

May 19, 2014  







**Diversion Project Assessment Committee  
(DPAC)**

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Presentation to the Cass County Commission

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## Short-term & Long-term Financing Options

Financing Option	Short-Term	Long-Term
Pay-Go	✓	
Capital Financing Program – ND Public Finance Authority Program (Sales Tax Revenue Bond)	✓	✓
Bank of North Dakota Loan	✓	
General Obligation Bonds	✓	✓
Direct-Funded Loan (Bank Financing)	✓	
Special Assessment Backed Bonds		✓

## SPECIAL ASSESSMENT DISTRICT FINANCING

### Why are special assessments being considered?

- Sales tax will pay for local ND cost share
- Construction costs will outpace revenue streams (sales tax)
- Financing will be required for local ND cost share
- Sales tax financing is not attractive
- Assessment district will provide better borrowing terms
  - Lower interest rate
  - Lower coverage requirements
- Assessment district will save taxpayers money
- Assessment district will provide operating revenue for maintenance

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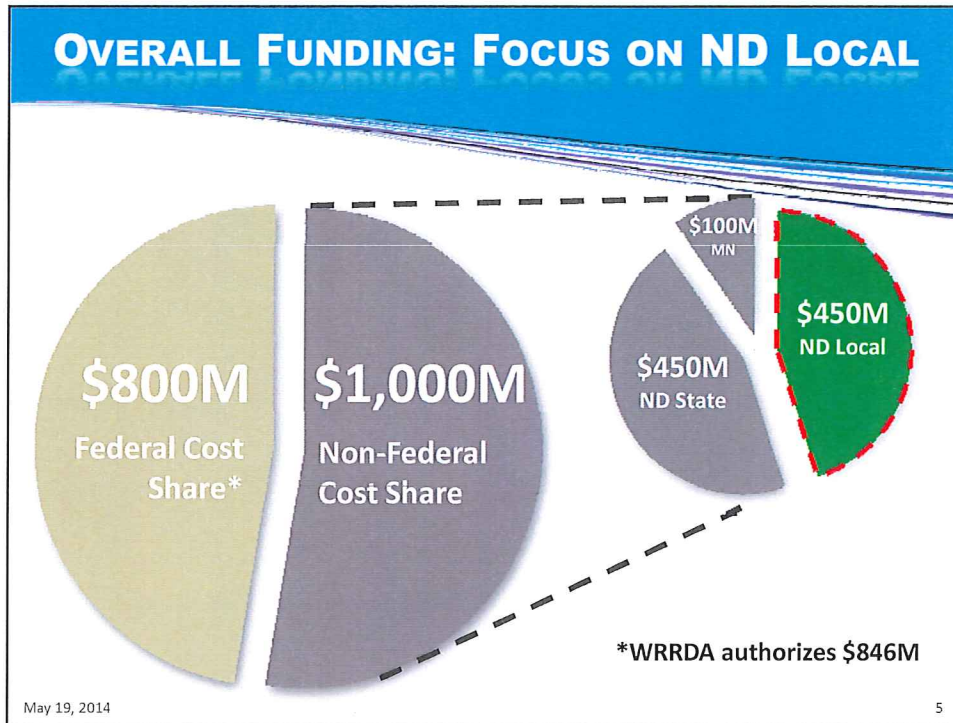
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## WHY CCJWRD?

- The Cass County Joint Water Resource District (CCJWRD) is a valuable member of the Diversion Authority.
- CCJWRD has the ability under the North Dakota Century Code to administer an assessment district throughout the benefitted area in North Dakota.
- CCJWRD formed the DPAC, which includes representatives from Fargo, West Fargo, Cass County, and the CCJWRD board.
- DPAC worked for over 2 years to establish a methodology to assign direct and indirect benefits across the benefiting area.

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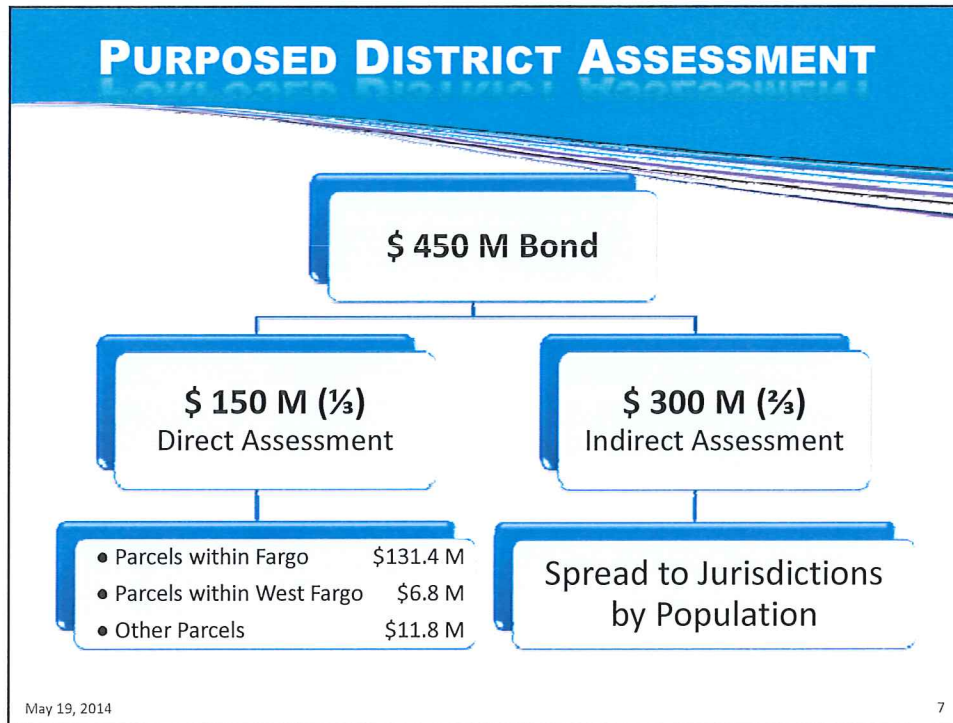


