

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

January 3rd, 2022

PROPERTY OWNER: Kelly Roseen

LAND AGENT: Lisa Kilde with SRF

OIN: 25



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	10
<i>Proof of Delivery</i>	13
REQUEST FOR MEETING.....	14
<i>Proof of Delivery</i>	16
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY	17
<i>Proof of Delivery</i>	19
REQUEST FOR APPROVAL TO TAKE POSSESSION OF NECESSARY RIGHT OF WAY AND TEMPORARY EASEMENT	20
INVITATION TO ATTEND PUBLIC MEETING.....	21
<i>Proof of Delivery</i>	25
AFFIDAVIT OF LAND AGENT	26
<i>Contact Log</i>	29
AFFIDAVIT OF DAN JACOBSON FOR CASS COUNTY COMMISSION.....	31

Written Correspondence Timeline – Kelly Roseen

OIN 25	Sent	Received
Offer to Purchase	04/22/2021	04/23/2021
Formal Negotiations and Written Offer of Just Compensation	07/09/2021	07/10/2021
Request for Meeting	08/05/2021	08/06/2021
Notice of Intent to Take Possession of Right-of-Way	09/14/2021	09/21/2021
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	11/22/2021	11/22/2021
Invitation to Attend Public Meeting	11/23/2021	11/24/2021
Commission Meeting Date	01/03/2022	

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: Kelly Roseen
2. Land Agent: Lisa Kilde
3. Parcel No.: 01-3511-00350-000
4. OIN No.: 25

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; addendum to 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 of 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 easement and easement for term of years, 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 the right of way 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 easement for term of years regarding OIN 25.

FM Area Diversion Project Negotiation Summary

January 28, 2022

OIN	25
Property Owner	Kelly Roseen
Mailing Address	3440 39 th Ave S, Fargo, ND
Property Location	Drain 27
Property Type	Residential
Land Agent	Lisa Kilde - SRF
Landowner Representative	N/A

Property Need

The parcel is located within the Drain 27 area associated with the Project. The Diversion Authority is required to obtain a portion of the parcel for the Drain 27.

Valuation and Negotiation Summary:

Appraisal Value / Date	\$241,950 – January 13, 2021 <ul style="list-style-type: none"> • Land needed for Drain 27- 0.383 acres at \$10,556/a = \$4,043 • Improvements \$195,000 • Permanent Damages \$42,707 • Easement for 6 years \$200 • Flowage easement is not included in this appraisal. • Per the appraisal-fee value of the entire property is \$290,000
Approved RHDP	N/A – Landowner does not live in the residence
Counteroffer	\$1,213,000
Relocation Costs	TBD

Negotiation Notes

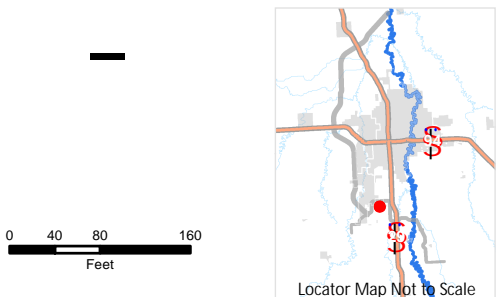
- SRF Land agent Lisa Kilde has several contacts with the owner and owner’s attorneys regarding the offer to purchase.
- Counteroffer presented to Board was for a complete buyout of the property in the amount of \$1,213,000.
 - 9 Acres = \$ 765,000 (\$85,000/acre)
 - House = \$ 350,000
 - Quonset = \$ 90,000
 - Shed = \$ 5,000
 - Steel Bins = \$ 3,000

The Board did not take any action on this counteroffer. See Exhibit A of the Affidavit for contact notes.



