

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

October 5th, 2020

PROPERTY OWNER: David Houkom

LAND AGENT: Pat Roberts with ProSource

OIN: 717 9732



FM AREA
DIVERSION
PROJECT

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Written Correspondence Timeline – David Houkom

OIN 717 9732	Sent	Received
Offer to Purchase	8/13/2019	8/26/2019
Formal Negotiations and Written Offer of Just Compensation	3/20/2020	3/30/2020
Request for Meeting	5/5/2020	5/7/2020
Notice of Intent to Take Possession of Right-of-Way	7/22/2020	7/28/2020
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	8/21/2020	8/21/2020
Invitation to Attend Public Meeting	8/27/2020	8/28/2020
Commission Meeting Date	10/5/2020	

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: David Houkom
2. Land Agent: Patrick Roberts
3. Parcel Nos.: 53-0000-09127-010, 53-0000-09128-002
4. OIN Nos.: 717, 9732

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 easements for a right of way regarding OINs 717 and 9732.

FM Area Diversion Project

Property Negotiation Summary

September 23, 2020

Owner	David P. Houkom
Address	3620 2 nd Street E West Fargo, ND
Property Address	Unassigned
Property Location	Diversion Channel Phase 3
Property Type	A-1 Agriculture
Identification Numbers	OIN 717-9732

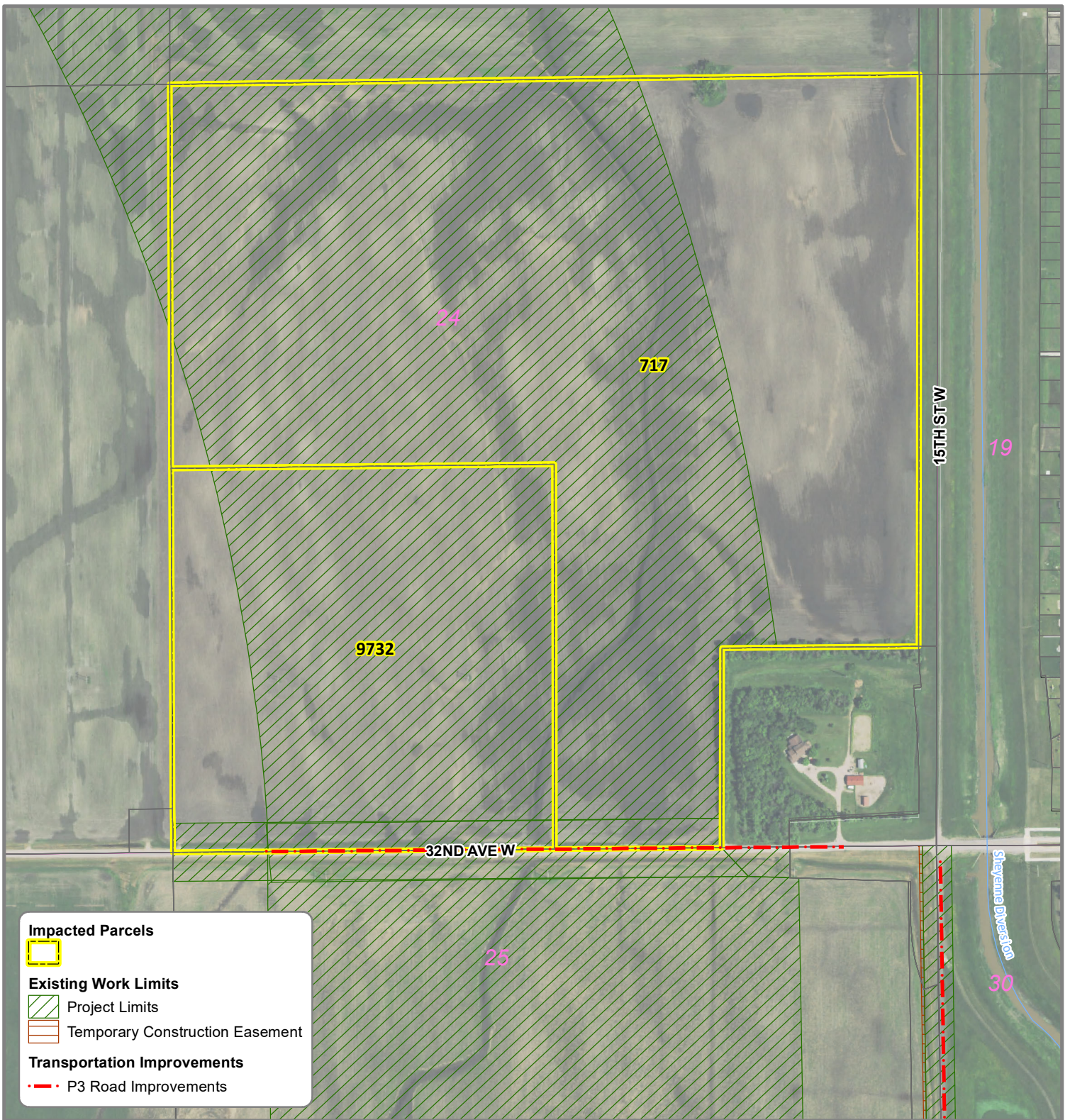
Property Need: P3 Diversion Channel Phase 3 (Channel property)

