

Planning Committee Agenda

Diversion Authority Planning Committee

July 9, 2026 @ 2:00 p.m. CST

This meeting will be in-person at the City of Fargo Red River Room (225 4th St N, Fargo, ND 58102).

1. Call to Order
 - a. Roll call of Members
 - b. Introduction of new Members
2. Approve minutes – June 11, 2026
[Attachment 01.00] (Pg. 2)
3. Approve Order of Agenda
4. Crop Loss Program
[Attachment 02.00] (Pg. 4)
5. Other Business
6. Next Meeting: August 13, 2026
7. Adjournment

MEDIA AND PUBLIC PARTICIPATION INFORMATION

This meeting will be in-person at the City of Fargo Red River Room (225 4th St N, Fargo, ND 58102)



Metro Flood Diversion Authority Planning Committee Meeting Minutes

2:00 PM – June 11, 2026
 Fargo City Hall, Red River Room

A meeting of the Metro Flood Diversion Authority Planning Committee was held on June 11, 2026. The following members were present: Dr. Tim Mahoney, Mayor, City of Fargo; Kevin Campbell, Clay County Commissioner; Rick Steen, Cass County Joint Water Resource District and Bernie Dardis, Mayor, City of West Fargo.

Member(s) absent: Shelly Carlson, Mayor, City of Moorhead and Tony Grindberg, Cass County Commissioner.

1. CALL TO ORDER

Mayor Mahoney called the meeting to order at 2:02 PM. Roll call was taken, and a quorum was present.

2. APPROVE THE MAY 2026 MINUTES

MOTION PASSED

Mr. Campbell moved to approve the May 2026 minutes, and Mr. Steen seconded the motion. On a voice vote, the motion carried.

3. APPROVE THE ORDER OF THE AGENDA

MOTION PASSED

Mayor Dardis moved to approve the order of the agenda and Mr. Campbell seconded the motion. On a voice vote, the motion carried.

4. CITY OF FARGO SALES TAX AND ELECTION RESULTS

Mayor Mahoney advised that if the Diversion Authority intends to make a financial request from the City of Fargo to utilize a portion of the approved sales tax extension, it should be done formally so it can be added to the city budget. If not formally requested, the sales tax funds will be used for other city projects.

Mr. Benson reported that Mr. Fisher, Mr. Bakkegard and himself met with West Fargo mayor-elect, Mr. Eric Gjerdevig. They provided him with a brief orientation and history of the Project.

Staff will be meeting with City of Fargo mayor-elect Josh Boschee on June 23 to provide an orientation session and potentially a tour. Orientation sessions will also be scheduled in July for the Fargo City Commission members as they are appointed to the Diversion Authority board and committees.

5. MN FUNDING UPDATE

Mr. Benson reported that the \$1.2 billion bonding bill in Minnesota was passed and the MCCJPA will receive \$10 million for the projects needed on the Minnesota side. The MFDA will match the funds granted up to \$10 million. Funds will be disbursed from the MnDNR via their grant process and transferred to the MCCJPA for disbursement. It is anticipated that seven of the nine lift stations can be replaced. Mr. Bob Zimmerman and Mr. Steve Larson will be assisting with the grant process.

6. GOVERNANCE POLICY SECOND QUARTER REVIEW

The second quarter governance policies were reviewed and there were no recommended changes.

7. OTHER BUSINESS

Mr. Fisher reported that Mr. Ben Askegaard has been offered a \$62,000 settlement from the contractor, however, he will not accept the settlement unless the clause that states that he will not file any future claims is omitted.

Mr. Matt Ness is willing to settle on \$28,000, versus the actual \$37,000 in damages to finalize the process.

Mayor Mahoney inquired about the Horace Elevator and Mr. Fisher reported that it is still for sale and there hasn't been much interest. Mr. Fisher also indicated that perhaps reducing the price may be beneficial, however, the special assessments that are on property owners in Horace have been a deterrent.

Mr. Fisher reported that Hwy. 75 will be closed beginning June 15 to the end of August rather than July 1 to the end of September as originally proposed by the USACE.

8. NEXT MEETING

The next meeting will be on July 9, 2026.

9. ADJOURNMENT

The meeting adjourned at 2:55 PM.



