

Land Management Committee Agenda



Diversion Authority Land Management Committee

February 21, 2024 @3:00pm CST

This meeting will be in-person at Fargo City Hall Red River Room (225 4th St N, Fargo ND 58102).

1. Call to Order
 - a. Roll call of Members
2. Approve minutes from October 25, 2023
[Attachment 00.01] (Pg. 2)
3. Approve Order of Agenda
4. OIN 837 Excess Land Recommendation
[Attachment 01.00] (Pg. 6)
5. OIN 839 Excess Land Recommendation
[Attachment 02.00] (Pg. 13)
6. OIN 2185 Excess Land Recommendation
[Attachment 03.00] (Pg. 19)
7. OIN 5055Y Excess Land Recommendation
[Attachment 04.00] (Pg. 25)
8. OIN 726Y2 & 730Y2 Excess Land Recommendation
[Attachment 05.00] (Pg. 33)
9. Disposal of Abandoned Rail Right of Way
[Attachment 06.00] (Pg. 44)
10. Other Business
11. Next Meeting: To Be Determined
12. Adjournment

MEDIA AND PUBLIC PARTICIPATION INFORMATION

This meeting will be in-person only.



Metro Flood Diversion Authority Land Management Committee Meeting Minutes

3:00 PM – October 25, 2023
City of Fargo Commission Chambers

A meeting of the Metro Flood Diversion Authority Land Management Committee was held on October 25, 2023. The following members were present: Mary Scherling, Cass County Commissioner; Kevin Campbell, Clay County Commissioner; Rodger Olson, Cass County Joint Water Resource District; Nathan Boerboom, Fargo Division Engineer; Chuck Hendrickson, Moorhead City Council; Duane Breitling, Cass County Commissioner; Jenny Mongeau, Clay County Commissioner; Kory Peterson, Mayor, City of Horace; Arlette Preston, Fargo City Commissioner and Bob Zimmerman, Moorhead City Engineer.

Member(s) absent: Mike Redlinger, Administrator, City of Fargo.

1. INTRODUCTION

Mrs. Scherling called the meeting to order at 2:30 PM. Roll call was taken, and a quorum was present.

2. APPROVE MEETING MINUTES FROM THE SEPTEMBER 2023 MEETING

MOTION PASSED

Mr. Breitling moved to approve the minutes from September 27, 2023, and Mr. Campbell seconded the motion. On a voice vote, the motion carried.

3. APPROVE ORDER OF AGENDA

MOTION PASSED

Mr. Peterson moved to approve the agenda as presented and Mr. Boerboom seconded the motion. On a voice vote, the motion carried.

4. BNSF RAILWAY & CHS ELEVATOR EXCESS LAND

Ms. Smith introduced the BNSF rail and CHS elevator excess land discussion.

In accordance with and pursuant to prior policy direction from the Diversion Authority Board, the Metro Flood Diversion Authority (MFDA) and the Cass County Joint Water Resource District (CCJWRD) recently completed the acquisition of the CHS Elevator and underlying property rights, Red River Valley & Western Railroad operating rights, and a portion of BNSF Railway right of way near Horace, ND. These purchases were part of an effort to abandon the rail line and avoid constructing an additional rail bridge across the FM Area Diversion Storm Water Diversion Channel (SWDCAI). This process required that the MFDA and the CCJWRD acquire the entire abandoned rail corridor right of way from BNSF Railway, the estimated cost savings would be greater than \$6 million due to eliminating the construction of a rail bridge.

BNSF Railway is currently following North Dakota Century Code Chapter 49-09, which outlines the statutory process for abandoned railroad right of way sales to priority purchasers. If the priority purchasers choose not to purchase the rail corridor, the MFDA and CCJWRD are obligated, through an agreement with BNSF

Railway, to purchase any remaining right of way. The attached map shows highlighted in green and yellow the right of way that has been purchased by the MFDA and CCJWRD. The orange highlighted corridor represents the portion of the corridor where private parties have the priority to purchase the right of way. The blue highlighted corridor represents the portion of the corridor that the City of Horace has the priority to purchase the right of way (next priority purchaser for this area would be the adjoining landowner).

The MFDA purchase price of the CHS Elevator was \$3,040,000, which was not an appraised value of the property but was agreed between the MFDA and CHS to replace the elevator’s storage capacity by compensating CHS to build additional capacity at another one of CHS’s existing facilities. The purchase of the CHS Elevator was a condition by CHS to abandon use of the rail line (CHS was the sole customer on the rail line) which facilitated the abandonment of the rail line by RRVWR. The purchase price of the associated rail line and associated land (excluding the elevator) was \$1,085,377 for 8.61 acres. This purchase price was based on an appraised value and per BNSF requirements, it included a 15% railroad corridor enhancement factor.

The City of Horace’s 2045 Comprehensive Plan identifies the city’s desire to construct a public trail along this rail corridor, as it plays “a critical role in connecting the most heavily programmed areas of the park system.” In 2023 the City of Horace approved moving forward with developing a conditional agreement with the MFDA and the CCJWRD that if the City of Horace purchased its priority portion of rail corridor (highlighted in blue on the attached map), then the MFDA and the CCJWRD would deed the CHS Elevator and associated rail corridor to the City of Horace for \$2.00.

The MFDA staff has reviewed the potential cost savings if the CHS elevator and associated rail corridor were deeded to the City of Horace.

Annual Expenses

| | |
|---|-----------|
| Maintenance (mowing and weed spraying @ \$150/acre four times per year) | \$ 5,166 |
| CHS Elevator & rail corridor Maintenance (staff time est. at \$115/month) | \$ 1,380 |
| Utilities (utility bills average \$380/month) | \$ 4,560 |
| Estimated annual taxes and special assessments | \$ 10,000 |

One-Time Expenses

| | |
|--|----------------------|
| Removal of ballast (required if it does not become a trail corridor) | \$ 35,000 |
| Elevator Structures Demolition (estimated cost) | \$ 150,000 - 400,000 |

Acquisition Expenses

| | |
|--|------------|
| Right of Way (blue highlighted corridor in the attached map) | \$ 352,000 |
|--|------------|

In addition to the cost savings noted above, the City of Horace would also assume responsibility for any and all environmental remediation that would be determined necessary for both the rail corridor and the elevator site. The cost associated with this was not included within the cost savings because it is unknown what level of environmental remediation will be required by the North Dakota Department of Environmental Quality or the United States EPA or other applicable regulatory agency. The City of Horace would also assume the responsibility of taking over and maintaining existing leases on the property, which includes the Horace Fire Department.

Per the Policy on the Disposition and Management of Comprehensive Project Lands (Policy), land that is no longer needed, not expected to be needed in the future for the Comprehensive Project and declared "Excess Land" by the Executive Director may be made available for sale, lease, or exchange in accordance with the Policy. Additionally, when a Member Entity proposes to the Authority to sell Excess Land, Member Entities should observe the following guiding principle stated in the Policy: 1.5.1. Refrain from selling land at less than Market Value.

MFDA staff have estimated the value of the land underlying the elevator in the range of \$1,219,680 (based on 3.5 acres at \$8 per square foot) to \$1,829,520 (based on 3.5 acres at \$12 per square foot). Demolition costs of the elevator are estimated to be between \$150,000 and \$400,000.

