

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

August 3rd, 2020

PROPERTY OWNER: Raymond Kvalvog & Mark Nyquist

LAND AGENT: Patrick Roberts with ProSource

OIN: 9400



FM AREA
DIVERSION
PROJECT



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Written Correspondence Timeline – Ray Kvalvog & Mark Nyquist

OIN 9400	Sent	Received
Offer to Purchase	10/7/2019	10/10/2019
Formal Negotiations and Written Offer of Just Compensation	2/21/2020	3/20/2020
Request for Meeting	4/6/2020	4/7/2020
Notice of Intent to Take Possession of Right-of-Way	5/22/2020	5/27/2020
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	6/26/2020	6/26/2020
Invitation to Attend Public Meeting	6/29/2020	7/1/2020
Commission Meeting Date	8/3/2020	

CASS COUNTY COMMISSION
CHECKLIST — COMPLIANCE WITH N.D. CENT. CODE § 61-16.1-09(2)
FARGO-MOORHEAD AREA DIVERSION PROJECT

A. Subject Property Information:

1. Landowner: Raymond Kvalvog and Mark Nyquist
2. Land Agent: Patrick Roberts
3. Parcel No.: 57-0000-10204-003
4. OIN No.: 9400

B. Verification:

1. NDCC § 61-16.1-09(2)(b)(1)(a) requires the Cass County Joint Water Resource District (“CCJWRD”) to conduct 60 days of informal negotiations.
 - Did CCJWRD verify at least 60 days of informal negotiations with Landowner:

2. NDCC § 61-16.1-09(2)(b)(1)(b)[1] requires CCJWRD to send the landowner an appraisal and written offer for just compensation by certified mail or commercial delivery requiring a signed receipt or other evidence of constructive notice.
 - Did CCJWRD verify it sent Landowner an appraisal and written offer for just compensation: _____
 - Did CCJWRD verify service of the appraisal and offer by certified mail or commercial delivery, and that Landowner either signed for them or had constructive notice: _____
3. NDCC § 61-16.1-09(2)(b)(1)(b)[2] requires CCJWRD to send Landowner a written request for a meeting by certified mail or commercial delivery requiring a signed receipt [if the parties have not come to an agreement within 15 days of Landowner’s receipt or notice of CCJWRD’s offer].
 - Did CCJWRD verify it sent Landowner a written request for a meeting by certified mail or commercial delivery, and that Landowner either signed for the notice or had constructive notice: _____

4. NDCC § 61-16.1-09(2)(b)(1)(b)[3] requires CCJWRD to send Landowner a written notice of intent to take possession of the right of way, by certified mail or commercial delivery requiring a signed receipt [if the parties have not come to an agreement within 30 days of Landowner's receipt or notice of CCJWRD's invitation to a meeting].
 - Did CCJWRD verify it sent a written notice of intent to take possession of right away by certified mail or commercial delivery, and that Landowner either signed for the notice or had constructive notice: _____
5. NDCC § 61-16.1-09(2)(b)(2) requires all written communications to Landowner to include contact information for responding to CCJWRD and a description of the required negotiation timeline.
 - Did CCJWRD verify that all written communications to Landowner included contact information for responding to CCJWRD and a description of the required negotiation timeline: _____
6. NDCC § 61-16.1-09(2)(b)(3) prohibits a district from including or utilizing any reference to quick take eminent domain during negotiations.
 - Did CCJWRD verify it did not include or utilize any reference to quick take eminent domain during negotiations: _____

If the Commission answers in the affirmative to the above questions,

RECOMMENDED MOTION:

- I move to authorize the Cass County Joint Water Resource District to utilize quick take eminent domain under Section 61-16-1.09(2) of the North Dakota Century Code to take an easement for a right of way, and temporary easement (if any), regarding the OIN described above in A.4.

FM Area Diversion Project

Property Negotiation Summary

July 27, 2020

Owner	Ray Kvalvog & Mark Nyquist
Address	323 48 th Avenue SW Moorhead, MN 2801 23 rd Street S Fargo, ND
Property Location	Red River Control Structure – Cass County, ND
Property Type	Currently zoned as Agriculture
OIN	9400
Land Firm & Land Agent	ProSource – Pat Roberts

Property Need:

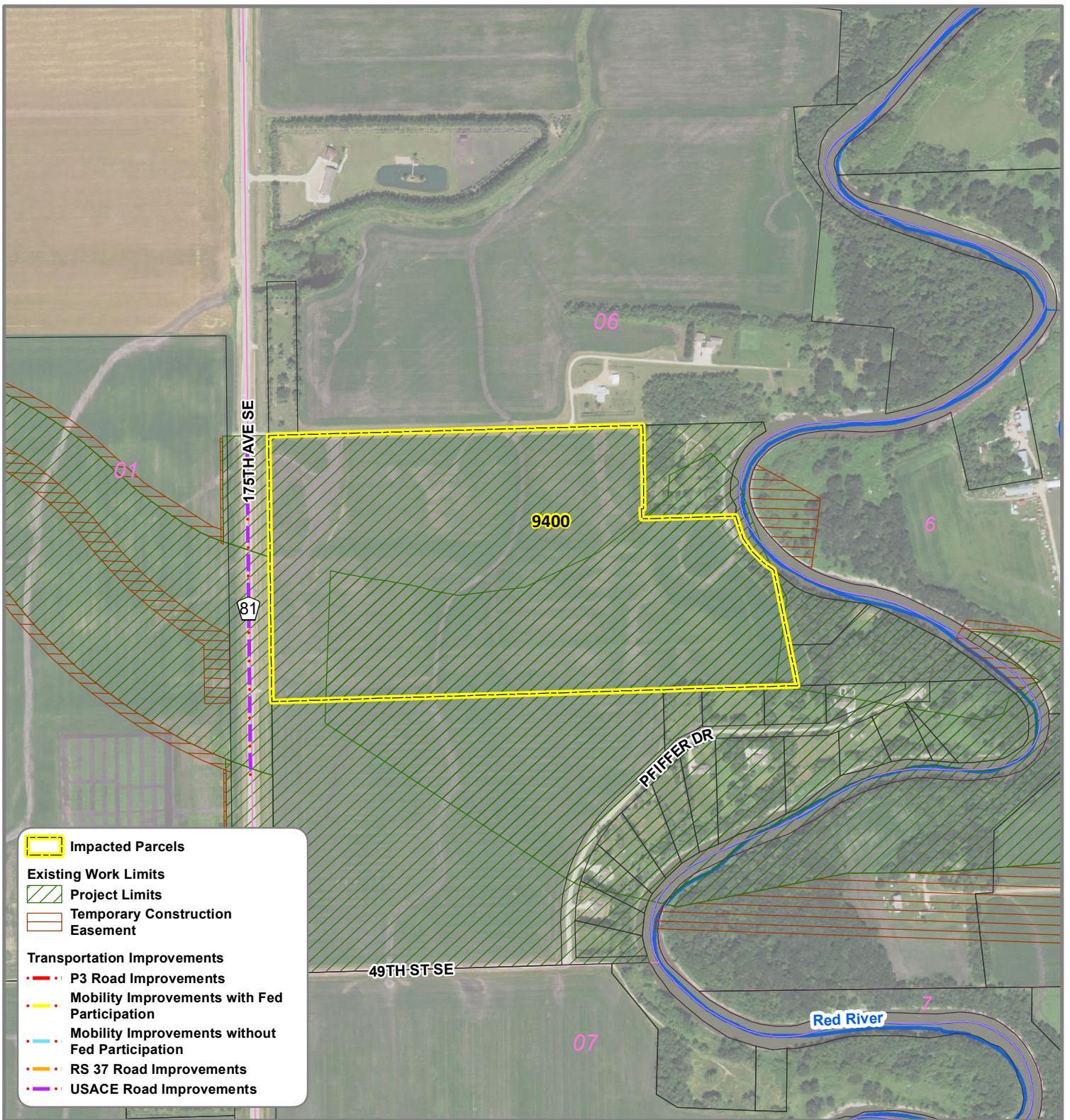
The parcel is the location of the Red River control Structure for the project. The Diversion Authority is required to obtain the parcel for the control structure. The Diversion is acquiring the whole 68.50-acre parcel.

Valuation and Negotiation Summary:

Appraisal Value / Date	\$411,000 / May 16, 2019 68.5 acres @ \$6000/acre
Counteroffer	\$1,400,000 Based on a landowner ordered appraisal received 2-25-20 68.5 acres @ \$20,438/acre
Purchase Agreement Value	

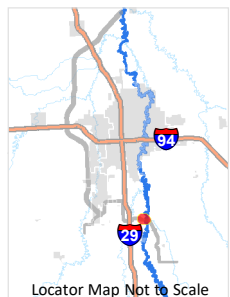
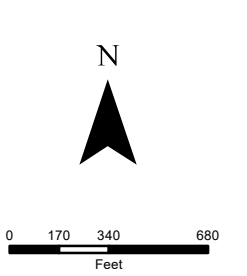
Negotiation Notes

- Land Agent is Pat Roberts from ProSource
- Landowner refused this offer. Appraisal based on agriculture. Landowner indicated the property should have been appraised as land development.



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 | Produced by: hrecords - AE2S, Inc. | C:\Data\Projects\GIS Projects\FM Area Diversion\Projects\Land Acquisition\Project Work Package\IProject Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105.mxd



OIN: 9400
RAYMOND KVALVOG ETAL
Parcel ID: 57-0000-10204-003
Cass County, ND

FM AREA DIVERSION
 Map Date: 6/15/2020



October 7, 2019

Delivered Via US Mail

9219 East River Road NW
Minneapolis, Minnesota 55433
763-786-1445
Fax 763-786-1030
www.prosourcetech.com

Raymond Kvalvog and Mark Nyquist
323 48th Ave SW
Moorhead, MN 56560

RE: General Information Notice –Personal Property Only
Fargo-Moorhead Area Flood Diversion Project
Property Address: Unassigned Address
PID(s): 57-0000-10204-003
Project Parcel ID(s): 9400

Dear Raymond Kvalvog and Mark Nyquist:

Cass County Joint Water Resource District (CCJRWd) is considering acquiring the property located at Unassigned Address for the proposed construction of the channel and southern embankments as part of Fargo-Moorhead Metropolitan Area Flood Risk Management Project for the purpose of diversion of flood water from the Red River around Fargo-Moorhead. This notice serves to inform you of your rights under a federal law known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA). ProSource Technologies, LLC (ProSource) has been contracted as the consultant to perform the duties necessary for this project.

