

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

August 17th, 2020

PROPERTY OWNER: Mary Ann Tintes

LAND AGENT: Jamie Wark with SRF

OIN: 9750 9751



FM AREA
DIVERSION
PROJECT

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Written Correspondence Timeline – Mary Tintes

OIN 9750 9751	Sent	Received
Offer to Purchase	7/24/2019	7/24/2019
Formal Negotiations and Written Offer of Just Compensation	12/19/2019	12/27/2019
Request for Meeting	1/31/2020	2/3/2020
Notice of Intent to Take Possession of Right-of-Way	5/22/2020	5/26/2020
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	7/8/2020	7/8/2020
Invitation to Attend Public Meeting	7/13/2020	7/14/2020
Commission Meeting Date	8/17/2020	

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 Ann Tintes
2. Land Agent: Jamie Wark
3. Parcel No.: 53-0000-09060-000, 53-0000-09061-005
4. OIN No.: 9750, 9751

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

August 10, 2020

Owner	Mary Ann Tintes
Mailing Address	288730 Diamond Drive #102, Bonita Springs, FL 34134
Property Location	Diversion Channel - Cass County, ND
Property Type	Agricultural
OIN	OIN 9750 9751
Land Firm & Land Agent	SRF - Tim Magnusson

Property Need

The parcels are within the Diversion Channel associated with the Project. The Diversion Authority is required to obtain the parcels for the channel. The diversion authority desires 93.92 acres of this property for Land/Site taking.

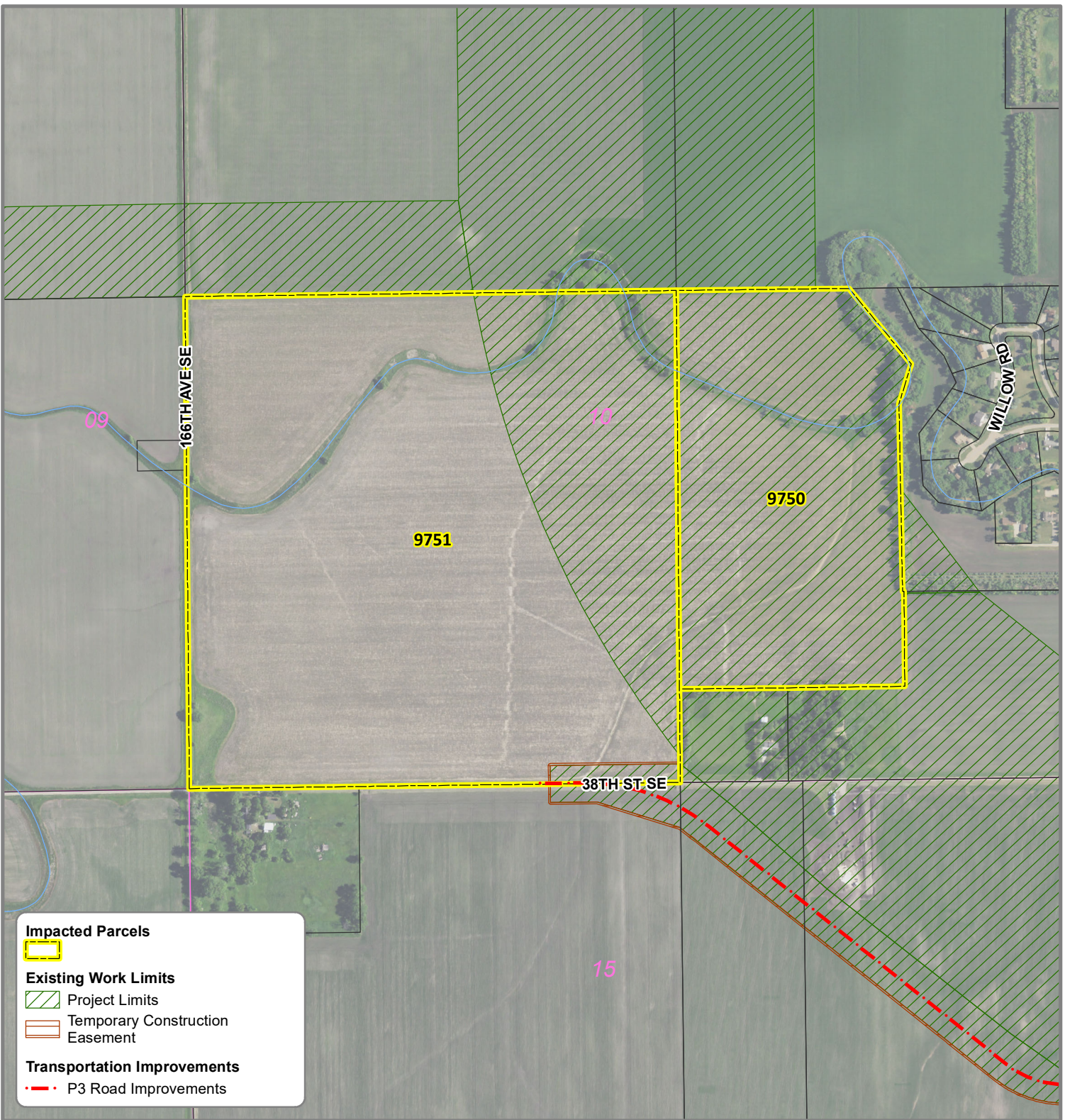
Valuation and Negotiation Summary:

