

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

November 16th, 2020

PROPERTY OWNER: Edward Samuelson Revocable Living Trust Etal

LAND AGENT: Pat Roberts with ProSource

OIN: 1181 1182



FM AREA
DIVERSION
PROJECT

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Written Correspondence Timeline – Edward Samuelson
Revocable Living Trust Etal

OIN 1181 1182	Sent	Received
Offer to Purchase	3/23/2020	3/25/2020
Formal Negotiations and Written Offer of Just Compensation	6/5/2020	6/8/2020
Request for Meeting	7/21/2020	7/23/2020
Notice of Intent to Take Possession of Right-of-Way	8/26/2020	8/29/2020
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	10/2/2020	10/2/2020
Invitation to Attend Public Meeting	10/9/2020	10/12/2020
Commission Meeting Date	11/16/2020	

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: Edward O. Samuelson, Edward O. Samuelson, Jr. and Thomas J. Samuelson, as Trustees of the Edward O. Samuelson Revocable Living Trust dated June 27, 2010
2. Land Agent: Patrick Roberts
3. Parcel Nos.: 67-0000-12705-000, 67-000-12706-000
4. OIN Nos.: 1181, 1182

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 of 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 regarding OINs 1181 and 1182.

FM Area Diversion Project

Property Negotiation Summary

November 6, 2020

Owner	Samuelson Trust Property
Address	SWQ of 81 st Street S and 45 th St SE Horace, ND 58047
Property Location	Diversion Channel
Property Type	A-1 Agriculture
OIN	1181 1182
Land Firm & Land Agent	ProSource – Pat Roberts

Property Need: P3 Diversion Channel

Valuation and Negotiation Summary:

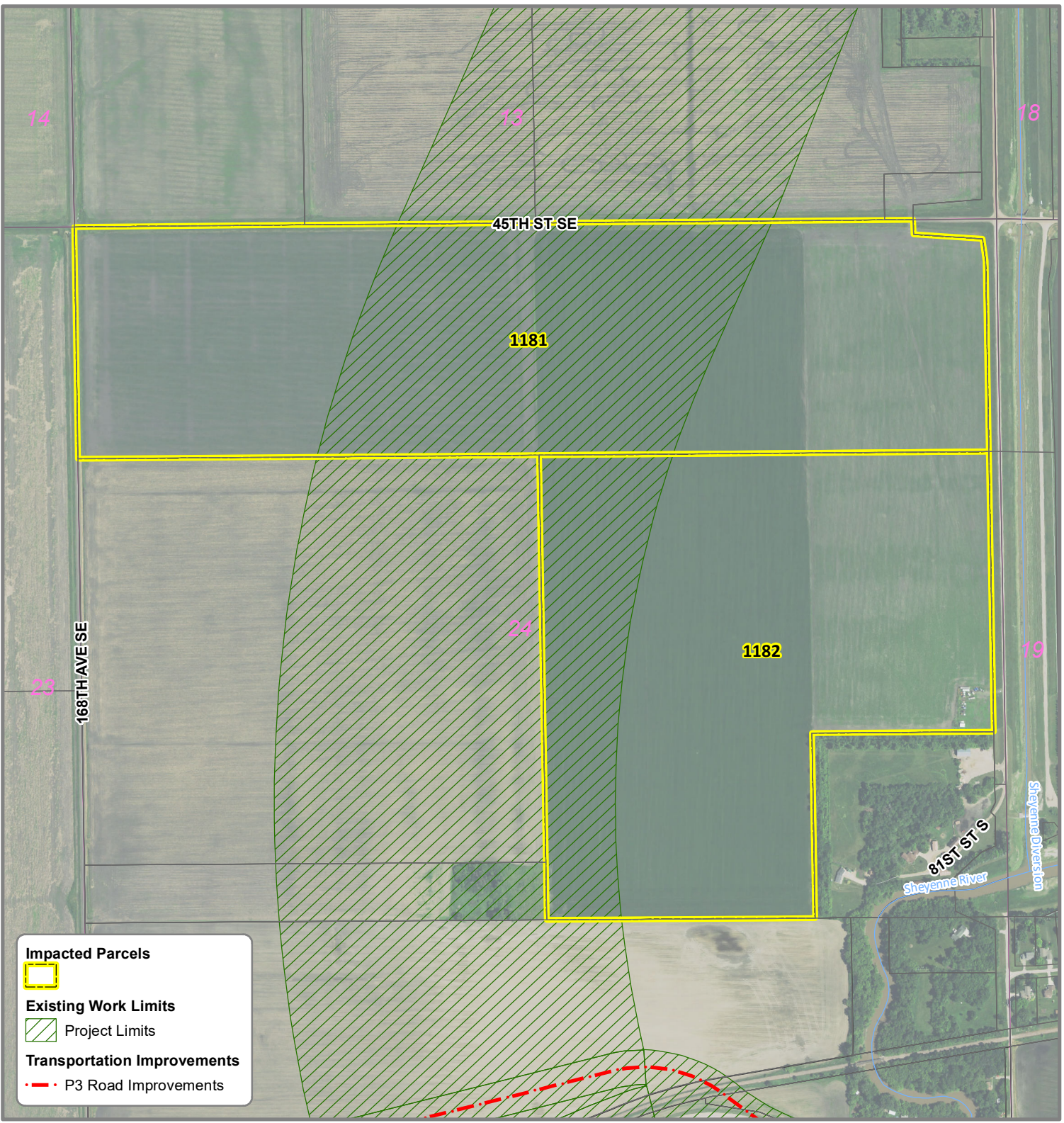
Appraisal Value / Date	\$948,000 (4-4-19 valuation date) Informal offer updated 3-23-2020 94.48 acres.
Counteroffer	\$2,189,053 for the whole 111 acres. Includes +16 acres. Counter- offer to match required acres of 94.48 = \$1,863,240.
Purchase Agreement Value	

