

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

September 21st, 2020

PROPERTY OWNER: Paul & Carolyn Thoen

LAND AGENT: Jamie Wark with SRF

OIN: 5278



FM AREA
DIVERSION
PROJECT

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Written Correspondence Timeline – Paul & Carolyn Thoen

OIN 5278	Sent	Received
Offer to Purchase	12/20/2019	12/21/2019
Formal Negotiations and Written Offer of Just Compensation	3/12/2020	3/13/2020
Request for Meeting	3/31/2020	4/6/2020
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	7/30/2020	7/30/2020
Invitation to Attend Public Meeting	8/6/2020	8/7/2020
Commission Meeting Date	9/21/2020	

**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: Paul M. Thoen and Carolyn M. Thoen
2. Land Agent: Jamie Wark
3. Parcel No.: 55-0000-09652-020
4. OIN No.: 5278

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

September 14, 2020

Owner	Paul and Carolyn Thoen
Address	16767 49 th Street SE, Kindred, ND 58051
Property Location	Southern Embankment-1
Property Type	Agriculture
OIN	5278
Representative	Eric Thoen, Son
Land Firm & Agent	SRF – Jamie Wark

Property Need

The parcel is within the Southern Embankment-1 area associated with the Project. The Diversion Authority is required to obtain a portion of the parcel for the Southern Embankment-1.

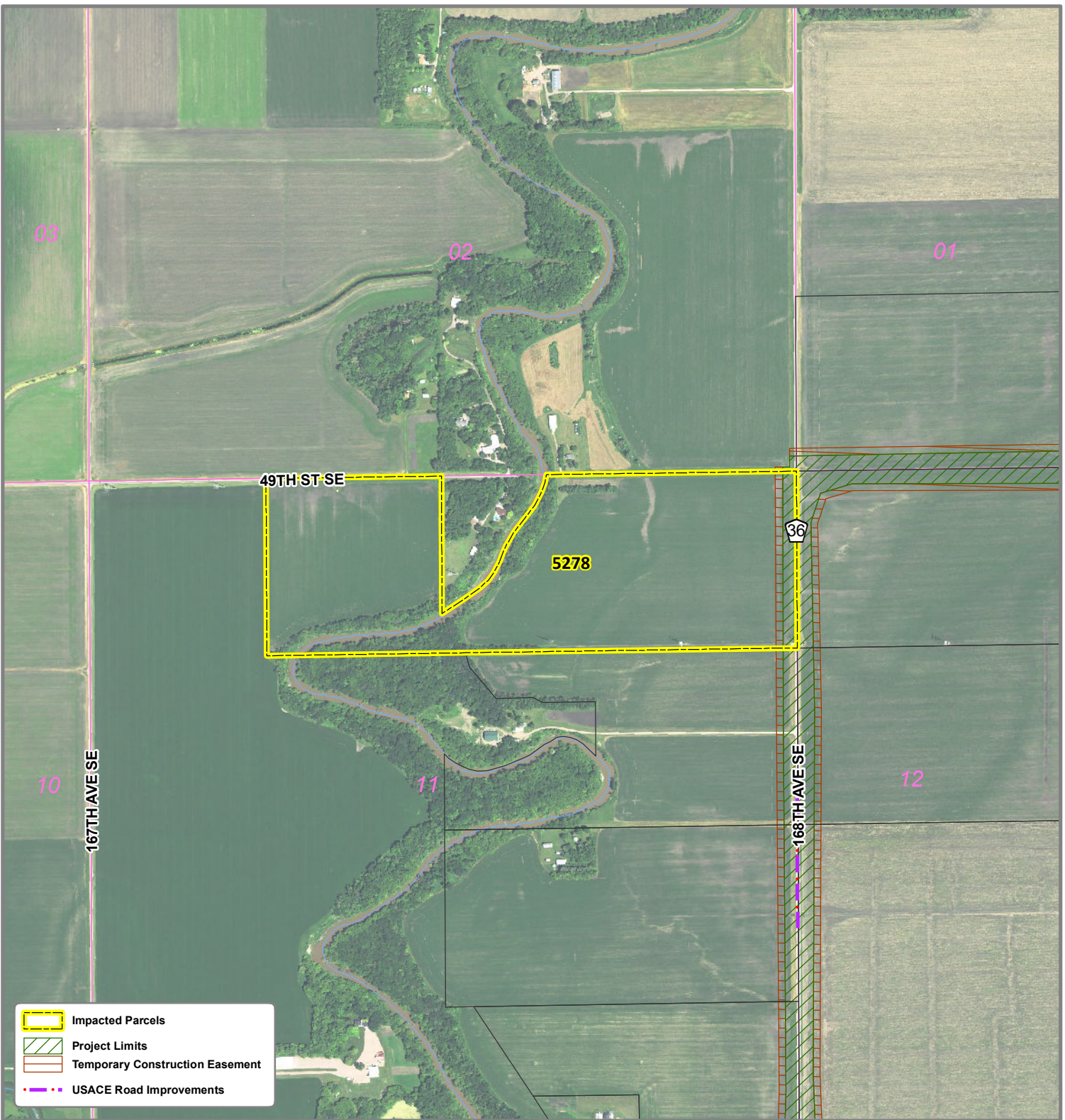
Valuation and Negotiation Summary:

Appraisal Value / Date	\$18,500 dated November 27, 2019 3.12 acres Land/Site Taking \$5,400/acre = \$16,848 1.69 acres Temporary Easement \$200/acre x 5 years = \$1,690
Counteroffer	N/A

Negotiation Notes

- SRF Land agent, Jamie Wark, has been in contact with Eric Thoen, son of Paul and Carolyn Thoen, per landowner's request.
- Offer letter sent December 20, 2019
- Formal offer letter – sent March 12, 2020
- Land agent has called landowner/representative 20+ times
- Representatives for OIN 5278, OIN 5241 & OIN 747, 751, 5014, 4015 & 5277 have negotiated as a group.
- Met with representative for the landowner and neighboring landowners on August 20, 2020 to discuss counteroffer and drainage issues
- Land agent provided a 10% increase to the appraised value to representative. No agreement reached thus far.
- Land agent has encouraged landowner to continue to negotiate

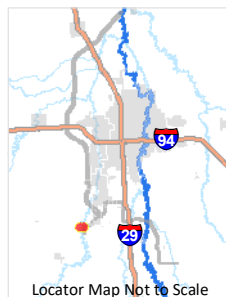
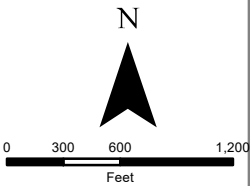
September 14, 2020



-  Impacted Parcels
-  Project Limits
-  Temporary Construction Easement
-  USACE Road Improvements

Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use. All parcel acreages and legal descriptions shown hereon are based on County GIS data. Final acreages and legal descriptions to be determined by boundary survey.

Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet |
 C:\Data\Projects\GIS Projects\FM Area Diversion\Projects\Land Acquisition\Project Work Package\IProject Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105.mxd



OIN: 5278
PAUL M & CAROLYN J THOEN
Parcel ID: 55-0000-09652-020
Cass County, ND

FM AREA DIVERSION
 Map Date: 4/2/2020





December 20, 2019

Paul M. and Carolyn J. Thoen
1679 49th St SE
Kindred, ND 58051

RE: **Offer to Purchase**
Parcel ID: OIN 5278
Project Title: Fargo Moorhead Diversion
PID: 55-0000-09652-020

Dear Mr. and Mrs. Thoen,

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 Land Consultants Inc. The appraiser has determined that the market value of the interests being purchased is **\$18,500.00**. 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 \$18,500.00 as Just Compensation for the property interests it must acquire from you.

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

Paul M. and Carolyn J. Thoen
Offer to Purchase

OIN 5278

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 me at 701-893-7435 or by email at jwark@srfconsulting.com. We are 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 5278 by Crown 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,



Jamie Wark
Senior Analyst
Direct # 701-893-7435
jwark@srfconsulting.com
One North Second Street, Fargo, ND 58102

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

Paul M. Thoen

Carolyn J. Thoen

Required Notice: For your information the contact information for Cass County Joint Water Resource District (CCJWRD) is Carol Harbeke-Lewis, Secretary-Treasurer, at 701-298-2381. The property, that is the subject of this written communication, must be acquired by CCJWRD before September 2020.

