



## Highway Department


Telephone: 701-298-2370

Fax: 701-298-2395

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### MEMORANDUM

TO: Cass County Commission

FROM: Jason Benson, County Engineer 

DATE: August 28, 2022

SUBJECT: Consent agenda topic for September 5, 2023, Commission Meeting: Quit Claim Deed

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The Cass County Highway Department acquired right of way on November 14<sup>th</sup>, 2007, from the Kautzman Family Limited Partnership, adjacent to County Highway 17 for road improvements. At that time, the wrong Legal Description was inadvertently filed. The Kautzman Family Partnership has asked us to file a corrected Legal description prior to the sale of Auditors Lot 3. This corrected Legal description would also clarify the County's original intent of the November 14<sup>th</sup>, 2007, Warranty Deed.

I am recommending that the Commission approve the Quit Claim Deed.

**SUGGESTED MOTION:** AUTHORIZE CHAIRMAN TO APPROVE THE QUIT CLAIM DEED

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*Space above line for recorder's use only*

## **QUIT CLAIM DEED**

This Quit Claim Deed is made this 5<sup>th</sup> day of September, 2023, by and between **the County of Cass, in the State of North Dakota, a municipal corporation** (“Grantor”); and **Kautzman Family, LLLP** (“Grantee”), a North Dakota limited liability limited partnership, having a mailing address of 668 Sommerset Lane, West Fargo, ND 58078.

For good and valuable consideration, the receipt whereof is hereby acknowledged, Grantor does hereby convey and quit claim to Grantee, and Grantee’s successors and assigns, forever, all right, title, interest, claim or demand in and to that certain real property lying and being in the County of Cass, State of North Dakota, and legally described as follows:

### **See Legal Descriptions on Exhibit A**

*These legal descriptions were obtained from previously recorded instruments.*

However, Grantor expressly retains and reserves from this conveyance all its right, title, and interest in and to any recorded easements previously conveyed to Grantor that affect the real property legally described on Exhibit A including, but not limited to, Grantor’s easement rights over the east sixty (60) feet of Auditor’s Lot 3 and Auditor’s Lot 6 and the south sixty (60) feet of said Auditor’s Lot 6.

Grantor’s intent in executing this conveyance is to confirm fee title in Grantee insofar as the real property legally described on Exhibit A as contemplated by N.D.C.C. §§ 32-15-03 and 32-15-03.2.

The undersigned certifies that a statement of full consideration paid does not apply because this conveyance is exempt under North Dakota Century Code §11-18-02.2(6)(h).

Dated: \_\_\_\_\_  
\_\_\_\_\_ Grantee or Authorized Agent

[Rest of page intentionally blank. Signatures follow.]



## **EXHIBIT A**

### **Legal Descriptions**

Auditor's Lot Three (3) of the Northeast Quarter (NE1/4) of Section Seven (7), Township One Hundred Thirty-eight (138) North, Range Forty-nine (49) West as evidenced of record by the Plat of Auditor's Lot 3 recorded as Cass County Document No. 677052;

AND

Auditor's Lot Six (6) of the Southeast Quarter (SE1/4) of Section Seven (7), Township One Hundred Thirty-eight (138) North, Range Forty-nine (49) West as evidenced of record by the Plat of Auditor's Lot 6 recorded as Cass County Document No. 677053,

LESS AND EXCEPT the following tracts conveyed to Grantor by Right of Way Deed recorded as Cass County Document No. 1562140:

The East Seventy-five (75') feet of the South Six Hundred-ten (610') feet of Auditor's Lot 6 located in the Southeast Quarter (SE1/4) of Section Seven (7) Township One Hundred Thirty-eight (138) North, Range Forty-nine (49) West of the Fifth Principal Meridian, Cass County, North Dakota;

AND

That part of Auditor's Lot Six (6) located in the Southeast Quarter (SE1/4) of Section Seven (7) Township One Hundred Thirty-eight (138) North, Range Forty-nine (49) West of the Fifth (5<sup>th</sup>) Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the Southeast corner of the Southeast quarter of said Section 7; thence on an assumed bearing of North 89°33'40" West along the South line of said section 7 a distance of 75.00 feet; thence North 00°00'00" East parallel with the East line of said section 7 a distance of 60.00 feet to the true point of beginning; thence and continuing North 00°00'00" East parallel with the East line of said section 7 a distance of 75.00 feet; thence South 45°13'10" West a distance of 105.66 feet; thence South 89°33'40" East parallel with the South line of said section 7 a distance of 75.00 feet to the true point of beginning.