On October 10, 2023, the MFDA Planning Committee directed legal counsel to draft an agreement with the City of Horace that would deed the CHS Elevator and associated rail corridor to the City of Horace for public use. Provided, that if the City of Horace sells the property for development, the agreement would require the City of Horace to share the net profits with the MFDA 50/50. Any reasonable costs incurred by the City in making the property marketable, including but not limited to, inspections, environmental remediation, demolition, listing the Purchase Property, title work, surveys, and any other related costs, will be deducted from the gross profit derived from the sale to a third party before calculating the net profit payment. As part of the agreement, the City of Horace (in lieu of the MFDA) would purchase the ROW corridor shown in blue in Exhibit A for a purchase price of \$352,000.

To facilitate a negotiated agreement with the City of Horace, the MFDA Board would need to either:

1. approve an exception to Section 1.5.1 and Section 5 of the Policy to allow for the City of Horace to be deeded the land without:
 - a. allowing for a sale less than market value and,
 - b. not allowing preference to member entities, the prior landowner, the adjacent landowners or conducting a public sale, or
2. make an exception to Section 4.2 of the Policy, which states:

It is the Authority's intent that the sale of Excess Lands, subject to the preferences set forth herein, shall be done via public sale or in the case of Excess Land that is located inside of the geographical boundaries and extraterritorial zoning jurisdiction of the City of Fargo and the City of Moorhead, by listing Excess Land with a licensed real estate agent or through a public RFP process such that there is transparent and abundant opportunity for all buyers to purchase the property.

The CHS elevator and rail corridor (as highlighted green and yellow on Exhibit A), are within the zoning jurisdiction of the City of Horace. Listing the excess land with a licensed real estate agent or through a public RFP process, as required in Section 4.2 of the Policy, would provide opportunity for all buyers to purchase the property (including the City of Horace) which would preclude a negotiated agreement with the City.

After lengthy dialogue, the following motions were made:

MOTION FAILED

Ms. Mongeau moved to auction the property or retain a realtor to assist with the sale. Mr. Olson seconded the motion and on a roll call vote, the motion failed in a tie with five yays and five nays.

MOTION FAILED

Mr. Breitling moved to defer doing anything until the status of the budget is known at the end of construction in 2027, at which time, the request would be revisited. Motion failed due to the lack of a second.

MOTION FAILED

Mr. Boerboom made a motion to table and defer until the next meeting to allow DA staff time to determine if the land involved is truly developable land. Mr. Campbell seconded the motion. Roll call was not taken, motion cancelled.

MOTION FAILED

Ms. Mongeau made a motion that the land policy be followed with no deviation, and Mr. Breitling seconded the motion.

Mr. Campbell made a motion to table Ms. Mongeau's motion and Ms. Preston seconded the motion. A decision was tabled, and dialogue will resume at the next meeting. MOTION TABLED UNTIL THE NOVEMBER METING.

5. OTHER BUSINESS

There was no additional business to discuss.

6. NEXT MEETING

To be determined.

7. ADJOURNMENT

The meeting adjourned at 3:59 PM.



Memorandum

TO: Joel Paulsen

FROM: Jodi A. Smith

DATE: January 29, 2024

RE: Excess Lands Recommendation – OIN 837, subject to a 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 Executive Director may be made available for sale, lease, or exchange in accordance with this Policy.

This Memorandum serves as a recommendation for the Executive Director to declare OIN 837 as Excess Land and begin the process to dispose of the property following the Policy. Note that the parcel is in the Upstream Mitigation Area (UMA) and therefore the Authority (via the Cass County Joint Water Resource District (CCJWRD)) shall reserve a flowage easement on this property as part of a sale.

2. Pertinent Facts Regarding OIN 837

| | |
|--------------------------|--|
| 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 | 1.66 acres |

| | |
|----------------------------------|--|
| Narrative Description of Parcels | OIN 837 is located along the east side of Cass County Hwy 17 between 49 th Street SE and 50 th Street SE. The parcel is in the UMA. The former structures on this parcel have been removed. |
| Purchase Date | November 18, 2021 |
| Purchase Price | \$217,000 (for the lot and structures that have now been removed from property) Land appraised for \$98,000 in the “before” condition and \$4,300 in the “after” condition (i.e., subject to the flowage easement). |
| Proposed Sale Price | \$7,500 Based on a \$4,500 per acre rate. |
| Former Owner | Dennis & Mary Jane Hanson |
| Adjacent Owners | OIN 835 – Rosemarie Duval OIN 5023 – Cindy Norberg OIN 838 – Theresa Nelson GST Trust |
| Property Management Approach | OIN 837 gets mowed four (4) times during the growing season, with spring and fall weed spraying. |
| Property Taxes | The 2022 property taxes were \$0 The 2021 property taxes were \$1,343.69 |
| Relation to Construction | 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 demoed 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

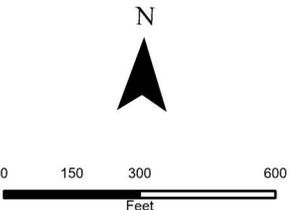
Based on the pertinent facts presented above, it is recommended to declare OIN 837 as “Excess Land” and proceed with the process outlined in the Policy. If you agree with this recommendation, please sign the attached declaration form for our records (Exhibit C).

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: 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 | IndividualLayout



OIN: 837
CASS COUNTY JOINT WATER RESOURCE DISTRICT
Parcel ID: 57-0000-10264-000
Cass County, ND

FM AREA DIVERSION
 Map Date: 12/15/2023



Exhibit B: Legal Descriptions for Parcel Recommended as Excess Lands

The legal description for the parcel is described in a Warranty Deed dated November 15, 2021:

WARRANTY DEED

THIS INDENTURE, made this 15 day of November, 2021, between Mary Jane Hanson, an unmarried person, GRANTOR, and the Cass County Joint Water Resource District, a North Dakota political subdivision, GRANTEE, whose post office address is 1201 Main Avenue West, West Fargo, North Dakota 58078.

WITNESSETH, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, GRANTOR does hereby GRANT, BARGAIN, SELL, AND CONVEY unto GRANTEE all of the following real property lying and being in Cass County, North Dakota, and described as follows:

A tract of land described as follows, to-wit: Commencing at the Southwest corner of the NW¼ of Section 8, in Township 137 North, of Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, thence East 278 feet, thence North 340 feet, thence West 278 feet, and thence South to the Point of Beginning a distance of 340 feet, more or less.

(the "Property")

Exhibit C: Declaration of Excess Land Form

I hereby declare that OIN 837 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.

Joel Paulsen
Executive Director

February 9, 2024
Date



Memorandum

TO: Joel Paulsen

FROM: Jodi A. Smith

DATE: January 29, 2024

RE: Excess Lands Recommendation – OIN 839, subject to a 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 Executive Director may be made available for sale, lease, or exchange in accordance with this Policy.

This Memorandum serves as a recommendation for the Executive Director to declare OIN 839 as Excess Land and begin the process to dispose of the property following the Policy. Note that the parcel is in the Upstream Mitigation Area (UMA) and therefore the Authority (via the Cass County Joint Water Resource District (CCJWRD)) shall reserve a flowage easement on this property as part of a sale.