Negotiation Notes

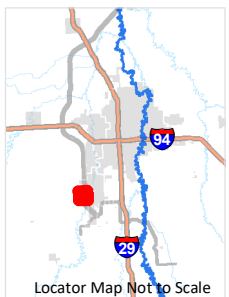
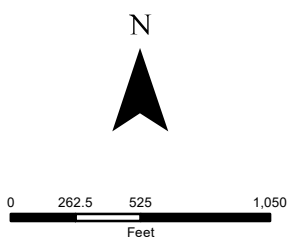
- Land agent is Patrick Roberts from ProSource.
- March 2019. Initial contact with Samuelson Trust regarding a request for permission to enter the property to confirm lot corners. Access was denied.
- August 12, 2019 Appraisal, offer letter and General information notice mailed out. Signed as received on 8-15-19.
- Land agent informed Attorney Jack Dwyer that there is an opportunity to negotiate on the properties that he represents. The board has provided an additional 10% to appraisals.
- Next communication from Attorney Dwyer, land agent receives an email from attorney Dwyer and within the email a counter-offer on behalf of his client David for \$19,721/acre.
- Land agent Patrick Roberts provided a response to attorney Dwyer requesting additional documentation to further support the level of funding being requested as the counter-offer is based on a per acre amount that is 119% over appraised.
- Land agent receives an email from Attorney Dwyer with attachments of described comparable properties that better represent the value of the land.
- Land agent received email from attorney requesting feedback. Land agent calls attorney Dwyer and discuss next steps.

November 6, 2020

- While this information was received and contemplated, other property reviews were on going. Based on the varied sources and types of documentation being provided for counter-offers, it was shown that there was a need for uniform and consistent documentation to support the level of funding that would eventually be provided.
- Based on that feedback, and based on the type of documentation provided in support of the counter-offer, I advised attorney Dwyer that it would be best to have an actual 2nd appraisal completed on the property as the next step in the valuation/negotiation process.
- Land agent receives an email from attorney Dwyer advising: “Ed Samuelson Trust is not willing to accept the offer for anything less per acre than the proposal we submitted to you via email on October 28, 2019, for reasons stated therein. The offer is so low it’s offensive.” Also advising the file is being turned over to another attorney in the office.
- Land agent receives another email from the offices for Jack Dwyer from attorney Mesteth with a letter attached for the counter-offer and PDF attachments for the comparable properties they are using as documentation to support the counter-offer. It is not an appraisal. Counter-offer remains a firm **\$1,863,240** for the 94.48 acres + 325,813 for the additional roughly 16 acres for a total of \$2,189,053 the full 111 acres.
- Land agent presented counter-offer to the CCJWRD for feedback and direction. Advised given the large gap between our appraisal and counter-offer, continue the process.
- July 21, 2020 CCJWRD Invitation letter sent.
- Our offer is for **\$948,000** for 94.48 acres. Landowner’s counter-offer is \$1,863,240 for the same 94.48 acres. We are \$915,240 apart on required acres.

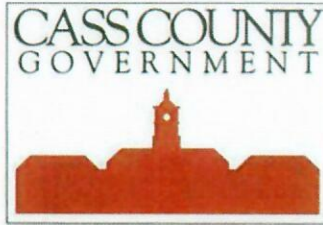


Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use. All parcel acreages and legal descriptions shown hereon are based on County GIS data. Final acreages and legal descriptions to be determined 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\IndividualLayout8x10v105notdatadriven.mxd



Edward O. Samuelson Revocable Living Trust Et Al
 OINs: 1181 1182
 Parcel ID's: 67-0000-12705-000, 67-0000-12706-000
 Cass County, ND
 FM AREA DIVERSION
 Map Date: 7/30/2020





March 23, 2020

Edward O. Samuelson Revocable Living Trust
435 East Main
West Fargo, ND 58078

Delivered Via Certified US Mail

Horace, ND 58047

RE: **Offer to Purchase**

Fargo-Moorhead Area Flood Diversion Project

Property Address: Unassigned, Warren Township ND

Property ID(s): 1181 & 1182 PID(s): 67-0000-12705-000 & 67-0000-12706-000

Dear Edward O. Samuelson, Edward O. Samuelson, Jr. and Thomas J. Samuelson:

Cass County Joint Water Resource District (CCJWRD) will be acquiring your property located at Unassigned, Warren 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.

On August 12, 2019 CCJWRD made an approved offer to all interested parties who may have an interest in the real estate rights to be acquired the sum of \$930,000.00. This offer is based on an independent appraisal by Integra Realty Resources based on a taking of 89.7 acres and a temporary construction easement. It has been determined by an updated Certificate of Survey, that the taking amount needed is 94.48 acres and the temporary construction easement has been eliminated. As such an update has been completed on the appraisal resulting in an updated offer amount of \$948,000.

