

**JACKSON/NOBLES COUNTY COMMISSIONERS
ACTING AS DRAINAGE AUTHORITY
FOR JUDICIAL DITCH 24**

**Findings and Order Accepting
Contract, Pursuant to
Minnesota Statute 103E.555**

WHEREAS, the Jackson/Nobles Joint County Board of Commissioners, acting as Drainage Authority for the Improvement to the Jackson/Nobles County Joint Judicial Ditch 24, having received the Engineer's Closeout Final Construction Report for the Improvement to Joint County Judicial Ditch 24 is substantially complete, pursuant to MN Statutes 103E.555, made the following Finding and Order:

Findings of Fact

1. That pursuant to Minnesota Statutes 103E.555, Shaun Luker of BOLTON & MENK Engineering, the engineer appointed submitted an Engineer's Report that the Contract for for the construction of the Improvement of Joint Jackson/Nobles Judicial Ditch 24 has been substantially completed.
2. That pursuant to proper notice, a closeout hearing was held on November 17, 2022, at 1:30 p.m. in the Farmer's Room of the Nobles County Courthouse.
3. Shaun Luker of BOLTON & MENK gave a report that summarized the attached Exhibit A indicating the contract has been substantially complete.
4. That following the hearing, Shaun Luker of BOLTON & MENK submitted Exhibit A, which summarizes the work completed and the allocation of Separable Maintenance \$2,516,338.32 and Improvement of \$1,071,408.14 and of the tile to be abandoned Exhibit B and returned to private responsibility.
5. That Shaun Luker of BOLTON & MENK recommended payment of retainage held be made to the Contractor, Loo Con Inc in the amount of \$28,608.29.
6. That the hearing was opened for public comment
 - a. Curtis DeVries shared concerns about the amount of permanent damages to be paid for the land on which the pond was constructed. The Viewer's Report reflects a payment of \$5,000 per acre. He feels there was a disconnect on a negotiation he felt was needed for the payment per acre. Deter stated this process could continue with this issue addressed separately. The commissioners will form a committee to meet with the DeVries to discuss their concerns. There are 8.86 acres involved in pond, the Parties agree that by agreeing to meet, neither Party gives up any legal claim or defense should the matter not be resolved.
 - b. Keith Tordson asked if the DeVries were getting damage payment for a pond, would he receive payment for the WASCOD installation? The engineer stated there was not a negative affect on the acres of the WASCOD, no damages to be paid. He was also concerned about additional damages for acres lost due to a missed connection.
 - c. Steve Nelson asked about additional damages to crop for punch list repairs completed in the second crop year. Also, a concern of washouts to be addressed. The contractor is aware of the washouts, they have not repaired yet.

NOW, THEREFORE, based on the evidence presented and the Findings of Fact, the Joint Jackson/Nobles County Board of Commissioners, acting as Drainage Authority for Joint Jackson/Nobles Judicial Ditch 24, makes the following order:

Order

1. The Drainage Authority finds that the notice requirements under Minnesota Statutes 103E.555 Subd. 1, have been complied with.
2. That the Engineer's Report recommending acceptance of the Contract, complies with the requirements of Minnesota Statutes 103E.555
3. That the contract hearing is accepted as completed.
4. That the portions of Joint Jackson/Nobles Judicial Ditch 24 listed in the Engineer's Report as Exhibit B are hereby abandoned and shall no longer be the responsibility of the Drainage Authority.
5. That the retainage amount of \$28,608.29 shall be paid to the contractor, Loo Con Inc
6. That the board shall meet with landowner DeVries concerning the permanent damages for the pond construction acres.
7. That landowners Tordson and Nelson have additional damages to submit. The engineer shall review the damages as reasonable and accurate and shall add to the damages for payment as appropriate.

Dated this 29 day of November, 2022

**Nobles and Jackson County Commissioners
Acting as Drainage Authority for
Jackson/Nobles Judicial Ditch 24**

By 
Its Chairperson