Enclosures: Appraisal Report, Exhibit A, Exhibit B

I:\Projects\7715-18\RW_Parcels\5278 - Paul and Carolyn Thoen\OIN 5278 Thoen - Offer Letter.docx

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Moorhead Diversion**

Offer to Purchase

Parcel ID: OIN 5278

Project Title: Fargo Moorhead Diversion

PID: 55-0000-09652-020

Recorded Fee Owner: Paul M. and Carolyn J. Thoen

Property Legal Description:

SEE ATTACHED SURVEY

Description of Property Interests to be Acquired: Fee Simple and Temporary Easement

Noted and Waived Exceptions, Reservations or Encumbrances: None

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

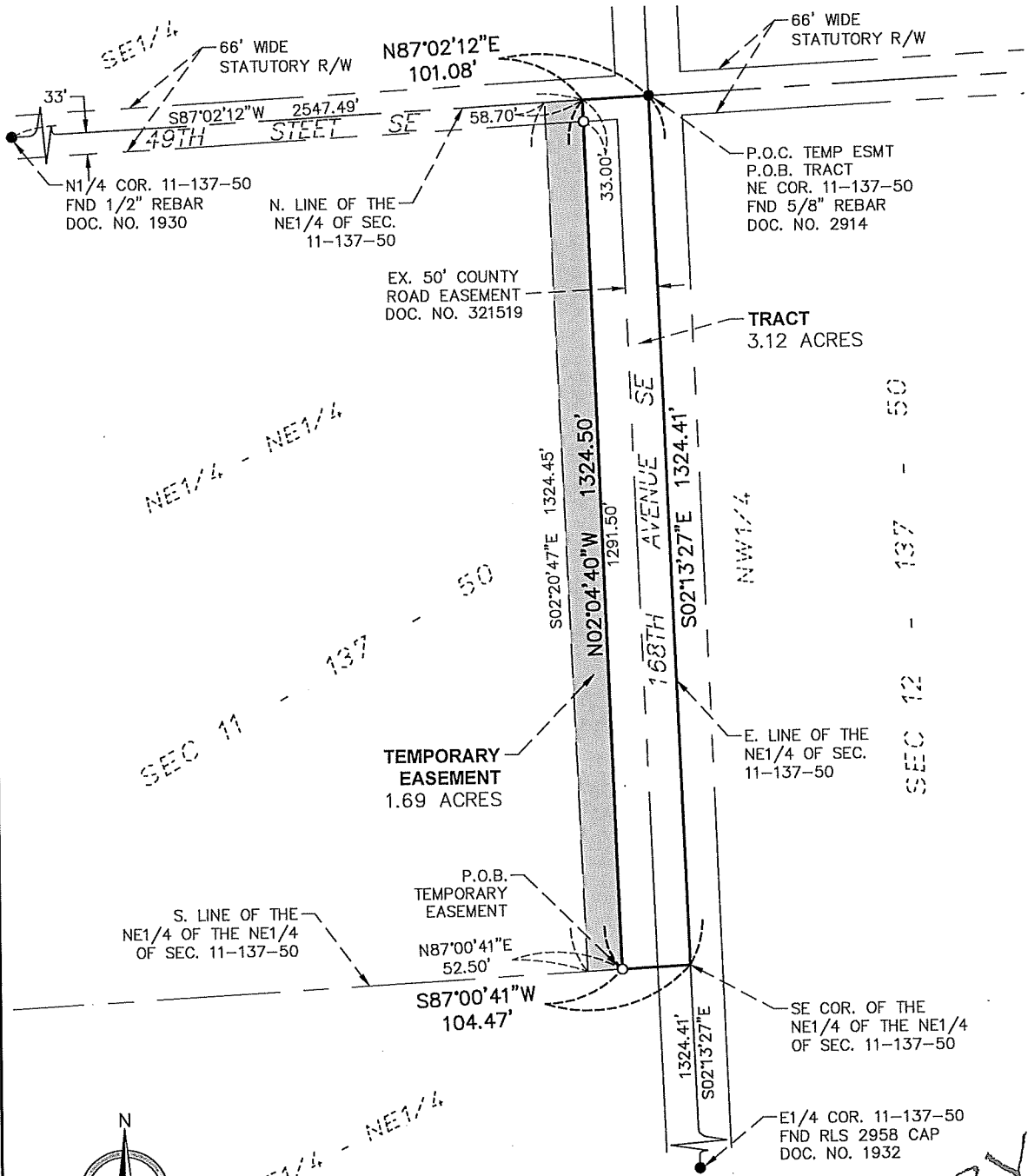
1. Demonstration of marketable title,
2. Conveyance of all interests identified, unless waived in writing by the Cass County Joint Water Resource District,
3. Execution of a purchase agreement signed by the Cass County Joint Water Resource District, or its designee.

