

Board Agenda



Diversion Board of Authority

3:30 P.M. - Thursday, April 22, 2021

Virtual Meeting Only

1. Call to order
 - a. Roll call of Members
2. Approve minutes from March 25, 2021 meeting
[Attachment 00.01] (Pg. 3)
3. Approve order of Agenda

CONSENT AGENDA – APPROVE THE FOLLOWING:

- a. Financial Report [Attachment 01.00] (Pg. 10)
- b. Voucher Approval [Attachment 02.00] (Pg. 35)
- c. DA Board Approval MOU and Agreement Actions
[Attachment 03.00] (Pg. 57)
 - i. Agreement for CRW
[Attachment 03.01] (Pg. 60)
 - ii. MOU for Vacated Roadways – MFDA, CCJWRD, & Cass County
[Attachment 03.02] (Pg. 68)
 - iii. Xcel Energy MOU for the DCAI
[Attachment 03.03] (Pg. 96)
 - iv. NuStar Pipeline MOU for the DCAI
[Attachment 03.04] (Pg. 151)

REGULAR AGENDA:

4. Executive Director Report
[Attachment 04.00] (Pg. 232)
5. General Counsel Update
 - a. P3 Schedule Update
6. USACE Project Update
7. Public Outreach Update
 - a. Drone footage flyover of I-29
8. Land Management Update

- a. Property Acquisition Status Report
[Attachment 05.00] (Pg. 234)

9. Finance Update

- a. Board Approval Contract Actions
[Attachment 06.00] (Pg. 244)
 - i. Schmidt & Sons Construction Inc., WP-50E – New Contract
[Attachment 06.01] (Pg. 246)
 - ii. ICS, Inc., WP-42A1A3 – Change Order #11
[Attachment 06.02] (Pg. 248)
 - iii. HMG, TO 1, Amendment 18
[Attachment 06.03] (Pg. 268)

10. Other Business

- a. Luuceo Contract – Next Phases
[Attachment 07.00] (Pg. 272)

11. Next Meeting: May 27, 2021

12. Adjournment

Media and Public Participation Information

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

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

**Metro Flood Diversion Authority
Board of Authority
Meeting Minutes
3:30 PM – March 25, 2021**



A virtual meeting of the Metro Flood Diversion Authority Board of Authority was held on March 25, 2021. The following members were present: Shelly Carlson, Mayor, City of Moorhead; Dr. Tim Mahoney, Mayor, City of Fargo; Bernie Dardis, Mayor, City of West Fargo; Chad Peterson, Cass County Commissioner; Chuck Hendrickson, Moorhead City Council; Dave Piepkorn, Fargo City Commissioner; David Ebinger, Clay County Commissioner; John Strand, Fargo City Commissioner; Kevin Campbell, Clay County Commissioner; Mary Scherling Cass County Commissioner; Rick Steen Cass County Commissioner and Rodger Olson, Cass County Joint Water Resource District.

No members were absent.

1. CALL TO ORDER

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

2. APPROVE MINUTES FROM FEBRUARY 25, 2021 MEETING

MOTION PASSED

Mr. Peterson moved to approve the February 2021 minutes as presented and Mr. Steen seconded the motion. Motion carried.

3. APPROVE ORDER OF AGENDA

MOTION PASSED

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

4. CONSENT AGENDA APPROVAL

MOTION PASSED

Mr. Hendrickson moved to approve the consent agenda and Mr. Steen seconded the motion. On a roll call vote, the motion carried.

5. EXECUTIVE DIRECTOR REPORT

Mr. Paulsen provided the following update regarding the DA March activities.

Coordination with utilities & townships, etc.

- Working on MOUs and Agreements
- Wiser Township has agreed to an MOU



Communication with the public and legislators

- Responding to public comments and questions
- Coordination with the FMWF Chamber and the business leaders task force
- Legislative Testimony to Senate tax and finance on March 17, 2021
- Federal legislative outreach

P3 updates

- Last RFP Addendum sent out to proposers on March 9, 2021
- Technical proposals received on March 24, 2021
- Technical and financial review team training

Staff briefings with new Diversion Authority Board Chair

5. GENERAL COUNSEL UPDATE

ICS v. Metro Flood Diversion Authority Settlement Approval

Mr. Shockley provided an update regarding the litigation with ICS, Inc. ICS sued the MFDA in November 2018, following a payment dispute. The parties have reached a tentative settlement that would resolve the pending litigation and terminate the dispute.

ICS sought damages close to \$4 million, plus costs and interest. The MFDA extended a settlement offer of \$1.2 million to fully resolve the dispute pursuant to Rule 68 of the North Dakota Rules of Civil Procedure.

MOTION PASSED

Mr. Piepkorn moved to execute a settlement agreement consistent with the Rule 68 Offer with any changes deemed necessary by General Counsel and Mr. Steen seconded the motion. On a roll call vote, the motion carried.

6. USACE PROJECT UPDATE

Ms. Williams provided the following project update:

1 Diversion Inlet Structure Construction

Structure includes 3-50 ft. wide Tainter gates. Work resumed in late-February.

Construction is 46% complete with a required completion date of 7 June 2023. Anticipated remaining schedule:

2020: Foundations/site work, control structure, dam walls.

2021: Complete dam walls, concrete piers, stilling basin and walls. Continue gate fabrication.

2022: Install bridge deck, gates, and operating machinery.

2023: Paint gates, seed.

2024: Turf established.



2 Wild Rice River Structure Construction

Structure includes 2-40 ft. wide Tainter gates. Work resumed in late-February. Construction is 21% complete with a required completion date of 22 October 2023.

Anticipated schedule:

2020: Foundations/site work, control structure, dam embankment.

2021: Approach walls and apron, stilling basin and walls, preloads. Continue gate fabrication.

2022: Control building, dam embankment.

2023: Complete excavation, dam embankment, gate installation, seed.

2024: Turf established.

3 I-29 Raise Construction

Bid opening was held on 9 March and a construction contract award is anticipated by mid-April 2021.

4 Southern Embankment – Reach SE-1 (Western Tieback) Construction

Bid opening was held on 3 March and a construction contract award is anticipated late-March to early-April 2021.

5 Red River Structure Design

Structure includes 3-50 ft. wide Tainter gates. The design of this critical-path feature remains on schedule. The 95% review is scheduled to begin mid-May 2021. Final plans and specs are scheduled to be completed in late-August 2021.

6 Southern Embankment – Reach SE-1B Design

35% review scheduled to begin in early-June 21.

7 Southern Embankment – Reach SE-2A and 2B Design

The 95% design review is scheduled to begin mid-June 2021. Final plans and specifications are scheduled for November 2021. Reach SE-2B design began mid-March 2021.

8 Drain 27 Wetland Mitigation Project Design

The 95% design review began 8 March 2021 and final plans and specs are due 30 July 2021. Award of a construction contract was scheduled for September 2021 but will be delayed due to land acquisition.

9 Drayton Dam Mitigation Project Design

The design has re-commenced with the goal of having final plans and specs in August 2021. This mitigation project includes replacing the existing dam to incorporate fish passage. An Environmental Assessment was completed in 2013.



7. PUBLIC OUTREACH COMMITTEE UPDATE

Drone flyover of Diversion Inlet and Wild Rice Control Structure

Ms. Williams narrated drone flyovers of the Diversion Inlet and the Wild Rice Control Structure. Great progress continues to be made and the dam walls should be poured within the next few weeks.

Education Sessions for the P3

- Background
- Bid Criteria
- Bid Selection Schedule
- Technical Evaluation Criteria
- Technical Proposal Adjectival Ratings
- Financial Evaluation Criteria
- Evaluation, Selection and Award Process

Technical Proposals due	March 24
Tech Team reviews	March 26 –April 22
Financial Proposals due	April 23
MFDA Finance Team reviews	April 26 –May 7
Public Hearing prior to award	May 27
Board Meeting to Award	May 27

Updated MFDA Org Chart

Mr. Paulsen indicated that the org chart was updated to reflect current email addresses.

8. LAND MANAGEMENT COMMITTEE UPDATE

Mrs. Scherling stated that the Land Management Committee had a productive meeting and turned it over to Mr. Dodds for the report.

Property Acquisition Status Report

Mr. Dodds reported that 550 properties have been acquired as of March 16, 2021 and we are initiating the LRED process on a handful of properties.

Crown is working on flowage easement appraisals on 470 parcels and there are 169 properties currently in negotiations for environmental monitoring easements.



Mr. Olson indicated that the CCJRWD approved one purchase at their meeting. They have also been making contact with property owners regarding the flowage easements and things are going well in that regard.

Mr. Campbell indicated that the MCCJPA met and discussed the timing of the four properties needed by the USACE. He also indicated that the Tinjum MSA has been approved.

9. FINANCE COMMITTEE UPDATE

Mayor Dardis reported that the Land Disposition Policy was approved by the Finance Committee and that Mr. Paulsen provided an update on the executive director contracting actions, all of which were neutral or small dollars.

10. OTHER BUSINESS

Policy on the Disposition and Management of Comprehensive Project Lands

Mr. Nicholson turned the update over to Mrs. Scherling. Mrs. Scherling thanked Mr. Nicholson, Mr. Dodds and Mr. Shockley for their work on the policy. We now have a policy that will work on both sides of the river. Mrs. Scherling also stated that this was unanimously approved by the Land Management Committee.

MOTION PASSED

Mrs. Scherling moved to approve the Policy on the Disposition and Management of Comprehensive Project Lands and Mr. Campbell seconded the motion. On a roll call vote, the motion carried.

Luuceo Presentation

Quin MacKenzie of Luuceo gave a presentation on the work that Luuceo has completed to date. This work includes:

RFP and Documentation Review

- Language that will support the ongoing tracking and reporting of project resilience has been embedded into project procurement documentation for the P3 RFP
- Reviewed and provided input on risk management, community engagement, and local workforce development

Resilience Program Development

- Project documentation across disciplines has been reviewed against industry best practices



- A framework for a Resilience Program has been created to monitor performance
The Resilience Program is now in place and an initial review of project documentation through a resilience lens has been conducted
- This has provided a baseline and allowed us to identify key successes and opportunities

This is important information that can be used to support Federal funding opportunities

- New administration is focusing on resilience and social equity
- Any type of discretionary grant or funding for infrastructure will require projects to demonstrate what they are doing for resilience, sustainability, and/or climate change mitigation and adaptation
- This aligns with the Resilience Program and the best practices referenced in building it, including Envision
- We will work closely with Matt Chiller to support funding applications
 - FEMA BRIC
 - Future Infrastructure Bill
 - Federal President's Budget

Next Steps

- Continue with ongoing tracking and reporting as part of the Quality Management Process
 - Review Resilience Program submittals and P3 compliance
- Support Federal funding opportunities
 - Work with Matt Chiller to provide supporting information and documentation to demonstrate alignment between Federal funding priorities and Resilience Program objectives
- Continue to support local workforce development strategies
- Ongoing coordination and meetings with P3 Team

Dr. Mahoney asked if economic information has been compiled on the project and if there is a summary of key outcomes. Mr. Paulsen stated that yes, Jacobs and Luceo are working with our communications team to compile legislative strategy. Additionally, costs are being tracked and Mr. Paulsen will email members a summary.

Mrs. Scherling asked what Luceo can provide us in terms of federal funding. Mr. Paulsen indicated that there would be more to come next month on that topic.

11. NEXT MEETING

The next meeting is April 22, 2021.



12. ADJOURNMENT

MOTION PASSED

Mrs. Scherling moved for adjournment and Mr. Ebinger seconded the motion.
Meeting adjourned at 4:47 PM.

FM Metropolitan Area Flood Risk Management Project
Fiscal Accountability Report Design Phase (Fund 790)
As of 03/31/21

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	Cumulative Totals
Revenues												
City of Fargo	443,138	7,652,681	7,072,961	19,373,131	28,310,373	42,565,943	30,112,100	30,150,091	32,835,957	30,746,840	2,704,762	231,967,976
Cass County	443,138	7,652,681	7,072,961	19,373,131	28,310,373	115,636,848	13,925,658	14,305,401	15,637,755	15,716,168	-	238,074,113
State Water Commission	-	-	3,782,215	602,918	31,056,740	104,501,111	25,892,783	9,227,010	26,655,616	69,249,584	10,949,854	281,917,830
Other Agencies	98,475	1,700,595	1,571,769	4,305,140	6,291,194	(13,260,368)	-	-	-	-	-	706,805
City of Oxbow MOU Repayment	-	-	-	-	-	428,392	1,158,044	-	358,178	878,020	122,038	2,944,671
Reimbursements	-	-	-	-	-	33,880	44,719	27,396	22,600	40,007	-	168,602
Lease/Rental Payments	-	-	17,358	154,180	180,341	260,806	354,466	527,903	653,883	802,745	27,723	2,979,404
Asset Sales	-	-	-	616,774	315,892	175,190	114,479	-	-	13,234	-	1,235,569
Interest Income	-	-	-	-	-	-	505,157	1,246,875	1,885,896	1,152,843	195,451	4,986,223
Miscellaneous	-	-	226	626	427	-	2,600	356	-	651	-	4,886
Total Revenues	984,750	17,005,957	19,517,491	44,425,900	94,465,339	250,341,802	72,110,007	55,485,032	78,049,884	118,600,091	13,999,828	764,986,082
Expenditures												
7905 Army Corp Payments	-	-	875,000	1,050,000	2,725,000	47,279,000	1,230,000	-	-	-	-	53,159,000
7910 WIK - Administration	107,301	331,321	77,614	169,019	282,227	309,020	729,947	849,081	1,201,725	2,068,489	566,998	6,692,741
7915 WIK - Project Design	149,632	5,366,147	3,220,859	9,118,723	4,660,226	2,975,689	2,907,309	2,142,880	2,516,133	3,258,835	133,346	36,449,779
7920 WIK - Project Management	679,037	7,223,650	4,695,477	3,579,339	4,500,955	9,315,429	15,211,372	6,817,589	8,326,357	10,369,118	1,196,406	71,914,732
7925 WIK - Recreation	-	163,223	-	-	-	-	-	-	40,000	75,000	-	278,223
7930 LERRDS - North Dakota	48,664	3,843,620	2,763,404	17,013,358	55,948,209	52,472,770	38,286,144	8,114,895	30,223,861	66,942,804	11,429,528	287,087,257
7931 LERRDS - Minnesota	-	27,996	287,907	13,068	32,452	1,815,566	25,949	4,914	5,352	2,769,551	(0)	4,982,755
7940 WIK Mitigation - North Dakota	-	-	-	587,180	-	-	256,326	69,283	12,357	97,512	3,662	1,026,320
7941 WIK Mitigation - Minnesota	-	-	-	-	-	-	-	-	-	-	-	-
7950 Construction - North Dakota	-	-	-	1,738,638	19,269,055	43,084,726	5,267,083	4,384,090	18,183,794	12,172,911	566,862	104,667,158
7951 Construction - Minnesota	-	-	-	-	-	-	-	-	-	-	-	-
7952 Construction - O/H/B	-	-	-	11,282,504	5,044,001	791,619	10,907,637	4,111,617	369,936	1,104,928	11,837	33,624,080
7955 Construction Management	-	-	-	556,209	2,867,422	5,746,224	1,002,575	296,092	685,741	444,536	9,733	11,608,531
7980 Operations & Maintenance	-	-	-	-	-	6,403	28,538	41,493	35,328	8,824	-	120,586
7990 Project Financing	-	50,000	70,000	216,376	566,600	6,944,623	6,914,504	9,879,405	11,434,046	12,017,311	826,399	48,919,264
7995 Project Eligible - Off Formula Costs	-	-	-	-	-	-	-	-	-	-	-	-
7999 Non Federal Participating Costs	116	(0)	-	-	-	-	221,568	-	-	-	-	221,684
Total Expenditures	984,750	17,005,957	11,990,261	45,324,414	95,896,147	170,741,069	82,988,952	36,711,339	73,034,630	111,329,820	14,744,770	660,752,111

FM Metropolitan Area Flood Risk Management Project
Statement of Net Position
March 31, 2021

	<u>Amount</u>
Assets	
Cash	\$ 95,304,085
Receivables	
State Water Commission *	10,949,854
Prepaid Expense	95,934
Total assets	<u>106,349,873</u>
 Liabilities	
Vouchers payable	1,619,352
Retainage payable	483,549
Rent Deposit	13,000
Total liabilities	<u>2,115,901</u>
 NET POSITION	 <u><u>\$ 104,233,972</u></u>

* Receivable balance is as of 2/28/2021

FM Metropolitan Area Flood Risk Management Project
FY 2019 Summary Cash Budget Report (In Thousands)
As of 31 Mar 2021

	2021 Approved Budget	Current Month	Fiscal Year To Date	% Expended	Outstanding Encumbrances	Remaining Budget Balance
Revenue Sources						
City of Fargo	32,000	2,705	2,810,744			
Cass County	16,000	-	3,025,783			
State of ND - 50 % Match	109,900	10,422	10,136,546			
State of ND - 100% Match	-	527	2,802,141			
State of Minnesota	-	-	-			
Other Agencies	-	-	-			
City of Oxbow MOU Reimbursement	-	122	122			
Financing Proceeds	200	97	125,192			
Reimbursements	-	-	-			
Sales of Assets	-	-	-			
Property Income	1,100	22	87,289			
Miscellaneous	60,712	-	-			
Total Revenue Sources	219,912	13,895	18,987,817	-	-	(18,767,905)
Funds Appropriated						
Diversion Channel & Assoc. Infrastructure	52,010	1,279	2641	5%	2,459	46,911
Southern Embankment & Assoc. Infrastructure	1,410	17	199	14%	479	732
Other Mitigation Projects	38,500	12	320	1%	3,672	34,509
In-Town Flood Protection	35,249	2,878	2907	8%	176	32,166
Enabling Work / Other	62	12	15	0%	-	47
Land Acquisition & Mitigation	69,096	3,868	20064	29%	28,854	20,178
Engineering & Design Fees	3,035	165	609	20%	3,552	(1,126)
Program Management	12,421	1,749	3593	29%	60,933	(52,105)
Contingency	-	-	0	0%	-	-
Debt Service	8,000	128	265	3%	934	6,801
Maintenance	130	-	0	0%	-	130
Total Appropriations	219,912	10,108	30,612	14%	101,059	88,242

Summary Of Expenses
EXP-2021-02

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-0000-206.10-00	3/4/2021	310178	Meyer Contracting	\$5,000.00	PAY VENDOR RETAINAGE	V04401	OHB RING LEVEE PHASES C&D
Retainage				\$5,000.00			
790-7910-429.11-00	2/4/2021	309592	Cass County Government	\$61,937.50	SALARY REIMBURSEMENT	V00106	ED & STAFF-PR/ADMIN EXP
	2/23/2021	MZ20201	Cass County Government	\$75,155.93	12.31.20 AP-2.4.21 CK	V00106	ED & STAFF-PR/ADMIN EXP
	2/23/2021	MZ20201	Cass County Government	(\$75,155.93)	REV 12.31.20 AP-2.4.21 CK	V00106	ED & STAFF-PR/ADMIN EXP
Full Time Staff / Salaries				\$61,937.50			
790-7910-429.20-01	2/4/2021	309592	Cass County Government	\$3,396.00	SALARY REIMBURSEMENT	V00106	ED & STAFF-PR/ADMIN EXP
Employee Benefits / Health Insurance				\$3,396.00			
790-7910-429.20-03	2/4/2021	309592	Cass County Government	\$160.00	SALARY REIMBURSEMENT	V00106	ED & STAFF-PR/ADMIN EXP
Employee Benefits / Dental Insurance				\$160.00			
790-7910-429.21-01	2/4/2021	309592	Cass County Government	\$2,162.81	SALARY REIMBURSEMENT	V00106	ED & STAFF-PR/ADMIN EXP
Employee Benefits / Social Security				\$2,162.81			
790-7910-429.21-02	2/4/2021	309592	Cass County Government	\$883.44	SALARY REIMBURSEMENT	V00106	ED & STAFF-PR/ADMIN EXP
Employee Benefits / Medicare				\$883.44			
790-7910-429.22-07	2/4/2021	309592	Cass County Government	\$6,881.54	SALARY REIMBURSEMENT	V00106	ED & STAFF-PR/ADMIN EXP
Pension Benefits / Retirement				\$6,881.54			
790-7910-429.25-00	2/4/2021	309592	Cass County Government	(\$265.36)	SALARY REIMBURSEMENT	V00106	ED & STAFF-PR/ADMIN EXP
Workers Compensation Benefits / Workers Compensation				(\$265.36)			
790-7910-429.33-20	2/21/2021	JB022100	City of Fargo	\$5,378.31	CHARGE FOR COF TIME-02/21	V00102	General & Admin. WIK
Other Services / Accounting Services				\$5,378.31			
790-7910-429.33-25	2/18/2021	309939	Turman & Lang	\$575.00	TURMAN & LANG	V02407	OXBOW MOU-LEGAL SERVICES
	3/5/2021	847	OHNSTAD TWICHELL PC	\$102,616.28	OHNSTAD TWICHELL PC	V00102	General & Admin. WIK
Other Services / Legal Services				\$103,191.28			
790-7910-429.34-20	2/18/2021	309917	Michael H Klein	\$9,965.25	COMMUNICATION CONSULTING	V07201	COMMUNICATION CONSULTING
	2/18/2021	309945	PR for Good, Inc	\$9,975.00	COMMUNICATIONS SUPPORT	V07101	COMMUNICATIONS SUPPORT
Technical Services / Marketing / Public Relat.				\$19,940.25			

Summary Of Expenses
EXP-2021-02

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7910-429.44-10	2/14/2021	JB022100	City of Fargo	\$10,080.00	2021 CIVIC CENTER RENT	V00102	General & Admin. WIK
Rentals / Land and Building Rents				\$10,080.00			
790-7910-429.53-20	2/4/2021	309592	Cass County Government	\$499.78	MISC EXPENSES	V00106	ED & STAFF-PR/ADMIN EXP
Communications / Cellular Phone Service				\$499.78			
790-7910-429.61-10	2/4/2021	309592	Cass County Government	\$4,644.54	MISC EXPENSES	V00106	ED & STAFF-PR/ADMIN EXP
General Supplies / Office Supplies				\$4,644.54			
790-7910-429.68-30	2/4/2021	309592	Cass County Government	\$293.06	MISC EXPENSES	V00106	ED & STAFF-PR/ADMIN EXP
Miscellaneous / Meeting Incidentals				\$293.06			
790-7910-429.74-12	2/4/2021	309592	Cass County Government	\$256.11	MISC EXPENSES	V00106	ED & STAFF-PR/ADMIN EXP
Capital Outlay / Computer Software				\$256.11			

Summary Of Expenses
EXP-2021-02

Tuesday, April 13, 2021

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7915-429.33-05	2/11/2021	309723	MOORE ENGINEERING INC	\$1,260.00	MOORE ENGINEERING, INC.	V01201	Cass Joint Water ROE
	2/18/2021	309867	AECOM	\$17,973.50	CULTURAL RESOURCES INVEST	V01004	SEAI CULTURAL RES INVEST
	2/18/2021	309874	Beaver Creek Archaeology	\$73,032.73	CULTURAL INVESTIGATION	V02601	CULTURAL INVESTIGATION
	2/18/2021	309912	HOUSTON-MOORE GROUP L	\$6,946.75	PERMIT COMPLIANCE MONITOR	V01631	PERMIT COMPLIANCE MONITOR
	2/18/2021	309912	HOUSTON-MOORE GROUP L	\$702.50	DELVEOP DRAFT OPERATIONS	V01615	DRAFT OPERATIONS PLAN
	2/18/2021	309912	HOUSTON-MOORE GROUP L	\$17,026.75	PERMIT SUBMITTAL	V01616	PERMIT SUBMITTAL PREP
	2/18/2021	309912	HOUSTON-MOORE GROUP L	\$18,573.00	I-29 GRADE RAISE DESIGN	V01620	SEAI-I29 GRADE RAISE DSGN
	2/18/2021	309912	HOUSTON-MOORE GROUP L	\$4,051.00	TASK ORDER #22	V01622	MITIGATION SUPPORT SRVCS
	2/18/2021	309912	HOUSTON-MOORE GROUP L	\$47,776.94	WORK IN KIND	V01626	WORK-IN-KIND (WIK)
	2/19/2021	MZ20201	MOORE ENGINEERING INC	(\$1,260.00)	REV 12.31.20 AP-2.11.21CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	MOORE ENGINEERING INC	\$1,260.00	12.31.20 AP-2.11.21 CK	V01201	Cass Joint Water ROE
	3/5/2021	MZ20201	Beaver Creek Archaeology	\$73,032.73	12.31.20 AP-2.18.21 CK	V02601	CULTURAL INVESTIGATION
	3/5/2021	MZ20201	Beaver Creek Archaeology	(\$73,032.73)	R/V 12.31.20 AP-2.18.21CK	V02601	CULTURAL INVESTIGATION
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	\$6,946.75	12.31.20 AP-2.18.21 CK	V01631	PERMIT COMPLIANCE MONITOR
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	(\$6,946.75)	R/V 12.31.20 AP-2.18.21CK	V01631	PERMIT COMPLIANCE MONITOR
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	(\$47,776.94)	R/V 12.31.20 AP-2.18.21CK	V01626	WORK-IN-KIND (WIK)
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	\$47,776.94	12.31.20 AP-2.18.21 CK	V01626	WORK-IN-KIND (WIK)
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	(\$4,051.00)	R/V 12.31.20 AP-2.18.21CK	V01622	MITIGATION SUPPORT SRVCS
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	\$4,051.00	12.31.20 AP-2.18.21 CK	V01622	MITIGATION SUPPORT SRVCS
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	\$18,573.00	12.31.20 AP-2.18.21 CK	V01620	SEAI-I29 GRADE RAISE DSGN
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	(\$17,026.75)	R/V 12.31.20 AP-2.18.21CK	V01616	PERMIT SUBMITTAL PREP
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	\$17,026.75	12.31.20 AP-2.18.21 CK	V01616	PERMIT SUBMITTAL PREP
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	(\$702.50)	R/V 12.31.20 AP-2.18.21CK	V01615	DRAFT OPERATIONS PLAN
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	\$702.50	12.31.20 AP-2.18.21 CK	V01615	DRAFT OPERATIONS PLAN
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	(\$18,573.00)	R/V 12.31.20 AP-2.18.21CK	V01620	SEAI-I29 GRADE RAISE DSGN
Other Services / Engineering Services				\$187,343.17			
790-7920-429.33-05	2/18/2021	309912	HOUSTON-MOORE GROUP L	\$67,678.24	PROJECT MANAGEMENT	V01601	HMG - PROJECT MANAGEMENT
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	\$67,678.24	12.31.20 AP-2.18.21 CK	V01601	HMG - PROJECT MANAGEMENT
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	(\$67,678.24)	R/V 12.31.20 AP-2.18.21CK	V01601	HMG - PROJECT MANAGEMENT
Other Services / Engineering Services				\$67,678.24			

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790-7920-429.33-79	2/18/2021	309887	CH2M Hill Engineers Inc	\$410,093.60	PROGRAM MGMT & SERVICES	V00211	CH2M HILL-6/2019-12/2021
	2/18/2021	309887	CH2M Hill Engineers Inc	\$448,435.25	SUPPORT SERVICES	V00212	P3 PROCUREMENT SUPPORT
	2/18/2021	309939	MOORE ENGINEERING INC	\$1,778.40	MOORE ENGINEERING, INC,	V02421	OXBOW MOU-MOORE PROJ MG
	3/5/2021	MZ20201	CH2M Hill Engineers Inc	\$410,093.60	12.31.20 AP-2.18.21 CK	V00211	CH2M HILL-6/2019-12/2021
	3/5/2021	MZ20201	CH2M Hill Engineers Inc	(\$410,093.60)	R/V 12.31.20 AP-2.18.21CK	V00211	CH2M HILL-6/2019-12/2021
	3/5/2021	MZ20201	CH2M Hill Engineers Inc	\$448,435.25	12.31.20 AP-2.18.21 CK	V00212	P3 PROCUREMENT SUPPORT
	3/5/2021	MZ20201	CH2M Hill Engineers Inc	(\$448,435.25)	R/V 12.31.20 AP-2.18.21CK	V00212	P3 PROCUREMENT SUPPORT
Other Services / Construction Management				\$860,307.25			

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790-7930-429.33-05	2/11/2021	309723	HDR Engineering, Inc.	\$36,720.72	HDR ENGINEERING, INC.	V01201	Cass Joint Water ROE
	2/11/2021	309723	Prosource Technologies, Inc	\$42,727.70	PROSOURCE TECHNOLOGIES	V01201	Cass Joint Water ROE
	2/11/2021	309723	Prosource Technologies, Inc	\$1,339.00	PROSOURCE TECHNOLOGIES	V01203	Cass Joint Water OHB
	2/11/2021	309723	SRF Consulting Group	\$134,196.70	SRF CONSULTING GROUP, INC	V01201	Cass Joint Water ROE
	2/11/2021	309723	ULTEIG ENGINEERS INC	\$4,444.75	ULTEIG ENGINEERS	V01201	Cass Joint Water ROE
	2/11/2021	309759	HOUSTON-MOORE GROUP L	\$10,736.71	BOUNDARY SURVEYING	V01628	BOUNDARY SURVEYING SRVCS
	2/18/2021	309912	HOUSTON-MOORE GROUP L	\$10,341.24	SERVICES DURING CONST	V01623	CONSTRUCTN/BID SVCS WP43
	3/4/2021	310096	ADVANCED ENGINEERING I	\$240,353.72	DIVERSION ENG SERVICES	V00302	PROGRAM MGMT SERVICES
	3/4/2021	310158	HOUSTON-MOORE GROUP L	\$27,775.33	PROPERTY STRUCTURE MITIGA	V01630	PROPERTY STRUCTURE MITGT
	2/19/2021	MZ20201	HDR Engineering, Inc.	\$36,720.72	12.31.20 AP-2.11.21 CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	HDR Engineering, Inc.	(\$36,720.72)	REV 12.31.20 AP-2.11.21CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	HOUSTON-MOORE GROUP L	\$10,736.71	12.31.20 AP-2.11.21 CK	V01628	BOUNDARY SURVEYING SRVCS
	2/19/2021	MZ20201	HOUSTON-MOORE GROUP L	(\$10,736.71)	REV 12.31.20 AP-2.11.21CK	V01628	BOUNDARY SURVEYING SRVCS
	2/19/2021	MZ20201	Prosource Technologies, Inc	\$42,727.70	12.31.20 AP-2.11.21 CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	Prosource Technologies, Inc	(\$1,339.00)	REV 12.31.20 AP-2.11.21CK	V01203	Cass Joint Water OHB
	2/19/2021	MZ20201	Prosource Technologies, Inc	(\$42,727.70)	REV 12.31.20 AP-2.11.21CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	Prosource Technologies, Inc	\$1,339.00	12.31.20 AP-2.11.21 CK	V01203	Cass Joint Water OHB
	2/19/2021	MZ20201	SRF Consulting Group	\$134,196.70	12.31.20 AP-2.11.21 CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	SRF Consulting Group	(\$134,196.70)	REV 12.31.20 AP-2.11.21CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	ULTEIG ENGINEERS INC	\$4,444.75	12.31.20 AP-2.11.21 CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	ULTEIG ENGINEERS INC	(\$4,444.75)	REV 12.31.20 AP-2.11.21CK	V01201	Cass Joint Water ROE
	2/23/2021	MZ20201	ADVANCED ENGINEERING I	(\$301,300.08)	REV 12.31.20 AP-2.4.21 CK	V00302	PROGRAM MGMT SERVICES
	2/23/2021	MZ20201	ADVANCED ENGINEERING I	\$301,300.08	12.31.20 AP-2.4.21 CK	V00302	PROGRAM MGMT SERVICES
Other Services / Engineering Services				\$508,635.87			

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790-7930-429.33-25	2/11/2021	309723	Larkin Hoffman Attorneys	\$14,871.50	LARKIN HOFFMAN ATTORNEYS	V01201	Cass Joint Water ROE
	2/11/2021	309723	OHNSTAD TWICHELL PC	\$125,881.29	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
	2/11/2021	309723	OHNSTAD TWICHELL PC	\$123.00	OHNSTAD TWICHELL, P.C.	V01202	Cass Joint Water DPAC
	2/11/2021	309723	OHNSTAD TWICHELL PC	\$2,968.00	OHNSTAD TWICHELL, P.C.	V01203	Cass Joint Water OHB
	3/5/2021	847	DORSEY & WHITNEY LLP	\$277,849.94	DORSEY AND WHITNEY LLP	V00101	Dorsey Whitney Legal
	3/5/2021	847	OHNSTAD TWICHELL PC	\$93.00	OHNSTAD TWICHELL PC	V00103	General & Admin. LERRDS
	2/19/2021	MZ20201	Larkin Hoffman Attorneys	\$14,871.50	12.31.20 AP-2.11.21 CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	Larkin Hoffman Attorneys	(\$14,871.50)	REV 12.31.20 AP-2.11.21CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	OHNSTAD TWICHELL PC	(\$123.00)	REV 12.31.20 AP-2.11.21CK	V01202	Cass Joint Water DPAC
	2/19/2021	MZ20201	OHNSTAD TWICHELL PC	\$2,968.00	12.31.20 AP-2.11.21 CK	V01203	Cass Joint Water OHB
	2/19/2021	MZ20201	OHNSTAD TWICHELL PC	(\$125,881.29)	REV 12.31.20 AP-2.11.21CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	OHNSTAD TWICHELL PC	\$125,881.29	12.31.20 AP-2.11.21 CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	OHNSTAD TWICHELL PC	(\$2,968.00)	REV 12.31.20 AP-2.11.21CK	V01203	Cass Joint Water OHB
	2/19/2021	MZ20201	OHNSTAD TWICHELL PC	\$123.00	12.31.20 AP-2.11.21 CK	V01202	Cass Joint Water DPAC
Other Services / Legal Services				\$421,786.73			
790-7930-429.33-32	2/11/2021	309723	Patchin Messner Valuation Coun	\$27,825.00	PACHIN MESSNER VALUATION	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	Patchin Messner Valuation Coun	\$27,825.00	12.31.20 AP-2.11.21 CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	Patchin Messner Valuation Coun	(\$27,825.00)	REV 12.31.20 AP-2.11.21CK	V01201	Cass Joint Water ROE
Other Services / Appraisal Services				\$27,825.00			
790-7930-429.33-79	2/18/2021	309887	CH2M Hill Engineers Inc	\$7,137.77	PROPERTY ACQUISITION	V00210	CH2M HILL-LAND ACQUISITON
	3/5/2021	MZ20201	CH2M Hill Engineers Inc	\$7,137.77	12.31.20 AP-2.18.21 CK	V00210	CH2M HILL-LAND ACQUISITON
	3/5/2021	MZ20201	CH2M Hill Engineers Inc	(\$7,137.77)	R/V 12.31.20 AP-2.18.21CK	V00210	CH2M HILL-LAND ACQUISITON
Other Services / Construction Management				\$7,137.77			

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790-7930-429.34-65	2/11/2021	309723	0204 - DULLEA, MICHAEL T	\$750.00	MICHAEL AND JANET DULLEA	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	0205 - BOUTIETTE, STEPHEN	\$250.00	STEPHEN/VICKIE BOUTIETTE	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	0207 - 7 HORSESHOE BEND L	\$1,250.00	7 HORSESHOE BEND LLC	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	0277 - RODNEY M & PATRICI	\$250.00	RODNEY & PATRICIA HANGGI	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	1885 - DUCHSCHERER	\$250.00	BRIAN/KELLY DUCHSCHERER	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	9383 - HOLCK	\$750.00	JEREMY AND NICHOLE HOLCK	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	9426 - WILSON	\$250.00	ED AND MARILYN WILSON	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	9427 - WILSON	\$250.00	ED AND MARILYN WILSON	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0204 - DULLEA, MICHAEL T	\$750.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0204 - DULLEA, MICHAEL T	(\$750.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0205 - BOUTIETTE, STEPHEN	\$250.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0205 - BOUTIETTE, STEPHEN	(\$250.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0207 - 7 HORSESHOE BEND L	\$1,250.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0207 - 7 HORSESHOE BEND L	(\$1,250.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0277 - RODNEY M & PATRICI	\$250.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0277 - RODNEY M & PATRICI	(\$250.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	1885 - DUCHSCHERER	\$250.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	1885 - DUCHSCHERER	(\$250.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9383 - HOLCK	\$750.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9383 - HOLCK	(\$750.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9426 - WILSON	(\$250.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9426 - WILSON	\$250.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9427 - WILSON	\$250.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9427 - WILSON	(\$250.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
Technical Services / Right of Entry Requests				\$4,000.00			
790-7930-429.38-99	2/11/2021	309723	KAREN KLEIN MEDIATION,	\$4,158.50	KAREN KLEIN MEDITATION	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	KAREN KLEIN MEDIATION,	\$4,158.50	12.31.20 AP-2.11.21 CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	KAREN KLEIN MEDIATION,	(\$4,158.50)	REV 12.31.20 AP-2.11.21CK	V01201	Cass Joint Water ROE
Other Services / Other Services				\$4,158.50			

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790-7930-429.41-05	2/11/2021	309723	Cass Rural Water	\$58.32	CASS RURAL WATER USERS	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	Cass Rural Water	\$58.32	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	Cass Rural Water	(\$58.32)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
Utility Services / Water and Sewer				\$58.32			
790-7930-429.52-70	2/18/2021	309972	Watts and Associates, Inc.	\$8,701.29	CROP INS PRODUCT DEVEL	V06901	CROP INSURANCE DEVELOPMN
Insurance / Crop Insurance				\$8,701.29			
790-7930-429.61-50	2/11/2021	309723	CASS COUNTY JOINT WATE	\$86.92	UPS	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	CASS COUNTY JOINT WATE	\$86.92	12.31.20 AP-2.11.21 CK	V01201	Cass Joint Water ROE
	2/19/2021	MZ20201	CASS COUNTY JOINT WATE	(\$86.92)	REV 12.31.20 AP-2.11.21CK	V01201	Cass Joint Water ROE
General Supplies / Postage				\$86.92			
790-7930-429.62-51	2/11/2021	309723	Cass County Electric Cooperativ	\$1,718.59	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	Cass County Electric Cooperativ	(\$1,718.59)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	Cass County Electric Cooperativ	\$1,718.59	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
Energy / Electricity				\$1,718.59			
790-7930-429.62-52	2/11/2021	309723	Dakota Plains AG	\$1,061.21	DAKOTA PLANS AG	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	Dakota Plains AG	\$1,061.21	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	Dakota Plains AG	(\$1,061.21)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
				\$1,061.21			

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790-7930-429.67-11	2/11/2021	309723	0220 - ANDERSON 2	\$500.00	MARK BERNSTEIN	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	0220 - ANDERSON 2	\$800.00	SARAH CHRISTMANN	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	0220 - ANDERSON 2	\$420.00	MARK COTTRELL	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	0220 - ANDERSON 2	\$800.00	DENNIS HOLMEN	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	0220 - ANDERSON 2	\$420.00	ANNETTE RASILE	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	0220 - ANDERSON 2	\$1,370.00	MATT GRONBACK	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	9174 - BRAKKEN 10	\$115.62	DAVID AND KAREN BRAKKEN	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0220 - ANDERSON 2	\$4,310.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0220 - ANDERSON 2	(\$4,310.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9174 - BRAKKEN 10	(\$115.62)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9174 - BRAKKEN 10	\$115.62	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
Relocation / Residential Buildings				\$4,425.62			

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790-7930-429.71-30	2/2/2021	2375	0566 - ROTH	(\$6,830.00)	566-CLK OF COURT REFUND	V01701	ND LAND PURCH-OUT OF TOWN
	2/2/2021	2376	5214 - MARTIN G JR & KARE	(\$19,000.00)	5214-CLK OF COURT REFUND	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	0220 - ANDERSON 2	\$1,330,179.82	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	0227N - CASS COUNTY JOIN	\$1,985,592.50	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	0228N - CASS COUNTY JOIN	\$1,985,592.50	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	0820 - JOHNSON 4	\$250.00	PHYLLIS JOHNSON	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	1127 - GORDON & ELIZABET	\$259,591.06	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	1173N - HARVEY BRAKKEN	\$1,011,265.00	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	1181N - EDWARD O SAMUEL	\$474,000.00	CASS COUNTY CLERK OF COUR	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	1182N - EDWARD O SAMUEL	\$474,000.00	CASS COUNTY CLERK OF COUR	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	9199N - LISA LOBERG ETAL	\$64,000.00	CASS COUNTY CLERK OF COUR	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	9383 - HOLCK	(\$480,000.00)	CLERK OF COURT	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	9628 - LAWRENCE	\$48,643.12	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	9738N - STEVE LOBERG	\$364,000.00	CASS COUNTY CLERK OF COUR	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	9739N - STEVE LOBERG	\$364,000.00	CASS COUNTY CLERK OF COUR	V01701	ND LAND PURCH-OUT OF TOWN
	2/11/2021	309723	9749N - KARN E JAMESON	\$22,000.00	CASS COUNTY CLERK OF COUR	V01701	ND LAND PURCH-OUT OF TOWN
	2/18/2021	309885	1116 - WESTERN TRUST CO	\$818,254.84	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	2/18/2021	309885	1166N - WESTERN TRUST CO	\$1,105,210.53	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	2/18/2021	309885	1168N - WESTERN TRUST CO	\$1,105,210.53	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	2/18/2021	309885	1171N - WESTERN TRUST CO	\$1,105,210.54	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	2/18/2021	309885	1175N - WESTERN TRUST CO	\$1,105,210.54	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	2/18/2021	309885	1177N - WESTERN TRUST CO	\$1,105,210.54	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	2/18/2021	309885	1184N - GARY G HOFFMAN	\$1,105,210.54	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
	2/8/2021	JB142000	0566 - ROTH	\$6,830.00	0566 CLERK OF COURT REFND	V01701	ND LAND PURCH-OUT OF TOWN
	2/8/2021	JB142000	5214 - MARTIN G JR & KARE	\$19,000.00	5214 CLERK OF COURT REFND	V01701	ND LAND PURCH-OUT OF TOWN
	2/24/2021	JB142000	0820 - JOHNSON 4	\$500.00	CASS COUNTY JOINT WATER R	V01701	ND LAND PURCH-OUT OF TOWN
	2/24/2021	JB142000	0820 - JOHNSON 4	(\$750.00)	RCLS OIN 820 DEPOSIT RTRN	V01701	ND LAND PURCH-OUT OF TOWN
	2/24/2021	JB142000	1127 - GORDON & ELIZABET	\$669.35	CASS COUNTY JOINT WATER R	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0220 - ANDERSON 2	\$1,330,179.82	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0220 - ANDERSON 2	(\$1,330,179.82)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0227N - CASS COUNTY JOIN	\$1,985,592.50	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN

Summary Of Expenses
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Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7930-429.71-30	2/19/2021	MZ20201	0227N - CASS COUNTY JOIN	(\$1,985,592.50)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0228N - CASS COUNTY JOIN	(\$1,985,592.50)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0228N - CASS COUNTY JOIN	\$1,985,592.50	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0820 - JOHNSON 4	(\$250.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	0820 - JOHNSON 4	\$250.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	1127 - GORDON & ELIZABET	\$259,591.06	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	1127 - GORDON & ELIZABET	(\$259,591.06)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	1173N - HARVEY BRAKKEN	\$1,011,265.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	1173N - HARVEY BRAKKEN	(\$1,011,265.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	1181N - EDWARD O SAMUEL	(\$474,000.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	1181N - EDWARD O SAMUEL	\$474,000.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	1182N - EDWARD O SAMUEL	\$474,000.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	1182N - EDWARD O SAMUEL	(\$474,000.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9199N - LISA LOBERG ETAL	(\$64,000.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9199N - LISA LOBERG ETAL	\$64,000.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9383 - HOLCK	(\$480,000.00)	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9383 - HOLCK	\$480,000.00	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9628 - LAWRENCE	\$48,643.12	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9628 - LAWRENCE	(\$48,643.12)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9738N - STEVE LOBERG	(\$364,000.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9738N - STEVE LOBERG	\$364,000.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9739N - STEVE LOBERG	\$364,000.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9739N - STEVE LOBERG	(\$364,000.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9749N - KARN E JAMESON	\$22,000.00	12.31.20 AP-2.11.21 CK	V01701	ND LAND PURCH-OUT OF TOWN
	2/19/2021	MZ20201	9749N - KARN E JAMESON	(\$22,000.00)	REV 12.31.20 AP-2.11.21CK	V01701	ND LAND PURCH-OUT OF TOWN
Land / Land Purchases				\$15,353,051.41			
790-7930-429.73-20	2/18/2021	309958	Schmidt and Sons Inc.	\$35,185.00	PROPERTY STRUCT MITIGATIO	V03803	WP50C-STRUCTURE REMOVALS
Infrastructure / Site Improvements				\$35,185.00			

Summary Of Expenses
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Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7940-429.33-25	2/11/2021	309723	OHNSTAD TWICHELL PC	\$1,968.00	OHNSTAD TWICHELL, P.C.	V01205	CCJWRD-Sheyenne Rvr Mitgn
	2/19/2021	MZ20201	OHNSTAD TWICHELL PC	\$1,968.00	12.31.20 AP-2.11.21 CK	V01205	CCJWRD-Sheyenne Rvr Mitgn
	2/19/2021	MZ20201	OHNSTAD TWICHELL PC	(\$1,968.00)	REV 12.31.20 AP-2.11.21CK	V01205	CCJWRD-Sheyenne Rvr Mitgn
				\$1,968.00			
790-7950-429.33-25	2/11/2021	309723	OHNSTAD TWICHELL PC	\$3,656.89	OHNSTAD TWICHELL, P.C.	V01206	CCJWRD-SE Cass Relocation
	2/19/2021	MZ20201	OHNSTAD TWICHELL PC	\$3,656.89	12.31.20 AP-2.11.21 CK	V01206	CCJWRD-SE Cass Relocation
	2/19/2021	MZ20201	OHNSTAD TWICHELL PC	(\$3,656.89)	REV 12.31.20 AP-2.11.21CK	V01206	CCJWRD-SE Cass Relocation
Other Services / Legal Services				\$3,656.89			
790-7950-429.38-99	2/4/2021	309592	Pleasant Township	\$2,962.00	MISC EXPENSES	V04201	DUST/TRAFFIC CONTRL-INLET
Other Services / Other Services				\$2,962.00			
790-7950-429.73-66	3/4/2021	310156	Hoffman & McNamara Co.	\$8,154.88	LANDSCAPE & PLANTING	V02823	LANDSCAPING & PLANTINGS
Infrastructure / Landscaping				\$8,154.88			
790-7950-429.73-70	2/11/2021	309713	Cass County Electric Cooperativ	\$37,000.61	WILD RICE RIVER STRUCTURE	V04702	WILD RICE RIVER RELOCATN
	2/19/2021	MZ20201	Cass County Electric Cooperativ	\$37,000.61	12.31.20 AP-2.11.21 CK	V04702	WILD RICE RIVER RELOCATN
	2/19/2021	MZ20201	Cass County Electric Cooperativ	(\$37,000.61)	REV 12.31.20 AP-2.11.21CK	V04702	WILD RICE RIVER RELOCATN
	2/19/2021	MZ20201	Cass County Electric Cooperativ	\$37,397.72	12.31.20 AP-2.11.21 CK	V04703	I-29 ROAD RAISE RELOCATN
	2/19/2021	MZ20201	Cass County Electric Cooperativ	(\$37,397.72)	REV 12.31.20 AP-2.11.21CK	V04703	I-29 ROAD RAISE RELOCATN
Infrastructure / Utilities				\$37,000.61			
790-7952-429.33-05	2/18/2021	309912	HOUSTON-MOORE GROUP L	\$7,559.92	SERVICES DURING CONST	V01623	CONSTRUCTN/BID SVCS WP43
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	(\$17,901.16)	R/V 12.31.20 AP-2.18.21CK	V01623	CONSTRUCTN/BID SVCS WP43
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	\$17,901.16	12.31.20 AP-2.18.21 CK	V01623	CONSTRUCTN/BID SVCS WP43
Other Services / Engineering Services				\$7,559.92			
790-7952-429.73-20	2/11/2021	309713	Cass County Electric Cooperativ	\$37,397.72	I-29 GRADE RAISE PROJECT	V04703	I-29 ROAD RAISE RELOCATN
Infrastructure / Site Improvements				\$37,397.72			
790-7955-429.33-05	2/18/2021	309912	HOUSTON-MOORE GROUP L	\$11,923.23	SERVICES DURING CONST	V02806	CONSTRUCTION SVCS WP42
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	\$11,923.23	12.31.20 AP-2.18.21 CK	V02806	CONSTRUCTION SVCS WP42
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	(\$11,923.23)	R/V 12.31.20 AP-2.18.21CK	V02806	CONSTRUCTION SVCS WP42
Other Services / Engineering Services				\$11,923.23			

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Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description	Project Number	Project Description
790-7990-429.33-05	2/18/2021	309912	HOUSTON-MOORE GROUP L	\$102,301.20	PROCUREMENT SUPPORT	V01621	P3 RFP PROCUREMENT SUPPR
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	\$102,301.20	12.31.20 AP-2.18.21 CK	V01621	P3 RFP PROCUREMENT SUPPR
	3/5/2021	MZ20201	HOUSTON-MOORE GROUP L	(\$102,301.20)	R/V 12.31.20 AP-2.18.21CK	V01621	P3 RFP PROCUREMENT SUPPR
Other Services / Engineering Services				\$102,301.20			
790-7990-429.33-25	3/5/2021	847	OHNSTAD TWICHELL PC	\$63,187.08	OHNSTAD TWICHELL PC	V00102	General & Admin. WIK
	2/23/2021	MZ20201	ASHURST LLP	\$78,090.30	12.31.20 AP-2.4.21 CK	V03001	P3 LEGAL COUNSEL-ASHURST
	2/23/2021	MZ20201	ASHURST LLP	(\$78,090.30)	REV 12.31.20 AP-2.4.21 CK	V03001	P3 LEGAL COUNSEL-ASHURST
Other Services / Legal Services				\$63,187.08			
790-7990-429.34-55	3/4/2021	310102	AON RISK SERVICES CENTR	\$6,468.75	RISK ADVISORY SERVICES	V03201	PRE-AWARD P3 RISK ADVISOR
	2/23/2021	MZ20201	Ernst & Young	\$146,587.90	12.31.20 AP-2.4.21 CK	V03301	PPP FINANCL ADVISORY SVCS
	2/23/2021	MZ20201	Ernst & Young	(\$146,587.90)	REV 12.31.20 AP-2.4.21 CK	V03301	PPP FINANCL ADVISORY SVCS
Technical Services / Financial Advisor				\$6,468.75			
790-7990-520.80-20	2/18/2021	309884	Wells Fargo	\$45,515.55	DIVERSION INTEREST	V02906	\$100M 2017 CASS WF ADVANC
Debt Service / Interest On Bonds				\$45,515.55			

Total Amount Invoiced this period:	\$18,045,695.98	
	\$5,000.00	Less Paid Retainage
	\$18,040,695.98	Total Less Paid Retainage

Cummulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
LAND PURCHASE	\$227,569,726.06	\$227,569,726.06	\$0.00	Land Purchase
CH2M HILL ENGINEERS INC	\$123,708,839.12	\$75,249,624.52	\$48,459,214.60	Project & Construction Management
HOUSTON-MOORE GROUP LLC	\$60,934,726.16	\$57,219,179.76	\$3,715,546.40	Engineering Services
INDUSTRIAL BUILDERS INC	\$57,978,901.01	\$55,184,144.72	\$2,794,756.29	2nd St N Pump Station Project and 2nd St Floodwall, South of Pu
ARMY CORP OF ENGINEERS	\$53,159,000.00	\$53,159,000.00	\$0.00	Local Share
NORTH DAKOTA PUBLIC FINANCE AUTHORIT	\$18,892,630.00	\$18,892,630.00	\$0.00	Debt Service
INDUSTRIAL CONTRACT SERVICES INC	\$18,134,751.70	\$18,022,692.67	\$112,059.03	4th St Pump Station and 2nd Street Floodwall
ADVANCED ENGINEERING INC	\$16,911,005.56	\$4,259,602.27	\$12,651,403.29	Public Outreach
MEYER CONTRACTING	\$12,591,304.67	\$12,591,304.67	\$0.00	WP-43CD and Gatewell - PVD & Surcharge Installation
OHNSTAD TWICHELL PC	\$11,404,142.43	\$11,404,142.43	\$0.00	Legal Services
WELLS FARGO	\$11,382,684.36	\$11,382,684.36	\$0.00	Debt Service
DAKOTA UNDERGROUND	\$11,141,625.69	\$11,141,625.69	\$0.00	Utility Relocation
DORSEY & WHITNEY LLP	\$11,089,265.03	\$11,089,265.03	\$0.00	Legal Services
LANDSCAPES UNLIMITED	\$11,007,612.78	\$11,007,612.78	\$0.00	Golf Course Construction - Oxbow Country Club
OKEEFE, OBRIAN, LYSON & FOSS LTD	\$8,193,422.88	\$8,193,422.88	\$0.00	FLDBUY - COF Flood Home Buyouts
ASHURST LLP	\$7,795,542.81	\$5,745,780.61	\$2,049,762.20	PPP Legal Counsel
ERNST & YOUNG	\$5,377,000.00	\$4,442,829.10	\$934,170.90	P3 Financial Advisory Services
MOORE ENGINEERING INC	\$4,984,223.10	\$4,903,146.24	\$81,076.86	Engineering Services
RILEY BROS	\$3,656,841.67	\$3,656,841.67	\$0.00	Construction - OHB Ring Levee & WP-28A
CENTURYLINK COMMUNICATIONS	\$3,425,723.78	\$3,425,723.78	\$0.00	Utility Relocation
PROSOURCE TECHNOLOGIES, INC	\$2,936,594.74	\$2,165,061.82	\$771,532.92	Land Acquisition Services
MINNESOTA DNR	\$2,633,755.60	\$2,614,681.40	\$19,074.20	EIS Scoping and Permit Application
KEY CONTRACTING INC	\$2,621,781.97	\$2,621,781.97	\$0.00	FM1413 - Oakcreek and Copperfield Court Levee
SRF CONSULTING GROUP	\$2,582,530.30	\$668,077.87	\$1,914,452.43	Engineering Services
CITY OF FARGO	\$2,568,666.87	\$2,568,666.87	\$0.00	Utility Relocation, Accounting Svcs, Interest on Deficit Funds
OXBOW, CITY OF	\$2,383,317.16	\$2,383,317.16	\$0.00	OXBOW MOU - LAND ADVANCE
LANDWEHR CONSTRUCTION INC	\$2,304,622.16	\$2,304,622.16	\$0.00	In-Town and WP-43 Demolition Contracts

Cummulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
ACONEX (NORTH AMERICA) INC	\$2,098,721.65	\$871,995.20	\$1,226,726.45	Electronic Data Mgmt and Record Storage System
HOUGH INC	\$2,088,832.83	\$2,088,832.83	\$0.00	Construction WP-42F.2 and Oxbow River Intake & Pumping Syst
URS CORPORATION	\$1,805,670.90	\$1,805,670.90	\$0.00	Cultural Resources Investigations
HOUSTON ENGINEERING INC	\$1,644,418.64	\$1,644,418.64	\$0.00	Engineering Services
REINER CONTRACTING INC	\$1,599,646.21	\$1,599,646.21	\$0.00	El Zagal Flood Risk Management
CROWN APPRAISALS	\$1,423,800.00	\$724,650.00	\$699,150.00	Flowage Easements Valuation and Appraisal Services
ULTEIG ENGINEERS INC	\$1,269,157.63	\$1,080,521.66	\$188,635.97	Land Acquisition Services
HDR ENGINEERING, INC.	\$1,230,876.18	\$614,678.16	\$616,198.02	Engineering Services
US BANK	\$1,205,546.13	\$1,205,546.13	\$0.00	Loan Advance Debt Service Payments
CASS COUNTY TREASURER	\$1,080,303.98	\$1,080,303.98	\$0.00	Property Taxes
CONSOLIDATED COMMUNICATIONS	\$1,063,096.11	\$1,063,096.11	\$0.00	Utility Relocation
KPH, INC.	\$1,041,063.86	\$866,918.00	\$174,145.86	WP-43D5 Construction
SCHMIDT AND SONS INC.	\$1,014,499.86	\$763,119.86	\$251,380.00	Residential Demolition in Oxbow
CLERK OF DISTRICT COURT	\$939,044.32	\$939,044.32	\$0.00	FLDBUY - COF Flood Home Buyouts
TERRACON CONSULTING ENGINEERS	\$912,797.49	\$887,718.41	\$25,079.08	Materials Testing
XCEL ENERGY-FARGO	\$907,085.77	\$907,085.77	\$0.00	Utility Relocation
PROGRAM ADVISOR SERVICES, LLC	\$825,000.00	\$647,612.29	\$177,387.71	Program Consulting Services
CASS COUNTY GOVERNMENT	\$793,048.56	\$793,048.56	\$0.00	Gravel on County Rd 17 Bypass
CASS COUNTY ELECTRIC COOPERATIVE	\$773,868.48	\$767,668.48	\$6,200.00	Electrical Services
BRAUN INTERTEC CORP	\$694,120.02	\$646,934.63	\$47,185.39	Materials Testing
ERIK R JOHNSON & ASSOCIATES	\$646,459.73	\$646,459.73	\$0.00	Legal Services
METROPOLITAN COUNCIL OF GOVERNMENTS	\$637,390.01	\$637,390.01	\$0.00	Digital Aerial Photography
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
RED RIVER BASIN COMMISSION	\$501,000.00	\$501,000.00	\$0.00	Retention Projects - Engineering Services
HOFFMAN & MCNAMARA CO.	\$489,029.39	\$483,034.67	\$5,994.72	General Landscaping and Planting (WP-42G)
COMPASS LAND CONSULTANTS, INC	\$488,547.50	\$165,457.50	\$323,090.00	Property Appraisal Services

Cummulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
MIDCONTINENT COMMUNICATIONS	\$462,379.87	\$462,379.87	\$0.00	Utility Relocation
NUSTAR PIPELINE OPERATING PARTNERSHIP	\$459,693.17	\$442,844.05	\$16,849.12	Utility Relocation
ROBERT TRENT JONES	\$440,431.73	\$440,431.73	\$0.00	Oxbow MOU - Golf Course Consulting Agreement
BEAVER CREEK ARCHAEOLOGY	\$421,200.20	\$270,919.28	\$150,280.92	Engineering Services
MBA	\$380,636.36	\$380,636.36	\$0.00	Golf course and pump house - Oxbow Country Club
CASS RURAL WATER	\$379,760.15	\$377,753.65	\$2,006.50	Utilities and Utility Relocation WP43CD
NDSU BUSINESS OFFICE-BOX 6050	\$356,145.00	\$356,145.00	\$0.00	Ag Risk Study Services
MVM CONTRACTING	\$339,448.03	\$339,448.03	\$0.00	Fiber Relocation
AON RISK SERVICES CENTRAL INC	\$330,000.00	\$225,632.25	\$104,367.75	Risk Advisory Services P3 Pre-Award
DFI BRIDGE CORPORATION	\$316,211.21	\$316,211.21	\$0.00	Bridge Construction - Oxbow Country Club
PATCHIN MESSNER VALUATION COUNSELORS	\$314,037.50	\$241,975.00	\$72,062.50	Property Appraisal Services
FEDERAL STEEL SUPPLY, INC.	\$307,378.00	\$307,378.00	\$0.00	OHB - 42 inch steel pipe
AECOM	\$304,626.00	\$164,806.85	\$139,819.15	Cultural Resources Investigations
DIRT DYNAMICS	\$301,332.37	\$301,332.37	\$0.00	HD18A1 - Oakcreek, Copperfield & Univerisy - Demo
MAGELLAN PIPELINE	\$285,900.00	\$0.00	\$285,900.00	Utility Relocation
GARY KILLEBREW	\$279,500.00	\$279,500.00	\$0.00	Project Manager Services - Oxbow Country Club
TURMAN & LANG	\$276,579.55	\$276,579.55	\$0.00	Legal Services
702 COMMUNICATIONS	\$266,892.07	\$266,892.07	\$0.00	Utility Relocation
SPRINT COMMUNICATIONS COMPANY L.P.	\$256,409.37	\$256,409.37	\$0.00	Fiber Optic Relocation for WP-43CD
SWANSON HEALTH PRODUCTS, INC.	\$252,949.00	\$252,949.00	\$0.00	FM1471 - Storm Lift Stations #55 and #56 - Drain 27
WATTS AND ASSOCIATES, INC.	\$250,000.00	\$110,018.17	\$139,981.83	Crop insurance product development services
PR FOR GOOD, INC	\$247,000.00	\$30,767.50	\$216,232.50	Communications Support Services
FREDRIKSON & BYRON, PA	\$241,881.28	\$241,881.28	\$0.00	Lobbying Services
LARKIN HOFFMAN ATTORNEYS	\$238,602.49	\$238,602.49	\$0.00	Legal Services
NORTHERN IMPROVEMENT COMPANY	\$235,531.95	\$235,531.95	\$0.00	CR-17 asphalt paving
GRAY PANNELL & WOODWARD LLP	\$231,300.68	\$231,300.68	\$0.00	Legal Services
BUFFALO-RED RIVER WATERSHED DISTRICT	\$221,568.00	\$221,568.00	\$0.00	Retention Projects - Engineering Services

Cummulative Vendor Payments Since Inception (Paid Only)

Vendor Name	Approved Contract/Invoiced Amount	Liquidated	Outstanding Encumbrance	Purpose
FORUM COMMUNICATIONS	\$215,213.28	\$215,213.28	\$0.00	Advertising Services
INTEGRA REALTY RESOURCES	\$201,062.50	\$166,750.00	\$34,312.50	Property Appraisal 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
SPRINGSTED INCORPORATED	\$178,010.15	\$178,010.15	\$0.00	Financial Advisor
KADRMAS LEE & JACKSON, INC.	\$175,016.00	\$175,016.00	\$0.00	Engineering Services
MUNICIPAL AIRPORT AUTHORITY	\$166,981.00	\$166,981.00	\$0.00	Easement for Airport
SOIL BORINGS	\$165,982.50	\$165,982.50	\$0.00	Soil Borings
SERKLAND LAW FIRM	\$161,064.37	\$161,064.37	\$0.00	Legal services
LINNCO, INC.	\$155,600.51	\$155,600.51	\$0.00	House Demo and Removal
UNITED STATES GEOLOGICAL SURVEY	\$151,520.00	\$151,520.00	\$0.00	Water Level Discharge Collection & Stage Gage Installation
S&S LANDSCAPING COMPANY INC	\$150,528.50	\$31,123.00	\$119,405.50	Seeding, Grading & Repairs WP-28A & WP-43A
DAKOTA CARRIER NETWORK	\$147,523.86	\$147,523.86	\$0.00	Utility Relocation
PFM PUBLIC FINANCIAL MANAGEMENT	\$146,460.00	\$146,460.00	\$0.00	Financial Advisor
DAILY NEWS	\$141,989.76	\$141,989.76	\$0.00	Advertising Services
CHAPMAN AND CUTLER	\$140,000.00	\$140,000.00	\$0.00	Legal Services
MOODYS INVESTORS SERVICE, INC.	\$127,500.00	\$127,500.00	\$0.00	WIFIA loan fees
SENTRY SECURITY, INC.	\$121,212.85	\$121,212.85	\$0.00	Security Services
DAWSON INSURANCE AGENCY	\$118,529.75	\$118,529.75	\$0.00	Property Insurance - Home Buyouts
ENVENTIS	\$115,685.62	\$115,685.62	\$0.00	Utility Relocation
OXBOW COUNTRY CLUB	\$110,391.68	\$110,391.68	\$0.00	Golf Course - Oxbow
GE BOCK REAL ESTATE, LLC	\$107,390.00	\$56,890.00	\$50,500.00	Property Appraisal Services
UNITED STATES ENVIRONMENTAL PROTECTI	\$100,000.00	\$100,000.00	\$0.00	WIFIA LOAN APPLCATION FEE
104 Vendors	Report Totals:	\$737,612,049.77	\$659,036,109.18	\$78,575,940.59

Data Through Date: Friday, March 26, 2021

Financial Project Land Budget Summary

Financial Project	OIN Status Counts			Remaining/ Open (D)	Land Budget 'PA' Tasks (E)	Cost To Date (F)	Remaining Budget (G)
	Parcels (A)	Acquired (B)	Cancelled (C)				
ITL In-Town Flood Protection	66	49	3	14	\$38,003,010	\$37,850,061	\$152,949
WP42 - Red River Levees	66	49	3	14			
LAND Land Acquisition & Mitigation	2,761	773	870	1,118	\$376,882,829	\$212,318,212	\$164,564,617
BIOGEO sites sprinkled outside the project bound	425	5	136	284			
LAP01 - Phase 1 Land Acquisition	280	181	16	83			
LAP02 - Phase 2 Land Acquisition	208	146	56	6			
LAP03 - Phase 3 Land Acquisition	300	106	124	70			
SEAILAND - SEAI Land	242	132	17	93			
SWLERRD - Land Easements ROW Relocation a	107	0	105	2			
WP38 - Upstream Staging and Storage Area	934	87	271	576			
WP43 - OHB Levees	265	116	145	4			
MAI Other Mitigation Projects	16	0	7	9	\$0	\$0	\$0
WP36 - Wild Rice River Dam Mitigation	0	0	0	0			
WP40 - Drayton Dam Mitigation	16	0	7	9			
	2,843	822	880	1,141	\$414,885,839	\$250,168,273	\$164,717,566

FM Metropolitan Area Flood Risk Management Project
Lands Expense - Life To Date
As of March 31, 2021