Valuation and Negotiation Summary:

Appraisal Value / Date	\$1,074,200 April 9,2019
Counteroffer	
Purchase Agreement Value	

Negotiation Notes

- Land agent is Patrick Roberts from ProSource.
- July 1, 2019. Received notification of appraisal approval by CCJWRD.
- July 2019. Calls made to contact number. No voicemail set up. No contact with property owner.
- August 2019 Continued attempts to reach David by phone.
- August 13, 2019 Approved mailing of introductory letter, informal offer letter, GIN and appraisal to David. Mailing sent out.
- August 21, 2019 Door knocking attempted at David Houkom address. No answer.
- August 26,2019 Packet delivered and signed for by David.
- Sept – November 2019 Continued attempts at contact number. Still no contact.
- January 2020 Provided review of formal offer letter to be sent to Mr. Houkom. Review and confirmation of reduction in TCE.
- March 2020 Formal offer letter sent. Still no in person or phone contact with landowner.
- June 17, 2020 Notice of Intent letter mailed out with return receipt requested.
- July 22, 2020 Notice of Intent letter mailed out again with return receipt requested.
- July 27,2020 Process server was able to serve David’s daughter with a Notice of Intent. Within that document, land agent’s name, phone number & email are listed with the encouragement to maintain contact with the land agent.
- Still no in person, phone or email contact with the landowner.
- Note: This parcel owner refused to sign a ROE also back in 2016 and a court action was required to obtain the ROE.

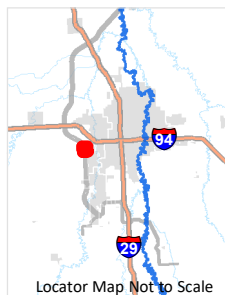
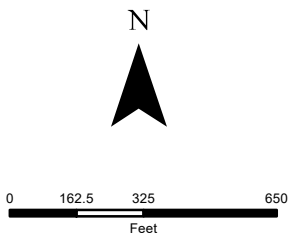


Impacted Parcels

Existing Work Limits
 Project Limits
 Temporary Construction Easement

Transportation Improvements
 P3 Road Improvements

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\!Project Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105notdatadriven.mxd



David Houkom

OINs: 717 9732

Parcel ID's: 53-0000-09127-010 & 53-0000-09128-0002

Cass County, ND

FM AREA DIVERSION
Map Date: 5/13/2020





August 13, 2019

Delivered Via Certified US Mail

David P. Houkom
3620 2nd St E
West Fargo, ND 58078

RE: **Offer to Purchase**
Fargo-Moorhead Area Flood Diversion Project
Property Address: Unassigned, Mapleton Township ND
Property ID(s): 717 & 9732 PID(s): 53-0000-09127-010 & 53-0000-09128-002

Dear David P. Houkom:

Cass County Joint Water Resource District (CCJWRD) will be acquiring your property located at Unassigned, Mapleton Township 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 \$1,089,600.00. This offer is based on an independent appraisal by Compass Land Consultants, Inc.

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.

Page 2
David P. Houkom
Offer to Purchase Letter

Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) provides for 1) The relocation advisory services; 2) payment for your moving expenses; and 3) replacement housing payment. You may be reimbursed or paid for your actual reasonable moving costs and related moving expenses. A notice of relocation eligibility letter will be provided to you that will further explain these services. The URA is a non-negotiable federal assistance program that provides funding for the above services.

