

AGREEMENT TO ESTABLISH THE *[INSERT THE NAME OF THE BANK]*
MITIGATION BANK
IN
***[INSERT NAME OF COUNTY]* COUNTY, MINNESOTA**

Comment [TJS1]: Sponsor should insert the name of the mitigation bank here. In addition, the Sponsor should provide the information required to complete the footer for the MBI.

Comment [TJS2]: Sponsor should insert the name of the county where the bank is located.

This Mitigation Banking Instrument (MBI) is made and entered into on the _____ day of _____, 20____, by _____, hereinafter the “Sponsor,” and the U. S. Army Corps of Engineers (Corps).

Comment [TJS3]: The Corps will enter the date when the instrument is signed. The Sponsor does not need to enter any dates.

Comment [TJS4]: Sponsor enters the name of the person(s) or entity that will be signing the MBI.

WHEREAS, the purpose of this agreement is to establish a mitigation bank (the Bank) providing compensatory mitigation in appropriate circumstances for unavoidable wetland impacts separately authorized by Department of the Army permits issued pursuant to Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899 (DA permits); and

WHEREAS, the Sponsor is *[choose one: the owner in fee simple of OR holds an easement for development of a mitigation bank over]* a parcel of land (the Bank Site) containing approximately XX acres located in XXXX County, Minnesota, described in the Mitigation Bank Plan (the Plan), attached as Appendix A, and as shown on the survey in Appendix B.

Comment [TJS5]: Sponsor should indicate which of these describes the land ownership arrangement for the bank and delete text that does not apply.

Comment [TJS6]: Sponsor should provide this information. The approximate acreage should be consistent with other information in this MBI.

WHEREAS, the Corps, after consultation with the agencies comprising the Interagency Review Team (IRT), agrees that successful implementation of the Plan will result in creditable compensatory mitigation at the Bank Site;

THEREFORE, it is mutually agreed among the parties to this MBI that the following provisions are adopted and will be implemented upon signature of this MBI.

General Provisions

a. The goal of the Bank is to *[restore, enhance, create, preserve]* the functions of *[list the type(s) of wetland]* wetland systems. In circumstances deemed appropriate by the Corps, credits from the Bank may be used as compensation for unavoidable wetland impacts authorized by DA permits.

Comment [TJS7]: Sponsor should briefly describe the goals for the bank site by identifying the actions that will be taken to generate credit and the types of wetlands that are being targeted for the site.

b. Use of credits from the Bank to offset wetland impacts authorized by DA permits must be in compliance with the Clean Water Act and implementing regulations, including but not limited to the Clean Water Act Section 404(b)(1) Guidelines and all other applicable Federal and State laws, rules and regulations.

c. The IRT shall be chaired by a representative of the U.S. Army Corps of Engineers, St. Paul District. The IRT shall also include a representative from the *[specifically identify the members of the IRT for the bank review. This should be done in consultation with the Corps representative who chairs the IRT. IRT members for bank reviews commonly include the U.S. Environmental Protection Agency, U.S. Fish & Wildlife Service, Minnesota Department of Natural Resources, and BWSR]*. The IRT, through the Chair, shall coordinate its review with the

Comment [TJS8]: Sponsor should request the IRT members for this bank from the Corps PM and enter that information in this section of the MBI.

Minnesota Wetland Conservation Act (WCA) Technical Evaluation Panel (TEP). The IRT shall review monitoring reports described below. In addition, the IRT will review proposals for corrective measures proposed by the Sponsor or the Corps. Participation on the IRT is voluntary.

Mitigation Plan

a. The Bank Site is a {provide general description of baseline conditions}. A more detailed description of the baseline conditions on the site is contained in the Plan.

Comment [TJS9]: Sponsor should provide a general description of the baseline conditions at the site. If more detailed information is provided in the Plan that document can be referenced here.

b. The Sponsor shall perform the work described in the Plan, including {provide a brief description of the wetland/acreage of work to be undertaken, e.g. planting, hydrologic and soil modifications, etc.} The purpose of this work, and the objective of the Bank, is to {restore, enhance, create, preserve} the functions of XX acres of {Identify the Eggers and Reed wetland community type} wetlands. {add additional language if multiple types of wetlands, or if upland buffer. Specify which if any credits will be preservation credits. Summarize types and credits in table.}.

