FLOOD DIVERSION BOARD OF AUTHORITY
JANUARY 14, 2016—3:32 PM

1. MEETING TO ORDER

A meeting of the Flood Diversion Board of Authority was held Thursday, January 14, 2016, at 3:32 PM in the Fargo City Commission Room with the following members present: Cass County Commission representative Darrell Vanyo via conference call; Cass County Commissioner Ken Pawluk; West Fargo City Commissioner Mike Thorstad; Fargo City Mayor Tim Mahoney; Fargo City Commissioner Mike Williams; Cass County Joint Water Resource District Manager Rodger Olson; Clay County Commissioner Kevin Campbell; and Moorhead City Council Member Nancy Otto. Also present was ex-officio member Gerald Van Amburg, Buffalo-Red River Watershed District. Fargo City Commissioner Melissa Sobolik was absent.

Staff members and others present: Cass County Administrator Keith Berndt; Interim Fargo City Administrator Bruce Grubb; Moorhead City Manager Michael Redlinger; Clay County Administrator Brian Berg; Cass County Engineer Jason Benson; Fargo City Director of Engineering Mark Bittner; Fargo City Engineer April Walker; Moorhead City Engineer Bob Zimmerman; Mark Nisbet, Chamber of Commerce Business Leaders Taskforce; Bruce Spiller, PE, CH2M; and Terry Williams, Project Manager, Corps of Engineers.

2. MINUTES APPROVED

MOTION, passed

Mr. Williams moved and Mr. Campbell seconded to approve the minutes from the December 17, 2015, meeting as presented. Motion carried.

3. AGENDA ORDER

MOTION, passed

Mr. Campbell moved and Mr. Thorstad seconded to approve the order of the agenda with the addition of a Financial Services Agreement under the Finance Committee update. Motion carried.

4. ELECTION OF CHAIR AND VICE CHAIR FOR 2016

MOTION, passed

Mr. Pawluk moved and Mr. Campbell seconded to nominate Darrell Vanyo as Chairman and Tim Mahoney as Vice Chairman of the Flood Diversion Board of Authority for 2016. On roll call vote, the motion carried unanimously.

5. MANAGEMENT UPDATE

Program management consultant (PMC) report

Bruce Spiller provided an update on activities over the last month including work on in-town levees and the bid schedule for 2016; completion of the asbestos abatement and beginning demolition of Park East Apartments; development of procurement documents for the Public-Private Partnership (P3); and development of responses to public comments associated with the Minnesota Draft EIS (MN DEIS).

Corps of Engineers report

Terry Williams provided an update of activities by Corps of Engineers staff which includes continued review of in-town levee design and construction; final technical review of the diversion inlet structure; assist with development of RFP and reference documents on alternate financing and split delivery plan; continued design of southern embankment elements; and advance permit coordination for diversion channel and southern embankment. The Corps received a request from the MN DNR to assist with responses to public comments received as part of the MN DEIS.

6. ADMINISTRATIVE/LEGAL UPDATE

Second Monthly Meeting

Attorney Erik Johnson said for consideration today is a request to add a second monthly board meeting. Mr. Spiller said with the pace of work being done, it is necessary for the board to meet more frequently to review and approve items. The recommendation is to hold the second meeting on the 4th Thursday of each month in addition to the current meeting held on the 2nd Thursday of each month. The consensus of the board was to hold meetings twice a month as requested. Mr. Spiller said if there is no business to conduct, the second meeting would be cancelled.

Ashurst LLP Letter of Engagement and Legal Services Agreement

Katie Bertsch from Ohnstad Twichell discussed an agreement with Ashurst LLP for P3 legal counsel services. Last month the board approved a work order in an amount not to exceed $100,000 for their services.

MOTION, passed

Mr. Campbell moved and Mr. Pawluk seconded to approve a Letter of Engagement and Legal Services Agreement with Ashurst LLP to serve as the national P3 legal counsel. Discussion: Mr. Pawluk asked about the process used to select a law firm. Mr. Spiller provided a brief overview of the staff who were involved with selecting the firm. Mr. Berndt said the work of Ashurst LLP will be monitored closely by Ohstad Twichell to help manage the costs. On roll call vote, the motion carried unanimously.

7. TECHNICAL UPDATE

Recommended Contract Actions Summary

Mr. Spiller discussed one Task Order as follows:

Task Orders

- Terracon Task Order No. 1 Amendment 2—materials testing services, asbestos abatement monitoring and quality assurance services for the Howard Johnson Hotel, Shakey's, Fargo Public School, and Park East Apartments demolition projects; El Zagal Phase 2 levee; and Mickelson Field levee extension in the amount of $75,000.

