**FLOOD DIVERSION FINANCE COMMITTEE**

**MARCH 22, 2017—4:00 PM**

1. **MEETING TO ORDER**

A meeting of the Flood Diversion Finance Committee was held on Wednesday, March 22, 2017, at 4:00 PM in the Fargo City Commission Chambers, Fargo City Hall, with the following present: Cass County Joint Water Resource District Chairman Mark Brodshaug; Fargo Finance Director Kent Costin; Moorhead City Councilman Chuck Hendrickson; Fargo City Mayor Tim Mahoney; Cass County Auditor Mike Montplaisir; Fargo City Assistant Administrator Mike Redlinger; Cass County Commissioner Rick Steen; and Moorhead Finance Director Wanda Wagner. Cass County Commission Representative Darrell Vanyo was present via teleconference. Fargo City Commissioner Tony Gehrig; Fargo City Commissioner Tony Grindberg; and Clay County Auditor/Treasurer Lori Johnson were absent.

Robert Cowen, CH2M; Randy Richardson, CH2M; Eric Dodds, AE2S; and John Shockley, Ohnstad Twichell were also present.

Mr. Montplaisir said the agenda needs to be amended to include Extension of HMG Master Services Agreement, Corps of Engineers Request, and P3 Procurement Stipend and Cancellation Payments; and to move the approval of bills after the Corps of Engineers Request line item in the agenda.

1. **APPROVAL OF MINUTES FROM PREVIOUS MEETING**

***MOTION, passed***

**Mr. Brodshaug moved and Mr. Steen seconded to approve the minutes from the February 22, 2017, meeting as presented. Motion carried.**

1. **FINANCIAL UPDATE**

Mr. Costin reviewed the financial statements for February. About $7.7 million has been expended from the FY 2017 budget, and the total disbursed for the project to date is $340,128,049.

Mr. Costin said the Diversion Authority has a cash balance of about $79.3 million and the net position is about $80.5 million.

1. **AMENDMENT TO CITY OF FARGO FISCAL SERVICES AGREEMENT**

Mr. Montplaisir said the City of Fargo has acted as fiscal agent for the Diversion Authority since 2011. The Fiscal Services Agreement has not been amended since that time.

Mr. Costin said the original Fiscal Services Agreement created as a temporary agreement during the early phases of the project. Proposed amendments to the agreement address the handling of cash reserves and any investment income, the addition of payroll processing for the Executive Director position, and changes to the compensation structure to a fixed monthly amount for the support provided by City of Fargo staff. The City has also lost potential investment income over the years as significant deficits were run between reimbursements.

Mr. Steen asked when the next deficit balance is expected. Mr. Costin said another deficit balance is not anticipated. Mr. Steen said the City of Fargo should charge interest costs to the Diversion Authority, and it should be listed as an expense on the financial report.

***MOTION, passed***

**Mr. Vanyo moved and Mr. Steen seconded to approve the revised Fiscal Services Agreement with the City of Fargo retroactive to January 1, 2017, and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.**

1. **SHORT TERM FINANCING**

Mr. Montplaisir said Fargo and Cass County each have $50 million notes due on July 31, 2017, and additional $50 million notes due on July 31, 2018. Springsted will assist with identifying the best course of action going forward as there are several viable options.

1. **PMC UPDATE**

Robert Cowen of CH2M reviewed the Program Management Consultant (PMC) report, including the overall program status and the FY 2017 cash budget.

Mr. Steen said the land acquisition budget has not been fully expended in previous years; Mr. Steen asked if a large carryover will occur at the end of 2017 as well. Mr. Cowen said full efforts will be made to fully expend the land acquisition budget for this year but it is unknown at this time exactly how much of the budget will be spent.

1. **RECOMMENDED CONTRACTING ACTIONS**

Mr. Cowen reviewed the following contract actions:

Reimbursement Agreement

* AT&T (Protection of fiber communication cable located along 1st Ave N at the Red River Crossing between 2nd St N and the river)—final accounting of actual costs to complete the protection of fiber cable in the amount of $16,865.16.

***MOTION, passed***

**Mr. Redlinger moved and Mr. Costin seconded to approve the appropriation of funds for the outlined Change Order, and to forward the recommendation to the Metro Flood Diversion Authority. Discussion: Mr. Costin asked if there was anything unusual in this billing process. Mr. Cowen said there was not; the bill was scrutinized closely and approved by the Technical Advisory Group, and an engineer was on site. On roll call vote, the motion carried unanimously.**

Reimbursement Agreement

* Midcontinent Communications (USACE Diversion Inlet Structure, County Road 17)—temporary relocation of fiber optic line in the amount of $54,738.44.

***MOTION, passed***

**Mr. Redlinger moved and Mr. Costin seconded to approve the appropriation of funds for the outlined Change Order, and to forward the recommendation to the Metro Flood Diversion Authority. Discussion: Mr. Brodshaug asked when permanent relocation will take place. Mr. Cowen said after the structure is built. On roll call vote, the motion carried unanimously.**

1. **EXTENSION OF HMG MASTER SERVICES AGREEMENT**

Attorney John Shockley was present to discuss an extension to the Houston-Moore Group (HMG) Master Services Agreement. Mr. Shockley said he has been working with the co-executive directors and HMG to finalize a contract extension agreement. The agreement is close to completion, but final details are still being settled. A contract amendment under the same terms as the original agreement is needed to extend the current agreement for another 30 days.

***MOTION, passed***

**Dr. Mahoney moved and Mr. Brodshaug seconded to approve Amendment No. 2 to the agreement between the Metro Flood Diversion Authority and Houston-Moore Group, LLC for professional services and to forward the recommendation to the Metro Flood Diversion Authority. Motion carried.**

1. **LAND ACQUISITION DIRECTIVE**

Eric Dodds of AE2S said one Land Acquisition Directive concerning two rural properties in the staging area is up for approval. The first property is a rural residential property and the second property is a rural residential property with multiple outbuildings.

