

FM AREA DIVERSION PROJECT

# Property Owner Information Packet for Cass County Commission

August 3<sup>rd</sup>, 2020

---

PROPERTY OWNER: Mary Adams

LAND AGENT: Ken Helvey with SRF

OIN: 1201



FM AREA  
**DIVERSION**  
PROJECT

# TABLE OF CONTENTS

WRITTEN CORRESPONDENCE TIMELINE.....	1
L.R.E.D CHECKLIST FOR COMPLIANCE WITH N.D. CENTURY CODE .....	2
NEGOTIATING SUMMARY .....	4
PARCEL EXHIBIT .....	5
OFFER TO PURCHASE .....	6
<i>Proof of Delivery</i> .....	9
FORMAL NEGOTIATIONS AND WRITTEN OFFER OF JUST COMPENSATION .....	11
<i>Proof of Delivery</i> .....	13
REQUEST FOR MEETING.....	14
<i>Proof of Delivery</i> .....	16
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY .....	17
<i>Proof of Delivery</i> .....	19
REQUEST FOR APPROVAL TO TAKE POSSESSION OF NECESSARY RIGHT OF WAY AND TEMPORARY EASEMENT .....	20
INVITATION TO ATTEND PUBLIC MEETING.....	23
<i>Proof of Delivery</i> .....	27
AFFIDAVIT OF LAND AGENT .....	29
<i>Contact Log</i> .....	31
AFFIDAVIT OF DAN JACOBSON FOR CASS COUNTY COMMISSION.....	32

## Written Correspondence Timeline – Mary Adams

OIN 1201	Sent	Received
Offer to Purchase	8/26/2019	9/2/2019
Formal Negotiations and Written Offer of Just Compensation	1/3/2020	1/6/2020
Request for Meeting	1/30/2020	2/3/2020
Notice of Intent to Take Possession of Right-of-Way	5/22/2020	5/29/2020
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	6/26/2020	6/26/2020
Invitation to Attend Public Meeting	6/26/2020	6/30/2020
Commission Meeting Date	<b>8/3/2020</b>	

**CASS COUNTY COMMISSION**  
**CHECKLIST — COMPLIANCE WITH N.D. CENT. CODE § 61-16.1-09(2)**  
**FARGO-MOORHEAD AREA DIVERSION PROJECT**

A. Subject Property Information:

1. Landowner: Mary K. Adams
2. Land Agent: Ken Helvey
3. Parcel No.: 67-0000-12719-010
4. OIN No.: 1201

B. Verification:

1. NDCC § 61-16.1-09(2)(b)(1)(a) requires the Cass County Joint Water Resource District (“CCJWRD”) to conduct 60 days of informal negotiations.
  - Did CCJWRD verify at least 60 days of informal negotiations with Landowner:  
\_\_\_\_\_
2. NDCC § 61-16.1-09(2)(b)(1)(b)[1] requires CCJWRD to send the landowner an appraisal and written offer for just compensation by certified mail or commercial delivery requiring a signed receipt or other evidence of constructive notice.
  - Did CCJWRD verify it sent Landowner an appraisal and written offer for just compensation: \_\_\_\_\_
  - Did CCJWRD verify service of the appraisal and offer by certified mail or commercial delivery, and that Landowner either signed for them or had constructive notice: \_\_\_\_\_
3. NDCC § 61-16.1-09(2)(b)(1)(b)[2] requires CCJWRD to send Landowner a written request for a meeting by certified mail or commercial delivery requiring a signed receipt [if the parties have not come to an agreement within 15 days of Landowner’s receipt or notice of CCJWRD’s offer].
  - Did CCJWRD verify it sent Landowner a written request for a meeting by certified mail or commercial delivery, and that Landowner either signed for the notice or had constructive notice: \_\_\_\_\_

4. NDCC § 61-16.1-09(2)(b)(1)(b)[3] requires CCJWRD to send Landowner a written notice of intent to take possession of the right of way, by certified mail or commercial delivery requiring a signed receipt [if the parties have not come to an agreement within 30 days of Landowner's receipt or notice of CCJWRD's invitation to a meeting].
  - Did CCJWRD verify it sent a written notice of intent to take possession of right away by certified mail or commercial delivery, and that Landowner either signed for the notice or had constructive notice: \_\_\_\_\_
5. NDCC § 61-16.1-09(2)(b)(2) requires all written communications to Landowner to include contact information for responding to CCJWRD and a description of the required negotiation timeline.
  - Did CCJWRD verify that all written communications to Landowner included contact information for responding to CCJWRD and a description of the required negotiation timeline: \_\_\_\_\_
6. NDCC § 61-16.1-09(2)(b)(3) prohibits a district from including or utilizing any reference to quick take eminent domain during negotiations.
  - Did CCJWRD verify it did not include or utilize any reference to quick take eminent domain during negotiations: \_\_\_\_\_

If the Commission answers in the affirmative to the above questions,  
**RECOMMENDED MOTION:**

- I move to authorize the Cass County Joint Water Resource District to utilize quick take eminent domain under Section 61-16-1.09(2) of the North Dakota Century Code to take an easement for a right of way, and temporary easement (if any), regarding the OIN described above in A.4.

# FM Area Diversion Project

## Property Negotiation Summary

---

July 27, 2020

Owner	Mary K. Adams
Address	2109 9 <sup>th</sup> Street S, Moorhead, MN 56560
Property Location	Diversion Channel - Cass County, ND
Property Type	Agriculture
OIN	1201
Land Firm & Land Agent	SRF - Ken Helvey

### Property Need

The parcel is within the Diversion Channel associated with the Project. The Diversion Authority is required to obtain the parcel for the channel. The Diversion Authority desires 44.65 acres of this property for Land/Site Taking.

### Valuation and Negotiation Summary:

Appraisal Value / Date	\$517,000 dated July 18, 2019 (formal offer letter) 44.65 acres Land/Site Taking \$11,500/acre = \$513,475 Contributory value of shed = \$3,300
Counteroffer	N/A
Purchase Agreement	\$-

