

(referred to herein as “Replacement Lots”) so that loss of population and tax base to the city may be minimized; and,

WHEREAS, the City of Oxbow has requested that the proposed levee project include installation of public infrastructure (i.e. sanitary sewer, storm sewer, water, streets, curb and gutter and street lighting) at a level equivalent to existing development within the City of Oxbow to service the Replacement Lots the cost of such infrastructure to be borne by the Diversion Authority, that the Replacement Lots be of equivalent size as the lots being replaced, that three additional lots be provided for replacement of equipment and amenities to replace the Oxbow City Park, that the public infrastructure installed also include drainage/retention and pump stations appropriate to service the area within the O-H-B levee and that all of this be completed within forty (40) months from the date the Corps approves the O-H-B Levee project; and

WHEREAS, the Diversion Authority has requested that in addition to the Replacement Lots to be located within the area protected by the O-H-B Levee the City of Oxbow accommodate at least 38 additional lots that would be available to property owners in the current upstream staging area whose properties may need to be purchased as a requirement for the Diversion Project and who may wish to relocate within the area protected by the O-H-B Levee (for purposes of this MOU, said additional lots will be referred to as “Staging-area Replacement Lots”); and,

WHEREAS, construction of the proposed levee also will cross through the existing golf course of the Oxbow Golf and Country Club (a North Dakota nonprofit corporation) which would:

1. require the destruction of golf holes;
2. require the destruction or removal of the clubhouse and related facilities, as well as the loss of landscaping, mature trees, and certain views and vistas that are unique features of the golf course;
3. leave certain holes (presumably the existing holes 1 through 6 and 18) on the existing golf course unprotected by the O-H-B Levee;
4. cause other remaining golf holes to need some level of modification as a result of the O-H-B Levee project; ~~and,~~
5. to the extent said “unprotected” golf course land is not needed for the location or footprint of the O-H-B Levee that the Diversion Authority allow the City of Oxbow to purchase or lease said surplus land for a purpose to be determined later;
6. that the replacement of the club house facility including the practice area, pool, and parking lots, and other like kind amenities to be based on built to all applicable federal, state, and local building codes;

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~~6.7. require funds to reimburse or compensate Oxbow G&CC for the current square footage at a one to one ratio; losses recognized by the federal business acquisition process for interruption of business such as such interruption during the construction phase of the project. [[erj suggestion]]~~

and the City of Oxbow has requested that the Diversion Authority supply the funds for such requirements and that such arrangements be made so that the same may be completed within 40 months from the date the Corps approves the project; and

WHEREAS, the Corps, which is the federal sponsor of the Metro Flood Project, has indicated that, subject to the Corps' formal approval process, it will study and approve the O-H-B Levee alternative as part of the Metro Flood Project and, if it is approved, will participate in the design of the O-H-B Levee but the Corps has asked that the non-federal sponsors to approve the O-H-B Levee alternative and the non-federal sponsors (speaking through the Diversion Authority) have, in turn, asked the Oxbow City Council to approve the same; and

WHEREAS, the City of Oxbow has requested that, as part of the O-H-B Levee project, the construction cost associated with the appointment of an independent project manager or consulting firm to represent the City of Oxbow until the completion of the said project will be borne in full by the Diversion Authority; and,

WHEREAS, the City of Oxbow is willing to take responsibility for purchase and development of the replacement lands, annexation of such lands, platting and zoning thereof, and sale of such land; and,

WHEREAS, the Diversion Authority and the City of Oxbow have agreed to a mutual understanding as to the proposed O-H-B Levee, which they wish to put into a written memorandum;

NOW, THEREFORE, IT IS AGREED:

1.1. City of Oxbow—approval of O-H-B Levee alternative. Subject to the terms hereof, the City Council of the City of Oxbow agrees to and supports the construction of a flood protection levee as is being proposed by the U.S. Army Corps of Engineers. The parties recognize that the current proposal being considered is a preliminary route and design and that the Corps, with input from non-federal sponsors and others, will approve the route and design; but the parties agree to coordinate with each other to identify a suitable route and design and, in turn, the Diversion Authority will work with the Corps regarding obtaining the Corps' approval.

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