2. Pertinent Facts Regarding OIN 839

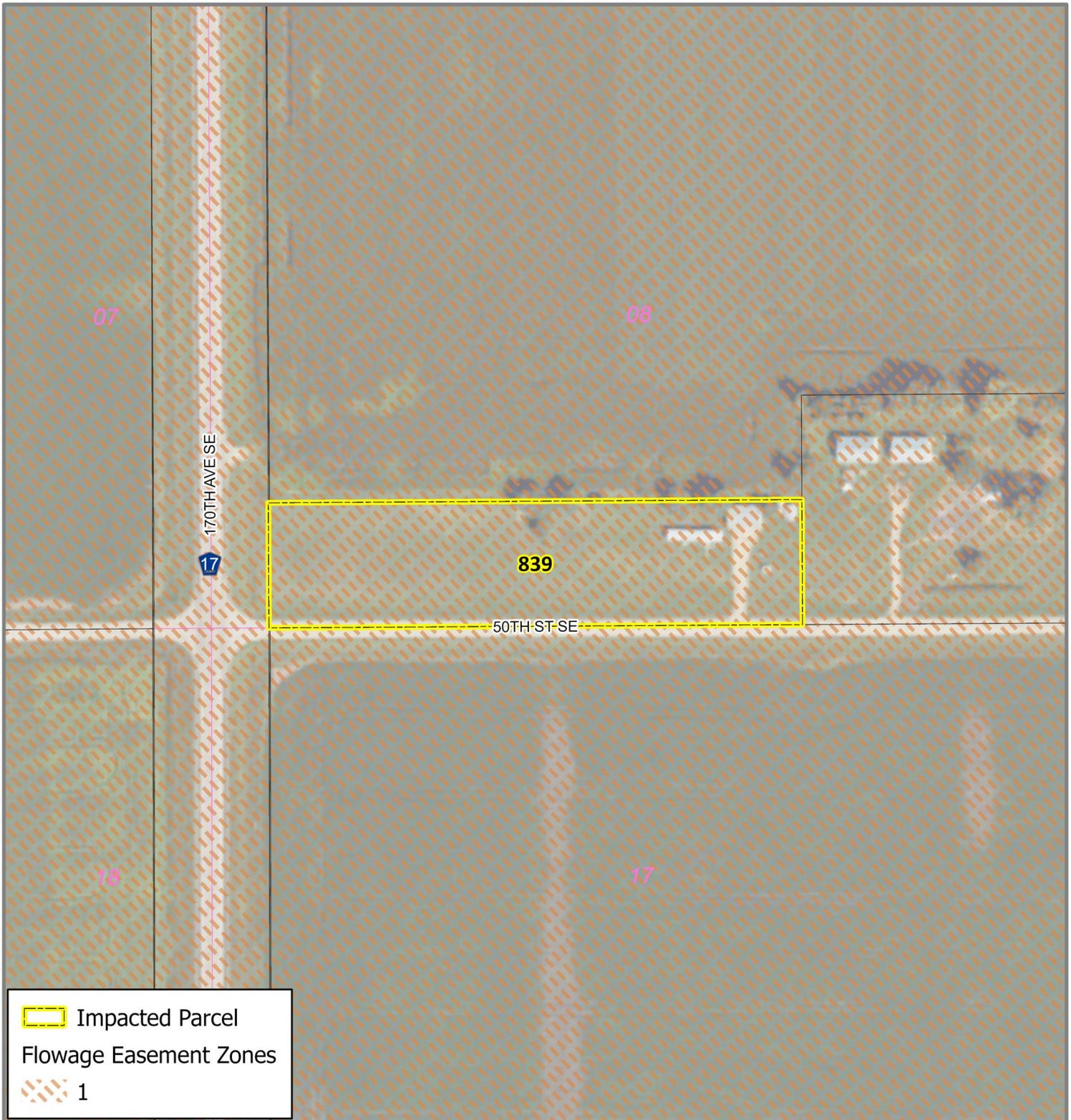
| | |
|--------------------------|--|
| Description of Parcel(s) | See Exhibit A for a map showing the parcel recommended as excess land. |
| Legal Description | See Exhibit B for legal description for the parcel recommended as excess land. |
| Asset Parcel(s) Size | 2.28 acres |

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| Narrative Description of Parcels | OIN 839 is located in the NW corner of the intersection of Cass County Hwy 17 and 50 th Street SE. The parcel is in the UMA. The former structures on this parcel have been removed. |
| Purchase Date | May 26, 2023 |
| Purchase Price | \$154,632 (for the lot and structures that have now been removed from property) Land appraised for \$73,000 in the “before” condition and \$5,000 in the “after” condition (i.e., subject to the flowage easement). |
| Proposed Sale Price | \$10,500 Based on a \$4,500 per acre rate |
| Former Owner | Claudia Mueller |
| Adjacent Owners | OIN 850 – Richard Revocable Trust OIN 838 – Theresa Nelson GST Trust |
| Property Management Approach | OIN 839 has been maintained under a mowing and weed control contract. |
| Property Taxes | The 2022 property taxes were \$1,041.99 |
| Relation to Construction | 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 demoed 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. |

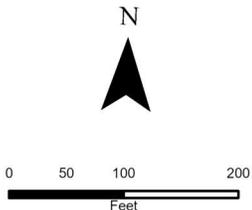
3. Conclusion and Recommendation

Based on the pertinent facts presented above, it is recommended to declare OIN 839 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: 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 | IndividualLayout



OIN: 839
CASS COUNTY JOINT WATER RESOURCE DISTRICT
Parcel ID: 57-0000-10266-010
Cass County, ND

FM AREA DIVERSION
 Map Date: 12/15/2023



Exhibit B: Legal Description for Parcel Recommended as Excess Lands

The legal description for the parcel is described in a Warranty Deed dated May 26, 2023:

WARRANTY DEED

THIS INDENTURE made this 26 day of May, 2023, between Claudia J. Mueller, a single person, ("GRANTOR"); and the 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 ("GRANTEE").

WITNESSETH, for and in consideration of the sum of \$1.00 and other good and valuable considerations, GRANTOR does hereby GRANT, BARGAIN, SELL, AND CONVEY unto GRANTEE all of the following real estate located in Cass County, North Dakota, and described as follows:

Auditor's Lot 1 of the Southwest Quarter (SW1/4) in Section 8, Township 137 North of Range 49 West, of the Fifth Principal Meridian, said tract is also described as follows: Beginning at the Southwest section corner of said Section 8; thence North 0°00'00" East on the west section line of said Section 8 for a distance of 152.50 feet; thence South 89°56'56" East, parallel with the south section line of said Section 8 for a distance of 720 feet; thence South 00°00'00" East, parallel with West section line of said Section 8 for a distance of 152.50 feet; to the South section line of said Section 8; thence North 89°56'56" West on the south section line of said Section 8 for a distance of 720 feet to the point of beginning.

Tax Parcel No. 57-0000-10266-010 DLJ

(the "Property").

Exhibit C: Declaration of Excess Land Form

I hereby declare that OIN 839 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.

Joel Paulsen
Executive Director

February 9, 2024
Date



Memorandum

TO: Joel Paulsen

FROM: Jodi A. Smith

DATE: January 29, 2024

RE: Excess Lands Recommendation – OIN 2185, subject to a 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 Executive Director may be made available for sale, lease, or exchange in accordance with this Policy.

This Memorandum serves as a recommendation for the Executive Director to declare OIN 2185 as Excess Land and begin the process to dispose of the property following the Policy. Note that the parcel is in the Upstream Mitigation Area (UMA) and therefore the Authority (via the Cass County Joint Water Resource District (CCJWRD)) shall reserve a flowage easement on this property as part of a sale.