The Cass County Joint Water Resource District hereby offers to pay you \$948,000.00 as Just Compensation for the property interests it must acquire from you.

Upon receipt of this letter, please sign below. Your signature indicates only that you have received this Revised Offer to Purchase, and the following documents:

- Copy of appraisal for OIN 1173 by Integra Realty Resources.
- Exhibit B (Certificate of Surveys)

Page 2
Edward O. Samuelson Revocable Living Trust
Offer to Purchase Letter

On behalf of CCJWRD, we wish to thank you for your cooperation and assistance, and we look forward to working with you toward a mutually satisfactory completion of the acquisition process.

Sincerely,



Patrick Roberts
Senior Project Manager
319-899-0433
proberts@prosourcectech.com

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

Name

Date

Name

Date

Mindy Sorby

From: Christopher M. McShane <CMcShane@OhnstadLaw.com>
Sent: Wednesday, March 25, 2020 4:45 PM
To: Sabrina Tusa; Patrick Roberts; Dean Vetter
Cc: Scott Stenger; Mindy Sorby; Eric Dodds; Sharon K. Oliver; Lukas D. Andrud
Subject: RE: Ed Samuelson Trust acquisition OIN 1181-1182

Just so everyone remembers, we do not need proof of receipt for informal offers. The proof of receipt requirement doesn't start until the formal negotiation phase. I would strongly suggest not sending informal offers in a manner that requires signed receipt. If we send it certified mail, that is more than enough to satisfy the statute as long as it doesn't get returned to us for some reason. If it is sent return receipt required, and they don't sign for it, then it will get returned – if it is returned, we can't start the clock.

Chris

From: Sabrina Tusa <Sabrina.Tusa@AE2S.com>
Sent: Wednesday, March 25, 2020 4:38 PM
To: Patrick Roberts <proberts@prosourcetech.com>; Dean Vetter <Dean.Vetter@AE2S.com>
Cc: Scott Stenger <sstenger@prosourcetech.com>; Mindy Sorby <Mindy.Sorby@AE2S.com>; Eric Dodds <Eric.Dodds@AE2S.com>; Sharon K. Oliver <SOLiver@OhnstadLaw.com>; Lukas D. Andrud <LAndrud@OhnstadLaw.com>; Christopher M. McShane <CMcShane@OhnstadLaw.com>
Subject: RE: Ed Samuelson Trust acquisition OIN 1181-1182

Hello,

With all that being said I went in and updated the receipt date on the QT-ED tracking. The 60 day window will end on 05/24/20.

Thank you,

Sabrina

From: Patrick Roberts <proberts@prosourcetech.com>
Sent: Wednesday, March 25, 2020 1:53 PM
To: Dean Vetter <Dean.Vetter@AE2S.com>
Cc: Scott Stenger <[sstenger@prosourcetech.com](mailto:ssstenger@prosourcetech.com)>; Sabrina Tusa <Sabrina.Tusa@AE2S.com>; Mindy Sorby <Mindy.Sorby@AE2S.com>; Eric Dodds <Eric.Dodds@AE2S.com>; Sharon K. Oliver <SOLiver@OhnstadLaw.com>; Lukas D. Andrud <landrud@ohnstadlaw.com>; Christopher M. McShane <cmcshane@ohnstadlaw.com>
Subject: RE: Ed Samuelson Trust acquisition OIN 1181-1182

Good afternoon all!

I would say that the proof of receipt date of the REVISED Informal offer of Just Comp is 03/25/20.

I am basing that on the receipt of the email from attorney Jack Dwyer on March 25, that had attached to it, a copy of the revised offer letter that was sent out on the 23rd along with the CORRECT appraisal.

Going forward I will be sure to copy in Sabrina and Mindy.

Thanks,

Patrick R. Roberts | Senior Project Manager
ProSource Technologies, LLC | proberts@prosourcetech.com
763-786-1445 | cell 319.899.0433 | fax 319.362.0115
[FM Diversion Property Acquisition Schedule](#)

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From: Dean Vetter <Dean.Vetter@AE2S.com>
Sent: Wednesday, March 25, 2020 12:52 PM
To: Patrick Roberts <proberts@prosourcetech.com>
Cc: Scott Stenger <[sstenger@prosourcetech.com](mailto:ssstenger@prosourcetech.com)>; Sabrina Tusa <Sabrina.Tusa@AE2S.com>; Mindy Sorby <Mindy.Sorby@AE2S.com>; Eric Dodds <Eric.Dodds@AE2S.com>; Sharon K. Oliver <SOliver@OhnstadLaw.com>; Lukas D. Andrud <landrud@ohnstadlaw.com>; Christopher M. McShane <cmcshane@ohnstadlaw.com>
Subject: RE: Ed Samuelson Trust acquisition OIN 1181-1182
Importance: High

Pat – So I think you are saying that the Proof of Receipt of the REVISED Informal Offer of Just Comp with the CORRECT Appraisal was 03/25/20.
Can you please confirm this?

If so, I will have Mindy create a pdf of this email and attach it behind the signed REVISED Informal Offer Letter that is also attached. I copied Mindy on this email, so please “Reply to All” so that Mindy knows what to do next. Also Sabrina, if Pat confirms this, please updated the QT-ED Spreadsheet with the ‘actual’ REVISED Informal Offer Receipt Date.

This QT-ED process is crazy detailed! Dean...