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: 25
 KELLY ROSEEN
 Parcel ID: 01-3511-00350-000
 Cass County, ND**

FM AREA DIVERSION
 Map Date: 1/22/2021





April 22, 2021

SRF No. 13783.00

Kelly Roseen
3440 39th Avenue South
Fargo, ND 58104

RE: **Amended Offer to Purchase**
Parcel ID: OIN 25
Project Title: Fargo Moorhead Diversion
PID: 01-3511-00350-000

Dear Ms. Roseen,

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 SRF Consulting Group Inc. 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 the 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, the CCJWRD retained the services of the independent property appraisal firm, Patchin Messner Valuation Counselors. The appraiser has determined that the market value of the interests being purchased is **\$241,950.00**. 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 and addendum is attached to this letter and provided to you. Following discussion with the appraiser, the offer is based on the original appraisal and not the addendum. 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 \$241,950.00 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

www.srfconsulting.com

Case Plaza, One North Second Street, Suite 226 | Fargo, ND 58102-4801 | 701.237.0010 Fax: 1.866.440.6364

Equal Employment Opportunity / Affirmative Action Employer

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. The 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 701-893-7437 or by email at lkilde@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 25 by Patchin Messner Valuation Counselors.
- 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 the 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,



Lisa Kilde
Associate
Direct # 701-893-7437
lkilde@srfconsulting.com

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

Kelly Roseen

*Required Notice: Schedule and Cass County Joint Board Information can be found at:
<https://fmdiversion.gov/lands-schedule/>*

Enclosures: Appraisal Report, Exhibit A, Exhibit B

I:\Projects\7715-18\RW_Parcels\25 - Kelly Roseen\OIN 25 Roseen - Amended Offer Letter.docx

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Moorhead Diversion**

Amended Offer to Purchase

Parcel ID: OIN 25

Project Title: Fargo Moorhead Diversion

PID: 01-3511-00350-000

Property Address: 5101 112th Avenue South, Horace, ND 58047

Recorded Fee Owner: Kelly Roseen

Property Legal Description:

SEE ATTACHED SURVEY

Description of Property Interests to be Acquired: Fee Simple and 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

APPRAISAL ADDENDUM SUMMARY

Parcel Value	Area Size/ Description	Per Unit	Indicated Value
Land/Site Taking	.383 Acres	\$ 10,556	\$ 4,043
Easement	.23 Acres		\$ 200
Single Family Home			\$195,000
Damages to Remainder	8.67 Acres	\$4,956	\$42,707
TOTAL (rounded)			\$ 241,950

Track Another Package +

OIN 25
Roseen

Tracking Number: 9505511429321112607556

Remove X

Your item was delivered in or at the mailbox at 11:31 am on April 23, 2021 in FARGO, ND 58104.

USPS Tracking Plus™ Available ∨

Delivered, In/At Mailbox

April 23, 2021 at 11:31 am
FARGO, ND 58104

Feedback

Get Updates ∨

Text & Email Updates ∨

Tracking History ∨

USPS Tracking Plus™ ∨

Product Information ∨

See Less ^

Can't find what you're looking for?



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

July 9, 2021

Cass County
Joint Water
Resource
District

Kelly Roseen
3440 39th Avenue South
Fargo, ND 58104
Certified No. 7020 1290 0001 0393 6573

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OIN: 25
Parcel No.: 01-3511-00350-000

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

The Cass County Joint Water Resource District (the "District") is in the process of acquiring property interests necessary for the Fargo-Moorhead Area Diversion Project (the "Project"), and the District has been in discussions with you regarding right of way the District must acquire from you to accommodate the Project. The District directed me to provide you this letter as the District's formal offer to purchase a right of way easement and easement for term of years from you. More specifically, to accommodate the Project, the District must acquire a right of way easement and an easement for term of years from you over property located in Cass County and identified as Parcel Identification Number 01-3511-00350-000. The legal description of the property to be acquired is:

Right of Way Easement:

That part of Auditor's Lot No. 1 of the Southeast Quarter of Section 28, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, described as follows:

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

Beginning at the southwest corner of said Auditor's Lot No. 1, said point also being the southwest corner of said Southeast Quarter; thence North 87°38'03" East, along the southerly line of said Auditor's Lot No. 1, for a distance of 132.63 feet; thence North 29°51'33" West for a distance of 283.50 feet to a point of intersection with the westerly line of said Auditor's Lot No. 1; thence South 01°58'02" East, along the westerly line of said Auditor's Lot No. 1, for a distance of 251.49 feet to the point of beginning.

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

Kelly Roseen
July 9, 2021
Page 2

Said tract contains 0.383 acres, more or less, and is subject to easements as may be of record.

