METRO FLOOD DIVERSION AUTHORITY
DECEMBER 15, 2016—3:30 PM

1. MEETING TO ORDER

A meeting of the Metro Flood Diversion Authority was held Thursday, December 15, 2016, at 3:30 PM in the Fargo City Commission Room with the following members present: Cass County Commission representative Darrell Vanyo; Cass County Commissioner Chad Peterson; Cass County Commissioner Rick Steen; Fargo City Mayor Tim Mahoney; Fargo City Commissioner Tony Grindberg; Moorhead City Mayor Del Rae Williams; Moorhead City Council Member Nancy Otto; Moorhead City Council Member Chuck Hendrickson; Clay County Commissioner Kevin Campbell; Clay County Commissioner Grant Weyland; Cass County Joint Water Resource District Manager Roger Olson; and West Fargo City Commissioner Mike Thorstad. Fargo City Commissioner Dave Piepkorn was absent.

2. MINUTES APPROVED

MOTION, passed

Mr. Campbell moved and Mr. Hendrickson seconded to approve the minutes from the December 1, 2016, meeting as presented. Motion carried.

3. AGENDA ORDER

MOTION, passed

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

4. MANAGEMENT UPDATE

Program management consultant (PMC) report

Randy Richardson from CH2M briefly discussed the ending balance for the FY 2016 budget and figures for FY 2017 budget.

5. CORPS OF ENGINEERS UPDATE

Terry Williams, Project Manager from the Corps of Engineers, was present. She provided an update of activities by Corps of Engineers staff which includes the first federal construction contract award to Ames Construction for the inlet control structure; preparation of the preliminary engineering report for the southern embankment design; issuance of the 404 permit for construction of the diversion channel and associated infrastructure; preparation to conduct rights-of-entry and surveys beginning in the spring of 2017; and participation in a teleconference briefing with the congressional delegation earlier this month.

6. ADMINISTRATIVE/LEGAL UPDATE

Resolution Authorizing Release of RFP

Attorney John Shockley said today is a historic milestone as the Request for Proposals (RFP) will be issued to the four short-listed teams. He provided the executive summary which outlines the three major components of the RFP: Instructions to Proposers (ITP), Technical Requirements (TR), and Project Agreement. Also for consideration is a resolution to approve the release of the RFP.

MOTION, passed

Ms. Otto moved and Mr. Campbell seconded to approve the "Resolution Establishing Procedures and Protocols for the Request for Proposals Phase of the P3 Procurement and Approving, Issuing, and Authorizing Dissemination of the Request for Proposals to Design, Build, Finance, Operate, and Maintain the Diversion Channel and Associated Infrastructure Work Package of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project". On roll call vote, the motion carried unanimously.

Financing Whitepaper

Mr. Shockley presented the Appropriations and Financing Whitepaper, which serves as a skeleton for the overall financing of the project. The document includes information on North Dakota and Minnesota funding. He said permitting issues with Minnesota will need to be resolved before appropriations are considered. The whitepaper is not a binding agreement but does set forth how the project will be financed. The Finance Committee reviewed and approved the document.

MOTION, passed

Mr. Olson moved and Ms. Otto seconded to approve the Metro Flood Diversion Authority Fargo-Moorhead Metropolitan Area Flood Risk Management Project Appropriations and Financing Whitepaper. On roll call vote, the motion carried unanimously.

MOU with West Fargo

Mr. Shockley said staff is working on Memorandums of Understanding (MOU) with townships to deal with transportation issues related to the diversion project. The diversion channel will run through a portion of the extraterritorial (ET) area in West Fargo. He suggested a MOU be drafted with West Fargo to address transportation needs. He said bridges at 32nd Avenue and 52nd Avenue will need to be considered as well as how drainage will work in the area. He also will look into whether the P3 contract could allow the four short-listed teams to consider adjustments to the alignment.

Mr. Thorstad said now is a good time to evaluate the issues. Mr. Shockley said all MOUs will be presented to the board for final approval.

7. PUBLIC OUTREACH UPDATE

Committee report

The Public Outreach Committee met on December 14th. The outreach team continues to participate in various community outreach activities and presentations. Mr. Olson said a presentation was given at the State Water Convention last week in Bismarck. He said meetings with local legislators and new council members will be held to discuss the project. He said the website and twitter continue to experience an increase in activity.

