheyenne Aqueducts – USACE new requirements 2023;
 11. RRVA_LL-TRN-003565 – Notice of Authority / AHJ Delay – BNSF Crossings 2023;
 12. RRVA_LL-TRN-004807 – Notice of Delay in Reaches 4 to 8 2023;
 13. RRVA_LL-TRN-005573 – Reach 07 ITP Notice of Delay;
 14. RRVA_LL-TRN-005427 – AAB Building Unusable Material – Notice of Delay 2023;
 15. RRVA_LL-TRN-005376 – Authority Administration Building Material Delivery, resolution of disputed issue;
 16. RRVA_LL-TRN-005574 – Maple River Aqueduct Design Submittal – Request for Missing Information;
 17. RRVA_LL-TRN-005508 – Notice re ACR016-2023 Sheyenne River Aqueduct;
 18. RRVA_LL-TRN-005178 – ACR016 – Sheyenne River Aqueduct System Design Brief Memorandum;
 19. RRVA_LL-TRN-005340 – Authority Delay regarding execution of BNSF C&M Agreement;
 20. RRVA_LL-TRN-005519 – Authority Failure to comply with the Project Agreement requirements in respect of Discretionary Reviews;
 21. RRVA_LL-RPT-00158 – EO5-A53 – Maple River Aqueduct Engineered Channel – Final Design Report;

22. FMAD-TRN-003809 – Contractual interpretation on use of WBS & PBS to re-baseline and measure updates / revisions to Schedule and PSSU;
23. FMAD-TRN-004655 – The Authority Administration Building Proposal Commitments;
24. RRVA_LL-TRN-005772 – Recovery Schedule Submittal September 2023;
25. RRVA_LL-TRN-006153 – Recovery Schedule Submittal October 2023;
26. RRVA_LL-TRN-006509 – Recovery Schedule Submittal November 2023;
27. RRVA_LL-TRN-006750 – Recovery Schedule Submittal December 2023;
28. RRVA_LL-TRN-007110 – Recovery Schedule Submittal January 2024;
29. FMAD-TRN-006881 – Letter Concerning Suspension of Performance of Aqueduct Designs;
30. RRVA_LL-TRN-006365 – Letter in response to “Letter Concerning Suspension of Performance of Aqueduct Designs”;
31. RRVA_LL-TRN-006898 – Follow up Concerning Suspension of Performance of Aqueduct Designs;
32. FMAD-TRN-007663 – Response to Follow up Concerning Suspension of Performance of Aqueduct Designs;
33. RRVA_LL-TRN-007073 – Follow up of Letter in response to the Authority letter: “Letter Concerning Suspension of Performance of Aqueduct Designs”;
34. RRVA_LL-TRN-004336 – Construction Cost Escalation Issues (includes Market Study Report attachment);
35. FMAD-TRN-005106 – Construction Cost Escalation Issues;
36. RRVA_LL-TRN-009850 - Notice of Dispute - Noncompliance Points Assessed for RRVA_LL-NCR-00207 and RRVA_LL-NCR-00222;
37. FMAD-TRN-010678 RESPONSE: Notice of Dispute - Noncompliance Points Assessed for RRVA_LL-NCR-00207 and RRVA_LL-NCR-00222;
38. RRVA_LL-TRN-000482 – Re: Construction Cost Escalation Issues;
39. RRVA_LL-TRN-007671 –Written Protest Epoxy Coated Rebars;
40. RRVA_LL-TRN-008068 –Written Protest CE015 & CE018;
41. RRVA_LL-TRN-008493 – Written Protest to Authority re. CE-014- 404 Modified Permit Delay Impacts;
42. RRVA_LL-TRN-011333 – CE-016 - Written Protest to the Authority re Compensation Event 016 – Undisclosed Hazardous Environmental Conditions at Reach 09;
43. RRVA_LL-TRN-011368 – Written Protest to the Authority re Compensation Event 024 - Authority Administration Building (AAB) Material;
44. RRVA_LL-TRN-011671 – Written Protest - Noncompliance Points Assessed for RRVA_LL-NCR-00207 and RRVA_LL-NCR-00222;
45. RRVA_LL-TRN-011851 – CE-023 - Written Protest to the Authority re Compensation Event 023 – Epoxy Coated Rebar;
46. RRVA_LL-TRN-012160 – Written Protest to the Authority re Compensation Event 026 – Undisclosed Hazardous Environmental Conditions at Reach 13;

47. RRVA_LL-TRN-012242: Submittals Disputes under Section 7.5 (a)- E13-Z13 CR-32 Crossing Roadways - Design Certificate Form 3.20-1;
48. RRVA_LL-TRN-012241: Submittals Disputes under Section 7.5 (a) - E11-G11 Buildable Unit Design Certificate Form 3.20-1;
49. RRVA_LL-TRN-012243: Submittals Disputes under Section 7.5 (a)- E13-M13 - CR-32 - Form 3.20-1 Buildable Unit Design Certificate;
50. RRVA_LL-TRN-012244: Submittals Disputes under Section 7.5 (a) - E13 - CR-32 - Form 3.20-2 Project Element Design Certificate;
51. RRVA_LL-TRN-012245: Submittals Disputes under Section 7.5 (a) PE E11 – County Road 4/31 Crossing Design Certificate Form 3.20-2;
52. RRVA_LL-TRN-012146 Submittals Disputes under Section 7.5 (a) for E16-S16 - Drain 30 Inlet – Form 3.22-2 - Project Element Construction Certificate
53. RRVA_LL-TRN-012152; Submittals Disputes under Section 7.5 (a) for E16-S16 - Drain 30 Inlet – Form 3.22-2 - buildable Unit Construction Certificate
54. RRVA_LL-TRN-012246: Submittals Disputes under Section 7.5 (a) - E11-G11 Buildable Unit Design Certificate Form 3.20-1;
55. RRVA_LL-TRN-012267: Submittals Disputes under Section 7.5 (a) - E11-G11 Buildable Unit Design Certificate Form 3.20-1;
56. RRVA_LL-TRN-012268: Submittals Disputes under Section 7.5 (a)- E13-M13 - CR-32 - Form 3.20-1 Buildable Unit Design Certificate;
57. RRVA_LL-TRN-012269: Submittals Disputes under Section 7.5 (a) - E13-G13 CR-32 Form 3.20-1 Buildable Unit Design Certificate;
58. RRVA_LL-TRN-012320: Submittals Disputes under Section 7.5 (a) for E08-S08 - Drain 29 Inlet - Form 3.22-1 BU Construction Certificate;
59. RRVA_LL-TRN-012321: Submittals Disputes under Section 7.5 (a) for E08-S08 - Drain 29 Inlet - Form 3.22-2 PE Construction Certificate; and
60. Interface Schedule Delays, and any claims by the Authority related to the Libbrecht Exchange Agreement and associated access rights for Drain No. 14.
61. Any and all claims and costs arising from disputes with the D&C Contractor's Designer (Hatch and Cowi JV); and

All other claims through the Statement of Principles Effective Date.

SCHEDULE B – OTHER RESOLVED MATTERS

	Risk Item	Description	Outcome	Action Plan
1	The H&H Model	<p>The Quarterly Updates do not reflect RFC drawings or as-built conditions.</p> <p>Understood by Authority to be a potential Substantial Completion issue preventing Substantial Completion and Payment.</p>	<p>The Developer is required to incorporate as-built conditions into the H&H Model.</p> <p>This includes:</p> <ul style="list-style-type: none"> • Developing a final design model based on RFC documents (post-rebound and settlement). • Upon completion of a final design, updating the quarterly H&H model with as-constructed data as it becomes available. • Incorporating geometry updates within the ROW, including adjacent storage areas. 	<p>1.- Submittal of “<u>H&H Model Design</u>”:</p> <ul style="list-style-type: none"> * Developing a final design model based on RFC documents plus incorporating the modifications created by the Design to the adjacent storage areas into/out (adjacent) of the ROW. *Original Survey considered in the H&H Model coincident with the considered to develop the RFC Documents. * Theoretical total settlements and total rebounds expected in the long term (75 years) is already included as part of the quarterly submittal. * This is the information submitted to the Authority for FEMA Certification. * The Authority shall provide the required information of the Benching Projects to the Developer. The expectation is to receive it and to incorporate it as part of the next quarterly submittal by the Developer. <p>2.- Submittal of “<u>H&H Model As Constructed</u>”:</p> <ul style="list-style-type: none"> * Developing a final “H&H Model as Constructed” taking as baseline the “H&H Model Design” but reflecting the As Built Conditions. * Incorporation of the modifications created by “as constructed” conditions to the adjacent storage areas into/out (adjacent) of the ROW. *Survey “As Constructed” will be considered in the “H&H Model as constructed” showing final field conditions including re-gradings or other actions required to comply with the RFC Documents of other Buildable Units. * Quarterly submittals based on the most updated Buildable Units Construction Certificates that has been previously submitted to the Authority.

				<p>See Attachment 1 for further information on actions / schedule and commitments for the above 3 submittals.</p> <p>Final Quarterly Submittal of “H&H model design”(expected on August 2025)</p> <p>Initial Quarterly Submittals of “H&H model As Constructed” and resolution of outstanding comments (expected on November 2025)</p> <p>Subsequent Quarterly Submittals of “H&H model As Constructed” will be updated to the then current construction status.</p>
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2	Diversion Outlet (Red River Outlet)	Not built per RFC documents. Potential for dispute regarding as-built condition. Erosion is evident in chinking material, boulders not at correct embedment.	The Developer must construct the Red River Outlet strictly in accordance with the RFC documents. The Authority does not support the proposed field-modified approach of adding infill without removal or reshaping the riprap. The RFC design has been reviewed and approved by relevant agencies and is contractually binding.,	<p>Clarifications to the RFC will be developed with a design report signed and sealed by the EOR and submitted to the Authority for review and comment.</p> <p>The approach includes but is not limited to:</p> <p>2.1 Shoulder Riprap Blending (R470, R270, R20). Infill material gradation will be adjusted to blend with smaller Rip Rap (R20-R30) to achieve a smoother transition and better fill in of the gap.</p> <p>2.2 Boulder Gradient Adjustment. The gradient of the boulders will be adjusted from 3% to 2% to match the RFC design. The end boulders will be adjusted to be more embedded and create a smoother transition into surrounding rip rap.</p> <p>2.3 Center Channel Riprap Entrance. The area at the entrance of the outlet will be filled with infill material.</p> <p>2.4 Outlet Riprap Investigation and Correction. The rest of the outlet will be investigated. Where necessary, the first layer of riprap will be removed, and infill material will be placed and hydraulically consolidated before reinstating the riprap.</p> <p>Developer to provide reasonable on-site leadership during construction to direct construction activities consistent with the supplemental design report. Close monitoring and supervision with regular visits with the Authority and the Agencies to make sure that all the comments and observations are being incorporated.</p>
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3	The Rush River Inlet	Not built per RFC documents. Currently being rebuilt.	<p>The Developer must construct the Rush River Inlet strictly in accordance with the RFC documents. The Authority does not recognize any outstanding comments or approved design modifications. The RFC design vetted through agency review remains the contractual standard. The Developer is expected to incorporate lessons learned and deliver a structure that meets the performance requirements without deviation. Additionally, the Developer and D&C Contractor must cooperate with the Authority in Good Faith to ensure compliance with Technical Requirements and rectify issues identified in Field Visits.</p>	<p>Clarifications to the RFC will be developed with a design report signed and sealed by the EOR and submitted to the Authority for review and comment.</p> <p>The approach includes but is not limited to:</p> <p>3.1 RFC Documentation Correction – Boulders. The current RFC typical cross section does not reflect the potential actual size and position of the boulders as this will vary. The cross section will be updated through a supplemental design report to provide clarity. The representation of the boulders is schematic.</p> <p>3.2 Verify slopes and cross sections and coordinate with H&H model.</p> <p>3.3 2% Gradient on Boulders. The top of the boulders must maintain a 2% slope in accordance with the RFC.</p> <p>3.4 Infill Material Installation. Infill material must be installed in layers and must not cover the top layer of riprap, to avoid creating a shear interface.</p> <p>Action: Follow the ITP and document compliance. The current executed slopes are as per the RFC.</p> <p>Developer to provide reasonable on-site leadership during construction to direct construction activities consistent with the supplemental design report. Close monitoring and supervision with regular visits with the Authority and the Agencies to make sure that all the comments and observations are being incorporated. Continued biweekly inspections required by the parties to monitor progress and execution.</p> <p>Close monitoring and supervision with regular visits with the Authority and the Agencies to make sure that all the comments and observations are being incorporated.</p>
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4	Maintenance Road Trail	<p>The Maintenance Road Trail does not comply with the Project Agreement requirements, primarily due to drainage and capacity issues.</p>	<p>The Developer must bring the road into compliance with the Project Agreement including the Technical Requirements and the Developer's Proposal Commitments. Proposed fixes such as lateral ditches and concrete slab crossings may alleviate underlying deficiencies but do not resolve the nonconformance. A comprehensive redesign and reconstruction in accordance with contract standards is required. Geotextile fabric and uncontaminated Class 13 material to a minimum thickness of 8-inches or no geotextile fabric and a minimum of 12-inches of uncontaminated Class 13 material as used in County Roads will be used. Specific road sections for the entire Maintenance Road/Trail will be included in the supplemental design report.</p>	<p>The approach will be formalized in a supplemental design report signed and sealed by the EOR and submitted to the Authority for review and comment.</p> <p>The approach includes but is not limited to:</p> <p><u>Drainage:</u></p> <ul style="list-style-type: none"> - Lateral ditch, if needed, will be constructed between EMB and edge of the Maintenance road. - Execution of those ditches may be provided a minimum of 100-ft before/after any vertical alignment change that could create low points and ponding water. Those points will be identified one by one during the construction period through visual inspections and its record. - In the those selected low points French drains will be installed to discharge any ponding water from the EMB side outward the maintenance road through the slope. French drains will be executed/installed over the top of subgrade and covered by the road surface gravel. - Ditches shall be covered by topsoil minimum 6-inches thickness. - Geometry of the ditch: Bottom width of the ditch minimum 3-ft width and 8-inches depth. Vertical alignment/invert of the ditch will follow the vertical alignment profile of the maintenance road defined into the RFC Documents with the required offset 8-inches depth. No freeboard requirement for this ditch. <p><u>Gravel thickness and incorporation of subgrade improvements:</u></p> <p>A Woven Geotextile (Wibfab 315W) with separation purpose will be incorporated in the interface between the top of the subgrade/top of the levee and the gravel. Thickness of the gravel will be confirmed by the EOR</p>
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				<p>consistent with technical requirements and Road capacity requirement and will be captured in the supplemental design report.</p> <p>These changes will be incorporated through the supplemental design report and final conditions will be captured as part of the Record Drawings Deliverable</p> <p>See Attachment 2.</p>
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5	Access for Heavy Machinery during Flood Events	Uncertainty regarding access for equipment necessary for maintenance of aqueducts, including road capacity and turn arounds.	The Developer must submit a definitive access plan signed and sealed by the EOR that includes haul routes, equipment weights, and turning radii. Changes to access geometry—such as the proposed 98-foot turning radius—must align with the Technical Requirements and be formalized through a DCR, if required. The Authority will not approve or rely on informal proposals lacking technical substantiation or contractual integration.	<p>The approach will be formalized in a supplemental design report signed and sealed by the EOR and submitted to the Authority for review and comment. The approach includes but is not limited to:</p> <p>The equipment is being revisited by the Developer to adjust it accordingly to the maintenance activities. Working with suppliers to set the exact conditions.</p> <p>Preliminary analysis made is,</p> <p>1.- The Developer is working in coordination with the supplier of the lift gates to provide the redundancy to the main lifting system. Development of a Memo with the description in detail of the main system defined as part of the RFC Documents plus the redundant system will be accordingly developed to define the load traffic required, including the requirements to bring the pumps to the Maple Aqueduct. The design of the access will be updated as needed to take into account the requirements of O&M. In the current radius of the turnaround still valid as per RFC Design considering the adjustment on the equipment required for maintenance activities.</p> <p>2.- The Developer is still under the evaluation of other additional areas to place the pumps in Maple aqueduct for maintenance purpose and also, the construction access required to build the ice retention structures in both aqueducts will be kept by the Developer for maintenance activities following the RFC Documents definitions. Design changes to the RFC Documents identified during the analysis will be submitted to the Principles Team to evaluate magnitude and complexity of changes required. Determination if modifications will be made to the RFC documents via RFI or RFC re-design will be determined and agreed to by the Principles Team.</p>
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				<p>3.- Maintenance Road - Unprotected side - Sections between CR-10 and Maple Aqueduct (Vertical Lift area) and CR-16/17 and Sheyenne Aqueduct (Vertical Lift area) will be adjusted to 10-inches gravel thickness plus Woven Geotextile (Wibfab 315W) (to be confirmed by the EOR in the supplemental design report).</p> <p>Still under analysis/development by the Developer and it will be followed up in the next weekly meetings with the Authority.</p> <p>These changes will be incorporated through the supplemental design report and final conditions will be captured as part of the Record Drawings Deliverable.</p> <p>In relation to Point 1 above, Final equipment to be considered by the Developer as part of the Maintenance Activities will be captured as part of the O&M Plan updates.</p> <p>See Attachment 3.</p>
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6	Liquid Limits with respect to Levee Construction	Failed tests, testing plan in place and tests being obtained.	The levee must be constructed in strict compliance with the RFC documents and Technical Requirements—not merely deemed “fit for purpose” by the Engineer of Record, absent confirmation through testing. Sampling is complete and lab tests are pending as of July 1, 2025. The EOR does not have the authority to override contract specifications via an RFI. If testing fails or liquid limits are not met, the Developer must conduct a retest, perform additional testing or rework using material that satisfies all specifications. Any failing test requires that the amount of material equal to the test frequency is removed and replaced. Use of material from outside of the ROW is permitted and expected if in-ROW material is inadequate.	<p>The Developer has performed additional testing in Reach 11 and the results are pending.</p> <ul style="list-style-type: none"> - If the test satisfies the TRs the material will be maintained with no changes. <p>In case of additional concerns, additional cores will be performed and later filled by grout. All samples will be split with Authority for confirmation tests by a separate laboratory (as was done for the initial sampling protocol.)</p> <ul style="list-style-type: none"> - If the test confirms that the material placed does not satisfy the LL requirement the Developer may decide to make further re-test or then the material in that area will be removed with sufficient conservative space in order to provide a suitable material compliance with the LL and it will be compacted and built according to the specs and in compliance with the TRs. <p>The Principles Team will meet and confer on areas where a single test does not meet the TRs.</p>
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7	Integration with Maple River and Sheyenne River Benching projects	Formal acknowledgement of the benching projects is required to avoid future claims regarding the integration of the benching projects and the Developer's work.	<p>The Developer must acknowledge that integration of the Maple and Sheyenne River Benching Projects including hydraulic performance criteria such as the 3.6 fps velocity requirement is within their scope. The H&H model shall be updated to include the design geometry for all facilities downstream of the benching project, including the ice structure, equipment pad, and engineered channels.</p> <p>The Authority has stepped in to provide temporary solutions but expects the Developer to fulfill its obligations to design and model its work.</p>	<p>The Authority shall provide information being used for the benching projects to the Developer as disclosed information. The Developer will update the H&H Model from the benching project limits to the downstream project ROW to reflect its design and compliance with the TRs.</p> <p>The Parties will agree to an access agreement for the Sheyenne River benching and Maple River benching projects and forest mitigation sites as part of the Settlement Agreement process.</p>
8	Integration of Third-Party Vendor Designs in Plans and Specifications	Construction preceding without coordination of drawings and vendor information.	The Developer must demonstrate compliance with TR 2.6.3 (9) & (10), including proper coordination and incorporation of third-party vendor designs and materials with the RFC documents. Critical Shop Drawings must not be submitted without EOR review and approval and must be Submitted in accordance with the Project Agreement as a complete package. Concept designs that are part of the RFC drawings and the RFC specifications require further detailed designs which are to be signed/sealed by the EOR.	The Developer will incorporate the info of the vendor and submit the packages as soon as the info is available, holding regular workshops with the Authority.

9	Conduits on the Sheyenne River Aqueduct	RFC Documents do not reflect what is being constructed.	The Developer's assertion that no revisions are required is premature. The current RFC drawings do not adequately address two critical elements: (1) flow continuity during lift gate closure for maintenance, and (2) design treatment of downstream meanders. These unresolved design gaps pose foreseeable operational risks. The Developer must work with the Authority to promptly address and close out comments issued by the Authority. The Developer must also work with the Authority to develop and submit revisions or supplemental details through a formal RFI or DCR process to ensure these deficiencies are addressed before construction proceeds.	<p>Sheyenne River (BU A56) Construction Document Submittal has been submitted with parallel conduit solution and downstream meanders.</p> <p>E56-A56 Sheyenne River Aqueduct - RFC-CDS-1 sent on 20 May, 2025. Transmittal no.: RRVA_LL-TRN-012319</p> <p>Address and close out comments issued by the Authority.</p>
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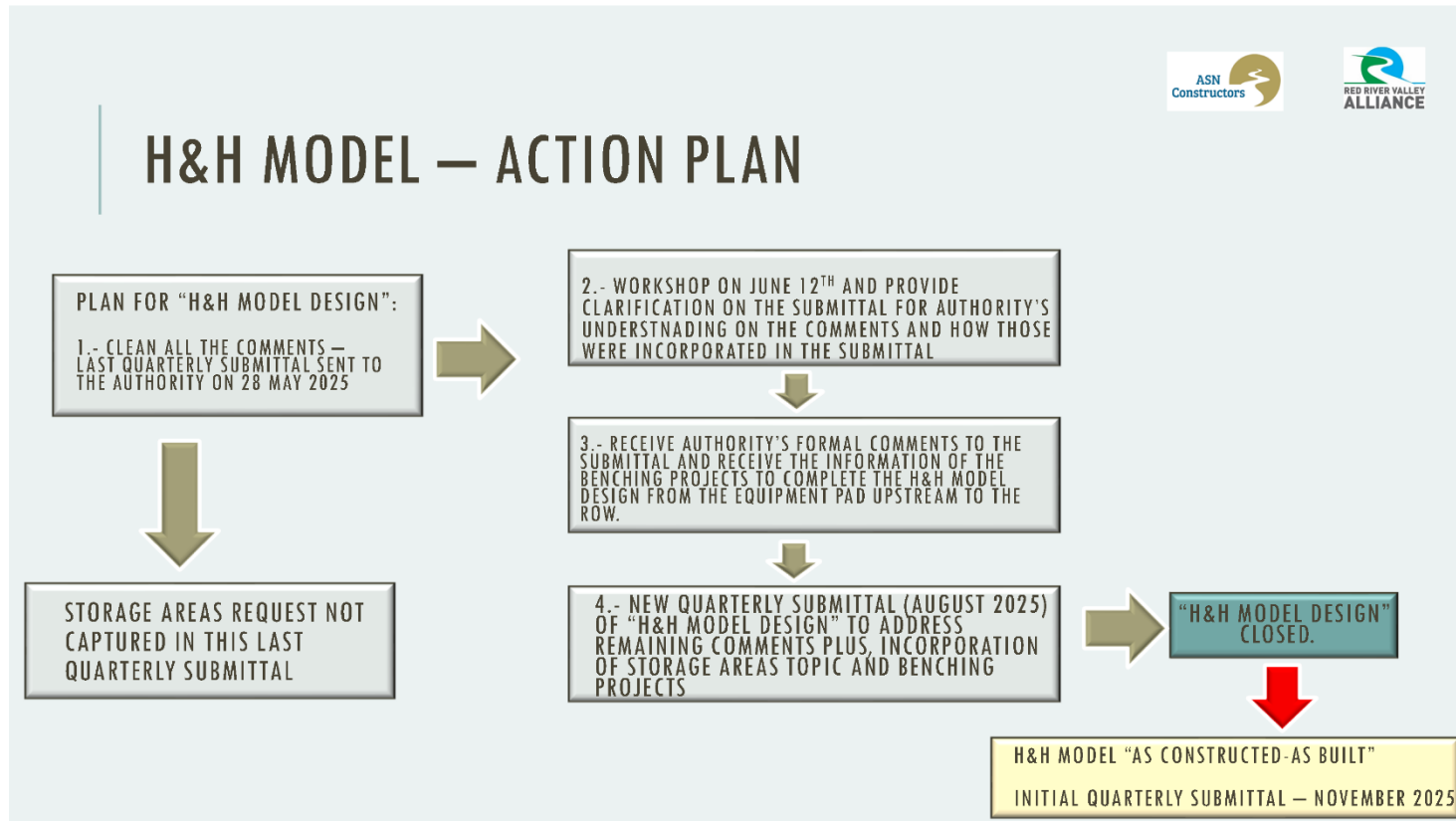
10	Local Drainage Management	Standing water in construction areas is likely to present Interim Completion Event (ICE) issues.	Prepare a realistic plan to prevent the accumulation of standing water in construction areas (in construction) and implement it. As the Technical Requirements prohibit standing water on the Project. See TR 4.4.1(10) (Term). This prohibition is clearly applicable during current operations. See TR 4.3.2(1) (Operations between Interim Completion and Project Substantial Completion). The Plan must demonstrate through submittals of plans, drawings, and proposed temporary activities to avoid standing water during the construction period until Substantial Completion is achieved.	Re-submittal of the updated Plan and a new item will be incorporated as part of the Construction Weekly Meeting.
11	Drain Inlet Connection	The sequencing of the inlet connection and channel “plugs” will present Interim Completion Event (ICE) issues.	Prepare a realistic, holistic water management plan for the rest of construction and implement it.	A detailed Plan will be submitted with the specific details following the sequencing of the PBS3-R2. The plan may include, but not limited to, detail which defines strategy to achieve functionality of the identified drain inlet and any interfacing project components. Define plans and procedures which will be available to pump, divert and manage existing flows and or those from rain and snow during integration efforts (to be agreed by the IC Team in their meetings to streamline the IC process).

ATTACHMENT 1 TO SCHEDULE B

ATTACHMENT 1 - H&H MODEL ACTION PLAN



June , 2025



ATTACHMENT 2 TO SCHEDULE B

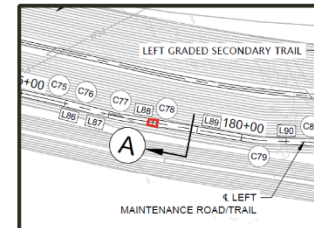
ATTACHMENT 2 – MAINTENANCE ROAD



June, 2025

Proposed solution - Drainage

- * Location and details shown for reference.
- Potential areas that the Developer will inspect and Monitor to evaluate if the improvement is required.



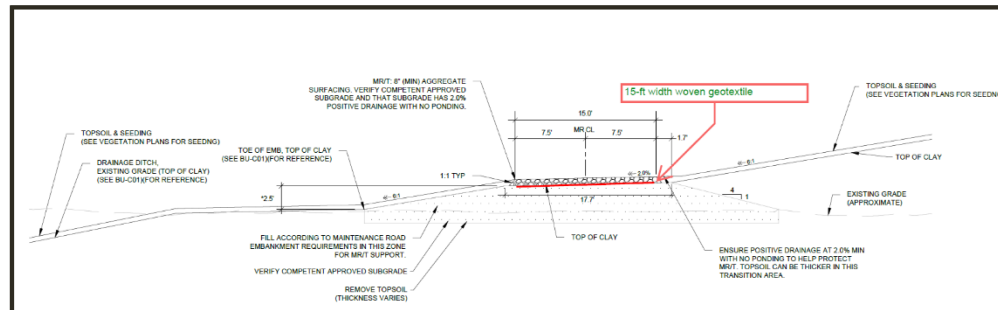


GEOTEXTILE — IMPROVEMENTS

1.- Access and Security — Geotextile Installation Beneath Gravel Road Surface in Maintenance Roads

- Installation of geotextile fabric beneath the gravel surface of the Maintenance Road.
- To be applied on both the Protected and Unprotected sides of the channel, spanning the full extent of the project — Reaches 01 to 14.
- This improvement will be submitted through an RFI to the Engineer of Record (EoR) for review and approval.
- Final as-built conditions will be documented in the Record Drawings Deliverable.

Sketch for reference:



ATTACHMENT 3 TO SCHEDULE B

**ATTACHMENT 3 – ADDITIONAL ACCESS
ROADS OR AREAS IDENTIFIED**

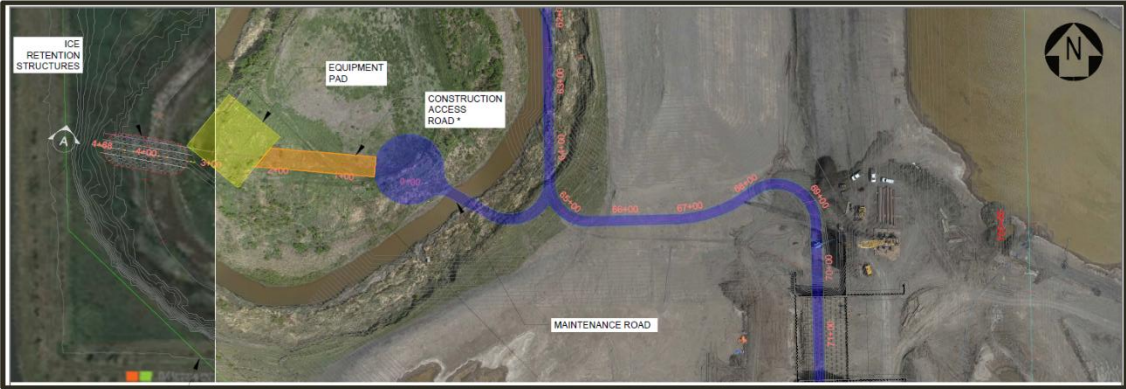


June, 2025



ADDITIONAL ACCESS ROADS - AREAS IDENTIFIED

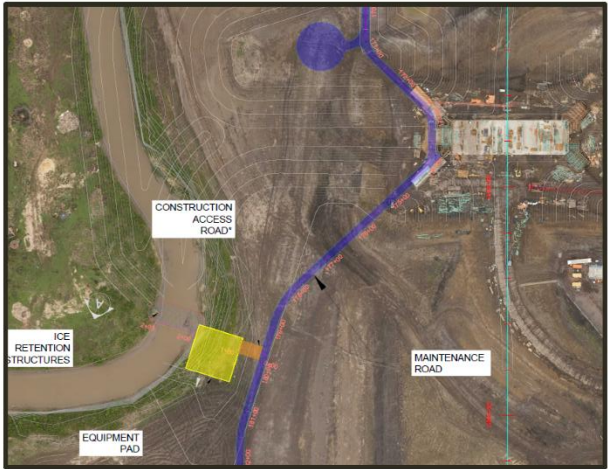
ICE RETENTION STRUCTURES AND EQUIPMENT PAD - MAPLE





ADDITIONAL ACCESS ROADS OR AREAS IDENTIFIED

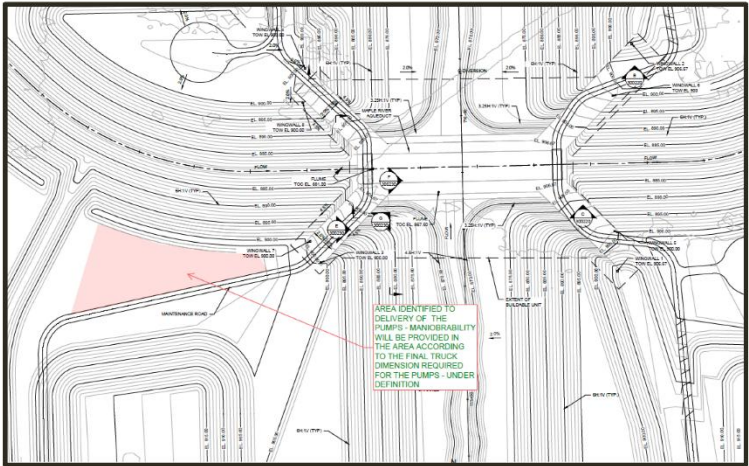
ICE RETENTION STRUCTURES AND EQUIPMENT PADS - SHEYENNE



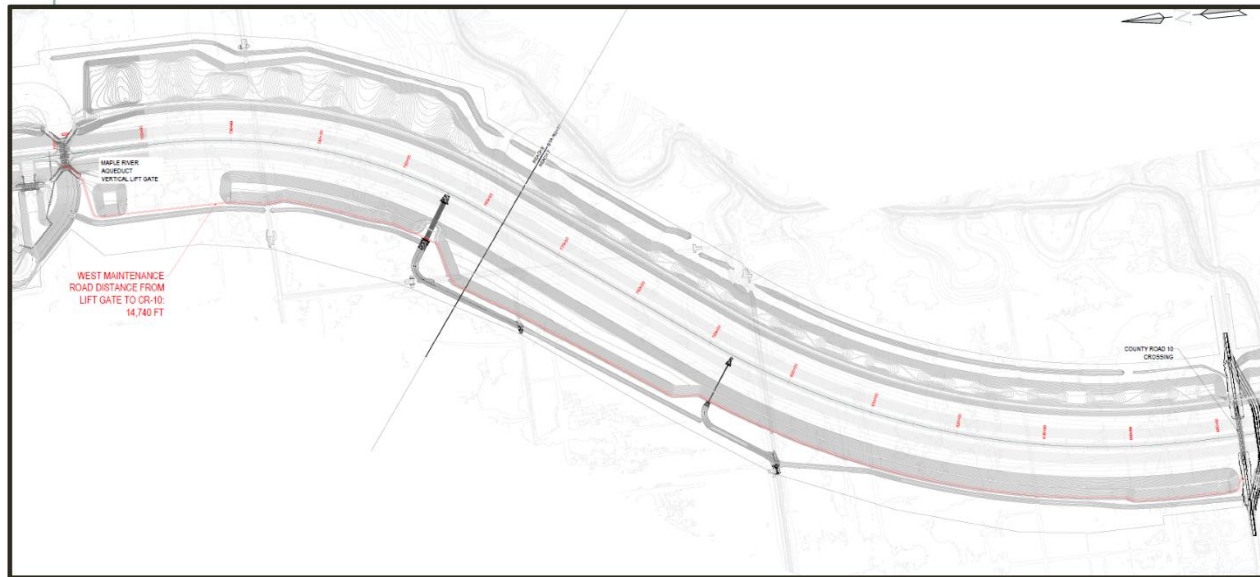


ADDITIONAL ACCESS ROADS OR AREAS IDENTIFIED

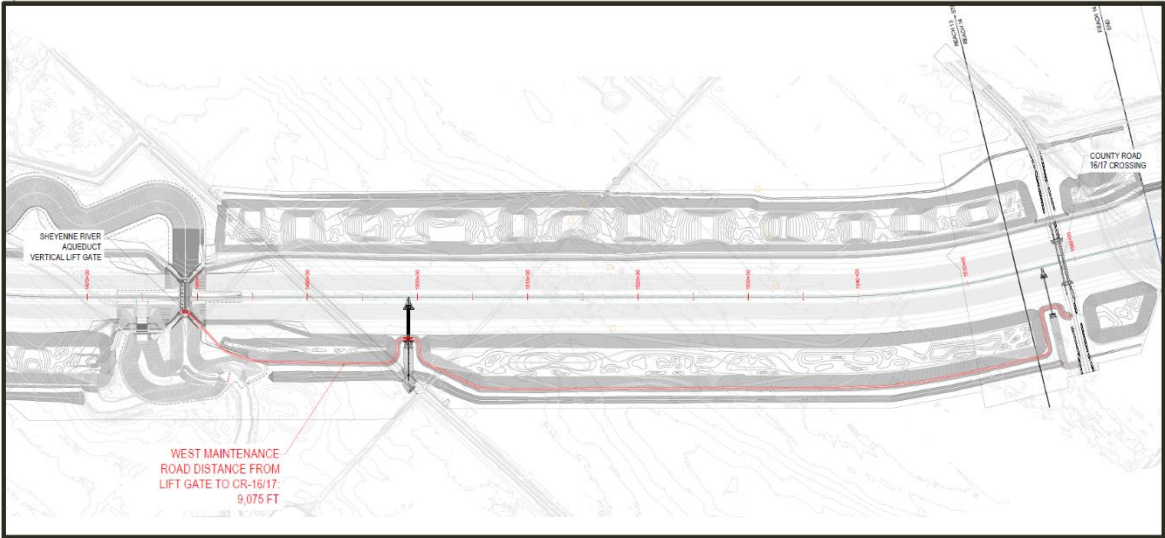
PAD / AREA TO BE PREPARED FOR MAINTENANCE WORKS IN MAPLE - PUMPING SOLUTION



IMPROVEMENTS TO MAINTENANCE ROADS IN SPECIFIC SECTIONS — GRAVEL THICKNESS INCREASE TO 10-INCHES



IMPROVEMENTS TO MAINTENANCE ROADS IN SPECIFIC SECTIONS — GRAVEL THICKNESS INCREASE TO 10-INCHES



ATTACHMENT 4 TO SCHEDULE B

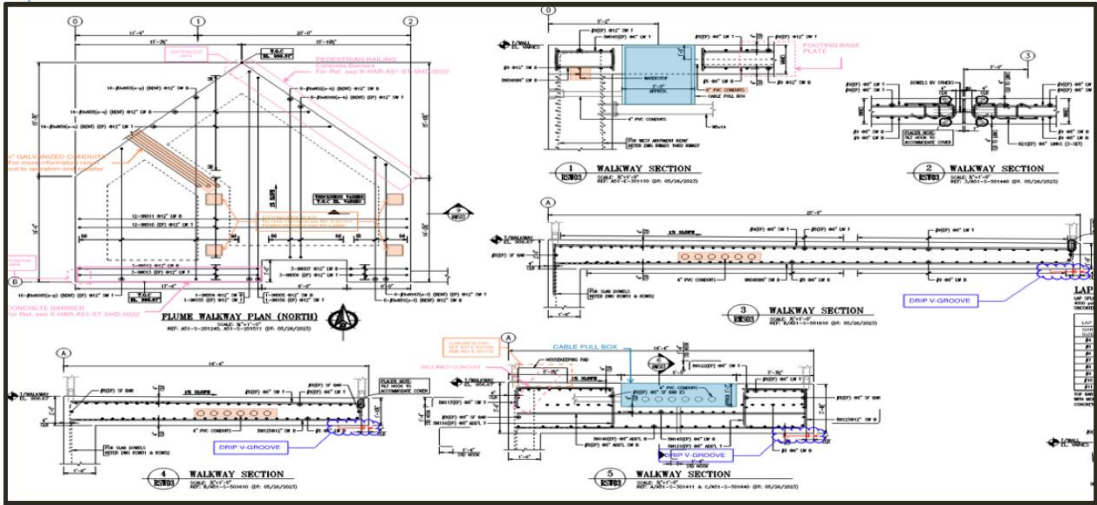
**ATTACHMENT 4 — EXAMPLE OF COORDINATION
PLAN TO INTEGRATE SHOP DRAWINGS
DEVELOPED BY THIRD PARTY VENDORS AND RFC
DOCUMENTS**