Appraisal Value / Date	\$480,150 (RD) dated Dec 13, 2019 98.44 acres at \$4,744.17 per acre land/site taking 107.38 acres at \$320.62 per acre as severance 0.19 acres of TCE at \$145.35(RD))
Counteroffer	\$788,000 (RD) (for purchase of both OIN 9750 and 9751, a total of 98.44 acres at \$8,000 per acre and 0.19 acres of TCE at \$150)
Purchase Agreement Value	N/A

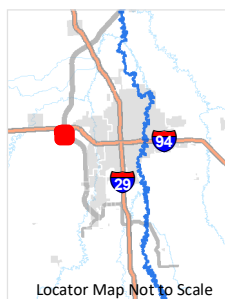
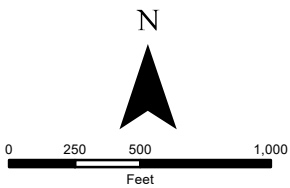
Negotiation Notes

- The owner initially counter offered at \$1,230,500 (\$12,500 per acre) for the entire 98.44 acres. This was declined at the negotiator level.
- We re-counter offered to \$581,000 (98.44 acres at \$5,900 per acre (15%)).
- The owner re-counter offered at \$788,000 (RD) (98.44 acres at \$8,000 per acre (56%) and 0.19 acres of TCE at \$150) and this was not approved by the board.
- They are now only interested in selling the acres needed for the diversion. Land agent Tim Magnusson sent a counteroffer of \$522,000 (93.92 acres at \$5,300 per acre and severance on the remaining 107.38 acres at \$500 per acre) dated February 16, 2020.

August 10, 2020



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 herein 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\IndividualLayout8x10v105notdatadriven.mxd



Mary Ann Tintes

OIN: 9750
 PIN: 53-0000-09061-005

OIN: 9751
 PIN: 53-0000-09060-000

FM AREA DIVERSION
 Map Date: 3/4/2020





July 24, 2019

Mary Ann Tintes
10 Morrison Street
West Fargo, ND 58078

RE: **Offer to Purchase**
Parcel ID: OIN 9750 9751
Project Title: Fargo Moorhead Diversion
PID: 53-0000-09061-005 and 53-0000-09060-000

Dear Ms. Tintes,

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, Crown Appraisal. The appraiser has determined that the market value of the interests being purchased is **\$480,000.00**. 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 \$480,000.00 as Just Compensation for the property interests it must acquire from you.

Please note, at the time this appraisal was completed the Cass County Joint Water Resource District was proposing to purchase Temporary Construction Easement (TCE) for the project and therefore the appraisal and Certificate of Survey include TCE acres. However, the CCJWRD has determined not to proceed with purchasing TCE and therefore your Just Compensation and Exhibit A do not include the TCE values.

Mary Ann Tintes
Offer to Purchase

OIN 9750 9751

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 701-893-7436. 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 9750 9751 by Crown Appraisal.
- Exhibit A (Acquisition Summary), and Exhibit B (Certificate of Survey)

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,



Timothy Magnusson
Associate Planner

I acknowledge that on _____, 20 ____, I received this letter and all documents listed above.

Mary Ann Tintes

Enclosures: Appraisal Report, Exhibit A, Exhibit B

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Moorhead Diversion**

Offer to Purchase

Parcel ID: OIN 9750 9751

Project Title: Fargo Moorhead Diversion

PID: 53-0000-09061-005 and 53-0000-09060-000

Property Address: east-central Cass County, ND

Recorded Fee Owner: Mary Ann Tintes

Property Legal Description:

SEE ATTACHED SURVEY

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

Parcel Value	Area Size/ Description	Per Unit	Indicated Value
Land/Site Taking	98.44 Acres	\$ 5,100.00	\$ 479,931.00
TOTAL (rounded)			\$ 480,000.00



July 24, 2019

Mary Ann Tintes
10 Morrison Street
West Fargo, ND 58078

RE: **Offer to Purchase**
Parcel ID: OIN 9750 9751
Project Title: Fargo Moorhead Diversion
PID: 53-0000-09061-005 and 53-0000-09060-000

Dear Ms. Tintes,

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, Crown Appraisal. The appraiser has determined that the market value of the interests being purchased is **\$480,000.00**. 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 \$480,000.00 as Just Compensation for the property interests it must acquire from you.

Please note, at the time this appraisal was completed the Cass County Joint Water Resource District was proposing to purchase Temporary Construction Easement (TCE) for the project and therefore the appraisal and Certificate of Survey include TCE acres. However, the CCJWRD has determined not to proceed with purchasing TCE and therefore your Just Compensation and Exhibit A do not include the TCE values.

Mary Ann Tintes
Offer to Purchase

OIN 9750 9751

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 701-893-7436. 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 9750 9751 by Crown Appraisal.
- Exhibit A (Acquisition Summary), and Exhibit B (Certificate of Survey)

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,

Timothy Magnusson
Associate Planner

I acknowledge that on July 24, 20 19, I received this letter and all documents listed above.