2. Pertinent Facts Regarding OIN 2185

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| 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 | 2.44 acres |

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| Narrative Description of Parcels | OIN 2185 is located off of 50 th St SE in the Upstream Mitigation Area associated with the project. This former residential property has had all structures removed from the property as part of the project. |
| Purchase Date | September 9, 2021 |
| Purchase Price | \$148,500 (for the lot and structures that have now been removed from property) Land appraised for \$80,000 in the “before” condition and \$7,000 in the “after” condition (i.e., subject to the flowage easement). |
| Proposed Sale Price | \$10,500 Based on a \$4,500 per acre rate. |
| Former Owner | Duane & Donna Siebels |
| Adjacent Owners | OIN 850 – Richard Revocable Trust OIN 838 – Theresa Nelson GST Trust |
| Property Management Approach | No property management approach has been taken to date. |
| Property Taxes | The 2021 property taxes were \$1,176.36 |
| Relation to Construction | 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 demoed 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. |

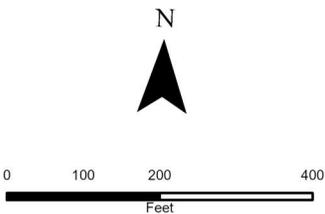
3. Conclusion and Recommendation

Based on the pertinent facts presented above, it is recommended to declare OIN 2185 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



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 Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | 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 | IndividualLayout



OIN: 2185
CASS COUNTY JOINT WATER RESOURCE DISTRICT
Parcel ID: 57-0000-10266-000
Cass County, ND

FM AREA DIVERSION
 Map Date: 12/15/2023



Exhibit B: Legal Description for Parcel Recommended as Excess Lands

The legal description for the parcel is described in a Warranty Deed dated September 10, 2021:

WARRANTY DEED

THIS INDENTURE, made this 10th day of September, 2021, between Duane A. Siebels and Donna Siebels, husband and wife, GRANTORS, and the Cass County Joint Water Resource District, a North Dakota political subdivision, GRANTEE, whose post office address is 1201 Main Avenue West, West Fargo, North Dakota 58078.

WITNESSETH, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, GRANTORS do hereby GRANT, BARGAIN, SELL, AND CONVEY unto the GRANTEE all of the following real property lying and being in Cass County, North Dakota, and described as follows:

Auditor's Lot Number 2 of the Southwest Quarter of Section Eight, Township One Hundred Thirty-seven North, Range Forty-nine West, Cass County, North Dakota, said Auditor's Lot is described as follows:

Commencing at a point which is 720 feet East of the Southwest corner of the Southwest Quarter of Section Eight, Township One Hundred Thirty-seven North, Range Forty-nine West, Pleasant Township, Cass County, North Dakota, and said point is the true point of beginning of Auditors Lot 2 hereinafter described; thence East and along the South Section line of said Southwest Quarter for a distance of 380 feet; thence North and parallel to the West Section line of said Southwest Quarter for a distance of 280 feet; thence West and parallel to said South Section line for a distance of 380 feet; thence South and parallel to said West Section line for a distance of 280 feet to the point of beginning.

Exhibit C: Declaration of Excess Land Form

I hereby declare that OIN 2185 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.

Joel Paulsen

Executive Director

February 9, 2024

Date



Memorandum

TO: Joel Paulsen

FROM: Jodi A. Smith

DATE: January 29, 2024

RE: Excess Lands Recommendation – OIN 5055Y

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 Executive Director may be made available for sale, lease, or exchange in accordance with this Policy.

This Memorandum serves as a recommendation for the Executive Director to declare OIN 5055Y as Excess Land and begin the process to dispose of the property following the Policy.

2. Pertinent Facts Regarding OIN 5055Y

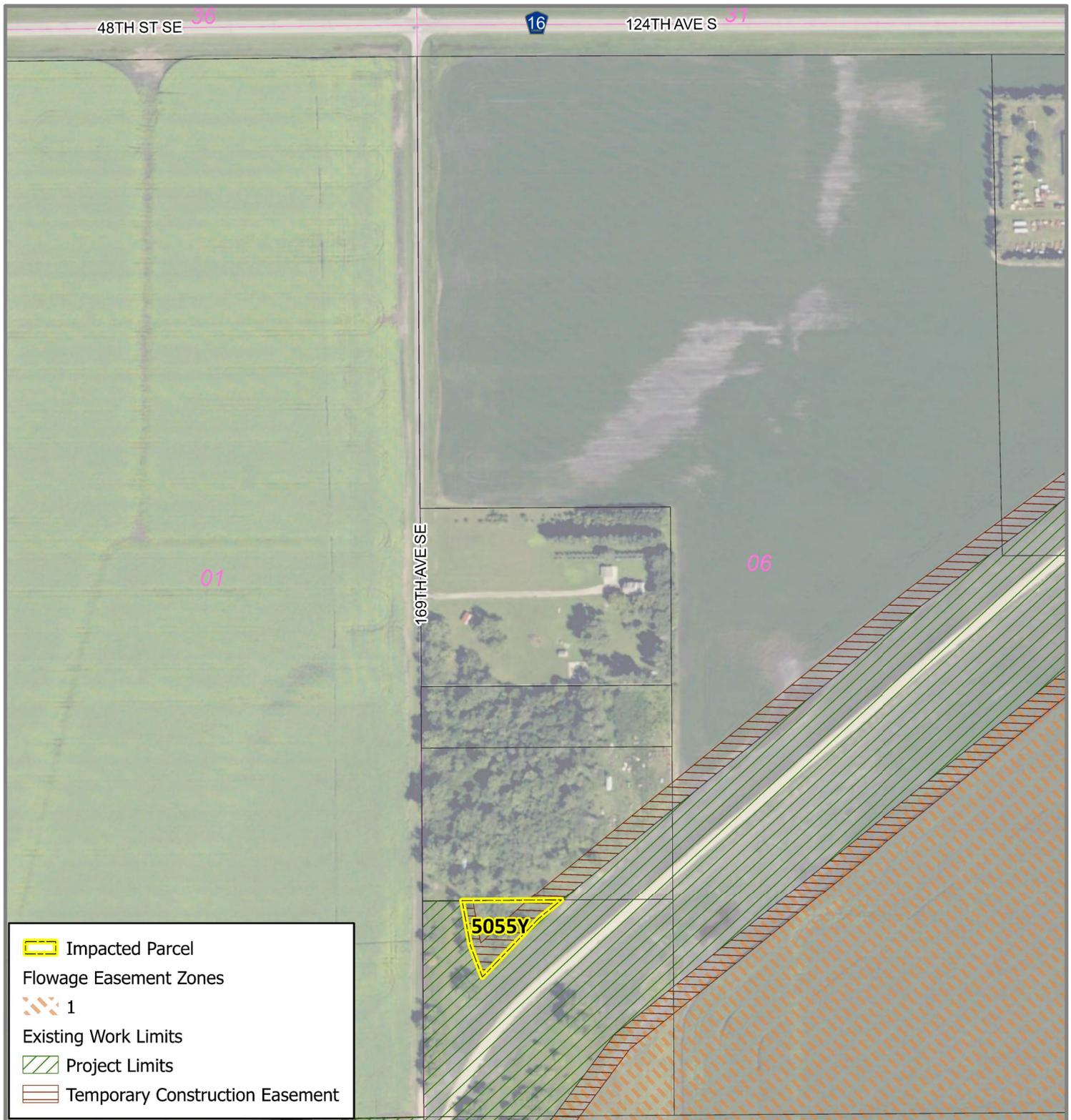
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| Description of Parcel(s) | See Exhibit A for a map showing the parcel recommended as excess land. |
| Legal Description | See Exhibit B for legal description (and certificate of survey) for the parcel recommended as excess land. |
| Asset Parcel(s) Size | 0.49 acres |

