

## PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (the “Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2025 (“Effective Date”), by and between Cass County Joint Water Resource District, a North Dakota political subdivision, whose post office address is 1201 Main Avenue West, West Fargo, North Dakota 58078 (the “Seller”), and Cass County, North Dakota, a North Dakota political subdivision, whose post office address is 211 – 9<sup>th</sup> Street South, Fargo, North Dakota 58103, (the “Buyer”).

### RECITALS

A. The United States Army Corps of Engineers (the “Corps”) and the Metro Flood Diversion Authority entered into a Project Partnership Agreement on July 11, 2016, and amended on March 19, 2019, for construction of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, commonly referred to as the Fargo-Moorhead Area Diversion Project (the “Comprehensive Project”);

B. Seller acquired certain real property in part of Cass County, North Dakota as more fully described below for purposes of constructing, operating, and maintaining the Diversion Project;

C. Seller has determined, with the exception of the reservation of a temporary construction easement more fully set forth below, the real property described below is no longer needed for the construction, operation, use, maintenance, or mitigation of the Comprehensive Project, and is considered Excess Lands as defined by the Metro Flood Diversion Authority *Policy on the Disposition and Management of Comprehensive Project Lands*;

D. Buyer is willing to buy such real property; and Seller is willing to sell such real property, both according to the terms and conditions of this Agreement.

In consideration of \$1.00 and the mutual terms, covenants, conditions, and agreements contained herein, it is hereby agreed by and between the parties as follows:

### AGREEMENT

1. **The Property.** Seller agrees to sell and Buyer agrees to purchase Seller’s interest in and to the following described real property, located in Cass County, North Dakota, and legally described as follows:

See legal description in Exhibit “A.” The property described is hereinafter called the (“Property”).

2. **Purchase Price.** The purchase price for Seller’s interest in and to the Property shall be \$11,800.00 (the “Purchase Price”). Upon payment the Seller will deliver a Quit-Claim Deed, conveying Seller’s interest in and to the Property to Buyer.

3. **Closing Date.** This transaction will close on or before March 31, 2025 (the “Closing Date”), unless extended for purposes of correcting title or unless otherwise agreed by the parties. The parties agree to promptly execute and deliver any other instruments or documents necessary to carry out the purposes of this Agreement before, at, or following closing. Seller will deliver possession of the Property to Buyer at closing.

4. **As-Is.** Buyer acknowledges that the Property is sold and conveyed to Buyer “AS-IS”, “WHERE IS” and “WITH ALL FAULTS”. Buyer acknowledges, Seller makes no other representations or warranties whatsoever, expressed or implied, as to the condition of the Property, including, but not limited to, warranties as to merchantability, fitness for a particular purpose, physical condition, acreage or of any other nature whatsoever. Buyer has had an opportunity to thoroughly inspect the Property.

5. **Subject to Lease.** Seller and Buyer acknowledge the Purchase Property is subject to a Farm Lease for the crop year 2025. A copy of such Farm Lease has been provided to the Purchaser, who hereby accepts and approves of such Farm Lease. Upon the closing of the property, the Seller shall execute any required documents to assign the Farm Lease to the Purchaser. Seller shall transfer any rent paid for the 2025 crop year under the Farm Lease to Purchaser. Upon the assignment, any remaining rent due and owing under the Farm Lease shall be paid to the Purchaser.

6. **Platting and Development.** Buyer shall be solely responsible for compliance with all zoning and subdivision requirements.

7. **Default.** If Buyer defaults under this Agreement, Seller shall have any and all remedies available to it under this Agreement and otherwise at law or in equity including, without limitation: (i) the right of specific performance; (ii) the right to terminate this Agreement at any time after such default by delivering written notice of termination to Seller and/or sue for damages.

8. **Abstract.** No Abstract of Title is required to be updated or delivered under this Agreement.

9. **Real Estate Taxes and Assessments, Closing Costs.** Buyer and Seller agree all general real estate taxes and special assessments for the tax year 2024, due and payable in the year 2025, and prior years shall be paid by Seller. Real Estate taxes and special assessments for the year 2025, due and payable in the year 2026, and future years, shall be paid by Buyer. In addition to the Purchase Price, Buyer is responsible for and shall pay Abstract continuation fees if any, title examination fees, all costs related to title examination, and the recording fee for the Quit Claim Deed. Seller is responsible for the preparation of the Quit Claim Deed, and the preparation of this Agreement. In the event that Buyer or Buyer’s lender requires title insurance, the cost thereof shall be entirely paid by Buyer.

10. **Closing.** On or before the Closing Date, Seller shall deliver all of the following to Buyer, all of which shall be fully executed by Seller, an appropriate Quit Claim Deed in recordable form sufficient to convey Seller’s interest in and to the Property subject to the reserved flowage easement as described, all real estate taxes, installments of special assessments, easements,

restrictions, encumbrances, covenants and conditions of record, except delinquent real property taxes or installments of special assessments. Buyer shall deliver the balance of the Purchase Price, plus or minus prorations, credits and other adjustments, by check, wire transfer or otherwise in immediately available funds. Occupancy and possession of the Property shall be delivered to Buyer at closing.

11. **Contract.** This contract will be held by Seller for the mutual benefit of the parties.

12. **Notice.** Any notice or election required or permitted to be given or served by any party to this Agreement upon any other will be deemed given or served in accordance with the provisions of this Agreement if said notice or election is (a) delivered personally, or (b) mailed by United States certified mail, return receipt requested, postage prepaid and in any case properly addressed as follows:

If to Buyer: Cass County  
211 – 9<sup>th</sup> Street South  
Fargo, ND 58103

If to Seller: Cass County Joint Water Resource District  
1201 Main Avenue West  
West Fargo, ND 58078

Each such mailed notice or communication will be deemed to have been given on the date the same is deposited in the United States mail. Each such delivered notice or communication will be deemed to have been given upon the delivery. Any party may change its address for service of notice in the manner specified in this Agreement.

13. **Entire Agreement.** This Agreement constitutes the entire and complete agreement between the parties and supersedes any prior oral or written agreements between the parties with respect to the Property. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions set forth herein, and that no modification of this Agreement and no waiver of any of its terms and conditions will be effective unless in writing and duly executed by the parties.