June, 2025



EXAMPLE OF COORDINATION PLAN



[illegible]

SCHEDULE C - AUTHORITY ASSESSED NCPS

NCR	Exh 16 Id	PA Ref / TR Ref	Title	Assessed NCPs
NCR-00001	51	TR 2.4.5 (5)	MFDA-NCR-0001 - Audit Program Scheduling	2
NCR-00017	19	PA 20.2 (b) (iii)	MFDA-NCR-0003 - Lack of full-time engagement for Key Personnel: Developer's Public Information Officer and D&C Contractor's Land Manager	0
				0
NCR-00019	24	PA 23.5 (a)	MFDA-NCR-0004 – Lack of timely issuance for the May 2022 Monthly Performance Report	0
NCR-00028	24	PA 23.5 (a)	Lack of timely issuance for the July, 2022 Monthly Performance Report by August 10th, 2022	0
NCR-00041	51	TR 2.4.1 (7), TR 2.4.2, TR 2.4.3	MFDA-NCR-0012 - Lack of implementing effective corrective actions to prevent recurrence of Nonconformances associated with late issuance of meeting minutes	0
NCR-00042	3	TR 2.6, PA 7.4 (h)	MFDA-NCR-0013 - Start of Construction Work without RFC	3
NCR-00043	1	TR 2.4.3 (15) (e), PA 7.4 (b), (h)	MFDA-NCR-0014 – Start of Construction Work without submitting an Inspection and Test Plan	3
NCR-00044	1	TR 2.4.3 (15) (e), PA 7.4 (h)	Starting Construction Work on permanent works in Reach 01 without having an approved Inspection and Test Plan	6
NCR-00045	1	TR 2.6, PA 7.4 (h)	Start of Construction on permanent works in Reach 01 without complete RFC document package	6
NCR-00046	1	TR 2.4.3 (15) (e), PA 7.4 (h)	Starting Horizontal Directional Drilling work without having an approved Inspection and Test Plan for Cass Rural Water (W02) 84+03	3
NCR-00047	3	TR 2.6, PA 7.4 (h)	Starting Horizontal Directional Drilling work without having a complete RFC package for Cass Rural Water (W02) 84+03.	0
NCR-00048	1	TR 2.11.2	Lack of submitting ECS Certification for Channel Reach 2 prior to commencement of construction	4
NCR-00051	51	TR 2.4.2, DQP 3.5	Identification of Non-Conformance in the Sept 2022 Audit, DQP 3.15	0
NCR-00053	51	TR 2.4.2, DQP 3.19	Identification of Non-Conformance in the Sept 2022 Audit, DQP 3.19	14
NCR-00072	3	PA 7.4 (h)	MFDA-NCR-0015 – Start of Construction Work without resolving Authority's	6
			comments for Drilling Operations ITP WAT-CRW-309+20	0
NCR-00073	3	TR 2.4.3 (15) (e)	Starting Construction Work without having an approved Inspection and Test Plan for Cass Rural Water (W03) 153+81	3
NCR-00078	3	TR 2.6, PA 7.4 (h)	MFDA-NCR-0020 – Start of Construction Work without RFC Documents E40-F04 COM-CLN-156+09/156+20	3
NCR-00079	3	TR 2.6, PA 7.4 (h)	MFDA-NCR-0021 – Start of Construction Work without RFC Documents F07 COM- CLN-310+66; P04 – ELE-CCE-309+58	3
NCR-00080	3	TR 2.4.3 (15) (e), PA 7.4 (h)	Start of Construction Work without approved Inspection and Test Plan Documents E40-F04 COM-CLN-156+09/156+20	3

NCR	Exh 16 Id	PA Ref / TR Ref	Title	Assessed NCPs
NCR-00081	3	TR 2.4.3 (15) (e), PA 7.4 (h)	Start of Construction Work without approved Inspection and Test Plan Documents F07 COM-CLN-310+66; P04 – ELE-CCE-309+58	1
NCR-00082	3	TR 2.4.3 (15) (e), PA 7.4 (h)	MFDA-NCR-0024 – Start of Construction Work without accepted ITP for wick drains installation at BU-G11 CR 4/31	0
NCR-00084	3	PA 7.4 (h)	MFDA-NCR-0023 Start Construction Work without ITP open trench BU-W02	9
NCR-00086	51	TR 2.4.2	October 2022 Audit, DQP 3.10(2) -DCS workflows are not used in the returning of shop drawings as outlined in Procedure 4.d	0
		DQP 3.10		0
NCR-00087	51	TR 2.4.2	October 2022 Audit, DQP 3.14(1) - DM hasn't provided the initial review of the RFI per Procedure 1, DJV has a new role, the DSCS who is providing the review	0
		DQP 3.14		0
NCR-00088	51	TR 2.4.2	No signature has been provided on the RFI response per Procedure 4	0
		DQP 3.14		0
NCR-00089	51	TR 2.4.2	Procedure 5, prior notification of the RFI response to ASN was made in some reviews, but not all reviews	0
		DQP 3.14		0
NCR-00093	51	TR 2.2.3, 2.4.2 (6)(v)	MFDA-NCR-0028 - Incorrect Engineer of Record signing and sealing Design Deliverables E40-W03 – WAT-CRW-153+81	0
		DQMP App B		0
NCR-00094	20	Exh 10, 20.2 (d) (e)	MFDA-NCR-0029 - Not approved Key Personnel Core Staff Discipline Staff and Specialist performing the Work	0
		Org Chart Submittal		0
NCR-00097	51	TR 2.4.2	MFDA-NCR-0033 - Lack of implementing Design Quality Procedure DQP 3.7	18
		DQP 3.7		0
NCR-00098	51	TR 2.4.2 (6)(v), TR 2.2.3	MFDA-NCR-0031 - Incorrect Engineer of Record signing and sealing Design Deliverables E30-G11 – CR4 31 Crossing	0
		DQMP App B		0
NCR-00099	1	TR 2.4.3 (34)	MFDA-NCR-0034 – Lack of CQMP procedure associated with processes leading into issuance of Record Drawings	200
NCR-00100	19	Exh 10, PA 20.2	The Project Quality Monitor did not attend the Project Office during the Month of November	0
NCR-00110	1	PA 2.3 (p), TR 2.2.7.2	MFDA-NCR-0036 – Lack of issuing Federal Compliance Report for year 2022	14
NCR-00112	19	Exh 10, PA 20.2	Lack of Developer not having a Developer's Local Affairs Project Manager on staff	12
NCR-00123	51	TR 2.4.2	MFDA-NCR-0039 – Lack of implementing the process for checking and reviewing Design Deliverables as described in DQP 3.3 Design Deliverables Drawing Review	50

NCR	Exh 16 Id	PA Ref / TR Ref	Title	Assessed NCPs
NCR-00134	51	TR 2.4.2	MFDA-NCR-0049 - Lack of implementing the process for checking and reviewing Design Deliverables	40
NCR-00147	3	TR 2.4.3 (15) (e)	Starting Construction Work without having an approved Inspection and Test Plan for CenturyLink Utility Line (F09) at 571+50	6
NCR-00148	3	TR 2.4.3 (15) (e)	Starting Construction Work without having an approved Inspection and Test Plan for CenturyLink Utility Line (F10) at 571+61	6
NCR-00151	3	PA 7.4 (h)	MFDA-NCR-0054 - Start of Work without accepted ITP (F11)	6
NCR-00154	51	TR 2.4.3	Identification of NC in the CQMP May 2023 Audit - Tracking Completion of BUs and PEs	4
NCR-00155	51	TR 2.4.3	Identification of NC in the CQMP May 2023 Audit - Coordination of CQM and CM for coordinating completion of each PE and BU	0
NCR-00171	3	PA 7.4 (h)	MFDA-NCR-0056 – Start of Work without accepted ITP	3
NCR-00172	1	PA 7.4 (h)	MFDA-NCR-0057 - Start of Work without accepted ITP	3
NCR-00174	3	PA 7.4 (h)	MFDA-NCR-0055 - Start of Work without accepted ITP	3
NCR-00180	19	Exh 10, PA 20.2	Lack of Developer not having a Safety Coordinator on staff	0
NCR-00185	1	PA 7.4 (h)	MFDA-NCR-0064 - Start of Work without accepted revised Safety Plan	11
NCR-00199	42	TR 2.11.10.2.1 NPDES Permit No. NDR 111956, RRVA's	MFDA-NCR-0075 – Lack of Erosion and Sedimentation Protection	2
NCR-00207	51	TR 2.8.1	MFDA-NCR-0076 - Lack of registering Nonconformance	12
NCR-00208	65	3.7.2.1.1 3 (b), FHWA MUTCD, NDDOT Standard Drawings,	MFDA-NCR-0077 – Lack of compliance with Work Zone Traffic	1
NCR-00222	51	TR 2.4.1, 2.4.5 (1), 2.4.5 (6)	MFDA-NCR-0084 – Lack of conducting audit in accordance with the Audit Program	6
NCR-00224	51	TR 2.4.3	MFDA-NCR-0085 – Utilized compaction equipment for Levee and EMB fill	2
NCR-0247	3	PA 7.4. (h)	Starting Construction Work without having an approved Inspection	0
			and Test Plan for BNSF Prosper Settlement Activities	0
NCR-00254	9	PA 12(g)	MFDA-NCR-0096 – Failure to provide timely notification of Hazardous Environmental Condition	0
NCR-00309	47	3.7.2.1.2(4)	R36 - I-94 1-Week Ramp Closure	5
NCR-00347	19	PA 20.2, Exh 10	Key Personnel Position - D&CC-CQM position not filled	9
NCR-00362	3	PA 7.4 (h)	C02 (Tree Planting) – Starting Construction Work without having an approved ITP	0

NCR	Exh 16 Id	PA Ref / TR Ref	Title	Assessed NCPs
NCR-00363	19	PA 20.2, Exh 10	Key Personnel Position - D&CC-CM position not filled	0
Total				482

SCHEDULE D – OBJECTED NCPS

NCR	Exh 16 Id	PA Ref / TR Ref	Title	Accrued NCPs (July 3, 2025)	Assessed NCPs
NCR-00096	1	TR 2.5.5.1 (a)	MFDA-NCR-0032 - Lack of issuance of Schedule of Design Deliverables updates	802	10
NCR-00109	1	TR 2.5.1.3 (4) – (7)	MFDA-NCR-0035 – Lack of issuing updated PBS and WBS as a result of Buildable Unit changes identified in the Project Status Schedule Update for December 2022	725	10
NCR-00242	1	TR 2.5.1.1 (3), Attachment 2-3	MFDA-NCR-0091 – Performing Work without submitting affected Reviewable Submittal (List of Buildable Units)	463	10
NCR-00253	37	PA 11.1 (a), 49.1 (c), BNSF C&MA III.18 (d)	MFDA-NCR-0095 – Failure to provide records related to BNSF notification of Hazardous Environmental Condition	198	10
NCR-00256	51	TR 2.4.3, TR 2.8. Att. 4-1 (1.01.04)	Outlet Structure - Boulders in Rock Weirs not meeting the minimum Diameter Requirements	50	0
NCR-00264	22	PA 22.2	MFDA-NCR-0100 – Lack of notifying the occurrence of Noncompliance Event associated with Nonconformance RRVA-QU-NCR-00256 (NCR-00256)	926	10
NCR-00323	1	PA 7.4, TR 2.2.6.1 (1) (c)	MFDA-NCR-0108 - Lack of issuing PBS Monthly Updates	385	10
NCR-00324	1	PA 7.4, TR 2.2.6.2.3	MFDA-NCR-0109 - Lack of Modifying or Adding WBS Elements in PBS	385	10

NCR	Exh 16 Id	PA Ref / TR Ref	Title	Accrued NCPs (July 3, 2025)	Assessed NCPs
NCR-00325	1	PA 7.4, TR 2.2.6.2.6 (2) (c) (d)	MFDA-NCR-0110 - Lack of including activities in PBS	385	10
NCR-00327	1	PA 7.3, TR 2.1.2	MFDA-NCR-0112 - Start of Work without accepted changes to the Developer Project Management Plan	463	10
NCR-00330	1	PA 7.4, TR 2.2.6.2.6 (1) (a) (b)	MFDA-NCR-0115 - Lack of covering the complete list of Buildable Units in the PBS	385	10
NCR-00380	1	PA 7.4 (h), TR 2.3.2	Lack of updates to the H&S Organizational Chart	290	10
NCR-00432	1	TR 2.4.3, TR 2.6, TR 2.6.3, PA Section 7.4 (b) & (h)	MFDA-NCR-0131 – Lack of Shop Drawing and Samples approval prior to flap gates installation at Drain 30	188	0
NCR-00433	51	TR 2.4.2, TR 2.4.3	MFDA-NCR-0132 – Lack of listing Design Change on the applicable Construction Certificates for Drain 30	58	0
NCR-00434	51	TR 2.8.1.1	MFDA-NCR-0133 – Failure to report Nonconformance related to geotextile fabric installation at Drain 30	132	0
Total				5,835	110

SCHEDULE E – PROCESS TO RECTIFY NONCOMPLIANCE EVENTS

Document Control Number	Exh. 16 ID	PA Ref / TR Ref	Schedule	Description	NCE Status	Assessed NCPs	Proposed Correction (if applicable)
RRVA-QU-NCR-00001	51	TR 2.4.5 (5)	C	MFDA-NCR-001 Lack of Notification for January and February Scheduled Audits	NC Closed	2	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00017	19	PA 20.2 (b) (iii)	C	Lack of full time engagement for Key Personnel: Developer's Public Information Officer and D&C Contractor's Land Manager. MFDA-NCR-003	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00019	24	PA 23.5 (a)	C	Lack of timely issuance for the May, 2022 Monthly Performance Report	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00028	24	PA 23.5 (a)	C	Lack of timely issuance for the July, 2022 Monthly Performance Report by August 10th, 2022.	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00041	51	TR 2.4.1 (7), TR 2.4.2, TR 2.4.3	C	MFDA-NCR-0012 - Lack of implementing effective corrective actions to prevent recurrence of Nonconformances associated with late issuance of meeting minutes	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00042	3	TR 2.6, PA 7.4 (h)	C	MFDA-NCR-0013 – Start of Construction Work without RFC Documents and without resolving Authority's comments	NC Closed	3	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00043	1	TR 2.4.3 (15) (e), PA 7.4 (b), (h)	C	MFDA-NCR-0014 – Start of Construction Work without submitting an Inspection and Test Plan	NC Closed	3	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00044	1	TR 2.4.3 (15) (e), PA 7.4 (h)	C	Starting Construction Work on permanent works in Reach 01 without having an approved Inspection and Test Plan.	NC Closed	6	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00045	1	TR 2.6, PA 7.4 (h)	C	Start of Construction on permanent works in Reach 01 without complete RFC document package.	NC Closed	6	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00046	1	TR 2.4.3 (15) (e), PA 7.4 (h)	C	Starting Horizontal Directional Drilling work without having an approved	NC Closed	3	Nonconformance Closed. Correction Completed

Document Control Number	Exh. 16 ID	PA Ref / TR Ref	Schedule	Description	NCE Status	Assessed NCPs	Proposed Correction (if applicable)
				Inspection and Test Plan for Cass Rural Water (W02) 84+03.			
RRVA-QU-NCR-00047	3	TR 2.6, PA 7.4 (h)	C	Starting Horizontal Directional Drilling work without having a complete RFC package for Cass Rural Water (W02) 84+03.	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00048	1	TR 2.11.2	C	Lack of submitting ECS Certification for Channel Reach 2 prior to commencement of construction	NC Closed	4	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00051	51	TR 2.4.2, DQP 3.5	C	Identification of Non-Conformance in the Sept 2022 Audit, DQP 3.15	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00053	51	TR 2.4.2, DQP 3.19	C	Identification of Non-Conformance in the Sept 2022 Audit, DQP 3.19	NC Closed	14	Nonconformance Closed. Correction Completed.
RRVA-QU-NCR-00072	3	PA 7.4 (h)	C	MFDA-NCR-0015 – Start of Construction Work without resolving Authority’s comments for Drilling Operations ITP WAT-CRW-309+20	NC Closed	6	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00073	3	TR 2.4.3 (15) (e)	C	Starting Construction Work without having an approved Inspection and Test Plan for Cass Rural Water (W03) 153+81.	NC Closed	3	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00078	3	TR 2.6, PA 7.4 (h)	C	MFDA-NCR-0020 – Start of Construction Work without RFC Documents E40-F04 COM-CLN-156+09/156+20	NC Closed	3	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00079	3	TR 2.6, PA 7.4 (h)	C	MFDA-NCR-0021 – Start of Construction Work without RFC Documents F07 COM- CLN-310+66; P04 – ELE-CCE-309+58	NC Closed	3	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00080	3	TR 2.4.3 (15) (e), PA 7.4 (h)	C	Start of Construction Work without approved Inspection and Test Plan	NC Closed	3	Nonconformance Closed. Correction Completed

Document Control Number	Exh. 16 ID	PA Ref / TR Ref	Schedule	Description	NCE Status	Assessed NCPs	Proposed Correction (if applicable)
				Documents E40-F04 COM-CLN-156+09/156+20			
RRVA-QU-NCR-00081	3	TR 2.4.3 (15) (e), PA 7.4 (h)	C	Start of Construction Work without approved Inspection and Test Plan Documents F07 COM-CLN- 310+66; P04 – ELE-CCCE-309+58	NC Closed	1	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00082	3	TR 2.4.3 (15) (e), PA 7.4 (h)	C	MFDA-NCR-0024 – Start of Construction Work without accepted ITP for wick drains installation at BU-G11 CR 4/31	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00084	3	PA 7.4 (h)	C	MFDA-NCR-0023 – Start of Construction Work without accepted ITP for open trench at BU-W02 WAT-CRW-84+03	NC Closed	9	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00086	51	TR 2.4.2 DQP 3.10	C	Identification of Non-Conformance in the November 2022 Audit, DQP 3.10(2) October 2022 Audit, DQP 3.10(2) - DCS workflows are not used in the returning of shop drawings as outlined in Procedure 4.d	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00087	51	TR 2.4.2 DQP 3.14	C	Identification of Nonconformance in the November 2022 Audit, DQP 3.14(1) October 2022 Audit, DQP 3.14(1) - DM hasn't provided the initial review of the RFI per Procedure 1, DJV has a new role, the DSCS who is providing the review	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00088	51	TR 2.4.2 DQP 3.14	C	Identification of Non-Conformance in the November 2022 Audit, DQP 3.14(2) No signature has been provided on the RFI response per Procedure 4	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00089	51	TR 2.4.2 DQP 3.14	C	Identification of Non-Conformance in the November 2022 Audit, DQP 3.14(3) Procedure 5, prior notification of the RFI response to ASN was made in some reviews, but not all reviews	NC Closed	0	Nonconformance Closed. Correction Completed

Document Control Number	Exh. 16 ID	PA Ref / TR Ref	Schedule	Description	NCE Status	Assessed NCPs	Proposed Correction (if applicable)
RRVA-QU-NCR-00093	51	TR 2.2.3, 2.4.2 (6)(v) DQMP App B	C	MFDA-NCR-0028 - Incorrect Engineer of Record signing and sealing Design Deliverables E40-W03 – WAT- CRW- 153+81	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00094	20	Exh 10, 20.2 (d) (e) Org Chart Submittal	C	MFDA-NCR-0029 - Not approved Key Personnel Core Staff Discipline Staff and Specialist performing the Work	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00096	1	TR 2.5.5.1 (a)	D	MFDA-NCR-0032 - Lack of issuance of Schedule of Design Deliverables updates	NC Closed	10	Nonconformance Closed. Correction Completed.
RRVA-QU-NCR-00097	51	TR 2.4.2 DQP 3.7	C	MFDA-NCR-0033 - Lack of implementing Design Quality Procedure DQP 3.7	NC Closed	18	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00098	51	TR 2.4.2 (6)(v), TR 2.2.3 DQMP App B	C	MFDA-NCR-0031 - Incorrect Engineer of Record signing and sealing Design Deliverables E30-G11 – CR4 31 Crossing	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00099	1	TR 2.4.3 (34)	C	MFDA-NCR-0034 – Lack of CQMP procedure associated with processes leading into issuance of Record Drawings	NC Closed	200	Nonconformance Closed. Correction Completed.
RRVA-QU-NCR-00100	19	Exh 10, PA 20.2	C	The Project Quality Monitor did not attend the Project Office during the Month of November as Required by Requirement 5 of the General Correspondence FMDA-GNC_001393	NC Closed	0	Nonconformance Closed. Correction Completed

Document Control Number	Exh. 16 ID	PA Ref / TR Ref	Schedule	Description	NCE Status	Assessed NCPs	Proposed Correction (if applicable)
RRVA-QU-NCR-00109	1	TR 2.5.1.3 (4) – (7)	D	MFDA-NCR-0035 – Lack of issuing updated PBS and WBS as a result of Buildable Unit changes identified in the Project Status Schedule Update for December 2022	NCE Closed by Developer (8/19/2025), under Authority review	10	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00110	1	PA 2.3 (p), TR 2.2.7.2	C	MFDA-NCR-0036 – Lack of issuing Federal Compliance Report for year 2022	NC Closed	14	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00112	19	Exh 10, PA 20.2	C	Lack of Developer not having a Developer's Local Affairs Project Manager on staff.	NC Closed	12	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00123	51	TR 2.4.2	C	MFDA-NCR-0039 – Lack of implementing the process for checking and reviewing Design Deliverables as described in DQP 3.3 Design Deliverables Drawing Review	Closed by Developer (8/18/2025), under Authority review	50	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00134	51	TR 2.4.2	C	MFDA-NCR-0049 - Lack of implementing the process for checking and reviewing Design Deliverables	Closed by Developer (8/18/2025), under Authority review	40	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00147	3	TR 2.4.3 (15) (e)	C	Starting Construction Work without having an approved Inspection and Test Plan for CenturyLink Utility Line (F09) at 571+50	NC Closed	6	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00148	3	TR 2.4.3 (15) (e)	C	Starting Construction Work without having an approved Inspection and Test Plan for CenturyLink Utility Line (F10) at 571+61	NC Closed	6	Nonconformance Closed. Correction Completed

Document Control Number	Exh. 16 ID	PA Ref / TR Ref	Schedule	Description	NCE Status	Assessed NCPs	Proposed Correction (if applicable)
RRVA-QU-NCR-00151	3	PA 7.4 (h)	C	MFDA-NCR-0054 - Start of Work without accepted ITP (F11) ITP-00039	NC Closed	6	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00154	51	TR 2.4.3	C	Identification of NC in the CQMP May 2023 Audit - Tracking Completion of BUs and PEs	NC Closed	4	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00155	51	TR 2.4.3	C	Identification of NC in the CQMP May 2023 Audit - Coordination of CQM and CM for coordinating completion of each PE and BU	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00171	3	PA 7.4 (h)	C	MFDA-NCR-0056 – Start of Work without accepted ITP (F12) ITP-00041	NC Closed	3	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00172	1	PA 7.4 (h)	C	MFDA-NCR-0057 – Start of Work without accepted ITP (F27 & F28) ITP-00053	NC Closed	3	Nonconformance Closed. Correction Completed.
RRVA-QU-NCR-00174	3	PA 7.4 (h)	C	MFDA-NCR-0055 – Start of Work without accepted ITP (F13 / F14 / F15) ITP-00048	NC Closed	3	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00180	19	Exh 10, PA 20.2	C	Lack of Developer not having a Safety Coordinator on staff	NC Closed	0	Nonconformance Closed. Correction Completed

Document Control Number	Exh. 16 ID	PA Ref / TR Ref	Schedule	Description	NCE Status	Assessed NCPs	Proposed Correction (if applicable)
RRVA-QU-NCR-00185	1	PA 7.4 (h)	C	MFDA-NCR-0064 – Start of Work without accepted revised Safety Plan	NC Closed	11	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00199	42	TR 2.11.10.2.1 NPDES Permit No. NDR 111956, RRVA's CSWWWP	C	MFDA-NCR-0075 – Lack of Erosion and Sedimentation Protection Measures at Diversion Outlet	NC Closed	2	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00207	51	TR 2.8.1	C	MFDA-NCR-0076 – Lack of registering Nonconformance	NC Closed	12	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00208	65	3.7.2.1.1 3 (b), FHWA MUTCD, NDDOT Standard Drawings, RRVARD- PLN- 00002	C	MFDA-NCR-0077 – Lack of compliance with Work Zone Traffic Control Plan	Closed by Developer (8/21/2025), under Authority review	1	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00222	51	TR 2.4.1, 2.4.5 (1), 2.4.5 (6)	C	MFDA-NCR-0084 – Lack of conducting audit in accordance with the Audit Program	NC Closed	6	Nonconformance Closed. Correction Completed

Document Control Number	Exh. 16 ID	PA Ref / TR Ref	Schedule	Description	NCE Status	Assessed NCPs	Proposed Correction (if applicable)
RRVA-QU-NCR-00224	51	TR 2.4.3	C	MFDA-NCR-0085 – Utilized compaction equipment for Levee and EMB fill	NC Closed	2	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00242	1	TR 2.5.1.1 (3), Attachment 2-3	D	MFDA-NCR-0091 – Performing Work without submitting affected Reviewable Submittal (List of Buildable Units)	Closed by Developer (8/19/2025), under Authority review		Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00247	3	PA 7.4. (h)	C	Starting Construction Work without having an approved Inspection and Test Plan for BNSF Prosper Settlement Activities	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00253	37	PA 11.1 (a), 49.1 (c), BNSF C&MA III.18 (d)	D	MFDA-NCR-0095 – Failure to provide records related to BNSF notification of Hazardous Environmental Condition	Closed by Developer (8/19/2025), under Authority review	10	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00254	9	PA 12(g)	C	MFDA-NCR-0096 – Failure to provide timely notification of Hazardous Environmental Condition	NC Closed	0	Refer to NCR-00253.
RRVA-QU-NCR-00256	51	TR 2.4.3, TR 2.8. Att. 4-1 (1.01.04)	D	Outlet Structure - Boulders in Rock Weirs not meeting the minimum Diameter Requirements	Closed by Developer (8/19/2025), under Authority review	0	Nonconformance Closed. Correction Completed

Document Control Number	Exh. 16 ID	PA Ref / TR Ref	Schedule	Description	NCE Status	Assessed NCPs	Proposed Correction (if applicable)
RRVA-QU-NCR-00264	22	PA 22.2	D	MFDA-NCR-0100 – Lack of notifying the occurrence of Noncompliance Event associated with Nonconformance RRVA-QU-NCR-00256 (NCR-00256)	Closed by Developer (8/19/2025), under Authority review	10	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00309	47	3.7.2.1.2(4)	C	R36 - I-94 1-Week Ramp Closure	NC Closed	5	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00323	1	PA 7.4, TR 2.2.6.1 (1) (c)	D	MFDA-NCR-0108 – Lack of issuing PBS monthly updates	Closed by Developer (7/15/2025), under Authority review	10	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00324	1	PA 7.4, TR 2.2.6.2.3	D	MFDA-NCR-0109 – Lack of modifying or adding WBS elements in PBS	Closed by Developer (8/21/2025), under Authority review	10	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00325	1	PA 7.4, TR 2.2.6.2.6 (2) (c) (d)	D	MFDA-NCR-0110 – Lack of including activities in PBS	Closed by Developer (8/21/2025), under Authority review	10	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00327	1	PA 7.3, TR 2.1.2	D	MFDA-NCR-0112 – Start of Work without accepted changes to the Developer Project Management Plan	Closed by Developer (8/21/2025), under Authority review	10	Nonconformance Closed. Correction Completed

Document Control Number	Exh. 16 ID	PA Ref / TR Ref	Schedule	Description	NCE Status	Assessed NCPs	Proposed Correction (if applicable)
RRVA-QU-NCR-00330	1	PA 7.4, TR 2.2.6.2.6 (1) (a) (b)	D	MFDA-NCR-0115 – Lack of covering the complete list of Buildable Units in the PBS	Closed by Developer (8/21/2025), under Authority review	10	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00347	19	PA 20.2, Exh 10	C	Key Personnel Position - D&CC-CQM position not filled	NC Closed	9	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00362	3	PA 7.4 (h)	C	C02 (Tree Planting) - Starting Construction Work without having an approved Inspection and Test Plan	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00363	19	PA 20.2, Exh 10	C	Key Personnel Position - D&CC-CM position not filled	NC Closed	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00380	1	PA 7.4 (h), TR 2.3.2	D	MFDA-NCR-0122 – Lack of updates to the H&S Organizational Chart	NC Closed	10	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00432	1	TR 2.4.3, TR 2.6, TR 2.6.3, PA Section 7.4 (b) & (h)	D	MFDA-NCR-0131 – Lack of Shop Drawing and Samples approval prior to flap gates installation at Drain 30	Closed by Developer (8/21/2025), under Authority review	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00433	51	TR 2.4.2, TR 2.4.3	D	MFDA-NCR-0132 – Lack of listing Design Change on the applicable Construction Certificates for Drain 30	NCE Opening	0	Nonconformance Closed. Correction Completed
RRVA-QU-NCR-00434	51	TR 2.8.1.1	D	MFDA-NCR-0133 – Failure to report Nonconformance related to geotextile fabric installation at Drain 30	Closed by Developer (8/21/2025), under Authority review	0	Nonconformance Closed. Correction Completed

SCHEDULE F - HISTORICAL NCP BASELINE

*Above table is merely for illustrative purposes. Excessively voluminous nature of document precludes its direct incorporation as a Schedule to the Statement of Principles. This Historical NCPs Baseline dataset is in the possession of all Parties, and may be produced and reviewed by any party on their own accord.

Document Control No.	Breach Description	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2433	2434	2435	2436	2437	2438	2439	2440	2441	2442	2443	2444	2445	2446	2447	2448	2449	2450	2451	2452	2453	2454	2455	2456	2457	2458	2459	2460	2461	2462	2463	2464	2465	2466	2467	2468	2469	2470	2471	2472	2473	2474	2475	2476	2477	2478	2479	2480	2481	2482	2483	2484	2485	2486	2487	2488	2489	2490	2491	2492	2493	2494	2495	2496	2497	2498	2499	2500	2501	2502	2503	2504	2505	2506	2507	2508	2509	2510	2511	2512	2513	2514	2515	2516	2517	2518	2519	2520	2521	2522	2523	2524	2525	2526	2527	2528	2529	2530	2531	2532	2533	2534	2535	2536	2537	2538	2539	2540	2541	2542	2543	2544	2545	2546	2547	2548	2549	2550	2551	2552	2553	2554	2555	2556	2557	2558	2559	2560	2561	2562	2563	2564	2565	2566	2567	2568	2569	2570	2571	2572	2573	2574	2575	2576	2577	2578	2579	2580	2581	2582	2583	2584	2585	2586	2587	2588	2589	2590	2591	2592	2593	2594	2595	2596	2597	2598	2599	2600	2601	2602	2603	2604	2605	2606	2607	2608	2609	2610	2611	2612	2613	2614	2615	2616	2617	2618	2619	2620	2621	2622	2623	2624	2625	2626	2627	2628	2629	2630	2631	2632	2633	2634	2635	2636	2637	2638	2639	2640	2641	2642	2643	2644	2645	2646	2647	2648	2649	2650	2651	2652	2653	2654	2655	2656	2657	2658	2659	2660	2661	2662	2663	2664	2665	2666	2667	2668	2669	2670	2671	2672	2673	2674	2675	2676	2677	2678	2679	2680	2681	2682	2683	2684	2685	2686	2687	2688	2689	2690	2691	2692	2693	2694	2695	2696	2697	2698	2699	2700	2701	2702	2703	2704	2705	2706	2707	2708	2709	2710	2711	2712	2713	2714	2715	2716	2717	2718	2719	2720	2721	2722	2723	2724	2725	2726	2727	2728	2729	2730	2731	2732	2733	2734	2735	2736	2737	2738	2739	2740	2741	2742	2743	2744	2745	2746	2747	2748	2749	2750	2751	2752	2753	2754	2755	2756	2757	2758	2759	2760	2761	2762	2763	2764	2765	2766	2767	2768	2769	2770	2771	2772	2773	2774	2775	2776	2777	2778	2779	2780	2781	2782	2783	2784	2785	2786	2787	2788	2789	2790	2791	2792	2793	2794	2795	2796	2797	2798	2799	2800	2801	2802	2803	2804	2805	2806	2807	2808	2809	2810	2811	2812	2813	2814	2815	2816	2817	2818	2819	2820	2821	2822	2823	2824	2825	2826	2827	2828	2829	2830	2831	2832	2833	2834	2835	2836	2837	2838	2839	2840	2841	2842	2843	2844	2845	2846	2847	2848	2849	2850	2851	2852	2853	2854	2855	2856	2857	2858	2859	2860	2861	2862	2863	2864	2865	2866	2867	2868	2869	2870	2871	2872	2873	2874	2875	2876	2877	2878	2879	2880	2881	2882	2883	2884	2885	2886	2887	2888	2889	2890	2891	2892	2893	2894	2895	2896	2897	2898	2899	2900	2901	2902	2903	2904	2905	2906	2907	2908	2909	2910	2911	2912	2913	2914	2915	2916	2917	2918	2919	2920	2921	2922	2923	2924	2925	2926	2927	2928	2929	2930	2931	2932	2933	2934	2935	2936	2937	2938	2939	2940	2941	2942	2943	2944	2945	2946	2947	2948	2949	2950	2951	2952	2953	2954	2955	2956	2957	2958	2959	2960	2961	2962	2963	2964	2965	2966	2967	2968	2969	2970	2971	2972	2973	2974	2975	2976	2977	2978	2979	2980	2981	2982	2983	2984	2985	2986	2987	2988	2989	2990	2991	2992	2993	2994	2995	2996	2997	2998	2999	3000	3001	3002	3003	3004	3005	3006	300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AMENDED AND RESTATED PROJECT AGREEMENT

for the
FARGO-MOORHEAD METROPOLITAN AREA FLOOD RISK MANAGEMENT PROJECT - DIVERSION
CHANNEL AND ASSOCIATED INFRASTRUCTURE

Dated ~~August~~December 19, ~~2021~~2025

between

METRO FLOOD DIVERSION AUTHORITY,
as Authority

and

RED RIVER VALLEY ALLIANCE, LLC
as Developer

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EXHIBIT

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PROJECT AGREEMENT

This Amended and Restated Project Agreement (this "**Agreement**") is entered into as of ~~August~~December 19, ~~2021~~2025:

BETWEEN:

- (1) The **METRO FLOOD DIVERSION AUTHORITY** (the "**Authority**"), a permanent North Dakota political subdivision and joint powers entity formed through the Joint Powers Agreement, dated June 1, 2016, by and among the City of Moorhead, the City of Fargo, Clay County, Cass County and the Cass County Joint Water Resource District; and

- (2) **RED RIVER VALLEY ALLIANCE, LLC** (the "**Developer**"), a limited liability company formed under the laws of the state of Delaware,

(each a "**Party**" and, together, the "**Parties**").

