

**FLOOD DIVERSION BOARD OF AUTHORITY**  
**Thursday, July 12, 2012**  
**3:30 PM**

Fargo City Commission Room  
Fargo City Hall  
200 3<sup>rd</sup> Street North

1. Call to Order
2. Approve minutes of previous meeting      **Item 2.**      Action
3. Approve order of agenda      Action
4. Update from Project Management Firm CH2MHill      Information/action
  - a. Monthly report (Tom Waters)
  - b. Status of Authority Work Directives and Task Orders (Bruce Spiller)      **Item 4b.**
  - c. FY2013 alternatives for work plan and path forward (Tom O'Hara)      **Item 4c.**
  - d. Presentation/authority position on berm dimensions (Bruce Spiller)      **Item 4d.**
5. Updates from committees      Information/action
  - a. Land Management Committee (Dennis Walaker)
    - Final Land Management Plan
    - Early Acquisition Subcommittee report on status of hardship appraisal process
    - Property Disposition Policy      **Item 5a. (1)**
    - Agricultural Advisory Subcommittee report
    - Levee vs. Dam policy team status report      **Item 5a. (2)**
  - b. Public Outreach Committee (Rodger Olson)
    - North Dakota Water Education Foundation Tour - July 12<sup>th</sup>      **Item 5b. (1)**
    - Executive Briefing - July 13<sup>th</sup>      **Item 5b. (2)**
  - c. Finance Committee (Michael Montplaisir)
    - Draft FY2013 WIK request and design agreement concepts      **Item 5c.**
6. Update from the Corps of Engineers      Information
7. Voucher approval      **Item 7.**      Action
8. Other Business
9. Next Meeting
10. Adjournment

cc: Local Media

**Item 2.****FLOOD DIVERSION BOARD OF AUTHORITY  
JUNE 14, 2012—3:30 PM****1. MEETING TO ORDER**

A meeting of the Flood Diversion Board of Authority was held on Thursday, June 14, 2012, at 3:30 PM in the Fargo City Commission Room with the following members present: Cass County Commissioner Darrell Vanyo; Cass County Commissioner Scott Wagner; West Fargo City Commissioner Mike Thorstad; Cass County Joint Water Resource District Manager Rodger Olson; Fargo City Commissioner Tim Mahoney; Fargo City Commissioner Brad Wimmer; and Clay County Commissioner Kevin Campbell. Also present was ex-officio member Gerald Van Amburg, Buffalo-Red River Watershed District.

Fargo City Mayor Dennis Walaker and Moorhead City Council Member Nancy Otto were absent.

Staff members and others present: Cass County Administrator Keith Berndt; Fargo City Administrator Pat Zavoral; Clay County Administrator Brian Berg; Fargo City Engineer Mark Bittner; Fargo City Engineer April Walker; Cass County Engineer Jason Benson; Moorhead City Engineer Bob Zimmerman; Tom Waters, Program Manager, CH2MHill; Bruce Spiller, CH2MHill; Brett Coleman, Project Manager, Corps of Engineers; and Terry Williams, Project Manager, Corps of Engineers.

**2. MINUTES APPROVED**

*MOTION, passed*

**Mr. Wagner moved and Mr. Thorstad seconded to approve the minutes from the May 10, 2012, meeting as written. Motion carried.**

**3. AGENDA ORDER**

*MOTION, passed*

**Mr. Campbell moved and Mr. Wagner seconded to approve the order of the agenda. Motion carried.**

**4. PROTOCOL TO ESTABLISH POSITION ON NON-TECHNICAL DESIGNS**

Tom Waters, Program Manager from CH2MHill, discussed the need for protocol to establish project positions on non-technical features or requirements that may affect the design. Non-technical requirements include functional or public aspects, and with the magnitude of this project, non-technical input must be provided to the Corps of Engineers in a timely manner.

Non-technical issues that will require review by the Board of Authority or its committees include:

- 1) Non-technical requirements that may result in a potentially significant cost or savings;
- 2) Non-technical requirements that may significantly change land requirements for the project;
- 3) Unique owner maintenance or operational requirements;
- 4) Non-technical requirements that involve a high level of public interest.

Mr. Vanyo said the protocol will ensure a process is in place for all aspects of the project handled by the Board of Authority and its related committees.

***MOTION, passed***

**Mr. Wimmer moved and Mr. Olson seconded to approve the protocol to establish positions on non-technical features or requirements of the project. Motion carried.**

## 5. PROGRAM MANAGEMENT FIRM UPDATE

The following items were presented to the board:

### Program manager consultant update

Mr. Waters provided an update on the activities over the last month, including work on the initial draft of the Land Management plan; final review of the Pre-Project Partnership Agreement (PPA) Hardship Policy; and continuation of Work-In-Kind (WIK) efforts on design of the low flow channel, modeling updates, increased flows through town studies, alignment alternatives, and local drainage plans.

### National context for FM Diversion Project

Mr. Waters discussed the need for the diversion because of the more frequent and severe flooding that threatens the FM metropolitan area, which is considered an economic center for major health, educational, cultural and commercial industries.

Mr. Waters said the President's budget for FY2013 Pre-Construction Engineering and Design (PED) includes \$5 million allocated to the FM Metro Area Flood Risk Management Project. He highlighted other projects throughout the country that are also included in the FY2013 budget.

### Summary presentation of Task Orders and Authority Work Directives

Bruce Spiller from CH2MHill provided a summary on the following task orders with Houston-Moore Engineering Group (HMG) totaling approximately \$1.2 million:

- Task Order No. 7 – Recreation and Use Master Plan and Design      \$240,000
- Task Order No. 8 – Work-In-Kind (WIK)      \$669,300
- Task Order No. 9 – Hydrology and Hydraulic Modeling      \$194,341
- Task Order No. 10 – Utilities Design      \$ 94,000

A revision is also requested for AWD-00004 (Authority Work Directive) with Moore Engineering for the Rush and Lower Rush River connection to the diversion channel.

## 6. TASK ORDERS, Approved

***MOTION, passed***

**Mr. Mahoney moved and Mr. Wimmer seconded to approve the award of Task Orders 7 through 10 to HMG with possible revisions to the scope as necessary to meet Corps of Engineers requirements; and to approve AWD-00004 Revision 1. Motion carried.**

## 7. UPDATES FROM COMMITTEES

### Land Management Committee

Mr. Vanyo provided an update on the following topics discussed at the Land Management Committee meeting held earlier this afternoon:

#### **Land Management Plan update**

Mr. Vanyo said the Land Management plan has been drafted and members are welcome to submit any comments. The goal is to finalize the plan as soon as possible.

#### **Hardship Review Subcommittee update**

A meeting was held on June 5<sup>th</sup> to review eight hardship applications received from county residents and recommended approval of three buyouts in the City of Oxbow. The subcommittee also recommended the Land Management Committee authorize appraisals be done on the three qualifying properties.

The same Federal policy regarding appraisals will be used on the three properties, similar to other flood buyouts.

#### ***MOTION, passed***

**Mr. Wimmer moved and Mr. Wagner seconded to proceed with the buyout of three homes in the City of Oxbow and authorize appraisals to be done on the properties. Motion carried.**

#### **Agricultural Advisory Subcommittee update**

Mark Lambrecht from CH2MHill said an initial meeting was held on May 30<sup>th</sup> at the Dakota Ag Coop in Kindred. The subcommittee will meet again in July and will be working to develop a charter for actions taken by their group.

The subcommittee approved the following recommendations:

- evaluate the effect of the diversion channel on local drainage outside the channel;
- request an opinion regarding the narrowing of a cross section of the diversion channel through creation of a higher excavated material berm on the outside of the channel and relocating the drainage channel closer to the edge of the berm (with this option, an estimate of over 1,000 acres of crop land would not need to be purchased, allowing as much existing land to continue to be in production);
- research crop insurance options for consideration by the subcommittee.

#### ***MOTION, passed***

**Mr. Campbell moved and Mr. Mahoney seconded to support the recommendations as approved by the Agricultural Advisory Subcommittee. Motion carried.**

#### **Early Acquisition Subcommittee update**

Pat Zavoral said the first meeting was held June 11<sup>th</sup> and a preliminary draft charter was approved. The Early Acquisition Subcommittee approved the recommendation of the Hardship Review Subcommittee to purchase three homes in the City of Oxbow. He said funding was discussed with the recommendation that all acquisitions be considered Board of Authority expenses.

Mr. Zavoral said once the appraisals on the three homes are completed, the Board of Authority will be able to make offers to the residents. The Board of Authority will own the properties. The proposed plan is to lease the properties to the City of Oxbow, so the homes and lots may be maintained.

***MOTION, passed***

**Mr. Wagner moved and Mr. Campbell seconded to approve the recommendations of the Early Acquisition Subcommittee as follows: all early acquisitions be considered Board of Authority project expenses with the Finance Committee tracking the dollars accordingly for future billing to appropriate North Dakota or Minnesota entities; a general policy to negotiate a lease back plan with the applicable jurisdiction be developed; and if jurisdictions in which the acquired properties are located are unable to assume responsibility of managing and maintaining properties, the Board of Authority may proceed with removal of the structures. Motion carried.**

**Public Outreach Committee**

Mr. Olson said the Public Outreach Committee met on June 13<sup>th</sup>, and the following activity updates were presented:

**E-newsletter update**

Daron Selvig from Advanced Engineering and Environmental Services (AE2S) said the e-newsletter will be distributed on June 18<sup>th</sup>.

**Upstream banks and appraiser education**

Eric Dodds from AE2S said meetings were held with local banks and appraisers regarding the land acquisition process and associated requirements. Those who attended the meetings appreciated the information and understood the details regarding the process.

**Presentation to Homebuilders Association**

Mr. Dodds said a meeting was held with the Homebuilders Association, whose members are interested and very supportive of the diversion project.

**Website update**

Mr. Selvig said links will be provided to the e-newsletter on the website. Also, the hardship policy and application forms are included on the website.

**Finance Committee**

Michael Montplaisir, Cass County Auditor, said the Finance Committee met on June 11<sup>th</sup>, and reviewed the Springsted Report, which is a summary of projections on the bonding capacity based on sales tax revenues. The committee discussed other funding options and agreed sales taxes help generate dollars, but may not provide as much security to issue debt for financing the project as special assessments and general obligation backed bonds. The goal would be to pay back any special assessments using sales tax dollars. He said Brian Neugebauer will discuss the special assessment process at the next board meeting.

**Accelerated FY2013 funding letter**

Tom O'Hara from CH2MHill provided information on a letter sent to the Corps of Engineers regarding the plan to accelerate sponsors funding beginning in FY2013. He said the funds may be accelerated up to the maximum allowable local cost share for pre-construction engineering, and design (PED), Work-In-Kind (WIK) services and related activities. He said the letter is non-binding and allows the flexibility to study other alternatives. The exact amount and supported tasks will be included in the design agreement which needs to be signed by September 30<sup>th</sup>.

**JPA re-authorization update**

Mr. Zavoral said the limited Joint Power Agreement (JPA) needs to be re-authorized by September 30<sup>th</sup>. He anticipates either a new or amended draft JPA will be available for review at the next board meeting in July with final approval in August. The JPA will then be forwarded to all participating agencies for their approval.

**Insurance coverage for diversion**

Erik Johnson, Fargo City Attorney, has been working with CH2MHill to study different options on various types of insurance coverage for the project. He said the plan is to advertise for "Request for Information" (RFI) asking for information, qualifications and an explanation of approaches regarding the control of risk, cost management for claim administration, ease of claim administration, and best method for coverage and arrangement of claims on administration matters. He said after the RFI's are received, the next step would be to prepare Request for Proposals (RFP).

Mr. Wagner asked how this differs from the coverage received from the North Dakota Insurance Reserve Fund (NDRIN). Mr. Johnson said this is to provide insurance for the design officials and contractors and would extend beyond the coverage provided by NDRIN, which insures the Diversion Authority Board.

**Finance Committee membership**

Mr. Vanyo said two more members have been added to the Finance Committee, and he is asking the board to formally approve the appointments.

***MOTION, passed***

**Mr. Campbell moved and Mr. Wagner seconded to approve the appointments of Brad Wimmer, representing the City of Fargo, and Mark Brodshaug, representing the Cass County Joint Water Board, to the Finance Committee. Motion carried.**

**8. CORPS OF ENGINEERS STATUS UPDATE**

Terry Williams said the Corps of Engineers led-design efforts are on schedule and under budget; an agreement was executed with BNSF for railroad bridge design; planning continues for the "Construction Industry Day and Contracting Seminar", which will be held June 27-28 at the Fargo Holiday Inn; a public open house will be held June 26<sup>th</sup> to present updates on the Outlet/Reach 1 design; and analyses continue on whether the southern alignment must follow Corps levee or dam design criteria.

**9. VOUCHERS, Approved*****MOTION, passed***

**Mr. Mahoney moved and Mr. Wimmer seconded to approve the vouchers as presented. Motion carried.**

**10. NEXT MEETING DATE**

The next meeting will be held on Thursday, July 12, 2012, at 3:30 PM.

**11. ADJOURNMENT**

***MOTION, passed***

**On motion by Mr. Wagner, seconded by Mr. Campbell, and all voting in favor, the meeting was adjourned at 5:23 PM.**

Minutes prepared by Heather Worden, Cass County Administrative Assistant

# Studies and Workshops to Define Diversion Inlet, Staging, and Operation

	<b>Study</b>	<b>Schedule</b>	<b>Comments</b>
1	Increase Flows Through Town	Final July 15	Draft is complete
2	Value Engineering Proposal - 13	Draft July 31	Looking at 2 options to move the Red and Wild Rice control structures north (but south of the confluence)
3	Land Management Eval No. 1	Final June 30	Evaluating ring dikes/levees for Oxbow
4	Move Diversion South of Oxbow	Draft July 31	Non-USACE supported
5	Move Diversion North of Confluence of Red and Wild Rice Rivers	Draft July 31	Non-USACE supported
6	Determine the impacts of the potential change of re-classifying the staging and storage levees as dams	Draft Aug 14, with priority items draft July 31	USACE and PMC/HMG team studying
7	Diversion Inlet Gates	Draft July 31	Evaluation of replacing the fixed weir on the channel inlet with variable gates
8	Maximum Project Design Flow	Draft July 31	USACE has requested Local Sponsor's plan for at what flow the control gates on the Red and Wild Rice would be opened to protect the dam.
9	Probable Maximum Flood (PMF) and Standard Project Flood (SPF)	November, with indication of increase or decrease in July	USACE is performing this study
	<b>Workshops</b>		
1	Study Presentation and Alternative Development Workshop	August 2	This workshop is for each study team to present the study findings to the overall team. During this workshop, alternatives (integration of elements from the studies) will be selected for further evaluation. Selection criteria will also be determined.
2	Integration Workshop	August 15-16	This workshop is to review and evaluate the alternatives selected in the August 2 workshop and develop a recommendation by the technical team.



# Path to FY 13 Program Decisions

Item 4c.

