

FM AREA DIVERSION PROJECT

# Property Owner Information Packet for Cass County Commission

September 21<sup>st</sup>, 2020

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PROPERTY OWNER: Thunberg Living Trust Etal

LAND AGENT: Lisa Kilde with SRF

OIN: 720



FM AREA  
**DIVERSION**  
PROJECT

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## Written Correspondence Timeline – Thunberg Living Trust Etal

OIN 720	Sent	Received
Offer to Purchase	8/5/2019	8/13/2019
Formal Negotiations and Written Offer of Just Compensation	12/17/2019	12/26/2019
Request for Meeting	5/5/2020	5/8/2020
Notice of Intent to Take Possession of Right-of-Way	6/17/2020	6/20/2020
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	7/30/2020	7/30/2020
Invitation to Attend Public Meeting	8/6/2020	8/8/2020
Commission Meeting Date	<b>9/21/2020</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: Allen L. Thunberg and Barbara J. Thunberg, as Trustees of the Thunberg Living Trust
2. Land Agent: Lisa Kilde
3. Parcel No.: 53-0000-09129-020
4. OIN No.: 720

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

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September 14, 2020

Owner	Thunberg Living Trust Et Al
Mailing Address	5132 Pine Lake Road, Wesley Chapel, FL 33543
Property Location	Diversion Channel
Property Type	Agricultural
OIN	720
Representative	Paul Forster – Crowley Fleck Attorneys
Land Firm & Agent	SRF – Lisa Kilde

### Property Need

The parcel located within the Diversion Channel area associated with the Project. The Diversion Authority is required to obtain a portion of the parcel for the Diversion Channel.

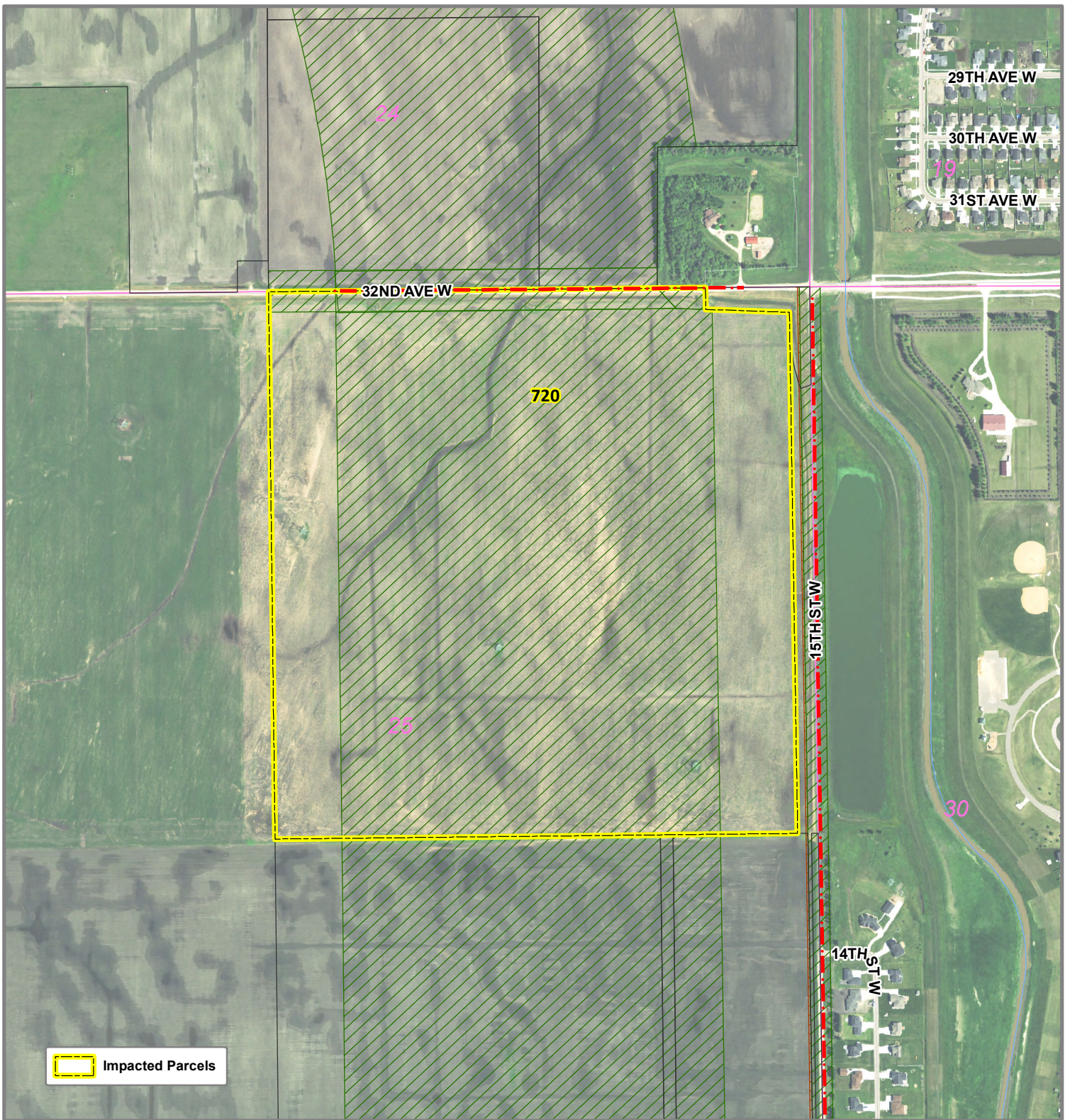
### Valuation and Negotiation Summary:

Appraisal Value / Date	\$1,130,500 – 8/2/19 111.98 acres Land/Site Taking \$9,000/acre = \$1,007,820 40.87 acres of Remnant – Severance \$3,000/acre = \$122,610
Counteroffer	<b>\$1,960,550</b>

### Negotiation Notes

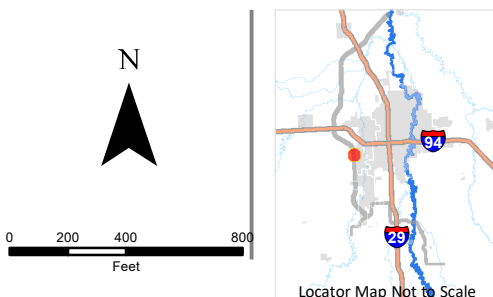
- SRF Land agent, Tim Magnusson, initially had contact with landowner regarding the offer to purchase numerous times.
- Land agent communicated with Attorney Malcolm Brown regarding offer.
- SRF Land agent, Lisa Kilde, continued working with Malcolm Brown on counteroffer to present to the Board.
- Landowner hired their own appraiser, Appraisal Services, Alan Leirness.
- Landowner counteroffered at \$13,100/acre July 2020, CCJWRD Board did not approve.
- Landowner counteroffered at \$10,500/acre August 2020, along with severance to be paid on the Northwest Quarter at \$3,000/acre that is also owned by landowner that was not previously included in the CCJWRD appraisal. See below:
  - 111.98 acres at \$10,500/acre (17% increase) = \$1,175,790
  - East remnant tract of 21.82 acres at \$10,500/acre (17% increase) = \$229,110
  - Severance of West remnant tract of 19.05 acres at \$3,000/acre = \$57,150
  - Severance of NW¼ 160 acres at \$3,000/acre = \$480,000
  - Appraisal reimbursement \$12,000
  - Attorney Fees reimbursement \$6,500
  - Total purchase price \$1,960,550

CCJWRD Board did not approve.



*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 | Produced by: hrecords - AE2S, Inc. |  
 C:\Data\Projects\GIS Projects\FM Area Diversion\Projects\Land Acquisition\Project Work Package\!Project Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105.mxd



**OIN: 720**  
**THUNBERG LIVING TRUST ETAL**  
**Parcel ID: 53-0000-09129-020**  
**Cass County, ND**

FM AREA DIVERSION  
 Map Date: 5/8/2020





August 5, 2019

Allen L. and Barbara L. Thunberg, Trustees  
Thunberg Living Trust  
5132 Pine Lake Rd  
Wesley Chapel, FL 33543

RE: **Offer to Purchase**  
**Parcel ID:** OIN 720  
**Project Title:** Fargo Moorhead Diversion  
**PID:** 53-0000-09129-020

Dear Mr. and Mrs. Thunberg,

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, Compass Land Consultants, Inc. The appraiser has determined that the market value of the interests being purchased is **\$1,130,500.00**. 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 \$1,130,500.00 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.



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.