Crop Loss Program Overview

Background:

Farmland in the upstream mitigation area (UMA) will be available for crop production after completion of the FM Area Diversion Project (the “Project”). The Metro Flood Diversion Authority (MFDA) recognizes that the potential impact of additional flooding caused by operation of the Project could present added risk to agricultural producers who operate in the UMA. While much of the UMA is subject to flooding today (the UMA is approximately 29,000 acres, of which approximately 18,000 acres would flood in a 100-Year Flood Event without the Project), there is risk that the Project induced flooding may limit the coverage of federal crop insurance. Per the Settlement Agreement with the Richland-Wilkin JPA, Buffalo Red River Watershed District, the City of Comstock, the MFDA will provide a crop loss program for preventive planting and for growing season crop loss caused by operation of the Project across the UMA. This is in accordance with the Minnesota Department of Natural Resources Dam and Safety Permit and noted in the Property Rights Acquisition and Mitigation Plan. The MFDA is required to have the crop loss program in place prior to substantial completion of the last segment of the southern embankment.

Preventative Planting Crop Program	Growing Season Supplemental Crop Loss Program
<ul style="list-style-type: none"> The MFDA will implement and fund, at no cost to agricultural producers, a Prevent Plant Crop Program that will provide prevent plant crop funds for producers in the UMA in the event of Project operation and federal Prevent Plant Crop Insurance does not cover the prevent plant claim. The Prevent Plant Crop Program will provide the same coverage level that producers purchase themselves through the federal crop insurance. 	<ul style="list-style-type: none"> The MFDA will implement and fund, at no cost to agricultural producers, a Growing Season Supplemental Crop Loss Program that will provide producers in the UMA coverage for loss from induced flooding on growing crops during the unlikely event of summer operation of the Project, and the producer’s Multi-Peril Crop Insurance does not cover the crop insurance claim. If a producer covers their crops in the UMA with Multi-Peril Crop Insurance, and the Project is operated after crops are planted, the Growing Season Supplemental Crop Loss Program will provide 100% coverage for insured crops actually damaged by operation of the Project during the growing season.

Financial Ask:

The estimated total maximum probable loss for the 29,000-acre UMA is approximately \$25 million. This total maximum probable loss was estimated through contracted expert consultation, based on modeled impacts, past cropping histories of the UMA, and projected commodity pricing. The MN DNR D&SP requires the MFDA to fund the crop loss programs. The MFDA staff requests that \$25 million from the recent \$100 million from the U.S. Army Corps of Engineers’ underspend to be set aside as initial seed funds placed into a fund to be managed by financial consultants to ensure that any near future crop loss program payments could be made timely. Once set aside, the MFDA staff recommends soliciting proposals and hiring a financial manager. It is estimated that the fund will be self-sustaining after 20 years, including any post-operations payments. Attached to this memo is a draft resolution creating the Crop Loss Reserve Fund, which will be further modified based upon discussion and direction by the Planning Committee.

Financial Management:

With funds allocated, the MFDA staff recommend that the Finance Committee review the scope of solicitation and the financial manager proposals through a request for qualifications process (RFQ). Once a financial manager is agreed upon, the MFDA staff recommends establishing a Crop Loss Program Fund subcommittee composed of three members appointed by Diversion Authority Board one of which must also be a member of the Diversion Authority



Crop Loss Program Overview

Board. . The subcommittee will meet annually to provide oversight by reviewing the financial status and approving future investment strategies of the crop loss reserve fund. Attached to this memo are draft resolutions authorizing the Executive Director to issue a request for qualifications for a financial manager and establishing a sub-committee, which will be further modified based upon discussion and direction by the Planning Committee.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OF THE METRO
FLOOD DIVERSION AUTHORITY TO ISSUE A REQUEST FOR QUALIFICATIONS
FOR INVESTMENT MANAGEMENT AND ADVISORY SERVICES
FOR THE CROP LOSS RESERVE FUND**

of the

METRO FLOOD DIVERSION AUTHORITY

Adopted on July __, 2026

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

Member _____ introduced the following resolution and moved for its adoption:

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OF THE METRO
FLOOD DIVERSION AUTHORITY TO ISSUE A REQUEST FOR QUALIFICATIONS
FOR INVESTMENT MANAGEMENT AND ADVISORY SERVICES
FOR THE CROP LOSS RESERVE FUND**

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

WHEREAS, pursuant to Section 7.01(gg) of the JPA, the Authority may purchase private insurance policies or create individual reserve funds for crop loss, in the amounts and upon the terms and conditions the Authority deems necessary in connection with the construction, operation, and maintenance of the Comprehensive Project, including such policies, funds, or programs intended to benefit third parties such as property and areas affected by the Comprehensive Project; and