APPRAISAL SUMMARY

Parcel Value	Area Size/ Description	Per Unit	Indicated Value
Land/Site Taking	3.12 Acres	\$ 5,400	\$ 16,848.00
Temporary Easement	1.69 Acres	\$ 200 (x 5 years)	\$ 1,690.00
TOTAL (rounded)			\$ 18,500.00

CERTIFICATE OF SURVEY

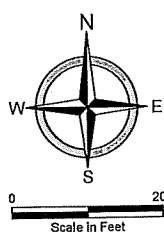
PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP
137 NORTH, RANGE 50 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA



NE1/4 - NE1/4
50
137

50
137
12
50

PRELIMINARY



- LEGEND**
- IRON MONUMENT FOUND
 - SET 5/8"x18" REBAR WITH YELLOW PLASTIC CAP #5900
 - ▭ TEMPORARY EASEMENT

BASIS OF BEARINGS:
THE EAST LINE OF THE NE 1/4 OF SECTION 11, T137N, R50W HAS AN ASSUMED BEARING OF S02°13'27"E

Certificate of Survey - OIN 5278
Paul & Carolyn Thoen
Part of the NE1/4NE1/4 Sec. 11-137-50
Cass County, North Dakota

Page 9 of 36

PROJECT No.	20395
DATE:	11.4.19
REVISED:	
DRAFTER:	SMT
REVIEWER:	CDH



09/21/2020

CERTIFICATE OF SURVEY

PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP
137 NORTH, RANGE 50 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA

DESCRIPTION-TRACT

That part of the Northeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the northeast corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 104.47 feet; thence North 02 degrees 04 minutes 40 seconds West for a distance of 1324.50 feet to the north line of the Northeast Quarter of said Section 11; thence North 87 degrees 02 minutes 12 seconds East along the north line of the Northeast Quarter of said Section 11 for a distance of 101.08 feet to the point of beginning.

Said tract contains 3.12 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

DESCRIPTION-TEMPORARY EASEMENT

That part of the Northeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the northeast corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 104.47 feet to the point of beginning; thence North 02 degrees 04 minutes 40 seconds West for a distance of 1324.50 feet to the north line of the Northeast Quarter of said Section 11; thence South 87 degrees 02 minutes 12 seconds West along the north line of the Northeast Quarter of said Section 11 for a distance of 58.70 feet; thence South 02 degrees 20 minutes 47 seconds East for a distance of 1324.45 feet to the south line of said Northeast Quarter of the Northeast Quarter; thence North 87 degrees 00 minutes 41 seconds East along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 52.50 feet to the point of beginning.

Said tract contains 1.69 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

CERTIFICATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of North Dakota.

Shawn M. Thomasson, R.L.S.
N.D. License No. LS-5900

Date: _____

State of North Dakota)
County of Cass)

On this ____ day of _____, 2019, before me, a Notary Public in and for said county and state, personally appeared Shawn M. Thomasson, Registered Land Surveyor, known to me to be the person described in and who executed the foregoing certificate and acknowledged to me that he executed the same as his free act and deed.