PS Going forward Pat, anything related to QT-ED and the processing of Informal-Formal-CCJWRD Invites-etc... ALWAYS include Sabrina on these emails. She is the primary focal on providing oversight on the QT-ED Tracking Spreadsheet that is on SharePoint. Also, Mindy needs to be copied on all paperwork that relates to PROOF of Receipt of Informal Offers of Just Comp that the Land Agent receives so that these docs and the PROOF can be uploaded to WMX and the corresponding dates input as well. This all helps us track things and give insight into who may have the next step in the process to acquire a parcel via QT-ED...hoping that we get a voluntary agreement prior to actually going through ALL the QT-ED Process Steps.

From: Patrick Roberts <proberts@prosourcetech.com>
Sent: Wednesday, March 25, 2020 12:26 PM
To: Christopher M. McShane <cmcshane@ohnstadlaw.com>; Lukas D. Andrud <landrud@ohnstadlaw.com>; Sharon K. Oliver <SOliver@OhnstadLaw.com>; Dean Vetter <Dean.Vetter@AE2S.com>; Eric Dodds <Eric.Dodds@AE2S.com>
Cc: Scott Stenger <[sstenger@prosourcetech.com](mailto:ssstenger@prosourcetech.com)>
Subject: FW: Ed Samuelson Trust acquisition OIN 1181-1182

Good afternoon,
[Update on OIN 1181-1182.](#)

The informal offer letter for OIN 1181-1182 has been received by the law firm representing OIN 1181-1182.
See his reply below.
Take note that the file has been assigned to: Lynn Mesteth in the Dwyer law firm.

Our offer is \$948,000, based on \$9000/acre + damages to remainder.

The amount per acre he is referring to as the counter-offer is \$19,721.20/acre based on develop land plan.

The Samuelson family controls the Lost River development, and has intimate knowledge relating to the value of real estate in this area.

The Samuelson family is fully aware that it is selling lots for \$2.50 to \$3.50 per square foot, and that its first phase of the Lost River development, which consisted of 124 lots and opened in November of 2017, is nearly sold out.

They also want the remainder on the west of the project to be purchased as well.

The counter-offer amount is **\$2,090,447.20** (includes an additional 15-16 acres not a part of our offer)

I am guessing this one will be one that goes thru the "long route."

Any questions, let me know.

Thanks,

Patrick R. Roberts | Senior Project Manager
ProSource Technologies, LLC | proberts@prosourcetech.com
763-786-1445 | cell 319.899.0433 | fax 319.362.0115
[FM Diversion Property Acquisition Schedule](#)

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From: Jack Dwyer <Jack@dwyerlawnd.com>
Sent: Wednesday, March 25, 2020 11:32 AM
To: Patrick Roberts <proberts@prosourcetech.com>
Cc: Lynn Mesteth <lynn@dwyerlawnd.com>
Subject: Ed Samuelson Trust acquisition

Hello Patrick,

As we discussed, Ed Samuelson Trust is not willing to accept the offer for anything less per acre than the proposal we submitted to you via email on October 28, 2019, for reasons stated therein. The offer is so low it's offensive.

Please note Lynn Mesteth from my office will be handling this file moving forward, as I may be needed as an expert witness if we proceed to trial.

Thank you. Jack

Jack Dwyer

 **Dwyer** LAW OFFICE PLLC

5302 51st Ave S, Suite D
Fargo, ND 58104
P: (701) 235-2040
jack@dwyerlawnd.com



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

June 5, 2020

**Cass County
Joint Water
Resource
District**

Edward O. Samuelson
Edward O. Samuelson, Jr.
Thomas J. Samuelson
Trustees of the Edward O. Samuelson Revocable Living Trust
c/o Edward O. Samuelson
435 East Main Avenue
West Fargo, ND 58078
Certified No. 7019 1640 0002 0398 7760

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
Formal Negotiations and Written Offer of Just Compensation
OINs: 1181, 1182
Parcel Nos.: 67-0000-12705-000, 67-000-12706-000

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 over property located in Cass County and identified as Parcel Identification Number 67-0000-12705-000 and 67-0000-12706-000. The legal description of the property to be acquired is:

OIN 1181

That part of the North Half of the North Half (N1/2N1/2) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Northwest Corner of Section 24; thence N87°33'15"E on the north line of said Section 24 a distance of 1850.57 feet to the Point of Beginning; thence continuing N87°33'15"E on said north line a distance of 786.56 feet to the Northeast Corner of the Northwest Quarter (NW1/4) of said Section 24; thence N87°33'06"E on the north line of the Northeast Quarter (NE1/4) of said Section 24 a distance of 1356.42 feet; thence S22°03'16"W a distance of 888.74 feet; thence 560.96 feet on the arc of a curve tangent to preceding line, concave to the east, having a radius of 6175.00 feet, a central angle of 05°12'18", and a long chord length of 560.76 feet bearing S19°27'07"W to the south line of the North Half of the Northeast Quarter (N1/2NE1/4); thence S87°34'55"W on said south line a distance of 767.21 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

Southwest Corner of said N1/2NE1/4; thence S87°35'00"W on the south line of the North Half of the Northwest Quarter (N1/2NW1/4) of said Section 24 a distance of 1269.01 feet; thence 1410.75 feet on the arc of a non-tangential curve, concave to the east, having a radius of 8125.00 feet, a central angle of 09°56'54", and a long chord length of 1408.98 feet bearing N17°04'49EW to the Point of Beginning.