RECITALS

- (A) The 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, as described in the Report of the Chief of Engineers, dated December 19, 2011 (the "**Chief of Engineers Report**"), was authorized by Section 7002(2) of the Water Resources Reform and Development Act of 2014, Public Law 113-121 ("**WRRDA**").
- (B) On July 11, 2016, the Department of the Army, represented by the United States Army Corps of Engineers ("**USACE**"), and the City of Fargo, the City of Moorhead and the Authority (collectively, the "**Non-Federal Sponsors**") (i) entered into a Project Partnership Agreement (the "**PPA**") for implementation of the Comprehensive Project, as amended by Amendment Number 1 to Project Partnership Agreement, dated March 19, 2019 and (ii) signed a public-private partnership memorandum of understanding (the "**P3 MOU**") which clarifies certain rights and responsibilities of USACE and the Non-Federal Sponsors in relation to the Project (as defined below).
- (C) The Comprehensive Project consists of: the Diversion Channel and Associated Infrastructure work package, as more fully described in this Agreement (the "**Project**" or "**DCAI**" or "**SWDCAI**"); other work, which is being undertaken by the Non-Federal Sponsors; the Southern Embankment and Associated Infrastructure work package; and Mitigation and Associated Infrastructure, which is being undertaken by USACE either directly or as work-in-kind by the Authority, in accordance with the PPA.
- (D) Pursuant to the authority provided in the JPA, the Authority wishes to use a public-private partnership delivery process for the design, construction, financing, operation and maintenance of the Project.
- (E) On July 14, 2016, the Authority approved and publicly issued a Request for Qualifications (collectively with all subsequently issued addenda, the "**RFQ**") regarding a proposed future solicitation for the Project.
- (F) On December 16, 2016, the Authority issued to the Proposers a draft Request for Proposals (including a form of this Agreement) (collectively with all subsequently issued addenda, the "**RFP**").
- (G) The Authority received technical proposals on March 24, 2021, and corresponding financial proposals on April 26, 2021 in response to the RFP, including from Red River Valley Alliance (the "**Successful Proposer**") on behalf of the Developer. On May 17, 2021, the Authority received certain revised financial proposal submittals amending or superseding the original financial proposals, including from the Successful Proposer on behalf of the Developer.
- (H) On June 18, 2021, pursuant to the evaluation process outlined in the RFP, the Authority selected the Successful Proposer on behalf of the Developer as the "Successful Proposer" under the RFP (the "**Selection Date**"). The Authority's decision was based on its overall evaluation of the proposals received from the Proposers and the Authority's conclusion that the Successful Proposer's proposal sufficiently satisfied all criteria required by the RFP and offered the best value proposal.
- (I) On June 30, 2021, the Authority notified the Successful Proposer that it was exercising certain pre-agreed options and accordingly those have been incorporated into this Agreement.
- (J) On August 9, 2021, the Authority Members authorized the Authority, among other things, to advance the implementation and delivery of the Project as a public-private partnership project and to enter into ~~this~~ [a project agreement \(the "Original Project Agreement"\) with the Developer.](#)

- (K) On August 19, 2021, the Authority and the Developer entered into the Original Project Agreement, which Original Project Agreement was amended on October 13, 2021.
- (L) The Authority and the Developer have agreed to further amend and restate the Original Project Agreement on the terms and conditions set out herein to reflect certain provisions of a statement of principles executed by the Authority, the Developer and the D&C Contractor on July 3, 2025 (the "Statement of Principles Effective Date").
- (M) The Authority and the Developer agree that any and all Authority Change Orders and Developer Change Orders issued prior to the Statement of Principles Effective Date remain in full force and effect, unamended, and are incorporated by reference herein.
- (N) ~~(K)~~ This Agreement is entered into under NDCC Chapter 48-02.1, and the Authority has determined that the requirements of NDCC Sections 40-22-37 and 48.01.2-13 will not apply to this Agreement.

THE PARTIES AGREE AS FOLLOWS:**PART A - PRELIMINARY****1. DEFINITIONS, INTERPRETATION AND PRECEDENCE****1.1 Definitions**

Unless the context otherwise requires, capitalized terms and acronyms used in this Agreement have the meanings given in Exhibit 1 (Definitions) and Attachment 1-4 (*Acronyms and Abbreviations*) of the Technical Requirements.

1.2 Interpretation

- (a) In this Agreement:
- (i) headings are for convenience only and do not affect interpretation;
 - (ii) unless otherwise stated, a reference to any agreement, instrument or other document is to such agreement, instrument or other document as amended or supplemented from time to time;
 - (iii) a reference to this Agreement or any other agreement includes all exhibits, schedules, forms, appendices, addenda, attachments or other documents attached to or otherwise expressly incorporated in this Agreement or any such other agreement (as applicable);
 - (iv) subject to Section 1.2(a)(v), a reference to an Article, Section, subsection, clause, Exhibit, schedule, form or appendix is to the Article, Section, subsection, clause, Exhibit, schedule, form or appendix in or attached to this Agreement, unless expressly provided otherwise;
 - (v) a reference in the main body of this Agreement, or in an Exhibit, to an Article, Section, subsection or clause is to the Article, Section, subsection or clause of the main body of this Agreement, or of that Exhibit (as applicable);
 - (vi) a reference to a Person includes such Person's permitted successors and assigns;
 - (vii) a reference to a singular word includes the plural and vice versa (as the context may require);
 - (viii) the words "including", "includes" and "include" mean "including, without limitation", "includes, without limitation" and "include, without limitation", respectively;

(iii) No landowner affected by the proposed special assessment arising out of the FM Flood Risk Management District No. 1 filed an appeal within the statutorily allowed time period to consent to such special assessment, and there is no action, suit, proceeding, investigation or litigation pending, or to the Authority's knowledge threatened, to challenge the validity or enforceability of the FM Flood Risk Management District No. 1.

(j) **No Authority Default**

No Authority Default has occurred and is continuing.

(k) **USACE**

The Authority provided the USACE with the draft Technical Requirements and has taken into account the comments of the USACE in accordance with the P3 MOU.

3.3 Repetition of Representations and Warranties

The representations and warranties of the Developer and the Authority contained in this Agreement are made as of the date of this Agreement and repeated on the Financial Closing Date.

4. [NOT USED]

5. INITIAL PARTNERING WORKSHOP, AND DESIGNATED REPRESENTATIVES

5.1 Initial Partnering Workshop

The Developer shall convene and lead, and the Authority shall participate in, an Initial Partnering Workshop in accordance with Section 2.10.3 of the Technical Requirements.

5.2 Designation of Representatives

The Authority and the Developer shall each designate an individual or individuals who will be authorized to make decisions and bind the Parties on matters relating to this Agreement (the "**Authority Representative**" and "**Developer Representative**", respectively). Exhibit 3 (Initial Designation of Authorized Representatives) provides initial designations, which may be changed by a subsequent notice in writing delivered to the other Party in accordance with Section 57.9 (Notices and Communications).

6. INNOVATIVE TECHNICAL CONCEPTS

If implementation of an ITC forming part of the Project requires the approval or consent of any Governmental Entity (including USACE) or other third party:

- (a) the Developer will have full responsibility for, and bear the full risk of, obtaining any such approval or consent (including any necessary modifications to the Authority-Provided Approvals); and
- (b) if such approval or consent is not granted, or there is an unreasonable and unjustified delay in obtaining such approval or consent (subject to Article 31 (Authority Changes and Directive Letters)), the Developer shall:
 - (i) perform the Work as if such ITC had never formed part of the Project; and
 - (ii) not be entitled to any additional time, relief or compensation under this Agreement.

7. REVIEW OF SUBMITTALS**7.1 General**

- (a) The terms and procedures set out in this Article 7 will govern all Submittals delivered or submitted to the Authority pursuant to this Agreement.
- (b) Submittals delivered or submitted to Third Parties will be governed by the terms and procedures set out in Article 11 (Utilities and Third Parties) and the relevant Third Party MOU.

7.2 Time Periods

- (a) Whenever the Authority is entitled to review, comment on, affirmatively approve, accept or reject a Submittal, the Authority shall review, comment on, affirmatively approve, accept or reject such Submittal:
 - (i) where a period is specified in this Agreement, within such period; or
 - (ii) where no period is specified in this Agreement, promptly (and in any event within twenty (20) Business Days),

after the date the Authority receives an accurate and complete Submittal in conformance with this Agreement.
- (b) Subject to Section 7.2(c), the Authority's review period will be reduced to ten (10) Business Days for any re-submission of a Submittal and the Authority's review will be limited to a review of those matters that necessitated the re-submission.
- (c) If the reason for the re-submission was a rejection (in accordance with the terms of this Article 7) of a prior Submittal because it was incomplete, the time periods set forth in Section 7.2(a) will apply.
- (d) The Developer shall, in coordination with the Authority, schedule, prioritize and coordinate all Submittals to allow an efficient and orderly Submittal review process.
- (e) If the Developer exceeds any of the limits on Submittals set out in the Technical Requirements, the Parties shall (taking into account the number and nature of any other Submittals that the Authority may concurrently be in the process of reviewing) agree in Good Faith to a reasonable time period for review by the Authority of the Submittals that exceed such limit.

(f) [The Developer may submit some or all of the following Submittals together with a written notification to the Authority that the Developer requests a concurrent review period for such Submittals:](#)

- (i) [Design Certificate – Buildable Unit;](#)
- (ii) [Design Certificate – Project Element;](#)
- (iii) [Construction Certificate – Buildable Unit;](#)
- (iv) [Construction Certificate – Project Element;](#)
- (v) [Notice of Interim Completion; and](#)
- (vi) [Developer Certification for Interim Completion.](#)

Upon submission of a written notification to the Authority that the Developer requests a concurrent review period for some or all of the Submittals listed in (i) through (vi) above, the Authority will begin its

concurrent review. Nothing herein shall be construed as a modification of the designation of the relevant Submittal as an R&C Submittal or a Discretionary Submittal, if applicable, nor the applicable time period to review each such Submittal and the requirement to separately identify the Submittals listed in (i) through (vi) within Aconex.

7.3 Discretionary Submittal

- (a) Each Discretionary Submittal is subject to the approval or acceptance of the Authority in its absolute discretion.
- (b) ~~The~~Subject to the following sentence, the Developer must not commence or permit the commencement of any Work that is the subject of, governed by or dependent upon a Discretionary Submittal until it has submitted the Discretionary Submittal to the Authority and the Authority has provided its approval or acceptance to the Discretionary Submittal. If the Discretionary Submittal is made in Good Faith free of any material errors or omissions and the Developer works in Good Faith to address any comments from the Authority on the Discretionary Submittal within thirty (30) days of receipt thereof or such longer period as is reasonable in the circumstances, the Developer may proceed with the Work. For purposes of this Section 7.2(b), "material errors and omissions" are errors and omissions that substantially impair the Authority's ability to review and comment on the Discretionary Submittal on the basis that the Discretionary Submittal does not comply in any material respect with the relevant requirements of this Agreement.
- (c) If the Authority rejects a Discretionary Submittal, the Authority shall provide its rationale for such rejection.
- (d) If the Authority rejects a Discretionary Submittal, the Developer must re-submit the Submittal and Section 7.2(b) or Section 7.2(c) (as applicable) and Section 7.3 will re-apply.

7.4 R&C Submittal

- (a) Each R&C Submittal is subject to the review and comment of the Authority, in its reasonable discretion, in accordance with this Section 7.4.
- (b) The Authority may respond to an R&C Submittal by:
 - (i) responding with "no comment";
 - (ii) rejecting the R&C Submittal and providing Compliance Comments with reference to the grounds set forth in Section 7.4(d)(i); or
 - (iii) providing Compliance Comments with reference to the grounds set forth in Section 7.4(d)(i) or Preference Comments (or both).
- (c) If the Authority fails to respond to an R&C Submittal in accordance with Section 7.4(b) within the period required under this Agreement the Developer may provide written notice of such failure to the Authority. If the Authority fails to respond within five (5) Business Days of such notice, the Authority will be deemed to have responded with "no comment".
- (d) The Authority may:
 - (i) subject to Section 7.4(e), make "Compliance Comments" on or reject an R&C Submittal if:
 - (A) the Work that is the subject of the R&C Submittal fails to comply with any applicable covenant, condition, requirement, term or provision of this Agreement;

(in the Authority's reasonable discretion). If the Authority notifies the Developer that its Project Substantial Completion Implementation Plan is acceptable, the Developer shall implement such Project Substantial Completion Implementation Plan in accordance with its terms.

- (e) The Developer will not be required to submit a notice under Section 26.1(b) or (c) if it has submitted a claim under Article 27 (Compensation Events) or Article 28 (Relief Events) with respect to the relevant delay.

26.2 Supply of Information

Following delivery of notice by the Developer pursuant to Section 26.1 (Notice), the Developer shall promptly (and in any event within seven (7) Business Days of delivery of such notice) supply to the Authority any further information relating to the delay which:

- (a) is received by the Developer; or
- (b) is reasonably requested by the Authority.

27. COMPENSATION EVENTS

27.1 Entitlement to Claim

If a Compensation Event directly causes, or is reasonably likely to directly cause, the Developer to do any one or more of the following:

- (a) fail to achieve Project Substantial Completion by the Scheduled Project Substantial Completion Date or, following the Scheduled Project Substantial Completion Date, incur further delay in achieving Project Substantial Completion;
- (b) fail to achieve Project Final Completion by the Scheduled Project Final Completion Date or, following the Scheduled Project Final Completion Date, incur further delay in achieving Project Final Completion;
- (c) fail to comply with its obligations under this Agreement;
- (d) incur additional or increased costs; or
- (e) fail to complete all Work on a Temporary Construction Easement by the TCE Expiry Date,

subject to Section 27.9 (Material Flood Events), Section 27.10 (Railroad Crossings) ~~and~~, Section 27.11 (Pandemic Event Change in Law) **and Section 27.14 (Compensation Event Credit Days)**, the Developer may claim one or more of the following in accordance with this Article 27:

- (i) an extension to the Scheduled Project Substantial Completion Date or, following the Scheduled Project Substantial Completion Date, the Project Substantial Completion Long Stop Date;
- (ii) an extension to the Scheduled Project Final Completion Date;
- (iii) relief from compliance with its obligations under this Agreement;
- (iv) compensation for any Change in Costs that the Developer has incurred or will incur as a direct result of such Compensation Event;
- (v) compensation for any Finance Costs in accordance with Section 27.8 (Finance Costs during the Authority Delay Period); or

- (bb) the Developer failing to comply with its obligations under this Agreement;
 - (cc) the Developer incurring a Change in Costs; or
 - (dd) a delay in the Developer completing all Work on a Temporary Construction Easement by the TCE Expiry Date; and
 - (B) any extension of time, relief from obligations or compensation for Change in Costs and Finance Costs claimed could not reasonably be mitigated or recovered without substantial cost by the Developer acting in accordance with Good Industry Practice (including by re-sequencing, reallocating or redeploying its forces to other portions of the Construction Work).
- (b) subject to Section 27.9 (Material Flood Events), Section 27.10 (Railroad Crossings)~~and~~, Section 27.11 (Pandemic Event Change in Law) and Section 27.14 (Compensation Event Credit Days), if the Developer satisfies the conditions set out in Section 27.6(a), the Developer will be entitled to an extension of time, relief from obligations or compensation (as applicable), as follows:
- (i) in the case of a delay demonstrated pursuant to Section 27.2 (Notice and Information for Compensation Events):
 - (A) the Scheduled Project Substantial Completion Date or, following the Scheduled Project Substantial Completion Date, the Project Substantial Completion Long Stop Date;
 - (B) the Scheduled Project Final Completion Date; or
 - (C) the TCE Expiry Date for the relevant Temporary Construction Easement,

will be extended by such time as is reasonable for such a Compensation Event;
 - (ii) subject to Section 27.7 (Calculation of Change in Costs), in the case of:
 - (A) Capital Expenditure incurred by the Developer at any time; or
 - (B) if any other Change in Costs arising prior to Project Substantial Completion,

demonstrated pursuant to Section 27.2 (Notice and Information for Compensation Events), the Authority shall, within sixty (60) days of its receipt of a written claim by the Developer that is not disputed (supported by all relevant information), pay the Developer for such Capital Expenditure or other Change in Costs (as adjusted to reflect the Capital Expenditure or other Change in Costs actually incurred by the Developer) that the Developer incurs as a direct result of the relevant Compensation Event;
 - (iii) in the case of any Change in Costs that are not the subject of Section 27.6(b)(ii), the Authority shall compensate the Developer in accordance with Article 39 (Relevant Events and the Financial Model) or in such other manner as the Parties may agree (acting reasonably);
 - (iv) in the case of any Finance Costs that the Developer will incur during the period for which the Scheduled Project Substantial Completion Date is extended, the Authority shall compensate the Developer in accordance with Section 27.8 (Finance Costs during the Authority Delay Period);
 - (v) if any Noncompliance Points would not have occurred but for the occurrence of the Compensation Event, such Noncompliance Points will be deemed to have not occurred for the purposes of this Agreement;

- (vi) if any Developer Default or breach of this Agreement would not have occurred but for the occurrence of the Compensation Event, such Developer Default or breach will be deemed to have not occurred for the purposes of this Agreement;
 - (vii) if any part or parts of the Availability Test is or are failed as of an Annual Availability Determination Date (as determined in accordance with Section 2 (*Project Administrative and Management Requirements*) of the Technical Requirements), and such test or tests would not have been failed but for the occurrence of the Compensation Event, such failure will be deemed to have not occurred for the purposes of this Agreement; and
 - (viii) the Authority shall give the Developer such relief from its ongoing obligations under this Agreement as is reasonable given the nature of the Compensation Event and the Developer's ongoing obligations.
- (c) Within thirty (30) days after receipt of a final Detailed Compensation Event Notice, the Authority shall notify the Developer of its determination as to the Developer's entitlement to any compensation, extension of time or other relief under this Section 27.6. If the Authority fails to respond within such thirty (30) day period, the Authority will be deemed to have rejected the Developer's entitlement to any compensation, extension of time or other relief under this Article 27.
- (d) Within ten (10) Business Days after:
- (i) the Developer receives notice from the Authority of its determination under Section 27.6(c); or
 - (ii) the Authority is deemed to have rejected the Developer's entitlement to any compensation, extension of time or other relief under Section 27.6,
- the Developer shall:
- (A) notify the Authority in writing of whether it accepts the determination or deemed rejection made by the Authority; or
 - (B) submit a Dispute by way of written protest in accordance with Section 54.3(a) (*Written Protest to the Authority*).
- (e) If the Developer does not submit a Dispute by way of a written protest pursuant to Section within the ten (10) Business Day period, the Developer will be deemed to have accepted the determination or deemed rejection.
- (f) If the Developer accepts or is deemed to have accepted the Authority's determination or deemed rejection under Section 27.6(d), the Developer will have irrevocably waived and released any claim with respect to the alleged Compensation Event.

27.7 Calculation of Change in Costs

For the purposes of Section 27.6 (*Grant of Relief and Compensation for Compensation Events*), any Change in Costs will be calculated in accordance with Section 27.14 (*Compensation Event Credit Days*) and Exhibit 19 (*Principles for Calculation of Change in Costs*).

27.8 Finance Costs during the Authority Delay Period

- (a) For the purposes of this Section 27.8, the "**Authority Delay Period**" means the period for which the Developer is granted an extension of time for the Scheduled Project Substantial Completion Date under Section 27.6 (*Grant of Relief and Compensation for Compensation Events*).

To the extent that the Developer makes a claim under this Article 27 (Compensation Events) for a Compensation Event under paragraph (c) of the definition of "Compensation Event" with respect to a Pandemic Event Change in Law:

- (a) the Developer will not be entitled to compensation for Change in Costs with respect to such Compensation Event;
- (b) its entitlement to compensation for "Finance Costs" under Section 27.8(b) (Finance Costs during the Authority Delay Period) with respect to that Compensation Event will be limited to the amounts described in paragraph (b) of the definition of "Finance Costs"; and
- (c) Section 27.8(c) (Finance Costs during the Authority Delay Period) will not apply.

27.12 Relied Upon Disclosed Geotechnical Information

With respect to any claim made under this Article 27 (Compensation Events) relating to Relied Upon Geotechnical Data, the Authority bears no liability and the Developer has no right to be compensated or granted relief for any of the following:

- (a) the inaccuracy of any data, interpretations, opinions or other information included in the Disclosed Geotechnical Information that is not Relied Upon Geotechnical Data; and
- (b) the completeness, scope, presentation or usability of any of the Disclosed Geotechnical Information for the Developer's purposes, including (without limitation) any means, methods, techniques, sequences or procedures of design or construction employed by the Developer.

27.13 Sole Remedy

Except for any rights it may have under Article 41 (Termination for Authority Default), the Developer's sole remedy in relation to any Compensation Event will be the operation of this Article 27.

27.14 Compensation Event Credit Days

With respect to any claim made under this Article 27 (Compensation Events) relating to BNSF Credit Events and/or Flex Credit Events, the following shall apply:

- (a) The Authority may apply BNSF Credit Days in the calculation of any claim for compensation or delay based on a BNSF Credit Event that would otherwise give rise to a claim or defense to performance by the Developer related to the BNSF Credit Event. BNSF Credit Days may be applied by the Authority, in its sole discretion, as a direct credit against the claim for compensation or delay brought against the Authority by the Developer and/or the D&C Contractor under this Agreement related to a BNSF Credit Event, provided, however, that the BNSF Credit Days may not be applied against a claim or delay caused by a specific issue, matter, or circumstance of which the Authority has actual knowledge as of the Statement of Principles Effective Date. For clarity, the limitation on the application of BNSF Credit Days for such issues, matters, or circumstances of which the Authority has actual knowledge does not apply to predictions, estimations, concerns, or assumptions by the Authority. The BNSF Credit Days will be applied against any final determination of a TIA, whether by a court or by agreement of the Authority as to a TIA. BNSF Credit Days may be applied only against BNSF Credit Events.
- (b) The Authority may apply Flex Credit Days in the calculation of any claim for compensation or delay based on a Flex Credit Event that would otherwise give rise to a claim or defense to performance by the Developer related to the Flex Credit Event. Flex Credit Days may be applied by the Authority, in its sole discretion, as a direct credit against the claim for compensation or delay brought against the Authority by the Developer and/or the D&C Contractor under this Agreement related to a Flex Credit Event, provided,

however, that the Flex Credit Days may not be applied against a claim or delay caused by a specific issue, matter, or circumstance of which the Authority has actual knowledge as of the Statement of Principles Effective Date. For clarity, the limitation on the application of Flex Credit Days for such issues, matters, or circumstances of which the Authority has actual knowledge does not apply to predictions, estimations, concerns, or assumptions by the Authority. The Flex Credit Days will be applied against any final determination of a TIA, whether by a court or by agreement of the Authority as to a TIA. Flex Credit Days may be applied only against Flex Credit Events.

(c) For clarity, the Authority shall not be granted any Flex Credit Days or BNSF Credit Days in respect of any Compensation Events arising out of events described in subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (m), (n), (o), (p), (q), (s), and (dd) of the definition of Compensation Event.

28. RELIEF EVENTS

28.1 Entitlement to Claim

If a Relief Event directly causes, or is likely to directly cause, the Developer to do any one or more of the following:

- (a) fail to achieve Project Substantial Completion by the Scheduled Project Substantial Completion Date or, following the Scheduled Project Substantial Completion Date, incur further delay in achieving Project Substantial Completion;
- (b) fail to achieve Project Final Completion by the Scheduled Project Final Completion Date or, following the Scheduled Project Final Completion Date, incur further delay in achieving Project Final Completion;
- (c) fail to comply with any of its obligations under this Agreement; or
- (d) fail to complete all Work on a Temporary Construction Easement by the TCE Expiry Date,

the Developer may claim one or more of the following in accordance with this Article 28:

- (i) an extension to the Scheduled Project Substantial Completion Date or, following the Scheduled Project Substantial Completion Date, the Project Substantial Completion Long Stop Date;
- (ii) an extension of the Scheduled Project Final Completion Date;
- (iii) relief from any rights of the Authority under Article 42 (Termination for Developer Default); or
- (iv) an extension of the TCE Expiry Date for a Temporary Construction Easement.

28.2 Notice and Information

- (a) The Developer shall comply with the procedures in this Section 28.2 to claim an extension of time or relief from its obligations with respect to a Relief Event.
- (b) The Developer shall submit a notice that complies with Section 28.2(c) (an "**Initial Relief Event Notice**") to the Authority promptly (and in any event within thirty (30) days) after the date that the Developer first became aware that the relevant Relief Event had occurred and would have the effect that is the subject of the Developer's claim.
- (c) An Initial Relief Event Notice must:
 - (i) state that it is an Initial Relief Event Notice;

- (i) If to the Developer:

Red River Valley Alliance, LLC

~~55 E. Monroe Street~~

~~Chicago, IL 60603~~

4816 Amber Valley Parkway South, Suite 100
Fargo, ND 58104

Attn: ~~Esther Madrigal Díez~~ Luke Chenery, Developer Representative

Email: ~~esther.madrigal.diez@accional~~ chenery@rrvafm.com

- (ii) If to the Authority, except where (iii) applies:

Metro Flood Diversion Authority

~~207 4th Street North, Suite A~~ 4784 Amber Valley Parkway S.

Suite 100, Fargo, ND ~~58102~~ 58104

Attn: ~~Joel Paulsen~~ Jason Benson, Executive Director

Tel: 701-660-0900

Email: ~~PaulsenJ@FMDiversion~~ bensonj@fmdiversion.gov

- (iii) If to the Authority for notices regarding Disputes, and termination and default notices, to both of the following:

- (A) Metro Flood Diversion Authority

~~207 4th Street North, Suite A~~ 4784 Amber Valley Parkway S.

Suite 100, Fargo, ND ~~58102~~ 58104

Attn: ~~Joel Paulsen~~ Jason Benson, Executive Director

Tel: 701-660-0900

Email: ~~PaulsenJ@FMDiversion~~ bensonj@fmdiversion.gov

- (B) Metro Flood Diversion Authority

~~207 4th Street North, Suite A~~ 4784 Amber Valley Parkway S.

Suite 100, Fargo, ND ~~58102~~ 58104

Attn: Kris Bakkegard, Director of Engineering

Tel: 701-660-0912

Email: BakkegardK@fmdiversion.gov

- (b) Any notice sent by Aconex EDMS will be deemed delivered on the date shown in the Aconex EDMS as the transmission being delivered (provided the hard copy is also delivered pursuant to Section 57.9(a)), if sent personally will be deemed delivered upon receipt, if sent by mail or courier service will be deemed delivered on the date of receipt or on the date receipt at the appropriate address is refused, as shown on the records of the U.S. Postal Service, courier service or other Person making the delivery, and if sent by email communication will be deemed delivered on the date of receipt as shown on the received email transmission (provided the hard copy is also delivered pursuant to Section 57.9(a)). All notices (including by Aconex EDMS or email communication) delivered after 5:00 p.m. Central Time will be deemed delivered on the first (1st) Business Day following delivery.

57.10 Integration of this Agreement

SIGNATORIES

THE AUTHORITY

Signed by METRO FLOOD DIVERSION AUTHORITY

Chair and Executive Director

BY:	_____	BY:	_____
NAME:	SHELLY (MICHELLE) CARLSON <u>TONY GRINDBERG</u>	NAME:	JOEL PAULSEN <u>JASON BENSON</u>
TITLE:	Chair Metro Flood Diversion Authority	TITLE:	Executive Director Metro Flood Diversion Authority
DATE:	_____	DATE:	_____

Countersignature by Secretary

BY: _____
NAME: DAWN LINDBLOM
TITLE: Secretary
Metro Flood Diversion Authority

DATE: _____

THE DEVELOPER

Signed by RED RIVER VALLEY ALLIANCE, LLC

BY: _____
NAME: _____
TITLE: _____
Red River Valley Alliance, LLC

DATE: _____

BY: _____
NAME: _____
TITLE: _____
Red River Valley Alliance, LLC

DATE: _____

BY: _____
NAME: _____
TITLE: _____
Red River Valley Alliance, LLC

DATE: _____

"Baseline Credit Spreads" means the "Baseline Credit Spreads" for the range of maturities, ratings and types of Bond Financings determined by the Authority and notified to Proposers pursuant to the ITP;

"Base Maximum Annual Payments" or **"Base MAPs"** means the base:

- (a) "FC Capital MAP";
- (b) "FC Maintenance MAP";
- (c) "NFC Capital MAP"; and
- (d) "NFC Maintenance MAP",

each of the terms in clauses (a) – (d) as described in Exhibit 15 (Payment Mechanism);

"Benchmarked Insurances" means the Insurance Policies set out in Part 2 (Operations & Maintenance Period Insurance Program) of Exhibit 9 (Required Insurance), other than any professional indemnity coverage, marine, railroad and aircraft liability insurance during Operating Period, which are only mandated where "exposure exists" or when required by railroad company (as applicable);

"Best Management Practices" or **"BMPs"** means the practices and measures accepted as Good Industry Practice for the management of construction sites;

"Betterment" means any upgrading of a Utility in the course of any Utility Adjustment that is not attributable to the construction of the Project and is made solely for the benefit of and at the election of the Utility Owner. The following are not considered Betterments:

- (a) any upgrading which is required for accommodation of the Project, including as a result of the design and construction of the Diversion Channel Line of Protection;
- (b) replacement devices or materials that are of equivalent standards although not identical;
- (c) replacement of devices or materials no longer regularly manufactured with an equivalent or next higher grade or size;
- (d) any upgrading required by Applicable Law;
- (e) replacement devices or materials that are used for reasons of economy (including non-stocked items that may be uneconomical to purchase); and
- (f) any upgrading required by the Utility Owner's applicable standards relating to Utility Adjustments;

"BNSF" means the BNSF Railway Company;

"BNSF Access Date" is defined in Section (Access to the Project Site);

"BNSF C&M Agreement" is defined in Exhibit 22 (Utility and Third Party MOUs);

"BNSF Credit Days" means the aggregate amount of one hundred twenty (120) days of credit for all BNSF Credit Events;

"BNSF Credit Events" means a Compensation Event related to BNSF (or a successor railroad) and described in subsections (v), (w), (aa), (bb) or (cc) of the definition of Compensation Event;

calculations, electronic files, records and submittals prepared by the Developer (and that have been Signed and Sealed by the Engineer of Record), necessary or related to construction and maintenance of the Project;

"**Final Design Submittal**" means the Submittal described in Section 2.5.4.4.2 of the Technical Requirements;

"**Final Geotechnical Design Report**" means the report described in Section 3.4.1.3 of the Technical Requirements;

"**Final Handback Inspection**" means the Handback Inspection described in Section 6.1.3.1 of the Technical Requirements;

"**Final Warning Notice**" is defined in Section 42.2(b)(i) (*Final Warning Notice*);

"**Finance Costs**" means with respect to any Authority Delay Period, the aggregate of:

- (a) all amounts of principal that will fall due for payment under the Finance Documents during that Authority Delay Period; and
- (b) all amounts of interest (excluding default interest) that accrue under the Finance Documents during that Authority Delay Period;

"**Finance Documents**" means the Funding Agreements and the Security Agreements;

"**Financial Close**" means the satisfaction or waiver of all conditions precedent to the initial disbursement to the Developer or utilization by the Developer of Project Debt proceeds or the effectiveness of the Lenders' commitments, as applicable, under the Finance Documents (other than any condition as to the effectiveness of this Agreement or any conditions relating to the adjustment of the Base MAPs);

"**Financial Closing Date**" means the date on which all of the conditions precedent in Section 2.3 (*Conditions Precedent to the Financial Closing Date*) have been satisfied or otherwise waived in accordance with this Agreement;

"**Financial Closing Deadline**" means the date that is one hundred fifty (150) days after the Selection Date, as such date may be extended pursuant to Section 2.4(c) (*Extension of Financial Closing Deadline*);

"**Financial Closing Documents**" is defined in Section 2.3(a) (*Financial Closing Documents*);

"**Financial Dispute**" is defined in Section 54.4(b)(ii) (*Dispute Review Board*);

"**Financial Dispute Review Board**" means the Dispute Review Board for Financial Disputes;

"**Financial Model Closing Protocol**" means the detailed financial close model solving protocol which will be developed specific to the Successful Proposer's Preliminary Financial Model, and will reflect the principles detailed in Exhibit 13 (*Updates to the Base MAPs*) of the Project Agreement;

"**Financial Proposal**" means the financial proposal submitted by the Successful Proposer on behalf of the Developer to the Authority on April 26, 2021, as amended by the revised financial proposal submittals that were submitted by the Successful Proposer on behalf of the Developer to the Authority on the Financial Proposal Date, in response to the RFP;

"**Financial Proposal Date**" means May 17, 2021;

"**Flex Credit Days**" means the aggregate amount of sixty (60) days of credit for all Flex Credit Events;

"**Flex Credit Events**" means a Compensation Event described in subsections (j), (k), (l), (r), (t), (u) or (y) of the definition of Compensation Event;

"Insurance Review Period" means a three (3) year period from the Project Substantial Completion Date and each subsequent three (3) year period commencing on the third (3rd) anniversary of the Project Substantial Completion Date, except where the end of such period lies beyond the end of the Term, in which case the Insurance Review Period will be the period from the end of the penultimate Insurance Review Period to the last day of the Term;

"Insurance Term" means any term or condition required to be in a policy of insurance pursuant to Article 35 (Insurance and Reinstatement) or Exhibit 9 (Required Insurance);

"Intellectual Property" means any and all patents, trademarks, service marks, copyright, database rights, moral rights, rights in a design, know-how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United States or any other part of the world together with all or any goodwill relating or attached thereto which is created, brought into existence, acquired, used or intended to be used by any Developer-Related Entity for the purposes of carrying out the Work or otherwise for the purposes of this Agreement;

"Interim Completion" means, in relation to any Interim Completion Element, the satisfaction of all the Interim Completion Conditions for such Interim Completion Element;

"Interim Completion Conditions" are those conditions set out in Part 1 (Conditions to Interim Completion of Interim Completion Elements) of Exhibit 12 (Construction Completion Conditions);

"Interim Completion Element" means:

(a) each of the Project Elements ~~excluding the Diversion Channel, Low Flow Channel, EMBs and~~;

(i) Diversion Channel;

(ii) Low Flow Channel;

(iii) Excavated Material Berms (EMBs);

(iv) Diversion Channel Line of Protection); ~~and~~

(v) Utilities;

(vi) Demolition;

(vii) Accommodation Works;

(viii) Flow and Water Level Measuring Systems;

(ix) Railroad Crossings;

(x) Drain Inlet associated with CR 17;

(xi) Drain Inlet associated with Legal drain for Mapleton Township Section 9;

(xii) Diversion Inlet Structure Tie-In;

(xiii) Security and Access (Vault toilets, picnic areas and parking lots);

(xiv) Dead End Termination of Local Roads at Diversion Channel;

(xv) Local Drainage;

- (xvi) 15th Street SW improvements from CR 8 to 32nd Avenue;
- (xvii) 24th Street SE connection to realigned CR 4;
- (xviii) 25th Street SE connection to landlocked parcel 2368;
- (xix) 27th Street SE connection to CR 81;
- (xx) 35th Street SE from termination of existing road to landlocked parcel 938;
- (xxi) 37th Street SE East of the Diversion Channel;
- (xxii) 37th Street SE West of the Diversion Channel;
- (xxiii) 169th Avenue SE Connection to Landlocked Parcel 2363;
- (xxiv) 171st Avenue SE Crossing at Drain 30;
- (xxv) 172nd Avenue SE Connection from 24th Street SE to Realigned CR4;
- (xxvi) CR 10 (12th Avenue NW) Connection to Landlocked Parcels 698, 9757, and 9758; and
- (xxvii) CR 81 Crossing;

- (b) each of the Diversion Channel Reaches ~~(including the applicable portion of the Low Flow Channel and the adjacent EMBs and, except for~~ Diversion Channel ~~Line of Protection)~~ Reach 13, that are established in accordance with Section 3.3 of the Technical Requirements; including the applicable portion of:

- (i) Diversion Channel;
- (ii) Low Flow Channel;
- (iii) Excavated Material Berms (EMBs);
- (iv) Diversion Channel Line of Protection;
- (v) Utilities (excluding Buildable Units WS1, WS2 and WS3);
- (vi) Diversion Inlet Structure Tie in;
- (vii) Dead End Termination of Local Roads at Diversion Channel;
- (viii) Local Drainage;
- (ix) Drain Inlet associated with CR 17;
- (x) 15th Street SW improvements from CR 8 to 32nd Avenue;
- (xi) 24th Street SE connection to realigned CR 4;
- (xii) 25th Street SE connection to landlocked parcel 2368;
- (xiii) 35th Street SE from termination of existing road to landlocked parcel 938;

- (xiv) 37th Street SE East of the Diversion Channel;
- (xv) 37th Street SE West of the Diversion Channel;
- (xvi) 169th Avenue SE Connection to Landlocked Parcel 2363;
- (xvii) 171st Avenue SE Crossing at Drain 30;
- (xviii) 172nd Avenue SE Connection from 24th Street SE to Realigned CR4;
- (xix) CR 10 (12th Avenue NW) Connection to Landlocked Parcels 698, 9757, and 9758;
- (xx) 24th Street SE Connection to Landlocked Parcel 1222;
- (xxi) 170 Ave Xing Drain 13 & Legal Drain 30;
- (xxii) 38th Street NW Connection to the Maintenance Road/Trail; and
- (xxiii) 47th Street SE Access to Parcel 1200;
- (c) each Railroad Crossing, excluding completion and removal of shooflies;
- (d) completion of each Railroad Crossing shoofly;
- (e) removal of each Railroad Crossing shoofly;
- (f) CR 81 Crossing, including 27th Street SE connection to CR 81; and
- (g) Diversion Channel Reach 13, including scope of works for all Buildable Units related to Security & Access and the applicable portion in Reach 13 of:
 - (i) Diversion Channel;
 - (ii) Low Flow Channel;
 - (iii) Excavated Material Berms (EMBs);
 - (iv) Diversion Channel Line of Protection;
 - (v) Utilities;
 - (vi) Dead End Termination of Local Roads at Diversion Channel; and
 - (vii) Local Drainage;

"Interstate" means one or more US highways connecting the 48 contiguous states under jurisdiction of the FHWA;

"Interstate-29" or "I-29" means the US highway so numbered under jurisdiction of the FHWA;

"Interstate-94" or "I-94" means the US highway so numbered under the jurisdiction of the FHWA;

"Joint Insurance Cost Report" is defined in Section 35.10(b) (Benchmarking of Insurance Costs);

- (d) the cumulative number of Noncompliance Points assessed under Table 3 (Operations and Maintenance – Flood Control) and Table 4 (Operations and Maintenance – Non-Flood Control) of Exhibit 16 (Noncompliance Events) during any rolling twelve (12) month period equals or exceeds one hundred fifty-five (155);
- (e) the cumulative number of Noncompliance Points assessed during any rolling three (3) month period equals or exceeds one hundred (100); or
- (f) the cumulative number of Noncompliance Points assessed during any rolling twelve (12) month period equals or exceeds two hundred sixty-five (265);

"Noncompliance Event" means any Developer failure to comply with the obligations of this Agreement that is identified as a Noncompliance Event in Exhibit 16 (Noncompliance Events);

"Noncompliance Increased Monitoring Trigger" means an accumulation of assessed Noncompliance Points where:

- (a) the cumulative number of Noncompliance Points assessed under Table 2 (Design and Construction) of Exhibit 16 (Noncompliance Events) during any rolling three (3) month period equals or exceeds fifty-five (55);
- (b) the cumulative number of Noncompliance Points assessed under Table 2 (Design and Construction) of Exhibit 16 (Noncompliance Events) during any rolling twelve (12) month period equals or exceeds one hundred fifty (150);
- (c) the cumulative number of Noncompliance Points assessed under Table 3 (Operations and Maintenance – Flood Control) and Table 4 (Operations and Maintenance – Non-Flood Control) of Exhibit 16 (Noncompliance Events) during any rolling three (3) month period equals or exceeds forty (40);
- (d) the cumulative number of Noncompliance Points assessed under Table 3 (Operations and Maintenance – Flood Control) and Table 4 (Operations and Maintenance – Non-Flood Control) of Exhibit 16 (Noncompliance Events) during any rolling twelve (12) month period equals or exceeds one hundred five (105);
- (e) the cumulative number of Noncompliance Points assessed during any rolling three (3) month period equals or exceeds sixty-five (65); or
- (f) the cumulative number of Noncompliance Points assessed during any rolling twelve (12) month period equals or exceeds one hundred eighty (180);

"Noncompliance Points" means the points that may be assessed for each Noncompliance Event pursuant to Article 22 (Noncompliance Events);

"Noncompliance Rectification Date" means, for any Noncompliance Event, the date that the Noncompliance Event has been cured ~~and reasonable measures have been taken, provided that if, and only if, rectification of a Noncompliance Event requires the submission of a Discretionary Submittal and/or R&C Submittal~~ by the Developer, ~~to the reasonable satisfaction of the Authority, to prevent the reoccurrence of that Noncompliance Event; and:~~

- (a) the Developer's submission is made within the time period set forth in column "Cure Period" of Exhibit 16 and is made in Good Faith free of any material errors or omissions; and
- (b) the Developer works in Good Faith to address any comments from the Authority on the Discretionary Submittal or R&C Submittal, as applicable, within thirty (30) days of receipt thereof or such longer period as is reasonable in the circumstances.

