

**FLOOD DIVERSION BOARD OF AUTHORITY**  
**Thursday, September 12, 2013**  
**3:30 PM**

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

1. Call to order
2. Executive session to discuss litigation strategy
3. Approve minutes from previous meeting Item 3. Action
4. Approve order of agenda Action
5. Program Management Consultant (PMC) update Information/action
  - a. Monthly report (Bruce Spiller)
  - b. Corps of Engineers monthly update (Brett Coleman)
  - c. Status of Authority Work Directives/Task Orders (Bruce Spiller) Item 5c.
  - d. Limited Joint Powers Agreement Amendment #2 (Erik Johnson) Item 5d.
  - e. Design Agreement Amendment #1 (Erik Johnson) Item 5e.
6. Committee updates Information/action
  - a. Retention update from Red River Basin Commission (Lance Yohe)
  - b. Land Management Committee (Dennis Walaker)
    - Committee report
  - c. Public Outreach Committee (Rodger Olson)
    - Committee report
  - d. Finance Committee (Michael Montplaisir)
    - Committee report
    - LIDAR funding
  - e. Business Leaders Task Force Committee (Tom Dawson)
    - Committee report
7. Voucher approval Item 7. Action
8. Other Business
9. Next Meeting – October 10, 2013
10. Adjournment

cc: Local Media

**FLOOD DIVERSION BOARD OF AUTHORITY  
AUGUST 8, 2013—3:30 PM**

Item 3.

**1. MEETING TO ORDER**

A meeting of the Flood Diversion Board of Authority was held Thursday, August 8, 2013, at 3:30 PM in the Fargo City Commission Room with the following members present: Cass County Commissioner Darrell Vanyo; Cass County Commissioner Ken Pawluk; West Fargo City Commissioner Mike Thorstad; Fargo City Mayor Dennis Walaker; Fargo City Commissioner Tim Mahoney; Fargo City Commissioner Brad Wimmer; Cass County Joint Water Resource District Manager Rodger Olson; Clay County Commissioner Kevin Campbell; and Moorhead City Council Member Brenda Elmer. Also present was ex-officio member Gerald Van Amburg, Buffalo-Red River Watershed District.

Staff members and others present: Cass County Administrator Keith Berndt; Fargo City Administrator Pat Zavoral; Moorhead City Manager Mike Redlinger; Clay County Administrator Brian Berg; Fargo City Director of Engineering Mark Bittner; Fargo City Engineer April Walker; Tom O'Hara, Program Manager, CH2MHill; Dirk Draper, CH2MHill; Tom Dawson, Chairman, Chamber of Commerce Business Leader Task Force for Permanent Flood Protection; Brett Coleman, Project Manager, Corps of Engineers; and Terry Williams, Project Manager, Corps of Engineers.

**2. MINUTES APPROVED**

*MOTION, passed*

**Mr. Mahoney moved and Mr. Campbell seconded to approve minutes from the July 11, 2013, meeting as written. Motion carried.**

**3. AGENDA ORDER**

*MOTION, passed*

**Mr. Mahoney moved and Mr. Wimmer seconded to approve the order of the agenda as presented. Motion carried.**

**4. PROGRAM MANAGEMENT FIRM UPDATE**

Program manager consultant monthly report

Tom O'Hara provided an update on activities over the last month including FY14 authority decisions; work on the design agreement amendment; progress on hardship acquisitions that included negotiations on the fourth property, and an appraisal conducted on the fifth property; and assisted the legal and administrative team on the second amendment to the Limited Joint Powers Agreement (JPA).

Corps of Engineers status update

Terry Williams said Corps of Engineers staff continues to work on the National Environmental Policy Act (NEPA) process to address project modifications, which she anticipates will be completed the end of August; provide continued support for the Minnesota EIS (Environmental Impact Statement) process; and preparation of responses to comments received regarding the supplemental Environmental Assessment (EA).

Ms. Williams said the project is awaiting federal authorization, and the United States House of Representatives is expected to address the Water Resources Development Act (WRDA) bill the end of September or beginning of October.

Task Orders and Authority Work Directives

Dirk Draper reviewed the status of existing Task Orders (TO) with the board. He also reviewed two new task orders as follows: Houston Moore Group (HMG) Task Order No. 13 Amendment No. 2 in the amount of \$4,090,000 and Corps of Engineers FY14 joint work plan funding in the amount of \$2,100,000 for a total of \$6,190,000.

***MOTION, passed***

**Mr. Mahoney moved and Mr. Thorstad seconded to approve Task Order No. 13, Amendment 2 with HMG for levee designs, and FY14 joint work plan funding with the Army Corps of Engineers for upstream staging. On roll call vote, the motion carried unanimously.**

Corps of Engineers FY14 work plan funding and FY14 program budget

Mr. O'Hara said the local sponsors and Corps of Engineers developed a FY14 joint work plan to identify recommended project activities to be completed in 2014. The total recommended budget is \$70 million with \$2.1 million in funding for the Corps of Engineers activities.

***MOTION, passed***

**Mr. Wimmer moved and Mr. Pawluk seconded to approve the FY14 program budget. On roll call vote, the motion carried unanimously.**

Limited Joint Powers Agreement Amendment No. 2

Erik Johnson, Fargo City Attorney, said the second amendment to the Limited Joint Powers Agreement (JPA) includes revisions regarding the following: the name of the entity created by the JPA to be known as the "Metro Flood Diversion Authority"; clarification of existing powers to enter into contracts, specifically with Oxbow for the ring levee, replacement property, and advancement and recoupment of funds; FY14 budget that clarifies that Minnesota entities will ask the Minnesota legislature to fund their share; and the official date when the Limited Joint Powers Agreement became effective, which was July 11, 2011.

***MOTION, passed***

**Mr. Mahoney moved and Mr. Campbell seconded to approve the Limited Joint Powers Agreement (LJPA) Amendment No. 2 for coordination with the six member entities, and the diversion board acknowledges the amendment requires approval by all six member entities before final approval. On roll call vote, the motion carried unanimously.**

The JPA will now be forwarded to the six member entities for their approval.

**5. UPDATES FROM COMMITTEES***Retention efforts update from Red River Basin Commission*

Lance Yohe, Executive Director, was present to provide an update from the Red River Basin Commission on the retention study. He discussed the progress made on main stem modeling, and said their organization has talked with the Minnesota DNR about the MN EIS scoping document and how it may be connected to the retention study. He said at this time \$156,339 out of the \$500,000 budget has been expended.

Land Management Committee

Mr. Walaker said the Land Management Committee met earlier this afternoon, and he provided a brief update, including action taken on the Oxbow Memorandum of Understanding (MOU) and land acquisition management services plan.

**Oxbow levee MOU**

Mr. Johnson said the board approved the MOU on June 13, 2013, and the document was forwarded to the City of Oxbow for review. The city approved the MOU with some revisions that clarify items related to the Oxbow Golf and Country Club as well as funding to be provided by Oxbow for administrative, legal, engineering and project management services.

***MOTION, passed***

**Mr. Mahoney moved and Mr. Walaker seconded to approve the Oxbow Levee Memorandum of Understanding for signature by the chairman of the Flood Diversion Board of Authority. On roll call vote, the motion carried unanimously.**

**Cass County Joint Water Resource District land acquisition plan**

The Cass County Joint Water Resource District (CCJWRD) provided a proposal to manage the North Dakota lands-related activities associated with the diversion project. The proposal outlines the responsibilities of the Flood Diversion Authority and the CCJWRD with the water district acting as the agent to acquire land.

***MOTION, passed***

**Mr. Pawluk moved and Mr. Walaker seconded to approve the proposal with the Cass County Joint Water Resource District for North Dakota lands-related services. On roll call vote, the motion carried unanimously.**

Public Outreach Committee

Mr. Olson said the Public Outreach Committee met on August 7<sup>th</sup>, and discussed the numerous outreach activities. He said the committee met with leaders from Moorhead and West Fargo to answer questions about the project; will meet with the City of Comstock on August 15<sup>th</sup> to discuss the project and a potential ring levee around the community; will continue to track North Dakota interim committee assignments; will prepare for a potential vote by the United States House on the WRDA bill this fall; updated the diversion website; and distributed the most current e-newsletter.

Finance Committee

Michael Montplaisir, Cass County Auditor, said the Finance Committee met on August 7<sup>th</sup> and reviewed the FY13 budget and FY14 funding, and continued discussion regarding the ongoing study of special assessments as a funding option. He said \$11 million is still available out of the \$29 million budget for 2013, and adequate cash is available to cover expenses for the foreseeable future.

**PMC Task Orders with CH2MHill for contract extension**

Mr. Berndt said CH2MHill submitted Task Order No. 3 and Task Order No. 4, which outline work to be provided under a six-month contract extension at a cost of \$180,000 per month.

Mr. Berndt said CH2MHill will still be involved in project activities but with a diminished presence until more is known about federal funding. He recommends approval of both task orders.

6. **VOUCHERS, Approved**  
***MOTION, passed***

**Mr. Mahoney moved and Ms. Elmer seconded to approve Task Order No. 3 and Task Order No. 4 with CH2MHill, and the vouchers for July, 2013. On roll call vote, the motion carried unanimously.**

7. **OTHER BUSINESS**

Mr. Vanyo said the Chamber of Commerce Business Leader Task Force will meet with North Dakota and Minnesota legislators on Tuesday, September 10<sup>th</sup>.

8. **NEXT MEETING DATE**

The next meeting will be held on Thursday, September 12, 2013, at 3:30 PM.

9. **ADJOURNMENT**

***MOTION, passed***

**On motion by Mr. Mahoney, seconded by Mr. Wimmer, and all voting in favor, the meeting was adjourned at 4:35 PM.**

# Task Order Summary

Date: September 12, 2013

<b>Task Order Summary</b>	<b>Budget Estimate (\$)</b>
HMG Task Order No. 1, Amendment 3 – Project Management	\$ 350,000
<ul style="list-style-type: none"> <li>Amendment to add scope and budget for FY14 Project Management</li> </ul>	
HMG Task Order No. 7, Amendment 1 – Recreation and Use Master Plan	\$ 0
<ul style="list-style-type: none"> <li>Delete scope for undulating berm designs south of the Maple River.</li> <li>Provide design and consulting services to assist with the incorporation of aesthetic and recreational features into the project design for WP-42 (Red River Levees) and WP-43 (Oxbow/Hickson/Bakke)</li> </ul>	
HMG Task Order No. 9, Amendment 8 – Hydrology and Hydraulic Modeling	\$310,000
<ul style="list-style-type: none"> <li>Phase 7.1 Model Update – Extend the Red River model from Grand Forks, ND to Drayton, ND.</li> <li>Continued funding of assistance for the USACE’s Maple River Aqueduct Physical and Numerical Model</li> <li>Phase 8 Model Update – Incorporate higher volume hydrology developed by the USACE and develop a 20-year event model</li> </ul>	
HMG Task Order No. 15, Amendment 0 – Draft Operations Plan	\$500,000
<ul style="list-style-type: none"> <li>Develop Draft Operations Plan</li> </ul>	
<b>Total of Task Orders</b>	<b>\$ 1,110,000</b>

## Task Order Summary – Extension of Period of Performance Only

HMG Task Order No. 2, Amendment 3 – Design of WP-2, CR-31 Bridge	December 31, 2013
HMG Task Order No. 3, Amendment 3 – Design of WP-4, CR-81 & I-29 Bridges	December 31, 2013
HMG Task Order No. 4, Amendment 3 – Design of WP-7, CR-32/CR-22 Bridges	December 31, 2013
HMG Task Order No. 6, Amendment 3 – Land Management Services	September 30, 2014
HMG Task Order No. 8, Amendment 5 – Work-in-Kind	September 30, 2014
HMG Task Order No. 10, Amendment 3 – Utilities	September 30, 2014
HMG Task Order No. 11, Amendment 1 – Design of WP-11, CR-20 Bridge	June 30, 2014
HMG Task Order No. 14, Amendment 1 – Transportation and Drainage	June 30, 2014
ProSource Task Order No. 1, Amendment 1 – Land Acquisition Services	September 30, 2014
Ulteig Task Order No. 1, Amendment 1 – Land Acquisition Services	September 30, 2014

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## **TASK ORDER SUMMARY**

### **HMG – Task Order No. 1 – Amendment 3 Project Management**

**Increase \$ 350,000  
Schedule Extension**

#### ***Description:***

- A. Provide lead project managers to manage day-to-day activities of the engineering design consultant and provide support for agency and public meetings.
- B. Provide project controls, including cost and schedule monitoring and reporting.
- C. Provide On-Call Services as directed in writing by Owner or Engineer.