AND

Easement for Term of Years

That part of Auditor's Lot No. 1 of the Southeast Quarter of Section 28, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, described as follows:

A strip of land of land 15.00 feet wide, lying easterly of and being coincident with the following described line:

Commencing at the southwest corner of said Auditor's Lot No. 1, said point also being the southwest corner of said Southeast Quarter; thence North 87°38'03" East, along the southerly line of said Auditor's Lot No. 1, for a distance of 132.63 feet to the true point of beginning of the line to be described; thence North 29°51'33" West for a distance of 283.50 feet to a point of intersection with the westerly line of said Auditor's Lot No. 1; thence North 01°58'02" West, along the westerly line of said Auditor's Lot No. 1, for a distance of 382.36 feet, said line there terminating.

Said tract contains 0.230 acres, more or less.

Enclosed is an appraisal regarding the value of the right of way easement and an easement for term of years 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 easement the District must acquire from you is \$4,043.00, the value of the easement for term of years is \$200.00, plus damages to the remainder of your property, including but not limited to severing utility service to your property, is \$237,707.00, for a total purchase price of \$241,950.00. The District approved the appraisal, and this letter is the District's offer to you in the amount of \$241,950.00 as just compensation to purchase the right of way easement and easement of term for six (6) years 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.

Kelly Roseen
July 9, 2021
Page 3

You are encouraged to maintain contact with the land agent assigned to your property. **Lisa Kilde** of SRF Consulting, Inc. can be reached at **(701) 893-7437** or **lkilde@srfconsulting.com**. Lisa is your point of contact for getting answers to any questions you have about the Project and acquisition of the required right of way easement and easement of term for years 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 easement and easement for term of years. 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 easement and easement for term of years 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 2021.

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

Enclosures

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

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

KELLY ROSEEN
 3440 39TH AVENUE SOUTH
 FARGO ND 58104



9590 9402 6380 0303 3969 26

2. Article Number (Transfer from service label)

7020 1290 0001 0393 6573

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *BW USPS*

- Agent
- Addressee

B. Received by (Printed Name)

USPS C18

C. Date of Delivery

7/10/21

D. Is delivery address different from item 1?

If YES, enter delivery address below: Yes No

3. Service Type

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



VIA UPS DELIVERY

Cass County
Joint Water
Resource
District

August 5, 2021

Kelly Roseen
3440 39th Avenue South
Fargo, ND 58104

Dan Jacobson
Chairman
West Fargo, North Dakota

Greetings:

Rodger Olson
Manager
Leonard, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OIN: 25
Parcel No.: 01-3511-00350-000

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). The District previously provided you a letter dated July 9, 2021; a copy of the District's appraisal for the right of way easement and an easement for term of years; and a Purchase Agreement as the District's offer of just compensation to purchase the right of way easement and easement for term of years from you. The District's letter specifically described the right of way easement and the easement for term of years 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 the right of way easement and easement for term of years from you to accommodate the Project.

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

The District would like to discuss the District's offer to purchase the right of way easement and the easement for term of years from you at an upcoming meeting. The District requests your participation either at its meeting on August 12, 2021, or at its meeting on August 26, 2021; both meetings begin at 8:00 a.m. These will be virtual meetings so you can participate by Microsoft Teams or by telephone. The District is required by law to offer a physical location where the District will have a speakerphone or computer available for members of the public to view or participate in the meeting; with that in mind, if you prefer to utilize the District's speakerphone or computer to participate, you can do so at the District's office at 1201 Main Avenue West in West Fargo.

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

Kelly Roseen
OIN 25
August 5, 2021
Page 2

The District hopes you will attend one of the above-mentioned meetings to discuss the Project and the right of way easement and easement for term of years the District must acquire from you to accommodate the Project. If you would like to attend either meeting by Microsoft Teams or telephone, 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. **Lisa Kilde** of SRF Consulting Group, Inc. is your point of contact for getting answers to any questions you have about the Project. Lisa can be reached at **(701) 893-7437** or **lkilde@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 easement and easement for term of years. The District must conclude all negotiations and complete the acquisition of the right of way easement and the easement for term of years necessary for construction of Project components on your property by Fall of 2021.