Comment [TJS10]: Sponsor should provide specific information about what will be done at the site and the types and amounts of wetlands and buffer that will be restored, enhanced, or preserved.

c. The Corps, after considering comments from the IRT and the Sponsor, will determine at its sole discretion the number of Clean Water Act wetland mitigation credits generated by this Bank based on the actions proposed and the corresponding success criteria contained in the Plan. The projected yield of _____ credits from this Bank by wetland type and compensation type is summarized below: {Use the table below to summarize the projected credits generated by this bank.}

Comment [TJS11]: Sponsor should provide their estimate, based on the Prospectus of the number of credits the site may generate.

Comment [TJS12]: The table should be an illustration of the creditable activities described in the preceding paragraphs. The numbers in the table should match those in the text and every category of credit generating activity should be represented in the table.

Type of Compensation	Number of Acres	Type of Wetland Credit	Final Projected Credits
_____ (_____ : _____ ratio)	_____	_____ (Type _____)	_____
_____ (_____ : _____ ratio)	_____	_____ (Type _____)	_____
_____ (_____ : _____ ratio)	_____	_____ (Type _____)	_____
_____ (_____ : _____ ratio)	_____	_____ (Type _____)	_____
_____ (_____ : _____ ratio)	_____	_____ (Type _____)	_____

(: ratio)		(Type)	
Upland Buffer, native, non-invasive (4:1 ratio, but may not contribute to more than 25% of total bank credits)		<i>[All upland buffer shall be credited as a wetland type based on the percentage of each wetland type projected to be restored, enhanced, created, or preserved. The percentages will be based on the acreage associated with each wetland type and not the amount of wetland credit generated]</i>	
Total			

Comment [TJS13]: The Corps converts buffer to wetland credits based on the wetland acreages present at the site. The Sponsor should consult with the Corps PM to make sure the buffer credits are apportioned correctly.

d. The acreage amounts in the preceding table are estimates based on the level of design completed for the Plan. Once the MBI and Plan are approved, the Sponsor shall have the Bank Site surveyed and shall provide the Corps with the final acreages for each type of compensation. Adjustments to the acreage amounts in the table that are individually and cumulatively less than 10% may be reviewed and approved by the Corps in writing after coordination with the IRT. Adjustments in the acreage amounts in the table resulting from the survey that are individually or cumulatively greater than 10% shall be reviewed in accordance with the Modification and Termination section of this instrument.

e. The Sponsor shall submit annual monitoring reports to the Corps by December 31 of each year for five years. The first monitoring report shall be submitted after the first full growing season following construction of the Bank Site or as otherwise specified in the Plan. *[The number of years can be adjusted if the Plan calls for more than five years of monitoring]* The monitoring reports shall include all information specified in the Plan so that the Corps and IRT may evaluate the performance of the Bank Site against the performance standards/success criteria contained in the Plan. The Corps, in consultation with the IRT, may shorten or extend the monitoring period based on whether the Bank Site is in compliance with the success criteria specified in the Plan.

Comment [TJS14]: Sponsor should adjust the text in this paragraph as necessary to reflect the monitoring schedule included in the Plan.

f. The Sponsor is responsible for assuring the successful implementation of the *[restoration, creation, enhancement, preservation]* activities specified in the Plan and for the overall operation and management of the Bank.

Comment [TJS15]: Sponsor should select the appropriate activity types for their bank.

g. The Corps shall review the monitoring reports, and may, at any time, after consultation with the Sponsor and the IRT, direct the Sponsor to take corrective measures at the Bank Site. The purpose of the corrective measures shall be to achieve the success criteria specified in the Plan.

h. The Sponsor shall implement any corrective measures by the date specified by the Corps.

i. In the event the Sponsor determines that corrective measures may be necessary to achieve the required success criteria, it shall provide notice of such proposed corrective measures to all members of the IRT. No corrective measures shall be taken without the concurrence of the Corps, in consultation with the IRT.

j. Representatives of the Corps and other IRT agencies shall be allowed reasonable access to the Bank Site for the purposes of inspection of the Bank Site and monitoring compliance with the Plan.