Mary Ann Tintes

Enclosures: Appraisal Report, Exhibit A, Exhibit B



CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY

December 19, 2019

**Cass County
Joint Water
Resource
District**

Mary Ann Tintes
100 Sheyenne Street
Suite C
West Fargo, ND 58078
Certified No. 7018 0040 0000 5525 6892

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OINs: 9750, 9751
Parcel No.: 53-0000-09060-000, 53-0000-09061-005

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

This letter fully revokes and replaces the previous letter regarding Formal Negotiations, *Purchase Agreement* and Appraisal from this office.

Jacob Gust
Manager
Fargo, North Dakota

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 53-0000-09060-000 and 53-0000-09061-005. The legal description of the property to be acquired is:

Keith Weston
Manager
Fargo, North Dakota

Right of Way

OIN 9750

The Southeast Quarter (SE¼) of Section Ten (10), in Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of Principal Meridian,

EXCEPTING THEREFROM THE FOLLOWING-DESCRIBED PARCELS OF LAND, TO-WIT:

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

Willow Creek Subdivision, Auditor's Lots One (1), Two (2), Three (3), Five (5), and Six (6) of the Southeast Quarter (SE¼) of Section Ten (10), Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian.

701-298-2381
FAX 701-298-2397
wrđ@casscountynđ.gov
casscountynđ.gov

AND LESS,

All that part Southeast Quarter (SE¼) of Section Ten (10), Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the Northeast corner of said Southeast Quarter (SE¼); thence South 00°00'00" East along the East line of said Southeast Quarter (SE¼) for a distance of 1645.32 feet to the point of beginning; thence South 89°30'56" West for a distance of 1431.38 feet; thence South 00°00'00" East parallel to the East line of said Southeast Quarter (SE¼) for a distance of 998.37 feet to a point on the South line of said Southeast Quarter (SE¼); thence North 89°41'14" East along the South line of said Southeast Quarter (SE¼) for a distance of 1431.35 feet to the Southeast corner of said Southeast Quarter (SE¼); thence North 00°00'00" East along the East line of said Southeast Quarter (SE¼) for a distance of 1002.66 feet to the point of beginning.

AND LESS,

A tract of land in the Southeast Quarter (SE¼) of Section Ten (10) Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the Southeast corner of said Southeast Quarter (SE¼); thence South 89°41'14" West along the South line of said Southeast Quarter (SE¼) for a distance of 1431.35 feet to the point of beginning; thence continue South 89°41'14" West along the South line of said Southeast Quarter (SE¼) for a distance of 631.30 feet to the Southeast Corner of Auditor's Lot No. 1; thence North 00°00'00" East along the East line of said Auditor's Lot No. 1 and along the East line of Auditor's Lot No. 2 for a distance of 502.34 feet; thence North 89°41'14" East parallel to the South line of said Southeast Quarter (SE¼) for a distance of 631.30 feet; thence South 00°00'00" East parallel to the East line of said Southeast Quarter (SE¼) for a distance of 502.34 feet to the point of beginning.

AND LESS,

Beginning at the Northeast corner of the Southeast Quarter (SE¼) of Section Ten (10), Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota; thence South 00°00'00" East along the Section line 535.00 feet; thence South 86°10'30" West, 291.75 feet; thence North 39°30'30" West 220.00 feet; thence North 12°56'00" East, 220.00 feet; thence North 40°45'00" East 225.00 feet; thence North 90°00' East, along the quarter section line 235.00 feet to the point of beginning.

AND

OIN 9751

That part of the Southwest Quarter (SW¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows: Commencing at the Southeast Corner of the Southwest Quarter (SW¼); thence North 02° 27' 45" West on the east line of said SW¼ a distance of 142.26 feet to Point of Beginning; thence 2758.66 feet on the arc of a non-tangential curve, concave to the east, having a radius of 5600.00 feet; a central angle of 28° 13' 30", and long chord length of 2730.85 feet bearing North 26° 03' 03" West to the north line of said SW¼; thence North 87° 17' 46" East on said north line a distance of 1092.79 feet to the Northeast Corner of said SW¼; thence South 02° 27' 45" East on said east line of the SW¼ a distance of 2507.27 feet to the Point of Beginning.

Said parcel contains 38.54 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

That part of the Southwest Quarter (SW¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South One Hundred (100.00) feet of the East Seven Hundred (700.00) feet of the SW¼.

Said parcel contains 1.61 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement

That part of the Southwest Quarter (SW¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South One Hundred Ten (110.00) feet of the East Seven Hundred Ten (710.00) feet of the SW¼, excepting therefrom the following described parcel:

The South One Hundred (100.00) feet of the East Seven Hundred (700.00) feet of the SW¼.

