

FM AREA DIVERSION PROJECT

# Property Owner Information Packet for Cass County Commission

October 5<sup>th</sup>, 2020

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PROPERTY OWNER: Julie Ottis Revocable Trust Etal

LAND AGENT: Jamie Wark with SRF

OIN: 5024



FM AREA  
**DIVERSION**  
PROJECT

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Written Correspondence Timeline – Julie Ottis Revocable Trust  
Etal

OIN 5024	Sent	Received
Offer to Purchase	12/20/2019	12/21/2020
Formal Negotiations and Written Offer of Just Compensation	4/22/2020	4/24/2020
Request for Meeting	5/18/2020	5/20/2020
Notice of Intent to Take Possession of Right-of-Way	7/21/2020	7/24/2020
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	8/21/2020	8/21/2020
Invitation to Attend Public Meeting	8/26/2020	8/27/2020
Commission Meeting Date	10/5/2020	

**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: Julie Ottis and Neil Neddermeyer, as Trustees of the Julie A. Ottis Revocable Trust u/a dated November 20, 2017
2. Land Agent: Jamie Wark
3. Parcel No.: 5024
4. OIN No.: 55-0000-09665-000

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 and temporary easement, 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 regarding OIN 5024.

# FM Area Diversion Project Property Negotiation Summary

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September 28, 2020

Owner	Julie A Ottis Revocable Living Trust
Address	16789 78 <sup>th</sup> Ave N, Maple Grove, MN 55311
Property Location	SE-1 - Cass County, ND
Property Type	Agriculture
OIN	5024
Representative	N/A
Land Firm & Agent	SRF – Jamie Wark

## Property Need

The parcels are within the Southern Embankment 1 associated with the Project. The Diversion Authority is required to obtain a portion of the parcel for the embankment. The Diversion Authority desires 7.15 acres of this property for Land/Site Taking and 4.05 acres of TCE.

## Valuation and Negotiation Summary:

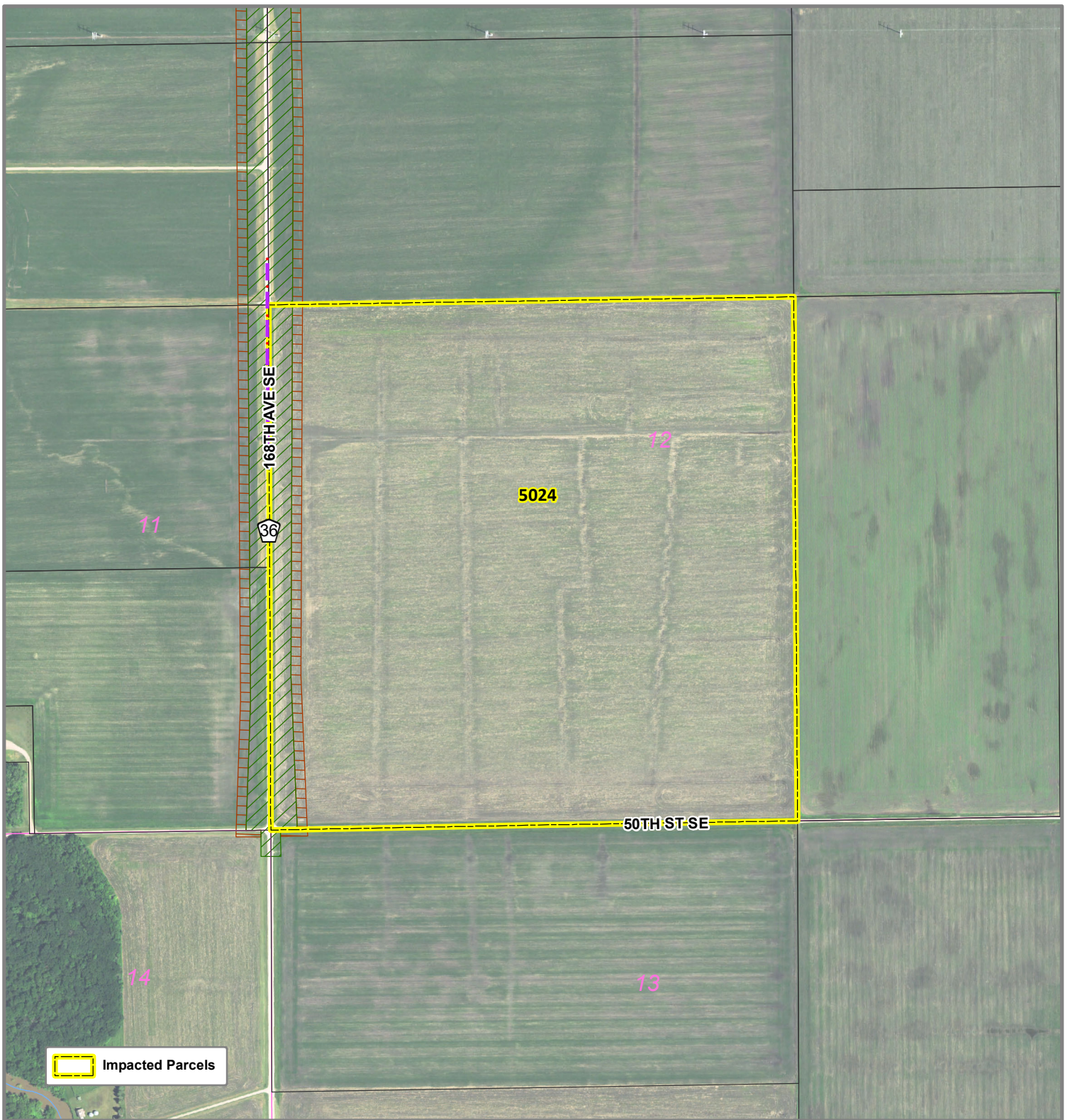
Appraisal Value / Date	\$42,500 (rd) – 11/27/19 7.15 acres land/site taking @ \$5,500/acre - \$39,325 3.05 acres TCE @ \$200/5 years - \$3,050
Counteroffer	Have not received a counteroffer

## Negotiation Notes

- Land agent has reached out to the property owner approximately 10 times.
- Landowner has repeatedly expressed no interest in participating in negotiation process.
- Landowner does not support project and does not want anyone on her property.
- Formal offer sent 4/22/20.
- Notice of Intent sent 7/21/20.
- Land agent presented a \$7k/acre offer on 9/4/20.
- Land agent has reached out to owner to follow up on \$7k/acre offer but has not heard back from landowner.

