

## **MINUTES**

### **North Dakota State Water Commission Bismarck, North Dakota April 11, 2024**

The ND State Water Commission (Commission or SWC) held a meeting at the Bank of North Dakota, 1200 Memorial Highway, Bismarck, ND, and via phone conference on April 11, 2024. Lt. Governor Miller called the meeting to order at 1:02 PM. A quorum was present. The board opened the meeting by reciting the Pledge of Allegiance.

#### **State Water Commission Members Present:**

Lt. Governor Miller, Acting Chairman  
Doug Goehring, Commissioner, ND Dept. of Agriculture  
Michael Anderson, Lower Red River Basin  
Jeff Frith, Devils Lake Basin  
James Odermann, Little Missouri, Upper Heart, and Upper Cannonball River Basins  
Connie Ova, James River Basin (online—arrived at 2:12 PM, left at 3:12 PM)  
Gene Veeder, Upper Missouri River Basin  
Jay Volk, Lower Missouri River Basin  
April Walker, Upper Red River Basin (online)  
Jason Zimmerman, Mouse River Basin

#### **Others Present:**

Dr. Andrea Travnicek, Director, ND Dept. of Water Resources (DWR) and Commission Secretary  
John Paczkowski, DWR State Engineer  
DWR Staff  
Matthew Sagsveen, General Counsel, Attorney General's Office  
Approximately 100 people present online and in person.

#### **Consideration of Agenda**

Commissioner Goehring moved to approve the April 11, 2024, meeting agenda as presented. The motion was seconded by Commissioner Zimmerman and passed by unanimous vote.

#### **Consideration of Meeting Minutes**

Commissioner Frith moved to approve the February 8, 2024, State Water Commission meeting minutes as written. The motion was seconded by Commissioner Anderson and passed by unanimous vote.

Commissioner Veeder moved to approve the March 14, 2024, Pre-Commission meeting minutes as written. The motion was seconded by Commissioner Zimmerman and passed by unanimous vote.

#### **Disclosure of Potential Conflicts of Interest**

State Water Commissioners disclosed potential conflicts of interest. Commissioner Anderson disclosed a potential conflict for the Phase 6 Expansion for East Central Rural Water District. Commissioner Zimmerman disclosed a conflict with NAWS as he is a member of the NAWS Authority.

### **Commission Secretary Update**

Andrea Travnicek, Ph.D., Secretary, thanked the Commissioners for the help in setting up the Commissioner-Hosted Basin Meetings that will take place this summer. Travnicek also reported she has just returned from International Joint Commission spring semi-annual meetings that were held in Washington, D.C., along with the National Water Resources Association Policy Conference. It was time well spent and important conversations were had.

### **Financial Report**

The Glossary of Terms, allocated program expenditures, and financial reports were presented by Chris Kadrmas, DWR Administration Division Director (**APPENDIX A**).

The oil extraction tax deposits total \$171,523,834 estimated through March 2024 for the 2023-25 biennium, which is \$11,393,376 over the projected biennium revenue of \$160,130,458 through March 2024. Transfers in the amount of \$11.3 million from the Resources Trust Fund to the Water Projects Stabilization Fund have occurred through March 2024.

The 68th Legislative Assembly estimates oil extraction tax deposits for the 2023-2025 biennium to total \$449,859,211 through June 2025. It also provided for the transfer of oil extraction tax deposits in excess of the legislative forecast for the 2023-2025 biennium to be transferred quarterly to the water projects stabilization fund.

### **Sargent County Water Resource District Drain 11—ND Supreme Court Decision**

Matthew Sagsveen, General Counsel—Attorney General's Office, stated because the Sargent Drain 11 project received cost-share assistance from the DWR/SWC, questions were raised regarding the impact of the decision on the DWR/SWC. Matt explained that because the SWC was not a party in the case, the Supreme Court's decision does not directly impact the DWR/SWC, the DWR/SWC's cost-share policy, the cost-share approval related to the project, or state that the DWR/SWC is liable for any damages in the case because of its cost-share involvement.

Further discussion was had with Pat Fridgen, Planning and Education Division Director, to clarify SWC and DWR expectations of cost-share partners. Fridgen's recommendation was that additional qualifications should be put in place to provide further protection of the state investments in project development, to include added language to WebGrants certification by sponsors, DWR's standard agreement template, and cost-share policy related to pre-application options for assessment projects. Comments and edits will be collected by DWR until April 30<sup>th</sup> and updated options will be presented during the May Pre-Commission meeting with final consideration at the June SWC meeting.

### **2025 Water Development Plan Update**

Cory Drevecky, Water Resource Planner, stated the Planning and Education Division is in the process of developing a 2025 Water Development Plan, focusing on the 2025-2027 biennium and beyond. On January 23, 2024, DWR sent notices to potential project sponsors and set the deadline of April 30, 2024, for submissions. North Dakota Century Code 61-02-01.3 also mandates the SWC to schedule Commissioner-Hosted meetings within North Dakota's major drainage basins to promote and encourage local sponsor participation in the water planning process and the agency's water project development efforts. Eight meetings will be held, one in each of the Commissioners' respective

basins. The Planning and Education Division staff is currently working on finalizing dates for these meetings.

### **Northwest Area Water Supply (NAWS)**

#### **Financing Agreement with the City of Minot**

Tim Freije, NAWS Project Manager, presented a draft agreement (**APPENDIX B**) between the State Water Commission (SWC) and the City of Minot that will replace the January 1999 Northwest Area Water Supply Interim Financing Contract entered into by the SWC and City of Minot. The NAWS project is eligible for reimbursement of 65-percent of the capital costs with federal funds or state funds. The financing agreement is needed to provide for the remaining 35-percent of the capital costs from local funds and commits the City of Minot to provide that. There was no discussion, and the following motion was made:

**Moved by Commissioner Goehring and seconded by Commissioner Zimmerman the Commission authorize the Secretary to finalize and execute Northwest Area Water Supply Financing Contract.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

#### **Potential Change Order for Demolition Contract 6-1A Snake Creek Pumping Plant**

Freije discussed the potential Change Order for Demolition Contract 6-1A Snake Creek Pumping Plant modifications and explained the wall penetration through the existing discharge outfall structure wall was not included in either Contract 6-1A Demolition or Construction contracts as that contract was allowed to be bid without the approved Section 408 permit from the Army Corps of Engineers. Waiting for the Section 408 permit would have delayed bidding this contract by approximately six months. It was not included in the Contract 6-1A Construction Contract as including that would have required the contract documents to include Bureau of Reclamation's (BOR) safety requirements. It was decided to include the wall penetration work as a work change directive on existing Contract 6-1A Demolition Contract as that contract includes the BOR safety requirements.

In December 2022, Commission action on the Change Order authorization of the NAWS project authorized the Secretary to execute cumulative change orders on the contracts up to \$1,000,000, not to exceed 20-percent of the total contract amount. Since the potential change order on the NAWS Demolition Contract 6-1A is very close to the 20-percent contract limit, it is requested to increase the Secretary's authority for change order execution to 25-percent of the contract cost for the Demolition Contract 6-1A to avoid any potential delays in executing change orders. There was no discussion, and the following motion was made:

**Moved by Commissioner Goehring and seconded by Commissioner Veeder the Commission authorize the Secretary to sign change orders up to 25 percent of the contract amount on NAWS Contract 6-1A Demolition Contract.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Goehring, and Lt. Governor Miller voted aye. Commissioner Zimmerman abstained. There were no nay votes. The motion carried.**

### **Contract for Pressurization of Main Transmission Line**

Freije stated two leaks developed in the NAWS main transmission line between the South Prairie reservoir and Minot in the fall of 2023 during the filling of the South Prairie reservoir. Given the failures encountered, additional efforts are under development to further assess the condition of the main transmission line prior to being put into service when the Lake Sakakawea water becomes available. Pressure testing the portion of pipeline between Minot and Highway 23 is the highest priority, but numerous other efforts will be required including close interval surveys along the raw water line for corrosion evaluation, disinfection, and flushing prior to the delivery of Lake Sakakawea water. Time constraints and conflicts with other work under development has delayed this effort. An update and recommendation for approval of this work is expected to be presented at the June 2024 SWC meeting.

### **Missouri River Potential Intake Locations Investigations Contract Award**

Clay Carufel, Missouri River Engineer, stated DWR solicited proposals from firms to complete an investigation to identify optimal locations for industrial water intakes with a capacity of at least 15,000 acre-feet per year throughout the Missouri River corridor from the Montana border to Washburn, ND. Identified sites may be used to expand existing industry or to attract new industrial opportunities to the state. The intakes may have secondary purposes of providing for irrigation or municipal uses. The water quantity and quality of the Missouri River make it one of North Dakota's best options for expansion of industry reliant water.

Two firms submitted proposals to complete the investigation. The proposals were evaluated based on the following evaluation criteria and relative weights:

1. Project Methodology, Understanding, and Management Plan – 45%
2. Experience and Qualifications – 40%
3. Cost Proposal – 15%

The Evaluation Committee selected HDR to complete the study. The cost proposal submitted by HDR for completing the study is \$335,000. There was no discussion, and the following motion was made:

**Moved by Commission Zimmerman and seconded by Commissioner Volk the Commission authorize the Secretary to negotiate a contract with HDR to complete the Missouri River Potential Intake Locations Investigation and approve \$335,000 from the 2023-2025 funding.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

### **Four-Year Progress Reports—Requests for Project Extension Plan**

Abigail Franklund, DWR Cost-Share Program Manager, reported to the Commission the following four project sponsors have opted to give progress reports and have requested an extension:

### **Fordville Dam Rehabilitation Plan**

The cost-share for the project was approved on June 19, 2019, in the amount of \$122,595. A first extension was approved by the Commission on April 13, 2023. The remaining balance is \$8,381.21. The Walsh County Water Resource District requests a

one-year continuation of their cost-share agreement and retention of the balance to finalize documentation and coordinate with NRCS to meet federal requirements for federal funding.