If the Discretionary Submittal and/or the R&C Submittal complies with the above conditions, the date of the Discretionary Submittal or the R&C Submittal, as applicable, will be considered the Noncompliance Rectification Date and the Authority's review period in accordance with Article 7 shall not be considered part of the "Cure Period". For purposes of this definition, "material errors and omissions" are errors and omissions that substantially impair the Authority's ability to review and comment on the Discretionary Submittal or R&C Submittal, as applicable, on the basis that the Discretionary Submittal or R&C Submittal, as applicable, does not comply in any material respect with the relevant requirements of this Agreement;

"Noncompliance Start Date and Time" means:

- (a) for any Noncompliance Event arising from a Requirement Failure, the date and time at which the applicable Response Time for Nonconformances for that Requirement Failure expires, if the Requirement Failure has not been cured on or before that date; and
- (b) for any other Noncompliance Event, the earlier of the date and time that the Developer:
 - (i) first obtains knowledge of the Noncompliance Event; or
 - (ii) first ~~should have reasonably known~~, due to fraud, recklessness, bad faith, intentional misconduct and/or willful misconduct, fails to identify the commencement of the occurrence of the Noncompliance Event₇;

For purposes of this definition, "recklessness" means engaging in conduct in a conscious and clearly unjustifiable disregard of a substantial likelihood of the existence of the relevant facts or risks, such disregard involving a gross deviation from acceptable standards of conduct, "bad faith" means the taking of actions or the making of statements, in each case, of a material nature that evidence a clear intent to fraudulently deceive another, "intentional misconduct" means conduct that, if it is engaged in, it is the person's purpose to do so, and "willful misconduct" means conduct that is engaged in intentionally, knowingly or recklessly;

"Nonconformance" means:

- (a) Work, process, condition or circumstance not in accordance with this Agreement including the Technical Requirements; or
- (b) an item that does not receive an "Acceptable" rating in the Project Levee and Diversion Channel Inspection Test set forth in the Technical Requirements;

"Nonconformance Report" means a record issued in accordance with Section 2.8 (*Nonconformance*) of the Technical Requirements, detailing the description of an identified Nonconformance, the proposed remedy or curing method, duration and action taken to correct the Nonconformance;

"Nonconformance Tracking System" means the tracking system set forth in Section 2.8 (*Nonconformance*) of the Technical Requirements;

"Nonconforming Work" means any Work that does not conform to the requirements of this Agreement;

"Non-Embedded Levees" means the levees described in Section 3.3.1.5(1)(a)(iii) of the Technical Requirements;

"Non-Federal Sponsors" means the City of Fargo, the City of Moorhead and the Authority;

"Non-Flood Control Noncompliance Event" means any Noncompliance Event in Table 4 (*Operations and Maintenance – Non-Flood Control*) of Exhibit 16 (*Noncompliance Events*);

"Non-Material Flood Event" shall occur with respect to a portion of the Project Site where:

- (j) a senior foreign political figure or a prohibited foreign shell bank within the meaning of 31 CFR Section 1010.605; or
- (k) any Person with whom the Authority is engaged in litigation relating to performance of contract or business practices, unless the Authority has first waived (in the Authority's absolute discretion) the prohibition on a transfer to such Person during the continuance of the relevant litigation, by written notice to the transferring equity holder, with a copy to the Developer;

"Project" or "DCAI" or "SWDCAI" is defined in the Recitals;

"Project Asset Inventory" means the inventory of Project Elements and features described in Section 2.7.2(1) of the Technical Requirements;

"Project Baseline Schedule" or "PBS" means the Project Schedule developed in accordance with Section 2.2.6.1 of the Technical Requirements, and includes PBS-1, PBS-2, PBS-3, [PBS-3.R2](#) and PBS-4;

"Project Data" means:

- (a) the Design Documents; and
- (b) any other information, documents or data acquired or brought into existence or used in relation to the Work or this Agreement,

in each case, that is used by or on behalf of any Developer-Related Entity in connection with the provision of the Work or the performance of the Developer's obligations under this Agreement;

"Project Debt" means all outstanding obligations from time to time pursuant to the Finance Documents;

"Project Design Guidelines" means the guidelines described in Section 3.8.1 of the Technical Requirements;

"Project Documents" means this Agreement, the Key Contracts, the Lenders Direct Agreement, the D&C Contractor Direct Agreement and the Finance Documents;

"Project Element Constituent" means an attribute of a Project Element listed in the column entitled "Project Element Constituent" in Part 2 and Part 3 of Attachment 4-1 (*Performance and Measurement Table*) to the Technical Requirements;

"Project Elements" means the Project Elements identified in Attachment 1-3 (*Project Elements and Agency Having Jurisdiction*) to the Technical Requirements and includes all demolition, temporary measures, detours, protection, erosion control and appurtenances required for the construction, maintenance and operation of such Project Element;

"Project Final Completion" means satisfaction of all of the Project Final Completion Conditions;

"Project Final Completion Conditions" are those conditions in Part 4 (*Project Final Completion Conditions*) of Exhibit 12 (*Construction Completion Conditions*);

"Project Insurance Change" means any net increase or net decrease in the Actual Benchmarked Insurance Cost relative to the Base Benchmarked Insurance Cost, arising from:

- (a) the claims history (other than any claims history arising from or in connection with an Authority-Retained Responsibility);

"Project Substantial Completion Long Stop Date" means the date that is twelve (12) months after the Scheduled Project Substantial Completion Date, as such date may be extended in accordance with this Agreement;

"Proposal Commitments" means the statements, provisions, concepts or designs in the Developer Proposal that can reasonably be interpreted as offering to:

- (a) provide higher (but not lower) quality items than otherwise required by the main body of this Agreement or the other Exhibits to this Agreement; or
- (b) perform services or meet standards in addition to or better than those otherwise required;

"Proposer" means each firm or team of firms who was shortlisted in accordance with the RFQ, as amended in accordance with Section 1.9 of the Instructions to Proposers and invited to submit a proposal to the Authority in response to the RFP;

"Protected Area" means the area generally East of the Diversion Channel of Protection, as described in Attachment 1-1 (*Protected Area—H&H Model*) to the Technical Requirements;

"Protected Side" means the right side of the Diversion Channel bounded by the centerline of the Diversion Channel Line of Protection;

"Protection in Place" means any action taken to avoid damaging a Utility which does not involve removing or relocating that Utility, including staking the location of the Utility, exposing the Utility, avoidance of a Utility's location by construction equipment, installing steel plating or concrete slabs, encasement in concrete, temporarily de-energizing power lines and installing physical barriers. The term includes both temporary measures and permanent installations meeting this definition;

"Punch List" means an itemized list of Minor Defects;

"Qualified Investor" means Acciona Concesiones, S.L., Corporación Acciona Infraestructuras S.L., NACG US Inc., North American Construction Group Ltd., S&B USA Concessions – Fargo LP, and Shikun & Binui Ltd.;

"Qualifying Change in Law" means:

- (a) a Discriminatory Change in Law; or
- (b) a General Change in Law which involves Capital Expenditure,

which, in each case, which was not pending, passed, adopted or otherwise published or notified to the public or the Developer (but not yet effective) as of the Setting Date; or

- (c) Pandemic Event Change in Law;

"Qualifying Refinancing" means any Refinancing that will give rise to a Refinancing Gain greater than zero that is not an Exempt Refinancing;

"Quality Management Plan" or "QMP" means the plan and all its component parts, as described in Section 2.4 of the Technical Requirements;

"R&C Submittal" means:

- (a) any Submittal that is identified as an "R&C Submittal" in Attachment 2-3 to the Technical Requirements; and

Project (that is not Routine Maintenance) so that such component does not prematurely deteriorate and remains fully functional;

"**Renewal Work Plan**" means the plan described in Section 2.7.1 of the Technical Requirements;

"**Renewal Work Schedule**" means the schedule for the Renewal Work to be prepared and updated by the Developer pursuant to Section 2.2.6.9 of the Technical Requirements;

"**Reporting Period**" as defined in Exhibit 17 (Monthly Performance Reports);

"**Request for Assistance**" is defined in Section 11.7(c) (Failure by Utility Owner to Cooperate);

"**Request for Information**" or "**RFI**" means a request for clarification or amendment of a Released for Construction Document;

"**Request for Proposals**" or "**RFP**" is defined in the Recitals;

"**Request for Qualifications**" or "**RFQ**" is defined in the Recitals;

"**Requested Information**" is defined in Section 51.2(b) (North Dakota and Minnesota Open Records Laws);

"**Required Action**" is defined in Section 48.3(a)(i) (Required Action by the Authority);

"**Requirement Failure**" means each requirement failure listed in Attachment 4-1 (*Performance and Measurement Table*) of the Technical Requirements;

"**Resilience Program**" means the Authority's management and tracking approach to implementing the Institute for Sustainable Infrastructure (ISI) Envision framework on the Project;

"**Resilience Program Plan**" means the plan described in Section 3.14 of the Technical Requirements;

"**Reserved Material**" means material stockpiled or delivered by the Developer in accordance with Section 3.3.1.6.4 of the Technical Requirements for future use by the Authority or others;

"**Response Time for Nonconformances**" means the period of time allocated to remedy a Nonconformance, indicated under column "Response Time for Nonconformances" of Attachment 4-1 (*Performance and Measurement Table*) of the Technical Requirements, provided that, in the event the remedy of a Nonconformance requires the submission of a Discretionary Submittal and/or R&C Submittal by the Developer to the Authority and:

- (i) the Developer's submission is made within the time period set forth in column "Response Time for Nonconformances" of Attachment 4-1 and is made in Good Faith free of any material errors or omissions; and
- (ii) the Developer works in Good Faith to address any comments from the Authority on the Discretionary Submittal or R&C Submittal, as applicable, within thirty (30) days of receipt thereof or such longer period as is reasonable in the circumstances,

then the Authority's review period in accordance with Article 7 shall not be considered part of the "Response Time for Nonconformances". For purposes of this definition, "material errors and omissions" are errors and omissions that substantially impair the Authority's ability to review and comment on the Discretionary Submittal or R&C Submittal, as applicable, on the basis that the Discretionary Submittal or R&C Submittal, as applicable, does not comply in any material respect with the relevant requirements of this Agreement;

"**Restricted Change in Ownership**" is defined in Section 53.1(b) (Restricted Change in Ownership);

"Scope of Work Document" means the document described in Section 6.2.13.3 of the Technical Requirements;

"Second Handback Inspection" means the Handback Inspection described in Section 6.1.3.1 of the Technical Requirements;

"Section 401 Certification" means the certification dated October 20, 2016, as amended on August 11, 2020, granted by North Department of Health (now known as the North Dakota Department of Environmental Quality) under Section 401 of the Clean Water Act, as amended (33 U.S.C. 23 § 1151);

"Section 404 Permit" means the permit dated December 14, 2016, as amended on September 29, 2020, granted by the USACE under Section 404 of the Clean Water Act, as amended (33 U.S.C. 1344), which includes narrative descriptions, based upon information in the FEIS and Supplemental Environmental Assessments, which were used by the USACE to complete the Section 404 Permit assessment and identify permit conditions, including preliminary illustrations and dimensions of major facilities. These preliminary descriptions were used to develop "General Conditions" and "Special Conditions" included in the Section 404 Permit (related to compensatory mitigation, best management practices and construction conditions, wildlife resource protection conditions, and cultural resources protection conditions) to be applied to construction and operation of the final project description;

"Section 408 Approval" means an approval granted by USACE under Section 14 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. 408);

"Security Documents" means the documents listed in [SectionPart 2](#) (Security Documents) of [Exhibit 23 \(Finance Documents\)](#), together with any other document designated by the Parties (acting jointly) as a Security Document;

"Sedimentation, Erosion and Scour Report" means the report described in Section 3.5.2 of the Technical Requirements;

"Selection Date" is defined in the Recitals;

"Service Line" means (a) a Utility line, the function of which is to directly connect the improvements on an individual property to another Utility line located off such property, which other Utility line connects more than one such individual line to a larger system or (b) any cable or conduit that supplies an active feed from a Utility Owner's facilities to activate or energize the Authority's or a local agency's lighting and electrical systems, traffic control systems, communications systems or irrigation systems;

"Setting Date" means February 24, 2021, being the date that is thirty (30) days before the Technical Proposal Date;

"Sheyenne River" means the river so named in Attachment 1-2 (*Project Configuration*) to the Technical Requirements;

"Sheyenne River Aqueduct" means the Project Element, including flumes, spillways and river channels within the Project ROW, that will convey the flow of the Sheyenne River across the Diversion Channel;

"Shoofly" means a temporary road or railroad track built to bypass a construction site;

"Shop Drawings and Samples" means shop drawings, laying drawings, erection drawings, fabrication drawings, product information, catalog information, samples, mock-ups, plans (e.g., traffic management and dewatering), test procedures and results, descriptions of services, descriptions of specific means and methods and related documentation prepared prior to the various aspects of the Project being conducted or incorporated into the Work, including any resubmittals;

"Sign and Seal" means the act of ensuring a document is Signed and Sealed;

"Signed and Sealed" means the signature and seal of a professional engineer licensed in North Dakota on a document indicating that the licensee takes professional responsibility for the work and, to the best of the licensee's knowledge and ability, the work represented in the document is accurate, in conformance with applicable codes at the time of submission and has been prepared in conformity with normal and customary standards of practice and with a view to the safeguarding of life, health, property and public welfare. The licensed professional engineer certifies that the documents have been signed and sealed in accordance with laws, rules and regulations of North Dakota;

"Southern Embankment and Associated Infrastructure" or "SEAI" means the southern embankment work and associated infrastructure described in the PPA and not part of the Project;

"Staging Area" means the area upstream of the SEAI, the Red River Control Structure, the Wild Rice River Structure, and the Diversion Inlet Structure that is available to temporarily store water during Project Operation;

"Standard & Poor's" means Standard & Poor's Ratings Services, a division of S&P Global;

"Standard Project Flood" or "SPF" means the flood for the Sheyenne River Basin labeled as the "SPF" in the H&H Model;

"State Historic Preservation Officer" or "SHPO" means the officer appointed by the Archaeology and Historic Preservation Division of the State Historical Society of North Dakota to identify and protect historic properties;

"Statement of Principles Effective Date" is defined in the Recitals;

"States" means North Dakota and Minnesota;

"Stormwater Pollution Prevention Plan" or "SWPPP" means the plan described in Section 3.8.2.3 of the Technical Requirements;

"Subcontractor Breakage Costs" means Losses that have been or will be reasonably and properly incurred by the Developer under a Key Contract as a direct result of the termination of this Agreement (and which will not include lost profit or lost opportunity), but only to the extent that:

- (a) the Losses are incurred in connection with the Project and with respect to the Work required to be provided or carried out, including:
 - (i) any materials or goods ordered or subcontracts placed that cannot be cancelled without such Losses being incurred;
 - (ii) any expenditure incurred in anticipation of the provision of services or the completion of Work in the future; and
 - (iii) the cost of demobilization including the cost of any relocation of equipment used in connection with the Project;
- (b) the Losses are incurred under arrangements or agreements that are consistent with terms that have been entered into in the ordinary course of business and on an arm's length basis; and
- (c) the Developer and the relevant Key Contractor have each used their Reasonable Efforts to mitigate such Losses;

"Submittal" means any document, work product or other written or electronic product or item required under the Technical Requirements to be delivered or submitted to the Authority or an AHJ for approval, review, comment or otherwise;

ANNEX 1 – PAY UNITS

The Pay Unit downstream limits and upstream limits are general descriptions. Pay Units are to consist of one or more whole Buildable Units. Do not split Buildable Units among Pay Units without linking Pay Units (i.e. if two or more Pay Units are combined into a single Buildable Unit, those Pay Units must be submitted together when the Buildable Unit is substantially complete). Exhibit 5 (Technical Requirements) describes allowable limits of Diversion Reaches. Make reasonable assumptions, generally consistent with the limits described in the table and the WBS, in assigning portions of Construction Work to each Pay Unit.

Pay Unit Number	Description of Pay Unit	Downstream Limit	Upstream Limit	Pay Unit Amount (\$)
1	Diversion Outlet	Centerline of Red River	Upstream end of transition to the uniform adjacent Diversion Channel geometry	7,344,833
2	Diversion Channel Reach <u>1</u> , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail. Include erosion control features <u>as</u> recommended in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses <u>Include 25th St. SE connection Parcel 2368. Include 171th Ave. S.E. Crossing at Drain 30. Include 172nd Ave. S.E. Connection to realigned CR4. Include 24th St SE Connection to realigned CR4.</u>	Upstream limit of Pay Unit 1	Pay Unit 11 <u>12</u> - Drain 29 <u>30</u> Inlet	14,590,302 <u>14,152,593</u>
3	Diversion Channel Reach <u>1</u> , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail. Include erosion control features as recommended in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses Include 25th St. SE connection Parcel 2368. Include 171th Ave. S.E. Crossing at Drain 30. Include 172nd Ave. S.E. Connection to realigned CR4. Include 24th St SE Connection to realigned CR4	Upstream limit of Pay Unit 2 <u>1</u>	Pay Unit 12 - Drain 30 Inlet	23,787,986 <u>23,074,346</u>
4	Diversion Channel Reach <u>2</u> , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail. Include erosion control features as recommended in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses- Include 27th Street. S.E. Connection to CR81-	Upstream limit of Pay Unit 3	Pay Unit 30 - BNSF Hillsboro Subdivision Line Crossing	16,776,000 <u>16,272,719</u>
5	Diversion Channel Reach <u>3</u> , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail. Include erosion control features as recommended in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses	Pay Unit 22 - I-29 Southbound Crossing	Pay Unit 13 - Rush River Inlet	27,560,256 <u>26,733,448</u>
6	Diversion Channel Reach <u>4</u> , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail <u>(excluding Buildable Unit WS1).</u>	Upstream limit of Pay Unit 5	Pay Unit 15 - Lower Rush River Inlet	16,886,949 <u>16,380,341</u>

Pay Unit Number	Description of Pay Unit	Downstream Limit	Upstream Limit	Pay Unit Amount (\$)
	Include erosion control features as recommended in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses			
7	Diversion Channel Reach 5 , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail. Include erosion control features as recommended Interim Completion in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses	Upstream limit of Pay Unit 6	Pay Unit 33 BNSF Prosper Subdivision Line Crossing	38,755,024 37,592,373
8	Diversion Channel Reach 6 , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail. Include erosion control features as recommended in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses Include 35th St. SE to parcel 938	Upstream limit of Pay Unit 7	Pay Unit 16 - Raymond Township North Drain Inlet	18,096,295 17,553,406
9	Diversion Channel Reach 7 , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail. Include erosion control features as recommended in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses Include 37th St. SE East of Diversion Channel. Include CR10 (12th Ave NW Connect to multiple parcels).	Upstream limit of Pay Unit 8	Pay Unit 18 - Drain 14B Inlet	23,266,525 22,568,529
10	Diversion Channel Reach 8 , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail. Include erosion control features as recommended in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses	Upstream limit of Pay Unit 9	Pay Unit 19 - Drain 14C Inlet	26,062,443 25,280,570
11	Drain 29 Inlet	Project ROW	Adjacent Diversion Channel Reach Pay Units	1,717,383
12	Drain 30 Inlet	Project ROW	Adjacent Diversion Channel Reach Pay Units	3,193,006
13	Rush River Inlet	Project ROW	Adjacent Diversion Channel Reach Pay Units	8,041,484
14	Berlin Township Drain Inlet	Project ROW	Adjacent Diversion Channel Reach Pay Units	4,258,118
15	Lower Rush River Inlet	Project ROW	Adjacent Diversion Channel Reach Pay Units	8,862,507
16	Raymond Township North Drain Inlet	Project ROW	Adjacent Diversion Channel Reach Pay Units	3,193,006
17	Raymond Township South Drain Inlet	Project ROW	Adjacent Diversion Channel Reach Pay Units	3,181,911
18	Drain 14B Inlet	Project ROW	Adjacent Diversion Channel Reach Pay Units	3,581,328
19	Drain 14C Inlet	Project ROW	Adjacent Diversion Channel Reach Pay Units	8,940,172

Pay Unit Number	Description of Pay Unit	Downstream Limit	Upstream Limit	Pay Unit Amount (\$)
20	Maple River Aqueduct, except that it is not required to be in service.	N/A	N/A	41,248,560
21	I-29 Northbound Crossing	N/A	N/A	11,123,724
22	I-29 Southbound Crossing	N/A	N/A	11,123,724
23	I-94 Eastbound Crossing	N/A	N/A	11,001,680
24	I-94 Westbound Crossing	N/A	N/A	11,001,680
25	CR 22 Crossing	N/A	N/A	5,986,779
26	CR 32 Crossing	N/A	N/A	8,327,806
27	CR 81 Crossing <u>Include 27th Street, S.E. Connection to CR81</u>	N/A	N/A	14,706,217
28	Combined CR 4 and CR 31 Crossing and Collector Roadway Improvements	N/A	N/A	9,014,526
29	Construction of the BNSF Hillsboro Subdivision Line Crossing Shoofly (Buildable Unit as described in Section 3.3.3.6 Railroad)	N/A	N/A	4,249,352
30	BNSF Hillsboro Subdivision Line Crossing	N/A	N/A	11,134,819
31	Removal of the BNSF Hillsboro Subdivision Line Crossing Shoofly outside of BNSF ROW. (Buildable Unit as described in Section 3.3.3.6 Railroad)	N/A	N/A	1,697,522
32	Construction of the BNSF Prosper Subdivision Line Crossing Shoofly (Buildable Unit as described in Section 3.3.3.6 Railroad)	N/A	N/A	3,195,335
33	BNSF Prosper Subdivision Line Crossing	N/A	N/A	8,416,565
34	Removal of the BNSF Prosper Subdivision Line Crossing Shoofly outside of BNSF ROW. (Buildable Unit as described in Section 3.3.3.6 Railroad)	N/A	N/A	1,275,915
35	Construction of the BNSF KO Subdivision Line Eastbound Crossing Shoofly (Buildable Unit as described in Section 3.3.3.6 Railroad)	N/A	N/A	3,472,708
36	BNSF KO Subdivision Line Eastbound Crossing	N/A	N/A	9,126,639
37	Removal of the BNSF KO Subdivision Line Eastbound Crossing Shoofly outside of BNSF ROW. (Buildable Unit as described in Section 3.3.3.6 Railroad)	N/A	N/A	1,386,864
38	Construction of the BNSF KO Subdivision Line Westbound Crossing Shoofly (Buildable Unit as described in Section 3.3.3.6 Railroad)	N/A	N/A	3,472,708
39	BNSF KO Subdivision Line Westbound Crossing	N/A	N/A	9,126,639
40	Removal of the BNSF KO Subdivision Line Westbound Crossing Shoofly outside of BNSF ROW. (Buildable Unit as described in Section 3.3.3.6 Railroad)	N/A	N/A	1,386,864
41	Diversion Channel Reach <u>9</u> , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail . Include erosion control features as recommended in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses	Upstream limit of Pay Unit 10	Pay Unit 57 - 38th Street West Crossing	43,570,217 <u>42,263,110</u>
42	Diversion Channel Reach <u>10</u> , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail <u>(excluding Buildable Unit WS2)</u> . Include erosion control features as recommended in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses	Upstream limit of Pay Unit 41	Pay Unit 49 - Mapleton Township Drain Inlet	30,411,649 <u>29,499,300</u>
43	Diversion Channel Reach <u>11</u> , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail <u>(excluding Buildable Unit WS3)</u> .	Upstream limit of Pay Unit 42	Pay Unit 50 - Drain 21C Inlet	38,044,950 <u>36,903,602</u>

**PROJECT AGREEMENT
EXHIBIT 14**

Pay Unit Number	Description of Pay Unit	Downstream Limit	Upstream Limit	Pay Unit Amount (\$)
	Include erosion control features as recommended in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses Include 15th Street SW from CR 8 to 32nd Ave W.			
44	Diversion Channel Reach <u>12</u> , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail. Include erosion control features as recommended in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses	Upstream limit of Pay Unit 43	Pay Unit 53 - CR 6 Crossing	23,377,474 22,676,150
45	Diversion Channel Reach <u>13</u> , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail. Include erosion control features as recommended in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses. <u>Include Maintenance Road/Trail in all Diversion Channel Reaches (Reach 01 to Reach 14).</u>	Upstream limit of Pay Unit 44	Pay Unit 51 - Drain 50 Inlet	33,399,491 44,500,407
46	Diversion Channel Reach <u>14</u> , including applicable Buildable Units in the reach pertaining to the Low Flow Channel, EMBs, Diversion Channel Line of Protection, Local Drainage, and Utilities, and the Maintenance Road/Trail. Include erosion control features as recommended in the Sedimentation, Erosion, and Scour Reports as described in Section 2.5.3 Sedimentation, Erosion, and Scour Analyses	Upstream limit of Pay Unit 45	Pay Unit 47 - Diversion Inlet Structure Tie-In	19,017,173 18,446,658
47	Diversion Inlet Structure Tie-In	Upstream limit of Pay Unit 46	Diversion Inlet Structure Interface	9,827,274 9,532,456
48	CR 16/17 Crossing	N/A	N/A	6,584,740
49	Mapleton Township Drain Inlet	Project ROW	Adjacent Diversion Channel Reach Pay Units	3,193,006
50	Drain 21C Inlet include 15 th St. SW Improvements CR8 – 32 nd Ave.	Project ROW	Adjacent Diversion Channel Reach Pay Units	3,193,006
51	Drain 50 Inlet	Project ROW	Adjacent Diversion Channel Reach Pay Units	3,193,006
52	Sheyenne River Aqueduct, except that it is not required to be in service.	N/A	N/A	36,144,900
53	CR 6 Crossing	N/A	N/A	6,484,885
54	CR 10 Crossing	N/A	N/A	6,584,740
55	CR 20 Crossing	N/A	N/A	6,484,885
56	32nd Avenue West Crossing	N/A	N/A	6,484,885
57	38th Street West Crossing	N/A	N/A	6,507,075
58	Authority Administration Building	N/A	N/A	8,631,843
59	52nd Avenue W Crossing	N/A	N/A	5,494,777
60	CR 14 Crossing	N/A	N/A	7,189,260

FARGO-MOORHEAD AREA DIVERSION PROJECT

Where:

d_m = the number of days in month (m) from the start of month (m) (or the Project Substantial Completion Date, if later) to the end of month (m) (or the Termination Date, if earlier);

d_y = the number of days in Payment Year (y); and

$MaxFP_y$ = the Maximum Annual Fixed Payment for Payment Year (y).

- (b) If any one or more of the Availability Tests is or are failed (as determined in accordance with Section 2 (*Project Administrative and Management Requirements*) of the Technical Requirements) as of an Annual Availability Determination Date, the Maximum Monthly Fixed Payment (" $MaxFP_m$ ") for the month following the Annual Availability Determination Date and each subsequent month up to and including the month of the next Annual Availability Determination Date will be **zero (0)**.

2.3 Maximum Annual Fixed Payment ($MaxFP_y$)

The Maximum Annual Fixed Payment (" $MaxFP_y$ ") for any Payment Year (y) after the Project Substantial Completion Date will be calculated as follows:

$$MaxFP_y = (FCCP_B \times Esc_y) + FCMP$$

Where:

$FCCP_B$ = the base FC Capital MAP, being \$~~19,041,021~~18,141,450;

$FCMP$ = the base FC Maintenance MAP, being \$4,436,470 (indexed in accordance with Section 5 (*Indexation*) of this Exhibit 15); and

Esc_y = the Escalation Factor for Payment Year (y), calculated in accordance with Section 4 (*Escalation Factor*) of this Exhibit 15.

2.4 Variable Payment (VP_m)

- (a) Following the Project Substantial Completion Date the Variable Payment (" VP_m ") for each month (m) will be calculated in accordance with the following:
- (i) except as set out in clause (ii) or (iii), VP_m will be zero;
 - (ii) if there is one or more Declarations of Probable Flood for a flood season, a single Variable Payment of \$25,000 (indexed in accordance with Section 5 (*Indexation*) of this Exhibit 15) will be payable for the first (and only the first) full month after the first Declaration of Probable Flood, whether or not there is a subsequent Water Diversion Event; and
 - (iii) if there is a Water Diversion Event, a single Variable Payment (" VP_m ") for the first (and only the first) full month after the conclusion of the Water Diversion Event will be determined in accordance with the following formula by reference to the maximum Measured Flow during that Water Diversion Event:

FARGO-MOORHEAD AREA DIVERSION PROJECT**3. MONTHLY NON-FLOOD CONTROL PAYMENT****3.1 Monthly Non-Flood Control Payment (MNFCP_m)**

The Monthly Non-Flood Control Payment ("MNFCP_m") for any month (m) after the Project Substantial Completion Date will be calculated as follows:

$$MNFCP_m = \text{MaxNFCP}_m - \text{MNFCND}_{m-1}$$

Where:

MNFCP_m = 0, if MNFCND_{m-1} ≥ MaxNFCP_m

MaxNFCP_m = the Maximum Monthly Non-Flood Control Payment for month (m), calculated in accordance with Section 3.2 (Maximum Monthly Non-Flood Control Payment) of this Exhibit 15; and

MNFCND_{m-1} = the Monthly Non-Flood Control Noncompliance Deduction for month (m-1), calculated in accordance with Section 3.4 (Monthly Non-Flood Control Noncompliance Deduction) of this Exhibit 15.

3.2 Maximum Monthly Non-Flood Control Payment (MaxNFCP_m)

The Monthly Non-Flood Control Payment Amount ("MaxNFCP_m") for any month (m) after the Project Substantial Completion Date will be calculated as follows:

$$\text{MaxNFCP}_m = \frac{d_m}{d_y} \times \text{MaxNFCP}_y$$

Where:

d_m = the number of days in month (m) from the start of month (m) (or the Project Substantial Completion Date, if later) to the end of month (m) (or the Termination Date, if earlier);

d_y = the number of days in Payment Year (y); and

MaxNFCP_y = the Maximum Annual Non-Flood Control Payment for Payment Year (y).

3.3 Maximum Annual Non-Flood Control Payment (MaxNFCP_y)

The Maximum Annual Non-Flood Control Payment ("MaxNFCP_y") for any Payment Year (y) after the Project Substantial Completion Date will be calculated as follows:

$$\text{MaxNFCP}_y = (\text{NFCCP}_B \times \text{Esc}_y) + \text{NFCMP}$$

Where:

NFCCP_B = the base NFC Capital MAP, being \$~~6,347,007~~6,047,150;

FARGO-MOORHEAD AREA DIVERSION PROJECT

EXHIBIT 23

FINANCE DOCUMENTS

1. Funding Agreements

[List to be inserted as part of financial close amendment]

- (a) Common Terms Agreement dated on or about the Financial Closing Date between the Developer, U.S. Bank National Association, in its capacity as Collateral Agent for the Senior Secured Parties under the Collateral Agency Agreement (the "Collateral Agent"), U.S. Bank National Association, in its capacity as Account Bank (the "Account Bank"), Sumitomo Mitsui Banking Corporation, in its capacity as Administrative Agent and Green Loan Coordinator under the Revolving Credit Facility Agreement (the "Administrative Agent"), U.S. Bank National Association, in its capacity as Trustee under the Indenture (the "Trustee"), Public Finance Authority, as Issuer (the "Issuer"), and the other senior secured parties from time to time party thereto;
- (b) Note Purchase Agreement dated on or about the Financial Closing Date between the Developer and the note purchasers party thereto;
- (c) Indenture dated on or about the Financial Closing Date between the Issuer and the Trustee;
- (d) Issuer Loan Agreement dated on or about the Financial Closing Date between the Issuer and the Developer;
- (e) Bond Purchase Agreement dated on or about October 7, 2021 between the Developer, the Issuer and Citigroup Global Markets Inc.;
- (f) Revolving Credit Facility Agreement dated on or about the Financial Closing Date between the Developer, the Administrative Agent, the Collateral Agent and the lenders party thereto; and
- (g) Hedging Agreements dated on or about the Financial Closing Date between the Developer and hedge providers party thereto (the "Hedge Providers").