	June Board		July Board		August Board		September Board
<b>Design Agreement Revision</b>	Accelerated Funding letter approved	<ul style="list-style-type: none"> <li>• Work in Kind (WIK) Letter vetted with TAC/AAS</li> <li>• Design Agreement revision areas approved with TAC/AAS</li> </ul>	WIK letter approved  Design Agreement revision areas approved	<ul style="list-style-type: none"> <li>• WIK letter to Corps</li> <li>• Design Agreement revisions to Corps</li> <li>• TAC and AAS followups</li> <li>• Legal Team engaged</li> </ul>	Draft design agreement presented	<ul style="list-style-type: none"> <li>• Final Revision</li> <li>• Continued negotiation with Corps</li> <li>• TAC and AAS follow-ups</li> <li>• City, county leadership engagements</li> </ul>	Design agreement approved by Board
<b>JPA Extension</b>	Small team review introduced	<ul style="list-style-type: none"> <li>• Small team meeting</li> <li>• Identification of major revision area</li> <li>• Major revision areas vetted with AAS</li> </ul>	Small team update to Board	<ul style="list-style-type: none"> <li>• Follow-up with AAS</li> <li>• Initial discussion with city, county leadership</li> <li>• Legal team engage</li> </ul>	Draft JPA to Board	<ul style="list-style-type: none"> <li>• Follow-up with AAS</li> <li>• Follow-up discussions with city, county leadership</li> <li>• Final revision complete</li> </ul>	JPA approved by Board
<b>FY13 Funding Decision</b>	Funding scenario introduced	<ul style="list-style-type: none"> <li>• Scenarios refined</li> <li>• Vetted with TAC/AAS</li> <li>• Initial discussion with Finance Committee</li> </ul>	Scenarios presented to Board	<ul style="list-style-type: none"> <li>• TAC/AAS follow-ups</li> <li>• Discussion with Finance Committee</li> <li>• Initial discussion with city, county leadership</li> </ul>	Finance Cmte makes recommendation to Board  Board issues guidance to refine scenario	<ul style="list-style-type: none"> <li>• TAC/AAS follow-ups</li> <li>• Follow-up discussions with city, county leadership</li> </ul>	FY 13 funding level approved

JPA signed  
Design Agreement signed  
September 30, 2012

General, flexible options



Detailed, specific agreements

# FY13 Work Plan Scenarios Decision Analysis

Item 4c.

Scenario Characteristic/ Diversion Authority Decision Item	Diversion 2020	Diversion 2021	FY13 Design Only	Fed Match Only
Description	Technically sound schedule that matches cash flows to achieve protection by Mar 2020.	Complete designs and purchase land to begin construction in 2014. Protection by Mar 2021.	No non-hardship land purchases in 2013. One year construction delay. Protection by Mar 2021.	Minimal effort to just meet the FY13 President's Budget funding level. Protection date unknown.
How much will this scenario cost the Authority in FY13?	\$50M	\$22-\$25M	\$22-\$25M	\$5M
Will this require borrowing in FY13?	Yes	No/limited	No/limited	No
When will the Diversion be operational?	March 2020	March 2021	March 2021	Unknown – based on federal funding
Will the Diversion Authority purchase non-hardship related property in FY13? If so, how much?	Yes (\$16.8M)	Yes (\$10.2M)	No	No
When will the In-town/Protected Area Levees construction begin?	2013	2014	2015	2015 or later
When will construction on the Diversion begin?	2014	2014	2015	Unknown - based on federal funding
Will this scenario require land acquisition or construction to begin before federal authorization?	Yes	Yes	No	No
Will the Sponsors do any Corps packages as Work-in-Kind (WIK) in FY13? How many?	Yes(1)	Yes (1)	Yes (multiple)	No

## FM METRO FLOOD DIVERSION PROJECT

### *Diversion Channel & EMB Geometry Cross-Section*

DECISION PAPER NO.: **DP-00010**

Date: 6/21/2012

#### RECOMMENDATION FOR BOARD ACTION:

Motion is made that the Board of Authority provide its position to the USACE endorsing the proposed channel cross-section as shown in Figure 2 of Attachment 1.

#### SUMMARY OF DECISION TOPIC:

In the USACE Feasibility Study for the FM Flood Diversion Project, a conservative estimate for levee berm height was set at eight feet. Subsequent geotechnical engineering determined that the soils under the berms could support greater heights, up to 15 feet in some reaches. Constructing the berms higher would allow the excavated fill from the diversion channel to be placed on a smaller footprint, reducing the costs of construction. It also reduces the amount of land needed for the flood diversion project, allowing approximately 1,000 + acres to remain as farmland.

#### EVALUATION OF KEY FACTORS FOR DECISION MAKING:

The construction of the diversion channel will involve excavating a large quantity of material. To control the cost of construction, the haul distance from the excavation of material to disposal needs to be as short as practicable. Therefore, the excavated material will be placed adjacent to the diversion channel in what is referred to as excavated material berms (EMBs). With the large quantity of excavated material, the EMBs could be up to hundreds of feet wide at the base and over 100 feet wide at the top. It is planned that the excavated material will generally be distributed evenly between the two sides of the channel.

The Feasibility Study used a conservative estimate of EMB height at eight feet, making the width of each EMB approximately 550 feet. Geotechnical studies conducted since the Feasibility Study have shown that the soils on each side of the diversion channel can support EMB's of 15 feet in height. The taller EMBs have a smaller footprint, approximately 360 to 380 feet wide. The smaller EMB footprint will result in a reduction in construction costs, since the longest distance the material will need to be hauled on each side of the channel will be shorter by over 200 feet. In addition to the reduction in construction cost, the narrower EMBs will require approximately 1,000+ acres less land.

---

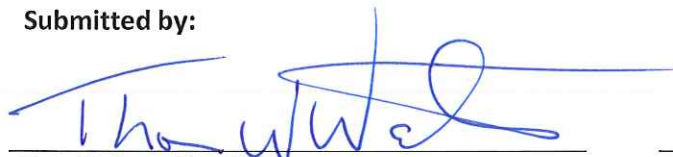
#### ADVANTAGES:

1. Lower construction cost for constructing the EMB with a smaller footprint.
2. The narrower cross-section will save 1,000 + acres of farmland.
3. Lower land acquisition costs.

**DISADVANTAGES:**

1. Higher berm height will be more visible.
2. A higher, narrower berm will have steeper slopes (1v:6h instead of 1v:10h), limiting the ability to farm row crops on the EMB.
3. If the Diversion Channel is expanded in the future, the narrower EMB layout would require a greater amount of berm reconstruction and property acquisition than the wider, lower EMB.

**Submitted by:**



Tom Waters, P.E., P.M.P.  
CH2M HILL  
Program Manager  
 Fargo-Moorhead Metro Diversion Project

Date June 29, 2012

Mark Bittner, Fargo City Engineer  
Concur: X 6/29/12 Non-Concur: \_\_\_\_\_

April Walker, Fargo Senior Engineer  
Concur: X 6/29/12 Non-Concur \_\_\_\_\_

Robert Zimmerman, Moorhead City Engineer  
Concur: X 6/29/12 Non-Concur: \_\_\_\_\_

Keith Berndt, Cass County Administrator  
Concur: X 6/29/12 Non-Concur \_\_\_\_\_

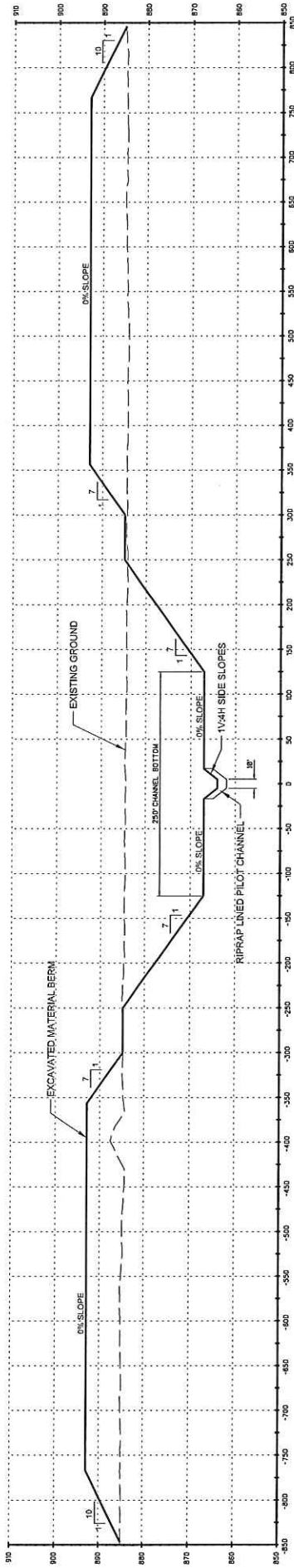
David Overbo, Clay County Engineer  
Concur: X 6/29/12 Non-Concur: \_\_\_\_\_

Pat Zavoral, City Administrator  
Concur: X 6/29/12 Non-Concur \_\_\_\_\_

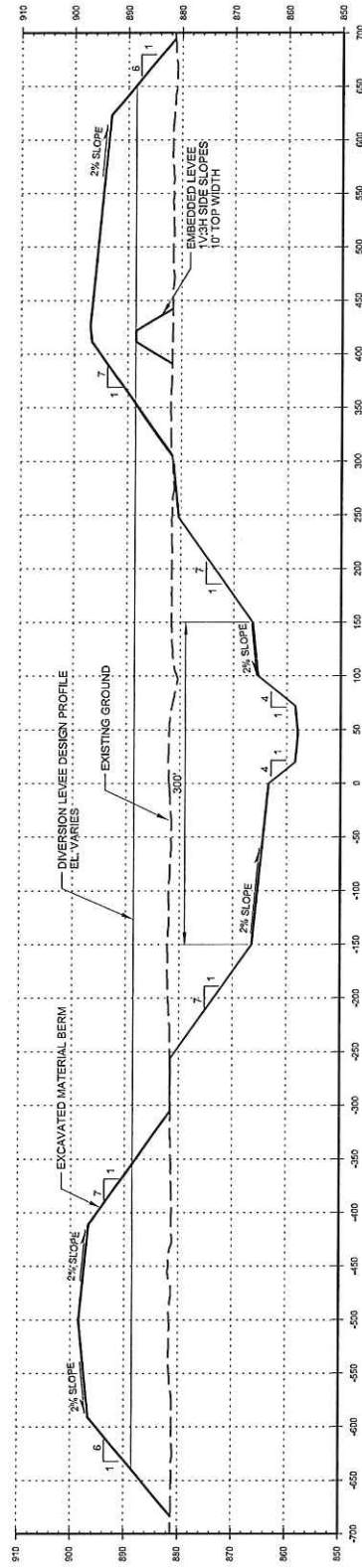
Mike Redlinger, Moorhead City Engineer  
Concur: X 6/29/12 Non-Concur: \_\_\_\_\_

Brian Berg, Clay County Administrator  
Concur: X 6/29/12 Non-Concur \_\_\_\_\_

FM DIVERSION TYPICAL CROSS SECTION COMPARISON



TYPICAL CROSS SECTION FOR REACH 1 - FEASIBILITY  
Figure 1



TYPICAL CROSS SECTION FOR REACH 1 - DESIGN  
Figure 2

\*NOTE - VERTICAL SCALE FOR BOTH CROSS SECTIONS IS EXAGGERATED



# Flood Diversion Authority Early Acquisition Property Disposition General Policy

---

The Flood Diversion Authority hereby establishes the following general policy for the disposition of property acquired through early buyouts, recognizing the property may not be needed for the project for several years, if at all. This disposition policy provides general guidance for negotiating lease agreements with local jurisdictions for the disposition of properties purchased in accordance with the Early Acquisition policy.

- The Diversion Authority will attempt to negotiate a lease agreement with the jurisdiction in which the property is located, such as the City of Oxbow.
- The lease agreement will define the specifics associated with the disposition of each property.
- The jurisdiction will be asked to manage, maintain, and assume the liability for the property, and will be given the ability to sub-lease the property if desired.
- The Diversion Authority may provide some assistance to the jurisdiction responsible for the property.
- The Diversion Authority retains ownership and control of the property, with the right to enter and possess upon reasonable notice..
- If the jurisdiction is not able to assume responsibility for the property, the Diversion Authority retains disposition discretion, including removal of the structure.

This disposition policy may be amended in the future, and will include additional considerations after the PPA is signed.

# **Dam vs. Levee Policy Team**

Item 5a. (2)

## **Activities**

Due to the Corps' analysis of the staging area embankments from levees to dams, several design criteria issues and policy questions must be resolved in order to move toward final design. This project is somewhat unique in that the staging area embankments may simultaneously fall under the jurisdiction and design standards of the Federal Government and two states, North Dakota and Minnesota; the interaction between these standards must be resolved. The Dams vs. Levees Policy team is working toward defining these criteria in terms of their general category (or framework that they fit into the design) as well as policy issues that must be defined due to the potential new classification. The following summarizes a list of activities that must be accomplished by the team in order to produce a document that will clarify these design and policy issues for the project.

**Initial meeting (Identification of issues) – Completed**

**Compilation of design and policy issues – Completed**

**Team review of design and policy issues – Completed**

**Draft summary of design and policy issues complete – Completed**

**Team coordination call to discuss path forward – Completed**

**Finalize summary of design and policy issues**

**Define deliverables**

**Assignment of responsibilities**

**Develop draft schedule**

**Prioritize Issues**

**Provide Corps team with “final draft” of design and policy issues – Completed**

**Future Activities:**

**Coordination conference call with Corps team – July 9, 2012**

**Initiate coordination with States and FEMA – Week of July 9, 2012**

**Provide progress report to LSLCTT – August 2, 2012**

**Provide preliminary report to TAC on high priority critical issues – August 14, 2012**

**Draft Design and Policy Issues Report (DPIR) to TAC – August 14, 2012**

**Brief AAC on Draft DPIR – August 31, 2012**

**Submit Final Draft DPIR to Diversion Authority Board – September 13, 2012**

**Submit Final DPIR to AAC – September 28, 2012**

North Dakota Water Education Foundation

**FARGO-MOORHEAD FLOOD FACILITIES TOUR**

Thursday, July 12, 2012

12:30 p.m. Registration & Load Buses, Ramada Plaza Suites  
 Jean Schafer, ND Water Education Foundation  
 Julie Ellingson, ND Water Education Foundation

Tour Highlights

Sheyenne Diversion, West Fargo  
 4<sup>th</sup> Street Levee, Downtown Fargo  
 Belmont Neighborhood, Fargo  
 Riverview and River Oaks Point Neighborhoods, Moorhead  
 Rose Coulee/Drain #27 at Red River, Fargo  
 Harwood/Hackberry Drives, Fargo  
 Southwood Neighborhood, Fargo  
 Timberline/Copperfield Court Area, Fargo  
 Rose Creek, Fargo  
 Meadow Creek Neighborhood, Fargo  
 River Vili Neighborhood, Fargo  
 64<sup>th</sup> Ave South Borrow Pit, Fargo  
 Orchard Park, Cass County  
 Heritage Hills, Cass County  
 Proposed FM Diversion Inlet Location, Cass County  
 Oxbow, ND