WHEREAS, on July __, 2026, the Diversion Authority Board established by resolution the Crop Loss Reserve Fund, and by resolution established the Crop Loss Reserve Fund Oversight Sub-Committee to oversee the Crop Loss Reserve Fund and the investment manager retained to manage the Crop Loss Reserve Fund (the “Investment Manager”); and

WHEREAS, pursuant to Section 7.01(w) of the JPA, the Authority may procure the services of engineers, attorneys, contractors, consultants, and other persons or entities for the planning, development, financing, construction, operation, and maintenance of the Comprehensive Project; and

WHEREAS, the Authority requires professional investment management and advisory services in connection with the management and investment of the Crop Loss Reserve Fund; and

WHEREAS, the Diversion Authority Board finds that soliciting qualifications of professional investment management and advisory services through a request for qualifications process performed by the Executive Director is in the best interests of the Authority.

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

1. **Authorization to Solicit**. The Executive Director is hereby directed and authorized to issue a request for qualifications for investment management and advisory services for the management and investment of the Crop Loss Reserve Fund.
2. **Scope of Services**. The selected Investment Manager will manage and direct the investment of the Crop Loss Reserve Fund in accordance with the Crop Loss Investment Policy, maintain the Minimum Liquidity Reserve, and report to the Crop Loss Reserve Fund Oversight Sub-Committee.

3. **Proposals.** The Executive Director is authorized to establish evaluation criteria, evaluate responses and qualifications, conduct interviews, and negotiate terms, and shall return to the Finance Committee and Diversion Authority Board with a recommendation for a particular firm and such firm's proposal for award and contract authorization.

4. **Necessary Actions Authorization.** The Executive Director is authorized to take any other actions necessary or appropriate to accomplish the directives of this Resolution.

5. **Continuation.** This Resolution shall continue in full force and effect until amended or rescinded by the Diversion Authority Board.

6. **Effective Date.** This Resolution shall take effect immediately upon adoption.

(Remainder of page intentionally left blank.)

DRAFT

Dated: July __, 2026

**METRO FLOOD DIVERSION
AUTHORITY**

APPROVED:

Josh Boschee, Chair

ATTEST:

Dawn Lindblom, Secretary

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

**RESOLUTION ESTABLISHING THE CROP LOSS RESERVE FUND OVERSIGHT
SUB-COMMITTEE UNDER THE FINANCE COMMITTEE OF THE
METRO FLOOD DIVERSION AUTHORITY**

of the

METRO FLOOD DIVERSION AUTHORITY

Adopted on July __, 2026

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

Member _____ introduced the following resolution and moved for its adoption:

**RESOLUTION TO ESTABLISH THE CROP LOSS RESERVE FUND OVERSIGHT
SUB-COMMITTEE UNDER THE FINANCE COMMITTEE OF THE
METRO FLOOD DIVERSION AUTHORITY**

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

WHEREAS, Section 20.01 of the Settlement Agreement dated February 1, 2021 (“Settlement Agreement”), between the Diversion Authority and Richland-Wilkin Joint Powers Authority (“RWJPA”), provides that the Diversion Authority will implement and fund a program that will compensate agricultural producers for actual crop losses caused by the operation of the Comprehensive Project (“Crop Loss Program”) prior to the Comprehensive Project Substantial Completion; and

WHEREAS, pursuant to Section 7.01(gg) of the JPA, the Diversion Authority may purchase private insurance policies or create individual reserve funds for crop loss, agricultural production revenue insurance, and liability insurance, in the amounts and upon the terms and conditions the Diversion Authority deems necessary in connection with the construction, operation, and maintenance of the Comprehensive Project, including such policies, funds, or programs intended to benefit third parties such as property and areas affected by the Comprehensive Project; and pursuant to Section 7.01(ii) of the JPA, the Diversion Authority holds all powers implicitly necessary to carry out the powers expressly enumerated in Section 7.01 of the JPA; and

WHEREAS, on July __, 2026, the Diversion Authority Board adopted a resolution establishing the Crop Loss Reserve Fund as a self-insurance reserve fund of the Diversion Authority for its own crop-loss liabilities arising from the operation of the Upstream Mitigation Area (the “UMA”) which damages growing crops or triggers a prevent-plant claim; and

WHEREAS, pursuant to Section 6.01 of the JPA, the Diversion Authority Board may establish boards or committees to advise the Diversion Authority Board with respect to a Comprehensive Project function or activity, to investigate a subject of interest to the Diversion Authority, to perform quasi-judicial functions, or to perform any other task; and

WHEREAS, pursuant to Section 5.16 of the JPA, the Diversion Authority may provide for sub-committees, and Section 7.01(v) of the JPA authorizes the Diversion Authority to establish committees to provide technical, financial, and legal assistance; and

WHEREAS, the Diversion Authority Board has determined that it is necessary and appropriate to establish the Crop Loss Reserve Fund Oversight Sub-Committee under the Finance Committee to oversee the Crop Loss Reserve Fund and the investment manager retained to manage the Crop Loss Reserve Fund (the “Investment Manager”).