8. LAND MANAGEMENT

The Land Management Committee met on December 14th. Mr. Peterson said the committee received several one-page handouts that provide information including maps at a glance related to the diversion project. He said these handouts will be helpful in the upcoming legislative session to distribute to local legislators.

9. FINANCE UPDATE

Committee report

The Finance Committee met on December 14th.

Mr. Richardson discussed the following task order amendments which were approved by the Co-Executive Directors:

Task Order Amendments

- HMG Task Order 8 Amendment 15 (Work-in-Kind)—2017 budget allocation and period of performance extension in the amount of $124,942.
- Beaver Creek Archeology Task Order 1 Amendment 2 (Cultural Investigation)—period of performance extension at no cost.

Construction Change Orders

Ty Smith from CH2M discussed the following construction change orders, which were reviewed and approved by the Finance Committee:

- Industrial Builders, Inc. Change Order 5 (2nd Street North, North of Pump Station)—temporary striping and quantity balancing in the amount of $127,282.10.
- Industrial Builders, Inc. Change Order 15 (2nd Street North, South of Pump Station)—gate contract transfer, quantity balancing and differing site conditions at a reduction in the amount of $416,726.77.
- Hough, Inc. Change Order 2 (2nd Street South Levee and Floodwall)—additional traffic control, differing subsurface conditions, repair existing storm sewer catch light base removal and additional time for unsuitable material in the amount of $650.00.

MOTION, passed

Mr. Grindberg moved and Mr. Peterson seconded to approve the appropriation of funds for the outlined Change Orders. On roll call vote, the motion carried unanimously.

CH2M Hill Contract Extension

Mr. Vanyo said the Finance Committee approved a contract extension with CH2M to extend the period of performance from December 16, 2016, to January 13, 2017. A new task order is being drafted for the next meeting that would change the payment method from a flat lump sum fee to actual time spent.

MOTION, passed

Ms. Williams moved and Mr. Grindberg seconded to approve the contract extension with CH2M Hill through January 13, 2017. On roll call vote, the motion carried unanimously.

Ernst & Young Infrastructure Advisors Statement of Work No. 3

Mr. Shockley said the Finance Committee approved an extension of the current services with Ernst & Young Infrastructure Advisors, LLC through December 31, 2017. Ernst & Young will provide financial advice relating to the P3 procurement including financial plan revisions, support for the RFP process, and proposal evaluations.

MOTION, passed

Mr. Grindberg moved and Ms. Otto seconded to approve the appropriation of funds for Statement of Work No. 3 with Ernst & Young Infrastructure Advisors LLC. On roll call vote, the motion carried unanimously.

Voucher approval

The bills for the month are with Dorsey & Whitney LLP for legal services; Gray Pannell & Woodward LLP for legal services as co-bond counsel; CCJWRD for costs associated with the Metro Flood Diversion, in-town levees, OHB levee, and Oxbow Country Club golf course construction; Ohnstad Twichell, P.C. for P3 bond counsel; North Dakota Water Users Association for 2017 membership dues; and Erik R. Johnson & Associates, Ltd. for legal services.

MOTION, passed

Mr. Grindberg moved and Mr. Steen seconded to approve the vouchers in the amount of $2,340,976.01 for bills received through December 7, 2016. On roll call vote, the motion carried unanimously.

10. ACKNOWLEDGEMENT OF BOARD SERVICE

Nancy Otto was recognized for her service on the board as this is her last meeting. Mr. Vanyo thanked her for her leadership. Mr. Campbell said she is a true champion of flood protection for the entire region. Ms. Williams thanked her and appreciates the work she has done on the board.

Mr. Vanyo said this is his last meeting as Chairman of the board. Mr. Mahoney will serve as Chairman in 2017. Mr. Mahoney thanked him for his work and his passion for the project.

11. NEXT MEETING DATE

The next meeting will be held on Thursday, January 12, 2017.

12. ADJOURNMENT

MOTION, passed

On motion by Mr. Peterson, seconded by Ms. Otto, and all voting in favor, the meeting was adjourned at 4:35 PM.

Minutes prepared by Heather Worden, Cass County Administrative Assistant