I HEREBY ACKNOWLEDGE RECEIPT OF THE OFFER LETTER, THE GUIDE BOOK, AND COPY OF THE APPRAISAL REPORT.

Name

Date

Name

Date

OIN(s): 717 & 9732
Project Parcel Number

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE


Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	\$14.00
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$



David P. Houkom
 3620 2nd St E
 West Fargo, ND 58078

PS Form 3800, August 2006 See Reverse for Instructions

7014 0510 0000 8634 0780

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>B. Received by (Printed Name) C. Date of Delivery</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>David P. Houkom AUG 26 2019</p> <p>3620 2nd St E West Fargo, ND 58078</p> <div style="text-align: center;">  9590 9402 2244 6193 8147 94 </div>	<p>3. Service Type</p> <table style="width: 100%; font-size: 0.8em;"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input 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
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<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												
<p>2. Article Number (Transfer from service label)</p> <p style="font-size: 1.2em; font-weight: bold;">7014 0510 0000 8634 0780</p>	<p>Domestic Return Receipt</p>												

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



CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY

March 20, 2020

**Cass County
Joint Water
Resource
District**

David Houkom
3620 2nd Street E
West Fargo, ND 58078
Certified No. 7018 0040 0000 5525 7301

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OINs: 717, 9732
Parcel Nos.: 53-0000-09127-010, 53-0000-09128-002

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

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 53-0000-09127-010 and 53-0000-09128-002. The legal description of the property to be acquired is:

OIN 717

That part of the Southeast Quarter (SE¼) of Section 24, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Northeast Corner of the SE¼; thence S87°15'07"W on the north line of said SE¼ a distance of 1,034.50 feet to the Point of Beginning; thence 2,018.41 feet on the arc of a non-tangential curve, concave to the west, having a radius of 8,600.00 feet, a central angle of 13°26'50", and a long chord length of 2,013.78 feet bearing S15°51'15"E to the north line of Auditor's Lot 1 of the SE¼, records of Cass County; thence S87°30'13"W on said north line a distance of 188.33 feet to the northwest corner of said Auditor's Lot 1; thence S1°55'34"E on the west line of said Auditor's Lot 1 a distance of 685.03 feet to the south line of said SE¼; on said south line a distance of 573.88 feet to the east line of the Southwest Quarter of said Southeast Quarter (SW¼SE¼); thence N2°04'21"W on said east line of the SW¼SE¼ a distance of 1,321.56 feet to the

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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

Northeast Corner of said SW¼SE¼; thence S87°22'39"W on the north line of said SW¼SE¼ a distance of 1,180.79 feet; thence 483.42 feet on the arc of a non-tangential curve, concave to the west, having a radius of 6,800.00 feet, a central angle of 4°04'24", and a long chord length of 483.32 feet bearing N18°22'49"W to the west line of said SE¼; thence N2°13'10"W on said west line a distance of 853.48 feet to the Northwest Corner of said SE¼; thence N87°15'07"E on the north line of said SE¼ a distance of 1,602.97 feet to the Point of Beginning.

Said parcel contains 73.59 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9732

That part of the Southwest Quarter of the Southeast Quarter (SW¼SE¼) of Section 24, Township 139 North, Range 50 West, Cass County, ND, being further described as follows:

Beginning at the Southwest Corner of the SE¼ of Section 24; thence N02°13'10"W on the west line of said SE¼ a distance of 100.00 feet; thence N87°30'13"E parallel with, and 100 feet north of, the south line of said SE¼ a distance of 325.76 feet; thence 1234.63 feet on the arc of a non-tangential curve, concave to the west, having a radius of 6800.00 feet, a central angle of 10°24'10", and long chord length of 1232.94 feet bearing N11°08'32"W to the north line of the SW¼SE¼; thence N87°22'39"E on said north line a distance of 1180.79 feet to the Northeast Corner of said SW¼SE¼; thence S02°04'21"E on the east line of said SW¼SE¼ a distance of 1321.56 feet to the south line of said SE¼; thence S87°30'13"W on said south line a distance of 1311.91 feet to the Point of Beginning.