If you are determined to be eligible for relocation assistance in the future, you may be eligible for: 1) Relocation advisory services; 2) At least 90 days advance written notice of the date you will be required to move any personal property; 3) Payment for your moving and expenses (as applicable). The enclosed brochure entitled, "Relocation Assistance: Your Rights and Benefits" provides an explanation of this assistance and other helpful information.

You also have the right to appeal the agency's determination if you feel that your application for assistance was not properly considered.

(NOTE: Pursuant to Public Law 105-117, aliens not lawfully present in the United States are not eligible for relocation assistance, unless such ineligibility would result in exceptional hardship to a qualifying spouse, parent, or child. All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.)

Please be advised that you should continue to pay your MORTGAGE OR RENT AS APPLICABLE and meet any other obligations as required. If you choose to move, it is important for you to contact us before making any moving plans.

Again, this is not a notice to vacate the premises and does not establish your eligibility for relocation payments or assistance at this time.

If you are required to move your personal property as a result of this project, you may be eligible for relocation assistance and payments under the URA. You will not be required to move your personal property without at least 90 days advance written notice. In the event the proposed project does not proceed or it is not required that you move your personal property, you will also be notified in writing.

Should you have any questions or concerns, please feel free to contact me at 319-899-0433 or in writing at: ProSource Technologies, Inc., Attn: Patrick Roberts, 9219 East River Road NW, Minneapolis, MN 55433.

Please acknowledge receipt of this letter by signing the photocopy enclosed and returning it in the envelope provided. For your own records, please retain this original letter. We appreciate your cooperation in this matter.

Sincerely,
ProSource Technologies, Inc.



Patrick Roberts
Acquisition/Relocation Project Manager

cc: Cass County Joint Water Resources Districts
 Fargo Metro Diversion Authority
 CH2M HILL Engineers, Inc

Enclosures (1)

ACKNOWLEDGEMENT

I hereby acknowledge receipt of a copy of this General Information Notice and the brochure entitled, "Relocation Assistance: Your Rights and Benefits".

Name

Date

Name

Date

OIN(s): 9400
Project Parcel Number



usps tracking



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About 47,500,000 results (0.73 seconds)

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Data provided by USPS

Tracking number 9114902307224173972021

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October 10, 01:20PM
Moorhead, MN

View details on USPS

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<https://www.usps.com/shipping/trackandconfirm> ▾

Can't find what you're looking for? Go to our FAQs section to find answers to your tracking questions. FAQs. Close Modal ...

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<https://www.usps.com/manage> ▾

With **USPS** you can manage mail delivery for your home, business, or PO Box ... your incoming packages on one dashboard without entering tracking numbers.

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<https://tools.usps.com/TrackConfirmAction> ▾

USPS doesn't yet have a status update on this item shipped from the Post Office. Information is usually updated within the hour of your visit. Please check back ...

Tracking Home - USPS Tracking

<https://tools.usps.com/TrackConfirmAction.action> ▾

Sorry, we're currently experiencing technical difficulties with our tracking application. We thank you for your patience while we work to resolve the issue. Please ...

USPS - Track - USPS.com

<https://www.usps.com/nationalpremieraccounts/trackmailing> ▾

Use these tracking services to keep up with your mailing. Mail Tracking & Reporting provides access to the following services: ...

USPS Tracking® - The Basics - USPS.com Help

<https://faq.usps.com/article/USPS-Tracking-The-Basics> ▾

Sep 17, 2019 - **USPS Tracking®** service provides end-to-end item tracking. This article provides in-depth information on how to use the service, what ...

USPS Package Tracking

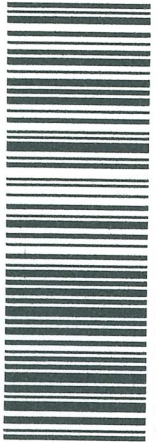
parcelsapp.com/carriers/usps ▾

Track **USPS** packages from China, international or domestic with multiple partner carriers.

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Label 400 Jan. 2013
7590-16-000-7948

ProSource
TECHNOLOGIES

9219 East River Rd. NW
Coon Rapids, MN 55433

Raymond Kvalvog and Mark Nyquist
323 48th Ave SW
Moorhead, MN 56560



CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY

**Cass County
Joint Water
Resource
District**

February 21, 2020

Raymond Kvalvog
323 48th Avenue SW
Moorhead, MN 56560-6752
Certified No. 7018 0040 0000 5525 7240

Dan Jacobson
Chairman
West Fargo, North Dakota

Mark Nyquist
2801 23rd Street S
Fargo, ND 58104
Certified No. 7018 0040 0000 5525 7257

Rodger Olson
Manager
Leonard, North Dakota

Greetings:

Ken Lougheed
Manager
Gardner, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OIN: 9400
Parcel No.: 57-0000-10204-003

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

The Cass County Joint Water Resource District (the "District") is in the process of acquiring property interests necessary for the Fargo-Moorhead Area Diversion Project (the "Project"), and the District has been in discussions with you regarding right of way the District must acquire from you to accommodate the Project. The District directed me to provide you this letter as the District's formal offer to purchase right of way from you. More specifically, to accommodate the Project, the District must acquire right of way from you with respect to property located in Cass County and identified as Parcel Identification Number 57-0000-10204-003. The legal description of the property to be acquired is:

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

Right of Way:

Government Lots 5 and 8 (sometimes referred to as the N $\frac{1}{2}$ SW $\frac{1}{4}$) of Section Six (6), in Township One Hundred Thirty-seven (137) North of Range Forty-eight (48) West of the 5th Principal Meridian, Cass County, North Dakota, lying West of the Red River of the North, EXCEPT the following described tracts:

701-298-2381
FAX 701-298-2397
wrđ@casscountynđ.gov
casscountynđ.gov

All that part of said Government Lot 8 lying Northerly and Easterly of the following described line: Beginning at a point on the North line of said Government Lot 8, 1894.52 feet East of the Northwest corner of said Government Lot 5; thence South 00°00'00" East a distance of 452.28 feet; thence South 90°00'00" East a distance of 455 feet, more or less to the West Bank of the Red River of the North, and there terminating.

-AND-

All that part of said Government Lot 8, lying Easterly of the following described line: Beginning at a point on the South line of said Government Lot 8, a distance of 2647.0 feet East of the Southwest corner of Government Lot 5; thence North 11°28'40" West a distance of 570 feet more or less to the West Bank of the Red River of the North, and there terminating.

-AND-

Less the West 100 feet of said North Half of the South Half of Section Six, Township One Hundred Thirty-seven North of Range Forty-eight West, for highway right-of-way record.

Enclosed is an appraisal regarding the value of the right of way the District must acquire from you, as determined by a licensed North Dakota appraiser. As you can see from the appraisal, the appraiser indicated the value of the right of way the District must acquire from you is \$411,000.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$411,000.00 as just compensation to purchase right of way from you for the Project. If you are willing to accept the District's offer, please sign the enclosed *Purchase Agreement* and return it to the District in the enclosed self-addressed, stamped envelope.

You are encouraged to maintain contact with the land agent assigned to your property. **Patrick Roberts** of ProSource Technologies, LLC can be reached at **(763) 786-1445** or **proberts@prosourcetech.com**. Pat is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way from you for the Project.

For your information, North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way. If you do not accept the District's offer of just compensation and do not return a signed Purchase Agreement within fifteen (15) days, the District will send you a written request to discuss the Project and required right of way to be acquired at an upcoming Cass County Joint Water Resource District meeting. Ultimately, the District must conclude all negotiations and complete all acquisitions by Fall 2020.

Raymond Kvalvog
Mark Nyquist
February 21, 2020
Page 3

We look forward to reaching a mutually acceptable agreement to resolve this matter.
Thank you for your consideration.

Sincerely,


CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis
Secretary-Treasurer
1201 Main Avenue West
West Fargo, ND 58078
(701) 298-2381
Lewisc@casscountynd.gov

Enclosures

cc: Pat Roberts, Land Agent,
Eric Dodds, Program Manager, AE2S
Chris McShane, Ohnstad Twichell, P.C.
Chad Peterson, Cass County Commission Chair
Robert Wilson, Cass County Administrator
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X <i>[Handwritten Signature]</i></p>
<p>1. Article Addressed to:</p> <p>RAYMOND KVALVOG 323 48TH AVE SW MOORHEAD MN 56560-6752</p>	<p>B. Received by (<i>Printed Name</i>) C. Date of Delivery</p> <p><i>Kathie Hunt</i> 2/27/20</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
 <p>9590 9402 3806 8032 1529 83</p>	<p>3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> Signature Confirmation Restricted Delivery (over \$500)</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>
<p>2 Article Number (<i>Transfer from service label</i>)</p> <p>7018 0040 0000 5525 7240</p>	<p>Domestic Return Receipt</p>

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MARK NYQUIST
 6498 40TH STREET S
 MOORHEAD MN 56560-7602



9590 9402 3806 8032 1528 15

2. Article Number (Transfer from service label)

7018 0040 0000 5525 7417

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Jeremy J. [Signature]

- Agent
- Addressee

B. Received by (Printed Name)

Jeremy

C. Date of Delivery

3/20

- D. Is delivery address different from item 1? Yes
- If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

April 6, 2020

**Cass County
Joint Water
Resource
District**

Raymond Kvalvog
323 48th Avenue SW
Moorhead, MN 56560-6752
Certified No. 7019 1640 0002 0398 8170

Mark Nyquist
6498 40th Street S
Moorhead, MN 56560-7602
Certified No. 7019 1640 0002 0398 8187

Dan Jacobson
Chairman
West Fargo, North Dakota

Greetings:

Rodger Olson
Manager
Leonard, North Dakota

RE: Cass County Joint Water Resource District
 Fargo-Moorhead Area Diversion Project
 Request for Meeting
 OIN: 9400
 Parcel No.: 57-0000-10204-003

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). The District previously provided you a letter dated February 21, 2020; a copy of the District's appraisal for the right of way needed from you; and a Purchase Agreement as the District's offer of just compensation to purchase the right of way from you. The District's letter specifically described the right of way the District must acquire from you for the Project. We have not received a signed Purchase Agreement from you, and we have not otherwise arrived at mutually acceptable terms regarding the District's purchase of right of way from you to accommodate the Project.

