

RESOLUTION REGARDING SALES, USE AND GROSS
RECEIPTS TAX FOR F-M AREA DIVERSION PROJECT
(Montplaisir)

SUGGESTED MOTION:

Adopt Resolution #2016-20 Regarding Sales, Use and Gross Receipts Tax for Fargo-Moorhead (F-M) Area Diversion Project and Other Flood Control Measures; and direct the County Auditor to publish a Notice of Proposed Home Rule Charter Amendment on August 29, 2016 in *The Forum* and to place the question on the November 8, 2016 ballot.

RESOLUTION #2016-20

**REGARDING SALES, USE AND GROSS RECEIPTS TAX FOR FARGO-MOORHEAD
(F-M) AREA DIVERSION PROJECT AND OTHER FLOOD CONTROL MEASURES**

WHEREAS, the Red River and its tributaries regularly exceed the flood stage in Cass County; and

WHEREAS, the frequent flooding on the Red River and its tributaries threatens the life and property of the citizens of Cass County; and

WHEREAS, the County of Cass desires to protect the lives and property of the citizens of Cass County from the frequent flooding on the Red River and its tributaries; and

WHEREAS, the Army Corps of Engineers has studied various options for reducing the amount of damage caused by the frequent flood stages in Cass County; and

WHEREAS, the Metro Flood Group, now formally named as the Metro Flood Diversion Authority, the cities of Fargo and Moorhead, and the counties of Cass and Clay have adopted a locally preferred option for flood control; and

WHEREAS, the cost of the Fargo-Moorhead (FM) Area Diversion Project will be borne by various entities, including Cass County and the citizens of Cass County; and

WHEREAS, the Cass County Board of Commissioners, under its charter, may on its own motion submit any question to the electorate for a vote of the people and the electorate must approve that action by a majority vote of the electors voting.

NOW, THEREFORE, BE IT RESOLVED, that the Cass County Board of Commissioners hereby elects to proceed with a vote of the electorate at the next regularly scheduled election on whether a retail sales, use and gross receipts tax should be imposed and subject to limitations as follows:

1. Sales taxed shall be limited to those which are taxed by the State of North Dakota pursuant to Chapter 57-39.2 of the North Dakota Century Code.
2. The amount of the tax shall not exceed one half of one percent of the sales, use and gross receipts, which are taxed by the State of North Dakota pursuant to Chapter 57-39.2 of the North Dakota Century Code, nor shall the tax exceed twelve dollars and fifty cents on any single purchase; provided, that a higher rate of tax may be imposed and collected on sales of less than one dollar and on sales of fractional dollar amounts and the bracket system for the application of the state sales tax set forth in Section 57-39.2-08.2 of the North Dakota Century Code shall be adjusted to incorporate the additional county tax. The retail sales tax imposed shall be computed and collected in the same manner provided by law for the collection of the state sales tax.
3. The sales, use and gross receipts tax, which is adopted by this Resolution and is imposed pursuant to the authority granted by the Cass County Home Rule Charter, shall remain in effect until December 31, 2084 unless the Board of County Commissioners takes action to lower or discontinue the tax. In no event shall the tax be lowered or discontinued until all costs of construction and while any bonded debt, including special assessments and/or availability payments for the construction remains unpaid for the Fargo-Moorhead (FM) Area Diversion Project.

4. The proceeds of the sales, use and gross receipts tax, which is imposed pursuant to the Cass County Home Rule Charter, shall be solely utilized for the Fargo-Moorhead (FM) Area Diversion Project and other flood control purposes including the payment of special assessments and indebtedness for the Fargo-Moorhead (FM) Area Diversion Project and other flood control measures.

AND, BE IT FURTHER RESOLVED, the Cass County Board of Commissioners hereby certifies a ballot question for consideration by Cass County electors for an election to be held November 8, 2016.

FLOOD PROTECTION SALES, USE AND GROSS RECEIPTS TAX PROPOSAL

Shall the Cass County Home Rule Charter be amended to extend the existing flood-protection-related sales, use and gross receipts tax of one-half of one percent (1/2%) to be used for the engineering, land purchase, construction, and maintenance of flood control measures including the Metro Flood Diversion Project including associated special assessments and indebtedness, through December 31, 2084 unless rescinded earlier by the Cass County Commission, all as provided in Resolution #2016-20 and in the Notice of Proposed Cass County Home Rule Charter Amendment as published in THE FORUM on the 29th day of August, 2016.

SHALL SUCH AMENDMENT BE APPROVED?

Yes	0
No	0

Dated at Fargo, North Dakota, this 15th day of August, 2016.