2. Security Documents

[List to be inserted as part of financial close amendment]

- (a) Collateral Agency, Intercreditor and Accounts Agreement dated on or about the Financial Closing Date between the Developer, the Collateral Agent, the Account Bank, the Administrative Agent, the Trustee, the Hedge Providers and the other senior secured parties from time to time party thereto;
- (b) Security Agreement dated on or about the Financial Closing Date between the Developer and the Collateral Agent;
- (c) Pledge Agreement dated on or about the Financial Closing Date between Concessions Fargo Holdings, LLC and the Collateral Agent;

FARGO-MOORHEAD AREA DIVERSION PROJECT

- (d) Pledge Agreement dated on or about the Financial Closing Date between S&B USA Concessions – Fargo LP and the Collateral Agent;
- (e) Pledge Agreement dated on or about the Financial Closing Date between NACG Red River Holdings, LLC and the Collateral Agent;
- (f) Blocked Account Agreement dated on or about the Financial Closing Date between the Developer, the Collateral Agent and U.S. Bank National Association, as depositary bank;
- (g) Equity Contribution Agreement dated on or about the Financial Closing Date between Concessions Fargo Holdings, LLC, S&B USA Concessions – Fargo LP, NACG Red River Holdings, LLC, the Developer and the Collateral Agent;
- (h) Lenders Direct Agreement; and
- (i) D&C Contractor Lenders’ Direct Agreement dated on or about the Financial Closing Date between the Collateral Agent, the Developer, the D&C Contractor and the D&C Guarantors.

FARGO-MOORHEAD AREA DIVERSION PROJECT

entitled to terminate the Project Agreement and this Lenders Direct Agreement by virtue of any act, omission or circumstance that occurred prior to such Substitution Effective Date, and any Noncompliance Points arising from Noncompliance Events prior to the Substitution Effective Date will not be taken into account for the purposes of determining whether a Noncompliance Developer Default Trigger or a Noncompliance Increased Monitoring Trigger has occurred;

- (b) if any Step-in Entity is a party to or has any obligations under the Project Agreement and this Lenders Direct Agreement on the Substitution Effective Date, such Step-in Entity will cease to be a party to the Project Agreement and to this Lenders Direct Agreement and will be discharged from all obligations under the Project Agreement and under this Lenders Direct Agreement; and
- (c) the Authority shall enter into an equivalent direct agreement on substantially the same terms as this Lenders Direct Agreement, except that the Developer will be replaced as a party by the Substitute.

8. REINSTATEMENT OF REMEDIES

(a) ~~(b)~~ If an Authority Notice has been given, the grounds for that notice are continuing and have not been remedied or waived by the Authority and:

- (a) no Step-in Entity or Substitute becomes a party to the Project Agreement and this Lenders Direct Agreement before the Cure Period Completion Date relating to the applicable Developer Default; or
- (b) a Step-in Entity becomes a party to the Project Agreement and this Lenders Direct Agreement, but the Step-in Period relating to such Step-in Entity ends without a Substitute becoming a party to the Project Agreement and this Lenders Direct Agreement,

then, on and from the Cure Period Completion Date or the date such Step-in Period expires, the Authority shall be entitled to:

- (i) act upon any and all grounds for termination available to it in relation to the Project Agreement with respect to Developer Defaults under the Project Agreement that have not been remedied or waived by the Authority;
- (ii) pursue any and all claims and exercise any and all remedies against the Developer; and
- (iii) if and to the extent that it is then entitled to do so under the Project Agreement, take or support any action of the type referred to in Section 4.1(b) (No Termination during the Cure Period).

9. IMPACT OF BANKRUPTCY OR INSOLVENCY PROCEEDINGS**9.1 Rejection of the Project Agreement**

- (a) If:
 - (i) the Project Agreement is rejected by a trustee or debtor-in-possession in, or terminated as a result of, any bankruptcy or insolvency proceeding involving the Developer; and

FARGO-MOORHEAD AREA DIVERSION PROJECT

EXHIBIT 28

BASE CASE FINANCIAL MODEL

This Exhibit 28 (*Base Case Financial Model*) consists of the Exhibit 28 (*Base Case Financial Model*) transmitted by the Authority to the Developer via Aconex (Mail Number FMDA-TRN-~~000335~~-000367) at ~~10:52:07 AM~~5:09:01 PM CDT on ~~August 18~~October 8, 2021 and assigned Aconex Document No. MFDA-GN-AGR-~~0004~~-0008 evidenced by the below screenshot.

FARGO-MOORHEAD AREA DIVERSION PROJECT

8/18/2021
Aconex

Kris Bakkegard
DIVERSION AUTHORITY



Transmittal of execution version of Exhibit 28 (Base Case Financial ...
TRANSMITTAL

10:52 AM
FMDA-TRN-000335

Esther Madrigal Diez
RED RIVER VALLEY ALLIANCE

Re: Transmittal of execution version of Exhibit 28 (Base Case Financ...
GENERAL CORRESPONDENCE

11:06 AM
RRVA_LLC-GNC-000002

MAIL TYPE
Transmittal

MAIL NUMBER
FMDA-TRN-000335

REFERENCE NUMBER
FMDA-TRN-000335

Transmittal of execution version of Exhibit 28 (Base Case Financial Model) to the Project Agreement

From Kris Bakkegard - Diversion Authority

To Ms Esther Madrigal Diez - Red River Valley Alliance

Cc (11) Mr Julio Marcos - Acciona / Infrared (+10 more...)


Sent Wednesday, August 18, 2021 10:52:07 AM CDT (GMT -05:00)

Reason Issued for Information

Acknowledge by 8/18/21

Status Responded

DOCUMENT ATTACHMENTS (1)

(0 selected)					
File	Document No	Revision	Revision Date	Title	Status
	MFDA-GN-AGR-0004	1	8/17/21	Exhibit 28 - Base Case Financial Model	Final

MESSAGE

This transmittal encloses the execution version of Exhibit 28 (Base Case Financial Model) to the Project Agreement for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project - Diversion Channel And Associated Infrastructure between the Metro Flood Diversion Authority and Red River Valley Alliance, LLC.

Please confirm receipt and that it is the agreed form.

https://us1.aconex.com/Login?mainTarget=%2FViewCorrespondence%3FCorrespondence_ID%3D1228094453%26CORRESPONDENCE_MAILBO... 1/1

10/8/21, 5:33 PM

Aconex

Kris Bakkegard

DIVERSION AUTHORITY

Transmittal of execution version of Exhibit 28 (Base Case Financial M...

TRANSMITTAL

5:09 PM

FMDA-TRN-000367

Esther Madrigal Diez

RED RIVER VALLEY ALLIANCE

Re: Transmittal of execution version of Exhibit 28 (Base Case Financi...

GENERAL CORRESPONDENCE

5:32 PM

RRVA_LL-C-GNC-000048



FM AREA
DIVERSION



METRO
FLOOD
DIVERSION
AUTHORITY

MAIL TYPE

Transmittal

MAIL NUMBER

FMDA-TRN-000367

REFERENCE NUMBER

FMDA-TRN-000367

Transmittal of execution version of Exhibit 28 (Base Case Financial Model) to Project Agreement, as amended

From

Kris Bakkegard - Diversion Authority

To

Ms Esther Madrigal Diez - Red River Valley Alliance

Cc (11)

Mr Julio Marcos - Acciona / Infrared (+10 more...)

Sent

Friday, October 8, 2021 5:09:01 PM CDT (GMT -05:00)

Reason

Issued for Information

Acknowledge by

10/8/21

Status

Responded

DOCUMENT ATTACHMENTS (1)

(0 selected)

File	Document No	Revision	Revision Date	Title	Status
	MFDA-GN-AGR-0008	1	10/8/21	Exhibit 28 - Base Case Financial Model	Final

MESSAGE

This transmittal encloses the execution version of Exhibit 28 (Base Case Financial Model) to the Project Agreement for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project - Diversion Channel and Associated Infrastructure between the Metro Flood Diversion Authority and Red River Valley Alliance, LLC, as amended.

Please confirm receipt and that it is in agreed form

https://us1.aconex.com/Logon?mainTarget=%2FViewCorrespondence%3FCorrespondence_ID%3D1228436728%26CORRESPONDENCE_MAILBO...

1/1

**PROJECT AGREEMENT
EXHIBIT 28**

Page 28-3

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[32840277.8](#)



FARGO MOORHEAD DIVERSION PROJECT MONTHLY UPDATE

10 Dec 2025

1 Diversion Inlet Structure (DIS) – Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 99% complete. Completion date is 28 Oct 2025. Final inspections upcoming. Turnover to Sponsors for OMRRR delayed into 2026.

2 Wild Rice River Structure (WRRS) – Construction

Structure includes 2-40 ft. wide Tainter gates. Construction is 99% complete. Completion date is 28 November 2025. Final inspections upcoming. Turnover to Sponsors for OMRRR delayed into 2026.

3 Red River Structure (RRS) - Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 93% complete. Construction completion date is 30 April 2026. Embankment construction will continue Spring 2026.

4 Southern Embankment – Reach SE-2A - Construction

Construction is 76% complete but continues to be behind schedule. Scheduled completion date of 13 October 2024 was not met. Revised schedule and completion date pending.

5 Drain 27 Wetland Mitigation Project Plantings - Construction

Native plantings 5-year contract for wetland establishment. Completion date is 2 December 2027. Contractor replanted areas disturbed by adjacent producers.

6 FY2024 Contract Awards - Construction:

OHB Ring Levee: 98% complete. Construction acceptance occurred on 4 December 2025.

Turnover to Sponsors for O&M pending.

Reach SE-1B: 65% complete. CR16/17 area fully opened. Contract completion date is 13 March 2026.

Reach SE-2B: 87% complete. TRM and turf establishment remain. CR16 crossing complete. Contract completion date is 23 October 2026.

Forest Mitigation #1: Planting/maintenance ongoing. Contract completion date is 31 Dec 2028.

Reach SE-4: 27% complete. Contract completion date is 30 September 2026.

7 FY2025 Contract Awards - Construction:

SE-3: 40% complete. Contract completion date is 11 September 2026.

SE-5: 37% complete. 180th Ave S. will be closed at the creek location through winter. Contract completion date is 8 September 2026.

Forest Mitigation #2: Planting/maintenance ongoing. Contract completion date is 31 Dec 2029.

8 FY2026 Contract Awards - Pending:

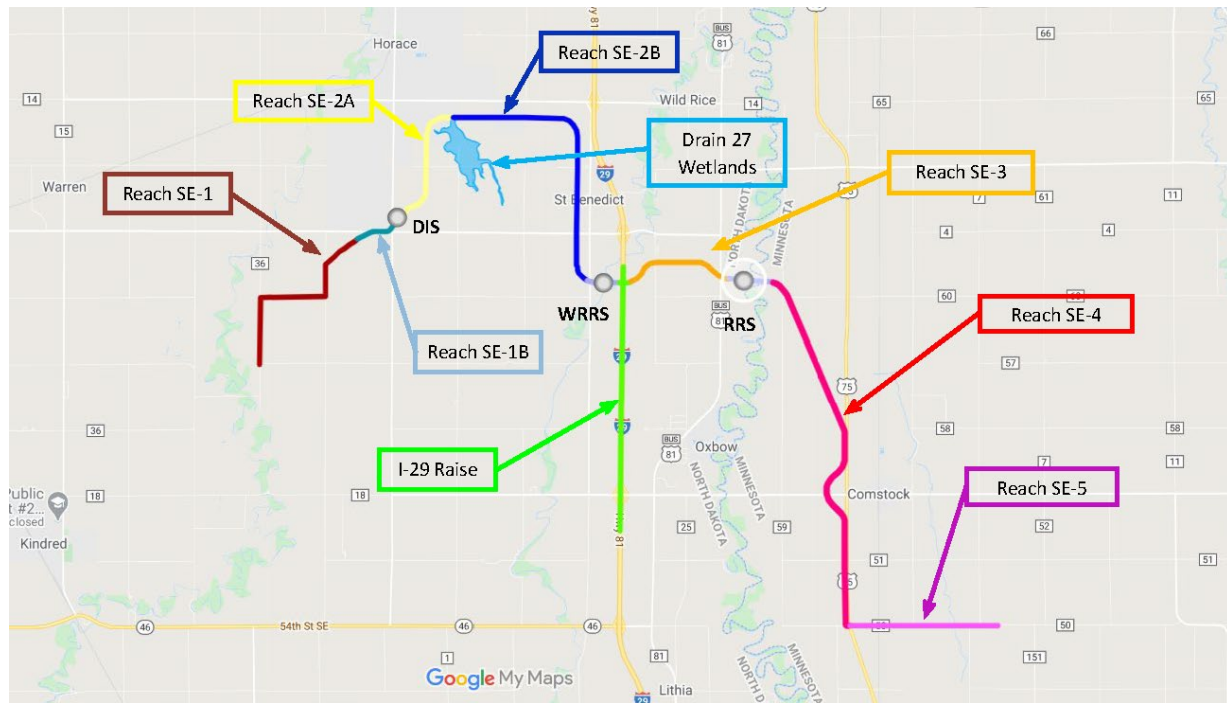
Forest Mitigation #3: Solicitation pending. Service contract award late-February 2026

9 I-29 Raise – Operations and Maintenance (OMRRR)

Turnover to MFDA occurred on 20 December and preparation of O&M documents is ongoing.

10 Drayton Dam Mitigation Project Design - Operations and Maintenance (OMRRR)

Turnover to MFDA for O&M occurred on 28 Nov 2023. OMRRR manual coordination continues.

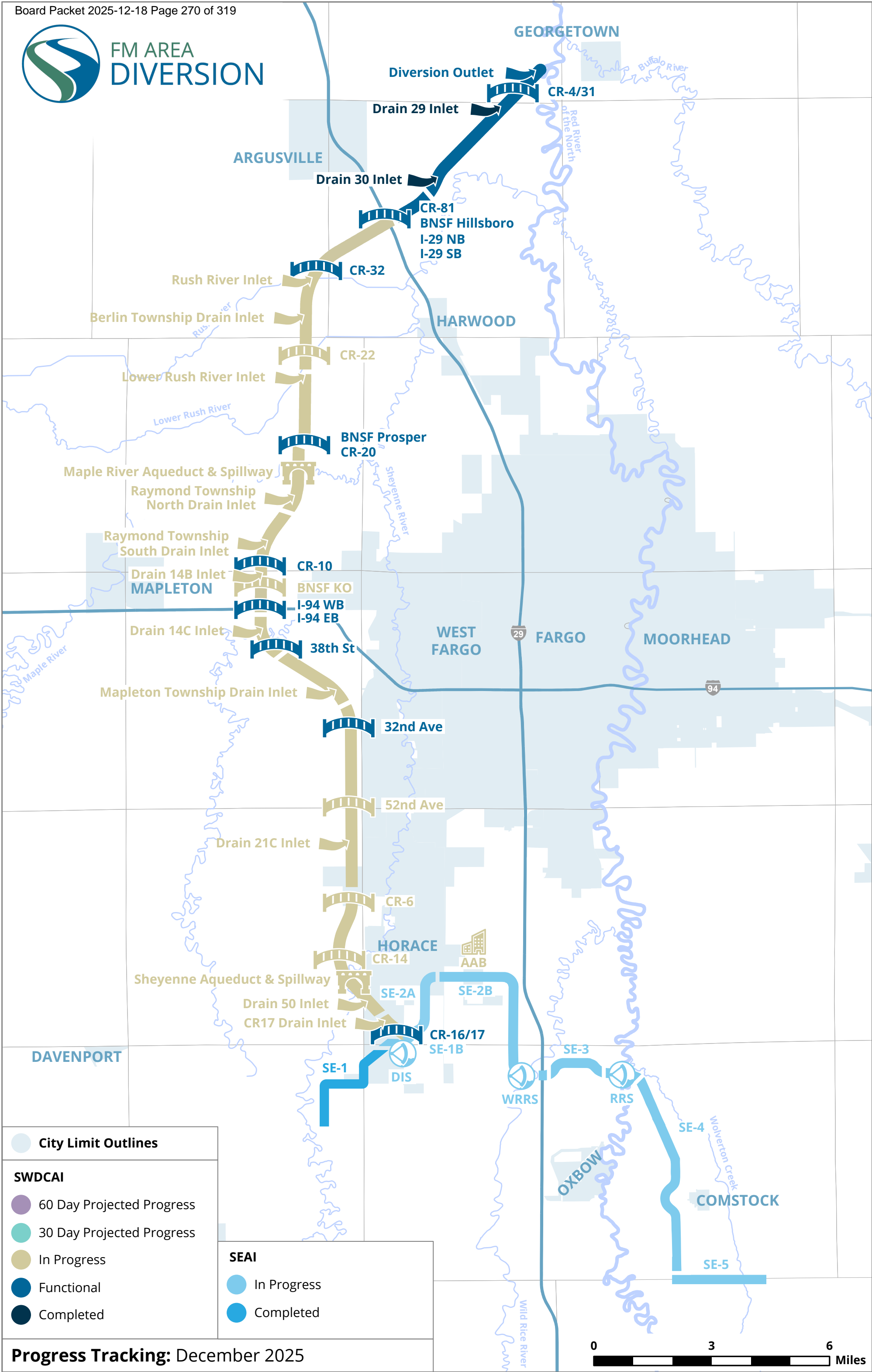


Fargo-Moorhead Metro FRM – Federal Work/Southern Embankment and Control Structures

DIS = Diversion Inlet Control Structure

WRRS = Wild Rice River Control Structure

RRS = Red River Control Structure



City Limit Outlines

SWDCAI

60 Day Projected Progress

30 Day Projected Progress

In Progress

Functional

Completed

SEAI

In Progress

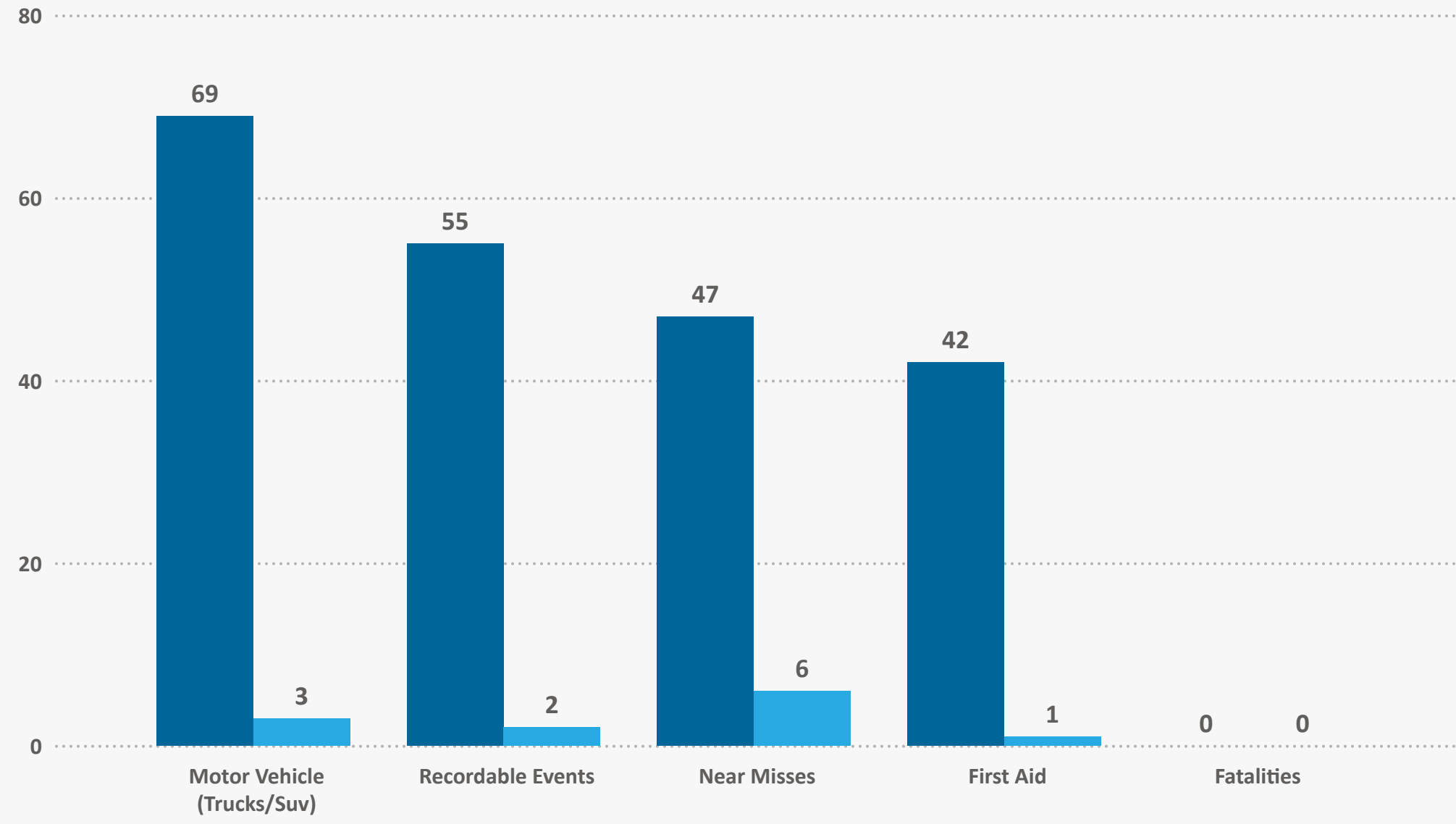
Completed

Progress Tracking: December 2025

Current Reporting Period: November 1 - November 30

Developer Led Projects

● Sum to Date ● Sum of Reporting Period



City of Fargo Led Projects

Sum of Current Reporting Period	Sum to Date
0	2
Incident	Incidents

Authority Led Projects

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

PMC P3 SUMMARY REPORT NOVEMBER 2025

Issue Date – December 10, 2025

PROGRESS

Construction of the SWDCAI is approximately 78%¹ complete based on Earned Value from RRVA's latest Schedule Submittal. The work during the reporting period is summarized below:

- **General:** Work continued Project-wide during the reporting period on almost all areas of the P3 project, although wind and low temperatures have impacted work on occasions. The D&C Contractor's resources are being moved around between various areas and so work can appear disjointed. There appears to have been a reduction in resources as winter approaches.
- **Aqueducts:** Maple River Aqueduct: Erection of rebar to the downstream north and south sections of the spillway. Concrete was placed for the upstream slabs, downstream baffle blocks and upstream south square of the spillway; and the east low flow channel. Electrical cables continue to be installed between the E-house and pull boxes 2, 3 and 4, the heat trace equipment, the transformer pad, and within the E-house. Excavation commenced on the downstream engineered channel. The vertical gates were assembled and installation continued. The heat trace covers were installed in the flume low flow channel. Riprap was placed on the east side of the flume between the wing walls. Preparation commenced for driving the ice retention structure piles. The Maple River bypass was installed and became operational. Fish and mussel salvage was completed. Sheyenne River Aqueduct: Formwork and rebar was installed at wingwalls #1-3, #2-3, #3-4, #7-1 and #8, west abutment stage 2, flume bypass wall section 3 stage 2 and section 4 north and south, flume wall section 5 north and section 1 north and south, pier walls #5 and #6 stage 2, and downstream section of the spillway. Concrete was placed in the flume bypass top slab sections 1 and 3, wall section 2 north and south, slab section 1, top slab section 4 north and south; flume wall sections 3 and 4; and wingwalls #1-3, #3-4 and #8-1 footing. Sheet piles were installed at the spillway section A, wingwall #3 section 5 footing. H-piles were driven at wingwalls #4-4, #5-1 and #6-1, and preparations for driving at wingwall #8-2. Backfilling continued on the west side, wingwall #3, downstream of the spillway, and around wingwall #8. 6" PVC pipes were placed at the spillway. 2" conduits were installed for electrical cables between the transformer and the meter pad.
- **Stormwater Diversion Channel:** Reach 01: An approach was created for access to the stockpile on CR 4/31. Reach 03: excavation of the main channel and creation of EMBs continues. Reach 04: Excess material was removed from the right upper 2% slope along the main channel and placed on the left 6:1 slope of the right EMB area. Excavation of the main channel continued for placement on the left EMB. Reach 05: Final grading was carried out around the maintenance road to final design elevation. Reaches 06 and 07: The main channel was excavated for placement on the EMBs. Reach 10: Mass excavation of the channel and left toe ditch continues. Material was excavated from the levee at one location and hauled for placement at another levee location as part of rework activities resulting from failed compaction tests. Material was excavated from the main channel for use in 38th St Crossing. Reaches 11 and 14: Mass excavation of the channel and toe ditches continues.
- **Interstate Crossings:** I-29: Salvaged base and asphalt were placed in the remaining two areas of shoulder for the SB driving lane. Excavation, grading, and profiling of the channel section under both crossings continued in preparation for bedding and riprap installation. Topsoil was graded on the southbound, south tie-in, west slope. Straw mulch was placed over seeding throughout the I-29 crossings. The guardrail that was damaged during the past storm was repaired. The replacement of the final guardrail end treatment for the south

¹ Note: Overall Percent Complete is based on the RRVA October 2025 PSSU submitted on November 15, 2025, and is calculated based on Earned Value (EV).

approach for NB lanes was completed. Excavation of the main channel section beneath both crossings continues along with placement of bedding and riprap at the pier foundations of the SB crossing. I-94: Subgrade was removed from the EB bypass and placed in the area south of the crossing that will become the right EMB. Transverse construction joints were cut along the concrete pavement at east end of the westbound crossing. Salvaged base was placed in lifts for the eastbound off ramp to Raymond interchange. Concrete pavement was removed and replaced on the westbound driving lane on the east side of the crossing. Concrete was placed to the shoulder adjacent the off ramp to the weigh station. Epoxy markings were applied to the eastbound off-ramp. Driving lanes were opened to traffic in both directions. Topsoil was re-graded throughout the crossing site.

- County and Township Road Crossings** CR 81 Crossing: The roadway subgrade was prepared and asphalt placed. The existing road was milled at the tie-ins. Aggregate base continued to be placed at both tie-ins. Roadway embankments continued to be shaped. Guardrails, approach sections of the pedestrian/bicycle railing and the handrail at the top of the east Texas Corral barrier continued to be installed. The crossing was opened to traffic; however, traffic control devices remain in place at both tie-in zones to aid removal of the bypass. Pulverizing and excavating the bypass commenced. CR 22 Crossing: Repairs to the pier diaphragm block ends affected by concrete deficiencies continued per EOR recommendations. The westbound lane near the bridge is closed until tie-in work is completed. Earthwork related to the tie-ins was completed. CR 10 Crossing: Formwork was removed from the CLSM fill. 38th St Crossing: Final lifts of asphalt were placed on the west approach. Guardrails were installed on the SW, SE and NE corners of the crossing. Pedestrian railings and barrier railings were installed on the bridge. Road markings were placed for the whole crossing and approaches. The north approach subgrade section of the roadway embankment was excavated and replaced. 32nd Ave Crossing: The Texas Corral barriers were completed and Texcote applied. Blockout curbs were placed under the approach barriers. The crossing was opened to traffic. 52nd Ave Crossing: Asphalt was placed but suspended due to poor subgrade. Concrete was placed for the approach barriers on both sides of the crossing. Pedestrian railings were placed to all spans. Rebar and formwork were installed for the Texas Corral barriers. CR 6 Crossing: Formwork and falsework was stripped from abutments, pier diaphragms and overhangs. Wingwall slopes were formed. Texcote was applied to the ends of the Texas Corral barriers. Surface grinding was carried out to the west approach slab. Bedding and riprap were placed around pier foundations and abutment slopes. Excavation of the channel continued below the crossing. CR 14 Crossing: Surface base was compacted on both east and west sides of the crossing. Roadway embankment subgrade was completed at the east end of the crossing. CR 16/17 Crossing: 12-inch lifts of clay material were graded and compacted to build the subgrade on the north end of the CR-16 / 17 Crossing in prep for class 5 aggregate placement. Bedding and rip rap were placed for both piers and both abutments. A single 5-inch lift of Class 5 aggregate was placed to construct the base course for the south roadway approach and its tie-ins to the existing roadway, and a single 5-inch lift of Class 5 aggregate was placed to form the base course for the north roadway approach and its tie-ins to the existing roadway. Topsoil was placed along the roadway embankments. Wooden post guardrail was installed at all four corners of the bridge. The crossing was opened to traffic, with a temporary gravel surface.
- Hydraulic Structures**: Rush River Inlet: The approach channel continues to be excavated, and the existing river channel plug continues to be removed. Lower Rush River Inlet: Vegetation was removed from within the riprap structure. Construction continues of the north spoil berm by the approach channel and prepping the subgrade for riprap at the transition zone between the existing river and the approach channel. Raymond North Township Drain Inlet: Geotextile, gravel and CLSM were placed behind the upstream and downstream headwalls. Raymond South Township Drain Inlet: Cores were drilled at the downstream headwall for the relocation of the weep drains; however, despite using a scanner beforehand to detect rebar, rebar was still encountered during drilling, halting operations. Bedding and riprap were removed and replaced at the downstream to remove the sediment built up. Riprap was at the transition zone between the existing drain and the approach channel. The approach channel continues to be shaped. Drain 50 Drain Inlet: Formwork and

rebar were placed for the downstream headwall and formwork placed for the upstream headwall. Concrete was placed for the upstream headwall; however, a blowout caused this to be removed and the formwork re-set and repoured. Bedding and riprap material were delivered. Drain 17 Drain Inlet: Flap-gates were installed. Drain 14C Drain Inlet: Cores were drilled at the downstream headwall for the relocation of the Weep Drains. However, rebar was still encountered during drilling, halting operations.

- **Diversion Outlet**: Work has commenced on remedial work to rebuild the Diversion Outlet rock ramp. Commencing upstream, the riprap and boulder weirs were removed and are being replaced along with additional infill, in a manner similar to the work to the Rush River Inlet.
- **Railroad Crossings**: BNSF Hillsboro Railroad Crossing: The shoofly ballast and embankment continue to be removed. The Levee section between I-29 and BNSF Hillsboro mainline track was completed. Rip-rap was placed beneath the bridge. BNSF Prosper Railroad Crossing: The mainline track was welded and ballast placed. The main line was opened to traffic. The shoofly track panels were removed and removal of the ballast and the shoofly embankment commenced. BNSF K.O. Railroad Crossing: The rejected girder was removed and replacement was placed. The girder was welded to the bearing plates. Fabric and geomesh were placed on both approaches, followed by sub-ballast and asphalt underlayment. New mainline track panels were delivered laid and welded and track placed on the bridge. Falsework and decking were installed for span #1 along with the ballast wall, walkway and rebar.
- **Access and Security**: Reaches 01 and 02: The final 4" lift of gravel continues to be placed to the Maintenance Road/Trail. Concrete was placed in the parking lot. Subgrade was prepared between the Outlet embankment and the Levee stoppage area. Reach 03: Wooden bollards and signs were installed in the parking lot. Concrete was placed around vault toilets. Reach 04: Class 5 aggregate base subgrade was placed for the approach slabs. The final 4" lift of gravel over geotextile was placed for the Maintenance Road/Trail. Reach 05: Two 4" lifts of gravel continued to be placed in the Maintenance Road/Trail. Reach 09: Rebar and formwork were installed, and concrete placed, for the single slope barriers for the Maintenance Road/Trail bridge. Rebar cages were installed and concrete placed for the approach slabs. Backfill was placed and compacted to the abutments. . Reach 11: Backfill was placed to trench for the 30" corrugated steel pipe (CSP) culvert in the parking lot.
- **Authority Administration Building (AAB)**: Office building: Precast concrete floor panels were installed. Storm sewer line continues to be installed. The main electrical service line was installed to the transformer. Installation of exterior walls commenced. The parking lot was prepared and gravel sub-base placed. Structural steel continues to be installed to the second floor. The topping slab was installed on the second floor. The gap between the pad and the Southern Embankment commenced to be filled. Maintenance Building: Columns and structural steel continue to be installed.

Observed progress during the reporting period and observed percentage complete for each buildable unit (BU) is set forth in *Attachment A – Construction Progress by Buildable Unit*.

GENERAL ADMINISTRATION

Significant effort is ongoing for the first Interim Completions including records reviews and walk-throughs for punch lists. Unresolved Nonconformances and submittal of records continue to cause delays in Certification of Interim Completion.

The Developer has been working on a solution to remediate the Diversion Outlet. Work to the Rush River Inlet has been aided by site visits by the regulatory agencies and is now complete.

The onset of winter has stopped asphalt work, leading to CR 81 and CR 16/17 being opened to traffic with temporary gravel surfaces and reduced speed limits.

Disputes

The following disputes have been referred to the Technical Dispute Review Board:

Dispute	Description	Date Referred	Status
Epoxy-Coated Reinforcing Steel	RRVA disagrees that epoxy-coated reinforcing steel is required by the Technical Requirements (TRs) for all reinforced concrete	May 15, 2024	Dispute resolved via the Statement of Principles (SOP)
CE-015 and CE-018 – Failure of a Third Party (BNSF) to Comply with Third-Party MOU	RRVA maintains that BNSF has failed to comply with the Project Baseline Schedule (PBS) in that it failed to carry out the work of installing the track for the shooflies in accordance with the dates set forth in the RRVA's PBS, despite the RRVA not having RFC documents and thus the required Construction & Maintenance (C&M) Agreement in place; RRVA maintains that this has caused delays to its work	June 25, 2024	Dispute resolved via the Statement of Principles (SOP)
CE-014 – Modified Permit Delay Impact	RRVA maintains that modifications to the 404 Permit have led to delays in carrying out its work	July 31, 2024	Dispute resolved via the Statement of Principles (SOP)
CE 023 – Epoxy Coated Rebar Delays	RRVA disagrees that epoxy-coated reinforcing steel is required by the Technical Requirements (TRs) for all reinforced concrete and maintains that the Authority has caused delays as a result	June 5, 2025	Dispute resolved via the Statement of Principles (SOP)
CE 024 – Authority Administration Building (AAB) Material at the AAB Site	RRVA maintains that the Authority did not deliver the quantity of material that is specified by the TR and that it has caused they Developer disruption and delay	April 18, 2025	Dispute resolved via the Statement of Principles (SOP)
CE-026 - Hazardous Environmental Conditions Reach 13	RRVA maintains that it Encountered Hazardous Environmental Conditions on Reach 33	June 20, 2025,	Dispute resolved via the Statement of Principles (SOP)
Noncompliance Points Assessed for RRVA_LLC-NCR-00207 and RRVA_LLC-NCR-00222	RRVA disputes and refuses to cure Noncompliance Points Assessed for NCR207 and NCR222	May 8, 2025	Dispute resolved via the Statement of Principles (SOP)
Notice of Interim Completion Package for Legal Drain 29	Authority disputes the Authority's position to not grant certification of ICEs for Drain 29	April 18, 2025	Dispute resolved via the Statement of Principles (SOP)
Notice of Interim Completion Package for Legal Drain 30	Authority disputes the Authority's position to not grant certification of ICEs for Drain 30	May 9, 2025,	Dispute resolved via the Statement of Principles (SOP)

The Authority and the Developer has re-established the Technical Dispute Review Board and the Parties are working to appoint a new chair of the Financial Dispute Review Board². The members of the TDRB are prepared to participate in the highly unusual approach to conduct Alternative Dispute Resolution meetings in public.

COMMERCIAL

Compensation and Relief Events

By the end of November 2025, RRVA had submitted notices of 33 (thirty-three) Compensation Events and 2 (two) Relief Events. A summary and status of the Compensation Events and Relief Events is in *Attachment B – Submitted Compensation Events (CEs) and Relief Events (REs)*. It should be noted that all Compensation Events and Relief Events are subject of settlement negotiations and the associated 'Statement of Principles' agreement that was executed on July 3, 2025, during this reporting period.

Change Requests

A change request (CR) can be initiated by the Authority or RRVA, and it is the mechanism set out in the Project Agreement to modify the Technical Requirements to resolve issues, clarify requirements, or modify the scope of RRVA's work.

There have been 29 (twenty-nine) Authority-initiated change requests (ACRs) through the end of the reporting period. 17 (seventeen) have been agreed-to and progressed to agreed-upon change orders or directives, totaling a cost to the Authority of \$5,533,793.31 and a credit to the Authority of \$950,000. 3 (three) ACRs were withdrawn, 8 (eight) have been resolved via the statement of Principles and 1 is pending negotiation with RRVA³. A summary of the ACRs is in *Attachment C – Authority Change Requests*.

There were 58 (fifty-eight) developer-initiated change requests (DCRs) through the end of the reporting period. 34 (thirty-four) have been agreed to and progressed to agreed-upon change orders, totaling \$3,712,553.63 cost to the Authority and a credit to the Authority of \$50,000. 1(one) DCR is currently in negotiation with RRVA. A summary of the DCRs is in *Attachment D – Developer Change Requests*.