**SRF** CONSULTING GROUP, INC.

Transportation • Civil • Structural • Environmental • Planning • Traffic • Landscape Architecture • Parking • Right of Way

May 1, 2007

SRF No. 5886-0290  
Parcel No.10

Kautzman Family Limited Partnership  
1768 Charleswood Estate Drive  
West Fargo, North Dakota 58078

Dear Kautzman Family Limited Partnership:

SUBJECT: COUNTY HIGHWAY 17 FROM C.R.6 (52<sup>ND</sup> AVE S) TO C.R. 16 (124<sup>TH</sup> AVE S)  
CASS COUNTY, NORTH DAKOTA

Cass County will be acquiring land rights for the County Highway 17 Improvement Project. They have engaged the services of SRF Consulting Group, Inc. to assist with the design of the roadway and preparation of the purchase documents for the new right of way which is necessary for the completion of the project. This letter is to introduce our company to you and to give you some preliminary information about the procedures involved in the right of way acquisition.

The first step will be to appraise the impact of the new right of way on the affected properties. You will be contacted by a representative from R.M. Hoefs & Associates, Inc. You will be invited to accompany the appraiser when he/she inspects your property; however, you are not required to be present. Upon completion and certification of the appraisal reports, a representative from Cass County will contact you to set up a meeting to discuss the project and to make the official offer for the purchase of the necessary right of way. The representative will also work with you to resolve any concerns or issues and to answer any further questions you may have.

Enclosed is a copy of an information pamphlet which is designed to give you an overview of the acquisition process that is followed by governmental units. Please read through this pamphlet and, if you have any questions, please do not hesitate to contact Keith Berndt, Cass County Engineer @ 701-298-2372 or me at our toll free number 866-877-0773.

Sincerely,

SRF CONSULTING GROUP, INC.



Lisa Beckman, SR/WA  
Senior Associate

LB/ck

Enclosure

cc: Keith Berndt, Cass County  
R.M. Hoefs & Associates, Inc.

One Carlson Parkway North, Suite 150  
Minneapolis, Minnesota 55447-4443  
Tel: 763-475-0010 • Fax: 763-475-2429

[srfconsulting.com](http://srfconsulting.com)

An Equal Opportunity Employer

Case Plaza, One North Second Street  
Fargo, North Dakota 58102-4807  
Tel: 701-237-0010 • Fax: 701-237-0017

Exhibit "A"  
(1 of 2)

CASS COUNTY, NORTH DAKOTA  
CASS COUNTY HIGHWAY 17  
EASEMENT ACQUISITION DESCRIPTION  
SRF No. 0065886  
JUNE 14, 2007

PARCEL 10

OWNER: KAUTZMAN FAMILY LIMITED PARTNERSHIP  
P.I.N.: 10-0180-10005-000

PROPERTY DESCRIPTION & OWNER ACCORDING TO DOCUMENT NO. 922829 (WARRANTY DEED)

The East 15 feet of the South 550 feet of Auditor's Lot 3 except the North 45 feet of the West 65 feet thereof in the Northeast Quarter AND Auditor's Lot 6 in the Southeast Quarter, all in Section 7, Township 138 North of Range 49 West of the Fifth Principal Meridian, situate in the County of Cass, State of North Dakota.

