

Amendment 2 to Income Contract Number 39228

Contract Start Date:	February 3, 2012	Total Contract Amount:	\$ 1,492,718.00
Original Contract Expiration Date:	January 3, 2014	Original Contract:	\$ 230,550.00
Current Contract Expiration Date:	February 1, 2014	Previous Amendment(s) Total:	\$ 115,550.00
Requested Contract Expiration Date:	February 2, 2015	This Amendment:	\$ 1,146,618.00

This amendment is by and between the State of Minnesota, through its Commissioner of Department of Natural Resources ("DNR" or "State") and Fargo-Moorhead Metro Diversion Board of Authority c/o City of Moorhead, Moorhead City Hall, P.O. Box 779, Moorhead, MN 56561-0779 ("Purchaser").

Recitals

1. The State has a contract with the Purchaser identified as Income Contract Number 39228 ("Original Contract") to reimburse the State for reasonable expenses incurred in preparation of an Environmental Impact Statement (EIS) for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (Project).
2. The Contract is being amended to extend the expiration date of the contract and to provide additional funding for the State, and its EIS Contractor, to complete EIS preparation work through the adequacy determination.
3. The State and the Contractor are willing to amend the Original Contract as stated below.

Contract Amendment

REVISION 1. Clause 1.2 "**Expiration Date**" is amended as follows:

1.2 Expiration date: ~~February 1, 2014,~~ February 2, 2015, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

REVISION 2. Clause 2 "**State's Duties**" is amended as follows:

2 State's Duties

The State will:

Pursuant to Minnesota Rules Parts ~~4410.2400~~2000 to 4410.2800, the DNR will: document federal process, prepare and publish in the EQB Monitor a Scoping Environmental Assessment Worksheet and a Draft Scoping Decision Document with supporting information; provide for a public scoping period to end; conduct a public scoping meeting; prepare a Final Scoping Decision; compare the Final Scoping Decision to available federal EIS for the same project to determine level of effort for EIS preparation; secure consultants/contractors as appropriate for EIS Scoping and preparation efforts; issue an EIS Preparation Notice; host an EIS Preparation Kick-off meeting; conduct and/or evaluate special studies as outlined in the Scoping Decision Document; prepare a Draft EIS and hold a public meeting; respond to comments and prepare a Final EIS; and prepare adequacy determination that meets the requirements for adequacy established in Minnesota Rules Part 4410.2800.

REVISION 3. Clause 3 "**Payment**" is amended as follows:

3 Payment

The Purchaser will pay the State for all services performed by the State under this contract as follows:

EIS Scoping:

Purchaser shall receive an invoice and pay to the State \$230,550 as reimbursement for services related to staff costs, legal costs, travel, public meetings, public notification, printing and distribution related to the Fargo-Moorhead Metropolitan Flood Risk Management Project's EIS scoping and consultant selection incurred by the state.

Upon execution of Amendment 1, Purchaser shall receive an invoice and pay to the State \$115,550 as reimbursement for additional services to cover the State's anticipated increase in costs for the modified EIS scoping process. If costs to the State exceed \$346,100.00, balance to be submitted prior to the EIS Preparation Notice issuance; If costs to the

State total less than \$346,100.00, balance to be credited toward EIS preparation, or refunded, at Purchaser's discretion. Costs to the State for the modified EIS scoping process exceeded \$346,100.00 by \$50,722.00. The exceeded amount of \$50,722.00 shall be paid to the State prior to the State issuing an EIS Preparation Notice.

EIS Preparation:

~~Costs for EIS preparation are estimated at \$750,000. This estimate will be revised at the completion of EIS Scoping and the contract will be amended to reflect these costs. A payment schedule for these costs will be developed as part of the contract amendment after completion of EIS scoping.~~

A cost breakdown and payment schedule is included in Exhibit A ~~and~~, Exhibit B and Exhibit C, which are attached to and incorporated into this contract.