It should be noted that all Change Requests were subject of settlement negotiations and the associated 'Statement of Principles' agreement that was executed on July 3, 2025, during this reporting period.

PROJECT CONTROLS

Schedule

The Developer submitted the thirty-seventh Project Status Schedule (PSSU) update on November 15, 2025, for the month of October 2025 (01-Nov-25 Data Date). The submittal was accepted for review. To create the PSSU, the Developer reported making approximately 3,203 changes from the PSSU 2025 September submitted on October 15, 2025, including new and deleted activities, changes to logic and relationships between activities, activity description changes, calendar changes, WBS modification and activity duration modifications. The Project Substantial Completion Date in this PSSU is October 1, 2026, which matches the baseline date. The approved PBS Project Substantial Completion Date (Scheduled Project Substantial Completion Date) is October 1, 2026.

² The Authority issued a letter to the first and second members of the Financial DRB on November 7, requesting that they select a third member of the Financial DRB in accordance with Section 1.8 of Exhibit 21 to the Agreement.

³ One ACR (ACR027-2025 - Harwood Township Connector Road) remains in negotiation with RRVA.

PBS3-R2 has been accepted contingent upon all the stated conditions being satisfied in the SOP. Informal comments for schedule concerns have been drafted in the form of a letter and was provided to the Developer on August 22, 2025 (FMAD-TRN-014140).

Invoicing and Payment

BNSF has submitted 130 invoices through the month of November totaling \$12,399,744.96. These have been forwarded to the Developer for payment for work performed by BNSF and its subcontractors at the Prosper, Hillsboro and KO locations. 119 of the 130 were paid for a total of \$11,807,242.66. The unpaid amount falls within the 60-day turnaround period. The BNSF Construction and Maintenance Agreement (C&M Agreement) between the Authority and BNSF is considered a “Third Party Agreement” as administered under Section 11 of the Project Agreement. Therefore, the invoices received by the Authority are transmitted to the Developer for payment directly to BNSF within 60 days of the invoice date according to Section 7 of the C&M agreement. Future invoices received will be handled in a like manner. There are no overdue amounts as of the end of July.

Payments to RRVA

July 3, 2025, marked execution of the settlement agreement Statement of Principles (SoP) between the Developer and the Authority. The SoP allows the Developer to submit and request advance payment invoices for relative Pay Units provided the works for the specific Interim Completion Element(s) be substantially complete with 120 days of each advance payment request. The table below has been updated to reflect payments made to the Developer under this agreement. Section 22 of the SoPs also allows for payments to the Developer regarding settling outstanding claims.

The following tables include all payments to RRVA through October 2025.

Item Description	Pay Unit	Amount	Notes
Additional Milestone Payments			
Hillsboro Shoofly Install	29	\$4,249,352	(See Attachment E)
Prosper Shoofly Install	32	\$3,195,335	(See Attachment E)
KO EB Shoofly Install	35	\$3,472,708	(See Attachment E)
KO WB Shoofly Install	38	\$3,472,708	(See Attachment E)
Legal Drain 29	11	\$343,477	(See Attachment E)
Sub-Total		\$14,733,580.00	

Additional Milestone <u>Advance</u> Payments				
Description	Pay Unit	Amount	Status	Date Paid
Diversion Channel Reach 2	4	\$13,018,175	Paid	8/6/2025
Legal Drain 29	11	\$1,373,906	Paid	8/6/2025
CR 32 Crossing	26	\$6,662,245	Paid	8/22/2025
Combined CR 4 and CR 31 Crossing	28	\$7,211,621	Paid	8/22/2025
Drain Inlet associated with Legal Drain 30	12	\$2,554,405	Paid	8/6/2025
Diversion Channel Reach 1	2 & 3	\$29,781,551	Paid	8/6/2025
CR 20 Crossing	55	\$5,187,908	Paid	8/22/2025
CR 10 Crossing	54	\$5,267,792	Paid	8/22/2025

Additional Milestone <u>Advance</u> Payments				
38th Street W Crossing and improvements	57	\$5,205,660	Paid	8/22/2025
CR 22 Crossing	25	\$4,789,423	Paid	9/23/2025
CR14 Crossing	60	5,751,408.00	Returned to Develop	
Removal of the BNSF Hillsboro Subdivision Line Crossing Shoofly	31	\$1,358,017.60	In Review	12/9/2025
Removal of the BNSF Prosper Subdivision Line Crossing Shoofly	31	\$1,020,732.00	In Review	12/9/2025
Drain Inlet associated with Legal Drain for Berlin Township	14	\$3,406,494.40	In Review	12/9/2025
Sub-Total		\$92,589,338.00		
Advance Payment Not to Exceed Limit		\$108,000,000.00		
Other Payments				
SoP Section 22 Payments		\$20,000,000	Upon execution of the SoP.	
ACRs		\$4,695,010.06	(see Attachment C)	
DCRs		\$3,712,553.80	(See Attachment D)	
DRB Members (50% share)		\$143,675.13	Includes Polsinelli PC cost share.	
Grand Total		\$124,337,506.00		

Other:

The following invoices are forecasted to be submitted in 2025, the amount shown is for the full pay unit amount:

Invoice Name	Pay Unit #	Forecasted Payment Date	Pay Unit /ACR DCR Amount
Drain 29 Inlet	11	Dec-2025	\$1,717,383
Drain 30 Inlet	12	Dec-2025	\$3,193,006
Total			\$4,910,389

The forecast Payment Dates are from the latest PSSU. In terms of Interim Completion Elements, the actual dates of the receipt of complete ICE Notices have not kept pace with anticipated dates.

CONSTRUCTION AND O&M**Construction**

Construction activities by buildable unit (BU) during the reporting period are provided in *Attachment A – Construction Progress by Buildable Unit*.

Safety

The summary for Safety for the Month of November is as follows:

- 11/7/2025 - ASN - Drain 50 Inlet, ASN employee was accidentally hit on their head with a concrete vibrator making a small laceration above his head. Injured employee was wearing their safety glasses. The injured employee received basic first aid; no further treatment was needed.
- 11/7/2025 - ASN - Maple River Aqueduct, while picking up a load of rebar, the load swung and hit the side of the telehandler knocking the mirror off. No further damage or injuries.
- 11/9/2025 - ASN - Maple River Aqueduct, ASN mechanic was replacing a fuel filter on a crane. As they were turning the bleeder screw, it was turned in the wrong direction causing diesel fuel to spray all over their face and into their mouth and eyes. The employee ran to the eyewash station and flushed out their eyes and was taken to the hospital. They were checked out and released.
- 11/11/2025 - ASN - Structures All Hand Safety Meeting.
- 11/13/2025 - ASN – Sheyenne River Aqueduct, ASN employee disregarded the foreman's safety instructions while cutting a 2x4. They cut on the wrong side, causing the electric saw to bounce. The employee's hand was positioned under the blade when it bounced, resulting in a finger laceration. Employee was taken to Sanford's ER.
- 11/17/2025 - ASN - Reach 07, An ASN employee was rear ended while waiting to make a left hand turn into Reach 07 at CR 10. The West Fargo Police Department was on the scene. No injuries were reported, minor damage to ASN's truck, civilian's vehicle had major front damage.
- 11/20/2025 - ASN - Reach 04, Haul truck operator was driving on uneven ground and felt discomfort in the neck/shoulder area. This was reported today (11/20/25), but employee reports this has been ongoing.
- 11/25/2025 - S&B - 52nd Ave Crossing, S&B employee opened the door from a skid steer when the wind caught the door and slammed it open causing the windshield to shatter
- 11/25/2025 - ASN - Reach 06, ASN mechanic was changing out a grease zerk on an excavator when it shot out and busted out the work truck's window that was parked next to it.
- 11/25/2025 - Public - I-29, multiple spin outs were reported within the ROW regarding slick roads from Tuesday's winter storm.
- 11/25/2025 - Public - I-94, multiple spin outs were reported within the ROW regarding slick roads from Tuesday's winter storm.

Road Closures for Bridge Construction

Temporary Road Closures	Anticipated Mainline Opening Date
County Road 81 - Bypass Operational	December 2025
County Road 22 - Bypass Operational	January 2025
32nd Ave – Traffic Detoured to CR 8 and CR 31	December 2025
52nd Ave – Traffic Detoured to CR 8 and CR 31	February 2026
County Road 6 - Bypass Operational	January 2026

Roadways currently closed.	Upcoming Permanent Road Closures (Tentative Schedule)
24th St SE – Closed 9/21/2022	32nd Ave. NW – Planned date August 2026 (MRA Access)
172nd Ave. SE – Closed 9/19/2022	40th Ave. / CR 8 – Planned date October 2025

Roadways currently closed.	Upcoming Permanent Road Closures (Tentative Schedule)
171st Ave. SE – Closed 10/31/2023	81st S – Planned date August 2026 (SRA Access)
170th Ave. SE – Closed 10/31/2023	
169th Ave. SE – Closed 6/21/2023	<u>ACTIVE BYPASSES</u>
29th St. SE – Closed 9/17/2023	CR 81, CR 22, and CR 6
32nd St. SE – Closed 3/20/2024	<u>ACTIVE BRIDGES</u>
37th St. SE – Closed 9/20/2023	CR 4/31 Crossing, CR 32 Crossing, CR 10 Crossing, CR 20 Crossing, I-29, I-94, CR 16/17 Crossing
166th Ave. SE – Closed 5/24/2024	<u>ACTIVE DETOURS</u>
43rd St. SE Closed 10/7/2024	32 nd Ave. W Crossing, 52nd Ave. W Crossing, 38 th St. W.
38th St. NW – Closed 10/7/2024	<u>UPCOMING DETOURS</u>
112th Ave. S – Closed 10/10/2024	
64th Ave. S – Closed 10/7/2024	
45th St. SE – Closed 10/10/2024	
26th St. W – Closed 10/15/2024	
21st Ave. W – Closed 10/15/2024	
21st Ave. W – Closed 10/15/2024	
35th St. SE – Closed 10/7/2027	

O&M

RRVA continued general inspections throughout the ROW, Local Drainage inspections to ensure ditches and culverts are free from debris, and Interim Completion Element inspections. The Developer has stated their primary focus is areas that are submitted for Interim Completion. Certificate for Interim Completion was issued to the Developer for Drain Inlet associated with Legal Drain 29 on September 30 and Drain Inlet associated with Legal Drain 30 on November 24. The inspections for Drain 29 and Drain 30 are being completed within Cityworks (CMMS). We continue to remind them that the entire project ROW is of concern and will be reported under non-conformance if their efforts are not apparent project wide.

Monitoring

The PMC carried out the following for the month of October 2025:

- 1,431 Daily Observations; 358 Compliance Checks; 20 Issues written (were noted that the Contractor was able to resolve readily); and 15 new punch list items were conducted by the Authority's Construction Management Team.

For monthly construction activities update, see Appendix A of this document.

Testing

Earthwork field and laboratory tests performed by Braun Intertec are as follows:

- Atterberg (87); Hydrometer (40); Proctor (27); Sieve (11); Field Reports (140); Density Tests (87); Asphalt (3-Lots); Concrete (82); Fractured and Lightweight Particles (8)

Survey GIS

-

- There were no specific surveys completed in the month of November

Cass County Monitoring of County Bridges (by HMG)

- HMG monitoring for Cass County presented 34 Field Reports for the month of November.

UTILITIES:

Utility design work is complete. Released for Construction (RFC) documents have been issued for all 105 utility Buildable Units (BUs) in the Developer's scope.

- Utility Submittal Summary:
 - 61 Preliminary Design Reports.
 - 79 Final Design Reports.
 - 83 Construction Document Submittals.
 - 83 sets of RFC Documents.
 - 128 Inspection and Test Plans (ITPs) have been approved for Utility activities.
 - 61 Shop Drawing submittals for Developer Managed utility relocations are approved.
- Overall, 77 of 108 identified utility conflicts (71%) have all work including HDD void grouting and removal of abandoned facilities completed.
- Relocations for all 60 utilities crossing under the channel are tied-in or cut over.
- Abandoned/retired utility facilities have been removed for 70 Utility BUs. Buried segments of 22 utilities still need to be removed.
- The voids have been grouted on both the entry and exit sides at 39 HDD installations. One bore still requires grouting on both sides and two require the HDD void to be grouted on one side only.
- Adjustments for 10 of the 14 overhead electric transmission lines crossing the channel ROW are complete.

SUBMITTALS

The following is a summary of submittals for the P3 project:

Submittal	Reporting Period	To Date
Submittals received for review and comment (including ITP Complete)	106	4,670
Reviews carried out*	101	4,426
Submittals returned with no comment	43	1,625
Submittals in review with the Authority as at end of reporting period	84	n/a
Submittals back with RRVA for resubmission as at end of reporting period		237
rejected as incomplete	2	45
rejected with comments	31	185
number of comments	1,746	3,135
CDS returned with no comments	0	195
RFC documents	0	193

Submittal	Reporting Period	To Date
Relating to utility relocations	0	81
RFCs back in redesign	2	4
Redesigned once (RFC1)	0	28
Redesigned twice (RFC2)	0	6
Redesigned three times (RFC3)	0	1

* Some submittals will have been seen more than once within the reporting period and therefore this section may not tally with the number “back with RRVA” or “no comment” which is a position as at the month-end. This also excludes ITP Close out reviews as comments on these are included in the associated Construction Certificates.

One Interim Completion Element (ICE) Notice relating to Drain 30 was certified in November 2025 bringing the total of agreed Notices to five.

ICE Notice for first review for Berlin Township was received and rejected in the reporting period

The resubmitted ICE Notice for CR32 was received and rejected in the reporting period.

Updated ICE Notices for CR20 Crossing and Channel Reach 2 were received and under review as at the end of the reporting period.

18 ICE Notices due to be received by the Authority by November 2025, remain undelivered by the Developer. These are Reach 1, Reach 3, Reach 5, Reach 14, Diversion Outlet, Mapleton Drain, Drain 14B, Raymond Drain North, Raymond Drain South, Lower Rush Inlet, CR10 Crossing, CR16/17 Crossing, CR22 Crossing, 38th St W Crossing, BNSF Prosper Crossing, BNSF Hillsboro Crossing, BNSF Hillsboro Shoofly Removal and I-29.

A 15 business day notice was received for Channel Reach 14 in November 2025.

No 60-day notices were received in November 2025.

Four ICE Advance Payment requests were made in November 2025, CR14 Crossing was rejected, Berlin Township Drain was accepted and those for BNSF Hillsboro Shoofly Removal and BNSF Prosper Shoofly Removal were in review as at the end of the reporting period.

TECHNICAL

- Design Review
 - Development and delivery of Released for Construction (RFC) design packages by the Developer have been completed. Modification and changes to the RFC documents will continue throughout the construction period. These changes are typically due to minor corrections and adjustments to meet field conditions. Any minor changes are processed through the Request for Information (RFI) process. Significant changes which impact the functionality or form of the original design will be made through a formal design change process. The Developer will then change and submit it for review in the same manner as the original design.
 - Additional design and technical reviews continue to be conducted for Shop Drawings, Inspection and Test Place and Record Drawing Deliverables.
 - Review of Technical Reports on specific item identified in the recently issued Statement of Principals document continued again this reporting period.

- Revisions to quarterly submittal of Design H&H Model have been received. Initial review of the updated model reveals that all comments from previous submittals have not been resolved. The Authority intends to reject this submittal with a status of “rejected incomplete.”
- **Agency Coordination**
 - Agency specific coordination continues this reporting period. Roadway and bridge opening inspection and the actual transition of traffic to the new permanent configuration continue to be discussed and implemented. The Developer had targeted opening “all” roadway bridges this fall. Due to numerous contributing factors, all of which were the responsibility of the Developer this will not be accomplished. Coordination is underway with agencies, specifically Cass County to “open” roadways and bridges yet this fall in a temporary condition. This option is being explored with the understanding that work will be finished in spring of 2026.
 - **NDDOT**
 - Significant efforts underway planning and coordinating completion of interstate construction and the shifting of traffic to new roadways and structures.
 - Traffic has been shifted to the new I-29 and I-94 alignments late this reporting period.
 - Minor “punch list” work which cannot be completed at this time will be addressed in spring.
 - **Cass County**
 - Significant coordination efforts this reporting period
 - Standing and task specific coordination meetings continue this reporting period
 - Cass County inspections of completed structure prior to opening to traffic
 - As stated above, the Developer’s target of opening all County bridges this fall was not achieved. The Developer is putting in place temporary options (gravel in place of asphalt) which may allow for bridge opening yet this season. If completed, the developers will remain responsible to maintain these temporary configurations through the winter and complete the permanent configuration in spring.
 - Coordination between Developer and Cass County regarding winter snow removal and maintenance operations continues.
 - **BNSF**
 - Standing coordination meetings with BNSF continue.
 - Prosper Line open to train traffic late this reporting period
 - Deficient girder issue on KO line response from BNSF received – deficient girder is not acceptable. Developer had previously placed an order for a new girder.
 - Deficient girder on KO Line has been replaced. Developers are working closely with BNSF to coordinate completion of formwork and decking while BNSF completes their work (track placement).
 - Developer has requested BNSF to consider deviations from replacement girder cure time and concrete deck placement sequencing. BNSF has responded that if the Developer chooses to proceed with the construction of this component, it will be at their own risk and in the even there are deficiencies they will be required to rectify the condition up to and including removal of the girder and decking at this span. The Developer has decided to proceed at risk.

QUALITY

Nonconformances

The Developer reported 10 (ten) Nonconformances.

The following table summarizes Nonconformances that trigger Noncompliance Points (NCPs) through the end of last month. Information related to the status of some Nonconformance affecting the accrual of Noncompliance Points is yet to be received from the Developer. As a result, the information will be updated in the next summary report. A summary of Noncompliance Points (NCPs) to the end of October 2025 is in *Attachment F – Noncompliance Points Status Tables*:

Summary of points as of October 31, 2025	Number of Nonconformances	Assessed NCPs
Assessed Noncompliance Points	84	796

Due to lag in the reporting process and the review status of the Monthly Performance Reports for October 2025, the numbers reported above may be different than what Developer reported as part of their Monthly Performance Report for October 31, 2025.

A large number of Nonconformance Reports are still open, the total percentage of Nonconformance Reports closed to date is 67%.

ENVIRONMENTAL

Environmental Compliance

2024 Section 404 Permit Special Condition M:

- Rush River: has been accepted by USACE
- Maple River: has been accepted by USACE.
- Sheyenne River: has been drafted pending RRVA final documentation which will include a revised work plan to be submitted to the Authority in mid-December, then to USACE and agencies; upon agency input, the workplan will be included in this permit updated application.

Permanent Native Vegetation

Permanent planting/seeding continued this month as noted below. Permanent seeding and tree planting has likely ceased until Spring 2026 due to the weather.

Permanent Seeding/Planting Annual Summary – no change

Year	# of Trees	Reaches	Acres Seeded To Date	Reaches
2024	3,508		1,077	1, 2, & 3
2025	+~2,255		Acres not available for November at this report writing	Previous: 1, 2, 3, 4, 5, 6, 7, 8, 12 & 13 Nov 2025: Reaches 3, 5, 8 and 10, acreage not available at time of this report
2026	TBD		TBD	TBD

Permits

Open/Applied For	Closed	Total
95	548	643

2024 404 Permit – Violation: On July 25, 2025, RRVA notified the Authority of a violation of the USACE Section 404 Permit Condition OO due to the disappearance of a brown-headed cowbird nest. On August 29, 2025, USACE issued a Notification of Non-Compliance stating that another event would trigger a civil penalty and requesting the Developer’s investigation results which were received, reviewed internally, and an update requested from the Developer; still awaiting the Developer’s response. The Developer has been reminded of this pending item.

Sheyenne River Sovereign Lands Permit - RRVA submitted their supplemental information on October 6, 2024. The Developer decided not to utilize the two proposed temporary bypasses this month and will be submitting for the Sheyenne River Sovereign Lands Permit.**Cultural Monitoring**

Cultural excavation and monitoring by the Developer occurred as follows:

- Cultural Site 5/TR-5 - November 6, 13-18, 20-24 and 26, 2025
- Cultural Site 6/TR-7 – November 4-6 and 11-12, 2025
- Cultural Site 16/TR-6 – November 3-4, 7, 10 and 12, 2025
- No significant features to report.

Mussel Salvage

Fish salvage/relocation work occurred mid-to-late November at the Maple River; awaiting the report.

Spills, Contamination and Hazardous Materials

No spills were reported this month.

Environmental Nonconformances (NCRs)

This month 3 new NCRs were opened, 1 was closed, and 23 total remain open which includes the three new NCRs noted below. Two close requests were submitted but rejected for additional documentation.

New NCRs This Month:

- NCR-00492 - Internal Audit - C03 - Soil Stockpile not stabilized
- NCR-00493 - Internal Audit - C03 - Seeding Work Plan not approved by ECS
- NCR-00494 - Internal Audit - Corrective Actions not completed within 24 hours

RESILIENCE AND SUSTAINABILITY**Resilience**

The Resilience 2024 Annual Report was resubmitted and returned with compliance and preference comments on November 28, 2025, and is awaiting resubmittal.

- The Resilience Program Plan was resubmitted on July 3, 2025, returned, and rejected incomplete on August 4, 2025, resubmitted on November 24, 2025 and was under review at month’s end.

Sustainability

RRVA’s Sustainability efforts outside of the PA are: 1. Education and Skills; 2. Renewable Energy; and 3. Culture & Heritage. No monthly Sustainability update meeting was held in September.

FEDERAL COMPLIANCE

Reporting

The next annual report (2025) is due by January 31, 2026.

Davis Bacon

December 8, 2025: The Department of Labor notified the Authority that they will be on site on December 12, 2025 to perform an investigation; coordination with the Developer is on-going. The Developer has stated that they plan a complete rewrite of the Federal Requirements Compliance Plan which will address quality control processes – awaiting submittal of this update – no change.

EMPLOYEE APPRENTICESHIP PROGRAM

The Q3 EAP Report was received on October 14, 2025 and reviewed and returned to the Developer with comments, this has been resubmitted and is under review as at the end of the reporting period.

Attachment A – Construction Progress by Buildable Unit

Buildable Unit	Description	Station	Status observed by the PMC	Progress during reporting period as observed by the PMC – see footnote ⁴	Developer's assessment of BU % complete – see footnote ⁵
Buildable Unit Group - Aqueducts					
A51	Maple River Aqueduct Flume/Conduit Structure	710+17	Active	Vertical Gate sections welding Assembly Vertical Tower Bridge sections Erection of bridge towers Remove formwork west approach slab Drill holes for SS dowels for boulders on west approach slab Form, Rebar and Cure west approach slab HTPC Installed and cables being installed Backfilling and Riprap at Flume Pour and cure cold lead cabinet pad	79.49%
A52	Maple River Aqueduct Spillway	710+17	Active	Form, Rebar, Cure and Remove formwork from spillway slab sections Form, Rebar and Cure spillway baffle blocks Continued fixing sheetpiles walls	58.47%
A53	Maple River Aqueduct Engineered Channel	710+17	Active	Excavation at the Engineered Channel	42.58%
A56	Sheyenne River Aqueduct	1477+50	Active	Form, Rebar, Embeds and Concrete at Flume walls, interior walls, top slab and east abutment Splicing and driving pile at Wingwall 4 Form and Rebar at Wingwall 7 and 8 Section 1 wall Pile splicing and welding at Wingwall 5 Sections 1 & 2 Formwork removal at Wingwall 1 section 3 Sheet pile driving at Wall A spillway Coarse filter back in the Chute Formwork in the D/S Chute/Slab	42.88%
Buildable Unit Group – Local Drainage					
CR1	Local Drainage in Rush River WRD - Reach C01	41+70 to 219+29	Active	No work during reporting period	98.60%

⁴ Status and progress are as observed by the PMC at the end of August 2025.

⁵ Note: Buildable Unit Percent Complete is based on the RRVA October PSSU submitted on or around November 15, 2025, and is calculated based on Earned Value (EV). This may vary from the status and progress observed by the PMC as one is visual observation, and the latter is derived from the PSSU electronic schedule.

Buildable Unit	Description	Station	Status observed by the PMC	Progress during reporting period as observed by the PMC – see footnote ⁴	Developer's assessment of BU % complete – see footnote ⁵
CR2	Local Drainage in Rush River WRD - Reach C02	219+29 to 302+00	Active	No work during reporting period	99.43%
CR3	Local Drainage in Rush River WRD – Reach C03	302+00 to 428+53	Active	No work during reporting period	90.38%
CR4	Local Drainage in Rush River WRD - Reach C04	428+53 to 576+00	Active	No work during reporting period	85.65%
CM1	Local Drainage in Maple River WRD – Reach C05	576+00 to 655+00	Active	No work during reporting period	94.39%
CM2	Local Drainage in Maple River WRD – Reach C06	655+00 to 762+77	Active	No work during reporting period	86.04%
CM3	Local Drianage in Maple River WRD – Reach C07	762+77 to 859+53	Active	No work during reporting period	83.06%
CM4	Local Drainage in Maple River WRD – Reach C08	859+53 to 912+00	Active	No work during the reporting period	71.07%
CM5	Local Drainage in Maple River WRD – Reach C09	912+00 to 968+00	Active	Left Ditch excavation	83.96%
CS1	Local Drainage in Southeast Cass WRD - Reach C10	968+00 to 1080+28	Active	Left Ditch excavation	92.04%
CS3	Local Drainage in Southeast Cass WRD - Reach C12	1235+72 to 1327+00	Active	No work during the reporting period	80.64%
CS4	Local Drainage in Southeast Cass WRD - Reach C13	1327+00 to 1554+59	Active	No work during reporting period	84.56%
CS5	Local Drainage in Southeast Cass WRD – Reach C14	1554+59 to 1571+70	Active	Left and Righ Ditch excavation	84.28%
Buildable Unit Group - Diversion Channel					
C01	Diversion Channel, Low Flow Channel (LFC), Engineered Material Berms (EMBs), Diversion Channel Line of Protection in Reach-01	27+63 to 219+29	Active	Channel Excavation, Topsoil Stripping and Placement, Final Grading	99.87%
C02	Diversion Channel, LFC, EMBs, Diversion Channel Line of Protection in Reach-02	219+29 to 302+00	Active	No work during the reporting period	99.95%

Buildable Unit	Description	Station	Status observed by the PMC	Progress during reporting period as observed by the PMC – see footnote ⁴	Developer's assessment of BU % complete – see footnote ⁵
C03	Diversion Channel, LFC, EMBs, Diversion Channel Line of Protection in Reach-03	302+00 to 428+53	Active	Maine Channel Excavation, placed on the right and left EMB 38,747 CY	92.16%
C04	Diversion Channel, LFC, EMBs, Diversion Channel Line of Protection in Reach-04	428+53 to 576+00	Active	Main Channel and LFC Excavation, placed on right and left EMB, 47,362 CY	76.33%
C05	Diversion Channel, LFC, EMBs, Diversion Channel Line of Protection in Reach-05	576+00 to 655+00	Active	Final Grading as needed	97.99%
C06	Diversion Channel, LFC, EMBs, Diversion Channel Line of Protection in Reach-06	655+00 to 762+77	Active	Main Channel Excavation, placed on right and left EMB, 26,046 CY and placed on Levee, 5,466 CY	56.45%
C07	Diversion Channel, LFC, EMBs, Diversion Channel Line of Protection in Reach-07	762+77 to 859+53	Active	Main Channel Excavation, placed on left EMB, 277 CY, Topsoil placement	86.90%
C08	Diversion Channel, LFC, EMBs, Diversion Channel Line of Protection, in Reach-08	859+53 to 912+00	Active	No work during reporting period	47.01%
C09	Diversion Channel, LFC, EMBs, Diversion Channel Line of Protection in Reach-09	912+00 to 968+00	Active	Main Channel Excavation, placed on left and right EMB, 10,049 CY, and placed on Levee, 8,593 CY, Topsoil stripping and Topsoil placement	70.47%
C10	Diversion Channel, LFC, EMBs, Diversion Channel Line of Protection in Reach-10	968+00 to 1080+28	Active	Main Channel Excavation, placed on left and right EMB, 3,894 CY, and placed on Levee, 3,885 CY, Topsoil stripping and Topsoil placement	68.56%
C11	Diversion Channel, LFC, EMBs, Diversion Channel Line of Protection in Reach-11	1080+28 to 1235+72	Active	Channel Excavation; Right EMB 9,434 CY	58.17%
C12	Diversion Channel, LFC, EMBs, Diversion Channel Line of Protection in Reach-12	1235+72 to 1327+00	Active	No work during the reporting period	77.95%
C13	Diversion Channel, LFC, EMBs, Diversion Channel Line of Protection in Reach-13	1327+00 to 1554+59	Active	Right EMB Placement 1,270 CY	64.79%
C14	Diversion Channel, LFC, EMBs, Diversion Channel Line of Protection in Reach-14	1554+59 to 1571+70	Active	Left EMB placement, 4,144 CY and Topsoil placement	75.93%
Buildable Unit Group - Hydraulic Structures					
S08	Drain 29 Inlet	27+63	Active	Complete Punch List items to be addressed	99.61%
S16	Drain 30 Inlet	213+75	Active	Complete Punch List items to be addressed	99.73%
S09	Rush River Inlet	431+75	Hold	Re-work of the inlet structure continued to progress.	97.37%

Buildable Unit	Description	Station	Status observed by the PMC	Progress during reporting period as observed by the PMC – see footnote ⁴	Developer's assessment of BU % complete – see footnote ⁵
S10	Lower Rush River Inlet	578+50	Active	No work during the reporting period	92.74%
S03	Berlin Township Drain Inlet	492+84	Active	Punch list items	98.68%
S04	Raymond Township North Drain Inlet	756+00	Active	Backfill behind the Headwall, Bedding and riprap installation	72.89%
S32	Raymond Township South Drain Inlet	793+00	Active	No work during reporting period	91.54%
S33	Drain 14B Inlet	856+00	Active	No work during reporting period	87.77%
S34	Drain 14C Inlet	929+30	Active	No work during reporting period	91.69%
S15	Mapleton Township Section 24 Drain Inlet	1078+00	Active	No work during reporting period	89.67%
S55	Mapleton Township Section 9 Drain Inlet	929+00	Complete	Complete	0.00%
S68	Drain Inlet 21C		Active	Mobilization from Drain 50	33.00%
S69	Drain 50		Active	D/S and U/S Headwalls Formwork and Rebar D/S and U/S Headwalls concrete D/S and U/S formwork stripping	49.51%
S74	Drain Inlet associated with CR17	1548+00	Active	No work during reporting period	71.32%
Buildable Unit Group - Diversion Outlet					
O00	Diversion Outlet Structure	27+63 to 41+70	Active	Re-work on the Outlet structure begun	99.77%
Buildable Unit Group - Roadways					
R19	25th St. Connection Parcel 2368	160+00 LT	Active	Roadway scope of work completed, working in punch list items	94.06%
R20	27th St. Connection to CR81	300+00 LT	Active	Embankment construction connecting to CR 81 Mainline	92.71%
R21	35th St. SE to Parcel 938	802+00 RT	On Hold	No work during reporting period	79.30%
R22	37th St. SE, East of Diversion Channel	905+00 LT	On Hold	No work during reporting period	90.41%
R23	37th St. SE, West of Diversion Channel	905+00 RT	On Hold	No work during reporting period	89.57%

Buildable Unit	Description	Station	Status observed by the PMC	Progress during reporting period as observed by the PMC – see footnote ⁴	Developer's assessment of BU % complete – see footnote ⁵
R65	15th St. SW from CR 8 to 32nd Ave. W	1146+00 LT	Not Started	No work during reporting period	22.74%
R24	169th Ave. SE Connection to Landlocked Parcel 2363	350+00 LT	Complete	Complete	87.62%
R26	172nd Ave. SE Connection to realigned CR4	114+00 RT	Complete	Complete	92.68%
R18	24th St. SE Connection to realigned CR4	100+00 RT	Complete	Complete	89.91%
M11	County Road 4/31 Crossing (Bridge)	86+91	Complete	Complete. Bridge opened to the public December 4	100.00%
M12	County Road 81 Crossing Bridge	310+20	Active	Sub grade preparation and geo grid placement Aggregate delivery and placement and embankment at tie-ins Asphalt paving at approaches Striping of lanes Topsoil Placement	89.88%
Z11	County Road 4/31 Crossing (Roadways)	86+91	Active	Curb & Gutter Repairs Completed, pending inspection	100.00%
R25	171st Ave. SE Crossing at Drain 30	215+00 LT	Complete	Complete	94.40%
Y12	County Road 81 Crossing (Bypass)	310+20	Complete	No work during reporting period	96.69%
G12	County Road 81 Crossing (Settlements)	310+20	Complete	Complete	97.60%
M35	Interstate I-29 Northbound & Southbound Crossing (Bridge)	NB 313+75 SB 314+81	Active	Saw cutting, Grading and Sealing concrete Shoulder gravel work and topsoil placement Asphalt Paving at shoulders SB Striping Riprapp installation ongoing All lanes open to traffic on November 24	95.01%
Y35	Interstate I-29 Northbound & Southbound Crossing (Bypass)	NB 313+75 SB 314+81	Active	Removal of the bypass started	99.55%
G35	Interstate I-29 Northbound & Southbound Crossing (Settlements)	NB 313+75 SB 314+81	Complete	Complete	97.67%
M13	Country Road 32 Crossing (Bridge)	408+08	Complete	Punch list items need to be addressed	100.00%
G13	Country Road 32 Crossing (Settlements)	408+08	Complete	Complete	100.00%

Buildable Unit	Description	Station	Status observed by the PMC	Progress during reporting period as observed by the PMC – see footnote ⁴	Developer's assessment of BU % complete – see footnote ⁵
Z13	Country Road 32 Crossing (Roadways)	408+08	Active	Complete	97.78%
R14	Country Road 22 Crossing	571+84	Active	Tie-in construction at approaches with gravel placement	90.84%
R15	CR 20 Crossing	679+37	Complete	Complete	99.93%
R27	CR10 (12th Ave. NW Connection to multiple parcels)	870+00 RT	Not Started	No work during reporting period	30.50%
R17	CR 10 Crossing	852+46	Complete	No working during reporting period	99.77%
R36	Interstate I-94 Eastbound & Westbound Crossing	WB 902+89 EB 903+74	Active	Shoulder gravel and topsoil placement Striping of SB lanes Worked on formwork placement/saw cutting/grading/sealing; Work on the Weigh Station ramp concrete paving; survey work on off ramp concrete staking All lanes open to traffic	97.03%
R58	38th St W Crossing (Township Road)	976+17	Active	Deck and asphalt approach cleaning Striping of lanes Guardrail installation Sub grade prep and embankment construction	87.95%
R59	32nd Avenue W Crossing (Township Road)	1119+06	Active	Guardrail installation Traffic opening walk/inspection completed	86.42%
R60	52nd Avenue W Crossing (Township Road)	1224+92	Active	Form and Rebar at barrier walls	82.30%
R61	County Road 6 Crossing	1330+41	Active	Bedding and riprap installation Tex-Cote still needs to be completed	84.71%
R62	County Road 14 Crossing	1438+97	Active	Embankment construction	83.89%
R73	County Road 16/17 Crossing	1558+40	Active	Sub grade prep and embankment construction Topsoil and aggregate delivery and placement Asphalt paving at guardrail sections Guardrail installation Crossing open to traffic November 24	81.65%
R74	24th St. SE Connection to Landlocked Parcel 1222	55+00	Complete	Complete	96.30%

Buildable Unit	Description	Station	Status observed by the PMC	Progress during reporting period as observed by the PMC – see footnote ⁴	Developer's assessment of BU % complete – see footnote ⁵
R75	38th St. NW Connection to the Maintenance Road/Trail	874+00	Not Started	No work during reporting period	45.90%
R76	47th St. SE access to Parcel 1200	1500+00	On Hold	No work during reporting period	87.25%
R77	170th Ave. Xing Drain 13 & Legal Drain 30	250+00	Complete	Complete	100.00%
R3A	Dead-End Termination of Local Roads in Reach-01	27+63 to 219+29	Complete	Complete	75.46%
R3B	Dead-End Termination of Local Roads in Reach-02	219+29 to 302+00	Complete	Complete	90.51%
R3C	Dead-End Termination of Local Roads in Reach-03	302+00 to 428+53	Complete	Complete	60.74%
R3D	Dead-End Termination of Local Roads in Reach-04	428+53 to 576+00	Complete	Complete	92.15%
R3E	Dead-End Termination of Local Roads in Reach-05	576+00 to 655+00	Complete	Complete	96.89%
R3F	Dead-End Termination of Local Roads in Reach-06	655+00 to 762+77	Complete	Complete	82.16%
R3G	Dead-End Termination of Local Roads in Reach-07	762+77 to 859+53	Complete	Complete	88.95%
R3J	Dead-End Termination of Local Roads in Reach-09	912+00 to 968+00	Complete	Complete	86.47%
R3K	Dead-End Termination of Local Roads in Reach-10	968+00 to 1080+28	Complete	Complete	89.25%
R3L	Dead-End Termination of Local Roads in Reach 11	1080+28 to 1235+72	On Hold	No work during the reporting period	57.67%
R3M	Dead-End Termination of Local Roads in Reach 12	1235+72 to 1327+00	Complete	Complete	87.74%
R3N	Dead-End Termination of Local Roads in Reach 13	1327+00 to 1554+59	Complete	Complete	97.15%
RA6	Security and Access Reach 1	27+63 to 219+29	Active	No work during reporting period	83.41%

