

NAWS Authority Meeting
Minot Public Works Conference Room
1025 31st St SE, Minot, ND 58701
Thursday, May 23, 2024 – 3:00 P.M. C.T

Microsoft Teams meeting

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Meeting Agenda

- A. Roll Call
- B. Introductions
- C. Consideration of Agenda
- D. Consideration of March 21, 2024 Meeting Minutes
- E. Department of Water Resources Director Update
- F. April 13, 2024 State Water Commission Meeting Update
- G. May 16, 2024 Pre-Commission Meeting NAWS Agenda Items
 - a. Biota Water Treatment Plant Operations Agreement
- H. NAWS Operations Resources Update
- I. NAWS Biota Water Treatment Plant Operations Update
- J. NAWS Construction Update
- K. Other Business
- L. Adjourn

MINUTES**Northwest Area Water Supply Authority
Minot, North Dakota
March 21, 2024**

The Northwest Area Water Supply (NAWS) Authority held a meeting in Conference Room 3 of the Minot Public Works Building, 1025 31st St SE, Minot, ND, and via Microsoft Teams on March 21, 2024. Jason Sorenson, Vice-chairman of the NAWS Authority, called the meeting to order at 3:00 PM. A quorum was present.

NAWS AUTHORITY REPRESENTATIVES PRESENT:

David Lakefield, City of Minot Representative
 Shawn Raap, Upper Souris Water District Representative
 Kenny Rodgers, Garrison Diversion Conservancy District Representative
 Tom Ross, City of Minot Representative
 Dan Schaefer, Chairman, All Season Water Users District Representative
 Bob Schempp, City of Minot Representative
 Tony Schwalbe, Cities with Direct Service Representative
 Jason Sorenson, Vice Chairman, City of Minot Representative
 Teresa Sundsbak, North Prairie Regional Water Representative
 Jason Zimmerman, State Water Commission (SWC) Representative

OTHERS PRESENT:

Dr. Andrea Travnicsek, Director of Department of Water Resources (DWR) and SWC Secretary
 Sindhuja S.Pillai-Grinolds, DWR Water Development Division Director
 Tim Freije, DWR NAWS Project Manager
 Clint Cogdill, DWR NAWS Operator
 Perry Weiner, DWR NAWS – Water Resource Senior Manager
 Travis Thyberg, DWR Project Support Specialist

CONSIDERATION OF AGENDA

It was moved by Representative Sundsbak, seconded by Representative Ross, and carried unanimously that the agenda for the March 21, 2024, NAWS Authority meeting be approved as presented.

Consideration of January 18, 2024 Meeting Minutes

Meeting minutes were sent to the Authority for review prior to the meeting. Vice-Chairman Sorenson requested any feedback on the meeting minutes from the previous Authority meeting on January 18, 2024. No feedback was presented.

It was moved by Representative Ross, seconded by Representative Raap, and approved unanimously to accept the Meeting Minutes from the January 18, 2024, NAWS Authority meeting as presented.

Department of Water Resources Director Update

Andrea Travnicek, Director of DWR and SWC Secretary was in attendance for the meeting remotely. She noted the potential delay in the completion of the Biota Water Treatment Plant contracts. She thanked the Authority members (and rural water representatives) for being able to review some of the infrastructure and projects firsthand for the continued discussions relating to shared resources. These discussions will help formulate DWR's request to the Commission, Governor's office and finally the Legislature to ensure the efficient operation of the NAWS project. She also appreciated all the effort that has gone into finalizing the city of Minot finance agreement. She noted DWR staff will be supplying updates on projects and looks forward to the Authority's discussion on these projects.

January 11, 2024 Pre-Commission Meeting NAWS Agenda Items

Financing agreement with City of Minot

Tim Freije, NAWS Project Manager, stated the Financing agreement has been reviewed by the DWR staff and City of Minot staff. The Financing agreement includes the DWR staff estimated Local Share of the Project from City of Minot to be \$142 million. City of Minot staff agrees with that estimation, and it includes the ~\$80 million already invested in the Project by City of Minot. The agreement is expected to be presented to the Minot City Council on April 1, 2024, and to the State Water Commission at the April 11, 2024 meeting. The agreement outcome will be presented again to the NAWS Authority at the May 23, 2024 meeting.

It was moved by Representative Ross, seconded by Representative Sundsbak, the NAWS Authority approves the Financing agreement expected to be presented to the State Water Commission at the April 11 meeting.

Representatives Lakefield, Raap, Ross, Chairman Schafer, Schempp, Schwalbe, Vice-Chairman Sorenson, Sundsbak, and Zimmerman voted aye. There were no nay votes. The motion carried.

Potential change order for NAWS Contract 6-1A Snake Creek Pumping Plant Modifications – Demolition Contract

Freije discussed the work change directive that has been developed for NAWS Contract 6-1A Snake Creek Pumping Plant Modification – Demolition Contract to include the wall penetration through the existing discharge structure. This wall penetration is necessary to connect the Snake Creek Pump Station to the NAWS discharge pipeline currently being installed under NAWS Contract 2-1E. The wall penetration was not included in Contract 6-1A as the work required a 408 permit from the Corps of Engineers, which would have delayed bidding by six months. This work was not included in Contract 2-1E as it includes work on a federal facility which would require a significant increase in contractual requirements relating to safety, worker registration, confined space, etc. The cost of the change order could potentially exceed the twenty percent of the contract total threshold which the Secretary is authorized to approve. The intent is to request that the SWC authorize the Secretary to execute change orders up to twenty-five percent of the contract total for this particular contract.

It was moved by Representative Sundsbak, seconded by Representative Zimmerman the NAWS Authority to approve the recommendation to request the SWC to authorize the Secretary to execute change orders up to twenty-five percent for Contract 6-1A Demolition Contract.