### DISTRICT VOTE COMPONENTS

Direct Benefits	Indirect Benefits	Acquired ROW
Measured Benefits to Individual Parcels	Global Benefits Assigned to Jurisdictions	Voting Power to Impacted Parcels
Consider: <ul style="list-style-type: none"> <li>• Flood Risk Reduction</li> <li>• Existing Protection Level</li> <li>• Property Value Protected</li> <li>• Area Protected</li> </ul>	Consider: <ul style="list-style-type: none"> <li>• Infrastructure</li> <li>• Community &amp; Lifestyle</li> <li>• Business &amp; Economy</li> <li>• Salient Benefits</li> </ul>	Consider: <ul style="list-style-type: none"> <li>• Fixed Voting Amount Based on County Assessor's Value of Lands Impacted</li> </ul>
<b>Vote by Property Owners</b> <i>(Vote is equal to dollars assessed)</i>	<b>Vote by Jurisdiction Leaders</b> <i>(Vote is equal to dollars assessed)</i>	<b>Vote by Property Owners</b> <i>(Vote is equal to assessor's value of impacted property)</i>

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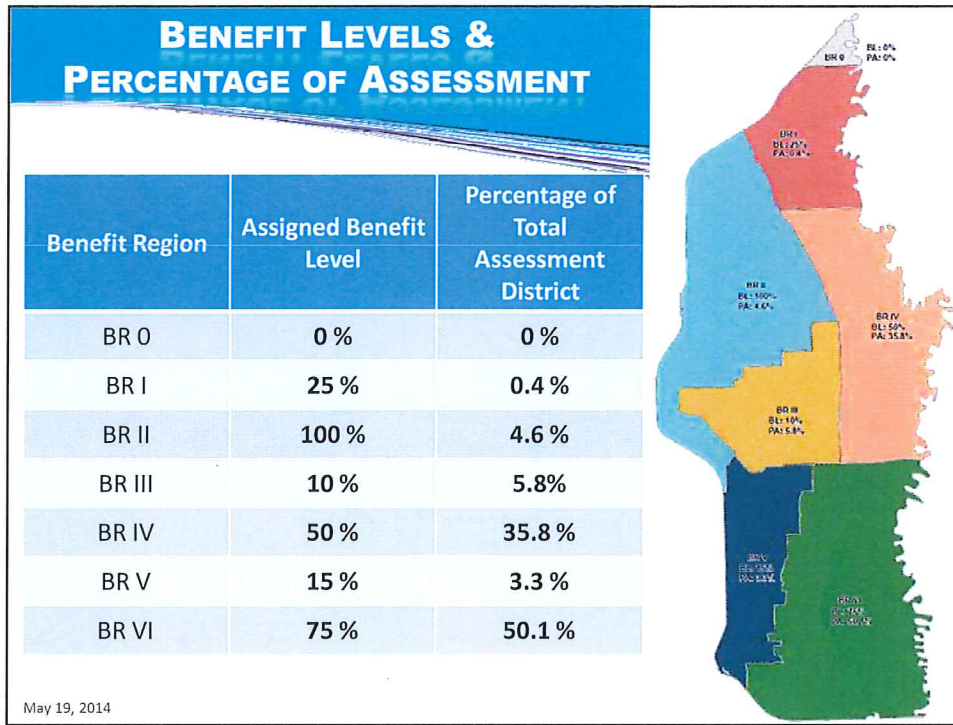


## DIRECT BENEFIT & ASSESSMENTS

- Assessments to property is determined by Benefit Region (BR), property value (true & full), and total area of the parcel.
- BR Development Incorporated:
  - Existing Floodplains
  - Project-Specific Floodplains
  - FEMA Floodplain Information
  - Elevation Models
  - Local Knowledge & Professional Expertise
- Utilized scientific flood risk reduction analysis to group parcels & neighborhoods with similar benefits into BRs
- All parcels within each BR are given the same Benefit Level

Benefit Region	Benefit Level (BE)	Parcel Area (PA)
BR I	0%	0%
BR II	100%	4.6%
BR III	10%	5.8%
BR IV	50%	35.8%
BR V	0%	0%

