

**FLOOD DIVERSION BOARD OF AUTHORITY
FEBRUARY 9, 2012—3:30 PM**

1. MEETING TO ORDER

A meeting of the Flood Diversion Board of Authority was held on Thursday, February 9, 2012, at 3:30 PM in the Fargo City Commission Room with the following members present: Cass County Commissioner Ken Pawluk; Cass County Commissioner Vern Bennett; West Fargo City Commissioner Mike Thorstad; Cass County Joint Water Resource District Manager Rodger Olson; Fargo Mayor Dennis Walaker; Fargo City Commissioner Tim Mahoney; Fargo City Commissioner Brad Wimmer; 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.

Staff members and others present: Cass County Administrator Keith Berndt; Moorhead City Manager Mike Redlinger; Clay County Administrator Brian Berg; Fargo City Engineer Mark Bittner; Fargo City Senior Engineer April Walker; Cass County Engineer Jason Benson; Tom Waters, Program Manager, CH2MHill; Bruce Spiller, CH2MHill; Aaron Snyder, Branch Chief for Project Management & Development, Corps of Engineers; and Brett Coleman, Project Manager, Corps of Engineers.

2. MINUTES AMENDED AND APPROVED

MOTION, passed

Mr. Campbell moved and Ms. Otto seconded to amend the December 8, 2011, minutes and correct the amount of the Minnesota EIS contract to \$230,550. Motion carried.

MOTION, passed

Mr. Walaker moved and Mr. Campbell seconded to approve the minutes from the January 12, 2012, meeting as written. Motion carried.

3. CONSENT AGENDA

Mr. Pawluk asked for the item on the selection of design firms to be moved to the regular agenda for discussion.

MOTION, passed

Ms. Otto moved and Mr. Olson seconded to approve the consent agenda as amended: Motion carried.

a. Contract approval

- Authority work directives (AWD) 00007 revised through 00016 with Moore Engineering, Houston Engineering and URS.

4. PROJECT MANAGEMENT FIRM UPDATE

Tom Waters, Program Manager from CH2MHill, discussed the following items with the board:

Selection of design firms

Mr. Berndt served on a selection committee along with Mark Bittner, April Walker, Bob Zimmerman, and David Overbo this week to interview design firms.

The committee recommends the Diversion Board authorize the chairman to enter into a master services agreement with Houston-Moore Group LLC for bridge, channel, levee, flood wall and utility relocation design; hydrology and hydraulics; and recreation and land use planning. The committee also recommends staff be authorized to negotiate a master services contract and immediately issue task orders for designs of roads and bridges associated with the diversion channel crossings, utility relocations and work-in-kind services. He said contracts will be presented at the next meeting for ratification.

MOTION, passed

Mr. Pawluk moved and Mr. Walaker seconded to approve the selection committee recommendation and authorize the chairman to enter into a master services agreement and issue task orders with Houston-Moore Group LLC for bridge design, diversion channel design, hydrology and hydraulics, levee and flood wall design, utility relocation design, and recreation and use planning. On roll call vote, the motion carried unanimously.

The selection committee also recommends that Houston-Moore Group LLC, ProSource and Ulteig Engineering be qualified for land acquisition services, and for staff to begin contracting discussions with the firms.

MOTION, passed

Mr. Campbell moved and Mr. Pawluk seconded to approve the selection committee recommendation that the three firms of Houston-Moore Group, LLC, ProSource, and Ulteig Engineering be qualified for land acquisition services. On roll call vote, the motion carried unanimously.

Mr. Berndt said at the next meeting the Diversion Board will need to consider another extension to the contract with CH2MHill. Mr. Zavoral said the tentative plan is to enter into a five-year contract with annual renewals.

Program manager consultant update

Mr. Waters provided an update on the activities over the last month, including preparation of an outline for the Land Acquisition Plan; reporting of work-in-kind (WIK) and LERRDs (Land, Easements, Rights-Of-Way, Relocation, and Disposal Areas) expenses to Corps of Engineers; land management discussions and outreach with Oxbow officials; preparation for public outreach meetings; and participation in design team technical meetings.

Retention presentation

Chad Engels from Moore Engineering provided a presentation on the Wild Rice Watershed, including information from previous floods which is helping engineers to define possible retention sites. He said the use of models also helps in studying any downstream impacts that may be created by retention sites during times of flooding.