#### **Larimore Dam Rehabilitation Plan**

The cost-share for the project was approved on June 19, 2019, in the amount of \$91,800. A first extension was approved by the Commission on April 13, 2023. The remaining balance is \$5,545.63. The Grand Forks County Water Resource District requests a one-year continuation of their cost-share agreement and retention of the balance to finalize evaluation of alternatives as a part of the rehabilitation process. The district has recently amended the agreement with the NRCS which is set to end on September 20, 2024. The project is expected to be completed by this date with no additional funding expected.

#### **Senator Young Dam Rehabilitation Plan**

The cost-share for the project was approved on June 19, 2019, in the amount of \$129,210. A first extension was approved by the Commission on April 13, 2023. The remaining balance is \$6,577.70. The Pembina County Water Resource District requests a one-year continuation of their cost-share agreement and retention of the balance to finalize documentation and coordinate with NRCS to meet federal requirements for federal funding.

#### **Davenport Flood Risk Reduction Project**

The cost-share for the project was approved on April 9, 2020, in the amount of \$2,083,600. The remaining balance is \$1,723,936.64. The Maple River Water Resource District requests a two-year extension of their cost-share agreement and retention of the balance. Remaining work items include permitting, ongoing acquisition negotiations, and construction of the levee. Construction can begin after the right-of-way acquisitions are obtained, the Conditional Letter of Map Revision (CLOMR) from FEMA is received, and a construction permit from the Department of Water Resources is approved.

The Commission discussed the dates of the extension. Fridgen clarified the extension goes through April 11, 2026, and after the brief discussion the following motion was made:

**Moved by Commission Goehring and seconded by Commissioner Frith the Commission to extend the terms of cost-share agreements for these projects based on the project sponsors making progress toward completion of their projects in 2024-2025, and the projects that received previous extensions be closed out with no additional extensions at the sunset date of this extension and any remaining balances deobligated.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

## **Consent Agenda**

**Moved by Commission Odermann and seconded by Commissioner Veeder the Commission remove the City of Flasher: Water System Improvements project from the consent agenda and add it to the regular agenda, placing it after item P4.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

The Consent Agenda included the following cost-share projects with requested funding amounts for approval:

### **General Water**

DWR	Red River of the North Bathymetric Survey	\$175,000
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### **Water Supply (Municipal)**

City of Beach	2024 Street Utility Improvements	\$217,553
City of Colfax	Supply Treated Water Transmission Line	\$30,720
City of New Leipzig	Water System Improvements Ph. 1	\$130,971
City of Jamestown	Lime Sludge Filter Recycle/Reuse Project	\$749,550
City of Bismarck	HC158 South Washington	\$500,428
City of Crosby	Hendrickson Holmes	\$264,399
City of Dickinson	Sims Street Improvements Ph. 2	\$962,042
City of Ray	Surge Tank	\$138,148

### **Water Supply (Rural)**

South Central	U of Mary Service Area Water Storage	\$367,500
East Central RWD	Phase 6 Expansion	\$361,313

There were no questions, and the following motion was made:

**Moved by Commissioner Frith and seconded by Commissioner Goehring the Commission approve the Consent Agenda items as presented.**

**Commissioners Anderson, Frith, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. Commissioner Anderson abstained from voting on the project for the East Central RWD. There were no nay votes. The motion carried.**

## **State Cost-Share Requests**

### **Flood Control**

Franklund presented the following request for flood control projects.

<b>City of Bismarck: South Bismarck Flood Control (SWC Project No. 2214)</b>	<b>\$2,369,298</b>
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The City of Bismarck is requesting preconstruction cost-share for their South Bismarck Flood Control project. The purpose of the project is to implement flood risk reduction

measures that will provide FEMA-accredited flood protection within the City of Bismarck. The project is engineering design of the selected alternative, which includes a South Washington Street reconstructed gate structure and new pump station, a new Sertoma Park gate structure and pump station, a new Sertoma Park stormwater detention pond, and stormwater conveyance improvements. The project sponsor has received a FEMA Flood Mitigation Assistance grant for preconstruction and construction at 70 percent cost-share not to exceed \$50,000,000. However, the bulk of this project is stormwater management within corporate limits, which is not eligible for cost-share. Therefore, only the preconstruction costs associated with the gate structure and pump station on South Washington Street are considered eligible for cost-share at 60 percent of eligible costs, for an amount not to exceed \$1,658,506. This is due to those structures' ability to mitigate riverine flooding effects.

After a lengthy discussion, the following motion was made:

**Moved by Commissioner Volk and seconded by Commissioner Odermann the Commission approve the request from the City of Bismarck for state cost participation in the South Bismarck Flood Control preconstruction project at 60 percent of eligible costs not to exceed \$2,369,298. This approval is contingent on available funding.**

**Commissioners Anderson, Frith, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

**City of Jamestown: 96" Storm Water Replacement  
(SWC Project No. 1309)**

**\$363,552**

The City of Jamestown is requesting construction cost-share for their 96-inch Storm Water Replacement—Phase 2. Construction for Phase 2 is the replacement of 1,340 feet of corrugated metal pipe (CMP), which routes runoff from predominantly rural sources that enters the city from the south, crosses Highway 281 and Interstate 94, and discharges into a natural drainage way. Flood protection projects may receive up to 60 percent cost-share for eligible costs; however, with 93.4 percent of the contributing watershed originating from rural sources and a benefit-cost ratio of 0.1, the modified cost-share is 5.6 percent ( $60\% \times 93.4\% \times 0.1$ ).

This project meets requirements of the Water Commission's cost-share policy for flood control projects. After brief discussion, the following motion was made:

**Moved by Commissioner Ova and seconded by Commissioner Odermann the Commission approve the request from the City of Jamestown for state cost participation in the Jamestown 96-inch Storm Water Replacement—Phase 2 Construction project at a modified cost-share of 56 percent of eligible costs not to exceed \$3,635,524. This approval is contingent on available funding.**

**Commissioners Frith and Ova voted aye. Commissioners Anderson, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted nay. The motion failed.**

Commissioner Odermann questioned if this project is being done to help the developer or for the safety of the public. Mayor Heinrich stated they have to go ahead with segment one but wouldn't have enough funds for both segments one and two. There being no more discussion, the following motion was made:

**Moved by Commissioner Anderson and seconded by Commissioner Zimmerman the Commission approve the recommended state cost participation in the Jamestown 96-inch Storm Water Replacement—Phase 2 Construction project at a modified cost-share of 5.6 percent of eligible costs not to exceed \$363,552. This approval is contingent on available funding.**

**Commissioners Anderson, Frith, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

**Souris River Joint WD: Mouse River Flood Protection 2023-2025                      \$76,100,000  
(SWC Project No. 1993-05)**

The Souris River Joint Board is requesting cost-share for construction and acquisition costs for their 2023-2025 Biennium Mouse River Enhanced Flood Protection Project. During the 2023 legislative session, \$76.1 million was appropriated for the Mouse River Flood Control project through Senate Bill 2020, Section 14. The project is located in the City of Minot as well as rural areas in the Mouse River Valley. As in previous requests, the sponsor has been completing acquisition activities associated with future project phases and requests approval of reimbursement for those costs that have been incurred.

This project meets requirements of the Water Commission's cost-share policy for flood control projects. There was no discussion and the following motion was made:

**Moved by Commissioner Zimmerman and seconded by Commissioner Odermann the Commission approve the request by the Souris River Joint Board for state cost participation in the 2023-2025 Biennium Mouse River Enhanced Flood Protection Project at 75 percent of eligible costs for acquisitions, including acquisition costs previously incurred, and 65 percent of eligible costs for construction and engineering not to exceed \$76.1 million. This approval is contingent on available funding.**

**Commissioners Anderson, Frith, Odermann, Ova, Veeder, Volk, Zimmerman, Goehring, and Lt. Governor Miller voted aye. Commissioner Walker abstained. There were no nay votes. The motion carried.**

**Water Supply (Municipal/Regional)**

Julie Prescott, DWR Engineer Manager, presented the following municipal/regional water supply projects.

**City of Bismarck: 2024 Water Main Replacement WU143                      \$1,649,305  
(SWC Project No. 2050BIS)**

The City of Bismarck is requesting construction cost-share for their 2024 Water Main Replacement WU143. The project is replacement of approximately 9,200 feet of aging



cast iron water main, hydrants, curb stops, valves, and includes associated pavement restoration costs at numerous locations in central Bismarck.

This project meets requirements of the Water Commission's cost-share policy for municipal water supply projects. There was no discussion, and the following motion was made:

**Moved by Commissioner Anderson and seconded by Commissioner Goehring the Commission approve the request from the City of Bismarck for state cost-share participation in the 2024 Water Main Replacement WU143 project at 60 percent of eligible costs, not to exceed \$1,649,305. This approval is contingent on available funding.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

**City of Bismarck: 2024 CIPP Water Main Rehabilitation WU144                      \$1,221,869  
(SWC Project No. 2050BIS)**

The City of Bismarck is requesting construction cost-share for their 2024 Cured In Place Pipe (CIPP) Water Main Rehabilitation WU144. The project is rehabilitation of four blocks of aging cast iron water mains along East Wachter Avenue, east of Oakland Drive, and will be completed using the CIPP lining method. The project will also include replacement of hydrants and valves, and associated pavement restoration costs.