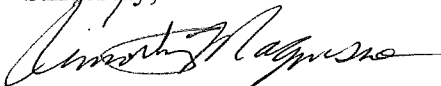
Upon receipt of this letter, please sign below. Your signature indicates only that you have received this Offer to Purchase, and the following documents:

- Copy of the appraisal for Parcel ID OIN 720 by Compass Land Consultants, Inc.
- 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.

\_\_\_\_\_  
Allen L. Thunberg, Trustee of the Thunberg Living Trust dated August 4, 2011

\_\_\_\_\_  
Barbara L. Thunberg, Trustee of the Thunberg Living Trust dated August 4, 2011

Enclosures: Appraisal Report, Exhibit A, Exhibit B

**EXHIBIT A**

**ACQUISITION SUMMARY  
Fargo Moorhead Diversion**

**Offer to Purchase**

**Parcel ID:** OIN 720

**Project Title:** Fargo Moorhead Diversion

**PID:** 53-0000-09129-020

Recorded Fee Owner: Thunberg Living Trust

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.

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**APPRAISAL SUMMARY**

<b>Parcel Value</b>	<b>Area Size/ Description</b>	<b>Per Unit</b>	<b>Indicated Value</b>
<b>Land/Site Taking</b>	111.98 Acres	\$ 9,000	\$ 1,007,820.00
<b>Severance</b>	40.87 Acres	\$ 3,000	\$ 122,610.00
<b>TOTAL (rounded)</b>			<b>\$ 1,130,500.00</b>

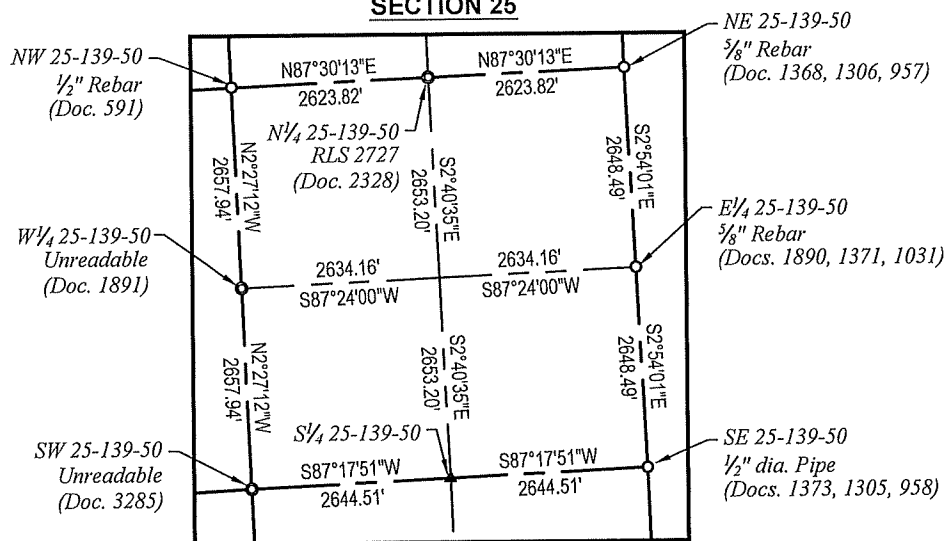


# CERTIFICATE OF SURVEY

LINE TABLE		
Line	Length	Bearing
L1	105.05'	S02°29'49"E
L2	30.77'	N89°55'31"E
L3	325.00'	S87°30'13"W
L4	100.00'	N02°40'35"W
L5	200.00'	S87°30'13"W

LINE TABLE		
Line	Length	Bearing
L6	125.00'	S87°30'13"W
L7	200.24'	S89°55'31"W
L8	175.21'	S89°55'31"W
L9	505.01'	N87°30'13"E

## SECTION 25



### PARENT PARCEL - DERIVED FROM WARRANTY DEED DOC. NO. 1332941

The Northeast Quarter (NE1/4) of Section 25, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, LESS the parcel described in Doc. No. 718925, also LESS the parcel described in Doc. No. 719712, records of Cass County.