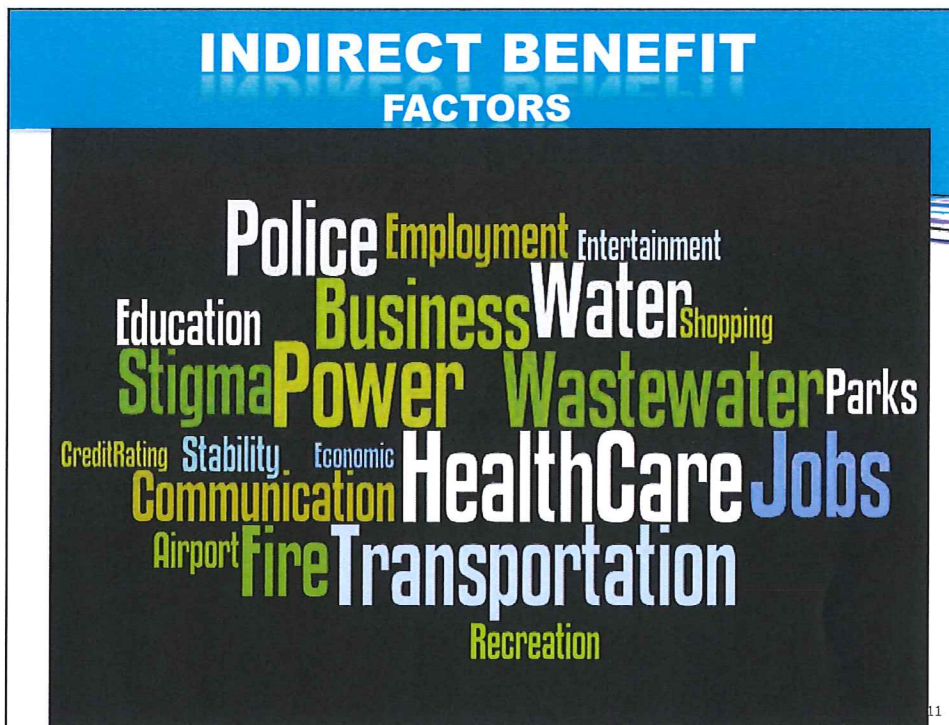
May 19, 2014



## Draft PROPERTY ASSESSMENTS Draft

- Preliminary example of an annual assessment payment for a home valued at \$200,000:
  - In South Fargo ~\$270
  - In West Fargo ~\$36
- New flood insurance policy in South Fargo approximately \$2,000-\$4,000

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**INDIRECT BENEFIT FACTORS**

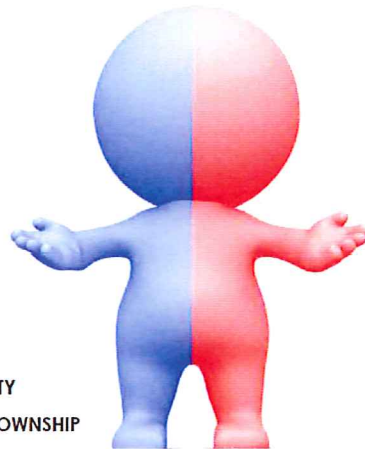
Other Indirect Benefits from Letter to Editor by NDSU Professor Cwiak

- Time spent fighting potential flood, stress on local leaders, mental anguish of residents and business, interruption of normal activities, loss of taxable revenue
- Live and work without fear of loss of life or property
- Other Salient Benefits



## INDIRECT BENEFITS & ASSESSMENTS

- Indirect Benefits will be assessed by population
  - All indirect benefits are considered 50% to County
  - Remaining 50% goes to immediate jurisdiction (City or Township)



■ COUNTY  
■ CITY/TOWNSHIP

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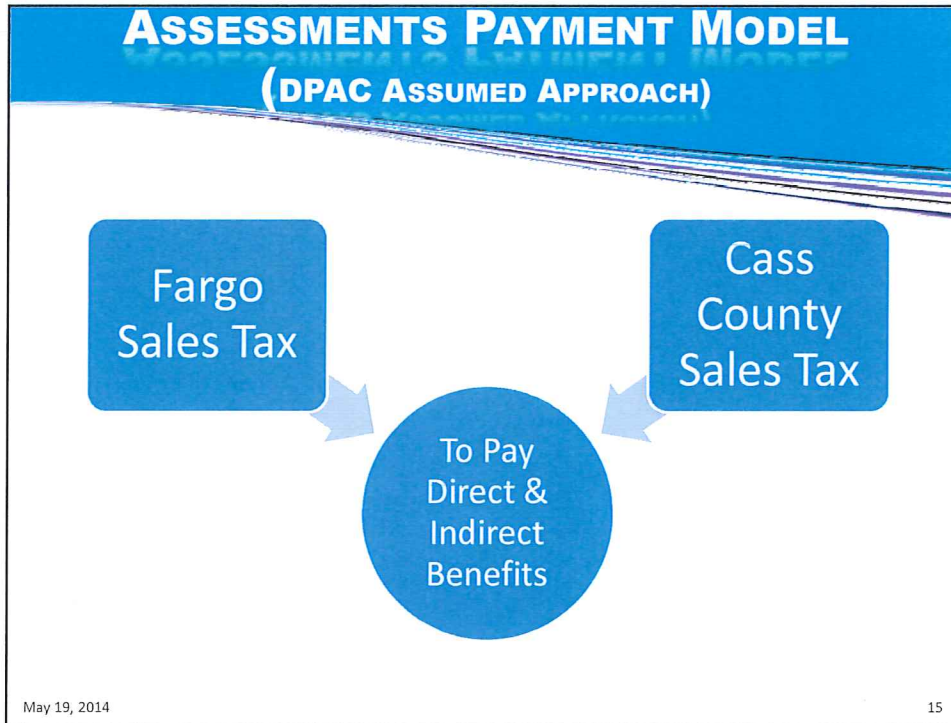
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## INDIRECT ASSESSMENT SUMMARY