14. **No Forbearance.** The failure or delay of any party to insist on the performance of any of the terms of this Agreement, or the waiver of any breach of any of the terms of this Agreement, will not be construed as a waiver of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not affect the validity of this Agreement, or the right to enforce each and every term of this Agreement.

15. **Remedies.** Except as expressly and specifically stated otherwise, nothing herein will limit the remedies and rights of the parties thereto under and pursuant to this Agreement.

16. **Binding Effect.** The covenants, terms, conditions, provisions, and undertakings in this Agreement, or in any amendment, will be binding upon the parties' successors and assigns.

17. **Governing Law.** This Agreement will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Agreement will be venued in State District Court in Cass County, North Dakota, and the parties waive any objection to venue or personal jurisdiction.

18. **Severability.** If any court of competent jurisdiction finds any provision or part of this Agreement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Agreement, and all remaining terms and provisions of this Agreement will remain binding and enforceable.

19. **Modifications.** Any modifications or amendments of this Agreement must be in writing and signed by both parties to this Agreement.

20. **Cooperation.** The parties agree to cooperate fully, to execute any and all additional documents, and to take any and all additional actions that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement and to accomplish the purposes of this Agreement.

21. **Representation.** The parties, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this Agreement, and agree they have not been influenced by any representations or statements made by any other parties.

22. **Headings.** Headings in this Agreement are for convenience only and will not be used to interpret or construe its provisions.

*(Signatures contained on the following pages.)*

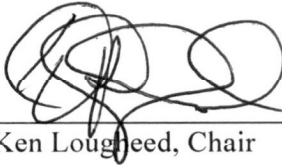
**Cass County Joint Water Resource  
Purchase Agreement — Cass County  
OIN No. 546Y1 — Parcel No. 44-0000-00288-010**

**Page 5**

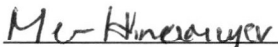
IN WITNESS WHEREOF, the parties executed this Agreement on the date first written above.

SELLER:

CASS COUNTY JOINT  
WATER RESOURCE DISTRICT

By:  \_\_\_\_\_  
Ken Loughheed, Chair

ATTEST:

By:  \_\_\_\_\_  
Melissa Hinkemeyer, Secretary

*Cass County Joint Water Resource  
Purchase Agreement — Cass County  
OIN No. 546Y1 — Parcel No. 44-0000-00288-010*

**Page 6**

BUYER:

Cass County, North Dakota, a North Dakota  
political subdivision



Tony Grindberg, Chair of the Board of County  
Commissioners

ATTEST



Brandy Madrigga, Finance Director

## EXHIBIT "A"

### (LEGAL DESCRIPTION OF PROPERTY)

#### **OIN 546Y1:**

That part of the Northwest Quarter (NW1/4) of Section 10, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northwest Corner of the Northwest Quarter (NW1/4) of Section 10; thence North 87 degrees 33 minutes 49 seconds East on the north line of said NW1/4 a distance of 807.69 feet to the Northwest Corner of Lot 1, Block 4, FMD-Harwood Subdivision in Sections 1-3, 9-10, 16-17, 19-21 & 30, T141N, R49W, 5th P.M., Cass County, North Dakota; thence South 02 degrees 26 minutes 11 seconds East on a line of said Lot 1 a distance of 75.00 feet to a corner of said lot 1; thence South 87 degrees 33 minutes 49 seconds West parallel with, and 75 feet south of, the north line of said NW1/4 a distance of 807.27 feet to the west line of said NW1/4; thence North 2 degrees 45 minutes 31 seconds West on the west line of said NW 1/4 a distance of 75.00 feet to the Point of Beginning

Said parcel contains 1.39 acres, more or less.

Hereinafter referred to as the ("Property").

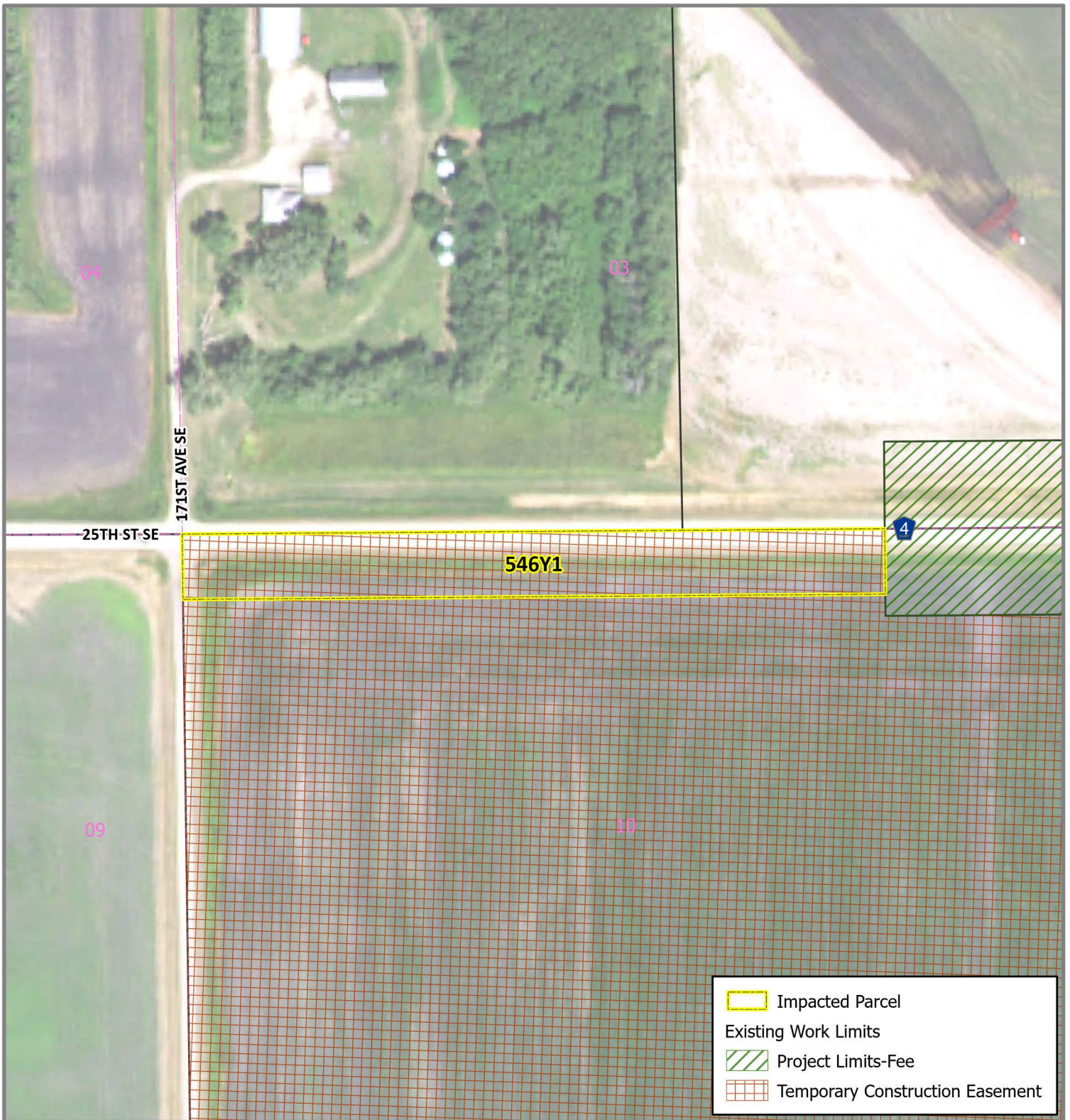
**EXCEPTING AND RESERVING unto SELLER**, a temporary construction easement, upon, over, in, under, across, and through the above-described Property:

Under this reserved Temporary Construction Easement, Grantor, reserves unto itself, its officers, employees, agents, representatives, and contractors, this easement upon, over, in, under, across, and through the Property for the following purposes: moving, storing, and removing equipment, materials, and supplies; ingress and egress to and from the Property; constructing the Fargo-Moorhead Metropolitan Area Flood Risk Management Diversion Project (the "Diversion Project") including but not limited to mobility improvements; erecting and removing temporary structures on the Property removing trees, underbrush, obstructions, and any other vegetation, structures, or obstacles from the Property; excavating, piling, storing, depositing, spoiling, spreading, and removing excavated dirt, soil, clay, silt, and other materials on or from the Property; and any other work necessary and incident to the construction and improvement of the Diversion Project. Grantor's rights under this Easement will expire five (5) years from the closing of this transaction, unless Grantor completes construction of the Diversion Project sooner, in which case this Temporary Construction Easement will expire upon Grantor's completion of construction of the Diversion Project and satisfies the terms of this

Temporary Construction Easement. However, the parties acknowledge and agree some rights granted under this Temporary Construction Easement, including the right to remove trees, underbrush, obstructions, and any other vegetation, structures, or obstacles on or from the Property, as well as the right to excavate, pile, store, deposit, spoil, spread, or remove excavated dirt, silt, or other materials on or from the Property, may result in permanent alterations of the Property. The parties further agree Grantor may elect to renew this Temporary Construction Easement under identical terms for one (1) three (3) year term, by providing written notice of intent to renew this Temporary Construction Easement to Grantee by providing written notice of intent to renew at least 90 days before the end of the term of this Temporary Construction Easement and by paying Grantee an additional one-time payment of \$600.00 per acre of Property reserved under this Temporary Construction Easement for the new three (3) year term.

Grantee will not encumber the Property or enroll the Property in any federal program that would be contrary to, or would in any way disrupt or interfere with, Grantor's use of the Property, Grantor's rights, and privileges under this Temporary Construction Easement, or with the Diversion Project. Grantee may mortgage the Property, at Grantee's sole discretion and without first obtaining Grantor's consent so long as such mortgage is subordinated to this Temporary Construction Easement. If Grantee rents or leases the Property, any lessee's rights and uses are subject to this Temporary Construction Easement, including the use restrictions described above; Grantee will be fully responsible to Grantor for Grantee's obligations under this Temporary Construction Easement, including for any violations by any lessee.

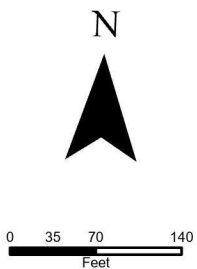




*Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use.*

**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 | Edited by: cwickenheiser | C:\Data\Projects\GIS Projects\FM Area Diversion\012 Lands Program\Property Acquisition\Project Wide\Individual Property Maps - General Inquiry\ArcPro General Individual Layout.aprx | IndividualLayout



**OIN: 546Y1**  
**CASS COUNTY JOINT WATER RESOURCE DISTRICT**  
**Parcel ID: 44-0000-00288-010**  
**Cass County, ND**

FM AREA DIVERSION  
 Map Date: 12/11/2024





# Memorandum

TO: Robert Wilson & Michael Redlinger  
FROM: Jodi A. Smith  
DATE: October 30, 2024  
RE: Excess Lands Recommendation – OIN 546Y

## 1. Introduction

The Metro Flood Diversion Authority (Authority) adopted the Policy on the Disposition and Management of Comprehensive Project Lands (Policy) in March 2021. Per the Policy Preamble, the Authority will periodically review its inventory of real property to determine if its land ownership exceeds its foreseeable needs for the Fargo-Moorhead Area Flood Diversion Project (Comprehensive Project). Land that is no longer needed, not expected to be needed in the future for the Comprehensive Project and declared “Excess Land” by the Co-Executive Directors may be made available for sale, lease, or exchange in accordance with this Policy.

This Memorandum serves as a recommendation for the Co-Executive Directors to declare OIN 546Y as Excess Land and begin the process to dispose of these properties following the Policy.

