

1. MEETING TO ORDER

The Diversion Authority Finance Committee held a virtual meeting Wednesday, April 22, 2020, at 4:00 PM. The following committee members were present via telephone or videoconference: 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 and John Shockley of Ohnstad Twichell were also present.

2. APPROVAL OF MINUTES FROM PREVIOUS MEETING

MOTION, passed

Mr. Peterson moved and Ms. McCall seconded to approve the minutes from the March 25, 2020, 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 from Dorsey & Whitney and Ohnstad Twichell, P.C. law firms; reimbursement to Cass County for miscellaneous expenses for the Executive Director; and professional engineering fees from Civil Design Inc.

MOTION, passed

Mr. Steen moved and Mr. Hendrickson seconded to approve the bills in the amount of \$6,000,211.21, 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 March. About \$5.0 million has been expended from the FY 2020 budget, and the total disbursed for the project to date is \$539,358,407. The net position is \$94.4 million.

Mr. Costin said due to the Eide Bailly audit, financial statements are being converted to compiling on an accrual basis. As a result, some entries in the report are drifting and revenue numbers look lean at this time.

Mr. Costin asked that the FY 2020 Summary Budget Report be stricken from the overall Financial Report as data transfer errors and reconciliation issues did not get communicated accurately.

MOTION, passed

Mr. Jacobson moved and Mr. Montplaisir seconded to receive and file the Financial Report for March as presented. On roll call vote, the motion carried unanimously.

5. EXECUTIVE DIRECTOR FINANCIAL REPORT

Diversion Authority Executive Director Joel Paulsen said the Diversion Authority has completely transitioned to meeting and working virtually to maintain recommended social distancing protocols due to the COVID-19 pandemic. The project continues to make progress and all expectations have been met for the past month.

Mr. Paulsen provided a review of the overall project status and said the 2020 budget is on track for most budget line items.

6. CONTRACTING ACTIONS

Mr. Paulsen reviewed the following contracting actions:

- Watts and Associates, Inc. (Professional Services Agreement)—crop insurance product development services in the amount of \$250,000;
- KPH, Inc. (WP-43D5 – OHB Ring Levee)—Hickson Main Avenue storm sewer, drainage and street reconstruction in the amount of \$1,038,423.

Mr. Paulsen said Watts and Associates has previously worked for the Diversion Authority, and the current request for services is to address crop loss in the upstream mitigation area in the event that the diversion would have to operate during a summertime flood event. An insurance rider will be prepared and taken to the market to be made available for upstream producers.

Mr. Peterson said he has previously requested quantitative data on what circumstances would require the diversion to operate in a summertime scenario, such as rain levels over a certain time period as even a general idea would be valuable information to have prepared.

Mr. Paulsen said while it would be advantageous to have information readily available, crop insurance development will be largely specific for each property as each property has varying risks associated with it depending on the area, land, and adjacent properties, among other factors.

Mr. Costin asked why the Watts and Associates contract appears to be a lump sum contract.

Attorney John Shockley said work will be billed on an hourly basis, not to exceed the maximum amount of \$250,000. The agreement included in the agenda packet was a draft, and several non-substantive changes were made for the final version, including cleaning

up the billing language. All changes were deemed appropriate and approved by the Executive Director.

MOTION, passed

Mr. Montplaisir moved and Mr. Peterson seconded to approve the Professional Services Agreement for Crop Insurance Development with Watts and Associates, Inc., and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.

Mr. Paulsen said Work Package 43D5 is related to the OHB ring levee and the Hickson Main Avenue storm sewer project. It is included in the 2020 budget, and the recommendation is to award the lowest of the three bids received.

MOTION, passed

Mr. Jacobson moved and Mr. Montplaisir seconded to approve the bid and award the contract for Work Package 43D5, OHB Ring Levee, Hickson Main Avenue Storm Sewer, Drainage, and Reconstruction to KPH, Inc. as presented, and to forward the recommendation to the Metro Flood Diversion Authority. Discussion: Mr. Steen noted that all bids for this project came in approximately 30% over the engineer's estimate. Mr. Paulsen said the estimate was prepared prior to implementing WIFIA loan contracting requirements.

Mr. Steen asked if going forward there is an expectation that bids will come in 30% higher than budgeted due to the WIFIA contracting requirements not being previously accounted for. Mr. Paulsen said in conjunction with a planned budget refresh, some construction estimates will be adjusted to incorporate new provisions and current prevailing commodity rates. The overall cost savings of utilizing the WIFIA loan program far outweigh the additional construction costs.

Mr. Shockley said the P3 portion of the project most likely encompasses the largest contract of the diversion, and all federal requirements are already included in budget estimates. In addition, federal requirements are already reflected in land acquisitions and work associated with the United States Army Corps of Engineers; it is only smaller construction projects that will need to be adjusted.