4:45 p.m. Tour Ends: Rustic Oaks Inn, Moorhead

## Tour Guides Include:

City of Fargo	April Walker	City Engineer
	Ben Dow	Public Works Director
	Nate Boerboom	Division Engineer
	Mark Williams	Assistant Public Works Director
	Brenda Derrig	Division Engineer
Cass County	Jason Benson	County Engineer
	Tim Solberg	County Planner
	Tom Soucy	Engineer
City of Moorhead	Tom Trowbridge	Assistant City Engineer
	James Schultz	Engineer
	Jody Bertrand	Engineer
FM Diversion Consultant Team	Lee Beauvais	Moore Engineering
	Gregg Thielman	Houston Engineering



ND Water Education Foundation's  
***Executive Briefing on Fargo-Moorhead Metro Flood Risk Reduction***  
***Friday July 13, 2012***  
***Ramada Plaza Suites, Fargo***  
***8:30 a.m. to Noon***

- 8:30 a.m. Welcome and introduction  
*Ken Royse or Gary Thompson, N.D. Water Resource Districts Association*
- 8:35 a.m. Project Introduction  
*Pat Zavoral, Fargo City Administrator*
- 8:40 a.m. Project Overview Presentation  
*Brett Coleman, Army Corps of Engineers, St. Paul District*
- 9:10 a.m. Local Issues and Flood Diversion Authority,  
*Darrell Vanyo, Chair, Flood Diversion Authority*
- 9:30 a.m. Red River Basin and FM Diversion Hydrology,  
*Gregg Thielman, Houston-Moore Group*
- 9:50 a.m. Federal Process and Post-Record of Decision Analysis,  
*Tom Waters, FM Diversion Program Management Consultant*
- 10:10 a.m. Financial Modeling,  
*Martin Nicholson, FM Diversion Program Management Consultant*
- 10:30 a.m. Break
- 10:45 a.m. Red River Retention Modeling,  
*Chad Engels, Moore Engineering*
- 11:15 a.m. Long-Term Flood Solutions for the Red River Basin,  
*Lance Yohe, Red River Basin Commission*
- 11:45 a.m. Wrap up  
*Ken Royse or Gary Thompson*
- Noon Adjourn

Finance Committee Report July 2012

The Finance Committee reviewed and approved the attached non-contract bills for services received:

Cass County Joint WRD – Rights of Entry Costs

Ohnstad Twichell	3-27-12	\$9,325.16
	4-25-12	7,075.68
	5-21-12	4,262.39
Moore Engineering	3-30-12	\$24,415.88
	4-27-12	15,491.10
	5-22-12	8,231.30
Erik Johnson & Assoc.	3-25-12	\$680.00
	4-25-12	1,065.00
	5-25-12	705.00
Payments to land owners for alignment borings		<u>\$8,250.00</u>
Total		<u>\$79,501.51</u>

Diversion Billing – Legal advice on financing

Ohnstad Twichell	6-25-12	<u>\$1,903.50</u>
------------------	---------	-------------------

Kent Costin reviewed the Outstanding Contracts report—the important thing to note is that under the agreement with the Corps, the Diversion Authority has to match the dollars the Corps is spending, approximately \$15 million, and the Authority has over \$15 million in Task Orders or Authority Work Directives.

John Diebel, CH2M Hill, presented a spreadsheet showing a summary of the Work-in-Kind (WIK) and LERRD’s (Land, Easements, Rights of Way, Relocation, and Disposal) costs, and will be at the meeting to go through the updated spreadsheet.

Brian Neugebauer, Ohnstad Twichell, briefly reviewed his article for the “Diversion Dialogue” concerning special assessment backing of bonds for the North Dakota local cost share of the diversion project.

Tom O’Hara distributed a handout titled “Decision Analysis”, which shows various options of work plan scenarios for 2013 (October 1, 2012 through September 30, 2013) and also shows some financing may be required for that period, depending on what work plan scenario is adopted by the Diversion Authority.

The committee reviewed a proposed Scope of Services for financial planning and policy development for the Diversion Authority with Maria Altomare and Jessica Cameron Mitchell from PFM Group. The committee recommends the Diversion Authority enter into a retainer contract with PFM Group for a period beginning in August 2012 through September 2013 for the development of short and long-term financing recommendations, at a cost of \$10,000 per month.

## Financing Option for the North Dakota Local share

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, everyone knows that the City of Fargo's and Cass County's sales tax will fund a lion's share of that cost. The voters of Fargo and Cass County have already given their approval for their sales tax 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, and 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 has to 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 that extra coverage to insure being paid. With the recent recession, many cities across the nation had significant declines in their sales tax collections, which has made bond buyers even more concerned about coverage than in the past. What is the proper coverage requirement can be debated, but the higher the coverage the lower the interest rate, and the less the coverage the higher the interest rate, until it reaches 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 they 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. The more sales tax receipts required to pay interest, the less there is available to pay the local share of the Diversion Project.

With those 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 District. Without getting into the details of such an issue, the Water 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 District would 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 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 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 the Diversion Authority will in the future discuss the possibility of having the Water District issue bonds for this 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.

**DRAFT 7/09/2012**

**FM METRO AREA FLOOD DIVERSION COST SHARE EXPENDITURES - PED PHASE - COST SHARE #531**

**DATE OF PERFORMANCE: 06/01/12 - 06/30/12**

<b>Work-In-Kind</b>				
ITEM	AMOUNT ENCUMBERED	PRIOR INVESTMENT PAID	INVESTMENT PAID DURING THIS PERIOD OF PERFORMANCE	REMAINING ENCUMBRANCE
Hydrology & Hydraulic Modeling Related Tasks	\$823,831.41	\$456,939.35	\$96,710.41	\$270,181.65
Topographic Preliminary Survey Data Collection	\$33,748.60			\$33,748.60
Diversion Channel Design	\$913,580.00	\$214,877.92	\$0.00	\$698,702.08
Staging Area Design	\$195,000.00			\$195,000.00
Hydraulic Structure	\$250,000.00			\$250,000.00
Physical Modeling				\$0.00
Geotechnical Testing	\$145,010.00	\$89,133.00	\$31,119.00	\$24,758.00
Environmental	\$363,166.67	\$112,491.33	\$6,742.25	\$243,933.09
Mitigation Planning through Benefited Area	\$195,000.00			\$195,000.00
Drainage Plan	\$160,670.00	\$72,887.72		\$87,782.28
Master Plan	\$73,000.00	\$27,832.96	\$0.00	\$45,167.04
Recreation Plan	\$415,200.00	\$160,767.15	\$0.00	\$254,432.85
Mn State EIS and Permitting Actions	\$230,550.00	\$230,550.00		\$0.00
Public Outreach	\$54,868.02	\$54,868.02		\$0.00
Project Design Manual				\$0.00
General Administration-Authority	\$11,053.15	\$8,730.95	\$2,322.20	\$0.00
Program Management-PMC	\$2,828,383.77	\$1,140,216.25		\$1,688,167.52
Project Management-HMG	\$480,837.50			\$480,837.50
<b>SUBTOTAL WIK</b>	<b>\$7,173,899.12</b>	<b>\$2,569,294.65</b>	<b>\$136,893.86</b>	<b>\$4,467,710.61</b>
<b>TOTAL WIK &amp; LERRDs</b>	<b>\$15,866,285.93</b>	<b>\$4,004,300.50</b>	<b>\$153,617.26</b>	<b>\$11,708,368.17</b>

<b>LERRDs</b>				
ITEM	AMOUNT ENCUMBERED	PRIOR INVESTMENT PAID	INVESTMENT PAID DURING THIS PERIOD OF PERFORMANCE	REMAINING ENCUMBRANCE
Right-of-Entry Requests	\$148,339.85	\$133,276.95	\$15,062.90	\$0.00
Utility Locates	\$118,680.00	\$18,584.28		\$100,095.72
Legal Services	\$162,476.70	\$114,046.76	\$1,660.50	\$46,769.44
Roadway Bridge Design & Road Alignment Mod.	\$4,756,166.00	\$28,881.61		\$4,727,284.39
Railroad Bridge Design				\$0.00
HTRW				\$0.00
Road and Railroad Bridge Construction				\$0.00
Survey				\$0.00
Cost of Land Purchased & Land Mgmt Services	\$197,503.00			\$197,503.00
Construction Cost of Bridges				\$0.00
Construction Cost of Utility Locates				\$0.00
Program Management-PMC	\$2,828,383.77	\$1,140,216.25	\$0.00	\$1,688,167.52
Project Management - HMG	\$480,837.50			\$480,837.50
<b>SUBTOTAL LERRDs</b>	<b>\$8,692,386.82</b>	<b>\$1,435,005.85</b>	<b>\$16,723.40</b>	<b>\$7,240,657.57</b>



Item 5c.

July 12, 2012

Colonel Michael Price  
St. Paul District, US Army Corps of Engineers  
180<sup>th</sup> 5<sup>th</sup> St East, Suite 700  
St. Paul, MN 55101

RE: FY13 Work-in-Kind (WIK) for the Fargo Moorhead Metropolitan Area Flood Risk Management (FMM) Project

Dear Colonel Price:

In our shared vision of providing protection to the people of this region, and in the interest of keeping this critical project moving toward completion, the non federal sponsors (NFS) of the FMM Project and the Fargo Moorhead Diversion Authority are requesting approval of the following work packages as WIK design services for the FMM Project.

- 1) Levees in the Protected Area / In-town Levee designs. Design levees and/or floodwalls in the protected area to allow increased flows in the Red River (above Fargo gauge 30.8 foot) during flood events. Submit 35 percent, 65 percent and 95 percent designs to USACE for Agency Technical Review (ATR). This work has an estimated cost of \$2,000,000.
- 2) Completion of the Reach 4, 5, 8 and 9 designs. Complete the designs for Reach 4, 5, 8 and 9. Designs have been developed by USACE to the Preliminary Engineering Report (PER) level. Local sponsor will take these designs to completion. Submit 65 percent and 95 percent designs to USACE for ATR. This work has an estimated cost of \$7,600,000.

The NFS also will continue to provide WIK services for the work previously approved in the August 29, 2011 Integral Determination Report signed by Major General Walsh, Commander, Mississippi Valley Division, USACE.

This request is consistent with Section 221(a)(4) of the Flood Control Act of 1970, Public Law 91-611, and USACE Engineer Regulation, ER 1165-2-208, dated February 17, 2012. Specifically, Section 6.a of ER 1165-2-208, states: "A non-Federal sponsor may provide all or a portion of the design activities for a project or separable element of a project as in-kind contributions following the execution of a Design Agreement with the Government that clearly delineates the design activities to be provided by the non-Federal sponsor." This request is the FMM project sponsor's notification of our intent to provide the above listed work packages as in-kind services in accordance with Section 6.a, ER 1165-2-208.

Thank you and your staff for assistance with the matter.

Sincerely,

---

Darrel Vanyo

## Design Agreement Amendment

### Main areas of change

1. Add accelerated funding language
2. Update/acknowledge new Work-in-Kind (WIK) request/approval
3. Increase total design cost ceiling to \$82M total (\$28M for FY13)
4. Update the Design Coordination Team (DCT) definition in Article III to reflect Integrated Leadership Structure (joint boards)
5. Add the Diversion Authority (DA) as a project sponsor
6. Specify Corps oversight activities and estimate associated costs for WIK work

### Next Steps:

- Work in Kind letter to Corps, which will trigger the Integral Determination Report from the Corps
- Coordinate specific Design Agreement language with Corps.
- Work with the Legal Committee, TAC and Admin Advisory Staff to produce a draft for August Board
- Coordinate efforts with FY13 Work Plan scenario decisions and JPA revisions
- Moving towards completion before September 30<sup>th</sup>, 2012.

FM Diversion Authority  
 Fiscal Accountability Report Design Phase (Fund 790)  
 As of 06/30/2012

Item 7.

	2011	2012	Cumulative Totals
<b>Revenues</b>			
City of Fargo	443,138	1,384,458	1,827,596
Cass County	443,138	1,384,458	1,827,596
City of Moorhead	98,475	307,657	406,132
State Water Commission (10% Cap)	-	-	-
<b>Total Revenues</b>	<b>984,750</b>	<b>3,076,573</b>	<b>4,061,323</b>

<b>Expenditures</b>			
7905 Army Corp Payments	-	-	-
7910 WIK - Administration	107,301	74,327	181,628
7915 WIK - Project Design	149,632	1,006,945	1,156,577
7920 WIK - Project Management (CH2M Hill)	679,037	1,601,396	2,280,433
7925 WIK - Recreation	-	160,767	160,767
7930 LERRDS - North Dakota	48,664	212,638	261,301
7931 LERRDS - Minnesota	-	20,501	20,501
7940 WIK Mitigation - North Dakota	-	-	-
7941 WIK Mitigation - Minnesota	-	-	-
7950 Construction - North Dakota	-	-	-
7951 Construction - Minnesota	-	-	-
7955 Construction Management	-	-	-
7990 Project Financing	-	-	-
7995 Project Eligible - Off Formula Costs	-	-	-
7999 Non Federal Participating Costs	116	-	116
<b>Total Expenditures</b>	<b>984,750</b>	<b>3,076,573</b>	<b>4,061,323</b>



**FM Diversion Authority**  
**Summary of Cash Disbursements**  
**Period June 2012**

Date 6/28/2012

Period/Year: 06/2012

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-7910-429.33-20	6/25/2012	JB06120006	CITY OF FARGO	340.00	FISCAL SERVICES	V00102	General & Admin. WIK
<b>Total Accounting Services</b>				<b>\$340.00</b>			
790-7910-429.33-25	6/20/2012	227024	DORSEY & WHITNEY LLP	1,660.50	APR 2012 LEAGAL SERVICES	V00101	Dorsey Whitney Legal WIK
	6/20/2012	227033	ERIK R JOHNSON & ASSOCIATES	673.20	REVIEW FA DATA/BOND COUNS	V00102	General & Admin. WIK
	6/27/2012	227303	ERIK R JOHNSON & ASSOCIATES	1,309.00	FM DIVERSION LEGAL	V00102	General & Admin. WIK
<b>Total Legal Services</b>				<b>\$3,642.70</b>			
790-7915-429.33-06	6/20/2012	226983	BRAUN INTERTEC CORP	19,110.00	3/24-5/18/12	V00401	Braun Intertech-Undisturb
	6/27/2012	227276	BRAUN INTERTEC CORP	12,009.00	THROUGH 4/20/12	V00501	Braun Intertech Disturbed
<b>Total Quality Testing</b>				<b>\$31,119.00</b>			
790-7930-429.33-05	6/20/2012	227231	URS CORPORATION	6,742.25	4/14-5/11/12	V01001	URS Corp. - PED
<b>Total Engineering Services</b>				<b>\$6,742.25</b>			
790-7931-429.33-25	6/20/2012	227137	MOORHEAD, CITY OF	2,817.52	FEB 2012 RIGHT OF ENTRY	V01301	City of Moorhead ROE
	6/20/2012	227137	MOORHEAD, CITY OF	3,199.28	JAN 2012 RIGHT OF ENTRY	V01301	City of Moorhead ROE
	6/20/2012	227137	MOORHEAD, CITY OF	9,046.10	DEC 2011 RIGHT OF ENTRY	V01301	City of Moorhead ROE
<b>Total Legal Services</b>				<b>\$15,062.90</b>			
<b>Total Disbursed for Period</b>				<b>\$56,906.85</b>			

