

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

September 21st, 2020

PROPERTY OWNER: Bell Bank Larry Brandt Trust

LAND AGENT: Ken Helvey with SRF

OIN: 9348



FM AREA
DIVERSION
PROJECT

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Written Correspondence Timeline – Larry Brandt Trust

| OIN 9348 | Sent | Received |
|---|------------------|-----------------|
| Offer to Purchase | 9/23/2019 | 9/24/2019 |
| Formal Negotiations and Written Offer of Just Compensation | 2/19/2020 | 2/24/2020 |
| Request for Meeting | 5/5/2020 | 5/7/2020 |
| Notice of Intent to Take Possession of Right-of-Way | 6/17/2020 | 6/18/2020 |
| 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: Karen O. Offutt and Bell Bank, as Co-Trustees of the Residuary Trust created under the Larry A. Brandt Revocable Living Trust
2. Land Agent: Ken Helvey
3. Parcel No.: 57-0000-10207-000
4. OIN No.: 9348

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 | Larry Brandt Trust |
| Mailing Address | PO Box 9798, Fargo, ND 58106 |
| Property Location | Southern Embankment – Red River Control |
| Property Type | Agriculture |
| OIN | 9348 |
| Representative | Nick Delaney, Attorney – Rinke Noonan |
| Land Firm & Agent | SRF – Ken Helvey |

Property Need

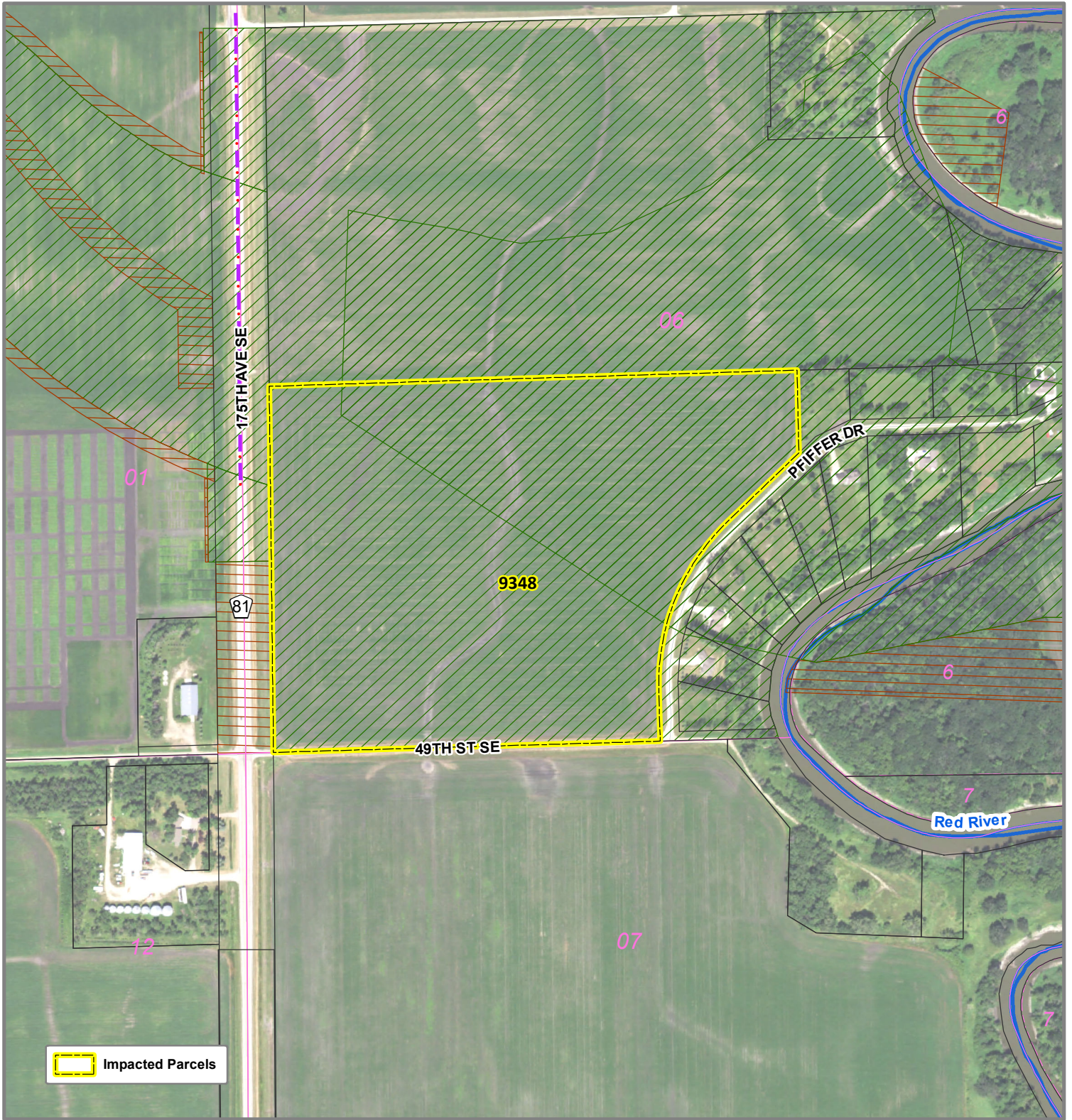
The parcel is located within the Southern Embankment – Red River Control area associated with the Project. The Diversion Authority is required to obtain the entire parcel for the Southern Embankment – Red River Control.