### PARCEL 1 - LEGAL DESCRIPTION

That part of the Northeast Quarter (NE1/4) of Section 25, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Beginning at the Northwest Corner of the NE1/4; thence N87°30'13"E on the north line of said NE1/4 a distance of 2,118.81 feet to the westerly line of the parcel described in Doc. No. 718925, records of Cass County; thence S2°29'49"E on said westerly line a distance of 105.05 feet; thence N89°55'31"E on said westerly line a distance of 30.77 feet; thence S2°54'01"E parallel with, and 475 feet west of the east line of said NE1/4 a distance of 2,543.00 feet to the south line of said NE1/4; thence S87°24'00"W on said south line a distance of 1,834.16 feet; thence N2°40'35"W parallel with, and 325 feet east of, the west line of said NE1/4 a distance of 2,552.61 feet; thence S87°30'13"W parallel with, and 100 feet south of, the north line of said NE1/4 a distance of 325.00 feet to said west line of the NE1/4; thence N2°40'35"W on said west line a distance of 100.00 feet to the Point of Beginning.

Said parcel contains 111.98 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

### TCE 2 - LEGAL DESCRIPTION

A 200-foot-wide temporary construction easement across that part of the Northeast Quarter (NE1/4) of Section 25, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

The East 200.00 feet of the West 325.00 feet of the Northeast Quarter (NE1/4), excepting therefrom the North 100.00 feet of said NE1/4.

Said easement contains 11.72 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.



**THUNBERG LIVING TRUST**

Page 10 of 37

Part of the Northeast Quarter (NE1/4) of Section 25, T139N, R50W, Cass County, ND

CERTIFICATE OF SURVEY

DRAWING TYPE COS	DATE OF SURVEY May 7, 2019
P10733-2	09/21/2020
016	
PREPARED BY SMR	PROJECT ON 720



## Track Another Package +

**Tracking Number:** 70183090000194831918

Remove X

Your item was delivered to an individual at the address at 10:43 am on August 13, 2019 in WESLEY CHAPEL, FL 33543.

### **Delivered**

August 13, 2019 at 10:43 am  
Delivered, Left with Individual  
WESLEY CHAPEL, FL 33543

Get Updates 

Feedback

**Text & Email Updates**



**Tracking History**



**Product Information**

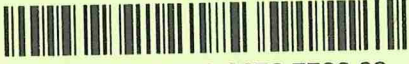


See Less 

## Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

**FAQs** (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

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 <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span></p> <p><b>X</b></p> <p>B. Received by (<i>Printed Name</i>)</p> <p>C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>ALLEN L. AND BARBARA L. THUNBERG THUNBERG LIVING TRUST 5132 PINE LAKE RD WESLEY CHAPEL, FL 33543</p> </div>  <p>9590 9402 4522 8278 7728 99</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>
<p>2. Article Number (<i>Transfer from service label</i>)</p> <p>7018 3090 0001 9483 1918</p>	<p>3. Service Type <span style="float: right;"><input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery</span></p> <p><input type="checkbox"/> Adult Signature <span style="float: right;"><input type="checkbox"/> Return Receipt for Merchandise</span></p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <span style="float: right;"><input type="checkbox"/> Signature Confirmation™</span></p> <p><input checked="" type="checkbox"/> Certified Mail® <span style="float: right;"><input type="checkbox"/> Signature Confirmation Restricted Delivery</span></p> <p><input type="checkbox"/> Certified Mail Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053 <span style="float: right;">Domestic Return Receipt</span></p>	

720 9284  
CRK

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
*Domestic Mail Only*

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®.

WESLEY CHAPEL, FL 33543

OFFICIAL USE

Certified Mail Fee	\$3.50	
Extra Services & Fees ( <i>check box, add fee as appropriate</i> )	\$7.80	
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$2.35	
<b>Total Postage and Fees</b>	<b>\$8.65</b>	



ALLEN L. AND BARBARA L. THUNBERG, TRUSTEES  
THUNBERG LIVING TRUST  
5132 PINE LAKE RD  
WESLEY CHAPEL, FL 33543

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 3090 0001 9483 1918



August 5, 2019

Allen L. and Barbara L. Thunberg, Trustees  
Thunberg Living Trust  
5132 Pine Lake Rd  
Wesley Chapel, FL 33543

RE: **Offer to Purchase**  
**Parcel ID:** OIN 720  
**Project Title:** Fargo Moorhead Diversion  
**PID:** 53-0000-09129-020

Dear Mr. and Mrs. Thunberg,

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, Compass Land Consultants, Inc. The appraiser has determined that the market value of the interests being purchased is **\$1,130,500.00**. 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 \$1,130,500.00 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.