Pursuant to Minn. Rules part 4410.6500, subp. 1(a)-(c), the Purchaser will pay the State for all services performed by the State under this contract as follows:

The Purchaser shall remit payment on the following schedule:

\$ 598,670.00 (50% of total estimated costs plus EIS scoping phase balance within 10 days of Income Contract execution)

\$ 273,974.00 (25% total estimated costs following completion of the draft EIS chapters)

\$ 273,974.00 (25% total estimated costs following the end of the public comment period)

Final Payment on any outstanding RGU/consultant costs (EIS adequacy determined)

The State will invoice the Purchaser for all services performed under this contract.

If costs to the State exceed \$1,146,618.00, an amendment to this contract would be required and the balance is to be submitted prior to the EIS Adequacy Determination issuance.

Pursuant to Minn. Rules part 4410.6500, subp. 1(d), the State shall refund the overpayment, if the cash payments made by the Purchaser exceed the State's actual EIS costs. The refund shall be paid within 30 days of completion of the State of the accounting of the EIS costs.

~~The total obligation of the Purchaser for all compensation and reimbursements to the State under this contract is \$1,096,100.00 \$1,492,718.00. The \$750,000 cost estimate for EIS preparation will be revised at the completion of EIS scoping and this contract will be amended to reflect the revised EIS preparation costs. The total obligation costs include the original contract amount, Amendment 1, revised EIS preparation costs, and the balance from the EIS scoping process.~~

The Purchaser must complete all reimbursements of State costs before any state agency permit can be issued.

REVISION 4. Clause 4 "**Authorized Representatives**" is amended as follows:

4 Authorized Representatives

The State's Authorized Representative is ~~Stuart Arkley~~ Jill Townley, EIS Project Manager, Division of Ecological and Water Resources, Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155, 651-259-5089-5168, or his successor.

The Purchaser's Authorized Representative is Bob Zimmerman, City of Moorhead, City Hall, P.O. Box 779, Moorhead, MN 56561-0779, or his successor.

The Original Contract and any previous amendments are incorporated into this amendment by reference.

1. PURCHASER

Fargo-Moorhead Metro Diversion Board of Authority

Signed: _____

Date: _____

39228-Amendment 2
1-17-2014
FB

2. STATE AGENCY

Department of Natural Resources

By: _____
(with delegated authority)

Title: _____

Date: _____

3. COMMISSIONER OF ADMINISTRATION

As delegated to Materials Management Division

By: _____

Date: _____

EXHIBIT C

Project Name: FARGO-MOORHEAD FLOOD RISK MANAGEMENT (1-17-2014, FINAL)

EIS Estimated Costs

Start Date 2/10/2014 (estimated)
End Date 12/31/2014 (estimated)