**FM Diversion Authority**  
**Outstanding Contracts**  
**As of June 30, 2012**

Date: 6/28/2012

Project Number	Account Number	PO No.	Vendor No.	P.O. Date	Vendor	Encumbered	Liquidated	Balance
V00101	790-7910-429.33-25	F12217	9367	12/31/2011	DORSEY & WHITNEY LLP	52,102.12	52,102.12	-
V00101	790-7910-429.33-25	146629	9367	1/18/2012	DORSEY & WHITNEY LLP	\$ 50,000.00	\$ 3,230.56	\$ 46,769.44
V00101	790-7910-429.33-25	F12289	9367	2/21/2012	DORSEY & WHITNEY LLP	58,693.38	58,693.38	-
V00101	790-7910-429.33-25	F12293	9367	2/21/2012	DORSEY & WHITNEY LLP	1,600.00	1,600.00	-
V00102	790-7910-429.38-99	F11738	20660	11/15/2011	GALLAGHER BENEFIT SERVICES INC	250.00	250.00	-
V00102	790-7910-429.31-10	F11749	646	11/15/2011	FORUM COMMUNICATIONS (ADVERT)	494.24	494.24	-
V00102	790-7910-429.31-10	F11750	646	11/15/2011	FORUM COMMUNICATIONS (ADVERT)	345.97	345.97	-
V00102	790-7910-429.31-10	F11751	646	11/15/2011	FORUM COMMUNICATIONS (ADVERT)	296.56	296.56	-
V00102	790-7910-429.31-10	F11752	646	11/15/2011	FORUM COMMUNICATIONS (ADVERT)	17.05	17.05	-
V00102	790-7999-729.68-30	PCARD	18009	12/20/2011	GOOGLE LOVEINTHEOVEN	116.00	116.00	-
V00102	790-7910-429.31-10	F12082	647	12/31/2011	FORUM COMMUNICATIONS (LEGALS)	2,224.20	2,224.20	-
V00102	790-7910-429.38-69	F12079	8645	12/31/2011	SEIGEL COMMUNICATIONS SERVICE	1,490.00	1,490.00	-
V00102	790-7910-429.53-60	F12218	13981	12/31/2011	NORTH DAKOTA TELEPHONE CO	81.20	81.20	-
V00102	790-7910-429.33-20	AJ	COF	2/1/2012	CITY OF FARGO	1,300.00	1,300.00	-
V00102	790-7910-429.55-10	F12256	20829	2/14/2012	BROKERAGE PRINTING	153.85	153.85	-
V00102	790-7910-429.55-10	F12256	20829	2/14/2012	BROKERAGE PRINTING	202.10	202.10	-
V00102	790-7910-429.52-30	F12595	1772	4/16/2012	WARNER & CO	4,975.00	4,975.00	-
V00102	790-7910-429.33-20	AJ	COF	5/25/2012	CITY OF FARGO	1,850.00	1,850.00	-
V00102	790-7910-429.33-25	151789	16872	6/15/2012	ERIK R JOHNSON & ASSOCIATES	673.20	673.20	-
V00102	790-7910-429.33-25	151876	16872	6/19/2012	ERIK R JOHNSON & ASSOCIATES	1,309.00	1,309.00	-
V00102	790-7910-429.33-20	AJ	COF	6/25/2012	CITY OF FARGO	340.00	340.00	-
V00201	790-7920-429.33-79	144170	20663	11/18/2011	CH2M HILL ENGINEERS INC	1,906,767.53	1,906,767.53	-
V00202	790-7920-429.33-79	148611	20663	3/15/2012	CH2M HILL ENGINEERS INC	3,750,000.00	373,665.17	3,376,334.83
V00301	790-7910-429.38-69	143936	11604	11/16/2011	ADVANCED ENGINEERING INC	50,000.00	50,000.00	-
V00401	790-7915-429.33-06	143937	165	11/16/2011	BRAUN INTERTEC CORP	54,060.00	51,888.00	2,172.00
V00501	790-7915-429.33-06	143938	165	11/16/2011	BRAUN INTERTEC CORP	36,150.00	20,391.00	15,759.00
V00601	790-7915-429.33-06	144975	20729	12/13/2011	IN SITU ENGINEERING	54,800.00	47,973.00	6,827.00
V00701	790-7915-429.33-05	144866	20723	12/9/2011	MINNESOTA DNR	230,550.00	230,550.00	-
V00801	790-7915-429.33-05	146973	801	1/27/2012	HOUSTON ENGINEERING INC	99,200.00	92,424.03	6,775.97
V00802	790-7915-429.33-05	146974	801	1/27/2012	HOUSTON ENGINEERING INC	195,000.00	70,742.30	124,257.70
V00803	790-7915-429.33-05	146975	801	1/27/2012	HOUSTON ENGINEERING INC	73,000.00	27,832.96	45,167.04
V00804	790-7925-429.33-05	148054	801	2/29/2012	HOUSTON ENGINEERING INC	175,200.00	160,767.15	14,432.85
V00805	790-7915-429.33-05	148058	801	2/29/2012	HOUSTON ENGINEERING INC	102,340.00	43,625.75	58,714.25
V00806	790-7915-429.33-05	148078	801	2/29/2012	HOUSTON ENGINEERING INC	152,755.51	108,369.87	44,385.64
V00901	790-7915-429.33-05	146976	1118	1/27/2012	MOORE ENGINEERING INC	93,765.00	84,321.55	9,443.45

**FM Diversion Authority  
Outstanding Contracts  
As of June 30, 2012**

Date: 6/28/2012

Project Number	Account Number	PO No.	Vendor No.	P.O. Date	Vendor	Encumbered	Liquidated	Balance
V00902	790-7915-429-33-05	146977	1118	1/27/2012	MOORE ENGINEERING INC	145,050.00	116,789.89	28,260.11
V00903	790-7915-429-33-05	146978	1118	1/27/2012	MOORE ENGINEERING INC	152,330.00	70,225.22	82,104.78
V00904	790-7930-429-33-05	148055	1118	2/29/2012	MOORE ENGINEERING INC	130,866.00	28,881.61	101,984.39
V00905	790-7930-429-33-05	148056	1118	2/29/2012	MOORE ENGINEERING INC	24,680.00	18,584.28	6,095.72
V00906	790-7915-429-33-05	148057	1118	2/29/2012	MOORE ENGINEERING INC	8,340.00	8,326.50	13.50
V00907	790-7915-429-33-05	148077	1118	2/29/2012	MOORE ENGINEERING INC	183,920.00	149,879.88	34,040.12
V01001	790-7915-429-33-05	146979	17791	1/27/2012	URS CORPORATION	171,166.67	119,233.58	51,933.09
V01002	790-7915-429-33-05	148086	17791	2/29/2012	URS CORPORATION	192,000.00	-	192,000.00
V01201	790-7930-429.33-25	F12069	19734	12/31/2011	CASS COUNTY JOINT WATER RESOUR	16,708.86	16,708.86	-
V01201	790-7930-429.34-65	F12069	19734	12/31/2011	CASS COUNTY JOINT WATER RESOUR	22,452.50	22,452.50	-
V01201	790-7930-429-33-25	149405	19734	4/10/2012	CASS COUNTY JOINT WATER RESOUR	83,119.09	83,119.09	-
V01301	790-7915-429-33-05	147745	1118	2/17/2012	MOORE ENGINEERING INC	5,558.50	5,558.50	-
V01301	790-7931-429.33-25	F12593	1286	4/16/2012	OHNSTAD TWICHELL PC	1,408.00	1,408.00	-
V01301	790-7931-429-33-05	149869	1118	4/23/2012	MOORE ENGINEERING INC	1,780.00	1,780.00	-
V01301	790-7931-429-33-25	150230	1286	5/3/2012	OHNSTAD TWICHELL PC	2,029.50	2,029.50	-
V01301	790-7931-429-33-25	150961	1286	5/23/2012	OHNSTAD TWICHELL PC	220.50	220.50	-
V01301	790-7931-429-33-25	151790	1122	6/15/2012	MOORHEAD, CITY OF	15,062.90	15,062.90	-
V01301	790-7931-429-33-25	152058	1286	6/27/2012	OHNSTAD TWICHELL PC	410.00	-	410.00
V01501	790-7915-429-74-10	150960	19581	5/23/2012	GEOKON INC	33,748.60	-	33,748.60
V01601	790-7920-429-33-05	151232	21007	5/31/2012	HOUSTON-MOORE GROUP LLC	961,675.00	-	961,675.00
V01602	790-7930-429-33-05	151233	21007	5/31/2012	HOUSTON-MOORE GROUP LLC	871,000.00	-	871,000.00
V01603	790-7915-429-33-05	151234	21007	5/31/2012	HOUSTON-MOORE GROUP LLC	2,333,300.00	-	2,333,300.00
V01604	790-7930-429-33-05	151235	21007	5/31/2012	HOUSTON-MOORE GROUP LLC	1,421,000.00	-	1,421,000.00
V01605	790-7915-429-33-05	151236	21007	5/31/2012	HOUSTON-MOORE GROUP LLC	605,000.00	-	605,000.00
V01606	790-7930-429-33-05	151237	21007	5/31/2012	HOUSTON-MOORE GROUP LLC	197,503.00	-	197,503.00
V01607	790-7915-429-33-05	152022	21007	6/25/2012	HOUSTON-MOORE GROUP LLC	240,000.00	-	240,000.00
V01608	790-7915-429-33-05	152023	21007	6/25/2012	HOUSTON-MOORE GROUP LLC	669,330.00	-	669,330.00
V01609	790-7915-429-33-05	152024	21007	6/25/2012	HOUSTON-MOORE GROUP LLC	194,341.00	-	194,341.00
V01610	790-7930-429-33-05	152025	21007	6/25/2012	HOUSTON-MOORE GROUP LLC	94,000.00	-	94,000.00
						\$ 15,930,102.03	\$ 4,061,323.55	\$ 11,868,778.48

**OHNSTAD TWICHELL, P.C.**  
 901 13TH AVENUE EAST  
 PO BOX 458  
 WEST FARGO ND 58078-0458  
 WK 701-282-3249 FAX 701-282-0825  
 Federal I.D. #45-0310621

June 25, 2012

	Invoice #	115061	
	Our file#	120060	00001
<b>FARGO DIVERSION AUTHORITY</b>		Billing through	BDN
<b>CITY OF FARGO</b>			06/21/2012
<b>ATTN KENT COSTIN</b>			
<b>200 3RD ST N</b>			
<b>FARGO , ND 58102</b>			

**BONDING ISSUES**

Balance forward as of invoice dated	05/25/12	\$846.00
A/R adjustments made since last invoice		-846.00
Accounts receivable balance carried forward		\$0.00

**PROFESSIONAL SERVICES**

05/15/2012	Meeting regarding diversion with Zavoral, Kent, Johnson and other officials.	
05/16/2012	Electronic correspondence with Mike Montplaisir; conference with Sean Fredricks regarding Joint Board; electronic correspondence with Montplaisir and committee members.	
05/17/2012	Electronic correspondence with Eric about resolution of intent to be passed by Joint Water Board relating to diversion bond issues.	
05/23/2012	Draft declaration of intent to issue tax exempt bonds by Cass County Joint Water Resource District; electronic correspondence with Zavoral; electronic correspondence with Erik Johnson; electronic correspondence with Zavoral; electronic correspondence with Zavoral.	
05/24/2012	Attend Cass County Joint Water Resource District meeting to get resolution of intent to issue tax exempt bonds approved; electronic correspondence with Zavoral, Johnson; electronic correspondence with Zavoral; electronic correspondence with Mottinger.	
06/11/2012	Attend finance committee meeting.	
06/15/2012	Attend meeting with city of Fargo and Cass County financial personnel and Fargo mayor. Discuss debt issuance issues and short term and long term debt issues. Participate on conference call with North Dakota governor.	
	Total fees for this matter	\$1,903.50

**EXPENSES**

<b>Billing Summary</b>	
Total professional services	\$1,903.50
<b>Total of new charges for this invoice</b>	<b>\$1,903.50</b>
<b>Total balance now due</b>	<b>\$1,903.50</b>

PURSUANT TO SECTION 13-01-14, NDCC, A LATE PAYMENT CHARGE OF 1% PER MONTH IS ASSESSED UPON ACCOUNTS NOT PAID 30 DAYS FROM BILLING DATE. THANK YOU.



Cass County  
Joint Water  
Resource  
District

June 26, 2012

RECEIVED  
JUN 27 2012  
CASS COUNTY COMMISSION

Mark Brodshaug  
Chairman  
Fargo, North Dakota

Rodger Olson  
Manager  
Leonard, North Dakota

Dan Jacobson  
Manager  
West Fargo, North Dakota

Michael Buringrud  
Manager  
Gardner, North Dakota

Raymond Wolfer  
Manager  
Argusville, North Dakota

Diversion Authority  
P.O. Box 2806  
Fargo, ND 58108-2806

Greetings:

RE: Fargo-Moorhead Metropolitan Feasibility Study - Rights of Entry

Enclosed please find copies of bills totaling \$79,501.51 regarding the above referenced project. At this time, we respectfully request 100% reimbursement as per the Joint Powers Agreement between the City of Fargo, Cass County and Cass County Joint Water Resource District dated June 7, 2010.