Carol Harbeke Lewis
Secretary-Treasurer

The District requests your attendance at a meeting to discuss the District's offer to purchase right of way from you. The District is meeting at 8:00 a.m., on April 9, 2020, April 23, 2020, and May 14, 2020. Over the next several months, District meetings will be conducted via conference call and District board members will not be attending in person. The requirements that a meeting room be available to the public and that a speakerphone or monitor be provided at a physical location under NDCC § 44-04-19 have been suspended indefinitely pursuant to Governor Burgum's Executive Order 2020-16; therefore, we request your attendance by telephone.

1201 Main Avenue West
West Fargo, ND 58078-1301

The District hopes you will attend one of the above-mentioned meetings to discuss the Project and the right of way the District must acquire from you to accommodate the Project. If you would like to attend one of the meetings by phone, please contact me or Melissa Maertens at (701) 298-2381 at least 24 hours in advance of the meeting so the necessary arrangements can be made and the call-in information provided to you.

701-298-2381
FAX 701-298-2397
wrд@casscountynd.gov
casscountynd.gov

Raymond Kvalvog
Mark Nyquist
OIN 9400
April 6, 2020
Page 2

Please continue to maintain contact and negotiate with the land agent assigned to your property. **Patrick Roberts** of ProSource Technologies, LLC is your point of contact for getting answers to any questions you have about the Project. Pat can be reached at **(763) 786-1445** or **proberts@prosourcetech.com**.

North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way. The District must conclude all negotiations and complete the acquisition of right of way necessary for construction of Project components on your property by Fall of 2020.

The District hopes you will attend one of the upcoming District meetings to discuss the Project and the required right of way. The District looks forward to meeting with you.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis
Secretary-Treasurer
1201 Main Avenue West
West Fargo, ND 58078
(701) 298-2381
lewisc@casscountynd.gov

cc: Pat Roberts, Land Agent
Eric Dodds, Program Manager, AE2S
Chris McShane, Ohnstad Twichell, P.C.
Chad Peterson, Chair, Cass County Commission
Robert Wilson, Cass County Administrator
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

RAYMOND KVALVOG
323 48TH AVENUE SW
MOORHEAD MN 56560-6752



9590 9402 3806 8032 1547 41

2. Article Number (Transfer from service label)

7019 1640 0002 0398 8170

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
X V Weber Addressee

B. Received by (Printed Name) *CIR RRY* C. Date of Delivery *4-7-20*

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Insured Mail
 - Insured Mail Restricted Delivery (over \$500)
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 MARVIN W. LIQUIST
 11111 STREET S
 MOOREHEAD MN 56560-7602



9590 9402 3806 8032 1549 32

2. Article Number (Transfer from service label)
 7019 1640 0002 0398 8187

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *[Signature]* *GP* Agent
 Addressee

B. Received by (Printed Name) *[Signature]* C. Date of Delivery
 4/7/20

D. Is delivery address different from item 1? Yes
 No
 If YES, enter delivery address below:

3. Service Type
- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input checked="" type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |

Domestic Return Receipt



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

May 22, 2020

Cass County
Joint Water
Resource
District

Raymond Kvalvog
323 48th Avenue SW
Moorhead, MN 56560-6752
Certified No. 7019 1640 0002 0398 8705

Dan Jacobson
Chairman
West Fargo, North Dakota

Mark Nyquist
6498 40th Street S
Moorhead, MN 56560-7602
Certified No. 7019 1640 0002 0398 8712

Rodger Olson
Manager
Leonard, North Dakota

Greetings:

Ken Lougheed
Manager
Gardner, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY
OIN: 9400
Parcel No. 57-0000-10204-003

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). On behalf of the District, I previously provided you a letter dated February 21, 2020, a copy of the District's appraisal for your right of way, and a Purchase Agreement as the District's offer of just compensation to purchase the right of way from you. In addition, I also provided you a letter dated April 6, 2020, to invite you to meet with the District for purposes of discussing the acquisition of your land. The parties have conducted the informal and formal negotiation procedures required by law but, unfortunately, the parties have not yet reached a mutually-acceptable agreement regarding compensation for the District's purchase of the right of way from you to accommodate the Project.

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

This letter is the District's NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY. If we do not have an agreement, the District will be requesting approval from the Cass County Commission to take possession of a right of way easement over your property. Cass County will provide you with at least 30 days' notice of a public meeting, and will invite you to the meeting to discuss the District's request.

701-298-2381
FAX 701-298-2397
wrđ@casscountynđ.gov
casscountynđ.gov

This NOTICE does not preclude the parties from continuing negotiations. The District still hopes the parties can arrive at a mutually-acceptable agreement.

Raymond Kvalvog
Mark Nyquist
OIN 9400
May 22, 2020
Page 2

You are encouraged to maintain contact with the land agent assigned to your property. **Patrick Roberts** of **ProSource Technologies, LLC** can be reached at **(763) 786-1445** or **proberts@prosourcetech.com**. Pat is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way from you for the Project.

North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way. Ultimately, the District must conclude all negotiations and complete all acquisitions by Fall 2020.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis
Secretary-Treasurer
1201 Main Avenue West
West Fargo, ND 58078
(701) 298-2381
lewisc@casscountynd.gov

cc: Pat Roberts, Land Agent
Chris McShane, Ohnstad Twichell, P.C.
Chad Peterson, Chair, Cass County Commission
Robert Wilson, Cass County Administrator
Birch Burdick, Cass County State's Attorney
Eric Dodds, Program Manager, AE2S
Joel Paulsen, Executive Director, Diversion Authority

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

RAYMOND KVALUDG
 323 43TH AVENUE SW
 MOORHEAD MN 56560-6752



9590 9402 3806 8032 1544 06

2. Article Number (Transfer from service label)

7019 1640 0002 0398 8705

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

Karnie Kvaludg

C. Date of Delivery

5/27/20

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MARK NYQUIST
 6498 40TH STREET S
 MOORHEAD MN 56560-7602



9590 9402 3806 8032 1544 13

2. Article Number (Transfer from service label)

7019 1640 0002 0398 8712

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

[Handwritten Signature] RA

- Agent
- Addressee

B. Received by (Printed Name)

C-19

C. Date of Delivery

5/26

- D. Is delivery address different from item 1? Yes
- If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt



SENT VIA EMAIL wilsonro@casscountynd.gov

June 26, 2020

Cass County
Joint Water
Resource
District

Robert Wilson
Cass County Administrator
Cass County Commission
211 9th Street S
Fargo, ND 58103

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Approval to Take Possession of Necessary Right of Way
OIN: 9400
Parcel No. 57-0000-10204-003

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of acquiring the right of way necessary for the Fargo Moorhead Diversion Area Project ("Project"). I previously copied you on the following three letters whereby the District sought to negotiate the acquisition of the right of way from Raymond Kvalvog and Mark Nyquist (the "Landowner"):

- Letter dated February 21, 2020, enclosing the District's appraisal for the acquisition of the right of way from the Landowner and a proposed Purchase Agreement;
- Letter dated April 6, 2020, inviting the Landowner to meet with the District for purposes of negotiating compensation for the right of way to be acquired; and
- Letter dated May 22, 2020, notifying the Landowner the District planned to submit a request to the Cass County Commission seeking immediate possession of the right of way necessary for the Project.

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

701-298-2381
FAX 701-298-2397
wrđ@casscountynd.gov
casscountynd.gov

The District has conducted months of negotiations with the Landowner to arrive at a mutually acceptable agreement for the District's purchase. More specifically, the District engaged in both informal and formal negotiations with the Landowner, as required under N.D. Cent. Code § 61-16.1-09(2)(b), in an effort to reach agreement regarding fair compensation to the Landowner for the acquisition of the necessary right of way over, across, and through certain property owned by the Landowner in Cass County, North Dakota. The legal description of the necessary right of way is as follows:

Right of Way Easement:

Government Lots 5 and 8 (sometimes referred to as the N½ SW¼) of Section Six (6), in Township One Hundred Thirty-seven (137) North of Range Forty-eight (48) West of the 5th Principal Meridian, Cass County, North Dakota, lying West of the Red River of the North, EXCEPT the following described tracts:

All that part of said Government Lot 8 lying Northerly and Easterly of the following described line: Beginning at a point on the North line of said Government Lot 8, 1894.52 feet East of the Northwest corner of said Government Lot 5; thence South 00°00'00" East a distance of 452.28 feet; thence South 90°00'00" East a distance of 455 feet, more or less to the West Bank of the Red River of the North, and there terminating.

-AND-

All that part of said Government Lot 8, lying Easterly of the following described line: Beginning at a point on the South line of said Government Lot 8, a distance of 2647.0 feet East of the Southwest corner of Government Lot 5; thence North 11°28'40" West a distance of 570 feet more or less to the West Bank of the Red River of the North, and there terminating.

