

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

September 21st, 2020

PROPERTY OWNER: Mary Newman Revocable Trust Etal

LAND AGENT: Ken Helvey with SRF

OIN: 8874 8875 8876



FM AREA
DIVERSION
PROJECT

TABLE OF CONTENTS

WRITTEN CORRESPONDENCE TIMELINE.....	1
L.R.E.D CHECKLIST FOR COMPLIANCE WITH N.D. CENTURY CODE	2
NEGOTIATING SUMMARY	4
PARCEL EXHIBIT	5
OFFER TO PURCHASE	6
<i>Proof of Delivery</i>	9
FORMAL NEGOTIATIONS AND WRITTEN OFFER OF JUST COMPENSATION	12
<i>Proof of Delivery</i>	15
REQUEST FOR MEETING.....	16
<i>Proof of Delivery</i>	18
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY	19
<i>Proof of Delivery</i>	21
REQUEST FOR APPROVAL TO TAKE POSSESSION OF NECESSARY RIGHT OF WAY AND TEMPORARY EASEMENT	22
INVITATION TO ATTEND PUBLIC MEETING.....	26
<i>Proof of Delivery</i>	30
AFFIDAVIT OF LAND AGENT	31
<i>Contact Log</i>	35
AFFIDAVIT OF DAN JACOBSON FOR CASS COUNTY COMMISSION.....	36

Written Correspondence Timeline – Mary Newman Revocable Trust Etal

OIN 8874, 8875, 8876	Sent	Received
Offer to Purchase	10/28/2019	10/29/2019
Formal Negotiations and Written Offer of Just Compensation	4/6/2020	4/8/2020
Request for Meeting	5/5/2020	5/8/2020
Notice of Intent to Take Possession of Right-of-Way	6/17/2020	6/19/2020
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	8/11/2020
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: Mary E. Newman, Ruth Newman Tang, and Kari Newman-Ness as Co-Trustees of the Mary E. Newman QTIP Trust created under the Harold L. Newman Revocable Trust u/t/d October 31, 2006
2. Land Agent: Ken Helvey
3. Parcel No.: 53-0000-09056-060, 53-0000-09059-060, 53-0000-09059-050
4. OIN No.: 8874, 8875, 8876

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	Newman QTIP Trust
Mailing Address	PO Box 1728, Jamestown, ND 58402
Property Location	Diversion Channel
Property Type	Agricultural/Commercial
OIN	8874 8875 8876 9753
Land Firm & Agent	SRF – Ken Helvey

Property Need

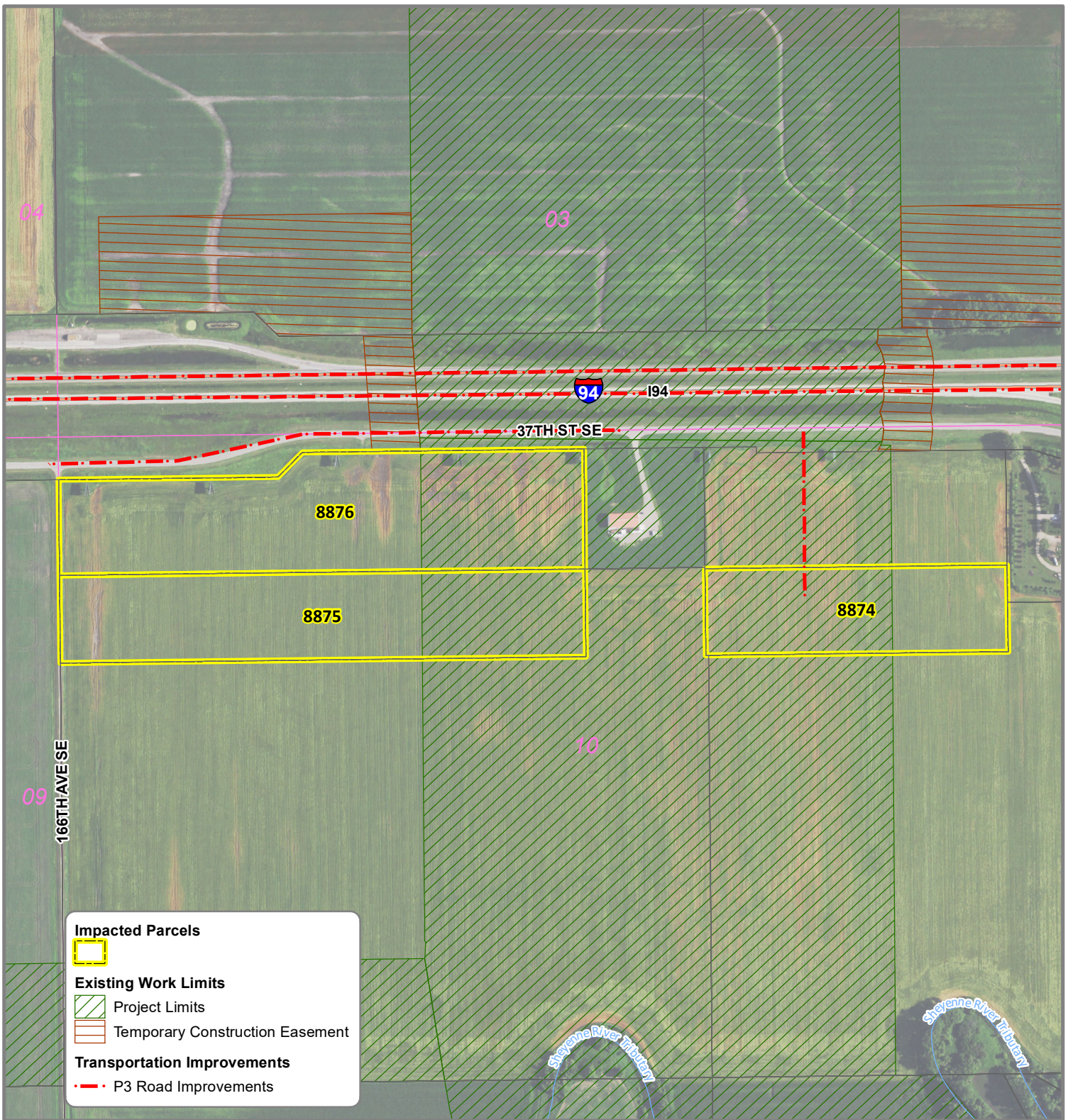
The parcels are located within the Diversion Channel area associated with the Project. The Diversion Authority is required to obtain a portion of the parcels for the Diversion Channel.