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		7,454,394.93	-	516,910.36	-	7,971,305.29
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		3,720,916.92	-	-	-	3,720,916.92
Easements - Piezometer		1,500.00	-	-	-	1,500.00
Easements - Minesota		1,542,370.79	-	-	-	1,542,370.79
Farmland Purchases		28,278,115.34	-	3,175.00	-	28,286,290.34
Land Purchases		79,343,203.47	-	1,472,471.54	(730,148.14)	80,112,526.87
Auditor's Lot Three (3) of the Southwest Quarter (SW¼) of Section Thirty-four (34), Township One Hundred Thirty-eight (138) North, Range Forty-nine (49) West	2/11/2021	259,591.06	-	-	-	
Right of way Easment for part of the Northeast Quarter (NE1/4) of Section 13, Township 138 North, Range 50 West of the 5th Principal Meridian,	2/11/2021	1,011,265.00	-	-	-	

FM Metropolitan Area Flood Risk Management Project
Lands Expense - Life To Date
As of March 31, 2021

Property Address	Purchase Date	Purchase Price	Earnest Deposit	Relocation Assistance	Sale Proceeds	Total
Part of the North Half of the North Half (N1/2N1/2) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian AND That part of the North Half of the Northeast Quarter (N1/2NE1/4) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian	2/11/2021	948,000.00	-	-	-	
Right of way easement that part of the Southeast Quarter (SE1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian	2/11/2021	64,000.00	-	-	-	
Lot 57 Oxbow Country Club Estates	2/11/2021	48,643.12	-	-	-	
That part of the Southeast Quarter (SE1/4) of Section 14, Township 139 North Range 50 West of the 5th Principal Meridian AND That part of the Southwest Quarter (SW1/4) of Section 14, Township 139 North Range 50 West of the 5th Principal Meridian	2/11/2021	1,507,100.00	-	-	-	
That part of Auditor's Lot 5 of the Southeast Quarter (SE1/4) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian	2/11/2021	22,000.00	-	-	-	
That part of the Southeast Quarter (SE1/4) of Section 35, Township 142 North, Range 49 West of the 5th Principal Meridian AND that part of the Southeast Quarter (SE1/4) of Section 35, Township 142 North, Range 49 West of the 5th Principal Meridian AND that part of the Southeast Quarter of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian	3/4/2021	870,684.48	-	-	-	
		326,831,928.70	-	56,036,265.52	(2,214,612.02)	227,688,177.99
				Property Management Expense		2,969,462.68
					Grand Total	<u>\$ 209,495,929.68</u>

**FM Metropolitan Area Flood Risk Management Project
In-Town Levee Work
as of March 31, 2021**

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	\$ 909,149.49	\$ 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
		WP-42A.1/A.3 - 4th St Pump Station & Gatewell and 2nd St		
V02805	ICS	Floodwall S	\$ 17,612,237.19	\$ 17,500,178.16
V02806	HMG	WP42 - Services During Construction	\$ 6,661,323.82	\$ 6,419,404.62
V02807	CCJWRD	In-Town Levee Work	\$ 5,886,140.36	\$ 5,886,140.36
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	\$ 111,761.97	\$ 111,761.97
V02823	Hoffman & McNamara	WP-42G General Landscaping and Planting	\$ 489,029.39	\$ 483,034.67
V02824	City of Fargo	COF - In-Town Flood Protection Debt Payments	\$ 18,892,630.00	\$ 18,892,630.00
V01703	Various	In-Town Property Purchases	\$ 39,409,623.22	\$ 38,192,183.71
V02825	Industrial Builders	WP-42E - 2nd Street South and Main Avenue Flood Mitigation	\$ 8,668,474.07	\$ 8,610,308.72
V02826	City of Fargo	In-Town Levee Maintenance	\$ 8,823.82	\$ 8,823.82
V054XX	City of Fargo	In-Town Complementary Work - Reimbursements	\$ 22,187,307.87	\$ 22,187,307.87
			<u>\$ 172,400,834.36</u>	<u>\$ 170,740,177.47</u>

Fargo-Moorhead Metropolitan Area Flood Risk Management Project
State Water Commission Funds Reimbursement Worksheet
Fargo Flood Control Project Costs - HB1020 & SB2020

Time Period for This Request: February 1, 2021 - February 28, 2021

Drawdown Request No: 114	
Requested Amount:	\$ 9,862,646.70
Total Funds Expended This Period:	19,198,489.98
Total Funds Requested at 100% Match	526,803.42
Remaining Funds Requested at 50% Match	18,671,686.56
SB 2020 Matching Requirements	50%
Total Funds Requested at 50% Match	9,335,843.28
Total Funds Requested:	9,862,646.70

STATE AID SUMMARY:

Summary of State Funds Appropriated		
Appropriations from 2009 Legislative Session	\$	45,000,000
Appropriations from 2011 Legislative Session		30,000,000
Appropriations from 2013 Legislative Session		100,000,000
Appropriations from 2015 Legislative Session		69,000,000
Appropriations from 2015 Legislative Session - Interior Flood Control		60,000,000
Appropriations from 2017 Legislative Session		66,500,000
Appropriations from 2019 Legislative Session		44,000,000
Anticipated appropriations to be deferred from 2019 Legislative Session	22,500,000	
Anticipated appropriations to be funded in 2021 Legislative Session	66,500,000	
Anticipated appropriations to be funded in 2023 Legislative Session	66,500,000	
Anticipated appropriations to be funded in 2025 Legislative Session	66,500,000	
Anticipated appropriations to be funded in 2027 Legislative Session	66,500,000	
Anticipated appropriations to be funded in 2029 Legislative Session	47,000,000	
Total State Funds	335,500,000	414,500,000
Less: Payment #1 through #35 - City of Fargo		(55,510,209.00)
Less: Payment #1 - Cass County		(136,039.36)
Less: Payment #1 through #7 - Interior Flood Control		(60,000,000.00)
Less: Payment #1 through #28 - FM Diversion Authority		(38,049,107.00)
Less: Payment #29 through #100 - FM Metro Area Flood Risk Management Project		(124,750,848.66)
Less: Payment #101 - FM Metro Area Flood Risk Management Project		(1,432,479.03)
Less: Payment #102 - FM Metro Area Flood Risk Management Project		(5,519,481.17)
Less: Payment #103 - FM Metro Area Flood Risk Management Project		(228,188.72)
Less: Payment #104 - FM Metro Area Flood Risk Management Project		(1,650,055.35)
Less: Payment #105 - FM Metro Area Flood Risk Management Project		(15,060.94)
Less: Payment #106 - FM Metro Area Flood Risk Management Project		(1,159,089.95)
Less: Payment #107 - FM Metro Area Flood Risk Management Project		(544,675.95)
Less: Payment #108 - FM Metro Area Flood Risk Management Project		(824,088.63)
Less: Payment #109 - FM Metro Area Flood Risk Management Project		(36,169,631.64)
Less: Payment #110 - FM Metro Area Flood Risk Management Project		(8,334,015.02)
Less: Payment #111 - FM Metro Area Flood Risk Management Project		(1,070,511.23)
Less: Payment #112 - FM Metro Area Flood Risk Management Project		(12,927,737.07)
Less: Payment #113 - FM Metro Area Flood Risk Management Project		(1,087,207.37)
Less: Payment #114 - FM Metro Area Flood Risk Management Project		(9,862,646.70)
Total Funds Reimbursed		(359,271,072.79)
Total State Fund Balances Remaining		55,228,927.21

LOCAL MATCHING FUNDS SUMMARY:

Matching Funds Expended To Date - FM Metro Area Flood Risk Management Project	\$	101,279,534
Less: Match Used on Payment #1 through #35 - City of Fargo		(41,506,620)
Less: Match used on Payment #1 - Cass County		(136,039)
Less: Match Used on Payment #1-28 - FM Diversion Authority		(11,052,710)
Less: Match Used on Payment #29 - 100 - FM Metro Area Flood Risk Management Project		(37,286,002)
Less: Match Used on Payment #101 - FM Diversion Authority		(447,649)
Less: Match Used on Payment #102 - FM Diversion Authority		(1,479,398)
Less: Match Used on Payment #108 - FM Diversion Authority		(488,259)
Less: Match Used on Payment #110 - FM Diversion Authority		(5,554,438)
Less: Match Used on Payment #112 - FM Diversion Authority		(2,801,614)
Less: Match Used on Payment #114 - FM Diversion Authority		(526,803)
Balance of Local Matching Funds Available	\$	0

Finance Committee Bills from April 2021

Vendor	Description		
Cass County Joint Water Resource District	Diversion bills	\$	1,292,645.80
Ohnstad Twichell, P.C.	Legal services rendered through March 21, 2021	\$	264,076.71
Clay County	Diversion bills - Moorhead Clay County Joint Powers Authority	\$	136,408.94
City of Fargo	2020 lift station operation/maintenance costs	\$	73,196.15
City of Fargo	Digital Ortho Aerial Photography and LiDAR Mapping (2020)	\$	69,530.67
Dorsey & Whitney	Legal services rendered through February 28, 2021	\$	21,380.26
Andrew Stone Photography	Press conference coverage April 9, 2021	\$	2,187.50
ND Water Education Foundation	ND Water Magazine advertising Dec, Jan, March & April	\$	2,000.00
Cass County	Reimburse misc expenses from Executive Director office	\$	1,561.34
Total Bills Received through April 15, 2021		\$	1,862,987.37



Cass County
Joint Water
Resource
District

April 8, 2021

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

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

Greetings:

RE: Metro Flood Diversion Project
DPAC
Oxbow-Hickson-Bakke Ring Levee project
Southeast Cass WRD Reimbursements

Enclosed please find copies of bills totaling \$1,292,645.80 regarding the above referenced projects. The breakdown is as follows:

Metro Flood Diversion	\$1,285,942.43
DPAC	210.00
Oxbow-Hickson-Bakke Ring Levee project	3,524.87
Southeast Cass Water Resource District	2,968.50

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT

Carol Harbeke Lewis
Secretary-Treasurer

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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

Enclosures

METRO FLOOD DIVERSION RIGHT OF ENTRY/LAND ACQUISITION COST SHARE INVOICES							4/8/2021
Invoice Paid	Invoice Date	Invoice No.	Project No.	Amount	Vendor	Description	
3/26/2021	3/26/2021			1,437,447.00	The Title Company	property purchase OIN 717 and 9732	
3/26/2021	3/26/2021			757,210.00	The Title Company	property purchase OIN 1191, 1193 and 1185Y	
				(37,038.00)	Clerk of District Court	return of deposit on quick take for OIN 5008	
				(1,074,200.00)	Clerk of District Court	return of deposit on quick take for OIN 717 and 9732	
				(1,275,278.13)	The Title Company	closing proceeds for Sheyenne Stables LLC	
				(1,100,000.00)	Clerk of District Court	return of deposit on quick take for OIN 220	
				(87,584.02)	The Title Company	closing proceeds for Arrow Properties LLP	
3/4/2021	2/25/2021			32.00	Cass Rural Water Users District	service for OIN 822	
3/4/2021	2/25/2021			27.00	Cass Rural Water Users District	service to 5210 124 Ave S	
3/4/2021	2/25/2021			27.00	Cass Rural Water Users District	service to 5331 Cty Rd 81	
3/17/2021	3/5/2021	174059	130007	21,371.72	Ohnstad Twichell, P.C.	Legal-Diversion ROW Acquisition	
3/17/2021	2/25/2021	173840	160007	420.00	Ohnstad Twichell, P.C.	Legal-Diversion Authority Agreement-Drains	
3/17/2021	2/25/2021	173842	160007	142.50	Ohnstad Twichell, P.C.	Legal-Diversion - Drayton Dam	
3/17/2021	2/25/2021	173841	160007	2,161.50	Ohnstad Twichell, P.C.	Legal-Channel Phase I	
3/17/2021	2/25/2021	173843	160007	2,457.00	Ohnstad Twichell, P.C.	Legal-Channel Phase II	
3/17/2021	2/25/2021	173844	160007	10,267.50	Ohnstad Twichell, P.C.	Legal-Channel Phase III	
3/17/2021	2/25/2021	173846	187007	5,516.00	Ohnstad Twichell, P.C.	Legal-Southern Embankment	
3/17/2021	2/25/2021	173849	207007	1,229.00	Ohnstad Twichell, P.C.	Legal-I-29 Grade Raise	
3/17/2021	2/25/2021	173847	197007	50.00	Ohnstad Twichell, P.C.	Legal-Right of Way - Wild Rice Structure	
3/17/2021	2/25/2021	173845	170007	16,911.00	Ohnstad Twichell, P.C.	Legal-Upstream Mitigation Area	
3/17/2021	2/25/2021	173848	197007	756.00	Ohnstad Twichell, P.C.	Legal-Western Tie Back	
3/17/2021	2/25/2021	173852	207007	8,472.00	Ohnstad Twichell, P.C.	Legal-Wetland Mitigation Drain 27	
3/18/2021	3/9/2021	1200332175		33,827.23	HDR Engineering Inc.	Property Acquisition services - TO1	
3/18/2021	2/28/2021	13783.00-10		80,632.30	SRF Consulting Group, Inc.	Project management, ROW and Relocation services	
3/18/2021	3/1/2021	10102-I		215,037.50	Compass Land Consultants Inc.	Appraisals	
3/17/2021	1/15/2021	21923-J		10,450.00	Patchin Messner Valuation Counselors	Appraisal package 15 - Drain 27	
3/12/2021	3/9/2021			2,052,873.00	Clerk of District Court	Quick take addl on OIN 5004, 5009-5012, 9054-9056	
3/17/2021	3/5/2021			31,185.00	Brennan's Garage LLC	moving cost reimbursement - Fosse OIN 1186, 1191, 1193	
3/17/2021	2/1/2021			1,477.97	CHS Dakota Plains Ag	LP Gas	
3/15/2021	3/15/2021			46,224.00	The Title Company	Property purchase OIN 5008	
3/30/2021	3/19/2021			105.00	Ohnstad Twichell, P.C.	Legal- Basin Project 2009	
3/30/2021	3/19/2021	174365	130007	11,205.50	Ohnstad Twichell, P.C.	Legal-Diversion ROW Acquisition	
3/30/2021	3/19/2021	174366	160007	1,512.00	Ohnstad Twichell, P.C.	Legal-Diversion Authority Agreement-Drains	
3/30/2021	3/19/2021	174367	160007	2,410.50	Ohnstad Twichell, P.C.	Legal-Channel Phase I	
3/30/2021	3/19/2021	174368	160007	822.50	Ohnstad Twichell, P.C.	Legal-Channel Phase II	
3/30/2021	3/19/2021	174369	160007	3,975.50	Ohnstad Twichell, P.C.	Legal-Channel Phase III	
3/30/2021	3/19/2021	174370	170007	8,287.50	Ohnstad Twichell, P.C.	Legal-Upstream Mitigation Area	
3/30/2021	3/19/2021	174371	187007	9,515.50	Ohnstad Twichell, P.C.	Legal-Diversion - Southern Embankment	
3/30/2021	3/19/2021	174372	197007	275.00	Ohnstad Twichell, P.C.	Legal-Right of Way - Wild Rice Structure	
3/30/2021	3/19/2021	174373	197007	730.50	Ohnstad Twichell, P.C.	Legal-Western Tie Back	
3/30/2021	3/19/2021	174374	207007	7,025.00	Ohnstad Twichell, P.C.	Legal-Wetland Mitigation Drain 27	
3/30/2021	3/17/2021	784922	38810.00008	908.50	Larkin Hoffman Attorneys	Legal-CCJT v Mary Adams	
3/30/2021	3/17/2021	784917	38810.00003	2,370.00	Larkin Hoffman Attorneys	Legal-CCJT v Verden Anderson/Prairie Scale Systems	
3/30/2021	3/17/2021	784921	38810.00007	197.50	Larkin Hoffman Attorneys	Legal-CCJT v Daniel Flaten	
3/30/2021	3/17/2021	784924	38810.0001	2,014.50	Larkin Hoffman Attorneys	Legal-CCJT v Derek Flaten	
3/30/2021	3/17/2021	784916	38810	3,357.50	Larkin Hoffman Attorneys	Legal-CCJT v Johnson, Monson, Tintes, Anderson	
3/30/2021	3/17/2021	784923	38810.00009	951.18	Larkin Hoffman Attorneys	Legal-CCJT v Steve and Lisa Loberg	
3/30/2021	3/17/2021	784919	38810.00005	671.50	Larkin Hoffman Attorneys	Legal-CCJT v Newman Signs/Mary Newman Trust condemnation	
3/30/2021	3/17/2021	784918	38810.00004	4,621.50	Larkin Hoffman Attorneys	Legal-CCJT v Richland/Cass Cos/App for Permit to Enter Land	
3/30/2021	3/17/2021	784920	38810.00006	592.50	Larkin Hoffman Attorneys	Legal-CCJT v Mary Ann Tintes	
3/30/2021	3/9/2021	26311	19115	555.00	Moore Engineering, Inc.	Engineering - P3 Eval Team Member Services RFP Services	
3/30/2021	3/24/2021	26375	19706	450.00	Moore Engineering, Inc.	Engineering - MOU Review	
3/30/2021	3/24/2021	26376	19706	1,170.00	Moore Engineering, Inc.	Engineering - Task 3 Team Member Meetings	
3/31/2021	3/19/2021	31923-O		3,500.00	Patchin Messner Valuation Counselors	Task Order 3, Amend 2 - Red River Control Structure	
3/31/2021	3/23/2021	21923-Q		3,500.00	Patchin Messner Valuation Counselors	Task Order 1, Amend 4 - Red River Control Structure	

Invoice Paid	Invoice Date	Invoice No.		Project No.	Amount	Vendor	Description
3/30/2021	3/15/2021	1			2,500.00	Triebwasser Joint Venture Appraisals	Bachmann appraisal
3/26/2021	3/19/2021				30,856.50	Mickeal and Bonnie Fosse	Fosse moving cost reimbursement
3/26/2021	3/19/2021				365.30	Patric & Carla Bellmore	moving cost reimbursement
3/30/2021	3/22/2021	1438495			8,368.94	Marsh & McLennan	liability insurance
3/29/2021	3/17/2021	403748			605.00	All American Plumbing and Heating	service to 4848 County Rd 81 S
3/30/2021	3/12/2021	1133018			161.28	Cass County Electric Cooperative	service to 1724 40 Av W
3/30/2021	3/12/2021	1160310			364.41	Cass County Electric Cooperative	service to 3703 124 Av S
3/30/2021	3/12/2021	1125415			113.75	Cass County Electric Cooperative	service to 4857 173 Av SE
3/30/2021	3/12/2021	1108711			116.45	Cass County Electric Cooperative	service to 5210 124 Av S
3/30/2021	3/12/2021	1125474			50.96	Cass County Electric Cooperative	service to 5331 Hwy 81 S
3/30/2021	3/12/2021	1167478			68.38	Cass County Electric Cooperative	service to 7805 112 Av S
3/30/2021	3/12/2021	1137975			54.16	Cass County Electric Cooperative	service to 7806 112 Av S
3/30/2021	3/12/2021	1136109			211.46	Cass County Electric Cooperative	service to 10615 81 ST S
3/30/2021	3/12/2021	1140519			46.11	Cass County Electric Cooperative	service to 16868 44 ST SE
3/30/2021	3/12/2021	1132169			96.99	Cass County Electric Cooperative	service to 16875 44 ST SE
3/30/2021	3/12/2021	1126250			194.97	Cass County Electric Cooperative	service to 17572 Pfiffer Dr
3/30/2021	3/19/2021				8,939.52	Lance Freier	moving cost reimbursement
				Total	1,285,942.43		
DIVERSION PROJECT ASSESSMENT DISTRICT (DPAC) INVOICES							
Invoice Paid	Invoice Date	Invoice No.		Project No.	Amount	Vendor	Description
3/30/2021	3/19/2021	174364		120007	210.00	Ohnstad Twichell, P.C.	Legal-Diversion Project, Assessment District
				Total	210.00		
OXBOW-HICKSON-BAKKE RING LEVEE INVOICES							
Invoice Paid	Invoice Date	Invoice No.	Purchase Order No.	Project No.	Amount	Vendor	Description
3/17/2021	2/25/2021	173839		140007	3,524.87	Ohnstad Twichell, P.C.	Legal-OHB property
				Total	3,524.87		
SOUTHEAST CASS WRD PARTIAL DRAIN ABANDONMENT AND SHEYENNE DIVERSION MITIGATION							
Invoice Paid	Invoice Date	Invoice No.		Project No.	Amount	Vendor	Description
3/17/2021	2/26/2021	173876		207002	2,338.50	Ohnstad Twichell, P.C.	Legal-Drain 27 - FM Diversion - Partial Abandonment
3/17/2021	2/26/2021	173678		207002	42.00	Ohnstad Twichell, P.C.	Legal - FM Diversion - Sheyenne Mitigation
3/17/2021	2/26/2021	173879		207002	588.00	Ohnstad Twichell, P.C.	Legal - FM Diversion - Drain 51 abandonment
				Total	2,968.50		
				Grand Total	1,292,645.80		

Attorneys at Law

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

15-1395

JTS Invoice # 174533

**Flood Diversion Board
Bond Counsel Work - PPP**

Date: March 31, 2021

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

PROFESSIONAL SERVICES RENDERED			
	Hours	Rate	Totals
JTS	154.5	\$340.00	\$52,530.00
CMM	1.8	\$340.00	\$612.00
ADC	116.9	\$340.00	\$39,746.00
LDA	4.9	\$340.00	\$1,666.00
RGH	90.5	\$340.00	\$30,770.00
KJB	124.4	\$340.00	\$42,296.00
TJL	116.4	\$320.00	\$37,248.00
CBC	24.6	\$290.00	\$7,134.00
LWC	8.8	\$300.00	\$2,640.00
SRH	40.2	\$290.00	\$11,658.00
ABG	3.8	\$290.00	\$1,102.00
JRS	9.1	\$280.00	\$2,548.00
KJD	40.9	\$250.00	\$10,225.00
EMM	0.9	\$290.00	\$261.00
DCP	0.9	\$290.00	\$261.00
JDR	2.8	\$185.00	\$518.00
AJR	29.7	\$185.00	\$5,494.50
CMS	11.6	\$165.00	\$1,914.00
KLS	9.4	\$165.00	\$1,551.00
SKO	33.3	\$165.00	\$5,494.50
KK	7.8	\$155.00	\$1,209.00
KMM	5.4	\$85.00	\$459.00
Total Fees:	838.6		\$257,337.00
Westlaw			\$303.71
Abstracting Fees			\$6,365.00
NDRIN			\$71.00
Total Expenses:			\$6,739.71
Grand Total			\$264,076.71

		Rates
JTS	John T. Shockley, Partner, Supervising Attorney	\$340.00
CMM	Christopher M. McShane, Partner	\$340.00
ADC	Andrew D. Cook, Partner	\$340.00
SNW	Sarah M. Wear, Partner	\$340.00
RGH	Robert G. Hoy, Partner	\$340.00
KJB	Katie J. Bertsch, Partner	\$340.00
MWM	Marshall W. McCullough, Partner	\$340.00
TJL	Tyler J. Leverington, Partner	\$320.00
CBC	Calley B. Campbell, Associate	\$290.00
LWC	Lukas W. Croaker, Associate	\$300.00
SRH	Stephen R. Hanson, Associate	\$290.00
ABG	Bo Gruchala, Associate	\$290.00
JRS	J.R. Strom, Associate	\$280.00
KJD	Kathryn J. DelZoppo, Associate	\$250.00
LRC	Leah R. Carlson, Associate	\$290.00
EMM	Elle M. Molbert, Associate	\$290.00
BTB	Brent T. Boeddeker, Associate	\$290.00
DCP	David C. Piper, Associate	\$290.00
JAM	Jenna A. McPherson, Associate	\$235.00
CAS	Carol A. Stillwell, Paralegal	\$185.00
JDR	Joshua D. Roaldson, Paralegal	\$185.00
AJR	Andrea J. Roman, Paralegal	\$185.00
CRA	Christie R. Axness, Paralegal	\$165.00
DLR	Dena L. Ranum, Legal Administrative Assistant	\$160.00
CMS	Cassie M. Smith, Paralegal	\$165.00
KLS	Karen L. Severson, Paralegal	\$165.00
SKO	Sharon K. Oliver, Paralegal	\$165.00
KK	Kiara J. Klinkhammer, Paralegal	\$155.00
KMM	Karla M. Maertens, Legal Administrative Assistant	\$85.00

OHNSTAD TWICHELL, P.C.

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

WEST FARGO, NORTH DAKOTA 58078

Page 2 of 2

PROFESSIONAL SERVICES RENDERED

15-1395 JTS Invoice # 174533 Flood Diversion Board		Bond Counsel Work - PPP
FILE NUMBER	MATTER DESCRIPTION	INVOICE - TOTAL FEES
151395-1	General Topics (Includes General Governance Questions, Notices, etc.)	\$26,098.50
151395-3	P3 Procurement	\$43,874.50
151395-4	Public Finance Issues	\$14,980.00
151395-5	Consultant Contract Review/Development	\$3,484.00
151395-7	Coordination with Member Entities	\$37.00
151395-11	Legislative Interface/Lobbying Support	\$1,122.00
151395-13	Third Party Utility MOU's	\$68,721.00
151395-14	ICS Issues	\$84,912.00
151395-17	EPA WIFIA Loan	\$8,877.00
151395-21	CCJWRD Temporary Refunding Imp Bond	\$5,231.00
TOTAL		\$257,337.00



COUNTY AUDITOR

LORI J. JOHNSON

Office Telephone: (218) 299-5006

April 15, 2021

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

RE: Metro Flood Diversion Project

Greetings:

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

Metro Flood Diversion	\$136,408.94
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We respectfully request 100% reimbursement as per the Joint Powers Agreement.

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

Sincerely,

Lori J. Johnson
Clay County Auditor

Enclosures

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

FM Diversion MCCJPA invoices

Vendor	Invoice Date		Invoice Amount	Invoice #	Date Approved	Date Paid	Notes
New Century Press	2/18/21	Public meeting notice	\$12.67	300397158	3/16/21	3/10/21	Public Meeting Notice
Red River Valley Coop	3/3/21	Svc 13338 3rd St S	\$105.21	9980001 03-03-2021	3/21/21	3/17/21	Electric - 13338 3rd St S
ProSource Technologies	2/1/21	Professional svcs	\$17,052.70	45198	3/5/21	3/17/21	Property Acquisition & Relocation Services
SRF Consulting Group	2/28/21	Prof svcs thru 2/28/21	\$14,333.44	13820.00-5	3/29/21	3/24/21	Property Acquisition & Relocation Services
Compass Land Consultants	3/12/21	Professional svcs	\$85,512.50	20102-2	3/17/21	3/31/21	Property Acquisition & Relocation Services
Dean's Bulk Service	3/11/21	Propane tank oin 1251	\$1,000.00	38636	3/21/21	3/31/21	Propane - OIN 1251
New Century Press	3/18/21	MCCJPA mtg notice	\$10.92	300403406	3/29/21	3/31/21	Public Meeting Notice
Ohnstad Twichell	3/12/21	Professional svcs	\$280.50	174123	3/29/21	4/7/21	Environmental Monitoring
Ohnstad Twichell	3/12/21	Professional svcs	\$7,598.50	174124	3/29/21	4/7/21	Upstream Mitigation
Ohnstad Twichell	3/12/21	Professional svcs	\$378.50	174125	3/29/21	4/7/21	Southern Embankment
Ohnstad Twichell	3/12/21	Professional svcs	\$132.00	174126	3/29/21	4/7/21	ROE
Ohnstad Twichell	3/12/21	Professional svcs	\$5,462.00	174127	3/29/21	4/7/21	General Legal
Wilkin County Treasurer		21 prop tax 220060700	\$30.00	5381	4/13/21	4/14/21	Property Taxes - OIN 1251
Integra Realty Resources	3/2/21	Appraisal svcs oin 8527	\$4,500.00	124-2021-0022	3/8/21	3/3/21	Property Acquisition & Relocation Services
Total reimbursement request 3/11/21			\$136,408.94				

April 13, 2021

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 for reimbursement invoices paid totaling \$73,196.15. These costs are for the 2020 operation and maintenance of various project elements detailed below:


Project Element	Address	Amount
Lift Station #18	304 4th St S	\$ 37,845.74
Lift Station #18 Generator	304 4th St S	2,725.44
Lift Station #23	200 2nd St N	18,854.37
Lift Station #23 Generator	225 4th St N	2,543.14
Lift Station #1	1 2nd St S	1,561.01
Lift Station #26	97 Woodland Dr	2,407.35
Lift Station #29	875 Oak St N	4,588.80
Lift Station #75	200 15th Ave N	1,290.28
Oxbow Lift Station	5070 County Road 81	1,380.02
Total Reimbursement Request		\$ 73,196.15

In August 2019, the Metro Flood Diversion Board approved a resolution requesting that the City of Fargo undertake maintenance of miscellaneous project elements located within the City of Fargo. This resolution authorized the City to request reimbursement of such maintenance costs.

In 2018, the Metro Flood Diversion Board approved two MOUs that detail the cost share arrangements for the generators that serve the DA's lift stations. Pursuant to these MOUs, the DA will be responsible for 35% of the operation and maintenance costs of the generator that serves Storm Lift Station #23 and Fargo City Hall and 60% of the operation and maintenance costs of the generator that serves Storm Sewer Lift #18 and City of Fargo Sanitary Sewer Lift #1.

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

Sincerely,


Kent Costin
Director of Finance, City of Fargo

2020 Maintenance Costs
City of Fargo Storm Lift Stations #1, #18, #23, #26, #29 & #75
COF Expense to be Reimbursed by DA

Electrical Expense:

<u>Location</u>	<u>Account Number</u>	<u>Statement Date</u>	<u>Service Dates</u>	<u>COF Check Number</u>	<u>COF Paid Date</u>	<u>Amount</u>
200 2nd St N	51-4341057-3	1/30/2020	11/26/2019 - 1/1/2020	Pcard	2/17/2020	1,051.17
200 2nd St N	51-4341057-3	2/28/2020	1/1/2020 - 1/30/2020	Pcard	3/7/2020	1,124.82
200 2nd St N	51-4341057-3	3/30/2020	1/30/2020 - 3/2/2020	Pcard	4/15/2020	1,056.54
200 2nd St N	51-4341057-3	5/1/2020	3/2/2020 - 4/29/2020	Pcard	5/18/2020	1,580.04
200 2nd St N	51-4341057-3	6/1/2020	4/29/2020 - 5/31/20	Pcard	6/11/2020	408.07
200 2nd St N	51-4341057-3	7/2/2020	5/31/20 - 6/29/2020	Pcard	7/17/2020	733.39
200 2nd St N	51-4341057-3	7/31/2020	6/29/2020 - 7/29/2020	Pcard	8/26/2020	420.36
200 2nd St N	51-4341057-3	9/1/2020	7/29/2020 - 8/27/2020	Pcard	9/15/2020	326.27
200 2nd St N	51-4341057-3	10/5/2020	8/27/2020 - 9/28/2020	Pcard	10/19/2020	322.76
200 2nd St N	51-4341057-3	11/2/2020	9/28/2020 - 10/27/2020	Pcard	11/18/2020	321.44
200 2nd St N	51-4341057-3	12/2/2020	10/27/2020 - 11/25/2020	Pcard	12/14/2020	605.67
200 2nd St N	51-4341057-3	1/4/2021	11/25/2020 - 12/30/2020	Pcard	2/5/2021	903.33
						8,853.86
304 4th St S	51-4341057-3	1/30/2020	12/15/2019 - 1/16/2020	Pcard	2/17/2020	1,688.56
304 4th St S	51-4341057-3	2/28/2020	1/16/2020 - 2/15/2020	Pcard	3/9/2020	2,553.15
304 4th St S	51-4341057-3	3/30/2020	2/15/2020 - 3/17/2020	Pcard	4/15/2020	2,125.54
304 4th St S	51-4341057-3	5/1/2020	3/17/2020 - 4/15/2020	Pcard	5/18/2020	2,197.33
304 4th St S	51-4341057-3	6/1/2020	4/15/2020 - 5/14/2020	Pcard	6/11/2020	2,289.23
304 4th St S	51-4341057-3	7/2/2020	5/14/2020 - 6/15/2020	Pcard	7/17/2020	2,190.66
304 4th St S	51-4341057-3	7/31/2020	6/15/2020 - 7/15/2020	Pcard	8/26/2020	1,604.54
304 4th St S	51-4341057-3	9/1/2020	7/15/2020 - 8/13/2020	Pcard	9/15/2020	1,283.87
304 4th St S	51-4341057-3	10/5/2020	8/13/2020 - 9/14/2020	Pcard	10/19/2020	1,266.01
304 4th St S	51-4341057-3	11/2/2020	9/14/2020 - 10/13/2020	Pcard	11/18/2020	719.31
304 4th St S	51-4341057-3	12/2/2020	10/13/2020 - 11/11/2020	Pcard	12/14/2020	1,292.02
304 4th St S	51-4341057-3	1/4/2021	11/11/2020 - 12/14/2020	Pcard	2/5/2021	1,575.83
						20,786.05
1 2nd St S	51-0012742603-6	1/17/2020	1/9/2020-1/16/2020	302317	2/6/2020	66.36
1 2nd St S	51-0012742603-6	2/17/2020	1/16/2020 - 2/15/2020	302754	2/27/2020	180.84
1 2nd St S	51-4341057-3	9/1/2020	7/15/2020 - 8/13/2020	Pcard	9/15/2020	211.35
1 2nd St S	51-4341057-3	10/5/2020	8/13/2020 - 9/14/2020	Pcard	10/19/2020	215.18
1 2nd St S	51-4341057-3	11/2/2020	9/14/2020 - 10/13/2020	Pcard	11/18/2020	157.42
1 2nd St S	51-4341057-3	12/2/2020	10/13/2020 - 11/11/2020	Pcard	12/14/2020	187.16
1 2nd St S	51-4341057-3	1/4/2021	11/11/2020 - 12/14/2020	Pcard	2/5/2021	199.70
						1,218.01
97 Woodland Dr	51-4341057-3	1/30/2020	12/3/2019 - 1/6/2020	Pcard	2/17/2020	91.64
97 Woodland Dr	51-4341057-3	2/28/2020	1/6/2020 - 2/4/2020	Pcard	3/9/2020	96.04
97 Woodland Dr	51-4341057-3	3/30/2020	2/4/2020 - 3/5/2020	Pcard	4/15/2020	87.74
97 Woodland Dr	51-4341057-3	5/1/2020	3/5/2020 - 4/5/2020	Pcard	5/18/2020	226.88
97 Woodland Dr	51-4341057-3	6/1/2020	4/5/2020 - 5/4/2020	Pcard	6/11/2020	216.06
97 Woodland Dr	51-4341057-3	7/2/2020	5/4/2020 - 6/3/2020	Pcard	7/17/2020	41.75
97 Woodland Dr	51-4341057-3	7/31/2020	6/3/2020 - 7/5/2020	Pcard	8/26/2020	45.08
97 Woodland Dr	51-4341057-3	9/1/2020	7/5/2020 - 8/3/2020	Pcard	9/15/2020	26.25
97 Woodland Dr	51-4341057-3	10/5/2020	8/3/2020 - 10/1/2020	Pcard	10/19/2020	91.22
97 Woodland Dr	51-4341057-3	11/2/2020	10/1/2020 - 10/31/2020	Pcard	11/18/2020	56.23
97 Woodland Dr	51-4341057-3	12/2/2020		Pcard	12/14/2020	-
97 Woodland Dr	51-4341057-3	1/4/2021	10/31/2020 - 12/2/2020	Pcard	1/14/2021	62.68
						1,041.57
875 Oak St N	51-4341057-3	1/30/2020	11/25/2019 - 12/30/2019	Pcard	2/17/2020	221.92
875 Oak St N	51-4341057-3	2/28/2020	12/30/2019 - 1/29/2020	Pcard	3/9/2020	241.96
875 Oak St N	51-4341057-3	3/30/2020	1/29/2020 - 3/1/2020	Pcard	4/15/2020	227.68
875 Oak St N	51-4341057-3	5/1/2020	3/1/2020 - 4/28/2020	Pcard	5/18/2020	511.22
875 Oak St N	51-4341057-3	6/1/2020	4/28/2020 - 5/28/2020	Pcard	6/11/2020	121.65
875 Oak St N	51-4341057-3	7/2/2020	5/28/2020 - 6/28/2020	Pcard	7/17/2020	103.97
875 Oak St N	51-4341057-3	7/31/2020	6/28/2020 - 7/28/2020	Pcard	8/26/2020	89.42
875 Oak St N	51-4341057-3	9/1/2020	7/28/2020 - 8/26/2020	Pcard	9/15/2020	369.35
875 Oak St N	51-4341057-3	10/5/2020	8/26/2020 - 9/27/2020	Pcard	10/19/2020	135.00
875 Oak St N	51-4341057-3	11/2/2020	9/27/2020 - 10/26/2020	Pcard	11/18/2020	144.37
875 Oak St N	51-4341057-3	12/2/2020	10/26/2020 - 11/24/2020	Pcard	12/14/2020	176.09
875 Oak St N	51-4341057-3	1/4/2021	11/24/2020 - 12/29/2020	Pcard	1/14/2021	215.90
						2,558.53
200 15th Ave N	51-4341057-3	1/30/2020	12/2/2019 - 1/5/2020	Pcard	2/17/2020	37.26
200 15th Ave N	51-4341057-3	2/28/2020	1/5/2020 - 2/3/2020	Pcard	3/9/2020	36.05
200 15th Ave N	51-4341057-3	3/30/2020	2/3/2020 - 3/4/2020	Pcard	4/15/2020	36.08
200 15th Ave N	51-4341057-3	5/1/2020	3/4/2020 - 4/2/2020	Pcard	5/18/2020	121.24
200 15th Ave N	51-4341057-3	6/1/2020	4/2/2020 - 5/3/2020	Pcard	6/11/2020	167.80
200 15th Ave N	51-4341057-3	7/2/2020	5/3/2020 - 6/2/2020	Pcard	7/17/2020	45.42
200 15th Ave N	51-4341057-3	7/31/2020	6/2/2020 - 7/1/2020	Pcard	8/26/2020	44.55
200 15th Ave N	51-4341057-3	9/1/2020	7/1/2020 - 8/2/2020	Pcard	9/15/2020	45.19
200 15th Ave N	51-4341057-3	10/5/2020	8/2/2020 - 9/30/2020	Pcard	10/19/2020	93.82
200 15th Ave N	51-4341057-3	11/2/2020	9/30/2020 - 10/29/2020	Pcard	11/18/2020	58.59
200 15th Ave N	51-4341057-3	12/2/2020	10/29/2020 - 12/1/2020	Pcard	12/14/2020	63.25

Electrical Expense:

<u>Location</u>	<u>Account Number</u>	<u>Statement Date</u>	<u>Service Dates</u>	<u>COF Check Number</u>	<u>COF Paid Date</u>	<u>Amount</u>
200 15th Ave N	51-4341057-3	1/4/2021		Pcard	1/14/2021	-
						<u>749.25</u>
Total Electric Expense						<u>35,207.27</u>

Insurance Expense:

<u>Location</u>	<u>Insurance Type</u>	<u>COF Check Number</u>	<u>COF Paid Date</u>	<u>Total Costs</u>	<u>DA Share</u>	<u>Amount</u>
200 2nd St N - Pump Station	SFT - 7/1/2020 - 6/30/2021	305154	7/16/2020	2,726.71	100%	2,726.71
225 4th St N - Generator	SFT - 7/1/2020 - 6/30/2021	305154	7/16/2020	197.11	35%	68.99
304 4th St S - Pump Station	SFT - 7/1/2020 - 6/30/2021	305154	7/16/2020	1,942.25	100%	1,942.25
304 4th St S - Generator	SFT - 7/1/2020 - 6/30/2021	305154	7/16/2020	298.31	60%	178.99
97 Woodland Dr - Pump Station	SFT - 7/1/2020 - 6/30/2021	305154	7/16/2020	111.22	100%	111.22
875 Oak St N - Pump Station	SFT - 7/1/2020 - 6/30/2021	305154	7/16/2020	35.70	100%	35.70
200 15th Ave N - Pump Station	SFT - 7/1/2020 - 6/30/2021	305154	7/16/2020	53.94	100%	53.94
Oxbow Lift -5070 County Rd 81	SFT - 7/1/2020 - 6/30/2021	305154	7/16/2020	824.00	100%	824.00
200 2nd St N - Pump Station	Boiler - 1/1/20-1/1/2021	302067	1/30/2020	1,217.00	100%	1,217.00
304 4th St S - Pump Station	Boiler - 1/1/20-1/1/2021	302067	1/30/2020	867.00	100%	867.00
304 4th St S - Generator	Boiler - 1/1/20-1/1/2021	302067	1/30/2020	133.00	60%	79.80
97 Woodland Dr - Pump Station	Boiler - 1/1/20-1/1/2021	302067	1/30/2020	50.00	100%	50.00
875 Oak St N - Pump Station	Boiler - 1/1/20-1/1/2021	302067	1/30/2020	16.00	100%	16.00
200 15th Ave N - Pump Station	Boiler - 1/1/20-1/1/2021	302067	1/30/2020	24.00	100%	24.00
Total Insurance Expense						<u>8,195.59</u>

Yearly Cleaning and Inspection:

<u>Location</u>	<u>LS Operation</u>	<u>Yearly Inspections/</u>	<u>Diesel Fuel</u>	<u>Repairs/</u>	<u>Total Costs</u>	<u>DA Share</u>	<u>Amount</u>
	<u>Check</u>	<u>Merger Test</u>	<u>WO</u>	<u>Fiber Install</u>			
200 2nd St N - Pump Station	2,856.76	3,115.04	-	85.00	6,056.80	100%	6,056.80
225 4th St N - Generator	-	3,653.15	-	3,415.85	7,069.00	35%	2,474.15
304 4th St S - Pump Station	2,916.49	10,854.62	-	479.33	14,250.44	100%	14,250.44
304 4th St S - Generator	-	2,147.90	1,963.19	-	4,111.09	60%	2,466.65
1 2nd St S - Pump Station	137.56	205.44	-	-	343.00	100%	343.00
97 Woodland Dr - Pump Station	716.25	488.31	-	-	1,204.56	100%	1,204.56
875 Oak St N - Pump Station	851.29	678.53	448.75	-	1,978.57	100%	1,978.57
200 15th Ave N - Pump Station	197.28	265.81	-	-	463.09	100%	463.09
Oxbow Lift -5070 County Rd 81	-	-	556.02	-	556.02	100%	556.02
					<u>29,975.77</u>		
Total Cleaning & Inspection Expense							<u>29,793.28</u>

Total Expense for Period **73,196.15**

April 12, 2021

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 requesting for reimbursement the Diversion Authority's share of payment #2 for the 2020 Digital Aerial Photography and LIDAR Mapping project. Total requested for reimbursement for this payment is \$69,530.67.

The 2020 Digital Aerial Photography and LIDAR Mapping project is now complete, so this will be the final reimbursement request for this project.

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

Sincerely,



Kent Costin
Director of Finance, City of Fargo

2020 FM Digital Imagery Cost Summary Fargo Project # MS-19-H1									
Jurisdiction	Area Sq Miles	Resolution Feet	Total Cost	Cost per Sq Mile	PL funds per Sq Mile Caped	Total PL Funds Caped	PL funds Percent Caped	Local Funds	Total
West Fargo	12.00	0.5	\$ 1,833.60	\$ 152.80	\$ -	\$ -	0.00%	\$ 1,833.60	\$ 1,833.60
Clay County	73.25	0.5	\$ 11,192.60	\$ 152.80	\$ -	\$ -	0.00%	\$ 11,192.60	\$ 11,192.60
Moorhead	42.50	0.5	\$ 6,494.00	\$ 152.80	\$ -	\$ -	0.00%	\$ 6,494.00	\$ 6,494.00
NDANG	6.00	0.25	\$ 7,682.46	\$ 1,280.41	\$ -	\$ -	0.00%	\$ 7,682.46	\$ 7,682.46
Cass	2.50	0.5	\$ 382.00	\$ 152.80	\$ -	\$ -	0.00%	\$ 382.00	\$ 382.00
Fargo	67.16	0.5	\$ 10,262.44	\$ 152.80	\$ -	\$ -	0.00%	\$ 10,262.44	\$ 10,262.44
Diversion	365.00	0.5	\$ 55,772.00	\$ 152.80	\$ -	\$ -	0.00%	\$ 55,772.00	\$ 55,772.00
Imagery Totals	568.41		\$ 93,619.10	\$ 164.70	\$ -	\$ -	0.00%	\$ 93,619.10	\$ 93,619.10
Fargo Planimetric Update	67.75		\$ 3,212.03	\$ 47.41	\$ -	\$ -	0.00%	\$ 3,212.03	\$ 3,212.03
Road edge and buildings	0.00		\$ -	\$ -			#DIV/0!	\$ -	\$ -
Clay Planimetrics	0.00		\$ -	\$ -	\$ -	\$ -	#DIV/0!	\$ -	\$ -
Road edge and buildings									
Cass Planimetrics	2.50		\$ 119.28	\$ 47.71	\$ -	\$ -	0.00%	\$ 119.28	\$ 119.28
Road edge and buildings									
Diversion Planimetrics	365.00		\$ 17,414.15	\$ 47.71	\$ -	\$ -	0.00%	\$ 17,414.15	\$ 17,414.15
Road edge and buildings									
West Fargo Planimetrics	12.00		\$ 572.52	\$ 47.71	\$ -	\$ -	0.00%	\$ 572.52	\$ 572.52
Road edge and buildings									
Moorhead Planimetric Update	42.75		\$ 2,039.60	\$ 47.71	\$ -	\$ -	0.00%	\$ 2,039.60	\$ 2,039.60
Road edge and buildings									
Fargo LiDAR	67.75		\$ 12,227.52	\$ 180.48	\$ -	\$ -	0.00%	\$ 12,227.52	\$ 12,227.52
Diversion LiDAR	365.00		\$ 65,875.20	\$ 180.48	\$ -	\$ -	0.00%	\$ 65,875.20	\$ 65,875.20
Cass LiDAR	0.00		\$ -	\$ 180.48	\$ -	\$ -	#DIV/0!	\$ -	\$ -
West Fargo LiDAR	12.00		\$ 2,165.76	\$ 180.48	\$ -	\$ -	0.00%	\$ 2,165.76	\$ 2,165.76
Moorhead LiDAR	42.75		\$ 7,715.52	\$ 180.48	\$ -	\$ -	0.00%	\$ 7,715.52	\$ 7,715.52
Fargo Impervious Surface Update	57.50		\$ 17,129.83	\$ 297.91		\$ -	0.00%	\$ 17,129.83	\$ 17,129.83
Moorhead Impervious Surface Update	23.50		\$ 7,000.89	\$ 297.91		\$ -	0.00%	\$ 7,000.89	\$ 7,000.89
West Fargo Impervious Surface Update	17.25		\$ 5,138.95	\$ 297.91		\$ -	0.00%	\$ 5,138.95	\$ 5,138.95
Grand Total			\$ 234,230.33			\$ -	0.00%	\$ 234,230.33	\$ 234,230.33
Local Cost Share Summary									
							Contract Amount	Invoice 36464-02	
Diversion							59.37%	\$ 139,061.35	\$ 69,530.67
West Fargo							4.15%	9,710.83	4,855.41
Clay County							4.78%	11,192.60	5,596.30
Moorhead							9.93%	23,250.01	11,625.00
NDANG							3.28%	7,682.46	3,841.23
Cass							0.21%	501.28	250.64
Fargo							18.29%	42,831.81	21,415.90
Total								\$ 234,230.33	\$ 117,115.15

PO 211953
RFP19188

www.quantumspatial.com

**INVOICE**

City of Fargo, ND
 Ron Gronneberg
 2254 St N
 Fargo, ND 58102
Rgronneberg@FargoND.gov

Invoice Date: 3/30/2021
Invoice No: 36464-02
Terms: Net 30 Days

Please note new remit information

Fargo Project : MS-19-H1**2020 Digital Orthophoto, Color Aerial Photography, LiDAR Contour Mapping and Planimetric Updates**

Invoice Period: 07/01/2020 -
 03/24/21

	<u>Lump Sum</u>	<u>% Comp.</u>	<u>ITD Complete</u>	<u>Prior Invoiced</u>	<u>Current Invoice</u>
<u>Professional Services:</u>	\$86,064.63	100%	\$86,064.63	\$43,032.32	\$43,032.31
Color Digital Ortho Imagery	\$7,682.48	100%	\$7,682.48	\$3,841.24	\$3,841.24
Color Digita Ortho Imagery	\$87,983.10	100%	\$87,983.10	\$43,991.55	\$43,991.55
LiDAR/Elevation/Contour Mapping	\$23,230.37	100%	\$23,230.37	\$11,615.19	\$11,615.18
Planimetric Compliation Updates	\$29,269.75	100%	\$29,269.75	\$14,634.88	\$14,634.87
Impervious Surface Polygons					
Total Authorized	\$234,230.33		\$234,230.33	\$117,115.18	
Authorized Balance Remaining	\$0.00				

Total Requested Current Invoice**\$117,115.15**

Please Remit Payment To:
 Quantum Spatial, Inc.
 P.O. Box 7410156
 Chicago, IL 60674-0156

ACH/Wire Payment To:
 Bank of America
 Routing/ABA Number: 063100277
 Account Number: 898102743383

Thank you for your business
 Questions regarding this invoice, please call 920-803-5806

Quantum Spatial, Inc., 45180 Business Court, Suite 800, Dulles, VA 20166-6706



Office of the City Attorney

City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

March 30, 2021

Kent Costin
Finance Director
City of Fargo
225 4th Street North
Fargo, ND 58102

Re: Metro Flood Diversion Project

Dear Kent:

I am enclosing a Summary Invoice dated March 16, 2021 from the Dorsey & Whitney Firm in Minneapolis for their professional services rendered through February 28, 2021 on the Metro Flood Diversion Project. If you have any questions, please feel free to contact me. Please remit payment directly to Dorsey Whitney.

Sincerely,

Erik R. Johnson

ERJ/Imw
Enclosure

cc: Bruce Grubb





received
3-24-21

MINNEAPOLIS OFFICE
612-340-2600

(Tax Identification No. 41-0223337)

STATEMENT OF ACCOUNT FOR PROFESSIONAL SERVICES

Fargo-Moorhead Flood Diversion Bd of Authority
c/o Erik R. Johnson & Associates, Ltd.
Attn: Erik Johnson
505 Broadway, Suite 206
Fargo, ND 58102

March 16, 2021
Invoice No. 3649414

Client-Matter No.: 491379-00001
Red River Diversion Project

For Legal Services Rendered Through February 28, 2021

INVOICE TOTAL

Total For Current Legal Fees	\$16,772.50
Total For Current Disbursement and Service Charges	\$4,607.76
Total For Current Invoice	\$21,380.26

* Please refer to last page for any unpaid invoices and a current statement of account.

For your convenience, please remit payment to the address below or we offer the option of remitting payment electronically by wire transfer. If you have any questions regarding this information, please contact the lawyer you are working with on this project or Dorsey's Accounts Receivable Department at 1-800-861-0760. Thank you.

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

Wire Instructions:
U.S. Bank National Association
800 Nicollet Mall
Minneapolis, MN 55402

(This account is only for Wire/ACH payments)
ABA Routing Number: 09100022
Account Number: 1047-8339-8282
Swift Code: USBKUS44IMT

Please make reference to the invoice number

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

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



Andrew Stone Photography

Andrew N Stone

BILL TO:

ITEMS

QTY UNIT PRICE TAX TOTAL

Event photography coverage

\$2,187.50



\$2,187.50

Photography coverage of the MFDA Press Conference on 4/9/21

- Pre-production planning
- 3.5 hours of event photography coverage
- Post-production editing
- \$625/hr
- High-resolution edited images to be delivered via digital gallery

Make check payable to "Andrew Stone Photography"

Subtotal

\$2,187.50

[Add discount](#)

Gift Card

Enter code

Grand Total

\$2,187.50

PAYMENT SCHEDULE

AMOUNT	WHEN	INVOICE #	STATUS
\$2,187.50	Apr 15, 2022	#150879-000064	UPCOMING

January 7, 2021

FM Area Diversion Project
Attn: Tammy Jo A Taft
4170 28th Avenue South
Fargo, ND 58104

SUBJECT: INVOICE #2142

Note: 1 of 4

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Fargo-Moorhead Diversion Authority

ND Water Magazine – FM Diversion Feature (\$500/page) (December 2020 Issue)	\$500.00
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TOTAL:	\$500.00
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Miranda Hoffert, CFO

Please send check to:	North Dakota Water Education Foundation PO Box 2254 Bismarck, ND 58502-2254
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January 22, 2021

FM Area Diversion Project
Attn: Tammy Jo Taft
4170 28th Avenue South
Fargo, ND 58104

SUBJECT: INVOICE #2143

Note: 2 of 4

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Fargo-Moorhead Diversion Authority

ND Water Magazine – FM Diversion Feature (\$500/page) (January 2021 Issue)	\$500.00
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TOTAL:	\$500.00
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Miranda Hoffert, CFO

Please send check to:	North Dakota Water Education Foundation PO Box 2254 Bismarck, ND 58502-2254
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March 10, 2021

FM Area Diversion Project
Attn: Tammy Jo Taft
4170 28th Avenue South
Fargo, ND 58104

SUBJECT: INVOICE #2144

Note: 3 of 4

=====

Fargo-Moorhead Diversion Authority

ND Water Magazine – FM Diversion Feature (\$500/page) (March 2021 Issue)	\$500.00
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TOTAL:	\$500.00
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Miranda Hoffert, CFO

Please send check to:	North Dakota Water Education Foundation PO Box 2254 Bismarck, ND 58502-2254
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PO Box 2254, Bismarck, ND 58502
701-223-8332 • Fax: 701-223-4645

April 13, 2021

FM Area Diversion Project
Attn: Tammy Jo Taft
4170 28th Avenue South
Fargo, ND 58104

SUBJECT: INVOICE #2145


Note: 4 of 4

=====

Fargo-Moorhead Diversion Authority

ND Water Magazine – FM Diversion Feature (\$500/page) (April 2021 Issue)	\$500.00
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TOTAL:	\$500.00
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Miranda Hoffert, CFO

Please send check to:

North Dakota Water Education Foundation
PO Box 2254
Bismarck, ND 58502-2254

CASS COUNTY GOVERNMENT
PO BOX 2806
211 9th STREET SOUTH
Fargo, ND 58108
(701) 241-5600

DATE: 4/05/21

TO: CITY OF FARGO
PO BOX 2083
FARGO, ND 58107

CUSTOMER NO: 198/294

TYPE: CA - FINANCE OFFICE

CHARGE	DATE	DESCRIPTION	REF-NUMBER	DUE DATE	TOTAL AMOUNT
	3/03/21	BEGINNING BALANCE			205,569.10
	3/17/21	PAYMENT			89,435.36~
	3/22/21	PAYMENT			44,201.89~
AUDIT	4/05/21	FM DIVERSION			66,961.20
		PAYROLL EXPENSES			
AUDIT	4/05/21	FM DIVERSION	Submitted for approval at Apr board mtg		1,561.34
		MISC EXPENSES			
AUDIT	4/05/21	FM DIVERSION			48,403.92
		INTEREST			

Current	30 days	60 days	90 days
188858.31			

DUE DATE: 5/05/21

PAYMENT DUE: 188,858.31
TOTAL DUE: \$188,858.31

PLEASE DETACH AND SEND THIS COPY WITH REMITTANCE

DATE: 4/05/21 DUE DATE: 5/05/21 NAME: CITY OF FARGO
CUSTOMER NO: 198/294 TYPE: CA - FINANCE OFFICE

REMIT AND MAKE CHECK PAYABLE TO:
CASS COUNTY FINANCE
211 9TH ST S
PO BOX 2806
FARGO ND 58108-2806
(701) 241-5606

TOTAL DUE: \$188,858.31



Diversion Authority Board Meeting

April 22, 2021

MOU and Agreement Actions for Consideration
John Shockley

DA Memorandum of Understanding (Action)

MOU Parties	Project	MOU Cost and Summary
MFDA, CCJWRD, and Cass County	Comprehensive – SEAI and DCAI	MOU addresses roadway vacation process and maintenance for permanent roadway closures.
MFDA and Xcel Energy	DCAI	The purpose of this Memorandum of Understanding is to ensure a coordinated, time-efficient, and cost-effective process for completing the Utility Relocation Project and coordination of the operations and maintenance activities after completion of the Utility Relocation Project. Specific work and cost will be executed separately under a work order.
MFDA and NuStar	DCAI	Relocates 10-inch refined petroleum liquids pipeline approximately two (2) miles south of the existing easement. Low Bid Cost = \$4,465,157

DA Agreements (Action)



Agreement Parties	Project	Agreement Cost and Summary
Cass Rural Water and MFDA	WP-50D.1, WP-50D.2 and WP-50E	Service line abandonments for Property Structure Mitigation projects – cap eleven (11) CRW facilities and related appurtenances and abandonment or removal of services lines. Cost = \$18,880.

UTILITY RELOCATION AGREEMENT

(PROPERTY STRUCTURE MITIGATION - PHASE 50D.1 (WP-50D.1)
PROPERTY STRUCTURE MITIGATION – PHASE 50D.2 (WP-50D.2)
PROPERTY STRUCTURE MITIGATION – PHASE 50E (WP-50E))

THIS UTILITY RELOCATION AGREEMENT (the “Agreement”) is made and entered into this ____ day of _____, 2021 (the “Effective Date”) by and between the Metro Flood Diversion Authority, a North Dakota political subdivision, whose principal address is 207 4th St. N., Suite A, Fargo, North Dakota 58102 (the “Authority”); and Cass Rural Water Users District, a North Dakota political subdivision, whose principal address is 131 Maple St., Kindred, North Dakota 58051 (“Cass Rural”) (collectively, the Authority and Cass Rural are referred to as the “Parties”).

RECITALS

WHEREAS, the Authority is in the process of planning three (3) property structure mitigation projects known as PROPERTY STRUCTURE MITIGATION – PHASE 50D.1 (WP-50D.1), PROPERTY STRUCTURE MITIGATION – PHASE 50D.2 (WP-50D.2), AND PROPERTY STRUCTURE MITIGATION – PHASE 50E (WP-50E) (collectively, referred to as the “Property Structure Mitigation Projects”); and

WHEREAS, the Property Structure Mitigation Projects consist of property demolition at various locations and includes the demolition or removal of homes, roadway, out buildings, foundations, walkways, driveways, landscaping, and other components in Cass County, North Dakota; and

WHEREAS, construction of the Property Structure Mitigation Projects will require eleven (11) Cass Rural water lines to be capped and may require the abandonment or removal of additional service lines and related appurtenances (the “Cass Rural Facilities”), to accommodate the Property Structure Mitigation Projects (the “Cass Rural Project”); and

WHEREAS, Cass Rural has agreed to construct the Cass Rural Project, subject to the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

AGREEMENT

1. **The Cass Rural Project.** Cass Rural agrees and acknowledges that it will cap eleven (11) Cass Rural Facilities and related appurtenances and, if necessary, will abandon or

remove service lines and related appurtenances to accommodate the Property Structure Mitigation Project, and to otherwise construct the Cass Rural Project.

2. **Right of Way.** If necessary and to the extent possible, Cass Rural will relocate the Cass Rural Facilities within any of Cass Rural's existing easements. In the event Cass Rural cannot relocate any portion of the Cass Rural Facilities within the confines of any of Cass Rural's existing easements, Cass Rural will secure new or additional easement rights to accommodate the relocation of the Cass Rural Facilities as necessary to accommodate the Cass Rural Project.

3. **Reimbursement.** Cass Rural's estimated cost of the Cass Rural Project, including all costs associated with engineering, construction, administration, legal, permits, and all other costs is not to exceed \$18,880; attached as **Exhibit A** is a copy of Cass Rural's cost estimate for the Cass Rural Project. Cass Rural shall submit an invoice upon completion of the work and within thirty (30) days of receipt of the invoice, the Authority will remit payment to Cass Rural. In the event the costs of the Cass Rural Project exceed \$18,880, Cass Rural will provide evidence of the additional costs to the Authority and the Authority will reimburse Cass Rural for all reasonable costs above the original cost estimate attached as **Exhibit A**. Cass Rural acknowledges any payments made by the Authority under this Agreement represent full and final payment to Cass Rural regarding the Cass Rural Project, and that Cass Rural is not entitled to any further payments under any state or federal statute, constitutional provision, rule, regulation, or other legal authority.

4. **Invoicing and Payment.**

(a) Cass Rural shall deliver invoices to the Authority within thirty (30) days of receipt of the invoice. Cass Rural must review each invoice before it is sent to the Authority to determine its accuracy and to ensure the invoice complies with the requirements in this Agreement. Each invoice will be entered into the Aconex System and processed by the Authority for the following month.

(b) Cass Rural must submit each original invoice to:

Metro Flood Diversion Authority
c/o Nathan Boerboom
NBoerboom@FargoND.gov

and

APIInvoicesFMDiv@ch2m.com

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

(i) Cass Rural's name and address;

- (ii) Cass Rural's federal employer identification number;
 - (iii) Unique invoice number;
 - (iv) Billing period;
 - (v) Description of each activity performed for each day in which services were performed;
 - (vi) Work order number associated with each activity;
 - (vii) Name, billing rate, and hours worked by each person involved in each activity;
 - (viii) Total amount of fees and costs "billed to date," including the preceding months;
 - (ix) Preferred remittance address, if different from the address on the invoice's coversheet; and
 - (x) All of the work performed during that billing period.
- (d) After the Authority receives Cass Rural's invoice, the Authority will either process the invoice for payment or give Cass Rural specific reasons, in writing within fifteen (15) business days, why part or all of the Authority's payment is being withheld and what actions Cass Rural must take to receive the withheld amount.
- (e) In the event of disputed billing, only the disputed portion will be withheld from payment, and the Authority shall pay the undisputed portion. The Authority will exercise reasonableness in disputing any bill or portion thereof. Interest will accrue on any disputed portion of the billing determined to be due and owing to Cass Rural.
- (f) Payment does not imply acceptance of services or that the invoice is accurate. In the event an error is identified within three (3) months of receipt of payment, Cass Rural must credit any payment in error from any payment that is due or that may become due to Cass Rural under this Agreement.
- (g) The Authority will be charged interest at the rate of one-half percent (1/2%) per month, or that permitted by law if lesser, on all past-due amounts starting thirty (30) days after receipt of invoice. Payments will first be credited to interest and then to principle.
- (h) If the Authority fails to make payments in full within thirty (30) days of the date due for any undisputed billing, Cass Rural may, after giving seven (7) days' written notice to the Authority, suspend services under this Agreement until paid in full. In the event of suspension of services, Cass Rural will have no liability to the Authority for delays or damages caused by the Authority because of such suspension.

5. **Notice.** All notices under the Agreement will be in writing and: (a) delivered personally; (b) sent by certified mail, return receipt requested; (c) sent by a recognized overnight mail or courier services, with delivery receipt requested; or (d) sent by facsimile or e-mail

communication followed by a hard copy and with receipt confirmed by telephone or return receipt (in the case of email communication), to the following addresses. All notices will be marked as regarding PROPERTY STRUCTURE MITIGATION – PHASE 50D.1 (WP-50D.1), PROPERTY STRUCTURE MITIGATION – PHASE 50D.2 (WP-50D.2), AND PROPERTY STRUCTURE MITIGATION – PHASE 50E (WP-50E) and will be delivered to the following addresses:

If to the Authority: Metro Flood Diversion Authority
Attn: Executive Director
207 4th St. N., Suite A
Fargo, North Dakota 58102

If to Cass Rural: Cass Rural Water Users District
Attn: Jerry Blomeke
P.O. Box 98
Kindred, North Dakota 58051

6. **WIFIA Loan.** Cass Rural is a political subdivision of the State of North Dakota. In order to finance the design, construction, operation, and maintenance for comprehensive flood protection in the Fargo-Moorhead metropolitan area, the Authority will seek a loan through the Water Infrastructure Finance and Innovation Act (“WIFIA”) program. For the purposes of a WIFIA loan obtained by the Authority, Cass Rural will undertake all work related to Cass Rural Project.

7. **Conflict with Memorandum of Understanding Regarding Utility Relocation Along the Diversion Channel.** Nothing in this Agreement is intended to supersede, amend, or otherwise modify the Memorandum of Understanding regarding utility relocations along the Diversion Channel by and between the Authority and Cass Rural.

8. **Damages.** The Authority and Cass Rural will each be responsible for any damages including any environmental liabilities, caused by the acts or omissions of their own contractors, subcontractors, consultants, employees, agents, or representatives. The Authority will not be liable to Cass Rural for any damages arising out of or related to the Cass Rural Project, with the exception of damages arising out of the Authority’s sole negligence or intentional misconduct.

9. **Subcontractors.** Cass Rural is solely responsible for completing the Cass Rural Project in an adequate and timely manner. However, to the extent Cass Rural wishes to retain any contractors or subcontractors to perform any portion of the Cass Rural Project, Cass Rural is solely responsible for any contractor’s or subcontractor’s work, including the adequacy and the timeliness of any contractor’s or subcontractor’s work, and including all acts and omissions of any contractor or subcontractor. Cass Rural is fully responsible for scheduling and coordinating the work of any contractor or subcontractor, and Cass Rural is solely responsible for paying or compensating any contractor or subcontractor. The Authority will not have any contractual relationship with any of Cass Rural’s contractors or subcontractors.

10. **Cooperation**. The Parties agree to cooperate to complete and accomplish the purposes and terms of this Agreement, and to execute any documents necessary, including any releases and easements.

11. **Agency**. The Parties agree this Agreement does not create any agency, partnership, joint venture, or any other relationship between the Parties, and that Cass Rural is solely responsible for its own acts or omissions regarding the Cass Rural Project.

