



Diversion Authority Finance Committee
Meeting Minutes
4:00 P.M. - Wednesday, December 18, 2019
River Room, Fargo City Hall
Fargo, North Dakota

Permanent, Reliable Flood Protection

1. MEETING TO ORDER

The Diversion Authority Finance Committee met Wednesday, December 18, 2019, at 4:00 PM in the River Room, Fargo City Hall. The following committee members were present: Fargo Finance Director Kent Costin; Fargo City Commissioner Tony Grindberg; Moorhead City Councilman Chuck Hendrickson; Cass County Joint Water Resource District Chairman Dan Jacobson; Clay County Auditor/Treasurer Lori Johnson; Fargo City Mayor Tim Mahoney; Moorhead Finance Director Karla McCall; Cass County Auditor Michael Montplaisir; Cass County Commissioner Chad Peterson; Fargo City Assistant Administrator Michael Redlinger; and Cass County Commissioner Rick Steen. Fargo City Commissioner Tony Gehrig was absent.

Diversion Authority Executive Director Joel Paulsen; Nathan Boerboom of the City of Fargo; Kim Daily of Jacobs; John Shockley of Ohnstad Twichell; and Eric Dodds of AE2S were also present.

2. APPROVAL OF MINUTES FROM PREVIOUS MEETING

MOTION, passed

Mr. Redlinger moved and Mr. Montplaisir seconded to approve the minutes from the November 20, 2019, meeting as presented. Motion carried.

3. APPROVAL OF BILLS

Mr. Costin reviewed the bills for the month, which include reimbursement to Cass County Joint Water Resource District (CCJWRD) for diversion-related bills; legal services; reimbursement to Cass County for miscellaneous expenses for the Executive Director; reimbursement to the City of Fargo for complementary in-town flood protection from September through November, 2019; and annual membership fees for the ND Water Users Association.

MOTION, passed

Mr. Montplaisir moved and Ms. McCall seconded to approve the bills in the amount of \$8,345,558.55, and to forward them to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.

4. FINANCIAL REPORT

Mr. Costin reviewed the financial report for November. About \$62.0 million has been expended from the FY 2019 budget, and the total disbursed for the project to date is \$515,746,075. The net position is \$92.6 million.

MOTION, passed

Mr. Hendrickson moved and Mr. Redlinger seconded to receive and file the Financial Report for November as presented. On roll call vote, the motion carried unanimously.

5. EXECUTIVE DIRECTOR REPORT

Diversion Authority Executive Director Joel Paulsen reviewed the Executive Director Report, including the overall program status.

6. CONTRACTING ACTIONS

Mr. Paulsen reviewed the following contracting actions:

Change Order

- Industrial Builders, Inc. (WP42E, Change Order 4 – 2nd Street South and Main Avenue Flood Mitigation)—incorporate 2nd Street South paving and curb and gutter work, reprint removable closure labels, modify lift station hatch cover, add additional traffic control, add removal of unsuitable material, add Gatewell walk-through ladder, modify Gatewell actuator locks, add unit quantity balancing, and modify contract times in the amount of \$81,248.63.

Master Services Agreements

- Program Advisor Services, LLC (Master Agreement for Professional Services and Task Order 1)—consulting services for the strategy, funding, financing, development, procurement, and implementation of the diversion project, in the amount of \$650,000.
- CH2M HILL Engineers, Inc. (First Amendment to Master Agreement for Professional Services)—extend agreement to March 2, 2020, including the extension of hourly rates and monthly office space lease.
- Houston-Moore Group, LLC (Amendment No. 2 to Master Agreement for Professional Services)—extend agreement to March 2, 2020.

Mr. Peterson noted that Martin Nicholson's name is still included in the Master Services Agreement (MSA) for CH2M, but he is also the owner and chief manager of Program Advisor Services. He asked if this is duplicative or will cause issues in any way.

Mr. Paulsen said while negotiations are still in progress with CH2M, Mr. Nicholson's name will remain on the amendment to the previously approved MSA. The subsequent MSA will no longer include his name. In addition, Mr. Nicholson's role at Jacobs will not be replaced and the result will be a net savings.

MOTION, passed

Mr. Redlinger moved and Mr. Jacobson seconded to approve the contracting actions as presented, and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.

Dr. Mahoney arrived to the meeting.

Mr. Paulsen reviewed the Executive Director approved contracting actions and the Cass County Joint Water Resource District contracting actions. There were no Minnesota Clay County Joint Powers Authority (MCCJPA) approved contracting actions.

7. **FY 2020 CASH BUDGET**

Mr. Paulsen presented the proposed FY 2020 Cash Budget, which totals \$138,458,827.

Mr. Paulsen said looking at the previous two years' budgets, most categories came in under budget due to the federal injunction and the enactment and implementation of Plan B. The project is now ramping up and getting back on track.

Mr. Paulsen said he worked on the budget with data supplied by the Program Management Consultants (PMC).

Mr. Steen asked if a levee tieback in north Fargo that was recently discussed in the local media was included in the budget. Mr. Paulsen said yes; all potential in-town Fargo work for 2020 was included in the budget.

Mr. Steen asked how the project was included in the budget as it seemed that it only recently materialized. City of Fargo Engineer Nathan Boerboom said the project was initially identified in a comprehensive plan in 2012. Initial plans for the diversion project negated the need for the project but once Plan B raised the in-town flowage level to 37 feet it had to be added back in.

Mr. Steen asked if the budget includes salary and benefit information for all of the employees outlined on a Diversion staff organizational chart Mr. Paulsen presented at a previous meeting. Mr. Paulsen said yes, but the salaries and benefits are prorated according to when he plans on hiring staff throughout the year. A draft hiring timeline can be provided for future reference.