| | |
|----------------------------------|---|
| Narrative Description of Parcels | OIN 5055Y is located immediately adjacent to and north of the Southern Embankment Reach 1 (SE-1) component of the Comprehensive Project. The parcel is just east of 169 th Ave SE, but is not accessible directly from 169 th Ave SE. |
| Purchase Date | May 26, 2020 |
| Purchase Price | \$84,000 total acquisition, including former buildings \$61,600 for OIN 5055 land (total of 7.0 acres) |
| Proposed Sale Price | \$2,000 Based on a \$4,500 per acre rate. |
| Former Owner | Carl Felix |
| Adjacent Owners | OIN 5007 – Ronald & Marcella Felix *(only property owner with direct access) |
| Property Management Approach | To date OIN 5055Y has not be leased by Pifer’s nor put on any spraying and weed control contract. This parcel is predominately wooded with little to no property management needed. |
| Property Taxes | There is no available current tax information online. |
| Relation to Construction | This remnant of OIN 5055 is not needed for the construction or operation of the Comprehensive Project. |
| Right of First Refusal | The prior land owner is entitled to a ROFO set to expire on May 26, 2025. If exercised, the owner will pay the purchase price/acre of \$8,800. |

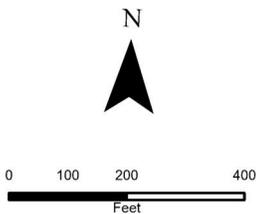
3. Conclusion and Recommendation

Based on the pertinent facts presented above, it is recommended to declare OIN 5055Y 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: 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 | IndividualLayout



OIN: 5055Y
CASS COUNTY JOINT WATER RESOURCE DISTRICT
Parcel ID: 57-0000-10252-031
Cass County, ND

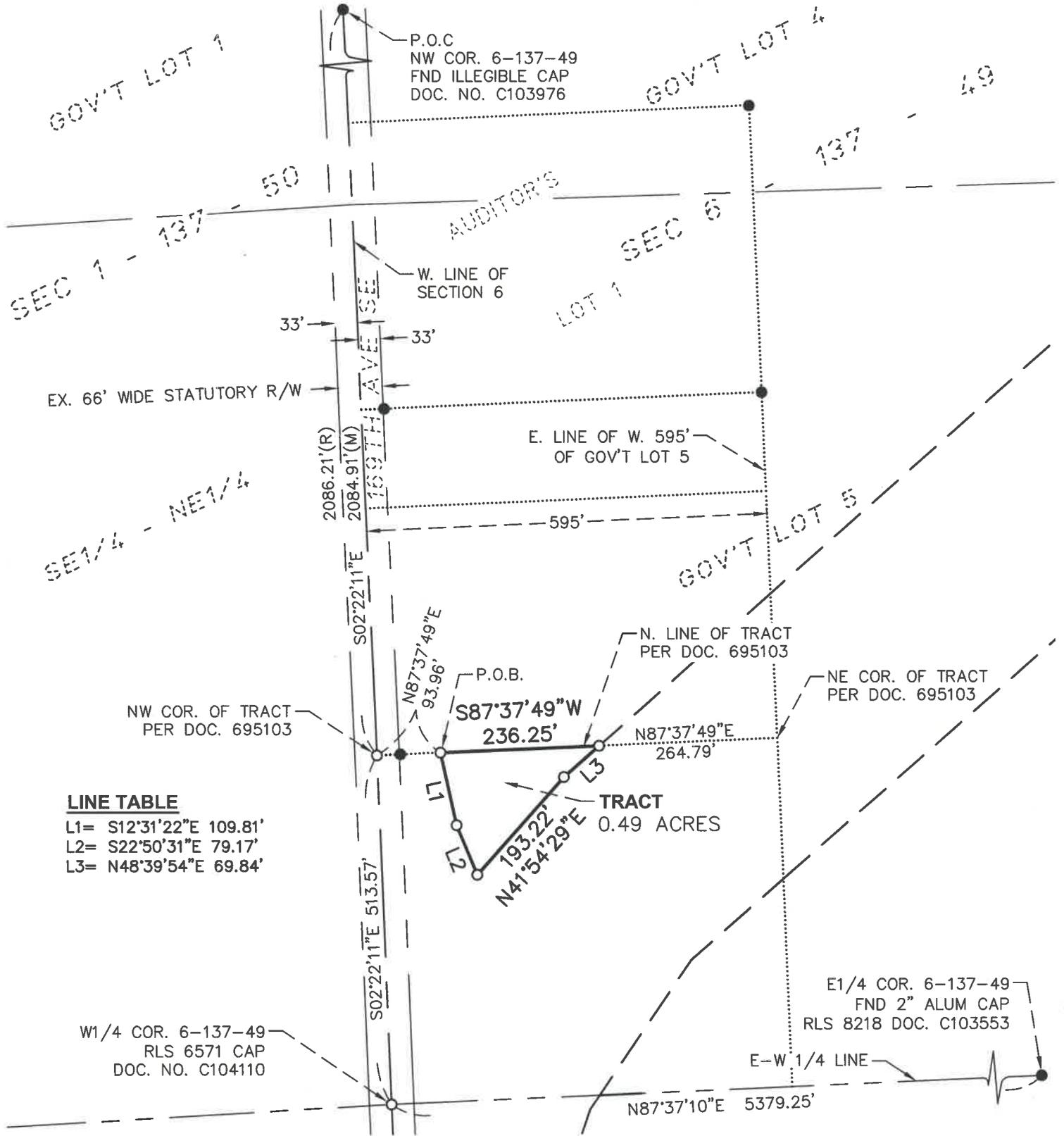
FM AREA DIVERSION
 Map Date: 12/15/2023



Exhibit B: Legal Description for Parcel Recommended as Excess Lands

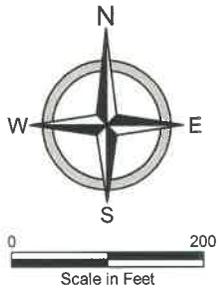
CERTIFICATE OF SURVEY

PART OF GOVERNMENT LOT 5 IN SECTION 6, TOWNSHIP 137 NORTH,
RANGE 49 WEST, CASS COUNTY, NORTH DAKOTA



LINE TABLE

- L1= S12°31'22"E 109.81'
- L2= S22°50'31"E 79.17'
- L3= N48°39'54"E 69.84'



BASIS OF BEARINGS:
THE WEST LINE OF SECTION
6-137-49 HAS AN ASSUMED
BEARING OF S02°22'11"E

- LEGEND**
- IRON MONUMENT FOUND
 - SET 5/8"x18" REBAR WITH YELLOW PLASTIC CAP #6571
 - (M) MEASURED DISTANCE
 - (R) RECORD/DEED DISTANCE