The District hopes you will attend one of the upcoming District meetings to discuss the Project and the required right of way easement and easement for term of years. 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: John Boulger, Wold Johnson, P.C.
Lisa Kilde, 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:

KELLY ROSEEN
 3440 39TH AVENUE SOUTH
 FARGO ND 58104



9590 9402 6380 0303 3967 73

2. Article Number (Transfer from service label)

7020 1290 0001 0393 6702

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Kelley Roseen*

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

8-6-21

- 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
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Cass County
Joint Water
Resource
District

September 14, 2021

Kelly Roseen
3440 39th Avenue South
Fargo, ND 58104
Certified No. 7020 1290 0001 0393 6795

Dan Jacobson
Chairman
West Fargo, North Dakota

Greetings:

Rodger Olson
Manager
Leonard, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY EASEMENT
AND EASEMENT FOR TERM OF YEARS
OIN: 25
Parcel No. 01-3511-00350-000

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). On behalf of the District, I previously provided you a letter dated July 9, 2021, a copy of the District's appraisal for your right of way easement and an easement for term of years, and a Purchase Agreement as the District's offer of just compensation to purchase the right of way easement and easement for term of years from you. In addition, I also provided you a letter dated August 5, 2021, to invite you to meet with the District for purposes of discussing the acquisition of the right of way easement and easement for term of years in and to your property. 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 easement and easement for term of years from you to accommodate the Project.

Keith Weston
Manager
Fargo, North Dakota

This letter is the District's NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY EASEMENT AND EASEMENT FOR TERM OF YEARS. 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 easement for term of years in and to your property. Cass County will provide you with at least 30 days' notice of a public meeting, and will invite you to the meeting to discuss the District's request.

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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

Kelly Roseen
OIN 25
September 14, 2021
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. **Lisa Kilde** of **SRF Consulting Group, Inc.** can be reached at **(701) 893-7437** or **lkilde@srfconsulting.com**. Lisa is your point of contact for getting answers to any questions you have about the Project and acquisition of the right of way easement and an easement for term of years 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 easement and easement for term of years. Ultimately, the District must conclude all negotiations and complete all acquisitions by Fall 2021.

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: John Boulger, Wold Johnson, P.C.
Lisa Kilde, 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:

KELLY ROSEEN
 3440 39TH AVENUE SOUTH
 FARGO ND 58104



9590 9402 6380 0303 3964 38

2. Article Number (Transfer from service label)

7020 1290 0001 0393 6795

PS Form 3811, July 2020 PSN 7530-02-000-9053

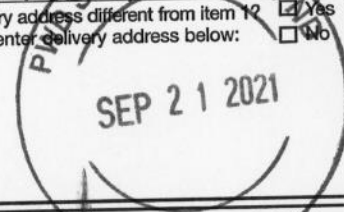
COMPLETE THIS SECTION ON DELIVERY

A. Signature

Agent
 Addressee
 X Kelly Roseen

B. Received by (Printed Name) Kelly Roseen
 C. Date of Delivery 09/21/21

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
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

58104

Domestic Return Receipt



SENT VIA EMAIL wilsonro@casscountynd.gov

November 22, 2021

Cass County
Joint Water
Resource
District

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

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Approval to Take Possession of Necessary Right of Way
Easement and Easement for Term of Years
OIN: 25
Parcel No.: 01-3511-00350-000

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

You will recall on October 29, 2021, the Cass County Joint Water Resource District (the "District") sent you a letter respectfully requesting the Cass County Commission proceed with the public meeting requirements under N.D.C.C. 61-16.1-09(2)(b)(3) with respect to the right of way easement and easement for term of years in and to the property owned by Kelly Roseen identified as Parcel No. 01-3511-00350-000. The letter also requested the Cass County Commission to approve of the District's use of quick take eminent domain to take possession of the right of way easement and easement for term of years identified therein for purposes of the Fargo-Moorhead Area Diversion Project. A true and accurate copy of this letter, without enclosures, is enclosed for your reference.

Thereafter, on November 8, 2021, the Commission sent Kelly Roseen a letter inviting her to its meeting on December 20, 2021. However, the District respectfully requests the Commission to postpone its consideration of the District's requests with respect to the above parcel until the Commission's meeting on January 3, 2022. Please contact me if there are any issues with the scheduling request.