12. **Compliance with Laws**. Cass Rural will comply with all applicable laws, ordinances, rules, and regulations of all federal, state, county, and municipal governments, and any other applicable governmental entities or political subdivisions, and their appropriate departments, commissions, boards, and officers, which may be applicable to the Cass Rural Project. In addition, Cass Rural will obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

13. **Entire Agreement**. This Agreement, and any subsequent amendments, constitutes the entire agreement between the Parties regarding the Cass Rural Project or the Property Structure Mitigation Project and all other matters described in this Agreement, and this Agreement supersedes any previous oral or written agreements between the Parties.

14. **Binding Effect**. The covenants, terms, conditions, provisions, and undertakings in this Agreement, or in any amendment, will be binding upon the Parties' successors and assigns.

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

16. **Survival of Agreement**. If any court of competent jurisdiction finds any provision or part of this Agreement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Agreement, and all remaining terms and provisions of this Agreement will remain binding and enforceable; the Parties will reconvene negotiations to arrive, in good faith, at an agreement as to matters remaining undetermined as a result of any finding by a court of competent jurisdiction that any provision or part of this Agreement is invalid, illegal, or unenforceable.

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

18. **Successors.** The covenants, terms, conditions, provisions, and undertakings in this Agreement, or in any amendment, will be binding upon the Parties' successors and assigns.

19. **Governing Law.** This agreement will be construed in accordance with and governed by North Dakota law.

20. **Assignment.** Neither Party may transfer or assign this Agreement or any rights or obligations under this Agreement without the express written consent of the other Party.

21. **Amendments.** Any modifications or amendments of this Agreement must be in writing and signed by both Parties to this Agreement.

22. **Interpretation.** This Agreement will be construed as if prepared by both Parties.

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

24. **Effective Date.** This Agreement will become effective on the date of execution by the last Party to sign.

25. **Electronic Signature.** Electronic signatures to this Agreement shall be as valid as an original signature of the Authority and Cass Rural and shall be valid to bind the Parties to this Agreement. For purposes hereof: (i) "electronic signature" means a manually signed original signature that is then transmitted by electronic means; and (ii) "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a portable document format ("pdf") or other replicating image attached to an electronic mail or internet message.

(Signatures appear on the following pages.)

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

AUTHORITY:

Metro Flood Diversion Authority

Michelle (Shelly) Carlson, Chair

Joel Paulsen, Executive Director

ATTEST:

Dawn Lindblom, Executive Assistant

CASS RURAL:

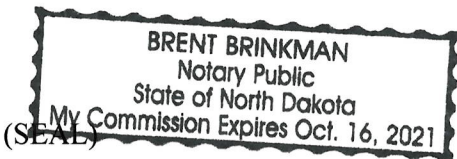
Cass Rural Water Users District



Jerry Blomeke, General Manager
Cass Rural Water Users District

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

On this 26th day of March, 2021, before me, a Notary Public within and for said County and State, personally appeared Jerry Blomeke, known to me to be the person described in and who executed the foregoing instrument and acknowledged to me that that person executed the same.



Notary Public

MEMORANDUM OF UNDERSTANDING

BY AND BETWEEN
METRO FLOOD DIVERSION AUTHORITY
AND
CASS COUNTY, NORTH DAKOTA
AND
CASS COUNTY JOINT WATER RESOURCE DISTRICT

Dated as of _____, 2021

Relating to:

A Memorandum of Understanding outlining the roles and responsibilities of the Parties regarding road rights-of-way acquired in North Dakota as part of land acquisition for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project.

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MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (the “MOU”) is made effective as of _____, 2021 (the “Effective Date”), between METRO FLOOD DIVERSION AUTHORITY, a political subdivision of the State of North Dakota (the “Authority”); CASS COUNTY, NORTH DAKOTA, a political subdivision of the State of North Dakota (the “County”); and CASS COUNTY JOINT WATER RESOURCE DISTRICT, a political subdivision of the State of North Dakota (“CCJWRD”).

WHEREAS, Section 7002(2) of the Water Resources Reform and Development Act of 2014, Public Law 113-221, authorized construction of the locally preferred plan for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, now defined as the Comprehensive Project; and

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

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

WHEREAS, the Member Entities, including the County and CCJWRD, created the Authority pursuant to the Joint Powers Agreement to undertake and fulfill the Non-Federal Sponsors’ legal obligations under the PPA; and

WHEREAS, one such obligation of the Authority is to acquire all property interests necessary for the construction, operation, and maintenance of the Comprehensive Project; and

WHEREAS, pursuant to section 4.03 of the Joint Powers Agreement, the Authority will generally allocate its responsibilities under the PPA to the Member Entities; and

WHEREAS, the Authority has allocated the responsibility of acquiring all property interests necessary for the construction, operation, and maintenance of the Comprehensive Project in North Dakota to CCJWRD; and

WHEREAS, part of CCJWRD’s responsibility to acquire all property interests includes the responsibility to obtain property interests in road rights-of-way that will be turned over to the contractors of the Comprehensive Project and obstructed by the same; and

WHEREAS, the County will assist CCJWRD in the acquisition of road rights-of-way for the Comprehensive Project; and

WHEREAS, following acquisition but prior to Turnover for construction, the Parties desire to leave the road rights-of-way open for public travel; and

WHEREAS, the Parties desire to enter into this MOU to set forth their respective roles and responsibilities for operating and maintaining the road rights-of-way prior to and following Turnover.

NOW THEREFORE, in consideration of the mutual covenants made herein and for other valuable consideration, the receipt of which is hereby acknowledged, the Authority, the County, and CCJWRD 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.

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

“Best Efforts” means an individual or entity will act in Good Faith, act in accordance with generally accepted commercial practices, and use reasonable due diligence to undertake all action contemplated by this MOU, in accordance with federal and state laws, regulations, and rules; however, the obligation to use Best Efforts does not mean a duty to take action that would be in violation of applicable federal or state law.

“Business Day” means any day that is not a Saturday, a Sunday, or a State of North Dakota public holiday.

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

“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.

“Construction Site” means the site defined (i) by the Project Agreement between the Authority and the Developer to be utilized by the Developer for the construction of the SWDCAI, (ii) by a construction contract between the Authority and a Third Party Contractor to be utilized

by the Third Party Contractor for construction of Non-Federal Work, or (iii) by a construction contract between USACE and its contractor to be utilized by such contractor for the construction of Federal Work.

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

“Developer” means the individual, partnership, corporation, or joint venture that enters the Project Agreement with the Authority to design, finance, build, operate, and maintain the SWDCAI. References to the Developer throughout this MOU include references to other Person engaged by the Developer to complete such work.

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

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

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

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

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

“Non-Federal Work” means that portion of the Comprehensive Project consisting of the SWDCAI; the in-town levees and the Oxbow-Hickson-Bakke levee; recreation features; environmental mitigation features located within the diversion channel and associated structures for the diversion channel; and applicable pre- and post-monitoring and adaptive management for the Comprehensive Project.

“NTP1” means as defined by the Project Agreement.

“Original Term” means as defined in Section 6.01.

“Party” means the Authority, the County, or CCJWRD, as the context requires, and its respective representatives, successors, and assigns.

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

“PPA” means the Project Partnership Agreement between the Department of the Army and the City of Fargo, North Dakota, the City of Moorhead, Minnesota, and the Metro Flood Diversion Authority for Construction of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, dated July 11, 2016, and any amendments thereto.

“Project Agreement” means the contract between the Authority and the Developer for the Developer to design, build, finance, operate, and maintain the SWDCAI.

“Project Limits” means the permanent property interests necessary for the construction of the Comprehensive Project, as currently projected on Exhibit A.

“Renewal Term” means as defined in Section 6.01.

“Road ROW” means the thirty-three (33) foot road right-of-way on either side of a section line.

“Routine Maintenance” means as defined in Section 3.02.

“ROW” means the Road ROW and Vacated ROW collectively.

“SWDCAI” means an approximately 30-mile, 20,000 cubic feet per second (cfs) diversion channel and associated features; the channel outlet; the Rush and Lower Rush River hydraulic structures; the Maple River aqueduct; the Sheyenne River aqueduct; the inflow design flood levee; and associated railroad bridges.

“Third Party Contractor” means a contractor engaged by the Authority to perform Non-Federal Work other than the SWDCAI.

“Turnover” means (i) in terms of a USACE contractor or a Third Party Contractor, the date, as defined by the applicable construction contract, on which the contracting entity provides control of a Construction Site to the contractor for the contractor to commence construction thereon, or (ii) in terms of the Developer, the date preceding the date on which the Developer commences construction on a Construction Site.

“Vacated ROW” means that portion of the thirty-three (33) foot road right-of-way on either side of 173rd Avenue Southeast that was platted and vacated in the FMD – Pleasant Subdivision, Cass County, North Dakota.

Section 1.02 INTERPRETATION. The definition of terms herein shall apply equally to the singular and plural forms of the term defined. Whenever the context may require, any pronoun will include the corresponding masculine, feminine, and neuter forms. The words “include,” “includes,” and “including” will be deemed to be followed by the phrase “without limitation.” 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. PRE-CONSTRUCTION SITE CONTROL

Section 2.01 LAND ACQUISITION PROCESS. Road ROW in North Dakota, and the authority to construct the Comprehensive Project upon, over, and across such Road ROW, will be acquired through the following means:

(a) The Authority will request that the County take over Road ROW, pursuant to N.D.C.C. § 24-05-09, based on the design of the Comprehensive Project. The current projected Project Limits of the Comprehensive Project, and the corresponding impacted Road ROW, are included in Exhibit A.

(b) In conjunction with the Authority's request for Road ROW takeover, CCJWRD will file a request with the County to permanently obstruct such Road ROW, pursuant to N.D.C.C. § 24-06-28, with the applicable element of the Comprehensive Project. If CCJWRD's request is granted by the County, the intent is to allow the Road ROW to remain open until, as set forth in Section 3.01, construction on the applicable element of the Comprehensive Project is scheduled to commence.

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

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

(e) The County will hold a public hearing on the requests at the time and place set, and if appropriate following the hearing, it will (i) adopt a resolution granting the Authority's request and take over the Road ROW and (ii) adopt a resolution granting CCJWRD's request and allow the permanent obstruction of said Road ROW at an applicable time.

Section 2.02 NON-FEDERAL WORK AREAS. Prior to the Turnover of a Construction Site that includes Road ROW from the Authority to the Developer or a Third Party Contractor, the

County will have control of the Road ROW and will have the authority to make day-to-day decisions about the operation of the Road ROW. This authority includes the ability to temporarily close a Road ROW as needed in the discretion of the County. If the County decides to temporarily close a Road ROW, it will be responsible for placing barriers and, whenever possible, providing two (2) weeks' prior notification to the Authority and CCJWRD of such closure.

Section 2.03 FEDERAL WORK AREAS. Prior to the Turnover of a Construction Site that includes Road ROW from USACE to its construction contractor, the County will have control of the Road ROW and will have the authority to make day-to-day decisions about the operation of the Road ROW. This authority includes the ability to temporarily close a Road ROW as needed in the discretion of the County. If the County decides to temporarily close a Road ROW, it will be responsible for placing barriers and, whenever possible, providing two (2) weeks' prior notification to the Authority and CCJWRD of such closure.

Section 2.04 PUBLIC USE OF ROAD ROW AND PLATTING. The Parties intend that although CCJWRD may have authorization to permanently obstruct the Road ROW with the Comprehensive Project, the Road ROW will remain open for public use until the notices, as described in Section 3.01, are received. Following Turnover of a Construction Site that includes Road ROW, CCJWRD will use its Best Efforts as applicable fee simple is acquired to plat and vacate the Road ROW.

Section 2.05 VACATED ROAD ROW. CCJWRD will allow the Vacated ROW, although a private drive following vacation, to remain open for public travel. Prior to the recommencement of construction on the Vacated ROW by USACE's construction contractor, the County will have control of the Vacated ROW and will have the authority to make day-to-day decisions about the operation of the Vacated ROW. This authority includes the ability to temporarily close the Vacated ROW as needed in the discretion of the County. If the County decides to temporarily close the Vacated ROW, it will be responsible for placing barriers and, whenever possible, providing two (2) weeks' prior notification to the Authority and CCJWRD of such closure.

ARTICLE III. MAINTENANCE

Section 3.01 RESPONSIBILITY.

(a) Developer Works. The County will be responsible for performing all Routine Maintenance and Extraordinary Maintenance on the ROW until Turnover to the Developer, which will occur following notice from the Developer as set forth herein. The Developer will be responsible for notifying the Authority at least ninety (90) calendar days prior to the commencement of construction on the ROW. The Authority will notify the County and CCJWRD as soon as possible after its receipt of notice from the Developer. This notice will allow CCJWRD to exercise its authorization to permanently obstruct the ROW, which will include posting signs, in coordination with the County, stating the dates of the road closure and coordinating with the Developer for traffic control signage.

(b) Third Party Contractor Works. The County will be responsible for performing all Routine Maintenance and Extraordinary Maintenance on the ROW until Turnover to the Third

Party Contractor, which is currently anticipated to be close in time to the commencement of construction. The Authority must give the County and CCJWRD at least ninety (90) calendar days' written notice of when it is anticipated the Third Party Contractor will begin construction on the ROW. This notice will allow CCJWRD to exercise its authorization to permanently obstruct the ROW, which will include posting signs, in coordination with the County, stating the dates of the road closure and coordinating with the Third Party Contractor for traffic control signage.

(c) USACE Contractor Works. The County will be responsible for performing all Routine Maintenance and Extraordinary Maintenance on the ROW until Turnover to the USACE construction contractor, which is currently anticipated to be close in time to the commencement of construction. The Parties will work with USACE to get as much notice as possible regarding the scheduled date for the commencement of construction. Upon receipt of this notice, CCJWRD will exercise its authorization to permanently obstruct the ROW, which will include posting signs, in coordination with the County, stating the dates of the road closure and coordinating with the USACE Contractor for traffic control signage.

Section 3.02 MAINTENANCE REQUIREMENTS. The County will perform, or ensure the performance of, the following maintenance tasks on the ROW (collectively, "Routine Maintenance"):

- (a) The ROW will be graded twice a calendar month.
- (b) A 3-inch minimum thickness of gravel will be maintained.
- (c) The graded cross slopes across each lane will match its existing range of two percent (2%) to four percent (4%). If the current infield slope is not within that range, it will be upgraded to the two percent (2%) to four percent (4%) range.
- (d) Class 13 gravel will be placed for any aggregate needs.
- (e) Snow removal along the ROW will be dependent on the applicable township's current plow locations. The township will need to provide information to the County if a certain ROW was being plowed as needed by the township or private individuals in the winter.

Section 3.03 COUNTY REIMBURSEMENT. The County may seek reimbursement from the Authority, as set forth herein, for costs and expenses incurred for Routine Maintenance and Extraordinary Maintenance; provided, however, the County must seek prior written approval from both CCJWRD and the Authority before performing Extraordinary Maintenance that exceeds \$5,000.

Section 3.04 TOWNSHIP INVOLVEMENT. The County may engage an applicable township to perform Routine Maintenance. Reimbursement for such work, however, may be submitted by either the County or the township.

Section 3.05 SECURING CONSTRUCTION SITES. The Authority will include in the Project Agreement and in its construction contract with the Third Party Contractor that the Developer and the Third Party Contractor, respectively, are responsible for securing the ROW, upon the

commencement of construction, to limit public travel on the ROW. The Parties will work with USACE for USACE to include in its construction contract that the contractor is responsible for securing the ROW, upon commencement of construction, to limit public travel on the ROW.

ARTICLE IV. IMPACTED LANDS

Section 4.01 ROW. As set forth herein, the County will secure ROW, either inside or outside the Project Limits, to the extent necessary to allow for construction of the Comprehensive Project. CCJWRD will be responsible for securing property interests other than ROW that are necessary to construct termination tees.

Section 4.02 OBLITERATION. Following construction of the Comprehensive Project and the termination tees, the Parties will obliterate that portion of the ROW that exists between the termination tees and Project Limits that will no longer be utilized as a road. Timing of each obliteration will be agreed upon by the Parties. The Authority will be responsible for all costs and expenses associated with obliteration and will be responsible for hiring a contractor for the obliteration work. The Authority will indemnify the County and CCJWRD for all obliteration work done on the ROW.

ARTICLE V. INSURANCE AND INDEMNIFICATION

Section 5.01 JOINT POWERS AGREEMENT.

(a) Pursuant to section 15.05 of the Joint Powers Agreement, the Authority agreed to defend and indemnify the Member Entities, including both the County and CCJWRD, for any liability claims arising from the Authority's activities or operations, decisions of the Authority, or arising out of or regarding the Comprehensive Project.

(b) The Parties acknowledge and agree that section 15.05 of the Joint Powers Agreement is applicable to the County's and CCJWRD's control of the ROW and the County's maintenance of the ROW. As a result, the Authority will indemnify both CCJWRD and the County from third party claims relating to the ROW.

(c) The Authority has secured a commercial general limited liability policy from the North Dakota Insurance Reserve Fund ("NDIRF") and has listed both the County and CCJWRD as additional insureds under such policy. The Authority will continue to maintain such policy, or a like policy, in accordance with the terms of the Joint Powers Agreement and continue to list both the County and CCJWRD as additional insureds during the term of this MOU.

Section 5.02 GROSSLY NEGLIGENT OR WILLFUL MISCONDUCT. Notwithstanding anything herein to the contrary, the Authority will not indemnify the County for grossly negligent or willful misconduct committed by the Person engaged by the County to perform maintenance. In lieu of such indemnification, the County must include in its maintenance contract that the contractor shall procure and maintain commercial general liability in the amount of \$3,000,000 and must name the County, CCJWRD, and the Authority as additional insureds under such policy.

Section 5.03 DEVELOPER CONSTRUCTION. The Developer will be responsible for procuring and maintaining the insurance set forth in the Project Agreement. The Authority will include provisions in the Project Agreement requiring the Developer (i) to procure and maintain commercial general liability in the amount of \$1,000,000 per occurrence and \$10,000,000 annual aggregate and must name CCJWRD, the County, and the Authority as additional insureds under such policy, and (ii) to indemnify and hold harmless CCJWRD, the County, and the Authority for construction performed on the ROW.

Section 5.04 THIRD PARTY CONTRACTOR CONSTRUCTION. Upon Turnover, the Third Party Contractor will be responsible for procuring and maintaining insurance requirements set forth in the construction contract. The Authority will include provisions in the construction contract requiring the Third Party Contractor (i) to procure and maintain commercial general liability in the amount of \$3,000,000 and must name CCJWRD, the County, and the Authority as additional insureds under such policy, and (ii) to indemnify and hold harmless CCJWRD, the County, and the Authority for construction performed on the ROW.

Section 5.05 USACE CONTRACTOR CONSTRUCTION. Upon Turnover, the USACE contractor will be responsible for procuring and maintaining insurance requirements set forth in the construction contract. The Authority will coordinate with USACE regarding insurance requirements for the contractor.

ARTICLE VI. TERM AND TERMINATION

Section 6.01 TERM. The Original Term of this MOU will be for two (2) years from the Effective Date. The MOU will automatically renew for successive one (1) year additional terms (each, respectively, a “Renewal Term”) unless the Parties mutually agree, in writing, to terminate this MOU.

Section 6.02 AGREEMENT. The Parties may mutually agree, in writing, at any time, to terminate this MOU.

ARTICLE VII. DISPUTE RESOLUTION

Section 7.01 INTENT AND PROCEDURE. The Parties will cooperate and use their Best Efforts to ensure that the various provisions of this 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 procedures will be used.

Section 7.02 MEDIATION. If there is a failure between the Parties to resolve a dispute on their own, the Parties will first attempt to mediate the dispute. The Parties will agree upon a single mediator and will equally split any costs for mediation services.

Section 7.03 LITIGATION IF DISPUTE NOT RESOLVED. If the dispute is not resolved within forty-five (45) calendar days after the end of mediation proceedings, the Parties may litigate the matter.

Section 7.04 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 State District Court of Cass County, North Dakota, which will have exclusive jurisdiction and venue.

Section 7.05 WAIVER OF JURY TRIAL. THE PARTIES HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS THAT 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 VIII. REIMBURSEMENT

Section 8.01 COSTS AND EXPENSES. Between the Effective Date and Turnover of a ROW, the County may seek reimbursement from the Authority for costs and expenses incurred for Routine Maintenance and Extraordinary Maintenance.

Section 8.02 INVOICING.

(a) The County will remit hard copy invoices to the Authority at the Authority's main office, and the invoices will be processed by the Authority for the following month. The County will also submit copies of the invoices to the Authority electronically at APInvoicesFMDiv@jacobs.com, copied to kbakkegard@fmdiversion.gov.

(b) The County's invoices must be detailed and precise, clearly indicate fees and expenses, and include at least the following information:

- (1) The County's name and address;
- (2) The County's federal employer identification number;
- (3) Unique invoice number;
- (4) Billing period;
- (5) Description of each activity performed for each day in which services were performed;

- (6) Work order number associated with each activity;
- (7) Name, billing rate, hours worked by each person involved in each activity;
- (8) Total amount of fees and costs “billed to date,” including the preceding months;
- (9) Preferred remittance address, if different from the address on the invoice’s coversheet; and
- (10) All of the work performed during that billing period.

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

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

(e) Payment does not imply acceptance of services or that the invoice is accurate. In the event an error is identified within three (3) months of receipt of payment, the County must credit any payment error from any payment that is due or that may become due to the County under this MOU.

ARTICLE IX. MISCELLANEOUS

Section 9.01 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, among the Parties with respect to their subject matter.

Section 9.02 COUNTERPARTS. This instrument may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

Section 9.03 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 9.04 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 9.05 FORCE MAJEURE. A Party will not be liable to the others 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. If such a circumstance occurs, the Party claiming the delay must undertake reasonable action to notify the other Parties of the same.

Section 9.06 AUTHORIZED REPRESENTATIVES. Each Party 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: Jason Benson, County Engineer
- (c) CCJWRD Representative: Carol Harbeke Lewis, Secretary-Treasurer

Section 9.07 NOTICE.

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

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

Director of Engineering
Box 2806
207 4th Street North
Suite A
Fargo, North Dakota 58102

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

County Engineer
1201 Main Avenue West
West Fargo, North Dakota 58078

(d) All notices to CCJWRD will be marked as regarding the Comprehensive Project and will be delivered to the following address or as otherwise directed by the CCJWRD Representative:

CCJWRD Secretary-Treasurer
1201 Main Avenue West
West Fargo, North Dakota 58078

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

Section 9.08 GOVERNING LAW. This MOU will be governed by and construed in accordance with the laws of the State of North Dakota.

Section 9.09 CONFLICT WITH MOU REGARDING OTHER COMPREHENSIVE PROJECT WORK. Nothing in this MOU is intended to supersede, amend, or otherwise modify any other memorandum of understanding or agreement entered by and between the Parties for work regarding other aspects of the Comprehensive Project.

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

(Remainder of page intentionally left blank.)

Signature Page for the Metro Flood Diversion Authority

The governing body of the Metro Flood Diversion Authority approved this MOU on the ____ day of _____, 2021.

METRO FLOOD DIVERSION
AUTHORITY

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

By: _____
Joel Paulsen, 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 _____, 2021.

CASS COUNTY, NORTH DAKOTA

By: _____
Chad Peterson, Chair of the Board of
County Commissioners

ATTEST:

Michael Montplaisir, County Auditor

Signature Page for the Cass County Joint Water Resource District

The governing body of the Cass County Joint Water Resource District approved this MOU on the ____ day of _____, 2021.

CASS COUNTY JOINT WATER
RESOURCE DISTRICT

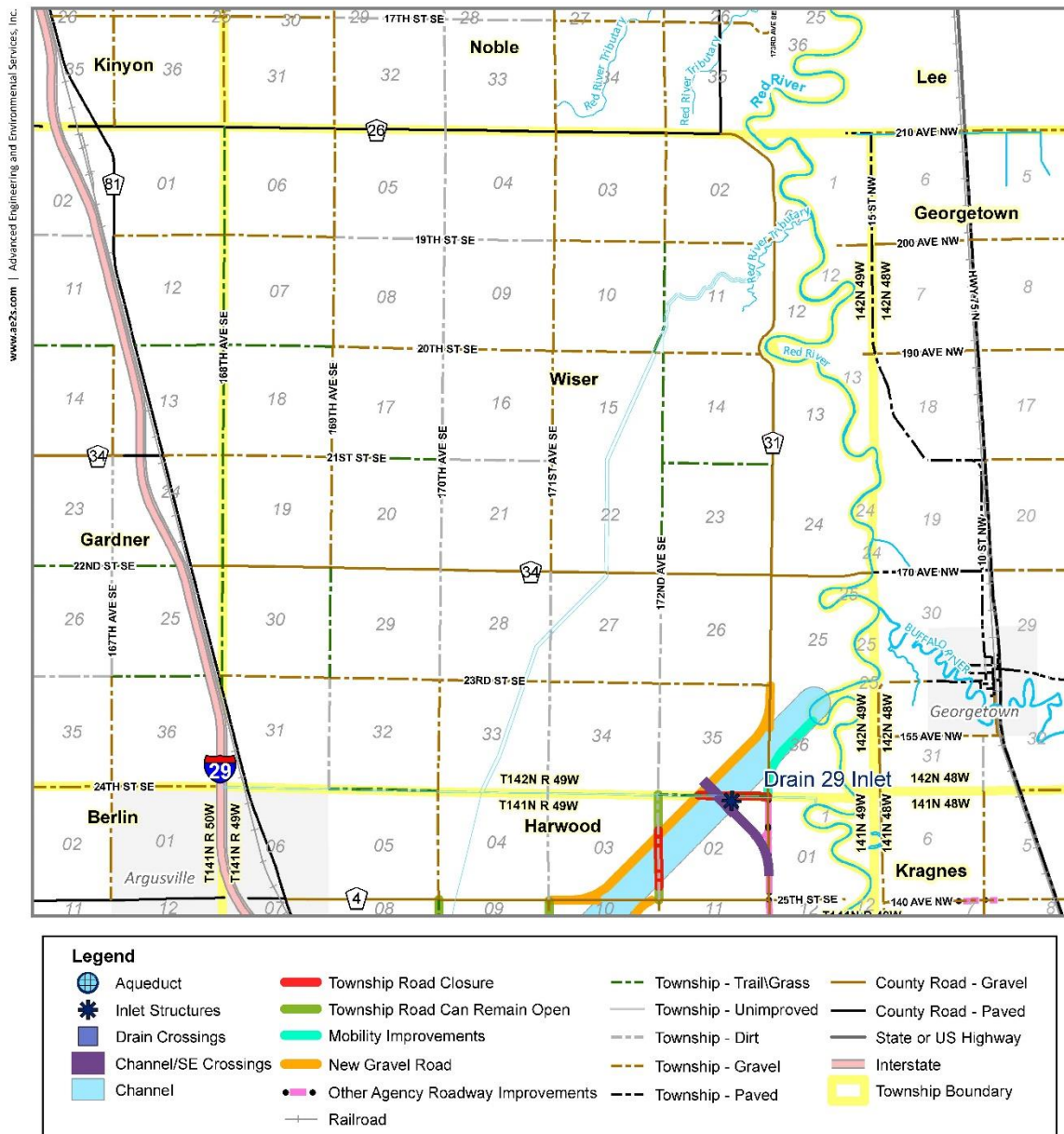
By: _____
Dan Jacobson, Chair

ATTEST:

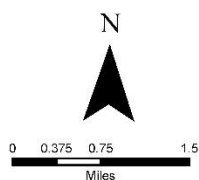
Carol Harbeke Lewis, Secretary-Treasurer

EXHIBIT A

COMPREHENSIVE PROJECT IMPACTS MAPS



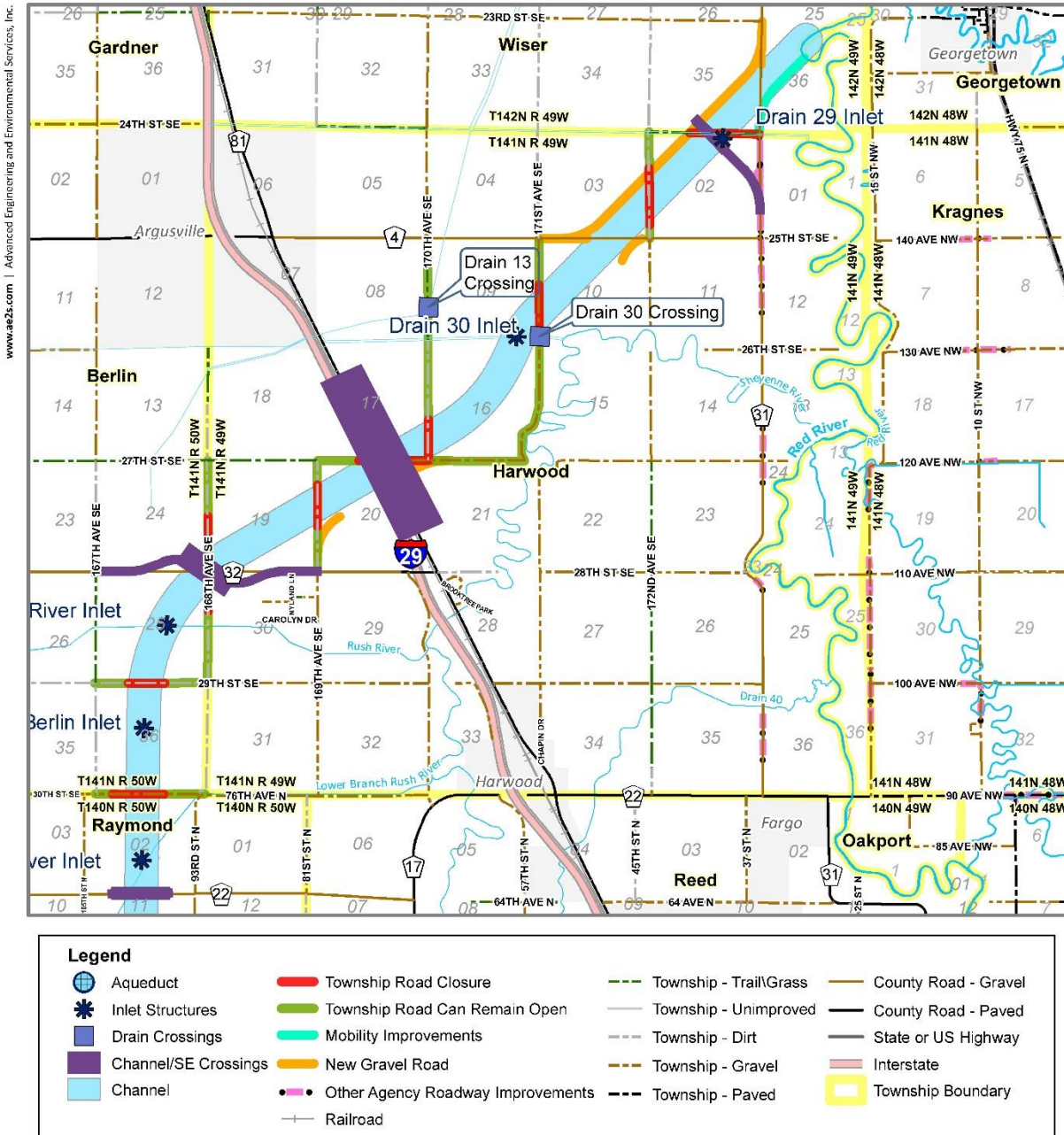
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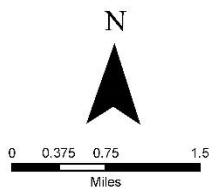
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FM Area Diversion
Map Date: 10/7/2020





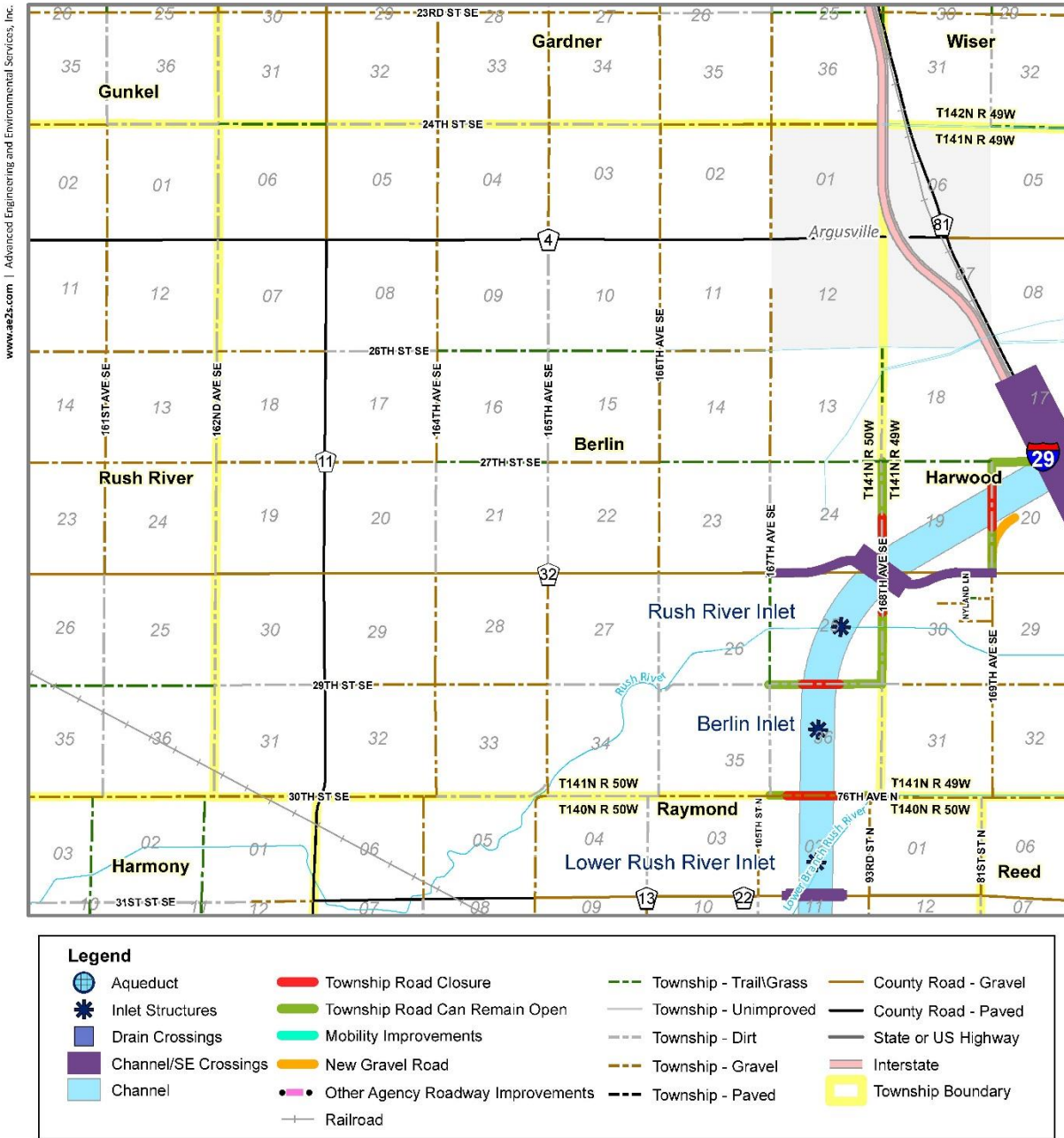
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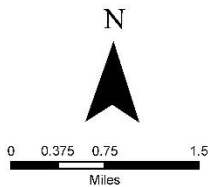
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Map Date: 10/7/2020





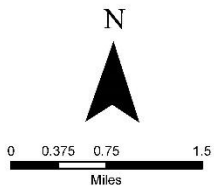
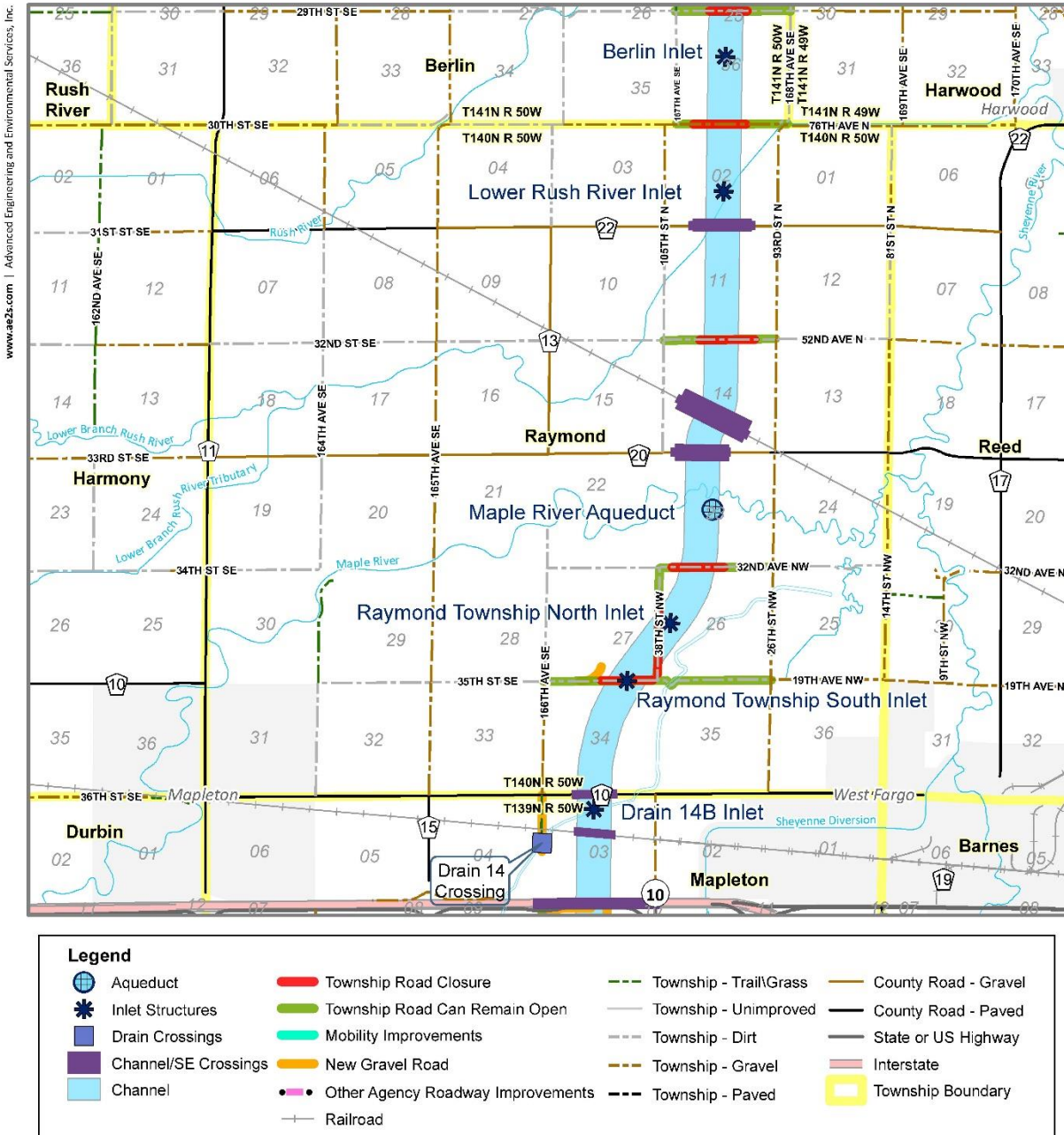
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Berlin

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Map Date: 10/7/2020

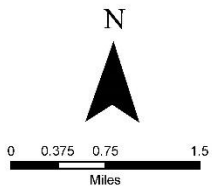
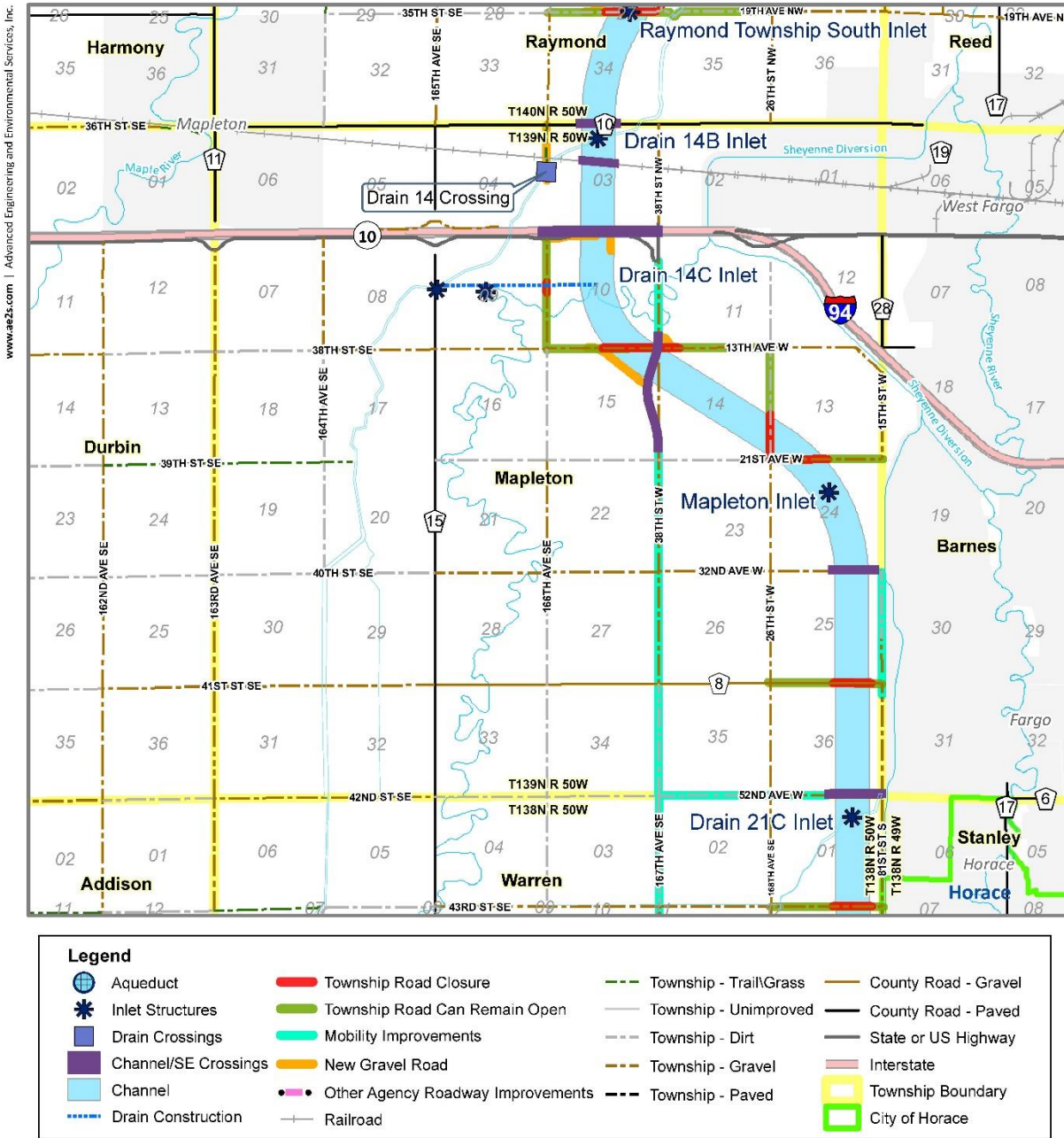




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FM Area Diversion
Map Date: 10/7/2020

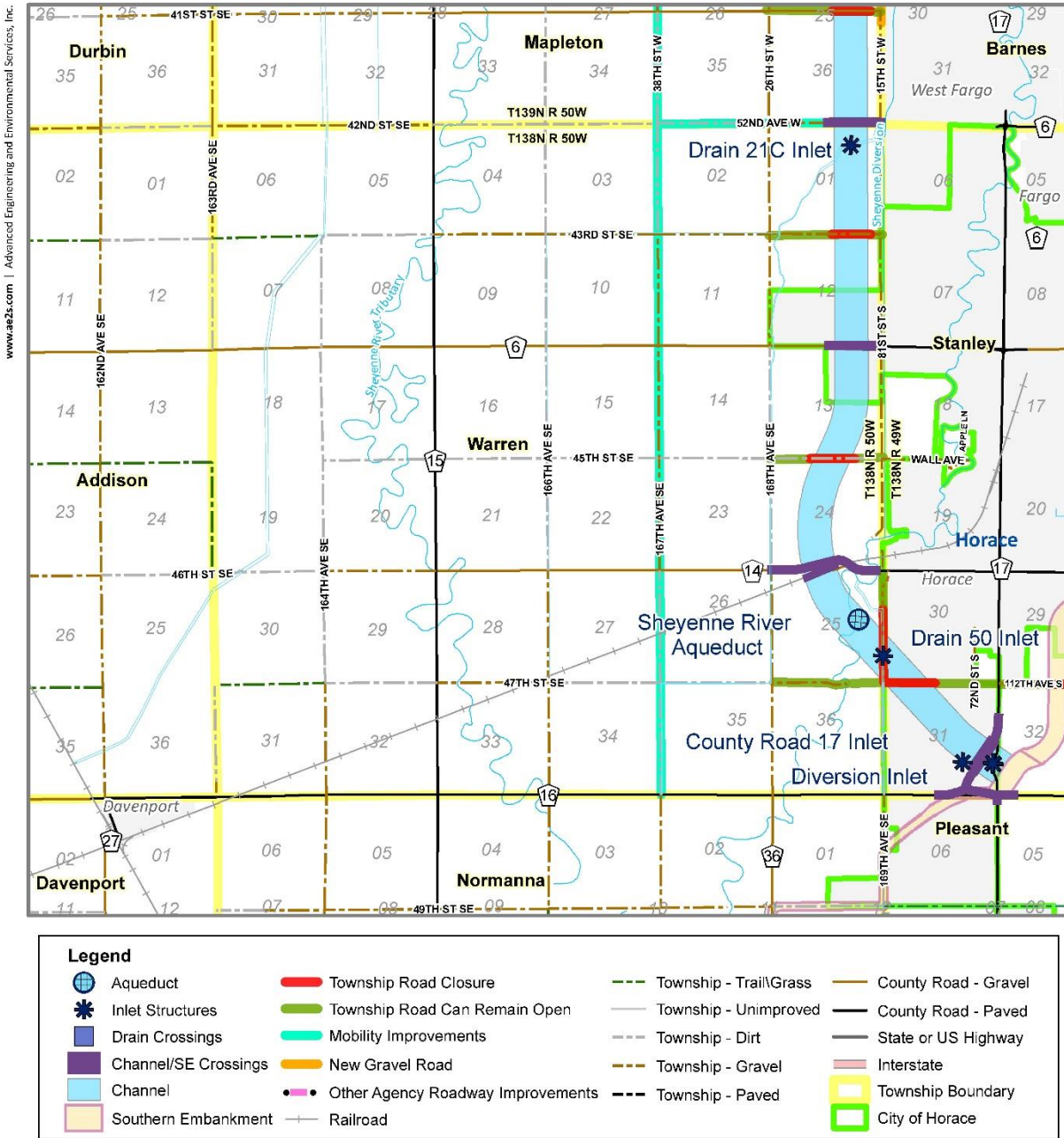




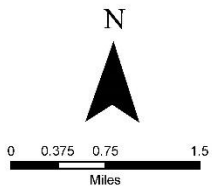
Mapleton

FM Area Diversion
Map Date: 3/19/2021





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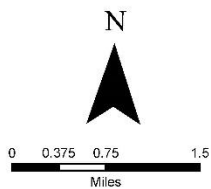
Warren

FM Area Diversion
Map Date: 10/7/2020



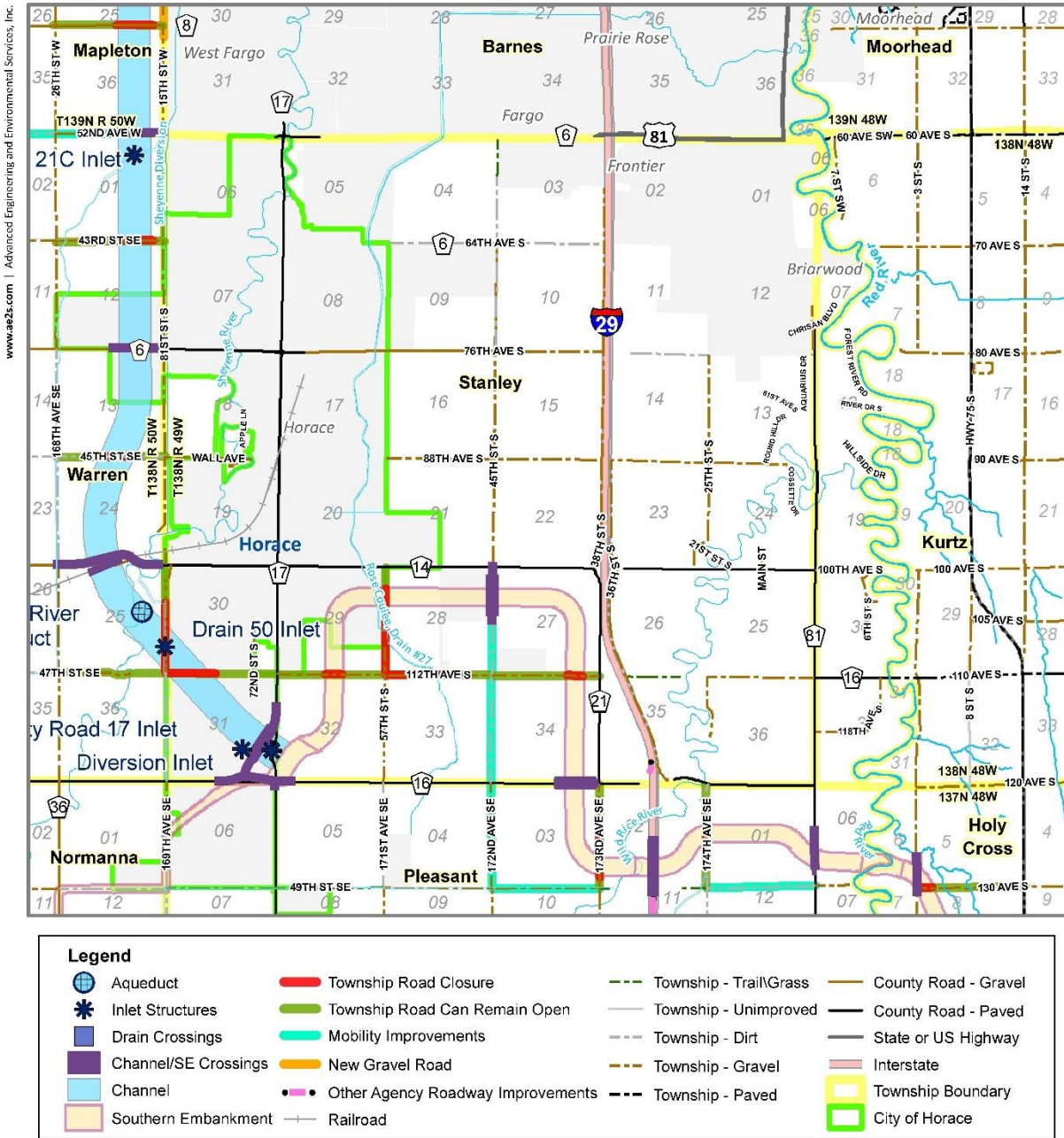


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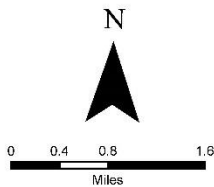


FM Area Diversion
Map Date: 10/7/2020





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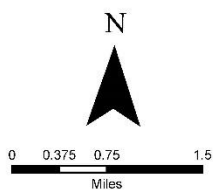
Stanley

FM Area Diversion
Map Date: 2/11/2021





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FM Area Diversion
Map Date: 2/11/2021



MEMORANDUM OF UNDERSTANDING

By and Between
METRO FLOOD DIVERSION AUTHORITY
and
NORTHERN STATES POWER COMPANY d/b/a XCEL ENERGY

Dated as of March 19, 2021

Relating to:

**Storm Water Diversion Channel and Associated Infrastructure
for the Fargo-Moorhead Metropolitan
Area Flood Risk Management Project**

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

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EXHIBIT 7 – AUTHORITY INVOICING REQUIREMENTS

EXHIBIT 8 – FEDERAL CERTIFICATION FORMS

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this ____ day of _____, 2021 (hereinafter referred to as the “Effective Date”), by and between the Metro Flood Diversion Authority, a North Dakota political subdivision, whose post office address is P.O. Box 2806, Fargo, North Dakota 58108-2806, and Northern States Power Company d/b/a Xcel Energy, a company authorized to do business in the State of North Dakota, (hereinafter referred to as the “Utility”). Metro Flood Diversion Authority and the Utility may be referred to collectively as the “Parties.”

RECITALS

WHEREAS, the Metro Flood Diversion Authority is undertaking a Private Public Partnership (hereinafter referred to as the “P3”) for the construction of the Diversion Channel and Associated Infrastructure; and

WHEREAS, the Utility has real property interests (hereinafter referred to as “Prior Property Interests”) within the area generally described in Article III of this Memorandum of Understanding and further described in Exhibits 1 through 5; and

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

WHEREAS, the Utility and Metro Flood Diversion Authority desire to set forth the rights and obligations of the Utility and Metro Flood Diversion Authority with regard to the Utility Relocation Project; and

WHEREAS, this Memorandum of Understanding is only intended to bind the Parties in regard to the portion of the Comprehensive Project north of the Southern Embankment and shall have no implications for or binding power in regard to the Parties’ work, efforts, or relations in the Southern Embankment. The Parties’ interactions with one another in the Southern Embankment shall be governed by a separate agreement between the Parties.

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

ARTICLE I. DEFINITIONS AND INTERPRETATION

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

“Best Efforts” means acting in **Good Faith** and in accordance with generally accepted commercial practices and using reasonable due diligence to undertake all action contemplated by this **Memorandum of Understanding**, in accordance with applicable federal and state laws,

regulations, and rules; however, the obligation to use **Best Efforts** does not mean a duty to take action that would be in violation of applicable federal or state law.

“Betterment” means any upgrading of **Utility** that is not attributable to or made necessary by the **Project**, made for the benefit of and at the election of the **Utility**. The following are not considered **Betterments**: (a) replacement devices or materials of equivalent standards, though not identical; (b) replacement of devices or materials no longer regularly manufactured with an equivalent or next higher grade or size; or (c) any upgrading required by applicable law or regulation.

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

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

“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.

“Construction Documents Submittal” means the design submittal described in Section 7.06(c) of this **Memorandum of Understanding**.

“Diversion Channel Line of Protection” means inflow design flood line of protection.

“Effective Date” means the date of the signatures below.

“Excavated Material Berm” or **“EMB”** means a berm constructed from materials that have been excavated from within the **Project Property**.

“Final Design Submittal” means the design submittal described in Section 7.06(b) of this **Memorandum of Understanding**.

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

“LFC” means the low-flow channel constructed in the bottom section of the diversion channel from the diversion outlet to the diversion inlet structure designed to convey minimum low flow rates of seven hundred twenty (720) cubic feet per second from the diversion outlet to the Rush River inlet; four hundred seventy (470) cubic feet per second from the Rush River inlet to

the Maple River aqueduct; and flow rates determined by the **P3 Developer** from the Maple River aqueduct to the diversion inlet structure.

“Member Entities” means those entities—the City of Moorhead, the City of Fargo, Clay County, Cass County, and the **CCJWRD**—signing the Joint Powers Agreement Dated as of June 1, 2016, establishing and continuing a joint powers entity called the **Metro Flood Diversion Authority**.

“Memorandum of Understanding” means this **Memorandum of Understanding** by and between the **Metro Flood Diversion Authority** and the **Utility**.

“Metro Flood Diversion Authority” means the political subdivision created by the Joint Powers Agreement, effective June 1, 2016, by and between the City of Moorhead, a political subdivision of the State of Minnesota; the City of Fargo, a political subdivision of the State of North Dakota; Clay County, a political subdivision of the State of Minnesota; Cass County, a political subdivision of the State of North Dakota; and Cass County Joint Water Resource District, a political subdivision of the State of North Dakota and vested with the powers therein.

“Other Approvals” means all approvals and permits legally required to complete approved **Utility Adjustment Construction Work** on the **Utility Relocation Project**, including, but not limited to, construction permits and permits from the applicable water resource district.

“P3 Developer” means the private party or entity that enters into the **Project Agreement**.

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

“Prior Property Interest(s)” means any property interest(s) owned by the **Utility** that **Metro Flood Diversion Authority** deems necessary to **Relocate** identified in Section 3.02 of this **Memorandum of Understanding**.

“Project” means the design, construction, finance, operations, and maintenance of the **SWDCAI**.

“Project Agreement” means a Public-Private Partnership Agreement, as authorized by Chapter 48-02.1 of the North Dakota Century Code, by and between the **Metro Flood Diversion Authority**, or one or more **Member Entities** authorized by the **Metro Flood Diversion Authority**, and a **P3 Developer** for design, construction, financing, operation, and maintenance of the **Project**.

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

“Project Substantial Completion” means the completion of all substantial completion conditions as outlined in the **Project Agreement** for the substantial completion of the **SWDCAI**.

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

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

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

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

“Supplemental Plan” means a plan submitted for approval pursuant to Article VII in the event that **Undisclosed Prior Property Interests** are identified after one or more plans have already been approved pursuant to Article VII.

“SWDCAI” means the Storm Water Diversion Channel and Associated Infrastructure, portion of the **Comprehensive Project**, which is being procured by the **Metro Flood Diversion Authority** and includes, but is not limited to, the thirty (30) mile channel, outlet, river and drain inlets, road bridges, railroad bridges, aqueducts, utility relocations, and recreational features.

“Undisclosed Prior Property Interests” mean **Prior Property Interests** not disclosed in Section 3.02 of this **Memorandum of Understanding**.

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

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

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

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

“Utility Adjustment Design Work” means all **Utility Adjustment Work** related to design.

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

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

“Water Resource District Infrastructure” means any infrastructure or property right of any kind owned by or attributable to the Maple River Water Resource District, Southeast Cass Water Resource District, Rush River Water Resource District, North Cass Water Resource District, or the Cass County Joint Water Resource District.

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

Section 1.03 SURVIVAL OF TERMS. The terms of this **Memorandum of Understanding** shall survive through the thirty-year period following **Project Substantial Completion** and for successive ten-year terms until one of the **Parties** hereto terminates this **Memorandum of Understanding** as provided for herein. The provisions of Article X shall continue to bind the **Parties** for as long as **Utility** has property within the **Project Property**.

Section 1.04 INTENT TO ASSIGN. **Utility** acknowledges the **Metro Flood Diversion Authority’s** intent to assign some or all of its certain rights and obligations under this **Memorandum of Understanding** to the **P3 Developer**, and hereby irrevocably waives any right to object to any such assignment.

ARTICLE II.

PURPOSE OF MEMORANDUM OF UNDERSTANDING

Section 2.01 PURPOSE. The purpose of this **Memorandum of Understanding** is to ensure a coordinated, time-efficient, and cost-effective process for completing the **Utility**

Relocation Project and coordination of the operations and maintenance activities after completion of the **Utility Relocation Project**.

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

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

ARTICLE III. REAL PROPERTY INTERESTS

Section 3.01 INTENT. It is the intent of the **Parties** hereto that all **Prior Property Interests** are identified herein. Specifically, **Prior Property Interests** are detailed in the table contained in Section 3.02 and further documented in the Exhibits to this **Memorandum of Understanding**.

Section 3.02 IDENTIFICATION OF PRIOR PROPERTY INTERESTS. The **Prior Property Interests** to be **Relocated** pursuant to the terms and conditions of this **Memorandum of Understanding** include the **Prior Property Interests** described in the table below:

Exhibit No.	Section	Township	Range	Type	Preliminary Diversion Channel Station	Right of Way Documents
1	34	140	50	12" Gas line – High Pressure Distribution (North of CR 10)	851+00	County Permit
2	03	139	50	6" Gas Line – (South of CR 10)	852+00	No Documents Found
3	25	139	50	OH Electric Transmission Line	1119+00	Book R-2 Pg 532-533
4	25	139	50	OH Electric Transmission Line	1119+00	Book M-2 Pg 154-155
5	25	139	50	OH Electric Transmission Line	1119+00	Book H-9 Pg 376-377

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

Section 3.04 DISCOVERY OF UNDISCLOSED PRIOR PROPERTY INTERESTS. **Undisclosed Prior Property Interests** identified for **Relocation** prior to request for submission of the first submittal required by Article VII shall be **Relocated** through the same process as if the **Undisclosed Prior Property Interests** were disclosed herein. A separate accounting and recording of costs shall be maintained for **Undisclosed Prior Property Interests** and **Prior Property Interests** disclosed herein. Should **Undisclosed Prior Property Interests** be identified after the submission of one or more submittals pursuant to Article VII, the **Utility** shall, within sixty (60) days of written notification of identifying **Undisclosed Prior Property Interests** to be **Relocated**, submit a **Supplemental Plan** meeting the requirements of Article VII, for the **Relocation** of **Undisclosed Prior Property Interests**. If the **Utility** fails to submit a **Supplemental Plan** for approval within sixty (60) days, and **Metro Flood Diversion Authority** incurs any liquidated damages pursuant to the terms of the **Project Agreement**, and reasonably determines said liquidated damages arose in whole or in part from **Utility's** failure to provide the **Supplemental Plan** within the time frame required herein, the **Utility** shall be responsible for and reimburse the **Metro Flood Diversion Authority** for the full amount of said liquidated damages.

Section 3.05 COOPERATION IN PLATTING. **Metro Flood Diversion Authority** intends to plat right-of-way acquired for **Project** purposes. **Utility** shall reasonably cooperate with said platting efforts if requested to do so by **Metro Flood Diversion Authority**.

ARTICLE IV. RESPONSIBILITY FOR UNDISCLOSED PRIOR PROPERTY INTERESTS

Section 4.01 UTILITY RESPONSIBILITY. The **Utility** shall be responsible for the cost of **Relocating Undisclosed Prior Property Interests**, unless provided otherwise herein.

Section 4.02 REQUESTS FOR RELIEF. Within thirty (30) calendar days of **Utility Adjustment Completion**, the **Utility** may file a written request for relief with the **Metro Flood Diversion Authority** requesting payment or partial payment for the costs of **Relocating Undisclosed Prior Property Interests**, which such relief will not be unreasonably withheld. This request for relief shall be a separate document from the cost report required by Article VII but shall be submitted to the **Metro Flood Diversion Authority** in conjunction with the cost report required by Article VII. All requests for relief shall include an itemized list of costs, the total amount requested, and justification for **Utility's** failure to identify the **Undisclosed Prior Property Interest**. Requests for relief may be approved, approved in part and denied in part, or denied.

ARTICLE V. RIGHT OF SITE ACCESS

Section 5.01 RIGHT OF SITE ACCESS. To ensure the **Metro Flood Diversion Authority** is able to proceed with construction of the **Project** in a timely and efficient manner, as well as to properly monitor and ensure proper completion of the **Utility Relocation Project**, the **Utility** shall, to the extent the **Metro Flood Diversion Authority** requires a grant of access, grant the **Metro Flood Diversion Authority** right-of-way in, on, over, and across any and all **Sites** as well as the right to access, enter, and inspect any **Site**.

Section 5.02 NON-REVOCABLE RIGHT OF THE METRO FLOOD DIVERSION AUTHORITY. Nothing herein shall be construed as limiting or providing for the termination of the rights described herein as it pertains to the **Metro Flood Diversion Authority**.

Section 5.03 NOTICE REQUIRED. Prior to exercising rights of **Site** access, the **Metro Flood Diversion Authority** shall provide the **Utility** with at least twenty-four (24) hours' notice if it intends to access a **Site** on which **Utility Adjustment Construction Work** is currently and actively being completed.

Section 5.04 DELAY FOR SAFETY PURPOSES. If the **Metro Flood Diversion Authority** attempts to exercise the rights described in this Article, but in doing so would pose a safety hazard, the **Metro Flood Diversion Authority** shall be kept from accessing, entering, or inspecting the **Site** in question, only for as long as is reasonably required to make the **Site** safe for access, entry, and inspection.

Section 5.05 FAILURE TO ALLOW ACCESS, ENTRY, AND INSPECTION. Should the **Metro Flood Diversion Authority** be denied access, other than when the **Utility** deems such a delay appropriate under Section 5.04, the **Utility** shall be assessed the same fees on the same schedule as described in Section 6.03.

ARTICLE VI. REQUIRED REPORTS

Section 6.01 REQUIRED REPORTS. The **Utility** will cooperate with **Metro Flood Diversion Authority** to identify and supply required reports, analysis, or other information and materials relevant to the **Project**.

Section 6.02 DEADLINES. All reports, engineering analyses, and other information and materials requested by the **Metro Flood Diversion Authority** shall be provided before the expiration of a reasonable deadline determined by the **Metro Flood Diversion Authority**.

Section 6.03 FAILURE TO TIMELY PRODUCE. Should the **Utility** fail to produce any reports, analysis, or other information and materials required of them by the **Metro Flood Diversion Authority** within or before the deadline pursuant to Section 6.02, and the **Metro Flood Diversion Authority** incurs any liquidated damages under the terms of the **Project Agreement**, and reasonably determines said liquidated damages arose in whole or in part from **Utility's** failure to provide requested reports, analysis, or information and materials within the time frame required herein, the **Utility** shall be responsible for and reimburse the **Metro Flood Diversion Authority** for the full amount of said liquidated damages.

ARTICLE VII. PERFORMANCE AND CONSTRUCTION

Section 7.01 DESIGN. The **Utility** shall be responsible for the **Utility Adjustment Design Work**, including the development and submission of the submittals described in this **Memorandum of Understanding**.

Section 7.02 CONSTRUCTION. The **Utility** shall be responsible for all **Utility Adjustment Construction Work**.

