



1 Diversion Inlet Structure Construction

A preconstruction conference was held on 19 June. Dewatering will begin week of 8 July and continue for 3-4 weeks. Anticipated schedule:

2019: Dewatering, test pile program, complete channel excavation.

2020: Foundations/site work.

2021: Concrete piers/abutments. Control building.

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

2023: Paint gates, seed.

2024: Turf established.

2 Wild Rice River Structure Construction

Final Plans and Specs were completed May 1, 2019. MnDNR phase approval received on 18 June. NDSWC permit decision pending. The Request for Proposals (RFP) likely to be issued in early July 2019 with a 45-day bidding period. Contract award is anticipated in October 2019.

3 Red River Structure Design

Detailed design has started. A physical model (1:40 scale) study to verify flows and design downstream scour protection is being conducted by USACE ERDC Coastal and Hydraulics Laboratory, Vicksburg, MS. Approximately a 15 month effort with alternative design runs anticipated in Jan-June 2020 and a final report due NLT Aug 2020. The design schedule is being developed with goal of awarding a construction contract in late 2021. Learn more about ERDC (Engineering Research and Development Center) at <https://www.erdcl.usace.army.mil/About/>.

4 Southern Embankment – Plan B Design

Detailed design, incorporating the Plan B alignment, is ongoing. Geotechnical borings to begin in July 2019 and continue as additional access is secured by the Diversion Authority.

5 Cultural Resources Mitigation – Diversion Channel Sites

Completing further investigations of two archaeological sites along the Diversion Channel this summer. Our contractor began field work in June and will return the week of 8 July. The results will determine if further excavation will be required. A media opportunity is being planned for the week of 17 July.

6 Federal Construction Placement Schedule – June 2019

See enclosure. Outlines placement/resources required to match assumed diversion channel completion. Will continue updating as actual funding and P3 schedule is defined.



Introduction: Prospective borrowers seeking Water Infrastructure Finance and Innovation Act (WIFIA) credit assistance must complete and submit a letter of interest to the U.S. Environmental Protection Agency (EPA). Based on the information provided in the letter of interest, EPA will invite selected prospective borrowers to submit an application for WIFIA credit assistance. EPA will only select those eligible projects that it expects to proceed to closing.

Purpose: Prospective borrowers submit the letter of interest materials to provide EPA with the necessary information to: 1) validate the eligibility of the prospective borrower and the prospective project; 2) perform a preliminary creditworthiness assessment; 3) perform a preliminary engineering feasibility assessment; and 4) evaluate the project against the selection criteria and identify which projects EPA will invite to submit applications.

Format: To be considered for WIFIA credit assistance, prospective borrowers must submit a letter of interest that describes: 1) the prospective borrower and the plans for the proposed project(s); 2) the proposed financial plan; 3) the status of the reports and studies required for the project(s); and 4) how the project meets the selection criteria of the WIFIA credit program. Please reference the latest Notice of Funding Availability (NOFA), the WIFIA program handbook, and frequently asked questions (FAQ) available at <http://www.epa.gov/wifia> for additional instructions and information.

Responses to all of the questions should be included in this form. Upon completion, the total length of the letter of interest form should not exceed 50 pages, excluding any attachments. Font size should not be smaller than 11-point Calibri.

Selection: Due to the wide variety of projects eligible for WIFIA assistance, in some cases EPA may request additional information to supplement the letter of interest so it may complete its analysis. EPA will invite some eligible prospective borrowers to submit applications based on its selection process.

Submission: Letters of interests must be submitted to EPA by the deadline stated in the Notice of Funding Availability (NOFA). Source documents may be draft or preliminary. Please provide the most recent version available at the time of submission.

The documents may be submitted in two ways:

- (1) Email the documents as attachments to wifia@epa.gov.
- (2) Upload the documents to EPA's SharePoint site. To be granted access to the SharePoint site, prospective borrowers can request access to SharePoint by emailing wifia@epa.gov. Requests to upload documents must be made in advance of the deadline as outlined in the NOFA.

Upon receipt, EPA will provide a confirmation email. If you have questions on completing this letter of interest, please consult the WIFIA website (www.epa.gov/wifia) or contact the WIFIA program office at wifia@epa.gov.



Confidential Business Information (CBI): A prospective borrower may assert a business confidentiality claim covering part or all of the information submitted to EPA as part of its letter of interest, in a manner consistent with 40 C.F.R. 2.203, 41 Fed. Reg. 36902 (Sept. 1, 1976), by placing on (or attaching to) the information a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as trade secret, proprietary, or company confidential. The prospective borrower should also state whether it desires confidential treatment until a certain date or until the occurrence of a certain event. Information covered by a business confidentiality claim will be disclosed by EPA only to the extent and only by means of the procedures set forth under 40 C.F.R. Part 2, Subpart B. Information that is not accompanied by a business confidentiality claim when it is received by EPA may be made available to the public by EPA without further notice to the prospective borrower.

More information about CBI is available in the WIFIA program handbook and frequently asked questions (FAQ) available at <http://www.epa.gov/wifia>.

Burden: The public reporting and recordkeeping burden for this collection of information is estimated to average 50 hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, included through the use of automated collection techniques to the Director, Regulatory Support Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

Warning: Falsification or misrepresentation of information or failure to file or report information required to be reported may be the basis for denial of financial assistance by EPA. Knowing and willful falsification of information required to be submitted and false statements to a Federal Agency may also subject you to criminal prosecution. See, for example, 18 U.S.C. §1001.



LETTER OF INTEREST

Provide the following information in this form or as narrative answers. Narrative answers can reference source documents (include the name of the document and relevant pages or sections). Provide any referenced documents as attachments.

Section A: Prospective Borrower Information

1. Legal name of prospective borrower:

Metro Flood Diversion Authority, a North Dakota political subdivision

2. Other names under which the prospective borrower does business:

The Metro Flood Diversion Authority is a political subdivision of the State of North Dakota comprised of member entities, City of Fargo, North Dakota, City of Moorhead, Minnesota, Cass County, North Dakota, Cass County Joint Water Resource District (CCJWRD), a North Dakota political subdivision, and Clay County, Minnesota (collectively referred to as the "Member Entities").

The City of Fargo, North Dakota, and Cass County, North Dakota, have voter approved sales and use taxes dedicated to repayment of the Comprehensive Project, which consists of a stormwater diversion channel, associated bridges, earthen levees, water control structures, flood walls, stormwater lift stations, mitigation activities, land acquisitions, and easements (collectively referred to as the "Comprehensive Project"), and expenses, including debt service. As a result, this Letter of Intent describes specific financial information relevant to the City of Fargo and Cass County in response to applicable questions.

3. Department and division name:

**Metro Flood Diversion Authority Fiscal Agent
City of Fargo Finance Department
225 4th Street North, Fargo, ND 58102**

4. Business street address:

**Metro Flood Diversion Authority
P.O. Box 2806
211 Ninth Street South
Fargo, ND 58108**

5. Mailing street address (if different from above):

Same as above.

6. Website:



www.fmdiversion.com

7. Employer/taxpayer identification number (EIN/TIN):

Metro-Flood Diversion Authority: 45-4094031
City of Fargo: 45-6002069
Cass County: 45-6002205

8. Dun and Bradstreet Data Universal Number System (DUNS) number:

Metro- Flood Diversion Authority: 07-838-9309
City of Fargo: 07-026-5871
Cass County: 05-478-5266

9. Facility Registry Service (FRS) number, if available:

Metro Flood Diversion Authority: N/A
City of Fargo: N/A

10. Type of entity (pick one):

- Corporation
- Partnership
- Joint Venture
- Trust
- Federal, State, or Local Governmental Entity, Agency, or Instrumentality
- Tribal Government or Consortium of Tribal Governments
- State Infrastructure Finance Authority

11. Describe the organizational structure of the proposed borrower, including structures such as a partnership, joint venture or trust. If multiple parties are involved in the project's construction, maintenance, and operation, describe the project's risk allocation framework.

The Metro Flood Diversion Authority ("Diversion Authority") is a North Dakota political subdivision created pursuant to a Joint Powers Agreement ("JPA") and consists of the Member Entities. The Diversion Authority was created to lead the construction, operation, and maintenance of a comprehensive flood protection system for the Fargo-Moorhead Metropolitan Area. The Diversion Authority can assign tasks such as land acquisition or environmental mitigation functions to one of its Member Entities. However, the Diversion Authority retains oversight control over those tasks as more fully set forth in the JPA dated June 1, 2016.



The City of Fargo currently serves as the Fiscal Agent for the Diversion Authority. The Diversion Authority manages all associated expenses and Operating and Maintenance (“O&M”) costs and develops Operating and Capital Improvement Budgets for each fiscal year. The Diversion Authority’s financial accounting and transaction processing are handled by the Fiscal Agent. The program management consultant prepares budget related data that is included in our financial report. Monthly management financial reports provided to the Diversion Authority include a revenue and expenditure report, a fiscal year budgetary report, a life to date project level budget to actual report, statement of net position and a cumulative project to date vendor payments report. Supplemental schedules are also provide for a more in-depth understanding of the project.

The Diversion Authority is currently in the process of hiring an Executive Director. Pursuant to the JPA, dated June 1, 2016, when the position of Executive Director is vacant the Co-deputy Executive Directors carry out the functions of the Executive Director. Below is a brief overview of the key administrative, financial, and technical staff of the Diversion Authority.

Please See Attachment _____ for a copy of the JPA, dated June 1, 2016, and Attachment ____ for an organizational chart that identifies key staff for the Comprehensive Project.

Co-Deputy Executive Directors:

Michael Redlinger is the Assistant City Administrator of the City of Fargo. As the Assistant City Administrator, Mr. Redlinger provides leadership and direction to all City departments in the provision of City services by establishing goals and directives set by the City Administrator and Fargo City Commission. He received a Bachelor of Arts degree and a Master of Science degree from Minnesota State University Moorhead. Prior to becoming the Assistant City Administrator, he served as City Manager for the City of Moorhead, Minnesota.

Robert Wilson is the County Administrator for Cass County. As the County Administrator, Mr. Wilson is the chief staff person for the Cass County Board of Commissioners and acts as liaison between the County Commission and County departments. He received his Bachelor of Science degree from Willamette University in Salem, Oregon, and a master’s degree in public administration from the University of Nebraska, Omaha. Prior to becoming the County Administrator, he served as the Assistant Commission Administrative Officer for Minnehaha County, South Dakota.

Fiscal Agent/Finance Staff Executive Leaders:

Kent Costin is the Finance Director of the City of Fargo and fiscal agent for the FM Diversion Comprehensive Project. He is a certified public accountant and has served the City of Fargo for the past thirty-two years, with the last twenty-two years as Finance Director. As Finance Director he has successfully managed municipal budgets, practiced fiscal sustainability, and completed numerous capital financing transactions for municipal infrastructure.

Michael Montplaisir is the Cass County Finance Director. He is a certified public accountant and has been with Cass County for over thirty years. Mr. Montplaisir oversees the Finance



and Budget, Treasury and Property Tax, and Election Divisions of the Finance Office. He was elected County Auditor in 1991. He was recently appointed Finance Director as the County Auditor and County Treasurer positions were combined and transitioned from elected to appointed positions. Under Mr. Montplaisir's leadership Cass County has received the Government Finance Officers Association (GFOA) Excellence in Financial Reporting award every year since 1993.

Local Staff Technical Advisors:

Jason Benson serves as the County Engineer for Cass County, North Dakota, and has worked for Cass County for nineteen years. Jason's duties include infrastructure management of nearly 640 miles of roads, over 500 bridge structures, and an annual budget of \$20 million. He manages nearly 100 full- and part-time staff which includes the highway maintenance staff, engineering staff, Vector Control Department, and the Planning Department. He also serves as a senior technical and administrative advisor for the Comprehensive Project. Mr. Benson has served thirty years in the U.S. Army and the Minnesota Army National Guard. He holds a Bachelor's degree in Civil Engineering from North Dakota State University, a Master's in Management from the University of Mary, and is a graduate of the U.S. Army Command General Staff College. He is a registered Professional Engineer in the state of North Dakota.

Bob Zimmerman serves as the City Engineer for the City of Moorhead, Minnesota, and has worked for the City of Moorhead for thirty years. His duties include infrastructure management of the City of Moorhead's Waste Water Treatment Facility, 197 miles of streets, 18 miles of flood walls and earthen levees, and 23 storm lift stations located within the City of Moorhead. He holds a Bachelor's degree in Civil Engineering from North Dakota State University, a Master's in Engineering from North Dakota State University, and a Ph.D in Engineering from the North Dakota State University.

Nathan Boerboom is a Division Engineer for the City of Fargo, North Dakota. Since joining the City of Fargo in 2009, he has overseen approximately \$300 million in flood mitigation projects, worked with FEMA on the remapping of the City's floodplain, and assisted with disaster assistance related to the recent presidential declared flood disasters. He is assigned to the Diversion Authority as the technical lead for the City of Fargo. He is a registered Professional Engineer in North Dakota and Minnesota as well as a Certified Floodplain Manager (CFM) from the Association of State Floodplain Managers. He holds a Bachelor's Degree in Civil Engineering from North Dakota State University.

12. If the prospective borrower is not a public entity or in the case of the prospective borrower being a state infrastructure finance authority, the sub-recipient(s) is not a public entity, is the project(s) publicly sponsored? Please explain.

The prospective borrower is a public entity.

13. Identify the month and year the prospective borrower will submit an application. (Assume invitations to apply will be issued approximately 90 days from letter interest submission)



deadline and the application will generally require a draft Request for Proposals or 30% design documents and a preliminary rating letter on the proposed credit structure.)

February 2020. Right of Way acquisition, design and development of draft Requests for Proposals will be completed in February of 2020 and the Diversion Authority is eager to submit the full application once an invitation is received.

14. Identify the month and year the prospective borrower wants to close its WIFIA loan.

August 2020.