This project meets requirements of the Water Commission's cost-share policy for municipal water supply projects. There was no discussion, and the following motion was made:

**Moved by Commissioner Zimmerman and seconded by Commissioner Anderson the Commission approve the request from the City of Bismarck for state cost-share participation in the 2024 CIPP Water Main Rehabilitation WU144 project at 60 percent of eligible costs, not to exceed \$1,221,869. This approval is contingent on available funding.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

**City of Dickinson: 2024 Water Main Replacement                      \$2,418,887  
(SWC Project No. 2050DIK)**

The City of Dickinson is requesting construction cost-share for their 2024 Water Main Replacement project. The project is replacement of 13 blocks of aging cast iron water main, hydrants, curb stops, valves, and associated street restoration costs along 5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> Avenues West between West Villard and 4<sup>th</sup> Street West.

This project meets requirements of the Water Commission's cost-share policy for municipal water supply projects. There was no discussion and the following motion was made:

**Moved by Commissioner Zimmerman and seconded by Commissioner Volk the Commission approve the request from the City of Dickinson for state cost-share participation in the 2024 Water Main Replacement project at 60 percent of eligible costs, not to exceed \$2,418,887. This approval is contingent on available funding.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

**City of Drayton: City Wide Water Meter Replacement \$179,701  
(SWC Project No. 2050DRA)**

The City of Drayton is requesting construction cost-share for their City-Wide Water Meter Replacement project. The project is replacement of 410 water meters throughout Drayton with Advanced Metering Infrastructure (AMI) meters, data collectors, and associated software to allow for remote collection of water usage data.

This project meets requirements of the Water Commission's cost-share policy for municipal water supply projects. Commissioner Odermann discussed whether or not the SWC wants to get involved in replacing water meters due to the population of the communities, water meters could need replacing in all of the cities. Commissioner Anderson added the SWC has been very generous when it comes to new service, but when it comes to replacement it should be a part of the city operation and maintenance budgets. After more discussion, the following motion was made:

**Moved by Commissioner Goehring and seconded by Commissioner Volk the Commission approve the request from the City of Drayton for state cost-share participation at 60 percent of eligible costs in the City-Wide Water Meter Replacement project, not to exceed \$179,701. This approval is contingent on available funding.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted nay. The motion failed.**

**City of Flasher: Water System Improvements \$138,000  
(SWC Project No. 2050FLA)**

The City of Flasher is requesting reconstruction cost-share for their Water System Improvements project. The project is replacement of 3,000 feet of asbestos cement water main, hydrants, valves, and includes associated pavement restoration costs along 5<sup>th</sup> Avenue East, 2<sup>nd</sup> Avenue West, Poplar Street, and Sunset Street. The project also includes city-wide replacement of curb stops and water meters along with new meter-reading software. The project is part of combined water, sanitary sewer, and storm sewer infrastructure upgrades in Flasher.

This project meets requirements of the Water Commission's cost-share policy for municipal water supply projects. After a brief discussion, the following motion was made:

**Moved by Commissioner Goehring and seconded by Commissioner Anderson the Commission approve the request from the City of Flasher for state cost-share participation at 60 percent of eligible costs (excluding the meters for \$12,000) in the City-Wide Water Meter**

**Replacement project, not to exceed \$126,000. This approval is contingent on available funding.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

**City of Jamestown: Water Meter Replacement  
(SWC Project No. 2050JAM)**

**\$1,834,829**

The City of Jamestown is requesting construction cost-share for their Water Meter Replacement project. The project is replacement of 5,371 water meters throughout Jamestown with AMI meters, data collectors, and associated software to allow for remote collection of water usage data.

This project meets requirements of the Water Commission's cost-share policy for municipal water supply projects. There was no discussion and the following motion was made:

**Moved by Commissioner Zimmerman and seconded by Commissioner Veeder the Commission deny the request from the City of Jamestown for state cost-share participation in the Water Meter Replacement project at 60 percent of eligible costs, not to exceed \$1,834,829.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

**City of Mandan: 2024 Infrastructure Improvements  
(SWC Project No. 2050MAN)**

**\$1,544,189**

The City of Mandan is requesting construction cost-share for their 2024 Infrastructure Improvements project. The project is replacement of 3,925 feet of aging cast iron water main, hydrants, valves, and curb stops, and includes associated pavement reconstruction costs. The project is part of combined water and street improvements in northwest Mandan.

This project meets requirements of the Water Commission's cost-share policy for municipal water supply projects. There was no discussion, and the following motion was made:

**Moved by Commissioner Volk and seconded by Commissioner Frith the Commission approve the request from the City of Mandan for state cost-share participation in the 2024 Infrastructure Improvements project in the amount of \$1,544,189. This approval is contingent on available funding.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

**City of Park River: Green Acres Water and Sewer Extension  
(SWC Project No. 2050PAR)**

**\$145,172**

The City of Park River is requesting construction cost-share for their Green Acres Water and Sewer Extension project. The project is installation of 1,100 feet of new water mains in the Green Acres Addition in Park River. The project is part of a combined water main and sanitary sewer construction project.

This project meets requirements of the Water Commission's cost-share policy for municipal water supply projects. There was no discussion, and the following motion was made:

**Moved by Commissioner Goehring and seconded by Commissioner Zimmerman the Commission approve the request from the City of Park River for state cost-share participation in the Green Acres Water and Sewer Extension project at 60 percent of eligible costs, not to exceed \$145,172. This approval is contingent on available funding.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

**City of Rhame: 2024 Water Main Replacement  
(SWC Project No. 2050RHA)**

**\$3,765,191**

The City of Rhame is requesting cost-share for their 2024 Water Main Replacement project. The project is installation of new distribution line from the city's water storage tank, city-wide replacement of asbestos cement pipe, and four new segments of water main.

This project meets requirements of the Water Commission's cost-share policy for municipal water supply projects. There were no questions and the following motion was made:

**Moved by Commissioner Goehring and seconded by Commissioner Odermann the Commission approve the request from the City of Rhame for state cost-share participation in the Water Main Replacement project in the amount of \$3,765,191, or 60 percent of eligible costs, with total cost-share not to exceed \$3,966,391. This approval is contingent on available funding.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

**Water Supply (Rural)**

Prescott presented the following rural water supply projects.

**Fort Berthold Rural Water: Four Bears WTP, Intake, & Raw Water Line \$1,354,500  
(SWC Project No. 2050FOR)**

Fort Berthold Rural Water is requesting preconstruction cost-share for their Four Bears Water Treatment Plant, Intake, and Raw Water Line project. The project will include a new raw water intake, water line, and water treatment plant to replace the existing facility

that is nearing the end of its useful life. The project will be constructed approximately two miles west of the existing facility and will serve the Four Bears Segment of the Fort Berthold Reservation.

This project meets requirements of the Water Commission's cost-share policy for rural water supply projects. After a brief discussion, the following motion was made:

**Moved by Commissioner Goehring and seconded by Commissioner Anderson the Commission approve the request from Fort Berthold Rural Water for state cost-share participation in the Four Bears Water Treatment Plant, Intake, and Raw Water Line project at 75 percent of eligible costs, not to exceed \$1,354,500. This approval is contingent on available funding.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

**Cass Rural Water District: Reservoir D  
(SWC Project No. 2050CAS)**

**\$2,700,535**

Cass Rural Water District (CRWD) is requesting construction cost-share for their Reservoir D Supply Pipeline. The project is construction of approximately 9.5 miles of new water mains between Reservoirs B and D, with connections to existing CRWD water mains at Horace.

This project meets requirements of the Water Commission's cost-share policy for rural water supply projects. There were no questions, and the following motion was made:

**Moved by Commissioner Anderson and seconded by Commissioner Volk the Commission approve the request from the Cass Rural Water District for state cost-share participation in the Reservoir D Supply Pipeline project in the amount of \$2,700,535, or 60 percent of eligible costs, for a total cost-share not to exceed \$2,970,535. This approval is contingent on available funding.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

**Central Plains Water District: Maddock Connection  
(SWC Project No. 2050CEN)**

**\$7,321,056**

The Central Plains Water District is requesting construction cost-share for their Maddock Connection to Central Plain Water District project. The project is expansion of the Maddock water treatment plant to accommodate a reverse osmosis system and an associated effluent pipeline, and pump and control panel upgrades at the adjacent well site.

This project meets requirements of the Water Commission's cost-share policy for rural water supply projects. After a brief discussion on bid price, and the following motion was made:

**Moved by Commissioner Walker the Commission approve the request from the Central Plains Water District for state cost-share participation in the Maddock Connection to Central Plains Water District project in the amount of \$7,321,056, or 31 percent of eligible costs, for a total cost-share not to exceed \$7,455,111. This approval is contingent on available funding.**

**There was no second to the motion. The motion failed.**

**Northeast Regional Water District: Wellfield and WTP Expansion                      \$4,159,225  
(SWC Project No. 2050NOR)**

The Northeast Regional Water District is requesting construction cost-share for their Wellfield and Water Treatment Plant Expansion project. The project is installation of automated filter backwash and chemical feed systems and a raw water reservoir and pumping system at the district's water treatment plant and new control, communications, and monitoring system at the district's wellfield. The project is eligible for \$10,356,600 in Department of Environmental Quality Emerging Contaminants in Small and Disadvantaged Communities grant funding.