## 2. Pertinent Facts Regarding OIN 546Y

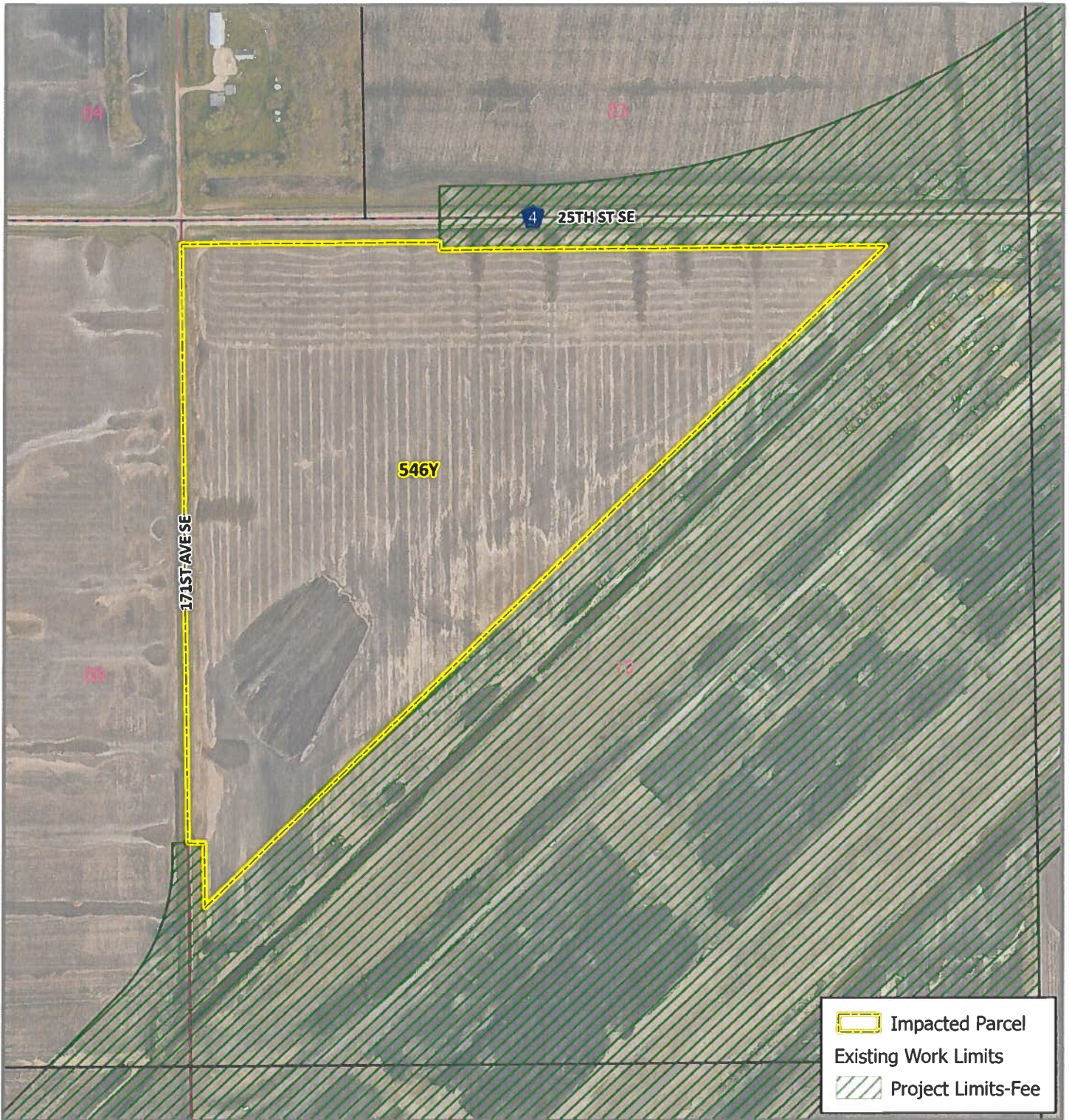
Description of Parcel(s)	See Exhibit A for a map showing the parcel recommended as excess land.
Legal Description	See Exhibit B for the legal description of the parcel recommended as excess land.
Asset Parcel(s) Size	OIN 546Y: 52.65 acres

Narrative Description of Parcel(s)	OIN 546Y is located along the north side of the Diversion Channel, northeast of I29.
Purchase Date	OIN 546: July 31, 2017
Purchase Price	OIN 546: Purchase included the entirety of OIN 546 and OIN 2368 for a total of \$1,402,693, which equates to approximately \$4,500/acre.
Proposed Sale Price	OIN 546Y: \$447,500 <ul style="list-style-type: none"> <li>Based on \$8,500/acre</li> </ul>
Former Owner	OIN 546Y: William Henry Larson
Adjacent Owners	OIN 546Y: Red River Trust Etal (OIN 540X) / Marion Diekrager (OIN 533X)
Property Management Approach	OIN 546Y: Pifer's Land Management since 2018
Property Taxes	There is no recorded property tax data for this parcel.
Relation to Construction	OIN 546Y is located along the north side of the Diversion Channel, Northeast of I29. This parcel was once impacted by a TCE that is no longer needed for the Project.
Right of First Refusal	OIN 546Y: No

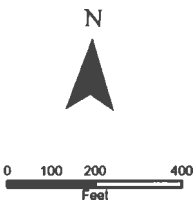
### 3. Conclusion and Recommendation

Based on the pertinent facts presented above, it is recommended to declare OIN 546Y as "Excess Land" and proceed with the process outlined in the Policy. If you agree with this recommendation, please sign the attached declaration form for our records (Exhibit C).

Exhibit A: Map Exhibit of Parcel Recommended as Excess Lands



*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 | Edited by: hrecords | C:\Data\Projects\GIS Projects\FM Area Diversion\012 Lands Program\Property Acquisition\Project Wide\Individual Property Maps - General Inquiry\ArcPro General Individual Layout.aprx | IndividualLayout



**OIN: 546Y**  
**CASS COUNTY JOINT WATER RESOURCE DISTRICT**  
**Parcel ID: 44-0000-00288-010**  
**Cass County, ND**

**FM AREA DIVERSION**  
 Map Date: 11/20/2024



## Exhibit B: Legal Description for Parcel Recommended as Excess Lands

OIN 546Y

That part of the Northwest Quarter (NW1/4) of Section 10, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of the Northwest Quarter (NW1/4) of Section 10; thence South 2 degrees 45 minutes 31 seconds East on the west line of said NW 1/4 a distance of 75.00 feet to the Point of Beginning; thence North 87 degrees 33 minutes 49 seconds East parallel with, and 75 feet south of, the north line of said NW1/4 a distance of 807.27 feet to the west line of Lot 1, Block 4, FMD-Harwood Subdivision in Sections 1-3, 9-10, 16-17, 19-21 & 30, T141N, R49W, 5<sup>th</sup> P.M., Cass County, North Dakota; thence South 02 degrees 26 minutes 11 seconds East on a line of said Lot 1 a distance of 25.00 feet to a corner of said lot 1; thence North 87 degrees 33 minutes 49 seconds East parallel with, and 100.00 feet south of, the north line of said NW1/4, and on a line of said Lot 1 a distance of 1,391.25 feet to a corner of said Lot 1; thence South 44 degrees 03 minutes 46 seconds West on the westerly line of said Lot 1 a distance of 2,487.50 feet to a corner of said Lot 1; thence South 42 degrees 36 minutes 02 seconds West continuing on said westerly line of Lot 1 a distance of 469.98 feet to a corner of said Lot 1; thence North 02 degrees 45 minutes 31 seconds West parallel with, and 50.00 feet east of, the west line of said NW1/4, and on a line of said Lot 1 a distance of 201.98 to a corner of said Lot 1; thence South 87 degrees 14 minutes 29 seconds West on a line of said Lot 1 a distance of 50.00 to the west line of said NW1/4; thence North 02 degrees 45 minutes 31 seconds West on said west line of the NW1/4 a distance of 1867.76 feet to the Point of Beginning.