DRAFT



Section B: Project Plan

1. Project name *(for purposes of identification assign a short name to the project)*:

Fargo-Moorhead Metropolitan Area Flood Risk Management Project

2. Provide existing National Pollutant Discharge Elimination System (NPDES) and/ or Public Water System (PWS) number(s) (if applicable).

The Comprehensive Project has obtained the following permits:

Permit Number	Title	Governing Agency	Description
2018-0819	Dam Safety - Construction	MDNR	WP26-Diversion Inlet Structure
2489	Dam Construction	NDSWC	WP26-Diversion Inlet Structure
17-08-0008R;	CLOMR ND;	FEMA	WP26-Diversion Inlet Structure
17-05-5074R	CLOMR MN	FEMA	WP26-Diversion Inlet Structure
NDR10-0000	NDPDES	NDDH	WP26-Diversion Inlet Structure
NWO-2013-1723-BIS	404/Nationwide	USACE	P3 Stormwater Diversion Channel
NWO-2013-1723-BIS	404/Nationwide	USACE	WP42E-Dwtm Levees 2nd St. So. and Main Ave. Flood Mitigation
2445	Floodwall and Dike Construction	NDSWC	WP42E-Dwtm Levees 2nd St. So. and Main Ave. Flood Mitigation
S-2009	Sovereign Lands	NDSWC	WP42E-Dwtm Levees 2nd St. So. and Main Ave. Flood Mitigation
NDR10-0000	NDPDES	NDDH	WP42E-Dwtm Levees 2nd St. So. and Main Ave. Flood Mitigation
NWO-2013-1723-BIS	404/Nationwide	USACE	WP28A-CR 16-17 Roadway Realignment
NDR10-9298	NDPDES	NDDH	WP28A-CR 16-17 Roadway Realignment
NDR10-9465	NDPDES	NDDH	WP42G-Dwtm Levees Landscaping and Planting
NWO-2014-0236-BIS	404/Nationwide	USACE	WP43CD-OHB Ring Levee Phases C and D
S-2070	Sovereign Lands	NDSWC	WP43CD-OHB Ring Levee Phases C and D
2427; 2429	Floodwall and Dike Construction	NDSWC	WP43CD-OHB Ring Levee Phases C and D
NDR10-9325	NDPDES	NDDH	WP43CD-OHB Ring Levee Phases C and D
S-1919	Sovereign Lands	NDSWC	WP42A1A3-Dwtm Levees 4th St S Pump Station and Floodwall
2445	Floodwall and Dike Construction	NDSWC	WP42A1A3-Dwtm Levees 4th St S Pump Station and Floodwall



Permit Number	Title	Governing Agency	Description
NW #43	404/Nationwide	USACE	WP42A1A3-Dwtm Levees 4th St S Pump Station and Floodwall
SFN 17987	Disposal	NDDH	WP42A1A3-Dwtm Levees 4th St S Pump Station and Floodwall
NDR10-7402;	NDPDES	NDDH	WP42A1A3-Dwtm Levees 4th St S Pump Station and Floodwall
NOT10-7402	Termination	NDDH	WP42A1A3-Dwtm Levees 4th St S Pump Station and Floodwall
ND2016-17306	Temporary Water Permit	NDSWC	WP42A2-Dwtm Levees 2nd St North Pump Station
2445	Floodwall and Dike Construction	NDSWC	WP42A2-Dwtm Levees 2nd St North Pump Station
NDR10-7019; NOT10-7019	NDPDES	NDDH	WP42A2-Dwtm Levees 2nd St North Pump Station
NOT10-7019	Termination	NDDH	WP42A2-Dwtm Levees 2nd St North Pump Station
339	Disposal - soil	NDDH	WP42A2-Dwtm Levees 2nd St North Pump Station
NDR10-8308;	NDPDES	NDDH	WP42C1-Dwtm Levees Hojo's Shakeys Fargo Pump Station Demo
NOT10-8308	Termination	NDDH	WP42C1-Dwtm Levees Hojo's Shakeys Fargo Pump Station Demo
SFN 17987	Disposal	NDDH	WP42C1-Dwtm Levees Hojo's Shakeys Fargo Pump Station Demo
NDR10-8236;	NDPDES	NDDH	WP42C2-Dwtm Levees Park East Demo
NOT10-8236	Transfer	NDDH	WP42C2-Dwtm Levees Park East Demo
SFN 17987	Disposal	NDDH	WP42C2-Dwtm Levees Park East Demo
NWO-2013-1723-BIS; NW #12	Nationwide Utility Line Activities	USACE	WP42D4
2445	Floodwall and Dike Construction	NDSWC	WP42F1N-Dwtm Levees 2nd St N North of Pump Station
NDR10-8741;	NDPDES	NDDH	WP42F1N-Dwtm Levees 2nd St N North of Pump Station
NOT10-8741	Termination	NDDH	WP42F1N-Dwtm Levees 2nd St N North of Pump Station
NDR10-8089;	NDPDES	NDDH	WP42F1S-Dwtm Levees 2nd St N South of Pump Station
NOT10-8089	Termination	NDDH	WP42F1S-Dwtm Levees 2nd St N South of Pump Station
NW #7; NWO-2016-1082-BIS	404/Nationwide	USACE	WP42F1S-Dwtm Levees 2nd St N South of Pump Station
2445	Floodwall and Dike Construction	NDSWC	WP42F1S-Dwtm Levees 2nd St N South of Pump Station
S-1918	Sovereign Lands	NDSWC	WP42F1S-Dwtm Levees 2nd St N South of Pump Station
NW #7; NWO-2016-1082-BIS	404/Nationwide	USACE	WP42F2-Dwtm Levees 2nd St South
NDR10-8236	NDPDES	NDDH	WP42F2-Dwtm Levees 2nd St South



Permit Number	Title	Governing Agency	Description
NOT10-8236	Termination	NDDH	WP42F2-Dwtm Levees 2nd St South
2445	Floodwall and Dike Construction	NDSWC	WP42F2-Dwtm Levees 2nd St South
S-2009	Sovereign Lands	NDSWC	WP42F2-Dwtm Levees 2nd St South
SFN 17987	Disposal	NDDH	WP42H2-Dwtm Levees El Zagal Area Phase 2
NW #43	404/Nationwide	USACE	WP42H2-Dwtm Levees El Zagal Area Phase 2
NDR10-8329;	NDPDES	NDDH	WP42H2-Dwtm Levees El Zagal Area Phase 2
NOT10-8329	Termination	NDDH	WP42H2-Dwtm Levees El Zagal Area Phase 2
NDR10-8364;	NDPDES	NDDH	WP42I1-Dwtm Levees Mickelson Levee Extension
NOT10-8364	Termination	NDDH	WP42I1-Dwtm Levees Mickelson Levee Extension
NW #43	404/Nationwide	USACE	WP42I1-Dwtm Levees Mickelson Levee Extension
SFN 17987	Disposal	NDDH	WP42I1-Dwtm Levees Mickelson Levee Extension
NDR10-7291	NDPDES	NDDH	WP43A-OHB Ring Levee Phase A
NWO-2014-0236-BIS	404/Nationwide	USACE	WP43A-OHB Ring Levee Phase A
2427; 2429	Dike and Pond Construction	NDSWC	WP43A-OHB Ring Levee Phase A
SFN 17987	Disposal	NDDH	WP43E2C – OHB Ring Levee Residential Demo
SFN 17987	Disposal	NDDH	WP43E2E- OHB Ring Levee Home Removal II-2017
NDR10-8964	NDPDES	NDDH	WP43E2E- OHB Ring Levee Home Removal II-2017
NDR10-9268	NDPDES	NDDH	WP43E2F- OHB Ring Levee Home Removal III-2017

3. Project website(s):

www.fmdiversion.com

4. Provide a brief description of the project(s) for which the prospective borrower is seeking funding (major project scope items such as capacity, diameter and length, treatment components, and other design features). Limit the description to the elements included in the estimated total projects costs in Question C2. (Word Limit: 500).

The Fargo, North Dakota-Moorhead, Minnesota Metropolitan Area (“Benefitted Area”) is situated on the Red River of the North (“Red River”) (which flows north into Canada) and suffers high risk of flood events due to a relatively flat topography. Spring snowmelt causes high river stages, but summer rainfall can also cause significant flooding. Since 1900, the Red River has exceeded “major flood stage” designation sixteen times, with eight of those major floods occurring since 2000.

The Comprehensive Project consists of four main components: 1) a dry dam, referred to as the Southern Embankment and Associated Infrastructure (“SEAI”) since the dry dam is at the southern end of the constructed features, 2) a stormwater diversion channel and associated infrastructure (“SWDCAI”), 3) in-town levees, stormwater lift stations, road raises within the



Benefitted Area of the Comprehensive Project (“In-Town Work”) , and 4) a ring levee around the communities of Oxbow, Hickson, and Bakke, North Dakota (“OHB”). The Diversion Authority is seeking WIFIA funding for eligible expenses associated with the SWDCAI and stormwater lift stations set forth in the In-Town Work (the “Eligible Project”)

The SWDCAI consists of a stormwater diversion channel located on the North Dakota side of the Red River which conveys 20,000 cubic feet per second during a 100 year flood event. The stormwater diversion channel is 200 to 300 feet wide, approximately 20 feet deep, 30 miles in length, with 4 railroad bridges, 4 two-lane interstate bridges, and 11 county highway bridges crossing the stormwater diversion channel and 2 aqueduct hydraulic structures to convey the normal flow of the Sheyenne and Maple Rivers over the stormwater diversion channel to preserve fish crossings, in addition to 10 local stormwater drain inlets.

The In-Town Work consists of eighteen miles of in-town floodwalls located within the Benefitted Area, twenty-three stormwater pump stations located within the City of Moorhead, and over sixteen miles of Cass County, Clay County, and SEAI road raises, which are necessary to permit up to thirty-seven feet of flood water to flow through the Benefitted Area.

5. Describe the project’s purpose (including quantitative or qualitative details on public benefits the project will achieve). If the loan contains more than one project, describe the common purpose that the projects share (i.e. addressing sanitary sewer overflows or improving drinking water quality). (Word limit: 500).

The Comprehensive Project is needed to manage spring snow-melt stormwater and summer stormwater, and restore the environmental quality of the area by preserving fish passage connectivity in the Red River Basin. The Comprehensive Project collects flows from the southern upstream Red River Basin, stormwater from local drain connections with the stormwater diversion channel, and stormwater from within the Benefitted Area. The Comprehensive Project’s purpose is to protect nearly 245,000 people from flood events.

The Comprehensive Project provides the following benefits:

- Manages uncontrolled stormwater that threatens the Benefitted Area by increasing the Red River’s height and temporarily storing stormwater on vacant land.
- Increases the region’s economic sustainability.
- Removes mandatory FEMA insurance requirements.
- Improves public safety.
- Minimizes road closures to ease emergency response.
- Minimizes traffic disruption and accessibility.
- Removes financial burdens to landowners within the Benefitted Area.
- Protects the local economy, which generates \$4.35 billion in annual non-farming wages and over \$2.77 billion in annual taxable sales, along with \$14 billion in property values.
- Protects 1 in 5 North Dakotans.



A 500-year event would flood nearly the entirety of Fargo and a large portion of Moorhead, as well as a major portion of West Fargo and several surrounding communities. The Red River has exceeded flood stage in 57 of the past 119 years and 25 out of 27 years since 1993. Average annual flood damages are estimated at over \$194.8 million.

Fargo-Moorhead residents have been successful at preventing significant damages during past flood events by constructing emergency levees along large portions of the Red River. However, constructing the emergency levees takes significant financial and human resources, causes business and traffic disruptions, and is taxing to the social fabric of the communities. Although the emergency levees have previously been successful, there is a high risk of catastrophic failure which would result in significant damages and loss of life to the area, and would severely disrupt the transportation network in the region, including the north-south movement of goods and people. Additionally, the emergency levees have not seen an 100-year flood event. Due to climate change, it is likely that we will see an increase in 100-year flood events. Also, the past success of emergency levees has created a false sense of security in some who may not appreciate the risks of flooding.

Significant costs are incurred during emergency flood fighting efforts. During past large flood events, people in the Cities of Fargo and Moorhead built as many as 40 miles of emergency levees through town in an effort to retain flood waters. Businesses, residents, Federal agencies, local and state governments, as well as humanitarian organizations, all contribute to the flood fight, rescue, and clean-up efforts.

By undertaking the Comprehensive Project, Fargo-Moorhead will significantly reduce the chance of flooding, limiting damage caused by flooding to homes, businesses, and the regional transportation network. Appendix _____ includes maps illustrating the expected impact of the Comprehensive Project in the event of 100-year flood event. Appendix _____ provides the historical extreme winter weather events and resulting floods from stormwater. [500 words]

6. Describe the location of the project(s); specify if the location is within an existing facility. Include a project map(s) for all project components or sub-projects, if available. Include location address(es), and/or latitude and longitude details for all project components or sub-projects.

The Eligible Project includes the 30-mile stormwater diversion channel, the stormwater diversion channel outlet, the Inflow Design Flood Line of Protection, 2 pairs of interstate bridges (east and west-bound I-94 and north and south-bound I-29), 11 county road bridges or crossings, 4 railroad bridges, 2 aqueducts (Sheyenne River and Maple River), 10 drain inlets, and 2 drop structures that direct the flow of the Lower Rush River and the Rush River into the stormwater diversion channel, as well as recreational features, including mixed use trails, and mitigation of environmental impacts. The depth and width of the stormwater diversion channel will depend on the private-public partnership ("P3") developer's final design, but the Diversion Authority estimates that the stormwater diversion channel will be approximately 20 feet deep and 200 to 300 feet wide at the bottom.



The stormwater diversion channel alignment begins in the vicinity of the intersection of Cass County Roads 16 and 17, and extends west and north around several North Dakota cities, including the City of Horace, the City of Fargo, the City of West Fargo, and the City of Harwood. The stormwater diversion channel discharges into the Red River north of the confluence of the Red River and the Sheyenne River near the City of Georgetown, Minnesota. The stormwater diversion channel crosses the Sheyenne River, the Maple River, the Lower Rush River and the Rush River, interstates I-94 and I-29, numerous county and township roads and the BNSF Railway ("BNSF") in four locations along its thirty-mile path.