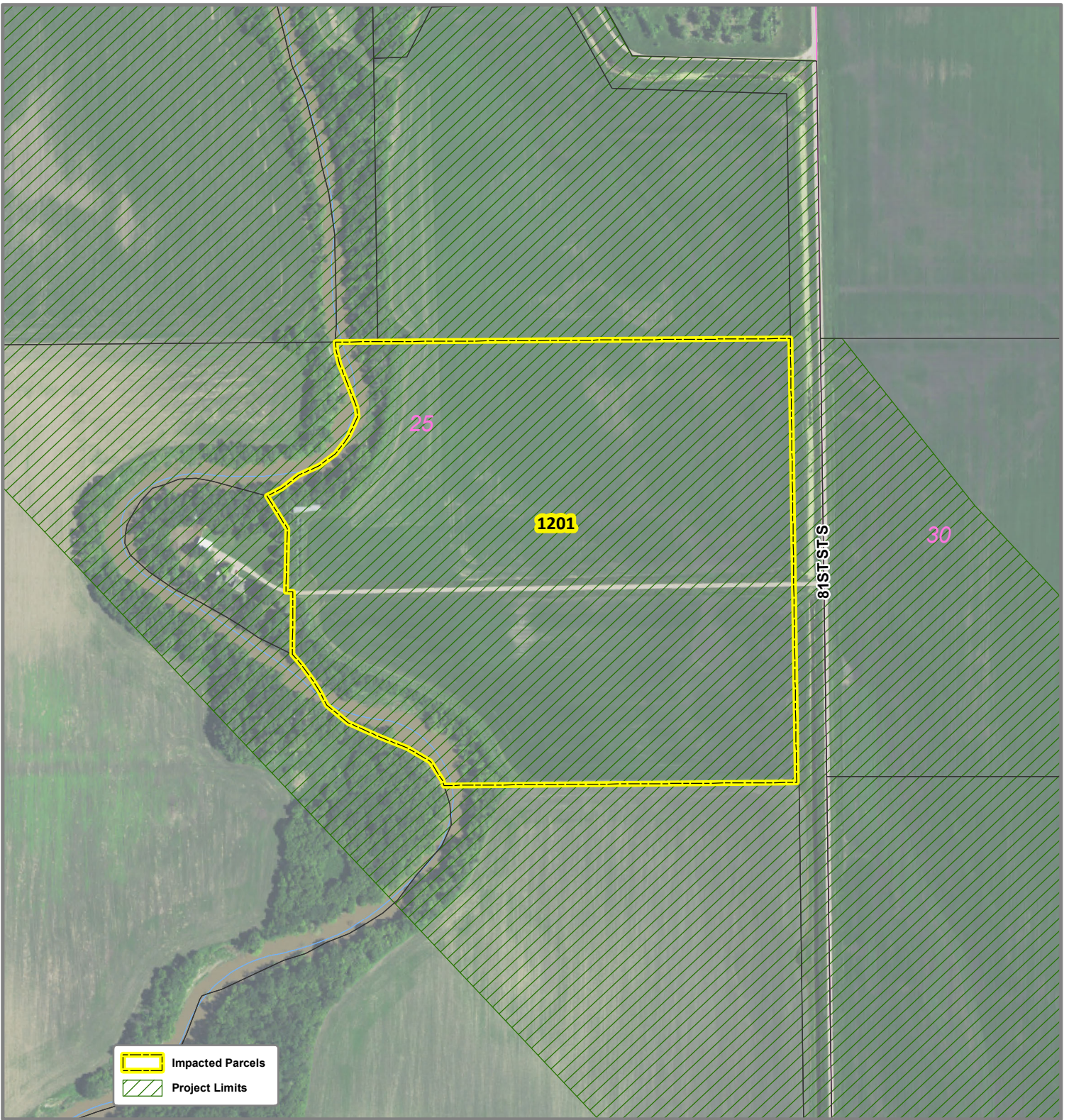
### Negotiation Notes

Lisa Kilde and Ken Helvey have spoken with Mary regarding the offer to purchase for OIN 1201. As well as her representative Andy Westby.

- The owner is considering a counter proposal from SRF that increases the value of the trees.
- Formal Offer Sent 1/3/20

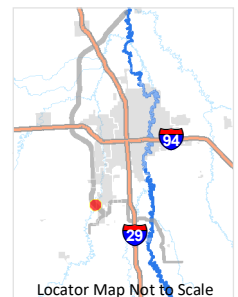
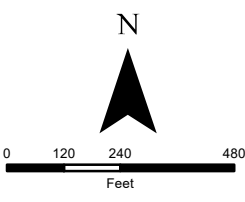
July 27, 2020





**Impacted Parcels**  
**Project Limits**

*Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use. All parcel acreages and legal descriptions shown hereon are based on County GIS data. Final acreages and legal descriptions to be determined by boundary survey.*  
 Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet |  
 C:\Data\Projects\GIS Projects\FM Area Diversion\Projects\Land Acquisition\Project Work Package\IProject Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105.mxd



**OIN: 1201**  
**MARY K ADAMS**  
**Parcel ID: 67-0000-12719-010**  
**Cass County, ND**

FM AREA DIVERSION  
 Map Date: 3/4/2020





August 26, 2019

Mary K. Adams  
111 Kellogg Blvd E, Apt. 906  
Saint Paul, MN 55101

RE: **Offer to Purchase**  
**Parcel ID:** OIN 1201  
**Project Title:** Fargo Moorhead Diversion  
**PID:** 67-0000-12719-010

Dear Ms. Adams,

The Cass County Joint Water Resource District (CCJWRD) and other partners are constructing a flood control improvement project in your area. The CCJWRD has hired the HMG Group to aid in the acquisition of right-of-way for the project. You are receiving this letter as the owner of property that must be acquired for the project. This letter conveys CCJWRD's offer to purchase all interests in the real property that are necessary for the project. The interests being purchased (the "Parcel") are listed on Exhibit A (Acquisition Summary) and shown on Exhibit B (Certificate of Survey), and the amount stated in this letter as the purchase amount is for all of those interests. If the Parcel includes interests that another person or entity may own (for example a mortgage lender or easement holder), the CCJWRD's offer is contingent on all parties with interest agreeing to the amount and allocation of the purchase funds.

To determine market value of the interest being acquired, CCJWRD retained the services of the independent property appraisal firm, Patchin Messner Valuation Counselors. The appraiser has determined that the market value of the interests being purchased is **\$517,000.00**. The CCJWRD has used the market value set forth in the appraisal as the basis for determining Just Compensation for the property interests being acquired from you. A copy of the appraisal is attached to this letter and provided to you. If the purchase amount is based on any conditions or exceptions (such as terms of the transfer of possession or retention of any interest); they will be included in Exhibit A. A summary of the appraisal is provided on Exhibit A (Appraisal Summary).

**The Cass County Joint Water Resource District hereby offers to pay you \$517,000.00 as Just Compensation for the property interests it must acquire from you.**



Once we agree on the basic terms of an agreement for you to sell, and the CCJWRD to buy the property interests described in this letter, a Purchase Agreement will be drafted and presented to you for approval. The Purchase Agreement will contain all of the pertinent terms and conditions of this offer, as well as several standard legal, property acquisition terms. The Purchase Agreement will be between you and the CCJWRD.

We appreciate your willingness to negotiate with the CCJWRD. We request counteroffers or acceptance of this offer within 30 days from the date of this letter. CCJWRD has flexibility regarding closing, rent and/or leaseback options. We also support 1031-1033 tax exchanges.