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

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

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

cc: Lisa Kilde, Land Agent
Chris McShane, Ohnstad Twichell, P.C.
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority
Eric Dodds, AE2S Program Manager
Taylor Albrecht, Administrative Assistant, Cass County Commission



November 23, 2021

VIA UPS – DELIVERY CONFIRMATION

**Board of County
Commissioners**

Kelly Roseen
3440 39th Avenue South
Fargo, ND 58104

Chad M. Peterson
Fargo, North Dakota

Rick Steen
Fargo, North Dakota

Jim Kapitan
Fargo, North Dakota

Duane Breitling
West Fargo, North Dakota

Mary Scherling
Stanley Township, North Dakota

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OIN: 25
Parcel No.: 01-3511-00350-000
UPS Tracking No.: 1Z271KTW4327753648

Greetings:

As you know, the METRO FLOOD DIVERSION 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 easements and easements for term of years easements necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding the right of way easement and easement for term of years the District must acquire from you for the Project. The District copied the Commission on the following letters the District sent to you regarding the District’s negotiations with you:

- Letter dated July 9, 2021, enclosing the District’s appraisal for the acquisition of the right of way easement and easement for term of years easement from you, along with a proposed Purchase Agreement;
- Letter dated August 5, 2021, inviting you to meet with the District for purposes of negotiating compensation for the right of way easement and easement for term of years to be acquired; and

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

- Letter dated September 14, 2021, notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way easement and easement for term of years necessary for the Project.

The District informed the Commission that you and the District have not reached a mutually-acceptable agreement, and have not signed a purchase agreement, regarding the right of way easement and easement for term of years 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 and easement for term of years the District must acquire from you. The legal description of the necessary right of way easement and easement for term of years is as follows:

Right of Way Easement:

That part of Auditor's Lot No. 1 of the Southeast Quarter of Section 28, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, described as follows:

Beginning at the southwest corner of said Auditor's Lot No. 1, said point also being the southwest corner of said Southeast Quarter; thence North 87°38'03" East, along the southerly line of said Auditor's Lot No. 1, for a distance of 132.63 feet; thence North 29°51'33" West for a distance of 283.50 feet to a point of intersection with the westerly line of said Auditor's Lot No. 1; thence South 01°58'02" East, along the westerly line of said Auditor's Lot No. 1, for a distance of 251.49 feet to the point of beginning.

Said tract contains 0.383 acres, more or less, and is subject to easements as may be of record.

AND

Easement for Term of Years:

That part of Auditor's Lot No. 1 of the Southeast Quarter of Section 28, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, described as follows:

A strip of land of land 15.00 feet wide, lying easterly of and being coincident with the following described line:

Commencing at the southwest corner of said Auditor's Lot No. 1, said point also being the southwest corner of said Southeast Quarter; thence North 87°38'03" East, along the southerly line of said Auditor's Lot No. 1, for a distance of 132.63 feet to the true point of beginning of the line to be

described; thence North 29°51'33" West for a distance of 283.50 feet to a point of intersection with the westerly line of said Auditor's Lot No. 1; thence North 01°58'02" West, along the westerly line of said Auditor's Lot No. 1, for a distance of 382.36 feet, said line there terminating.

Said tract contains 0.230 acres, more or less.

The Commission invited you to attend the Commission's meeting on December 20, 2021, at 3:30 p.m. However, the Commission's consideration of this matter has been postponed until January 3, 2022. Therefore, the Commission invites you to attend the Commission meeting on January 3, 2022. 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 and easement for term of years in and to your property.

If you wish to participate in the Commission's January 3, 2022, public meeting via conference call or Microsoft Teams, please contact Taylor Albrecht at (701) 241-5609 or albrecht@casscountynd.gov as soon as possible so Ms. Albrecht can assist you with the necessary arrangements.

This Notice does not preclude you from continuing to work with the District regarding the right of way easement and easement for term of years necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with **Lisa Kilde** and to continue discussions about the Project. **Lisa Kilde** of **SRF Consulting, Inc.** is your point of contact regarding the Project. You can reach **Lisa Kilde** at (701) 893-7437 or lkilde@srfconsulting.com.

Finally, North Dakota law requires the Commission to provide you with a description of the District's timeline regarding your right of way easement and easement for term of years easement.

Roseen
OIN 25
November 23, 2021
Page 4

The District must complete the acquisition of right of way necessary for construction of Project components on your property by Winter of 2022.

