

FM Area Diversion Project

Property Acquisition Summary

November 24, 2015

Property:

Owner	Kilbourne Group (Shakey's Pizza Buildings)
Address	203 & 225 4 th Ave N, Fargo, ND 58102
Property Type	Commercial
Identification Number	9776

Property Need

Acquisition of this property is required to accommodate construction of the In-Town Levee and Floodwall project, Work Package WP42B.2 that is scheduled for construction in 2016. See attached map. Demolition of one of the buildings on this property is required to accommodate the floodwall project. The property demolition project is scheduled for winter/spring 2016, with construction of this portion of the floodwall to begin in early summer 2016.

Description of Acquired Property

The subject property is owned by Kilbourne Group and consists of one parcel with two separate office buildings situated on the one parcel. The parcel is located on the corner of 2nd Street North and 4th Avenue North, and is approximately 44,314 square feet in size. The smaller building is located at 203 4th Avenue North and was constructed in 1966 and contains approximately 3,600 square feet. This building is vacant and commonly referred to as the "Shakey's Pizza" building. The second building is located at 225 4th Avenue North and was constructed in 1961 and contains approximately 18,900 square feet. This building is fully occupied and referred to as the "MEPS" building, as it houses the Military Entrance Processing Station. The site has two access points provided via 4th Street North. Site improvements include an asphalt paved parking area for 53 vehicles, concrete sidewalk, and average landscaping. The site offers approximately 284 feet of frontage along 4th Avenue North, 150 feet of frontage along 3rd Street North, and 151 feet of frontage along 2nd Street North. Zoning of the site is DMU, Downtown Mixed Use. The parcel is crossed by both the minimal disturbance zone setback (MDZS) and the limited disturbance zone setback (LDZS) lines. As shown on the attached map, the project requires acquisition of the portion of the property containing the Shakey's Pizza building as well as a significant portion of the parking lot and access points. The Project does not need to acquire the MEPS building, however the taking will have an impact on the MEPS building.

Compensation & Negotiations Summary:

The offered purchase price for the property is based on an appraisal produced by a qualified appraiser following the "Yellow Book" standards. The appraisal was reviewed and approved by USACE. The appraised amount of \$831,500 establishes the basis for the 'Just Compensation' value for the property. An offer of Just Compensation in this amount was presented to the property owner, along with the appraisal. Through negotiations, the property owner pointed out several items of concern. One of those items is that the appraisal did not fully address the impact of the taking of the parking and limitation of access to the MEPS property. The property owner is required to provide eight (8) reserved on-site

parking spots and thirty nine (39) additional offsite parking spots for the tenant of the MEPS building. If the proposed taking occurs “as appraised”, the property owner stated that they would be in violation of their lease agreement with their current tenant. The property owner rejected the offer as presented and countered with several proposals of exchanging land from the Fargo Public Schools (FPS) property, which the Diversion Authority and CCJWRD was also trying to acquire. The Project will require a portion of the FPS property for construction of the floodwall and associated features, and another portion of the FPS property will be a remnant. The acquisition team rejected these proposals from the property owner, as the acquisition of the portions of FPS desired by property owner was uncertain. The property owner then responded with a second counter of \$1,031,000 as their opinion of the damage to their property for the loss of parking and access impacts to a portion of their property. This counter offer of 24 percent above the appraised value appears reasonable and the acquisition team recommends acceptance.

The property owner’s counter offer also included a request that, if the CCJWRD acquired the FPS property, the property owner be allowed to purchase the remnant portion of the FPS property from the CCJWRD for the pro rata share of its full appraised value. It should be noted that the property owner will not be relocating the Shakey’s Pizza or MEPS facilities, so there will not be a Relocation Agreement associated with this acquisition.

Acquisition Cost Summary

Property ID#: 9776			Notes
Just Compensation (for existing Facility and Land)		\$ 831,500	Based on Appraisal and Purchase Agreement
Negotiated Appraisal Adjustments	+	\$ 199,500	Based on adjustments to appraisal due to loss of parking, access impacts, and avoided cost of FPS building demo.
Total Payment to Kilbourne Group	=	\$ 1,031,000	
Sale of Remnant Property to Kilbourne Group	-	\$ 1,401,000	Based on appraisal prorated for remnant portion of FPS property
Resulting Property Sale Proceeds	=	\$ 370,500	Net payment to CCJWRD
Cost Avoidance for Demolition of FPS Building	+	\$ 400,000	Estimate
Resulting Impact (Benefit) to Diversion Authority	=	\$ 770,500	Net Effective Benefit to CCJWRD and Diversion Authority