Section 7.03 ADDITIONAL RIGHT OF WAY.

- a. Betterments. The **Utility** shall be responsible for the acquisition of any additional right-of-way needed to accommodate **Betterments** at no cost to **Metro Flood Diversion Authority**.
- b. Consultation. In the event the **Utility Relocation Project** directly or indirectly causes the **Utility** to acquire additional property interests, the **Utility** shall consult with **Metro Flood Diversion Authority** prior to determining the price at which the **Utility** will offer to purchase said property interests and the **Utility** shall not be responsible for any damages related to time delays associated with the acquisition of this new right-of-way.
- c. Acquisition. The **Metro Flood Diversion Authority** shall use its **Best Efforts** to acquire the newly designed and necessary right-of-way as requested by the **Utility**, but **Metro Flood Diversion Authority** shall not be responsible for any damages related to time delays associated with the acquisition of this additional right-of-way.
- d. Purchase Price. Should the **Utility Relocation Project** require additional right-of-way, the **Utility** will only offer to purchase additional property interests at a price consented to by the **Metro Flood Diversion Authority**, which such consent shall not be unreasonably withheld or delayed. Should the property interests not be purchased based on the price approved by **Metro Flood Diversion Authority**, it will be **Metro Flood Diversion Authority's** responsibility to work with the **Utility** to redesign the relocation.

Section 7.04 OVERHEAD UTILITY TECHNICAL SPECIFICATIONS. Any overhead **Utility Adjustments** shall meet the following requirements:

- a. Towers located within the **Project Property** shall be constructed with steel.
- b. Towers may not be located within fifteen (15) feet of the **Diversion Channel Line of Protection**.
- c. Guy wire may not be placed within fifteen (15) feet of the **Diversion Channel Line of Protection**.
- d. Meet or exceed the minimum height requirements of the National Electric Safety Code (NESC) for transmission line conductors above finished grade. Locate the transmission lines so as to not interfere with project maintenance or emergency operations.
- e. Infrastructure abandoned by the **Utility** prior to or after the **Utility Relocation Project** must be removed at the expense of the **Utility**. Infrastructure abandoned

by the **Utility** as part of the **Utility Relocation Project** will be removed at the expense of the **Metro Flood Diversion Authority**.

Section 7.05 BURIED UTILITY TECHNICAL SPECIFICATIONS. Buried **Utility Adjustments** shall meet the following requirements.

a. **Diversion Channel and Levee Crossings.**

(i) **Depth** – Determine the depth of the diversion channel, including **LFC**, and the elevation of the bottom of the **Diversion Channel Line of Protection** (i.e., original ground minus stripping layer). Include an allowance for five (5) feet of erosion when determining the elevation of the utilities below the diversion channel or the **LFC**. Locate the top of the **Utility** ten (10) feet below the eroded bottom of the diversion channel and the **LFC** and a minimum of fifteen (15) feet below the bottom of the lowest compacted fill layer for levees and the bottom of flood wall foundations (i.e., for **LFC**: design the **LFC** invert elevation with five (5)-foot erosion allowance, ten (10)-foot cover). Place open cut utilities that are above the levee above the **Diversion Channel Line of Protection** elevation, including freeboard and overbuild.

(ii) **Method of Construction** – Utilities may be directionally drilled or open cut unless otherwise indicated. Direct trenching of utilities using a plow-type installation process and jack and bore installation are not permitted. When installed using an open cut, provide bedding and pipe zone using controlled low-strength material (CLSM), except beneath the levee. Submit CLSM mix design and test batch results. Design and construct CLSM for fifty (50) to one hundred fifty (150) psi, 28-day compressive strength. Use material excavated for **Utility** placement as backfill above the pipe zone, except as noted for the area under the levee. Compact backfill to a minimum of ninety-five percent (95%) of maximum dry density. For areas under the **Diversion Channel Line of Protection** (defined by the area between the extension of the levee side slopes to the depth of the **Utility**, plus fifteen (15) feet in each direction), match the levee material in properties and installation requirements for backfill above the pipe zone.

(iii) **Horizontal Directional Drilling** – If horizontal directional drilling is used, follow the **USACE Guidelines for Installation of Utilities Beneath Corps of Engineers Levees Using Horizontal Directional Drilling**. For the diversion channel, conduct direction drilling in accordance with ASTM F1962. If the conditions of these drilling requirements conflict for work under the channel, the requirements of this Agreement apply. Do not locate pipe entry/exit locations (pits) within fifty (50) feet of the **Diversion Channel Line of Protection**. Fill the annulus between the borehole and casing or pipe with drilling fluid or other material.

(iv) **Geotechnical Calculations** – Prepare and submit calculations to demonstrate that each utility line has adequate strength, flexibility, and slack to withstand the expected loading, rebound, and settlement beneath levees and other fills and that the selected depth accounts for rebound and settlement.

(v) Design Requirement – Design and construct utilities crossing the **Diversion Channel Line of Protection** in accordance with the USACE publication, *Engineer Manual, EM 1110-2-1913, "Design and Construction of Levees."* In the case of a conflict with stated requirements, design, and construct in accordance with this Agreement.

b. Excavated Material Berms, Local Drainage Ditch Crossings and Other Areas.

(i) Method of Construction – Install utilities by directionally drilling or open cutting, unless otherwise indicated. Do not direct trench utilities using a plow type installation process. Do not install utilities by jack and bore process. When installed using an open cut, the bedding and pipe zone of utility lines can be backfilled with CLSM or the standard bedding and pipe zone material the **Utility** uses. Submit CLSM mix design and test batch results. Design and construct CLSM for fifty (50) to one hundred fifty (150) psi, 28-day compressive strength. Use material excavated for utility placement as backfill above the pipe zone. Compact backfill to a minimum ninety-five percent (95%) of maximum dry density. For directional drilling, conform to the requirements for crossing the diversion channel.

(ii) Depth – Design and construct utilities to the desired depth and accommodate the following:

- (a) Stripping work areas of topsoil.
- (b) Heavy equipment loads.
- (c) Removal of **EMBs** in the future.
- (d) Except as indicated otherwise, construct the top of utility infrastructure a minimum of three and one-half (3.5) feet below the stripped surface and drainage ditch inverts.

(iii) Geotechnical Calculations – Consider the expected loading, rebound, and settlement, as well as utility strength, flexibility, and slack in the design of **Relocations**.

c. Water Resource District Crossings. The relocation of **Utility** property and infrastructure pursuant to this **Memorandum of Understanding** shall also be subject to the issuance of a utility permit by the applicable water resource district if said **Relocation** includes locating **Utility** property or infrastructure above, beneath, or through **Water Resource District Infrastructure**. The **Utility** and **Metro Flood Diversion Authority** shall work together and obtain a **Utility** permit in **Utility's** name from the appropriate water resource district before final review and approval of the **Utility Adjustment Design Work**.

d. Other Requirements.

(i) Manual Isolation Valves – Install manual isolation valves for emergency closure that are consistent with the **Utility's** safety requirements in a location accessible by the **Metro Flood Diversion Authority** and the **Utility** to the west of the west **EMB** and to the east of the **Diversion Channel Line of Protection**. Manual isolation valves may be placed outside of the **Project** right-of-way. Provide security and protective features as required by the **Utility**.

(ii) Grouting – Where horizontal directional drilling is used, grout the annular space between the borehole and the casing or pipe with cementitious grout for fifty (50) linear feet from the end of the pipe at the entrance and exit pits. Inject grout into the annular space at multiple points around the circumference of the pipeline throughout this fifty (50)-foot length. Install baskets or other devices on the pipeline just beyond the fifty (50)-foot length to prevent the grout from flowing more deeply into the hole, but completely fill the annular space between the basket and the ground surface. Limit grout pressure to the mud pressure used for the directional drill. Casings are not required.

(iii) Crossing Identification – Install four (4) color-coded fiberglass service line marker posts for underground utilities at each crossing point. Install the marker posts at the perimeter of the **Project** right-of-way and on the offset bench area (if any) between the diversion channel and the **EMB**. Use markers (length seventy-two (72) inches; width four (4) inches) to identify service lines and underground facilities. In addition, install one (1) color-coded fiberglass service-line marker post immediately adjacent to each manual isolation valve or other buried appurtenance within the right-of-way.

(iv) Abandonment and Removal – Infrastructure abandoned by the **Utility** prior to or after the **Utility Relocation Project** must be removed at the expense of the **Utility**. Infrastructure abandoned by the **Utility** as part of the **Utility Relocation Project** will be removed at the expense of the **Metro Flood Diversion Authority**

Section 7.06 PROPOSALS AND PLANS FOR GAS PIPELINES. Any time following the execution of this **Memorandum of Understanding**, the **Metro Flood Diversion Authority** may provide the **Utility** written notice of request for a **Preliminary Design Submittal**. Within sixty (60) days of receiving such written notice, the **Utility** shall submit for approval a **Preliminary Design Submittal**. Within sixty (60) days of receiving approval of the **Preliminary Design Submittal**, the **Utility** shall submit a **Final Design Submittal**. Within sixty (60) days of receiving approval of the **Final Design Submittal**, the **Utility** shall submit a **Construction Document Submittal**.

- a. Preliminary Design Submittal. The **Utility** shall complete a **Preliminary Design Submittal** to a minimum of approximately thirty percent (30%) level of design completion and define the basis of design for all aspects of the **Utility Relocation Project**. The **Preliminary Design Submittal** shall include calculations demonstrating that the proposed configuration meets and satisfies the technical requirements contained herein. The **Preliminary Design Submittal** shall also

provide sufficient detail to demonstrate compliance with all design and construction requirements as described herein. All of the following should also be included in the **Preliminary Design Submittal**:

- (i) A plan for completion of **Utility Adjustment Construction Work**, including, but not limited to, the intended sequence of **Utility Adjustment Construction Work**.
 - (ii) Include a schedule outlining construction, testing, outages, costs, anticipated start dates, and date of anticipated **Utility Adjustment Completion**.
- b. Final Design Submittal. The **Utility** shall complete a **Final Design Submittal** including, but not limited to, a completed design, an updated specifications content sheet, calculations verifying the design performance, geotechnical information, **Project** test and survey data, and all other related design and engineering reports, studies, and analyses. The **Final Design Submittal** shall also incorporate and/or address comments provided on the **Preliminary Design Submittal**. Furthermore, the **Final Design Submittal** shall describe any and all changes made since the submission of the **Preliminary Design Submittal**. The **Final Design Submittal** shall also contain complete applicable technical specifications. In addition to the aforementioned information, the **Final Design Submittal** shall include:
 - (i) **Utility** plan and profile alignments demonstrating conformance with the terms of this Section.
 - (ii) **Site** plans for the location of appurtenances and structures and **Utility** line markers.
 - (iii) When horizontal directional drilling is used, submittals and testing referenced in the design guidelines described or referenced in this **Memorandum of Understanding**.
 - (iv) A complete cost estimate for the **Utility's** portion of the **Utility Adjustment Construction Work**.
 - (v) A schedule with work breakdown structure that identifies utility outages, testing, and other critical dates.
 - (vi) Geotechnical calculations, as noted above.
- c. Construction Documents Submittal. The **Metro Flood Diversion Authority** shall provide the **Utility** with the required elements of **Construction Documents Submittal**, which shall include plans for construction, specification sheets, other data for the **Project**, incorporate and address review comments from the **Final Design Submittal**, and describe each change made since submission of the **Final Design Submittal**. Once approved by the **Parties**, the **Utility** shall sign and seal the contents of the **Construction Documents Submittal** as required by law.

Section 7.07 PROPOSALS AND PLANS FOR OVERHEAD TRANSMISSION LINES. The following proposals and plans shall be submitted for each **Utility Adjustment**.

- a. Any time following the execution of this **Memorandum of Understanding**, the **Metro Flood Diversion Authority** may provide the **Utility** written notice of the technical specifications for the diversion channel, any setback distances for transmission structures from the channel centerline, and minimum conductor elevations. Within sixty (60) days of receiving such written notice, the **Utility** shall develop and present for approval proposed tower locations and conductor elevation for review, comment, and approval by the **Metro Flood Diversion Authority**.
- b. Following approval of the tower locations and conductor elevations, the **Utility** shall develop a **Construction Document Submittal** for the completion of the **Utility Adjustment Construction Work** for review and approval by the **Metro Flood Diversion Authority** within sixty (60) days. The **Construction Document Submittal** shall include a complete cost estimate and a schedule with work breakdown structure that identifies utility outages and other critical dates. Upon completion of the **Construction Documents Submittal**, the **Utility** shall sign and seal the contents of the **Construction Documents Submittal**.
- c. The tower locations and conductor elevations approved by the **Metro Flood Diversion Authority** under Section 7.07 will form a clear space across and above the channel that will not be impinged upon by modification to existing facilities or new construction without the approval of the **Metro Flood Diversion Authority**.

Section 7.08 REVIEW. The **Metro Flood Diversion Authority** shall complete a full review of each submittal and provide comments and/or approval.

- a. The **Metro Flood Diversion Authority's** review of submittals shall be restricted to a determination of whether the submittal complies with the specifications and requirements set forth in this **Memorandum of Understanding** and the performance specifications provided in the **Utility's** design submittal.
- b. The **Metro Flood Diversion Authority** shall complete a full review and provide comments on submittals within twenty (20) **Business Days** of the date on which the **Metro Flood Diversion Authority** receives a full and complete submittal. Should the **Metro Flood Diversion Authority** determine that a submittal is not in compliance with the terms and specifications provided in this **Memorandum of Understanding**, the **Utility** will be notified of the reason for non-compliance and may resubmit with corrections, amendments, and/or addendums before a reasonable timeline to be determined by the **Metro Flood Diversion Authority** after conferring with the **Utility**. The **Metro Flood Diversion Authority** shall review the submittal and respond within ten (10) **Business Days**. The **Metro Flood Diversion Authority's** review of the re-submittal shall be limited to the portions of the initial submittal deemed insufficient as well as any other portions of the submittal which have been amended or added since the initial submission.

Section 7.09 REQUIREMENT OF APPROVAL. No **Utility Adjustment Construction Work** may begin until the **Metro Flood Diversion Authority** approves the final design, and the **Metro Flood Diversion Authority** approves the cost estimate required by this **Memorandum of Understanding**.

Section 7.10 APPROVAL WITHHELD. In the event the **Metro Flood Diversion Authority** withholds approval as to any proposed **Utility Adjustment Construction Work**, written notice of, and reasons for, withholding shall be provided to the **Utility**. Where approval is withheld, the **Utility** shall prepare and submit to the **Metro Flood Diversion Authority** a corrected submittal within sixty (60) days.

Section 7.11 FAILURE TO SUBMIT PLANS IN A TIMELY MANNER. Should **Utility** fail to submit proposals and plans required by this **Memorandum of Understanding** before expiration of the time granted in each respective proposal or plan and the **Metro Flood Diversion Authority** incurs any liquidated damages under the terms of the **Project Agreement**, and reasonably determines said liquidated damages arose in whole or in part from **Utility's** failure to provide requested reports, analysis, or information and materials within the time frame required herein, the **Utility** shall be responsible for and reimburse the **Metro Flood Diversion Authority** for the full amount of said liquidated damages.

Section 7.12 OTHER APPROVALS. The **Utility** shall promptly apply for and obtain all **Other Approvals** necessary for the **Utility Relocation Project**.

Section 7.13 INITIATION OF WORK.

- a. Natural Gas Pipelines. After the **Construction Documents Submittal** has been approved as to the natural gas pipelines to be **Relocated** hereunder, the **Metro Flood Diversion Authority** may give the **Utility** written notice that **Utility Adjustment Construction Work** on the natural gas pipelines shall begin within ninety (90) calendar days of notice date unless (i) notice is submitted within non-construction period of November through April, in which case, construction shall begin on or before the ninetieth (90th) day after notice, but no later than May 15; or (ii) for safety purposes construction cannot commence, in which case construction shall commence as soon as the safety threat has been mitigated or has subsided.
- b. Overhead Transmission Lines. After the **Construction Documents Submittal** has been approved as to the overhead transmission lines to be **Relocated** hereunder, the **Metro Flood Diversion Authority** may give the **Utility** written notice that **Utility Adjustment Construction Work** on the overhead transmission lines shall begin within one hundred eighty (180) calendar days of notice date unless (i) notice is submitted within the non-construction period of November through April, in which case, construction shall begin on or before the ninetieth (90th) day after notice, but no later than May 15; (ii) for safety purposes construction cannot commence, in which case construction shall commence as soon as the safety threat has been mitigated or subsided; and/or (iii) the **Utility** and **Metro Flood Diversion Authority** agree to a different date based on material procurement lead times and outage constraints; therefore, construction shall commence within ninety (90) days of end of said period.

- c. Failure to Initiate Work. Should **Utility** fail to initiate work as required by this **Memorandum of Understanding** before expiration of the time granted herein and the **Metro Flood Diversion Authority** incurs any liquidated damages under the terms of the **Project Agreement** and reasonably determines said liquidated damages arose in whole or in part from **Utility's** failure, the **Utility** shall be responsible for and reimburse the **Metro Flood Diversion Authority** for the full amount of said liquidated damages.

Section 7.14 SHOP DRAWING AND SAMPLE SUBMITTALS. The **Utility** shall submit **Shop Drawings and Samples** that detail the **Utility Adjustment Construction Work** within the **Project Property**. The **Metro Flood Diversion Authority** shall review the **Shop Drawings and Samples** in accordance with procedure and timelines in Section 7.08 for the review of design submittals.

Section 7.15 ADJUSTMENTS TO THE PROJECT. Should the planned route of the **SWDCAI** change in a material manner, the **Utility** and **Metro Flood Diversion Authority** shall interface to adjust plans for the **Utility Relocation Project** as necessary. The **Utility** shall be reimbursed for any costs associated with such change in accordance with the terms of this **Memorandum of Understanding**.

Section 7.16 ADJUSTMENT TO THE UTILITY ADJUSTMENT WORK. Any changes or modifications to the **Construction Documents Submittal** during construction that materially affect the performance or construction of the **Utility Adjustment Work** will be subject to written approval by the **Metro Flood Diversion Authority**. The **Metro Flood Diversion Authority** shall provide approval or a written explanation of its specific objections to the changes or modifications in accordance with the procedures and timelines set forth in Section 7.08. Utility lines not required to be moved prior to the adjustment of **Construction Documents Submittal**, which need to be **Relocated** after changes are made to **Construction Documents Submittal**, shall not be treated as **Undisclosed Prior Property Interests** for purposes of assigning responsibility for costs.

Section 7.17 INSPECTION. The **Utility** shall be responsible for inspection of the **Utility Adjustment Construction Work**. However, the **Metro Flood Diversion Authority** shall have a concurrent right to inspect **Utility Adjustment Construction Work**.

Section 7.18 UTILITY COMPLETION. The **Utility** will provide the **Metro Flood Diversion Authority** with written notice of any anticipated **Utility Adjustment Completion** for the **Utility Adjustment Construction Work** at least sixty (60) calendar days and fifteen (15) **Business Days** prior to the anticipated date for **Utility Adjustment Completion**. Within ten (10) **Business Days** of the anticipated date for **Utility Adjustment Completion**, the **Utility** will notify the **Metro Flood Diversion Authority** to schedule a final inspection of the **Utility Adjustment Construction Work** to determine whether the **Utility Adjustment** meets the final design and any material changes or modifications made pursuant to Sections 7.15 and 7.16. If the **Metro Flood Diversion Authority** finds the construction is not in conformance with the **Construction Documents Submittal** or any approved material changes or modifications, the **Metro Flood Diversion Authority** will notify the **Utility** of such fact and the **Utility** will correct such nonconformance in the construction work and re-notify for inspection. The **Utility** shall be assessed the fees on the same schedule as described in Article VI if the **Utility** is solely negligent.

Section 7.19 RECORD DRAWINGS. The **Utility** shall provide location and depth of the buried portions of the **Utility Relocation Project** at fifty (50) yard intervals using the North American Datum of 1983 (NAD83) (NSRS2007), North Dakota State Plane Coordinate System, South Zone and the North American Vertical Datum of 1988 (NAVD88) (GEOID09). The **Utility** shall coordinate with the **Metro Flood Diversion Authority** to document the **Utility Adjustment Construction Work** within the **Project Property**.

Section 7.20 UTILITY DISCOVERY OF DAMAGE. Should the **Utility** discover or otherwise become aware of damage to the **SWDCAI** caused by **Utility**, **Utility** facilities, or **Utility** infrastructure, **Utility** shall provide written notice of the damage to the **Metro Flood Diversion Authority**, and, at its own cost, repair said damage before a reasonable deadline provided by the **Metro Flood Diversion Authority**. Should the **Metro Flood Diversion Authority** reasonably determine that the **Utility** caused any damage to the **SWDCAI**, the **Metro Flood Diversion Authority** shall notify the **Utility** of said damage as soon as reasonably possible and provide **Utility** with a reasonable deadline to repair said damage in light of existing circumstances, including but not limited to other work scheduled to be completed on the **SWDCAI** in the area where the damage occurred. If **Utility** is not able to repair the damage by the deadline provided by the **Metro Flood Diversion Authority**, the **Metro Flood Diversion Authority** may elect to repair the damage at the expense of the **Utility** unless precluded from doing so by law. Should any damage or repairs contemplated by this Section include disturbance of the ground within the **Project Property**, **Utility** shall provide the **Metro Flood Diversion Authority** proposed repair plans, which must be approved by the **Metro Flood Diversion Authority** prior to the initiation of any repair work.

Section 7.21 DAMAGE TO SWDCAI. Should the **Metro Flood Diversion Authority** reasonably determine damage or a threat of damage to the **SWDCAI** exists as result of the movement of bore and/or drilling mud through or within soil in the **Project Property**, said damage or threat of damage shall be remedied through processes including either deep soil mixing or sheet piling to occur within thirty (30) days of the occurrence.

Section 7.22 THIRD-PARTY CONTRACTORS. Should **Utility** engage any third-party contractor to fulfill, contribute to, or otherwise act in regard to an obligation assigned to **Utility** in this **Memorandum of Understanding**, **Utility** shall abide by all restrictions and requirements provided for in Exhibit 5 to this **Memorandum of Understanding**.

ARTICLE VIII. PAYMENT OF COSTS

Section 8.01 NECESSITY TO KEEP COSTS LOW. The **Utility** and **Metro Flood Diversion Authority** each recognize the need to minimize the cost of the **Utility Relocation Project**, while seeking to maintain the same quality of service to the **Utility's** customers. The **Utility** and **Metro Flood Diversion Authority** shall be diligent in keeping costs as low as reasonably possible.

Section 8.02 SUBMITTAL OF COST ESTIMATE. Following the submittal of a **Construction Documents Submittal**, the **Utility** shall submit a cost estimate for the **Utility's** portion of the **Utility Adjustment Construction Work** in the **Construction Documents**

Submittal. The **Metro Flood Diversion Authority** shall review and approve the cost estimate under the terms identified in Section 7.08.

Section 8.03 GENERALLY. The **Metro Flood Diversion Authority** shall pay all reasonable costs of the **Utility Relocation Project** approved under Section 8.02, whether those costs are incurred by the **Utility** or the **Metro Flood Diversion Authority**.

Section 8.04 WHEN REPORTED COSTS EXCEED ESTIMATES. If the costs reported pursuant to this Article exceed the aggregate cost approved pursuant to Article VII or appear to be unreasonable, the **Metro Flood Diversion Authority** may, within thirty (30) days of receipt of the itemized report, provide the **Utility** with written notice requesting clarification of specific line items as excessive or unreasonable in relation to the costs approved pursuant to Article VII and the **Utility** will provide within thirty (30) days proper justification. Following clarification by the **Utility** or the expiration of thirty (30) days, the **Metro Flood Diversion Authority** shall accept or reject the costs in question. Acceptance of costs shall not be unreasonably withheld. Should the **Metro Flood Diversion Authority** reject any costs, it shall provide the **Utility** with an explanation of the reasons for said rejection.

Section 8.05 APPEAL OF A DECISION TO REJECT COSTS. The **Utility** may appeal a decision rejecting any cost by providing the **Metro Flood Diversion Authority** written notice of the appeal and justification for its expenses within twenty (20) days of its receipt of the rejection notice.

Section 8.06 WRITTEN JUSTIFICATION OF COSTS. Within twenty (20) days of receipt of the written notice described in Section 8.04, the **Metro Flood Diversion Authority** shall determine which **Party** will bear the rejected costs.

Section 8.07 PAYMENT OF ACCEPTED COSTS. Within thirty (30) days of the determination of the **Metro Flood Diversion Authority's** liability, the **Metro Flood Diversion Authority** shall issue payment of the amount owed to the **Utility**.

Section 8.08 BETTERMENTS. In no situation shall any **Party** other than the **Utility** be responsible for the costs and expenses of **Betterments** to the **Utility** facilities installed during the **Utility Relocation Project**.

Section 8.09 PAYMENT AFTER TERMINATION. Should **Metro Flood Diversion Authority** terminate this **Memorandum of Understanding**, all costs incurred by the **Utility** shall be paid by **Metro Flood Diversion Authority** within thirty (30) days of invoicing, pursuant to the review and acceptance provisions detailed in this Article.

ARTICLE IX. ASSIGNMENT OF RESPONSIBILITIES

Section 9.01 ASSIGNMENT BY THE METRO FLOOD DIVERSION AUTHORITY. The **Metro Flood Diversion Authority** may, in its sole discretion, assign all or any of its rights, responsibilities, authority, or obligations under this **Memorandum of Understanding**, so long as

said assignment does not frustrate the purpose of this **Memorandum of Understanding** or the **Project**.

Section 9.02 ASSIGNMENT BY THE UTILITY. The **Utility** may assign any or all of its rights, responsibilities, authority, or obligations under the terms of this **Memorandum of Understanding**, so long as said assignment does not frustrate the purpose of this **Memorandum of Understanding** or the **Project**.

ARTICLE X. FUTURE RIGHTS AND RESPONSIBILITIES

Section 10.01 PERPETUAL EASEMENT OR RIGHT-OF-WAY. If, and to the extent necessary, for purposes of the **Utility Relocation Project**, the **Utility** shall, to the extent allowed by law, be granted by **Metro Flood Diversion Authority** a perpetual easement below, above, and across **Project Property** for the maintenance of **Utility** facilities. In the event **Project Property** is owned in less than fee simple, **Metro Flood Diversion Authority** shall grant **Utility** right-of-way below, above, and across the **Project Property** so as to allow **Utility** to maintain its facilities. The easement or right-of-way granted pursuant to this Section shall be subject to the following restrictions:

- a. Maintenance of Utility Property. Following completion of the **Utility Relocation Project**, the **Utility** shall be responsible for all maintenance of **Utility** property and associated infrastructure.
- b. Post-Construction Access. Following completion of the **Utility Relocation Project**, the **Utility** shall provide the **Metro Flood Diversion Authority** with seven (7) days' written notice of any maintenance it intends to do within the **Project Property**, unless said maintenance is previously unplanned but necessary due to an emergency situation.
- c. Approval for Ground Disturbing Maintenance or Repairs. The **Utility** must submit and obtain approval for any and all plans for maintenance or repair, other than in emergency situations as determined by the **Utility**, which requires the ground within the **Project Property** to be disturbed, from the **Metro Flood Diversion Authority** on the same schedule described for submittals in Section 7.08. Approval shall not be unreasonably withheld by the **Metro Flood Diversion Authority**.
- d. Cleanup. The **Utility** shall ensure that after any maintenance or repairs to **Utility** Property, the ground within the **Project Property** is returned to the state in which it existed prior to the maintenance or repair that caused the ground within the **Project Property** to be disturbed.
- e. Access. The **Metro Flood Diversion Authority** shall have unrestricted access in, over, and across the easement. The **Metro Flood Diversion Authority** shall not construct any buildings or structures over the easement granted pursuant to this Article that will permanently and/or entirely limit **Utility's** access to its facilities.

- f. Damage to the SWDCAI. Should **Utility** cause damage, or **Utility** property malfunction, deconstruct, or otherwise cause damage to the **SWDCAI**, the **Utility** shall take immediate action to stop ongoing damage to the **SWDCAI** and repair all damage that occurs at its own expense.
- g. Abandonment. Should the **Utility** abandon or remove a utility line within the easement prior to initiation of the **Utility Relocation Project** or after completion of the **Utility Relocation Project** and fail to replace the line within three (3) years of removal, the **Utility** shall forfeit and extinguish said easement.

Section 10.02 USE OF EXISTING EASEMENT. In the event **Utility** property is **Relocated** within **Utility's** currently-existing easement, the **Utility** shall be bound by the requirements and obligations contained in Section 10.01. The requirements of this Section shall survive so long as the **Utility** has property located within the **Project Property**.

Section 10.03 RECORDKEEPING. The **Utility** shall maintain or cause to be maintained (by way of contract and enforcement of such contract) a complete set of records detailing all costs it incurs in the **Utility Relocation Project**, in accordance with the recordkeeping and audit requirements of this **Memorandum of Understanding** and the laws of North Dakota.

Section 10.04 FUTURE PERMITS. Should the **Utility** file a formal permit application pertaining to the utility line **Relocated** pursuant to this **Memorandum of Understanding**, with the **Metro Flood Diversion Authority** after the **Effective Date**, the **Metro Flood Diversion Authority** shall grant, at no cost to the **Utility**, the permit application so long as the permit application meets all reasonable requirements listed in the instructions to said permit application and the proposed crossing would not unreasonably risk harm to the **SWDCAI** or interfere with other facilities already contained within the **Project Property**, as determined by the **Metro Flood Diversion Authority**. Should an existing **Utility** line be modified in the future, the **Metro Flood Diversion Authority**, in its sole discretion, shall determine whether the modification is allowable under a previously existing permit or whether the modification is significant enough in its nature or effect to require the **Utility** to apply for a new permit. The term "modifications" as used in this Section includes changes that bring new or existing conductors below the height elevation approved pursuant to Article VII, changes that would move tower locations approved pursuant to Article VII, or any other changes that would impinge upon the clear space between the inner edges of the towers located immediately adjacent to either side of the channel or the conductor elevations and the ground approved pursuant to Article VII.

Section 10.05 MAINTENANCE OF UTILITY PROPERTY. The **Utility** shall be responsible for all maintenance of **Utility** property and associated infrastructure.

ARTICLE XI. DISPUTES WITH CONTRACTORS AND OTHER THIRD PARTIES

Section 11.01 COORDINATION. The **Parties** shall coordinate with respect to any dispute with third parties. Such coordination shall include any potential or ongoing litigation.

**ARTICLE XII.
DISPUTES BETWEEN THE UTILITY AND METRO FLOOD DIVERSION
AUTHORITY**

Section 12.01 INTENT AND PROCEDURE. The **Parties** shall cooperate and use their **Best Efforts** to ensure that the provisions of this **Memorandum of Understanding** are fulfilled. The aforementioned **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 **Memorandum of Understanding**. If disputes cannot be resolved informally by the **Parties** or under other situation-specific dispute resolution mechanisms contained herein, the following procedure shall be used.

Section 12.02 MEDIATION. If there is a failure between the **Parties** to resolve a dispute on their own, the **Parties** shall first attempt to mediate the dispute. The **Parties** shall agree upon a single mediator, or if that cannot be agreed upon, shall each contribute three (3) names to a list of mediators and select a mediator by alternately striking names until one (1) remains. The **Metro Flood Diversion Authority** shall strike the first name, followed by the **Utility**, until one (1) name remains.

Section 12.03 LITIGATION IF DISPUTE NOT RESOLVED. If the dispute is not resolved within thirty (30) days after the end of mediation proceedings, the **Parties** may litigate the matter.

Section 12.04 LEGAL FEES. Each **Party** will be responsible for their own attorney's fees in connection with a dispute under this Article.

**ARTICLE XIII.
USE OF EMINENT DOMAIN**

Section 13.01 EMINENT DOMAIN. Nothing in this **Memorandum of Understanding** shall be construed as limiting the **Metro Flood Diversion Authority's**, or one of its **Member Entities'**, ability to exercise its powers of eminent domain.

Section 13.02 NULLIFICATION BY EMINENT DOMAIN. Should the **Metro Flood Diversion Authority** initiate eminent domain proceedings to accomplish the goals of the **Utility Relocation Project**, any term or terms of this **Memorandum of Understanding** may be deemed null and void at the sole discretion of the **Metro Flood Diversion Authority**.

Section 13.03 NULLIFICATION AFTER COSTS INCURRED. Should the terms of this **Memorandum of Understanding** be nullified under Section 13.02, after plans and proposals described in Sections 7.06 and 7.07 have been approved as required by Article VII, the **Utility** shall, within thirty (30) days of being served with notice of the eminent domain proceeding, submit a report of its costs to the **Metro Flood Diversion Authority** in the same manner it would have submitted a report of costs to the had the **Utility Relocation Project** been completed. The **Utility** and **Metro Flood Diversion Authority** shall have all of the rights and obligations created by Article VII.

**ARTICLE XIV.
MISCELLANEOUS**

Section 14.01 NOTICE. All notices under the **Memorandum of Understanding** will be in writing and: (a) delivered personally; (b) sent by certified mail, return receipt requested; (c) sent by a recognized overnight mail or courier service, with delivery receipt requested; or (d) sent by facsimile or email communication followed by a hard copy and with receipt confirmed by telephone or return receipt (in the case of email communication), to the following addresses:

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

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

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

Metro Flood Diversion Authority
Attention: Executive Director
207 4th Street North, Suite A
Fargo, North Dakota 58102

And

APIInvoicesFMDiv@jacobs.com
PaulsenJ@FMDiversion.gov

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

Gas Distribution
2302 Great Northern Drive
P.O. Box 2747
Fargo, North Dakota 58108
Brad.L.Sylliaasen@xcelenergy.com

Transmission Engineering
414 Nicollet Mall
Minneapolis, Minnesota 55401
Matthew.C.Hoese@xcelenergy.com

General Counsel Office – Real Estate
401 Nicollet Mall
Minneapolis, Minnesota 55401
Jennifer.ThulienSmith@xcelenergy.com

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

Section 14.02 WORKERS' COMPENSATION. Each **Party** shall be responsible for injuries or deaths of its own personnel. Each **Party** will maintain workers' compensation insurance or self-insurance coverage covering its own personnel while they are providing assistance pursuant to this **Memorandum of Understanding**. Each **Party** waives the right to pursue a legal action against one of the other **Parties** for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries are caused wholly or partially by the negligence of any other **Party** or its officers, employees, or volunteers.

Section 14.03 INSURANCE. The **Utility** shall list the **Metro Flood Diversion Authority** (including its agents and contractors) as well as the **CCJWRD** as additional insured on any insurance policy obtained in connection with the **Utility Relocation Project**. After a **P3 Developer** is selected, this **Memorandum of Understanding** shall be amended by the **Parties** to (i) make the **P3 Developer** a party to this **Memorandum of Understanding**; and (ii) require the **Utility** to add the **P3 Developer** as an additionally insured on any insurance policy obtained in connection with the **Utility Relocation Project**. No **Utility Adjustment Work** may be done until a certificate of insurance listing as the then required additional insureds is produced. An additional insured shall be given notice at least thirty (30) days before an insurance policy on which it is an additional insured is canceled or allowed to expire. In the event that the policy is terminated for any reason and notice has not been previously given to the additional insureds, the formerly insured shall give notice to the additional insureds as soon as is reasonably possible. The **Utility** shall obtain a general liability insurance policy providing no less than two million dollars (\$2,000,000) of coverage in connection with the **Utility Relocation Project**.

Section 14.04 INDEMNIFICATION. The **Utility** shall indemnify, save, and hold the **Metro Flood Diversion Authority**, its **Member Entities**, directors, officers, employees, and agents harmless from any liability, loss, damage, or expense, including legal fees, arising out of the negligent performance of their respective obligations under this **Memorandum of Understanding** or by anyone for whom they are in law responsible. The **Parties** agree that they shall cooperate with each other in the defense of any such action, including providing each other with prompt notice of any such action and the provision of all material documentation. The **Parties** further agree that they have a right to retain their own counsel to conduct a full defense of any such action.

Section 14.05 RELATIONSHIPS CREATED. The **Parties** agree this **Memorandum of Understanding** does not create any agency, partnership, joint venture, or any other relationship between the **Parties** and that **Utility** is solely responsible for its own actions or omissions.

Section 14.06 GOVERNING LAW. This **Memorandum of Understanding** shall be controlled by the laws of the State of North Dakota. Any action brought as a result of any claim, demand, or cause of action arising under the terms of this **Memorandum of Understanding** shall be venued in Cass County in the State of North Dakota, and the **Parties** waive any objection to personal jurisdiction.

Section 14.07 CONFLICT. In the event of a conflict between this **Memorandum of Understanding** and any other agreement, this **Memorandum of Understanding** shall control and govern the relocation of **Utility** infrastructure, lines, and property for purposes of the **SWDCAI**, but not the relocation of **Utility** infrastructure, lines, and property for purposes of the Southern Embankment.

Section 14.08 FEES. The fees provided for herein shall not be interpreted or deemed to be the **Metro Flood Diversion Authority's** sole source of recovery for damages in any way arising from or related to **Utility's** delay, actions, or failure to act. The **Metro Flood Diversion Authority** shall have all remedies available to it at law in addition to any fees paid to the **Metro Flood Diversion Authority** by **Utility** pursuant to this **Memorandum of Understanding**. Nothing in this **Memorandum of Understanding** shall be deemed a waiver by the **Metro Flood Diversion Authority** of the limits on liability set forth by the laws of the state of North Dakota or the state of Minnesota, including but not limited to those contained in North Dakota Century Code Section 32-12.1-03 or Minnesota Statute 466.04, nor shall anything herein be deemed a waiver of any available immunities or defenses by the **Metro Flood Diversion Authority**.

Section 14.09 ELECTRONIC SIGNATURES. The **Parties** acknowledge and agree that this **Memorandum of Understanding** may be executed by electronic signature, which shall be considered an original signature for all purposes and shall have the same force and effect as an original signature.

Section 14.10 FEDERAL LOBBYING RESTRICTIONS. Recipients of federal financial assistance may not pay any person for influencing or attempting to influence any officer or employee of a federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress with respect to the award, continuation, renewal, amendment, or modification of a federal grant, loan, or contract. These requirements are implemented for United States Environmental Protection Agency ("EPA") in 40 CFR Part 34, which also describes types of activities, such as legislative liaison activities and professional and technical services, which are not subject to this prohibition. Upon award of this contract, **Utility** shall complete and submit to the **Metro Flood Diversion Authority** the certification and disclosure forms in Appendix A and Appendix B to 40 CFR Part 34, which are attached as Exhibits to this Agreement. The **Utility** shall also require all subcontractors and suppliers of any tier awarded a subcontract over \$100,000 to similarly complete and submit the certification and disclosure forms pursuant to the process set forth in 40 CFR Part 34.110.

Section 14.11 DEBARMENT AND SUSPENSION. **Utility** certifies that it will not knowingly enter into a contract with anyone who is ineligible under the 40 CFR Part 32 to participate in the **Project**. Suspension and debarment information can be accessed at <http://www.sam.gov>. **Utility** represents and warrants that it has or will include a term or condition requiring compliance with this provision in all of its subcontracts under this Agreement. Upon award of this contract, **Utility**

shall complete and submit to the **Metro Flood Diversion Authority** the federal certification form regarding debarment and suspension, which is attached as an Exhibit to this Agreement.

Section 14.12 CIVIL RIGHTS OBLIGATIONS. **Utility** shall comply with the following federal non-discrimination requirements:

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

Section 14.13 AMERICAN IRON AND STEEL. The **Utility** acknowledges to and for the benefit of the **Metro Flood Diversion Authority** and the EPA that it understands the goods and services under this **Memorandum of Understanding** are being funded with monies made available by the Water Infrastructure Finance and Innovation Act program of the EPA that has statutory requirements commonly known as “American Iron and Steel” that requires all of the iron and steel products used in the **Project** to be produced in the United States (“American Iron and Steel Requirement”) including iron and steel products provided by the **Utility** pursuant to this **Memorandum of Understanding**. **Utility** hereby represents, warrants, and covenants to and for the benefit of the **Metro Flood Diversion Authority** and the EPA that (a) the **Utility** has reviewed and understands the American Iron and Steel Requirement; (b) all of the iron and steel products used in the **Project** will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved; and (c) the **Utility** will provide any further verified information, certification, or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the **Metro Flood Diversion Authority** or the EPA. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the **Utility** shall permit the **Metro Flood Diversion Authority** or the EPA to recover as damages against the **Utility** any loss, expense, or cost (including without limitation attorney’s fees) incurred by the **Metro Flood Diversion Authority** or the EPA resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EPA or any damages owed to the EPA by the **Metro Flood Diversion Authority**). While the **Utility** has no direct contractual privity with the EPA, as a lender to the **Metro Flood Diversion Authority** for the funding of its **Project**, the **Metro Flood Diversion Authority** and the **Utility** agree that the EPA is a third-party beneficiary and neither this paragraph (nor any other provision of this **Memorandum of Understanding** necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the EPA.

Section 14.14 CERTIFICATION. Upon award of this contract, **Utility** shall comply with, complete, and submit to the **Metro Flood Diversion Authority** full executed versions of the federal certification forms attached as exhibits hereto.

Section 14.15 SEVERABILITY. Each provision, section, sentence, clause, phrase, and word of this **Memorandum of Understanding** 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 shall not affect the validity of the remainder of this **Memorandum of Understanding**.

Section 14.16 MODIFICATIONS. Any modifications or amendments to this **Memorandum of Understanding** must be in writing and signed by both **Parties** to this **Memorandum of Understanding**.

Section 14.17 BINDING EFFECT. This **Memorandum of Understanding** shall be for the benefit of, and may be enforced only by, the **Parties** and is not for the benefit of, and may not be enforced by, any third party.

Section 14.18 REPRESENTATION. The **Parties**, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this **Memorandum of Understanding**, and agree they have not been influenced by any representations or statements made by any other parties.

Section 14.19 HEADINGS. Headings in this **Memorandum of Understanding** are for convenience only and will not be used to interpret or construe its provisions.

Section 14.20 COUNTERPARTS. This **Memorandum of Understanding** may be executed in counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement and shall become effective when one or more counterparts have been signed by each of the **Parties** and delivered to the other **Party**.

Section 14.21 REPRESENTATION OF AUTHORITY. Each **Party** signing this **Memorandum of Understanding** represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this **Memorandum of Understanding**, and that the **Memorandum of Understanding** is a valid and legal agreement binding on such **Party** and enforceable in accordance with its terms.

Section 14.22 TERMINATION. This **Memorandum of Understanding** may be terminated by the **Metro Flood Diversion Authority** at any time and for any reason upon three (3) days' written notice to **Utility**. The **Utility** may terminate this **Memorandum of Understanding** if it first obtains written approval, which will not be unreasonably withheld, of the termination from the **Metro Flood Diversion Authority**.

Section 14.23 FORCE MAJEURE. Neither the **Utility** nor **Metro Flood Diversion Authority** shall be held responsible for any delay or failure in performance of any part of this **Memorandum of Understanding** to the extent such delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, act of God, or other similar causes beyond its control, and without the fault or negligence of the delayed or non-

performing party. The affected party will notify the other party in writing within ten (10) days after the beginning of any such cause that would affect its performance. Notwithstanding, if a party's performance is delayed for a period exceeding thirty (30) days from the date the other party receives notice under this section, the non-affected party will have the right, without any liability to the other party, to terminate this **Memorandum of Understanding**.

(Signatures appear on the following pages.)

IN WITNESS WHEREOF, the **Parties** executed this **Memorandum of Understanding** on the date first written above.

METRO FLOOD DIVERSION AUTHORITY

BY: _____
Michelle A. Carlson, Chair

BY: _____
Joel Paulson, Executive Director

NORTHERN STATES POWER COMPANY
D/B/A XCEL ENERGY

By: **Steve Martz**
Signature

Digitally signed by Steve Martz
DN: cn=Steve Martz, o=Xcel
Energy, ou=Gas Engineering,
email=stephen.martz@xcelenerg
y.com, c=US
Date: 2021.04.12 08:40:37 -06'00'

Name: **Stephen Martz**
Printed

Title: **Sr. Director - Gas Engineering**

By: _____
Signature

Name: _____
Printed

Title: _____

EXHIBITS 1-5
RIGHT-OF-WAY DOCUMENTS

CASS COUNTY HIGHWAY DEPARTMENT
UTILITY PERMITNorthern States Power Companyof Fargo N. D.

HEREINAFTER CALLED THE APPLICANT, hereby granted permission to install and maintain the following described facilities on highway right of way, as shown on the plans attached hereto and made a part hereof:

JUN 18 1992

INSTALLATION AND MAINTENANCE: Installation and maintenance of said facilities on highway right way shall conform to the following provisions:

- (1). Within thirty (30) days after construction, maintenance, relocation or removal of said facilities, any right of way scars shall be removed and disturbed areas restored to original condition and reseeded. The area will be maintained by the applicant for a period of one (1) year from the date of completion.
- (2). The utility shall be placed at a minimum depth of 42 inches below the ditch elevation within 75 feet of the centerline of the road.
- (3). The utility shall be placed under all County roads by means of pipe, pushed at a minimum depth of 42 inches under the road surface.
- (4). Marker posts shall be installed on all crossings on the right of way line or farther from the centerline of the road.

TERMS AND CONDITIONS: Installation and maintenance of said facilities on highway right of way shall be subject to the following terms and conditions:

- (A). Installation, maintenance, relocation and removal of said facilities on highway right of way shall be done in a manner satisfactory to the Board of County Commissioners.
- (B). The County shall not be liable for damage to said facilities resulting from reconstruction or maintenance of the highway. Applicant shall hold the County harmless for injury to persons or damage to property resulting from the location of said facilities on highway right of way.
- (C). Applicant shall repair or replace highway structures and appurtenances and any existing facilities located on, over or under highway right of way, which may be damaged as a result of the installation and maintenance of said facilities on highway right of way.
- (D). Applicant shall promptly remove said facilities from highway right of way, or shall relocate or adjust said facilities, at its sole cost and expense when requested to so do by the Board of County Commissioners.

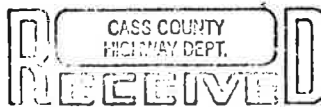
Applicant hereby agrees to the above terms and conditions and when this application is signed by both the applicant and the County, it shall become a permit to do the work herein described.

William R. Krigen
Applicant signature

Approved at a regular meeting of the Board of County Commissioners of Cass County, North Dakota, this 6th day of July, 1992, at Fargo, North Dakota.

Alton Christensen
Chairman

Northern States Power Company
North Dakota-Fargo Area
Gas Operations



Fact Sheet



JUN 18 1992

New Natural Gas Pipeline Proposed For Fargo Area

Preparing for Future Growth

Northern States Power company proposes to construct and operate an extension to its natural gas distribution system approximately 12 miles in length. NSP will receive natural gas from Williston Basin Interstate Pipeline Company (WBI), near Mapleton, North Dakota, located about 10 miles west of Fargo. Natural gas delivered through the proposed project will serve Fargo and surrounding North Dakota communities. The new pipeline will enhance the availability of adequate and price competitive supply of natural gas well into the future.

Proposed Route for New Pipeline

The majority of the proposed route would be located within public right-of-way, thereby minimizing impacts to the environment and individual property owners. The proposed route will commence at the Town Border Station to be provided by (WBI) approximately 1.5 miles north of Mapleton. The line would proceed south and east, traversing around Mapleton to County Road 10. The line would then proceed east within the north right-of-way of County Road 10 for approximately 6.25 miles then proceed south within the east right-of-way of County Road 17 for approximately .5 miles. The line would continue east for approximately 2.75 miles within the north right-of-way of 7th Avenue north to NSP's proposed District

Regulator Station. NSP will contact property owners whose land will be directly affected by the proposed route. All land will be restored as near as possible to its original condition. North Dakota Law requires alternate routes be considered by the North Dakota Public Service Commission. The proposed route is shown on the reverse.

Design

The proposed pipeline is to be designed for a maximum pressure of 720 PSIG, with an operating pressure of 200 PSIG. This line will be constructed with 12-3/4 inch steel pipe and will be of all welded construction and tested to ensure integrity of the pipeline system. The line will be designed, operated and maintained in accordance with the U.S. Department of Transportation Safety Regulations, Title 49, Code of Federal Regulations, Part 192.

Construction Timetable

NSP has filed for a Corridor and Route permit with the North Dakota Public Service Commission. With appropriate permits and approvals, we expect to begin construction in August, 1992. The North Dakota Public Service commission is now evaluating the project. A public hearing is scheduled at the Fargo Community Center on May 26, 1992, and a decision is expected in July, 1992. NSP will work with the involved communities and agencies to obtain all necessary construction permits.

COUNTY RIGHT OF WAY RESOLUTION

WHEREAS, Northern States Power Company, a Minnesota corporation, duly licensed to do business within the State of North Dakota, and engaged generally in the business of generation, transmission and distribution of electric energy and natural gas, has applied for the grant of a right of way over, upon and under the highways and public grounds under the care and supervision of this Board of County Commissioners of CASS County; and this Board having duly considered the matter:

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF said County, that said Application be, and the same is hereby granted, and there is hereby granted to Northern States Power Company, a Minnesota corporation, its successors and assigns, the right of way for the construction, operation and maintenance of gas transmission and distribution system, including the construction, operation and maintenance of gas transmission and distribution system, over, upon and under any public grounds, streets, or highways under the care of supervision of said Board of County Commissioners, including, without limiting the generality of the foregoing, all County highways and highways in unorganized territories in said County, but not including any streets or highways which lie within the limits of any organized City or Village.

The right of way hereby granted shall be subject to the following conditions, restrictions and regulations, viz: The gas transmission system shall be located such that traffic on the county road will not be interfered with; in addition, Northern States Power Company hereby agrees to restore the road right of way to its former condition of usefulness.

This right of way is applied for and granted pursuant to the North Dakota Century Code, Section 11-11-14;

The foregoing resolution was offered by _____ who moved its adoption, which motion was seconded by _____. Upon roll being called thereon, the following vote was cast:

Yeas: _____

Nays: _____

Said resolution was thereupon duly declared passed and adopted at a regular meeting of this Board held on the _____ day of _____, 19____.

_____ Chairman

_____ Board of

ATTEST:

(Clerk or Auditor)

EXHIBIT 1 (cont.)

ACCEPTANCE

Northern States Power Company, the corporation named in the foregoing right of way does hereby accept the grant of right of way provided in the foregoing resolution, together with each and all of the terms, conditions, restrictions and regulations therein contained.

Dated: 6/17/, 1992

NORTHERN STATES POWER COMPANY
a corporation

By *F. W. Erickson*
Its ~~Vice President~~
Supt.

EXHIBIT 1 (cont.)

Legal Description Reed Township

Section 31 - Twp. 140 N Rge 49 W

Section 32 - Twp. 140 N Rge 49 W

Barnes

Section 5 - Twp 139 N Rge 49 W

Section 4 - Twp 139 N Rge 49 W

Section 3 - Twp 139 N Rge 49 W

Section 2 Twp 139 N Rge 49 W

Section 1 Twp 139 N Rge 49 W

Raymond

Section 30 Twp 140 N Rge 50 W

Section 29 Twp 140 N Rge 50 W

Section 32 Twp 140 N Rge 50 W

Section 33 Twp 140 N Rge 50 W

Section 34 Twp 140 N Rge 50 W

Section 35 Twp 140 N Rge 50 W

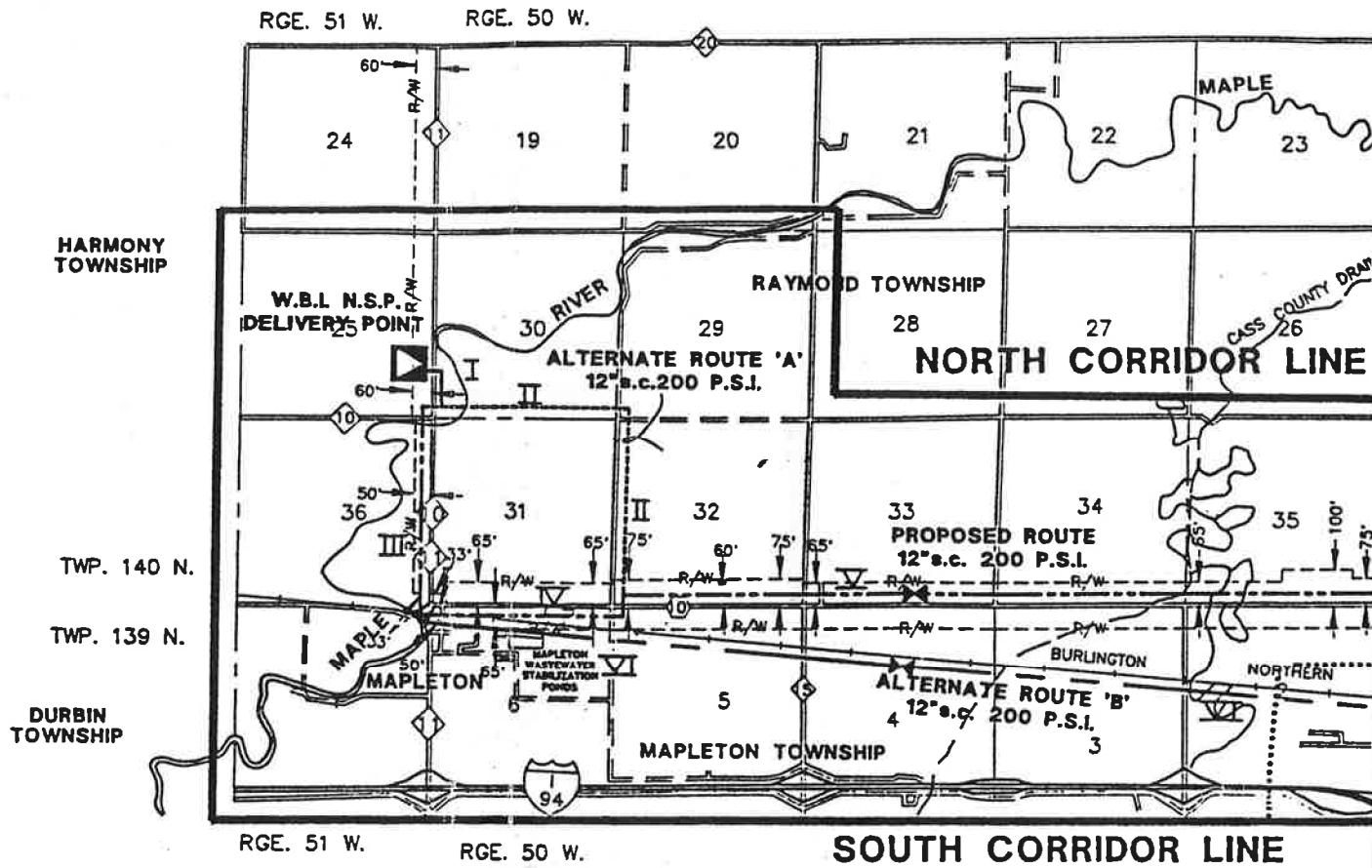
Section 36 Twp 140 N Rge 50 W

Harmony

Section 25 Twp 140 N Rge 51 W

EXHIBIT 1 (cont.)

CASS COU



CASS COUNTY HIGHWAY DEPARTMENT **UTILITY PERMIT**

Suzan M. Balkovatz

Applicants Name

Northeast States Power

Company

THE APPLICANT is hereby granted permission to install and maintain the following described facilities on highway right of way, as shown on the plans attached hereto and made a part hereof:

INSTALLATION AND MAINTENANCE: Installation and maintenance of said facilities on highway right of way shall conform to the following provisions:

- (1). Within thirty (30) days after construction, maintenance, relocation or removal of said facilities, any right of way scars shall be removed and disturbed areas restored to original condition and reseeded. The area will be maintained by the applicant or a period of one (1) year from the date of completion.
- (2). The utility shall be placed at a minimum depth of 42 inches below the ditch elevation within 75 feet of the centerline of the road.
- (3). The utility shall be placed under all County roads by means of pipe, pushed at a minimum depth of 42 inches under the road surface.
- (4). Marker posts shall be installed on all crossings on the right of way line or farther from the centerline of the road.

TERMS AND CONDITIONS: Installation and maintenance of said facilities on highway right of way shall be subject to the following terms and conditions:

- (A). Installation, maintenance, relocation and removal of said facilities on highway right of way shall be done in a manner satisfactory to the Board of County Commissioners.
- (B). The County shall not be liable for damage to said facilities resulting from reconstruction or maintenance of the highway. Applicant shall hold the County harmless for injury to persons or damage to property resulting from the location of said facilities on highway right of way.
- (C). Applicant shall repair or replace highway structures and appurtenances and any existing facilities located on, over or under highway right of way, which may be damaged as a result of the installation and maintenance of said facilities on highway right of way.
- (D). Applicant shall promptly remove said facilities from highway right of way, or shall relocate or adjust said facilities, at its sole cost and expense when requested to so do by the Board of County Commissioners.

Applicant hereby agrees to the above terms and conditions and when this application is signed by both the applicant and the County, it shall become a permit to do the work herein described.

County Highway Number

10

Township

2Aymond 140 N 50 W

Sections

34 (SW)

Applicant Signature

Suzan M. Balkovatz

Title

Gas Area Assoc. Rep.

Cass County Engineer

9/28/98

Date Approved

NO DOCUMENTS FOUND

SEARCHED RECORDS OF THE OFFICE OF THE COUNTY RECORDER EFFECTIVE JANUARY 6, 2017, AND FOUND NO RECORDS FILED BY THE NORTHERN STATES POWER COMPANY d/b/a XCEL ENERGY FOR SECTION 3, TOWNSHIP 139 NORTH, RANGE 50 WEST, CASS COUNTY, NORTH DAKOTA.

1. KNOW ALL MEN BY THESE PRESENTS that I (we), of the County of Cass, hereinafter called "Grantor", in consideration of the sum of Four Hundred Eighty and no/100 Dollars (\$480.00) to U.S. in hand paid by Northern States Power Company, a corporation duly organized and existing under the laws of the State of Minnesota, the receipt whereof is hereby acknowledged, do hereby grant unto said Company, its successors and assigns, hereinafter called "Grantee", the right, privilege and easement to construct, operate and maintain a wood pole electric transmission line with all towers, structures, poles, crossarms, cables, wires, guys, supports, fixtures and devices, used or useful in the operation and maintenance of said line through, over, and across the following described land situated in the County of Cass and State of North Dakota, to-wit:

North One Half (N 1/2) of Section Twenty Five (25), Township One Hundred and Thirty Nine (139) North, Range Fifty (50) West.

The wood pole structures to be set upon the above described premises shall not exceed three (3) in number except that one additional wood pole structure may be placed upon additional payment of One Hundred Dollars (\$100.00) per structure to Grantors, their successors or assigns.

The Grantee shall regularly apply soil sterilants to the ground for a distance of three (3) feet around each pole of the above wood pole structures and to the area between the poles, so as to prevent weed growth.

Ease. Doc. 591376 widens this ease. to 95'

2. Said transmission line shall be constructed on the following described center line: Beginning at a point One Hundred and Six and Four Tenths (106.4) feet south of the Northeast corner of the Northeast Quarter (NE 1/4) thence west to a point One Hundred and Four (104) feet south and One Hundred and Twenty Five (125) feet west of the Northeast corner of the Northwest Quarter of Section Twenty Five (25), thence northwesterly Two Hundred and Forty (240) feet, more or less, to a point on the north section line of Section Twenty Five (25) above.

3. Said transmission line and every part thereof where it crosses said land shall, except as stated in paragraph 4 hereof, be confined to lands within 37.5 feet of either side of the hereinabove described center line.

4. Grantee shall have the additional right and privilege of placing and maintaining guys and anchorages for said transmission line on said land at distances greater than 37.5 feet from said center line, as follows:

Beginning at a point One Hundred Forty Two (142) feet, more or less, South and One Hundred and Twenty (120) feet, more or less, West of the Northeast corner of the Northwest Quarter (NW 1/4), Section Twenty Five (25) above, thence southerly Fifty Five (55) feet, thence westerly Forty (40) feet, thence northerly Fifty Five (55) feet, thence easterly along the south line of the 37.5 foot right of way strip to the point of beginning.

5. The grant of easement herein contained shall include the right to enter upon the property of Grantor described in Paragraph 1 hereof to survey, construct, operate, control, maintain and use said transmission line, and to rebuild the same (provided no substantial alterations are made therein which materially increase the burden of the servitude hereby imposed on the land), to remove from the land within 37.5 feet either side of said center line any structure, tree, or object which in the opinion of the Grantee will interfere with said transmission line, including the branches of trees overhanging said zone of 37.5 feet either side of said center line, and the right to permit the attachment of wires of others to the structures of said transmission line.

6. The Grantor reserves the right to cultivate, use and occupy said land except that, without the prior written approval of the Grantee, he shall not erect any structures, hay or straw stacks, or other objects, permanent or temporary, or plant any trees, within 37.5 feet either side of said center line, and the Grantor further agrees that he will not perform any act which will interfere with or endanger said transmission line or the use thereof.

7. The Grantee shall pay for all damages to crops, fences, livestock, roads and fields caused by the construction or maintenance of said transmission line. Claims on account of such damage may be referred to Grantee's nearest office.

8. The grant of easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, other electric transmission lines and telegraph and telephone lines heretofore granted across any part of the above described land.

THIS EASEMENT SUPERSEDES AN EASEMENT GIVEN TO NORTHERN STATES POWER COMPANY BY FRANK PARSLEY AND CLARA E. PARSLEY COVERING THE SAME PROPERTY, DATED AUGUST 2, 1954.

IN WITNESS WHEREOF (I) (we) have duly executed this instrument this 22 day of December, 1957.

In the presence of:

Frank Parsley (SEAL)

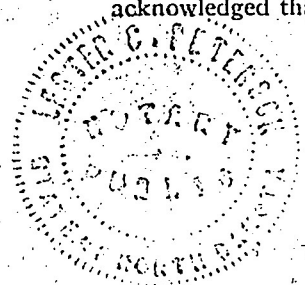
Clara E. Parsley (SEAL)

STATE OF ~~MINNESOTA~~ NORTH DAKOTA }
COUNTY OF CASS } ss.

On this 22 day of December, 1957, before me, a Notary Public, within and for said county, personally appeared Frank Parsley and Clara E. Parsley his wife, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

NOTARY PUBLIC Clara E. Parsley County

My Commission Expires July 14, 1957



DOCUMENT NO. 326970

FEES { Recording 1.50 chg.
Aud. Transfer _____

STATE OF NORTH DAKOTA, ss.
COUNTY OF CASS, ss.
REGISTER'S OFFICE
I hereby certify that the above instrument was filed in this office for record on the 27 day of Dec., A. D. 1957, at 808 o'clock A.M., and was duly recorded in Book B-2 of Missel., Page 532
By A. Friedman REGISTER OF DEEDS.
Deputy.

No. States Power Co.
Box 1271 - Fargo
Attention: W. F. Wiersing

1. KNOW ALL MEN BY THESE PRESENTS that I (we), of the County of Cass, hereinafter called "Grantor", in consideration of the sum of Four hundred eighty and 100/100 Dollars (\$480.00) to us in hand paid by Northern States Power Company, a corporation duly organized and existing under the laws of the State of Minnesota, the receipt whereof is hereby acknowledged, do hereby grant unto said Company, its successors and assigns, hereinafter called "Grantee", the right, privilege and easement to construct, operate and maintain a wood pole electric transmission line with all towers, structures, poles, crossarms, cables, wires, guys, supports, fixtures and devices, used or useful in the operation and maintenance of said line through, over, and across the following described land situated in the County of Cass and State of North Dakota, to-wit:

North One Half (N 1/2) of Section Twenty Five (25), Township One Hundred and Thirty Nine (139) North, Range Fifty (50) West.

The wood pole structures to be set upon the above described premises shall not exceed three (3) in number except that one additional wood pole structure may be placed upon additional payment of One Hundred Dollars (\$100.00) per structure to Grantors, their successors or assigns.

The Grantee shall regularly apply soil sterilants to the ground for a distance of three (3) feet around each pole of the above wood pole structures and to the area between the poles, so as to prevent weed growth.

2. Said transmission line shall be constructed on the following described center line:

Beginning at a point Eighty-One and four tenths (81.4) feet south of the Northeast corner of the Northeast Quarter (NE 1/4) thence west to a point Seventy-Nine (79) feet south and Two hundred (200) feet west of the Northeast corner of the Northwest Quarter of Section Twenty-Five (25) feet above.

3. Said transmission line and every part thereof where it crosses said land shall, except as stated in paragraph 4 hereof, be confined to lands within 37.5 feet of either side of the hereinabove described center line.

4. Grantee shall have the additional right and privilege of placing and maintaining guys and anchorages for said transmission line on said land at distances greater than 37.5 feet from said center line, as follows:

Beginning at a point One Hundred and Seventeen (117) feet more or less South and One Hundred and Eighty feet more or less West of the Northeast corner of the Northwest Quarter (NW 1/4), Section Twenty-Five (25) above, thence southerly Fifty-Five (55) feet, thence westerly Forty (40) feet, thence northerly Fifty-Five (55) feet, thence easterly along the south line of the 37.5 foot right of way strip to the point of beginning.

(over)

5. The grant of easement herein contained shall include the right to enter upon the property of Grantor described in Paragraph 1 hereof to survey, construct, operate, control, maintain and use said transmission line, and to rebuild the same (provided no substantial alterations are made therein which materially increase the burden of the servitude hereby imposed on the land), to remove from the land within 37.5 feet either side of said center line any structure, tree, or object which in the opinion of the Grantee will interfere with said transmission line, including the branches of trees overhanging said zone of 37.5 feet either side of said center line, and the right to permit the attachment of wires of others to the structures of said transmission line.