*Wrong legal*

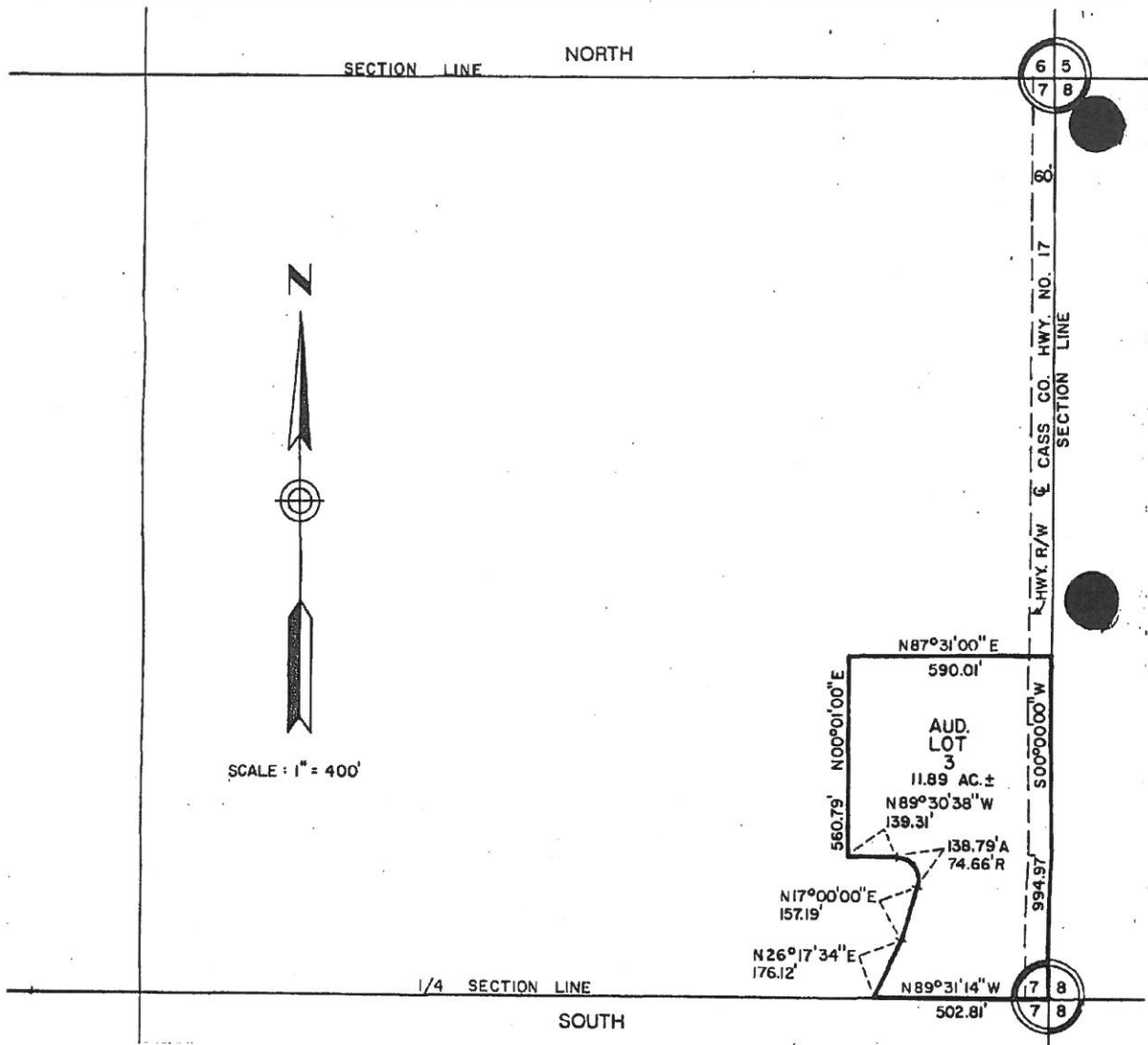
657

# PLAT OF 677052

PROJ. NO. 7042

AUDITORS LOT NO. 3

NE 1/4 SECTION 7 TOWNSHIP 138 N RANGE 49 W



LOT NUMBER 3 OF NE 1/4 SECTION 7  
 TOWNSHIP 138 N RANGE 49 W DESCRIBED AS FOLLOWS

THAT PART OF THE NORTHEAST QUARTER (NE/14) OF SECTION SEVEN (7), TOWNSHIP ONE HUNDRED THIRTY EIGHT (138) NORTH, RANGE FORTY NINE (49) WEST, CASS COUNTY, NORTH DAKOTA DESCRIBED AS FOLLOWS:  
 BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION SEVEN (7); THENCE N 89° 31' 14" W ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER (NE 1/4) FOR A DISTANCE OF FIVE HUNDRED TWO AND EIGHTY ONE HUNDREDTHS (502.81) FEET TO A POINT ON THE EAST LINE OF HOLMEN'S FOURTH ADDITION; THENCE N 26° 17' 34" E ALONG THE EAST LINE OF SAID HOLMEN'S FOURTH ADDITION FOR A DISTANCE OF ONE HUNDRED SEVENTY SIX AND TWELVE HUNDREDTHS (176.12) FEET; THENCE N 17° 00' 00" E ALONG THE EAST LINE OF SAID HOLMEN'S FOURTH ADDITION FOR A DISTANCE OF ONE HUNDRED FIFTY SEVEN AND NINETEEN HUNDREDTHS (157.19) FEET; THENCE ALONG A CURVE TO THE LEFT (Δ = 106° 30' 39", R = 74.66') FOR AN ARC DISTANCE OF ONE HUNDRED THIRTY EIGHT AND SEVENTY NINE HUNDREDTHS (138.79) FEET; THENCE N 89° 30' 38" W ALONG THE NORTH LINE OF SAID HOLMEN'S FOURTH ADDITION FOR A DISTANCE OF ONE HUNDRED THIRTY NINE AND THIRTY ONE HUNDREDTHS (139.31) FEET TO THE EAST LINE OF HOLMEN'S SECOND SUBDIVISION; THENCE N 00° 01' 00" E ALONG THE EAST LINE OF HOLMEN'S SECOND SUBDIVISION FOR A DISTANCE OF FIVE HUNDRED SIXTY AND SEVENTY NINE HUNDREDTHS (560.79) FEET; THENCE N 87° 31' 00" E ALONG A SOUTHERLY LINE OF SAID HOLMEN'S SECOND SUBDIVISION FOR A DISTANCE OF FIVE HUNDRED NINETY AND ONE HUNDREDTH (590.01) FEET TO A POINT ON THE EAST LINE OF SAID SECTION SEVEN (7); THENCE S 00° 00' 00" W ALONG THE EAST LINE OF SAID SECTION SEVEN (7) FOR A DISTANCE OF NINE HUNDRED NINETY FOUR AND NINETY SEVEN HUNDREDTHS (994.97) FEET TO THE POINT OF BEGINNING.  
 SAID TRACT CONTAINS 11.89 ACRES, MORE OR LESS.  
 LESS HIGHWAY RIGHT-OF-WAY OF RECORD, NET 10.52 ACRES.