Representatives Lakefield, Raap, Ross, Chairman Schafer, Schempp, Schwalbe, Vice-Chairman Sorenson, Sundsbak, and Zimmerman voted aye. There were no nay votes. The motion carried.

Contract for pressurization of raw water line

Freije discussed the potential contract for pressure testing the NAWS main transmission line that had two corrosion related failures last fall. DWR staff is currently working through the scope and procurement options with the consultant engineer and legal counsel as the work envisioned potentially may not fall under public improvement but under procurement of services. Procurement of services is covered under a separate title of Century Code with different procurement requirements and thresholds for bidding in comparison to public improvement. The current plan is to present an update on potential path forward at the April SWC meeting with documents compiled for bidding at a later date.

After brief discussion, the following motion was made:

It was moved by Representative Ross, seconded by Representative Schwalbe the NAWS Authority approve DWR staff determining a best path forward for solicitation for the Contract for pressurization of the main transmission line.

Representatives Lakefield, Raap, Ross, Chairman Schafer, Schempp, Schwalbe, Vice-Chairman Sorenson, Sundsbak, and Zimmerman voted aye. There were no nay votes. The motion carried.

NAWS OPERATIONS - RESOURCES

Sindhuja Pillai-Grinolds, DWR Water Development Division Director, noted that based on the discussion at the January 18, 2024, NAWS Authority meeting, efforts were underway to determine necessary staffing levels and a potential plan for shared resources with NAWS Authority member entities for the long-term operations and maintenance of the NAWS project. Feedback was supplied to DWR by the Authority and rural water representatives, and discussions have occurred on expectations and concerns from these parties.

Before finalizing the plan for sharing resources, the necessary contractual relationship that is required to comply with primary drinking water regulations along with the type of maintenance that can be completed by member entities as opposed to activities that must be performed by the personnel specific to the project needs to be determined and are critical. DWR staff is also investigating the potential option of adding team members to DWR, including converting the current long term temporary employee into a full-time employee to help with the operations and maintenance.

NAWS BIOTA WATER TREATMENT PLANT OPERATIONS

Freije updated the Authority on the NAWS Biota Water Treatment Plant (WTP) being roughly 96 percent complete. The City of Minot will operate the Biota WTP to ensure coordination of the Biota WTP, Minot WTP, and Sundre and Minot wellfields. Multiple agreements are under development for the operation of the Biota WTP. The three-party Memorandum of Agreement

(MOA) was executed by the City, State, and Bureau of Reclamation to define roles and responsibilities in the operation, maintenance, and replacement of the Biota WTP. DWR staff and City of Minot staff are currently working with Bureau of Reclamation on a budget and a workplan necessary for the Cooperative Agreement. The workplan will include milestones for the construction completion and startup of the Biota WTP, budget for the first year of operation, budgets for subsequent years, associated staff costs for the City of Minot and DWR not directly involved with operation of the Biota WTP along with indirect and support costs incurred by both parties. The Dakotas Area Office of Reclamation has a deadline of May 1, 2024, to submit the work plan to the regional office, to complete the Cooperative Agreement. DWR staff and City of Minot staff are working towards submitting the required information to Dakotas Area Office by end of March.

NAWS CONSTRUCTION UPDATE

Freije gave a brief update on NAWS projects including the Minot water treatment plant, the Biota water treatment plant, intake modifications at the Snake Creek Pumping Plant, the South Prairie reservoir and hydraulic control structure, the City of Westhope connection, and the Bottineau reservoir and booster pump station.

There being no further items of discussion, the meeting was adjourned at 3:59 PM.

Respectfully submitted,

Travis Thyberg, DWR Project Support Specialist

NORTH
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TO: NAWS Authority Representatives
FROM: Andrea Travnicek, Ph.D., Director 
SUBJECT: April 11, 2024 State Water Commission Update
DATE: May 20, 2024

At the April 11, 2024 State Water Commission (SWC) meeting the Financing agreement with City of Minot that was included in the March 21, 2024 Northwest Area Water Supply Authority meeting was approved without any changes. Attached is the fully executed Financing agreement with City of Minot for the NAWS project.

In addition, the SWC also authorized the Secretary to the SWC to execute change orders up to 25% of the contract amount on Contract 6-1A Demolition Contract.

AT/SSP:237-4/AUTH
Enclosure

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: 05/08/2024

CITY OF MINOT


PO Box 5006
Minot, ND 58702

By: _____

Title: Mayor, City of Minot

Date: 4.22.24



TO: NAWS Authority Representatives
FROM: Andrea Travnicek, Ph.D., Director 
SUBJECT: May 16, 2024 Precommission Meeting Agenda Item
DATE: May 20, 2024

One agenda item was presented at the May 16, 2024 Precommission meeting of the State Water Commission (SWC) for the Northwest Area Water Supply (NAWS) Project. This memo describes the agenda item presented briefly.

Biota Water Treatment Plant – Operations and Maintenance Agreement with City of Minot (Attachment 1)

A draft agreement between City of Minot and the SWC for the day to day operations of the Biota Water Treatment plant was included with the precommission packet.

I recommend the NAWS Authority approve DWR staff and City of Minot staff to finalize the Biota Water Treatment Plant Operations and Maintenance Agreement and present to the City Council and the State Water Commission for approval.

AT/SSP:237-4/AUTH
Enclosure

TO: Governor Doug Burgum
Members of the State Water Commission
FROM: Andrea Travnicek, Ph.D., Secretary
SUBJECT: NAWS – Biota Water Treatment Plant Operations Agreement
DATE: May 8, 2024

The costs associate with the operations, maintenance, and replacement of the Biota Water Treatment Plant (WTP) is a federal responsibility as the Biota WTP is required for the Boundary Water Treaty compliance.