-AND-

Less the West 100 feet of said North Half of the South Half of Section Six, Township One Hundred Thirty-seven North of Range Forty-eight West, for highway right-of-way record.

As you may recall, in 2017, the North Dakota Legislature modified the process for water resource districts to acquire immediate possession of right of way necessary for water projects; the new process is set forth in Section 61-16.1-09(2)(b). The District has followed all of the necessary steps under the statute, but the parties have not reached a mutually acceptable agreement. Under the new acquisition process enumerated in Section 61-16.1-09(2)(b)(3), the District must next seek the County Commission's approval to proceed further, and to ultimately utilize quick take eminent domain to take possession of the right of way above to commence the Project.

More specifically, Section 61-16.1-09(2)(b)(3) requires the County Commission to hold a public meeting and to provide the Landowner no less than thirty days' notice of the meeting. The District will also attend the meeting, along with the land agent, Patrick Roberts, who was the Landowner's main point of contact throughout the negotiation process. Prior to the public meeting, the land agent and the District will verify neither the District nor any of its agents referenced or threatened quick take eminent domain during the informal and formal negotiation process.

Robert Wilson
June 26, 2020
Page 3

While the District takes all landowners' rights very seriously, the District also has an obligation, as a member of the Metro Flood Diversion Authority, to acquire the right of way necessary for the Project, and construction of the Project will not be possible without acquiring the right of way identified above. As the District will explain and verify for the Commission in more detail through this process, the District provided the Landowner with the District's appraisal as the starting point for negotiations, then attempted to negotiate further with the Landowner over the course of several months. This step is not one the District takes lightly; quick take eminent domain is a serious undertaking, and the District has negotiated in good-faith with the Landowner to avoid this process. Despite the District's efforts to be fair, friendly, and flexible in both the informal and formal negotiations with the Landowner, unfortunately, the parties have not reached a mutually acceptable agreement for the acquisition of the right of way.

The District respectfully requests that the Cass County Commission proceed with the public meeting process under Section 61-16.1-09(2)(b)(3) regarding the Landowner and the right of way identified in this letter. Further, the District respectfully requests that the Cass County Commission ultimately approve the District's use of quick take eminent domain to take possession of the right of way identified above by quick take eminent domain so the Project may proceed. For your information, while the County conducts the process under Section 61-16.1-09(2)(b)(3), the District still hopes the parties can arrive at a mutually-acceptable agreement.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis
Secretary-Treasurer
1201 Main Avenue West
West Fargo, ND 58078
(701) 298-2381
lewisc@casscountynd.gov

cc: Patrick Roberts, Land Agent
Chris McShane, Ohnstad Twichell, P.C.
Andy Westby, Goldmark Commercial Real Estate, Inc.
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority
Eric Dodds, AE2S Program Manager
Sharon Oliver, ROW Acquisition Coordinator, Ohnstad Twichell, P.C.
Heather Worden, Administrative Assistant, Cass County Commission



June 29, 2020

VIA UPS – DELIVERY CONFIRMATION

Board of County Commissioners **Raymond Kvalvog**
323 – 48th Avenue SW
Moorhead, MN 56560-6752

Chad M. Peterson
Fargo, North Dakota

Mark Nyquist
6498 40th Street South
Moorhead, MN 56560-7602

Rick Steen
Fargo, North Dakota

Ken Pawluk
Fargo, North Dakota

**Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OIN: 9400
Parcel No. 57-0000-10204-003
UPS Tracking No. 1ZRT87R14308441034**

Duane Breitling
West Fargo, North Dakota

Mary Scherling
Stanley Township, North Dakota

Greetings Mr. Kvalvog and Mr. Nyquist:

As you know, the METRO FLOOD DIVERSION BOARD OF AUTHORITY (the "Authority") is proceeding with the Fargo Moorhead Diversion Area Project ("Project"); the Cass County Commission (the "Commission") is a member of the Authority. The Cass County Joint Water Resource District (the "District") is also a member of the Authority, and the Authority previously directed the District to obtain the North Dakota right of way necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding right of way the District must acquire from you for the Project. The District copied the Commission on the following three letters the District sent to you regarding the District's negotiations with you:

- Letter dated February 21, 2020, enclosing the District's appraisal for the acquisition of the right of way from you, along with a proposed Purchase Agreement;
- Letter dated April 6, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way to be acquired; and
- Letter dated May 22, 2020 notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way necessary for the Project.

Heather Worden
Commission Assistant

P.O. Box 2806
211 9th Street South
Fargo, North Dakota 58108
701-241-5609
www.casscountynd.gov

The District informed the Commission that you and the District have not reached a mutually-acceptable agreement, and have not signed a purchase agreement, regarding the right of way the District must purchase from you

Raymond Kvalvog
Mark Nyquist
OIN 9400
June 29, 2020
Page 2

to accommodate the Project. With that in mind, the District recently requested approval from the Commission to utilize quick take eminent domain to take possession of the right of way the District must acquire from you. The legal description of the necessary right of way is as follows:

Right of Way Easement:

Government Lots 5 and 8 (sometimes referred to as the N½ SW¼) of Section Six (6), in Township One Hundred Thirty-seven (137) North of Range Forty-eight (48) West of the 5th Principal Meridian, Cass County, North Dakota, lying West of the Red River of the North, EXCEPT the following described tracts:

All that part of said Government Lot 8 lying Northerly and Easterly of the following described line: Beginning at a point on the North line of said Government Lot 8, 1894.52 feet East of the Northwest corner of said Government Lot 5; thence South 00°00'00" East a distance of 452.28 feet; thence South 90°00'00" East a distance of 455 feet, more or less to the West Bank of the Red River of the North, and there terminating.

-AND-

All that part of said Government Lot 8, lying Easterly of the following described line: Beginning at a point on the South line of said Government Lot 8, a distance of 2647.0 feet East of the Southwest corner of Government Lot 5; thence North 11°28'40" West a distance of 570 feet more or less to the West Bank of the Red River of the North, and there terminating.

-AND-

Less the West 100 feet of said North Half of the South Half of Section Six, Township One Hundred Thirty-seven North of Range Forty-eight West, for highway right-of-way record.

The Commission invites you to attend the Commission's meeting on Monday, August 3, 2020 at 3:30 p.m. via conference call or Microsoft Teams. The District will also participate in the meeting, along with the District's land agent, Patrick Roberts, who was your primary point of contact throughout the negotiation process. At the meeting, the Commission will ask the District to verify the District's compliance with Section 61-16.1-09(2) of the North Dakota Century Code. The Commission will ultimately vote on whether to approve the District's use of quick take eminent domain to take a right of way over your property.

Over the next several months, in light of Covid-19, the Commission will conduct its meetings via conference call and Microsoft Teams, in accordance with Governor

Raymond Kvalvog
Mark Nyquist
OIN 9400
June 29, 2020
Page 3

Burgum's Executive Order 2020-16. With that in mind, we request your attendance electronically or by telephone. If you plan to participate in the Commission's August 3, 2020 public meeting, please contact Heather Worden at (701) 241-5609 or wordenh@casscountynd.gov as soon as possible so Ms. Worden can assist you with the necessary arrangements.

This Notice does not preclude you from continuing to work with the District regarding the right of way easement necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with **Patrick Roberts** and to continue discussions about the Project. **Patrick Roberts** of **ProSource Technologies, LLC** is your point of contact regarding the Project. You can reach **Patrick Roberts** at **(763) 786-1445** or proberts@prosourcetech.com.

Finally, North Dakota law requires the Commission to provide you with a description of the District's timeline regarding your right of way. The District must complete the acquisition of right of way necessary for construction of Project components on your property by Fall of 2020.

Sincerely,

CASS COUNTY COMMISSION



Robert Wilson, Cass County Administrator
Cass County Commission
211 Ninth Street South
Fargo, ND 58103
(701) 241-5609

cc: Patrick Roberts, Land Agent
Andy Westby, Goldmark Commercial Real Estate, Inc.
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority
Chris McShane, Ohnstad Twichell, P.C.
Eric Dodds, AE2S Program Manager
Sharon Oliver, ROW Acquisition Coordinator, Ohnstad Twichell, P.C.
Heather Worden, Administrative Assistant, Cass County Commission

FedEx Priority Overnight

394332559549 0.10 lb (S) 36.80

Direct Signature Required
Declared Value 100

Recipient Address:
Raymond Kvalvog
323 48TH AVE SW
MOORHEAD, MN 56560-6752
000000000

Scheduled Delivery Date 6/30/2020

Pricing option:
ONE RATE

Package Information:
FedEx Envelope

IMPORTANT!

We are continuing to respond to the impact of COVID-19 around the world. [See our latest updates.](#) For COVID-19-related recipient closures, you can [redirect packages](#), [Ask FedEx](#), or contact the shipper.



Kvalvog 394332559549



Shipment is available for pickup at **FEDEX ONSITE:WALGREENS,700 30TH AVE S.** We'll hold the shipment for five business days starting from July 01, 2020.