#### ***Background:***

Project management services are required for design and Work In Kind (WIK) task orders contracted under the overall Master Services Agreement.

Extend Schedule to September 30, 2014.

#### ***Recommendation:***

PMC recommends authorization for Task Order No. 1, Amendment 3 for \$350,000.

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### **HMG – Task Order No. 7 – Amendment 1 Recreation and Use Master Plan**

**No Cost Change  
Schedule Extension**

#### ***Description:***

- B. UNDULATION DESIGN:
  - I. Delete undulating berm design scope for Diversion Channel Reaches south of the Maple River.
- C. DESIGN SUPPORT for WP-42 (RED RIVER LEVEES) and WP-43 (O/H/B RING LEVEE):
  - I. WP-42 - Provide consulting services to assist with the incorporation of aesthetic and recreational features into the project design. Coordinate with the adjacent City of Fargo projects.
  - II. WP-43 - Provide design and consulting services to assist with the incorporation of aesthetic and recreational features into the project design. For WP – 43A and WP – 43C, coordinate with the City of Oxbow and the Oxbow Golf and Country Club projects.

Extend schedule to September 30, 2014.

#### ***Background:***

Diversion Channel design work south of the Maple River has been paused. Undulating berm designs should not advance beyond the planned Diversion Channel designs.

WP-42 and WP-43 could provide benefits by incorporating improved aesthetics and recreational features, including plantings and trials.

#### ***Recommendation:***

PMC recommends authorization for Task Order No. 7, Amendment 1 with no cost change.

**HMG – Task Order No. 9 – Amendment 8  
Hydrology and Hydraulic Modeling**

**Increase \$ 310,000  
Schedule Extension**

***Description – Subtask 2.I:***

**Subtask 2.I - Phase 7.1 Model Update:**

Add the following scope:

- k. Extend the Red River model from Grand Forks, ND to Drayton, ND.

***Background***

USACE continues to request additional assistance from the Diversion Authority for hydrology and hydraulic modeling. The above described work is creditable work-in-kind assistance.

Cost = \$10,000

No extension of schedule required.

***Description – Subtask 2.F.IV:***

**Subtask 2.I - Additional Assistance for the Maple River Aqueduct Physical Model:**

Provided continued support of the USACE's physical and numerical modeling of the Maple River Aqueduct.

***Background***

USACE continues to request additional assistance from the Diversion Authority for hydrology and hydraulic modeling. The above described work is creditable work-in-kind assistance.

Cost = \$30,000

Extend schedule to September 30, 2014.

***Description – Subtask 2.K:***

**Subtask 2.K – Phase 8 Model Update**

The Phase 8 modeling will incorporate higher volume hydrology developed by the USACE. It will also include the development of the 20-year event model and investigate additional model updates in the staging area based on culvert connections. The downstream model limit will be Drayton, ND.

***Background:***

USACE continues to request additional assistance from the Diversion Authority for hydrology and hydraulic modeling. The above described work is creditable work-in-kind assistance.

Cost = \$270,000

***Recommendation:***

PMC recommends authorization for Task Order No. 9, Amendment 8 for \$310,000.



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**HMG – Task Order No. 15 – Amendment 0  
Draft Operations Plan**

**ADD \$ 500,000**

***Description:***

Provide modeling and engineering services in order to develop a project Draft Operations Plan. The Draft Operations Plan development will utilize the Phase 7.1 unsteady HEC-RAS model that extends to Drayton, ND.

***Background:***

A project Operations Plan, developed by USACE, is required prior to operation of the project. A Draft Operations Plan will inform the design of project features and address interim operation of the project. The Draft Operations Plan development will require iterative model runs to simulate the range of flooding conditions anticipated throughout the life of the project and determine the interim operation plan(s) for the project.

***Recommendation:***

PMC recommends authorization for Task Order No. 15, Amendment 0 for \$500,000.

**Board Action: Limited Joint Powers Agreement, Amendment 2**

**Item 5d.**

Date: 9/6/2013

**RECOMMENDATION FOR BOARD ACTION:**

Motion is made that the Board of Authority ratifies and accepts LIPA Amendment 2 based upon the approval by all six LIPA signatories.

Recommended motion: I move to ratify and accept Amendment Number 2 to the Limited Joint Powers Agreement based upon approval of all six LIPA signatories.

**SUMMARY OF DECISION TOPIC:**

1. At the August Authority Board meeting, the attached LIPA amendment #2 was approved for coordination and approval by the six LIPA signatories. Decision Paper 31 that addressed this action is attached.
2. Amendment #2, LIPA has been reviewed and approved by signatories: City of Fargo, City of Moorhead, Cass County, Clay County, the Cass County Joint Water Resource District and the Buffalo Red River Watershed District.
3. The LIPA amendment included languages changes in the following areas:
  - a. FY14 Authority Budget. Establishment of the FY14 Authority Budget as \$70M with \$190k being the Minnesota share and 69.81M being the North Dakota share.
  - b. Name. Names the "entity" created by the LIPA as the "Metro Flood Diversion Authority" and the board that governs the entity is the "Board of Authority" or the "Diversion Authority". [A name for the entity is becoming necessary for formal documents such as deeds, contracts, et cetera.]
  - c. Powers. Clarify existing power to enter into various contracts to specifically authorize power to enter into contract with city of Oxbow for ring-levee, replacement property and related matters, including advancing and recoupment of funds for such purposes.
  - d. Clarifies that Minnesota entities will look to legislature for funding of their share.
  - e. Clarifies that in the event that a Project Partnership Agreement is never signed that the Minnesota share is limited to the amounts specified in the JPA and its amendments.
  - f. Date of the original LIPA. Establishes the date certain when the Limited Joint Powers Agreement became effective in 2012.

**Attachments**

- Decision Paper 31
- Limited Joint Powers Agreement, Amendment 2

**Submitted by:**

Original signed

\_\_\_\_\_  
Thomas E. O'Hara  
CH2M HILL  
Program Services Manager  
Fargo-Moorhead Area Diversion Project

September 6, 2013

\_\_\_\_\_  
Date

## FM METRO FLOOD DIVERSION PROJECT

### *Joint Powers Agreement Amendment #2*

DECISION PAPER NO.: **DP-00031**

Date: 8/8/2013

#### RECOMMENDATION FOR BOARD ACTION:

Motion is made that the Board of Authority approved the attached recommended Limited Joint Powers Agreement (LJPA) amendment #2 for coordination with the six signatories to the LJPA. The Board acknowledges that this amendment requires the approval of all six signatories before the Board can accept the the final amendment.

#### SUMMARY OF DECISION TOPIC:

The Limited Joint Powers Agreement requires an annual review and annual approval of the Diversion Authority budget. The attached amendment language includes:

- FY14 Authority Budget of \$70M with \$190k being the Minnesota share and 69.81M being the North Dakota share. The \$70M will fund those activities outlined in the Joint FY14 Work Plan that was developed by the Authority and Corps technical staff and recommended for approval by the Authority's Administrative staff.

- The JPA amendment also included languages changes in the following areas:

1. Name. Names the "entity" created by the LJPA as the "Metro Flood Diversion Authority" and the board that governs the entity is the "Board of Authority" or the "Diversion Authority". [A name for the entity is becoming necessary for formal documents such as deeds, contracts, et cetera.]
2. Powers. Clarify existing power to enter into various contracts to specifically authorize power to enter into contract with city of Oxbow for ring-levee, replacement property and related matters, including advancing and recoupment of funds for such purposes.
3. Clarifies that Minnesota entities will look to legislature for funding of their share.
4. Clarifies that in the event that a Project Partnership Agreement is never signed that the Minnesota share is limited to the amounts specified in the JPA and its amendments.
5. Date of the original LJPA. Establishes the date certain when the Limited Joint Powers Agreement became effective in 2012.

#### REVIEWS AND RECOMMENDATIONS:

The JPA amendment was developed by the Authority legal staff and reviewed by the Admin Advisory staff and the Finance committee before presentation to the Board for approval. All have recommended approval of the motion.

**Submitted by:**

Original signed \_\_\_\_\_

Thomas E. O'Hara  
CH2M HILL

Program Manager

Fargo-Moorhead Area Diversion Project

August 8, 2013

\_\_\_\_\_  
Date

# **SECOND AMENDMENT TO THE LIMITED JOINT POWERS AGREEMENT**

**[Including Fiscal Year 2014 Budget]**

## **METRO FLOOD DIVERSION PROJECT**

Moorhead, MN

Fargo, ND

Clay County, MN

Cass County, ND

Buffalo Red River Watershed District

Cass County Joint Water Resource District

## **TABLE OF CONTENTS**

### **RECITALS**

<b>Section 1. ARTICLE V</b>	<b>DIVERSION BOARD OF AUTHORITY AND METRO FLOOD DIVERSION AUTHORITY</b>
<b>Section 2. ARTICLE VI</b>	<b>POWERS OF DIVERSION AUTHORITY</b>
<b>Section 3. ARTICLE VIII</b>	<b>BUDGET</b>
<b>Section 4. ARTICLE IX.</b>	<b>PROJECT PLANNING, DESIGN AND DEVELOPMENT COSTS</b>
<b>Section 5. ARTICLE VXII</b>	<b>MISCELLANEOUS</b>
<b>Section 6.</b>	

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**SECOND AMENDMENT TO  
LIMITED JOINT POWERS AGREEMENT  
[Including Fiscal Year 2014 Budget]**

THIS SECOND AMENDMENT TO THE LIMITED JOINT POWERS AGREEMENT is made and entered into effective the date last approved by and between the following entities:

Clay County, MN;  
Moorhead, MN;  
Cass County, ND;  
 Fargo, ND;  
Cass County Joint Water Resource District;  
Buffalo Red River Watershed District;

[Referred to herein as a “party”, “member” or “member entity” and collectively as the “parties”, “members” or “member entities”].