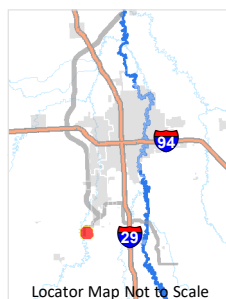
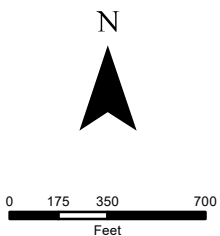
September 28, 2020





*Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use. All parcel acreages and legal descriptions shown 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: 5024**  
**JULIE A OTTIS REVOCABLE TRUST ETAL**  
**Parcel ID: 55-0000-09665-000**  
**Cass County, ND**

FM AREA DIVERSION  
 Map Date: 5/19/2020





December 20, 2019

Julie A. Ottis Revocable Trust  
Julie A. Ottis, Trustee  
16789 78th Ave N  
Maple Grove, MN 55311

Julie A. Ottis Revocable Trust  
Neil Neddermeyer, Trustee  
16789 78<sup>th</sup> Ave N  
Maple Grove, MN 55311

RE: **Offer to Purchase**  
**Parcel ID:** OIN 5024  
**Project Title:** Fargo Moorhead Diversion  
**PID:** 55-0000-09665-000

Dear Ms. Ottis and Mr. Neddermeyer,

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

To determine market value of the interest being acquired, CCJWRD retained the services of the independent property appraisal firm, Compass Land Consultants, Inc.. The appraiser has determined that the market value of the interests being purchased is **\$42,500.00**. The CCJWRD has used the market value set forth in the appraisal as the basis for determining Just Compensation for the property interests being acquired from you. A copy of the appraisal is attached to this letter and provided to you. If the purchase amount is based on any conditions or exceptions (such as terms of the transfer of possession or retention of any interest); they will be included in Exhibit A. A summary of the appraisal is provided on Exhibit A (Appraisal Summary).

**The Cass County Joint Water Resource District hereby offers to pay you \$42,500.00 as Just Compensation for the property interests it must acquire from you.**

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



Julie A. Ottis Revocable Trust  
Offer to Purchase

OIN 5024

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

If you have any questions about the acquisition process, please contact me at 701-893-7435 or by email at [jwark@srfconsulting.com](mailto:jwark@srfconsulting.com). We are here to help you understand the process and to assist in negotiating a fair direct purchase of the Parcel, however, we do not represent you. We are willing to meet with you in person as well as set up a time to discuss questions on the phone.

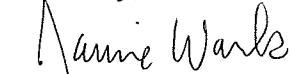
Upon receipt of this letter, please sign below. Your signature indicates only that you have received this Offer to Purchase, and the following documents:

- Copy of the appraisal for Parcel ID OIN 5024 by Compass Land Consultants, Inc..
- Exhibit A (Acquisition Summary), and Exhibit B (Certificate of Survey)

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

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

Sincerely,



Jamie Wark  
Senior Analyst  
Direct # 701-893-7435  
[jwark@srfconsulting.com](mailto:jwark@srfconsulting.com)  
One North Second Street, Fargo, ND 58102

I acknowledge that on \_\_\_\_\_, 20 \_\_\_\_, I received this letter and all documents listed above.

\_\_\_\_\_  
Julie A. Ottis, as Trustee of the Julie A. Ottis Revocable Trust

\_\_\_\_\_  
Neil Neddermeyer, as Trustee of the Julie A. Ottis Revocable Trust

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

Enclosures: Appraisal Report, Exhibit A, Exhibit B

I:\Projects\7715-18\RW\_Parcels\5024 - Julie A Ottis Revocable Living Trust\OIN 5024 Julie A Ottis Revocable Living Trust - Offer Letter.docx

**EXHIBIT A**

**ACQUISITION SUMMARY  
Fargo Moorhead Diversion**

**Offer to Purchase**

**Parcel ID:** OIN 5024

**Project Title:** Fargo Moorhead Diversion

**PID:** 55-0000-09665-000

Recorded Fee Owner: Julie A. Ottis Revocable Trust

Property Legal Description:

SEE ATTACHED SURVEY

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

Noted and Waived Exceptions, Reservations or Encumbrances: None

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

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

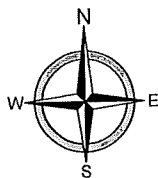
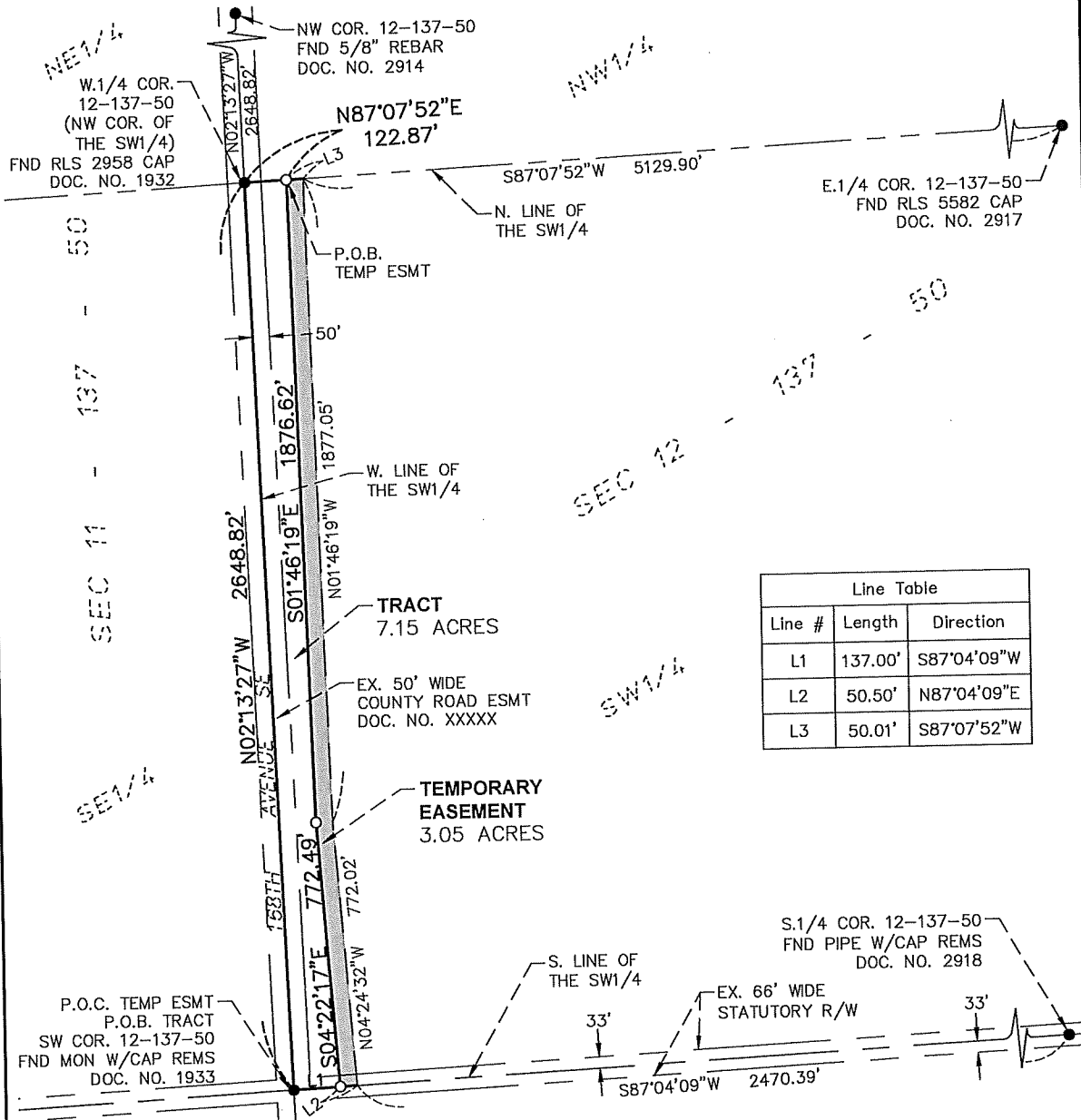
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**APPRAISAL SUMMARY**

<b>Parcel Value</b>	<b>Area Size/ Description</b>	<b>Per Unit</b>	<b>Indicated Value</b>
<b>Land/Site Taking</b>	7.15 Acres	\$ 5,500	\$ 39,325.00
<b>Temporary Easement</b>	3.05 Acres	\$ 200 (x 5 years)	\$ 3,050.00
<b>TOTAL (rounded)</b>			<b>\$ 42,500.00</b>

# CERTIFICATE OF SURVEY

PART OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 137 NORTH, RANGE 50  
WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA



0 400  
Scale in Feet

BASIS OF BEARINGS:  
THE WEST LINE OF THE  
SW 1/4 OF SECTION 12,  
T137N, R50W HAS AN  
ASSUMED BEARING OF  
N02°13'27"W

### LEGEND

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

PRELIMINARY

PAGE 1 OF 2

## Certificate of Survey - OIN 5024

JULIE OTTIS REVOCABLE TRUST  
Part of SW 1/4, Sec. 12-137-50  
Cass County, North Dakota

Page 9 of 41

PROJECT No. 20395  
DATE: 11.20.19  
REVISED: -  
DRAFTER: SMT  
REVIEWER: CDH



10/05/2020

engineering, inc.

# CERTIFICATE OF SURVEY

PART OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 137 NORTH, RANGE 50 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA

## DESCRIPTION-TRACT

That part of the Southwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the southwest corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Southwest Quarter for a distance of 2648.82 feet to the northwest corner of said Southwest Quarter; thence North 87 degrees 07 minutes 52 seconds East along the north line of said Southwest Quarter for a distance of 122.87 feet; thence South 01 degree 46 minutes 19 seconds East for a distance of 1876.62 feet; thence South 04 degrees 22 minutes 17 seconds East for a distance of 772.49 feet to the south line of said Southwest Quarter; thence South 87 degrees 04 minutes 09 seconds West along the south line of said Southwest Quarter for a distance of 137.00 feet to the point of beginning.

Said tract contains 7.15 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

## DESCRIPTION-TEMPORARY EASEMENT

That part of the Southwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the southwest corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Southwest Quarter for a distance of 2648.82 feet to the northwest corner of said Southwest Quarter; thence North 87 degrees 07 minutes 52 seconds East along the north line of said Southwest Quarter for a distance of 122.87 feet to the point of beginning; thence South 01 degree 46 minutes 19 seconds East for a distance of 1876.62 feet; thence South 04 degrees 22 minutes 17 seconds East for a distance of 772.49 feet to the south line of said Southwest Quarter; thence North 87 degrees 04 minutes 09 seconds East along the south line of said Southwest Quarter for a distance of 50.50 feet; thence North 04 degrees 24 minutes 32 seconds West for a distance of 772.02 feet; thence North 01 degree 46 minutes 19 seconds West for a distance of 1877.05 feet to the north line of said Southwest Quarter; thence South 87 degrees 07 minutes 52 seconds West along the north line of said Southwest Quarter for a distance of 50.01 feet to the point of beginning.