Said parcel contains 32.84 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of 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 \$957,870.00, plus damages to the remainder of the property in the amount of \$116,250.00, for a total purchase price of \$1,074,120.00 rounded to \$1,074,200.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$1,074,200.00 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.

David Houkom
March 20, 2020
Page 3

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.

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 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:
 DAVID HOUKOM
 3620 2ND STREET E
 WEST FARGO ND 58078



9590 9402 3806 8032 1529 21

2. Article Number (Transfer from service label)

7018 0040 0000 5525 7301

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X SA RVT OVD 19 Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery
 3/30/2020

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

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 5, 2020

**Cass County
Joint Water
Resource
District**

David Houkom
3620 2nd Street E
West Fargo, ND 58078
Certified No. 7019 1640 0002 0398 7555

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OIN: 717, 9732
Parcel Nos.: 53-0000-09127-010, 53-0000-09128-002

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 March 20, 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.

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 May 14, 2020 and May 28, 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.

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.

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

701-298-2381
FAX 701-298-2397
wrj@casscountynynd.gov
casscountynynd.gov

David Houkom
OINs 717, 9732
May 5, 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: Patrick 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:
DAVID HOUKOM
3620 2ND STREET E
WEST FARGO ND 58078



9590 9402 2341 6225 7723 46

2. Article Number (Transfer from service label)
7019 1640 0002 0398 7555

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature  Agent
 Addressee

B. Received by (Printed Name) _____ C. Date of Delivery **5/7/2020**

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



Cass County
Joint Water
Resource
District

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Vice Chairman
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jake Gust
Manager
Fargo, North Dakota

Ken Pawluk
Manager
Fargo, North Dakota

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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

July 22, 2020

HAND DELIVERY

David Houkom
3620 – 2nd Street East
West Fargo, ND 58078

Re: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Notice of Intent to Take Possession of Right of Way
OIN: 717, 9732
Parcel No.: 53-0000-09127-010, 53-0000-09128-002

Greetings:

On March 20, 2020, on behalf of the Cass County Joint Water Resource District (the "District"), I sent you a letter formally offering to purchase necessary right of way from you for the Fargo-Moorhead Area Diversion Project, along with a purchase agreement and an appraisal regarding the necessary right of way the District must acquire from you (the letter and purchase agreement are, collectively, the "Letter"). In addition, I also provided you a letter dated May 5, 2020, to invite you to meet with the District for purposes of discussing the acquisition of your land ("Meeting Invite Letter"). The parties have conducted the informal and formal negotiation procedures required under Section 61.16.1-09(2)(b) of the North Dakota Century Code but, unfortunately, the parties have not yet reached a mutually-acceptable agreement regarding compensation for the District's purchase of right of way from you to accommodate the Project.

On June 17, 2020 and July 8, 2020 on behalf of the District, I sent you the District's NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY ("the Notice of Intent Letter") via Certified Mail - Return Receipt requested and UPS Overnight Delivery, respectively. Those efforts to deliver the Notice of Intent Letter to you were unsuccessful, despite numerous attempts, so the District has engaged a process server to personally serve you with a copy of the Notice of Intent Letter. Please find copies of the Notice of Intent Letter enclosed. Ultimately, the District must conclude all negotiations and complete the acquisition of your property by the fall of 2020.

Houkom
July 22, 2020
Page 2

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

Encs.: Notice of Intent Letters

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

AFFIDAVIT OF PROCESS SERVER

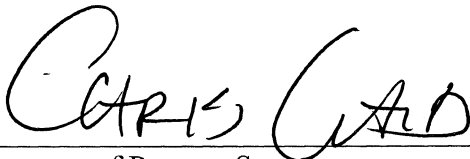
Re: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Notice of Intent to Take Possession of Right of Way
OIN: 717, 9732
Parcel No.: 53-0000-09127-010, 53-0000-09128-002

[¶1] I, Chris Laid, being first duly sworn, depose and say: That I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected I was authorized by law to perform said service.

[¶2] **Service:** I served David Houkom with (list documents):

1. Notice of Intent dated March 20, 2020;
2. Notice of Intent dated May 5, 2020;
3. Notice of Intent dated June 17, 2020;
4. Notice of Intent dated July 8, 2020; and
5. Notice of Intent dated July 22, 2020.