Draft	Indirect Assessment	% of Total Indirect Assessment
County	\$150.0	50.0%
Fargo	\$115.0	38.3%
West Fargo	\$28.2	9.4%
Other	\$6.8	2.3%
<b>Total</b>	<b>\$300.0</b>	<b>100%</b>

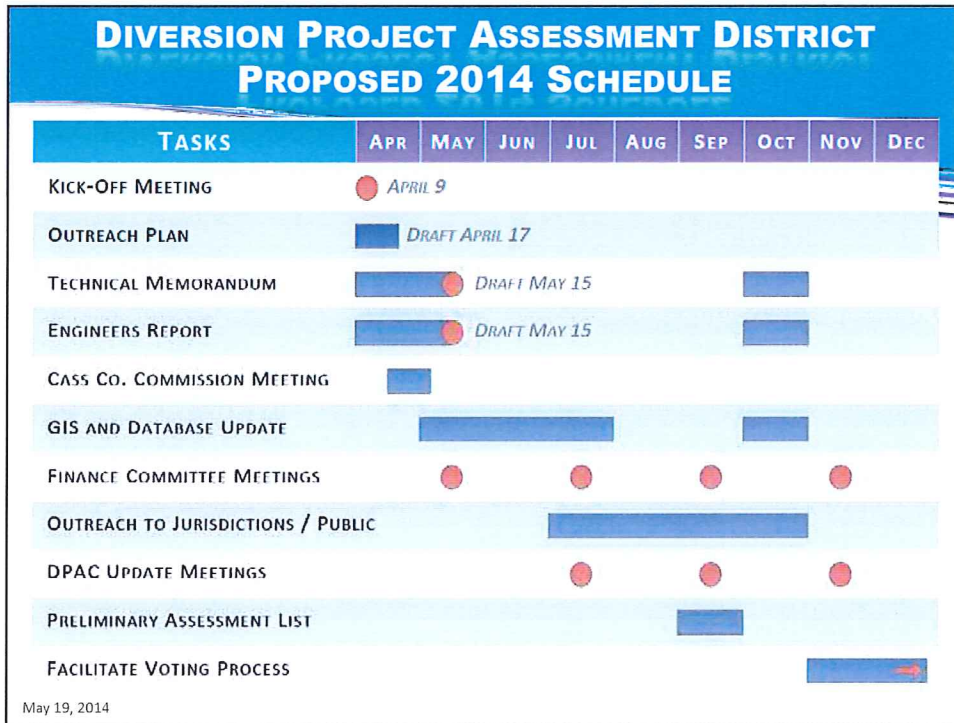
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- ### DPAC ASSUMPTIONS
- Diversion Authority expenses locally will continue to be cost shared 50/50 between Fargo and County sales taxes
  - Sales tax proceeds will be used to pay Direct & Indirect Benefits
  - Special Assessments will not be certified as long as sales tax dollars are sufficient
  - Potential legal agreement between Indirectly Benefiting Jurisdictions and Cass/Fargo/DA
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## QUESTIONS?

January 31, 2014 18

# FM Area Diversion

DIVERSION PROJECT  
ASSESSMENT COMMITTEE



## Benefit Region Summary

February  
2014

### Key

Benefit Regions (BR)

**BL:** Benefit Level

**PA:** Percentage of  
Total Direct Assessment

Coordinate System: NAD 1983 StatePlane ND S FIPS 3302 FT  
Projection: Lambert Conformal Conic Datum North American 1983  
Parcel Data & Assessed Value Information Courtesy of Cass  
County, ND