Said tract contains 3.05 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

## CERTIFICATION

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

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

Date: \_\_\_\_\_

State of North Dakota )  
County of Cass )

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

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

PAGE 2 OF 2

**Certificate of Survey - OIN 5024**

Orton Perhus  
Part of SW1/4, Sec. 12-137-50  
Cass County, North Dakota

**Page 10 of 41**

PROJECT No. 20395  
DATE: 11.20.19  
REVISED:  
DRAFTER: SMT  
REVIEWER: CDH



**10/05/2020**  
engineering, inc.



[FAQs >](#)

**Track Another Package +**

5024  
Otis Trust

**Tracking Number:** 9505511429339354241308

[Remove X](#)

Your item was delivered in or at the mailbox at 11:48 am on December 21, 2019 in MAPLE GROVE, MN 55311.

**Delivered**

December 21, 2019 at 11:48 am  
Delivered, In/At Mailbox  
MAPLE GROVE, MN 55311

Feedback

**Get Updates**

---

**Text & Email Updates**

---

**Tracking History**

---

**Product Information**

---

**See Less**

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

Go to our [FAQs](#) section to find answers to your tracking questions.





[FAQs >](#)

**Track Another Package +**

5024  
OHIS TRUST

**Tracking Number:** 9505511429339354241292

[Remove X](#)

Your item was delivered in or at the mailbox at 11:48 am on December 21, 2019 in MAPLE GROVE, MN 55311.

**Delivered**

December 21, 2019 at 11:48 am  
Delivered, In/At Mailbox  
MAPLE GROVE, MN 55311

**Get Updates**

Feedback

---

**Text & Email Updates**

---

**Tracking History**

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**Product Information**

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**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**

April 22, 2020

**Cass County  
Joint Water  
Resource  
District**

Julie Ottis  
Trustee of the Julie A. Ottis Revocable Trust u/a dated November 20, 2017  
16789 78th Avenue N  
Maple Grove, MN 55311  
**Certified No. 7019 1640 0002 0398 8316**

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Neil Neddermeyer  
Trustee of the Julie A. Ottis Revocable Trust u/a dated November 20, 2017  
16789 78th Avenue N  
Maple Grove, MN 55311  
**Certified No. 7019 1640 0002 0398 8323**

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: 5024  
Parcel No.: 55-0000-09665-000

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

The Cass County Joint Water Resource District (the "District") is in the process of acquiring property interests necessary for the Fargo-Moorhead Area Diversion Project (the "Project"), and the District has been in discussions with you regarding right of way and temporary easement the District must acquire from you to accommodate the Project. The District directed me to provide you this letter as the District's formal offer to purchase right of way and a temporary easement from you. More specifically, to accommodate the Project, the District must acquire right of way and a temporary easement from you over property located in Cass County and identified as Parcel Identification Number 55-0000-09665-000. The legal description of the property to be acquired is:

Right of Way:

That part of the Southwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the southwest corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Southwest Quarter for a distance of 2648.82 feet to the northwest corner of said Southwest Quarter; thence North 87 degrees 07 minutes 52 seconds East along the north line of said Southwest Quarter for a distance of 122.87 feet; thence South 01 degree 46 minutes 19 seconds East for a distance of 1876.62 feet;

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrld@casscountynynd.gov](mailto:wrld@casscountynynd.gov)  
[casscountynynd.gov](http://casscountynynd.gov)

thence South 04 degrees 22 minutes 17 seconds East for a distance of 772.49 feet to the south line of said Southwest Quarter; thence South 87 degrees 04 minutes 09 seconds West along the south line of said Southwest Quarter for a distance of 137.00 feet to the point of beginning.

Said tract contains 7.15 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

Temporary Easement:

That part of the Southwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the southwest corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Southwest Quarter for a distance of 2648.82 feet to the northwest corner of said Southwest Quarter; thence North 87 degrees 07 minutes 52 seconds East along the north line of said Southwest Quarter for a distance of 122.87 feet to the point of beginning; thence South 01 degree 46 minutes 19 seconds East for a distance of 1876.62 feet; thence South 04 degrees 22 minutes 17 seconds East for a distance of 772.49 feet to the south line of said Southwest Quarter; thence North 87 degrees 04 minutes 09 seconds East along the south line of said Southwest Quarter for a distance of 50.50 feet; thence North 04 degrees 24 minutes 32 seconds West for a distance of 772.02 feet; thence North 01 degree 46 minutes 19 seconds West for a distance of 1877.05 feet to the north line of said Southwest Quarter; thence South 87 degrees 07 minutes 52 seconds West along the north line of said Southwest Quarter for a distance of 50.01 feet to the point of beginning.

Said tract contains 3.05 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

Enclosed is an appraisal regarding the value of the right of way and temporary easement the District must acquire from you, as determined by a licensed North Dakota appraiser. As you can see from the appraisal, the appraiser indicated the value of the right of way the District must acquire from you is \$39,325.00, and the temporary easement is \$3,050.00, for a total purchase price of \$42,375.00, rounded to \$42,500.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$42,500.00 as just compensation to purchase right of way and a temporary easement from you for the Project. If you are willing to accept the District's offer, please sign the enclosed *Purchase Agreement* and return it to the District in the enclosed self-addressed, stamped envelope.