Use of Mitigation Credits

The Bank Service Area (BSA) is the designated area wherein a bank can reasonably be expected to provide appropriate compensation for impacts to wetland or other aquatic resources. The primary BSA for this Bank is the *(BSA name (number))* Bank Service Area in Minnesota (Appendix C).

Comment [TJS16]: Sponsor should provide the BSA where the bank will be located.

For projects in the BSA of this Bank that require Department of the Army (DA) authorization pursuant to Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899 credits from this Bank may be used to satisfy compensatory mitigation requirements, subject to Corps approval. Use of the Bank to compensate for impacts beyond the BSA may be considered by the Corps on a case-by-case basis when the Corps determines there are no other reasonable compensation options available to the permittee.

The Corps will determine whether use of the credits from the Bank is appropriate for offsetting wetland impacts authorized by a DA permit, and will also determine the number and type(s) of credits required to compensate for those impacts. The Corps will consider comments submitted by the IRT and the public as part of the permit review process before approving of the use of credits from the Bank.

Permit applicants may propose to use a particular mitigation bank to provide the mitigation to be required by a DA permit. Before the Corps will consider such a request, the Sponsor must provide the permit applicant with a statement of credit availability before the Corps will decide whether to approve of the use of the Bank. The State's Purchase Agreement for Wetland Banking Credits form is acceptable for this purpose.

In accordance with the terms of this MBI, the Sponsor agrees that upon Corps approval of a proposal by an applicant to secure mitigation bank credits through a contract with this Bank, a fully executed purchase agreement between the Sponsor and the applicant shall act to transfer to

the Sponsor all responsibility for the compensatory mitigation requirement satisfied by the purchase of credits from this Bank.

Release of Credits

a. Bank credits shall not be released for sale to meet compensatory requirements of Department of the Army permits until the release is approved in writing by the Corps. The Corps will not approve of the release of bank credits until after all of the following have occurred:

- i. Execution of this MBI by the Sponsor and the Corps;
- ii. Approval of the as-built plan;
- iii. Delivery of any financial assurance required by this MBI;
- iv. Recording of the conservation easement required by this MBI;
- v. Delivery of a copy of the title insurance policy accepted by the State of Minnesota.

Comment [TJS17]: Sponsor should verify this requirement with the Corps PM. If a financial assurance is not required this can be deleted.

If some of these items have been completed, indicate here. For example, Items iv. and v. have been completed

Comment [TJS18]: This text is provided as a reminder to Corps staff. In most cases it can be deleted by the Sponsor when preparing the MBI.

b. The Sponsor may petition the Corps for the release of bank credits by submitting an Application to Deposit Wetland Credits in accordance with the following schedule taken from the Plan:

- ____% upon IRT approval of construction and vegetative planting. Total ____% of expected credits.
- up to ____% additional credits after 1st year performance standards are met. Total credits approved for deposit shall not exceed ____% of credits based on acres meeting both hydrology and vegetation performance standards for this stage;
- up to ____% additional credits after 2nd year performance standards are met. Total credits approved for deposit shall not exceed ____% of credits based on wetland area meeting the hydrology performance standards for two or more years and applicable vegetation performance standards;
- up to ____% additional credits after 3rd year performance standards are met. Total credits approved for deposit shall not exceed ____% of credits expected based on wetland area meeting the hydrology performance standards for three or more years and applicable vegetation performance standards;
- up to ____% additional credits after 4th year performance standards are met. Total credits approved for deposit shall not exceed ____% of credits expected based on wetland area meeting the hydrology performance standards for four or more years and applicable vegetation performance standards;

- up to ____% additional credits after 5th year performance standards are met. Total credits approved for deposit shall be based on areas delineated as wetland that meet final performance standards agreed upon by IRT.

Comment [TJS19]: Sponsor should include their proposed credit release schedule here. It should be consistent with the version in the Plan.