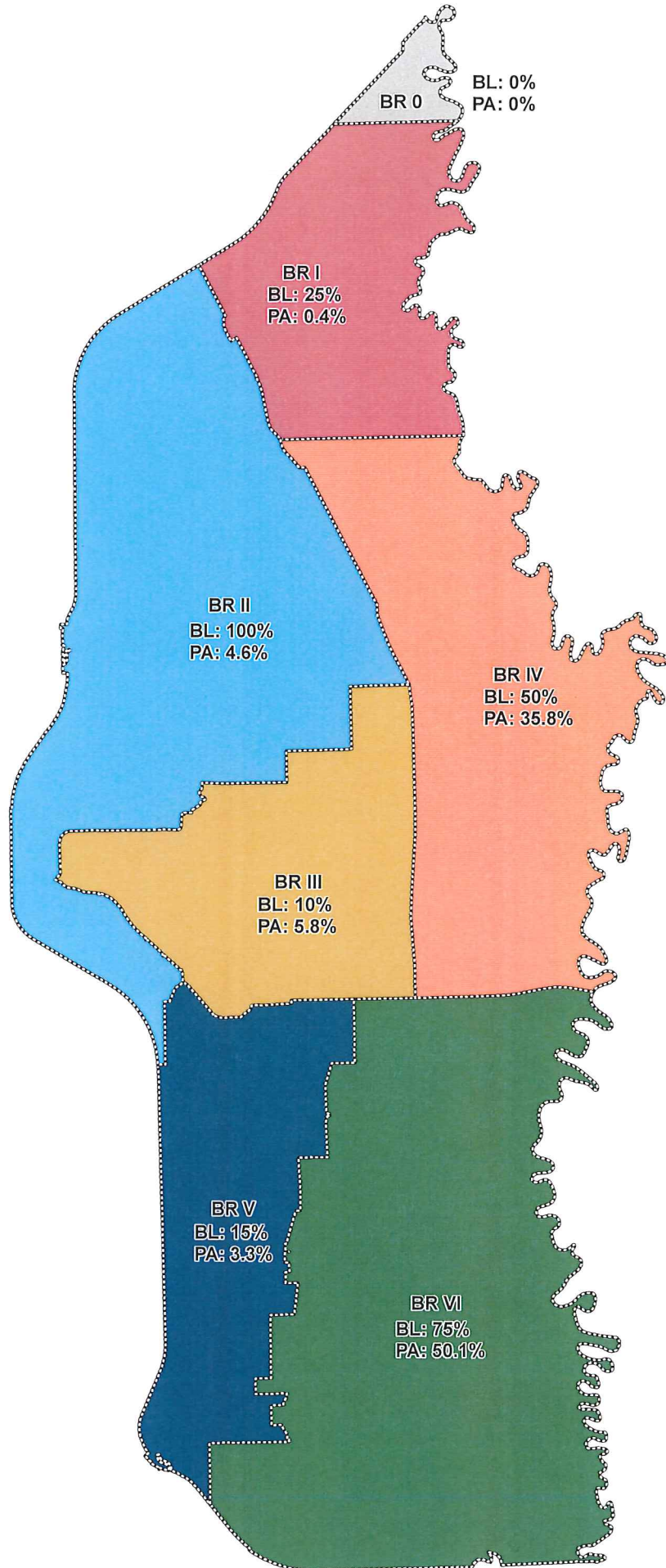
Maps are for graphical purposes only. They do not represent a legal  
survey. While every effort has been made to ensure that these data  
are accurate & reliable, the Diversion Authority, Cass County,  
& AES does not guarantee the accuracy of the information, & waives  
any warranty or guarantee of any kind, express or implied. The data  
involved in the project is continuously refined & revised, you should  
not rely on this information for technical purposes or complete accuracy.

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**DRAFT**





March 13, 2014



# **Diversion Project Assessment Committee (DPAC)**

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Presentation to Diversion Authority



# SPECIAL ASSESSMENT DISTRICT FINANCING

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# WHY CCJWRD?

- The Cass County Joint Water Resource District (CCJWRD) has the ability under the North Dakota Century Code to administer an assessment district throughout the benefitted area in North Dakota.
- CCJWRD formed the DPAC, which includes representatives from Fargo, West Fargo, Cass County, and the CCJWRD board.
- DPAC has been meeting monthly to establish a methodology to assign direct and indirect benefits across the benefiting area.