A memorandum of agreement between Bureau of Reclamation (Reclamation), the State Water Commission (SWC), and the City of Minot defining roles and responsibilities for the operation, maintenance and replacement of the NAWS Biota water treatment plant has been executed by all parties. A subsequent cooperative agreement between Reclamation and SWC will be executed for Reclamation to provide federal funding.

The Biota WTP will be operated by the City of Minot. Attached draft agreement is in the works between SWC and the City of Minot for the day-to-day operations of the Biota WTP.

The agreement is expected to be finalized and presented for approval at the June SWC meeting.

AT:SSP/237-04
Attachment

NORTHWEST AREA WATER SUPPLY BIOTA WATER TREATMENT PLANT – OPERATIONS AND MAINTENANCE AGREEMENT

I. PARTIES

This Agreement is between the State of North Dakota, through the State Water Commission (the “Commission”) and the City of Minot, North Dakota (“City”) (collectively the “Parties”). The purpose of this Agreement is to identify and define the Parties’ roles, responsibilities, and deliverables for the Operation, Maintenance and Replacement (“OM&R”) of the Northwest Area Water Supply (“NAWS”) Biota Water Treatment Plant (“WTP”).

II. BACKGROUND

The NAWS project is a bulk water supply system being constructed to serve communities and rural water systems within northwestern North Dakota. The project will deliver water from the Missouri River Basin to communities and rural water systems within the Hudson Bay Basin. In compliance with the Boundary Waters Treaty, a Biota WTP is being constructed within the Missouri River Basin as a means of reducing the project-related risk of aquatic invasive species (“Biota”) transfer. The Biota WTP includes conventional water treatment, along with ultraviolet irradiation and chemical disinfection in the treatment process. This treatment occurs within the Missouri River Basin prior to the water being delivered via a buried pipeline to the City’s WTP.

The United States Department of the Interior, Bureau of Reclamation (“Reclamation”) signed a Record of Decision in 2015 to conclude the National Environmental Policy Act process. Environmental commitments in the Record of Decision include the development of an *Adaptive Management Plan* for the OM&R of the Biota WTP. The purpose of the *Adaptive Management Plan* is to monitor the effectiveness of the NAWS Biota WTP systems in reducing the risk of project-related transfer of aquatic invasive species from the Missouri River Basin to the Hudson Bay Basin. The *Adaptive Management Plan* could influence future Biota WTP operations.

The Commission is the NAWS project owner. The construction and operation of NAWS is performed by the Department of Water Resources (“DWR”), which has the statutory responsibility of administering the legal obligations of the Commission. The Parties, through this agreement are entering into a contract to operate and maintain the Biota WTP.

III. ROLES AND RESPONSIBILITIES

OM&R responsibilities include all routine day-to-day work items and replacements associated with Biota WTP operations and facility maintenance as described below.

The Parties have the following roles and responsibilities in operation and maintenance of the NAWS Biota WTP.

- a. The Commission and DWR’s responsibilities include the following:
 1. The Commission through DWR in collaboration with the City will implement the requirements set forth in Reclamation’s Record of Decision and *Adaptive Management Plan* as it relates to the Biota WTP operations.

2. DWR will ensure the structures associated with the operation and maintenance of the facility are insured. The DWR contributes funding to the North Dakota Insurance Reserve Fund, which provides insurance for state-owned facilities.
 3. The Commission will retain ownership of the property and facilities that comprise the Biota WTP. No changes to this ownership will occur without Reclamation's concurrence.
 4. DWR will schedule and conduct quarterly coordination meetings with Reclamation and the City to discuss: (1) ongoing Biota WTP operations, (2) ongoing monitoring tasks, (3) reporting tasks, (4) changes as a result of modifications to the *Adaptive Management Plan*, and (5) extra-ordinary maintenance needs.
 5. DWR will obtain any permits required by applicable regulating agencies (i.e., discharge permit) for the operation and maintenance of the Biota WTP.
 6. DWR and City will ensure their respective equipment and vehicle operators have a valid and appropriate operator's license for equipment and vehicle use.
 7. DWR will conduct annual on-site maintenance review and security review of the Biota WTP and invite Reclamation to participate in these reviews. DWR with support from City will complete report on findings and provide the resulting report to Reclamation. Recommendations from these reviews will be addressed in an action plan cooperatively developed between the DWR, City, and Reclamation. These reviews will occur on an annual basis, or more frequently, as requested by DWR, City, or Reclamation.
- b. City's responsibilities include the following:
1. City will operate the Biota WTP day-to-day, which includes the water treatment processes as described in Reclamation's Record of Decision.
 2. City will ensure the equipment and vehicles associated with the operation and maintenance of the facility are insured. City may submit these costs and associated documentation to DWR for reimbursement.
 3. City will conduct regular routine maintenance activities of the Biota WTP equipment.
 4. City in collaboration with DWR and Reclamation will determine the appropriate staffing required for the operations of the Biota WTP.
 5. City will employ certified operators to staff the City's WTP and the Biota WTP. City will provide copies of any such certifications to Reclamation, consistent with federal privacy laws.

