FLOOD DIVERSION BOARD OF AUTHORITY
APRIL 14, 2016—3:30 PM

1. MEETING TO ORDER

A meeting of the Flood Diversion Board of Authority was held Thursday, April 14, 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 Mary Scherling; West Fargo City Commissioner Mike Thorstad; Fargo City Mayor Tim Mahoney; Fargo City Commissioner Mike Williams; Cass County Joint Water Resource District Manager Mark Brodshaug; Clay County Commissioner Kevin Campbell; and Moorhead City Council Member Nancy Otto. Also present was ex-officio member Gerald VanAmburg, Buffalo-Red River Watershed District. Fargo City Commissioner Melissa Sobolik was absent.

Staff members and others present: Cass County Administrator Keith Berndt; Fargo City Administrator Bruce Grubb; Moorhead City Manager Mike Redlinger; Cass County Engineer Jason Benson; Fargo City Director of Engineering Mark Bittner; Fargo City Engineer April Walker; Moorhead City Engineer Bob Zimmerman; Tom Dawson, Chairman, Chamber of Commerce Business Leaders Taskforce; Martin Nicholson, CH2M Hill; and Terry Williams, Project Manager, Corps of Engineers.

2. MINUTES APPROVED

MOTION, passed
Mr. Campbell moved and Ms. Otto seconded to approve the minutes from the March 31, 2016, meeting as presented. Motion carried.

3. AGENDA ORDER

MOTION, passed
Mrs. Scherling moved and Ms. Otto seconded to approve the order of the agenda. Motion carried.

4. MANAGEMENT UPDATE

Program management consultant (PMC) report

Martin Nicholson provided an update on activities over the last month including coordination with the North Dakota State Water Commission on the dam permit; continued support and coordination of the MN EIS process and Minnesota dam safety permit; and release of the updated program cost estimate. He said priority areas for April and May include development of a financial plan, approval of the Joint Powers Agreement (JPA), development of the Project Partnership Agreement (PPA); and advancement of the Public Private Partnership (P3).

Ty Smith from CH2M provided an update on in-town levee work, Park East Apartments and Howard Johnson property demolitions, El Zagal Phase 2 levee construction, and Mickelson levee extension construction.

Corps of Engineers report

Terry Williams provided an update of activities by Corps of Engineers staff which includes final review of the diversion inlet control structure; continued assistance to the MN DNR in preparation of the final MN EIS scheduled for completion in May 2016; coordination with North Dakota and Minnesota on phased permitting for the southern embankment/dam; continued support of in-town levee design and construction; development of RFP and reference documents on alternate financing and split delivery plan; and coordination with Corps of Engineers headquarters and project sponsors on the PPA document.

Mr. Vanyo said a meeting is being arranged with the North Dakota State Engineer to discuss the North Dakota dam construction permit.

5. ADMINISTRATIVE/LEGAL UPDATE

Attorney John Shockley said all federal claims against the Corps of Engineers were dismissed on March 31st. He discussed work by the finance team on a short-term loan; review of comments submitted on the draft PPA; and work on the JPA with the goal to present the final draft for review by the board on April 28th.

6. TECHNICAL UPDATE

Recommended Contracting Actions Summary

Ty Smith reviewed the following contracted actions with the board:

Task Order Amendment

- Terracon Consultants, Inc. Task Order No. 1 Amendment 3 (Material Testing and Abatement Monitoring)—add asbestos abatement monitoring and asbestos survey and sampling services in the amount of $82,500.

Change Orders

- Industrial Builders, Inc. Change Order 6 (2nd Street North Pump Station)—completion milestone changes, extended warranty duration, modifications to trash rack and rake, and check valve replacement in the amount of $43,488.99;
- Landwehr Construction Change Order 1 (2nd Street/Downtown In-Town Levees, Demolition)—removal and cleanup of unknown asbestos containing fire doors, Xcel transformer blow out, spring pavement removal, Xcel Energy and City of Fargo utility expenses, water service disconnect and unknown asbestos abatement in the amount of $87,263.59;
- Industrial Builders, Inc. Change Order 5 (2nd Street North – South of Pump Station)—concrete grading within pump station, unit price change, bridge abutment seal, traffic signals, bridge abutment concrete disposal and floodwall connections in the amount of $68,743.01.