**RECITALS**

- A. The member entities executed a Limited Joint Powers Agreement dated June, 2011, [hereinafter the “Limited JPA”] which established the duties, responsibilities and obligations of each party regarding the Fargo-Moorhead Metro Diversion Project and set forth a budget for federal fiscal years 2011 and 2012, and a First Amendment to the Limited JPA was approved and executed which, among other things, set forth a budget for federal fiscal year 2013.
- B. The members to the Limited JPA wish to continue to fund activities of the Diversion Authority in anticipation of federal authorization and full implementation of the Project.
- C. The purpose of this Second Amendment to the Limited JPA is to establish a budget for federal fiscal year 2014, to clarify existing or include additional powers of the Diversion Authority, to clarify the language addressing the contribution amounts for the Minnesota and North Dakota member entities, to recognize the addition of the Diversion Authority as an additional non-federal sponsor along with the cities of Fargo and Moorhead and to clarify the scope and authority of the Diversion Authority.

**NOW, THEREFORE, IT IS HEREBY AGREED, that the Limited JPA is amended to read as follows:**

**Section 1. Article V of the Limited Joint Powers Agreement is hereby amended to read as follows:**

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**ARTICLE V.**  
**DIVERSION BOARD OF AUTHORITY**  
**AND**  
**METRO FLOOD DIVERSION AUTHORITY**

The members to this Agreement hereby establish a joint board to be known as the Diversion Board of Authority (to be referred to as either the “Diversion Authority” or the “Diversion Board”) which shall be the governing board for the entity created by this agreement which entity is to be known and referred to as the “Metro Flood Diversion Authority”. The Diversion Board shall consist of nine members, seven of which shall be appointed by the North Dakota members to this Agreement and two of which shall be appointed by the Minnesota members to this Agreement. The membership of the Diversion Board shall be comprised as follows:

1. Three (3) members appointed by the city of Fargo (referred to herein as “Fargo Board Members” and individually as a “Fargo Board Member”).
2. One (1) member appointed by the city of Moorhead (referred to herein as the “Moorhead Board Member”).
3. Three (3) members appointed by Cass County (referred to herein as “Cass County Board Members” and individually as a “Cass County Board Member”); provided, however, that Cass County shall be authorized to allow either the Cass County Joint Water Resource District or the city of West Fargo to appoint up to two of said three (3) members.
4. One (1) member appointed by the Cass County Joint Water Resource District.
5. One (1) member appointed in accordance with joint powers agreement between Clay County and the Buffalo-Red River Watershed District established for such purpose. As between Clay County or the Buffalo-Red River Watershed District, to the extent that one, or the other, of said member entities does not have voting representation on the Diversion Board, said member entity shall be entitled to representation on the Diversion Board by one (1) non-voting, ex-officio, member appointed by such member entity.

For purposes of this Agreement, the Diversion Board voting members appointed by Moorhead, Clay County or Buffalo-Red River Watershed District may be individually referred to as a “Minnesota Board Member” and cumulatively as the “Minnesota Board Members”. Each member entity shall also be authorized to designate alternate members of the Diversion Board to sit in place of an appointed voting member of the Diversion Board when the appointed voting member is unable to attend a meeting of the Diversion Board. The Diversion Board may approve other non-voting ex-officio members to the board.

**Section 2. Article VI of the Limited Joint Powers Agreement is hereby amended to read as follows:**

**ARTICLE VI.  
POWERS OF DIVERSION AUTHORITY**

The Diversion Authority shall have the power to:

1. Sue and be sued;
2. Conduct or arrange for public information meetings;
3. Appoint ex-officio board members;
4. Hire and terminate a project manager, a lobbyist and other support personnel and to provide necessary office space, supplies, equipment and other support;
5. Assist in the planning, design and development of the Project, including land acquisition and construction of the Project;
6. Enforce the terms of this Agreement, including requiring one or more parties to this agreement to fulfill its obligations as defined herein;
7. Perform all acts expressly authorized by the parties to this Agreement, unless prohibited by statute or otherwise;
8. Delegate tasks to one or more of the parties to this Agreement, unless prohibited by statute or otherwise;
9. Create Committees to provide technical, financial and legal assistance or other assistance to the Board and to provide for the duties and membership thereof, as may be set forth more fully below;
10. Procure the services of engineers, contractors, consultants and other persons or entities for the planning, design and development of the Project;
11. Enter into contracts or other arrangements with the United States Government or any department thereof, municipalities, counties, water resource or watershed districts, states or any agency thereof, persons, railroads, companies or corporations, for cooperation or assistance in designing and, developing and constructing the Project and acquiring and maintaining the



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necessary lands, easements and rights of way for the Project, including contracts, joint powers agreements or other arrangements for advancing funds for project purposes and for recouping some or all of such funds including, without limitation, entering into such contract(s), joint powers agreement(s) or other arrangements with the city of Oxbow, North Dakota, for purposes of constructing and installing a ring-levee, providing for replacement property and the infrastructure supporting such replacement property and any other purposes as may be necessary and appropriate for the furtherance of the Project; and,

12. Lobby for state and/or Federal funds for the Project.
13. Lobby for federal authorization or other approval as may be directed by the Diversion Authority.
14. To indemnify and hold harmless the Non-Federal Sponsors as described in Article VII, below.
15. To acquire insurance.

This Agreement shall in no way limit or restrict the powers and duties of each party to this Agreement, except as provided herein.

**Section 3. Article VIII of the Limited Joint Powers Agreement is hereby amended to read as follows:**

**ARTICLE VIII.  
BUDGET**

The financial authority of the Diversion Authority is limited to the budgeted funds that have been approved by the members to the Agreement. The members hereby agree to a Diversion Authority budget for the 2011 through 2014 federal fiscal years as follows:

Fiscal Years 2011 and 2012:	\$16,500,000
Fiscal Year 2013:	\$29,000,000
Fiscal Year 2014:	\$70,000,000

It is intended that the budgeted funds be utilized to match the federal dollars in accordance with the obligations of the Non-Federal Sponsors, and conduct activities as determined appropriate and approved by the Authority to advance the Diversion Project.

Prior to the end of Fiscal Year 2014, the Diversion Authority shall propose a new budget, which must be approved by all of the member entities through a vote of their governing bodies.

**Section 4. Article IX of the Limited Joint Powers Agreement is hereby amended to read as follows:**

**ARTICLE IX.  
PROJECT PLANNING, DESIGN AND DEVELOPMENT COSTS**

The planning, design and development of the Project will be partially funded with Federal funds and partially funded with local funds. The local cost share requirement will be that portion of the total cost of the Project not provided by the Federal Government (hereinafter the "Non-Federal Project Costs").

It is the intent of the members that all Non-Federal Project Costs incurred by the Authority be allocated between Minnesota and North Dakota at a ration of ten percent (10%) paid by Minnesota, or by Minnesota entities, and ninety percent (90%) paid by North Dakota, or by North Dakota entities, all of which remains subject to final negotiation and decision of the MN 10%/ND 90% ratio for the Diversion Project and a negotiated ratio for mitigation, to be finalized once a Project Partnership Agreement (PPA) is entered into with the United States Army Corps of Engineers, or other acceptable agreement(s) is entered into for construction.

Prior to final negotiation of the MN/ND cost share ratio, the share of all Non-Federal Project Costs incurred by the Authority shall be as follows:

	FY 2011-2012	FY 2013	FY 2014
Minnesota	\$150,000	\$290,000	\$190,000
North Dakota	Balance	Balance	Balance

The Minnesota members to this Agreement have determined, or will determine, by separate agreement the share of the Minnesota cost each will bear. The North Dakota members to this Agreement have determined, or will determine, by separate agreement the share of the North Dakota cost each will bear. The Minnesota and North Dakota members agree to actively pursue state funding assistance for the benefit of the project and the Diversion Authority, it being understood that the Minnesota ratio will be funded by the Minnesota legislature. In the event a Project Partnership Agreement is not executed by the non-federal sponsors, the Minnesota ration is, and shall be, limited to amounts that have been previously agreed in the table above, as the same may have been

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amended from time to time.

**Section 5. Article XVII of the Limited Joint Powers Agreement is hereby amended to add a paragraph as follows:**

**Effective dates:** The initial Limited Joint Powers Agreement was approved by each of the member entities with the Buffalo-Red River Watershed District being the last member-entity to so approve it and it is hereby understood and agreed that, for purposes of referring to said initial agreement, the effective date thereof is deemed to be the 11<sup>th</sup> day of July, 2011. The First Amendment to the Limited Joint Powers Agreement was dated the 29 day of January, 2013.

**Section 6.** In all other respects, the Limited JPA, as amended previously, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their signatures the day and year below stated.

CITY OF FARGO, NORTH DAKOTA  
a municipal corporation

By: \_\_\_\_\_  
Dennis R. Walaker, its Mayor

ATTEST:

\_\_\_\_\_  
Steven Sprague, City Auditor

Date of approval: \_\_\_\_\_

CITY OF MOORHEAD, MINNESOTA  
a municipal corporation

By: \_\_\_\_\_  
Mark Voxland, its Mayor

ATTEST:

\_\_\_\_\_  
Michael Redlinger, City Manager

Date of approval: \_\_\_\_\_





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CASS COUNTY JOINT WATER RESOURCE DISTRICT

By \_\_\_\_\_

, its Chairman

Date of approval: \_\_\_\_\_





Item 5e.

## Board Action: Design Agreement Amendment 1

Date: 9/6/2013

### RECOMMENDATION FOR BOARD ACTION:

Motion is made that the Board of Authority approves the attached design amendment.

Recommended motion: I move to approve the Amendment Number 1 to the Design Agreement between the Department of the Army and the Flood Diversion Board of Authority, the City of Fargo and the City of Moorhead for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project.

### SUMMARY OF DECISION TOPIC:

1. The attached Design Agreement amendment has been reviewed and recommended for approval by the Diversion Authority's legal, technical and administrative staff.
2. The amendment has also been reviewed and approved by all three signatories of the original Design Agreement: the Fargo City Commission, the Moorhead City Council and the U.S. Army Corps of Engineers.
3. Significant changes identified in this amendment are:
  - a. Add the Flood Diversion Board of Authority as a Non-Federal Sponsor (in addition to the City of Moorhead and the City of Fargo, the current Non-Federal Sponsors).
  - b. Allow the Non-Federal Sponsors to provide additional in-kind contributions in accordance with specific activities approved through two Integral Determination Reports (August 29, 2011 and October 5, 2012).
  - c. Allow the Non-Federal Sponsors to accelerate local funding in advance of the receipt of matching Federal funds for design.
  - d. Authorize up to \$60,000,000 in combined (Federal and local) design expenditures. This change is required because the previously authorized limit (\$30,000,000) will soon be exceeded. If exceeded, all work would cease.