The Diversion Authority will own the stormwater diversion channel, the affected counties and townships will own their bridges and roads, and BNSF will own its four crossings. The P3 developer will be required to design, build, finance, operate, and maintain all non-U.S. Army Corps of Engineers' assets for a period from financial close until approximately thirty years after substantial completion.

The stormwater lift stations are located within the Cities of Fargo and Moorhead and are located within the Benefitted Area.

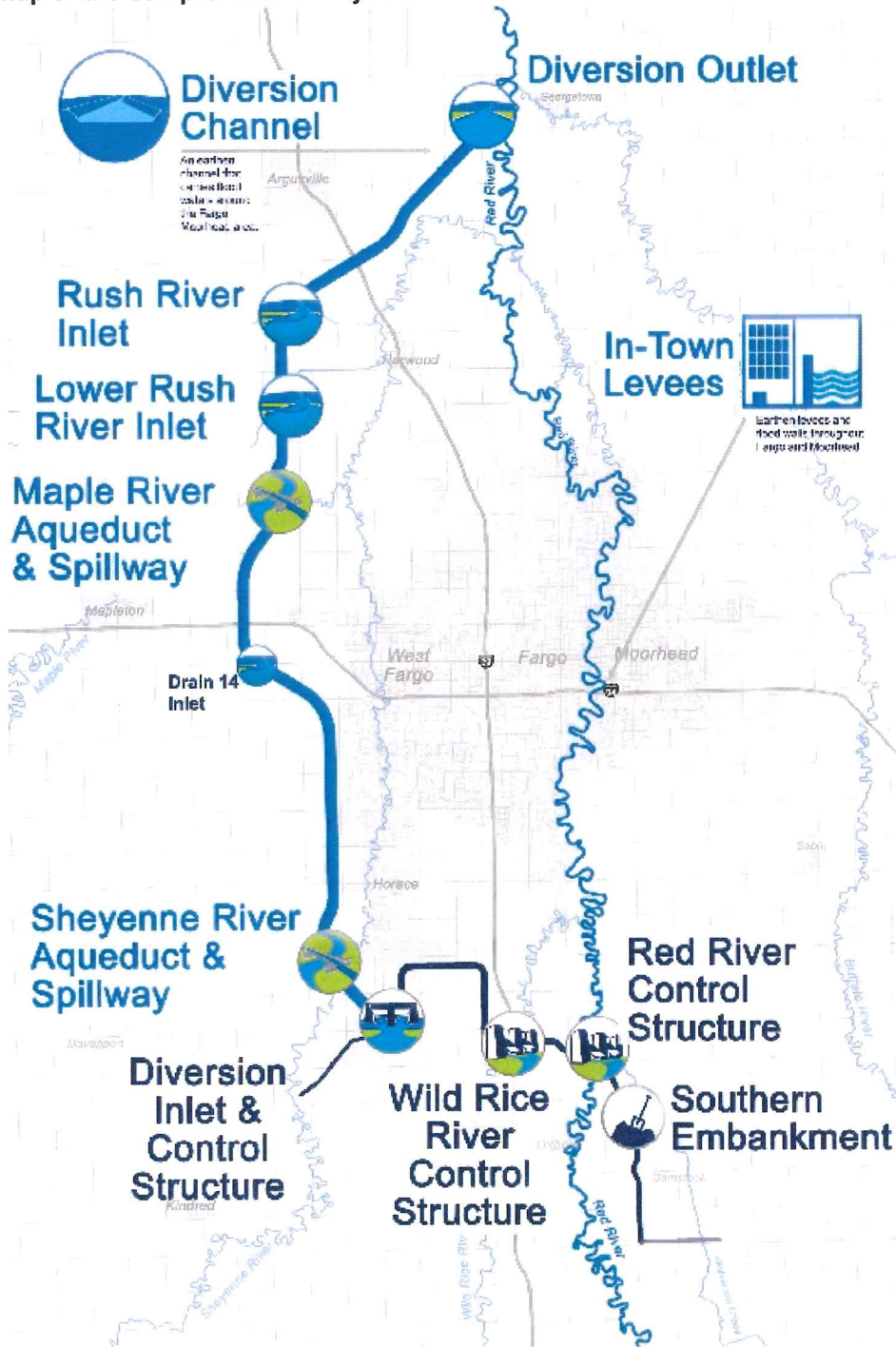
The below table contains the latitude and longitude details of all components of the Comprehensive Project.

Project Component	Project Type	Latitude	Longitude
Fish Passage	Fish Passage	47.0765399558896	-96.8232726831067
Fish Passage	Fish Passage	46.9973067517677	-96.9539300318137
-	Spillway	46.9286165722102	-96.9648837202257
Drain 14 Inlet	Inlet Structure	46.8706311734878	-96.9801923794293
Maple River Aqueduct & Spillway	Aqueduct	46.9280017467282	-96.9577792950308
Sheyenne River Aqueduct & Spillway	Aqueduct	46.7400636590889	-96.9307529375044
-	Spillway	46.7407455888888	-96.9402305523067
Inlet Control Structure	Control Structure	46.7206442462953	-96.9029848551735
Wild Rice River Control Structure	Control Structure	46.7049883653868	-96.8397150928472
Diversion Outlet	Outlet	47.0734762173121	-96.8300702357332
Rush River Inlet Structure	Inlet Structure	46.9993491843556	-96.9508845135988
Lower Rush River Inlet Structure	Inlet Structure	46.9687212057992	-96.9556999683397
Red River of the North Control Structure	Control Structure	46.7062683788535	-96.7860974466889
Fish Passage	Fish Passage	46.9331652011217	-96.9578513710068
Fish Passage	Fish Passage	46.7436805623979	-96.9319064353564
Fish Passage	Fish Passage	47.0291148124734	-96.8894663757118
Drain 14 Abandoned Inlet Structure	Abandoned Inlet Structure	46.889638135783	-96.9800608859383



[Nathan to provide information regarding in-town levee coordinate]

Below is a summary map of the Comprehensive Project. Attachment ____ is a more detailed map of the Comprehensive Project.





7. County(s) project(s) will serve:

Cass County, North Dakota
Clay County, Minnesota

8. Population served by the project(s):

The Comprehensive Project will directly and indirectly serve the approximately 245,000 people who live in the Fargo-Moorhead Metropolitan Area, as well as those who travel through the area.

9. Total population served by system:

The Comprehensive Project will directly and indirectly serve the approximately 245,000 people who live in the Fargo-Moorhead Metropolitan Area, as well as those who travel through the area.

10. Total population served by system at project completion:

The Comprehensive Project is anticipated to be substantially complete by 2030, at which time it is estimated that the Comprehensive Project will directly and indirectly serve the approximately 245,000 people who live in the Fargo-Moorhead Metropolitan Area, as well as those who travel through the area.

11. Type of project delivery method (i.e., design-build, construction manager at-risk, design-bid-build) that is planned for this project(s):

The Comprehensive Project will be delivered in two ways: 1. As an availability payment design-build-finance-operate-maintain contract for the SWDCAI, and 2. As a series of Design-Bid-Build contracts for the rest of the Comprehensive Project, consisting of the SEAI and in-town levees.

12. Present the overall project schedule start and end dates for key milestones and costs in the provided tables. For WIFIA loans with one project, fill out Row 1. For WIFIA loans with multiple projects, fill out and create as many rows as needed. Provide the detailed project schedule(s) and engineer's cost estimate(s) as attachments.

Project Name	Schedule			
	Planning	Design	Permitting	Construction
Diversion Inlet Structure (ND) (USACE)	2009 -2014	2014-2016	2011 - 2019	2017 – 2022
Wild Rice River Structure (ND) (USACE)	2009 - 2018	2016 – 2019	2011 - 2019	2019 – 2023
I-29 Bridge/Raise (ND)	2009 - 2018	2019 – 2020	2011 - 2019	2021 – 2024



(USACE)				
Red River Structure(USACE)	2009 - 2018	2019 – 2020	2011 - 2019	2021 – 2025
ND Embankment Reach SE-1 (ND) (USACE)	2009 - 2018	2019	2011 - 2019	2020 – 2021
ND Embankment Reach SE-2A (ND) (USACE)	2009 - 2018	2020 – 2021	2011 - 2019	2022 – 2024
ND Embankment Reach SE-2B (ND) (USACE)	2009 - 2018	2021 – 2022	2011 - 2019	2023 – 2024
ND Embankment Reach SE-3 (ND) (USACE)	2009 - 2018	2024 – 2025	2011 - 2019	2026 – 2027
ND Embankment Reach SE-4 (ND) (USACE)	2009 - 2018	2022 – 2023	2011 - 2019	2024 – 2026
ND Embankment Reach SE-5 (ND) (USACE)	2009 - 2018	2022 – 2023	2011 - 2019	2024 – 2025
Drayton Dam(USACE)	2009 - 2018	2019	2011 - 2019	2021 – 2022
Horace Plug Removal (USACE)	2009 - 2018	2025 – 2026	2011 - 2019	2027 – 2028
Sheyenne Oxbow Restoration (USACE)	2009 - 2018	2025 – 2026	2011 - 2019	2027 – 2028
Bois de Sioux Restoration (USACE)	2009 - 2018	2019 – 2020	2011 - 2019	2021 – 2022
Wetland Restoration (USACE)	2009 - 2018	2019-2020	2011 - 2019	2020 – 2024
Floodplain Forest Restoration (USACE)	2009 - 2018	2019-2020	2011 - 2019	2020 – 2023
Cultural Resources Mitigation (USACE)	2009 - 2018	2019-2020	2011 - 2019	2019 – 2021
Stormwater Diversion Channel – P3 (DA)	2009 - 2018	2020	2011 - 2019	2020 – 2026
Oak Creek and Copperfield Levee & Gatewells (Fargo)	2009 - 2018	2018	2011 - 2019	2019
Belmont Addition (Phase 2) Levee/Floodwall (Fargo)	2009 - 2018	2018	2011 - 2019	2019
Belmont Addition (Phase 3) Levee/Wall & Intake mods (Fargo)	2009 - 2018	2018	2011 - 2019	2021
Northside Protection Levee and Pump House (Fargo)	2009 - 2018	2020	2011 - 2019	2021
Northside Protection (#53) (Fargo)	2009 - 2018	2018	2011 - 2019	2022
Lift Station Improvements/Modifications (#56) (Fargo)	2009 - 2018	2022	2011 - 2019	2023
Lift Station	2009 - 2018	2022	2011 - 2019	2023



Improvements/Modifications (#55) (Fargo)				
Lift Station Improvements/Modifications (#27) (Fargo)	2009 - 2018	2023	2011 - 2019	2024
Lift Station Improvements/Modifications (#42) (Fargo)	2009 - 2018	2023	2011 - 2019	2024
Lift Station Improvements/Modifications (#47 & #48) (Fargo)	2009 - 2018	2024	2011 - 2019	2025
Lift Station Improvements/Modifications (LS #41) (Fargo)	2009 - 2018	2024	2011 - 2019	2026
Lift Stations, Storm Sewer Improvements/Modifications (#15) (Fargo)	2009 - 2018	2025	2011 - 2019	2026
Lift Station #24 (Fargo)	2009 - 2018	2018	2011 - 2019	2020
Woodcrest Area Levee (Fargo)	2009 - 2018	2019	2011 - 2019	2021
Riverwood Levee (Fargo)	2009 - 2018	2020	2011 - 2019	2022
Royal Oaks Levee (Fargo)	2009 - 2018	2021	2011 - 2019	2022
Elm Circle Levee (Fargo)	2009 - 2018	2022	2011 - 2019	2023
Oak Grove Levee (Fargo)	2009 - 2018	2022	2011 - 2019	2023
I-29 Ditch (Fargo)	2009 - 2018	2022	2011 - 2019	2023
Drain 27 Culvert Replacement (Fargo)	2009 - 2018	2022	2011 - 2019	2023
Lift Station #67(Fargo)	2009 - 2018	2022	2011 - 2019	2023
Lift Station #68 (Fargo)	2009 - 2018	2023	2011 - 2019	2024
Lift Station #11 (Fargo)	2009 - 2018	2023	2011 - 2019	2024
Lift Station #57 (Fargo)	2009 - 2018	2023	2011 - 2019	2024
Lift Station #40 (Fargo)	2009 - 2018	2024	2011 - 2019	2025
Lift Station #58 (Fargo)	2009 - 2018	2024	2011 - 2019	2025
Lift Station #66 (Fargo)	2009 - 2018	2024	2011 - 2019	2025
North Moorhead Project (Moorhead)	2009 - 2018	2018	2011 - 2019	2019
Riverview Circle Levee & 40 Ave S Road Raise (Moorhead)	2009 - 2018	2022	2011 - 2019	2023
Sanitary Lift Station #2 (Moorhead)	2009 - 2018	2019	2011 - 2019	2020
1 st Ave N Levee/Floodwall (Moorhead)	2009 - 2018	2019-2020	2011 - 2019	2021
Stormwater Lift Stations (Moorhead)	2009 - 2018		2011 - 2019	2022



Costs				
Project Name	Planning	Design	Construction	Other
SEAI	\$40 million	\$67 million	\$580 million	\$63 million
SWDCAI	\$10 million	\$12 million	\$957 million	\$10 million
In Town- Fargo Lift Stations	N/A	\$5 million	\$40 million	\$1.3 million
In Town- Fargo Levees	N/A	\$4.5 million	\$27 million	\$1.1 million
In Town- Moorhead Lift Stations	N/A	\$200,000	\$1.4 million	\$100,000
In Town- Moorhead Levees	N/A	\$800,000	\$7.5 million	\$400,000
Lands	N/A	N/A	\$466 million	\$36 million
Contingency	N/A	N/A	N/A	\$255 million

13. Provide any analysis (i.e. preliminary engineering reports, feasibility studies, siting studies, project plans, etc.) completed in support of the project(s) scope, cost, and schedule. List referenced documents below and provide as attachments.