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

1. Crop Loss Reserve Fund Oversight Sub-Committee Established. The Diversion Authority Board hereby creates the Crop Loss Reserve Fund Oversight Sub-Committee of the Metro Flood Diversion Authority pursuant to Sections 6.01, 5.16, and 6.10 of the JPA.

2. Finance Committee. The Crop Loss Reserve Fund Oversight Sub-Committee is established as a sub-committee of the Finance Committee of the Diversion Authority Board and shall report to the Finance Committee of the Diversion Authority Board.

3. Advisory Capacity; No Final Authority. The Crop Loss Reserve Fund Oversight Sub-Committee is advisory only. It reviews, monitors, and makes recommendations, and possesses no final decision-making authority. All final action concerning the Crop Loss Reserve Fund rests with the Diversion Authority Board.

4. Crop Loss Reserve Fund Oversight Sub-Committee Jurisdiction. The Crop Loss Reserve Fund Oversight Sub-Committee is responsible for making recommendations to the Finance Committee of the Diversion Authority Board regarding the management, investment, and growth of the Crop Loss Reserve Fund. The duties of the Crop Loss Reserve Fund Oversight Sub-Committee shall include, but are not limited to, the performance of the following tasks: (a) review and recommend to the Finance Committee and the Diversion Authority Board a Crop Loss Investment Policy governing the Crop Loss Reserve Fund (the “CLIP”) and any amendments thereto; (b) monitor the Investment Manager’s compliance with the CLIP; (c) monitor the adequacy of the Minimum Liquidity Reserve maintained for the Crop Loss Reserve Fund; (d) review the performance of the Crop Loss Reserve Fund and of the Investment Manager against the objectives and benchmarks stated in the CLIP; (e) participate in the solicitation and selection of the Investment Manager and recommend the engagement, retention, or removal of the Investment Manager to the Finance Committee; (f) recommend reporting metrics and the cadence of reporting; (g) receive and review the reports of the Investment Manager; and (h) report to the Finance Committee and the Diversion Authority Board not less than quarterly.

5. Investment Manager. The Investment Manager shall be a financial or investment advisory firm, or a qualified representative of such firm, separately retained by the Diversion Authority as an independent professional services provider, engaged pursuant to a contract approved by the Diversion Authority Board, and is not a member or employee of the Crop Loss Reserve Fund Oversight Sub-Committee. The Investment Manager shall report to the Crop Loss Reserve Fund Oversight Sub-Committee and shall, in accordance with the CLIP and the terms of its engagement: (a) advise and recommend strategies for the prudent management and investment of the assets of the Crop Loss Reserve Fund consistent with the prudent-investor standard, the preservation of principal, and the Minimum Liquidity Reserve; (b) seek to maximize the investment growth and return of the Crop Loss Reserve Fund consistent with that standard and that reserve; (c) develop, recommend, and periodically update the CLIP for review by the Crop Loss Reserve Fund Oversight Sub-Committee and adoption by the Diversion Authority Board; (d) direct the investment of the assets of the Crop Loss Reserve Fund held in custody by the Trustee; (e) ensure the maintenance of the Minimum Liquidity Reserve; and (f) report to the Crop Loss Reserve Fund Oversight Sub-Committee on the performance, allocation, and liquidity of the Crop Loss Reserve Fund not less than quarterly.

6. Crop Loss Reserve Fund Oversight Sub-Committee Membership. The Crop Loss Reserve Fund Oversight Sub-Committee shall consist of three (3) members, who shall all be selected and appointed by Diversion Authority Board, one member of which must be a Diversion Authority Board Member who is also on the Finance Committee.

7. Crop Loss Reserve Fund Oversight Sub-Committee Member Terms. The terms of the members of the Crop Loss Reserve Fund Oversight Sub-Committee shall commence on January 1 and end on December 31 of each year, with no term limits.