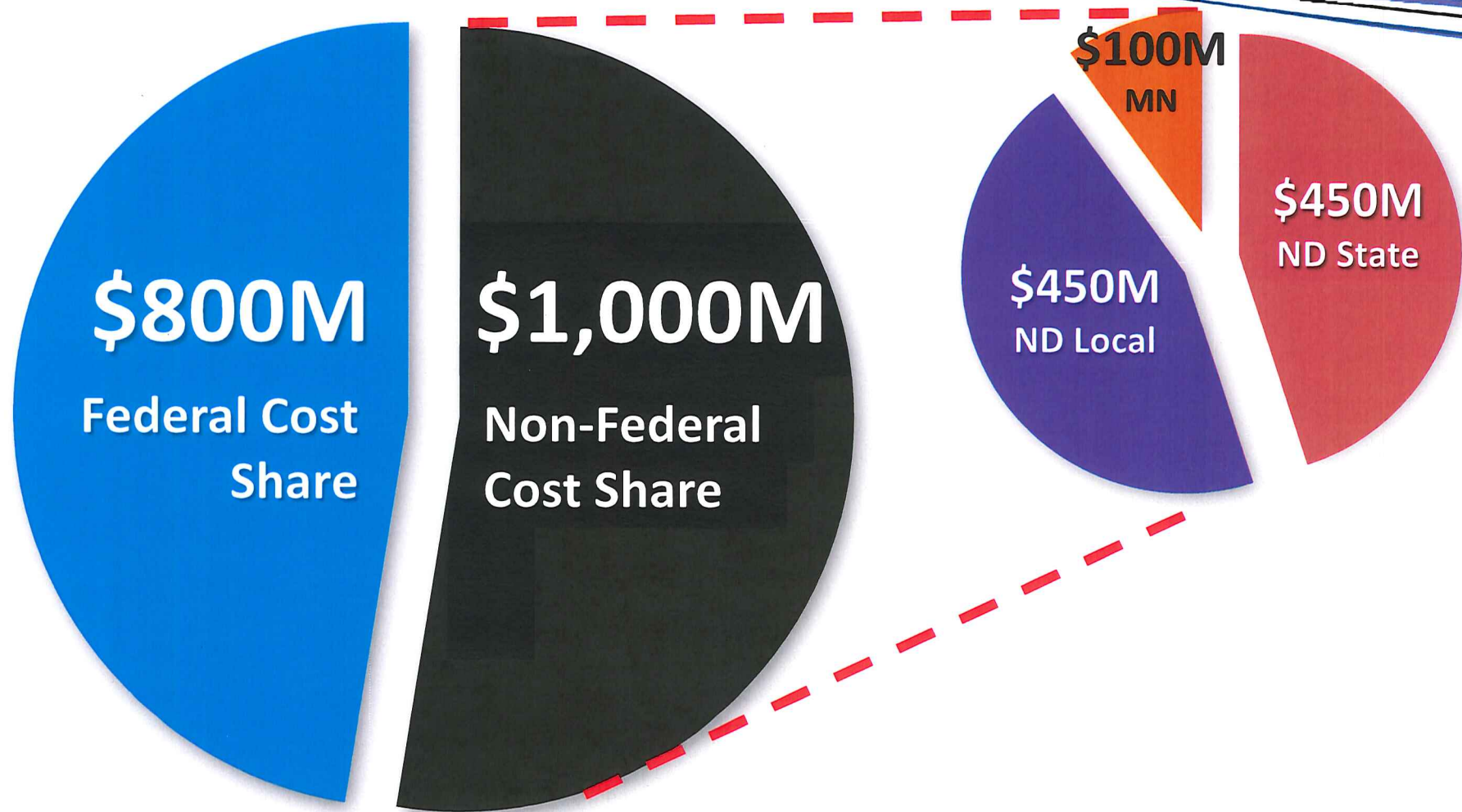


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# OVERALL PROJECT FUNDING APPROACH



# TOTAL DISTRICT ASSESSMENT

**\$ 450 M Bond**

**\$ 150 M ( $\frac{1}{3}$ )**  
Direct Assessment

- Parcels within Fargo \$131.4 M
- Parcels within West Fargo \$6.8 M
- Other Parcels \$11.8 M

**\$ 300 M ( $\frac{2}{3}$ )**  
Indirect Assessment

**Spread to Jurisdictions  
by Population**

# Draft PROPERTY ASSESSMENTS Draft

- Preliminary example of an annual assessment payment for a home valued at \$200,000:
  - In South Fargo ~\$270
  - In West Fargo ~\$36



# NEXT STEPS

1. Database Updates and Model Refinements
2. Implementation Planning
3. Public Outreach
4. Decision to Proceed with Assessment District
5. Proceed to Voting

**Estimated Timeline  
Needed Prior to  
Potential Vote  
>6 Months**



## FM AREA DIVERSION PROJECT

*Diversion Project Assessment Committee*

DECISION PAPER NO.: **DP-00021**

Date: 12/13/2012

### RECOMMENDED FOR DIVERSION AUTHORITY BOARD ACTION:

That the Diversion Board of Authority assign the Cass County Joint Water Resources District (CCJWRD) the responsibility of developing an assessment district for the North Dakota local cost share of the FM Area Diversion Project.

### SUMMARY OF DECISION TOPIC:

Funding of the North Dakota local share of the FM Area Diversion Project is expected to come from sales taxes in the City of Fargo and Cass County. The voters of Fargo and Cass County have already given their approval for their sales taxes to be used for this purpose. During the initial planning and design phases of the Project the incoming sales tax will be sufficient to keep up with costs being incurred by the Diversion Authority. However, as the Diversion Authority expenditures increase to meet the required pace of design, land acquisition, and especially to fund construction, incoming sales taxes will not be sufficient to keep up with expenses. As such, one or more bond issues will become necessary to maintain proper cash flow for the FM Area Diversion Project.

Staff is currently looking at options on how to get the most funding at the lowest interest rate utilizing the two sales taxes. One bond financing option available is for both the City of Fargo and Cass County to issue sales tax bonds. However, there are several challenges associated with sales tax bonds. As such, for a variety of factors, it is recommended to pursue development of an assessment district backed by general obligation bonds. The attached article titled "Methods of Financing the North Dakota Local Cost Share of the Diversion Project" by Brian Neugebauer provides details of the challenges associated with sales tax bonds and advantages of utilizing the CCJWRD to develop an assessment district and issue general obligation improvement bonds. One of the primary benefits is to reduce the cost of financing while still utilizing sales tax proceeds as the funding source.

The CCJWRD maintains certain statutory rights under North Dakota Century Code to administer an assessment district of this sort. CCJWRD proposed to exercise these rights on behalf of and as a key member of the Flood Diversion Authority. The CCJWRD will form a Diversion Project Assessment Committee (DPAC) comprised of its Board Members as well as to be determined appointees from Cass County, City of Fargo, and City of West Fargo for the purposes of soliciting input to the process of developing the assessment district. The CCJWRD has established the attached suggested schedule of duties associated with forming the DPAC and developing the assessment district. The schedule of duties identifies the tasks for the CCJWRD and the Diversion Authority Finance Committee.

CCJWRD shall lead the DPAC and secure input from the Finance Committee, Public Outreach Committee, and Technical Advisory Staff, and work through the Finance Committee for reporting to the Diversion Board of Authority.