Project Steps	Business office		OCO		Wenck		Project Team		Technical Team		Fisheries		Wildlife		Combined DNR Subtotal	
Draft EIS Phase																
Contracting	2	0			13	0	0	0	0	0	0	0	0	0	15	
DEIS Check-in Meeting (Kick-off)	0	0			6	18	2	2	2	2	2	2	2	2	28	
Special Studies																
Section 2.2-No Action Alternative	0	0			22	58	0	0	0	0	0	0	0	0	80	
Section 2.5.1-Distributed Storage Alternative	0	0			42	117	6	6	6	6	6	6	6	6	171	
Section 2.5.2-Northern Alignment Alternative	0	0			32	97	6	6	6	6	6	6	6	6	141	
Section 3.2.1-Phase I & II ESAs	0	0			10	0	0	0	0	0	0	0	0	0	10	
Section 3.2.2-Cover Types	0	0			7	10	0	0	0	0	0	0	0	0	17	
Section 3.2.3.1 (IBIs)	0	0			14	31	12	0	0	0	0	0	0	0	57	
Section 3.2.3.2-State special species	0	0			5	10	4	3	0	0	0	0	0	0	22	
Section 3.2.3.3-Inv. Species Concerns	0	0			4	16	0	0	0	0	0	0	0	0	20	
Section 3.2.4.1-arch./cultural resources	0	0			3	0	0	0	0	0	0	0	0	0	3	
Section 3.2.5-Land Use Plans and regulations	0	0			8	20	0	0	0	0	0	0	0	0	28	
Section 3.2.6-Infrastructure and public services	0	0			12	20	10	0	0	0	0	0	0	0	42	
Section 3.2.8.1-Hydrology	0	0			30.5	69	0	0	0	0	0	0	0	0	99.5	
Section 3.2.8.2-Socioeconomic	0	0			58	62	0	0	0	0	0	0	0	0	120	
Section 3.2.8.3-Dam Safety	0	0			8	29	0	0	0	0	0	0	0	0	37	
Section 3.3.1.1-Stream Stability	0	0			14	40	0	0	0	0	0	0	0	0	54	
Section 3.3.1.2-Wetlands	0	0			14	36	0	0	0	0	0	0	0	0	50	
Section 3.3.1.3-Cold Weather Impacts	0	0			9	14	7	0	0	0	0	0	0	0	30	
General-Eval. of mitigation strategies	0	0			35	153	7	7	7	7	7	7	7	7	202	
Weekly PM meetings (48 at 1hr)					46	42	0	0	0	0	0	0	0	0	88	
Meeting Coordination					27	105	5	5	5	5	5	5	5	5	142	
Preliminary Draft EIS (Chapters)	0	0			46	83	7	7	7	7	7	7	7	7	143	
Preliminary Draft EIS (Compiled)	0	0			43.5	55	5	5	5	5	5	5	5	5	108.5	
Final DEIS (Public Review Version)	1	7			61	16	0	0	0	0	0	0	0	0	85	
Stakeholder Participation	1	22			107.5	120	0	0	0	0	0	0	0	0	250.5	
Draft EIS Phase Closure	0	0			5	0	0	0	0	0	0	0	0	0	5	
Draft EIS Phase Evaluation	0	0			5	0	0	0	0	0	0	0	0	0	5	
Final EIS Phase																
Response to Draft EIS Comments	0	0			152	78	4	4	4	4	4	4	4	4	238	
Final EIS Document	1	15			125	79	4	4	4	4	4	4	4	4	228	
Stakeholder Participation	0	0			4	2	0	0	0	0	0	0	0	0	6	
Adequacy Determination																
Adequacy Determination	1	7			68.5	70	0	0	0	0	0	0	0	0	146.5	
Response to Final EIS Comments	0	0			51	36	6	6	6	6	6	6	6	6	99	
Final EIS Evaluation	0	0			5	0	0	0	0	0	0	0	0	0	5	
EIS Project Closure	6	0			23	0	0	0	0	0	0	0	0	0	29	
Hours Subtotal																
Hours	12	51	0		1116	1486	85	55	2805							
Rate	\$ 96.00	\$ 66.00			\$ 96.00	VARIES	\$ 89.00	\$ 89.00	VARIES							
Subtotal	\$1,056.00	\$ 3,366.00	\$ 621,043.50		\$107,136.00	\$134,200.00	\$ 7,565.00	\$ 4,895.00	\$879,261.50							
Total Hours (DNR)	2805															
Total Rate Charge (including Wenck)	\$ 879,262															
Pass Through Expenses																
Project Manager 1.0 FTE at 75%	\$	150,336														
Printing and Distribution	\$	3,000														
Mailing and Communication	\$	1,000														
Travel, lodging, meals (public mtg)	\$	1,695														
Misc. FM meeting (1)	\$	5,129														
Meeting room rental	\$	1,200														
Stenographer	\$	1,000														
Agency Direct	\$	18,000														
State Register	\$	100														
Subtotal	\$	1,060,722														
DWSC (8% of subtotal less contractor)	\$	35,174														
TOTAL ESTIMATED EIS PREP COST	\$	1,095,896														
Outstanding scoping costs	\$	50,722														
TOTAL OBLIGATION (Amend #2)	\$	1,146,618														

above is the proposal total (\$564,585) + 10% contingency