[Jacobs to provide data]

14. Briefly discuss any other issues that may affect the development and financing of the project(s), such as community support, pending legislation, or litigation.

The Comprehensive Project has been in development and design for nearly a decade. Throughout the planning and development phase, the Diversion Authority has secured Federal and state approvals for the Comprehensive Project, including (i) the approval by sixty-three percent of Cass County voters to impose a ½ cent sales and use tax on all retail sales within Cass County to be dedicated to repayment of debt issued for the Comprehensive Project; and (ii) the approval by sixty-six percent of City of Fargo voters to impose a one cent sales and use tax on all retail sales within the City of Fargo to be dedicated to the repayment of debt issued for the Comprehensive Project. Both the Cass County and City of Fargo sales and use taxes are effective until 2084.

The Comprehensive Project was involved in complex Federal litigation involving Federal and state environmental claims, but recently on April 8, 2019, Judge John R. Tunheim, Chief Judge of the U.S. District Court for the District of Minnesota, ordered that the major components of the Comprehensive Project can commence construction, which followed the issuance of a permit by the Minnesota Department of Natural Resources (“DNR”) for the Comprehensive Project. The DNR permit is currently being appealed to an administrative law judge. The appeal, however, is not expected to change the terms and conditions of the DNR permit because it is the function of the administrative law judge to draft a report following consideration of the appeal and to provide such report back to the DNR to make a final



decision on the permit. The appeal is expected to be concluded by the time the requested EPA WIFIA loan is set to close, and it does not impact any of the Eligible Project costs.

The Buffalo-Red River Watershed District board recently denied a watershed permit relating to the SEAI. The denial of this permit does not affect any of the Eligible Project costs.

The North Dakota Legislature has appropriated and enacted legislative intent providing the Comprehensive Project is to be funded with \$750,000,000 of State of North Dakota funds. The Diversion Authority intends to request that additional funding from the State of North Dakota be provided to the Comprehensive Project once the P3 contract for the SWDCAI has been awarded and final costs are known.

15. Describe the authorizing actions (e.g., local vote, board vote, ordinance) that would need to occur to enter into a loan agreement with the WIFIA program.

The Diversion Authority has authorization to submit this letter of interest and the subsequent application package. Diversion Authority Board approval and resolution will be required to authorize entering into a loan agreement with EPA WIFIA.

16. Describe the status of the environmental review plan. Provide relevant environmental review documents as attachments.

In 2011, the U.S. Army Corps of Engineers (“USACE”) conducted a feasibility report in addition to its final environmental impact statement. The report is attached herein as Appendix [X]. [Jacobs, please add a list of relevant environmental review documents as attachments.]

17. If the environmental review for the project is underway or complete, complete the following table to identify the anticipated impacts and mitigations. Mark a “X” in the appropriate column to identify the Impacts Anticipated for each Resource Type and, if applicable, provide a short explanation of the mitigations.

Resource Type	Anticipated Impacts			Mitigations
	No Impact	Less Than Significant Impact	Potentially Significant Impact	
Water	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Monitor groundwater changes to confirm no impacts.
Biological	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Create habitat for the SEAI; and create additional wetlands within the stormwater diversion channel along the lower banks and along a sinusoidal low flow channel between Maple River



				and the outlet to the Red River. Establish an Invasive Species Management Plan.
Cultural	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Establish a plan to mitigate prehistoric and historic resources under Section 106 criterial; and establish a Programmatic Agreement between USACE and the tribes. Establish a Cemetery Plan to mitigate affected cemeteries.
Others as Applicable – Socioeconomics	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Establish a Compensation Plan for cropland and structures that would be removed for construction and resources that would be inundated during operations.

18. Describe the status of any additional permits and approvals that the project(s) may require. Add additional rows as needed.

Major Permits or Approvals Required	Approving Authority	Status	Expected Approval Date
Clean Water Act Section 401 and 404(b) Permits	USACE & North Dakota Department of Public Health (“DPH”)	Need to obtain final approval to show compliance with current permits	End of Design Period
Stormwater Pollution Prevention Permits & Dewatering Permits	North Dakota Department of Environmental Quality & DPH	Need to obtain final approval with final design	End of Design Period
Section 106 Compliance under Section Clean Water Act 404(b) Permit, Programmatic Agreement with Tribal Nations, & Disposition of Burial Transit Permit (for displaced cemeteries)	USACE & North Dakota State Historic Preservation Officer	Need to obtain final approval with final design	End of Design Period
North Dakota State Water Commission Construction Permit	North Dakota State Water Commission	Need to obtain final approval with final design	End of Design Period
MN Construction Stormwater Permits	Minnesota Pollution Control Agency	Need to obtain final approval with final	End of Design Period



		design	
Bald & Golden Eagle Protection Permits	U.S. Fish & Wildlife Service	Need to obtain final approval with final design	End of Design Period
North Dakota Sovereign Lands (including State-owned lands & navigable waters)	North Dakota Office of the State Engineer	Need to obtain final approval with final design	End of Design Period
Approvals to move and/or cross existing utilities, roads, & railroads	Individual utilities, roadways, & railroad agencies or entities	Need to obtain final approval with final design	End of Design Period

19. If applicable, specify if a new or relocated discharge to surface or groundwater is expected or new or relocated water intakes is expected.

As described in the Project Description, a portion of the flows from the Red River will be diverted into the SEAI and eventually into the stormwater diversion channel for conveyance back to the Red River downstream of the Cities of Fargo and Moorhead. Groundwater removed during dewatering operations also will be discharged into adjacent surface water bodies in accordance with Stormwater Pollution Prevention Permits issued by the North Dakota Department of Environmental Quality and Groundwater Dewatering Permits issued by the North Dakota Department of Public Health.

20. If applicable, describe community outreach efforts conducted to date and planned for the project(s).

Public involvement and communication have always been at the heart of flood fights in the Fargo-Moorhead Metropolitan Area. Communication efforts helped unify volunteer sandbaggers to make more than 6 million sandbags to save the area during the flood of record in 2009. After the flood, as efforts began to identify a more permanent flood protection solution, attention was turned to gathering ideas and input from subject matter experts, elected officials, and the general public through dozens of public meetings and public input opportunities. As the project progressed, the communication mission has evolved greatly, but the overall goal of public involvement has been no less important.

An initial Communications Plan was adopted in 2013 and was later updated and amended in 2016 prior to the start of construction. The Communications Plan includes a comprehensive outlook of the multiple mediums utilized to meet the internal and external communications goals of the Communications Plan, including:

- Fact Sheets of Project Features
- Twitter – Facts, Live Stream, Meeting Updates
- YouTube – Regular In-House Content
- Facebook Live Stream of Meetings
- Public Broadcast TV of all Meetings
- Monthly E-Newsletter

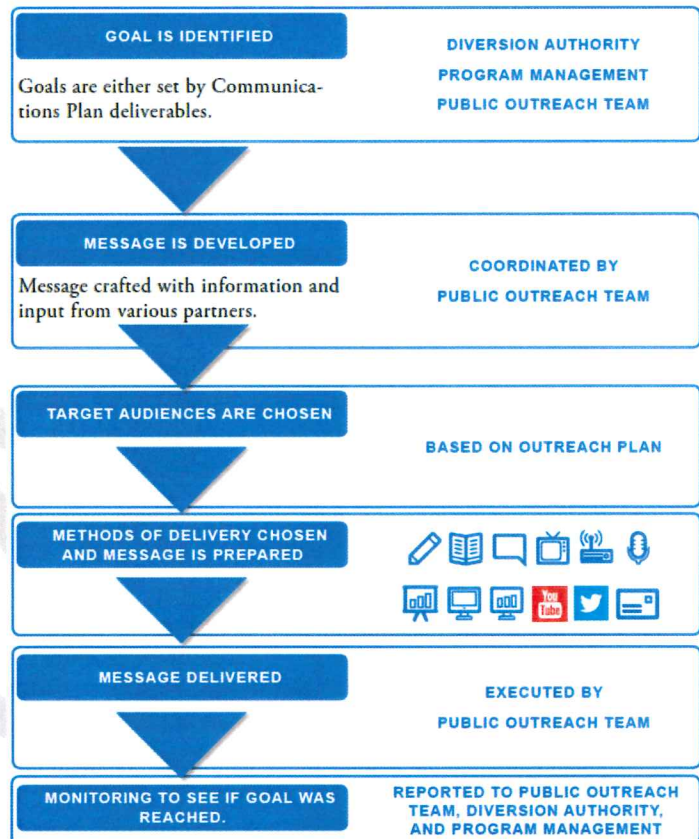


- Press Releases and Conferences
- Community and Civic Presentations
- Magazine Articles in Trade Publications
- All-inclusive Website (www.fmdiversion.com)
- Drone Footage of Construction
- GIS – Interactive Webmap of Comprehensive Project

The Plan also includes internal goals and tools for measuring the success of each communication method so continual evolution is possible and remains effective. The goals include:

- Communicating early and openly by holding regular working group meetings.
- Understanding stakeholder issues.
- Maintaining transparency with meetings and documents.
- Identifying audiences and outreach strategies.
- Having updated talking points available.
- Monitoring and measuring efforts.

In addition to feedback from the general public, a high priority has been placed on regular coordination with State Historic Preservation Offices, the North Dakota State Water Commission, the Minnesota DNR, and other similar state and Federal agencies through regularly planned Inter-Agency Meetings, which have been held since at least 2011. Also with over sixteen regional Tribes expressing interest in the Comprehensive Project area, ongoing interactions and updates with the Tribes and the local Native American Commission has also been a priority.



21. Describe any operation and maintenance contractual arrangements that may impact the operation of the project(s).

The Comprehensive Project will be operated by the Diversion Authority. The Diversion Authority will maintain the in-town levees, SEAI, and OHB ring levees. The SWDCAI will be maintained by the successful P3 developer for a period of thirty years following substantial completion of the SWDCAI (the term of the concession agreement). At the end of the



concession agreement, the P3 developer will turn back the SWDCAI to the Diversion Authority which will then maintain the SWDCAI.

DRAFT



Section C: Financing Plan

1. Provide a sources and uses of funds table for the construction period(s), including the proposed WIFIA assistance. Note any ineligible project costs. More information about eligible costs is available in the [WIFIA program handbook](#).

Sources Category	Estimated Dollar Value
1. WIFIA Loan	500,000,000
2. Revenue Bonds	-
3. SRF Loan	50,000,000
4. Borrower Cash	-
5. Sales Tax Revenues	718,000,000
6. State Funding (ND and MN)	836,000,000
7. Excess USACE Funds	78,000,000
8. Other Sources	7,000,000
TOTAL SOURCES	2,189,000,000
Uses Category	Estimated Cost
1. Construction	462,000,000
2. Design	-
3. Planning	-
4. Land Acquisition	388,000,000
5. Other Capital Costs	-
6. Contingency	114,000,000
7. Total Capital Costs	XXX,000,000
8. Milestone Payments to P3 Developer	751,000,000
9. Interest Payments on Sales Tax Debt	56,000,000
10. Program Management	187,000,000
11. Repay Sales Tax Debt	178,000,000
12. Payment to USACE	53,000,000
13. Ineligible Costs (if applicable)	-
TOTAL USES	2,189,000,000

project costs (in dollars):

[EY?]

3. Requested amount of the WIFIA loan (in dollars):

\$500 million

4. Provide a narrative describing the project(s) plan of finance. This should include a discussion of the proposed financial structure and any existing ratings on the security pledged for repayment of the WIFIA loan (if available) or a description of how the senior debt obligations will garner an



investment-grade rating(s). Note availability and credit terms of other project funding sources. Include any preliminary revenue projections and explain underlying assumptions.

If the prospective borrower is a pool of eligible borrowers and projects, discuss the existing ratings and repayment schedules of the underlying borrowers and attach supporting documentation as available. Identify the single revenue pledge securing the WIFIA debt.

Attach recent rating agency reports, if available.

The Comprehensive Project will be delivered by USACE and the Diversion Authority, and funded as noted below.

SEAI

The USACE will deliver the SEAI and will fund it using annual federal appropriations, up to the \$750M (in 2015\$) federal commitment agreed between the Diversion Authority and USACE in the Project Partnership Agreement dated July 11, 2016 (“PPA”). To the extent that the costs of the SEAI are less than the \$750M (2015\$) federal commitment, the remainder of the federal funds will be available to the Diversion Authority upon completion of the SEAI to pay for capital costs of other components of the Comprehensive Project.

SWDCAI and In-Town Levees

For the other components of the Comprehensive Project, namely the SWDCAI (which will be delivered as an availability payment P3) and In-Town Levees, the Diversion Authority will be responsible for delivery, and intends to use the following funding sources:

- North Dakota State Water Commission (NDSWC) grants
- State of Minnesota appropriations
- Sales tax revenues from the City of Fargo and Cass County
- CCJWRD Assessments
- CCJWRD Maintenance Levies
- City of Moorhead Storm Water Maintenance fees.

Further details of these sources are noted below.