Attachment: Amendment 1, Design Agreement, Fargo-Moorhead Metropolitan Area Flood Risk Management Project

#### Submitted by:

Original Signed

\_\_\_\_\_  
Thomas E. O'Hara  
CH2M HILL  
Program Services Manager  
Fargo-Moorhead Area Diversion Project

September 6, 2013

\_\_\_\_\_  
Date

AMENDMENT NUMBER 1  
TO THE  
DESIGN AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
THE CITY OF FARGO, NORTH DAKOTA AND  
THE CITY OF MOORHEAD, MINNESOTA  
FOR  
DESIGN  
FOR THE  
FARGO-MOORHEAD METROPOLITAN AREA FLOOD RISK MANAGEMENT PROJECT

THIS AMENDMENT NO. 1 is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, St. Paul District (hereinafter the "District Engineer"), and the City of Fargo, North Dakota (hereinafter the "City of Fargo") represented by its Mayor, the City of Moorhead, Minnesota (hereinafter the "City of Moorhead") represented by its Mayor and City Manager, and the Flood Diversion Board of Authority (hereinafter the "Flood Diversion Board of Authority") represented by its Chairman (hereinafter collectively the "Non-Federal Sponsors").

**WITNESSETH, THAT:**

WHEREAS, the Government and the City of Fargo and the City of Moorhead entered into a Design Agreement on September 12, 2011 (hereinafter "the Agreement"), for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project;

WHEREAS, the City of Fargo and the City of Moorhead have requested that the Flood Diversion Board of Authority be added as a Non-Federal Sponsor to the Design Agreement, and the Flood Diversion Board of Authority desires to be a non-Federal sponsor for the Design Agreement;

WHEREAS, the Non-Federal Sponsors desire to provide additional *in-kind contributions* and receive credit toward their required contribution of funds for total design costs in accordance with the provisions of this Agreement and the additional *in-kind contributions* were determined to be integral on October 5, 2012;

WHEREAS, the Non-Federal Sponsors consider it to be in their own interest for the Government to accelerate use of a portion or all of the Non-Federal Sponsors' required contribution of funds for design of the *Project*, less any funds previously contributed, for the immediate use by the Government for design of the *Project*;

WHEREAS, the Non-Federal Sponsors understand that the Government's accelerated use of the funds provided by the Non-Federal Sponsors shall not constitute or imply any commitment by the Government to budget or appropriate funds for design of the *Project* in the future or to match the amount the Non-Federal Sponsors elect to designate for accelerated use; that such funds accelerated shall be credited toward the Non-Federal Sponsors' required cost share only to the extent additional Federal funds are appropriated for design of the *Project*; and that the Non-Federal Sponsors are not entitled to any repayment of the funds accelerated even if design of the *Project* is not completed; and

WHEREAS, the Government, the City of Fargo, the City of Moorhead, and the Flood Diversion Board of Authority desire to amend the Agreement to include the Flood Diversion Board of Authority as a sponsor, identify additional *in-kind contributions*, and to allow for accelerated funds.

NOW THEREFORE, the Government and the Non-Federal Sponsors agree to amend the Agreement as follows:

1. The Agreement Title is amended by striking the current title and replacing it with the following:

"DESIGN AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
THE CITY OF FARGO, NORTH DAKOTA,  
THE CITY OF MOORHEAD, MINNESOTA, AND  
THE FLOOD DIVERSION BOARD OF AUTHORITY  
FOR  
DESIGN  
FOR THE  
FARGO-MOORHEAD METROPOLITAN  
AREA FLOOD RISK MANAGEMENT PROJECT"

2. The Introduction (beginning "THIS AGREEMENT is entered . . .") is amended immediately following "City of Moorhead, Minnesota represented by its Mayor and City Manager" by inserting "and the Flood Diversion Board of Authority, represented by its Chairman". As one of the Non-Federal Sponsors under the Agreement, the Flood Diversion Board of Authority agrees to all terms of the Agreement and ratifies and consents to all actions taken in relation to the Agreement prior to execution of this Amendment.
3. The sixth WHEREAS clause of the Agreement is amended by deleting the current paragraph and replacing it with:

"WHEREAS, the Non-Federal Sponsors desire to receive credit toward their required contribution of funds for *total design costs* of the *Project* in accordance with the provisions of this Agreement for certain work (hereinafter the "*in-kind contributions*" as defined in Article I.I. of this Agreement) that were determined to be integral to the *Project* on August 29, 2011 and October 5, 2012;"

4. The following two clauses are added after the sixth WHEREAS clause of the Agreement:

"WHEREAS, the Non-Federal Sponsors consider it to be in their own interest for the Government to accelerate use of a portion or all of the Non-Federal Sponsors' required contribution of funds for design

of the *Project*, less any funds previously contributed, for the immediate use by the Government for design of the *Project*;

WHEREAS, the Non-Federal Sponsors understand that the Government's accelerated use of the funds provided by the Non-Federal Sponsors shall not constitute or imply any commitment by the Government to budget or appropriate funds for design of the *Project* in the future or to match the amount the Non-Federal Sponsors elect to designate for accelerated use; that such funds accelerated shall be credited toward the Non-Federal Sponsors' required cost share only to the extent additional Federal funds are appropriated for design of the *Project*; and that the Non-Federal Sponsors are not entitled to any repayment of the funds accelerated even if design of the *Project* is not completed;"

5. Article I – DEFINITIONS, paragraph I. is amended by deleting the current paragraph and replacing it with:

"I. The term "*in-kind contributions*" shall mean hydrologic and hydraulic modeling, assisting with physical modeling, diversion channel design, staging area design, topographic survey, geotechnical testing, mitigation planning, completion of the Minnesota State Environmental Impact Statement, development of a drainage plan, development of a recreation plan, public outreach, design of in-town levees, and design of diversion channel reaches north of the I-94 interchange as generally described in the Integral Determination Reports for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, that will be performed or provided by the City of Fargo and the City of Moorhead after the effective date of this Agreement and that will be performed or provided by the Flood Diversion Board of Authority after the effective date of Amendment No. 1 to this Agreement and that were determined to be integral to the *Project* on August 29, 2011 and October 5, 2012."

6. Article II – OBLIGATIONS OF THE GOVERNMENT AND THE NON-FEDERAL SPONSORS, paragraph A., subparagraph 7., is amended by deleting the current paragraph and replacing it with:

"7. Notwithstanding paragraph A.3. and paragraph A.4. of this Article, if the award of any contract for design of the *Project*, or continuation of design of the *Project* using the Government's own forces, would result in *total design costs* exceeding \$60,000,000, the Non-Federal Sponsors may request in writing that the Government defer award of that contract or continuation of design using the Government's own forces. Following receipt of the Non-Federal Sponsors' request, the Government shall defer award of such contract or continuation of design. No deferral may exceed three years, after which the parties shall terminate this Agreement and proceed to a final accounting in accordance with Article IV of this Agreement."

7. Article II – OBLIGATIONS OF THE GOVERNMENT AND THE NON-FEDERAL SPONSORS, paragraph A., subparagraph 8., is amended by replacing "effective date of this Agreement, \$2,500,000" in the first sentence with "effective date of Amendment No.1 to this Agreement, \$19,440,000".

8. Article II – OBLIGATIONS OF THE GOVERNMENT AND THE NON-FEDERAL SPONSORS, is amended by adding the following paragraphs H., I., and J.:

"H. The Non-Federal Sponsors desire that the Government accelerate use of a portion or all of the contribution of funds required during the *period of design* by paragraph B.1. of this Article. The amount of funds accelerated shall not exceed the current estimate of the contribution of funds required by paragraph B.1. of this Article, as determined by the Government in consultation with the Non-Federal Sponsors, less any funds previously contributed by the Non-Federal Sponsors and obligated by the Government.

I. As Federal appropriations are made available to pay the Federal share of *total design costs*, the Government shall afford a credit toward the contribution of funds required by paragraph B. 1. of this Article for the funds accelerated in accordance with paragraph H. of this Article.

J. The Non-Federal Sponsors understand that neither execution of this Agreement nor the Government's accelerated use of funds provided by the Non-Federal Sponsors constitutes or implies any commitment by the Government to budget or appropriate funds for design of this *Project* in the future or to match the amount the Non-Federal Sponsors provide for accelerated use and that credit toward the contribution of funds required by paragraph B.1. of this Article for the funds accelerated shall be provided only to the extent that additional Federal funds are appropriated for design of this *Project*. Further, the Non-Federal Sponsors understand that they are not entitled to any repayment of the funds accelerated even if the design is not completed and the Government's use of accelerated funds shall not represent, or give rise to, obligations of the United States."

9. Article IV – METHOD OF PAYMENT, paragraph A., subparagraph 1., is amended by deleting the current paragraph and replacing it with the following language:

"1. As of the effective date of Amendment No. 1 to this Agreement, *total design costs* are projected to be \$60,000,000; the value of the Non-Federal Sponsors' contributions under Article III and Article VII of this Agreement is projected to be \$400,000; the amount of credit to be afforded for *in-kind contributions* pursuant to Article II.B.3. of this Agreement is projected to be \$12,700,000; the Non-Federal Sponsors' contribution of funds required by Article II.B.1. of this Agreement is projected to be \$16,900,000; the amount of *in-kind contributions* included in *total design costs* that exceeds the amount of credit afforded in accordance with Article II.B.3. of this Agreement is projected to be \$0; the *non-Federal proportionate share* is projected to be 50 percent; and the Government's total financial obligations to be incurred for additional work and the Non-Federal Sponsors' contribution of funds for such costs required by Article II.E. of this Agreement are projected to be \$0. These amounts and percentage are estimates subject to adjustment by the Government, after consultation with the Non-Federal Sponsors, and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsors."

10. Article IV – METHOD OF PAYMENT, paragraph A., subparagraph 2., is amended by inserting the phrase "the credit to be afforded pursuant to Article II.I. of this Agreement;" after "the total contribution of funds required from the Non-Federal Sponsors for the upcoming contract and upcoming *fiscal year*;" and before "and the Government's total financial obligations to be incurred for additional work and the Non-Federal Sponsors' contribution of funds for such costs required by Article II.E. of this Agreement."

11. Article IV – METHOD OF PAYMENT, paragraph B., subparagraph 3., is amended by deleting the current paragraph and replacing it with the following language:

"3. The Government shall draw from the funds provided by the Non-Federal Sponsors such sums as the Government deems necessary, when considered with any credit the Government projects will be afforded for the *in-kind contributions* pursuant to Article II.B.3. of this Agreement, to cover: (a) the *non-Federal proportionate share of financial obligations for design* incurred prior to the commencement of the *period of design*; and (b) the *non-Federal proportionate share of financial obligations for design as financial obligations for design* are incurred. Further, the Government shall draw from the amount of funds offered by the Non-Federal Sponsors and accepted for immediate use by the Government in accordance with the conditions and limitations of Article II.H. of this Agreement to cover, prior to matching Federal appropriations being made available, additional *financial obligations for design* as they are incurred during the *period of design*. If at any time the Government determines, after

consideration of the amount of credit afforded pursuant to Article II.I. of this Agreement, that additional funds will be needed from the Non-Federal Sponsors to cover the Non-Federal Sponsors' share of such financial obligations for the current contract or to cover the Non-Federal Sponsors' share of such financial obligations for work performed using the Government's own forces in the current *fiscal year*, the Government shall notify the Non-Federal Sponsors in writing of the additional funds required and provide an explanation of why additional funds are required. Within 45 calendar days from receipt of such notice, the Non-Federal Sponsors shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B.1. of this Article."