If you have any questions about the acquisition process, please contact the representative at 763-249-6785. The representative is here to help you understand the process and to assist in negotiating a fair direct purchase of the Parcel, however, we do not represent you. We are willing to meet with you in person as well as set up a time to discuss questions on the phone.

Upon receipt of this letter, please sign below. Your signature indicates only that you have received this Offer to Purchase, and the following documents:

- Copy of the appraisal for Parcel ID OIN 1201 by Patchin Messner Valuation Counselors.
- Exhibit A (Acquisition Summary)

Your signature DOES NOT indicate your acceptance or rejection of the offered amount. Nor does it affect your right to continue to negotiate with the CCJWRD.

On behalf of CCJWRD, we wish to thank you for your cooperation and assistance, and we look forward to working with you toward a mutually satisfactory completion of the acquisition process.

Sincerely,



Ken Helvey  
Principal

I acknowledge that on \_\_\_\_\_, 20 \_\_\_\_, I received this letter and all documents listed above.

\_\_\_\_\_  
Mark K. Adams

Enclosures: Appraisal Report, Exhibit A

**EXHIBIT A**

**ACQUISITION SUMMARY  
Fargo Moorhead Diversion**

**Offer to Purchase**

**Parcel ID:** OIN 1201

**Project Title:** Fargo Moorhead Diversion

**PID:** 67-0000-12719-010

**Property Address:** West Side of 81st Street South

Recorded Fee Owner: Mary K. Adams

Property Legal Description:

SEE ATTACHED APPRAISAL

Description of Property Interests to be Acquired: Fee Simple

Noted and Waived Exceptions, Reservations or Encumbrances: None

\*Unless otherwise noted, any offer to purchase is contingent on the following:

1. Demonstration of marketable title,
2. Conveyance of all interests identified, unless waived in writing by the Cass County Joint Water Resource District,
3. Execution of a purchase agreement signed by the Cass County Joint Water Resource District, or its designee.

---

**APPRAISAL SUMMARY**

<b>Parcel Value</b>	<b>Area Size/ Description</b>	<b>Per Unit</b>	<b>Indicated Value</b>
<b>Land/Site Taking</b>	44.65 Acres	\$ 11,500	\$ 513,475.00
<b>Shed</b>			\$ 3,300.00
<b>TOTAL (rounded)</b>			<b>\$ 517,000.00</b>

## Lisa Kilde

---

**From:** Mary Adams <mary@graphyre.com>  
**Sent:** Monday, September 2, 2019 8:33 AM  
**To:** Lisa Kilde  
**Subject:** Re: OIN 1201 - OFFER

Lisa,

I received the appraisal and the offer letter via email. I haven't yet received the hard copy via U S mail and ask that you verify if that's been sent. Please advise.

Thank you very much! I appreciate your assistance.

Mary

**From:** Lisa Kilde <[lkilde@srfconsulting.com](mailto:lkilde@srfconsulting.com)>  
**Subject:** OIN 1201 - Offer  
**Date:** August 26, 2019 at 3:18:21 PM CDT  
**To:** "mary@graphyre.com" <[mary@graphyre.com](mailto:mary@graphyre.com)>  
**Cc:** Ken Helvey <[khelvey@srfconsulting.com](mailto:khelvey@srfconsulting.com)>

Hi Mary,

Thank you for taking the time to talk with me today. As we discussed, attached is a copy of our Offer Letter and the Appraisal for your property in Cass County, ND. I will also mail you a copy of these documents in the mail for your records.

Once you have had a chance to review, please feel free to reach out to myself or Ken Helvey (I have copied him into this email) to discuss further.

Please confirm receipt of this email. Thank you.

**Lisa Kilde**  
Senior Right of Way Specialist  
SRF Consulting Group  
One North 2<sup>nd</sup> Street, Suite 226, Fargo, ND 58102  
Phone: 701.237.0010 | Direct 701.893.7437 | [lkilde@srfconsulting.com](mailto:lkilde@srfconsulting.com)

<image001.jpg>

Solutions That Make a Difference  
[srfconsulting.com](http://srfconsulting.com) | [Facebook](#) | [LinkedIn](#) | [Twitter](#) | [YouTube](#) | [Instagram](#)

CONFIDENTIALITY NOTICE: The contents of this email message and any attachments are confidential and are intended solely for addressee. The information may also be legally privileged. This transmission is sent in trust, for the sole purpose of delivery to the intended recipient.

<OIN 1201 Adams - Offer Letter.pdf>

<OIN 1201 Mary K. Adams FINAL Appraisal Report 05.16.2019.pdf>



CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY

January 3, 2020

Cass County  
Joint Water  
Resource  
District

Mary K. Adams  
2109 9th Street S  
Moorhead, Minnesota 56560  
Certified No. 7018 0040 0000 5525 6939

Greetings:

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Formal Negotiations and Written Offer of Just Compensation  
OIN: 1201  
Parcel No.: 67-0000-12719-010

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Rodger Olson  
Manager  
Leonard, North Dakota

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrđ@casscountynđ.gov](mailto:wrđ@casscountynđ.gov)  
[casscountynđ.gov](http://casscountynđ.gov)

The Cass County Joint Water Resource District (the "District") is in the process of acquiring property interests necessary for the Fargo-Moorhead Area Diversion Project (the "Project"), and the District has been in discussions with you regarding right of way the District must acquire from you to accommodate the Project. The District directed me to provide you this letter as the District's formal offer to purchase right of way from you. More specifically, to accommodate the Project, the District must acquire right of way from you over property located in Cass County and identified as Parcel Identification Number 67-0000-12719-010. The legal description of the property to be acquired is:

That part of the North Half of the Southeast Quarter of Section Twenty-five, Township One Hundred Thirty-eight North of Range Fifty West of the Fifth Principal Meridian situate in the County of Cass and the State of North Dakota, lying East of the center of the main channel of the Sheyenne River, EXCEPTING THEREFROM that part of the Southeast Quarter of said Section Twenty-five described as follows: From the Southeast corner, existing iron monument of Section Twenty-five, Township One Hundred Thirty-eight North, Range Fifty West of the Fifth Principal Meridian, Cass County, North Dakota, bear North 00°00'00" East (assumed bearing) along the East line of said Section Twenty-five, for a distance of 1915.31 feet to an iron monument; thence South 89°53'56" West along the centerline of the access road for a distance of 1582.54 feet to an iron monument the Point of Beginning of the tract of land herein described; thence South 89°53'56" West along said road centerline for a distance of 20.90 feet to an iron monument; thence North 02°11'59" East for a distance of 188.35 feet to an iron monument; thence North 31°00'11" West for a distance of 115 feet, more or less, to the East Bank of the Sheyenne River; thence Westerly, Southwesterly and Southeasterly along the East Bank of the Sheyenne River to a point of intersection with a line that passes through the Point of Beginning and has a bearing of North 01°27'44" West; thence North 01°27'44" West along said line for a distance of 186 feet, more or less, to the Point of Beginning.