Julie A. Ottis Revocable Trust  
April 22, 2020  
Page 3

You are encouraged to maintain contact with the land agent assigned to your property. **Jamie Wark** of SRF Consulting Group, Inc. can be reached at **(701) 893-7435** or **jwark@srfconsulting.com**. Jamie is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way and a temporary easement 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 and temporary easement. If you do not accept the District's offer of just compensation and do not return a signed Purchase Agreement within fifteen (15) days, the District will send you a written request to discuss the Project and required right of way and temporary easement to be acquired at an upcoming Cass County Joint Water Resource District meeting. Ultimately, the District must conclude all negotiations and complete all acquisitions by Fall 2020.

We look forward to reaching a mutually acceptable agreement to resolve this matter. Thank you for your consideration.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

Enclosures

cc: Jamie Wark, 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:  
 JULIE OTTIS  
 TRUSTEE OF JULIE A OTTIS  
 REVOCABLE TRUST  
 16789 79TH AVE N  
 MAPLE GROVE MN 55311



9590 9402 3806 8032 1546 28

2. Article Number (Transfer from service label)  
 7019 1640 0002 0398 8316

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

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X JR C19  Agent  
 Addressee

B. Received by (Printed Name)  
 JR C19

C. Date of Delivery  
 4/24

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:  
 NEIL NEDDERMEYER  
 TRUSTEE OF JULIE A OTTIS  
 REVOCABLE TRUST  
 16789 78TH AVE N  
 MAPLE GROVE MN 55311



9590 9402 3806 8032 1546 11

2. Article Number (Transfer from service label)  
 7019 1640 0002 0398 8323

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X JR C19  Agent  
 Addressee

B. Received by (Printed Name) JR C19 C. Date of Delivery 4/24

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

3. Service Type
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|--|---|
| <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) |   |



Cass County  
Joint Water  
Resource  
District

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

May 18, 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

Julie Ottis  
Trustee of the Julie A. Ottis Revocable Trust u/a dated November 20, 2017  
16789 78th Avenue N  
Maple Grove, MN 55311  
**Certified No. 7019 1640 0002 0398 8538**

Neil Neddermeyer  
Trustee of the Julie A. Ottis Revocable Trust u/a dated November 20, 2017  
16789 78th Avenue N  
Maple Grove, MN 55311  
**Certified No. 7019 1640 0002 0398 8545**

Greetings:

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Request for Meeting  
OIN: 5024  
Parcel No.: 55-0000-09665-000

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 April 22, 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 and temporary easement from you. The District's letter specifically described the right of way and temporary easement the District must acquire from you for the Project. We have not received a signed Purchase Agreement from you, and we have not otherwise arrived at mutually acceptable terms regarding the District's purchase of right of way and temporary easement from you to accommodate the Project.

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrđ@casscountynđ.gov](mailto:wrđ@casscountynđ.gov)  
[casscountynđ.gov](http://casscountynđ.gov)

Ottis Trust  
OIN 5024  
May 18, 2020  
Page 2

The District requests your attendance at a meeting to discuss the District's offer to purchase right of way and temporary easement from you. The District is meeting at 8:00 a.m. on May 28, 2020, and June 11, 2020. Over the next several months, District meetings will be conducted via conference call and District board members will not be attending in person. The requirements that a meeting room be available to the public and that a speakerphone or monitor be provided at a physical location under NDCC § 44-04-19 have been suspended indefinitely pursuant to Governor Burgum's Executive Order 2020-16; therefore, we request your attendance by telephone.

The District hopes you will attend one of the above-mentioned meetings to discuss the Project and the right of way and temporary easement 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. **Jamie Wark** of SRF Consulting Group, Inc. is your point of contact for getting answers to any questions you have about the Project. Jamie can be reached at (701) 893-7435 or [jwark@srfconsulting.com](mailto:jwark@srfconsulting.com).

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

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

**SENDER: COMPLETE THIS SECTION**

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

1. Article Addressed to:  
 JULIE OTTIS  
 TRUSTEE OF JULIE A. OTTIS R.T.  
 16789 78TH AVE N  
 MAPLE GROVE MN 55311



9590 9402 3806 8032 1543 14

2. Article Number (Transfer from service label)  
 7019 1640 0002 0398 8538

PS Form 3811, July 2015 PSN 7530-02-008-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X JR C19  Agent  
 Addressee

B. Received by (Printed Name) JR C19 C. Date of Delivery 5/20

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

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

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:  
 NEIL NEDDERMEYER  
 TRUSTEE OF JULIE & OTTIS R.T.  
 16789 78TH AVE N  
 MAPLE GROVE MN 55311



9590 9402 3806 8032 1543 07

2. Article Number (Transfer from service label)

7019 1640 0002 0398 8545

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

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X JR C19

- Agent
- Addressee

B. Received by (Printed Name)

JR C19

C. Date of Delivery

5/20

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

3. Service Type

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

Domestic Return Receipt





**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

July 21, 2020

**Cass County  
Joint Water  
Resource  
District**

Julie Ottis  
Trustee of the Julie A. Ottis Revocable Trust u/a dated November 20, 2017  
16789 78th Avenue N  
Maple Grove, MN 55311  
**Certified No. 7020 0090 0000 7648 4304**

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Neil Neddermeyer  
Trustee of the Julie A. Ottis Revocable Trust u/a dated November 20, 2017  
16789 78th Avenue N  
Maple Grove, MN 55311  
**Certified No. 7020 0090 0000 7648 4311**

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  
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY  
OIN: 5024  
Parcel No. 55-0000-09665-000

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrld@casscountynd.gov](mailto:wrld@casscountynd.gov)  
[casscountynd.gov](http://casscountynd.gov)

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 22, 2020, a copy of the District's appraisal for your right of way and temporary easement, and a Purchase Agreement as the District's offer of just compensation to purchase the right of way and temporary easement from you. In addition, I also provided you a letter dated May 18, 2020, to invite you to meet with the District for purposes of discussing the acquisition of your land. The parties have conducted the informal and formal negotiation procedures required by law but, unfortunately, the parties have not yet reached a mutually-acceptable agreement regarding compensation for the District's purchase of the right of way and temporary easement from you to accommodate the Project.

