

**FLOOD DIVERSION FINANCE COMMITTEE  
MAY 16, 2018—4:00 PM**

**1. MEETING TO ORDER**

A meeting of the Flood Diversion Finance Committee was held on Wednesday, May 16, 2018, at 4:00 PM in the River Room, Fargo City Hall, with the following present: Cass County Commissioner Vern Bennett; Fargo Finance Director Kent Costin; Clay County Commissioner Jim Haney; Moorhead City Councilman Chuck Hendrickson; Cass County Joint Water Resource District Chairman Dan Jacobson; Fargo City Mayor Tim Mahoney; Cass County Auditor Michael Montplaisir; Fargo City Assistant Administrator Michael Redlinger; Cass County Commissioner Rick Steen; and Moorhead Finance Director Wanda Wagner. Fargo City Commissioner Tony Gehrig; Fargo City Commissioner Tony Grindberg; and Clay County Auditor/Treasurer Lori Johnson were absent.

Robert Cowen of CH2M; John Glatzmaier of CH2M; John Shockley of Ohnstad Twichell; Nathan Boerboom of the City of Fargo; and Eric Dodds of AE2S were also present.

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

***MOTION, passed***

**Mr. Montplaisir moved and Mr. Redlinger seconded to approve the minutes from the April 25, 2018, meeting as presented. Motion carried.**

**3. APPROVAL OF BILLS**

Mr. Montplaisir said the largest bill for the month was from the Cass County Joint Water Resource District (CCJWRD).

***MOTION, passed***

**Mr. Montplaisir moved and Mr. Jacobson seconded to approve the bills in the amount of \$1,267,298.71, and to forward them to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.**

**4. PMC UPDATE**

Robert Cowen of CH2M reviewed the Program Management Consultant (PMC) report, including the overall program status and the FY 2018 cash budget.

Dr. Mahoney arrived for the remainder of the meeting.

**5. RECOMMENDED CONTRACTING ACTIONS**

John Glatzmaier of CH2M reviewed the following contracting actions:

- WP-42E (2<sup>nd</sup> Street S) Main Avenue Flood Mitigation

Mr. Glatzmaier said the bid opening for this work package was held on May 15<sup>th</sup>. A single bid was received and it was significantly higher than the Engineer's Estimate. The recommendation is to reject all bids and re-bid the project this fall for work to begin in 2019 and completion in 2020.

***MOTION, passed***

**Mr. Redlinger moved and Dr. Mahoney seconded to reject all bids for WP-42E, and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.**

- WP-28A (Cass County Roads 16 & 17 Realignment) Contract Termination

Mr. Glatzmaier said the realignment of Cass County Roads 16 and 17 began last fall, in order to relocate the road around the inlet structure. The project has been sitting idle since the federal injunction was put in place, and the proposed Plan B would relocate the dam through the road segment. The current contract can either be cancelled and the project can be incorporated into the Corps contract, or the project can be redesigned and the contract can be updated. The option of cancelling the current project is the most favorable as it will be the most cost effective and Corps prefers to construct all dam segments.

Mr. Steen asked if cancelling the contract will result in damages owed to the contractor. Mr. Glatzmaier said it is likely. Approximately \$700,000 of the \$3.4 million contract has been spent, so damages may be due on a percentage of the remaining contract balance.

Attorney John Shockley said the contractor has already demobilized and while the contract does not entitle the contractor to lost future profits, there is an expectation that the contractor will request compensation and negotiations will need to be held. A worst case scenario might result in court action and a payout on the remaining contract could be expected of up to 8% for lost profits and 8% for overhead.

Mr. Montplaisir asked if the temporary bypass constructed after the injunction will need to be paved and if the county or Diversion Authority would be responsible for the expense.

Fargo engineer Nathan Boerboom said the need to pave the road depends on when construction will resume and there is no clear answer at this time.