This project meets requirements of the Water Commission's cost-share policy for rural water supply projects. There were no questions, and the following motion was made:

**Moved by Commissioner Goehring and seconded by Commissioner Frith the Commission approve the request from the Northeast Regional Water District for state cost-share participation in the Wellfield and Water Treatment Plant Expansion project in the amount of \$4,159,225, or 30 percent of eligible costs, for a total cost-share not to exceed \$5,304,225. This approval is contingent on available funding.**

**Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**

**TMBC PUC: Highway 43 Corridor Expansion Ph. 5    \$4,033,767  
(SWC Project No. 2050TUR)**

The Turtle Mountain Band of Chippewa is requesting construction cost-share for the Highway 43 Corridor Expansion Phase 5 project. The project is expansion of services to add 50 new residential users and the US Customs Station at St. John. The project will also include looping to increase pressures and improve water quality. A total of approximately 29 miles of new water main will be installed under Phase 5. TMBC has been approved for a \$3,500,000 grant through Indian Health Services to offset costs of the project.

This project meets requirements of the Water Commission's cost-share policy for rural water supply projects. There were no questions, and the following motion was made:

**Moved by Commissioner Frith and seconded by Commissioner Odermann the Commission approve the request from the Turtle Mountain Band of Chippewa for state cost-share participation in the Highway 43 Corridor Expansion Phase 5 project at 75 percent of eligible**

costs, not to exceed \$4,033,767. This approval is contingent on available funding.

Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.

**McLean Sheridan Rural Water District: System Improvements Ph. 2     \$1,062,500  
(SWC Project No. 2050MCL)**

McLean Sheridan Rural Water District is requesting construction cost-share for their System Expansion Phase 2 project. The purpose of this cost increase is to add 21 new connections, bringing the total number of connections under Phase 2 expansion to 129. The project will include approximately 22 miles of new water mains.

This project meets requirements of the Water Commission's cost-share policy for rural water supply projects. There were no questions, and the following motion was made:

**Moved by Commissioner Volk and seconded by Commissioner Veeder the Commission approve the request from the McLean Sheridan Rural Water District for additional state cost-share participation in the System Improvement Phase 2 project in the amount of \$1,062,500, or 75 percent of eligible costs, for a total cost-share not to exceed \$8,220,400. This approval is contingent on available funding.**

Commissioners Anderson, Frith, Odermann, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.

**Project Updates**

DWR staff provided written updates on the following projects:

- Devils Lake: Yaping Chi, Water Resources Engineer
- Mouse River: Alexis Faber, Investigations Section Manager
- Missouri River: Clay Carufel, Missouri River Engineer
- NAWS: Tim Freije, NAWS Project Manager
- SWPP: Justin Froseth, SWPP Manager

**Legal Update**

Matthew Sagsveen, General Counsel, Attorney General's Office, provided a written update on current legal matters involving the SWC and DWR.

**SWPP Intake – Contract 1-2A**

Justin Froseth, SWPP Project Manager, provided a brief project history, summary of claim related expenses, projections through May 2024, and overall expenditures towards the SWPP Supplementary Intake project. Recommendation to approve \$60,000 towards mediation expenses was also presented.

**Moved by Commissioner Volk and seconded by Commissioner Frith the Commission approve \$60,000 in additional funds be allocated and approved from the SWPP's professional services account for mediation expenses.**

**Commissioners Anderson, Frith, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. Commissioner Odermann abstained. There were no nay votes. The motion carried.**

**Executive Session**

**Under Authority of NDCC § 44-04-19.1(9) for Attorney Client Consultation regarding SWPP – Intake, Contract 1-2A**

It was the recommendation of Lt. Governor Miller that further discussion relating to the SWPP/Fowler Intake be held in Executive Session, under the provisions of NDCC § 44-04-19.1(9), for the purpose of attorney consultation. The Commission invited the following to participate in the Executive Session:

**State Water Commission Members Present:**

Lt. Governor Miller, Acting Chairman  
Doug Goehring, Commissioner, ND Dept. of Agriculture  
Michael Anderson, Lower Red River Basin  
Jeff Frith, Devils Lake Basin  
James Odermann, Little Missouri, Upper Heart, and Upper Cannonball River Basins  
Gene Veeder, Upper Missouri River Basin  
Jay Volk, Lower Missouri River Basin  
April Walker, Upper Red River Basin  
Jason Zimmerman, Mouse River Basin

**State Water Commission Members Not Present:**

Connie Ova, James River Basin

**Others Present:**

Dr. Andrea Travnicek, DWR Director and Commission Secretary  
John Paczkowski, DWR State Engineer  
Matthew Sagsveen, General Counsel, Attorney General's Office  
Sindhuja S.Pillai-Grinolds, DWR Water Development Division Director  
Justin Froseth, Southwest Pipeline Project Manager  
Chris Kadrmaz, DWR Administrative Services Director  
Abby Ebach, DWR Director of Public Policy  
Kelli Schroeder, ARB Program Manager  
Ben Gehrig, DWR Data & Technology Services  
Ryan Norrell, General Counsel, Governor's Office  
Mark Becker, Fabyanske, Westra, Hart & Thomson, P.A.

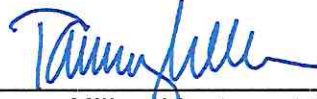
**Moved by Commissioner Goehring and seconded by Commissioner Frith that under the provision of NDCC § 44-04-19.1(9), the Commission proceed into Executive Session on April 11, 2024, at 3:51 PM for the purpose of attorney consultation relating to the Southwest Pipeline Project/Fowler Intake—Contract 1-2A.**

**Commissioners Anderson, Frith, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.**




Following attorney consultation regarding the Southwest Pipeline Project/Fowler Intake, Contract 1-2A, Lt. Governor Miller reconvened the open session of the Commission meeting at 4:27 PM.

There being no further business to come before the Commission, Lt. Governor Miller adjourned the April 11, 2024, meeting at 4:32 PM. The next State Water Commission meeting will be held on June 13, 2024, at 1:00 PM CT in #238 Lewis and Clark Room, Bank of North Dakota, 1200 Memorial Highway, Bismarck, North Dakota.



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Tammy Miller, Lieutenant Governor  
Acting Chairman, State Water Commission



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Andrea Travnicek, Ph.D.  
Director, DWR, and Secretary to the State  
Water Commission

## **Glossary of Terms**

**Allocated-**To apportion for a specific purpose. To set apart or earmark.

**Anticipated Construction Request-**Potential construction requests for prior approved and current projects.

**Appropriation-**Specifies the amount of funds to be used for a particular purpose during a period of time, normally one biennium.

**Original-**Legislative authorization to expend.

**Current-**Requesting authorization to allocate funds.

**Unobligated-** Funding available to be obligated to a project.

**Appropriation Authority-**Legislative authority in an Appropriation Act for an agency to expend funds.

**Appropriation Bill-**A bill which appropriations are given legal effect.

**Approved-**Funds approved and allocated by the State Water Commission.

**Beginning Balance-**Resource Trust Fund cash balance that carries over from the previous biennium. This information is provided by Legislative Council and includes carryover and funds not approved or allocate by the State Water Commission.

**Carryover Funds-**Approved funds unpaid during the current biennium which are transferred to the appropriation for the following biennium.

**Carryover Projects-**Projects approved but not finished by the end of the current biennium. The time is limited to 2 years after the end of the current biennium, 6/30/21, unless approved by the State Water Commission to continue past that date.