Scheduled delivery: Pending pickup



READY FOR PICKUP
MOORHEAD, MN

[GET STATUS UPDATES](#)

Want to know when your package will arrive?
See your estimated delivery time with FedEx Delivery Manager. [Sign up or Log in](#)

FROM
Fargo, ND US

TO
700 30TH AVE S
MOORHEAD, MN US 56560

Shipment Facts

TRACKING NUMBER
394332559549

SERVICE
FedEx Priority Overnight

DOOR TAG NUMBER
DT105686451719

WEIGHT
0.5 lbs / 0.23 kgs

SIGNATURE SERVICES
Direct signature required

TOTAL PIECES
1

TOTAL SHIPMENT WEIGHT
0.5 lbs / 0.23 kgs

TERMS
Shipper

PACKAGING
FedEx Envelope

SPECIAL HANDLING SECTION
Deliver Weekday, Residential Delivery,
Direct Signature Required

STANDARD TRANSIT
 6/30/2020 by 10:30 am

SHIP DATE
 Mon 6/29/2020

SCHEDULED DELIVERY
Pending pickup

Wednesday, 7/01/2020

7:16 am MOORHEAD, MN Ready for recipient pickup
Package available for pickup at FedEx OnSite: WALGREENS, 700 30TH AVE S

Tuesday, 6/30/2020

5:24 pm FARGO, ND At local FedEx facility
Tendered at FedEx OnSite

10:02 am FARGO, ND Delivery exception
FedEx redirected your package to a nearby FedEx location

10:01 am FARGO, ND Delivery exception
Customer not available or business closed

8:25 am FARGO, ND On FedEx vehicle for delivery

7:35 am FARGO, ND At local FedEx facility

Monday, 6/29/2020

6:31 pm FARGO, ND At local FedEx facility

5:35 pm FARGO, ND Picked up

1:44 pm Shipment information sent to FedEx

1:43 pm FARGO, ND Picked up
Tendered at FedEx Office



June 29, 2020

VIA UPS – DELIVERY CONFIRMATION

Board of County Commissioners Raymond Kvalvog
323 – 48th Avenue SW
Moorhead, MN 56560-6752

Chad M. Peterson
Fargo, North Dakota

Mark Nyquist
6498 40th Street South
Moorhead, MN 56560-7602

Rick Steen
Fargo, North Dakota

Ken Pawluk
Fargo, North Dakota

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OIN: 9400
Parcel No. 57-0000-10204-003
UPS Tracking No. 1ZRT87R14302500847

Duane Breitling
West Fargo, North Dakota

Mary Scherling
Stanley Township, North Dakota

Greetings Mr. Kvalvog and Mr. Nyquist:

As you know, the METRO FLOOD DIVERSION BOARD OF AUTHORITY (the "Authority") is proceeding with the Fargo Moorhead Diversion Area Project ("Project"); the Cass County Commission (the "Commission") is a member of the Authority. The Cass County Joint Water Resource District (the "District") is also a member of the Authority, and the Authority previously directed the District to obtain the North Dakota right of way necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding right of way the District must acquire from you for the Project. The District copied the Commission on the following three letters the District sent to you regarding the District's negotiations with you:

- Letter dated February 21, 2020, enclosing the District's appraisal for the acquisition of the right of way from you, along with a proposed Purchase Agreement;
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- Letter dated May 22, 2020 notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way necessary for the Project.

Heather Worden
Commission Assistant

P.O. Box 2806
211 9th Street South
Fargo, North Dakota 58108
701-241-5609
www.casscountynnd.gov

The District informed the Commission that you and the District have not reached a mutually-acceptable agreement, and have not signed a purchase agreement, regarding the right of way the District must purchase from you

Raymond Kvalvog
Mark Nyquist
OIN 9400
June 29, 2020
Page 2

to accommodate the Project. With that in mind, the District recently requested approval from the Commission to utilize quick take eminent domain to take possession of the right of way the District must acquire from you. The legal description of the necessary right of way is as follows:

Right of Way Easement:

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-AND-

Less the West 100 feet of said North Half of the South Half of Section Six, Township One Hundred Thirty-seven North of Range Forty-eight West, for highway right-of-way record.

The Commission invites you to attend the Commission's meeting on Monday, August 3, 2020 at 3:30 p.m. via conference call or Microsoft Teams. The District will also participate in the meeting, along with the District's land agent, Patrick Roberts, who was your primary point of contact throughout the negotiation process. At the meeting, the Commission will ask the District to verify the District's compliance with Section 61-16.1-09(2) of the North Dakota Century Code. The Commission will ultimately vote on whether to approve the District's use of quick take eminent domain to take a right of way over your property.

Over the next several months, in light of Covid-19, the Commission will conduct its meetings via conference call and Microsoft Teams, in accordance with Governor

Raymond Kvalvog
Mark Nyquist
OIN 9400
June 29, 2020
Page 3

Burgum's Executive Order 2020-16. With that in mind, we request your attendance electronically or by telephone. If you plan to participate in the Commission's August 3, 2020 public meeting, please contact Heather Worden at (701) 241-5609 or wordenh@casscountynd.gov as soon as possible so Ms. Worden can assist you with the necessary arrangements.

This Notice does not preclude you from continuing to work with the District regarding the right of way easement necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with **Patrick Roberts** and to continue discussions about the Project. **Patrick Roberts** of **ProSource Technologies, LLC** is your point of contact regarding the Project. You can reach **Patrick Roberts** at **(763) 786-1445** or proberts@prosourcetech.com.

Finally, North Dakota law requires the Commission to provide you with a description of the District's timeline regarding your right of way. The District must complete the acquisition of right of way necessary for construction of Project components on your property by Fall of 2020.

Sincerely,

CASS COUNTY COMMISSION



Robert Wilson, Cass County Administrator
Cass County Commission
211 Ninth Street South
Fargo, ND 58103
(701) 241-5609

cc: Patrick Roberts, Land Agent
Andy Westby, Goldmark Commercial Real Estate, Inc.
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority
Chris McShane, Ohnstad Twichell, P.C.
Eric Dodds, AE2S Program Manager
Sharon Oliver, ROW Acquisition Coordinator, Ohnstad Twichell, P.C.
Heather Worden, Administrative Assistant, Cass County Commission

FedEx Priority Overnight

394332308440 0.10 lb (S)

36.80

Direct Signature Required

Declared Value 100

Recipient Address:

Mark Nyquist

6498 40TH ST S

MOORHEAD, MN 56560-7602

0000000000

Scheduled Delivery Date 6/30/2020

Pricing option:

ONE RATE

Package Information:

FedEx Envelope

IMPORTANT!

We are continuing to respond to the impact of COVID-19 around the world. [See our latest updates](#). For COVID-19-related recipient closures, you can [redirect packages](#), [Ask FedEx](#), or contact the shipper.

Nyquist 394332308440 

Delivered
Tuesday 6/30/2020 at 10:39 am

**DELIVERED**

Signed for by: M.NYQUEST



[GET STATUS UPDATES](#)
[OBTAIN PROOF OF DELIVERY](#)

Want to know when your package will arrive?
See your estimated delivery time with FedEx Delivery Manager. [Sign up or Log in](#)

FROM
Fargo, ND US

TO
MOORHEAD, MN US

Shipment Facts

TRACKING NUMBER 394332308440	SERVICE FedEx Priority Overnight	WEIGHT 0.5 lbs / 0.23 kgs
SIGNATURE SERVICES Direct signature required	DELIVERED TO Residence	TOTAL PIECES 1
TOTAL SHIPMENT WEIGHT 0.5 lbs / 0.23 kgs	TERMS Shipper	PACKAGING FedEx Envelope
SPECIAL HANDLING SECTION Deliver Weekday, Residential Delivery, Direct Signature Required	STANDARD TRANSIT  6/30/2020 by 10:30 am	SHIP DATE  Mon 6/29/2020
ACTUAL DELIVERY Tue 6/30/2020 10:39 am		

Travel HistoryLocal Scan Time 

Tuesday, 6/30/2020

10:39 am

MOORHEAD, MN

Delivered

Page 36 of 44**08/03/2020**

7/1/2020

Track your package or shipment with FedEx Tracking

8:25 am FARGO, ND On FedEx vehicle for delivery

7:36 am FARGO, ND At local FedEx facility

Monday, 6/29/2020

6:31 pm FARGO, ND At local FedEx facility

5:35 pm FARGO, ND Picked up

1:43 pm Shipment information sent to FedEx

1:43 pm FARGO, ND Picked up
Tendered at FedEx Office

Less the West 100 feet of said North Half of the South Half of Section Six, Township One Hundred Thirty-seven North of Range Forty-eight West, for highway right-of-way record.

The property described above is the "Necessary Property."

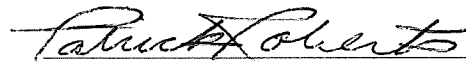
[¶5] Affiant is familiar with the records maintained by ProSource Technologies with respect to the Necessary Property and has reviewed all such records prior to executing this affidavit.

[¶6] ProSource Technologies has attempted to negotiate with Landowner to acquire the Necessary Property. Attached as **Exhibit A** is a log of all contacts ProSource Technologies has had with Landowner.

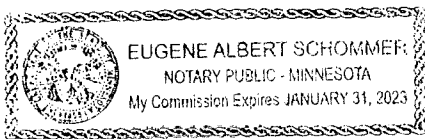
[¶7] The District has instructed ProSource Technologies to refrain from referencing, mentioning, or threatening quick take eminent domain during negotiations since August 1, 2017.


[¶8] I verify to the best of my knowledge, as land agent of ProSource Technologies, nobody from ProSource Technologies has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

Dated this 23rd day of JULY, 2020.


Patrick Roberts
Land Agent, ProSource Technologies

Subscribed to and sworn to before me this 23 day of July, 2020.