Valuation and Negotiation Summary:

| | |
|------------------------|---|
| Appraisal Value / Date | \$231,500 – 5/16/19 46.30 acres land/site taking at \$5,000/acre – \$231,500 |
| Counteroffer | None to date |

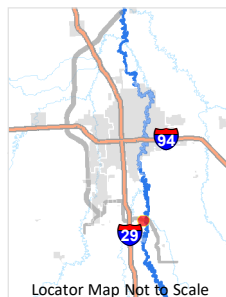
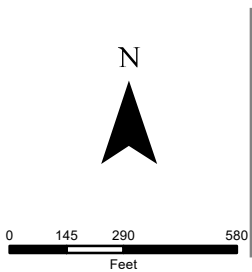
Negotiation Notes

- SRF Land agent, Ken Helvey, has had contact with landowner and the landowner’s attorney multiple times.
- Owner refuses to settle for less than \$14,750 per acre.
- Owner has retained Rinke Noonan as legal counsel.
- They are seeking their own appraisal.
- Owner is advertising the land in the project area for a housing development.



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: 9348
LARRY A BRANDT RLT RESIDUARY TRUST ETAL
Parcel ID: 57-0000-10207-000
Cass County, ND

FM AREA DIVERSION
 Map Date: 5/8/2020





September 23, 2019

Karen G Offutt, Trustee
Larry Brandt Trust
401 Harwood Drive S
Fargo, ND 58104

Bell Bank, Trustee
Larry Brandt Trust
PO Box 9798
Fargo, ND 58106

RE: **Offer to Purchase**
Parcel ID: OIN 846 9348
Project Title: Fargo Moorhead Diversion
PID: 57-0000-10286-020 and 57-0000-10207-000

Dear Larry Brandt Trust,

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

To determine market value of the interest being acquired, CCJWRD retained the services of the independent property appraisal firm, Patchin Messner Valuation Counselors. The appraiser has determined that the market value of the interests being purchased is **\$856,000.00**. The CCJWRD has used the market value set forth in the appraisal as the basis for determining Just Compensation for the property interests being acquired from you. A copy of the appraisal is attached to this letter and provided to you. If the purchase amount is based on any conditions or exceptions (such as terms of the transfer of possession or retention of any interest); they will be included in Exhibit A. A summary of the appraisal is provided on Exhibit A (Appraisal Summary) and a summary of the offer is provided on Exhibit A (Offer Summary).