6. City in collaboration with DWR will provide Standard Operating Procedures (“SOPs”) for Reclamation review and approval. SOPs will document instructions detailing all steps and activities required to operate the plant, including frequency of tasks. The Biota WTP operators will review and use the SOPs for Biota WTP operation.
7. City in collaboration with DWR will provide emergency operating plan and procedures for Reclamation review and approval. The Biota WTP operators will review and use the emergency operation procedures should an incident arise that calls for such procedures to be enacted. Should an incident arise, operators will notify the key personnel of all Parties to this agreement within 24 hours.
8. City will provide janitorial services for the offices, conference room, restrooms, locker rooms, laboratory, electrical room, and other areas within the Biota WTP and facilities within the shop located on the Biota WTP site.
9. City will provide buildings and grounds maintenance, including landscaping, snow removal, weed control, etc. on the Biota WTP site.
10. City will collect and analyze influent and effluent water quality samples in accordance with the Adaptive Management Plan and share the data/results with the Commission through DWR and Reclamation per the Adaptive Management Plan.
11. City will operate the Biota WTP to meet the log-inactivation and removal credits (greater than 3 log inactivation of *Giardia* and greater than 4 log inactivation of viruses) as identified in Reclamation’s Record of Decision and as modified in the Adaptive Management Plan.
12. City will monitor the Nephelometric Turbidity Unit (“NTU”) of the coagulation, flocculation, sedimentation, and filtration processes. Desired outcome is less than or equal to 0.3 NTUs for the Combined Filter Effluent (“CFE”) in at least 95% of the 15-minute incremental measurements each month. Maximum level not to exceed 1.0 NTU at any time.
13. City will ensure proper operation of the UV Irradiation (lamp intensity/exposure in $\mu\text{watt-sec/cm}^2$.) Example: Minimum dosage of 40mJ/cm² at a design UV transmittance of 85% at 254 nm.
14. City will ensure proper operation of the chlorine/chloramine disinfection at a minimum dosage of 4 mg/L, with a contact time required 12.0 mg/L-min and minimum free chlorine residual of 2 mg/L.
15. City will record monthly pumping volumes leaving the Biota WTP and provide documentation to the Commission through DWR and Reclamation.
16. City will provide annual financial statement for the Biota WTP to the DWR. The annual financial statement will cover the same reporting period as the

schedule of expenditures of federal awards included in the City's Annual Comprehensive Financial Report.

- c. The Parties shall have the following joint responsibilities:

DWR and City will participate in an after-action review with personnel involved in the emergency operation procedures to identify response measures implemented, opportunities for improvement, etc. DWR, City, and Reclamation will cooperatively work to modify the emergency operation procedures, if necessary, based on the outcome of the after-action review.

IV. FUNDING AND PAYMENT

Federal funding for the OM&R of the Biota WTP will be transferred through a cooperative agreement between Reclamation and the Commission, as directed by the authorizing legislation. Federal funds will be provided as they are made available by the United States Congress.

City will track all costs associated with the OM&R of the Biota WTP in accordance with Generally Accepted Accounting Principles. The Commission, through DWR, will reimburse City for all costs associated with OM&R of the Biota WTP on a quarterly basis. City will submit its reimbursement request to DWR with all supporting documentation. DWR will review the request and make payments to the City within 45 days.

Payment of an invoice by DWR will not prejudice the Commission's right to object to or question that or any other invoice or matter in relation thereto. City's invoice will be subject to reduction for amounts included in any invoice or payment made which are determined by DWR, on the basis of audits conducted in accordance with the terms of this Agreement, not to constitute allowable costs. At DWR's sole discretion, all payments shall be subject to reduction for amounts equal to prior overpayments to City.

V. TERM OF CONTRACT

This Agreement shall become effective upon signature of both parties and shall remain in effect unless the Agreement is terminated as provided in the following Section.

VI. TERMINATION

a. Termination by Mutual Agreement

This Contract may be terminated by mutual consent of both Parties executed in writing.

b. Early Termination in the Public Interest

The Commission is entering this Contract for the purpose of carrying out the public policy of the State of North Dakota, as determined by its Governor, Legislative Assembly, Agencies and Courts. If this Contract ceases to further the public policy of the State of North Dakota, the Commission, in its sole discretion, by written notice to City, may terminate this Contract in whole or in part.

c. Termination for Lack of Funding or Authority

The Commission by written notice to City, may terminate the whole or any part of this

Contract under any of the following conditions:

1. If funding from federal, state, or other sources is not obtained or continued at levels sufficient to allow for purchase of the services or goods in the indicated quantities or term.
2. If federal or state laws or rules are modified or interpreted in a way that the services or goods are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.
3. If any license, permit, or certificate required by law or rule, or by the terms of this Contract, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Contract under this subsection is without prejudice to any obligations or liabilities of either Party already accrued prior to termination.

d. Termination for Cause

The Commission may terminate this Contract effective upon delivery of written notice to City, or any later date stated in the notice:

1. If City fails to provide services or goods required by this Contract within the time specified or any extension agreed to in writing by the Commission; or
2. If City fails to perform any of the other provisions of this Contract, or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms.

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.

VII. FORCE MAJEURE

Neither Party shall be held responsible for delay or default caused by fire, riot, terrorism, pandemic (excluding COVID-19), acts of God, or war if the event was not foreseeable through the exercise of reasonable diligence by the affected party, the event is beyond the party's reasonable control, and the affected Party gives notice to the other Party promptly upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default. If City is the affected Party and does not resume performance within fifteen (15) days or another period agreed between the Parties, then the Commission may seek all available remedies, up to and including termination of this Contract pursuant to its Termination clause, and the Commission shall be entitled to a pro-rata refund of any amounts paid for which the full value has not been realized, including amounts paid toward software subscriptions, maintenance, or licenses.

VIII. INDEMNIFICATION

City agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers, and employees (“State”), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State’s contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. This obligation to defend, indemnify, and hold harmless does not extend to professional liability claims arising from professional errors and omissions. The legal defense provided by City to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Any attorney appointed to represent the State must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08. City also agrees to reimburse the State for all costs, expenses, and attorneys’ fees incurred if the State prevails in an action against City in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after termination of this agreement.