Said parcel contains 52.65 acres, more or less.

## Exhibit C: Declaration of Excess Land Form

I hereby declare that           OIN 546Y           as noted in Exhibit A (the parcel) is deemed Excess Land and authorize the disposal of the parcel in accordance with the Policy on the Disposition and Management of Comprehensive Project Lands.

  
\_\_\_\_\_  
Robert Wilson  
Co-Executive Director

10/30/2024

Date

*Michael Redlinger*  
\_\_\_\_\_

Michael Redlinger  
Co-Executive Director

10/30/2024

Date



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OIN No. 858-7253 — Parcel No. 57-0000-10350-017*

Page 5

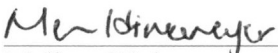
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By:  \_\_\_\_\_  
Ken Loughheed, Chair

ATTEST:

By:  \_\_\_\_\_  
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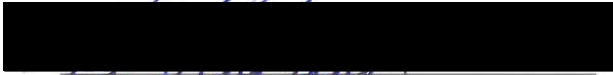
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ATTEST:



Brandy Madrigga, Finance Director

## EXHIBIT "A"

### (LEGAL DESCRIPTION OF PROPERTY)

**OIN 858-7253:**

The Southerly 75 feet of the following described tract of land:

That part of the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 22, Township 137 North of Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the Southeast corner of the SW $\frac{1}{4}$  Quarter of said Section 22; thence West along the South line of said Section 22 a distance of 10 rods to the point of beginning; thence North parallel to the West line of said Section 22, 40 rods; thence West parallel to the South line of said Section 22 to the center of the Wild Rice River; thence left upstream along the center line of the Wild Rice River to a point of intersection with the South line of said Section 22; thence along the South line of said Section 22 to the point of beginning.

Hereinafter referred to as the ("Property").

**EXCEPTING AND RESERVING unto SELLER**, it's officers, employees, agents, representatives, contractors, subcontractors, successors and assigns a permanent Flowage Easement in, on, under, over, through, and across the Property described above for the perpetual right, power, privilege and easement to occasionally overflow, flood, and submerge the Property, in connection with the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, a federally authorized project pursuant to Section 7002(2) of the Water Resources Reform and Development Act of 2014 (the "Project), as well as actions necessary to enforce compliance with this Flowage Easement. Additionally, SELLER reserves all right, title, and interest in and to the structures and improvements now situated on the Property:

- (a) excepting fencing, drain tile, and drain tile related appurtenances;
- (b) and that no excavation shall be conducted, and no fill placed on the Property without approval by SELLER as to the location and method of excavation and/or placement of fill and verification that the fill will not impact Project operation.
- (c) Subject to the provisions of this reserved Flowage Easement, the easement rights in and to the Property are taken subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the property owners, their heirs and assigns, all such rights and privileges as may be used and enjoyed without interfering with the Project for the purposes authorized by Congress or abridging the rights and easement hereby acquired; provided further that any use of the land shall be subject to Federal and State laws with respect to pollution.
- (d) Additionally under this reserved Flowage Easement, SELLER excepts and reserves unto SELLER, its officers, employees, agents, representatives, contractors, and subcontractors, and the United States, the following rights related to the Project regarding the Property:

ingress and egress in, on, over, across, and through the Property; removing flood-related debris deposited on the Property due to operation of the Project upon BUYER's request; removing structures, obstructions, and any other obstacles from the Property; conducting compliance inspections; conducting environmental assessments, including habitat and fish and wildlife studies and surveys as required by the State of North Dakota; and necessary and reasonable rights of ingress and egress to and from the Property subject to the provisions regarding crop damages below. SELLER shall notify BUYER prior to exercising the access provisions associated with this Flowage Easement.