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 720 by Compass Land Consultants, Inc.
- 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.

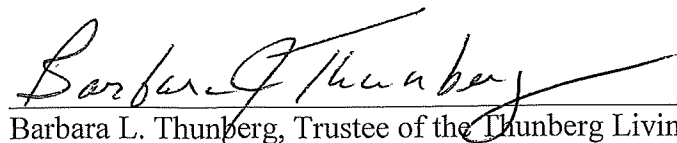
Sincerely,

Timothy Magnusson  
Associate Planner

I acknowledge that on 13 August, 2019, I received this letter and all documents listed above.



Allen L. Thunberg, Trustee of the Thunberg Living Trust dated August 4, 2011



Barbara L. Thunberg, Trustee of the Thunberg Living Trust dated August 4, 2011

Enclosures: Appraisal Report, Exhibit A, Exhibit B



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

December 17, 2019

**Cass County  
Joint Water  
Resource  
District**

Allen L. Thunberg  
Barbara J. Thunberg  
Trustees of the Thunberg Living Trust  
5132 Pine Lake Road  
Wesley Chapel, FL 33543-4459  
**Certified No. 7018 0040 0000 5525 6861**

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

Greetings:

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Formal Negotiations and Written Offer of Just Compensation  
OIN: 720  
Parcel No.: 53-0000-09129-020

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 53-0000-09129-020. The legal description of the property to be acquired is:

That part of the Northeast Quarter (NE1/4) of Section 25, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Beginning at the Northwest Corner of the NE1/4; thence N87°30'13"E on the north line of said NE1/4 a distance of 2,118.81 feet to the westerly line of the parcel described in Doc. No. 718925, records of Cass County; thence S2°29'49"E on said westerly line a distance of 105.05 feet; thence N89°55'31"E on said westerly line a distance of 30.77 feet; thence S2°54'01"E parallel with, and 475 feet west of the east line of said NE1/4 a distance of 2,543.00 feet to the south line of said NE1/4; thence S87°24'00"W on said southline a distance of 1,834.16 feet; thence N2°40'35"W parallel with, and 325 feet east of, the west line of said NE1/4 a distance of 2,552.61 feet; thence S87°30'13"W parallel with, and 100 feet south of, the north line of said NE1/4 a distance of 325.00 feet to said west line of the NE1/4; thence N2°40'35"W on said west line a distance of 100.00 feet to the Point of Beginning.

Said parcel contains 111.98 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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)

Allen L. Thunberg  
Barbara J. Thunberg  
December 17, 2019  
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 \$1,007,820.00, plus damages to the remainder of Seller's property in the amount of \$122,610.00, for a total purchase price of \$1,130,430.00, rounded up to \$1,130,500.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$1,130,500.00 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

Malcolm H. Brown  
100 West Broadway Avenue, Suite 250  
P.O. Box 2798  
Bismarck, ND 58501  
Phone: (701) 223-6585  
Direct Line: 701-224-7522  
[mbrown@crowleyfleck.com](mailto:mbrown@crowleyfleck.com)

December 26, 2019

Carol Harbeke Lewis, Secretary-Treasurer  
Cass County Joint Water Resource District  
1201 Main Avenue West  
West Fargo, ND 58078-1301

RECEIVED  
DEC 31 2019

Re: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Formal Negotiations and Written Offer of Just Compensation  
OIN: 720  
Parcel No.: 53-0000-09129-020

Dear Ms. Harbeke Lewis:

This office represents Allen L. Thunberg and Barbara J. Thunberg, Trustees of the Thunberg Living Trust, owners of the parcel described above.

We have reviewed your letter of December 17, 2019 regarding an offer to purchase the above parcel. We note this offer is substantially the same as an offer received last April. That offer was not accepted, and we find this offer just as inadequate in addressing compensation to the Thunberg Trust.

I would also point out that correspondence of April 8, 2019 and April 25, 2019 to Mr. Tim Magnuson, SRF Consulting Group, Inc., raises a significant number of questions and concerns, to this date, that have not yet been answered.

Please address further correspondence on this matter to this office.