**Cash-**Resource Trust Fund money received and not allocated to a specific appropriation purpose.

**Cost Increase-**Funding needed above original cost estimate.

**De-Obligation-**Funds released from project allocation made from the current biennium appropriation.

**Expenditure-**Payment or funds spent.

**Obligation**-Funds allocated from current biennium appropriation to pay based on a contract.

**Unexpended**-Not yet spent or paid.

**Turnback**-Carryover funds released from prior biennium from a project allocation.

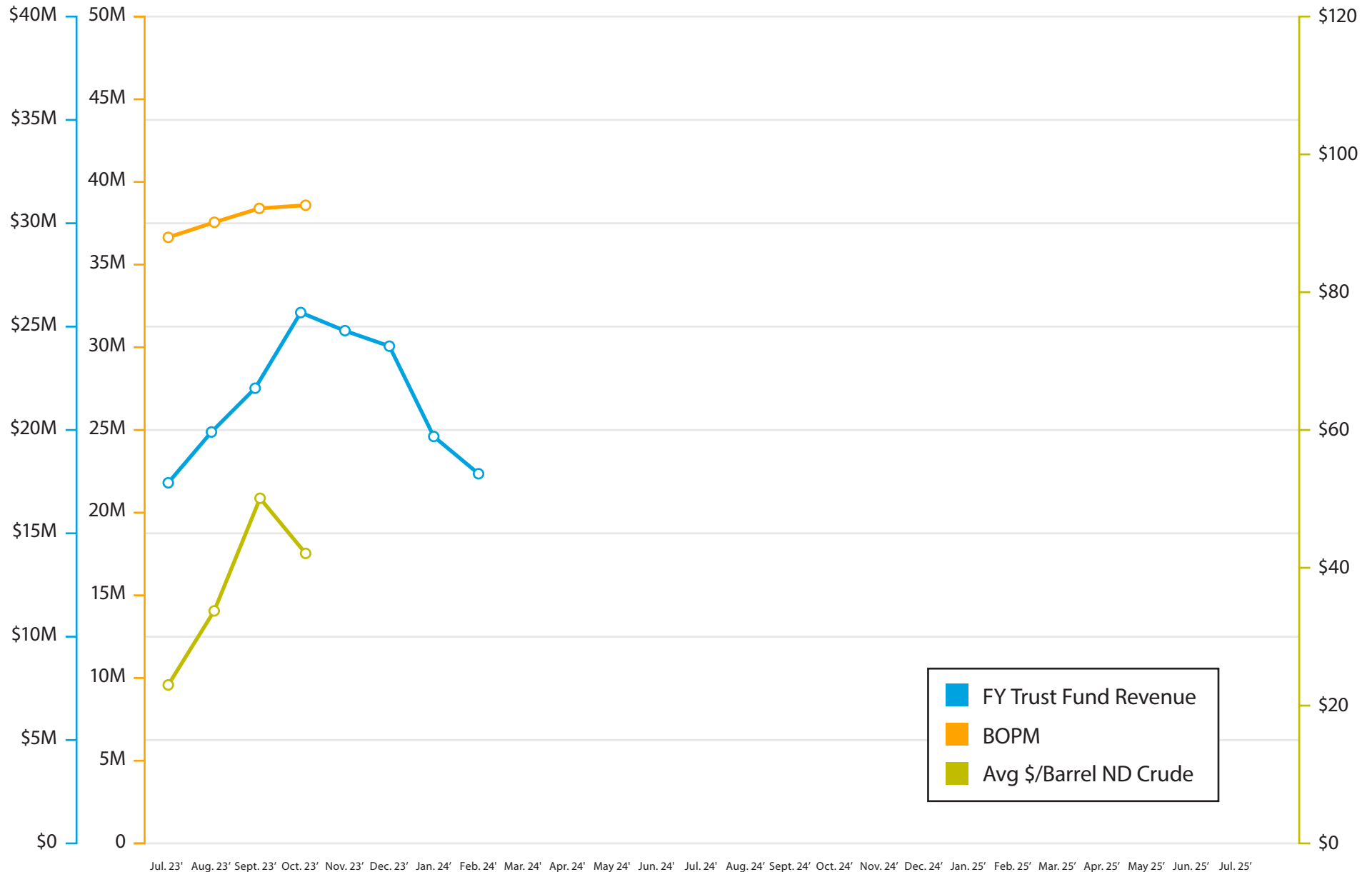
**Unobligated Carryover**-Previous biennium funding, not associated with a project released to the Resource Trust Fund.

**Unpaid Approval**-A commitment to an expense at a future date.

**Water Infrastructure Revolving Loan Fund (WIRLF) Eligibility**-Approval by the State Water Commission of the eligibility of projects to apply for a Water Infrastructure Revolving Loan in compliance with cost share and statutory authority. Final loan approval is by the Bank of North Dakota.

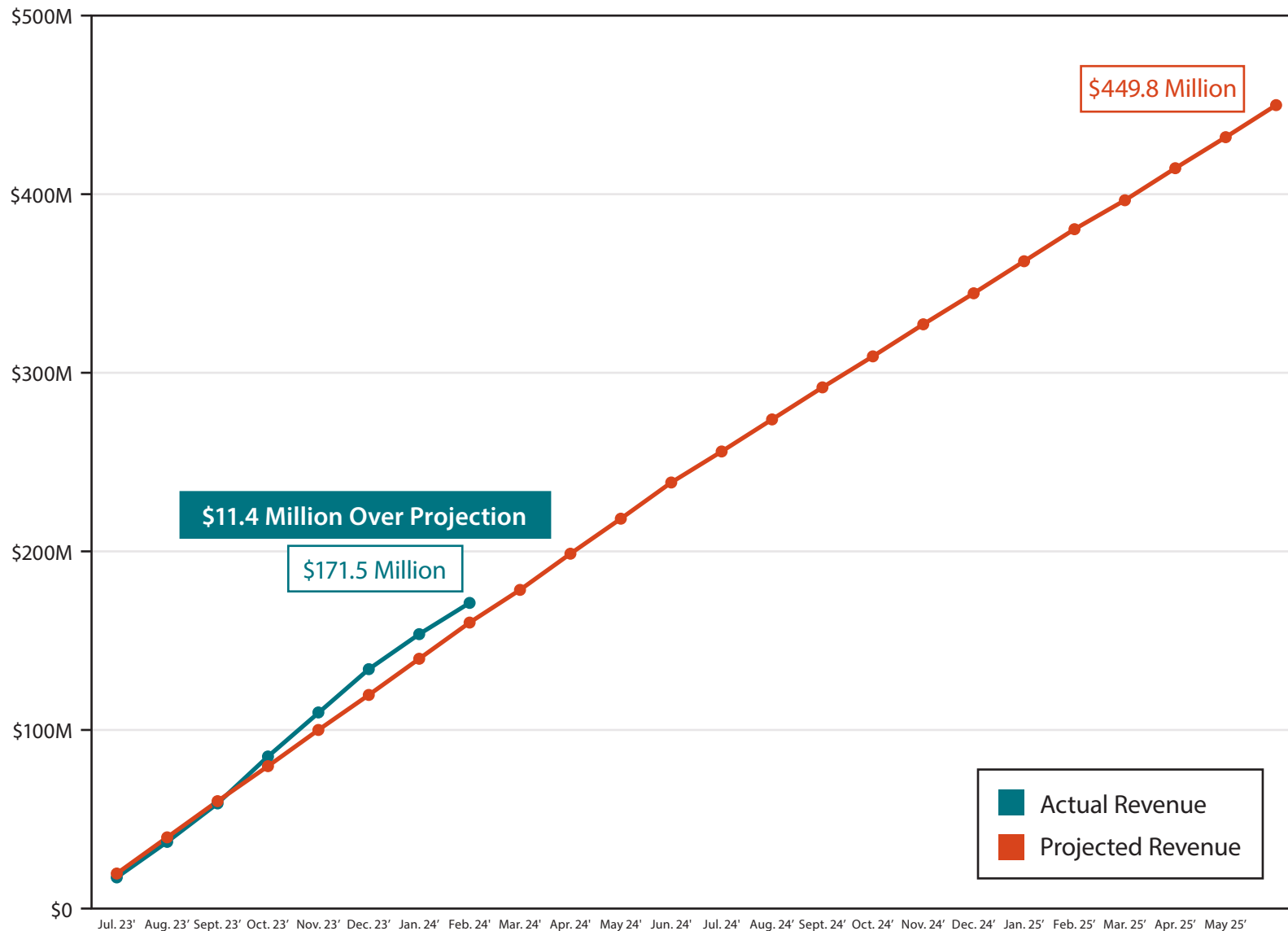
# RESOURCES TRUST FUND REVENUE

2023-2025 (Month by Month) | March 2024



# RESOURCES TRUST FUND REVENUE

2023-2025 (Cumulative) | March 2024



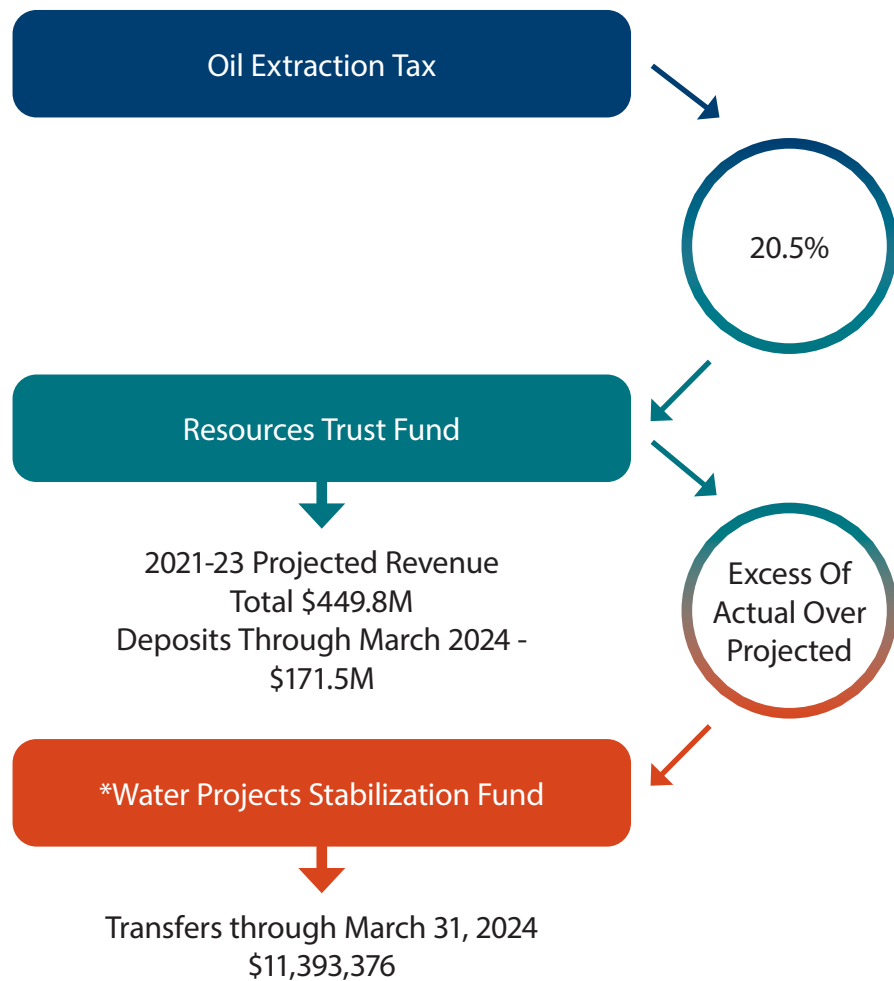
OIL EXTRACTION REVENUE  
FOR THE 2023 - 2025 BIENNIUM