{This schedule may need to be adjusted if the success criteria are for more than five years}

Comment [TJS20]: This is provided as supplemental information. It should be deleted when the draft MBI is ready for submittal to the Corps.

c. The above schedule applies only to the extent the Sponsor documents that the Bank Site meets the applicable success criteria. The IRT will have 15 days to provide comments once the Corps has provided notification that the Sponsor has requested a release of credits. If the Corps determines that a site visit is necessary in order to respond to the request, the IRT shall have 15 days from the date of the site visit to provide comments. After full consideration of any comments received, the Corps will determine whether the Bank Site has achieved the relevant success criteria and how many credits should be released. If the Corps determines that the Bank is not meeting success criteria, the Corps may reduce the number of credits available for sale or suspend credit sales entirely. The Corps may also require corrective measures or direct the use of financial assurances for remediation.

d. If, after meeting all success criteria as specified in the Plan, the Sponsor finds that the Bank has developed aquatic resource functions substantially in excess of those upon which the original credit totals and release schedule were based, the Sponsor may submit a written request to the Corps that the MBI be amended to reflect the changes in the number of credits. This request must be reviewed by the IRT as outlined in the "Modification and Termination" section of this MBI. This request must include detailed documentation of the aquatic resources functions provided by the Bank Site, an explanation of how those aquatic resource functions substantially exceed the functions upon which the original credit totals were based, an explanation of the basis for calculating the additional credits, and any other information deemed necessary by the Corps. To be considered, this request, along with all supporting documentation, must be submitted as part of the final credit release request.

Accounting, Ledger Reports and Sale of Credits

The Corps and the Minnesota Board of Water and Soil Resources (BWSR) have assumed joint responsibility for tracking mitigation bank credits in the State of Minnesota. The Sponsor shall comply with all rules imposed by BWSR and the Corps for tracking the availability and sale of credits. Each time an approved credit transaction occurs, the sponsor shall provide a copy of the approved Notice of Withdrawal of Wetland Credits (signed by BWSR, the permittee, and the Sponsor) to the St. Paul District Office at the following address: U.S. Army Corps of Engineers, St. Paul District Regulatory Branch, 180 Fifth Street East, Suite 700, St. Paul, Minnesota 55101. The Corps will maintain a public, web-based copy of the ledger for the Bank on the Regulatory In-Lieu Fee Bank Information & Tracking System (RIBITS). Once a credit is debited, its value cannot change and the credit cannot be resold.

Closure Procedures

Upon the sale of the last credit in the Bank, such that no credits are available for sale, the Sponsor (or BWSR on behalf of the Sponsor) shall provide a written certification to the Corps stating that all credits are sold and the bank is closed to future sales. The certification shall state the total number of credits of each wetland type that were sold (e.g. sedge meadow, shallow marsh, upland buffer).

Bank Site Protection

The Sponsor, and the fee owner of the Bank Site if different from the Sponsor, shall grant a conservation easement to the State of Minnesota, in a form acceptable to the Corps, sufficient to protect the Bank Site in perpetuity. The conservation easement must provide protection equivalent to the model BWSR conservation easement (attached as Appendix D). The conservation easement shall be perpetual, preserve all natural areas, and prohibit all use of the property inconsistent with its use as mitigation property, including any activity that would materially alter the biological integrity or functional value of wetlands within the Bank Site, consistent with the Plan. The Sponsor shall deliver a copy of the title insurance covering the mitigation property that is acceptable to the Corps and the State of Minnesota (easement holder). The property shall be free and clear of any encumbrances that would conflict with its use as mitigation, including, but not limited to, any liens that have priority over the recorded preservation mechanism.

Financial Assurances

Financial assurances are not required because the Corps, in consultation with the IRT, has determined that the credit release schedule controls will be sufficient to provide a high level of confidence that the mitigation will be provided and maintained.

Comment [TJS21]: In most cases the Corps does not require a financial assurance. In those situations this paragraph is retained and the remainder of this section is deleted.

OR

Prior to the Corps approving release of a credit for sale, the Sponsor shall provide a financial assurance in the amount of \${_____} per credit. **{The amount per credit shall be sufficient to cover the purchase of credits of the same type, in the same BSA—essentially the goal is that if the bank fails, the State will have enough money to buy equivalent mitigation from another bank}.** The financial assurance must be in a form approved by the Corps.

a. The Sponsor must identify a third party public or private natural resources organization to serve as beneficiary for the financial assurance; the Corps cannot be the recipient of any funds.

b. If the Sponsor elects to use a performance bond, a model performance bond is attached to the MBI as Appendix E, and the final performance bond shall be submitted to the Corps for approval.