WARRANTY DEED



1219547  
Page: 1 of 3  
11/16/2007 08:25A

Project Number CH-0701
Parcel(s) 10

This deed, made this 14<sup>th</sup> day of November, 2007, between Kautzman Family Limited Partnership hereinafter referred to as the Grantor(s) whose address is 1768 Charleswood Estate Drive; West Fargo, North Dakota 58078; and the County of Cass for the use and benefit of Cass County, whose address is 1201 West Main Avenue, West Fargo, North Dakota 58078-0698.

WITNESSETH, that the Grantor(s), for and in consideration of the sum of one dollar and other valuable consideration to them in hand paid by Cass County, the receipt whereof is hereby acknowledged, hereby convey unto Cass County, its successors and assigns, forever, the parcel of land lying and being in Cass County, state of North Dakota, and more specifically described as follows, to wit:

*wrong*

The East 15 feet of the South 550 feet of Auditor's Lot 3 except the North 45 feet of the West 65 feet thereof in the Northeast Quarter AND Auditor's Lot 6 in the Southeast Quarter, all in Section 7, Township 138 North of Range 49 West of the Fifth Principal Meridian, situate in the County of Cass, State of North Dakota.

AUDITOR'S OFFICE  
 COUNTY OF CASS, NORTH DAKOTA  
16 November 20 07  
 Taxes and Special Assessments paid  
 and transfer entered.  
Michael M. [Signature] AUDITOR  
[Signature] DEPUTY



hereinafter referred to as the Property;



TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances running with or related to the Property, to Cass County, its successors and assigns, forever; and the Grantor(s), for their heirs, executors, and administrators, do covenant with Cass County, its successors and assigns, that the Grantor(s), are well seized in fee of the Property that the Grantor(s) have good right to sell and convey the Property in manner and form provided above; that the Property is still free from all encumbrances, whatsoever; and that the Grantor(s) shall warrant and defend Cass County's quiet and peaceable possession and use of the Property against all persons lawfully claiming interest in the whole or any part of the property.

EXECUTED the date first above written.

WITNESS(ES):

NAME (TYPE OR PRINT) \_\_\_\_\_

SIGNATURE \_\_\_\_\_

NAME (TYPE OR PRINT) \_\_\_\_\_

SIGNATURE \_\_\_\_\_

Brian Busta  
NAME (TYPE OR PRINT)  
Brian Busta  
SIGNATURE

GRANTOR(S):

KAUTZMAN FAMILY LIMITED PARTNERSHIP

By: [Signature]

Its: administrator

Date: 11-14-2007

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF NORTH DAKOTA )

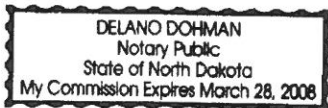
COUNTY OF Cass )

On this 14 day of November 20 07, before me personally appeared John Kautzman its \_\_\_\_\_ and \_\_\_\_\_ its \_\_\_\_\_ of Kautzman Family Limited Partnership. Known to me to be the person(s) described in and who executed the within and foregoing instrument, and severally acknowledged to me that they executed the same.

(Seal or Stamp)

Delano Dohman  
PRINT, TYPE OR STAMP NAME OF NOTARY

My commission expires: \_\_\_\_\_





1219547  
Page: 3 of 3  
11/16/2007 08:25A

STATE OF NORTH DAKOTA )

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_, before me personally appeared

Known to me to be the person(s) described in and who executed the within and foregoing instrument, and severally acknowledged to me that they executed the same.

(Seal or Stamp)

PRINT, TYPE OR STAMP NAME OF NOTARY \_\_\_\_\_

My commission expires: \_\_\_\_\_

I certify that the requirement for a report or statement of full consideration paid does not apply because this deed is for one of the transactions exempted by subdivision \_\_\_\_\_ of subsection 6 of Section 4 of Senate Bill 2323 (1981).