MONTH / YEAR	PROJECTED				ACTUAL				
	REVENUE	ENERGY CONS. <sup>1</sup> ALLOCATION	RENEWABLE <sup>1</sup> ALLOCATION	RESOURCES TRUST FUND ALLOCATION	REVENUE	TRANSFERS TO <sup>1</sup> ENERGY CONS.	TRANSFERS TO <sup>1</sup> RENEWABLE	RESOURCES TRUST FUND NET DEPOSIT	TRANSFERS TO <sup>2</sup> WATER PROJECTS STABILIZATION FUND
AUGUST, 2023	\$19,607,811	\$98,039	\$588,234	\$18,921,538	\$17,438,367	\$87,192	\$523,151	\$16,828,025	\$0
SEPTEMBER, 2023	20,261,405	101,307	607,842	19,552,256	19,897,352	99,487	596,921	19,200,945	0
OCTOBER, 2023	20,261,405	101,307	607,842	19,552,256	22,030,025	110,150	660,901	21,258,974	0
NOVEMBER, 2023	19,607,811	98,039	588,234	18,921,538	25,681,608	128,408	770,448	24,782,752	5,308,920
DECEMBER, 2023	20,261,405	101,307	607,842	19,552,256	24,757,068	123,785	448,579	24,184,704	4,495,663
JANUARY, 2024	19,607,811	98,039	6	19,509,766	24,074,426	120,372		23,954,054	4,466,615
FEBRUARY, 2024	20,261,405	101,307		20,160,098	19,707,741	98,539		19,609,202	(553,664)
MARCH, 2024	20,261,405	101,307		20,160,098	17,937,246	89,686		17,847,560	(2,324,159)
APRIL, 2024	18,300,624	91,503		18,209,121					
MAY, 2024	20,261,405	101,307		20,160,098					
JUNE, 2024	19,607,811	98,039		19,509,772					
JULY, 2024	20,261,405	101,307		20,160,098					
AUGUST, 2024	17,366,918	7,192		17,359,726					
SEPTEMBER, 2024	17,945,816			17,945,816					
OCTOBER, 2024	17,945,816			17,945,816					
NOVEMBER, 2024	17,366,918			17,366,918					
DECEMBER, 2024	17,945,816			17,945,816					
JANUARY, 2025	17,366,918			17,366,918					
FEBRUARY, 2025	17,945,816			17,945,816					
MARCH, 2025	17,945,816			17,945,816					
APRIL, 2025	16,209,124			16,209,124					
MAY, 2025	17,945,816			17,945,816					
JUNE, 2025	17,366,918			17,366,918					
JULY 2025-JUNE REVENUE	17,945,816			17,945,816					
TOTALS	\$449,859,211	\$1,200,000	\$3,000,000	\$445,659,211	\$171,523,834	\$857,619	\$3,000,000	\$167,666,215	\$11,393,376

<sup>1</sup> Transfers to the renewable energy development fund and the energy conservation grant fund are established in North Dakota Century Code Section 57-51.1-07.

<sup>2</sup> Transfers to the water project stabilization fund are calculated after transfers to the renewable energy development fund and energy conservation grant fund occur

# RESOURCES TRUST FUND REVENUE



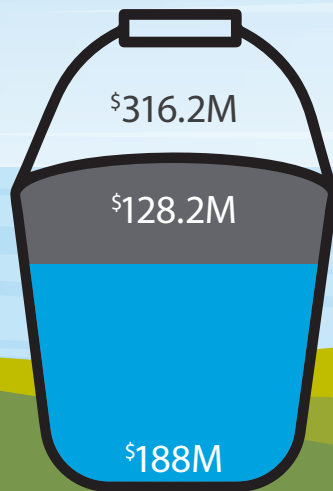
\*Authorized in Sections 5-7 of Senate Bill 2020 during the November special session.

# 2023 - 25 PURPOSE FUNDING

March 2024

APPROVED

UNOBLIGATED



Water Supply



\* Capital Assets



Flood Control Projects

\*Capital Assets bucket includes \$100M line of credit.



Rural Water



General Water

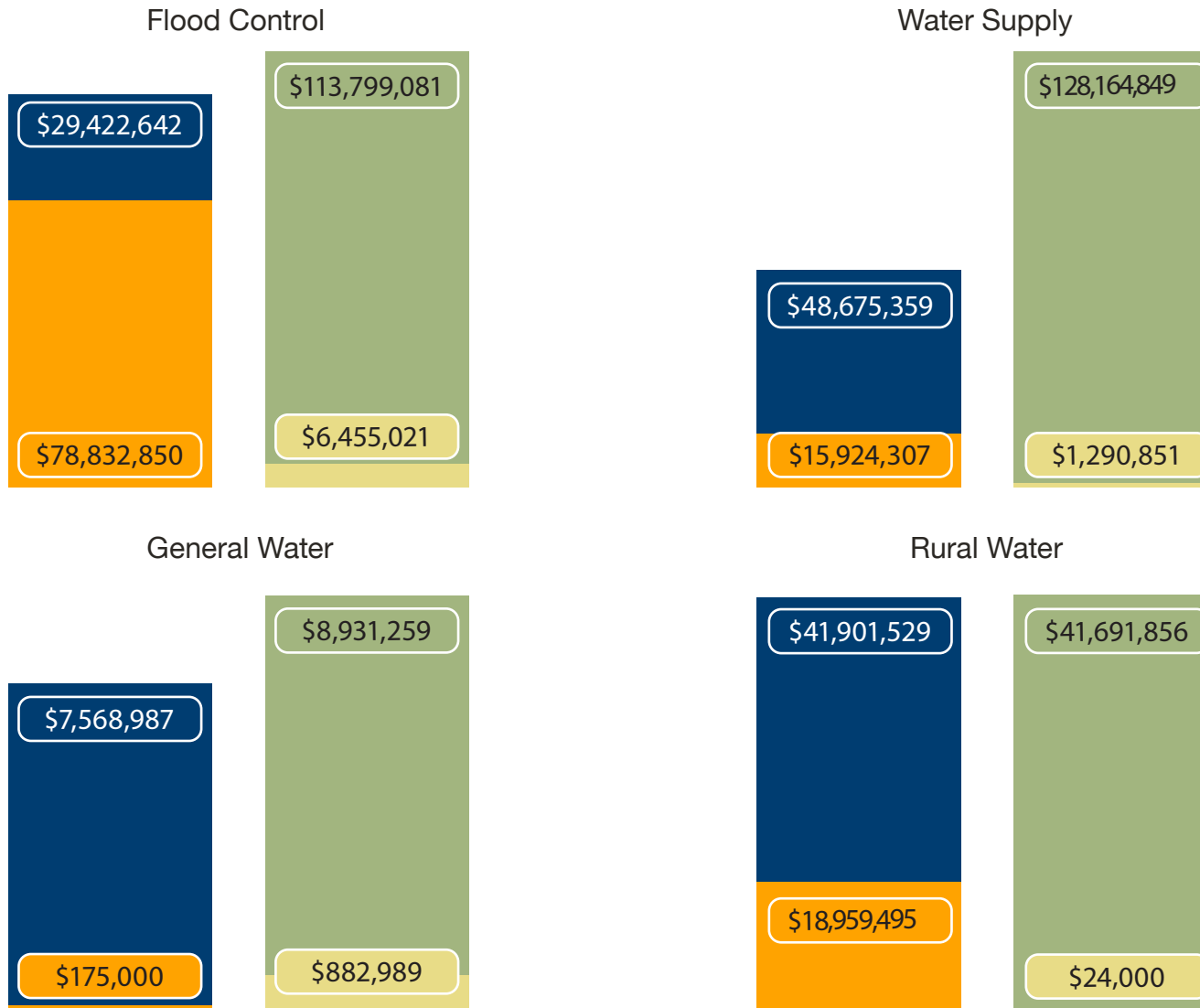


Discretionary Funds



# 2023-25 PURPOSE FUNDING

Project Funds | March 2024



23-25 Unobligated Appropriation
  Anticipated Construction
  Current Requests
  Carry Over Turnback
  Potential Shortfall

**PURPOSE FUNDING SUMMARY**  
**State Water Commission Cost-Share**  
**for February 8, 2024**  
*March 31, 2024*

2023-2025 Unobligated Appropriation 03-31-24	Carryover Turnback 06-30-23
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		Unobligated Appropriation	\$ 113,799,081	\$ 6,455,021
		<b>Flood Control</b>		
		<b>Cost-Share</b>		
Preconstruction	1	Bismarck: South Bismarck Flood Control		\$ 2,369,298
Construction	2	Jamestown: 96" Storm Water Replacement Phase 2		\$ 363,552
Construction	3	Souris River WRD: Mouse River Flood Protection 2023-2025	\$ 76,100,000	
		<b>Current Requests</b>	\$ 76,100,000	\$ 2,732,850
		Estimated Unobligated Appropriation =	\$ 37,699,081	\$ 3,722,171

		Unobligated Appropriation	\$ 8,931,259	\$ 882,989
		<b>General Water</b>		
		<b>Cost-Share</b>		
Cost Increase	1	DWR: Red River of the North Bathymetric Survey		\$ 175,000
		<b>Current Requests</b>	\$ -	\$ 175,000
		Estimated Unobligated Appropriation =	\$ 8,931,259	\$ 707,989