Valuation and Negotiation Summary:

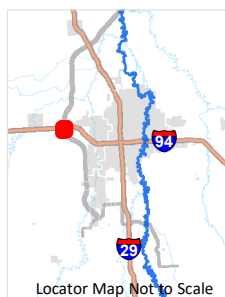
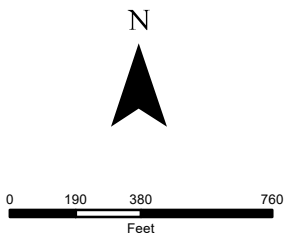
Appraisal Value / Date	<p>\$423,000 – 4/30/19</p> <p>OIN 8875, 8876 12.5 acres Land/Site Taking \$13,754/acre = \$171,925</p> <p>0.51 road/waste acres at \$0/acre</p> <p>Severance 25.89 acres \$1,509/acre = \$39,068</p> <p>OIN 8874, 9753 14.29 acres Land/Site Taking \$10,355/acre = \$147,972.95</p> <p>0.57 road/waste acres at \$0/acre</p> <p>Severance 8.79 acres \$7,284/acre = \$64,026.36</p> <p>Signs to be relocated as personal property</p>
Counteroffer	None to date

Negotiation Notes

- SRF Land agent, Ken Helvey, has had multiple contacts with landowner’s attorney regarding the offer to purchase.
- There are 7 billboards total, 4 which need to be relocated. The owners also lease the ag land
- Any replacement land needs to be zoned commercial/industrial to install billboards, unless owner has a special use permit, can get the land re-zoned, or a variance. Landowners are concerned that they will not be able to find comparable land to replace the 4 signs for that amount.
- Owner is having their own appraisal prepared for the land value. This has not yet been delivered to SRF.
- Newman Sign is taking the position that they are not able to find a suitable replacement location for their signs. We have begun the discussing how to move forward as we have proposed to consider the sign to be moveable personal property.



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 Division\Projects\Land Acquisition\Project Work Package\IProject Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105notdatadriven.mxd



Newman Signs, Inc.

OINs: 8874 8875 8876

**Parcel ID's: 53-0000-09056-060
 53-0000-09059-060 53-0000-09059-050**

Cass County, ND

FM AREA DIVERSION
 Map Date: 5/8/2020





October 28, 2019

Mary E. Newman QTIP Trust
c/o Kari Newman-Ness
PO Box 1726
Jamestown, ND 58402

RE: **Offer to Purchase**
Parcel ID: OIN 8874 8875 8876 9753
Project Title: Fargo Moorhead Diversion
PID: 53-0000-09056-060, 53-0000-09059-060, 53-0000-09059-050, 53-0000-09056-040

Dear Mary E. Newman QTIP 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, Crown Appraisals Inc. The appraiser has determined that the market value of the interests being purchased is **\$423,000.00**. The CCJWRD has used the market value set forth in the appraisal as the basis for determining Just Compensation for the property interests being acquired from you. A copy of the appraisal is attached to this letter and provided to you. If the purchase amount is based on any conditions or exceptions (such as terms of the transfer of possession or retention of any interest); they will be included in Exhibit A. A summary of the appraisal is provided on Exhibit A (Appraisal Summary).

The Cass County Joint Water Resource District hereby offers to pay you \$423,000.00 as Just Compensation for the property interests it must acquire from you.

Separate from this agreement are relocation benefits provided as a part of the acquisition of your property.