APPROVED:

Mary Scherling, Chairwoman
Cass County Board of Commissioners

ATTEST:

Michael Montplaisir
Cass County Auditor



Diversion Authority Financial Plan & Fargo Sales Tax Extension

Presented By:

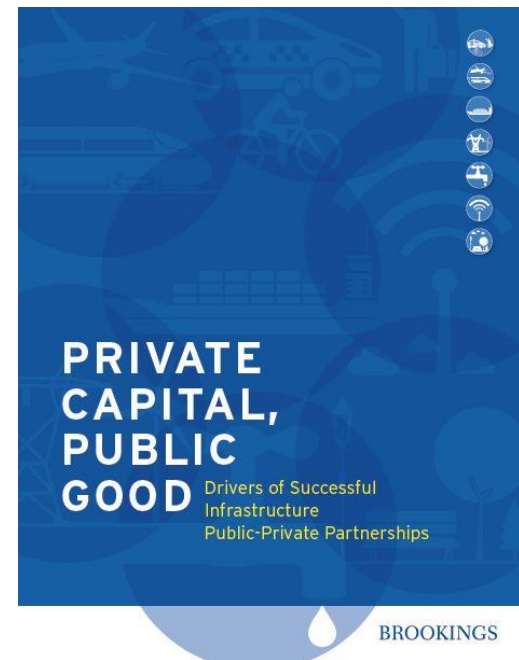
John T. Shockley, Ohnstad Twichell, P.C.

Martin Nicholson, CH2M

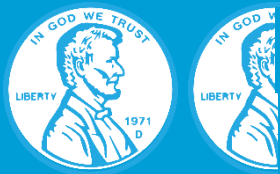
Tom Rousakis, Ernst & Young Infrastructure Advisors

What is a Public-Private Partnership (P3)?

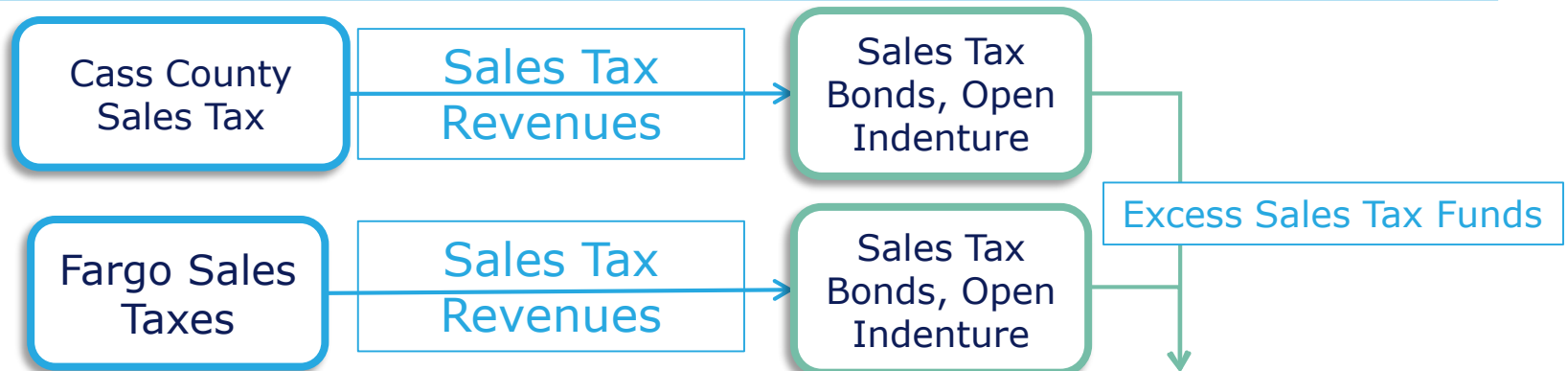
- A project delivery approach:
 - Competitive procurement process
 - Project Agreement between the DA and a private developer
 - Fixed price delivery of the design, construction, finance and maintenance of the Diversion Channel and Associated Infrastructure for 30 years
- P3 is not privatization
 - The public sector maintains ownership of the land and all improvements



Financial Plan Utilizes an Extension of Existing City of Fargo and Cass County Flood-Related Sales Taxes

	City of Fargo		Cass County
	½ ¢	½ ¢	½ ¢
Current Expiration Date	2032	2029	2031
Purpose	Infrastructure & Flood Control	Flood Control	Flood Control
Sales Taxes to be Extended	1½¢ 		

Flow Chart of Permanent Financing



Improvement Bonds Issued by CCJWRD

- Credit Enhancement Debt Instrument
 - No Reserve Fund required
 - No Coverage Test requirements
- Uses sales tax funds available after payment of sales tax bonds & use of funds are subordinate to sales tax bonds issued by Cass County and Fargo
- Also used to secure Availability Payments
- Annual special assessments are **not** projected to be needed & only used if sales and use tax funds and Reserve Fund are insufficient