This letter is the District's NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY. If we do not have an agreement, the District will be requesting approval from the Cass County Commission to take possession of a right of way easement and temporary easement over your property. Cass County will provide you with at least 30 days' notice of a public meeting, and will invite you to the meeting to discuss the District's request.

Ottis Trust  
OIN 5024  
July 21, 2020  
Page 2

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

You are encouraged to maintain contact with the land agent assigned to your property. **Jamie Wark** of **SRF Consulting Group, Inc.** can be reached at **(701) 893-7435** or **[jwark@srfconsulting.com](mailto:jwark@srfconsulting.com)**. Jamie is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way and a temporary easement from you for the Project.

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

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

**SENDER: COMPLETE THIS SECTION**

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

1. Article Addressed to:  
**JULIE OTTIS**  
 TRUSTEE OF JULIE A OTTIS R.T.  
 16789 78TH AVENUE N  
 MAPLE GROVE MN 55311



9590 9402 5989 0062 9058 01

2. Article Number (Transfer from service label)  
**7020 0090 0000 7648 4304**

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

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
**X JR 019**  Agent  
 Addressee

B. Received by (Printed Name)  
**JRC19**

C. Date of Delivery  
**7/24**

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) |   |

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**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:  
 NEIL NEDDERMEYER  
 TRUSTEE OF JULIE A OTTIS RT  
 16789 78TH AVENUE N  
 MAPLE GROVE MN 55311



9590 9402 5989 0062 9057 95

2. Article Number (Transfer from service label)  
 7020 0090 0000 7648 4311

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

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X JR C19  Agent  
 Addressee

B. Received by (Printed Name)  
 JR C19

C. Date of Delivery  
 7/24

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

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

Domestic Return Receipt



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

August 21, 2020

Cass County  
Joint Water  
Resource  
District

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

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Rodger Olson  
Manager  
Leonard, North Dakota

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrđ@casscountynd.gov](mailto:wrđ@casscountynd.gov)  
[casscountynd.gov](http://casscountynd.gov)

Greetings:

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Request for Approval to Take Possession of Necessary Right of Way and  
Temporary Easement  
OIN: 5024  
Parcel No. 55-0000-09665-000

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 and temporary easement from Julie Ottis and Neil Neddermeyer as Trustees of the Julie A. Ottis Revocable Trust u/a dated November 20, 2017 (the "Landowner"):

- Letter dated April 22, 2020, enclosing the District's appraisal for the acquisition of the right of way and temporary easement from the Landowner and a proposed Purchase Agreement;
- Letter dated May 18, 2020, inviting the Landowner to meet with the District for purposes of negotiating compensation for the right of way and temporary easement to be acquired; and
- Letter dated July 21, 2020, notifying the Landowner the District planned to submit a request to the Cass County Commission seeking immediate possession of the right of way and temporary easement necessary for the Project.

The District has conducted months of negotiations with the Landowner to arrive at a mutually acceptable agreement for the District's purchase. More specifically, the District engaged in both informal and formal negotiations with the Landowner, as required under N.D. Cent. Code § 61-16.1-09(2)(b), in an effort to reach agreement regarding fair compensation to the Landowner for the acquisition of the necessary right of way and temporary easement in, on, over, across, and through certain property owned by the Landowner in Cass County, North Dakota. The legal description of the necessary right of way and temporary easement is as follows:



Right of Way Easement:

That part of the Southwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the southwest corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Southwest Quarter for a distance of 2648.82 feet to the northwest corner of said Southwest Quarter; thence North 87 degrees 07 minutes 52 seconds East along the north line of said Southwest Quarter for a distance of 122.87 feet; thence South 01 degree 46 minutes 19 seconds East for a distance of 1876.62 feet; thence South 04 degrees 22 minutes 17 seconds East for a distance of 772.49 feet to the south line of said Southwest Quarter; thence South 87 degrees 04 minutes 09 seconds West along the south line of said Southwest Quarter for a distance of 137.00 feet to the point of beginning.

Said tract contains 7.15 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

Temporary Easement:

That part of the Southwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the southwest corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Southwest Quarter for a distance of 2648.82 feet to the northwest corner of said Southwest Quarter; thence North 87 degrees 07 minutes 52 seconds East along the north line of said Southwest Quarter for a distance of 122.87 feet to the point of beginning; thence South 01 degree 46 minutes 19 seconds East for a distance of 1876.62 feet; thence South 04 degrees 22 minutes 17 seconds East for a distance of 772.49 feet to the south line of said Southwest Quarter; thence North 87 degrees 04 minutes 09 seconds East along the south line of said Southwest Quarter for a distance of 50.50 feet; thence North 04 degrees 24 minutes 32 seconds West for a distance of 772.02 feet; thence North 01 degree 46 minutes 19 seconds West for a distance of 1877.05 feet to the north line of said Southwest Quarter; thence South 87 degrees 07 minutes 52 seconds West along the north line of said Southwest Quarter for a distance of 50.01 feet to the point of beginning.