Notary Public, Cass County, North Dakota

PAGE 2 OF 2

Certificate of Survey - OIN 5278

Paul & Carolyn Thoen
Part of the NE1/4NE1/4 Sec. 11-137-50
Cass County, North Dakota

Page 10 of 36

PROJECT No.	20395
DATE:	11.4.19
REVISED:	-
DRAFTER:	SMT
REVIEWER:	CDH





[FAQs >](#)

[Track Another Package +](#)

5278
Thoen

Tracking Number: 9505511429339354241322

[Remove X](#)

Your item was delivered in or at the mailbox at 12:41 pm on December 21, 2019 in WEST FARGO, ND 58078.

Delivered

December 21, 2019 at 12:41 pm
Delivered, In/At Mailbox
WEST FARGO, ND 58078

Feedback

[Get Updates](#)

[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.



CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY

March 12, 2020

Cass County
Joint Water
Resource
District

Paul and Carolyn Thoen
16767 49th Street SE
Kindred, ND 58051
Certified No. 7018 0040 0000 5525 7325

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
OIN: 5278
Parcel No.: 55-0000-09652-020

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
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 and a temporary easement from you. More specifically, to accommodate the Project, the District must acquire right of way and a temporary easement from you over property located in Cass County and identified as Parcel Identification Number 55-0000-09652-020. The legal description of the property to be acquired is:

Right of Way:

That part of the Northeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the northeast corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 104.47 feet; thence North 02 degrees 04 minutes 40 seconds West for a distance of 1324.50 feet to the north line of the Northeast Quarter of said Section 11; thence North 87 degrees 02 minutes 12 seconds East along the north line of the Northeast Quarter of said Section 11 for a distance of 101.08 feet to the point of beginning.

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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

Said tract contains 3.12 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

Temporary Easement:

That part of the Northeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the northeast corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 104.47 feet to the point of beginning; thence North 02 degrees 04 minutes 40 seconds West for a distance of 1324.50 feet to the north line of the Northeast Quarter of said Section 11; thence South 87 degrees 02 minutes 12 seconds West along the north line of the Northeast Quarter of said Section 11 for a distance of 58.70 feet; thence South 02 degrees 20 minutes 47 seconds East for a distance of 1324.45 feet to the south line of said Northeast Quarter of the Northeast Quarter; thence North 87 degrees 00 minutes 41 seconds East along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 52.50 feet to the point of beginning.

Said tract contains 1.69 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

Enclosed is an appraisal regarding the value of the right of way and temporary easement 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 \$16,848.00, and the temporary easement is \$1,690.00 for a total purchase price of \$18,538.00 which the appraiser rounded to \$18,500.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$18,500.00 as just compensation to purchase right of way and temporary easement 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. **Lisa Kilde** of SRF Consulting Group, Inc. can be reached at (701) 893-7437 or lkilde@srfconsulting.com. Lisa 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.

Paul and Carolyn Thoen
March 12, 2020
Page 3

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 and temporary easement. 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 and temporary easement 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: Lisa Kilde, Land Agent
Eric Dodds, Program Manager, AE2S
Chris McShane, Ohnstad Twichell, P.C.
Chad Peterson, 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:

Paul and Carolyn Thoen
 16767 49th Street SE
 Kindred ND 58051



9590 9402 3806 8032 1529 07

2. Article Number (Transfer from service label)

7018 0040 0000 5525 7325

COMPLETE THIS SECTION ON DELIVERY

A. Signature

x

- Agent
- Addressee

B. Received by (Printed Name)

PAUL & CAROLYN THOEN

C. Date of Delivery

5/13/20

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

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

Domestic Return Receipt



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 31, 2020

**Cass County
Joint Water
Resource
District**

Paul and Carolyn Thoen
16767 49th Street SE
Kindred, ND 58051
Certified No. 7018 0040 0000 5525 7486

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

**RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OIN: 5278
Parcel No.: 55-0000-09652-020**

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). The District previously provided you a letter dated March 12, 2020; a copy of the District's appraisal for the right of way and temporary easement needed from you; and a Purchase Agreement as the District's offer of just compensation to purchase the right of way and temporary easement from you. The District's letter specifically described the right of way and temporary easement 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 and temporary easement from you to accommodate the Project.