[¶3] By personally delivering true and correct copies of the above documents to the daughter of David Houkom, a person of suitable age and discretion, at the residence 3620 2nd Street East, West Fargo, ND 58078 on July 27, 2020 at 4:44 p.m.



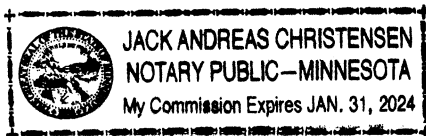
Signature of Process Server

Subscribed and Sworn to me this 28 day of July, 2020



Signature of Notary Public

Notary Public for the State of Minnesota, County of Clay





SENT VIA EMAIL wilsonro@casscountynd.gov

August 21, 2020

Cass County
Joint Water
Resource
District

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

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Approval to Take Possession of Necessary Right of Way
OINs: 717, 9732
Parcel Nos. 53-0000-09127-010, 53-0000-09128-002

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 David Houkom (the "Landowner"):

- Letter dated March 20, 2020, enclosing the District's appraisal for the acquisition of the right of way from the Landowner and a proposed Purchase Agreement;
- Letter dated May 5, 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 June 17, 2020, July 8, 2020, and July 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.

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 in, on, 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:

OIN 717:

That part of the Southeast Quarter (SE $\frac{1}{4}$) of Section 24, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Northeast Corner of the SE $\frac{1}{4}$; thence S87°15'07"W on the north line of said SE $\frac{1}{4}$ a distance of 1,034.50 feet to the Point of Beginning; thence 2,018.41 feet on the arc of a non-tangential curve, concave to the west, having a radius of 8,600.00 feet, a central angle of 13°26'50", and a long chord length of 2,013.78 feet bearing S15°51'15"E to the north line of Auditor's Lot 1 of the SE $\frac{1}{4}$, records of Cass County; thence S87°30'13"W on said north line a distance of 188.33 feet to the northwest corner of said Auditor's Lot 1; thence S1°55'34"E on the west line of said Auditor's Lot 1 a distance of 685.03 feet to the south line of said SE $\frac{1}{4}$; on said south line a distance of 573.88 feet to the east line of the Southwest Quarter of said Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$); thence N2°04'21"W on said east line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ a distance of 1,321.56 feet to the Northeast Corner of said SW $\frac{1}{4}$ SE $\frac{1}{4}$; thence S87°22'39"W on the north line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$ a distance of 1,180.79 feet; thence 483.42 feet on the arc of a non-tangential curve, concave to the west, having a radius of 6,800.00 feet, a central angle of 4°04'24", and a long chord length of 483.32 feet bearing N18°22'49"W to the west line of said SE $\frac{1}{4}$; thence N2°13'10"W on said west line a distance of 853.48 feet to the Northwest Corner of said SE $\frac{1}{4}$; thence N87°15'07"E on the north line of said SE $\frac{1}{4}$ a distance of 1,602.97 feet to the Point of Beginning.

Said parcel contains 73.59 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

OIN 9732

That part of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 24, Township 139 North, Range 50 West, Cass County, ND, being further described as follows:

Beginning at the Southwest Corner of the SE $\frac{1}{4}$ of Section 24; thence N02°13'10"W on the west line of said SE $\frac{1}{4}$ a distance of 100.00 feet; thence N87°30'13"E parallel with, and 100 feet north of, the south line of said SE $\frac{1}{4}$ a distance of 325.76 feet; thence 1234.63 feet on the arc of a non-tangential curve, concave to the west, having a radius of 6800.00 feet, a central angle of 0°24'10", and long chord length of 1232.94 feet bearing N11°08'32"W to the

1 north line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$; thence N87°22'39"E on said north line a distance of 1180.79 feet to the Northeast Corner of said SW $\frac{1}{4}$ SE $\frac{1}{4}$; thence S02°04'21"E on the east line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$ a distance of 1321.56 feet to the south line of said SE $\frac{1}{4}$; thence S87°30'13"W on said south line a distance of 1311.91 feet to the Point of Beginning.

Said parcel contains 32.84 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of 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 a representative of the land firm which was the Landowner's main point of contact throughout the negotiation process. Prior to the public meeting, the land firm representative 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.

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.