Signed: *Jim Burt* Date: 11-15-2007  
Grantee or Agent

For Recording Purposes Only

RECORDER'S OFFICE, CASS COUNTY, ND 11/16/2007 08:25AM  
I CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD THIS DATE.  
JEWEL A. SPIES, COUNTY RECORDER

by *Susan Brown Dep* 1219547



NNDOT Use Only

Exhibit "A"  
(1 of 2)

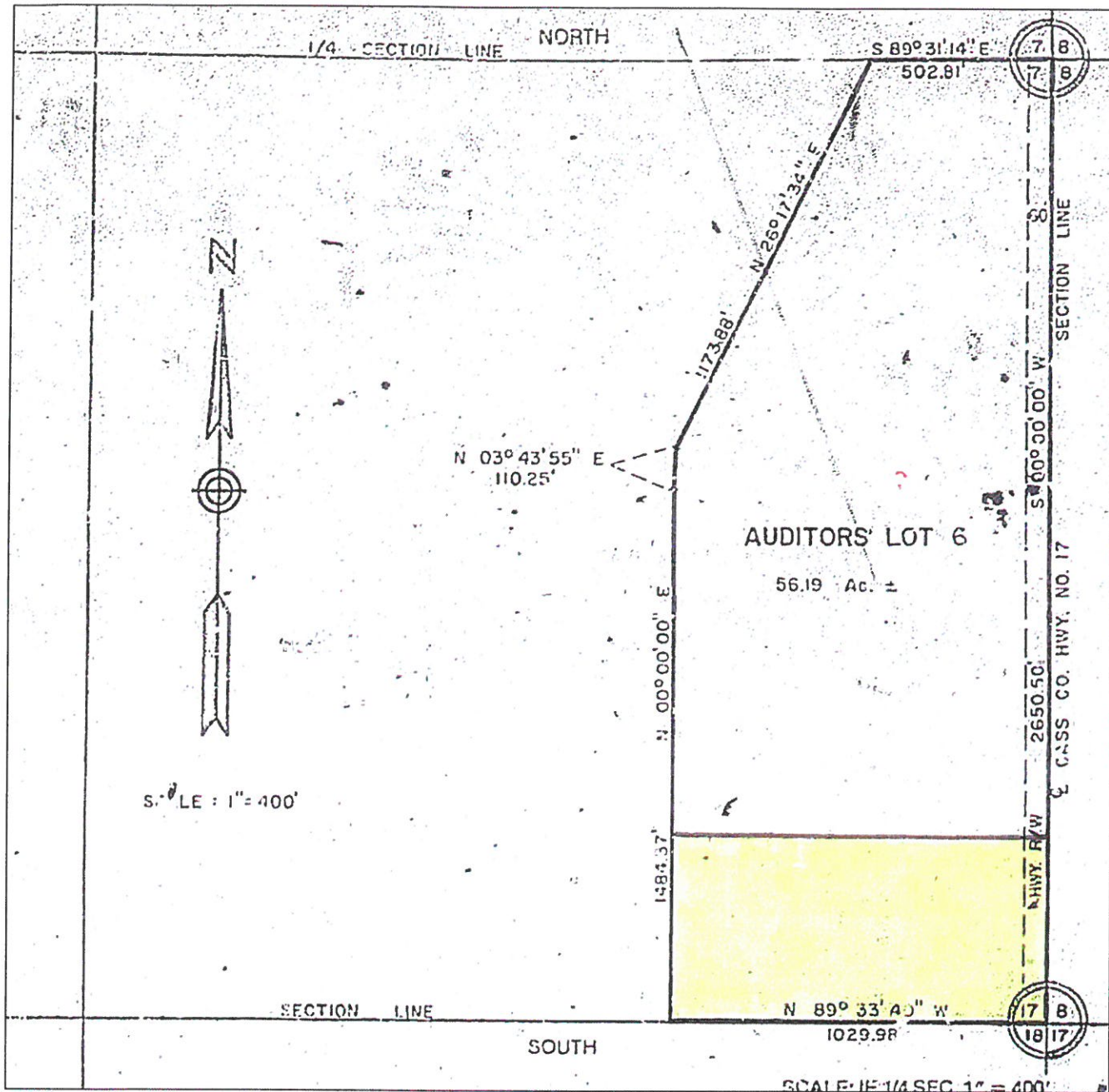
CASS COUNTY, NORTH DAKOTA  
CASS COUNTY HIGHWAY 17  
EASEMENT ACQUISITION DESCRIPTION  
SRF No. 0065886  
JUNE 14, 2007  
REVISED: DECEMBER 13, 2007