Very truly yours,

CROWLEY FLECK PLLP



Malcolm H. Brown

MHB:lj



**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

May 5, 2020

**Cass County  
Joint Water  
Resource  
District**

Allen and Barbara Thunberg  
Trustees under the Thunberg Living Trust  
5132 Pine Lake Road  
Wesley Chapel, FL 33543-4459  
**Certified No. 7019 1640 0002 0398 7586**

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)

Greetings:

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Request for Meeting  
OIN: 720  
Parcel No.: 53-0000-09129-020

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 17, 2019; a copy of the District's appraisal for the right of way needed from you; and a Purchase Agreement as the District's offer of just compensation to purchase the 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 8:00 a.m. on May 14, 2020 and May 28, 2020. Over the next several months, District meetings will be conducted via conference call and District board members will not be attending in person. The requirements that a meeting room be available to the public and that a speakerphone or monitor be provided at a physical location under NDCC § 44-04-19 have been suspended indefinitely pursuant to Governor Burgum's Executive Order 2020-16; therefore, we request your attendance by telephone.

The District hopes you will attend one of the above-mentioned meetings to discuss the Project and the right of way the District must acquire from you to accommodate the Project. If you would like to attend one of the meetings by phone, please contact me or Melissa Maertens at (701) 298-2381 at least 24 hours in advance of the meeting so the necessary arrangements can be made and the call-in information provided to you.

Allen and Barbara Thunberg  
OIN 720  
May 5, 2020  
Page 2

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**.

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](mailto:lewisc@casscountynd.gov)

cc: Malcolm H. Brown, Crowley Fleck, PLLP  
Tim Magnusson, Land Agent  
Eric Dodds, Program Manager, AE2S  
Chris McShane, Ohnstad Twichell, P.C.  
Chad Peterson, Chair, Cass County Commission  
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:

ALLEN AND BARBARA THUNBERG  
TRUSTEES UNDER THUNBERG LIVING TRUST  
5132 PINE LAKE ROAD  
WESLEY CHAPEL FL 33543-4454



9590 9402 2341 6225 7724 83

2. Article Number (Transfer from service label)

7019 1640 0002 0398 7586

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

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X CJ Rt 10

- Agent
- Addressee

B. Received by (Printed Name)

CDV D 19 Allen

C. Date of Delivery

5-8-20

D. Is delivery address different from item 1?

- If YES, enter delivery address below:  Yes
- 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

Domestic Return Receipt



**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

June 17, 2020

**Cass County  
Joint Water  
Resource  
District**

Allen and Barbara Thunberg  
Trustees under the Thunberg Living Trust  
5132 Pine Lake Road  
Wesley Chapel, FL 33543-4459  
**Certified No. 7020 0090 0000 7648 2645**

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: 720  
Parcel No. 53-0000-09129-020

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 17, 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 the right of way from you. In addition, I also provided you a letter dated May 5, 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.

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 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](mailto:wrđ@casscountynđ.gov)  
[casscountynđ.gov](http://casscountynđ.gov)



Allen and Barbara Thunberg  
OIN 720  
June 17, 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 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: Malcolm H. Brown, Crowley Fleck, PLLP  
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 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:  
 ALIEN AND BARBARA THUNBERG  
 TRUSTEES OF THUNBERG LIVING TRUST  
 5132 PINE LAKE ROAD  
 WESLEY CHAPEL FL 33543-4459



9590 9402 5989 0062 9067 23

2. Article Number (Transfer from service label)

7020 0090 0000 7648 2645

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

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X *C. R. 10/19*  Agent  
 Addressee

B. Received by (Printed Name) C. Date of Delivery  
*B. Thunberg 6-2020*

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



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

July 30, 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 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@casscountynd.gov](mailto:wrđ@casscountynd.gov)  
[casscountynd.gov](http://casscountynd.gov)

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: 720  
Parcel No. 53-0000-09129-020

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 Allen L. Thunberg and Barbara J. Thunberg, as Trustees under the Thunberg Living Trust (the "Landowner"):

- Letter dated December 17, 2019, enclosing the District's appraisal for the acquisition of the right of way from the Landowner and a proposed Purchase Agreement;
- Letter dated May 5, 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 June 17, 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 in, on, 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:

Right of Way Easement:

That part of the Northeast Quarter (NE $\frac{1}{4}$ ) of Section 25, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Beginning at the Northwest Corner of the NE $\frac{1}{4}$ ; thence N87°30'13"E on the north line of said NE $\frac{1}{4}$  a distance of 2,118.81 feet to the westerly line of the parcel described in Doc. No. 718925, records of Cass County; thence S2°29'49"E on said westerly line a distance of 105.05 feet; thence N89°55'31"E on said westerly line a distance of 30.77 feet; thence S2°54'01"E parallel with, and 475 feet west of the east line of said NE $\frac{1}{4}$  a distance of 2,543.00 feet to the south line of said NE $\frac{1}{4}$ ; thence S87°24'00"W on said south line a distance of 1,834.16 feet; thence N2°40'35"W parallel with, and 325 feet east of, the west line of said NE $\frac{1}{4}$  a distance of 2,552.61 feet; thence S87°30'13"W parallel with, and 100 feet south of, the north line of said NE $\frac{1}{4}$  a distance of 325.00 feet to said west line of the NE $\frac{1}{4}$ ; thence N2°40'35"W on said west line a distance of 100.00 feet to the Point of Beginning.

Said parcel contains 111.98 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 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 a representative of the land firm which was the Landowner's main point of contact throughout the negotiation process. Prior to the public meeting, the land firm representative 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  
July 30, 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@casscountynd.gov](mailto:lewisc@casscountynd.gov)

cc: Lisa Kilde, 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, Ohnstad Twichell, P.C.  
Heather Worden, Administrative Assistant, Cass County Commission



August 6, 2020

**VIA UPS – DELIVERY CONFIRMATION**

**Board of County Commissioners**

Allen L. Thunberg  
Barbara J. Thunberg  
Trustees under the Thunberg Living Trust  
5132 Pine Lake Road  
Wesley Chapel, FL 33543

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: 720  
Parcel No.: 53-0000-09129-020  
**UPS Tracking No. 1Z RT8 7R1 PY 0427 4714**

**Greetings:**

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 easement necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding the right of way 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 17, 2019, enclosing the District's appraisal for the acquisition of the right of way from you, along with a proposed Purchase Agreement;
- Letter dated May 5, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way to be acquired; and
- Letter dated June 17, 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.

The District informed the Commission that you and the District have not reached a mutually acceptable agreement, and have not signed a

Heather Worden  
Commission Assistant

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

purchase agreement, regarding the right of way the District must purchase from you 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 Northeast Quarter (NE $\frac{1}{4}$ ) of Section 25, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Beginning at the Northwest Corner of the NE $\frac{1}{4}$ ; thence N87°30'13"E on the north line of said NE $\frac{1}{4}$  a distance of 2,118.81 feet to the westerly line of the parcel described in Doc. No. 718925, records of Cass County; thence S2°29'49"E on said westerly line a distance of 105.05 feet; thence N89°55'31"E on said westerly line a distance of 30.77 feet; thence S2°54'01"E parallel with, and 475 feet west of the east line of said NE $\frac{1}{4}$  a distance of 2,543.00 feet to the south line of said NE $\frac{1}{4}$ ; thence S87°24'00"W on said south line a distance of 1,834.16 feet; thence N2°40'35"W parallel with, and 325 feet east of, the west line of said NE $\frac{1}{4}$  a distance of 2,552.61 feet; thence S87°30'13"W parallel with, and 100 feet south of, the north line of said NE $\frac{1}{4}$  a distance of 325.00 feet to said west line of the NE $\frac{1}{4}$ ; thence N2°40'35"W on said west line a distance of 100.00 feet to the Point of Beginning.

Said parcel contains 111.98 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 September 21, 2020 at 3:30 p.m. The District will also participate in the meeting, along with a representative of the land firm which 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.

If you wish to participate in the Commission's September 21, 2020 public meeting via conference call or Microsoft Teams, please contact Heather Worden at (701) 241-5609 or [wordenh@casscountynd.gov](mailto: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 **Lisa Kilde** and to continue discussions about the Project. **Lisa Kilde** of **SRF Consulting Group, Inc.** is your point of contact regarding the Project. You can reach Lisa Kilde at **(701) 893-7437** or **lkilde@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: Malcolm H. Brown, Crowley Fleck, PLLP  
Lisa Kilde, 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, Ohnstad Twichell, P.C.  
Heather Worden, Administrative Assistant, Cass County Commission



# Proof of Delivery

Dear Customer,

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

**Tracking Number**

1ZRT87R1PY04274714

**Weight**

0.00 LBS

**Service**

UPS 2nd Day Air®  
Saturday Delivery

**Shipped / Billed On**

08/05/2020

**Delivered On**

08/08/2020 2:42 P.M.