- **Sales Tax Revenues:** Flood control and infrastructure-dedicated sales tax revenue from both the City of Fargo and Cass County is planned to be committed for the benefit of the Comprehensive Project. These tax revenues will fund the Comprehensive Project on a pay-as-you-go basis during construction. Features of the sales tax revenue streams that are included in the Plan are summarized below:

Sales Tax Revenue Summary

Feature	Cass County	City of Fargo
---------	-------------	---------------



Sales Tax Revenue Summary

Feature	Cass County	City of Fargo		
Sales Tax	½ ¢ with no less than 94% retained for the Project	½ ¢ (3U)	½ ¢ (3T)	¼ ¢ (3S)
Authorization	Flood risk mitigation dedicated to 500 year protection level	Multiple-purpose authorization including flood control	Flood risk mitigation dedicated to 500 year protection level	Multiple-purpose authorization including flood control

- North Dakota State Water Commission (NDSWC) funds:** The North Dakota State Water Commission has committed \$750 million in approved and pending funding, to be committed in each biennium as follows: \$66.5 million in 2019, \$66.5 million in 2021, \$66.5 million in 2023, \$66.5 million in 2025 and \$113.5 million in 2027. The North Dakota Legislature has expressed support of the Comprehensive Project throughout the process and has not limited itself from contributing additional funds in the future.
- State of Minnesota funding:** Under the terms of the Joint Powers Agreement (“JPA”) signed by the member entities of the Diversion Authority, the Minnesota member entities of the Diversion Authority will use their best efforts to actively request appropriations, grants, or cost-share allocations from the State of Minnesota. The State of Minnesota appropriated \$4 million in the prior legislative session and has committed funds of \$39 million in 2020 and \$43 million in 2022 to be spent on in-town levees constructed in Minnesota. Minnesota is also capable of charging Storm Water Maintenance fees to pay for maintenance of the Comprehensive Project that occurs in Minnesota.
- CCJWRD Special Assessments and Maintenance Levies:** CCJWRD has the capacity to levy special assessments for the construction of the Comprehensive Project up to \$870 million. The CCJWRD is also capable of levying funds to pay for maintenance associated with the Comprehensive Project.

Summary of Financing Plan

During construction, the Diversion Authority will use sales tax revenues and NDSWC funds on a pay-as-you-go (PAYGO) basis to fund milestone payments to the P3 developer for the SWDCAI, and to fund other direct capital projects, including the In-Town Levees.

Any SRF-eligible projects will be financed from an SRF loan which is currently being sought from the North Dakota State Revolving Fund Program (the financial plan assumes a \$50M loan will be provided, against sales tax revenue).



Gaps between PAYGO funds/SRF loan draws and project uses will be financed using draws on the WIFIA loan (secured by sales tax revenues) and, as necessary, short-term financing (secured by CCJWRD special assessments).

Following substantial completion of the SWDCAI, sales tax revenues will be used to pay SRF interest and principal, and WIFIA interest and principal. Any residual sales tax revenues after paying debt service for the SRF and WIFIA loans will be used to fund Capital Availability Payments to the P3 developer. Note that sales tax revenue will not be pledged to Availability Payments to the P3 developer; Availability Payments to the P3 developer will be secured by improvement warrants issued by CCJWRD, secured by the pledge of special assessments.

Financing Facilities

WIFIA loan	
<i>Lender</i>	<i>US Environmental Protection Agency</i>
<i>Security pledge</i>	<i>First claim on sales tax revenues</i>
<i>Term</i>	<i>2061, 35 years from substantial completion</i>
<i>Principal amount</i>	<i>\$500 million draws, \$586 million maximum balance</i>
<i>Interest rate assumed</i>	<i>3.3% (30 year SLGS + 76 bps buffer)</i>
<i>Principal repayments</i>	<i>Repayments begin in 2051, 10 years prior to the end of term</i>
<i>Other notes</i>	<i>Drawable loan Interest is capitalized until 3 years after substantial completion, then paid current</i>
State Revolving Fund Loan	
<i>Lender</i>	<i>North Dakota State Revolving Fund</i>
<i>Security pledge</i>	<i>Second claim on sales tax revenues</i>
<i>Term</i>	<i>30 years from substantial completion</i>
<i>Principal amount</i>	<i>Approximately \$50 million</i>
<i>Interest rate assumed</i>	<i>1.5% interest + 0.5% administrative fee annually</i>
<i>Principal repayments</i>	<i>Level principal and interest beginning after substantial completion</i>
<i>Other notes</i>	<i>Drawable loan with no commitment fees Interest is paid current on a semi-annual basis</i>
Short-term construction borrowing	
<i>Lender</i>	<i>Bank loan or bond issuance</i>
<i>Security pledge</i>	<i>CCJWRD special assessments; third claim on sales tax revenues</i>
<i>Term</i>	<i>Fully repaid in 2027</i>
<i>Principal amount</i>	<i>Approximately \$200 million</i>
<i>Interest rate assumed</i>	<i>2.9%; 75% of LIBOR + 50 bps</i>
<i>Principal repayments</i>	<i>Bullet repayment in 2027</i>



<i>Other notes</i>	<i>Interest capitalized</i>
Capital Availability Payments – Private Financing	
<i>Security pledge</i>	<i>CCJWRD special assessments</i>
<i>Contract term</i>	<i>2021 to 2046 (30 years from substantial completion)</i>

Maintenance levies by the CCJWRD and City of Moorhead Maintenance fees will pay for the Maintenance Availability Payments to the P3 developer and maintenance of the other parts of the Project.

Given this structure, the pledges of City and County sales tax revenues to WIFIA provide significant excess revenues and high levels of debt service coverage under a conservative base sales tax growth rate assumption (1.5% per annum). Based on initial discussions with ratings agencies, the Diversion Authority anticipates that the WIFIA loan can receive an investment grade credit rating. If this LOI is accepted, the Diversion Authority will begin the process of obtaining an indicative credit rating from an NRSRO.

5. Describe the proposed credit terms of the WIFIA assistance:
 - a. Identify the security pledge: **The Diversion Authority’s Member Entities, the City of Fargo and Cass County have both raised and dedicated sales and use tax revenues to the Comprehensive Project. The sales and use taxes do not sunset until 2084.**
 - b. State whether the WIFIA loan will be issued on a senior or subordinate lien. Note that all project debt must have the same security and priority as the WIFIA loan in a bankruptcy related event. **Senior, if full loan amount is approved; Subordinate if lesser amount is approved.**
 - c. If subordinate, please note that other project debt cannot enjoy senior security without WIFIA springing parity security rights.
 - d. Identify the maturity date (term): **2084**
 - e. Identify the amortization structure (e.g. straight-line or sculpted): **Sculpted**

6. Describe the prospective borrower’s financial condition.

The Diversion Authority’s overall financial position is strong. Its financial profile benefits from strong sales and use tax revenues pledged by the City of Fargo and Cass County. Its profile is further benefitted by legislative intent from the North Dakota Legislature to provide \$750,000,000 of State of North Dakota funds for the Comprehensive Project.

The City of Fargo’s economy and financial position is representative of a community that demonstrates consistent growth in our populations, economic base, and is a regional employment center with a very strong presence in health care, education, business and government. The City’s largest source of revenue for capital funding is from locally approved sales tax, currently collecting about \$49 million per year. We have a 2% sales tax rate in effect.



The City has a diverse revenue base in our General Fund. A breakout of major revenue categories includes taxes (35%), intergovernmental revenue (26%), charge for services (27%) and other revenue sources (12%). During the last North Dakota legislative session additional funding was appropriated for essential infrastructure providing an expected \$13 million per year for capital project grants. Our property tax growth rate over the past five years has been consistently strong with an average growth rate of 8.9%. Our General Fund balance for the year ending December 31, 2018 was \$35 million. Pursuant to our Home Rule Charter, the City of Fargo is authorized to levy property tax of 64 mills, excluding special assessments. Our 2018 levy is currently 51 mills.

Five of the City's financial management staff hold a Certified Public Accountant license. Our Comprehensive Annual Financial Report (CAFR) has earned the GFOA Certificate of Excellence in Financial Reporting for the past twenty-one years.

The City holds a very high credit rating of AA1 as rated by Moody's Investor's Service. Cass County's financial position is very strong. Cass County Government has a stable revenue base and adequate reserves in its General Operating Fund. The main source of income for the General Fund is property taxes, which constitutes 70% of the income. State transfer payments make up 17% of income and charges for services 11%. The County operates under a Home Rule Charter, which limits property taxes to 75 mills; the County currently levies 48 mills, or 64% of its maximum levy. Property tax collections are strong with 93% of the current year taxes collected by the end of April and prior year taxes are almost 100% collected. Taxable values have increased an average of 9.6% over the last five years and are projected to grow by 6.4% for the 2019 tax year. The General Fund balance at the end of 2018 was approximately 25% of actual expenditures. Budgets for all County funds are approved each year and budgetary control is exercised by the County Commission throughout the year. The County prepares a Comprehensive Annual Financial Report annually and has been awarded the Excellence in Financial Reporting by the Government Finance Officers Association. The County also has a dedicated ½ of 1% sales, use, and gross receipts tax throughout the County for expenses of the Comprehensive Project.

7. Provide the year-end audited financial statement for the past three years, as available as an attachment. Provide the financial statement filenames in the textbox.

Please see attachments _____ for the following audited financial statements:

City of Fargo

- City of Fargo, North Dakota Comprehensive Annual Financial Report For the Year Ended December 31, 2016
- City of Fargo, North Dakota Comprehensive Annual Financial Report For the Year Ended December 31, 2017
- City of Fargo, North Dakota Comprehensive Annual Financial Report For the Year Ended December 31, 2018 (still in draft form)

Cass County



-
- Cass County, North Dakota Comprehensive Annual Financial Report For the Year Ended December 31, 2016
 - Cass County, North Dakota Comprehensive Annual Financial Report For the Year Ended December 31, 2017
 - Cass County, North Dakota Comprehensive Annual Financial Report For the Year Ended December 31, 2018
8. Attach a financial pro forma which presents key long-term (at least 10 years) revenue, expense, and debt repayment assumptions for the revenue pledged to repay the WIFIA loan through the final maturity of the proposed WIFIA debt, including up to three years of historical data, as available. The pro forma should be provided in an editable Microsoft Excel format, not in PDF or "values" format. The pro forma should include at a minimum the following:
- a. Sources of revenue
 - b. Operations and maintenance expenses
 - c. Dedicated source(s) of repayment
 - d. Capital expenditures
 - e. Debt service payments and reserve transfers, broken down by funding source and including the WIFIA credit assistance
 - f. Projected debt service coverage ratios for total existing debt and the WIFIA debt
 - g. The project's or system's debt balances broken down by funding sources
 - h. Equity distributions, if applicable

If available, include sensitivity projections for pessimistic, base and optimistic cases. A sample financial pro forma is available at <https://www.epa.gov/wifia/wifia-application-materials-and-resources>. Provide the financial pro forma filename in the textbox.

Please see Appendix [x].

9. Has the prospective borrower consulted with the applicable State Revolving Fund (SRF) program to procure SRF funding? If so, indicate whether it is applying for the SRF funding and where it is in the application process.

The Diversion Authority intends to apply for funding from the North Dakota State Revolving Loan Fund ("SRF") for eligible project costs relating to the relocation of a drinking water well field and associated lines and infrastructure of the Cass Rural Water Users District which must be realigned and relocated due to the location of the Comprehensive Project. In addition to drinking water elements, the Diversion Authority is currently applying for eligible costs project costs associated with stormwater lift stations within the Benefitted Area. The total amount of the requested loans from SRF is approximately \$50 million.

We expect to complete the application process for the SRF loan in the next 120 days.



Section D: Selection Criteria

For each selection criterion, provide a response explaining the extent to which the project seeking the WIFIA loan relates to the criterion. When applicable, reference attachments. Detailed definitions for each selection criteria are provided in the WIFIA program handbook available at www.epa.gov/wifia.

- 1. National or regional significance:** Describe the extent to which the project is nationally or regionally significant, with respect to the generation of economic and public benefits, such as (1) the reduction of flood risk; (2) the improvement of water quality and quantity, including aquifer recharge; (3) the protection of drinking water, including source water protection; and (4) the support of international commerce.

The Comprehensive Project is regionally and nationally significant and will provide economic and public benefits by the reduction of flood risk for 51,000 acres of land. The Comprehensive Project is the priority infrastructure project for the City of Fargo, North Dakota, and Cass County, North Dakota. As demonstrated in attachment ____, the Benefitted Area of the Comprehensive Project are designated as Zone ____ and Zone ____ according to the designations of Special Flood Hazard Areas by FEMA. The facilities constructed to date provide the Benefitted Area the ability to use temporary flood fighting measures consisting of temporary earthen levees, stand bags and, if necessary, evacuations of non-essential residents. Nonetheless, no permanent facilities are in place to divert stormwater around the Benefitted Area.

The absence of a designed and maintained stormwater diversion channel around the Benefitted Area leaves the communities of Horace, Fargo, West Fargo, Harwood, Prairie Rose, Relies Acres, Frontier, North Dakota, and Moorhead, Minnesota, vulnerable to reoccurring stormwater runoff, flood risk, and loss of life and property from stormwater that originates in the Southern Red River Valley and flows into the Red River and its tributaries.