Attachment 1-Methods of Financing Article

Attachment 2-Schedule of Duties

Submitted by:

*Thomas E O'Hara*

Tom O'Hara  
CH2M HILL  
Program Manager  
Fargo-Moorhead Area Diversion Project

12/13/12  
Date

Unavailable (12/07/12)

Brian C. Berg, Clay County Administrator  
Concur: \_\_\_\_\_ Non-Concur: \_\_\_\_\_

Michael J. Redlinger, Moorhead City Manager  
Concur: 12/05/12 Non-Concur \_\_\_\_\_

Keith Berndt, Cass County Administrator  
Concur: 12/05/12 Non-Concur: \_\_\_\_\_

Unavailable (12/07/12)

April Walker, Fargo City Engineer  
Concur: \_\_\_\_\_ Non-Concur \_\_\_\_\_

Unavailable (12/07/12)

Mark Bittner, Fargo Director of Engineering  
Concur: \_\_\_\_\_ Non-Concur: \_\_\_\_\_

Unavailable (12/07/12)

Pat Zavoral, Fargo City Administrator  
Concur: \_\_\_\_\_ Non-Concur \_\_\_\_\_

Unavailable (12/07/12)

David Overbo, Clay County Engineer  
Concur: \_\_\_\_\_ Non-Concur: \_\_\_\_\_

Robert Zimmerman, Moorhead City Engineer  
Concur: 12/05/12 Non-Concur \_\_\_\_\_



## **Methods of Financing the North Dakota Local Cost Share of the Diversion Project**

By Brian D. Neugebauer, Southeast Cass Water Resources District Bond Counsel, Ohnstad Twichell Attorneys

### **July 2012 "Diversion Dialogue" e-newsletter article**

Although no final decisions have been made by the Diversion Authority on exactly how to fund the North Dakota local share of the Diversion Project, it is expected that sales taxes in the City of Fargo and Cass County will fund a lion's share of that cost. The voters of Fargo and Cass County have already given their approval for their sales taxes to be used for this purpose. During the initial design phases, the incoming sales tax has been sufficient to keep up with costs being incurred by the Diversion Authority. However, as the Diversion Authority expenditures increase to step up the pace of design, to start land acquisition, and especially to fund construction, incoming sales taxes will not be sufficient to keep up with expenses. As such, one or more bond issues will become necessary to maintain proper cash flow for the Diversion Project.

Staff is now looking at options on how to get the most funding at the lowest interest rate utilizing the two sales taxes. The most obvious method is for both the City of Fargo and Cass County to issue sales tax bonds for that purpose. However, there are four problems with sales tax bonds. First, in order to be marketable, there must be substantial coverage for the proposed debt service. As a simple example, if the debt service on a sales tax bond was \$500,000 a year, there may be a need for \$725,000 of sales tax receipts a year. That is, to be marketable in the first place, many financial advisors suggest having 1.5 coverage for sales tax bonds. The reason for this is that bond buyers are concerned that the amount of sales tax receipts may go down in the future, so they want extra coverage to insure being paid. With the recent recession, many cities across the nation have had significant declines in their sales tax collections, which have made bond buyers even more concerned about coverage than in the past. The proper coverage requirement can be debated, but the higher the coverage provided, the lower the interest rate, and the lower the coverage provided, the higher the interest rate, until reaching a point where the bonds are not even marketable.

The second problem with sales tax bonds is that bond buyers also require that there be a reserve fund of about 10% of the issue size. Buyers are again worried about sales tax fluctuations, and the reserve fund gives them that protection. However, it also reduces by 10% the amount of bond proceeds available to pay the local share of the Diversion Project.

The third problem is that the market does not let the issuer take advantage of the sales tax receipts climbing during the term of the bond. For the same coverage reasons set out above, the market will only size a bond issue on past sales tax receipts, not projected sales tax receipts in the future, thus reducing the size of the bond issue.

The fourth problem is that sales tax bonds are not backed by the full faith and credit of the Issuer. When Fargo sells refunding improvement bonds, under North Dakota law, the bonds are backed by the full faith and credit of the City, and as a result, the interest rate is lower on those bonds than if Fargo issued sales tax bonds. With a higher interest rate, more sales tax receipts would be required to pay interest, making less revenue available to pay the local share of the Diversion Project.

With these factors in mind, staff has discussed another possible financing vehicle which would still use the two sales taxes of the City and County, but avoid the problem areas discussed above. That vehicle would be the issuance of an improvement bond by the Cass County Joint Water Resource District. Without getting into the details of such an issue, the Water Resource District does have the authority to issue an improvement bond and assess all benefitting property their proper proportion of the Project. That bond would be a general obligation of Cass County whose full faith and credit would be pledged for the payment of the bonds. As part of the documentation, the two sales taxes would be pledged as additional security for the payment of the Bonds, and in fact would be the sole, or at least primary, source of payment of the bonds. In that the bonds would be a general obligation of the county, the coverage issue and need for a reserve fund go away. In that the bonds are a general obligation of Cass County, the interest rate would be lower than a sales tax bond. Finally, the size of the issue could be based on a projection of future increases in the sales tax receipts over the entire term of the bonds, thus increasing the potential size of the bond issue.