Long-Term Financing

- Sales Tax Bonds
 - Special limited obligations of Cass County & City of Fargo
 - Bondholders have no legal right to other available funds of Cass County or City of Fargo
 - Multi-generational funding source
- Improvement Bonds (Assessment District)
 - Improves & protects credit ratings
 - Provides access to future sales tax growth
 - No reserve requirement
 - No coverage test for revenue



Financial Plan Takes a Multi-Generational Approach

- **Key features of the Financial Plan include:**
 - Long-term extension of existing sales taxes at current rates (subject to voter approval)
 - 3% sales tax growth (historical average = 4%)
 - Improvement District mechanism to improve credit ratings and access sales tax growth
 - No special assessments required to be paid by property owners
 - P3 financing to enhance project delivery
 - Multiple financing tools to achieve a prudent, robust, and cost-effective financial profile



Sources of Funding and Financing

- **Federal Funding:**

- \$450 million (2015\$) to fund USACE portion of the Project, escalating to year-of-expenditure per PPA

- **State Funding:**

- \$450 million from North Dakota for DA projects (committed)
- \$120 million from North Dakota for In-Town Projects (committed)
- \$43 million from Minnesota (to be requested)

- **Sales Tax Revenues**

- Existing flood-protection related sales taxes allocated to FM Metro Flood Protection
- Covers all PAYGO and debt service requirements

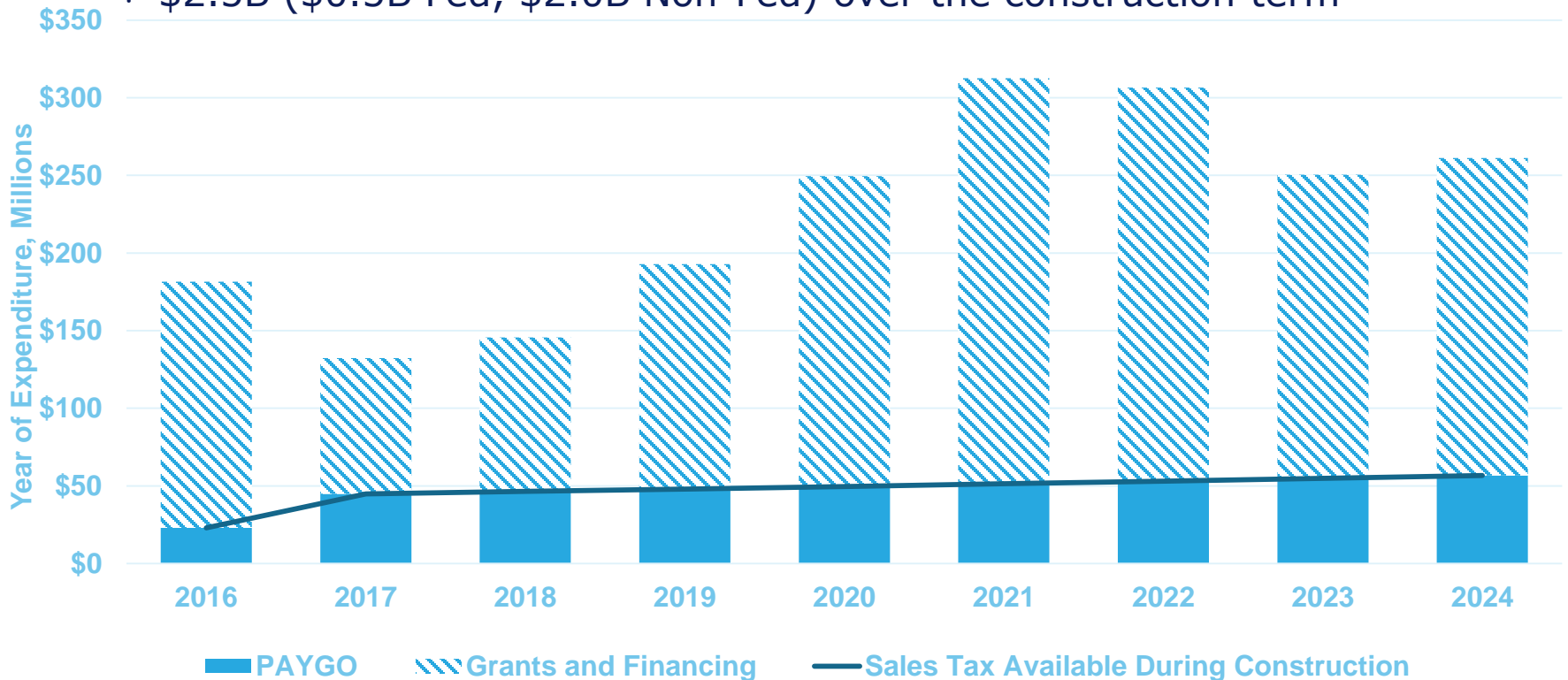
- **Assessment District**

- Authorization of up to \$725 million in Improvement Bonds
- Secures Improvement Bonds and Availability Payments