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

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

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

If you have any questions about the acquisition process, please contact 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 8874 8875 8876 9753 by Crown Appraisals Inc.
- Exhibit A (Acquisition Summary), and Exhibit B (Certificate of Surveys)

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
Direct # 763-249-6785
khelvey@srfconsulting.com
One North Second Street, Fargo, ND 58102

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

Mary E. Newman QTIP Trust
By: Kari Newman-Ness, Trustee

Enclosures: Appraisal Report, Exhibit A, Exhibit B

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Moorhead Diversion**

Offer to Purchase

Parcel ID: OIN 8874 8875 8876 9753

Project Title: Fargo Moorhead Diversion

PID: 53-0000-09056-060, 53-0000-09059-060, 53-0000-09059-050, 53-0000-09056-040

Recorded Fee Owner: Mary E. Newman QTIP Trust

Property Legal Description:

SEE ATTACHED SURVEYS

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 8875 8876	12.5 Acres	\$ 13,754	\$ 171,925.00
Land/Site Taking OIN 8875 8876 road	0.51 Road/waste acres	\$ 0	\$ 0.00
Land/Site Taking OIN 8874 9753	14.29 Acres	\$ 10,355	\$ 147,972.95
Land/Site Taking OIN 8874 9753	.57 Road/waste acres	\$ 0	\$ 0.00
Severance OIN 8875 8876	25.89 Acres	\$ 1,509	\$ 39,068.01
Severance OIN 8874 9753	8.79 Acres	\$ 7,284	\$ 64,026.36
TOTAL (rounded)			\$ 423,000.00

USPS Tracking®

[FAQs >](#)

Track Another Package +

Newman QTIP Trust
8874 8875
8874 9753

Tracking Number: 9505511429339301220431

Remove X

Your item was delivered at 6:30 am on October 29, 2019 in JAMESTOWN, ND 58402.

Delivered

October 29, 2019 at 6:30 am
Delivered
JAMESTOWN, ND 58402

Get Updates v

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.



October 28, 2019

Mary E. Newman QTIP Trust
c/o Kari Newman-Ness
PO Box 1726
Jamestown, ND 58402

RE: **Offer to Purchase**

Parcel ID: OIN 8874 8875 8876 9753

Project Title: Fargo Moorhead Diversion

PID: 53-0000-09056-060, 53-0000-09059-060, 53-0000-09059-050, 53-0000-09056-040

Dear Mary E. Newman QTIP 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, Crown Appraisals Inc. The appraiser has determined that the market value of the interests being purchased is **\$423,000.00**. The CCJWRD has used the market value set forth in the appraisal as the basis for determining Just Compensation for the property interests being acquired from you. A copy of the appraisal is attached to this letter and provided to you. If the purchase amount is based on any conditions or exceptions (such as terms of the transfer of possession or retention of any interest); they will be included in Exhibit A. A summary of the appraisal is provided on Exhibit A (Appraisal Summary).

The Cass County Joint Water Resource District hereby offers to pay you \$423,000.00 as Just Compensation for the property interests it must acquire from you.

Separate from this agreement are relocation benefits provided as a part of the acquisition of your property.

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

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

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

If you have any questions about the acquisition process, please contact 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 8874 8875 8876 9753 by Crown Appraisals Inc.
- Exhibit A (Acquisition Summary), and Exhibit B (Certificate of Surveys)

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

Direct # 763-249-6785

khelvey@srfconsulting.com

One North Second Street, Fargo, ND 58102

I acknowledge that on 10-30(?), 20 19, I received this letter and all documents listed above.



Mary E. Newman QTIP Trust

By: Kari Newman-Ness, Trustee

Enclosures: Appraisal Report, Exhibit A, Exhibit B



CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY

April 6, 2020

**Cass County
Joint Water
Resource
District**

Mary E. Newman
Ruth Newman Tang
Kari Newman-Ness
Co-Trustees of the Mary E. Newman QTIP Trust created under the
Harold L. Newman Revocable Trust u/t/d October 31, 2006
P.O. Box 1728
Jamestown, ND 58402
Certified No. 7019 1640 0002 0398 8088

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OINs: 8874, 8875, 8876
Parcel Nos.: 53-0000-09056-060, 53-0000-09059-060, 53-0000-09059-050

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 Numbers 53-0000-09056-060, 53-0000-09059-060, and 53-0000-09059-050. The legal description of the property to be acquired is:

OIN 8874

That part of the North Half (N½) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of the Northeast Quarter (NE¼) of said Section 10; thence South 02° 27' 45" East on the west line of said NE¼ a distance of 570.43 feet to the north line of parcel as described in Document No.1504434 on file at the Cass County Recorder's Office, also being the Point of Beginning; thence North 87° 17' 15" East on said north line a distance of 750.01 feet; thence South 02° 27' 45" East parallel with, and 750.00 feet east of, said west line of the NE¼ a distance of 354.00 feet to the south line of said parcel; thence South 87° 17' 15" West on said south parcel line a distance of 750.01 feet to said west line of the NE¼; thence continuing South 87° 17' 15" West on said south parcel line a distance of 12.00 feet to the west line of said parcel; thence North 02° 27' 45" West on said west parcel line a distance of 354.00 feet to said north parcel line; thence North 87° 17' 15" East on said north parcel line a distance of 12.00 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
wrđ@casscountynđ.gov
casscountynđ.gov