		Unobligated Appropriation	\$ 128,164,849	\$ 1,290,851
		<b>Water Supply</b>		
		<b>Cost-Share</b>		
Preconstruction	1	Beach: 2024 Street & Utility Improvements		\$ 217,553
Preconstruction	2	Colfax: Supply Treated Water Transmission Line		\$ 30,720
Preconstruction	3	Flasher: Water System Improvement		\$ 138,000
Preconstruction	4	New Leipzig: Water System Improvement Phase 1		\$ 130,971
Pre/Construction	5	Jamestown: Lime Filter Recycle/Reuse Project		\$ 749,550
Construction	6	Bismarck: 2024 Water Main Replacement WU143	\$ 1,649,305	
Construction	7	Bismarck: 2024 CIPP Water Main Rehab WU144	\$ 1,221,869	
Construction	8	Bismarck: HC158 South Washington	\$ 500,428	
Construction	9	Crosby: Hendrickson Holmes	\$ 353,264	
Construction	10	Dickinson: Sims Street Improvements Phase 2	\$ 962,042	
Construction	11	Dickinson: 2024 Water Main Replacement	\$ 2,418,887	
Construction	12	Drayton: City Wide Water Meter Replacement	\$ 185,433	
Construction	13	Jamestown: Water Meter Replacement	\$ 1,834,829	
Construction	14	Mandan: 2024 Infrastructure Improvements	\$ 1,628,786	
Construction	15	Park River: Green Acres Water & Sewer Extension	\$ 200,531	
Construction	16	Rhame: 2024 Water Main Replacement	\$ 3,563,991	
Cost Increase	17	Ray: Surge Tank	\$ 138,148	
		<b>Current Requests</b>	\$ 14,657,513	\$ 1,266,794
		Estimated Unobligated Appropriation =	\$ 113,507,336	\$ 24,057

		Unobligated Appropriation	\$ 41,691,856	\$ 24,000
		<b>Rural Water</b>		
		<b>Cost-Share</b>		
Preconstruction	1	FBRW: Four Bears WTP, Intake, Raw Water Line	\$ 1,354,500	
Preconstruction	2	South Central: U of Mary Service Area Water Storage/Trans Line	\$ 367,500	
Construction	3	Cass RWD: Reservoir D	\$ 2,700,535	
Construction	4	Central Plains: Maddock Connection to Central Plains WD	\$ 4,350,457	
Construction	5	East Central RWD: Phase 6 Expansion	\$ 375,375	
Construction	6	Northeast RWD: Wellfield and WTP Expansion	\$ 4,033,911	
Construction	7	TMBC PUC: Highway 43 Corridor Expansion Phase V	\$ 4,714,717	
Cost Increase	8	McLean Sheridan RWD: System Improvements Phase 2	\$ 1,062,500	
		<b>Current Requests</b>	\$ 18,959,495	\$ -
		Estimated Unobligated Appropriation =	\$ 22,732,361	\$ 24,000

		Unobligated Appropriation	\$ 8,768,861	\$ 3,506,441
		<b>Discretionary</b>		
		<b>Cost-Share</b>		
Other	1	Missouri River Potential Intake Locations Investigation - Contract		
		<b>Current Requests</b>	\$ -	\$ -
		Estimated Unobligated Appropriation =	\$ 8,768,861	\$ 3,506,441

**PURPOSE FUNDING SUMMARY**  
**State Water Commission Cost-Share**  
**for February 8, 2024**  
*March 31, 2024*

**2023-2025**  
**Unobligated**  
**Appropriation**  
**03-31-24**

**Carryover**  
**Turnback**  
**06-30-23**

<b>Capital Assets</b>		Unobligated Appropriation	\$	260,700,000	\$	4,171,797
<b>SWPP</b>		<b>Cost-Share</b>				
1						
2						
		<b>Current Requests</b>	\$	-		
<b>NAWS</b>						
1						
2						
		<b>Current Requests</b>	\$	-		
		<b>Capital Assets Current Requests</b>	\$	-		
		Less line of credit	\$	100,000,000		
		Anticipated Unobligated Appropriation Capital Assets =	\$	160,700,000		

2023-2025 Unobligated Appropriation for Purpose and Capital Assets	\$ 562,055,906	\$ 16,331,099
<b>Current Requests</b>	\$ 109,717,008	\$ 4,174,644
2023-2025 Anticipated Unobligated Appropriation =	\$ 452,338,898	

**DEPARTMENT OF WATER RESOURCES  
PROJECT SUMMARY  
2023-2025 BIENNIUM**

**March 31, 2024**

	2021-2023 CARRYOVER	2023-2025 APPROPRIATION	TOTAL	SWC/Secretary APPROVED	UNOBLIGATED APPROPRIATION
<b>MUNICIPAL &amp; REGIONAL WATER SUPPLY:</b>					
MUNICIPAL WATER SUPPLY	51,730,962	7,956,024	59,686,986	59,686,986	0
RED RIVER VALLEY	38,269,022	180,000,000	218,269,022	218,269,022	0
OTHER REGIONAL WATER SUPPLY	27,300,734	79,127	27,379,861	27,379,861	0
UNOBLIGATED MUNICIPAL/REG WATER SUPPLY	1,290,851	128,164,849	129,455,700		129,455,700
Total	118,591,569.57	316,200,000	434,791,570	305,335,869	129,455,700
% OBLIGATED		59%			
<b>RURAL WATER SUPPLY:</b>					
RURAL WATER SUPPLY	55,300,661	10,308,144	65,608,805	65,608,805	0
UNOBLIGATED RURAL WATER SUPPLY	24,000	41,691,856	41,715,856		41,715,856
Total	55,324,660.97	52,000,000	107,324,661	65,608,805	41,715,856
% OBLIGATED		0			
<b>FLOOD CONTROL:</b>					
FARGO	0	0	0	0	0
MOUSE RIVER	9,425,991	0	9,425,991	9,425,991	0
MOUSE RIVER HB1431 BOND PROCEEDS	64,354,625	0	64,354,625	64,354,625	0
VALLEY CITY	10,072,490	0	10,072,490	10,072,490	0
LISBON	62,489	0	62,489	62,489	0
OTHER FLOOD CONTROL	3,737,546	1,577,022	5,314,568	5,314,568	(0)
PROPERTY ACQUISITIONS	57,573	0	57,573	57,573	0
WATER CONVEYANCE	9,655,920	323,897	9,979,817	9,979,817	0
UNOBLIGATED FLOOD CONTROL	6,455,021	113,799,081	120,254,102		120,254,102
Total	103,821,656.29	115,700,000	219,521,656	99,267,555	120,254,102
% OBLIGATED		0			
<b>GENERAL WATER:</b>					
GENERAL WATER	10,747,856	1,318,741	12,066,597	12,066,597	0
UNOBLIGATED GENERAL WATER	882,989	8,931,259	9,814,248		9,814,248
Total	11,630,845	10,250,000	21,880,845	12,066,597	9,814,248
% OBLIGATED		0			
SUBTOTAL	289,368,732	494,150,000	783,518,732	482,278,826	301,239,906
<b>CAPITAL ASSETS:</b>					
SWPP CAPITAL ASSETS	19,928,592	0	19,928,592	19,928,592	0
NAWS CAPITAL ASSETS	36,181,771	10,700,000	46,881,771	46,881,771	0
UNOBLIGATED CAPITAL ASSETS	4,171,797	260,700,000	264,871,797		264,871,797
Total	60,282,160	271,400,000	331,682,160	66,810,363	264,871,797
% OBLIGATED		4%			
<b>DISCRETIONARY FUNDING:</b>					
DISCRETIONARY FUNDING PROJECTS	2,096,564	231,139	2,327,703	2,327,703	0
UNOBLIGATED DISCRETIONARY FUNDS	3,506,441	8,768,861	12,275,302		12,275,302
Total	5,603,005	9,000,000	14,603,005	2,327,703	12,275,302
% OBLIGATED		3%			
<b>BASINWIDE PLAN IMPLEMENTATION:</b>					
BASINWIDE PLAN IMPLEMENTATION	773,787	0	773,787	773,787	0
UNOBLIGATED BASINWIDE PLAN IMPLEMENTATION FUNDS	0	0	0		0
Total	773,787	0	773,787	773,787	0
% OBLIGATED		0%			
<b>STATE FISCAL RECOVERY FUND:</b>					
STATE FISCAL RECOVERY FUNDS - SB 2345	10,972,317	0	10,972,317	10,972,317	0
UNOBLIGATED STATE FISCAL RECOVERY FUNDS	0	0	0.00		0
Total	10,972,317	0	10,972,317	10,972,317	0
% OBLIGATED		0%			
TOTAL	367,000,000	774,550,000	1,141,550,001	563,162,995	578,387,005