IX. INSURANCE

City shall secure and keep in force during the term of this agreement and City shall require all subcontractors, prior to commencement of an agreement between City and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- a. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$2,000,000 per occurrence.
- b. Automobile liability, including owned (if any), hired, and non-owned automobiles, with minimum liability limits of \$500,000 per person and \$2,000,000 per occurrence.
- c. Workers’ compensation coverage meeting all statutory requirements. The policy must provide coverage for all states of operation that apply to the performance of this Contract. For the purposes of this Contract, the only state of operation is North Dakota.
- d. Employer’s liability or “stop gap” insurance of not less than \$2,000,000 as an endorsement on the workers’ compensation or commercial general liability insurance.
- e. Professional errors and omissions with minimum limits of \$2,000,000 per claim and in the aggregate. City must continuously maintain such coverage during the contract period and for three years thereafter. In the event of a change or cancellation of coverage, City shall purchase an extended reporting period to meet the time periods required in this section.

The insurance coverages listed above must meet the following additional requirements:

- f. Any deductible or self-insured retention amount or other similar obligation under the policies is the sole responsibility of City. The amount of any deductible or self-retention is subject to approval by the Commission.

- g. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the Commission. The policies must be in form and terms approved by the Commission.
- h. The duty to defend, indemnify, and hold harmless the Commission under this agreement shall not be limited by the insurance required in the agreement.
- i. The Commission shall be endorsed on the commercial general liability policy on a primary and noncontributory basis, including any excess policies (to the extent applicable), as additional insured. The Commission shall have all the benefits, rights, and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this agreement or by the contractual indemnity obligations of City.
- j. A "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Commission.
- k. The City shall furnish a certificate of insurance to the Commission before commencement of this agreement. All endorsements shall be provided as soon as practicable.
- l. Failure to provide insurance as required in this agreement is a material breach of contract entitling the State to terminate this agreement immediately.
- m. City shall provide at least 30 days' notice of any cancellation or material change to the policies or endorsements. City shall provide on an ongoing basis, certificates of insurance during the term of the contract. A renewal certificate will be provided 10 days prior to coverage expiration. An updated, current certificate of insurance shall be provided in the event of any change in policy.

X. WORKS FOR HIRE

City acknowledges that all work(s) under this Contract is "work(s) for hire" within the meaning of the United States Copyright Act (Title 17 United States Code) and hereby assigns to the Commission all rights and interests City may have in the work(s) it prepares under this Contract, including any right to derivative use of the work(s). All software and related materials developed by City in performance of this Contract for the Commission shall be the sole property of the Commission, and City hereby assigns and transfers all its right, title, and interest therein to the Commission. City shall execute all necessary documents to enable the Commission to protect the Commission's intellectual property rights under this section.

XI. WORK PRODUCT

All work product, equipment or materials created for the Commission or purchased by the Commission under this Contract belong to the Commission and must be immediately delivered to the Commission at the Commission's request upon termination of this Contract.

XII. NOTICE

All notices or other communications required under this Contract must be given by email, registered or certified mail and are complete on the date postmarked when addressed to the Parties at the following addresses:

COMMISSION/DWR	CITY
	Name
	Title
1200 Memorial Highway	Address
Bismarck, ND 58504	City, State, Zip
spillai@nd.gov	Email

Notice provided under this provision does not meet the notice requirements for monetary claims against the State found at N.D.C.C. § 32-12.2-04.

XIII. CONFIDENTIALITY

City shall not use or disclose any information it receives from the Commission under this Contract that the Commission has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Contract or as authorized in advance by the Commission. The Commission shall not disclose any information it receives from City that City has previously identified as confidential and that the Commission determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota public records law, **N.D.C.C. CH. 44-04**. The duty of the Commission and City to maintain confidentiality of information under this section continues beyond the Term of this Contract.

XIV. COMPLIANCE WITH PUBLIC RECORDS LAWS

Under the North Dakota public records law and subject to the Confidentiality clause of this Contract, certain records may be open to the public upon request. Public records may include: (a) records the Commission receives from City under this Contract, (b) records obtained by either Party under this Contract, and (c) records generated by either Party under this Contract. City agrees to contact the Commission immediately upon receiving a request for information under the public records law and to comply with the Commission’s instructions on how to respond to such request.

XV. ASSIGNMENT AND SUBCONTRACTS

City may not assign or otherwise transfer or delegate any right or duty without the Commission’s express written consent, provided, however, that City may assign its rights and obligations hereunder in the event of a change of control or sale of all or substantially all of its assets related to this Contract, whether by merger, reorganization, operation of law, or otherwise. Should an assignee be a business or entity with whom the Commission is prohibited from conducting

business, the Commission shall have the right to terminate in accordance with the Termination for Cause clause of this Contract. City may enter subcontracts provided that any subcontract acknowledges the binding nature of this Contract and incorporates this Contract, including any attachments. City is solely responsible for the performance of any sub-City with whom City contracts. City does not have authority to contract for or incur obligations on behalf of the Commission.

XVI. SPOILIATION – PRESERVATION OF EVIDENCE

City shall promptly notify the Commission of all potential claims that arise or result from this Contract. City shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to the Commission the opportunity to review and inspect such evidence, including the scene of an accident.

XVII. MERGER AND MODIFICATION, CONFLICT IN DOCUMENTS

This Contract, including the following documents, constitutes the entire agreement between the Parties. There are no understandings, agreements, or representations, oral or written, not specified within this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both Parties.

XVIII. 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.

XIX. 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*.

XX. 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.

XXI. ATTORNEY’S FEES

In the event a lawsuit is instituted by the Commission to obtain performance due under this Contract, and the Commission is the prevailing Party, City shall, except when prohibited by N.D.C.C. § 28-26-04, pay the Commission’s reasonable attorney fees and costs in connection with the lawsuit.