Certificate of Survey - OIN 5055Y
Cass County Joint Water Resource District
Part of Government Lot 5 in Sec. 6-137-49
Cass County, North Dakota

| | |
|-------------|---------------|
| PROJECT No. | 21990 102-3.1 |
| DATE: | 12.21.23 |
| REVISED: | - |
| DRAFTER: | SWH |
| REVIEWER: | CDH |



CERTIFICATE OF SURVEY

PART OF GOVERNMENT LOT 5 IN SECTION 6, TOWNSHIP 137 NORTH,
RANGE 49 WEST, CASS COUNTY, NORTH DAKOTA

DESCRIPTION-TRACT

That part of Government Lot 5 in Section 6, Township 137 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the northwest corner of said Section 6; thence South 02 degrees 22 minutes 11 seconds East on an assumed bearing along the west line of said Section 6 for a distance of 2084.91 feet to the northwest corner of a certain tract of land as described in Warranty Deed Document No. 695103, recorded November 9, 1988, on file and of record in the office of the Recorder, said County; thence North 87 degrees 37 minutes 49 seconds East along the north line of said tract of land for a distance of 93.96 feet to the point of beginning; thence South 12 degrees 31 minutes 22 seconds East for a distance of 109.81 feet; thence South 22 degrees 50 minutes 31 seconds East for a distance of 79.17 feet; thence North 41 degrees 54 minutes 29 seconds East for a distance of 193.22 feet; thence North 48 degrees 39 minutes 54 seconds East for a distance of 69.84 feet to the north line of said tract of land; thence South 87 degrees 37 minutes 49 seconds West along said north line for a distance of 236.25 feet to the point of beginning.

Said tract contains 0.49 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

CERTIFICATION

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



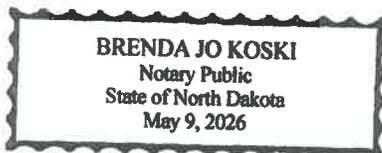
Steven W. Holm

Steven W. Holm, R.L.S.
N.D. License No. LS-6571

Date: 12-21-2023

State of North Dakota)
County of Cass)

On this 21st day of December, 2023, before me, a Notary Public in and for said county and state, personally appeared Steven W. Holm, Registered Land Surveyor, known to me to be the person described in and who executed the foregoing certificate and acknowledged to me that he executed the same as his free act and deed.



Brenda Jo Koski
Notary Public, Cass County, North Dakota

Certificate of Survey - OIN 5055Y

Cass County Joint Water Resource District
Part of Government Lot 5 in Sec. 6-137-49
Cass County, North Dakota

PROJECT No. 21990 102-3.1
DATE: 12.21.23
REVISED: -
DRAFTER: SWH
REVIEWER: CDH



Exhibit C: Declaration of Excess Land Form

I hereby declare that OIN 5055Y 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.

Joel Paulsen
Executive Director

February 9, 2024
Date



Memorandum

TO: Joel Paulsen

FROM: Jodi A. Smith

DATE: January 29, 2024

RE: Excess Lands Recommendation – OINs 726Y2 and 730Y2

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 Executive Director may be made available for sale, lease, or exchange in accordance with this Policy.

This Memorandum serves as a recommendation for the Executive Director to declare OINs 726Y2 and 730Y2 as Excess Land and begin the process to dispose of the property following the Policy.

2. Pertinent Facts Regarding OINs 726Y2 and 730Y2

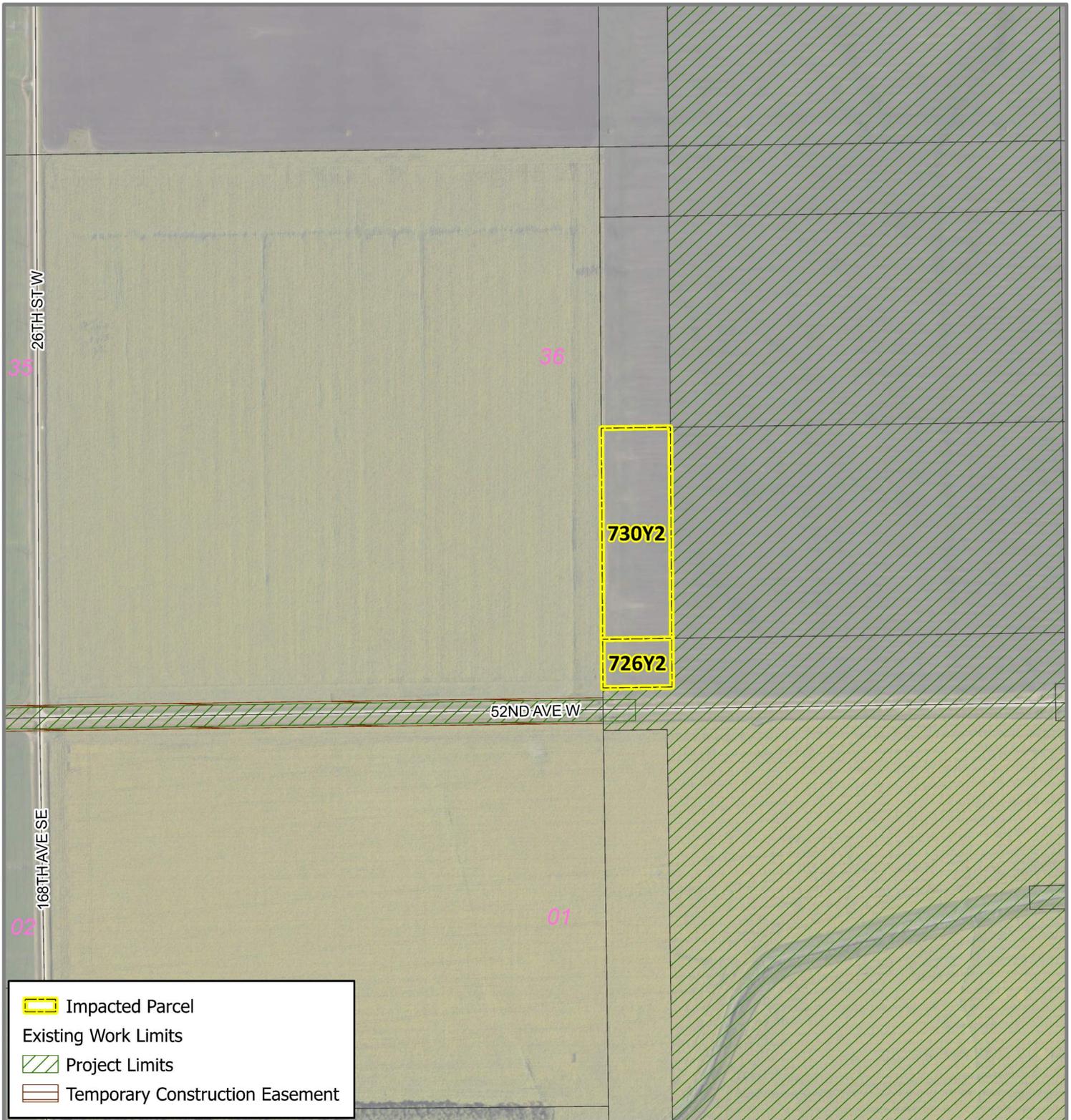
| | |
|--------------------------|---|
| Description of Parcel(s) | See Exhibit A for a map showing the parcels recommended as excess land. |
| Legal Description | See Exhibit B for legal descriptions and certificates of survey for the parcels recommended as excess land. |
| Asset Parcel(s) Size | OIN 726Y2 – 1.72 acres OIN 730Y2 – 7.41 acres |