Said parcel contains 6.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 8875

That part of the Northwest Quarter (NW¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of said NW¼; thence South 02° 30' 53" East on the west line of said NW¼ a distance of 565.43 feet to the north line of a parcel as described in Document No.1504434 on file at the Cass County Recorder's Office; thence North 87° 18' 04" East on said north line a distance of 1479.52 feet to the Point of Beginning; thence continuing North 87° 18' 04" East on said north line a distance of 667.21 feet to the northeast corner of said parcel; thence South 02° 27' 45" East on the east line of said parcel a distance of 359.00 feet; thence South 87° 18' 04" West on the south line of said parcel a distance of 667.21 feet; thence North 02° 27' 45" West parallel with said east line of said parcel a distance of 359.00 feet to the Point of Beginning.

Said parcel contains 5.50 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 8876

That part of the Northwest Quarter (NW¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of said NW¼; thence South 02° 30' 53" East on the west line of said NW¼ a distance of 175.00 feet to the south line of the Interstate Highway 94 right-of-way; thence North 87° 18' 04" East on said south line a distance of 896.50 feet; thence North 42° 18' 04" East on said south line a distance of 141.42 feet; thence North 87° 18' 04" East on said south line a distance of 483.79 feet to the Point of Beginning; thence continuing North 87° 18' 04" East on said south line a distance of 667.21 feet to the northwest corner of a parcel as described in Document No. 1375173 on file at the Cass County Recorder's Office; thence South 02° 27' 45" East on the west line of said parcel a distance of 490.43 feet to the northeast corner of a parcel as described in Document No. 1504434 on file at the Cass County Recorder's Office;

thence South 87° 18' 04" West on the north line of said parcel a distance of 667.21 feet; thence North 02° 27' 45" West parallel with said west line of the parcel described in Document No. 1375173 a distance of 490.43 feet to the Point of Beginning.

Said parcel contains 7.51 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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 \$302,850.00, for a total purchase price of \$302,850.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$302,850.00 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@casscountynd.gov

Enclosures

cc: Ken Helvey, Land Agent
Eric Dodds, Program Manager, AE2S
Rob Stefanowicz, Larkin Hoffman Daly & Lindgren Ltd.
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 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"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery Amy Kastej 4/18/20</p>																
<p>1. Article Addressed to: MARY E NEWMAN RUTH NEWMAN TANG KARI NEWMAN-NESS CO-TRUSTEES OF MARY E NEWMAN QTIP TRUST PO BOX 1728 JAMESTOWN ND 58402</p>  <p>9590 9402 3806 8032 1548 33</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>PO BOX 1728</p>																
<p>2. Article Number (Transfer from service label)</p> <p>7019 1640 0002 0398 8088</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																



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Cass County
Joint Water
Resource
District

May 5, 2020

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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

Mary E. Newman
Ruth Newman Tang
Kari Newman-Ness
Co-Trustees of the Mary E. Newman QTIP Trust created under the
Harold L. Newman Revocable Trust u/t/d October 31, 2006
PO Box 1728
Jamestown, ND 58402
Certified No. 7019 1640 0002 0398 7562

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OINs: 8874, 8875, 8876
Parcel Nos.: 53-0000-09056-060, 53-0000-09059-060,
53-0000,09059-050

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 16, 2020, and April 6, 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.

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.

Mary E. Newman QTIP Trust
OINs 8874, 8875, 8876
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
Rob Stefonowicz, Larkin Hoffman Daly & Lindgren Ltd.
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:
 MARY E NEWMAN
 RUTH NEWMAN TANG
 KAZI NEWMAN - NESS
 CO-TRUSTEES OF MARY E NEWMAN
 QTIP TRUST
 PO BOX 1728
 JAMESTOWN ND 58402



9590 9402 2341 6225 7725 06

2. Article Number (Transfer from service label)

7019 1640 0002 0398 7562

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 x *Holly Bertsch* Agent
 Addressee

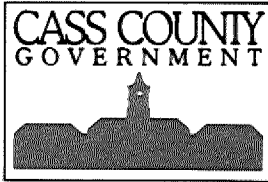
B. Received by (Printed Name) C. Date of Delivery
Holly Bertsch 5/8/2020

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

3. Service Type

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

Domestic Return Receipt



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

June 17, 2020

**Cass County
Joint Water
Resource
District**

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@casscountynnd.gov
casscountynnd.gov

Mary E. Newman
Ruth Newman Tang
Kari Newman-Ness
Co-Trustees of the Mary E. Newman QTIP Trust created under the
Harold L. Newman Revocable Trust u/t/d October 31, 2006
P.O. Box 1728
Jamestown, ND 58402
Certified No. 7020 0090 0000 7648 2638

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY
OINs: 8874, 8875, 8876
Parcel Nos. 53-0000-09056-060, 53-0000-09059-060, 53-0000-09059-050

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 April 6, 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.

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.