Notary Public, County of Washington
State of MN
My Commission Expires: 1-31-23

(SEAL)

"EXHIBIT A"

OIN 9400 - Kvalvog - Nyquist Contact Report	
Date	Note
9/17/19	Spoke with Mr. Kvalvog on 9-17-2019 and advised him that I was in receipt of the appraisals. He asked about the parcel between 124th Ave S and 49th Street SE. I advised the \$411,000. He advised that was ridiculous and will be fighting this like a lion. Don't call him again until I get into the 7 figures.
10/7/19	Offer letter and appraisal mailed out to Mr. Kvalvog
10/10/19	Notification of delivery of offer letter and appraisal received. Received an email from Andy Westby, representative of Ray Kvalvog requesting feedback on appraisal. Advised him that they had been delivered today.
10/11/19	Received a voicemail from Mr. Kvalvog that expresses his frustration with the appraisal and the lack of real estate development attention in the appraisal.
11/1/19	Phone conversation with Mr. Kvalvog. We spoke of a counteroffer and gathering information from Ray.
11/8/19	Received an email from Andy Westby that he would be in touch on behalf of Ray Kvalvog to continue the discussion/negotiation on his two parcels impacted by the project. Mr. Kvalvog has asked Andy to lead negotiations moving forward. He asked if Mr. Kvalvog had communicated to me a price around \$2M and asked me to confirm.
11/8/19	I replied to Andy that Mr. Kvalvog did indeed communicate to me a price of \$2M for his land in Cass County. I also let Andy know that I had shared with Mr. Kvalvog that I wanted to gather information together to present "his story" to help support any counteroffer that could be present to the CCJWRD Board for consideration.
11/8/19	Patrick Roberts engaged in discussion with property owner & his agent, Andy Westby, to obtain documentation to support the land development to help in posturing a counteroffer.
11/9/19	Andy & I work on setting an in-person meeting. Meeting was set for 11-15-19.
11/15/19	Mr. Westby & I meet, discussed the project and Mr. Kvalvog's property. At this meeting we each shared our point of view and how we are looking at this parcel. I request Mr. Westby's assistance in obtaining: 1. Confirmation of which local board was approached by the development for approval. With that I would request the minutes to help fill in more details of the process/events that took place. 2. A proforma on the land development at the time that Mark Nyquist bought in to support his buy in at \$16,000/acre. 3. Ulteig date on the plat map and any other information. 4. What cap rates are in the area? Perhaps we could use that information. 5. Was the \$40,000 per lot estimation a gross amount or net. We would need to have that proforma to support either way.
12/2/19	Patrick Roberts emails Mr. Westby for any update on additional documentation.
12/9/19	A letter was forwarded by Mr. Westby from Aspire Financial (lender for this parcel) on behalf of Mr. Kvalvog. This letter was received the same day as the Land Coordination. Pat did not have any additional support documentation from Mr. Westby with the letter from Aspire Financial, so I advised him that OIN 9400 would not make it to the agenda for today. I explained that before it is placed on the agenda I would like to have as many pieces in-hand to support the counteroffer as possible.
12/9/19	Mr. Westby responded that he understood why OIN 9400 was not put on the Land Coordination agenda for today and is pushing to get the requested pieces of information, which has been tough to get so far.
12/9/19	Additional email from Andy Westby today that advised he & Ray had a conversation and Ray indicated that he didn't think the other pieces of information would be available to provide and we should move on and get it on the next agenda.
12/18/19	After reviewing the sequence of events up to the December 9 th , Mr. Kvalvog and I set a meeting to discuss the next steps. Meeting set for December 18 th .
12/18/19	Mr. Kvalvog & I met. I shared with him the proposed next steps for the OIN 9400 parcel. We agreed that we are going to move forward with information that we have.

1/6/20	Armed with the information I was provided by Andy and Ray, I provided a counteroffer of \$1,541,250 at Land Coordination and engaged the group in a discussion regarding the supporting points that would be needed to support the counteroffer. More specifically I requested guidance/feedback into what information would be needed to provide validation for continued discussion/negotiations on OIN 9400.
1/6/20	I was provided feedback that a landowner ordered appraisal would be the best route, given the difference between the appraised valuation of \$411,000 offer and the property owners counteroffer of \$1,541,250.
1/15/20	The property owner was advised of the recommendation to obtain an appraisal report.
2/25/20	The 2 nd appraisal report was received via email from Andy Westby.
2/25/20	Patrick Roberts advised Mr. Westby at 10:15 PM that he was in receipt of the appraisal and requested from Andy Westby that the appraisal could be sent to others for review as part of the negotiating process.
2/26/20	Pat was informed via text from Andy that "Ray has approved me passing it to you and from there wherever necessary with the board to support further negotiations."
3/6/20	Emailed Andy Westby with an update on review of appraisal provided by Mr. Kvalvog.
3/7/20	Saturday Mr. Kvalvog texted a request for assistance on reimbursement of appraisal.
3/9/20	Texted back and advised again that the maximum reimbursement is \$5000 maximum and would need the invoice and Board has been deferring the reimbursement until closing. Received the invoice from Mr. Kvalvog.
3/26/20	Invitation letter sent to Mr. Kvalvog & Mark Nyquist.
4/2/20	Email sent to Mr. Kvalvog & Andy Westby outlining proposed next steps to include additional review of the 2 nd appraisal.
4/3/20	Received email from Mr. Westby requesting reimbursement for the \$9000 appraisal and funding for additional work to be done by their appraiser.
4/4/20	Pat responded to Mr. Westby with the \$5000 maximum again and that additional work done by AI would not be paid for by the project. And a request for how they would like to proceed.
4/4/20	Mr. Westby emails and advised he did not recall the maximum being \$5000 as the allowable amount for reimbursement. He requested additional information.
4/5/20	Email to Mr. Westby and copy to Mr. Kvalvog and advised that Mr. Kvalvog was advised of that amount at the beginning AND reminded in a text at a later date. Email reply from Mr. Kvalvog advising that was a true statement and requested the documents to get the reimbursement. pat emailed back and reminded of the text exchange that the Board would reimburse at closing.
4/10/20	As part of the next steps a conference call with property owner appraiser Al Leirness, Andy Westby, appraisers from Patchin and Messner and Patrick Roberts.
4/10/20	Additional information provided to both appraisers for review.
5/8/20	Fifteen additional parcels provided by Al Leirness for review as comparable properties to support his valuation. Provided information to project team.
5/28/20	Requested Board action on counter-offer based on landowner ordered appraisal.
6/11/20	Mr. Kvalvog participated on the Board call as a property owner. Made arrangement after the call to include Mr. Kvalvog & Mr. Westby on the next board meeting call.
6/25/2020	Mr. Westby participated in the board call with all his information included in the packet.

All that part of said Government Lot 8, lying Easterly of the following described line: Beginning at a point on the South line of said Government Lot 8, a distance of 2647.0 feet East of the Southwest corner of Government Lot 5; thence North 11°28'40" West a distance of 570 feet more or less to the West Bank of the Red River of the North, and there terminating.

-AND-

Less the West 100 feet of said North Half of the South Half of Section Six, Township One Hundred Thirty-seven North of Range Forty-eight West, for highway right-of-way record.

[¶7] The District has fulfilled the required negotiation steps in accordance with subsection 2 of section 61-16.1-09 of the North Dakota Century Code.

[¶8] The District sent a written offer for just compensation to the landowner by certified mail along with an appraisal and purchase agreement on February 21, 2020 and March 18, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On April 6, 2020, the District sent Landowner a written request for a meeting, by certified mail; the District and Landowner have not reached an agreement regarding compensation, and more than fifteen days have passed since Landowner's receipt of the offer. A copy of the written request for a meeting with the landowner is attached as **Exhibit 2**.

[¶10] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶11] On May 22, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

[¶12] The District has retained land agents who are in direct contact with Landowner. The District instructed our land agents not to reference, mention, or threaten quick take eminent domain during negotiations. The land agents have verified they have not referenced, mentioned,

or threatened quick take eminent domain during the course of negotiations with Landowner since August 1, 2017.

[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 23 day of July, 2020

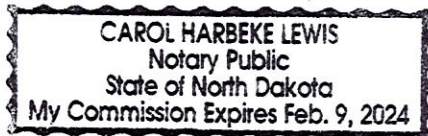


Dan Jacobson, Chair
Cass County Joint Water Resource District

Subscribed to and sworn to before me this 3rd day of July, 2020.


Notary Public, State of North Dakota

(SEAL)



JUL 27 2020

To: Board of Cass County Commissioners

I'm responding to the letter dated June 29, 2020 to Mr Robert Wilson! And state in part my case as a landowner.

It's been my understanding since 2018 that the diversion authority (DA) thru the Cass county joint Water Resource District (CCJWRD) will be taking our property. (see enclosed letter dated Oct 7, 2019).

It has been threatened not only in this letter but by the folks who originally did the property appraisal (Patchin Appraisers of Burnsville Mn) they told us if didn't agree to terms of (CCJWRD) our land would simply be taken thru eminent domain.

The CCJWRD made it clear (again look at letter date Oct 7, 2019), that our property **will be acquired!**

I would now like to refer to the letter dated June 26, 2020 signed by Carol Lewis on behalf of CCJWRD!

This document is filled with a total mischaracterization of events as they've occurred!

I would like to remind the Cass county commission that the statement we have heard throughout this process of fair, friendly, flexible is far from the truth!

Firstly Ms Lewis says the "District has conducted months of negotiations with the land owner to arrive at a mutual acceptable agreement." This statement makes it appear that numerous attempts had occurred to arrive at a number, both parties could agree upon.

The fact is we were simply given a farmland number (value) of \$411,000 on May 16, 2019 (our valuation is \$1.2 million). At that point I told Pechin Appraisal they needed to include the fact we bought the property with development in mind! We supplied bank loan document and drawings (plat) from Ulteig Engineers to back our claim. It fell on deaf ears! We consulted with our land agent to pass this information on to CCJWRD, but we heard nothing.

Sometime late in 2020 we were told to get our own appraisal to help back our value of \$1.2 million. We spent \$9,000 to get the appraisal which substantiated our value: the new value came in at \$1.4 million. – we passed it on to the land agent, once again no movement other than we were told to gather more information. Then the CCJWRD wanted comparable sales

Please reconsider this entire situation. Don't let mistakes of the past from CCJWRD dictate what is happening now. Look at each situation on it's own merits and don't let the CCJWRD dictate to you the narrative.