Buildable Unit	Description	Station	Status observed by the PMC	Progress during reporting period as observed by the PMC – see footnote ⁴	Developer's assessment of BU % complete – see footnote ⁵
RB6	Security and Access Reach 2	219+29 to 302+00	Active	No work during reporting period	99.89%
RC6	Security and Access Reach 3	302+00 to 428+53	Active	Maintenance Road placement, 1,039 CY	29.89%
RD6	Security and Access Reach 4	428+53 to 576+00	Active	F/R/C North Abutment; Girder installation. Maintenance Road placement, 1,929 CY	38.45%
RE6	Security and Access Reach 5	576+00 to 655+00	Active	Backfill for the approach slab F/R/C approach slab	88.66%
RF6	Security and Access Reach 6	655+00 to 762+77	Active	Maintenance Road placement, 1,393 CY	0.44%
RG6	Security and Access Reach 7	762+77 to 859+53	Active	Maintenance Road placement, 1,162 CY	1.05%
RA7	Security and Access Reach 9	912+00 to 968+00	Active	Maintenance Road placement, 11,909 CY Finished striping the deck barriers from work, Removing overhangs, Curing approach slabs at Drain Inlet 14C Maintenance Bridge	70.02%
RB7	Security and Access Reach 10	968+00 to 1080+28	Active	Maintenance Road placement, 4,204 CY	2.70%
RF7	Security and Access Reach 14	1554+59 to 1571+70	Active	Maintenance Road placement, 5,183 CY	1.29%
Buildable Unit Group – Railroad Crossings					
X71	BNSF Hillsboro crossing – BU1 – Shoofly	311+61	Complete	Complete	99.73%
X72	BNSF Hillsboro crossing – BU2 – Tie-in to Shoofly	311+61	Complete	Complete	99.88%
X73	BNSF Hillsboro crossing – BU3 – Bridge and Track	311+61	Complete	Work is complete and track has been cut over Riprap installation ongoing	99.96%
X74	BNSF Hillsboro crossing – BU4 – Final Ballast, Tie and Rail	311+61	Complete	No work during reporting period	99.86%
X75	BNSF Hillsboro crossing – BU5 – Removal of Shoofly	311+61	Active	Removal of the shoofly started with removing of ballast and sub-ballast ongoing	46.93%
X81	BNSF Prosper crossing – BU1 – Shoofly	661+59	Complete	Complete	99.77%

Buildable Unit	Description	Station	Status observed by the PMC	Progress during reporting period as observed by the PMC – see footnote ⁴	Developer's assessment of BU % complete – see footnote ⁵
X82	BNSF Prosper crossing – BU2 – Tie-in to Shoofly	661+59	Complete	Complete	99.84%
X83	BNSF Prosper crossing – BU3 – Bridge and Track	661+59	Active	Work is complete and track has been cut over	99.50%
X84	BNSF Prosper crossing – BU4 – Final Ballast, Tie and Rail	661+59	Complete	Work is complete and track has been cut over	47.89%
X85	BNSF Prosper crossing – BU5 – Removal of Shoofly	661+59	Not Started	No work during reporting period	15.71%
X91	BNSF K.O. crossing – BU1 – Shoofly	870+87	Complete	Complete	99.80%
X92	BNSF K.O. crossing – BU2 – Tie-in to Shoofly	870+87	Complete	Complete	98.79%
X93	BNSF K.O. crossing – BU3 – Bridge and Track	870+87	Active	Surcharge removal and sub grade preparation Sub-ballast delivery and placement along approaches Asphalt paving at approaches Girder 1 replaced and formwork and rebar completed for span 1	94.75%
X94	BNSF K.O. crossing – BU4 – Final Ballast, Tie and Rail	870+87	Active	BNSF is placing and welding track panels as well as started placing ballast	6.73%
X95	BNSF K.O. crossing – BU5 – Removal of Shoofly	870+87	Not Started	No work during reporting period	13.09%
Utility Adjustments					
AT1	AT&T Reach 8 @ Design (COM-ATT-871+00)	871+00	Active	Partial removal of abandoned utility	98.79%
DC1	Dakota Carrier - Reach 7 @ Design (COM-DCN-851+00)	851+00	Active	Utility removal at the levee footprint	99.25%
DC2	Dakota Carrier - Reach 11 @ Design (COM-DCN-1171+00)	1171+00	Active	Utility removal at the east side of the channel	90.35%
F09	CenturyLink - Reach 4 @ Design (COM-CLN-571+50)	571+50	Active	Utility removal at the levee footprint	98.20%
F10	CenturyLink - Reach 4 @ Design (COM-CLN-571+61)	571+61	Active	Utility removal at the levee footprint	98.20%

Buildable Unit	Description	Station	Status observed by the PMC	Progress during reporting period as observed by the PMC – see footnote ⁴	Developer's assessment of BU % complete – see footnote ⁵
F12	CenturyLink - Reach 6 @ Design (COM-CLN-679+11)	679+11	Active	Utility removal at the levee footprint	99.82%
F13	CenturyLink - Reach 7 @ Design (COM-CLN-851+00 (1))	851+00	Active	Utility removal at the levee footprint	99.05%
F14	CenturyLink - Reach 7 @ Design (COM-CLN-851+00 (2))	851+00	Active	Utility removal at the levee footprint	99.05%
F15	CenturyLink - Reach 7 @ Design (COM-CLN-852+00)	852+00	Active	Utility removal at the levee footprint	99.05%
F18	CenturyLink - Reach 9 @ Design (COM-CLN-962+00 (1))	962+00	Active	Conduit installation at the bridge abutments	98.92%
F19	CenturyLink - Reach 9 @ Design (COM-CLN-962+00 (2))	962+00	Active	Conduit installation at the bridge abutments	98.92%
F20	CenturyLink - Reach 9 @ Design (COM-CLN-962+00 (3))	962+00	Active	Conduit installation at the bridge abutments	98.92%
F22	CenturyLink - Reach 10 @ Design (COM-CLN-978+00 (1))	978+00	Active	Conduit installation at the bridge abutments	99.20%
F25	CenturyLink - Reach 11 @ Design (COM-CLN-1118+00 (2))	1118+00	Active	Utility removal at the levee footprint	92.65%
F26	CenturyLink - Reach 11 @ Design (COM-CLN-1118+00 (1))	1180+00	Active	Utility removal at the levee footprint	92.65%
F27	CenturyLink - Reach 11 @ Design (COM-CLN-1171+00 (2))	1171+00	Active	Utility removal at the levee footprint	96.90%
F28	CenturyLink - Reach 11 @ Design (COM-CLN-1171+00 (1))	1171+00	Active	Utility removal at the levee footprint	96.90%
F34	CenturyLink - Reach 13 @ Design (COM-CLN-1490+00 (1))	1490+00	Active	Cable installation by Third Party	90.04%
MP1	Minnkota Power - Reach 1 @ Design (ELC-MKP-54+12)	54+12	Active	Temporary relocation at CR 4-31 and Drain 29	99.85%
MS2	Midcontinent - Reach 7 @ Design (COM-MCC-851+00)	851+00	Active	Utility removal at the levee footprint	99.28%

Buildable Unit	Description	Station	Status observed by the PMC	Progress during reporting period as observed by the PMC – see footnote ⁴	Developer's assessment of BU % complete – see footnote ⁵
MS4	Midcontinent - Reach 10 @ Design (COM-MCC-982+000)	982+00	Active	Conduit installation at the bridge abutments	99.09%
MS5	Midcontinent Reach 11 @ Design (COM-MCC-1171+00)	1171+00	Active	Utility removal at the levee footprint	97.14%
P02	Cass County Electric - Reach 1 @ Design (ELC-CCE-51+84)	51+84	Active	Cable installation, splicing and poles removal by CCE and abandoned utility removal by ASN	99.46%
P09	Cass County Electric - Reach 7 @ Design (ELC-CCE-851+00)	851+00	Active	Utility removal at the levee footprint	99.30%
P14	Cass County Electric Reach 10 @ Design (ELC-CCC-979+00)	979+00	Active	Conduit installation at the bridge abutments	97.57%
W03	Cass Rural Water - Reach 1 @ Design (WAT-CRW-153+81)	153+81	Active	Lowering of the CRW at CR 31	99.29%
W05	Cass Rural Water - Reach 3 @ Design (WAT-CRW-304+98)	304+98	Active	Removal of utility	95.55%
W14	Cass Rural Water - Reach 9 @ Design (WAT-CRW-962+00)	962+00	Active	HDD and plow method installation, hydro pressure and disinfection tests	96.60%
W16	Cass Rural Water - Reach 11 @ Design (WAT-CRW-1119+00)	1119+00	Active	Utility removal at the levee footprint	97.62%
Buildable Unit Group - Administration Building					
AB1	Authority Administration Building - Settlement Works		Complete	No work during reporting period.	100.00%
AB2	Authority Administration Building - Building Works		Active	Structural Steel erection and welding Roof joists installation and welding, decking Septic mound Installation Pond excavation Storm sewer installation Precast concrete installation Exterior layout and framing installation Wiring for transformer Topping slab concrete pour Infill for south of pad to southern embankment Parking lot subgrade and gravel Set transformer	19.35%

Attachment B – Submitted Compensation Events (CEs) and Relief Events (REs)

CE-#/RE-#	Description	Date Initial CE Notice Submitted	Cost / Relief Submitted ⁶	Cost / Relief Agreed	Status
CE 001	Century Link MOU Amendments	March 18, 2022	\$570,337.50	N/A	Withdrawn
CE 002	Cass Rural Water MOU Betterment	March 18, 2022	Not submitted	N/A	Closed – withdrawn by the RRVA
CE 003	City of Mapleton MOU Amendments	March 18, 2022	\$282,000.00	N/A	Withdrawn
CE 004	Drain 14 Design and Construction Amendments due to Others	March 18, 2022	\$96,800.00	N/A	Closed – Transferred to ACR006-2022
CE 005	I-94 NDDOT Bridge Work Interference	March 18, 2022	Not submitted	N/A	Closed – Withdrawn by the RRVA
CE 006	Cass County - Change from Kansas Corral Rail to Texas Corral Rail	April 20, 2022	Not submitted	N/A	Closed – Transferred to ACR002-2022
CE 007-01	Compensatory Wetland Mitigation and Section 404 Permit / Fish Passages – Part 1	May 4, 2022	Not submitted	TBD	Resolved via SOP*
CE 007-02	Compensatory Wetland Mitigation and Section 404 Permit / Fish Passages – Part 2	May 4, 2022	Not submitted	N/A	Closed – Withdrawn by the RRVA
CE 008	Berlin Townships MOU Amendments	May 13, 2022	Not submitted	N/A	Closed – Withdrawn by the RRVA
CE 009	NDDOT MOU Amendments, Expansion Joints	May 24, 2022	Not submitted		Closed – Withdrawn by the RRVA
CE 010	Material Flood Event Sheyenne River on Gol Road Near Kindred	June 6, 2022	Not submitted	N/A	Closed – Withdrawn by the RRVA
CE 011	BNSF Delays	July 25, 2022	\$35,825,167.00* (*Includes CE 011, CE012 & CE 013)	N/A	Closed – Withdrawn by the RRVA – See DCR2023-030
CE 012	BNSF Review Delays Prosper	July 25, 2022	See CE 011	N/A	Closed – Withdrawn by the RRVA – See DCR2023-030
CE 013	BNSF Review Delays KO	July 25, 2022	See CE 011	N/A	Closed – Withdrawn by the RRVA – See DCR2023-030
CE 014	Modified Permit Delay Impact	December 2, 2022	\$69,571,469.40	N/A	Closed – Submitted to TDRB
CE 015	Failure of a Third Party (BNSF) to Comply with Third Party MOU	October 18, 2023	\$25,704,786.00	N/A	Closed – Submitted to TDRB
CE 016	Contamination on Reach 9	November 6, 2023	\$106,844.28	TBD	Closed – Submitted to TDRB
CE 017	Initial-Undisclosed Hazardous Environmental Condition at KO & Prosper	November 21, 2023	Not yet submitted	TBD	Resolved via SOP*
CE 018	Failure of a Third Party (BNSF) to Comply with Third Party MOU	January 24, 2024	\$3,253,991.63	N/A	Closed – Submitted to TDRB

⁶ Costs are required to be submitted with Detailed CE Notices; however, RRVA submits these with its Final Detailed CE Notices.

CE-#/RE-#	Description	Date Initial CE Notice Submitted	Cost / Relief Submitted ⁶	Cost / Relief Agreed	Status
CE 019	Additional Riprap Requirement due to Hydraulic Analysis of DIS	March 20, 2024	\$1,840,509.39	TBD	Withdrawn
CE 020	Updates to Project Agreement, Exhibit 4 (Project Land)	May 20, 2024	Not yet submitted	TBD	Withdrawn
CE 021	Attachment 3-14 Update (related to Exhibit 4)	May 20, 2024	Not yet submitted	TBD	Withdrawn
CE 022	Rush River Excavation - 404 Permit Delay	June 25, 2024	\$829,468.55	TBD	Resolved via SOP*
CE 023	Epoxy Coated Rebar Delays	July 5, 2024	\$40,830,176.27	N/A	Closed – Submitted to TDRB
CE 024	AAB Material Delivery	July 25, 2024	\$438,416.53	TBD	Closed – Subject to dispute provisions of the Project Agreement (Section 54.3)
CE 025	Obstructions Uncovered Hillsboro	July 22, 2024	Not yet submitted	TBD	Withdrawn
CE 026	Hazardous Environmental Conditions in Reach 13	September 20, 2024	\$21,629.47	N/A	Closed – Subject to dispute provisions of the Project Agreement (Section 54.3)
CE 027	Initial Compensation Event Notice – Issuance of Nonconformance Reports by Authority	October 11, 2024	Not yet submitted	TBD	Resolved via SOP*
CE 028	Undisclosed Hazardous Environmental Conditions at County Road 8	December 3, 2024	\$2720.84	TBD	Resolved via SOP*
CE 029	Drain 14C – Mapleton Drain 9	December 24, 2024	\$394,875.56	TBD	Resolved via SOP*
CE 030	Obstructions uncovered in Reach 9	January 10, 2025	\$16,639	TBD	Resolved via SOP*
CE 031	Authority Failure to Use Reasonable Efforts Pursuant to Article 54	January 20, 2025	Not yet submitted	TBD	Resolved via SOP*
CE032	Qualifying Change in Law	January 20, 2025	Not yet submitted	TBD	Resolved via SOP*
CE033	Delay to Certificates of Interim Completion	April 24, 2025	Not yet submitted	TBD	Resolved via SOP*
RE 001	Non-Material Flood - Maple	May 3, 2023	36 calendar days	0 calendar days	Closed – Authority determination provided
RE 002	Non-Material Flood - Sheyenne	May 3, 2023	36 calendar days	0 calendar days	Closed – Authority determination provided

** It should be noted that all Compensation Events and Relief Events are subject of settlement negotiations and the associated 'Statement of Principles' agreement that was executed on July 3, 2025, during this reporting period.*

Attachment C – Authority Change Requests (ACRs)

ACR Number	Description	Date Initiated	RRVA Estimate	Agreed Amount	Status
ACR001-2022	Use of local roads	May 31, 2022	No Cost	N/A	Executed
ACR002-2022	Cass County – Change from Kansas Corral Rail to Texas Corral Rail	May 31, 2022	\$450,000.00	\$410,000.00	Paid
ACR003-2022	Attachment 3-25 Update	July 28, 2022	\$1,317,138.95	N/A	Resolved via SOP*
ACR004-2022	EAP Utilization Plan	September 2, 2022	No Cost	N/A	Executed
ACR005-2022	Amend TR Section 2.2.6.1(2) to include re-baselining PBS for Compensation Events and approved Change Orders	October 18, 2022	N/A	N/A	Withdrawn
ACR006-2022	Cass County Drain 14C	October 18, 2022	(\$662,360.00)	(\$950,000.00)	Executed
ACR007-2022	NDDOT Conduits	December 2, 2022	\$337,475.14	\$283,940.32	Executed
ACR008-2022	CCRW connection of waterline from Res B to Res C	November 28, 2022	\$2,259,945.46	\$1,246,760.06	Paid
ACR009-2022	Township Mobility Improvements	December 23, 2022	N/A	N/A	Withdrawn
ACR010-2022	Acceleration of Tree Felling	December 21, 2022	\$1,000,000.00	N/A	Resolved via SOP*
ACR011-2023	MLGC FOC Installation in Mapleton Township	January 20, 2023	\$368,550.67	\$350,000.00	Executed
ACR012-2023	TR Section 3.10.3.1 (10)	January 24, 2023	No Cost	N/A	Executed
ACR013-2023	37th Street SE west of the Diversion Channel	January 26, 2023	(\$62,111.04)	N/A	Resolved via SOP*
ACR014-2023	Relocation of CRWUD waterline	February 2, 2023	\$48,449.58	N/A	Resolved via SOP*
ACR015-2023	Deletion of requirement to establish and maintain Woodland Species (Att 3-21 Woodland Species)	May 10, 2023	N/A	N/A	Withdrawn
ACR016-2023	Aqueduct Design Sheyenne River	August 14, 2023	\$37,535,575.00	\$2,975,000.00	Partially Paid
ACR017-2023	River Inlets and Drain Inlets	August 31, 2023	No Cost	N/A	Executed
ACR018-2022	CR 10 to 166th Ave. Connection	September 27, 2023	\$178,278.79	N/A	Resolved via SOP*
ACR019-2023	38th St. NW connection to the MRT connected to Project ROW (Access south of BNSF KO line)	September 27, 2023	\$37,247.13	N/A	Resolved via SOP*
ACR020-2023	Updates to Project Agreement, Exhibit 4 (Project Land)	October 6, 2023	No Cost	N/A	Directive Letter Issued
ACR021-2023	Attachment 3-14 update (related to Exhibit 4)	October 6, 2023	No Cost	N/A	Directive Letter Issued
ACR022-2023	Aqueduct Design Maple River	December 22, 2023	\$15,459,470.80	\$2,975,000.00	Partially Paid
ACR023-2024	38th Street W Interim Connection (roadway connection south of I-94)	February 7, 2024	\$135,735.28	\$115,000.00	Executed
ACR024-2025	Road Connection in Harwood Township	February 6, 2025*	\$7,468,785.89	TBD	Withdrawn as part of SOP

ACR Number	Description	Date Initiated	RRVA Estimate	Agreed Amount	Status
ACR025-2025	AAB Modifications	May 29, 2025	TBD	TBD	Resolved via SOP*
ACR026-2025	County Road 17 Connection	May 30, 2025 (with revision pending issue)	No Cost	No Cost	Executed
ACR027-2025	Road Connection in Harwood Township	Aug 13, 2025	TBD	TBD	Ongoing
ACR028-2025	Highways Improvements	Aug 27, 2025	\$257,129.85	\$153,092.93	Executed
ACR029-2025 ⁷	TCE Releases	Oct 7, 2025	No Cost	No Cost	Executed

**it should be noted that all Change Requests are subject of settlement negotiations and the associated 'Statement of Principles' agreement that was executed on July 3, 2025, during this reporting period.*

⁷ Issued following the reporting period (October 7, 2025)

Attachment D – RRVA Change Requests (DCRs)

DCR Number	Description	Date Initiated	RRVA Estimate	Agreed Amount	Status
DCR2022-001	Deletion of Preliminary Design Report Submission for Diversion Channel Bus/Move to 60% design	March 25, 2022	No Cost	N/A	Executed
DCR2022-002-1	Change Definition of Days – Part 1	April 20, 2022	No Cost	N/A	Executed
DCR2022-002-2	Change Definition of Days – Part 2	April 20, 2022	No Cost	N/A	Executed
DCR2022-003	Change the Calculation Methodology of Designing Sizes of Ripraps	June 3, 2022	N/A	N/A	Rejected
DCR2022-004	Amendment to Re-Submitting to Submit Next Step Buildable Units	July 14, 2022	No Cost	N/A	Executed
DCR2022-005	Amendment to Combine PDF drawing file for Submittals	June 30, 2022	No Cost	N/A	Executed
DCR2022-006	Change Cass County Review Period for Specific Buildable Units Reports and Submittals	July 14, 2022	No Cost	N/A	Executed
DCR2022-007	Deletion of Demolition Buildable Units Reports	July 14, 2022	No Cost	N/A	Executed
DCR2022-008	Change Location of maintenance Road/Trail on the left EMB	July 14, 2022	No Cost	N/A	Executed
DCR2022-009	Maple River Aqueduct Spillway Design and Operational Changes	December 5, 2022	\$3,500,000.00	\$3,500,000.00	Paid
DCR2022-010	Changing Dead End Termination Types for Local Roads at Diversion Channel	October 5, 2022	\$50,000.00	\$17,440.50	Paid
DCR2022-011	Amend Number of Individuals for Cultural Resource/Archaeological Monitoring	July 13, 2022	No Cost	N/A	Executed
DCR2022-012	ITP Submittal Requirement from R&C to FIO	July 28, 2022	N/A	N/A	Rejected
DCR2022-013	Amendment for the Expansion Joint Details of NDDOT	January 24, 2022	N/A	N/A	Withdrawn
DCR2022-014	Project Office	August 10, 2022	No Cost	N/A	Executed
DCR2022-015	Amendment in Submitting Native Files before RFC Documents	August 15, 2022	No Cost	N/A	Executed
DCR2022-016	Amendment O&M QMP Implementation	August 18, 2022	No Cost	N/A	Executed
DCR2022-017	Amendment in Considering Temporary Flow	September 27, 2022	N/A	N/A	Withdrawn
DCR2022-018	Amendment to Design Quality Management Plan Technical Requirements	August 30, 2022	No Cost	N/A	Executed
DCR2022-019	SWPP NPDES	September 7, 2022	No Cost	N/A	Executed
DCR2022-020	Exhibit 5 technical Requirements Volume 4 Wetlands	September 26, 2022	No Cost	N/A	Executed
DCR2022-021	Proposed edits on TR 2.10.1 (Executive Council Meetings)	March 10, 2023	No Cost	N/A	Executed
DCR2022-022	Local Drainage Freeboard Variance	October 27, 2022	No Cost	N/A	Executed
DCR2022-023	Combination of Local Drainage with Diversion Channel Buildable Units	November 2, 2022	N/A	N/A	Withdrawn
DCR2022-024	Key Personnel Project Information Officer and Land Manager	January 24, 2023	No Cost	N/A	Executed
DCR2022-025	Seed Mixes	June 8, 2023	No Cost	N/A	Executed
DCR2022-026	Cultural Resources OIN 936	December 16, 2022	N/A	N/A	Withdrawn

DCR Number	Description	Date Initiated	RRVA Estimate	Agreed Amount	Status
DCR2022-027	BNSF Comments Raised in the Design Review Process	December 19, 2022	N/A	N/A	Rejected
DCR2022-028	Key Personnel RRVA's Project Quality Monitor	February 2, 2023	No Cost	N/A	Executed
DCR2022-029	Design Deliverables Schedule and Electronic Deliverables Tracking Log Submissions	February 1, 2023	No Cost	N/A	Executed
DCR2023-030	Acceleration measures due to BNSF Delays	February 16, 2023	\$195,113.13	\$195,113.13	Paid
DCR2023-031	Amendment to Project Agreement, Exhibit 5 Technical Requirements, Volume 3, Section 3.3.4.4.3(1) – 85% Compaction and Plow Installation of Utilities	March 3, 2023	No Cost	N/A	Executed
DCR2023-032	Amendment to Project Agreement, Exhibit 5 Technical Requirements, Volume 3, Section 3.3.4.4.5(2) – Grouting of HDD	March 3, 2023	(\$154,000.00)	N/A	Rejected
DCR2023-033	Amendment to Project Agreement, Exhibit 5 Technical Requirements, Volume 3, Section 2.5.5(5) – RFC Hardcopies	February 28, 2023	No Cost	N/A	Executed
DCR2023-034	Dispute Resolution Board -Exhibit – Part 1 Clause 2.2	March 21, 2023	No Cost	N/A	Executed
DCR2023-035	Section 2.11.10.2 SWPPP NPDES, (2) & (4)	March 23, 2023	No Cost	N/A	Executed
DCR2023-036	Dispute Resolution Board – Exhibit Part 2 SECTION 1.4	N/A	N/A	N/A	Placeholder - Not submitted
DCR2023-037	Amendment to Project Agreement, Exhibit 5 Technical Requirements, Rs 3.3.1. ("Transitions for Legal Drains")	April 18, 2023	N/A	N/A	Rejected
DCR2023-038	Amendment Exhibit 1 Definitions	April 18, 2023	N/A	N/A	Rejected
DCR2023-039	Vol 1 Art 7 Section 7.3 (b) Definitions ("Discretionary Submittals)	April 18, 2023	N/A	N/A	Rejected
DCR2023-040	Exhibit 1 Definitions Noncompliance Start Date and Time	April 19, 2023	N/A	N/A	Rejected
DCR2023-041	TR Attachment 4-1 Performance and Measurement Table	May 2, 2023	No Cost	N/A	Executed
DCR2023-042	Levee Monitoring	June 28, 2023	N/A	N/A	Rejected
DCR2023-043	Deletion of Dead-End Termination Reach 8 and Reach 14 BU Reports	August 30, 2023	N/A	N/A	Withdrawn
DCR2024-044	H&H Model – Amendment to Section 3.5.1.3 (1) of the Technical Requirements	March 7, 2024	N/A	N/A	Rejected
DCR2024-045	I-29 & I-94 Duration Ramp Closure	March 15, 2024	No Cost	N/A	Executed
DCR2024-046	Interim Completion Element	June 12, 2024	No Cost	N/A	Rejected
DCR2024-047	Section 2.2.4.5 Quarterly As-Built Drawing Update	June 17, 2024	No Cost	N/A	Rejected
DCR2024-048	Aqueduct Gate Considerations in H&H Model – Amendment to Section 3.5.1.3 (2) (d) of the TR	August 23, 2024	No Cost	N/A	Withdrawn
DCR2024-049	Cass County Ditch Requirement	August 7, 2024	\$3,903,546.12	N/A	Rejected
DCR2024-050	Amendment to Project Agreement, Exhibit 5 TR, Volume 3, Section 2.6.3(6) Shop Drawings signed by the Buildable Unit Construction Manager	August 23, 2024	No Cost	No Cost	Executed

DCR Number	Description	Date Initiated	RRVA Estimate	Agreed Amount	Status
DCR2024-051	Amendment to Project Agreement, Exhibit 5 Technical Requirements, Volume 3, Section 2.2.4.5 Quarterly As-Built Drawing Update	October 16, 2024	No Cost	No Cost	Executed
DCR2024-052	H&H Model – Amendment to Section 3.5.1.3 (1) of the Technical Requirements	October 17, 2024	\$243,123.21	N/A	Rejected
DCR2024-053	Aqueduct Gate Considerations in H&H Model - Amendments to Section 2.5.7(2), Section 3.5.1.3(1), Section 3.5.1.3...	October 17, 2024	No Cost	No Cost	Executed
DCR2024-054	DCR-2024-054 - F01 & P01 Abandonment under Right EMB – Reach 1	October 17, 2024	(\$12,000.00)	(\$50,000)	Executed
DCR2024-055	Amendment to Project Agreement Exhibit 1 Definitions, Technical Requirements Section 2.2.2, Technical Requirements Section 2.2.9 (2), Technical Requirements (Definition of Interim Completion Element)	October 22, 2024	No Cost	No Cost	Executed
DCR2025-056	Amendment to Project Agreement Exhibit 1 Definitions - Interim Completion Element	March 7, 2025	No Cost	No Cost	Executed
DCR2025-057	Change to Technical Requirements, Volume 3, Section 3.3.1.13-Local Drainage	April 30, 2025	\$2,442,041.81, (plus \$957,400 O&M)	N/A	Rejected
DCR2025-058	Transverse Grade – Maintenance Road	October 29, 2025	No Cost	No Cost	Ongoing

Attachment E – Completed Interim Completion Pay Unit Summary

ICE No.	Element Description	Pay Unit	Value	Interim Completion Certificate Date	Invoice Date	*Date Paid
ICE32-353802	BNSF KO Shoofly East Bound Crossing	35	\$3,472,708.00	2/7/2025	2/28/2025	3/26/2025
ICE32-353802	BNSF KO Shoofly West Bound Crossing	38	\$3,472,708.00	2/7/2025	2/28/2025	3/26/2025
ICE29-003202	BNSF Proper Shoofly	32	\$3,195,335.00	2/7/2025	2/28/2025	3/26/2025
ICE26-002902	BNSF Hillsboro Shoofly	29	\$4,249,352.00	2/7/2025	2/28/2025	3/26/2025
ICE10-001101	Legal Drain 29 Series B	11	\$1,717,383.00	9/9/2025	10/7/2025	10/13/2025
Total			\$16,107,486.00			

- Additional Milestone payments are due to the Developer within 30 calendar days upon receipt of an approved invoice.

Attachment F – Noncompliance Points (NCPs) Status Tables**Assessed Noncompliance Points for Cured Nonconformances⁸**

NCR Number	Title/Description	Accrued NCPs	Accepted to waive NCPs	Assessed NCPs	Status
NCR-00001	MFDA-NCR-0001 – Audit Program scheduling			2	Statement of Principles, July 3, 2025
NCR-00017	MFDA-NCR-0003 – Lack of full-time engagement for key personnel: RRVA's public information officer and D&C contractor's land manager			0	Statement of Principles, July 3, 2025
NCR-00019	MFDA-NCR-0004 – Lack of timely issuance for the May 2022 Monthly Performance Report			0	Statement of Principles, July 3, 2025
NCR-00028	Lack of timely issuance for the July 2022 Monthly Performance Report by Aug. 10, 2022			0	Statement of Principles, July 3, 2025
NCR-00041	MFDA-NCR-0012 – Lack of implementing effective corrective actions to prevent recurrence of Nonconformances associated with late issuance of meeting minutes			0	Statement of Principles, July 3, 2025
NCR-00042	MFDA-NCR-0013 – Start of construction work without RFC documents and without resolving Authority's comments			3	Statement of Principles, July 3, 2025
NCR-00043	MFDA-NCR-0014 – Start of construction work without submitting an Inspection and Test Plan			3	Statement of Principles, July 3, 2025
NCR-00044	Starting construction work on permanent works in Reach 01 without having an approved Inspection and Test Plan			6	Statement of Principles, July 3, 2025
NCR-00045	Start of construction on permanent works in Reach 01 without complete RFC document package			6	Statement of Principles, July 3, 2025
NCR-00046	Starting horizontal directional drilling work without having an approved Inspection and Test Plan for Cass Rural Water (W02) 84+03			3	Statement of Principles, July 3, 2025
NCR-00047	Starting horizontal directional drilling work without having a complete RFC package for Cass Rural Water (W02) 84+03.			0	Statement of Principles, July 3, 2025
NCR-00048	Lack of submitting ECS Certification for Channel Reach 2 prior to commencement of construction			4	Statement of Principles, July 3, 2025
NCR-00051	Identification of Nonconformance in the Sept. 2022 Audit, DQP 3.15			0	Statement of Principles, July 3, 2025
NCR-00053	Identification of Nonconformance in the Sept. 2022 Audit, DQP 3.19			14	Statement of Principles, July 3, 2025
NCR-00072	MFDA-NCR-0015 – Start of construction work without resolving Authority's comments for drilling operations ITP WAT-CRW-309+20			6	Statement of Principles, July 3, 2025
NCR-00073	Starting construction work without having an approved Inspection and Test Plan for Cass Rural Water (W03) 153+81			3	Statement of Principles, July 3, 2025
NCR-00078	MFDA-NCR-0020 – Start of construction work without RFC Documents E40-F04 COM-CLN-156+09/156+20			3	Statement of Principles, July 3, 2025
NCR-00079	MFDA-NCR-0021 – Start of construction work without RFC documents F07 COM- CLN-310+66; P04 – ELE-CCE-309+58			3	Statement of Principles, July 3, 2025
NCR-00080	Start of construction work without approved Inspection and Test Plan documents E40-F04 COM-CN-156+09/156+20			3	Statement of Principles, July 3, 2025

⁸ Due to the early completion of this report to meet the December Board packet, the data for this table has not yet been received from the Developer; therefore these figures are to end of October 2025.