If you have any questions, please feel free to contact us. Thank you.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT

Carol Harbeke Lewis  
Secretary-Treasurer

Enclosures

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrld@co.cass.nd.us](mailto:wrld@co.cass.nd.us)  
[casscountygov.com](http://casscountygov.com)

**OHNSTAD TWICHELL, P.C.**  
 901 13TH AVENUE EAST  
 PO BOX 458  
 WEST FARGO ND 58078-0458  
 WK 701-282-3249 FAX 701-282-0825  
 Federal I.D. #45-0310621

March 27, 2012

**CASS COUNTY JOINT WATER RESOURCE DISTRICT**  
**ATTN: CAROL HARBEKE LEWIS**  
 1201 W MAIN AVE  
 WEST FARGO, ND 58078-1301

Invoice# 113289 SMF  
 Our file# 100007 00007  
 Billing through 03/21/2012

**FM DIVERSION - RIGHT OF ENTRY**

Balance forward as of invoice dated	02/21/12	\$10,606.20
Last payment received	02/27/2012	\$10,606.20
A/R adjustments made since last invoice		\$0.00
Accounts receivable balance carried forward		<u>\$0.00</u>

**PROFESSIONAL SERVICES**

02/01/2012	JDR	Telephone conference with process server in Orange County (FL) regarding service upon Kathleen Pile; draft correspondence to process server; interoffice conference with attorney Chris McShane.	0.40 hrs	80.00 /hr	32.00
02/21/2012	CMM	Revise Access Agreements for Red River Trust; correspond with Red River Trust's attorney regarding Access Agreement; request parcel map from Brad; review expired, expiring, alignment shift parcels.	0.80 hrs	160.00 /hr	128.00
02/22/2012	JDR	Interoffice conference with attorney Chris McShane; conduct multiple property tax records searches regarding additional easements required.	0.70 hrs	80.00 /hr	56.00
02/22/2012	CMM	Review and revise Application for the expired/soon to be expired parcels, including the list of parcels implicated by the Application; review the request by the Corps and compare it to master list to determine if the ROE status had changed on any of the parcels, and compare it to the expired/soon to expire list we are already seeking access to; instruct staff to pull tax records and legal descriptions for the properties needed that we have not started the ROE process for.	3.20 hrs	160.00 /hr	512.00
02/23/2012	JDR	Organize property tax records; conduct multiple property records searches to obtain most recent ownership information; interoffice conference with attorney Chris McShane; review and revise Access Agreements.	1.60 hrs	80.00 /hr	128.00
02/23/2012	CMM	Participate in Board meeting regarding diversion issues; conference with Brad Dahl regarding the parcels we need access to; work with staff to draft access agreements.	1.70 hrs	160.00 /hr	272.00
02/23/2012	ARR	Update parcel list for those no longer needed for 2012; prepare Access Agreements; and create Landowner/Address table.	2.00 hrs	75.00 /hr	150.00
02/24/2012	JDR	Review file; interoffice conference with attorney Chris McShane regarding status of attachments to Access Agreements.	0.20 hrs	80.00 /hr	16.00
02/24/2012	CMM	Review Access Agreements; e-mail Brad to get Maps for attaching to the access			

**PAID**  
 APR 3 7 2012  
 C/C # 10249  
*OK*

PURSUANT TO SECTION 13-01-14, NDCC, A LATE PAYMENT CHARGE OF 1% PER MONTH IS ASSESSED UPON ACCOUNTS NOT PAID 30 DAYS FROM BILLING DATE. THANK YOU.

		agreements; telephone conference with Brad regarding what should be included in the cover letter to the landowners; review parcels we need to start civil actions against to gain ROE.	1.20 hrs	160.00 /hr	192.00
02/27/2012	JDR	Review file regarding status of Resolution.	0.20 hrs	80.00 /hr	16.00
02/27/2012	CMM	Draft Application for access to the expired and expiring ROE parcels; revise list to be attached to the Application; draft two different letters to be sent to landowners being asked to sign ROE Agreements; telephone conference with Pam regarding the ROE Applications that need to be sent out.	2.50 hrs	160.00 /hr	400.00
02/28/2012	SMF	Attend conference call with COE at Moore Engineering regarding right of entry.	1.00 hrs	160.00 /hr	160.00
02/28/2012	CMM	Draft service letter for Application; file application, set hearing date for application; request maps to be sent to respondents when the application is served upon them; participate in bi-weekly conference call with the corps; complete the letters to the landowners to convey the ROE Access Agreements for the new parcels we need.	2.90 hrs	160.00 /hr	463.99
02/29/2012	JDR	Interoffice conference with attorney Chris McShane; obtain contact information for service of process on interested parties and draft correspondence to Dallas County (IA) and Frederick County (MD) Sheriffs' Departments; telephone conference with Ana Borza at US Bank regarding service of process on William Henry Larson, Jr.; telephone conference with process server; receive phone call from Jim Myhra at US Bank.	1.30 hrs	80.00 /hr	104.00
02/29/2012	CMM	Work on service issues, getting ROE Agreements completed for all of the landowners being served, and drafting a notice of hearing; telephone call from Mark Lambrecht regarding easement v. ROE; correspond with Nancy regarding action for her to file against a landowner.	2.50 hrs	160.00 /hr	400.00
03/01/2012	CMM	Telephone call to US Bank representative regarding service (leave message); review e-mail from Terry regarding cultural resources testing necessary around Sheyenne River.	0.70 hrs	160.00 /hr	112.00
03/02/2012	SMF	Correspond with Mark from AE2S; correspond with CH2M Hill regarding easement issue; review and revise attorney Chris McShane memo regarding easement vs. right of entry; correspond with Eric Dodds regarding monumenting; review monumenting rule.	3.00 hrs	160.00 /hr	480.00
03/02/2012	CMM	Draft memorandum to the Land Management Committee regarding ROE and easements; send Memo to Mark Lambrecht; correspond with Mark regarding the memo, and how it should be conveyed to the committee; work with staff to ensure the ROE application is properly served on the respondents.	1.90 hrs	160.00 /hr	304.00
03/05/2012	JDR	Receive phone call from process server regarding status update; review file; interoffice conference with attorney Chris McShane; follow-up telephone conference with process server; attempt to locate Keith and Bonnie Nelson.	0.40 hrs	80.00 /hr	32.00
03/05/2012	CMM	Work with paralegal Josh D. Roaldson regarding service of respondents; telephone conference with agent for one of the respondents; revise ROE agreement and send to the agent.	0.80 hrs	160.00 /hr	128.00
03/06/2012	JDR	Receive phone call from process server; interoffice conference with attorney Chris McShane; conduct property records search regarding resignation of trustee.	0.40 hrs	80.00 /hr	32.00
03/06/2012	SMF	Telephone conference with Mark Lambrecht; phone conference with the Corps, April Walker, CH2M Hill, and Mark Lambrecht.	1.80 hrs	160.00 /hr	288.00
03/06/2012	CMM	Telephone call from Damon Robert, assistant district counsel for the corps, regarding easement vs. ROE; telephone conference with Lee regarding concern over easements; participate in telephone conference with Ch2MHill, the Corps, and April Walker.	1.30 hrs	160.00 /hr	208.00

03/07/2012	JDR	Conference with process servers to receive and review Affidavit of Personal Service; interoffice conference with attorney Chris McShane; review file regarding Janet Mathys property; telephone conference with Scott Mathys; conduct property tax records search; interoffice conference with attorney Chris McShane. 0.60 hrs 80.00 /hr	48.00
03/07/2012	SMF	Phone conference with Mark Lambrecht; interoffice conference with attorney Robert G. Hoy regarding easement issue. 1.50 hrs 160.00 /hr	240.00
03/08/2012	JDR	Interoffice conference with attorney Chris McShane regarding Timothy Marks property; revise Exhibit B to Application; long distance telephone conference with Marin County (CA) process server; draft correspondence to process server; review file; follow-up with multiple Sheriff's departments regarding status update regarding service on interested parties. 0.60 hrs 80.00 /hr	48.00
03/08/2012	CMM	Attend Joint Board meeting to discuss ROE v. easement and update on the ROE process; telephone conference with landowner served with most current ROE action; review exhibit to the Application; work on service of application in California. 2.10 hrs 160.00 /hr	336.00
03/09/2012	RGH	Interoffice conference with attorney Chris McShane and emails with attorney Sean M. Fredricks regarding need for further easements for 2nd phase of cultural surveys on certain tracts. 0.30 hrs 160.00 /hr	48.00
03/09/2012	JDR	Interoffice conference with attorney Chris McShane; long distance telephone conference with Marin County (CA) process server regarding Timothy Mark; receive Sheriff's Return form Frederick County (MD) Sheriff's Office; draft email to Pro Serve; telephone conference with Nancy Morris at attorney Johnson's office. 0.50 hrs 80.00 /hr	40.00
03/09/2012	CMM	Check on service of the Applications; review statutory eminent domain process for the Water Resource District; draft memo to the land management committee regarding eminent domain process. 1.50 hrs 160.00 /hr	240.00
03/12/2012	JDR	Receive phone call from Nancy Morris regarding Herman Rabanus property; review file; draft Access Agreement and email to Nancy Morris; review file regarding previous Access Agreement; interoffice conference with paralegal Carol Stillwell; telephone conference with process server; travel to attorney Johnson's office. 1.20 hrs 80.00 /hr	96.00
03/12/2012	SMF	Review and revise memorandum to Mark Lambrecht and Land Management Committee regarding temporary easement takings; review WRD quick-take statute; correspond with Lambrecht. 1.00 hrs 160.00 /hr	160.00
03/14/2012	JDR	Interoffice conference with attorney Chris McShane; receive and review Affidavits of Service; draft email to attorney Nancy Morris; e-file documents; telephone conference with process server. 0.40 hrs 80.00 /hr	32.00
03/14/2012	CMM	Review memo to land management committee regarding eminent domain process; review e-mails about eminent domain memo; work with Nancy Morris to send ROE agreement to Herman Rabanus; correspond by e-mail with attorney for the Red River trust; telephone conference with Lee about USGS survey on property we have obtained Court Orders to access; review court orders; send e-mail to Lee indicating the USGS survey can be done with the current court orders. 1.80 hrs 160.00 /hr	288.00
03/15/2012	CAS	Research tax records. 0.50 hrs 80.00 /hr	40.00
03/15/2012	CMM	Draft affidavit for Lee to go with the memorandum of law in support of Application for Right of Entry; telephone conference with Brad regarding access agreements for the USGS survey; respond to USGS survey issues; review our records to provide Court Orders showing granted access for USGS survey; review list of parcels we need to access to allow for bridge design. 2.20 hrs 160.00 /hr	352.00
03/15/2012	ARR	Prepare Affidavit in Support of Cass County Joint Water Resource District's Application for Permit to Enter Upon Land and Memorandum of Law in Support of Application for Permit to Enter Upon Land for Court File No. 09-2012-CV-00631. 0.50 hrs 75.00 /hr	37.50
03/16/2012	JDR	Receive and review Affidavit of Service; interoffice conference with attorney Chris	



		McShane.			
			0.20 hrs	80.00 /hr	16.00
03/16/2012	CMM	Complete Memorandum of Law in support of application; complete the affidavit of Lee in support of the Application; review properties impacted by bridge design work; begin process of drafting access agreements; send signed access agreement to the attorney for the red river trust by e-mail.			
			1.40 hrs	160.00 /hr	224.00
03/19/2012	CAS	Research ownership on NDRIN.			
			0.60 hrs	80.00 /hr	48.00
03/19/2012	RGH	Interoffice conference with attorney Chris McShane to discuss need to monitor peak flows in Maple River and informal efforts to access same through contact with K. Heiden; suggest method and course of action.			
			0.30 hrs	160.00 /hr	48.00
03/19/2012	CMM	Revise Memorandum of Law in support of Application for Right of Entry; serve memorandum of law and affidavit of Lee; review record title holders for the properties we need access to around the bridge structures; review e-mails from USGS survey coordinator regarding access to the Heiden property for the survey; respond to the e-mails regarding access by atv and regarding damage to a road.			
			2.40 hrs	160.00 /hr	384.00
03/19/2012	ARR	Mailings for Affidavit in Support of Cass County Joint Water Resource District's Application for Permit to Enter Upon Land and Memorandum of Law in Support of Application for Permit to Enter Upon Land for case # 09-2012-CV-00631.			
			3.00 hrs	75.00 /hr	225.00
03/20/2012	JDR	Interoffice conference with attorney Robert G. Hoy and attorney Chris McShane regarding upcoming hearing; review Court docket for hearing; obtain contact information for landowners of subject property in next phase of project; determine status of Access Agreements.			
			1.20 hrs	80.00 /hr	96.00
03/20/2012	CMM	Draft letter to landowners impacted by the bridge design process; review access agreements; review e-mails from Katie about access to the Henke properties; send access agreements to Pam, along with cover letters to print out; work with staff to get phone numbers and addresses for landowners we need access to.			
			1.90 hrs	160.00 /hr	304.00
03/20/2012	ARR	Download ROE Updated List dated 3/15/12; create Access Agreements and Landowner/Service List for 2012 Bridge Drain parcels; prepare service letters to be sent to landowners.			
			1.60 hrs	75.00 /hr	120.00
03/21/2012	CMM	Work with paralegal Carol Stillwell to obtain legal descriptions for the ROE resolution of necessity for expiring and expired parcels; correspond with Lee and Carol regarding the letter of the cover letter being sent to the landowners.			
			0.60 hrs	160.00 /hr	96.00
		Total fees for this matter			<u>\$8,180.50</u>

**EXPENSES**

02/23/2012	North Dakota Recorders Information Network fee	\$50.00
02/28/2012	Cass County filing fee	\$80.00
02/29/2012	Process Service Fee paid to the Frederick County Sheriffs Office	\$60.00
02/29/2012	Process Service Fees paid to the Dallas County Sheriffs Office	\$150.00
03/01/2012	Process Service Fee paid to ProServe USA	\$55.00
03/02/2012	Cass County filing fee	\$80.00
03/06/2012	Postage for two Certified Mailings on 3/6/12	\$16.00
03/07/2012	Process Service Fees paid to You've Been Served	\$547.00
03/08/2012	Process Service Fee paid to Marin Process Service	\$55.00
03/08/2012	Postage	\$9.75

03/09/2012	UPS package delivered to Dallas Co Sheriffs Office on 3/1/12 from Joshua D Roaldson	\$60.83
03/09/2012	UPS package delivered to Frederick Co Sheriffs Office on 3/1/12 from Joshua D Roaldson	\$11.17
03/09/2012	UPS package delivered to Proserve USA on 3/2/12 from Joshua D Roaldson	\$11.53
03/13/2012	Travel Expense for travel to Erik Johnson's office on 3/12/12 to pick up documents paid to Josh D Roaldson	\$6.66
03/13/2012	UPS package delivered to Marin Process Service on 3/9/12 from Joshua D Roaldson	\$11.63
03/15/2012	Refund Dallas County Sheriff's Office	(\$100.58)
03/16/2012	Process Service Fee paid to Marin Process Service	(\$55.00)
03/19/2012	Postage	\$65.67
03/19/2012	North Dakota Recorders Information Network fee	\$30.00
	Total expenses for this matter	<u>\$1,144.66</u>

**BILLING SUMMARY**

Total fees	\$8,180.50
Total expenses	\$1,144.66
<b>Total of new charges for this invoice</b>	<b><u>\$9,325.16</u></b>
<b>Total balance now due</b>	<b><u>\$9,325.16</u></b>

*Erik R. Johnson & Associates, Ltd*

*Attorneys at Law*

*505 Broadway - Suite 206*

*Fargo, ND 58102*

*(701) 280-1901*

Cass County Joint Water Resource District  
1201 Main Avenue West  
West Fargo, ND 58078

*Invoice*

Date	3/25/2012
Invoice #	

Description	Amount
Nancy Morris legal services [Rabanus matter]: 2/28/2012 Review correspondence re: ROE Rabanus 0.5 2/29/2012 Correspondence with Chris McShane 0.4 3/7/2012 Revise application and pleading; email Chris McShane 1.2 3/12/2012 TCW Josh, revise pleadings, prepare for service 0.8 3/14/2012 Correspondence; affidavit of service; access agreement; corr. To defendant; file pleadings 0.9 3/15/2012 Confirm filing of Aff. Of Service 0.2 TOTAL: 4.0 HRS	600.00
03/07/2012 Clerk of District Court - Filing Fees for ROE (Rabanus)	80.00
<b>PAID</b> APR 17 2012 CK# 10251 <i>GR</i>	
<i>Thank you for your business</i>	<b>Total</b> \$680.00



Shaping the Region for 50 Years.