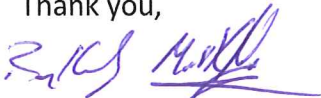
It's very disappointing to have CCJWRD misrepresent the truth that has occurred concerning this land acquisition! This June 26 letter is far from the truth ~~on~~ how the CCJWRD has conducted themselves. Please let's stop with the cookie cutter approach and the one size fits all. Our property is unique as I'm sure many others are in MN/ND. You need not dig in your heels and threaten eminent domain, but work with us. You've paid good money to your land agents who are useless, as they simply parrot the values given them by CCJWRD, and there's no negotiating. I understand the huge mistakes made out at Oxbow, but to now swing the entire other direction and have limited to no time to talk – and no flexibility when the data supports our values is shameful!

So commissioners, please don't follow the rhetoric of the CCJWRD, but track the data! We jumped thru each hoop asked for by CCJWRD to validate our initial value of \$1.2 million.

In doing so the value rose. Our case is one in which common sense and actual negotiation could solve this without the time and expense of litigation!

Enclosed is a timeline/outline of events as they've occurred, and the June 26 letter sent to Robert Wilson. Plus the Oct 7 letter!

Thank you,



Ray & Mark 7-23-20



October 7, 2019

Delivered Via US Mail

Raymond Kvalvog and Mark Nyquist
323 48th Ave SW
Moorhead, MN 56560

RE: Offer to Purchase

Fargo-Moorhead Area Flood Diversion Project

Property Address: Unassigned Address, Pleasant ND

Property ID(s): 9400 PID(s): 57-0000-10204-003

Dear Raymond Kvalvog and Mark Nyquist:

Cass County Joint Water Resource District (CCJWRD) will be acquiring your property located at Unassigned Address, Pleasant ND for the proposed construction of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project for the purpose of diversion of flood water from the Red River and its tributaries around Fargo-Moorhead. CCJWRD has hired ProSource Technologies LLC as the consultant to aid in the acquisition of your property.

CCJWRD hereby makes an approved offer to all interested parties who may have an interest in the real estate rights to be acquired the sum of \$411,000.00. This offer is based on an independent appraisal by Patchin Messner Valuation Counselors.

You will have reasonable time to consider this offer. You are not required to move for at least 90 days after you have signed the purchase agreement. This offer to purchase is not considered final until the CCJWRD Board officially accepts the purchase agreement.

If you accept the offer, the parcel will be acquired by direct purchase, and you will be paid upon satisfactory evidence of marketable title. If you do not accept the offer, CCJWRD wishes to continue negotiating with you regarding purchase of your property. **Ultimately, the property may be acquired in an eminent domain proceeding if we cannot agree to the terms of the purchase within a reasonable time.**

Your signature on page two (2) of this document is the only verification that this "Offer to Purchase" has been given to you. You also acknowledge that you have received the "Relocation Assistance" brochure, and a copy of the "Appraisal Report." Your signature does not affect your right to have the final amount determined through eminent domain proceedings in the event the direct purchase/negotiation method of acquisition is unsuccessful.



SENT VIA EMAIL wilsonro@casscountynd.gov

June 26, 2020

Cass County
Joint Water
Resource
District

Robert Wilson
Cass County Administrator
Cass County Commission
211 9th Street S
Fargo, ND 58103

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Approval to Take Possession of Necessary Right of Way
OIN: 9400
Parcel No. 57-0000-10204-003

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of acquiring the right of way necessary for the Fargo Moorhead Diversion Area Project ("Project"). I previously copied you on the following three letters whereby the District sought to negotiate the acquisition of the right of way from Raymond Kvalvog and Mark Nyquist (the "Landowner"):

- Letter dated February 21, 2020, enclosing the District's appraisal for the acquisition of the right of way from the Landowner and a proposed Purchase Agreement;
- Letter dated April 6, 2020, inviting the Landowner to meet with the District for purposes of negotiating compensation for the right of way to be acquired; and
- Letter dated May 22, 2020, notifying the Landowner the District planned to submit a request to the Cass County Commission seeking immediate possession of the right of way necessary for the Project.

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

701-298-2381
FAX 701-298-2397
wrld@casscountynd.gov
casscountynd.gov

The District has conducted months of negotiations with the Landowner to arrive at a mutually acceptable agreement for the District's purchase. More specifically, the District engaged in both informal and formal negotiations with the Landowner, as required under N.D. Cent. Code § 61-16.1-09(2)(b), in an effort to reach agreement regarding fair compensation to the Landowner for the acquisition of the necessary right of way over, across, and through certain property owned by the Landowner in Cass County, North Dakota. The legal description of the necessary right of way is as follows:

Right of Way Easement:

Government Lots 5 and 8 (sometimes referred to as the N $\frac{1}{2}$ SW $\frac{1}{4}$) of Section Six (6), in Township One Hundred Thirty-seven (137) North of Range Forty-eight (48) West of the 5th Principal Meridian, Cass County, North Dakota, lying West of the Red River of the North, EXCEPT the following described tracts:

All that part of said Government Lot 8 lying Northerly and Easterly of the following described line: Beginning at a point on the North line of said Government Lot 8, 1894.52 feet East of the Northwest corner of said Government Lot 5; thence South 00°00'00" East a distance of 452.28 feet; thence South 90°00'00" East a distance of 455 feet, more or less to the West Bank of the Red River of the North, and there terminating.

-AND-

All that part of said Government Lot 8, lying Easterly of the following described line: Beginning at a point on the South line of said Government Lot 8, a distance of 2647.0 feet East of the Southwest corner of Government Lot 5; thence North 11°28'40" West a distance of 570 feet more or less to the West Bank of the Red River of the North, and there terminating.

-AND-

Less the West 100 feet of said North Half of the South Half of Section Six, Township One Hundred Thirty-seven North of Range Forty-eight West, for highway right-of-way record.

As you may recall, in 2017, the North Dakota Legislature modified the process for water resource districts to acquire immediate possession of right of way necessary for water projects; the new process is set forth in Section 61-16.1-09(2)(b). The District has followed all of the necessary steps under the statute, but the parties have not reached a mutually acceptable agreement. Under the new acquisition process enumerated in Section 61-16.1-09(2)(b)(3), the District must next seek the County Commission's approval to proceed further, and to ultimately utilize quick take eminent domain to take possession of the right of way above to commence the Project.

More specifically, Section 61-16.1-09(2)(b)(3) requires the County Commission to hold a public meeting and to provide the Landowner no less than thirty days' notice of the meeting. The District will also attend the meeting, along with the land agent, Patrick Roberts, who was the Landowner's main point of contact throughout the negotiation process. Prior to the public meeting, the land agent and the District will verify neither the District nor any of its agents referenced or threatened quick take eminent domain during the informal and formal negotiation process.

Robert Wilson
June 26, 2020
Page 3

While the District takes all landowners' rights very seriously, the District also has an obligation, as a member of the Metro Flood Diversion Authority, to acquire the right of way necessary for the Project, and construction of the Project will not be possible without acquiring the right of way identified above. As the District will explain and verify for the Commission in more detail through this process, the District provided the Landowner with the District's appraisal as the starting point for negotiations, then attempted to negotiate further with the Landowner over the course of several months. This step is not one the District takes lightly; quick take eminent domain is a serious undertaking, and the District has negotiated in good-faith with the Landowner to avoid this process. Despite the District's efforts to be fair, friendly, and flexible in both the informal and formal negotiations with the Landowner, unfortunately, the parties have not reached a mutually acceptable agreement for the acquisition of the right of way.

The District respectfully requests that the Cass County Commission proceed with the public meeting process under Section 61-16.1-09(2)(b)(3) regarding the Landowner and the right of way identified in this letter. Further, the District respectfully requests that the Cass County Commission ultimately approve the District's use of quick take eminent domain to take possession of the right of way identified above by quick take eminent domain so the Project may proceed. For your information, while the County conducts the process under Section 61-16.1-09(2)(b)(3), the District still hopes the parties can arrive at a mutually-acceptable agreement.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis
Secretary-Treasurer
1201 Main Avenue West
West Fargo, ND 58078
(701) 298-2381
lewisc@casscountynd.gov

cc: Patrick Roberts, Land Agent
Chris McShane, Ohnstad Twichell, P.C.
Andy Westby, Goldmark Commercial Real Estate, Inc.
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority
Eric Dodds, AE2S Program Manager
Sharon Oliver, ROW Acquisition Coordinator, Ohnstad Twichell, P.C.
Heather Worden, Administrative Assistant, Cass County Commission