Said tract contains 0.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Mary Ann Tintes
December 19, 2019
Page 4

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 \$480,150.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$480,150.00 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. **Tim Magnusson** of SRF Consulting Group, Inc. can be reached at **(701) 893-7436** or **tmagnusson@srfconsulting.com**. Tim 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

Enclosures

cc: Tim Magnusson, 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 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 ANN TINTES
 100 SHEYENNE STREET
 SUITE C
 WEST FARGO ND 58078



9590 9402 3806 8032 1533 24

2. Article Number (Transfer from service label)

0000 5525 6892

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Mary Ann Tintes*

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

12/27/19

D. Is delivery address different from item 1?

- Yes
- No

If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery



CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY

Cass County
Joint Water
Resource
District

January 31, 2020

Mary Ann Tintes
28730 Diamond Drive, #102
Bonita Springs, FL 34134
Certified No. 7018 0040 0000 5525 7141

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
OINs: 9750, 9751
Parcel No.: 53-0000-09060-000, 53-0000-09061-005

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"). The District previously provided you a letter dated December 19, 2019; 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.

Carol Harbeke Lewis
Secretary-Treasurer

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.

1201 Main Avenue West
West Fargo, ND 58078-1301

701-298-2381
FAX 701-298-2397
wrld@casscountynd.gov
casscountynd.gov

Please continue to maintain contact and negotiate with the land agent assigned to your property. **Tim Magnusson** of SRF Consulting Group, Inc. is your point of contact for getting answers to any questions you have about the Project. Tim can be reached at (701) 893-7436 or tmagnusson@srfconsulting.com.

Mary Ann Tintes
OINs 9750, 9751
January 31, 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: Tim Magnusson, 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 ANN TINTES
 28730 DIAMOND DRIVE
 #102
 BONITA SPRINGS FL 34134



9590 9402 3806 8032 1530 72

2. Article Number (Transfer from service label)

7018 0040 0000 5525 7141

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- 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

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

May 22, 2020

Cass County
Joint Water
Resource
District

Mary Ann Tintes
28730 Diamond Drive, #102
Bonita Springs, FL 34134
Certified No. 7019 1640 0002 0398 7678

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
OINs: 9750, 9751
Parcel Nos. 53-0000-09061-005, 53-0000-09060-000

Ken Lougheed
Manager
Gardner, 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 December 19, 2019, a copy of the District's appraisal for your right of way and temporary easement, and a Purchase Agreement as the District's offer of just compensation to purchase the right of way and temporary easement from you. In addition, I also provided you a letter dated January 31, 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 and temporary easement from you to accommodate the Project.

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

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 and temporary 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.

Carol Harbeke Lewis
Secretary-Treasurer

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
casscountynđ.gov

Mary Ann Tintes
OINs 9750, 9751
May 22, 2020
Page 2

You are encouraged to maintain contact with the land agent assigned to your property. **Tim Magnusson** of **SRF Consulting Group, Inc.** can be reached at **(701) 893-7436** or **tmagnusson@srfconsulting.com**. Tim is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way and temporary easement 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 and temporary easement. 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

cc: Tim Magnusson, 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 THIS SECTION ON DELIVERY																
<ul style="list-style-type: none"> ■ 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. 	<p>A. Signature X <i>HLG CV-19</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>																
<p>1. Article Addressed to: MARY ANN TINTES 28730 DIAMOND DRIVE #102 BONITA SPRINGS FL 34134</p>	<p>B. Received by (Printed Name) C. Date of Delivery <i>Mary Ann Tintes</i> <i>5/26/20</i></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 1549 56	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>	<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)	
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<p>2. Article Number (Transfer from service label) 7019 1640 0002 0398 7678</p>																	
PS Form 3811, July 2015 PSN 7530-02-000-9053	Domestic Return Receipt																



SENT VIA EMAIL wilsonro@casscountynd.gov

Cass County
Joint Water
Resource
District

July 8, 2020

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

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 Approval to Take Possession of Necessary Right of Way and
Temporary Easement
OINs: 9750, 9751
Parcel Nos. 53-0000-09060-000, 53-0000-09061-005

Ken Lougheed
Manager
Gardner, North Dakota

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 and temporary easement from Mary Ann Tintes (the "Landowner"):

Jacob Gust
Manager
Fargo, North Dakota

- Letter dated December 19, 2019, enclosing the District's appraisal for the acquisition of the right of way and temporary easement from the Landowner and a proposed Purchase Agreement;
- Letter dated January 31, 2020, inviting the Landowner to meet with the District for purposes of negotiating compensation for the right of way and temporary easement 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 and temporary easement necessary for the Project.

Keith Weston
Manager
Fargo, North Dakota

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 and temporary easement over, across, and through certain property owned by the Landowner in Cass County, North Dakota. The legal description of the necessary right of way and temporary easement 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
casscountynd.gov

Right of Way Easement:

OIN 9750

The Southeast Quarter (SE $\frac{1}{4}$) of Section Ten (10), in Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of Principal Meridian,

EXCEPTING THEREFROM THE FOLLOWING-DESCRIBED PARCELS OF LAND, TO-WIT:

Willow Creek Subdivision, Auditor's Lots One (1), Two (2), Three (3), Five (5), and Six (6) of the Southeast Quarter (SE $\frac{1}{4}$) of Section Ten (10), Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian.