| | |
|----------------------------------|---|
| Narrative Description of Parcels | OINs 726Y2 and 730Y2 are located adjacent to the Diversion Channel, just north of 52 nd Ave W in Cass County, North Dakota. |
| Purchase Date | May 28, 2020 |
| Purchase Price | \$748,000 – Full take for both larger parcels (total of 77.38 acres) |
| Proposed Sale Price | \$88,260 (\$9,667/acre) Based on prorated purchase price |
| Former Owner | Catherine Furnberg |
| Adjacent Owners | OIN 729 – CCJWRD OIN 1166 – CCJWRD OIN 727 – SE Cass WRD |
| Property Management Approach | OINs 726Y2 and 730Y2 have been leased for farming through Pifer’s Land Management since 2021. |
| Rental Revenue | The following data is associated with the current 2023 farmland lease. OIN 726Y2 – 1.71 acres @ \$150/acre = \$256.50 OIN 730Y2 – 7.4 acres @ \$150/acre = \$1,110.00 |
| Property Taxes | OIN 726Y2 – \$51.04 for 2023 OIN 730Y2 – \$246.15 for 2023 |
| Relation to Construction | The parent parcels were full-take acquisitions for the Diversion Channel portion of the Comprehensive Project. The remnant pieces of these larger parcels are outside of the work limits and not needed for the construction or operation of the Comprehensive Project. |
| Right of First Refusal | The prior landowner is not entitled to a ROFO. |

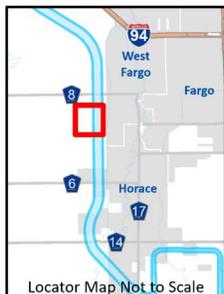
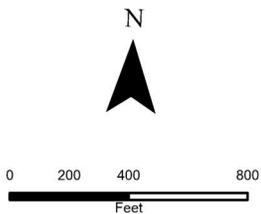
3. Conclusion and Recommendation

Based on the pertinent facts presented above, it is recommended to declare OINs 726Y2 and 730Y2 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 Parcels 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: 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 | IndividualLayout

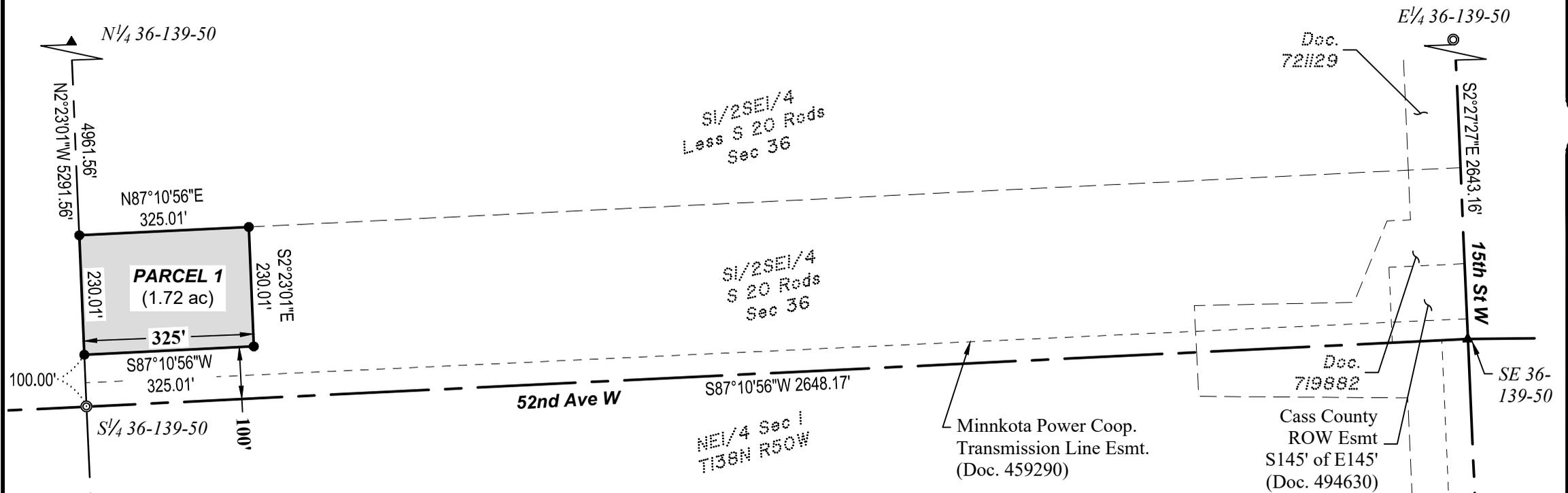


OIN: 726Y2, 730Y2
CASS COUNTY JOINT WATER RESOURCE DISTRICT
Parcel ID: 53-0000-09180-010,
53-0000-09180-040
Cass County, ND
 FM AREA DIVERSION
 Map Date: 1/3/2024



Exhibit B: Legal Descriptions for Parcels Recommended as Excess Lands

CERTIFICATE OF SURVEY



PRELIMINARY

BASIS OF BEARING

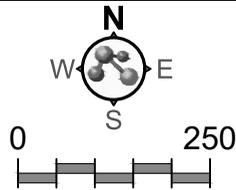
COORDINATE SYSTEM:
 ND STATE PLANE - SOUTH ZONE

HORIZONTAL DATUM:
 NAD83 (Conus)

VERTICAL DATUM:
 NAVD 88 (GEOID 09)

DISTANCES:
 MEASURED ON THE GROUND IN U.S. SURVEY FEET

BASIS OF BEARINGS:
 GRID NORTH



BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS SURVEYS DUE TO DIFFERENT METHODS OF MEASUREMENT.

LEGEND

| | | | |
|-----------|------------------------------|---|--------------------------------------|
| — — — — — | SECTION LINE | ■ | FND ORIGINAL MON. |
| — — — — — | 1/4 LINE | △ | FND IRON MON. W/ ALUM. CAP |
| — — — — — | 1/4 -1/4 LINE | ⊙ | FND IRON MON. W/ PLASTIC CAP |
| — — — — — | EXIST. PARCEL LINE | ○ | FND IRON MON. |
| — — — — — | EXIST. EASE. | ● | SET IRON MON. W/ PLASTIC CAP LS-4185 |
| — — — — — | NEW PARCEL LINE | ▲ | SET IRON MON. W/ ALUM. CAP LS-4185 |
| ▭ | NEW DIVERSION PARCEL | ⊕ | SET NAIL MONUMENT |
| ▨ | TEMP. CONST. EASE. (TCE) (M) | ⊙ | MEASURED |
| ▩ | DEEDED RIGHT-OF-WAY | ⊙ | PREVIOUSLY RECORDED |



CASS COUNTY JOINT WATER RESOURCE DISTRICT
 Part of the South Half of the Southeast Quarter (S1/2SE1/4) of Section 36, T139N, R50W, Cass County, ND

| | |
|-----------------|----------------|
| DRAWING TYPE | COS |
| P10733-2016-005 | 016 04 |
| PREPARED BY | TTH |
| DATE OF SURVEY | March 28, 2019 |
| SHEET | 1 of 2 |
| PROJECT ON | 726Y2 |

Exhibit C: Declaration of Excess Land Form

I hereby declare that OINs 726Y2 and 730Y2 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.