Sincerely,

CASS COUNTY COMMISSION



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

cc: Lisa Kilde, Land Agent
John Boulger, Wold Johnson, P.C.
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority
Chris McShane, Ohnstad Twichell, P.C.
Eric Dodds, AE2S Program Manager
Taylor Albrecht, Administrative Assistant, Cass County Commission

Proof of Delivery

Dear Customer,

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

Tracking Number

1Z271KTW4327753648

Weight

1.00 LBS

Service

UPS Ground

Shipped / Billed On

11/23/2021

Delivered On

11/24/2021 2:34 P.M.

Delivered To

3440 39TH AVE S
FARGO, ND, 58104, US

Left At

Met Customer

Reference Number(s)

271KTWC4XMT

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: 11/24/2021 3:51 P.M. EST

AFFIDAVIT OF LAND AGENT

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

[¶1] I, Lisa Kilde, do hereby state on oath:

[¶2] I am employed by SRF Consulting Group, Inc. as 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 Kelly Roseen (“Landowner”) for construction, operation, and maintenance of the Project.

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

Right of Way Easement

That part of Auditor’s Lot No. 1 of the Southeast Quarter of Section 28, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, described as follows:

Beginning at the southwest corner of said Auditor’s Lot No. 1, said point also being the southwest corner of said Southeast Quarter; thence North 87°38’03” East, along the southerly line of said Auditor’s Lot No. 1, for a distance of 132.63 feet; thence North 29°51’33” West for a distance of 283.50 feet to a point of intersection with the westerly line of said Auditor’s Lot No. 1; thence South 01°58’02” East, along the westerly line of said Auditor’s Lot No. 1, for a distance of 251.49 feet to the point of beginning.

Said tract contains 0.383 acres, more or less, and is subject to easements as may be of record.

AND

Easement for Term of Years:

That part of Auditor’s Lot No. 1 of the Southeast Quarter of Section 28, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, described as follows:

A strip of land of land 15.00 feet wide, lying easterly of and being coincident with the following described line:

Commencing at the southwest corner of said Auditor's Lot No. 1, said point also being the southwest corner of said Southeast Quarter; thence North 87°38'03" East, along the southerly line of said Auditor's Lot No. 1, for a distance of 132.63 feet to the true point of beginning of the line to be described; thence North 29°51'33" West for a distance of 283.50 feet to a point of intersection with the westerly line of said Auditor's Lot No. 1; thence North 01°58'02" West, along the westerly line of said Auditor's Lot No. 1, for a distance of 382.36 feet, said line there terminating.

Said tract contains 0.230 acres, more or less.

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 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 December, 2021.

Lisa Kilde
Lisa Kilde
SRF Consulting Group, Inc.

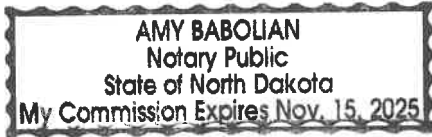
Subscribed to and sworn to before me this 23 day of December, 2021.

Amy Babolian

Notary Public, County of Cass

State of North Dakota

My Commission Expires: 11/15/2025



(SEAL)