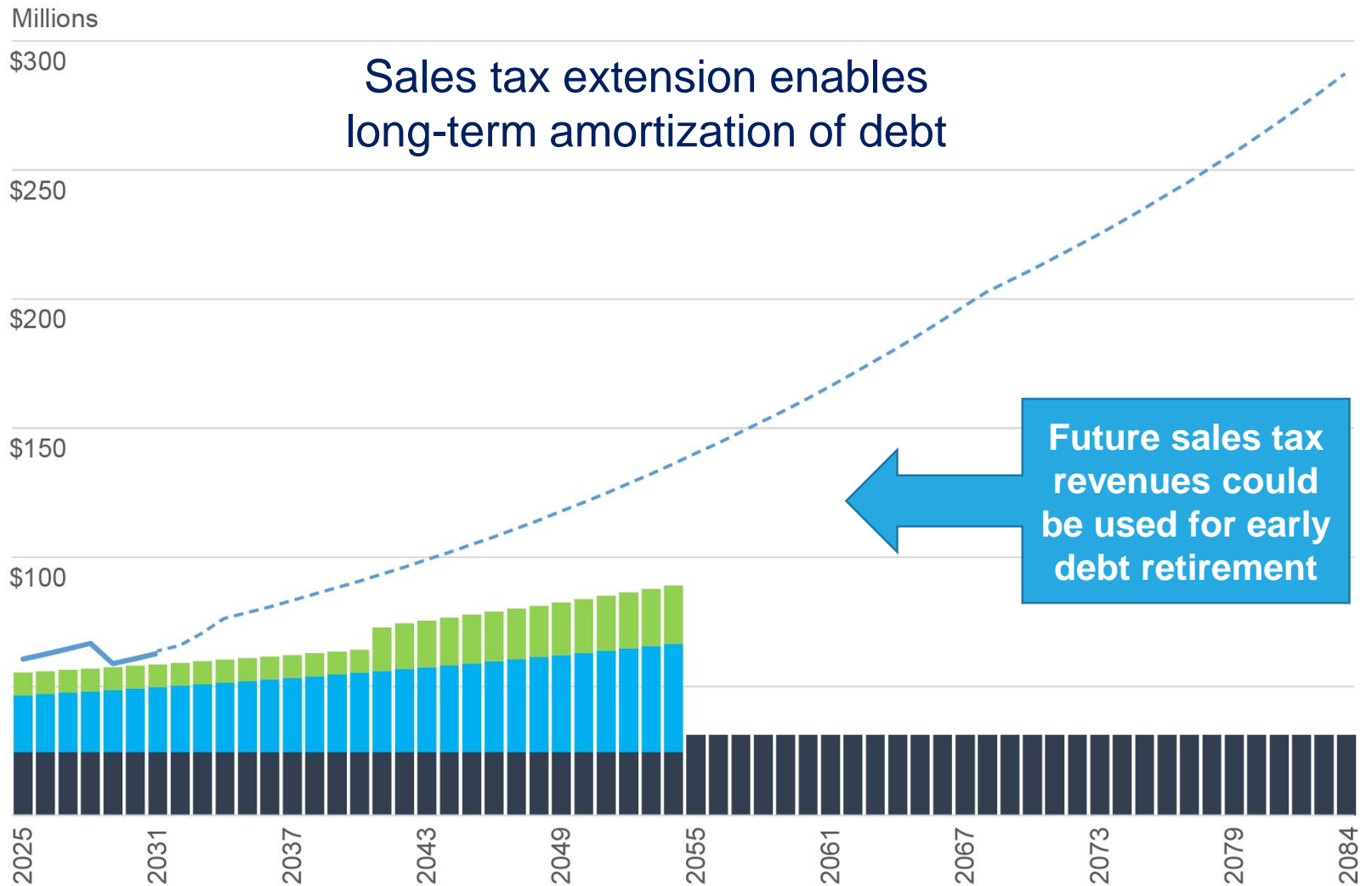


Diversion Authority Costs During Construction

- Costs that exceed available sales tax revenues and grants are financed with public and private financing
- Financial Plan assumes total project costs escalated to year of expenditure
- \$2.5B (\$0.5B Fed, \$2.0B Non-Fed) over the construction term



Summary of Cash Flows After Construction



Financial Plan Next Steps

- P3 procurement encourages innovation and competition to lower total costs
- Interest rates on financing will become fixed after issuance of bonds and P3 financial close
- Diversion Authority and its advisors intend to further explore availability and value of certain federal and State of North Dakota financing programs
- Relative proportions of public debt to private P3 financing will remain under review, may be varied depending on market conditions