The stormwater diversion channel will allow for the containment of a 100 year storm event and provide flood protection to the Benefitted Area. The Comprehensive Project will have the following economic and public benefits:

- Reduce flood risk through the construction of a stormwater diversion channel, stormwater lift stations, flood walls, and earthen levees consistent with FEMA, USACE, and Diversion Authority standards that will allow for protection of life and property during 100 year flood events for an area of approximately 51,000 acres.
- Increase economic benefits for property owners because the Comprehensive Project will allow for the removal of a large portion of the residents of the Benefitted Area from a FEMA designated 1% annual chance event floodplain and, therefore, remove the statutory insurance requirements under the National Flood Insurance Program, which is a significant financial burden to the landowners.
- Remove obstacles to new and expanding businesses by limiting the cost of flood insurance on new residents and business owners. Subsidizing the Comprehensive Project so that less of the burden is directly on taxpayers enhances the region's ability to attract and retain new and expanding businesses. New development will be followed by new

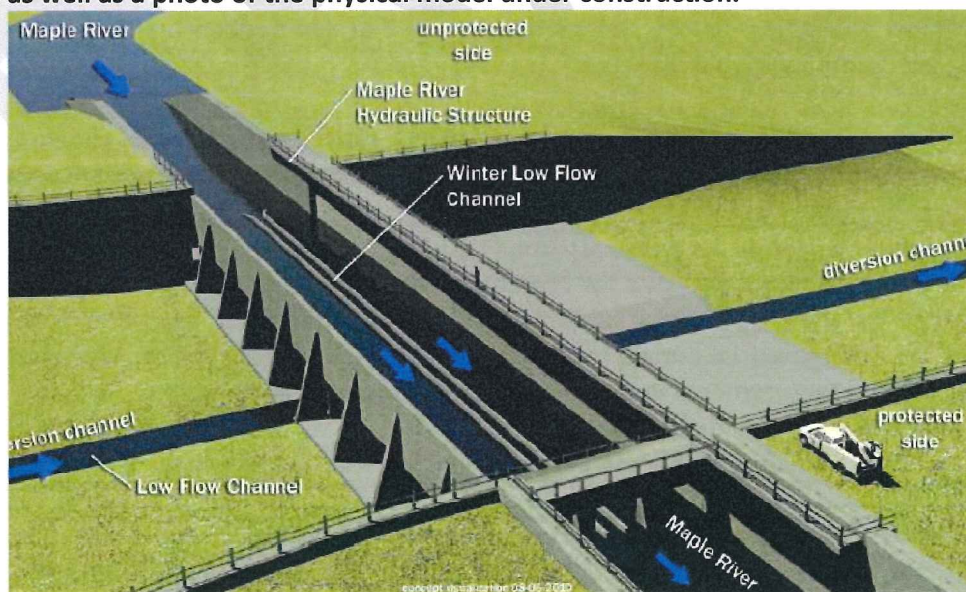


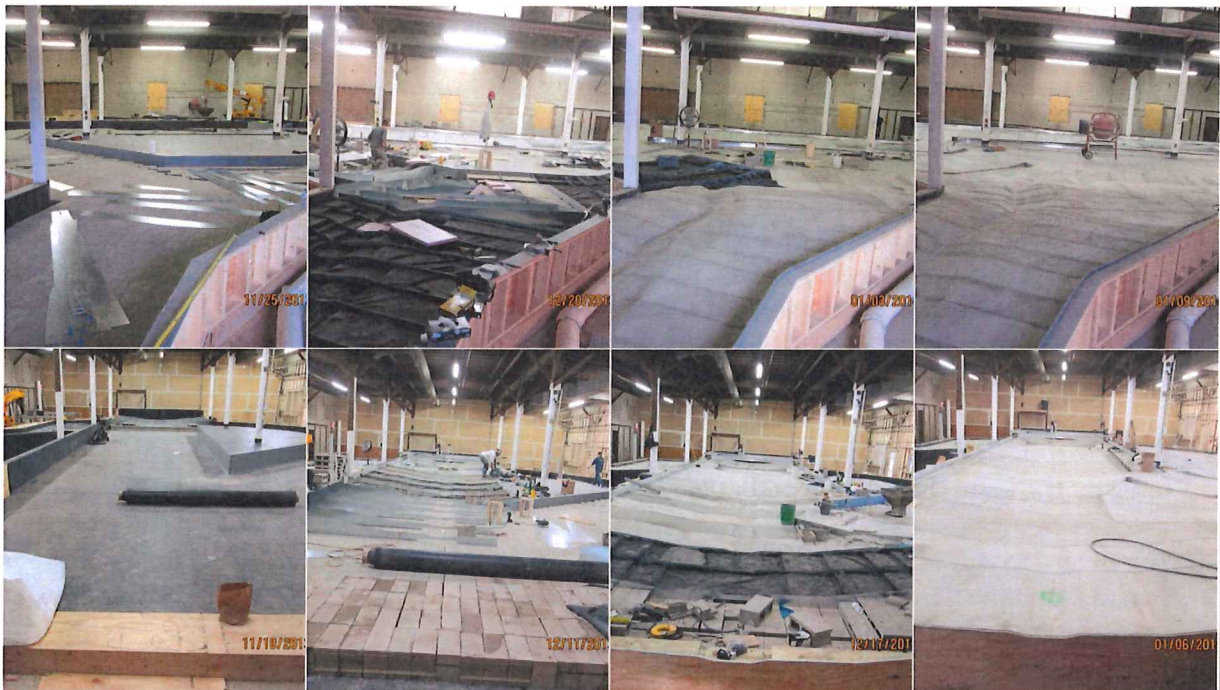
industries and increased commerce for the Benefitted Area. This will also result in increases sales and use tax revenues for the Diversion Authority.

2. **New or innovative approaches:** Describe the extent to which the project uses new or innovative approaches, particularly water reuse and water recycling.

The HEC-RAS model developed for this project is one of the largest (if not the largest) in the world. It was developed in collaboration between the local consultants for the Diversion Authority and the USACE St. Paul District, and the USACE Hydraulic Engineering Center. The model was particularly challenging to develop because of the flatness of the area – approximately one foot per mile. The model is used to predict flood elevations in and around the Fargo-Moorhead area to the Canadian border for several flood scenarios, including the 10-year, 20-year, 50-year, 100-year, 500-year, Inlet Design Flood, and the Probable Maximum Flood. The model was used to set mitigation limits for the upstream properties and to show that the project would not adversely impact communities on the Red River living downstream.

The Maple River and Sheyenne River Aqueduct projects are unique in the US by having two large aqueducts to carry river flows over the stormwater diversion channel to maintain fish connectivity and provide other environmental benefits. Without the aqueducts, the rivers would flow into the stormwater diversion channel and the downstream reaches of the rivers would dry up. The aqueducts are sized to carry the two- to three-year channel forming flows. Flows from larger flood events will spill into a side channel and be diverted downstream in the channel. To design these one of a kind structures, the Corps constructed a non-distorted, 1:50 scale physical model at the University of Minnesota Saint Anthony Falls Laboratory to analyze the hydraulic behavior and interaction of the aqueduct, spillway, and stormwater diversion channel. The physical model used Froude model law for dynamic similarity between the proposed aqueduct structure (field scale) and model (model scale). A rendering of the proposed Maple River aqueduct structure is shown below, as well as a photo of the physical model under construction.





The design, construction, financing, operation, and maintenance of the Comprehensive Project is being delivered through a first of its kind innovative approach to flood protection project implementation. Under the PPA dated July 11, 2016, USACE and the Diversion Authority have agreed to deliver the Comprehensive Project using a first of its kind “Split Delivery Model,” with USACE responsible for the design and construction of the SEAI and mitigation and associated infrastructure, and the Diversion Authority responsible for the construction of the stormwater diversion channel, in-town flood walls, lift stations, road raises, and the OHB ring levees, as well as operations and maintenance of the Comprehensive Project. Split delivery, but with an integrated design and operations strategy to ensure operation of the SEAI and channel produced the right results for the protected area. The P3 delivery of the stormwater diversion channel will save significant time and cost in the delivery of the project. Having one design-build contract for the stormwater diversion channel and the associated road and rail bridges will allow for optimal sequencing and construction of all the crossings and less impact to the traveling public. Complimentary support projects (in-town and local road raises) are also coordinated through this delivery model. The P3 delivery of the stormwater diversion channel will save significant time and cost in the delivery of the project.

The Diversion Authority will be procuring the stormwater diversion channel through a P3 which will result in the Diversion Authority entering into a contract with private consortium to design, build, finance, operate, and maintain the stormwater diversion channel and associated infrastructure.



- 3. Protection against extreme weather events:** Describe the extent to which the project (1) protects against extreme weather events, such as floods or hurricanes, or (2) helps maintain or protect the environment.

The Comprehensive Project will directly protect against extreme weather events, such as 100 year flood events along with the ability to defend against 500 year flood events. The Fargo-Moorhead Metropolitan Area has very flat topography typically with approximately one foot drop for each mile. Flooding in the area is caused by stormwater. The average annual rainfall precipitation is approximately twenty three inches, with the mean of a 10 year/30 minute rainfall events being 1.5 inches. On average, winter generates fifty inches of snowfall.

(attach photos of flood events)

[Technical personnel, please provide additional details about specific structures that will help mitigate the flood risk and the potential environmental impacts.]

The Diversion Authority and its Member Entities are participants in the Floodplain Management Program and the Comprehensive Project is designed to meet FEMA, Cass County, Clay County, City of Fargo, and City of Moorhead design standards.

- 4. Serves energy exploration or production areas:** Describe the extent to which a project serves regions with significant energy exploration, development, or production areas.

North Dakota is the second-largest crude oil producer in the nation and North Dakota's total energy production is six times greater than its energy consumption. The Fargo-Moorhead Metropolitan Area is the major commercial rail corridor connecting the State of North Dakota's oil producing Bakken oil fields to the eastern United States. The commercial rail network crossing through the Fargo-Moorhead Metropolitan Area is part of the Department of Defense's Strategic Rail Corridor Network (STRACNET), which crosses the Red River. Without the Comprehensive Project, during 100 year flood events, the commercial rail network will be disrupted. This rail network transports half of the 1.1 million barrels of oil produced in North Dakota in a day. The region's annual flooding threatens America's energy security and the Comprehensive Project protects energy exploration, development, and production jobs in the Bakken formation by allowing for the uninterrupted flow of oil by commercial rail.

- 5. Serves regions with water resource challenges:** Identify the water resource challenge and the extent to which a project serves regions with significant water resource challenges, including the need to address (1) water quality concerns in areas of regional, national, or international significance; (2) water quantity concerns related to groundwater, surface water, or other resources; (3) significant flood risk; (4) water resource challenges identified in existing regional, state, or multistate agreements; and (5) water resources with exceptional recreational value or ecological importance.

The Fargo-Moorhead Metropolitan Area is prone to significant flood risk and has exceeded the flood stage in 59 of the last 119 years and 25 out of 27 years since 1993. The number, frequency,



and duration of flooding is increasing. The average annual flood damages associated with the Comprehensive Project are over \$194.8 million dollars. The Comprehensive Project is necessary to protect the property of over 245,000 people including 1 in 5 of all North Dakotans. Completion of the Comprehensive Project will protect over \$20 billion in North Dakota property and provide certainty to business and consumers in the Fargo-Moorhead Metropolitan Area.

Three large universities and colleges are located within the Benefitted Area. On the North Dakota side of the Red River, over fifty K-12 school buildings are located within the Benefitted Area, along with the region's healthcare hub.

The Comprehensive Project is intended to restore connectivity to aqueduct life by restoring fish passages on the Red River and is designed to mitigate and restore wetland areas.

6. **Addresses identified priorities:** Describe the extent to which the project addresses identified municipal, state, or regional priorities.

The Comprehensive Project addresses municipal priorities for the Member Entities. The Comprehensive Project is evidenced as a priority by these entities in the JPA, dated June 1, 2016, and Limited JPA, dated July 11, 2011. These agreements created the Diversion Authority to design and construct the Comprehensive Project. The Diversion Authority was specifically created to complete the Comprehensive Project. Therefore, the Comprehensive Project is the Diversion Authority's one and only priority.

In addition to the municipal entities coming together to construct the Comprehensive Project, the Comprehensive Project has been identified as a state and regional priority as evidenced by the Governors' Task Force. The Governors' Task Force was co-chaired by North Dakota Governor Doug Burgum and then-Minnesota Governor Mark Dayton. The purpose of the Governors' Task Force was to develop design principles and concept-level engineering solutions to achieve balanced flood risk management for the Fargo-Moorhead Metropolitan Area, including upstream and downstream communities and properties.

North Dakota Governor Doug Burgum personally testified before the North Dakota legislature requesting funds for the Comprehensive Project. The North Dakota Legislature has on two separate occasions committed a total of \$870 million for the Comprehensive Project. This commitment from the State of North Dakota evidences the Comprehensive Project as a priority for the State of North Dakota.

USACE has also identified the Comprehensive Project as a regional priority with a committed \$750 million. They have also entered into a PPA with the Diversion Authority specifying the construction plan of the Comprehensive Project, as USACE is responsible for various portions of the Comprehensive Project.

7. **Repair, rehabilitation, or replacement:** Describe the extent to which the project addresses needs for repair, rehabilitation or replacement of a treatment works, community water system, or aging water distribution or wastewater collection system.



The Comprehensive Project will enhance the Fargo-Moorhead metropolitan sanitary sewer, storm sewer, and the community water systems by providing the missing link and constructing facilities that are necessary to collect and convey stormwater around the Fargo-Moorhead Metropolitan Area and to mitigate stormwater in Cass County. One component of these facilities will be to replace aging in-town infrastructure that is currently inadequate to protect against rising stormwater. Without the Comprehensive Project, the infrastructure of the Fargo-Moorhead Metropolitan Area will continue to be burdened with the negative impacts of stormwater and flood waters necessitating repair, rehabilitation, and replacement of existing infrastructure.

8. **Economically stressed communities:** Describe the extent to which the project serves economically stressed communities, or pockets of economically stressed rate payers within otherwise non-economically stressed communities.

The Comprehensive Project would provide 100-year flood protection to the vast majority of the Fargo-Moorhead Metropolitan Area and will provide relief from flood insurance premiums. With a population of approximately 245,000, the Fargo-Moorhead Metropolitan Area is the largest metropolitan area between Minneapolis, Minnesota, and Spokane, Washington. In addition to being an economic hub, it functions as a regional center for social services, healthcare, and veteran services.

Over one-fourth of the social services in the State of North Dakota take place within the Fargo-Moorhead Metropolitan Area. Approximately thirteen percent of the population is living in poverty, including more than 1,000 suffering from homelessness on any given night.

As the baby boomer generation has shifted in population across rural American, especially across North Dakota and Minnesota, elderly populations are moving closer to healthcare centers like that of Fargo-Moorhead. This has resulted in eleven percent of the population over the age of sixty-five, with over twenty-one percent of the total population on Medicaid/Medicare. The Fargo-Moorhead area will likely see an increase in the elderly population seeking to move closer to its major healthcare centers.

Over 11,000 veterans call Fargo-Moorhead home and the Fargo Veterans Healthcare System serves the larger regional healthcare needs of veterans. The VA hospital is located along the Red River, which caused the hospital to evacuate half of its patients during the 1997 flood.

9. **Reduces exposure to lead or emerging contaminants:** Describe the extent to which the project reduces exposure to lead or addresses emerging contaminants, including PFOA and PFAS, in the nation's drinking water systems.