Said parcel contains 64.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 1182

That part of the South Half of the Northeast Quarter (S1/2NE1/4) and the North Half of the Southeast Quarter (N1/2SE1/4) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota being further described as follows:

Commencing at the Northwest Corner of the Northeast Quarter (NE1/4) of Section 24; thence S2°56'33"E on the west line of said NE1/4 a distance of 1,328.65 feet to the Northwest Corner of the S1/2NE1/4, said corner being the Point of Beginning; thence N87°34'55"E on the north line of said S1/2NE1/4 a distance of 767.21 feet; thence 2,694.19 feet on the arc of a non-tangential curve, concave to the east, having a radius of 6,175.00 feet, a central angle of 24°59'55", and long chord length of 2,672.87 feet bearing S04°21'01"W to the south line of the N1/2SE1/4 of said Section 24; thence S87°43'50"W on said south line a distance of 427.92 feet to the Southwest Corner of said N1/2SE1/4; thence N2°56'33"W on the west line of said N1/2SE1/4 and S1/2NE1/4 a distance of 2,653.24 feet to the Point of Beginning.

Said parcel contains 30.40 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 \$850,320.00, plus damages to the remainder of your property in the amount of \$97,625.00, for a total purchase price of \$947,945.00, rounded to \$948,000.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$948,000.00 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. **Pat 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.

Samuelson
June 5, 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:
 EDWARD O SAMUELSON RLT
 C/O EDWARD O SAMUELSON
 435 EAST MAIN AVENUE
 WEST FARGO ND 58078



9590 9402 5989 0062 9068 60

2. Article Number (Transfer from service label)
 7019 1640 0002 0398 7760

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X Samuelson Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery
 DE COO6 C19 6-8-20

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

**Cass County
Joint Water
Resource
District**

July 21, 2020

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

Edward O. Samuelson
Edward O. Samuelson, Jr.
Thomas J. Samuelson
Trustees of the Edward O. Samuelson Revocable Living Trust
c/o Edward O. Samuelson
435 East Main Avenue
West Fargo, ND 58078
Certified No. 7020 0090 0000 7648 4335

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OINs: 1181, 1182
Parcel Nos.: 67-0000-12705-000, 67-0000-12706-000

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 June 5, 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 August 13, 2020, and August 27, 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.

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

Samuelson
OINs 1181, 1182
July 21, 2020
Page 2

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.

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: Lynn M. Mesteth, Dwyer Law Office, PLLC
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 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 checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>X  <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery <u>7/23/2020</u></p>																
<p>1. Article Addressed to:</p> <p>EDWARD O SAMUELSON REVOCABLE LIVING TRUST C/O EDWARD O SAMUELSON 435 EAST MAIN AVENUE WEST FARGO ND 58078</p>	<p>D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>																
 9590 9402 5989 0062 9057 71	<p>3. Service Type</p> <table border="0"> <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 checked="" 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> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></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 checked="" 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)	
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®																
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<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery																
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<input type="checkbox"/> Insured Mail																	
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)																	
<p>2. Article Number (Transfer from service label)</p> <p>7020 0090 0000 7648 4335</p>	<p>Domestic Return Receipt</p>																

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



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**Cass County
Joint Water
Resource
District**

August 26, 2020

Edward O. Samuelson
Edward O. Samuelson, Jr.
Thomas J. Samuelson
Trustees of the Edward O. Samuelson Revocable Living Trust
c/o Edward O. Samuelson
435 East Main Avenue
West Fargo, ND 58078
Certified No. 7020 0090 0000 7648 4649

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
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY
OINs: 1181, 1182
Parcel Nos. 67-0000-12705-000, 67-0000-12706-000

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 June 5, 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 July 21, 2020, to invite you to meet with the District for purposes of discussing the acquisition of your right of way. 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 right of way from you to accommodate the Project.

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.

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

Samuelson
OINs 1181, 1182
August 26, 2020
Page 2

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

You are encouraged to maintain contact with the land agent assigned to your property. **Patrick Roberts** of **ProSource Technologies, LLC** can be reached at **(319) 899-0433** 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: Lynn M. Mesteth, Dwyer Law Office, PLLC
Patrick 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:
 EDWARD O SAMUELSON
 EDWARD O SAMUELSON JR
 THOMAS J SAMUELSON
 TRUSTEES OF EDWARD O SAMUELSON RLTY
 C/O EDWARD O SAMUELSON
 435 EAST MAIN AVENUE
 WEST FARGO ND 58078



9590 9402 5989 0062 9053 06

2. Article Number (Transfer from service label)

7020 0090 0000 7648 4649

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Edward O Samuelson*

- Agent
- Addressee

B. Received by (Printed Name)

Edward

C. Date of Delivery

8/29/20

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



SENT VIA EMAIL wilsonro@casscountynd.gov

Cass County
Joint Water
Resource
District

October 2, 2020

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

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: 1181, 1182
Parcel Nos.: 67-0000-12705-000, 67-0000-12706-000

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 Edward O. Samuelson, Edward O. Samuelson, Jr. and Thomas J. Samuelson, as Trustees of the Edward O. Samuelson Revocable Living Trust dated June 27, 2010 (the "Landowner"):