AND LESS,

All that part Southeast Quarter (SE $\frac{1}{4}$) of Section Ten (10), Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the Northeast corner of said Southeast Quarter (SE $\frac{1}{4}$); thence South 00°00'00" East along the East line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 1645.32 feet to the point of beginning; thence South 89°30'56" West for a distance of 1431.38 feet; thence South 00°00'00" East parallel to the East line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 998.37 feet to a point on the South line of said Southeast Quarter (SE $\frac{1}{4}$); thence North 89°41'14" East along the South line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 1431.35 feet to the Southeast corner of said Southeast Quarter (SE $\frac{1}{4}$); thence North 00°00'00" East along the East line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 1002.66 feet to the point of beginning.

AND LESS,

A tract of land in the Southeast Quarter (SE $\frac{1}{4}$) of Section Ten (10) Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the Southeast corner of said Southeast Quarter (SE $\frac{1}{4}$); thence South 89°41'14" West along the South line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 1431.35 feet to the point of beginning; thence continue South 89°41'14" West along the South line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 631.30 feet to the Southeast Corner of Auditor's Lot No. 1; thence North 00°00'00" East along the East line of said Auditor's Lot No. 1 and along the East line of Auditor's Lot No. 2 for a distance of 502.34 feet; thence North 89°41'14" East parallel to the South line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 631.30 feet; thence South 00°00'00" East parallel to the East line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 502.34 feet to the point of beginning.

AND LESS,

Beginning at the Northeast corner of the Southeast Quarter (SE $\frac{1}{4}$) of Section Ten (10), Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota; thence South 00°00'00" East along the Section line 535.00 feet; thence South 86°10'30" West, 291.75 feet; thence North 39°30'30" West 220.00 feet; thence North 12°56'00" East, 220.00 feet; thence North 40°45'00" East 225.00 feet; thence North 90°00' East, along the quarter section line 235.00 feet to the point of beginning.

AND

OIN 9751

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southwest Quarter (SW $\frac{1}{4}$); thence North 02° 27' 45" West on the east line of said SW $\frac{1}{4}$ a distance of 142.26 feet to Point of Beginning; thence 2758.66 feet on the arc of a non tangential curve, concave to the east, having a radius of 5600.00 feet; a central angle of 28° 13' 30", and long chord length of 2730.85 feet bearing North 26° 03' 03" West to the north line of said SW $\frac{1}{4}$; thence North 87°17'46" East on said north line a distance of 1092.79 feet to the Northeast Corner of said SW $\frac{1}{4}$; thence South 02° 27' 45" East on said east line of the SW $\frac{1}{4}$ a distance of 2507.27 feet to the Point of Beginning.

Said parcel contains 38.54 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South One Hundred (100.00) feet of the East Seven Hundred (700.00) feet of the SW $\frac{1}{4}$.

Said parcel contains 1.61 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement

OIN 9751

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South One Hundred Ten (110.00) feet of the East Seven Hundred Ten (710.00) feet of the SW¼, excepting therefrom the following described parcel:

The South One Hundred (100.00) feet of the East Seven Hundred (700.00) feet of the SW¼.

Said tract contains 0.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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 and temporary easement 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, Jamie Wark. The Landowner's main points of contact throughout the negotiation process were Tim Magnusson, who has since retired, and Jamie Wark. 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.

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 and temporary easement necessary for the Project, and construction of the Project will not be possible without acquiring the right of way and temporary easement 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 and temporary easement.

Robert Wilson
July 8, 2020
Page 5

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 and temporary easement 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 and temporary easement 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@casscountynd.gov

cc: Jamie Wark, Land Agent
Rob Stefonowicz, Larkin Hoffman Daly & Lindgren Ltd.
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority
Eric Dodds, AE2S Program Manager
Heather Worden, Administrative Assistant, Cass County Commission



July 13, 2020

VIA UPS – DELIVERY CONFIRMATION

Mary Ann Tintes
100 Sheyenne Street Suite C
West Fargo, ND 58078

**County
Administrator**

Robert Wilson
701-241-5770
wilsonro@casscountynd.gov

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OIN: 9750, 9751
Parcel No.: 53-0000-09060-000, 53-0000-09061-005
UPS Tracking No. 1Z RT8 7R1 25 0686 4080

Greetings Mary Ann Tintes:

As you know, the METRO FLOOD DIVERSION BOARD OF AUTHORITY (the "Authority") is proceeding with the Fargo Moorhead Area Diversion 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 and temporary easement 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 December 19, 2019, enclosing the District's appraisal for the acquisition of the right of way and temporary easement from you, along with a proposed Purchase Agreement;
- Letter dated January 31, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way and temporary easement 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 and temporary easement necessary for the Project.

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 and temporary easement the District must purchase from you to accommodate the Project.

Box 2806
211 Ninth Street South
Fargo, North Dakota 58103

www.casscountynd.gov

Tintes
OIN 9750, 9751
July 13, 2020
Page 2

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 and temporary easement the District must acquire from you. The legal description of the necessary right of way and temporary easement is as follows:

Right of Way Easement:

OIN 9750

The Southeast Quarter (SE $\frac{1}{4}$) of Section Ten (10), in Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of Principal Meridian,

EXCEPTING THEREFROM THE FOLLOWING-DESCRIBED PARCELS OF LAND, TO-WIT:

Willow Creek Subdivision, Auditor's Lots One (1), Two (2), Three (3), Five (5), and Six (6) of the Southeast Quarter (SE $\frac{1}{4}$) of Section Ten (10), Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian.