6. The Grantor reserves the right to cultivate, use and occupy said land except that, without the prior written approval of the Grantee, he shall not erect any structures, hay or straw stacks, or other objects, permanent or temporary, or plant any trees, within 37.5 feet either side of said center line, and the Grantor further agrees that he will not perform any act which will interfere with or endanger said transmission line or the use thereof.

7. The Grantee shall pay for all damages to crops, fences, livestock, roads and fields caused by the construction or maintenance of said transmission line. Claims on account of such damage may be referred to Grantee's nearest office.

8. The grant of easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, other electric transmission lines and telegraph and telephone lines heretofore granted across any part of the above described land.

IN WITNESS WHEREOF (I) (we) have duly executed this instrument this 2nd day of August, 1954.

In the presence of:

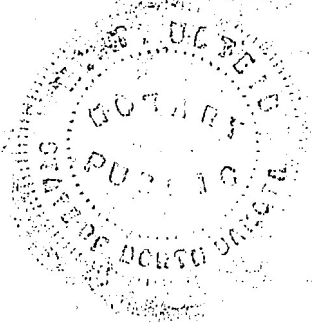
Frank Parsley (SEAL)

Clara E. Parsley (SEAL)

STATE OF NORTH DAKOTA }
COUNTY OF CASS } ss.

On this 2nd day of August, 1954, before me, a Notary Public, within and for said county, personally appeared Frank Parsley and Clara E. Parsley, his wife, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

M. H. Melley
NOTARY PUBLIC Cass County North Dakota
My Commission Expires August 3, 1959



DOCUMENT NO. 316169

FEES { Recording 1.50chg.
Aud. Transfer _____

STATE OF NORTH DAKOTA, } ss.
COUNTY OF CASS. }
REGISTRY OFFICE
I hereby certify that the above instrument was filed in this office for record on the 5 day of Aug. A. D. 1954 at 8:05 o'clock A.M., and was duly recorded in Book M-2 of Michel, Page 154 of Friedman
REGISTER OF DEEDS.
By _____ Deputy.

BOOK M-2 PAGE 155

No. States Power Co.

EASEMENT

FORM 17-2923 (3-81)

BOOK 14-9 PAGE 376

EXHIBIT 5

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, hereinafter called "Grantor", in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to Grantor in hand paid by Northern States Power Company, a Minnesota corporation, hereinafter called "NSP", does hereby grant unto NSP, its successors and assigns, the perpetual right, privilege and easement to construct, operate, maintain, use, rebuild, or remove electric transmission lines with all towers, structures, poles, crossarms, cables, wires, guys, supports, counterpoises, fixtures, and devices used or useful in the operation, maintenance and use of said lines through, over, under and across the following described lands situated in the County of Cass County, State of Minnesota, to wit:

NORTH DAKOTA

The North Half of Section 25, Township 139 North, Range 50 West.

The rights granted herein shall be limited to a strip of land 95 feet in width, which lies within a distance of 47.5 feet on each side of the following described line, and extensions thereof, to-wit:

Beginning at a point 106.4 feet south of the northeast corner of the Northeast Quarter; thence westerly to a point 104 feet south and 125 feet west of the northeast corner of the Northwest Quarter of Section 25; thence northwesterly 340 feet more or less to a point on the north line of said Section 25, Township and Range aforesaid.

ALSO

An anchor tract described as follows:

Beginning at a point 151.5 feet south and 120 feet west of the northeast corner of the Northwest Quarter of Section 25, Township 139 North, Range 50 West; thence southerly parallel to the bisect of the angle in the above transmission line in the Northeast Quarter of the Northwest Quarter of said Section 25 for a distance of 55 feet; thence westerly at right angles 40 feet; thence northerly 68 feet more or less to the southerly right of way line of the above transmission line; thence southeasterly along said southerly right of way line to the point of beginning.

The rights granted herein may be exercised at any time subsequent to the execution of this document.

The grant herein contained shall also include the right to erect, at any time prior to the construction of the said transmission lines, reasonable signs for the purpose of monumenting the boundaries of this easement. Said transmission lines and supporting structures from time to time may be reconstructed or relocated on said strip of land with changed dimensions and to operate at different voltages.

The grant of easement herein contained shall also include the right of NSP to have reasonable access to said strip of land across the property of Grantor adjacent thereto, said access to be designated by Grantor within a reasonable time upon request by NSP.

The grant of easement herein contained shall include the right to enter upon the property of Grantor to survey for and locate said transmission lines and shall also include the right to remove from said strip of land any structures, trees (including branches of trees overhanging said strip of land) or objects, except fences, which in the opinion of NSP will interfere with said transmission lines.

The grant herein contained shall also include the right of NSP to permit the attachment of wires of others to the structures supporting said transmission lines.

Grantor reserves the right to cultivate, use and occupy said strip of land, except that, Grantor shall not erect any structures or other objects, permanent or temporary, except fences, thereon. Grantor further agrees that he will not perform any act which will interfere with or endanger said transmission lines and further, shall not plant any trees upon said strip without the prior expressed written approval from NSP. Grantor also reserves the right to dedicate and have or permit to be improved, maintained, and used for the purposes of streets, curbs and gutters, sewers, water and underground utilities (hereinafter called "improvements"), the position of said right of way not occupied by the structures supporting Northern States Power Company's electric transmission system, provided that said improvements do not alter the existing ground elevations, nor do they impair the structural or electrical integrity of said transmission system; and provided further that all such improvements shall not result in a ground clearance of less than the minimum requirements specified by the National Electrical Safety Code.

DESCRIPT.	NSP File No.	5B
TYPED		
CHECKED	Location No.	01052
SIGNED		
POSTED	Line No.	0839
RECORDED		
LAND SUPV.	PE No.	81CM07

Name Frank and CLARA E. Parsley

Mortgage _____

NSP shall pay for all damages to landscaping, roads and driveways, fences, livestock, crops and fields caused by the construction or maintenance of said transmission lines. Claims on account of such damages may be referred to NSP's nearest office.

Grantor covenants with NSP, its successors and assigns, that Grantor is the owner of the above described premises and has the right to sell and convey an easement in the manner and form aforesaid.

The rights herein granted are subject to existing rights of way for highways, roads, railroads, pipelines, canals, laterals, ditches or other electric transmission lines and telegraph and telephone lines heretofore granted across any part of the lands affected by this instrument.

The Grantor agrees to execute and deliver to NSP, at NSP's cost, without additional compensation any additional documents needed to correct the legal description of the easement area to conform to the right of way actually occupied by the transmission lines.

It is mutually understood and agreed that this instrument covers all the agreements and stipulations between the parties and that no representation or statements, verbal or written, have been made modifying, adding to or changing the terms hereof.

This instrument is exempt from the Minnesota Deed Tax.

This instrument was drafted by Northern States Power Company, 414 Nicollet Mall, Minneapolis, Minnesota.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be duly executed as of the 22nd

day of SEPTEMBER, 1982.

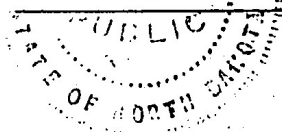
Frank Parsley
Clara E. Parsley

STATE OF NORTH DAKOTA

COUNTY OF Cass

ss.

The foregoing instrument was acknowledged before me this 22 day of September, 1982,
by Frank Parsley and Clara E. Parsley



Ronald L. Solberg
NOTARY PUBLIC
Notary Public, CASS COUNTY, N. DAK.
My Commission Expires JULY 10, 1988

STATE OF _____
COUNTY OF _____ ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 19____.

by _____ (NAME AND TITLE)

of _____ a
(NAME OF CORPORATION ACKNOWLEDGING)

_____, corporation, on behalf of the corporation.
(STATE OF PLACE OF INCORPORATION)

FORM 17-2923 (BACK)

DOCUMENT NO. 591376

FEES: Recording 2.00

STATE OF NORTH DAKOTA }
COUNTY OF CASS }
REGISTER'S OFFICE

I hereby certify that the above instrument was filed in this office for record on the 24 day of Sept., A. D. 1982, at 10:39 o'clock A. M. and was duly recorded in Book H-9 of Plat 91, Page 377.

BOOK H-9 PAGE 377

REGISTER OF DEEDS
Deanna Henderson
By Allen E. Spauld

M. L. P. - Maple, Minn.
att'n: Mrs. E. E. Johnston

EXHIBIT 6

PROJECT MAP

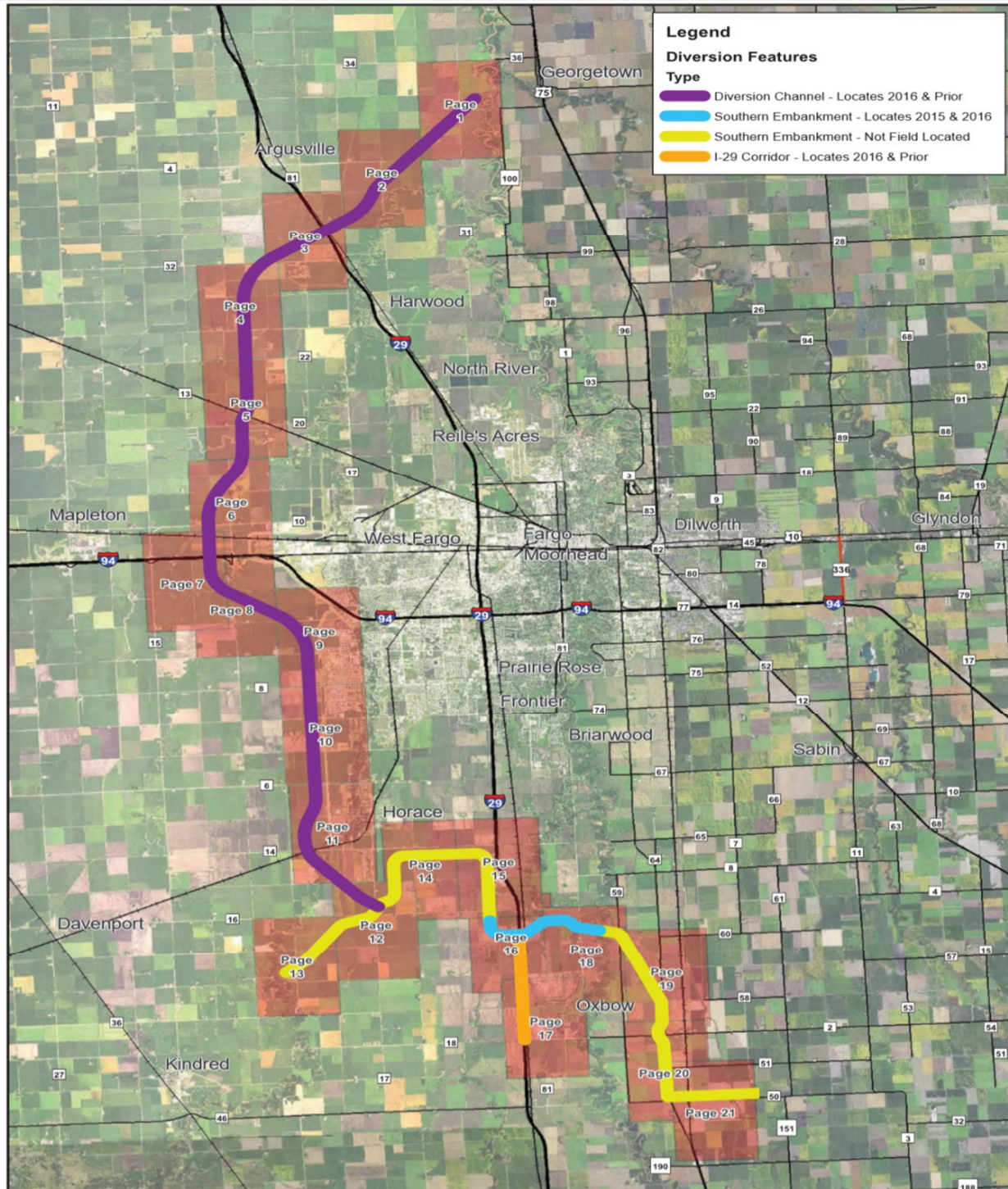


EXHIBIT 7

AUTHORITY INVOICING REQUIREMENTS

In addition to any requirements set forth in the **Memorandum of Understanding**, **Utility** shall submit copies of each invoice to:

PaulsenJ@FMDiversion.gov and APIInvoicesFMDiv@jacobs.com

Utility's invoices must be detailed and precise, clearly detailing each fee and expense for the amounts due on a line-item basis, and include at least the following information:

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

Payment does not imply acceptance of services nor that the invoice is accurate. In the event **Utility** discovers an error in the amount of payment following the receipt of payment, **Utility** must provide written notice of the overpayment to **Metro Flood Diversion Authority**, and credit any payment in error from any payment that is due or that may become due to **Utility** under this **Memorandum of Understanding** or return the overpayment to **Metro Flood Diversion Authority** within thirty (30) calendar days of the identification of the error.

American Iron and Steel Certification

And any other information referenced within the **Memorandum of Understanding**. In the event of a conflict between these invoicing requirements and the **Memorandum of Understanding**, the **Memorandum of Understanding** shall control.

EXHIBIT 8
FEDERAL CERTIFICATION FORMS
CERTIFICATION REGARDING FEDERAL LOBBYING

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

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

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

Company/
Entity Name: _____

Signed: _____

Its: _____

Date: _____

PLEASE RETURN TO:

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

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

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

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON PAGE 2)

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

Official Business Name _____

Date: _____

By: _____

Name and Title of Authorized
Representative

PLEASE RETURN TO:

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

Signature of Authorized Representative

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this certification, the prospective contracting party is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective contracting party shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Metro Flood Diversion Authority's (the "Authority") determination whether to enter into this transaction. However, failure of the prospective contracting party to furnish a certification or an explanation shall disqualify such person from entering into contracts with the Authority.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the Authority determined to enter into a contract with the prospective contracting party. In order to qualify for participation in the U.S. EPA WIFIA program the Authority is required to obtain this certification. If it is later determined that the prospective contracting party knowingly rendered an erroneous certification, in addition to other remedies available to both the Authority and the Federal Government, the Authority may terminate this transaction for cause or default.
4. The prospective contracting party shall provide immediate written notice to the Authority to which this Certificate is submitted if at any time the prospective contracting party learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Authority for assistance in obtaining a copy of those regulations (13 CFR Part 145).
6. The prospective contracting party agrees by submitting this certification that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Authority.
7. The prospective contracting party further agrees by submitting this certification that it will require a "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions," from all sub-contractors without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A contracting party in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A contracting party may decide the method and frequency by which it determines the ineligibility of its principals.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a contracting party is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a contracting party in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Authority may terminate this transaction for cause or default.

ASSURANCE OF COMPLIANCE – CIVIL RIGHTS CERTIFICATE

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

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

The undersigned assures that it will comply with:

1. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, or national origin including limited English proficiency (LEP);
2. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against persons with disabilities;
3. The Age Discrimination Act of 1975, as amended, which prohibits age discrimination;
4. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex;
5. 40 CFR Part 7, as it relates to the foregoing; and
6. Executive Order No. 11246.

The undersigned understands that this Assurance is binding on the undersigned, its successors, transferees, and assignees at any time during which federal financial assistance is provided to the Project. The undersigned will ensure that all contractors, subcontractors, or others with whom it arranges to provide services or benefits are not discriminating in violation of items 1-6. Otherwise, the contracts for services can be terminated for cause and the undersigned can be declared ineligible to contract for the Project.

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

Signature of Authorized Official

Title

Print Name

Name of Institution or Agency

Date

Street

City, State, Zip Code

PLEASE RETURN TO:

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

Office Email Address

American Iron and Steel (AIS) Certification

[The following information is provided as a sample letter of certification for AIS compliance. Documentation must be provided on company letterhead.]

Date

[Diversion Authority]

Subject: American Iron and Steel Certification for Project No. _____

Authority Work Package No. _____

To: [Authority Representative]

I, [company representative], certify and warrant that the following products and/or materials shipped/provided to Project No. _____ are in full compliance with the American Iron and Steel requirement as mandated in EPA's Water Infrastructure Finance and Innovation Act (WIFIA) Program.

Item, Products and/or Materials:

1. _____
2. _____
3. _____

Such process took place at the following location:

I understand and agree that EPA is a third-party beneficiary to this certification and that I am duly authorized to give this certification on behalf of [Company Name]. If any of the above compliance statements change while providing material to this project, we will immediately notify the prime contractor and the engineer.

Signed [company representative]

PLEASE RETURN TO:

Metro Flood Diversion Authority
207 4th St. N, Suite A
Fargo, ND 58102



Date: April 15, 2021

To: Metro Flood Diversion Authority (MFDA) Finance Committee and Board of Authority

From: Peggy Harter, Deputy Program Manager, Jacobs

RE: Memorandum of Understanding (MOU) between the MFDA and NuStar Pipeline Operating Partnership L.P. (NuStar) going before the Finance Committee and Board of Authority on April 21 and 22, 2021

The MOU between the MFDA and NuStar that follows includes the Memorandum of Understanding and all Exhibits except for Exhibit 9 Design Documentation Report (DDR). Exhibit 9 DDR exceeds 400 pages and has been removed as an attachment to the MOU within the Finance Committee and Board of Authority packets to reduce the size of your monthly packet. Exhibit 9 DDR, can be made available to you upon request via e-mail at peggy.harter@jacobs.com.

MEMORANDUM OF UNDERSTANDING

By and Between
METRO FLOOD DIVERSION AUTHORITY
and
NUSTAR PIPELINE OPERATING PARTNERSHIP L.P.

Dated as of April 15, 2021

Relating to:

**Diversion Channel and Associated Infrastructure
for the Fargo-Moorhead Metropolitan
Area Flood Risk Management Project**

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

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EXHIBIT 8 CONSTRUCTION SCHEDULE

EXHIBIT 9 DESIGN DOCUMENTATION REPORT

EXHIBIT 10 FEDERAL CERTIFICATION FORMS

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this 14th day of April, 2021 (hereinafter referred to as the “**Effective Date**”), by and between the Metro Flood Diversion Authority, a North Dakota political subdivision, whose post office address is P.O. Box 2806, Fargo, ND 58108-2806, and NuStar Pipeline Operating Partnership, L.P., whose post office address is 19003 IH-10 West, San Antonio, Texas 78257 (hereinafter referred to as the “**Utility**”).

RECITALS

WHEREAS, the **Metro Flood Diversion Authority** is undertaking a Private Public Partnership (hereinafter referred to as the “**P3**”) for the construction of the **Diversion Channel and Associated Infrastructure**; and

WHEREAS, prior to the **Metro Flood Diversion Authority** undertaking the **P3** for the construction of the **Diversion Channel and Associated Infrastructure**, the **Utility** had and continues to hold real property interests, including easements for a pipeline or pipelines, and an operating refined petroleum products pipeline and related appurtenances and equipment (hereinafter, the easements, the pipeline, and all appurtenances and equipment related thereto are referred to as “**Prior Property Interests**”) within the area generally described in Article III of this **Memorandum of Understanding** and further described in Exhibits 1 through 5; and

WHEREAS, the **Metro Flood Diversion Authority** determined that it will be necessary for the **Prior Property Interests** to be relocated, protected, removed, or adjusted as part of the **Utility Relocation Project** in coordination with construction of the **Project**; and

WHEREAS, the **Metro Flood Diversion Authority** recognizes that its **Project** and this **Memorandum of Understanding** have the potential to have a detrimental effect on the **Utility** and its **Prior Property Interests** and other interests, and has determined therefore to coordinate with the **Utility** to accomplish the **Utility Relocation Project** as described herein; and

WHEREAS, the **Metro Flood Diversion Authority** recognizes the **Utility’s** need to transmit refined petroleum products through its facilities in as uninterrupted a fashion as is practicable; and

WHEREAS, the **Metro Flood Diversion Authority** and the **Utility** entered into an Agreement for Payment of Costs of Work Necessary to Prepare Applications Necessary to Complete Relocation Projected, dated December 19, 2019 (referred to collectively with any duly-executed amendments as the “**Reimbursement Agreement**”), whereby the Authority is obligated to reimburse NuStar for certain Application-Related Work Expenses (as defined therein); and

WHEREAS, the **Utility** has coordinated with the **Metro Flood Diversion Authority** about the **Utility Relocation Project**, including the location for the relocation, the design for the project, and related matters, including through submission to the **Metro Flood Diversion Authority** of the **Utility’s** Design Documentation Report for the **Utility Relocation Project** (and revisions thereto); and

WHEREAS, based upon the coordination between the **Metro Flood Diversion Authority** and the **Utility**, the **Utility Relocation Project** shall consist of replacing the portion of **Utility's** existing North System Pipeline that will be impacted by the **Project**, including (1) the installation of approximately 2.23 miles of 10.75-inch outside diameter welded steel pipeline and related appurtenances, and (2) the abandonment-in-place of the impacted segment of the existing Northern System Pipeline. The project area is generally depicted below, showing the location of the existing North System Pipeline is depicted below in blue, the relocation segment in red, the nearest valves are depicted as "V1" and "V2," and the proposed tie-in locations for the relocation segment to the North System Pipeline as indicated:



; and

WHEREAS, based upon the coordination between the **Metro Flood Diversion Authority** and pursuant to the **Reimbursement Agreement**, the **Utility** has pursued and obtained a Certificate of Corridor Compatibility and a Route Permit from the North Dakota Public Service Commission (the "**NDPSC Permits**") and negotiated with landowners on agreements deemed necessary to the **Utility's** successful completion of the **Utility Relocation Project** as contemplated hereunder and without litigation being necessary between the **Utility** and such landowners; and

WHEREAS, the **Parties** expect that, because of the **Utility's** work performed pursuant to the **Reimbursement Agreement**, including acquisition of the **NDPSC Permits** and agreements with landowners, as well as the **Parties'** coordination of the review of **Utility's Design Documentation Report** for the **Utility Relocation Project**, allow for **Utility** will commence and complete construction of the **Utility Relocation Project** in 2021, barring presently unforeseen circumstances; and

WHEREAS, the **Metro Flood Diversion Authority** has reviewed the **Design Documentation Report**, provided feedback resulting in changes to the same, and then reviewed the revised versions of the **Design Documentation Report** and approved the same and directed **Utility** to proceed with the formal solicitation of bids for the **Utility Relocation Project**; and

WHEREAS, the **Utility** has formally solicited bids for the **Utility Relocation Project** and received bid responses, which were used to prepare an updated cost estimate and schedule (based

on assumptions) that were submitted to and approved by the **Metro Flood Diversion Authority**; and

WHEREAS, the **Utility** made revisions to the **Design Documentation Report** to reflect that the **Utility** will abandon-in-place portions of the pipeline being taken out of service (as described in the **Design Documentation Report**), which revised **Design Documentation Report** the **Metro Flood Diversion Authority** reviewed and approved; and

WHEREAS, the **Utility** intends to commence and complete construction of the **Utility Relocation Project** in 2021, and the **Metro Flood Diversion Authority** intends to promptly process, or cause to be processed, all approvals necessary in order to ensure the timely commencement and completion of the **Utility Relocation Project**; and

WHEREAS, the **Metro Flood Diversion Authority** has represented that should the **Utility** and the **Metro Flood Diversion Authority** not be able to enter into an agreement governing the **Utility Relocation Project**, the **Metro Flood Diversion Authority**, through one or more of its constituents, will acquire the land rights necessary to complete the **Project** pursuant to the eminent domain laws of the State of North Dakota; and

WHEREAS, the **Utility** and **Metro Flood Diversion Authority** desire to set forth the Parties' respective rights and obligations in connection with the **Utility Relocation Project**; and

WHEREAS, this **Memorandum of Understanding** is only intended to bind the **Parties** in regard to the portion of the **Comprehensive Project** north of the Southern Embankment and shall have no implications for or binding power in regard to the Parties work, efforts, or relations in the **Southern Embankment and Associated Infrastructure**.

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

ARTICLE I. DEFINITIONS AND INTERPRETATION

Section 1.01 RECITALS. The foregoing recitals are considered substantive in nature and incorporated herein.

Section 1.02 DEFINITIONS. All capitalized and bolded terms used and not otherwise defined herein shall have the meanings given to them in this **Memorandum of Understanding** and as defined in this Section unless a different meaning clearly applies from the context.

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

"Betterment" means any upgrading of **Utility** in the course of any **Utility Adjustment** that is not attributable to construction of the **Project** and is made solely for the benefit of and at

the election of **Utility**. The following are not considered **Betterments**: (a) any upgrading 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 of equivalent standards, though 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, regulation, or industry standard; (e) replacement devices or materials that are used for reasons of economy (including non-stocked items that may be uneconomical to purchase) with the written consent of the **Metro Flood Diversion Authority**; (f) any upgrading required by **Utility**'s applicable written standards relating to **Utility Adjustments**; (g) any discretionary decision by **Utility** that is contemplated within a particular standard described in clause (f) above; and (h) costs of any additional right-of-way **Metro Flood Diversion Authority** deems necessary to accomplish a **Utility Adjustment**; and/or permits required of the **Utility** relating to the **Utility Adjustments** (e.g., the NDPSC Permits). **Metro Flood Diversion Authority** has reviewed **Utility**'s Design Documentation Report for the **Utility Relocation Project**, attached hereto as Exhibit 9, and no part of the **Utility Adjustment Project**, as set forth therein, shall constitute a **Betterment** hereunder.

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

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

“Comprehensive Project” means construction of a diversion channel through North Dakota that is designed to convey twenty thousand (20,000) cubic feet per second at the one percent (1%) chance or 100-year event and is approximately thirty (30) miles long, tie-back embankments, a staging area, a diversion inlet structure, a 6-mile connecting channel, a control structure on each of the Red and Wild Rice Rivers, an aqueduct hydraulic structure on each of the Maple and Sheyenne Rivers, a drop structure of each of the Rush and Lower Rush Rivers, four (4) railroad bridges, various in-town levees, community ring levees, and environmental mitigation, as generally described in the Final Feasibility Report and Environmental Impact Statement, Fargo-Moorhead Metropolitan Area Flood Risk Management, dated July 2011 and approved by the Chief of Engineers on December 19, 2011, as amended by: the Supplemental Environment Assessment, Fargo-Moorhead Metropolitan Area Flood Risk Management Project, dated September 2013 and approved by the District Engineer, St. Paul District on September 19, 2013; and the Final Supplemental Environmental Assessment #2, Fargo Moorhead Metropolitan Area Flood Risk Management Project, dated February 2019 and approved by the District Engineer, St. Paul District on February 28, 2019.

“Construction Documents Submittal” means the design submittal described in Section 7.06 of this **Memorandum of Understanding** and, as further set forth herein, the **Design Documentation Report** previously prepared by **Utility** and approved, as revised, by the **Metro Flood Diversion Authority**, along with the summary of bids, the updated cost estimate and schedule(s) (based on assumptions regarding receipt of the notice to proceed and contract award from the **Metro Flood Diversion Authority** at a time following the **Effective Date** that allows **Utility** to actually award the contract to meet said assumptions, and subject to change of said assumptions in the event the assumptions are invalidated by the date of **Utility**'s actual contract

award date), and copies of **Other Approvals**, shall constitute the **Construction Documents Submittal**.

“Diversion Channel Line of Protection” means inflow design flood line of protection.

“Excavated Material Berm” or **“EMB”** means a berm constructed from materials that have been excavated from within the **Project Property**.

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

“LFC” means the low-flow channel constructed in the bottom section of the diversion channel from the diversion outlet to the diversion inlet structure designed to convey low flows.

“Member Entities” means those entities—the City of Moorhead, the City of Fargo, Clay County, Cass County, and the CCJWRD—signing the Joint Powers Agreement dated as of June 1, 2016, establishing and continuing a joint powers entity called the Metro Flood Diversion Authority.

“Memorandum of Understanding” means this **Memorandum of Understanding** by and between the **Metro Flood Diversion Authority** and the **Utility**.

“Metro Flood Diversion Authority” means the political subdivision created by the Joint Powers Agreement, effective June 1, 2016, by and between the City of Moorhead, a political subdivision of the State of Minnesota; the City of Fargo, a political subdivision of the State of North Dakota; Clay County, a political subdivision of the State of Minnesota; Cass County, a political subdivision of the State of North Dakota; and Cass County Joint Water Resource District, a political subdivision of the State of North Dakota and vested with the powers therein.

“North Dakota Public Service Commission” means the North Dakota Public Service Commission, or any succeeding body, from which **Utility** has obtained or may need to obtain **Other Approvals**.

“Other Approvals” means all approvals and permits legally required to complete approved **Utility Adjustment Construction Work** on the **Utility Relocation Project**, including, but not limited to, construction permits and permits from the applicable water resource district.

“P3 Developer” means the private party or entity that enters into the **Project Agreement with the Metro Flood Diversion Authority**..

“Party” or **“Parties”** means, as context so requires, the entities party to this **Memorandum of Understanding**, specifically the **Metro Flood Diversion Authority** and the **Utility**.

“Prior Property Interest(s)” means any property interest(s) owned by the **Utility** described in Section 3.02 of this **Memorandum of Understanding**.

“Project” means the design, construction, finance, operations, and maintenance of the **SWDCAI**.

“Project Agreement” means a Public-Private Partnership Agreement as authorized by Chapter 48-02.1 of the North Dakota Century Code, by and between the **Metro Flood Diversion Authority**, or one or more member entities authorized by the **Metro Flood Diversion Authority**, and a **P3 Developer** for design, construction, financing, operation and maintenance of the **Project**.

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

“Project Substantial Completion” means the completion of all substantial completion conditions as outlined in the **Project Agreement** for the substantial completion of the **SWDCAI**.

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

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

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

“Southern Embankment and Associated Infrastructure” or **“SEAI”** means the infrastructure consisting of the Diversion Inlet, Wild Rice and Red River Control Structure, associated road raises, earthen embankment and western tie-back levee.

“Supplemental Plan” means a plan submitted for approval pursuant to Article VII, in the event that **Undisclosed Prior Property Interests** are identified after one or more plans have already been approved pursuant to Article VII.

“SWDCAI” means the Storm Water Diversion Channel and Associated Infrastructure, portion of the **Comprehensive Project**, which is being procured by the **Metro Flood Diversion Authority** and includes, but is not limited to, the thirty (30) mile channel, outlet, river and drain inlets, road bridges, railroad bridges, aqueducts, utility relocations, and landscaping features. The project map included herein as Exhibit 6 is a rough depiction of the distinction between the **SWDCAI** and other attributes.

“Undisclosed Prior Property Interests” means **Prior Property Interests** not disclosed in Section 3.02 of this **Memorandum of Understanding**.

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

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

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

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

“Utility Adjustment Design Work” means all **Utility Adjustment Work** related to design.

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

“Utility Relocation Project” means the process of acquiring **Project Property**, **Relocating** any **Prior Property Interests**, and all other steps necessary, as determined by the **Metro Flood Diversion Authority** to prepare the **Project Property** for construction of the **Project**, as well as all steps necessary, as reasonably determined by **Utility** and approved by **Metro Flood Diversion Authority**, to complete the **Utility Adjustment**.

“Water Resource District Infrastructure” means any infrastructure or property right of any kind owned by or attributable to the Maple River Water Resource District, Southeast Cass Water Resource District, Rush River Water Resource District, North Cass Water Resource District, or the Cass County Joint Water Resource District.

Section 1.03 TERMS GENERALLY. The definition of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and neuter forms. The words “include,” “includes,” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument, or other document herein shall be construed as referring to such agreement, instrument, or other

document as from time to time amended, supplemented, or otherwise modified (subject to any restrictions on such amendments, supplements, or modifications set forth herein), (b) any reference herein to any person shall be construed to include any person's permitted successors and assigns, (c) the words "herein," "hereof," and "hereunder," and words of similar import, shall be construed to refer to this **Memorandum of Understanding** in its entirety and not to any particular provision hereof, and (d) all references herein to articles, sections, exhibits, and schedules shall be construed to refer to articles and sections of, and exhibits and schedules to, this **Memorandum of Understanding**.

Section 1.04 INTENT TO ASSIGN. **Utility** acknowledges the **Metro Flood Diversion Authority's** intent to assign certain rights and obligations under this **Memorandum of Understanding** to the **P3 Developer**, and hereby irrevocably waives any right to object to any such assignment, subject to the terms hereof.

ARTICLE II. PURPOSE OF MEMORANDUM OF UNDERSTANDING

Section 2.01 PURPOSE. The purpose of this **Memorandum of Understanding** is to ensure a coordinated, time-efficient, and cost-effective process for completing the **Utility Relocation Project** and coordination of the operations and maintenance activities after completion of the **Utility Relocation Project**.

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

Section 2.03 COORDINATION WITH USACE. **Utility** shall not communicate directly with the **USACE** regarding any aspect of the **Comprehensive Project** or any other subject-matter referenced in, related to, or arising from this **Memorandum of Understanding**, without the prior written authorization of the **Metro Flood Diversion Authority**.

ARTICLE III. REAL PROPERTY INTERESTS

Section 3.01 INTENT. It is the intent of the **Parties** hereto that all **Prior Property Interests** shall be identified herein. Specifically, **Prior Property Interests** shall be detailed in the table contained in Section 3.02 and further documented in the Exhibits to this **Memorandum of Understanding**.

Section 3.02 IDENTIFICATION OF PRIOR PROPERTY INTERESTS. The **Prior Property Interests** to be **Relocated** pursuant to the terms and conditions of this **Memorandum of Understanding** include, but are not limited to, the **Prior Property Interests** documented in Exhibits 1 through 5 and described in the table below:

Exhibit No.	Section	Township	Range	Type	Preliminary Diversion Channel Station	Right-of-Way Document
1	9	139	50	10" Petroleum Pipe	941+50	Book I-2, pg 366 310174
2	10	139	50	10" Petroleum Pipe	941+50	Book I-2, pg 368 310175
3	10	139	50	10" Petroleum Pipe	941+50	Book I-2, pg 370 310176
4	10	139	50	10" Petroleum Pipe	941+50	1619910
5	11	139	50	10" Petroleum Pipe	941+50	Book I-2, pg 372 310177

Section 3.03 UNDISCLOSED PRIOR PROPERTY INTERESTS. If the **Metro Flood Diversion Authority**, for any reason, determines an **Undisclosed Prior Property Interest** should be **Relocated**, such **Relocation** shall occur pursuant to the terms of this **Memorandum of Understanding**; provided, however, that the **Metro Flood Diversion Authority** shall take reasonable steps to avoid interrupting operation of the **Utility's** facilities, when reasonably possible. Further, property interests not included or referenced in Section 3.02 that need to be **Relocated** as result of changes to the location or technical specifications of the **SWDCAI** shall be treated as if they were disclosed in Section 3.02 for purposes of assigning costs. In the event that additional property interests need to be acquired in order for the **Utility** to complete any such **Relocation** because of changes in the Project, but the **Utility** is not able to obtain the same and the **Metro Flood Diversion Authority** is also unable to obtain the same for the benefit of, and in the name of, the **Utility**, the **Parties** will work cooperate to develop an alternative design for the **Relocation** as quickly as is reasonably possible. In no event shall this **Memorandum of Understanding** be construed as an agreement by **Utility** that its facilities may be relocated or otherwise affected by a change in the **SWDCAI** in a way not addressed in the **Design Documentation Report** that would result in interruption of **Utility's** facilities without appropriate compensation and/or reimbursement, without further agreement between the **Metro Flood Diversion Authority** and the **Utility**.

Section 3.04 DISCOVERY OF UNDISCLOSED PRIOR PROPERTY INTERESTS. **Undisclosed Prior Property Interests** identified for **Relocation** prior to a request for submission of the first submittal required by Article VII shall be **Relocated** through the same process as if the **Undisclosed Prior Property Interests** were disclosed herein. A separate accounting and recording of costs shall be maintained for **Undisclosed Prior Property Interests** and **Prior Property Interests** disclosed herein. Should **Undisclosed Prior Property Interests** be identified after the submission of one or more submittals pursuant to Article VII, the **Utility** shall, within sixty (60) days of written notification of identifying **Undisclosed Prior Property Interests** to be **Relocated**, submit a **Supplemental Plan** meeting the requirements of Article VII for the **Relocation of Undisclosed Prior Property Interests**. Each **Party** shall have the same rights and responsibilities as they would have if the **Supplemental Plan** were included in previously approved plans, as detailed in Article VII, unless explicitly provided otherwise herein.

Section 3.05 INSTALLATION OF NEW LINES. Should it be necessary for the **Utility** to install new facilities in the path of the **Project Property** after the execution of this **Memorandum of Understanding**, but prior to the initiation of **Utility Adjustment Design Work**, the **Utility** shall communicate said necessity to the **Metro Flood Diversion Authority** as soon as reasonably possible after discovering said necessity. The **Utility** shall interface with the **Metro Flood Diversion Authority** when designing and locating the new line. Any **Utility** lines installed or located as described in this Section shall, for all purposes, be treated as if it were disclosed in the table contained in Section 3.02. Unless the **Metro Flood Diversion Authority** approves the design in writing, any **Utility** facilities installed or constructed after the execution of this **Memorandum of Understanding** needing to be relocated for purposes of the SWDCAI, shall be relocated under the processes provided for herein, but at the expense of the **Utility**.

Section 3.06 COOPERATION IN PLATTING. **Metro Flood Diversion Authority** intends to plat right-of-way acquired for or in connection with the **Project**. **Utility** shall reasonably cooperate with **Metro Flood Diversion Authority's** platting efforts if requested to do so by **Metro Flood Diversion Authority**, at no cost to **Utility**.

ARTICLE IV. RESPONSIBILITY FOR UNDISCLOSED PRIOR PROPERTY INTERESTS

Section 4.01 UTILITY RESPONSIBILITY. Provided that the **Metro Flood Diversion** has provided accurate information to the **Utility** regarding the location, scope, and design of the **Project**, which information **Utility** has incorporated into the NDPSC Permits and the design of the **Utility Relocation Project**, then the **Utility** shall bear the costs of **Relocating Undisclosed Prior Property Interests**, except as provided otherwise herein.

Section 4.02 REQUESTS FOR RELIEF. Within thirty (30) calendar days of completion of the **Utility Relocation Project**, the **Utility** may file a written request for relief with the **Metro Flood Diversion Authority** to request payment or partial payment for the costs of **Relocating Undisclosed Prior Property Interests**. This request for relief shall be a separate document from the cost report required by Article VII, but shall be submitted to the **Metro Flood Diversion Authority** in conjunction with the cost report required by Article VII. All requests for relief shall include a justification of the **Utility's** failure to identify the **Undisclosed Prior Property Interest**, an itemized list of costs, and the total amount requested. Requests for relief may be approved, approved in part and denied in part, or denied.

ARTICLE V. RIGHT OF SITE ACCESS

Section 5.01 RIGHT OF SITE ACCESS. To ensure the **Metro Flood Diversion Authority** is able to proceed with construction of the **Project** in a timely and efficient manner, as well as to properly monitor and ensure proper completion of the **Utility Relocation Project**, the **Utility** shall, to the extent the **Metro Flood Diversion Authority** needs such a grant as well as to the extent **Utility** determines it has authority to make such a grant, grant the **Metro Flood Diversion Authority** a right to access, enter, and inspect any **Site** for the limited purpose of reviewing the **Utility Adjustment Work**; provided that the **Metro Flood Diversion Authority** shall abide by reasonable restrictions imposed by **Utility** to ensure the safety of all personnel, the safe operation of **Utility's** facilities, and safe **Relocation** of **Utility's Prior Property Interests** and the

uninterrupted operation of **Utility's** facilities. The **Metro Flood Diversion Authority** accepts all risks and liabilities arising out of or related to any exercise of its right of site access provided hereby, not including liabilities relating to the negligence or intentionally wrongful actions of **Utility** or its personnel, including but not limited to its contractors, subcontractors, agents, and invitees.

Section 5.02 NON-REVOCABLE RIGHT OF THE METRO FLOOD DIVERSION AUTHORITY. Nothing herein shall be construed as limiting or providing for the termination of the rights of the **Metro Flood Diversion Authority** except as explicitly otherwise set forth herein.

Section 5.03 NOTICE REQUIRED. Prior to exercising rights of **Site** access, the **Metro Flood Diversion Authority** shall provide the **Utility** with at least twenty-four (24) hours' notice if it intends to access a **Site** on which **Utility Adjustment Construction Work** is currently and actively being completed.

Section 5.04 DELAY FOR SAFETY PURPOSES. **Metro Flood Diversion Authority** shall at all times be solely responsible for the safety of its personnel, including but not limited to its contractors and subcontractors, agents, and invitees, not including liabilities relating to the negligence or intentionally wrongful actions of **Utility** or its personnel, including but not limited to its contractors, subcontractors, agents, and invitees. If the **Metro Flood Diversion Authority** attempts to exercise the rights described in this Article, but doing so would, in **Utility's** reasonable determination, pose a safety hazard, the **Metro Flood Diversion Authority** may be kept from accessing, entering, or inspecting the **Site** in question, only for as long as is reasonably required to make the **Site** safe for access, entry, and inspection.

ARTICLE VI. REQUIRED REPORTS

Section 6.01 REQUIRED REPORTS. The **Utility** will cooperate with the **Metro Flood Diversion Authority** to identify and supply required reports, analysis, or other information and materials relevant to the **Project** or the **Utility Relocation Project** within the scope of **Utility** infrastructure, the **Utility Relocation Project**, or the **Comprehensive Project** as is reasonably requested by the **Metro Flood Diversion Authority**, and **Metro Flood Diversion Authority** shall not request reports more frequently than is reasonably necessary. **Utility** shall not be required to produce reports or information other than what is already in its possession and in the form in which it has been maintained by **Utility**.

Section 6.02 DEADLINES. All reports, engineering analysis, and other information and materials requested by the **Metro Flood Diversion Authority** shall be provided before the expiration of a reasonable deadline determined by the **Metro Flood Diversion Authority**; provided, however, that **Utility** may request the **Metro Flood Diversion Authority** to enter into a reasonable confidentiality or other protective agreement to the extent **Utility** determines the same is necessary or prudent before sharing of information under the **Memorandum of Understanding**, any such protective agreement shall acknowledge the **Metro Flood Diversion Authority** is subject to open records requests under the laws of the State of North Dakota. If the **Metro Flood Diversion Authority** receives information from **Utility** in connection with or related to the **Utility Relocation Project** or this **Memorandum of Understanding** that **Utility** asserts is entitled to protection from disclosure under applicable state or federal laws or regulations, the **Metro Flood**

Diversion Authority shall immediately inform the **Utility** in writing of any request by any third party to obtain the information and shall take all reasonably necessary steps to prevent disclosure of said protected information.

ARTICLE VII. PERFORMANCE AND CONSTRUCTION

Section 7.01 WORK. The **Utility** shall be responsible for the **Utility Adjustment Design Work**, including the development and submission of the submittals described in this **Memorandum of Understanding**. The **Utility** shall also be responsible for the **Utility Adjustment Construction Work**.

Section 7.02 ADDITIONAL RIGHT OF WAY. Should the **Utility** require additional right-of-way to complete the **Utility Relocation Project**, the **Utility** shall notify the **Metro Flood Diversion Authority** of said need as soon as reasonably possible after discovering the need. The **Metro Flood Diversion Authority** shall use its **Best Efforts** to acquire the necessary right-of-way, but shall not be responsible for any damages related to time delays associated with the acquisition of additional right-of-way. The **Utility** shall be responsible for the acquisition of any additional right-of-way needed to accommodate betterments. In the event the **Utility Relocation Project** directly or indirectly causes the **Utility** to acquire additional property interests, the **Utility** shall use reasonable efforts to limit the cost of acquiring such property interests.

Section 7.03 TECHNICAL SPECIFICATIONS. The **Utility Relocation Project** shall be constructed pursuant to the **Design Documentation Report** submitted to the **Metro Flood Diversion Authority**, which the **Metro Flood Diversion Authority** has approved as revised.

Section 7.04 ABANDONMENT AND REMOVAL. **Utility** shall remove product from, and fill with concrete or grout, those segments of the existing pipeline that it is abandoning-in-place within the **Project Property** as part of the **Utility Relocation Project**.

Section 7.05 WATER RESOURCE DISTRICT CROSSINGS. Should the relocation of **Utility** infrastructure pursuant to this **Memorandum of Understanding** cause **Utility** infrastructure to cross above, beneath or through **Water Resource District** infrastructure, **Utility** and **Metro Flood Diversion Authority** shall work together to obtain a permit for such crossing in **Utility's** name from the applicable **Water Resource District**. No **Utility Adjustment Construction Work** may begin until the permit(s) required by this Section has been issued.

Section 7.06 PROPOSALS AND PLANS. The **Metro Flood Diversion Authority** has requested that **Utility** proceed to formally solicit bids for the **Utility Relocation Project**, based upon the **Design Documentation Report** previously reviewed and approved by the **Metro Flood Diversion Authority**. **Utility** will promptly provide an updated cost estimate and schedule to the **Metro Flood Diversion Authority**, as well as any changes to the **Design Documentation Report** previously reviewed and approved by the **Metro Flood Diversion Authority**, if the same has not already been provided prior to execution of this **Memorandum of Understanding**. If there are no such changes to the **Design Documentation Report** previously reviewed and approved by the **Metro Flood Diversion Authority**, the **Design Documentation Report** with the updated cost estimate and schedule, and copies of **Other Approvals** shall constitute the **Construction**

Documents Submittal. Once approved by the **Parties**, the **Utility** shall sign and seal the contents of the **Construction Documents Submittal** if requested by the **Metro Flood Diversion Authority**.

The **Metro Flood Diversion Authority** shall review each additional submittal and provide comments and/or approval, as follows:

- a. The **Metro Flood Diversion Authority's** review of submittals shall be restricted to a determination of whether the submittal complies with the specifications and requirements set forth in this **Memorandum of Understanding**, as well as whether the **Utility Relocation** as designed will, in the sole discretion of the **Metro Flood Diversion Authority**, allow for the effective relocation of other utilities relocating in the area.
- b. The **Metro Flood Diversion Authority** shall complete its review and provide comments to **Utility** on submittals within twenty (20) **Business Days** of the date on which the **Metro Flood Diversion Authority** receives a full and complete submittal. Should the **Metro Flood Diversion Authority** determine that a submittal is not in compliance with the terms and specifications provided in this **Memorandum of Understanding**, **Metro Flood Diversion Authority** will specify in writing to the **Utility** the reason(s) for non-compliance, and **Utility** may resubmit with corrections, amendments, and/or addendums within a reasonable period determined by **Metro Flood Diversion Authority** and the **Utility**. **Metro Flood Diversion Authority** shall review any such re-submittal and respond within ten (10) **Business Days**. The **Metro Flood Diversion Authority's** review of the re-submittal shall be limited to the portions of the initial submittal deemed insufficient as well as any other portions of the submittal which have been amended or added since the initial submission.

Section 7.07 REQUIREMENT OF APPROVAL. No **Utility Adjustment Construction Work** may begin until the **Metro Flood Diversion Authority** approves the **Construction Documents Submittal**, if any further revisions are made to the previously approved **Design Documentation Report**, and the **Metro Flood Diversion Authority** approves the cost estimate in Section 8.02.

Section 7.08 APPROVAL WITHHELD. In the event the **Metro Flood Diversion Authority** withholds approval as to any proposed **Utility Adjustment Construction Work**, written notice of, and reasons for withholding shall be provided to the **Utility**. Where approval is withheld, the **Utility** shall prepare and submit to the **Metro Flood Diversion Authority** a new and complete set of specific plans for the **Utility Adjustment Construction Work** within thirty (30) days.

Section 7.09 OTHER APPROVALS. Pursuant to the Parties' coordination, the **Utility** has used its best efforts to obtain the NDPSC Permits and **Other Approvals**, and reach agreements with landowners as necessary to complete the **Utility Relocation Project**. **Metro Flood Diversion Authority** acknowledges that the **Utility Relocation Project** may not be commenced until **Other Approvals**, if any are required, are obtained. The **Utility** will diligently pursue such **Other Approvals** and the **Metro Flood Diversion Authority** shall provide all assistance reasonably requested by **Utility** in connection with the same. To the extent that **Other Approvals** are not obtained in a timely manner as determined by **Metro Flood Diversion Authority**, **Metro Flood**

Diversion Authority, at no cost to **Utility** and with no adverse effect on the **Prior Property Interests**, shall take all steps reasonably necessary, in coordination with **Utility** to obtain such **Other Approvals** and/or adjust the **Utility Relocation Project** to account for the lack of the **Other Approvals**, at no additional cost to the **Utility**.

Section 7.10 INITIATION OF WORK. After the **Construction Documents Submittal** has been approved, and after all **Other Approvals** have been obtained such that the **Utility Adjustment Construction Work** may commence, the **Metro Flood Diversion Authority** may give the **Utility** written notice that **Utility Adjustment Construction Work** shall begin within ninety (90) days; provided, however, that **Metro Flood Diversion Authority** understands and agrees that any **Utility Adjustment Construction Work** start date is subject to the internal approval of **Utility** and the availability of **Utility** personnel to complete such work as well as other matters beyond the control of **Utility**, including but not limited to weather, supply chain disruption, and work of others. In the event that **Utility** is not able to commence **Utility Adjustment Construction Work** within the ninety (90) calendar day period, **Utility** shall commence the same as soon as is reasonably practicable under the circumstances. So long as the **Metro Flood Diversion Authority** provides the notice described in this Section before April 15th of a given year, and **Utility** determines that it is reasonable to proceed with the **Utility Adjustment Construction Work** to complete the same within the same calendar year, then **Utility** shall complete the **Relocation** during the same calendar year. If the **Metro Flood Diversion Authority** provides the notice described in this Section before April 15th, and **Utility** fails to complete the **Relocation** during the same calendar year, **Utility** shall be responsible for and reimburse the **Metro Flood Diversion Authority** for the full amount of any liquidated damages incurred pursuant to the **Project Agreement**, if the **Metro Flood Diversion Authority** reasonably determines the liquidated damages arose in whole or in part from **Utility's** failure.

Section 7.11 ADJUSTMENTS TO THE PROJECT. Should the planned route of the **SWDCAI** change in a manner that would affect the **Utility Relocation Project**, the **Parties** shall immediately interface to adjust plans for the **Utility Relocation Project** as necessary. The **Utility** shall be reimbursed for any costs associated with such change in accordance with the terms of this **Memorandum of Understanding**.

Section 7.12 ADJUSTMENT TO THE UTILITY ADJUSTMENT WORK. Any changes or modifications to the **Construction Documents Submittal** during construction that materially affect the performance or construction of the **Utility Adjustment Work** will be subject to written approval of the **Metro Flood Diversion Authority**. Approval or a written explanation of its specific objections to the changes or modifications shall be provided within the timeframe set forth in Section 7.06 of this **Memorandum of Understanding**. Utility lines not required to be moved prior to the adjustment of **Construction Documents Submittal**, which need to be **Relocated** after changes are made to **Construction Documents Submittal** shall not be treated as **Undisclosed Prior Property Interests** for purposes of assigning responsibility for costs. Utility lines not required to be moved prior to the adjustment of **Construction Documents Submittal**, which need to be **Relocated** after changes are made to **Construction Documents Submittal** shall not be treated as **Undisclosed Prior Property Interests** for purposes of assigning responsibility for costs.

Section 7.13 INSPECTION. The **Utility** shall be responsible for inspection of all **Utility Adjustment Work**; however, the **Metro Flood Diversion Authority** shall have concurrent

inspection rights. **Metro Flood Diversion Authority** shall at all times be solely responsible for the safety of its personnel in connection with such inspection rights.

Section 7.14 UTILITY COMPLETION. The **Utility** will provide the **Metro Flood Diversion Authority** with written notice of any anticipated **Utility Adjustment Completion** at least sixty (60) calendar days and fifteen (15) **Business Days** prior to the anticipated date for **Utility Adjustment Completion**. Within fifteen (15) **Business Days** of the anticipated date for **Utility Adjustment Completion**, the **Utility** and the **Metro Flood Diversion Authority** will conduct a final inspection of **Utility Adjustment Construction Work** to determine whether the **Utility Adjustment** meets the **Construction Documents Submittal** and any material changes or modifications made per Section 7.11 or Section 7.12. If the **Metro Flood Diversion Authority** finds the construction is not in conformance with the **Construction Documents Submittal** or any approved material changes or modifications, the **Metro Flood Diversion Authority** will notify **Utility** of such fact and the **Utility** will correct such nonconformance in the construction work and re-notify for inspection.

Section 7.15 RECORD DRAWINGS. The **Utility** shall provide location and depth of the **Utility Relocation Project** at fifty (50) yard intervals using the North American Datum of 1983 (NAD83) (NSRS2007), North Dakota State Plane Coordinate System, South Zone and the North American Vertical Datum of 1988 (NAVD88) (GEOID09). The **Utility** shall coordinate with the **Metro Flood Diversion Authority** to document the **Utility Adjustment Construction Work** within the **Project Property**.

ARTICLE VIII. PAYMENT OF COSTS

Section 8.01 NECESSITY TO KEEP COSTS LOW. The **Utility** and **Metro Flood Diversion Authority** each recognize the need to minimize the cost of the **Utility Relocation Project** while seeking to maintain the same quality of service to the **Utility's** customers. The **Utility** and **Metro Flood Diversion Authority** shall be diligent in keeping costs as low as reasonably possible.

Section 8.02 SUBMITTAL OF COST ESTIMATE. Following the submittal of a **Construction Documents Submittal** and **Utility's** receipt of an acceptable bid(s), the **Utility** shall submit a cost estimate for the **Utility's** portion of the **Utility Adjustment Construction Work** in the **Construction Documents Submittal**. The **Metro Flood Diversion Authority** shall review and approve or deny the cost estimate(s) under the terms identified in Section 7.06(a)-(b). **Utility** shall not be obligated to proceed with **Utility Adjustment Construction Work** until such time as the parties have reached an agreed-upon, and approved, cost estimate(s).

Section 8.03 GENERALLY. The **Metro Flood Diversion Authority** shall pay all reasonable costs and expenses of the **Utility Relocation Project** approved under Section 8.02, not including **Utility's** internal costs and expenses, except those that are set forth within the approved cost estimate(s) that are part of the **Construction Documents Submittal** (e.g., **Utility's** project management and administration, and labor, equipment, and materials for the pipeline drain-up(s) and tie-in(s) work, and related to the required outage), whether those costs and expenses are incurred by the **Utility** or **Metro Flood Diversion Authority**. Such reasonable costs and expenses shall include all out-of-pocket costs and expenses, including but not limited to **Utility's** reasonable costs and expenses for this **Memorandum of Understanding**, the **Utility's** reasonable costs and

expenses for obtaining **Other Approvals**, and any reasonable costs or expenses made necessary by the **Utility Relocation Project**, as set forth in the **Utility's** updated cost estimate(s). The **Utility** shall submit its invoice(s) within 90 days of completion of the **Utility Relocation Project** (completion of the work is defined, for purposes of this invoice submission, as after all work, including contractor demobilization and settlement of landowner issues (if any) are completed).

Section 8.04 WHEN REPORTED COSTS EXCEED ESTIMATES. If the aggregate costs reported pursuant to this Article exceed the approved aggregate cost estimate by greater than ten percent (10%), inclusive of any upward adjustments to such aggregate cost estimate(s) approved pursuant to Article VII, the **Metro Flood Diversion Authority** may, within thirty (30) days of receipt of the itemized report, provide the **Utility** with written notice requesting clarification of specific line items as excessive in relation to the costs approved pursuant to Article VII and the **Utility** will provide within thirty (30) days proper justification. If, after considering the justification provided by **Utility**, **Metro Flood Diversion Authority** reasonably substantiates the line item that is excessive (defined as greater than ten percent (10%) of the approved estimate) or not previously approved, **Metro Flood Diversion Authority** may reject and decline to pay that portion of the cost or expense and must provide written notice of the basis for such rejection. Acceptance of all costs and expenses submitted by the **Utility** shall not be unreasonably withheld and **Utility** reserves the right to further contest the rejection.

Section 8.05 PAYMENT OF ACCEPTED COSTS. Within thirty (30) days of the determination of the **Metro Flood Diversion Authority's** liability to the **Utility**, the **Metro Flood Diversion Authority** shall issue payment of the amount owed to the **Utility**.

Section 8.06 BETTERMENTS. In no situation shall any **Party** other than the **Utility** be responsible for the costs and expenses of **Betterments** installed during the **Utility Relocation Project**, unless **Metro Flood Diversion Authority** otherwise commits, in writing, to paying for a **Betterment**.

Section 8.07 PAYMENT AFTER TERMINATION. Should the **Metro Flood Diversion Authority** terminate this **Memorandum of Understanding**, with or without cause, all costs and expenses recoverable by the **Utility** shall be paid by the **Metro Flood Diversion Authority** within thirty (30) days of invoicing, pursuant to the review and acceptance provisions detailed in this Article.

Section 8.08 CLARIFICATION OF COST ESTIMATE. For purposes of clarity, the **Parties** acknowledge and agree the total cost of \$4,922,845 reflected in the **DDR** attached hereto as Exhibit 9 is inclusive of costs already incurred or previously approved by the **Metro Flood Diversion Authority** pursuant to the Agreement for Payment of Costs of Work Necessary to Prepare Applications Necessary to Complete Relocation Project executed on December 19, 2019, and the subsequent amendments thereto. The additional estimated cost contemplated by this **Memorandum of Understanding** is \$4,465,157.

ARTICLE IX. THIRD-PARTY BENEFICIARIES

Section 9.01 P3 DEVELOPER. The **Metro Flood Diversion Authority** and **Utility** specifically agree, acknowledge, and covenant that the **P3 Developer** selected to build the **Project**

under the **Project Agreement** is an intended third-party beneficiary; and may enforce the terms and conditions of this **Memorandum of Understanding**, including, but not limited to, securing a court judgment against the **Utility** to perform its obligations under this **Memorandum of Understanding**. The **Metro Flood Diversion Authority** may assign any right, responsibility, or obligation assigned to it herein, to the **P3 Developer**. Should the **P3 Developer** be assigned any rights or obligations under this **Memorandum of Understanding**, the **Metro Flood Diversion Authority** shall require the **P3 Developer** to comply with any applicable terms and conditions of this **Memorandum of Understanding** and **Utility** shall have the same rights of enforcement as are provided to the **P3 Developer**, above.

ARTICLE X. ASSIGNMENT OF RESPONSIBILITIES

Section 10.01 ASSIGNMENT BY THE METRO FLOOD DIVERSION AUTHORITY. The Metro Flood Diversion Authority may, in its sole discretion and with notice to the **Utility**, assign all or any of its rights, responsibilities, authority, or obligations under this **Memorandum of Understanding**, so long as said assignment does not frustrate the purpose of this **Memorandum of Understanding** or the **Project**.

Section 10.02 ASSIGNMENT BY THE UTILITY. The **Utility** may, in its sole discretion and with notice to the **Metro Flood Diversion Authority**, assign any or all of its rights, responsibilities, authority, or obligations under the terms of this **Memorandum of Understanding**, so long as said assignment does not frustrate the purpose of this **Memorandum of Understanding** or the **Project**.

ARTICLE XI. FUTURE RIGHTS AND RESPONSIBILITIES

Section 11.01 RIGHT-OF-WAY. To the extent it may do so and such right-of-way is necessary for the **Utility Relocation Project**, as determined by the **Metro Flood Diversion Authority** in its sole discretion, the **Metro Flood Diversion Authority** shall grant the **Utility** right-of-way at no cost below, above, and across its right-of-way (the “**MFDA-Granted Right-of-Way**”) so the **Utility** can properly maintain its facilities in the right-of-way, subject to the limitations and restrictions provided herein.

Section 11.02 CONDITIONS. The **MFDA-Granted Right-of-Way** shall be subject to the following restrictions:

- a. Maintenance of Utility Property. Following completion of the **Utility Relocation Project**, the **Utility** shall be responsible for all maintenance of **Utility** property and its associated infrastructure. The **Metro Flood Diversion Authority** shall maintain the vegetative cover within **Project Property**; provided, however, that if the **Utility** determines vegetation management activities are necessary for the **Utility** to comply with applicable regulations or industry standards, then **Utility** may perform such activities itself after written approval from the **Metro Flood Diversion Authority**, which shall not be unreasonably withheld.

- b. Post-Construction Access. Following completion of the **Utility Relocation Project**, the **Utility** shall provide the **Metro Flood Diversion Authority** with seven (7) days' written notice of any maintenance it intends to do that would materially disturb the ground within the **Project Property**. In the event of an emergency which the **Utility** reasonably believes threatens the lives or safety of individuals within the vicinity of the **Project Property** or which otherwise requires an immediate response by the **Utility** that involves disturbing **Project Property**, **Utility** shall provide notice to the **Metro Flood Diversion Authority** as soon as reasonably possible.
- c. Approval for Ground Disturbing Maintenance or Repairs. The **Utility** must submit and obtain approval for any and all plans for maintenance or repair, other than in emergency situations as determined mutually by the **Utility** and the **Metro Flood Diversion Authority**, that requires the ground within the **Project Property** to be materially disturbed, from the **Metro Flood Diversion Authority** on the same schedule described for submittals in Section 7.06. Approval shall not be unreasonably withheld by the **Metro Flood Diversion Authority**. **Metro Flood Diversion Authority** acknowledges that **Utility** may be required to take action in connection with federal regulations within a certain periods, **Utility** shall provide the **Metro Flood Diversion Authority** notice of said requirements, time periods, and proposed work as soon as reasonably practicable. **Metro Flood Diversion Authority** shall use its **Best Efforts** to ensure a timely response to **Utility's** proposals.
- d. Clean Up. The **Utility** shall ensure that after any maintenance or repairs to **Utility** property or infrastructure, to the extent the disturbance is directly caused by the **Utility**, the ground within the **Project Property** is returned as closely as possible to the state in which it existed prior to the maintenance or repair that caused the ground within the **Project Property** to be disturbed, at a minimum the ground shall meet such specifications as to ensure compliance with all applicable federal laws and/or regulations and USACE requirements.
- e. Metro Flood Diversion Authority Access. In the event that **Utility** property malfunctions, destructs, or otherwise begins to cause on-going damage to the **SWDCAI**, without prior written notice to the **Utility** if it is not practicable to give such notice, the **Metro Flood Diversion Authority** shall have the authority to access the damage-causing **Utility** property and take any action necessary to stop on-going damage to the **SWDCAI**, except that **Metro Flood Diversion Authority** shall not attempt to commandeer the operation of the **Utility** property. **Metro Flood Diversion Authority** shall promptly notify **Utility** of its intent to, or taking of, action(s) hereunder if prior notice was not given.
- f. Access. The **Metro Flood Diversion Authority** shall have unrestricted access in, over, and across the **MFDA-Granted Right-of-Way** as well as any other easement or property right held by **Utility** within the **Project Property**, to the extent of the **Metro Flood Diversion Authority's** own rights therein and without unreasonably interfering with the **Utility's** rights. The **Metro Flood Diversion Authority** shall not construct any buildings or structures or other engineering works over the **MFDA-Granted Easement** granted pursuant to this Article that the **Parties** determine, after consultation, may threaten the integrity of **Utility's** facilities or the **Utility's** ability to access and/or operate its facilities.

- g. Damage to the SWDCAI. Should **Utility** property (i) malfunction, (ii) deconstruct, or (iii) otherwise cause damage to the **SWDCAI**, the **Utility** shall take immediate action to stop on-going damage to the **SWDCAI** and repair all damage that occurs as reasonably necessary for the **SWDCAI** to maintain its function and compliance with applicable standards or otherwise to the extent required by law, at its own expense; provided, that **Utility** shall not hereby waive its rights as against any party that caused such malfunction, deconstruction, or other damage. **Utility** shall not be responsible for such costs or expenses as are incurred to stop on-going damage or make repairs to the extent caused by the **Metro Flood Diversion Authority**.
- h. Abandonment. Should the **Utility** abandon or remove a utility line within the **Project Property** and fail to replace the line within three (3) years of removal, the **Utility** shall forfeit and extinguish said easement to the extent of such abandonment or removal; provided, however, the **Parties** expressly agree that if **Utility** is maintaining and/or patrolling a pipeline that is not in service, **Utility's** rights and facilities will not be deemed to be forfeited, extinguished, or abandoned, and no rights will be extinguished in this manner without written confirmation of forfeit, extinguishment, or abandonment by **Utility**. This provision shall not be read so as to affect easement interests held by **Utility** outside of the **Project Property**. Should **Utility** abandon infrastructure built or located within the **Project Property** pursuant to this **Memorandum of Understanding**, **Utility** shall inform the **Metro Flood Diversion Authority**, remove product from abandoned piping and fill the pipeline with concrete or grout.

Section 11.03 USE OF EXISTING EASEMENT. In the event **Utility** property is **Relocated** within the **Utility's** easements existing prior to the Effective Date, the **Utility** shall be bound by the requirements and obligations contained in Section 11.02. The requirements of this Section shall survive so long as the **Utility** has property located within the **Project Property**.

Section 11.04 RECORD KEEPING. The **Utility** shall maintain or cause to be maintained (by way of contract and enforcement of such contract) a complete set of records detailing all costs it incurs in the **Utility Relocation Project**, in accordance with the recordkeeping and audit requirements of this **Memorandum of Understanding** and the laws of North Dakota.

Section 11.05 FUTURE PERMITS. Should the **Utility** file a formal permit application pertaining to the **Utility** line **Relocated** pursuant to this **Memorandum of Understanding** with the **Metro Flood Diversion Authority** after the **Effective Date**, the **Metro Flood Diversion Authority** shall grant, at no cost to the **Utility**, the permit application so long as the permit application meets all reasonable requirements listed in the instructions to said permit application and the proposed crossing would not unreasonably risk harm to the **SWDCAI** or interfere with other facilities already contained within the **Project Property**, as determined by the **Metro Flood Diversion Authority**. Should an existing **Utility** line be modified in the future, the **Metro Flood Diversion Authority**, in its sole discretion, shall determine whether the modification is allowable under a previously existing permit or whether the modification is significant enough in its nature or effect to require the **Utility** to apply for a new permit.