- Letter dated June 5, 2020, enclosing the District's appraisal for the acquisition of the right of way from the Landowner and a proposed Purchase Agreement;
- Letter dated July 21, 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 August 26, 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 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 1181

That part of the North Half of the North Half (N1/2N1/2) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Northwest Corner of Section 24; thence N87°33'15"E on the north line of said Section 24 a distance of 1850.57 feet to the Point of Beginning; thence continuing N87°33'15"E on said north line a distance of 786.56 feet to the Northeast Corner of the Northwest Quarter (NW1/4) of said Section 24; thence N87°33'06"E on the north line of the Northeast Quarter (NE1/4) of said Section 24 a distance of 1356.42 feet; thence S22°03'16"W a distance of 888.74 feet; thence 560.96 feet on the arc of a curve tangent to preceding line, concave to the east, having a radius of 6175.00 feet, a central angle of 05°12'18", and a long chord length of 560.76 feet bearing S19°27'07"W to the south line of the North Half of the Northeast Quarter (N1/2NE1/4); thence S87°34'55"W on said south line a distance of 767.21 feet to the Southwest Corner of said N1/2NE1/4; thence S87°35'00"W on the south line of the North Half of the Northwest Quarter (N1/2NW1/4) of said Section 24 a distance of 1269.01 feet; thence 1410.75 feet on the arc of a non-tangential curve, concave to the east, having a radius of 8125.00 feet, a central angle of 09°56'54", and a long chord length of 1408.98 feet bearing N17°04'49"E to the Point of Beginning.

Said parcel contains 64.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

OIN 1182

That part of the South Half of the Northeast Quarter (S1/2NE1/4) and the North Half of the Southeast Quarter (N1/2SE1/4) of Section 24, Township

138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota being further described as follows:

Commencing at the Northwest Corner of the Northeast Quarter (NE1/4) of Section 24; thence S2°56'33"E on the west line of said NE1/4 a distance of 1,328.65 feet to the Northwest Corner of the S1/2NE1/4, said corner being the Point of Beginning; thence N87°34'55"E on the north line of said S1/2NE1/4 a distance of 767.21 feet; thence 2,694.19 feet on the arc of a non-tangential curve, concave to the east, having a radius of 6,175.00 feet, a central angle of 24°59'55", and long chord length of 2,672.87 feet bearing S04°21'01"W to the south line of the N1/2SE1/4 of said Section 24; thence S87°43'50"W on said south line a distance of 427.92 feet to the Southwest Corner of said N1/2SE1/4; thence N2°56'33"W on the west line of said N1/2SE1/4 and S1/2NE1/4 a distance of 2,653.24 feet to the Point of Beginning.

Said parcel contains 30.40 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

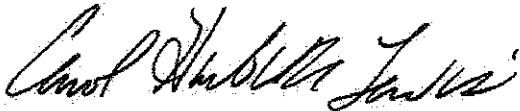
Robert Wilson
October 2, 2020
Page 4

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.
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



October 9, 2020

VIA UPS – DELIVERY CONFIRMATION

Board of County Commissioners

Chad M. Peterson
Fargo, North Dakota

Rick Steen
Fargo, North Dakota

Ken Pawluk
Fargo, North Dakota

Duane Breitling
West Fargo, North Dakota

Mary Scherling
Stanley Township, North Dakota

Edward O. Samuelson
Edward O. Samuelson, Jr.
Thomas J. Samuelson
Trustees of the Edward O. Samuelson Revocable Living Trust
c/o Edward O. Samuelson
435 East Main Avenue
West Fargo, ND 58078

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OINs: 1181, 1182
Parcel Nos.: 67-0000-12705-000, 67-000-12706-000
UPS Tracking No. 1Z F51 82Y 30 9436 0874

Greetings:

As you know, the METRO FLOOD DIVERSION 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 June 5, 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 July 21, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way easement to be acquired; and
- Letter dated August 26, 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.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 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:

OIN 1181

That part of the North Half of the North Half (N1/2N1/2) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Northwest Corner of Section 24;
thence N87°33'15"E on the north line of said Section 24 a distance of 1850.57 feet to the Point of Beginning;
thence continuing N87°33'15"E on said north line a distance of 786.56 feet to the Northeast Corner of the Northwest Quarter (NW1/4) of said Section 24;
thence N87°33'06"E on the north line of the Northeast Quarter (NE1/4) of said Section 24 a distance of 1356.42 feet;
thence S22°03'16"W a distance of 888.74 feet;
thence 560.96 feet on the arc of a curve tangent to preceding line, concave to the east, having a radius of 6175.00 feet, a central angle of 05°12'18", and a long chord length of 560.76 feet bearing S19°27'07"W to the south line of the North Half of the Northeast Quarter (N1/2NE1/4);
thence S87°34'55"W on said south line a distance of 767.21 feet to the Southwest Corner of said N1/2NE1/4;
thence S87°35'00"W on the south line of the North Half of the Northwest Quarter (N1/2NW1/4) of said Section 24 a distance of 1269.01 feet;
thence 1410.75 feet on the arc of a non-tangential curve, concave to the east, having a radius of 8125.00 feet, a central angle of 09°56'54", and a long chord length of 1408.98 feet bearing N17°04'49"E to the Point of Beginning.