Mary E. Newman QTIP Trust
OINs 8874, 8875, 8876
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: Daniel A. Bueide, Bueide Law Firm, LLC
Ken Helvey, Land Agent
Rob Stefonowicz, Larkin Hoffman Attorneys
Chad Peterson, Chair, Cass County Commission
Robert Wilson, Cass County Administrator
Birch Burdick, Cass County State's Attorney
Eric Dodds, Program Manager, AE2S
Joel Paulsen, Executive Director, Diversion Authority

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:
 MARY E NEWMAN
 RUTH NEWMAN TANG
 KARI NEWMAN - NESS
 CO-TRUSTEES OF MARY E NEWMAN QTIP TRUST
 PO Box 1728
 JAMESTOWN ND 58402



9590 9402 5989 0062 9067 30

2. Article Number (Transfer from service label)
 7020 0090 0000 7648 2638

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 X *Amy Kastet* Addressee

B. Received by (Printed Name) *Amy Kastet* C. Date of Delivery *6/19/20*

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No
PO Box 1728

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

Domestic Return Receipt



SENT VIA EMAIL wilsonro@casscountynd.gov

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
wrд@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
OINs: 8874, 8875, 8876
Parcel Nos. 53-0000-09056-060, 53-0000-09059-060,
53-0000-09059-050

As you know, the Cass County Joint Water Resource District (the "District") is in the process of acquiring the right of way necessary for the Fargo Moorhead Diversion Area Project ("Project"). I previously copied you on the following three letters whereby the District sought to negotiate the acquisition of the right of way from Mary E. Newman, Ruth Newman Tang and Kari Newman-Ness as Co-Trustees of the Mary E. Newman QTIP Trust created under the Harold L. Newman Revocable Trust u/t/d October 31, 2006 (the "Landowner"):

- Letter dated April 6, 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:

OIN 8874

That part of the North Half (N½) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of the Northeast Quarter (NE¼) of said Section 10; thence South 02° 27' 45" East on the west line of said NE¼ a distance of 570.43 feet to the north line of parcel as described in Document No. 1504434 on file at the Cass County Recorder's Office, also being the Point of Beginning; thence North 87° 17' 15" East on said north line a distance of 750.01 feet; thence South 02° 27' 45" East parallel with, and 750.00 feet east of, said west line of the NE¼ a distance of 354.00 feet to the south line of said parcel; thence South 87° 17' 15" West on said south parcel line a distance of 750.01 feet to said west line of the NE¼; thence continuing South 87° 17' 15" West on said south parcel line a distance of 12.00 feet to the west line of said parcel; thence North 02° 27' 45" West on said west parcel line a distance of 354.00 feet to said north parcel line; thence North 87° 17' 15" East on said north parcel line a distance of 12.00 feet to the Point of Beginning.

Said parcel contains 6.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 8875

That part of the Northwest Quarter (NW¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of said NW¼; thence South 02° 30' 53" East on the west line of said NW¼ a distance of 565.43 feet to the north line of a parcel as described in Document No. 1504434 on file at the Cass County Recorder's Office; thence North 87° 18' 04" East on said north line a distance of 1479.52 feet to the Point of Beginning; thence continuing North 87° 18' 04" East on said north line a distance of 667.21 feet to the northeast corner of said parcel; thence South 02° 27' 45" East on the east line of said parcel a distance of 359.00 feet; thence South 87° 18' 04" West on the south line of said parcel a distance of 667.21 feet; thence North 02° 27' 45" West parallel with said east line of said parcel a distance of 359.00 feet to the Point of Beginning.

Said parcel contains 5.50 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 8876

That part of the Northwest Quarter (NW¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of said NW¼; thence South 02° 30' 53" East on the west line of said NW¼ a distance of 175.00 feet to the south line of the Interstate Highway 94 right-of-way; thence North 87° 18' 04" East on said south line a distance of 896.50 feet; thence North 42° 18' 04" East on said south line a distance of 141.42 feet; thence North 87° 18' 04" East on said south line a distance of 483.79 feet to the Point of Beginning; thence continuing North 87° 18' 04" East on said south line a distance of 667.21 feet to the northwest corner of a parcel as described in Document No. 1375173 on file at the Cass County Recorder's Office; thence South 02° 27' 45" East on the west line of said parcel a distance of 490.43 feet to the northeast corner of a parcel as described in Document No. 1504434 on file at the Cass County Recorder's Office;

thence South 87° 18' 04" West on the north line of said parcel a distance of 667.21 feet; thence North 02° 27' 45" West parallel with said west line of the parcel described in Document No. 1375173 a distance of 490.43 feet to the Point of Beginning.

Said parcel contains 7.51 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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

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

Robert Wilson
July 30, 2020
Page 4

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

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



August 6, 2020

VIA CERTIFIED MAIL – DELIVERY CONFIRMATION

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

Mary E. Newman
Ruth Newman Tang
Kari Newman-Ness
Co-Trustees of the Mary E. Newman QTIP Trust created under the
Harold L. Newman Revocable Trust u/t/d October 31, 2006
P.O. Box 1728
Jamestown, North Dakota 58402

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OINs: 8874, 8875, 8876
Parcel Nos.: 53-0000-09056-060, 53-0000-09059-060,
53-0000-09059-050
Certified No. 7020 0640 0000 1512 5229

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 April 6, 2020, enclosing the District's appraisal for the acquisition of the right of way easement 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 easement to be acquired; and
- Letter dated June 17, 2020, notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way easement necessary for the Project.