Said tract contains 3.05 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

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

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

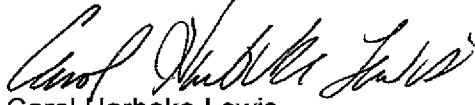
While the District takes all landowners' rights very seriously, the District also has an obligation, as a member of the Metro Flood Diversion Authority, to acquire the right of way and temporary easement necessary for the Project, and construction of the Project will not be possible without acquiring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

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

Robert Wilson  
August 21, 2020  
Page 4

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

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



August 26, 2020

**VIA UPS – 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

Julie Ottis  
Trustee of the Julie A. Ottis Revocable Trust u/a dated  
November 20, 2017  
16789 78<sup>th</sup> Avenue North  
Maple Grove, MN 55311

Neil Neddermeyer  
Trustee of the Julie A. Ottis Revocable Trust u/a dated  
November 20, 2017  
16789 78<sup>th</sup> Avenue North  
Maple Grove, MN 55311

Re: Cass County Commission  
Fargo-Moorhead Area Diversion Project  
Invitation to Attend Public Meeting  
OIN: 5024  
Parcel No. 55-0000-09665-000  
UPS Tracking No. 1Z F51 82Y 30 9670 3937

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 and temporary easement necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding the right of way and temporary easements 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 22, 2020, enclosing the District's appraisal for the acquisition of the right of way and temporary easement from you, along with a proposed Purchase Agreement;
- Letter dated May 18, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way and temporary easement to be acquired; and

Heather Worden  
Commission Assistant

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

- Letter dated July 21, 2020, notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way and temporary easement necessary for the Project.

The District informed the Commission that you and the District have not reached a mutually acceptable agreement, and have not signed a purchase agreement, regarding the right of way and temporary easement the District must purchase from you to accommodate the Project. With that in mind, the District recently requested approval from the Commission to utilize quick take eminent domain to take possession of the right of way and temporary easement the District must acquire from you. The legal description of the necessary right of way and temporary easement is as follows:

Right of Way Easement:

That part of the Southwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the southwest corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Southwest Quarter for a distance of 2648.82 feet to the northwest corner of said Southwest Quarter; thence North 87 degrees 07 minutes 52 seconds East along the north line of said Southwest Quarter for a distance of 122.87 feet; thence South 01 degree 46 minutes 19 seconds East for a distance of 1876.62 feet; thence South 04 degrees 22 minutes 17 seconds East for a distance of 772.49 feet to the south line of said Southwest Quarter; thence South 87 degrees 04 minutes 09 seconds West along the south line of said Southwest Quarter for a distance of 137.00 feet to the point of beginning.

Said tract contains 7.15 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

Temporary Easement:

That part of the Southwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the southwest corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Southwest Quarter for a distance of 2648.82 feet to the northwest corner of said Southwest Quarter; thence North 87 degrees 07 minutes 52 seconds East along the north line of said Southwest Quarter for a distance of 122.87 feet to the point

of beginning; thence South 01 degree 46 minutes 19 seconds East for a distance of 1876.62 feet; thence South 04 degrees 22 minutes 17 seconds East for a distance of 772.49 feet to the south line of said Southwest Quarter; thence North 87 degrees 04 minutes 09 seconds East along the south line of said Southwest Quarter for a distance of 50.50 feet; thence North 04 degrees 24 minutes 32 seconds West for a distance of 772.02 feet; thence North 01 degree 46 minutes 19 seconds West for a distance of 1877.05 feet to the north line of said Southwest Quarter; thence South 87 degrees 07 minutes 52 seconds West along the north line of said Southwest Quarter for a distance of 50.01 feet to the point of beginning.

Said tract contains 3.05 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

The Commission invites you to attend the Commission's meeting on October 5, 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 and temporary easement over your property.

If you wish to participate in the Commission's October 5, 2020 public meeting via conference call or Microsoft Teams, please contact Heather Worden at (701) 241-5609 or [wordenh@casscountynd.gov](mailto:wordenh@casscountynd.gov) as soon as possible so Ms. Worden can assist you with the necessary arrangements.

This Notice does not preclude you from continuing to work with the District regarding the right of way and temporary easement necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with **Jamie Wark** and to continue discussions about the Project. **Jamie Wark** of **SRF Consulting Group, Inc.** is your point of contact regarding the Project. You can reach **Jamie Wark** at [jwark@srfconsulting.com](mailto:jwark@srfconsulting.com) or **(701) 893-7435**.

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



Ottis Trust  
August 26, 2020  
Page 4

Sincerely,

CASS COUNTY COMMISSION



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

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

# Proof of Delivery

Dear Customer,

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

**Tracking Number**

1ZF5182Y3096703937

**Weight**

1.00 LBS

**Service**

UPS Next Day Air Saver®  
with UPS Carbon Neutral 

**Shipped / Billed On**

08/25/2020

**Delivered On**

08/27/2020 11:42 A.M.

**Delivered To**

16789 78TH AVE N  
MAPLE GROVE, MN, 55311, 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: 08/31/2020 4:39 P.M. EST

**AFFIDAVIT OF LAND AGENT**

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

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

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

[¶3] The District must acquire certain interests in real property from Julie Ottis and Neil Neddermeyer, as Trustees of the Julie A. Ottis Revocable Trust u/a dated November 20, 2017 (“Landowner”) for construction, operation, and maintenance of the Project.

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

Right of Way  
OIN 5024

That part of the Southwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the southwest corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Southwest Quarter for a distance of 2648.82 feet to the northwest corner of said Southwest Quarter; thence North 87 degrees 07 minutes 52 seconds East along the north line of said Southwest Quarter for a distance of 122.87 feet; thence South 01degree 46 minutes 19 seconds East for a distance of 1876.62 feet; thence South 04 degrees 22 minutes 17 seconds East for a distance of 772.49 feet to the south line of said Southwest Quarter; thence South 87 degrees 04 minutes 09 seconds West along the south line of said Southwest Quarter for a distance of 137.00 feet to the point of beginning.