**Delivered To**

5132 PINELAKE RD  
WESLEY CHAPEL, FL, 33543, US

**Received By**

DRIVER RELEASE

**Left At**

Front Door

**Reference Number(s)**

RT87R13YFGB

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: 08/13/2020 11:27 A.M. EST



Said parcel contains 111.98 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 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.

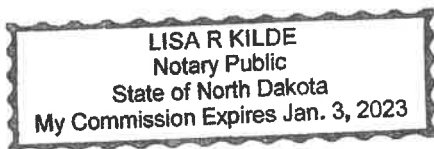
[¶7] The District has instructed SRF Consulting Group, Inc. to refrain from referencing, mentioning, or threatening quick take eminent domain during negotiations since August 1, 2017.

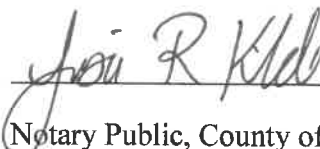
[¶8] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

Dated this 8 day of September, 2020.

  
\_\_\_\_\_  
Ken Helvey  
SRF Consulting Group, Inc.

Subscribed to and sworn to before me this 8 day of September, 2020.



  
\_\_\_\_\_  
Notary Public, County of Cass  
State of North Dakota  
My Commission Expires: \_\_\_\_\_

(SEAL)

## OIN 720 9284 - Thunberg Contact Attempts

<b>Date</b>	<b>Note</b>
4/8/2019	Received letter from Allen Thunberg regarding questions and acquisition
4/25/2019	Received letter from Allen Thunberg regarding appraiser questions and aerial photos of prior flooding
8/7/2019	Appraisal and offer letter sent
8/13/2019	Appraisal and offer letter received
10/23/2019	Telephone call with Malcolm Brown, left message
12/17/2019	Formal letter sent
12/26/2019	CCJWRD received letter from Malcolm Brown
3/4/2020	Tim Magnusson emailed Malcolm Brown regarding CCJWRD appraisal copy and offer
3/10/2020	Malcolm Brown emailed Tim Magnusson regarding appraiser being completed.
5/5/2020	CCJWRD Invite sent
5/8/2020	CCJWRD Invite received
6/18/2020	Lisa called and left a message for Malcolm Brown
6/23/2020	Email with Malcolm Brown regarding entrance on property for archeological survey
6/24/2020	Telephone call with Malcolm Brown, left message
6/26/2020	Email with Malcolm Brown regarding discussion for counteroffer
7/9/2020	Presented counteroffer at CCJWRD Board meeting
7/23/2020	Email with Paul Forster
7/29/2020	Telephone call with Paul Forster regarding counteroffer
8/21/2020	Received letter from Paul Forster regarding counteroffer
7/27/2020	Presented counteroffer at CCJWRD Board meeting
8/28/2020	Email with Paul Forster regarding CCJWRD discussion on counteroffer
9/1/2020	Telephone call with Paul Forster regarding counteroffer



the north line of said NE1/4 a distance of 325.00 feet to said west line of the NE1/4; thence N2°40'35"W on said west line a distance of 100.00 feet to the Point of Beginning.

Said parcel contains 111.98 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 of just compensation to Landowner by certified mail, along with an appraisal and purchase agreement, on December 17, 2019. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On May 5, 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**.

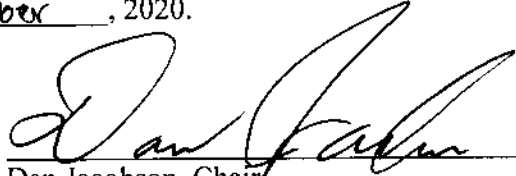
[¶10] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶11] On June 17, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way Easement, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

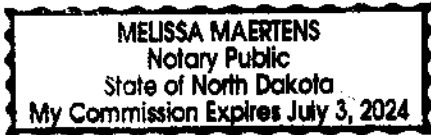
[¶12] The District has retained land agents who are in direct contact with Landowner. The District instructed our land agents not to reference, mention, or threaten quick take eminent domain during negotiations. The land agents have verified they have not referenced, mentioned, or threatened quick take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

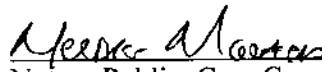
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 14 day of September, 2020.

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

Subscribed to and sworn to before me this 14 day of September, 2020.



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

(SEAL)