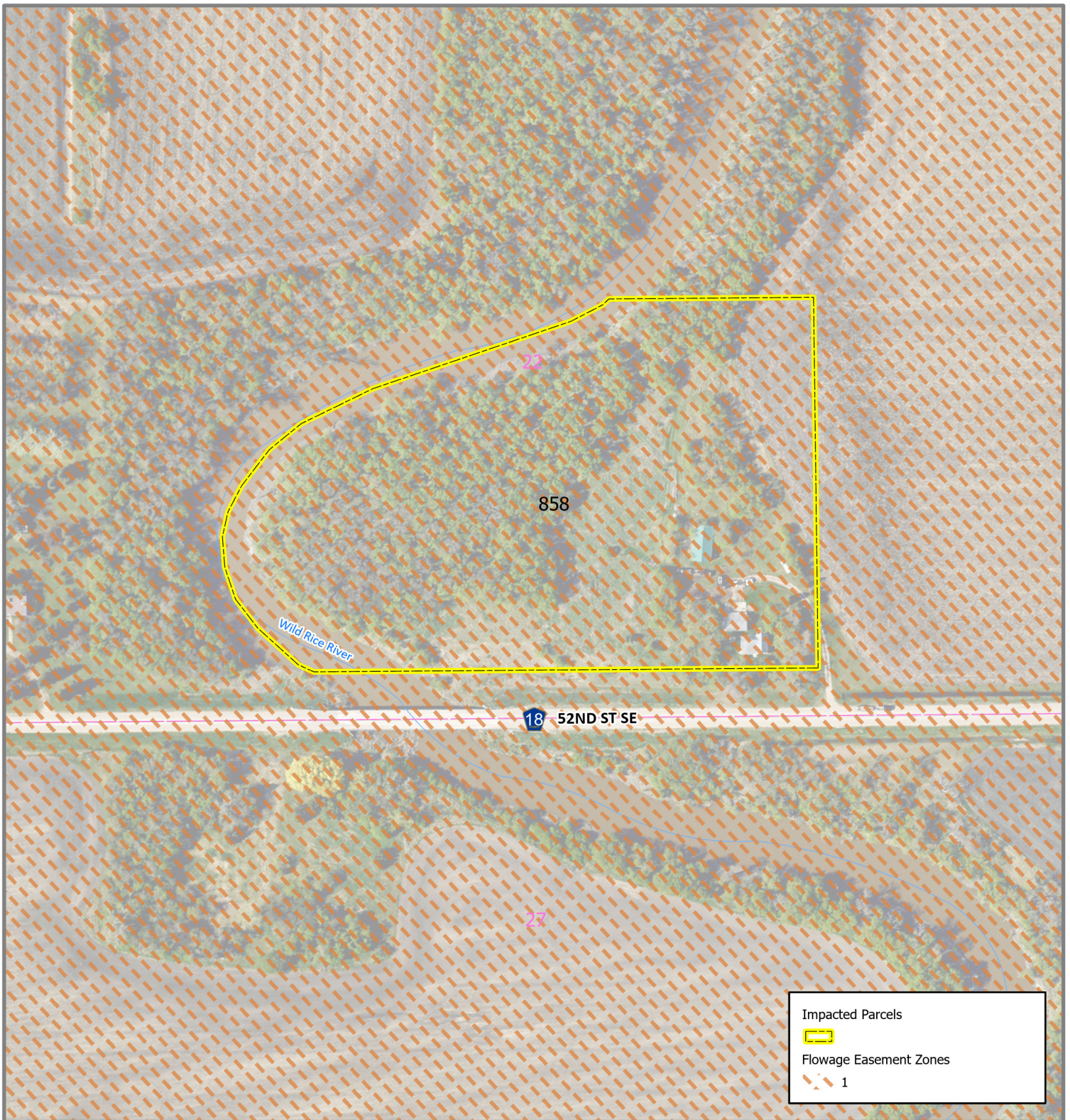
- (e) Subject to the provisions of this reserved Flowage Easement, BUYER has the right and privilege to use the Property at any time, in any manner, and for production of growing crops, pasture, and other farm/agricultural-related activities and hunting, including the right to post the Property at BUYER's sole discretion to restrict public hunting rights.
- (f) Notwithstanding the foregoing or any provision of this reserved Flowage Easement to the contrary, after the Effective Date, BUYER may make such surface contour changes normally required by generally accepted farming practices without the District's approval at BUYER's sole risk and expense and in accordance with all applicable local, state, and federal laws, rules, and regulations, so long as such changes do not interfere with the operation, function, or performance of the Project. In the event, BUYER's surface contour changes cause such interference with the Project, BUYER must restore the Property to its original condition within 60 days of request by the SELLER. If Buyer fails to do so within 60 days of such request, SELLER may enter upon and restore the Property its original condition and BUYER will provide full reimbursement to SELLER of all costs and expenses within a reasonable amount of time following written notice from SELLER of costs incurred, not exceeding 60 days; if BUYER fails to reimburse SELLER within 60 days of such notice, interest will accrue in the amount of 1.5% per month on all outstanding principal until paid in full, and SELLER may recover its costs incurred, and interest, by assessing the costs against any property owned by BUYER in North Dakota, including any attorneys' fees incurred in attempting to collect the amounts due, or by other legal means of collection. SELLER's remedies are cumulative and not exclusive and are in addition to any and all other remedies available to SELLER under North Dakota law.
- (g) Notwithstanding the foregoing or any provision of this reserved Flowage Easement to the contrary, the parties expressly agree, the construction, operation, and/or maintenance of any concentrated animal feeding operation, confined animal feeding operation, or feedlot (collectively "CAFO"), as defined under applicable local, State and/or Federal laws, rules, and regulations, is prohibited in and upon the Property.
- (h) BUYER will promptly cease any activities and remove any structures or obstructions that interfere with SELLER's use of the Property, SELLER's rights and privileges under this Flowage Easement, or with the Project, when directed by SELLER. BUYER understands and recognizes any use of the Property is at BUYER's sole risk, and with the exception of payments BUYER or BUYER's tenant (if applicable) may be eligible for under the Growing Season Supplemental Crop Loss Program or the Prevent Plant Crop Insurance Program established and implemented by the Metro Flood Diversion Authority, that



SELLER is not responsible for any damages to growing crops or for interference with any other of BUYER's uses of the Property as a result of any inundation or any of BUYER's other rights and privileges regarding the Property.

- (i) The parties further agree that with respect to any portion of the Property not currently certified for agricultural production in the certified organic marketplace as of the date of this Flowage Easement, neither the Growing Season Supplemental Crop Loss Program nor the Prevent Plant Crop Insurance Program established and implemented by the Metro Flood Diversion Authority, shall provide coverage for lost organic certification of all or any portion of the Property or loss in premium payments of certified organic agricultural products over similar conventionally produced agricultural products, as a result of any inundation or any of SELLER's other rights and privileges regarding the Property.
- (j) If SELLER enters upon the Property for purposes of conducting compliance inspections or removal of flood related debris deposited on the Property under this Flowage Easement, following the conclusion of any such activities, SELLER will return the Property as nearly as practicable to its previous condition, taking into consideration the nature of the work being performed; for example, SELLER will remove any dirt piles or equipment from the Property that might unreasonably interfere with BUYER's permitted uses of the Property. SELLER's ingress and egress rights to the Property will be by the least intrusive means reasonable. Additionally, SELLER will reimburse BUYER for reasonable crop damages resulting from SELLER's physical entrance upon the Property for purposes of conducting such activities. Such reasonable crop damages shall be calculated based on the area disturbed, actual production history, BUYER's yields the year of the damages, and current crop prices at the time of the crop damages. The crop damage payments under this paragraph shall not be duplicative of the payments described in the paragraph above. For purposes of illustration, if SELLER enters onto the Property to conduct a survey on June 1 and damages a portion of the crop growing on the Property, and subsequently on July 15 a major rain event necessitates operation of the Project inundating and damaging the crop growing on the entire the Property, the payments BUYER would be eligible for under the Growing Season Supplemental Crop Loss Program described above, would be reduced by the amount BUYER receives as payment for crop damages caused by the survey.
- (k) Subject to the provisions below regarding the leasing or mortgaging of the Property, BUYER will not encumber the Property or any portion of the Property or enroll the Property any portion of the Property in any farm or other federal program that would be contrary to, or would in any way disrupt or interfere with, SELLER's use of the Property, SELLER's rights and privileges under this Flowage Easement, or with the Project without first obtaining SELLER's consent. However, BUYER may rent or lease the Property, at BUYER's sole discretion without first obtaining SELLER's consent. If BUYER rents or leases the Property, any lessee's rights and uses are subject to this Flowage Easement, including the use restrictions described above; BUYER's will be fully responsible to SELLER for BUYER's obligations under this Flowage Easement, including for any violations by any lessee. Additionally, BUYER may mortgage the Property, at BUYER's sole discretion without first obtaining SELLER's consent so long as any mortgage is subordinate to this Flowage Easement.