Carol Harbeke Lewis
Secretary-Treasurer

The District requests your attendance at a meeting, either by phone or in person, to discuss the District's offer to purchase right of way and temporary easement from you. The District is meeting at the Cass County Highway Department, 1201 Main Avenue West in West Fargo, North Dakota, at 8:00 a.m., on April 9, 2020, and April 23, 2020. Over the next several months, District meetings will be conducted via conference call originating at the Cass County Highway Department; however, District board members will not be attending in person. Therefore, if possible, we request your attendance by telephone.

1201 Main Avenue West
West Fargo, ND 58078-1301

The District hopes you will attend one of the above-mentioned meetings to discuss the Project and the right of way and temporary easement the District must acquire from you to accommodate the Project. If you would like to attend either meeting 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.

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

Paul and Carolyn Thoen
OIN 5278
March 31, 2020
Page 2

Please continue to maintain contact and negotiate with the land agent assigned to your property. **Jamie Wark** of SRF Consulting Group, Inc. is your point of contact for getting answers to any questions you have about the Project. Jamie can be reached at **(701) 893-7435** or jwark@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 and temporary easement. The District must conclude all negotiations and complete the acquisition of right of way and temporary easement 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 and temporary easement. 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@casscountyny.gov

cc: Jamie Wark, 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:

PAUL AND CAROLYN THOEN
 16767 49TH ST SE
 KINDRED ND 58051



9590 9402 3806 8032 1527 47

2. Article Number (Transfer from service label)

7018 0040 0000 5525 7486

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Handwritten Signature]

- Agent
- Addressee

B. Received by (Printed Name)

ERIK THOEN

C. Date of Delivery

4/6/20

- 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

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

Domestic Return Receipt



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

May 22, 2020

Cass County
Joint Water
Resource
District

Paul and Carolyn Thoen
16767 49th Street SE
Kindred, ND 58051
Certified No. 7019 1640 0002 0398 7661

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Loughheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY
OIN: 5278
Parcel No. 55-0000-09652-020

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"). On behalf of the District, I previously provided you a letter dated March 12, 2020, 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 March 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.

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.

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

Carol Harbeke Lewis
Secretary-Treasurer
1201 Main Avenue West
West Fargo, ND 58078-1301

701-298-2381
FAX 701-298-2397
wrд@casscountynд.gov
casscountynд.gov

Paul and Carolyn Thoen
OIN 5278
May 22, 2020
Page 2

You are encouraged to maintain contact with the land agent assigned to your property. **Jamie Wark** of **SRF Consulting Group, Inc.** can be reached at **(701) 893-7435** or **jwark@srfconsulting.com**. Jamie 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: Jamie Wark, 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:
PAUL AND CAROLYN THOEN
16767 49TH STREET SE
KINDRED ND 58051



9590 9402 3806 8032 1549 49

2. Article Number (Transfer from service label)

7019 1640 0002 0398 7661

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Agent
 Addressee

B. Received by (Printed Name)
PAUL THOEN

C. Date of Delivery
5/26/80

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

Domestic Return Receipt



SENT VIA EMAIL wilsonro@casscountynd.gov

Cass County
Joint Water
Resource
District

July 30, 2020

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

Greetings:

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
OIN: 5278
Parcel No. 55-0000-09652-020

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 and temporary easement from Paul M. Thoen and Carolyn J. Thoen (the "Landowner"):

- Letter dated March 12, 2020, 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 March 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.

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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

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 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 and temporary easement is as follows:

Right of Way Easement:

That part of the Northeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the northeast corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 104.47 feet; thence North 02 degrees 04 minutes 40 seconds West for a distance of 1324.50 feet to the north line of the Northeast Quarter of said Section 11; thence North 87 degrees 02 minutes 12 seconds East along the north line of the Northeast Quarter of said Section 11 for a distance of 101.08 feet to the point of beginning.

Said tract contains 3.12 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

Temporary Easement:

That part of the Northeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the northeast corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 104.47 feet to the point of beginning; thence

North 02 degrees 04 minutes 40 seconds West for a distance of 1324.50 feet to the north line of the Northeast Quarter of said Section 11; thence South 87 degrees 02 minutes 12 seconds West along the north line of the Northeast Quarter of said Section 11 for a distance of 58.70 feet; thence South 02 degrees 20 minutes 47 seconds East for a distance of 1324.45 feet to the south line of said Northeast Quarter of the Northeast Quarter; thence North 87 degrees 00 minutes 41 seconds East along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 52.50 feet to the point of beginning.