925 10th Avenue East • West Fargo, ND 58078  
T: 701.282.4692 F: 701.282.4530

Cass Co Joint Water Resource Dist.  
Attn: Carol Lewis  
1201 West Main Ave  
West Fargo, ND 58078-1301

Invoice number 2920  
Date 03/30/2012

Project 15043 FM Metro Feasibility-Diversion

Professional Services

Phase 004

Property Access Right-of-Way

Labor

	Hours	Rate	Billed Amount
GIS Manager	1.00	125.00	125.00
GIS Technician II	41.00	90.00	3,690.00
GIS Technician III	8.50	100.00	850.00
Right-Of-Way Coordinator	151.00	100.00	15,100.00
Senior Project Manager	15.50	145.00	2,247.50
Labor subtotal	217.00		22,012.50

Expense

	Units	Rate	Billed Amount
Miles	14.00	0.65	9.10

Consultant

	Units	Rate	Billed Amount
Contracted Service Kadmas, Lee & Jackson, Inc.			2,394.28

PAID

APR 17 2012  
CK#10250  
GK

Invoice total 24,415.88

PLEASE REMIT PAYMENT - ATTENTION ACCOUNTING

**OHNSTAD TWICHELL, P.C.**  
 901 13TH AVENUE EAST  
 PO BOX 458  
 WEST FARGO ND 58078-0458  
 WK 701-282-3249 FAX 701-282-0825  
 Federal I.D. #45-0310621

April 25, 2012

**CASS COUNTY JOINT WATER RESOURCE DISTRICT**  
**ATTN CAROL HARBEKE LEWIS**  
**1201 W MAIN AVE**  
**WEST FARGO, ND 58078-1301**


Invoice# 113854 SMF  
 Our file# 100007 00007  
 Billing through 04/21/2012

**FM DIVERSION - RIGHT OF ENTRY**

Balance forward as of invoice dated	03/27/12	\$9,325.16
Last payment received	04/18/2012	\$9,325.16
A/R adjustments made since last invoice		\$0.00
Accounts receivable balance carried forward		<u>\$0.00</u>

**PROFESSIONAL SERVICES**

03/22/2012	CAS	Research property descriptions; prepare chart with descriptions of expiring right of entry properties.	142.50
		1.90 hrs                      75.00 /hr	
03/22/2012	CMM	Draft resolution of necessity for the properties the corps has requested access to for the 2012 season; review title documents for exhibit to resolution of necessity and for Application; attend regular meeting of the Board; conference with Pam regarding her efforts to contact the landowners before they are served with an application.	375.00
		2.50 hrs                      150.00 /hr	
03/23/2012	CMM	Telephone conference with Shane Smith regarding ROE agreement; modify agreement and send it to him by e-mail; send updated list of properties subject to pending action to Lee; review updates to the spreadsheet.	128.00
		0.80 hrs                      160.00 /hr	
03/26/2012	JDR	Receive phone call from Mathew Sondreal; draft email to attorney Chris McShane; interoffice conference with attorney Chris McShane.	24.00
		0.30 hrs                      80.00 /hr	
03/26/2012	CMM	Review e-mails from Pam regarding signed access agreements she has received; interoffice conference with paralegal Josh D. Roaldson regarding landowner who called to say he would sign an agreement; telephone call from Kevin Heiden regarding date and time for the next hearing.	96.00
		0.60 hrs                      160.00 /hr	
03/27/2012	CAS	Research complete legal descriptions of properties; telephone conference with Rob at Cass County Auditor's office regarding legal description for parcel 64-0000-02334-020.	72.00
		0.90 hrs                      80.00 /hr	
03/27/2012	JDR	Interoffice conference with attorney Chris McShane; obtain contact information for Mathew Sondreal regarding obtaining additional Access Agreement.	16.00
		0.20 hrs                      80.00 /hr	
03/27/2012	SMF	Review easement outline prepared by Mark Lambrecht; interoffice conference with attorney Chris McShane regarding same; conference call with the Corps, etc., for bi-weekly ROE meeting.	448.00
		2.80 hrs                      160.00 /hr	
03/27/2012	CMM	Participate in bi-weekly telephone conference with the corps regarding right of	

**PAID**  
 MAY 17 2012  
 10292  


		entry; review the signed access agreements being returned.		
		1.80 hrs	160.00 /hr	288.00
03/28/2012	SMF	Telephone conference with Mark Lambrecht regarding eminent domain issues; interoffice conference with attorney Chris McShane regarding quick-take issues.		
		0.70 hrs	160.00 /hr	112.00
03/28/2012	CMM	Prepare for hearing; review what Mark Lambrecht wanted to have added to the memo to the land management group.		
		1.20 hrs	160.00 /hr	192.00
03/29/2012	JDR	Interoffice conference with attorney Chris McShane regarding Sondreal property.		
		0.10 hrs	80.00 /hr	8.00
03/29/2012	SMF	Review and revise draft memorandum regarding eminent domain procedures; correspond with Mark Lambrecht regarding same.		
		1.00 hrs	160.00 /hr	160.00
03/29/2012	CMM	Prepare proposed order for hearing; request maps from Moore Engineering for use at the hearing; outline argument for hearing; telephone conference from Bonnie Nelson regarding hearing; travel to and from hearing; participate in hearing on Application for right to enter property; file Order for Entry Upon Land with the clerk's office; draft cover letters to be sent to the landowners who signed access agreements, those landowners who signed one of two access agreements, and those landowners who did not sign an access agreement; serve notice of entry of order; revise memo to the land management group to include information about obtaining permanent right of way.		
		6.70 hrs	160.00 /hr	1072.00
03/30/2012	CMM	Telephone conference with Brad regarding access obtained by court order.		
		0.30 hrs	160.00 /hr	48.00
03/30/2012	LSH	Diagram legal descriptions to determine property description to be used for diversion project.		
		0.30 hrs	80.00 /hr	24.00
04/02/2012	RGH	Interoffice conference with attorney Chris McShane regarding last week's hearing and Judge Irby's concerns, duration of Order.		
		0.20 hrs	160.00 /hr	32.00
04/02/2012	CMM	Review e-mail about the Charles Richard land; respond to e-mail, and forward to Brad and Lee.		
		0.40 hrs	160.00 /hr	64.00
04/02/2012	CMM	Review e-mails from Katie about notifying a landowner about the raptor survey; revise letter to landowner and e-mail to Brad.		
		0.30 hrs	160.00 /hr	48.00
04/03/2012	CMM	Review legal descriptions and owners of parcels we will be starting ROE action against soon; telephone conference with Brad regarding Hector property; review property list to ensure all landowners are listed and all of the properties that have signed access agreements have been removed from the list.		
		1.60 hrs	160.00 /hr	256.00
04/05/2012	CMM	Review e-mail from Mark Lambrecht regarding retaining mineral rights; find statute limiting the use of eminent domain to acquire minerals; send e-mail back to Mark regarding acquisition of minerals.		
		0.50 hrs	160.00 /hr	80.00
04/06/2012	CMM	Review e-mails from Mark Lambrecht, Gene Barr (CH2MHill) and John Albrecht (Corps); respond to e-mail from Gene regarding whether mineral right holder would need to drill through the channel to get the minerals underneath it; telephone conference with Brad regarding what ROE is expiring, and whether it is needed for 2012 or not; review spreadsheets from Katie; correspond by e-mail with Brad, Lee, and Gary Zimmer from Moore; telephone call to Katie Young (leave voice message).		
		1.70 hrs	160.00 /hr	272.00
04/09/2012	CAS	Telephone conference with Jenni at Cass County Auditor's office regarding Hector description; research description for right-of-way deed through Hector property; interoffice conference with attorney Chris McShane regarding Hector property.		
		0.40 hrs	80.00 /hr	32.00
04/09/2012	SMF	Review easement description prepared by Mark Lambrecht; prepare comments; interoffice conference with attorney Chris McShane regarding same; review joint powers agreements with Fargo and Cass County regarding right of way.		
		1.00 hrs	160.00 /hr	160.00

04/09/2012	CMM	Review title documents for use in developing landowner list to be subject to ROE process; review and revise easement advisory memo then e-mail it to Mark Lambrecht; correspond with Katie and Brad by e-mail.	0.80 hrs	160.00 /hr	128.00
04/10/2012	CMM	Review e-mails from the attorney for the Red River Trust; coordinate signature of revised agreements for the Red River Trust; prepare for telephone conference with Katie regarding additional parcels added in March; telephone conference with Katie (with Brad) regarding the additional HTRW parcels added for ROE on the March list; participate in bi-weekly telephone conference with the Corps regarding right of way acquisition.	1.80 hrs	160.00 /hr	288.00
04/11/2012	SMF	Review easement guideline document; correspond with Mark Lambrecht regarding comments; correspond with the Joint Board.	1.00 hrs	160.00 /hr	160.00
04/11/2012	CMM	Review and respond to e-mail from Mark Lambrecht regarding the form of Access Agreement we use.	0.30 hrs	160.00 /hr	48.00
04/12/2012	CMM	Attend CCJT meeting to discuss ROE acquisition process and update the board on developments since the last meeting; review e-mail from Brad Dahl regarding Fred Hector signing a ROE.	1.70 hrs	160.00 /hr	272.00
04/13/2012	JDR	Interoffice conference with attorney Chris McShane; obtain contact information for interested party.	0.20 hrs	80.00 /hr	16.00
04/13/2012	SMF	Correspond with Mark Lambrecht; review and revise guidelines.	1.00 hrs	160.00 /hr	160.00
04/13/2012	CMM	Review order sent by Nancy Morris; telephone call to Nancy to have her submit a new exhibit for the order that includes only the Rabanus property.	0.60 hrs	160.00 /hr	96.00
04/15/2012	CMM	Respond to e-mails from Shane Smith regarding ROE agreement.	0.30 hrs	160.00 /hr	48.00
04/16/2012	CMM	Telephone conference with Nancy Morris; review Order entered for ROE on Rabanus property; telephone call to Nancy (leave message); review e-mail about Hector property and draft responses e-mail.	0.60 hrs	160.00 /hr	96.00
04/17/2012	CMM	Review and respond to e-mail from Carol regarding Hector property; review e-mail from Terry regarding mitigation property; telephone conference with Brad regarding Fred Hector; send e-mail to Sean, Chad, and Carol regarding what to tell Fred about mitigation being considered for his property.	0.80 hrs	160.00 /hr	128.00
04/18/2012	CMM	Review e-mail from Lee about boring payments; discuss possible need for 1099s with attorney Sean M. Fredricks; redraft access agreement for Shane Smith; telephone conference with Brad Dahl about Hector property for mitigation; send e-mail to Terry about Brad's meeting with Fred; send e-mail to April Walker regarding cultural resources surveys; review e-mails from URS and from April regarding cultural resources surveys; correspond with Brad via e-mail regarding the properties we need access to for cultural resources surveys; review list provided by Brad showing what parcels are needed for cultural resources surveys in May and June; instruct staff to pull tax statements on properties where ROE is needed for cultural resource surveys occurring in May and June.	1.50 hrs	160.00 /hr	240.00
04/19/2012	JDR	Interoffice conference with attorney Chris McShane; obtain contact information for owners of additional properties; draft memorandum to process server; draft correspondence to Marin County Sheriff Department.	0.60 hrs	80.00 /hr	48.00
04/19/2012	CMM	Review and respond to e-mail from Shane Smith regarding crop damage provision; review which parcels we need access to for cultural resources studies to be done in May; draft access agreements for cultural resources parcels; correspond with Brad about maps for access agreements; conference with Brad to obtain maps and review draft letter to landowners; revise letter to landowners to indicate ROE has simply expired; send access agreements and letters to Pam; telephone conference with Pam about cultural resources ROEs and Red River trust ROE; send Red River Trust ROE to attorney for the trust; draft application for ROE to be filed with the court; revise list of landowners to be attached to the Application; draft cover letter for service of			

		ROE application; instruct paralegal Josh D. Roaldson to draft memos to process servers for court action.		
			4.20 hrs	160.00 /hr
				672.00
04/19/2012	ARR	Create Access Agreements, Address List, and letters to landowners for Diversion Authority signature for parcels in Cultural Expiring Before June.		
			2.10 hrs	75.00 /hr
				157.50
		Total fees for this matter		<u>\$6,707.00</u>

**EXPENSES**

03/23/2012		Receipt #516819 copies from the Cass County Recorder on 3/23/12		\$27.00
03/23/2012		North Dakota Recorders Information Network fee		\$2.00
03/29/2012		Postage		\$7.80
04/09/2012		North Dakota Recorders Information Network fee		\$3.00
04/09/2012		North Dakota Recorders Information Network fee		\$3.00
04/19/2012		Travel by Ashley Rettig to Cass County Jt WRD office		\$3.35
04/20/2012		Travel by Ashley Rettig to Distric Courthouse		\$3.33
04/20/2012		Filing Fee paid to the Cass County Clerk of Court		\$80.00
04/21/2012		Photocopies		\$239.20
		Total expenses for this matter		<u>\$368.68</u>

**BILLING SUMMARY**

Total fees	\$6,707.00
Total expenses	<u>\$368.68</u>
Total of new charges for this invoice	<u>\$7,075.68</u>
Total balance now due	<u>\$7,075.68</u>





Shaping the Region for 50 Years.

925 10th Avenue East • West Fargo, ND 58078  
T: 701.282.4692 F: 701.282.4530

Cass Co Joint Water Resource Dist.  
Attn: Carol Lewis  
1201 West Main Ave  
West Fargo, ND 58078-1301

Invoice number 3062  
Date 04/27/2012

Project 15043 FM Metro Feasibility-Diversion

Professional Services

Phase 004

Property Access Right-of-Way

Labor

	Hours	Rate	Billed Amount
GIS Manager	4.50	125.00	562.50
GIS Technician II	47.00	90.00	4,230.00
GIS Technician III	2.00	100.00	200.00
Principal Engineer	2.00	155.00	310.00
Right-Of-Way Coordinator	85.00	100.00	8,500.00
Senior Project Manager	11.00	145.00	1,595.00
Labor subtotal	151.50		15,397.50

Expense

	Units	Rate	Billed Amount
Miles	144.00	0.65	93.60

Invoice total **15,491.10**

PLEASE REMIT PAYMENT - ATTENTION ACCOUNTING

PAID

MAY 17 2012

CLD 10293

**OHNSTAD TWICHELL, P.C.**  
 901 13TH AVENUE EAST  
 PO BOX 458  
 WEST FARGO ND 58078-0458  
 WK 701-282-3249 FAX 701-282-0825  
 Federal I.D. #45-0310621

May 21, 2012

CASS COUNTY JOINT WATER RESOURCE DISTRICT  
 ATTN CAROL HARBEKE LEWIS  
 1201 W MAIN AVE  
 WEST FARGO, ND 58078-1301

Invoice# 114440 SMF  
 Our file# 100007 00007  
 Billing through 05/18/2012

**FM DIVERSION - RIGHT OF ENTRY**

Balance forward as of invoice dated	04/25/12	\$7,075.68
Last payment received	05/18/2012	\$7,075.68
A/R adjustments made since last invoice		\$0.00
Accounts receivable balance carried forward		\$0.00