Mary K. Adams  
January 3, 2020  
Page 2

Enclosed is an appraisal regarding the value of the right of way the District must acquire from you, as determined by a licensed North Dakota appraiser. As you can see from the appraisal, the appraiser indicated the value of the right of way the District must acquire from you is \$517,000.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$517,000.00 as just compensation to purchase right of way from you for the Project. If you are willing to accept the District's offer, please sign the enclosed *Purchase Agreement* and return it to the District in the enclosed self-addressed, stamped envelope.

You are encouraged to maintain contact with the land agent assigned to your property. **Ken Helvey** of SRF Consulting Group, Inc. can be reached at (763) 249-6785 or [khelvey@srfconsulting.com](mailto:khelvey@srfconsulting.com). Ken is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way from you for the Project.

For your information, North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way. If you do not accept the District's offer of just compensation and do not return a signed purchase agreement within fifteen (15) days, the District will send you a written request to discuss the Project and required right of way to be acquired at an upcoming Cass County Joint Water Resource District meeting. Ultimately, the District must conclude all negotiations and complete all acquisitions by Fall 2020.

We look forward to reaching a mutually acceptable agreement to resolve this matter. Thank you for your consideration.

Sincerely,


CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis  
Secretary-Treasurer  
1201 Main Avenue West  
West Fargo, ND 58078  
(701) 298-2381  
[LewisC@casscountynd.gov](mailto:LewisC@casscountynd.gov)

Enclosures

cc: Ken Helvey, Land Agent,  
Eric Dodds, Program Manager, AE2S  
Chris McShane, Ohnstad Twichell, P.C.  
Mary Scherling, Cass County Commission Chair  
Robert Wilson, Cass County Administrator  
Birch Burdick, Cass County State's Attorney  
Joel Paulsen, Executive Director, Diversion Authority

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature  <input checked="" type="checkbox"/> <i>Mary Adams</i>      <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p>
<p>1. Article Addressed to:  MAY K. ADAMS  2109 9TH STREET S  MOORHEAD MN 56560</p>	<p>B. Received by (Printed Name)      C. Date of Delivery    1/6/2020</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>
 9590 9402 3806 8032 1532 87	<p>3. Service Type</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Adult Signature</li> <li><input type="checkbox"/> Adult Signature Restricted Delivery</li> <li><input checked="" type="checkbox"/> Certified Mail®</li> <li><input type="checkbox"/> Certified Mail Restricted Delivery</li> <li><input type="checkbox"/> Collect on Delivery</li> <li><input type="checkbox"/> Collect on Delivery Restricted Delivery</li> <li><input type="checkbox"/> Insured Mail</li> <li><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</li> </ul>
<p>2. Article Number (Transfer from service label)  7018 0040 0000 5525 6939</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Priority Mail Express®</li> <li><input type="checkbox"/> Registered Mail™</li> <li><input type="checkbox"/> Registered Mail Restricted Delivery</li> <li><input type="checkbox"/> Return Receipt for Merchandise</li> <li><input type="checkbox"/> Signature Confirmation™</li> <li><input type="checkbox"/> Signature Confirmation Restricted Delivery</li> </ul>
PS Form 3811, July 2015 PSN 7530-02-000-9053	Domestic Return Receipt



**CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY**

Cass County  
Joint Water  
Resource  
District

January 30, 2020

Mary K. Adams  
2109 9th Street S  
Moorhead, MN 56560  
**Certified No. 7018 0040 0000 5525 7073**

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Greetings:

Rodger Olson  
Manager  
Leonard, North Dakota

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Request for Meeting  
OIN: 1201  
Parcel No.: 67-0000-12719-010

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). The District previously provided you a letter dated January 3, 2020; a copy of the District's appraisal for your right of way; and a Purchase Agreement as the District's offer of just compensation to purchase right of way from you. The District's letter specifically described the right of way the District must acquire from you for the Project. We have not received a signed Purchase Agreement from you, and we have not otherwise arrived at mutually acceptable terms regarding the District's purchase of right of way from you to accommodate the Project.

The District requests your attendance at a meeting to discuss the District's offer to purchase right of way from you. The District is meeting at the Cass County Highway Department, 1201 Main Avenue West in West Fargo, North Dakota, on February 13, 2020, and February 27, 2020, at 8:00 a.m.

The District hopes you will attend one of the above meetings to discuss the Project and the right of way the District must acquire from you to accommodate the Project.

Carol Harbeke Lewis  
Secretary-Treasurer

Please continue to maintain contact and negotiate with the land agent assigned to your property. **Ken Helvey** of SRF Consulting Group, Inc. is your point of contact for getting answers to any questions you have about the Project. Ken can be reached at **(763) 249-6785** or [khelvey@srfconsulting.com](mailto:khelvey@srfconsulting.com).

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrld@casscountynnd.gov](mailto:wrld@casscountynnd.gov)  
[casscountynnd.gov](http://casscountynnd.gov)

Mary K. Adams  
OIN 1201  
January 30, 2020  
Page 2

North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way. The District must conclude all negotiations and complete the acquisition of right of way necessary for construction of Project components on your property by Fall of 2020.

The District hopes you will attend one of the upcoming District meetings to discuss the Project and the required right of way. The District looks forward to meeting with you.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis  
Secretary-Treasurer  
1201 Main Avenue West  
West Fargo, ND 58078  
(701) 298-2381  
lewisc@casscountynd.gov

cc: Ken Helvey, Land Agent  
Eric Dodds, Program Manager, AE2S  
Chris McShane, Ohnstad Twichell, P.C.  
Chad Peterson, Chair, Cass County Commission Chair  
Robert Wilson, Cass County Administrator  
Birch Burdick, Cass County State's Attorney  
Joel Paulsen, Executive Director, Diversion Authority

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
**MARY K ADAMS**  
**2109 9TH STREET S**  
**MOORHEAD MN 56560**



9590 9402 3806 8032 1531 40

2. Article Number (Transfer from service label)

**7018 0040 0000 5525 7073**

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

**X** *Mary K Adams*  Agent  Addressee

B. Received by (Printed Name)

C. Date of Delivery

**2/3/2020**

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type

- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature                               | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery           | <input type="checkbox"/> Registered Mail™                           |
| <input checked="" type="checkbox"/> Certified Mail®                    | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery            | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Collect on Delivery                           | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery       | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail                                  |   |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) |   |

Domestic Return Receipt





**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Cass County  
Joint Water  
Resource  
District

May 22, 2020

Mary K. Adams  
2109 9th Street S  
Moorhead, MN 56560  
**Certified No. 7019 1640 0002 0398 8576**

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Greetings:

Rodger Olson  
Manager  
Leonard, North Dakota

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY  
OIN: 1201  
Parcel No. 67-0000-12719-010

Ken Loughheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). On behalf of the District, I previously provided you a letter dated January 3, 2020, a copy of the District's appraisal for your right of way, and a Purchase Agreement as the District's offer of just compensation to purchase the right of way from you. In addition, I also provided you a letter dated January 30, 2020, to invite you to meet with the District for purposes of discussing the acquisition of your land. The parties have conducted the informal and formal negotiation procedures required by law but, unfortunately, the parties have not yet reached a mutually-acceptable agreement regarding compensation for the District's purchase of the right of way from you to accommodate the Project.