12. Article IV – METHOD OF PAYMENT, paragraph C., is amended by adding the following language to the end of subparagraph 2.:

"However, if the final accounting is conducted prior to the end of the *period of design* due to termination of the Agreement pursuant to Article X.D. of this Agreement, and funds were accelerated in accordance with Article II.H. of this Agreement, the Government shall refund to the Non-Federal Sponsors only that portion of accelerated funds that were not obligated by the Government for work on the *Project*, subject to the availability of funds."

13. Article XI – NOTICES, paragraph A, is amended by adding the following address to the list of Non-Federal Sponsor addresses:

Chairman, Flood Diversion Board of Authority  
PO Box 2806  
Fargo, ND 58108-2806

14. All other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to the Agreement, which shall become effective upon the date it is signed by the District Engineer .

THE DEPARTMENT OF THE ARMY

CITY OF FARGO, NORTH DAKOTA

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Michael J. Price  
Colonel, U.S. Army  
District Engineer  
St. Paul District

Dennis R. Walaker  
Mayor  
City of Fargo, North Dakota

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

CITY OF MOORHEAD, MINNESOTA

CITY OF MOORHEAD, MINNESOTA

BY: \_\_\_\_\_  
Mark Voxland  
Mayor  
City of Moorhead, Minnesota

BY: \_\_\_\_\_  
Michael J. Redlinger  
City Manager  
City of Moorhead, Minnesota

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

FLOOD DIVERSION BOARD OF AUTHORITY

BY: \_\_\_\_\_  
Darrell Vanyo  
Chairman  
Flood Diversion Board of Authority

DATE: \_\_\_\_\_

**CERTIFICATE OF AUTHORITY**

---

I, Erik Johnson, do hereby certify that I am the principal legal officer of the City of Fargo, North Dakota, that the City of Fargo, North Dakota is a legally constituted public body with full authority and legal capability to perform the terms of the Design Agreement dated September 12, 2011 as amended by Amendment No. 1 in connection with design of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the persons who have executed this Amendment No. 1 on behalf of the City of Fargo, North Dakota have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

---

Erik Johnson  
Fargo City Attorney



**CERTIFICATE OF AUTHORITY**

---

I, John Shockley, do hereby certify that I am the principal legal officer of the City of Moorhead, Minnesota, that the City of Moorhead, Minnesota is a legally constituted public body with full authority and legal capability to perform the terms of the Design Agreement dated September 12, 2011 as amended by Amendment No. 1 in connection with design of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the persons who have executed this Amendment No. 1 on behalf of the City of Moorhead, Minnesota have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

---

John Shockley  
Moorhead City Attorney

**CERTIFICATE OF AUTHORITY**

---

I, Erik Johnson, do hereby certify that I am the principal legal officer of the Flood Diversion Board of Authority, that the Flood Diversion Board of Authority is a legally constituted public body with full authority and legal capability to perform the terms of the Design Agreement dated September 12, 2011 as amended by Amendment No. 1 in connection with design of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the persons who have executed this Amendment No. 1 on behalf of the Flood Diversion Board of Authority have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

---

Erik Johnson  
Lead Counsel, Flood Diversion Board of Authority

## CERTIFICATION REGARDING LOBBYING

---

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
Dennis R. Walaker  
Mayor, City of Fargo, North Dakota

DATE: \_\_\_\_\_

## CERTIFICATION REGARDING LOBBYING

---

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

---

Mark Voxland  
Mayor, City of Moorhead, Minnesota

DATE: \_\_\_\_\_

## CERTIFICATION REGARDING LOBBYING

---

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

---

Michael J. Redlinger  
City Manager, City of Moorhead, Minnesota

DATE: \_\_\_\_\_

## CERTIFICATION REGARDING LOBBYING

---

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
Darrell Vanyo  
Chairman, Flood Diversion Board of Authority

DATE: \_\_\_\_\_

**FM Diversion Authority**  
**Fiscal Accountability Report Design Phase (Fund 790)**  
**As of 8/31/2013**

	2011	2012	2013	Cumulative Totals
<b>Revenues</b>				
City of Fargo	443,138	7,652,681	2,618,150	10,713,968
Cass County	443,138	7,652,681	2,618,150	10,713,968
City of Moorhead / Clay County	98,475	1,700,595	581,811	2,380,881
State Water Commission (10% Cap)	-	-	-	-
Lease/Rental Payments	-	-	8,501	8,501
Miscellaneous	-	-	226	226
<b>Total Revenues</b>	<b>984,750</b>	<b>17,005,957</b>	<b>5,826,837</b>	<b>23,817,544</b>
<b>Expenditures</b>				
7905 Army Corp Payments	-	-	350,000	350,000
7910 WIK - Administration	107,301	331,321	55,467	494,089
7915 WIK - Project Design	149,632	5,366,147	1,069,232	6,585,011
7920 WIK - Project Management	679,037	7,223,650	2,923,980	10,826,668
7925 WIK - Recreation	-	163,223	-	163,223
7930 LERRDS - North Dakota	48,664	3,843,620	1,375,268	5,267,551
7931 LERRDS - Minnesota	-	27,996	2,891	30,886
7940 WIK Mitigation - North Dakota	-	-	-	-
7941 WIK Mitigation - Minnesota	-	-	-	-
7950 Construction - North Dakota	-	-	-	-
7951 Construction - Minnesota	-	-	-	-
7955 Construction Management	-	-	-	-
7990 Project Financing	-	50,000	50,000	100,000
7995 Project Eligible - Off Formula Costs	-	-	-	-
7999 Non Federal Participating Costs	116	-	-	116
<b>Total Expenditures</b>	<b>984,750</b>	<b>17,005,957</b>	<b>5,826,837</b>	<b>23,817,544</b>

FM Diversion Authority  
 FY 2013 Summary Budget Report (In Thousands)  
 August, 2013

	FY 2013 Approved Budget	Current Month	Fiscal Year To Date	% Expended	Outstanding Encumbrances	Remaining Budget Balance
<b>Revenue Sources</b>						
City of Fargo	14,535	221	6,537			7,998
Cass County	14,535	221	6,537			7,998
City of Moorhead	3,230	49	1,453			1,777
State of ND - 50% Match	-	-	-			-
State of ND - 100% Match	-	-	-			-
State of Minnesota	-	-	-			-
Financing Proceeds	-	-	-			-
Sale of Assets	-	-	-			-
Property Income	-	-	9			(9)
Miscellaneous	-	-	0			(0)
<b>Total Revenue Sources</b>	<b>32,300</b>	<b>491</b>	<b>14,535</b>			<b>17,765</b>
<b>Funds Appropriated</b>						
Army Corp Local Share	-	-	350	100%	2,100	(2,450)
Management Oversight	7,000	89	5,979	85%	1,593	(572)
Technical Activities	6,000	283	3,830	64%	6,416	(4,246)
Land Acquisitions	19,300	99	4,275	22%	2,288	12,736
Construction	-	-	-	100%	-	-
Other Costs	-	20	100	100%	40	(140)
<b>Total Appropriations</b>	<b>32,300</b>	<b>491</b>	<b>14,535</b>	<b>45%</b>	<b>12,438</b>	<b>5,328</b>



**FM Diversion Authority**  
**Summary of Cash Disbursements**  
**Period August 2013**

Date: 9/3/2013

Period/Year: 08/2013

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-7910-429.33-20	8/31/2013	JB08130024	CITY OF FARGO	1,020.00	FISCAL SERVICES	V00102	General & Admin. WIK
<b>Total WIK - General &amp; Admin - Accounting Services</b>				\$ 1,020.00			
790-7910-429.33-25	8/15/2013	242035	DORSEY & WHITNEY LLP	4,353.75	RED RIVER DIVERSION PROJ	V00101	Dorsey Whitney Legal
	8/15/2013	242041	ERIK R JOHNSON & ASSOCIATES	5,829.31	METRO FLOOD PROJECT	V00102	General & Admin. WIK
<b>Total WIK - General &amp; Admin. - Legal Services</b>				\$ 10,183.06			
790-7910-429.34-55	8/7/2013	241912	PFM PUBLIC FINANCIAL MANAGEMENT	20,000.00	APR/MAY 2013 RETAINER	V00102	General & Admin. WIK
<b>Total WIK - General &amp; Admin. - Financial Advisor</b>				\$ 20,000.00			
790-7910-429.55-10	8/15/2013	242010	BROKERAGE PRINTING	117.38	LETTERHEAD/ENVELOPES	V00102	General & Admin. WIK
<b>Total WIK - General &amp; Admin. - Custom Printed Forms</b>				\$ 117.38			
790-7915-429.33-05	8/15/2013	242064	HOUSTON-MOORE GROUP LLC	26,668.56	5/1-5/31/13	V01603	CR-81 & I29 BRIDGE DESIGN
	8/15/2013	242064	HOUSTON-MOORE GROUP LLC	19,873.88	5/1-5/31/13	V01607	RECREATION/USE MASTER PLN
	8/15/2013	242064	HOUSTON-MOORE GROUP LLC	7,274.50	5/1-5/31/13	V01608	WORK-IN-KIND (WIK)
	8/15/2013	242064	HOUSTON-MOORE GROUP LLC	25,640.55	5/1-5/13/31	V01609	HYDROLOGY/HYDRAULIC MODEL
	8/15/2013	242064	HOUSTON-MOORE GROUP LLC	112,511.23	5/1-5/31/13	V01613	LEVEE DESIGN & SUPPORT
	8/15/2013	242064	HOUSTON-MOORE GROUP LLC	50,305.84	5/1-5/31/13	V01614	TRANS/DRAINAGE MASTER PLN
	8/15/2013	242159	URS CORPORATION	6,579.50	THRU 5/24/13	V01002	NW Alignment Survey-URS
	8/15/2013	242159	URS CORPORATION	3,355.86	THRU 7/12/13	V01002	NW Alignment Survey-URS
	8/15/2013	242159	URS CORPORATION	9,205.19	THRU 5/10/13	V01003	CULTURAL RESOURCES INVEST
	8/15/2013	242159	URS CORPORATION	6,044.21	THRU 6/7/13	V01003	CULTURAL RESOURCES INVEST
8/31/2013			URS CORPORATION	15,311.17	THRU 7/12/13	V01003	CULTURAL RESOURCES INVEST
<b>Total WIK - Project Design - Engineering Services</b>				\$ 282,770.49			