XXII. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

City agrees to comply with all applicable federal and state laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights. (See N.D.C.C. Title 34 – Labor and Employment, specifically N.D.C.C. ch. 34-06.1 Equal Pay for Men and Women). City agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation and workers' compensation premiums. City shall have and keep current all licenses and permits required by law during the Term of this Contract all licenses and permits required by law. City is prohibited from boycotting Israel for the duration of this Contract. (See N.D.C.C § 54-44.4-15). City represents that it does not and will not engage in a boycotting Israel during the term of this Contract. If the Commission receives evidence that City boycotts Israel, the Commission shall determine whether the company boycotts Israel. The foregoing does not apply to contracts with a total value of less than \$100,000 or if City has fewer than ten full-time employees. City's failure to comply with this section may be deemed a material breach by City entitling the Commission to terminate in accordance with the Termination for Cause clause of this Contract.

XXIII. STATE AUDIT

Pursuant to N.D.C.C. § 54-10-19, all records, regardless of physical form, and the accounting practices and procedures of City relevant to this Contract are subject to examination by the North Dakota State Auditor, the Auditor's designee, or Federal auditors, if required. City shall maintain these records for at least three (3) years following completion of this Contract and be able to provide them upon reasonable notice. The Commission, State Auditor, or Auditor's designee shall provide reasonable notice to City prior to conducting examination.

XXIV. OBSERVATIONS BY COMMISSION, DWR

The Commission, DWR, or its representatives shall at all reasonable times have access to the Biota WTP and may observe, inspect, photograph, or otherwise review the Biota WTP's operations, for any purpose including ascertaining if they are being kept in a safe and proper operating condition. Notice of such visits to the Biota WTP will be given to the City in advance, if possible, and interference with the City's performance will be avoided to the maximum extent possible.

XXV. COUNTERPARTS

This Contract may be executed in multiple, identical counterparts, each of which is be deemed an original, and all of which taken together shall constitute one and the same contract.

XXVI. 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 clause, the most recent date of the signatures of the Parties shall be deemed the "Effective Date".

XXVII. SIGNATURE PARTIES

IN WITNESS WHEREOF, the Parties have executed this Agreement and agree to the terms and conditions on the date and year written below.

Dated this ___ day of _____, 2024.

STATE OF NORTH DAKOTA
STATE WATER COMMISSION

By: _____
Dr. Andrea Travnicek, Ph.D.,
Secretary


Dated this ___ day of _____, 2024.

City of Minot

By: _____
Thomas Ross
Mayor

DRAFT

NORTH
Dakota | Water Resources
Be Legendary.

To: NAWS Authority Representatives
From: Andrea Travnicek, Ph.D., Director 
Subject: NAWS Operations Resources Update
Date: May 20, 2024

Tim Freije, resigned from the Department of Water Resources (DWR). His last date with the agency was May 1, 2024. Travis Johnson has been hired as the new Northwest Area Water Supply (NAWS) Project Manager and he will start his new role on May 28, 2024. Mr. Johnson is coming to DWR from Houston Engineering with over 20 years of experience which includes design and construction management of multiple NAWS projects.


As noted at the January 18, 2024, and March 21, 2024, NAWS Authority meetings, efforts are underway to determine necessary staffing levels for the long-term operations and maintenance of the NAWS project.

In addition to the NAWS Project Manager who oversees the operations of the NAWS Project, the DWR currently employs one full time employee and one long-term temporary employee for operations and maintenance of the NAWS Project. DWR also employs one full time employee assisting the NAWS Project Manager with construction oversight and administration.

We are continuing to investigate the necessary staffing levels for the long-term operations and maintenance. Options under consideration includes operators from rural water systems sharing their time between NAWS project and their respective rural water system and adding team members to DWR.

AT/SSP/237-4/AUTH

N O R T H
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To: NAWS Authority Representatives
From: Andrea Travnicek, Ph.D., Director 
Subject: NAWS Biota Water Treatment Plant Operations Update
Date: May 20, 2024

Phase I of the Northwest Area Water Supply Project (NAWS) Biota Water Treatment Plant (WTP) is nearing completion. The purpose of the facility is Boundary Waters Treaty compliance which is a federal responsibility per Section 1(h) of the Dakota Water Resources Act of 2000 and therefore will be funded with federal funding for both construction and operations, maintenance, and replacement. The City of Minot will operate the Biota WTP to ensure coordination of the Biota WTP, Minot WTP, and Sundre and Minot wellfields. Multiple agreements are under development for the operation of the Biota WTP.

A three-party Memorandum of Agreement (MOA) was executed by the City, State, and Bureau of Reclamation (Reclamation) to define roles and responsibilities in the operation, maintenance, and replacement of the Biota WTP. A Cooperative Agreement needed for Reclamation to transfer funds is under development. Department of Water Resources (DWR) staff and City of Minot staff submitted a budget and a draft workplan necessary for the Cooperative Agreement. The draft workplan includes milestones for the construction completion and startup of the Biota WTP, budget for the first year of operation, budgets for subsequent years, associated staff costs for the City of Minot and DWR not directly involved with operation of the Biota WTP along with indirect costs incurred by both parties. The Dakotas Area Office of Reclamation has reviewed and provided their comments to DWR staff and City of Minot staff on May 17, 2024. We hope to finalize the document soon so the Dakotas Area Office of Reclamation can submit the information to their regional office in Denver for drafting the Cooperative Agreement.

A separate agreement between the State and the City to define roles, responsibilities, and deliverables with operation, maintenance, and replacement of the Biota WTP and to establish mechanisms for transfer of funding is getting finalized and was presented at the April, Pre-Commission meeting.

DWR staff and City of Minot staff continue to meet with Department of Environmental Quality to understand the requirements to be met by the Biota WTP and the Minot WTP.

AT/SSP:237-4/AUTH



TO: NAWS Authority Representatives
FROM: Sindhuja S.Pillai-Grinolds, Water Development Division Director *sap*
SUBJECT: NAWS – Construction Update
DATE: May 20, 2024

Updates from the last meeting memo are shown in bold italics.