Carol Harbeke Lewis  
Secretary-Treasurer

This letter is the District's NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY. If we do not have an agreement, the District will be requesting approval from the Cass County Commission to take possession of a right of way easement over your property. Cass County will provide you with at least 30 days' notice of a public meeting, and will invite you to the meeting to discuss the District's request.

1201 Main Avenue West  
West Fargo, ND 58078-1301

This NOTICE does not preclude the parties from continuing negotiations. The District still hopes the parties can arrive at a mutually-acceptable agreement.

701-298-2381  
FAX 701-298-2397  
[wrđ@casscountynđ.gov](mailto:wrđ@casscountynđ.gov)  
[casscountynđ.gov](http://casscountynđ.gov)

Mary K. Adams  
OIN 1201  
May 22, 2020  
Page 2

You are encouraged to maintain contact with the land agent assigned to your property. **Ken Helvey of SRF Consulting Group, Inc.** can be reached at **(763) 249-6785** or **khelvey@srfconsulting.com**. Ken is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way from you for the Project.

North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way. Ultimately, the District must conclude all negotiations and complete all acquisitions by Fall 2020.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis  
Secretary-Treasurer  
1201 Main Avenue West  
West Fargo, ND 58078  
(701) 298-2381  
[lewisc@casscountynd.gov](mailto:lewisc@casscountynd.gov)

cc: Ken Helvey, Land Agent  
Chris McShane, Ohnstad Twichell, P.C.  
Chad Peterson, Chair, Cass County Commission  
Robert Wilson, Cass County Administrator  
Birch Burdick, Cass County State's Attorney  
Eric Dodds, Program Manager, AE2S  
Joel Paulsen, Executive Director, Diversion Authority

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MARY K ADAMS  
 2109 9TH STREET S  
 MOOREHEAD MN 56560



9590 9402 3806 8032 1541 78

2. Article Number (Transfer from service label)

7019 1640 0002 0398 8576

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *Adams*  Agent  
 Addressee

B. Received by (Printed Name)

*Carl J. Adams*

C. Date of Delivery

*5/29/20*

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type

- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature                               | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery           | <input type="checkbox"/> Registered Mail™                           |
| <input checked="" type="checkbox"/> Certified Mail®                    | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery            | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Collect on Delivery                           | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery       | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail                                  |   |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) |   |



SENT VIA EMAIL [wilsonro@casscountynd.gov](mailto:wilsonro@casscountynd.gov)

June 26, 2020

**Cass County  
Joint Water  
Resource  
District**

Robert Wilson  
Cass County Administrator  
Cass County Commission  
211 9th Street S  
Fargo, ND 58103

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Rodger Olson  
Manager  
Leonard, North Dakota

Ken Loughheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

Greetings:

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Request for Approval to Take Possession of Necessary Right of Way  
OIN: 1201  
Parcel No. 67-0000-12719-010

As you know, the Cass County Joint Water Resource District (the "District") is in the process of acquiring the right of way necessary for the Fargo Moorhead Diversion Area Project ("Project"). I previously copied you on the following three letters whereby the District sought to negotiate the acquisition of the right of way from Mary K. Adams (the "Landowner"):

- Letter dated January 3, 2020, enclosing the District's appraisal for the acquisition of the right of way from the Landowner and a proposed Purchase Agreement;
- Letter dated January 30, 2020, inviting the Landowner to meet with the District for purposes of negotiating compensation for the right of way to be acquired; and
- Letter dated May 22, 2020, notifying the Landowner the District planned to submit a request to the Cass County Commission seeking immediate possession of the right of way necessary for the Project.

The District has conducted months of negotiations with the Landowner to arrive at a mutually acceptable agreement for the District's purchase. More specifically, the District engaged in both informal and formal negotiations with the Landowner, as required under N.D. Cent. Code § 61-16.1-09(2)(b), in an effort to reach agreement regarding fair compensation to the Landowner for the acquisition of the necessary right of way over, across, and through certain property owned by the Landowner in Cass County, North Dakota. The legal description of the necessary right of way is as follows:

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrđ@casscountynd.gov](mailto:wrđ@casscountynd.gov)  
[casscountynd.gov](http://casscountynd.gov)

Right of Way Easement:

That part of the North Half of the Southeast Quarter of Section Twenty-five, Township One Hundred Thirty-eight North of Range Fifty West of the Fifth Principal Meridian situate in the County of Cass and the State of North Dakota, lying East of the center of the main channel of the Sheyenne River, EXCEPTING THEREFROM that part of the Southeast Quarter of said Section Twenty-five described as follows: From the Southeast corner, existing iron monument of Section Twenty-five, Township One Hundred Thirty-eight North, Range Fifty West of the Fifth Principal Meridian, Cass County, North Dakota, bear North 00°00'00" East (assumed bearing) along the East line of said Section Twenty-five, for a distance of 1915.31 feet to an iron monument; thence South 89°53'56" West along the centerline of the access road for a distance of 1582.54 feet to an iron monument the Point of Beginning of the tract of land herein described; thence South 89°53'56" West along said road centerline for a distance of 20.90 feet to an iron monument; thence North 02°11'59" East for a distance of 188.35 feet to an iron monument; thence North 31°00'11" West for a distance of 115 feet, more or less, to the East Bank of the Sheyenne River; thence Westerly, Southwesterly and Southeasterly along the East Bank of the Sheyenne River to a point of intersection with a line that passes through the Point of Beginning and has a bearing of North 01°27'44" West; thence North 01°27'44" West along said line for a distance of 186 feet, more or less, to the Point of Beginning.