The Cass County Joint Water Resource District hereby offers to pay you \$856,000.00 as Just Compensation for the property interests it must acquire from you.

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

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

If you have any questions about the acquisition process, please contact me at 763-249-6785 or by email at khelvey@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 846 9348 by Patchin Messner Valuation Counselors.
- Exhibit A (Acquisition Summary)

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

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

Sincerely,



Ken Helvey
Principal
khelvey@srfconsulting.com
One North Second Street, Fargo, ND 58102

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

Karen G. Offutt, Trustee of the Larry Brandt Trust

Bell Bank, as Trustee of the Larry Brandt Trust

By: _____
Its: _____

Enclosures: Appraisal Report, Exhibit A

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Moorhead Diversion**

Offer to Purchase

Parcel ID: OIN 846 9348

Project Title: Fargo Moorhead Diversion

PID: 57-0000-10286-020 and 57-0000-10207-000

Property Address: Highway 81 and 49th Street SE, Pleasant Township, Cass County, North Dakota

Recorded Fee Owner: Karen G. Offutt and State Bank & Trust

Property Legal Description:

SEE ATTACHED APPRAISAL

Description of Property Interests to be Acquired: Fee Simple

Noted and Waived Exceptions, Reservations or Encumbrances: None

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

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

APPRAISAL SUMMARY

| Parcel Value | Area Size/ Description | Per Unit | Indicated Value |
|--------------------------------------|-----------------------------------|-----------------|------------------------|
| Land/Site Taking OIN 846 | 124.82 Acres | \$ 5,000 | \$ 624,100.00 |
| Land/Site Taking OIN 9348 | 46.30 Acres | \$ 5,000 | \$ 231,500.00 |
| TOTAL (rounded) | | | \$ 856,000.00 |



[FAQs >](#)

[Track Another Package +](#)

Larry Brandt Trust
846 9348

Tracking Number: 9505511429339266211628

[Remove X](#)

Your item was delivered in or at the mailbox at 12:04 pm on September 24, 2019 in FARGO, ND 58104.

Delivered

September 24, 2019 at 12:04 pm
Delivered, In/At Mailbox
FARGO, ND 58104

[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 >

Track Another Package +

Larry Brandt Trust
846 9348

Tracking Number: 9505511429339266211635

Remove X

Your item was delivered at 10:39 am on September 24, 2019 in FARGO, ND 58103.

Delivered

September 24, 2019 at 10:39 am
Delivered
FARGO, ND 58103

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.



CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY

February 19, 2020

**Cass County
Joint Water
Resource
District**

Karen O. Offutt, Trustee
Larry Brandt Trust
401 Harwood Drive S
Fargo, ND 58104
Certified No. 7018 0040 0000 5525 7226

Dan Jacobson
Chairman
West Fargo, North Dakota

Bell Bank, Trustee
Larry Brandt Trust
PO Box 9798
Fargo, ND 58106
Certified No. 7018 0040 0000 5525 7233

Rodger Olson
Manager
Leonard, North Dakota

Greetings:

Ken Lougheed
Manager
Gardner, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OIN: 9348
Parcel No.: 57-0000-10207-000

Jacob Gust
Manager
Fargo, North Dakota

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

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 from you. More specifically, to accommodate the Project, the District must acquire right of way from you with respect to property located in Cass County and identified as Parcel Identification Number 57-0000-10207-000. The legal description of the property to be acquired is:

Right of Way:

All of Government Lots 6 and 7, Section Six (6), Township One Hundred Thirty-seven (137) North, Range Forty-eight (48) West of the Fifth Principal Meridian, Cass County, North Dakota, EXCEPT that part of Government Lot 7 lying East and Easterly of the following described line: Commencing at a point on the South boundary line of said Government Lot 7 lying 1731.00 feet Easterly from the Southwest corner of Government Lot 6; thence North 00°25'18" West 233.00 feet; thence North 19°52'42" East 200.00 feet; thence North 36°9'12" East 200.00 feet; thence North 55°10'32" East 326.45 feet; thence North 01°23'18" West 566.20 feet to the North line of said Government Lot 7; and EXCEPT Butch-R-Block Subdivision; and EXCEPT Auditor's Lot Five (5) of the Southwest Quarter (SW ¼) of Section Six (6), Township One Hundred Thirty-seven (137) North, Range Forty-nine (49) West.