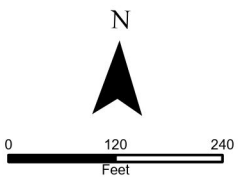
- (l) Except as set forth herein, the parties specifically agree neither SELLER nor any of its agents or representatives have made any representations or warranties in any way regarding the Project; BUYER's ability to use the Property following construction of Project; the potential frequency of inundation of the Property; BUYER's ability to enroll the Property in any federal program; or BUYER's ability to obtain any farm insurance regarding the Property other than the Growing Season Supplemental Crop Loss Program or the Prevent Plant Crop Insurance Program which BUYER may be eligible for as set forth above.
- (m) SELLER's easement rights include the right, at its discretion and if necessary for purposes of proper operation and maintenance of the Project, to remove trees, underbrush, obstructions, and any other vegetation, structures, or obstacles from the Property. However, BUYER is solely responsible, at BUYER's sole expense and discretion, for maintaining the Property, including grass cutting and weed control. Neither BUYER nor SELLER will store, cause, or permit any spillage, leakage, or discharge of fertilizers, herbicides, fungicides, and pesticides on the Property (in excess of normal applications for farming purposes). Further, in no event will either party cause or permit any spillage, leakage, or discharge of any hazardous substance onto the Property including, but not limited to, spillage of petroleum products or vehicle fuels, gasoline, kerosene, or other products used for the purpose of generating power, lubrication, illumination, heating, or cleaning. If either party causes or permits any spillage, leakage, or discharge of any such hazardous substance onto the Property that party shall be solely responsible for any damages arising out of such spillage, leakage, or discharge of any such hazardous substance onto the Property to the extent required by law.
- (n) The Metro Flood Diversion Authority has created an Alternative Dispute Resolution Board to provide property owners an informal, administrative forum to bring claims related to Project operation for damages occurring outside the scope of the terms, conditions, obligations, and rights provided for under this reserved Flowage Easement. BUYER's use of the informal administrative forum is voluntary, and BUYER may elect to commence legal actions in the manner permitted by North Dakota law for any claims without first submitting the claim to the informal administrative forum.



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.

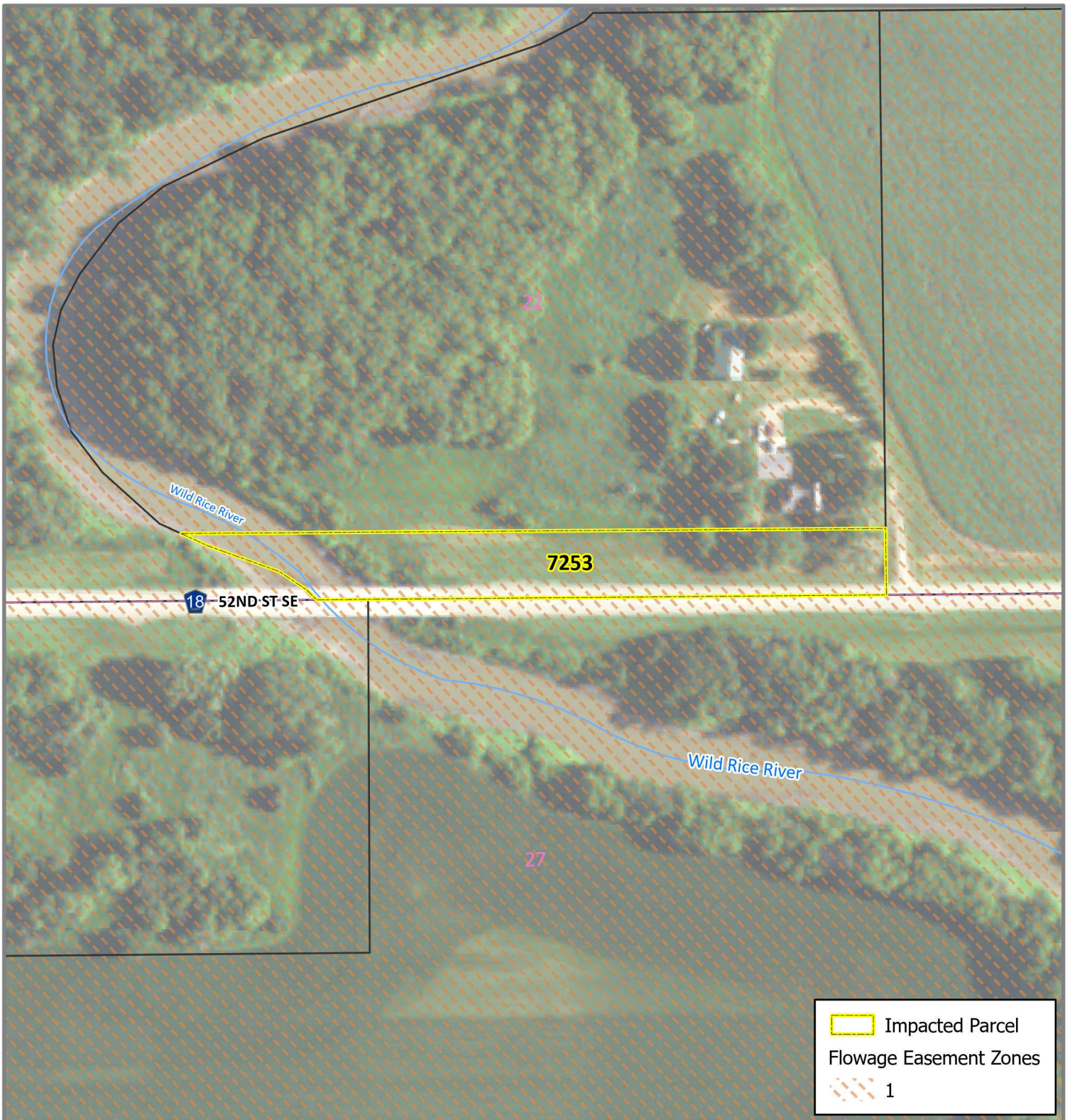
Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | Edited by: cwickenheiser | C:\Data\Projects\GIS Projects\FM Area Diversion\012 Lands Program\Property Acquisition\UMA\UMA\_Individual\_Parcel\_Exhibits.aprx | UMA Mitigation Individual Parcel Exhibits