Said parcel contains 64.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

OIN 1182

That part of the South Half of the Northeast Quarter (S1/2NE1/4) and the North Half of the Southeast Quarter (N1/2SE1/4) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota being further described as follows:

Commencing at Northwest Corner of the Northeast Quarter (NE1/4) of Section 24;

thence S2°56'33"E on the west line of said NE1/4 a distance of 1,328.65 feet to the Northwest Corner of the S1/2NE1/4, said corner being the Point of Beginning; thence N87°34'55"E on the north line of said S1/2NE1/4 a distance of 767.21 feet; thence 2,694.19 feet on the arc of a non-tangential curve, concave to the east, having a radius of 6,175.00 feet, a central angle of 24°59'55", and long chord length of 2,672.87 feet bearing S04°21'01"W to the south line of the N1/2SE1/4 of said Section 24;

thence S87°43'50"W on said south line a distance of 427.92 feet to the Southwest Corner of said N1/2SE1/4;

thence N2°56'33"W on the west line of said N1/2SE1/4 and S1/2NE1/4 a distance of 2,653.24 feet to the Point of Beginning.

Said parcel contains 30.40 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 November 16, 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 November 16, 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.

Samuelson
October 9, 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
Lynn M. Mesteth, Dwyer Law Office, PLLP
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

Edward Samuelson
OIN'S 1181, 1182

Proof of Delivery

Dear Customer,

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

Tracking Number

1ZF5182Y3094360874

Weight

1.00 LBS

Service

UPS Next Day Air Saver®
with UPS Carbon Neutral 

Shipped / Billed On

10/08/2020

Delivered On

10/12/2020 2:11 P.M.

Delivered To

WEST FARGO, ND, US

Received By

CFN

Left At

Front Desk

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: 10/12/2020 3:46 P.M. EST

feet, a central angle of 09°56'54", and a long chord length of 1408.98 feet bearing N17°04'49"E to the Point of Beginning.

Said parcel contains 64.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

OIN 1182

That part of the South Half of the Northeast Quarter (S1/2NE1/4) and the North Half of the Southeast Quarter (N1/2SE1/4) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota being further described as follows:

Commencing at the Northwest Corner of the Northeast Quarter (NE1/4) of Section 24; thence S2°56'33"E on the west line of said NE1/4 a distance of 1,328.65 feet to the Northwest Corner of the S1/2NE1/4, said corner being the Point of Beginning; thence N87°34'55"E on the north line of said S1/2NE1/4 a distance of 767.21 feet; thence 2,694.19 feet on the arc of a non-tangential curve, concave to the east, having a radius of 6,175.00 feet, a central angle of 24°59'55", and long chord length of 2,672.87 feet bearing S04°21'01"W to the south line of the N1/2SE1/4 of said Section 24; thence S87°43'50"W on said south line a distance of 427.92 feet to the Southwest Corner of said N1/2SE1/4; thence N2°56'33"W on the west line of said N1/2SE1/4 and S1/2NE1/4 a distance of 2,653.24 feet to the Point of Beginning.

Said parcel contains 30.40 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.

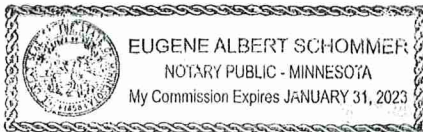
[¶7] The District has instructed ProSource Technologies, LLC to refrain from referencing, mentioning, or threatening quick take eminent domain during negotiations since August 1, 2017.


[¶8] I verify to the best of my knowledge, as Senior Project Manager/Land Agent 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 21 day of October, 2020.


Patrick Roberts
Senior Project Manager/Land Agent

Subscribed to and sworn to before me this 21st day of October, 2020.




Notary Public, County of Washington
State of Minnesota
My Commission Expires: 1-31-2023

(SEAL)

Exhibit A

Date	OIN 1181 Contact Notes
	Land agent is Patrick Roberts from ProSource.
Mar-19	Initial contact with Samuelson Trust regarding a request for permission to enter the property to confirm lot corners. Access was denied.
8/12/2019	Appraisal, offer letter and General information notice mailed out. Signed as received on 8-15-19.
9/11/2019	Land agent was speaking with attorney Jack Dwyer regarding this parcel.
	Land agent informed Attorney Jack Dwyer that there is an opportunity to negotiate on the properties that he represents.
10/28/2019	Next communication from Attorney Dwyer, land agent receives an email from attorney Dwyer and within the email a counter-offer on behalf of his client David for \$19,721/acre.
12/2/2019	Land agent Patrick Roberts provided a response to attorney Dwyer requesting additional documentation to further support the level of funding being requested as the counter-offer is based on a per acre amount that is 119% over appraised.
12/2/2019	Land agent receives an email from Attorney Dwyer with attachments of described comparable properties that better represent the value of the land.
2/7/2020	Land agent received email from attorney requesting feedback. Land agent calls attorney Dwyer and discuss next steps.
	While this information was received and contemplated, other property reviews were on going. Based on the varied sources and types of documentation being provided for counter-offers, it was shown that there was a need for uniform and consistent documentation to support the level of funding that would eventually be provided.
2/10/2020	Based on that feedback, and based on the type of documentation provided in support of the counter-offer, I advised attorney Dwyer that it would be best to have an actual 2 nd appraisal completed on the property as the next step in the valuation/negotiation process.
3/25/2020	Land agent receives an email from attorney Dwyer advising: "Ed Samuelson Trust is not willing to accept the offer for anything less per acre than the proposal we submitted to you via email on October 28, 2019, for reasons stated therein. The offer is so low it's offensive." Also advising the file is being turned over to another attorney in the office.
4/8/2020	Land agent receives another email from the offices for Jack Dwyer from attorney Mesteth with a letter attached for the counter-offer and PDF attachments for the comparable properties they are using as documentation to support the counter-offer. It is not an appraisal. Counter-offer remains a firm \$1,863,240 for the 94.48 acres + \$325,813 for the additional roughly 16 acres for a total of \$2,189,053 for the full 111 acres.
	Our offer is for \$948,000 for 94.48 acres. We are \$915,240 apart on the required acres and \$1,241,052 apart on offer/counter-offer.
5/14/2020	Land agent presented counter-offer to the CCJWRD for feedback and direction. Advised given the large gap between our appraisal and counter-offer, continue the process.
7/21/2020	CCJWRD Invitation letter sent.
8/26/2020	Received this email from attorney Lynn Mesteth: We were initially planning to attend the CCJWRD meeting tomorrow to present some additional information to the board on the Samuelson Trust and Harvey Brakken properties. Our engineer and appraiser are finalizing work on their reports and we would like to have those prior to presentation to the board. I talked with Chris McShane about getting on the agenda for September 24, 2020 instead and indicated that would not be a problem.