***MOTION, passed***

**Dr. Mahoney moved and Mr. Montplaisir seconded to terminate WP-28A, and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.**

Mr. Costin arrived for the remainder of the meeting.

## 6. **AECOM AGREEMENT**

Mr. Shockley presented a new Master Services Agreement for AECOM Technical Services, Inc. AECOM provides various engineering and cultural investigations services for the Diversion Authority. The new MSA is a renewal of a previous agreement, which has expired.

***MOTION, passed***

**Mr. Redlinger moved and Dr. Mahoney seconded to approve the Master Agreement for Professional Services between the Metro Flood Diversion Authority and AECOM Technical Services, Inc., and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.**

## 7. **WBI ENERGY TRANSMISSION AGREEMENT**

Mr. Shockley said WBI Energy Transmission is constructing a pipeline that will cross underneath the diversion channel. The Corps requires the pipeline to be placed 15 feet below the channel, which is considerable as the channel itself will be 30 feet deep. After negotiations, WBI has agreed to put the pipe deep enough to fulfill this requirement, which will ultimately result in a cost savings as the pipeline will not have to be relocated.

***MOTION, passed***

**Dr. Mahoney moved and Mr. Hendrickson seconded to approve the Agreement between the Metro Flood Diversion Authority and WBI Energy Transmission, Inc. as presented, and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.**

## 8. **LAND ACQUISITION DIRECTIVES**

Eric Dodds of AE2S was present to discuss three Land Acquisition Directives (LADs), which the Finance Committee must approve before they are sent to CCJWRD. The Land Management Committee requested that legal approval also be sought before moving forward with any acquisitions.

Mr. Dodds said the first two LADs are opportunistic acquisitions with both properties being actively listed for sale. One of the properties is being marketed as development land, and there is a risk that it could be purchased and developed, only to be bought out at a future time. If the LADs are approved they will be sent to CCJWRD so they can be ready to proceed as soon as legal clearance has been given.

***MOTION, passed***

**Dr. Mahoney moved and Mr. Redlinger seconded to approve LAD-00027 REV-01 and LAD-00038 REV-01. On roll call vote, the motion carried unanimously.**

Mr. Dodds said the last LAD is to allow CCJWRD to proceed with securing easements for monitoring sites for the Corps' Biotic and Geomorphic Monitoring Program. The Corps currently has access to the sites via rights of entry, but long-term access is needed.

Mr. Steen asked how invasive the activity is. Mr. Dodds said it is not very invasive with small monuments placed in various locations and the possibility of people checking the monuments intermittently with prior notice given to landowners. The intention is to have a base price per monument and easement.

Mr. Costin asked if base prices have already been determined. Mr. Dodds said \$250 is the price per monument that has been used in the past. The easements are anticipated to be \$500 to \$750.

***MOTION, passed***

**Dr. Mahoney moved and Mr. Redlinger seconded to approve LAD-00055 REV-01. Discussion: Dr. Mahoney asked if the lawsuit restricts activity for this LAD. Mr. Dodds said the court has given approval to continue monitoring activities. On roll call vote, the motion carried unanimously.**

**9. PROJECT FINANCING UPDATE**

Mr. Jacobson said CCJWRD would like someone to provide a project financing update and answer questions at a future meeting. Mr. Montplaisir said until a cost estimate is determined, there is not any new information to discuss as a plan cannot be formulated until there is a definitive estimate.

**10. FINANCIAL UPDATE**

Mr. Costin reviewed the financial statement for April. About \$11.6 million has been expended from the FY 2018 budget, and the total disbursed for the project to date is \$427,416,237. The net position is \$75.2 million.

**11. NEXT MEETING**

The next meeting is scheduled for June 27<sup>th</sup> at 4:00 PM.

**12. ADJOURNMENT**

***MOTION, passed***

**On motion by Mr. Montplaisir, seconded by Mr. Jacobson and all in favor, the meeting was adjourned at 4:42 PM.**

Minutes prepared by Brielle Edwards, HR Assistant