On roll call vote, the motion carried unanimously.

Mr. Paulsen reviewed the Executive Director, CCJWRD, and Minnesota Clay County Joint Powers Authority (MCCJPA) contracting actions.

Dr. Mahoney arrived to the meeting.

7. PROGRAM BUDGET STATUS

Mr. Paulsen said he is in the process of completing a budget refresh to encompass some of the larger contracting changes to-date. Approximately \$6 million in savings will be realized for engineering and program management changes and eliminating sub-consultant mark-up fees. In addition, approximately \$1.8 million in revenue for land leases has not been incorporated into the budget.

The budget refresh will be available at next month's meeting to quantify the changes and give a snapshot of the current budget in relation to the total program budget.

8. OAK GROVE PROJECT AMENDMENTS

Mr. Paulsen said a previously identified in-town flood mitigation project is the protection of the Oak Grove Lutheran School campus. At the time the project was developed in 2018, there was concern about the riverbank and soil stability around the campus, and it was determined the only way to provide protection was to implement a series of levees around the campus; however, the levees would not be considered certified protection. After subsequent geo-technical investigation, it has been determined that by utilizing different techniques, certifiable protection can be provided at an additional cost of approximately \$7 million.

Mr. Paulsen said he would like to off-set the proposed budget increase for this project with the \$6 million savings he previously outlined for engineering and program management changes, and the \$1.8 million revenue increase for land leases.

Mr. Paulsen said the project adheres to the policy of providing certified protection for the metro area.

Mr. Steen said he is familiar with the project after attending meetings on the matter, and it would cost between \$45,000 and \$60,000 per year to provide insurance on the existing property with the series of levees. While Mr. Steen understands the policy sense of wanting to undertake the project, it does not make good financial sense to do so at a project cost of \$7 million. It is Mr. Steen's understanding that there were no issues with the initial proposal for uncertifiable levees until the school determined it would like to build additional buildings on the property.

Mr. Grindberg said he understands Mr. Steen's viewpoint, but this is a unique situation. As the project moves forward, if new plans are brought forward for inclusion in the overall project, the team must find money in the budget to fund them. As Mr. Paulsen found the funding to complete the project, Mr. Grindberg is comfortable approving it.

Mr. Steen said he does not disagree and understands the policy implications, but he was surprised when he first learned of the Oak Grove project and the large budget amendment it would require.

MOTION, passed

Dr. Mahoney moved and Mr. Peterson seconded to approve the Oak Grove Project budget amendment, and to forward the recommendation to the Metro Flood Diversion Authority. Discussion: Mr. Steen said as a \$7 million budget amendment is substantial, he would have appreciated more documentation. Mr. Paulsen said a formal amendment will be prepared for adoption at a later meeting. He wanted to bring the issue at this time to ensure the committee is comfortable making the final request to the Diversion Board. On roll call vote, the motion carried unanimously.

9. WIFIA APPLICATION APPROVAL

Mr. Shockley said the WIFIA application is complete and he is seeking approval for final submission. There have been some delays associated with the COVID-19 pandemic, but Mr. Shockley does not feel the delays have been substantial. WIFIA has a draft of the application and is already providing comments and receiving documentation.

Mr. Shockley said this is the first step of many to reach before closing the loan.

MOTION, passed

Mr. Steen moved and Mr. Montplaisir seconded to approve Resolution Authorizing Submission of US EPA WIFIA Application, and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.

10. ENGINEERING COSTS RESOLUTION

Mr. Paulsen presented a resolution requesting the City of Fargo to undertake engineering services for project in-kind elements for several projects, as defined in the resolution. The resolution allows Fargo to expend engineering resources necessary to meet obligations and be reimbursed through the Diversion Authority.

Mr. Grindberg clarified that the services are not to exceed \$60,000. Mr. Paulsen said yes.

MOTION, passed

Mr. Steen moved and Mr. Montplaisir seconded to approve Resolution Requesting the City of Fargo to Undertake Engineering Services for Project In-Kind Work Elements, and Authorizing the Reimbursement of Related Engineering Costs, and to forward the recommendation to the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.

11. AUDIT UPDATE

Mr. Steen requested an update on the ongoing Eide Bailly financial audit, which was engaged to satisfy WIFIA loan requirements.

Mr. Costin said the audit is well underway and is the highest priority of his staff members at this time. He anticipates the field work will take a couple of weeks.

12. **NEXT MEETING**

The next meeting is scheduled for May 27th at 4:00 PM.

13. **ADJOURNMENT**

MOTION, passed

On motion by Mr. Steen, seconded by Mr. Peterson and all in favor, the meeting was adjourned at 4:53 PM.

Minutes prepared by Brielle Edwards, HR Assistant