FLOOD DIVERSION BOARD OF AUTHORITY
JUNE 9, 2016—3:30 PM

1. MEETING TO ORDER

A meeting of the Flood Diversion Board of Authority was held Thursday, June 9, 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; Fargo City Commissioner Dave Piepkorn; Cass County Joint Water Resource District Manager Rodger Olson; Clay County Commissioner Grant Weyland; and Moorhead City Council Member Nancy Otto.

Staff members and others present: Cass County Administrator Keith Berndt; Clay County Administrator Brian Berg; 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; Bruce Spiller, CH2M Hill; Colonel Dan Koprowski, outgoing St. Paul District Commander, Corps of Engineers; Colonel Samuel L. Calkins, incoming St. Paul District Commander, Corps of Engineers; Aaron Snyder, Branch Chief for Project Management & Development, Corps of Engineers; Terry Williams, Project Manager, Corps of Engineers; Judy DesHarnais, Deputy of Programs and Project Management, Corps of Engineers; and Michael Bart, Chief of Engineering and Construction, Corps of Engineers.

Colonel Koprowski will be leaving the St. Paul District for his next assignment on June 30th. Mr. Vanyo thanked Col. Koprowski for his efforts and welcomed Colonel Samuel Calkins as the new St. Paul District Commander for the Corps of Engineers.

2. MINUTES APPROVED

MOTION, passed
Ms. Otto moved and Mrs. Scherling seconded to approve the minutes from the May 26, 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

Bruce Spiller provided an update on activities over the last month including attendance at a Public Private Partnership (P3) conference; advertisement of bids for the 2nd Street South flood control project; release of the financial plan; and participation at P3 Industry Day on June 7th which had 150 attendees and included 8 one-on-one meetings. He said priority areas for June and July include approval of the Joint Powers Agreement (JPA) by member entities, and approval and signing of the Project Partnership Agreement (PPA).

He also 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

Colonel Koprowski provided an update of activities by Corps of Engineers staff which includes approval of the final plans and specifications for the diversion inlet control structure; anticipated completion in July of the Determination of Adequacy by the MN DNR for the Final MN EIS, which confirmed the federal findings that the only viable alternative is the one that includes what Minnesota

classifies as a high hazard dam (diversion channel with upstream staging); continued coordination with North Dakota and Minnesota on phased permitting for the southern embankment/dam; continued support of in-town levee design and construction; and coordination with Corps of Engineers headquarters and project sponsors on the PPA with possible execution of the agreement and signing ceremony in mid-July.

5. ADMINISTRATIVE/LEGAL UPDATE

Attorney John Shockley said the PPA has been approved by the City of Fargo and he anticipates approval by City of Moorhead at their next meeting. The Diversion Authority will consider approval of the PPA at the June 23rd meeting. He said the JPA has been approved by four of the five member entities with Moorhead the last to act on the JPA at their next meeting. He said temporary financing issues are being studied and actions will be needed by Fargo, Cass County and the Diversion Authority in the next few months.

6. TECHNICAL UPDATE

Recommended Contracting Actions Summary

Bruce Spiller reviewed the following contracting action with the board:

Construction Contract Award

- Hough, Inc. Construction Contract Award (WP-42.F2 Flood Control, 2nd Street South)—award contract to construct concrete floodwall, earthen levee, utility installations, and modifications to 2nd Street South on the south side of Main Avenue at 2nd Street South in the amount of $1,448,373.17.

  MOTION, passed

  Mr. Williams moved and Ms. Otto seconded to approve the appropriation of funds for the outlined construction contract 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 June 8th. Mr. Olson said Industry Day was held on June 7th with numerous companies interested in the business opportunities associated with the P3 construction of the project. The committee received an update on various public outreach presentations given over the last month and participated in the development of a flyer which summarizes the complexity of the financial plan for stakeholders and the general public. He said the website activity and online subscriptions to the e-newsletter continue to increase.

Business Leaders Task Force

Tom Dawson said the task force met on May 25th and heard a presentation on the financial plan given by Diversion staff. He said Cass County and Clay County legislators were also invited to the meeting.

8. LAND MANAGEMENT UPDATE

Committee report

The Land Management Committee met on June 8th. Mrs. Scherling said the committee approved the acquisition of the Mid-America Steel property.

CCJWRD update

Mark Brodshaug referred to the handout regarding land acquisitions completed through May 31, 2016, which includes completed acquisitions, budget figures, and completed negotiations. Activities from last month include the right to enter and construct with Mid-America Steel; property acquisition efforts for the diversion inlet control structure and County Road 16/17 re-alignment; and rights of entry and boundary survey work for Phase 1 of the diversion channel properties from the outlet to the Rush River area and for the Maple River and Sheyenne River aqueduct structures.

Mr. Brodshaug said the committee also received an update on land acquisitions associated with the diversion inlet control structure. Three parcels are needed this year for construction to begin on the outlet; however, the land owners have not agreed to final offers. The CCJWRD filed three separate eminent domain actions seeking permanent right of way easements for the three parcels. He said negotiations are on-going with property owners of 12 other parcels necessary for the County Road 16/17 re-alignment work near the inlet control structure, which are needed prior to the Diversion Authority opening bids in the fall of 2016.

9. FINANCE UPDATE

Committee report

Mike Montplaisir, Cass County Auditor, said the Finance Committee met on June 8th and recommended to the CCJWRD the execution of an entry and construction agreement to allow immediate access to the Mid-America property for construction of the flood wall project; and recommended to the CCJWRD the execution of a purchase agreement in the amount of $5,800,000 as an administrative settlement for the Mid-America parking lot and to continue monitoring the residual value of the property.

Mr. Montplaisir said funds from the U.S. Bank loans have been exhausted. Currently, costs are being paid with draw down funds from the state and with sales tax dollars. He said three different proposals have been received for additional short-term financing and it appears Wells Fargo is the preferred option. He said this item will need to be approved by the City of Fargo and Cass County, and will be brought back to the Diversion Authority next month for approval.

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; Dorsey & Whitney LLP for legal services; and Ohnstad Twichell, P.C. for P3 bond counsel and 4th Street pump station litigation work.

MOTION, passed

Mr. Mahoney moved and Mr. Olson seconded to approve the vouchers in the amount of $3,888,608.54 for May, 2016. On roll call vote, the motion carried unanimously.

10. OTHER BUSINESS

Kent Costin, Fargo Finance Director, introduced Wells Fargo Financial representatives Paul Rebholz and Thomas Harkless, who have been working with city and county staff on the new short-term financing. Mr. Vanyo thanked them for their work with the Diversion Authority to obtain additional financing for the project.

11. NEXT MEETING DATE

The next meeting will be held on Thursday, June 23, 2016.

12. ADJOURNMENT

MOTION, passed

On motion by Mr. Mahoney, seconded by Ms. Otto, and all voting in favor, the meeting was adjourned at 4:10 PM.

Minutes prepared by Heather Worden, Cass County Administrative Assistant