c. If the Sponsor elects to use an escrow account, the escrow agreement's form and content shall be prepared by the Sponsor and submitted to the Corps for approval. The account shall be interest bearing; interest on the funds deposited shall accrue and be deposited with the principal amount.

d. If the Sponsor elects to use a letter of credit, the form and content of the letter of credit shall be prepared by the Sponsor and submitted to the Corps for approval.

e. The performance bond surety, escrow agent, or issuer of the letter of credit shall be a financial institution or other entity satisfactory to the Corps.

f. Following approval of the financial assurance by the Corps, the Sponsor shall provide a copy of the executed performance bond, letter of credit, or escrow agreement (signed by the bank, proving establishment of the account).

g. The Sponsor shall be solely responsible for any fees associated with the financial assurance.

h. Neither the Sponsor nor any other person or entity shall have any right or access to the financial assurance funds except as described herein or provided by Federal law. If the Corps determines that (1) the Sponsor has not proven that the Bank meets the success criteria and (2) the Sponsor (or its performance bond surety) is not taking adequate corrective measures or any corrective measures have failed, then all or any part of the funds, as specified by the Corps, plus any accrued interest shall be paid to the third party beneficiary for the purpose of purchasing bank credits in another appropriate bank or otherwise conducting compensatory wetland mitigation.

i. Upon written certification by the Corps that the Bank Site meets the success criteria in the Plan at the end of the tenth growing season, the remaining balance of the financial assurance shall be released to the Sponsor.

Long-term Management

The Sponsor is responsible for long-term management of the Bank Site such that it achieves and maintains the functional performance level described in the Plan; the success criteria contained in the Plan are indicators of expected function based on implementation of the Plan. The Sponsor shall maintain the Bank Site in accordance with the provisions of the recorded conservation easement (Appendix D). Consistent with the recorded easement, the Sponsor will adaptively manage the site to control pest, weed, or invasive species as required by state and federal law. For the purposes of adaptive wildfire management, the Sponsor shall agree to rely on the advice of local, state or federal agencies with wildfire management expertise. Typical wildfire management options include active fire management strategies like emergency fuel manipulation, aerial suppression, or establishment of temporary access trails as well as inactive, let-burn, strategies.

The Sponsor may request to transfer the long-term management responsibilities to a land stewardship entity, such as the Minnesota Department of Natural Resources, a non-governmental organization, or a private land manager provided, further, that future maintenance and management of the site after any such transfer would be consistent with the provisions of this instrument and continued into perpetuity by any future owner of the site. Any such transfer must

Comment [TJS22]: The remainder of the document is standard text that should not be modified unless the changes have been coordinated with the Corps PM.

be approved, in writing by the Corps, prior to the transfer. Adaptive management options and long term management will include vegetative and hydrologic maintenance of the entire site, as outlined in the Plan. The Sponsor will not actively manage or harvest timber or other woody species on the site. However, manipulation of brush or management of tree species to achieve specific biological functional lifts or prevent functional declines could later be approved as adaptive management, in accordance with the Plan.

The Corps will review the site annually during the monitoring period and confirm that the Sponsor's management is acceptable during the establishment period. The Corps will coordinate with the state (holder of the conservation easement) to ensure that the conditions of the conservation easement and Plan are being complied with, such formal review taking place approximately every five years.

Modification and Termination

a. This MBI may be modified only by the written agreement of all parties to the MBI at the time of the modification. Modifications will be processed following the appropriate procedures specified in 33 CFR 332.8(g)(1).

b. The Sponsor is responsible for compliance with the terms of this MBI and the Plan. Should the Sponsor choose to convey the Bank or the underlying property to another party, the successor in interest must sign this MBI in order to transfer responsibility for compliance with the terms of this MBI from the Sponsor to the successor in interest. Furthermore, the terms, conditions, covenants and restrictions set forth in Bank's conservation easement shall be inserted in any subsequent conveyance of any interest in the Bank Site. The Sponsor shall notify the Corps of any conveyance of the Bank Site, or establishment of any other legal claim over the Bank Site, in writing and by certified mail within at least 60 days prior to the conveyance.