Said tract contains 1.69 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

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 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.

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 30, 2020
Page 4

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@casscountynynd.gov

cc: Jamie Wark, 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

Paul M. Thoen
Carolyn J. Thoen
16767 49th Street SE
Kindred, ND 58051

**Board of County
Commissioners**

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: 5278
Parcel No. 55-0000-09652-020
UPS Tracking No. 1Z RT8 7R1 25 3185 7102

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 necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding the 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 March 12, 2020, 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 March 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. 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.

Heather Worden
Commission Assistant

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

The legal description of the necessary right of way and temporary easement is as follows:

Right of Way Easement:

That part of the Northeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the northeast corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 104.47 feet; thence North 02 degrees 04 minutes 40 seconds West for a distance of 1324.50 feet to the north line of the Northeast Quarter of said Section 11; thence North 87 degrees 02 minutes 12 seconds East along the north line of the Northeast Quarter of said Section 11 for a distance of 101.08 feet to the point of beginning.

Said tract contains 3.12 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

Temporary Easement:

That part of the Northeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the northeast corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 104.47 feet to the point of beginning; thence North 02 degrees 04 minutes 40 seconds West for a distance of 1324.50 feet to the north line of the Northeast Quarter of said Section 11; thence South 87 degrees 02 minutes 12 seconds West along the north line of the Northeast Quarter of said Section 11 for a distance of 58.70 feet; thence South 02 degrees 20 minutes 47 seconds East for a distance of 1324.45 feet to the south line of said Northeast Quarter of the Northeast Quarter; thence North 87 degrees 00 minutes 41 seconds East along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 52.50 feet to the point of beginning.

Said tract contains 1.69 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

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,

Tohen
August 6, 2020
Page 3

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.

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 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
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

1ZRT87R12531857102

Weight

0.00 LBS

Service

UPS Next Day Air®

Shipped / Billed On

08/05/2020

Delivered On

08/07/2020 10:17 A.M.

Delivered To

16767 49TH ST SE
KINDRED, ND, 58051, US

Received By

DRIVER RELEASE

Left At

Met Customer Woman

Reference Number(s)

RT87R1CZCNF

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 11:26 A.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 Paul M. Thoen and Carolyn J. Thoen (“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 located in Cass County, North Dakota, is more fully described as follows:

Right of Way
OIN 5278

That part of the Northeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the northeast corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 104.47 feet; thence North 02 degrees 04 minutes 40 seconds West for a distance of 1324.50 feet to the north line of the Northeast Quarter of said Section 11; thence North 87 degrees 02 minutes 12 seconds East along the north line of the Northeast Quarter of said Section 11 for a distance of 101.08 feet to the point of beginning.

Said tract contains 3.12 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

Temporary Easement
OIN 5278

That part of the Northeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the northeast corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 104.47 feet to the point of beginning; thence North 02 degrees 04 minutes 40 seconds West for a distance of 1324.50 feet to the north line of the Northeast Quarter of said Section 11; thence South 87 degrees 02 minutes 12 seconds West along the north line of the Northeast Quarter of said Section 11 for a distance of 58.70 feet; thence South 02 degrees 20 minutes 47 seconds East for a distance of 1324.45 feet to the south line of said Northeast Quarter of the Northeast Quarter; thence North 87 degrees 00 minutes 41 seconds East along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 52.50 feet to the point of beginning.

Said tract contains 1.69 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

The property described above is the "Necessary Property."

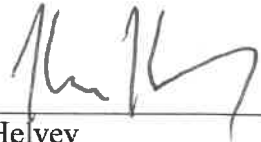
[¶5] Affiant is familiar with the records maintained by SRF Consulting Group, Inc. with respect to the Necessary Property and has reviewed all such records prior to executing this affidavit.

[¶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.