**FM Diversion Authority**  
**Summary of Cash Disbursements**  
**Period August 2013**

Date: 9/3/2013

Period/Year: 08/2013

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-7920-429.33-05	8/15/2013	242064	HOUSTON-MOORE GROUP LLC	81,974.37	5/1-5/31/13	V01601	HMG - PROJECT MANAGEMENT
<b>Total WIK Construction Mgmt. - Engineering Services</b>				<b>\$ 81,974.37</b>			
790-7930-429.33-05	8/15/2013	242064	HOUSTON-MOORE GROUP LLC	23,371.42	5/1-5/31/13	V01602	CR-31 BRIDGE DESIGN
	8/15/2013	242064	HOUSTON-MOORE GROUP LLC	1,225.35	5/1-5/31/13	V01604	CR-32 & CR-22 BRIDGE DSGN
	8/15/2013	242064	HOUSTON-MOORE GROUP LLC	4,353.41	5/1-5/31/13	V01604	CR-32 & CR-22 BRIDGE DSGN
	8/15/2013	242064	HOUSTON-MOORE GROUP LLC	18,565.77	5/1-5/31/13	V01606	LAND MANAGEMENT SERVICES
	8/15/2013	242064	HOUSTON-MOORE GROUP LLC	10,459.50	5/1-5/31/13	V01610	UTILITIES DESIGN
	8/15/2013	242064	HOUSTON-MOORE GROUP LLC	20,220.12	5/1-5/31/13	V01611	REACH 6 & CR20 BRIDGE
	8/15/2013	242127	PROSOURCE TECHNOLOGIES, INC	440.60	THRU 12/31/12	V01901	LAND ACQUISITION SERVICES
	8/15/2013	242127	PROSOURCE TECHNOLOGIES, INC	4,751.36	THRU 5/31/13	V01901	LAND ACQUISITION SERVICES
<b>Total LERRDS - North Dakota - Engineering Services</b>				<b>\$ 83,387.53</b>			
790-7930-429.33-91	8/15/2013	242022	COLDWELL BANKER	11,000.00	121 OXBOW	V02001	PROPERTY MANAGEMENT
<b>Total LERRDS - North Dakota - Property Management</b>				<b>\$ 11,000.00</b>			
790-7931-429.34-65	8/7/2013	241909	OHNSTAD TWICHELL PC	266.50	ROE BI-MONTHLY MTG	V01301	City of Moorhead ROE
<b>Total LERRDS - Minnesota - Right of Entry Requests</b>				<b>\$ 266.50</b>			
<b>Total Disbursed for Period</b>				<b>\$ 490,719.33</b>			

**FM Diversion Authority  
Outstanding Contracts  
As of August 31, 2013**

Date: 9/3/2013

Project Number	Account Number	PO No.	Vendor No.	P.O. Date	Vendor Name	Approved Contract/Invoice Amount	Liquidated	Outstanding Encumbrance
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	52,679.63	52,679.63	-
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	-
V00101	790-7910-429.33-25	156087	9367	10/15/2012	DORSEY & WHITNEY LLP	86,960.88	86,960.88	-
V00101	790-7910-429.33-25	157021	9367	11/9/2012	DORSEY & WHITNEY LLP	27,111.94	27,111.94	-
V00101	790-7910-429.33-25	157608	9367	11/29/2012	DORSEY & WHITNEY LLP	9,138.50	9,138.50	-
V00101	790-7910-429.33-25	159215	9367	1/14/2013	DORSEY & WHITNEY LLP	15,177.50	15,177.50	-
V00101	790-7910-429.33-25	160364	9367	2/20/2013	DORSEY & WHITNEY LLP	20,559.60	20,559.60	-
V00101	790-7910-429.33-25	161130	9367	3/18/2013	DORSEY & WHITNEY LLP	10,442.50	10,442.50	-
V00101	790-7910-429.33-25	163408	9367	6/12/2013	DORSEY & WHITNEY LLP	21,936.50	21,936.50	-
V00101	790-7910-429.33-25	164302	9367	7/17/2013	DORSEY & WHITNEY LLP	35,507.00	35,507.00	-
V00101	790-7910-429.33-25	164852	9367	8/12/2013	DORSEY & WHITNEY LLP	4,353.75	4,353.75	-
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	790-7910-429.38-69	F12079	8645	12/31/2011	SEIGEL COMMUNICATIONS SERVICE	1,490.00	1,490.00	-
V00102	790-7910-429.31-10	F12082	647	12/31/2011	FORUM COMMUNICATIONS (LEGALS)	2,224.20	2,224.20	-
V00102	790-7910-429.53-60	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	-

**FM Diversion Authority  
Outstanding Contracts  
As of August 31, 2013**

Date: 9/3/2013

Project Number	Account Number	PO No.	Vendor No.	P.O. Date	Vendor Name	Approved Contract/Invoice Amount	Liquidated	Outstanding Encumbrance
V00102	790-7910-429.33-25	152528	1286	7/10/2012	OHNSTAD TWICHELL PC	1,903.50	1,903.50	-
V00102	790-7910-429.33-20	AJ	COF	7/27/2012	CITY OF FARGO	240.00	240.00	-
V00102	790-7910-429.33-25	153237	1286	7/31/2012	OHNSTAD TWICHELL PC	728.50	728.50	-
V00102	790-7910-429.38-99	153670	13981	8/9/2012	NORTH DAKOTA TELEPHONE CO	71.60	71.60	-
V00102	790-7910-429.38-99	154211	13981	8/23/2012	NORTH DAKOTA TELEPHONE CO	90.60	90.60	-
V00102	790-7910-429.33-20	AJ	COF	8/30/2012	CITY OF FARGO	280.00	280.00	-
V00102	790-7910-429.33-20	AJ	COF	9/26/2012	CITY OF FARGO	320.00	320.00	-
V00102	790-7910-429.38-99	155381	13981	9/27/2012	NORTH DAKOTA TELEPHONE CO	87.40	87.40	-
V00102	790-7910-429.33-20	AJ	COF	10/30/2012	CITY OF FARGO	410.00	410.00	-
V00102	790-7910-429.33-20	AJ	COF	11/28/2012	CITY OF FARGO	220.00	220.00	-
V00102	790-7910-429.33-25	157670	16872	11/30/2012	ERIK R JOHNSON & ASSOCIATES	16,826.60	16,826.60	-
V00102	790-7910-429.38-99	158387	13981	12/20/2012	NORTH DAKOTA TELEPHONE CO	76.20	76.20	-
V00102	790-7910-429.33-20	AJ	COF	12/27/2012	CITY OF FARGO	260.00	260.00	-
V00102	790-7910-429.33-25	159214	16872	1/14/2013	ERIK R JOHNSON & ASSOCIATES	26,922.05	26,922.05	-
V00102	790-7910-429.33-20	AJ	COF	1/29/2013	CITY OF FARGO	160.00	160.00	-
V00102	790-7910-429.33-20	AJ	COF	1/29/2013	CITY OF FARGO	180.00	180.00	-
V00102	790-7910-429.38-99	159926	12961	2/5/2013	FEDERAL EXPRESS CORPORATION	71.89	71.89	-
V00102	790-7910-429.33-25	160367	16872	2/20/2013	ERIK R JOHNSON & ASSOCIATES	7,606.58	7,606.58	-
V00102	790-7910-429.52-30	160461	1772	2/25/2013	WARNER & CO	4,975.00	4,975.00	-
V00102	790-7910-429.33-20	AJ	COF	2/27/2013	CITY OF FARGO	260.00	260.00	-
V00102	790-7910-429.33-25	161131	16872	3/18/2013	ERIK R JOHNSON & ASSOCIATES	4,769.78	4,769.78	-
V00102	790-7910-429.33-20	AJ	COF	3/27/2013	CITY OF FARGO	200.00	200.00	-
V00102	790-7910-429.33-25	161699	16872	4/8/2013	ERIK R JOHNSON & ASSOCIATES	2,366.41	2,366.41	-
V00102	790-7910-429.38-99	161972	13981	4/17/2013	NORTH DAKOTA TELEPHONE CO	49.20	49.20	-
V00102	790-7910-429.33-25	162044	14216	4/19/2013	BRIGGS & MORGAN PA	1,616.36	1,616.36	-
V00102	790-7910-429.34-55	162074	21621	4/22/2013	PFM PUBLIC FINANCIAL MANAGEMEN	140,000.00	100,000.00	40,000.00
V00102	790-7910-429.33-20	AJ	COF	4/26/2013	CITY OF FARGO	460.00	460.00	-
V00102	790-7910-429.33-25	162703	16872	5/14/2013	ERIK R JOHNSON & ASSOCIATES	3,219.38	3,219.38	-
V00102	790-7910-429.38-99	163136	13981	5/30/2013	NORTH DAKOTA TELEPHONE CO	95.00	95.00	-
V00102	790-7910-429.33-20	AJ	COF	5/31/2013	CITY OF FARGO	340.00	340.00	-

**FM Diversion Authority  
Outstanding Contracts  
As of August 31, 2013**

Date: 9/3/2013

Project Number	Account Number	PO No.	Vendor No.	P.O. Date	Vendor Name	Approved Contract/Invoice Amount	Liquidated	Outstanding Encumbrance
V00102	790-7910-429.33-25	163409	16872	6/12/2013	ERIK R JOHNSON & ASSOCIATES	7,161.68	7,161.68	-
V00102	790-7910-429.33-25	163410	14216	6/12/2013	BRIGGS & MORGAN PA	11,111.20	11,111.20	-
V00102	790-7910-429.33-20	AJ	COF	6/30/2013	CITY OF FARGO	260.00	260.00	-
V00102	790-7910-429.38-99	163969	13981	7/8/2013	NORTH DAKOTA TELEPHONE CO	39.40	39.40	-
V00102	790-7910-429.33-25	164303	16872	7/17/2013	ERIK R JOHNSON & ASSOCIATES	3,498.60	3,498.60	-
V00102	790-7910-429.33-20	AJ	COF	7/29/2013	CITY OF FARGO	220.00	220.00	-
V00102	790-7910-429.55-10	164736	20829	8/7/2013	BROKERAGE PRINTING	117.38	117.38	-
V00102	790-7910-429.33-25	164853	16872	8/12/2013	ERIK R JOHNSON & ASSOCIATES	5,829.31	5,829.31	-
V00102	790-7910-429.38-99	165165	13981	8/23/2013	NORTH DAKOTA TELEPHONE CO	34.20	-	34.20
V00102	790-7910-429.33-20	AJ	COF	8/31/2013	CITY OF FARGO	1,020.00	1,020.00	-
V00201	790-7920-429.33-79	144170	20663	11/18/2011	CH2M HILL ENGINEERS INC	1,908,938.41	1,908,938.41	-
V00202	790-7920-429.33-79	148611	20663	3/15/2012	CH2M HILL ENGINEERS INC	3,422,306.58	3,422,306.58	-
V00203	790-7920-429.33-79	154940	20663	9/17/2012	CH2M HILL ENGINEERS INC	5,000,000.00	4,192,613.85	807,386.15
V00301	790-7910-429.38-69	143936	11604	11/16/2011	ADVANCED ENGINEERING INC	50,000.00	50,000.00	-
V00401	790-7920-429.33-06	143937	165	11/16/2011	BRAUN INTERTEC CORP	54,060.00	43,620.00	10,440.00
V00501	790-7915-429.33-06	143938	165	11/16/2011	BRAUN INTERTEC CORP	36,150.00	34,009.00	2,141.00
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	346,100.00	346,100.00	-
V00801	790-7915-429.33-05	146973	801	1/27/2012	HOUSTON ENGINEERING INC	92,424.03	92,424.03	-
V00802	790-7915-429.33-05	146974	801	1/27/2012	HOUSTON ENGINEERING INC	70,742.30	70,742.30	-
V00803	790-7915-429.33-05	146975	801	1/27/2012	HOUSTON ENGINEERING INC	47,124.46	47,124.46	-
V00804	790-7925-429.33-05	148054	801	2/29/2012	HOUSTON ENGINEERING INC	163,222.91	163,222.91	-
V00805	790-7915-429.33-05	148058	801	2/29/2012	HOUSTON ENGINEERING INC	94,786.00	94,786.00	-
V00806	790-7915-429.33-05	148078	801	2/29/2012	HOUSTON ENGINEERING INC	108,369.87	108,369.87	-
V00901	790-7915-429.33-05	146976	1118	1/27/2012	MOORE ENGINEERING INC	92,291.55	92,291.55	-
V00902	790-7915-429.33-05	146977	1118	1/27/2012	MOORE ENGINEERING INC	135,231.99	135,231.99	-
V00903	790-7915-429.33-05	146978	1118	1/27/2012	MOORE ENGINEERING INC	142,924.27	142,924.27	-
V00904	790-7930-429.33-05	148055	1118	2/29/2012	MOORE ENGINEERING INC	78,760.62	78,760.62	-
V00905	790-7930-429.33-05	148056	1118	2/29/2012	MOORE ENGINEERING INC	32,727.08	32,727.08	-
V00906	790-7915-429.33-05	148057	1118	2/29/2012	MOORE ENGINEERING INC	8,326.50	8,326.50	-