AND LESS,

All that part Southeast Quarter (SE $\frac{1}{4}$) of Section Ten (10), Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the Northeast corner of said Southeast Quarter (SE $\frac{1}{4}$); thence South 00°00'00" East along the East line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 1645.32 feet to the point of beginning; thence South 89°30'56" West for a distance of 1431.38 feet; thence South 00°00'00" East parallel to the East line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 998.37 feet to a point on the South line of said Southeast Quarter (SE $\frac{1}{4}$); thence North 89°41'14" East along the South line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 1431.35 feet to the Southeast corner of said Southeast Quarter (SE $\frac{1}{4}$); thence North 00°00'00" East along the East line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 1002.66 feet to the point of beginning.

AND LESS,

A tract of land in the Southeast Quarter (SE $\frac{1}{4}$) of Section Ten (10) Township One Hundred Thirty-nine (139) North of Range Fifty (50)

West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the Southeast corner of said Southeast Quarter (SE $\frac{1}{4}$); thence South 89°41'14" West along the South line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 1431.35 feet to the point of beginning; thence continue South 89°41'14" West along the South line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 631.30 feet to the Southeast Corner of Auditor's Lot No. 1; thence North 00°00'00" East along the East line of said Auditor's Lot No. 1 and along the East line of Auditor's Lot No. 2 for a distance of 502.34 feet; thence North 89°41'14" East parallel to the South line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 631.30 feet; thence South 00°00'00" East parallel to the East line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 502.34 feet to the point of beginning.

AND LESS,

Beginning at the Northeast corner of the Southeast Quarter (SE $\frac{1}{4}$) of Section Ten (10), Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota; thence South 00°00'00" East along the Section line 535.00 feet; thence South 86°10'30" West, 291.75 feet; thence North 39°30'30" West 220.00 feet; thence North 12°56'00" East, 220.00 feet; thence North 40°45'00" East 225.00 feet; thence North 90°00' East, along the quarter section line 235.00 feet to the point of beginning.

AND

OIN 9751

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southwest Quarter (SW $\frac{1}{4}$); thence North 02° 27' 45" West on the east line of said SW $\frac{1}{4}$ a distance of 142.26 feet to Point of Beginning; thence 2758.66 feet on the arc of a non-tangential curve, concave to the east, having a radius of 5600.00 feet; a central angle of 28° 13' 30", and long chord length of 2730.85 feet bearing North 26° 03' 03" West to the north line of said SW $\frac{1}{4}$; thence North 87°17'46" East on said north line a distance of 1092.79 feet to the Northeast Corner of said SW $\frac{1}{4}$; thence South 02° 27' 45" East on said east line of the SW $\frac{1}{4}$ a distance of 2507.27 feet to the Point of Beginning.

Said parcel contains 38.54 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South One Hundred (100.00) feet of the East Seven Hundred (700.00) feet of the SW $\frac{1}{4}$.

Said parcel contains 1.61 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement:

OIN 9751

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South One Hundred Ten (110.00) feet of the East Seven Hundred Ten (710.00) feet of the SW $\frac{1}{4}$, excepting therefrom the following described parcel:

The South One Hundred (100.00) feet of the East Seven Hundred (700.00) feet of the SW $\frac{1}{4}$.

Said tract contains 0.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

The Commission invites you to attend the Commission's meeting on August 17, 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, Jamie Wark who took over as the land agent with respect to your property following Tim Magnusson's retirement. 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 and temporary 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

Tintes
OIN 9750, 9751
July 13, 2020
Page 5

electronically or by telephone. If you plan to participate in the Commission's August 17, 2020 public meeting, please contact Heather Worden at (701) 241-5609 or 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 and temporary easement necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with Jamie Wark and to continue discussions about the Project. Jamie Wark of SRF Consulting Group, Inc. is your point of contact regarding the Project. You can reach Jamie Wark at (701) 893-7435 or jwark@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: Jamie Wark, Land Agent
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority
Rob Stefonowicz, Larkin Hoffman Daly & Lindgren Ltd.
Eric Dodds, AE2S Program Manager
Heather Worden, Administrative Assistant, Cass County Commission

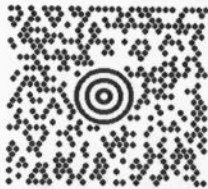
CASS COUNTY GOVERNMENT
7012415609
211 9TH ST S
FARGO ND 581082806

0.1 LBS LTR

1 OF 1

SHIP TO:

MARY ANN TINTES
100 SHEYENNE ST SUITE C
WEST FARGO ND 58078-1761



ND 581 9-02



UPS NEXT DAY AIR

TRACKING #: 1Z RT8 7R1 25 0686 4080

1



BILLING: P/P

UPS 22.0.11. WNTINV50 28.0A 04/2020



Proof of Delivery

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number

1ZRT87R12506864080

*Mary Ann Tindes***Weight**

0.10 LBS

Service

UPS Next Day Air®

Shipped / Billed On

07/13/2020

Delivered On

07/14/2020 9:49 A.M.