***MOTION, passed***

**Dr. Mahoney moved and Mr. Brodshaug seconded to approve Land Acquisition Directive LAD-OPP-01 REV-03 as presented. Discussion: Dr. Mahoney asked what will happen with the properties. Mr. Dodds said both properties are in the future floodway. Once acquired, the Diversion Authority will be responsible for the removal of all structures; once the land has been cleared it may be disposed of but long-term easements may be required. Mr. Montplaisir asked if the property owners are eligible to purchase lots in Oxbow. Mr. Dodds said yes. Motion carried.**

1. **LAND ACQUISITION STATUS REPORT**

Mr. Dodds presented a draft Land Acquisition Status Report to the committee for review and feedback. While the total land acquisition budget is set in the overall project budget, a full breakdown of the budget for each phase of acquisitions is still being developed.

1. **METRO COG REIMBURSEMENT AGREEMENT**

Mr. Shockley presented a Cost Reimbursement Agreement between the Diversion Authority and the Fargo-Moorhead Metropolitan Council of Governments (Metro COG). Mr. Shockley said as the term of the agreement ends in 2029, all of the project work will not be identified at this time as projects will typically take three to four years to complete.

Cost share for the current 2017 LiDAR contour mapping project is on the bills listing for approval today.

***MOTION, passed***

**Dr. Mahoney moved and Mr. Steen seconded to approve the Cost Reimbursement Agreement between the Metro Flood Diversion Authority and the Fargo-Moorhead Metropolitan Council of Governments and to forward the recommendation to the Metro Flood Diversion Authority. Motion carried.**

1. **CORPS OF ENGINEERS REQUEST**

Mr. Redlinger said a request in the amount of $1.2 million was received from the U.S. Army Corps of Engineers (Corps) for 2017 surveys and mitigation projects. Due to the uncertain timing of federal appropriations, the Corps has requested funds from the Diversion Authority to keep on schedule and award the task orders to start the work. The funds will go towards the required local cash contribution for the project, which is estimated to be about $65 million.

Mr. Montplaisir asked if this request was anticipated in the 2017 budget. Mr. Redlinger said it was not.

Randy Richardson of CH2M was present. Mr. Richardson said the funds are available in the 2017 budget due to $7.7 million line item that was budgeted for utility relocations but has now been rolled into the P3 agreement.

***MOTION, passed***

**Dr. Mahoney moved and Mr. Redlinger seconded to approve Funds Request 002 for 2017 Surveys and Mitigation from the U.S. Army Corps of Engineers and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.**

1. **APPROVAL OF BILLS**

Mr. Costin said bills received for the month total around $6.4 million, including invoices for Metro COG LiDAR mapping and the Corps of Engineers request.

***MOTION, passed***

**Mr. Redlinger moved and Mr. Steen seconded to approve the bills in the amount of $6,359,595.13 and to forward them to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.**

1. **P3 PROCUREMENT STIPEND AND CANCELLATION PAYMENTS**

Mr. Shockley said one of the four short-listed teams for the P3 procurement has withdrawn, citing an unsuitable fit with the project. The team previously mentioned concerns with the $1 million reimbursement stipend and $500,000 cancellation amounts listed in the draft waiver of protest agreement.

As it is important to maintain as many of the remaining teams as possible to the end of the procurement process, Mr. Shockley recommends the $3 million budget for stipend payments be redistributed in the amount of $1.5 million per unsuccessful proposer, which will have no impact on the budget. Mr. Shockley also recommends increasing the cancellation payment to $1.5 million per proposer, which would only be paid out in the event that the procurement is cancelled by the Diversion Authority, at no fault of the proposers.

Mr. Brodshaug asked what the timeframe is for cancellation payment to be paid out. Mr. Shockley said the cancellation payment goes into effect after the waiver of protest agreements are signed but before the successful proposer is chosen. Agreements must be signed by May 1st and the successful proposer will be chosen in October.

Mr. Redlinger left for the remainder of the meeting.

***MOTION, passed***

**Mr. Brodshaug moved and Mr. Steen seconded to increase the Maximum Cancellation Reimbursement amount and the Maximum Reimbursement amount as set forth in the draft Waiver of Protest and Proposal Preparation Reimbursement Agreement to $1.5 million each for the P3 proposers and to forward the recommendation to the Metro Flood Diversion Authority. Discussion: Dr. Mahoney asked if the cancellation payment must be paid if the procurement process is delayed, but not cancelled. Mr. Shockley said the procurement must be cancelled fully. Mr. Brodshaug said increasing the cancellation payment shows confidence in the project. Dr. Mahoney asked if any payment is made to the proposers if they withdraw from the procurement process. Mr. Shockley said if no compliant bid is received, no form of payment is made. On roll call vote, the motion carried unanimously.**

1. **OTHER BUSINESS**

Washington, D.C. meetings

Dr. Mahoney said a recent trip to Washington, D.C. to discuss the project was positive. The local capital invested in the project, local buy-in and dedicated flood sales tax, and the finance plan are looked upon favorably. There was congressional support from both North Dakota and Minnesota, and strong interest was shown in the project.

1. **NEXT MEETING**

The next meeting will be held on March 22nd, at 4:00 PM.

1. **ADJOURNMENT**

***MOTION, passed***

**On motion by Mr. Steen, seconded by Mr. Hendrickson and all in favor, the meeting was adjourned at 5:11 PM.**

Minutes prepared by Brielle Edwards, HR Assistant