Minnesota EIS update

Mr. Waters said the Minnesota Department of Natural Resources (DNR) plans to begin work on the Minnesota EIS. He provided an outline of the approach for the Diversion Board and said the Corps of Engineers will also be involved to facilitate the management and completion of the EIS.

Land Management update

Mr. Waters discussed community engagement and outreach meetings to discuss staging and storage associated with the project. He said a land management plan is being developed and should be available to the public sometime in May.

Chartering sessions update

Mr. Waters said the program management team met with Diversion Authority and Corps of Engineers staff this week to establish a process on decision-making involved with project. Those involved signed a commitment statement and agreed to form a partnership to work together.

5. UPDATES FROM COMMITTEESPublic Outreach Committee

Mr. Olson said the Public Outreach Committee will continue to be involved with landowner and community meetings, as outlined by Mr. Waters.

Daron Selvig, Communications Specialist from Advanced Engineering and Environmental Services (AE2S), said the website continues to be updated. He said a video produced by the Corps of Engineers regarding the diversion alignment will soon be included on the website. Also, he has met with several local businesses and provided presentations on the project.

Finance Committee

Mr. Berndt provided an update from the Finance Committee meeting, which was held February 6th. He said the committee is working with the program management consultant to track and code costs for the project.

The committee discussed a proposal received from Springsted, Inc. to develop a model for long-term financing. Mr. Zavoral said the City of Fargo and City of Moorhead both use Springsted, Inc. for bond issues and suggested the Diversion Board use the firm on an hourly basis until a long-term contract is in place.

MOTION, passed

Mr. Walaker moved and Ms. Otto seconded to authorize staff to work with Springsted, Inc. on an hourly basis to begin drafting a financial model for the project. Motion carried.

Mr. Berndt said the Finance Committee discussed the possibility of establishing a threshold in order to pay smaller bills, since the Diversion Board meets monthly and the City of Fargo pays bills weekly. A threshold of \$1,000 was suggested and if agreed upon by the Diversion Board, vouchers less than \$1,000 could be paid immediately and approved retroactively.

MOTION, passed

Mr. Pawluk moved and Ms. Otto seconded to establish a threshold of \$1,000 for the payment of vouchers. Motion carried.

Land Management Committee

Mr. Walaker said the committee met earlier today. He said hardship acquisition details need to be completed as soon as possible. Mr. Waters said they will proceed on the development of a policy.

6. CORPS OF ENGINEERS STATUS UPDATE

Mr. Coleman said design activities have begun on the project. He said the President's budget will be released on Monday, February 13th. Staff will be monitoring the budget to see if the project is included for 2013.

7. GENERAL LIABILITY INSURANCE COVERAGE WITH NDIRF

Erik Johnson, Fargo City Attorney, updated the board on general liability insurance for the project through the North Dakota Insurance Reserve Fund (NDIRF). He said NDIRF has developed a proposal to provide coverage under their pooled-risk fund, while naming the each of the six-member entities as "additional insureds". The annual premium for the first year is \$5,000.

He said the policy excludes coverage on land acquisition, eminent domain, condemnation and flooding claims for lawsuits. A special addendum is included that specifies the Diversion Authority is self-insured with respect to defense and damage costs relating to lawsuits to stop the project or challenging parts of the project.

Mr. Johnson said the Finance Committee discussed how defense costs will be addressed, and approved a recommendation that funds for legal defense be provided by each participating agency if needed.

MOTION, passed

Mr. Walaker moved and Ms. Otto seconded to authorize the chairman to obtain coverage for general liability insurance with the North Dakota Insurance Reserve as proposed, and that funds for legal defense be provided by each participating agency. On roll call vote, the motion carried unanimously.

8. VOUCHERS, Approved

MOTION, passed

Mr. Walaker moved and Ms. Otto seconded to approve the vouchers as presented. On roll call vote, the motion carried unanimously.

Ms. Otto asked if a list of the bills could be prepared for the board that would include amounts divided into categories along with the entities that paid the bills. Mr. Zavoral said staff is working to provide this type of report at future meetings.

9. NEXT MEETING DATE

The next meeting will be held on Thursday, March 8, 2012, at 3:30 PM.

10. ADJOURNMENT

MOTION, passed

On motion by Ms. Otto, seconded by Mr. Walaker, and all voting in favor, the meeting was adjourned at 4:50 PM.