

**FLOOD DIVERSION BOARD OF AUTHORITY  
SEPTEMBER 13, 2012—3:30 PM**

**1. MEETING TO ORDER**

A meeting of the Flood Diversion Board of Authority was held on Thursday, September 13, 2012, at 3:30 PM in the Fargo City Commission Room with the following members present: Cass County Commissioner Darrell Vanyo; Cass County Commissioner Scott Wagner; West Fargo City Commissioner Mike Thorstad; Cass County Joint Water Resource District Manager Rodger Olson; Fargo City 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; Clay County Administrator Brian Berg; Moorhead City Manager Mike Redlinger; Fargo City Engineer Mark Bittner; Fargo City Engineer April Walker; Moorhead City Engineer Bob Zimmerman; Tom Waters, Program Manager, CH2MHill; Bruce Spiller, CH2MHill; Aaron Snyder, Branch Chief for Project Management & Development, Corps of Engineers; Brett Coleman, Project Manager, Corps of Engineers; and Terry Williams, Project Manager, Corps of Engineers.

**2. MINUTES APPROVED**

***MOTION, passed***

**Mr. Wagner moved and Mr. Walaker seconded to approve the minutes from the August 9, 2012, meeting as written. Motion carried.**

**3. AGENDA ORDER**

***MOTION, passed***

**Mr. Wagner moved and Mr. Wimmer seconded to approve the order of the agenda as presented. Motion carried.**

**4. PROGRAM MANAGEMENT FIRM UPDATE**

Program manager consultant monthly report

Mr. Waters provided an update on activities over the last month including approval by the six-member entities on the amended FY2013 Joint Powers Agreement (JPA); publication of RFQs (Request for Qualifications) to hire a property management firm for early acquisition buyouts; participation in a low flow channel workshop with the Corps of Engineers; preparation of FY2013 Task Orders and Authority Work Directives; request for permitting information from regulatory agencies for the Drayton Dam and preparation of a draft permit plan.

Corps of Engineers status update

Terry Williams said Corps of Engineers led-design efforts continue to be on schedule and under budget; staff prepared for public meetings held this week regarding the post feasibility analysis; staff finished conducting biotic (fish sampling) surveys on rivers; and awarded a contract for the Maple River aqueduct physical model.

Task Orders and Authority Work Directives

Bruce Spiller from CH2MHill reviewed Task Orders and Authority Work Directives with Houston-Moore Group, Ulteig Engineering, ProSource Technologies, and URS Corporation. The orders and directives are for project management, post feasibility engineering analysis, land management services, work-in-kind (WIK), hydraulic modeling, bridge design, land acquisition, and northwest alignment survey.

***MOTION, passed***

**Mr. Mahoney moved and Mr. Wimmer seconded to approve amendments to the five existing Task Order No. 1, 5, 6, 8 and 9 for Houston-Moore Group totaling \$1,653,600 and new Task Order No. 11 and 12 with Houston-Moore Group totaling \$1,436,000; new Master Service Agreement with Ulteig Engineering, Inc. and Task Order No. 1 in the amount of \$100,000 to provide land acquisition services; new Master Service Agreement with ProSource Technologies, Inc. and Task Order No. 1 in the amount of \$100,000 to provide land acquisition services; and Authority Work Directive for URS Corporation in the amount of \$125,000 to provide cultural resource surveys this fall. Motion carried.**

Presentation on post feasibility studies

Brett Coleman and Bruce Spiller focused on three studies completed since September 2011 regarding in-town levees, addition of gates on the inlet structure, and southern alignment options.

The four southern alignment options were considered as follows: Value Engineering (VE) #13 Option A; Value Engineering (VE) #13 Option C; option north of the Wild Rice/Red River confluence; and option south of Oxbow. The Corps of Engineers prefer VE#13 Option A because it eliminates one of the storage areas, impacts approximately 240 less structures, and provides a greater reduction in the project cost.

The Corps of Engineers prefer the combined alternatives of the VE#13 Option A alignment, in-town levees, and gates on the inlet structure, which will reduce the cost by about \$53 million. The alignment south of Oxbow would increase the project cost by around \$29 million. Mr. Coleman said a public comment period begins today and lasts through October 10<sup>th</sup>. The Corps will ask for a recommendation from the Diversion Authority at the meeting on October 11<sup>th</sup>.

Mr. Thorstad asked about the western alignment option and when study on this will be done. Aaron Snyder said after a decision is made on the southern alignment, the Corps will focus on the western alignment.

**5. UPDATES FROM COMMITTEES**

Land Management Committee

Mr. Walaker provided an update on the following topics discussed at the Land Management Committee meeting held earlier this afternoon:

**Hardship appraisal update**

Mr. Walaker said appraisals have been completed on three hardship buyout properties in Oxbow and have been sent to the Corps of Engineers for review.

After approval by the Corps and acceptance from property owners, the appraisals will be forwarded to the Diversion Authority for final approval.