PARCEL 10

OWNER: KAUTZMAN FAMILY LIMITED PARTNERSHIP  
P.I.N.: 10-0180-10005-000

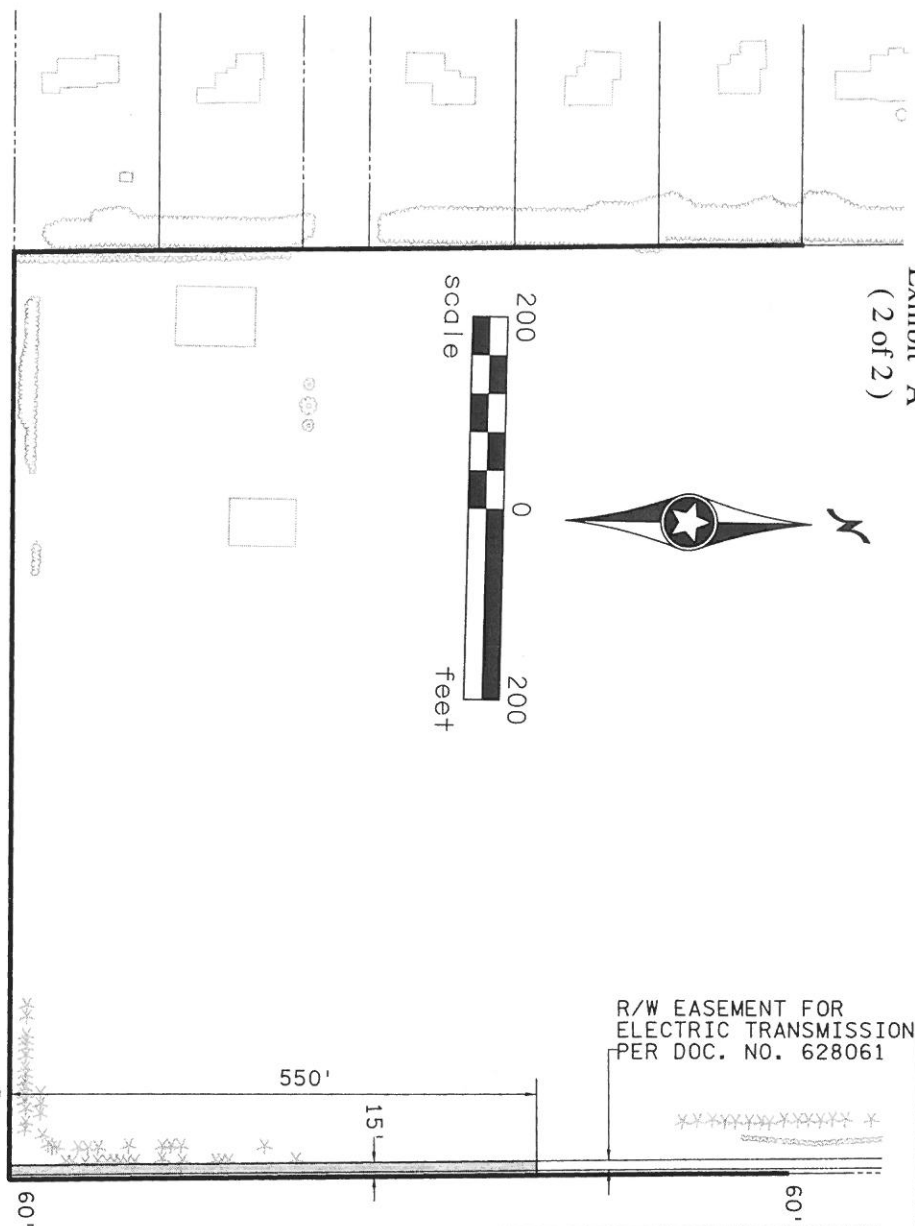
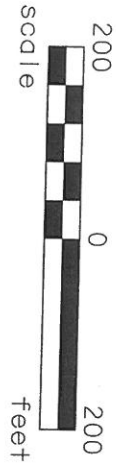
PROPERTY DESCRIPTION & OWNER ACCORDING TO DOCUMENT NO. 922829 (WARRANTY DEED)

The West 15.0 feet of the East 75.0 feet of the North 550.0 feet of the South 610.0 feet of Auditor's Lot 6 in the Southeast Quarter of Section 7, Township 138 North, Range 49 West of the Fifth Principal Meridian, situate in the County of Cass, State of North Dakota.