The Comprehensive Project will protect and prevent catastrophic flood damage to the Fargo Wastewater Treatment Facility ("WWTF"), which is located within the Benefitted Area. The WWTF is the regional waste water treatment facility for communities located within Cass County, North Dakota. The WWTF is undergoing an expansion project that will increase its treatment



capacity from 15 million gallons per day (“mgd”) to 29 mgd to serve a population of 271,000 people. The facility is located in north Fargo at 3400 North Broadway.

Fargo’s regional WWTF serves residential, commercial, and industrial users in the City of Fargo and many surrounding communities, including West Fargo, Horace, Frontier, Prairie Rose, Lake Shure Estates, Round Hill Estates, Briarwood, Highland Park, Reile’s Acres, Harwood, Oxbow, North River, and rural Southeast Cass County developments. The treatment facility incorporates screening and grit removal, odor control, primary clarification, trickling filters for both organic pollutant and ammonia reduction, integrated fixed film activated sludge for biological nutrient removal of phosphorus and nitrogen, final clarification, ultraviolet disinfection, centrifuge thickening of waste activated sludge, primary and secondary anaerobic digestion, belt filter press mechanical dewatering, sand drying beds and renewable bio-gas generation for heating various processes and buildings. Treated effluent is continuously discharged to the Red River. If the WWTF was damaged or destroyed by flood waters, there could be a release of contaminants into the Red River, which serves as the source of raw water for downstream communities in both the United States and Canada. Additionally, destruction of the WWTF would leave 245,000 people in North Dakota without wastewater treatment.

The type of runoff that occurs from spring melt includes clay based sediment and particles that create water turbidity which are easily transported downstream and can result in contamination of receiving surface waters.

The Comprehensive Project will also protect and prevent catastrophic flood damage to the Fargo Water Treatment Campus (“FWTC”), which is located within the Benefitted Area. The FWTC consists 2 water treatment plants with a total capacity of 45 mgd: a 1997 Lime Softening Water Treatment Plant – 30 mgd (LSWTP) and a 2018 Membrane Water Treatment Plant – 15 mgd (MWTP). Fargo Water Utility recently completed a 15 mgd MWTP expansion utilizing membrane technology to help manage deteriorating raw water quality and support regional water service. The FWTC currently serves over 160,000 people, including the residents of the Cities of Fargo of West Fargo and users of the Cass Rural Water Users District.

- 10. Readiness to proceed:** Describe the readiness of the project to proceed toward development, including a demonstration by the prospective borrower that there is a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which a Federal credit instrument is obligated for the project.

Extensive planning and preliminary engineering have been completed for the Comprehensive Project over nearly a decade. As demonstrated in _____, have been completed. Currently, the stormwater diversion channel inlet structure is under construction with an estimated completion date of 2022. The Wild Rice control structure has been designed and is currently being advertised for bids for construction. Land acquisition for the SWDCAI is over one-third complete and will be complete by June 30, 2020. The SWDCAI is being designed and built using a P3 procurement and the Diversion Authority has shortlisted three teams to bid against a final RFP for the design, construction, finance, operation, and maintenance of the SWDCAI in the second quarter of the 2020 and intends to award the bid in mid-2020.



[Technical personnel, please add any additional information regarding preliminary engineering feasibility.]

11. **Enables project to proceed earlier:** Describe the likelihood that assistance under WIFIA would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

(describe need for funding, preliminary creditworthiness, and budget authority here)
Currently, lack of funding is the primary limitation for the Comprehensive Project progress.

12. **Financing plan:** Describe the extent to which the project financing plan includes public or private financing in addition to assistance under WIFIA.

The Diversion Authority is requesting a WIFIA loan in the amount of ___% () of the eligible costs of the Eligible Project. The remaining ___ of the Eligible Project costs will be funded by the State of North Dakota, State of Minnesota, and USACE.

13. **Reduction of Federal assistance:** Describe the extent to which assistance under WIFIA reduces the contribution of Federal assistance to the project.

The Diversion Authority is requesting a WIFIA loan in the amount of \$500 million of the eligible costs. The Comprehensive Project is being delivered via split delivery as set forth in PPA between USACE and the Diversion Authority, the City of Fargo, and the City of Moorhead, dated July 11, 2016, and amended March 8, 2019. The PPA is a first of its kind agreement, whereby the amount of Federal contribution to the Project is limited to \$750,000,000 in 2015 dollars. The PPA contemplates that the value of any Federal appropriations costs associated with Federal loan programs for the Comprehensive Project would be included within the \$750,000,000 Federal contribution. The Diversion Authority anticipates, if approved for a WIFIA loan, the value of the Federal appropriations costs associated with the WIFIA program would be included within the \$750,000,000, and as a result, the Federal assistance to the Comprehensive Project is not increased. Under the PPA, the current Federal assistance to the Comprehensive Project is _____ (___%) compared to a typical Federal flood control project where the Federal contribution is _____.



Section E: Contact Information

1. Primary point of contact

Name: John T. Shockley
Title: General Counsel for Diversion Authority
Organization: Ohnstad Twichell, PC
Street Address: 444 Sheyenne Plaza
City/State/Zip: West Fargo, ND 58078
Phone: (701) 282-3249
E-mail: jshockley@ohnstadlaw.com

2. Secondary point of contact

Name: Michael Redlinger
Title: Co-Deputy Executive Director
Organization: Metro Flood Diversion Authority
Street Address: 225 4th St. N.
City/State/Zip: Fargo, ND 58102
Phone: (701) 476-4135
E-mail: MRedlinger@FargoND.gov

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Section F: Certifications

Please sign in the appropriate space and submit a scanned version of the signature page to EPA with your electronic Letter of Interest submission.

- 1. National Environmental Policy Act:** The prospective borrower acknowledges that any project receiving credit assistance under this program must comply with all provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and that EPA will not approve a loan for a project until a final agency determination, such as a Categorical Exclusion (CATEX), Finding of No Significant Impact (FONSI), or a Record of Decision (ROD), has been issued.
- 2. American Iron and Steel:** The prospective borrower acknowledges that any project receiving credit assistance under this program for the construction, alteration, maintenance, or repair of a project may only use iron and steel products produced in the United States and must comply with all applicable guidance.
- 3. Prevailing Wages:** The prospective borrower acknowledges that all laborers and mechanics employed by contractors or subcontractors on projects receiving credit assistance under this program shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with sections 3141-3144, 3146, and 3147 of Title 40 (Davis-Bacon wage rules).
- 4. Lobbying:** Section 1352 of Title 31, United States Code provides that none of the funds appropriated by any Act of Congress may be expended by a recipient of a contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, or an employee of a Member of Congress in connection with the award or making of a Federal contract, grant, loan, or cooperative agreement or the modification thereof. The EPA interprets this provision to include the use of appropriated funds to influence or attempt to influence the selection for assistance under the WIFIA program.

WIFIA prospective borrowers must file a declaration: (a) with the submission of an application for WIFIA credit assistance; (b) upon receipt of WIFIA credit assistance (unless the information contained in the declaration accompanying the WIFIA application has not materially changed); and (c) at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed in connection with the WIFIA credit assistance.

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 the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients 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 this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

5. *Debarment:* The undersigned further certifies that it is not currently: 1) debarred or suspended ineligible from participating in any Federal program; 2) formally proposed for debarment, with a final determination still pending; or 3) indicted, convicted, or had a civil judgment rendered against it for any of the offenses listed in the Regulations Governing Debarment and Suspension (Governmentwide Nonprocurement Debarment and Suspension Regulations: 2 C.F.R. Part 180 and Part 1532).
6. *Default/Delinquency:* The undersigned further certifies that neither it nor any of its subsidiaries or affiliates are currently in default or delinquent on any debt or loans provided or guaranteed by the Federal Government.
7. *Other Federal Requirements:* The prospective borrower acknowledges that it must comply with all other federal statutes and regulations, as applicable. A non-exhaustive list of federal cross-cutting statutes and regulations can be found at: <https://www.epa.gov/wifia/wifia-resources#complianceanchor>.
8. *Signature:* By submitting this letter of interest, the undersigned certifies that the facts stated and the certifications and representations made in this letter of interest are true, to the best of the prospective borrower's knowledge and belief after due inquiry, and that the prospective borrower has not omitted any material facts. The undersigned is an authorized representative of the prospective borrower.

Signature: _____

Date Signed:

Name: Michael J. Redlinger
Title: Co-Deputy Executive Director
Organization: Metro Flood Diversion Authority
Street Address: 225 4th St. N.
City/State/Zip: Fargo, ND 58102
Phone: (701) 476-4135
E-mail: MRedlinger@FargoND.gov



Section G: Notification of State Infrastructure Financing Authority

Please sign in the appropriate space and submit a scanned version of the signature page to EPA with your electronic Letter of Interest submission.

By submitting this letter of interest, the undersigned acknowledges that EPA will (1) notify the appropriate State infrastructure financing authority in the State in which the project is located that the prospective borrower submitted this letter of interest; and (2) provide the submitted letter of interest and all source documents to that State infrastructure financing authority.

Prospective borrowers that **do not want their letter of interest and source documents shared with the State infrastructure financing authority** in the state in which the project is located may opt out by initialing here _____.

If a prospective borrower opts out of sharing a letter of interest, EPA will still notify the State infrastructure financing authority within 30 days of receiving a letter of interest.

Signature: _____

Name:

Date Signed:

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KEY DEFINITIONS

- (a) *Administrator* means the Administrator of EPA.
- (b) *Applicant* means the entity submitting the application for WIFIA credit assistance. Only prospective borrowers that are invited to submit a WIFIA application become applicants. The following entities are eligible to receive credit assistance: a corporation, a partnership, a joint venture, a trust, a Federal, State, or local government, a tribal government or consortium of tribal governments, and a State infrastructure financing authority.
- (c) *Community water system* has the meaning given the term in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f).
- (d) *Credit assistance* means a secured loan or loan guarantee under WIFIA.
- (e) *Credit agreement* means a contractual agreement between EPA and the prospective borrower (and the lender, if applicable) that formalizes the terms and conditions established in the term sheet (or conditional term sheet) and authorizes the execution of a secured loan or loan guarantee.
- (f) *Eligible project costs* mean amounts, substantially all of which are paid by, or for the account of, an prospective borrower in connection with a project, including the cost of:
- (1) Development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;
 - (2) Construction, reconstruction, rehabilitation, and replacement activities;
 - (3) The acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation (including acquisitions pursuant to section 33 U.S.C. §3905(7)), construction contingencies, and acquisition of equipment; and
 - (4) Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.
- (g) *Federal credit instrument* means a secured loan or loan guarantee authorized to be made available under WIFIA with respect to a project.
- (h) *Investment-grade rating* means a rating category of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a nationally recognized statistical rating organization (NRSRO) to project obligations offered into the capital markets.
- (i) *Iron and steel products* means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges,



pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

- (j) *Nationally Recognized Statistical Rating Organization (NRSRO)* means a credit rating agency identified and registered by the Office of Credit Ratings in the Securities and Exchange Commission.
- (k) *Project* means:
- (1) 1 or more activities that are [eligible](#) for assistance under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)), notwithstanding the public ownership requirement under paragraph (1) of that subsection.
 - (2) 1 or more [activities](#) described in section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j-12(a)(2)).
 - (3) A project for enhanced energy efficiency in the operation of a public water system or a publicly owned treatment works.
 - (4) A project for repair, rehabilitation, or replacement of a treatment works, community water system, or aging water distribution or waste collection facility (including a facility that serves a population or community of an Indian reservation).
 - (5) A brackish or sea water desalination project including chloride control.
 - (6) A managed aquifer recharge project, a water recycling project, or projects to provide alternative water supplies to reduce aquifer depletion.
 - (7) Acquisition of real property or an interest in real property—
 - (A) If the acquisition is integral to a project described in paragraphs (1) through (5); or
 - (B) Pursuant to an existing plan that, in the judgment of the Administrator or the Secretary, as applicable, would mitigate the environmental impacts of water resources infrastructure projects otherwise eligible for assistance under this section.
 - (8) A project to prevent, reduce, or mitigate the effects of drought, including projects that enhance the resilience of drought-stricken watersheds.
 - (9) A combination of projects, each of which is eligible under paragraph (1) or (2), for which a State infrastructure financing authority submits to the Administrator a single application.
 - (10) A combination of projects secured by a common security pledge, each of which is eligible under paragraph (1), (2), (3), (4), (5), (6), or (7), for which an eligible entity, or a combination of eligible entities, submits a single application.
- (l) *Prospective borrower* means an entity that is contemplating or is in the process of undertaking the WIFIA application process, or an entity that has undertaken these activities on behalf of another entity. The following entities are eligible to receive credit assistance: a corporation, a partnership, a joint venture, a trust, a Federal, State, or local government, a tribal government or consortium of tribal governments, and a State infrastructure financing authority. Prospective borrowers become applicants when they are invited to apply for WIFIA credit assistance.
- (m) *Public entity* means:
- (1) a Federal, State, or local Governmental entity, agency, or instrumentality; or
 - (2) a Tribal Government or consortium of Tribal Governments.



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- (n) *Publicly sponsored* means the prospective borrower can demonstrate, to the satisfaction of the Administrator that it has consulted with the affected State, local or Tribal Government in which the project is located, or is otherwise affected by the project, and that such government supports the proposed project. Support can be shown by a certified letter signed by the approving municipal department or similar agency, mayor or other similar designated authority, local ordinance, or any other means by which local government approval can be evidenced.
- (o) *Small Community* means a community with a population of no more than 25,000 individuals.
- (p) *State* means any one of the fifty states, the District of Columbia, Puerto Rico, or any other territory or possession of the United States.
- (q) *State infrastructure financing authority* means the State entity established or designated by the Governor of a State to receive a capitalization grant provided by, or otherwise carry out the requirements of, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et. seq.) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12).
- (r) *Term sheet* means a contractual agreement between EPA and the project sponsor (and the lender, if applicable) that sets forth the key business terms and conditions of a Federal credit instrument. Execution of this document represents a legal obligation of budget authority.
- (s) *Treatment works* has the meaning given the term in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292).
- (t) *WIFIA* means the Water Infrastructure Finance and Innovation Act of 2014, Pub. L. 113-121, 128 Stat, 1332, codified at 33 U.S.C. §§ 3901-3914.