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 Edward O. Samuelson, Edward O. Samuelson, Jr. and Thomas J. Samuelson, as Trustees of the Edward O. Samuelson Revocable Living Trust dated June 27, 2010 (“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 1181

That part of the North Half of the North Half (N1/2N1/2) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Northwest Corner of Section 24; thence N87°33'15"E on the north line of said Section 24 a distance of 1850.57 feet to the Point of Beginning; thence continuing N87°33'15"E on said north line a distance of 786.56 feet to the Northeast Corner of the Northwest Quarter (NW1/4) of said Section 24; thence N87°33'06"E on the north line of the Northeast Quarter (NE1/4) of said Section 24 a distance of 1356.42 feet; thence S22°03'16"W a distance of 888.74 feet; thence 560.96 feet on the arc of a curve tangent to preceding line, concave to the east, having a radius of 6175.00 feet, a central angle of 05°12'18", and a long chord length of 560.76 feet bearing S19°27'07"W to the south line of the North Half of the Northeast Quarter (N1/2NE1/4); thence S87°34'55"W on said south line a

distance of 767.21 feet to the Southwest Corner of said N1/2NE1/4; thence S87°35'00"W on the south line of the North Half of the Northwest Quarter (N1/2NW1/4) of said Section 24 a distance of 1269.01 feet; thence 1410.75 feet on the arc of a non-tangential curve, concave to the east, having a radius of 8125.00 feet, a central angle of 09°56'54", and a long chord length of 1408.98 feet bearing N17°04'49EW to the Point of Beginning.

Said parcel contains 64.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

OIN 1182

That part of the South Half of the Northeast Quarter (S1/2NE1/4) and the North Half of the Southeast Quarter (N1/2SE1/4) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota being further described as follows:

Commencing at the Northwest Corner of the Northeast Quarter (NE1/4) of Section 24; thence S2°56'33"E on the west line of said NE1/4 a distance of 1,328.65 feet to the Northwest Corner of the S1/2NE1/4, said corner being the Point of Beginning; thence N87°34'55"E on the north line of said S1/2NE1/4 a distance of 767.21 feet; thence 2,694.19 feet on the arc of a non-tangential curve, concave to the east, having a radius of 6,175.00 feet, a central angle of 24°59'55", and long chord length of 2,672.87 feet bearing S04°21'01"W to the south line of the N1/2SE1/4 of said Section 24; thence S87°43'50"W on said south line a distance of 427.92 feet to the Southwest Corner of said N1/2SE1/4; thence N2°56'33"W on the west line of said N1/2SE1/4 and S1/2NE1/4 a distance of 2,653.24 feet to the Point of Beginning.

Said parcel contains 30.40 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 June 5, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On July 21, 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 Landowner is attached as **Exhibit 2**.

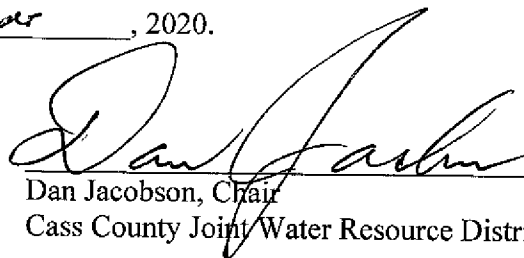
[¶10] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶11] On August 26, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way Easement, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

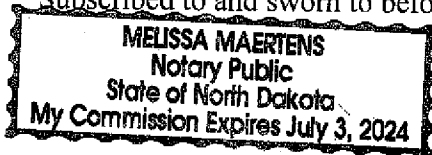
[¶12] The District has retained land agents who are in direct contact with Landowner. The District instructed our land agents not to reference, mention, or threaten quick take eminent domain during negotiations. The land agents have verified they have not referenced, mentioned, or threatened quick take eminent domain during the course of negotiations with Landowner since August 1, 2017.

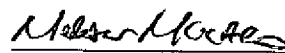
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 2nd day of November, 2020.


Dan Jacobson, Chair
Cass County Joint Water Resource District

Subscribed to and sworn to before me this 2nd day of November, 2020.




Notary Public, Cass County, State of North Dakota

(SEAL)