Requested Action/Recommendation

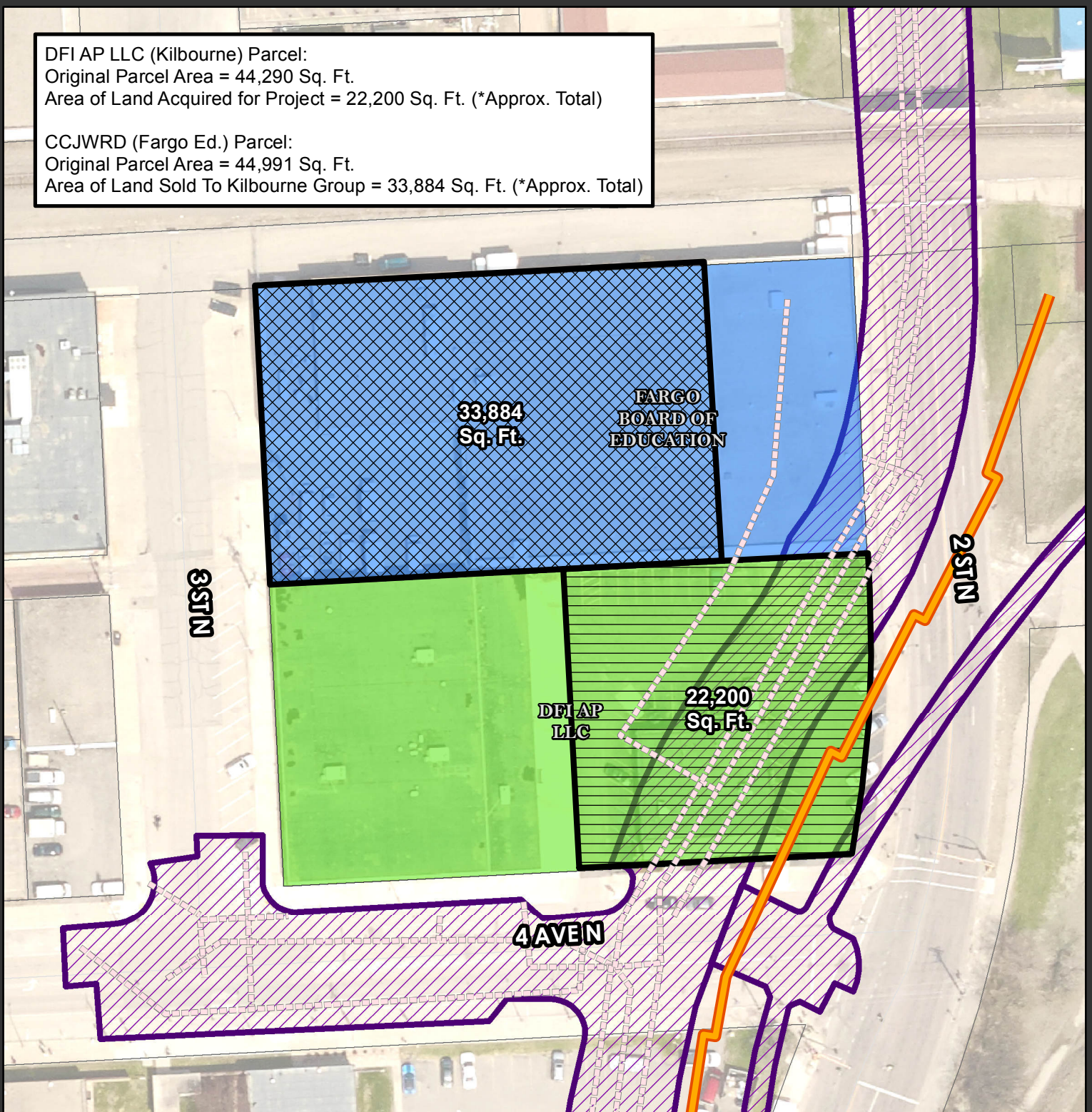
1. Recommend to CCJWRD, execution of a Purchase Agreement in the amount of \$1,031,000 as just compensation for real property.
2. Recommend to CCJWRD, the sale of remnant property from the former Fargo Public Schools property to the Kilbourne Group in the amount of \$1,401,000 (see note below, and pending final acquisition of the FPS property).

Note:



1. *The Diversion Authority (CCJWRD) and Fargo Public Schools (FPS) have agreed in principle to acquire the FPS site. The final acquisition will occur in December 2015 and FPS will rent the building through summer 2017. Upon vacating the building, CCJWRD will close the transaction with the Kilbourne Group, and the Kilbourne Group will be responsible for any costs associated with the remainder of the FPS facility, including demolition of the building.*
2. *Land sale amount is subject to final design alignment and set-back requirements on the former FPS site. The amount will be based on unit costs in accordance with appraised values.*

DFI AP LLC (Kilbourne) Parcel:
 Original Parcel Area = 44,290 Sq. Ft.
 Area of Land Acquired for Project = 22,200 Sq. Ft. (*Approx. Total)

CCJWRD (Fargo Ed.) Parcel:
 Original Parcel Area = 44,991 Sq. Ft.
 Area of Land Sold To Kilbourne Group = 33,884 Sq. Ft. (*Approx. Total)








Subject Property Areas

-  Land Acq. fr. Kilbourne Group for Project (Approx. 22,200 Sq. Ft.)
-  CCJWRD Property Sold to Kilbourne Group (Approx. 33,884 Sq. Ft.)

**All areas and alignments are approximate representations of the design.
 The final purchase agreements will be based on legal descriptions and final designs.*

Original Parcels

-  DFI AP LLC - 44,290 Sq. Ft.
-  CCJWRD (Formerly Fargo Board of Education) - 44,991 Sq. Ft.

-  Floodwall
-  Approx. Location New Utilities
-  Approx. Area of Floodwall and Work of New Road

0 40 80 120
 FEET



Date Saved: 11/19/2015