**FM Diversion Authority  
Outstanding Contracts  
As of August 31, 2013**

Date: 9/3/2013

Project Number	Account Number	PO No.	Vendor No.	P.O. Date	Vendor Name	Approved Contract/Invoice Amount	Liquidated	Outstanding Encumbrance
V00907	790-7915-429.33-05	148077	1118	2/29/2012	MOORE ENGINEERING INC	164,867.66	164,867.66	-
V01002	790-7915-429.33-05	148086	17791	2/29/2012	URS CORPORATION	480,488.42	413,862.81	66,625.61
V01003	790-7915-429.33-05	163308	17791	6/6/2013	URS CORPORATION	495,000.00	30,560.57	464,439.43
V01101	790-7905-429.33-42	AJ	CORP	6/19/2013	ARMY CORP OF ENGINEERS	350,000.00	350,000.00	-
V01101	790-7905-429.33-42	AJ	CORP	10/1/2013	ARMY CORP OF ENGINEERS	2,100,000.00	-	2,100,000.00
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	20,652.04	20,652.04	-
V01201	790-7930-429.34-65	149405	19734	4/10/2012	CASS COUNTY JOINT WATER RESOUR	62,467.05	62,467.05	-
V01201	790-7930-429.33-05	156814	19734	11/5/2012	CASS COUNTY JOINT WATER RESOUR	48,138.28	48,138.28	-
V01201	790-7930-429.33-25	156814	19734	11/5/2012	CASS COUNTY JOINT WATER RESOUR	23,113.23	23,113.23	-
V01201	790-7930-429.34-65	156814	19734	11/5/2012	CASS COUNTY JOINT WATER RESOUR	8,250.00	8,250.00	-
V01201	790-7930-429.33-25	157055	19734	11/9/2012	CASS COUNTY JOINT WATER RESOUR	55,312.46	55,312.46	-
V01201	790-7930-429.34-65	157055	19734	11/9/2012	CASS COUNTY JOINT WATER RESOUR	26,500.00	26,500.00	-
V01201	790-7930-429.71-31	157055	19734	11/9/2012	CASS COUNTY JOINT WATER RESOUR	13,500.00	13,500.00	-
V01201	790-7930-429.61-50	160369	19734	2/20/2013	CASS COUNTY JOINT WATER RESOUR	24,990.57	24,990.57	-
V01201	790-7930-429.71-31	161700	19734	4/8/2013	CASS COUNTY JOINT WATER RESOUR	52,735.94	52,735.94	-
V01201	790-7930-429.61-50	164075	19734	7/10/2013	CASS COUNTY JOINT WATER RESOUR	65,419.85	65,419.85	-
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	-
V01301	790-7931-429.33-25	154504	1286	9/4/2012	OHNSTAD TWICHELL PC	1,373.50	1,373.50	-
V01301	790-7931-429.33-25	154505	1286	9/4/2012	OHNSTAD TWICHELL PC	676.50	676.50	-
V01301	790-7931-429.33-25	156088	1286	10/15/2012	OHNSTAD TWICHELL PC	1,102.50	1,102.50	-
V01301	790-7931-429.34-65	157054	1286	11/9/2012	OHNSTAD TWICHELL PC	2,685.00	2,685.00	-
V01301	790-7931-429.34-65	159216	1286	1/14/2013	OHNSTAD TWICHELL PC	1,247.16	1,247.16	-

**FM Diversion Authority  
Outstanding Contracts  
As of August 31, 2013**

Date: 9/3/2013

Project Number	Account Number	PO No.	Vendor No.	P.O. Date	Vendor Name	Approved Contract/Invoice Amount	Liquidated	Outstanding Encumbrance
V01301	790-7931-429.34-65	160365	1286	2/20/2013	OHNSTAD TWICHELL PC	1,148.00	1,148.00	-
V01301	790-7931-429.34-65	160797	1286	3/7/2013	OHNSTAD TWICHELL PC	738.00	738.00	-
V01301	790-7931-429.34-65	161824	1286	4/11/2013	OHNSTAD TWICHELL PC	471.50	471.50	-
V01301	790-7931-429.34-65	162447	1286	5/6/2013	OHNSTAD TWICHELL PC	102.50	102.50	-
V01301	790-7931-429.34-65	163135	1286	5/30/2013	OHNSTAD TWICHELL PC	164.00	164.00	-
V01301	790-7931-429.34-65	164693	1286	8/5/2013	OHNSTAD TWICHELL PC	266.50	266.50	-
V01501	790-7915-429.74-10	150960	19581	5/23/2012	GEOKON INC	33,815.36	33,815.36	-
V01601	790-7920-429.33-05	151232	21007	5/31/2012	HOUSTON-MOORE GROUP LLC	2,072,675.00	1,297,458.81	775,216.19
V01602	790-7930-429.33-05	151233	21007	5/31/2012	HOUSTON-MOORE GROUP LLC	891,000.00	832,069.76	58,930.24
V01603	790-7915-429.33-05	151234	21007	5/31/2012	HOUSTON-MOORE GROUP LLC	2,448,300.00	2,333,292.86	115,007.14
V01604	790-7930-429.33-05	151235	21007	5/31/2012	HOUSTON-MOORE GROUP LLC	1,566,000.00	1,414,436.78	151,563.22
V01605	790-7915-429.33-05	151236	21007	5/31/2012	HOUSTON-MOORE GROUP LLC	905,000.00	845,983.45	59,016.55
V01606	790-7930-429.33-05	151237	21007	5/31/2012	HOUSTON-MOORE GROUP LLC	538,103.00	392,948.24	145,154.76
V01607	790-7915-429.33-05	152022	21007	6/25/2012	HOUSTON-MOORE GROUP LLC	240,000.00	158,633.04	81,366.96
V01608	790-7915-429.33-05	152023	21007	6/25/2012	HOUSTON-MOORE GROUP LLC	727,330.00	487,167.48	240,162.52
V01609	790-7915-429.33-05	152024	21007	6/25/2012	HOUSTON-MOORE GROUP LLC	837,341.00	312,839.97	524,501.03
V01610	790-7930-429.33-05	152025	21007	6/25/2012	HOUSTON-MOORE GROUP LLC	338,000.00	68,147.25	269,852.75
V01611	790-7930-429.33-05	155529	21007	10/2/2012	HOUSTON-MOORE GROUP LLC	771,000.00	86,125.43	684,874.57
V01612	790-7930-429.33-05	155530	21007	10/2/2012	HOUSTON-MOORE GROUP LLC	665,000.00	-	665,000.00
V01613	790-7915-429.33-05	157599	21007	11/29/2012	HOUSTON-MOORE GROUP LLC	4,665,000.00	573,633.02	4,091,366.98
V01614	790-7915-429.33-05	160644	21007	3/1/2013	HOUSTON-MOORE GROUP LLC	605,000.00	121,133.78	483,866.22
V01701	790-7930-429.71-30	155627	7198	10/3/2012	NORTHERN TITLE CO	484,016.00	484,016.00	-
V01701	790-7930-429.80-17	159217	201	1/14/2013	CASS COUNTY TREASURER	84,832.36	84,832.36	-
V01702	790-7930-429.71-30	157394	20529	11/21/2012	KENNELLY & OKEEFFE	216,401.85	216,401.85	-
V01702	790-7930-429.71-30	157470	20529	11/26/2012	KENNELLY & OKEEFFE	342,601.87	342,601.87	-
V01702	790-7930-429.71-30	F13677	11046	11/26/2012	RED RIVER TITLE SERVICES INC	250.00	250.00	-
V01702	790-7930-429.71-30	F13678	11046	11/26/2012	RED RIVER TITLE SERVICES INC	170.00	170.00	-
V01702	790-7930-429.71-30	158252	21423	12/18/2012	HUBER, STEVE	1,056.43	1,056.43	-
V01702	790-7930-429.80-17	159217	201	1/14/2013	CASS COUNTY TREASURER	6,825.95	6,825.95	-
V01702	790-7930-429.71-30	164432	20529	7/24/2013	KENNELLY & OKEEFFE	375,581.20	375,581.20	-

**FM Diversion Authority  
Outstanding Contracts  
As of August 31, 2013**

Date: 9/3/2013

<b>Project Number</b>	<b>Account Number</b>	<b>PO No.</b>	<b>Vendor No.</b>	<b>P.O. Date</b>	<b>Vendor Name</b>	<b>Approved Contract/Invoice Amount</b>	<b>Liquidated</b>	<b>Outstanding Encumbrance</b>
V01702	790-7930-429.33-32	165248	21845	8/29/2013	MCKINZIE METRO APPRAISAL	3,200.00	-	3,200.00
V01801	790-7930-429.33-05	155531	1714	10/2/2012	ULTEIG ENGINEERS INC	100,000.00	-	100,000.00
V01901	790-7930-429.33-05	155469	21258	10/1/2012	PROSOURCE TECHNOLOGIES, INC	100,000.00	5,191.96	94,808.04
V02001	790-7930-429.33-91	157598	10078	11/29/2012	COLDWELL BANKER	4,346.77	4,346.77	-
V02001	790-7930-429.33-91	158046	10078	12/12/2012	COLDWELL BANKER	8,000.00	8,000.00	-
V02001	790-7930-429.33-91	160366	10078	2/20/2013	COLDWELL BANKER	2,600.00	2,600.00	-
V02001	790-7930-429.33-91	161153	10078	3/18/2013	COLDWELL BANKER	1,000.00	1,000.00	-
V02001	790-7930-429.33-91	164785	10078	8/8/2013	COLDWELL BANKER	11,000.00	11,000.00	-
V02101	790-7930-429.33-05	157607	12775	11/29/2012	RED RIVER BASIN COMMISSION	500,000.00	104,151.07	395,848.93
V02201	790-7915-429.38-99	163309	18968	6/6/2013	US GEOLOGICAL SURVEY	46,920.00	46,920.00	-
						36,255,174.27	23,817,544.78	12,437,629.49