As you may recall, in 2017, the North Dakota Legislature modified the process for water resource districts to acquire immediate possession of right of way necessary for water projects; the new process is set forth in Section 61-16.1-09(2)(b). The District has followed all of the necessary steps under the statute, but the parties have not reached a mutually acceptable agreement. Under the new acquisition process enumerated in Section 61-16.1-09(2)(b)(3), the District must next seek the County Commission's approval to proceed further, and to ultimately utilize quick take eminent domain to take possession of the right of way above to commence the Project.

More specifically, Section 61-16.1-09(2)(b)(3) requires the County Commission to hold a public meeting and to provide the Landowner no less than thirty days' notice of the meeting. The District will also attend the meeting, along with the land agent, Ken Helvey, who was the Landowner's main point of contact throughout the negotiation process. Prior to the public meeting, the land agent and the District will verify neither the District nor any of its agents referenced or threatened quick take eminent domain during the informal and formal negotiation process.



Robert Wilson  
June 26, 2020  
Page 3

While the District takes all landowners' rights very seriously, the District also has an obligation, as a member of the Metro Flood Diversion Authority, to acquire the right of way necessary for the Project, and construction of the Project will not be possible without acquiring the right of way identified above. As the District will explain and verify for the Commission in more detail through this process, the District provided the Landowner with the District's appraisal as the starting point for negotiations, then attempted to negotiate further with the Landowner over the course of several months. This step is not one the District takes lightly; quick take eminent domain is a serious undertaking, and the District has negotiated in good-faith with the Landowner to avoid this process. Despite the District's efforts to be fair, friendly, and flexible in both the informal and formal negotiations with the Landowner, unfortunately, the parties have not reached a mutually acceptable agreement for the acquisition of the right of way.

The District respectfully requests that the Cass County Commission proceed with the public meeting process under Section 61-16.1-09(2)(b)(3) regarding the Landowner and the right of way identified in this letter. Further, the District respectfully requests that the Cass County Commission ultimately approve the District's use of quick take eminent domain to take possession of the right of way identified above by quick take eminent domain so the Project may proceed. For your information, while the County conducts the process under Section 61-16.1-09(2)(b)(3), the District still hopes the parties can arrive at a mutually-acceptable agreement.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis  
Secretary-Treasurer  
1201 Main Avenue West  
West Fargo, ND 58078  
(701) 298-2381  
[lewisc@casscountynynd.gov](mailto:lewisc@casscountynynd.gov)

cc: Ken Helvey, Land Agent  
Chris McShane, Ohnstad Twichell, P.C.  
Birch Burdick, Cass County State's Attorney  
Joel Paulsen, Executive Director, Diversion Authority  
Eric Dodds, AE2S Program Manager  
Sharon Oliver, ROW Acquisition Coordinator, Ohnstad Twichell, P.C.  
Heather Worden, Administrative Assistant, Cass County Commission



June 29, 2020

VIA UPS – DELIVERY CONFIRMATION

**Board of County Commissioners**  
Mary K. Adams  
2109 – 9<sup>th</sup> Street South  
Moorhead, MN 56560

Chad M. Peterson  
Fargo, North Dakota

Rick Steen  
Fargo, North Dakota

Ken Pawluk  
Fargo, North Dakota

Duane Breitling  
West Fargo, North Dakota

Mary Scherling  
Stanley Township, North Dakota

**Re: Cass County Commission  
Fargo-Moorhead Area Diversion Project  
Invitation to Attend Public Meeting  
OIN: 1201  
Parcel No. 67-0000-12719-010  
UPS Tracking No.: 1ZRT87R14300006617**

Greetings Ms. Adams:

As you know, the METRO FLOOD DIVERSION BOARD OF AUTHORITY (the "Authority") is proceeding with the Fargo Moorhead Diversion Area Project ("Project"); the Cass County Commission (the "Commission") is a member of the Authority. The Cass County Joint Water Resource District (the "District") is also a member of the Authority, and the Authority previously directed the District to obtain the North Dakota right of way necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding right of way the District must acquire from you for the Project. The District copied the Commission on the following three letters the District sent to you regarding the District's negotiations with you:

- Letter dated January 3, 2020, enclosing the District's appraisal for the acquisition of the right of way from you, along with a proposed Purchase Agreement;
- Letter dated January 30, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way to be acquired; and
- Letter dated May 22, 2020, notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way necessary for the Project.

Heather Worden  
Commission Assistant

The District informed the Commission that you and the District have not reached a mutually acceptable agreement, and have not signed a purchase agreement, regarding the right of way the District must purchase from you

P.O. Box 2806  
211 9th Street South  
Fargo, North Dakota 58108  
701-241-5609  
www.casscountynd.gov

to accommodate the Project. With that in mind, the District recently requested approval from the Commission to utilize quick take eminent domain to take possession of the right of way the District must acquire from you. The legal description of the necessary right of way is as follows:

Right of Way Easement:

That part of the North Half of the Southeast Quarter of Section Twenty-five, Township One Hundred Thirty-eight North of Range Fifty West of the Fifth Principal Meridian situate in the County of Cass and the State of North Dakota, lying East of the center of the main channel of the Sheyenne River, EXCEPTING THEREFROM that part of the Southeast Quarter of said Section Twenty-five described as follows: From the Southeast corner, existing iron monument of Section Twenty-five, Township One Hundred Thirty-eight North, Range Fifty West of the Fifth Principal Meridian, Cass County, North Dakota, bear North 00°00'00" East (assumed bearing) along the East line of said Section Twenty-five, for a distance of 1915.31 feet to an iron monument; thence South 89°53'56" West along the centerline of the access road for a distance of 1582.54 feet to an iron monument the Point of Beginning of the tract of land herein described; thence South 89°53'56" West along said road centerline for a distance of 20.90 feet to an iron monument; thence North 02°11'59" East for a distance of 188.35 feet to an iron monument; thence North 31°00'11" West for a distance of 115 feet, more or less, to the East Bank of the Sheyenne River; thence Westerly, Southwesterly and Southeasterly along the East Bank of the Sheyenne River to a point of intersection with a line that passes through the Point of Beginning and has a bearing of North 01°27'44" West; thence North 01°27'44" West along said line for a distance of 186 feet, more or less, to the Point of Beginning.

The Commission invites you to attend the Commission's meeting on Monday, August 3, 2020 at 3:30 p.m., via conference call or Microsoft Teams. The District will also participate in the meeting, along with the District's land agent, Ken Helvey, who was your primary point of contact throughout the negotiation process. At the meeting, the Commission will ask the District to verify the District's compliance with Section 61-16.1-09(2) of the North Dakota Century Code. The Commission will ultimately vote on whether to approve the District's use of quick take eminent domain to take a right of way easement over your property.