Robert Wilson
August 21, 2020
Page 4

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@casscountynynd.gov

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



August 27, 2020

VIA UPS – DELIVERY CONFIRMATION

Board of County Commissioners

David Houkom
3620 2nd Street East
West Fargo, ND 58078

Chad M. Peterson
Fargo, North Dakota

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OINs: 717, 9732
Parcel Nos. 53-0000-09127-010, 53-0000-09128-002
UPS Tracking No. 1Z F51 82Y 30 9056 4796

Rick Steen
Fargo, North Dakota

Ken Pawluk
Fargo, North Dakota

Duane Breitling
West Fargo, North Dakota

Mary Scherling
Stanley Township, North Dakota

Greetings:

As you know, the METRO FLOOD DIVERSION BOARD OF AUTHORITY (the "Authority") is proceeding with the Fargo Moorhead Area Diversion 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 easements necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding the right of way easement the District must acquire from you for the Project. The District copied the Commission on the following letters the District sent to you regarding the District's negotiations with you:

- Letter dated March 20, 2020, enclosing the District's appraisal for the acquisition of the right of way easement from you, along with a proposed Purchase Agreement;
- Letter dated May 5, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way easement to be acquired; and
- Letters dated June 17, 2020, July 8, 2020 and July 22, 2020, notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way easement necessary for the Project.

Heather Worden
Commission Assistant

P.O. Box 2806
211 9th Street South
Fargo, North Dakota 58108
701-241-5609
www.casscountynynd.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 easement the District must purchase from you 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 easement the District must acquire from you. The legal description of the necessary right of way easement is as follows:

Right of Way Easement:

OIN 717:

That part of the Southeast Quarter (SE $\frac{1}{4}$) of Section 24, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Northeast Corner of the SE $\frac{1}{4}$;

thence S87°15'07"W on the north line of said SE $\frac{1}{4}$ a distance of 1,034.50 feet to the Point of Beginning; thence 2,018.41 feet on the arc of a non-tangential curve, concave to the west, having a radius of 8,600.00 feet, a central angle of 13°26'50", and a long chord length of 2,013.78 feet bearing S15°51'15"E to the north line of Auditor's Lot 1 of the SE $\frac{1}{4}$, records of Cass County; thence S87°30'13"W on said north line a distance of 188.33 feet to the northwest corner of said Auditor's Lot 1; thence S1°55'34"E on the west line of said Auditor's Lot 1 a distance of 685.03 feet to the south line of said SE $\frac{1}{4}$; on said south line a distance of 573.88 feet to the east line of the Southwest Quarter of said Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$); thence N2°04'21"W on said east line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ a distance of 1,321.56 feet to the Northeast Corner of said SW $\frac{1}{4}$ SE $\frac{1}{4}$; thence S87°22'39"W on the north line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$ a distance of 1,180.79 feet; thence 483.42 feet on the arc of a non-tangential curve, concave to the west, having a radius of 6,800.00 feet, a central angle of 4°04'24", and a long chord length of 483.32 feet bearing N18°22'49"W to the west line of said SE $\frac{1}{4}$; thence N2°13'10"W on said west line a distance of 853.48 feet to the Northwest Corner of said SE $\frac{1}{4}$; thence N87°15'07"E on the north line of said SE $\frac{1}{4}$ a distance of 1,602.97 feet to the Point of Beginning.

Said parcel contains 73.59 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

OIN 9732

That part of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 24, Township 139 North, Range 50 West, Cass County, ND, being further described as follows:

Beginning at the Southwest Corner of the SE¼ of Section 24; thence N02°13'10"W on the west line of said SE¼ a distance of 100.00 feet; thence N87°30'13"E parallel with, and 100 feet north of, the south line of said SE¼ a distance of 325.76 feet; thence 1234.63 feet on the arc of a non-tangential curve, concave to the west, having a radius of 6800.00 feet, a central angle of 10°24'10", and long chord length of 1232.94 feet bearing N11°08'32"W to the north line of the SW¼SE¼; thence N87°22'39"E on said north line a distance of 1180.79 feet to the Northeast Corner of said SW¼SE¼; thence S02°04'21"E on the east line of said SW¼SE¼ a distance of 1321.56 feet to the south line of said SE¼; thence S87°30'13"W on said south line a distance of 1311.91 feet to the Point of Beginning.

Said parcel contains 32.84 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

The Commission invites you to attend the Commission's meeting on October 5, 2020 at 3:30 p.m. The District will also participate in the meeting, along with a representative of the land firm which 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 easement over your property.