FM Diversion
UMA & Drain 27
Cass, ND
01-3511-00350-000
25
Kelly Roseen

COMMUNICATION RECORD

DATE	TYPE	COMMUNICATION LOG
8/1/2019	Telephone Call	Lisa called Kelly (701-781-0004) and left a message on her voicemail, which identified that this was her telephone number. Told Kelly just reaching out to see if I can help with any questions she has regarding the FM Diversion.
8/15/2019	Telephone Call	<p>Lisa called Kelly to discuss her property in the Upstream Mitigation area. She was just wondering the status of the project. I talked to Kelly about the status in general and that her property was in the Upstream Mitigation area and eventually would need to be appraised and bought by the CCJWRD. I told Kelly that her property was not on an schedule to be appraised at this time.</p> <p>Kelly stated that no one is living in the home on the property, it was previously rented and then her son stayed in it temporarily until he found a home. Kelly and her husband are using the outbuildings and land as storage for her husband's landscaping business, Merritt Landscape.</p> <p>I talked to Kelly about the appraisal and buyout process. I discussed with her that CCJWRD was most likely willing to do a lease-back of the property if they were unable to find another property for their equipment storage. We also discussed ROFR, however stated that it would only be for the land and not for any of the outbuildings as the property was located in the Upstream Mitigation area. We also discussed that if Kelly was wanting to sell her land sooner rather than later I could discuss it with the Board and we could maybe move up the appraisal process.</p> <p>Kelly stated that she had a lot to think about and was glad to hear CCJWRD was accommodating with the lease-backs. I told Kelly I would email her so she would have all my contact information and that I would keep in touch if I see that her home would be appraised soon.</p>
9/23/2020	Meeting	Met with Kelly Roseen (701-781-0004), Chad, and appraisers at the Roseen property OIN 25. Lisa viewed the real property structures and parcel with everyone. Noted that there is a landscaping business "Merritt Landscaping" that stores materials and machinery on the parcel. The home is vacant, their son had just recently moved out and some of his and Kelly's personal property were still in the house/garage. There is 1 bedroom, 3/4 bath, kitchen, family room with wood fireplace in the basement. On the main floor there is laundry, full bath, 1 bedroom, living room, formal dining room, entry way and deck. Upstairs there are 4 bedrooms and a 1/2 bath. The home is an older farmstead home with an attached garage. There were many outbuildings and machinery on the property. The one outbuilding that was mainly used was the larger building that had some concrete and a heat source in the building. This was used for a shop and storage of machinery. Kelly made comments that they had always planned on moving out to this property, but put those plans on hold when Plan B came out. They were very disappointed in Plan B, as with the original plan for the FM Diversion they were protected. They had bought this property with the plan on living and running their business on this property. The location for them was ideal as it was rural but still in close proximity to Fargo/West Fargo/Horace which is where most of the landscaping business is. We discussed the appraisal timeline and Lisa told her that we would be in touch.
12/18/2020	Telephone Call	Lisa called Kelly to let her know that the appraisal has been finalized and approved by the CCJWRD and we would be sending out the offer and appraisal soon. She appreciated the update and said would be on the lookout for it. She did mention she is ready to get going with this as they recently had some things stolen off of the property recently. I told Kelly we would be in touch once she received the offer.
2/2/2021	Letter	Mailed Offer to Purchase letter to Kelly.
2/2/2021	Telephone Call	Lisa called Kelly to let her know that the appraisal had been mailed and we should touch base once Kelly has had a chance to take a look at it.
2/26/2021	Telephone Call	Lisa called Kelly to discuss appraisal and requested a meeting to discuss. Kelly stated that she could meet next Wednesday at the SRF office. Kelly did confirm that the water is turned off currently and no one is living out there.
3/3/2021	Conference	Lisa met with Kelly and Chad at SRF Office. We discussed the Offer that was mailed. Chad and Kelly didn't understand why the offer came in so low. They had stated that in 2016 they were under contract with another property on the East side of interstate, close to University, and was for \$80,000/acre. They ultimately did not purchase that property. We discussed the counteroffer process and the CCJWRD Board. Also, we talked about landowner's right to get their own appraisal. We had a lengthy discussion on the Merrit Landscaping business and how the buildings are used and the land is used to store material. They have no other location to move this part of the business and this location was ideal due to the proximity to town. Chad discussed that if he had to rent a building/property in Fargo for this same storage it would increase his overhead and cut profit margins. Kelly also commented that in 2017/2018 they paid roughly \$2,000 for rural water hookups. We discussed Drain 27 and the utilities and how it impacted the property. Discussed with Kelly and Chad that the next step would be putting together a counteroffer to present to CCJWRD Board.