**PROFESSIONAL SERVICES**

04/20/2012	CMM	Complete Application for latest round of ROE; file Application and telephone conference with scheduling clerk to obtain hearing date for the Application; provide the Application, notice of hearing, and notice of assignment of judge to the process server along with letters to each landowner and another ROE agreement for them to sign if they choose to do so; review what parcels we need access to for the cultural resources surveys; instruct staff to draft access agreements for those parcels; telephone conference with Pam about the Access Agreements for cultural resources testing; correspond with the attorney for the Red River Valley trust regarding ROE.	
		3.20 hrs                      160.00 /hr	512.00
04/23/2012	RGH	Telephone conference with District Court staff regarding assignment of Judge Racek to case and scheduling; circulate memo to attorney Chris McShane and paralegal Josh D. Roaldson to advise of same.	
		0.30 hrs                      160.00 /hr	48.00
04/23/2012	JDR	Review notes from attorney Chris McShane; continue to obtain contact information for multiple interested parties to receive service fo process; long distance telephone conference with Essex County (MA) Sheriff Department; draft correspondence to Essex County Sheriff's Department; draft Affidavit of Service by Certified Mail.	
		0.50 hrs                      80.00 /hr	40.00
04/24/2012	CAS	Research ownership and description of parcels.	
		0.50 hrs                      80.00 /hr	40.00
04/24/2012	JDR	Interoffice conference with attorney Chris McShane; locate process servers in CA and MA; draft correspondence to Marin Process Service(CA) and Atlantic Legal Support Services(MA); long distance telephone conference with Atlantic Legal Support Services.	
		0.40 hrs                      80.00 /hr	32.00
04/24/2012	SMF	Conference call with the Corps regarding right of entry; interoffice conference with attorney Chris McShane regarding list issues from the Corps.	
		1.30 hrs                      160.00 /hr	208.00
04/24/2012	CMM	Review list of properties cultural resource testing will be done for in May; conference with Brad about the cultural resources properties; participate in telephone conference; follow up telephone conference with e-mail to Katie and to April regarding the need to document any crop damage; forward response from cultural resources team leader on to Carol and Lee; provide staff with list of properties we	

**PAID**  
 MAY 24 2012  
 OK 10303  
*Ch*

		need to send Access Agreements for; work with paralegal Josh D. Roaldson to complete service for action started last week; inter office conference with paralegal David L. Miller to determine if service upon one landowners is effective for service upon all landowners.	2.40 hrs	160.00 /hr	384.00
04/24/2012	DLM	Conference with attorney Chris McShane; research service issue on co-owners of property.	1.50 hrs	80.00 /hr	120.00
04/24/2012	ARR	Create Access Agreements and Service List for parcels on ROE Spreadsheet dated 4/20/12.	0.80 hrs	75.00 /hr	60.00
04/26/2012	JDR	Receive voicemail from Atlantic Legal Support Services(2x); telephone conference with Atlantic Legal Support Services; draft email to attorney Chris McShane.	0.30 hrs	80.00 /hr	24.00
04/30/2012	JDR	Receive voice mail from Atlantic Legal Support Services regarding service upon Standish Marks; interoffice conference with attorney Chris McShane; long distance telephone conference with Peter Vitale of Atlantic Legal Support Services; attempt to contact Standish Marks.	0.40 hrs	80.00 /hr	32.00
05/01/2012	CMM	Respond to e-mails from Pam regarding access agreements.	0.20 hrs	160.00 /hr	32.00
05/02/2012	CMM	Telephone conference with April Walker regarding ROE; receive and review multiple e-mails from cultural resources contractor regarding when they will be doing the surveys and when; draft cover letters to landowners for ROE agreements; regarding which parcels need Agreements; send cover letters and agreements to Pam; correspond with Brad regarding when one of the access agreements will expire; draft new agreement to account for agreement that will expire in May.	1.30 hrs	160.00 /hr	208.00
05/04/2012	CMM	Correspondence with Pam by e-mail about ROE agreements being sent out today; review e-mail from cultural resources contractor regarding when they will be in town and how they plan to conduct the surveys (including how they will track damages).	0.30 hrs	160.00 /hr	48.00
05/07/2012	JDR	Receive and review Affidavit and documents from process server in Massachusetts; interoffice conference with attorney Chris McShane; e-file documents.	0.30 hrs	80.00 /hr	24.00
05/08/2012	CMM	Prepare for telephone conference with the corps; discuss ROE issues with Brad; participate in telephone conference with the Corps.	0.90 hrs	160.00 /hr	144.00
05/10/2012	JDR	Review email exchange between attorney Chris McShane and attorney Nancy Morris; interoffice conference with attorney Chris McShane; locate interested parties.	0.40 hrs	80.00 /hr	32.00
05/13/2012	CMM	Review and revise affidavit in support of application seeking ROE; review properties we need to start a court action against.	0.70 hrs	160.00 /hr	112.00
05/14/2012	CMM	Revise affidavit, memorandum of law, proposed order, and list of properties subject to the order in order to submit them to the court and serve on the landowners; send affidavit to Lee with attachments and request new maps; dictate cover letter for service upon landowners; correspond with Moore regarding maps needed for the affidavit.	3.00 hrs	160.00 /hr	480.00
05/15/2012	CMM	Respond to e-mail from Mark Lambrecht; correspondence with Lee about affidavit; telephone conference with Lee regarding affidavit, whether we should notify the court of the need to acquire an easement over Henke property in the near future, and when the next round of ROE will happen; ensure the Memorandum of Law, brief in support, and proposed order were properly served and filed.	1.90 hrs	160.00 /hr	304.00
05/16/2012	CMM	Respond to e-mails from Katie and Lee about what parcels we have access to; determine what parcels we need resolutions of necessity for; telephone conference with Brad regarding parcel Katie had asked about; research tax statement for parcel and instruct staff to draft ROE agreement; send cover letter to Pam, and ask Moore to produce a map for the ROE agreement.	1.60 hrs	160.00 /hr	256.00

05/17/2012	CMM	Instruct staff to draft ROE agreements for certain highway right of ways; review how the signature block for Cass County should be drafted; correspond with Brad about duration of the ROE, and when we will have the maps to attach to the ROE agreement; send ROE agreements to Jason Benson for signature.	1.00 hrs	160.00 /hr	160.00
05/18/2012	JDR	Obtain contact information for interested parties for next phase.	0.30 hrs	80.00 /hr	24.00
05/18/2012	CMM	Review the parcels we sent letters out on, that we have not received agreements back for; telephone conference with Nancy Morris about conflict ROE proceedings; instruct staff to find legal descriptions for the properties we need to do a resolution of necessity for, and phone numbers for those people we have not received access agreements for; correspond with Moore about several properties the corps added to the ROE list.	2.00 hrs	160.00 /hr	320.00
Total fees for this matter					<u>\$3,644.00</u>

**EXPENSES**

04/23/2012	Process Service Fee paid to You've Been Served	\$314.73
04/23/2012	Postage	\$10.40
04/24/2012	Process Service Fee paid to Atlantic Legal Support Services	\$65.00
04/24/2012	Process Service Fee paid to Marin Process Service	\$55.00
04/30/2012	UPS package delivered to Marin Process Service on 4/25/12 from Chris M McShane	\$11.73
04/30/2012	UPS package delivered to Atlantic Legal Support Services on 4/25/12 from Chris M McShane	\$11.37
05/01/2012	Westlaw research	\$140.26
05/15/2012	Postage	\$9.90
Total expenses for this matter		<u>\$618.39</u>

**BILLING SUMMARY**


Total fees	\$3,644.00
Total expenses	\$618.39
<b>Total of new charges for this invoice</b>	<u><b>\$4,262.39</b></u>
<b>Total balance now due</b>	<u><b>\$4,262.39</b></u>

*Erik R. Johnson & Associates, Ltd*  
*Attorneys at Law*  
 505 Broadway - Suite 206  
 Fargo, ND 58102  
 (701) 280-1901

Cass County Joint Water Resource District  
 1201 Main Avenue West  
 West Fargo, ND 58078

*Invoice*

Date	4/25/2012
Invoice #	

Description	Amount
Rabanus access matter: 3/27/2012 Rabanus Revise Memorandum and Docs for ROW 0.8 3/28/2012 Rabanus Revise pleadings/correspondence 1.3 3/29/2012 Rabanus File docs (filing problems) 3 4/6/2012 □ Rabanus correspondence re: hearing 0.2 4/9/2012 Rabanus Prepare for and attend ROE hearing 1.2 4/9/2012 □ Rabanus □ Revise Order; correspondence with court 0.4 4/10/2012 Rabanus Correspondence re: Order from court 0.2	1,065.00
<b>PAID</b> MAY 24 2012 CL#10304 	
	<b>Total \$1,065.00</b>

*Erik R. Johnson & Associates, Ltd*

*Attorneys at Law*

*505 Broadway - Suite 206*

*Fargo, ND 58102*

*(701) 280-1901*

Cass County Joint Water Resource District  
1201 Main Avenue West  
West Fargo, ND 58078

*Invoice*

Date	5/25/2012
Invoice #	

Description	Amount
Nancy Morris legal services - -Right-of-Entry matters: 5/10/2012_Correspondence with Chris McShane; tcw Chris--0.2□□ 5/11/2012_Review correspondence re: ROE--0.3□□ 5/16/2012_Draft service letter, revise application, prepare filing--0.6□□ 5/16/2012_Research ownership interest and access agreement requirements, tc/w Chris McShane--0.8□□ 5/18/2012_Contact engineer, revise application, notice, file--1.4□□ 5/18/2012_tc/w Chris McShane, revise pleadings--0.6□□ 5/21/2012_Corr. Re: maps for Access Agreements--0.2□□ 5/23/2012_Review access agreement maps and corr., draft service correspondence, corr. w/ Josh re: service--0.6□□Total Hours -- 4.7 hrs x \$150/hr	705.00
<p style="text-align: right;">PAID JUN 18 2012 CL#10357 GR</p>	
<i>Thank you for your business.</i>	<b>Total</b> \$705.00



Shaping the Region for 50 Years.

925 10th Avenue East • West Fargo, ND 58078  
T: 701.282.4692 F: 701.282.4530

Cass Co Joint Water Resource Dist.  
Attn: Carol Lewis  
1201 West Main Ave  
West Fargo, ND 58078-1301

Invoice number 3201  
Date 05/22/2012

Project 15043 FM Metro Feasibility-Diversion

Professional Services

Phase 004

Property Access Right-of-Way

Labor

	Hours	Rate	Billed Amount
GIS Manager	0.50	125.00	62.50
GIS Technician II	11.50	90.00	1,035.00
GIS Technician III	4.50	100.00	450.00
Right-Of-Way Coordinator	54.50	100.00	5,450.00
Senior Project Manager	8.50	145.00	1,232.50
Labor subtotal	79.50		8,230.00

Expense

	Units	Rate	Billed Amount
Miles	2.00	0.65	1.30

Invoice total **8,231.30**

PLEASE REMIT PAYMENT - ATTENTION ACCOUNTING

PAID  
MAY 18 2012  
CL# 10328  
GL

June 13, 2012

**North Dakota Diversion Alignment Borings**

**Total Borings**

<i>Heiden Family LLLP Parcel # 70000013641000</i> 2809 Sheyenne St. West Fargo, ND 58078	(1) X \$250 = \$250
<i>Kevin L &amp; Pamela S Heiden ETAL Parcel # 44000000100000</i> 2715 Sheyenne St. West Fargo, ND 58078	(1) X \$250 = \$250
<i>Gerald Olson Parcel # 44000000080000</i> 843 10 <sup>th</sup> Ave E. West Fargo, ND 58078	(5) X \$250 = \$1,250
<i>Donna Baker (Burley) Parcel # 70000013643000</i> 16441 22 <sup>nd</sup> St SE Gardner, ND 58036-9616	(2) X \$250 = \$500
<i>Williams Farms c/o Arthur Mercantile Parcel # 44000001070000</i> 410 Main St. Arthur, ND 58006-4001	(9) X \$250 = \$2,250
<i>Williams Farms Parcel # 27000001598000</i> 401 Main St. Arthur, ND 58006-4001	(1) X \$250 = \$250
<i>Martha Grotenhuis Parcel # 44060000170000</i> 1502 16 <sup>th</sup> St S Fargo, ND 58103	(1) X \$250 = \$250
<i>Ruth B Olson Living Trust ETAL Parcel # 27000001597000 &amp; 27000001596000</i> 150 County RD 34 #1 Arthur, ND 58006-4102	(8) X \$250 = \$2,000
<i>Dean &amp; Mary Tvedt Parcel # 44000000730030</i> 2782 171 Ave SE Argusville, ND 58005-9789	(5) X \$250 = \$1,250

**PAID**

JUN 18 2012

CU# 10331-10339

GR



# Scope of Services Flood Diversion Board of Authority

---



July 11, 2012

**The PFM Group**

Jessica Cameron Mitchell  
800 Nicollet Mall  
Suite 2710  
Minneapolis, MN 55402  
612-338-3535  
612-338-7264 fax  
[cameronj@pfm.com](mailto:cameronj@pfm.com)

Maria Altomare  
77 West Port Plaza  
Suite 220  
St. Louis, MO 63146  
314-878-5000  
314-878-5333 fax  
[altomarem@pfm.com](mailto:altomarem@pfm.com)



## Scope of Services

---

PFM proposes the following scope of services for the Flood Diversion Board of Authority (the "Authority"). PFM shall provide services related to financial planning and policy development and services related to project funding and debt issuance. The services provided shall include but not necessarily be limited to the following:

1. Services related to the Financial Planning and Policy Development upon request of the Authority:
  - Assist the Authority in the formulation of Financial and Debt Policies.
  - Work collaboratively with the Authority, its Board, staff and consultants.
  - Analyze future debt capacity to determine the Authority's ability to raise future debt capital.
  - Assist the Authority with the development of the Authority's Financial Plan by assessing capital needs, identifying potential revenue sources, analyze financing alternatives such as pay-as-you-go, short-term vs. long-term financings, assessments, public/private projects, and grants and provide analysis of each alternative as required as to the budgetary and financial impact.
  - Review the reports of accountants, independent engineers and other project feasibility consultants to ensure that such studies adequately address technical, economic, and financial risk factors affecting the marketability of any proposed revenue debt issues; provide bond market assumptions necessary for financial projections included in these studies; attend all relevant working sessions regarding the preparations, review and completion of such independent studies, and provide written comments and recommendations regarding assumptions, analytic methods, and conclusions contained therein.
  - Develop, manage, and maintain computer model for long-term capital planning which provide for inputs regarding levels of ad valorem and non-ad valorem taxation, growth rates by revenue and expenditure item, timing, magnitude and cost of debt issuance, selected operating and debt ratio and other financial performance measures as may be determined by the Authority. Such model will be designed in conjunction with the existing financial model created by the Authority's Program Management Consultant, CH2M Hill.
  - Provide debt services schedules reflecting varying interest rates, issue sizes, and maturity structures as these are needed for feasibility consultants or for related Authority fiscal planning.
  - Attend meetings with staff, consultants and the Authority.
  - Coordinate communications with state and federal agencies. Assist in gaining necessary approvals, as appropriate.
  - Undertake any and all other financial planning and policy development assignments made by the Authority regarding bond and other financings, and financial policy including budget, tax, cash management issues and related fiscal policy and programs.
  - Assist the Authority in preparing financial presentations for public hearings and/or referendums.
  - Provide special financial services as requested by the Authority.
2. Services Related to Debt Transactions (Includes short-term financings, notes, loans, letters of credit, line of credit and bonds). Upon the request of the Authority:
  - Analyze financial and economic factors to determine if the issuance of bonds is appropriate.