If you wish to participate in the Commission's October 5, 2020 public meeting via conference call or Microsoft Teams, 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 (319) 899-0433 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 easement. The District must complete the acquisition of right of way necessary for construction of Project components on your property by Fall of 2020.

Houkom
August 27, 2020
Page 4

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
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, Ohnstad Twichell, P.C.
Heather Worden, Administrative Assistant, Cass County Commission

Proof of Delivery

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number

1ZF5182Y3090564796

Weight

1.00 LBS

Service

UPS Next Day Air Saver®
with UPS Carbon Neutral 

Shipped / Billed On

08/25/2020

Delivered On

08/28/2020 3:22 P.M.

Delivered To

3620 2ND ST E
WEST FARGO, ND, 58078, US

Received By

DRIVER RELEASE

Left At

Met Customer Man

Thank you for giving us this opportunity to serve you. Details are only available for shipments delivered within the last 120 days. Please print for your records if you require this information after 120 days.

----- Sincerely,

UPS

Tracking results provided by UPS: 08/31/2020 4:30 P.M. EST

Said parcel contains 73.59 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record

AND

OIN 9732

That part of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 24, Township 139 North, Range 50 West, Cass County, ND, being further described as follows:

Beginning at the Southwest Corner of the SE $\frac{1}{4}$ of Section 24; thence N02°13'10"W on the west line of said SE $\frac{1}{4}$ a distance of 100.00 feet; thence N87°30'13"E parallel with, and 100 feet north of, the south line of said SE $\frac{1}{4}$ a distance of 325.76 feet; thence 1234.63 feet on the arc of a non-tangential curve, concave to the west, having a radius of 6800.00 feet, a central angle of 10°24'10", and long chord length of 1232.94 feet bearing N11°08'32"W to the north line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$; thence N87°22'39"E on said north line a distance of 1180.79 feet to the Northeast Corner of said SW $\frac{1}{4}$ SE $\frac{1}{4}$; thence S02°04'21"E on the east line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$ a distance of 1321.56 feet to the south line of said SE $\frac{1}{4}$; thence S87°30'13"W on said south line a distance of 1311.91 feet to the Point of Beginning.

Said parcel contains 32.84 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

The property described above is the "Necessary Property."

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

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

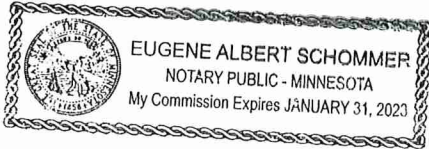
[¶7] The District has instructed ProSource Technologies, LLC to refrain from referencing, mentioning, or threatening quick take eminent domain during negotiations since August 1, 2017.

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

Dated this 14th day of September, 2020.

Patrick Roberts
Patrick Roberts
Senior Project Manager

Subscribed to and sworn to before me this 14th day of Sept., 2020.



(SEAL)

Eugene A. Schommer
Notary Public, County of Washington
State of Minnesota
My Commission Expires: 1-31-23

Exhibit A

Date	OIN 717/9732 Contact notes
	Land agent is Patrick Roberts from ProSource.
1-Jul-19	Received notification of appraisal approval by CCJWRD.
Jul-19	Calls made to contact number. No voicemail set up. No contact with property owner.
Aug-19	Continued attempts to reach David by phone.
13-Aug-19	Approved mailing of introductory letter, informal offer letter, GIN and appraisal to David. Mailing sent out.
21-Aug-19	Door knocking attempted at David Houkom address. No answer.
26-Aug-19	Packet delivered and signed for by David.
Sept - Nov	Continued attempts at contact number. Still no contact.
Jan-20	Provided review of formal offer letter to be sent to Mr. Houkom. Review and confirmation of reduction in TCE.
Mar-20	Formal offer letter sent. Still no contact with landowner.
	No in person or phone contact at all. Only confirmation of mailings received.

AFFIDAVIT OF DAN JACOBSON FOR CASS COUNTY COMMISSION

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

[¶1] I, Dan Jacobson, do hereby state on oath:

[¶2] I serve as Chair of the Cass County Joint Water Resource District (“the District”).

[¶3] As a member of the Metro Flood Diversion Authority, the District is responsible for acquiring the right of way in North Dakota necessary to accommodate the Fargo-Moorhead Area Diversion Project (the “Project”).