Construction Contract Award

- Industrial Builders, Inc.— construction contract award (2nd Street North – North of Pump Station) in the amount of $12,969,699.05, which was 6.3% lower than the engineer's bid estimate.

MOTION, passed

Mr. Williams moved and Mrs. Scherling seconded to approve the appropriation of funds for the task order amendment, change orders and contract award as outlined, 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.

7. PUBLIC OUTREACH UPDATE

Committee report

The Public Outreach Committee met on April 13th. Kevin Campbell said the committee received a right-of-entry report; reviewed the litigation ruling; reviewed the updated cost estimate; received an update on the various public outreach presentations given over the last month; and received a new handout on the common questions regarding the project.

Mr. Campbell said there has been difficulty in the past to obtain a quorum for meetings, so he asked about adding a couple people to the committee. Mr. Williams said it is a good idea to have a varied demographic to get the message out regarding the project. Mr. Vanyo does not see an issue with expanding the committee and asked for names to be forwarded for consideration. Mr. Mahoney suggested Fargo City Commissioner Tony Gehrig be added as a new member to the committee.

Business Leaders Task Force

Tom Dawson said the task force will meet on Tuesday, April 19th. He said a separate meeting will be scheduled with task force members and Moorhead City Council members.

8. LAND MANAGEMENT UPDATE

Committee report

Mr. Mahoney said the Land Management Committee met on April 13th and approved nine property acquisitions in Oxbow, which are the last of the Oxbow buyouts. He said the Flood Diversion Authority has begun and will continue to receive proceeds from the sale of replacement lots in Oxbow.

CCJWRD update

Mark Brodshaug referred to the handout regarding land acquisitions completed through April 13, 2016, which includes completed acquisitions, budget figures, and completed negotiations. Activities from last month include preparation of the purchase agreements for the final Oxbow acquisitions; continued critical in-town property negotiations with Mid-America Steel and Case Plaza; pre-demolition activities at the Howard Johnson Hotel property; completion of a review by the Corps on all diversion inlet appraisals; and pre-property acquisition efforts for diversion inlet area lands.

9. FINANCE UPDATE

Committee report

Mike Montplaisir, Cass County Auditor, said the Finance Committee met on April 13th. He said the cumulative spent on the project to date is almost $200 million. He said the remainder of $100 million in U.S. Bank loans will soon be spent, and then sales tax dollars and North Dakota state funding will be used to pay monthly expenses. Staff have been working to secure another short-term loan agreement with U.S. Bank for $100 million to help with costs at the end of the 2016 and the beginning of 2017. The committee also approved nine property acquisitions in Oxbow.

Fredrikson & Byron, P.A. agreement

The current agreement with Fredrikson & Byron, P.A. ends on June 30th. The Finance Committee approved a new agreement for the period of July 1, 2016, to June 30, 2017, at the same rate of $3,500 per month for government relations services. The agreement was for two years, but the committee requested a change to one year and also requested language to include additional reporting requirements.

MOTION, passed

Mr. Mahoney moved and Ms. Otto seconded to approve an agreement with Fredrikson & Byron, P.A. for government relations services from July 1, 2016, to June 30, 2017. On roll call vote, the motion carried unanimously.

Voucher approval

The bills for the month are with 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; Fredrikson & Byron, P.A. for government relations services; Dorsey & Whitney LLP for legal services; Erik R. Johnson & Associates, Ltd. for legal services; Ohnstad Twichell, P.C. for P3 bond counsel; Springsted Inc. for financial feasibility analysis services; BNSF Railroad for roadway resurfacing permit processing fee; and Clay County for property taxes on diversion-owned parcels.

Mr. Montplaisir said the vouchers total $9.6 million—almost $9 million is for the purchase of the Fargo School District property and its replacement property. Mr. Williams asked about the total spent on in-town projects. Mr. Montplaisir said $51.7 million has been spent.

MOTION, passed

Mr. Williams moved and Mrs. Scherling seconded to approve the vouchers in the amount of $9,682,771.45 for March, 2016. On roll call vote, the motion carried unanimously.

10. NEXT MEETING DATE

The next meeting will be held on Thursday, April 28, 2016.

11. ADJOURNMENT

MOTION, passed

On motion by Mr. Williams, seconded by Mr. Campbell, and all voting in favor, the meeting was adjourned at 4:13 PM.

Minutes prepared by Heather Worden, Cass County Administrative Assistant