## Scope of Services

---

- Develop a financing plan in concert with the Authority's staff which would include recommendations as to the timing and number of series of bonds to be issued.
- Assist the Authority by recommending the best method of sale, either as a negotiated sale, private placement or a public sale. In a public sale, make recommendation as to the determination of the best bid. In the event of a negotiated sale, assist in the solicitation, review and evaluation of any investment banking proposals, and provide advice and information necessary to aid in such selection.
- Advise as to the various financing alternatives available to the Authority.
- Develop alternatives related to Debt Transaction including evaluation of revenues available, maturity schedule, and cash flow requirements.
- Evaluate benefits of Debt Service Reserve Fund and/or other security enhancements.
- If appropriate, develop credit rating presentation and coordinate with the Authority the overall presentation to rating agencies.
- Assist the Authority in the procurement of other services relating to debt issuance such as printing, paying agent, registrar, etc.
- Identify key bond covenant features and advise on provisions to be included in bond resolutions and indentures regarding security, creation of reserve funds, flow of funds, redemption provisions, additional parity debt test, etc.; review and comment on successive drafts of bond resolutions.
- Review the requirements and submit analysis of Insurance, rating agencies and other professionals as they pertain to the Authority's obligation.
- Review the terms, conditions and structure of any proposed debt offering undertaken by the Authority and provide suggestions, modifications and enhancements where appropriate and necessary to reflect the constraints or current financial policy and fiscal capability.
- Assist in the preparation of the preliminary and final official statement and coordinate with the Authority the appropriate data, disclosure information and pertinent factors regarding the Authority and the proposed financing program.
- Provide regular updates of tax-exempt bond market conditions and advise the Authority as to the most advantageous timing for issuing its debt.
- Advise the Authority on the condition of the bond market at the time of sale, including volume, timing considerations, competing offerings, and general economic considerations.
- If a negotiated transaction, assist and advise the Authority in negotiations with investment banking groups regarding fees, pricing of the bonds and final terms of any security offering, and make in writing definitive recommendations regarding a proposed offering. Provide assurance that the pricing of the bonds is the lowest price based on existing market conditions.
- Arrange for the closing of the transaction including, but not limited, to bond printing, signing, and final delivery of the bonds.

### **Additional Available Resources**

As mentioned earlier in the proposal, PFM has a broad range of additional resources available to the Authority. Following are a few of those services.



## Scope of Services

---

**Public Private Partnerships** – PFM has been at the forefront of Public-Private Partnerships since their introduction to the U.S. markets. PFM has substantial experience in assisting its clients with reviewing and evaluating corporate credits. The ability of a private sector partner to perform as needed is a key issue in many circumstances. PFM has advised state and local agencies in the review and evaluation of more than 40 public-private partnerships (“P3”) projects. We have advised on the negotiation of 15 development agreements and on the financing of more than \$2 billion in projects. PFM views the role of planning as integral to developing a successful financing program. We have participated in numerous studies to determine the viability of public-private partnerships, privatization and other innovative funding alternatives. PFM typically engages in financial planning from a holistic viewpoint, analyzing every alternative and determining the most effective. Whether it is helping draft legislation, evaluating vendor financing alternatives, or advising on the benefits of design-build development, PFM prides itself in the ability to offer full service financial consulting to its clients. On May 16, 2011, PFM acquired Chicago-based Scott Balice Strategies LLC. The acquisition positions PFM as a leader with Midwest clients, large state and local governments, and as experts in the emerging field of public-private partnerships (P3s). Within the P3 sector, PFM has worked jointly and maintains a strong relationship with CH2M Hill.

**Quantitative Strategies Group** - PFM's Quantitative Strategies Group (the “QSG”) comprises a group of dedicated professionals whose mission is to develop proactive strategies and tools for all of PFM's business practices. Through the use of advanced financial analysis and commercial and proprietary software, the QSG develops customized solutions to meet the individual quantitative needs of all of our clients. Our extensive quantitative capabilities allow us to provide services which address the full scope of strategic and operational considerations, ranging from capital financing strategies, to strategic planning and budgeting, to investment management strategies. Our Financial Risk Management, Structural Optimization, Refunding Efficiency, Forward Pricing, Other Post-Employee Benefits, Capital Improvement Fund and Budget Projection Models, to name a few, assist us in achieving these objectives.

In addition to our on-going firm-wide support, the QSG constantly monitors the municipal market in order to stay abreast of new and emerging products and strategies and our strong market presence places PFM at the forefront of the development and implementation of these tools and strategies for our clients. To further enhance the accuracy and comprehensiveness of our leading quantitative resources, the QSG maintains direct access to numerous information services such as Bloomberg, Thomson Financial, Securities Data Corporation, and Municipal Market Advisors, among others.

In addition to the aforementioned roles, the QSG administers the firm's extensive three-month municipal finance training program for new and lateral hires. The QSG also participates in hosting PFM's training seminars for our clients, with topics spanning from the basics of transaction management to policy level considerations.

The multitude of services offered by the Quantitative Strategies Group assists PFM in optimizing its partnerships with clients. This collaborative relationship supports our clients' ability to exceed both short-term budgetary goals and long-term strategic and capital financing objectives.

**Pricing Group** - PFM has a dedicated, in-house bond Pricing Group that will join the core finance team to support the pricing of the Authority's bonds. PFM's Pricing Group operates completely independent of the underwriting of municipal securities by banks and securities dealers. The formation of PFM's Pricing Group provides centralized access to market information and trends, leverages our knowledge firm-wide for our clients' benefit, cultivates professional peer-to-peer relationships with underwriting desks, and fosters a better understanding of the internal workings of the underwriting process at the investment banks. Our approach to pricing debt instruments is unique in the municipal industry. PFM takes a rigorous and quantitative approach to pricing an issuer's bonds. Instead of “calling around” to investment bankers to get a feel for the market, the Pricing Group provides our clients with informed, independent advice on the structure and pricing of all their debt instruments. Our capital markets access and experience, combined with our vast technical capabilities and expertise in financial modeling, our total commitment to the issuer's point of view, our knowledge of state and federal securities law, and our clout as the largest financial advisor in the market enables PFM to offer our clients unparalleled depth and aptitude as their financial advisor. We are in the primary market, on average, three times per day pricing tax-exempt bond issues



## Scope of Services

---

for our clients. Moreover, we maintain a database on the pricing performance and syndicate member compensation on our client's bond issues.

**Research Group** - PFM professionals are supported by our Marketing & Research Support ("M&RS") department which specializes in market research, training, website development and graphic design.

M&RS, specifically, maintains an extensive library of industry publications and reports as well as on-line news resources such as Factiva, Bond Buyer and Thomson Municipal News. In addition to our in-house technical resources, PFM makes use of nationally recognized timesharing networks, database management systems, and market information repositories including those of: Bloomberg, Thomson-Reuters (Securities Data Corporation), Thomson Financial and Municipal Market Data, MuniStatements, Factiva, eMAXX, rating agency databases, and Municipal Market Advisors.

Further, access to the rating agency databases (Moody's, S&P, Fitch) allows PFM to retrieve information such as credit/special/criteria reports, municipal financial ratio analyses and press releases.

All of these resources allow us to also track municipal new issue pricings, access market interest rate scales, search for credit reports, and track secondary market trading activity and holders of bonds.

**Structured Products/Derivatives Advisory Group** - PFM is unique among financial advisory firms in that we have a group of professionals solely dedicated to the derivatives and structured financial products area—the PFM Structured Products and Derivatives Group. Our Structured Products professionals are focused on providing clients with the highest quality advice and insight on the utilization, structuring, procurement and management of interest rate swaps, derivatives, and other financial products. In the early 1990s, we made significant investments in experienced personnel and technology and set up a separate business group to focus on this extremely complex area. Today, PFM is the recognized leader in the industry in both providing swap analysis, policy and strategy development, and in providing swap procurement services on both competitive and negotiated swap transactions.

### Additional Services

PFM has additional services that the Authority may have interest in. Services relating to investments and arbitrage rebate are described in the following paragraphs.

#### Investment Advisory Services

PFM Asset Management's investment philosophy is one that seeks to avoid credit risk, minimize market risk and produce high investment returns. Our focus is on high quality short/intermediate term securities of active portfolio management within the constraints imposed by our clients' objectives of preserving principal and providing liquidity. The specific strategy PFM employs for each portfolio depends on the type of funds being managed (operating fund, reserves, etc.), current interest rates, permitted investments and liquidity requirements. Our primary objective is to avoid credit risk and minimize market risk, since this is the objective that is generally emphasized by our public sector clients. Hence we make no use of complex derivatives, little use of corporate credits below the AA rating, and limited use of mortgage-backed and asset-backed securities.

Active portfolio management permits us to respond to changes in the markets and changes in cash flow requirements or draw schedules. This dynamic yet disciplined approach means that investment return can be enhanced through prudent trading and portfolio restructuring without subjecting a portfolio to unnecessary risk. We monitor assets *and liabilities* on a regular basis so that we can take full advantage of opportunities presented by the market.

PFM views investments (assets) and financings (liabilities) to be intertwined and believes our clients are best served by contemplating the entire picture of asset liability management when making financial decisions. To assist our clients to this end, PFM has created a comprehensive asset liability model. Recognizing that the success of a capital program depends on management's ability to develop and implement a comprehensive strategy to optimize both assets and liabilities of their program, PFM can provide you with investment advice that goes well beyond a single transaction to procure a fixed rate investment. Each of our clients is faced with



## Scope of Services

---

different program challenges and unique program goals and objectives that must be considered in the framework of offering investment advice. In addition to advising on the procurement of fixed rate investments, we have provided the following investment advisory services to our clients:

- Review investment policies and practices;
- Review and assess standard bidding documents;
- Provide arbitrage rebate consulting;
- Design money market funds; and
- Construct individual portfolios.

Because we work exclusively with public funds, we are quite sensitive to the risk-minimizing investment objectives of our public sector clients. Safety is further enhanced because PFM never takes possession of our clients' securities or cash. These assets remain in the custody of each client's custodian bank. PFM also carefully monitors relevant legal restrictions that have been or could be imposed on the funds we manage to insure that all such requirements are met.

**Bond Proceeds Investment.** The provisions of the Tax Reform Act of 1986 and the arbitrage rebate regulations have made bond proceeds investment more complicated for tax-exempt bond issuers. PFM has developed innovative programs for investing bond proceeds that enable tax-exempt bond issuers to integrate arbitrage rebate considerations into investment strategies and to comply with the reporting requirements set forth by the arbitrage rebate regulations. These programs combine the convenience, accounting and cost-advantages of a short-term pool and the fixed return of a custom-designed portfolio of individual securities to maximize after-tax, or post rebate, earnings while complying with all aspects of the arbitrage rebate regulations. For a construction account, for example, target duration is derived from the draw down schedule, and funds may be invested in a laddered portfolio of securities and in a pooled liquidity vehicle. After the initial purchase of the portfolio, PFM monitors the draw down schedule through direct contact with client project managers or engineers, and continually updates cash flow projections. This active approach allows us to make appropriate adjustments to the portfolio so that assets and liabilities are properly matched, and earnings are maximized to the extent permitted by the arbitrage regulations.

### **PFM Payment Solutions Procurement Card (P-Card)**

The PFM Payment Solutions Procurement Card Program (P-Card) is a cost-free payments mechanism, which eliminates the typical requisition process and related costs associated with purchasing materials and services. The P-Card, which is a special type of credit card, streamlines the purchase of supplies, furniture, utilities, and more, saving staff time and money for your entity.

Participants in the PFM Payment Solutions Procurement Card Program receive cash rebates on their purchases if the total spend on the card equals or exceeds \$50,000. The more items purchased using the card, the greater the rebate percentage. Rebates are calculated on 100% of total spending on the P-Card and include all large-ticket items. All purchases are eligible for the rebate.

### **Arbitrage Rebate Compliance**

PFM provides arbitrage rebate calculation services to a diverse group of issuers located nationwide. We feel that our services are distinguished from others in that clients benefit not only from our rebate expertise but also from the combined financial advisory and investment advisory expertise that PFM brings to the table.

The Tax Reform Act of 1986 created a great deal of confusion and concern among tax-exempt bond issuers interested in managing their funds efficiently while complying fully with the new tax law. Many issuers have tried to address this problem by placing their bond proceeds in low-interest-bearing devices. Others have bid out all their investments at once, and have ignored the investments thereafter. Unfortunately, these simplistic responses do not give issuers the interest revenues they require, the flexibility that is essential to financing a capital project, and, worst of all, may yet fall short of complying with the Tax Reform Act regulations. For example, an issuer who invests in low-yielding securities might be faced with the prospect of the U.S. Treasury demanding that the issuer calculate its rebate based on the investments it could have obtained.





## Scope of Services

---

Given this uncertain climate, issuers now recognize the importance of obtaining expert advice with regard to investing their funds and with regard to arbitrage and rebate compliance. Often the best resolution of an arbitrage rebate problem is an investment solution. For example, it may be possible to offset negative arbitrage in one fund by investing another fund at a high yield and blending the two. Or it may be efficient to invest in tax-exempt securities to earn income above the bond yield that is not subject to rebate. In both of these cases, PFM's combined expertise in arbitrage rebate and investment can help assume not just that rebate rules are followed, but that net earnings are maximized.

PFM works diligently to gather accurate information, discuss any questions with the issuer and/or its legal counsel, complete calculations, deliver reports, and maintain records. All work is completed upon receipt of all necessary documents and investment records in accordance with a schedule agreed to by the client. To make sure that filing deadlines specified in the Federal Tax Code will be met, we maintain complete records of pertinent filing dates about each transaction.

PFMAM has worked with leading bond counsel firms across the nation on tax-exempt financings ranging from several hundred thousand dollars to \$700 million. Our approach to working with bond counsel firms is simple: PFMAM turns to bond counsel to interpret the provisions of the Internal Revenue Code with respect to the client's bond issue. Based on these interpretations, PFM prepares all of the mathematical computations necessary to compute the arbitrage rebate amount, if any, on the bonds. This report is then submitted to bond counsel which reviews PFMAM's methodology, and based on this review, issues a letter of comfort to the issuer stating that the methodology employed to calculate the yield on the bonds, the yield on the investments and the arbitrage rebate amount (if any), is in compliance with federal tax law. Bond counsel's role is to continue such reviews on an annual basis.

PFM does not use canned third-party software. Instead, we have produced internal software and, as appropriate, we develop customized models to address the particular circumstances of individual issuers. All such analyses are checked carefully and conform to industry standards. From our clients' perspectives, the value of this careful analysis is in having the highest possible degree of confidence that calculations are completed accurately and that all options for minimizing rebate are identified and explored. Using canned programs, which are inherently limited in their scope, cannot provide the same comfort or value. PFM's sophisticated accounting and reporting system provides accurate and up-to-date reports on each issuer's investment portfolio(s). These reports are furnished to bond counsel for use in its annual review.



## Fee Schedule

---

### **Retainer**

For the period from August 1, 2012-September 30, 2013, PFM proposes a retainer of \$10,000 per month.

### **Expenses**

Expenses that PFM would expect to be reimbursed for include, but are not limited to, travel, meals, lodging, express mail or other overnight delivery services, multi-party conference calls that we arrange, color printing and any special database or wire service searches or services.

### **Fees for Additional Services**

Fees for services described in "Additional Services" or related to an actual P3 transaction would be confirmed in a separate engagement letter or contract between PFM Asset Management LLC or Public Financial Management, Inc. and the Authority at the time the need for such services is identified.