For those outside the benefitting area of the Diversion Project, there is really almost no risk of Cass County ever having to levy a general tax on all property in the county to make up a deficiency in a bond payment. That is because the issue would be sized to be paid with the sales tax receipts. If for some reason they were insufficient, the full amount of the issue is also secured from special assessments from benefitting property. Those assessments would not be levied as long as sales tax receipts meet projections, but if the projected sales tax collections for the next year would not be sufficient to make bond payments, the Water Resource District could actually certify enough assessments to meet the shortfall. In effect, there would be double coverage on the Bonds, so the County general fund is really not at risk.

There are two other advantages of having the Water Resource District issue the bonds in the manner proposed above. First, after the project is constructed and the two sales taxes to pay for that construction end, there will still be a need to finance the operation and maintenance of the Diversion Project. The Water Resource District, under State law, can levy an ongoing maintenance levy for that purpose, and would be in a position to do so. Secondly, although again, no decisions have yet been made by the Diversion Authority, if more funding was required over and above what the two sales taxes could generate, a portion of the bonds could actually be paid by assessments.

It is likely, therefore, that in the future, the Diversion Authority will discuss the possibility of having the Water Resource District issue bonds for the Diversion Project in order to get lower interest rates, and to maximize the amount of the local share of the Diversion Project that can be paid with bond proceeds.

**Suggested schedule of duties to develop an assessment district and bond sale by Cass County Joint Water Resource District (CCJWRD) for the North Dakota Local Cost Share of the FM Area Diversion Project**

**CASS COUNTY JOINT WATER RESOURCE DISTRICT (CCJWRD) Tasks:**

- CCJWRD will form a ND FM Diversion Project Assessment Committee (DPAC) to consider and recommend a proposed assessment methodology, and to conduct public information meetings to prepare for an assessment vote to assist with financing for the ND local costs of the FM Area Diversion Project.
- CCJWRD will retain AE2S to serve as consultant engineer regarding assessment process. AE2S would prepare information for DPAC meetings and to conduct public information meetings regarding the proposed assessment district. AE2S will also assist CCJWRD in preparation of other documents necessary for the assessment process. AE2S would cooperate with CCJWRD staff (including consultants Moore Engineering and Ohnstad Twichell), the City of Fargo, the City of West Fargo, and Cass County as needed to prepare for DPAC meetings.
- CCJWRD will direct their staff engineer, Moore Engineering, to attend DPAC meetings and to advise CCJWRD throughout the assessment district process.
- CCJWRD and the DPAC will rely upon and coordinate the technical details of the Project with the US Army Corps of Engineers (USACE) and other consultants providing work-in-kind for the Project.
- CCJWRD will direct their staff attorney, Ohnstad Twichell, to represent CCJWRD and to conduct necessary legal work regarding the assessment district process, in accordance with the water resource district assessment process under North Dakota law. The CCJWRD staff attorney will work with the legal team representing the Flood Diversion Authority.
- CCJWRD will direct their office staff to support DPAC meetings as needed, including meeting preparation, preparation of requisite legal notices, and minute preparation and distribution. CCJWRD office staff will also provide meeting invitations to DPAC members, and meeting notices to other interested local entities, including the cities of Horace and Harwood, and to other interested local entities upon request.
- CCJWRD will participate as a member of DPAC.
- CCJWRD will provide final approval of Preliminary Assessment List and Final Assessment List.
- CCJWRD will conduct the WRD assessment process for an assessment district vote, and conduct the bond sale for financing a portion of the North Dakota local cost share of the FM Area Diversion Project after approval by the DPAC, the Flood Diversion Authority Finance Committee, and the Flood Diversion Authority Board.



**DIVERSION AUTHORITY FINANCE COMMITTEE Tasks:**

- The Finance Committee will determine the date to commence DPAC meetings, with the understanding the assessment process will likely take at least 8 months before vote and 11 months before bond sale.
- The Finance Committee will recommend the size and timing of bond sale to the Flood Diversion Authority Board for decision.
- The Finance Committee will coordinate with Program Management and Financial Management consultants to determine bond sale alternatives.
- The Finance Committee will recommend the total amount of benefits to be assessed to the Flood Diversion Authority Board for decision (example could be \$450 million or all of estimated ND local costs).
- The Finance Committee will recommend an amount of sales tax revenue to pledge to bond payments to the Flood Diversion Authority Board, City of Fargo, and Cass County for decision.

**DIVERSION PROJECT ASSESSMENT COMMITTEE (DPAC) Tasks and Description:**

- The DPAC would consist of 11 members, comprised of 5 CCJWRD board members, 2 members appointed by the city of West Fargo, 2 members appointed by the city of Fargo, and 2 members appointed by Cass County.
- A quorum of DPAC would require 3 CCJWRD members, and 6 DPAC members total.
- Meetings would require legal notice as CCJWRD meetings because a quorum of CCJWRD members would be present, and may also require legal notice as Diversion Authority meetings. CCJWRD office staff will prepare, file, and circulate notices as required by North Dakota's open meetings laws.
- Consensus will be sought for decisions by the DPAC. In the event of a roll call vote, a super majority (two thirds) of the members attending and majority of the CCJWRD members attending will be required.
- Develop assessment methodology.
- Conduct public informational meetings.
- Recommend approval of the Preliminary Assessment List to the Finance Committee, the Diversion Authority Board, and the CCJWRD Board.
- Recommend approval of Final Assessment List to the Finance Committee, the Diversion Authority Board, and the CCJWRD Board.