ARTICLE XII.
DISPUTES WITH CONTRACTORS AND OTHER THIRD PARTIES

Section 12.01 COORDINATION. The **Parties** shall, to the extent reasonably practicable, coordinate with respect to any dispute with third parties regarding the **Utility Relocation Project**.

ARTICLE XIII.
DISPUTES AMONG THE UTILITY AND METRO FLOOD DIVERSION AUTHORITY

Section 13.01 INTENT AND PROCEDURE. The **Utility** and the **Metro Flood Diversion Authority** shall cooperate and use their **Best Efforts** to ensure that the provisions of this **Memorandum of Understanding** 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 **Memorandum of Understanding**.

Section 13.02 MEDIATION. If there is a failure between the **Parties** to resolve a dispute on their own, the **Parties** shall first attempt to mediate the dispute. The **Parties** shall agree upon a single mediator or, if they cannot agree, shall obtain a list of court-appointed mediators from the Cass County District Court Administrator and select a mediator by alternately striking names until one remains. The **Metro Flood Diversion Authority** shall strike the first name, followed by the **Utility** recurring in that order until one name remains.

Section 13.03 LITIGATION IF DISPUTE NOT RESOLVED. If the dispute is not resolved within thirty (30) days after the end of mediation proceedings, the **Parties** may litigate the matter.

Section 13.04 LEGAL FEES. Each **Party** will be responsible for their own attorney's fees in connection with a dispute under this Article.

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 **MEMORANDUM OF UNDERSTANDING** OR ARISING OUT OF, UNDER, OR IN ANY CONNECTION WITH THIS **MEMORANDUM OF UNDERSTANDING** 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 **MEMORANDUM OF UNDERSTANDING**. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ALL MEMBER ENTITIES ENTERING INTO THIS **MEMORANDUM OF UNDERSTANDING**. THIS PROVISION APPLIES ONLY TO SUITS BETWEEN THE **UTILITY AND METRO FLOOD DIVERSION AUTHORITY** ARISING OUT OF OR RELATED TO THIS **MEMORANDUM OF UNDERSTANDING** AND DOES NOT APPLY TO THIRD-PARTY CLAIMS OR SUITS BY OR ON BEHALF OF THE **PARTIES** FOR **PROJECT PROPERTY** ACQUISITION AND/OR CONSTRUCTION CONTRACT CLAIMS AND DEFENSES.

ARTICLE XIV. USE OF EMINENT DOMAIN

Section 14.01 EMINENT DOMAIN. Nothing in this **Memorandum of Understanding** shall be construed as limiting the **Metro Flood Diversion Authority's**, or one of its member entities', ability to exercise its powers of eminent domain. Nor shall anything in this **Memorandum of Understanding** be construed as **Utility** acknowledging the **Metro Flood Diversion Authority's**, or one of its member entities', ability, if any, to exercise powers of eminent domain. Likewise, nothing in this **Memorandum of Understanding** shall be construed as a limitation upon, or endorsement of, **Utility's** ability, if any, to exercise powers of eminent domain.

Section 14.02 NULLIFICATION BY EMINENT DOMAIN. Should the **Metro Flood Diversion Authority** initiate eminent domain proceedings to accomplish the goals of the **Utility Relocation Project** against the **Utility**, the terms of this **Memorandum of Understanding** shall be null and void at the option of the **Metro Flood Diversion Authority**.

Section 14.03 NULLIFICATION AFTER COSTS INCURRED. **Metro Flood Diversion Authority** shall, in the event it exercises its eminent domain authority, if any, to accomplish the goals of the **Utility Relocation Project** against the **Utility**, pay all costs and expenses incurred by **Utility** through the date thereof and through the date of any wind-down of ongoing efforts then being made to accomplish the **Utility Relocation Project** so that the **Utility** may be made whole. No payments made to **Utility** shall be set-off against any right of recovery of just compensation, damages, relocation benefits, or other rights **Utility** may have in such an eminent domain proceeding.

ARTICLE XV. MISCELLANEOUS

Section 15.01 NOTICE. All notices under the **Memorandum of Understanding** will be in writing and: (a) delivered personally; (b) sent by certified mail, return receipt requested; (c) sent by a recognized overnight mail or courier service, with delivery receipt requested; or (d) sent by facsimile or email communication followed by a hard copy and with receipt confirmed by telephone or return receipt (in the case of email communication), to the following addresses:

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

Jacobs Engineering Group Inc
64 4th Street North, Suite 300
Fargo, North Dakota 58102

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

207 4th St. N, Suite A
Fargo, North Dakota 58102

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

NuStar Pipeline Operating Partnership L.P.
19003 IH-10 West
San Antonio, Texas 78257
With an electronic copy of legal notices to:
LegalNotices@nustarenergy.com

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

Section 15.02 WORKERS' COMPENSATION. Each **Party** shall be responsible for injuries or deaths of its own personnel in relation to the **Utility Relocation Project** and the **SWDCAI**. In monopolistic state run systems, each **Party** shall obtain **Stop Gap Employers Liability** with limits not less than \$500,000 each accident or disease and maintain compliance under the state run system. Each **Party** will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing assistance pursuant to this **Memorandum of Understanding**. Each **Party** waives the right to pursue a legal action against one of the other parties for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries are caused wholly or partially by the negligence of any other **Party** or its officers, employees, or volunteers.

Section 15.03 INSURANCE. The **Utility** shall obtain a general liability insurance policy providing no less than two million dollars (\$2,000,000) of coverage in connection with the **Utility Relocation Project** and the **SWDCAI**. The **Utility** shall list the **Metro Flood Diversion Authority**, **CCJWRD**, or the **P3 Developer** (if the **P3 Developer** has been identified at the time the policy is obtained) as an additional insured on any insurance policy obtained in connection with the **Utility Relocation Project** and the **SWDCAI**. Each **Party** shall provide a certificate of insurance to the other **Party** with the required coverages. Each **Party** shall be given notice at least thirty (30) days before an insurance policy canceled or allowed to non-renew. In the event that the policy is terminated for any reason and notice has not been previously given, the formerly insured shall give notice to the additional insureds as soon as is reasonably possible.

Section 15.04 INDEMNIFICATION. The **Utility** shall indemnify and hold harmless the **Metro Flood Diversion Authority**, its member entities, and directors, officers, employees, and agents harmless against any and all allegations, claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including attorney's fees), to the extent arising out of the destruction or malfunction of **Utility** infrastructure or otherwise resulting from the willful misconduct, or negligence of **Utility**, its employees,

contractors, or any party acting on behalf of the **Utility**. The **Parties** agree that they will provide each other with prompt notice of any legal action. The **Parties** further agree that they have a right to retain their own counsel to conduct a full defense of any such action.

Section 15.05 RELATIONSHIPS CREATED. The **Parties** agree this **Memorandum of Understanding** does not create any agency, partnership, joint venture, or any other relationship between the **Parties** and that the **Utility** is solely responsible for its own actions or omissions.

Section 15.06 CONFLICT. In the event of a conflict between this **Memorandum of Understanding** and any other agreement, this **Memorandum of Understanding** shall control and govern the relocation of **Utility** infrastructure, lines, and property for purposes of the **SWDCAL**.

Section 15.07 RELATIONSHIP TO REIMBURSEMENT AGREEMENT. Pursuant to its terms, the **Reimbursement Agreement** shall automatically terminate upon the **Parties'** execution of this **Memorandum of Understanding**; provided, however, that the **Metro Flood Diversion Authority's** payment obligations under the **Reimbursement Agreement** shall survive the termination thereof.

Section 15.08 FEES. The fees provided for herein shall not be interpreted or deemed to be a **Party's** sole source of recovery for damages in any way arising from or related to the other **Party's** delay, actions, or failure to act. Each **Party** shall have all remedies available to it at law in addition to any fees paid pursuant to this **Memorandum of Understanding**. Nothing in this **Memorandum of Understanding** shall be deemed a waiver by the **Metro Flood Diversion Authority** of the limits on liability set forth by the laws of the state or North Dakota or Minnesota, including North Dakota Century Code Section 32-12.1-03 or Minnesota Statute Section 466.04. Nor shall anything in this **Memorandum of Understanding** be deemed a waiver by the **Metro Flood Diversion Authority** or **Utility** of any available immunities or defenses.

Section 15.09 ELECTRONIC SIGNATURES. The parties acknowledge and agree that this **Memorandum of Understanding** may be executed by electronic signature, which shall be considered an original signature for all purposes and shall have the same force and effect as an original signature.

Section 15.10 FEDERAL LOBBYING RESTRICTIONS. Recipients of federal financial assistance may not pay any person for influencing or attempting to influence any officer or employee of a federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress with respect to the award, continuation, renewal, amendment, or modification of a federal grant, loan, or contract. These requirements are implemented for US EPA in 40 CFR Part 34, which also describes types of activities, such as legislative liaison activities and professional and technical services, which are not subject to this prohibition. Upon award of this contract, **Utility** shall complete and submit to the **Metro Flood Diversion Authority** the certification and disclosure forms in Appendix A and Appendix B to 40 CFR Part 34, which are attached as Exhibits to this **Memorandum of Understanding**. **Utility** shall also require all subcontractors and suppliers of any tier awarded a subcontract over \$100,000 to similarly complete and submit the certification and disclosure forms pursuant to the process set forth in 40 CFR 34.110.

Section 15.11 DEBARMENT AND SUSPENSION. **Utility** certifies that it will not knowingly enter into a contract with anyone who is ineligible under the 40 CFR Part 32 to participate in the **Project**. Suspension and debarment information can be accessed at <http://www.sam.gov>. **Utility** represents and warrants that it has or will include a term or conditions requiring compliance with this provision in all of its subcontracts under this **Memorandum of Understanding**. Upon award of this contract, **Utility** shall complete and submit to the **Metro Flood Diversion Authority** the federal certification form regarding debarment and suspension, which is attached as an Exhibit to this **Memorandum of Understanding**.

Section 15.12 CIVIL RIGHTS OBLIGATIONS. **Utility** shall comply with the following, federal non-discrimination requirements:

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

Section 15.13 AMERICAN IRON AND STEEL. The **Utility** acknowledges to and for the benefit of the **Metro Flood Diversion Authority** and the United States Environmental Protection Agency (“EPA”) that it understands the goods and services under this **Memorandum of Understanding** are being funded with monies made available by the Water Infrastructure Finance and Innovation Act program of the EPA that has statutory requirements commonly known as “American Iron and Steel” that requires all of the iron and steel products used in the project to be produced in the United States (“American Iron and Steel Requirement”) including iron and steel products provided by the **Utility** pursuant to this **Memorandum of Understanding**. **Utility** hereby represents, warrants and covenants to and for the benefit of the **Metro Flood Diversion Authority** and the EPA that:

- a. the **Utility** has reviewed and understands the American Iron and Steel Requirement,
- b. all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and
- c. the **Utility** will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the **Metro Flood Diversion Authority** or the EPA.

Notwithstanding any other provision of this **Memorandum of Understanding**, any failure to comply with this paragraph by the **Utility** shall permit the **Metro Flood Diversion Authority** or the EPA to recover as damages against the **Utility** any loss, expense, or cost (including without limitation attorney’s fees) incurred by the **Metro Flood Diversion Authority** or the EPA resulting

from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EPA or any damages owed to the EPA by the **Metro Flood Diversion Authority**). While the **Utility** has no direct contractual privity with the EPA, as a lender to the **Metro Flood Diversion Authority** for the funding of its **Project**, the **Metro Flood Diversion Authority** and the **Utility** agree that the EPA is a third-party beneficiary and neither this paragraph (nor any other provision of this **Memorandum of Understanding** necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the EPA.

Section 15.14 CERTIFICATION. Upon award of this contract, **Utility** shall comply with, complete, and submit to the **Metro Flood Diversion Authority** full executed versions of the federal certification forms attached as exhibits hereto.

Section 15.15 GOVERNING LAW. This **Memorandum of Understanding** shall be controlled by the laws of the State of North Dakota. Any action brought as a result of any claim, demand, or cause of action arising under the terms of this **Memorandum of Understanding** shall be venued in Cass County in the State of North Dakota, and the **Parties** waive any objection to personal jurisdiction.

Section 15.16 SEVERABILITY. Each provision, section, sentence, clause, phrase, and word of this **Memorandum of Understanding** is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this **Memorandum of Understanding**.

Section 15.17 MODIFICATIONS. Any modifications or amendments to this **Memorandum** must be in writing and signed by both **Parties** to this **Memorandum of Understanding**.

Section 15.18 BINDING EFFECT. This **Memorandum of Understanding** shall be binding upon and inure to the benefit of the **Parties** hereto and their respective personal representatives, successors, and assigns.

Section 15.19 REPRESENTATION. The **Parties**, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this **Memorandum of Understanding**, and agree they have not been influenced by any representations or statements made by any other parties.

Section 15.20 HEADINGS. Headings in this **Memorandum of Understanding** are for convenience only and will not be used to interpret or construe its provisions.

Section 15.21 COUNTERPARTS. This **Memorandum of Understanding** may be executed in counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the **Parties** and delivered to the other **Party**.

Section 15.22 REPRESENTATION OF AUTHORITY. Each **Party** signing this **Memorandum of Understanding** represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this **Memorandum of Understanding** and that the **Memorandum of**

Understanding is a valid and legal agreement binding on such **Party** and enforceable in accordance with its terms.

Section 15.23 TERMINATION. This **Memorandum of Understanding** may be terminated by the **Metro Flood Diversion Authority**, at any time and for any reason. The **Utility** may terminate this **Memorandum of Understanding** if it first obtains written approval of the termination, which will not reasonably be withheld, from the **Metro Flood Diversion Authority**. Any obligations of either **Party** hereunder that are intended to survive termination of this **Memorandum of Understanding** shall survive, including **Utility's** obligations under Article XI shall survive the termination of this **Memorandum of Understanding**.

Section 15.24 FORCE MAJEURE. Neither the **Utility** nor **Metro Flood Diversion Authority** shall be held responsible for any delay or failure in performance of any part of this **Memorandum of Understanding** to the extent such delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, act of God, or other similar causes beyond its control and without the fault or negligence of the delayed or non-performing party. The affected party will notify the other party in writing within ten (10) days after the beginning of any such cause that would affect its performance. If notice is not provided as to a force majeure event, as required in this Section, said event shall not be considered a force majeure event.

(Signatures appear on the following pages.)

IN WITNESS WHEREOF, the Parties executed this Memorandum of Understanding on the date first written above.

METRO FLOOD DIVERSION AUTHORITY

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

BY: _____
Joel Paulson, Executive Director

NUSTAR PIPELINE OPERATING
PARTNERSHIP L.P.
BY AND THROUGH ITS GENERAL PARTNER,
NUSTAR PIPELINE COMPANY, LLC

By: _____
Signature

Name: _____
Printed

Title: _____

RIGHT OF WAY CONTRACT OPTION

For and in Consideration of a sum payable on the execution hereof as hereinafter set forth and a further aggregate sum equal to One Dollar (\$1.00) per rod for each rod of pipe line to be

constructed under the terms hereof, to be paid at the time and in the manner hereinafter set forth,.....

Clifford A. Moe and Gladys Moe, husband and wife

Mapleton, North Dakota

hereinafter referred to as Grantors, (whether one or more) do hereby warrant and convey unto STANDARD OIL COMPANY, an Indiana corporation, its successors and assigns, hereinafter referred to as Grantee, the right to construct, maintain, inspect, operate, protect, repair, replace, change the size of or remove a pipe line or pipe lines, for the transportation of oil, gas and the products thereof, along a route to be selected by Grantee on, over, and through the following described lands, of which Grantors warrant they are the owners in fee simple, situated

in Cass County, State of North Dakota,
to-wit:

All of Section 9 Township 139 Range 50,
together with the right of ingress and egress to and from said line or lines, or any of them, for the purposes aforesaid.

Grantee agrees to pay the sum of Ten and no/100 - - - - - Dollars (\$10.00), upon the execution hereof, receipt of which is hereby acknowledged. After a survey establishing the route of the line has been completed, and before construction is commenced, Grantee agrees to pay for the first line to be constructed, the further sum calculated on a basis of One Dollar (\$1.00) per lineal rod. It being mutually agreed that if Grantee fails to make payment in accordance with said survey within twelve (12) months from the date hereof, all rights, terms and conditions of this contract shall cease and determine.

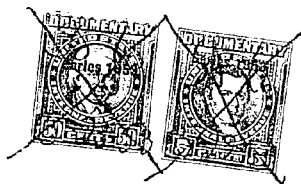
Grantors to have the right to fully use and enjoy the above described premises, except as to the rights herein granted; and Grantors agree not to build, create or construct, nor permit to be built, created or constructed, any obstruction, building, engineering works, or other structure over said pipe line or lines. Grantee hereby agrees to pay any damages which may arise to growing crops, pasturage, fences, or buildings of said Grantors from the exercise of the rights herein granted, said damages, if not mutually agreed upon, to be ascertained and determined by three disinterested persons, one thereof to be appointed by Grantors, one by Grantee, and the third by the two so appointed, and the written award of such three persons shall be final and conclusive.

Should more than one pipe line be laid under this grant, at any time, an additional consideration, calculated on the basis of One Dollar (\$1.00) per lineal rod, shall be paid for each line laid after the first line. It is agreed that any payment due hereunder may be made direct to said Grantors or any one of them.

Any pipe line or lines constructed by said Grantee across lands under cultivation shall, at the time of construction thereof, be buried to such depth as will not interfere with such cultivation.

The rights herein granted may be assigned in whole or in part.

The terms, conditions and provisions of this contract shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.



IN WITNESS WHEREOF, the Grantors herein have herenuto set their hands and seals this.....

23rd day of May, 1953.

Signed, sealed and delivered
in the presence of:

Ira T. Mero
Ray Malvin

Clifford A. Moe (SEAL)
Gladys Moe (SEAL)
..... (SEAL)
..... (SEAL)
..... (SEAL)

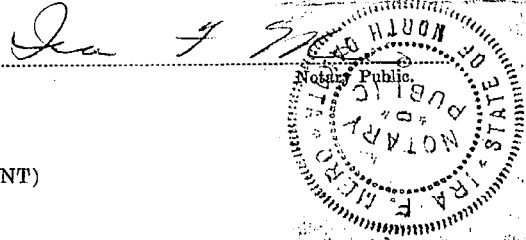
(ACKNOWLEDGMENT)

STATE OF North Dakota }
Cass County, } ss.
 Before me, Ira F. Mero, a Notary Public
 in and for said County and State, on this 23rd day of May,
 1953, personally appeared Clifford A. Moe and
Gladys Moe, his wife, to me known to be the identical persons
 who executed the within and foregoing instrument and acknowledged to me that they
 executed the same as a free and voluntary act and deed for the uses and purposes therein
 set forth.

Given under my hand and notarial seal on the day and year written above.

My commission expires:

March 4, 1958



(ACKNOWLEDGMENT)

STATE OF _____ }
 _____ County, } ss.
 Before me, _____, a Notary Public
 in and for said County and State, on this _____ day of _____,
 19____, personally appeared _____ and
 _____, to me known to be the identical person...
 who executed the within and foregoing instrument and acknowledged to me that _____
 executed the same as _____ free and voluntary act and deed for the uses and purposes therein
 set forth.

Given under my hand and notarial seal on the day and year written above.

My commission expires:

Notary Public.

DOCUMENT NO. 310174

FEES { Recording 1.50 chg.
 { Aud. Transfer _____

Series _____ Line No. _____

FROM

TO

STANDARD OIL COMPANY
 (Indiana)

STATE OF NORTH DAKOTA, ss.
 COUNTY OF CASS
 REGISTER'S OFFICE
 I hereby certify that the above instru-
 ment was filed in this office for record
 on the 16 day of Oct.
A. D. 1953, at 8:17 o'clock A.M.,
 and was duly recorded in Book 7-2
 of Minoli, Page 366
A. Friedman
 REGISTER OF DEEDS

Line _____

Length _____

BOOK 7-2 PAGE 367

BOOK I-2 PAGE 368

Standard Oil

RIGHT OF WAY CONTRACT

OPTION

For and in Consideration of a sum payable on the execution hereof as hereinafter set forth and a further aggregate sum equal to One Dollar (\$1.00) per rod for each rod of pipe line to be constructed under the terms hereof, to be paid at the time and in the manner hereinafter set forth.

Mrs. Mary Coster, a widow

1213 3rd Street N. Fargo, N. D.

hereinafter referred to as Grantors, (whether one or more) do hereby warrant and convey unto **STANDARD OIL COMPANY**, an Indiana corporation, its successors and assigns, hereinafter referred to as Grantee, the right to construct, maintain, inspect, operate, protect, repair, replace, change the size of or remove a pipe line or pipe lines, for the transportation of oil, gas and the products thereof, along a route to be selected by Grantee on, over, and through the following described lands, of which Grantors warrant they are the owners in fee simple, situated

in Cass County, State of North Dakota
to-wit:

Southwest Quarter [SW $\frac{1}{4}$] Section 10 Township 139 Range 50,
together with the right of ingress and egress to and from said line or lines, or any of them, for the purposes aforesaid.

Grantee agrees to pay the sum of Ten & No/100 Dollars (\$ 10.00), upon the execution hereof, receipt of which is hereby acknowledged. After a survey establishing the route of the line has been completed, and before construction is commenced, Grantee agrees to pay for the first line to be constructed, the further sum calculated on a basis of One Dollar (\$1.00) per lineal rod. It being mutually agreed that if Grantee fails to make payment in accordance with said survey within twelve (12) months from the date hereof, all rights, terms and conditions of this contract shall cease and determine.

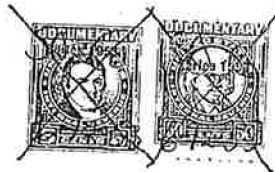
Grantors to have the right to fully use and enjoy the above described premises, except as to the rights herein granted; and Grantors agree not to build, create or construct, nor permit to be built, created or constructed, any obstruction, building, engineering works, or other structure over said pipe line or lines. Grantee hereby agrees to pay any damages which may arise to growing crops, pasturage, fences, or buildings of said Grantors from the exercise of the rights herein granted, said damages, if not mutually agreed upon, to be ascertained and determined by three disinterested persons, one thereof to be appointed by Grantors, one by Grantee, and the third by the two so appointed, and the written award of such three persons shall be final and conclusive.

Should more than one pipe line be laid under this grant, at any time, an additional consideration, calculated on the basis of One Dollar per lineal rod, shall be paid for each line laid after the first line. It is agreed that any payment due hereunder may be made direct to said Grantors or any one of them.

Any pipe line or lines constructed by said Grantee across lands under cultivation shall, at the time of construction thereof, be buried to such depth as will not interfere with such cultivation.

The rights herein granted may be assigned in whole or in part.

The terms, conditions and provisions of this contract shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.



IN WITNESS WHEREOF, the Grantors herein have hereunto set their hands and seals this.....

12th day of June, 1953.

Signed, sealed and delivered
in the presence of:

Ray Malvin

Ira F. Mero

Mrs. Mary Coster (SEAL)
Mrs. Mary Coster

(ACKNOWLEDGMENT)

STATE OF North Dakota }
Cass County, } ss.

Before me, Ira F. Mero, a Notary Public
 in and for said County and State, on this 12th day of June,
 1953, personally appeared Mrs. Mary Coster, a widow and
 _____, to me known to be the identical person...
 who executed the within and foregoing instrument and acknowledged to me that She
 executed the same as A free and voluntary act and deed for the uses and purposes therein
 set forth.

Given under my hand and notarial seal on the day and year written above.

My commission expires:

March 4, 1958



(ACKNOWLEDGMENT)

STATE OF _____ }
 _____ County, } ss.

Before me, _____, a Notary Public
 in and for said County and State, on this _____ day of _____,
 19_____, personally appeared _____ and
 _____, to me known to be the identical person...
 who executed the within and foregoing instrument and acknowledged to me that _____
 executed the same as _____ free and voluntary act and deed for the uses and purposes therein
 set forth.

Given under my hand and notarial seal on the day and year written above.

My commission expires:

Notary Public.

DOCUMENT NO. 310175

(Recording 1.50 chg.)
 FEES { Reg. Transfer _____

Series _____ Line No. _____

FROM

TO

STANDARD OIL COMPANY
 (Indiana)

STATE OF NORTH DAKOTA } ss.
 COUNTY OF CASS

REGISTER'S OFFICE

I hereby certify that the above instru-

ment was filed in this office for record

on the 16 day of Oct.

A. D. 1953, at 8:18 o'clock A.M.,

and was duly recorded in Book 1-2

of Mich. Page 368

H. Friedman

REGISTER OF DEEDS

BOOK 1-2 PAGE 369

Line _____

Length _____

10-139-50

BOOK I-2 PAGE 370

EXHIBIT

3

Standard
oilRIGHT OF WAY CONTRACT
OPTION

SE 1/4

For and in Consideration of a sum payable on the execution hereof as hereinafter set forth and a further aggregate sum equal to One Dollar (\$1.00) per rod for each rod of pipe line to be constructed under the terms hereof, to be paid at the time and in the manner hereinafter set forth,

Emil Coster, a single man

R.F.D. #1, Fargo, N. D.

hereinafter referred to as Grantors, (whether one or more) do hereby warrant and convey unto **STANDARD OIL COMPANY**, an Indiana corporation, its successors and assigns, hereinafter referred to as Grantee, the right to construct, maintain, inspect, operate, protect, repair, replace, change the size of or remove a pipe line or pipe lines, for the transportation of oil, gas and the products thereof, along a route to be selected by Grantee on, over, and through the following described lands, of which Grantors warrant they are the owners in fee simple, situated

in Cass County, State of North Dakota
to-wit:

Southeast Quarter (SE 1/4) Section 10 Township 139 Range 50,
together with the right of ingress and egress to and from said line or lines, or any of them, for the purposes aforesaid.

Grantee agrees to pay the sum of Ten & No/100 Dollars (\$10.00), upon the execution hereof, receipt of which is hereby acknowledged. After a survey establishing the route of the line has been completed, and before construction is commenced, Grantee agrees to pay for the first line to be constructed, the further sum calculated on a basis of One Dollar (\$1.00) per lineal rod. It being mutually agreed that if Grantee fails to make payment in accordance with said survey within twelve (12) months from the date hereof, all rights, terms and conditions of this contract shall cease and determine.

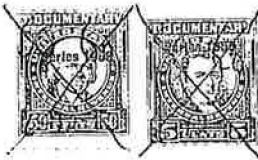
Grantors to have the right to fully use and enjoy the above described premises, except as to the rights herein granted; and Grantors agree not to build, create or construct, nor permit to be built, created or constructed, any obstruction, building, engineering works, or other structure over said pipe line or lines. Grantee hereby agrees to pay any damages which may arise to growing crops, pasturage, fences, or buildings of said Grantors from the exercise of the rights herein granted, said damages, if not mutually agreed upon, to be ascertained and determined by three disinterested persons, one thereof to be appointed by Grantors, one by Grantee, and the third by the two so appointed, and the written award of such three persons shall be final and conclusive.

Should more than one pipe line be laid under this grant, at any time, an additional consideration, calculated on the basis of One Dollar per lineal rod, shall be paid for each line laid after the first line. It is agreed that any payment due hereunder may be made direct to said Grantors or any one of them.

Any pipe line or lines constructed by said Grantee across lands under cultivation shall, at the time of construction thereof, be buried to such depth as will not interfere with such cultivation.

The rights herein granted may be assigned in whole or in part.

The terms, conditions and provisions of this contract shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.



IN WITNESS WHEREOF, the Grantors herein have hereunto set their hands and seals this.....

12th day of June, 1953.

Signed, sealed and delivered
in the presence of:

Ray Malvin

Mrs. F. Mero

Emil Coster

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(ACKNOWLEDGMENT)

STATE OF North Dakota
Cass County, } ss.

Before me, Ira F. Mero, a Notary Public
 in and for said County and State, on this 12th day of June,
 1953, personally appeared Emil Coster, a single man and
 _____, to me known to be the identical person...
 who executed the within and foregoing instrument and acknowledged to me that He
 executed the same as A free and voluntary act and deed for the uses and purposes therein
 set forth.

Given under my hand and notarial seal on the day and year written above.

My commission expires:

March 4, 1958



(ACKNOWLEDGMENT)

STATE OF _____
 _____ County, } ss.

Before me, _____, a Notary Public
 in and for said County and State, on this _____ day of _____,
 19____, personally appeared _____ and
 _____, to me known to be the identical person...
 who executed the within and foregoing instrument and acknowledged to me that _____
 executed the same as _____ free and voluntary act and deed for the uses and purposes therein
 set forth.

Given under my hand and notarial seal on the day and year written above.

My commission expires:

Notary Public.

DOCUMENT NO. 340176

FEES: 4.50 chg.
1.00 Aud. Transfer

Series _____ Line No. _____

FROM

TO
 STANDARD OIL COMPANY
 (Indiana)

STATE OF NORTH DAKOTA, } ss.
 COUNTY OF CASS

REGISTER'S OFFICE

I hereby certify that the above instru-

ment was filed in this office for record

on the 16 day of Oct

A. D. 1953, at 8:19 o'clock A.M.

and was duly recorded in Book I-2

of Misc., Page 370

of A. Friedman

REGISTER OF DEEDS

Line _____

Length _____

Line _____

Length _____

BOOK I-2 PAGE 371

OLY OLAFSON

EXHIBIT**4**

**This document was prepared
by and after recording mail to:**

NuStar Pipeline Operating
Partnership L.P.
c/o Real Estate Department
19003 IH 10 West
San Antonio, Texas 78257

This Space Reserved for Recorder Only

**AMENDMENT, RESTATEMENT, AND PARTIAL RELEASE OF RIGHT OF WAY
CONTRACT
(NORTH DAKOTA)**

This **AMENDMENT, RESTATEMENT, AND PARTIAL RELEASE OF RIGHT OF WAY CONTRACT** (this “**Amendment**”) is made and entered into this 14 day of January 2020, (the “**Effective Date**”), by and between Jantze L. Haley, Juliet F. Everist and The Goldman Sachs Trust Company, N.A., as Personal Representatives of the Estate of Janet Wanzek, and Nikolaus Larsen as Trustee of the Daniel Edwin Everist III Irrevocable Trust under Agreement dated December 19, 2012, hereinafter collectively called “**Grantor**”, and NuStar Pipeline Operating Partnership L.P., a Delaware limited partnership, hereinafter called “**Grantee**.”

RECITALS

WHEREAS, Clifford A. Moe and Gladys Moe and Standard Oil Company entered into a Right of Way Contract dated May 23, 1953, and recorded in Book I-2, Page 366 in the Cass County, North Dakota Register’s Office as Document Number 310174 (9-139N-50W) and Emil Coster and Standard Oil Company entered into a Right of Way Contract dated June 12, 1953, and recorded in Book I-2, page 370 in the Cass County, North Dakota Register’s Office as Document Number 310176 (Pt SE1/4-10-139N-50W) (collectively the “**Agreement**”) granting Standard Oil Company the right to construct a pipeline;

WHEREAS, Standard Oil Company constructed a pipeline pursuant to the Agreement (the “**Existing Pipeline**”);

WHEREAS, Grantor is the present owner of the real property burdened by the Agreement, and situated in Cass County, North Dakota legally described on the attached Exhibit A (the “**Property**”);

OLY OLAFSON

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Page: 2 of 23
1/19/2021 2:39 PM
AMAGR \$65.00

WHEREAS, Grantee is the present holder of the Agreement;

WHEREAS, the Metro Flood Diversion Authority, a North Dakota political subdivision is undertaking a project involving construction of what is known as the Diversion Channel and Associated Infrastructure (the "Diversion Authority Project");

WHEREAS, in connection with the Diversion Authority Project, the Metro Flood Diversion Authority has identified a portion of the Existing Pipeline to be replaced;

WHEREAS, as a result of the Diversion Authority Project, Grantee will be undertaking a project pursuant to which a portion of the Existing Pipeline will be abandoned in place and a replacement pipeline will be constructed on the Property (the "Project"). That portion of the Existing Pipeline abandoned in place in connection with the Project shall be referred to hereinafter as the "Abandoned Pipeline." Together, that portion of the Existing Pipeline located on the Property that is not abandoned in place and the replacement pipeline constructed on the Property shall be referred to as the "Pipeline";

WHEREAS, Grantee's completion of the Project is contingent upon approval of Grantee's application for a Certificate of Corridor Compatibility and Route Permit ("Route Permit") by the North Dakota Public Service Commission ("NDPSC") and upon execution of a binding agreement with the Metro Flood Diversion Authority to complete the Project;

WHEREAS, Grantor and Grantee intend that, provided the NDPSC issues Grantee the Route Permit and the Metro Flood Diversion Authority enters into a binding agreement with Grantee satisfactory to Grantee with respect to the Project, then Grantee shall undertake and complete the Project;

WHEREAS, in the event that the NDPSC does not issue Grantee the Route Permit (the "Route Permit Condition") or the Metro Flood Diversion Authority does not enter into an agreement with Grantee satisfactory to Grantee with respect to the Project (the "Flood Diversion Authority Condition"), then the purpose of this Amendment shall be frustrated and the same rendered ineffective, and, in that case, the Agreement shall remain unmodified and in effect; and

WHEREAS, the parties desire to amend the Agreement to document the terms and conditions applicable to the Project, the Abandoned Pipeline, and the Pipeline.

NOW THEREFORE, in consideration of the mutual promises and conditions contained herein and other valuable consideration, the sufficiency of which is hereby acknowledged, Grantor, and Grantee, desire to amend the Agreement as set forth herein.

AGREEMENT

1. Recitals. The foregoing Recitals are substantive in nature and incorporated herein by reference.

2. **Amendment to Agreement.** The Agreement is hereby amended to the extent necessary to give effect to this Amendment, and the terms of this Amendment shall supersede any contrary terms in the Agreement. In all other respects, the terms and conditions of the Agreement shall remain unmodified and in effect. Grantee shall, on or before the earlier of December 31, 2023 and at Grantee's cost and expense, record in the office of the Cass County Recorder an instrument (a "Notice of Condition") which sets forth the legal descriptions of the Property, as set forth on Exhibit A and which states both that (a) the Route Permit Condition has or has not been satisfied; and (b) that the Diversion Authority Condition has or has not been satisfied. If Grantee records such instrument on or before December 31, 2023 and the recorded instrument does not expressly state that both the Route Permit Condition and the Diversion Authority Condition have been satisfied or if Grantee fails to record such an instrument on or before December 31, 2023, this Amendment shall be void.

3. **Abandonment Activities.** From and after the date Grantee records a Notice of Condition stating that both the Diversion Authority Condition and the Route Permit Condition have been satisfied, Grantee shall have all rights necessary to use the Property to complete its abandonment activities and to construct the replacement pipeline on the New Easement Area, as defined below. Grantee's abandonment of the Abandoned Pipeline shall be in accordance with applicable Federal, state and local rules and regulations. After the Pipeline is fully operational, Grantee shall fill the Abandoned Pipeline with grout or cement or similar inert material(s) and cap each end of the Abandoned Pipeline and otherwise complete its abandonment-in-place activities in accordance with applicable Federal, state and local rules and regulations ("Grantee's Abandonment in Place Activities") within twenty-four (24) months but in any event on or before December 31, 2025.

4. **Rights and Obligations Regarding Abandoned Pipeline.** At the conclusion of Grantee's Abandonment in Place Activities ownership of the Abandoned Pipeline shall vest in Grantor. Thereafter, Grantee's rights or obligations with respect to the Abandoned Pipeline shall terminate and the Agreement shall be released as to the Abandoned Pipeline and, except with respect to the access rights described in Section 7, all portions of the Property other than the New Easement Area, defined below. Grantee's abandonment will be evidenced by a bill of sale in substantially the form attached as Exhibit D delivered by Grantee to Grantor after the abandonment activities are completed.

5. **Cooperation Regarding Inspection and/or Documentation of Abandonment Activities and/or Abandoned Pipeline.** Grantee shall promptly respond to any reasonable written requests by Grantor with regard to Grantee's abandonment activities and/or the Abandoned Pipeline.

6. **Payment for Crop Damages Resulting From Pipeline or Abandoned Pipeline Construction Activities.** Grantee shall pay estimated crop damages to Grantor or Grantor's tenant prior to commencement of Pipeline or Abandoned Pipeline construction activities.

7. **Pipeline Easement Definition.** The lands subject to Grantee's rights to construct, maintain, inspect, operate, protect, repair, replace, change the size of or remove the Pipeline or pipelines, for the transportation of oil, gas, and the products thereof, shall be limited to that

easement area legally described on Exhibit B and depicted on Exhibit C both of which are attached hereto and made a part hereof for all purposes. Grantee shall also have a right of reasonable access to and from the Pipeline over the Property using existing roads and trails where practicable, for the purposes aforesaid. In the event that the location of the pipeline easement needs to be amended as a result of the Route Permit or otherwise and such relocation is acceptable to Grantor (and Grantor agrees to not unreasonably withhold agreement as to the same), Grantor and Grantee shall cause an amended Exhibit B and an amended Exhibit C to be prepared and recorded; provided, however, that the permanent easement area shall be limited to a one-hundred-foot-wide area.

8. Indemnification. Grantee shall defend, indemnify and hold harmless the Grantor from any damage to the Property and from any third-party claims or suits which may be asserted against the Grantor to the extent caused by Grantee's or Grantee's employees', agents', contractors' or subcontractors' (of any tier) negligence or willful misconduct. Notwithstanding the foregoing, Grantee will not defend, indemnify or hold Grantor harmless for any damage to the Property and from any third-party claims or suits which may be asserted against the Grantor to the extent caused by any negligent act(s) or willful misconduct of the Grantor, or the Grantor's employees, agents, tenants, licensees, or invitees, regardless of fault.

9. [Intentionally Omitted.]

10. Ratification of Agreement. The parties ratify the Agreement, as amended hereby, as remaining in full force and effect.

11. Authority. Each person executing this Amendment represents and warrants that he or she is authorized to do so, and that this Amendment constitutes binding and enforceable obligations of Grantor.

12. Counterparts. This Amendment may be executed in multiple counterparts and will constitute one and the same instrument.

13. Context. The Agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.

14. Complete Agreement. The Agreement, including, without limitation, this Amendment and all exhibits which are attached hereto and hereby incorporated by reference, constitutes the entire agreement between Grantor and Grantee with respect to the subject matter hereof, and may not be amended or modified except in a writing signed by Grantor and Grantee. Grantor acknowledges that it has not been induced to enter into this Amendment by any agreements or representations which are not set forth in this Amendment. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this agreement. Any amendments whenever made shall be superior to any and all liens, to the same extent as if such amendments or modifications had been executed concurrently therewith.

15. Agreement to Run with the Property and Assignment. The benefits and burdens of the Agreement, as amended by this Amendment, run with Grantor's title to the Property and inure to the benefit of and are binding upon the Grantor and their successors in title to the Property.

OLY OLAFSON

Except as provided in this Section 15, Grantee may not assign the benefits or burdens of the Agreement, as amended by this Amendment, without Grantee's consent; provided, however, Grantee may, upon notice to but without the consent of Grantor, assign all of Grantee's rights and obligations under the Agreement, as amended by this Amendment to any person or entity to whom Grantee also transfers title to the Pipeline.

The remainder of this page is intentionally blank.

[signature and notary pages follow]

IN WITNESS WHEREOF, Grantor and Grantee have duly executed this Amendment
as of the Effective Date.

GRANTOR:

Jantze L. Haley

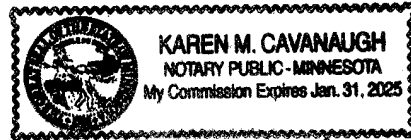
Jantze L. Haley, Personal Representative of the Estate of
Janet L. Wanzek, Grantor

STATE OF Minnesota)
COUNTY OF Hennepin) ss

On this 9th day of Dec, 2020, before me personally appeared Jantze L.
Haley, as Personal Representative of the Estate of Janet L. Wanzek, a single individual, known to
me to be the person who is described in and who executed the within and foregoing instrument,
and acknowledged that she executed the same as her free act and deed.

Notary Public

Karen M. Cavanaugh



Henn City.

Juliet F. Everist, Personal Representative of the Estate of
Janet L. Wanzek, Grantor

STATE OF _____)
COUNTY OF _____) ss

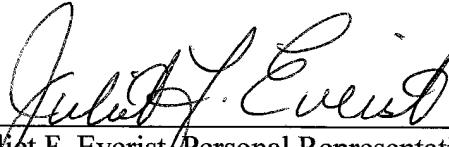
On this _____ day of _____, 2020, before me personally appeared Juliet F.
Everist, as Personal Representative of the Estate of Janet L. Wanzek, a single individual, known
to me to be the person who is described in and who executed the within and foregoing
instrument, and acknowledged that she executed the same as her free act and deed.

Notary Public

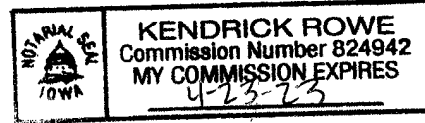
THE GOLDMAN SACHS TRUST COMPANY, N.A.

As Personal Representative of the Estate of Janet L. Wanzek

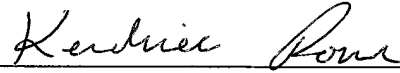
By:


Juliet F. Everist, Personal Representative of the Estate of
Janet L. Wanzek, Grantor

STATE OF Iowa)
COUNTY OF Woodbury) SS



On this 9 day of December, 2020, before me personally appeared Juliet F. Everist, as Personal Representative of the Estate of Janet L. Wanzek, a single individual, known to me to be the person who is described in and who executed the within and foregoing instrument, and acknowledged that she executed the same as her free act and deed.


Notary Public



OLY OLAFSON


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Page: 7 of 23
1/19/2021 2:39 PM
AMAGR \$65.00

OLY OLAFSON

1619910
Page: 8 of 23
1/19/2021 2:39 PM
AMAGR \$65.00

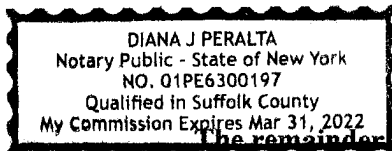
THE GOLDMAN SACHS TRUST COMPANY, N.A.

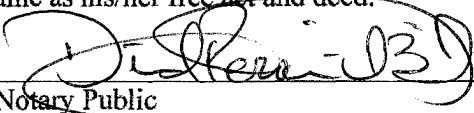
As Personal Representative of the Estate of Janet L. Wanzek

By: 
Marlene Axel
Its: Vice President

STATE OF New York)
COUNTY OF Suffolk) ss

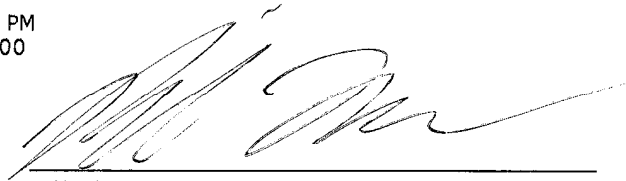
On this 8th day of January, 2021, before me personally appeared Marlene Axel the Vice President of The Goldman Sachs Trust Company, N.A., as Personal Representative of the Estate of Janet L. Wanzek, a single individual, known to me to be the person who is described in and who executed the within and foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.




Notary Public

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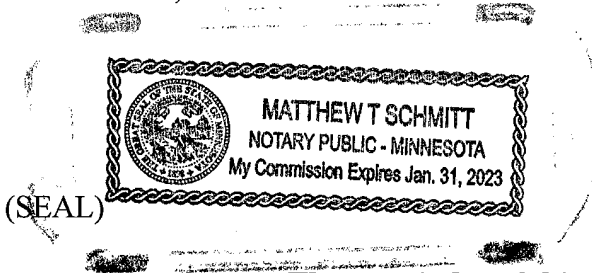
OLY OLAFSON



Nikolaus Larsen as Trustee of the Daniel Edwin
Everist III Irrevocable Trust under Agreement
dated December 19, 2012

STATE OF Minnesota)
) ss
COUNTY OF Hennepin)

On this 28th day of December, 2020, before me personally appeared Nikolaus
Larsen as Trustee of the Daniel Edwin Everist III Irrevocable Trust under Agreement dated
December 19, 2012.



Notary Public,
My Commission expires:

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Page: 10 of 23
1/19/2021 2:39 PM
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OLY OLAFSON

GRANTEE:

NuStar Pipeline Operating Partnership L.P.

By and through its general partner, **NuStar Pipeline Company, LLC**

By: 

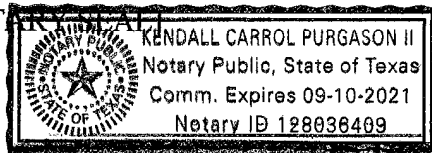
Print: R. Heath Reininger

Title: Executive Director of Real Estate

STATE OF TEXAS)
) ss.
COUNTY OF BEXAR)

This instrument was acknowledged before me on the 14th day of January 2020,
by R. Heath Reininger as the Executive Director of Real Estate of **NuStar Pipeline Company,**
LLC, in its capacity as general partner of NuStar Pipeline Operating Partnership L.P.

[NOTARY SEAL]




Notary Public

My commission expires: 9-10-2021

The remainder of this page is intentionally blank.

OLY OLAFSON

EXHIBIT A**Legal Description**Parcel 1: (Tax Parcel No. 59.0000.09052.000)

The Northeast Quarter of Section Nine, in Township One Hundred Thirty-nine North of Range Fifty West of the Fifth Principal Meridian, situate in the County of Cass and the State of North Dakota, except the following described parcel:

Beginning at a point on the West line of said Northeast Quarter a distance of Seventy-five feet South of the Northwest corner of said Northeast Quarter; said point of beginning lying on the South Right-of-Way of Interstate Highway No. 94 Service Road; thence North 89°38'50" East parallel to the North line of said Northeast Quarter and along said highway Right-of-Way for a distance of Nine Hundred Eighty-eight and Fifty-three hundredths feet; thence South 00°00'00" West parallel to the West line of said Northeast Quarter for a distance of One Thousand Eighty-three and Thirty-eight hundredths feet; thence South 89°38'50" West parallel to the North line of said Northeast Quarter for a distance of Nine Hundred Eighty-eight and Fifty-three hundredths feet to the West line of said Northeast Quarter; thence North 00°00'00" East along the West line of said Northeast Quarter for a distance of One Thousand Eighty-three and Thirty-eight hundredths feet to the point of beginning, and except a ninety-nine foot (99') wide strip of land for Cass County Drain #14.

Parcel 2: (Tax Parcel No. 53.0000.09054.000)

The Southwest Quarter of Section Nine, in Township One Hundred Thirty-nine North of Range Fifty, West of the Fifth Principal Meridian, situate in the County of Cass and the State of North Dakota, less and except road right of way.

Parcel 3: (Tax Parcel No. 53.0000.09055.000)

The Southeast Quarter of Section 9, in Township 139 North, Range 50 West, Cass County, North Dakota, except the following parcel: Beginning on the Section line 1714 feet North of the Southeast corner of said Section 9; thence running West 264 feet; thence North 165 feet; thence East 264 feet; thence South 165 feet to the place of beginning. Said tract containing 1 acre, more or less.

Parcel 4: (Tax Parcel No. 53.0000.09053.020)

That part of the Northwest Quarter of Section Nine, in Township One Hundred Thirty-nine North of Range Fifty, West of the Fifth Principal Meridian, Cass County, North Dakota, except that part included in the plat of Leo's Subdivision, and except highway rights of way.

Parcel 5: (Tax Parcel No. 53.0000.09061.007)

A tract of land in the Southeast Quarter (SE¼) of Section Ten (10), Township One Hundred Thirty-nine (139) North, Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota described as follows: Commencing at the Southeast corner of said Southeast Quarter (SE¼); Thence S 89°41'14" W along the South line of said Southeast Quarter (SE¼) for a distance of One Thousand Four Hundred Thirty-one and Thirty-five Hundredths (1431.35) feet to the point of beginning; Thence

OLY OLAFSON

continue S 89°41'14" W along the south line of said Southeast Quarter (SE¼) for a distance of Six Hundred Thirty-one and Thirty Hundredths (631.30) feet to the Southeast corner of Auditors Lot No. 1; Thence N 00°00'00" E along the East line of said Auditor's Lot No. 1 and along the East line of Auditors Lot No. 2 for a distance of Five Hundred Two and Thirty four Hundredths (502.34) feet; Thence N 89°41'14" E parallel to the South line of said Southeast Quarter (SE¼) for a distance of Six Hundred Thirty one and Thirty Hundredths (631.30) feet; Thence S 00°00'00" E parallel to the East line of said Southeast Quarter (SE¼) for a distance of Five Hundred Two and Thirty four Hundredths (502.34) feet to the point of beginning;

and

All that part of the Southeast Quarter (SE¼) of Section Ten (10), Township One Hundred Thirty-nine (139) North, Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows: Commencing at the Northeast corner of said Southeast Quarter (SE¼); thence S 00°00'00" E along the East line of said Southeast Quarter (SE¼) for a distance of One Thousand Six Hundred Forty-five and Thirty-two Hundredths (1645.32) feet to the point of beginning; thence S 89°30'56" W for a distance of One Thousand Four Hundred Thirty-one and Thirty-eight Hundredths (1431.38) feet; thence S 00°00'00" E parallel to the East line of said Southeast Quarter (SE¼) for a distance of Nine Hundred Ninety-eight and Thirty-seven Hundredths (998.37) feet to a point on the South line of said Southeast Quarter (SE¼); thence N 89°41'14" E along the South line of said Southeast Quarter (SE¼) for a distance of One Thousand Four Hundred Thirty-one and Thirty-five Hundredths (1431.35) feet to the Southeast corner of said Southeast Quarter (SE¼); thence N 00°00'00" E along the East line of said Southeast Quarter (SE¼) for a distance of One Thousand Two and Fifty-five hundredths (1002.55) feet to the point of beginning, EXCEPTING THEREFROM the following described parcels:

- (1) Auditor's Lot No. 4,

And

- (2) That part of the Southeast Quarter (SE¼) of Section Ten (10), Township One Hundred Thirty-nine (139) North, Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows: Beginning at the Southeast corner of the Southeast Quarter (SE¼) of said Section Ten (10); Thence S 90°00'00" W (assumed bearing), along the South line of the Southeast Quarter (SE¼) of said Section 10 for a distance of One Hundred Seventy (170.00) feet; Thence N 00°16'45" E parallel to the East line of the Southeast Quarter (SE¼) of Section 10 for a distance of One Hundred Seventy; (170.00) feet; Thence N 90°00'00" E parallel to the South line of the Southeast Quarter (SE¼) of said Section 10 for a distance of One Hundred Seventy (170) feet to the east line of the Southeast Quarter (SE¼) of said Section 10; thence S 00°16'45" W along the east line of the Southeast Quarter (SE¼) of said Section 10 for a distance of One Hundred Seventy (170.00) feet to the point of beginning

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EASEMENT EXHIBIT

-FOR-

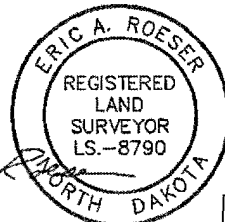


A 100 foot wide perpetual easement for pipeline purposes over, under and across part of the following described parcel:

That part of the Northwest Quarter Section Nine, in Township One Hundred Thirty-nine North of Range Fifty, West of the Fifth Principal Meridian, Cass County, North Dakota, except that part included in the plat of Leo's Subdivision, and except highway rights of way.

Said perpetual easement is described as follows:

Commencing at the southwest corner of said Northwest Quarter of said Section Nine; thence North 87 degrees 03 minutes 08 seconds East, bearings based on the North Dakota State Plane, South Zone, coordinate system, along the south line of said Northwest Quarter, a distance of 1825.95 feet to the point of beginning of said easement to be described; thence continuing North 87 degrees 03 minutes 08 seconds East, along the south line of said Northwest Quarter, a distance of 100.00 feet; thence North 02 degrees 34 minutes 28 seconds West, a distance of 1034.28 feet; thence North 73 degrees 57 minutes 40 seconds West, a distance of 125.18 feet to the southerly line of said Leo's Subdivision; thence South 75 degrees 12 minutes 55 seconds West, along said southerly line, a distance of 120.11 feet; thence southwesterly, continuing along said southerly line, a distance of 69.90 feet, along a tangential curve, concave to the southeast, having a radius of 780.00 feet and a central angle of 05 degrees 08 minutes 06 seconds; thence South 73 degrees 57 minutes 40 seconds East, not tangent to last described curve, a distance of 214.83 feet; thence South 02 degrees 34 minutes 28 seconds East, a distance of 963.09 feet to the point of beginning.



REFER TO EXHIBIT "A" FOR THE
DRAWING THAT ACCOMPANIES
THESE DESCRIPTIONS



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EXHIBIT "B"
MAPLETON DIVERSION 10-INCH PIPELINE
PARENT PIN 53000009053020
SECTION 9,
TOWNSHIP 139 N, RANGE 50 W
CASS COUNTY, NORTH DAKOTA



SHEET 1 OF 1



OLY OLAFSON

EASEMENT EXHIBIT

-FOR-

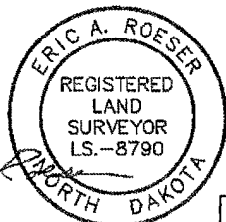


A 100 foot wide perpetual easement for pipeline purposes over, under and across part of the following described parcel:

That part of the Southwest Quarter Section Nine, in Township One Hundred Thirty-nine North of Range Fifty, West of the Fifth Principal Meridian, situated in the County of Cass and the state of North Dakota, less and except road right of way.

Said perpetual easement is described as follows:

Commencing at the northwest corner of said Southwest Quarter of said Section Nine; thence North 87 degrees 03 minutes 08 seconds East, bearings based on the North Dakota State Plane, South Zone, coordinate system, along the north line of said Southwest Quarter, a distance of 1825.95 feet to the point of beginning of said easement to be described; thence continuing North 87 degrees 03 minutes 08 seconds East, along said north line, a distance of 100.00 feet; thence South 02 degrees 34 minutes 28 seconds East, a distance of 1709.73 feet; thence North 87 degrees 25 minutes 31 seconds East, a distance of 714.45 feet to the east line of said Southwest Quarter; thence South 02 degrees 34 minutes 18 seconds East, along said east line, a distance of 100.00 feet; thence South 87 degrees 25 minutes 31 seconds West, a distance of 814.45 feet; thence North 02 degrees 34 minutes 28 seconds West, a distance of 1809.08 feet to the point of beginning.



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EXHIBIT "B"
MAPLETON DIVERSION 10-INCH PIPELINE
PARENT PIN 53000009054000
SECTION 9,
TOWNSHIP 139 N, RANGE 50 W
CASS COUNTY, NORTH DAKOTA



SHEET 1 OF 1

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EASEMENT EXHIBIT

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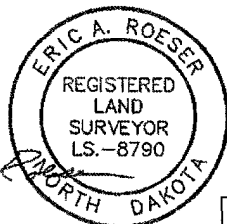


A 100 foot wide perpetual easement for pipeline purposes over, under and across part of the following described parcel:

The Southeast Quarter of Section 9, in Township 139 North, Range 50, West, Cass County, North Dakota, except the following parcel: Beginning on the Section line 1714 feet North of the Southeast corner of said Section 9; thence running West 264 feet; thence North 165 feet; thence East 264 feet; thence South 165 feet to the place of beginning.

Said perpetual easement is described as follows:

Commencing at the southeast corner of said Southeast Quarter of said Section 9; thence North 02 degrees 30 minutes 39 seconds West, bearings based on the North Dakota State Plane, South Zone, coordinate system, along the east line of said Southeast Quarter, a distance of 818.63 feet to the point of beginning of said easement to be described; thence continuing North 02 degrees 30 minutes 39 seconds West, along said east line, a distance of 100.00 feet; thence South 87 degrees 25 minutes 31 seconds West, a distance of 2641.59 feet to the west line of said Southeast Quarter; thence South 02 degrees 34 minutes 18 seconds East, along said west line, a distance of 100.00 feet; thence North 87 degrees 25 minutes 31 seconds East, a distance of 2641.49 feet to the point of beginning.



REFER TO EXHIBIT "A" FOR THE
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EXHIBIT "B"
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PARENT PIN 53000009055000
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CASS COUNTY, NORTH DAKOTA



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EASEMENT EXHIBIT

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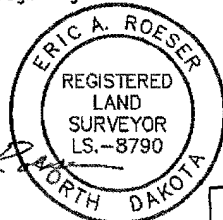
A 100 foot wide perpetual easement for pipeline purposes over, under and across part of the following described parcel:

All that part of the Southeast Quarter (SE1/4) of Section Ten (10), Township One Hundred Thirty-nine (139) North, Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows: Commencing at the Northeast corner of said Southeast Quarter (SE1/4); thence S 00°00'00" E along the East line of said Southeast Quarter (SE1/4) for a distance of One Thousand Six Hundred Forty-five and Thirty-two Hundredths (1645.32) feet to the point of beginning; thence S 89°30'56" W for a distance of One Thousand Four Hundred Thirty-one and Thirty-eight Hundredths (1431.38) feet; thence S 00°00'00" E parallel to the East line of said Southeast Quarter (SE1/4) for a distance of Nine Hundred Ninety-eight and Thirty-seven Hundredths (998.37) feet to a point on the South line of said Southeast Quarter (SE1/4); thence N 89°41'14" E along the South line of said Southeast Quarter (SE1/4) for a distance of One Thousand Four Hundred Thirty-one and Thirty-five Hundredths (1431.35) feet to the Southeast corner of said Southeast Quarter (SE1/4); thence N 00°00'00" E along the East line of said Southeast Quarter (SE1/4) for a distance of One Thousand Two and Fifty-five Hundredths (1002.55) feet to the point of beginning, EXCEPTING THEREFROM the following described parcels:

- (1) Auditor's Lot No. 4,
and
- (2) That part of the Southeast Quarter (SE1/4) of Section Ten (10), Township One Hundred Thirty-nine (139) North, Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows: Beginning at the Southeast corner of the Southeast Quarter (SE1/4) of said Section Ten (10); Thence S 90°00'00" W (assumed bearing), along the South line of the Southeast Quarter (SE1/4) of said Section 10 for a distance of One Hundred Seventy (170.00) feet; Thence N 00°16'45" E parallel to the East line of the Southeast Quarter (SE1/4) of Section 10 for a distance of One Hundred Seventy (170.00) feet; Thence N 90°00'00" E parallel to the South line of the Southeast Quarter (SE1/4) of said Section 10 for a distance of One Hundred Seventy (170) feet to the East line of the Southeast Quarter (SE1/4) of said Section 10; thence S 00°16'45" W along the east line of the Southeast Quarter (SE1/4) of said Section 10 for a distance of One Hundred Seventy (170.00) feet to the point of beginning.

Said perpetual easement is described as follows:

Commencing at the southeast corner of said Southeast Quarter; thence North 02 degrees 24 minutes 37 seconds West, bearings based on the North Dakota State Plane, South Zone, coordinate system, along the east line of said Southeast Quarter, a distance of 804.74 feet to the point of beginning of said easement to be described; thence continuing North 02 degrees 24 minutes 37 seconds West, along said east line of the Southeast Quarter, a distance of 100.00 feet; thence South 87 degrees 25 minutes 31 seconds West, a distance of 1431.51 feet to the west line of the above described parcel; thence South 02 degrees 24 minutes 44 seconds East, along said west line of the above described parcel, a distance of 100.00 feet; thence North 87 degrees 25 minutes 31 seconds East, a distance of 1431.51 feet to the point of beginning.



REFER TO EXHIBIT "A" FOR THE
DRAWING THAT ACCOMPANIES THESE DESCRIPTIONS



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EXHIBIT "B"
MAPLETON DIVERSION 10-INCH PIPELINE
PARENT PIN 53000009061007
SECTION 10,
TOWNSHIP 139 N, RANGE 50 W
CASS COUNTY, NORTH DAKOTA



SHEET 1 OF 1

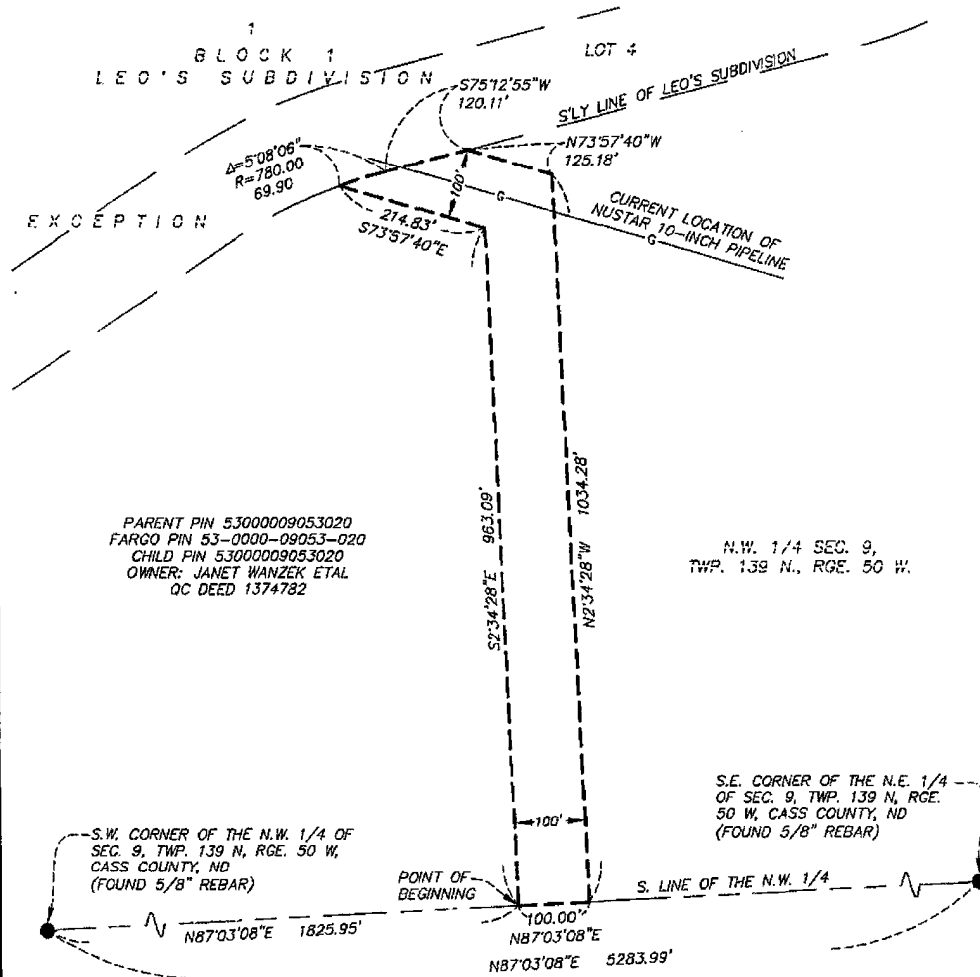
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OLY OLAFSON

EASEMENT EXHIBIT

-FOR-

**LEGEND**

- FOUND 5/8" REBAR MONUMENT

SUMMARY

EASEMENT AREA
117,094 sq. ft. / 2.688 acres

I hereby certify that this survey and report was prepared under my supervision and that I am a duly Licensed Land Surveyor under the laws of the State of North Dakota.

Date: November 14, 2020

REGISTERED
LAND
SURVEYOR
LS.-8790

Eric A. Roeser
North Dakota License No. LS-8790

Bearings and distances shown are based on NAD 83, North Dakota State Plane Coordinate System, South Zone. To convert distances to ground distances, multiply by a combined scale factor of 1.000102961.

REFER TO EXHIBIT "B" FOR THE DESCRIPTIONS THAT ACCOMPANY THIS DRAWING

0 200
SCALE IN INT. FEET



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EXHIBIT "C"
MAPLETON DIVERSION 10-INCH PIPELINE
PARENT PIN 53000009053020
SECTION 9,
TOWNSHIP 139 N, RANGE 50 W
CASS COUNTY, NORTH DAKOTA



SHEET 1 OF 1

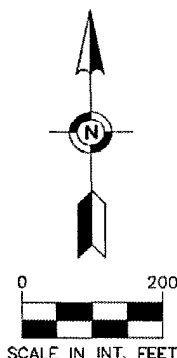
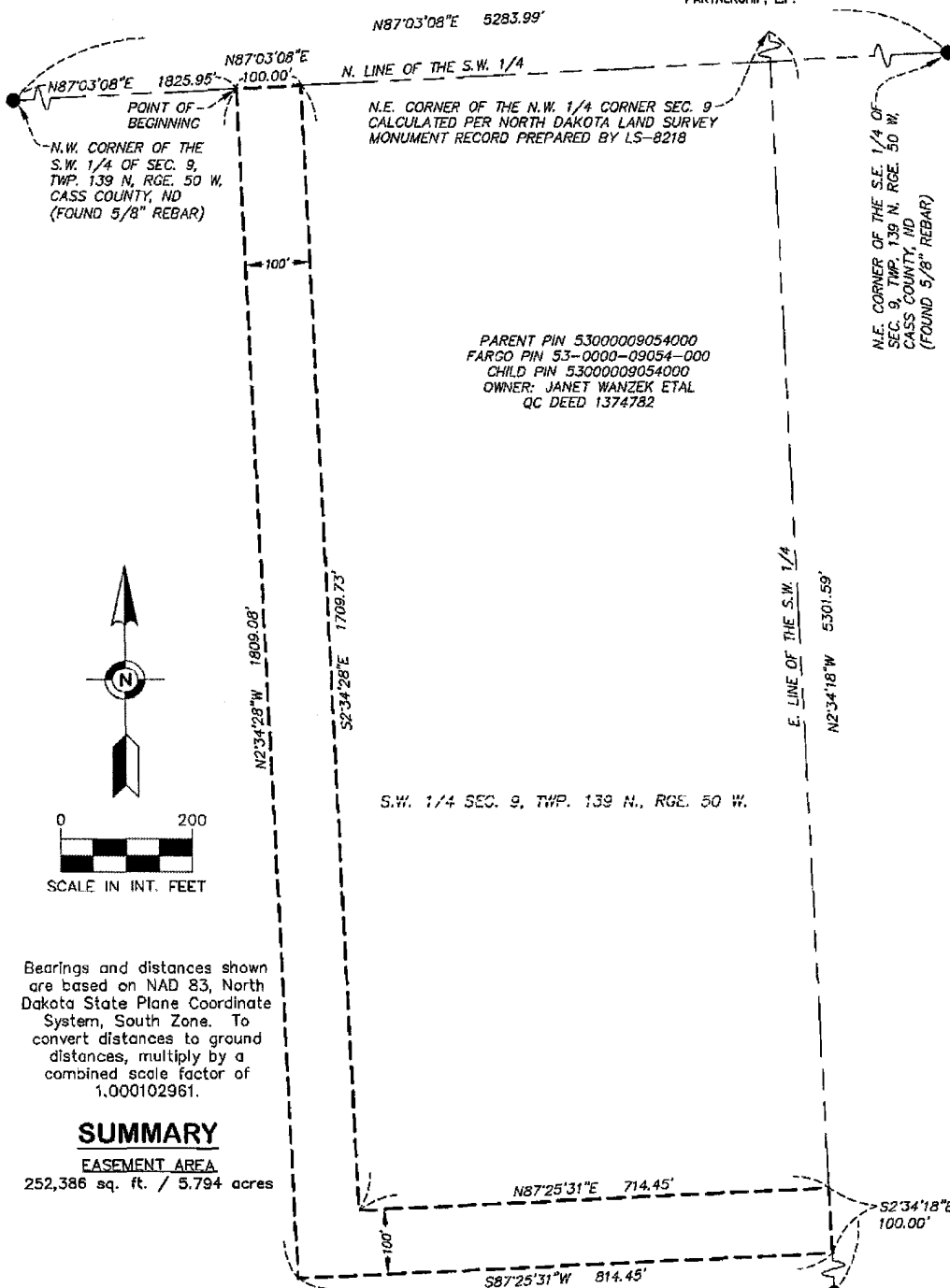
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AMAGR \$65.00



OLY OLAFSON

EASEMENT EXHIBIT

-FOR-



Bearings and distances shown are based on NAD 83, North Dakota State Plane Coordinate System, South Zone. To convert distances to ground distances, multiply by a combined scale factor of 1.000102961.