**FM Diversion Authority**  
**Cummulative Vendor Payments Since Inception**  
**As of August 31, 2013**

Vendor Name	Approved Contract/Invoice Amount	Liquidated	Outstanding Encumbrance
HOUSTON-MOORE GROUP LLC	\$ 17,269,749.00	\$ 8,923,869.87	\$ 8,345,879.13
CH2M HILL ENGINEERS INC	10,331,244.99	9,523,858.84	807,386.15
ARMY CORP OF ENGINEERS	2,450,000.00	350,000.00	2,100,000.00
URS CORPORATION	975,488.42	444,423.38	531,065.04
KENNELLY & OKEEFFE	934,584.92	934,584.92	-
MOORE ENGINEERING INC	662,468.17	662,468.17	-
HOUSTON ENGINEERING INC	576,669.57	576,669.57	-
RED RIVER BASIN COMMISSION	500,000.00	104,151.07	395,848.93
NORTHERN TITLE CO	484,016.00	484,016.00	-
CASS COUNTY JOINT WATER RESOUR	440,240.78	440,240.78	-
DORSEY & WHITNEY LLP	396,263.30	396,263.30	-
MINNESOTA DNR	346,100.00	346,100.00	-
PFM PUBLIC FINANCIAL MANAGEMEN	140,000.00	100,000.00	40,000.00
PROSOURCE TECHNOLOGIES, INC	100,000.00	5,191.96	94,808.04
ULTEIG ENGINEERS INC	100,000.00	-	100,000.00
CASS COUNTY TREASURER	91,658.31	91,658.31	-
BRAUN INTERTEC CORP	90,210.00	77,629.00	12,581.00
ERIK R JOHNSON & ASSOCIATES	80,182.59	80,182.59	-
IN SITU ENGINEERING	54,800.00	47,973.00	6,827.00
ADVANCED ENGINEERING INC	50,000.00	50,000.00	-
US GEOLOGICAL SURVEY	46,920.00	46,920.00	-
GEOKON INC	33,815.36	33,815.36	-
COLDWELL BANKER	26,946.77	26,946.77	-
OHNSTAD TWICHELL PC	16,675.16	16,675.16	-
MOORHEAD, CITY OF	15,062.90	15,062.90	-
BRIGGS & MORGAN PA	12,727.56	12,727.56	-
WARNER & CO	9,950.00	9,950.00	-
CITY OF FARGO	8,320.00	8,320.00	-
MCKINZIE METRO APPRAISAL	3,200.00	-	3,200.00
FORUM COMMUNICATIONS (LEGALS)	2,224.20	2,224.20	-
SEIGEL COMMUNICATIONS SERVICE	1,490.00	1,490.00	-
FORUM COMMUNICATIONS (ADVERT)	1,153.82	1,153.82	-
HUBER, STEVE	1,056.43	1,056.43	-
NORTH DAKOTA TELEPHONE CO	624.80	590.60	34.20
BROKERAGE PRINTING	473.33	473.33	-
RED RIVER TITLE SERVICES INC	420.00	420.00	-
GALLAGHER BENEFIT SERVICES INC	250.00	250.00	-
GOOGLE LOVEINTHEOVEN	116.00	116.00	-
FEDERAL EXPRESS CORPORATION	71.89	71.89	-
<b>Grand Total</b>	<b>\$ 36,255,174.27</b>	<b>\$ 23,817,544.78</b>	<b>\$ 12,437,629.49</b>



# Statement

McKinzie Metro Appraisal  
1284 East County Rd E  
Vadnais Heights, MN 55110

Date
8/19/2013

To:
Flood Diversion Authority 211 - 9th Street South PO Box 2806 Fargo, ND 58108

		Amount Due	Amount Enc.		
		\$3,200.00			
Date	Transaction	Amount	Balance		
07/08/2013 07/10/2013	Balance forward INV #13-0523SCJH. Due 07/10/2013.	3,200.00	0.00 3,200.00		
CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	Amount Due
0.00	0.00	3,200.00	0.00	0.00	\$3,200.00

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

City of Fargo -- Auditor's Office  
 Attn: Kent Costin  
 200 North 3rd Street  
 Fargo, ND 58102

*Invoice*

Date	8/25/2013
------	-----------

Description	Qty	Rate	Amount
Metro Flood Project -- legal services: Erik Johnson -- July 26 thru Aug 25, 2013 -- itemization enclosed	15.3	191.25	2,926.13
Nancy J. Morris -- July 26 thru Aug 25, 2013 -- itemization enclosed	15.6	165.75	2,585.70
<p><i>790-7900-429-33-25</i></p> <p><i>PJ = V00102</i></p>			
<i>We appreciate your business.</i>	<b>TOTAL:</b>		<b>\$5,511.83</b>

**Client: City of Fargo**  
**Job: Metro Flood**

Atty	DATE	DESCRIPTION	TIME
E	7/26/2013	Telephone call from Haut re: Oxbow Country Club comments and emails to Nyhof and O'Hara re: Oxbow MOU and Task Order	1.3
E	7/26/2013	Insert advance of fund language and send out	0.8
E	7/29/2013	Prepare for meeting and meet with O'hara, Berndt and Shockley re: amendment to JPA and Amendment to Design Agreement; make changes to JPA Amendment and send to Shockley	1.5
E	7/30/2013	Work on revisions to Oxbow MOU	0.8
E	7/31/2013	Minor revisions to Oxbow MOU and circulate to Nyhof	0.5
E	8/2/2013	Attend Administrative Advisory meeting and followup re: Oxbox MOU	2
E	8/5/2013	Telephone conference with Cattenach re: St. Paul office conversation	0.4
E	8/7/2013	Prepare for meeting with Jenny Samurzja and meet with Jenny	2.3
E	8/8/2013	Prepare summary of changes to Oxbow MOU and prepare for presentation on MOU and 2nd Amendment to Ltd. JPA	1.2
E	8/8/2013	Attend Land Management Commission meeting and Metro Flood Diversion Authority meeting	2.2
E	8/9/2013	Circulat Ltd. JPA and Oxbow MOU to obtain approval from member-entities	0.5
E	8/19/2013	Telephone conference with Cattanach re: lawsuit filed by Richland	0.5
E	8/20/2013	Telephone conference with Cattanach ; Burdick and Norgard re: Richland/Wilkin lawsuit; conference with Pat Zavoral re: same	1.3
<b>Total Time</b>			15.30
<b>Hourly Rate - ERJ \$</b>			191.25
<b>Total Fees - ERJ \$</b>			2926.13
N	7/26/2013	Hardship - Phone calls w/ Dorothy Scilley, Chuck @ Mark Estate, Jim Sandau; correspondence w/ Jim Sandau	1
N	7/29/2013	Phone call w/ Dorothy Scilley; correspondence & phone call w/ Jim Sandau re: closing & walk through	1.3
N	7/31/2013	Scilley - Correspondence & communication re: appraisal review	2
N	7/31/2013	Scilley - attend closing	1.8
N	8/2/2013	Administrative advisory meeting; meeting w/ Bruce Spiller re: hardship purchase status	2
N	8/8/2013	Attend Land Management and Diversion Authority meeting	3
N	8/9/2013	Review JPA draft amendment and correspondence; review correspondence re: early acquisitions & terms	1.2
N	8/19/2013	Review correspondence & complaint	1
N	8/20/2013	Meeting re: complaint status and strategy	0.5
N	8/22/2013	Phone call w/ Larry Andrud re: acquisition procedures; correspondence re: documents and status & hardship acquisitions	1.8
<b>Total Time</b>			15.60
<b>Hourly Rate</b>			165.75
<b>Total Fees - NJM</b>			2585.70



MINNEAPOLIS OFFICE  
612-340-2600

(Tax Identification No. 41-0223337)

STATEMENT OF ACCOUNT FOR PROFESSIONAL SERVICES

Fargo-Moorhead Flood Diversion Bd of Authority  
c/o Erik R. Johnson & Associates, Ltd.  
Attn: Erik Johnson  
505 Broadway, Suite 206  
Fargo, ND 58102

August 23, 2013  
Invoice No. 1893444

**RECEIVED**  
BY \_\_\_\_\_ DATE 8-26-13

Client-Matter No.: 491379-00001  
Red River Diversion Project

For Legal Services Rendered Through July 31, 2013

INVOICE TOTAL

Total For Current Legal Fees \$21,732.00

**Total For Current Invoice \$21,732.00**

Summary of Account

\*Prior Balance Due \$4,853.75 - pd 8/13/13

Total Amount Due ~~\$26,085.75~~

\*If payment has been submitted for prior balance due, please disregard.

790-7910-429-33-25  
PJ = V00101

For your convenience, please remit payment to the address below or we offer the option of remitting payment electronically by wire transfer. If you have any questions regarding this information, please contact the lawyer you are working with on this project or Dorsey's Accounts Receivable Department at 1-800-861-0760. Thank you.

Mailing Instructions:  
Dorsey & Whitney LLP  
P.O. Box 1680  
Minneapolis, MN 55480-1680

Wire Instructions:  
U.S. Bank National Association  
800 Nicollet Mall  
Minneapolis, MN 55402

ABA Routing Number: 09100022  
Account Number: 1602-3010-8500  
Swift Code: USBKUS44IMT

Please make reference to the invoice number

Service charges are based on rates established by Dorsey & Whitney. A schedule of those rates has been provided and is available upon request. Disbursements and service charges, which either have not been received or processed, will appear on a later statement.

ALL INVOICES ARE DUE 30 DAYS FROM DATE OF INVOICE UNLESS OTHERWISE EXPRESSLY AGREED BY DORSEY & WHITNEY



Office of the City Attorney

City Attorney  
Erik R. Johnson

Assistant City Attorneys  
Nancy J. Morris  
Jason T. Loos

August 29, 2013

Kent Costin  
Finance Director  
City of Fargo  
200 North Third Street  
Fargo, ND 58102

**Re: Red River Diversion Project**

Dear Kent:

I am enclosing a Summary Invoice dated August 23, 2013 from the Dorsey & Whitney Firm in Minneapolis for their professional services rendered through July 31, 2013 on the Red River Diversion Project. If you have any questions, please feel free to contact me. Please remit payment directly to Dorsey Whitney.

Sincerely,

A handwritten signature in blue ink, appearing to be "ERJ", with a long horizontal line extending to the right.

Erik R. Johnson

ERJ/jmf  
Enclosure  
cc: Pat Zavoral