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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

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 \$231,500.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$231,500.00 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. **Ken Helvey** of SRF Consulting Group, Inc. can be reached at (763) 249-6785 or khelvey@srfconsulting.com. Ken is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way from you for the Project.

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@casscountynynd.gov

Enclosures

cc: Ken Helvey, 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:

LARRY BRANDT TRUST
 BELL BANK - TRUSTEE
 PO BOX 9798
 FARGO ND 58106



9590 9402 3806 8032 1529 90

2. Article Number (Transfer from service label)

7018 0040 0000 5525 7233

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X  Agent
 Addressee

B. Received by (Printed Name)

Len' H

C. Date of Delivery

2-24-20

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

3. Service Type

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

Domestic Return Receipt



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

May 5, 2020

**Cass County
Joint Water
Resource
District**

Karen O. Offutt, Co-Trustee
Residuary Trust created under the Larry A. Brandt Revocable Living Trust
401 Harwood Drive S
Fargo, ND 58104
Certified No. 7019 1640 0002 0398 7531

Dan Jacobson
Chairman
West Fargo, North Dakota

Bell Bank, Co-Trustee
Residuary Trust created under the Larry A. Brandt Revocable Living Trust
PO Box 9798
Fargo, ND 58106
Certified No. 7019 1640 0002 0398 7548

Rodger Olson
Manager
Leonard, North Dakota

Greetings:

Ken Lougheed
Manager
Gardner, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OIN: 9348
Parcel No.: 57-0000-10207-000

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 February 19, 2020; 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.

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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.

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

Larry A. Brandt Trust
OIN 9348
May 5, 2020
Page 2

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.

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

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

cc: Ken Helvey, Land Agent
Eric Dodds, Program Manager, AE2S
Chris McShane, Ohnstad Twichell, P.C.
Chad Peterson, Chair, Cass County Commission
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:
 KAREN O DELUIT
 CO-TRUSTEE
 LARRY A BRANDT RLIT
 401 HARWOOD DRIVE S
 FARGO ND 58104



9590 9402 2341 6225 7723 60

2. Article Number (Transfer from service label)

7019 1640 0002 0398 7531

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

WSPB RR6

CA

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

5/7/2020

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

3. Service Type

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

Domestic Return Receipt

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:
 BELL BANK
 CO-TRUSTEE
 LARRY A BRANDT RLT
 PO BOX 9798
 FARGO ND 58106



9590 9402 2341 6225 7723 53

2. Article Number (Transfer from service label)

7019 1640 0002 0398 7548

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

COMPLETE THIS SECTION ON DELIVERY

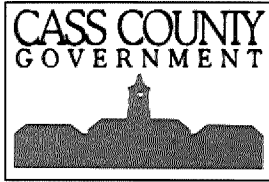
A. Signature
 X *[Signature]* Agent Addressee

B. Received by (Printed Name) *Van: Ell* C. Date of Delivery *5-7-20*

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

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

Domestic Return Receipt



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

June 17, 2020

**Cass County
Joint Water
Resource
District**

Karen O. Offutt, Co-Trustee
Residuary Trust created under the Larry A. Brandt Revocable Living Trust
401 Harwood Drive S
Fargo, ND 58104
Certified No. 7020 0090 0000 7648 2515

Dan Jacobson
Chairman
West Fargo, North Dakota

Bell Bank, Co-Trustee
Residuary Trust created under the Larry A. Brandt Revocable Living Trust
PO Box 9798
Fargo, ND 58106
Certified No. 7020 0090 0000 7648 2522

Rodger Olson
Manager
Leonard, North Dakota

Greetings:

Ken Lougheed
Manager
Gardner, 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: 9348
Parcel No. 57-0000-10207-000

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). On behalf of the District, I previously provided you a letter dated February 19, 2020, a copy of the District's appraisal for your right of way, and a Purchase Agreement as the District's offer of just compensation to purchase the right of way from you. In addition, I also provided you a letter dated 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.