SUMMARY**EASEMENT AREA**

252,386 sq. ft. / 5.794 acres

I hereby certify that this survey and report was prepared under my supervision and that I am a duly Licensed Land Surveyor under the laws of the State of North Dakota.

Date: November 14, 2020

REGISTERED
LAND
SURVEYOR
LS.-8790

Eric A. Roeser
North Dakota License No. LS-8790



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LEGEND

- FOUND 5/8" REBAR MONUMENT
REFER TO EXHIBIT "B" FOR THE DESCRIPTIONS THAT ACCOMPANY THIS DRAWING

EXHIBIT "C"
MAPLETON DIVERSION 10-INCH PIPELINE
PARENT PIN 53000009054000
SECTION 9,
TOWNSHIP 139 N, RANGE 50 W
CASS COUNTY, NORTH DAKOTA

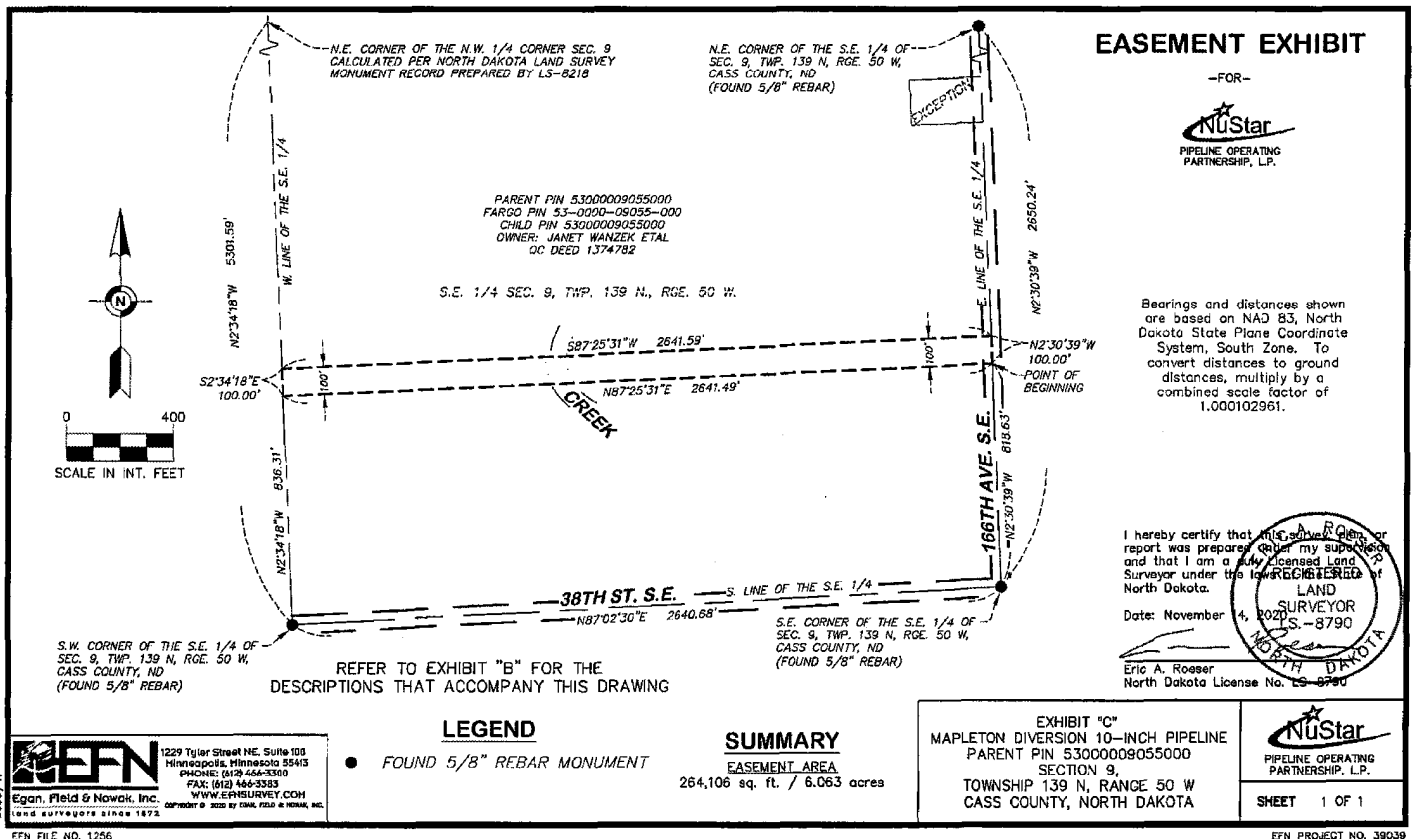


SHEET 1 OF 1

EFN FILE NO. 1256

EFN PROJECT NO. 39039

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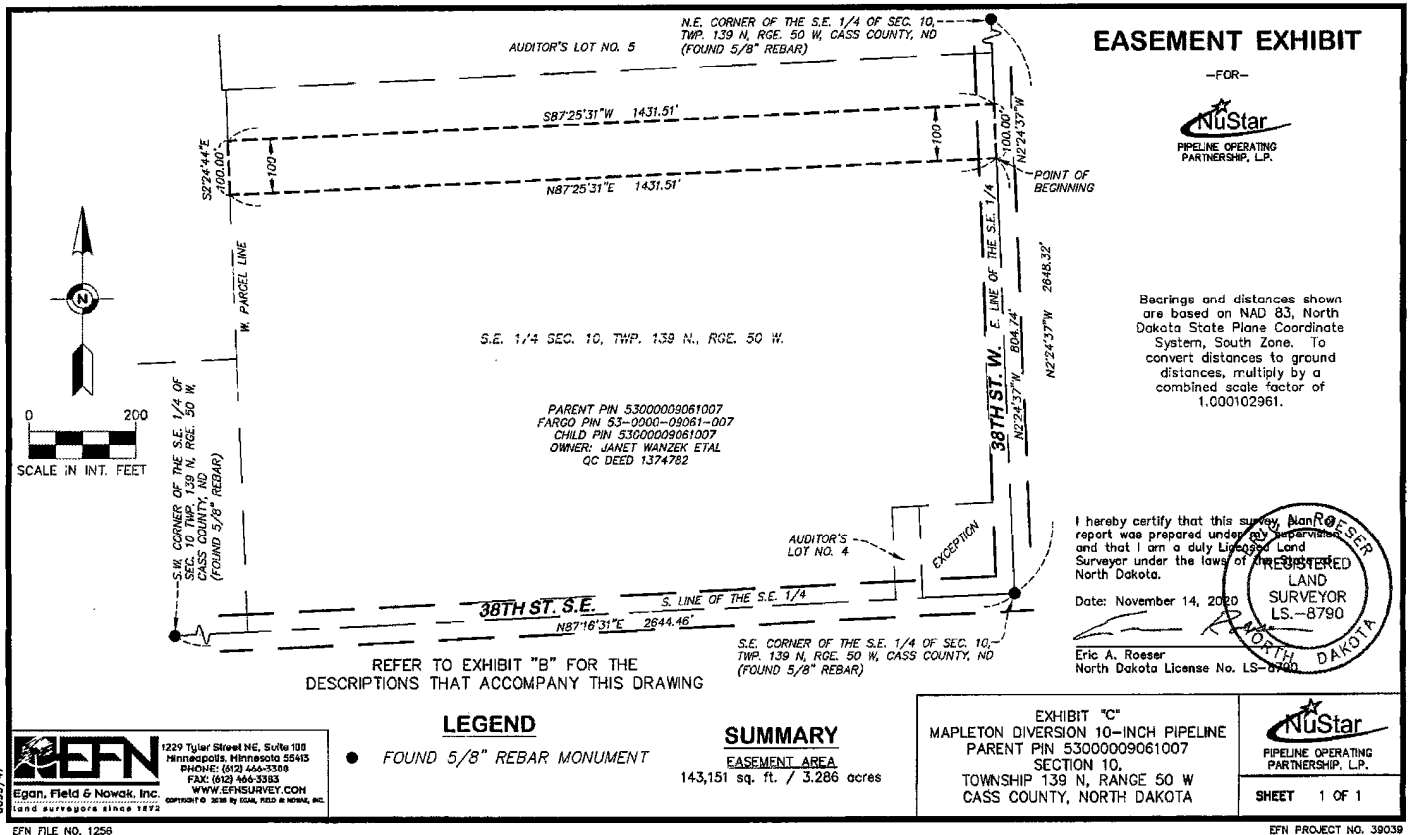
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OLY OLAFSON

EXHIBIT D

QUIT CLAIM DEED, BILL OF SALE AND ASSIGNMENT

KNOW ALL PERSONS BY THESE PRESENTS, that the undersigned, NuStar Pipeline Operating Partnership L.P., a Delaware limited partnership (“Grantor”), in consideration of One Dollar and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, does hereby sell, assign, grant, bargain, transfer, quit claim and convey unto Jantze L. Haley, Juliet F. Everist and The Goldman Sachs Trust Company, N.A., as Personal Representatives of the Estate of Janet Wanzek, and Nikolaus Larsen as Trustee of the Daniel Edwin Everist III Irrevocable Trust under Agreement dated December 19, 2012 (collectively, “Grantee”), all of Grantor’s right, title and interest in and to that certain pipeline abandoned in place and located on the property legally described on the attached Exhibit A. The approximate location of the abandoned pipeline is shown, for illustrative purposes, on the attached Exhibit 1.

Grantor hereby represents and warrants that to the Grantor’s knowledge, such property is not subject to any lien or encumbrance and Grantor has undertaken no act to subject such property to any lien or encumbrance.

The remainder of this page is intentionally blank.

[signature and notary page follows]



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OLY OLAFSON

IN WITNESS WHEREOF, this Quit Claim Deed, Bill of Sale and Assignment has been executed this ____ day of _____, 202_.

NUSTAR PIPELINE OPERATING
PARTNERSHIP L.P.

By and through its general partner, NuStar Pipeline
Company, LLC

By _____
R. Heath Reininger, Executive Director of
Real Estate

STATE OF TEXAS)
) ss.
COUNTY OF BEXAR)

This instrument was acknowledged before me on the ____ day of _____ 202_,
by R. Heath Reininger as the Executive Director of Real Estate of NuStar Pipeline Company,
LLC, in its capacity as general partner of NuStar Pipeline Operating Partnership L.P.

[NOTARY SEAL]

Notary Public

My commission expires: _____



1619910

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OLY OLAFSON

RECORDER'S OFFICE, CASS COUNTY, ND
I CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD THIS DATE.
DEBORAH A. MOELLER, COUNTY RECORDER

1/19/2021 2:39 PM

by *Teresa A. Kitley* Deputy **1619910**



RIGHT OF WAY CONTRACT OPTION

**EXHIBIT
5**

For and in Consideration of a sum payable on the execution hereof as hereinafter set forth and a further aggregate sum equal to..... One Dollar (\$1.00)..... per rod for each rod of pipe line to be

constructed under the terms hereof, to be paid at the time and in the manner hereinafter set forth, George Libbrecht and Mary Libbrecht, husband and wife, also known as Mrs. Mary Libbrecht, Arthur Libbrecht and Catherine Libbrecht, husband and wife, also known as Mrs. Catherine Libbrecht, Gaston Libbrecht, a single man, Fargo, North Dakota.

hereinafter referred to as Grantors, (whether one or more) do hereby warrant and convey unto STANDARD OIL COMPANY, an Indiana corporation, its successors and assigns, hereinafter referred to as Grantee, the right to construct, maintain, inspect, operate, protect, repair, replace, change the size of or remove a pipe line or pipe lines, for the transportation of oil, gas and the products thereof, along a route to be selected by Grantee on, over, and through the following described lands, of which Grantors warrant they are the owners in fee simple, situated

in..... Cass..... County, State of..... North Dakota.....
to-wit:

..... All of..... Section..... 11..... Township..... 139..... Range..... 50.....
together with the right of ingress and egress to and from said line or lines, or any of them, for the purposes aforesaid.

Grantee agrees to pay the sum of..... Ten and no/100..... Dollars (\$ 10.00), upon the execution hereof, receipt of which is hereby acknowledged. After a survey establishing the route of the line has been completed, and before construction is commenced, Grantee agrees to pay for the first line to be constructed, the further sum calculated on a basis of..... One Dollar (\$1.00)..... per lineal rod. It being mutually agreed that if Grantee fails to make payment in accordance with said survey within twelve (12) months from the date hereof, all rights, terms and conditions of this contract shall cease and determine.

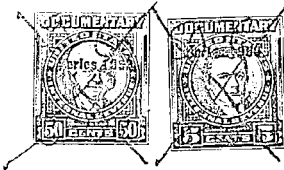
Grantors to have the right to fully use and enjoy the above described premises, except as to the rights herein granted; and Grantors agree not to build, create or construct, nor permit to be built, created or constructed, any obstruction, building, engineering works, or other structure over said pipe line or lines. Grantee hereby agrees to pay any damages which may arise to growing crops, pasturage, fences, or buildings of said Grantors from the exercise of the rights herein granted, said damages, if not mutually agreed upon, to be ascertained and determined by three disinterested persons, one thereof to be appointed by Grantors, one by Grantee, and the third by the two so appointed, and the written award of such three persons shall be final and conclusive.

Should more than one pipe line be laid under this grant, at any time, an additional consideration, calculated on the basis of..... One Dollar (\$1.00)..... per lineal rod, shall be paid for each line laid after the first line. It is agreed that any payment due hereunder may be made direct to said Grantors or any one of them.

Any pipe line or lines constructed by said Grantee across lands under cultivation shall, at the time of construction thereof, be buried to such depth as will not interfere with such cultivation.

The rights herein granted may be assigned in whole or in part.

The terms, conditions and provisions of this contract shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.



IN WITNESS WHEREOF, the Grantors herein have hereunto set their hands and seals this.....

23rd..... day of..... May....., 19.. 53.

Signed, sealed and delivered
in the presence of:

Ira F. Merz
Ray Malvin

George Libbrecht (SEAL)
Mrs. Mary Libbrecht (SEAL)
Gaston Libbrecht (SEAL)
Arthur Libbrecht (SEAL)
Mrs. Catherine Libbrecht (SEAL)

(ACKNOWLEDGMENT)

STATE OF North Dakota }
Cass County, } ss.
 Before me, Ira F. Mero, a Notary Public
 in and for said County and State, on this 23rd day of May
 1953, personally appeared George Libbrecht & Mary Libbrecht, his wife and
Arthur Libbrecht & Catherine Libbrecht, his wife
Gaston Libbrecht, a single man, to me known to be the identical persons
 who executed the within and foregoing instrument and acknowledged to me that they
 executed the same as a free and voluntary act and deed for the uses and purposes therein
 set forth.

Given under my hand and notarial seal on the day and year written above.

My commission expires:

March 4, 1958

(ACKNOWLEDGMENT)

STATE OF _____ }
 _____ County, } ss.
 Before me, _____, a Notary Public
 in and for said County and State, on this _____ day of _____,
 19_____, personally appeared _____ and
 _____, to me known to be the identical person....
 who executed the within and foregoing instrument and acknowledged to me that.....
 executed the same as.....free and voluntary act and deed for the uses and purposes therein
 set forth.

Given under my hand and notarial seal on the day and year written above.

My commission expires:

Notary Public.

DOCUMENT NO. 310177

FEES { Recording 1.50 chg.
 { Aud. Transfer _____

Series..... Line No.....

FROM

STANDARD OIL COMPANY
 (Indiana)

STATE OF NORTH DAKOTA }
 COUNTY OF CASS } ss.

REGISTER'S OFFICE

I hereby certify that the above instru-

ment was filed in this office for record

on the 16 day of Oct.

A. D. 1953, at 8:20 o'clock A.M.,

and was duly recorded in Book 1-2

of Musicl., Page 372

A. Friedman

REGISTER OF DEEDS

Subscribed

Length.....

EXHIBITS 1 – 5
RIGHT-OF-WAY DOCUMENTS

EXHIBIT 6

PROJECT MAP

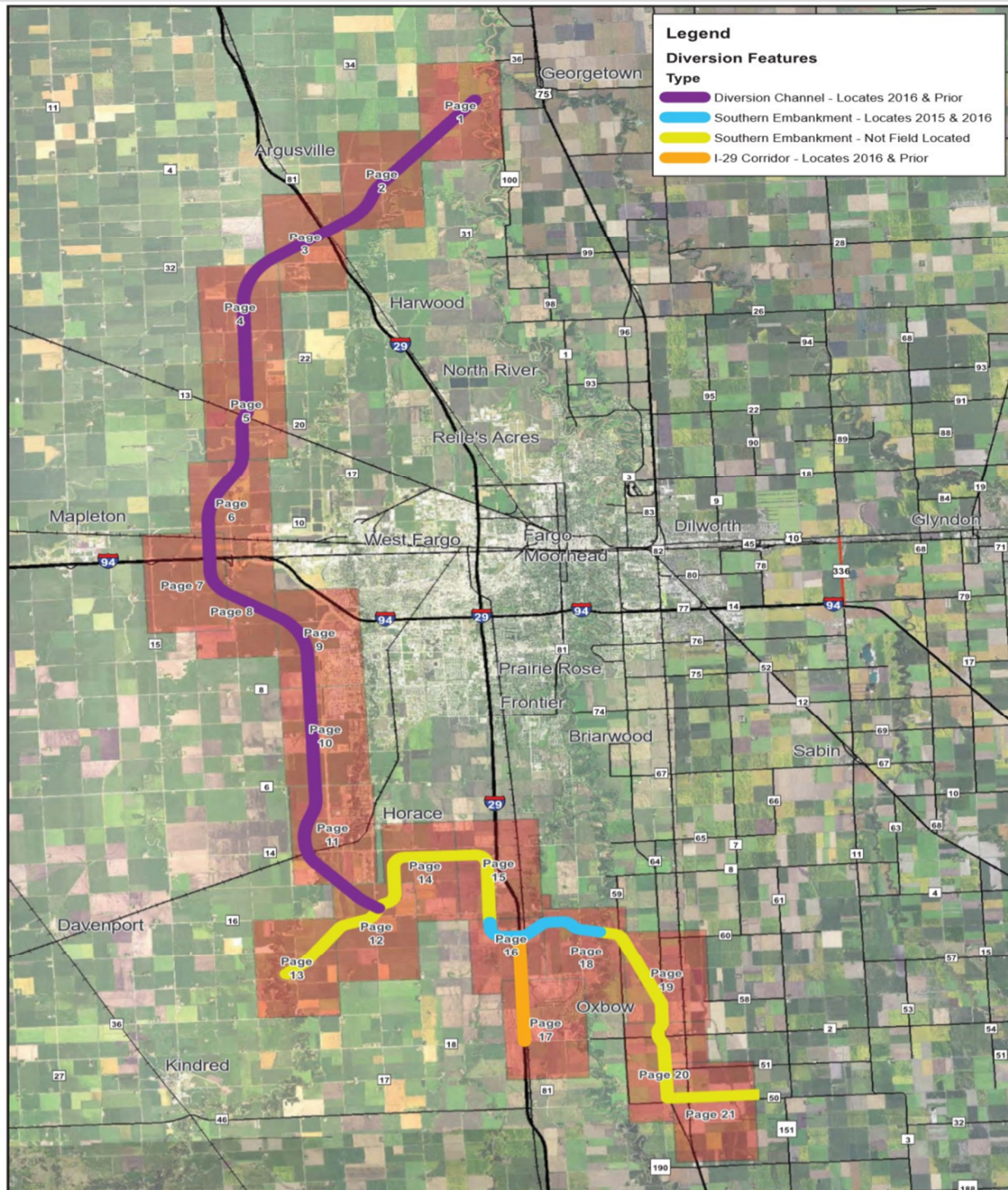


EXHIBIT 7
COST ESTIMATES

Exhibit B

DATE: 19-Feb-20

LOCATION: Jamestown to Moorhead 10" line relocation for FM Diversion Project in Cass County, ND
West of Fargo, NDDESCRIPTION OF PROJECT:
Route Alternative B relocates 10" refined petroleum liquids line a little over 2 miles to the south of existing easement

SCOPE OF WORK:

NuStar will utilize third party firms to obtain permits, acquire new easements, and develop and execute the pipeline relocation. Approved contractor will clear a 60 ft temporary work space 15 ft to the north of the pipe ditch (spoil side) and 45 ft to the south of the pipe ditch (working side). 10" re-route pipe will consist of 10.625" x 0.250" wt x API 5L X-52 with FBE external coating. Pipe joints will be strung and welded on the working side of the ROW for fabrication and lowered into ditch that will provide a minimum of 48" of cover across the entire length of the relocation and a minimum of 20' under the diversion channel. Four directional drills with pipe coated with abrasion resistant overcoat are anticipated under existing roads and existing waterways including the proposed channel to reach required depths. Two above-ground automatic isolation valves will be located on both sides of the diversion channel. No rock is expected during excavation for conventional lay activities. Every joint of the fabricated line will be X-rayed for integrity and then coated with a 2 part epoxy joint coating before being lowered into the ditch and backfilled with soft material immediately around pipe. New section of pipe will be hydrotested under an 8 hour integrity test prior to being tied into the active line. The active line will be shut in and locked out and drained down in the area of the tie in. Once the new line is tied in, the old line will be purged of any remaining product / vapors and removed from the limits of the diversion channel with the ends capped.

ASSUMPTIONS:

- 1 10" Jamestown to Moorhead products line consists of 10.625"OD x 0.279"wt x API 5L X-42 with Coal Tar coating laid in 1957
- 2 Re-route location is just downstream of the Mapleton Pump Station. Current MOP of 1440 psi. Approximate elevation 890 ft

	DESCRIPTION OF EXPENDITURES	ESTI. UNITS REQD'	ITEM UNIT COST	TOTAL BY ITEM	TOTAL COST BY WBS
	<u>PROJECT CAPITAL INVESTMENT COSTS</u>				
2	<u>Project Development and Execution</u>				\$330,844
	* Engineering Contractor - Provide project management oversight for procurement of materials and services to execute pipeline relocation right of way / Legal support Contractor - provides legal MOU and agreements, obtains new easements, communicates updates to existing and new landowners	Lot	1,500	267,268	
		Lot	800	63,576	
6	<u>Surveying</u>				\$113,300
	* Pre-construction Survey / Permit drawings / As-builts	Lot	113,300	113,300	
8	<u>Permits/Consulting/ StartUp</u>				\$ 97,070
	* NDPS	Lot	31,620	31,620	
	* Wetland and Streams Analysis	Lot	10,060	10,060	
	* Cultural Resources Analysis	Lot	10,850	10,850	
	* Permit submittal (404 Pre-construction notification, floodplain)	Lot	29,620	29,620	
	* SWPPP prep, obtain permits	Lot	14,920	14,920	
3	<u>Inspection</u>				\$90,000
	* Third Party Inspection during construction	60	1,500	90,000	
4	<u>X-Ray/ Testing</u>				\$39,000
	* X-Ray Inspection of pipe string and tie-in welds	30	1,300	39,000	
7	<u>Travel Expenses</u>				\$45,000
	* Operations oversight	Lot	10,000	10,000	
	* Engineering and ROW oversight	Lot	20,000	20,000	
	* Maintenance crew during tie-in operations	Lot	15,000	15,000	
	TOTAL INDIRECT COSTS				\$715,214

11	Mechanical Materials and Construction					\$2,378,812
	* 10.625" OD x 0.250" wt, API 5L X-52 with FBE coating delivered to site	7600	20.00		152,000	
	* 10.625" OD x 0.250" wt, API 5L X-52 with FBE+ARO coating delivered to site	6900	24.00		165,600	
	* 10" 45 degree bend	10	800		8,000	
	* Pipe marking and CP materials	Lot	5,500		5,500	
	* 10" 600# line block valves w/ fast acting closures	2	28,000		56,000	
	* Mob/Demob of pipeline contractor crew	2	30,000		60,000	
	* ROW prep in square ft	660,000	0.15		99,000	
	* Haul pipe from Moorhead MN, string on ROW	14,500	2		29,000	
	* Pipe line fabrication	14,500	27		391,500	
	* Horizontal Directional Drill under proposed channel and road	4,000	140		560,000	
	* 3 smaller bores under county roads and existing creek	1,000	125		125,000	
	* Bore under proposed inlet	1,900	125		237,500	
	* Joint coating	365	65		23,725	
	* Trenching	7,600	25		191,520	
	* Line Lowering	7,600	5		38,000	
	* Backfilling	7,600	3		22,800	
	* Clean-Up	660,000	0.10		66,000	
	* Hydrotest	14,500	2		21,750	
	* Drain-Up and Final Tie-In	1	51,945		51,945	
	* TDW Hot tap tee and services	1	8,000		8,000	
	* Vac truck for tie-in	1	1,500		1,500	
	* Company Labor - Tap line for drain up and tie-in new pipe	1	8,000		8,000	
	* Remove abandoned pipeline	940	39		36,472	
	* Compaction around abandoned line removal	5	4,000		20,000	
17	Right of Way					\$308,935
	* ROW Agent fees	30	800		24,000	
	* Legal Fees	Lot	200,000		200,000	
	* Title Update	Lot	15,000		15,000	
	* Valve site acquisition	2	10,000		20,000	
	* Damages and additional work space (per tract)	33.29	1,500		49,935	
	TOTAL FIELD COSTS					\$2,687,747
29	Downtime	hours down	bph	tariff		
	* Lost revenue during downtime for drain up and tie-in	36	2,000	\$ 1.8411		\$132,559
	TOTAL LOST REVENUE					\$132,559
	SUB-TOTAL					\$3,535,520
	Miscellaneous					
	* Admin fee for design, permitting, construction	3,535,520	0%		0	
	* Sales Tax in Fargo, ND	2,378,812	7%		166,517	
	* Freight	331,100	6%		19,866	
	* 10% Contingency	3,535,520	0.10		353,552	
	TOTAL MISCELLANEOUS					\$539,935
	TOTAL COSTS >					\$4,075,500

Exhibit B

DATE: 15-Apr-21

LOCATION: Jamestown to Moorhead 10" Pipeline Relocation for FM Diversion Project in Cass County, ND
West of Fargo, NDDESCRIPTION OF PROJECT:
Route Alternative B relocates 10" refined petroleum liquids line a little over 2 miles to the south of existing easementNuStar Project Number:
AFE CE_0002412

SCOPE OF WORK:

NuStar will utilize third party firms to obtain permits, acquire new easements, and develop and execute the pipeline relocation. Approved contractor will clear a 60 ft temporary work space 15 ft to the north of the pipe ditch (spoil side) and 45 ft to the south of the pipe ditch (working side). 10" re-route pipe will consist of 10.625" x 0.250" wt x API 5L X-52 with FBE & ARO external coatings. Pipe joints will be strung and welded on the working side of the ROW for fabrication and lowered into ditch that will provide a minimum of 48" of cover across the entire length of the relocation and a minimum of 20' under the diversion channel. Four directional drills with pipe coated with abrasion resistant overcoat are anticipated under existing roads and existing waterways including the proposed channel and drain to reach required depths. No rock is expected during excavation for conventional lay activities. Every joint of the fabricated line will be X-rayed for integrity and then coated with a 2 part epoxy joint coating before being lowered into the ditch and backfilled with soft material immediately around pipe. New section of pipe will be hydrotested under an 8 hour integrity test prior to being tied into the active line. The active line will be shut in and locked out and drained down in the area of the tie in. Once the new line is tied in, the old line will be purged of any remaining product / vapors and the ends capped, and abandoned line filled with flowable fill grout and abandoned in place. New valve automation will be installed to the existing manual mainline valve east of the project for emergency shut-off capability.

ASSUMPTIONS:

- 1 10" Jamestown to Moorhead products line consists of 10.625"OD x 0.279"wt x API 5L X-42 with Coal Tar coating laid in 1957
- 2 Re-route location is just downstream of the Mapleton Pump Station. Current MOP of 1440 psi. Approximate elevation 890 ft

	DESCRIPTION OF EXPENDITURES	ESTI. UNITS REQD'	ITEM UNIT COST	TOTAL BY ITEM	TOTAL COST BY WBS
	<u>PROJECT CAPITAL INVESTMENT COSTS</u>				
1	<u>Project Development and Execution</u>				\$457,688
	Pre-Construction Project Development - Consisting of Environmental, cultural studies permitting, ROW landowner contacts and acquisitions, Pipeline survey, alignment & HDD design, engineering design & DDR reporting, ND PSC applications process, legal services, etc.	Lot	457,688	457,688	
2	<u>Engineering/Project Management - Construction:</u>				\$244,244
	Third Party Engineering Project Management & On-Site Oversight	Lot	232,052	232,052	
	NuStar Project Management & Administration	Lot	12,192	12,192	
6	<u>Surveying - Construction</u>				\$130,000
	Third Party Constuction/ As-Built Survey	Lot	130,000	130,000	
8	<u>Permits/Consulting/ StartUp - Construction</u>				\$ 34,670
	SWCA Environmental /Construction Oversight	Lot	24,640	24,640	
	Local Governmental Permitting	Lot	10,030	10,030	
3	<u>Inspection - Construction</u>				\$182,000
	Third Party Construction Inspector - 1	Lot	91,000	91,000	
	Third Party Construction Inspector - 2	Lot	91,000	91,000	
4	<u>X-Ray/ Testing - Construction</u>				\$11,000
	X-Ray Inspection of tie-in welds	Lot	5,000	5,000	
	Pipe & Coating/ loadout inspection	Lot	6,000	6,000	
7	<u>Travel Expenses</u>				\$29,500
	Operations Tie-In support/expenses	Lot	2,500	2,500	
	Engineering - NuStar Project Manager	Lot	2,000	2,000	
	Maintenance crew during tie-in operations	Lot	25,000	25,000	
	TOTAL INDIRECT COSTS				\$1,089,102

11	Mechanical Materials and Construction				\$3,244,084
	10.625" OD x 0.250" wt, API 5L X-52 with FBE coating delivered to site	6640	23.82	158,165	
	10.625" OD x 0.250" wt, API 5L X-52 with FBE+ARO coating delivered to site	5200	29.78	154,856	
	10" 90 degree bend	2	1,120	2,240	
	10" 45 degree bend	4	855	3,420	
	Limitorque Valve Actuator & Installation	1	39,195	39,195	
	Pipe marking and CP materials	Lot	1,000	1,000	
	Pipeline Cleaning & Decommissioning Pigs	Lot	1,500.00	1,500	
	Sales Tax Materials	Lot	27,839.00	27,839	
	Sales Tax Freight	Lot	10,811.00	10,811	
	3rd Party Pipeline Construction (labor, equip., HDD Installations, etc)	Lot	2,067,242	2,067,242	
	3rd Party Pipeline Abandonment & Grouting	Lot	152,752	152,752	
	3rd Party Pipeline Construction Matting (Only if necessary for soil condition	Lot	544,529	544,529	
	3rd Party TDW Tie-In Stoppling Services	Lot	40,535	40,535	
	3rd Party Tie-In Support (Vac Trucks, light plants, Etc)	Lot	15,000	15,000	
	NuStar Maintenance Crew Labor - Tie-ins	Lot	10,000	10,000	
	NuStar Maintenance Crew Equipment - Tie-ins	Lot	15,000	15,000	
18	Right of Way				\$53,000
	* ROW Agent fees	Lot	-	0	
	* Damages and additional work space (per tract)	Lot	53,000	53,000	
	TOTAL FIELD COSTS				\$3,297,084
	SUB-TOTAL PROJECT COSTS (Indirect & Field Costs)				\$4,386,186
	TOTAL CONTINGENCY				\$401,429
	<u>Miscellaneous</u>				
	* Admin fee for design, permitting, construction	0	0%	0	
	* 10% Contingency (Construction Phase)			401,429	
	TOTAL DOWNTIME/LOSS OF REVENUE				\$135,230
	<u>Downtime</u>				
	* Lost revenue during downtime for drain up and tie-in	hours down	bph	tariff	
		36	2,000	\$ 1.8782	\$135,230
	TOTAL COSTS ESTIMATE				\$4,922,845
	(Includes Project Development Costs previously approved under Preliminary Engineering Agreement, (Item 1))				

SUMMARY OF BIDS - PIPELINE CONSTRUCTION**2021 - Jamestown to Moorhead 10" Pipeline Relocation for FM Diversion Project in Cass County, ND**

3/8/2021

		Rig Masters	
Pipeline Construction:			
Pipeline Construction - Labor	\$1,209,887.00	\$617,662.00	
Pipeline Construction - Equipment	\$1,814,830.00	\$342,400.00	
Pipeline Construction - Materials	\$174,100.00	\$51,930.00	
Pipeline Construction - HDD Sub-Contractor	\$282,538.00	\$1,055,250.00	
Pipeline Construction Estimate Total:	\$3,481,355.00	\$2,067,242.00	\$3,650,000.00
Pipeline Abandonment & Grout Filling:			
Abandon & Grout- Labor	\$95,928.00	\$19,500.00	
Abandon & Grout- Materials	\$5,401.00	\$4,260.00	
Abandon & Grout- Equipment	\$143,893.00	\$18,992.00	
Abandon & Grout- Sub-Contractor	\$76,713.00	\$110,000.00	
Abandonment & Grout Filling Total:	\$321,935.00	\$152,752.00	\$150,000.00
Total Project Cost Estimate:	\$3,803,290.00	\$2,219,994.00	\$3,800,000.00

If Matts required:

\$544,529.00

Duration of Construction (less NuStar Tie-in Work)

60 Days

65 Days

65 Days

EXHIBIT 8
CONSTRUCTION SCHEDULE

NuStar Energy Fargo, ND Diversion Channel																			
ID	Task Name	Duration	Start	Finish	Predecessors	June 2021						July 2021						Au	
						31	5	10	15	20	25	30	5	10	15	20	25	30	
1	NuStar	45 days	Mon 6/7/21	Tue 7/27/21															
2	Fargo, ND Diversion Channel	45 days	Mon 6/7/21	Tue 7/27/21															
3	11,748' Relocation	45 days	Mon 6/7/21	Tue 7/27/21															
4	Mobilize	3 days	Mon 6/7/21	Wed 6/9/21															
5	Topsoil ROW, Install ECDs	2 days	Thu 6/10/21	Fri 6/11/21	4														
6	Receive and String Pipe for Bores	1 day	Sat 6/12/21	Sat 6/12/21	5														
7	String Pipe for Conventional Lay	2 days	Sat 6/12/21	Tue 6/15/21	6														
8	Weld Diversion Channel HDD (HDR-2) 3340'	5 days	Sat 6/12/21	Fri 6/18/21	6														
9	Xray, Blast, Coat HDD HDR-2	3 days	Fri 6/18/21	Tue 6/22/21	8														
10	4 hour Hydrotest on drill section	2 days	Tue 6/22/21	Thu 6/24/21	9														
11	Weld Drain 14 HDD (HDR-1) 1170'	2 days	Fri 6/18/21	Mon 6/21/21	8														
12	Xray, Blast, Coat HDD HDR-1	3 days	Mon 6/21/21	Thu 6/24/21	11														
13	4 Hour Hydrotest on drill section	2 days	Thu 6/24/21	Sat 6/26/21	12,10														
14	Weld small road bore sections	2 days	Mon 6/21/21	Wed 6/23/21	11														
15	Xray, Blast, Coat small bore sections 644' total	2 days	Wed 6/23/21	Fri 6/25/21	14														
16	4 Hour Hydrotest on small bore sections	2 days	Sat 6/26/21	Tue 6/29/21	15,13														
17	Weld Conventional Lay Sections	10 days	Wed 6/23/21	Sat 7/3/21	14,7														
18	Drill and Pull HDR-2	24 days	Wed 6/16/21	Tue 7/13/21	7SS+3 days														
19	Drill and Pull HDR-1	11 days	Mon 6/21/21	Sat 7/3/21	11SS+2 days														

NuStar Energy Fargo, ND Diversion Channel																			
ID	Task Name	Duration	Start	Finish	Predecessors	<div><div>June 2021</div><div>July 2021</div><div>Aug</div></div>													
20	Drill and Pull Ditch Crossing 336'	2 days	Sat 7/3/21	Mon 7/5/21	19														
21	Drill and Pull Road Crossing 308'	2 days	Tue 7/6/21	Wed 7/7/21	20,16														
22	Xray, Blast, Coat Conventional Lay	3 days	Mon 7/5/21	Wed 7/7/21	17														
23	Dig Ditch for Conventional Lay	5 days	Tue 7/6/21	Sat 7/10/21	22SS+1 day														
24	Lower-In Conventional Lay	5 days	Fri 7/9/21	Wed 7/14/21	23FS-2 days,22														
25	Back Fill Conventional Lay	3 days	Mon 7/12/21	Thu 7/15/21	24FS-2 days														
26	Tie-Ins	5 days	Wed 7/14/21	Tue 7/20/21	24,18,21														
27	Hydrotest, Dry 11,748' section	3 days	Tue 7/20/21	Fri 7/23/21	26														
28	Final Cleanup	3 days	Fri 7/23/21	Tue 7/27/21	27														
RIGMASTERS INC 3/31/2021																			

EXHIBIT 9
DESIGN DOCUMENTATION REPORT

EXHIBIT 10
FEDERAL CERTIFICATION FORMS
CERTIFICATION REGARDING FEDERAL LOBBYING

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

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

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

Company/
Entity Name: _____

Signed: _____

Its: _____

Date: _____

PLEASE RETURN TO:

Metro Flood Diversion Authority
207 4th St. N, Suite A
Fargo, ND 58102

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

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

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON PAGE 2)

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

Official Business Name _____

Date: _____

By: _____

Name and Title of Authorized
Representative

PLEASE RETURN TO:

Metro Flood Diversion Authority
207 4th St. N, Suite A
Fargo, ND 58102

Signature of Authorized Representative

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this certification, the prospective contracting party is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective contracting party shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Metro Flood Diversion Authority's (the "Authority") determination whether to enter into this transaction. However, failure of the prospective contracting party to furnish a certification or an explanation shall disqualify such person from entering into contracts with the Authority.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the Authority determined to enter into a contract with the prospective contracting party. In order to qualify for participation in the U.S. EPA WIFIA program the Authority is required to obtain this certification. If it is later determined that the prospective contracting party knowingly rendered an erroneous certification, in addition to other remedies available to both the Authority and the Federal Government, the Authority may terminate this transaction for cause or default.
4. The prospective contracting party shall provide immediate written notice to the Authority to which this Certificate is submitted if at any time the prospective contracting party learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Authority for assistance in obtaining a copy of those regulations (13 CFR Part 145).
6. The prospective contracting party agrees by submitting this certification that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Authority.
7. The prospective contracting party further agrees by submitting this certification that it will require a "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions," from all sub-contractors without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A contracting party in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A contracting party may decide the method and frequency by which it determines the ineligibility of its principals.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a contracting party is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a contracting party in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Authority may terminate this transaction for cause or default.

ASSURANCE OF COMPLIANCE – CIVIL RIGHTS CERTIFICATE

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

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

The undersigned assures that it will comply with:

1. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, or national origin including limited English proficiency (LEP);
2. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against persons with disabilities;
3. The Age Discrimination Act of 1975, as amended, which prohibits age discrimination;
4. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex;
5. 40 CFR Part 7, as it relates to the foregoing; and
6. Executive Order No. 11246.

The undersigned understands that this Assurance is binding on the undersigned, its successors, transferees, and assignees at any time during which federal financial assistance is provided to the Project. The undersigned will ensure that all contractors, subcontractors, or others with whom it arranges to provide services or benefits are not discriminating in violation of items 1-6. Otherwise, the contracts for services can be terminated for cause and the undersigned can be declared ineligible to contract for the Project.

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

Signature of Authorized Official

Title

Print Name

Name of Institution or Agency

Date

Street

City, State, Zip Code

PLEASE RETURN TO:

Metro Flood Diversion Authority
207 4th St. N, Suite A
Fargo, ND 58102

Office Email Address

American Iron and Steel (AIS) Certification

[The following information is provided as a sample letter of certification for AIS compliance. Documentation must be provided on company letterhead.]

Date

[Diversion Authority]

Subject: American Iron and Steel Certification for Project No. _____

Authority Work Package No. _____

To: [Authority Representative]

I, [company representative], certify and warrant that the following products and/or materials shipped/provided to Project No. _____ are in full compliance with the American Iron and Steel requirement as mandated in EPA's Water Infrastructure Finance and Innovation Act (WIFIA) Program.

Item, Products and/or Materials:

1. _____
2. _____
3. _____

Such process took place at the following location:

I understand and agree that EPA is a third party beneficiary to this certification and that I am duly authorized to give this certification on behalf of [Company Name]. If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Signed [company representative]

PLEASE RETURN TO:
Metro Flood Diversion Authority
207 4th St. N, Suite A
Fargo, ND 58102



Diversion Authority Board Meeting

April 22, 2021

Executive Director Report
Joel Paulsen

April Happenings



Communications

- Press Conference on April 9, 2021 re. I-29 Grade Raise award

Legislative updates

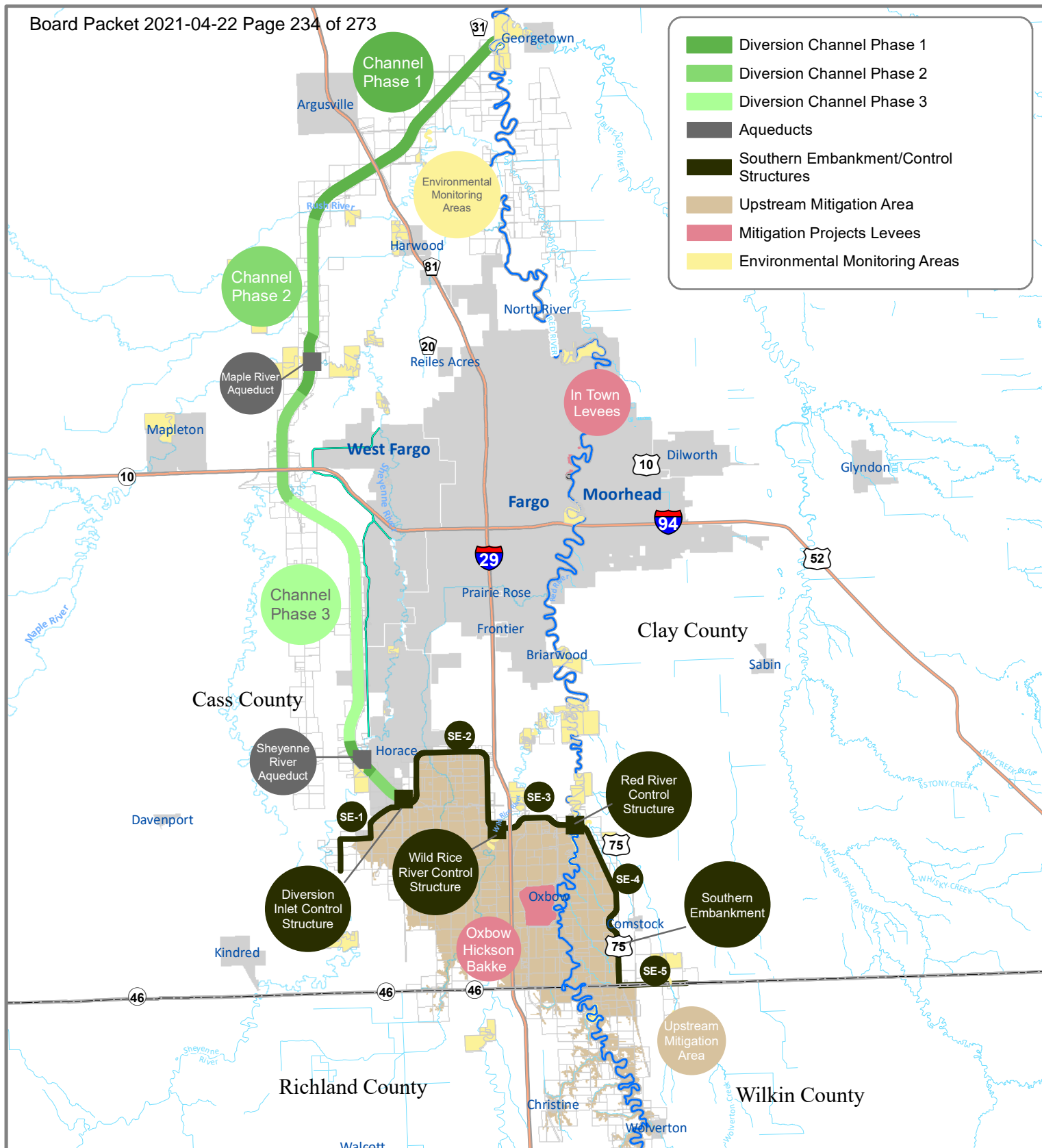
- State funding passed HB 1431 Bonding Bill
- Federal funding coordination

P3 updates

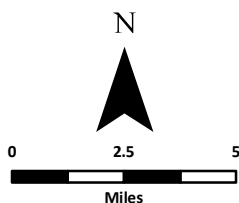
- Technical proposal reviews are complete. Mr. Shockley will provide an update on schedule and confidentiality later in the meeting.
- Financial proposals are due April 23, 2021.
- Anticipation of award in May 2021 (actual date TBD)

On-going coordination

- Utility/Township/Municipality MOUs and Agreements
- Multiple policies and plans per settlement agreement
- Permit coordination



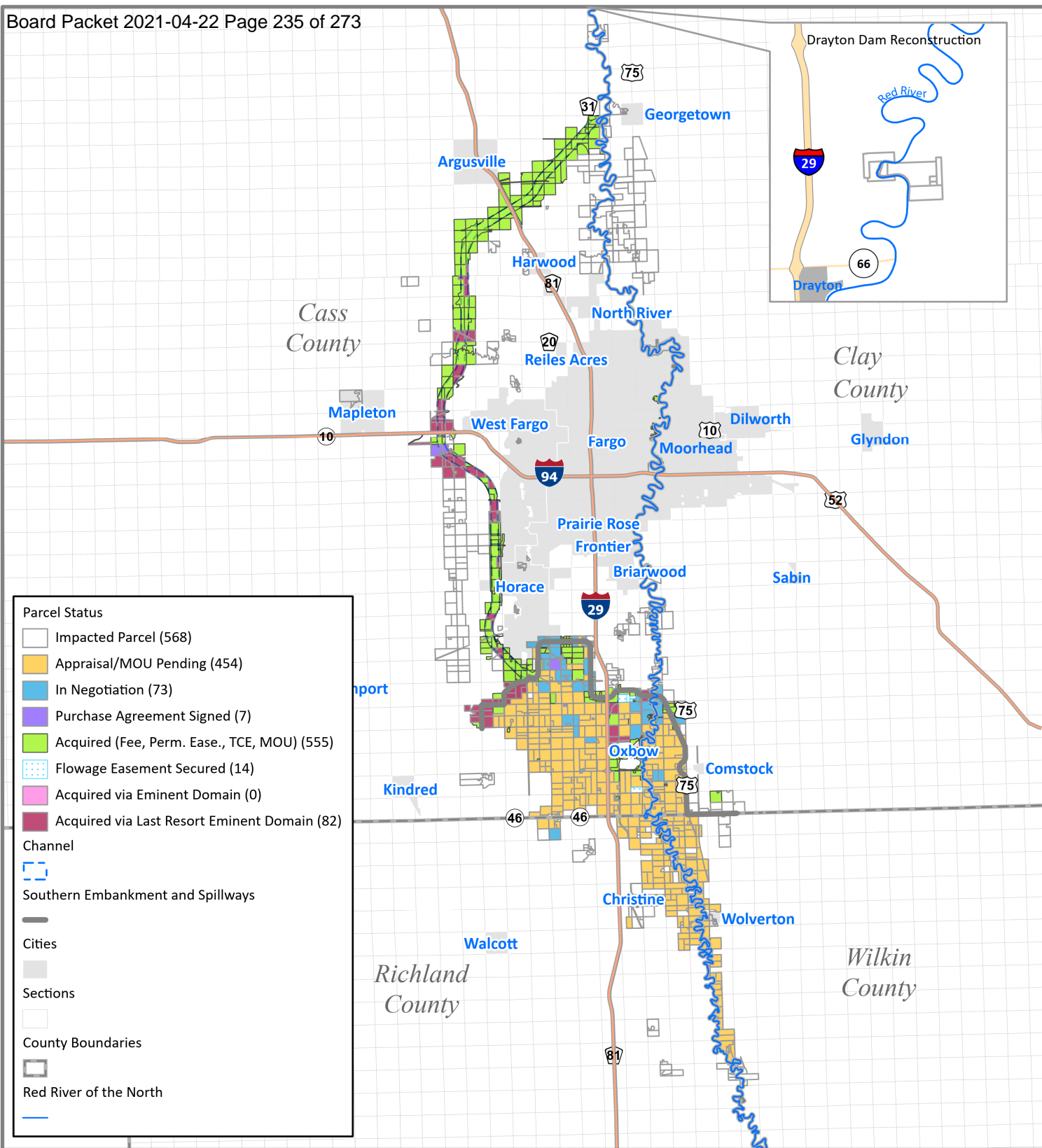
Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use. All parcel acreages and legal descriptions shown hereon are based on County GIS data. Final acreages and legal descriptions to be determined by boundary survey.
 Coordinate System: NAD 1983 UTM Zone 14N | Produced by: cwickenheiser - AE2S, Inc. | C:\Data\Projects\GIS Projects\FM Area Diversion\From GIS Projects Drive\Projects\Land Acquisition\Project Work Package\Project Wide\Overall LA Maps\PropertyAcquisitionSevenPhaseMap8x11.mxd



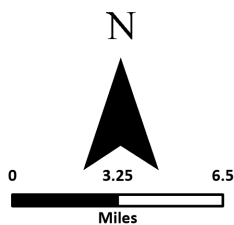
FM AREA DIVERSION KEY ACQUISITION AREAS

Map Date: 4/13/2021





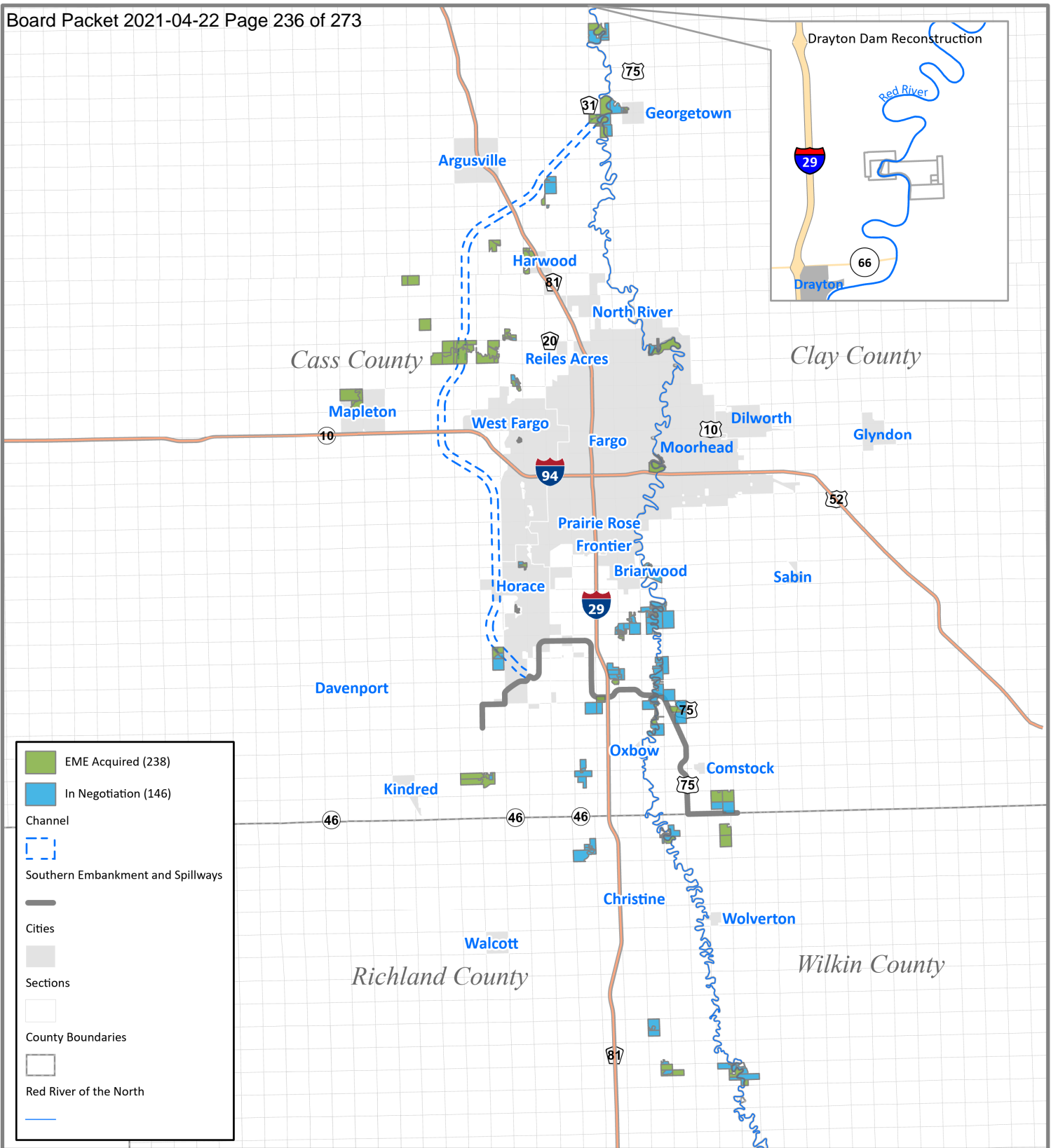
Information depicted may include data unverified by AE2S. Any reliance upon such data is at the user's own risk. AE2S does not warrant this map or its features are either spatially or temporally accurate.
 C:\Data\Projects\GIS Projects\FM Area Diversion\FMDiversionParcelStatus.aprx, Layout: PropertyAcquisitionStatusReport_8x11



PROPERTY ACQUISITION STATUS REPORT

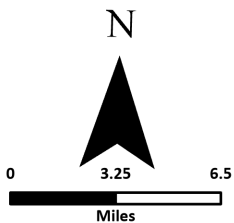
Map Date: 4/13/2021





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.

C:\Data\Projects\GIS Projects\FM Area Diversion\FMDiversionParcelStatus.aprx, Layout: EME Acquisition Status Report 8x11



ENVIRONMENTAL MONITORING EASEMENT ACQUISITION STATUS REPORT

Map Date: 4/13/2021



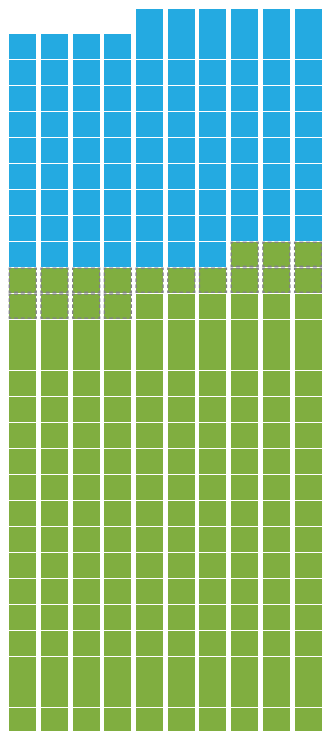
As of April 12, 2021

Environmental Monitoring Areas (BIOGEO)

North Dakota

Minnesota

Cass County



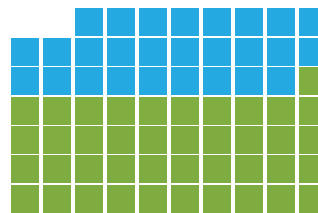
276 parcels total

Richland County



31 parcels total

Clay County



68 parcels total

Wilkin County

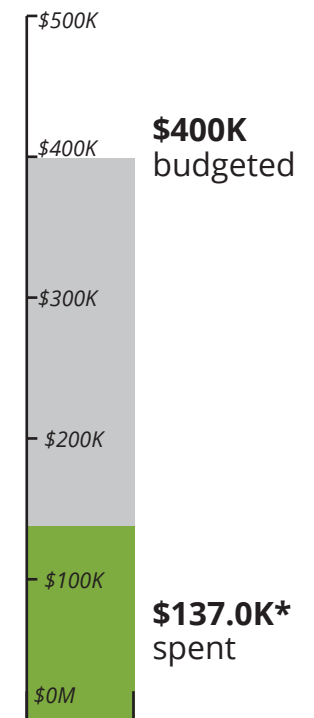


9 parcels total

- In Negotiations
- Bio/Geo Easement Secured
- Change from last report
- On Hold

Hard Costs paid to Property Owners

Note: Based on financial data through February



*includes payments for monuments and easements.

- Budgeted
- Purchase Agreement
- Spent

Property Status Report

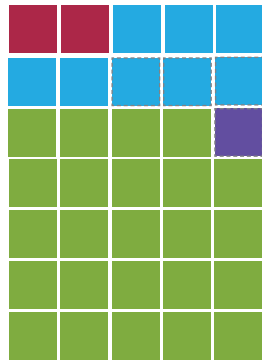


As of April 12, 2021

Southern Embankment Control Structures

Red River Control Structure

(WP 35)

Target Completion:
August 2021

35 parcels total

- 0 Appraisal Pending
- 8 In Negotiation
- 1 Agreement Signed
- 24 Acquired/ TCE Secured
- 2 Condemnation
- Changed from last report

Drain 27 Wetland Project

Targeted Completion:
October 2021

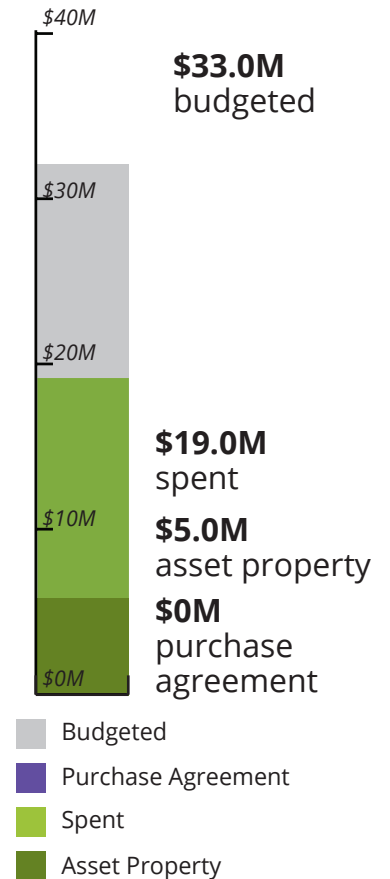
26 parcels total

- 2 Appraisal Pending/ MOU
- 17 In Negotiation
- 2 Agreement Signed
- 5 Acquired/ TCE Secured
- Condemnation
- Changed from last report

Southern Embankment & Control Structures

Hard Costs paid to
Property Owners

Note: Based on financial data through February



Property Status Report



As of April 12, 2021

Southern Embankment

Southern Embankment

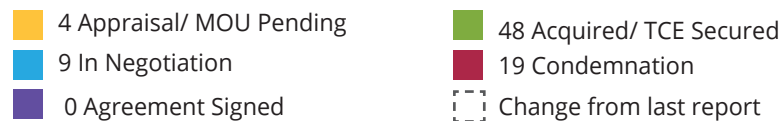
(WP Reach SE-1 to SE-5 and I29)
Targeted Completion: September 2025

111 parcels total

<p>SE-1 Complete Total Parcels: 25</p>	<p>SE-2A Target Completion: March 2022 Total Parcels: 8</p>	<p>SE-2B Target Completion: November 2022 Total Parcels: 33</p>
<p>SE-3 Target Completion: July 2024 Total Parcels: 5</p>	<p>I29 Completed Total Parcels: 12</p>	
<p>SE-4 Target Completion: July 2023 Total Parcels: 24</p>	<p>SE-5 Target Completion: July 2024 Total Parcels: 9</p>	

ND

MN

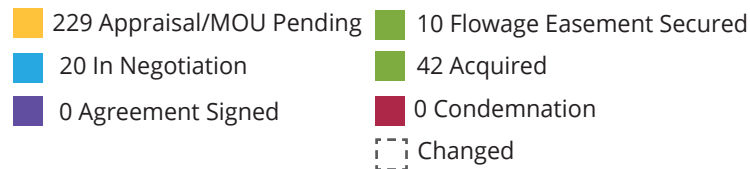


As of April 12, 2021

Upstream Mitigation Area-ND (UMA)

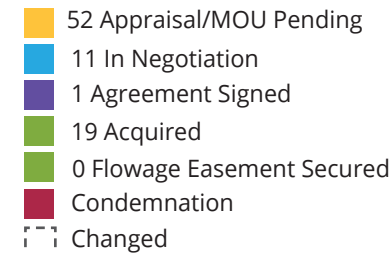
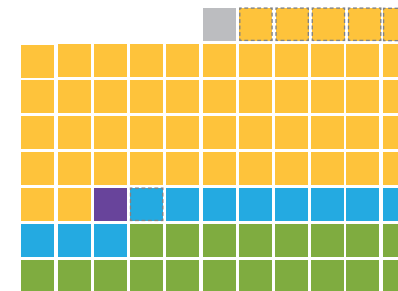
Flowage Easements without structures (ND)

Approximately
349 parcels in ND



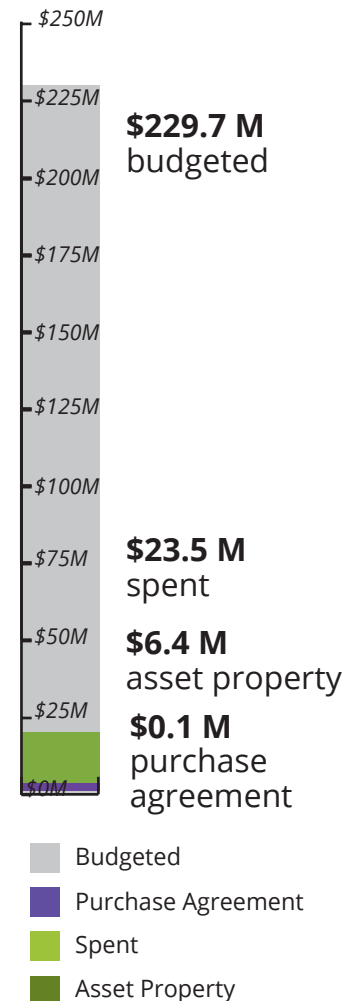
Flowage Easement Structure Sites (ND)

Approximately
83 parcels in ND



ND + MN UMA Hard Costs paid to Property Owners

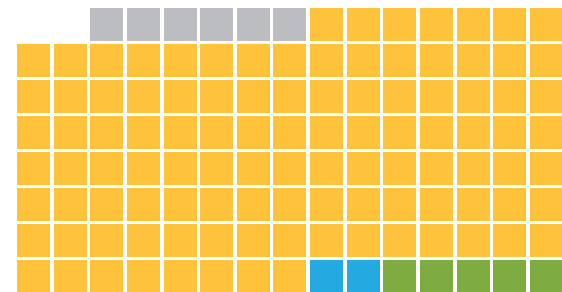
Note: Based on financial data
through February



Upstream Mitigation Area-MN (UMA)

Flowage Easements without structures (MN)

Approximately
118 parcels in MN



- | | |
|----------------------------|----------------|
| 105 Appraisal/MOU Pending | 1 Acquired |
| 2 In Negotiation | 0 Condemnation |
| 0 Agreement Signed | Changed |
| 4 Flowage Easement Secured | |

Flowage Easement Structure Sites (MN)

Approximately
24 parcels in MN



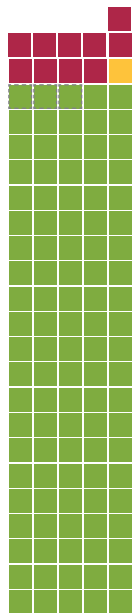
- | |
|----------------------------|
| 20 Appraisal/MOU Pending |
| 2 In Negotiation |
| 0 Agreement Signed |
| 0 Flowage Easement Secured |
| 2 Acquired |
| Condemnation |
| Changed |

As of April 12, 2021

Diversion Channel

Phase 1

(WP LAP01)

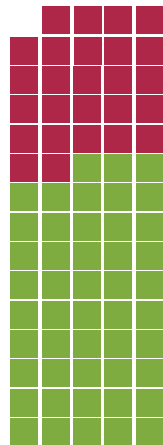


116 parcels total



Phase 2

(WP LAP02)



74 parcels total

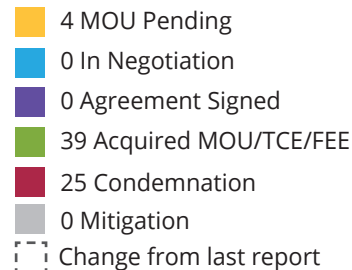


Phase 3

(WP LAP03)

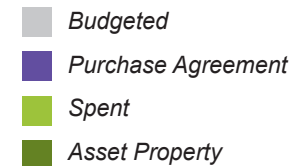
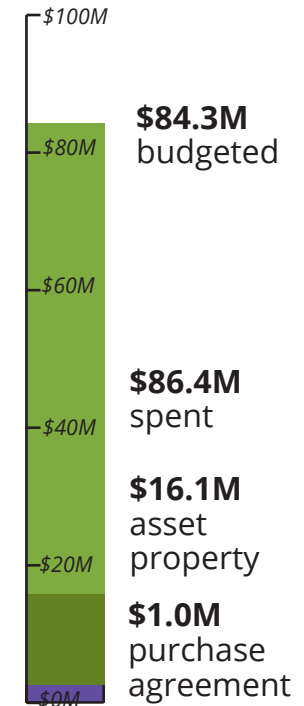


68 parcels total



Hard Costs paid to Property Owners

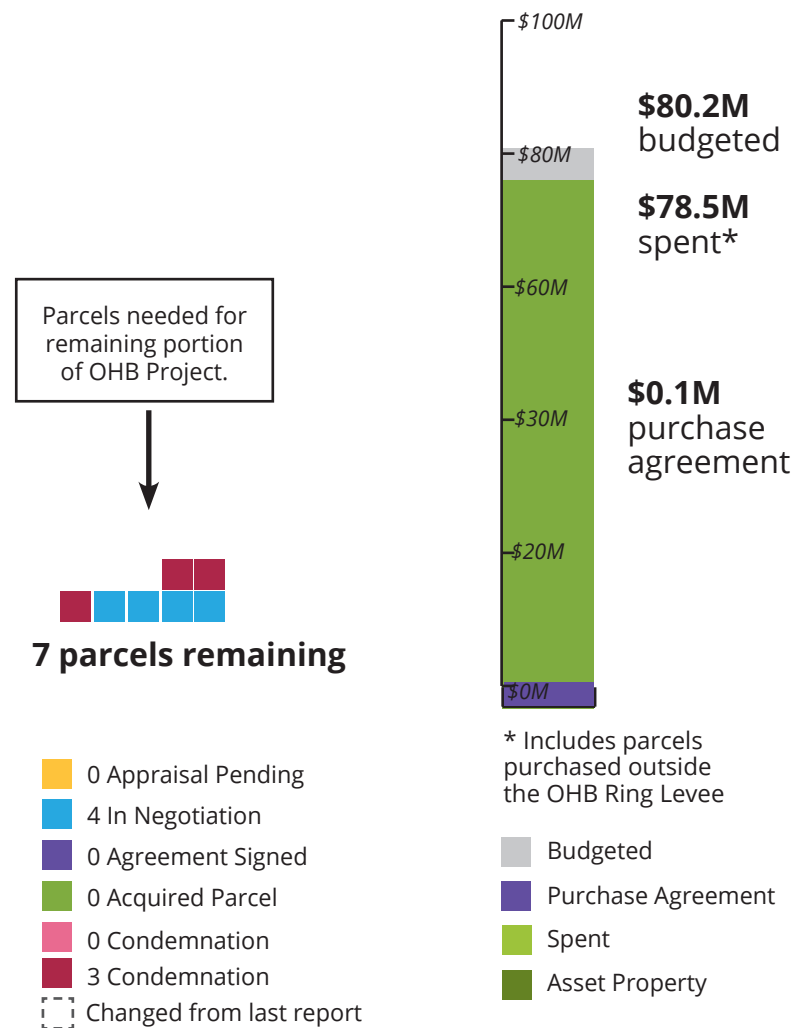
NOTE: Based on Financial data through February



OHB Projects

OHB Ring Levee

WP 43





Diversion Authority Board Meeting

April 22, 2021

Contracting Actions
Joel Paulsen

DA Board Approval Contract Actions (Action)

Board Packet 2021-04-22 Page 245 of 273



Description	Company	Budget/ Estimate (\$)
New Contract for Structure Mitigation – WP-50E	Schmidt & Sons	\$98,295.00
In-Town Levees (4th Street Pump Station and 2nd Street So. Floodwall) – WP-42A1A3 – Change Order #11 (Adjustment to contract for settlement approved last month by the Board)	ICS, Inc.	\$284,991.94
Task Order 1, Amendment 18 – Additional Budget, increase the insurance subtask D, Professional Liability Insurance March 13, 2021 to March 13, 2020	HMG	\$269,384.88



64 4th Street North
Suite 300
Fargo,
ND 58102
www.jacobs.com
T +44 (0)121 237 4000

April 9, 2021

Attention: Joel Paulsen, Executive Director
Metro Flood Diversion Authority
211 9th Street South
Box 2806
Fargo,
ND 58108

Project Name: FM Diversion
Project Number: 435534/WP-50E

Subject: Work Package WP50E Structure Mitigation Recommendation of Award

Dear Diversion Authority,

The contract for Structure Mitigation (Removal) was publicly advertised and three bids were received at the virtual public bid opening on April 8, 2021.