Delivered To

WEST FARGO, ND, US

Received By

DALINGER

Left At

Front Desk

Thank you for giving us this opportunity to serve you. Details are only available for shipments delivered within the last 120 days. Please print for your records if you require this information after 120 days.

Sincerely,

UPS

Tracking results provided by UPS: 07/14/2020 3:54 P.M. EST

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 interests in real property from Mary Ann Tintes (“Landowner”) for construction, operation, and maintenance of the Project.

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

Right of Way
OIN 9750

The Southeast Quarter (SE¼) of Section Ten (10), in Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of Principal Meridian,

EXCEPTING THEREFROM THE FOLLOWING-DESCRIBED PARCELS OF LAND, TO-WIT:

Willow Creek Subdivision, Auditor's Lots One (1), Two (2), Three (3), Five (5), and Six (6) of the Southeast Quarter (SE¼) of Section Ten (10), Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian.

AND LESS,

All that part Southeast Quarter (SE¼) of Section Ten (10), Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the Northeast corner of said Southeast Quarter (SE¼); thence South 00°00'00" East along the East line of said Southeast Quarter

(SE $\frac{1}{4}$) for a distance of 1645.32 feet to the point of beginning; thence South 89°30'56" West for a distance of 1431.38 feet; thence South 00°00'00" East parallel to the East line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 998.37 feet to a point on the South line of said Southeast Quarter (SE $\frac{1}{4}$); thence North 89°41'14" East along the South line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 1431.35 feet to the Southeast corner of said Southeast Quarter (SE $\frac{1}{4}$); thence North 00°00'00" East along the East line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 1002.66 feet to the point of beginning.

AND LESS,

A tract of land in the Southeast Quarter (SE $\frac{1}{4}$) of Section Ten (10) Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the Southeast corner of said Southeast Quarter (SE $\frac{1}{4}$); thence South 89°41'14" West along the South line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 1431.35 feet to the point of beginning; thence continue South 89°41'14" West along the South line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 631.30 feet to the Southeast Corner of Auditor's Lot No. 1; thence North 00°00'00" East along the East line of said Auditor's Lot No. 1 and along the East line of Auditor's Lot No. 2 for a distance of 502.34 feet; thence North 89°41'14" East parallel to the South line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 631.30 feet; thence South 00°00'00" East parallel to the East line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 502.34 feet to the point of beginning.

AND LESS,

Beginning at the Northeast corner of the Southeast Quarter (SE $\frac{1}{4}$) of Section Ten (10), Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota; thence South 00°00'00" East along the Section line 535.00 feet; thence South 86°10'30" West, 291.75 feet; thence North 39°30'30" West 220.00 feet; thence North 12°56'00" East, 220.00 feet; thence North 40°45'00" East 225.00 feet; thence North 90°00' East, along the quarter section line 235.00 feet to the point of beginning.

AND

OIN 9751

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southwest Quarter (SW¹/₄); thence North 02° 27' 45" West on the east line of said SW¹/₄ a distance of 142.26 feet to Point of Beginning; thence 2758.66 feet on the arc of a non-tangential curve, concave to the east, having a radius of 5600.00 feet; a central angle of 28° 13' 30", and long chord length of 2730.85 feet bearing North 26° 03' 03" West to the north line of said SW¹/₄; thence North 87° 17' 46" East on said north line a distance of 1092.79 feet to the Northeast Corner of said SW¹/₄; thence South 02° 27' 45" East on said east line of the SW¹/₄ a distance of 2507.27 feet to the Point of Beginning.

Said parcel contains 38.54 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

That part of the Southwest Quarter (SW¹/₄) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South One Hundred (100.00) feet of the East Seven Hundred (700.00) feet of the SW¹/₄.

Said parcel contains 1.61 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement:

OIN 9751

That part of the Southwest Quarter (SW¹/₄) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South One Hundred Ten (110.00) feet of the East Seven Hundred Ten (710.00) feet of the SW¹/₄, excepting therefrom the following described parcel:

The South One Hundred (100.00) feet of the East Seven Hundred (700.00) feet of the SW¹/₄.

Said tract contains 0.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

The property described above is the "Necessary Property."

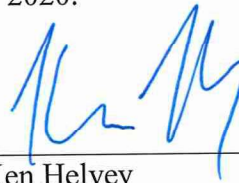
[¶5] Affiant is familiar with the records maintained by SRF Consulting Group, Inc. with respect to the Necessary Property and has reviewed such records prior to executing this Affidavit.

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

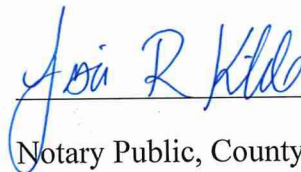
[¶8] To the best of my knowledge as Principal/Land Agent of SRF Consulting Group, Inc. nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

Dated this 3 day of August, 2020.



Ken Helvey
SRF Consulting Group, Inc.

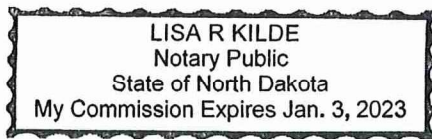
Subscribed to and sworn to before me this 3 day of August, 2020.