**OIN: 858**  
**Owner: CCJWRD**  
**Parcel ID: 57-0000-10350-017**  
**Cass County, ND**

FM AREA DIVERSION  
 Map Date: 1/16/2025

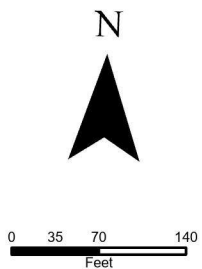




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Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | Edited by: cwickenheiser | C:\Data\Projects\GIS Projects\FM Area Diversion\012 Lands Program\Property Acquisition\Project Wide\Individual Property Maps - General Inquiry\ArcPro General Individual Layout.aprx | IndividualLayout



**OIN: 7253**  
**CASS COUNTY JOINT WATER RESOURCE DISTRICT**  
**Parcel ID: 57-0000-10350-017**  
**Cass County, ND**

FM AREA DIVERSION  
 Map Date: 12/11/2024





# Memorandum

TO: Robert Wilson & Michael Redlinger

FROM: Jodi A. Smith

DATE: August 9, 2024

RE: Excess Lands Recommendation – OIN 858, subject to Flowage Easement+

## 1. Introduction

The Metro Flood Diversion Authority (Authority) adopted the Policy on the Disposition and Management of Comprehensive Project Lands (Policy) in March 2021. Per the Policy Preamble, the Authority will periodically review its inventory of real property to determine if its land ownership exceeds its foreseeable needs for the Fargo-Moorhead Area Flood Diversion Project (Comprehensive Project). Land that is no longer needed, not expected to be needed in the future for the Comprehensive Project and declared “Excess Land” by the Co-Executive Directors may be made available for sale, lease, or exchange in accordance with this Policy.

This Memorandum serves as a recommendation for the Co-Executive Directors to declare OIN 858 as Excess Land and begin the process to dispose of the property following the Policy.

## 2. Pertinent Facts Regarding OIN 858

Description of Parcel(s)	See Exhibit A for a map showing the parcel recommended as excess land.
Legal Description	See Exhibit B for legal description for the parcel recommended as excess land.
Asset Parcel(s) Size	10.54 acres

Narrative Description of Parcel(s)	<p>OIN 858 is located on the north side of Cass County Road 18 (52<sup>nd</sup> Street SE) approximately one mile west of I-29 in the Upstream Mitigation Area associated with the Comprehensive Project.</p> <p>New owner will need to seek access easement from neighboring property owner or seek approval from the County to install a new field approach.</p>
Purchase Date	August 4, 2022
Purchase Price	\$522,000, inclusive of a home, detached garage, and storage building, which have been removed from the parcel.
Proposed Sale Price	<p>\$57,970</p> <p>Based on \$5,500/acre for flowage easement encumbered recreational land.</p>
Former Owner	LeLonnie & William Graham
Adjacent Owners	<p>OIN 857 &amp; 1973 – Brodshaug Cass County Farms LLLP</p> <p>OIN 859 – Irene Backlund</p>
Property Management Approach	This parcel has been maintained through a haying agreement with Schmidt and Sons since 2023.
Property Taxes	The 2023 property taxes were \$2,419.95
Relation to Construction	This parcel is in the UMA, and not impacted by construction of the Comprehensive Project. The former owner desired a full-take buyout of the property. The former buildings on the parcel have been removed from the site, and the site has been restored. Any future sale will need to reserve a flowage easement on the parcel to ensure no future development.
Right of First Refusal	The prior landowner is not entitled to a ROFO.

### 3. Conclusion and Recommendation

Based on the pertinent facts presented above, it is recommended to declare OIN 858 as “Excess Land” and proceed with the process outlined in the Policy. If you agree with this recommendation, please sign the attached declaration form for our records (Exhibit C).

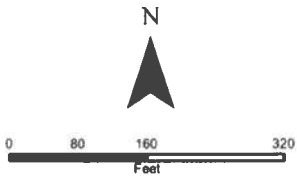
## Exhibit A: Map Exhibit of Parcel Recommended as Excess Lands







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 UTM Zone 14N | Edited by: Clidenberg | C:\Data\Projects\GIS Projects\FM Area Diversion\012 Lands Program\Property Acquisition\Project Wide\Individual Property Maps - General Inquiry\ArcPro General Individual Layout.aprx | OIN 858



OIN: 858  
 CCJWRD  
 Parcel ID: 57-0000-10350-017  
 Cass County, ND

FM AREA DIVERSION  
 Map Date: 8/7/2024



## Exhibit B: Legal Description for Parcel Recommended as Excess Lands

The following legal description is from the O & E Report dated June 28, 2021. This sale excludes the south 75' being purchased by Cass County.

**Legal Description:**

That part of the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 22, Township 137 North of Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:  
Commencing at the Southeast corner of the Southwest Quarter of said Section 22; thence West along the South line of said Section 22 a distance of 10 rods to the point of beginning; thence North parallel to the West line of said Section 22, 40 rods; thence West parallel to the South line of said Section 22 to the center of the Wild Rice River; thence left upstream along the center line of the Wild Rice River to a point of intersection with the South line of said Section 22; thence along the South line of said Section 22 to the point of beginning.

## Exhibit C: Declaration of Excess Land Form

I hereby declare that OIN 858 as noted in Exhibit A (the parcel) is deemed Excess Land and authorize the disposal of the parcel in accordance with the Policy on the Disposition and Management of Comprehensive Project Lands.

**Robert W.  
Wilson**

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Robert W. Wilson  
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Robert Wilson  
Co-Executive Director

08/09/2024

Date

**Michael  
Redlinger**

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Michael Redlinger  
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Michael Redlinger  
Co-Executive Director

08/09/2024

Date