

**ASSIGNMENT OF
MASTER AGREEMENT**

**Oxbow Golf and Country Club/Cass County
Joint Water Resource District
and
City of Oxbow**

THIS AGREEMENT, is made and entered into as of the effective day hereof, as set forth below, by and between the **CITY OF OXBOW**, a North Dakota municipal corporation [hereinafter "City of Oxbow"]; **CASS COUNTY JOINT WATER RESOURCE DISTRICT** [hereinafter "Water Resource District"] and **OXBOW GOLF AND COUNTRY CLUB**, a North Dakota nonprofit corporation, of Oxbow, North Dakota [hereinafter "Oxbow CC"].

WHEREAS, the Water Resource District, acting as a delegated member of the Metro Flood Diversion Authority, and Oxbow CC entered into a Master Agreement effective the 8th day of January, 2015, that set forth terms by which Oxbow CC's clubhouse would be relocated and replaced and the golf course reconfigured [the "Master Agreement"]; and,

WHEREAS, as of the Effective Date, hereof, the Water Resource District has performed many of its agreed-upon obligations under the Master Agreement have already been performed; and

WHEREAS, The City of Oxbow and the Metro Flood Diversion Board of Authority, a joint powers entity of which the Water Resource District is a member, entered into a Memorandum of Understanding ["MOU"] the effective date which was October 24, 2013, in which MOU addressed a number of aspects pertaining to mitigation of impacts of the Metro Flood Project; and,

WHEREAS, the City of Oxbow and the Metro Flood Diversion Board of Authority wish to amend the MOU, particularly with respect to the sale of the remaining lots developed pursuant to the MOU and, in addition, the discussion of the parties has contemplated the City of Oxbow assuming all responsibilities from the Water Resource District with respect to the Master Agreement; and,

WHEREAS, pursuant to the Oxbow CC Master Agreement, the Water Resource District owes Oxbow CC the sum of \$2,433,697.25, said amount including all payment obligations to, or on behalf of, Oxbow CC through the 31st day of December, 2017, but not including any change orders for work to be done from and after said date; and,

WHEREAS, Oxbow CC desires that the Oxbow CC Master Agreement be assigned by the Water Resource District to the City of Oxbow because Oxbow CC expects that the City of Oxbow will be in a better position to work with Oxbow CC to complete performance of the remaining obligations under said Master Agreement; and,

WHEREAS, the City of Oxbow is willing to assume the obligations and rights thereof the Water Resource District as set forth therein;

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the parties hereto agree as follows:

1. Oxbow CC represents and agrees that the remaining amount owed by the Water Resource District to Oxbow CC is the sum of Two Million Four Hundred Thirty Three Thousand, Six Hundred Ninety-Seven and 25/100 Dollars (\$2,433,697.25), said amount including all other payment obligations to, or on behalf of, Oxbow CC through the 31st day of December, 2017, but not including any change orders for work to be done from and after said date.
2. The Water Resource District will remit payment to Oxbow CC the sum of \$2,433,697.25.
3. The Water Resource District shall, and hereby does, assign to the City of Oxbow the Master Agreement including all of the rights, obligations, and commitments of the Water Resource District as expressed therein and the City of Oxbow hereby accepts said assignment and assumes any and all obligations and commitments set forth therein.
4. Oxbow CC hereby consents and agrees:
 - a. to said assignment and hereby releases the Water Resource District, the Metro Flood Diversion Authority, and its member entities from any demands, claims, or obligations thereunder, whether such demand, claim or obligation stems from, or occurred prior, to the Effective Date hereof; and,
 - b. that with respect to paragraph 5 of the Oxbow Master Agreement, referring to golf course construction costs, including the following provision:

... Oxbow CC will be responsible for the cost of any change orders for materials or labor outside the scope of the construction contractor in excess of the total gross dollar value of the construction contract, unless such change orders are approved by the Water Resource District. The Water Resource District will not have any contractual relationship with, and will not have any obligations regarding, the Golf course Construction Contractor or any other contractors, consultants, subconsultants, subcontractors, material suppliers, or any other parties regarding the construction of the replacement golf holes or regarding modifications to the remaining existing holes, other than the obligation to make payment to

Oxbow CC as set forth above....

Oxbow CC agrees that the gross dollar value of any change orders requested from and after the Effective Date shall not exceed One Million Dollars (\$1,000,000).

5. Effective Date. The assignment of the Master Agreement shall be deemed to be effective the 1st day of January, 2018, said date referred to herein as the "Effective Date".
6. Signature in Counterpart. This Assignment Agreement may be signed in counterpart. It shall be considered to be fully executed when it has been signed by all parties hereto.
7. This Assignment Agreement shall be contingent upon the approval and execution of a Second Amendment to the MOU which second amendment pertains to the sale of remaining lots established and developed as contemplated therein.

[Remainder of page intentionally left blank]

CASS COUNTY JOINT WATER RESOURCE DISTRICT

DATED: _____

By: _____
_____, Chairman

OXBOW GOLF AND COUNTRY CLUB, a
North Dakota nonprofit corporation

DATED: 5-4-18

By: 
BILL SHURT, its President

CITY OF OXBOW, a North Dakota
municipal corporation

DATED: 5-4-18

By: 
James Nyhof, Mayor

ATTEST:



City Auditor