8. Organizational Meeting. An organizational meeting of the Crop Loss Reserve Fund Oversight Sub-Committee shall be held within ninety (90) days of the Effective Date of this Resolution and shall be called at a time determined by the Secretary of the Diversion Authority Board. The Secretary of the Diversion Authority Board shall ensure that proper notice of the meeting is given.

9. Crop Loss Reserve Fund Oversight Sub-Committee Chair. The Crop Loss Reserve Fund Oversight Sub-Committee shall select a Crop Loss Reserve Fund Oversight Sub-Committee Chair by majority vote of its members. The term of the chair shall commence on January 1 and end on December 31 of each year, with no term limits.

10. Member Entity Staff. Member Entities may provide support staff and services for the Crop Loss Reserve Fund Oversight Sub-Committee, but Member Entity staff may not serve as members of the Crop Loss Reserve Fund Oversight Sub-Committee.

11. Open Meetings. All meetings of the Crop Loss Reserve Fund Oversight Sub-Committee are subject to the North Dakota open meetings law, N.D. Cent. Code ch. 44-04.

12. Sunset on Crop Loss Reserve Fund Oversight Sub-Committee. In the event the Diversion Authority Board determines, by an affirmative vote of a majority of all Diversion Authority Board Members, that the Crop Loss Reserve Fund Oversight Sub-Committee is no longer needed, the Diversion Authority Board may vote to suspend regular meetings of the Crop Loss Reserve Fund Oversight Sub-Committee and allow it to meet only on an as-needed basis.

13. Dissolution of Crop Loss Reserve Fund Oversight Sub-Committee. In the event the Diversion Authority Board determines, by an affirmative vote of a majority of all Diversion Authority Board Members, that the Crop Loss Reserve Fund Oversight Sub-Committee is no longer needed, the Diversion Authority Board may dissolve the Crop Loss Reserve Fund Oversight Sub-Committee and may re-establish the Crop Loss Reserve Fund Oversight Sub-Committee by a subsequent resolution.

14. Dissolution of Finance Committee. In the event the Diversion Authority Board determines, by an affirmative vote of a majority of all Diversion Authority Board Members, that the Finance Committee is no longer needed, the Diversion Authority Board may re-establish the Crop Loss Reserve Fund Oversight Sub-Committee or the Finance Committee by a resolution of the Diversion Authority Board.

15. Effective Date. This Resolution shall take effect immediately upon adoption.

Dated: July __, 2026

**METRO FLOOD DIVERSION
AUTHORITY**

APPROVED:

Josh Boschee, Chair

ATTEST:

Dawn Lindblom, Secretary

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

RESOLUTION ESTABLISHING THE CROP LOSS RESERVE FUND

of the

METRO FLOOD DIVERSION AUTHORITY

Adopted on July __, 2026

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

Member _____ introduced the following resolution and moved for its adoption:

**RESOLUTION TO ESTABLISH THE CROP LOSS RESERVE FUND
OF THE METRO FLOOD DIVERSION AUTHORITY**

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

WHEREAS, Section 20.01 of the Settlement Agreement dated February 1, 2021 (“Settlement Agreement”), between the Diversion Authority and Richland-Wilkin Joint Powers Authority (“RWJPA”), provides that the Diversion Authority will implement and fund a program that will compensate agricultural producers for actual crop losses caused by the operation of the Comprehensive Project (“Crop Loss Program”) prior to the Substantial Completion of the Comprehensive Project as defined in the Settlement Agreement; and

WHEREAS, pursuant to Section 7.01(gg) of the JPA, the Diversion Authority may purchase private insurance policies or create crop loss reserve funds in the amounts and upon the terms and conditions the Diversion Authority deems necessary in connection with the construction, operation, and maintenance of the Comprehensive Project, including such policies, funds, or programs intended to benefit third parties such as property and areas affected by the Comprehensive Project;

WHEREAS, pursuant to Section 10.04 of the JPA, and Article XLIII of the Master Indenture of Trust, the Fiscal Agent is responsible for administering the financial and accounting functions of the Diversion Authority and shall establish and maintain funds for the management of Project funds; and pursuant to Section 10.04(h) of the JPA, the Fiscal Agent may establish and maintain such other fund accounts or sub-fund accounts as are agreed upon by the Member Entities, which agreement is reflected in the Member Entities’ execution of the JPA; and

WHEREAS, pursuant to Section 10.07 of the JPA, all Diversion Authority funds must be held in separate accounts in the name of the Diversion Authority, must not be commingled with the funds of any Member Entity or any other person or entity, must be strictly accounted for, and must be reported on at least quarterly; and Article X of the JPA establishes a Fiscal Agent that holds and administers the Diversion Authority’s funds and acts as a trustee with a fiduciary duty, which Fiscal Agent and Trustee is the Bank of North Dakota (the “Fiscal Agent”); and