4/12/2021	2:30 PM	Lisa called Kelly to discuss the offer and the upcoming offer that would be an amended offer and the difference of the full buyout and the Drain 27 buyout.
4/14/2021	Email	Lisa emailed Kelly regarding the counteroffer and previous conversations regarding counteroffers to present to CCJWRD. Lisa outlined the offer and timelines of Drain 27. Discussed possible leaseback of property so that Merritt Landscaping can continue to use until a new location is found.
4/20/2021	Email	Kelly forwarded copy of Contract for Deed dated 6/13/2014 on other real property that they were under contract to purchase. Also, Kelly emailed regarding a counteroffer that she would like presented to the CCJWRD Board. Discussed utilities disconnection and tax assessed values.
4/22/2021	Letter	Lisa mailed Amended Offer to Purchase to Kelly Roseen.
4/30/2021	Email	Lisa emailed Kelly regarding counteroffer and CCJWRD Board meeting.
5/10/2021	Email	Kelly emailed Lisa regarding the counteroffer and attending the CCJWRD Board meeting.
5/11/2021	Email	Lisa emailed Kelly regarding login information for CCJWRD Board meeting.
5/13/2021	Telephone Call	Telephone call to Kelly Roseen regarding CCJWRD meeting. Kelly stated they she was disheartened after the Counteroffer was not approved and they didn't seem receptive. She stated she would think about how she wanted to move forward.
7/14/2021	Conference	Lisa met with Kelly Roseen, Chad and John Boulger (701-235-5515; jboulger@woldlaw.com). Met for over an over and covered the appraisal, offer, general project overview, and relocation benefits. We discussed keeping the landscape business on the property. Discussed the need for all permanent structures to be removed for the UMA, but could be a possibility of doing a lease-back for the term after the Drain 27 buyout and the UMA buyout. This would give Merritt Landscaping some time to relocate. John requested copies of the offer letters and appraisal information. I also told John that I would forward links for general project information and landowner appraisal information. We agreed to get the basics of the information over to John for his review and then we could go from there.
7/16/2021	Email	Lisa emailed Mr. Boulger regarding copies of the Amended Offer Letter and Appraisal and Addendum. Also, passed along information of reimbursement of appraisals obtained by property owners.
09/0/2021	Email	Lisa emailed Mr. Boulger regarding a follow-up on the status of a counteroffer to bring to CCJWRD.
10/7/2021	Telephone Call	Telephone call to Kelly Roseen, left message.
10/20/2021	Telephone Call	Telephone call to Cash Aaland. Tole him that we need a copy of the leases of all the tenants that are currently staying at the property so that we can send notice of any relocation benefits, if applicable.
11/17/2021	Telephone Call	Telephone call to Cash Aaland, left message.
11/19/2021	Letter	Received an email from Shari VanderWolde, Paragelal at Aaland Law Firm regarding letter from Cash Aaland regarding representation.

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 Easement and Easement for Term of Years in and to real property owned by Kelly Roseen (“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 and Easement for Term of Years must be acquired by the District for the Project is located in Cass County, North Dakota, more fully described as follows:

Right of Way Easement

That part of Auditor’s Lot No. 1 of the Southeast Quarter of Section 28, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, described as follows:

Beginning at the southwest corner of said Auditor’s Lot No. 1, said point also being the southwest corner of said Southeast Quarter; thence North 87°38’03” East, along the southerly line of said Auditor’s Lot No. 1, for a distance of 132.63 feet; thence North 29°51’33” West for a distance of 283.50 feet to a point of intersection with the westerly line of said Auditor’s Lot No. 1; thence South 01°58’02” East, along the westerly line of said Auditor’s Lot No. 1, for a distance of 251.49 feet to the point of beginning.

Said tract contains 0.383 acres, more or less, and is subject to easements as may be of record.

AND

Easement for Term of Years:

That part of Auditor's Lot No. 1 of the Southeast Quarter of Section 28, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, described as follows:

A strip of land of land 15.00 feet wide, lying easterly of and being coincident with the following described line:

Commencing at the southwest corner of said Auditor's Lot No. 1, said point also being the southwest corner of said Southeast Quarter; thence North 87°38'03" East, along the southerly line of said Auditor's Lot No. 1, for a distance of 132.63 feet to the true point of beginning of the line to be described; thence North 29°51'33" West for a distance of 283.50 feet to a point of intersection with the westerly line of said Auditor's Lot No. 1; thence North 01°58'02" West, along the westerly line of said Auditor's Lot No. 1, for a distance of 382.36 feet, said line there terminating.

Said tract contains 0.230 acres, more or less.

The property described above is the "Necessary Property."

[¶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 July 9, 2021. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On August 5, 2021, 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 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 September 14, 2021, the District sent Landowner a written notice of intent to take possession of the Right of Way Easement and Easement for Term of Years, 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.

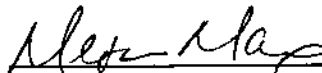
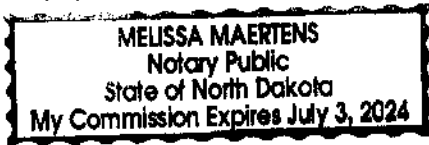
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 28th day of December, 2021.



Dan Jacobson, Chair
Cass County Joint Water Resource District

Subscribed to and sworn to before me this 28th day of December, 2021.



Notary Public, Cass County, State of North Dakota

(SEAL)