

**BEFORE THE NOBLES-JACKSON JOINT BOARD OF  
COMMISSIONERS, ACTING AS DRAINAGE AUTHORITY  
FOR NOBLES-JACKSON JOINT COUNTY DITCH #9**

**Findings of Fact and Order Establishing the  
Improvement to Nobles-Jackson Joint Ditch  
#9, Pursuant to Minnesota Statutes 103E.341**

**WHEREAS**, a Petition for the Improvement to Nobles-Jackson Joint Ditch #9 was submitted to the Joint Board; and

**WHEREAS**, several Amended Final Engineer's Reports and Amended Viewers' Reports were submitted to the Nobles and Jackson County Auditors; and

**WHEREAS**, several final hearings were held with the last final hearing being held on December 9, 2020, at 1:30 p.m. at the Worthington Event Center, located in Worthington, Minnesota; and

**WHEREAS**, Chuck Brandel and Jacob Rischmiller of ISG presented an Amended Engineer's Report, which recommended Amendment #3 and which Amended Viewers' Report is incorporated into this Order by reference and recommended that should the Improvement be established, that the project be split into three bid packages that would include the following:

1. 60" Tile, Branch Z and Basin #2;
2. Basin #1 and Open Ditch Work;
3. Main and Branch tile not included in package #1;

and

**WHEREAS**, the duly appointed engineers recommended that separable maintenance be applied with the estimated cost of separable maintenance being \$3,827,898.00 out of the total Improvement costs of \$5,585,409.00; and

**WHEREAS**, the engineers indicated that their opinion was that the project is cost-effective, practicable and feasible and there is a necessity for the project. They also indicated that their opinion was that the project would be of public benefit and contribute to the public welfare of the area and would recommend the establishment of the Amended Engineer's Report, known as Amendment #3; and

**WHEREAS**, the hearing was open for public comment concerning the Amended Engineer's Report and there were several comments, including, but not limited to, the cost of Basin #2, the concern about the cost and whether the estimate will be consistent with the bid costs, comments made by the District #7 Hydraulic Engineer of MNDOT concerning costs attributable to MNDOT, the reduction in tile size and whether it was still close to ½ inch drainage coefficient and discussion of certain tile lines; and

**WHEREAS**, Dan Ruby and Ron Ringquist, two of the duly appointed viewers, gave the Amended Viewers' Report for the Improvement project and that with the changes to the Stammer and Meyerdirk properties, the total benefits for the Improvement would be \$2,020,973.03, and that change would be reflected in the Amended Viewers' Report that will be attached as **Exhibit A**; and

**WHEREAS**, the hearing was open for public comment, including the Viewers' Report; and

**WHEREAS**, there was extensive discussion concerning the MNDOT benefits, the fact that the easement area will be acquired and have been calculated into the cost of the project on the Riley property, a discussion of the three amendments and why Amendment #3 was the recommended project, a discussion of estimated costs versus bid costs, and general discussion of the benefits and landowners' concern as to whether they would receive those benefits; and

**WHEREAS**, there was a discussion concerning a consulting engineer fee of \$8,200.23 from Barr Engineering that was represented to be helpful in the landowner meetings with the engineers and Attorney Bruce Sellers and Attorney Matt Benda, and a discussion that although consulting engineer fees are allowed under Minnesota Statutes 103E.241, Subd. 1, whether they should be approved in this case; and

**WHEREAS**, there were discussions that if there were grants available, they will certainly be pursued by the engineers.

**NOW, THEREFORE**, based on all the evidence presented, the Amended Engineer's Report and the Amended Viewers' Report, and all comments and written statements submitted by the public, the Nobles-Jackson Joint Board of Commissioners, acting as Drainage Authority for Joint Ditch #9, makes the following Findings of Fact and Order:

#### **FINDINGS OF FACT**

1. That Minnesota Statutes 103E.241, Subd. 5, allows for the payment for a consulting engineer fee and a request was made that the consulting engineer from Barr Engineering had their fees paid as part of the project in the amount of \$8,200.23 and that request is approved.
2. The Amended Final Engineer's Report and the Amended Viewers' Report, attached as **Exhibit A**, have been made and other proceedings have been completed under Minnesota Statutes 103E.
3. The reports made or amended are complete and correct.
4. The damages and benefits have been properly determined.
5. The estimated benefits are greater than the total estimated costs, including damages.
6. The proposed drainage project will be of public utility and benefit and will promote the public health.
7. The proposed drainage project is practicable.
8. Separable maintenance, under Minnesota Statutes 103E.215, Subd. 6, is approved and that the repair portion is allocated as repairs as recommended by the engineer

and the balance of the cost of the Improvement is assessed as an Improvement cost as recommended by the engineer is approved.

**ORDER**

**NOW, THEREFORE,** it is hereby ordered that the Improvement for Nobles-Jackson Joint Ditch #9 is hereby established and that the engineers are to proceed toward plans and specifications towards the awarding of the contract.

Dated this 31 day of Dec, 2021<sup>20W</sup>.

NOBLES-JACKSON JOINT BOARD OF  
COMMISSIONERS, ACTING AS DRAINAGE  
AUTHORITY FOR JOINT DITCH #9

By Matthew Liberman  
Its Chairperson