The bids were from:

- | | |
|--|--------------|
| 1. American Enterprises Inc. in the amount of | \$194,617.55 |
| 2. Industrial Builders Inc., in the amount of | \$116,977.00 |
| 3. Schmidt & Sons Construction Inc. in the amount of | \$98,295.00 |

The Engineers Estimate for this project was \$303,330.00

Jacobs, (PMC) HMG LLC. (EOR) and the Authority's Legal counsel have reviewed and evaluated the bid documents and recommend the Diversion Authority award this contract for WP-50E to Schmidt & Sons Construction Inc. in the amount of \$98,295.00 as the lowest responsive bidder. Enclosed is the project Bid Tabulation Assessment.

Please contact me at ian.joynes@jacobs.com if you have any questions regarding this recommendation.

Yours sincerely,

Ian Joynes

Ian Joynes, BEng CEng FICE, Construction Contracts Manager

Copies to:

Kris Bakkegard (DA)
Bob Zimmerman (CoM)
Matt Stamness (CC)
Nathan Boerboom (Co)
Jason Benson
David Overbo

Bid Tabulation Assessment**Project: WP50E - Structure Mitigation****Pre-Bid 31-Mar-2021****Bid Opening 08-Apr-2021**

				Engineers Estimate		Name American Enterprises Inc.		Name Industrial Builders Inc.		Name	Schmidt & Sons Construction Inc.
ITEM	ITEM	QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1.	Mobilization	1	LS	\$15,000.00	\$ 15,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 3,000.00	\$ 3,000.00
2.	Clearing and Grubbing	1	LS	\$30,000.00	\$ 30,000.00	\$ 2,000.00	\$ 2,000.00	\$ 12,400.00	\$ 12,400.00	\$ 10,000.00	\$ 10,000.00
3.	Removals OIN 9383 17556 Pfiffer Drive	1	LS	\$70,000.00	\$ 70,000.00	\$ 30,800.00	\$ 30,800.00	\$ 32,000.00	\$ 32,000.00	\$ 15,000.00	\$ 15,000.00
4.	Removals OIN 9393 17579 Pfiffer Drive	1	LS	\$70,000.00	\$ 70,000.00	\$ 27,500.00	\$ 27,500.00	\$ 24,000.00	\$ 24,000.00	\$ 15,000.00	\$ 15,000.00
5.	Removals OIN 9401 17572 Pfiffer Drive	1	LS	\$70,000.00	\$ 70,000.00	\$ 28,000.00	\$ 28,000.00	\$ 24,000.00	\$ 24,000.00	\$ 12,000.00	\$ 12,000.00
6.	Top Soil Import	3870	CY	\$6.00	\$ 23,220.00	\$17.00	\$ 65,790.00	\$1.00	\$ 3,870.00	3.00	\$ 11,610.00
7.	Imported Fill	1685	CY	\$7.00	\$ 11,795.00	\$15.00	\$ 25,275.00	\$3.00	\$ 5,055.00	3.00	\$ 5,055.00
8.	Seeding & Mulching	13,315	SY	\$1.00	\$ 13,315.00	\$0.77	\$ 10,252.55	\$0.80	\$ 10,652.00	2.00	\$ 26,630.00
				Engineers	Estimate	American Enterprises Inc.		Industrial Builders Inc.		Schmidt & Sons Construction Inc.	
					\$303,330.00		\$194,617.55		\$116,977.00		\$98,295.00



METRO FLOOD DIVERSION PROJECT

Executive Director Contracting Recommendation

Date: 04/08/2021

RECOMMENDATION FOR ACTION:

The Co-Executive Directors have reviewed and recommended approval of the following Contract Action(s).

SUMMARY OF CONTRACTING ACTION:

Per the contract review and approval procedures that were adopted by the Diversion Authority on November 10, 2016 and amended February 11, 2021, the Owner's Program Management Consultant (PMC) or Engineer of Record (EOR) shall submit construction Change Order requests that are greater \$50,000 then submit to TAG and ED approval. Submit to Finance Committee and submit to Board for approval.

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

Description	Budget Estimate (\$)
WP-42A1A3: ICS, Inc.	
<i>Change Order #11</i>	\$284,991.94
<ul style="list-style-type: none"> Settlement agreement and Mutual release of all claims. 	

Summary of Contracting History and Current Contract Action:

The Diversion Authority awarded the WP-42A1A3 (In-Town Levees - 4th Street Pump Station and 2nd Street So. Floodwall) construction contract to Industrial Contract Services, Inc. (ICS)(Contractor). The Effective Date of the Contract was November 18, 2014.

Since the start of construction, the Contractor and Owner have executed 10 change orders to this Contract.

The following is a summary of contracting history to date along with the current contracting action.

Original Agreement or Amendment	Budget (\$) Change	Previous Project Cost	Revised Project Cost	Project Start	Project Completion	Comments
WP-42A.1/A.3 contract	17,361,616.35	0.00	17,361,616.35	11-Dec-14	11-Nov-16	Awarded 4 th Street Pump Station and 2 nd Street South Floodwall
Change Order 1	268,555.24	17,361,616.35	17,630,171.59	11-Dec-14	11-Nov-16	Fargo Highrise parking lot modifications and other costs
Change Order 2	176,462.97	17,630,171.59	17,806,634.56	11-Dec-14	11-Nov-16	Unknown underground structures and other costs

Original Agreement or Amendment	Budget (\$) Change	Previous Project Cost	Revised Project Cost	Project Start	Project Completion	Comments
Change Order 3	(10,570.93)	17,806,634.56	17,796,063.63	11-Dec-14	11-Nov-16	Deduct exterior electrical work and install fence, bollards, and lights at Fargo Highrise
Change Order 4	15,174.67	17,796,063.63	17,811,238.30	11-Dec-14	11-Nov-16	Time extensions and multiple cost adjustments for Engineer- and Owner-directed items.
Change Order 5	70,363.71	17,811,238.30	17,881,601.31	11-Dec-14	11-Nov-16	Last of suspended changes, sanitary overflow connection, T&M budget for ACM removal
Change Order 6	147,079.47	17,881,601.31	18,028,681.48	11-Dec-14	11-Nov-16	Last of suspended changes, erosion blanket, still wells, unsuitable materials and additional asbestos wrapped pipe.
Change Order 7	11,147.81	18,028,681.48	18,036,371.39	11-Dec-14	13-Sept-17	Sanitary Overflow Brackets, ST-4 Flared End with Grate, Sluice Gate Actuator Covers and 2" nuts, Updated Lot Grading Plan, Milestone and Project Completion Date Resets, and Time Additions.
Change Order 8	2,386.00	18,036,371.39	18,038,757.39	11-Dec-14	13-Sept-17	Reprogramming Display and Generator Building Fuel Storage Area Drain
Change Order 9	6,113.80	18,038,757.39	18,044,871.19	11-Dec-14	13-Sept-17	Fuel Sensors, Floodwall Coping, and Trash Rack Modifications
Change Order 10	28,950.00	18,044,871.19	18,073,821.19	11-Dec-14	13-Sept-17	Back-up Generator Breaker and Breaker Box
Change Order 11	284,991.94	18,073,821.19	18,358,813.13	11-Dec-14	13-Sept-17	Settlement Agreement

Summary of Budget Allocation – Year 2021

Original Agreement or Amendment	Cost account code	Total cost 2021 (\$)	Budget Allocated 2021 (\$)	Budget Remaining 2021 (\$)	Comments
Settlement Agreement	CN-9740	\$ 1,265,051.00	\$1,368,000.00	\$102,949	Pay Settlement amount \$1,265,051.00. Budget includes release of amounts held.
Total for 2021	Cn-9740	\$ 1,265,051.00	\$1,368,000.00	\$102,949	Contract Close

Financial Considerations:

Attached for your review and action is draft Change Order No. 11. This change order increases the total Contract Price \$284,991.94.

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

ATTACHMENT(S):

1. Draft Change Order No. 11 with unit price schedule.
2. Settlement agreement and Mutual release of all claims.

Prepared by: Program Management Consultant*Ian Joynes*

Ian Joynes
Jacobs

April 8, 2021

Date

Submitted by:*Joel Paulsen*

Joel Paulsen

Diversion Authority Executive Director

Concur:

☒

Non-Concur:

Cc: Technical Advisory Group

- Nathan Boerboom, City of Fargo Engineer/Diversion Authority Project Manager
- David Overbo, Clay County Engineer
- Jason Benson, Cass County Engineer
- Robert Zimmerman, Moorhead City Engineer
- Matt Stamness, Assistant Cass County Engineer/Diversion Authority Project Manager
- Dustin Scott, West Fargo City Engineer
- Kris Bakkegard, Diversion Authority Director of Engineering



Change Order No. 11

Date of Issuance: <u>04/08/2021</u> Owner: <u>Metro Flood Diversion Authority</u> Owner's Representative: <u>Jacobs Engineering Group</u> Contractor: <u>ICS Inc</u> Engineer: <u>Houston-Moore Group, LLC</u>	Effective Date: <u>04/08/2021</u> Owner's Contract No.: <u>WP42A1A3</u> Owner's Representative Project No.: <u>435534</u> Contractor's Project No.: <u>1114</u> Work Package No.: <u>WP42A1A3</u>
Project: <u>Fargo-Moorhead Area Diversion</u> Contract Name: <u>4th Street Pump Station and Gatewell and 2nd Street Floodwall South</u>	

The Contract is modified as follows upon execution of this Change Order:



Description: This change order increases the contract price by **\$284,991.94** as shown below and in the attached Change Order No. 11 Unit Price Schedule. The Engineer reviewed the change items and recommends approval. This is to cover the final SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF ALL CLAIMS.

1. Revision Ready for Final Payment date to 04/08/2021.

Attachments:

Change Order 11 Unit Price Schedule Dated April 08, 2021

<p align="center">CHANGE IN CONTRACT PRICE</p> <p>Original Contract Price:</p> <p align="right">17,361,616.35</p>	<p align="center">CHANGE IN CONTRACT TIMES</p> <p>Original Contract Times:</p> <p>Milestone 4.02.A.02: November 1, 2015</p> <p>Milestone 4.02.A.02a: NA</p> <p>Milestone 4.02.A.03: July 31, 2015</p> <p>Milestone 4.02.A.04: August 20, 2015</p> <p>Milestone 4.02.A.05: November 13, 2015</p> <p>Milestone 4.02.A.06: January 26, 2016</p> <p>Milestone 4.02.A.07: September 5, 2016</p> <p>Substantial Completion: September 5, 2016</p> <p>Final Completion: November 11, 2016</p>
<p>[Increase] [Decrease] from previously approved Change Orders No.: 10</p> <p align="right">712,204.84</p>	<p>[Increase] [Decrease] from previously approved Change Orders No. : 10</p> <p>Milestone 4.02.A.02: 30 days</p> <p>Milestone 4.02.A.02.a: 14 days</p> <p>Milestone 4.02.A.03: 29 days</p> <p>Milestone 4.02.A.04: 29 days</p> <p>Milestone 4.02.A.05: 30 days</p> <p>Milestone 4.02.A.06: 309 days</p> <p>Milestone 4.02.A.07: 309 days</p> <p>Substantial Completion 4.02 B: 309 days</p> <p>Final Completion 4.02 B: 306 days</p>
<p>Contract Price prior to this Change Order:</p> <p align="right">18,073,821.19</p>	<p>Contract Times prior to this Change Order:</p> <p>Milestone 4.02.A.02: December 1, 2015</p> <p>Milestone 4.02.A.02a: November 15, 2015</p> <p>Milestone 4.02.A.03: August 29, 2015</p> <p>Milestone 4.02.A.04: September 18, 2015</p> <p>Milestone 4.02.A.05: December 13, 2015</p> <p>Milestone 4.02.A.06: December 3, 2016</p> <p>Milestone 4.02.A.07: July 13, 2017</p> <p>Substantial Completion 4.02B: July 13, 2017</p> <p>Final Completion 4.02B : September 13, 2017</p>
<p>[Increase] [Decrease] of this Change Order:</p> <p align="right">284,991.94</p>	<p>[Increase] [Decrease] of this Change Order:</p> <p>Ready for Final Payment: April 8, <u>2021</u></p>
<p>Contract Price incorporating this Change Order:</p> <p align="right">18,358,813.13</p>	<p>Contract Times with all approved Change Orders:</p> <p>Milestone 4.02.A.02: December 1, 2015</p> <p>Milestone 4.02.A.02a: November 15, 2015</p> <p>Milestone 4.02.A.03: August 29, 2015</p> <p>Milestone 4.02.A.04: September 18, 2015</p> <p>Milestone 4.02.A.05: December 13, 2015</p> <p>Milestone 4.02.A.06: December 3, 2016</p> <p>Milestone 4.02.A.07: July 13, 2017</p> <p>Substantial Completion 4.02 B : July 13, 2017</p> <p>Final Completion 4.02 B : September 13, 2017</p>

RECOMMENDED:		ACCEPTED:		ACCEPTED:	
By:		By:		By:	
	Owner's Representative (Authorized Signature)		Owner (Authorized Signature)		Contractor (Authorized Signature)
Name:	Kris Bakkegard	Name:	Joel Paulsen, PE	Name:	Gary Beeter
Title:	Project Manager	Title:	Executive Director	Title:	Vice President
Date:	04-09-2021	Date:	04/14/2021	Date:	

WP-42A.1/A.3**4th Street Pump Station and Gatewell - 2nd Street Floodwall South**

Change Order 11 Unit Price Schedule

DATE: 04/08/2021



WP-42A.1/A.3 - 4th Street Pump Station and Gatewell - 2nd Street Floodwall South											
ITEM	DESCRIPTION	UNIT	Current Budget			Net Change			New Budget		
			QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT
0001	Mobilization	LS	1	\$ 350,000.00	\$ 350,000.00				1	\$ 350,000.00	\$ 350,000.00
0002	Remove Sanitary Sewer Manhole	EA	2	\$ 1,100.00	\$ 2,200.00				2	\$ 1,100.00	\$ 2,200.00
0003	F&I Pipe SDR 26 - 10" Dia PVC	LF	145	\$ 70.00	\$ 10,150.00				145	\$ 70.00	\$ 10,150.00
0004	Remove Sanitary Sewer Pipe All Sizes All Types	LF	140	\$ 11.00	\$ 1,540.00				140	\$ 11.00	\$ 1,540.00
0005	Rem & Repl Sanitary Sewer Casting - Floating Manhole	EA	1	\$ 800.00	\$ 800.00				1	\$ 800.00	\$ 800.00
0006	Sanitary Sewer Manhole	EA	2	\$ 4,500.00	\$ 9,000.00				2	\$ 4,500.00	\$ 9,000.00
0007	Sanitary Sewer Exterior Drop Manhole	EA	1	\$ 12,000.00	\$ 12,000.00				1	\$ 12,000.00	\$ 12,000.00
0008	F&I 5" Hydrant	EA	2	\$ 6,000.00	\$ 12,000.00				2	\$ 6,000.00	\$ 12,000.00
0009	Salvage Hydrant	EA	2	\$ 600.00	\$ 1,200.00				2	\$ 600.00	\$ 1,200.00
0010	F&I Pipe C900 DR 18 - 6" Dia PVC	LF	479	\$ 60.00	\$ 28,740.00				479	\$ 60.00	\$ 28,740.00
0011	F&I Pipe C900 DR 18 - 10" Dia PVC	LF	416	\$ 65.00	\$ 27,040.00				416	\$ 65.00	\$ 27,040.00
0012	Remove Water Main Pipe All Sizes All Types	LF	697	\$ 11.00	\$ 7,667.00				697	\$ 11.00	\$ 7,667.00
0013	F&I Gate Valve 6" Dia	EA	5	\$ 2,200.00	\$ 11,000.00				5	\$ 2,200.00	\$ 11,000.00
0014	F&I Gate Valve 10" Dia	EA	3	\$ 4,000.00	\$ 12,000.00				3	\$ 4,000.00	\$ 12,000.00
0015	Watermain Fittings	LBS	4,157	\$ 12.00	\$ 49,884.00				4,157	\$ 12.00	\$ 49,884.00
0016	F&I Overflow Structure	EA	1	\$ 18,000.00	\$ 18,000.00				1	\$ 18,000.00	\$ 18,000.00
0017	F&I Manhole 4' Dia Reinf Conc	EA	3	\$ 5,000.00	\$ 15,000.00				3	\$ 5,000.00	\$ 15,000.00
0018	F&I Manhole 5' Dia Reinf Conc	EA	1	\$ 5,000.00	\$ 5,000.00				1	\$ 5,000.00	\$ 5,000.00
0019	F&I Manhole 6' Dia Reinf Conc	EA	2	\$ 20,000.00	\$ 40,000.00				2	\$ 20,000.00	\$ 40,000.00
0020	F&I Manhole 7' Dia Reinf Conc	EA	3	\$ 22,000.00	\$ 66,000.00				3	\$ 22,000.00	\$ 66,000.00
0021	F&I Manhole Type E Reinf Conc	EA	2	\$ 70,000.00	\$ 140,000.00				2	\$ 70,000.00	\$ 140,000.00
0022	F&I Manhole Type E Reinf Conc (ST-4)	EA	1	\$ 250,000.00	\$ 250,000.00				1	\$ 250,000.00	\$ 250,000.00
0023	F&I Manhole Type E Reinf Conc (ST-3)	EA	1	\$ 225,000.00	\$ 225,000.00				1	\$ 225,000.00	\$ 225,000.00
0024	F&I Manhole Type E Reinf Conc (ST-2)	EA	1	\$ 225,000.00	\$ 225,000.00				1	\$ 225,000.00	\$ 225,000.00
0025	F&I Manhole Type E Reinf Conc (ST-1)	EA	1	\$ 225,000.00	\$ 225,000.00				1	\$ 225,000.00	\$ 225,000.00
0026	Remove Storm Sewer Manhole	EA	5	\$ 600.00	\$ 3,000.00				5	\$ 600.00	\$ 3,000.00

WP-42A.1/A.3**4th Street Pump Station and Gatewell - 2nd Street Floodwall South**

Change Order 11 Unit Price Schedule

DATE: 04/08/2021



WP-42A.1/A.3 - 4th Street Pump Station and Gatewell - 2nd Street Floodwall South											
ITEM	DESCRIPTION	UNIT	Current Budget			Net Change			New Budget		
			QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT
0027	F&I Inlet - Manhole (MHI) 4' Dia Reinf Conc	EA	1	\$ 5,000.00	\$ 5,000.00				1	\$ 5,000.00	\$ 5,000.00
0028	F&I Inlet - Manhole (MHI) 6' Dia Reinf Conc	EA	1	\$ 15,000.00	\$ 15,000.00				1	\$ 15,000.00	\$ 15,000.00
0029	F&I Inlet - Single Box (SBI) Reinf Conc	EA	1	\$ 5,000.00	\$ 5,000.00				1	\$ 5,000.00	\$ 5,000.00
0030	F&I Inlet - Double Box (DBI) Reinf Conc	EA	1	\$ 7,000.00	\$ 7,000.00				1	\$ 7,000.00	\$ 7,000.00
0031	F&I Inlet - Special (SPI) Reinf Conc	EA	2	\$ 2,000.00	\$ 4,000.00				2	\$ 2,000.00	\$ 4,000.00
0032	Riprap (Outlet)	CY	410	\$ 125.00	\$ 51,250.00				410	\$ 125.00	\$ 51,250.00
0033	Box Culvert End Section with Grate	EA	1	\$ 25,000.00	\$ 25,000.00				1	\$ 25,000.00	\$ 25,000.00
0034	PLUG PIPE 33" DIA.	EA	1	\$ 1,500.00	\$ 1,500.00				1	\$ 1,500.00	\$ 1,500.00
0035	PLUG PIPE 72" DIA.	EA	1	\$ 3,300.00	\$ 3,300.00				1	\$ 3,300.00	\$ 3,300.00
0036	PLUG PIPE 78" DIA.	EA	2	\$ 4,500.00	\$ 9,000.00				2	\$ 4,500.00	\$ 9,000.00
0037	F&I Pipe 18" Dia Reinf Conc	LF	291	\$ 95.00	\$ 27,645.00				291	\$ 95.00	\$ 27,645.00
0038	F&I Pipe 24" Dia Reinf Conc	LF	86	\$ 120.00	\$ 10,320.00				86	\$ 120.00	\$ 10,320.00
0039	F&I Pipe 30" Dia Reinf Conc	LF	137	\$ 220.00	\$ 30,140.00				137	\$ 220.00	\$ 30,140.00
0040	F&I Pipe 36" Dia Reinf Conc	LF	8	\$ 250.00	\$ 2,000.00				8	\$ 250.00	\$ 2,000.00
0041	F&I Pipe 48" Dia Reinf Conc	LF	79	\$ 300.00	\$ 23,700.00				79	\$ 300.00	\$ 23,700.00
0042	F&I Pipe 54" Dia Reinf Conc	LF	79	\$ 800.00	\$ 63,200.00				79	\$ 800.00	\$ 63,200.00
0043	F&I Pipe 72" Dia Reinf Conc	LF	51	\$ 900.00	\$ 45,900.00				51	\$ 900.00	\$ 45,900.00
0044	F&I Pipe 12" Dia PVC	LF	99	\$ 120.00	\$ 11,880.00				99	\$ 120.00	\$ 11,880.00
0045	Remove Storm Sewer Pipe All Sizes All Types	LF	2,788	\$ 85.00	\$ 236,980.00				2,788	\$ 85.00	\$ 236,980.00
0046	30" Flapgate	EA	-	\$ 25,000.00	\$ -				-	\$ 25,000.00	\$ -
0047	54" Flapgate	EA	1	\$ 30,000.00	\$ 30,000.00				1	\$ 30,000.00	\$ 30,000.00
0048	F&I Pipe w/GB 30" Dia Reinf Conc	LF	240	\$ 1,100.00	\$ 264,000.00				240	\$ 1,100.00	\$ 264,000.00
0049	F&I Pipe w/GB 36" Dia Reinf Conc	LF	88	\$ 1,200.00	\$ 105,600.00				88	\$ 1,200.00	\$ 105,600.00
0050	F&I Pipe w/GB 54" Dia Reinf Conc	LF	19	\$ 2,000.00	\$ 38,000.00				19	\$ 2,000.00	\$ 38,000.00
0051	F&I Box Culvert 8'x5' Wide Reinf Conc Cast in Place with depth of fill 1' to 10'	LF	495	\$ 1,500.00	\$ 742,500.00				495	\$ 1,500.00	\$ 742,500.00

WP-42A.1/A.3**4th Street Pump Station and Gatewell - 2nd Street Floodwall South**

Change Order 11 Unit Price Schedule

DATE: 04/08/2021



WP-42A.1/A.3 - 4th Street Pump Station and Gatewell - 2nd Street Floodwall South											
ITEM	DESCRIPTION	UNIT	Current Budget			Net Change			New Budget		
			QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT
0052	F&I Box Culvert 8'x5' Wide Reinf Conc Cast in Place with depth of fill 10' to 31'	LF	128	\$ 2,800.00	\$ 358,400.00				128	\$ 2,800.00	\$ 358,400.00
0053	F&I Box Culvert 8'x5' Wide Reinf Conc Precast	LF	186	\$ 1,300.00	\$ 241,800.00				186	\$ 1,300.00	\$ 241,800.00
0054	Remove Pavement All Thicknesses All Types	SY	8,226	\$ 10.00	\$ 82,260.00				8,226	\$ 10.00	\$ 82,260.00
0055	Subgrade Preparation	SY	10,496	\$ 4.50	\$ 47,232.00				10,496	\$ 4.50	\$ 47,232.00
0056	F&I Woven Geotextile	SY	10,496	\$ 2.50	\$ 26,240.00				10,496	\$ 2.50	\$ 26,240.00
0057	F&I Class 5 Agg - 6" Thick	SY	5,578	\$ 10.00	\$ 55,780.00				5,578	\$ 10.00	\$ 55,780.00
0058	F&I Class 5 Agg - 7" Thick	SY	2,212	\$ 12.00	\$ 26,544.00				2,212	\$ 12.00	\$ 26,544.00
0059	F&I Class 5 Agg - 8" Thick	SY	733	\$ 13.00	\$ 9,529.00				733	\$ 13.00	\$ 9,529.00
0060	F&I Class 5 Agg - 12" Thick	SY	1,973	\$ 20.00	\$ 39,460.00				1,973	\$ 20.00	\$ 39,460.00
0061	F&I Crushed Conc - 6" Thick	SY	120	\$ 13.00	\$ 1,560.00				120	\$ 13.00	\$ 1,560.00
0062	F&I Curb & Gutter Standard (Type II)	LF	2,030	\$ 40.00	\$ 81,200.00				2,030	\$ 40.00	\$ 81,200.00
0063	Remove Curb & Gutter	LF	1,924	\$ 10.00	\$ 19,240.00				1,924	\$ 10.00	\$ 19,240.00
0064	F&I Pavement 6" Thick Reinf Conc	SY	3,744	\$ 66.00	\$ 247,104.00				3,744	\$ 66.00	\$ 247,104.00
0065	F&I Pavement 7" Thick Reinf Conc	SY	1,484	\$ 75.00	\$ 111,300.00				1,484	\$ 75.00	\$ 111,300.00
0066	F&I Pavement 9" Thick Doweled Conc	SY	1,519	\$ 90.00	\$ 136,710.00				1,519	\$ 90.00	\$ 136,710.00
0067	F&I Sidewalk 4" Thick Reinf Conc	SY	1,401	\$ 60.00	\$ 84,060.00				1,401	\$ 60.00	\$ 84,060.00
0068	Remove Sidewalk All Thicknesses All Types	SY	1,112	\$ 15.00	\$ 16,680.00				1,112	\$ 15.00	\$ 16,680.00
0069	Temp Construction Entrance	EA	4	\$ 1,700.00	\$ 6,800.00				4	\$ 1,700.00	\$ 6,800.00
0070	Traffic Control - Type 1	LS	1	\$ 26,000.00	\$ 26,000.00				1	\$ 26,000.00	\$ 26,000.00
0071	F&I Aggregate for Asph Pavement Class 29	TON	930	\$ 80.00	\$ 74,400.00				930	\$ 80.00	\$ 74,400.00
0072	F&I Asphalt Cement PG 58-28	GAL	13,385	\$ 4.00	\$ 53,540.00				13,385	\$ 4.00	\$ 53,540.00
0073	F&I Impressioned 4" Thick Reinf Conc	SY	72	\$ 220.00	\$ 15,840.00				72	\$ 220.00	\$ 15,840.00
0074	F&I Det Warn Panels Cast Iron	SF	109	\$ 70.00	\$ 7,630.00				109	\$ 70.00	\$ 7,630.00
0075	F&I Sign Assembly	EA	18	\$ 220.00	\$ 3,960.00				18	\$ 220.00	\$ 3,960.00
0076	Relocate Sign Assembly	EA	13	\$ 220.00	\$ 2,860.00				13	\$ 220.00	\$ 2,860.00

WP-42A.1/A.3**4th Street Pump Station and Gatewell - 2nd Street Floodwall South**

Change Order 11 Unit Price Schedule

DATE: 04/08/2021



WP-42A.1/A.3 - 4th Street Pump Station and Gatewell - 2nd Street Floodwall South											
ITEM	DESCRIPTION	UNIT	Current Budget			Net Change			New Budget		
			QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT
0077	F&I Engineering Grade	SF	23	\$ 30.00	\$ 690.00				23	\$ 30.00	\$ 690.00
0078	F&I Diamond Grade Cubed	SF	6	\$ 40.00	\$ 252.00				6	\$ 40.00	\$ 252.00
0079	F&I High Intensity Prismatic	SF	28	\$ 35.00	\$ 966.00				28	\$ 35.00	\$ 966.00
0080	F&I Flexible Delineator	EA	2	\$ 130.00	\$ 260.00				2	\$ 130.00	\$ 260.00
0081	F&I Grooved Plastic Film Message	SF	80	\$ 50.00	\$ 4,000.00				80	\$ 50.00	\$ 4,000.00
0082	F&I Grooved Plastic Film 4" Wide	LF	1,485	\$ 10.00	\$ 14,850.00				1,485	\$ 10.00	\$ 14,850.00
0083	F&I Grooved Plastic Film 24" Wide	LF	72	\$ 40.00	\$ 2,880.00				72	\$ 40.00	\$ 2,880.00
0084	Paint Epoxy Message	SF	32	\$ 20.00	\$ 640.00				32	\$ 20.00	\$ 640.00
0085	Paint Epoxy Line 4" Wide	LF	3,244	\$ 6.00	\$ 19,464.00				3,244	\$ 6.00	\$ 19,464.00
0086	Paint Epoxy Line 8" Wide	LF	234	\$ 10.00	\$ 2,340.00				234	\$ 10.00	\$ 2,340.00
0087	Paint Epoxy Line 24" Wide	LF	-	\$ 20.00	\$ -				-	\$ 20.00	\$ -
0088	Obliterate Pavement Markings	SF	182	\$ 35.00	\$ 6,370.00				182	\$ 35.00	\$ 6,370.00
0089	Temp Fence - Safety	LF	2,167	\$ 6.00	\$ 13,002.00				2,167	\$ 6.00	\$ 13,002.00
0090	Remove Fence	LF	202	\$ 27.00	\$ 5,454.00				202	\$ 27.00	\$ 5,454.00
0091	Temp Pumping	LS	1	\$ 95,000.00	\$ 95,000.00				1	\$ 95,000.00	\$ 95,000.00
0092	Clear & Grub	LS	1	\$ 15,000.00	\$ 15,000.00				1	\$ 15,000.00	\$ 15,000.00
0093	Remove Tree	EA	19	\$ 600.00	\$ 11,400.00				19	\$ 600.00	\$ 11,400.00
0094	Silt Fence - Standard	LF	784	\$ 4.00	\$ 3,136.00				784	\$ 4.00	\$ 3,136.00
0095	Floating Silt Fence	LF	93	\$ 30.00	\$ 2,790.00				93	\$ 30.00	\$ 2,790.00
0096	Sediment Control Log 6" to 8" Dia	LF	1,130	\$ 3.00	\$ 3,390.00				1,130	\$ 3.00	\$ 3,390.00
0097	Inlet Protection - New Inlet	EA	7	\$ 300.00	\$ 2,100.00				7	\$ 300.00	\$ 2,100.00
0098	Inlet Protection - Existing Inlet	EA	9	\$ 200.00	\$ 1,800.00				9	\$ 200.00	\$ 1,800.00
0099	Salvage Signal Standard	EA	1	\$ 300.00	\$ 300.00				1	\$ 300.00	\$ 300.00
0100	Lighting System	LS	1	\$ 20,000.00	\$ 20,000.00				1	\$ 20,000.00	\$ 20,000.00
0101	Propane Tanks Remove and Replace	LS	1	\$ 20,000.00	\$ 20,000.00				1	\$ 20,000.00	\$ 20,000.00

WP-42A.1/A.3**4th Street Pump Station and Gatewell - 2nd Street Floodwall South**

Change Order 11 Unit Price Schedule

DATE: 04/08/2021



WP-42A.1/A.3 - 4th Street Pump Station and Gatewell - 2nd Street Floodwall South											
ITEM	DESCRIPTION	UNIT	Current Budget			Net Change			New Budget		
			QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT
0102	Replace Unsalvagable Bollards	EA	40	\$ 1,000.00	\$ 40,000.00				40	\$ 1,000.00	\$ 40,000.00
0103	Revise Flashing Beacon System	LS	1	\$ 15,000.00	\$ 15,000.00				1	\$ 15,000.00	\$ 15,000.00
0104	Revise Traffic Control System	LS	1	\$ 20,000.00	\$ 20,000.00				1	\$ 20,000.00	\$ 20,000.00
0105	F&I Bus Shelter	EA	1	\$ 30,000.00	\$ 30,000.00				1	\$ 30,000.00	\$ 30,000.00
0106	F&I Sheet Piling - Steel	SF	168	\$ 65.00	\$ 10,920.00				168	\$ 65.00	\$ 10,920.00
0107	Topsoil - Strip	CY	5,870	\$ 5.00	\$ 29,350.00				5,870	\$ 5.00	\$ 29,350.00
0108	Topsoil - Spread	CY	2,784	\$ 5.00	\$ 13,920.00				2,784	\$ 5.00	\$ 13,920.00
0109	Embankment	CY	45,017	\$ 13.00	\$ 585,221.00				45,017	\$ 13.00	\$ 585,221.00
0110	Embankment Import	CY	8,617	\$ 22.00	\$ 189,574.00				8,617	\$ 22.00	\$ 189,574.00
0111	Excavation	CY	36,400	\$ 9.00	\$ 327,600.00				36,400	\$ 9.00	\$ 327,600.00
0112	Grading North of 2nd St S and West of 4th St S	LS	1	\$ 20,000.00	\$ 20,000.00				1	\$ 20,000.00	\$ 20,000.00
0113	Mulching Type 1 - Hydro	SY	16,703	\$ 0.50	\$ 8,351.50				16,703	\$ 0.50	\$ 8,351.50
0114	Seeding Type B	SY	16,703	\$ 0.35	\$ 5,846.05				16,703	\$ 0.35	\$ 5,846.05
0115	Overseeding	SY	33,405	\$ 0.25	\$ 8,351.25				33,405	\$ 0.25	\$ 8,351.25
0116	Weed Control Type B	SY	16,703	\$ 0.15	\$ 2,505.45				16,703	\$ 0.15	\$ 2,505.45
0117	Removable Floodwall	LS	1	\$ 120,000.00	\$ 120,000.00				1	\$ 120,000.00	\$ 120,000.00
0118	F&I Floodwall Reinf Bars - Steel	LB	63,445	\$ 1.10	\$ 69,789.50				63,445	\$ 1.10	\$ 69,789.50
0119	F&I Floodwall Reinf Bars - Epoxy Coated Steel	LB	59,852	\$ 1.30	\$ 77,807.60				59,852	\$ 1.30	\$ 77,807.60
0120	F&I Floodwall - Structural Conc	CY	828	\$ 1,100.00	\$ 910,800.00				828	\$ 1,100.00	\$ 910,800.00
0121	F&I Floodwall - Misc.	LS	1	\$ 225,000.00	\$ 225,000.00				1	\$ 225,000.00	\$ 225,000.00
0122	Demolition Pump Stations, Storm Sewers, Force Mains	LS	1	\$ 110,000.00	\$ 110,000.00				1	\$ 110,000.00	\$ 110,000.00
0123	Force Mains and Sump Pump Discharge	LS	1	\$ 600,000.00	\$ 600,000.00				1	\$ 600,000.00	\$ 600,000.00
0124	Pump Station - Structural and Architectural	LS	1	\$ 2,700,000.00	\$ 2,700,000.00				1	\$ 2,700,000.00	\$ 2,700,000.00
0125	Stormwater Pumps and Motors	LS	1	\$ 1,200,000.00	\$ 1,200,000.00				1	\$ 1,200,000.00	\$ 1,200,000.00
0126	Sump Pumps	LS	1	\$ 60,000.00	\$ 60,000.00				1	\$ 60,000.00	\$ 60,000.00

WP-42A.1/A.3**4th Street Pump Station and Gatewell - 2nd Street Floodwall South**

Change Order 11 Unit Price Schedule

DATE: 04/08/2021



WP-42A.1/A.3 - 4th Street Pump Station and Gatewell - 2nd Street Floodwall South											
ITEM	DESCRIPTION	UNIT	Current Budget			Net Change			New Budget		
			QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT
0127	Trash Racks and Miscellaneous Metals	LS	1	\$ 320,000.00	\$ 320,000.00				1	\$ 320,000.00	\$ 320,000.00
0128	Sluice Gates and Wall Thimbles	LS	1	\$ 250,000.00	\$ 250,000.00				1	\$ 250,000.00	\$ 250,000.00
0129	Generator Building - Structural and Architectural	LS	1	\$ 551,000.00	\$ 551,000.00				1	\$ 551,000.00	\$ 551,000.00
0130	Gatewell Structural	LS	1	\$ 870,000.00	\$ 870,000.00				1	\$ 870,000.00	\$ 870,000.00
0131	Gatewell - Miscellaneous Metals	LS	1	\$ 100,000.00	\$ 100,000.00				1	\$ 100,000.00	\$ 100,000.00
0132	Sheetpiling (Pump Station)	LS	1	\$ 1,200,000.00	\$ 1,200,000.00				1	\$ 1,200,000.00	\$ 1,200,000.00
0133	Health and Safety	LS	1	\$ 165,000.00	\$ 165,000.00				1	\$ 165,000.00	\$ 165,000.00
0134	Diesel Generator	LS	1	\$ 385,000.00	\$ 385,000.00				1	\$ 385,000.00	\$ 385,000.00
0135	Switchboard SWBDA, Motor Control Center MCLA, Automatic Transfer Switch, Panel HP1	LS	1	\$ 280,000.00	\$ 280,000.00				1	\$ 280,000.00	\$ 280,000.00
0136	Electrical-Interior	LS	1	\$ 105,000.00	\$ 105,000.00				1	\$ 105,000.00	\$ 105,000.00
0137	Electrical-Exterior	LS	1	\$ 138,066.65	\$ 138,066.65				1	\$ 138,066.65	\$ 138,066.65
0138	Instrumentation and Controls	LS	1	\$ 25,000.00	\$ 25,000.00				1	\$ 25,000.00	\$ 25,000.00
0139	Programming	LS	1	\$ 4,300.00	\$ 4,300.00				1	\$ 4,300.00	\$ 4,300.00
0140	HVAC – General	LS	1	\$ 20,000.00	\$ 20,000.00				1	\$ 20,000.00	\$ 20,000.00
0141	Plumbing General	LS	1	\$ 9,570.00	\$ 9,570.00				1	\$ 9,570.00	\$ 9,570.00
0142	Generator Accessories, Fuel Storage and Fuel System	LS	1	\$ 156,200.00	\$ 156,200.00				1	\$ 156,200.00	\$ 156,200.00
0143	Plug Pipe 30" Dia.	EA	1	\$ 860.00	\$ 860.00				1	\$ 860.00	\$ 860.00
0144	F&I Curb & Gutter Standard (Type I)	LF	281	\$ 43.00	\$ 12,083.00				281	\$ 43.00	\$ 12,083.00
0145	F&I Grooved Plastic Film 8" Wide	LF	224	\$ 13.00	\$ 2,912.00				224	\$ 13.00	\$ 2,912.00
0146	F&I Pipe 15" Dia Reinf Conc	LF	18	\$ 82.31	\$ 1,481.58				18	\$ 82.31	\$ 1,481.58
0147	Warming House Electrical Service	LS	1	\$ 49,834.89	\$ 49,834.89				1	\$ 49,834.89	\$ 49,834.89
0148	Bore 36" Pipe	LS	1	\$ 80,566.24	\$ 80,566.24				1	\$ 80,566.24	\$ 80,566.24
0149	Plug Pipe 6" Dia	EA	3	\$ 439.69	\$ 1,319.07				3	\$ 439.69	\$ 1,319.07
0150	F&I Flared End Section 48" Dia Reinf Conc	EA	1	\$ 5,119.28	\$ 5,119.28				1	\$ 5,119.28	\$ 5,119.28
0151	Connect Water Service	EA	2	\$ 2,643.38	\$ 5,286.76				2	\$ 2,643.38	\$ 5,286.76

WP-42A.1/A.3**4th Street Pump Station and Gatewell - 2nd Street Floodwall South**

Change Order 11 Unit Price Schedule

DATE: 04/08/2021



WP-42A.1/A.3 - 4th Street Pump Station and Gatewell - 2nd Street Floodwall South											
ITEM	DESCRIPTION	UNIT	Current Budget			Net Change			New Budget		
			QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	UNIT PRICE	AMOUNT
0152	F&I Pipe 1" Dia Copper	LF	124	\$ 49.35	\$ 6,119.40				124	\$ 49.35	\$ 6,119.40
0153	F&I Pipe w/GB C900 DR 18 - 6" Dia PVC	LF	80	\$ 193.20	\$ 15,456.00				80	\$ 193.20	\$ 15,456.00
0154	Special Order Asbestos Fittings	EA	1	\$ 5,484.57	\$ 5,484.57				1	\$ 5,484.57	\$ 5,484.57
0155	Unknown Structures	LS	1	\$ 87,262.68	\$ 87,262.68				1	\$ 87,262.68	\$ 87,262.68
0156	CO-01 Field Changes	LS	1	\$ 14,998.89	\$ 14,998.89				1	\$ 14,998.89	\$ 14,998.89
0157	CO-02 Misc Requirements	LS	1	\$ 15,394.85	\$ 15,394.85				1	\$ 15,394.85	\$ 15,394.85
0158	Fargo Highrise Work	LS	1	\$ 6,362.42	\$ 6,362.42				1	\$ 6,362.42	\$ 6,362.42
0159	CO-04	LS	1	\$ 15,174.67	\$ 15,174.67				1	\$ 15,174.67	\$ 15,174.67
0160	Sanitary Overflow Connection	LS	1	\$ 10,363.71	\$ 10,363.71				1	\$ 10,363.71	\$ 10,363.71
0161	T&M Budget for Asbestos Pipe and Unsuitable Material Removal	LS	1	\$ 140,000.00	\$ 140,000.00				1	\$ 140,000.00	\$ 140,000.00
0162	CO-06	LS	1	\$ 67,079.47	\$ 67,079.47				1	\$ 67,079.47	\$ 67,079.47
0163	CO-07	LS	1	\$ 7,689.91	\$ 7,689.91				1	\$ 7,689.91	\$ 7,689.91
0164	Reprogramming Display	LS	1	\$ 1,386.00	\$ 1,386.00				1	\$ 1,386.00	\$ 1,386.00
0165	CO-09	LS	1	\$ 6,113.80	\$ 6,113.80				1	\$ 6,113.80	\$ 6,113.80
0166	CO-10 Generator Breaker and Breaker Box	LS	1	\$ 20,948.00	\$ 20,948.00				1	\$ 20,948.00	\$ 20,948.00
0167	CO-10 Additional Wiring from Load Bank to Breaker Box	LS	1	\$ 8,002.00	\$ 8,002.00				1	\$ 8,002.00	\$ 8,002.00
0168	CO-11	LS				1	\$ 284,991.94	\$ 284,991.94	1	\$ 284,991.94	\$ 284,991.94
42A.1/A.3 - TOTAL AMOUNT			CURRENT BUDGET		\$ 18,073,821.19	NET CHANGE		\$ 284,991.94	NEW BUDGET		\$ 18,358,813.13

SETTLEMENT AGREEMENT
AND MUTUAL RELEASE OF ALL CLAIMS

This Settlement Agreement and Mutual Release of All Claims ("Settlement Agreement") is made this 2 day of April, 2021, by and among ICS, Inc. ("ICS"), and the Metro Flood Diversion Authority (the "Diversion Authority").

RECITALS

A. The parties are involved in a dispute arising out of a project to perform flood control work in the City of Fargo, North Dakota, generally described as the 4th Street Pump Station and Gatewell; 2nd Street Floodwall South, Work Package 42A.1/42A.3 (the "Project").

B. On or about November 18, 2014, the parties entered into an Agreement Between Owner and Contractor for Combined General Construction, Electrical Construction, and Mechanical Construction Contract No. 4 (the "Contract"). The work on the Project is substantially complete.

C. ICS commenced suit against the Diversion Authority on or about November 16, 2018, for various Project-related claims and alleged damages arising out of the Contract.

D. The Diversion Authority filed a Counterclaim against ICS on or about December 5, 2018, for various Project-related claims and alleged damages arising out of the Contract.

E. The parties' respective claims were asserted in the lawsuit styled ICS, Inc. v. Metro Flood Diversion Authority, Case No. 09-2018-CV-03907, filed in Cass County District Court, State of North Dakota (the "Lawsuit").

F. On or about March 9, 2021, the Diversion Authority extended a settlement offer to ICS pursuant to Rule 68 of the North Dakota Rules of Civil Procedure. ICS accepted the Rule 68 offer on or about March 23, 2021.

G. To avoid the time and expense of litigation, the parties wish to resolve their differences and reach a compromise and settlement for all disputes existing or potentially existing between them as a result of the above dispute and Lawsuit.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is mutually acknowledged, the parties voluntarily enter into this Settlement Agreement and agree as follows:

1. Payment. In exchange for the release and dismissal contained herein, the Diversion Authority agrees to pay ICS the sum of One Million Two Hundred Thousand and 00/100 Dollars (\$1,200,000.00), along with costs accrued to date by ICS of Sixty Five Thousand Fifty One and 00/100 Dollars (\$65,051), for a total payment of One Million Two Hundred Sixty Five Thousand Fifty One and 00/100 Dollars (\$1,265,051.00) (the "Settlement Amount"). The Settlement Amount will be paid by the Diversion Authority to the Trust Account of the law firm of Fabyanske, Westra, Hart & Thompson, P.A., within 30 days of the dismissal of the Lawsuit.

2. Mutual Release. In consideration of the Settlement Amount, the sufficiency of which is hereby acknowledged, the parties hereby unconditionally and mutually release and forever discharge each other, and their insurers, successors, parents, affiliates, agents, employees, former employees, sureties, subsidiaries, dealers and distributions, subcontractors and suppliers of every tier, and the current and former officers, directors, employees, insurers, and assigns of each, from any and all actions, demands, and claims arising out of the Project and the Contract, whether known or unknown, whether sounding in tort or contract or otherwise, that arise out of the Project or were made or could have been made in the Lawsuit.

3. Dismissal. The parties agree to the dismissal with prejudice of the above-referenced Lawsuit without costs to any party, and agree and authorize their respective attorneys to enter into a Stipulation for Dismissal with Prejudice, the form of which is attached hereto as Exhibit A.

4. Waiver. As further consideration for the payment made herein, the parties further agree to waive the provisions of Section 9-13-02 of the North Dakota Century Code, or any similar and applicable state or federal provision, which may state that a general release does not extend to claims the creditor does not know or suspect to exist in its favor at the time of executing the release, which if known by it, must have materially affected the settlement with the debtor. The parties also agree, as a further consideration for the payment made herein, to waive the provisions of Section 9-08-08 and Section 9-08-09 of the North Dakota Century Code or any similar applicable state or federal provision, which relates to any rights to elect to rescind this agreement for whatever reason.

5. No Admission of Liability. The parties understand and agree that this settlement is a compromise of a disputed claim; that the payment made to ICS is not to be construed as an admission of liability on the part of the released parties; that the released parties deny any liability; and that the purpose of this Settlement Agreement is solely to avoid litigation and to buy peace.

6. Binding Effect. The terms of this Settlement Agreement shall be binding upon and be enforceable against and shall inure to the benefit of the parties individually and the heirs, successors, insurers, subcontractors, sureties, carriers, personal representatives, and assigns of each.

7. Tax Consequences. The parties agree that ICS has not relied upon any representations, express or implied, made by the Diversion Authority, as to any tax consequences of the Settlement Agreement, and ICS expressly, without limitation of any other terms or provisions herein, releases the Diversion Authority, its agents, servants, employees, attorneys, and others, of and from any and all liability in connection with any tax consequences as a result of the payment made to the released parties herein.

8. Intent to Give Effect to Agreement. The parties agree that if any provisions or terms of this Settlement Agreement are determined by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the validity, legality, and enforceability of the remaining provisions will not be in any way affected or impaired thereby and will be given their full force and effect.

9. Entire Agreement. This document represents the entire agreement between the parties. Any prior understandings or representations of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated in this agreement.

10. Governing Law. The parties agree that this Settlement Agreement will be construed and interpreted in accordance with the laws of the State of North Dakota.

11. Construction. The parties agree that this Settlement Agreement was mutually negotiated between the parties at arm's length, that each party had the opportunity to consult with independent legal counsel, and that there shall not be a presumption of construction against any party hereto.

12. Representations. The parties each represent and warrant that it is fully authorized to enter into this Settlement Agreement and to bind itself to fully effectuate all obligations undertaken herein; that no rights or claims covered by this Settlement Agreement have been assigned or given to anyone else; and that the person executing this Settlement Agreement on its behalf is authorized to bind the party for which he/she/it signs.

13. Headings. Headings of the paragraphs and subparagraphs of this Settlement Agreement are for convenience or reference only and do not form a part thereof and in no way interpret or construe such paragraphs and subparagraphs.

14. 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 e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

THE PARTIES TO THIS SETTLEMENT AGREEMENT ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTOOD THE TERMS OF THIS AGREEMENT, THAT THEY HAVE HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL REGARDING THIS AGREEMENT AND THAT THEY ARE VOLUNTARILY ENTERING INTO THIS AGREEMENT.

STATE OF ND

COUNTY OF GRAVLS FORKS

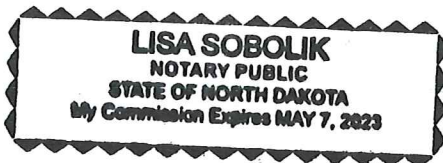
ss

ICS, Inc.:

[Signature]

Its: VICE PRESIDENT

On this 2nd day of April, 2021, before me personally appeared Gary Beeter, known to me to be the VICE Pres of ICS, Inc., and who executed the foregoing Settlement Agreement and Mutual Release of All Claims and acknowledges to me that he voluntarily executed the same.



[Signature]

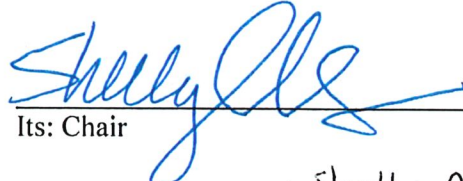
Notary Public

STATE OF NORTH DAKOTA

COUNTY OF CASS

Ss

Metro Flood Diversion Authority:


Its: Chair

On this 8 day of April, 2021, before me personally appeared Shelly Carlson known to me to be the Chair of the Metro Flood Diversion Authority, and the person named herein and who executed the foregoing Settlement Agreement and Mutual Release of All Claims and acknowledged to me that he voluntarily executed the same.




Notary Public

STATE OF NORTH DAKOTA

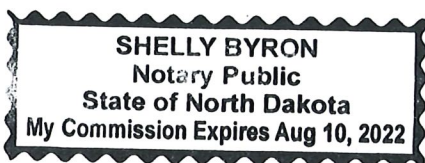
COUNTY OF CASS

Ss

Metro Flood Diversion Authority:


Its: Executive Director

On this 12 day of April, 2021, before me personally appeared Joel Paulsen, known to me to be the Exec. Director of the Metro Flood Diversion Authority, and the person named herein and who executed the foregoing Settlement Agreement and Mutual Release of All Claims and acknowledged to me that he voluntarily executed the same.




Notary Public



CONTRACT NUMBER: WP42A1A3

PROJECT NAME: Change Order 11

CONSULTANT NAME: ICS Inc.

DATE SUBMITTED: April 13, 2021

SUBMITTED BY: Ian Joynes/Jacobs

LEGAL REVIEW

 X APPROVED AS IS

 APPROVED WITH COMMENTS

 NOT APPROVED

Legal Sign-Off (signature): John T. Shockley

Printed Name: John T. Shockley

Date of Sign-Off: 4-13-2021



CONTRACT NUMBER: Task Order 01, Amendment 18

PROJECT NAME: Work In Kind (WIK)

CONSULTANT NAME: HMG

DATE SUBMITTED: March 30, 2021

SUBMITTED BY: Ian Joynes/Jacobs

LEGAL REVIEW

 X APPROVED AS IS

 APPROVED WITH COMMENTS

 NOT APPROVED

Legal Sign-Off (signature): 

Printed Name: John T. Shockley

Date of Sign-Off: 3-30-2021

**Executive Director Contracting Recommendation**

Date: 30/03/2021

RECOMMENDATION FOR ACTION:

The Executive Director has reviewed and recommends approval of the following Contract Action(s).

SUMMARY OF CONTRACTING ACTION:

Per the contract review and approval procedures that were adopted by the Diversion Authority on November 10, 2016 and amended February 11, 2021, the Owner's Program Management Consultant (PMC) or Engineer of Record (EOR) is directed to prepare task orders and task order amendments for existing Master Services Agreements (MSA) and submit them to the Executive Director for review and action.

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

Houston-Moore Group, LLC (HMG)*Task Order 1, Amendment 18:**Additional Budget, increases the Insurance subtask D***\$269,384.88**

- Add budget, Professional Liability Insurance March 13, 2021 to March 13, 2022

BACKGROUND AND DISCUSSION:

Under Task Order 1, Houston-Moore Group, LLC (HMG) is responsible for: providing overall project management of Engineer design teams and subcontractor design teams; coordinating with the Owner and Program Management Consultant (PMC); providing public involvement assistance, and providing on-call services when requested. HMG has provided these professional services from March 8, 2012, to the present time.

The table below summarizes the contracting history for this task order and the current contracting action.

SUMMARY OF CONTRACTING HISTORY AND CURRENT CONTRACT ACTION:

	Budget Change	Initial or Revised Project Cost	Project Start	Project Completion	Comments
Task Order 1 Amendment 0	\$ -	\$961,175	8-Mar-12	30-Sep-12	Initial authorization of subtasks A through C.
Task Order 1 Amendment 1	\$1,075,000	\$2,036,675	10-Oct-12	30-Sep-13	Added subtask D. Insurance, and funding for subtasks A.i (Project Management) and A.ii (Public Involvement Assistance).
Task Order 1 Amendment 2	\$36,000	\$2,072,675	10-Jan-13	30-Sep-13	Added meetings and funding under A.i (Project Management).
Task Order 1 Amendment 3	\$350,000	\$2,422,675	10-Sep-13	30-Sep-14	Extended POP for All Work to 30-Sep-14, and added funding for subtask A.i (Project Management).
Task Order 1 Amendment 4	\$65,000	\$2,487,675	13-Feb-14	30-Sep-14	Added funding and reallocated existing funding within subtasks.
Task Order 1 Amendment 5	\$920,000	\$3,407,675	14-Aug-14	30-Sep-15	Extended POP for All Work to 30-Sep-15, and added funding for subtasks A.i (Project Management) and D. (Insurance).
Task Order 1 Amendment 6	\$450,000	\$3,857,675	14-Aug-15	31-Mar-16	Extended POP for All Work to 31-Mar-16, and added funding for subtasks A.i (Project Management), A.ii (Public Involvement Assistance), and D. (Insurance).

	Budget Change	Initial or Revised Project Cost	Project Start	Project Completion	Comments
Task Order 1 Amendment 7	\$398,000	\$4,255,675	11-Mar-16	31-Dec-16	Add funding for subtasks A.i (Project Management) and A.ii (Public Involvement Assistance). Add insurance requirement for 2016. Add requirements for monthly schedule updates invoicing and status reporting. Extends POP for All Work through 31-Dec-16.
Task Order 1 Amendment 8	\$15,100	\$4,270,775	23-Jun-16	31-Dec-16	Increase Subtask D (Insurance) to cover actual 2016 insurance cost and updated the programmatic schedule activity ID for Project Management subtasks.
Task Order 1 Amendment 9	\$109,752	\$4,380,527	11-Aug-16	31-Dec-16	Add budget for additional monthly reporting and scope and budget for completed work packages GIS submittals.
Task Order 1 Amendment 10	\$790,000	\$5,170,527	01-Jan-17	31-Dec-17	Extend POP for All Work through 31-Dec-17 and add 2017 scope and budget.
Task Order 1 Amendment 11	\$143,038	\$5,313,565	01-Jan-17	31-Dec-17	Incorporate new MSA terms and conditions dated May 01, 2017, and adjust budgets to reflect new MSA billing rates.
Task Order 1 Amendment 12	\$575,310.05	\$5,888,875.05	01-Jan-18	31-Dec-18	Extend POP through 31-Dec-18 and add 2018 budget.
Task Order 1 Amendment 13	\$771,640	\$6,660,515.05	01-Jan-19	31-Dec-19	Add 2019 budget, reallocate portions of unused budgets, and extend POP through 31-Dec-19.
Task Order 1 Amendment 14	\$0	\$6,660,515.05	01-Jan-20	28-Feb-20	Extend the POP to February 28, 2020.
Task Order 1 Amendment 15	\$501,073	\$7,161,588.05	29-Feb-20	31-Dec-20	Add budget and extend the POP to December 31, 2020
Task Order 1 Amendment 16	\$249,931.77	\$7,411,519.82	29-Feb-20	31-Dec-20	Reimbursement of the cost of Professional Liability Insurance and all required Tail Insurance.
Task Order 1 Amendment 17	\$852,780.00	\$8,264,299.82	29-Feb-20	31-Dec-21	Add budget, Incorporate the 2021 Rates and Extend the PoP to December 31, 2021.
Task Order 1 Amendment 18	\$269,384.88	\$8,533,684.70	29-Feb-20	31-Dec-21	Add budget, Reimbursement of the cost of Professional Liability Insurance and all required Tail Insurance.

FINANCIAL CONSIDERATIONS:

Amendment 18 to Task Order 1 is a \$269,384.88 budget increase.

TASK ORDER 01 BUDGETS BY SUBTASK:

Subtask (Work Order #)	Activity ID	Current Budget (\$)	Change (\$)	Revised Budget (\$)
A.i Project Management	SW-1160	6,520,250.00		
A.ii Public Involvement Assistance	SW-1160	339,213.00		
B. Project Controls	SW-1160	611,663.00		
C. On-Call Services	SW-1160	47,606.00		
D. Insurance	SW-1160	745,567.82	269,384.88	1,014,952.70
TOTAL		7,411,519.82	269,384.88	8,533,684.70

Summary of Budget Allocation – Year 2021**Task Order 01**

Original Agreement or Amendment	Cost account code	Estimated cost 2021 (\$)	Budget Allocated 2021 (\$)	Budget Remaining 2021 (\$)	Comments
Task Order 01	SW-1160	1,200,000	1,200,000	0	
Total for 2021	SW-1160	1,200,000	1,200,000	0	Within allocated annual budget.

Summary of Cost to date – Year 2021

Original Agreement or Amendment	Cost account code	Cost to date Feb 2021 (\$)	TO01 A18 (\$)	Cost Remaining 2021 (\$)	Comments
Task Order 01	SW-1160	138,699.79	269,384.88	791,935.33	

The PMC prepared this task order amendment, and feels the information is accurate, complete, and ready for Executive Director review.

ATTACHMENT(S):

1. Task Order No. 1, Amendment 18

Prepared by: Program Management Consultant

Ian Joynes

Ian Joynes
Jacobs

March 30, 2021

Date

Submitted by:

Joel Paulsen

Joel Paulsen
Diversion Authority Executive Director

Concur: ☒ Non-Concur: ☐

Cc: Technical Advisory Group

- Nathan Boerboom, City of Fargo Engineer/Diversion Authority Project Manager
- David Overbo, Clay County Engineer
- Jason Benson, Cass County Engineer
- Robert Zimmerman, Moorhead City Engineer
- Matt Stamness, Assistant Cass County Engineer/Diversion Authority Project Manager
- Dustin Scott, West Fargo City Engineer
- Kris Bakkegard, Diversion Authority Director of Engineering



Diversion Authority Board Meeting

April 22, 2021

Luucoo – Envision Program Next Phases for
Approval

Joel Paulsen

Luceo – Envision Program



Subcontractor to Jacobs

- Board previously approved full budget and scope of work as a no cost amendment to the Jacobs contract
- Board requested a progress update and approval to move to next phases of work
- Luceo provided an Envision program update at the March 2021 Board meeting.

Phases of Work

- Phase 1 – Initial Program Exploration and Feasibility – COMPLETE
- Phase 2 – P3 RFP Integration and Program Baseline – Initiated
- Phases 3 and 4 – Measurement, Tracking, Monitoring and Evaluating Project Performance; Certification; and Funding Support – Request for Phase Approval

Next Steps for the Envision Program

- Continue with ongoing tracking and reporting as part of the Quality Management Process
- Support Federal funding opportunities
- Continue to support local workforce development strategies
- Ongoing coordination and meetings with P3 Team

Request to the MFDA Board of Authority

- Approval of Luceo to continue with next phases of work and next steps as outlined above.