Heather Worden
Commission Assistant

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

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:

OIN 8874

That part of the North Half (N $\frac{1}{2}$) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 10; thence South 02° 27' 45" East on the west line of said NE $\frac{1}{4}$ a distance of 570.43 feet to the north line of parcel as described in Document No.1504434 on file at the Cass County Recorder's Office, also being the Point of Beginning; thence North 787° 17' 15" East on said north line a distance of 750.01 feet; thence South 02° 27' 45" East parallel with, and 750.00 feet east of, said west line of the NE $\frac{1}{4}$ a distance of 354.00 feet to the south line of said parcel; thence South 87° 17' 15" West on said south parcel line a distance of 750.01 feet to said west line of the NE $\frac{1}{4}$; thence continuing South 87° 17' 15" West on said south parcel line a distance of 12.00 feet to the west line of said parcel; thence North 02° 27' 45" West on said west parcel line a distance of 354.00 feet to said north parcel line; thence North 87° 17' 15" East on said north parcel line a distance of 12.00 feet to the Point of Beginning.

Said parcel contains 6.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 8875

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

Commencing at the Northwest Corner of said NW $\frac{1}{4}$; thence South 02° 30' 53" East on the west line of said NW $\frac{1}{4}$ a distance of 565.43 feet to the north line of a parcel as described in Document No.1504434 on file at the Cass County Recorder's Office; thence North 87° 18' 04" East on said north line a distance of 1479.52 feet to the Point of Beginning; thence continuing North 87° 18' 04" East on said north line a distance of 667.21 feet to the northeast corner of said parcel; thence South 02° 27' 45" East on the east line of said parcel a distance of 359.00 feet; thence South 87° 18' 04" West on the south line of said parcel a distance of 667.21 feet;

thence North 02° 27' 45" West parallel with said east line of said parcel a distance of 359.00 feet to the Point of Beginning.

Said parcel contains 5.50 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 8876

That part of the Northwest Quarter (NW¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of said NW¼; thence South 02° 30' 53" East on the west line of said NW¼ a distance of 175.00 feet to the south line of the Interstate Highway 94 right-of-way; thence North 87° 18' 04" East on said south line a distance of 896.50 feet; thence North 42° 18' 04" East on said south line a distance of 141.42 feet; thence North 87° 18' 04" East on said south line a distance of 483.79 feet to the Point of Beginning; thence continuing North 87° 18' 04" East on said south line a distance of 667.21 feet to the northwest corner of a parcel as described in Document No. 1375173 on file at the Cass County Recorder's Office; thence South 02° 27' 45" East on the west line of said parcel a distance of 490.43 feet to the northeast corner of a parcel as described in Document No. 1504434 on file at the Cass County Recorder's Office;

thence South 87° 18' 04" West on the north line of said parcel a distance of 667.21 feet; thence North 02° 27' 45" West parallel with said west line of the parcel described in Document No. 1375173 a distance of 490.43 feet to the Point of Beginning.

Said parcel contains 7.51 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

The Commission invites you to attend the Commission's meeting on September 21, 2020 at 3:30 p.m. The District will also participate in the meeting, along with a representative of the land firm which was your primary point of contact throughout the negotiation process. At the meeting, the Commission will ask the District to verify the District's compliance with Section 61-16.1-09(2) of the North Dakota Century Code. The Commission will ultimately vote on whether to approve the District's use of quick take eminent domain to take a right of way easement over your property.

If you wish to participate in the Commission's September 21, 2020 public meeting via conference call or Microsoft Teams, please contact Heather Worden at (701) 241-5609 or wordenh@casscountynd.gov as soon as possible so Ms. Worden can assist you with the necessary arrangements.

Mary E. Newman QTIP Trust
August 6, 2020
Page 4

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

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

Sincerely,

CASS COUNTY COMMISSION



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

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

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:
 Mary E. Newman (TIP Trust)
 P.O. Box 1728
 Jamestown, ND 58402-1728



9590 9402 5424 9189 8987 28

2. Article Number (Transfer from service label)
 7020 0640 0000 1512 5229

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *Amy Kastet* Agent Addressee

B. Received by (Printed Name) *Amy Kastet* C. Date of Delivery *8/11/20*

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

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

AFFIDAVIT OF LAND AGENT

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

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

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

[¶3] The District must acquire certain interests in real property from Mary E. Newman, Ruth Newman Tang and Keri Neman-Ness, as Co-Trustees of the Mary E. Newman Revocable Trust u/t/d October 31, 2006 (previously identified as the “Mary E. Newman QTIP Trust created under the Harold L. Newman Revocable Trust u/t/d October 31, 2006”) (“Landowner”) for construction, operation, and maintenance of the Project.