Landowner Overview

Timeline of events

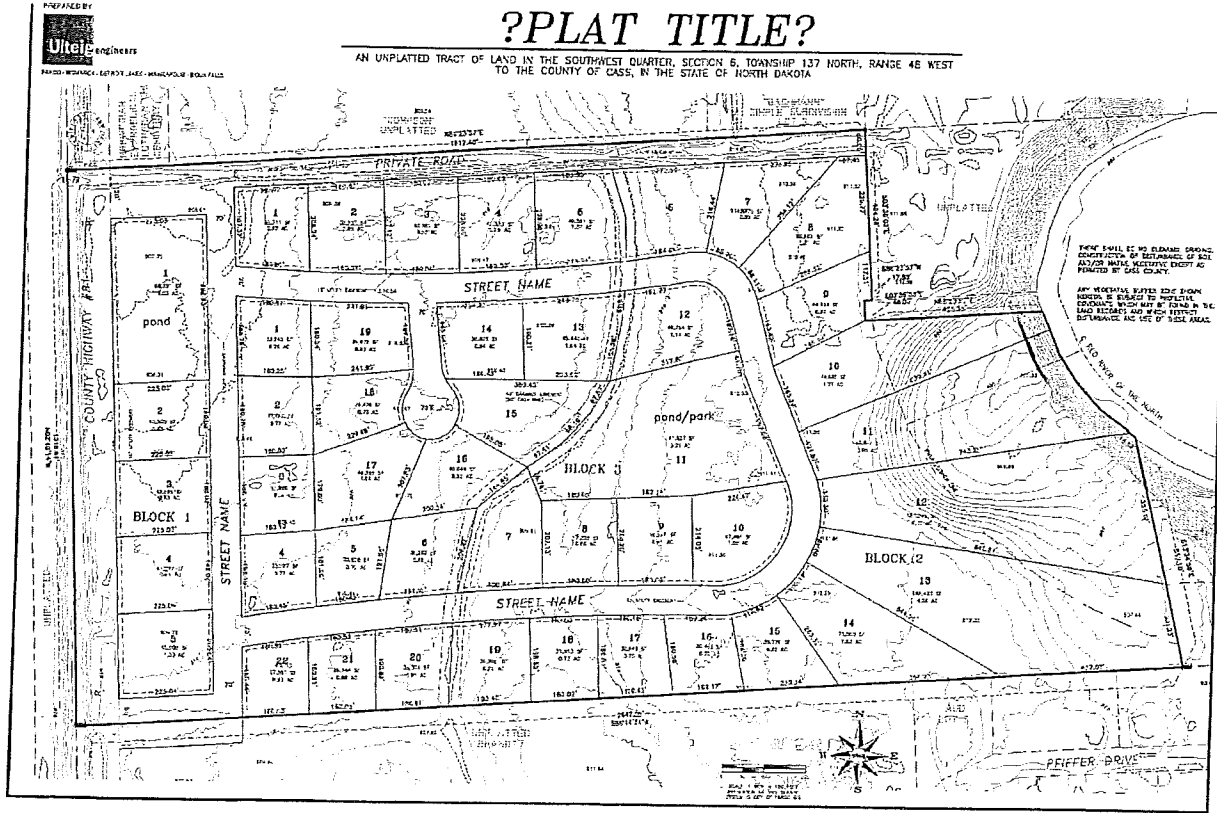
Cass County OIN: 9400

- 68.5 acres in Pleasant Township, Cass County, ND
- Appraised amount: \$411,000 (\$6,000/acre) ✘
- Counter-offer amount: \$1,400,000 (\$20,400/acre per independent appraisal completed in February 2020)
- Property Features:
 - 2 miles north of Hickson/Oxbow development, along the Red River and paved County 81 highway
 - Over 1,300 linear feet of river frontage
 - 2 miles from I-29 intersection
 - Site has access to Fargo's sanitary main line, Cass Rural Water, and electricity
- History/Support:
 - **2006:** Ray and a previous financial partner acquired the land with an eye towards long-term residential development of the site. They paid a premium for the land in 2006 given the long-term potential for development along the river. They paid \$4,500/acre, ~80-100% +/- above the market at the time. Loans made at the time of the purchase and refinances since have all been held by the bank based on an intended/future use of development land.
 - **Late 2006:** Ray and his financial partner hired Ulteig engineering to begin development work on the site for residential development of the land. A local Realtor was engaged to help price the land and it was conservatively estimated at that time that the ~50 lot development would yield an average of \$40k/lot (\$2M). See Exhibit A for two versions of the original preliminary plats created during this timeframe.
 - **Note:** Both myself and the independent appraiser were unsuccessful in getting access to the detailed records from Ulteig Engineering, however it was confirmed there were numerous records and history of this site being considered for development by the county and township boards at the time (See Exhibit B).
 - **2010-2011:** The initial Diversion project maps placed the Red River control structure just south of this land in Section 7, protecting this property from flooding once the project was completed. This gave the partners confidence in the potential for residential development on the land as planned in the preliminary plats.
 - **2011:** Ray's financial partner decided he could not be a part of future development on the site, so his share was offered for sale. Ray's current business partner on the land, Mark Nyquist, purchased his interest in the property for ~\$15k/acre under the pretense the land was to be protected and eventually developed.
 - **2012-2019:** Changes to the Diversion alignment eventually placed the Red River control structure directly on this land, effectively ending any opportunity for future development and significantly reducing the income potential on the land long-term. The Diversion's appraiser failed to take into account the development planning/history on this site and therefore used standard farm land sales as their basis to establish value.
 - **February 2020:** With a wide gap between the Diversions appraised value and the owner's expectation of a fair offer, Ray was advised by his land agent & the Diversion Authority to get an independent appraisal. Ray hired an independent appraiser from Fargo-based Appraisal Services and he completed an appraisal in February of 2020, arriving at an estimated market value of \$1.4M (or \$20,400/acre). Additional sales comps and information was passed to the Diversion's original appraiser to help support this analysis in May of 2020.

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Exhibit A - Preliminary Plats



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Final Plat Review Report –Southbend Subdivision

An application for subdivision approval of a tract of land located in SW ¼ of Section 6 in Pleasant Township (137-48) was filed in the Cass County Planning Office by Fred Schlanser. The intention of the subdivision is plat 46 total lots for a residential development. The plat is approximately 66.75 acres and lots range from 0.64 to 4.27 acres, with the majority around one acre. Per township zoning regulations, the lots will have a 50' setback.

The proposed subdivision is adjacent to Co Rd 81 and is located approximately two miles north of Oxbow and five miles south of Fargo's city limits and 2 miles south of their ET boundary.

Analysis

This proposed major subdivision exceeds the county's 1:40 density restriction, requiring it to be built with full urban infrastructure. The subdivision will have paved curb and gutter streets, will connect to Cass Rural Water Users and construct the necessary infrastructure to provide fire flows, will connect to the Fargo sanitary main and install street lights, sidewalks, park dedication, and storm water facilities.

The property is within an area which floods and the roads within the subdivision will be built 6" above the BFE and homes will be built to Pleasant Townships Flood Plain Regulations (lowest elevation 2.5' above BFE). The BFE for this area has been established at 912.3.

A flood impact study was performed by Houston Engineering. Their analysis indicates the subdivision would increase water levels .03' (.36") on the Red River for the 100 and 500 year flood. Their analysis concluded the development would also increase flooding from the Wild Rice breakout .07' (.84") for the 100-year and .09' (1.08") for the 500-year flood. This analysis should be considered conservative because it was based on the entire subdivision being raised to the 100-year elevation, only the pads for the homes and the roads will be raised, allowing additional conveyance through the subdivision that was not accounted for in the analysis.

Based on the County Engineer's recommendation the developer will install a by-pass lane at the north entrance of the subdivision and CO RD 81. This by-pass lane will be constructed in conjunction with the repaving of Co Rd 81. CO RD 81 at the southern entrance does not require any improvement at this time; this would be revisited when the land to the south develops.

The development includes the required river setbacks preventing the construction of homes and modification of the land and vegetation to help reduce the impact of river slumping on the new homes and property. A geotechnical review of the river lots was also performed by Northern Technologies. This report provides recommendation for the construction of the foundation for the river lots and the stability of the river bank. The report states additional testing will be required to determine the actual lot stability, the county is requiring this additional testing be performed.

The internal subdivision roads will be 20' wide (curb face to curb face) with a 6" asphalt roadway and mountable curbs and will be built a minimum of 6" above the base flood elevation. On-street parking will not be permitted. The road will initially be constructed with a 4" asphalt base course and once 80% of the homes are constructed the final 2" wear course will be installed. The roads entering the subdivision will be 30' wide and will include curb up to the county's right-of-way. The northern private road will only be paved up to the entrance into the subdivision.

Five foot sidewalks will be constructed on both sides of the street and lots 7-14 of Block 2 will include a 5' multiuse easement. Two 15' multi-use easements and the additional 5' easement along the river lots will provide for the construction of a 10' multiuse trail through the subdivision

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when the greenway trail extends to this area.

The developer will install boulevard trees approximately every 36' along all roads within the subdivision and within the park area. A windbreak constructed to NRCS standards will also be installed on the perimeter of the subdivision to provide privacy, protection from the weather and a buffer from the surrounding agricultural land. The developer will also vegetate the riverbank within the required setback with deep rooted native vegetation to help stabilize the bank and provide a vegetative filter strip for storm water runoff.

A detailed drainage plan was developed for the subdivision meeting the county's standards. The use of a detention pond will maintain post-development runoff at or below the existing runoff. The subdivision will use a modified urban section. The streets and front lots will drain into inlets located in basins between each driveway; this alternative method will still meet the intent of the ordinance in preventing standing water and poor drainage. The internal lots will be graded to utilize backyard inlets and the back lots along the perimeter of the subdivision will utilize existing or constructed swales with a minimum of .1% slope.

An erosion and sedimentation plan has been designed meeting county requirements. This plan will meet the county's EPA Phase II requirements and will be used by contractors during the construction of the development and by the county for storm water inspections. The developer will also need to provide a copy of the ND Department of Health's Large Construction Activity Permit.

The developer will provide a financial guarantee for 110% of all required improvements. This agreement will be established between the county commission and the developer. As the improvements are installed, inspected and approved the county will release that portion of the financial guarantee back to the developer.

Design standards not met include:

- 612 Flood plain – The 100 year and floodway in relation to the proposed lots needs to be displayed on a supplementary sheet
- 602.22 Lighting Plan – A lighting plan showing the type and location of required street lights.
- Section 608.08 (G) – Provide depth and slope specifications for detention pond.
- 602.02 (E) – Provide copy of restrictive covenants with private infrastructure maintenance and responsibility agreement and foundation construction recommendations listed in Geotechnical report.
- The engineering plan and calculations supporting the ability to provide fire flows for fire hydrants.
- 612.01 - Supplemental sheet showing existing and if possible draft floodway.
- 303.01 (G-H) Letter from Fargo and CRWJ indicating connection to their system is approved.
- Additional geotechnical testing and report for riverbank lots.
- 608.03 – Protection plan for Red River outfall and detention pond outfall/inlet.

Comprehensive Plan Consistency

The proposed subdivision built to full urban standards and Subdivision Regulations will be consistent with the Comprehensive Plans goals of providing adequate infrastructure meeting lot owner's needs and allowing for a subdivision that will more easily transition into an urban environment upon annexation because of urban-style services.