Notary Public, County of Cass

State of North Dakota

My Commission Expires: _____



(SEAL)

OIN 9750 9751 - Tintes Contact Attempts

Date	Note
8/29/2017	Mike spoke with Wally regarding a meeting with other owners
8/31/2017	Wally called Mike with a list of all interested landowners that want to meet
9/5/2017	Mike spoke with Wally to confirm more information about additional landowners who want to meet
9/13/2017	Mike attempted to call wally to get his winter address but he is not home in Fargo and has not set up voicemail
9/14/2017	Wally called Mike and Mike explained the judge had shut down work on the project so they can no longer negotiate
7/24/2019	Appraisal and offer letter hand delivered
11/12/2019	Received letter from Tintes Family with counteroffer of \$8k/acre for total of \$787,520
12/19/2019	Formal offer letter sent
12/26/2019	Wally and Mary Ann mailed letter to Tim regarding questions
12/27/2019	Formal offer letter received by all owners
1/22/2020	Tim Magnusson contacted Wally and explained the appraisal price reduction. Best offer was conveyed on the appraised value. Wally asked for offer in writing.
1/27/2020	Tim mailed counteroffer to Wally and Mary Ann
1/29/2020	Wally called Tim Magnusson, verifying best offer was sent to him. Tim verified it was
1/31/2020	CCJWRD invite sent
2/3/2020	CCJWRD invite received
2/4/2020	Tim called and discussed counteroffer with Wally
2/16/2020	Tim mailed counteroffer to Wally and Mary Ann
4/29/2020	Tim spoke with Wally. Asked if Wally had given the offer anymore thought. Wally stated he was still looking for \$8k/acre
5/18/2020	Tim informed Wally a new land agent would be assigned to the parcel because of Tim's retirement
5/22/2020	Possession intent letter sent
5/26/2020	Possession intent letter received
6/11/2020	Jamie spoke to Wally - Introduced himself as new land agent. Wally stated he not happy with offer. No change from negotiations with Tim Magnusson.
6/23/2020	Spoke to Wally - denied ROE for Archeological investigation
7/15/2020	Wally called land agent. Requested in-person meeting to discuss meets and bounds description
7/16/2020	Land agent met with Wally Tintes at his office in West Fargo, provided updated M&B description
7/17/2020	Met with Wally Tintes to provide information on neighboring properties where transactions have been completed
7/21/2020	Missed called from Wally, returned call, no answer
7/22/2020	Land agent spoke to Wally about TCE and Parcel #2 in revised COS
7/29/2020	Met with Wally who prepared an updated counteroffer for CCJWRD. \$8k/acre for 100.05 acres.

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 and Temporary Easements in and to real property owned by Mary Ann Tintes (“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 and Temporary Easement 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 9750

The Southeast Quarter (SE¼) of Section Ten (10), in Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of Principal Meridian,

EXCEPTING THEREFROM THE FOLLOWING-DESCRIBED PARCELS OF LAND, TO-WIT:

Willow Creek Subdivision, Auditor's Lots One (1), Two (2), Three (3), Five (5), and Six (6) of the Southeast Quarter (SE¼) of Section Ten (10), Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian.

AND LESS,

All that part Southeast Quarter (SE $\frac{1}{4}$) of Section Ten (10), Township One Hundred Thirty-nine (139) North of Range Fifty (50) West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the Northeast corner of said Southeast Quarter (SE $\frac{1}{4}$); thence South 00°00'00" East along the East line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 1645.32 feet to the point of beginning; thence South 89°30'56" West for a distance of 1431.38 feet; thence South 00°00'00" East parallel to the East line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 998.37 feet to a point on the South line of said Southeast Quarter (SE $\frac{1}{4}$); thence North 89°41'14" East along the South line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 1431.35 feet to the Southeast corner of said Southeast Quarter (SE $\frac{1}{4}$); thence North 00°00'00" East along the East line of said Southeast Quarter (SE $\frac{1}{4}$) for a distance of 1002.66 feet to the point of beginning.

AND LESS,

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AND LESS,

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AND

OIN 9751

That part of the Southwest Quarter (SW¹/₄) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

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Said parcel contains 38.54 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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Temporary Easement:

OIN 9751

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The South One Hundred (100.00) feet of the East Seven Hundred (700.00) feet of the SW¹/₄.

Said tract contains 0.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

[¶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 December 19, 2019. A copy of the offer is attached as **Exhibit 1**.

[¶9] On January 31, 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 and Temporary Easement in thirty days, 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.

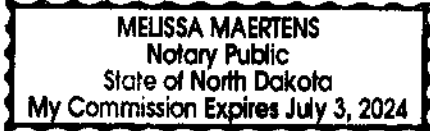
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 5th day of Aug, 2020.

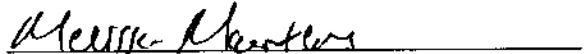


Dan Jacobson, Chair
Cass County Joint Water Resource District

Subscribed to and sworn to before me this 5 day of August, 2020.



(SEAL)



Notary Public, State of North Dakota