WHEREAS, the Diversion Authority previously approved the accelerated transfer and receipt of one hundred million dollars (\$100,000,000) from the federal government, representing the remaining surplus from federally appropriated project funds allocated to the U.S. Army Corps of Engineers for construction of the components of the Comprehensive Project for which the federal government was responsible (the “Federal Surplus Funds”), these Federal Surplus Funds, pursuant to the Amended Project Partnership Agreement executed on May 7, 2026, will be released earlier than originally expected at Project Substantial Completion; and

WHEREAS, the early availability of the Federal Surplus Funds affords the Diversion Authority the capacity to avoid the projected annual premium costs associated with a private crop-loss liability insurance policy and instead fulfill its obligation to implement and fund a Crop Loss

Program under Section 20.01 of the Settlement Agreement by funding an individual insurance reserve fund to cover the potential crop-loss liabilities, in a manner consistent with Section 7.01(gg) of the JPA; and

WHEREAS, pursuant to North Dakota Century Code (N.D.C.C.) § 31-12.1-07, a political subdivision may provide for insurance against its liability on claims of injury, including property damage such as crop loss, through self-insurance, which self-insurance may be funded by appropriations to establish or maintain reserves for self-insurance purposes; and

WHEREAS, the Diversion Authority desires to establish the Crop Loss Reserve Fund as its individual insurance reserve fund for crop insurance, constituting a single-entity self-insurance reserve of the Diversion Authority for its own crop-loss and flowage liabilities arising from the inundation of the Upstream Mitigation Area (the “UMA”) of the Comprehensive Project during operation of the Comprehensive Project; and

WHEREAS, on July __, 2026, the Diversion Authority Board adopted a resolution establishing the Crop Loss Reserve Fund Oversight Sub-Committee under the Finance Committee to oversee the Crop Loss Reserve Fund, to advise the Diversion Authority Board and the Finance Committee on the management, investment, and growth of the Crop Loss Reserve Fund, and to oversee the investment manager retained to manage the Crop Loss Reserve Fund (the “Investment Manager”), who shall report to the Crop Loss Reserve Fund Oversight Sub-Committee; and

WHEREAS, on July __, 2026, the Diversion Authority Board adopted a resolution authorizing the Executive Director to solicit for the services of the Investment Manager, whose role is to advise the Diversion Authority and the Crop Loss Reserve Fund Oversight Sub-Committee on the investment and management of the Crop Loss Reserve Fund; and

WHEREAS, the Diversion Authority desires to initially capitalize the Crop Loss Reserve Fund with an initial contribution of twenty-five million dollars (\$25,000,000) sourced from the unencumbered Federal Surplus Funds, together with additional annual contributions to the Crop Loss Reserve Fund of five hundred thousand dollars (\$500,000) for a successive period of twenty-five (25) years following its establishment and initial capitalization; and

WHEREAS, the Diversion Authority Board desires to establish the Crop Loss Reserve Fund and to set forth the terms and conditions under which it is created, held, invested, and administered.

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

1. **Establishment of Fund.** The Diversion Authority Board hereby establishes the Crop Loss Reserve Fund as an individual reserve fund pursuant to Sections 7.01(gg) and 10.04(h) of the JPA and N.D.C.C. § 31-12.1-07, to be held and maintained in the Trustee as a separate fund account or sub-fund account by and through the Master Indenture of Trust pursuant to Sections 8.07 and 10.04(h) of the JPA, in the name of the Diversion Authority.

2. **Purpose.** The Crop Loss Reserve Fund is a single purpose self-insurance reserve fund of the Diversion Authority established to provide for the Diversion Authority’s own crop-loss risks/claims arising from the operation of the UMA of the Comprehensive Project.

3. **Initial Capitalization.** The Diversion Authority Board hereby directs its General Counsel to prepare and send Authority Directive Letters to the Fiscal Agent and Trustee, on the date of [•], directing the Fiscal Agent to effect the initial contribution to the Crop Loss Reserve Fund by transferring the unencumbered sum of twenty-five million dollars (\$25,000,000) to the Crop Loss Reserve Fund held by the Trustee and established in this Resolution, pursuant to Section 8.06 of the JPA.