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

Right of Way

OIN 8874

That part of the North Half (N½) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of the Northeast Quarter (NE¼) of said Section 10; thence South 02° 27' 45" East on the west line of said NE¼ a distance of 570.43 feet to the north line of parcel as described in Document No.1504434 on file at the Cass County Recorder's Office, also being the Point of Beginning; thence North 787° 17' 15" East on said north line a distance of 750.01 feet; thence South 02° 27' 45" East parallel with, and 750.00 feet east of, said west line of the NE¼ a distance of 354.00 feet to the south line of said parcel; thence South 87° 17' 15" West on said south parcel line a distance of 750.01 feet to said west line of the NE¼; thence continuing South 87° 17' 15" West on said south parcel line a distance of 12.00 feet to the west line of said parcel; thence North 02° 27' 45" West on said

west parcel line a distance of 354.00 feet to said north parcel line; thence North 87° 17' 15" East on said north parcel line a distance of 12.00 feet to the Point of Beginning.

Said parcel contains 6.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 8875

That part of the Northwest Quarter (NW¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of said NW¼; thence South 02° 30' 53" East on the west line of said NW¼ a distance of 565.43 feet to the north line of a parcel as described in Document No.1504434 on file at the Cass County Recorder's Office; thence North 87° 18' 04" East on said north line a distance of 1479.52 feet to the Point of Beginning; thence continuing North 87° 18' 04" East on said north line a distance of 667.21 feet to the northeast corner of said parcel; thence South 02° 27' 45" East on the east line of said parcel a distance of 359.00 feet; thence South 87° 18' 04" West on the south line of said parcel a distance of 667.21 feet; thence North 02° 27' 45" West parallel with said east line of said parcel a distance of 359.00 feet to the Point of Beginning.

Said parcel contains 5.50 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 8876

That part of the Northwest Quarter (NW¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of said NW¼; thence South 02° 30' 53" East on the west line of said NW¼ a distance of 175.00 feet to the south line of the Interstate Highway 94 right-of-way; thence North 87° 18' 04" East on said south line a distance of 896.50 feet; thence North 42° 18' 04" East on said south line a distance of 141.42 feet; thence North 87° 18' 04" East on said south line a distance of 483.79 feet to the Point of Beginning; thence continuing North 87° 18' 04" East on said south line a distance of 667.21 feet to the northwest corner of a parcel as described in Document No. 1375173 on file at the Cass County Recorder's Office; thence South 02° 27' 45" East on the west line of said parcel a distance of 490.43 feet to the northeast corner of a parcel as described in Document No. 1504434 on file at the Cass County Recorder's Office;

thence South 87° 18' 04" West on the north line of said parcel a distance of 667.21 feet; thence North 02° 27' 45" West parallel with said west line of the parcel described in Document No. 1375173 a distance of 490.43 feet to the Point of Beginning.

Said parcel contains 7.51 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

The property described above is the "Necessary Property."

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

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

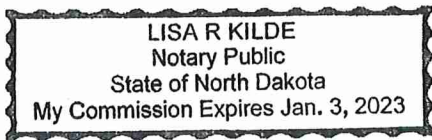
[¶7] The District has instructed SRF Consulting Group, Inc. to refrain from referencing, mentioning, or threatening quick take eminent domain during negotiations since August 1, 2017.

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

Dated this 8 day of September, 2020.

Ken Helvey
SRF Consulting Group, Inc.

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



Notary Public, County of Cass

State of North Dakota

My Commission Expires: _____

(SEAL)
4838-8713-6201, v. 1

OIN 8874 8875 8876 9753 - Newman Contact Attempts

Date	Note
10/29/2019	Ken left a voicemail for Karen Newman. Ken told Karen that offers are forthcoming
10/29/2019	Appraisal and offer letters received
11/6/2019	Ken called Kari Newman (Ness) The billboards are owned by Newman Signs, Inc. They have 7 of them.
11/18/2026	Ken left a voicemail for Kari 701-252-1970 to call Ken back re: Newman Signs
11/26/2019	Kari Ness called Ken back. Dan Bueide passed along her information. She will send Ken all of Dan's contact information. Kari will send all information to both Ken and Dan
11/26/2019	Ken called Dan. Dan is reviewing the file and will get back to Ken.
12/13/2019	Email attorney regarding review of offers
1/9/2020	Emailed attorney to request meeting. He replied that he would get back to me
1/20/2020	Ken had a call with Dan Bueide re: Newman Signs. -Signs sec 3, 4, 9, 10 shows parcel- nothing sold yet
1/24/2020	Emailed to clarify "parties" in interest
1/28/2020	Attorney emailed regarding title question
2/4/2020	Relocation notice sent
2/5/2020	Attorney emailed regarding questions and information
2/7/2020	Emailed requested copy of appraisal and mapping
2/17/2020	Emailed to request meeting- Dean confirmed
2/20/2020	Meeting with attorney- discussed offer that there is no payment beyond land and relocation
3/3/2020	Emailed attorney that after consultation with CCJWRD attorney there will be no offer of compensation beyond land and Relocation
3/3/2020	Additional emails exchanged explaining issues and conclusion
3/16/2020	Formal letter sent
4/6/2020	Formal letter sent
4/24/2020	Emailed attorney to inquire as to status of counter offer
4/30/2020	Attorney emailed about possible new sites
5/18/2020	Possible new sites identified and sent to attorney
5/26/2020	Intent letter received
6/3/2020	Ken provided possible new sites to attorney. Waiting on counter offer
7/30/2020	Emailed regarding status of counter offer
8/4/2020	Emailed owner attorney about possible counter offer
8/7/2020	Received email that they are waiting on appraisal
8/27/2020	Emailed owner attorney about possible counter offer
8/28/2020	Received email that they are waiting on appraisal- should have it this week- will get back to me
9/3/2020	Extensive conversation with owners attorney. Discussed relocation and valuation. still don't have their appraisal.