**PLAT  
MAP**

Exhibit "A"  
(2 of 2)




R/W EASEMENT FOR  
ELECTRIC TRANSMISSION  
PER DOC. NO. 628061

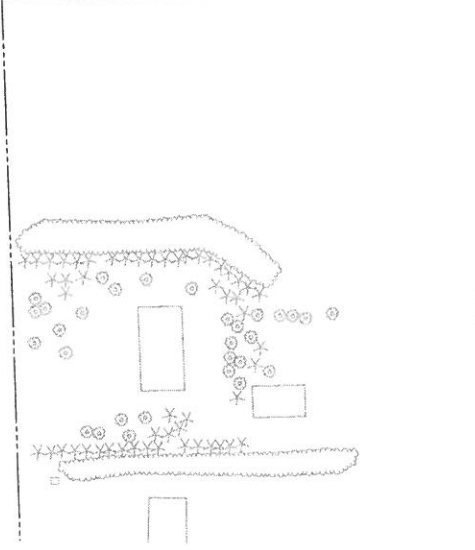
76TH AVE. S.

CASS CO. HWY 17

NOTES:

- \* LOCATION OF R/W EASEMENT FOR WATERMAIN DESCRIBED IN DOC. NO. 504146 IS UNDEFINED
- \* LOCATION OF R/W EASEMENT FOR ELECTRIC TRANSMISSION DESCRIBED IN DOC. NO. 549059 IS UNDEFINED

 DENOTES R/W ACQUISITION AREA 8250 S.F.



**EASEMENT ACQUISITION**  
CASS COUNTY HIGHWAY 17  
Cass County, ND

5886  
5/8/2007

Figure 10



1562140

Page: 1 of 4  
5/15/2019 1:34 PM  
R/WD \$0.00

CASS COUNTY HIGHWAY DEPT

### RIGHT OF WAY DEED

**THIS INDENTURE** made this 6<sup>th</sup> day of May 2019, between Kautzman Family LLLP, hereinafter referred to as Grantor(s), and the County of Cass, in the State of North Dakota, a municipal corporation, Grantee, whose post office address is P.O. Box 2806, Fargo, North Dakota 58108-2806.

**WITNESSETH**, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, Grantor does hereby **GRANT, BARGAIN, SELL AND CONVEY** unto the GRANTEE, all of the following real property lying and being in the County of Cass, and State of North Dakota, and described as follows, to-wit:

The East Seventy-five (75') feet of the South Six Hundred-ten (610') feet of Auditor's Lot 6 located in the Southeast Quarter (SE1/4) of Section Seven (7) Township One Hundred Thirty-eight (138) North, Range Forty-nine (49) West of the Fifth Principal Meridian, Cass County, North Dakota.

Said tract contains 1.05 acres, more or less

AND

That part of Auditors Lot Six (6) located in the Southeast Quarter (SE1/4) of Section Seven (7) Township One Hundred Thirty-eight (138) North, Range Forty-nine (49) West of the Fifth (5<sup>th</sup>) Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the Southeast corner of the Southeast quarter of said Section 7; thence on an assumed bearing of North 89°33'40" West along the South line of said section 7 a distance of 75.00 feet; thence North 00°00'00" East parallel with the East line of said section 7 a distance of 60.00 feet to the true point of beginning; thence and continuing North 00°00'00" East parallel with the East line of said section 7 a distance of 75.00 feet; thence South 45°13'10" West a distance of 105.66 feet; thence South 89°33'40" East parallel with the South line of said section 7 a distance of 75.00 feet to the true point of beginning.

Said tract contains 2,813 Square Feet, more or less

\*Legal description prepared in part by the Cass County Highway Department and a previously recorded instrument.

15-0180-10005-020 split





1562140

Page: 3 of 4  
5/15/2019 1:34 PM  
R/WD \$0.00

CASS COUNTY HIGHWAY DEPT

I certify that the requirement for a report or statement of full consideration paid does not apply because this deed is for one of the transactions exempted by subdivision e of subsection 6 of North Dakota Century Code Section 11-18-02.2.

Signed: Brian Busta                      5/6/19  
Agent    Date

Document drafted by:  
Brian A. Busta  
Cass County Highway Department  
1201 West Main Avenue  
West Fargo, ND 58078-0698  
J:\Admin-Eng\Projects\76th Ave. Regrade - C-17 to City of Fargo\ROW\1 - Kautzman\Right of Way Deed.doc

AUDITOR'S OFFICE  
COUNTY OF CASS NORTH DAKOTA  
15 May 20 19  
TRANSFER ENTERED  
Michael M. [Signature] Auditor  
[Signature] Deputy







1562140

Page: 4 of 4  
5/15/2019 1:34 PM  
R/WD \$0.00

CASS COUNTY HIGHWAY DEPT

RECORDER'S OFFICE, CASS COUNTY, ND 5/15/2019 1:34 PM  
I CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD THIS DATE.  
DEBORAH A. MOELLER, COUNTY RECORDER

by Teresa A. Kirby, Deputy **1562140**





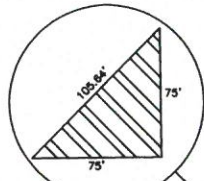
AUDITORS LOT 6



PARCEL NO. 1  
15-0180-10005-020  
KAUTZMAN FAMILY LTD PARTNERSHIP  
7116 75TH AVE S  
HORACE ND 58047

2813 SQUARE FEET OF PROPOSED  
RIGHT OF WAY ACQUISITION

RIGHT OF WAY TO BE  
CORRECTED BY CASS  
COUNTY.