**DEPARTMENT OF WATER RESOURCES  
PROJECT SUMMARY  
2023-2025 BIENNIUM**

**Mar-24**

	SWC/Secretary APPROVED	EXPENDITURES	UNPAID APPROVALS
<b>MUNICIPAL &amp; REGIONAL WATER SUPPLY:</b>			
MUNICIPAL WATER SUPPLY	59,686,986	21,440,985	38,246,002
RED RIVER VALLEY	218,269,022	20,394,152	197,874,869
OTHER REGIONAL WATER SUPPLY	27,379,861	8,507,216	18,872,646
TOTAL	305,335,869	50,342,352	254,993,517
<b>RURAL WATER SUPPLY:</b>			
RURAL WATER SUPPLY	65,608,805	22,360,110	43,248,695
<b>FLOOD CONTROL:</b>			
FARGO	0	0	0
MOUSE RIVER	9,425,991	2,062,115	7,363,877
MOUSE RIVER HB1431	64,354,625	18,295,067	46,059,558
VALLEY CITY	10,072,490	92,527	9,979,963
LISBON	62,489	0	62,489
OTHER FLOOD CONTROL	5,314,568	1,595,058	3,719,511
PROPERTY ACQUISITIONS	57,573	57,573	0
WATER CONVEYANCE	9,979,817	2,974,834	7,004,983
TOTAL	99,267,555	25,077,175	74,190,380
<b>GENERAL WATER:</b>			
GENERAL WATER	12,066,597	1,722,904	10,343,693
<b>SUBTOTAL</b>	482,278,826	99,502,542	382,776,284
<b>CAPITAL ASSETS:</b>			
SWPP CAPITAL ASSETS	19,928,592	507,817	19,420,775
NAWS CAPITAL ASSETS	46,881,771	2,298,483	44,583,288
TOTAL	66,810,363	2,806,300	64,004,063
<b>DISCRETIONARY FUNDING:</b>			
DISCRETIONARY FUNDING PROJECTS	2,327,703	2,800	2,324,903
<b>BASINWIDE PLAN IMPLEMENTATION:</b>			
BASINWIDE PLAN IMPLEMENTATION	773,787	155,435	618,351
<b>STATE FISCAL RECOVERY FUNDS SB2345</b>			
STATE FISCAL RECOVERY FUND PROJECTS	10,972,317	4,543,578	6,428,739
<b>TOTALS</b>	563,162,995	107,010,655	456,152,340

**NORTHWEST AREA WATER SUPPLY PROJECT FINANCING CONTRACT****1. PARTIES**

This contract is by and between the North Dakota State Water Commission (the “Commission”), a state agency created and existing pursuant to North Dakota Century Code chapter 61-02, and the City of Minot (the “City”).

- 2. Substitution.** This contract substitutes and replaces the January 1999 Northwest Area Water Supply Interim Financing Contract entered into by the North Dakota State Water Commission and the City of Minot.

**3. INTRODUCTION****3.1 Statutory Authority**

North Dakota Century Code (N.D.C.C.) Chapter 61-24.6 authorizes the Commission to develop a project to deliver water throughout northwest North Dakota for multiple purposes, including domestic, rural water districts, and municipal uses. This water project is known as the Northwest Area Water Supply Project ("the Project"). The Commission, pursuant to N.D.C.C. Chapters 61-02 and 61-24.6 may enter into water service contracts to finance the delivery and distribution of water, and for the collection of rates, charges, and revenues from such delivery of water.

**3.2 Background**

The Commission started construction of the Northwest Area Water Supply project in 2002. Eight communities and two rural water districts in northwestern North Dakota have signed water service contracts with the Commission to receive water from the Project. The Commission may enter into formal contracts with other communities and rural water associations in the future.

**3.3 Need for Financing**

The Project is eligible for reimbursement of sixty-five percent (65%) of the capital costs with federal funds or state funds. This financing agreement is needed to provide for the remaining and thirty-five percent (35%) of the capital costs from local funds.

The purpose of this agreement is to commit the City to provide the 35% of the capital costs.

**4. DEFINITIONS****4.1 Capital Costs**

“Capital Costs” means all costs incurred by the Commission or reasonably expected to be incurred by the Commission in construction of the Project, which are properly chargeable,

in accordance with generally accepted accounting practices, to the construction of and the furnishing of equipment for the Project, including the costs of surveys, engineering studies, exploratory work, designs, preparation of construction plans and specifications, acquisitions, acquisition of lands, easements and rights-of-way, relocation work, costs of issuance and financing in connection with any bonds issued to finance the Project, and essential legal, administrative and financial work in connection therewith.

#### **4.2 Local Share of Capital Costs**

“Local Share of Capital Costs” means the thirty-five (35%) of capital costs which are not eligible for payment from non-reimbursable federal grants and from non-reimbursable state grants.

### **5. FINANCING**

#### **5.1 City to Underwrite Commission’s Costs.**

The City agrees to underwrite the Local Share of Capital Costs incurred or will be incurred by the Commission for construction of the Project with respect to the Project facilities constructed, under contract, and remaining projects outlined in the April 2015 Final Supplemental Environmental Impact Statement (SEIS) and August 2015 Record of Decision.

Remaining project components covered by this agreement not already under contract as of February 2024 are listed below:

1. Raw water initialization and startup
2. Intake Pipeline and Screen Structure at the Snake Creek Pumping Plant
3. Phase III Improvements to the Minot Water Treatment Plant
4. Souris Reservoir and Pump Station
5. Inline Booster Pump Stations along North Dakota Highway 5

City will use sales tax revenue for the Local Share up to \$142 million. When Local Share needed for the Project exceeds \$142 million, Commission will consult with the City and the Northwest Area Water Supply Authority to determine appropriate revenue source for the Local Share to potentially include consideration of user fees.

#### **5.2 Credit to City.**

The City shall be credited 65% of the expenses relating to the Sundre aquifer raw water supply pipeline and reservoir, as well as an additional well in the Sundre aquifer completed between 2016 to 2020 to bolster raw water capacity and meet the requirements identified in the SEIS. The credit for the City is estimated at \$10.7 million.

### **5.3 Biota Water Treatment Plant Costs.**

The City is not responsible for any costs incurred related to the construction of the NAWS Biota Water Treatment Plant or other federal responsibilities identified in the SEIS.

### **5.4 Time of Performance**

The City will make payments to the Commission in fulfillment of its obligation under this agreement in installments (which may be irregular in timing and amounts), within thirty (30) days of being called upon by the Commission to make such payments, upon a construction cost reimbursement basis. The city agrees to levy and collect all necessary taxes and use all its authority and resources available to meet its obligations under this contract and will make in full all payments to be made pursuant to this contract on or before such payments are due.

## **6. TERM OF CONTRACT**

This contract shall remain in effect until all payments required herein have been completed.

## **7. TERMINATION**

### **7.1 Termination by Mutual Consent**

This contract may be terminated by mutual consent of both parties executed in writing.

### **7.2 Termination for Cause By Commission**

The Commission may terminate this Contract effective upon delivery of written notice to the City, or any later date stated in the notice. The Contract may be terminated if City fails to make payments within the time specified or any extension agreed to in writing by the Commission. The rights and remedies of the Commission provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

### **7.3 Termination by Commission**

The Commission may abandon the Project and terminate this contract effective upon written notice to the City. In the event that the Commission abandons the Project and terminates this Contract, the Commission shall assist to the fullest extent possible in the orderly transition of all pending matters related to this Project.

### **7.4 Termination for Cause by City**

The Contract may be terminated if Commission fails to complete its duties and obligations under this Contract. The Contract may be terminated by City upon ninety (90) days written



notice to the Commission, if Commission substantially fails to complete its duties and obligations under this Contract. The rights and remedies of the City provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

## **8. BURDEN OF LOSS.**

### **8.1 Third-Party Claims.**

Each party agrees to assume its own liability for any and all claims of any nature from third parties, including all costs, expenses, and attorney's fees which may in any manner result from or arise out of this agreement. Hence the right of equitable contribution which each may have against the other is limited to accomplishing the result contemplated by the prior sentence.

## **9. GENERAL PROVISIONS**

### **9.1 Access to and Inspection of Books and Records.**

To the extent, if any, not already provided under the North Dakota open records law, each party shall have the right, during normal business hours, to inspect and make copies of the other party's books and official records relating to matters covered by this contract.

### **9.2 Remedies Not Exclusive.**

The use by either party of any remedy specified herein for the enforcement of this contract is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

### **9.3 Waiver of Rights.**

Any waiver at any time by either party of its rights with respect to a default or any other matter arising in connection with this contract, must be in writing, and shall not be deemed to be a waiver with respect to any other default or matter.

### **9.4 Notices.**

All notices that are required either expressly or by implication to be given by any party to the other under this contract shall be in writing. All such notice shall be deemed to have been given and delivered, if delivered personally or if delivered by registered or certified mail, and are complete on the date postmarked when addressed to the parties at their addresses as shown on the signature page of this contract.

## **10. MERGER CLAUSE**

This contract constitutes the entire agreement between the Parties. There are no understandings, agreements, or representations, oral or written, not specified within this contract. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this contract.

## **11. SEVERABILITY**

If any term of this Contract is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the Parties are to be construed and enforced as if this contract did not contain that term.

## **12. EFFECTIVENESS OF CONTRACT**

This contract is not effective until fully executed by both Parties. If no start date is specified in the Term of Contract, the most recent date of the signatures of the Parties shall be deemed the Effective Date.

## **13. APPLICABLE LAW AND VENUE**

This contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each Party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or forum non conveniens.

## **14. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL**

By entering this Contract, the Commission does not agree to binding arbitration, mediation, or any other form of mandatory Alternative Dispute Resolution. The Parties may enforce the rights and remedies in judicial proceedings. The Commission does not waive any right to a jury trial.

**IN WITNESS WHEREOF**, the parties execute this contract on the date specified below.

### **NORTH DAKOTA STATE WATER COMMISSION**

1200 Memorial Highway  
Bismarck, ND 58504

By: \_\_\_\_\_

Title: Secretary, North Dakota State Water Commission

Date: \_\_\_\_\_

Approved and entered into resolution of the State Water Commission this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
Secretary

DRAFT

Dated at Minot, North Dakota, this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_.

**CITY OF MINOT**

By: \_\_\_\_\_  
Tom Ross, Mayor

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