MOTION, passed

Ms. Otto moved and Mr. Thorstad seconded to approve the appropriation of funds for Task Order No. 1 Amendment 2 with Terracon; and recommend approval of the appropriation of funds by the Dakota Metro Flood Board for the Diversion Authority. On roll call vote, the motion carried unanimously.

North Dakota retention projects update

Chad Engels from Moore Engineering serves as engineer for the Southeast Cass Water Resource District. He provided a presentation on North Dakota retention projects. He discussed eight North Dakota water resource district sponsored projects from past years, which provide 110,000 acre feet of total flood storage volume constructed. He also outlined recent studies and future studies and projects, which include 8 from North Dakota and 14 from Minnesota.

8. PUBLIC OUTREACH UPDATE

Committee report

Mr. Olson said the Public Outreach Committee met on January 13th. One of the main topics discussed was upstream outreach efforts. He discussed upcoming meetings with Stanley Township, Horace City, and Moorhead Rotary Club as well as attendance at the Red River Basin Commission annual conference. He outlined numerous outreach efforts with upstream residents and officials over the last year. A joint meeting with the Diversion Authority and MNDak Upstream Coalition has been proposed and a meeting with Fargo and Moorhead Mayors and commissioners associated with the Richland-Wilkin JPA has also been offered.

Daron Selvig from AE2S provided an update on the newsletter, which will be published soon and will include articles on the Chairman's goals for 2016 and the retention project presentation given today.

Business Leaders Task Force
Mark Nisbet said Chamber of Commerce members consider flood protection to be one of the top priorities for the area, and the task force continues to be committed to permanent flood protection.

9. LAND MANAGEMENT UPDATE

Committee report
The Land Management Committee met on January 13th.

CCJWRD update
Mr. Brodshaug referred to the handout regarding land acquisitions completed through December 31, 2015, which includes completed acquisitions, budget figures, and completed negotiations. He said if the Corps of Engineers receives a new start and construction funding, those funds will need to be obligated by awarding a construction contract no later than September, 2016. The plan is to award the contract for the inlet structure located just south of Horace, which means the Corps will need to advertise for construction proposals and have access to the lands this spring. Because the land acquisition process takes some time, pre-acquisition activities have begun including the CCJWRD securing right-of-entry for surveying, and authorizing right-of-way agents and appraisers to begin contacting property owners. Right of entry letters have been sent to property owners affected by the diversion channel alignment, diversion inlet and associated County Road 16 and 17 realignment properties. If federal construction funds are awarded, the CCJWRD will proceed with acquiring the lands so the Corps is able to obligate its funds. If the Minnesota EIS is not complete in time to allow the Diversion Authority to meet this schedule, acquisition of lands and all funding will be done entirely by North Dakota entities with no obligations or involvement requested from the Minnesota partners. He said the location of the diversion inlet is the same for both alignment alternatives that the Minnesota DNR is considering in its EIS.

10. FINANCE UPDATE

Committee report
Michael Montplaisir Cass County Auditor, said the Finance Committee met on January 13th. The committee discussed short and long-term financing needs for the project. He said $244 million has been appropriated in state funding and $153 million remains after reimbursement requests totaling $91 million have been submitted for the diversion project.

Voucher approval
The bills for the month are with Ohnstad Twichell, P.C. for legal services; CCJWRD for costs associated with in-town levees, access issues, Diversion Project Assessment Committee (DPAC) work, OHB levee, and Oxbow Country Club golf course construction; Army Corps of Engineers for cost share funds; City of Fargo for fiber relocation work on 2nd Street North flood wall project; and Cass County Treasurer for property tax payments.

MOTION, passed
Mr. Pawluk moved and Mr. Vanyo seconded to approve the vouchers in the amount of $3,044,903.27 for December, 2015. On roll call vote, the motion carried unanimously.

Financial Services Agreement with Springsted Incorporated
Mr. Montplaisir said previously the board contracted with Public Financial Management (PFM) to provide financing options. The City of Fargo uses Springsted Incorporated for bonding advice. In order to provide consistency, the Finance Committee approved a contract with Springsted Incorporated on an hourly basis for financial advisor services for the Diversion Authority.

MOTION, passed

Ms. Otto moved and Mr. Olson seconded to approve a Municipal Advisor Services Agreement with Springsted Incorporated. On roll call vote, the motion carried unanimously.

11. NEXT MEETING DATE

The next meeting will be held on **Thursday, January 28, 2016**, at 3:30 PM.

12. ADJOURNMENT

MOTION, passed

On motion by Mr. Williams, seconded by Ms. Otto, and all voting in favor, the meeting was adjourned at 4:34 PM.

Minutes prepared by Heather Worden, Cass County Administrative Assistant