Said tract contains 7.15 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

Temporary Easement

OIN 5024

That part of the Southwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the southwest corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Southwest Quarter for a distance of 2648.82 feet to the northwest corner of said Southwest Quarter; thence North 87 degrees 07 minutes 52 seconds East along the north line of said Southwest Quarter for a distance of 122.87 feet to the point of beginning; thence South 01 degree 46 minutes 19 seconds East for a distance of 1876.62 feet; thence South 04 degrees 22 minutes 17 seconds East for a distance of 772.49 feet to the south line of said Southwest Quarter; thence North 87 degrees 04 minutes 09 seconds East along the south line of said Southwest Quarter for a distance of 50.50 feet; thence North 04 degrees 24 minutes 32 seconds West for a distance of 772.02 feet; thence North 01 degree 46 minutes 19 seconds West for a distance of 1877.05 feet to the north line of said Southwest Quarter; thence South 87 degrees 07 minutes 52 seconds West along the north line of said Southwest Quarter for a distance of 50.01 feet to the point of beginning.

Said tract contains 3.05 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

The property described above is the “Necessary Property.”

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

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

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

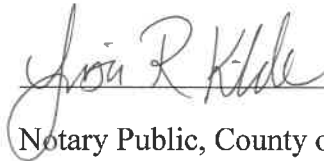
[¶8] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

Dated this 23 day of September, 2020.

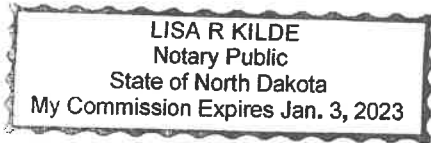


\_\_\_\_\_  
Ken Helvey  
SRF Consulting Group, Inc.

Subscribed to and sworn to before me this 23 day of September, 2020.



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



(SEAL)

"Exhibit A"

**OIN 5024 - Ottis Contact Attempts**

<b>Date</b>	<b>Note</b>
12/20/2019	Appraisal and offer letter sent
12/21/2019	Appraisal and offer letter received
4/6/2020	Called and LM
4/22/2020	Formal offer letter sent
4/24/2020	Spoke with Julie. She does not want anyone on her property and has decided not to participate in negotiations
5/18/2020	CCJWRD invite sent
5/20/2020	CCJWRD invite received
5/26/2020	Called and LM Asked Julie to return call.
6/11/2020	Called and LM. Asked Julie to return call.
6/30/2020	Spoke with Julie. Still chooses to not participate in negotiations.
7/24/2020	Notice of Intent Letter received by landowner
8/17/2020	Called and LM. Asked Julie to return call.
8/24/2020	CCM Invite sent
9/3/2020	Called June and LM
9/4/2020	Spoke to Julie. increased offer to \$7k/acre. Will give time to owner to think about. Will call back in couple weeks.



**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 Metro Flood Diversion 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 and Temporary Easement in and to real property owned by Julie Ottis and Neil Neddermeyer, as Trustees of the Julie A. Ottis Revocable Trust u/a dated November 20, 2017 (“Landowner”) is necessary for the Project.

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

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

Right of Way  
OIN 5024

That part of the Southwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at a found iron monument which designates the southwest corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Southwest Quarter for a distance of 2648.82 feet to the northwest corner of said Southwest Quarter; thence North 87 degrees 07 minutes 52 seconds East along the north line of said Southwest Quarter for a distance of 122.87 feet; thence South 01 degree 46 minutes 19 seconds East for a distance of 1876.62 feet; thence South 04 degrees 22 minutes 17 seconds East for a distance of 772.49 feet to the south line of said Southwest Quarter; thence South 87 degrees 04 minutes 09 seconds West along the south line of said Southwest Quarter for a distance of 137.00 feet to the point of beginning.

Said tract contains 7.15 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

AND

Temporary Easement

OIN 5024

That part of the Southwest Quarter of Section 12, Township 137 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the southwest corner of said Section 12; thence North 02 degrees 13 minutes 27 seconds West on an assumed bearing along the west line of said Southwest Quarter for a distance of 2648.82 feet to the northwest corner of said Southwest Quarter; thence North 87 degrees 07 minutes 52 seconds East along the north line of said Southwest Quarter for a distance of 122.87 feet to the point of beginning; thence South 01 degree 46 minutes 19 seconds East for a distance of 1876.62 feet; thence South 04 degrees 22 minutes 17 seconds East for a distance of 772.49 feet to the south line of said Southwest Quarter; thence North 87 degrees 04 minutes 09 seconds East along the south line of said Southwest Quarter for a distance of 50.50 feet; thence North 04 degrees 24 minutes 32 seconds West for a distance of 772.02 feet; thence North 01 degree 46 minutes 19 seconds West for a distance of 1877.05 feet to the north line of said Southwest Quarter; thence South 87 degrees 07 minutes 52 seconds West along the north line of said Southwest Quarter for a distance of 50.01 feet to the point of beginning.

Said tract contains 3.05 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

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

[¶8] The District sent a written offer of just compensation to Landowner by certified mail, along with an appraisal and purchase agreement, on April 22, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On May 18, 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**.

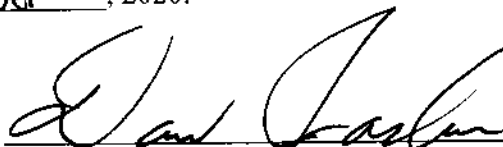
[¶10] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶11] On July 21, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way and Temporary Easement, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

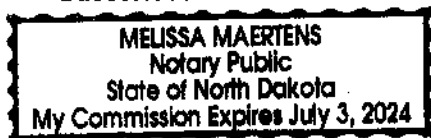
[¶12] The District has retained land agents who are in direct contact with Landowner. The District instructed our land agents not to reference, mention, or threaten quick take eminent domain during negotiations. The land agents have verified they have not referenced, mentioned, or threatened quick take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

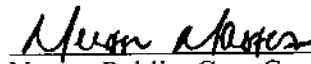
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 25 day of September, 2020.

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

Subscribed to and sworn to before me this 25 day of September, 2020.



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

(SEAL)