FM Diversion Talking Points

Current as of June 25, 2019

Topic:	Page
Construction	2
<ul style="list-style-type: none"> • P3 Construction (Diversion Channel and Associated Infrastructure) • USACE Construction (Southern Embankment and Associated Infrastructure) • 2 In-town Construction 	<p>2</p> <p>2</p> <p>2</p>
Permitting	2
<ul style="list-style-type: none"> • MN Permit • Contested Case Hearing • BRRWD Permit 	<p>2</p> <p>2</p> <p>3</p>
Litigation	3
<ul style="list-style-type: none"> • Federal Litigation • Requests for Mediation 	<p>3</p> <p>4</p>
Financial	4
<ul style="list-style-type: none"> • Financial Overview and Next Steps • State of ND Funding • Federal Funding • State of MN Funding • Local Funding • Maintenance Costs • Special Assessments 	<p>4</p> <p>4</p> <p>4</p> <p>5</p> <p>5</p> <p>5</p> <p>5</p>
Land Acquisition & Property Mitigation	6
<ul style="list-style-type: none"> • Land Acquisition • Flowage Easements • Additional Mitigation 	<p>6</p> <p>6</p> <p>6</p>

Construction

P3 Construction (Diversion Channel and Associated Infrastructure)

- The Diversion Authority will contract with a P3 Developer for construction of the diversion channel and associated infrastructure, including bridges and aqueduct structures.
- We expect P3 bids to be received in the spring of 2020, and construction to begin by fall of 2020.
- Completion of the P3 construction is expected by 2027.
- P3 Construction encourages design innovation and will deliver the project faster and more efficiently by apportioning risk to the entity best positioned to manage it.

USACE Construction (Southern Embankment and Associated Infrastructure)

- USACE is responsible for construction of the Southern Embankment and associated infrastructure, which includes the earthen embankment, Wild Rice and Red River Control Structures, Diversion Inlet and western tie back levee.
- A Project Partnership Agreement was entered into in July, 2016, obligating USACE to construct the Southern Embankment portion of the Project and seek funding for the Project.
- Construction on the Diversion Inlet Structure (~\$46M) ~~is expected to resume this summer, 2019~~ has resumed.
 - Contract has been awarded to Ames Construction of Minnesota
- The construction contract for the Wild Rice River Control Structure (~\$25M-\$100M) is expected to be awarded by the end of 2019

In-town Construction

- Additional in-town construction to allow 37' to safely flow through the Red River is necessary for Plan B compromise
 - \$130M more in Fargo
 - \$43M in Minnesota - Moorhead (\$40M) and Clay County (\$3M)

Permitting

MN Permit

- The MDNR issued a Dam Safety & Public Waters Work Permit (Permit #2018-0819) for the Project on Dec 27, 2018.
- The Diversion Authority has reviewed the permit and all permit conditions and finds them achievable.
- Most of the permit conditions are construction monitoring and reporting requirements that are routine and customary during construction. There are a minimal number of conditions that must be adhered to prior to construction, such as acquiring the property rights and obtaining other necessary permits. These are items that are typical of every project.

Contested Case Hearing

- The DNR has referred to the Minnesota Office of Administrative Hearings the requests for a Contested Case Hearing by the Buffalo Red River Watershed District (BRRWD), the City of Comstock, and the City of Wolverton. The ALJ has scheduled a pre-hearing conference to discuss the scope of that hearing for July 2nd.

- ~~The Buffalo Red River Watershed District (BRRWD), the City of Comstock, and the City of Wolverton have requested a Contested Case Hearing, which is an administrative process to challenge the issuance of the MDNR permit.~~
- While the process will take months to work through, the recent ruling by Federal Court Judge Tunheim means that construction can take place as scheduled for the elements of the project in ND, in compliance with the MN permit conditions, which will keep the project on schedule.

BRRWD Permit

- The DNR Commissioner's Order allowed local units of government to impose reasonable terms and conditions on any required permits.
- The Diversion Authority applied for a permit in January for work within the Buffalo Red Watershed District.
- BRRWD developed draft permit conditions after months of coordination with the Diversion Authority, the Army Corps, and the Minnesota DNR in order to address concerns expressed by the Watershed and members of the public.
- The draft permit conditions are all workable within the existing project and acceptable to the Diversion Authority.
- To make sure that everyone had sufficient time to work out any appropriate permit terms and conditions, the Diversion Authority granted a time extension to BRRWD thru June 28, 2019
- BRRWD voted June 24, 2019 to deny the permit for work within the Watershed
- The Diversion Authority is confident the application for the Diversion Project complies with all the rules of the BRRWD.
- The BRRWD's action conflicts with the DNR Commissioner's Order that allows reasonable permit conditions, but does not allow local governments to block the project outright.
- ~~The Diversion Authority applied for a permit in January for work within the Buffalo Red Watershed District.~~
- ~~BRRWD has issued draft permit conditions, which are all workable within the existing project.~~
- ~~The Diversion Authority continues to work with BRRWD to support its permit decision, which could occur in late May.~~
- ~~The Diversion Authority intends to comply with permit conditions contained within the BRRWD permit.~~

Litigation

Federal Litigation

- The Richland/Wilkin County JPA filed a lawsuit against the U.S. Army Corps of Engineers in 2013. The lawsuit was later joined by the Fargo-Moorhead Diversion Authority and by the State of Minnesota.
- On April 8, U.S. District Court Judge John A. Tunheim modified the injunction to allow all requested construction to proceed on the FM Area Diversion Project.

- Commence the Public Private Partnership (P3) process for the Diversion Channel and Associated Infrastructure
- Manufacture components and start construction on the Diversion Inlet Structure
- Manufacture components and start construction on the Wild Rice River Structure
- Start construction of the Western Tieback
- Start non-construction design and mitigation work in North Dakota and Minnesota.

Requests for Mediation

- The Diversion Authority has always been willing to meet with elected leaders in Richland and Wilkin County.
- In 2014, a board position on the Diversion Authority was offered jointly to Richland and Wilkin Counties. The position was declined, but is still available until 2021, though is currently unfilled.
- Any mediation request would be entertained if it included concrete proposals. The Diversion Authority has no interest in further project delays or cost increases.
- Any proposal to discuss major changes to the project would create two serious problems:
 - Undermine the work of Governor Dayton and Governor Burgum to develop Plan B, and the permitting efforts in Minnesota and North Dakota that have both approved the project.
 - No significant changes to the project are legally allowed at this point in the administrative and permitting process; the DNR's Determination of Adequacy found Plan B to be the only appropriate alternative, the R/W JPA chose not to appeal the Determination of Adequacy, and it is now final.

Financial

Financial Overview and Next Steps

- ~~Over the next 30-90 days (Mid-Summer) w~~We will be conferring with our technical and financial advisors to understand the funding commitments from our State and Federal partners and what this means for our financial plan, and to determine the most cost-effective and efficient way to construct the Project.

State of ND Funding

- The 2019 Legislature committed \$750M, which is a \$180M increase from the previous commitment.
 - To date, the State Legislature has appropriated \$436.5M of the \$750M.
 - The conditions required by the 2019 Legislature are workable and we see no issue with compliance or expect any delay due to the conditions.
- During the legislative interim, the P3 procurement is expected to be completed. Once bids are in hand, we expect future additional legislative funding requests to be made.
- We appreciate the Legislature's commitment to the Project and we will continue to coordinate with the Legislature.

Federal Funding

- On March 19, 2019 an amended Project Partnership Agreement (PPA) was signed by the cities of Fargo and Moorhead, the Diversion Authority, and the U.S. Army Corps of Engineers. The PPA

amendment increases the federal participation to \$750M (in 2015\$, escalates to year of appropriation) in total construction funding, of which \$98M has been appropriated.

- Federal funding to date has come in three categories of funding (only construction funding is counted against the total \$750M):
 - Construction (2016 – present) = \$98M
 - PED Funds (2011-2014) = \$29M
 - Feasibility (2008-2013) = \$11M
- FY2020 Budget Request = \$100M
 - Increment 1: WILD RICE CONTROL STRUCTURE CONSTRUCTION: \$50M
 - Increment 2: FIRST EMBANKMENT DESIGN AND CONSTRUCTION: \$32M
 - Increment 3: DIVERSION INLET STRUCTURE CONSTRUCTION: \$8M
 - Increment 4: ENVIRONMENTAL AND CULTURAL RESOURCE MITIGATION: \$10M

State of MN Funding

- Commitments have been made by Moorhead and Clay County to request \$86M in State funding.
- \$6M has been secured for construction to date.
- SF1603 has been introduced in the 2019-2020 legislative session requesting \$39 for additional flood hazard mitigation funds.
- With an approved MN permit, we are confident the remaining MN funds will be available when needed for construction and mitigation efforts in MN.
- [Additional funding requests are in the process of being made by the Moorhead / Clay County Joint Powers Agreement in conjunction with the DNR through flood mitigation \(bond\) funding.](#)

Local Funding

- Local funding has been secured through voter approval of three half-cent sales taxes, two in Fargo and one in Cass County. These sales taxes were extended until 2084 in the 2016 election.
- No additional sources of local revenue are anticipated to fund construction.

Maintenance Costs

- Maintenance of Project features is expected to be paid through excess revenues on existing sales taxes or through a small maintenance levy on an already established District in North Dakota, similar to other area flood protection projects.
- The Joint Powers Agreement that created the Diversion Authority allocated 2% (based on the socioeconomic analysis from the Minnesota EIS) of the Project maintenance costs to the City of Moorhead and Clay County.

Special Assessments

- In preliminary conversations with our financial advisors, we are confident there is a solution allowing construction to begin without the need to levy special assessments.
- The Special Assessment District was created to obtain more favorable financing terms and rates for sales tax bonds and will not be counted on as a source of revenue in the finance plan.

Land Acquisition & Property Mitigation

Land Acquisition

- The Diversion Authority is moving forward with all land acquisition necessary for the Project. A phased approach will be used as designs are completed on Project features. The acquisition of all property for the Diversion Channel is the top priority.
 - In February 2019, 550 letters were sent to property owners who are affected by the Project.
- The Diversion Authority has a comprehensive property acquisition and mitigation plan.
- The Cass County Joint Water Resource District is the acquiring entity for property rights in North Dakota.
- The City of Moorhead and Clay County are forming a joint powers agreement for the purposes of acquiring property rights in Minnesota.
- Property owners will be fairly compensated, based on an independent appraisal.
- The Diversion Authority will cooperate with landowners who make reasonable requests, including rent-back of property until needed for the project and offering a right of first refusal.
- Eminent Domain will only be used as a last resort.
- Land Acquisition in Minnesota will follow Minnesota Law.
- Land Acquisition in North Dakota will follow North Dakota Law.

Flowage Easements

- The Project includes an upstream mitigation area where acquisition of flowage easements is required
 - Value of the easements will be determined through an appraisal
- The Diversion Authority has contracted with Crown Appraisals to develop the value of the easements
 - Phase 1 of the study was complete in Nov 2018
 - Phase 2 expected to start this spring/summer

Additional Mitigation

- The Diversion Authority has developed and committed to additional mitigation above and beyond the requirements established by state and federal agencies.
- The additional programs include
 - Post-operation debris clean-up and damage repair
 - Summer flood supplemental crop loss program



TO: Chris Volkers and Steve Larson

FROM: Andrew G. Pomroy

DATE: June 20, 2019

SUBJECT: F-M Diversion, legislative update 6-20-19

Legislative activity around the F-M diversion project will slow down during the summer months as legislators are back home in their districts. As with during the session, the primary item being tracked at present is progress towards a capital investment bill. While a \$440 million bonding bill was agreed to by legislative leaders at the end of the 2019 legislative session, no bill was put up for a vote in the House (where bonding bills must originate) and the session adjourned without addressing capital investments.

Fiscal impact of no 2019 bill

For two reasons, the state underspent its projections in the recently completed session by not passing a bonding bill:

- 1) The state builds in a ten-year rolling average into the budget forecasts that come out in November and in February. In the most recent forecast, that was assumed as \$265 million for FY19 and \$755 million for FY20.
- 2) The leadership agreement for a \$440 million included the necessary general fund spending to pay the debt service on this new bonding.

Some of this underspending can be expected to increase the size of a 2020 session bonding bill. State legislators have, for some time, had a self-imposed \$1 billion limit on how much new debt they would authorize per biennium. While not all legislators agree that this limit is sufficient to cover the state's needs, the requirement for new general obligation borrowing to receive 60% votes in each body, have effectively limited the legislature to that artificial cap.

Interim bonding activity

The first item worth paying attention to over the interim is the potential for a Special Legislative Session to address bonding. As it was part of a leadership agreement, but not passed, the Governor has expressed interest in calling a special session to pass a bonding bill (and another unrelated topic). Thus far, his calls have been accepted by the House leadership, but not the Senate leadership nor the Republicans in the House whose votes would be necessary to pass a bonding bill. As a result, the odds of this happening seem slim, but we will continue to monitor any developments.

The second item is the normal activity during odd-year interims to prepare for a large bonding bill. The first step began on June 14, where state agencies and local governments submitted their requests to MN Management and Budget (MMB). Those lists will be released publically on July

June 20, 2019

Page 2

15th. Over the summer and fall, the Governor's administration and the legislative capital investment committees engage in statewide tours of state and local government bonding requests. These tours help the administration and committee members learn more about requests and start the process of determining which projects they will prioritize in the coming session. On October 18, final projects are due to MMB for consideration in the Governor's recommendations, which he will release by January 15, 2020. We will be heavily engaged throughout this process to ensure the diversion project is included in any and all tours of the region and that we have a solid understanding of other capital requests throughout the state provide thorough advocacy for the diversion project.

The total requests will far exceed the available funding next session. Just looking at bills introduced in the 2019 session, there are over \$2.8 billion in requests. That number excludes many state agency requests for things like basic asset preservation funding, where stand-alone bills were never introduced; and projects will likely seek support next year that did not have a 2019 bill introduced.