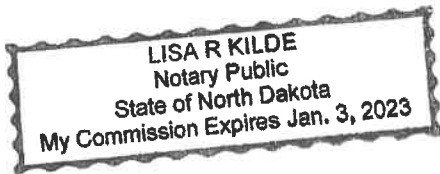
[¶8] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

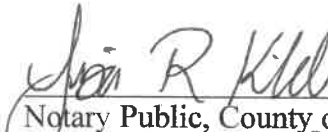
Dated this 8 day of September, 2020.



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 5278 - Thoen Contact Attempts

Date	Note
12/20/2019	Appraisal and offer letter sent
12/21/2019	Appraisal and offer letter received
3/12/2020	Formal offer letter sent
3/12/2020	Jamie visited with Paul and Carolyn on their property
3/31/2020	CCJWRD invite sent
4/1/2020	Spoke to Carolyn. Asked to negotiate with son (Eric). Eric's contact number is 701-799-9188
4/2/2020	Called Eric and LM
4/6/2020	Called Eric and LM
4/6/2020	CCJWRD invite received
4/8/2020	Called Eric
4/10/2020	Called Eric and LM
4/13/2020	Called Paul & Carolyn
4/14/2020	Called Eric
4/15/2020	Called Paul & Carolyn
4/16/2020	Called Paul & Carolyn
4/17/2020	Called Eric
5/4/2020	Called Paul & Carolyn
5/6/2020	Called Eric
5/22/2020	Possession intent letter sent
5/26/2020	Spoke to Paul. Asked to have Eric call land agent. Paul upset with letter received.
5/26/2020	Possession intent letter received
6/11/2020	Spoke to Eric. Eric would talk to Paul about counteroffer
6/30/2020	Called Eric and LM
8/3/2020	Spoke to Kelly. Informed him David Braaten would like to meet as a group. Eric said he was interested.
8/7/2020	Spoke to Eric. Verified August 20 meeting at Cass County Highway Department at 4:00 pm
8/19/2020	Spoke to Eric, provided address for meeting for August 20 meeting
8/20/2020	Met with Eric as well as representatives for OIN 5278 & OIN 747 at Cass County Highway Department

Said tract contains 3.12 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

Temporary Easement

OIN 5278

That part of the Northeast Quarter of the Northeast Quarter of Section 11, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the northeast corner of said Section 11; thence South 02 degrees 13 minutes 27 seconds East on an assumed bearing along the east line of the Northeast Quarter of said Section 11 for a distance of 1324.41 feet to the southeast corner of said Northeast Quarter of the Northeast Quarter; thence South 87 degrees 00 minutes 41 seconds West along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 104.47 feet to the point of beginning; thence North 02 degrees 04 minutes 40 seconds West for a distance of 1324.50 feet to the north line of the Northeast Quarter of said Section 11; thence South 87 degrees 02 minutes 12 seconds West along the north line of the Northeast Quarter of said Section 11 for a distance of 58.70 feet; thence South 02 degrees 20 minutes 47 seconds East for a distance of 1324.45 feet to the south line of said Northeast Quarter of the Northeast Quarter; thence North 87 degrees 00 minutes 41 seconds East along the south line of said Northeast Quarter of the Northeast Quarter for a distance of 52.50 feet to the point of beginning.

Said tract contains 1.69 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

[¶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 March 12, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On March 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 landowners is attached as **Exhibit 2**.

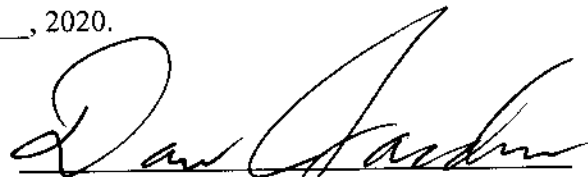
[¶10] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶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, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

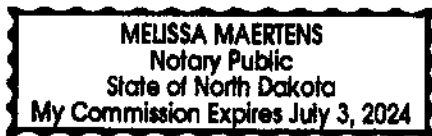
[¶12] The District has retained land agents who are in direct contact with Landowner. The District instructed our land agents not to reference, mention, or threaten quick take eminent domain during negotiations. The land agents have verified they have not referenced, mentioned, or threatened quick take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

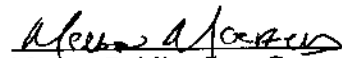
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

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)