NAWS Contract 6-1A Intake Modifications to Snake Creek Pumping Plant

Contract 6-1A Intake Modifications to Snake Creek Pumping Plant includes three equipment procurement contracts, Demolition Contract, and Construction Contract.

The equipment procurement contracts included a delivery date of March 1, 2024 for all equipments excluding the backup generator which had a delivery date of March 1, 2025. The March 1, 2024 delivery date is not met by any of the equipment procurement contractors. For some electrical equipment, our engineering consultant, Houston Engineering is still waiting for submittal information. The current expected delivery date for one of the electrical equipment, the switchgear is as late as March 2025. DWR staff have directed Houston Engineering staff to check with procurement contractors weekly to get updates on delivery dates for these critical equipments necessary for the operation of the NAWS intake pumps inside the Snake Creek Pumping plant.

Work on the Contract 6-1A Demolition contract is underway. Work on Contract 6-1A Demolition and Construction Contracts has been delayed due to the extensive coordination needed with the Bureau of Reclamation (Reclamation), the owner of the Snake Creek Pumping Plant. ***The Demolition Contract has been delayed beyond the changed completion date through the execution of a change order on the contract, which is April 15, 2024. Numerous submittals continue being worked on between the contractor, consultant, and Reclamation for interior demolition. The motor and pump shaft for pump unit No. 1 has been removed. The removal of motor housing for pump unit No. 1 that was delayed until the asbestos mitigation submittal is complete. The pipe penetratrimon work through the wall of the existing discharge structure is complete. A change order based on time and materials will need to be executed to change the contract price for the work.***

Work on the Contract 6-1A Construction Contract is currently underway. PKG Contracting is the contractor for both the Demolition and Construction Contract. The current completion date on the Construction Contract is June 30, 2024. Because of the delays due to the submittal review process and the equipment delivery, the completion date of June 30, 2024 will not be met by the contractor. The delivery of water from the lake to the Biota Water Treatment Plant could be delayed to summer 2025 as a result of the delayed equipment delivery and completion on the Construction Contract. We are working with Houston Engineering, Inc. on coordination of the multiple contracts in place at this facility.

To date, only one Change Order on the Contract 6-1A Demolition Contract that extended the completion date from June 28, 2023 to April 15, 2024 has been executed by all parties

Contract 2-1E

Contract 2-1E includes the discharge pipeline that connects the Snake Creek Pumping Plant to the NAWS raw water transmission pipeline. An easement and construction license required for work covered under Contract 2-1E were received in May and Contract 2-1E was awarded at the June 2023 State Water Commission meeting. The contractor on Contract 2-1E mobilized to the site in early September 2023 and completed approximately 380 feet of pipe north of the isolation vault and construction of the isolation vault was roughly 75% complete. The contractor winterized the site and demobilized in early November. There were delays in award concurrence and submittal approvals from the federal agencies. The Contract had an Milestone Completion date of January 30, 2024 for underground pipeline work. Contractor has submitted a Change Order request for time and cost to the Engineer. *Their request was reviewed and rejected by the Engineer due to reference to the incorrect articles of the contract documents. The contractor has submitted a revised request which is currently under review. The contractor remobilized to the site in May and started pipeline installation. The scope of work involves construction of approximately 2,100 feet of 36" ductile iron pipe.*

Contract 1-1A

Discussions are ongoing between Reclamation, Garrison Diversion Conservancy District (GDCCD), USACE, DWR, and DWR's consulting engineer regarding the NAWS Contract 1-1A, intake pipeline and bore. Because of the potential challenges associated with the construction of horizontally directionally drilled intake pipe, the potential for installing the permanent intake pipe on the lake bed with the partial or complete removal of existing cofferdam near the Snake Creek Pumping Plant was discussed with the federal agencies and GDCCD and has been accepted. DWR has directed the consulting engineer to proceed with the design that includes complete width removal of the cofferdam and cleaning out the forebay of the Snake Creek Pumping Plant to an elevation of 1780. The overall operations of the Snake Creek Pumping Plant will improve with this design. Reclamation and GDCCD has expressed interest in this project. DWR staff will meet with Reclamation and GDCCD staff to determine the path forward for getting concurrence on their participation towards the cost of the removal of the cofferdam and cleaning out the forebay.

NAWS Contract 7-2A/4-1A Biota Water Treatment Plant (BWTP)

NAWS Contract 7-2A/4-1A generally includes construction of new concrete, steel, and precast BWTP, for which contracts were awarded in February 2021 and the Notices to Proceed for the general and electrical construction were issued in March 2021. Site work including excavation and grading began in April 2021. *We are working with Houston Engineering, Inc. and the different contractors on a startup and commissioning plan due to the delay in the delivery of water from the Snake Creek Pumping Plant. The option of providing water from Sundre aquifer to allow individual start up and commissioning of the equipment is currently being pursued. Extending the Substantial Completion Date on these contracts due to lake water unavailability would result in additional cost to the project that is currently being negotiated with all contractors.* Total estimated project cost is \$64 million.

The table below shows the change orders signed to date on the Biota WTP Contracts.