Mr. Steen asked if audit fees are included in the budget as it has recently become clear that audits will be forthcoming. Kim Daily of Jacobs said no audit fees were included as the budget was put together before an audit was contemplated.

Mr. Steen said a line item should be included in the budget for an audit. Mr. Costin said he does not believe an audit would not be complicated due to the cash basis accounting that is used for the project.

Mr. Steen suggested a figure of \$100,000 for auditing services, and recommended a committee of himself, Mr. Costin, Mr. Montplaisir, and Mr. Paulsen to search out a firm to perform the audit.

Dr. Mahoney left the meeting.

Mr. Peterson asked what percentage was used for sales tax projections for FY 2020 Revenue Sources. Ms. Daily said the PMC used figures provided by Cass County and Fargo. Mr. Montplaisir said an increase of 2.5% - 3% is generally used for projecting sales tax growth. Mr. Paulsen said the financial plan conservatively uses 1.5%.

MOTION, passed

Mr. Peterson moved and Mr. Steen seconded to approve the FY 2020 Cash Budget in the amount of \$138,558,827, which includes an additional \$100,000 for auditing services, and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.

8. CIVIC CENTER LEASE

Mr. Paulsen said he has been searching for a semi-permanent space for himself and future Diversion Authority staff as his current office in the courthouse will be needed for a county staff member beginning in 2020 and seven additional Diversion Authority employees are anticipated to be hired. Mr. Paulsen worked with Mr. Redlinger and County Administrator Robert Wilson to identify an appropriate space and the former city commission office above the Civic Center seems to be ideal as it is fully furnished, has appropriate technological accommodations, and adequate meeting space. The rent is favorable and a standard City of Fargo lease has been drawn up.

Ms. McCall asked if office rent was included in the 2020 budget. Mr. Paulsen said yes.

MOTION, passed

Mr. Steen moved and Mr. Montplaisir seconded to approve the lease agreement between the City of Fargo and the Metro Flood Diversion Authority for office space for Diversion Authority staff, and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.

9. UPDATE ON WIFIA ACTIONS

Attorney John Shockley provided an update to the schedule of events for the Water Infrastructure Finance Innovation Act (WIFIA) financing through the Environmental Protection Agency (EPA).

Mr. Shockley said he is in the process of finishing a draft application for financing, which is a lengthy process that has been slowed down further by the Diversion Authority not having audited financial records on hand.

10. RESOLUTION AUTHORIZING DECLARATION OF OFFICIAL INTENT

Mr. Shockley presented a resolution authorizing the issuance of a declaration of official intent of the Diversion Authority to reimburse certain expenditures from the proceeds of loans.

Mr. Shockley said because of the size and complexity of the project, the IRS allows the Diversion Authority to reimburse itself for the payment of comprehensive project costs from certain tax exempt debt obligation proceeds.

MOTION, passed

Ms. McCall moved and Mr. Hendrickson seconded to approve Resolution Authorizing the Issuance of a Declaration of Official Intent of Metro Flood Diversion Authority to Reimburse Certain Expenditures from Proceeds of Authority Loans, and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.

11. **EXTENSION OF MOU WITH CASS COUNTY FOR HR SERVICES**

Mr. Shockley said the Diversion Authority currently has an interim Memorandum of Understanding (MOU) with Cass County for human resources services. While the Diversion Authority continues to work with the Secretary of State on the matter of Cass County being considered a dual employer, the interim MOU will be extended and amended at a later time after the state provides more clarity. The Cass County Commission has approved the extension to the interim MOU.

MOTION, passed

Mr. Steen moved and Mr. Peterson seconded to approve the extension to the Memorandum of Understanding by and between Cass County, North Dakota, and the Metro Flood Diversion Authority, with regard to human resources related services, and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.

12. **NUSTAR AGREEMENT FOR RE-ROUTING UNDER THE CHANNEL**

Mr. Shockley presented a third party agreement with NuStar Pipeline for re-routing a gas line under the channel.

Mr. Shockley said a long-term agreement has not been finalized, but an interim agreement was drawn up to initiate the process and get permitting approval. Utility companies can generally be difficult to negotiate with, but once a final agreement is finalized it will be brought back for approval.

Mr. Shockley said more third party agreements will begin to come before the committee for approval.

MOTION, passed

Ms. McCall moved and Mr. Costin seconded to approve the Agreement for Payment of Costs of Work Necessary to Prepare Applications Necessary to Complete Relocation Project with NuStar Pipeline Operating Partnership L.P., and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.

13. **PROPERTY STATUS REPORT**

Eric Dodds of AE2S discussed the Property Status Report, which shows the continued progress of property acquisitions for the project.

Mr. Dodds said work is on track to acquire the land required for the Public Private Partnership (P3). If negotiations stall for parcels needed for the Wild Rice Control Structure, the matter may be brought before the Cass County Commission.

14. **LAND ACQUISITION DIRECTIVE**

Mr. Dodds presented a Land Acquisition Directive (LAD) for property rights needed for Clay County. Wilkin parcels are not included. If approved, the LAD will go before the MCCJPA. Not all parcels will be acquired right away, but some of the property owners have started reaching out to the Diversion Authority.

MOTION, passed

Mr. Montplaisir moved and Mr. Hendrickson seconded to approve LAD-MN-001 REV-01. On roll call vote, the motion carried unanimously.

15. NEXT MEETING

The next meeting is scheduled for January 29th at 4:00 PM.

16. ADJOURNMENT

MOTION, passed

On motion by Mr. Peterson, seconded by Mr. Montplaisir and all in favor, the meeting was adjourned at 4:59 PM.

Minutes prepared by Brielle Edwards, HR Assistant