Over the next several months, in light of Covid-19, the Commission will conduct its meetings via conference call and Microsoft Teams, in accordance with Governor Burgum's Executive Order 2020-16. With that in mind, we request your attendance electronically or by telephone. If you plan to participate in the Commission's August 3, 2020 public meeting, please contact Heather Worden at (701) 241-5609 or



Adams  
OIN 1201  
June 29, 2020  
Page 3

wordenh@casscountynd.gov as soon as possible so Ms. Worden can assist you with the necessary arrangements.

This Notice does not preclude you from continuing to work with the District regarding the right of way easement necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with **Ken Helvey** and to continue discussions about the Project. **Ken Helvey** of **SRF Consulting Group, Inc.** is your point of contact regarding the Project. You can reach **Ken Helvey** at **(763) 249-6785** or **khelvey@srfconsulting.com**.

Finally, North Dakota law requires the Commission to provide you with a description of the District's timeline regarding your right of way. The District must complete the acquisition of right of way necessary for construction of Project components on your property by Fall of 2020.

Sincerely,

CASS COUNTY COMMISSION



Robert Wilson, Cass County Administrator  
Cass County Commission  
211 Ninth Street South  
Fargo, ND 58103  
(701) 241-5609

cc: Ken Helvey, Land Agent  
Birch Burdick, Cass County State's Attorney  
Joel Paulsen, Executive Director, Diversion Authority  
Chris McShane, Ohnstad Twichell, P.C.  
Eric Dodds, AE2S Program Manager  
Sharon Oliver, ROW Acquisition Coordinator, Ohnstad Twichell, P.C.  
Heather Worden, Administrative Assistant, Cass County Commission

FedEx Priority Overnight  
394332093768 0.05 lb (S) 36.80

Direct Signature Required  
Declared Value 100

Recipient Address:  
Mary K Adams  
2109 9TH ST S  
MOORHEAD, MN 56560-3646  
0000000000

Scheduled Delivery Date 6/30/2020

Pricing option:  
ONE RATE

Package Information:  
FedEx Envelope

**IMPORTANT!**

We are continuing to respond to the impact of COVID-19 around the world. [See our latest updates.](#) For COVID-19-related recipient closures, you can [redirect packages](#), [Ask FedEx](#), or contact the shipper.



Mary K. Adams 394332093768



Delivered  
Tuesday 6/30/2020 at 9:04 am



**DELIVERED**

Signed for by: M.ADAMS

[GET STATUS UPDATES](#)  
[OBTAIN PROOF OF DELIVERY](#)

Want to know when your package will arrive?  
See your estimated delivery time with FedEx Delivery Manager. [Sign up or Log in](#)

**FROM** Fargo, ND US      **TO** MOORHEAD, MN US

**Shipment Facts**

<b>TRACKING NUMBER</b> 394332093768	<b>SERVICE</b> FedEx Priority Overnight	<b>WEIGHT</b> 0.5 lbs / 0.23 kgs
<b>SIGNATURE SERVICES</b> Direct signature required	<b>DELIVERED TO</b> Residence	<b>TOTAL PIECES</b> 1
<b>TOTAL SHIPMENT WEIGHT</b> 0.5 lbs / 0.23 kgs	<b>TERMS</b> Shipper	<b>PACKAGING</b> FedEx Envelope
<b>SPECIAL HANDLING SECTION</b> Deliver Weekday, Residential Delivery, Direct Signature Required	<b>STANDARD TRANSIT</b> 6/30/2020 by 10:30 am	<b>SHIP DATE</b> Mon 6/29/2020

**ACTUAL DELIVERY**  
Tue 6/30/2020 9:04 am

**Travel History**

Local Scan Time

Tuesday, 6/30/2020  
9:04 am      MOORHEAD, MN      Delivered



7/1/2020

Track your package or shipment with FedEx Tracking

8:42 am FARGO, ND On FedEx vehicle for delivery

7:36 am FARGO, ND At local FedEx facility

Monday, 6/29/2020

6:31 pm FARGO, ND At local FedEx facility

5:35 pm FARGO, ND Picked up

1:43 pm Shipment information sent to FedEx

1:42 pm FARGO, ND Picked up

Tendered at FedEx Office

**AFFIDAVIT OF LAND AGENT**

STATE OF North Dakota )  
 ) ss.  
COUNTY OF Cass )

[¶1] I, Ken Helvey, do hereby state on oath:

[¶2] I am employed by SRF Consulting Group, Inc. as Principal/Land Agent. The Cass County Joint Water Resource District (“the District”) hired SRF Consulting Group, Inc. to negotiate and acquire the necessary right of way for the Fargo-Moorhead Area Diversion Project (the “Project”).

[¶3] The District must acquire certain real property from Mary K. Adams (“Landowner”) for construction, operation, and maintenance of the Project.

[¶4] Landowner’s real property where the District must acquire a Right of Way for the Project located in Cass County, North Dakota, is more fully described as follows:

Right of Way  
OIN 1201

That part of the North Half of the Southeast Quarter of Section Twenty-five, Township One Hundred Thirty-eight North of Range Fifty West of the Fifth Principal Meridian situate in the County of Cass and the State of North Dakota, lying East of the center of the main channel of the Sheyenne River, EXCEPTING THEREFROM that part of the Southeast Quarter of said Section Twenty-five described as follows: From the Southeast corner, existing iron monument of Section Twenty-five, Township One Hundred Thirty-eight North, Range Fifty West of the Fifth Principal Meridian, Cass County, North Dakota, bear North 00°00'00" East (assumed bearing) along the East line of said Section Twenty-five, for a distance of 1915.31 feet to an iron monument; thence South 89°53'56" West along the centerline of the access road for a distance of 1582.54 feet to an iron monument the Point of Beginning of the tract of land herein described; thence South 89°53'56" West along said road centerline for a distance of 20.90 feet to an iron monument; thence North 02°11'59" East for a distance of 188.35 feet to an iron monument; thence North 31°00'11" West for a distance of 115 feet, more or less, to the East Bank of the Sheyenne River; thence Westerly, Southwesterly and Southeasterly along the East Bank of the Sheyenne River to a point of intersection with a line that passes through the Point of Beginning and has a bearing of North 01°27'44" West; thence North 01°27'44" West along said line for a distance of 186 feet, more or less, to the Point of Beginning.

The property described above is the "Necessary Property."

[¶5] Affiant is familiar with the records maintained by SRF Consulting Group, Inc. with respect to the Necessary Property and has reviewed all such records prior to executing this affidavit.

[¶6] SRF Consulting Group, Inc. has attempted to negotiate with Landowner to acquire the Necessary Property. Attached as **Exhibit A** is a log of all contacts SRF Consulting Group, Inc. has had with Landowner.

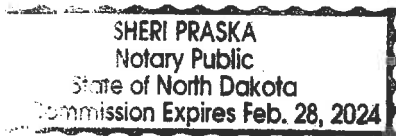
[¶7] The District has instructed SRF Consulting Group, Inc. to refrain from referencing, mentioning, or threatening quick take eminent domain during negotiations since August 1, 2017.