4. **Additional Contributions.** Commencing in the year following the establishment of the Crop Loss Reserve Fund and the transfer of the initial contribution described in Section 3 of this Resolution, and for a period of not less than twenty-five (25) successive years, the Diversion Authority shall annually transfer to the Crop Loss Reserve Fund an additional contribution in the amount of five hundred thousand dollars (\$500,000). Each additional contribution shall be made upon adoption of the annual budget and is subject to appropriation pursuant to Article VIII of the JPA and N.D.C.C. § 32-12.1-07(1)(a), as described more fully in Section 5 of this Resolution. The Diversion Authority Board hereby directs the Fiscal Agent to effect each such additional contribution annually, provided that the funds for the contribution have been appropriated in the Annual Budget adopted by the Diversion Authority Board for the applicable year pursuant to Article VIII of the JPA.

5. **Annual Appropriation; Annual Budget.** Each additional contribution to the Crop Loss Reserve Fund, the fees of the Investment Manager are subject to annual appropriation by the Diversion Authority Board through the budget process pursuant to Article VIII of the JPA. For clarity, this Resolution does not create a multi-year spending obligation that binds the Diversion Authority Board independent of its annual appropriations.

6. **Custody; No Commingling.** The Crop Loss Reserve Fund shall be held in custody by the Trustee, in the name of the Diversion Authority, in the [] fund/account.

7. **Investment Management.** The Investment Manager shall direct the investment of the assets of the Crop Loss Reserve Fund. The Investment Manager shall manage the Crop Loss Reserve Fund in accordance with the prudent-investor standard, which the Diversion Authority hereby imposes by this Resolution, and by the Investment Manager's contract, adopting the institutional-investor formulation of N.D.C.C. § 21-10-07. All monies in the Crop Loss Reserve Fund, less the Minimum Liquidity Reserve, as described in Section 8 of this Resolution, which are not required to meet expected expenditures of the Crop Loss Reserve Fund, shall be invested in eligible investments as provided in Section 8 of this Resolution, and all earnings and proceeds of such investments shall be credited to the Crop Loss Reserve Fund. The Investment Manager shall at all times ensure that the Crop Loss Reserve Fund maintains the Minimum Liquidity Reserve required under Section 8 of this Resolution, and shall further endeavor, as a goal and not as a fixed requirement, to maintain an additional portion of the Crop Loss Reserve Fund in y liquid securities sufficient to satisfy covered crop-loss liabilities that exceed the combined amount described in Section 8 of this Resolution. The Investment Manager shall render to the Diversion Authority and the Crop Loss Reserve Fund Oversight Sub-Committee four (4) quarterly statements each year, each showing the then-current assets, growth, and interest earnings of the Crop Loss Reserve Fund and shall conduct one (1) annual meeting with, or presentation to, the Finance Committee of the Diversion Authority to present the growth of the Crop Loss Reserve Fund over the preceding year.

8. **Minimum Liquidity Reserve; Liquidity Composition.**

a. The Diversion Authority, Crop-Loss Reserve Fund Oversight Sub-Committee, and the Investment Manager shall, at any given time, maintain a balance of the Crop Loss Reserve Fund equal to the minimum liquidity reserve (the “Minimum Liquidity Reserve”) in the amount of five million dollars (\$5,000,000), held in cash or in investments readily convertible to cash, in the form and manner further specified, which amount shall be immediately available to satisfy Covered Crop-Loss Event Claims, as defined in Section 12 of this Resolution, once the Crop-Loss Event Deductible described in Section 9 of this Resolution has been met by the Crop-Loss Event Claims processed by the Diversion Authority in any given year. For clarity, the Minimum Liquidity Reserve of five million dollars (\$5,000,000), together with the Crop-Loss Event Deductible of five million dollars (\$5,000,000), is intended to make the anticipated ceiling of annual crop-loss liability of ten million dollars (\$10,000,000) available, in the aggregate between the Diversion Authority’s general funds and the Crop-Loss Reserve Fund, in any year to respond to covered crop-loss liabilities.

b. As a goal, and not as a fixed requirement, the Investment Manager shall further endeavor to maintain an additional portion of the Crop Loss Reserve Fund in highly liquid securities that are readily convertible to cash, so that, in the event covered crop-loss liabilities in any year exceed ten million dollars (\$10,000,000) in the aggregate, the Crop Loss Reserve Fund may satisfy such excess liabilities without the forced sale of long-term holdings. The CLIP shall further specify the form, composition, and administration of the Minimum Liquidity Reserve and of the preferred liquidity composition described in this Section.