Assessed Noncompliance Points for Cured Nonconformances⁸

NCR Number	Title/Description	Accrued NCPs	Accepted to waive NCPs	Assessed NCPs	Status
NCR-00081	Start of construction work without approved Inspection and Test Plan documents F07 COM-CLN-310+66; P04 – ELE-CCE-309+58			1	Statement of Principles, July 3, 2025
NCR-00082	MFDA-NCR-0024 – Start of construction work without accepted ITP for wick drains installation at BU-G11 CR 4/31			0	Statement of Principles, July 3, 2025
NCR-00084	MFDA-NCR-0023 – Start construction work without ITP open trench BU-W02			9	Statement of Principles, July 3, 2025
NCR-00086	October 2022 Audit, DQP 3.10(2) – DCS workflows are not used in the returning of shop drawings as outlined in Procedure 4.d			0	Statement of Principles, July 3, 2025
NCR-00087	October 2022 Audit, DQP 3.14(1) – DM hasn't provided the initial review of the RFI per Procedure 1, DJV has a new role, the DSCS who is providing the review			0	Statement of Principles, July 3, 2025
NCR-00088	No signature has been provided on the RFI response per Procedure 4			0	Statement of Principles, July 3, 2025
NCR-00089	Procedure 5, prior notification of the RFI response to ASN was made in some reviews, but not all reviews			0	Statement of Principles, July 3, 2025
NCR-00093	MFDA-NCR-0028 – Incorrect Engineer of Record signing and sealing Design Deliverables E40-W03 – WAT-CRW-153+81			0	Statement of Principles, July 3, 2025
NCR-00094	MFDA-NCR-0029 – Unapproved key personnel, core staff discipline, staff and specialist performing the work			0	Statement of Principles, July 3, 2025
NCR-00096	MFDA-NCR-0032 – Lack of issuance of Schedule of Design Deliverables updates			10	Statement of Principles, July 3, 2025
NCR-00097	MFDA-NCR-0033 – Lack of implementing Design Quality Procedure DQP 3.7			18	Statement of Principles, July 3, 2025
NCR-00098	MFDA-NCR-0031 – Incorrect Engineer of Record signing and sealing Design Deliverables E30-G11 – CR4 31 Crossing			0	Statement of Principles, July 3, 2025
NCR-00099	MFDA-NCR-0034 – Lack of CQMP procedure associated with processes leading into issuance of record drawings			200	Statement of Principles, July 3, 2025
NCR-00100	The Project Quality Monitor did not attend the project office during the Month of November (2022)			0	Statement of Principles, July 3, 2025
NCR-00109	MFDA-NCR-0035 – Lack of issuing updated PBS and WBS as a result of Buildable Unit changes identified in the Project Status Schedule Update for December 2022			10	Statement of Principles, July 3, 2025
NCR-00110	MFDA-NCR-0036 – Lack of issuing Federal Compliance Report for year 2022			14	Statement of Principles, July 3, 2025
NCR-00112	Lack of RRVA not having a RRVA's Local Affairs Project Manager on staff			12	Statement of Principles, July 3, 2025
NCR-00123	MFDA-NCR-0039 – Lack of implementing the process for checking and reviewing design deliverables as described in DQP 3.3 Design Deliverables Drawing Review			50	Statement of Principles, July 3, 2025
NCR-00134	MFDA-NCR-0049 – Lack of implementing the process for checking and reviewing design deliverables			40	Statement of Principles, July 3, 2025
NCR-00147	Starting construction work without having an approved Inspection and Test Plan for CenturyLink Utility Line (F09) at 571+50			6	Statement of Principles, July 3, 2025
NCR-00148	Starting construction work without having an approved Inspection and Test Plan for CenturyLink Utility Line (F10) at 571+61			6	Statement of Principles, July 3, 2025

Assessed Noncompliance Points for Cured Nonconformances⁸

NCR Number	Title/Description	Accrued NCPs	Accepted to waive NCPs	Assessed NCPs	Status
NCR-00151	MFDA-NCR-0054 – Starting work without accepted ITP (F11)			6	Statement of Principles, July 3, 2025
NCR-00154	Identification of NC in the CQMP May 2023 Audit – Tracking Completion of BUs and PEs			4	Statement of Principles, July 3, 2025
NCR-00155	Identification of NC in the CQMP May 2023 Audit – Coordination of CQM and CM for coordinating completion of each PE and BU			0	Statement of Principles, July 3, 2025
NCR-00171	MFDA-NCR-0056 – Starting work without accepted ITP			3	Statement of Principles, July 3, 2025
NCR-00172	MFDA-NCR-0057 – Starting work without accepted ITP			3	Statement of Principles, July 3, 2025
NCR-00174	MFDA-NCR-0055 – Starting work without accepted ITP			3	Statement of Principles, July 3, 2025
NCR-00180	Lack of RRVA not having a safety coordinator on staff			0	Statement of Principles, July 3, 2025
NCR-00185	MFDA-NCR-0064 – Starting work without accepted revised safety plan			11	Statement of Principles, July 3, 2025
NCR-00199	MFDA-NCR-0075 – Lack of erosion and sedimentation protection			2	Statement of Principles, July 3, 2025
NCR-00207	MFDA-NCR-0076 – Lack of registering Nonconformance			12	Statement of Principles, July 3, 2025
NCR-00208	MFDA-NCR-0077 – Lack of compliance with work zone traffic			1	Statement of Principles, July 3, 2025
NCR-00222	MFDA-NCR-0084 – Lack of conducting audit in accordance with the Audit Program			6	Statement of Principles, July 3, 2025
NCR-00224	MFDA-NCR-0085 – Utilized compaction equipment for levee and EMB fill			2	Statement of Principles, July 3, 2025
NCR-00242	MFDA-NCR-0091 – Performing work without submitting affected Reviewable Submittal (List of Buildable Units)			10	Statement of Principles, July 3, 2025
NCR-00247	Starting construction work without having an approved Inspection and Test Plan for BNSF Prosper settlement activities			0	Statement of Principles, July 3, 2025
NCR-00253	MFDA-NCR-0095 – Failure to provide records related to BNSF notification of Hazardous Environmental Condition			10	Statement of Principles, July 3, 2025
NCR-00254	MFDA-NCR-0096 – Failure to provide timely notification of Hazardous Environmental Condition			0	Statement of Principles, July 3, 2025
NCR-00256	Outlet Structure - Boulders in Rock Weirs not meeting the minimum Diameter Requirements			0	Statement of Principles, July 3, 2025
NCR-00264	MFDA-NCR-0100 – Lack of notifying the occurrence of Noncompliance Event associated with Nonconformance RRVA- QU-NCR-00256 (NCR-00256)			10	Statement of Principles, July 3, 2025
NCR-00309	R36 – I-94 1-Week Ramp Closure			5	Statement of Principles, July 3, 2025
NCR-00323	MFDA-NCR-0108 – Lack of issuing PBS Monthly Updates			10	Statement of Principles, July 3, 2025
NCR-00324	MFDA-NCR-0109 – Lack of Modifying or Adding WBS Elements in PBS			10	Statement of Principles, July 3, 2025
NCR-00325	MFDA-NCR-0110 – Lack of including activities in PBS			10	Statement of Principles, July 3, 2025
NCR-00327	MFDA-NCR-0112 – Starting work without accepted changes to the RRVA Project Management Plan			10	Statement of Principles, July 3, 2025
NCR-00330	MFDA-NCR-0115 – Lack of covering the complete list of Buildable Units in the PBS			10	Statement of Principles, July 3, 2025

Assessed Noncompliance Points for Cured Nonconformances⁸

NCR Number	Title/Description	Accrued NCPs	Accepted to waive NCPs	Assessed NCPs	Status
NCR-00347	Key Personnel Position – D&CC-CQMP position not filled			9	Statement of Principles, July 3, 2025
NCR-00362	C02 (Tree Planting) – Starting Construction Work without having an approved ITP			0	Statement of Principles, July 3, 2025
NCR-00363	Key Personnel Position – D&CC – CM position not filled			0	Statement of Principles, July 3, 2025
NCR-00380	Lack of updates to the H&S Organizational Chart			10	Statement of Principles, July 3, 2025
NCR-00421	MFDA-NCR-0130 - Lack of Submitting the Construction GIS Geodatabase Updates on a Quarterly Basis	28		28	Pending review of waive request for 28 NCPs
NCR-00432	MFDA-NCR-0131 – Lack of Shop Drawing and Samples approval prior to flap gates installation at Drain 30			0	Statement of Principles, July 3, 2025
NCR-00433	MFDA-NCR-0132 – Lack of listing Design Change on the applicable Construction Certificates for Drain 30			0	Statement of Principles, July 3, 2025
NCR-00434	MFDA-NCR-0133 – Failure to report Nonconformance related to geotextile fabric installation at Drain 30			0	Statement of Principles, July 3, 2025
NCR-00453	MFDA-NCR-0137 - Failure to Stabilize Drainage Features with Appropriate Controls Prior To Surface Water Connection	6		6	
NCR-00456	Lack of proper documentation for Material Delivery and Hold Point inspection in Reach 2	84		84	
NCR-00462	X93 - Pick Plan Not Approved Prior to Girder Setting	2		2	
NCR-00472	Lack of Shop Drawings approval prior to RCP installation related to Lifting Methods and Devices for Handling Precast Units	45		45	
NCR-00477	A51 (Vertical Lift Gate) - Starting Construction without Approved Inspection and Test Plan	6		6	
NCR-00478	A51 (Heat Trace) - Starting Construction without Approved Inspection and Test Plan	6		6	
NCR-00479	A51 (Heat Trace) - Starting Construction without Approved Shop Drawing	6		6	
NCR-00480	A51 (Vertical Lift Gate) - Starting Construction without Shop Drawing	6		6	
NCR-00481	A51 (E House) - Starting Construction without Approved Inspection and Test Plan	6		6	
NCR-00482	A51 (E House) - Starting Construction without Approved Shop Drawing	6		6	
NCR-00487	RC6 & RB7 - Starting Construction without Approved Shop Drawings	3		3	
Total		796		796	

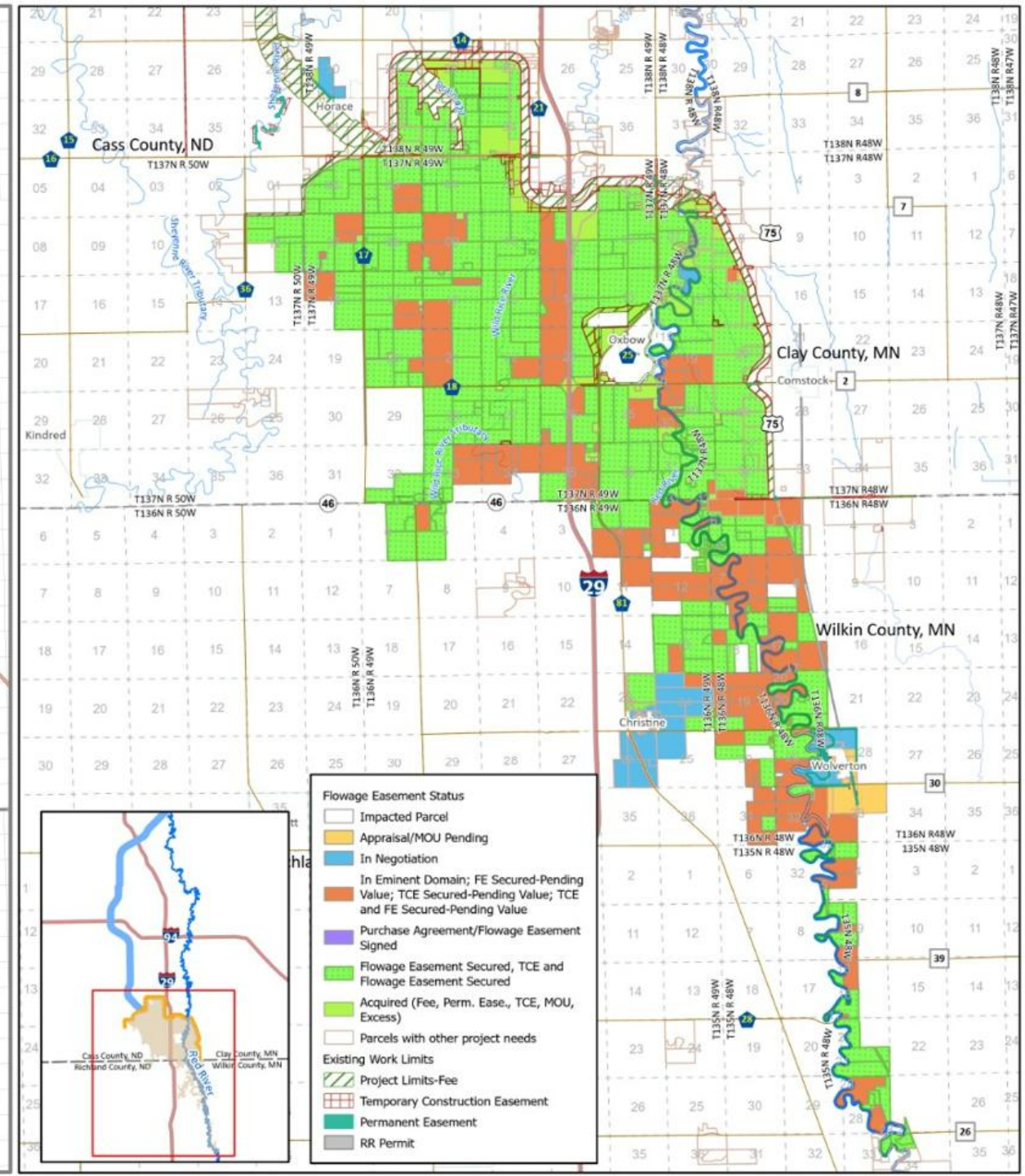
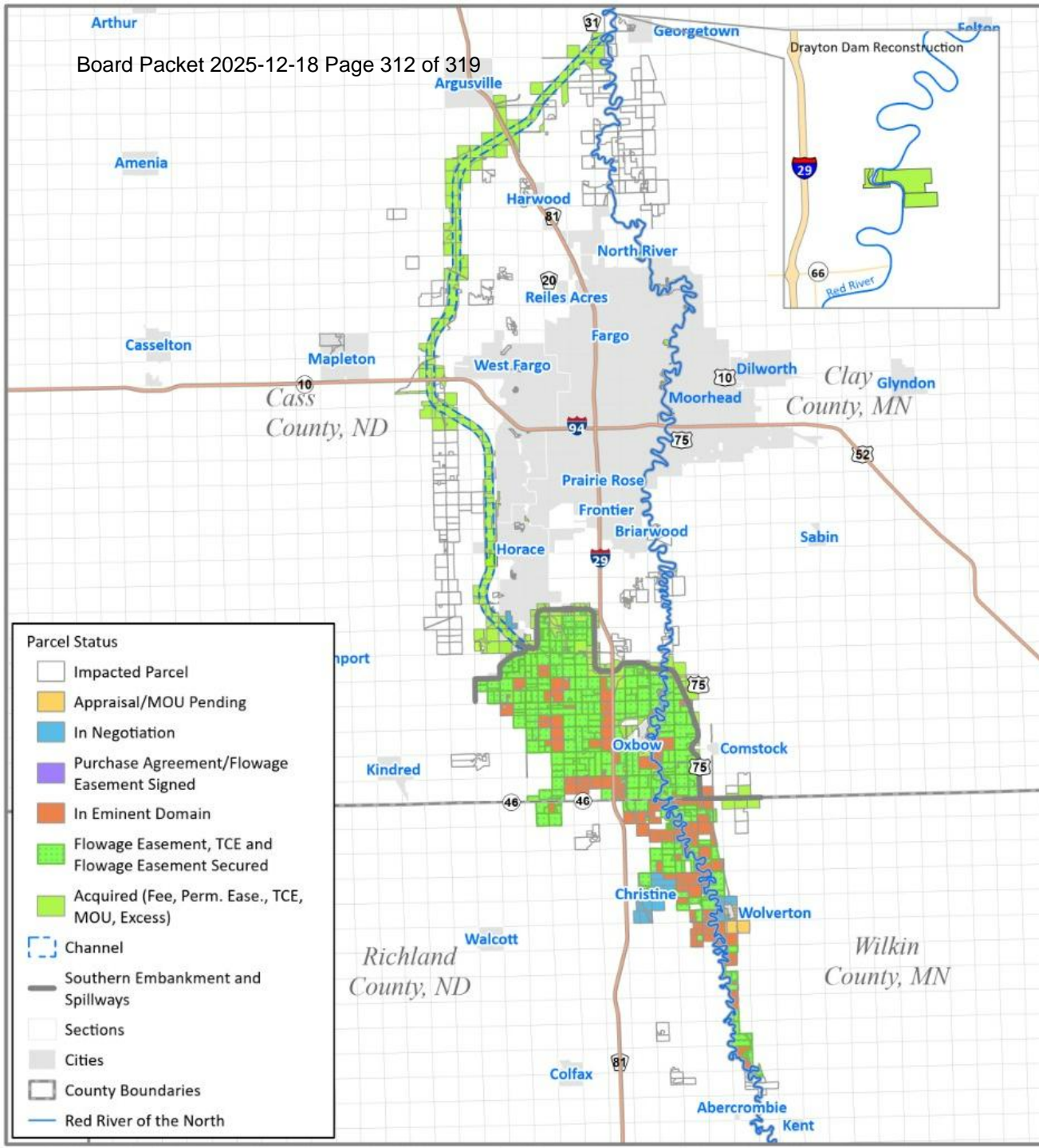


METRO
FLOOD
DIVERSION
AUTHORITY

Lands Status Report

December 2025





Property Acquisition Progress

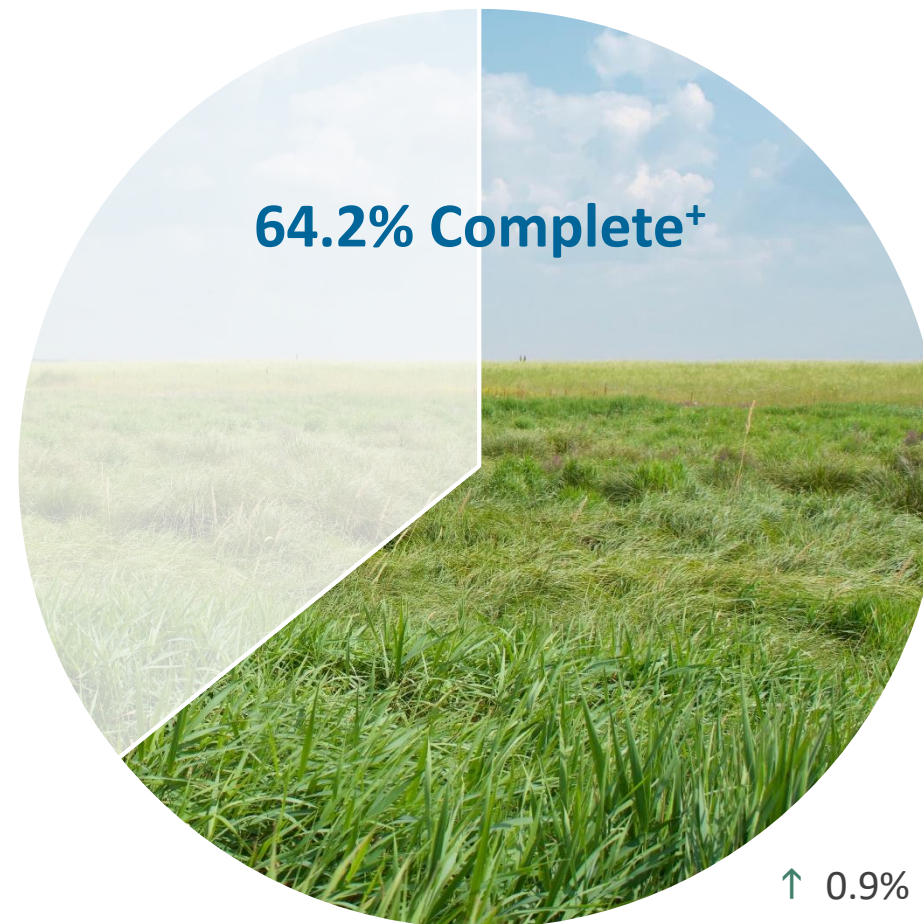


Construction Footprint^{*}



No Change

UMA Footprint^{**}

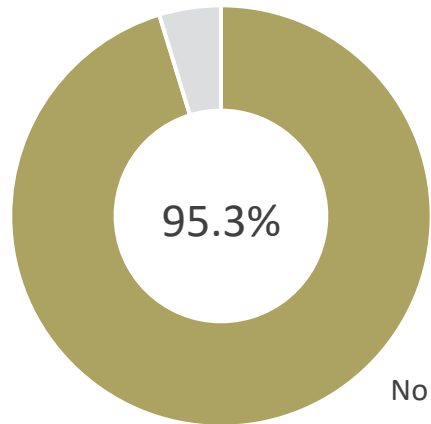


↑ 0.9% MoM

^{*} Includes SWDCAI, SEAI, In-Town, Oxbow and Drayton

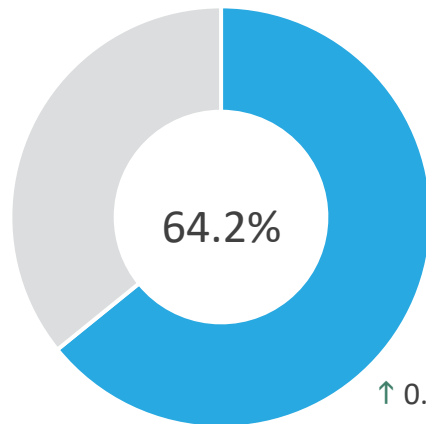
^{**} Includes parcels for Christine and Wolverton
As of December 9, 2025

Property Acquisition Progress by Location



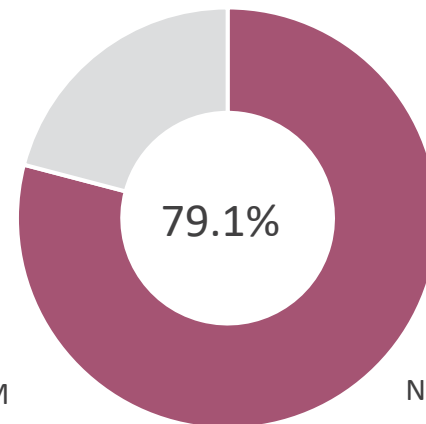
No Change

Southern Embankment &
Associated Infrastructure



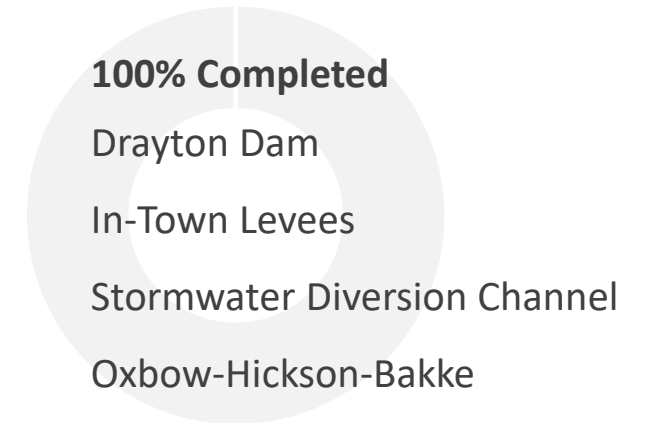
↑ 0.9% MoM

Upstream Mitigation
Area



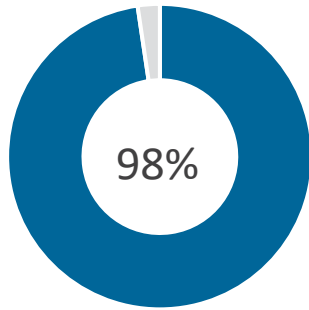
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Environmental
Monitoring Easements



Landowner Overview

Construction Footprint*



298 Owner Groups

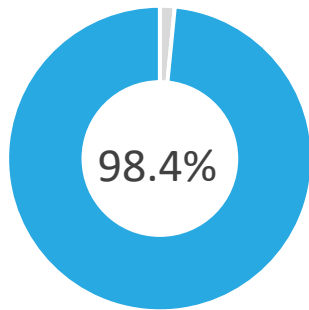
264 in ND & 35 in MN⁺

292 settlements achieved
0 ongoing negotiations
7 in litigation

98% of owner groups have settled



Parcels

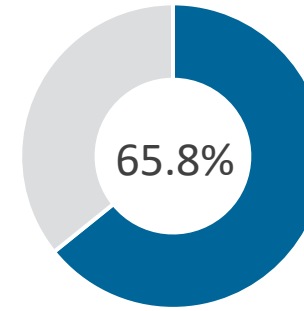


576 Parcels

567 settlements achieved
0 ongoing negotiations
9 in litigation

98.4% of parcels have been acquired

UMA Footprint**

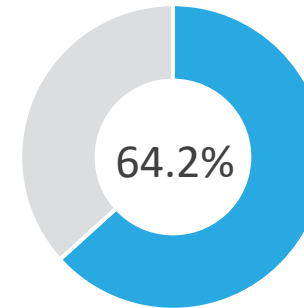


292 Owner Groups

223 in ND & 71 in MN⁺

192 settlements achieved
41 ongoing negotiations
66 in litigation

65.8% of owner groups have settled



653 Parcels

419 settlements achieved
72 ongoing negotiations
162 in litigation

64.2% of parcels have been acquired

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

⁺ Some owner groups have property in both states

** Includes Christine and Wolverton parcels

Key Activities



- **Continued negotiating settlement agreements for existing eminent domain actions**
 - Completed three (3) eminent domain trials in Cass County
 - Completed site inspections of Minnesota properties
 - Negotiated many settlements since completing the first trial
 - 10 pending settlement offers with property owners
- **In the last month, successfully closed 5 parcels / 3 owners in the UMA**
- **Continuing the process of disposing of Excess Lands**
 - 49 parcels / 781.74 acres have been approved as Excess Lands
 - 6 parcels / 40.10 acres are moving through the Policy
 - 43 parcels / 741.64 acres have been sold or pending closing
- **20,773 acres of flowage easements have been acquired, and 6,317 acres are outstanding**
- **Developed a scope of work to finalize the MFDA's crop loss program**
- **Working to develop a detailed plan for the MFDA's post-operation debris clean-up and restoration program for private lands**
- **All needed leases for the 2026 farming year have been sent out**

Land Agent Reports



CCJWRD

- Providing relocation advisory and claim preparation services for people that are moving
- Providing final walk-through assistance as needed
- Processing RIMP reimbursement requests
- Assisting with mediations and settlement negotiations
- Conducting negotiations for City of Christine flowage easements and Horace Mobility Improvements

MCCJPA

- Providing relocation advisory and claim preparation services to people that are moving
- Providing final walk-through assistance as needed
- Processing RIMP reimbursement requests
- Assisting with mediations and settlement negotiations
- Conducting negotiations for Wolverton flowage easements

Schedule Budget Categories	Program Estimate At Completion (EAC) (2022\$)	Program Actual Cost thru Nov- 2025	Balance Remaining	Current FY 2025 Budget	FY2025 Actual Cost through Nov- 2025	Balance Remaining	DRAFT FY2026 Cash Budget Version 3	FY2026 Cash Budget FINAL Approved
Channel / P3	\$ 96,400,001	\$ 80,310,827	\$ 16,089,173	\$ 12,588,000	\$ 12,231,447	\$ 356,553	\$ 11,891,500	\$ 11,891,500
Management, Legal, Financial, Procurement	\$ 96,400,001	\$ 80,310,827	\$ 16,089,173	\$ 12,588,000	\$ 12,231,447	\$ 356,553	\$ 11,891,500	\$ 11,891,500
Milestone Payments to the Developer	\$ 867,046,760	\$ 97,671,627	\$ 769,375,133	\$ 233,655,150	\$ 96,424,867	\$ 137,230,283	\$ 774,231,710	\$ 774,231,710
Payments to the Developer	\$ 867,046,760	\$ 97,671,627	\$ 769,375,133	\$ 233,655,150	\$ 96,424,867	\$ 137,230,283	\$ 774,231,710	\$ 774,231,710
Other Mitigation / Construction	\$ 37,446,233	\$ 36,670,683	\$ 775,551	\$ -	\$ -	\$ -	\$ 710,000	\$ 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	\$ 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	\$ 186,649,397	\$ 26,650,604	\$ 26,500,000	\$ 10,209,325	\$ 16,290,675	\$ 17,400,000	\$ 17,400,000
WP-42 In-Town Levees	\$ 91,000,000	\$ 90,479,952	\$ 520,049	\$ -	\$ -	\$ -	\$ -	\$ -
Fargo- River Stage 37' Projects	\$ 107,300,001	\$ 96,169,446	\$ 11,130,555	\$ 26,500,000	\$ 10,209,325	\$ 16,290,675	\$ 15,000,000	\$ 15,000,000
Clay County - River Stage 37' Projects	\$ 6,000,000	\$ -	\$ 6,000,000	\$ -	\$ -	\$ -	\$ 2,400,000	\$ 2,400,000
Cass County - River stage 37' Projects	\$ 9,000,000	\$ -	\$ 9,000,000	\$ -	\$ -	\$ -	\$ -	\$ -
Lands and Impacted Property Mitigation	\$ 571,700,000	\$ 532,495,327	\$ 39,204,673	\$ 54,387,500	\$ 24,853,728	\$ 29,533,772	\$ 25,036,200	\$ 34,505,128
Management, Legal, Financial, Procurement	\$ 69,551,513	\$ 54,308,082	\$ 15,243,432	\$ 6,150,001	\$ 4,119,879	\$ 2,030,122	\$ 6,925,000	\$ 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	\$ 61,131,768	\$ 10,545,754	\$ 12,000,000	\$ 145,131	\$ 11,854,869	\$ 6,100,000	\$ 6,093,889
Mitigation & Assoc. Infrastructure (OHB)	\$ 106,011,994	\$ 104,236,201	\$ 1,775,794	\$ 211,000	\$ 23,017	\$ 187,983	\$ 201,000	\$ 201,000
WP-38 Upstream Staging	\$ 184,836,305	\$ 175,561,117	\$ 9,275,188	\$ 36,026,499	\$ 20,569,202	\$ 15,457,298	\$ 11,810,200	\$ 21,285,239
In-Town Flood Protection	\$ 39,000,000	\$ 38,022,658	\$ 977,342	\$ -	\$ -	\$ -	\$ -	\$ -
Non-Construction Costs	\$ 263,929,999	\$ 206,942,494	\$ 56,987,505	\$ 27,606,000	\$ 20,972,767	\$ 6,633,233	\$ 27,769,400	\$ 27,769,400
Engineering & Design Fees	\$ 98,500,000	\$ 74,063,070	\$ 24,436,930	\$ 9,680,000	\$ 9,178,682	\$ 501,318	\$ 10,936,000	\$ 10,936,000
Management, Legal, Financial, Procurement	\$ 39,467,145	\$ 34,512,918	\$ 4,954,227	\$ 8,650,000	\$ 8,580,235	\$ 69,765	\$ 10,520,000	\$ 10,520,000
Work-In-Kind Programs (WIK) Studies	\$ 17,130,931	\$ 15,207,287	\$ 1,923,644	\$ 675,000	\$ 364,921	\$ 310,079	\$ 111,000	\$ 111,000
Indicative Design	\$ 7,185,225	\$ 7,126,537	\$ 58,688	\$ -	\$ -	\$ -	\$ -	\$ -
Land, Easements, ROW, Relocation & Disposal Areas	\$ 468,330	\$ 456,330	\$ 12,000	\$ -	\$ -	\$ -	\$ -	\$ -
Permitting	\$ 7,173,122	\$ 5,198,806	\$ 1,974,316	\$ 5,000	\$ -	\$ 5,000	\$ 5,000	\$ 5,000
Certification	\$ 3,000,000	\$ -	\$ 3,000,000	\$ -	\$ -	\$ -	\$ -	\$ -
FMDA Detention Funding	\$ 721,568	\$ 721,568	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other Mitigation Projects	\$ 23,353,680	\$ 10,839,625	\$ 12,514,055	\$ 350,000	\$ 233,527	\$ 116,473	\$ 300,000	\$ 300,000
Prog. Management/Legal/Financial/Procurement	\$ 165,429,999	\$ 132,879,424	\$ 32,550,575	\$ 17,926,000	\$ 11,794,085	\$ 6,131,915	\$ 16,833,400	\$ 16,833,400
Program Management Costs	\$ 103,245,658	\$ 83,124,672	\$ 20,120,987	\$ 8,176,000	\$ 7,520,006	\$ 655,994	\$ 8,097,000	\$ 8,097,000
Diversion Authority Operations	\$ 11,454,341	\$ 6,540,712	\$ 4,913,629	\$ 1,650,000	\$ 1,158,764	\$ 491,236	\$ 1,650,000	\$ 1,650,000
Program Financial Services	\$ 6,520,000	\$ 3,238,706	\$ 3,281,294	\$ 200,000	\$ 356	\$ 199,644	\$ 400	\$ 400
DA Legal Services	\$ 20,350,000	\$ 20,632,142	\$ (282,142)	\$ 2,500,000	\$ 1,088,671	\$ 1,411,329	\$ 2,525,000	\$ 2,525,000
CCJWRD Legal Services	\$ 16,860,000	\$ 13,381,939	\$ 3,478,061	\$ 4,690,000	\$ 1,630,364	\$ 3,059,636	\$ 4,000,000	\$ 4,000,000
Outreach Costs	\$ 7,000,000	\$ 5,961,253	\$ 1,038,747	\$ 710,000	\$ 395,923	\$ 314,077	\$ 561,000	\$ 561,000
DA Construction Contingency	\$ 163,900,000	\$ 29,503,236	\$ 134,396,764	\$ 20,994,850	\$ 20,353,210	\$ 641,640	\$ 51,015,000	\$ 56,015,000
Diversion Channel & Assoc. Infrastructure (MOU's & Utilities)	\$ 17,600,000	\$ -	\$ 17,600,000	\$ -	\$ -	\$ -	\$ -	\$ -
System Wide Contingency and P3 Comp Events	\$ 95,900,000	\$ 27,160,804	\$ 68,739,196	\$ 20,894,850	\$ 20,344,850	\$ 550,000	\$ 50,975,000	\$ 55,975,000
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	\$ 40,000
Land Acquisition	\$ 41,600,000	\$ -	\$ 41,600,000	\$ -	\$ -	\$ -	\$ -	\$ -
3rd Party MOU Mitigation	\$ 208,477,006	\$ 86,983,320	\$ 121,493,686	\$ 59,309,189	\$ 9,270,538	\$ 50,038,651	\$ 73,773,187	\$ 75,225,070
Channel - Utility Relocations & Other Mitigations	\$ 28,713,189	\$ 19,689,366	\$ 9,023,823	\$ 125,000	\$ 90,343	\$ 34,657	\$ 9,050,000	\$ 9,050,000
WP-40 Drayton Dam Mitigation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
WP-41 Future Stream Mitigation- Surrounding Counties	\$ 89,000,000	\$ 35,367,605	\$ 53,632,395	\$ 450,000	\$ -	\$ 450,000	\$ 6,875,000	\$ 6,875,000
WP-46 SEAI / UMA Utility Relos	\$ 27,943,996	\$ 18,503,971	\$ 9,440,024	\$ 14,699,403	\$ 4,985,153	\$ 9,714,250	\$ 10,753,124	\$ 12,180,007
WP-47 Contracted Utility Relocations	\$ 11,448,964	\$ 4,025,469	\$ 7,423,495	\$ 5,685,000	\$ -	\$ 5,685,000	\$ 7,554,517	\$ 7,554,517
WP-52 Township & City MOU Agreements	\$ 51,370,858	\$ 9,396,909	\$ 41,973,948	\$ 38,349,786	\$ 4,195,041	\$ 34,154,745	\$ 39,540,546	\$ 39,565,546
Net Current Interest / Financing Fees Paid	\$ 75,700,000	\$ 62,569,135	\$ 13,130,865	\$ 6,540,000	\$ 5,974,982	\$ 565,018	\$ 6,525,000	\$ 10,525,000
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	\$ 551,142	\$ 4,353,512	\$ 325,000	\$ 143,217	\$ 181,783	\$ 321,000	\$ 321,000
Operations & Maintenance - SEAI / OHB / Other Infrastructure	\$ 9,995,346	\$ -	\$ 9,995,346	\$ -	\$ -	\$ -	\$ 3,750,000	\$ 3,750,000
Debt Service Total	\$ 330,300,001	\$ 12,002,363	\$ 167,997,638	\$ 6,200,000	\$ 6,210,000	\$ (10,000)	\$ 6,200,000	\$ 6,200,000
Well Fargo Loan Repayment	\$ 150,300,000	See Note Below	\$ -	\$ -	\$ -	\$ -		
Temporary Refunding Improvement Bonds Repayment	\$ 180,000,001	\$ 12,002,363	\$ 167,997,638	\$ 6,200,000	\$ 6,210,000	\$ (10,000)	\$ 6,200,000	\$ 6,200,000
A		B	C					
Grand Totals	\$ 2,945,000,000	\$ 1,385,508,551	\$ 1,409,191,449	\$ 448,105,689	\$ 206,644,081	\$ 241,461,608	\$ 996,972,997	\$ 1,016,893,807

A-B \$ 1,559,491,449
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	\$ 130,460,107
Legacy	\$ -
SRF	\$ 15,000,000
WIFIA Draws	\$ 569,000,000
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	\$ 1,016,893,807
Final - FY2026 Budget	\$ 1,016,893,807
Check	\$ -

City of Fargo

Comparative Sales Tax Analysis of All Sales Tax Revenue - ACCRUAL BASIS

Data as of 12/9/2025

Payment Date	Collection Month	County Amount	County Collections	County Growth %	Split 94% MFDA	2% Sales Tax			(1.25% tax)			Total to MFDA - Annual
						PSST Amount	Infra & FC Amount	Infra & FC Collections Total Amount	City Total Amount	City Growth %	Split <i>Infra & FC</i> 62.5 % MFDA	
			17,268,161.29	1.27%	16,232,072			50,573,211.70	55,021,791.78	-1.45%	31,608,257	47,840,329
11/24/2025	Sep-25	2,379,895.75				836,408.75	6,691,270.01					
10/21/2025	Aug-25	2,281,923.54				835,497.50	6,683,979.99					
9/22/2025	Jul-25	1,796,292.91				622,825.54	4,982,604.32					
8/21/2025	Jun-25	2,270,466.69				803,789.60	6,430,316.85					
7/22/2025	May-25	2,053,576.19				749,363.21	5,994,905.70					
6/20/2025	Apr-25	1,616,213.54				600,695.48	4,805,564.00					
5/21/2025	Mar-25	1,698,986.33					5,424,656.49					
4/23/2025	Feb-25	1,477,568.31					4,523,059.23					
3/21/2025	Jan-25	1,693,238.03					5,036,855.11					
2/21/2025	Dec-24	2,207,030.88	23,304,345.12	0.86%	21,906,084		6,626,714.99	69,824,744.71		0.83%	43,640,465	65,546,550
1/21/2025	Nov-24	2,281,112.22					6,540,733.39					
12/20/2024	Oct-24	1,764,529.62					5,342,358.63					
11/22/2024	Sept-24	2,257,740.11					6,622,406.84					
10/21/2024	Aug-24	2,088,361.27					6,284,633.45					
9/21/2024	July-24	1,746,626.42					5,168,111.30					
8/21/2024	June-24	2,659,707.17					7,859,913.01					
7/22/2024	May-24	1,348,902.41					4,252,926.43					
6/24/2024	Apr-24	1,759,660.73					5,404,517.72					
5/21/2024	Mar-24	2,276,388.27					6,980,911.25					
4/22/2024	Feb-24	1,023,591.77					3,163,097.74					
3/21/2024	Jan-24	1,890,694.25					5,578,419.96					
2023 Collections			23,106,462.71	8.18%	21,720,075			69,250,461.96		4.02%	43,281,539	65,001,614
2022 Collections			21,358,922.89	-2.56%	20,077,388			66,571,120.26		4.28%	41,606,950	61,684,338
2021 Collections			21,920,710.74	31.11%	20,605,468			63,840,810.53		29.90%	39,900,507	60,505,975
2020 Collections			16,719,327.13	0.30%	15,716,168			49,146,842.57		-5.00%	30,716,777	46,432,944
2019 Collections			16,670,136.34	6.04%	15,669,928			51,732,824.69		7.36%	32,333,015	48,002,944
2018 Collections			15,720,221.20		14,777,008			48,185,965.90			30,116,229	44,893,237
2017 Collections			2,796,024.89		2,628,263							
Totals Since 2019		\$	158,864,312					\$	478,168,039			