[¶4] The District has concluded acquisition of a Right of Way Easement in and to real property owned by David Houkom (“Landowner”) is necessary for the Project.

[¶5] State and federal funds have been made available for the Project.

[¶6] The real property owned by Landowner where a Right of Way Easement must be acquired by the District for the Project is located in Cass County, North Dakota, more fully described as follows:

OIN 717

That part of the Southeast Quarter (SE¼) of Section 24, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Northeast Corner of the SE¼;

thence S87°15'07"W on the north line of said SE¼ a distance of 1,034.50 feet to the Point of Beginning; thence 2,018.41 feet on the arc of a non-tangential curve, concave to the west, having a radius of 8,600.00 feet, a central angle of 13°26'50", and a long chord length of 2,013.78 feet bearing S15°51'15"E to the north line of Auditor's Lot 1 of the SE¼, records of Cass County; thence S87°30'13"W on said north line a distance of 188.33 feet to the northwest corner of said Auditor's Lot 1; thence S1°55'34"E on the west line of said Auditor's Lot 1 a distance of 685.03 feet to the south line of said SE¼; on said south line a distance of 573.88 feet to the east line of the Southwest Quarter of said Southeast Quarter (SW¼SE¼); thence N2°04'21"W on said east line of the SW¼SE¼ a distance of 1,321.56 feet to the Northeast Corner of said SW¼SE¼; thence S87°22'39"W on the north line of said SW¼SE¼ a distance of 1,180.79 feet; thence 483.42 feet on the arc of a non-tangential curve, concave to the west, having a radius of 6,800.00 feet, a central

angle of 4°04'24", and a long chord length of 483.32 feet bearing N18°22'49"W to the west line of said SE¼; thence N2°13'10"W on said west line a distance of 853.48 feet to the Northwest Corner of said SE¼; thence N87°15'07"E on the north line of said SE¼ a distance of 1,602.97 feet to the Point of Beginning.

Said parcel contains 73.59 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record

AND

OIN 9732

That part of the Southwest Quarter of the Southeast Quarter (SW¼SE¼) of Section 24, Township 139 North, Range 50 West, Cass County, ND, being further described as follows:

Beginning at the Southwest Corner of the SE¼ of Section 24; thence N02°13'10"W on the west line of said SE¼ a distance of 100.00 feet; thence N87°30'13"E parallel with, and 100 feet north of, the south line of said SE¼ a distance of 325.76 feet; thence 1234.63 feet on the arc of a non-tangential curve, concave to the west, having a radius of 6800.00 feet, a central angle of 10°24'10", and long chord length of 1232.94 feet bearing N11°08'32"W to the north line of the SW¼SE¼; thence N87°22'39"E on said north line a distance of 1180.79 feet to the Northeast Corner of said SW¼SE¼; thence S02°04'21"E on the east line of said SW¼SE¼ a distance of 1321.56 feet to the south line of said SE¼; thence S87°30'13"W on said south line a distance of 1311.91 feet to the Point of Beginning.

Said parcel contains 32.84 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of 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 of just compensation to Landowner by certified mail, along with an appraisal and purchase agreement, on March 20, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On May 5, 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**.

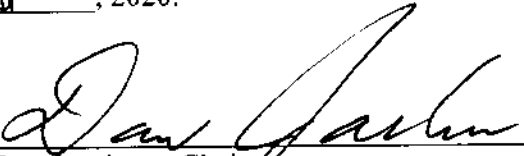
[¶10] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶11] On June 17, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way Easement by certified mail. Additionally, on July 8, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way Easement by UPS. Furthermore, on July 22, 2020, the District sent a written notice of intent to take possession of the Right of Way Easement to be personally served upon Landowner by Chris Laid, process server. 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.

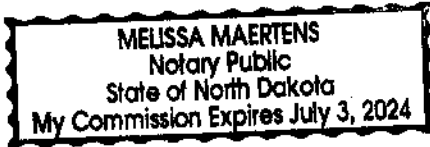
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 25 day of September, 2020.




Dan Jacobson, Chair
Cass County Joint Water Resource District

Subscribed to and sworn to before me this 25 day of September, 2020.



(SEAL)



Notary Public, Cass County, State of North Dakota