9. **Crop-Loss Event Deductible.** The Crop Loss Reserve Fund is structured to respond to covered crop-loss liabilities beyond and subject to an annual aggregate Diversion Authority deductible of five million dollars (\$5,000,000) (the “Crop-Loss Event Deductible”). This deductible is the Diversion Authority’s deductible not the producers deductible. In each year, the Diversion Authority shall bear covered crop-loss liabilities up to the amount of the Crop-Loss Event Deductible before any Covered Crop-Loss Event Claim, as described in Section 12 of this Resolution, may be paid from the Crop Loss Reserve Fund, and the Crop Loss Reserve Fund shall respond only to covered crop-loss liabilities that exceed the Crop-Loss Event Deductible in the aggregate for that year.

10. **Crop Loss Fund Investment Policy.** The Crop Loss Reserve Fund shall be invested and administered in accordance with the Crop Loss Investment Policy (CLIP) which shall be adopted separately by the Diversion Authority Board upon the recommendation of the Finance Committee and the Crop Loss Reserve Fund Oversight Sub-Committee. The Investment Manager shall, in coordination with the Executive Director and the Crop-Loss Reserve Fund Oversight Sub-Committee, be responsible for the initial drafting of the CLIP and for the drafting of subsequent amendments to the CLIP, as they may be appropriate. The Crop Loss Reserve Fund Oversight Sub-Committee shall review the CLIP, and any amendments to it, and shall recommend the CLIP and any such amendments to the Finance Committee and the Diversion Authority Board for adoption. Upon adoption, the CLIP is incorporated into this Resolution by reference. For clarity, the CLIP is intended to be a dynamic document to direct the investment of the Crop-Loss Reserve Fund and shall be reviewed and amended with relative frequency to respond to changing market

conditions, maximize growth of the Crop-Loss Reserve Fund, and respond to changes in the needs or projected crop-loss liability of the Diversion Authority.

11. **Disbursements; Limitation on Use.** Disbursements from the Crop Loss Reserve Fund shall be made only (i) to pay Covered Crop-Loss Event Claims, as defined in Section 14 of this Resolution, and (ii) to pay the actual and necessary expenses required for the efficient administration of the Crop Loss Reserve Fund, including, without limitation, the fees of the Investment Manager.

12. **Crop-Loss Event Claims.** In the event the Diversion Authority receives, and becomes obligated to pay, claims from agricultural producers whose agricultural crops are affected by the operation of the Comprehensive Project (the “Affected Agricultural Producers”) for actual crop losses caused by the operation of the Comprehensive Project (each, a “Crop Loss Event”) that, in the aggregate for the applicable year, exceed the Crop-Loss Event Deductible, as described in Section 10 of this Resolution, such claims, to the extent they exceed the Crop-Loss Event Deductible and are payable under the Crop Loss Program (the “Covered Crop-Loss Event Claims”), the Diversion Authority shall request the Trustee to disburse from the Crop Loss Reserve Fund the sum necessary to satisfy the then-outstanding Covered Crop-Loss Event Claims of the Affected Agricultural Producers.

13. **Oversight.** The Crop Loss Reserve Fund and the Investment Manager are subject to oversight by the Crop Loss Reserve Fund Oversight Sub-Committee established under the Finance Committee, to which the Investment Manager shall report, consistent with the companion resolution establishing that Sub-Committee. The records of the statements rendered for the Crop Loss Reserve Fund and of all disbursements from the Crop Loss Reserve Fund, including the payment of Covered Crop-Loss Event Claims, shall be retained by the Diversion Authority and, to the extent practicable and required by the North Dakota open-records law, N.D.C.C. § 44-04-18, shall be made available to the public.

14. **North Dakota Law Applies.** This Resolution shall be governed by and construed in accordance with the laws of the State of North Dakota.

15. **JPA Prevails.** In the event any provision of this Resolution conflicts with the JPA, the JPA shall prevail.

16. **Force Majeure.** The Diversion Authority shall not be responsible for any failure or delay in performing its obligations under this Resolution that results from causes beyond its control, including, but not limited to, acts of God, fire, flood, war, accidents, labor disputes, work stoppages, or any other similar circumstances beyond the control of the Diversion Authority.

17. **Effective Date.** This Resolution shall take effect immediately upon adoption.

(Remainder of page intentionally left blank.)

Dated: July __, 2026

**METRO FLOOD DIVERSION
AUTHORITY**

APPROVED:

Josh Boschee, Chair

ATTEST:

Dawn Lindblom, Secretary

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