Joel Paulsen

Executive Director

February 9, 2024

Date

Memorandum



To: Metro Flood Diversion Authority Lands Committee

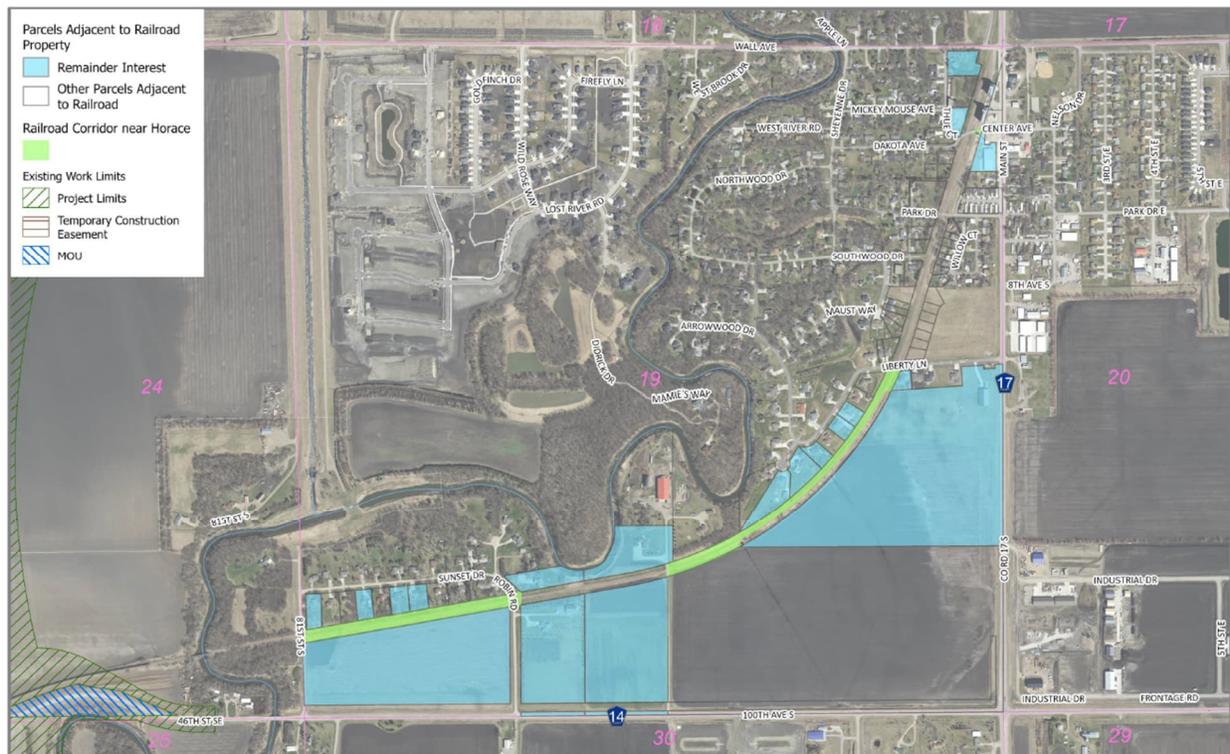
From: Joel Paulsen, Executive Director

Cc: John Shockley, MFDA Legal Counsel

Date: February 21, 2024

Re: Disposal of Abandoned Rail Right of Way

In accordance with and pursuant to prior policy direction from the Diversion Authority Board, the Metro Flood Diversion Authority (MFDA) and the Cass County Joint Water Resource District (CCJWRD) recently completed the acquisition of a portion of BNSF railway right of way near Horace, ND. This purchase was part of an effort to abandon the rail line and avoid constructing a rail bridge across the future FM Area Diversion Storm Water Diversion Channel (SWDCAI). The below map shows highlighted in green the right of way that has been purchased by the MFDA and CCJWRD in December 2023.



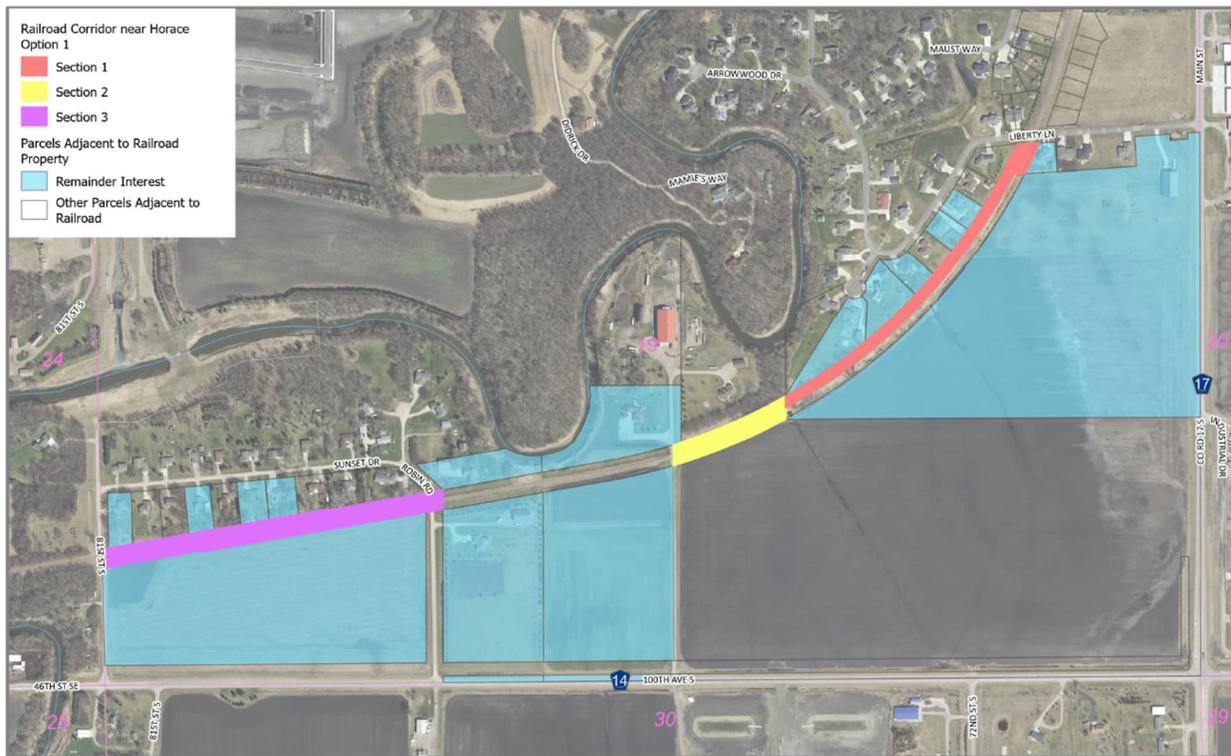
The MFDA purchase price of the railway right of way was \$650,016. This purchase price was based on an appraised value and per BNSF requirements, it included a 15% railroad corridor enhancement factor.

Per the Policy on the Disposition and Management of Comprehensive Project Lands (Policy), land that is no longer needed, not expected to be needed in the future for the Comprehensive Project and declared "Excess Land" by the Executive Director may be made available for sale, lease, or exchange in accordance with the Policy.

The Lands Committee needs to determine how to sell certain portions of the railway corridor.

Option 1

Sell the rail corridor in three sections as outlined in the map below.



Option 2

Sell the rail corridor in multiple sections that align with the residential parcel boundaries as outlined in the map below.