#### **RFQ for property management services**

Mr. Vanyo said two proposals were submitted for property management services, and a recommendation will be forwarded to the Diversion Authority for consideration at the next meeting.

#### **Oxbow request for school district funds**

Mr. Walaker said the State Board of Equalization lowered property values for the City of Oxbow by 20%, and Mayor Jim Nyhof requested a one-year payment from the Diversion Authority to cover the lost revenue for the Kindred School District. Mr. Walaker said the committee did not make a decision today on this issue and will consider the request at their next meeting.

#### **Acquisition of lots in Hayden Heights**

Mr. Vanyo said the Finance Committee approved a recommendation to purchase 30 lots in Hayden Heights Subdivision in West Fargo. One house is owned by the bank due to foreclosure; nine lots are privately owned; and 20 lots are owned by the City of West Fargo. The city is willing to sell the lots for the cost of outstanding special assessments against the properties.

The Land Management Committee questioned whether a decision may be delayed for one month. Mr. Berndt said West Fargo has already sold one lot and sale agreements are pending on three other lots. There was discussion about the city issuing a moratorium on building within Hayden Heights, but West Fargo needs their legal counsel to review the issue. Mr. Vanyo said the goal is to prevent any building in the subdivision, so homeowners are not in a situation similar to Oxbow/Hickson/Bakke Subdivision where properties may need to be acquired.

Mr. Campbell asked about ownership of the lots. Mr. Vanyo said the Diversion Authority would own the properties, similar to other early acquisitions. There was also discussion on maintenance of the lots. Mr. Berndt said the county has the capability to mow the land.

Mr. Waters said the action being requested today is for authorization to begin the process to acquire the lots in Hayden Heights, subject to future action by the Diversion Authority. He said the plan is to provide additional financial information to the board before final approval.

Mr. Bittner said if the western alignment is moved, West Fargo may need to consider a moratorium on building in this subdivision. Mr. Berndt said if the lots are not needed and the land is protected by the project, the lots could be re-sold.

#### ***MOTION, passed***

**Mr. Wimmer moved and Mr. Wagner seconded to proceed with the acquisition process for 30 lots in Hayden Heights Subdivision, subject to a future vote by the Diversion Authority Board. Motion carried.**

Public Outreach Committee

Mr. Olson said the Public Outreach Committee met on September 12<sup>th</sup>. He said the public meetings being held this week provide the opportunity for citizens to ask questions of the Corps of Engineers about the project. The committee recommended that project updates be provided to West Fargo and Horace city boards. Mr. Waters said staff is willing to provide information or presentations to interested cities or other entities.

Finance Committee

The Finance Committee met on September 12<sup>th</sup> and the following activity updates were presented:

**FY2013 program decisions update**

Tom O'Hara from CH2MHill provided an update on FY2013 program decisions regarding design agreement revisions, joint powers agreement (JPA) amendments, and project funding. He said approval of the design agreement will be delayed until December as the Corps of Engineers continues to work on a report that is needed.

**Limited Joint Powers Agreement (JPA) First Amendment**

Mr. O'Hara said the JPA has been approved by all six-member entities, including the FY2013 work plan and budget.

***MOTION, passed***

**Mr. Campbell moved and Mr. Wagner seconded to receive and file the Joint Powers Agreement amendment which was approved by the six-member entities, including the FY13 Diversion Authority budget. Motion carried.**

**Post feasibility financial report**

Mr. Berndt said the local budget for 2013 will be \$29 million with an additional \$5 million in federal funding. Also, \$10 million will be carried over from this year, and he estimates approximately \$44 million will be expended in 2013 on the project.

**CH2MHill contract extension**

Mr. Berndt said during discussions with CH2MHill, the initial thought was to consider a contract for 2013; however, an understanding with the Corps of Engineers regarding eligible costs needs to be determined, so a decision was made to present a short-term contract today. He said Task Order No. 2 with CH2MHill is for a three-month extension through the end of 2012 at a cost not to exceed \$2.1 million.

Mr. Berndt said without their services, the board would have to hire numerous staff to complete the work, most likely at a higher cost. Also, he said the knowledge and expertise provided by CH2MHill is immeasurable.

***MOTION, passed***

**Mr. Mahoney moved and Mr. Wimmer seconded to approve a three-month contract extension with CH2MHill at a cost not to exceed \$2.1 million. Motion carried.**

6. **VOUCHERS, Approved**  
***MOTION, passed***  
**Mr. Mahoney moved and Mr. Walaker seconded to approve the vouchers as presented. Motion carried.**
  
7. **NEXT MEETING DATE**  
The next meeting will be held on Thursday, October 11, 2012, at 3:30 PM.
  
8. **ADJOURNMENT**  
***MOTION, passed***  
**On motion by Mr. Wagner, seconded by Mr. Walaker, and all voting in favor, the meeting was adjourned at 4:45 PM.**

Minutes prepared by Heather Worden, Cass County Administrative Assistant