c. If the Sponsor wishes to terminate its responsibilities under this MBI without transferring those responsibilities to a third party, the Sponsor shall submit a written request to the Corps. The Bank shall be closed and the sale of credits shall be suspended indefinitely. The Corps and other members of the IRT shall determine what, if any, remedial measures will be necessary to ensure that functions provided by previously sold credits will be maintained or otherwise compensated for. Such remedial measures may include using the financial assurance to provide alternative compensatory mitigation. The conservation easement on the Bank Site shall remain in effect in perpetuity unless an amendment of the easement is agreed to in writing by both the Corps and the State of Minnesota.

d. Any agency participant may terminate its participation in the IRT with notice in writing to all other parties to this MBI. Termination shall be effective seven (7) days from placing said notices in the United States mail. Member withdrawal shall not affect any prior sale of credits and all remaining parties shall continue to implement and enforce the terms of this MBI. Except for termination as described above, this agreement may be modified only with the written agreement of all remaining parties to this MBI at the time of the modification.

Miscellaneous

- a. Any obligation of the United States Government set forth in this MBI is subject to and dependent on the appropriation and allocation of sufficient funds for that purpose.
- b. The Sponsor shall ensure that any and all real property taxes and assessments levied by competent authority on the Bank Site are paid in full.
- c. If the Sponsor is unable to meet any of the requirements under this MBI, it shall provide written notification to the Corps within 30 days of the failure to meet any of the requirements, stating the reason for the failure. If the Corps determines that the failure to meet the requirement was primarily caused by an act, event or condition beyond the Sponsor's reasonable control, the Corps may excuse the failure, and require corrective measures if necessary. If the Corps determines that the failure to meet the requirements was not reasonable, the Corps may suspend the sale of credits, reduce the number of credits available for sale, require corrective measures, or take other remedial actions as appropriate.
- d. No third party shall be deemed a beneficiary of this MBI and no one except the signatories of this MBI, their successors and assigns, shall be entitled to seek enforcement of this MBI.
- e. In the event any one or more of the provisions contained in this MBI are held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provisions hereof, and this MBI shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.
- f. Corps approval of this MBI constitutes the regulatory approval required for the *{enter bank name}* Mitigation Bank to be used to provide compensatory mitigation for Department of the Army permits pursuant to 33 CFR 332.8(a)(1). This MBI is not a contract between the Sponsor or Property Owner and the Corps or any other agency of the federal government. Any dispute arising under this MBI will not give rise to any claim by the Sponsor or Property Owner for monetary damages. This provision is controlling notwithstanding any other provision or statement in the MBI to the contrary.
- g. This MBI shall be governed by and construed in accordance with the laws of Minnesota and the United States as appropriate.
- h. In the event of a disagreement involving the Corps, members of the IRT, and/or the Sponsor, the Corps will make the final decision after considering all opinions.
- i. All notices and required reports shall be sent by regular mail to the parties and following IRT agencies at their respective addresses, provided below, unless a different address is specified in writing:

Sponsor:

Name

Title

Address

Comment [TJS23]: Sponsor should provide this information.

Corps:

Ms. Tamara E. Cameron
Chief, Regulatory Branch
St. Paul District
U.S. Army Corps of Engineers
180 Fifth Street East, Suite 700
St. Paul, MN 55101-1678

EPA:

Ms. Kerryann Weaver
USEPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

FWS:

Mr. Andrew Horton
U.S. Fish and Wildlife Service
Ecological Services, Twin Cities Field Office
4101 East 80th Street
Bloomington, MN 55425

IN WITNESS WHEREOF, the parties hereto have executed this Agreement entitled "Agreement To Establish The (Name) Mitigation Bank In XXXX County, Minnesota

Sponsor:

By: _____ Date: _____

U.S. Army Corps of Engineers:

By: _____ Date: _____
Title: Tamara E. Cameron
Chief, Regulatory Branch

List of Appendices

Appendix A: Mitigation Bank Plan;

Appendix B: Property Survey and Legal Description;

Appendix C: Map – Bank Service Area;

Appendix D: Copy of Model BWSR Conservation Easement

Appendix E: *[OPTIONAL – use as needed, ex: Model Performance Bond, Performance Standards, Additional Performance Standards]*

Comment [TJS24]: Appendix E should be deleted unless the Corps has indicated a financial assurance will be required or other information is required for the MBI.