Contract	Change Orders (CO)	Value of COs	Total Contract Cost	CO Percent of Contract
General	3	\$ 843,562.00	\$ 38,670,762.00	2.2%
Electrical	3	\$ 418,887.13	\$ 7,007,268.13	6.0%
Mechanical	5	\$ 151,143.84	\$ 5,065,350.84	3.0%
UV	1	\$ -	\$ 707,125.00	0.0%
DAF	3	\$ (40,709.50)	\$ 1,803,160.50	-2.3%

Multiple agreements are currently under development for the operations of the BWTP as well. A three-party memorandum of agreement between the State, Reclamation, and City of Minot regarding roles and responsibilities of the respective parties has been executed by all parties. A cooperative agreement between Reclamation and the State is under development for transfer of funds for the operation of the BWTP. *An agreement between the State and the City of Minot further refining the roles and responsibilities between the two parties for the operations of the BWTP is nearing finalization. Multiple meetings are also being held with the North Dakota Department of Environmental Quality regarding requirements and reporting necessary for compliance with primary drinking water regulations and the coordinated operations of the BWTP and the water treatment plant at Minot. A meeting with all consecutive customers of NAWS project will be scheduled this fall to inform them of the transition to the surface water supply anticipated in Summer 2025.*

NAWS Contract 5-1A South Prairie Reservoir and Hydraulic Control Structure

This contract includes a ten and one half million-gallon (average day demand) reservoir roughly three miles north of Highway 23 on the NAWS raw water line and a hydraulic control structure two and a half miles south of Highway 23 at the high point of the raw water pipeline. Seeding, fencing, final backfilling and other minor items remain on the hydraulic control structure and flow control structure contract. The Substantial Completion Date on this contract was extended from November 30, 2023 to January 19, 2024 due to work added to the contract and delays caused by leaks that developed in the NAWS main transmission pipeline. The certificate of substantial completion has been issued with an additional milestone for fencing to be complete by June 15, 2024.

The reservoir has been successfully leak tested. Backfilling around the reservoir, final site grading, and seeding remain. The substantial completion date on the reservoir contract was changed to June 15, 2024 by change order. *The reservoir is substantially complete.* Total estimated project cost is \$16.7 million.

The table below shows the change orders signed to date on the Contract 5-1A Contracts.

Contract	Change Orders	Value of Change Orders	Total Contract Cost	CO Percent of Contract
Reservoir	5	\$ 27,524.92	\$ 7,842,529.92	0.35%
Facilities	4	\$ 89,710.00	\$ 7,209,910.00	1.24%

NAWS Contract 7-1B Minot WTP Phase II Improvements

NAWS Contract 7-1B was awarded by the State Water Commission (SWC) at its February 8, 2018, meeting to PKG Contracting and generally consists of construction of a new primary treatment building at the Minot water treatment facility to replace the aging softening basins, chemical storage and feed systems, laboratory, break room, and IT facilities. All water treated in Minot is being treated through the new portion of the facility. The contract was considered substantially complete on December 31, 2022. Equipment failures and long lead times for replacements have delayed closeout of this contract. A harmonic filter was installed and started up on March 13, 2024. A replacement power monitor is estimated to be delivered in June. We are working with the contractor on closing out the contract. Estimated total project cost is \$34 million. Nine change orders totaling \$3,193,620.75 have been added to this contract to date with \$2,895,136 signed before the change order policy was adopted for NAWS at the December 2022, SWC meeting.

NAWS Contract 4-4B/5-4B Bottineau Reservoir and Booster Pump Station

The Bottineau and Souris Reservoir and Pump Stations contracts consist of a one million-gallon ground storage reservoir and pump station at the intersection of State Highways 5 and 14 south of Souris and a three million-gallon ground storage reservoir and pump station roughly four miles west of the connection to Bottineau. The final pipeline contract climbs roughly 300 feet in elevation from the location of the Souris Reservoir and Pump Station to the connection to Bottineau. The final design flows for both the City of Bottineau and All Seasons Water Users District northwest of Bottineau will require both storage and pumping to meet water demands. Bids were opened February 7, 2023, for the Bottineau reservoir and pump station. At the February 13, 2023, SWC meeting, the Commission authorized the Secretary to award the contracts.

The precast installation for the pump station is mostly complete. One change order was executed with the pump station contractor and the reservoir contractor to accommodate changes to the overflow and reservoir drain piping requested by the Department of Environmental Quality. The change order added less than \$1000 dollars to the pump station contract and no change to the reservoir contract price. The completion date on the reservoir contract and the pump station contract was changed to November 8, 2024 and November 26, 2024 respectively. The reservoir contractor has mobilized this spring and site work is ongoing. Total project cost is estimated at \$12.8 million.

NAWS Contract 2-4D Pipeline to Westhope:

NAWS Contract 2-4D consisted of approximately 4,000 feet of pipeline and a flow control facility to connect the City of Westhope to the NAWS project as a collaborative effort between the project and All Seasons Water Users District. Westhope is a NAWS customer, pays the same water rate as the other NAWS customers, but water is transmitted through All Seasons Water Users District’s infrastructure

NAWS – Project Update

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May 20, 2024

from their connections from the NAWS project. This contract was substantially complete and service to the City of Westhope began on October 24, 2023. The contract was complete well after the contractual substantial completion date. ***Actual damages incurred due to the delay in the completion of the contract were deducted from the contract.***

NAWS Interim Water Supply:

Well C in the City of Minot has been rehabilitated and has been online since the summer of 2022. Well F has been drilled, developed, plumbed into the Sundre well field supply system and has been put into service. Costs of \$658,204.03 have been incurred by the City of Minot through the end of 2022 for Well F. 65 percent of total costs associated with the well construction were credited towards City of Minot's cost share on the NAWS project. The remaining costs on Well F are in the process of being finalized and should be reimbursed in the near future.

City of Minot Reimbursement:

The City of Minot sent a letter requesting reimbursement for repair of the wells in the Minot aquifer completed in 2016, construction of the reservoir, pumpstation near the Sundre well field and construction of the new raw water pipeline designed and constructed between 2016 and 2020. The reimbursement request is because these projects are eligible Northwest Area Water Supply projects and due to circumstances that existed at that time these projects were funded by City of Minot upfront and the requested reimbursement is for the State's share of 65% of the total costs. ***The request was approved at the February State Water Commission meeting. DWR will include the credit in the monthly reimbursement request to City of Minot as the Financing Agreement with the City of Minot has been executed by all parties***

AT:SSP/237-4