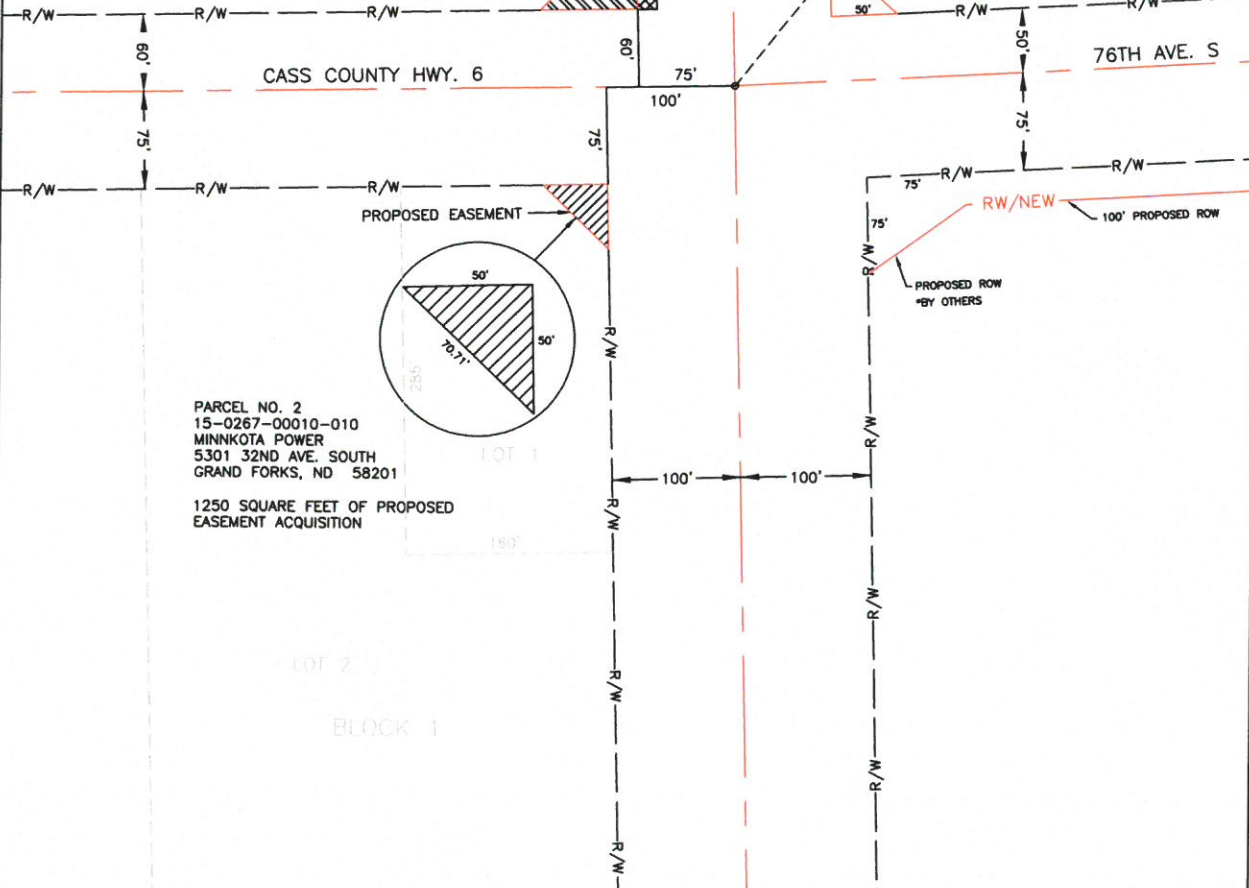
PROPOSED ROW

75' ROW



PROPOSED ROW \*BY OTHERS

PROPOSED ROW \*BY OTHERS



PARCEL NO. 2  
15-0267-00010-010  
MINNKOTA POWER  
5301 32ND AVE. SOUTH  
GRAND FORKS, ND 58201

1250 SQUARE FEET OF PROPOSED  
EASEMENT ACQUISITION

LOT 2

BLOCK 1