AFFIDAVIT OF DAN JACOBSON FOR CASS COUNTY COMMISSION

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

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

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

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

[¶4] The District has concluded acquisition of a Right of Way Easement in and to real property owned by Mary E. Newman, Ruth Newman Tang and Keri Neman-Ness, as Co-Trustees of the Mary E. Newman Revocable Trust u/t/d October 31, 2006 (previously identified as the “Mary E. Newman QTIP Trust created under the Harold L. Newman Revocable Trust u/t/d October 31, 2006”) (“Landowner”) is necessary for the Project.

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

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

Right of Way

OIN 8874

That part of the North Half (N½) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of the Northeast Quarter (NE¼) of said Section 10; thence South 02° 27' 45" East on the west line of said NE¼ a distance of 570.43 feet to the north line of parcel as described in Document No.1504434 on file at the Cass County Recorder's Office, also being the Point of Beginning; thence North 787° 17' 15" East on said north line a distance of 750.01 feet; thence South 02° 27' 45" East parallel with, and 750.00 feet east of, said west line of the NE¼ a

distance of 354.00 feet to the south line of said parcel; thence South 87° 17' 15" West on said south parcel line a distance of 750.01 feet to said west line of the NE¼; thence continuing South 87° 17' 15" West on said south parcel line a distance of 12.00 feet to the west line of said parcel; thence North 02° 27' 45" West on said west parcel line a distance of 354.00 feet to said north parcel line; thence North 87° 17' 15" East on said north parcel line a distance of 12.00 feet to the Point of Beginning.

Said parcel contains 6.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 8875

That part of the Northwest Quarter (NW¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of said NW¼; thence South 02° 30' 53" East on the west line of said NW¼ a distance of 565.43 feet to the north line of a parcel as described in Document No.1504434 on file at the Cass County Recorder's Office; thence North 87° 18' 04" East on said north line a distance of 1479.52 feet to the Point of Beginning; thence continuing North 87° 18' 04" East on said north line a distance of 667.21 feet to the northeast corner of said parcel; thence South 02° 27' 45" East on the east line of said parcel a distance of 359.00 feet; thence South 87° 18' 04" West on the south line of said parcel a distance of 667.21 feet; thence North 02° 27' 45" West parallel with said east line of said parcel a distance of 359.00 feet to the Point of Beginning.

Said parcel contains 5.50 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 8876

That part of the Northwest Quarter (NW¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of said NW¼; thence South 02° 30' 53" East on the west line of said NW¼ a distance of 175.00 feet to the south line of the Interstate Highway 94 right-of-way; thence North 87° 18' 04" East on said south line a distance of 896.50 feet; thence North 42° 18' 04" East on said south line a distance of 141.42 feet; thence North 87° 18' 04" East on said south line a distance of 483.79 feet to the Point of Beginning; thence continuing North 87° 18' 04" East on said south line a distance of 667.21 feet to the northwest corner of a parcel as described in Document No. 1375173 on file at the Cass County Recorder's Office; thence South 02° 27' 45" East on the west line of said parcel a distance of 490.43 feet to the northeast corner of a parcel as described in Document No. 1504434 on file at the Cass County Recorder's Office;

thence South 87° 18' 04" West on the north line of said parcel a distance of 667.21 feet; thence North 02° 27' 45" West parallel with said west line of the parcel described in Document No. 1375173 a distance of 490.43 feet to the Point of Beginning.

Said parcel contains 7.51 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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

[¶8] The District sent a written offer of just compensation to Landowner by certified mail, along with an appraisal and purchase agreement, on April 6, 2020. 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**.

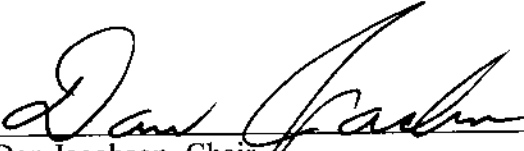
[¶10] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶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 11 day of September, 2020.

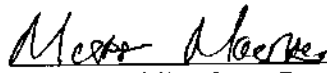


Dan Jacobson, Chair
Cass County Joint Water Resource District

Subscribed to and sworn to before me this 11 day of September, 2020.

MELISSA MAERTENS
Notary Public
State of North Dakota
My Commission Expires July 3, 2024

(SEAL)



Notary Public, Cass County, State of North Dakota