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

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.

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

Larry A. Brandt Trust
OIN 9348
June 17, 2020
Page 2

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

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

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

KAREN S OFFUTT, CO-TRUSTEE
 LARRY A BRANDT RLT
 401 HARWOOD DRIVE S
 FARGO ND 58104



9590 9402 5989 0062 9068 53

2. Article Number (Transfer from service label)

7020 0090 0000 7648 2515

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X BMP RR-6

- Agent
- Addressee

B. Received by (Printed Name)

COULD

C. Date of Delivery



6/18/2020

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

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

| SENDER: COMPLETE THIS SECTION | COMPLETE THIS SECTION ON DELIVERY |
|--|--|
| <ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. | <p>A. Signature</p> <p>X  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> |
| <p>1. Article Addressed to:</p> <p>BELL BANK, CO-TRUSTEE LARRY A BRANDT RLTL PO BOX 9798 FARGO ND 58106</p> | <p>B. Received by (Printed Name) C. Date of Delivery</p> <p><i>Larry A Brandt</i> 6-18-20</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> |
|  9590 9402 5989 0062 9068 46 | <p>3. Service Type</p> <ul style="list-style-type: none"> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <p>2. Article Number (Transfer from service label)</p> <p>7020 0090 0000 7648 2522</p> | <p>Domestic Return Receipt</p> |



SENT VIA EMAIL 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
wrld@casscountynd.gov
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: 9348
Parcel No. 57-00000-10207-000**

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 Karen O. Offutt and Bell Bank, as Co-Trustees of the Residuary Trust created under the Larry A. Brandt Revocable Living Trust (the "Landowner"):

- Letter dated February 19, 2020, 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:

All of Government Lots 6 and 7, Section Six (6), Township One Hundred Thirty-seven (137) North, Range Forty-eight (48) West of the Fifth Principal Meridian, Cass County, North Dakota, EXCEPT that part of Government Lot 7 lying East and Easterly of the following described line: Commencing at a point on the South boundary line of said Government Lot 7 lying 1731.00 feet Easterly from the Southwest corner of Government Lot 6; thence North 00°25'18" West 233.00 feet; thence North 19°52'42" East 200.00 feet; thence North 36°9'12" East 200.00 feet; thence North 55°10'32" East 326.45 feet; thence North 01°23'18" West 566.20 feet to the North line of said Government Lot 7; and EXCEPT Butch-R-Block Subdivision; and EXCEPT Auditor's Lot Five (5) of the Southwest Quarter (SW¼) of Section Six (6), Township One Hundred Thirty-seven (137) North, Range Forty-nine (49) West.

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.

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.

Robert Wilson
July 30, 2020
Page 3

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

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



August 6, 2020

VIA UPS – DELIVERY CONFIRMATION

Karen O. Offutt, Co-Trustee
Residuary Trust created under
the Larry A. Brandt Revocable Living Trust
401 Harwood Drive South
Fargo, ND 58104
UPS Tracking No. 1Z RT8 7R1 25 0706 5898

VIA CERTIFIED MAIL – DELIVERY CONFIRMATION

Bell Bank, Co-Trustee
Residuary Trust created under
the Larry A. Brandt Revocable Living Trust
PO Box 9798
Fargo, ND 58106
Certified No. 7020 0640 0000 1512 6486

**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: 9348
Parcel No.: 57-0000-10207-000

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 February 19, 2020, 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

Heather Worden
Commission Assistant

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

- 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 purchase agreement, regarding the right of way 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 easement the District must acquire from you. The legal description of the necessary right of way easement is as follows:

Right of Way Easement:

All of Government Lots 6 and 7, Section Six (6), Township One Hundred Thirty-seven (137) North, Range Forty-eight (48) West of the Fifth Principal Meridian, Cass County, North Dakota, EXCEPT that part of Government Lot 7 lying East and Easterly of the following described line: Commencing at a point on the South boundary line of said Government Lot 7 lying 1731.00 feet Easterly from the Southwest corner of Government Lot 6; thence North 00°25'18" West 233.00 feet; thence North 19°52'42" East 200.00 feet; thence North 36°9'12" East 200.00 feet; thence North 55°10'32" East 326.45 feet; thence North 01°23'18" West 566.20 feet to the North line of said Government Lot 7; and EXCEPT Butch-R-Block Subdivision; and EXCEPT Auditor's Lot Five (5) of the Southwest Quarter (SW¼) of Section Six (6), Township One Hundred Thirty-seven (137) North, Range Forty-nine (49) West.

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 as soon as possible so Ms. Worden can assist you with the necessary arrangements.

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

Larry A. Brandt Revocable Living Trust
August 6, 2020
Page 3

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.


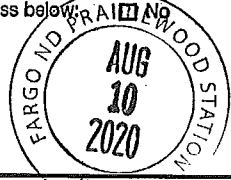
Sincerely,

CASS COUNTY COMMISSION



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

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

| SENDER: COMPLETE THIS SECTION | COMPLETE THIS SECTION ON DELIVERY | | | | | | | | | | | | | | | | | |
|--|---|-------------------------|--|---|--|---|---|--|---|---|--|--|--|---|---------------------------------------|--|--|--|
| <ul style="list-style-type: none"> ■ Complete Items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. | <p>A. Signature <input checked="" type="checkbox"/> <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery <i>Lars Ell</i> <i>8-10-20</i></p> | | | | | | | | | | | | | | | | | |
| <p>1. Article Addressed to: <i>Ball Bank, Co. Trustee Residuary Trust Created under Larry A. Brandt Revocable Living Trust PO Box 9798 Fargo, ND 58106-9798</i></p>  <p style="text-align: center;">9590 9402 5424 9189 8987 04</p> | <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below</p> <div style="text-align: center;">  </div> | | | | | | | | | | | | | | | | | |
| <p>2. Article Number (Transfer from service label) <i>7020 0640 0000 1512 6486</i></p> | <p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table> | | <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® | <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ | <input checked="" type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery | <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Return Receipt for Merchandise | <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ | <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery | <input type="checkbox"/> Insured Mail | | <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |
| <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) | | | | | | | | | | | | | | | | | | |
| PS Form 3811, July 2015 PSN 7530-02-000-9053 | | Domestic Return Receipt | | | | | | | | | | | | | | | | |

Proof of Delivery

Dear Customer,

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

Tracking Number

1ZRT87R12507065898

Weight

0.00 LBS

Service

UPS Next Day Air®

Shipped / Billed On

08/05/2020

Delivered On

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

Delivered To

FARGO, ND, US

Received By

DRIVER RELEASE

Left At

Front Door

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 11:29 A.M. EST



Tracking Details

1ZRT87R12507065898  

Updated: 08/13/2020 11:29 A.M. EST

Delivered



Delivered On

Friday
08/07/2020

Delivery Time

at 10:08 A.M.

[File a Claim](#)

Delivered To

401 HARWOOD DR S
FARGO, ND, 58104, US

Left At: Front Door

Received By: DRIVER RELEASE

Ask UPS

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 Karen Offutt and Bell Bank, as Successor Co-Trustees of the Residuary Trust created under the Larry A. Brandt Revocable Living Trust dated June 27, 1979, (“Landowner”) for construction, operation, and maintenance of the Project.