[¶8] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

Dated this 22 day of July, 2020.

Ken Helvey  
Ken Helvey  
SRF Consulting Group, Inc.

Subscribed to and sworn to before me this 22 day of July, 2020.



Sheri Praska  
Notary Public, County of Cass  
State of North Dakota  
My Commission Expires: 2/28/2024

(SEAL)

"Exhibit A"

OIN 1201 - Adams Contact Log	
Date	Contact Summary
2/9/2017	Mary informed Dave she would sign the ROE for Biotics monitoring
2/10/2017	Mary responded and proposed a new location
3/9/2109	Andy Westby retained to represent Mary Adams
3/20/2019	Ken called mary and discussed where she is at as to the offer. Told to work with Andy W.
3/29/2019	Andy sent me a counter offer by email
4/1/2019	Emailed Andy that we would review
5/2/2019	Arranged for new appraisal inspection with Andy
8/26/2019	Appraisal and offer letter sent
8/26/2019	Lisa called Mary to discuss the offer letter and appraisal
9/5/2019	Exchanged emails with Andy about parcels and that he is repressing. They are reviewing the new offer
10/8/2019	Checked in with Andy on the status of their review- they are still working on it.
10/31/2019	Andy arranged to meet with Eric Dodds and Joel Paulson to present general information about our process
11/5/2019	Andy met with Eric Dodds and Joel Paulson to present general information about our process
11/11/2019	Andy emailed to Ken to set up a meeting
11/18/2019	Ken met with Andy to discuss counter offers. They are based on number that were our to sync with our appraisals
12/11/2019	Ken emailed with Andy about how the land group felt leading into Board meeting. Not endorsed
1/3/2020	Formal offer letter sent
1/22/2020	Emailed Andy inquiring about status based on our reconsider of \$11,500
1/23/2020	Andy rejected the \$11,500 based on the appraisal.
1/27/2020	Andy emailed...want \$17,500 per acre. I told them that's unlikely. Said I would try to recompute and get back to him. We could try to work on tree values and depreciation of building. Did this and resent a number that yielded an effective rate of \$13,500 per acre
2/12/2020	Andy emailed back and said they were evaluating.
2/27/2020	Emailed Andy regarding status- they are still reviewing
3/17/2020	Andy emailed back and said they were evaluating and are not in a position to negotiate value
3/31/2020	Emailed Andy to request that they make a supported counter offer to the Board
4/1/2020	Andy said their position hasn't changed
4/24/2020	Asked again for a counter offer to bring to Board
5/4/2020	Andy emailed and said he is gathering details
5/19/2020	Andy emailed and said they have a new counter to present.. If rejected no additional discussion would take place with Board
5/26/2020	Possession intent letter received
5/28/2020	Andy Westby presented to the Board their counter offer. It was rejected
6/3/2020	Sent Andy info about sale of OIN 219. Andy feels that the appraisal just missed the boat in development timing. But Mary will not accept 13% over appraised
6/3/2020	Owners counteroffer rejected by the board. Owner will not negotiate further
6/9/2020	Andy asked if the Board would reconsider Mary's counter before it expired on July 15th? Told him not likely

**AFFIDAVIT OF DAN JACOBSON FOR CASS COUNTY COMMISSION**

STATE OF NORTH DAKOTA            )  
  ) ss.  
COUNTY OF CASS                    )

[¶1] I, Dan Jacobson, do hereby state on oath:

[¶2] I serve as Chair of the Cass County Joint Water Resource District (“the District”).

[¶3] As a member of the FM Diversion Board of Authority, the District is responsible for acquiring the right of way in North Dakota necessary to accommodate the Fargo-Moorhead Area Diversion Project (the “Project”).

[¶4] The District has concluded acquisition of certain Right of Way owned by Mary K. Adams (“Landowner”) is necessary for the Project.

[¶5] State and federal funds have been made available for the Project.

[¶6] The real property owned by Landowner where a Right of Way must be acquired by the District for the Project is located in Cass County, North Dakota, more fully described as follows:

Right of Way  
OIN 1201

That part of the North Half of the Southeast Quarter of Section Twenty-five, Township One Hundred Thirty-eight North of Range Fifty West of the Fifth Principal Meridian situate in the County of Cass and the State of North Dakota, lying East of the center of the main channel of the Sheyenne River, EXCEPTING THEREFROM that part of the Southeast Quarter of said Section Twenty-five described as follows: From the Southeast corner, existing iron monument of Section Twenty-five, Township One Hundred Thirty-eight North, Range Fifty West of the Fifth Principal Meridian, Cass County, North Dakota, bear North 00°00'00" East (assumed bearing) along the East line of said Section Twenty-five, for a distance of 1915.31 feet to an iron monument; thence South 89°53'56" West along the centerline of the access road for a distance of 1582.54 feet to an iron monument the Point of Beginning of the tract of land herein described; thence South 89°53'56" West along said road centerline for a distance of 20.90 feet to an iron monument; thence North 02°11'59" East for a distance of 188.35 feet to an iron monument; thence North 31°00'11" West for a distance of 115 feet, more or less, to the East Bank of the Sheyenne River; thence Westerly, Southwesterly and Southeasterly along the East Bank of the Sheyenne River to a point of intersection with a line that

passes through the Point of Beginning and has a bearing of North 01°27'44" West; thence North 01°27'44" West along said line for a distance of 186 feet, more or less, to the Point of Beginning.

[¶7] The District has fulfilled the required negotiation steps in accordance with subsection 2 of section 61-16.1-09 of the North Dakota Century Code.

[¶8] The District sent a written offer for just compensation to the landowner by certified mail, along with an appraisal and purchase agreement, on January 3, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On January 30, 2020, the District sent Landowner a written request for a meeting, by certified mail; the District and Landowner have not reached an agreement regarding compensation, and more than fifteen days have passed since Landowner's receipt of the offer. A copy of the written request for a meeting with the landowner is attached as **Exhibit 2**.


[¶10] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶11] On May 22, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

[¶12] The District has retained land agents who are in direct contact with Landowner. The District instructed our land agents not to reference, mention, or threaten quick take eminent domain during negotiations. The land agents have verified they have not referenced, mentioned, or threatened quick take eminent domain during the course of negotiations with Landowner since August 1, 2017.

[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 23 day of July, 2020.

  
\_\_\_\_\_  
Dan Jacobson, Chair  
Cass County Joint Water Resource District

Subscribed to and sworn to before me this 23rd day of July, 2020.

  
\_\_\_\_\_  
Notary Public, Cass County, State of North Dakota

(SEAL)