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

Right of Way
OIN 9348

All of Government Lots 6 and 7, Section Six (6), Township One Hundred Thirty-seven (137) North, Range Forty-eight (48) West of the Fifth Principal Meridian, Cass County, North Dakota, EXCEPT that part of Government Lot 7 lying East and Easterly of the following described line: Commencing at a point on the South boundary line of said Government Lot 7 lying 1731.00 feet Easterly from the Southwest corner of Government Lot 6; thence North 00°25'18" West 233.00 feet; thence North 19°52'42" East 200.00 feet; thence North 36°9'12" East 200.00 feet; thence North 55°10'32" East 326.45 feet; thence North 01°23'18" West 566.20 feet to the North line of said Government Lot 7; and EXCEPT Butch-R-Block Subdivision; and EXCEPT Auditor’s Lot Five (5) of the Southwest Quarter (SW ¼) of Section Six (6), Township One Hundred Thirty-seven (137) North, Range Forty-nine (49) West.

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.

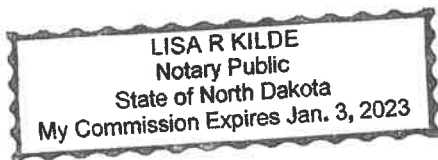
[¶8] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.


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 9348 Larry Brandt Trust Contacts

| Date | Note |
|------------------|---|
| 7/8/2019 | Meeting with Ace B. to talk about offers and process |
| 7/15/2019 | Emailed Ace the Right of Entry for review |
| 7/17/2019 | Ace B. emailed back to arrange a meeting |
| 7/18 and 19/2019 | Various emails to arrange a meeting |
| 7/24/2019 | Meeting with Ace B. to discuss ROE and appraisal process- will not sign without comprehensive deal in place |
| 10/23/2019 | Emailed Ace B. to arrange a meeting to discuss offers |
| 10/25/2019 | Emailed Ace B. to arrange a meeting to discuss offers |
| 12/12/2019 | Emailed Ace B. regrading soil borings and access |
| 1/14/2020 | Talked to Ace B. to arrange a meeting |
| 1/16/2020 | Met with Ace B. regarding offers- wants the same money as Cossette |
| 3/20/2020 | Emailed new ROE's to Ace B. - he said his mom will not sign them |
| 4/6/2020 | Confirmed mailing address for Ace's mom |
| 4/6/2020 | Ace's wife will not sign ROE either |
| 4/10/2020 | Followed up on letters receding the upstream parcels offers Retained Rinke Noonan |
| 7/16/2020 | Talked to Rinke about status- no appraisal yet |
| 7/28/2020 | Talked to Rinke about Brandt's Bluff and status- will not settle until appraisals are received |
| 8/18/2020 | Talked to Rinke about status of appraisals, have not received anything yet |

[¶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 Bell Bank, as Successor Co-Trustee of the above-described trust, by certified mail, along with an appraisal and purchase agreement, on February 19, 2020. Additionally, on April 11, 2020, the District sent the written offer of just compensation to Landowner Karen Offutt, as Successor Co-Trustee of the above-described trust, along with an appraisal and purchase agreement, to be personally served upon Landowner by Chris Laid, process server. 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.

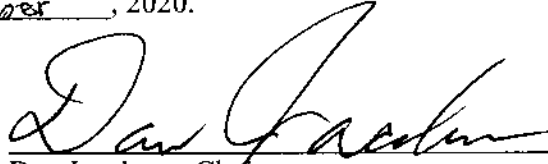
[¶11] On June 17, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way Easement, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

[¶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.

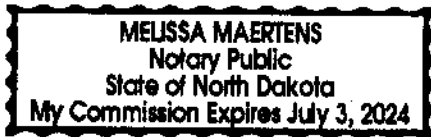
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 14 day of September, 2020.

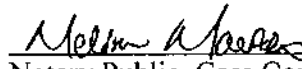


Dan Jacobson, Chair
Cass County Joint Water Resource District

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



(SEAL)



Notary Public, Cass County, State of North Dakota